

REDACTED

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050001-EI

In re: Fuel and purchased power  
cost recovery clause with  
generating performance incentive  
factor.

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**COPY**

CONFIDENTIAL TRANSCRIPT

DEPOSITION OF: DONNA M. DAVIS  
TAKEN AT THE INSTANCE OF: Office of Public Counsel  
DATE: October 25, 2005  
TIME: Commenced at 10:40 a.m.  
Concluded at 12:05 p.m.  
LOCATION: 123 South Calhoun Street  
Tallahassee, Florida  
REPORTED BY: MARY ALLEN NEEL, RPR  
Notary Public, State  
of Florida at Large

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2  
3 **STIPULATIONS**

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

11 \* \* \*

12 Thereupon,

13 DONNA M. DAVIS

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

16 **DIRECT EXAMINATION**

17 BY MR. MCGLOTHLIN:

18 **Q.** Please state your name and business address.

19 **A.** Donna Davis. My business address would be  
20 410 South Wilmington Street, Raleigh, North Carolina.

21 **Q.** Ms. Davis, this time and place has been set  
22 for the deposition of the corporate representative who  
23 has responsibility for and knowledge of the  
24 preparation and submission of Progress Energy  
25 Florida's Form 423 to the Public Service Commission.  
Are you that individual?

**A.** Yes, I am.

1           **Q.** My name is Joe McGlothlin. I have a series  
2 of questions to ask you about your role in that  
3 capacity. If at any time you don't understand my  
4 question, I would like for you to stop me and ask me  
5 to repeat it or clarify it so that at the end of the  
6 day we have a record that accurately reflects both  
7 what I've asked and what you've answered. Is that all  
8 right?

9           **A.** That's fine.

10          **Q.** Let's begin with a bit about your  
11 background. Would you provide us with some  
12 information about your educational background to begin  
13 with?

14          **A.** Yes. I have an undergraduate from the  
15 University of South Florida in accounting, and I have  
16 a graduate from the University of Tampa in business  
17 administration.

18          **Q.** And what about your business career?

19          **A.** I worked at -- the last 21 years have been  
20 at Electric Fuels, Progress Energy Service Company,  
21 and currently Progress Energy Carolina. And prior to  
22 that I worked 15 years at Tampa Electric Company.

23          **Q.** Let's begin with Tampa Electric Company.  
24 Was that your first job after getting your degree?

25          **A.** I got my degree while working at Tampa

1 Electric Company.

2 Q. And what was your position with Tampa  
3 Electric Company?

4 A. It was two or three positions. My first  
5 position at Tampa Electric Company was handing out  
6 meters, my second position was a receptionist for  
7 personnel, my third position was a secretary in the  
8 safety department, and my last position was supervisor  
9 in accounting working with the Public Service  
10 Commission.

11 Q. And how long were you in that latter  
12 position?

13 A. It has been quite a while ago, but I would  
14 say anywhere between five and ten years.

15 Q. You said you were an accountant. In what  
16 area?

17 A. In the fuels department at Tampa Electric  
18 Company.

19 Q. I see. And what was the time frame of your  
20 employment with Tampa Electric Company?

21 A. I actually started as a temporary in 1969,  
22 June of '69 or July of '69, and was put on full time  
23 in January of '70. And I left there November the  
24 30th, 1984.

25 Q. How long were you in the fuels department?

1           **A.** It was actually accounting for fuels. It  
2 was in the accounting department, because I was at  
3 that time obtaining my accounting degree. And it was  
4 somewhere between five and ten years, so that would  
5 make it somewhere between '74 and '75 to '84.

6           **Q.** Were your responsibilities in that position  
7 similar to the responsibilities you've held with  
8 Electric Fuels and since then?

9           **A.** They were not as broad as they were with  
10 Electric Fuels, due to the fact that at that time I  
11 was still obtaining my degree. So they increased as I  
12 continued my education.

13           **Q.** And Electric Fuels was your next employer;  
14 is that correct?

15           **A.** Electric Fuels was my next employer.

16           **Q.** Describe to me, if you will, the position or  
17 positions you've held with Electric Fuels and the time  
18 frames.

19           **A.** Electric Fuels, I believe I started  
20 December 3rd, 1984. And I worked with the Florida  
21 Public Service Commission and FERC, working with doing  
22 the Form 423s. I helped create the Form 423 for the  
23 staff. And I did interrogatories and productions of  
24 documents. Mainly it was, like I say, working with  
25 FERC and the Public Service Commission on behalf of

1 Florida Power and Electric Fuels Corporation.

2 Q. You said you did interrogatories and  
3 productions. Do I understand correctly that you  
4 prepared responses to discovery requests to the  
5 company in that regard?

6 A. That's correct.

7 Q. What was your job title when you were at  
8 Electric Fuels Corporation?

9 A. I had a couple of titles. I think I started  
10 as a supervisor, supervisor of accounting, and then it  
11 went to a manager at some point, and then a director  
12 of accounting in regulatory services. And then --  
13 like I say, that was during the time at Electric  
14 Fuels. And the last title I think was Director, Coal  
15 and Regulatory Services, which is my title today.

16 Q. Okay. And in terms of change of employers,  
17 what was the next step in that progression?

18 A. Well, at Electric -- of course, Electric  
19 Fuels was merged and became Progress Fuels, and I  
20 moved to Raleigh. I started commuting to Raleigh in  
21 January of 2004 and changed residence in April of  
22 2004. And I was Director of Coal and Regulatory  
23 Services, and the coal encompassed both the regulated  
24 and nonregulated side. And then in December of 2004,  
25 I became a Progress Energy employee with the same



1 title. And then in June of 2005 when I decided to  
2 take retirement, I became an employee of Progress  
3 Energy Carolina.

4 Q. Has your position changed or have your  
5 responsibilities changed when you moved from Progress  
6 Fuels to Progress Energy, then to Progress Carolinas?

7 A. They did not change when I moved from  
8 Progress Fuels to Progress Energy Service Company, but  
9 they have changed since I moved to Progress Energy  
10 Carolina. I am now doing 90 to 95 percent Florida  
11 related Commission work in the movement of the  
12 regulated Florida into the Carolinas.

13 Q. You said that you're currently doing 90 to  
14 95 percent. That's 90 to 95 percent of your time  
15 spent?

16 A. That's correct.

17 Q. How is that different from what you were  
18 doing earlier?

19 A. Earlier I was also controller of our  
20 nonregulated accounting, so I was at that point  
21 probably doing a 50-50 percent split.

22 Q. And that was while you were with the  
23 Progress Energy Service Company?

24 A. That's correct, and part of the time with  
25 Progress Energy.

1           **Q.** So you've had several positions. And so  
2 that I'm clear, speaking of today now, what is your  
3 job title?

4           **A.** My title is the same today, Director, Coal  
5 Accounting and Regulatory Services.

6           **Q.** And is that within a section or department?  
7 How is your area organized?

8           **A.** I no longer have any employees that report  
9 to me directly due to the retirement that I'm taking.  
10 And I am transferring my job responsibilities to  
11 others and working with the implementation of moving  
12 Progress Energy Florida -- Progress Fuels Florida,  
13 pardon me, to Raleigh, helping with that transition.

14           **Q.** I understand then that your situation is  
15 made somewhat unique by the fact that you're in the  
16 process of retiring and delegating or transferring  
17 your functions to others. Let's speak in terms of how  
18 your successor, let's say, and your successor's  
19 organization is structured. How would you describe  
20 that function within the company?

21           **A.** My job has been given to not just one  
22 successor. It has been divided up. My nonregulated  
23 functions were given to others over in the  
24 nonregulated Progress Fuels. My regulated functions  
25 have been split. Some of the responsibilities will go

1 under a forecasting group, and some of the  
2 responsibilities will go under an accounting group.

3 Q. And these are groups within a department?

4 A. They're groups under Progress Energy. The  
5 latter two are groups under Progress Energy Carolina,  
6 and of course, the unregulated would be under Progress  
7 Fuels Corporation.

8 Q. I see. Well, focusing on the regulated  
9 functions, to whom would the individuals who take over  
10 your current functions report?

11 A. There's going to be -- like I say, my job  
12 has been split, so part of my job will go under fuel  
13 procurement under a gentleman named Sasha Weintraub.

14 Q. Can you spell that for me?

15 A. W-e-i-n-t-r-a-u-b. We're not sure yet who  
16 the Form 423 will go under, but we're assuming it will  
17 go under the accounting because it is mostly a  
18 bookkeeping effort. The forecasting responsibilities  
19 are going under a lady called Donna Massengill,  
20 M-a-s-s-e-n-g-i-l-l.

21 Q. Do you currently or have you over time held  
22 responsibilities in forecasting areas?

23 A. Yes. I was responsible for coming up with  
24 the budget for the regulated side, along with the  
25 operations director or vice president at the time. I

1 did the accounting to prepare that and sent it to  
2 Progress Energy Florida.

3 Q. You say you were responsible for preparing a  
4 budget. Is that the budget for the administrative  
5 functions as opposed to cost of fuel projections, that  
6 type of thing?

7 A. That would be for the cost of fuels. I  
8 actually did the accounting part of it. I worked with  
9 the vice president of operations. He would come up  
10 with what he was going to buy and from whom he was  
11 going to buy, and I would actually work with another  
12 accountant and prepare the Excel worksheets and put it  
13 together and review it with the vice president at that  
14 time to be sent to the corporate office.

15 Q. This is the vice president of operations  
16 within --

17 A. Progress Fuels.

18 Q. Progress Fuels. And who was that  
19 individual?

20 A. Well, there have been two in my span. The  
21 first one was Dennis Edwards, and currently it is Al  
22 Pitcher.

23 Q. If I understand your earlier responses  
24 correctly, at the time you were with Progress Fuels  
25 Corporation, one of your responsibilities was

1 preparing the Form 423s to submit on behalf of  
2 Progress Energy Florida; is that correct?

3 **A.** That is correct.

4 **Q.** A little later I'm going to give you an  
5 example of one of the 423 forms, but I want to begin  
6 with a series of general questions. And by way of an  
7 overview, our purpose today is to trace through the  
8 manner in which on behalf of Progress Energy Florida  
9 coal is purchased and reports are made so that at the  
10 end of the day we hope to understand better than we do  
11 now how all that is integrated and how the process  
12 flows from the point of the transaction to the point  
13 of the reporting of the transaction.

14 We can look at an example if you wish, but  
15 based upon your earlier answers, I think you can  
16 probably field these readily. One of the columns  
17 shown on the Form 423 is captioned "Mine Location."  
18 What is the source of the information that you or  
19 others who may have your role in the future use to  
20 fill out that part of the form?

21 **A.** The mine location is actually derived from  
22 the supplier by the operations department, and they  
23 would send a report to the accounting department  
24 monthly showing the suppliers which they purchased  
25 from for the month and what mine locations were

1 related to that purchase.

2 Q. Would you describe that report more fully in  
3 terms of the information that you would receive on the  
4 report?

5 A. It's a -- I would call it similar to an  
6 Excel worksheet. It's generally two or three pages,  
7 and it would have the name of each supplier that you  
8 purchased from. It would have if it was underground  
9 or surface coal, and it would have the county it was  
10 purchased from. It would have the tons, and it would  
11 have quality characteristics.

12 Q. Would it be possible to provide us with an  
13 example in blank of the type of form you've described  
14 to us today?

