State of Florida

Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: December 21, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Haff, Ballinger)
Office of the General Counsel (Vining, C. Keating)

RE: Docket No. 040001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: 01/04/05 – Regular Agenda – Posthearing Decision – Participation is Limited to Commissioners and Staff

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Recommendation should be addressed by Commissioners Baez, Deason, Bradley, and Davidson

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040001.RCM.DOC

Case Background

Florida Power & Light Company (FPL) currently purchases 955 MW of capacity from Southern Company (Southern) via unit power sales (UPS) agreements set to expire on May 31, 2010. The existing UPS agreements are for coal-fired generation from Southern's Scherer and Miller units in Georgia. After adjusting for losses on Southern's side of the interface, FPL receives 930 MW of capacity. Three new UPS agreements between FPL and Southern are scheduled to take effect on June 1, 2010, and continue to December 31, 2015. The new UPS agreements would also provide 955 MW of firm capacity, with FPL receiving 930 MW at the interface. The new UPS agreements would provide 165 MW of coal-fired capacity from the Scherer unit, with the remaining 790 MW of capacity from Southern's natural gas-fired Harris and Franklin units in Georgia.

FPL requested Commission approval for cost recovery of the new UPS agreements as part of its annual fuel adjustment filing with the Commission. At the conclusion of the hearing held in this docket on November 8 and 9, 2004, the Commission rendered a bench decision on all

issues with the exception of Issue 14C, which addresses approval of the new UPS agreements. The Commission requested a written recommendation on Issue 14C and the parties were provided the opportunity to file briefs supporting their positions on that issue by December 1, 2004.

The Fuel and Purchased Power Cost Recovery Clause is an ongoing docket and should remain open.

The Commission has jurisdiction over this subject matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes.

Discussion of Issues

Issue 14C: Should the Commission approve the three UPS agreements between FPL and Southern Company for cost recovery purposes?

Primary Recommendation: No. The new UPS agreements between FPL and Southern Company are not cost-effective. FPL's own analysis indicates that the new UPS agreements are between $69 million and $93 million more costly than FPL's self-build alternative. However, in staff's opinion, a more realistic cost difference is $117 million because FPL over-estimated the potential for coal-fired economy energy purchases from Southern Company. (Haff, Vining)

Alternate Recommendation: Yes. The new UPS agreements provide certain benefits, some of which are difficult to quantify. The primary benefit of the new UPS agreements is FPL's retention of firm transmission rights within the Southern system. Staff recommends, as a condition of approval, that any gain on sales to third parties that utilize the transmission rights associated with the UPS agreements should be credited 100% to FPL's ratepayers. If FPL negotiates the purchase of additional coal capacity and energy from either the Miller or Scherer units, the same conditions should apply. In order to not penalize FPL, the gains on such sales should not be included in FPL's calculation of a three year rolling average for purposes of establishing the threshold for other economy sales pursuant to Order No. PSC-00-1744-PAA-EI. (Ballinger, C. Keating)

Position of the Parties

FPL: Yes. The three new UPS agreements represent the most beneficial way for FPL to meet its power supply requirements in the 2010-2015 period. The cost of the new UPS agreements is reasonable in comparison to the market alternatives.

FIPUG: No. FPL has not demonstrated that it has adequately explored and analyzed all alternatives to meet the needs of its ratepayers and that the agreements meet the capacity needs of its retail customers at the lowest possible cost.

Churbuck: No. FPL's "evidence" of benefits associated with the UPS contracts, presented while FERC was investigating issues related to Southern's market power, was speculative and unsupportable. FPL's self-build option would have saved ratepayers over $150 million dollars (2004 NPV) based on FPL's own estimates, before FPL sought to deduct speculative UPS "arbitrage" benefits that it admitted may never be realized.

