479

 1 BEFORE THE

 FLORIDA PUBLIC SERVICE COMMISSION

 2

 DOCKET NO. 070703-EI

 3

 In the Matter of:

 4

 REVIEW OF COAL COSTS FOR PROGRESS

 5 ENERGY FLORIDA'S CRYSTAL RIVER

 UNITS 4 AND 5 FOR 2006 AND 2007.

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 9 VOLUME 4

 10 Pages 479 through 702

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 THE OFFICIAL TRANSCRIPT OF THE HEARING,

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 14 PROCEEDINGS: HEARING

 15 BEFORE: CHAIRMAN MATTHEW M. CARTER, II

 COMMISSIONER LISA POLAK EDGAR

 16 COMMISSIONER KATRINA J. McMURRIAN

 COMMISSIONER NANCY ARGENZIANO

 17 COMMISSIONER NATHAN A. SKOP

 18 DATE: Tuesday, April 14, 2009

 19 TIME: Commenced at 9:40 p.m.

 Concluded at 5:35 p.m.

 20

 PLACE: Betty Easley Conference Center

 21 Room 148

 4075 Esplanade Way

 22 Tallahassee, Florida

 23 REPORTED BY: LINDA BOLES, RPR, CRR

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 25

 APPEARANCES: (As heretofore noted.)

 FLORIDA PUBLIC SERVICE COMMISSION

 480

 1 I N D E X

 2 WITNESSES

 3

 NAME: PAGE NO.

 4

 5 DAVID J. PUTMAN

 6 Continued Redirect Examination 482

 7

 SASHA WEINTRAUB (Rebuttal)

 8

 Direct Examination by Mr. Burnett 535

 9 Prefiled Rebuttal Testimony Inserted 537

 Cross Examination by Mr. McGlothlin 557

 10 Cross Examination by Ms. Bennett 576

 11

 JAMES N. HELLER (Rebuttal)

 12

 Direct Examination by Mr. Burnett 584

 13 Prefiled Rebuttal Testimony Inserted 586

 Cross Examination by Mr. McGlothlin 605

 14

 15 JENNIFER STENGER

 16 Direct Examination by Mr. Burnett 615

 Prefiled Rebuttal Testimony Inserted 617

 17 Cross Examination by Mr. McGlothlin 669

 Redirect Examination by Mr. Burnett 692

 18 Cross Examination by Mr. Young 695

 19

 20

 21

 22

 23

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 FLORIDA PUBLIC SERVICE COMMISSION

 481

 1 EXHIBITS

 2 NUMBER: ID. ADMTD.

 3 59 PEF Test Burn Data 484

 4 60 Effect of North Rochelle 498

 Coal on Refund Calculation

 5

 14-29 534

 6

 55-56 534

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 57-59 535

 8

 30 583

 9

 31-34 614

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 35-48 698

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 FLORIDA PUBLIC SERVICE COMMISSION

 482

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

 2 (Transcript follows in sequence from

 3 Volume 3.)

 4 CHAIRMAN CARTER: We're back on the record.

 5 And when last we left, Mr. McGlothlin, you were on

 6 redirect. You're recognized, sir.

 7 MR. McGLOTHLIN: Thank you.

 8 CONTINUED REDIRECT EXAMINATION

 9 BY MR. McGLOTHLIN:

 10 Q. Mr. Putman, during his cross-examination

 11 Mr. Burnett asked you about some of your comments with

 12 respect to the duration of test burns. Do you recall

 13 that question and answer?

 14 A. I do.

 15 Q. What experience do you have with respect to

 16 test burns of different coals over time?

 17 A. I was involved with several at Plant Barry and

 18 at Plant Miller and Plant Gorgas at Alabama Power

 19 Company when I was in the operation area there. And I

 20 was involved through the fuel procurement business of

 21 observing and being involved on the periphery of other

 22 test burns at Miller and Scherer for PRB coal.

 23 Q. With respect to the test burns of PRB coal

 24 prior to the time the Southern Company units began

 25 burning 100 percent PRB coal, what length of test burn

 FLORIDA PUBLIC SERVICE COMMISSION

 483

 1 was necessary to provide the information necessary to

 2 make that judgment?

 3 A. Plant Scherer was the first one we burned

 4 sub-bituminous coal in in Southern Company, and we went

 5 through a test period of less than a week to determine

 6 that that was a coal we were very, very interested in.

 7 And at Miller it was even less than that, and I was less

 8 involved with that because the plant people were so

 9 enthused about Scherer's success that they sort of took

 10 that and ran with it. But it was also a very short test

 11 burn.

 12 Q. In your experience, is a test burn of that

 13 duration adequate to provide the utility with sufficient

 14 evidence, sufficient information to make a decision to

 15 purchase quantities and volume?

 16 A. If the test burn is successful, if there's not

 17 any real problems, then the answer is yes. Obviously it

 18 also could provide enough information to decide what you

 19 have to do on the next step. But if it's successful,

 20 there's not any big issues that come up in that, then

 21 you would move on to, to burning the coal on a longer

 22 term basis.

 23 Q. Have you seen any documents provided to OPC in

 24 discovery from Progress Energy that would support your

 25 view as to the adequacy of a test burn of that duration

 FLORIDA PUBLIC SERVICE COMMISSION

 484

 1 for its purpose?

 2 A. I've seen a test report from the 2006, two

 3 thousand -- May 2006 test burn. Is that the right date?

 4 Yeah. Yes.

 5 MR. McGLOTHLIN: We're going to distribute

 6 that document at this point. Chairman Carter, may I

 7 have a number assigned to this?

 8 CHAIRMAN CARTER: Yes, you may, Mr.

 9 McGlothlin.

 10 Commissioners, for your record that will be

 11 Exhibit Number 59. Number 59. Short title,

 12 Mr. McGlothlin, recommendation?

 13 MR. McGLOTHLIN: PEF Test Burn Data.

 14 CHAIRMAN CARTER: Great. Outstanding. PEF

 15 Test Burn Data.

 16 (Exhibit 59 marked for identification.)

 17 You may proceed.

 18 BY MR. McGLOTHLIN:

 19 Q. Mr. Putman, we've provided you a document that

 20 is in two parts. The first part indicates it's

 21 Late-Filed Exhibit Number 1 prepared by Jennifer

 22 Stenger. Do you see that?

 23 A. I do.

 24 Q. Do you recall that we requested Progress

 25 Energy to provide some information with respect to the

 FLORIDA PUBLIC SERVICE COMMISSION

 485

 1 duration of test burns that they had performed?

 2 A. Yes. I was there for that deposition.

 3 Q. And do you recognize this as the company's

 4 response?

 5 A. I do.

 6 Q. With respect to the length of the test burns

 7 by Progress Energy that were provided to us, what do you

 8 glean about the duration?

 9 A. That they really don't take very long. You

 10 can learn an awful lot in a short number of days.

 11 Q. The second part of the Exhibit 59 is captioned

 12 Crystal River 5 PRB/CAPP Blend, May 2006 Test Report.

 13 Do you have that in front of you?

 14 A. I have it in front of me.

 15 Q. Have you reviewed this document before?

 16 A. I have.

 17 Q. Do you, do you recognize it to be the document

 18 provided to us in response for our desire to see the

 19 report prepared by the company after the test burn of a

 20 20 percent PRB/CAPP blend at Crystal River?

 21 A. I do recognize it as that.

 22 Q. Okay. With respect to the duration of that

 23 test, do you know how long that test required?

 24 A. It was over a three-day period. There was a

 25 period of ramping up, there was a period of a whole day

 FLORIDA PUBLIC SERVICE COMMISSION

 486

 1 operation and then a period of ramping down over three

 2 days.

 3 Q. And with respect to the information provided,

 4 what is your judgment as to whether the test was

 5 successful?

 6 A. The document itself declares it to have been

 7 successful, and I would agree with that assessment based

 8 on the information contained.

 9 MR. McGLOTHLIN: Could I have just a moment in

 10 place, Chairman Carter?

 11 CHAIRMAN CARTER: You may take a moment.

 12 (Pause.)

 13 BY MR. McGLOTHLIN:

 14 Q. I'd direct you to Page 3 of 16 of the

 15 document, Mr. Putman.

 16 A. I'm there.

 17 Q. And if you'll see the last bullet point on

 18 Page 3, what does the author indicate with respect to

 19 the duration of any subsequent burns that would be

 20 needed to thoroughly assess boiler impacts?

 21 A. I'll read it. It says, "Upon receipt of a

 22 modified air permit to evaluate benefits of a longer

 23 burn with sub-bituminous/bituminous blend, this

 24 performance burn should be several weeks in duration and

 25 conducted on CR4 and CR5 concurrently to allow for a

 FLORIDA PUBLIC SERVICE COMMISSION

 487

 1 thorough analysis of long-term impacts on boiler

 2 operations and fuel handling system." Then it says,

 3 "This would not be a trial per se but rather an extended

 4 burn."

 5 Q. Now if you'll turn to Page 4 of 16.

 6 A. I'm there.

 7 Q. Under the caption Next Steps, would you read

 8 Items 3 and 4 of the test report?

 9 A. Number 3 says, well, the lead-in is, "The

 10 following steps are recommended," and number three says,

 11 "Conduct several week burn on both units of a

 12 sub-bituminous/bituminous coal blend. Selected

 13 sub-bituminous coal should be one that has future supply

 14 available at a discounted price over current contract

 15 coal." And number four, "If extended burn is

 16 successful, implement additional improvements as deemed

 17 necessary and add sub-bituminous/bituminous coal blend

 18 to Crystal River North's fuel portfolio."

 19 Q. Based upon what you've read, what is your

 20 conclusion with respect to the author's judgment as to

 21 the additional test that would be necessary before the

 22 unit was ready for purchases of blended coal in

 23 commercial quantities?

 24 A. I view that they're ready to do that now by,

 25 with a, what is called an extended burn. That they

 FLORIDA PUBLIC SERVICE COMMISSION

 488

 1 would buy coal, not necessarily under contract, but

 2 certainly buy it in commercial quantities and begin to

 3 burn this coal on an ongoing basis.

 4 Q. Is this test report with respect to the

 5 parameters of the report and with respect to

 6 recommendations for next steps and the duration of

 7 additional extended burns consistent or inconsistent

 8 with your own experience and your own recommendations in

 9 this regard?

 10 A. It is. It follows a good path. It was well

 11 laid out, well done, and the result is what I would

 12 expect, that it's ready to go.

 13 Q. With this test burn in place, would it, would

 14 it be relevant to the duration and parameters of test

 15 burns of different sub-bituminous coals, sub-bituminous

 16 coals other than the specific PRB coal that was tested

 17 in blend?

 18 A. It would be my view that this test would put

 19 you into the same kind of condition shown on that front

 20 page that if you were going to burn a different coal

 21 that was sub-bituminous in nature in blends with Central

 22 APP coal, you'd be talking maybe two days to absolutely

 23 verify that that blend matches the original test. But

 24 it really would be just a check.

 25 Q. Now you were asked several questions about

 FLORIDA PUBLIC SERVICE COMMISSION

 489

 1 whether you had undertaken an analysis of the unit

 2 itself to gauge whether the proposed blends in your

 3 recommendations would have any adverse impacts. Do you

 4 recall that?

 5 A. I do.

 6 Q. And what document did you review when you,

 7 when you told Mr. Burnett that you had performed such an

 8 analysis?

 9 A. It was instruction information sheets from B&W

 10 that were provided to Florida Power Corp. at the time

 11 about the new units.

 12 MR. McGLOTHLIN: And forgive me. Did we

 13 accomplish the passing out of that one before the break

 14 or do we need to do that now?

 15 CHAIRMAN CARTER: Staff?

 16 MS. BENNETT: We did not get that finished

 17 before the break.

 18 MR. McGLOTHLIN: Okay. If I may have a

 19 moment.

 20 CHAIRMAN CARTER: Okay.

 21 (Pause.)

 22 MR. McGLOTHLIN: Thank you for your

 23 indulgence. We're going to just change sequence for a

 24 moment and take up something that was going to be next.

 25 CHAIRMAN CARTER: Okay. You may proceed.

 FLORIDA PUBLIC SERVICE COMMISSION

 490

 1 BY MR. McGLOTHLIN:

 2 Q. Mr. Putman, on the subject of the potential

 3 impact of the sodium content of Spring Creek coal on the

 4 operations at Crystal River Units 4 and 5, I believe you

 5 indicated in answers to prior questions that when the

 6 Vista model takes that into account, there likely would

 7 be some quantification of cost associated with sulfur

 8 content; is that correct?

 9 A. That's correct.

 10 Q. In the absence of a thorough Vista analysis,

 11 is it possible to discern definitively whether the

 12 result of that exercise would alter the place that the

 13 Spring Creek coal occupies in terms of the ranking of

 14 the western coals in the 2004 RFP?

 15 A. Yes. I think I responded that I was a little

 16 surprised that Spring Creek coal continued to be number

 17 one in the evaluation. It would not have surprised me

 18 for Progress Energy to decide, like Scherer did, that

 19 maybe those costs were not fully accounted in the

 20 evaluation, and that if they were fully accounted for,

 21 maybe that would not be the low-cost supplier, in which

 22 case they would have hopefully documented that fact,

 23 like Plant Scherer did, in their report and then moved

 24 on to the next lowest-cost option available of the coals

 25 offered to them.

 FLORIDA PUBLIC SERVICE COMMISSION

 491

 1 CHAIRMAN CARTER: Turn your mike off there.

 2 MR. McGLOTHLIN: Now I think I've got it.

 3 BY MR. McGLOTHLIN:

 4 Q. If we make the assumption for the purpose of

 5 the next question that it's determined that the Vista

 6 model when taking into account the sodium content

 7 produces a slightly different outcome such that the

 8 Spring Creek coal is no longer the number one ranking,

 9 does that mean that there's no good alternative

 10 available in the 2004 RFP for the purpose of a

 11 20/80 blend that could be used at Crystal River 4 and 5

 12 in 2006?

 13 A. No. There were several coals offered from the

 14 Powder River Basin that would then be available as the

 15 next best-priced coal before you ever got down to the

 16 Central APP coal.

 17 Q. And what was the second-ranked bid of those

 18 PRB coals?

 19 A. The second-ranked coal that was available in

 20 2005 and 2006 is one that's listed as from Triton and

 21 it's the North Rochelle mine. And if you were to look

 22 on my Exhibit DJP-6, which is bids from May 2004, you

 23 would look down and you would see two, three Triton

 24 bids, one of which is Triton. And the next column is

 25 05/07, meaning it was offered for all three years. And

 FLORIDA PUBLIC SERVICE COMMISSION

 492

 1 the third column is PRB North Rochelle. That's the coal

 2 that would be next on the list. And it has a valuated

 3 cost of $2 per million.

 4 Q. And that $2 compares to what with respect to

 5 the corresponding values of the Spring Creek coal?

 6 A. The lowest-cost Spring Creek coal was one

 7 dollar and -- I can't read my own -- I think it's $1.84.

