1214

1 BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

2

3 DOCKET NO. 060635-EU

4 In the Matter of

5 PETITION FOR DETERMINATION OF NEED FOR

ELECTRICAL POWER PLANT IN TAYLOR COUNTY

6 BY FLORIDA MUNICIPAL POWER AGENCY, JEA,

REEDY CREEK IMPROVEMENT DISTRICT, AND

7 CITY OF TALLAHASSEE.

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8

9 VOLUME 11

10 Pages 1214 through 1286

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12 A CONVENIENCE COPY ONLY AND ARE NOT

THE OFFICIAL TRANSCRIPT OF THE HEARING,

13 THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

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16 PROCEEDINGS: HEARING

17 BEFORE: CHAIRMAN LISA POLAK EDGAR

COMMISSIONER MATTHEW M. CARTER, II

18 COMMISSIONER KATRINA J. TEW

19 DATE: Thursday, January 18, 2007

20 TIME: Commenced at 10:30 a.m.

Concluded at 1:45 p.m.

21

PLACE: Betty Easley Conference Center

22 Room 148

4075 Esplanade Way

23 Tallahassee, Florida

24 REPORTED BY: MARY ALLEN NEEL, RPR, FPR

25 APPEARANCES: (As heretofore noted.)

1215

1 I N D E X

2 WITNESSES

3

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EXHIBITS

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NUMBER ID. ADMTD.

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4 55 1225

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1 P R O C E E D I N G S

2 (Transcript follows in sequence from

3 Volume 10.)

4 CHAIRMAN EDGAR: Okay. Thank you, Mr. Jacobs.

5 Mr. Perko.

6 MR. PERKO: Just a few.

7 MS. BRUBAKER: Madam Chairman, if I may.

8 CHAIRMAN EDGAR: Oh, I am so sorry. I

9 apologize. Ms. Brubaker, questions from staff.

10 MS. BRUBAKER: Maybe five minutes.

11 CHAIRMAN EDGAR: That's fine.

12 MS. BRUBAKER: Ten tops.

13 CHAIRMAN EDGAR: That's fine. Go right ahead.

14 CROSS-EXAMINATION

15 BY MS. BRUBAKER:

16 Q. Mr. Kushner, you indicated in your direct

17 testimony that you explored a number of joint

18 development alternatives, including an IGCC unit, I

19 believe, that was scheduled to be in service in 2012; is

20 that correct?

21 A. Yes, ma'am. It was a joint development IGCC

22 alternative fueled by petroleum coke, commercial

23 operation date May of 2012, with ownership percentages

24 identical to those proposed for the Taylor Energy Center

25 among the applicants.

1218

1 Q. Okay. And that was using a coal and petcoke

2 mix?

3 A. No, ma'am. It was 100 percent petcoke.

4 Q. 100 percent petcoke?

5 A. Yes, ma'am.

6 Q. And that is different than the mix that's

7 assumed for TEC; is that correct?

8 A. That is correct.

9 Q. Okay. Why did you assume 100 percent petcoke?

10 A. The 100 percent petcoke assumption was based

11 on two primary factors, one being that the unit would be

12 located at the Taylor Energy site and therefore have

13 access to petroleum coke, and two, I wanted to make as

14 favorable assumptions as possible regarding the

15 economics of that IGCC alternative compared to Taylor

16 Energy Center. And operation on petroleum coke,

17 100 percent petroleum coke for the IGCC unit is lower in

18 cost than operation on either 100 percent coal or a

19 blend of coal and petroleum coke.

20 Q. Were you present at the hearing on Friday

21 during Mr. Hoornaert's testimony and cross-examination?

22 A. Yes, ma'am.

23 Q. And do you recall -- I asked him a question

24 about in the deposition he had referred to petcoke as an

25 opportunity fuel. Do you recall basically his response

1219

1 to that?

2 A. Yes, I do.

3 Q. Do you agree with his statement about petcoke

4 is a by-product of the refining industry, so the

5 availability varies, and the availability also depends

6 on what other companies want to use petcoke as fuel?

7 A. Yes, I agree with that. That statement is

8 also corroborated by our expert fuel witness,

9 Mr. Preston, some of his statements that I've heard in

10 the past, yes.

11 Q. In your opinion, are there any reliability

12 concerns associated with the assumption of 100 percent

13 petcoke?

14 A. Yes, there are reliability concerns associated

15 with 100 percent petcoke.

16 Just to kind of put it in perspective, the

17 Taylor Energy Center will be a 765-megawatt net unit

18 that will utilize approximately 28 percent petroleum

19 coke. The IGCC alternative considered as the joint

20 development I believe was in excess of 800 megawatts.

21 And the assumption then that you're going to be using

22 100 percent petroleum coke, when incorporating the heat

23 rates between the two technologies, just doing the math

24 in my head, it looks like that's five times as much

25 petroleum coke would be required for that IGCC

1220

1 alternative as for the Taylor Energy Center. Not being

2 a expert in fuel transportation and availability, but to

3 me, that seems potentially like a reliability concern.

4 Q. So I'm correct that your answer indicates that

5 there are some fuel availability concerns with respect

6 to the 100 percent petcoke assumption?

7 A. On a unit that's in excess of 800 megawatts,

8 yes.

9 Q. Earlier you were provided a copy of NRDC's

10 second set of interrogatories, numbers 1 through 8. Do

11 you still have that available to you?

12 A. Yes, I do.

13 Q. Could I ask you to please refer to page 15 of

14 that document?

15 A. Sure. Okay.

16 Q. Now, I believe that you indicated that there

17 are several DSM measures that do not pass the RIM test,

18 but pass the Participant Test and Total Resource Cost

19 Test; is that correct?

20 A. That's correct, yes.

21 Q. And referring to the top of page 15, the

22 section indicating low or variable flow shower head,

23 those did not pass RIM; is that correct?

24 A. That is correct.

25 Q. But they did score high on the Participant

1221

1 Test or the Total Resource Test?

2 A. Yes.

3 Q. Okay. What would account or explain for why a

4 measure might not pass RIM, but would otherwise score

5 high on the other tests?

6 A. It's primarily due to the duty cycle. I know

7 I've used that term a lot, but if you have a measure

8 that doesn't provide a high level of energy savings akin

9 to a baseload technology like Taylor Energy Center will

10 be, it's difficult to show cost-effectiveness for that

11 DSM measure when considering that if through

12 implementation of that DSM measure, you would be taking

13 off a baseload resource that provides fuel savings

14 around the clock in exchange for a very limited number

15 of -- a very limited amount of energy being displaced by

16 that unit.

17 MS. BRUBAKER: Thank you. I believe that

18 concludes my questions.

19 CHAIRMAN EDGAR: Mr. Perko.

20 REDIRECT EXAMINATION

21 BY MR. PERKO:

22 Q. Excuse me. Mr. Kushner, just so the record is

23 clear, could you explain what a duty cycle is?

24 A. Yes. A duty cycle is when the -- in this

25 case, we've been talking about DSM measures, when the

1222

1 DSM measure would demonstrate its energy savings. On

2 the supply side, the duty cycle is the characteristics,

3 the operating characteristics of the unit. Peaking

4 units would operate a few hours out of the year,

5 relatively speaking, intermediate units would operate

6 maybe 60 percent of the hours, whereas a baseload unit

7 like Taylor Energy Center TEC would have a duty cycle of

8 about 90 percent.

9 Q. Excuse me again. In response to

10 Ms. Brownless's questions, I think she had asked you if

11 you had analyzed any of the DSM measures that are

12 currently being implemented by Reedy Creek or its

13 customers. My question is, to the extent that Reedy

14 Creek and its customers are implementing DSM measures,

15 would those be reflected in the load forecasts?

