BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070098-EI

In the Matter of

PETITION FOR DETERMINATION OF NEED FOR

GLADES POWER PARK UNITS 1 AND 2 ELECTRICAL

POWER PLANTS IN GLADES COUNTY, BY FLORIDA

POWER & LIGHT COMPANY.

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VOLUME 12

Pages 1765 through 1959

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THE OFFICIAL TRANSCRIPT OF THE HEARING,

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PROCEEDINGS: HEARING

BEFORE: CHAIRMAN LISA POLAK EDGAR

COMMISSIONER MATTHEW M. CARTER, II

COMMISSIONER KATRINA J. TEW

DATE: Monday, April 30, 2007

TIME: Commenced at 11:39 a.m.

Concluded at 3:10 p.m.

PLACE: Betty Easley Conference Center

Room 148

4075 Esplanade Way

Tallahassee, Florida

REPORTED BY: LORI DEZELL, RPR, CCR

APPEARANCES: (As heretofore noted.)

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199 Rule 25-17.008 1823 1885

200 Excerpt of PSC order 1823 1885

201 EPA Clean Energy Environment Guide to

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202 National Overview of the Status of

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203 Blowup of Exhibit JJP-4 1837 1885

204 Excerpt from FPSC Commission annual

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205 Presentation by Mark Futrell, FPSC,

9/6/06 1840 1885

206 BEBR document 1852 1886

207 Report from Florida Solar Energy Center

April 23, 2007 1863 1886

208 U.S. Department of Energy document 1863 1886

209 Florida Energy Commission document 1886

210 USCAP "A Call for Action" undated 1876 1886

211 (Late-Filed) USCAP "A Call for Action"

dated 1886 --

212 Governor Charlie Crist's 2007 State of

the State Speech remarks as prepared 1941 --

213 Century Commission report 1954 --

214 FPL's RFP for renewable generation 1952 1953

1768

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

2 (Transcript follows in sequence from

3 Volume 11.)

4 CHAIRMAN EDGAR: I think we can push through,

5 so Mr. Anderson, your witness.

6 MR. ANDERSON: FPL calls as its next witness

7 Dr. Steven Sim.

8 STEVEN R. SIM

9 was recalled as a witness on behalf of FPL, and having

10 been duly sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MR. ANDERSON:

13 Q Good morning, Dr. Sim, are you settled down

14 there?

15 A I think so.

16 Q Have you been sworn previously?

17 A Yes, I have.

18 Q Would you tell us your name, business address,

19 employer and position?

20 A Yes. My name is Steven Sim. Business address

21 is 9250 West Flagler Street, Miami, 33174, and I work

22 for FPL as a supervisor in the resource assessment and

23 planning department.

24 Q Have you prepared and caused to be filed 36

25 pages of prefiled rebuttal testimony in this proceeding?

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1 A Yes, I have.

2 Q Did you file any errata in reference to that?

3 A I have one change to make to that at this

4 point. On page 31 of my rebuttal testimony --

5 Q Okay. Go ahead.

6 A -- the number 600 should be changed to 500 on

7 line 11. And on line 12, the beginning phrase, "with a

8 20 percent reserve margin criterion," it should be

9 stricken in full. And those are the only changes.

10 Q With the change you've just told us, if I

11 asked you the same questions contained in your prefiled

12 rebuttal testimony, would your answers be the same?

13 A Yes, they would.

14 MR. ANDERSON: FPL asks that Dr. Sim's

15 prefiled rebuttal testimony be inserted into the

16 record as though read with the correction that he's

17 noted.

18 CHAIRMAN EDGAR: The prefiled rebuttal

19 testimony will be entered into the record as though

20 read with the changes noted by the witness.

21

22

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1 Q You're sponsoring one exhibit to your rebuttal

2 testimony?

3 A That's correct.

4 Q Exhibit SRS-16?

5 A Yes.

6 MR. ANDERSON: FPL notes that Dr. Sim's

7 exhibit has been premarked for identification as

8 134.

9 CHAIRMAN EDGAR: Thank you.

10 BY MR. ANDERSON:

11 Q Dr. Sim, have you prepared a summary of your

12 rebuttal testimony?

13 A Yes, I have.

14 Q Please provide your summary to the Commission.

15 A Okay. Good morning, Chairman Edgar and

16 Commissioners. Overall, the comments made by

17 Messrs. Furman, Schlissel and Plunkett in their

18 testimonies exhibit certain common elements that

19 significantly downgrade the usefulness and relevance of

20 their testimonies in this docket.

21 These common elements include: The three

22 testimonies show a lack of knowledge about Florida

23 specific conditions, the FPL system and even FPL's

24 filing itself. The few comparisons offered by these

25 witnesses generally appear not to have been based on

1807

1 information contained in FPL's actual filing but much on

2 information previously obtained from or about other

3 states.

4 In addition, the key assumptions and

5 methodologies used in their comparisons are generally

6 not provided. Therefore, a reviewer cannot judge the

7 accuracy of the assumptions in the methodologies, the

8 vintage of the data used, and the relevance of their

9 results to FPL's filing.

10 In their testimonies, there are numerous

11 misleading and incorrect statements and conclusions, and

12 I'll touch on only a few of them in this summary.

13 Mr. Furman offers a comparison that attempts

14 to reach a conclusion that IGCC is more cost-effective

15 than ultra-supercritical but actually shows that

16 ultra-supercritical is lower in capital cost, has

17 significantly higher availability and has lower total

18 costs except in one special case in which he makes the

19 unrealistic assumption that 2000 megawatts of new

20 capacity should be fueled 100 percent with pet coke for

21 40 years.

22 In this comparison, his ultra-supercritical

23 assumptions don't even relate to FPL's filing because he

24 assumes the ultra-supercritical unit operates 100

25 percent on coal when the FGPP units will operate 80

1808

1 percent on coal and 20 percent on pet coke.

2 Finally, Mr. Furman states that the inclusion

3 of a mission cost would make the FGPP units more

4 expensive. He does not seem to realize that FPL's

5 analyses used a wide range of environmental compliance

6 cost as is clearly explained in the filing.

7 In regard to Mr. Schlissel's testimony, he

8 does not understand FPL's integrated resource planning

9 or IRP process and even confuses the distinction between

10 utility planning and utility operation. In doing so, he

11 makes numerous misstatements, including the erroneous

12 conclusion that base load units may not operate in

13 winter.

14 Mr. Schlissel suggests that FGPP approval be

15 denied because a 15 percent reserve margin may be

16 applicable if it guarantees a point one day per year

17 LLOP standard. In doing so, he ignores the fact that

18 the Commission has approved FPL's current 20 percent

19 reserve margin criteria and also ignores the value that

20 utilizing two reliability criteria -- in this case

21 reserve margin and LLOP -- bring to utility planning and

22 operation.

23 Mr. Schlissel also fails to recognize that his

24 desired outcome, delaying or avoiding the FGPP units,

25 would leave FPL's customers with two undesirable

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1 outcomes. Number one, a less reliable system due to

2 smaller reserves and/or number two, an increasing

3 reliance on natural gas and its price volatility.

4 In regard to Mr. Plunkett's testimony, he

5 offers a comparison that attempts to reach a conclusion

6 that DSM's cost is lower than FGPP's cost. However, his

7 comparison uses a fundamentally flawed analytical

8 approach, ignores significant system cost savings that

9 FGPP will bring, and ignores critical aspects of DSM.

10 Therefore, his comparison is incorrect and meaningless.

11 He also makes the claim that DSM could do away

12 with the need for FGPP. However, he offers no

13 supporting analyses to back up how FPL, the national

14 leader in conservation achievement, could cost

15 effectively double its already very aggressive DSM plans

16 to add 1,366 megawatts of additional DSM by 2015.

17 His proposed method for addressing FPL's

18 significant capacity needs through DSM is both

19 unreaslistic and, more importantly, would do nothing to

20 maintain fuel diversity on FPL's system.

21 In conclusion, these witnesses provide nothing

22 of substance with which to question FPL's conclusion

23 that the FGPP addition is the best option for FPL's

24 customers in regard both to addressing capacity needs

25 and maintaining system fuel diversity. Thank you.

1810

1 MR. ANDERSON: Dr. Sims is available for

2 cross-examination.

3 CHAIRMAN EDGAR: Mr. Beck?

4 MR. BECK: Thank you, Madam Chairman.

5 CROSS-EXAMINATION

6 BY MR. BECK:

7 Q Good morning, Dr. Sim.

8 A Good morning, sir.

9 Q Could I ask you to turn to the very last line

10 on page 10 of your rebuttal testimony.

11 A I'm sorry, which page?

12 Q Ten. Beginning on that line, you state that

13 "In regard to potential CO2 compliance costs, FPL's

14 analyses not only included a range of such costs, but

15 also assumed that FPL would incur these compliance costs

16 for all CO2 emissions; that is, no CO2 allowances would

17 be granted to utilities, a pessimistic assumption in

18 regard to potential costs of CO2." Do you see that?

19 A Yes, I do.

20 Q Are you familiar with the -- "A Call for

21 Action" by the United States Climate Action Partnership?

22 A Somewhat.

23 Q Okay. And that's been introduced into

24 evidence as Exhibit 159. FPL is a signatory to that; is

25 it not?

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1 A That's my understanding.

2 Q We'd like to read to you a paragraph from that

3 and ask you how that affects your testimony.

4 And on page 9, of Exhibit 159, it states, "New

5 coal-based energy facilities and other stationary

6 sources," it states, "that policies are needed to speed

7 transition to low and zero emission stationary sources

8 and strongly discourage further construction of

9 stationary sources that cannot easily capture CO2

10 emissions for geologic sequestration. Regardless of how

11 allowances are generally allocated, they should not be

12 allocated to such new sources." Are you familiar with

13 that statement or do you need me to show you that from

14 the --

15 A I'm not familiar with it until you just read

16 it to me.

17 Q Okay. Let me ask you this. If legislation on

18 CO2 costs ultimately adopted that statement from

19 Exhibit 159, it would be true that there would be no

20 allowances for the Glades Power Facility; is that right?

21 A Based on what you've read to me, yes, that

22 would be the case, if it were passed.

23 Q Okay.

24 A And if the regulations followed through on

25 that, that vein.

1812

1 Q But the modeling that you've done, it makes

2 that assumption also, does it not? That there be no

3 allowances for the Glades plant?

4 A I would answer that question yes in part.

5 Commissioners, if you think back to the four-square

6 matrix that we presented, the first row that FPL

7 presented, row A, essentially was labeled as a no CO2

8 compliance cost row. It can be viewed as one of two

9 ways. At least in my opinion.

10 Number one, you could take it simply at face

11 value that there was no CO2 regulation and therefore no

12 CO2 costs that were applied to either of the two

13 resource plans that we analyzed.

14 However, I view it a little bit differently as

15 well in that I view that as being no net CO2 compliance

16 cost. And in that sense, I look back at regulation for,

17 say, SO2 and NOx and how that pertains to FPL systems.

18 For SO2, there are -- SO2 regulation, there are SO2

19 compliance costs. However, allowances have been granted

20 and because FPL system is a very clean system, the

21 allowances that have been granted far exceed the

22 emissions that FPL system put out each year.

23 Therefore we assume -- we realize not only no

24 SO2 costs, we realized SO2 credits every year.

25 A similar situation results also when one

1813

1 looks at NOx There are NOx costs to which utilities

2 are -- which pertain to utility systems. But the --

3 again because FPL is such a clean system, the NOx

4 allowances granted to FPL system exceed the NOx

5 emissions that we produce each year. Therefore, there

6 is not only zero NOx cost for the FPL system, there is

7 also a net credit for NOx.

8 I think it is entirely possible that this row

9 of FPL's in this matrix is a fair representation of what

10 happens if allowances are granted for CO2. If that's

11 the case, because FPL is again a very clean system and

12 because the FGPP units will be designated as clean coal

13 technology, I think it is entirely possible that FPL may

14 see the situation occur in which we have no net CO2

15 costs and, in fact, could even end up with net CO2

16 credits, the same way as where they are for SO2 and for

17 NOx.

18 MR. BECK: Thank you, Dr. Sim.

19 CHAIRMAN EDGAR: Mr. Gross?

20 CROSS-EXAMINATION

21 BY MR. GROSS:

22 Q Thank you, Madam Chair. Dr. Sim, I'm

23 Michael Gross and I represent the entities that have

24 been referred to as "certain intervenors."

25 A Good morning.

1814

1 Q Good morning. Late morning.

2 Dr. Sim, in your rebuttal testimony you

3 discuss Mr. Plunkett's conclusions regarding DSM as a

4 means of voiding the need for FGPP; is that correct?

5 A In general. Can you point me to a specific

6 page and line?

7 Q Well, your rebuttal testimony is replete with

8 testimony disputing the contentions of Mr. Plunkett, and

9 I'm just asking you that question generally. I will get

10 some questions that are more specific. Is that

11 satisfactory or do you --

12 A I disagree with Mr. Plunkett's contention that

13 DSM can cost effectively avoid the need for the FGPP

14 units; that is correct.

15 Q And you conclude that there isn't enough DSM

16 potential to defer the need for FGPP, correct?

17 A Based on our very thorough analysis of all

18 cost-effective DSM known to FPL immediately before we

19 began work on the FGPP analyses and filing, I would say

20 yes, that's correct.

21 Q And the cost-effectiveness, the issue of the

22 cost-effectiveness of FPL's DSM program or that of any

23 electric utility in Florida, for that matter, is

24 evaluated in accordance with this Commission's

25 cost-effectiveness manual effective July 17th, 1991; is

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1 that correct?

2 A Not entirely, no. If -- if I may try to

3 explain, Commissioners. The cost-effectiveness manual,

4 as I recall it, I believe its title was something like

5 "A primer on cost-effectiveness," was put out in 1991.

6 And at the time it provided not only the approach to be

7 used but actually included the actual formula that each

8 utility would use in their cost-effectiveness

9 calculation.

10 In a later docket, I believe in the late 1990s

11 or around 2000, the cost-effectiveness rules were

12 changed somewhat to where the utilities were no longer

13 required to follow the specific formula that was in the

14 earlier primer document but it prescribed the columns

15 that each utility must use in reporting both the cost

16 and the benefits of DSM.

17 But it left the utilities free to be a bit

18 more flexible in their calculation, it left them to --

19 with the ability to add additional columns, for example,

20 which FPL has taken advantage of in order to more

21 accurately calculate the costs and the benefits of

22 demand side management programs, et cetera.

23 Q Dr. Sim, I'd like to show you some excerpts

24 from the cost-effectiveness manual. And I have copies

25 to hand out including one for yourself.

1816

1 CHAIRMAN EDGAR: Mr. Gross, do we need to mark

2 this?

3 MR. GROSS: Yes, please.

4 CHAIRMAN EDGAR: Okay. I am at 198.

5 (Exhibit 198 was marked for identification.)

6 Q Dr. Sim, may I proceed?

7 A Yes.

8 Q It cost it's the Cost-Effectiveness Manual for

9 Demand Side Management Program and Self-Service Wheeling

10 Proposals. But I don't intend to focus at all on the

11 self-service wheeling proposals and the discussion of

12 that in the manual. I'm focusing on demand side

13 management programs solely.

14 And if you would please look at the

15 introduction in section 1, page 3, and I'm just going to

16 read the first paragraph. "This manual describes the

17 minimum data requirements for the cost-effectiveness

18 analyses used by the Florida Public Service Commission

19 to evaluate utility proposed conservation programs,

20 direct load control programs," and then there's a

21 reference to self-service wheeling. But "The use of

22 this manual is authorized by FPSC rule 25-17.008,

23 Florida Administrative Code.

24 And are you familiar with that language, have

25 you been previously familiar with it?

1817

1 A Yes, I recall when this manual was in use in

2 the early 1990s.