 8 The second Spring Creek coal was $1.97 valuated cost.

 9 And then we move to the $2 Triton North Rochelle coal.

 10 Q. And describe for the Commissioners the nature

 11 of the characteristics of the North Rochelle PRB coal.

 12 A. North Rochelle would, is an 8,800 Btu coal.

 13 It comes out of Wyoming. It comes out of a particular

 14 county in Wyoming that we've talked about. It has

 15 sulfur, .34 percent sulfur, which results in an SO2

 16 output of .8. So it's a good, low-sulfur, high-quality

 17 coal, and it's what you would call the standard Wyoming

 18 Powder River Basin coal.

 19 Q. Would the concerns expressed about the sodium

 20 content of the Spring Creek coal apply to the North

 21 Rochelle coal?

 22 A. It would not.

 23 Q. If you know, does Progress Energy have any

 24 reason to be familiar with this coal?

 25 A. Yes. This is the coal -- this mine is the

 FLORIDA PUBLIC SERVICE COMMISSION

 493

 1 coal, is the mine that supplied the coal for the attempt

 2 to have a test burn in 2004 that was aborted because

 3 they did not have the permit.

 4 MR. BURNETT: Mr. Chairman, excuse me.

 5 CHAIRMAN CARTER: Mr. Burnett.

 6 MR. BURNETT: I'm not objecting here, but I'm

 7 not clear if OPC is now withdrawing its Spring Creek

 8 case and now putting forward a case on Triton PRB coal.

 9 If that is their position, I think some of the things

 10 that we've talked about with Commissioner Skop and what

 11 we'll continue to talk about with Mr. Weintraub will be

 12 adequate to address that. But I just want to get some

 13 clarification if OPC is abandoning their original case

 14 now and is trying to bring a PRB case that they did not

 15 bring originally.

 16 CHAIRMAN CARTER: Mr. McGlothlin.

 17 MR. McGLOTHLIN: We're not abandoning the

 18 original case. We're, we're showing that there's a

 19 record basis for two good alternatives, and we're going

 20 to show what the effect of each would be with respect to

 21 the comparison with the bituminous coal that was

 22 actually delivered.

 23 CHAIRMAN CARTER: Ms. Helton.

 24 MS. HELTON: I'm going to need some help. Let

 25 me talk to Ms. Bennett for one minute, please.

 FLORIDA PUBLIC SERVICE COMMISSION

 494

 1 CHAIRMAN CARTER: Okay. We'll take a minute.

 2 (Pause.)

 3 We're back on the record. Staff, you're

 4 recognized.

 5 MS. HELTON: Mr. Chairman, I think that

 6 Mr. Burnett has said that he is not objecting to this

 7 line of redirect examination by Mr. McGlothlin. There

 8 have been, as I understand it, by the different parties

 9 to the case several alternatives raised, and I think

 10 that staff believes that fleshing out this issue would

 11 be helpful in formulating its recommendation to you for

 12 your final decision.

 13 MR. BURNETT: Mr. Chair, if I may.

 14 CHAIRMAN CARTER: You may, Mr. Burnett.

 15 MR. BURNETT: Thank you, sir. And I do want

 16 to be clear that at this point I'm not objecting.

 17 Certainly anything that's in the record in this case, as

 18 I think everything we've discussed to date about these

 19 PRB alternatives have been, and anything that we plan to

 20 discuss after with Mr. Weintraub is already in record

 21 evidence.

 22 My only concern is that we don't get outside

 23 of what's been fairly presented in the record, and that

 24 would leave me with no opportunity to cross-examine or

 25 effectively hear this before. So I just don't want to

 FLORIDA PUBLIC SERVICE COMMISSION

 495

 1 be ambushed here at trial with a brand new case. But as

 2 long as they stay within the record evidence, I have no

 3 objection. I just wanted to make that clear.

 4 CHAIRMAN CARTER: Okay. Well, Mr. McGlothlin,

 5 just, you may proceed. Just stay within the four

 6 corners of the case. You may proceed.

 7 MR. McGLOTHLIN: Okay. Well, if I may respond

 8 to that very, very briefly.

 9 CHAIRMAN CARTER: Yes, sir. You're recognized

 10 to respond.

 11 MR. McGLOTHLIN: The basis for the contention

 12 by our office that the utility should have purchased

 13 Powder River Basin coal and blended it with CAPP coal as

 14 a result of the offers submitted to the 2004 RFP is the

 15 evaluated cost of those, of those several coals. And

 16 the witness performed some calculations based upon the

 17 coal that Progress Energy ranked to be number one. Now

 18 that they have raised concerns about that, the point of

 19 this line of questioning is to make the point that there

 20 are others within the, within the same RFP that have

 21 also been quantified in terms of the evaluated cost and

 22 that do not share the same concern. And so that's the

 23 purpose of the redirect.

 24 CHAIRMAN CARTER: Okay. Let's stay within the

 25 redirect. You're recognized. You may proceed.

 FLORIDA PUBLIC SERVICE COMMISSION

 496

 1 BY MR. McGLOTHLIN:

 2 Q. Mr. Putman, based upon the evaluated cost

 3 reported in the, your Exhibit Number DJP-6 and using the

 4 same methodology that is reflected in your exhibits have

 5 you calculated the effect of substituting that evaluated

 6 cost on the refund that you recommend in this case?

 7 A. I have done that for the coal. I have not

 8 done it for the SO2 portion of the --

 9 Q. I see. Would you report to the Commissioners

 10 the effect of the substitution on the coal portion?

 11 A. You want to pass that out?

 12 MR. McGLOTHLIN: Yes. We have a document that

 13 I'd like to pass out now.

 14 I'm sorry. That's the wrong one.

 15 CHAIRMAN CARTER: Do you want to wait a

 16 minute? Hang on, hang on a second. Hang on a second.

 17 MR. McGLOTHLIN: Earl, use this one.

 18 (Pause.)

 19 CHAIRMAN CARTER: Commissioner Skop.

 20 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 21 Just a point of information with respect to

 22 the revised Exhibit DJP-7 that was just passed out. Do

 23 we know the date of this exhibit? When was this

 24 created?

 25 BY MR. McGLOTHLIN:

 FLORIDA PUBLIC SERVICE COMMISSION

 497

 1 Q. Mr. Putman.

 2 A. When it was created?

 3 Q. Yes.

 4 CHAIRMAN CARTER: Turn your mike on.

 5 THE WITNESS: Not exactly. Probably within

 6 the last week. And I guess I would point out that this

 7 is not a full replacement of everything in the DJP-7.

 8 It does not cover the two ways that you could replace

 9 the Btus and, again, it does not include the SO2

 10 adjustment. It really was just an effort to look at how

 11 this coal, the Triton coal would fit into this equation.

 12 MR. McGLOTHLIN: May we have a number,

 13 Chairman Carter?

 14 CHAIRMAN CARTER: Absolutely. I think our

 15 next number would be Number 60. A short title,

 16 Mr. McGlothlin.

 17 MR. McGLOTHLIN: All right.

 18 THE WITNESS: You did a great job the last

 19 time, by the way. Let's keep the streak alive.

 20 MR. McGLOTHLIN: Effect of North Rochelle Coal

 21 on Refund Calculation.

 22 CHAIRMAN CARTER: You want to just say Revised

 23 Exhibit Number DJP-7?

 24 MR. McGLOTHLIN: Well, unfortunately we

 25 already have a revised 7, and so --

 FLORIDA PUBLIC SERVICE COMMISSION

 498

 1 CHAIRMAN CARTER: Okay. Okay. Then give me

 2 the title again.

 3 MR. McGLOTHLIN: Effect of North Rochelle Coal

 4 on Refund Calculation.

 5 (Exhibit 60 marked for identification.)

 6 MR. BURNETT: Mr. Chairman.

 7 CHAIRMAN CARTER: Yes, sir. Mr. Burnett.

 8 MR. BURNETT: Thank you, sir. This is exactly

 9 what I feared would happen and why I raised my concern

 10 earlier. I would certainly object to this. Again, I've

 11 certainly had no problem with the introduction of

 12 information that was clearly in the record. And, in

 13 fact, as I mentioned earlier, we had planned to respond

 14 to some of Commissioner Skop's requests that he had made

 15 from our witness on the record yesterday to provide some

 16 updating of data that is in the record already with

 17 other data that's in the record already, and certainly I

 18 have no objection to that.

 19 But this, what you've been presented here as

 20 Number 60 is a brand new analysis, in fact, that simply

 21 scratches out Spring Creek and now replaces another coal

 22 and even purports to replace exhibits. This is a brand

 23 new case. If we're going to go to this level, I think

 24 this case should be suspended, I should get to take his

 25 deposition again, we should be able to file rebuttal

 FLORIDA PUBLIC SERVICE COMMISSION

 499

 1 testimony in this. And fairly, since I have the burden

 2 of proof, I should be able to have the last word on

 3 this.

 4 Right now basically this witness is

 5 introducing a brand new case where I have no opportunity

 6 to cross him again, take his deposition, test any of his

 7 math. And it's one thing to go to what we've been

 8 talking about, but this is a brand new exhibit to a

 9 brand new case.

 10 CHAIRMAN CARTER: Mr. McGlothlin, you're

 11 recognized to be heard on the, on the objection.

 12 MR. McGLOTHLIN: Well, I think Mr. Burnett has

 13 exaggerated the situation. The, the basis for the

 14 calculation is in the record and that's the evaluated

 15 cost. The methodology has been displayed and explained

 16 and supported by the, by the witness already. And this

 17 is simply the product one receives when one substitutes

 18 the different, the Btu content and the different

 19 evaluated cost for the corresponding figures that were

 20 associated with the Spring Creek coal to see what the

 21 impact is on the calculation.

 22 CHAIRMAN CARTER: Ms. Helton.

 23 MS. HELTON: Mr. Chairman, I think you have

 24 afforded Mr. McGlothlin and his witness a great deal of

 25 latitude in his, the way they've conducted their

 FLORIDA PUBLIC SERVICE COMMISSION

 500

 1 redirect examination. I have to say though I agree with

 2 Mr. Burnett. I think we are way beyond the scope of the

 3 testimony filed by the witness and way beyond the scope

 4 of his cross-examination. And my suggestion to you,

 5 Mr. Chairman, is that this exhibit not be admitted and

 6 not be allowed to be used for cross-examination

 7 purposes.

 8 CHAIRMAN CARTER: Okay.

 9 MR. McGLOTHLIN: Very well.

 10 CHAIRMAN CARTER: Show it done. Move on.

 11 BY MR. McGLOTHLIN:

 12 Q. Mr. Putman, based upon your review of the

 13 specifications for the unit, what did you conclude with

 14 respect to the potential impacts of the blend containing

 15 either the Spring Creek coal or the Indonesian coal on

 16 the items that Mr. Burnett listed for you beginning with

 17 the pulverizer?

 18 A. It is my evaluation based on review of the

 19 design documents that there would not need to be

 20 additional pulverizers. I'm not sure I remember exactly

 21 the way Mr. Burnett phrased the pulverizer question, so

 22 maybe you could just ask the question.

 23 Q. Well, would there be any adverse effects -- or

 24 let me say it differently. Would the design of the unit

 25 as constructed accommodate the blends that you recommend

 FLORIDA PUBLIC SERVICE COMMISSION

 501

 1 without adverse effects on pulverizer capacity or

 2 operation?

 3 A. Okay. Yes. I reviewed that and there would

 4 not be any adverse impact on the pulverizers.

 5 Q. What about the boiler efficiency?

 6 A. Boiler efficiency would be very similar. Like

 7 all different coals, it would have, could have some

 8 minor maybe even unmeasurable effect, but there would be

 9 some effect.

 10 Q. What about the heat rate of the unit?

 11 A. It should be the same.

 12 Q. Would the ash levels of either of the blends

 13 that you recommend be problematic for the design of the

 14 unit?

 15 A. It would not be problematic. The Indonesian

 16 coal would obviously have lower ash levels, which would

 17 be a plus.

 18 Q. The base-to-acid ratio, would that be a

 19 problem for this unit?

 20 A. Again, part of the base-to-acid ratio is

 21 sodium, but it also includes calcium and iron. And the

 22 combination of all three of those that go into a

 23 base-to-acid ratio would actually be lower than the

 24 Peabody coal blend, Peabody/PRB coal that was blended

 25 for the test burn in May of '06. So it would be better.

 FLORIDA PUBLIC SERVICE COMMISSION

 502

 1 Q. You've addressed sodium to some extent

 2 already. But would you summarize your opinion with

 3 respect to whether the units as designed and built could

 4 successfully burn the blends recognizing the sodium

 5 content of the blend?

 6 A. They could successfully burn the coal

 7 recognizing the blend, and they could burn it in a 50/50

 8 blend based on the design document.

 9 Q. What about the calcium content of the blended

 10 coals?

 11 A. It would again fit well within the design

 12 specifications.

 13 Q. And with respect to the impact on the

 14 performance and efficiency of the electrostatic

 15 precipitator, do you have a judgment on that?

 16 A. The electrostatic precipitator was designed to

 17 handle coal within these low sulfur levels.

 18 Q. You were asked some questions about

 19 spontaneous combustion. Do you recall that question and

 20 answer?

 21 A. I do.

 22 Q. What -- do you have any information from the

 23 experience of the Southern Company units that might shed

 24 some light on whether it is possible to burn

 25 sub-bituminous coal safely?

 FLORIDA PUBLIC SERVICE COMMISSION

 503

 1 A. Yes, I do. Plant Miller is the one I'm most

 2 familiar with. It converted in the '99 time period,

 3 2000 time period to 100 percent sub-bituminous coal.

 4 They did spend money to upgrade their coal handling.

 5 They also worked very hard at keeping a very clean

 6 plant. And so they are doing all the right things. And

 7 as a result of that, they recently received an award

 8 from the State of Alabama for going ten years without

 9 lost time accidents. This is a plant burning a

 10 dangerous fuel, 330 people, and they have not had a lost

 11 time accident. So I think it says it can be done if

 12 you're careful in how you handle the coal.

 13 MR. McGLOTHLIN: Those are all of my

 14 questions.

 15 CHAIRMAN CARTER: Thank you. Commissioner

 16 Skop.

 17 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 18 I just have some follow-up, and I'm going to

 19 try and hopefully focus on, on points that will help me

 20 have a better understanding of the facts in this case.

 21 Mr. Putman, in the 060658 docket is it correct

 22 that the Commission compared Progress's average price of

 23 delivered CAPP coal to Crystal River CR4 and CR5 units

 24 for the years 2003 through 2005 to the Progress

 25 evaluated price of PRB to determine the majority of the

 FLORIDA PUBLIC SERVICE COMMISSION

 504

 1 refund for those years?

 2 THE WITNESS: No. I believe what they

 3 compared was the highest-cost coal actually purchased

 4 and delivered during those years based on the process

 5 that was recommended, adopted by the staff and then

 6 adopted by the Commission.

 7 COMMISSIONER SKOP: All right. Well, let me,

 8 let me stop you there and go back to your revised

 9 testimony. Because, again, I'm pretty good at following

 10 along, but I will say I'm thoroughly confused by that

 11 response.