15 A. Yes.

16 MR. MCGLOTHLIN: Could we have that as a  
17 late-filed exhibit, Exhibit 1. "Report from  
18 Operations to Accounting," would that an accurate  
19 short title for it?

20 THE WITNESS: Correct.

21 MR. MCGLOTHLIN: Well, let's put the word  
22 "format" or "example" in there to make sure it's  
23 clear that this is in blank.

24 (Late-filed Deposition Exhibit Number 1 was  
25 identified.)

1 BY MR. MCGLOTHLIN:

2 Q. Would the same report provide the  
3 information that you would use to fill out the column  
4 on the Form 423 captioned "Tons"?

5 A. That's correct.

6 Q. Now, there's a column for the coal price  
7 which is captioned "Effective Price." Is that taken  
8 from the contract itself or from the report that you  
9 described?

10 A. Can you give me an example of the Form 423,  
11 please?

12 Q. Yes. (Tendering document.)

13 I'm referring to the column near the middle  
14 of the page that's captioned "Effective Purchase  
15 Price, Dollars Per Ton."

16 A. Okay. This is on Form 423-2, and the reason  
17 I'm saying that is because that price in column (g) on  
18 423-2 actually comes forward from 423-2A, column (1).

19 Q. Okay. Well, perhaps this is a good point to  
20 ask you to explain the significance of the various  
21 portions of Form 423. Shall we just walk through the  
22 example that you have there? What is displayed on the  
23 first page, which I have as 423-1?

24 A. 423-1 is oil. All the 1 reports are oil, so  
25 you've got to go to the 2 reports to get coal.

1           **Q.** All right. We're there.

2           **A.** Okay. There's actually four pages of 423-2  
3 for each place where coal is delivered, so rail coal  
4 for 1 and 2 would have four pages, and rail coal for 4  
5 and 5 would have four pages. And then IMT again would  
6 have four pages, and so would McDuffie, because  
7 they're all where coal is delivered.

8                       When the Commission came up with the form,  
9 423-2 was the high level summary. 423-2A was the  
10 cost, which would give you an effective purchase price  
11 without all of the detail. 2B would give you all of  
12 the detail, and 2C would give you any corrections or  
13 any costs that came in related to a coal purchase  
14 after the time that these reports were filed.

15           **Q.** You referred to several names or locations  
16 earlier, and I think I'm familiar with all of them  
17 except McDuffie. What is McDuffie?

18           **A.** McDuffie is in Mobile.

19           **Q.** Is that the name of the terminal?

20           **A.** The terminal.

21           **Q.** And you mentioned that the Commission had  
22 come up with a form. Do I understand correctly that  
23 what we have here is the PSC variation on a FERC form?

24           **A.** That is correct. In 1984-1985, I was filing  
25 the FERC Form 423, and at that time the Commission



1 staff wanted to have a Public Service Commission Form  
2 423. And I worked with them, and this is the form  
3 that we came up with at the time to give them the  
4 detail that they wanted. And there's an order out  
5 with a breakdown of what is supposed to be in each one  
6 of these columns.

7 **Q.** Now, you've described to us two locations  
8 where the effective price per ton appears, first in  
9 column (1), I believe it was, of Form 423-2.

10 **A.** On 423-2 it's in column (g), and on 423-2A  
11 it's in column (1).

12 **Q.** All right. And does one simply carry it  
13 over to the other?

14 **A.** That's correct. Now, also, on 423-2B, it's  
15 in column (g), and they're all carryovers.

16 **Q.** All right. And if we were to go behind the  
17 423 form, what is the source of the information that  
18 appears in the 423 form as effective price per ton?

19 **A.** The original invoice price, which would be  
20 the billing price for the month, which would be the  
21 amount that we have accrued from an accounting  
22 perspective for the month of our closing, and any  
23 quality adjustments that we have received that month  
24 for coal purchased during that month. And it is rare  
25 that we will get one of those. It's generally a

1 couple of months later when you would get quality  
2 adjustments.

3 Q. Now, let me ask you a couple of questions  
4 about the invoice to which you referred. Is that an  
5 invoice from the original seller to Progress Fuels  
6 Corporation or an invoice from Progress Fuels  
7 Corporation to Progress Energy? How does that work?

8 A. Okay. The original invoice price is based  
9 on the price from the coal supplier to Progress Fuels  
10 Corporation.

11 Q. Which may be PFC or someone else; is that  
12 correct?

13 A. It will be a contract between PFC and Massey  
14 or Alliance or whomever.

15 Q. And this is described as an effective price  
16 per ton. What was the significance of the word  
17 "effective"?

18 A. The effective price is just saying this is  
19 your total invoice price including any quality  
20 adjustments or any freeze-proofing you might have at  
21 the time, which was mostly what was in shorthaul and  
22 loading there, to come up with a total invoice price  
23 excluding transportation.

24 Q. Total invoice price divided by the total  
25 tons, is that the effective price?

1           **A.**    That is correct.

2           **Q.**    And you said something about  
3 freeze-proofing. Did I hear that correctly?

4           **A.**    Rarely you will have freeze-proofing in  
5 Florida. It has been a rarity, but that was what we  
6 would put in the shorthaul and loading charges. There  
7 might have been -- over the 10 to 15 years I've been  
8 doing it, we've had another small charge in there, but  
9 that's mostly the only thing that has ever been in  
10 there.

11          **Q.**    And freeze-proofing is treating the coal so  
12 that it endures the trip during cold weather; is that  
13 correct?

14          **A.**    That's correct.

15          **Q.**    And there are four columns that deal with  
16 the quality of the coal. What is the source of the  
17 information that appears on 423-2 for the percent  
18 sulfur, Btu content, percent ash, and percent  
19 moisture?

20          **A.**    That is the actual lab analysis from a third  
21 party that is received by the operations department,  
22 and that is on their report that they send to us that  
23 I spoke of earlier in our conversation.

24          **Q.**    Would that be taken into account before or  
25 after the invoice is received?

1           **A.** This is actually a third party doing an  
2 analysis when the coal is shipped, so this is what  
3 your -- if you have a Btu quality adjustment or an ash  
4 adjustment in your contract, this would be the quality  
5 that that would be based on.

6           **Q.** Okay. Does the -- let me try again. Is the  
7 effective purchase price the price that results after  
8 any quality adjustments are taken into account or  
9 before?

10           **A.** In the forms that we have to file, we  
11 normally do not have the quality adjustment when we  
12 file the form. So at some time later on the C sheet,  
13 423-2C, we will correct that effective purchase price  
14 to include the quality adjustment.

15           **Q.** Okay. Let me see if I understand correctly.  
16 Let me read that back to you and make sure I  
17 understand. So that, for instance, on a given page,  
18 with respect to the column for effective purchase  
19 price, that is simply the total invoice price divided  
20 by total tons, and then the quality columns refer to  
21 the coal that is the subject of that price, but any  
22 adjustments have not been taken into account as of  
23 yet?

24           **A.** In most cases. Once in a while, like the  
25 one you gave me here in January for 1 and 2 on the

1 quality adjustments. Most times you will not have any  
2 quality adjustments, because they have not come in yet  
3 from the supplier. Sometimes they do.

4 Q. And where there is a quality adjustment, how  
5 is that accomplished in terms of the relationship  
6 between the purchaser and the seller?

7 A. I don't know if I'm clear with your  
8 question.

9 Q. Okay. Let's assume, for instance, that in  
10 January, no quality adjustment appears, but  
11 subsequently there is a quality adjustment that has  
12 the effect of reducing the total contract price. How  
13 is that adjustment accomplished?

14 A. Of course, the adjustment would come in to  
15 the accounting department, and we would deduct it off  
16 the next payment, and then on 423-2C, we would reflect  
17 that lower cost on the form.

18 Q. So when you get another receivable or bill  
19 to pay, you simply make the adjustment to the amount  
20 that you would pay to the provider of the coal at that  
21 point?

22 A. That is correct.

23 Q. The 423 forms reflect -- I guess the word to  
24 use would be amounts that would be billed to and paid  
25 by Progress Fuels Corporation over time, do they not?

1           **A.**   That's correct.

2           **Q.**   Is there an auditing function that looks at  
3 these billings periodically?

4           **A.**   Once a year, the Commission has asked that  
5 an internal audit review the contract between Progress  
6 Energy Florida and Progress Fuels, and they go back  
7 and do auditing of particular transactions. Also, the  
8 staff at times has come in and looked at it.

9           **Q.**   Okay. Focusing on the internal audit that's  
10 performed, is there a group or section that has that  
11 responsibility within the operation?

12           **A.**   Yes. I think it's under Progress Energy  
13 Florida now, but I'm not sure how the audit function  
14 has been broken up since the merger. It used to be  
15 done by Progress -- Florida Power and then Progress  
16 Energy Florida, but I'm not sure how the group is  
17 broken up. But that happens once a year. We come up  
18 once a year, and before FIPUG, Public Counsel, and  
19 staff, we give a report of those findings.

20           **Q.**   When was the most recent audit and audit  
21 report of which you're aware?

22           **A.**   It was April or May of this year, and it was  
23 for 2004.

24           **Q.**   Were any issues identified in the audit  
25 report that resulted from that audit?

1           **A.**    No.

2           **Q.**    I realize that you're here as the expert on  
3           423. I'll ask you a few questions about the  
4           relationship between the 423 form and PSC's A forms,  
5           and answer them if you know. How does the data that  
6           we see reported on Form 423 become incorporated into  
7           the A forms or translated into the A forms?

8           **A.**    I really couldn't answer that directly. All  
9           I know is that we send them an invoice each month  
10          related to our costs, and that accumulates into the  
11          cost of coal, which would go into their A form.

12          **Q.**    By them and their, you're talking about  
13          Progress Energy Florida?

14          **A.**    Yes.

15          **Q.**    Again, if you know, what is the source of  
16          the information used to calculate the fuel surcharges  
17          shown on customers' bills, the 423 form or the A form?

18          **A.**    I'm sorry. I could not answer that.

19          **Q.**    Okay. In an earlier answer, you described  
20          the manner in which you have over time had some  
21          dealings with or you interfaced with the operations  
22          department in terms of the information you received  
23          from operations that you put on 423. I'll ask you a  
24          few questions about the process of purchasing coal  
25          itself, and again, answer if you know. Are you

1 familiar with the process that Progress Fuels  
2 Corporation under its contract with Progress Energy  
3 follows to purchase coal used at Crystal River?

4 MS. RAEPPLE: Joe, I'm going to object to  
5 this line of questioning unless you tie it to  
6 423, because this witness has been brought under  
7 a notice of taking deposition related solely to  
8 Form 423. And I've let you go a little bit into  
9 background and stuff, but to the extent you're  
10 going to ask questions that are unrelated to 423,  
11 I'm going to object.

12 BY MR. MCGLOTHLIN:

13 Q. Ms. Davis, I think we've established that  
14 the information that appears on 423 is received by you  
15 from operations, who has entered into a contract with  
16 the supplier; is that correct?

17 A. That's correct.

18 Q. Do you or does someone in your role verify  
19 each transaction reported on 423 with the underlying  
20 contract?

21 A. When we close our books each month, we  
22 verify the contract terms as far as the price, and we  
23 receive a report from operations on the tons. There  
24 is no way besides the tonnage report that we can  
25 verify the tons.



1           **Q.** Okay. But in terms of the price, you rely  
2 not only on the report given you from operations, but  
3 you compare that with the contract itself?

4           **A.** Well, operations does not give me the price.  
5 I have a copy of the contract, so we refer to the  
6 contract.

