BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of: DOCKET NO. 090451-EM

JOINT PETITION TO DETERMINE NEED FOR GAINESVILLE RENEWABLE ENERGY CENTER IN ALACHUA COUNTY, BY GAINESVILLE REGIONAL UTILITIES AND GAINESVILLE RENEWABLE ENERGY CENTER, LLC.
_____/

VOLUME 3
Pages 390 through 597

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PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	CHAIRMAN NANCY ARGENZIANO COMMISSIONER LISA POLAK EDGAR COMMISSIONER NATHAN A. SKOP COMMISSIONER DAVID E. KLEMENT COMMISSIONER BEN A. "STEVE" STEVENS II
DATE:	Monday, May 3, 2010
TIME:	Commenced at 9:30 a.m. Concluded at 8:55 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	MARY ALLEN NEEL, RPR, FPR
APPEARANCES:	(As heretofore noted.)

I N D E X

WITNESSES

EXHIBITS

P R O C E E D I N G S

(Transcript follows in sequence from Volume 2.)

CONTINUED REDIRECT EXAMINATION

OF RICHARD M. SCHROEDER

BY MR. WRIGHT:

Q. Is it significantly more than 1,000?

A. Yeah. It's -- yeah. And one of these studies, as I said, ran this economic analysis all the way up to 50 million tons. I'll be honest for you, for this particular project, those numbers are way, way bigger than what we're considering.

Q. Thank you. Mr. Schroeder, is there any advantage to a biomass power facility in being a first mover in the market for biomass fuel?

A. I think there's a potential. I think there's a potential benefit. And part of it is some of the testimony and public comment that we had earlier about projects are announced and not delivered, and people come and people go, and some of these announced projects never happen. But as you develop one of these projects and you become certain as far as your ability to develop and complete construction and operate the plant, you have in a sense set the bar higher for everyone else within that particular supply area. And in that regard,

you generally can take advantage of the least-cost material within that given supply area.

Q. I have a couple of questions for you regarding the demonstrative exhibit that was distributed by the staff's Mr. Ellis. It's got a 64 on top, and that indicates that it's part of an exhibit that has been admitted into the evidence, I think, stipulated as 64. I have a couple of questions for you about that.

A. I'm not sure I have that exhibit. Is this the one that we were just looking at page 0526?

Q. It's four or five pages that look like this.

A. Yes.

Q. And I did have a question for you about --

A. Okay. Go ahead.

Q. -- Table 0526.

A. All right. Just refer to the page number at the bottom and I can find it.

Q. The first question for you, there's a reference there in the fourth box of the actual plants to ADAGE Gadsden County. Is that plant -- is that project still active?

A. ADAGE Gadsden County? Not to my knowledge. Someone else just said that they had withdrawn, and I also saw a press release saying that they had ceased development.

MR. WRIGHT: Thank you.

Commissioner Stevens, there is actually a visual aid that's a map of facilities that has been updated, as has the table, in a subsequent updated interrogatory answer. I only have a few copies of said map. I aver to you that it had been filed and served and delivered to all parties. I would just like leave to have those updated interrogatory answers to which this map refers and applies be let into evidence.

COMMISSIONER STEVENS: Mr. Sayler.

MR. SAYLER: Mr. Chairman, my understanding is that those maps have been included in staff's Exhibit 64, both the original and the supplement that was filed on April 20th -- April 28th, so that's in the record.

MR. WRIGHT: Thank you. With that clarification, I'm good to go on that front.

COMMISSIONER STEVENS: Yes, sir. Thank you, Mr. Sayler.

MR. WRIGHT: Thank you. I may have one or two more.

BY MR. WRIGHT:

Q. Following up on a question posed by Mr. Sayler, have you or your company -- has you or your company been hired by GREC LLC to supply wood to the Gainesville Renewable Energy Center?

A. Not to supply wood, but to provide services related to procurement.

MR. WRIGHT: One moment, please.

COMMISSIONER STEVENS: Sure.

MR. WRIGHT: Thank you for your indulgence.

COMMISSIONER STEVENS: Yes, sir.

MR. WRIGHT: Commissioner Stevens, Madam Chairman, I have no more redirect.

COMMISSIONER STEVENS: With that, I believe we have some exhibits to admit into the record.

MR. WRIGHT: I think I would be first up on that.

COMMISSIONER STEVENS: Okay.

MR. WRIGHT: Commissioner.

COMMISSIONER STEVENS: Yes, sir.

MR. WRIGHT: And I would move that Exhibits 39 through 53 be admitted into evidence.

COMMISSIONER STEVENS: Okay. So moved. Without objection, no objection, they're in.

(Exhibits Number 39 through 53 were admitted into the record.)

COMMISSIONER STEVENS: Mr. Sayler, are there any other exhibits?

MR. SAYLER: None from staff.

COMMISSIONER STEVENS: Were there any from the

intervenors.

MR. SAYLER: None that I'm aware of.

COMMISSIONER STEVENS: Okay. With that, we will -- thank you, Mr. Schroeder. Thank you for being here.

Next witness.

MR. WRIGHT: Ten seconds.

COMMISSIONER STEVENS: No problem.

MR. WRIGHT: Thank you, Commissioner Stevens and Madam Chair. We call Mr. Richard Bachmeier.

COMMISSIONER STEVENS: Yes, sir.

MR. WRIGHT: Thank you.

COMMISSIONER STEVENS: Thank you.

Mr. Bachmeier, you were sworn in earlier.

THE WITNESS: Yes, sir.

COMMISSIONER STEVENS: Thank you.

Thereupon,

RICHARD D. BACHMEIER

was called as a witness on behalf of GRU and GREC and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q. Good afternoon, Mr. Bachmeier. If you could scoot down toward the microphone, it will help the court

reporter.

You previously took the oath to tell the truth in this proceeding?

A. Yes.

Q. And did you prepare and cause to be filed in this docket prefiled supplemental direct testimony consisting of 10 pages?

A. Yes, I did.

Q. Do you have any changes or corrections to that testimony?

A. No, I don't.

Q. And do you adopt that as your sworn testimony to the Florida Public Service Commission in this proceeding?

A. Yes, I do.

MR. WRIGHT: Commissioner Stevens, I respectfully ask that Mr. Schroeder's -- Mr. Bachmeier's -- I've got two Richards -- testimony be entered into the record as though read.

COMMISSIONER STEVENS: It's so moved.

MR. WRIGHT: Thank you.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

SUPPLEMENTAL TESTIMONY OF RICHARD D. BACHMEIER

ON BEHALF OF

GAINESVILLE REGIONAL UTILITIES AND

GAINESVILLE RENEWABLE ENERGY CENTER, LLC

DOCKET NO. 090451-EM

MARCH 15, 2010

Q. Please state your name and business address.

A. My name is Richard D. Bachmeier. My business address is 301 SE 4th Avenue, Gainesville, FL 32601.

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

A. I am employed by Gainesville Regional Utilities ("GRU") as the Electric System Planning Director.

Q. Please describe your responsibilities in that position.

A. My responsibilities include the planning and execution of GRU's long-term electric supply and transmission strategies, oversight of GRU's long-range production cost projections, structuring and pricing long-term wholesale power contracts, and coordinating GRU's NERC Reliability Compliance program. I have authored requests for proposals ("RFPs") and developed the methodology for evaluating biomass generation projects. I have also participated in contract

negotiations for the Gainesville Renewable Energy Center ("GREC") biomass facility.

Q. Please state your educational background and professional experience.

A. I received a Bachelor of Science degree in Mathematics and a Bachelor of Arts degree in Economics from the University of North Dakota. I have a Master of Applied Geography degree from Texas State University (formerly Southwest Texas State University) and was admitted to Ph.D. Candidacy in Economics at the University of Texas at Austin where I have completed all coursework and examination requirements for the Ph.D.

Prior to joining GRU in 2007, I held positions with the Orlando Utilities Commission (OUC), TXU Energy, Enron Corporation, the Public Utility Commission of Texas, and the University of Texas at Austin. I have nearly 25 years of professional experience in the electric power industry encompassing industry restructuring, competitive issues, utility risk management, electricity pricing, and system planning. My specific areas of expertise include utility regulation, policy, and ratemaking; utility resource planning; environmental economics and policy; risk management; financial modeling and analysis; and product development and pricing.

I have presented expert testimony in more than 20 regulatory proceedings at the Public Utility Commission of Texas, and have written or co-written several research papers and publications. While on staff at the Public Utility

Commission of Texas, I was involved in policy development that assisted the Texas Legislature in the restructuring and deregulation of the retail electric market in Texas, and I was a contributing author of the 1997 report "Electric Power Industry Scope of Competition and Potentially Strandable Investment."

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

A. The purpose of my testimony in this proceeding is to address the specific questions of whether the proposed GREC facility will result in the stranded investment of any of GRU's assets, and whether that is a risk that GRU should attempt to mitigate.

Q. Are you sponsoring any exhibits to your testimony?

A. Yes. I am sponsoring two exhibits. Exhibit No.__ [RDB-4] is a copy of resumé. Exhibit No. __ [RDB-5] is a study performed by The Energy Authority ("TEA") entitled Market Value of GRU's Generation Portfolio.

Q. Please summarize the main conclusions of your testimony.

A. GRU and its ratepayers are not and will not be exposed to potential stranded investment of GRU's assets as a result of GRU's addition of GREC to GRU's energy supply portfolio through the power purchase agreement with Gainesville Renewable Energy Center, LLC ("GREC LLC"). The addition of GREC will increase the value of GRU's entire energy portfolio in the market, and the addition of GREC will actually increase GRU's ability to recover costs associated with the net book value of its existing assets.

Q. Why have you prepared testimony addressing the issue of stranded investment?

A. During the Florida Public Service Commission's ("PSC") Agenda Conference held on February 9, 2010, in discussing this docket Commissioner Skop stated that "...you have so much excess generation to begin with, and basically all that does is strand ratepayer investment with the excess generation." [TR 68, L11-14] In the context of the Commissioners' broader concerns regarding risks and risk mitigation, my testimony addresses the issue of potential stranded investment as a result of adding GREC, and whether there is any stranded investment risk associated with adding GREC to GRU's generating portfolio.

Q. Please define what is meant by "stranded investment" in the electric utility industry.

A. In a September, 2000 Florida PSC report "Key Aspects of Electric Restructuring and Their Relevance for Florida's Electricity Market," stranded investment is defined as "...assets reduced in value due to competition and is calculated as the difference between the net book value of the assets and their market value. Assets reduced in value for reasons not related to competition are not potential stranded investment." (Florida PSC Restructuring Report at page 27)

To further emphasize that stranded costs can only occur as a result of the transition from a regulated to a competitive market, the 1997 Public Utility Commission of Texas report "Electric Power Industry Scope of Competition and

Potentially Strandable Investment-Vol. III" defines stranded investment as *"...the historic financial obligations of utilities incurred in the regulated market that become unrecoverable in a competitive market."* (Texas PUC Strandable Investment Report at page 11, italics in original)

Q. Are GRU and its ratepayers exposed to potential stranded investment with the addition of GREC?

A. No. First, GREC itself cannot become a stranded investment because GRU will not own the facility. As for the potential stranding of GRU's existing assets, as defined above investment can only become stranded because customers of the utility chose an alternative supplier. If customers leave the utility and purchase electricity from another supplier, the original utility is left with debts for plants and equipment it may no longer need and without the revenue from the departing ratepayers that the plants were built to serve. Because the Florida retail electric utility market is not deregulated, GRU customers cannot switch electricity suppliers and leave the utility with stranded investment. The net book value of GRU's owned generating assets, i.e., the undepreciated capital investment associated with those assets, is currently being recovered in GRU's retail electric rates and wholesale power contracts, and GRU will continue to fully recover the costs associated with these assets. It is worth noting that most of GRU's generation assets are fully depreciated.

Q. You maintain that stranded investment can only occur when a regulated market is deregulated. Ignoring for the moment the absence of a

deregulated retail electric market in Florida, does excess generation necessarily result in "something like" stranded investment?

A. No. As mentioned above, GRU is recovering and will continue to recover the costs associated with existing generating assets from retail ratepayers and wholesale power contracts even if these assets become less utilized due to the addition of GREC.

Furthermore, the second condition for stranded investment in the above definitions requires that the market value of the assets in question be reduced below the net book value to the point where the remaining costs associated with the assets are unrecoverable. If GRU can recover the costs associated with the remaining net book value of less utilized assets in the market, the potential for "something like" stranded investment is minimal.

Finally, many of GRU's existing assets that could become less utilized due to the addition of GREC are some of the oldest units in GRU's generating fleet. As a result, these assets have largely been depreciated over their useful life, thus minimizing the remaining net book value that needs to be recovered.

Q. How would GRU recover the costs of less utilized assets?

A. In accordance with good utility practice, GRU is active in the wholesale power market and is continuously seeking ways to optimize its generating assets and minimize costs to its ratepayers. When the market price for power is greater than GRU's incremental cost of generation, GRU will increase generation and

sell into the market, thereby realizing margins that flow to the benefit of the entire system. If the market price is less than GRU's incremental cost of generation, GRU will reduce its own generation and make market purchases, thereby reducing costs to the utility and its ratepayers. To summarize, if any of GRU's existing assets become less utilized because of the addition of GREC, GRU can market the output of those assets and recover the associated costs as long as the assets have market value.

Q. Has GRU estimated whether its existing assets would have market value with the addition of GREC to GRU's generation portfolio?

A. Yes. At GRU's request, The Energy Authority (TEA) performed an analysis of the market value of all of GRU's resources both with and without the addition of GREC from 2014 through 2024. The question that the TEA analysis is posed to answer is what is the market value of GRU's energy supply portfolio with the addition of GREC?

The model that TEA employed is a proprietary economic dispatch model of the entire FRCC and Southern Company grid that includes outage schedules, transmission constraints, and operating constraints. TEA set up the model using load forecasts obtained through U.S. Energy Information Administration (EIA) reports and the EIA's Annual Energy Outlook (AEO) 2010 natural gas price forecast adjusted for regional differences in delivery costs.

The region modeled represents the actual energy market within which GRU operates. The model simulates GRU's energy market purchases and sales by optimizing the dispatch of the entire region. If GRU's incremental cost of generation is less than the incremental cost of the highest cost unit needed to meet the load of the entire region, GRU will sell energy into the market and generation from the highest cost unit will be decreased. Conversely, if GRU's incremental cost of generation is higher than the incremental cost of the region, GRU will back off its own generation and buy from the market until incremental costs are equalized.

The entire region was modeled first without GREC and then with the full 100 MW of GREC added to GRU's supply resources. The difference between the two scenarios represents GRU's net revenues from off-system sales, and therefore the change in the market value of GRU's supply portfolio as a result of adding GREC. The net increase in the market value of GRU's supply portfolio from the addition of GREC is summarized in Table 1 below.

The addition of GREC to GRU's supply portfolio actually increases the net market value for off-system sales from GRU's assets by almost $270 million over the period from 2014 through 2024. If discounted to 2010 at 4.2 percent, this yields a net present value (NPV) benefit to GRU of $182 million.

Table 1	
Increase of Net Market Value of GRU's Supply Portfolio for Off-System Sales from 100 MW of GREC	
Year	**Net Revenues ($000)**
2014	$22,275
2015	$16,886
2016	$18,090
2017	$19,606
2018	$20,862
2019	$21,546
2020	$24,391
2021	$26,469
2022	$29,155
2023	$33,132
2024	$37,119
Total	$269,531

Q. How does this modeling exercise relate to the issue of stranded investment?

A. The analysis shows that with the addition of GREC, GRU's entire energy portfolio will have increased value in the market, and that adding GREC will actually increase GRU's ability to recover costs associated with the net book value of its existing assets. The existence of a competitive retail electric market where customers may choose alternative suppliers is one condition for potential stranded investment. However, in the absence of a competitive market, something similar to stranded investment is theoretically possible if the market

value of a utility's generating assets would not allow the utility to recover the costs associated with the net book value of those assets.

Q. Does this conclude your testimony?

A. Yes.

BY MR. WRIGHT:

Q. And, Mr. Bachmeier, you testified in the first phase of this hearing back in December, which leads to your having sponsored two exhibits in this supplemental hearing denominated RDB-4 and RDB-5; correct?

A. Yes.

Q. And those were prepared under your direction and supervision?

A. Yes.

MR. WRIGHT: Commissioner, I would note those have been marked for identification as Exhibits 54 and 55 in the composite exhibit list.

COMMISSIONER STEVENS: Okay.

MR. WRIGHT: Thank you. And I'll move them in at the appropriate time.

COMMISSIONER STEVENS: Yes, sir.

(Exhibits Number 54 and 55 were identified for the record.)

BY MR. WRIGHT:

Q. Mr. Bachmeier, would you please summarize your testimony?

A. Yes. Good afternoon, Commissioners, or good evening.

At the February 9th agenda conference, several Commissioners raised a number of questions regarding the

risk to GRU and its ratepayers of proceeding with this project. In particular, there were questions regarding the financial risk to GRU if the project were not completed, did not become operational, or could not operate in the future due to a lack of fuel supply or other reasons.

The purpose of my supplemental testimony in this proceeding is to address some of the areas of financial risk that GRU's ratepayers may be exposed from the addition of the biomass facility. The group of risks that I address in my testimony may be referred to as potential stranded investment. This includes, for example, the risk that a utility might not recover its investment in a proposed facility, as well as the risk that the addition of a new power generation facility may significantly reduce the market value of the utility's existing assets to the point where the costs associated with these assets are unrecoverable.

In my testimony, I conclude that there's no risk of anything like stranded investment occurring from the addition of the proposed biomass facility for three reasons:

First, since GRU is not building this facility, but rather is contracting to purchase the power from the facility once it is operational, it will

not invest any of its own capital. The risks associated with the development, construction, and operation of the project are borne by the developer and owner of the project, American Renewables. This situation is not like a self-build scenario where the utility and hence its ratepayers would take on significant financial risk in advance of the project ever being operational.

Second, the assets that would likely become less utilized because of the addition of the GREC facility are GRU's oldest and are already fully depreciated. There simply is no remaining book value to recover.

Third, in an effort to clarify this situation, GRU requested that The Energy Authority perform an economic dispatch analysis of the potential market value of all of GRU's resources, both with and without the addition of the biomass project, from 2014 to 2024. The region modeled included the entire FRCC and Southern Company grid, which represents the actual market within which GRU operates. The result of The Energy Authority study is that the addition of the biomass project to GRU's system portfolio increases the potential net market value for off-system sales from GRU's assets by as much as 270 million over the study period.

In sum, I conclude that there is minimal

financial risk to GRU and its ratepayers because, one, GRU is not investing its own capital in the facility. The construction and operational risks are borne by the developer, not GRU. And second, the recent analysis, The Energy Authority analysis, indicates that adding the proposed facility will actually increase the value of GRU's system portfolio.

This concludes my summary, and I look forward to any questions you may have.

COMMISSIONER STEVENS: Thank you, Mr. Bachmeier.

MR. WRIGHT: Mr. Bachmeier is available for cross-examination, Commissioner. Thank you.

COMMISSIONER STEVENS: Thank you. Ms. Stahmer.

MS. STAHMER: Thank you, Commissioner.

COMMISSIONER STEVENS: Yes, ma'am.

CROSS-EXAMINATION

BY MS. STAHMER:

Q. Mr. Bachmeier, you stated that you think the risk is minimal to the utilities -- to the utility and to the ratepayers because American Renewables or its successor will bear the burden of the costs of constructing the facility, and it won't be until it goes online that there will be any obligation. Now, I'm

adding, I'm inferring from what you said, so if I'm mistaken, correct me. There won't be any obligation to pay until the facility goes online; is that correct?

A. That's correct.

Q. At that point, won't there be a significant financial obligation on the part of the utility and the ratepayers?

A. There will not be an obligation to purchase any output of the facility if the facility is not available to produce power. If the facility is available to produce power, GRU does have some leeway with regard to dispatch, but will still be responsible for the fixed costs associated with the potential output, only if the facility is available to fully produce power.

Q. Suppose the fuel source, the woody biomass fuel source becomes so expensive that the ratepayers or other potential parties or purchasers balk at paying for such energy. What happens then, assuming the facility is able to generate power?

A. There are contractual -- for one, there's a contractual --

Q. Obligation?

A. -- method by which GRU could overtake -- take over fuel procurement for the facility. That's, of

course, a drastic measure.

Q. But is there any reason, if American Renewables or its successor, GREC, is having difficulty purchasing woody biomass at a price that is affordable -- however, let's leave very ambiguous right now what "affordable" means -- but it's available as a fuel source, why would GRU be in a better position to purchase such fuel at a cheaper price than would GREC?

A. That would be an extreme hypothetical, of course. That is not something we envision.

Q. So who's on the hook if the facility is operable, but the fuel source causes the price of the power that one would purchase to be regarded as prohibitive? And let's say ratepayers like me in Gainesville balk. Am I still on the hook?

A. I would like to -- that is a contractual issue that I simply don't have an answer for right now.

Q. You're unaware, or are you aware of the contractual provision whereby GRU has promised to purchase 90 percent of the power, which it may then resell? It can do so under the terms, but --

A. We do not --

Q. -- isn't that its commitment?

A. We do not envision the price of fuel -- we have done our -- we have the studies that show that the

fuel is available at a reasonable cost.

Q. Currently, but suppose it isn't?

A. That's a hypothetical I don't think I can address.

Q. But under the terms of the contract, aren't the ratepayers of Gainesville the ones who ultimately nevertheless have to pay or swallow some loss, since GRU will have made a commitment to purchase most of the energy output? Whether it's only able to produce it at 50 percent or 100 percent, hasn't GRU contracted to purpose most of it?

MR. WRIGHT: Commissioner.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: This is not an objection. In an effort to move things along, I do believe Mr. Regan is better versed in the contract provisions relative to Ms. Stahmer's line of questioning, and he would be happy to answer those questions. He has testified --

COMMISSIONER STEVENS: Ms. Stahmer, can we --

MR. WRIGHT: -- about risk mitigation, et cetera.

COMMISSIONER STEVENS: Can we ask those questions of Mr. Regan?

MS. STAHMER: Yes, we can. Thank you.

COMMISSIONER STEVENS: Thank you. Thank you,

Mr. Wright.

Ms. Deevey?

MS. DEEVEY: Yes, I have one question.

COMMISSIONER STEVENS: Yes, ma'am.

MS. DEEVEY: Well, two or three, maybe, in connection with the same subject.

CROSS-EXAMINATION

BY MS. DEEVEY:

Q. Mr. Bachmeier, the study that you referred to -- and there's a table on page 9 of your testimony -- I gather is a list of the net revenues that the utility will obtain if it has GREC and can therefore use other of its generating units to produce energy to sell into the market. Is that correct?

A. That's correct.

Q. Okay. If it does that, then what is the impact on the CO_2 production by the utility?

A. This study was only a demonstration of the potential of GRU's system portfolio in the market due to the addition of a low cost, low dispatch cost resource. It does not in any represent -- it does not represent GRU's commitment or plan. It is the potential increase in value to our system portfolio.

Q. Yes. But again, if the value is to be realized, doesn't that mean that you have to generate

electricity and sell it? And my understanding was that you're not going to be selling the GREC electricity. You're going to be selling electricity produced by your other generators and can do that for resale, energy that you would, without GREC, be using for your own retail customers. Am I confused about that? I'm sorry.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: Commissioner, I think the only problem there is that there were about three questions there, and I think if Ms. Deevey would ask them one at a time, I think Mr. Bachmeier could handle it.

COMMISSIONER STEVENS: Ms. Deevey, can we do one at a time, please?

MS. DEEVEY: Yes, I'll try.

COMMISSIONER STEVENS: Thank you.

BY MS. DEEVEY:

Q. I understand that this table lists the net revenues that could be obtained by GRU from selling energy produced by its generational assets. Is that correct?

A. This is the potential net revenue GRU could realize from its system portfolio due to the addition of a low dispatch cost resource such as the biomass facility.

Q. I'm afraid I don't -- all right. Could it

achieve these revenues if it did not add GREC to its generational fleet or did not use energy from GREC?

A. No. This is -- these are the net revenues, the difference in net revenues due to the addition of the GREC facility. You look at the system without the facility and then with the facility. There would be no delta if you're only looking at the system without the facility.

Q. Okay. So does that mean that the utility will be generating and selling either to its own retail customers or to off-system customers more energy than it would be generating and selling if it did not purchase GREC?

A. Could you repeat the question? I don't quite understand it.

Q. Let me try to reframe this. There are potential net revenues from sales, and I believe you have said that those sales and that potential net revenue depend upon GRU's obtaining power from GREC; is that correct?