Primary Staff Analysis: FPL currently purchases 955 MW of capacity from Southern via UPS agreements set to expire on May 31, 2010. The existing UPS agreements are for coal-fired generation from Southern's Scherer and Miller units in Georgia. After adjusting for losses on Southern's side of the interface, FPL receives 930 MW of capacity. Three new UPS agreements between FPL and Southern are scheduled to take effect on June 1, 2010, and continue to December 31, 2015. The new UPS agreements would also provide 955 MW of firm capacity, with FPL receiving 930 MW at the interface. The new UPS agreements would provide 165 MW of coal-fired capacity from the Scherer unit, with the remaining 790 MW of capacity from Southern's natural gas-fired Harris and Franklin units in Georgia. FPL did not perform a Request for Proposals for the new UPS agreements, because none was required.

FPL performed a limited cost-effectiveness analysis which compared the cost of the new UPS agreements to FPL's self-build alternative, a gas-fired combined cycle unit currently scheduled to enter service in 2011 but whose construction would be accelerated to 2010. According to FPL's own analysis, the cost of the new UPS agreements to FPL's ratepayers is $153 million higher than FPL's self-build alternative before consideration of potential economy energy purchases from Southern. (EX 2). After considering the average and maximum benefits expected from future economy energy purchases, FPL estimates that the new UPS agreements are between $69 million and $93 million more costly than a self-build alternative. (TR 494; EX 2). As discussed below, based on historic economy energy interchange, staff believes that FPL over-estimated the potential for coal-fired economy energy purchases from Southern. Historic economy energy purchases have been closer to the minimum benefits expected from future economy energy purchases as forecasted by FPL. (EX 2). As a result, staff believes that a more realistic cost difference is $117 million. (EX 2).

In three recent need determination cases before the Commission, FPL has strongly urged the Commission to approve the most cost-effective alternative. (Order No. PSC-02-1743-FOF-EI, issued December 10, 2002, in Docket Nos. 020262-EI and 020263-EI, In Re: Petition to Determine Need for an Electrical Power Plant in Martin County by Florida Power & Light Company and In Re: Petition to Determine Need for an Electrical Power Plant in Manatee County by Florida Power & Light Company; Order No. PSC-04-0609-FOF-EI, issued June 18, 2004 in Docket No. 040206-EI, In Re: Petition to Determine Need for Turkey Point Unit 5 Electrical Power Plant by Florida Power & Light Company). In all three cases, FPL's self-build units were the most cost-effective alternative. In the Martin and Manatee case, FPL's self-build units were marginally cost-effective, being only $2 million cheaper than the next best alternative. FPL applied cost-effectiveness as the primary standard in these cases. In staff's opinion, FPL should have applied the same standard to its evaluation of the new UPS agreements.

Benefits of new UPS agreements

FPL witness Hartman stated that the purpose of signing the new UPS agreements was to retain many of the benefits of the existing UPS agreements. (TR 484). FPL witness Hartman was unable to prioritize these benefits as to their importance to FPL (TR 546, 592), and he stated that these benefits were not easily quantifiable. (TR 494, 504, 591, 750). Nonetheless, witness Hartman went on to state that these benefits are in the best interest of FPL's customers (TR 505) and outweigh the additional cost of the new UPS agreements. (TR 504, 751).

Staff disagrees with witness Hartman's conclusions. FPL has sought Commission approval for cost recovery of the new UPS agreements when none of the six claimed benefits can be prioritized, and only one of the six, the ability to purchase economy energy from Southern, can be quantified. Accordingly, staff believes that the new UPS agreements should not be approved for cost recovery purposes because FPL has not shown that they are the most cost-effective option, nor has FPL demonstrated that the benefits of the new UPS agreements outweigh the premium FPL's ratepayers would pay for capacity under these agreements. The following sections describe the benefits claimed by FPL under the new UPS agreements.

