

CONFIDENTIAL

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 031033-EI

In re: Review of Tampa Electric Company's
waterborne transportation contract with
TECO Transport and associated benchmark.

CONFIDENTIAL TRANSCRIPT

DEPOSITION OF: MARTIN DUFF

TAKEN AT THE INSTANCE OF: CSX Transportation

DATE: Friday, May 14, 2004

TIME: Commenced at 9:15 a.m.
Concluded at 12:46 p.m.

LOCATION: Comfort Suites
1026 Apalachee Parkway
Tallahassee, Florida

REPORTED BY: MARY ALLEN NEEL, RPR
Notary Public, State
of Florida at Large

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4.20.06. (entire DN)

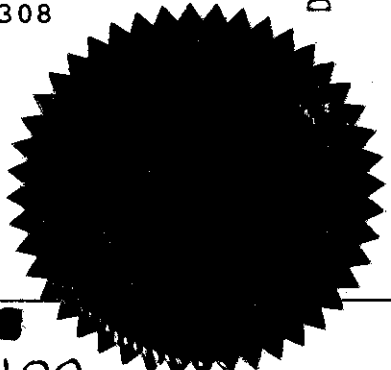
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In Re: TECO Coal Transportation
Exhibit _____
Deposition of Martin Duff



FLORIDA PUBLIC SERVICE COMMISSION
DOCKET
NO. 031033-EI EXHIBIT NO. 100
COMPANY/ 5(27-28) 04 + 6/10/04
WITNESS:

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TODD BOHRMANN	ROBERT SANSOM
WILLIAM McNULTY	JOHN STAMBERG
EARL POUCHER	JOANN WEHLE

I N D E X

WITNESS	PAGE
MARTIN DUFF	
Direct Examination by Mr. Wright	5
Cross-Examination by Mr. Vandiver	56
Cross-Examination by Mr. Perry	71
Cross-Examination by Mr. Beasley	73
Redirect Examination by Mr. Wright	87
Recross-Examination by Mr. Beasley	102
EXHIBITS	
1 Notice of Taking Deposition Duces Tecum	6
2 11/4 and 11/5/02 e-mails between Duff and Bullock	26
3 11/22/02 e-mail header	59
4 Position Report	63
5 12/11/02 e-mail header	66
6 5/7/04 Coal & Energy	87
CERTIFICATE OF OATH	103
CERTIFICATE OF REPORTER	104

PROCEEDINGS

1
2 The following deposition was taken on oral
3 examination, pursuant to notice, for purposes of
4 discovery, for use as evidence, and for such other uses
5 and purposes as may be permitted by the applicable and
6 governing rules. Reading and signing of the deposition
7 transcript by the witness is not waived.

8 * * *

9 MR. BEASLEY: At the outset, I would like to
10 propose what we have stipulated to in prior
11 depositions, and that is that the transcript of this
12 deposition will be furnished to Mr. Wright and
13 myself for review and highlighting of confidential
14 information, after which copies could be distributed
15 to those who are signatories to nondisclosure
16 agreements, and also to Office of Public Counsel,
17 who is covered by a Motion for Temporary Protective
18 Order, and with the staff's version being routed to
19 me, and I would immediately file it with the Clerk's
20 Office confidentially with a notice of intent to
21 seek confidential classification. If that's
22 acceptable, we'll proceed under that procedure.

23 MR. WRIGHT: As in all other instances, we
24 agree.

25 Thereupon,

MARTIN DUFF

the witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q Good morning, Mr. Duff.

A Good morning.

Q My name is Schef Wright. We've met, and you know that I'm an attorney for CSX Transportation in this case.

A Yes.

Q Have you had your deposition taken before?

A No.

Q I know you've been present for some of the other depositions in this case, but I would like to go over a couple of principles or ground rules that we usually follow in depositions. I will try to ask you questions that generally call for a yes or no answer or for a straightforward factual answer. To the extent that it's possible for you to give a yes or no answer or to answer with facts, I would appreciate your doing so, after which you are free to explain your answer to any extent that you deem necessary. Is that okay?

A Yes.

Q Because of the written nature of depositions,

1 it's important that you give an audible response rather
2 and a nod or a shake of the head.

3 A I understand.

4 Q Thank you. If at any time I ask you a question
5 that you don't understand, just say so, and I'll attempt
6 to rephrase it in a way that will enable us to
7 communicate effectively. Okay?

8 A Okay.

9 Q At the outset, I would like to ask, did you
10 receive a copy of your deposition notice?

11 A I'm not really sure. I'm sure I did, but I
12 haven't seen it.

13 MR. WRIGHT: It's not that important, but I'm
14 going to ask that it be marked as Deposition Exhibit
15 1.

16 (Deposition Exhibit 1 was marked for
17 identification.)

18 BY MR. WRIGHT:

19 Q Will you please state your name and business
20 address for the record.

21 A Martin Duff, 702 North Franklin Street, Tampa,
22 Florida.

23 Q By whom are you employed, and in what position?

24 A Tampa Electric Company, Fuels and Wholesale
25 Marketing Department. And my position is Fuel

1 Strategist.

2 Q For how long have you held that position?

3 A A little over a year.

4 MR. WRIGHT: Off for just a second.

5 (Discussion off the record.)

6 BY MR. WRIGHT:

7 Q Do you recall on what date you assumed your
8 current position as Fuel Strategist, or in what month?

9 A It was late in the fall of 2002.

10 Q What position did you hold before that?

11 A Coordinator of Fuels Transportation.

12 Q For how long did you hold that position?

13 A Approximately five years.

14 Q So would I be correct to conclude from your
15 testimony that you started in that position around 1997?

16 A That's correct.

17 Q Thank you. To whom do you report presently?

18 A Karen Bramley.

19 Q And what is her position?

20 A Manager of Coal Procurement, I believe.

21 Q Have you reported to Ms. Bramley since you
22 assumed your current position as Fuel Strategist?

23 A I believe so. There was a period of time when
24 the organization was a little flatter and we all
25 reported to Joann, but I'm not sure it was before or

1 after I moved into this position.

2 Q Thank you. And when you said Joann just now,
3 you meant Joann Wehle?

4 A Joann Wehle.

5 Q To whom did you report in your position as --
6 Coordinator of Fuel Transportation or Coordinator of
7 Coal Transportation? Which was it?

8 A Fuel.

9 Q To whom did you report in that position?

10 A For a period of time, it was Rod Burkhardt, and
11 after that it was Joann Wehle. And there were a couple
12 of other folks that came through between that point.

13 Q To whom did you directly report in the year
14 2002?

15 A I think most of the year it was Joann Wehle.

16 Q Thank you. Do you recall attending a meeting
17 on May 9, 2002, with CSX Transportation representatives?

18 A I believe so.

19 Q To your recollection, what was the purpose of
20 that meeting?

21 A I believe CSX had requested to come in and
22 discuss the potential to move coal to Tampa Electric by
23 rail.

24 Q And would that have involved the possibility of
25 CSX's moving coal by rail to Tampa Electric for use at

1 its Big Bend and Polk Stations?

2 A I believe that's what they were looking for.

3 Q Have you reviewed any of the testimony that has
4 been filed in this case by any party?

5 A Yes.

6 Q Can you tell me which witnesses' testimonies
7 you have reviewed, please?

8 A Joann Wehle, Paula -- and I apologize to Paula
9 for not being able to pronounce her last name.

10 MR. BEASLEY: Guletsky.

11 A Guletsky. Brent Dibner's, Fred Murrell's,
12 Mr. Stamberg's, Mr. Sansom's.

13 Q Do you recall whether you reviewed the
14 testimony of Mr. Robert White?

15 A Oh, yeah. Yes, I did.

16 Q What were your duties as Coordinator of Fuel
17 Transportation, Mr. Duff?

18 A Monitor inventories locally. That would be in
19 Tampa, and also at our TECO bulk terminal facility in
20 Davant, Louisiana. Track loadings throughout the month
21 on contracts to ensure that companies were shipping and
22 transportation providers were moving the product.

23 Q Did you participate in negotiating fuel
24 transportation contracts for Tampa Electric in your role
25 as Coordinator of Fuel Transportation?

1 A I believe I worked on some -- no. Some oil
2 contracts, but those were delivered to the plant.

3 Q So you did not participate in negotiating any
4 of the solid fuel transportation contracts for Tampa
5 Electric?

6 A No, not that I'm aware of or can think of.

7 Q Do you recall whether you were the first person
8 that CSX Transportation personnel contacted to request
9 the meeting that occurred on May 9, 2002?

10 A It may have been myself or Cary McBride, who is
11 no longer with the company. We had moved coal by CSX
12 for many years and have always had a business
13 relationship with the folks in Jacksonville, so it
14 wasn't something new that they called us up.

15 Q Before their requesting the meeting that
16 occurred on May 9th, had they previously made other
17 requests to meet with Tampa Electric to discuss the
18 possibility of carrying coal for use at Big Bend and/or
19 Polk?

20 A I'm sure we discussed it. Gannon Station was
21 scheduled to be converted to gas, and the tonnage that
22 we historically had moved through them was dwindling,
23 ramping down.

24 Q So is it a fair characterization of that
25 testimony that there had been discussions, but that you

1 don't recall specifically when they occurred?

2 A Yes.

3 Q Do you recall when approximately CSX requested
4 the meeting or sought the meeting that occurred on May
5 9, 2002?

6 A No, not specifically.

7 Q Were you the primary contact person for CSX
8 regarding setting up that meeting?

9 A At that time, yes.

10 Q To the best of your recollection, what occurred
11 at that meeting?

12 A To the best of my recollection, they discussed
13 the possibility of moving coal into our Polk Station, or
14 possibly Big Bend Station.

15 Q Do you recall what the outcome in terms of next
16 steps was of that meeting?

17 A I don't think there was next steps. We
18 listened to them and explained to them that we had a
19 transportation agreement in place, and we appreciated
20 their time and effort.

21 Q Did you agree to facilitate a site visit for
22 CSXT personnel to the Big Bend Station to gather further
23 information regarding the possibility of delivering coal
24 to Big Bend?

25 A I agreed to meet with them and show them around

1 the stations in the context that we had a coal
2 transportation agreement in place.

3 Q Did you at that time have a coal transportation
4 agreement in place for Polk?

5 A Yes, sir.

6 Q And what was that agreement?

7 A It was a trucking agreement to move the product
8 with CTL Transport out of Mulberry, Florida, from Big
9 Bend to Polk.

10 Q As of that time, when was that contract due to
11 expire?

12 A I believe the end of 2003.

13 Q I've been told, and I couldn't honestly tell
14 you by whom, that that contract has recently been
15 renegotiated and that there is now a new contract in
16 place with CTL. Is that accurate?

17 A It was rebid, and CTL won the bid, and so a new
18 contract was put in place.

19 Q And when did that occur?

20 A The end of 2003.

21 Q Did CTL have a right of first refusal under its
22 prior contract or any similar right?

23 A No.

24 Q In a response a few minutes ago you mentioned
25 that Gannon was closing as a coal plant and being

1 converted to gas. Do you know when Tampa Electric's
2 decision was made to convert Gannon to gas?

3 A It was in conjunction with the consent decree,
4 so I'm just going to have to say the late '90s or early
5 2000, somewhere in that time frame. I'm not sure of the
6 actual date.

7 Q Do you recall, is it a provision of the consent
8 decree that Gannon would be converted to gas?

9 A It's my belief that, yes, that's true.

10 Q So is it your understanding that as of the time
11 the consent decree was executed by Tampa Electric and
12 the relevant governmental agencies -- I'll start over.

13 A Please.

14 Q Is it your recollection and your understanding
15 that as of the time the consent decree was executed by
16 Tampa Electric and the relevant governmental agencies,
17 the decision to convert Gannon to gas had been made?

18 A I'm going to have to ask you to ask me that
19 again. I thought you had already asked me that prior to
20 this.

21 Q Well, was it your understanding that one of the
22 terms of the consent decree was that Gannon would be
23 converted to gas?

24 A Yes.

25 Q Do you recall whether you did in fact meet

1 with CSX personnel and show them around the Big Bend and
2 Polk Stations?

3 A Yes.

4 Q Approximately when did that occur?

5 A I don't have the dates. It was on, I believe,
6 two or three different occasions.

7 MR. BEASLEY: Schef, could I interject? You've
8 referred to CSX and CSXT. Can we stipulate that the
9 CSXT is the party you represent?

10 MR. WRIGHT: Absolutely.

11 MR. BEASLEY: So any references to CSX mean
12 CSXT?

13 MR. WRIGHT: Yes, and I appreciate the
14 clarification.

15 BY MR. WRIGHT:

16 Q I understood your last answer, Mr. Duff, to
17 indicate that you recall having shown CSXT personnel
18 around the stations on two or three different occasions.
19 Is that accurate?