A. The net revenues in this table, yes, are dependent upon dispatching 100 megawatts, in the worst case scenario, of GREC into our system if we didn't have a 50-megawatt out-taker, yes.

Q. Yes. Does that mean that you will be

generating electricity from other generators that you already own now, such as the combined cycle unit or your combustion turbine 3 at Deerhaven, or Deerhaven 2, or Deerhaven 1, that you would be generating electricity from those -- with those units and selling it into the market?

A. Most likely, yes. We do that on a daily and hourly basis currently. That's good utility practice, to look at the market. If you can generate electricity at a cost less than the market price, you'll sell into the market and realize those net revenues.

Q. Yes. But again, I believe that the force of this table is that you will actually be making more money under these circumstances because you will be generating more electricity and selling it.

A. This shows the potential for that --

Q. That's right.

A. -- to happen.

Q. And so back to my original question. Would this not result in your producing more carbon dioxide than without GREC and without these sales?

A. If we chose to go that route, that's possible. This represents that potential. That's a decision, a policy decision we would make at the time.

MS. DEEVEY: Thank you. That's the end of my

questions.

COMMISSIONER STEVENS: Thank you, Ms. Deevy.

Mr. Sayler.

MS. BROWN: I have just one simple question for Mr. Bachmeier.

COMMISSIONER STEVENS: Ms. Brown.

CROSS-EXAMINATION

BY MS. BROWN:

Q. Good evening, Mr. Bachmeier.

A. Good evening.

Q. I want to clarify the use of the term "stranded assets."

A. Yes.

Q. Would you agree that when that term was discussed during the February 9, 2010, agenda conference, it was being used as a reference to some of GRU's existing units remaining idle when they could be used for wholesale energy sales?

A. I was not here for the agenda conference on February 9th. Given -- if that is the context, I would accept that.

Q. So really, what we're talking about here is idle assets as opposed to stranded assets; correct?

A. That's -- yes.

MS. BROWN: That's all we have.

COMMISSIONER STEVENS: Thank you, Ms. Brown.

Commissioners, any questions? Commissioner Skop.

COMMISSIONER SKOP: Thank you. I just want to jump in and clarify the last statement by staff with respect to stranded or idle assets. If you've made an investment for the sake of making an investment and that asset becomes idle before the end of its economic useful life, you are in fact stranding an asset, so . . .

COMMISSIONER STEVENS: Thank you, Commissioner.

Commissioners, anything else?

Mr. Wright.

MR. WRIGHT: Thank you, Commissioner. Just a few.

COMMISSIONER STEVENS: Yes, sir.

REDIRECT EXAMINATION

BY MR. WRIGHT:

Q. Mr. Bachmeier, my first question, or possibly two, follows along the cross-examination by Ms. Deevey in which you were talking with her about scenarios in which GRU would be selling capacity off-system.

A. Yes.

Q. If that were to happen, would you be selling to another utility?

A. Yes.

Q. And what would that utility be doing in terms of its output when it was buying from you?

A. Well, they would obviously be backing down on their own generation because they're finding that the generation they're buying from GRU would be more economical.

Q. And so would that utility's carbon dioxide emissions back off by an amount proportional to the generation it backed off?

A. Probably even more so, because they're probably backing down a less efficient unit than the one we're selling.

Q. In your opinion -- you were asked some questions about the risk associated with possible increases or run-ups in the price of biomass fuel.

A. Yes.

Q. In your opinion, is the risk of the price of biomass fuel costs increasing any different than the risk of fossil prices, such as the coal or natural gas that GRU presently uses, increasing?

A. In my opinion, it's much less volatile, much less risky, especially for natural gas. Coal, in the face of possible carbon regulation, is probably a very risky fuel.

Q. If we were hypothetically to observe a scenario in which the price of biomass increased significantly, would you have an opinion as to what would likely be going on with the price of fossil fuels at the same time?

A. They would likely be rising together.

Q. If the price of biomass were to increase to a very high level, does Gainesville Regional Utilities have any ability to dispatch the Gainesville Renewable Energy Center?

A. Yes. GRU would have the ability to take the dispatch down to 70 percent.

Q. Does it have the ability to dispatch it at any lower level?

A. I believe in very limited circumstances to 50 percent.

Q. Can GRU dispatch it off?

A. Yes.

MR. WRIGHT: Thank you, Commissioner. That's all I had.

COMMISSIONER STEVENS: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just one follow-up question. On redirect, Mr. Wright posed the hypothetical to you about another utility purchasing power from GRU to the extent that it was more

economical to purchase power than to dispatch one of their generating units. That assumes that they're not at peak load and it's just an order of dispatch.

But if you had a situation where you had another utility at peak demand having to purchase power on the spot market to meet their load, they wouldn't have that luxury, would they?

THE WITNESS: If they're not making it as an economic decision to back off their unit, they're going out on the market to buy power they don't have at peak load, no, they're not backing down their own generation.

COMMISSIONER SKOP: So they could --

THE WITNESS: But they've also blown through their reserve margin more than likely.

COMMISSIONER SKOP: I understand. But what I'm saying is, you know, the way the hypothetical was framed was one-sided, assuming that they were going to buy it from you and, you know, back down their own generating assets. If they're looking to make a spot market purchase, which is on the exchange, or the interchange, or whatever it's called there, and it's not a wholesale purchase, it's a spot market purchase, and they're buying power, it's obviously in peak conditions. If they've exceeded their generation margin, because they need power, they wouldn't backing anything down,

obviously.

THE WITNESS: Yes, that's true. But it's my experience that most of those economy sales take place because it's a comparison between their own generation and a market price.

COMMISSIONER SKOP: Right. But with large -- I guess it was discussed in the EPAC study. Had GRU added another large base load generating unit, or in this case, a biomass unit, you're going to have a lot of base load, and you're going to be able to sell it, just as GRU or GREC is selling half the net output of this new biomass unit in the near term because it would have excess generation otherwise; is that correct?

THE WITNESS: That's typical of adding most any base load resource. By necessity, they're large, quite lumpy, and you typically have to sell some of that capacity in the early years and grow into it.

COMMISSIONER SKOP: Thank you.

COMMISSIONER STEVENS: Commissioners, any other questions?

Thank you, Mr. Bachmeier. Hold on just a second.

Mr. Wright, do we have exhibits to admit?

MR. WRIGHT: Yes, sir. I believe it's 54 and 55.

COMMISSIONER STEVENS: So moved.

(Exhibits Number 54 and 55 were admitted into the record.)

COMMISSIONER STEVENS: Thank you. Thank, Mr. Bachmeier. Thank you for being here.

Mr. Wright, next witness.

MR. WRIGHT: Mr. Edward J. Regan.

COMMISSIONER STEVENS: Mr. Regan, you were sworn in?

THE WITNESS: Yes, sir.

MR. WRIGHT: I think we have one variation on a theme that we'll come to in just a minute here.

COMMISSIONER STEVENS: Okay.

Thereupon,

EDWARD J. REGAN

was called as a witness on behalf of GRU and GREC and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q. Mr. Regan, you just confirmed you've been sworn?

A. Yes, sir.

Q. And did you prepare and cause to filed in this proceeding prefiled supplemental direct testimony

consisting of 40 pages?

A. Yes, I did.

MR. WRIGHT: Here comes the variation, Commissioners. Mr. Regan had a number of errata that we have corrected. There was a table and then -- actually, a couple of tables in his exhibits that were corrected, as well as numerous references.

They came about on this wise: When he was doing some present valuing following the staff's directions to use the 2010 price forecast from the Annual Energy Outlook, Mr. Regan did those analyses, but then he inadvertently or unintentionally present valued numbers in his testimony to 2010. Subsequently, we ascertained through conversation with staff that they really wanted 2009. That was the vast majority of the errata that we have filed.

COMMISSIONER STEVENS: Okay.

MR. WRIGHT: I believe that Mr. Regan has subsequent to filing the errata found, like, two more corrections.

COMMISSIONER STEVENS: Okay.

MR. WRIGHT: If he could go through those on a page and line number, that would be great.

COMMISSIONER STEVENS: Yes, sir.

MR. WRIGHT: Thank you.

COMMISSIONER STEVENS: Thank you.

THE WITNESS: On page 26, line 11, "36 percent to 25 is the phrase." It should be changed to "24 percent to 16."

On page 26, lines 11 and 12, the phrase "115 percent to 80.6 percent" should be changed to "77 percent to 52 percent."

COMMISSIONER STEVENS: Is everybody getting that? Okay.

BY MR. WRIGHT:

Q. And with those changes, those final corrections, Mr. Regan, do you adopt this as your sworn testimony to the Florida Public Service Commission in this proceeding?

A. Yes, I do.

Q. Thank you. Did you also prepare and cause to be filed concomitantly with your supplemental testimony Exhibits Number EJR-4 through EJR-10?

A. Yes, I did.

Q. They followed the numbering from your previous testimony.

A. Right.

MR. WRIGHT: For purposes of identification, Commissioner Stevens, I would note those have been marked as Exhibits 56 through 62 on the staff's

Composite Exhibit List.

COMMISSIONER STEVENS: Okay. Thank you.

(Exhibits Number 56 through 68 were identified for the record.)

MR. WRIGHT: If there were no objection, I would respectfully ask that Mr. Regan's prefiled supplemental testimony be entered into the record as though read, with the corrections he just made.

COMMISSIONER STEVENS: It's entered.

MR. WRIGHT: Thank you, sir.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

SUPPLEMENTAL TESTIMONY OF EDWARD J. REGAN

ON BEHALF OF

GAINESVILLE REGIONAL UTILITIES AND

GAINESVILLE RENEWABLE ENERGY CENTER, LLC

DOCKET NO. 090451-EM

MARCH 15, 2010

Q. Please state your name and business address.

A. My name is Ed Regan. My business address is 301 SE 4th Avenue, Gainesville, FL 32601.

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

A. I am employed by Gainesville Regional Utilities (GRU) as Assistant General Manager for Strategic Planning.

Q. Have you testified previously in this proceeding?

A. Yes I have.

Q. What is the purpose of your supplemental testimony?

A. The purpose of my testimony is to demonstrate that:

- GREC is the least cost alternative for meeting the Gainesville City Commission's policy objectives while improving GRU's

electric system reliability and integrity while also mitigating the cost of increasing fossil fuel prices and volatility;

- GREC's risk adjusted benefits exceed costs by more than 10 to 1 under a mid-range probabilistic cost analysis, and benefits exceed costs by a ratio of more than 2 to 1 in an extremely biased worst case probabilistic analysis;
- The power purchase agreement between GRU and GREC LLC (PPA) is structured to provide as much as $84 million (net present value in 2009 dollars) of benefits for GRU's customers in the form of protection from: construction cost over-runs; financing interest rate increases; long term operation and maintenance escalation; unexpected equipment failure and damage; loss of unit efficiency; and failure to perform;
- GRU has a number of mechanisms to manage ongoing risks such as the ability to: resell a portion of GREC's output at no less than a fair market price; financially hedge against diesel and labor costs in GREC's fuel contracts; and apply financial tools such as prepayment contracts; and
- GREC meets the requirements for a Determination of Need pursuant to Section 403.519, Florida Statutes.

Q. Have you provided any exhibits to your supplemental testimony?

A. Yes. My exhibits include the following:

Exhibit No. ____ [EJR-4]	Financial Costs Associated With Policy Objectives, Environmental Regulations, Fuel Price Volatility and Adding New Generation Capacity;
Exhibit No. ____ [EJR-5]	Biased Expected Value Risk Analysis for GREC;
Exhibit No. ____ [EJR-6]	Gas Price Forecasts are Unstable;
Exhibit No. ____ [EJR-7]	Mid-Range Expected Value Risk Analysis for GREC;
Exhibit No. ____ [EJR-8]	Black & Veatch, Biomass Sizing Study, January 2007;
Exhibit No. ____ [EJR-9]	FMPA, Letter to Florida Public Service Commission, February 24, 2010; and
Exhibit No. ____ [EJR-10]	OUC Letter to GRU General Manager, March 8, 2010.

GREC Risks and Risk Mitigation

Q. During the February 9, 2010 Agenda Conference, Chairman Argenziano and Commissioner Skop both expressed concern that the GREC project is risky, primarily based on a scenario for which a potential ratepayer cost of $100 million dollars (net present value) was identified by staff [TR P6, L4; P29, L7; P37, L4]. What is GRU's assessment of the risks that the project is designed to mitigate?

A. There are no economic disadvantages to GREC if the benefits in terms of jobs and the $588 million (net present value in 2009 dollars) of increased regional income as testified to by Mayor Hanrahan are included in the calculations. Even if these benefits are excluded, the biggest risk for GRU ratepayers is to not proceed with the project. GREC is not only the most cost-effective alternative for GRU to obtain the renewable energy needed to meet the City's environmental policy objectives, but it also provides substantial protection against the following risk factors:

- Fuel supply, price volatility and cost;
- Reliability and production cost issues associated with an aging generation fleet;
- Ownership cost over-runs associated with adding new capacity;
- Potential reductions in unit efficiency through time;
- Unplanned outages;
- Renewable portfolio standard (RPS) requirements; and
- Carbon regulation.

Q. Has GRU performed an assessment to address risks?

A. Yes. Two probabilistic risk analyses have been prepared in the form of "Expected Value" analyses. I deliberately biased the first analysis presented against the GREC project; this worst-case analysis indicates a benefit to cost ratio of greater than 2 to 1. In fact, the model used for the risk analysis can be exercised to demonstrate that all three of the following probabilities would have

to be assumed to result in the GREC project's benefits being less than its costs (or, more technically, its benefit to cost ratio being less than 1):

- Carbon legislation – zero probability;
- RPS – zero probability; and
- Gas and coal prices exceed current forecasts – zero probability.

GRU believes that these hypothetical probabilities are not reasonable, for reasons that will be discussed.

The second analysis employs mid-range probabilities and found that the benefits of GREC exceeded the potential costs of GREC by a ratio of greater than 10 to 1.

Q. Please discuss how the Expected Value analysis was performed.

A. The first step in the Expected Value analysis was to quantify the potential financial costs of each risk factor.

The second step was to quantify the effect that the decision to proceed with GREC with commercial operation by the end of 2013 will have on each risk factor. The resulting cost and benefits (reductions in potential risks) are shown in Exhibit No. __ [EJR-4].

The third step was to assign a probability to the likelihood of each outcome. The probability was then multiplied by the value of the outcome to obtain the

"risk adjusted" value for each outcome as shown in Exhibit No. __ [EJR-5], and Exhibit No. __ [EJR-7].

The fourth and final step was to sum the risk adjusted values to obtain the overall Expected Value of the decision under analysis, in this case the decision to construct GREC.

Q. Why are the costs of meeting the City of Gainesville's Kyoto Protocol objectives as well as U.S. Environmental Protection Agency (EPA) Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR) objectives included in Exhibit No. __ [EJR-4]?

A. These costs are included in the table to illustrate how much more expensive it would be to meet the City's Kyoto Protocol policy objectives without GREC and to demonstrate that regulatory changes and the risks associated with them are a normal part of GRU's business. They were not included in the Expected Value analysis. Since biomass power is the lowest cost form of renewable energy available to the City, failure to obtain a Determination of Need for GREC would result in substantial additional costs to GRU's customers if the City is to meet its environmental policy goals.

Q. What was the result of the biased Expected Value analysis performed?

A. As shown in Exhibit No. __ [EJR-5], the biased analysis results in a benefit to cost ratio of 2.2 to 1 for GREC with a risk adjusted benefit of $69.3 million (net

present value in 2009 dollars), excluding any of the benefits from economic development.

Q. Please discuss the probabilities, biased against the GREC project, that were assigned by GRU in the Expected Value analysis in Exhibit No. __ [EJR-5].

A. I have assigned a probability of 100 percent to not being able to resell power at contract price and only being able to resell it at market prices as a concession to facilitate discussion.

I have also assigned a very low probability (10 percent) that some form of carbon regulation will be enacted. I viewed this as an unrealistically low assessment given that the EPA has already made an endangerment finding and has issued a notice of proposed rulemaking.

I have assigned a low (20 percent) probability to the enactment of an RPS. I believe 20 percent is unrealistically low given that: (1) 35 states have already adopted either a renewable portfolio standard (RPS) or renewable energy goals; (2) legislation is currently proposed to this effect both nationally and for Florida; (3) there is still an outstanding Executive Order for an RPS in Florida; and (4) the most recent report from the Florida Department of Agriculture and Consumer Affairs finds an RPS of 7 percent to be in fact beneficial to Florida's economy as discussed by witness Schroeder (Exhibit No. ___RMS-9]).

Exhibit No. __ [EJR-6] compares average annual wellhead prices for natural gas at Henry Hub from 1997 through 2009 with US Energy Information Administration's Annual Energy Outlook commodity price forecasts for the last seven years. The prices have quadrupled over this period with marked increases in volatility, then collapsed with the overall economic recession. Given that the current commodity fuel prices are the lowest in seven years, and 64 percent of the historical forecast years shown were below the actual natural gas price it is very likely that fuel prices will increase by at least 10 percent. I assigned a low probability of only 1 in 3 chances for this occurring (33 percent) to these factors.

The remaining factor considered in the Expected Value analysis is ownership risk. The design of the PPA between GRU and GREC LLC has a number of key features that eliminate most of the following risks:

- Inability to economically dispatch (dispatch costs are less than coal);
- Efficiency degradation (a guaranteed heat rate);
- Planned, unplanned, and forced outages (no energy equals no payments by GRU);
- Construction cost over-runs (30 year fixed price);
- Operation and Maintenance cost over-runs and escalation (30 year fixed price);
- Equipment renewal, replacement and repair (30 year fixed price);
- Financing costs (30 year fixed costs); and

- Carbon and RPS regulation (GRU owns all environmental attributes produced by GREC).

The estimated benefits of the structure of the GREC LLC PPA are conservative in that the analysis did not consider the heat rate guarantee, or liquidated damages for failure to perform. Only reduced risks related to potential construction, operating and maintenance (O&M), and financing cost over-runs were included in the analysis. The probability I assigned to the sum of these PPA benefits is half of what I otherwise would consider realistic.

Q. What were the results of the Expected Value analysis performed using mid-range probabilities?

A. As shown in Exhibit No. __ [EJR-7], the Expected Value analysis performed to represent a mid-range estimate of probabilities resulted in a benefit to cost ratio for GREC greater than 10 to 1, with an expected value of $279 million (net present value in 2009 dollars). This analysis excluded any of the benefits from economic development.

Q. Please briefly discuss the conclusions that you've drawn from the Expected Value analysis.

A. In addition to being the least cost way for GRU to meet the City's environmental objectives while improving system reliability, GREC has substantial hedge value. The results of the Expected Value analysis that used probabilities very biased against GREC, indicate that it is hedge with a benefit to cost ratio

exceeding 2 to 1 with an expected value of $69.3 million (net present value in 2009 dollars). Using mid-range probabilities, GREC has a benefit to cost ratio of greater than 10 to 1 with an expected value of $279 million (net present value in 2009 dollars). The value at risk (approximately $56 million, on a net present value basis discounted to 2009) is quite small when compared to: a) GRU's alternatives to obtain renewable energy; b) the investment in environmental quality already made by the City; and c) the dramatically greater potential benefits of proceeding with GREC.

The substantial benefits of increased employment and investment in the local community associated with GREC (over $588 million net present value in 2009 dollars, as discussed in Exhibit No. __ [PH-2] of the supplemental testimony of Mayor Hanrahan) have not been addressed in the Expected Value analysis and add further weight to the City's conclusions that proceeding with GREC is in the best interest of GRU and our customers, and that not proceeding with GREC is a bad option.

Q. Please explain why the estimate of $100 million (net present value) downside risk mentioned during the February 9, 2010 Agenda Conference differs from the estimate of $56 million (net present value) previously discussed employed in the Expected Value analysis.

A. Public Service Commission Staff had requested that GRU model a scenario where the capacity, energy, and environmental attributes of GREC had zero

resale value. Notwithstanding GRU's and GREC's belief that such a scenario was highly improbable, the study was performed as requested by PSC Staff, and resulted in a cost of $100 million (net present value, in 2009 dollars). GRU has since modeled the scenario with more realistic assumptions that, at a minimum, the capacity and energy of the unit had market resale value even if no additional value was extracted from other GRU generating units. This corrected analysis resulted in the $56 million (net present value, in 2009 dollars) value employed in the Expected Value analysis. The resale value of GREC's output was modeled as the same terms and conditions as the existing firm baseload PPA between GRU and Progress Energy Florida ("PEF") (which is similar to the PPA between Seminole Electric Cooperative and PEF), with no premium for GREC's environmental attributes. This contract has a demand charge and an energy cost as the average of designated PEF baseload units, which is effectively a contract sale indexed to a basket of fuel costs (45 percent natural gas, 35 percent coal, 20 percent nuclear).

Exhibit No. __ [EJR-9] and Exhibit No. __ [EJR-10] from the Florida Municipal Power Agency and the Orlando Utilities Commission affirm their interest and support for the GREC project.

Q. Does the estimated cost of $56 million (net present value in 2010 dollars) capture all of the benefits of GREC in the Florida wholesale power market?

A. No. The form of the analysis used to obtain this value does not include the value to be extracted from GRU's generation capacity that GREC will make available. Due to its low incremental cost, GREC will economically dispatch before all of GRU's units except for the 11 MW share of nuclear generation. Accordingly some of GRU's other generating units would become available for off-system sales. The analysis used to develop the $56 million (net present value in 2009 dollars) cost did not include any consideration of this value. As a result, this scenario greatly penalized GREC's potential economic benefits as well.

The supplemental testimony of witness Bachmeier includes the results of a power market study performed by The Energy Authority (TEA) (Exhibit No. __ [RDB-5]) that specifically addresses the value that GREC could add to GRU from off-system sales. As testified by witness Bachmeier, TEA's modeling resulted in a net benefit to GRU of $168 million (net present value in 2009 dollars) from off-system sales made possible by adding 100 MW of biomass to GRU's fleet. Applying one half of these results instead of the market proxy modeled as PEF's contract structure reduces the cost of $56 million (net present value in 2009 dollars) discussed above by $12 million (net present value in 2009 dollars) to a lower value of $44 million (net present value in 2009 dollars).

The modeling performed by TEA involves large quantities of data processed by a proprietary software system and the results are only presented here as evidence

that the cost of $56 million (net present value in 2009 dollars) is potentially overestimated.

Cost-Effectiveness Considerations for Municipal Utilities

Q. During the February 9, 2010 Agenda Conference, Commissioner Edgar asked how cost-effectiveness considerations might be different for a municipal utility than for an investor-owned utility. [TR P13, L19] Are there differences that should be considered?

A. Yes. The differences, summarized below, are significant enough to lead to different conclusions based on the same data.

Cost – Effectiveness Differences Between
Investor-Owned Utilities and GRU

Perspective/Interest	Investor-Owned Utility	GRU
Fiduciary responsibility	Shareholders & banks	Customers & bond holders
Environmental externalities	No valuation	Value expressed by public
Public welfare	Electrical safety and reliability	Electrical safety and reliability, as well as public health, safety, and welfare
Consumer protection	External agency required	Elected board of directors

Q. How can different conclusions based on the same data be drawn?

A. As an example, consider that the tangible property taxes that will be paid by GREC to the City of Gainesville and Alachua County over the next 30 years are estimated to be $7.2 million per year with a net present value of approximately $99 million (2009 dollars). Although these are revenues extracted from GRU's customers, they are returned to the community to pay for schools, libraries, police, fire protection, emergency medical transportation, roads, and other

municipal and county services. Without this revenue, local taxes would have to be raised to provide the level of service thus afforded. In the Public Service Commission's evaluation of GREC, this $99 million (net present value) is treated as a cost. From the perspective of the taxpayers of Alachua County, this is seen as a "wash," since without these taxes from GREC, other tax revenues would have to be increased to provide the same level of service. If this $99 million (net present value) were treated in a similar manner by the Public Service Commission, there would not be a single scenario with a negative outcome that would outweigh this benefit.

Q. Commissioner Skop expressed his concern that the project has open risks that have not been fully mitigated. [TR P37, L10-12] Does GRU have any additional policies or resources to mitigate risks that you have not yet discussed?

A. Yes. GRU staff has developed a number of policies and has identified techniques to mitigate risks that I have not addressed yet. These are summarized as follows:

- The amount of the electric system general fund transfer has been decoupled from GRU's operating revenue requirements, which include GREC payments.
- GRU has reviewed the project in detail with Moody's Investment Services and Standard and Poor's bond rating agencies, who have concurred that the GREC LLC PPA does not constitute a capital

obligation that would trigger additional debt service reserves or bond coverage requirements.