Retention of coal-fired capacity

For the new UPS agreements, Southern did not make available the entire 955 MW of coal-fired capacity currently available under the existing UPS agreements. FPL was able to retain only 165 MW of the 210 MW currently purchased from the Scherer site and no capacity from the Miller units. The new UPS agreements include 790 MW of gas-fired capacity from two Southern merchant units, Harris Unit 1 and Franklin Unit 1. FPL witness Hartman stated that FPL wanted to purchase only coal-fired capacity, and that Southern wanted to sell only gas-fired capacity. (TR 571-2). He further testified that FPL could not secure the Scherer coal-fired capacity from Southern unless FPL also agreed to take the gas-fired capacity. (TR 630-3). Thus, staff views the new UPS agreements as a compromise between FPL and Southern that only minimally preserves the coal fuel diversity which exists under the existing UPS agreements. FPL witness Hartman testified that 165 MW of coal-fired capacity represents less than 1% of FPL's system capacity. (TR 573). By replacing 790 MW of coal-fired capacity with a like amount of gas-fired capacity, FPL will have less fuel diversity on its system with the new UPS agreements than it now has under the existing UPS agreements.

Staff notes that FPL made no attempt to separate the cost of each of the three new UPS agreements. In response to staff Interrogatory No. 48, FPL provided a rough cost comparison of each of the two gas-fired UPS agreements to a self-build gas-fired unit. The estimates for the cost of these three units were nearly the same. (TR 759; EX 2). In light of FPL's estimate, staff attributes the cost difference between the new UPS agreements and a self-build option to the small amount of coal-fired capacity in the new UPS agreements. In essence, FPL is paying a "premium" for some component of coal-fired capacity. Witness Hartman denied that FPL paid a premium for coal-fired capacity. (TR 760). Staff questions whether minimal fuel diversity, and the premium paid for this coal-fired capacity, is worth the additional cost of the new UPS agreements.

Retention of firm transmission rights

FPL expects to be able to "roll-over" its firm transmission rights from the Scherer and Miller units under the existing UPS agreements to the Scherer, Harris, and Franklin units under the new UPS agreements. (TR 486-7). As the transmission owner, Southern is the entity that grants roll-over rights. FPL requested roll-over on August 25, 2004, including a request to redirect firm transmission to the new units. (EX 2). Southern has not yet granted roll-over to FPL, and, in fact, has not yet notified FPL whether a study is needed to identify additional needed transmission facilities. (TR 651-2). If new transmission facilities are needed to accommodate the new UPS agreements, Southern would notify FPL of the scope and cost of the upgrades. (TR 654-5). FPL would be given the chance to accept or reject Southern's proposal. Under Southern's Open Access Transmission Tariff (OATT), Southern has up to 240 days to grant roll-over. (TR 647). If firm transmission service is not granted by that date, FPL, rather than Southern, has the right to terminate the new UPS agreements. (TR 485, 506-8). If firm transmission service is granted, FPL witness Hartman stated that the rates for this service are set out in Southern's OATT. (TR 503-4).

FPL's existing firm transmission rights inside Southern's system, which are tied to the existing UPS agreements, have allowed FPL to buy economy non-firm energy from Southern

without securing additional transmission rights for these purchases. FPL cannot retain firm transmission rights in Southern's territory if the transmission is not anchored by firm capacity purchases from Southern. FPL would still own its share of the Southern-Florida interface, but would have to post available interface capacity on its Open Access Same-Time Information System (OASIS) for purchase by other entities. (TR 672). FPL would not be precluded from obtaining firm or non-firm transmission service to accommodate capacity and energy purchases if such service were available in the future.

There is significant uncertainty associated with FPL's new UPS agreements: FPL does not know whether it will be granted roll-over of transmission service; whether additional transmission facilities within Southern will be necessary; or, whether additional costs will be borne by FPL's ratepayers related to new transmission facilities. If additional transmission facilities are needed, FPL's ratepayers will incur an additional cost burden above the current projected cost of the new UPS agreements. Staff believes that FPL's primary reason for pursuing the new UPS agreements appears to be to retain firm transmission rights within Southern's territory to facilitate economy energy purchases. Staff does not believe that FPL needs firm transmission service solely to ensure opportunities to buy economy energy.