16 A. Yes, sir.

17 Q. Also in response to Ms. Brownless, she asked

18 you some questions regarding that second step you went

19 through in your DSM analysis for those measures that

20 passed the Total Resource Test for both FMPA and JEA.

21 And I believe you said that if you assumed that those

22 were implemented, they would result in savings of

23 approximately 100 megawatts for JEA and 200 megawatts

24 for FMPA. Does that sound familiar?

25 A. Yes, it does.

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1 Q. Now, for purposes of that analysis, were you

2 assuming that those savings would be achieved

3 immediately?

4 A. Yes, and they would be sustained as well.

5 Q. Is that realistic assumption?

6 A. No. Demand-side management measures typically

7 have a participation curve associated with them.

8 Essentially, not everybody is going to participate the

9 first day it's offered, so through time, you would see

10 increasing participation.

11 Q. And there has been a lot of discussion about

12 the potential for Tallahassee to achieve approximately

13 160 megawatts of savings if their DSM portfolio performs

14 as assumed. Would all of that approximately 160

15 megawatts savings be achieved initially?

16 A. No. The City of Tallahassee's DSM portfolio

17 is projected to ramp up from -- I could check the

18 number, but essentially it becomes 160 megawatts,

19 161 megawatts not until 2025.

20 Q. And what's the overall duty cycle associated

21 with Tallahassee's DSM portfolio?

22 A. It's approximately 38 percent by the year

23 2025.

24 Q. Mr. Kushner, Ms. Brownless showed you what I

25 believe has been marked as Exhibit 79, the Synapse

1224

1 report. I believe you have an excerpt of that.

2 A. Yes, I do.

3 Q. She gave you excerpts of pages 40 through 42;

4 is that correct?

5 A. Thirty-nine through 42, yes.

6 Q. Thirty-nine through 42. Thank you. And she

7 referred you to Figure 6.3, which is a line chart. I

8 would like to refer you to Table 6.4, which, as I

9 understand it, provides the levelized values for the

10 Synapse low case, mid case, and high case for the years

11 2010 through 2040; is that correct?

12 A. Yes.

13 Q. Now, what are the levelized values from 2010

14 to 2040 for the CO2 allowance forecast provided by

15 Mr. Preston?

16 A. $13.78 per ton.

17 Q. And how do those compare to the Synapse low

18 and mid cases?

19 A. They fall between the two. The low Synapse

20 case has a levelized cost of $8.50 per ton. The mid

21 case has a levelized cost of $19.60 per ton.

22 MR. PERKO: If I could just check my notes

23 real quickly.

24 That's all we have. Thank you.

25 CHAIRMAN EDGAR: We have exhibits.

1225

1 MR. PERKO: Yes, I believe --

2 CHAIRMAN EDGAR: Fifty-five through 58.

3 MR. PERKO: Fifty-five through 58.

4 CHAIRMAN EDGAR: Okay. Seeing no objection,

5 Exhibits 55, 56, 57, and 58 will be entered into the

6 record.

7 (Exhibits Number 55, 56, 57, and 58 were

8 admitted into the record.)

9 MS. BROWNLESS: And, Madam Chair, we also need

10 Exhibit 105 and 108 now that all utility witnesses have

11 testified.

12 CHAIRMAN EDGAR: Okay. Ms. Brownless, my

13 notes are showing me that 105 and 108 have been entered

14 into the record. And I look to our staff, and they

15 concur, so I think we're in good shape there.

16 MS. BROWNLESS: Thank you, ma'am.

17 CHAIRMAN EDGAR: Okay. And the witness may be

18 excused. Thank you.

19 Ms. Brownless, I believe you have the next

20 witness.

21 MS. BROWNLESS: Thank you. Mr. Urse.

22 Thereupon,

23 STEVE URSE

24 was called as a witness on behalf of NRDC and, having

25 been first duly sworn, was examined and testified as

1226

1 follows:

2 DIRECT EXAMINATION

3 BY MS. BROWNLESS:

4 Q. Mr. Urse, have you been sworn?

5 A. Yes, I have.

6 Q. Thank you. Can you please state your name and

7 address for the record?

8 A. My name is Steve Urse. My address is 11 --

9 CHAIRMAN EDGAR: Mr. Urse, I'm not sure that

10 we're picking you up in the mike, so if you would, make

11 sure that it's on, and bring it a little closer perhaps.

12 THE WITNESS: Having it on will help.

13 CHAIRMAN EDGAR: Okay. That's better.

14 THE WITNESS: My name is Steve Urse. My

15 address is 1118 Waverly Road, Tallahassee, Florida.

16 BY MS. BROWNLESS:

17 Q. Okay. And did you prepare direct testimony in

18 this docket consisting of four pages and filed on

19 November 2, 2006?

20 A. Yes, I did.

21 Q. Did you also file Exhibits 1 through 7, which

22 have been identified in this record as Exhibits 64

23 through 70?

24 A. Yes.

25 MS. BROWNLESS: Okay. Madam Chair, Exhibits

1227

1 65 through 68 and 70 have already been moved into the

2 record with Mr. Brinkworth.

3 BY MS. BROWNLESS:

4 Q. Now, with regard to Exhibit Number 64, did you

5 prepare that exhibit yourself, sir?

6 A. Yes. That is my resumé.

7 Q. Okay. And with regard to Exhibit Number 69,

8 which is SU-6, did you prepare this exhibit?

9 A. No, I didn't. That is an exhibit that was

10 prepared by the City of Tallahassee, David Byrne, at a

11 presentation October 18th, 2006, for the City

12 Commission, at which Mr. Brinkworth was present.

13 Q. Okay. Thank you. And is the information

14 contained in Exhibit SU-1, which has been marked as

15 Exhibit 64, true and correct to the best of your

16 knowledge and belief?

17 A. Yes.

18 Q. Okay. Do you have any changes you would like

19 to make to your prefiled testimony at this time?

20 A. No, I do not.

21 Q. Do you have any changes that you would like to

22 make to Exhibits 64 or 69 at this time?

23 A. No.

24 Q. Okay. If I were to ask you the same questions

25 as those of your prefiled testimony, would your answers

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1 be the same today, sir?

2 A. Yes, it would.

3 MS. BROWNLESS: We would ask that Mr. Urse's

4 prefiled testimony be placed into the record as though

5 read.

6 CHAIRMAN EDGAR: The prefiled testimony will

7 be entered into the record as though read.

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1 BY MS. BROWNLESS:

2 Q. Mr. Urse, do you have a brief summary of your

3 testimony?

4 A. Pardon?

5 Q. Do you have a brief summary of your testimony?

6 A. Yes, I do.

7 Q. Can you please give it at this time?

8 A. Yes. I'm a member of the Big Bend Climate

9 Action Team and also have chaired the Big Bend

10 Environmental Forum, an alliance of environmental

11 organizations in our region, over the last three years.

12 Members of the Big Bend Climate Action Team

13 first met with the City of Tallahassee electric planning

14 staff beginning in May 2005, and then on about a monthly

15 basis for the next 17 months. During this collaborative

16 effort, we citizens learned about the integrated

17 resource planning, and then we encouraged the City to

18 adopt clean energy, efficiency, and renewables, and as a

19 bridge to that, more efficient natural gas generation.

20 We examined many actions that forward-looking utilities

21 around the country had taken.