20 A I believe so.

21 Q Can you tell me on approximately what dates
22 those occurred?

23 A Actually, no.

24 Q Is it possible that you only did so on one
25 occasion?

1 A I believe it was more than that.

2 Q My recollection is that one such visit took
3 place on or about May 31st of 2002. Does that jibe with
4 your memory?

5 A I would have to look at my records, but I
6 believe so.

7 Q Do you recall whether you visited both stations
8 on that day or just Big Bend?

9 A I don't recall.

10 Q Do you recall who from CSXT came to that
11 meeting?

12 A It was generally Mike Bullock and Bob White,
13 but on one visit he brought someone else from an
14 engineering firm.

15 Q Do you recall whether that person was
16 Mr. Richard or Dick Schumann?

17 A Yes.

18 Q Did you go to both Big Bend and Polk?

19 A I believe so.

20 Q What's your recollection of what occurred when
21 you went to Big Bend on that day, that site visit,
22 whenever it occurred?

23 A I believe actually we began the day at Polk.
24 If you want me to give it to you in chronological order,
25 that will be fine, or do you want me to go back to Big

1 Bend?

2 Q No, I think chronological would be great. I
3 appreciate that.

4 A They were driving, as was I, and they were
5 coming down from Jacksonville. And Polk is to the east
6 of Tampa, and so we felt it would be better, instead of
7 backtracking, to meet there. So I believe we met them
8 at the gate, drove into the station, and at that point
9 transferred into my van and took a driving tour of the
10 station and looked at the coal unloading facilities
11 there. They were interested in the amount of land, the
12 area, and how our unloading system worked. And at that
13 point, I believe we went to the car, and they got back
14 in their car, and we drove to Tampa, Big Bend Station.

15 Q Okay. And what happened when you got there, if
16 anything?

17 A We parked outside the station gate. Once
18 again, they transferred into my car, and we took a
19 driving tour of Big Bend Station, the coal unloading
20 facilities, the docks, the coal yard. They were
21 interested in the existing track and I believe the
22 limestone unloading facility.

23 Q Do you recall anything else specifically that
24 occurred during that visit?

25 A No, not specifically.

1 Q Okay. If you know, at the time of that visit
2 at approximately the end of May of 2002, was Tampa
3 Electric considering the sale of its Polk gasifier or
4 gasification unit?

5 A There was a consideration of monetizing the
6 gasifier and essentially converting it, as it was
7 qualified to be, into a Section 29 synfuel machine.

8 Q When you use the phrase "monetizing the
9 gasifier," what does that mean, Mr. Duff?

10 A The way the rules are written, the IRS rules
11 for a Section 29, that I'm aware of, you cannot sell
12 yourself, essentially, synfuel, that if you were to
13 produce synfuel, you would have to sell it to a third
14 party. So essentially, we would sell the gasifier, and
15 they would produce the synfuel and sell the fuel back to
16 Tampa Electric.

17 Q The gasifier would produce synfuel?

18 A Polk Power Station is integrated gasification
19 and combined cycle technology.

20 Q Yes, sir. That I understand.

21 Tell me how they produce synfuel, please.

22 A I'm not a gasification expert, so I'll give you
23 a --

24 Q 50,000 feet will be fine.

25 A Essentially, you utilize coal, or in our case,

1 petroleum coke currently. You grind it into a slurry,
2 so it's liquid coal at that time. You have to have at
3 least a 40% solid solution in the liquid. It then gets
4 pumped into a vessel at greater than 1,700 degrees
5 Fahrenheit, and at that point it is converted into a
6 gas. The gas is then cleaned through a number of
7 different processes to take out the sulfur and any other
8 impurities, and a gas mixture of approximately 40%
9 hydrogen and 60% carbon monoxide is consumed in a
10 combined cycle combustion turbine. •

11 Q Mr. Duff, you were explaining the gasification
12 process, and I think you got to the point of describing
13 what the gaseous fuel that comes out of the gasifier and
14 is then input into the combustion turbines is.

15 A That's correct. The gas is consumed in the
16 combustion turbines to produce electricity. The hot gas
17 goes through a heat recovery steam generator and also
18 produces generation from a conventional steam turbine.

19 Q Thank you. So where does the synfuel output of
20 this process occur?

21 A It's almost two processes. You have your
22 combined cycle generation system, and then you have your
23 gasification system. And the gasification unit was the
24 unit that was going to be sold to an outside entity. I
25 believe we would have operated it under a contract with

1 them and purchased the synfuel for Tampa Electric.

2 Q Is the synfuel in this application the gaseous
3 output of the gasifier?

4 A Yes.

5 Q Thank you. What fuel or fuels -- are there any
6 requirements, to your understanding of Section 29 of the
7 Internal Revenue Code, as to what fuel or fuels may be
8 used to qualify for the synfuel tax credits?

9 A Coal.

10 Q Is it any coal or domestic U.S. coal?

11 A I don't know that it specifies, but I know it's
12 coal, coal fines.

13 Q It has to be coal, not pet coke? Is that the
14 important distinction here?

15 A Yes.

16 Q Has Polk consumed coal in its career?

17 A Poke was built as a coal-fired unit and
18 consumed coal for -- time blurs. It was three or four
19 years at the outset.

20 Q Do you recall what coal or coals it used during
21 that time?

22 A Yes. There was a number of different test
23 burns that were required by the Department of Energy,
24 who helped contribute the cost of building the clean
25 coal technology gasifier. Pittsburgh 8 was consumed in

1 it from a number of different mines in that area,
2 Northern Appalachia, for a short period of time.

3 MR. BEASLEY: Schef, I want to interpose an
4 objection to this line of questioning as being not
5 relevant to the issue of transportation charges that
6 Tampa Electric incurs for its waterborne coal
7 transportation, the same as I did yesterday, and
8 this will be a standing objection.

9 You may proceed.

10 MR. WRIGHT: Okay.

11 A (Continuing) A number of different coals from
12 the Illinois Basin also were consumed.

13 Q Thank you. In your answer there, between your
14 reference to both Pitt 8 coal and the Illinois Basin
15 coal, you used the phrase "for a short period of time."
16 Was it the Pitt 8 coal that was used for a short period
17 of time or the Illinois Basin that was used for a short
18 period of time, or what?

19 A I think it began with Pittsburgh 8 coals, and I
20 can think of two different mines we purchased coal from
21 there, and then we began to consume coal from the
22 Illinois Basin. And the vast majority of coal consumed
23 prior to moving to petroleum coke was Illinois Basin
24 coal from the Patriot mine. I can't think of the --

25 Q I think you mentioned that there were two Pitt

1 8 mines. What mines were those, if you recall?

2 A I believe it was Bailey, and I could be wrong.
3 I was just doing transportation at that time. And I
4 don't recall the other one.

5 Q During the time frame of the meetings that
6 we've been talking about in May and June of 2002, did
7 you discuss with CSXT personnel specific coal sources
8 that would be capable of serving Polk?

9 A Not that I'm aware of, no.

10 Q Just so I'm clear regarding a previous answer
11 you gave regarding the phrase "monetizing the gasifier,"
12 does that essentially mean selling it to somebody else
13 so that you would then buy the gaseous synfuel from that
14 third party?

15 A That's correct.

16 Q Following the -- let me back up. Do you recall
17 specifically any other site visits with CSXT personnel
18 to either Big Bend or Polk after the one that we just
19 discussed?

20 A I know there were more than that, but
21 specifically, no.

22 Q Do you remember any specific events that
23 occurred on any other occasion in which they visited
24 either plant?

25 A Not specifically, no. As I said, we had a

1 relationship, and we talked on a regular basis.

2 Q Following the site visit that we did just
3 discuss that you do recall, for the next several months,
4 did you continue to have discussions with CSXT personnel
5 regarding their interest in providing coal
6 transportation services to Tampa Electric?

7 A I recall that they would call and want to
8 discuss those specific issues, yes.

9 Q Did they send any correspondence that you
10 recall before October 23, 2002?

11 A Not that I recall.

12 Q Any e-mails that you recall?

13 A I would venture to guess that there was. Like
14 I say, there was a relationship there, and we talked on
15 a regular basis, I think.

16 Q Do you recall whether you or anyone else at
17 Tampa Electric furnished any plot plans, drawings, or
18 any other descriptive information regarding Big Bend
19 and/or Polk to CSXT?

20 A That was discussed, and they had requested
21 that, and it was determined that we could go ahead and
22 send them the plot plans, and I believe LaRae Difulgo
23 from our records management sent them something.

24 Q Thank you. I think you said it was discussed
25 and determined that it would be okay to send them the

1 plot plants. Who made the decision that that was okay?

2 A I would assume at that time it was probably
3 Joann.

4 Q Thank you. Do you recall receiving a proposal
5 from CSX on October 23, 2002, to provide coal
6 transportation by rail services to Tampa Electric?

7 A Yes.

8 Q If you recall, was that proposal addressed to
9 yourself?

10 A I don't recall.

11 Q Mr. Duff, I'm going to hand you a document that
12 I understand to be a copy of that proposal and ask if
13 you've seen that before. I'll note that it is in fact
14 addressed to Ms. Wehle.

15 A It appears to be the same document, yes.

16 Q The same document that you understand CSX to
17 have sent on that date?

18 A Yes.

19 Q I understand that there was some concern
20 regarding the origin of this document, in particular, as
21 to whether it had been requested by Tampa Electric or
22 sent on an unsolicited basis by CSX. Do you recall any
23 such concern or issue?

24 A Uh-huh, yes.

25 Q What's your recollection of that?

1 A We requested that they send another cover sheet
2 that it was not requested. We had to my knowledge never
3 requested a proposal from them. They had wanted for
4 some time to give us some kind of proposal, and when
5 they did, to clarify it for our records, we asked them
6 to send another cover sheet.

7 Q Do you recall whether there were any telephone
8 calls made by Tampa Electric personnel to CSX regarding
9 that issue?

10 A I'm not sure if it was done on the phone or
11 correspondence by mail. I can't say.

12 Q Do you know Mr. Hugh Smith?

13 A Yes, I do.

14 Q What was his position -- well, was he employed
15 with Tampa Electric Company during this time period?

16 A I believe so.

17 Q Do you know what his position was at that time?

18 A He was our vice president.

19 Q And by our vice president, does that mean he
20 was over --

21 A He was over wholesale power and fuels. And I
22 couldn't say at this time what else he was over.

23 Q Do you know whether he got involved in the
24 issue of who requested or didn't request or originate
25 the proposal from CSXT?

1 A I wouldn't know.

2 Q Did Mr. Smith ever discuss this issue with you?

3 A Not that I recall.

4 Q Did you discuss this issue with Ms. Wehle?

5 A I would think so, yes.

6 Q Do you recall specifically with either?

7 A Yes.

8 Q Yes, you recall, and yes, you did?

9 A Yes, I recall discussing it with Ms. Wehle.

10 Q If you recall, what did she say about it?

11 A That she felt that it was an unsolicited offer
12 and not a solicited offer as the cover sheet said, and
13 that we needed to clarify that with CSX.

14 Q Did you personally review this document, the
15 October 23rd proposal from CSX?

16 A Yes.

17 Q Did you consider it to be a bona fide proposal
18 from CSXT?

19 A I don't think I thought of it that way at all.
20 It was an unsolicited offer. We had no need for
21 transportation services at that time.

22 Q Did you understand that the proposal offered to
23 provide services through 2008?

24 A Yes. If that was the date on the document,
25 yes.

1 Q At that time, your contract with TECO Transport
2 only went through 2003; isn't that correct?

3 A That's correct.

4 Q Did you believe that it was a serious proposal
5 by CSXT?

6 A I believed that since the shutdown of Gannon
7 that they had interest in moving coal to Tampa Electric.

8 Q Did you believe that it was a serious proposal
9 by CSXT?

10 A Yes.

11 Q I'm going to hand you an e-mail that appears
12 to be an exchange of e-mail between yourself and
13 Mr. Mike Bullock and ask you if you recall that.

14 A Uh-huh. Yes, that's mine.

15 MR. WRIGHT: I'm going to ask that this be
16 marked as Deposition Exhibit 2.

17 (Deposition Exhibit 2 was marked for
18 identification.)

19 MR. BEASLEY: Have you got an extra copy of it?

20 MR. WRIGHT: I don't, but I'll be happy to get
21 you one. Let's go off.

22 (Discussion off the record.)

23 BY MR. WRIGHT:

24 Q Following Tampa Electric's receipt of the
25 proposal from CSXT on or about October 23, 2002, did you

1 continue to have discussions with CSXT personnel
2 regarding their interest in transporting coal for Tampa
3 Electric?

4 A I guess the answer to your specific question
5 would be no. Did we continue to discuss and have open
6 relationships with CSX? Certainly, yes.

7 Q Did they continue to express their interest to
8 you in transporting coal for Tampa Electric?

9 A Yes.

10 Q Did they ask for meetings to discuss the
11 October 23, 2002 proposal with Tampa Electric?

12 A Yes.

13 Q Did such a meeting eventually occur?

14 A Yes.

15 Q Do you recall whether that meeting occurred on
16 or about March 12, 2003?

17 A Yes.

18 Q Did they ask for the meeting to occur earlier
19 than that?

20 A I believe so.

21 Q If you know, why didn't the meeting occur
22 before March 12th, when you had received the proposal on
23 or about October 23rd preceding?

