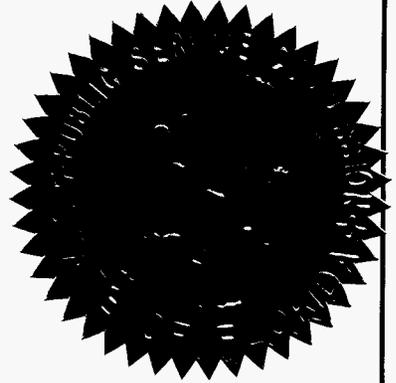


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070703-EI

In the Matter of:

REVIEW OF COAL COSTS FOR
PROGRESS ENERGY FLORIDA'S
CRYSTAL RIVER UNITS 4 AND 5
FOR 2006 AND 2007



VOLUME 1

(Pages 1 through 162)

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PROCEEDINGS: HEARING

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Monday, April 13, 2009

TIME: Commenced at 9:40 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

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Official FPSC Reporter
(850) 413-6734

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1 PARTICIPATING:

2 JOHN T. BURNETT, ESQUIRE, Progress Energy
3 Service Company, LLC, Post Office Box 14042, St.
4 Petersburg, Florida 33733-4042, appearing on behalf of
5 Progress Energy Florida, Inc.

6 JOSEPH A. MCGLOTHLIN, ESQUIRE, Office of the
7 Public Counsel, c/o The Florida Legislature, 111 West
8 Madison Street, Room 812, Tallahassee, Florida
9 32399-1499, appearing on behalf of the Citizens of the
10 State of Florida.

11 JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter,
12 Reeves & Davidson, P.A., 400 North Tampa Street, Suite
13 2450, Tampa, Florida 33601-3350, appearing on behalf of
14 the Florida Industrial Power Users Group.

15 CECILIA BRADLEY, ESQUIRE, Office of the
16 Attorney General, The Capitol PL-01, Tallahassee,
17 Florida 32399-1050, appearing on behalf of the Citizens
18 of the State of Florida.

19 LISA BENNETT, ESQUIRE, and KEINO YOUNG,
20 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak
21 Boulevard, Tallahassee, Florida 32399-0850, representing
22 the Commission Staff.

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PARTICIPATING:

MARY ANNE HELTON, DEPUTY GENERAL COUNSEL, FPSC
General Counsel's Office, 2540 Shumard Oak Boulevard,
Tallahassee, Florida 32399-0850, appearing as advisor to
the Commission.

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CHAIRMAN CARTER: Good morning. I'd like to call this hearing to order. I hope everyone is doing fine this morning. We'll begin by having -- staff, would you please read the notice?

MS. BENNETT: Yes. Commissioners, by notice duly given, this day and date were set for the hearing for Docket Number 070703, review of coal costs for Progress Energy Florida's Crystal River Units 4 and 5 for 2006 and 2007.

CHAIRMAN CARTER: Okay. Let's take appearances.

MR. BURNETT: Good morning, Commissioners. John Burnett on behalf of Progress Energy Florida.

MR. McGLOTHLIN: Good morning. Joe McGlothlin with the Office of Public Counsel on behalf of the citizens of the State of Florida.

MR. McWHIRTER: John McWhirter on behalf of the Florida Industrial Power Users Group.

MS. BENNETT: Lisa Bennett and Keino Young on behalf of Commission staff.

MS. HELTON: Mary Anne Helton, advisor to the Commission.

CHAIRMAN CARTER: Thank you. Good to see you again, Mr. McWhirter. Welcome back.

1 **MR. McWHIRTER:** Nice to see you, Mr. Chairman.

2 **CHAIRMAN CARTER:** Before we proceed with
3 preliminary matters, Commissioner Skop, you're
4 recognized.

5 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
6 I just had two quick preliminary matters of my own that
7 hopefully after staff takes up its preliminary matters,
8 perhaps the parties may be willing to stipulate to.

9 The first issue, I'm trying to find an easy
10 way to get some of the testimony from the last docket
11 into this so we don't have to lay a foundation, and so
12 I'd ask the parties respectfully to consider if the
13 testimony for Mr. Sansom, Mr. Barsin and Mr. Putman from
14 the 060658 docket could be admitted into the record to
15 avoid the need to lay foundational questions that I may
16 have in this docket.

17 Secondly, in the interest of judicial
18 efficiency, the record evidence and discovery that will
19 be adduced during this hearing and also in the interest
20 of further narrowing the issues in controversy in this
21 docket, I would respectfully ask the parties to consider
22 stipulating to limiting the discussion of the, the
23 alternative coal to domestic coal and not that of the
24 Indonesian coal. So I'd ask the parties again to
25 consider whether we could limit the discussion and

1 narrow the issues to discuss the PRB, the western coal.
2 And if we can get some agreement on that, I think that
3 that would simplify the questioning and the discussions.

4 **CHAIRMAN CARTER:** Thank you.

5 **COMMISSIONER ARGENZIANO:** Mr. Chair.

6 **CHAIRMAN CARTER:** Commissioner Argenziano,
7 you're recognized.

8 **COMMISSIONER ARGENZIANO:** Just a question to
9 Commissioner Skop. Why do you want to limit the
10 discussion on the coal?

11 **COMMISSIONER SKOP:** I can get into the details
12 when I ask the questions to the parties. However,
13 there's a couple of reasons that will reveal themselves
14 and make themselves clear, at least from my perspective.
15 But, again, I would leave that to the parties to reach a
16 stipulation based upon the, some of the discovery that
17 was made in this case.

18 **COMMISSIONER ARGENZIANO:** I would like to hear
19 what the parties have to say.

20 **CHAIRMAN CARTER:** Why don't we do this,
21 Commissioners. I don't know if the parties had an
22 opportunity to digest this. Let's go with -- let's take
23 a moment here and give these parties an opportunity at
24 least to discuss it before we go further.

25 Commissioner Argenziano, you're recognized.

1 **COMMISSIONER ARGENZIANO:** I'm just not so
2 certain that I want to limit that discussion.

3 **CHAIRMAN CARTER:** Okay. Okay. Well, let's
4 proceed then. Let's have preliminary matters, staff.

5 **MS. BENNETT:** Yes, Commissioner. Staff notes
6 that OPC has filed an amendment to Mr. Putman's
7 testimony. The witness can explain the amendment in his
8 testimony, in his summary. But I think that
9 Mr. McGlothlin will also have some changes to his
10 prehearing statement and obviously the Prehearing Order
11 based upon the amendment to the testimony, and I think
12 Mr. McGlothlin would like to speak to that.

13 **CHAIRMAN CARTER:** Mr. McGlothlin, good
14 morning. You're recognized.

15 **MR. MCGLOTHLIN:** Thank you. We filed some
16 amended testimony and revised exhibits on April 7th,
17 unfortunately not quite in time to also include the
18 changes to the numerical values that appear in the
19 Prehearing Order. Mr. Putman will address it when he
20 gets on the stand. But the nature of the amendment is
21 to take into account the Btu differential between the
22 coals comparison.

23 After reading rebuttal testimony and attending
24 some depositions, we were persuaded that the intent of
25 the Commission in the last case was to include in any

1 calculation refund, recognize that the full Btu needs of
2 the unit under review, and he has done so. And that
3 results in revised exhibits that were marked by
4 Mr. Putman, revised 7, 11 and 13, that will replace
5 those originally filed.

6 And with respect to the Prehearing Order, the
7 first change appears on Page 7. In the last line of the
8 top paragraph, the \$61 million should be stricken, and
9 that would be replaced to a range of \$33 to \$35 million.
10 And the range is there because Mr. Putman addresses two
11 methods of quantifying the makeup Btus. One method is
12 to assume they'll all be bituminous coal. The other
13 method is to assume that it would be made up of the same
14 20/80 blend that he sponsors in the balance of his
15 testimony.

16 The next change occurs on Page 11. In the
17 middle of the page under Issue 1C for OPC, in the third
18 line the figure \$25,149,162 should be, should be
19 stricken and replaced with this range, \$14.7 to
20 \$15.4 million; the range again being a function of the
21 two methodologies.

22 And in the one, two, three, fourth line the
23 value for the SO₂ related credits should be changed to
24 \$1.178 or \$1.154 million. Those numbers replace the
25 \$2,915,308 that appears in the order.

1 Page 13, at the top of the page in the third
2 line, the \$25,866,364 should be replaced by the range of
3 \$13.08 to \$14.7 million. And in the next to the last
4 line of that position statement, the figure \$7,348,059
5 should be stricken and replaced by the range of \$5.04 to
6 \$5.3 million.

7 And then the last change for OPC's position on
8 Page 13 with respect to the refund, the \$61,279,193
9 should become the range of \$33.9 to \$35.5 million.
10 Those changes reflect the impact of the amended
11 testimony and the revised exhibits that he will sponsor.

12 **CHAIRMAN CARTER:** Thank you, Mr. McGlothlin.

13 Mr. Burnett.

14 **MR. BURNETT:** Sir, I have no objection to the
15 amended testimony coming in, and I'll assume that
16 Mr. McGlothlin read those numbers accurately from the
17 testimony. No objection.

18 **CHAIRMAN CARTER:** Mr. McWhirter, any
19 objections?

20 **MR. McWHIRTER:** No objection.

21 **CHAIRMAN CARTER:** Without objection, show it
22 done.

23 First of all, before we go further, an
24 opportunity to make an appearance. Good morning,
25 Ms. Bradley. You're recognized.

1 **MS. BRADLEY:** Thank you, Mr. Chairman.
2 Cecilia Bradley, Office of the Attorney General, on
3 behalf of the citizens of Florida. Thank you.

4 **CHAIRMAN CARTER:** Thank you. We had,
5 Ms. Bradley, we had just gone through preliminary
6 matters by OPC.

7 Okay. Any, staff, any further preliminary
8 matters?

9 **MS. BENNETT:** Yes, Mr. Chairman.

10 **CHAIRMAN CARTER:** You're recognized.

11 **MS. BENNETT:** There are no -- excuse me. Let
12 me try that again. There are no objections to the
13 Comprehensive Exhibit List, which includes staff's
14 composite exhibit list. We will be after opening
15 statements asking that the Comprehensive Exhibit List be
16 entered into the record and the staff's composite
17 exhibit be entered into the record as Exhibits 1 and 2.

18 **CHAIRMAN CARTER:** Okay. Do all the parties
19 have a copy of staff's -- okay. You may proceed.

20 **MS. BENNETT:** And, Mr. Chairman, there are no
21 other outstanding motions other than a couple of
22 confidentiality orders that will be addressed by
23 separate order.

24 **CHAIRMAN CARTER:** Okay.

25 **MS. BENNETT:** At least staff has no other

1 preliminary matters.

2 **CHAIRMAN CARTER:** Any, Mr. Burnett, any
3 preliminary matters?

4 **MR. BURNETT:** Mr. Chairman, I would just note
5 that Progress Energy Florida has no objection to
6 Commissioner Skop's request that the prior testimony of
7 Mr. Sansom, Barsin and Putman be entered in, and we're
8 happy to discuss any stipulations at any time.

9 **CHAIRMAN CARTER:** Mr. McGlothlin.

10 **MR. MCGLOTHLIN:** No objection.

11 **MR. MCWHIRTER:** No, sir.

12 **MS. BRADLEY:** No objection.

13 **CHAIRMAN CARTER:** Okay. Any other preliminary
14 matters from any other parties?

15 Okay. One second, please. Let's -- the
16 question is that do the changes that OPC presented, does
17 that match up with the positions of the parties as we
18 have in our documents here?

19 **MR. BURNETT:** Commissioner Carter, it still
20 matches up with Progress Energy's. The negative
21 \$1.5 million that we show at the bottom of Page 17 is
22 actually going to increase in its negativity. But it's
23 still negative, so it matches up for all practical
24 purposes for us.

25 **CHAIRMAN CARTER:** Okay. What about the

1 Intervenor, how does that impact on --

2 **MS. BRADLEY:** I think it may reduce the amount
3 that we were saying needed to be refunded, and I think
4 Mr. McGlothlin has addressed that, so.

5 **CHAIRMAN CARTER:** Okay. Mr. McWhirter, you --

6 **MR. McWHIRTER:** I don't understand the issue.
7 I'm sorry.

8 **CHAIRMAN CARTER:** It seems like deja vu all
9 over again. The impact of the corrections in the
10 preliminary matters in terms of the numbers presented.

11 **MR. McWHIRTER:** Yeah. The price goes down and
12 he acknowledged that, and we agree that that's
13 appropriate.

14 **CHAIRMAN CARTER:** It's consistent. Okay.
15 Okay. That's fine.

16 Let me see. Commissioner Skop, you're
17 recognized for a question.

18 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
19 Like I say, I think that the parties have stipulated to
20 bringing in the testimony from the previous docket,
21 which I thank the parties for.

22 Again, if there is room for that stipulation,
23 again, I think that, I think it'll become clearer. But
24 I'll leave that to the parties if maybe we could, you
25 know, at the appropriate time take a few minute break

1 and maybe there's some consensus. If not, I'm happy to
2 move forward and ask the questions that I'm prepared to
3 ask.

4 **CHAIRMAN CARTER:** Okay. Anything further from
5 the bench?

6 Okay then. Staff, are there any additional
7 preliminary matters that we may have overlooked at this
8 time?

9 **MS. BENNETT:** No, Mr. Chairman, there are not.

10 **CHAIRMAN CARTER:** Any further comments or
11 questions from the bench before we proceed further?
12 Anything further from any of the parties on preliminary
13 matters before we proceed further? Okay.

14 **MR. McGLOTHLIN:** I'm not clear on,
15 Commissioner Skop, what you want the parties to do with
16 respect to your request. I can, I can address my
17 reaction now, if you wish. I'll wait, if you wish. But
18 --

19 **CHAIRMAN CARTER:** Commissioner Skop.

20 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
21 If I may clarify.

22 Again, I guess my concern would be, you know,
23 in the interest of judicial efficiency and the record
24 evidence that will be entered in this proceeding as well
25 as the discovery as well as trying to further narrow the

1 issues, I would respectfully ask the parties if they
2 could reach consensus to the extent that Indonesian coal
3 not be considered as an alternate coal and we limit and
4 narrow the discussion to the procurement of PRB.

5 **CHAIRMAN CARTER:** Commissioner Argenziano.

6 **COMMISSIONER ARGENZIANO:** I need to express
7 concern because I'm not sure that that isn't to be part
8 of the discussion. I thought acquiring the, the least
9 expensive amount of coal is desirable or at least to be
10 talked about to figure out why it shouldn't be. So to
11 limit that at this point I have real grave concern
12 about. I think in a discussion we might be able to
13 flush out why it's a good thing or a bad thing.

14 **COMMISSIONER SKOP:** Mr. Chair, if I may.

15 And to Commissioner Argenziano's point, I
16 mean, I don't, I don't want to get into the record
17 evidence because that's not been formally admitted yet.
18 But it suffices to say that the parties are aware of the
19 relative strengths and weaknesses of their case.

20 I think that we've seen already through the
21 modification to Mr. Putman's testimony, the refund
22 amount has been slashed in half. And, again, I can
23 spend a considerable amount of time articulating my
24 points later, but, again, I think it'll become
25 self-evident. Again, that's just my perspective. But

1 to facilitate not having to go through a long-drawn-out
2 discussion, again, I'd ask the parties. And, again,
3 it's not to, to reduce the refund. Again, I took a very
4 strong position in the last docket and I still intend to
5 ask very pointed questions. But, again, I'll leave that
6 to the parties to see if there could be some compromise.
7 But if not, I'm prepared to move forward and we can have
8 that discussion.

9 **CHAIRMAN CARTER:** Commissioner Argenziano.

10 **COMMISSIONER ARGENZIANO:** With all due
11 respect, Commissioner, I want to hear the discussion on
12 it. I need to learn more about it and I don't want it
13 limited. I have some questions. I don't know much -- I
14 don't -- I'm not saying I'm one way or the other, but
15 the discussion will help me to determine if it's valid,
16 if it's not and what the particulars are. So I'd rather
17 go for the lengthy discussion to get more information to
18 find out why I should consider it or I should not
19 consider it. And I haven't made up my mind on anything.
20 I just need to hear it. So it's limited at this point,
21 it limits me from understanding, and I don't want to
22 limit either side to anything. I just need to hear that
23 discussion and then we'll take it step by step.

24 **COMMISSIONER SKOP:** Right. And I fully
25 respect that and I'm happy to do that. I was just

1 hoping that perhaps the parties on their own may be
2 willing to limit the discussion.

3 **MR. MCGLOTHLIN:** Well, perhaps I can help.
4 OPC is not going to stipulate to the elimination of the
5 Indonesian alternative at this point. That issue has
6 been framed. We have seen nothing in either rebuttal or
7 discovery that, that persuades that it shouldn't be part
8 of the case.

9 **CHAIRMAN CARTER:** Commissioner Argenziano.

10 **COMMISSIONER ARGENZIANO:** Then I think it's
11 only fair that we should, we should hear what they have
12 to say. Whether it's, whether it's going to pan out or
13 not, I don't know. I'd just like to hear the
14 discussion.

15 **CHAIRMAN CARTER:** Okay.

16 **COMMISSIONER SKOP:** Right. And I agree. I
17 was just looking to the parties to see if there might be
18 some, some room for compromise. Thank you.

19 **COMMISSIONER ARGENZIANO:** Got you.

20 **CHAIRMAN CARTER:** We're in preliminary, so
21 let's, let's go ahead on and move forward so we can, we
22 can move forward. That will be fine. I think it's
23 worthwhile to hear the case.

24 Let's see here. Any further preliminary
25 matters? Are there any other questions from any of the

1 parties before we proceed further?

2 Okay. All right then. Opening statements,
3 and we'll begin with Progress and then the Intervenors.
4 And your opening statements will be seven minutes. Mr.
5 McGlothlin (sic.), I'm so proud of you. Last time you
6 broke a record. So our opening statements for the
7 parties will be seven minutes. We'll start with
8 Progress Energy and move forward.

9 Mr. Burnett, good morning. You're recognized.

10 **MR. BURNETT:** Thank you, Commissioners.

11 Commissioners, a few years ago you heard
12 Docket 060658 where OPC alleged that while Wyoming PRB
13 coal had been uneconomic and a bad idea for PEF's
14 customers from 1984 to 1995, it allegedly came back into
15 the money in 1995 and PEF should have burnt it at
16 Crystal River Units 4 and 5 from 1995 to 2005. OPC
17 alleged about \$135 million in damages in that case.

18 You rejected OPC's allegations and found that
19 in 2003 and 2004 and 2005 only PEF should have burned an
20 80/20 blend of Wyoming PRB coal, and you ordered PEF to
21 refund customers about \$13 million instead of the \$135
22 alleged.

23 You also gave a very clear and concise set of
24 instructions in your order in that last case. You said
25 because all the evidence regarding Wyoming PRB coal in

1 that last case ended in 2005, you ordered PEF to present
2 evidence on that coal for 2006 and 2007, and that's why
3 we're here today. That's what your order says.

4 Following your order to the letter, PEF has
5 done just what you told us to do and we presented
6 testimony on the economics of an 80/20 blend of the PRB
7 coal that you actually heard evidence on in the last
8 case for 2006 and 2007. And just like the evidence
9 showed in the last case when PRB coal was out of the
10 money from 1984 all the way up to 2002, it was out of
11 the money again for 2006 and 2007. No surprise, given
12 the volatile economic history with this coal which was
13 established in the last case.

14 Our direct testimony in this case shows that
15 by burning blends of high quality coal from Central
16 Appalachia with lower quality coal from South America in
17 2006 and 2007, PEF was able to save its customers about
18 \$3 million when compared to PRB blends. It seems that
19 OPC realized that PRB coal would not pass muster in 2006
20 and 2007, so OPC did not put on testimony in this case
21 suggesting that PRB coal was a good choice in 2006 and
22 2007. However, in a surprise move that's totally
23 outside of the scope of the last case, OPC now contends
24 that PEF should have bought Spring Creek coal from
25 Montana and foreign coal from Indonesia in 2006 and 2007

1 instead of the PRB that you dealt with in the last case.

2 When I cross-examine Mr. Putman today, you'll
3 hear him admit that this Commission did not hear
4 evidence on and did not consider Spring Creek or
5 Indonesian coal in the last case. So it goes without
6 saying that all the holdings you made in the last case
7 and the methodologies that you created cannot fairly be
8 applied to these coals.

9 Said simply, PEF is the only party in this
10 case that has followed your order and filed evidence on
11 the coal that you actually heard evidence on in the last
12 case, and for that reason alone PEF should prevail in
13 this case from an evidentiary perspective as a matter of
14 law.

15 Even apart from these facts though, you
16 recognized in the last case that it would have taken PEF
17 two years, between 2001 and 2003, to test, permit and be
18 ready for PRB coal. Perfectly consistent with that
19 finding you will hear our witnesses testify today that
20 even if Spring Creek coal from Montana and Indonesian
21 coal were economic in 2006 and 2007, which they were
22 not, PEF could not have burned those coals until years
23 after 2006 and 2007, which renders OPC's entire position
24 in this case moot since the whole point of your order
25 from the last case was to only address what could have

1 happened in 2006 and 2007.

2 But even if you are inclined to hear evidence
3 on these coals that admittedly were not considered in
4 the last case, PEF will show that if it could have
5 burned these coals in 2006 and 2007, which, again, due
6 to testing, just like you recognized, it cannot, it
7 would have at least hurt PEF's customers by about
8 \$1.5 million, that's the number I just spoke of that's
9 going to even go more negative now due to the
10 corrections, if not by tens of millions more dollars in
11 additional capital upgrades that may be needed to burn
12 these coals.

13 This is no surprise given what has happened
14 here this morning. But days after OPC's witness's
15 deposition and after we filed our rebuttal testimony,
16 OPC filed the amended testimony that it talked about
17 here this morning admitting that they had made a
18 \$27 million error in their testimony, and that's one of
19 the errors that our witnesses called them out on in our
20 rebuttal testimony. So even before this hearing begins,
21 OPC has had to admit that 45 percent of their alleged
22 damages were a mistake. This is simply irresponsible
23 and it's unbelievable.

24 Commissioners, when I cross-examine OPC's
25 witness today, you will be, you will begin to see that

1 just like he had to do when he filed this \$27 million
2 oopsie today, he cannot escape the fact that his
3 testimony and his analysis is riddled with errors and
4 omissions and even his amended testimony is still wrong.