3 Q Okay. And then at the beginning of the third

4 paragraph it says, "There are three tests contained in

5 this manual: The total resource test, the participants

6 test, and the rate impact test. In evaluating

7 conservation and direct load control programs, the

8 Commission will review the results of all three tests to

9 determine cost-effectiveness." Is that the case, in

10 your opinion?

11 A In my opinion, no, that's not the case today.

12 Commissioners, as a result of the first DSM goals

13 docket, which I believe was in 1994, the Commission

14 ruled that the appropriate test for use by utilities in

15 Florida would be the RIM test and the participant test.

16 This was an extensive hearing. It was actually the

17 longest hearing in which I've participated in in my

18 career at FPL. It lasted well over a month.

19 We had over 50 witnesses representing all of

20 the utilities in Florida; the Department of Energy;

21 numerous environmental groups. We had a number of

22 former commissioners and chairmen of public service

23 commissions from other states come in as expert

24 witnesses. It was an exhaustive hearing.

25 And the record when it was over was that the

1818

1 Commission ruled that for Florida, the best tests to use

2 were the RIM test and the participant test when

3 evaluating DSM options for the utilities.

4 Q There is a rule of the Florida Public Service

5 Commission that adopts this manual, this

6 cost-effectiveness manual, and the rule is still in

7 effect and adopts it and incorporates it by reference.

8 Are you familiar with this rule?

9 A I don't recall the exact rule. My

10 recollection is that this manual was largely superseded

11 by a late 1990 rule or commission order which changed

12 the formatting of the cost-effectiveness reporting.

13 Q And are you saying that that order you're

14 referring to no longer allows the flexibility for the

15 Commission to consider tests other than the TRC test,

16 for example?

17 A I believe the Commission certainly has the

18 flexibility to consider any cost-effectiveness test that

19 they would wish to consider. But their order in the

20 1994 DSM goals docket that came after this manual came

21 into existence again directed the utilities that the

22 primary tests are the RIM test and the participant test.

23 Q We'll take a look at that order in a few

24 minutes to see exactly what it said.

25 I have another exhibit, I guess this will be

1819

1 199. It's a composite of rule 25-17.008, Conservation

2 and Self-Service Wheeling Cost-Effectiveness Data

3 Reporting Format. And then that -- that rule mentions

4 25-17.001, General Information. So I've included both

5 rules as a composite and we'll hand out copies right

6 now.

7 CHAIRMAN EDGAR: Okay.

8 Q Dr. Sim, have you had a chance to familiarize

9 yourself with the rule?

10 A Not yet.

11 Q Okay. Just let me know.

12 A Okay.

13 Q Well, in paragraph 1, the rule provides that

14 it applies to all electric utilities whenever an

15 evaluation of the cost-effectiveness of an existing, new

16 or modified demand side conservation program is required

17 by the Commission. And that's just the portion that

18 applies to demand side management as opposed to

19 self-service wheeling. Do you see that language there?

20 A Yes, I do.

21 Q Okay. And the purpose of the rule is to -- in

22 paragraph 2 is to establish minimum filing requirements

23 for reporting cost-effectiveness data for any demand

24 side conservation program proposed by a utility,

25 electric utility, pursuant to Rule 25-17.001, Florida

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1 Administrative Code; is that correct?

2 A That's what it says, yes.

3 Q Okay. And then more importantly, paragraphs 3

4 and 4 provide for the purpose -- paragraph 3 provides,

5 "For the purpose of this rule, the Commission adopts and

6 incorporates by reference the publication 'Florida

7 Public Service Commission Cost-Effectiveness Manual for

8 Demand Side Management Programs,'" July 7th, 1991.

9 So isn't it the case that the Commission

10 having adopted this manual, that the provisions of the

11 manual still apply and this rule is still in effect?

12 MR. ANDERSON: Object to the extent it asks

13 for a legal opinion.

14 A Yes. I'm not an attorney and can't -- can't

15 address that aspect of it.

16 Q Okay.

17 A I do know that the reporting format was

18 changed sometime later in the 1990s.

19 Q Okay. Paragraph 4 states that "nothing in

20 this rule shall be construed as prohibiting any party

21 from providing additional data proposing additional

22 formats for reporting cost-effectiveness data." Doesn't

23 that as a layperson, not an attorney, but doesn't that

24 suggest to you that there's flexibility in the formats

25 in which cost-effectiveness can be alleged and reported?

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1 A Yes. And FPL agrees with that aspect of the

2 rule. In fact, we utilized this more than once in our

3 discussions with staff in saying that we think we can do

4 a better job in calculating the accuracy -- in

5 calculating the costs and/or the benefits of DSM

6 programs if we're allowed to include additional

7 calculations. And that was one thing that led us to

8 include not only additional columns but, in effect,

9 additional pages to our cost-effectiveness reporting.

10 So in that sense, we agree with this rule and have taken

11 advantage of it for -- to the benefit we believe of our

12 customers.

13 Q Now, as I mentioned before, paragraph 2 of the

14 rule we're discussing, 25-17.008, refers to 25-17.001.

15 If you'll turn the page, please, I have a copy of that

16 rule for your reference.

17 A This is the document you just handed me?

18 Q Yes.

19 A Okay.

20 Q And if you'll look at paragraph 4, it reads,

21 "Another priority is increasing the efficiency of the

22 end-use consumption of electricity to the extent cost

23 effective." Correct?

24 A That's what it says, yes.

25 Q Okay. So these rules are cross-referenced to

1822

1 each other and they go hand-in-hand, do you agree?

2 A Again, as a layman, my understanding is that

3 they are consistent, yes.

4 Q Okay.

5 MR. GROSS: Madam Chair, I have another

6 document for which we have sufficient copies to

7 hand out, and what it is, it's the cover page and

8 some relevant excerpts of this Commission's order

9 on -- it says at the top, October 24th, 1994. That

10 may be -- may have captured the date of another

11 order, but this was October -- apparently issued

12 October 25th, 1994. And it is from the adoption of

13 numeric conservation goals docket, the big docket

14 that Dr. Sim was referring to and that many of us

15 in the room are very familiar with.

16 MS. BRUBAKER: Madam Chairman -- I'm sorry,

17 Mr. Gross, could I have you identify the order

18 number?

19 MR. GROSS: Yes. The order number is PSC

20 94-1313-FOF-EG. And I have copies of the cover

21 page and the excerpts.

22 CHAIRMAN EDGAR: And while that's being

23 distributed, Ms. Brubaker, we need to mark the rule

24 or not since it is --

25 MS. BRUBAKER: Well, it's really a matter of

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1 party's preference. The rule in Chapter 90 is

2 clearly discretionary. We can take judicial notice

3 of the rules that are published in the FAC. Unless

4 the party feels strongly that that needs to be

5 specifically identified as an exhibit, I would

6 simply recommend that we take notice.

7 Similarly with orders, the Commission practice

8 has been the Commission can always take notice of

9 its own orders.

10 CHAIRMAN EDGAR: Mr. Gross?

11 MR. GROSS: I agree with what Ms. Brubaker is

12 saying. It would be my preference if -- if it

13 caused no harm to mark these as exhibits just for

14 ease of reference --

15 CHAIRMAN EDGAR: Fine.

16 MR. GROSS: -- in the record.

17 CHAIRMAN EDGAR: That's fine. We will then --

18 the first document, which is the Rule 25-17.008 on

19 the first page will be 199. Which of course then

20 we'll make the excerpt of the order No. 200.

21 (Exhibits 199 and 200 were marked for

22 identification.)

23 BY MR. GROSS:

24 Q Dr. Sim, I'd like to -- and certainly if you

25 need more time to review this. I'm referring to the

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1 second page of the exhibit and paragraph B and the

2 Commission's discussion at the -- under that section, at

3 the bottom of the page, and it carries over to the top

4 of the next page.

5 But I'm not going to take all of our time and

6 read this, but I'd like to just kind of paraphrase that

7 this -- this is apparently the discussion where the

8 Commission expresses its preference for the participant

9 in the RIM test and found that by way of comparison with

10 the RIM -- between RIM and TRC portfolios energy saving

11 in this docket, this numeric conservation goal docket,

12 is negligible.

13 And the Commission also expressed concerns

14 about TRC resulting in increased rates for

15 nonparticipants in a utility DSM measure. Is that -- do

16 you agree with that -- that I'm accurately paraphrasing

17 what the order is saying?

18 A I think the sentence actually reads, "Since

19 the record reflects that the benefits of adopting a TRC

20 goal are minimal, we do not believe that increasing

21 rates even slightly is justified."

22 And there's also a reference to the fact that

23 the TRC programs end up for nonparticipating customers

24 subsidizing customers who do participate.

25 Q If you look at the last paragraph under

1825

1 section B of the -- on the page we're -- the first page

2 we're looking at, the order reads, "Upon petition from a

3 utility, lost revenue recovery and stockholder

4 incentives shall be considered on a case-by-case basis

5 for such TRC measures that result in large savings and

6 small rate impacts." Doesn't that suggest to you or

7 that does suggest flexibility on the part of the

8 Commission to consider TRC measures in certain cases;

9 isn't that correct?

10 A It says, "On petition from a utility." So I

11 believe it provides a utility the flexibility to come in

12 and to discuss with the Commission lost revenue recovery

13 and stockholder incentives.

14 Q So -- and a -- an expressed concern of the

15 Commission in this order about the TRC measure is a case

16 where the savings are negligible and there are

17 disproportionate rate impacts on nonparticipants,

18 correct?

19 A Well, there are rate impacts to all customers,

20 both participants and nonparticipants. And what the

21 Commission found is those rate impacts were significant

22 enough to create cross subsidization problems for

23 nonparticipants.

24 Q But where the savings are large and the rate

25 impacts small, that would be acceptable to the

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1 Commission, correct?

2 A I think that would have to be in the eye of

3 the beholder. And the ruling said that "upon petition

4 from a utility." So the utility would have to evaluate

5 that first, is the way I would read it.

6 Q Well, there's a sentence right here, the

7 second full paragraph, "Although we are setting goals

8 based solely on RIM measures, we encourage utilities to

9 evaluate implementation of TRC measures when it has

10 found that the savings are large and the rate impacts

11 are small." Is there anything ambiguous about that

12 statement?

13 A No, not at all. And if you continue reading,

14 it says, "Some measures that may fall into this category

15 are solar water heaters -- water heating, photovoltaics,

16 et cetera. Let's take solar water heaters as an

17 example.

18 We have examined it for a number of years. In

19 fact, in the early 1980s, FPL had a conservation water

20 heating program of which solar water heaters were a -

21 played a prominent role. At that point there was a

22 federal energy tax credit of 40 percent on the cost of

23 the installation itself.

24 FPL provided a rebate, if memory serves me

25 correct, up to about $400 for the solar water heaters.

1827

1 Over the time of approximately three years, I believe,

2 FPL paid incentives for 48,000-odd solar water heaters

3 in our service territory.

4 However, two things happened. Number one, the

5 federal energy tax credit went away and, number two,

6 what we found was that the cost of solar water heaters

7 just happened to increase at a steady rate to match the

8 federal energy tax credits and the FPL incentives. And

9 what happened when the federal energy tax credits went

10 away, it was not cost-effective under any known

11 cost-effectiveness test for solar water heaters to be

12 implemented by utilities. It failed the RIM test, it

13 failed the TRC test, it failed the participant test.

14 So we have looked at a number of these items

15 that are listed here.

16 Q Thank you, Dr. Sim. I'm going to move on to

17 another question. And I also have an exhibit.

18 And I'd like to ask, Madam Chair, would it be

19 acceptable to also mark that excerpt from the Commission

20 order as an exhibit?

21 CHAIRMAN EDGAR: We did that. It's 200.

22 MR. GROSS: We did that? I'm sorry, I'm

23 one -- hopefully not more than one step behind you

24 at this point.

25 BY MR. GROSS:

1828

1 Q Okay. This document that we're handing out is

2 the EPA Clean Energy Environment Guide to Action, and

3 it's -- a section 4.2, Public Benefits Funds for Energy

4 Efficiency.

5 CHAIRMAN EDGAR: Okay. So this will be 201.

6 (Exhibit 201 was marked for identification.)

7 BY MR. GROSS:

8 Q Dr. Sim, I'd like to refer your attention to

9 the second page and a paragraph in the right-hand column

10 titled "Determining Cost-Effectiveness." Six lines

11 down. I'd like to read this -- a couple of sentences

12 here.

13 "Cost-effectiveness tests commonly used by

14 states are shown in Table 4.2.2" -- and that's on the

15 next page. And I'm reading this as a foundation for

16 some questions from that table. "Many states use a

17 total resource cost test as the basic economic

18 assessment tool. The TRC test assesses the net lifetime

19 benefits and costs of a measure or program, accounting

20 for both the utility and program participant

21 perspectives." Did you see that language?

22 A Yes.

23 Q Okay. And if you turn the page -- actually

24 just below the table is some language, if only -- "If

25 using only one test, states are moving away from the

1829

1 rate impact measure (RIM) test because it does not

2 account for the interactive effect of reduced energy

3 demand from efficiency investments on longer-term rates

4 and customer bills. Under the RIM test, any program

5 that increases rates would not pass, even if total bills

6 to customers are reduced. In fact, there are many

7 instances where measures that increase energy use pass

8 the RIM test." Do you disagree with that statement?

9 A Completely. It's totally inaccurate.

10 Commissioners, let me try to explain. I've run across

11 this statement a couple of times, and perhaps this is

12 the originating document that people are pointing to.

13 What I disagree with is the following

14 statement, "Under the RIM test, any program that

15 increases rates would not pass even if total bills to

16 customers are reduced." The key phrase is "under the

17 RIM test, any program that increases rates would not

18 pass." That's totally incorrect.

19 What the RIM test does is it takes essentially

20 the same view as we take when we look at generation

21 option A versus generation option B. And let's start

22 with that as an example.

23 Let's say we have two power plants that are

24 identical in every respect except one of them costs

25 100 million, the other costs 150 million. Again

1830

1 identical. The $150 million generating option is going

2 to cost more in terms of the cumulative present value of

3 revenue requirements and it's going to raise rates more

4 so than will the $100 million generating option,

5 however, both generating options may raise rates, just

6 one will raise them a little bit more than the other.

7 The RIM test takes the same perspective. It

8 looks at a generating option and it looks at a demand

9 side management option. It takes a view of all of the

10 costs that are incurred by the utility for the demand

11 side management program and all of the costs and

12 benefits connected with the generating unit and avoiding

13 the generating unit. Both options on the utility system

14 may raise rates from what they otherwise would be if you

15 took no action. But what the RIM test does is it

16 identifies which of the two options will raise rates the

17 least.

18 That's the accurate statement of what the RIM

19 test does. It looks at resource options in as similar a

20 way as is possible as to the way we evaluate two

21 competing generating options, and that in large part is

22 one of the reasons why the previous commission in 1994

23 viewed that the RIM test was the more appropriate test

24 to use in conjunction with the participant test in

25 regard to evaluating demand side management programs.

1831

1 Q I have another document to be passed out, and

2 this is the National Overview of the Status of Utility

3 DSM, and it's one excerpt from a presentation given by

4 Martin Kushler, Ph.D., director of utilities program,

5 American Council for an Energy Efficient Economy, and it

6 was presented at the Colorado DSM informational workshop

7 on February 8, 2007.

8 MR. GROSS: And would this be 202?

9 CHAIRMAN EDGAR: Yes.

10 MR. GROSS: Okay. Thank you.

11 (Exhibit 202 was marked for identification.)

12 BY MR. GROSS:

13 Q I'd like you to just look at the -- I've

14 included the cover page, Dr. Sim, but I really would

15 like you to look at the second page of the exhibit. And

16 it's a chart entitled "Of the 24 states that use B/C

17 tests for EE" -- and the B/C stands for benefit/cost, is

18 that your understanding?

19 A Yes, that's a common, common shortening of the

20 moniker.