7           **Q.** I see. And that's done with respect to each  
8 transaction that is reported on 423?

9           **A.** That is correct.

10          **Q.** How do you ascertain that a specific  
11 shipment reported on 423 is related to a specific  
12 contract?

13          **A.** The operations department lets us know that  
14 they received coal from Consolidated Coal Company, and  
15 then I have the specifications, whether it's low  
16 sulfur or compliance coal, and therefore, I can go to  
17 the contract and determine what the price is.

18          **Q.** And that enables you to determine the price  
19 for the specific shipment that is being reported or  
20 the specific transaction?

21          **A.** The shipments in total.

22                MR. MCGLOTHLIN: Let's take a five-minute  
23 break. Maybe I can cull some questions and  
24 shorten this.

25                        (Short recess.)

1 BY MR. MCGLOTHLIN:

2 Q. Ms. Davis, you said earlier that you receive  
3 a report from the operations department of Progress  
4 Fuels Corporation that indicates the tons purchased  
5 reflecting individual transactions entered into by  
6 Progress Fuels Corporation. Do you ever interface  
7 with anyone at Progress Energy Florida? Is there an  
8 approval by PEF that occurs either before or after you  
9 prepare the Form 423 in terms of signing off on the  
10 transaction?

11 A. The Form 423 is a report that we do on  
12 behalf of Progress Energy Florida. It's just  
13 reporting the transactions that have occurred.  
14 Progress Energy Florida has reviewed those  
15 transactions through the audit. So, no, I do not each  
16 month have someone sign off on the form from Progress  
17 Energy Florida.

18 Q. To your knowledge, is the annual audit the  
19 only point at which Progress Energy reviews those  
20 transactions and either approves or finds fault with  
21 them?

22 A. The vice president of Progress Fuels reviews  
23 his purchases with people at Progress Energy Florida.  
24 I am not aware of how that interaction occurs, but it  
25 wouldn't be -- require that they just look at how we

1 report it.

2 Q. To your knowledge, has that review taken  
3 place prior to the time you are given the information  
4 to put on the form?

5 A. To my information, that is an ongoing  
6 process between the operations vice president and his  
7 group and Progress Energy Florida.

8 Q. Okay. If you will, turn to the January 2005  
9 Form 423-2. I think I'm learning my way around this  
10 form a little bit. And this is not the case with  
11 respect to January, but we've noticed that sometimes  
12 on the Form 423 there's a difference between the coal  
13 price on page 3 and the coal price on page 4. What  
14 would cause that difference?

15 A. I'm sorry. What are you calling page 3 and  
16 page 4? Are you calling 423-B page 3?

17 Q. I believe that's the case, yes.

18 A. 423-B is the backup that would roll forward  
19 to 423-2, page 1. Page 4 is, as I stated earlier,  
20 either a correction or an amount that has come in  
21 after these forms have been filled out.

22 Q. Okay.

23 A. So I'm not clear about your question. If  
24 you're calling 2B page 3 and 2C page 4, they wouldn't  
25 be the same, because 4 is a correction sheet.

1           **Q.**    What about Form 423-2A compared to 423-2B?  
2           Should those prices line up, or would there be  
3           occasions when they would be different?

4           **A.**    The effective purchase price on column (l)  
5           on 2A and the effective purchase price on column (g)  
6           on 2B should be the same.

7                   MR. MCGLOTHLIN:  Now, referring to the  
8           transportation cost shown for the Massey coal  
9           purchased in January, as I recall, Progress  
10          Energy regards these numerical values under  
11          transportation as confidential, so, Carolyn,  
12          we'll just use the same procedure we did earlier,  
13          and that is, we'll ask the questions and answers  
14          now, and you'll have the opportunity to designate  
15          portions of the transcript as confidential.

16                   MS. RAEPPLER:  That's correct, and the court  
17          reporter will prepare the transcript and provide  
18          it under seal.

19          BY MR. MCGLOTHLIN:

20           **Q.**    What does this particular form show as the  
21          cost of transportation for the Massey coal purchased  
22          in January?

23           **A.**    There are two Massey purchases in January on  
24          423-2B.  The first rail rate under Massey, line 3, is  
25          ██████████ The second Massey rail rate is ██████████

1 MR. MCGLOTHLIN: Off the record for a  
2 second.

3 (Discussion off the record.)

4 MR. MCGLOTHLIN: We'll go back on the  
5 record.

6 THE WITNESS: On 2, 423-2, rather than  
7 423-2B, line 3 for Massey says [REDACTED] and line 4  
8 says [REDACTED]

9 BY MR. MCGLOTHLIN:

10 Q. Well, I'll just ask you now since the  
11 question has arisen. What would account for the  
12 difference in the value shown for transportation on  
13 these two pages, 2 and 2B?

14 A. The difference is, on 2B, if you will look  
15 over in column (j), other rail charges, that would be  
16 your depreciation for the rail cars, that would be  
17 your property tax for the rail cars, and that would be  
18 your return for the rail cars. Those are other costs  
19 associated as far as a rail transportation cost. So  
20 if you go to line (p) on 423-2B, it will agree with  
21 line (h) on 423-2.

22 Q. I'm with you. And do these values reflect  
23 the cost of rail transport from the mine to the  
24 Crystal River plant?

25 A. Yes. That was the tariff rate in January

1 2005.

2 Q. For coal that was loaded at the mine mouth  
3 and delivered to Crystal River?

4 A. Coal loaded onto the rail spur at the mine  
5 and delivered to Crystal River.

6 Q. And does this report reflect that Progress  
7 Fuels paid that amount and billed Progress Energy  
8 Florida for reimbursement?

9 A. That is correct.

10 Q. Refer to page 423-2. There are two entries  
11 for Progress Fuels Corporation as the supplier for  
12 that month. Are you there?

13 A. Yes, I am.

14 Q. Do you know specifically the source of this  
15 particular coal for this transaction?

16 A. Well, the mine location on there is the 08  
17 district in Kentucky. And 193 is out of Perry,  
18 Kentucky, for the shipping point.

19 Q. Do you know whether this is one of the  
20 transactions that received a sign-off by Progress  
21 Energy Florida prior to the time Progress Fuels gave  
22 you the information to be reflected on the Form 423?

23 A. I could not answer that. I'll restate, I  
24 know that Progress Fuels works with Progress Energy  
25 Florida on an ongoing basis on their contracts. I am

1 just reporting the information.

2 Q. We're going to hand you the 423 for  
3 February 2005. If you'll look at the corresponding  
4 pages, 423-2, under "Total Transportation Cost," the  
5 numerical values shown on the pages for February are  
6 materially different from those shown on January. Do  
7 you know why there's such a significant difference?

8 MS. RAEPPLER: Excuse me, Joe. Just for  
9 clarification, which 423-2 are you looking at?  
10 Is this still for Crystal River 1 and 2?

11 MR. MCGLOTHLIN: I believe so. Where would  
12 that be reflected?

13 Well, your question may have served as a  
14 partial answer. I was looking at the one for  
15 IMT.

16 BY MR. MCGLOTHLIN:

17 Q. Well, let's turn to 423-2 for Crystal River  
18 1 and 2. I believe the question is still a pertinent  
19 one. It appears to us that the transportation cost in  
20 February is materially different from that shown in  
21 January. Can you shed some light on that?

22 A. Yes, I can. In January we were under tariff  
23 rates. The CSX contract had expired in December '04,  
24 and the new contract was signed in February '05. So  
25 in January we were under a tariff rate, which is much

1 higher than a contractual rate.

2 Q. I see. Do your 423 forms include the cost  
3 of transloading coal at various points along the way?

4 A. Yes, they do.

5 Q. Where would that be reflected?

6 A. Let's go to the IMT sheet for February.

7 Q. Which is where I started.

8 A. If you will go to 2B, 423-2B, and go to  
9 column (1).

10 Q. Okay. I'm there.

11 A. Those are the different rates for  
12 transloading. There is a direct, and there is one to  
13 storage. There's two different rates. And then  
14 there's a rate down on the bottom for Guasare that is  
15 a different rate for transloading for that particular  
16 shipment.

17 Q. All right. What is meant by the terms FOB  
18 plant and FOB barge?

19 A. FOB is the cost of the coal loaded onto the  
20 barge. FOB plant would depend on your question. FOB  
21 plant could be plant at IMT, it could be plant at  
22 McDuffie terminal, it could be plant at Crystal River,  
23 whatever. On Form 423, FERC has us call a plant where  
24 the coal is commingled.

25 Q. Okay. And if a price is expressed in terms



1 of FOB barge, does that mean that any cost of  
2 transporting by the barge should be added to the price  
3 quoted?

4 **A.** FOB barge is loaded onto the barge, so, yes,  
5 you would then add a barge cost.

6 **Q.** All right. You referred to -- I think I'll  
7 probably mispronounce this. Is it Guasare?

8 **A.** Guasare.

9 **Q.** Who is Guasare?

10 **A.** It's a foreign supplier.

11 **Q.** And do I understand correctly that coal  
12 purchased from Guasare is transloaded at the IMT  
13 terminal?

14 **A.** That is correct.

15 **Q.** So the transloading cost would be on the  
16 portion of the 423 form to which you referred me  
17 earlier? I think we were looking at --

18 **A.** Column (1).

19 **Q.** Column (1). Okay.

20 We're going to refer you to the June 423  
21 form for the purpose of two or three questions. And  
22 again, I'm looking at the page for Crystal River 1 and  
23 2 as an example. For each of the shipments on the  
24 June 423 form, can you tell me whether the shipment is  
25 FOB barge or some other arrangement?

1           **A.** On 1 and 2, lines 1 through 5 is rail coal.  
2 If you see over there in column (e), you see the UR?

3           **Q.** Yes.

4           **A.** That is a rail designator.

5           **Q.** All right.

6           **A.** Line 6 is coal from the transfer facility  
7 that has been commingled and lost its identity coming  
8 over to Crystal River 1 and 2.

9           **Q.** I'm sorry, Ms. Davis. You trailed off  
10 there, and I couldn't hear all of your answer.

11           **A.** Line 6 is coal from IMT. It is commingled  
12 there, and that's why it says transfer facility. It  
13 has lost its identity, so it doesn't have a name. The  
14 name is transfer facility.

15           **Q.** So IMT is a source of coal as well as a  
16 transfer point; is that correct?

17           **A.** Yes. FERC requires us to report a transfer  
18 facility, and the Commission followed that line.

19           **Q.** Okay. Now, give me the same information for  
20 Crystal River 4 and 5 in this month.

21           **A.** Lines 1 through 3, if you will look at  
22 column (e), is rail deliveries.

23           **Q.** Yes.

24           **A.** Four and 5 would be the same as I said in 1  
25 and 2. It comes from the transfer facility at IMT.

1 Q. And you may have told me earlier, but what  
2 does stand OB stand for in that column?

3 A. Ocean barge.

4 MR. MCGLOTHLIN: A moment in place while I  
5 confer a second.

6 (Discussion off the record.)

7 BY MR. MCGLOTHLIN:

8 Q. Ms. Davis, are you familiar with the term  
9 "upriver coal"?

10 A. Yes, I am.

11 Q. What does it mean?

12 A. Upriver coal is normally coal that is  
13 purchased like at a Kanawa River terminal or some  
14 other point up the river. In other words, it has not  
15 received any river transportation cost down the Ohio  
16 or the Mississippi.