Ability to purchase additional firm capacity and/or market energy from outside Florida

Fueled primarily by natural gas, FPL's system normally has a higher system energy cost than Southern's system, which is fueled primarily by coal. FPL has historically been able to take advantage of this cost difference, known as arbitrage, by purchasing non-firm energy from Southern during certain hours. FPL has benefited from economy non-firm energy purchases for many years. Fuel savings totaled nearly $32 million between 2000 and 2003, with a one-year high of $12.7 million in 2003. (EX 2). FPL witness Hartman testified that a lower value, $10.87 million, would have been the arbitrage value for 2003. (TR 491).

For the new UPS agreements, FPL quantified the net present value benefit of arbitrage to be between $36 million and $83 million, with an average arbitrage value of $60 million. (EX 2). In its cost comparison to the self-build unit, FPL used the average and maximum arbitrage values of $60 million and $83 million, respectively, but is silent on the $36 million value. FPL's projected arbitrage savings are much greater than recent history would indicate is appropriate. For any full year covered by the new UPS agreements, FPL estimates minimum arbitrage savings to be between $12.4 and $13.9 million (EX 2), resulting in the NPV of $36 million stated above. Maximum arbitrage savings for any full year are expected to be between $27.4 million and $34.2 million (EX 2), resulting in the NPV of $83 million stated above. FPL witness Hartman stated that the existing UPS agreements, which include bundled transmission service, limit FPL's ability to redirect its transmission to any generating unit other than Scherer and Miller. (TR 756-7). Witness Hartman further testified that the new UPS agreements provide more flexibility in that FPL can redirect its transmission to any unit in the wholesale market to facilitate economy energy purchases. (TR 757). However, given recent historical levels of economy energy purchases, FPL's projected arbitrage savings appear to be too high. As Southern's native load continues to grow, it would be expected that less coal-fired economy energy will be available for sale to FPL and other utilities. This fact is borne out by the fact that Southern was not willing to continue selling only coal-fired capacity to FPL under the new UPS agreements. (TR 572; 630-3). For FPL's forecast of arbitrage savings to be realized, these

savings, based on economy energy purchases, would have to be greater than at any point during the 2000-2003 period. (EX 2). Staff believes FPL should have been more conservative in its expectation of economy energy purchases, and therefore should have applied the minimum arbitrage value of $36 million.

As noted earlier, the net cost of the new UPS agreements to FPL's ratepayers is $153 million before consideration of economy energy purchases from Southern. This means that FPL would have to expect arbitrage savings of $153 million during the duration of the new UPS agreements in order for these contracts to be cost-neutral compared to a self-build unit. In order to achieve this high level of arbitrage savings, FPL would have to purchase nearly five times as much economy energy, on an annual basis, than the highest amount of economy energy purchased by FPL during any year between 2000 and 2003. (EX 2). The record does not support FPL's position that it could expect to buy such large amounts of economy energy from Southern.

Right of first refusal for additional coal-fired capacity

FPL negotiated a "right of first refusal" on additional capacity from the Scherer and Miller units, if available. As stated previously, Southern did not make the entire 955 MW of coal capacity from Scherer and Miller available to FPL for the new UPS agreements. Under the right of first refusal, if Southern were to decide to sell the Scherer and Miller capacity to another entity, FPL alone would be given the right to accept that offer. Witness Hartman testified that FPL paid nothing for these rights. (TR 610).

It is staff's contention that if Southern had been willing to make the Scherer and Miller capacity available to the wholesale market, the capacity would likely have been made available to FPL under the new UPS agreements. In the event that Southern makes the Scherer and Miller capacity available, FPL must be willing to accept Southern's offer, which would result in unknown additional costs above the cost of the new UPS agreements. As a result, staff is not convinced that the right of first refusal has significant value, a contention borne out by the fact that FPL paid nothing for these rights.