21 Q And EE is energy efficiency?

22 A Yes.

23 Q And these 24 states that use B/C tests for

24 EE -- for energy efficiency, it says, most of the states

25 use more than one test. 15 of those use the total

1832

1 resource cost test, eight use the ratepayer impact or

2 RIM test, and then it has another category of states

3 that identified a primary test, three use the TRC and

4 one specifies RIM. Are you aware that Florida is the

5 one that specifies RIM as a primary test?

6 A It does not say so in this document so --

7 Q Okay. Well, I'm asking you if you're aware of

8 that fact or not.

9 A I think the document we just went through said

10 that goals are set on both the RIM and the participant

11 test. Therefore, I would view that as we use the dual

12 test. Certainly FPL uses a dual test.

13 Q Okay. Do you know of -- there are no other

14 states though in the United States that use the RIM test

15 as a primary or exclusive test other than the state of

16 Florida; is that correct?

17 A I have not surveyed all of the states, sir. I

18 can't answer that question.

19 Q Okay.

20 A I do -- in my opinion, the state of Florida

21 uses a dual test, the RIM and the participant test.

22 Q Okay. Do you still have your copy handy of

23 the Adoption of Numeric Conservation Goals exhibit?

24 A This is the October 1994 order?

25 Q Yes. Okay. We're going to be referring to

1833

1 that in this next line of questioning.

2 Now, one of the issues of concern and that was

3 addressed by the -- this Commission in this order was

4 the fact that the savings between RIM and TRC portfolios

5 were negligible in this particular docket, correct?

6 A I believe the word is "minimal."

7 Q Well, I mean, I'm reading the second sentence

8 under B, cost-effectiveness criteria. "The record in

9 this docket reflects that the difference in demand and

10 energy saving between RIM and TRC portfolios are

11 negligible." Do you see that?

12 A I see that. The word "minimal" is the last

13 line of that same paragraph, but I wouldn't quibble with

14 either.

15 Q Okay. And I won't quibble either. I stand

16 corrected.

17 And there the Commission said because of the

18 benefits of adopting a TRC goal are minimal, we do not

19 believe that increasing rates, even slightly, is

20 justified.

21 Now, assume that in a hypothetical case that

22 there is a significant difference in the energy savings

23 between a RIM -- when applying a RIM test and a DSM

24 test. And I take it that you disagree vehemently with

25 John -- oh, I'm sorry, I may have -- my mouth didn't say

1834

1 what the brain was thinking. But a difference between

2 the RIM and the TRC test is what I intended. And I

3 grant it that you disagree with John Plunkett's analyses

4 and conclusions regarding end user efficiencies,

5 correct?

6 A I'm sorry, who are we referring to?

7 Q Okay. I take it that you disagree with

8 John Plunkett's analyses and conclusions regarding end

9 user efficiency.

10 A Can you point me to what analysis he provided?

11 Because to my knowledge, he provided no analysis of any

12 Florida specific demand side management potential,

13 cost-effectiveness, et cetera.

14 Q Okay. Well, you would disagree with his

15 conclusions and recommendations then?

16 A Absent any analysis provided by your witness,

17 Plunkett, that used any Florida specific data, and just

18 leaping to a claim that there are vast amounts of

19 cost-effectiveness DSM out there in Florida with which

20 FPL could avoid or defer the unit additions, yes, I

21 would disagree.

22 Q And I acknowledge that and -- but I know this

23 is going to be difficult for you. But part of the

24 hypothetical is that I'm going to ask you to assume that

25 Mr. Plunkett is correct and that there is a significant

1835

1 difference in energy savings between application of the

2 TRC test and the RIM test. So this is a hypothetical.

3 I'm just asking you to assume that.

4 A And again the assumption is, simply put?

5 Q Simply put, that Plunkett is correct and

6 there's a significant difference in the energy savings

7 when applying the TRC test in this -- in this docket to

8 FPL and when applying the RIM test.

9 A I would rephrase the statement slightly

10 differently in that DSM options that pass the TRC test

11 but fail the RIM test generally provide higher energy

12 savings but lower demand savings, all else equal.

13 Q Okay. Do you agree that applying -- that a

14 DSM program as proposed by Mr. Plunkett and the amount

15 of energy savings that he projects would not meet the

16 RIM test?

17 A I do not know what Mr. Plunkett is proposing

18 because he provided no specifics of any DSM program that

19 I can recall in his testimony.

20 Q Well, and I apologize, I don't have -- I can

21 show you one paragraph from his testimony.

22 MR. GROSS: And if I may approach the witness,

23 I will.

24 CHAIRMAN EDGAR: You may.

25 Q On page 5, lines 18 through 23, he says, "If

1836

1 FPL exhibited the same spending depth dollar of program

2 expenditures per kilowatt hour sold and savings yield

3 kilowatt per dollar portfolio expenditure as

4 Massachusetts did between 2002 and 2004, it would defer

5 the need for both units by one year. If, however, FPL

6 were to follow PG&E's footsteps and triple its annual

7 savings, additional DSM would postpone the need date

8 beyond 2023."

9 Now I'm not asking you to agree with that. I

10 know you disagree with that. But just as part of the

11 hypothetical, assuming that there were that energy

12 savings potential, it would not pass the RIM test?

13 A I can't conclude that because I don't have any

14 of the data upon which to run a RIM or a TRC test. I

15 don't know what the -- most importantly, I don't know

16 what the KW savings are for the types of programs he has

17 in mind.

18 FPL has a number of programs with a relatively

19 high energy savings component but they're also

20 relatively high in KW savings. It's the KW savings that

21 avoid the power plant, it's not the kilowatt hour

22 savings.

23 For example, I can find a much more efficient

24 street lamp that will save a lot of kilowatt hours but

25 because it doesn't operate at FPL's peak hour of 4:00 to

1837

1 5:00 p.m. on an August afternoon, it's going to do

2 nothing for me in regard to deferring power plants.

3 Q Isn't it true that the RIM test limits how

4 expansive a DSM program can be?

5 A Would you define expansive, please.

6 Q Well, how much energy savings there can be?

7 A No. As I just explained, there are a number

8 of DSM programs that FPL finds cost-effective under the

9 RIM test that have fairly significant kilowatt hour

10 savings but they also have very healthy peak hour KW

11 savings. That's the key.

12 Q I have a blown-up version of Exhibit JJP-4

13 from John Plunkett's direct testimony, and I'd like to

14 ask some questions about it and have that marked and

15 we'll pass out copies.

16 CHAIRMAN EDGAR: And so, Mr. Gross, although

17 this is contained in a previously-marked exhibit,

18 you'd like it to be marked again as --

19 MR. GROSS: I would, if that's acceptable to

20 you, Madam Chair.

21 CHAIRMAN EDGAR: 203.

22 (Exhibit 203 was marked for identification.)

23 BY MR. GROSS:

24 Q Now, Dr. Sim, I just call your attention to

25 the bottom category, DSM Budgets (millions nominal $),

1838

1 and the 2008 projection for PG&E's scaled DSM is

2 $537 million. I'd like you to make a note of that.

3 A Okay.

4 Q And I have another exhibit, it's an excerpt

5 from the Florida Public Service Commission Annual Report

6 on Activities Pursuant to the Florida Energy Efficiency

7 and Conservation Act, February of 2007.

8 MR. GROSS: I would like that marked as 204.

9 CHAIRMAN EDGAR: Yes, sir.

10 MR. GROSS: Okay.

11 (Exhibit 204 was marked for identification.)

12 BY MR. GROSS:

13 Q Dr. Sim, would you please look at page 14,

14 Table 6, the column for FPL for the year 2005, "DSM

15 Expenditures Recovered Through the ECCR Clause."

16 A Okay.

17 Q And it shows a figure of 144,192,696. Is that

18 a number that you were familiar with previously?

19 A In general, yes. I know our current DSM

20 expenditures are in the ballpark of 150 million a year.

21 Q Okay. And that's significantly lower than

22 PG&E's projection for 2008, correct?

23 A It is certainly lower than the number that's

24 on this page. However, I recall that Mr. Brandt's

25 rebuttal testimony showed as an exhibit a dollars per KW

1839

1 reduced comparison of PG&E versus FPL. And where FPL's

2 achievements of KW reduction were coming at a cost of

3 approximately $500 a KW, PG&E's might have been as high

4 as, memory serves me correct, $1,800 a KW. Certainly

5 that would tell me that FPL is a lot more efficient

6 perhaps because we have been doing this for so long and

7 have been so successful in achieving demand side KW

8 reductions as efficiently as possible.

9 I don't think the goal is to see how much

10 money one can spend on DSM. I think the goal is to find

11 all of the DSM that can be found cost effectively to

12 reduce the need for new power plants.

13 Also, I would suggest that if FPL wished to

14 triple or quadruple its expenditures on DSM, that might

15 go a long way towards moving FPL's electric rates in the

16 direction of those of PG&E. As Mr. Brandt's rebuttal

17 testimony also showed, where we're at roughly 10 cents a

18 kilowatt hour, they're almost 20 cents a kilowatt hour.

19 I don't think that's the goal that FPL has in mind for

20 its customers.

21 Q All right. Wasn't FPL closer to -- was it 12

22 cents and PG&E about 18 cents? I mean, I --

23 A I believe it was closer to 10 or 11 cents for

24 FPL and 19-point something for FPL in his exhibit. If

25 you wish to quibble over –

1840

1 Q Well, I won't. I won't. Just seeing that

2 there was some rounding up higher there.

3 Now, on page 27, line 13 of your rebuttal

4 testimony, you say that Florida's DSM successes are

5 admirable.

6 A I'm sorry, which page and line?

7 Q Page 27, line 13.

8 A Yes.

9 Q Okay. I have another proposed exhibit,

10 "Energy Efficiency, Integrated Resource Planning and the

11 Role of the Public Service Commission." It's a

12 presentation by Mark Futrell, Florida Public Service

13 Commission, to the Southeast Energy Efficiency Alliance,

14 Florida Outreach meeting September 6, 2006. And we're

15 going to be handing out copies of this exhibit which I

16 understand would be 205.

17 CHAIRMAN EDGAR: Yes.

18 (Exhibit 205 was marked for identification.)

19 BY MR. GROSS:

20 Q Okay. Dr. Sim, I'd like to back up just for a

21 moment before I ask you any questions about this

22 document. You were giving some figures from

23 Mr. Brandt's testimony on DSM savings. Do you have

24 documentation to support the figures that were used by

25 Mr. Brandt or do you know -- do you have the

1841

1 documentation to --

2 A I do not have Mr. Brandt's rebuttal testimony

3 in front of me. If someone can provide that to me, I'll

4 be happy to take a look at it. What I provided you was

5 my recollection of what was in Mr. Brandt's rebuttal

6 testimony.

7 MR. GROSS: May I have just a moment, Madam

8 Chair?

9 CHAIRMAN EDGAR: Yes, sir.

10 BY MR. GROSS:

11 Q Dr. Sim, please look at Exhibit DB-3 to -- and

12 it's page 1 of 1 to Mr. Brandt's rebuttal testimony. I

13 see under FPL for 2005 -- and I can't tell. There's a

14 number there, 39,119. Is that in millions?

15 A I'm sorry, we're on page 161 of his Exhibit

16 DB-3?

17 Q Yes.

18 A And which column?

19 Q Under FPL conservation dollars. I'm assuming

20 that's what that means. Has CON and a dollar sign and a

21 column in the middle under FPL.

22 A I would assume that would be -- actually the

23 units I believe would be in thousands of dollars so it

24 would represent for 1999, 42.7 million.

25 Q Okay. And how -- how about for 2005 for FPL,

1842

1 39,119,000?

2 A Yes.

3 Q And that represents conservation dollars?

4 That's a lot lower than the 144 million that you just

5 agreed was in the ballpark of your understanding of

6 FPL's conservation spending of $150 million annually?

7 A No, sir, you're mischaracterizing it. The

8 document that we saw that you passed out, the Florida

9 Energy Efficiency and Conservation Act is total DSM

10 expenditures recovered under the ECCR clause. It is not

11 conservation only. It is conservation, research and

12 development, demonstration programs as well as load

13 management programs.

14 Q Okay. So that accounts for this figure being

15 that much lower. And do you -- so only a quarter of

16 that 144 million is for conservation programs, correct?

17 A Slightly more than a quarter. 144 and roughly

18 40.

19 Q I'd like to move on to -- in fact, thank you

20 for that answer. And I'd like to move on to the

21 document that we just marked, the presentation by

22 Mark Futrell. I'd like you to look at page 20. And if

23 you recall, I had just pointed your attention to

24 statement you made in your rebuttal testimony on

25 page 27, line 13, "Florida's DSM successes are

1843

1 admirable." And do you stand by that statement?

2 A Yes, I do.

3 Q Okay. Look at the graph on page 20 of

4 Mr. Futrell's presentation and it shows -- and if you

5 read it differently, please correct me -- but it shows

6 that annual -- well, it's "DSM Program Achievements.

7 Impact of DSM on Energy Consumption in the State of

8 Florida." That's the title of the graph, correct?

9 A Yes, it looks to be both.

10 Q As of 2000?

11 A As a projection, yes.

12 Q As of 2005, it's showing virtually no annual

13 energy avoided, and then from 2005 to 2015, a negligible

14 amount of annual energy avoided.

15 A Yes.

16 Q Correct?

17 A That's what it shows, but I would disagree

18 with the data that's shown on this slide.

19 Commissioners, in regard to the reporting of

20 historical conservation, what we have discussed with the

21 staff is that the formatting of the reporting is

22 creating some problems in regard to capturing of

23 cumulative DSM impacts. In this case, particularly in

24 the area of kilowatt hour reduction. And I believe that

25 the problems in the reporting format is what is leading

1844

1 this graph to appear historically the way that it

2 appears here.

3 I also would note on a going forward basis

4 that if this graph were created -- well, the

5 presentation itself is September 2006. In all

6 likelihood, that does not reflect the significant

7 increases in DSM that FPL and, to my knowledge, at

8 least, Progress Energy Florida had approved by the

9 Commission in mid to late 2006 after it was reported in

10 the utility's 2006 ten-year site plans.

11 Therefore, it would not be shown -- it would

12 not be capturing those significant increases in both

13 demand and for this graph, energy reduction.

14 Q Okay. Well, in August 2006, FPL received

15 commission approval for two new DSM programs and eight

16 modified programs, correct?

17 A I don't recall the exact date. It was

18 somewhere mid 2006.

19 Q And I'm sorry, I just misplaced my graph. And

20 that predates this September 6th, 2006 presentation,

21 correct?

22 A Which date does?

23 Q The August 6th date where FPL received

24 Commission approval for two new DSM programs and eight

25 modified programs.

1845

1 A Subject to check, let's assume your dates are

2 correct. However, I doubt that Mr. Futrell took each

3 utility's individual program approvals and attached them

4 to what would have been a more readily available source

5 of information. The year-end 2005, DSM filings by each

6 utility or the individual utility site plans that would

7 have been available in April of 2006.

8 Q I'm getting right at the end of my questions.

9 One -- you know, in the October 25th, 1994 order on

10 adoption of numeric conservation goals -- do you

11 remember that order? That's the order we discussed

12 earlier.

13 A The 1994?

14 Q Yes, 1994.

15 A Yes.

16 Q And one of the concerns about the TRC test is

17 that it might result in rate increases to

18 nonparticipants, correct?

19 A It would result in rate increases to all

20 utility customers, whether they be participants or

21 nonparticipants.

22 Q So then is it fair to say then that the

23 concern is not that -- it has a lower -- you're saying

24 it has a lower rate impact across the board; is that

25 what you're saying?

1846

1 A I'm sorry, I don't understand the question.

2 Q Excuse me. The RIM test results in a lower

3 rate impact?

4 A Than -- let me try to provide a full answer to

5 what I think was a partial question.

6 Q Okay.

7 A If I may. If you take a DSM program that

8 passes the TRC test but fails the RIM test, its impact

9 on rates will be greater than will a program that passed

10 the RIM test.