17 Q. Can you identify examples of upriver coal on  
18 the form we're looking at?

19 A. For the month of June?

20 Q. Yes.

21 A. Lines 1 through 8 on the 423-2 for IMT would  
22 be coal that had been bought at some point upriver and  
23 would require a river transportation cost.

24 Q. And that is determined by the mine location?

25 A. That would either be an FOB barge price, or

1 that would be -- or a mine location coal.

2 Q. Well, you've anticipated my next question.  
3 It appears to us that with respect to the 423s that  
4 we've examined for any period in 2005, all the upriver  
5 coal is purchased FOB barge. Can you either confirm  
6 or correct us on that?

7 A. To the best of my knowledge, it is FOB  
8 barge.

9 MR. MCGLOTHLIN: We've referred to the Form  
10 423s for January, February, and June. I would  
11 like to those marked as exhibits to the  
12 deposition. Give us just a second.

13 MS. RAEPPLE: Mr. McGlothlin, could I just  
14 ask you the purpose of putting these particular  
15 423 forms on as exhibits to the deposition,  
16 because they're forms that have been clearly  
17 referred to in the deposition, but they've  
18 already been filed with the Public Service  
19 Commission as confidential documents. And it  
20 just seems to be a potential for further  
21 dispersal of confidential information that I  
22 would like to avoid unless there's a real benefit  
23 to putting them on as exhibits.

24 MR. MCGLOTHLIN: Well, I'm sensitive to  
25 that, and the only purpose was because of any

1 convenience factor for referring to the documents  
2 that were the subject of questions and answer.  
3 But as I recall -- did we make these as exhibits  
4 to Pitcher's deposition? I think we did.

5 MS. RODAN: You did, Exhibit 7.

6 MR. MCGLOTHLIN: I'll withdraw that request.  
7 I think it's probably redundant on my part.

8 MS. RAEPPLE: Okay. Thank you.

9 BY MR. MCGLOTHLIN:

10 Q. In an earlier response, you explained the  
11 difference in transportation costs between January and  
12 February as a result of paying a tariff rate in  
13 January and a contract rate in February. Prior to  
14 January, was there a contract in place?

15 A. Yes, there was. Prior to January, there was  
16 a contract.

17 Q. If you know, who was responsible for  
18 negotiating the contract that took effect in February?  
19 Would that have been --

20 A. Mr. Al Pitcher.

21 Q. Mr. Pitcher again?

22 A. Uh-huh.

23 MR. MCGLOTHLIN: I believe that's all the  
24 questions we have.

25

## CROSS-EXAMINATION

1  
2 BY MS. RODAN:

3 Q. With 10 minutes left, I would like to say  
4 good morning.

5 A. Good morning.

6 Q. Again, I'm Jennifer Rodan with the Florida  
7 Public Service Commission.

8 Do you still have the January 2005 423 form  
9 that Mr. McGlothlin had you look at?

10 A. No. You'll have to give it back to me.

11 Q. Could you please take a look at Form 423-2?  
12 On the first page of 423-2 --

13 A. Which one, please?

14 Q. Column (g), effective purchase price.

15 A. Which, Crystal River 1 and 2 or 4 and 5?

16 Q. It doesn't matter. In the effective  
17 purchase price column, is that FOB mine or FOB barge?

18 A. Depending on the contract, it could be  
19 either. In 2005, it was FOB barge, or on rail, it  
20 could be --

21 Q. And do you know about 2004?

22 A. I believe in 2004 we had both.

23 Q. Also looking at Form 423-2B -- actually,  
24 going back to my last question, in 2004 where it could  
25 be either one or both, how does one know which it is,

1 FOB mine or FOB barge?

2 **A.** From this 423-2, you would not know if it  
3 was FOB barge or FOB mine -- pardon me, mine mouth.

4 **Q.** And going to Form 423-2B, and using  
5 January 2005 as representative, with regard to the 423  
6 forms from 2004 and January and February of 2005, what  
7 is included in transportation costs for shipment of  
8 Drummond coal from Mobile to Crystal River?

9 **A.** In January 2005, that is the transloading  
10 rate in column (h).

11 **Q.** So the transloading fee is included in the  
12 transportation costs?

13 **A.** It is part of the transportation costs,  
14 transloading.

15 **Q.** And turning to the next page, Form 423-2B  
16 for IMT, what is included in transportation costs for  
17 shipment of both Guasare and Emerald coal from Mobile  
18 to Crystal River?

19 **A.** In line 7, column (1), that is a  
20 transloading charge at IMT.

21 **Q.** Could you please define the term "CIFIMT"?

22 **A.** No, I cannot.

23 MS. RODAN: And with that, I have no further  
24 questions.

25

## CROSS-EXAMINATION

1  
2 BY MR. PERRY:

3 Q. Hello, Ms. Davis. My name is Tim Perry, and  
4 I represent FIPUG. I just have a few short questions  
5 for you.

6 If you could turn to Form 423-2 for Crystal  
7 River 1 and 2 for January 2005. Do you have them in  
8 front of you?

9 A. Yes.

10 Q. Okay. I'm going to ask you to look at  
11 column (d) first. And if you look at that column,  
12 there are several different codes that appear there.  
13 MTC, S, and STC are examples of a few. Can you define  
14 what those codes are and what they mean, please?

15 A. Yes. S stands for spot, and spot was  
16 supposed to be just a contract you go out and you  
17 enter into randomly where, you know, it's not a  
18 contract per se. Short-term contract was supposed to  
19 be one year or less. Medium-term contract was  
20 supposed to be one to three years.

21 Q. Are there any other terms that might appear  
22 under purchase type but which do not appear on this  
23 form?

24 A. Yes. You could have LTC for long-term  
25 contract, which is three-plus years.



1           **Q.** And is that all the codes that would appear  
2 in that column?

3           **A.** Those are the codes prescribed by the  
4 Commission.

5           **Q.** Okay. Thank you. I'm going to ask you  
6 basically the same series of questions for the next  
7 column over, column (e). On this particular form  
8 there only appears two codes, UR and OB. Can you  
9 define those two codes for me?

10          **A.** UR stood for unit train, and OB stood for  
11 ocean barge.

12          **Q.** And how is ocean barge defined?

13          **A.** Ocean barge was defined by the Commission as  
14 the leg from the terminal, the offshore terminal to  
15 Crystal River.

16          **Q.** Okay. Are there any other codes that might  
17 appear in that column but that don't appear in this  
18 particular form?

19          **A.** Not on 1 and 2. On IMT, there are some  
20 other codes.

21          **Q.** Okay. Can you discuss those for us, please?

22          **A.** There is a code B that stood for barge,  
23 which was the river barge.

24          **Q.** And by river barge, does that mean a barge  
25 which goes from upriver, such as the Ohio or the

1 Mississippi, to IMT?

2 A. That is correct.

3 Q. And there's also a code GB. Can you explain  
4 what that is, please?

5 A. I don't recall sitting here today what the G  
6 stood for. We have a chart from the Commission that  
7 we use. But basically, it's only used for the foreign  
8 coal.

9 Q. Okay. And that chart that you have from the  
10 Commission, is that a chart that appears --

11 A. In an order from 1985.

12 Q. And does that give all the codes that you  
13 use?

14 A. It gives all the codes and what is supposed  
15 to be in each column on 423-2, 2A, 2B, and 2C.

16 MR. PERRY: Okay. That's all the questions  
17 I have. Thank you very much, Ms. Davis.

18 MS. RAEPPLE: Let me go off the record for  
19 just a moment.

20 (Short recess.)

21 CROSS-EXAMINATION

22 BY MS. RAEPPLE:

23 Q. I just have one follow-up question. When  
24 Ms. Rodan was asking you questions about where  
25 transloading was included in the transportation cost,

1 I think your response was that it was included in  
2 column (h). Would you clarify where transloading is  
3 included in the transportation cost in any of these  
4 423 forms, please?

5 **A.** On 423-2B, it should be column (1).

6 MS. RAEPPLE: I have nothing further.

7 MR. MCGLOTHLIN: Nor do I.

8 MS. RAEPPLE: Off the record.

9 (Deposition concluded at 12:05 p.m.)  
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CERTIFICATE OF ADMINISTERING OATH

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter and 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 this transcript, an oath was duly administered by me to the designated witness before testimony was taken.

DATED THIS 31st day of October, 2005.

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



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CERTIFICATE OF REPORTER

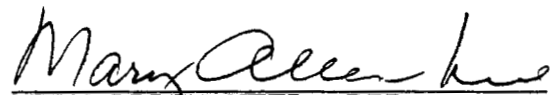
STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and that the foregoing pages numbered 1 through 43 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 31st day of October, 2005.

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



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October 31, 2005

Carolyn S. Raepple  
Hopping, Green & Sams, P.A.  
123 South Calhoun Street  
Tallahassee, Florida 32301

Re: In re: Fuel and purchased power  
cost recovery factor, etc.

Dear Ms. Raepple:

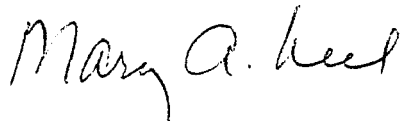
Enclosed is your copy of the deposition of Donna M. Davis  
taken in the above matter on October 25, 2005.

Since reading and signing was not waived, we are enclosing an  
errata sheet and request that your office make arrangements  
with the witness to read the deposition and make any  
corrections on the errata sheet.

Please forward the original completed errata sheet to Joseph A.  
McGlothlin for attachment to the original transcript and a copy  
to Jane Faurot at the Commission. You should also attach a  
copy to your transcript so that it will be complete.

Thank you for your cooperation in this matter. It was a pleasure  
working with you.

Sincerely,



Mary A. Neel

/mn

cc: Joseph A. McGlothlin, Esq.  
Jane Faurot

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050001-EI

In re: Fuel and purchased power  
cost recovery clause with  
generating performance incentive  
factor.

CONFIDENTIAL TRANSCRIPT

DEPOSITION OF: DONNA M. DAVIS  
TAKEN AT THE INSTANCE OF: Office of Public Counsel  
DATE: October 25, 2005  
TIME: Commenced at 10:40 a.m.  
Concluded at 12:05 p.m.  
LOCATION: 123 South Calhoun Street  
Tallahassee, Florida  
REPORTED BY: MARY ALLEN NEEL, RPR  
Notary Public, State  
of Florida at Large

ACCURATE STENOGRAPHY REPORTERS, INC.  
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2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

ALSO PRESENT:

EARL POUCHER  
BERNIE WINDHAM

STIPULATIONS

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  
5 uses and purposes as may be permitted by the  
6 applicable and governing rules. Reading and signing  
7 of the deposition transcript by the witness is not  
8 waived.

9 \* \* \*

10 Thereupon,

11 DONNA M. DAVIS

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

14 DIRECT EXAMINATION

15 BY MR. MCGLOTHLIN:

16 Q. Please state your name and business address.

17 A. Donna Davis. My business address would be  
18 410 South Wilmington Street, Raleigh, North Carolina.

19 Q. Ms. Davis, this time and place has been set  
20 for the deposition of the corporate representative who  
21 has responsibility for and knowledge of the  
22 preparation and submission of Progress Energy  
23 Florida's Form 423 to the Public Service Commission.