- GRU has met with a number of major investment banking firms who are familiar with, and have engaged in, third party prepayment financial structures pursuant to the federal safe harbor provisions for such practices for municipal natural gas and electric power prepayment, and GRU has made certain that the PPA with GREC LLC would allow such provisions. A reasonable estimate of the potential savings from such a structure is roughly 10 percent. No such structure will be contemplated until after the plant commences operation.
- Experience has shown that the fuel contracts will likely be indexed against diesel fuel and labor costs. Diesel fuel costs are readily hedged with over the counter commodity contracts, and GRU will investigate ways to hedge against labor cost as well.
- Failure to obtain sufficient fuel would render the facility unavailable. Pursuant to the terms and conditions of PPA between GRU and GREC LLC, under this circumstance, GRU will have no financial liabilities and the clock on liquidated damages for GREC LLC would begin. Furthermore, under Section 3.4.2 of the PPA with GREC LLC, GRU will have the ability to adjust its obligations to reimburse GREC LLC for ad valorem taxes on a pro-rata basis if the unit is unavailable for a

protracted period. Finally, under Section 4.1 of the PPA with GREC LLC, GRU could take over fuel acquisition.

- Section 4.7 of the PPA with GREC LLC provides that GRU can continuously monitor fuel costs and ensure that the gain/loss sharing provisions of the PPA are correctly applied. Given the anticipated portfolio of fuel contracts, the scenario presented would only apply to a small portion of the fuel supply. GRU will have the ability to evaluate the effect of this tranche of energy on its overall cost. If this tranche would place some of the output from GREC at an untenable price, GRU has the option to request that the purchase not be made in exchange for dispatching the unit at a slightly lower capacity factor or to obtain its own additional fuel supply. For example, if 90 percent of the fuel is purchased at an economic price, and the next increment of fuel cost is uneconomic, GRU can choose to have GREC LLC not purchase the uneconomic fuel and dispatch GREC at a slightly lower capacity factor.
- GRU is a member of The Energy Authority (TEA). TEA is a power marketing group managing all of GRU's generation assets in excess of requirements to meet native load on a real time basis and represents GRU in the hourly Florida Cost Based Broker System. TEA is managing over 25,000 MW nationwide, and has a significant market presence. This market presence helps GRU

achieve the lowest possible power cost for its native load, and also helps GRU extract the highest possible value from all its generation assets. Thus, to the extent that GRU has surplus generation assets after adding GREC to its generating fleet, TEA will manage all of GRU's assets so as to maximize value to GRU and minimize GRU's customers' rates. Additionally, in the unlikely event that GRU does not contract with other Florida utilities (such as OUC, FMPA, Lakeland, and Reedy Creek) for the sale of 50 MW of GREC's capacity and energy, GRU expects that it will be able to mitigate rate impacts by asking TEA to market the capacity, energy, renewable attributes, and carbon regulation values of GREC.

Q. Commissioner Skop expressed concern whether GRU fully appreciated the risks to the ratepayers. [TR P46, L19-24] How would you address Commissioner Skop's concerns, and why have biomass fuel supply contracts and power purchase agreements for excess capacity not been executed as of this date?

A. The Expected Value analysis discussed previously clearly illustrates the care and thought that went into managing the risks of GREC, especially through the terms and conditions of the PPA. As discussed in witness Schroeder's testimony, executing fuel contracts prior to regulatory approval would result in a higher cost for the fuel, as the commitment by the suppliers would reduce their

options should other purchasers enter the market whereas the certainty of the project is unknown. Negotiating the terms and conditions for off-system wholesale power sales prior to having received all regulatory approvals has the same consideration, compounded by the uncertainty of fuel contract prices and indexing terms and conditions. Knowing that GREC LLC will have to secure its fuel supply prior to obtaining financing, in the interest of obtaining the best PPA terms and conditions for GRU's customers, GRU has decided to not execute these wholesale contracts prior to having regulatory approvals and fuel contracts. Exhibit No. __ [EJR-9] and Exhibit No. __ [EJR-10], which are letters of support for the GREC project from the Florida Municipal Power Agency (FMPA) and the Orlando Utilities Commission (OUC), demonstrate their continuing interest in and support for the project.

Optimal Size and Timing of GREC

Q. **During the February 9, 2010 Agenda Conference, Commissioners Edgar [TR P17, L5], Klement [TR P64, L20], and Skop [TR P35, L9] each questioned the decision to make GREC a 100 MW net unit, whether a phased implementation of two smaller units would be cost effective, whether the possibility of installing a unit of less than 75 MW had been considered, and if the alternative of re-powering Deerhaven 1 with a biomass boiler had been considered. Please address these questions for the Commissioners.**

A. GRU decided to pursue the GREC based on engineering analyses and an evaluation of the alternatives proposed through its competitive solicitation process. GRU never contemplated sizing a facility to circumvent the Public Service Commission's Determination of Need process or the Florida Department of Environmental Protection's Site Certification process.

GRU has had two studies performed that address the economies of scale inherent in power generation facilities. The first study, performed by ICF Consulting in March 2006 entitled "City of Gainesville Electrical Supply Needs" (included as Exhibit No. __ [RMS-4] to the supplemental testimony of witness Schroeder) compared the cost of various generating units using various fuels for the size range of 75 MW to 800 MW. The second study, performed by Black & Veatch in January of 2007 entitled "Biomass Sizing Study" (Exhibit No. __ [EJR-8]), explicitly compared a number of biomass technologies for 50 MW and 100 MW units. Both studies demonstrated substantial economies of scale for larger units (in other words, the cost per unit output decreased with the increase in size of the unit). The results from the Black & Veatch study are directly applicable to the GREC technology and are summarized below. These economies of scale accrue from the improved surface to volume ratio of the boiler and turbine components, and the cost of controls and equipment. Other benefits accrue from the savings in plant operation personnel and improved heat rates. Characterization of the GREC site's high water conditions, foundation conditions, configuration of access roads, and redundant fuel handling systems

indicate that the economies of scale associated with GREC are more pronounced than summarized in the table below.

Comparison of the Economies of Scale Between 50 MW and 100 MW Bubbling Fluidized Bed Biomass Generation Systems

Item	Cost Comparison
Capital Cost per Kilowatt	-15%
Fixed Non-Fuel O&M	-40%
Variable Non-Fuel O&M	-24%
Net Plant Heat Rate	-11%

Source: "Biomass Sizing Study", pages 1-1 and 4-6

Phased construction of two smaller units will sacrifice these economies of scale and will also incur the costs of having to mobilize construction twice, and the escalation over time in cost for the second unit will increase costs even further as compared to construction of a 100 MW unit.

GRU investigated a range of repowering options in a study by Black & Veatch in March 2004 entitled "Supplementary Study of Generating Alternatives for the Deerhaven Generating Station" (included as Exhibit No. __ [RMS-3] to the supplemental testimony of witness Schroeder). The option of repowering Deerhaven 1 would not have resulted in additional capacity to support GRU's long term facility management plan, and the economics of such a repowering would be adversely affected by unit inefficiency due to not having the optimal match of steam temperature and pressure, resulting in a less efficient design.

Q. During the February 9, 2010 Agenda Conference, Commissioner Klement questioned why GRU is pursuing a biomass resource. [TR P19, L1-2] Staff's response was that biomass was chosen for its base load characteristics and that municipal solid waste was rejected. [TR P19, L14-16] Were there additional reasons why GRU selected biomass?

A. GRU agrees with Staff that biomass (as opposed to some other forms of renewable energy) has the advantage of being suitable to meeting GRU's long term needs for base load capacity. The primary decision to write GRU's request for proposals (RFP) to solicit proposals for biomass resources was based on the policy decision to only add renewable energy generation at a central station, the abundance of biomass fuel in the region, and the low cost of biomass generation compared to other forms of renewable energy. Under the proposal evaluation process developed by the City Commission, municipal solid waste was not ruled out but would have been heavily disadvantaged by the factors and their weights.

Sufficient study had been conducted by GRU to make it evident that biomass was the least cost alternative for obtaining the substantial amount of renewable energy to meet the City's Kyoto Protocol policy objective. The different types of renewable energy reasonably available to GRU are summarized in the table below, along with their costs and resource potential.

Relative Costs of Renewable Energy Alternatives in Florida

Type	Cost Range ($ per MWh)	GRU Resource Potential (MW)
Landfill Gas to Energy	75-95	3-6
Biomass	100-135	250
Wind	Not Commercially Proven	Nil
Photovoltaic	320-430[a]	60-100[b]

a. Before tax incentives, $5.5-$7.5 per watt, 25 year amortization at 7% interest.
b. Within GRU's service territory

Q. During the February 9, 2010 Agenda Conference, Chairman Argenziano inquired about the timing of GRU's need for GREC, and Staff indicated that the need for GREC for purposes of reserve margin reliability is in 2023. [TR P 21, L9-14] Chairman Argenziano also asked "is there a need for reliability right now?"[TR P49, L7-8] What is GRU's current need for generation capacity to improve system reliability?

A. GRU's near term need is for generating resources to improve system reliability and integrity. Staff was correct with respect to reserve margins, but did not address GRU's immediate need for baseload capacity to improve system reliability and fuel diversity. Prior to GREC coming on line, GRU's existing PPA with PEF provides for 50 MW of baseload capacity intended to back up its low cost coal generation and provide economical power during times of high gas prices. This PPA will terminate at the end of 2013. A more complete discussion of the benefits of GREC on system reliability may be found in the GREC Need for Power Application (Sections 15.3 and 16.2) and is mentioned in Staff's January 28, 2010 recommendation to approve the GRU and GREC LLC joint petition to determine need for GREC (pages 6 through 8, and pages 26 through 27).

Q. During the February 9, 2010 Agenda Conference, concerns were raised about the timing of GRU's need for capacity. When is GREC needed to meet the need citeria listed in Section 403.519, Florida Statutes?

A. The table summarizes the various need criteria listed in Section 403.519, Florida Statutes, with the date at which GREC would fulfill that need. Delaying the project is not a good option for GRU's customers, in that GRU strongly believes that its customers' rates will be lower, over the long run, with GREC added in December 2013 than under any realistic delay scenario.

GRU's Need for GREC

Criteria	Date	Comment
Fuel Diversity	2014	Also delivery reliability
System reliability and integrity	2014	Many eggs in one basket- Deerhaven 2
Promoting renewable energy	2014	Multiple policy mandates
Least cost alternative	2014	Among renewable alternatives
Adequate electricity at a reasonable cost	2014	See Expected Value analysis
Meet regulatory requirements	2014	EPA CO_2 regulation is under development
Reserve margins	2023	Avoids additional capacity through 2032

Biomass Resource Sustainability

Q. During the February 9, 2010 Agenda Conference, Chairman Argenziano asked if during the City Commission's deliberations and public hearings there was any concern or anyone who was speaking to the sustainability of the biomass resource, especially if other biomass projects were in fact developed within GREC's fuel catchment area? [TR P21, L21 through P22, L2]. Staff's response was that there was one who questioned the sustainability of the fuel resource and that there were others who testified

that there was sufficient biomass. [TR P22, L20-23] Does this characterize the extent to which this issue was considered by the City Commission?

A. No. This characterization oversimplifies the City Commission's examination of this issue. Resource sustainability came up in many City Commission meetings over the past 5 years, which is why GRU conducted four biomass studies and empowered an ad hoc Forest Stewardship task force to develop minimum standards for the forest derived fuel for GREC. The ad hoc task force was comprised of Florida Division of Forestry staff, as well as local citizens including forestry professionals, growers, and environmental activists. The City Commission also adopted a financial incentive program to encourage growers to participate in third party stewardship certification programs. (See Exhibit No. __ [RMS-11] to the supplemental testimony of witness Schroeder, which is the Forest Sustainability Fact Sheet).

Q. During the February 9, 2010 Agenda Conference, Chairman Argenziano expressed concern about how GRU's customers would be impacted if GREC were unable to obtain biomass in sufficient quantities to power the plant. [TR P24, L15-17] Please address this concern.

A. GRU's customers will not incur any costs for GREC under such a scenario. Failure to obtain sufficient fuel would render the facility unavailable. Pursuant to the terms and conditions of the PPA between GRU and GREC LLC, under this circumstance, GRU will have no financial liabilities and the clock on liquidated damages for GREC LLC would begin. Furthermore, under Section

3.4.2 of the PPA with GREC LLC, GRU will have the ability to adjust its obligations to reimburse GREC LLC for ad valorem taxes on a pro-rata basis if the unit is unavailable for a protracted period. Finally, under Section 4.1 of the PPA with GREC LLC, GRU could take over fuel acquisition.

Carbon and Renewable Energy Legislation and Regulation

Q. **Chairman Argenziano requested an update on the current status of legislation that would impact renewable energy projects. [TR P51, L12-13] Can you please provide this update with a discussion of how GRU would be affected?**

A. Please see the summary of the current status of federal and state legislation that I have developed below:

Federal Carbon Cap and Trade

House Bill 2454 (HR 2454), known as the American Clean Energy and Security Act of 2009 (ACES), was adopted by the full House on June 26, 2009. ACES employs a downstream cap and trade program for carbon that has the point of regulation at the electric generator.

S1733, known, as the Clean Energy Jobs and American Power Act of 2009, was voted out of the Senate Energy and Public Works Committee but was not brought to a floor vote during the 2009 session. S1733 contains carbon cap and trade provisions similar to those of HR 2454. While the caps and timelines are virtually the same, S1733 awards approximately 15 percent fewer "free"

allowances to distribution utilities and would result in greater cost to utilities and their customers than HR 2454. Both HR 2454 and S1733 would add significantly to GRU's energy costs. GREC will significantly reduce this liability by offsetting coal and natural gas combustion. Without GREC, under the provisions of HR 2454, GRU will have an allowance shortfall of 28.51 million metric tonnes of CO_2 through 2034. With GREC, this shortfall will be reduced 30.7 percent to 19.97 million metric tonnes of CO_2. Based on CO_2 allowance costs developed from "EPA Analysis of the American Clean Energy and Security Act of 2009 H.R. 2454 in the 111th Congress 6/23/09", by 2034 GREC is estimated to reduce the HR 2454 cap and trade related rate increase for GRU from ~~36~~ 24 percent to ~~25.1~~ 16 percent in the low cost case and from ~~115.4~~ 77 percent to ~~80.6~~ 52 percent in the high cost case.

For the above reasons, GRU believes federal legislation regulating carbon emissions or imposing a renewable electricity standard, or both, is a distinct possibility.

Federal Renewable Energy Standards

HB 2454 has a renewable electricity standard (RES) that requires that a utility produce 20 percent of its electric energy from renewable sources by 2020, starting at 6 percent in 2012. This program is under a separate title and adds cost to utility operations beyond the cap and trade program. Up to 25 percent of the RES can be met through energy efficiency projects. These projects can produce energy efficiency credits (EECs) for compliance or sale. Utilities have

the compliance option of adding renewable energy resources to their own system or buying renewable energy credits (RECs) or EECs from other entities. In addition, utilities have the ability to make alternate compliance payments (ACPs). The alternate compliance payment starts at $25 per megawatt hour (in 2009 dollars) and increases each year based on inflation. Currently utilities with less than 4,000,000 MWh sales per year are exempt from the RES standard. However, it is likely that smaller utilities (such as GRU) will be able to create RECs that can be sold into the RES market. It is estimated that the cost of RECs will be slightly less than that of the alternate compliance payment. In the event that GRU becomes subject to the RES under HR 2454, GREC should enable GRU to meet the renewable electricity requirements and still have RECs that could be marketed. GRU estimates that through 2034 GREC will produce a surplus of about 3.17 million RECs with a value of $79 million in 2009 dollars. However, without GREC, the GRU system would have a deficit of 7.2 million RECs by 2030 with a cost of $180.8 million. Note that only a 7 percent RPS requirement was employed in the Expected Value analysis for GREC that I've discussed previously in my testimony.

More Recent Federal Legislative Proposals

There are two alternative legislative approaches in addition to S1733 that have gained some momentum in the U.S. Senate:

- S2877, the Carbon Limits and Energy for America's Renewal (CLEAR) Act is a bipartisan bill sponsored by Senator Maria Cantwell (D) of Washington and Senator Susan Collins (R) of

Maine. Unlike S1733, the CLEAR Act regulates carbon upstream at the primary source of energy. This would include refineries, coal mines, and natural gas producers. The CLEAR Act is sometimes referred to as a "cap and dividend" bill in that all the carbon allowances are auctioned only to the primary energy sources that are regulated, with 75 percent of the revenue from the auction returned directly (dividend) to American households. Twenty-five percent of the auction revenues are to be used on carbon reduction technologies and energy efficiency innovations. The carbon costs are reflected in fossil fuel prices. The caps and timelines in this proposal are modest in the first few years of the program and increase significantly in later years when carbon control technology is more likely to be available and cost effective.

- The Kerry Graham Lieberman Energy Bill is a bipartisan bill under development by Senators Kerry, Graham, and Lieberman. Only a general outline of this bill has been released at this time. It is expected this bill will contain both an energy title with an RES and a climate provision, possibly utilizing a cap and trade approach to reduce carbon emissions from fossil fuel-fired electric generation.

Implementation of either the CLEAR Act or the Kerry Graham Lieberman Energy Bill would increase the electricity cost of fossil fuel-fired generation,

and GREC will therefore enhance GRU's renewable energy position in the energy market, either by reducing GRU's compliance costs or by enabling GRU to benefit economically by selling its RECs, carbon allowances, or other renewable attributes at market prices.

In addition to the bills discussed previously, Senator Carper has introduced a three pollutant bill to reduce the emissions of SO_2, NO_x and mercury by 90 percent. Although this bill does not regulate carbon dioxide, it will significantly increase the cost of coal-fired generation and the GREC project will therefore enhance GRU's renewable energy position in the energy market.

U. S. EPA Regulatory Action

On December 7, 2009, the EPA Administrator signed two distinct findings regarding greenhouse gases under section 202(a) of the Clean Air Act:

- **Endangerment Finding:** The Administrator determined that the current and projected concentrations of the six key well-mixed greenhouse gases--carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6)--in the atmosphere threaten the public health and welfare of current and future generations.
- **Cause or Contribute Finding:** The Administrator determined that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines

contribute to the greenhouse gas pollution which threatens public health and welfare.

EPA's Endangerment Finding sets the stage for the regulation of carbon dioxide and other greenhouse gases by EPA under the Clean Air Act. While EPA's initial Endangerment Finding will result in greenhouse gas regulation of the transportation industry, the regulation of large stationary sources such as fossil fuel-fired electric generating units is inevitable. It is uncertain whether EPA regulation of carbon dioxide emissions from electric generating units will be more or less stringent than in currently proposed legislation. However, EPA GHG regulations will increase the cost of fossil fuel-fired generation. As a result, the GREC project will enhance GRU's renewable energy position in the energy market, either by reducing GRU's compliance costs or by enabling GRU to benefit economically by selling its RECs, carbon allowances, or other renewable attributes at market prices.

Federal Council on Environmental Quality

The Council on Environmental Quality (CEQ) recently issued new draft guidelines on evaluating the effects of greenhouse gas emissions on climate change. Under draft guidelines released February 18, 2010, federal agencies will have to consider greenhouse gas emissions and climate change effects when carrying out National Environmental Policy Act reviews. Many expect this to lengthen the licensing process for major energy projects.

Other Federal Renewable Portfolio Standards

In addition to the renewable electricity standard found in HR 2454, Senate Bill 1462, reported out of the Senate Energy and Natural Resources Committee June 17, 2009, contains a renewable energy standard (RES). As currently written, S1462 applies to utilities generating greater than 4,000,000 MWh annually. The RES starts at 3 percent of generation in 2011 and increases to 15 percent in 2021. This is slightly less stringent than the RES found in HR 2454. ACP costs in S1462 start at $21/MWh (in 2008 dollars) and increase each year based on inflation. In addition, Senator Graham has released a discussion draft bill entitled the Clean Energy Act of 2009. This bill establishes a clean energy standard (CES) of 13 percent in 2012 increasing to 50 percent by 2050. The CES differs from the RES in that in addition to renewable energy sources, new nuclear generation, coal-fired generation with carbon capture and sequestration (CCS), and certain incremental hydroelectric and geothermal generation can be included for compliance purposes. Qualifying generation sources are treated differently in awarding clean energy standard credits (CESCs). Biomass projects will receive bonus allowances while coal-fired units adding CCS will receive discounted CESCs. The Graham ACP starts at $50/MWh. This bill may serve as the renewable component of the Kerry Graham Lieberman Energy Bill and would be the most stringent ACP to date. While GRU's generation is less than 4,000,000 MWh annually, this bill would allow for voluntary participation by smaller utilities such as GRU and would provide a market for clean energy

credits created by GREC. This provision would add value to the environmental attributes associated with GREC.

Florida 2010 Legislative Session Initiatives

As of the date this testimony was prepared, numerous bills in both the Florida Senate and House of Representatives have been proposed which would increase the economic viability of GREC through different measures. Some of these bills focus on ratifying the rules on the RPS adopted by the Commission, some on allowing renewable energy projects to get cost recovery instead of avoided cost payments, while other bills focus on deleting provisions requiring the Commission to adopt rules on the RPS but allow for exemptions from determination of need requirements for renewable energy facilities. Again, the passage of these bills would enhance the value of the renewable energy output from GREC. The following is a synopsis of the twelve bills presented during the 2010 Florida Legislative Session to date:

2010 Florida Senate Legislation

- **S596 - Relating to Energy** (Detert)

  S596 introduced by Senator Detert amends Section 366.92, Florida Statutes, to establish a clean energy requirement for electric utilities that requires a clean energy portfolio standard to provide 7 percent of energy sales by 2014 based on 2013 sales. The amount periodically increases to 20 percent of energy sales by 2022 based on 2021 sales. Three classes of clean energy are established: Class I includes wind and solar generation; Class II

includes other renewable energy sources including biomass generation; and Class III includes nuclear and coal-fired generation with carbon capture and sequestration technology. The legislation also establishes alternative compliance through the purchase of clean energy credits (CECs). In addition the legislation creates a new section 366.99 that is designed to promote expanded use of natural gas. The legislation also removes solar energy projects from regulation under the Florida Electrical Power Plant Siting Act.

- **S774 Relating to Renewable Energy Policy** (Constantine)

  Ratifies the rules on renewable portfolio standards adopted by the Public Service Commission January 9, 2009.

- **S1086 Relating to Renewable Energy** (Detert)

  Requires that a purchase contract offered to producers of renewable energy contain payment provisions for energy and capacity based upon a public utility's equivalent cost-recovery rate for certain clean energy projects rather than the utility's full avoided costs.

- **S1126 Relating to Permitting** (Altman)

  Clarifies duties of the Office of Tourism, Trade, and Economic Development (OTTED) to approve expedited permitting and comprehensive plan amendments. Revises criteria for businesses submitting permit applications or local comprehensive plan

amendments. Provides that permit applications and local comprehensive plan amendments for specified biofuel and renewable energy projects are eligible for the expedited permitting process, etc.

- **S1186 Relating to Renewable Energy** (Bennett)

  Revises legislative intent regarding the state's renewable energy policy. Deletes provisions requiring that the PSC adopt rules for a renewable portfolio standard. Requires that the commission provide for full cost recovery for certain renewable energy projects. Redefines the term "electrical power plant" for purposes of the Florida Electrical Power Plant Siting Act to exclude solar electrical generating facilities, etc.

- **S2346 Relating to Renewable Energy** (Altman)

  Cites act as the "Florida Farm to Energy Act." Requires investor-owned electric utilities and participating municipal electric utilities and rural electric cooperatives to collect renewable energy fees from retail electric customers. Provides for the deposit and use of such fees. Provides procedures for municipal electric utilities and rural electric cooperatives to participate or terminate their participation, etc.

- **S2404 Relating to Renewable Energy** (Bennett)

  Requires each electric utility in the state to collect from each residential, commercial, and industrial customer a designated

monthly systems charge. Requires the electric utilities to deposit collected funds into the Sustainable and Renewable Energy Policy Trust Fund. Creates a direct-support organization for the Florida Energy Office. Revises the expiration date for the Solar Energy System Incentives Program, etc.