 12 So on Page, on Page 2 of your revised

 13 testimony you stated that you believe the intent of the

 14 Commission in the prior docket was to calculate a refund

 15 by substituting the sub-bituminous coal for the highest

 16 costing 20 percent of the tons actually delivered on a

 17 ton-for-ton basis, and then you seemed to back away from

 18 that. So in response to my last question, didn't the

 19 Commission use the average price of CAPP coal in the

 20 prior docket?

 21 THE WITNESS: No, sir, they did not. They

 22 used the highest cost -- 20 percent tons equal to the

 23 20 percent of the waterborne coal as what would be

 24 replaced.

 25 COMMISSIONER SKOP: May I have a moment,

 FLORIDA PUBLIC SERVICE COMMISSION

 505

 1 Mr. Chair, to confer with --

 2 CHAIRMAN CARTER: Sure. Take five, but nobody

 3 leave the building.

 4 (Recess taken.)

 5 COMMISSIONER SKOP: Thank you, Mr. Chair.

 6 I'll ask Mr. Heller on rebuttal whether he

 7 believes that to be true.

 8 Mr. Putman, going back to that, the other part

 9 of that refund was the SO2 allowance calculation. Would

 10 you agree with that?

 11 THE WITNESS: Yes.

 12 CHAIRMAN CARTER: Is your mike on?

 13 THE WITNESS: Sorry.

 14 COMMISSIONER SKOP: Okay. Now is it correct

 15 that we know the delivered price of the CAPP coal in

 16 this docket for Witness Heller's JNH-3 exhibit for 2006

 17 and 2007 as it was filed in this docket?

 18 THE WITNESS: We do know that, and I agreed

 19 with his numbers for the highest-cost coal delivered by

 20 water in his original testimony.

 21 COMMISSIONER SKOP: All right. Thank you.

 22 To your knowledge, do we know what the price

 23 of the delivered PRB coal to Crystal River would have

 24 been for 2006 and 2007 as offered in the response to the

 25 April 2004 RFP that was issued by Progress but

 FLORIDA PUBLIC SERVICE COMMISSION

 506

 1 accounting for adjustments for any inflators to be

 2 considered in both the coal and transportation contracts

 3 that would have been entered into at the time of the bid

 4 evaluations?

 5 THE WITNESS: We know the evaluated cost as

 6 produced by Progress Energy. That should have taken

 7 into account any and all of those things that you just

 8 listed. They should have either been accounted for in

 9 the evaluation, or if they were going to actually buy

 10 the coal, they should have taken action to determine and

 11 fix in place what those numbers would be.

 12 COMMISSIONER SKOP: If, if those numbers in

 13 fact did not include all of those aspects though, I

 14 mean, could that be the case in your knowledge or do you

 15 not know specifically whether those, that evaluation by

 16 Progress encompasses all of those factors?

 17 THE WITNESS: Based on the testimony that's

 18 been given by Mr. Weintraub about how they conduct their

 19 evaluation, then I based my decision on the fact that

 20 all those costs would be included. If they were not

 21 included, if the evaluation did not fairly and

 22 completely represent the cost of that coal, then I guess

 23 I placed my assumption wrongly.

 24 COMMISSIONER SKOP: Okay. And, again, I'll

 25 reserve to go back to Mr. Heller on my first question.

 FLORIDA PUBLIC SERVICE COMMISSION

 507

 1 Just a couple of follow-up questions to

 2 questions you were asked by Mr. McGlothlin. With

 3 respect to the interrogatory response on, to staff

 4 Interrogatory 29A, did you review that as the basis for

 5 preparing your testimony or in conjunction with

 6 preparing your testimony?

 7 THE WITNESS: I did not.

 8 COMMISSIONER SKOP: Okay. I've got a bunch of

 9 scribbled notes, so bear with me for a second, Mr.

 10 Chairman.

 11 What in your opinion was wrong with the, or

 12 what did you disagree with in that analysis in terms of

 13 the responses provided for the dollars per MMBtu

 14 delivered to the terminal for the coal that was

 15 purchased?

 16 THE WITNESS: I guess part of it is that it's

 17 the difference in time and geography. Those prices were

 18 based on apparently purchases made in 2007. We saw a

 19 chart that was put up by Mr. Weintraub showing

 20 transportation costs that I think add up to these 3,224

 21 transportation costs for PRB. I have not had any

 22 information about those numbers and how accurate they

 23 are and where they came from. That information I don't

 24 think was even admitted into testimony. So I'm totally

 25 unprepared because these things are dealing with a

 FLORIDA PUBLIC SERVICE COMMISSION

 508

 1 different location as the final point, the terminal

 2 versus the plant, a different time, 2007 versus 2004.

 3 It's just a mixed bag that I am not prepared to even

 4 really say whether they're right or wrong.

 5 COMMISSIONER SKOP: Okay. But to that point,

 6 in your testimony you gave, you were familiar enough to

 7 opine that in addition to taking advantage of what you

 8 deemed be a missed opportunity in 2004, that it would

 9 also be incumbent upon Progress to take advantage of

 10 this opportunity and leverage both of them, am I correct

 11 in understanding that that --

 12 THE WITNESS: I did say that, but I also said

 13 if it was a real savings.

 14 COMMISSIONER SKOP: Okay. Now, if you

 15 expected them to do that, if there were real savings,

 16 and they had committed in 2004, I guess the question had

 17 come up earlier this morning about contractual damages

 18 in terms of transportation costs, and if they had

 19 entered into long-term contracts how would they be able

 20 to avail themselves of this other opportunity that you

 21 suggested that they should take advantage of.

 22 THE WITNESS: Now we are getting back into the

 23 hypothetical that is a little uncomfortable to deal

 24 with. Every time a procurement decision is made it

 25 impacts all future procurement decisions. And if they

 FLORIDA PUBLIC SERVICE COMMISSION

 509

 1 had made the procurement decision in May 2004, it may or

 2 may not have limited their opportunity to take advantage

 3 of the next opportunity. But I really can't sit here

 4 and say that without --

 5 COMMISSIONER SKOP: And I agree, that could

 6 have inured exactly the opposite way for them, also.

 7 But, again, part of trying to undertake prudency

 8 determination is also if you find that action was

 9 imprudent, you have to assess damages, so that's where

 10 I'm trying to gain a better appreciation of what you

 11 feel in your testimony that they should have been held

 12 responsible for, and so I'll move on in the interest of

 13 time.

 14 If burning a blend of domestic bituminous coal

 15 and international bituminous coal was proven to be more

 16 cost-effective, vis-a-vis if these numbers were

 17 accurate, then would you admit that it would have

 18 been -- that this should have been burned over an 80/20

 19 blend of CAPP coal and PRB?

 20 THE WITNESS: There's a lot of ifs in there,

 21 so I think that's, in all honesty, a little too

 22 hypothetical for me. I would make the general statement

 23 that any time an offer comes along that is more

 24 beneficial than what else is on the table at that time,

 25 then it's up to the utility to take advantage of that

 FLORIDA PUBLIC SERVICE COMMISSION

 510

 1 opportunity. And if this was a real opportunity, as I

 2 said earlier, I would commend them for doing this

 3 innovative thing, if it was a real opportunity.

 4 COMMISSIONER SKOP: Fair enough. Let's move

 5 on to a brief discussion of the Indonesian coal for a

 6 second. I think in your testimony you discuss some of

 7 the favorable properties of the Indonesian coal, low

 8 sulfur and such, and there is also an exhibit, and I

 9 believe that was part of JS-9 that was handed out, and

 10 the last page I think Mr. Burnett had put up in a sheet,

 11 and I'll hold that up generally. Do you remember seeing

 12 that exhibit?

 13 THE WITNESS: I do.

 14 COMMISSIONER SKOP: Okay. Now, in that

 15 exhibit it refers to a test -- that Georgia Power had

 16 made a deal to perhaps test Indonesian coal in the first

 17 half of 2006, is that correct?

 18 THE WITNESS: That's what the article implies,

 19 yes.

 20 COMMISSIONER SKOP: Do you know the origin of

 21 that article?

 22 THE WITNESS: It's something like Coal

 23 America. I'm not 100 percent sure. There is a --

 24 what's known as a coal rag.

 25 COMMISSIONER SKOP: All right. So obviously

 FLORIDA PUBLIC SERVICE COMMISSION

 511

 1 that probably -- if article speaks to -- that Georgia

 2 Power would do something in the early half of 2006, and

 3 certainly it would stand to reason that that article was

 4 prepared prior to early 2006, is that correct?

 5 THE WITNESS: Correct.

 6 COMMISSIONER SKOP: Okay. I guess one of the

 7 central points I'm struggling with, too, again, if you,

 8 as a professional consultant, who appeared in the last

 9 docket was aware of this coal, and, I mean, I think

 10 through your testimony we should search the world over

 11 to find the cheapest options, then why was that not

 12 raised in the prior docket, because certainly you would

 13 have been aware of it at that time, is that correct?

 14 THE WITNESS: The reason I think it wasn't

 15 raised in the last one is that there was never in the

 16 record an offer made to Progress Energy for that coal

 17 until February of 2006, so it was not an opportunity.

 18 COMMISSIONER SKOP: That helps clarify that

 19 point. On that same regard, given your extensive

 20 transportation background, are you familiar with fuel

 21 surcharges?

 22 THE WITNESS: I am.

 23 COMMISSIONER SKOP: Could a fuel surcharge

 24 make it cost prohibitive to burn Indonesian coal on an

 25 as-delivered basis?

 FLORIDA PUBLIC SERVICE COMMISSION

 512

 1 THE WITNESS: Hypothetically, yes, it could.

 2 It could make it cheaper to burn.

 3 COMMISSIONER SKOP: Cheaper or more expensive?

 4 THE WITNESS: Well, fuel charges generally

 5 move with the market for fuel. And sometimes that

 6 market goes up, as we know, and sometimes it goes down.

 7 Normally the process is that if you are going to build

 8 that into your rate system, whether you're a railroad or

 9 a shipping line, you put in a base level and then say if

 10 it goes up, I'm going to charge you more, but if it goes

 11 down, I'm going to charge you less, so it could go

 12 either way.

 13 COMMISSIONER SKOP: Fair enough. Just a few

 14 more questions. On DJP-8, I guess you made an analogy

 15 or a cross reference that basically showed how the data

 16 on that page fell into the exhibit or corresponded to

 17 the data shown on DJP-6 for the Central Appalachian

 18 coal, and I appreciate you clearing that up.

 19 In that same regard looking at the western

 20 coals at the top of the page, I know that the tonnage is

 21 listed, and I guess the question that I have that I

 22 think that was part of the graphical representation that

 23 I tried to use as a basis for discussion, and a basis

 24 for discussion only, was that the total tons listed

 25 there is a multi-year quantity for coal over and above

 FLORIDA PUBLIC SERVICE COMMISSION

 513

 1 what would be burnt in a single year. Is that your

 2 understanding? I think you stated that due to

 3 transportation constraints, only 500,000 tons or so of

 4 PRB could have been utilized per year for the CR4 and

 5 CR5 units.

 6 THE WITNESS: The number is 20 percent of the

 7 coal moved by water, and that comes out to 500,

 8 525,000 tons.

 9 COMMISSIONER SKOP: Okay. And you would

 10 agree, though, looking at the PRB North Rochelle for the

 11 Triton quote, I guess the fourth quote up from the

 12 bottom for the years '05 through '07, that was for three

 13 million tons, am I correct on that?

 14 THE WITNESS: It's for a million ton a year

 15 for three years. That first column is a total of the

 16 tons offered.

 17 COMMISSIONER SKOP: Okay. All right. Now

 18 would that higher quantity have an impact on price?

 19 For instance, if you are purchasing a large volume over

 20 the -- in one purchase versus the spot price that was

 21 also at issue here, is there, again, I think you

 22 testified that there is not really a straight-line

 23 correlation, but how would you view that or look at

 24 that?

 25 THE WITNESS: Well, there is an example on

 FLORIDA PUBLIC SERVICE COMMISSION

 514

 1 this very same sheet of paper. That very first offer is

 2 for 504,000 tons from DTE, and it is the lowest price on

 3 this sheet. It's only for one year, so it was not

 4 available in 2006, so we didn't use it, but it is the

 5 lowest price, and you have got coal on here for a

 6 million tons a year that are higher.

 7 COMMISSIONER SKOP: Okay. Let's speak to that

 8 for a second. In your testimony you spoke about the

 9 Vista model and how you thought that either coal from

 10 the Spring Creek mine was not properly evaluated by the

 11 Vista model or something along those lines, isn't that

 12 correct?

 13 THE WITNESS: I have a real concern about

 14 whether or not the Vista model was ever run for this

 15 2004. But I also said -- yes, I said that it did not

 16 appear that the evaluation of the impact of that coal in

 17 the boiler was properly accounted for.

 18 COMMISSIONER SKOP: Okay. So I guess to

 19 better understand, if the model was run for Spring Creek

 20 coal, then the model does not properly account for

 21 sodium or undervalue -- underweight sodium, is that

 22 correct?

 23 THE WITNESS: I would agree with that

 24 statement. Again, I do not know whether the Vista model

 25 was run. If they tell me it was, I'm more than willing

 FLORIDA PUBLIC SERVICE COMMISSION

 515

 1 to agree that it was.

 2 COMMISSIONER SKOP: Okay. So even though you

 3 had some technical concerns with respect to the accuracy

 4 of the data, you picked that number anyway because it

 5 was lower priced, is that correct?

 6 THE WITNESS: Because I was committed to using

 7 the numbers prepared by Progress Energy without second

 8 guessing them.

 9 COMMISSIONER SKOP: Okay. I want to just turn

 10 your attention -- I guess you had done an effect of

 11 blending sodium and different coals calculation, and

 12 that was, I believe, previously entered as Exhibit 57.

 13 THE WITNESS: Correct.

 14 COMMISSIONER SKOP: And I think in your answer

 15 to my question with respect to the sub-bituminous coal,

 16 you indicated that that calculation was based upon the

 17 coal from the Spring Creek mine, is that correct?

 18 THE WITNESS: For the sodium we're talking

 19 about, yes.

 20 COMMISSIONER SKOP: Okay. Now, is it also

 21 true you said you relied on the Progress data when you

 22 performed your analysis?

 23 THE WITNESS: When I performed my refund

 24 analysis, yes.

 25 COMMISSIONER SKOP: Okay. Is there any reason

 FLORIDA PUBLIC SERVICE COMMISSION

 516

 1 in this calculation for percent of sodium you list

 2 8 percent, whereas I'm looking at JS-9, which shows the

 3 quantities for various coals, but for the Spring Creek

 4 coal it lists the sodium content at 8.24 percent. Is

 5 there any difference in terms of why you might have

 6 picked a lower number?

 7 THE WITNESS: The bid itself talks about a bid

 8 quality of 8 percent. It does contain information that

 9 says it could range up for -- a specific set of numbers

 10 indicate 8.24 or eight-point something.