Independent natural gas supply

The 790 MW of gas-fired capacity under the new UPS agreements will be served by a gas transportation system independent of the two that currently serve peninsular Florida, Florida Gas Transmission (FGT) and Gulfstream. Florida has been capably served by FGT for many years. The recent addition of the Gulfstream system has provided an independent source of natural gas throughput, resulting in additional reliability. Further, three liquefied natural gas (LNG) pipelines from the Bahamas are in the planning stages. If constructed, any one of these lines would provide even more reliability to the state. Churbuck witness Dismukes testified that the LNG pipelines would be on line prior to 2010. (TR 802).

Multiple independent sources of fuel supply do provide increased reliability. Florida has, and is expected to continue to have, multiple independent sources of natural gas pipeline supply. For this reason, staff believes that the independent gas supply touted by FPL is a minor benefit.

Flexibility of short-term contract

The new UPS agreements have a term of 5.5 years. Witness Hartman testified that these agreements enable FPL to defer a long-term commitment, likely for a gas-fired unit. (TR 489). He also stated that the new UPS agreements would give FPL additional time to develop solid fuel options. (TR 751). Staff notes that FPL is currently evaluating the feasibility of coal-fired generation on its system, and plans to report the findings of its evaluation to the Commission in March 2005.

Staff agrees that short-term contracts provide flexibility and buy time for a utility to evaluate a long-term commitment. In that sense, the new UPS agreements proposed by FPL are not unlike any other short-term capacity contract of similar duration. FPL witness Hartman agreed. (TR 531). Flexibility of short-term contracts was not enough of a benefit to FPL to overcome cost hurdles in recent need cases. FPL received several short-term offers in response to its Martin, Manatee, and Turkey Point RFPs but dismissed them because they were not cost-effective. (Order No. PSC-02-1743-FOF-EI; Order No. PSC-04-0609-FOF-EI). In other words, the fact that the new UPS agreements are short-term contracts does not obviate the need for them to be cost-effective for FPL's ratepayers.

Recommendation

FPL has petitioned the Commission to approve its new UPS agreements with Southern, although only one of the six benefits claimed under the new UPS agreements can be quantified, the ability to purchase economy energy from Southern. If approved, FPL's ratepayers will have to pay for these unquantifiable benefits. Staff believes that these benefits are not sufficient enough to justify the $69 million to $117 million additional cost of the new UPS agreements. Therefore, staff recommends that the Commission deny the new UPS agreements between FPL and Southern for cost recovery purposes.

Alternate Staff Analysis: According to FPL, the purpose of the proposed UPS agreements was to retain as many of the benefits of the existing contracts as possible. (TR 502, 517, 539, 764, 922, 923). While FPL may not have been able to retain all of the benefits of the existing UPS agreements, the proposed UPS agreements do provide some fuel diversity, enhanced reliability, and opportunities for economy energy purchases. Specifically, the proposed UPS agreements provide for: (1) the purchase of 165 MW of coal-fired and 790 MW of gas-fired capacity and energy, with the right of first refusal to purchase additional coal-fired energy if made available; (2) a short-term commitment which allows FPL to further explore ownership of new solid fuel generation; (3) enhanced reliability through geographic and fuel supply differences; and, (4) the retention of firm transmission rights within the Southern system. (TR 504, 505, 510, 517, 529, 612).