2010 Florida House of Representatives Legislation

- **HB 773 - Relating to Expedited Permitting** (Kreegel)

  Transfers authority over expedited permitting and comprehensive plan amendment process from OTTED to Secretary of Environmental Protection; revises job-creation criteria for businesses to qualify to submit such permit applications and local comprehensive plan amendments; provides for expedited review of specified renewable energy projects; provides for establishment of regional permit action teams through execution of memoranda of agreement developed by permit applicants and secretary; provides for appeal and challenge of expedited permit or comprehensive plan amendment; revises provisions for review of sites proposed for location of facilities eligible for Innovation Incentive Program; specifies expedited review for certain electrical power projects.

- **HB 1267 Relating to Renewable Energy** (Rehwinkel Vasilinda)

  Requires electric utilities to collect monthly systems charge from residential, commercial, & industrial customers; provides for

deposit of collected funds into Sustainable and Renewable Energy Policy Trust Fund; creates direct-support organization for Florida Energy Office; requires contract between office and direct-support organization; provides for use of funds; requires annual audit; requires purchase contract offered to producers of renewable energy contain payment provisions for energy and capacity based upon public utility's equivalent cost-recovery rate for certain clean energy projects; extends period of time for which residents are eligible to receive rebates for specified solar energy systems; provides schedule for rebate amounts.

- **HB 1371 Relating to Renewable Energy** (Randolph)

  Requires that purchase contract offered to producers of renewable energy contain payment provisions for energy and capacity based upon public utility's equivalent cost-recovery rate for certain clean energy projects rather than utility's full avoided costs.

- **HB 1417 Relating to Renewable Energy** (Kriseman)

  Deletes provision requiring certain net metering be made available when utility purchases power generated from biogas produced by anaerobic digestions of agricultural waste; ratifies rules on renewable portfolio standards adopted by Public Service Commission.

- **HB 1471 Relating to Renewable Energy** (Williams)

  Amends section 366.92 to delete provisions requiring the adoption of rules for a renewable portfolio standard by the PSC. The legislation also requires the PSC to provide for full cost recovery including a return of equity of not less than 50 basis points above the last PSC approved rate of return for the utility. The legislation also requires the PSC to approve a total of 700 MW of renewable energy projects for years 2010 to 2012. The legislation establishes a finding of the Florida Legislature that there is a need for new Florida renewable resources and that this determination will serve as the need determination required under section 403.519 and also as the commission's agency report under section 403.507 (4) (a). In addition, the legislation requires the commission to vote on the petition for new renewable generation within 90 days of receipt of filing. The legislation also creates an exception for a solar electric generating facility of any capacity under the Florida Electrical Power Plant Siting Act.

Summary and Conclusions

Q. Please summarize your testimony.

A. My testimony may be summarized as follows.

- GREC is the least cost alternative for meeting Gainesville's policy objectives, improving GRU's electric system reliability

renewable energy requirements *must be assumed to be zero*, and the possibility of fossil fuel prices increasing *must be assumed to be zero*. The implausibility of these outcomes is demonstrated by the initiatives already taken by the U.S. EPA to regulate greenhouse gases and pollutants, the groundswell including 35 states with RPS standards or goals and twelve (12) bills introduced to the Florida legislature to promote renewable energy so far this year, and the evidence provided in Exhibit No. __ [EJR-6] of the trends in natural gas price compared to forecasts since 2004.

- The power purchase agreement between GRU and GREC LLC is structured to provide as much as $88 million (net present value in 2010 dollars) of additional benefits for GRU's customers in the form of protection from: construction cost over-runs; financing interest rate increases; long term operation and maintenance escalation; unexpected equipment failure and damage; loss of unit efficiency; and failure to perform.
- GRU has a number of mechanisms to manage ongoing risks such as the ability to: resell a portion of GREC's output at no less than a fair market price; financially hedge against diesel and labor costs in GREC's fuel contracts; and apply financial tools such as prepayment contracts.

In conclusion, GREC will provide substantial reliability, cost savings, and risk mitigation benefits to GRU's customers and the broader Gainesville community, and the Commission should grant the requested determination of need.

Q. Does this conclude your testimony?

A. Yes it does.

BY MR. WRIGHT:

Q. Mr. Regan, please summarize your testimony.

A. Good evening, Madam Chairman and Commissioners. I also want to thank you, like our mayor, for letting us have this second chance to come back and give you additional testimony.

Your discussion at the February 9th agenda conference very appropriately focused on the financial liabilities that our ratepayers would incur if you rule in favor of this proposed project. The purpose of my testimony is to compare this liability with the potential consequences of not approving the project. To compare apples to apples, all of the dollar values that I will use in this summary are expressed as net present value in 2009 dollars.

It's very common for the addition of new generation capacity to a utility system to cause short-term price increases, which are offset by long-term price -- long-term price benefits, particularly when you're adding base load generation, which is what we're proposing to do here.

In all of the scenarios that we've submitted as part of this proceeding, the proposed biomass plant has been shown to have upward rate pressure on the rates in the early years, but eventually there's a crossover

and downward rate pressure in the later years. In nearly every scenario, the proposed plant has been also shown to be cost-effective over the long term compared to doing nothing as measured by a positive net present value. In other words, we believe that the proposed biomass plant will in the long term actually lower costs for our local citizens.

The scenarios in which the proposed plant is not shown to be cost-effective over the long term is when the following five worst case conditions are simultaneously held to be true:

First, we're only able to resell the output at the current market value of firm base load capacity.

Secondly, the current EIA price forecast for natural gas, which is quite low -- it's the lowest it's been in seven years -- must turn out to be accurate for the next 30 years.

Third, no regulations that result in a cost for carbon emissions will ever be enacted, ever.

Fourth, there's no regulatory consequence for not using renewable energy.

And fifth, no value is assigned to the special performance features that we fought really hard for in the contract between GRU and GRE LLCC -- GREC LLCC. These features will protect our ratepayers from the

and integrity, mitigating the risks of future greenhouse gas and renewable energy regulations, and mitigating the risks of increasing fossil fuel prices and volatility, as well as numerous other risks.

- GREC will create over 700 permanent jobs in the north central Florida region with an income of $31 million per year (2010 dollars) which is equivalent to a $608 million net present value (2010 dollars).
- When the benefits of economic development are considered, GREC has no downside risk. Excluding economic development benefits, and making biased and unrealistic assumptions against GREC, the expected value of GREC's risk adjusted benefits exceed costs by more than 2 to 1, with a benefit of $74.1 million (net present value in 2010 dollars). This assumes that unrealistically low probabilities are assigned to carbon regulation (10 percent), renewable energy requirements (20 percent), and the possibility of fossil fuel prices increasing (33 percent).
- Under mid-range probabilities, benefits exceed costs by a ratio of greater than 10 to 1 with an expected value $297.7 million (net present value in 2010 dollars).
- To obtain a benefit cost ratio of less than 1, all of the benefits of economic development have to be excluded, the probability of carbon regulation *must be assumed to be zero*, the probability of

risks of power plant ownership and volatile fossil fuel prices for the next 30 years.

If these five worst case conditions were to all hold true, our estimate of the financial cost for our ratepayers is between 44 million and $56 million over the next 30 years. I would like for to you keep in mind that our budget for power production over this time frame is nearly $7 billion. We're not betting the farm.

If the project is delayed and renewable energy production tax credits are not extended, this cost will increase. However, the numbers I just gave you do not include any consideration of the jobs and income that the biomass plant will generate in our region, which is estimated to have a value of around $588 million, close to $600 million.

It's not likely that all these five worst case conditions will hold true. We all love today's low prices for natural gas, but we have a saying at GRU: The floor is always much closer than the ceiling. That's certainly true in here. Natural gas production costs do not leave a lot of room for gas prices to go down in today's market, but there's lots of room for prices to go up. The proposed biomass plant will stabilize our fuel costs through time by allowing us to use less natural gas and coal.

Carbon regulations have already been put into place by EPA for non-stationary sources, that is, cars. And that's pursuant to their finding that greenhouse gases are detrimental to the public welfare of America. Power plants are clearly next on the list. With this prospect in mind, we expect to be able to resell renewable and carbon-neutral power from the proposed plant at more than just the current market value of firm base load capacity.

GRU's generation fleet is aging, and replacements will inevitably be needed. Between 2013 and 2023, we will be retiring 148 megawatts of capacity that need to be replaced. The proposed plant is an investment to replace that capacity. The reason we picked base load as our need is through numerous optimization studies that I'll be glad to discuss in more detail.

Madam Chairman and Commissioners, if you do not approve the determination of need for this project, the consequences for my community will be severe. As documented in my testimony, our ratepayers will be facing as much as $430 million in regulatory risk alone. In addition to that, the 23 counties surrounding Gainesville will lose roughly 700 new permanent jobs and an additional $588 million in local activity, economic

activity.

I look forward to your questions so that I can share the perspective the Gainesville City Commission has gained over the years of thought, study, and over three dozen televised public meetings considering the energy future for our community. To them, a financial commitment that not only provides their community with the protections I've described, but also helps the environment and creates jobs, is not speculation. It's an investment in stable prices and expanded jobs.

Finally, our elected officials who are accountable to our community believe it makes sense.

This concludes my summary.

MR. WRIGHT: Mr. Regan is available for cross-examination. Thank you.

COMMISSIONER STEVENS: Thank you, Mr. Wright.

Ms. Stahmer.

MS. STAHMER: Thank you.

CROSS-EXAMINATION

BY MS. STAHMER:

Q. Good afternoon, Mr. Regan.

A. Good evening.

Q. Yes, good evening. I also have a vested interest in getting out of here as soon as possible, so I'll try not to belabor things.

How long have you been working at GRU?

A. A little over 30 years.

Q. And I assume, therefore, you've been very much involved in the -- during the past decade in the discussions and exploration of issues touching upon GRU's and Gainesville's energy future?

A. I would say that myself and my team have been very involved.

Q. And were you involved in helping to develop and negotiate the GREC contract?

A. Yes, I was.

Q. Thank you. Do you remember making a presentation to the City Commission both on April 28, 2008, and May 12, 2008?

A. Yes, I do. And pursuant to the previous conversation, I've been provided a copy of the full PowerPoint presentation --

Q. Oh, good. Thank you.

A. -- from April 28th. Not the other one, though.

Q. Is that the one that he gave on the 28th?

A. Yes, it is.

Q. Okay. Thank you. And I draw your attention then to --

COMMISSIONER STEVENS: Just a moment, please.

Mr. Wright.

MR. WRIGHT: I apologize for the interruption. I was just trying to manage paper. We do have copies of that now, thanks completely to your wonderful staff. And if we could distribute them, then everybody would have the complete set to look at.

COMMISSIONER STEVENS: Sure.

MR. WRIGHT: And I think as far as I'm concerned, we can stick with this being numbered as Exhibit 85, which is where it came up earlier.

COMMISSIONER STEVENS: Is that good, Mr. Sayler?

MR. SAYLER: Absolutely.

COMMISSIONER STEVENS: Okay.

MS. STAHMER: And I wish to thank the staff too for having found it and downloaded it.

THE WITNESS: While we're getting organized, I'll point out that all these presentations are available from our website at any moment. If you want to read it in the middle of the night or something and have a relaxing evening, it will put you right to sleep.

COMMISSIONER STEVENS: Thank you.

I'm sorry. Go ahead, Ms. Stahmer.

MS. STAHMER: Thank you very much.

COMMISSIONER STEVENS: Yes, ma'am.

BY MS. STAHMER:

Q. Mr. Regan, with regard to slide number 16 for the April 28, 2008, presentation, I believe that is a comparison of some of the elements having to do with the bid proposals offered by Covanta, Nacogdoches, and Sterling Planet; is that correct?

A. It is a comparison of some of the many factors that were considered.

Q. And was the Nacogdoches power plant, as seems to be indicated here, going to be about $300 million, as the proposal had been described that evening?

A. As the person who prepared this particular slide, I do not believe that we obtained that number from Nacogdoches, nor did we obtain a number from Sterling Planet, but we just estimated something by looking at our sources of information for the purposes of estimating property taxes. I don't believe this is a number provided to us. We have never actually gotten a firm number on what this plant will cost to build.

Q. But as I understood it, so correct me if I'm wrong, what was being discussed during those meetings of April 28th and May 12th were the firm bid proposals from these companies.

A. Right, but they were not bids for us to self-build the units. These three were all bids to

provide us with power purchase agreements, and that's why they're summarized in this manner. However, local economic impact was one of the criteria that our City Commission was interested in, including jobs and taxes and so on.

Q. So what did the $300 million represent, then? Just a figure out of the air?

A. It was probably a considered estimate given our professional judgment and some of the studies that we had already performed on what a self-build option would cost us.

Q. And then you were given authority by the City Commission to begin negotiations with Nacogdoches; is that correct?

A. I believe that that did not happen on this particular night.

Q. Well, April 28th through May 12th, wasn't the decision made between those two meetings?

A. The general manager was authorized at the -- was it May 12th?

Q. I believe so.

A. I'm taking your word for it, subject to check, to go ahead and proceed and negotiate with Nacogdoches Power as being the preferred alternative. He was also authorized to negotiate with Covanta Energy if

negotiations fell apart.

MS. STAHMER: It might help the witness if he were given a copy of Exhibit Number 86, which has the chronology of Commission meetings having to do about community electric supply.

(Exhibit tendered to the witness.)

BY MS. STAHMER:

Q. You'll see toward the bottom of the page the dates, the 4/28 and the 5/12/08 dates, and then a few more dates in 2009. Do you have any problem with those dates, or do they seem to be -- in terms of what they're describing happened regarding discussions in City Commission meetings having to do with our future energy supply, do you think those are probably roughly accurate?

A. I do not.

Q. Oh, okay.

A. Because to my count, there were 10 meetings where GREC was discussed, and there's not 10 meetings here.

Q. Well, this is a list. And you may be correct. I don't know. But this is a list that was produced by the petitioners pursuant to an interrogatory from Intervenor Deevey asking for the dates of City Commission meetings during which, as has been captioned

here, community electric supply was discussed.

A. I believe that this is a list that was associated with a production of documents, and there was not a PowerPoint presentation for every one of those meetings.

Q. Oh, I wasn't assuming there had been a PowerPoint presentation. I just was asking if based on your reading of those dates and the subject matter, whether you have any dispute with what is listed there.

A. And I've told you what my dispute is.

Q. You think there were more meetings where there was at least some discussion?

A. Yes, I do.

Q. Subsequent to the May 12, '08, meeting, were there Commission meetings discussing the costs of the prospective arrangements that were flowing from your negotiations with Nacogdoches? And it might help, actually, if you could indicate when Nacogdoches turned into American Renewables for purposes of this project.

A. To answer the last question first, I really -- you know, I don't remember the date when they changed.

Q. It's not that important.

A. I do know that once we got approval to proceed with negotiations, we worked very hard. There were a lot of numbers flying around between us and American

Renewables, and at that time it would have been totally premature and inappropriate to bring numbers forward.

Part of the negotiations resulted in a fundamental restructuring of the formula. The original proposal was a fairly conventional, fixed price, kilowatt-month contract with a fixed -- what they call a fixed O&M component. And that was going to be totally unacceptable to us, and we were able to get that structured into the totally megawatt-hour price structure that we have now.

Q. What happened on May 7, 2009? Do you remember?

A. That is -- I imagine you're referring to with respect to the PPA. That was a City Commission meeting where prior to that meeting, I believe two weeks in advance, we provided a fairly comprehensive package of information that was published along with the agenda and the staff recommendation. And when the time elapsed and there was a meeting, we made our presentation and there was a discussion.

Prior to that meeting, there were conversations, numerous conversations -- and I don't know when they started -- between the general manager and his Commissioners on a one-by-one basis, being appropriate for his job. I know I accompanied him on

many of those occasions. So there was a general, very vibrant conversation with the City Commission. The full PPA was made available to them at that time. And I am also aware that toward the last few months, the general manager was telling the Commission how things were shaping up and how it was looking and explaining some of the terms and conditions.

Our general manager understands that this is major, major commitment. Although he had full authorization to just sign a contract and get on with it, he felt it was very important that the Commission be apprised of the changes we that had made in the structure of the contract, some of the concessions we got in the contract, and the fact that there had been some really major market changes that affected some of our economic analysis. And those market changes were changes in the fuel markets and changes in the cost to build power plants.

So then he signed the contract so that everybody would know what the deal was, subject to the ratification of the City Commission.

Q. If you could --

A. Without their vote -- you asked me to explain what happened on the 7th.

Q. That's okay. The PPI was signed.

A. Without their vote, the PPA would have been worth exactly what it was printed on, which is paper.

Q. Okay. I wish to bring to the attention of the Commissioners and others to whom an exhibit had been distributed previously, but pages had to be ripped off, but it should contain -- you still have it, and it should contain another PPI presentation from GRU dated May 7th, 2009, called "Contract for Biomass Fuel Generation."

Mr. Regan, do you remember making such a presentation?

A. I don't have what you're referring to. Is it on this --

Q. No, it's not attached to that. It's a longer one, and I think it was -- thank you. Thank you very much. A copy is being brought to you. It hasn't been assigned an exhibit number yet.

MR. SAYLER: Commissioners, for your clarification, there's a Bates stamp page number at the bottom of the page, which I believe indicates it was admitted at the prior hearing.

MS. STAHMER: Yes. It's in the hearing exhibit, Item 1-3.Bates, pages 000124 through 000155.

COMMISSIONER STEVENS: So do we need to give this a number, Mr. Sayler?

MR. SAYLER: No, sir. It's already in the record. It's in the -- it will be in the entirety of the record.

MR. WRIGHT: Excuse me, Commissioner.

COMMISSIONER STEVENS: Yes, sir.

MR. WRIGHT: The document that I was apparently given today does not contain all the pages.

MS. STAHMER: No, it doesn't. But it is -- the entire document is in the record, and the page numbers I gave encompass the first page through the last page.

COMMISSIONER STEVENS: Mr. Wright.

MS. STAHMER: 124 through 155.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: My point is that if my witness is going to be cross-examined about a document, he should be given the opportunity to have the entire document in front of him to ensure that material is not taken or interpreted out of context. I would appreciate the same courtesy.

COMMISSIONER STEVENS: Yes, sir. I agree. Ms. Cibula, I think the discussion here is to have a full document.

MS. CIBULA: I believe it's already in the record. It has been identified as Staff Exhibit Number

7, and I believe it's item number 3 of Staff Exhibit 7. So that full document is in the record already.

COMMISSIONER STEVENS: So can we get a copy to Mr. Wright?

THE WITNESS: If I may point out that just for whatever reason, I happen to have a copy of the full thing here that I prepared and know that it's correct, and I'll be happy to look and make sure everything is consistent to facilitate the process, if that's okay with you.

COMMISSIONER STEVENS: Yes, sir, absolutely. Mr. Wright, is that okay?

MR. WRIGHT: I'm sorry. I was having a sidebar with my co-counsel.

COMMISSIONER STEVENS: Mr. Regan has a full copy.

MR. WRIGHT: As long as I have an opportunity to look at it for the purposes of possibly conducting redirect --

COMMISSIONER STEVENS: Yes, sir.

MR. WRIGHT: -- I'll go without it for now.

COMMISSIONER STEVENS: Absolutely.

MR. WRIGHT: Thank you, sir.

COMMISSIONER STEVENS: Yes, sir. Thank you.

Ms. Stahmer, thank you.

MS. STAHMER: Thank you very much.

BY MS. STAHMER:

Q. Mr. Regan, on what would be the Bates number page, but it's the next page under the cover page, 126, there should be -- although if you've got a full copy now, your numbers may be different. But I'm looking at presentation outline, project history and description, market changes, adjustments, et cetera.

A. That would be page 2 on my copy.

Q. Okay. Yes. Good. Could you explain briefly what adjustments you're referring to to the original proposal?

A. They include -- first of all, we restructured all the pricing elements to our benefit. There were some changes in the pricing due to market changes that were disclosed to the Commissioners. And I would have to spend some more time flipping through the proposal, but there were a number of items that did change that we were recommending approval for.

Q. Is it correct that one of the adjustments made was a significant change in the contract cost? In May 2008, the dollar amount that was made public was $300 million, and after this meeting, the amount was $500 million.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: I object. I think that's ambiguous. I think he has already talked about the $300 million value in respect to Exhibit 85 and said that that was a number that was used for estimating property taxes.

COMMISSIONER STEVENS: So it has already been asked and answered?

MR. WRIGHT: Well, that's not the nature of my objection. It was an assertion that, A, I'm not at all sure is true, and it wasn't a question.

COMMISSIONER STEVENS: Okay.

MR. WRIGHT: If she can proceed with questions, that's fine, but -- thank you.

COMMISSIONER STEVENS: Yes, sir. Ms. Stahmer, can you rephrase your question?

MS. STAHMER: Well, perhaps it would help if I show Mr. Regan another exhibit. Could someone distribute these exhibits, please?

THE WITNESS: I'm glad we didn't wait to make copies.

COMMISSIONER STEVENS: Ms. Brown, do we need a number on this?

MS. BROWN: Yes, 88.

(Exhibit Number 88 was marked for identification.)

COMMISSIONER STEVENS: Thank you. Does everybody have a copy? Go ahead, Ms. Stahmer.

MS. STAHMER: Thank you.

BY MS. STAHMER:

Q. For the moment, you can ignore the second page. That's a summary. But if you'll proceed to the third page, you'll see that it's a rather poor photocopy of a article from the *Gainesville Sun*, and it was dated the May 11th, which is shortly after -- excuse me, just shortly before the Commission meeting in which the Commission selected Nacogdoches as the top bidder and GRU was instructed to begin negotiations with them, and if that fell through, then to go down the line of the three -- the two other bidders. Is that correct?

A. I'm sorry. What was that question?

Q. I'm just indicating what the date is, May 11, *Gainesville Sun*, 2008.

A. I have a page --

Q. And the day before was --

A. I have two pages with that date on it. I have a page with May 8th, but a year later.

Q. Yes. And the second page with the article, which is now the fourth page of this set of papers, has a set-off box in the middle at the top, and it's very hard to read. It's very murky. But sort of towards the

middle -- the paper is laying out some of the differences in the proposals from Covanta, Nacogdoches, and Sterling Planet. And you'll note that it's indicated -- in the middle, it says more than $300 million cost.

A. And the question is?

Q. Whether you remember that and if you think that was accurate.

A. I believe that those numbers came from our PowerPoint presentation from April 28th, and I do not believe they're accurate.

Q. You don't believe they're accurate?

A. No, because they were estimates that we were using to estimate tax impacts.

Q. I don't believe that is the way it's described in the article, but for the moment, let's move on to the next page, the two last pages, another *Gainesville Sun* article dated May 8th, which is the day after -- I believe that GRU came before the Commission on May 7th to tell them that the contract had been signed with American Renewables on April 28th and to ask the Commission to ratify the contract, and GRU also discussed some of the differences.

A. May 8th is the day after May 7, 2009.

Q. Okay. And again, you'll see a small box

towards the bottom of the front page that says project cost, 500 million.

A. I see that.

COMMISSIONER STEVENS: Ms. Stahmer, is there a question?

MS. STAHMER: There will be. I just wanted to confirm some of the information and the dates first with the witness in case he disputed any of that.

BY MS. STAHMER:

Q. Now, in the process of explaining to the Commission on May 7th aspects of the contract with American Renewables, going back to your PowerPoint presentation, you reference a number of things, among them being on Bates page 129, fuel prices, load and energy forecasts, and construction costs.

A. You said Bates page 1?

Q. It's Bates page 000129, and it's just got "Market Changes" on the top and then three lines below it. There's not much text on the page.

A. That would be page 6 in the full presentation.

Q. Perhaps. When I printed this out, the pages on the PowerPoints didn't come through.

So you noted construction costs. What kind of construction costs were affecting the contract cost?

A. The construction cost for finished

manufactured goods was a primary determinant.

Q. And on the next page in the exhibit, 000134, it's titled "Unprecedented Events in the Power Industry in 2008."

A. Yep.

Q. And you say construction material prices sky-rocketed, and you also say equipment and construction costs rose.

A. Indeed I did. I'm not sure that was a question, but indeed I did.

Q. No, I just want to confirm that you remember these.

The next page in the exhibit, but it's Bates number 0131 -- 35, excuse me, says "Steel Prices," and you say steel prices increased 37 percent from January 2008 to June 2008. But you were making this presentation in April -- excuse me, May 2009, and your presentation doesn't say anything about what happened to steel prices between June 2008 and April or May 2009. Is there a reason?

A. Subject to check, it might be a scrivener's error, in that it should have been June 2009. Could that be? I don't know.

Q. Are you familiar with industry indices from the Department of Labor, particularly the Bureau of

Labor Statistics?