5 You will hear OPC's witness admit time and
6 time again not only the things that he did do which
7 caused errors such as relying on outdated projections
8 for SO2 emissions instead of actual costs, a very topic
9 that your own staff took him to task on in his
10 deposition, but you will also hear him admit time and
11 time again the thing he did not do to perform a proper
12 analysis. And as you will see, Commissioners, sometimes
13 what witnesses fail to do is just as bad as what they do
14 affirmatively to make mistakes.

15 In conclusion, Commissioners, PEF's witnesses
16 and PEF's evidence will show that if you look at the
17 coal you actually told the parties to address in your
18 last order, we saved customers over \$3 million by not
19 burning PRB coal blends in 2006 and 2007. And no one
20 else has challenged that; no one sitting at this table
21 has filed testimony to challenge that.

22 Next the evidence will show that even if OPC's
23 coal from Montana and Indonesia was economic, which it
24 was not, we couldn't have burned it anyway until after
25 2006 and after 2007. And you will hear evidence that

1 for the Indonesian coal it wasn't even available, they
2 couldn't even sell it to us. They were out.

3 Lastly, our witnesses will pick apart OPC's
4 case dollar by dollar. And even though OPC has already
5 picked their own case apart 45 percent before we even
6 get started, our witnesses will show that if we could
7 have burned these coals in 2006 and 2007, on the best
8 day it would have hurt our customers by over
9 \$1.5 million and on a bad day up to \$176 million in
10 additional capital costs that could have been necessary
11 to burn these coals. Thank you, Commissioners.

12 **CHAIRMAN CARTER:** Thank you.

13 Mr. McGlothlin.

14 **MR. McGLOTHLIN:** Commissioners, frequently the
15 Commission is called on to determine whether the utility
16 before it has acted imprudently or prudently. This case
17 is different. Here the Commission has already decided
18 that Progress Energy was imprudent when it failed to
19 conduct tests and obtain a permit to burn sub-bituminous
20 coal in Crystal River 4 and 5 prior to 2003. The
21 Commission has already determined that the imprudence
22 resulted in overcharges in 2003, 2004 and 2005 because
23 Progress Energy could not take advantage of the most
24 economical coal available. Progress Energy did not
25 obtain a permit to burn sub-bituminous coal until mid

1 2007, long after procurements to supply the units during
2 '06 and '07 had been made.

3 The question before you today is whether the
4 same established imprudence that led to overcharges in
5 2003, 2004 and 2005 continued to do so in 2006 and 2007.
6 The evidence you will hear says yes. Our witness, David
7 Putman, compared the lowest cost of alternative
8 sub-bituminous coal that was offered to Progress Energy
9 at the time Progress Energy made its procurement
10 decisions against the actual cost of the bituminous coal
11 that was delivered in 2006 and 2007. He concludes that
12 Progress Energy could have saved ratepayers significant
13 dollars in each year if it had been able to burn the
14 alternative sub-bituminous coal legally.

15 In its final order in the prior case the
16 Commission stated that the appropriate way to make the
17 comparison against known costs is to use the evaluated
18 cost of the alternative coal. The evaluated cost is the
19 result of an analysis that takes into account the cost
20 of coal, the cost of transportation and the impacts of
21 the coal on the units' operations, impacts whether they
22 be positive or negative when measured against a
23 baseline.

24 For each of the years 2006 and 2007 Mr. Putman
25 used the bid that won top ranking in Progress Energy's

1 evaluation contest. For 2006, he identified the low
2 bids of Kennecott PRB coal that would have saved in the
3 range of \$14 to \$15 million in 2006.

4 While these were the lowest bids, one of
5 Mr. Putman's exhibits, which is Progress Energy's own
6 summary of all bids to the 2004 RFP, shows that other
7 PRB producers also offered more economical coal and were
8 not far behind the Kennecott bids in terms of evaluated
9 cost. For 2007, he identified two Indonesian
10 sub-bituminous bids that Progress Energy ranked numbers
11 one and two in terms of the evaluated cost. Those would
12 have saved about \$13 million in 2007. Mr. Putman did
13 not adjust any of Progress Energy's evaluations. He
14 used the utility's own analyses and adopted the
15 utility's own evaluated costs.

16 About his comparisons you will hear Progress
17 Energy make some interesting arguments. First, as
18 you've already heard, Progress Energy will claim that
19 the intent of the Commission in the prior case was to
20 designate the specific Wyoming coal that was used as the
21 alternative in the prior case as the only alternative
22 coal that can be legitimately used to compare against
23 the actual costs in '06 and '07. I'm going -- I'll
24 wager that's news to you.

25 Consider the implications. If you decide in

1 this case that a different alternative was available and
2 would have saved money in '06 and '07, Progress Energy
3 says you can't disallow any of the actual costs.

4 Progress Energy says a sub-bituminous coal isn't okay to
5 blend 20/80 with bituminous coal until the Commission
6 says it's okay two to three years after we had the
7 chance to buy it. That would be a utility fuel
8 procurement program like no other. The argument makes
9 sense only to those who are defending against a refund.

10 Next, Progress Energy will say effectively no
11 fair using the coals that won first place in our
12 contest. This one is especially interesting because
13 Mr. Putman consciously used Progress Energy's analyses
14 and Progress Energy's values without change wherever
15 possible in an attempt to reduce the number of arguments
16 over assumptions. It appears that he did not anticipate
17 Progress Energy's willingness to discredit its own
18 evaluation process in order to resist a refund.

19 With respect to the reasons Progress Energy
20 gives for now challenging the coals that won first place
21 in its evaluation, the evidence will show that the
22 potential issues that Progress Energy predicts,
23 principally the sodium content of the Kennecott coal and
24 the very low sulfur content of the Indonesian coal, are
25 not problems at all. Progress Energy is ignoring the

1 impressive and expensive flexibility to burn a wide
2 range of coals that was built into the superconservative
3 Crystal River Units 4 and 5 for which customers have
4 been paying since the mid 1980s. They also ignore the
5 fact that under the parameters of the Commission's
6 decision in the prior case, the alternative coal would
7 constitute only 20 percent of a blend containing
8 80 percent bituminous coal. What might appear to be a
9 material difference on the surface when comparing two
10 coals becomes diffused to the point of insignificance
11 when those coals are placed in a blend containing
12 80 percent bituminous coal.

13 Progress Energy will claim that it might have
14 needed as long as nine to 12 months to test alternative
15 coals and that by then the window of opportunity would
16 have been closed either, either because the price would
17 have increased in the case of the Kennecott coal or
18 because a portion of the Indonesian coal might have been
19 sold to others. Here the evidence will show that
20 Progress Energy is ignoring and contradicting its own
21 past history and practices with respect to the length it
22 conducts test burns.

23 Finally, Progress Energy will assert that in
24 any event the coal might have required expensive capital
25 costs. We've been here before. Progress Energy is

1 ignoring this case, not only the capital costs being
2 borne by customers to provide the initial fuel
3 flexibility, but also the capital costs that the
4 Commission assumed in the last case would have been
5 spent by now to prepare the units to burn the 20 percent
6 blend.

7 As you listen, consider that under Progress
8 Energy's view the utility would never be exposed to a
9 disallowance because it would never be able to react
10 quickly enough to take advantage of an opportunity to
11 save fuel costs, coupled with the idea that the only
12 coal that was the subject, that only the coal that was
13 the subject of the last case can be an alternative here,
14 Progress Energy has fashioned a theory of regulatory
15 review which if accepted would insulate it from
16 virtually any risk of disallowance. Nice work if you
17 can get it.

18 But consider the irony in their position --
19 the imprudence that the Commission found, essentially
20 that Progress Energy failed to respond timely to market
21 changes. Progress Energy's defense is that there were
22 no consequences to that imprudence because it would not
23 have been able to respond timely to market changes.
24 It's precisely because Progress Energy failed to
25 position itself through testing and permitting that it

1 can now engage in self-serving speculation with respect
2 to predictions of difficulties, predictions of time
3 requirements and potentially high costs.

4 **CHAIRMAN CARTER:** Mr. McGlothlin, you're over
5 time, sir. Can you just wrap it up, your concluding
6 statement, please, sir?

7 **MR. MCGLOTHLIN:** Yes, sir. The evidence will
8 show that this situation for 2006 and '07 is just like
9 that of the prior case. More economical sub-bituminous
10 coal was available and customers paid too much as a
11 result of the utility's inability to burn it legally at
12 the time.

13 **CHAIRMAN CARTER:** Thank you. Good morning,
14 Mr. McWhirter, you're recognized.

15 **MR. MCWHIRTER:** Good morning to you, sir. And
16 I'll be very short, as I always am, you know.

17 **CHAIRMAN CARTER:** Yes, sir.

18 **MR. MCWHIRTER:** Why did FIPUG intervene in
19 this case? There are two essential reasons. One is
20 customers must rely very heavily upon the Office of
21 Public Counsel and the Public Service Commission's
22 advocacy staff when it comes to fuel matters. That's
23 because most of the information concerning the purchase
24 of fuel that's submitted is secret and not available to
25 the general public and we don't go in behind what is

1 filed with this Commission to ferret out the details.
2 You have the staff to do it, OPC has the staff to do it,
3 and they find things, hidden defects and a myriad of
4 information, secret information that's available to you.
5 For this reason we supported the OPC in this case and
6 his case.

7 The second and most important reason that we
8 get involved in this case is because fuel recovery is
9 one of the guaranteed cost recovery clauses that is now
10 eminently available to utilities. With these guaranteed
11 cost recovery clauses all the risk of loss is shifted
12 away from the investors of the utility on to the
13 consumer. And when you have a shift of that nature
14 where customers bear all of the risk, it's very
15 important that we look at these cases with very serious
16 scrutiny.

17 I'd like to applaud Order 070816. It was
18 entered in this case in 2007. I applaud it first
19 because it gives a better background of the development
20 of the fuel clause than I've ever seen before by this
21 Commission. It should be mandatory reading for all
22 aspirants to the Commission office and by all new
23 Commissioners because it tells you where we've been and
24 how we got to where we are today.

25 That order had factual conclusions, some of

1 which we do not agree with, but here are the facts that
2 were in the order that you should be aware of as you
3 consider the testimony in this case.

4 The first case, the first is that back in
5 1982 and '84 when these power plants were built,
6 Progress or Florida Power Corporation at that time made
7 a much larger investment in the plant in order to be
8 able to burn cleaner Powder River coal. It improved the
9 environment and it would benefit customers by lower fuel
10 costs. There's no dispute about that. Customers have
11 been paying over the years a much higher return to
12 Progress Energy or Florida Power and its successor
13 Progress Energy Florida because of that investment that
14 was made for customers' benefit. But the rest of the
15 story, as you found in Order 816, was that customers did
16 not receive these benefits. You didn't look behind the
17 years 2003, but you determined that Progress Energy had
18 a duty to, now that it had built a much more expensive
19 power plant for the benefit of customers, it had a duty
20 to customers to see that that was environmentally
21 permitted, but it failed to do it. And even after you
22 entered your order, Progress Energy has continued to
23 fail to make the test because, as Ms. Stenger testified
24 in her deposition, somebody in North Carolina told her
25 it was not necessary to go forward with it.

1 We are very concerned about that. You found
2 that Progress Energy was imprudent, as Mr. McGlothlin
3 has already told you. That is behind us. That is a
4 determination you've made: It was imprudent to do what
5 it needed to do to protect consumers, and that
6 imprudence has not been cured.

7 To determine the damages staff used a cost of,
8 a cost-effectiveness test that was most favorable to
9 Progress Energy. Progress Energy in this case has
10 elevated that to a matter of policy by the Commission
11 that you must use the cost-effectiveness test that is
12 most favorable to PEF.

13 In addition to those factual determinations
14 you made in that fine order, you also reiterated two
15 very important findings of law that bind your
16 deliberations in this case.

17 First is that there's no administrative
18 finality to fuel cost proceedings because of their
19 nature. You can't get all the information until many
20 years later in some event. And the second is the burden
21 of proof is not on the Public Counsel and his witnesses
22 to prove that Progress Energy did wrong. The burden is
23 heavily, because it's a cost recovery item, the burden
24 is heavily on Progress Energy to prove that it did the
25 right thing, that it did right when it did not perform

1 the test that it was chided for not performing in your
2 last order, and that its failure to accept less
3 expensive Indonesian coal for which they had a bid and
4 for which they qualified as the best bid available, that
5 when they did that, they have to tell you what it is
6 that happened that caused them not to accept that bid
7 which benefited customers and yet chose to continue to
8 deal with their old allies in the Appalachian region.

9 We strongly recommend to you that you listen
10 carefully to the testimony, but at all times remember
11 the burden is heavily on Progress Energy because of the
12 nature of this proceedings and it's not on the Public
13 Counsel to present anything other than the elements that
14 give us cause for concern. Thank you. I hope I made
15 it, Mr. Chairman.

16 **CHAIRMAN CARTER:** Outstanding. Outstanding.
17 Six minutes.

18 Good morning, Ms. Bradley. You're recognized.

19 **MS. BRADLEY:** Thank you, Mr. Chairman,
20 Commissioners. We talked a lot about this the last
21 time, and I think it's important to know that the
22 customers of Progress paid extra to have a plant that
23 would burn the sub-bituminous coal. They could have
24 saved a lot of money by not building that plant to burn
25 the more profitable coal, the sub-bituminous coal, but

1 instead the customers suffered that extra added expense.
2 And then when it came time to burn it and profit from
3 it, the company failed to do the correct permitting,
4 they failed to do the correct testing, they limited
5 their testing. And had they tested the higher blend,
6 maybe they could have saved a lot more, but they failed
7 to do that.

8 They say that they saved their customers money
9 by not using this coal. But other companies, there was
10 testimony last time and I believe there will be again
11 today about other customers thought the sub-bituminous
12 coal was so beneficial to their customers that they
13 actually went back and retrofitted their plant so they
14 could burn that. And, you know, plants don't go to that
15 kind of expense unless they think there's a valid
16 benefit, and unfortunately these customers lost out on
17 that opportunity.

18 Now the Office of Public Counsel came in and
19 they have adjusted their recommendations and their
20 testimony. And rather than condemning that, I can't
21 tell you how many times I've been in litigation with
22 parties that no matter what the evidence is, they won't
23 budge from their position and we spend a lot of, we
24 waste a lot of money trying to get them around to the
25 right position.

1 For Public Counsel to come in today in these
2 proceedings and say we've looked at our analysis, we've
3 compromised some and this is our position today, that
4 speaks to their candor. And I hope, rather than
5 condemning them for that candor, that you will applaud
6 them for that because I think that really speaks to the
7 type office that is and the work that they do. Thank
8 you.

9 **CHAIRMAN CARTER:** Thank you.

10 Mr. McWhirter, I'm sorry. You lost the
11 record.

12 (Laughter.)

13 Thank you, Ms. Bradley.

14 Staff, we've had the opening statements of the
15 parties. You had another matter I think with exhibits;
16 is that correct?

17 **MS. BENNETT:** That's correct.

18 **CHAIRMAN CARTER:** You are recognized.

19 **MS. BENNETT:** We'd ask that you mark and move
20 the comprehensive, Comprehensive Exhibit List as Exhibit
21 1, and Staff's Composite Exhibit as Exhibit 2 into the
22 record at this time.

23 **CHAIRMAN CARTER:** Any objections?

24 **MR. BURNETT:** No objection.

25 **CHAIRMAN CARTER:** Any objections?

1 **MR. McWHIRTER:** No objection.

2 **CHAIRMAN CARTER:** Without objection, show it
3 done.

4 (Exhibits 1 and 2 marked for identification
5 and admitted into the record.)

6 Staff, anything further before we swear in the
7 witnesses?

8 **MS. BENNETT:** Just that all the other exhibits
9 on the list should be numbered as indicated and moved
10 into the record during the sponsoring witness's
11 testimony.

12 **CHAIRMAN CARTER:** Okay. Also, too, we --
13 there must have been a typo in terms of the witnesses.
14 Your witnesses do their presentations up to five
15 minutes, is that what it says?

16 **MS. BENNETT:** It's up to seven minutes.

17 **CHAIRMAN CARTER:** Really?

18 **MR. MCGLOTHLIN:** It's seven minutes.

19 **CHAIRMAN CARTER:** It is?

20 **MR. MCGLOTHLIN:** Yes, sir.

21 **CHAIRMAN CARTER:** Okay. You guys -- all
22 right. Well, up to seven minutes then. That will be
23 fine. Let's do this. Staff, anything further before we
24 do that? Anything, I mean any other technical matters
25 that we may have overlooked before we swear in the

1 witnesses?

2 **MS. BENNETT:** No, Mr. Chairman.

3 **CHAIRMAN CARTER:** The parties, anything
4 further before we swear in the witnesses? Anything
5 further?

6 **MR. BURNETT:** No, sir.

7 **CHAIRMAN CARTER:** Hearing none, I'd like to
8 swear in all the witnesses as a group. Would you please
9 stand, all of those that will be testifying today, would
10 you please stand and raise your right hand?

11 (Witnesses collectively sworn.)

12 Thank you. You may be seated.

13 Okay. And then based upon staff and the
14 parties, each witness has up to seven minutes to
15 summarize their testimony. At this point in time we
16 will follow the witness, the order of witnesses as
17 presented in the pretrial order. I think all the
18 parties have that; correct?

19 Okay. Mr. Burnett, you're recognized.

20 **MR. BURNETT:** Thank you, sir. We would call
21 Sasha Weintraub.

22 **SASHA WEINTRAUB**
23 was called as a witness on behalf of Progress Energy
24 Florida and, having been duly sworn, testified as
25 follows:

DIRECT EXAMINATION

1
2 **BY MR. BURNETT:**

3 **Q.** Good morning, Mr. Weintraub. Would you please
4 introduce yourself to the Commission and provide your
5 business address?

6 **A.** Good morning. My name is, my legal name is
7 Alexander Weintraub. I'm also known as Sasha Weintraub.
8 And I work at 410 South Wilmington Street, Raleigh,
9 North Carolina.

10 **Q.** And also you've been sworn just now as a
11 witness; correct?

12 **A.** I have.

13 **Q.** What is your position with Progress Energy,
14 sir?

15 **A.** I'm the Vice President of Fuels and Power
16 Optimization.

17 **Q.** And have you filed prefiled direct testimony
18 and exhibits in this matter?

19 **A.** I have.

20 **Q.** Do you have your prefiled direct testimony and
21 exhibits with you?

22 **A.** I do.

23 **Q.** Do you have any changes to make to your
24 prefiled direct testimony?

25 **A.** I do not.

1 **Q.** Sir, if I asked you the same questions in your
2 prefiled direct testimony today, would you give the same
3 answers that are in your prefiled testimony?

4 **A.** I would.

5 **MR. BURNETT:** Mr. Chairman, we request that
6 the prefiled direct testimony of this witness be entered
7 into the record as if it was read here today.

8 **CHAIRMAN CARTER:** The prefiled testimony of
9 the witness will be inserted into the record as though
10 read.

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**IN RE: REVIEW OF COAL COSTS FOR PROGRESS ENERGY FLORIDA'S
CRYSTAL RIVER UNITS 4 AND 5 FOR 2006 AND 2007**

FPSC DOCKET NO. 070703-EI

DIRECT TESTIMONY OF

SASHA WEINTRAUB

1 **I. INTRODUCTION AND QUALIFICATIONS**

2

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

4 **A.** My name is Sasha A. J. Weintraub. My business address is 410 South Wilmington
5 Street, Raleigh, North Carolina, 27601.

6

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

8 **A.** I am employed by Progress Energy Carolinas, Inc. ("PEC") as the Vice President of
9 Fuels and Power Optimization in the Fuels and Power Optimization Department.

10

11 **Q. What are your responsibilities in that position?**

12 **A.** I am responsible for the procurement of coal for both PEC and Progress Energy
13 Florida, Inc. ("PEF" or the "Company"). With respect to PEF, this means the four
14 coal units located at the Crystal River Energy Complex commonly called Crystal
15 River 1 ("CR1"), Crystal River 2 ("CR2"), Crystal River 4 ("CR4"), and Crystal
16 River 5 ("CR5"). I am also responsible for the procurement and transportation of
17 reagents (limestone, ammonia, and urea) for both PEC and PEF as well as
18 commercial responsibility for the resulting coal combustion by-products. In addition

1 to this, I have responsibility for gas and oil procurement, power trading, and portfolio
2 management.

3

4 **Q. When did you assume the role of making coal procurement decisions for CR4
5 and CR5?**

6 **A.** I assumed responsibilities for coal procurement for the Crystal River coal plants in
7 mid-to-late 2005.

8

9 **II. PURPOSE AND SUMMARY OF DIRECT TESTIMONY**

10

11 **Q. What is the purpose of your testimony?**

12 **A.** The purpose of my testimony is to provide an overview of the coal procurement
13 decisions for Crystal River Units 4&5, in 2006 and 2007. I will explain the coal
14 procurement solicitations and spot markets purchases during this time period and
15 demonstrate that the Company's decisions with respect to the coal purchased for CR4
16 and CR5 were reasonable and prudent under the circumstances and existing market
17 conditions.

18 I will also explain the deliberate and detailed review undertaken by the
19 Company throughout 2006 and into 2007 to determine if switching the type of coal
20 burned at CR4 and CR5 from bituminous coals entirely to a blend of bituminous coals
21 and Powder River Basin ("PRB") coals was in the best economic interests of the
22 Company's ratepayers in the short and long term.

23

24 **Q. Are you sponsoring any exhibits with your testimony?**

1 A. Yes. I am sponsoring the following exhibits that I have prepared or that were
2 prepared under my supervision and control:

- 3 • Exhibit No. ____ (SAW-1), Coal Procurement Procedures;
- 4 • Exhibit No. ____ (SAW-2), the February 3, 2006 RFP for coals for Crystal River Units
5 4 and 5;
- 6 • Exhibit No. ____ (SAW-3), the bidder list of suppliers who responded to the February
7 3, 2006 RFP;
- 8 • Exhibit No. ____ (SAW-4), PEF's coal procurement plan for the February 3, 2006
9 RFP.

10

11 All of these exhibits are true and correct to the best of my knowledge.

12

13 **Q. Please summarize your testimony.**

14 A. From 2006 to 2007 (and thereafter), the Company has purchased and continues to
15 purchase the most economical coal available under market conditions for CR4 and
16 CR5. That is what we have done in 2006 and 2007 and that is what we continue to do
17 for CR4 and CR5.

18 For coal to be burned in 2006 and 2007, only one PRB supplier responded to
19 the coal RFP for CR4 and CR5, and that bid was not the most economical choice for
20 CR4 and CR5. Additionally, PEF's analysis shows that PRB coal blends would not
21 have been a cost-effective choice for PEF's customers during this time period.