 11 COMMISSIONER SKOP: Okay. Assuming for the

 12 sake of discussion, and, again, looking at the JS-9 in

 13 the light most favorable to Progress, and assuming that

 14 8.24 percent is correct, would you agree that your

 15 calculation, subject to check, would increase slightly

 16 to a number of 1.64 percent?

 17 THE WITNESS: I would agree with the increase,

 18 I'll trust your math.

 19 COMMISSIONER SKOP: Like Mr. Burnett said, we

 20 are all three attorneys, and it's not good to trust

 21 lawyers doing math, because I haven't done that in a

 22 long time. But --

 23 COMMISSIONER ARGENZIANO: Mr. Chair. You keep

 24 talking about how you trust lawyers. There's a lot of

 25 other things that go along with that. There's a room

 FLORIDA PUBLIC SERVICE COMMISSION

 517

 1 full of lawyers, so be careful.

 2 CHAIRMAN CARTER: They are only talking about

 3 some lawyers, not all of us.

 4 COMMISSIONER SKOP: Yes, yes.

 5 CHAIRMAN CARTER: Some of us can do math real

 6 well.

 7 COMMISSIONER SKOP: Trying to get back on

 8 track, I guess you had mentioned in a question to -- I

 9 guess in response to a question that Mr. McGlothlin

 10 asked you, and you had discussed the design fuel, and I

 11 thought that your answer was a little bit incomplete, so

 12 I'm going to go back and ask some questions along the

 13 line of that. You mentioned that the Babcock and Wilcox

 14 design specification was for a 50/50 blend of eastern

 15 and western, correct?

 16 THE WITNESS: That's correct.

 17 COMMISSIONER SKOP: And then you further

 18 elaborated that western was specific to PRB, Powder

 19 River Basin coal, sub-bituminous coal spanning a

 20 multi-state region, is that correct?

 21 THE WITNESS: From two different sources, yes.

 22 COMMISSIONER SKOP: Okay. Now, I guess on the

 23 exhibit that I passed out yesterday, the design fuel was

 24 specified as a combination of Type 1 and Type 7, which

 25 focused on Campbell County, Wyoming, as the source of

 FLORIDA PUBLIC SERVICE COMMISSION

 518

 1 the Powder River Basin coal, would you agree with that?

 2 THE WITNESS: That document did say that, and

 3 I don't disagree with that.

 4 COMMISSIONER SKOP: Okay. And in the

 5 evaluation of that alternative in the Babcock and

 6 Wilcox, I guess, evaluation and I'm referring back to

 7 Witness Sansom from the prior docket, RS-2, Babcock and

 8 Wilcox did at least seven evaluations of different

 9 blends of coal using coals from the Powder River Basin

 10 to determine what was ultimately selected as the design

 11 or performance coal, is that correct?

 12 THE WITNESS: There were seven coals, as I

 13 understand it, that were looked at in different

 14 combinations, yes, to test the wide range of the

 15 capability of the unit.

 16 COMMISSIONER SKOP: Okay. But in terms of a

 17 performance guarantee, that performance guarantee

 18 centered upon a blend specifically of CAPP coal and PRB

 19 coal from Campbell County, Wyoming, is that correct?

 20 THE WITNESS: I don't believe it is correct to

 21 tie the design coal directly to a performance guarantee.

 22 COMMISSIONER SKOP: But will you admit,

 23 subject to check, that that is exactly what Babcock and

 24 Wilcox did?

 25 THE WITNESS: No, sir, I can't. Because any

 FLORIDA PUBLIC SERVICE COMMISSION

 519

 1 guarantee on the unit was based on steam flow,

 2 pressures, temperatures. And so, therefore, it was

 3 based not on the coal that was being burned, but on the

 4 flows that would be guaranteed. And they did say if you

 5 had coal in a wide range around this design coal that

 6 you could produce the design steam flow pressure and

 7 temperature to produce 750 to 770 megawatts.

 8 COMMISSIONER SKOP: Mr. Chairman, just to

 9 complete the record, and I don't know if the witness has

 10 a copy of RS-2, but I'm happy to give him mine, but I

 11 would like to ask him to reevaluate the last statement

 12 in light of the --

 13 CHAIRMAN CARTER: What was the exhibit you

 14 mentioned, Commissioner?

 15 COMMISSIONER SKOP: It's RS-2 from Witness

 16 Sansom, Page 6 of 6.

 17 CHAIRMAN CARTER: Staff, do you have a copy

 18 that you could provide to the witness, so we'll be on

 19 the same page?

 20 MS. BENNETT: I do not, but we can make

 21 copies.

 22 CHAIRMAN CARTER: Yes, let's do that. He

 23 needs to be able to see what we're talking about here.

 24 Can we get a copy of that?

 25 Commissioner, can you go to another question

 FLORIDA PUBLIC SERVICE COMMISSION

 520

 1 while staff is getting that?

 2 COMMISSIONER SKOP: Yes. I guess my remaining

 3 question centers, basically, on this sheet.

 4 CHAIRMAN CARTER: Okay. Well, then, hang on

 5 one second and we'll just kind of run in place. Let's

 6 give staff a second to get that. Nobody leaves the

 7 building. Nobody leaves the room. (Pause.)

 8 Why don't we just take five, Commissioners,

 9 and give him an opportunity get the paperwork together.

 10 And when Commissioner Skop is done, I'll come back to

 11 the bench and see if we have anything further, and then

 12 we will go ahead on and deal with the exhibits and move

 13 further.

 14 We are on recess.

 15 (Recess.)

 16 CHAIRMAN CARTER: We are back on the record.

 17 Commissioner Skop, you're recognized.

 18 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 19 Where we are left off before the break is I was asking

 20 Mr. Putman with respect to performance guarantees being

 21 based upon the designed fuel blend, and he indicated

 22 that that was not the case. I have asked staff to hand

 23 out Witness Sansom's -- which was an OPC witness from

 24 the last docket, RS-2, Page 6 of 6.

 25 And, Mr. Putman, if you could read the title

 FLORIDA PUBLIC SERVICE COMMISSION

 521

 1 of that table, please, for me. That would be Page 6 of

 2 6, Table 3.2-2.

 3 THE WITNESS: Okay. The title is Alternative

 4 Florida Power Corporation Performance Goals Weight Blend

 5 50/50 Basis.

 6 COMMISSIONER SKOP: Okay. And with respect to

 7 the type of coals evaluated, you would note for the

 8 record that there were seven scenarios run, is that

 9 correct?

 10 THE WITNESS: There were seven coals and this

 11 shows seven scenarios with those seven coals.

 12 COMMISSIONER SKOP: Okay. And the third

 13 column on that chart has an asterisk by it, is that

 14 correct?

 15 THE WITNESS: It does.

 16 COMMISSIONER SKOP: And that's Type 1 and Type

 17 7 coal, which is CAPP coal and Powder River Basin coal

 18 from the Campbell County, Wyoming, mine, is that

 19 correct?

 20 THE WITNESS: I am aware that that is what

 21 that 1 and 7 says.

 22 COMMISSIONER SKOP: Okay. And can you please

 23 read at the bottom the -- there is an asterisk by the

 24 type of coal that was selected as the performance coal.

 25 Can you please read what that asterisk designates,

 FLORIDA PUBLIC SERVICE COMMISSION

 522

 1 please?

 2 THE WITNESS: It says performance guarantee

 3 shall be based on this blend.

 4 COMMISSIONER SKOP: Thank you.

 5 With respect to that performance blend that

 6 was chosen on that same table, if you could please look

 7 at the sodium oxide that is indicated by percentage in

 8 the ash analysis, and can you please for the combined

 9 blend coal, please indicate what that percentage is for

 10 the sodium oxide.

 11 THE WITNESS: For the Number 1 and 7

 12 combination it is 1.50.

 13 COMMISSIONER SKOP: Okay. Now, in terms of

 14 your analysis that you did in Exhibit 57, you show the

 15 effect of blending high sodium Powder River Basin coal

 16 and the effect of that blend in terms of the percentage

 17 of sodium oxide, I believe, that would be in the ash, is

 18 that correct?

 19 THE WITNESS: Correct.

 20 COMMISSIONER SKOP: Now, you would agree,

 21 would you not, that your blended sodium analysis for the

 22 Spring Creek coal indicated a result that was 1.61

 23 percent, but -- is that true?

 24 THE WITNESS: I think my example was

 25 1.54 percent for sodium. I think you're looking at

 FLORIDA PUBLIC SERVICE COMMISSION

 523

 1 sulfur.

 2 COMMISSIONER SKOP: No, I'm looking at the

 3 sodium, and I believe that percentage is 1.61 percent,

 4 and that is on Exhibit 57. And I also think that

 5 previously you testified in response to a question that

 6 if that sodium percentage for the sub-bituminous coal

 7 was actually corrected to the JS-9 value that that

 8 number would, in fact, increase, subject to check, to

 9 1.64 percent, is that correct?

 10 THE WITNESS: I guess I'm confused now. I'm

 11 looking at the sheet that seems to say the blend of

 12 sodium is 1.54.

 13 COMMISSIONER SKOP: Okay. Well, I have a

 14 sheet in front of me, the effect of blending sodium in

 15 different coals, which was entered into the record as

 16 Exhibit 57, which was prepared by you, and you showed

 17 the effective sodium on an 80/20 blend. And all things

 18 being equal, you were, I believe, commenting that sodium

 19 really doesn't contribute a whole lot here, and the

 20 calculation that you made, the blend sodium, was

 21 1.61 percent. Is that correct?

 22 THE WITNESS: I am now looking at the actual

 23 exhibit and, yes, you are correct, 1.61 is the number.

 24 COMMISSIONER SKOP: Okay. And when I referred

 25 you previously back to JS-9 where it showed a sodium

 FLORIDA PUBLIC SERVICE COMMISSION

 524

 1 content for the Spring Creek coal of 8.24 percent, I

 2 believe you agreed, subject to check, that if you

 3 inserted that or substituted that number for the

 4 percentage listed in that exhibit, that subject to check

 5 the revised final number would be 1.64 percent. Is that

 6 correct?

 7 THE WITNESS: I said that, yes.

 8 COMMISSIONER SKOP: Now, you would agree,

 9 based on your analysis and the calculation that was

 10 performed in Exhibit 57 and relating that back to the

 11 designed fuel blend, that the percentage of sodium that

 12 was selected based upon significant evaluation of

 13 various options for selecting the performance coal, that

 14 the Spring Creek coal and the use of that coal would

 15 result in a higher sodium content than that specified

 16 for the performance coal that was selected on the basis

 17 of the unit design, is that correct? The 1.5 percent

 18 versus the 1.61 or 1.64 percent depending on how you

 19 want to calculate it.

 20 THE WITNESS: I guess the piece I'm missing is

 21 what is the number one coal and what was the sodium

 22 content of the number one coal.

 23 COMMISSIONER SKOP: Actually I think that

 24 is -- yes, basically, assuming your number is correct

 25 for the sodium on the CAPP coal which, I mean, that

 FLORIDA PUBLIC SERVICE COMMISSION

 525

 1 appears to be a standard number, and I guess we could

 2 always look to it. But I think the number I have for

 3 that CAPP coal is similar to the 1 percent that you

 4 have, or I would accept your 1 percent just subject to

 5 check for the discussion. But what I'm trying to

 6 articulate is looking at the sodium on the performance

 7 coal versus the sodium calculation that you allege that

 8 would result from using the Spring Creek coal and trying

 9 to illustrate how that percentage by your calculation

 10 and your choice of fuel is higher than that selected for

 11 the performance coal.

 12 THE WITNESS: Okay. I'm going to agree with

 13 you that all of those things would cause that number to

 14 go higher.

 15 COMMISSIONER SKOP: Thank you. No further

 16 questions.

 17 COMMISSIONER ARGENZIANO: Mr. Chair.

 18 CHAIRMAN CARTER: Commissioner Argenziano,

 19 you're recognized.

 20 COMMISSIONER ARGENZIANO: Thank you.

 21 And I guess with Commissioner Skop's speaking

 22 to the chemistries and stuff, and I guess what my

 23 questions come down to is I guess that they are -- I am

 24 now not guessing, I'm surmising that different coals

 25 have different chemistries. And I guess the chemical

 FLORIDA PUBLIC SERVICE COMMISSION

 526

 1 compounds or their different chemistries cause them to

 2 burn differently, is that accurate?

 3 THE WITNESS: That's correct, and to leave

 4 different residues in the boiler.

 5 COMMISSIONER ARGENZIANO: Okay. And I guess

 6 what I need to figure out, because Commissioner point is

 7 making a point here, is how big a deal it is, and do the

 8 plant managers deal with that every time they change a

 9 coal source? And with this particular plant, since it

 10 was is designed to handle more sorts of coal, I'm trying

 11 to figure out where that argument fits in.

 12 So could you tell me is it a big deal -- and

 13 I'm not trying to trivialize it or to make it more than

 14 it is, I need to know for me. Is it a really big deal,

 15 or do plant managers have to really regularly deal with

 16 that every time they change the source of coal.

 17 THE WITNESS: Even when they don't change the

 18 source of coal, they may be getting the same sets of

 19 coal into the plant every day, but when it gets into the

 20 boiler, because they are buying from South America, or

 21 Central App, or all of these normal kinds of coals they

 22 have been getting, on any given day there is a different

 23 modified chemistry going into the boiler. And so, yes,

 24 the operators are running equipment to modify all of

 25 those pieces to make it work. They may have to run the

 FLORIDA PUBLIC SERVICE COMMISSION

 527

 1 sub-boilers more, they may have to run the pulverizers

 2 faster or slower, it is an ongoing human interaction

 3 with the chemistry. And they make it work, yes.

 4 As far as what is this unit designed to burn,

 5 then I would go to this other document that the

 6 Commissioner passed out that has seven different

 7 combinations. And what this reflects, it reflects the

 8 design fuel in the middle, this one in seven with the

 9 asterisk, but it also reflects all the other

 10 combinations of coals that were considered in the

 11 design.

 12 And what the design says is that with any of

 13 these combinations, the unit will operate successfully

 14 and will produce a level of steam pressure and

 15 temperature necessary to produce 750 to 770 megawatts.

 16 It was an amazing unit, the Lexus of the time, but the

 17 design fuel is exactly what the Commissioner says, but

 18 it can burn a wide range around that.

 19 COMMISSIONER ARGENZIANO: But it is something

 20 that a plant -- I guess the plant managers, because I

 21 don't know who else will deal with it, have to deal with

 22 on an ongoing basis.

 23 THE WITNESS: Correct.

 24 COMMISSIONER ARGENZIANO: Okay. So I'm trying

 25 to figure out whether it's overstated or it's not, and

 FLORIDA PUBLIC SERVICE COMMISSION

 528

 1 I'm trying to actually really sincerely try to figure

 2 out how much of a problem it is. And that's the reason

 3 for the questions, and trying to figure out Commissioner

 4 Skop's continued questioning on those issues.

 5 Obviously something is there, and I guess

 6 what -- I guess the final question I could ask you is

 7 then would it be safe to say that if Commissioner Skop

 8 in his argument about the particular chemistries and how

 9 they burn differently, if a plant wasn't designed the

 10 way this one was, it could be more of a problem for that

 11 plant. I'm not trivializing, you know, what you have to

 12 do to accommodate for different coals, but I imagine if

 13 a plant is designed that way, or if you are in the

 14 business of burning coal, you have to plan for different

 15 coal types coming in.