A. I am familiar with a number of indices, and in fact, I have explored those as well.

Q. Including the BLS Steel Producer Price Index? Are you familiar with that generally? I don't mean that you can quote from it offhand.

A. I don't recall ever looking at that one in particular, but I may have. I mean, I've looked at hundreds of different indices. And I'm wondering if this wasn't just a page I borrowed when we were -- what had happened is, we had had major price increases on our projects to put air quality control systems at Deerhaven, which would match the timing on this, and I'm not really sure how or what -- how I did this slide.

Q. Okay. This is also --

A. But I will say this slide had no material bearing on the pricing for the power purchase agreement.

Q. Why is that, since you have a whole slide devoted to these costs, steel prices and construction?

A. We also have a subsequent slide from NREL about the estimated costs of new generation. And what this was was to explain to the City Commission what was happening in the power markets in that time frame, not only the power markets or the heavy equipment markets, but the same factors resulted in a couple of really

major projects in Gainesville, construction projects being canceled.

And what is germane to the pricing of the contract is -- you know, to this day, we have never had GREC tell us what the construction cost of this project is going to be, because it doesn't really matter. But I believe if you go to page 14, we discuss how much the overall cost per megawatt hour from the original proposal to the final contract did change, which is, I think, relative to our conversation.

Q. Again, a little complication.

A. One of the factors that changed in the meantime, by the way, was the economic stimulus bill that provided the tax incentives that we hadn't had before. So that was all kind of factored in.

Q. Thank you. Mr. Regan, if you'll just wait a few minutes, since we would like to have this as structured as possible, because people are anxious to get on with this and to leave.

A. Yes, ma'am.

Q. There are still some outstanding pieces from that prior exhibit that went around, and one of them is the copy of petitioners' responses -- objections and responses to my first set of interrogatories, although petitioners ultimately did stipulate to the answers that

were given.

COMMISSIONER STEVENS: Ms. Stahmer, of what exhibit are you speaking?

MS. STAHMER: It's this one, and it was part of -- among the pages of another exhibit that had been circulated around, and you first took off the last two pages.

COMMISSIONER STEVENS: Okay.

MS. STAHMER: And these were still there.

COMMISSIONER STEVENS: Okay. Is there a question on that exhibit?

MS. STAHMER: Yes. Does Mr. Regan have a copy of it?

COMMISSIONER STEVENS: Is this part of Exhibit 85? No?

MS. STAHMER: What was the first piece of 85?

MR. WRIGHT: Commissioner, 85 is the handout that --

COMMISSIONER STEVENS: The full handout.

MR. WRIGHT: -- staff kindly copied from the April 2008 evaluation presentation. There was a stack of papers that included a couple of pages from that and others that I think included at least -- I'm not even sure -- part of, anyway, the petitioners' objections and responses to Ms. Stahmer's interrogatories.

MS. STAHMER: It was 84 and 85, because this had been a piece of it, and this is now 84.

MR. WRIGHT: Okay. So this is a new exhibit?

MS. STAHMER: Yes. It would be now.

COMMISSIONER STEVENS: Mr. Sayler, were you on something that has the heading "Before the Florida Public Service Commission, and it is the petitioners' objections and responses to Intervenor Stahmer's First Set of Interrogatories, number 1 through 2?

MR. SAYLER: I do have that. I have -- it's two pages, what I have. And a question that I have is, Ms. Stahmer said that these were stipulated. Do you know what exhibit these were stipulated in as part of the record, or was this an agreement between the parties that this was stipulated? I apologize. I --

MS. STAHMER: It was an agreement between the parties, and we may have failed to formally notify you of that. I think I had sent a letter indicating items that we still would want to get in, and then also included a letter -- or a list of items that had been stipulated to. But perhaps --

MR. SAYLER: For ease of moving on, Mr. Chairman, I would suggest just marking this as an exhibit, and then prior to the conclusion of the hearing maybe have a short break in place to kind of sort out

what other additional items have been stipulated. We probably should have done that during preliminary matters, but it passed us by. But for now, just mark this one as Exhibit --

COMMISSIONER STEVENS: So mark these two pages?

MR. SAYLER: Is it just two pages, Ms. Stahmer?

COMMISSIONER STEVENS: Or are there three pages?

MS. STAHMER: Yes, it is. It's the cover page of the petitioners' objections and responses, wherein it's indicated that Mr. Regan answered the questions, and then there's one page of A through D, the answers to which have petitioner stipulated.

MR. SAYLER: Okay. So it's just these answers that were stipulated?

MS. STAHMER: Yes.

MR. SAYLER: Okay. So it's a two-page exhibit. I would suggest that it be identified as Exhibit 89.

COMMISSIONER STEVENS: Exhibit 89.

MR. SAYLER: An excerpt from Stahmer's first set of interrogatories.

COMMISSIONER STEVENS: Okay.

(Exhibit Number 89 was marked for identification.)

MS. STAHMER: Thank you. And is there --

COMMISSIONER STEVENS: Mr. Wright, are you --

MS. STAHMER: Oh, I'm sorry. Excuse me.

COMMISSIONER STEVENS: One minute. Do you have that?

MR. WRIGHT: I have it.

MR. REGAN: And does Mr. Regan have it?

MR. WRIGHT: I don't know.

COMMISSIONER STEVENS: We need to get Mr. Regan a copy first of this new Exhibit 89.

Mr. Regan, do you have it?

THE WITNESS: I have it in front of me, and I recognize it as something that I prepared.

COMMISSIONER STEVENS: Ms. Stahmer.

BY MS. STAHMER:

Q. Mr. Regan, as you can see, I asked in the interrogatory about your reference to steel costs and what the source of information had been for what you cited in your PowerPoint presentation to the Commissioners, and you gave a generic answer. Do you remember anything more specific about what publicly available information you used as sources?

A. I'm sorry, but I do not.

Q. Okay. Well, another three-page document that was also attached to the pieces that went around, which includes numbers from the Bureau of Labor Standards (sic) regarding the Steel Producer Price Index.

COMMISSIONER STEVENS: Okay. And that's three pages?

MS. STAHMER: Yes. And it also has attached to it prices, an index from ENR, which is Engineering News Report published by McGraw-Hill, and then a chart behind that specifically referencing the ENR Building Cost Index from Atlanta.

COMMISSIONER STEVENS: Mr. Sayler, that would be Number 90?

MR. SAYLER: Yes, that would be Number 90. I have three pages. The first page says "BLS Steel Producer Price Index"; is that correct?

MS. STAHMER: Uh-huh.

MR. SAYLER: The next page appears to be a screen shot from a computer. At the bottom it says McGraw-Hill. And the third page, at the top, the chart says "ENR Building Cost Index, Atlanta."

MS. STAHMER: Yes.

MR. SAYLER: All right. That would be Exhibit 90, Composite Steel Prices.

(Exhibit Number 90 was marked for

identification.)

COMMISSIONER STEVENS: Thank you. Mr. Wright, do you have that?

MR. WRIGHT: Yes, sir.

COMMISSIONER STEVENS: Thank you.

MS. STAHMER: Does Mr. Regan have that?

THE WITNESS: I do.

BY MS. STAHMER:

Q. Thank you. As you can see, if we look at the chart that's at the top of the first page referencing steel mill products, so these are -- are they finished products? These are numbers that refer to all products, not -- you know, a whole combination of steel products. And if you look in the April column for 2008, it gives the number of 209.7, which is the index number. It's not a one-to-one correlation with dollars, but it factors in many elements of the economy.

COMMISSIONER STEVENS: Is there a question, Ms. Stahmer?

MS. STAHMER: Yes, there will be.

BY MS. STAHMER:

Q. And if you go across through to -- oh, I'm sorry. If you go down then, for April 2009, it says 157, which I assume, if you're familiar with reading these indices, means the cost of steel had gone down

appreciably in the time frame -- the extended time frame that I'm referring to. You were correct that January 2008 to June 2008 steel prices had gone up. And actually, they continued to go up into August, but then after August to April-May of 2009, steel prices had gone down dramatically. So again, it raises the question --

COMMISSIONER STEVENS: Again, is there a question?

BY MS. STAHMER:

Q. It raises the question why on your PowerPoint for May 9, 2009 -- excuse me, May 7th, you have a single PowerPoint titled "Steel Prices," and referencing simply that they had increased the year before, but not saying anything about how much prices had plummeted since then to the date that you were speaking or addressing the Commission.

A. So you -- may I repeat the question back --

Q. It strikes me --

A. -- to see if I understand it? You're saying why --

Q. Okay. It strikes me as a disparity, so is that something you can explain?

A. The fact that we were showing a number and did not explain that it gone down since then.

Well, first of all, this is -- subject to

check, the WPU1017 series is -- these are not manufactured products. These are things like bar steel, sheet steel. Those are what steel mill products are.

Secondly, I do not really recall how or why that particular slide was used. I know it was used in conversation. But I will say that this particular index was not used in any shape, manner, or form in setting the price.

Q. Okay. When you say --

A. But it was important that we talked to the Commission at that time that the pricing had changed and that it was for good and legitimate reasons.

And we also in that same presentation on that day, which was May 7th, we discussed how -- even though we struck the price and the price was moving all the time in April, the month just before the May 7th presentation, to manage risk of the project in a fair and equitable manner, we had negotiated and agreed upon a way to let both parties be fairly treated should the market shift down further or should the market shift up further.

However, that indexing only extended, as shown in the presentation, to the time of notice of commencement, at which point it was American Renewables' intent to enter what is known as an EPC contract or a

wrapped contract, where all the prices are fixed, at which point we had agreed all hands off, prices are fixed, fixed for 30 years. And I will say that the Steel Producer Price Index had nothing to do with it, and the prices were not set in August of '08.

Q. They had nothing to do with it, but they were a major focus of the PowerPoint presentation.

A. I don't think one number out of a 30-page presentation is a major focus.

Q. Well, it's not one number, because the presentation --

COMMISSIONER STEVENS: Mr. Wright? I'm sorry.

MR. WRIGHT: I was waiting, but it sure sounded like a statement was coming rather than a question, Commissioner.

COMMISSIONER STEVENS: Thank you. Ms. Stahmer, is there a question?

MS. STAHMER: Yes.

COMMISSIONER STEVENS: Thank you.

BY MS. STAHMER:

Q. What is the one number you're referring to, since as I look at this page, there are a lot of numbers?

A. You were referring to the steel price index having increased some amount. I think it was 30 percent

in one of these things.

Q. Well, I don't -- I didn't -- these aren't my numbers. They come from the Bureau of Labor Statistics. So I'm not referring to it; it's the BLS that's referring to it.

COMMISSIONER STEVENS: Mr. Wright?

MR. WRIGHT: I apologize, Commissioner. I --

COMMISSIONER STEVENS: No, sir.

MR. WRIGHT: I am just confused as to whether we're talking about --

COMMISSIONER STEVENS: I think I'm confused too. Ms. Stahmer, where are we?

MR. WRIGHT: Exhibit 90 or something else?

COMMISSIONER STEVENS: Which exhibit are you on, Ms. Stahmer?

MS. STAHMER: Well, we've been discussing Exhibit 90, the Bureau of Labor Statistics Steel Producer Price Index. I've gone back to the exhibit that is already in the record of Mr. Regan's PowerPoint presentation of May 7, 2009, where he's talking about steel prices having sky-rocketed nine months ago, but he's still talking about that rather than what steel prices were doing at the time he was addressing the Commission.

I'm trying to get some clarification as to why

he's using that and referencing an established, recognized costing index for the industry, since there was a jump from $300 million to $500 million in a year's time for this project.

THE WITNESS: It's very likely, and I confess that I was just being lazy and I picked up a slide off another presentation. And I don't know exactly how I used it in the presen -- you know, in a discussion. But it was to characterize that the market had substantially changed, which our Commission was well aware of due to extensive discussions we had had when we went through the whole price adjustment on the air quality control systems that we installed on Deerhaven 2.

BY MS. STAHMER:

Q. Would you look at the second page of Exhibit 90, please, which refers to the ENR -- that's the Engineering News Record, McGraw-Hill -- index. And this one refers to building costs for the Atlanta area. ENR does regional studies, which I think you know.

COMMISSIONER STEVENS: And what is the question?

MS. STAHMER: I just want him to look at it, please, and then note in the box at the bottom half of the page where it says April '08, it has an index number of 100 percent, referencing the number at the top, and

then at April '09, the index has indeed gone up somewhat, 102.4 percent. And again, I would ask you -- and you can look at the graph on the next page as well.

COMMISSIONER STEVENS: Ms. Stahmer, what's the question?

BY MS. STAHMER:

Q. Doesn't this suggest a great disparity in costs, between the contract prices?

A. What I believe that I'm looking at is excerpts from one of the production of documents that we provided to Ms. Steamer (sic), because you have to subscribe --

Q. Provided to what?

A. Stahmer. Because I believe you have to subscribe to this service to get this data. And what we were doing in the documents that we gave to her was looking at -- we had a consultant actually helping us, and he was taking various indicators. And the reason why he was indexing them to the April 2008 value was because that was about when the pricing was set in the original binding proposal. So the question was, how did it move, where did it move, and when it came around to when we were going to be striking a contract, what would be a reasonable index.

MR. WRIGHT: Commissioner, Commissioner.

COMMISSIONER STEVENS: Yes, sir.

MR. WRIGHT: At this point, there was a technological glitch that inadvertently revealed to the intervenors some confidential information. It had to do with the way a PDF was made on a computer. This information includes information that we assert to be confidential that is the subject of a pending notice of intent to request confidential classification that was filed last week, for which we will be filing the request for confidential classification in due course, consistent with the Commission's rule.

At this time, given that the information is subject to a pending request for confidential classification, I would simply ask that the Commission and all parties in the room treat this as confidential and not discuss the specifics of this.

My proffer for the time being and for the moment as to the confidential nature is this: The fact of what these indexes are is the confidential information of GREC LLC and American Renewables. As Mr. Regan said, the floor is closer than the ceiling. We, in this case, wearing my GREC LLC hat, do not want our competitors and those upon whom we must rely to buy things, or our competitors for other power sales agreements, to know what the terms of our agreements are.

I don't think that anything has been said out loud, I don't think, that reveals this confidential information. So we can continue, but it needs to be understood -- at least that is my respectful request, that it be understood that this is subject to a request for confidential classification and that it be talked about in that way in which we talk about confidential information, like, "Look at this here on the second line of the page," such that it not be revealed. Thank you.

COMMISSIONER STEVENS: Yes, sir. Thank you, Mr. Wright.

Ms. Stahmer.

MS. STAHMER: I have no problem with what he said, and we have not revealed any confidential information.

COMMISSIONER STEVENS: Okay. Thank you.

MS. STAHMER: For the record, I would also like to assert that the source of these BLS statistics and the ENR report were not from petitioners. This is information that we acquired ourselves before we became intervenors in this case. We were already concerned about what we have expressed as being a disparity that we think needed to be explained, and we have done our own research, which is one thing that had prompted my interrogatory.

As you will see in the interrogatory, I do ask about the source of -- what sources were consulted, and whether there were any consultants involved, and you'll see at B Mr. Regan's answer.

BY MS. STAHMER:

Q. Mr. Regan, you referred a little while ago to someone who had done an analysis of what you were negotiating or the methodology that was being negotiated. Was that Haddad Resource Management, as is referred to in your answer to this interrogatory?

A. Yes, it was.

Q. And you do note there that in the study that was done, the Bureau of Labor Statistics indices, Handy-Whitman, and others are referred to, as well as Engineering News Record?

MR. WRIGHT: This is where we're into the confidential information.

COMMISSIONER STEVENS: Okay.

MR. WRIGHT: That is the index content of those reports to which we assert confidentiality.

COMMISSIONER STEVENS: Ms. Stahmer --

MS. STAHMER: If I could have some clarification here, because this information -- whatever is written here in the answer, as well as the redacted part of the documents that are being discussed, is not

confidential. None of this was redacted out.

COMMISSIONER STEVENS: Hold on just a second. Mr. Wright.

MR. WRIGHT: I apologize. There are a lot of pieces of paper here, and both things are true. Some of the content that I was concerned about is reflected in confidential information within the Haddad reports. It is also, as Ms. Stahmer correctly stated, factually stated that these are here. There was just a lot going on. Thank you.

COMMISSIONER STEVENS: So we're good?

MR. WRIGHT: I think we're good as far as she was going, mentioning the indexes that are reported in the response to 1B. Thank you.

COMMISSIONER STEVENS: Okay. Thank you. Thank you, Ms. Stahmer.

MS. STAHMER: At this point, I would like to ask petitioners for copies of the unredacted Haddad memos that we had asked for before and have them distributed so that questions -- the cross-examination can continue. And I would appreciate it if you could -- I know you have the documents. Are the areas that you wanted maintained as confidential shadowed so that it's easy to tell which parts are not to be disclosed?

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: Yes, sir. They are highlighted in yellow on the copies.

COMMISSIONER STEVENS: Okay. So the highlighted areas are confidential.

MR. WRIGHT: The highlighted areas are not to be discussed.

(Documents distributed.)

COMMISSIONER STEVENS: Mr. Sayler, is this going to be 91, or how do we handle this as an exhibit?

MR. SAYLER: Yes, it would be identified as Exhibit 91, but also identified as a confidential exhibit, assuming it gets admitted into the record. If it's not admitted into the record, then it won't be part of the record, but we'll identify it as confidential Exhibit 91.

(Exhibit Number 91 was marked for identification.)

COMMISSIONER STEVENS: And may I remind everyone the highlighted areas are confidential. And the witness has a copy. Ms. Stahmer.

MS. STAHMER: Thank you.

BY MS. STAHMER:

Q. There are -- just for your information, there are three memos here written by Haddad. One is February, one I infer is March, and then another one is

April, dated April 2009.

COMMISSIONER STEVENS: I'm sorry. What page are you on? The first page?

MS. STAHMER: No. I'm letting you know that the package contains three memos.

COMMISSIONER STEVENS: Okay.

MS. STAHMER: The copy that we have in front me, the first page doesn't have a number, then the next pages do.

COMMISSIONER STEVENS: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I'm sorry, Ms. Stahmer. It's late in the day, and I'm looking at this for the first time. And usually confidentiality is granted liberally per statute. And I know there's a pending request, so we need to be sensitive.

A question to Mr. Wright. On page 2, the first two yellow highlighted areas, without getting into any confidential information, can you tell me why in the world that's confidential?

MR. WRIGHT: Commissioner Skop. Commissioner Stevens and Commissioner Skop, I can't say for sure, but having conferred with my client, it appears that the eight words that are shown as highlighted in that second paragraph there were either inadvertently or for some

other reason redacted and need not be.

The indexes -- the situation is this: The indexes referenced in the following paragraph are the subject or are related directly to the subject of negotiations by my client, GREC LLC, towards an engineering, procurement, and construction contract, and it's that confidentiality that is at risk here. I apologize for the first line.

COMMISSIONER SKOP: Thank you. I appreciate that. I mean, I could go on. You know, I could understand numbers, percentages, and specific references to conclusions drawn, but I think sometimes the statute is construed a little bit too liberally, to the extent that I've seen during my time on the Commission an entire letter, an entire letter that was claimed to be confidential. The only thing they left unredacted was the company logo. I think some of the staff attorneys know what I'm talking about. And that's just utterly ridiculous, but at the time I didn't, you know, protest it or go there. But I think, you know, when something is confidential, like we used to do when I was building nuclear submarines, it's confidential, but if it's not, it's not.

COMMISSIONER STEVENS: Okay. Ms. Stahmer.

MS. STAHMER: Thank you.

COMMISSIONER STEVENS: Do you have questions on the --

MS. STAHMER: Yes, I do. Thank you.

COMMISSIONER STEVENS: Okay.

BY MS. STAHMER:

Q. Mr. Regan, can you just quickly summarize why Haddad was hired either by GRU or the City -- I realize sometimes the distinction is negligible -- to do these memorandums?

A. The relevant application of indices for this kind of purpose is a pretty high state of art. Our current staff had not had the experience of having lived through having done that. We did not feel like we wanted to just take something that American Renewables gave us, which we never did plan on going anywhere close to, by the way. And we also felt like we did not have technical expertise and experience on our staff. We hired Mr. Haddad because we knew that he did.

Q. Okay. Thank you. And would you please go to page 3?

COMMISSIONER STEVENS: Is that page 3 of the first document?

MS. STAHMER: Of the first memo, yes.

BY MS. STAHMER:

Q. I want you to look at some of the confidential

information, but we have to be cautious not to actually disclose what it says. You'll see at the top of the page, there are two paragraphs, and then there's a line that is highlighted. With regard to that highlighted sentence, was Haddad referring to -- was he speaking generally as sort of a philosophical matter, how you approach these things, or was he referring to something that had already been proposed by American Renewables?

A. I don't exactly remember.

Q. Okay. At the top of the page, there's an unredacted paragraph. Do you agree with what is expressed by Haddad in that paragraph?

A. The very top one?

Q. Yes.

A. The problem with the Handy-Whitman Index is that it was published relatively infrequently, and we asked them to continue to work to find an index that was more frequent so that we wouldn't have arguments about how to levelize costs in between, and so on and so forth.

Q. Then would you go down below the line that is -- the one single line that's completely redacted, the paragraph below that. During negotiations --

A. We used this to great advantage to drive them down drastically.

Q. However, there still seems to be a strong correlation between the increase in price from one year to the next and what is suggested or revealed in that paragraph.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: I object. There was no question there. That was an assertion, no more.

COMMISSIONER STEVENS: Do you have a question?

MS. STAHMER: I did ask a question.

COMMISSIONER STEVENS: Okay. What was the question?

MS. STAHMER: That's a good question. I'm also getting tired now. I can't remember entirely.

Oh, I asked -- I think I asked whether Mr. Regan agreed with that paragraph.

COMMISSIONER STEVENS: Mr. Wright?

MR. WRIGHT: Which paragraph?

MS. STAHMER: The paragraph -- I guess it's the fourth paragraph if we count the highlighted sentence as a paragraph. It's the fourth paragraph which has the small few words highlighted.

A. That was true for December of 2008. Things kept moving, going up and down. Our position -- everything kept moving, and we were watching all the moving parts.

One of the other considerations is, if you go to the fourth paragraph, there's a little yellow section in there that indicates the magnitude of increase that was being requested, and we all know that that didn't happen.

Q. Which paragraph are you referring to?

CHAIRMAN ARGENZIANO: Mr. Chair, they're both referring to the same paragraph.

THE WITNESS: No, if you go to the top of page 3 there, one, two --

CHAIRMAN AGENZIANO: Did you say the fourth? Excuse me.

THE WITNESS: -- three, four, the fourth paragraph.

CHAIRMAN ARGENZIANO: That's what she was talking about. They're both talking about the same paragraph, the one with the little highlighted area.

THE WITNESS: No, I'm not counting the highlighted area.

CHAIRMAN ARGENZIANO: No, I know that.

THE WITNESS: I'm sorry.

CHAIRMAN AGENZIANO: I'm trying to get it straightened out. She asked you about that paragraph, and you, I think, had answered to a different paragraph and then came back to this paragraph. So that is the

paragraph that she asked you about.

THE WITNESS: I'm definitely lost, but let me try to intuit where we're trying to go with all this stuff.

COMMISSIONER STEVENS: I think -- I believe Ms. Stahmer's first question had to do with the third paragraph, which is one line fully highlighted. And the second question was the next paragraph, which has --

THE WITNESS: Three words?

COMMISSIONER STEVENS: --- three words highlighted. So are we all together?

MS. STAHMER: Yes.

COMMISSIONER STEVENS: Then I think we're --

THE WITNESS: So the question is, do I agree with those --

CHAIRMAN AGENZIANO: Do you agree with that paragraph?

THE WITNESS: The three-word version, I definitely agree with that.

COMMISSIONER STEVENS: Okay. Ms. Stahmer.

MS. STAHMER: Thank you.

BY MS. STAHMER:

Q. Now, with the next paragraph, where Haddad seems to be referring to a suggested kind of phasing for certain things, was that reasonable or unreasonable to

your mind?

A. He was providing an analysis based on a set date with a very fixed time frame. If I had to look at those numbers and say do they apply now, I would have to say no. But they applied at that time, and it helped us formulate our final formula, which took an additional two or more stages. So this is just kind of getting started on hour analysis.

Q. Now, this memorandum is dated February 2009, and with that in mind, would you look at the paragraph that's fully highlighted towards the -- just below the center of the page?

COMMISSIONER STEVENS: On page 3.

MS. STAHMER: On page 3, yes. Thank you.