24 A We had a very small shop, and we were probably
25 awfully busy with one thing or another.

1 Q Do you remember what those other things were?

2 A Specifically, no.

3 Q Did you personally do any evaluation of the
4 rates proposed in the October 23rd proposal?

5 A Did I look at them? Did I evaluate them?

6 Q Well, my question was evaluate. Did you look
7 at them?

8 A Sure.

9 Q Did you evaluate them in terms of comparing
10 them to the rates charged by TECO Transport?

11 A Yes.

12 Q Did you prepare any document comparing those
13 rates?

14 A I don't believe so. We felt they were very
15 aggressive rates, but we were not in the market for fuel
16 transportation.

17 Q I think we covered this, but just to make sure,
18 isn't it true that as of that time, Tampa Electric's
19 contract with TECO Transport was due to expire on
20 December 31, 2003?

21 A I believe so.

22 Q Did you give any consideration to the
23 possibility of negotiating with CSXT for transportation
24 services commencing January 1, 2004?

25 A That wouldn't have been my call. That's not my

1 call.

2 Q Understanding that it would not have been your
3 call, do you recall whether you did so?

4 A Can you ask the question again?

5 Q I understand that it would not have been your
6 call as to whether to make that consideration, but do
7 you know whether anybody at Tampa Electric considered
8 it?

9 A Considered what?

10 Q The possibility of negotiating with CSXT for
11 coal transportation services commencing January 1, 2004,
12 following the expiration of Tampa Electric's contract
13 with TECO Transport.

14 A I really couldn't say. I don't think so. I
15 don't know. We don't have fuel unloading facilities for
16 rail, so I'm not sure that we would. We were under a
17 consent decree, and we didn't really know where our
18 tonnage would be going in the next five years.

19 Q Did CSXT offer to provide funding for rail
20 unloading facilities at Big Bend in connection with its
21 October 23rd proposal?

22 A I believe so.

23 Q You mentioned in a previous response that
24 CSXT's rates shown in their October 2002 proposal were
25 aggressive. Is that an accurate restatement of what you

1 testified to already?

2 A I think that's what I said.

3 Q When you say aggressive, does that mean they
4 appeared to you to be relatively low and favorable for
5 the transportation service involved?

6 A Appeared on their face; that's correct.

7 Q Did you discuss that perception of yours with
8 anyone at Tampa Electric?

9 A Not specifically. I can't specifically recall,
10 yes or no.

11 Q So would it be fair to say that you never made
12 any recommendation to anyone else within Tampa Electric
13 regarding further consideration of CSXT's proposal?

14 A Yes.

15 Q When you said that the rates were aggressive,
16 what is your frame of reference for that? In what
17 relationship did they appear to be on their face
18 aggressive and relatively favorable?

19 A I guess I would say on a dollar per ton basis,
20 without further analysis.

21 Q And would your review of the proposal have
22 occurred shortly after you received it, in, say, late
23 October or early November of 2002?

24 A I assume, yes.

25 Q Would it be your normal practice upon receiving

1 what appeared to be on its face a favorable offer for
2 any service or commodity to evaluate it and make a
3 recommendation to your superiors?

4 A Obviously, we would, you know, look at
5 anything. At that time, we weren't in the need for
6 transportation services.

7 Q But you were about 14 months away from the end
8 of your existing transportation contract, weren't you?

9 A That would be correct.

10 Q Let me ask you a hypothetical. If you had a
11 coal contract that was going to expire, say, June 30th
12 of 2005, and a supplier of comparable coal came in and
13 offered you a very attractive price for that coal for
14 delivery starting on July 1, 2005, what would you do?

15 A I don't think you can make that comparison. A
16 coal contract is not going to require massive
17 infrastructure construction.

18 Q Well, I'm not asking you for that comparison.
19 I'm asking about your practice in terms of receiving or
20 in relation to receiving what appears to be facially a
21 favorable offer.

22 A Yes, we would look at it.

23 Q Would you tell anybody in your chain of
24 command?

25 A Certainly.

1 Q Would it be in your normal practice to make a
2 recommendation regarding further negotiations or not in
3 that relation?

4 A If it wasn't already brought to their
5 attention, I would bring it to their attention. But
6 obviously, this bid was sent to Ms. Wehle.

7 Q You were copied on it, were you not?

8 A Yes.

9 Q To your recollection, what, if any, contact or
10 conversations with CSXT personnel did you have following
11 the meeting that occurred on March 12, 2003? Let's
12 narrow it down to between then and the time Tampa
13 Electric issued its RFP, which I believe occurred on
14 June 27, 2003.

15 A I really wouldn't be able to tell you. I
16 don't know. Like I said before, we discussed things on
17 a regular basis.

18 Q Do you recall specifically whether CSX
19 personnel continued to express their interest to Tampa
20 Electric and to you directly in providing coal
21 transportation services for Tampa Electric?

22 A I think that's a fair assessment.

23 MR. WRIGHT: Off for a second.

24 (Discussion off the record.)

25 BY MR. WRIGHT:

1 Q Mr. Duff, did you participate in developing the
2 RFP that Tampa Electric issued on June 27, 2003?

3 A Yes.

4 Q What was your role and function in developing
5 that RFP?

6 A I think a team member would be appropriate.

7 Q As a team member, did you have substantive
8 input into the RFP?

9 A I had input.

10 Q Were the responses to be sent to you?

11 A Yes.

12 Q Were you the individual at Tampa Electric
13 Company over or under whose signature the proposal was
14 sent out to those who received it?

15 A That's correct.

16 Q Did you have input into determining the list of
17 those to whom it was sent?

18 A Yes.

19 Q Is that something that would have been more
20 your responsibility than other issues with regard to the
21 RFP issuance?

22 A No.

23 Q You will agree, will you not, that CSX was not
24 originally furnished a copy of the RFP?

25 A It was a waterborne transportation bid. That's

1 correct.

2 Q Just to be clear, it's correct that CSXT was
3 not originally furnished a copy of the RFP at issue;
4 correct?

5 A It was a waterborne transportation
6 solicitation. They were not furnished one. They had
7 recently or sometime in the past sold the waterborne
8 portion of their business.

9 Q I understand your explanation. I just wanted
10 an answer to my direct question, that's all.

11 What, if anything, was your role in evaluating
12 the bids submitted in response to the June RFP?

13 A As a team member.

14 Q Did you personally perform any actual numeric
15 calculations, analyses, or evaluations of the various
16 bids submitted in response to the June RFP?

17 A I'm sure I did.

18 Q You are aware that CSXT did eventually receive
19 a copy of the RFP, are you not?

20 A Uh-huh.

21 Q Were you in the loop that led to them being
22 furnished a copy?

23 A I believe so. I believe I was asked to send
24 them a copy.

25 Q By whom?

1 A I would think Karen Bramley.

2 Q Do you recall when?

3 A During the open period of the RFP.

4 Q Does on or about July 15th or 16th ring a bell?

5 A I wouldn't know, but I'm assuming that's
6 correct.

7 Q And CSXT did in fact submit two bids on July
8 31, 2003; is that correct?

9 A Yes.

10 MR. WRIGHT: Let's take a break.

11 (Short recess.)

12 BY MR. WRIGHT:

13 Q Mr. Duff, just one follow-up question on the
14 line of questioning I asked you before we took our
15 break. And I believe you answered it, but I just want
16 the record to be clear. Did you prepare any written
17 analysis of the bid proposal that CSXT submitted to
18 Tampa Electric on October 23, 2002?

19 A No, I don't believe so.

20 Q Mr. Duff, are you familiar with Tampa Electric
21 Company's Form 423 reports?

22 A I'm vaguely familiar with them, yes. I mean,
23 there's federal, there's state. We don't produce them
24 in our department. I'm aware of what they are.

25 Q I'm going to hand you a page that was furnished

1 by Tampa Electric and purports to be one page out of
2 such a report for Tampa Electric's FPSC Form 423-2 for
3 February 2004. I'll ask you to take a moment and look
4 at that and tell me whether the information contained in
5 that table is generally familiar to you.

6 A I am familiar with the document. I do not know
7 where the purchase price and the transport charges
8 essentially come from. This gets put together in
9 another department of our company.

10 Q Are you familiar with the transport charges
11 themselves?

12 A No, I don't believe I am.

13 Q Are you familiar with -- or is it your
14 understanding that the information listed in the far
15 left column of that table relates to the mines or coal
16 suppliers from whom Tampa Electric obtains coal?

17 A Uh-huh.

18 Q And is it your understanding that the column
19 immediately to the right of that indicates something
20 having to do with districts and states of origin?

21 A Uh-huh, that's correct.

22 Q I note that there are two lines on that table
23 that indicate supply from American Coal Company.

24 A That's correct.

25 Q Do those come from two different states?

1 A Yes. It appears one comes from Ohio, and one
2 comes from Illinois.

3 Q Is the one that comes from Illinois to your
4 knowledge what is commonly known as Galatia coal?

5 A That's correct.

6 Q Do you know whether the coal that comes from
7 Ohio is also furnished pursuant to what has been
8 identified in these proceedings at the Galatia contract?

9 A Line 4?

10 Q Yes, that's my question.

11 A Can you give me your question again?

12 Q Yes. Is that coal also furnished to Tampa
13 Electric pursuant to what has been identified as the
14 Galatia contract?

15 A If you're asking --

16 Q Let me ask it a different way.

17 A I'm not sure what you're asking.

18 Q Did Tampa Electric Company allow the supplier
19 of the Galatia coal to substitute Ohio coal?

20 A Yes. Due to the closing of Gannon Station, we
21 had some overhang on the Galatia contract, and we
22 negotiated a spot agreement with American Coal to
23 provide some Powhattan ton for ton -- obviously, they're
24 different prices, different quality coal -- to meet our
25 obligations to American Coal.

1 Q I also note that there are two lines on that
2 table that indicate purchases from a supplier identified
3 as Dodge Hill. Is that accurate?

4 A That's correct. Actually, it's four lines.

5 (Interruption on telephone; discussion off the
6 record.)

7 BY MR. WRIGHT:

8 Q Mr. Duff, I note that the coals shown in lines
9 2 and 5 appear to have Btu contents in the range of
10 12,700 Btu per pound, and those shown in lines 6 and 7
11 appear to have coals more in the range of 11,700 Btu per
12 pound. Is that an accurate interpretation?

13 A Yes, sir.

14 Q Thank you. Those aren't the same coals, are
15 they?

16 A No, sir.

17 Q Do they come from different places?

18 A Yes, sir.

19 Q Do you know where the ones shown at lines 6 and
20 7 come from?

21 A They come from -- I believe it's the Somerville
22 mine.

23 Q Is that in Indiana?

24 A Yes, it is.

25 Q Just to be clear, is it just an input error

1 that they're shown as originating in Kentucky?

2 A I believe so.

3 Q Why does Tampa Electric buy the coal that it
4 does buy from Somerville?

5 A It was a negotiated settlement, I believe, with
6 on Dodge Hill on a quality parameter.

7 MR. BEASLEY: Just for the record, Schef, I
8 want to renew my objection on the grounds that this
9 is not relevant to the issues in this docket. You
10 may proceed.

11 MR. WRIGHT: Thank you. And we accept your
12 objection as having been made. We don't agree with
13 the substance of it, but if it ever comes up, we'll
14 argue it then.

15 BY MR. WRIGHT:

16 Q What quality parameter was it that you referred
17 to in your previous answer?

18 A I believe it's chlorine.

19 Q Does the Dodge Hill coal that comes from
20 Kentucky meet the chlorine specification in its
21 contract?

22 A It does, but it's also on the upper end of the
23 range, and the supplier had requested to send a small
24 portion of the Indiana coal to ensure that he was not
25 out of compliance.

1 Q So this negotiated arrangement to which you
2 referred in a previous answer was at the request of the
3 supplier to avoid possible penalties for being out of
4 compliance with the chlorine parameter? Is that
5 accurate?

6 A I believe so.

7 Q Did Tampa Electric conduct a coal supply
8 solicitation in December of 2003?

9 A Yes.

10 Q Did Dodge Hill submit a bid in connection or in
11 response to that solicitation?

12 A Yes.

13 Q Was the Dodge Hill coal disqualified because of
14 its chlorine content in that solicitation review?

15 A I don't believe so. I should say I don't know.

16 Q Mr. Duff, is it your understanding that the
17 Dodge Hill coal is marketed or sold to Tampa Electric by
18 an entity known as Pigman Sales Company?

19 A That's correct.

20 Q I'm going show you a document that appears to
21 be page 1 of 16 of a response by Tampa Electric to the
22 staff's first request for production of documents and
23 ask if you recognize that document.