11 Q Okay. The Commission was concerned to the

12 extent that it did state in the order that a TRC test

13 could be acceptable on a case-by-case basis if the

14 savings were -- energy savings were great and the rate

15 increases were small. Do you recall that statement in

16 the order?

17 A Yes, words to that effect.

18 Q Okay. Now, isn't it possible to shift the

19 distribution of cost and benefits between groups of

20 ratepayers to make each group ultimately pay costs in

21 proportion to the benefits received?

22 A Can you repeat the question, please.

23 Q Isn't it possible to shift the distribution of

24 cost and benefits between groups of ratepayers to make

25 each group ultimately pay costs in proportion to the

1847

1 benefits received?

2 A I would say it is possible but if we're

3 talking about this in regard to the TRC test, you still

4 are going to end up with higher rates overall. You

5 can't avoid that.

6 Q So even -- well, and I won't belabor this.

7 But the Commission did say that if the savings are great

8 and the rates are small, so they're at least

9 contemplating the potential that TRC tests could yield

10 great savings and lower rates?

11 A No.

12 Q Okay.

13 A There is no DSM program that I have ever seen

14 in which -- that passes the TRC test but fails the RIM

15 test that will give you lower rates than will a program

16 that passes the RIM test, all else equal.

17 Q Now, couldn't the Commission reassign and

18 reallocate cost of DSM recovered through rates to make

19 adjustments for this fact, for the rate increases?

20 A You could allocate the higher rates

21 differently but you're still going to end up with higher

22 rates. And you get into the question that the

23 Commission specifically wished to avoid, the problems

24 with the TRC test of cross-subsidization between groups

25 of ratepayers. Therefore, it looked at the RIM test as

1848

1 being one that was consistent with how we do evaluations

2 of generation alternatives that selects the one that

3 ends up with the lowest rate for all ratepayers between

4 the two competing options.

5 Q So you disagree with the EPA's statement that

6 the RIM test ignores the fact that there's -- under the

7 TRC test, total rates are actually lower?

8 A Yes, I disagree. Because every analysis that

9 we have done or that I have seen confuses in that

10 statement rates and total cost. Your total costs may be

11 lower; however, you're dividing by a smaller number of

12 kilowatt hours, therefore, your rates are higher.

13 Q Isn't it true that assuming the TRC test is

14 applied and there are -- and the participant test -- let

15 me withdraw that question.

16 One of the concerns that I've heard repeatedly

17 about the TRC test is that there might be some

18 ratepayers not participating who would nevertheless be

19 paying increased rates. Is that your understanding as

20 well?

21 A That certainly is the case.

22 Q Couldn't the Commission in a case where

23 there's great -- greater energy savings make some kind

24 of adjustments or allocations to eliminate that

25 inequity?

1849

1 A You then get into the question of cross

2 subsidization. If under one resource option your rates

3 are going to be 7 cents and the other resource option

4 your rates are going to be 8 cents, you can break up the

5 8 cents and divide it among different classes of

6 customers to favor one versus the other but you're still

7 going to end up with customers paying higher rates.

8 Q Now, isn't it true that the RIM test has the

9 effect of rewarding ratepayers who refuse to participate

10 in energy conservation measures?

11 A I would disagree with the statement.

12 Rewarding those that refuse to participant in DSM

13 programs. No, there are in this state large numbers of

14 customers that are on fixed incomes. There are large

15 number of customers of relatively low economic means.

16 There are also -- excuse me, that simply do not have the

17 wherewithal or do not have the equipment at their house

18 that can take advantage of DSM programs.

19 There are also at the other extreme.

20 Customers that have extremely energy efficient homes

21 that have participated in virtually all of the programs

22 that they are eligible for and at the moment can't do

23 anything else at their home. Those customers, whether

24 they're at the low end of the economic strata or the

25 highly efficient home buyers cannot participant in

1850

1 programs that -- and if the TRC test were used, they

2 would be penalized by higher rates. And that was not

3 the objective of the utilities and the Commission coming

4 out of the 1994 gold stock.

5 Q But that would be true if the Commission

6 didn't make some kind of shifting or reallocations to

7 protect that class?

8 A Again, you come back to the simple example of

9 if one resource option, you end up with rates across the

10 board at 7 cents and another resource approach you come

11 up with 8 cents across the board. You can reallocate

12 the 8 cents all you want. Somebody is going to pay

13 higher rates.

14 MR. GROSS: Thank you very much, Dr. Sim. I

15 have no further questions.

16 CHAIRMAN EDGAR: Mr. Krasowski?

17 MR. KRASOWSKI: Yes, ma'am.

18 CROSS-EXAMINATION

19 BY MR. KRASOWSKI:

20 Q Hello, Dr. Sim.

21 A Good afternoon.

22 Q Good afternoon. Dr. Sim, you made some

23 alterations to your testimony in -- on page 31, line 9;

24 is that correct?

25 A No, sir. It was actually line 11 and 12.

1851

1 Q Could you explain that to me? I kind of

2 missed it.

3 A Yes, sir. On line 11, there's a number of 600

4 there. That number should read 500. And then, sir, on

5 line 12, the beginning words "with a 20 percent reserve

6 margin criterion" should be stricken.

7 Q Okay. Thank you. I would like to ask you to

8 what extent does -- you're responsible for planning

9 these facilities, right?

10 A I supervise a group that's responsible for

11 identifying what our resource needs are and for at least

12 in part performing the analysis which identifies the

13 best, most cost-effective options in which to meet that

14 need.

15 Q I would like to distribute the -- it's the

16 Florida BEBR report --

17 MR. KRASOWSKI: Jan, can I have one of those

18 before you give them all away? I don't know if I

19 have another. But this is a Florida Bureau of

20 Economic and Business Research.

21 CHAIRMAN EDGAR: Mr. Krasowski, give us just a

22 moment so we can get it all in front of us.

23 MR. KRASOWSKI: Okay. I'm sorry.

24 CHAIRMAN EDGAR: That's okay. Okay. We will

25 go ahead and mark, which would be 206 -- will be

1852

1 206. Mr. Krasowski.

2 MR. KRASOWSKI: Okay.

3 (Exhibit 206 was marked for identification.)

4 BY MR. KRASOWSKI:

5 Q Are you familiar with the BEBR report,

6 Mr. Sim -- Dr. Sim?

7 A I recognize the name but that's all.

8 Q Mr. Green made reference to the -- Dr. Green

9 made reference to his use of this report as part of his

10 analysis of the population projections which this

11 project is based -- partially based on. Are you aware

12 of that?

13 A I'm aware that Dr. Green uses the BEBR report

14 in his load forecasting activities. And let me, if I

15 can, try to clarify the last part of your question. You

16 said upon which this project is at least partially

17 based, I believe you said. It's not so much a project

18 specific basis for this. The population forecast and

19 Dr. Green's ensuing demand and energy forecast is what

20 we use to identify the resource need for all of the FPL

21 system, and we use it to address not only our DSM plans

22 but our generation plans as well over a number of years.

23 It's not just this one specific project.

24 Q Okay. Fair enough. If I could direct your

25 attention to the back page on the very last column on

1853

1 the bottom. It's a cumulation of all of these numbers

2 that are -- organized by county. And each category has

3 a low, a medium and a high estimate. So could you tell

4 me which of these estimates were used by -- in -- by FPL

5 to identify a forecasted need for additional resource,

6 power resources for 2010, 15, 20, 20 and 25

7 throughout -- throughout this report? Can you make a

8 comment on that?

9 A My only comment, sir, is I cannot answer the

10 question. Dr. Green would be -- would have been the

11 appropriate witness for that. I just do not know.

12 Q You head up that department though, don't you?

13 A No, sir, I do not.

14 Q Does Mr. Silva?

15 A Mr. Silva is the department head.

16 Q Okay.

17 A That is correct.

18 Q So I'll -- if I can, I'll ask that question of

19 Mr. Silva, saving this document for later. But that's

20 not your concern.

21 All right. Thank you.

22 In your discussion you identify, the previous

23 discussion and in your testimony you identify DSM as a

24 method for accomplishing efficiencies and energy

25 savings. What -- what -- what other factors external to

1854

1 the DSM programs which are very limited -- well, they're

2 very bracketed to their definition and what you do with

3 them -- influence your cost savings programs? Not cost

4 savings. I'm sorry, if I could rephrase. Your energy

5 savings, your efficiency programs? Is DSM the only

6 thing that represents your efficiency efforts?

7 A Sir, can you be a bit more specific as to what

8 you mean by our efficiency programs, our efficiency

9 savings?

10 Q Well, let's use as an example your DSM program

11 that encourages people to use efficient appliances.

12 Okay? Now, you -- you encourage people to bring their

13 plans up to a certain SEER standard. Is there anything

14 beyond that? Do you encourage people to go to the

15 maximum with the -- with the -- in their efforts to save

16 energy? You don't -- do you go outside the DSM programs

17 in any way to encourage energy savings?

18 A Your question is a bit multi-part. Let me try

19 to address it as best I can. In regard to your example

20 of the air conditioning efficiency program, we typically

21 introduce or offer various incentive levels with the

22 incentive getting higher as the jump in efficiency for

23 that air conditioner that a customer might choose also

24 increases. So the higher the efficiency, the more we'll

25 pay.

1855

1 So that's an example of how we try to push the

2 envelope a bit in the DSM programs themselves. I'm sure

3 I won't do justice to these answers, Mr. Brandt would

4 have been a better source for it, but I will at least

5 take a first cut at some of these.

6 As Mr. Brandt indicated, there are a number of

7 research and development projects and programs for our

8 conservation activities that look at evolving

9 technologies or new ways in which to apply existing

10 technologies that we are constantly going through, and

11 many of those have borne fruit and have been introduced

12 as types of new programs.

13 In the past, dating back to probably the late

14 1980s, we attempted to push the building envelope a bit

15 in the state of Florida by a solar passive home program

16 in which FPL teamed with three different architectural

17 firms as well as the Florida Solar Energy Center. We

18 offered complete blueprint for $50 each for new homes

19 that included the latest in passive solar design.

20 That particular program was quite effective.

21 A number of the blueprints were sold, some of the homes

22 were built, a DOE efficiency award was granted the

23 program and, more importantly, the Florida Energy

24 Building Code took note of it and changed the building

25 code appropriately to introduce one of the key features

1856

1 we highlighted which was radiant barrier insulation.

2 So items like that are an indication of how

3 FPL tends to try to push beyond the typical DSM programs

4 of simply providing rebates to customers as they, as

5 they change from one appliance to a more efficient one.

6 Q On page 13 of your testimony, you -- down by

7 line 17, you explain how your recent efforts have

8 accounted for project saving of 560 megawatts,

9 564 megawatts. And this was resulting from your

10 re-evaluation of your DSM programs and also the addition

11 of two other DSM programs. Where did you come up with

12 the idea for the two new additional DSM programs?

13 A Subject to check, I would say that those were

14 ones that we were considering through our research and

15 development programs and our analyses of other program

16 ideas that are in the industry. As it happened in this

17 increase of the 564 megawatts as I explained when I was

18 up discussing the direct testimony, we had just finished

19 the 2004 DSM goal setting. The next summer, 2005, we

20 experienced this huge load in our -- increase in our

21 load of about 1800 megawatts where we had been

22 increasing at about 675 megawatts a year. This moved

23 our capacity need not only much higher but moved it much

24 closer to the present. This allowed a number of DSM

25 activities that were either not cost-effective or not

1857

1 otherwise applicable to become cost-effective or

2 applicable and therefore we were able to incorporate

3 those.

4 It also allowed us to increase incentive

5 payments for existing programs. And that in large part

6 is discussed here in the regard to the modifications of

7 existing programs. So we take into account both the

8 timing of our capacity need and how far off it is that

9 affects the amount of money it's cost-effective to pay

10 for DSM programs. So we're constantly looking at that

11 year to year to see what might be possible, and the DSM

12 programs are continually being re-evaluated.

13 Q You did quite a bit of analysis in trying to

14 stay on top of and ahead of the need or the opportunity

15 for DSM?

16 A Yes, sir, we certainly try to.

17 Q And you -- and it was interesting to hear it

18 from you just now that you look outside of your own

19 house into the industry, and I suppose and beyond, like

20 DSM and beyond, you know. So it's like -- so my

21 question -- my question would be, that you do look

22 out -- you do look outside the -- look out to the

23 industry in general to learn new things?

24 A We look both to other electric utilities both

25 nationally and internationally as well as look outside

1858

1 the utility industry itself to see what ideas are out

2 there, what new technologies might be emerging that we

3 can make use of at FPL.

4 Q Have you analyzed PG&E's programs?

5 A At least several times, yes. I don't know

6 what the most current evaluation of those are.

7 Q Okay. How about the Tallahassee utility, are

8 you familiar with what they're doing now, what their

9 efforts are?

10 A I am familiar with the fact that primarily

11 through a review of the ten-year site plans, that they

12 are showing a significant shift in their DSM activities.

13 In reviewing their -- the 2007 ten-year site plan for

14 the City of Tallahassee, I see that they have

15 significantly increased their DSM over what they had the

16 year before, and that I do have some questions about

17 what they're doing. Namely I see that where they were

18 planning in their 2006 site plan to a 17 percent reserve

19 margin, they are currently showing that in -- for at

20 least four years in the ten-year reporting time frame,

21 in their 2007 site plan, they are reporting projected

22 reserve margins of 49 percent for three years and

23 47 percent for one year.

24 I'm a little mystified by that. Can't quite

25 explain it. However, in general, I would say that my

1859

1 knowledge of the DSM programs that the City of

2 Tallahassee has offered over the last ten years or so,

3 which I think were approved by this Commission in either

4 '96 or '97, consists primarily of what I will term, and

5 I don't mean this in any negative sense, more of a

6 passive type of program in which they offer loans to

7 customers, they offer information to customers, but the

8 impetus as I would describe it would be it's more the

9 onus is on the customer to take the first step.

10 There's nothing wrong with those programs.

11 They can be quite effective. But my understanding is

12 that Tallahassee is now -- well, has -- has seen some

13 unrealized DSM potential buildup over the last decade or

14 so which they are going to now more aggressively pursue

15 in the manner of which other utilities in Florida,

16 including FPL, have by going directly to the customers,

17 offering more rebates and getting contractors like HV/AC

18 contractors to push for higher efficiency and in FPL's

19 case, to push the fact that FPL is willing to pay

20 incentives to make up at least partially the difference

21 in higher cost for higher efficiency.

22 Q Interesting. As I understand it, Dr. Sim --

23 and if you could correct me, I'd appreciate it if I'm

24 wrong -- the Tallahassee utility is customer owned and

25 that's different from FPL; is that correct?

1860

1 A Yes, I'd say there's a fundamental difference

2 there.

3 Q Fundamental difference. Okay. So the

4 Tallahassee utility isn't burdened, if you will, by the

5 RIM standard?

6 A I would never call the RIM standard a burden.

7 Q Okay. Well, would you -- do you understand it

8 to be true that the Tallahassee utility doesn't design

9 its program based on -- of RIM standard evaluation

10 process?

11 A I simply do not know what their new -- I would

12 call it their cost-effective -- cost-effectiveness

13 metric is for their new projection of DSM. I simply

14 have not had the time to sit down, meet with them and

15 look through their analyses to find out exactly what

16 they're doing, so I just don't know.

17 Q Okay. Okay. Well, I appreciate that. You --

18 you mentioned the programs over the last ten years.

19 They have quite a new strategy and plan going on now

20 so -- but you're not aware of that?

21 A Well, they must be doing something quite

22 different to show the change in projections from '06 to

23 '07. But all I've seen is the ten-year site plan and it

24 does not go into a description of the types of programs.

25 Therefore, something that FPL will, I'm sure, follow up

1861

1 with Tallahassee to gain a better understanding of

2 exactly what they're doing.

3 Q Something potentially to learn from in the

4 future?