 16 THE WITNESS: You're absolutely right. And

 17 the piece of information we have is Plant Scherer

 18 burning Powder River Basin coal with a different

 19 designed boiler said we don't want Spring Creek coal

 20 because even though it was a cheap offer, it was going

 21 to cause us more problems and more expenses and more

 22 issues, so we don't want it. We are going to buy

 23 something else. It is a different boiler, but it says

 24 that there are coals where it becomes necessary even

 25 though on some basis it's the cheapest one, it doesn't

 FLORIDA PUBLIC SERVICE COMMISSION

 529

 1 make real sense to buy it.

 2 COMMISSIONER ARGENZIANO: Okay. Thank you.

 3 CHAIRMAN CARTER: Thank you.

 4 Commissioner Skop.

 5 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 6 Just a quick follow-up, because I thought --

 7 with all due respect, I thought, Mr. Putman, something I

 8 heard may have overstated what I thought that the

 9 performance guarantee was based on.

 10 I think in evaluating these coals shown on

 11 these sheets, that was basically, you know, considering

 12 engineering trade-offs to optimize the design and what

 13 was settled on for the performance fuel or performance

 14 coal for that unit was not -- you know, I guess you

 15 could burn anything, it's just -- as you just mentioned,

 16 what damage is that going to cause or what is that going

 17 to do to your emission profile. But if you were to

 18 look, basically, at the sodium oxide on this page, and

 19 look at the sulfur percentage for the coals that were

 20 considered, it seemed to me that they optimized around

 21 not only the sodium, but also the sulfur and picked the

 22 best choice.

 23 So, again, I don't want to make more out of

 24 this than it is, but what I'm merely trying to talk to

 25 is that Babcock and Wilcox when they did this design put

 FLORIDA PUBLIC SERVICE COMMISSION

 530

 1 extensive thought and consideration into some of these

 2 issues. And I just -- again, I'm not the one that

 3 designed the plant, I'm not the one that runs the plant,

 4 but you said, I think, by your own admission, that no

 5 other coal plant to your knowledge is using Spring Creek

 6 coal, so there must be a reason for that.

 7 THE WITNESS: No, I did not say that. I said

 8 to my knowledge, because they are selling

 9 15 million tons somewhere. I think it would be

 10 appropriate if I might ask, that this is one page out of

 11 an exhibit from Mr. Sansom. I think it would be

 12 appropriate to look at the rest of that, because there

 13 is a paragraph in the rest of that information that

 14 deals directly with the question you are asking. And so

 15 I think it would be appropriate to look at that.

 16 CHAIRMAN CARTER: I think that is in the

 17 record. We took care of that?

 18 COMMISSIONER SKOP: Yes.

 19 CHAIRMAN CARTER: So that's available to all

 20 the parties. Thank you.

 21 COMMISSIONER ARGENZIANO: Do we have that

 22 available to look at?

 23 CHAIRMAN CARTER: It has been admitted when we

 24 did the preliminary, but it's not -- I don't know if

 25 staff has it handy or not, but we admitted it when we

 FLORIDA PUBLIC SERVICE COMMISSION

 531

 1 did our preliminary statement -- I mean, preliminary

 2 matters.

 3 MR. McGLOTHLIN: I believe we may be talking

 4 about two different documents. Let's find out. This is

 5 the one that the witness had in mind.

 6 CHAIRMAN CARTER: I beg your pardon, Mr.

 7 McGlothlin?

 8 MR. McGLOTHLIN: I believe we may be talking

 9 about two different documents. This is the one the

 10 witness had in mind. I don't believe it has been

 11 distributed.

 12 CHAIRMAN CARTER: Oh, okay. This is a

 13 different document?

 14 MR. McGLOTHLIN: I believe so.

 15 COMMISSIONER SKOP: What I had shown the

 16 witness was this document, excerpts from the document

 17 that was just handed out, plus excerpts from Witness

 18 Sansom which basically spoke to the performance coal

 19 specifically. So, again, the performance coal, I think

 20 you have to take the two in context. I think one does

 21 not really give detail on what the performance coal was,

 22 whereas this specifically does. So, anyway, I'm just

 23 relying on what I read in the prior document which was

 24 previously entered by OPC. And that would be RS-2, Page

 25 6 of 6, along with -- along with the last page of the

 FLORIDA PUBLIC SERVICE COMMISSION

 532

 1 document that was just -- yes, that's it.

 2 CHAIRMAN CARTER: Okay. Let's do this.

 3 Mr. Putman has been an outstanding witness, and he has

 4 been asked, you know, pretty much -- he has been on --

 5 he did his summation for direct, he has been on cross

 6 examination, and -- Commissioner, do you have further?

 7 You're recognized.

 8 COMMISSIONER ARGENZIANO: If this is what he

 9 referred to, I would like him to speak to it, the

 10 paragraph that you were talking about.

 11 THE WITNESS: I would ask you to turn to the

 12 third page of this.

 13 CHAIRMAN CARTER: Okay. The third page from

 14 the front?

 15 THE WITNESS: Yes. Right in the middle of the

 16 page it has got a fuel paragraph, and I'm going to read

 17 it if I may. "The guarantees for this unit are based on

 18 firing a 50/50 blend of eastern bituminous and western

 19 sub-bituminous coal. The performance coal is classified

 20 as high slagging and medium fouling. Performance was

 21 also checked on Illinois deep mine coal, which is

 22 classified as severe slagging and high fouling. The

 23 furnace and convection pass are designed for a severe

 24 slagging and severe fouling coal."

 25 And what that means in layman's terms is the

 FLORIDA PUBLIC SERVICE COMMISSION

 533

 1 performance coal is a high slagging, medium fouling.

 2 They looked at these other coals to come up with a wide

 3 band that included severe slagging and high fouling, but

 4 then it was designed even a wider step than that. Wider

 5 than any of the coals they considered that are included

 6 on those one through seven, and that is what they built

 7 it around. And that graph down below is the performance

 8 coal and it also includes the Illinois coal that was

 9 considered.

 10 COMMISSIONER ARGENZIANO: Thank you.

 11 CHAIRMAN CARTER: Thank you. Staff, was this

 12 part of the --

 13 MS. BENNETT: It's part of Staff's Composite

 14 Exhibit.

 15 CHAIRMAN CARTER: Okay. I just wanted to make

 16 sure it was in the record. And, of course, I don't envy

 17 staff having to do a recommendation on this, but thank

 18 you. It's in the record.

 19 Commissioners, anything further from the

 20 bench? Okay. Let's deal with exhibits. You may be

 21 excused. Thank you so kindly.

 22 THE WITNESS: Thank you for your patience.

 23 CHAIRMAN CARTER: Mr. McGlothlin, you're on

 24 first. Let's deal with the exhibits. And let me turn

 25 my page here. That would be Exhibits 14 through 29, I

 FLORIDA PUBLIC SERVICE COMMISSION

 534

 1 believe it is.

 2 MR. McGLOTHLIN: Yes. I move 14 through 29,

 3 and I also --

 4 CHAIRMAN CARTER: Hang on, hang on. Any

 5 objections?

 6 MR. BURNETT: No, sir.

 7 CHAIRMAN CARTER: Okay. Shown it done, 14

 8 through 29 entered in.

 9 (Exhibit Numbers 14 through 29 admitted into

 10 the record.)

 11 CHAIRMAN CARTER: Now let's flip over to

 12 Exhibit 55.

 13 MR. BURNETT: Yes, sir. That was mine, and I

 14 would move 55 and 56.

 15 CHAIRMAN CARTER: 55 and 56. Any objections?

 16 MR. McGLOTHLIN: No.

 17 CHAIRMAN CARTER: Without objection, show it

 18 done.

 19 (Exhibits 55 and 56 admitted into the record.)

 20 CHAIRMAN CARTER: Mr. McGlothlin.

 21 MR. McGLOTHLIN: I move 57, 58, and 59.

 22 CHAIRMAN CARTER: Any objections?

 23 MR. BURNETT: No, sir.

 24 CHAIRMAN CARTER: Without objection, show it

 25 done.

 FLORIDA PUBLIC SERVICE COMMISSION

 535

 1 (Exhibit Number 57 through 59 admitted into

 2 the record.)

 3 MR. McGLOTHLIN: I believe we also assigned

 4 Number 50 to the declassified version of one of

 5 Mr. Putman's exhibit.

 6 CHAIRMAN CARTER: Just for the record, in case

 7 no one is clear, we did that into -- Exhibit 50 is

 8 entered into the record. Okay. Thank you, Mr. Sansom

 9 (sic).

 10 Mr. Burnett, call your witness.

 11 MR. BURNETT: Thank you, sir. We call Sasha

 12 Weintraub.

 13 SASHA WEINTRAUB

 14 was called as a witness on behalf of Progress Energy

 15 Florida, and having been duly sworn, testified as

 16 follows:

 17 DIRECT EXAMINATION

 18 BY MR. BURNETT:

 19 Q. Mr. Weintraub, you were sworn earlier,

 20 correct?

 21 A. Correct.

 22 Q. Have you filed prefiled rebuttal testimony and

 23 exhibits in this matter?

 24 A. I have.

 25 Q. Do you have your prefiled rebuttal testimony

 FLORIDA PUBLIC SERVICE COMMISSION

 536

 1 and exhibits with you?

 2 A. I do.

 3 Q. Do you have any changes to make to your

 4 prefiled rebuttal testimony?

 5 A. I do not.

 6 Q. If I asked you the same questions in your

 7 prefiled rebuttal testimony today, would you give the

 8 same answers that you give in your prefiled testimony?

 9 A. I would.

 10 MR. BURNETT: Mr. Chair, we request the

 11 prefiled rebuttal testimony be entered into the record

 12 as read here today.

 13 CHAIRMAN CARTER: The prefiled testimony of

 14 the witness will be inserted into the record as though

 15 read. You may proceed.

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 FLORIDA PUBLIC SERVICE COMMISSION

 554

 1 BY MR. BURNETT:

 2 Q. Do you have a summary of your prefiled

 3 testimony, sir?

 4 A. I do.

 5 Q. Keeping in mind the seven-minute constraint,

 6 would you please summarize your testimony.

 7 A. Sure.

 8 The purpose of my rebuttal testimony is to

 9 address the multiple errors, mistakes, and omissions in

 10 Mr. Putman's testimony in this matter. In addition to

 11 multiple mistakes that I provide testimony on, my

 12 rebuttal testimony also takes the mistakes, errors, and

 13 omissions that Witness Heller and Witness Stenger

 14 identify and presents them in conjunction with the

 15 mistakes that I identify to provide a bottom-line result

 16 for the Commission.

 17 The first problem with Mr. Putman's testimony

 18 is that he uses two types of coal that the PSC never

 19 considered, analyzed, or heard testimony on in Docket

 20 060658. As explained in detail in Witness Stenger's

 21 rebuttal testimony, the Spring Creek and Indonesian coal

 22 that that Mr. Putman advances in his testimony are very

 23 different than the PRB coal that the Commission

 24 considered in Docket 060658, and for that reason alone

 25 the Commission should not consider that coal here.

 FLORIDA PUBLIC SERVICE COMMISSION

 555

 1 In fact, even Mr. Putman agrees that Spring

 2 Creek coal should not have been ranked as number one

 3 when the cost of handling the elevated sulfur is

 4 included. In Docket 060658, the PSC analyzed Wyoming

 5 coal from the Powder River Basin. Others in that case

 6 intended to assert claims that the other types of coal

 7 from Colorado and nondomestic sources would have been

 8 more cost-effective. Both the Commission staff and the

 9 Commission itself properly found that it could not make

 10 reasonable and proper decisions on the prudence of PEF's

 11 actions with regard to such coals without having a full

 12 set of facts regarding these coals before it.

 13 In its ultimate finding, the PSC specifically

 14 limits its consideration to the coal that it did

 15 actually hear complete and competent evidence on, that

 16 is Wyoming PRB coal that PEF tested in 2004 and 2006.

 17 Further, as Witness Stenger will explain, PEF could not

 18 have reasonably tested these coals in the time frame

 19 that Mr. Putman sets forth in his testimony. So even if

 20 Spring Creek and Indonesian coal were proper for

 21 consideration, PEF could not have burned them in '06 and

 22 '07.

 23 Further, the cost of capital upgrades that

 24 would potentially be necessary to burn these coals could

 25 dwarf the alleged savings that Mr. Putman advances in

 FLORIDA PUBLIC SERVICE COMMISSION

 556

 1 his testimony. Even if the PSC looks beyond that fact

 2 that Mr. Putman uses improper coal that was not at

 3 issue, the Commission should reject the conclusions in

 4 his testimony because they are based on selective

 5 hindsight look back that applies incomplete, outdated,

 6 or incorrect information and that ignores the real life

 7 implications of the actions that he suggests PEF should

 8 have taken.

 9 While Mr. Putman has attempted to cure one of

 10 the most critical mistakes he made in his testimony by

 11 filing amended testimony which reduces his alleged

 12 damages by approximately $27 million, he still has left

 13 uncorrected over 13 mistakes that are summarized on Page

 14 17 of my rebuttal testimony. For example, in both 2006

 15 and 2007, Mr. Putman changes three-year contract bids to

 16 one-year bids without accounting for the fact that there

 17 would have been financial consequences for shaving off

 18 66 percent of the contract's duration. Mr. Putman

 19 significantly understates transportation costs of the

 20 coal he uses because instead of closely examining actual

 21 bid documents and transportation agreements, he instead

 22 simply reviewed summary sheets that did not account for

 23 all transportation prices.

 24 Further, Mr. Putman does not account for the

 25 consequences of the purchases he advances, such as the

 FLORIDA PUBLIC SERVICE COMMISSION

 557

 1 damages PEF would have to pay barge companies for

 2 minimum transportation requirements that have been in

 3 place prior to 2004, and the additional transportation

 4 costs that PEF would have to incur to bring the right

 5 amount of coal to Crystal River to keep the plants

 6 running.

 7 Mr. Putman also makes simple mistakes that

 8 could have easily been cured in his amended testimony,

 9 such as using outdated SO2 emission cost projections

 10 instead of the actual cost of those emissions. All of

 11 these mistakes combined with the errors that Witness

 12 Heller discusses in his rebuttal testimony reduces

 13 Mr. Putman's alleged damages from the original

 14 $61 million to a negative $1.525 million. These

 15 calculations are also included at Page 17 of my rebuttal

 16 testimony.

 17 This concludes my summary and I'm happy to

 18 answer any questions that you may have.

 19 MR. BURNETT: We tender Mr. Weintraub for

 20 cross-examination.

 21 CHAIRMAN CARTER: Mr. McGlothlin, you're

 22 recognized.