24 A Yes.

25 Q Do you know who prepared that?

1 A I believe Karen Bramley or myself put it
2 together, kind of a shared document.

3 Q I would like to ask you, please, to look at
4 Bates page number 32, the first page of the actual
5 response. The bottom half of the table appears to me to
6 list a number of nonconforming coals. Is that an
7 accurate characterization of what that shows?

8 A Uh-huh, that's correct.

9 Q And is the Dodge Hill coal, as indicated by the
10 Pigman Sales Company entries in the left-hand column,
11 the coal that you've just been talking about?

12 A That's correct.

13 Q And that table shows that that coal as proposed
14 by Pigman in the solicitation we've been discussing is
15 nonconforming; is that accurate?

16 A To that specific coal solicitation, yes.

17 Q And what was the spec in that solicitation, if
18 you recall?

19 A I don't have it off the top of my head.

20 Q In rough terms, was the coal proposed by Pigman
21 and Dodge Hill there too high in chlorine to meet the
22 spec of the solicitation?

23 A That particular specification, that's correct.

24 Q Thank you. What was that solicitation?

25 A It was -- the name of it is "Solicitation -

1 Long-Term Contract for Coal for Big Bend, Order No. 4."

2 Q Was that the solicitation conducted in
3 connection with obtaining a price which the Zeigler Coal
4 Company would have to match pursuant to its contract
5 right of first refusal?

6 A It could have the opportunity to match.

7 Q But is that the same solicitation that --

8 A That's the same one, yes.

9 Q Has Zeigler been presented with the price that
10 it has to match if it wants to continue the business?

11 A Yes.

12 Q On what basis, i.e., FOB mine, FOB rail, or FOB
13 barge, was Zeigler presented with the opportunity to
14 match the price, or on some other basis?

15 A FOB barge, I believe.

16 Q FOB barge at the river dock near the mine, or
17 FOB barge at Big Bend, if you know?

18 A FOB barge, Ohio River.

19 Q Does Zeigler deliver on the Ohio River?

20 A Actually, the contract in place calls for
21 delivery to Davant. We would purchase the coal at the
22 terminal.

23 Q At Davant?

24 A Yes, sir.

25 Q I'm just trying to understand then. If Zeigler

1 was asked to match a price FOB Ohio River, but you buy
2 the coal at Davant, I'm trying to understand the
3 relationship between those two points.

4 A There's specific contract language that talks
5 to how the RFP is allowed to be performed, and I believe
6 we have the ability to ask for it FOB barge. But I
7 can't speak to it any more than that.

8 Q Has Zeigler offered to match the price that
9 Tampa Electric has presented to it?

10 A No.

11 Q Mr. Duff, I'm not sure that we communicated
12 effectively in response to a previous question. Is it
13 your understanding that Zeigler delivers to the Ohio
14 River or that it delivers to the Mississippi?

15 A We purchase it in Davant. Currently it doesn't
16 -- we purchase it at Davant.

17 Q I understand that you purchase it at Davant,
18 but is your testimony still what you said a couple of
19 minutes ago, that the bid that Zeigler was asked to
20 match was FOB Ohio River?

21 A Yes.

22 Q Okay. I understand that, and I understand your
23 testimony that you purchase the Zeigler coal at Davant.
24 Do you know whether Zeigler delivers to the Ohio or to
25 the Mississippi, and if so, which?

1 A It delivers through Cora River Dock on the
2 upper Mississippi River and flows to the lower
3 Mississippi and then to Davant. So, no, it does not go
4 onto the Ohio in its current --

5 Q Just so I understand, even though Zeigler
6 delivers to the Mississippi, Tampa Electric has offered
7 them to match the price delivered on the Ohio; is that
8 right?

9 A That's my -- yes, yes.

10 Q Would Zeigler have the opportunity under the
11 match offer that has been presented to it by Tampa
12 Electric to supply coal from another mine besides that
13 from which it has historically provided coal to Tampa
14 Electric?

15 A Yes, I believe they have sourcing options.

16 Q Do you know what their sourcing options for
17 delivery to the Ohio are?

18 A No.

19 Q Has Zeigler been offered the opportunity bid
20 FOB rail?

21 A Not that I'm aware of, no.

22 Q Thank you. I'll take that document back, if I
23 may.

24 Mr. Duff, I'm going to hand you two pages of a
25 document produced to CSXT by Tampa Electric with Bates

1 numbers 184 and 185 on them that are labeled "2004
2 Purchases by Commodity/Contract Summary." Do you
3 recognize that document?

4 A Yes.

5 Q I want to ask you about the entries in the
6 first block on page 184 under which it says "Standard
7 H." What does "Standard H" mean in that context?

8 MR. BEASLEY: I renew my objection with respect
9 to this document and any questions relating to it on
10 the grounds that it's not relevant. This is a
11 waterborne coal transportation proceeding. You may
12 proceed.

13 MR. WRIGHT: You can answer.

14 A We refer to it as standard high, high Btu, high
15 sulfur.

16 Q Can the coals listed there under "Standard H"
17 be burned in all four Big Bend units when their
18 scrubbers are operating?

19 A Those coals are purchased for Big Bend 1, 2,
20 and 3.

21 Q Understanding that they are purchased for Big
22 Bend 1, 2, and 3, can they be burned in Big Bend 4?

23 A I wouldn't be able to attest to that.

24 Q I wanted to ask you about the fourth and fifth
25 lines under "Standard H" that refer to SYAF - Synfuel.

1 Are those products associated with the Black Beauty
2 mine?

3 A No, sir.

4 Q What is the origin of those fuels?

5 A They're from a mine owned by the Black Beauty
6 Company.

7 Q Do you know the name of the mine?

8 A I think it's Arclar.

9 Q Does Arclar --

10 MR. BEASLEY: Can I ask you a question off the
11 record?

12 MR. WRIGHT: Sure.

13 (Discussion off the record.)

14 BY MR. WRIGHT:

15 Q Does Arclar have any affiliation with Illinois
16 Fuels or the Illinois Fuels Company?

17 A No.

18 Q Is Tampa Electric presently, i.e., during the
19 year 2004, purchasing or planning to purchase coal from
20 the Illinois Fuels Company?

21 A No.

22 Q Does Tampa Electric have a contract with
23 Illinois Fuels?

24 A Illinois Fuels defaulted on a contract of
25 ours.

1 Q When did that occur?

2 A I would say early 2003.

3 Q And do I interpret your testimony to be that as
4 a result of that default, your contract with Illinois
5 Fuels has been terminated?

6 A I'm not sure of the -- we essentially went out
7 into the marketplace -- when they stopped shipping, we
8 went into the marketplace and purchased coal to replace
9 that coal, and we were able to cover it. But the
10 contract, we still have rights under the contract if
11 they were to ship out of that mine.

12 Q So do I understand your testimony correctly to
13 be that the contract itself still exists as far as you
14 know, but you aren't getting any coal from it? Is that
15 right?

16 A I don't know. I wouldn't know enough about
17 after you get into the legal piece of that.

18 Q Okay. If you know, was this a solicitation for
19 the replacement coal that you mentioned by which Tampa
20 Electric is covered?

21 A Yes.

22 Q When did that occur?

23 A Well, I can't say for sure if we performed a
24 solicitation or if we just purchased the coal. I'm
25 sorry.

1 Q So the correct answer to my previous question
2 is, "I don't know"; is that correct?

3 A That's correct.

4 Q Okay. I'll take those back from you.

5 I have a follow-up question on some previous
6 questions and answers we had with regard to the Dodge
7 Hill contract. I believe you said that you amended --
8 well, you said you settled or renegotiated some terms of
9 your contract with Dodge Hill. Is that correct so far?

10 A That's correct.

11 Q Was there an actual amendment to the contract?

12 A Yes, I believe so.

13 Q Approximately when was that executed?

14 A Sometime in the last six months.

15 Q When their scrubbers are operating, can Tampa
16 Electric Company burn high sulfur Illinois Basin coals
17 at all four Big Bend units?

18 A Yes.

19 Q When their scrubbers are operating, can Tampa
20 Electric burn high sulfur Pitt 8 coals at all four Big
21 Bend units?

22 A They can burn high sulfur Pitt 8 coal, I
23 believe, in 1, 2, and 3. Big Bend 4 has been under a
24 contract since its inception with the Zeigler contract,
25 and exclusively that coal has been put in that unit. So

1 I really don't have that much knowledge of what we could
2 put into Unit 4.

3 Q Do you know whether Tampa Electric has test
4 burned Pitt 8 in Big Bend 4?

5 A I don't know.

6 Q Mr. Duff, are you familiar with a report
7 submitted to the Federal Energy Regulatory Commission
8 known as FERC 580?

9 A I'm aware of the term, and I'm probably as
10 aware of that report as I am the Florida FERC 423.

11 Q Do you have anything to do with preparing Tampa
12 Electric's 580 filings?

13 A Nope.

14 Q Mr. Duff, I'm going to hand you the same pack
15 of documents I handed you a little bit ago. It's Tampa
16 Electric's response to the staff's first request for
17 production of documents. It's that same pack of
18 documents that I think relates to proposals received in
19 response to the December 2003 solicitation. And I'll
20 ask you to look at what's identified as page 5 of 16, as
21 well as Bates number page 36.

22 A Okay.

23 Q If you would look at the very last line of the
24 small table that's shown on that page, does that show
25 that the company received a proposal from an entity

1 known as Solar Sources and that that was disqualified?

2 A Yes.

3 Q And was it disqualified because it was bid FOB
4 rail?

5 A Yes.

6 Q Thank you. I'll take that back.

7 Mr. Duff, I'm going to hand you a copy of a
8 document furnished by Tampa Electric in response to a
9 production request propounded by CSX Transportation. It
10 appears to be a comparison of CSXT's October 23, 2002
11 proposal and the two proposals submitted by CSXT in
12 response to Tampa Electric's June 2003 solicitation.

13 I'll give you as much time as you want to look
14 at it, but my first question is, do you recognize that
15 document?

16 A I do recognize the document.

17 Q Did you prepare that document?

18 A No, I did not.

19 Q Do you know who did?

20 A I believe Karen Bramley did.

21 Q Do you know when it was prepared?

22 A No, I do not.

23 Q Do you have any idea when it was prepared?

24 A I think the last proposal was sometime after
25 July of 2003.

1 Q And other than that, you don't know; is that
2 correct?

3 A Not exactly, no.

4 Q Just to drive it down to the extent we can,
5 other than that it was prepared after July of 2003, do
6 you have any idea when it was prepared?

7 A No.

8 Q Mr. Duff, I'm going to hand you a document that
9 has been furnished by Tampa Electric in response to CSX
10 Transportation's fourth request for production, and it
11 includes a table that is headed "Impact of Capital
12 Infrastructure for Rail Facilities on Existing Rates,
13 Cost Per Ton on Five-Year Contract," the cover sheet and
14 the table itself. I'll just give you a moment to take a
15 look at it and ask you first do you recognize it.

16 A Actually, no, I don't.

17 Q Do you recall ever having seen it before?

18 A No, I don't believe I have.

19 Q Mr. Duff, I'm going to hand you a copy of a
20 document that has been identified as Exhibit 6 to
21 Ms. Wehle's deposition that was taken on Wednesday of
22 this week. Do you recognize that document?

23 A No, I don't.

24 Q Do you recall ever having seen it before?

25 A No, I don't.

1 Q Do you recall ever having seen any similar
2 document before?

3 A It's just an analysis sheet.

4 Q Well, have you seen a analysis sheet comparing
5 adjusted rail bid rates and water transportation rates?

6 A There was something from last year's docket
7 that was prepared by Mr. McNulty that was similar to
8 this, I believe, but other than that, I don't know.

9 Q I'll take that one back.

10 Just to be clear, I'm going to hand you my
11 redacted version of the page 2 of three of document
12 number 3, which is a part of Exhibit JGW-1 to Ms.
13 Wehle's testimony submitted in this docket and ask you
14 if you've seen that one before, in either its redacted
15 or unredacted format.

16 A I think that's what I was referring to, I
17 believe. I can't say for sure.

18 Q Okay. With regard to the original unredacted
19 version of this, did you have any role in preparing the
20 table?

21 A Not that I'm aware of, no.

22 Q Just to be clear with regard to the time frames
23 covered by previous answers that you've given in this
24 deposition, I believe I previously asked you if after
25 receiving CSXT's proposal on October 23, whether you

1 performed any written analysis, any evaluation, anything
2 like that of that proposal, and I believe you said no;
3 is that correct?

4 A That's correct.

5 Q And my question for you is, did you ever
6 perform any written evaluation, analysis, spreadsheet,
7 or anything of the like with regard to CSXT's October
8 23, 2002 proposal?

9 A Formal analysis, no.

10 Q Well, did you do anything in writing with
11 respect to that proposal?

12 A No.

13 Q Did you ever do anything in writing, including
14 a computer spreadsheet, with respect to CSXT's July 2003
15 bid submitted in response to Tampa Electric's RFP?