24 Are you that individual?

25 A. Yes, I am.



1 **Q. My name is Joe McGlothlin. I have a series**  
 2 **of questions to ask you about your role in that**  
 3 **capacity. If at any time you don't understand my**  
 4 **question, I would like for you to stop me and ask me**  
 5 **to repeat it or clarify it so that at the end of the**  
 6 **day we have a record that accurately reflects both**  
 7 **what I've asked and what you've answered. Is that all**  
 8 **right?**

9 A. That's fine.

10 **Q. Let's begin with a bit about your**  
 11 **background. Would you provide us with some**  
 12 **information about your educational background to begin**  
 13 **with?**

14 A. Yes. I have an undergraduate from the  
 15 University of South Florida in accounting, and I have  
 16 a graduate from the University of Tampa in business  
 17 administration.

18 **Q. And what about your business career?**

19 A. I worked at -- the last 21 years have been  
 20 at Electric Fuels, Progress Energy Service Company,  
 21 and currently Progress Energy Carolina. And prior to  
 22 that I worked 15 years at Tampa Electric Company.

23 **Q. Let's begin with Tampa Electric Company.**  
 24 **Was that your first job after getting your degree?**

25 A. I got my degree while working at Tampa

1 A. It was actually accounting for fuels. It  
 2 was in the accounting department, because I was at  
 3 that time obtaining my accounting degree. And it was  
 4 somewhere between five and ten years, so that would  
 5 make it somewhere between '74 and '75 to '84.

6 **Q. Were your responsibilities in that position**  
 7 **similar to the responsibilities you've held with**  
 8 **Electric Fuels and since then?**

9 A. They were not as broad as they were with  
 10 Electric Fuels, due to the fact that at that time I  
 11 was still obtaining my degree. So they increased as I  
 12 continued my education.

13 **Q. And Electric Fuels was your next employer;**  
 14 **is that correct?**

15 A. Electric Fuels was my next employer.

16 **Q. Describe to me, if you will, the position or**  
 17 **positions you've held with Electric Fuels and the time**  
 18 **frames.**

19 A. Electric Fuels, I believe I started  
 20 December 3rd, 1984. And I worked with the Florida  
 21 Public Service Commission and FERC, working with doing  
 22 the Form 423s. I helped create the Form 423 for the  
 23 staff. And I did interrogatories and productions of  
 24 documents. Mainly it was, like I say, working with  
 25 FERC and the Public Service Commission on behalf of

1 Electric Company.

2 **Q. And what was your position with Tampa**  
 3 **Electric Company?**

4 A. It was two or three positions. My first  
 5 position at Tampa Electric Company was handing out  
 6 meters, my second position was a receptionist for  
 7 personnel, my third position was a secretary in the  
 8 safety department, and my last position was supervisor  
 9 in accounting working with the Public Service  
 10 Commission.

11 **Q. And how long were you in that latter**  
 12 **position?**

13 A. It has been quite a while ago, but I would  
 14 say anywhere between five and ten years.

15 **Q. You said you were an accountant. In what**  
 16 **area?**

17 A. In the fuels department at Tampa Electric  
 18 Company.

19 **Q. I see. And what was the time frame of your**  
 20 **employment with Tampa Electric Company?**

21 A. I actually started as a temporary in 1969,  
 22 June of '69 or July of '69, and was put on full time  
 23 in January of '70. And I left there November the  
 24 30th, 1984.

25 **Q. How long were you in the fuels department?**

1 Florida Power and Electric Fuels Corporation.

2 **Q. You said you did interrogatories and**  
 3 **productions. Do I understand correctly that you**  
 4 **prepared responses to discovery requests to the**  
 5 **company in that regard?**

6 A. That's correct.

7 **Q. What was your job title when you were at**  
 8 **Electric Fuels Corporation?**

9 A. I had a couple of titles. I think I started  
 10 as a supervisor, supervisor of accounting, and then it  
 11 went to a manager at some point, and then a director  
 12 of accounting in regulatory services. And then --  
 13 like I say, that was during the time at Electric  
 14 Fuels. And the last title I think was Director, Coal  
 15 and Regulatory Services, which is my title today.

16 **Q. Okay. And in terms of change of employers,**  
 17 **what was the next step in that progression?**

18 A. Well, at Electric -- of course, Electric  
 19 Fuels was merged and became Progress Fuels, and I  
 20 moved to Raleigh. I started commuting to Raleigh in  
 21 January of 2004 and changed residence in April of  
 22 2004. And I was Director of Coal and Regulatory  
 23 Services, and the coal encompassed both the regulated  
 24 and nonregulated side. And then in December of 2004,  
 25 I became a Progress Energy employee with the same

1 title. And then in June of 2005 when I decided to  
2 take retirement, I became an employee of Progress  
3 Energy Carolina.

4 **Q. Has your position changed or have your**  
5 **responsibilities changed when you moved from Progress**  
6 **Fuels to Progress Energy, then to Progress Carolinas?**

7 A. They did not change when I moved from  
8 Progress Fuels to Progress Energy Service Company, but  
9 they have changed since I moved to Progress Energy  
10 Carolina. I am now doing 90 to 95 percent Florida  
11 related Commission work in the movement of the  
12 regulated Florida into the Carolinas.

13 **Q. You said that you're currently doing 90 to**  
14 **95 percent. That's 90 to 95 percent of your time**  
15 **spent?**

16 A. That's correct.

17 **Q. How is that different from what you were**  
18 **doing earlier?**

19 A. Earlier I was also controller of our  
20 nonregulated accounting, so I was at that point  
21 probably doing a 50-50 percent split.

22 **Q. And that was while you were with the**  
23 **Progress Energy Service Company?**

24 A. That's correct, and part of the time with  
25 Progress Energy.

1 under a forecasting group, and some of the  
2 responsibilities will go under an accounting group.

3 **Q. And these are groups within a department?**

4 A. They're groups under Progress Energy. The  
5 latter two are groups under Progress Energy Carolina,  
6 and of course, the unregulated would be under Progress  
7 Fuels Corporation.

8 **Q. I see. Well, focusing on the regulated**  
9 **functions, to whom would the individuals who take over**  
10 **your current functions report?**

11 A. There's going to be -- like I say, my job  
12 has been split, so part of my job will go under fuel  
13 procurement under a gentleman named Sasha Weintraub.

14 **Q. Can you spell that for me?**

15 A. W-e-i-n-t-r-a-u-b. We're not sure yet who  
16 the Form 423 will go under, but we're assuming it will  
17 go under the accounting because it is mostly a  
18 bookkeeping effort. The forecasting responsibilities  
19 are going under a lady called Donna Massengill,  
20 M-a-s-s-e-n-g-i-l-l.

21 **Q. Do you currently or have you over time held**  
22 **responsibilities in forecasting areas?**

23 A. Yes. I was responsible for coming up with  
24 the budget for the regulated side, along with the  
25 operations director or vice president at the time. I

1 **Q. So you've had several positions. And so**  
2 **that I'm clear, speaking of today now, what is your**  
3 **job title?**

4 A. My title is the same today, Director, Coal  
5 Accounting and Regulatory Services.

6 **Q. And is that within a section or department?**  
7 **How is your area organized?**

8 A. I no longer have any employees that report  
9 to me directly due to the retirement that I'm taking.  
10 And I am transferring my job responsibilities to  
11 others and working with the implementation of moving  
12 Progress Energy Florida -- Progress Fuels Florida,  
13 pardon me, to Raleigh, helping with that transition.

14 **Q. I understand then that your situation is**  
15 **made somewhat unique by the fact that you're in the**  
16 **process of retiring and delegating or transferring**  
17 **your functions to others. Let's speak in terms of how**  
18 **your successor, let's say, and your successor's**  
19 **organization is structured. How would you describe**  
20 **that function within the company?**

21 A. My job has been given to not just one  
22 successor. It has been divided up. My nonregulated  
23 functions were given to others over in the  
24 nonregulated Progress Fuels. My regulated functions  
25 have been split. Some of the responsibilities will go

1 did the accounting to prepare that and sent it to  
2 Progress Energy Florida.

3 **Q. You say you were responsible for preparing a**  
4 **budget. Is that the budget for the administrative**  
5 **functions as opposed to cost of fuel projections, that**  
6 **type of thing?**

7 A. That would be for the cost of fuels. I  
8 actually did the accounting part of it. I worked with  
9 the vice president of operations. He would come up  
10 with what he was going to buy and from whom he was  
11 going to buy, and I would actually work with another  
12 accountant and prepare the Excel worksheets and put it  
13 together and review it with the vice president at that  
14 time to be sent to the corporate office.

15 **Q. This is the vice president of operations**  
16 **within --**

17 A. Progress Fuels.

18 **Q. Progress Fuels. And who was that**  
19 **individual?**

20 A. Well, there have been two in my span. The  
21 first one was Dennis Edwards, and currently it is Al  
22 Pitcher.

23 **Q. If I understand your earlier responses**  
24 **correctly, at the time you were with Progress Fuels**  
25 **Corporation, one of your responsibilities was**

1 preparing the Form 423s to submit on behalf of  
 2 Progress Energy Florida; is that correct?  
 3 A. That is correct.  
 4 Q. A little later I'm going to give you an  
 5 example of one of the 423 forms, but I want to begin  
 6 with a series of general questions. And by way of an  
 7 overview, our purpose today is to trace through the  
 8 manner in which on behalf of Progress Energy Florida  
 9 coal is purchased and reports are made so that at the  
 10 end of the day we hope to understand better than we do  
 11 now how all that is integrated and how the process  
 12 flows from the point of the transaction to the point  
 13 of the reporting of the transaction.  
 14 We can look at an example if you wish, but  
 15 based upon your earlier answers, I think you can  
 16 probably field these readily. One of the columns  
 17 shown on the Form 423 is captioned "Mine Location."  
 18 What is the source of the information that you or  
 19 others who may have your role in the future use to  
 20 fill out that part of the form?  
 21 A. The mine location is actually derived from  
 22 the supplier by the operations department, and they  
 23 would send a report to the accounting department  
 24 monthly showing the suppliers which they purchased  
 25 from for the month and what mine locations were

1 related to that purchase.  
 2 Q. Would you describe that report more fully in  
 3 terms of the information that you would receive on the  
 4 report?  
 5 A. It's a -- I would call it similar to an  
 6 Excel worksheet. It's generally two or three pages,  
 7 and it would have the name of each supplier that you  
 8 purchased from. It would have if it was underground  
 9 or surface coal, and it would have the county it was  
 10 purchased from. It would have the tons, and it would  
 11 have quality characteristics.  
 12 Q. Would it be possible to provide us with an  
 13 example in blank of the type of form you've described  
 14 to us today?  
 15 A. Yes.  
 16 MR. MCGLOTHLIN: Could we have that as a  
 17 late-filed exhibit, Exhibit 1. "Report from  
 18 Operations to Accounting," would that an accurate  
 19 short title for it?  
 20 THE WITNESS: Correct.  
 21 MR. MCGLOTHLIN: Well, let's put the word  
 22 "format" or "example" in there to make sure it's  
 23 clear that this is in blank.  
 24 (Late-filed Deposition Exhibit Number 1 was  
 25 identified.)