22 Based upon my participation in this

23 collaborative IRP effort that ultimately included staff,

24 citizens, consultants, and the City Commissioners, I

25 have observed the following:

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1 (1) Before hiring new consultants with

2 expertise in DSM and renewables, the City staff had

3 indicated, based upon initial reports from Black &

4 Veatch, that the City was acquiring virtually all of the

5 DSM and renewables that was cost-effective.

6 (2) With the help of clean energy

7 consultants, particularly Navigant Consulting, the City

8 identified 162 megawatts of cost-effective efficiency

9 and direct load control by 2025 for an expanded DSM

10 portfolio, which was included in the new IRP that was

11 approved by the City on December 6, 2006. This DSM

12 addition deferred needed capacity from 2011 to 2016.

13 (3) In addition, the City explored biomass

14 potential and signed a contract to purchase up to

15 38 megawatts of electricity from biomass by June 2010,

16 with the possibility of increasing it to 75 megawatts

17 later. That electricity also will be at a cost that is

18 less than other energy supply options.

19 In conclusion, based upon these observations,

20 the Big Bend Climate Action Team urges the Public

21 Service Commission to require the other TEC

22 participating utilities fully evaluate the potential for

23 cost-effective DSM and renewables that meet energy needs

24 at a cost that is less than the proposed pulverized coal

25 plant. We believe they too may be able to defer needed

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1 capacity or be able to reduce substantially future

2 capacity need. This clean energy first analysis that

3 the participation of the Big Bend Climate Action Team

4 encouraged and the City of Tallahassee accomplished

5 should be undertaken by all applicants. The City did

6 well.

7 Q. Does that conclude your summary?

8 A. That does.

9 MS. BROWNLESS: We would tender Mr. Urse for

10 cross.

11 CHAIRMAN EDGAR: Thank you. Mr. Paben,

12 questions for this witness?

13 MR. PABEN: Just one quick question.

14 CROSS-EXAMINATION

15 BY MR. PABEN:

16 Q. Mr. Urse, do you believe that the new DSM

17 portfolio which you helped develop for the City of

18 Tallahassee can actually realize the capacity in energy

19 savings that have been forecasted?

20 MS. RAEPPLE: Objection, Madam Chairman. This

21 witness has not testified as an expert witness. He's a

22 fact witness, and Mr. Paben is requesting opinion

23 testimony.

24 CHAIRMAN EDGAR: Mr. Paben, I think she has a

25 point.

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1 MR. PABEN: Okay. Then I'll just deliver it

2 for proffer. Thanks.

3 You can answer, Mr. Urse.

4 A. Well, based upon the facts that are contained

5 in the Navigant consultant report, it is noteworthy that

6 this amount of efficiency of the 162 megawatts was

7 characterized as achievable potential, not the larger

8 amounts of technical potential or economic potential.

9 MR. PABEN: Thank you.

10 CHAIRMAN EDGAR: Thank you. Mr. Jacobs.

11 MR. JACOBS: Thank you, Madam Chair.

12 CROSS-EXAMINATION

13 BY MR. JACOBS:

14 Q. Mr. Urse, in your summary, you described a

15 transition that the City went through from its original

16 understanding and analysis to engaging in more input and

17 expertise and then a revised IRP.

18 A. Yes.

19 Q. And I believe you indicated that the revised

20 IRP -- let me ask you this so as not to lead. You

21 describe a bridge that was accomplished in the revised

22 IRP. Could you explain in detail, more in detail what

23 you meant by the bridge concept?

24 A. Well, in Exhibit 7 -- and that was the one

25 that Mr. Brinkworth had indicated was not current. That

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1 is true. It was not current, but it's relevant for

2 historical purposes, because it was from September 2005.

3 The City announced that they were wanting to

4 participate or considering participating in what was

5 then called the North Florida Power Project in July, and

6 so this was a report in September before they then also

7 engaged in the analysis of whether they were going to

8 repower Hopkins 2, the natural gas unit that at the

9 time, and may still be providing 228 megawatts of

10 energy.

11 And in that analysis that Sargent & Lundy from

12 Chicago performed, they found that they were going to be

13 able to get an additional 64 megawatts from Hopkins 1,

14 or Hopkins 2, and that they were also going to be able

15 to reduce their fuel costs, because it was going to be

16 more efficient, by $25 million a year.

17 So what that chart then shows is that at the

18 time, they were looking at a cumulative need by 2025 of

19 578 megawatts. And then when they adopted the

20 repowering of Hopkins 2 in October of 2005, they then

21 reduced that by about 92 megawatts, which kind of leads

22 us to about where we are now, which is -- Tallahassee's

23 expressed need was after that then 282 megawatts.

24 We in the Big Bend Climate Action Team were

25 then trying to satisfy that with clean energy, and so

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1 that led to these efficiency opportunities that included

2 direct load control. That bought it to -- that was

3 162 megawatts, bringing us down to then around 120.

4 And then with the biomass of 38 megawatts,

5 that then brought us down to -- now I've lost track of

6 the number. Eight-two, I believe.

7 And so that was kind of the iteration that

8 went from July of 2005 to present.

9 Q. You're aware of Mr. Brinkworth's testimony

10 indicating the savings that are associated with that?

11 A. Yes, I am. And they're included in the

12 diagrams, the savings that are impacted both upon TEC

13 and the potential gas plan.

14 Q. And one final question. The expansion plan

15 that the City now has seems to be -- would you describe

16 what your interpretation is now in terms of its

17 diversity and its cost-effectiveness, the City's present

18 expansion plan?

19 MS. RAEPPLE: Objection. Same basis. This is

20 asking for opinion testimony, and Mr. Urse has not

21 testified as other than a fact witness.

22 MR. JACOBS: I'll proffer.

23 A. Well, the facts that are displayed in the

24 exhibit -- and I guess I would first refer to Exhibit

25 Number 65. It's Exhibit 65 that shows the potential

1239

1 impact of demand-side management on total plan costs.

2 And what that did, the City of Tallahassee at

3 that time, which was -- I don't have the date, but they

4 were showing 4.8 billion for the cost of TEC without

5 DSM. That was their 20 percent share over the 20 years.

6 It had a net present value cost of 4.8 billion, and that

7 was reduced to 4.53 billion. So it was saving about

8 $280 million.

9 Similarly, the addition of the biomass, if you

10 look at Exhibit Number 5, and again just looking at the

11 Taylor Energy Center, it was 4.8 billion without the

12 biomass, and then with this purchase of biomass power,

13 it saved about $35 million.

14 MR. JACOBS: No further questions. Thank you.

15 CHAIRMAN EDGAR: Mr. Perko? Ms. Raepple?

16 MS. RAEPPLE: Just briefly.

17 CROSS-EXAMINATION

18 BY MS. RAEPPLE:

19 Q. Mr. Urse, isn't it correct that you do not

20 have any education, training, or professional experience

21 as an engineer?

22 A. That is correct.

23 Q. You also have no education, training, or

24 professional experience in integrated resource planning?

25 A. I do not.

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1 Q. And you do recognize Mr. Brinkworth as a

2 knowledgeable person with regard to integrated resource

3 planning for electric utilities; isn't that correct?

4 A. That's correct. Any training that I've gotten

5 from the integrated resource plan was from the staff,

6 and then the many questions I've also asked Black &

7 Veatch.

8 MS. RAEPPLE: Thank you. I have nothing

9 further.

10 CHAIRMAN EDGAR: Thank you. Are there

11 questions from staff? No questions.

12 Ms. Brownless.

13 MS. BROWNLESS: Yes, ma'am. If we can just

14 put on the record that I believe the applicants by

15 motion objected to the expertise of Ms. Deevey,

16 Ms. Bryk, and perhaps Dr. Lashof, but I don't think they

17 objected to the expertise of Mr. Urse. So to the extent

18 that they are raising an objection today that Mr. Urse

19 is a fact witness and is not qualified as an expert, I

20 think perhaps that is an objection that is too late.