5 A We're happy to learn from anybody.

6 Q Yeah. I appreciate that.

7 I believe -- do you know what the total

8 resource cost test is, TRCT?

9 A TRC. Yes, sir, I'm familiar with that test.

10 Q And I believe that's a big part of the

11 Tallahassee strategy?

12 A I note with interest that in the 2006 ten-year

13 site plan, the TRC test was mentioned, but I do not

14 recall seeing that mentioned in the 2007 ten-year site

15 plan. So again I simply have not talked to them to find

16 out what their cost-effectiveness metric or approach is.

17 Q Okay. I believe I showed you the last time we

18 spoke this -- let's see, what was it -- it was the -- it

19 was the Florida Solar Energy Center project document

20 here, two-page thing.

21 A Yes, sir.

22 Q Okay. And so I'd like to distribute that now

23 for everyone to see. And my apologizes that the third

24 page is not copied in color so the graph on there is

25 just a bunch of scriggly lines. But if anyone wants to

1862

1 go into it deeper, they can. It's available on the --

2 on the web. But the -- essentially I'm just looking to

3 point out information on the first two pages.

4 Along the lines of what you said a minute ago

5 as far as being open to learn from outside sources,

6 which if I remember correctly was one of the statements

7 that Mr. Olivera opened with when we first started this,

8 you know, talking to your FP&L people. They were

9 open -- he said you were very open to new things and new

10 methods.

11 But anyway, this is you. Along with -- let's

12 see. Along with -- how does that relate to this -- so

13 I'd just like to submit for your review this project

14 that the Florida Solar Energy Center did in, I think it

15 was, 1998 that you pointed out last time and how just by

16 building -- if we were to implement the standards that

17 are represented here into our building codes, the

18 efficient home would represent a 70 percent savings in

19 energy over the normal home, so to speak. And I

20 understand this is dated from 1998, but in my

21 conversations with the Florida Solar Energy Center

22 it's -- this is still relevant.

23 So I'd just like to submit this to -- for the

24 record. And do you have any comments on this,

25 Mr. Sim -- Dr. Sim? Sorry.

1863

1 A Only to the effect that I'm familiar generally

2 with this. Mr. Brandt and his organization follow this

3 more closely than I do. But that FPL has worked with

4 the Florida Solar Energy Center and has provided funding

5 on numerous occasions for their research work. We think

6 their building design work in general is quite good.

7 Q It is some of the best in the country -- well,

8 I'm editorializing. I'm sorry. I apologize. It's not

9 my turn to testify, right.

10 I'd like to hand out another small document

11 and this is --

12 CHAIRMAN EDGAR: Before we do that so I don't

13 get confused, this document, Florida Solar Energy

14 Center April 23rd, 2007, that will be No. 207, and

15 then the next document as follows will be 208.

16 (Exhibits 207 and 208 were marked for

17 identification.)

18 Q And this document represents a concise

19 explanation of the hot water heater program that

20 Lakeland utilities has been working with. And if -- as

21 Jan is passing these out, I might say that this was

22 presented at the energy commission subcommittee on

23 efficiency and conservation where I saw Mr. Brandt,

24 which I'm not so surprised maybe. But he was there.

25 You know. So kind of keeps in line with FPL's interest

1864

1 in looking outside of the ivory tower and learning new

2 things.

3 So here -- are you familiar with this, with

4 this --

5 A In general terms, yes, sir.

6 Q Okay. And do you think it's something that

7 FPL would be getting involved in of themselves, to

8 increase efficiency and improve diversity? Well, the

9 first question, to increase efficiency?

10 A Well, as I mentioned before, FPL's

11 conservation water heating program back in the 1980s was

12 very successful in helping to incent the use of solar

13 water heaters. But that died out with the demise of the

14 federal tax credits as well as the pretty significant

15 run up in solar water heater costs. And the solar water

16 heating industry in my view took a significant hit when

17 the tax credits went away.

18 They have regrouped, they have come back, we

19 have looked at a number of different proposals for solar

20 water heater designs from them. We're looking at data

21 for solar water heaters both from the industry itself as

22 well as from the Florida Solar Energy Center. And, in

23 fact, we're doing cost-effective analyses or were doing

24 them right before I came up here to take another look at

25 whether solar water heating would once again be

1865

1 cost-effective for FPL to design a program around. I

2 don't know the status of that yet. I -- I'm sure we'll

3 pick it up as soon as I get back.

4 Q I'd like to draw your attention to the first

5 paragraph of this document, the one that's in bold type,

6 and ask you -- give you a second to look at that. I

7 don't know if you've had a chance to.

8 A Yes, sir, I've read it.

9 Q Okay. This is very -- a very unique program,

10 isn't it?

11 A I don't know if it is totally unique. It is

12 certainly innovative. Put it that way.

13 Q Okay. Innovative is good.

14 A Yes.

15 Q And it's not totally unique because I think

16 there's -- it's being done in California so it's not --

17 but do you find it interesting -- well, let's see.

18 This -- it says in that paragraph that this program --

19 the hot water heaters are actually owned by the utility?

20 A Yes.

21 Q So -- and then the utility makes a profit off

22 of operating it?

23 A Yes.

24 Q So it's kind of innovative. Innovative is

25 fine. Thank you.

1866

1 A If I may make a comment. Around 1985 or

2 '86 when the federal energy tax credits went away and

3 the Solar Energy Industry Association was taking such a

4 hit due to the downturn in solar water heater business,

5 we met several times with the directors of the Solar

6 Energy Industry Association and one of the ideas that

7 was floated in our discussions was of FPL doing much the

8 same thing as Lakeland is doing.

9 And my recollection of those meetings was that

10 this was not something that the Solar Energy Industry

11 Association particularly wanted was an entity the size

12 and the financial strength of FPL getting into the solar

13 water heating business. Where it might be appropriate

14 for a smaller entity like a municipal utility like

15 Lakeland, it was not something that the SEIA members

16 were looking to at that time for FPL to get involved in

17 that manner. We ended up looking at, in large part, at

18 their direction at other avenues that might prove more

19 beneficial to both parties.

20 Q I have another two-page -- three-page document

21 I'd like to get your comments on, if I may.

22 While these are being passed out, I'd like to

23 ask you, aside from looking out to the industry, where

24 else do you believe innovative thoughts and ideas could

25 come from in terms of developing programs or processes

1867

1 or technologies to increase efficiencies?

2 A Well, outside of the utility industry, we do

3 pay close attention to developments in -- and let me

4 step aside for just a moment in regard to efficiency.

5 The company is continually looking for ways in which to

6 generate energy more efficiently. So it's not just a

7 look at efficiency only on the demand side but also on

8 the supply side.

9 But returning to the demand side as to how our

10 product is used, we take a look at a number of

11 industries such as the HVAC industry, the pump industry,

12 et cetera. Some of this we do on our own but much of it

13 we do in regard to -- excuse me, in concert with

14 organizations such as the electric power research

15 institute and their committees and working groups that

16 we -- FPL plays a role in.

17 Q I -- I have here in front of me something

18 you're probably familiar with, but let me ask you.

19 Issue number 4 regarding this whole procedure, it says,

20 "Are there any conservation measures taken by or

21 reasonably available to Florida Power & Light Company

22 which might mitigate the need for the proposed

23 generating units?"

24 A I'm sorry, are we looking at the --

25 CHAIRMAN EDGAR: Mr. Krasowski, I got lost

1868

1 there too.

2 MR. KRASOWSKI: Sorry.

3 Q This is from -- it's from the docket but

4 it's -- it's -- what's the cover page? It's on the

5 prehearing brief.

6 A Okay.

7 Q And these are the list of issues that were --

8 CHAIRMAN EDGAR: Oh, okay. The prehearing

9 order that lays out the issues. Thank you.

10 MR. KRASOWSKI: And excuse me for not being

11 clear.

12 BY MR. KRASOWSKI:

13 Q Issue 4 is -- raises the question that if

14 there are any conservation measures taken by or

15 reasonably available to Florida Power & Light Company

16 which might mitigate the need for the proposed

17 generating units. So I just wanted to bring that up,

18 that what I'm doing is speaking to that.

19 A Okay.

20 Q Trying to elaborate on that. Okay. Here,

21 this -- the most recent paper, and the next to last of

22 what we'd like to submit are -- oh, second next to

23 last -- how come I always get just before lunch? But

24 okay. This is an explanation at least partially, but it

25 identifies a source of innovation and information to

1869

1 FPL, I believe, from an outside source, and this is the

2 Florida Energy Commission. And as it's mentioned in

3 here, the Energy Commission newly formed by the

4 Legislature in 2006. Are you aware of the Florida

5 Energy Commission?

6 A I'm aware it's been formed, yes, sir.

7 Q Okay. Well, on page -- the third page which

8 is the last page which is numbered page 1 of 2 -- where

9 is -- let's see on the other side. We see Mr. Brandt is

10 listed as a member, right? Which -- a member of the

11 Energy Commission's -- Energy Efficiency and

12 Conservation Advisory Group. There's four subcommittees

13 of this larger group.

14 And then also Mr. Olivera is serving under

15 Energy Supply and Delivery Advisory Group. And then

16 I'll just point out there's a Renewable Energy Advisory

17 Group and Climate Change Advisory Group. And they're

18 pretty new, but their mission is to develop a -- an

19 energy plan for Florida, in a nutshell. That's my --

20 okay. It's -- and you're somewhat aware of this but

21 certainly FPL is aware of it because Mr. Brandt and

22 Mr. Olivera are participants.

23 Do you agree that this provides enormous

24 opportunity for new and innovative ideas to come forward

25 regarding every aspect of power generation and

1870

1 efficiency and its integrated implication for economics

2 and environmental considerations?

3 A I would certainly agree that it provides a new

4 forum for all of that, and I would say I hope it's

5 productive.

6 Q Okay. Very good.

7 MR. KRASOWSKI: Can I have a second here?

8 Q So, Dr. Sim, in conclusion, do you agree that

9 there's enormous -- I don't say -- okay. Do you agree

10 that there is quite a number of opportunities and

11 potential for innovation and redesigning your efficiency

12 in DSM or other efficiency efforts on the horizon,

13 including the production of electricity which you're

14 trying right now. But, I mean, in the future as well?

15 Maybe -- let me rephrase that because it's too

16 complicated a question. I've been having my training

17 here from FPL.

18 Do we agree that there is -- there is a lot of

19 opportunity on the horizon for refining efficiency

20 practices of all utilities throughout Florida?

21 A I think there is opportunity. I think there

22 always will be opportunity. Some of it is near term,

23 much of it is longer term, and FPL, and I'm sure most of

24 the utilities in the state of Florida, if not all of

25 them, continue to look at those that are cost-effective

1871

1 and applicable for their customers.

2 Q Okay. And would you agree that there's a

3 better chance than not that once these groups and

4 efforts -- these efforts are concluded, that

5 efficiencies, DSM or otherwise, will be identified that

6 will totally remove the need for the Glades Power Park?

7 A No, sir, I'm afraid I can't agree with that.

8 Q Okay. Fair enough. And then I'm sorry, one

9 last question. When you -- you were involved in the --

10 in the planning -- were you involved in the site

11 selection as well or just the planning after the site

12 was selected?

13 A I was not involved in the site collection.

14 Q And who might I go to to -- Mr. Silva is the

15 only person left.

16 A To my knowledge, Mr. Silva was not involved in

17 the site selection. That would have been Mr. Hicks.

18 Q Mr. Hicks? Okay.

19 MR. KRASOWSKI: Well, thank you very much for

20 your comments and answers to my questions. I'm

21 done, Madam Chair. Thank you.

22 CHAIRMAN EDGAR: Thank you. Other questions

23 from staff?

24 MS. BRUBAKER: Staff has no question.

25 CHAIRMAN EDGAR: Commissioners?

1872

1 Commissioner Carter.

2 COMMISSIONER CARTER: Thank you, Madam Chair.

3 I'll try to make it a compound question and get it

4 done.

5 You mentioned in your discourse about the

6 solar water heaters, you said that when the tax

7 credits were available, the cost of the solar water

8 heaters went up with it. Did I hear you correctly

9 on that?

10 THE WITNESS: Yes, sir.

11 COMMISSIONER CARTER: And you said also that

12 once the tax credit was taken away, the

13 participation in the program also ceased?

14 THE WITNESS: Yes.

15 COMMISSIONER CARTER: Is that correct? Is it

16 a -- and I probably should have asked Mr. Brandt

17 this -- is it your opinion that most of the DSM

18 programs tend to follow where there's not some

19 incentive given by government tax credits or

20 et cetera, something along those lines, in order --

21 and the basis of my question is such that is there

22 any sustainability in DSM programs? I mean, I

23 don't want a discourse, I'm just trying to put it

24 in the context of your response.

25 THE WITNESS: Sustainability, sir, without

1873

1 rebates or tax credits? I would say there's

2 certainly some level of sustainability that will

3 always be there. As innovation creates new

4 products, as prices of fuel tend to increase, as

5 prices of electricity tend to increase, there will

6 always be opportunities for customers to wish to

7 take advantage of, cost-effective for them, items

8 that are on the market, whether sponsored by a

9 utility, whether incentivized by government or not.

10 And along those lines, I think there's at

11 least for the foreseeable future as far out as I

12 can see, there's going to be a role for utilities

13 to play in regard to bringing in front of their

14 customers items that are cost-effective not only

15 for their -- for the customers themselves but also

16 for the -- for the utility itself.

17 And I think there will always be a role as

18 innovation continues for building code groups to

19 take a look at how homes and buildings may be

20 designed to be more energy efficient.

21 So in terms of general sustainability, I think

22 there will always be opportunities. Again, as we

23 just discussed, some of them fairly near term, many

24 of them further out over the horizon. But as we

25 get there, those will come forward and the

1874

1 opportunities hopefully can be taken advantage of.

2 COMMISSIONER CARTER: Thank you, Madam Chair.

3 CHAIRMAN EDGAR: Mr. Anderson?

4 MR. ANDERSON: Thank you.

5 REDIRECT EXAMINATION

6 BY MR. ANDERSON:

7 Q Dr. Sim, Mr. Krasowski asked you about the

8 Lakeland water heating program. Do you remember that?

9 A Yes, sir.

10 Q What's the total subscription of that program?

11 A To the best of my recollection, it's

12 approximately 60 customers.

13 Q About how many megawatts or kilowatts would be

14 deferred from a program like that?

15 A I believe an electric water heater load in --

16 at least in our service territory is approximately one

17 fifth of a KW. So replacing it with a solar water

18 heater would knock off .2 KW. So 60 customers would get

19 you, to put it simply, not much.

20 Q Would you please distinguish between

21 conservation programs and load management programs?

22 A Yes. The -- I think the best way for me to

23 distinguish the difference is conservation programs are

24 non-dispatchable. The utility does not have its finger

25 on the button. A change is made that's permanent or

1875

1 nearly permanent to a home or to an appliance whereas

2 load management programs are those in which the utility

3 either through direct control such as load control or

4 through time of use rates shifts the load from one

5 period to another, typically from high price peak

6 periods to off peak lower price periods.

7 Q Do both conservation and load management help

8 defer new power plants?

9 A Cost-effective conservation and cost-effective

10 load management do because they are able to address

11 significant peak hour demand savings.

12 Q Are both considered demand side management?

13 A Yes.

14 Q Mr. Beck asked you some questions concerning

15 Exhibit 159 in evidence which was the "A Call for

16 Action," USCAP document. Do you recall that?

17 A Yes.

18 Q In particular, he singled out the portion of

19 page 9 about new coal based energy facilities. Do you

20 remember that?

21 A Vaguely. Yes.

22 Q Okay. I've handed you a revised and updated

23 statement from USCAP which is the "A Call for Action."

24 I draw your attention, please, to page 9.

25 MR. ANDERSON: Can we mark this for the

1876

1 record, please.