22 During the 2006-07 time period, PEF did, however, purchase bituminous coal
23 with less than 10,000 BTU/lb heat content that was blended with higher quality coal
24 and delivered to CR4 and CR5 at pricing that was more favorable than blends using

1 bituminous and PRB coals. Stated simply, rather than blending CAPP coal with 20%
2 PRB coal as was suggested in Docket 060658, PEF was able to blend high quality
3 bituminous coal with lower quality bituminous coal and achieve total prices that were
4 more favorable than CAPP/PRB blends. This demonstrates PEF's commitment to act
5 with reasonable and prudent deliberation to come to the best and most cost-effective
6 decision for the Company's customers.

7
8 **III. COAL PROCUREMENT FOR CR4 AND CR5: 2006-2007**

9
10 **Q. What evaluation process did you employ in your coal procurement decisions?**

11 **A.** We generally followed the same coal procurement policies and practices for the
12 Crystal River coal plants as was described in Docket 060658. We first determined
13 what coal requirements existed for the next year burns and inventory levels for the
14 Crystal River coal plants and then we subtracted from those requirements the tons
15 currently under contract. That provided us with the tons needed at each set of coal
16 units for the next year.

17 After we had determined the open positions for purchase, we determined,
18 based on the tons required and market conditions at the time, whether to issue a
19 formal, competitive solicitation or pursue opportunities in the spot coal markets. We
20 elected to prepare a formal, competitive solicitation and sent out an RFP for coal
21 conforming in quality to the required coal specifications attached to the RFP for
22 various terms. The RFP was sent to all prospective bidders on our supplier bidders'
23 list. This list was comprised of suppliers that possessed the necessary financial,
24 technical, and business resources to supply coal consistent with the Company's

1 quality and quantity requirements. The response deadline was generally three to four
2 weeks. At that time, the bid proposals were reviewed for completeness, accuracy of
3 the data supplied, and conformity to the RFP requirements.

4 A similar but abbreviated process was used for spot coal purchases. On a
5 monthly basis, the Company would make known its interest in spot bid proposals
6 meeting the same required coal specifications used in the formal solicitations by, for
7 example, calling coal producers on its bidder list and coal brokers. The Company
8 also received unsolicited offers from coal producers and brokers. Such proposals
9 were also first reviewed for completeness, accuracy of the data supplied, and
10 conformity to the specifications. They were then compared to the market prices
11 through the use of various trade materials and broker sheets and, if the Company had
12 a need for the coal, the Company would accept the offer and purchase the coal off the
13 spot market.

14 Additionally, PEF's evaluations took into consideration the following factors:
15 (1) conformity to the technical and commercial aspects of the specifications (e.g. coal
16 specifications, delivery schedules, warranties, etc.); (2) coal quality and quantity
17 assurances (or guarantees) by the bidder; (3) unit prices and conditions of pricing; (4)
18 any exceptions to the specifications and resulting penalties; (5) perceived or
19 demonstrated supplier reliability and/or capability; (6) supplier operations and/or
20 shipping capabilities; (7) previous performance; and (8) any other considerations
21 applicable under the circumstances.

22 PEF's objective was to determine the coal supply that offered the best value to
23 the Company for the prices quoted in the bid proposals. In this sense, the Company

1 explicitly recognized that the lowest price may not necessarily reflect the best value
2 to the Company and its customers.

3 As part of this evaluation process, we employed a model that determined the
4 optimal economic distribution of coal to each plant given constraints in coal quality,
5 delivered price, burn requirements, inventory plan, unloading outages and constraints,
6 and other factors. Thereafter, an economic analysis summary was prepared including
7 a quality baseline that evaluated the coals submitted on the basis of the differential
8 between the bid quality and baseline specification for BTU, sulfur, ash, moisture, and
9 grind. As a result, we produced an evaluated delivered cost per mmbtu for each coal
10 in the formal RFP and selected the appropriate coals on the basis of this complete
11 evaluation.

12 PEF's goal is to compare coals submitted in an RFP or spot bid proposal with
13 each other on an "apples to apples" basis and rank them accordingly. PEF's coal
14 procurement policies and practices, employing a delivered cost and evaluated (or
15 busbar) cost analysis (called the "total cost" or "evaluated cost" in our spreadsheet
16 analysis of the bids), achieves this result. In fact, the model we currently use, called
17 VISTA, is the updated Windows version of the Electric Power Research Institute
18 ("EPRI") Coal Quality Impact Model ("CQIM") that was previously used by Progress
19 Fuels Corporation. A copy of the Company's coal procurement policy is Exhibit No.
20 ____ (SAW-1) to my testimony.

21
22 **Q How were coals burned at Crystal River 4 and 5 during 2006 and 2007**
23 **procured?**

1 A Some of the coals were procured under competitive bid processes which occurred in
2 2005 and earlier. Additionally, new coal purchases were procured through the
3 January 2006 solicitation or through spot purchases.

4

5 A. THE JANUARY 2006 SOLICITATION

6

7 Q. Did the Company initiate a formal RFP for coals for CR4 and CR5 in January
8 2006?

9 A. Yes, we did. We issued a RFP solicitation for coals meeting the coal quality
10 requirements for CR4 and CR5 with terms of one to three years. The RFP was sent to
11 over 100 potential coal suppliers on the Company's bidder list, including PRB coal
12 suppliers, and it was published in a number of well recognized coal publications in
13 the industry. Bid proposals were due on February 15, 2006. A copy of the January
14 2006 RFP for coals for CR4 and CR5 is Exhibit No. ____ (SAW-2) to my testimony.

15 The RFP sought both domestic and import coal proposals for delivery by
16 water barge or rail to Crystal River. Bidders were required to provide available
17 analyses on the coal offered in the bids with both "typical" and "guaranteed" values.
18 As the names imply, "typical" values were the quality of the coal expected on each
19 shipment, and "guaranteed" values were the minimum quality specifications for the
20 coal shipments below which PEF could reject the shipment. PEF expressly told
21 potential bidders in the RFPs that their proposals would be evaluated not only on a
22 delivered cost basis but also on a performance cost basis including, but not limited to,
23 coal and ash handling impacts, generating station operating costs, and environmental
24 compliance.

1 **Q. Did the RFP for CR4 and CR5 coals include specifications for both bituminous**
2 **and sub-bituminous coal?**

3 **A.** Yes, it did. The required coal specifications included as received guaranteed
4 specifications for both bituminous and sub-bituminous coals. These required coal
5 specifications were consistent with the quality specifications historically used at CR4
6 and CR5.

7

8 **Q. Did the RFP go to PRB suppliers?**

9 **A.** Yes, it did. There are a number of PRB suppliers on our bidders list who received the
10 RFP, including Arch Coal, Inc. and Kennecott Energy Company. The RFP or notice
11 of the RFP was also sent to a number of coal trade publications where it was
12 published. These publications are followed by coal suppliers and purchasers in the
13 industry.

14

15 **Q. What were your compliance coal goals for the January 2006 RFP?**

16 **A.** We were targeting 2 million tons for 2007 and just over ██████ tons for 2008 for
17 CR4 and CR5. Thereafter, we targeted ██████ for 2009. Our hedging targets
18 sought to have under contract ██████ to ██████ of the coal needs for the next year, ██████
19 to ██████ of the coal needs for the second year out, ██████ to ██████ of the coal needs for
20 the third year out, and a decreasing percentage beyond that time period.

21

22 **Q. What was the response to this RFP?**

23 **A.** Out of the over 100 potential suppliers the RFP was sent to, the Company received
24 bids from 22 suppliers with over 100 unique proposals. The Company received only

1 one proposal for PRB coals, however, and that was from the coal broker Louis
2 Dreyfus Energy Services L.P. (“LDES”). None of the major PRB coal suppliers who
3 received the RFP, such as Arch and Kennecott, responded with a bid proposal to the
4 RFP. A copy of the bidder list indicating those suppliers who responded with bids or
5 simply did not respond at all to the January 2006 RFP is Exhibit No. ____ (SAW-3) to
6 my testimony.

7
8 **Q. Was it unusual to receive so few PRB proposals?**

9 **A.** No. In response to PEF’s September 2005 RFP, no PRB producer provided a bid for
10 PRB coals. This is consistent with historical responses to prior RFPs.

11
12 **Q. What were the results of the evaluation of the January 2006 RFP?**

13 **A.** For 2007, we entered into six contracts for 1.9 million tons of compliance coal from
14 both domestic and import bituminous coal suppliers at an average of \$60.03/ton cost
15 (a range of \$48.15/ton to \$64.25/ton). Five of those suppliers also agreed to contracts
16 for over 1.5 million tons of coal in 2008 at an average of \$60.56/ton (a range of
17 \$48.40/ton to \$64.25/ton) and two of them further contracted for the delivery of over
18 500,000 tons in 2009 at an average of \$56.96/ton. As a result of this solicitation, the
19 Company met its objectives and guidelines for the RFP, provided CR4 and CR5 with
20 quality bituminous compliance coal, and purchased the most economical coal
21 available on the market. A copy of the Company’s coal procurement plan for the
22 January 2006 RFP is Exhibit No. ____ (SAW-4) to my testimony.

23

1 **Q. Was the sole PRB offer in response to the January 2006 RFP a better value than**
2 **the bituminous coals that the Company purchased as a result of the RFP?**

3 **A.** No, it was not. As explained in detail in Mr. Heller's testimony, blends of CAPP and
4 PRB coal would have been more expensive than the coal PEF actually purchased and
5 burned in 2006 and 2007.

6

7

B. SPOT PURCHASES 2006-2007

8

9 **Q. Did PEF make any spot purchases of coal for CR4 and CR5 in 2006 and 2007?**

10 **A.** Yes. It is typical in the industry to make spot purchases when economical to do so
11 and we participate in the spot coal market just like most other utilities do. We
12 routinely advise potential suppliers on our bidders list and with whom we have coal
13 contracts that we are interested in spot purchases and we make this known to potential
14 suppliers through the coal trade publications as well. Additionally, we have
15 historically been very active in the spot market and this is a fact well known in the
16 industry. As a result, we frequently receive offers for spot coal purchases on a
17 monthly basis. PEF made spot purchases of approximately 277,000 and 178,000 tons
18 in 2006 and 2007 respectively.

19

20 **Q. Did PEF make any spot purchases of coal for CR4 and CR5 that contained lower**
21 **than 10,000 BTU/lb heat content?**

22 **A.** Yes. PEF made one purchase of spot PRB coal from Peabody Coaltrade, LLC in
23 2006 of approximately 3,000 tons. PEF also made two purchases of spot bituminous

1 coal from Massey Utility Sales Co. in 2007 of approximately 60,000 tons that had
2 less than 10,000 BTU/lb heat content.

3

4 **Q. For the one purchase of spot coal from Peabody Coaltrade, LLC in 2006 that**
5 **had less than 10,000 BTU/lb heat content, how was the coal utilized?**

6 **A.** The coal from Peabody Coaltrade LLC was delivered by water via river barges to
7 International Marine Terminal (IMT) where it was blended with base coals of higher
8 BTU value. This yielded a blended coal that was used for PEF's PRB test burn
9 conducted in May 2006.

10

11 **Q. For the two purchases of spot coal from Massey Utility Sales Co. in 2007 that**
12 **had less than 10,000 BTU/lb heat content, how was the coal utilized?**

13 **A.** The coal from Massey Utility Sales Co. was delivered by water via river barges to
14 International Marine Terminal (IMT) where it was blended with base coals of higher
15 BTU value. This yielded a blended coal that met acceptable BTU values for Crystal
16 River Units 4 and 5 which was delivered to Crystal River Units 4 and 5 at an overall
17 lower fuel cost than PRB coal blends.

18

19 **Q. Have any PRB coal suppliers made spot purchase offers to you?**

20 **A.** No, other than the Peabody Coaltrade LLC purchase which was previously described.

21

22 **IV. THE EVALUATION OF PRB COALS FOR CR4 AND CR5**

23

1 **Q. What is the current status of the Company's evaluation of the use of PRB coals**
2 **at CR4 and CR5?**

3 **A.** The Company's continued evaluation of the use of PRB coals at CR4 and CR5 has
4 slowed due to changes in market conditions, operational factors associated with PRB
5 coal, and due to the potential for PEF to burn other types of coal at CR4 and CR5 in
6 the future. As I have explained, with respect to the January 2006 RFP, the PRB bids
7 PEF received were not price competitive. That has proved to be the case in a
8 subsequent RFP for coal for CR4 and CR5 as well. Currently, there is no economic
9 benefit to the Company or its customers to pursue PRB coals blends at CR4 and CR5,
10 even without addressing the handling and operational issues created by burning such
11 a blend at the site. As always, however, PEF will continue to monitor the market
12 and will continue to strive for the best and most cost-effective fuel options for CR4
13 and CR5 now and in the future.

14

15

VI. CONCLUSION

16

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

18 **A.** Yes.

19

1 **BY MR. BURNETT:**

2 Q. Mr. Weintraub, do you have a summary of your
3 prefiled direct testimony?

4 A. I do.

5 Q. Will you please summarize your prefiled direct
6 testimony for the Commission?

7 A. Good day, Commissioners. I'm the Vice
8 President of Fuels and Power Optimization for Progress
9 Energy. In this role and in my former position I have
10 been ultimately responsible for PEF's coal procurement
11 decisions since 2005.

12 In September 2005, PEF issued an RFP seeking
13 coal bids for Crystal River Units 4 and 5 for 2006 and
14 no PRB producer provided bids for PRB coals. PEF
15 presented this RFP and the results of the solicitation
16 in Docket 060658.

17 In January 2006, PEF issued another RFP
18 solicitation seeking coal for delivery in 2007, eight
19 and nine. The company received bids from 22 suppliers
20 with over 100 unique proposals which included only one
21 PRB proposal, and that bid was not the most economical
22 choice for Crystal Rivers 4 and 5. Nonetheless, PEF has
23 analyzed PRB coal blends as a possible alternative to
24 bituminous coal, including coals that PEF may have been
25 able to purchase in 2004 for delivery during the '06/'07

1 time period. By blending high quality bituminous coal
2 with lower quality bituminous coal that was available
3 for delivery in '06 and '07, PEF achieved pricing that
4 was more favorable than any potential PRB coal blend
5 that could have been bought and delivered between '04
6 and '07. Said simply, any way you slice it, the coal
7 that PEF actually bought for 2006 and 2007 beat the
8 prices of PRB blends that PEF otherwise could have
9 bought when properly compared on an apples-to-apples
10 basis.

11 Even though PRB coal blends have not proved to
12 be an economic choice for PEF's customers in '06 and
13 '07, PEF continues to monitor the market and will
14 continue to strive for the best and most cost-effective
15 fuel options for Crystal River Units 4 and 5 now and in
16 the future. If PRB coal blends ever become a reliable
17 economic choice for PEF's customers, then PEF will
18 continue with its process to test and integrate PRB coal
19 blends, but to date the evaluated cost of burning PRB
20 coal at units, Crystal River 4 and 5 does not make
21 economic sense for PEF's customers.

22 This concludes the summary of my direct
23 testimony, and I'm happy to answer any questions that
24 you may have.

25 **MR. BURNETT:** Thank you. Mr. Chairman, we

1 tender Mr. Weintraub for cross-examination.

2 **CHAIRMAN CARTER:** Thank you. One second.

3 Commissioner Skop, you're recognized.

4 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

5 Good morning, Mr. Weintraub.

6 **THE WITNESS:** Good morning.

7 **COMMISSIONER SKOP:** I have a few questions and
8 I'm trying to figure out which would be the best witness
9 to ask those of. It's my understanding that you're
10 responsible for the procurement of coal but not
11 necessarily the subject matter expert in terms of the
12 technical questions or an engineer; is that correct?

13 **THE WITNESS:** That's correct.

14 **COMMISSIONER SKOP:** Okay. And I believe I
15 just have one question. I guess I reviewed the prefiled
16 testimony, but subsequent to filing your testimony you
17 took a deposition on April 1st, 2009; is that correct?

18 **THE WITNESS:** That's correct.

19 **COMMISSIONER SKOP:** Okay. And on Page, and,
20 again, I don't have a real complete copy, but I believe
21 on Page 49 spanning over to Page 50 of that deposition
22 on or about Line 24 and 25 on Page 49 continuing on to
23 the next page you were asked about an e-mail dealing
24 with the availability of Indonesian coal; is that
25 correct?

1 **THE WITNESS:** That's correct.

2 **COMMISSIONER SKOP:** Okay. And in that e-mail
3 apparently a representative from the Indonesian coal
4 company was approached in an unsolicited manner by I
5 guess the Public Counsel's witness Mr. Putman in
6 relation to questions he may have had with respect to
7 Indonesian coal; is that correct?

8 **THE WITNESS:** That's the way I understand the
9 e-mail. That's correct.

10 **COMMISSIONER SKOP:** Okay. And basically in
11 his response in terms of acknowledging back to Progress
12 that he had been contacted, I believe that he provided a
13 letter which is a late-filed exhibit attached to your
14 deposition, or if staff could perhaps help me, but there
15 is a late-filed exhibit. I think, staff, is it --

16 **MR. YOUNG:** Five, Late-Filed Exhibit 5.

17 **COMMISSIONER SKOP:** Late Exhibit 5, which
18 basically provided that letter. Is that correct?

19 **THE WITNESS:** That's correct.

20 **COMMISSIONER SKOP:** Do you have that letter
21 with you by any chance?

22 **MR. BURNETT:** Mr. Chair, if I may approach, I
23 believe I do have copies available.

24 **CHAIRMAN CARTER:** You may approach. Make sure
25 Mr. Weintraub has one first, then you can get one to the

1 rest of us. We'll take a moment, Commissioners, to make
2 sure that everyone has a copy so we're all on the same
3 page.

4 **MR. BURNETT:** Mr. Chairman, this is a
5 collection of documents. It's the next to the last
6 document in this package. I've cleared it with
7 Mr. McGlothlin and he has no objections to me ultimately
8 giving these out. So if it's appropriate, we could
9 reference them or I could pull them apart and just give
10 you the e-mail at this time.

11 **CHAIRMAN CARTER:** Sure. Let's go ahead on
12 with that. That's fine.

13 **MR. BURNETT:** It should be the second to the
14 last document in this packet.

15 **CHAIRMAN CARTER:** Okay.

16 **COMMISSIONER SKOP:** Thank you.

17 **CHAIRMAN CARTER:** Mr. Burnett, you're
18 referring to the e-mail here, is that what you're
19 referring to, the second to the last document?

20 **MR. BURNETT:** Yes, sir.

21 **CHAIRMAN CARTER:** All right. Commissioners,
22 are we all on -- do we all have it? Okay.

23 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

24 **CHAIRMAN CARTER:** You may proceed.

25 **COMMISSIONER SKOP:** Sure. Back to

1 Mr. Weintraub, I believe you have that e-mail in front
2 of you now; is that correct?

3 **THE WITNESS:** That's correct.

4 **COMMISSIONER SKOP:** And that is from the
5 company that produces the Indonesian coal; is that
6 correct?

7 **THE WITNESS:** That's correct.

8 **COMMISSIONER SKOP:** Okay. And can you speak
9 briefly to the representation made within that e-mail as
10 to whether Indonesian coal was available during the time
11 in question?

12 **THE WITNESS:** I think in this e-mail the
13 content backs up what we always suspected; that the
14 Indonesian coal bids that we received, they did not have
15 the coal to offer. And they specifically say that in
16 the middle paragraph and I quote, "However, at that
17 time, we were sold out in Indonesia, and it is possible
18 that we responded to any inquiry that we would be
19 unresponsive."

20 **COMMISSIONER SKOP:** All right. Thank you.
21 With respect to the evaluated price for coal that your
22 organization goes through, does the evaluated price
23 incorporate basically some sort of premium for delivery
24 of, delivery interruption risk or is that not evaluated
25 in terms of the evaluated price?

1 **THE WITNESS:** That's not explicitly evaluated
2 in the RFP process.

3 **COMMISSIONER SKOP:** Okay. And I think that,
4 you know, part of that will come into a question that's
5 probably better left for the technical witness, but I
6 just wanted to make sure that that was not encompassed
7 with an evaluated price. I mean, Indonesia is across
8 the world and, again, I think that some of the other
9 questions that I have deal with being able to use coal
10 as a direct market substitute because it seems to be
11 pretty mine specific.

12 But getting to that one point in terms -- are
13 you familiar with the Black and Veatch documents
14 regarding the design spec for the CR4 and CR5 units in
15 question?

16 **THE WITNESS:** Just what I've read off this
17 docket.

18 **COMMISSIONER SKOP:** Okay. So I'll probably
19 refer that to the technical witness. But I guess, if
20 you have knowledge, would you also be aware that
21 Indonesian coal was never specified as a design fuel for
22 the plant in question?

23 **THE WITNESS:** I don't recall that ever being
24 specified as a design fuel for Crystal River Units 4 &
25 5.

1 **COMMISSIONER SKOP:** And subject to check,
2 would you agree that the design fuel specifically
3 referenced Wyoming PRB coal from Campbell County in
4 terms of the specified design fuel?

5 **THE WITNESS:** I believe it did.

6 **COMMISSIONER SKOP:** All right. Thank you.

7 **CHAIRMAN CARTER:** Commissioners, anything
8 further from the bench?

9 Mr. McGlothlin, you're recognized, sir.

10 CROSS EXAMINATION

11 **BY MR. MCGLOTHLIN:**

12 **Q.** Mr. Weintraub, let's continue with the
13 discussion of the e-mail that's been passed out.

14 In your testimony you allude to an RFP process
15 that began in February of 2006; is that correct?

16 **A.** That's correct.

17 **Q.** Now looking at the -- first of all, when were
18 the bids received for the 2006 RFP?

19 **A.** On the due date for the RFP, which was some
20 time in February was the specific due date. I don't
21 recall.

22 **Q.** Okay. And the, the intent of the RFP was to
23 solicit bids for deliveries in '07, '08 and '09;
24 correct?

25 **A.** That's correct.

1 **Q.** Now looking at the e-mail -- I'm looking at
2 this and it says, "The question was about whether we had
3 offered coal in the past, 2007, I believe." When the
4 2006 RFP was initiated in February of 2006, did the
5 bidders offer coal at that time?

6 **A.** They responded to the RFP with a bid. That's
7 correct.

8 **Q.** So the year of the RFP is 2006; correct?

9 **A.** The RFP was issued in 2006. That's correct.

10 **Q.** And this individual was speaking in terms of
11 whether he had offered coal in 2007; correct?

12 **A.** I don't know what question Mr. Putman asked
13 him that he's specifically alluding to in this e-mail.

14 **Q.** Well, let's look at what the author of this
15 said about it. "The question was about whether we had
16 offered coal in the past - 2007, I believe." Does he
17 refer to 2007?