21 CHAIRMAN EDGAR: Ms. Raepple.

22 MS. RAEPPLE: Yes, Madam Chair. An objection

23 was not raised previously because Mr. Urse's prefiled

24 testimony does not include opinion testimony. It only

25 includes factual matters. And so there was not an

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1 opportunity to raise an objection as to Mr. Urse

2 providing opinion testimony prior to today when opinions

3 were elicited by friendly cross-examination.

4 CHAIRMAN EDGAR: Ms. Brubaker.

5 MS. BRUBAKER: It's correct that there was no

6 timely challenge to Mr. Urse's expertise. However, some

7 questions clarifying the scope of his expertise in the

8 context of his testimony I think are appropriate.

9 CHAIRMAN EDGAR: Okay.

10 MS. BRUBAKER: So I do concur that a challenge

11 of his expertise is untimely at this point.

12 MS. RAEPPLE: Madam Chairman, I don't believe

13 I had an opportunity to challenge a witness's expertise

14 if they had only testified as to factual matters. There

15 was no opinion testimony offered prior to today in the

16 friendly cross-examination that constituted opinion

17 testimony, so there was no basis for raising an

18 objection.

19 CHAIRMAN EDGAR: Ms. Helton. We'll get there.

20 MS. HELTON: I have to disagree with my

21 co-counsel, Ms. Brubaker, and say that I agree with

22 Ms. Raepple. It seems appropriate to me that if

23 Mr. Urse offered only fact testimony in his prefiled

24 direct testimony, then I think that it was appropriate

25 for the applicants to assume that he was not being

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1 offered as an expert witness, but was simply being

2 offered to provide facts for the record.

3 CHAIRMAN EDGAR: And with all sincere respect

4 to both Ms. Brubaker and Ms. Brownless, I concur with

5 Ms. Helton as well.

6 MS. BROWNLESS: Thank you, Your Honor.

7 CHAIRMAN EDGAR: Thank you.

8 MS. BROWNLESS: And at this time, I would like

9 to move into the record Exhibits 64 and 69.

10 CHAIRMAN EDGAR: Any objections? Seeing

11 none --

12 MS. RAEPPLE: Excuse me. No objection to 64,

13 but as to 69, that is hearsay, so we do object to it on

14 the grounds of hearsay.

15 CHAIRMAN EDGAR: Exhibit 64 will be entered

16 into the record. Exhibit 69 will be entered to give it

17 the weight that it is deemed to be due.

18 MS. BROWNLESS: Thank you, ma'am.

19 CHAIRMAN EDGAR: Thank you.

20 (Exhibits Number 64 and 69 were admitted into

21 the record.)

22 CHAIRMAN EDGAR: Mr. Urse, you may be excused.

23 Thank you.

24 Mr. Perko, Ms. Raepple, your witness.

25 MR. PERKO: One final witness, Mr. Rollins.

1243

1 Thereupon,

2 MYRON ROLLINS

3 was called as a rebuttal witness on behalf of the

4 Florida Municipal Power Agency, JEA, Reedy Creek

5 Improvement District, and the City of Tallahassee and,

6 having been first duly sworn, was examined and testified

7 as follows:

8 DIRECT EXAMINATION

9 BY MR. PERKO:

10 Q. Please state your name and business address

11 again for the record.

12 A. Myron Rollins, 11401 Lamar, Overland Park,

13 Kansas.

14 Q. And, Mr. Rollins, I would remind you that

15 you're still under oath.

16 Mr. Rollins, did you submit revised rebuttal

17 testimony consisting of 11 pages in this docket on

18 December 26, 2006?

19 A. Yes, I did.

20 Q. Do you have any changes or additions to that

21 testimony?

22 A. There are two changes. The first change is on

23 page 3, line 12. 190 should be changed to 180.

24 And at this time, I would also like to correct

25 a statement I made in my deposition, where I indicated I

1244

1 thought I had used the updated Taylor Energy Center

2 costs for that calculation, and when I went back and

3 checked my calculations, I hadn't. But the 180

4 represents the updated Taylor Energy Center capital

5 costs.

6 The next change is on page 8, lines 16 and 17,

7 where, as Brad Kushner testified, there was one

8 sensitivity scenario out of the approximately 70 cases

9 for which Taylor was not cost-effective.

10 Q. So that sentence on line 17 of page 8 should

11 be, "to be cost-effective for each participant under all

12 but one sensitivity scenarios considered"?

13 A. Correct.

14 Q. Thank you. With those changes, Mr. Rollins,

15 if I were to ask you the questions in your revised

16 rebuttal testimony today, would your answers be the

17 same?

18 A. They would.

19 MR. PERKO: Madam Chairman, we would move

20 Mr. Rollins' revised rebuttal testimony into the record

21 as if read.

22 CHAIRMAN EDGAR: The prefiled rebuttal

23 testimony will be entered into the record as though read

24 with the change noted by the witness.

25

1256

1 BY MR. PERKO:

2 Q. Mr. Rollins, have you prepared a summary of

3 your revised rebuttal testimony?

4 A. I have.

5 Q. Could you present that, please?

6 A. The intervenors' testimony claims that the

7 prospect of CO2 regulation renders this project too

8 risky. Evaluation of risk is a necessary part of

9 utility planning. However, because nobody knows if,

10 when, or how CO2 will be regulated, analyzing the risk

11 of --

12 MS. BROWNLESS: Objection, Your Honor. I

13 believe that this summary goes beyond the revised

14 rebuttal supplied by Mr. Rollins.

15 CHAIRMAN EDGAR: Ms. Raepple, Mr. Perko.

16 MR. PERKO: Madam Chair, on page 4 of the

17 testimony, Mr. Rollins states that the Commission

18 understandably may want to hear evidence regarding the

19 impact of potential future regulation of CO2; however,

20 speculating what may or may not occur and including such

21 speculation related to potential CO2 emissions

22 regulations in the determination of need would unfairly

23 penalize the participants and could lead to economically

24 inefficient results. So I think that this statement in

25 his summary directly relates to that.

1257

1 CHAIRMAN EDGAR: Ms. Brubaker?

2 MS. BRUBAKER: I'm sorry. I guess I need to

3 hear a restatement of Mr. Rollins' summary to really be

4 able to address that.

5 CHAIRMAN EDGAR: Okay. Let's start here.

6 Ms. Brownless, can you elaborate?

7 MS. BROWNLESS: Yes, ma'am. It seems to me

8 that the revised rebuttal is quite short. It's very

9 specific, rebutting specific testimony, obviously, that

10 was presented by the intervenors.

11 I guess I would suggest that with regard to

12 this revised rebuttal, a very brief statement is fine,

13 but more elaborate fleshing out of why he believes that

14 CO2 regulation is not inevitable is not appropriate. So

15 it's a matter of degree, Your Honor.

16 MR. PERKO: Madam Chair, if I could respond

17 very briefly, I think you'll find that this summary

18 consists of five or six sentences, so I think that that

19 may achieve what Ms. Brownless wants. I don't think

20 he's going to go into a lot of detail.

21 CHAIRMAN EDGAR: Okay. Ms. Brownless, your

22 objection is noted and understood, and I'm going to

23 allow the witness to continue with his summary. And

24 then we will allow questions, of course.

25 MS. BROWNLESS: Thank you, ma'am.

1258

1 A. (Continuing) However, because nobody knows

2 if, when, or how CO2 will be regulated, analyzing the

3 risk of potential CO2 regulations requires speculation.

4 Nevertheless, we did present a CO2 sensitivity analysis

5 based on our experts' best judgment of the effect of

6 potential CO2 regulation on fundamental market factors,

7 including fuel prices. That analysis demonstrates that

8 Taylor Energy Center is the most cost-effective

9 alternative for each of the applicants. Contrary to

10 Ms. Bryk's assertions, we have provided detailed and

11 appropriate analyses of energy efficiency and

12 supply-side alternatives that are fully consistent with

13 integrated resource planning principles.