 23 CROSS EXAMINATION

 24 BY MR. McGLOTHLIN:

 25 Q. Good afternoon, sir.

 FLORIDA PUBLIC SERVICE COMMISSION

 558

 1 A. Good afternoon.

 2 Q. Mr. Weintraub, I have several questions about

 3 the assertion in your testimony that the Montana

 4 sub-bituminous coal and the Indonesian sub-bituminous

 5 coal are somehow out of bounds because of the coal that

 6 was the subject of evidence in 060658. And I want to

 7 explore with you the implications of that position.

 8 CHAIRMAN CARTER: Excuse me, Mr. McGlothlin.

 9 I'm having trouble hearing you. Could you bring your

 10 mike closer.

 11 MR. McGLOTHLIN: I'll do better.

 12 CHAIRMAN CARTER: Maybe we can get your volume

 13 turned up. Chris.

 14 Commissioner Skop.

 15 COMMISSIONER SKOP: Thank you, Mr. Chair.

 16 Was Mr. Weintraub's microphone on, too,

 17 because I had some trouble.

 18 CHAIRMAN CARTER: Oh, you had trouble hearing

 19 him, as well?

 20 COMMISSIONER SKOP: Yes.

 21 CHAIRMAN CARTER: I think it was on.

 22 THE WITNESS: It should be on.

 23 CHAIRMAN CARTER: Good. You may proceed, Mr.

 24 McGlothlin.

 25

 FLORIDA PUBLIC SERVICE COMMISSION

 559

 1 BY MR. McGLOTHLIN:

 2 Q. Mr. Weintraub, this is a hypothetical, but for

 3 the purposes of the question assume that a new deposit

 4 of sub-bituminous coal is discovered in Montana and is

 5 opened to mining, and that the specs of that coal are

 6 identical to the characteristics of the Wyoming coal

 7 that was considered in 060658. Assume for -- make the

 8 silly assumption for purposes of the question that it's

 9 offered to Progress Energy at substantial savings

 10 compared to the alternatives, but that the company

 11 chooses to buy more expensive bituminous coal in lieu of

 12 that Montana coal.

 13 In that situation, based upon your view of the

 14 import of the last docket, could the Commission fault

 15 the utility for its choice and require it to make a

 16 refund of any difference in the fuel costs?

 17 A. If you are asking me if we should follow the

 18 Commission order for 060658, I think we should.

 19 Q. Well, my question goes beyond that. In this

 20 situation would the effect of the order preclude the

 21 Commission from finding that the utility made a poor

 22 choice and requiring it to refund the difference between

 23 the less expensive Montana coal?

 24 A. Well, I think my rebuttal testimony shows that

 25 the Montana coal was not the most cost-effective for the

 FLORIDA PUBLIC SERVICE COMMISSION

 560

 1 option that PEF put out.

 2 Q. This is purely a hypothetical, Mr. Weintraub.

 3 It is designed to simply understand your view of the

 4 effect of the order in the last case. You contend that

 5 because of the order in the last case, the coals that we

 6 contend should have been purchased are out of bounds,

 7 and I'm trying to understand what there is about that

 8 order when applied to different circumstances has that

 9 result. Now, did you understand the hypothetical that I

 10 presented?

 11 MR. BURNETT: Mr. Chair, excuse me. I don't

 12 want to object that it seems to call for a legal

 13 conclusion, but I will stipulate that under that

 14 circumstance, the legal interpretation of that order is

 15 you could issue a refund.

 16 CHAIRMAN CARTER: I think he can ask him a

 17 hypothetical based upon the perspective that he was

 18 asking, and he was asking primarily based upon some

 19 things that are within the confines of the record, but

 20 also he can give him opinion. Was that correct, Mr.

 21 McGlothlin?

 22 MR. McGLOTHLIN: Yes, and it goes beyond that,

 23 because it is this witness who has sponsored testimony

 24 in which he asserts that only the coal that was the

 25 subject of evidence in 060658 is a legitimate candidate,

 FLORIDA PUBLIC SERVICE COMMISSION

 561

 1 and that for that reason the Spring Creek coal and the

 2 Indonesian coal are ineligible for consideration, and so

 3 I think it's appropriate to ask --

 4 CHAIRMAN CARTER: Let's see -- proceed. Let's

 5 see where it goes.

 6 BY MR. McGLOTHLIN:

 7 Q. What is your answer to the question, Mr.

 8 Weintraub?

 9 A. My answer would be in your hypothetical that

 10 in reviewing the Spring Creek and Indonesian coal, they

 11 would not be the most cost-effective for PEF to have

 12 purchased, and my rebuttal testimony addresses your

 13 hypothetical directly. My direct testimony shows in

 14 following the Commission order with all the PRB evidence

 15 that I provided that the purchases that PEF made were

 16 the prudent choice when compared to PRB. My rebuttal

 17 testimony specifically addresses the Spring Creek and

 18 the Indonesian coal.

 19 Q. Yes, and your rebuttal testimony also contains

 20 your contention that because these coals were not the

 21 subject of evidence in 060658 they are not candidates

 22 for consideration in the utility's choice. If I may, my

 23 hypothetical is very simple. It is we are not talking

 24 about Spring Creek, we are not talking about Indonesian.

 25 For the purposes of the hypothetical we are talking

 FLORIDA PUBLIC SERVICE COMMISSION

 562

 1 about Montana sub-bituminous coal, which is identical in

 2 terms of the specifications to that generic and typical

 3 Wyoming coal that you contend was the subject of

 4 evidence in the last case.

 5 Was the fact that it is in Montana and not

 6 Wyoming render it immune from criticism because it

 7 wasn't the subject of evidence in the last case?

 8 A. I think the Power River Basin coal is what is

 9 in evidence for and 060658 and following into this

 10 docket.

 11 Q. So the answer to my hypothetical is what? In

 12 that instance, could the Commission fault the utility

 13 for failing to purchase the less expensive Montana coal

 14 and order a refund?

 15 MS. BENNETT: Mr. Chairman, I have to

 16 objection again, but he is asking can the Commission

 17 fault the utility. That is a legal conclusion, and I am

 18 stipulating you could.

 19 CHAIRMAN CARTER: Mr. McGlothlin.

 20 MR. McGLOTHLIN: All right. I will move on to

 21 the next question.

 22 BY MR. McGLOTHLIN:

 23 Q. Now, you recognize, do you not, sir, that in

 24 the order the Commission defined Powder River Basin as

 25 coal as that mined in the states of Wyoming and Montana?

 FLORIDA PUBLIC SERVICE COMMISSION

 563

 1 A. We are talking about Powder River Basin coal.

 2 We are talking about 8800.8, and I do believe in the

 3 order it does talk about whether it would be in Wyoming

 4 or Montana.

 5 Q. Okay. And my next illustration is this,

 6 assume that there is a new deposit of sub-bituminous

 7 coal that is found and opened to mining in Alabama, and

 8 that it is beyond dispute that this is not Powder River

 9 Basin coal, but is identical in terms of its

 10 characteristics and specifications to the PRB coal in

 11 Wyoming that you say was the subject of evidence in the

 12 last case.

 13 Now, this is Alabama coal identical in

 14 characteristics and is offered to Progress Energy at a

 15 price that represents a substantial savings over the

 16 alternatives. In my hypothetical, under the silly

 17 assumption that Progress Energy would instead buy more

 18 expensive bituminous coal, it's not Powder River Basin

 19 coal, but is identical in properties, could the

 20 Commission disallow the differential between the cost of

 21 the offered coal and the cost of the more expensive

 22 bituminous coal?

 23 MR. BURNETT: Mr. Chairman, the same

 24 objection, the same stipulation. If the specs are

 25 identical, I'll stipulate all day long you would have

 FLORIDA PUBLIC SERVICE COMMISSION

 564

 1 the right. If the specs are identical to the coal you

 2 considered in the last case, I will go ahead and

 3 stipulate. As a legal matter you can make a prudence

 4 determination.

 5 MR. McGLOTHLIN: Well, then will you stipulate

 6 that the fact that the coal considered in 060658

 7 happened to reside in Wyoming is no limitation on the

 8 geographical location of coal that can be candidates for

 9 consideration of disallowance?

 10 MR. BURNETT: May I respond to you, Mr. Chair?

 11 CHAIRMAN CARTER: You're recognized.

 12 MR. BURNETT: Thank you, sir.

 13 Mr. Chair, I will stipulate that the physical

 14 location of the coal of where it hails from is

 15 irrelevant to us as far as the state. The

 16 specifications of what -- under this hypothetical

 17 scenario, if the specifications were 100 percent

 18 absolutely identical to the thing you discovered in the

 19 last case, that is our only beef, that is out only

 20 problem.

 21 CHAIRMAN CARTER: Mr. McGlothlin.

 22 BY MR. McGLOTHLIN:

 23 Q. In response, I believe you addressed the

 24 Indonesian coal in your rebuttal testimony, and I

 25 believe you said that you were interested enough to seek

 FLORIDA PUBLIC SERVICE COMMISSION

 565

 1 more information and were interested in performing a

 2 test burn of the Indonesian coal, is that correct?

 3 A. That's correct.

 4 Q. Here's a hypothetical. Assume that you

 5 acquired the information you were looking for. You

 6 assured yourself that the Indonesian coal was suitable

 7 for the unit and that the price was right, but that

 8 Progress Energy elected to burn a more expensive

 9 bituminous coal. In that scenario, could the Commission

 10 impose a disallowance for the differential?

 11 A. In that situation, while the price is right,

 12 while we were doing a test burn there would be

 13 operational considerations that would come out of the

 14 test burn that we would also take into consideration.

 15 Like we talked about, even though sometimes the price as

 16 far as the coal is right, the operational issues that

 17 might add to the cost, the capital upgrades, all of that

 18 would have to be considered.

 19 Q. Okay. Assume that's all considered and you

 20 are satisfied that there is no problem. There is no

 21 problem operationally, the price is advantageous, but

 22 you choose to buy a more expensive coal. But this is

 23 Indonesian coal. In that situation, could the

 24 Commission impose a disallowance?

 25 A. The Commission could what they please to,

 FLORIDA PUBLIC SERVICE COMMISSION

 566

 1 absolutely.

 2 Q. And they would not be precluded from that by

 3 the fact that this coal was not the subject of evidence

 4 in 060658?

 5 A. The Commission can have any opportunities in

 6 the fuel hearings that we have in this docket to deal

 7 with what we do whether or not it is prudent. That is

 8 my job is to make sure that what we do is prudent.

 9 Q. In your summary you reiterated the point in

 10 your rebuttal in which you say that Mr. Putman did not

 11 take into account the effects of entering a contract for

 12 two years of a three-year offer, is that correct?

 13 A. That's correct.

 14 Q. Do you have available to you, Mr. Weintraub,

 15 two exhibits from Mr. Putman's testimony? They were

 16 marked as DJB-5 and 6. Five is the letter from Mr.

 17 Pitcher to management reporting the results of the 2004

 18 RFP, and 06 is the summary of the bids to the April 2004

 19 RFP.

 20 A. I have them.

 21 Q. Okay. On Page 3 of 4 of the letter report --

 22 and check me if you need to, but under Delta coal, the

 23 author is describing the purchases that resulted from

 24 the 2004 RFP for two years, 2005 and 2006. And do you

 25 see the statement, "We also purchased 360,000 each year

 FLORIDA PUBLIC SERVICE COMMISSION

 567

 1 from Progress Fuels Marketing and Trading. This product

 2 will deliver into CR at $2.735 per MMBtu." Do you see

 3 that statement?

 4 A. No, I do not.

 5 Q. Well, let's see if we're on the same page. I

 6 have the memo to Charlie Gates that has been marked

 7 DJP-5.

 8 A. Yes, sir.

 9 Q. And Page 3 of 4 under domestic rail, Delta

 10 coal?

 11 A. Yes, sir.

 12 Q. That refers to a two-year purchase from

 13 Progress Fuels Marketing and Trading at a cost of $2.735

 14 per MMBtu, correct?

 15 A. Correct.

 16 Q. Now, if you'll turn to the bid summary of

 17 2004. This particular transaction was for a Central App

 18 coal, correct?

 19 A. That's correct.

 20 Q. And it's listed there as the fourth under the

 21 middle column, which is called Central Appalachian

 22 coals, correct?

 23 A. Correct.

 24 Q. And so you see that Progress offered a term

 25 for all three years that were encompassed by the RFP?

 FLORIDA PUBLIC SERVICE COMMISSION

 568

 1 A. Yes.

 2 Q. And if you'll check me, isn't it true that

 3 with respect to the cash price, the price did not change

 4 from that offered for the three years as a result of the

 5 two-year purchase transaction that resulted?

 6 A. For the Delta coal by rail, the 360,000 tons,

 7 it looks like it was two years at 48.50 and 49.50, which

 8 I believe when you take into account all those three

 9 years, it all averages to about the cash cost.

 10 Q. And that is the Diamond May (phonetic) origin

 11 for Progress' bid for '05, '06, and '07, correct?

 12 A. Correct.

 13 Q. And so in that particular transaction, the

 14 utility was able to receive a bid for all three years

 15 and was able to negotiate a transaction for two years at

 16 the same price, correct?

 17 A. Well, it was the two years including the

 18 prompt year, meaning '05 and '06.

 19 Q. Yes.

 20 A. Typically, the prompt year is the one that our

 21 coal supplier would be very concerned with. So, yes, I

 22 can see how a three-year bid for '05, '06, '07 got

 23 truncated to an '05/'06 at the cash cost there.

 24 Q. Okay. And in this period of time, were you

 25 with the entity that submitted that bid?

 FLORIDA PUBLIC SERVICE COMMISSION

 569

 1 A. I believe I was.

 2 MR. McGLOTHLIN: Those are all my questions.

 3 CHAIRMAN CARTER: Thank you, Mr. McGlothlin.

 4 Ms. Bradley, you're recognized. And good

 5 afternoon.

 6 MS. BRADLEY: Good afternoon. No questions,

 7 Mr. Chairman.

 8 CHAIRMAN CARTER: Thank you.

 9 Commissioners, I want to go to -- okay, I will

 10 come to the bench and then I will go to staff.

 11 Commissioner Skop, you're recognized.

 12 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 13 Mr. Weintraub, I guess in the interrogatory

 14 response to 29A there were some prices listed in terms

 15 of dollars per MMBtu delivered to terminal for coal that

 16 was actually purchased in the time frame of 2006 through

 17 2007. Are you generally familiar with that?

 18 THE WITNESS: Yes, I am.

 19 COMMISSIONER SKOP: And Progress, I guess, has

 20 asserted via its response that those prices were cheaper

 21 than the PRB alternative. Do you generally agree with

 22 that?

 23 THE WITNESS: I do.

 24 COMMISSIONER SKOP: The question I have for

 25 you, and I will narrow it to one specific question, in

 FLORIDA PUBLIC SERVICE COMMISSION

 570

 1 terms of the dollars per MMBtu delivered to terminal, am

 2 I correct to understand with the exception of the one

 3 purchase in May 2006 that those are a blend of

 4 bituminous, domestic bituminous with imported bituminous

 5 coals?