CHAIRMAN AGENZIANO: Mr. Chairman. Hang on. Hang on. Would that be -- so we don't have to go, would that be the last highlighted paragraph on that page?

MS. STAHMER: Yes, that's correct. Thank you.

COMMISSIONER STEVENS: Thank you.

THE WITNESS: I'm looking at it.

COMMISSIONER STEVENS: From Mr. Wright.

THE WITNESS: I'm sorry.

MR. WRIGHT: What is at issue is whether the costs of the Gainesville Renewable Energy Center in its most -- in a reasonable way, the issue is whether this

project is cost-effective. What the intervenors and what Ms. Stahmer is endeavoring to do seems to be to try to go in and dig into a number of steps in the negotiation process and a number of the evaluations that GRU made as to different indexes as the negotiations were going on.

I'm not convinced that this has anything to do with the issues that are really before you today, and I would respectfully ask that we move on.

COMMISSIONER STEVENS: Ms. Stahmer.

MS. STAHMER: Who goes first? I would -- oh, excuse me.

COMMISSIONER STEVENS: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. You know, I respect Mr. Wright's request to move on, but I'm still sitting here late in the day, 7:30 at night, scratching my head as to why the majority of this highlighted information is confidential.

I mean, I look at the second part of the draft report, and the title is allegedly confidential. If you go to the last paragraph which seems to be something that in the interest of transparency is just a statement -- it has no numbers there. It's just the rationale. It's one part of the conclusion on that page, and that's confidential.

I don't want to spend a lot of time on this. I don't know how germane it is. But again, if I'm going to rule on confidentiality, Staff, we may need to have a motion hearing or a confidentiality hearing so we can go piece by piece to start looking at this, because this is a little bit excessive in terms of the request. I don't see lot of confidential information here.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: We fully respect Commissioner Skop's position and his ability to rule on this. The request that these be admitted came very late in the process, like last week. That's why we filed the notice of intent, because we didn't have time to go through the whole thing. We did that, and we have been respectful. We reduced the redactions, for example, in the power purchase agreement by a vast amount from the initial filing to an updated filing that we did in January. We are trying.

And Commissioner Skop I'm sure has legitimate questions, and we will address the whole thing in our request for confidential classification when we file it timely under the Commission's rules. But that was different from my concern as to the relevance of this, where what's really at issue is the projected costs to GRU under the PPA and the risks that are inherent in the

contract as it exists with the payments that they will make if we are successful at obtaining site certification and performing the contract. It's not the negotiation process, Commissioner.

COMMISSIONER STEVENS: Ms. Stahmer, where do you expect to go with your line of questioning?

MS. STAHMER: Well, I certainly don't want to belabor the matter for the benefit of everyone. However, I do think this is directly related to one of the primary issues that the Public Service Commission has to address having to do with whether the utility in its proposal is about to embark on a project that is likely to provide the community with necessary power at a reasonable cost.

And I think the -- there's a lot in these memorandums. If you consider the time frame, one of them is written in February 2009. The third one is written in April 2009, and it's May 7th 2009, when GRU comes before Commission and asks for them to ratify a $200 million increase in what had been a $300 million contract. So we don't need to discuss this matter --

MR. WRIGHT: Object to that. This $200 million increase is apparently calculated with reference to a $300 million number that was included for tax purposes only in a PowerPoint presentation that was

made in April of 2008. There's just no evidence to support that.

COMMISSIONER STEVENS: Okay. Thank you.

MS. STAHMER: I just --

COMMISSIONER STEVENS: Ms. Stahmer, hold on.

MS. STAHMER: Oh, escuse me.

COMMISSIONER STEVENS: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. And again, to use one of Commissioner Edgar's expressions, I think we're kind of getting far afield here. It's late in the day. I understand that there's some concern regarding indices, for lack of a better word, without disclosing anything more. Certainly if you have relevant lines of questioning, that's great.

The concern I have, to follow up on a previous concern -- I'll make this brief, and then I'll let you, Mr. Chair, decide as to whether we move on or not.

Mr. Wright, on that last paragraph in that conclusion that I talked to briefly -- and this is what I'm torn with here -- it appears that --

MR. WRIGHT: Commissioner, I apologize. Are we in the one that says February 2009 on the front?

COMMISSIONER SKOP: I don't have any dates on the mine, unfortunately.

MS. STAHMER: Oh, I'm sorry. The one I have

has --

COMMISSIONER SKOP: The one I have doesn't have a date on it.

MR. WRIGHT: Okay. There is one that does not have a date on it, and I think I'm there.

COMMISSIONER SKOP: All right. The last page, conclusion.

MR. WRIGHT: To be clear, conclusion, an unredacted sentence then begins, "It is recommended that GRU utilize"?

COMMISSIONER SKOP: Yes.

MR. WRIGHT: And you want to talk about the redacted --

COMMISSIONER SKOP: I want to talk about the redacted paragraph underneath it.

MR. WRIGHT: Yes, sir.

COMMISSIONER SKOP: Generally speaking, in that paragraph, conclusion, it draws a conclusion as to what GRU should do. And I guess this is from Mr. Haddad or Haddad Resource Management. I guess -- has GRU retained them? If GRU has retained them to represent GRU's interest, how is this not an inherent conflict between the interests of GRU and GREC with American Renewables with regard to what's in that conclusion? Because it's advising GRU that GRU should do something

on behalf of its ratepayers in relation to what American Renewables says.

MR. WRIGHT: Yes, sir. And GRU utilized this information in evaluating the varioius indexing provisions that were considered during the negotiations.

COMMISSIONER SKOP: But to my point, you're representing the joint petitioners in this case. This is a document that pertains to something that GRU should have done in its negotiations, so I don't know how you assert confidentiality, it seems to me -- you know, unless GRU is asserting it.

MR. WRIGHT: GREC LLC is asserting the confidentiality as to information that was exchanged with GRU during negotiations as confidential and proprietary business information.

COMMISSIONER SKOP: Fair enough. It just seems to me that, again, this conclusion advises GRU as to what the appropriate course of action would be in relation to this issue that has been analyzed, whereas American Renewables is on the other side.

MR. WRIGHT: If I could, maybe just one more point. I was not representing GRU at the time. I did not come to represent them until after the power purchase agreement had been signed and the need determination application was being prepared.

COMMISSIONER SKOP: Mr. Chair, I'll conclude, moving on.

COMMISSIONER STEVENS: Ms. Stahmer.

MS. STAHMER: Thank you. I would like to -- I'll try to make this as expedited as possible.

BY MS. STAHMER:

Q. With regard to another memorandum the one that has no date on its face and it just says draft report, and then over to the right it says index evaluation, and the material -- the rest of the sentence behind that has been redacted.

COMMISSIONER STEVENS: Go ahead.

BY MS. STAHMER:

Q. And with regard to that first full paragraph, is not Haddad Resources commending some of the generally known industry indices that we have been discussing before?

A. Was your question was he commending or recommending? I may have misheard you.

Q. Well, recommending, then.

A. He was moving in that direction, and he finalizes his recommendation by April.

Q. Excuse me?

A. He's working and moving in that direction. He's getting feedback from his client, and then he does

make a final recommendation in the report that's dated in April.

Q. I'm talking about the redacted text on the first page of that memorandum that says draft report and --

A. What that paragraph is saying, he's recounting history for the record, you know, as part of his report as to what is he considering. It's further background on how he went from this report to this report, which is that we made a proposal and got some pushback, and so then he's going to proceed and evaluate the pushback and see what he can come up with.

Q. And then on the next page under study result, the second paragraph, subtask 2, that first sentence, the Handy-Whitman index of public utility construction costs is an industry recognized means of adjusting construction costs over time.

A. It is.

Q. Given what you had said before, you suggested you had problems with relying on that index.

MR. WRIGHT: Commissioner?

COMMISSIONER STEVENS: Yes.

MR. WRIGHT: I renew my objection to the continuation of questioning on these documents. As I previously said, the question here is whether the GREC

project as proposed by the joint petitioners to this Commission provides -- satisfies the need determination criteria. Ms. Stahmer continues to endeavor to dig into the negotiation process pursued by Gainesville Regional utilities in reaching the economic bargain reflected in the power purchase agreement. I don't believe it's relevant to your consideration, and I would respectfully ask that you stop this line of questioning.

COMMISSIONER STEVENS: Kurt, Mr. Kiser.

MR. KISER: I think the intervenors have had plenty of time to try to develop this line of questioning, and I think the question that Mr. Wright poses is a very valid one.

I'm not sure what course of action the Commission would like to follow, but I would suggest that we take a very short break and let the legal staff get together. I want to propose a couple of alternatives and come back, because I can't see a good decision being made with the way we're going tonight. Everybody is tired. They're frustrated. And this obviously deserves a well thought out and reasoned finality to it, I think that we need to really seriously look at that whole issue of whether or not it's material and relevant.

COMMISSIONER STEVENS: Ten minutes?

MR. KISER: Ten minutes.

MS. STAHMER: May I --

COMMISSIONER STEVENS: We're in recess.

(Short recess.)

COMMISSIONER STEVENS: All right. We'll go ahead and get back on the record, and I'm going to recognize Mr. Kiser, our general counsel.

MR. KISER: Thank you, Mr. Chairman. As I stated before, I think that Mr. Wright had a motion questioning relevancy of this whole line of questioning. And I believe that the intervenors have had plenty of opportunity to try to demonstrate whatever point it was that they were trying to make with it.

And I would suggest at this point that the ruling would be that his motion should be granted and that we would request that the intervenors get on with the questioning and try to be as specific as possible, try to hopefully ask questions that require a yes or no answer to the extent they can, and let's wrap this up fairly quickly so we can get around to the end of the case, as it's getting late. Thank you.

COMMISSIONER STEVENS: Ms. Stahmer, can we do that?

MS. STAHMER: Well, we can certainly move on, but I would definitely object to saying that the issues

I've been addressing, that I haven't established that it has some connection with the matter that's before the Public Service Commission. I'm quite willing to relent from asking any more questions provided the exhibit will be accepted into evidence and it's something that can be addressed in our post-hearing briefs.

COMMISSIONER STEVENS: Mr. Wright?

MR. WRIGHT: Commissioner, you and/or the Commission in toto will make this decision. We object to the relevance of these exhibits, and I don't think relevance has been established.

COMMISSIONER STEVENS: I agree with the objection. Ms. Cibula, Mr. Kiser?

MR. KISER: I'm sorry.

COMMISSIONER STEVENS: Should we move on?

MR. KISER: Yes.

COMMISSIONER STEVENS: Let's move on. The objection is sustained. Move on with the questioning.

MS. STAHMER: Thank you. Then I'll defer to Ms. Deevey.

COMMISSIONER STEVENS: Okay. Thank you. Ms. Deevey.

MS. DEEVEY: Yes. Well, I think I would have objected myself, because we are not identical twins. I am one intervenor, and Ms. Stahmer is another, and I

don't think that the claim that what she was investigating or asking about is something that I should not be allowed to inquire about, and I would like to inquire about it. I think there's an important issue here.

COMMISSIONER STEVENS: Madam Chair.

CHAIRMAN AGENZIANO: I think, Mr. Chair, what happens -- as I said before, neither of you are attorneys, are you?

MS. DEEVEY: I beg your pardon?

CHAIRMAN AGENZIANO: Are you an attorney?

MS. DEEVEY: No.

CHAIRMAN AGENZIANO: Neither am I.

MS. STAHMER: I am, but I'm not a member of the Florida Bar.

CHAIRMAN AGENZIANO: Okay. When you're new to the process, when you come here, it's very difficult for citizens to come in and to understand the process. It's not easy. You guys are here all the time. You know how it works. But just so you know, when there's motion like that that's made and the Chair decides that it's objected to, it's not going to -- it doesn't pay to bring it back up again, because it has been already objected to.

MS. DEEVEY: So I cannot ask any questions

about the increase in price?

CHAIRMAN ARGENZIANO: No, I don't think that was the -- pertaining to the line of questioning -- if you could be specific in your questions and they weren't already objected to -- and I think that's the problem that staff had, that it wasn't getting to the relevancy or you weren't making it clear. If you have questions, I'm not saying you can't ask those questions, but not the same thing that was just objected to the same way. If you could phrase your questions differently that don't get an objection and it's not sustained, then you're good to do.

COMMISSIONER STEVENS: Ms. Deevey, do you have questions of the witness?

MS. DEEVEY: Yes.

COMMISSIONER STEVENS: Okay. Go ahead.

CROSS-EXAMINATION

BY MS. DEEVEY:

Q. Mr. Regan, is it not true that in April of 2008 -- pardon me, in May 2008, the City Commission approved negotiations with a bidder of a firm contract at a firm price, a firm bid?

A. I heard your question that it was not true?

Q. Is it true?

A. They approved us to proceed with negotiations

based on our RFP, which was a fixed price, so that was true.

Q. Yes, sir. Then a year later, the City Commission and the public were presented with a contract already signed that they were asked to ratify which involved a price that was far higher than the one that they had been reviewing in the firm bid that they reviewed a year earlier in April and May '08. Is that true?

A. In May of '09, we came in with a pre-signed contract for ratification -- not that it was pre-signed, but that the deal had been agreed to, and the price had changed per megawatt-hour by 17.9 percent.

I will say that there are some very substantial differences in that price and the price that they offered. For example, in the price that was originally offered in their proposal, it was a fixed dollar per kilowatt-month charge that we would have had to pay whether the plant ran or not. So we shifted a lot of risk in the way we restructured the pricing elements.

Also, there was a lot of changes in the way the fixed O&M charge was calculated and applied, and it was our analysis that extending the term of the contract was significantly to our good. So although the price

went up 17.9 percent, it's not really an apples to oranges comparison.

Q. Was any of that reasoning or any of those arguments presented? Were they presented to the public at any time?

A. Yes, they were.

Q. When?

A. May 7th.

Q. That's when you referred to the increase in the cost of steel?

A. Yeah.

Q. Thank you. I have questions about two other items. On page 13 of your testimony, you discuss the issue of the tangible property taxes that will be paid by GREC to the City of Gainesville and to Alachua County. You regard this as a benefit to the ratepayers and to the community because the money, although extracted from GRU's customers, is returned to the community to pay for schools, libraries, police, fire protection, emergency, and so on. Some people would consider this a tax, a covert tax, and I question whether or not you regard it as such. It's a transfer of money to governments, locals governments.

COMMISSIONER STEVENS: Ms. Deevey, is there a question?

MS. DEEVEY: Yes.

BY MS. DEEVEY:

Q. Do you regard that as a kind of tax on the customers?

MR. WRIGHT: Can I just be clear?

COMMISSIONER STEVENS: Yes, Mr. Wright.

MR. WRIGHT: Commissioner, thank you. The question I just heard was do you regard that as that kind of a tax on the customers. I was not clear as to what the antecedent of "that" was.

COMMISSIONER STEVENS: Ms. Deevey, can you rephrase the question?

BY MS. DEEVEY:

Q. Yes. The $7.3 million which GREC will be reimbursed by is paid by the customers of GRU, so they are, in effect, paying local governments taxes, which --

COMMISSIONER STEVENS: Ms. Deevey.

MR. WRIGHT: Object.

COMMISSIONER STEVENS: Ms. Deevey, that's a statement, not a question.

MS. DEEVEY: Oh. No, I asked him would he regard that as a situation where the customers are, in effect, paying a tax.

A. I do not.

Q. Thank you. Has this user fee been included in

the estimates of the impact of the GREC project on the utility bills that will be paid by customers?

A. Yes.

Q. Has that been included, for example, in the statement in the newspaper that one estimate of the increase in cost for a customer who used 1,000 kilowatt-hours in a month would be, I think, $6.10. Was that fee for reimbursing the property taxes included in that $6.10?

A. Yes.

Q. Oh, really? Well, I'm surprised at that, because you did --

MR. WRIGHT: I object.

MS. DEEVEY: Sorry.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: She started to say, "I'm surprised at that because," et cetera. It was another statement, and not appropriate.

COMMISSIONER STEVENS: Okay. Thank you. Ms. Deevey, a question, please.

BY MS. DEEVEY:

Q. So then I infer that in the list of the exhibits submitted to staff where they showed the increase in costs under various circumstances that these impacts that are described also include the added money

that the customers will pay to reimburse GREC for its property taxes?

A. Yes. And let me clarify that this is an arm's-length transaction where the property taxes that GREC would have to pay are a true cost of their business, and so it has been implicitly, along with every other true cost of the business, included in the rates.

Q. Yes.

A. The purpose for having this discussion on page 13 is to address the issue of how might a municipality be a little bit different than a investor-owned utility. In this case, here's something that's treated as a cost, that we've always treated as a cost. It's part of our analysis, but in fact it's helping to pay for schools and roads and things in the community that if this money wasn't going in -- by the way, they're not all the city. Some of them are the county and the school board and the water management districts. If GREC was not paying those things, to some extent, people's taxes would have to go up.

However, we realize that's a fine point, and we just treated it as a cost because we wanted to do the utility economics for the evaluation by the Florida Public Service Commission in a straight-up manner.

Q. Yes, but I think we have separate taxing districts in Alachua County, so what you're saying is that I as a customer of GRU would be paying money that would go to pay taxes I certainly wouldn't pay because I don't live in Gainesville.

A. I may be having trouble with my ears today, but did you say you don't live in Gainesville?

Q. No. I live in the county.

A. So there's a good example of where you're paying our utility rates, and there's a general fund transfer. So to a certain extent, you are through your rates helping to support police, fire, and all those other kinds of services, the parks, the roads, every time you come into Gainesville, all those things you're helping to support, but I wouldn't call that a tax.

Q. Well, that's interesting -- thank you. Wait a minute, please.

There is an exhibit which I had prepared. It contains some information you gave me in an interrogatory which had been stipulated by the petitioners, but it also contains a letter available on the Alachua County website from Mr. Regan to the chair of a committee which investigated many strategies for conservation. The chairwoman is Penny Wheat. And in that letter -- I'll show you the letter.

COMMISSIONER STEVENS: Is there a question, Ms. Deevey?

MS. DEEVEY: Yes.

COMMISSIONER STEVENS: And the question would be?

MS. DEEVEY: Well, I'm sorry. We cannot find the exhibit, so I will close this questioning. Thank you.

COMMISSIONER STEVENS: Okay. Thank you, Ms. Deevey.

Mr. Sayler.

MR. SAYLER: Thank you, Mr. Chairman.

CROSS-EXAMINATION

BY MR. SAYLER:

Q. Good evening, Mr. Regan. Thank you for testifying today. I have maybe two and a half questions. In the interest of getting out of here sooner than later, I've cut quite a few of the questions.

First, with regard to various types of risk analyses, would you consider the use of multiple scenarios in a cumulative present worth analysis a type of risk analysis which allows the Commission to weigh the various sensitivities?

A. Only if probabilities were assigned to each of

those scenarios.

Q. So is that yes or no?

A. That would be no.

Q. No. Okay. So you believe that probabilities need to be assigned; is that correct?

A. Absolutely.

Q. And why is that?

A. Because that's how you do risk analysis.

Q. All right. Also, moving on, in a significant portion of your testimony, you summarized a number of bills that were proposed before the Florida Legislature in the 2010 legislative session. Now that the legislative session has concluded, could you please summarize or explain whether the Florida Legislature enacted any legislation which directly affects the GREC biomass project or legislation which reflects a cap-and-trade or renewable portfolio standard. And I know it's a compound question, but if the answer is yes, if you can give me the bill number and the appropriate --

A. I'll be very glad to do that. When I prepared the supplemental testimony and filed it, I gave a snapshot of the status of federal bills and Florida bills at that time. To make a long story short, none of the Florida bills went through.

Q. All right. None of the ones that were proposed. Were any bills --

A. Because the PACE bill was introduced after I prepared my summary. So the PACE bill went through, but it wasn't in my summary.

On the federal side of the house, I reviewed that information just the other day very carefully with my consultant and my carbon accountant, and none of that has changed. It might have changed if the Kerry-Lieberman thing had gone forward, but it didn't, so -- although we did discuss it somewhat

Q. All right. Thank you. But you said that the PACE bill passed both the House and the Senate and is now before the Governor; is that correct?

A. That's my understanding.

Q. Do you happen to know the bill number, just for the record, if you know?

A. I don't know the bill number.

MR. SAYLER: Okay. We can find that out.

All right. That is it for staff's questions of this witness. There may be some housekeeping matters to address later on after Rollins concludes his testimony, just to give you a heads up.

COMMISSIONER STEVENS: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I'll try to make this brief. Good evening, Mr. Regan.

THE WITNESS: Good evening.

COMMISSIONER SKOP: Four questions. First, do you happen to know what the design life of the Deerhaven 2 coal unit is?

THE WITNESS: The number we're working with is 50 years.

COMMISSIONER SKOP: So do you have any reason to believe that the reliability of that unit would be any less than other similar coal-burning units in Florida in relation to -- let me use CR1 and CR2, which is 1966 and 1969 respectively, or CR4 and CR5, which is about the same age as Deerhaven.

THE WITNESS: I would not at all try to compare a nuclear unit to a coal unit.

COMMISSIONER SKOP: No, those are coal units, coal unit to coal unit.

THE WITNESS: Oh, I'm sorry.

COMMISSIONER SKOP: Part of the argument being made here is that Deerhaven could fall off the cliff tomorrow and not suddenly be reliable. So in relation to its design service life and other coal units performing in Florida, which are older than I am and still running, I just wanted to gain a better

understanding as to why you thought Deerhaven would not continue to be reliable in light of its 20 years --

THE WITNESS: For example, in recent years, the capacity factor of the unit has been as low as 65, 70 percent. We've had a couple of bad years. If you look at the GADS data, generation -- I forget what GADS means, but there's a national level dataset for units. If you look at age of units, there's definitely a trend for reliability to decrease. A lot of it depends on how you manage the unit, what you do with the unit.

Some of the things about Deerhaven 2, we've had to derate it because of the parasitic loads for the air pollution control. For example, right now, it has been derated by 20 megawatts because after the last outage, for some reason it has an over-frequency problem that -- we're currently managing it by running it at a lesser output until we figure out what's causing that.

But in general, an older unit is going to go through epochs of problems, particularly boiler tubes.

Another example is Deerhaven 1, which is the one that is scheduled to come out in 2013. We just did an overhaul on that and had a fairly catastrophic failure with it because -- very, very unusual. The actual turbine housing had changed shape, and it's the kind of thing you wouldn't normally pick up. It's the

kind of thing that happens after running units for many years under a wide range of conditions.

COMMISSIONER SKOP: Slow start-ups, that's the key to saving your turbine casings.

Anyway, just two additional questions. On page 4 of your prefiled testimony, lines 1 through 3, you discuss that there are no economic disadvantages to GREC if the benefits in terms of jobs and the 558 million net present value of increased regional income are included in the calculations. How does that benefit GRU ratepayers, adding that in?

THE WITNESS: I harken back to -- earlier today you heard from Angela Pate about what the hope and opportunities mean in our community. And, you know, I know that sounds really hokey and spiritual, but, boy, I saw the same thing with our feed-in tariff when we rolled that out. And before we did the feed-in tariff, I went throughout Europe and looked at their programs and saw that these are very strong benefits that our ratepayers have the opportunity to participate in. So that's how it benefits them.

COMMISSIONER SKOP: But you would agree, would you not, that economic investment is not one of the criteria within the determination of need under Florida Statute 403.509; is that correct?

THE WITNESS: I've reviewed I think starting with Chapter 366 and going all the way through, and if you read it very carefully, you actually have very wide -- your mission is quite wide. It has to do with the welfare of the whole state. And when you go -- the need thing per se doesn't talk about the interests of the whole state, but it talks about need. But at the end, there's a wide open doors of what other factors that you may wish to consider. So I feel that your Commission has a lot of discretionary authority in this matter.

COMMISSIONER SKOP: Okay. I have just one final question. Under the proposed petition, it's GRU's intent to try and sell 50 percent of the output from the proposed biomass unit for the first ten years; is that correct?

THE WITNESS: That's correct.

COMMISSIONER SKOP: So if under the proposed petition GRU customers would be asked to pay for the new generation that's going to be sold and exported elsewhere, is that not effectively a tax on GRU ratepayers to the extent that it essentially supports economic development?

THE WITNESS: I would like to say that it's not, and I'll explain why. I think we went through the same cycle when we built the Deerhaven 2, which actually

effectively doubled our base rates. And it was so contentious at the time that -- there was a joint board of the County Commission and the City Commission. It caused the dissolution -- that board was dissolved as a consequence of that.