14 That concludes my rebuttal summary.

15 MR. PERKO: And we tender the witness for

16 cross-examination.

17 CHAIRMAN EDGAR: Thank you. Ms. Brownless,

18 your opportunity for cross.

19 CROSS-EXAMINATION

20 BY MS. BROWNLESS:

21 Q. Good afternoon, Mr. Rollins. At one of the

22 series of depositions we were all at, you provided a

23 handwritten worksheet for the calculation of your, at

24 that time, $190 per ton calculation referred to on page

25 3 of your revised testimony, and I'm just going to hand

1259

1 that out now.

2 And if you can just look these calculations

3 over and see if that was what was previously provided,

4 Mr. Rollins. And I think these are the calculations

5 that support your statement on page 3 of your revised

6 rebuttal that CO2 allowances would have to exceed --

7 originally you said $190 per ton before the combined

8 cycle unit becomes lower cost than TEC under a CO2

9 regulated environment; is that correct?

10 A. That's correct.

11 MS. BROWNLESS: And we would like this marked,

12 Your Honor, and I think the next number is 111; is that

13 correct?

14 CHAIRMAN EDGAR: Yes, 111. Will you give me a

15 title or a label?

16 MS. BROWNLESS: Mr. Rollins, I had a hard time

17 reading the title that you wrote on here, so perhaps you

18 could read it into the record.

19 THE WITNESS: Breakeven CO2 Allowance Cost

20 With High Gas Prices.

21 MS. BROWNLESS: Thank you.

22 CHAIRMAN EDGAR: Okay.

23 (Exhibit Number 111 was marked for

24 identification.)

25 BY MS. BROWNLESS:

1260

1 Q. Now, I notice that you've got up here highest

2 gas cost for a Fort Pierce Utility Authority, Henry D.

3 King, 18.11 per MBTU; is that correct?

4 A. Yes, ma'am.

5 Q. And is this what Fort Pierce actually paid?

6 A. Yes, ma'am.

7 Q. And did the other participating members of

8 FMPA pay less than this?

9 A. I didn't check the price of all other

10 participating members, but probably less, yes.

11 Q. Okay. Did you attempt to average the highest

12 prices paid by FMPA members or attempt to average the

13 prices paid by FMPA members?

14 A. No, ma'am. I was just picking out the highest

15 price.

16 Q. Okay. Do you know how this figure compares

17 with the high gas price forecasts that were used in the

18 TEC sensitivity analysis?

19 A. They would be higher.

20 Q. And subject to check, would you agree that

21 Mr. Myers' Exhibit JM-2 base case uses $9.58 per MBTU in

22 2006?

23 A. Subject to check, yes.

24 Q. Okay. And his high case, Mr. Myers' high case

25 fuel forecast, JM-3, uses $11.49 in 2006, subject to

1261

1 check?

2 A. Subject to check, yes.

3 Q. And Mr. Preston's Exhibit MP-2 base case uses

4 $9.02 per MBTU in 2006?

5 A. Subject to check, yes.

6 Q. And finally, Mr. Preston's Exhibit MP-3 high

7 case uses $10.82 in 2006 per MBTU?

8 A. Subject to check, yes.

9 Q. Thank you. So basically, this is double to

10 three times what your experts have predicted for natural

11 gas prices in the sensitivity studies upon which you

12 rely?

13 A. That price was an actual price in 2005.

14 Q. But it is double to three times what your

15 forecasts are; correct?

16 A. It's significantly higher, yes. And my

17 testimony said that people shouldn't plan for continued

18 prices of that range.

19 Q. Okay. Now, at your deposition you indicated

20 that you did this calculation of the impact of CO2

21 emission allowances, and you used in that instance $12 a

22 ton. And this is on page 10 of your testimony. Is that

23 right?

24 A. Could you repeat that question? Did you tie

25 this to -- I wasn't sure you tied this to the –-

1262

1 Q. No. We're skipping to another topic. We're

2 done with Exhibit 111, moving on. And now if you can

3 turn to page 10.

4 A. Okay.

5 Q. And there you calculated $12 a ton; is that

6 correct?

7 A. I didn't calculate $12 a ton. $12 a ton was

8 in David Lashof's testimony.

9 Q. I misstated that. Let me restate my question.

10 You calculated the $11.10 per megawatt-hour.

11 A. Yes, ma'am.

12 Q. Okay. What CO2 emission rate for the TEC unit

13 did you use in this calculation?

14 A. I don't think I used a CO2 emission rate for

15 TEC in that calculation. I used the 6.3 million

16 megawatt-hours and a $12 a ton cost. I was just using

17 Dr. Lashof's numbers.

18 Q. Okay. Would you have to have a CO2 emission

19 rate for the TEC unit to multiply times $12 a ton to do

20 that calculation?

21 A. No.

22 Q. Nope? Okay. Do you know what the proposed

23 CO2 emission rate is for the TEC unit?

24 A. It is in Section or Volume A of the

25 application. I could look it up if you like.

1263

1 Q. That would be great. Could you do that?

2 And the reason I'm asking is, I'm looking at

3 page 26 of your deposition, and here's the question:

4 "Please explain how you performed this analysis."

5 Answer: "Using the 6.3 million megawatt-hours

6 per year and the emission rate from the Taylor Energy

7 Center." So that's why I assumed that you had used an

8 emission rate for the Taylor Energy Center.

9 A. I think you're probably right. I probably

10 misspoke and used the emission rate to get the total

11 number of tons and then multiplied that by the dollars

12 per ton and then divided by the number of

13 megawatt-hours.

14 Q. Right. And what was that emission rate?

15 A. The emission rate in Table A.3-2 is 211 pounds

16 per MBTU.

17 Q. Thank you, sir. You testified in your revised

18 rebuttal that -- and I'm going to kind of -- and this

19 was at page 11 of your revised rebuttal. I'll kind of

20 make this generalized statement regarding your

21 testimony. As I understand your testimony, the gist of

22 your testimony is that energy efficient measures do not

23 equal megawatt per megawatt supply-side options. Is

24 that a fair statement?

25 A. Well, that is probably a truthful statement,

1264

1 yes.

2 Q. Okay. And as I understand the basis for this

3 opinion of yours, it's that you believe that that is

4 specifically true for measures which are dependent upon

5 utility customers' willingness to continually implement

6 those measures; is that fair?

7 A. Partially, yes.

8 Q. Aren't there a whole group of demand-side

9 management programs that are not dependent upon customer

10 compliance?

11 A. There are some measures or programs that are

12 less dependent upon customer compliance. Insulation

13 programs would be a --

14 Q. Right.

15 A. -- pretty good example of some of those,

16 especially on new houses.

17 Q. Right. So when a customer chooses to -- or

18 when a builder uses Energy Star, complies with the

19 Energy Star construction program, installs higher

20 insulation than is required by the standard building

21 code, installs windows that are more thermally

22 efficient, those are not measures that depend upon

23 customer compliance; is that correct?

24 A. I would say not. They depend upon a builder

25 installing them.

1265

1 Q. Right. And once those measures are in place,

2 they realize whatever savings they realize on a

3 continuing, 24-hour-a-day basis?

4 A. Generally. But there can be degradation in

5 insulation. If you have it blown in, sometimes it

6 settles. You can also have -- as time goes on, windows

7 can develop leaks. But generally, those are the kinds

8 of things that aren't as dependent upon customer

9 reactions.

10 Q. Isn't it also true that demand-side management

11 programs can be audited by the implementing utilities so

12 that they can continually tweak those programs, modify

13 them, for example, to make them more cost-effective?