 6 THE WITNESS: 29A talks about the change in

 7 market conditions that occurred in dealing with the time

 8 frame for '06 and '07. That is in conjunction with the

 9 Attachment B to staff's interrogatory where staff asked

 10 us to apply the Commission order to all of our purchases

 11 that were made in '06 and '07. And when you compare --

 12 first of all, all of the purchases that were made in '06

 13 and '07, as well as the purchased that were laid out in

 14 29A, it shows that the purchases that PEF made were

 15 prudent when compared to PRB coal, and that's what's

 16 specifically laid out in Attachment B.

 17 And 29A shows examples of the purchases that

 18 were made specifically in the '06 and '07 time frame. I

 19 compared those purchases in the '06/'07 time frame to

 20 the spot price of PRB coal at the time. I also used the

 21 actual bid for the actual coal that was purchased for

 22 the May 2006 test burn and compared the purchases that

 23 were made to that test burn. Per your question

 24 yesterday, we also included the SO2 for that particular

 25 example, and with your permission can share that with

 FLORIDA PUBLIC SERVICE COMMISSION

 571

 1 you.

 2 COMMISSIONER SKOP: Yes. That was going to be

 3 what my question was, do those numbers encompass, since

 4 you are burning bituminous coal versus the blend, would

 5 there be a corresponding difference in terms of the

 6 additional SO2 allowances and whether those were

 7 reflected in those dollars per MMBtu, or would those

 8 need to be added on extra?

 9 THE WITNESS: They do need to be added on.

 10 MR. BURNETT: May I approach?

 11 CHAIRMAN CARTER: Mr. Burnett, you may

 12 approach.

 13 MR. BURNETT: Thank you.

 14 CHAIRMAN CARTER: Just a moment here,

 15 Commissioners, to get the information out to the bench

 16 and to the parties.

 17 Commissioner Skop, you're recognized.

 18 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 19 If Mr. Weintraub could briefly, and I do mean

 20 briefly, because we are strained for time, walk me

 21 through what this additional handout purports to offer.

 22 THE WITNESS: Sure. What I've done, the

 23 original 29A was delivered directly to the terminal.

 24 There would be additional cost to deliver the coal to

 25 Crystal River, which I have included. So the additional

 FLORIDA PUBLIC SERVICE COMMISSION

 572

 1 cost, you see a column on the cents per million

 2 delivered to Crystal River. The purchases that were

 3 made during the '06/'07 time frame would be spot

 4 purchases. This is also in Attachment B delivered to

 5 Crystal River, so we extend that as well as an

 6 Attachment B.

 7 I then compared the PRB coal that I was

 8 comparing to and carry that through to Crystal River. I

 9 then also apply the SO2 value, I use an emission

 10 allowance of $731 in '06 and $524 in '07 for the

 11 appropriate time frame. I then add on the SO2 for the

 12 purchases that we made and for the spot PRB coal. And

 13 when you compare with the SO2 included, if you go all

 14 the way to far right to the additional cost of PRB coal,

 15 that would be the additional cost that PEF would have

 16 incurred if we purchased PRB coal instead of the

 17 bituminous coal that we purchased. That is also laid

 18 out in Attachment B of staff's interrogatory.

 19 I also went so far, since Mr. McGlothlin even

 20 asked me questions about the Triton bid, the Triton bid

 21 as we talked about in '06 and '07, I take the $8.25,

 22 which was the actual bid, I include the transportation

 23 costs that Mr. Heller proposes in his direct testimony,

 24 these are the actual costs, carry those actual costs to

 25 Crystal River, then also apply the same SO2 that would

 FLORIDA PUBLIC SERVICE COMMISSION

 573

 1 be applied. Differently than what Mr. Putman talked

 2 about in his testimony, because the way, quite frankly,

 3 Mr. Putman explained how SO2 is handled on DJP-6 and 8

 4 is offensive, as he is trying to declare our company as

 5 being imprudent when he does not understand how even

 6 this bid sheet works.

 7 So I have correctly accounted for SO2, the

 8 all-in costs, and when you compare the Powder River

 9 Basin coal for the purchases that we made, when you

 10 compare the one particular bid that was being talked

 11 about, when you take into account the actual PRB bid

 12 that we received in the RFP, the evidence shows that

 13 what PEF made was prudent, and to come to a different

 14 conclusion would be just wrong.

 15 COMMISSIONER SKOP: All right. Two brief

 16 follow-up questions, Mr. Chair. The last column, I am

 17 assuming that is in dollars per MMBtu.

 18 THE WITNESS: That is.

 19 COMMISSIONER SKOP: Okay. So the far right

 20 column basically is the incremental cost, the

 21 incremental additional cost that it would take to burn

 22 PRB over and above what was actually done. Is that

 23 correct?

 24 THE WITNESS: Well, and then if you also look

 25 at my bullet points, it doesn't take into account any

 FLORIDA PUBLIC SERVICE COMMISSION

 574

 1 additional capital costs, that doesn't take into account

 2 any type of contract duration that could have occurred

 3 for skipping 2005, it doesn't take into account any

 4 delivery constraints that we talked about, Mr. Putman

 5 talked about quite extensively for '05 and early '06,

 6 and it doesn't take into account the incremental barge

 7 costs that I talk about in my rebuttal testimony because

 8 of the fact that you will be leaving coal on the ground

 9 and you would have to go and hire additional barges to

 10 move the coal to Crystal River such that the plant

 11 doesn't run out of coal. And those costs are not

 12 included in that column.

 13 COMMISSIONER SKOP: Okay. And just one final

 14 question with respect to the Indonesian coal, I guess,

 15 that you would generally agree that Indonesian coal does

 16 have some favorable properties, such as low sulfur, is

 17 that correct?

 18 THE WITNESS: Correct. That's what led us to

 19 investigate testing it.

 20 COMMISSIONER SKOP: Okay. And, I guess I'm

 21 going to ask you the same question I just asked Mr.

 22 Putman. In terms of the fuel surcharge that would be

 23 involved typically with marine transport of coal,

 24 whether it be, you know, by barge on the Mississippi,

 25 across the Gulf, or all the way from Indonesia, could

 FLORIDA PUBLIC SERVICE COMMISSION

 575

 1 the fuel surcharge at any point if you entered into a

 2 long-term contract have made it cost prohibitive to burn

 3 Indonesian coal on an as-delivered basis?

 4 THE WITNESS: It would, and I can give you a

 5 good example. If you look at the Spring Creek coal bid,

 6 the Spring Creek coal bid had a fixed transportation

 7 component to it in the offer. And on the cover page of

 8 that bid it talks about including fuel surcharges as

 9 well as a rail cost adjustment factor. These are

 10 typical escalation charges that you would have for

 11 transportation. And when you look at the actuals that

 12 would have occurred, it would have increased the fixed

 13 transportation component of that by over 35 percent.

 14 COMMISSIONER SKOP: And do those costs, those

 15 fuel surcharges, are those based -- are they just

 16 constant charges or are they based typically on

 17 distance?

 18 THE WITNESS: The fuel surcharge can be based

 19 upon the base rates, so it can change the base component

 20 up and down. That is very typical of how it is done.

 21 It is changing the fixed component up or down depending

 22 upon the fuel surcharge.

 23 COMMISSIONER SKOP: All right. Thank you.

 24 THE WITNESS: Commissioners, I'm going to

 25 staff unless there is anything further from the bench.

 FLORIDA PUBLIC SERVICE COMMISSION

 576

 1 Staff, you're recognized.

 2 MS. BENNETT: Thank you.

 3 CROSS EXAMINATION

 4 BY MS. BENNETT:

 5 Q. Mr. Weintraub, when we started I thought I

 6 understood DJP-6, but I want to make sure that I'm

 7 completely clear. On DJP-6 is an evaluation by Progress

 8 Energy of the different coals that were bid, is that

 9 correct?

 10 A. Correct. This is a tabulation of the bids

 11 that were received to determine what type of short list

 12 that we would then want to contact our suppliers to

 13 start negotiating the contracts, which is typical

 14 industry standard.

 15 Q. And my next question, this is where I'm not

 16 quite so clear, does that include the transportation to

 17 get it to the Crystal River plant?

 18 A. It does include the forecasted transportation

 19 to get it to the transportation costs. So, for example,

 20 on DJB-6, these are forecasted prices. We talked a

 21 little bit about a barge contract in my deposition, and

 22 you asked me when was that barge contract entered into.

 23 It was entered into -- the RFP went out in roughly July

 24 of 2006, I believe, and it was returned and entered

 25 into. The new barge contract that we would have had for

 FLORIDA PUBLIC SERVICE COMMISSION

 577

 1 '05, and '06, and '07 would not have been known when

 2 this particular bid sheet was put together. It was our

 3 best estimate at the time, but the actuals that would

 4 have incurred to move coal would have been different

 5 than what is on that spreadsheet.

 6 Q. And anywhere in our testimony does it include

 7 the actuals to get the coal from the mine to Crystal

 8 River?

 9 A. Everything in my testimony is actuals.

 10 Q. Okay. And that includes the transportation

 11 costs?

 12 A. That is correct. That if you took out the

 13 coals, so we have actual coal movements that happened in

 14 '06 and '07. OPC is saying let's take out that coal and

 15 put in an alternative coal. And I'm applying the same

 16 transportation costs to the alternative coals in my

 17 rebuttal testimony, that being Spring Creek and the

 18 Indonesian coal, those same actual coal costs that would

 19 have incurred are what is in my rebuttal testimony.

 20 Q. Okay. And then on Page 15 of your testimony,

 21 you have talked about -- of your rebuttal testimony, you

 22 have talked about some penalties that a breach of the

 23 contract would incur for Progress, or Progress would

 24 incur because of a breach of contract. And I want to

 25 understand how much flexibility you have with that

 FLORIDA PUBLIC SERVICE COMMISSION

 578

 1 contract, the MEMCO contract, I believe. How much of

 2 the option, if any, was used in order to blend with

 3 other bituminous coals? I think you talked about an

 4 Illinois Basin. How much of that option in that

 5 contract was used to blend with the Illinois Basin coal?

 6 A. I guess I'm confused. What Illinois Basin

 7 coal are you referring to?

 8 Q. Let me back up. The additional bituminous

 9 coal that you blended with the CAPP coal, was any of

 10 this contract used for that option?

 11 A. Yes. So we used the MEMCO barge contract to

 12 move bituminous coal in '06 and '07, '07 being the year

 13 that if we followed through with OPC's recommendation we

 14 would breach the contract. That coal was hauled in '07

 15 on that barge contract.

 16 Q. How much additional CAPP coal could have been

 17 displaced by PRB and blended in an 80/20 blend using

 18 this contract?

 19 A. Well, the contract allows for a minimum of

 20 500,000 tons and a maximum of 2.3 million tons. So any

 21 portion of the contract could be utilized to haul the

 22 coal as required for any type of blend.

 23 Q. Okay. Then would there be a penalty for CAPP

 24 coal if you were to -- for any of your contracts for

 25 CAPP coal if you were to blend with the PRB coal, would

 FLORIDA PUBLIC SERVICE COMMISSION

 579

 1 you have any type of penalty there?

 2 A. No. The MEMCO contract itself had different

 3 points that we could haul coal on with different freight

 4 rates. Those points would be in docks in the

 5 Central Appalachian region as well as on the upper

 6 Mississippi River, the Cora, the Cook, and the Kohokia,

 7 which are typical midwest docks where sub-bituminous

 8 coal would flow in. That barge contract could have been

 9 utilized for any one of those particular origin points.

 10 The default contract, the default would have occurred

 11 because in doing the Indonesian coal and not burning the

 12 Central App coal that OPC alleges, we would have

 13 defaulted on the MEMCO contract by being below the

 14 minimum volume.

 15 MS. BENNETT: That's all the questions I have.

 16 Thank you.

 17 CHAIRMAN CARTER: Thank you.

 18 Commissioner Argenziano.

 19 COMMISSIONER ARGENZIANO: Yes. In the

 20 questions that you gave to the witness in the

 21 transportation charges, and I may ask the witness, too,

 22 I don't know, was the answer that the actual transport

 23 costs were the same no matter what the source was?

 24 MS. BENNETT: I think I'd like to have the

 25 witness answer that question.

 FLORIDA PUBLIC SERVICE COMMISSION

 580

 1 THE WITNESS: No. They are specific freight

 2 rates depending upon where the coal is loaded and where

 3 it ultimately is going to.

 4 COMMISSIONER ARGENZIANO: And if I may, are

 5 those usually negotiated on?

 6 THE WITNESS: They are negotiated on, so in

 7 the RFP process we would typically receive in the RFP

 8 process for transportation the different freight rates

 9 for the various points, and there would be negotiation

 10 around those rates.

 11 COMMISSIONER ARGENZIANO: Is there any -- I

 12 guess it is hypothetical. How does one find out what

 13 the cost would be for the different -- how would a

 14 Commissioner, myself, find out what the cost would be

 15 and if there would be, you know, greater expense, and if

 16 it is not, I guess, a rail that you normally use, does

 17 that factor in?

 18 THE WITNESS: Well, the transportation

 19 contract itself is part of this discovery process. The

 20 RFP process allows us to compete to get the best rate

 21 for the various different points.

 22 COMMISSIONER ARGENZIANO: And does it

 23 typically cost more -- well, we know with transportation

 24 the farther away the more it cost, but I guess it's

 25 similar -- it's hard to do that, isn't it? It would be

 FLORIDA PUBLIC SERVICE COMMISSION

 581

 1 in individual RFPs and negotiating.

 2 THE WITNESS: Well, the MEMCO barge contract

 3 came out of an RFP process. And out of that the one

 4 that they -- the MEMCO contract, the contract was

 5 awarded to MEMCO. They had the best rates for the

 6 various different points to deliver it down into the New

 7 Orleans area.

 8 COMMISSIONER ARGENZIANO: Okay. Thank you.

 9 CHAIRMAN CARTER: Commissioners, anything

 10 further? Staff?

 11 Mr. Burnett, redirect.

 12 MR. BURNETT: Sir, I do not have any redirect,

 13 but I would like to mark the handout, if I could, as the

 14 next exhibit number, and move it.

 15 CHAIRMAN CARTER: This is the exhibit that --

 16 Mr. McGlothlin, Ms. Bradley, have you had an opportunity

 17 to look this over?

 18 MR. McGLOTHLIN: Not really, and I do object

 19 to its admission.

 20 CHAIRMAN CARTER: Okay.

 21 MR. McGLOTHLIN: This is the first time we

 22 have seen this, and it isn't clear to me what all the

 23 information is, but from what I glean by his comments,

 24 among other things, he said he took offense at something

 25 Mr. Putman said, and the references to the Triton bid

 FLORIDA PUBLIC SERVICE COMMISSION

 582

 1 here tells me that it is neither a response to a

 2 Commissioner for information nor is it proper rebuttal

 3 of the prefiled testimony that Mr. Putman submitted

 4 earlier. And it arrives at a time when we have already

 5 said we have no further cross questions, so I object to

 6 its admission.