And yet Deerhaven 2, it's safe to say it has been the jewel in our crown. It has kept our rates very competitive. We were always in the lower third until -- we are now at a point where -- to give you an example, our load factor is just about exactly 50 percent. Our peak demand is a little bit north of 480. And so our average load is more than Deerhaven, and we're starting to see how it's really affecting our rankings.

So that consideration has a lot to do with why we bought the PEF -- well, we didn't buy. We entered into the contract with PEF as a hedge position. And like all hedges, when we were hitting $14 gas, that was golden. When we had some outages that we didn't plan on, it was golden. Right now, it's maybe not so golden because we have $4 gas. You know, I hope it stays $4 forever, but I doubt that will happen. So those are the kinds of factors that we take into consideration.

And the other way that we realize that base load has been on our agenda for quite a while is that we use a tool called EGEAS. It's an EPRI generation

optimization and expansion tool, and it keeps picking out base load alternatives. We're kind of long on peaking because a number of our units are quite old. They're scheduled to be retired. In fact, as I mentioned, we're retiring 148 megawatts.

One of the things I would like to add to the discussion on need is that there's really two aspects when you calculate reserve margins. The first aspect is, you have to have the forecast. Then you have to have the resources. And one of the things that I think I really want to call out based on some of the questions is that between now and 2023, our energy conservation plan has 66 megawatts of additional reduction. And it's not load management. There's a lot of energy reduction that goes with all of that. So that's in our forecast.

I would also like to mention that we have at least 32 megawatts of solar that we're committed to. I will say that our solar program is an outstanding success. We've learned a lot from it. By the end of this year, we should be one of the top 10 communities in the country in terms of watts per square foot. And again, that's one of those opportunity for economic development things, and we're paying for rooftop 32 cents a kilowatt-hour by the time you blend it through.

COMMISSIONER SKOP: If I could just cut you

off there in the interest of time, not to let you not answer a question. Just one final question.

THE WITNESS: Oh, sure.

COMMISSIONER SKOP: And I appreciate you adding to that, and I've certainly gained a better appreciation for GRU's position based upon what I've heard today with looking at the combustion turbines and noting how, yes, they add to based load capacity -- not base load, but underlying capacity. But again, from an economic dispatch perspective, and heat rate and the age of the units, that certainly, you know, adds something to the equation that was not readily apparent in the previous hearing.

So that being said, assuming that the Commission were to move forward favorably on the GRU petition, what assurances and what steps would you take as a manager of GRU to further mitigate ratepayer risk associated with this project, contracts, you know, looking at other alternatives? I know some of the nondisclosure agreements looked at perhaps having ownership interest in the GREC project from the municipalities, not just allowing them to purchase power that. So I would just like to hear from you in your own words that you're going to do everything possible to mitigate risk.

THE WITNESS: If I can turn to my notes, I think I can give you a better answer.

We spent a lot of time thinking about this. I don't mind sharing with you that our risk management program for financial risk and asset management risk have been touted around the nation by bond rating agencies. We're the smallest company that has a AA/AA rating among those guys.

A lot of it is because we're heavily involved with The Energy Authority that provides us access to risk management tools and analyses that we really frankly don't have the expertise or the financial ability to handle. So we're always watching our costs at risk, and that was one of the determinants for why we got into the Progress thing. Our objective is not to always have the lowest cost, but to give price stability and reduce volatility, because we've noticed that when we have volatility, it really hurts people very badly.

So here are some of the features that kind of go on top of everything you've sort of heard so far. The first thing is that we have actually decoupled our general fund transfer from the -- or our revenue requirements.

COMMISSIONER SKOP: Just to be clear, cut to the chase. Again, I know the bond rating and the lady

that appears on TV all the time that refinances. She's great. I'm talking about what are you going to do to address the inherent risk associated with this project for all the things that are not yet definitized? There's a lot of risk. I think it's premature in some aspects to bring it forward, but it is what it is. I take the case as a find it. What steps are you going to take in the Commission approves this project to protect your ratepayers?

THE WITNESS: Well, the first effort is, I'm trying resell that power. And one of our strategies is, when you do a resell, you have to understand your customers' problems. And so the time to strike the deal is not until we can show them the firm fuel price contracts. We fully support GREC strategy in that regard that Richard explained how to get the best price. We think that's going to go a long way.

The second one is that there's a safe harbor act to get a power purchase -- a prepaid agreement. And we've done that with gas supplies. And there actually are third parties that are back in the market that have enough tax liabilities that we can enter into those third party prepayment agreements without actually incurring any debt at all.

We had one on gas with UBS, and we had a hard

struggle to explain to the bond rating agencies how that financial structure worked. And guess what? UBS bailed out. They folded up, and the structure worked, and we actually walked away from the deal with cash, when we put no cash in.

The same kind of companies that have that kind of capability, this contract is perfect for that. The performance aspects of the contracts were deliberately structured to allow us to enter into a prepaid deal where we're not putting in capital, but there is an implicit discount through those kinds of structures, which is a long story maybe for another day.

The next thing is that we looked pretty carefully at the contracts, as much as we could find out about Nacogdoches, and talked to as many people as we could. The big drivers on those contracts, which are actually quite elaborate, involving distance and so on, is really diesel and labor costs. Now, we can hedge out diesel costs across the counter with, you know, financial contracts. There are products out there that we would look at in terms of hedging out labor costs so that we would know exactly what our prices were going to be.

Build into the PPA are some measures -- first of all, when we participate in the signing of the

contracts, we can discuss whether that's a good tranche of energy and we're willing to take it. If --

COMMISSIONER SKOP: Okay. I don't want to cut you off, but again, I don't want to go down the line. I guess we can work this out at agenda. I think I've heard enough.

One final question, and a brief response, please.

COMMISSIONER STEVENS: That's your third final question.

COMMISSIONER SKOP: I'm sorry. He's jogging my memory. You know, it's been a long day.

Imputed debt with respect to this PPA, I don't think I -- I raised that issue, and it got deferred to you. From the credit rating agencies' perspective, this is a power purchase agreement, and I know Standard & Poor's looks at imputed debt for a PPA.

THE WITNESS: And before we got close to signing it, we walked both agencies through it very carefully, because we had to make sure that they were going to see it the way that we saw it, and we discussed imputed debt.

COMMISSIONER SKOP: How did they see it?

THE WITNESS: The way they see imputed debt is, if you default on this contract, there are some

security provisions and so on, so that's the minimum imputed debt. But we have not closed how much it would be, but I'm estimating it's probably in the area of about six months.

COMMISSIONER SKOP: So Standard & Poor's isn't applying the normal 25 percent of a PPA towards imputation of debt to either the City or GRU?

THE WITNESS: They never mentioned 25 percent, and neither did Moody's.

COMMISSIONER SKOP: All right. Thank you.

COMMISSIONER STEVENS: Commissioners, anything else?

Mr. Wright, a quick redirect?

MR. WRIGHT: Very quick, Commissioner. No redirect.

COMMISSIONER STEVENS: Thank you. Thank you very much. We have some exhibits to admit?

MR. WRIGHT: Move Exhibits 56 through 62 into the record, please, Commissioner.

COMMISSIONER SKOP: So moved.

(Exhibit Numbers 56 through 62 were admitted into the record.)

COMMISSIONER STEVENS: Mr. Sayler, do we have some exhibits?

MR. SAYLER: Staff doesn't have any exhibits,

but the --

COMMISSIONER STEVENS: I believe the intervenors do.

MR. SAYLER: The intervenors do.

COMMISSIONER SKOP: And what are those numbers? Can you help me out?

MR. SAYLER: It was 88, 89, 90, and 91. And I believe there might be an objection to one of those exhibits.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: Commissioner, I believe you've already ruled that 91 is not to be admitted.

COMMISSIONER STEVENS: That's correct.

MR. WRIGHT: That was the Haddad reports.

We object to 88 and 90. We have no objection to 89. That was some interrogatory answers that we --

COMMISSIONER STEVENS: Okay. So 89 is in, and the others are not.

(Exhibit Number 89 was admitted into the record.)

MR. WRIGHT: Well, if it suits the Commission, I might make some remarks about why I think 88 --

COMMISSIONER STEVENS: Go ahead.

MR. WRIGHT: -- and 90 should not be admitted.

Eighty-eight consists of some newspaper

articles. There is a summary prepared by the intervenors that is -- we believe misrepresents facts. The $300 million number represented there is not a number -- it is taken out of context, as has previously been covered several times. One of the newspaper articles is for the most part illegible. They are only newspaper articles. They are not authentic. We didn't prepare them. And we object to the admission of 88.

We object to the admission of 90 because it has to do with steel price indexes, which Mr. Regan testified three times was not germane to whatever happened during the negotiations, which is also the subject of Exhibit 91 that you have ruled inadmissible.

COMMISSIONER STEVENS: Okay. Yes, Ms. Deevey.

MS. DEEVEY: I'm concerned about the objection to the newspaper articles. One of them, of course, is already in the record. That's the second one. The first one, August 29 -- I think it is May 11, 2008. I think it should remain in the record because one of the points that the petitioners have made repeatedly is that the citizens and ratepayers of Gainesville were fully informed of everything important about this contract.

In fact, one of the things -- the evidence shows that there was no information whatsoever available about the contract that is being considered in these

proceedings until after it was already signed in April of 2009, and then some details were ratified by the City Commission. And after that, there's no point in doing anything, and the only source of information that they had was newspaper articles, one saying, maybe wrongly, that $300 million was the cost. GRU made no attempt to correct that if it was in error in 2008.

And, of course, the $500 million figure, which they now say is not exactly and we're not doing capital investments and so on, but that was what the newspaper said, and that was the only source of information available to the public. So I think it bears on the question of whether or not they have accurately described how much information the public had and whether it really does support this project.

COMMISSIONER STEVENS: Ms. Cibula, could you address this, please?

MS. CIBULA: I would recommend that we admit the exhibits, and the Commission can give them the weight that it deems appropriate.

COMMISSIONER STEVENS: I'm sorry. I did not hear all that.

MS. CIBULA: I recommend that the Commission admit the exhibits, and the Commission can give them the weight it deems appropriate.

COMMISSIONER STEVENS: Okay.

MR. WRIGHT: Just to be clear, did that go for 88 and 90?

COMMISSIONER STEVENS: Yes.

MS. CIBULA: Yes.

MR. WRIGHT: Again, I believe the summary sheet is different. It's a compilation by the intervenors. They could have prepared their own testimony and did not do so.

COMMISSIONER STEVENS: Yes, I kind of -- I agree with that.

MR. WRIGHT: The newspaper articles are what they are. I still object to the May 11, 2008, one because it is so largely illegible.

MS. STAHMER: Commissioner, intervenors are willing to remove that page.

COMMISSIONER STEVENS: Ma'am?

MS. STAHMER: Intervenors are willing to remove that page from the exhibit.

COMMISSIONER STEVENS: Okay. Then we're good?

MR. WRIGHT: I respect your ruling, yes, sir.

COMMISSIONER STEVENS: We're good.

MS. STAHMER: Thank you.

(Exhibits Number 88 and 90 were admitted into the record.)

COMMISSIONER STEVENS: All right. Commissioner Skop?

COMMISSIONER SKOP: Thank you. Is the witness released, or at this point, since we --

COMMISSIONER STEVENS: Well, I'll let you know. We're done with the exhibits?

MR. WRIGHT: I believe you admitted 56 through 62.

COMMISSIONER STEVENS: Yes, we did. Did we get staff's exhibits?

MR. WRIGHT: There were none.

COMMISSIONER STEVENS: We didn't have any?

MR. SAYLER: Staff did not have any exhibits.

COMMISSIONER STEVENS: Okay. So Mr. Regan is released. Mr. Rollins --

COMMISSIONER SKOP: Mr. Chair, I have a question now that we're on Mr. Rollins.

COMMISSIONER STEVENS: Okay.

COMMISSIONER SKOP: In the interest of time, I just want to reach out to the parties. I don't know if the intervenors actually have questions for Mr. Rollins, but if it's possible to stipulate his testimony between the parties, that might be good and in the best interest of all if we could reach a compromise on that.

MS. STAHMER: We would stipulate.

MS. DEEVEY: Yes, I will stipulate.

COMMISSIONER STEVENS: Very good.

MR. WRIGHT: May I just have 15 seconds or 30 seconds.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: Thank you, sir.

(Pause in the proceedings.)

COMMISSIONER STEVENS: What's up, Mr. Wright? You want to collect these?

Thank you. Mr. Wright, you may proceed.

MR. WRIGHT: Thank you, sir. Having had the opportunity to confer with my clients, we are delighted to stipulate Mr. Rollins' testimony and his one resumé exhibit into the record as though read, and I would move the exhibit, which I think is 63.

COMMISSIONER STEVENS: Yes, sir. So moved.

(Exhibit Number 63 was identified and admitted into the record.)

MR. WRIGHT: And move his testimony into the record as though read.

COMMISSIONER STEVENS: So moved.

MR. WRIGHT: Thank you very much.

COMMISSIONER STEVENS: Mr. Sayler, are we good?

MR. SAYLER: We agree to stipulate to the

witness.

COMMISSIONER STEVENS: Good.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

SUPPLEMENTAL TESTIMONY OF MYRON R. ROLLINS

ON BEHALF OF

GAINESVILLE REGIONAL UTILITIES AND

GAINESVILLE RENEWABLE ENERGY CENTER, LLC

DOCKET NO. 090451-EM

MARCH 15, 2010

Q. Please state your name and business address.

A. My name is Myron Rollins. My business address is 11401 Lamar, Overland Park, KS 66211.

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

A. I am employed by Black & Veatch Corporation as a Director in B&V Management Consulting.

Q. Please describe your responsibilities in that position?

A. I serve as a director and project manager for system planning and feasibility studies encompassing the areas of integrated resource planning, load forecasting, generation planning, cogeneration, site selection and other special studies. I have served as an expert witness in numerous dockets before the Florida Public Service Commission as well as public service commissions in other states.

Q. Please describe your specific experience in need determinations before the Florida Public Service Commission.

A. I assist applicants in preparing the information required in need determination dockets to demonstrate the criteria in the need statute, 403.519 F.S. As part of the need determination process, I often serve as an expert witness. I have been testifying in need determinations before the Florida Public Service Commission ("PSC") since 1981. I have testified in the following need determinations.

- Stanton 1, 2, A, and B
- Cane Island 3 and 4
- Treasure Coast
- Cedar Bay
- Brandy Branch Combined Cycle Conversion
- Greenland Energy Center Combined Cycle Conversion
- Taylor Energy Center
- McIntosh 5

In total, I have testified at a dozen need determinations in Florida and have attended many more need hearings.

Q. Please state your educational background and professional experience.

A. I received a Bachelor of Sciences degree in Electrical Engineering from the University of Missouri. I am a registered Professional Engineer and I have worked at Black & Veatch for 33 years.

Q. What is the purpose of your supplemental testimony in this proceeding?

A. The purpose of my supplemental testimony in this proceeding is to demonstrate:

- that the PSC has faced similar applications of the statutory criteria in other need determinations as they encounter with GREC;
- that the PSC weighs the criteria in light of the issues, statutes, regulations, and policies in place at the time of the need determination on a case-by-case basis;
- that the PSC has made affirmative need determinations in those cases as they should make with GREC; and
- that determination of need is not predicated on satisfying each and every criterion, but may be granted if any of the need criteria are met.

I have prepared this testimony in response to several related questions and concerns expressed by the Commissioners during their February 9, 2010 Agenda Conference discussion of the need determination petition for Gainesville Renewable Energy Center ("GREC"). The Commissioners' questions focused on the PSC's role in this need determination of a renewable energy project for a municipal utility [TR P9, L3, T10, L3, T14, L22, T24, L6, P36, L6, T63, L19, T70, L22] and the weighting of the specific statutory criteria and other matters within the PSC's jurisdiction [TR P10, L3, P12, L25, T23, L24, P25, L20, P36, L6, T36, L14].

Q. Are you sponsoring any exhibits to your testimony?

A. Yes. Exhibit No. __ [MRR-1] is a copy of my resume.

Legislative History

Q. Please describe the legislative history of 403.519 F.S. that introduced fuel diversity and renewables as relevant criteria for the determination of need.

A. The need determination statute 403.519 was originally enacted in 1980. The statute was amended in 2006, 2007, and 2008. The original criteria in 403.519 were: *In making its determination, the commission shall take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, and whether the proposed plant is the most cost-effective alternative available. The commission shall also expressly consider the conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant and other matters within its jurisdiction which it deems relevant.*

In 2006, 403.519 F.S. was amended to add in Paragraph (3) under the criteria the commission shall take into account: *the need for fuel diversity and supply reliability.* The 2006 amendment also added specific considerations for nuclear plants including:

(b) In making its determination, the commission shall take into account matters within its jurisdiction, which it deems relevant, including whether the nuclear power plant will:

1. Provide needed base-load capacity.

2. Enhance the reliability of electric power production within the state by improving the balance of power plant fuel diversity and reducing Florida's dependence on fuel oil and natural gas.

3. Provide the most cost-effective source of power, taking into account the need to improve the balance of fuel diversity, reduce Florida's dependence on fuel oil and natural gas, reduce air emission compliance costs, and contribute to the long-term stability and reliability of the electric grid.

In 2007, 403.519 F.S. was again amended to add in Paragraph (3) under the criteria the commission shall take into account: *whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.* In addition, the amendment included adding integrated gasification combined cycle to the nuclear provisions added in 2006.

The 2008 amendments to 403.519 F.S. were not germane to the statutory need criteria.

Q. Does GREC meet the statutory criteria for need as modified in 2006?

A. GREC clearly satisfies the fuel diversity and supply reliability that the criteria contemplate. GREC also clearly meets the other specific criteria added in 2006, even though GREC is a biomass facility and not a nuclear power plant.

- GREC provides baseload capacity.

- GREC enhances the reliability of electric power production in the state by improving fuel diversity and reducing Florida's dependence on fuel oil and natural gas.
- GREC provides cost-effective power taking into account the need to improve fuel diversity, reduce Florida's dependence on fuel oil and natural gas, reduce air emission compliance costs, and contribute to the long-term stability and reliability of the electric grid.

Q. Does GREC meet the statutory criteria for need as modified in 2007?

A. Yes. GREC certainly meets this new criterion by adding a substantial new renewable generation resource to GRU's system and the Florida electric power supply grid.

Q. In addition to the specific changes to 403.519 F.S., have there been other issues, statutes, regulations, and policies that the PSC has considered in the application of the 403.519 F.S. criteria through time?

A. Yes. As issues, statutes, regulations, and policies have changed through time, the PSC has changed the weight applied to each of the criteria in light of the specific circumstances at the time. In the remainder of my testimony, I will provide examples of how each of these need criteria have been addressed in previous need determinations.

The Need for Electric System Reliability and Integrity

Q. Please discuss the application of the criteria for need for electric system reliability and integrity.

A. The PSC has often taken a broad approach to these criteria and has taken into account other benefits that proposed power plants provide in addition to meeting reserve margin requirements, which is precisely the situation with GREC. In fact, the PSC has granted need determinations for proposed plants even though they were not needed to meet utility or statewide reserve margin criteria.

Q. Please describe some of the issues that have faced the utility industry and how these issues along with statutes, regulations, and policies in place at the time and the PSC's application of the criterion in light of the specific situation.

A. First, let's look at the 1973 Arab Oil Embargo and the oil crisis of 1979 and 1980. During these years, Florida was heavily dependent upon oil for generation. The availability of oil was in question and the price of oil skyrocketed. The Florida utility industry did not need additional capacity for reserve requirements, the industry needed fuel diversity and responded by proposing coal units for which determination of need was granted by the PSC.

Q. Were there any statutes or regulations enacted relating to the impact of the Embargo and Florida oil crisis?

A. Yes. One statute that was enacted was the Florida Energy Efficiency and Conservation Act (FEECA) in 1980. FEECA required the PSC to: *adopt*

appropriate goals for increasing the efficiency of energy consumption specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels. One of the goals adopted by the PSC under FEECA was the reduction of the Florida's consumption of oil by 25 percent by 1990.

Q. How did the PSC apply the criterion for electric system reliability and integrity in response to the proposed coal units in light of the conditions at the time and the policies and regulations in place?

A. The PSC explicitly applied the issues, statutes, regulations, and policies in weighting the 403.519 criteria in approving need determinations. For example, even though reducing oil consumption was not an explicit criterion under the need determination statute, the PSC took into account the FEECA requirements for reducing oil consumption when considering that the coal units would not be needed strictly to meet reserve margin requirements for at least a decade into the future. The PSC recognized that even though the units weren't needed for reserve requirements, the units improved reliability. Some of the PSC findings from the Stanton 1 need determination (Order 10320-A, issued in October 1981) are as follows:

For the reasons developed below, we have determined that Stanton the Unit is needed, as to both the capacity size and time frame. (P2)

Another aspect of the need issue is the socio-economic need of reducing the State's consumption of imported oil. (P2)

The FCG study concluded that while the proposed Stanton Unit will undoubtedly enhance the adequacy and reliability of the Bulk Power Supply System, the facility does not appear to be needed for peninsular-wide reliability purposes during the 1980's. However, the study did find that Stanton will be needed by 1992 to help prevent peninsular Florida's reserves from dropping below the 25% level. (P3)

Some of the PSC's findings from the St. Johns River Power Park Unit 1 and 2 need determination (Order 10108, issued in June 1981) are as follows:

We construe the 'need for power' issue to encompass several aspects of need. (P2)

In addition, the socio-economic need of reducing the consumption of imported oil in the State of Florida has been considered. (P2)

The Florida Energy Efficiency and Conservation Act also impacts upon the instant application. (P2)

[A]dditional generating capacity for the purpose of insuring adequate supplies of power [and] energy to peninsular Florida electric consumers does not

appear to be required until 1991. Similarly, JEA and FPL do not appear to require additional generating capacity for reliability purposes until 1991 and 1989 respectively[.] (P2)

Having considered the record in this matter, we find that a need exists for the construction of St. Johns River Power Park Units 1 and 2 in the time frame proposed by the applicants, in that construction of the units appears to be the best available alternative to the continued use of expensive oil-fired generation (P6)

Q. How should the PSC apply these precedents to GREC?

A. Just as the PSC did in granting determination of need for the Stanton Unit 1 and St. John's River Power Park Units 1 and 2, the PSC should grant the requested determination of need for GREC because of fuel diversity and the State of Florida's policy objectives to reduce the use of fossil fuel and encourage the use of renewable energy technologies, and the numerous other benefits that GREC provides.

Q. Were there other issues regarding statutes, regulations, and policies that were addressed by the PSC relating to the criterion for electric system reliability and integrity?

A. Yes. The Public Utility Regulatory Policies Act (PURPA) was passed in 1978. PURPA provided requirements for qualifying facilities (QFs) and required utilities to purchase the output of QFs at avoided cost. The Commission

implemented PURPA in the state. FEECA was also amended several times in light of the issues facing the Florida electric utility industry at the time.

Q. Did PURPA and FEECA result in the PSC issuing need determinations?

A. Yes. Several municipal solid waste (MSW) facilities requested need determinations as QFs even though they were not needed to satisfy reserve margin criteria. In addition, a need determination was issued for Florida Crushed Stone (FCS) as a QF cogeneration unit. These projects have unique characteristics regarding the 403.519 criteria.

Some of the PSC findings from the FCS need determination (Order 11611) are as follow:

Under the Florida Energy Efficiency and Conservation Act (Section 366.80 et seq., Florida Statutes) the Commission has determined that cogeneration appears to be a cost effective conservation measure. Therefore, as part of our statutory authority to consider other matters within our jurisdiction we deem relevant to a need determination, we have decided that additional criteria related to fuel efficiency should be used to evaluate the application of FCS. (P2)

The first statutory criteria we must consider is the impact of the proposed plant on the integrity and reliability of the electric system. Mr. Wieland testified that electric system reliability and integrity will be satisfactory both before and after construction of the proposed facility. We find that the addition of 125 MW of

generating capacity will enhance system reliability and integrity simply because it will increase the diversity of generating sources; however, this benefit cannot be quantified, and we view it as a minor, but desirable, result of constructing the proposed plant. (P3)

Thus, based on the record before us, we conclude that Florida Crushed Stone Company's proposed cogeneration facility, including a 125 MW coal-fired power plant, will enhance electric system reliability and integrity by an unquantified amount, (P6)

Another example need determination is the Pasco County MSW facility (Order 17752, issued in June 1987):

We project that without the addition of qualifying facilities or power plants before the summer of 1993, peninsular Florida will have total available capacity of 32,318 MWs with an expectant coincident firm peak demand of 25,138 MWs. This equates to a reserve margin of 28 percent. The contribution of Pasco County's facility to this reserve margin would only be on one-hundredth of one percent. Clearly, this is a small amount; yet it is a positive contribution. (P2)

It is interesting to note that peninsular Florida's 28 percent reserve margin was higher than the current projection of peninsular Florida's reserve margin from 2009 through 2018 as presented in the Review of 2009 Ten-Year Site Plans for Florida's Electric Utilities.