18 **A.** "The question was about whether we had offered
19 coal in the past - 2007." In the past.

20 **Q.** And does he also say that he doesn't have any
21 independent memory of what happened?

22 **A.** He says, "I don't remember the specifics
23 independently. However, at that time, we were sold out
24 in Indonesia." And like we talked about in my
25 deposition, this seems to back up the fact that when we

1 did contact Indonesian suppliers about moving forward,
2 they at some point became very unresponsive. Their one
3 representative -- one of their representatives was let
4 go by the company. The fact that Indonesian coal was
5 really focusing on the Asian market, it seems like
6 they've, for lack of a better term, packed up shop here
7 in the U.S. and focus, continued to focus on their
8 primary market.

9 Q. Yes. And the bids were submitted in February
10 of 2006. Isn't it true that this additional contact
11 that you mentioned took place in the May 2006 time
12 frame?

13 A. That was the second meeting. We also
14 contacted them and they came to our office, I think I
15 mentioned, around March, thereabout, within a few weeks
16 of the RFP to contact them about additional information
17 about their coal.

18 Q. Did they ever tell you that they were
19 withdrawing their bid?

20 A. No.

21 Q. Did they ever tell you they had no coal to
22 sell?

23 A. They implied it by not responding to our
24 inquiries and ultimately not being responsive.

25 Q. Did you, did you ever offer to buy coal from

1 them?

2 **A.** We offered to do additional inquiries to see
3 what it would take for us to buy their coal.

4 **Q.** Did you ever offer to buy coal from them?

5 **A.** No.

6 **Q.** So it's possible that the bids were firm at
7 the time they were made, but by the time that you
8 contacted them some other arrangements were made.

9 **MR. BURNETT:** Objection. Calls for
10 speculation.

11 **CHAIRMAN CARTER:** Mr. McGlothlin.

12 **MR. MCGLOTHLIN:** I don't think it calls for
13 speculation to, to deduce that from -- that there was an
14 opportunity between February and the March/May frame,
15 time frame for something to have happened.

16 **CHAIRMAN CARTER:** Ms. Helton.

17 **MS. HELTON:** It seems appropriate to me,
18 Mr. Chairman, for him to ask the question. And if the
19 witness doesn't know, then he can respond that he
20 doesn't know.

21 **CHAIRMAN CARTER:** Okay. Thank you.

22 You may proceed.

23 **THE WITNESS:** Can you ask the question again,
24 please?

25 **MR. MCGLOTHLIN:** I'll withdraw that question.

1 I want to pass out an exhibit for use.

2 **CHAIRMAN CARTER:** Okay. Okay. Just one
3 second.

4 Ms. Bradley, did you get one? Do you have a
5 copy? Make sure you get one to the Attorney General's
6 Office. Okay. Make sure the Attorney General's Office
7 gets a copy. Okay.

8 Nice tie.

9 **MR. MCGLOTHLIN:** Chairman Carter, could we
10 have a number assigned to this?

11 **CHAIRMAN CARTER:** Hang on one second. Let's
12 make sure Ms. Bradley gets a copy before we go further.

13 Okay. All right. You want a number marked
14 for identification. Let me flip through, Commissioners,
15 and this will be --

16 **MS. BENNETT:** Number 49.

17 **CHAIRMAN CARTER:** Number 49?

18 **MS. BENNETT:** Uh-huh.

19 **CHAIRMAN CARTER:** Number 49. 49. Give me one
20 second here. Let me get a short title, Mr. McGlothlin.

21 **MR. MCGLOTHLIN:** Excerpt Weintraub Testimony
22 060658.

23 **CHAIRMAN CARTER:** Excerpts of Weintraub
24 Testimony. Okay. You may proceed.

25 (Exhibit 49 marked for identification.)

1 **BY MR. McGLOTHLIN:**

2 **Q.** Mr. Weintraub, you appeared on behalf of
3 Progress Energy in the Docket 060658, did you not?

4 **A.** I did.

5 **Q.** Do you recognize this as, to be an excerpt of
6 the prefiled testimony that you sponsored in that case?

7 **A.** I do.

8 **Q.** I'd direct you to the question and answer that
9 appear at the bottom of Page 14. Do you refer to the
10 same Indonesian sub-bituminous coal offers there that
11 we're speaking of in this case?

12 **A.** Yes, I do.

13 **Q.** The question was, "Was the sole PRB offer in
14 response to the January 2006 RFP a better value than the
15 bituminous coals that the Company purchases as a result
16 of the RFP?" Would you read the answer that appears at
17 Lines 18 through 23?

18 **A.** Sure. "No, it was not. But there were two
19 Indonesian sub-bituminous coal offers that ranked ahead
20 of the bituminous coal bids we purchased. We did not
21 purchase the Indonesian sub-bituminous coal product
22 because the plant had no prior experience with this type
23 of coal, the CR4 and 5 units were undergoing
24 modifications to safely handle the PRB coals for a test
25 burn as recommended by our outside engineering

1 consultant, and the test burn of PRB sub-bituminous
2 coals had not yet occurred."

3 Q. And would you agree that that question and
4 answer reflect everything that you had to say about the
5 Indonesian bids in 060658?

6 A. I think I would say that my answer responds to
7 the question that was asked on Lines 16 and 17.

8 Q. And in the answer you gave the reasons why you
9 didn't buy the Indonesian coal; correct?

10 A. The reason why we didn't buy the Indonesian
11 coal was because we didn't have any prior experience
12 with the coal, we were still undergoing modifications,
13 and we had not yet done a test burn on the PRB
14 sub-bituminous coal. Just the fact that we haven't even
15 had any experience with this type of coal would not have
16 allowed us to just go out and purchase it.

17 Q. Okay. In your testimony in this case you
18 describe the 2006 RFP in some detail, do you not?

19 A. I do.

20 Q. You did not mention the Indonesian bids at all
21 in your direct case, did you?

22 A. No. In my direct case we were specifically
23 following the Commission order.

24 Q. At Page 8 of your prefiled direct testimony,
25 referring to this February 2006 RFP, you note that the

1 company received only one PRB bid, do you not?

2 **A.** I do.

3 **Q.** And then at Page 9 in response to the
4 question, "Was it unusual to receive so few PRB
5 proposals," you say, "In response to PEF's
6 September 2005 RFP, no PRB producer provided a bid for
7 PRB coals." Then you add, "This is consistent with
8 historical responses to prior RFPs."

9 It's true, is it not, sir, that in response to
10 the 2003 RFP, Progress Energy received bids from
11 producers of Powder River Basin coal?

12 **A.** I'm not sure about the 2003 RFP.

13 **Q.** Is it true that the PRB producers bid into the
14 April 2004 RFP?

15 **A.** In April 2004 there was some PRB bids.

16 **Q.** And in that RFP the company was soliciting
17 offers for deliveries in '05, '06 and '07?

18 **A.** They were soliciting coal out in those years.

19 **MR. MCGLOTHLIN:** Okay. I want to distribute
20 an exhibit at this point.

21 **CHAIRMAN CARTER:** Okay. You may proceed.

22 **MR. MCGLOTHLIN:** Chairman Carter --

23 **CHAIRMAN CARTER:** Yes, sir.

24 **MR. MCGLOTHLIN:** -- this particular document
25 has already been identified --

1 **CHAIRMAN CARTER:** Mr. McGlothlin, turn your
2 mike on, please, sir, and begin -- start all over.

3 **MR. MCGLOTHLIN:** I'm sorry. This particular
4 document has already been identified as an exhibit.
5 It's attached to the testimony of David Putman. It's
6 his DJP-6.

7 **CHAIRMAN CARTER:** Okay.

8 **MR. MCGLOTHLIN:** I've distributed this
9 additional copy for --

10 **CHAIRMAN CARTER:** Just for cross-examination
11 purposes? So it's already into, marked with Witness
12 Putman's --

13 **MR. MCGLOTHLIN:** Yes.

14 **CHAIRMAN CARTER:** Okay. You may proceed.

15 **BY MR. MCGLOTHLIN:**

16 **Q.** Mr. Weintraub, do you recognize this as the
17 summary of the bids that were received and evaluated as
18 a result of the 2004 RFP?

19 **A.** I do.

20 **Q.** There is a -- in the left column under the
21 caption Supplier there is a subcaption or subset called
22 Western Coals. Do I understand correctly that the one,
23 two, three, four, five, six, seven, eight, nine
24 suppliers listed there are producers of Powder River
25 Basin coal?

1 **A.** Other than the very last one which is Oxbow.
2 That's a Colorado bituminous coal which is not
3 sub-bituminous.

4 **Q.** Okay. So the top eight were producers of
5 Powder River Basin coal. In terms of the rest of the
6 information there, on the right-hand column there's a
7 caption called Evaluated Utilized Cost. Do you see
8 that?

9 **A.** I do.

10 **Q.** And as I understand it, that is the value that
11 Progress Energy assigns to a particular coal under
12 consideration after taking into account the cost of the
13 commodity, the cost of the transportation and the
14 measured impacts of the coal under consideration on unit
15 operation; is that correct?

16 **A.** That's correct. Many of those are forecasted
17 transportation prices and so forth, but that's correct.

18 **Q.** This is, this is the value that is the result
19 of the evaluation process at the time the bids to an RFP
20 are being considered; correct?

21 **A.** That's correct.

22 **Q.** Now with respect to the -- let me back up.
23 The second column from the left-hand side is, is
24 captioned Term. And do I understand correctly that this
25 indicates the years during which the bidder was offering

1 to deliver coal?

2 **A.** That is correct. That's typically what's the
3 term offered on the bid from the coal supplier.

4 **Q.** So several of the western providers were
5 offering to deliver coal during the '06 and '07 time
6 frame that is the subject of this docket; correct?

7 **A.** That's correct.

8 **Q.** And would you agree with me, and take a moment
9 if you need it, as compared with the other categories,
10 the Central Appalachian coals and the foreign coals, and
11 limiting the question to those offers that would have
12 been applicable to '06 and '07, the, some of the Powder
13 River Basin producers offered the lowest evaluated and
14 utilized cost that the company received in the RFP?

15 **A.** Off of that spreadsheet, that's correct,
16 given, given the forecasted transportation, the
17 forecasted emission prices and so forth, not taking into
18 account any of the capital upgrades that would be
19 required and so forth. So this is really looking at
20 just particular, the bid itself, not taking into account
21 any other considerations.

22 **Q.** It takes into account those, all those
23 considerations that the company encompasses at the time
24 it evaluates bids in an RFP; correct?

25 **A.** This process encompasses the commodity and the

1 transportation cost to evaluate bids.

2 Q. Does it take into account all the
3 considerations that the, that, that the utility includes
4 at the time it is evaluating and scoring bids to an RFP?

5 A. Maybe I can help answer that question if you
6 can give me some examples of what else you're referring
7 to.

8 Q. I'm referring to the process that Progress
9 Energy follows at the time it issues an RFP, receives
10 bids and then evaluates, scores and ranks those bids and
11 then arrives at the results of the RFP process. Does
12 the evaluated utilized cost shown on the right-hand
13 column reflect the end result of every consideration
14 that is involved in the preparation of the RFP, the
15 receipt of the bids, the evaluation of the bids and the
16 preparation of an evaluated utilized cost?

17 A. In the bid process, yes, it does.

18 Q. One of the entries there is for the, under the
19 origin there is a reference to the PRB North Rochelle
20 mine. Do you see that?

21 A. I do.

22 Q. Do you recognize that as the same mine that
23 provided the, the coal for the attempted 2004 test burn
24 that was avoided by the company?

25 A. I believe it is.

1 **CHAIRMAN CARTER:** Mr. McGlothlin, would you
2 yield for a moment, please?

3 **MR. MCGLOTHLIN:** Yes.

4 **CHAIRMAN CARTER:** Thank you.
5 Commissioner Skop, you're recognized.

6 **COMMISSIONER SKOP:** Could Mr. McGlothlin --
7 thank you, Mr. Chair. Could Mr. McGlothlin please read
8 back the name of that one mine and where it is on the,
9 on the handout?

10 **MR. MCGLOTHLIN:** In the column called Western
11 Coals under the column called Origin, it says PRB N,
12 standing for North, Rochelle, R-O-C-H-E-L-L-E.

13 **COMMISSIONER SKOP:** Okay. And that would be
14 from the Triton mine; is that correct?

15 **MR. MCGLOTHLIN:** It was at the time, yes.

16 **COMMISSIONER SKOP:** Okay. After
17 Mr. McGlothlin is through I have some additional
18 questions on that. Thank you.

19 **CHAIRMAN CARTER:** Okay. Mr. McGlothlin, you
20 may proceed.

21 **BY MR. MCGLOTHLIN:**

22 **Q.** And what is the evaluated utilized cost of the
23 North Rochelle coal that's reflected on the right-hand
24 column?

25 **A.** \$2 per MMBtu.

1 **Q.** Would you agree with me that like the
2 Kennecott offers that are also reflected there, the
3 North Rochelle, North Rochelle value of \$2 is less than
4 any of the Central Appalachian coals or foreign coals on
5 an evaluated basis?

6 **A.** On this, for this particular spreadsheet it
7 is, it is lower cost than some of the Central
8 Appalachian coals and foreign coals that are on here.
9 But as I said in my testimony, this will not be cheaper
10 than some of the blend coals that were purchased in '06
11 and '07.

12 **Q.** But the decision point of the process of
13 supplying deliveries in '06 was in April of 2004, was it
14 not?

15 **A.** It was part of as well as in 2005 and 2006 as
16 well as in 2003. So there's a time frame of when all
17 the coal that arrives at Crystal River in '06, there's a
18 history there, including coals that were purchased in
19 the '06 time frame.

20 **Q.** Okay. Do you know --

21 **CHAIRMAN CARTER:** Mr. McGlothlin, would you
22 yield for a moment, please?

23 **MR. MCGLOTHLIN:** Yes.

24 **CHAIRMAN CARTER:** Commissioner Skop.

25 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

1 Just as a point of information, Mr.
2 McGlothlin, are we speaking now strictly to the refund
3 in question for the 2006 year and not the 2007?

4 **MR. MCGLOTHLIN:** Yes.

5 **COMMISSIONER SKOP:** Thank you.

6 **CHAIRMAN CARTER:** You may proceed.

7 **BY MR. MCGLOTHLIN:**

8 **Q.** Isn't it a fact, sir, that as a result of the
9 RFP process that began in April 2004 and based upon the
10 evaluation of the bids received in that RFP process,
11 Progress Energy did contract for deliveries of a portion
12 of the requirements for Crystal River 4 and 5 in 2006?

13 **A.** I'm sorry. Can you repeat the question?

14 **Q.** Yes. Isn't it true that after receiving the
15 bids to the April 2004 RFP, many of which encompassed
16 offers to deliver coal in the years '06 and '07, and
17 after evaluating those bids Progress Energy entered into
18 contracts with several of these entities for delivery of
19 coal to Crystal River 4 and 5 in 2006?

20 **A.** Correct.

21 **Q.** Is it true that at the time Progress Energy
22 conducted the April 4, April 2004 RFP, it was not, it
23 did not have a permit authorizing it to burn any of the
24 sub-bituminous coals listed on this document?

25 **A.** That fact came during the PRB test burn itself

1 that there was not a permit required to burn
2 sub-bituminous coal. So it was in the middle of the
3 test burn when it came to the attention that the air
4 permit did not have sub-bituminous coal listed
5 specifically on that, on the air permit.

6 **Q.** But you would agree that at the time of the
7 evaluation process Progress Energy had no ability to
8 contract with any of the producers of the sub-bituminous
9 coal that are, that submitted bids to this RFP.

10 **A.** Well, we started the testing process, we did
11 the '04 test burn that ultimately came and showed that
12 we did not have a permit.

13 **Q.** And didn't that more or less coincide with the
14 evaluation process? Progress Energy became aware of its
15 limitations during the evaluation process associated
16 with the 2004 RFP.

17 **A.** Again, they became aware on, in the middle of
18 the test burn. I don't have the exact dates of what
19 that test burn was, and we can figure out exactly when
20 it compares to when these coal prices were evaluated.

21 **Q.** So I think you're agreeing with me -- would
22 you agree that at the time Progress Energy was
23 evaluating bids and contracting for deliveries of coal
24 in 2006 to Crystal River 4 and 5, as a result of the
25 information gained in the RFP it was unable to purchase

1 any of the sub-bituminous coals that were offered in
2 that RFP?

3 **A.** We started the testing process for
4 sub-bituminous coals off of this particular RFP. And we
5 would -- as for coals that we're not familiar with, we'd
6 start the testing process to get familiarity with the
7 coal. And then after the test burn, if we're
8 successful, we can then go forth and procure the coal.

9 **Q.** Yes, sir. I think in your answer you are
10 trying to establish the point in time at which the
11 persons in the procurement department were alerted by
12 the persons in environmental that there were some
13 limitations on your ability.

14 Regardless of when that became known company
15 wide, it's true, is it not, that at the time the RFP was
16 issued and the bids received, Progress Energy was unable
17 to purchase any of the sub-bituminous coal offered by
18 the sub-bituminous producers?

19 **A.** I don't know exactly what would have stopped
20 us from purchasing the sub-bituminous coal if we thought
21 we had a permit and therefore we also did the test burn.

22 **Q.** All right. Would you agree with me that
23 Progress Energy had no ability to burn any of the
24 sub-bituminous coal it might have purchased under the
25 mistaken notion that it could do so?

1 **A.** We would have started the testing process. We
2 did a test burn without the proper air permit.

3 **MR. BURNETT:** Mr. Chairman, excuse me. If it
4 helps, I'll be, I'll be willing to stipulate that we
5 didn't have the proper permits at this time, nor had we
6 completed the testing process. I can stipulate that, if
7 it helps move things along.

8 **MR. MCGLOTHLIN:** And would you also stipulate
9 that as a consequence Progress Energy could not have
10 purchased and burned any of the offers received from
11 sub-bituminous producers in the 2004 RFP?

12 **MR. BURNETT:** Sir, I could certainly stipulate
13 that because we didn't have a permit, we couldn't have
14 burned it pursuant to a permit we didn't have. We could
15 have certainly purchased it and planted flowers in it or
16 something, if we wanted to.

17 **CHAIRMAN CARTER:** Mr. McGlothlin, are you
18 comfortable with that?

19 **MR. MCGLOTHLIN:** Yes. And --

20 **CHAIRMAN CARTER:** Yes and no.

21 **MR. MCGLOTHLIN:** -- planting flowers would
22 pretty the place up.

23 I have another exhibit to distribute.

24 **CHAIRMAN CARTER:** While you're doing that,
25 Commissioner, you -- is this an appropriate time before

1 we go to another subject?

2 **COMMISSIONER SKOP:** Yeah. I guess this would
3 be a good time, Mr. Chair.

4 Mr. Weintraub, I guess --

5 **CHAIRMAN CARTER:** You're recognized.

6 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
7 I just had a couple of questions for Mr.,
8 Mr. Weintraub. I guess on the exhibit that OPC has just
9 provided it lists suppliers of western coal. And if you
10 could help me out, I guess OPC was referring to the
11 PRB North Rochelle from the Triton mine. And I believe,
12 I thought I heard them say that that was the coal that
13 Progress had procured for the test burn. Am I mistaken
14 on that?

15 **THE WITNESS:** I believe that's correct.

16 **COMMISSIONER SKOP:** Okay. And the coal from
17 the Triton mine, and, again, I'll go back to
18 Mr. Sansom's prior exhibits and testimony that have
19 been, I believe, entered in -- or do we need to enter
20 them in formally? But I guess Mr. Sansom is now
21 deceased. And during the last iteration of this I
22 thought a lot of his testimony, so that's what I'm
23 familiar with. But he had, very similar to like a tour
24 of Napa Valley, he had a chart of the PRB Powder River
25 Basin type coal mines. And I guess, subject to check,

1 and I'll get into that with the technical witness, but
2 at least from the exhibit that he had provided it seemed
3 to me that the design fuel blend was for Campbell
4 County, Wyoming, coal, and I just wanted to see if you
5 had an understanding whether the PRB from North Rochelle
6 from the Triton mine was, was in that county. I believe
7 it is, but I just --

8 **THE WITNESS:** I believe it is as well.

9 **COMMISSIONER SKOP:** Okay. Whereas, the -- I
10 guess the other question I would have is that on that
11 same basis Mr. Putman has done an evaluation as to what
12 fuel should have been chosen on a basis, an evaluated
13 basis. And I think that in your rebuttal testimony you
14 characterize that as cherrypicking, if I read correctly.
15 But I believe -- do you know which of the western coals
16 on that chart that he picked to use for his analysis?

17 **THE WITNESS:** Yes. It was the second from the
18 top of the western coals, the Kennecott.

19 **COMMISSIONER SKOP:** Okay.

20 **THE WITNESS:** And the second from the bottom,
21 which is Kennecott. And that one was a blend of
22 Illinois Basin coal and the Montana sub-bituminous coal.

23 **COMMISSIONER SKOP:** Okay. And subject to
24 check, would you agree that neither of those mines are
25 located in Campbell County, Wyoming?

1 **THE WITNESS:** That's correct.

2 **COMMISSIONER SKOP:** Okay. So they would not
3 be mines that were, that the plant was -- I guess the
4 design fuel blend was not specified to those two
5 particular mines.

6 **THE WITNESS:** That's correct.

7 **COMMISSIONER SKOP:** Okay. And on those two
8 particular mines, subject to check, but would you agree
9 that the sulfur content on both of those mines is much
10 higher than that of the Triton mine from Campbell
11 County, Wyoming?

12 **THE WITNESS:** It is higher.

13 **COMMISSIONER SKOP:** All right. Thank you.
14 One more question.

15 And would you also agree that based on the
16 Kennecott pricing that Mr. Putman has used at the far
17 right column the evaluated price is significantly lower
18 than the other mines that have better or lower sulfur
19 content; is that correct?

20 **THE WITNESS:** That's correct.

21 **COMMISSIONER SKOP:** All right. Thank you.

22 **CHAIRMAN CARTER:** Thank you. Anything further
23 from the bench?

24 Mr. McGlothlin, you may proceed.

25 **MR. MCGLOTHLIN:** We have -- we distributed a

1 document that is captioned 2005/2007 Request for
2 Proposals Purchase Activity.

3 **CHAIRMAN CARTER:** Do you need a number for
4 that?

5 **MR. McGLOTHLIN:** This also is attached to
6 Mr. Putman's testimony.

7 **CHAIRMAN CARTER:** Okay. Thank you.

8 **BY MR. McGLOTHLIN:**

9 **Q.** Sir, do you recognize this as the report that
10 was prepared by the person who was then in charge of
11 fuel procurement to management with respect to the
12 purchases made as a result of the 2004 RFP?