2 CHAIRMAN EDGAR: Okay. So you're telling me

3 that this is a newer version of the same document

4 that we had at 159?

5 MR. ANDERSON: That's right.

6 CHAIRMAN EDGAR: Okay. I am on 210.

7 (Exhibit 210 was marked for identification.)

8 BY MR. ANDERSON:

9 Q Okay. So Exhibit 210, please turn to page 9.

10 Are you there?

11 A Yes, sir.

12 Q Do you see the right-hand column under new

13 coal based energy facilities and other stationary

14 sources?

15 A Yes.

16 Q Okay. Do you see the -- could you please read

17 for us that paragraph?

18 A The paragraph reads, "Coal supplies over

19 50 percent of our current electricity generation and

20 will play a continuing role in our energy future.

21 Policies are needed to speed transition to low and zero

22 emission stationary sources that can cost effectively

23 capture CO2 emissions for a geologic sequestration. We

24 do not take a position as a group on any specific

25 project even though as individual organizations, many

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1 USCAP members do have such position.

2 Q And up in the header up above, there's a

3 number 1 as a footnote. Do you see that?

4 A Yes.

5 Q What does the footnote say?

6 A Footnote No. 1 reads, "The language contained

7 in this section has been revised from the original

8 version of this report to clarify the intent of the

9 USCAP."

10 Q And the section they refer to is what you just

11 read, right?

12 A Yes, sir.

13 Q Mr. Gross read portions of the Florida

14 Administrative Code, Rule 25-17.001 addressing DSM. Do

15 you remember that?

16 A Yes, sir.

17 Q Do you recall -- referring to subsection 3 of

18 that same rule, which was marked as Exhibit 199, do you

19 have that there?

20 A I have many, many papers here. Can you tell

21 me what the title is, please.

22 Q The title on the first page is 25-17.008,

23 Conservation of Self Service, et cetera. It's the rule.

24 A Yes, sir, I have that.

25 Q Looking down at subsection 3 of the rule, are

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1 there other objectives of the Florida Energy Efficiency

2 and Conservation Act stated there? Is, for example, is

3 reduction of peak demand also a primary goal of the

4 Florida Energy Efficiency and Conservation Act?

5 A You're referring to the second page of this --

6 Q Yes, I am.

7 A Okay. Yes, reducing the growth rate of

8 weather sensitive peak demand on the electric system to

9 the extent cost-effective is a priority.

10 Q Would increasing spending on DSM activities as

11 suggested by Sierra Club witness Mr. Plunkett reduce

12 peak demand?

13 A If I could reduce a KW for $1, I don't see a

14 benefit for reducing the same KW by spending $2.

15 Q Would increasing spending on DSM activities as

16 suggested by Sierra Club witness Mr. Plunkett defer the

17 need for FGPP?

18 A From everything I've seen in analyses, not

19 only for this project but in the past 10 to 15 years, I

20 would say no. Demand side management cannot cost

21 effectively do away with the need for the FGPP units.

22 Q Would increasing spending on DSM activities as

23 suggested by Sierra Club witness Mr. Plunkett increase

24 rates to customers?

25 A All else equal, yes, it would.

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1 Q Regarding the 1994 DSM goals order that you

2 discussed, the order said that the TRC test could be

3 used where the savings are large and the rate impacts

4 are small. Do you remember that?

5 A Yes, I do.

6 Q Has FPL encountered a situation where it has

7 felt that the savings in the TRC test would be large and

8 the rate impact small?

9 A No, we haven't and we have looked.

10 Q If FPL changed to the TRC test for cost

11 effectiveness, do you think there would be substantial

12 incremental demand or KW reduction?

13 A I do not think there would be anything nearly

14 substantial enough to do away with the need for the

15 power plant. I think you would see rates increase, you

16 would see some energy, some additional energy reduction

17 but not a proportional increase in the amount of peak

18 hour KW reduction.

19 Q Mr. Gross asked you about new programs

20 approved for FPL in 2006. Were the incremental savings

21 from these new programs approved by the Commission

22 incorporated into FPL's resource planning in determining

23 whether FGPP was needed?

24 A Yes. The projected number of megawatts over

25 the ten-year period was 564 megawatts, and those were

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1 included in all of our analyses.

2 MR. ANDERSON: That's all that FPL has. We

3 would offer Exhibit 134 and 210.

4 CHAIRMAN EDGAR: Okay. Exhibit 134 will be

5 entered into the record. Any objections to exhibit

6 marked 210?

7 MR. BECK: Madam Chair, maybe Mr. Anderson

8 could represent. I don't believe either

9 Exhibit 159 or 210 have dates on them. I was

10 wondering if he could represent what the dates are.

11 MR. ANDERSON: The documents do not state

12 dates on their face. I agree they don't state

13 dates.

14 MR. BECK: Right. I'm just wondering for the

15 record, do you know?

16 MR. ANDERSON: We are checking if we know the

17 answer to that.

18 MR. GROSS: Madam Chair?

19 CHAIRMAN EDGAR: Mr. Gross?

20 MR. GROSS: We would like to independently

21 determine when this document, this new USCAP

22 document, when it was created and would like to

23 supplement the record accordingly.

24 CHAIRMAN EDGAR: Supplement beyond the date?

25 MR. GROSS: Yes.

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1 CHAIRMAN EDGAR: Or just the date?

2 MR. GROSS: Just the date.

3 CHAIRMAN EDGAR: Just the date?

4 MR. GROSS: Just the date.

5 CHAIRMAN EDGAR: Mr. Anderson?

6 MR. ANDERSON: We do not -- we checked and we

7 do not know the specific dates. We do know the

8 sequence of the documents because the latter one

9 refers to it being a revision. And of course the

10 USCAP documents only came out after, for example,

11 FPL and other -- FPL group and other companies

12 announced their participation in USCAP which was --

13 I'm just not recalling when we did that. Very

14 recently.

15 CHAIRMAN EDGAR: Ms. Brubaker, do you have a

16 suggestion?

17 MS. BRUBAKER: Well, I'm kind of struggling

18 with the idea of how to authenticate the date for

19 the -- what is presumably the newer document.

20 Perhaps a late-filed would be the way to address

21 that.

22 MR. ANDERSON: We'll offer a late-filed on

23 that.

24 CHAIRMAN EDGAR: Mr. Beck, Mr. Gross, will

25 that –-

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1 MR. BECK: That's fine by me.

2 MR. GROSS: This would be a

3 late-filed exhibit?

4 CHAIRMAN EDGAR: Dated.

5 MR. GROSS: By FPL?

6 CHAIRMAN EDGAR: Yes.

7 MR. ANDERSON: And right.

8 MR. GROSS: We would like to be able to

9 independently verify it. And of course if it's the

10 same, there would be no issue.

11 CHAIRMAN EDGAR: Ms. Brubaker?

12 MS. BRUBAKER: Well, I suppose the easiest way

13 to address the question is to talk about how we're

14 going to authenticate. Are you going to request a

15 certified copy or --

16 MR. ANDERSON: We'll have to ask and find a

17 way that's sufficiently probative because it's not

18 our document. It's a document by this group of

19 companies and it was not, you know, produced under

20 our control. So we'll have to ask and obtain that

21 information.

22 MS. BRUBAKER: To be quite frank,

23 Commissioner, you know, there's the same problem

24 with No. 159 that was submitted by Sierra. We

25 don't have an authenticating date. So do we make

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1 it commensurate and ask both parties to have some

2 sort of confirmation or can we simply, you know --

3 CHAIRMAN EDGAR: Mr. Guest, do you have a

4 suggestion?

5 MR. GUEST: Yeah. I think we should both do

6 it. I mean, I couldn't agree more. We should have

7 the dates for them both and see what they look

8 like. And I think the way to do it is going to be

9 to just maybe get an affidavit or something from

10 the which we've been able to do fairly easily in

11 various other forums.

12 CHAIRMAN EDGAR: Mr. Anderson, can you

13 accommodate that?

14 MR. ANDERSON: We'll see what we can get.

15 That's a reasonable approach. We just have to

16 track it down and see what we can do.

17 CHAIRMAN EDGAR: Okay. So 210 will be late

18 filed by FPL.

19 Then that brings us to, Mr. Gross, the

20 exhibits that you have submitted which were 198

21 through 205. Mr. Anderson? Mr. Anderson, any

22 objections to Exhibits 193 through 205?

23 MR. ANDERSON: I need to look at them very

24 briefly. I'm sorry.

25 CHAIRMAN EDGAR: Okay. How about we do this.

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1 And let's take five minutes anyway because I would

2 like to stretch. Ten? I see ten. So we will take

3 ten minutes. When we come back, we will finish

4 taking up the exhibits that have been put forth

5 during Mr. Sim's testimony and then we will push

6 on. We are going a little later than I expected

7 but we will push on with our final witness. So

8 let's clear the cobwebs, take ten minutes, and

9 we'll be back.

10 (Break taken.)

11 CHAIRMAN EDGAR: Okay. We will go back on the

12 record. On the break, Mr. Anderson distributed the

13 relabeled -- is that correct?

14 MR. ANDERSON: That's right.

15 CHAIRMAN EDGAR: -- version of the exhibit

16 that had previously been marked 178. So that has

17 been distributed to Commissioners, staff, the

18 parties and the court reporter. So that will be

19 submitted into the record as we had discussed

20 earlier.

21 And that brings us then to the exhibits that

22 had been submitted by Mr. Gross during Mr. Sim's

23 testimony, Exhibits 198 through 205. Mr. Anderson,

24 are there any objections?

25 MR. ANDERSON: No.

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1 CHAIRMAN EDGAR: No objections. Seeing no

2 objections, okay, Exhibits 198 through 205 will be

3 entered into the record.

4 (Exhibits 198, 199, 200, 201, 202, 203, 204

5 and 205 admitted into the record.)

6 CHAIRMAN EDGAR: And that brings us to

7 exhibits submitted by Mr. Krasowski, 206 through

8 209.

9 MR. ANDERSON: And then one other brief

10 housekeeping matter. We talked about the dates for

11 210, remember that.

12 CHAIRMAN EDGAR: Oh, yes.

13 MR. ANDERSON: And 159 which was counsel's --

14 our thought would be if acceptable to counsel and

15 the Commission, admit them both now and then also

16 follow with a late-filed. That will keep it on the

17 right footing. The late-filed will be just the

18 date.

19 CHAIRMAN EDGAR: And I'm seeing nods from

20 Mr. Guest, Mr. Gross, Mr. Beck. Let me look to

21 Ms. Brubaker.

22 MS. BRUBAKER: And for the sake of clarity,

23 would we make that Late-Filed No. 211?

24 MR. ANDERSON: That will be fine.

25 CHAIRMAN EDGAR: Okay. 211 to be late filed

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1 by Mr. Anderson. Okay.

2 (Late-Filed Exhibit 211 identified.)

3 (Exhibits 206, 207, 208, 209 and 210 admitted

4 into the record.)

5 CHAIRMAN EDGAR: So then we can go ahead and

6 admit 210? Okay. Then 211 will be late-filed, 210

7 is admitted.

8 And that brings us then to 206 through 209.

9 Any objections? Ms. Brubaker? No objections.

10 Okay. Mr. Krasowski, then we will enter 206, 207,

11 208 and 209.

12 (Exhibits 206, 207, 208 and 209 admitted into

13 the record.)

14 CHAIRMAN EDGAR: Mr. Sim, you are excused.

15 Thank you for your patience.

16 MS. SIMPSON: Thank you.

17 CHAIRMAN EDGAR: Mr. Litchfield, your witness.

18 MR. LITCHFIELD: Thank you, Chairman Edgar.

19 FPL's next and last witness is Mr. Rene Silva. And

20 Mr. Silva has previously appeared and been sworn.

21 Thereupon,

22 RENE SILVA

23 was recalled as a witness on behalf of FPL, and having

24 been duly sworn, testifies as follows:

25 DIRECT EXAMINATION

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1 BY MR. LITCHFIELD:

2 Q Good afternoon, Mr. Silva.

3 A Good afternoon.

4 Q Have you prepared and caused to be filed 38

5 pages of prefiled rebuttal testimony in this proceeding?

6 A Yes, I have.

7 Q And did you also cause to be filed errata to

8 your rebuttal testimony on April 13th, 2007?

9 A Yes.

10 Q Do you have any further changes or revisions

11 to your prefiled rebuttal testimony?

12 A No.

13 Q Okay. Considering the errata that you filed,

14 if I were to ask you the same questions contained in

15 your prefiled rebuttal testimony today, would your

16 answers be the same?

17 A Yes.

18 MR. LITCHFIELD: Madam Chairman, I would ask

19 that Mr. Silva's prefiled rebuttal testimony be

20 inserted into the record as though read.

21 CHAIRMAN EDGAR: The prefiled rebuttal

22 testimony with the errata will be entered into the

23 record as though read.

24

25

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1 MR. LITCHFIELD: And it's my understanding

2 that there are no exhibits associated with

3 Mr. Silva's rebuttal testimony.

4 BY MR. LITCHFIELD:

5 Q Mr. Silva, have you prepared a summary of your

6 rebuttal testimony?

7 A Yes, I have.

8 Q Would you please provide that to the

9 Commission at this time.

10 A Yes. Thank you. Good afternoon,

11 Chairman Edgar, Commissioners. Thank you for giving me

12 this opportunity to summarize my rebuttal testimony.

13 My rebuttal testimony explains why a number of

14 statements presented in Mr. Schlissel's testimony is

15 incorrect. First, the evidence presented by FPL clearly

16 shows that FPL has appropriately considered all

17 available alternatives to meet the resource needs of

18 FPL's customers and maintain fuel diversity in the

19 future; that FPL has performed an effective complete

20 evaluation that addresses all issues that are relevant

21 to the determination of the best resources to add to

22 FPL's portfolio in 2013 and 2014; and that the results

23 of FPL's evaluation presented to the Commission as part

24 of this petition for determination of need demonstrate

25 that the addition of FGPP in 2013 and 2014 is the best,

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1 most cost-effective alternative to maintain system

2 reliability by maintaining adequate resource reserves

3 and fuel diversity in FPL's system.

4 Second, my rebuttal testimony demonstrates

5 that FPL's 20 percent reserve margin reliability

6 planning criteria is appropriate and necessary to ensure

7 reliable service for FPL's customers. Specifically, my

8 testimony shows that a reserve margin planning criterion

9 of 15 percent as suggested by Mr. Schlissel would

10 provide insufficient generation reserves to ensure

11 reliable service even under unordinary conditions and

12 would make it very difficult to perform necessary

13 planned maintenance on FPL's advanced gas turbines.

14 In addition, using such a lower planning

15 criterion would result in excessive exercise of DSM

16 which would lead to DSM cancellations and lower DSM

17 descriptions in the future. Using such a lower

18 criterion would also require excessive use of older,

19 less efficient peaking units which would result in

20 greater forced outages and higher fuel costs. In other

21 words, the system would not be reliable.

22 Third, my rebuttal testimony shows that

23 denying FPL's petition for a timely determination of

24 need, whether in the form of a rejection or delay, as

25 Mr. Schlissel and Mr. Plunkett suggest, would not be in

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1 the best interest of FPL's customers because such a

2 denial would result in a severe reduction in fuel

3 diversity just when our customers need fuel diversity

4 the most and would make our customers even more

5 vulnerable to the very uncertainties that a delay would

6 purport to mitigate.

7 Furthermore, the only other possible

8 alternative to FGPP, which would be adding gas

9 generation exclusively, results in higher costs, lower

10 reliability, and greater uncertainty.

11 FPL's filing shows that only the addition of

12 FGPP to FPL's portfolio can enable FPL to maintain the

13 level of fuel diversity and generation reserves

14 necessary to deliver service reliability and mitigate

15 the effect of expected uncertainties in natural gas

16 prices for the benefit of its customers.

17 For these reasons, the Commission should grant

18 the determination of need for the addition of FGPP 1 and

19 2 in 2013 and 2014 respectively. Thank you.