FPL states that the benefits of the proposed UPS agreements such as fuel diversity, enhanced reliability, and opportunities for economy energy purchases, are difficult to quantify. (TR 530, 547, 573, 591-593, 750, 751). Alternate staff agrees. A pure dollar and cents cost-effectiveness comparison suggests that a self-build option would be more cost-effective by approximately $69-$93 million. (TR 504, 749, 750; EX 2). Therefore, the Commission is faced with the policy decision of how much of a premium should be paid for the types of benefits provided by the proposed UPS agreements. The concept is similar to that of purchasing car insurance. You pay a premium for something you hope to never use, but are glad you have it if needed. Alternate staff estimates that the "premium" would equate to approximately 0.02 cents/kwh, or about 20 cents/month per residential customer over the 5.5 year term of the UPS agreements.

Since the 1990's, the majority of new generation additions in Florida and the Nation have been natural gas-fired units. No new coal-fired generating units have been constructed for quite some time, either in Florida or in the Southern system. FPL's reliance on natural gas for future generation additions is the highest of any Florida investor-owned utility. The coal units that support the existing UPS agreements, the Scherer and Miller units, are being retained for use by the original owners for their native load customers. This fact is supported by the testimony of witness Hartman who stated that going into negotiations, FPL wanted to buy all coal-fired energy, but Southern only wanted to sell gas-fired energy. (TR 571, 572, 629-633, 668-670). In essence, while the amount of coal-fired capacity is reduced from 930 MW to 165 MW, some fuel diversity is preserved for FPL at a time when Florida's utilities are highly dependent on natural gas-fired generation. When compared to the self-build alternative, the proposed UPS agreements increase fuel diversity on FPL's system. In addition, the right of first refusal for additional coal-fired capacity provides additional fuel diversity opportunities. FPL is currently studying the feasibility of adding coal-fired generation to its system and has committed to provide a report on that subject to the Commission by March, 2005. (TR 577-579). The short term nature of the proposed UPS agreements allows a window of time for FPL to more fully analyze the potential for constructing coal-fired generation during the 2010-2015 timeframe. (TR 530, 531, 761).

Both the existing and the proposed UPS agreements enhance reliability through geographic and fuel supply differences. FPL has been allocated a share of the Florida/Georgia transmission interface and is currently utilizing this transmission capacity to import power under the existing UPS agreements (TR 671). This amount of transmission import capacity will not

change with the new UPS agreements. Under the proposed UPS agreements, 930 MW of power will be imported from the Southern region, just like the existing UPS agreements. If FPL did not extend the contracts, the 500 kV lines would remain in place, but FPL would be required to make its share of the interface capacity available for purchase by third parties. (TR 527-529, 672). The existing UPS agreements are based entirely on coal-fired energy. As discussed above, fuel diversity is enhanced by the proposed UPS agreements. While the proposed UPS agreements have a significant portion of capacity that is gas-fired, the fuel is delivered via a gas transportation network that is outside of Florida, providing enhanced fuel supply reliability. (TR 504, 505, 517).

The benefits associated with the firm transmission rights should improve compared to the existing UPS agreements. According to witness Hartman, the transmission rights associated with the existing UPS agreements are bundled with the capacity payments and are not transferable within the Southern system. (TR 525, 526, 754). The new "roll-over" transmission rights, if approved, would be billed separately pursuant to Southern's Open Access Transmission Tariff (OATT). Alternate firm transmission paths could be requested with 24 hours notice and non-firm requests with only a one hour notice. (TR 525, 526, 678, 679). FPL may request alternate transmission paths that allow additional economy energy transactions. (TR 524, 525, 532, 535-539, 567, 612, 673, 674). The additional economy purchases are estimated to provide between $36 to $83 million dollars in savings to FPL's ratepayers. (TR 524; EX 2, Staff Interrogatory No. 44). Witness Hartman did acknowledge that the maximum level of savings assumed, $83 million, was substantially greater than FPL's recent history of out-of-state economy energy purchases and that the minimum level of $36 million is more in line with FPL's recent historical experience. (TR 756). Witness Hartman used the maximum and the <u>average</u> values of economy energy savings to arrive at the range of $69 to $93 million dollar net cost figures. (TR 524, 629; EX 2, Staff Interrogatory No. 46). Using the maximum and the minimum figures for economy energy purchases would result in a range of net cost of $69 to $117 million, respectively, when compared to the self-build option. However, if natural gas prices were to rise significantly during the 2010 to 2015 time frame, the savings from economy energy purchases could surpass the estimated maximum level and possibly mitigate the additional costs of the contracts. The table below summarizes the three scenarios:

Estimate of Net Benefits (millions)			
Cost above self-build	153	153	153
Economy energy purchases	83	60	36
Net total cost*	**69**	**93**	**117**

* may not add due to rounding

Witness Hartman also stated that he was doubtful that FPL would be able to secure equivalent firm transmission rights if the roll-over rights were not granted because FPL would be at the end of the line behind several other entities requesting transmission access. (TR 595, 611, 673, 674, 915). If this were to happen, even the minimum amount of economy energy purchases would be in jeopardy. The reverse would also be true. Without firm transmission rights, FPL may not be in a position to make economy sales to Southern. Therefore, it appears that the primary benefit of the new UPS agreements is the retention of firm transmission rights within the

Southern system. Witness Hartman testified several times that whoever owns the transmission rights receives all of the benefits of economy energy transactions and that "[i]f we own the transmission rights, how much we share with our customer is a matter of the fact that they get all of it . . . [a]ll of the benefits of the transmission rights.". (TR 532, 535, 536-539).

One additional benefit of the proposed UPS agreements is the fact that all three contracts are fully dispatchable by FPL. (TR 516, 759, 934). Alternate staff is unsure if this same provision is contained in the existing UPS agreements. In essence, the generating units defined in the contracts are under the direct control of FPL, as if FPL owned the units. As such, FPL can even make sales from these units when it is economic to do so. FPL stated in response to Staff Interrogatory No. 43 that "[i]f the dispatch cost of the plants under contract is lower than the market price, but higher than our own system marginal costs, we would dispatch the plants under contract to the extent we can sell the output into the market." (EX 2). It is unusual for a purchased power contract to also provide for the opportunity to produce revenues for the original buyer; however, the ability to dispatch the units is worthless unless FPL has the transmission rights to deliver the power.

FPL stated many times that the benefits of the UPS agreements should flow to the customers. (TR 660, 677, 764, 911-914). Therefore, alternate staff recommends as a condition of approval that any gain on sales to third parties that utilize the transmission rights associated with the UPS agreements should be credited 100% to FPL's ratepayers. If FPL negotiates the purchase of additional coal capacity and energy from either the Miller or Scherer units, the same conditions should apply. In order to not penalize FPL, the gains on such sales should not be included in FPL's calculation of a three year rolling average for purposes of establishing the threshold for other economy sales pursuant to Order No. PSC-00-1744-PAA-EI, issued September 26, 2000, in Docket No. 991779-EI, In Re: Review of the appropriate application of incentives to wholesale power sales by investor-owned electric utilities. Such a conditional approval will ensure that the value of all of the benefits that are not quantifiable today will flow to FPL's ratepayers in the future.

The other parties to the proceeding, Churbuck, OPC and FIPUG, contend that FPL did not provide sufficient evidence to justify approval of the UPS agreements. (TR 817, 857, 878). Alternate staff believes that the record is sufficient for the Commission to render a decision. No matter how long or in what detail one considers the evidence, the Commission is faced with the policy decision of how much of a premium should be paid for the types of benefits provided by the proposed UPS agreements. The Commission has the information and expertise it needs to make a decision based upon the economic impact of the proposed UPS agreements and a description of the benefits they will bring to FPL's ratepayers.

In summary, the proposed UPS agreements continue many of the benefits associated with the current UPS agreements. Access to coal-fired energy via firm transmission rights appears to be the greatest benefit to FPL's ratepayers. As such, alternate staff would recommend that the proposed UPS agreements be approved for cost recovery purposes, subject to the conditions set forth above.