13 **A.** Yes.

14 **Q.** I want to direct your attention, first of all,
15 to the bottom paragraph of the first page, which refers
16 to the results from the 2005/2007 RFP and the Drummond
17 Colombian coal purchase noted above. And those
18 purchases and negotiations took place contemporaneously,
19 did they not, in the 2004 time frame?

20 **A.** They took place in 2004 after the RFP.

21 **Q.** Now if you'll turn the page, you'll see on the
22 second page the caption 2005/2006 Purchases, and the
23 first entry is called Foreign Water. And there's a
24 reference to purchasing 800,000 tons for 2005 and one
25 million tons for 2006 from Drummond's, I'll probably

1 mispronounce this, Pribbenow mines. Do you see that
2 reference?

3 **A.** Yes.

4 **Q.** And it says this is delta coal. Do I
5 understand correctly that this was, particular purchase
6 was for Crystal River 4 and 5?

7 **A.** That's correct. These are particular
8 purchases that came through the Mobile port that were
9 then ultimately going on to Crystal River 4 and 5.

10 **Q.** And then it says, "The delivered cost to
11 Crystal River" --

12 **CHAIRMAN CARTER:** Mr., Mr. -- before you move
13 to your next point there, Commissioner Skop.

14 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
15 Just, Mr. McGlothlin, a point of
16 clarification. With respect to the coals we're talking
17 about now, is that foreign bituminous coal as opposed to
18 sub-bituminous?

19 **MR. MCGLOTHLIN:** The Drummond is, yes.

20 **COMMISSIONER SKOP:** All right. So strictly
21 foreign bituminous coal.

22 **MR. MCGLOTHLIN:** The Drummond is. Yes, sir.

23 **COMMISSIONER SKOP:** All right. Thank you.

24 **CHAIRMAN CARTER:** You may proceed.

25 **BY MR. MCGLOTHLIN:**

1 **Q.** You see there that the entries are for a cost
2 of \$2.509 per MMBtu and \$2.531 per MMBtu.

3 **A.** Yes.

4 **Q.** And the other item of interest is the domestic
5 water. Again there's a reference there to delta coal.
6 Does that signify a purchase for Crystal River Units 4
7 and 5?

8 **A.** That's correct.

9 **Q.** And do I understand correctly that with
10 respect to 2006 the company purchased 180,000 tons of
11 delta coal from Massey Energy?

12 **A.** That's what is on this memo. That's correct.

13 **Q.** And then there's this sentence that says,
14 "This coal will be rail-delivered to the Ohio River and
15 will deliver into Crystal River at \$2.698 per million
16 Btus." Does rail-delivered to the Ohio River mean that
17 it's going to be delivered to Crystal River by water?

18 **A.** Yes.

19 **Q.** Now would you agree with me that the delivered
20 cost of these purchases, both of Drummond and Central
21 Coal Company, when measured against the evaluated
22 utilized costs shown on the prior document I gave you
23 are higher than any of the evaluated utilized costs
24 shown for the producers of sub, Powder River Basin
25 sub-bituminous coal?

1 **A.** They are. This is the base coal that you
2 would be blending the blend coal with.

3 **Q.** At Page 6, Line 22 of your testimony --

4 **A.** Yes.

5 **Q.** -- at the bottom of the page this question is
6 posed: "How were coals burned at Crystal River 4 and 5
7 during 2006 and 2007 procured?" And in the answer that
8 follows you say, "Some of the coals were procured under
9 competitive bid processes which occurred in 2005 and
10 earlier. Additionally, new coal purchases were procured
11 through the January 2006 solicitation or through spot
12 purchases."

13 Is that reference to competitive bid processes
14 which occurred in 2005 and earlier, does that constitute
15 your entire reference to the 2004 RFP during which the
16 sub-bituminous producers provided the lowest bids?

17 **A.** Well, I think I'm responding as to when the
18 coal that was received in '06, how it was procured. And
19 I do -- to respond specifically to your question, the
20 spot purchases that were made in '06 will beat PRB coal
21 for blending purposes at Crystal River.

22 **Q.** My question is this. This reference to
23 competitive bid processes which occurred in 2005 and
24 earlier, that's everything you had to say in your direct
25 testimony with respect to the RFP.

1 **A.** It was all the previous RFPs prior to '05 that
2 had contracts. There could be some delivery makeups and
3 so forth that would show up as to the coals that arrived
4 in 2006 at Crystal River.

5 **Q.** But this is everything you had to say about it
6 at that time; right?

7 **A.** As far as the question of how were the coals
8 burned procured for '06 and '07, that's correct.

9 **Q.** You do discuss in some detail the 2006 RFP,
10 did you not?

11 **A.** I do discuss the 2006 RFP.

12 **Q.** And in that RFP the company sought bids for
13 deliveries in 2007, 2008 and 2009; is that correct?

14 **A.** That's correct.

15 **Q.** You note that only one producer of Powder
16 River Basin coal participated in the RFP; correct?

17 **A.** No. I respond that only one PRB -- that no
18 PRB producers provided a bid for PRB coals and that a
19 broker provided a bid for PRB coal.

20 **Q.** Okay. A broker as distinguished from a
21 producer. I take, I take your point. But the one
22 broker did submit a bid to provide Powder River Basin
23 sub-bituminous coal.

24 **A.** Yes.

25 **Q.** Okay. But as you're aware, there were the two

1 bids from producers of Indonesian sub-bituminous coal;
2 correct?

3 **A.** That's correct.

4 **Q.** The next handout I have has been flagged by
5 Progress Energy as a confidential document. I'm going
6 to provide you with a red folder containing that
7 document.

8 **CHAIRMAN CARTER:** You may proceed.

9 While they're doing that, I want to take a
10 moment to thank staff for being able to put our, all of
11 the data on a CD for us. It makes it easier to read.
12 Thank you.

13 Commissioner Skop.

14 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
15 Just I found the specific references to the prior
16 testimony documents that I referred to. So for the
17 court reporter, it was Mr. Sansom's testimony and
18 Exhibit RS-23, Page 4 of 7, cross-referencing back to
19 Exhibit RS-5, Page 1 of 4, which shows the Powder River
20 Basin mines.

21 **CHAIRMAN CARTER:** Thank you.

22 Mr. McGlothlin.

23 **MS. HELTON:** Mr. Chairman.

24 **CHAIRMAN CARTER:** One second.

25 **MS. HELTON:** Can I just ask a point of

1 clarification? Is all the information on this document
2 confidential, because I don't see anything highlighted
3 in yellow, or is it just certain parts of it? I just
4 want to --

5 **MR. MCGLOTHLIN:** Only parts of it. The,
6 the -- this is again attached to David Putman's prefiled
7 testimony. And in the public version there are certain
8 columns that have been blacked out, and this is the
9 unredacted version of that.

10 **MS. HELTON:** I'm just a little bit concerned
11 about how people will know what to keep confidential,
12 which, which parts of it.

13 **MR. BURNETT:** Mr. Chair.

14 **CHAIRMAN CARTER:** Mr. Burnett.

15 **MR. BURNETT:** If I could take maybe 60 seconds
16 with Mr. Weintraub, I may be able to make life easy, if
17 I could just --

18 **CHAIRMAN CARTER:** Okay. Let's do -- let's
19 take a five-minute break. We're on recess.

20 (Recess taken.)

21 We're back on the record. And when we left,
22 Mr. McGlothlin, you're recognized, sir.

23 **MR. BURNETT:** Thank you, sir. With your
24 permission, Mr. Chairman, I'll continue to stipulate
25 when we can and try to do this just to keep things

1 moving along throughout the process here.

2 I've consulted with Mr. Weintraub and where
3 we're at in the year now with this, we can go ahead and
4 declassify all of this. So we can, we can lose the red
5 envelopes.

6 **CHAIRMAN CARTER:** Okay. Mr. McGlothlin, you
7 may proceed.

8 **BY MR. MCGLOTHLIN:**

9 **Q.** Mr. Weintraub, we have distributed for
10 convenience one of the exhibits attached to Mr. Putman's
11 testimony. You should have a two-page document that's
12 captioned DJP-8. Do you have that, sir?

13 **A.** I do.

14 **Q.** Do you recognize this as the summary of bids
15 to the 2006 RFP that you describe in your testimony?

16 **A.** I do.

17 **Q.** And would this be a counterpart to the summary
18 that was distributed earlier with respect to the outcome
19 of the 2004 RFP?

20 **A.** Similar, yes.

21 **Q.** Yes. And, Commissioners, if you'll regard
22 this as one wide page as opposed to Pages 1 and 2, that
23 would help you navigate the columns. I'll direct your
24 attention to the two bids from the Indonesian producers
25 of sub-bituminous coal. In the middle of the left-hand

1 column under Supplier there's a reference to PT Adaro
2 Indonesia. Do you see that?

3 **A.** I do.

4 **Q.** And the very last one, PT Kideco, do you see
5 that one?

6 **A.** PT Kideco. That's correct.

7 **Q.** Kideco. Thank you. And if you'll move across
8 the page to the far right side of Page 2 of 2, there's a
9 column that says Evaluated Utilized Rank. Do you see
10 that --

11 **A.** Yes.

12 **Q.** -- with respect to the 2007? Do I understand
13 correctly from what's depicted here that the number one
14 ranking was given to the PT Adaro Indonesian coal?

15 **A.** That's correct.

16 **Q.** And the second ranking was given to the other
17 Indonesian producer, PT Kideco.

18 **A.** From the evaluated utilized rank, that's
19 correct.

20 **Q.** Yes. And, again, the evaluated utilized rank
21 was the mechanism by which the utility compared the, all
22 of the bids submitted to it and displayed them on what
23 it attempts to be an apples-to-apples comparison;
24 correct?

25 **A.** Well, in my testimony I talk about that as one

1 of the inputs. So, for example, cash cost ranking as
2 well, utilized ranking. We now take a lot of, like a
3 credit history, how, how much coal. That is one, one
4 particular aspect of the RFP process. In particular, if
5 you look at the PT Kideco bid from a cash cost basis, it
6 ranks number 18. So when you're ranking it on cash
7 outlay, it ranks 18th compared to the utilized rank.

8 **Q.** And for purposes of identifying the most
9 desirable coals when one considers not only cash but
10 also transportation and the impacts on operations, is it
11 correct that you turn to the evaluated utilized column
12 to do that?

13 **A.** The cash cost does include transportation.
14 And then we also utilize the evaluated utilized rank to
15 address other operational issues with those particular
16 coals.

17 **Q.** And is that the value that one -- that the
18 utility regards as the most meaningful with respect to
19 the value of the coal being offered to it?

20 **A.** It is, it is meaningful, correct. But it's
21 part, it's part of the entire process of looking at many
22 different factors.

23 I lay out in my testimony on Page 5 that when
24 we take into consideration factors such as
25 specifications of the bid, you know, conformity to what

1 we're looking for, coal quality and quantity, unit
2 prices, any exceptions, supplier reliability, supplier
3 operations, previous performance with that supplier and
4 any other considerations more -- to give you an example
5 would be credit right now is very important when you're
6 looking at how creditworthy is a supplier.

7 Q. Okay. Now in your testimony you do not refer
8 at all to the Indonesian bids, do you?

9 A. No. In this testimony I'm following the
10 Commission order dealing with Powder River Basin coal.

11 Q. Okay.

12 A. In my rebuttal testimony I'll address the
13 Indonesian coal and the Kennecott coal that you bring
14 up.

15 Q. And as I understand it, your contention is
16 that the order limited the company to a consideration of
17 Powder River Basin coal in Campbell County, Wyoming; is
18 that correct?

19 A. My contention is the Commission order stands
20 on itself that this was to evaluate Powder River Basin
21 coal, the 8,800.8 pound coal that we talked about for
22 roughly a week last time we were here.

23 Q. Yes. And did I understand you to say in
24 response to an earlier question that you were interested
25 enough in the Indonesian coal to attempt to arrange to

1 purchase a portion of it for test purposes?

2 **A.** We were interested in looking at more of the
3 Indonesian coal. That's correct.

4 **MR. MCGLOTHLIN:** No further questions.

5 **CHAIRMAN CARTER:** Thank you.

6 Commissioner Skop, you're recognized.

7 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

8 I just want to get back to I guess a couple of
9 questions that just came up as a result of the exhibit.
10 I guess, Mr. Weintraub, would your interpretation of the
11 prior Commission order on the other docket basically
12 indicate that the, it was the Commission's finding that
13 at a minimum that an 80/20 fuel blend of bituminous/PRB
14 sub-bituminous coal was appropriate for the CR4 and CR5
15 units?

16 **THE WITNESS:** Correct.

17 **COMMISSIONER SKOP:** Okay. And in terms of the
18 design specification, and I have actually the references
19 which I'll get to in a second, but the design spec again
20 references PRB from Campbell County, Wyoming. And that
21 is domestic PRB; is that correct?

22 **THE WITNESS:** That's correct.

23 **COMMISSIONER SKOP:** Okay. So if we were
24 evaluating the price of doing what was under the design
25 spec to the letter of the design, if you will, there

1 would be, as in any case, delivery risk associated with
2 procuring coal from, you know, such distance across
3 country.

4 **THE WITNESS:** Correct.

5 **COMMISSIONER SKOP:** Okay. Because I've had
6 that happen to me when I had a co-gen plant or, you
7 know, force majeure events happen. I think that was at
8 issue in the last docket.

9 Certainly I think that you stated that in
10 terms of evaluated basis that the delivery, I mean, that
11 the delivery risk was not evaluated or priced into the
12 evaluated cost; is that correct?

13 **THE WITNESS:** That's correct.

14 **COMMISSIONER SKOP:** Okay. Now all things
15 being equal, where you have domestic supply and
16 international supply, and I don't know how far Indonesia
17 is away but I imagine about 10,000 miles or more,
18 certainly would it be reasonable to expect that, you
19 know, if there were a delivery interruption, that would
20 preclude Progress from being able to burn an 80/20
21 blend?

22 **THE WITNESS:** Yes. The Indonesian coal -- PT
23 Kideco is a good example. Their offices were based in
24 Jakarta on the island of Bali or the island of Jaya,
25 Indonesia. Just contacting them was almost impossible

1 to do.

2 **COMMISSIONER SKOP:** Okay. I need to do some
3 external research, but I think that they have like
4 revolutionary stuff going on over there.

5 But I guess my point that I'm trying to make
6 is that under the design spec you had to procure coal
7 domestically, and that was the performance guarantee,
8 what the performance guarantee was based on. And I
9 guess the problem I'm struggling with, and perhaps you
10 might be able to help me better understand it, if
11 Progress was supposed to do something and they didn't do
12 it, obviously I'm not happy about that and I think that
13 was clearly articulated in my concurring opinion to the
14 last order. But at least it seems to me that the -- if
15 you're supposed to do something and the probability of
16 being able to do it and subjecting yourself to delivery
17 risk, obviously the closer the source of the fuel, the
18 less chance, I would think, that you would have of, of
19 being able to have supply interrupted. Is that
20 generally true?

21 **THE WITNESS:** It's true. I'll give you an
22 example. In the last fuel hearing we had a supplier
23 from Venezuela, a coal supplier, and the Venezuelan
24 government didn't like the contract and just did not
25 perform. And our ability to, to seek damages was

1 severely limited by the fact that they were a foreign
2 government.

3 **COMMISSIONER SKOP:** Okay. And I guess, let
4 me, if I may, and I'll look to our legal counsel the
5 proper way to do this, on Mr. Sansom's prior exhibit --
6 and, again, Mr. Sansom is now deceased is my
7 understanding.

8 **THE WITNESS:** Unfortunately so.

9 **COMMISSIONER SKOP:** Unfortunately. He was a
10 pretty good witness, at least from my eyes. But what
11 I'd like to do is I have two pages from his prior
12 exhibit, and I'd like to ask the witness to read, to
13 answer a question from those. Is that possible?

14 **MS. BENNETT:** I think with the permission of
15 the Chair.

16 **COMMISSIONER SKOP:** Mr. Chair.

17 **CHAIRMAN CARTER:** Let's do this. Let's take
18 this under advisement. Ms. Helton, why don't we just
19 take a moment for you to look that over and kind of give
20 us some guidance on that.

21 Commissioner Argenziano, you're recognized.

22 **COMMISSIONER ARGENZIANO:** Yes. Just in all
23 fairness, because I'm not so sure that -- I mean, I
24 understand the points that Commissioner Skop was trying
25 to make, but I'm not so sure that that pans out. Are

1 there other companies who use foreign coal?

2 **THE WITNESS:** We use a lot of foreign coal,
3 predominantly Colombian and Venezuelan coal.

4 **COMMISSIONER ARGENZIANO:** Well, wouldn't the
5 same thing apply to any other country?

6 **THE WITNESS:** They would. Indonesian coal,
7 the Indonesian coal typically flows to the Asian market.
8 And for a brief period of time -- one of the main
9 reasons why Indonesian coal briefly had a, had a window
10 of opportunity here in the United States was because the
11 PRB disruptions that occurred in the '05/'06 time frame,
12 that severely limited sub-bituminous Powder River Basin
13 companies from, utilities from getting the coal, and so
14 they were looking at Indonesian coal. But Indonesian
15 coal flows to China and to Japan. It is an
16 Asian-specific market. And the opportunity for
17 Indonesian coal came and went very quickly and it's not
18 a fuel that's utilized --

19 **COMMISSIONER ARGENZIANO:** But I'm not -- and
20 maybe taking that into consideration, I'm trying to
21 figure out Commissioner Skop's point. If -- I guess the
22 interruption maybe more so is what you're saying with
23 Indonesian coal.

24 **THE WITNESS:** Yes.

25 **COMMISSIONER ARGENZIANO:** And not so much with

1 foreign coal and --

2 **THE WITNESS:** The foreign coals, the South
3 American coals, there's a history there of them
4 providing utilities along the Gulf Coast, a history of
5 providing reliable supply.

6 **COMMISSIONER ARGENZIANO:** Have there ever been
7 interruptions in the other countries for foreign coal?

8 **THE WITNESS:** Well, for example, the
9 Venezuelan government just did -- they didn't like their
10 contract, said it was illegal and they pulled it. The
11 Indonesian coal, because it typically is going to the
12 Chinese market, that if they saw a Chinese buyer willing
13 to pay more, they could very easily just flip back to
14 their historical coal flows.

15 **COMMISSIONER ARGENZIANO:** But would they do
16 that if you had a contract with them?

17 **THE WITNESS:** They would.

18 **COMMISSIONER ARGENZIANO:** They would still do
19 that?

20 **THE WITNESS:** Sure.

21 **COMMISSIONER ARGENZIANO:** So doesn't that then
22 say to me or to other people looking that any foreign
23 coal anywhere could be subject to that type of
24 volatility in a sense?

25 **THE WITNESS:** There is that risk. I think the

1 fact that some suppliers, such as OPC pointed out, with
2 Drummond coal, we have a history with the Drummond coal,
3 that Southern Company uses them, other people use them.
4 So there is a history. They're based in the United
5 States. So some foreign coal mines do have U.S.
6 subsidiaries with U.S. headquarters. These particular
7 ones were based predominantly out of Indonesia.

8 **COMMISSIONER ARGENZIANO:** But of course then
9 if we really looked into it, anything could happen in a
10 foreign country to change that history or that
11 relationship.

12 **THE WITNESS:** Absolutely.

13 **COMMISSIONER ARGENZIANO:** And I guess what I'm
14 trying to get at is if Commissioner Skop is saying that
15 the Indonesian coal is subject to this possible here and
16 there, not there, all foreign coal would be then.

17 **THE WITNESS:** There's definitely risk with
18 foreign coal that we take into consideration. The
19 Indonesian coal being so far away and the fact that,
20 that they predominantly don't come to the U.S., there's
21 probably more risk with Indonesian coal.

22 **COMMISSIONER ARGENZIANO:** Uh-huh. Sure.

23 **THE WITNESS:** But any foreign coal has a
24 particular risk.

25 **COMMISSIONER ARGENZIANO:** And was there any

1 other -- maybe staff can answer this. Is there any
2 other countries that were using Indonesian coal at that
3 time? Let's say in 2006 when the bidding was taking
4 place.

5 And then I guess -- and I understand the
6 history and the comfort of that, but I also am trying to
7 figure out because of Commissioner Skop's points as to
8 if it makes a difference in what we're discussing today
9 at all. If it was available, does it make a difference
10 that somewhere down the line, ten years from now or two
11 years from now, it wouldn't be available? Is that what
12 the company is charged in looking at? I mean, I know
13 risk is important, but I need to understand the whole
14 picture. And since Commissioner Skop brought that up --

15 **MS. BENNETT:** I -- staff does not know, but I
16 think this witness has some information or maybe
17 Mr. Putman has some information of some other utilities
18 in Florida that have had experience with Indonesian
19 coal. And you might ask this witness and then again I
20 think there's --

21 **COMMISSIONER ARGENZIANO:** Other witnesses.
22 Okay. We can do that.

23 **MR. McGLOTHLIN:** Mr. Putman does have some
24 information on that subject, Commissioner.

25 **COMMISSIONER ARGENZIANO:** Okay. And I'll look

1 forward to that too. And anything you might want to add
2 to that.

3 **THE WITNESS:** Sure. There was, as I
4 mentioned, the Powder River Basin coal burners couldn't
5 even get Powder River Basin coal particularly in the
6 '05/'06 time frame due to weather issues that occurred
7 on the, what's called the join line, one of the rail
8 lines going into the Powder River Basin region. Because
9 of that there's, there's evidence of the Scherer plant,
10 which is a Southern 100 percent PRB burner, did seek
11 coal to do a test burn and go and seek Indonesian coal
12 to supplement their deliveries that they were unable to
13 get during this time frame.

14 So there are some utilities that looked at it
15 but they have stopped doing that. I think that you'll
16 see that the cost of doing that, of moving the coal
17 across, halfway around the world is very -- is not the
18 most cost-effective. And I think you'll see in my
19 rebuttal testimony even this Indonesian coal is not
20 cost-effective.

21 **COMMISSIONER ARGENZIANO:** To your knowledge,
22 did anyone actually use that coal and were there any
23 realized savings to the consumers?

24 **THE WITNESS:** I think in, for, for the Scherer
25 plant in particular the cost of the Indonesian coal was

1 significantly higher than the costs that they were
2 typically burning. It was, from what I've seen it's
3 even, it was more expensive than any of the coals that
4 Crystal River was burning.

5 **COMMISSIONER ARGENZIANO:** Were they using any
6 of the Indonesian coal?

7 **THE WITNESS:** They were for a brief period of
8 time, for roughly a year.