1 BY MR. MCGLOTHLIN:  
 2 Q. Would the same report provide the  
 3 information that you would use to fill out the column  
 4 on the Form 423 captioned "Tons"?  
 5 A. That's correct.  
 6 Q. Now, there's a column for the coal price  
 7 which is captioned "Effective Price." Is that taken  
 8 from the contract itself or from the report that you  
 9 described?  
 10 A. Can you give me an example of the Form 423,  
 11 please?  
 12 Q. Yes. (Tendering document.)  
 13 I'm referring to the column near the middle  
 14 of the page that's captioned "Effective Purchase  
 15 Price, Dollars Per Ton."  
 16 A. Okay. This is on Form 423-2, and the reason  
 17 I'm saying that is because that price in column (g) on  
 18 423-2 actually comes forward from 423-2A, column (l).  
 19 Q. Okay. Well, perhaps this is a good point to  
 20 ask you to explain the significance of the various  
 21 portions of Form 423. Shall we just walk through the  
 22 example that you have there? What is displayed on the  
 23 first page, which I have as 423-1?  
 24 A. 423-1 is oil. All the 1 reports are oil, so  
 25 you've got to go to the 2 reports to get coal.

1 Q. All right. We're there.  
 2 A. Okay. There's actually four pages of 423-2  
 3 for each place where coal is delivered, so rail coal  
 4 for 1 and 2 would have four pages, and rail coal for 4  
 5 and 5 would have four pages. And then IMT again would  
 6 have four pages, and so would McDuffie, because  
 7 they're all where coal is delivered.  
 8 When the Commission came up with the form,  
 9 423-2 was the high level summary. 423-2A was the  
 10 cost, which would give you an effective purchase price  
 11 without all of the detail. 2B would give you all of  
 12 the detail, and 2C would give you any corrections or  
 13 any costs that came in related to a coal purchase  
 14 after the time that these reports were filed.  
 15 Q. You referred to several names or locations  
 16 earlier, and I think I'm familiar with all of them  
 17 except McDuffie. What is McDuffie?  
 18 A. McDuffie is in Mobile.  
 19 Q. Is that the name of the terminal?  
 20 A. The terminal.  
 21 Q. And you mentioned that the Commission had  
 22 come up with a form. Do I understand correctly that  
 23 what we have here is the PSC variation on a FERC form?  
 24 A. That is correct. In 1984-1985, I was filing  
 25 the FERC Form 423, and at that time the Commission

1 staff wanted to have a Public Service Commission Form  
2 423. And I worked with them, and this is the form  
3 that we came up with at the time to give them the  
4 detail that they wanted. And there's an order out  
5 with a breakdown of what is supposed to be in each one  
6 of these columns.

7 **Q. Now, you've described to us two locations**  
8 **where the effective price per ton appears, first in**  
9 **column (l), I believe it was, of Form 423-2.**

10 A. On 423-2 it's in column (g), and on 423-2A  
11 it's in column (l).

12 **Q. All right. And does one simply carry it**  
13 **over to the other?**

14 A. That's correct. Now, also, on 423-2B, it's  
15 in column (g), and they're all carryovers.

16 **Q. All right. And if we were to go behind the**  
17 **423 form, what is the source of the information that**  
18 **appears in the 423 form as effective price per ton?**

19 A. The original invoice price, which would be  
20 the billing price for the month, which would be the  
21 amount that we have accrued from an accounting  
22 perspective for the month of our closing, and any  
23 quality adjustments that we have received that month  
24 for coal purchased during that month. And it is rare  
25 that we will get one of those. It's generally a

1 A. That is correct.

2 **Q. And you said something about**  
3 **freeze-proofing. Did I hear that correctly?**

4 A. Rarely you will have freeze-proofing in  
5 Florida. It has been a rarity, but that was what we  
6 would put in the shorthaul and loading charges. There  
7 might have been -- over the 10 to 15 years I've been  
8 doing it, we've had another small charge in there, but  
9 that's mostly the only thing that has ever been in  
10 there.

11 **Q. And freeze-proofing is treating the coal so**  
12 **that it endures the trip during cold weather; is that**  
13 **correct?**

14 A. That's correct.

15 **Q. And there are four columns that deal with**  
16 **the quality of the coal. What is the source of the**  
17 **information that appears on 423-2 for the percent**  
18 **sulfur, Btu content, percent ash, and percent**  
19 **moisture?**

20 A. That is the actual lab analysis from a third  
21 party that is received by the operations department,  
22 and that is on their report that they send to us that  
23 I spoke of earlier in our conversation.

24 **Q. Would that be taken into account before or**  
25 **after the invoice is received?**

1 couple of months later when you would get quality  
2 adjustments.

3 **Q. Now, let me ask you a couple of questions**  
4 **about the invoice to which you referred. Is that an**  
5 **invoice from the original seller to Progress Fuels**  
6 **Corporation or an invoice from Progress Fuels**  
7 **Corporation to Progress Energy? How does that work?**

8 A. Okay. The original invoice price is based  
9 on the price from the coal supplier to Progress Fuels  
10 Corporation.

11 **Q. Which may be PFC or someone else; is that**  
12 **correct?**

13 A. It will be a contract between PFC and Massey  
14 or Alliance or whomever.

15 **Q. And this is described as an effective price**  
16 **per ton. What was the significance of the word**  
17 **"effective"?**

18 A. The effective price is just saying this is  
19 your total invoice price including any quality  
20 adjustments or any freeze-proofing you might have at  
21 the time, which was mostly what was in shorthaul and  
22 loading there, to come up with a total invoice price  
23 excluding transportation.

24 **Q. Total invoice price divided by the total**  
25 **tons, is that the effective price?**

1 A. This is actually a third party doing an  
2 analysis when the coal is shipped, so this is what  
3 your -- if you have a Btu quality adjustment or an ash  
4 adjustment in your contract, this would be the quality  
5 that that would be based on.

6 **Q. Okay. Does the -- let me try again. Is the**  
7 **effective purchase price the price that results after**  
8 **any quality adjustments are taken into account or**  
9 **before?**

10 A. In the forms that we have to file, we  
11 normally do not have the quality adjustment when we  
12 file the form. So at some time later on the C sheet,  
13 423-2C, we will correct that effective purchase price  
14 to include the quality adjustment.

15 **Q. Okay. Let me see if I understand correctly.**  
16 **Let me read that back to you and make sure I**  
17 **understand. So that, for instance, on a given page,**  
18 **with respect to the column for effective purchase**  
19 **price, that is simply the total invoice price divided**  
20 **by total tons, and then the quality columns refer to**  
21 **the coal that is the subject of that price, but any**  
22 **adjustments have not been taken into account as of**  
23 **yet?**

24 A. In most cases. Once in a while, like the  
25 one you gave me here in January for 1 and 2 on the

1 quality adjustments. Most times you will not have any  
2 quality adjustments, because they have not come in yet  
3 from the supplier. Sometimes they do.

4 **Q. And where there is a quality adjustment, how**  
5 **is that accomplished in terms of the relationship**  
6 **between the purchaser and the seller?**

7 A. I don't know if I'm clear with your  
8 question.

9 **Q. Okay. Let's assume, for instance, that in**  
10 **January, no quality adjustment appears, but**  
11 **subsequently there is a quality adjustment that has**  
12 **the effect of reducing the total contract price. How**  
13 **is that adjustment accomplished?**

14 A. Of course, the adjustment would come in to  
15 the accounting department, and we would deduct it off  
16 the next payment, and then on 423-2C, we would reflect  
17 that lower cost on the form.

18 **Q. So when you get another receivable or bill**  
19 **to pay, you simply make the adjustment to the amount**  
20 **that you would pay to the provider of the coal at that**  
21 **point?**

22 A. That is correct.

23 **Q. The 423 forms reflect -- I guess the word to**  
24 **use would be amounts that would be billed to and paid**  
25 **by Progress Fuels Corporation over time, do they not?**

1 A. That's correct.

2 **Q. Is there an auditing function that looks at**  
3 **these billings periodically?**

4 A. Once a year, the Commission has asked that  
5 an internal audit review the contract between Progress  
6 Energy Florida and Progress Fuels, and they go back  
7 and do auditing of particular transactions. Also, the  
8 staff at times has come in and looked at it.

9 **Q. Okay. Focusing on the internal audit that's**  
10 **performed, is there a group or section that has that**  
11 **responsibility within the operation?**

12 A. Yes. I think it's under Progress Energy  
13 Florida now, but I'm not sure how the audit function  
14 has been broken up since the merger. It used to be  
15 done by Progress -- Florida Power and then Progress  
16 Energy Florida, but I'm not sure how the group is  
17 broken up. But that happens once a year. We come up  
18 once a year, and before FIPUG, Public Counsel, and  
19 staff, we give a report of those findings.

20 **Q. When was the most recent audit and audit**  
21 **report of which you're aware?**

22 A. It was April or May of this year, and it was  
23 for 2004.

24 **Q. Were any issues identified in the audit**  
25 **report that resulted from that audit?**

1 A. No.

2 **Q. I realize that you're here as the expert on**  
3 **423. I'll ask you a few questions about the**  
4 **relationship between the 423 form and PSC's A forms,**  
5 **and answer them if you know. How does the data that**  
6 **we see reported on Form 423 become incorporated into**  
7 **the A forms or translated into the A forms?**

8 A. I really couldn't answer that directly. All  
9 I know is that we send them an invoice each month  
10 related to our costs, and that accumulates into the  
11 cost of coal, which would go into their A form.

12 **Q. By them and their, you're talking about**  
13 **Progress Energy Florida?**

14 A. Yes.

15 **Q. Again, if you know, what is the source of**  
16 **the information used to calculate the fuel surcharges**  
17 **shown on customers' bills, the 423 form or the A form?**

18 A. I'm sorry. I could not answer that.

19 **Q. Okay. In an earlier answer, you described**  
20 **the manner in which you have over time had some**  
21 **dealings with or you interfaced with the operations**  
22 **department in terms of the information you received**  
23 **from operations that you put on 423. I'll ask you a**  
24 **few questions about the process of purchasing coal**  
25 **itself, and again, answer if you know. Are you**

1 **familiar with the process that Progress Fuels**  
2 **Corporation under its contract with Progress Energy**  
3 **follows to purchase coal used at Crystal River?**

4 MS. RAEPPLE: Joe, I'm going to object to  
5 this line of questioning unless you tie it to  
6 423, because this witness has been brought under  
7 a notice of taking deposition related solely to  
8 Form 423. And I've let you go a little bit into  
9 background and stuff, but to the extent you're  
10 going to ask questions that are unrelated to 423,  
11 I'm going to object.

12 BY MR. MCGLOTHLIN:

13 **Q. Ms. Davis, I think we've established that**  
14 **the information that appears on 423 is received by you**  
15 **from operations, who has entered into a contract with**  
16 **the supplier; is that correct?**

17 A. That's correct.

18 **Q. Do you or does someone in your role verify**  
19 **each transaction reported on 423 with the underlying**  
20 **contract?**

21 A. When we close our books each month, we  
22 verify the contract terms as far as the price, and we  
23 receive a report from operations on the tons. There  
24 is no way besides the tonnage report that we can  
25 verify the tons.

1 **Q. Okay. But in terms of the price, you rely**  
 2 **not only on the report given you from operations, but**  
 3 **you compare that with the contract itself?**

4 A. Well, operations does not give me the price.  
 5 I have a copy of the contract, so we refer to the  
 6 contract.

7 **Q. I see. And that's done with respect to each**  
 8 **transaction that is reported on 423?**

9 A. That is correct.

10 **Q. How do you ascertain that a specific**  
 11 **shipment reported on 423 is related to a specific**  
 12 **contract?**

13 A. The operations department lets us know that  
 14 they received coal from Consolidated Coal Company, and  
 15 then I have the specifications, whether it's low  
 16 sulfur or compliance coal, and therefore, I can go to  
 17 the contract and determine what the price is.