14 A. Some utilities monitor programs, yes.

15 Q. Okay. Now, on page 9 of your revised

16 rebuttal, you speak about the proper evaluation of IGCC;

17 is that correct?

18 A. Are you referring to lines 18 to 24?

19 Q. Yes, sir.

20 A. And your question was what?

21 Q. Well, actually it goes on to page 10.

22 A. Yes, it goes on.

23 Q. Right, up to page 10.

24 A. What --

25 Q. And here's my question.

1266

1 A. Okay.

2 Q. Okay. You're referring to the proper

3 evaluation of IGCC and the fact that it was evaluated in

4 this process?

5 A. We evaluated it, yes, ma'am.

6 Q. Okay. Now, I believe that you previously

7 indicated that the availability of TECO's IGCC unit was

8 approximately 74 percent; is that right?

9 A. That's right. And I think that was over the

10 last five years.

11 Q. Okay. And you participated in the Stanton

12 Unit B need determination; is that right?

13 A. Yes, ma'am.

14 Q. And that's a 283-megawatt IGCC; is that right?

15 A. Yes, ma'am.

16 Q. Would you deem that to be the new generation

17 of IGCCs?

18 A. I would say it's one of the new generations.

19 Q. Okay. It definitely is more advanced than

20 TECO's unit; is that fair to say?

21 A. It's different, at least. I wouldn't say

22 necessarily it's more advanced.

23 Q. Okay. Do you project the availability of --

24 did you project the availability of that 283-megawatt

25 IGCC to be greater than 74 megawatts in the Stanton need

1267

1 determination?

2 A. We used the availability that was guaranteed

3 by Southern Company in that evaluation, and the

4 availability was confidential.

5 Q. Was it greater than 74 percent?

6 A. Not always.

7 Q. When you say not always, do you mean during

8 the first years of operation of the unit?

9 A. I think you probably ought to look at the

10 redacted version of our need for power application,

11 where we talk about that. I don't feel comfortable

12 getting into the details of that confidential

13 availability. I'm under a confidentiality agreement

14 still probably with them.

15 Q. Well, I have only one other question then.

16 You heard, I'm sure, Mr. Klausner testify that over the

17 last two years, TECO's existing IGCC unit had achieved

18 88 percent availability; is that correct?

19 A. I don't remember specifically, but subject to

20 check, yes.

21 Q. And that unit would be old IGCC technology; is

22 that right?

23 A. Let's approximately 10 years old, yes.

24 MS. BROWNLESS: Okay. And if you'll give me a

25 minute, Your Honor, I think that's all I have.

1268

1 BY MS. BROWNLESS:

2 Q. Mr. Rollins, I'm a longtime listener of

3 National Public Radio, and yesterday on Morning Edition,

4 I heard the following. And I'll pass out the news

5 report. And this is from the Morning Edition yesterday

6 morning, January 17th of 2007.

7 MR. PERKO: Excuse me, Madam Chair. I'm going

8 to have to object on the grounds that there's no

9 predicate for this document. It's pure hearsay, and

10 lack of foundation.

11 MS. BROWNLESS: Can you let me ask my

12 question, please.

13 BY MS. BROWNLESS:

14 Q. Now, I'm just going to refer to the second

15 page, Mr. Rollins, and if you'll look at the paragraph

16 that starts, "Nonetheless, just the threat of a tax on

17 carbon is having an effect in the marketplace." Do you

18 see that?

19 A. Yes.

20 Q. And I'm just going to read the next little

21 bit. "Roger Smith is a marketing manager with Black &

22 Veatch, a firm that builds power plants all over the

23 world. 'We're advising people, I believe prudently, to

24 assume that there will be a cost associated with it.

25 And, of course, regarding cost, now you're back to

1269

1 reading the tea leaves. I don't know,' Smith said.

2 Smith says it may not be wise for utilities to think

3 that if they build now, they would be exempt from a

4 future carbon tax or be able to simply pass on the cost

5 of such a tax to customers. 'I'm not saying people

6 aren't looking at that and saying, "You know, that is

7 the impact to us if we can pass that through or get

8 grandfathered or whatever," but I think that would be a

9 fairly risky proposition,' Smith said."

10 Now, my first question is, is Roger Smith a

11 marketing manager with Black & Veatch?

12 A. I don't believe so.

13 Q. Okay. Well, my next question is, regardless

14 of whether Mr. Smith is a marketing manager for Black &

15 Veatch or not, do you agree with his statement that one

16 should assume that there will be a cost associated with

17 CO2 and that -- first of all, do you agree with that?

18 A. I do not agree that there necessarily will be

19 CO2 regulation. I also, you know, believe that there

20 might be CO2 regulation. If there is CO2 regulation,

21 certainly there's going to be cost associated with it,

22 or likely there's going to be cost associated with it.

23 Q. Okay. And finally, do you disagree with the

24 idea stated by Mr. Smith that it is risky to assume

25 existing coal plants will have grandfathered CO2

1270

1 emission allowances or will be able to pass those

2 allowances through to ratepayers?

3 A. You know, I think trying to figure out what

4 the regulations are going to say at this time, when I'm

5 not even sure that there are going to be regulations, is

6 speculating beyond what's reasonable.

7 Q. So it's fair to say that you disagree with

8 Mr. Smith?

9 A. Do you want to point me to the specific

10 statement? All the statements that he made, or a

11 specific --

12 Q. No, sir, just the last one, with regard to his

13 idea that it is a risky, fairly risky proposition for

14 utilities to assume that either they will be able to

15 pass the cost of CO2 regulation on to their ratepayers,

16 or (2), that they will get some type of grandfathered

17 CO2 allowance.

18 MR. PERKO: Objection. I believe she's

19 mischaracterizing the quote here. That's not what it

20 says.

21 CHAIRMAN EDGAR: Ms. Brownless, I --

22 MS. BROWNLESS: Well, we can move on.

23 CHAIRMAN EDGAR: Let me finish. I have

24 granted some latitude. You know, I too am a longtime,

25 faithful listener of NPR, but it sounds to me like he

1271

1 has answered your questions, and I feel like we're just

2 going --

3 MS. BROWNLESS: That's fine. Thank you so

4 much, Your Honor. We're done.

5 CHAIRMAN EDGAR: Did you have further

6 questions?

7 MS. BROWNLESS: No, ma'am.

8 CHAIRMAN EDGAR: You are finished. Okay.

9 Mr. Paben.

10 MR. PABEN: I don't have any additional

11 questions.

12 CHAIRMAN EDGAR: Okay. Mr. Jacobs.

13 MR. JACOBS: Just a couple.

14 CROSS-EXAMINATION

15 BY MR. JACOBS:

16 Q. Good afternoon, Mr. Rollins. You speak

17 regarding the risks associated with this overall

18 project. I would like just to cover some of the areas

19 that we've had in testimony over the course of the

20 hearing.

21 I believe you've heard testimony from

22 witnesses of the applicants regarding capital costs.

23 Are you familiar with Mr. Herndon's and Mr. Kushner's

24 testimony that they believe the capital costs are going

25 to be stable from this point on and there's no further

1272

1 risk associated with that?

2 A. Yes. I heard their testimony, and I agree

3 that --

4 Q. And you agree with that?

5 A. Yes.

6 Q. And you heard testimony regarding issues

7 regarding coal delivery and coal market prices. Is it

8 your view that coal markets are stable and coal

9 transportation issues are stable such that there's no

10 risk associated with those in this project?

11 A. I agree, yes.

12 Q. We've heard testimony regarding the -- as you

13 just covered, and I won't cover all those issues again,

14 but whether or not there will be environmental

15 regulations that affect this project, and you've just

16 given your testimony on that.