9 **COMMISSIONER ARGENZIANO:** Why would they if it
10 was higher cost?

11 **THE WITNESS:** They couldn't get the Powder
12 River Basin coal delivered to them. During this time
13 frame the railroads basically had an embargo. So
14 because of this rail delivery constraint the suppliers
15 were running out of coal.

16 There was a utility in Arkansas that sued one
17 of the railroad companies for the avoided or, excuse me,
18 for the excess cost for generating from less economical
19 resources because they were running out of coal.

20 So there's, there's many issues in this
21 '05/'06 time frame where because Powder River Basin coal
22 plants couldn't get their coal they had to go to much
23 more costly means of providing reliable electricity for
24 their customers.

25 **COMMISSIONER ARGENZIANO:** Then that would,

1 that would stand to reason then that the Indonesian
2 coal, although higher than what they were used to using,
3 was cheaper than other countries at the time?

4 **THE WITNESS:** It was, it was what was
5 available at the time.

6 **COMMISSIONER ARGENZIANO:** What was available.

7 **THE WITNESS:** Yeah.

8 **COMMISSIONER ARGENZIANO:** Okay. Okay. Thank
9 you.

10 **THE WITNESS:** Sure.

11 **CHAIRMAN CARTER:** Thank you.

12 Commissioner Skop.

13 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

14 I think hopefully I'm going to try and
15 articulate my point a little bit more succinctly. I
16 have a document that we're going to hand out to the
17 Commissioners, the parties, as well as the witness.

18 I guess -- and I'll wait until they hand that
19 out. But I guess my central premise is that the design
20 fuel and the performance guarantee associated with, with
21 this, the units in question procured domestically
22 produced coal, and that, you know, the source of the
23 fuel was from the United States.

24 Now when there are opportunities to, to save
25 money, you know, certainly that's, that's a good thing,

1 but you also want to ensure adequate supply. I think
2 some of the issues that have come up have been the
3 nationalization by the Venezuelan government on just
4 rescinding, unilaterally rescinding a contract, which
5 leaves you dead in the water, as well as trying to sue a
6 foreign government is an exercise in futility, as some
7 of our other IOUs have experienced.

8 But I think to, to hit this point home, and,
9 Mr. Weintraub, if you can't answer these questions, then
10 I'll look to Witness Stenger to do it because she's
11 technical, but generally speaking is it true that the
12 coal from any given coal mine has a unique chemical
13 composition analogous to a genetic marker that differs
14 from that of another coal mine?

15 **THE WITNESS:** That's not only true, it's even
16 the same coal in the same coal seam could have different
17 quality characteristics.

18 **COMMISSIONER SKOP:** Okay. And is it also true
19 that power plants in terms of boilers and, and such are
20 very sensitive and very temperamental to changes in the
21 fuel burned to the extent that emissions profiles can be
22 dramatically changed by just merely throwing in, you
23 know, even pet coke?

24 **THE WITNESS:** I think based upon the number of
25 phone calls I get from plant managers at times

1 complaining, I think that's very true.

2 **COMMISSIONER SKOP:** Okay. So if you were
3 going to source coal from a specific mine consistent
4 with the design specification for the units that were
5 built, based on your two prior answers there would be no
6 direct market substitute for PR coal sourced from a
7 given mine. I mean, you'd have to go out and conduct
8 test burns. You know, if there were interruption, you
9 would have to, to do things to, to make sure that, you
10 know, your emissions profile didn't swing wildly or
11 you'd just be forced in the alternative to business as
12 usual burn 100 percent CAPP coal; is that correct?

13 **THE WITNESS:** That's correct. There's a,
14 there's an entire list of things that we need to take
15 into consideration that Witness Stenger will be diving
16 into.

17 **COMMISSIONER SKOP:** Okay. And then the
18 exhibit that you have before you that our attorneys have
19 just handed out, this was from the prior testimony of
20 Witness Sansom from RS-4. And my understanding is that
21 it came from the Babcock & Wilcox specification of the
22 performance guarantee and the design fuel.

23 If you could please look at Page 3 of 9. And
24 at the bottom of the third paragraph, can you read that
25 last sentence, please?

1 **THE WITNESS:** Sure. "A 50/50 weight blend of
2 Eastern Province and Campbell County, Wyoming, coals,
3 Numbers 1 through 7, were selected as the basis for the
4 performance guarantee."

5 **COMMISSIONER SKOP:** And the next sentence,
6 please.

7 **THE WITNESS:** "At the rated output 695
8 megawatt gross, and the design blend coal heating value
9 of approximately 23,923 kJ/kilograms, 10,285 Btu per
10 pound, the coal consumption will be approximately
11 294,000 kilograms or 648,000 pounds per hour for each
12 unit."

13 **COMMISSIONER SKOP:** And so it would be correct
14 to understand that that performance guarantee was set on
15 a specific Btu per pound or a heat content of the
16 blended coals; correct?

17 **THE WITNESS:** That's what I'm reading. That's
18 correct.

19 **COMMISSIONER SKOP:** Okay. And if you could
20 skip to the third page in that attachment for Type 7
21 fuel, can you please tell me what that specifies in
22 terms of the location of where that Type 7 fuel came
23 from specifically?

24 **THE WITNESS:** Campbell County, Wyoming.

25 **COMMISSIONER SKOP:** And that is PRB coal; is

1 that correct?

2 **THE WITNESS:** That is correct.

3 **COMMISSIONER SKOP:** Okay. I think, and this
4 is just for the benefit of my colleagues, I think the
5 point that I'm trying to articulate is that the design
6 specification specified domestically procured coal. And
7 it's good to have alternate supply. But if you're
8 procuring domestically as your primary and you have
9 interruption and you're able to use foreign procured
10 coal if you make it work or maybe it's cheaper, maybe
11 have some on hand and use it as, you know, as an
12 additive similar to pet coke, but, you know, you're not
13 going to be able to burn 80/20 like you should if your
14 supply chain gets interrupted. And we've seen that
15 happen historically with flooded mines or railroad
16 strikes or what have you.

17 And what I'm trying to get at is that, you
18 know, I could understand perhaps, and maybe you can shed
19 some light on this, was Progress looking at Indonesia as
20 an alternative, a sole alternative or a, just as an
21 alternative to domestically sourced PRB?

22 **THE WITNESS:** We were, we were looking at
23 Indonesian coal as, I'll call it an arrow in our quiver
24 to look at potential fuel flexibility. What was -- from
25 a procurement standpoint what looked attractive about

1 Indonesian coal is the low sulfur content. So what that
2 would allow us to possibly do is to buy higher sulfur
3 noncompliance coal. Compliance coal typically sells at
4 a premium compared to noncompliance coal. So,
5 therefore, if your base coal can be a little bit less,
6 lesser quality and you can use this blend coal possibly
7 to keep it within the air permit specifications for the
8 plant, there might be a cost savings there.

9 So that was one of the things that was
10 attractive to us about this Powder River Basin coal,
11 besides the fact that in many of the documents that we
12 provided compliance coal is getting tougher and tougher
13 to find. So we're also looking at just other, other
14 means of finding some sort of compliance coal to be able
15 to do some blending with.

16 **COMMISSIONER SKOP:** Okay. So if I correctly
17 understood what you said, and correct me if I'm wrong,
18 it wasn't as a sole source for the, for the
19 sub-bituminous coal, it was to supplement and burn when
20 it was cost-effective. If you had some on hand or you
21 could get there, you weren't so necessarily concerned
22 about interruption risk because you had your domestic
23 procured source.

24 **THE WITNESS:** That's correct.

25 **COMMISSIONER SKOP:** But when you're able to

1 get it, you're able to burn it just like pet coke; is
2 that correct?

3 **THE WITNESS:** That's correct. I can give you
4 a great example.

5 When Katrina and Rita really hit the Gulf
6 Coast and damaged these coal terminals, they had no
7 means of blending. They were underwater just trying to
8 survive. We were basically taking coal direct off of
9 river barges, direct off of import vessels and going
10 directly to Crystal River. We had no means of doing any
11 type of blending.

12 So blending was at the time something that we
13 would have liked to do, but because of some of the
14 actual real-world experiences we were unable to do for a
15 period of time.

16 **COMMISSIONER SKOP:** Okay. And then just two
17 final questions.

18 I guess with the -- I guess one of the
19 concerns with, and you may not know this and this may be
20 better directed to the technical witness, but I guess
21 one of the concerns with sub-bituminous coal is, is the
22 propensity for spontaneous combustion with the, with the
23 dust and the such like that. Is that an issue during
24 transport?

25 **THE WITNESS:** It is.

1 **COMMISSIONER SKOP:** Okay. So if you're
2 transporting large distances on a barge, I guess I'm
3 wondering for my own because I don't know, but I know
4 that, you know, grooming, and even Witness Sansom said
5 that housekeeping and grooming of the coal is important.
6 I wonder how that's accomplished in transit on a barge
7 on the high sea.

8 **THE WITNESS:** Well, not just the barge, but
9 also at the coal terminals. So at the coal terminals in
10 the New Orleans area where they'll be doing much of the
11 blending themselves and storing coal for a period of
12 time, how would they handle it? Would they have any
13 additional costs that they would pass on to us for any
14 additional material handling systems? That was some of
15 the arguments that we made in the previous docket. What
16 would, what would they be charging us to be able to
17 blend offsite Powder River Basin coal that does have a
18 combustion, spontaneous combustion aspect to it?

19 **COMMISSIONER SKOP:** Okay. And just, just one
20 final question. With respect to the Indonesian coal, I
21 think that you previously stated, but I want to make
22 sure that this is clear for the record, that the
23 evaluated price of these internal documents did not
24 include or account for delivery risk; is that correct?

25 **THE WITNESS:** They -- specifically on that

1 spreadsheet, if you think about the time of contract to
2 actual delivery, that spreadsheet is just one snapshot
3 in time looking at the bids that were evaluated, of the
4 transportation costs and some of the boiler impacts of
5 that coal, what would be the cost of buying that coal.
6 It doesn't take into account any of the, of the, of the
7 risk of it not showing up. It's just the information
8 that we have at the time and ranking it to other coals
9 off that RFP process.

10 **COMMISSIONER SKOP:** So if you don't have the
11 PRB on hand, then you're not able to achieve the cost
12 savings for consumers by blending, by burning the 80/20
13 blend when it's cost-effective to do so; is that
14 correct?

15 **THE WITNESS:** We try to, we try to do, we try
16 to do the 80/20 blend when it is cost-effective to do
17 that.

18 **COMMISSIONER SKOP:** Thank you.

19 **CHAIRMAN CARTER:** Commissioner Argenziano.

20 **COMMISSIONER ARGENZIANO:** Thank you,
21 Mr. Chair.

22 I'm not sure, I guess it's a combination of
23 questions for the witness and for staff and to try to
24 again, I guess -- see, that's why it's good to have a
25 discussion and not limit it, okay, because there's a lot

1 of things you, you get out in the open and understand
2 better.

3 But when it comes to -- Commissioner Skop had
4 mentioned design specifics and you had also mentioned
5 that you would have liked to have done the blending of
6 the coals or the alternatives and get a better mix, I
7 guess, at a better cost but you couldn't for whatever
8 the reason is. But wouldn't design specs be a problem
9 then if you would have liked to have done that or would
10 you modify?

11 **THE WITNESS:** Well, we would definitely start
12 the testing process, which is what we lay out, and
13 understand what would the impact of this coal be on the
14 total power plant.

15 **COMMISSIONER ARGENZIANO:** Right. And I
16 understand that, and that's part of the question that we
17 have is how long it took to do the testing process. But
18 what I'm trying to say is Commissioner Skop is saying
19 there was a design -- and he comes from an engineering
20 background, so he's more focused on engineering.

21 **THE WITNESS:** Right.

22 **COMMISSIONER ARGENZIANO:** I'm more focused on
23 what we're here for today. And to me what that is if
24 he's right, that is a design spec, well, that means you
25 could never go outside, any company could ever go

1 outside using a certain coal. And you said it's very
2 limited and very hard to find, that the -- what was the
3 term you used, the compliance coal?

4 **THE WITNESS:** Compliance coal.

5 **COMMISSIONER ARGENZIANO:** So compliance coal
6 meaning for the design specs; right? So if, if you know
7 this as a utility company, then you always have to be
8 thinking of change. Because if you're running out of
9 compliance coal, what happens to those, those
10 generators, those coal plants? So that argument to me
11 doesn't stand unless you know ahead of time, especially
12 if you know that the compliance coal is running out.
13 And I believe that you would adjust, as you said, using
14 a mix; is that correct? Would it --

15 **THE WITNESS:** Yeah. So, so --

16 **COMMISSIONER ARGENZIANO:** I mean, providing
17 you do the test and all that and see how it runs and how
18 you can work it. It can be done though; right?

19 **THE WITNESS:** Scrubbers are a great example.
20 The fact that we're going to be putting scrubbers on
21 Crystal River Units 4 and 5 will open up the basket of
22 coals that that plant can now burn. It won't be limited
23 by the 1.2 pound SO₂ and the air permit. We'll be able
24 to go out and have a much higher, much higher basket of
25 fuels that we can evaluate and procure.

1 **COMMISSIONER ARGENZIANO:** And of course there
2 are costs to putting the scrubbers in, and I understand
3 that.

4 **THE WITNESS:** Yes.

5 **COMMISSIONER ARGENZIANO:** It's just to
6 understand. Because the way Commissioner Skop had said
7 it it would be like, well, because there's a design spec
8 you could never change, and I didn't think that was the
9 case.

10 **THE WITNESS:** Well, but --

11 **COMMISSIONER ARGENZIANO:** And I don't think
12 that's what he meant. Excuse me. My turn. But, but so
13 that can be done. And a test, and a test case would
14 indicate whether it would be beneficial, what you had to
15 do, and if it could even run on that type of coal; is
16 that correct?

17 **THE WITNESS:** That's, the test takes into
18 consideration all those factors and many others. The
19 material handling system that may be required, any, can
20 you make full load, any of the operational details, any
21 of the maintenance and O&M practices, all that would go
22 into, into a test burn to evaluate does it still make
23 sense considering all these other factors other than the
24 fact that I just say, hey, from a coal procurement
25 standpoint, this looks good. Let's go do it.

1 **COMMISSIONER ARGENZIANO:** Right. And it
2 could, at the end of the test could wind up costing more
3 for the modifications or costing less.

4 **THE WITNESS:** Correct.

5 **COMMISSIONER ARGENZIANO:** Okay. But it's not
6 precluded because of design specs.

7 **THE WITNESS:** It's not precluded.

8 **COMMISSIONER ARGENZIANO:** Okay. And can I ask
9 what happens if compliance coal runs out and you do have
10 to change things for other coal? Or are the compliance,
11 I mean, or are the design specs so limited right now
12 that only a certain geographical type or certain type of
13 coal, composite type coal can be used?

14 **THE WITNESS:** Sure. Compliance coal is
15 getting tougher to find. You know, we've -- when this
16 case first started, we were dealing with a lot of import
17 or, excuse me, a lot of domestic coal and we were
18 talking about import coal. For a period of time we were
19 burning -- almost the majority of the coal at Crystal
20 River Units 4 and 5 were foreign coal. And that quickly
21 switched over -- back in '07 and '08 with China building
22 two coal plants a week, import coal really dried up for
23 the United States, export coal was actually leaving, and
24 we switched over to burning everything from low quality
25 Central App coal, doing some blends with some other

1 types of coal that are very similar to Central App but
2 lower quality, we were going after Colorado coal. So
3 that's my job is to try to make sure we don't run out.

4 **COMMISSIONER ARGENZIANO:** Right.

5 **THE WITNESS:** Right.

6 **COMMISSIONER ARGENZIANO:** Hopefully we don't.

7 **THE WITNESS:** Right. Absolutely.

8 **COMMISSIONER ARGENZIANO:** Now let me ask you,
9 when you say that you were primarily using imported
10 coal -- I was going to say gold. That would really cost
11 a lot of money. Imported gold. But everybody, you
12 know, you send your gold in the mail today, gold in the
13 mail today. (Laughter.)

14 If you were -- were the design specs then
15 created for that imported coal?

16 **THE WITNESS:** Well, the design specs, we did
17 lots of testing to make sure that we were okay with that
18 import coal. And we've had a history for over five,
19 six, seven years of burning that type of import coal.
20 And it acts -- it's a bituminous coal. It acts very
21 similar to it. So you have to design, in the
22 engineering world you have to design to something. Then
23 the question is if you're going to deviate from that,
24 what is the impact?

25 **COMMISSIONER ARGENZIANO:** And then when you

1 had to go to other coals, domestic coals, did you have
2 to modify the plant to do that?

3 **THE WITNESS:** No. Because those are
4 typically -- many of those are bituminous coal that do
5 not have some of the different natures of sub-bituminous
6 coal.

7 **COMMISSIONER ARGENZIANO:** Okay. Thank you.

8 **THE WITNESS:** Sure.

9 **CHAIRMAN CARTER:** Commissioner Skop.

10 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

11 And, again, just, just for clarity because,
12 you know, I want the record to be clear and I don't want
13 to be misunderstood. And I think that my suggestion or
14 what I was trying to get at with my point was that, you
15 know, certainly not holding someone to a higher standard
16 over and beyond the requirement to produce, over and
17 beyond the requirement to procure domestically produced
18 or procured compliance coal. And I guess at least the
19 way I look at it is, and I think history would probably
20 show, and I'll ask Mr. Weintraub, but I think that the
21 domestic coal is sourced first as a primary source. And
22 then the foreign coal is, is there as a secondary source
23 in case of, you know, not being able to find compliance
24 coal or what have you. But can you briefly speak to
25 that? I know on the, at least with the bituminous coal,

1 I mean, that's not been a problem. You guys roll that
2 down and barge that down like it's going out of style,
3 but --

4 **THE WITNESS:** Well, and that's, that has
5 changed a little bit over, in the '07/'08 time frame
6 when, with a weak U.S. dollar, with a global economy
7 that was, not too long ago was really booming, coal was
8 leaving the U.S. at rates that we haven't seen in a long
9 time. So it was difficult to find -- I shouldn't say
10 difficult, but there, you had to pay more for it, which
11 is one of the reasons why fuel prices went up is that
12 more people were willing to pay more for it.

13 We do buy import coal. For a while it was, it
14 was cost-effective compared to domestic, so we bought
15 more of that from suppliers that we have a history with.
16 And that quickly switched. We, we quickly -- '07, I
17 believe, we had roughly 630,000 tons. This is by barge,
18 not necessarily rail. So we still have over
19 three million tons coming by rail. But by barge we only
20 had 600,000 tons coming down on the river and roughly
21 two million tons of import coal coming up from South
22 America, and that quickly switched going into '08.

23 **COMMISSIONER SKOP:** Okay. So just, I guess
24 from what I'm hearing, and correct me if I'm wrong
25 though, I guess part of your role in the organization is

1 to continuously seek out innovative ways to save
2 consumers money in terms of the fuel blends; is that
3 generally correct?

4 **THE WITNESS:** That's absolutely job one of
5 what I do.

6 **COMMISSIONER SKOP:** So, so I guess then would
7 it be fair to hold you to a standard and second guess
8 that you should have done this when typically you are
9 only required to procure domestically and the
10 initiatives that you're embarking upon are only used in
11 an effort to try and find cost-effective alternatives?

12 **THE WITNESS:** Yeah. As to the fairness, yeah,
13 we, we spend a lot of money for fuel. That's what we
14 do. And we come forth and through the fuel hearings and
15 through these dockets, we do have hindsight review to
16 say did we or did we not do a good job? And that's why
17 we're here to answer the questions. I believe we have.
18 And I think the record will show even when you look at
19 the Indonesian coal and the actual cost that would have
20 done, which you'll see in my rebuttal testimony, it was
21 not going to be cost-effective for PEF's customers.
22 When you look at the Powder River Basin coal and compare
23 that to some of the blend coals that we purchased, it
24 would have beaten the blend coals that we purchased.
25 The Central App low quality beats Powder River Basin

1 coal that Mr. McGlothlin shows on this sheet. So we
2 strive to get the lowest cost fuel for Crystal River
3 Units 4 and 5 every day.

4 **COMMISSIONER SKOP:** Okay. Thank you. I
5 probably will have some more questions about the PRB
6 because I'm not so sure I agree with what you just said,
7 but at least for the Indonesian coal. You know, at
8 least from the testimony you've given, having delivery
9 risk not priced into the evaluated cost I think seems to
10 be somewhat significant. But thank you.

11 **CHAIRMAN CARTER:** Commissioner Argenziano.

12 **COMMISSIONER ARGENZIANO:** Thank you. I forgot
13 to ask staff the question that I probably would like to
14 hear now and have on the record, if you can.

15 Our central or primary goal here as the Public
16 Service Commission, is it, in this case, and is it to
17 determine if the company is seeking the best prices?
18 And that incorporates all these other things -- is it
19 going to be more cost-effective? And, of course, they
20 have to, everybody has to make their arguments and they
21 have to convince what job they're doing. But from the
22 PSC, from the statutes, from the rules that we have in
23 front of us, what is our primary objective when we look
24 at the company when they're purchasing the fuel
25 supplies?

1 **MS. BENNETT:** I lost my button under the
2 papers. I'm going to try and be short on my, on my
3 answer.

4 The -- for this case in the prior docket,
5 060658, you instructed Progress Energy to tell you about
6 their coal cost for 2006 and 2007. You told them to
7 come back and prove that they were prudent. They
8 brought testimony to you to tell you what they did as
9 far as purchasing and why they did it.

10 **COMMISSIONER ARGENZIANO:** I'm sorry. I
11 understand what we did and what we're doing.

12 **MS. BENNETT:** Okay.

13 **COMMISSIONER ARGENZIANO:** What I'm trying to
14 get from you is our statutory obligation as the Public
15 Service Commission, what we are really looking at. We
16 can't determine certain things that are business
17 practices or what design this is or what design that is.
18 What I'm trying to find out is what are we really
19 looking for? Is it not that we are looking for to make
20 sure that the company -- and that's what they're here
21 telling us, that they did the best job they could in
22 their opinion, that they have, they have spent their
23 money wisely, and OPC here is telling us in their
24 opinion that they didn't feel so. Isn't our, sitting
25 here, our Commission sitting here, aren't we to

1 determine that fact?

2 **MS. BENNETT:** Yes.

3 **COMMISSIONER ARGENZIANO:** If money was spent
4 wisely and prudently?

5 **MS. BENNETT:** Yes.