16 A I'm sure there was nothing formal, no.

17 Q Well, understanding that it wasn't formal, did
18 you do anything in writing, like a computer spreadsheet
19 or handwritten calculations comparing --

20 A I probably did.

21 Q Do you recall any specific instances in which
22 you might have done any such exercise?

23 A No.

24 Q Do you know whether any such documents still
25 exist that you would have personally prepared?

1 A If there was anything prepared, it was supplied
2 in the production of documents.

3 Q Mr. Duff, I'm going to hand you a document
4 that is part of Tampa Electric Company's response to
5 CSXT's seventh request for production that is headed
6 "Calculation of TECO's Fuel Cost Savings Using
7 Powhattan Coal vs. Pitt 8 Coal," bearing Bates number
8 289.

9 MR. BEASLEY: Same objection as to relevance.

10 BY MR. WRIGHT:

11 Q Do you recognize that document, Mr. Duff?

12 A No.

13 MR. WRIGHT: Jim, are you objecting to the
14 relevance of that document that compares --

15 MR. BEASLEY: Yes.

16 THE WITNESS: No, not this specific document.

17 BY MR. WRIGHT:

18 Q When you say not this specific document --

19 A No, not that document.

20 Q Okay. Did you ever prepare any similar
21 document to this?

22 A No.

23 Q Do you know who prepared this document?

24 A I believe that was Karen Bramley.

25 Q Okay. Did you consult with her in her

1 preparation of it?

2 A Our offices are next to each other. We consult
3 pretty much all day.

4 Q Do you recall specifically whether you
5 consulted with her in regard to this document?

6 A No, not that I know of. She very well may have
7 asked me questions that I responded to. I don't know.

8 MR. WRIGHT: Could we take a short break,
9 please?

10 MR. BEASLEY: Okay.

11 (Short recess.)

12 BY MR. WRIGHT:

13 Q Mr. Duff, thank you very much for your time
14 this morning. I have one follow-up question on the
15 questions I've asked you previously, and it relates to
16 the line of questioning I asked you about whether you
17 prepared any document comparing the delivered cost of
18 coal by rail versus the delivered cost of coal by water.
19 My question is this: If you prepared such a document,
20 what was its nature?

21 A It would have been comparing transportation
22 costs, one venue against the next.

23 Q Just transportation costs as opposed to all
24 costs of particular coals delivered by water versus
25 delivered by rail?

1 A I don't have enough experience to accurately
2 perform an analysis on a rail bid. I'm not up to speed
3 on rail cost adjustment factors and how they operate,
4 unadjusted, adjusted, so I would not be qualified to do
5 that at this particular point.

6 Q I think you've said you don't recall having
7 specifically done such an analysis. Is that accurate?

8 A Yes, that's accurate.

9 Q And if you did -- I just want to clarify your
10 answer given about one minute ago. If you did, would it
11 have just been comparing the transportation costs, rail
12 versus water?

13 A I think so.

14 MR. WRIGHT: Thank you very much for your time,
15 Mr. Duff. We have no more questions. I believe
16 Mr. Vandiver does, so I'm going to move.

17 CROSS-EXAMINATION

18 BY MR. VANDIVER:

19 Q Good morning, Mr. Duff.

20 A Good morning.

21 Q I think I met you earlier. My name is Rob
22 Vandiver. I'm with the Office of Public Counsel.

23 When did your career at Tampa Electric begin?

24 A 1980.

25 Q And what did you do when you began at Tampa

1 Electric?

2 A I was a laborer in power plants.

3 Q And what was your next job at Tampa Electric?

4 A I worked in the environmental department
5 performing --

6 Q And can you walk me through your career?

7 A I worked in the lab performing fuel analysis
8 for a period of time. I performed environmental
9 testing.

10 Q What year was that?

11 A For the next 15 years, 14 years, until I moved
12 into the fuels department, I work exclusively in
13 laboratory services providing air analysis, stack
14 testing, combustion testing, continuous emission
15 monitoring and auditing, any number of services that are
16 related to emissions and the operation of the boilers.

17 Q And is that when you became Fuels Coordinator
18 in 1997? Was that your next job?

19 A That's correct.

20 Q And in that position, are you one of the -- or
21 in that Fuels Coordinator position, were you one of the
22 primary employees of Tampa Electric that dealt with on a
23 day-to-day basis TECO Transport?

24 A That's correct.

25 Q And do you remain one of the primary employees

1 of Tampa Electric who deals with TECO Transport on a
2 day-to-day basis?

3 A My replacement is Dan Akins, and he works on a
4 day-to-day basis much more so than I do.

5 Q And how often in your present position do you
6 deal with TECO Transport?

7 A That's hard to say. Maybe weekly.

8 Q Weekly?

9 A (Nodding head affirmatively.)

10 Q Okay. Does everyone in your group deal with
11 TECO Transport on a regular basis?

12 A There would be no need really for me to on a
13 regular basis. I mean, it's a very small group. I'm --

14 Q And who is in your group?

15 A Joann Wehle is the director. Karen Bramley is
16 the manager. There's me, and then there's Dan Akins.

17 Q And does Dan report to you?

18 A No. He reports to Karen.

19 Q You both report to Karen?

20 A That's correct.

21 Q Who is Bill Gleaton?

22 A Bill Gleaton is the coordinator. I don't know
23 what his title is. I would say vessel coordinator at
24 TECO Transport. He coordinated the transportation of
25 the ocean side.

1 Q Is he the primary interface at TECO Transport
2 for Tampa Electric on the ocean side?

3 A That's a fair assessment, yes.

4 MR. VANDIVER: Okay. I want to hand you a
5 memorandum. I think this is not a confidential
6 document. And I would like to get that marked as an
7 exhibit. I'm going to pass it around. I've got
8 some copies for your counsel and so forth. You can
9 pass that down. Thanks a lot.

10 (Deposition Exhibit 3 was marked for
11 identification.)

12 BY MR. VANDIVER:

13 Q I think this has been marked as Exhibit 3.
14 Now, this is a memorandum, and it's dated November 22,
15 2002; is that correct?

16 A Yes.

17 Q And the subject is "vessel projection"; is that
18 correct?

19 A Yes.

20 Q And it's from Bill Gleaton to -- I counted 19
21 individuals here. And they're not all individuals.
22 There's reference to GTC Warehouse and GTC RoutineMaint.
23 I think that would be Routine Maintenance; is that
24 correct?

25 A I wouldn't know. I'm assuming like you.

1 Q So you don't know what GTC stands for?

2 A (Shaking head negatively.)

3 Q Okay. You're shaking your head.

4 A I'm sorry. No, I do not.

5 Q But I counted 19 different recipients of this
6 e-mail.

7 MR. BEASLEY: If you could, just make it a
8 question, Rob.

9 MR. VANDIVER: Okay.

10 BY MR. VANDIVER:

11 Q Would you accept that subject to check?

12 A Yes.

13 Q Do you know these individuals up here? Do you
14 know Dan Akins?

15 A Yes.

16 Q Is he an employee of Tampa Electric?

17 A He is Coordinator of Fuels Transportation.

18 That's correct.

19 Q Okay. Thank you. Who is Misty Bartholomew?

20 A She's a dispatcher with TECO Bulk Terminal.

21 Q Another TECO or Tampa Electric employee?

22 A No.

23 Q Okay. Who does Misty Bartholomew work for?

24 A TECO Bulk Terminal.

25 Q Okay. And Laura Bennett?

1 A TECO Bulk Terminal.

2 Q Let's go down the list here.

3 A Layne Bennett, TECO Bulk Terminal; myself,
4 Tampa Electric; Michelle Gagliano, TECO Bulk Terminal.
5 I'm not sure about this GTC Warehouse. Howard Hanson, I
6 believe he works at Big Bend Station.

7 Q That would be a Tampa Electric employee?

8 A That would be a Tampa Electric employee.

9 Pennie Little is TECO, in shipping. Chris
10 Miller is a dispatcher, TECO Bulk Terminal. I don't
11 know Ian Palmer. Ursula Smith-Perry, I don't know her.
12 And Loong-Shen Tsai is an engineer at TECO Bulk
13 Terminal.

14 Q Okay. What is TECO Bulk Terminal?

15 A It's the transfer and storage facility at
16 Milepost 55 on the lower Mississippi River.

17 Q Okay. So that's another separate entity from
18 Tampa Electric?

19 A It's part of TECO Transport.

20 Q Okay. Very well, sir. And just for my
21 information, I notice that this e-mail is not routed
22 through the Internet or anything. Is there a common
23 e-mail system between TECO Transport and Tampa
24 Electric?

25 MR. BEASLEY: Objection to the form. Go ahead.

1 A It's a common --

2 Q So there's a common e-mail system between TECO
3 Transport and Tampa Electric?

4 A It's a TECO Energy Internet, I believe is how
5 it operates, but I don't --

6 Q So there's a common directory? In other words,
7 you can --

8 A Yes, that's correct.

9 Q So you can get all the names from one system.
10 Okay. Do you have common dialing behind the
11 PBX?

12 A I don't know what that means.

13 Q In other words, can you five-digit dial TECO
14 Transport within the TECO building down there on
15 Franklin Street?

16 A You can with TECO Ocean Shipping. You cannot
17 with TECO Barge Line or TECO Bulk Terminal.

18 Q Okay. Now, this e-mail had some attachments
19 to it. How often do you get this report?

20 MR. BEASLEY: If I could inquire. There are
21 no attachments to the document you handed us.

22 MR. VANDIVER: I'm about to hand it to you.

23 BY MR. VANDIVER:

24 Q Is this the attachment that goes with this
25 e-mail? I'm about to hand it to you. It's a

1 confidential document. It's not on yellow paper. I'm
2 going to have Mr. Poucher hand it to you. And I would
3 like to have this marked as an exhibit as well.

4 A No, it's not.

5 (Deposition Exhibit 4 was marked for
6 identification.)

7 BY MR. VANDIVER:

8 Q Okay. Is this a regular report that you
9 receive?

10 A This is referred to as a position report, and
11 when I was in the position, it would come on a daily
12 basis. It's called actually the 8:00 a.m. position
13 report, and it will give you a position of all the ocean
14 vessels' locations.

15 Q Okay. And you would receive this on a daily
16 basis in your former position, but not in your present
17 position?

18 A That's correct.

19 Q Now, I believe you said that you had looked at
20 the testimony of Mr. Dibner; is that correct?

21 A Yes.

22 Q Okay. Now, I'm going to hand you a document.
23 I don't need to have this marked as an exhibit, but I
24 want to ask if you agree with Mr. Dibner's assessment
25 here. Mr. Dibner has two different numbers on this, but

1 this is Bates stamped 116 and page 64 of Mr. Dibner's
2 report. And I believe that's labeled "The Core Fleet of
3 Tampa Electric's Ocean Shipping Fleet." And I believe
4 there he recites that those are the primary ships that
5 carry TECO coal, and I want to ask if you agree with
6 that assessment.

7 A I believe that's how he did it.

8 Q And is that an accurate depiction of the
9 primary ships that carry the TECO coal into Tampa Bay?

10 A Uh-huh, yes.

11 Q Now, this report that we were just discussing
12 that's Bates stamped 7685 that we just had marked as an
13 exhibit, this is a broader scale than some of these core
14 fleets that we were just discussing, isn't it?

15 A This document is not produced for Tampa
16 Electric.

17 Q Okay. It's a --

18 A This is an internal document of TECO Shipping,
19 and at some point in time we had asked to be included on
20 the routing just to help with our scheduling at Big Bend
21 Station and at Gannon Station for the arrival of
22 vessels.

23 Q I see. This is delivered to Tampa Electric
24 employees just for informational purposes; is that
25 correct?

1 A I don't know that it's given to Tampa Electric
2 -- that characterization -- it was given to myself, and
3 I think now it's given to Dan Akins. It's not given to
4 this same list. It's not tied to this first document.

5 Q Okay. I'm going to hand you another e-mail and
6 ask if this smaller distribution list is the list that
7 this report goes to.

8 A No. I'm sorry.

9 Q That's all right. I just want to get straight
10 who this 8:00 a.m. shipping report goes to.

11 A We try to give the stations the best
12 information available so they can schedule manpower to
13 be available to unload vessels when they get there. In
14 some of our coordination meetings, at some point in
15 time, I probably asked for what's the best, most
16 accurate documentation of when a boat is going to get
17 there, and I think at that time they offered this to us.

18 Q Okay. What's the distribution of this Bates
19 stamp 7685 report within Tampa Electric? Do you know?

20 A I believe when I was in the transportation
21 position it was me and a fellow named Cary McBride, who
22 is now not with the company. I have the job that he
23 held at that time, and he was my backup.

24 Q Okay.

25 A And then we would utilize this to update our

1 fuels management system. The plant would receive from
2 the fuels management system the arrival time, expected
3 arrival times.

4 Q And in the course of getting this, obviously,
5 here at the top, the Peggy Palmer is within your core
6 fleet, and that was useful information to you because
7 that was carrying your coal. And down here at the
8 bottom, I believe the C. Fagan would be the Cynthia
9 Fagan, and that ship was in Capetown, which was useless
10 information to you.