17 My question is this: Given the scope -- and I

18 will accept your testimony as you've given it, but given

19 the scope of those risks, even accepting your statements

20 on them, isn't the example of Tallahassee in this case a

21 really cogent example that all the applicants should

22 follow, that being to consider ways of deferring their

23 need until a time when they can look at more options for

24 supplying their capacity?

25 A. Are you asking -- I guess I don't quite

1273

1 understand. I'm sorry.

2 Q. Is a risk mitigation measure simply to look at

3 how to understand all these areas of risk, even

4 accepting your testimony that those risks minimal, the

5 capital costs, the coal transportation and coal markets,

6 cost of environmental, even if you accept your

7 testimony, wouldn't it be prudent for a potential

8 builder of a coal plant to consider the approach taken

9 by the City of Tallahassee?

10 A. Are you trying to ask would it be prudent to

11 delay Taylor?

12 Q. To mitigate, as the statute says.

13 A. I guess -- what do you mean by mitigate?

14 Would that -- you know, does mitigate mean delay? Does

15 mitigate mean reduce the size?

16 Q. It's my understanding that it could mean both

17 of those options. It could mean reducing your present

18 need, your future need, or it could mean actually

19 delaying the building of the plant.

20 A. Well, I don't believe it would be prudent to

21 mitigate the need for Taylor. I believe our evaluations

22 have indicated a one-year delay would cost the

23 participants approximately $85 million.

24 Q. And that analysis assumed no -- again, just to

25 recapitulate, that analysis assumed that there would be

1274

1 no potential for use of any DSM or any other

2 alternatives in that delay?

3 A. Well, that evaluation included Tallahassee's

4 DSM.

5 Q. But none for the others?

6 A. No. Excuse me. I need to correct that. No,

7 it did not include Tallahassee's DSM. But Taylor will

8 provide benefits to the participants, even if there

9 wasn't need for capacity, through displacement of higher

10 cost energy with it. It is not dissimilar to the

11 situation we were in back in the early '80s when we had

12 coal units built for oil backout.

13 MR. JACOBS: Okay. No further questions.

14 Thank you.

15 CHAIRMAN EDGAR: Are there questions from

16 staff?

17 MS. FLEMING: No questions.

18 CHAIRMAN EDGAR: No questions. Mr. Perko.

19 MR. PERKO: Very briefly.

20 REDIRECT EXAMINATION

21 BY MR. PERKO:

22 Q. Mr. Rollins, Ms. Brownless asked you a couple

23 of questions regarding the TECO Polk unit, the existing

24 one, regarding the recent capacity factor above

25 80 percent. Hasn't TECO -- or has TECO made numerous

1275

1 rounds of technical changes and expended significant

2 resources in order to achieve that capacity factor?

3 A. Yes. They have been working for, you know, 10

4 years to get to that capacity factor.

5 Q. And the Stanton B project, which is the new

6 round of IGCC, that is designated as a demonstration

7 project by the Department of Energy; is that correct?

8 A. That's correct. That's why they gave them the

9 grant.

10 Q. And one final question. Do the load forecasts

11 for all of the participants reflect all of the DSM they

12 currently have in place?

13 A. Yes, they do.

14 MR. PERKO: Thank you. Nothing further.

15 MS. BROWNLESS: And at this time, we would

16 like to move Exhibit 111.

17 CHAIRMAN EDGAR: Any objections to Exhibit

18 111?

19 MS. BROWNLESS: That's the handwritten --

20 CHAIRMAN EDGAR: Right. Okay. Seeing no

21 objection, Exhibit 111 will be entered into the record.

22 (Exhibit Number 111 was admitted into the

23 record.)

24 CHAIRMAN EDGAR: I think the witness is

25 excused. Thank you.

1276

1 MS. BROWNLESS: And, Your Honor, I think we

2 have one housekeeping matter.

3 CHAIRMAN EDGAR: Okay. Are there any

4 housekeeping matters?

5 MS. BRUBAKER: Actually, there is one

6 housekeeping matter. Earlier during the NRDC counsel's

7 cross-examination of witness Kushner, they referred to

8 what has been identified as Exhibit 110. Exhibit 110

9 was proffered as part of -- Suzanne, whose --

10 MS. BROWNLESS: The response to NRDC's --

11 NRDC's response to the applicants' first set of

12 interrogatories.

13 MS. BRUBAKER: And that was originally

14 proffered as part of, I believe, Mr. Lashof's testimony;

15 is that correct?

16 MS. BROWNLESS: Yes, ma'am.

17 MS. BRUBAKER: And there was an objection, and

18 it was sustained, that it would be inappropriate to

19 enter that as part of the direct testimony and exhibits

20 for Dr. Lashof. However, it was identified as a

21 cross-examination exhibit during Mr. Kushner's

22 cross-examination by counsel for NRDC.

23 And it occurs -- of course, if there's any

24 objection on the part of the applicants, we can hear it.

25 But the basis for the objection with regard to

1277

1 Dr. Lashof's testimony would be, I think, different than

2 the basis for the objection to utilizing the document as

3 a cross-examination exhibit. And just to clarify, I'm

4 not referring to the entire document, just the chart

5 that appears on page 3 of the NRDC response to

6 applicants' first set of interrogatories, numbers 1

7 through 12.

8 MS. BROWNLESS: And, Your Honor, we would

9 point out that initially when this chart was discussed,

10 it was identified by Dr. Lashof. We didn't give it an

11 exhibit number at that time because it was objected to.

12 And I agree with Ms. Brubaker that it's appropriate to

13 give it a number now, and I think we need to identify it

14 anyway. No matter what your ruling is, we need to give

15 it a number so that it can either be admitted or not

16 admitted, but at least so that it can be identified and

17 proffered.

18 MS. BRUBAKER: I believe it has actually been

19 identified as Number 110.

20 MS. BROWNLESS: I think 110 was the entire set

21 of interrogatories.

22 MS. BRUBAKER: Oh, I see what you're saying.

23 I see what you're saying.

24 MS. BROWNLESS: So this would probably be 111,

25 or 112.

1278

1 CHAIRMAN EDGAR: 112 would be the next number

2 that we are at. Let's just take a moment and make sure

3 that we are all clear. So we have prior to this point

4 labeled as 110 during witness Lashof's testimony the

5 response to the --

6 MS. BROWNLESS: All of the responses.

7 CHAIRMAN EDGAR: All of the response by NRDC

8 to the applicants' first set of interrogatories, and we

9 are now taking -- I'm sorry. I'm going to need you to

10 specify for me, but a separate chart that had been

11 previously passed around.

12 MS. BROWNLESS: It is the answer to -- it's

13 the chart that's found in the answer to the first

14 interrogatory. And we had -- we handed those out

15 yesterday. I have one other, Your Honor.

16 CHAIRMAN EDGAR: Okay. That would have been

17 on Friday.

18 MS. BROWNLESS: And that I think would be

19 identified -- the next number would be 112.

20 CHAIRMAN EDGAR: Yes, that would be 112.

21 MS. BROWNLESS: And that's the only part that

22 we would be seeking to identify and admit at this time,

23 not anything else in 111, or 110.

24 CHAIRMAN EDGAR: Okay. Mr. Perko.

25 MR. PERKO: Madam Chairman, I think we're put

1279

1 at a bit of a disadvantage here. Because this document

2 was not admitted during Dr. Lashof's testimony, we have

3 no opportunity to cross-examine him on this. There's no

4 predicate for this chart. In fact, there's no reference

5 as to who developed this chart, when it was developed,

6 or anything else. So it has -- I can't say that it's

7 competent and substantial evidence.

8 MS. BROWNLESS: I would respond to that, Your

9 Honor, by saying that the applicants were obviously

10 provided with the responses to the interrogatories.