Many of the PSC's previous findings relative to the criterion of need for electric system reliability and integrity are directly related to GREC. While GREC is not required immediately to meet reserve margins, it is required under other 403.519 F.S. criterion (need for fuel diversity and supply reliability) and other statutes and regulations (366.91 and 366.92 F.S.) and it improves GRU's system reliability and integrity by providing baseload capacity for GRU's aging generation system.

Q. Does the PSC limit need considerations to the individual utility or do they consider the peninsular Florida need?

A. Historically the PSC has considered peninsular Florida need in addition to the individual utility needs. Some of the PSC findings from the Stanton 1 need determination (Order 10320-A, issued in October 1981) relative to peninsular Florida need are as follows:

We have analyzed these aspects of the need for Stanton Unit 1 as they impact upon peninsular Florida as a whole (P2)

The FCG study concluded that while the proposed Stanton Unit will undoubtedly enhance the adequacy and reliability of the Bulk Power Supply System, the facility does not appear to be needed for peninsular-wide reliability purposes during the 1980's. (P3)

A peninsula-wide focus on the oil displacement generated by Stanton on a statewide basis is appropriate (P4)

OUC will be capable of producing more coal-fueled and nuclear-fueled energy than its system would require at times of minimum load. This excess energy can then be readily marketed as economy energy on a peninsula-wide basis. (P4)

The additional capacity will give OUC latitude in marketing capacity and energy on a peninsula-wide basis and will allow maximum benefits to be derived from the existing units (P6)

On the basis of the foregoing discussion, we find and conclude that a need exists for the Stanton Unit No. 1 as proposed by the Applicant. We base our determination primarily upon the benefits identified as flowing to peninsular Florida and to OUC's service area. (P11)

In the St. Johns River Power Park Units 1 and 2 need determination (Order 10108, issued in June 1981) the PSC looked at statewide need as follows:

In addition, the socio-economic need of reducing the consumption of imported oil in the State of Florida has been considered. (P2)

Q. Will GREC provide benefits to peninsular Florida?

A. Yes. Taking into account need for peninsular Florida as well as the individual utility is particularly appropriate. GRU plans to sell 50 MW of GREC's capacity during the first 10 years of the contract. This 50 MW sold to other utilities in peninsular Florida will provide renewable energy with its associated fuel diversity and environmental attributes to peninsular Florida and will contribute to the integrity and reliability of the peninsular Florida's system.

Need for Adequate Electricity at a Reasonable Cost

Q. How has the PSC addressed the criterion of need for adequate electricity at a reasonable cost?

A. Historically, the PSC has considered a number of issues that impact upon the need for adequate electricity at a reasonable cost. They have included issues, statutes, regulations, and policies that result in need for power plants and have considered the timing of costs to customers associated with these other needs. Often the addition of a new generating unit results in increased costs to customers at commercial operation, but results in lower costs to the customers over the life of the unit. PSC findings relative to the need for adequate electricity at a reasonable cost from the Stanton 1 need determination (Order 10320-A, issued in October 1981) are as follows:

OUC will be capable of producing more coal-fueled and nuclear-fueled energy than its system would require at times of minimum load. This excess energy can then be readily marketed as economy energy on a peninsula-wide basis. (P4)

It is unlikely that the construction of Stanton Unit 1 will result in the absolute reduction in the OUC's customers bills (P4)

The additional capacity will give OUC latitude in marketing capacity and energy on a peninsula-wide basis and will allow maximum benefits to be derived from the existing units (P6)

Q. Does PSC precedent recognize that costs are reasonable, even though in the early years of operation, customers' bills may increase?

A. Yes. For example, the findings from Stanton 1's need determination are directly applicable to GREC. GREC may increase GRU's customers' bills slightly when it enters commercial operation. Marketing the additional capacity from GREC during the early years of operation will provide benefits to peninsular Florida while preserving the long term benefits from the economies of scale of GREC for GRU's customers.

Q. Is it necessary for the PSC to always make a positive finding on each of the individual criteria?

A. No. Historically the PSC has either placed very little weight on a criterion or has found that there was not a requirement for that criterion. A finding from FCS's need determination (Order 11611, issued in February 1983) relative to the need for adequate electricity at a reasonable cost follows:

[T]he proposed plant will have essentially no impact on the need for an adequate supply of electricity at a reasonable cost. (P4)

Findings from the Pasco County need determination (Order 17752, June 1987) follow:

[W]e would be unable to make the economic judgement necessary to determine if the second and third criteria of reasonable cost and cost-effectiveness have been met. (P2)

We, therefore, make no specific finding on this statutory criteria nor do we find it necessary to apply any other specific [criteria] in making our determination of need. (P2)

GREC will provide adequate electricity at a reasonable cost. This is especially true when considering the statutory, regulatory, and policy requirements for renewables. GREC is certainly the lowest cost renewable alternative and is lower in cost than conventional alternatives over the life of the GREC contract other than coal without consideration of carbon.

Whether the Proposed Alternative is the Most Cost-Effective Alternative Available

Q. How has the PSC applied the criterion as to whether the proposed alternative is the most cost-effective alternative available?

A. The PSC has applied this criterion in the context of the issues, statutes, regulations, and policies in place at the time. In addition, the PSC has looked to peninsular Florida in making its determination rather than only the applicant utility. Finally, in some cases, the PSC has not even found it necessary to make a positive finding on this criterion in granting a determination of need. Many of the findings from above need determination orders relate to this criterion.

Q. Please elaborate on your statement that the PSC has applied this criterion in the context of the issues, statutes, regulations, and policies in place at the time.

A. The current utility environment requires, encourages, and promotes renewables and CO_2 emission reductions, even though these are not the least-cost alternatives. Besides the statutory changes to 403.519 F.S. relative to renewables, there have been other statutes enacted promoting renewables and CO_2 emissions reduction.

In 2005, F.S. 366.91 was enacted finding *that it is the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel cost, encourage investment within the state, improve*

environmental conditions, and make Florida a leader in new and innovative technologies.

In 2006, F.S. 366.92 was enacted *to promote the development of renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.*

In 2008, F.S. 366.92 was amended to require the Commission to develop a proposed renewable portfolio standard (RPS) rule and present a draft to the legislature for legislative consideration by February 1, 2009. The Commission developed the proposed RPS, but the legislature failed to act.

In 2008, the Florida Climate Protection Act was also enacted which authorized the Department of Environmental Protection (DEP) to develop a cap and trade program for CO_2 also to be presented to the legislature for enactment after January 1, 2010. After several workshops, the DEP is not currently working on the development of the program while awaiting federal legislation.

Prior to the above legislation, Governor Crist issued Executive Order No. 07-127 in 2007 establishing greenhouse gas emissions reduction targets of 80 percent of 1990 levels by 2050 and an RPS of a least 20 percent.

Q. Are there any direct indications that the Commission is making policy decisions considering CO_2 emissions reductions?

A. Yes. One such decision was the recent setting of conservation goals for the investor-owned utilities based on the E-TRC test, which explicitly included consideration of potential costs imposed by carbon regulation in the cost-effectiveness evaluation of conservation programs.

The need determination for GREC should be made within the context of these issues, statutes, regulations, and policies because of the environmental attributes GREC provides.

Q. How has the Commission considered the cost of potential CO_2 emissions regulation in applying the criterion as to whether the proposed plant is the most cost-effective alternative available?

A. One of the recent need determinations was the 2007 denial of the need for the Glades Power Park Units 1 and 2, which were proposed coal-fueled units. In denying the need (Order PSC-07-0557-FOF-EI, issued in July 2007), the Commission noted the following:

"*FPL has failed to demonstrate that the proposed plants are the most cost-effective alternative available, taking into account the fixed costs that would be added to base rates for the construction of the plants, the uncertainty associated with future natural gas and coal prices, and the uncertainty associated with currently emerging energy policy decisions at the state and federal level.*" (P 4)

The cost-effectiveness analysis in the Glades application included 16 scenarios including the projected cost of CO_2 emissions. The coal units were only lower in cost in 7 of the 16 scenarios when CO_2 costs were considered. In the Glades case, inclusion of CO_2 emission costs made a number of the scenarios not cost-effective. For GREC, including CO_2 emissions costs makes all the scenarios cost-effective. It would certainly be inconsistent for the PSC not to take into account the scenarios including CO_2 emissions costs.

Other findings from the Glades need determination that relate to cost-effectiveness follow:

The Legislature did not assign the weight that this Commission is to give each of these factors. (P 2.

The Commission's decision on a need determination petition must be based on a case-by-case review of facts (P 3)

Finally, we recognize that, in light of the inherent variability of necessary assumptions about fuel costs, capital costs, and other resource planning matters, uncertainty about cost-effectiveness alone will not necessarily control the outcome of every need determination decision. (P 4)

As indicated in the findings of the other need determinations provided, the PSC has not constrained cost-effectiveness to strictly the applicant utility. Besides

consideration of potential CO_2 emissions costs, the cost-effectiveness of GREC should include the economy of scale benefits provided to peninsular Florida during the first ten years of operation.

Need for Fuel Diversity and Supply Reliability

Q. Please comment on the PSC's application of the need criterion for fuel diversity and supply reliability.

A. The PSC took into account the need for fuel diversity and supply reliability long before it became a statutory criterion for determination of need. As presented in the previous need determination order findings, the PSC has often placed great weight on this criterion even to the extent that other criteria were weighted to a lesser degree or not at all. The earlier findings from Orders 10320-A, 10108, and 11611 present the PSC's historical considerations relative to fuel diversity and supply reliability.

The need for GRU to diversify its fuel mix and its associated advantages of reducing GRU's exposure to the costs of potential CO_2 emissions regulation is one of GRU's most important reasons for seeking the determination of need for GREC.

Whether Renewable Energy Sources and Technologies, as Well as Conservation Measures, Are Utilized to the Extent Reasonably Available to the Applicant

Q. Please comment on the PSC's application of the need criterion of whether renewable energy sources and technologies as well as conservation measures are utilized to the extent reasonably available to the applicant.

A. GREC is the first renewable generating unit to seek a need determination since this criterion was added to 403.519 F.S. The PSC found that the other applicants for need determinations that have been filed since this revision to the statute met this criterion through their existing renewable and conservation programs. When the utility is proposing a renewable project, such as GREC, the utility is obviously promoting the State's need for renewable energy that this criterion is intended to promote, as well as the pro-renewable policies set forth in Sections 366.91 and 366.92, Florida Statutes. The only possible question about a proposed renewable power plant is whether it is the most cost-effective renewable alternative available. In this case, as explained by Mr. Regan, GREC is the most cost-effective renewable alternative available to GRU.

GRU certainly meets any test of utilizing renewable energy and conservation measures to the extent reasonably available. GRU's renewable projects include their feed-in-tariff for solar photovoltaics and the very significant biomass contribution from GREC. GRU has also developed their conservation programs very aggressively based on the total resource cost test. The success of GRU's renewable and conservation programs are responsible for reducing GRU's loads and deferring the need for new capacity for reserve margin purposes.

Conservation Measures Taken by or Reasonably Available to the Applicant or Its Members Which Might Mitigate the Need for the Proposed Plant

Q. Please comment on the PSC's consideration as to whether the conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant.

A. The PSC has generally determined that there are not sufficient conservation measures available to applicants to mitigate the need for the proposed plants. The PSC has generally made that determination based on its review of the applicant's evaluation of the cost-effectiveness of additional conservation measures. In other instances, the PSC has found that this criterion is not applicable as shown in Pasco County's need determination (Order 17752, issued June 1987) as follows:

We do not believe that conservation of electrical energy is directly at issue in this case. We, therefore, make no specific finding on this statutory criteria nor do we find it necessary to apply any other specific [criteria] in making our determination of need. (P2)

Q. How does GREC relate to this criterion?

A. As discussed regarding the previous criterion, GRU uses the TRC test to determine cost-effectiveness of conservation program. Because GRU uses the TRC test to identify and implement energy conservation programs, there are no additional conservation measures reasonably available to GRU that could mitigate the need for GREC.

Other Matters Within the PSC's Jurisdiction

Q. Please comment on the PSC's consideration of other matters within its jurisdiction with respect to need determinations.

A. This criterion is very broad. The PSC has historically considered additional factors in its need determination proceedings where appropriate. Examples include the consideration of FEECA's conservation and oil reduction goals in need determinations as shown in my discussion of previous need determination orders, such as those for Stanton Unit 1, St. John's River Power Park Units 1 and 2, the Florida Crushed Stone facility, and others. Other examples include the consideration of CO_2 emissions costs as was done in the Glades need determination (Order PSC-07-0557-FOF-EI, issued in July 2007). Obviously this is a criterion that is not required to be considered by the PSC and has not been considered in many need determinations.

Q. What, if any, other matters within its jurisdiction should the PSC consider with respect to GREC?

A. Relative to other matters within its jurisdiction, the PSC should consider GREC's contribution to meeting the pro-renewable energy policies set forth in Sections 366.91 and 366.92, Florida Statutes. These sections set forth several specific objectives that GREC will promote, including diversifying the fuel mix of Florida's electricity supply, reducing the State's dependence on natural gas and fuel oil, minimizing the volatility of fuel cost, encouraging investment in Florida, and improving environmental conditions by reducing emissions

produced by conventional electricity generation. GREC promotes these policy objectives not only for Gainesville, but also for Florida as a whole.

Summary and Conclusions

Q. Please summarize the conclusions of your testimony.

A. Since 1981, I have testified in 12 need determinations before the PSC. After reviewing the PSC's historical application of the statutory need criteria, including other matters within its jurisdiction as those have evolved over the past 30 years, I conclude that the PSC should grant the requested affirmative determination of need for GREC.

- **Reliability and Integrity**

  The PSC has historically approved need determinations when the capacity of the unit was not needed for several years – in some instances more than a decade – in the future. In those instances, the units were found to contribute to the reliability and integrity of the utility's system as well as peninsular Florida. Such is the case with GREC.

- **Adequate Electricity at a Reasonable Cost**

  The PSC has historically approved need determinations to obtain long-term savings and other benefits, even though costs to customers were projected to increase when the unit first commenced operation. Such is the case with GREC.

- **Most Cost-Effective Alternative**

  The PSC has historically considered the issues, statutes, regulations, and policies at the time of the need determination and approved the most

cost-effective alternative in light of the situation. Such is the case with GREC in that it is the most cost-effective renewable alternative available to meet GRU's needs.

- **Fuel Diversity and Supply Reliability**

  GREC supplies GRU and peninsular Florida with fuel diversity and supply reliability.

- **Utilization of Renewables and Conservation**

  With the addition of GREC, GRU will be using all reasonable renewables and is using all reasonable conservation through the utilization of the TRC test.

- **Conservation Which Might Mitigate GREC**

  GRU is already utilizing all reasonable conservation measures through use of the TRC test.

- **Other Matters Within Its Jurisdiction**

  The PSC should apply 366.91 and 366.92 F.S., which establish Florida's policy to promote renewable energy in its consideration of the need for GREC.

My discussion of the PSC's decisions since 1981 demonstrates that the PSC has determined need for proposed power plants that did not satisfy all of the statutory criteria. The PSC's determination of need is not predicated on satisfying each and every criterion, but may be granted if any of the need criteria are met.

Consistent with its precedents, the PSC should conclude that GREC satisfies all of the statutory criteria, and accordingly, the PSC should grant the requested determination of need for GREC.

Q. Does this conclude your supplemental testimony?

A. Yes.

COMMISSIONER STEVENS: Are there any other things we need to move?

MR. SAYLER: I believe all the items are moved into record. However, there has been discussion about stipulated exhibits between the parties that staff is not aware of that don't appear on this exhibit list. If it's possible to take five minutes -- and I do apologize, but we need to get this done tonight, because we don't want any post-hearing fights about this. If it's possible for me to meet with the attorneys and the parties to find out what exactly they have agreed to stipulate to, and then we can move on.

COMMISSIONER STEVENS: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair. With respect to the special agenda date, has that date been changed, or is that going to stay what it was?

COMMISSIONER STEVENS: What I have is special agenda June 2nd.

CHAIRMAN AGENZIANO: No, Mr. Chair.

COMMISSIONER STEVENS: Go ahead.

CHAIRMAN AGENZIANO: I've requested a change in the date for May 28th.

MR. SAYLER: May 28th. But all the other remaining dates, the hearing transcript will still be May 5th. The briefs will still be due May 13th. The

recommendation will be filed on May 20th with a special agenda date for May 28th. And then we will expedite the order as soon as possible following the Commission's decision.

COMMISSIONER STEVENS: Is that a Thursday?

CHAIRMAN AGENZIANO: Friday.

MR. SAYLER: Friday, May 28th.

COMMISSIONER STEVENS: Can we do it the 27th?

MR. SAYLER: I believe there's a hearing on the calendar for that day.

COMMISSIONER STEVENS: The reason I ask is, that is a --

MR. SAYLER: It's the Friday before Memorial Day weekend.

COMMISSIONER STEVENS: Yep. Can we go Thursday?

MR. SAYLER: I would have to consult with the Commission calendar. What I can do -- we have to make this decision and have the notice tomorrow in order to get it for that particular week. However, I can consult with Mary Michael in the morning and find out if there's availability. And it really depends upon the hearing that's going on Monday through Thursday and whether the Commissioners are available on the 27th and whether it's the morning or the afternoon, and I don't know. This is

uncharted territory. I don't know if we can say --

COMMISSIONER STEVENS: That's not a good Friday to have a hearing. Commissioner Skop.

COMMISSIONER SKOP: I agree. I mean, whatever we can do to accommodate a date that's not a hardship on staff I would agree with. I know the dates have been changed once and it's compressed. The briefs are coming in. You know, if this were not a contested hearing, and based on what I've heard, I would take the extraordinary step of looking towards a bench vote. But because of the parties wanting to make a brief, I think they should be afforded that right. It's not something I usually do. But again, one my concerns, though, is, you know, the quicker we adjudicate the case, that addresses that lingering issue about some of the issues on the convertible tax credit. So time is of the essence, one way or another, depending on how the Commission rues.

COMMISSIONER STEVENS: Mr. Sayler, what do we need to do?

MR. SAYLER: We understand from speaking with Ms. Salak that that hearing is supposed to be shortened, so potentially that Thursday would be available.

CHAIRMAN AGENZIANO: That Thursday?

MR. SAYLER: To make it Thursday, the 27th. They say they're supposed to hear from the parties soon.

Ms. Salak will find out, will be here tomorrow, about the 27th.

COMMISSIONER EDGAR: Can I suggest this? If we're going to take five minutes to figure out the documents, the evidence, maybe we can use that time also to look a little more closely at the calendar, and when we come back in five minutes, maybe we can do it all.

COMMISSIONER STEVENS: Mr. Wright.

MR. WRIGHT: Since we're taking five minutes and not adjourning, that's great. Thank you, sir.

COMMISSIONER STEVENS: Yes, sir. Take five.

COMMISSIONER SKOP: Mr. Chair.

COMMISSIONER STEVENS: Yes, sir.

COMMISSIONER SKOP: Just also too when the brief dates will be due when we come back.

(Short recess.)

COMMISSIONER STEVENS: Erik, what did we -- Mr. Sayler, what did we agree to?

MR. SAYLER: I have spoken with the parties, and they have provided me a list of all the exhibits that they have stipulated to being in the record, and I would ask that that -- a composite list be created and identified as composite list -- or Exhibit Number 92, composite stipulated exhibits. I have the list here, and it will just be a late-filed exhibit, and that's

what I understand the parties have agreed to.

COMMISSIONER STEVENS: So moved. Any objections? They're in.

(Exhibit Number 92 was identified and admitted into the record.)

COMMISSIONER STEVENS: Mr. Sayler, do we have any other business?

MR. SAYLER: Yes. It is the actual start time for the special agenda that is now at least tentatively scheduled for the 27th or scheduled for the 27th.

COMMISSIONER STEVENS: Okay.

MR. SAYLER: Traditionally we start these at 9:30 in the morning, but given that there's another hearing that is taking place those four days, it may be worthwhile starting this special agenda earlier that morning, and then if that other hearing is continuing on, to then just resume that hearing after the conclusion of the special agenda on May 27th, assuming that's possible.

COMMISSIONER STEVENS: Commissioner Argenziano first.

CHAIRMAN ARGENZIANO: Well, here's what we could do there. If we start at our normal time, which is 9:30, we could do that, or if we started earlier. I don't know how much earlier anybody really wants to

start, but if we started earlier, we would have a better chance.

COMMISSIONER STEVENS: I'll start at 7:00.

CHAIRMAN ARGENZIANO: Well, 7:30, 8:00.

COMMISSIONER STEVENS: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair. Just to that point, in terms of starting earlier, you know, I guess my preference would be to start at 9:30 with the prior case if need be and then break at a time certain to consider the special agenda and then go back in. But I think we'll finish early on that one hearing date, so maybe we could start at 11:00 or something like that. I don't think this would take too once we discuss it.

COMMISSIONER STEVENS: Commissioner Edgar.

COMMISSIONER EDGAR: Whatever works. Thank you for asking.

COMMISSIONER STEVENS: Commissioner Klement.

COMMISSIONER KLEMENT: I'm good with what seems the best. Perhaps the staff might be able to have a better feel for it than I do.

COMMISSIONER STEVENS: Mr. Sayler, what Commissioner Skop said, start at 9:30 and then we break at a time certain for the other agenda and then come back to it?

MR. SAYLER: We can do that, start -- are you saying start this hearing at 9:30, or was it to have the special agenda start at a time certain?

COMMISSIONER SKOP: Special agenda at a time certain.

COMMISSIONER EDGAR: Well, just a suggestion, since you did ask.

COMMISSIONER STEVENS: Go ahead.

COMMISSIONER EDGAR: I was just thinking that we may have people driving over from Gainesville for that day, and therefore, it may be more convenient if we started a little later on that day for the parties. I will be here at whatever time you tell me to be here.

COMMISSIONER STEVENS: Well, if we start the special agenda at 9:30, which is joinable, then when we finish with that, go into the --

MR. SAYLER: If it's still continuing. It may have concluded.

COMMISSIONER STEVENS: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair. I guess what I was suggesting, I think this aligns with people that may be traveling from Gainesville. If we start at 9:30 on the hearing that's currently scheduled and then temporarily adjourn, pick up the special agenda for this case, and then if necessary, go back into the

other case at the conclusion. I think that will probably work best, because if we started at 10:00 or 11:00, that gives people from Gainesville the time to get here.

COMMISSIONER EDGAR: Suggest 11:00.

COMMISSIONER SKOP: That's fine.

COMMISSIONER STEVENS: Mr. Sayler, is that --

MR. SAYLER: 11:00 works for staff.

COMMISSIONER STEVENS: Is this feasible for staff?

MR. SAYLER: Yes.

COMMISSIONER STEVENS: Okay.

MR. SAYLER: Unless my higher-ups tell me tomorrow that it's not feasible, then 11:00 a.m. is feasible for staff.

COMMISSIONER STEVENS: Okay. All right. So moved. Anything else?

CHAIRMAN ARGENZIANO: I just want to say thank you to everybody, and to the ladies who are not our regular people that come before us. And sometimes this can be intimidating. You showed no sign of it today. So thank you very much, and I just thank everybody for their patience.

MR. WRIGHT: And thank you again, Commissioners, very much.

CHAIRMAN AGENZIANO: And thank you --

COMMISSIONER STEVENS: Thank you all for being here.

CHAIRMAN AGENZIANO: Mr. Chair, great job, both of you.

COMMISSIONER STEVENS: Oh, thank you.

CHAIRMAN AGENZIANO: Thank you.

COMMISSIONER STEVENS: Motion to adjourn?

COMMISSIONER SKOP: So moved.

COMMISSIONER STEVENS: I could handle it like everyone else.

CHAIRMAN AGENZIANO: So moved.

COMMISSIONER STEVENS: Stop, stop, stop, adjourn, Argenziano second, adjourned.

(Proceedings concluded at 8:55 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 390 through 596 are a true and correct record of the aforesaid proceedings.

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

DATED THIS 5th day of May, 2010.

MARY ALLEN NEEL, RPR, FPR
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