6 **COMMISSIONER ARGENZIANO:** And that's what I --
7 I don't want us to get so far away from that in all the
8 technical stuff. And I, and people who are watching,
9 because I'm finding out more and more that more people
10 are watching, and, and I want to make sure they know
11 what our primary function is here. Not let's get --
12 let's not get lost in everything else. Even though
13 everything is important as to the conversation at hand,
14 but we're to look at -- we're here, as I think
15 Mr. McWhirter said it before, since there have been cost
16 recoveries for fuel allowed to the company, then the
17 burden is kind of on the company to make sure that they
18 make their case to us, that they have, in their opinion
19 they bought the best coal they could at the time or the
20 cheapest they could find. And our determination is of
21 looking at whether that's the case; is that true?

22 **MS. BENNETT:** Yes. Your, your job is to look
23 at whether they were prudent in their procurements for
24 2006 and 2007.

25 **COMMISSIONER ARGENZIANO:** Okay. I just don't

1 want to get lost in everything. Thank you very much.

2 **CHAIRMAN CARTER:** Thank you, Commissioner.
3 Anything further from the bench?

4 Okay. Mr. McWhirter, you're recognized.

5 **MR. McWHIRTER:** Are you hungry at all yet?

6 **CHAIRMAN CARTER:** Oh, no. Oh, no. I had some
7 saltines.

8 (Laughter.)

9 CROSS EXAMINATION

10 **BY MR. McWHIRTER:**

11 **Q.** Mr. Weintraub, from your testimony I
12 understand you're employed by Progress Energy Carolinas,
13 Inc. You're not employed by the service corporation or
14 the parent corporation, but by the Carolina utility
15 company; is that correct?

16 **A.** That's correct.

17 **Q.** I see. And the Carolina utility company, does
18 it have any coal burning plants?

19 **A.** They do.

20 **Q.** I see. And how many do they have?

21 **A.** They have, they burn 14 million tons a year at
22 its eight total plants, roughly 22 coal units.

23 **Q.** Uh-huh. Is it your testimony in this case
24 that all the coal that you bought for Florida is equal
25 to or less in cost than the coal you bought for the

1 Carolina operation?

2 **MR. BURNETT:** Mr. Chairman, I'm going to
3 object at this point. Having a short but intense
4 history with Mr. McWhirter, we're now talking about
5 Carolina coal costs, and we only have three days for
6 this hearing. So I just want to object up-front and say
7 I don't think that's relevant in any way, shape or form.

8 **CHAIRMAN CARTER:** Mr. McWhirter.

9 **MR. MCWHIRTER:** Well, this gentleman is
10 testifying that he was prudent in his expenditures for
11 buying coal for the Florida operation. He's also
12 responsible for buying coal for the Carolina operation.
13 And I would think if he has the burden of proving that
14 he treated the Florida customers fairly, he can tell us
15 that he treated us fairly. There's some kind of Chinese
16 wall or some other operation that keeps him from, his
17 company from discriminating in favor of North Carolina
18 residents as opposed to Florida residents. I think
19 that's certainly a fair area of inquiry to, to deal with
20 the credibility of this witness, if nothing else.

21 **CHAIRMAN CARTER:** Ms. Helton.

22 **MS. HELTON:** Can I confer with Ms. Bennett for
23 one minute, please?

24 **CHAIRMAN CARTER:** Okay. We'll kind of take a
25 break in place. Nobody leaves.

1 (Pause.)

2 **MS. HELTON:** Thank you, Mr. Chairman. I
3 recognize that we're talking about two different
4 companies and I recognize that there are probably
5 differences in expenses especially with respect to
6 transportation, but it seems to me that it would be
7 relevant to know what price the company paid for coal
8 for the Florida operations and what price the company
9 paid for coal for the North Carolina operations. So
10 perhaps Mr. McWhirter can keep his questioning short,
11 but it seems to me that that would be relevant.

12 **CHAIRMAN CARTER:** I'm sure he will. Right,
13 Mr. McWhirter?

14 **MR. McWHIRTER:** Would you repeat the question
15 for me? I can't remember what it was.

16 **CHAIRMAN CARTER:** To our court reporter.

17 (Foregoing question read by the court
18 reporter.)

19 **THE WITNESS:** You asked me a very similar
20 question when we did this originally.

21 **BY MR. McWHIRTER:**

22 **Q.** Did I really? I guess that thought just --

23 **A.** Yes. And what I said then was we do do them
24 completely separate. The Carolinas coal plants are
25 predominant on the Norfolk Southern Railroad, which is a

1 railroad that does not travel to Crystal River. Crystal
2 River has the opportunity of having barge, and only one
3 coal plant has, and a small coal plant has, is on the
4 water and has barge opportunities.

5 So we do separate RFPs, we have separate rail
6 contracts, we have separate coal contracts. Everything
7 is separate as far as Florida and the Carolinas go.

8 I am an employee of Progress Energy Carolinas
9 and allocate time to Florida. Some companies have their
10 fuel procurement group in a service company and allocate
11 it that way.

12 So we do things very separately. I don't have
13 here today what the cost of the Carolina coal is. Most
14 of those units are scrubbed, so they're able to take
15 advantage of some of those other coals I talked about.
16 But I don't have the cost today of what the Progress
17 Energy Carolina plants are compared to Florida.

18 **CHAIRMAN CARTER:** Okay. Mr. McWhirter, would
19 you yield for a moment?

20 Commissioner Argenziano.

21 **COMMISSIONER ARGENZIANO:** Just one minute.
22 Forgive me. The Crystal River plants do get coal via
23 rail.

24 **THE WITNESS:** By the CSX Railroad.

25 **COMMISSIONER ARGENZIANO:** Right.

1 **THE WITNESS:** And only the CSX Railroad. And
2 for the Carolinas, they're -- over, over 11 million of
3 their 14, 15 million tons is on the Norfolk Southern
4 Railroad. So completely distinct mines that are on
5 those different railroads, different companies, very
6 distinct in terms of the coal supply in those two
7 particular railroads.

8 **COMMISSIONER ARGENZIANO:** Okay. Thank you.

9 **CHAIRMAN CARTER:** Thank you.

10 Mr. McWhirter, you may proceed.

11 **BY MR. McWHIRTER:**

12 **Q.** Does the holding company still own the
13 blending facilities on the Mississippi River?

14 **A.** They do not.

15 **Q.** And when were those sold?

16 **A.** Those were sold in the '05/'06 time frame.

17 **Q.** What significance, if any, does that have to
18 do with your ability to blend coal for delivery to
19 Florida?

20 **A.** It has no relevance since most -- all the
21 blending that we do is in the New Orleans area with the
22 two coal terminals in the New Orleans area, and those
23 have nothing to do with what was owned by some of the
24 affiliates for Progress Energy up on the Ohio and the
25 Kanawha River.

1 **Q.** So how do you blend the coal now that you
2 receive for Crystal River?

3 **A.** So we blend the coal offsite at the two coal
4 terminals that we have contracts with in the New Orleans
5 area. So we'll bring in coal either by import vessel or
6 by inland river barges into IMT, and we'll store them in
7 different piles and then blend them as appropriate to
8 have the best blend mix to bring across to Crystal River
9 on our Gulf barges.

10 **Q.** Uh-huh. Did Florida consumers receive any
11 benefit from the sale of the blending facilities that
12 was owned by the holding company?

13 **MR. BURNETT:** Mr. Chairman, I'm going to
14 object. We're way out in outer space with these
15 questions.

16 **CHAIRMAN CARTER:** Mr. McWhirter.

17 **MR. McWHIRTER:** I'll go on to another subject.

18 **CHAIRMAN CARTER:** Okay.

19 **BY MR. McWHIRTER:**

20 **Q.** At the outset of your testimony Mr. Skop asked
21 you some questions about a memo. Do you, do you have
22 that memo?

23 **A.** Yes, I do.

24 **Q.** Now that was given to me in a, in a blue
25 folder that had a lot of other stuff, and I'm not quite

1 sure I know what that is. I haven't seen any ID number
2 on it. But are you testifying about, in your direct
3 testimony are you testifying about any of this other
4 stuff or only about this memo?

5 **A.** This memo was filed as an, as an exhibit to my
6 deposition April 1st of this year. And the other
7 particular items in this blue folder, I think you'll
8 see, are attachments to other parts of testimony.

9 **Q.** In your direct -- does it relate -- do any of
10 these other papers relate to your direct testimony or do
11 they relate only to your rebuttal testimony?

12 **A.** I believe we're only pulling out this e-mail.

13 **Q.** Okay.

14 **A.** And that is not part of, none of the rest is
15 part of the direct testimony.

16 **Q.** Okay. So all we're talking about is this and
17 this?

18 **A.** We can close the blue folder for everything
19 else.

20 **Q.** This is an exhibit to the deposition, which is
21 in the staff's composite exhibit. Is that what the deal
22 is?

23 **A.** It was part of my deposition that was entered
24 into the record.

25 **Q.** Now this memo as I read it was sent from, by a

1 guy named Frederick Murrell to a guy named Brett Phipps.
2 Who is Frederick Murrell?

3 **A.** Frederick Murrell is a representative of PT
4 Adaro, the Indonesian coal supplier.

5 **Q.** And it -- he was notifying Mr. Phipps that the
6 Public Counsel's Office had contacted him. Is that what
7 the purpose of the memo is?

8 **A.** That's correct.

9 **Q.** And who is Brett Phipps? Does he work --

10 **A.** Brett Phipps works for me. He is the Director
11 of Coal, so he has responsibility for the coal
12 activities within the department that I run.

13 **Q.** Are you attempting to prove anything with this
14 document?

15 **MR. BURNETT:** Object to the question. It
16 calls for a legal conclusion. If Mr. McWhirter is
17 trying to indirectly make some sort of hearsay
18 objection, it's already in evidence. He's missed his
19 chance. But I'm happy to address that, if the
20 Commission wants to hear it.

21 **CHAIRMAN CARTER:** Mr. McWhirter.

22 **MR. McWHIRTER:** Well, this is patent hearsay
23 evidence, and at some point in time I guess I'll have
24 the opportunity to object to it. But I -- well, maybe
25 I've lost that opportunity since I agreed to the staff's

1 composite thing. But I'm trying to figure out what this
2 is all about and how it should affect the Commissioners
3 in their judgment. And obviously it must have some
4 importance, and I'm asking him what the importance of
5 this thing is.

6 **CHAIRMAN CARTER:** One moment, please.

7 **MR. McWHIRTER:** Isn't that fair?

8 **CHAIRMAN CARTER:** Ms. Helton.

9 **MS. HELTON:** I agree with Mr. McWhirter's
10 assessment that he has lost his opportunity to object to
11 the exhibit on the nature of it being hearsay. And as
12 always, the Commission will, you know, give any exhibit
13 that comes before it the weight that it deserves.

14 **MR. McWHIRTER:** Does that mean I can ask
15 questions about it or not?

16 **CHAIRMAN CARTER:** Sure. Yes. Yes, you can.

17 **MR. McWHIRTER:** Oh, good.

18 **THE WITNESS:** That's exactly what it means.
19 You can ask questions.

20 **BY MR. McWHIRTER:**

21 **Q.** Are you attempting to prove anything with this
22 exhibit?

23 **A.** Well --

24 **MR. BURNETT:** Objection. Calls for a legal
25 conclusion as to -- that's a legal conclusion as to what

1 the evidence is offered for.

2 **MS. HELTON:** Can we back up for one minute,
3 Mr. Chairman?

4 **CHAIRMAN CARTER:** Yes, ma'am. Backing up is
5 okay for now just temporarily.

6 **MS. HELTON:** As I understand it, this was a
7 deposition exhibit that was produced during the course
8 of his deposition and that staff asked for the exhibit
9 to be included in the record. Is that correct? So I'm
10 not sure that Progress is attempting to prove anything,
11 so I'm not sure that it is an appropriate question.

12 **CHAIRMAN CARTER:** Mr. McWhirter?

13 **MR. McWHIRTER:** That's well-taken. I agree
14 with that.

15 **BY MR. McWHIRTER:**

16 **Q.** Do you totally disavow this and you think it
17 has no importance whatsoever?

18 **CHAIRMAN CARTER:** Try another question,
19 Mr. McWhirter.

20 **MR. McWHIRTER:** All right. What does this
21 mean?

22 **MR. BURNETT:** Object. Objection, Mr.
23 Chairman. He's now asking this witness to divine what
24 the writer of an e-mail from one person to another said.
25 It speaks for itself, and I think Ms. Helton has made

1 that clear.

2 **MR. McWHIRTER:** Well, with respect to that,
3 Mr. Chairman, this gentleman got this memo from a broker
4 who sent it to one of his employees. And he was asked
5 to produce it because -- for some reason in his
6 deposition. And I think it's fair to ask him if he
7 keeps this as a business record for some reason, what
8 the purpose of the record is and what it's supposed to
9 tell us if you have to make a decision concerning it.
10 It seems only fair to me.

11 **CHAIRMAN CARTER:** I'm not sure. Ms. Helton?
12 Because I think from, from what, what the status of it
13 is that it's an exhibit presented by the staff. I don't
14 think he's offering it to prove anything. It's just a
15 document that was within the context of communications.
16 Am I, Ms. Helton, am I in the weeds on this one?

17 **MS. HELTON:** Well, perhaps Mr. McWhirter could
18 ask why, to what question or what line of questioning
19 the document was responsive during the course of the
20 deposition. That may help shed some light.

21 Also, too, if Mr. McWhirter is concerned about
22 the hearsay nature of the exhibit, perhaps Mr. McWhirter
23 could ask if this information contained in the e-mail
24 supplements any information otherwise in the record, and
25 maybe that would give Mr. McWhirter some guidance about

1 the appropriate lines of questioning.

2 **MR. McWHIRTER:** Thank you.

3 **CHAIRMAN CARTER:** Mr. McWhirter, does that,
4 does that help you kind of bring it in?

5 **MR. McWHIRTER:** Thank you. It's good to have
6 somebody to help you along with this kind of stuff.

7 **CHAIRMAN CARTER:** Thank you. Kind of limit it
8 down to that, please, sir.

9 **BY MR. McWHIRTER:**

10 **Q.** All right. Well, is this an official business
11 record of your department?

12 **A.** It's an e-mail that Mr. Fred Murrell gave to
13 Mr. Phipps talking about the contact that he had with a
14 representative of the Office of Public Counsel.

15 **Q.** Do y'all keep a copy of this for some reason
16 or another?

17 **A.** It was recently -- it was rather recent, so
18 March 18th of 2009.

19 **Q.** Why did you keep a copy of it?

20 **A.** In the line of questioning that, that this
21 document was discussed we were talking about how the PT
22 Adaro suppliers, Indonesian coal suppliers were very
23 unresponsive to us; that when we asked about them
24 providing us more information for a particular test
25 burn, they were being unresponsive. We concluded that

1 they must have never really had the coal to sell. That
2 was back in '07. This e-mail came up just recently to
3 confirm what we thought all along, which said that they
4 for, for all intents and purposes did not have the coal.
5 Quote, we were sold out in Indonesia. So we suspected
6 they never really had the coal when they offered us the
7 bid. They became unresponsive. That was what the line
8 of questioning in the depo was, and this confirms that.

9 Q. Okay. If I understand what you just said, you
10 told me back in, whenever it was that you got this bid,
11 although you ranked the bid, you concluded independently
12 that that bid was a fallacious bid. Did you preserve
13 any records that demonstrate why you reached that
14 conclusion back at a time that was contemporaneous with
15 the receipt of the bid?

16 MR. BURNETT: Objection, Mr. Chairman. He's
17 mischaracterizing evidence. He's saying that
18 Mr. Weintraub said the word fallacious. I believe
19 Mr. Weintraub's testimony was that the Indonesian
20 suppliers became unresponsive. So that's not a fair
21 characterization.

22 MR. MCWHIRTER: I don't know that I understand
23 that, Mr. Chairman.

24 CHAIRMAN CARTER: Well, let's, let's zero it
25 in, Mr. McWhirter. He did say unresponsive.

1 **BY MR. McWHIRTER:**

2 **Q.** Do you have any other records that show that
3 the Indonesian coal bid was inaccurate?

4 **A.** We provided all the records around all the RFP
5 for, for fuel hearings and for this docket. And we, we
6 met with them twice and they became un, very
7 unresponsive. They let go one of their U.S.
8 representatives who worked here. So we suspected all
9 along that they did not have the coal to sell since they
10 were being unresponsive to us. Two years later after
11 the contact that seems to be confirmed by them saying
12 that we were sold out and didn't have the coal to sell.

13 **Q.** You have no concurrent written documentation
14 of that representation you just made other than this?

15 **A.** Well, other than the, the bids that we
16 received, the fact that we met with them and the fact
17 that they were not being responsive to us. That's my
18 testimony.

19 **Q.** All right. Who did you talk with that was not
20 responsive?

21 **A.** Fred Murrell.

22 **Q.** This is the guy in Bradenton?

23 **A.** Uh-huh.

24 **Q.** And he's the representative for somebody in
25 Indonesia. Did you attempt to talk to anybody there?

1 **A.** We did attempt to talk to the other coal
2 supplier. The Indonesian, the second Indonesian coal
3 supplier, PT Kideco, they were located in Indonesia
4 themselves, and they were completely unresponsive to us,
5 to our phone calls and e-mails back and forth.

6 **Q.** Do they speak the English language?

7 **A.** I couldn't -- they -- their bid was in
8 English. I've, I've been to Indonesia. They do speak
9 English in Indonesia.

10 **Q.** And what was the name of the person you called
11 and spoke to? Did you personally talk to them?

12 **A.** No.

13 **Q.** So the information you're getting is from
14 somebody in your organization?

15 **A.** Correct.

16 **Q.** Is it from Brett Phipps?

17 **A.** Brett Phipps was in charge of the RFPs and
18 that information was predominantly coming from Brett.

19 **Q.** And you're the witness that is here to prove
20 the prudence of your transaction. Do you have any other
21 witness for coal purchases other than you that's in this
22 case?

23 **A.** No.

24 **MR. McWHIRTER:** I have no other questions.

25 **CHAIRMAN CARTER:** Thank you.

1 Commissioner Argenziano.

2 **COMMISSIONER ARGENZIANO:** Just a quick
3 question, and it's just, just to get it on the record, I
4 guess.

5 The -- you're saying they were not responsive
6 to I guess your attempts to negotiate a bid. Could
7 it -- is there any possibility that they were under the
8 impression that you really weren't going to buy from
9 them or anything like that in there or --

10 **THE WITNESS:** I don't think so. We were
11 specifically asking them for additional information to
12 go and do, when we might be able to do some test burns,
13 when they might have some available. So we were being
14 very proactive. It's not uncommon for coal suppliers to
15 sell coal what's called subject to prior sell, meaning
16 that if they can sell it, they can sell it right
17 underneath from you. It's -- you know, they could put
18 in a bid and not have the coal at all. For all I know,
19 someone, one of their representatives in Indonesia sold
20 it to someone in China and this representative never had
21 it to sell. That, that could be a very likely case.

22 **COMMISSIONER ARGENZIANO:** But there was
23 nothing from the company indicating that you know of to
24 the, to the other side that, you know, we're really not
25 going to buy from you.

1 to when the representative of the air permit became
2 aware that the air permit didn't allow for
3 sub-bituminous coal. I believe he was aware of the test
4 burn. I think that it was in the process of the test
5 burn that they realized that the air permit itself
6 doesn't say coal, it says bituminous coal, and therefore
7 sub-bituminous coal is not allowed on the air permit.
8 So I'm going from memory here as to, as to all the
9 testimony that went on around the '04 permit and who
10 became aware and when, and that's what I can recall
11 right now.

12 Q. Is that a typical procedure for the
13 procurement folks to talk with the permitting folks and
14 all?

15 A. It is typical to have a procedure, and we'll,
16 we'll put on the testing procedure that we have. And
17 for the '06 test burn of Powder River Basin coal that we
18 filed and for others we have a process that will be a
19 part of witness testimony.

20 Q. Do you know -- I'm not sure whether, from what
21 you just said whether you have knowledge of all of that.
22 But how long does it usually take that process?

23 A. Can you be more specific as to what process?

24 Q. Well, in other words, how long would you talk
25 to the permitting folks before you started testing the

1 coal or using the coal?

2 **A.** It usually starts rather quickly. I'm going
3 from -- I'll go from memory on the Powder River Basin
4 test burn. But there's requirements to get a test
5 permit, there's requirements to put stuff in, to put
6 information in the local newspaper for people to comment
7 on. So there's a whole litany of requirements that are
8 involved around air permitting that would be a part of
9 our testimony in the rebuttal process.

10 **Q.** In terms of -- is this a period of months or
11 years or weeks or --

12 **A.** It's months. It's months.

13 **MS. BRADLEY:** Okay. I don't think I have
14 anything further.

15 **CHAIRMAN CARTER:** Thank you, Ms. Bradley.
16 Commissioner Skop.

17 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
18 Just two final questions, Mr. Weintraub.

19 I guess looking at the other witnesses -- I'm
20 going to shoot this one at you, and if, if another
21 witness is more appropriate, please preserve the right
22 to tell me. But what steps, if any, has Progress taken
23 since our last order to remedy the inherent ability to
24 burn PRB coal in an 80/20 blend?

25 **THE WITNESS:** Well, we've done a test burn,

1 we've modified our air permit to be able to do up to
2 20 percent sub-bituminous blends in the air permit, and
3 we continue to monitor the market to see if the
4 opportunity of PRB blends are cost-effective versus the
5 type of blends that we're doing today. We would
6 continue to go forth with the process to do some of the
7 capital upgrades that would be required, to do a much
8 longer test burn that we lay out in Witness Stenger's
9 testimony. We did the short-term three-day test burn.
10 We would then have to go forth and do a much longer
11 process and continue if it is cost-effective to do those
12 burns.

13 **COMMISSIONER SKOP:** Okay. And, secondly, I
14 guess a lot of discussion in this instant case turns on
15 alternate coal opportunities, and at least I guess the
16 source of the coal as well as the evaluated cost is
17 going to factor prominently into any refund that may or
18 may not be warranted.

19 But in that sense, if a refund is indeed
20 warranted, why would that not be in this case strictly
21 limited to the differential cost between burning
22 100 percent CAPP coal and the 80/20 blend in terms of
23 any cost differences that may or may not arise from,
24 from burning the blended fuel?

25 **THE WITNESS:** Well, I think in some of the

1 calculations that is what the penalty is doing. It's
2 basically saying if you take the most expensive portion
3 of your 100 percent CAPP burn and replace that with
4 sub-bituminous coal or other coals, in this case
5 Indonesian and the Kennecott Northern Powder River Basin
6 coal, that is, that delta would be the, would be the
7 refund that, that OPC is alleging.