11 They've certainly had an opportunity to look at the

12 responses. They objected to the entry of the chart when

13 we asked Dr. Lashof about it, and so therefore, I don't

14 think they can complain about not having had the ability

15 to ask him about it, since they had the chance to do so.

16 CHAIRMAN EDGAR: And I will look to staff

17 counsel.

18 MS. HELTON: Madam Chairman, I think we're

19 here in part because of me. In the interest of making

20 sure that the record was complete and correct, I

21 suggested to Ms. Brubaker that we go back and revisit

22 this particular exhibit, because, one, it had not been

23 marked, and there had been extensive cross-examination

24 on it by Ms. Brownless.

25 I do note the objection given by Mr. Perko.

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1 However, I believe that it would be appropriate to admit

2 the evidence -- I mean to admit the exhibit and give it

3 the weight that it's due with the objections noted by

4 Mr. Perko, in the interest of having a full and complete

5 record.

6 CHAIRMAN EDGAR: Mr. Perko.

7 MR. PERKO: And just to clarify, it would just

8 be the chart?

9 MS. BROWNLESS: Yes, sir.

10 CHAIRMAN EDGAR: At this point, we are just

11 talking about what we have identified to be numbered as

12 112.

13 MR. PERKO: Thank you.

14 CHAIRMAN EDGAR: Okay. So seeing no further

15 objection, we will enter Exhibit 112 into the record as

16 discussed.

17 (Exhibit Number 112 was marked for

18 identification and admitted into the record.)

19 CHAIRMAN EDGAR: And I think that brings us

20 back to 110.

21 MS. BROWNLESS: That has been proffered, Your

22 Honor.

23 CHAIRMAN EDGAR: That has been proffered.

24 Ms. Helton.

25 MS. HELTON: It's my understanding that what

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1 has now been marked and identified as Exhibit 112 was

2 the one exhibit that we needed to admit to have a full

3 and complete record. It's my understanding that with

4 respect to Exhibit 110, that that ruling should still

5 stand with respect to -- that it not be admitted into

6 the record.

7 CHAIRMAN EDGAR: Thank you, Ms. Helton. I

8 think I understand. We have admitted Exhibit 112. The

9 exhibit that was marked as 110, the prior objection was

10 sustained, and that ruling stands.

11 Are there any other matters?

12 MS. BRUBAKER: We need a short title for 112,

13 please.

14 MS. BROWNLESS: CO2 Price Forecast Comparison.

15 MR. PERKO: I'm sorry, Madam Chair.

16 CHAIRMAN EDGAR: That's okay. Let's figure it

17 out while we're all here.

18 MR. PERKO: I'm not exactly sure what Exhibit

19 112 is at this point.

20 MS. BROWNLESS: This is it, Gary. I'll give

21 you a copy.

22 MR. PERKO: Okay. It's the chart that we've

23 been talking about.

24 MS. BROWNLESS: Yes, sir.

25 CHAIRMAN EDGAR: That is my understanding.

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1 MR. PERKO: I apologize.

2 CHAIRMAN EDGAR: That's okay. That's okay.

3 Okay. Are there other matters that we need to

4 address before we conclude? Ms. Brownless.

5 MS. BROWNLESS: One more matter. I have been

6 diligently working on my brief and printing out the

7 transcripts, and we just got Volume 6 this morning, as I

8 understand it, in the .PDF form, which is the form that

9 must be used to properly cite for the brief. So would

10 it be possible for us to have one more day, since we

11 just got that this morning?

12 CHAIRMAN EDGAR: Okay. Let's talk about --

13 we'll talk about dates in a moment. Let me just make

14 sure there are no other matters related to the record,

15 the documents, the witnesses, the testimonies, anything

16 other than dates that we need to go ahead and address.

17 MS. BRUBAKER: Staff is not aware of any.

18 CHAIRMAN EDGAR: You're not aware of anything.

19 Does anybody else have anything?

20 All right. Let's talk dates. And I know that

21 we did have some discussion of dates on Friday.

22 Ms. Brubaker, I'm going to look to you to refresh my

23 memory.

24 MS. BRUBAKER: Yes. The briefing date was

25 originally the 18th. Since we are actually concluding

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1 the hearing on the 18th, it was agreed that the briefs

2 Would be due on the 23rd, with a commensurate length of

3 time given to staff to late-file its recommendation from

4 the 1st to the 6th, thus maintaining the currently

5 scheduled February 13th agenda date.

6 Staff would ask that to the extent that

7 additional time is granted to the parties, we would beg

8 humbly for again an additional extension of time.

9 CHAIRMAN EDGAR: Okay. I am just pulling the

10 calendar up in front of me.

11 So, Ms. Brownless, we had discussed on Friday

12 having briefs due -- an extension from the 18th,

13 obviously, to the 23d, and you're asking to extend one

14 additional day to the 24th.

15 MS. BROWNLESS: Just one additional day.

16 CHAIRMAN EDGAR: That's my understanding.

17 Okay.

18 MS. BRUBAKER: Madam Chairman, if I may also.

19 CHAIRMAN EDGAR: Yes, ma'am.

20 MS. BRUBAKER: A good suggestion has just been

21 given that the briefs be served electronically so that

22 there is no delay. The parties have been very agreeable

23 to serving documents electronically. Also in Word

24 format, that would certainly be helpful.

25 CHAIRMAN EDGAR: That would be helpful, I

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1 think, to everyone to help us to move through the work

2 that continues to need to be done. Is there any concern

3 about that? Seeing none, okay.

4 So if we have briefs due on the 24th -- and

5 I'm glad to try to accommodate that as long as I know

6 that our staff and the Commissioners have the ample time

7 that they will need in order to get us to the point on

8 the other end of what we need to do. So if we have the

9 briefs due the 24th, then the 6th to the 7th, we're

10 looking at the staff recommendation on the 7th.

11 Commissioners, any concern? It is somewhat of

12 a compressed time schedule, but then many things are

13 these days.

14 COMMISSIONER CARTER: We'll work it out.

15 CHAIRMAN EDGAR: All right. Thank you very

16 much. Once again, everybody eat your Wheaties. It's

17 going to be a heavy workload for everybody.

18 Any additional comments or concerns or

19 questions?

20 Seeing none, then the date for briefs to be

21 due, per the discussion that we had, will be extended to

22 the 24th. We will look for the staff recommendation on

23 the 7th, and we will plan to bring forward the item on

24 the 13th of February.

25 Any other matters?

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1 MS. BRUBAKER: Staff is aware of none.

2 CHAIRMAN EDGAR: Any other matters?

3 MR. PERKO: No, ma'am.

4 MS. BROWNLESS: No, ma'am.

5 CHAIRMAN EDGAR: Okay. Then once again, thank

6 you to everybody for your cooperation. I know that it

7 has been a bit of a long haul, a number of things to

8 accommodate. Work well done on all parts. Thank you,

9 and we are adjourned.

10 (Proceedings concluded at 1:45 p.m.)

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1 CERTIFICATE OF REPORTER

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3 STATE OF FLORIDA:

4 COUNTY OF LEON:

5 I, MARY ALLEN NEEL, Registered Professional

6 Reporter, do hereby certify that the foregoing

7 proceedings were taken before me at the time and place

8 therein designated; that my shorthand notes were

9 thereafter translated under my supervision; and the

10 foregoing pages numbered 1214 through 1285 are a true

11 and correct record of the aforesaid proceedings.

12 I FURTHER CERTIFY that I am not a relative,

13 employee, attorney or counsel of any of the parties, nor

14 relative or employee of such attorney or counsel, or

15 financially interested in the foregoing action.

16 DATED THIS 20th day of January, 2006.

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