11 A That's correct.

12 MR. BEASLEY: Rob, could you ask a question,
13 please, and not testify?

14 MR. VANDIVER: All right, sir.

15 BY MR. VANDIVER:

16 Q Where is Dadong? Do you know?

17 A No, I don't. I wish my geography was better.

18 Q Me too. But this broader information, some of
19 this ship information includes TECO ships that were not
20 relevant to the core fleet for coal that is carried to
21 Tampa Electric; is that correct?

22 MR. BEASLEY: I think he has already said that
23 it is.

24 A Yes.

25 (Deposition Exhibit 5 was marked for

1 identification.)

2 BY MR. VANDIVER:

3 Q Now, I believe you have the 7032 Bates stamp
4 there at the bottom as well, and that is from Bill
5 Gleaton to Dan Akins, Martin Duff, and Cornel Smith.

6 A That's correct.

7 Q Okay. And that is the Wednesday, December 11,
8 2002 memorandum, and that just says "schedule." Is this
9 yet another document of TECO Ocean Shipping, or is this
10 perhaps the river shipping?

11 A No. It would be another document for TECO
12 Ocean Shipping, based on that it came from Bill Gleaton,
13 and he works for TECO Ocean Shipping.

14 Q Okay. And it's not one of these documents. I
15 want to show you that document and ask if that goes with
16 this memorandum.

17 A I believe so.

18 Q All right, sir. And that's another report that
19 you get from TECO Transport that you received in the
20 regular course of business?

21 A That's correct.

22 MR. BEASLEY: Rob, let me ask you, just for
23 clarification, what is this document? I mean,
24 you're handing him loose documents. Were they
25 attached when you got them, or were they --

1 MR. VANDIVER: They were in the same stack.

2 MR. BEASLEY: But this one, the numbering is
3 before what purports to be a transmittal memorandum.
4 The thing doesn't say anything to connect it up with
5 this. That's my point. You know, I don't want the
6 witness answering about something where there's no
7 way for him to conclude that this document relates
8 to this document.

9 MR. VANDIVER: He was the one that was getting
10 the reports. I'm just trying to tie them together.
11 I'm not trying to trick him or anything. We have
12 the --

13 MR. BEASLEY: That's my point.

14 MR. VANDIVER: We can take a break and let him
15 look at the entire stack.

16 MR. BEASLEY: My point is that the attachment
17 has a lower Bates stamp page number than the --

18 MR. VANDIVER: The point is well taken. We can
19 take a break and let him look at the entire stack if
20 you like.

21 MR. BEASLEY: If that's what you want to do. I
22 just don't want the witness to be confused about it.

23 MR. VANDIVER: And I don't want to confuse him
24 either, Jim. I'm just trying to ascertain the
25 reporting from TECO Transport to Tampa Electric, and

1 he --

2 MR. BEASLEY: I don't know that a pile of loose
3 papers is going to accomplish that.

4 MR. VANDIVER: Oh, here we go. Here's 7033.
5 They're in consecutive order.

6 BY MR. VANDIVER:

7 Q Would that appear to be the same page, the
8 report that accompanies that memorandum?

9 A Yes.

10 Q And is that another one of the regular reports
11 that's transmitted from TECO Transport to Tampa
12 Electric?

13 A It's transmitted to the people on the list.
14 It's not -- there's just a couple of people on that
15 list. One of those individuals is TECO Bulk Terminal,
16 the transportation coordinator and their backup.

17 Q Okay. Do you deal with Bill Gleaton? Is he
18 the sole individual you deal with at TECO Transport?

19 A Like I said, I -- the answer would be no. Bill
20 Gleaton I don't deal with on on a daily basis generally
21 anymore. That it would be the transportation
22 coordinator.

23 Q Okay. Who do you deal with at TECO Transport
24 on a regular basis in your present position?

25 A I generally don't on a regular basis.

1 Q All right. Do you know how many employees
2 there are at TECO Transport?

3 A Actually, no, I don't.

4 Q Who trained you to do your job, your original
5 job at transportation coordinator?

6 A I worked with Cary McBride for some time.

7 Q And did you train your successor?

8 A I worked with Dan. Like I said, there are
9 three or four people in our group, and we all pretty
10 much work together. Yes, I --

11 Q Okay. But you trained your successor?

12 A Yes.

13 Q And did you develop a written SOP for his job?

14 A No.

15 Q Okay. Is there a written SOP for your job?

16 A I don't believe there is.

17 Q Do you have a TECO Transport telephone
18 directory?

19 A We have an Internet has a telephone directory
20 on it.

21 Q Is TECO Transport still on the seventh floor of
22 the building?

23 A I think their corporate offices are on the
24 seventh floor.

25 MR. VANDIVER: That's all the questions I

1 have. Thank you very much.

2 (Discussion off the record.)

3 CROSS-EXAMINATION

4 BY MR. PERRY:

5 Q Mr. Duff, my name is Tim Perry. I represent
6 the Florida Industrial Power Users Group, and I just
7 have a few questions for you.

8 Are you familiar with the terms of Tampa
9 Electric's waterborne solicitation from 2003?

10 A Yes.

11 Q Do you know if that solicitation contains a
12 preference for an integrated bid as opposed to a
13 segmented bid?

14 A I'm trying to think of the terms or the
15 wording. Yes. But it also did say we would evaluate --

16 Q In your experience, have you ever handled any
17 type of contractual arrangements where the delivery of
18 any type of fuel was on a non-integrated basis?

19 A Not that I can think of, no.

20 Q So all the fuel delivery contracts were on an
21 integrated basis?

22 A That's correct.

23 Q During Tampa Electric's waterborne
24 transportation solicitation process, did you ever meet
25 with representatives of the ACBL?

1 A Prior to the close or --

2 Q At any time.

3 A ACBL requested to come in after it closed and
4 after we had told them they were not selected, and we
5 sat down and talked to them.

6 Q Do you remember approximately the date when
7 they contacted you?

8 A Not off the top of my head.

9 Q Did you meet with them?

10 A Uh-huh, yes.

11 Q Do you remember what you discussed?

12 MR. BEASLEY: That question has already been
13 asked and answered earlier today. Go ahead.

14 A I think we just discussed his bid, his offer.
15 And he was very cordial and expressed an interest in
16 business then and in the future.

17 Q Did they provide you with -- well, who did you
18 meet with?

19 A I can't think of fellow's name right now.

20 Q Did he provide you with any written materials?

21 A No.

22 Q Did you relay what you had discussed in the
23 meeting to anyone at Tampa Electric or to Brent Dibner?

24 A I believe Karen Bramley was in the meeting, and
25 I think the two of us talked about it at the time.

1 Q Did you discuss your meeting with Mr. Dibner?

2 A Not that I'm aware of. I don't necessarily
3 recall that.

4 MR. PERRY: Okay. That's all the questions I
5 have.

6 MR. BEASLEY: Any other questions?

7 CROSS-EXAMINATION

8 BY MR. BEASLEY:

9 Q Mr. Duff, you were asked some questions about
10 CSXT's desire to provide rail transportation to Tampa
11 Electric; is that right?

12 A That's correct.

13 Q My question to you is whether you have any
14 concern about CSXT's actual ability to provide the
15 service that it is offering.

16 A Yes.

17 Q Could you please explain your concerns?

18 A For instance, this past week, I was at a
19 conference, and Mike Sullivan gave a paper. Mike
20 Sullivan is the VP of Coal, Southeast Region, I guess.

21 Q Which conference was that?

22 A Eastern Fuel Buyers.

23 Q Where was that conducted?

24 A It was in Orlando the end of last week,
25 Wednesday, Thursday, and Friday, I believe. I'm not

1 sure. The 7th through the 9th, I believe.

2 Q What was Mr. Sullivan's presentation about?

3 A Mr. Sullivan's presentation was about the
4 railroad's capacity to do any more -- to perform any
5 more business. It was essentially an apology to all the
6 Eastern Fuel Buyers. It began with an apology to all
7 the Eastern Fuel Buyers for their lack of service to
8 their utility clients. His quote, one of his quotes was
9 something along the line that he was apologizing due to
10 the fact that not a single buyer has had a train loaded,
11 because everybody had come up to him and told him that
12 they didn't have any coal. He was being facetious,
13 obviously. But he went on to talk about the problems
14 CSX was currently having and the problems they expected
15 to have in the future due to the rate structures, and
16 essentially that they needed to increase their rates to
17 put the needed capital infrastructure in place so they
18 could supply the amount of business they currently have.

19 Q I want to hand you a document entitled "Coal &
20 Energy" dated May 7, 2004. Have you seen that
21 publication before?

22 A Yes. I saw this this past Monday, I believe.

23 Q Could you read me the highlighted portion of
24 that article?

25 MR. WRIGHT: I'm going to object to the extent

1 that this may be hearsay.

2 MR. BEASLEY: It may be hearsay, but it
3 corroborates the witness's testimony.

4 MR. WRIGHT: I didn't say he couldn't answer.
5 I just wanted to have my objection on the record as
6 to its hearsay status, just in case.

7 MR. BEASLEY: Sure.

8 A Mike Sullivan, Assistant Vice President,
9 Utility South, for CSX.

10 Q This is it here.

11 A During the 33rd Eastern Fuel Buyers Conference
12 in Orlando, Florida, Mike Sullivan, Assistant Vice
13 President, Utility South, for CSX told attendees the
14 railroad's coal business encompassed very strong
15 deliveries in the Southeast this quarter, but it's
16 fallen short of customer demand.

17 CSX recently loaded one day a staggering 6,200
18 cars. "Not one of them, apparently, is being loaded in
19 this market because everyone I ran into here said they
20 couldn't get any coal," Sullivan said.

21 "Basically, our deliveries fell short of
22 demand," Sullivan said, and the railroad needs to up
23 shipments about one train/day "to satisfy where people
24 want to be."

25 "Inventories are lower than summer target

1 levels," Sullivan said, and even when customers have
2 healthy inventories, "we miss one train, we get intense
3 pressure to get that train loaded."

4 Any problem with a particular train "backs
5 everything up," Sullivan said. The railroad is
6 attempting to tackle the problem through crew additions,
7 train length changes, helper changes, siding
8 improvements, yard configuration optimization, collapsed
9 maintenance programs, no maintenance for now to help
10 keep traffic flowing, a new policy designed to make sure
11 reservations are consistent with what can be loaded in a
12 week and a 90-minute slot plan."

13 MR. WRIGHT: May I have a copy of that
14 document, please?

15 MR. BEASLEY: Sure.

16 BY MR. BEASLEY:

17 Q Did you interact with other representatives at
18 the Eastern Fuel Buyers Conference?

19 A I did. I spoke to Bob White.

20 Q I'm talking about other representatives of coal
21 shippers.

22 A Oh, I'm sorry. Yes, a number of people, who
23 basically confirmed what has been said in the industry
24 press, that nobody is getting supplied coal as needed
25 and required from CSX basically this spring.

1 MR. WRIGHT: Same objection to that question
2 and answer. It's hearsay.

3 MR. BEASLEY: Noted.

4 BY MR. BEASLEY:

5 Q You said this was the Eastern Fuel Buyers
6 Conference. Was the commodity about which
7 Mr. Sullivan's presentation concerned coal?

8 A Strictly coal and synfuel, that's correct.

9 Q So the entire presentation related to delivery
10 problems with coal?

11 A That's correct.

12 Q And synfuel.

13 A That's correct.

14 Q How many shippers did you talk to while you
15 were there at the conference?

16 A I would say at least five, maybe less than 10,
17 though.

18 Q How many of them had complaints that they
19 expressed to you about deliveries of coal?

20 A Every one that received rail coal.

21 MR. WRIGHT: Same objection. And if it's okay
22 with you, Jim, I'll just make it a continuing
23 objection.

24 MR. BEASLEY: Sure. That's fine.

25 MR. WRIGHT: I think it's clear that the

1 witness is relating statements by others.

2 MR. BEASLEY: Sure.

3 BY MR. BEASLEY:

4 Q Did Tampa Electric itself have a contract with
5 CSXT for the delivery of coal to its Gannon Station?

6 MR. WRIGHT: Objection. Vague.

7 A Tampa Electric has received coal from CSX since
8 I believe the early '60s at Gannon Station.

9 Q And when did that service by CSXT conclude?

10 A I believe 2000 or 2001, due to the projected
11 shutdown of Gannon Station, or conversion.

12 Q In your capacity as the Fuels Transportation
13 Coordinator for Tampa Electric, did you deal with CSXT
14 virtually each time CSXT made a delivery to Gannon
15 Station by rail?

16 A That's correct.

17 Q So you were, I take it, familiar with the
18 service provided by CSXT to Tampa Electric for the
19 deliveries to Gannon?

20 A Yes, I was.

21 Q How would you describe the level of service
22 provided by CSXT?

23 A Poor, at best. It was difficult to receive
24 slottings.

25 Q What is a slotting?

1 A A time frame in which you're going to be given
2 a train to be loaded at a particular mine. And then
3 once you did receive a slotting, would the train show up
4 at the mine? And once the train showed up at the mine
5 and was loaded, the projection of when it would arrive
6 at the station would not be tremendously accurate.