18 **Q. And that enables you to determine the price**  
 19 **for the specific shipment that is being reported or**  
 20 **the specific transaction?**

21 A. The shipments in total.

22 MR. McGLOTHLIN: Let's take a five-minute  
 23 break. Maybe I can cull some questions and  
 24 shorten this.

25 (Short recess.)

1 report it.

2 **Q. To your knowledge, has that review taken**  
 3 **place prior to the time you are given the information**  
 4 **to put on the form?**

5 A. To my information, that is an ongoing  
 6 process between the operations vice president and his  
 7 group and Progress Energy Florida.

8 **Q. Okay. If you will, turn to the January 2005**  
 9 **Form 423-2. I think I'm learning my way around this**  
 10 **form a little bit. And this is not the case with**  
 11 **respect to January, but we've noticed that sometimes**  
 12 **on the Form 423 there's a difference between the coal**  
 13 **price on page 3 and the coal price on page 4. What**  
 14 **would cause that difference?**

15 A. I'm sorry. What are you calling page 3 and  
 16 page 4? Are you calling 423-B page 3?

17 **Q. I believe that's the case, yes.**

18 A. 423-B is the backup that would roll forward  
 19 to 423-2, page 1. Page 4 is, as I stated earlier,  
 20 either a correction or an amount that has come in  
 21 after these forms have been filled out.

22 **Q. Okay.**

23 A. So I'm not clear about your question. If  
 24 you're calling 2B page 3 and 2C page 4, they wouldn't  
 25 be the same, because 4 is a correction sheet.

1 BY MR. McGLOTHLIN:

2 **Q. Ms. Davis, you said earlier that you receive**  
 3 **a report from the operations department of Progress**  
 4 **Fuels Corporation that indicates the tons purchased**  
 5 **reflecting individual transactions entered into by**  
 6 **Progress Fuels Corporation. Do you ever interface**  
 7 **with anyone at Progress Energy Florida? Is there an**  
 8 **approval by PEF that occurs either before or after you**  
 9 **prepare the Form 423 in terms of signing off on the**  
 10 **transaction?**

11 A. The Form 423 is a report that we do on  
 12 behalf of Progress Energy Florida. It's just  
 13 reporting the transactions that have occurred.  
 14 Progress Energy Florida has reviewed those  
 15 transactions through the audit. So, no, I do not each  
 16 month have someone sign off on the form from Progress  
 17 Energy Florida.

18 **Q. To your knowledge, is the annual audit the**  
 19 **only point at which Progress Energy reviews those**  
 20 **transactions and either approves or finds fault with**  
 21 **them?**

22 A. The vice president of Progress Fuels reviews  
 23 his purchases with people at Progress Energy Florida.  
 24 I am not aware of how that interaction occurs, but it  
 25 wouldn't be -- require that they just look at how we

1 **Q. What about Form 423-2A compared to 423-2B?**  
 2 **Should those prices line up, or would there be**  
 3 **occasions when they would be different?**

4 A. The effective purchase price on column (I)  
 5 on 2A and the effective purchase price on column (g)  
 6 on 2B should be the same.

7 MR. McGLOTHLIN: Now, referring to the  
 8 transportation cost shown for the Massey coal  
 9 purchased in January, as I recall, Progress  
 10 Energy regards these numerical values under  
 11 transportation as confidential, so, Carolyn,  
 12 we'll just use the same procedure we did earlier,  
 13 and that is, we'll ask the questions and answers  
 14 now, and you'll have the opportunity to designate  
 15 portions of the transcript as confidential.

16 MS. RAEPPLER: That's correct, and the court  
 17 reporter will prepare the transcript and provide  
 18 it under seal.

19 BY MR. McGLOTHLIN:

20 **Q. What does this particular form show as the**  
 21 **cost of transportation for the Massey coal purchased**  
 22 **in January?**

23 A. There are two Massey purchases in January on  
 24 423-2B. The first rail rate under Massey, line 3, is  
 25 [REDACTED] The second Massey rail rate is [REDACTED]

1 MR. McGLOTHLIN: Off the record for a  
2 second.  
3 (Discussion off the record.)  
4 MR. McGLOTHLIN: We'll go back on the  
5 record.  
6 THE WITNESS: On 2, 423-2, rather than  
7 423-2B, line 3 for Massey says [REDACTED], and line 4  
8 says [REDACTED]

9 BY MR. McGLOTHLIN:

10 **Q. Well, I'll just ask you now since the**  
11 **question has arisen. What would account for the**  
12 **difference in the value shown for transportation on**  
13 **these two pages, 2 and 2B?**

14 A. The difference is, on 2B, if you will look  
15 over in column (j), other rail charges, that would be  
16 your depreciation for the rail cars, that would be  
17 your property tax for the rail cars, and that would be  
18 your return for the rail cars. Those are other costs  
19 associated as far as a rail transportation cost. So  
20 if you go to line (p) on 423-2B, it will agree with  
21 line (h) on 423-2.

22 **Q. I'm with you. And do these values reflect**  
23 **the cost of rail transport from the mine to the**  
24 **Crystal River plant?**

25 A. Yes. That was the tariff rate in January

1 just reporting the information.

2 **Q. We're going to hand you the 423 for**  
3 **February 2005. If you'll look at the corresponding**  
4 **pages, 423-2, under "Total Transportation Cost," the**  
5 **numerical values shown on the pages for February are**  
6 **materially different from those shown on January. Do**  
7 **you know why there's such a significant difference?**

8 MS. RAEPPLE: Excuse me, Joe. Just for  
9 clarification, which 423-2 are you looking at?  
10 Is this still for Crystal River 1 and 2?

11 MR. McGLOTHLIN: I believe so. Where would  
12 that be reflected?

13 Well, your question may have served as a  
14 partial answer. I was looking at the one for  
15 IMT.

16 BY MR. McGLOTHLIN:

17 **Q. Well, let's turn to 423-2 for Crystal River**  
18 **1 and 2. I believe the question is still a pertinent**  
19 **one. It appears to us that the transportation cost in**  
20 **February is materially different from that shown in**  
21 **January. Can you shed some light on that?**

22 A. Yes, I can. In January we were under tariff  
23 rates. The CSX contract had expired in December '04,  
24 and the new contract was signed in February '05. So  
25 in January we were under a tariff rate, which is much

1 2005.

2 **Q. For coal that was loaded at the mine mouth**  
3 **and delivered to Crystal River?**

4 A. Coal loaded onto the rail spur at the mine  
5 and delivered to Crystal River.

6 **Q. And does this report reflect that Progress**  
7 **Fuels paid that amount and billed Progress Energy**  
8 **Florida for reimbursement?**

9 A. That is correct.

10 **Q. Refer to page 423-2. There are two entries**  
11 **for Progress Fuels Corporation as the supplier for**  
12 **that month. Are you there?**

13 A. Yes, I am.

14 **Q. Do you know specifically the source of this**  
15 **particular coal for this transaction?**

16 A. Well, the mine location on there is the 08  
17 district in Kentucky. And 193 is out of Perry,  
18 Kentucky, for the shipping point.

19 **Q. Do you know whether this is one of the**  
20 **transactions that received a sign-off by Progress**  
21 **Energy Florida prior to the time Progress Fuels gave**  
22 **you the information to be reflected on the Form 423?**

23 A. I could not answer that. I'll restate, I  
24 know that Progress Fuels works with Progress Energy  
25 Florida on an ongoing basis on their contracts. I am

1 higher than a contractual rate.

2 **Q. I see. Do your 423 forms include the cost**  
3 **of transloading coal at various points along the way?**

4 A. Yes, they do.

5 **Q. Where would that be reflected?**

6 A. Let's go to the IMT sheet for February.

7 **Q. Which is where I started.**

8 A. If you will go to 2B, 423-2B, and go to  
9 column (l).

10 **Q. Okay. I'm there.**

11 A. Those are the different rates for  
12 transloading. There is a direct, and there is one to  
13 storage. There's two different rates. And then  
14 there's a rate down on the bottom for Guasare that is  
15 a different rate for transloading for that particular  
16 shipment.

17 **Q. All right. What is meant by the terms FOB**  
18 **plant and FOB barge?**

19 A. FOB is the cost of the coal loaded onto the  
20 barge. FOB plant would depend on your question. FOB  
21 plant could be plant at IMT, it could be plant at  
22 McDuffie terminal, it could be plant at Crystal River,  
23 whatever. On Form 423, FERC has us call a plant where  
24 the coal is commingled.

25 **Q. Okay. And if a price is expressed in terms**

1 of FOB barge, does that mean that any cost of  
2 transporting by the barge should be added to the price  
3 quoted?

4 A. FOB barge is loaded onto the barge, so, yes,  
5 you would then add a barge cost.

6 **Q. All right. You referred to -- I think I'll**  
7 **probably mispronounce this. Is it Guasare?**

8 A. Guasare.

9 **Q. Who is Guasare?**

10 A. It's a foreign supplier.

11 **Q. And do I understand correctly that coal**  
12 **purchased from Guasare is transloaded at the IMT**  
13 **terminal?**

14 A. That is correct.

15 **Q. So the transloading cost would be on the**  
16 **portion of the 423 form to which you referred me**  
17 **earlier? I think we were looking at --**

18 A. Column (I).

19 **Q. Column (I). Okay.**

20 **We're going to refer you to the June 423**  
21 **form for the purpose of two or three questions. And**  
22 **again, I'm looking at the page for Crystal River 1 and**  
23 **2 as an example. For each of the shipments on the**  
24 **June 423 form, can you tell me whether the shipment is**  
25 **FOB barge or some other arrangement?**

1 **Q. And you may have told me earlier, but what**  
2 **does stand OB stand for in that column?**

3 A. Ocean barge.

4 MR. McGLOTHLIN: A moment in place while I  
5 confer a second.

6 (Discussion off the record.)

7 BY MR. McGLOTHLIN:

8 **Q. Ms. Davis, are you familiar with the term**  
9 **"upriver coal"?**

10 A. Yes, I am.

11 **Q. What does it mean?**

12 A. Upriver coal is normally coal that is  
13 purchased like at a Kanawa River terminal or some  
14 other point up the river. In other words, it has not  
15 received any river transportation cost down the Ohio  
16 or the Mississippi.

17 **Q. Can you identify examples of upriver coal on**  
18 **the form we're looking at?**

19 A. For the month of June?

20 **Q. Yes.**

21 A. Lines 1 through 8 on the 423-2 for IMT would  
22 be coal that had been bought at some point upriver and  
23 would require a river transportation cost.

24 **Q. And that is determined by the mine location?**

25 A. That would either be an FOB barge price, or

1 A. On 1 and 2, lines 1 through 5 is rail coal.  
2 If you see over there in column (e), you see the UR?

3 **Q. Yes.**

4 A. That is a rail designator.

5 **Q. All right.**

6 A. Line 6 is coal from the transfer facility  
7 that has been commingled and lost its identity coming  
8 over to Crystal River 1 and 2.

9 **Q. I'm sorry, Ms. Davis. You trailed off**  
10 **there, and I couldn't hear all of your answer.**

11 A. Line 6 is coal from IMT. It is commingled  
12 there, and that's why it says transfer facility. It  
13 has lost its identity, so it doesn't have a name. The  
14 name is transfer facility.

15 **Q. So IMT is a source of coal as well as a**  
16 **transfer point; is that correct?**

17 A. Yes. FERC requires us to report a transfer  
18 facility, and the Commission followed that line.

19 **Q. Okay. Now, give me the same information for**  
20 **Crystal River 4 and 5 in this month.**

21 A. Lines 1 through 3, if you will look at  
22 column (e), is rail deliveries.

23 **Q. Yes.**

24 A. Four and 5 would be the same as I said in 1  
25 and 2. It comes from the transfer facility at IMT.

1 that would be -- or a mine location coal.