20 MR. LITCHFIELD: Mr. Silva is available for

21 cross-examination.

22 CHAIRMAN EDGAR: Thank you. Mr. Beck? No

23 questions. Mr. Gross?

24 MR. GROSS: No questions.

25 CHAIRMAN EDGAR: No questions? Mr. Krasowski?

1930

1 MR. KRASOWSKI: Yes, thank you.

2 CROSS-EXAMINATION

3 BY MR. KRASOWSKI:

4 Q Hello, Mr. Silva, how are you doing?

5 A Hello, Mr. Krasowski.

6 Q So, Mr. Silva, judging from your comments and

7 your testimony, am I to understand that you think a

8 delay in building this facility and giving an

9 opportunity to all of the Commission's organizations,

10 governmental agencies and the Governor, Governor's

11 efforts a chance to -- to find alternatives for this

12 facility would not be a good idea? Should I rephrase

13 that? It's kind of long.

14 A I think you phrased it very clearly. Yes,

15 that's what I'm saying. To delay this project would not

16 be in the best interest of FPL's customers because

17 there's absolutely no assurance that any alternative

18 could possibly defer the need for this unit.

19 Q Mr. Silva, I'd like to call your attention

20 to -- and I'll give you this if you don't have it with

21 you. I don't think you do. May I approach the witness,

22 ma'am?

23 CHAIRMAN EDGAR: What is it?

24 MR. KRASOWSKI: It's the BEBR report that was

25 entered a moment ago.

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1 CHAIRMAN EDGAR: Yes.

2 MR. KRASOWSKI: Mr. Sims suggested we ask you

3 about this. Do you have another one? Thank you.

4 BY MR. KRASOWSKI:

5 Q My particular interest in this is to ask you

6 to what degree did you consider the BEBR report for

7 population projection when you decided on moving forward

8 with this project?

9 A As Dr. Sim indicated, Dr. Green used the BEBR

10 report as part of his projection for need in the future.

11 And that is a reflection of FPL's forecast. I will not

12 be able to answer detailed questions, but I'd be happy

13 to listen to questions that you have and as far as I can

14 answer, I will.

15 Q Okay. I appreciate that very much. My only

16 question is, are you aware of whether or not

17 Mr. Green -- it's on the back bottom -- Dr. Green,

18 sorry -- Dr. Green used the low, medium or high

19 forecast?

20 A Yes. Dr. Green uses the medium forecast for

21 population in Florida. And one interesting note is that

22 we have used this for many years and not once in all the

23 years that we have used it has the actual population

24 growth come at or below the forecast. It has always

25 uniformly been significantly higher than the forecast.

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1 In the last three years, for example, the

2 forecast that came seven years before, that was prepared

3 seven years before, essentially the same lead-time that

4 we have now to plan for FGPP averaged being lower than

5 the actual by 6.9 percent. So population growth has

6 outdone the forecast every year and in the last few

7 years even more strongly than ever.

8 Q I had other questions about population

9 projections but Dr. Green has addressed those and it's a

10 matter of record, as far as schools and all of that.

11 But do you agree that the population

12 projections are probably accurate even though there's a

13 decline in economic growth and activity across the

14 state?

15 A I cannot agree that there's a decline in

16 economic activity across the state.

17 Q Thank you. Okay. On page 5 of your

18 testimony, you mention that we would need 20 square

19 miles of solar voltaic panels to provide the equivalent

20 energy that would come from this project.

21 A That's correct. The area that would have to

22 be used for photovoltaic according to our experts, we

23 would cover 20 square miles.

24 Q Given that your service area is about -- spans

25 about a third of the state, and so that would be like 23

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1 counties, that's not all that much when you consider the

2 area covered by roof tops, wouldn't you say?

3 A I am not commenting here about solar energy

4 that homes or businesses might have on the roofs. My

5 comment here is portable takes for the production of

6 electricity at a central plant and this is our estimate

7 of what it would take.

8 I also wanted to indicate that the cost of

9 solar installation in dollars per megawatt hour would

10 be $250 per megawatt hour. More than two-and-a-half

11 times what the only FGPP cost would be if you could do

12 it using 20 square miles of land. And that's not the

13 only statistics. The size of this facility would be

14 equivalent to 100 times the total installation of

15 photovoltaic in the United States in 2005.

16 So if you use that as an average, in essence

17 we've been saying that we would have to compress 100

18 years of installation between now and 2017. It's just

19 not a feasible alternative.

20 And I might add, solar does not provide

21 capacity. You cannot count on it when you have the peak

22 load because of cloud cover, because of humidity, rain,

23 et cetera.

24 So if you were to add solar generation for

25 energy, you would also have to add backup capacity in

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1 the form probably of simple cycle combustion turbines.

2 So when you need to meet peak load and the sun is not

3 able to produce the electricity, then you would have

4 something to fall back upon.

5 So the equivalent cost that I refer to does

6 not even reflect the incremental costs of that backup

7 capacity. That's the reason why we say that we have

8 evaluated these alternatives or they simply in this

9 magnitude do not make economic sense.

10 Q Mr. Silva, do you not agree that when it's

11 cloudy outside there's a diminished need for energy?

12 A When it's cloudy in one location, there. But

13 you could have wherever the plant is, which is affected

14 by clouds but the rest of the state has a peak load

15 because it's very hot. So you can't count on that.

16 Q So distributive energy would be the way to go?

17 A That is a possibility that can be pursued.

18 But again, it is not something that is developed today

19 to the point that our customers can count on it to meet

20 their needs for capacity in this time frame.

21 Q Let me ask you this. Would you agree that

22 on-site electrical production and deferral of electrical

23 need, solar hot water, is diversity, represents

24 diversity?

25 A Yes, it provides a measure of diversity. But

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1 I -- but I think that it's relatively limited.

2 Q Would you believe that on-site electricity and

3 solar hot water -- well, do you -- would you agree that

4 on-site solar hot water heating provides a greater

5 degree of diversity and stability and security to

6 customers being that, let's say, after disruption of

7 service of the big centralized power plant, the local

8 on-site hot water heater would be available in the case

9 of a hurricane or something for people to clean

10 themselves and be comfortable until the power company

11 got back on line?

12 A If you're asking for one or the other, then I

13 would not agree that this gives you greater security.

14 The hot water heating would only be a small portion of

15 the electric demand. And I perceive that there's many

16 other uses for electricity that would be of greater

17 interest to customers.

18 Q I should have phrased my question, to make it

19 clear, that I'm talking about an integrated program.

20 You're familiar with the Lakeland pilot program on solar

21 hot water that the Lakeland utilities provides the hot

22 heaters for their 60 -- I believe it's 90, now,

23 customers. Are you familiar with that?

24 A I've heard it in this forum.

25 Q And you understand that that's a model

1936

1 experimental program that's being discussed?

2 A Yes, I've heard that.

3 Q Okay. Now, help me understand this. There's

4 a lot of talk about alternative energies, like

5 streetlights at night, efficient streetlights at night

6 wouldn't affect the peak so they don't contribute to

7 deferral of the need for a new power plant. But don't

8 things like efficient air conditioners and efficient

9 streetlights as far as the traffic lights, LED lights as

10 opposed to what we usually use now, the regular bulbs,

11 don't they operate continuously; therefore, they do draw

12 down the amount of energy that's needed for peak, their

13 efficiencies?

14 A Anything that would draw down the load during

15 the areas of peak would be helpful. But the issue is by

16 how much and how effectively. The point is that in

17 general, these -- these ideas are the type of ideas that

18 FPL pursues and has pursued. We are in no way saying we

19 shouldn't do this. In fact, we are saying we do these

20 things. We do them to the extent that it's

21 cost-effective to do them.

22 However, the ultimate decider in how much can

23 be done with these programs is the customer and

24 cost-effectiveness. We're doing it to the extent that

25 it's cost-effective and possible. And even with all of

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1 that, even with all of the concepts that have been put

2 forth, it is not nearly enough now or in the future in

3 this time horizon of 2013 to 2017 to defer the need for

4 generating capacity in the system. It just is not

5 there.

6 Q Let's see. On page 27, line 7 through 10 on

7 your -- in your rebuttal testimony, you say that

8 according to Mr. Brandt's testimony, there is still room

9 for -- excuse me, you didn't say that. We said that.

10 Let's see.

11 You made the comment in relation to what you

12 said, you said in answer to a question about

13 Mr. Plunkett's recommendation, that the Commission

14 directed FPL to design and develop an aggressive DSM

15 portfolio capable of deferring the need for additional

16 generation for at least five years, and that is through

17 2018, to allow time for FPL and the Commission to

18 evaluate a wide range of alternatives.

19 And the question then was put to you, "Do you

20 agree with Mr. Plunkett's recommendation?" And your

21 answer was, "No. Mr. Brandt's rebuttal testimony

22 explains that there is not sufficient achievable cost

23 effective additional DSM measures that could defer the

24 need for FGPP."

25 And then you go, "I will address

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1 Mr. Plunkett's implication that there are benefits in

2 delaying the addition of" -- so my question to you, sir,

3 is, according to Mr. Brandt's own testimony, there is

4 still room for increased customer participation in your

5 existing DSM program. So where is the FPL's plan to

6 accomplish an increase in the participation?

7 A I'm afraid that I'm not the witness to comment

8 on those plans. Mr. Brandt would be the right person.

9 Q Okay. On page 28, you were saying neither FPL

10 nor the Commission -- I'm sorry, number -- line 20,

11 page 28. Neither FPL nor the Commission need additional

12 time to re-evaluate alternatives, nor is there any new

13 information to require re-evaluation or to suggest that

14 a different result would be obtained in addition -- in

15 addition because, as Mr. Brandt explains, Mr. Plunkett's

16 suggestions that the need for the FGPP could defer --

17 that the need for FGPP could be deferred through the use

18 of aggressive DSM is pure fantasy. A decision is needed

19 now if FPL customers are to be reliably served."

20 First thing, are you speaking for the

21 Commission here? "Neither FPL nor the Commission need

22 additional time." How do you know what the Commission

23 needs?

24 A That is my opinion. In response to

25 Mr. Plunkett's information, the only evidence that has

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1 been presented -- and I'm referring to evidence and not

2 unfounded claims -- points to the fact that the record

3 is complete that we have presented a complete analysis

4 of all the alternatives that are viable, that there's a

5 real need for capacity, that the customers' reliability

6 will depend on it and therefore it is time, based on

7 that evidence, that a decision must be made. Even no

8 decision is a decision.

9 So we've been talking about -- in my testimony

10 to put things in context, in my testimony I have also

11 explained that this process of analysis and sharing

12 information with all the parties began in 2003. During

13 all of that time, we have been evaluating the various

14 alternatives, the various factors that affect those

15 alternatives and that -- all of that information has

16 been shared in a public forum, more or less formal.

17 Nothing that has been presented has added to

18 FPL's petition in terms of providing a viable

19 alternative. Nothing in the way of evidence or proof.

20 So my point is that in the absence of any

21 other concrete information, it is definitely time to

22 make a decision.

23 Q You refer to Mr. Plunkett's assertion that

24 aggressive DSM could displace the need for this plant as

25 pure fantasy. That's interesting. I thought that was

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1 pretty interesting. Is that what you said?

2 A Yes.

3 Q Okay. Let's see. So -- so, Mr. Silva, you're

4 familiar with the Florida solar energy research, one of

5 the -- you're familiar with the Florida solar energy

6 research, the house, the high energy efficiency house

7 that maximizes all of the efficiencies from appliances

8 to design of the home and the -- and the hot water

9 heater, solar hot water, and with or without the PV.

10 You're familiar with that, right? That's this document

11 that we handed out earlier. Have you seen it at all?

12 A No. And I'm not particularly familiar with

13 the -- with that program.

14 Q You're not familiar with it?

15 A No.

16 Q Well, these folks say -- and they're reputable

17 scientists, have a huge staff. I mean, they're known

18 around the world, they do work --

19 MR. LITCHFIELD: I'll object, Madam Chairman.

20 I think the witness is not able to comment on this

21 document. I don't think that opens the door for

22 Mr. Krasowski to testify.

23 MR. KRASOWSKI: Excuse me. I got carried away

24 for a minute.

25 BY MR. KRASOWSKI:

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1 Q Well, let's see if I can rephrase this -- if I

2 can rephrase it. Are you familiar with the work of the

3 FPL Solar Energy Research Center that identifies from 70

4 to 92 percent energy efficiency compared to a regular

5 home? Are you familiar with that?

6 A No.

7 Q No? Okay. Do you think the work of the

8 Florida Solar Energy Center in general -- are you

9 familiar with them at all?

10 A No.

11 Q Okay. We'd like to present a -- we'd like to

12 distribute a document, if we may.

13 CHAIRMAN EDGAR: 212.

14 (Exhibit 212 was marked for identification.)

15 Q My apologies, Mr. Silva, if I got a little

16 excited there.

17 A No apologies are necessary.

18 Q What Jan just distributed is Governor Charlie

19 Crist, our new Governor, his 2007 State of the State

20 Speech. And I apologize that these pages are not

21 numbered. But if you turn to the sixth page, at the

22 very top it says, "I asked the Legislature to approve."

23 Probably even easier to recognize, at the bottom of the

24 page there's "no longer" underlined in the beginning of

25 that paragraph. Are we on –-

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1 A Yes, I am.

2 Q Okay. Well, the next to the last paragraph

3 there, I -- I'd like to ask you about this -- just that.

4 That's the only part of this document that I'm

5 interested in knowing about.

6 The governor is very concerned, he expresses

7 it by saying, "With almost 1200 miles of coastline and

8 the majority of our citizens living near the coastline,

9 Florida is more vulnerable to rising ocean levels and

10 violent weather patterns than any other state yet we

11 have done little to understand and address the root

12 causes of this problem or, frankly, even acknowledge

13 that the problem exists."

14 And he says, "No longer. Following this

15 legislative session, I will bring together the brightest

16 minds to begin working on a plan for Florida to explore

17 groundbreaking technologies and strategies that will

18 place our state at the forefront of a growing worldwide

19 moment to reduce greenhouse gases." Of course,

20 greenhouse gases includes some of the emittance from the

21 coal technologies, even the best ones, right?

22 "Florida will provide not only the policy and

23 technical advances, but the moral leadership to allow us

24 to overcome this monumental challenge."

25 Do you have -- my question would be, do you

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1 see any -- a possibility of some big result as -- coming

2 from this big effort that the Governor is advocating for

3 starting next year?

4 A I fully anticipate that from several sources,

5 obviously the Governor's interest, from the perspective

6 of the federal government and from many groups and

7 industry, including FPL group, that a significant effort

8 will be embarked on to address global warming and

9 greenhouse gases.

10 We don't know exactly what form it will take,

11 but we believe that we have effectively addressed that

12 concern. First in our record to date, in terms of our

13 system and how it operates and how clean it is. And in

14 the future, in the systems that we are putting forth

15 with FGPP, to mitigate the effects of emissions and many

16 other substances, not just those that cause global

17 warming, we plan to continue to move in the direction of

18 controlling and mitigating these emissions.

19 So we believe that we are very consistent with

20 the intent of this statement by the Governor as well as

21 those that have been voiced at the federal level. But

22 the fact still remains that neither the Governor nor

23 anybody else has said we need to ignore the need for new

24 generating capacity, we need to ignore the need for

25 reliable service. So the burden has been placed on us

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1 to find the best, most cost-effective alternative and

2 make it work. And at this point in time, and in my

3 opinion through 2018, this is the best alternative for

4 FPL's customers in Florida.

5 Q Mr. Silva, you told us a little while ago that

6 you're not familiar with the Florida Solar Energy

7 Center.

8 A That's correct.

9 Q Okay. So your comments are a bit -- so would

10 you agree that you're speaking from a constrained frame

11 of reference?