7 Q How would you get those projections?

8 A We really -- we basically got to the point
9 where we would put it into the system that they would be
10 there two days after it was loaded or three days after
11 it was loaded. I don't remember if it was two or three.
12 And you would basically wait until they brought the
13 train. There was no significant methodology for updates
14 on where the trains were and when they would be there.

15 Q Did that present any operational problems from
16 your perspective?

17 A Well, it's difficult to schedule manpower to be
18 onsite to discharge a train when you don't know when
19 it's going to get there.

20 Q Was that just an every once in a while type of
21 problem, or was it a regular recurring problem?

22 A In my experience, it was a recurring problem.

23 Q Over the last several years that CSXT provided
24 rail deliveries to Gannon Station, would you say that
25 the level of service improved or declined?

1 A It declined along with our tonnage. We were on
2 a flight path lowering the tonnage from at one time in
3 the early '90s -- it was prior to me being in the
4 position, but it was, I believe, as high as 1.5 million
5 tons at Gannon Station. I believe when I began the
6 position, it was around a million tons. In the last
7 year, the contract was, I believe, 200,000 tons.

8 Q Did you mention Mr. Sullivan talking about
9 rates at the coal buyers conference that you attended?

10 A Yes. In his discussion or his paper, I guess,
11 that he put on -- he was a featured speaker at the
12 conference. His discussion of rates was the fact that
13 CSX needed to increase rates over time so they would
14 have the capital to upgrade their infrastructure.

15 One of the things he talked specifically about
16 was a location, I believe Corbin, where 80% of the cars
17 and trains will -- it's kind of a pinch point for them,
18 where everything comes through that's going into the
19 Southeast. It appears that some of the significant
20 problems they are having is moving the coal out of the
21 coal fields through that Corbin location, which is south
22 of the Central Appalachian District, and getting them
23 into the Southeast.

24 Q Was there any discussion about coal exporting
25 at that conference and any impact that might have on

1 deliveries to domestic coal power plants?

2 A Not necessarily from CSX. Maybe they did
3 mention it. Essentially, the import market has --

4 Q Import or export?

5 A I'm sorry. The export market has over the last
6 five or seven years dwindled to nearly nothing. In
7 2004, end of 2003, the international coal market -- I
8 think some of the folks talked about the Chinese and the
9 demand for some raw materials and how everything
10 interrelates. But essentially the international coal
11 market, the price of the commodity has increased
12 dramatically, which has given American coal producers an
13 opportunity that they have not had over the last number
14 of years, and that opportunity is to export coal.

15 Amongst the other utility buyers, there was a
16 concern that when the international market gets heated
17 and there's an opportunity for shippers to take their
18 coal offshore, that they seem to get shorted at those
19 times from CSX and that CSX will run their trains --
20 despite this demand they talked of, there is a demand
21 for it to get to some of the eastern ports and loaded
22 off for international shipments.

23 Q Was the concern one currently, that that's
24 happening?

25 A Yes.

1 Q You testified that you looked at the October
2 23, 2002 proposal that CSXT presented to Tampa Electric;
3 is that correct?

4 A That's correct.

5 Q And you also looked at the response that CSXT
6 submitted to the June 27, 2003 Tampa Electric RFP?

7 A That's correct.

8 Q How do the rates proposed in those two
9 proposals compare?

10 A Well, on their face, the number was -- I think
11 I characterized it as aggressive. But when you --

12 Q I mean, were they the same or different rate
13 proposals?

14 A I believe they were the same rate proposal.

15 Q Okay. When you mentioned aggressive, how do
16 you use that term?

17 A Well, the price per ton appeared to be low.
18 But when you factored in all the other additional items,
19 they still evaluated higher than the TECO Transport
20 numbers that we've asked them to match.

21 Q You were asked about coal supply solicitations
22 put out in December of last year. Do you know what the
23 supply time frame is to be met by the responses to those
24 solicitations?

25 A I believe it was 2005 through 2014.

1 Q You were also asked some questions about Polk
2 Power Station and the use of Pitt 8 coal versus pet coke
3 at that station. Do you recall that discussion?

4 A Yes.

5 Q Can you tell me any differences in Btu value
6 between pet coke and Pitt 8 coal?

7 A Generally pet coke is between 13,000 and 14,000
8 per million Btu, whereas Pitt 8 coal can run anywhere
9 from 12,000 to 13,200.

10 Q Btu per pound?

11 A Btu per pound. I'm sorry. Million Btu per
12 pound.

13 MR. WRIGHT: Btu per pound.

14 THE WITNESS: I'm sorry. Pet coke generally
15 runs between 13,000 Btu per pound and 14,000 Btu per
16 pound, and Pitt 8 generally runs between -- my
17 experience is 12,000 to 13,200, 13,300.

18 BY MR. BEASLEY:

19 Q So the pet coke has a better Btu value?

20 A That's correct.

21 Q How do they compare pricewise, if you know?

22 A On a price per ton basis?

23 Q Yes.

24 A Currently the high sulfur Pittsburgh 8 quotes
25 that they list in Coal & Energy and those types of

1 publications is around \$34 or \$35, either in a rail car
2 or in a barge. Petroleum coke, our last shipment of
3 petroleum coke purchased, which I believe was in April,
4 was \$8.50 a ton.

5 Q So the Pitt 8 coal is about three times as
6 expensive as the pet coke? Is that a fair assessment?

7 A That's correct.

8 Q How about the transportation cost? Which costs
9 more to get to Tampa Electric, Polk Power Station, pet
10 coke or Pitt 8?

11 A Currently petroleum coke would be the less
12 expensive option into Polk Power Station.

13 Q What is your goal at Polk Power Station
14 regarding the percentage of pet coke that you hope to be
15 able to use in that facility?

16 A Currently we're consuming a 60-40 blend of coal
17 and petroleum coke. We're in the process of working
18 with the State DEP on increasing the ability to raise
19 that percentage up to -- at a minimum, the next step we
20 believe will be 80%, with the hope at some point to go
21 to 100%. If it went to 100%, we would have to make some
22 modifications to -- petroleum coke has very little ash,
23 and the system that we have, the gasifier needs a
24 percentage of ash. And we would have to develop a
25 methodology to inject some ash, probably from our other

1 stations, Big Bend possibly, into the fuel mix to get to
2 100% petroleum coke.

3 Q From the standpoint of your ratepayers, do you
4 think it would be a better deal to just scrap that pet
5 coke and burn Pitt 8 coal at Polk Power Station?

6 A No, I do not.

7 Q You were asked some questions about the
8 testimony of CSXT witness Robert White in this
9 proceeding. Do you recall that?

10 A I'm sorry. Could you ask that again?

11 Q You were asked some questions about
12 Mr. White's testimony for CSXT in the proceeding.

13 A That's correct.

14 MR. WRIGHT: I'm going to object to any
15 specific questions. I think I only asked him if he
16 -- I don't believe I asked him a single substantive
17 question about it.

18 BY MR. BEASLEY:

19 Q Did you review the testimony of Mr. White? I
20 think you were asked that.

21 A Yes, I did.

22 Q What were your reactions to his testimony when
23 you read it?

24 A I was upset. I don't know if "upset" is the
25 right word. I felt that the meetings between Mike

1 Bullock, Bob White, and myself were mischaracterized as
2 contentious, acrimonious, when they were anything but.
3 I believe on the first visit they came down, we went to
4 dinner and had a nice discussion, and then the
5 subsequent trip was cordial. I understood what they
6 were trying to do, and they seemed to understand what
7 our limitations were. We were honest and forthright
8 with them about where we were and what our intentions
9 were. And his characterizations of our meetings were
10 just wrong. They're just basically not true.

11 Q Do they accurately reflect the meetings based
12 on your recollection?

13 A No.

14 Q You know Mr. White? I think you said you did.

15 A Yes.

16 Q Have you had a chance to inquire of him or
17 confront him with your concerns about his testimony?

18 A Actually, I did talk to him at the Eastern Fuel
19 Buyers meeting.

20 Q How did he react?

21 A He apologized for the characterization in his
22 testimony.

23 Q Did he say what his motivations were?

24 A He specifically said that you have to do what
25 you have to do to keep your job.

1 MR. BEASLEY: Thank you, sir. I would like to
2 ask that the Coal & Energy document be marked as an
3 exhibit.

4 MR. WRIGHT: Subject to my objection to it as
5 possible hearsay.

6 (Deposition Exhibit 6 was marked for
7 identification.)

8 REDIRECT EXAMINATION

9 BY MR. WRIGHT:

10 Q I have some questions regarding the questions
11 that Mr. Beasley just asked you.

12 In response to an earlier question regarding
13 Mr. Sullivan's presentation, you stated that
14 Mr. Sullivan indicated that CSXT expected to have
15 difficulty performing additional business in the future.
16 Did he specify over what time period he thought that
17 might continue?

18 A No, he didn't. Other presenters were putting
19 their papers on the web site, and to my knowledge, CSX
20 has refused to put their paper on the web site. So I
21 would like to read it, but I'm not sure.

22 Q Do you recall whether he said whether there was
23 a point in time at which they expected the current
24 situation to be alleviated such that they could handle
25 more coal?

1 A It was predicated on increased rates, if I
2 remember correctly, and that their rate structure had to
3 change and be increased if they wanted -- you know, it
4 was essentially that if we get rate increases, we can
5 put more capital on the ground, and all these problems
6 will go away.

7 Q Well, I understand your explanation. My
8 question for you was and is, did he mention a specific
9 time in which or at about which he expected the
10 situation to be alleviated as you have described it?

11 A Not that I remember, no.

12 Q I think when you read from the document, you
13 used the phrase or read the phrase "a staggering 6,200
14 cars." Do you know enough about the rail industry to
15 know whether that's a very large number of cars for CSX
16 to load in one day?

17 A I don't know. I also don't know where those
18 cars are going, if they're going for export or if
19 they're going for utility customers.

20 Q Is Tampa Electric Company a member of the
21 Eastern Fuel Buyers Conference?

22 A Yes, we are.

23 Q Do you know what Tampa Electric Company's role
24 in the Eastern Fuel Buyers Conference is?

25 A We generally have not had a role historically.

1 This year, we joined with three other municipals in the
2 state and helped sponsor the conference.

3 Q Did your sponsorship of the conference give you
4 a role in determining the program of the conference?

5 A I'm not -- I was not involved in that. I
6 think Karen is the person that --

7 Q In response to some questioning by
8 Mr. Beasley, you mentioned some difficulty getting
9 slotting, as I recall. Is that accurate so far?

10 A That's correct.

11 Q When you use the term "slotting," does that
12 refer to CSX's making available of a train?

13 A That's what I was referring to, yes.

14 Q Do you know whether slotting has anything to do
15 with the mine's loading a train?

16 A It's -- well, as in any other transportation of
17 commodities, the train needs to be loaded as soon as
18 it's taken to the source. If the source doesn't load
19 it, it's going to back things up. If the train is late
20 or, for instance, it's loaded but there's no power to
21 move it, the mine is stuck, and they can't move any more
22 coal until that train is out of there.

23 Q If the train is on time and the mine or
24 supplier decides not to load that train, is that beyond
25 the railroad's control?

1 A Sure, yes.

2 Q Do you know anything about the reservation
3 process for trains at coal mines?

4 A Not specifically, no.

5 Q Do you know whether on any given day there are
6 a certain number of reservations for coal loading at
7 coal mines?

8 A I would assume that's correct.

9 Q Do you know what, if any, relationship that
10 bears to the ability of the mine to load coal?

11 A I don't understand your question.

12 Q Well, suppose the mine has got five
13 reservations and the capability of loading two trains.
14 What happens?

15 A Then you're going to have three backed up.
16 But in the current market, where the coal prices in the
17 Central Appalachian District has doubled, I would think
18 that coal miners would be very interested in having
19 their coal shipped to consumers as quickly as possible.

20 Q I'm sure they are. Do you have any reason to
21 think that the railroad has any interest other than to
22 ship coal to consumers as quickly as possible?

23 A Only if they have new obligations to move it to
24 export terminals that they have not been utilizing over
25 the last five years.

1 Q Who decides which coal gets loaded onto these
2 trains, the coal mine or the railroad?

3 A I believe the coal mine would do that.

4 Q You mentioned in response to some questions by
5 Mr. Beasley a pinch point at Corbin. Was that in the
6 context of CSX's hopes or plans to improve conditions to
7 alleviate that pinch point?

8 A In relation to rate increases, they would have
9 the money to fix those kind of problems.

10 Q Going back to the questions I asked you a
11 minute ago about reservations, do you recall anything
12 specific about CSXT's new policy regarding reservations?

13 A No.

14 Q Did any of the shippers with whom you spoke
15 that you mentioned asserted they are being shorted by
16 CSXT also assert to you that they are being shorted by
17 their mines?