8 **COMMISSIONER SKOP:** And that's the
9 cherrypicking you're referring to in your rebuttal
10 testimony to the extent that --

11 **THE WITNESS:** What I'm referring to is the
12 fact that you have actual coal costs and you're using a
13 sheet of paper that has forecasted emission allowances,
14 forecasted transportation costs that have many other
15 things that I lay out in my rebuttal testimony. And
16 those actual costs that you're then saying there's a
17 delta don't have the same forecasted prices that were
18 entered into at the time when they were in an RFP.

19 **COMMISSIONER SKOP:** Okay. And I guess in that
20 sense I'm aware of what OPC is asking for. I know that
21 OPC -- I guess Mr. Heller's testimony will speak to the
22 other aspects of Progress's position. But, you know, in
23 terms of some of the testimony that's been filed about,
24 you know, the appropriate manner to, to consider this
25 conceptually, it would seem to me that, you know, a

1 straightforward approach would be looking at that cost
2 savings, if any, looking at the western PRB, and I was
3 wondering if you would agree that it should be limited
4 to the PRB.

5 **THE WITNESS:** Well, I do think it should be
6 limited to the PRB. But I also think some of the coals
7 that we've been able to purchase and do blending with
8 during this time frame are more cost-effective than the
9 Powder River Basin coal that we could have purchased.

10 **COMMISSIONER SKOP:** All right. Thank you.
11 And that's -- I'm sorry. One final. On that, on that
12 note though, when you refer to those coals, that would
13 be strictly bituminous coals, not sub-bituminous.

14 **THE WITNESS:** Those coals, I'm referring to
15 the sub -- the bituminous coals. We've been able, we
16 were able to blend with bituminous low quality coal at a
17 better blend than doing sub-bituminous Powder River
18 Basin coal.

19 **COMMISSIONER SKOP:** All right. Thank you.

20 **CHAIRMAN CARTER:** Thank you.

21 Staff.

22 **MS. BENNETT:** I have three questions.

23 CROSS EXAMINATION

24 **BY MS. BENNETT:**

25 Q. First of all, Mr. Weintraub, when you were

1 responding to Commissioner Argenziano's question about
2 the design blend, you expressed a concern about perhaps
3 running out of compliance coal. But isn't it true that
4 compliance coal, that terminology is in reference to the
5 air emissions quality?

6 **A.** Compliance coal is reference to the 1.2 pound
7 or less around the air permit. And I think my
8 classification was that it's becoming harder and harder
9 to find the compliance coal.

10 **Q.** Okay. My second question I'm going to refer
11 you back to the DJP-6. It's the handout that OPC passed
12 out earlier and we had some discussion on.

13 **A.** Yes.

14 **Q.** In the final column you've got an evaluated
15 utilized cost in dollars per million, I believe. Does
16 that evaluation include any capital additions that may
17 be required for those coals?

18 **A.** It does not.

19 **Q.** Okay. Then let me refer you to the DJP-8 that
20 the Office of Public Counsel also handed out. You've
21 got an evaluated utilized rank of the coals. Does that
22 include any capital requirements?

23 **A.** It does not.

24 **MS. BENNETT:** That's all the questions I have.

25 **CHAIRMAN CARTER:** Okay. Commissioner Skop.

1 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

2 Just one more question and I guess it gets to
3 another witness. But with respect to the capital costs
4 that our staff just referred to, would it be -- I guess
5 in your view would it not be appropriate to recover
6 those capital costs to the extent that this unit had the
7 inherent capability designed and built into it to burn
8 PRB?

9 **THE WITNESS:** Well, I think when we talked
10 about this in the original docket, that the plant, the
11 boiler was designed to burn a specific type of coal.
12 But what we're talking about a lot of times is the
13 material handling system, dust suppression system, many
14 other portions of the plant that were not designed and
15 were not ever built at Crystal River. Much of what we
16 talked about around the design specifications is around
17 the boiler itself and not other parts of the plants that
18 capital upgrades would be required for.

19 **COMMISSIONER SKOP:** Thank you.

20 **CHAIRMAN CARTER:** Thank you.

21 Mr. Burnett.

22 **MR. BURNETT:** Thank you, sir. I'll try to
23 keep it to a minimum.

24 REDIRECT EXAMINATION

25 **BY MR. BURNETT:**

1 Q. Mr. Weintraub, please get DJP-6 in front of
2 you. Now for the purpose of this I want to be clear, I
3 want you to assume that at the time this, you had this
4 DJP-6 in your hand, that Progress Energy Florida was
5 completely permitted to burn PRB coal. Are you with me
6 so far?

7 A. I am.

8 Q. And also assume for me that we could purchase
9 it, we could burn it, everything would have been legal,
10 we were good to go for PRB. Are you with me?

11 A. I'm with you.

12 Q. All right. Mr. McGlothlin asked you some
13 questions about the Triton PRB Rochelle bid that's on
14 there. Do you recall that?

15 A. I do.

16 Q. Have you had occasion to compare what would
17 have happened in real life had Progress Energy bought
18 that Triton coal and blended it versus what Progress
19 Energy actually did in 2006 and 2007?

20 A. I have.

21 Q. What are the results of that?

22 A. This might be best, Mr. Chairman, if I can
23 write this on a board and just lay out a little bit some
24 of the, some of the --

25 **CHAIRMAN CARTER:** You may proceed.

1 **THE WITNESS:** If I speak loudly, maybe if I
2 speak loudly. Do I need a mike?

3 **CHAIRMAN CARTER:** We're taking five minutes
4 and getting a microphone. Nobody leaves.

5 (Pause.)

6 We're back on the record. You may proceed,
7 Mr. Burnett.

8 **BY MR. BURNETT:**

9 **Q.** Mr. Weintraub, I believe you were about to
10 explain the analysis you said you had occasion to
11 perform.

12 **A.** Yes. So if you look at the DJP-6, in
13 particular the Triton coal which had for term '05
14 through '07, the coal itself costs \$8.25 a ton off the
15 bid sheet. The rail cost to bring that then to the
16 river, if you use in Mr. Heller's testimony an industry
17 standard of 19 cents per mill (phonetic) mile and you
18 talk about the distance to move the coal to the river,
19 that equates to \$21.36 to bring that to the river.
20 There's a fee to take it out of the railcar and put it
21 in the barge. In the testimony that's \$1.16. The barge
22 rate to bring that down from the terminal up the
23 Mississippi River down to New Orleans would be \$7.62.
24 You then also have a \$2.10 once you make it to New
25 Orleans to take it out of the inland barge. You put it

1 to ground where you would then blend it into the Gulf
2 barges going to Crystal River. That's \$2.10.

3 And for the railcars, you'd have to go out --
4 this is in company-owned or supplied railcars, you would
5 have to provide a lease or, and maintenance of those
6 railcars for a brief period of time. Typically that's
7 about 2 cents per mill mile that Mr. Heller can, has
8 talked about as an industry standard, which equates to
9 roughly \$2.50 a ton.

10 So when you add up all those costs, you come
11 up with \$42.99 to bring the Triton coal delivered into
12 the facility being the Gulf, the coal terminal on the
13 Gulf. This is before you put it on the barge and bring
14 it over to Crystal River. When you do that on a cents
15 per million basis because it's 8,800 Btu, that comes out
16 to \$2.44 per million.

17 We were asked several questions on some staff
18 interrogatories, in particular on their first set,
19 question number 29, that looked at some of the blending
20 coals that we purchased in '06 and '07. And there's not
21 one of the coals that we purchased in '06 and '07 that's
22 higher than \$2.44. The lowest one we purchased was
23 \$1.81 for some low quality Central App bituminous coal
24 that we were blending into the barges, so \$1.81, and the
25 highest was \$2.33. So even if you look at what we could

1 have purchased in '04 for Powder River Basin coal and in
2 hindsight compare that to what we did purchase in '06
3 and '07, what we purchased in '06 and '07 for blending
4 purposes beats the Powder River Basin coal in '04.

5 And in staff's question number 29 I also
6 compare the coals that we purchased at the time just
7 doing spot PRB. So if you -- in May -- in February of
8 '07 we bought coal for \$2.21 delivered into the coal
9 terminal. And if you take Powder River Basin coal off
10 broker sheets at the same time frame and used the same
11 costs, I also, I compare and show that even on a
12 spot-to-spot basis what we purchased was more
13 cost-effective than Powder River Basin coal.

14 During this time frame when we also purchased
15 the PRB coal for the May '06 test burn, I also compared
16 to what we purchased to that actual PRB test movement.
17 And if you recall during that test burn, the PRB coal
18 itself was more expensive than the coal that it was
19 being blended with. So, therefore, it was destroying
20 value instead of adding value for the customer.

21 So everything in my testimony really circles
22 around the fact that when you compare PRB coals off of
23 the RFP, when you compare PRB coals off of what we
24 actually procured for the test burn, when you also
25 compare some of the spot opportunities for PRB coals,

1 that what we purchased beats PRB coal. And I think in
2 my summary I talk about it -- any way you slice it, what
3 we purchased beats PRB coal.

4 Q. Mr. Weintraub --

5 CHAIRMAN CARTER: Yield for a moment,
6 Mr. Burnett. Would you yield for a moment?

7 MR. BURNETT: Yes, sir.

8 CHAIRMAN CARTER: Commissioner Skop.

9 COMMISSIONER SKOP: Thank you, Mr. Chairman.

10 Mr. Weintraub, I guess the, I guess the
11 benchmark from the chart that you've created is a, a
12 breakeven point of \$2.44 delivered, and you referenced
13 that all of the purchases that Progress made in the time
14 periods in question were below that threshold number.
15 Can you please refer me to generally the specific
16 exhibits? That's the one part I didn't hear too well
17 from, from down here.

18 THE WITNESS: It was the staff's set of,
19 question 29A. Also in that set of interrogatories as
20 Attachment B, I believe, we also applied the
21 Commission's methodology to everything that we purchased
22 in the '06/'07 time frame. And when you add all those
23 up, everything that we purchased using the methodology
24 that we're talking about today, it was more
25 cost-effective to, to do what we did than to buy Powder

1 River Basin coal.

2 **COMMISSIONER SKOP:** Okay. Thank you.

3 **CHAIRMAN CARTER:** Mr. Burnett.

4 **BY MR. BURNETT:**

5 **Q.** Thank you, Mr. Weintraub. And to break that
6 down to the bottom line, all these analyses that you
7 just talked about -- are you with me, Mr. Weintraub?

8 **A.** I am.

9 **Q.** Okay. All the analyses that you just talked
10 about, the ones you did on the board and the further
11 analyses that you just mentioned that staff asked you to
12 do in discovery, in any of those scenarios did, did the
13 actions that PEF actually took in real life versus any
14 of those scenarios hurt our customers, help our
15 customers by saving them money or have no effect?

16 **A.** They helped our customers by saving them
17 money.

18 **Q.** Thank you.

19 **CHAIRMAN CARTER:** Mr. Burnett, yield for a
20 moment.

21 Commissioner Skop.

22 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

23 Mr. Weintraub, then so would it be correct to
24 assume that based upon the Progress responses both to
25 staff interrogatory I believe 29A and 29B that Progress

1 has made a sufficient showing that would rebut that any
2 refund at all would be necessary?

3 **THE WITNESS:** Absolutely.

4 **COMMISSIONER SKOP:** Thank you.

5 **CHAIRMAN CARTER:** Mr. Burnett.

6 **BY MR. BURNETT:**

7 **Q.** And has, Mr. Weintraub, has Mr. Putman --
8 after your analysis of his testimony, has Mr. Putman
9 filed testimony in this case asserting that PRB coal
10 blends could have beat the prices of the coal blends
11 that PEF actually burned at CR4 and 5 in 2006 and 2007?

12 **A.** He has not.

13 **Q.** Has any party in this table or otherwise filed
14 testimony in this case making those allegations?

15 **A.** They have not.

16 **Q.** Have you seen any evidence in this case at all
17 refuting the evidence that you just put forward?

18 **A.** No, I have not.

19 **Q.** Has anyone here asked you, anyone here today
20 asked you any questions that caused you as you sit here
21 now to challenge the accuracy of the testimony you just
22 put forward?

23 **A.** No.

24 **Q.** I want to, to follow up on something you said
25 as well. When Mr. McGlothlin was asking you questions

1 about DJP-6 -- and in his opening statement he, he made
2 some comments about that we are so happy to discredit
3 our own evaluation process. But I want to ask you is
4 what is shown here in DJP-6 the only part of our
5 evaluation process?

6 **A.** No.

7 **Q.** And when you were referring the Commission to
8 Page 5 of your direct testimony where there are several
9 items there, are those some of the items that are also a
10 part or are they not?

11 **A.** Those are some of the items that make up the
12 decision-making process of what coals to purchase.

13 **Q.** So for OPC to pick one sliver of paper out of
14 the entire process and assert that we owe them money
15 because of this paper, is that fair to Progress Energy
16 or unfair to Progress Energy?

17 **A.** I believe it's unfair.

18 **Q.** My last question is Mr. McGlothlin was asking
19 you some questions about your testimony in the last case
20 and made some references to your testimony where you
21 said that you had no prior experience with this
22 Indonesian coal. Do you recall that?

23 **A.** Yes.

24 **Q.** If the Commissioners were interested in
25 hearing further testimony on that, is that something

1 they could ask you or could Ms. Stenger provide further
2 testimony on the importance or lack of importance of
3 that?

4 **A.** Lack of, lack of what?

5 **Q.** Of the importance of having no, the importance
6 or lack of importance of having no prior experience with
7 the coal from an operational perspective.

8 **A.** From an operational perspective that would be
9 Witness Stenger.

10 **MR. BURNETT:** Thank you. No further
11 questions.

12 **CHAIRMAN CARTER:** Thank you.

13 Commissioner Skop.

14 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

15 Just, I assume that we'll probably be breaking
16 shortly for lunch. But if staff -- it's probably on the
17 CD somewhere, but the interrogatory responses that
18 Mr. Weintraub mentioned, if I could get a hard copy of
19 those. And perhaps my colleagues might like that also.
20 But while it's fresh in my mind, I'd like to take a look
21 at that and compare Mr. Weintraub's testimony to, to the
22 interrogatory responses.

23 **MS. BENNETT:** We'll be providing them after
24 lunch.

25 **COMMISSIONER SKOP:** Thank you.

1 **CHAIRMAN CARTER:** Okay. What's all this talk
2 about lunch? I mean, you guys just got here.

3 **MR. BURNETT:** We're ready, sir. We can drive
4 on.

5 **CHAIRMAN CARTER:** Okay. Okay. Commissioners,
6 anything further for this witness? Okay.

7 **MR. MCGLOTHLIN:** Chairman Carter, there's, I
8 think I need to put a number on the declassified version
9 of --

10 **CHAIRMAN CARTER:** I'll come back to you. You
11 hold that thought. Hold that thought. Okay? Because
12 that will be, that would be Number 50. But hang onto
13 that. Okay? Just for, for your records just hold on to
14 Number 50. We'll come back to you on that.

15 Okay. Mr. Weintraub, when you go to show and
16 tell to your children's school, they ask you what do you
17 do and you say you buy coal, huh?

18 **THE WITNESS:** Among other things, yes.

19 **CHAIRMAN CARTER:** So where is your little
20 miner's hat and your -- what is the other stuff they
21 wear? Pick, yeah, your pick and all and your head lamp.
22 Yeah. Anyway, we'll be seeing you later on rebuttal.

23 (Laughter.)

24 **THE WITNESS:** Yes, you will.

25 **CHAIRMAN CARTER:** Exhibits, Mr. Burnett,

1 you're recognized.

2 **MR. BURNETT:** Yes. Yes, sir. We move the
3 prefiled testimony of Sasha Weintraub, the direct
4 prefiled testimony into evidence, as well as Exhibits 3,
5 4, 5 and 6.

6 **CHAIRMAN CARTER:** Exhibits 3 through 6, any
7 objections? Without objection, show it done.

8 (Exhibits 3, 4, 5 and 6 marked for
9 identification and admitted into the record.)

10 You may -- you're on recess until we get to
11 rebuttal.

12 **THE WITNESS:** Thank you.

13 **CHAIRMAN CARTER:** Mr. McGlothlin, you're
14 recognized, sir.

15 **MR. MCGLOTHLIN:** Since Progress Energy agreed
16 to declassify the evaluation sheet, I think it might be
17 helpful to the hearing process to assign it a separate
18 number.

19 **CHAIRMAN CARTER:** Okay. Let's call that
20 Exhibit 50, Commissioners. And we'll just call it an
21 RFP Evaluation Sheet. Does that sound good to you,
22 Mr. McGlothlin?

23 **MR. MCGLOTHLIN:** That's fine.

24 **CHAIRMAN CARTER:** Okay. RFP. Mr. Burnett,
25 any objection?

1 **MR. BURNETT:** No objection, sir.

2 **CHAIRMAN CARTER:** Let's do this then, let's
3 say as it relates to -- okay. Any of the other parties,
4 any objections to Exhibit 50 which has been marked as
5 RFP Evaluation Sheet? Without objection, show it done.

6 (Exhibit 50 marked for identification and
7 admitted into the record.)

8 Number 49, Mr. McGlothlin, which is the
9 excerpt, excerpt of the Weintraub testimony, a separate
10 number.

11 **MR. MCGLOTHLIN:** Like the other documents I
12 distributed, that's attached to Mr. Putman's.

13 **CHAIRMAN CARTER:** It's attached, so we don't
14 need to enter that.

15 **MR. MCGLOTHLIN:** Yes.

16 **CHAIRMAN CARTER:** So, well, then -- okay then.
17 What we need to do is back up on our numbers then. No.
18 Okay. We'll just leave that as, just say it wasn't
19 entered. How about that? Okay?

20 **MS. BENNETT:** Mr. Chairman?

21 **CHAIRMAN CARTER:** Yes, ma'am.

22 **MS. BENNETT:** I probably should have done this
23 earlier, but Commissioner Skop had asked that the
24 testimony of Mr. Putman, Mr. Barsin and Mr., I'm sorry,
25 Mr. Sansom, Mr. Barsin and Mr. Putman from 060658 be

1 entered into the record. I would suggest that item,
2 Exhibit Number 51 be Robert Sansom's direct and rebuttal
3 testimony and exhibits from Docket Number 060658.

4 **CHAIRMAN CARTER:** Hang on a second. Hang on a
5 second. Back up for a moment before we go there.

6 Now on 49, what did we say we were doing on
7 that since they're not, he's not going to enter that in?
8 It's an exhibit that was part of a document that's
9 already been marked for identification; is that right?

10 **MR. MCGLOTHLIN:** Yes, sir.

11 **CHAIRMAN CARTER:** That's correct; right? It's
12 already been marked for identification.

13 **MR. MCGLOTHLIN:** Yes.

14 **MS. BENNETT:** And I think you said that we
15 would just --

16 **CHAIRMAN CARTER:** Just hold it.

17 **MS. BENNETT:** -- indicate that it's not
18 entered into the record.

19 **CHAIRMAN CARTER:** Okay.

20 **MS. BENNETT:** And so we would not have an
21 Exhibit Number 49.

22 **CHAIRMAN CARTER:** Okay. Okay. I just wanted
23 to make sure I don't have any over.

24 Okay. Now 51, you were saying -- let's go to
25 51.

1 **MS. BENNETT:** 51 would be Mr. Sansom's direct
2 and rebuttal testimony and exhibits from Docket 060658.

3 **CHAIRMAN CARTER:** 060658?

4 **MS. BENNETT:** Correct.

5 **CHAIRMAN CARTER:** Okay. Before we go further,
6 let's hear from the parties. Any objections,
7 Mr. Burnett?

8 **MR. BURNETT:** No, sir.

9 **CHAIRMAN CARTER:** Mr. McGlothlin?

10 **MR. MCGLOTHLIN:** No, sir.

11 **CHAIRMAN CARTER:** Mr. --

12 **MR. McWHIRTER:** No, sir.

13 **CHAIRMAN CARTER:** Okay. Without objection,
14 show it done.

15 (Exhibit 51 marked for identification and
16 admitted into the record.)

17 Ms. Bennett, you're recognized.

18 **MS. BENNETT:** And then item or Exhibit
19 52 would be Joseph Barsin's rebuttal testimony and
20 exhibits from Docket --

21 **CHAIRMAN CARTER:** Say again. Joseph.

22 **MS. BENNETT:** I think it -- let's just call
23 him Mr. Barsin.

24 **CHAIRMAN CARTER:** Okay. Barsin's. Okay.

25 **MS. BENNETT:** Rebuttal testimony and exhibits.

1 **CHAIRMAN CARTER:** Okay.

2 **MS. BENNETT:** From Docket 060658.

3 **CHAIRMAN CARTER:** 060658. Okay. Any
4 objections?

5 **MR. BURNETT:** No, sir.

6 **MR. MCGLOTHLIN:** None.

7 **CHAIRMAN CARTER:** Without objection, show it
8 done.

9 (Exhibit 52 marked for identification and
10 admitted into the record.)

11 Okay. Ms. Bennett.

12 **MS. BENNETT:** And then finally Number 53,
13 Exhibit Number 53, and I will have to have
14 Mr. McGlothlin refresh my memory, but I believe
15 Mr. Putman filed direct and rebuttal testimony in, and
16 exhibits in Docket 060658.

17 **MR. MCGLOTHLIN:** Rebuttal only.

18 **MS. BENNETT:** Rebuttal only?

19 **CHAIRMAN CARTER:** Rebuttal only?

20 **MS. BENNETT:** So Mr. Putman's rebuttal
21 testimony and exhibits from Docket 060658.

22 **CHAIRMAN CARTER:** 060658. Okay. Rebuttal and
23 exhibits? Are there any objections?

24 **MR. BURNETT:** No objection.

25 **CHAIRMAN CARTER:** Any objection? Without

1 objection, show it done.

2 (Exhibit 53 marked for identification and
3 admitted into the record.)

4 Ms. Bennett.

5 **MS. BENNETT:** That would be it. Thank you.

6 **CHAIRMAN CARTER:** Commissioners, anything
7 further? I think this seems close enough to a jumping
8 off point that we want to probably give staff and the
9 parties an opportunity for lunch, and us to come back --
10 I started to say 2:00, but it's only 1:53, so that would
11 be only like seven minutes.

12 How about 1:45, Commissioners? 1:45. We're
13 on recess.

14 (Recess taken.)

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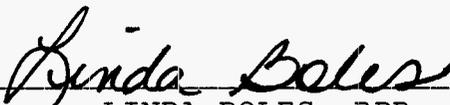
1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

3
4 I, LINDA BOLES, RPR, CRR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

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

18 DATED this 29th day of April, 2009.

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25

LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734