12 A No, on the contrary. I have been taking into

13 consideration as part of my role the inputs from many

14 experts both within and outside the company in order to

15 reach the recommended course of action that we have

16 taken.

17 The fact that I don't have the specific

18 knowledge about one program that I relate or refer --

19 defer to experts to provide that information is --

20 doesn't mean that I have not taken that into

21 consideration. But I am simply not the witness that can

22 answer questions about that particular subject.

23 Q Would you like to -- would you care to change

24 your assessment of Mr. Plunkett's suggestion, being that

25 you're not familiar with Florida Solar Energy Center,

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1 from pure fantasy to something that you think is

2 improbable? I mean, pull it back out of the realm

3 of the --

4 A Well, my characterization has to do with the

5 fact of how the claim was presented. There was no

6 explanation of how it could be done other than to say if

7 you spent this much money as they do in California,

8 you're going to get much better results.

9 And there was no evidence of any sort. There

10 was totally unfounded claim. Therefore, it's not

11 realistic, it's not supported. And I think that the

12 word that I used accurately portrays how I would refer

13 to an unfounded claim like that, which I also think is

14 irresponsible because it in essence implies do as I say

15 and it's okay if the customer bears the consequences

16 when it doesn't happen. I can appreciate that position

17 given the constraints on your understanding of the issue

18 and the peripheral issues involved in it. Thank you.

19 Q Would you agree then that Mr. Plunkett did not

20 do a very good job at representing DSM in energy

21 efficiency strategies as they might relate to FPL's

22 efforts?

23 A I would definitively agree and I would also

24 say that I think that our case presented primarily by

25 Mr. Brandt and Dr. Sim have shown the extent to which we

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1 have gone in implementing DSM programs to the point

2 where in 2016, 21 percent -- rather, DSM will represent

3 21 percent of our projected peak load. I'm convinced,

4 and there isn't another utility in the United States

5 that can come close to that level. More than a fifth of

6 the peak load in 2016 is the equivalent of how much

7 demand side management we have in our system.

8 Of our total resources that include DSM as

9 well as the generation resources, DSM constitutes

10 17 percent in 2016. That is a very significant level

11 that I don't think Mr. Plunkett sought to understand or

12 represent. And my opinion to arbitrarily say if you

13 spend more money, you could double or triple without any

14 foundation, without any basis, is not simply true and

15 not founded and not supported.

16 Q Did you find anything of value in

17 Mr. Plunkett's testimony?

18 A Not that I can recall.

19 Q Okay. We have another -- our last and final

20 exhibit to offer and to ask you questions about, if we

21 may. While Jan is passing this out, Mr. Silva, I'd like

22 to ask you, are you familiar with what the Tallahassee

23 utility is doing in terms of their new DSM efforts?

24 A I understand that they have projected a much

25 higher use of DSM than they did project a year ago.

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1 Q Now, it's my understanding that Tallahassee is

2 a customer-owned utility and Florida Power & Light is

3 investor-owned. And because of this distinction, they

4 can do more with DSM because they're not beholding to

5 the RIM standard. Do you understand that at all or --

6 A Well, I don't know what standard Tallahassee

7 uses and I don't think that the fact that FPL is an

8 investor-owned utility would limit how it looks at

9 demand side management.

10 Q They use a TRT standard. Are you familiar

11 with that?

12 A Somewhat.

13 Q Is -- is there -- would there be a benefit to

14 FPL being transferred to being a customer-owned utility

15 if the Legislature would get together and do that? Is

16 there a benefit in that, being that it allows for more

17 flexibility and --

18 MR. LITCHFIELD: I'm going to object to the

19 form of the question. I think it -- first of all,

20 I think it's a compound question. But secondly,

21 and more important, it vastly exceeds the scope of

22 Mr. Silva's rebuttal. In fact, a number of these

23 questions I think as we've been listening far

24 exceed the scope of Mr. Silva's rebuttal.

25 MR. KRASOWSKI: I apologize and we'll withdraw

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1 the question.

2 BY MR. KRASOWSKI:

3 Q Mr. Silva, could you turn your attention to

4 the document that was just handed out that's the Century

5 Commission material. Do you have it there?

6 A I have it, yes.

7 Q Okay. Well, if I may describe this, the first

8 cover page is a printout that explains what the Century

9 Commission is. And I apologize for all the blank pages,

10 it wasn't my doing, but I wanted to include them. And

11 then it goes on to give an overview of Century

12 Commission for a Sustainable Florida.

13 But if you can keep going through this until

14 you get to the table of contents. I've printed out

15 number 9, recommendations to the Governor and the

16 Legislature. And then you go a few more pages and

17 there's an introduction to the recommendations. And if

18 you keep going, there's the -- on a page labeled B,

19 specific recommendations, page 43 on the bottom right,

20 is identified, it mentions how the Century Commission --

21 and I'll go back to the first page here and explain the

22 Century Commission is --

23 MR. LITCHFIELD: Well, Madam Chairman, before

24 Mr. Krasowski -- excuse me, if I might -- before

25 Mr. Krasowski begins to lay on the record his

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1 impression of this document, its source and

2 origination, may I ask that he lay a few predicate

3 questions with the witness in terms of the

4 witness's familiarity with this document?

5 MR. KRASOWSKI: Yes, I apologize.

6 BY MR. KRASOWSKI:

7 Q Mr. Silva, are you familiar with the Century

8 Commission?

9 A No, I am not.

10 Q Okay. So then I suppose you don't understand

11 anything about this document -- or you're not familiar

12 with this document?

13 A I have not seen this document before.

14 Q Okay. So you're not aware of the fact that

15 the Century Commission has recommended --

16 MR. LITCHFIELD: Objection, Madam Chairman.

17 CHAIRMAN EDGAR: Mr. Litchfield?

18 MR. LITCHFIELD: I'll object. The witness has

19 said he's not familiar with the Commission nor with

20 its recommendation so I think any further question

21 at this point would be improper.

22 MR. KRASOWSKI: Apologies once again. We'll

23 just stop it there with this document.

24 CHAIRMAN EDGAR: Okay.

25 MR. KRASOWSKI: Okay? Can I have a minute?

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1 CHAIRMAN EDGAR: Yes.

2 MR. KRASOWSKI: Thank you, Mr. Silva. We are

3 done, Commissioners.

4 CHAIRMAN EDGAR: Any further questions from

5 staff?

6 MS. HARRIS: Just a few.

7 CROSS-EXAMINATION

8 BY MS. HARRIS:

9 Q Good afternoon, Mr. Silva.

10 A Good afternoon.

11 Q Has FPL submitted recently for approval to the

12 Commission a series of proposed standard offer contracts

13 that will be available to renewable waste energy plants?

14 A Yes, we have. On April 1st of this -- of this

15 year.

16 Q And the proposed standard offer contracts

17 submitted by FPL were based on natural gas, not coal,

18 correct?

19 A That's correct. It was consistent with the

20 rule as we understood it. However, I might add that as

21 we have indicated to any potential supplier of renewable

22 resources, we would be willing to negotiate with them

23 supply agreements based on either combined cycle, fuel

24 with gas, which is what the standard offer contract is,

25 but also simple cycle fuel with gas, but also against

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1 FGPP costs. So we would give the potential resource

2 suppliers to make the choice as to what is most

3 beneficial for them.

4 Q Thank you. And isn't it true that FPL

5 recently issued an RFP for renewable generation?

6 A Yes, that is correct, on April 23rd, I

7 believe, a week ago, we issued a request for proposals

8 for renewable generation in Florida essentially asking

9 for any proposals to supply renewable resources to take

10 effect or go in service by 2015. And of course we also

11 expressed interest in knowing about any one who would

12 want to do the same thing beyond 2015. But for the

13 purpose of evaluation and prioritizing with whom we

14 would negotiate, we needed to draw a line someplace and

15 we chose 2015.

16 But we are very interested in finding out just

17 how many opportunities there are and to be able to

18 pursue that with any suppliers. The due date for

19 responses is July 1st. We felt that that was giving

20 respondents sufficient time to prepare their responses

21 and we will have, I believe, on May 18th an open forum

22 meeting face-to-face or by phone with any interested

23 parties that will want to get additional information.

24 In addition to that, we have an open -- open

25 forum for questions and answers through -- through the

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1 website where we will respond for the next month to any

2 questions that are posed to us by any prospective

3 bidder.

4 Q Thank you. And if you could, take a look at

5 the documents that were just handed to you with the blue

6 cover and take a moment to look through those.

7 CHAIRMAN EDGAR: And this will be 214.

8 MR. HARRIS: Yes, thank you.

9 (Exhibit 214 was marked for identification.)

10 A Yes.

11 Q And you would agree that these documents were

12 taken directly from FPL's website and include a copy of

13 the RFP for renewable generation?

14 A That's correct.

15 Q Thank you. And Mr. Silva, if FPL is

16 successful with this RFP, do you believe that the need

17 for the Glades project will be affected?

18 A No. We are doing this primarily because we

19 want to make sure that any amount of renewable resources

20 that is available to the state over the next few years

21 is identified, and so we can try to integrate it into

22 our system. But we already have done a significant

23 evaluation that essentially confirms the results of a

24 similar evaluation performed by the Commission staff in

25 combination with the Department of Environmental

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1 Protection only a few years ago that concluded that the

2 range of technical capability for renewable resources

3 is, as it pertains to FPL, assuming it would be to FPL's

4 side of the service territory, it would be no more than

5 300 to 500 megawatts over a ten-year period.

6 Certainly not nearly enough on a system that

7 is growing at 600 megawatts per year. As a result, even

8 being optimistic that we can get all of this potential,

9 it would not be enough to defer or delay the need for

10 FGPP.

11 MR. HARRIS: Thank you. We have no further

12 questions.

13 CHAIRMAN EDGAR: Mr. Litchfield?

14 MR. LITCHFIELD: I have no redirect.

15 CHAIRMAN EDGAR: No redirect. Okay. Let's

16 take up the exhibits. Let's start at the end so it

17 would be 214, which is the FPL renewable RFP

18 distributed by staff.

19 MR. LITCHFIELD: No objection.

20 CHAIRMAN EDGAR: No objection. Okay. 214

21 will be entered into the record.

22 (Exhibit 214 admitted into the record.)

23 And then I have 212 which was the copy of the

24 prepared remarks, Governor Crist, State of the

25 State Speech; 213, the Century Commission,

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1 January '07 first annual report. Any objections?

2 (Exhibit 213 was marked for identification.)

3 MR. LITCHFIELD: With respect to 212, Madam

4 Chairman, I think that Mr. Krasowski indicated the

5 only portions he was interested in he read into the

6 record and he asked Mr. Silva questions about it.

7 So I'm not sure that I see any merit into including

8 the full remarks as prepared as an exhibit in this

9 proceeding.

10 CHAIRMAN EDGAR: Mr. Krasowski, do you have a

11 comment?

12 MR. KRASOWSKI: If what I read, which I

13 believe -- if that includes the two paragraphs on

14 the bottom of page 6 and the first two lines on the

15 bottom -- on the top of page 7, I -- that would

16 cover the material I was mainly interested in. But

17 this is a good speech; it makes good reading.

18 CHAIRMAN EDGAR: And I suspect we have all

19 read it. Mrs. Brubaker?

20 MS. BRUBAKER: I would simply note that I

21 think the relevant portions are in the record at

22 this point and, you know, we're going to have

23 plenty to read through on the record so --

24 MR. KRASOWSKI: Sorry.

25 MS. BRUBAKER: With all due consideration, I

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1 would simply suggest that the rest of the document

2 is not needed in the record.

3 CHAIRMAN EDGAR: Well, then, I concur with

4 Ms. Brubaker's comments. And in recognition that

5 Mr. Krasowski did read the portions that he has

6 brought to our attention, that that has been spread

7 across the record. So with that, we will not admit

8 212. And 213 I think we did not lay the predicate

9 or question on that.

10 Okay.

11 MR. KRASOWSKI: Madam Chair, quick question.

12 CHAIRMAN EDGAR: Mr. Krasowski, yes, sir.

13 MR. KRASOWSKI: That portion of 212, the

14 speech, will that be admitted as something else

15 or --

16 CHAIRMAN EDGAR: It will be a portion of the

17 record as part of the transcript from your reading

18 of that into the record.

19 MR. KRASOWSKI: Yes. Thank you.

20 CHAIRMAN EDGAR: Okay. I think we are done

21 with Mr. Silva, are we not? Mr. Silva, thank you

22 very much.

23 MR. SILVA: Thank you, Chairman Edgar,

24 Commissioners.

25 CHAIRMAN EDGAR: You're excused. Okay. We

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1 are just about there. Ms. Brubaker, any other

2 matters?

3 MS. BRUBAKER: Just a few concluding matters.

4 Just to sum up, we did address this at the

5 conclusion of the hearing last week, but by my

6 count, briefs are currently due May 7. The

7 post-hearing staff recommendation is due on

8 May 25th. Staff, please correct me if I'm wrong

9 there. It should be a Friday.

10 And the agenda is as it's been slated for

11 June 5. I would ask that when parties file their

12 briefs, that they please be sure to at the same

13 time e-mail to us, to staff, a copy of your brief

14 in Word format. I can't express to you how -- what

15 a help that is to us to be able to incorporate that

16 into the recommendation, to have that in that

17 format through e-mail, so please don't forget to do

18 that.

19 We also by my count have a single late-filed

20 that's currently outstanding. Would be

21 Exhibit 211. And I would ask -- I know you haven't

22 had a chance to examine or to make that request,

23 but do you have any idea of what time frames we

24 might be looking at for submission of that?

25 MR. LITCHFIELD: I don't specifically,

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1 Ms. Brubaker, but we will get it in just as quickly

2 as possible. If we can get it tomorrow, it will be

3 in tomorrow.

4 CHAIRMAN EDGAR: Okay. Thank you.

5 MS. BRUBAKER: And with that, I have nothing

6 further at this time.

7 CHAIRMAN EDGAR: Okay. Commissioner Carter?

8 COMMISSIONER CARTER: I was trying to follow

9 along here. Maybe I missed it. The Exhibits 135

10 through 146, we entered those already?

11 CHAIRMAN EDGAR: According to my sheet, we

12 did. Do you have that as well, Ms. Brubaker?

13 MS. BRUBAKER: Yes.

14 CHAIRMAN EDGAR: You blink and you miss it.

15 COMMISSIONER CARTER: One of those days.

16 Thank you.

17 CHAIRMAN EDGAR: Any other questions before we

18 call it a wrap? No?

19 MS. BRUBAKER: Just a quick note. Since I

20 went ahead and mentioned the revised dates, we also

21 discussed extending the brief page limit to 80

22 pages with the understanding, of course, that you

23 don't necessarily have to use all of those pages.

24 CHAIRMAN EDGAR: Yes. To reiterate, last week

25 Mr. Litchfield had asked for leave to extend the

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1 page limit to 80 pages. That was granted with the

2 understanding that 45, 50, 55, 60, there might be

3 merit in there too so we'll see what we get.

4 Okay. Anything else while we are all still

5 gathered together? Mr. Krasowski?

6 MR. KRASOWSKI: Thank you, if it's

7 appropriate. I just appreciate your helping us

8 along, whatever.

9 CHAIRMAN EDGAR: We appreciate your

10 participation. Thank you. Okay. Thank you to all

11 of our parties and witnesses and our staff, and we

12 are adjourned.

13 (Hearing concluded.)

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1 CERTIFICATE OF REPORTER

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5 STATE OF FLORIDA )

6 COUNTY OF LEON )

7

8 I, LORI DEZELL, RPR, CCR, certify that I was

9 authorized to and did stenographically report the

10 proceedings herein, and that the transcript is a true

11 and complete record of my stenographic notes.

12 I further certify that I am not a relative,

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

14 am I a relative or employee of any of the parties'

15 attorney or counsel connected with the action, nor am I

16 financially interested in the action.

17 WITNESS my hand and official seal this 1st day

18 of May, 2007.

19 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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