18 A No.

19 Q In response to questions by Mr. Beasley, you
20 made reference to when you compare the rates plus all
21 the adders that go onto the rail rates, they're more
22 expensive than water transportation. I want to compare
23 that to a response you gave to questioning by me this
24 morning, in which you said that you're not competent to
25 evaluate a rail bid. Are you backing off your statement

1 that you're not competent to evaluate a rail bid?

2 A No. But the analysis was done by other folks
3 to show that that's how it evaluated out.

4 Q To which analysis are you referring?

5 A I believe there was some analysis in
6 Ms. Wehle's rebuttal testimony, if I'm correct.

7 Q But you didn't do any of that, did you?

8 A No, sir.

9 Q In response to the same question, I believe --
10 I'm going to ask another question first. If you know,
11 when was the analysis that's shown in Ms. Wehle's
12 testimony of which you just spoke prepared?

13 A No, I don't.

14 Q Following on where I was, I believe you stated
15 that the rail rates, with the adjustments that somebody
16 at Tampa Electric thinks are appropriate taken into
17 account, the prices are higher than those that you asked
18 CSXT to match. Did you ask CSXT to match any charges by
19 TECO Transport?

20 A No. I made a mistake. I'm not sure when that
21 was said.

22 Q All I can tell you is that's what I wrote down
23 at the time, and that's why I wanted to ask you about
24 it, because I have never heard of you having asked CSXT
25 to match any TECO Transport prices.

1 A No.

2 Q So to the best of your knowledge, Tampa
3 Electric has never asked CSXT to match any TECO
4 Transport prices?

5 A No.

6 Q In response to questioning by Mr. Beasley, you
7 mentioned that Pitt 8 coal is about \$34 to \$35 a ton.
8 My question for you is, for what percent sulfur would
9 that be?

10 A Three and a half percent, 3%.

11 Q What's the price for, let's say, 5-1/2 to 6%
12 sulfur Pitt 8 coal?

13 Let me ask you a clarifying question. Probably
14 not nearly to degree that you have, I have looked at a
15 number of the coal trade publications in recent times.
16 I have frequently --

17 MR. BEASLEY: Object. You're testifying. Ask
18 a question.

19 MR. WRIGHT: I was -- well, I'll try this.

20 BY MR. WRIGHT:

21 Q Is it typical to see the coal prices stated in
22 terms of pounds of SO₂ per million Btu or in terms of
23 percent?

24 A It's not typical either way. Some
25 publications list it as percent. Some publications list

1 it as pounds per million.

2 Q Okay. What's the price for 5-1/2 to 6% sulfur
3 Pitt 8 coal?

4 A You would have to do a market survey or a
5 solicitation, but in those publications, I would think
6 somewhere between \$28 and \$34.

7 Q I'm going to hand you a copy of the Argus Coal
8 Daily dated May 7, 2004, and ask you to look at a table
9 that appears in the upper left-hand corner of page 3 of
10 eight.

11 A (Examining document.)

12 Q That shows the prices stated in pounds of SO₂
13 per million Btu, doesn't it?

14 A That's correct.

15 Q Will you agree that there's a linear
16 relationship between that and the percent sulfur in
17 coal?

18 A That's correct.

19 Q So can you tell me, looking at that
20 information, what you think the price of 6% sulfur coal
21 would be?

22 A This price list -- I had just told you 27 to
23 34. This is dated May 7th. I've been out of the office
24 for a couple of weeks, so bear with me. It's showing
25 12,500, 6 pound coal, which would relate somewhere into

1 the 3-1/2, 3 pound coal, as \$25, but it's also showing
2 that it has dropped \$2 in the previous week, so that
3 would --

4 Q Okay. Do you have any knowledge of future
5 projected prices of Pitt 8 coal?

6 A One of the things about Pittsburgh coal, it is
7 extremely volatile, as opposed to where Tampa Electric
8 purchases the vast majority of their coal, and that's
9 the Illinois Basin.

10 I have a document here, if I could show this
11 -- I don't know how this works.

12 MR. BEASLEY: This is an exhibit.

13 THE WITNESS: Oh, okay. Northern Appalachia,
14 13,000 Btu coal -- this is May 7th -- 3.6 pounds,
15 FOB barge, \$42.

16 MR. WRIGHT: Okay. Is that --

17 MR. BEASLEY: That's your copy to keep.

18 BY MR. WRIGHT:

19 Q You had some conversations with Mr. Beasley
20 regarding pet coke. Are you aware of other power plants
21 in Florida that burn petroleum coke other than Polk?

22 A Are you asking Mr. Beasley or me?

23 Q I'm asking you.

24 A I thought you were addressing Mr. Beasley.

25 Q I probably mumbled, and I apologize for that.

1 I said in response to some questions by Mr. Beasley, you
2 made some remarks regarding petroleum coke.

3 A Seminole Electric consumes petroleum coke.
4 Both plants in Jacksonville, JEA and Northside -- I
5 continue to get those two plants confused, but they both
6 consume significant quantities of petroleum coke.
7 Lakeland Electric consumes petroleum coke. I couldn't
8 say if anybody else does or not.

9 Q When you said JEA, did you mean the St. Johns
10 River Power Park units?

11 A That's what I meant by getting them confused.
12 There's two stations up there. There's St. Johns River
13 Power Park, and then there's -- I'm not sure what the
14 other one is called. There's two facilities.

15 Q If you know, isn't it true that Seminole
16 Electric receives all of its petroleum coke by rail from
17 CSX Transportation?

18 A That's my understanding.

19 Q If you know, how does Lakeland receive its
20 petroleum coke?

21 A By truck.

22 Q If you know, how does JEA receive its
23 petroleum coke that it uses at its units?

24 A I believe by vessel.

25 Q Do you know whether JEA receives any pet coke

1 by rail?

2 A No, I don't know.

3 Q You mentioned in your characterization of
4 Mr. White's testimony that the meetings were contentious
5 and acrimonious. Those were the words you used, I
6 believe. Is that accurate so far?

7 A The words I --

8 MR. BEASLEY: I believe he said they weren't
9 acrimonious or contentious.

10 THE WITNESS: They were not.

11 BY MR. WRIGHT:

12 Q I'm sorry. I probably mumbled again. I think
13 that you characterized Mr. White's testimony as
14 characterizing the meetings as contentious and
15 acrimonious. Is that accurate?

16 A Yes.

17 Q As you sit here today, can you show me where in
18 Mr. White's testimony he characterized those meetings as
19 you just did, as you characterized his testimony?

20 A Well, line 21, page 6 -- I'll just read this
21 paragraph. "We then followed Mr. Duff by automobile
22 from Polk to Big Bend. We parked our vehicle outside
23 the plant and toured Big Bend Station."

24 MR. BEASLEY: Why don't you start up here.

25 THE WITNESS: Okay.

1 A (Continuing) This is on line 13 of page 6.

2 "Did CSXT representatives visit Big Bend and Polk?"

3 "Yes. On May 21, 2002, Mr. Richard Schumann of
4 RAS Engineering, an independent engineering firm that
5 CSXT occasionally hires on a consulting basis, visited
6 the Polk and Big Bend sites. We were met at Polk in the
7 morning and taken on a brief tour of the facility by
8 Martin Duff. We were not introduced to any staff people
9 at the plant, nor were we given any written material
10 about Polk. We toured the site with Mr. Duff and
11 discussed several potential scenarios to serve the plant
12 by rail. The tour of the station lasted about 30
13 minutes.

14 "We then followed Mr. Duff by automobile from
15 Polk to Big Bend. We parked our vehicle outside of the
16 plant and toured the Big Bend Station in Mr. Duff's
17 automobile. We were not introduced to any plant
18 personnel or given any written material about the plant.
19 Mr. Duff was able to answer general questions, but was
20 not fully versed in technical specifications of the
21 plant. We were interested in specific issues related to
22 the infrastructure needs, such as belt sizes, belt
23 speeds, hopper size and rated capacity of the existing
24 limestone pit dump, which CSX was considering using as
25 the receiving pit for rail deliveries of coal. At the

1 time of the visit, the tracks below the dump pit had
2 been removed in order to lay pipe for the desalinization
3 plant located adjacent to the station. We asked about
4 plans to restore the tracks after the pipes had been
5 laid, and Mr. Duff replied that they would be restored.
6 We left Mr. Duff after a tour of about 45 minutes and at
7 that time requested that TECO provide as-built drawings
8 of the plant so that CSXT could begin its design work."

9 This discussion where they say they were not
10 introduced to any staff at the plant, nor were they
11 given any written material about the plant, there would
12 be no reason to introduce them to the staff. And, yes,
13 they were given information about the plant.

14 There's another characterization in here, I'm
15 not sure where, where they were not allowed to get out
16 of their cars, walk around, climb on equipment. They
17 were not there to do that. They were not in steel-toed
18 boots. They were not in work clothes. His
19 characterization that he was to come down and do
20 something other than look at the station is inaccurate,
21 and that's what I felt was misconstrued on his part.

22 Q Well, I didn't hear -- can you tell me right
23 there anything that's contentious or acrimonious about
24 what went on that day?

25 A I guess the entirety of the testimony against

1 my experience to me comes across as acrimonious.

2 Q Okay. Did you introduce either Mr. White or
3 Mr. Schumann to any staff, Tampa Electric personnel at
4 Polk?

5 A No.

6 Q Did the tour last approximately 30 minutes?

7 A That's probably an accurate description.

8 Q In your testimony this morning you
9 characterized it as a driving tour.

10 A That's correct.

11 Q Does that mean you stayed in the car pretty
12 much the whole time?

13 A That's correct.

14 Q Did you give them written materials about Polk
15 Station?

16 A I think we had pamphlets about the clean coal
17 technology project. And I guess I won't testify to it,
18 but I believe generally everybody that goes through
19 there we give plant documents to. It's kind of our
20 flagship plant.

21 Q Are those in the nature of what might be called
22 public relations or educational pamphlets for lay
23 persons who visit the plant?

24 A Exactly.

25 Q Do you recall whether you gave them any other

1 written materials regarding the plant?

2 A No.

3 Q Did you introduce them to any Tampa Electric
4 personnel at Big Bend?

5 A No.

6 Q Did you give them any written materials
7 regarding Big Bend?

8 A Not that I can recall.

9 Q Is Mr. White's characterization of the tour as
10 having lasted about 45 minutes accurate as far as you
11 know?

12 A I think so.

13 Q Did you all get out of the car at Big Bend?

14 A We did get out of the car over by
15 desalinization plant so Bob could have a smoke. But
16 other than that, no, they were not allowed out of the
17 car.

18 Q Did you tell Mr. White that it was Tampa
19 Electric's plan at that time to restore the tracks that
20 you referred to?

21 A No. I wouldn't be privy to that kind of
22 knowledge. That would be a plant decision. I don't
23 make those kind of decisions.

24 Q Well, I understand that you don't make those
25 decisions, but you might have heard or had some

1 understanding of what the plan was, mightn't you?

2 A (Gesturing.)

3 MR. WRIGHT: That's all I have.

4 RE-CROSS-EXAMINATION

5 BY MR. BEASLEY:

6 Q Just one question. Did you do everything that
7 the CSXT representatives asked you to do when they
8 visited Polk and Big Bend Station?

9 A Yes.

10 MR. BEASLEY: Thank you. We would like to read
11 and sign the deposition.

12 (Deposition concluded at 12:46 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, MARY ALLEN NEEL, Notary Public in and for
the State of Florida at Large:

DO HEREBY CERTIFY that on the date and place
indicated on the title page of the foregoing transcript,
an oath was duly administered by me to the designated
witness before testimony was taken.

WITNESS my hand and official seal this 17th day
of May, 2004.

Mary Allen Neel
MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308



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CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEON)

I, MARY ALLEN NEEL, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter transcribed under my supervision; and that the foregoing pages numbered 1 through 102 are a true and correct transcription of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, or relative or employee of such attorney or counsel, or financially interested in the action.

DATED THIS 17th day of May, 2004.



MARY ALLEN NEEL, RPR
2894-A Remington Green Lane
Tallahassee, Florida 32308
(850) 878-2221

ERRATA SHEET

I have read the transcript of my deposition, pages 1 through 102, and hereby subscribe to same, including any corrections and/or amendments listed below.

6-2-04
Date


Signature

Page	Line	Correction or Amendment	Reason for Change
40	10	Strike Q : A in lines 10-15	
41	9	Strike Q : A in lines 9-25	
42	1	Strike Q : A in lines 1-25	
43	1	Strike Q : A in lines 1-25	
44	1	Strike Q : A in lines 1-23	
49	23	Strike Q : A in lines 23-25	
50	1	Strike Q : A in lines 1-4	
61	9	Change "TECO, in Shipping" to "TECO Ocean Shipping"	
62	4	Change "Internet" to "Intranet"	typo
70	19	Change "Internet" to "Intranet"	typo
95	1	Change pound to Percent	typo

Date of Deposition

Reporter