2 **Q. Well, you've anticipated my next question.**  
3 **It appears to us that with respect to the 423s that**  
4 **we've examined for any period in 2005, all the upriver**  
5 **coal is purchased FOB barge. Can you either confirm**  
6 **or correct us on that?**

7 A. To the best of my knowledge, it is FOB  
8 barge.

9 MR. McGLOTHLIN: We've referred to the Form  
10 423s for January, February, and June. I would  
11 like to those marked as exhibits to the  
12 deposition. Give us just a second.

13 MS. RAEPPLER: Mr. McGlothlin, could I just  
14 ask you the purpose of putting these particular  
15 423 forms on as exhibits to the deposition,  
16 because they're forms that have been clearly  
17 referred to in the deposition, but they've  
18 already been filed with the Public Service  
19 Commission as confidential documents. And it  
20 just seems to be a potential for further  
21 dispersal of confidential information that I  
22 would like to avoid unless there's a real benefit  
23 to putting them on as exhibits.

24 MR. McGLOTHLIN: Well, I'm sensitive to  
25 that, and the only purpose was because of any



1 convenience factor for referring to the documents  
2 that were the subject of questions and answer.  
3 But as I recall -- did we make these as exhibits  
4 to Pitcher's deposition? I think we did.

5 MS. RODAN: You did, Exhibit 7.

6 MR. McGLOTHLIN: I'll withdraw that request.

7 I think it's probably redundant on my part.

8 MS. RAEPPLE: Okay. Thank you.

9 BY MR. McGLOTHLIN:

10 **Q. In an earlier response, you explained the**  
11 **difference in transportation costs between January and**  
12 **February as a result of paying a tariff rate in**  
13 **January and a contract rate in February. Prior to**  
14 **January, was there a contract in place?**

15 A. Yes, there was. Prior to January, there was  
16 a contract.

17 **Q. If you know, who was responsible for**  
18 **negotiating the contract that took effect in February?**  
19 **Would that have been --**

20 A. Mr. Al Pitcher.

21 **Q. Mr. Pitcher again?**

22 A. Uh-huh.

23 MR. McGLOTHLIN: I believe that's all the  
24 questions we have.  
25

1 **FOB mine or FOB barge?**

2 A. From this 423-2, you would not know if it  
3 was FOB barge or FOB mine -- pardon me, mine mouth.

4 **Q. And going to Form 423-2B, and using**  
5 **January 2005 as representative, with regard to the 423**  
6 **forms from 2004 and January and February of 2005, what**  
7 **is included in transportation costs for shipment of**  
8 **Drummond coal from Mobile to Crystal River?**

9 A. In January 2005, that is the transloading  
10 rate in column (h).

11 **Q. So the transloading fee is included in the**  
12 **transportation costs?**

13 A. It is part of the transportation costs,  
14 transloading.

15 **Q. And turning to the next page, Form 423-2B**  
16 **for IMT, what is included in transportation costs for**  
17 **shipment of both Guasare and Emerald coal from Mobile**  
18 **to Crystal River?**

19 A. In line 7, column (l), that is a  
20 transloading charge at IMT.

21 **Q. Could you please define the term "CIFIMT"?**

22 A. No, I cannot.

23 MS. RODAN: And with that, I have no further  
24 questions.  
25

1 CROSS-EXAMINATION

2 BY MS. RODAN:

3 **Q. With 10 minutes left, I would like to say**  
4 **good morning.**

5 A. Good morning.

6 **Q. Again, I'm Jennifer Rodan with the Florida**  
7 **Public Service Commission.**

8 **Do you still have the January 2005 423 form**  
9 **that Mr. McGlothlin had you look at?**

10 A. No. You'll have to give it back to me.

11 **Q. Could you please take a look at Form 423-2?**  
12 **On the first page of 423-2 --**

13 A. Which one, please?

14 **Q. Column (g), effective purchase price.**

15 A. Which, Crystal River 1 and 2 or 4 and 5?

16 **Q. It doesn't matter. In the effective**  
17 **purchase price column, is that FOB mine or FOB barge?**

18 A. Depending on the contract, it could be  
19 either. In 2005, it was FOB barge, or on rail, it  
20 could be --

21 **Q. And do you know about 2004?**

22 A. I believe in 2004 we had both.

23 **Q. Also looking at Form 423-2B -- actually,**  
24 **going back to my last question, in 2004 where it could**  
25 **be either one or both, how does one know which it is,**

1 CROSS-EXAMINATION

2 BY MR. PERRY:

3 **Q. Hello, Ms. Davis. My name is Tim Perry, and**  
4 **I represent FIPUG. I just have a few short questions**  
5 **for you.**

6 **If you could turn to Form 423-2 for Crystal**  
7 **River 1 and 2 for January 2005. Do you have them in**  
8 **front of you?**

9 A. Yes.

10 **Q. Okay. I'm going to ask you to look at**  
11 **column (d) first. And if you look at that column,**  
12 **there are several different codes that appear there.**  
13 **MTC, S, and STC are examples of a few. Can you define**  
14 **what those codes are and what they mean, please?**

15 A. Yes. S stands for spot, and spot was  
16 supposed to be just a contract you go out and you  
17 enter into randomly where, you know, it's not a  
18 contract per se. Short-term contract was supposed to  
19 be one year or less. Medium-term contract was  
20 supposed to be one to three years.

21 **Q. Are there any other terms that might appear**  
22 **under purchase type but which do not appear on this**  
23 **form?**

24 A. Yes. You could have LTC for long-term  
25 contract, which is three-plus years.

1 **Q. And is that all the codes that would appear**  
 2 **in that column?**  
 3 A. Those are the codes prescribed by the  
 4 Commission.  
 5 **Q. Okay. Thank you. I'm going to ask you**  
 6 **basically the same series of questions for the next**  
 7 **column over, column (e). On this particular form**  
 8 **there only appears two codes, UR and OB. Can you**  
 9 **define those two codes for me?**  
 10 A. UR stood for unit train, and OB stood for  
 11 ocean barge.  
 12 **Q. And how is ocean barge defined?**  
 13 A. Ocean barge was defined by the Commission as  
 14 the leg from the terminal, the offshore terminal to  
 15 Crystal River.  
 16 **Q. Okay. Are there any other codes that might**  
 17 **appear in that column but that don't appear in this**  
 18 **particular form?**  
 19 A. Not on 1 and 2. On IMT, there are some  
 20 other codes.  
 21 **Q. Okay. Can you discuss those for us, please?**  
 22 A. There is a code B that stood for barge,  
 23 which was the river barge.  
 24 **Q. And by river barge, does that mean a barge**  
 25 **which goes from upriver, such as the Ohio or the**

1 **I think your response was that it was included in**  
 2 **column (h). Would you clarify where transloading is**  
 3 **included in the transportation cost in any of these**  
 4 **423 forms, please?**  
 5 A. On 423-2B, it should be column (I).  
 6 MS. RAEPPLE: I have nothing further.  
 7 MR. MCGLOTHLIN: Nor do I.  
 8 MS. RAEPPLE: Off the record.  
 9 (Deposition concluded at 12:05 p.m.)  
 10  
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 25

1 **Mississippi, to IMT?**  
 2 A. That is correct.  
 3 **Q. And there's also a code GB. Can you explain**  
 4 **what that is, please?**  
 5 A. I don't recall sitting here today what the G  
 6 stood for. We have a chart from the Commission that  
 7 we use. But basically, it's only used for the foreign  
 8 coal.  
 9 **Q. Okay. And that chart that you have from the**  
 10 **Commission, is that a chart that appears --**  
 11 A. In an order from 1985.  
 12 **Q. And does that give all the codes that you**  
 13 **use?**  
 14 A. It gives all the codes and what is supposed  
 15 to be in each column on 423-2, 2A, 2B, and 2C.  
 16 MR. PERRY: Okay. That's all the questions  
 17 I have. Thank you very much, Ms. Davis.  
 18 MS. RAEPPLE: Let me go off the record for  
 19 just a moment.  
 20 (Short recess.)  
 21 CROSS-EXAMINATION  
 22 BY MS. RAEPPLE:  
 23 **Q. I just have one follow-up question. When**  
 24 **Ms. Rodan was asking you questions about where**  
 25 **transloading was included in the transportation cost,**

1  
 2 CERTIFICATE OF ADMINISTERING OATH  
 3  
 4 STATE OF FLORIDA:  
 5 COUNTY OF LEON:  
 6 I, MARY ALLEN NEEL, Registered Professional  
 7 Reporter and Notary Public in and for the State of  
 8 Florida at Large:  
 9 DO HEREBY CERTIFY that on the date and  
 10 place indicated on the title page of this transcript,  
 11 an oath was duly administered by me to the designated  
 12 witness before testimony was taken.  
 13 DATED THIS 31st day of October, 2005.  
 14  
 15  
 16  
 17 MARY ALLEN NEEL, RPR  
 18 2894-A Remington Green Lane  
 19 Tallahassee, Florida 32308  
 20 (850) 878-2221  
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## CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and that the foregoing pages numbered 1 through 43 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 31st day of October, 2005.

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



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# ERRATA SHEET

I have read the transcript of my deposition, pages 1 through 45, and hereby subscribe to same, including any corrections and/or amendments listed below.

11-3-05  
Date

Donna M. Davis  
DONNA M. DAVIS

Page	Line	Correction or Amendment	Reason for Change
		<i>NONE</i>	

**PROGRESS ENERGY FLORIDA, INC.**

**DEPOSITION OF CORPORATE REPRESENTATIVE: The  
employee of PEF who has responsibility for and knowledge of  
the preparation and submission of PEF's Form 423 to the  
Florida Public Service Commission**

**LATE-FILED EXHIBIT NO. 1**

PROGRESS FUELS CORPORATION  
MAY, 2005  
FPSC / FERC

JULY 12, 2005

TO:  
FROM:

RE:

BROKER / MINE NAME / MINE LOCATION	TYPE OF PURCH.	TRANS. MODE	MINE TYPE	TOTAL TONS	QUALITY				
					MOIST	ASH	SUL	BTU	
CRYSTAL RIVER 1 & 2									
TOTAL 1 & 2									
PLEASE NOTE: ALL THE ABOVE SUPPLIERS ARE LOCATED IN DISTRICT #8.(EXCLUDING FOREIGN COAL)									

MAY, 2005 FPSC / FERC

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BROKER / MINE NAME / MINE LOCATION	TYPE OF PURCH.	TRANS. MODE	MINE TYPE	TOTAL TONS	QUALITY			
					MOIST	ASH	SUL	BTU

CRYSTAL RIVER 4 & 5

TOTAL 4 & 5

PLEASE NOTE: ALL THE ABOVE SUPPLIERS ARE LOCATED IN DISTRICT #8.(EXCLUDING FOREIGN COAL)

BROKER / MINE NAME / MINE LOCATION	TYPE OF PURCH.	TRANS. MODE	MINE TYPE	TOTAL TONS	QUALITY			
					MOIST	ASH	SUL	BTU

OTHER

GRAND TOTAL TONS:

PLEASE NOTE: ALL THE ABOVE SUPPLIERS ARE LOCATED IN DISTRICT #8.(EXCLUDING FOREIGN COAL)