 7 Finally, it looks more complicated to me than

 8 my Exhibit 60, which I also submitted on this subject of

 9 Triton coal that was not allowed.

 10 CHAIRMAN CARTER: Okay. And, Ms. Helton, I'm

 11 inclined to agree with Mr. McGlothlin on this matter

 12 here.

 13 MS. HELTON: That works for me, Mr. Chairman.

 14 CHAIRMAN CARTER: Because in fairness to the

 15 parties, it was not an exhibit of the parties. They

 16 brought this in response to a question that one of the

 17 Commissioners had, and I think it is probably -- I think

 18 Mr. McGlothlin is right on that. I'm going to rule

 19 inadmissibility of this.

 20 Commissioner Skop.

 21 COMMISSIONER SKOP: Thank you, Mr. Chair.

 22 And I apologize for that, because that is the

 23 same issue when I was asking a question in the interest

 24 of being fair to OPC and counsel. Certainly they should

 25 be able to ask questions of the witness with respect to

 FLORIDA PUBLIC SERVICE COMMISSION

 583

 1 this document. So if the Chair would deem to exclude

 2 it, sobeit, but what I had admitted to offer via the

 3 Chair to Mr. McGlothlin would, in the interest of

 4 fairness, certainly they would be able to ask additional

 5 questions as to this document if they chose to do so.

 6 So whichever is their preference.

 7 CHAIRMAN CARTER: I'm going to leave it out,

 8 because a lot of times from the bench you may get a

 9 question that just kind of helps us to frame what we are

 10 asking, but based upon advice of our counsel,

 11 Commissioners, I'm going to rule it inadmissible in this

 12 matter.

 13 MR. BURNETT: Yes, sir. We would move then

 14 the prefiled rebuttal testimony into evidence as well as

 15 Exhibit 30.

 16 CHAIRMAN CARTER: Okay. Are there any

 17 objections?

 18 MR. McGLOTHLIN: None.

 19 CHAIRMAN CARTER: Without objection, show it

 20 done.

 21 (Exhibit Number 30 admitted into evidence.)

 22 CHAIRMAN CARTER: Mr. Weintraub, you may be

 23 excused.

 24 THE WITNESS: Thank you.

 25 CHAIRMAN CARTER: Call your next witness.

 FLORIDA PUBLIC SERVICE COMMISSION

 584

 1 MR. BURNETT: Yes, sir. We call Mr. Heller.

 2 JAMES N. HELLER

 3 was called as a witness on behalf of Progress Energy

 4 Florida, and having been duly sworn, testified as

 5 follows:

 6 DIRECT EXAMINATION

 7 BY MR. BURNETT:

 8 Q. Mr. Heller, I'm going to try to keep moving

 9 fast, so I might read a little fast here. Have you

 10 already been sworn as a witness?

 11 A. Yes, I have.

 12 Q. Have you filed prefiled rebuttal testimony and

 13 exhibits in this matter?

 14 A. Yes, I have.

 15 Q. Do you have your prefiled rebuttal testimony

 16 and exhibits with you?

 17 A. I do.

 18 Q. Do you have any changes to make to your

 19 prefiled rebuttal testimony?

 20 A. I do not.

 21 Q. If I asked you the same questions in your

 22 prefiled rebuttal testimony today, would you give the

 23 same answers that are in your prefiled rebuttal

 24 testimony?

 25 A. Yes.

 FLORIDA PUBLIC SERVICE COMMISSION

 585

 1 MS. BENNETT: We request, Mr. Chairman, that

 2 the prefiled rebuttal testimony be entered into the

 3 record as if read here today.

 4 CHAIRMAN CARTER: The prefiled testimony will

 5 be inserted into the record as though read. You may

 6 proceed.

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 FLORIDA PUBLIC SERVICE COMMISSION

 595

 1 BY MR. BURNETT:

 2 Q. Do you have a summary of your prefiled

 3 rebuttal testimony, sir?

 4 A. I do.

 5 Q. And, again, keeping the seven minutes in mind,

 6 will you please provide that summary.

 7 A. I'll actually summarize the summary.

 8 In my rebuttal testimony I was asked to review

 9 Mr. Putman's testimony and identify anything that were

 10 errors that relate to the cost-effectiveness test that

 11 staff performed in their primary recommendation in

 12 Docket 060658.

 13 Consistent with that, I found that there were

 14 four major errors in Mr. Putman's calculations that need

 15 to be corrected, and those are the ones that I have

 16 addressed in my testimony. The first one had to do with

 17 what we have been calling Btu displacement, and Mr.

 18 Putman corrected part of that in his revised testimony,

 19 but it still is wrong in two serious respects. One of

 20 them is that it does not use the Commission methodology

 21 in terms of Btu displacement as I understood it. It

 22 uses different tonnage amounts than that was supposed to

 23 include. And, secondly, when he goes to actual tonnages

 24 he includes tonnage going through the Port of Mobile,

 25 and there has been discussion about the inability to do

 FLORIDA PUBLIC SERVICE COMMISSION

 596

 1 blending there that would make that impractical.

 2 The second one which was discussed in great

 3 detail in my previous testimony had to do with the

 4 question of capital costs and whether or not they should

 5 be included. I believe they should be included in the

 6 cost-effectiveness test and Mr. Putman does not.

 7 The third major error, although I'm not sure

 8 there is a disagreement having listened to his testimony

 9 this morning, had to do with transportation constraints.

 10 In my analysis, I imposed a transportation constraint in

 11 the first quarter of 2006 because of the disruption in

 12 PRB rail deliveries. I think that should be included,

 13 Mr. Putman does not. But listening to him this morning,

 14 he seemed to acknowledge that that was a problem, as

 15 well.

 16 And the final question had to do with SO2

 17 emission allowances. And Mr. Putman does not do them

 18 correctly, either in the revised testimony or in the

 19 initial testimony. And the methodology is laid out in

 20 what I have done, and those errors together are

 21 substantial. The total amount of alleged damages, which

 22 are reduced through those -- reduced down to

 23 $29.6 million, that's a combination of what Mr. Putman

 24 did in his revised testimony, but there is another

 25 $13.6 million in differences that we have. Six million

 FLORIDA PUBLIC SERVICE COMMISSION

 597

 1 dollars of those relate to the Btu displacement, which I

 2 think is still not done correctly; $477,000 of that

 3 relates to the capital cost exclusion; $983,000 relate

 4 to the transportation constraints both at Mobile and the

 5 difficulty in unloading the Indonesian coal if it were

 6 to be received; and then $6.2 million which relates to

 7 the SO2, what I call the double count because it was

 8 included in Progress Energy's evaluation sheets and

 9 shouldn't be counted again as a separate calculation.

 10 That's a summary of my testimony.

 11 CHAIRMAN CARTER: Thank you.

 12 Let me do one thing before we do the

 13 housekeeping matter. Ms. Bradley, for the record, it is

 14 duly noted that you objected on the same basis as Mr.

 15 Reilly did on that last -- I'm sorry, I didn't look over

 16 there.

 17 MS. BRADLEY: I didn't get a chance, but I

 18 would have.

 19 CHAIRMAN CARTER: Yes. Thank you.

 20 Just for the record, I wanted to make sure

 21 that we are clear that you did enter an objection to

 22 this admission of that. Thank you so kindly.

 23 MS. BRADLEY: Thank you.

 24 CHAIRMAN CARTER: Commissioner Argenziano,

 25 you're recognized.

 FLORIDA PUBLIC SERVICE COMMISSION

 598

 1 COMMISSIONER ARGENZIANO: Thank you.

 2 Just a couple of questions, because it keeps

 3 coming up, and I haven't had a real clarification. In

 4 regards to the blending that you mentioned of the coal,

 5 that it can't be done or it would be impractical. Can

 6 you tell me why? I am under the understanding that they

 7 do blending in Mobile. What would be the difference?

 8 THE WITNESS: You are correct that they do

 9 blending at Mobile. There are actually two facilities

 10 at Mobile, there is the McDuffie terminal that Mr.

 11 Putman referred to where Southern Company takes in and

 12 does do blending. There is another facility called the

 13 bulk facility, or bulk terminal, and blending cannot be

 14 done at that facility.

 15 My understanding is that Progress Energy

 16 approached Mobile, the Port of Mobile about being able

 17 to blend at the facility, and there were two kinds of

 18 problems. One is the McDuffie terminal is highly

 19 utilized. Southern Company actually is the principal

 20 user of that. It's also an export terminal, meaning

 21 that there are metallurgical coals in particular out of

 22 Alabama that come through it. There can be blending of

 23 those, and then they are shipped abroad.

 24 It's my understanding that Progress Energy,

 25 when they went out for a solicitation, did not get a

 FLORIDA PUBLIC SERVICE COMMISSION

 599

 1 response from McDuffie terminal. However, they were

 2 offered the bulk plant as a possible place that they

 3 could operate from. The bulk plant does not

 4 have blending capability, meaning you couldn't bring in

 5 the Indonesian coal, and as Mr. Putman explained, put it

 6 on the ground and have a place to mix them together with

 7 the Central Appalachian coal or bituminous coal and then

 8 ship them to the plant.

 9 COMMISSIONER ARGENZIANO: I'm sorry, who

 10 offered the bulk terminal?

 11 THE WITNESS: The Alabama state docks. In

 12 other words, as I understand it there is a set of

 13 facilities there. Normally you can have more than one

 14 peer, for example, at a port, and the capabilities of

 15 the different -- the different facilities within the

 16 port can differ.

 17 COMMISSIONER ARGENZIANO: Did Progress, to

 18 your knowledge, get a denial, or just McDuffie said

 19 sorry, we can't do?

 20 THE WITNESS: My understanding was McDuffie

 21 could not handle it. They offered -- the authority

 22 offered them the bulk plant. Let me say one other thing

 23 about -- one of the areas that's important when you are

 24 moving ships in and out is you want to avoid demurrage,

 25 and the problem is there would be no priority. What

 FLORIDA PUBLIC SERVICE COMMISSION

 600

 1 Progress Energy wanted was priority for their vessels so

 2 that if they were to use the McDuffie terminal they

 3 would get the ability to bring a vessel in, have it

 4 loaded quickly, move it back out. They would have gone

 5 into a queue had they gotten the ability to use it with

 6 the ocean-going vessels that are exporting coal and with

 7 the Drummond or Southern Company vessels that are coming

 8 in, so. The ability to be able to dispatch those

 9 vessels quickly is something that wouldn't have been

 10 available to them.

 11 COMMISSIONER ARGENZIANO: So timing then was

 12 an issue as far as being able to rely on getting the

 13 blending done and moving in and out in a quicker manner.

 14 THE WITNESS: Ships cost money. When a ship

 15 sits it can cost -- well, a big ship can cost $30,000 a

 16 day.

 17 COMMISSIONER ARGENZIANO: Okay. And

 18 transportation constraints at Mobile, is that the one

 19 you are talking about, meaning getting it from Mobile to

 20 the plant?

 21 THE WITNESS: No, Mobile is the blending. You

 22 asked me about the blending constraint. The

 23 transportation constraints that I referred to in terms

 24 of the --

 25 COMMISSIONER ARGENZIANO: In the rail, I think

 FLORIDA PUBLIC SERVICE COMMISSION

 601

 1 you had mentioned that there were disruptions in rail.

 2 THE WITNESS: Right. In 2005 there was a

 3 virtual meltdown in the western rail delivery system

 4 because of problems at the origination. I think

 5 Southern Company purchasing coal at $4 a million Btu was

 6 a desperate result to try and fill that hole. In the

 7 last docket, Mr. Sansom and I both agreed that there was

 8 a problem, and there was 7-1/2 -- of the amount that was

 9 to be available for blending in the Commission

 10 effectiveness test, that was actually reduced to account

 11 for this disruption. And this disruption went into

 12 2006. And in my analysis, I have taken the 7-1/2

 13 percent, but only applied it to the first quarter of

 14 2006 saying that even if they had been buying

 15 sub-bituminous coal from the Powder River Basin, they

 16 would have had trouble getting it delivered.

 17 COMMISSIONER ARGENZIANO: And those conditions

 18 still exist with that rail?

 19 THE WITNESS: No. Those conditions actually

 20 got relieved by the middle of 2006. The other area that

 21 deals with the transportation constraint has to do with

 22 the ability to unload the vessels that would have been

 23 coming from Indonesian at the terminal in New Orleans.

 24 Again, a vessel comes in -- these are 70,000-ton

 25 vessels, and the dock will provide a guarantee for how

 FLORIDA PUBLIC SERVICE COMMISSION

 602

 1 quickly they can unload the vessel.

 2 My recollection is that in the bid the

 3 assumption was that you could unload 20,000 tons a day.

 4 The terminal itself also has to make a commitment, and

 5 their guarantee was 12,000 tons a day. As a result, the

 6 vessel wouldn't have turned as quickly, and then these

 7 demurrage charges apply and that -- it's not a bar to

 8 doing transportation, it is just an additional cost.

 9 COMMISSIONER ARGENZIANO: And that would, I

 10 guess, be a risk factor in a timely -- or I guess it's

 11 more costly, but the disruption of the rail would be

 12 more of a risk factor if it was a continued type of

 13 operation, I guess.

 14 THE WITNESS: The rail -- and that's

 15 hindsight, but it's part of the cost-effectiveness test

 16 because in a practical -- it would have been impossible

 17 to tell in 2005 had they committed to western rail early

 18 in the year what was going to happen in 2006. But as a

 19 practical matter, they wouldn't have been able to get

 20 all the coal delivered. And so if there is a penalty

 21 assessed in assessment it, would be reduced by that

 22 amount.

 23 The other, which is the demurrage, I think as

 24 a practical matter somebody who is actually shipping

 25 using that route would almost certainly incur those

 FLORIDA PUBLIC SERVICE COMMISSION

 603

 1 kinds of additional transportation costs, plus a risk

 2 factor that is an additional cost --

 3 COMMISSIONER ARGENZIANO: Thank you.

 4 CHAIRMAN CARTER: Commissioner Skop.

 5 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 6 Mr. Heller, I guess I had asked a couple of

 7 previous questions to Mr. Putman, and I'm going to ask

 8 you the same questions. One, I think, may have been my

 9 mistake, so I just want to clarify that. In our prior

 10 order, the 060658 order -- I mean docket, the

 11 Commission -- and I think it's in your direct testimony,

 12 and maybe you can help me find it, but I'm trying to get

 13 a handle on whether the Commission compared the average

 14 price of delivered CAPP, or whether we used it to offset

 15 the highest 20 percent in terms of the PRB.

 16 THE WITNESS: The PRB is used to offset the

 17 highest 20 percent, but it's actually -- the number is

 18 the average of that highest 20 percent, so it could have

 19 been confusing.

 20 COMMISSIONER SKOP: All right. And in this

 21 docket we know the delivered price of the CAPP coal from

 22 your JNH-3 exhibit for 2006 and 2007 as it was filed in

 23 this docket, is that correct?

 24 THE WITNESS: That's correct.

 25 COMMISSIONER SKOP: Okay. And to your

 FLORIDA PUBLIC SERVICE COMMISSION

 604

 1 knowledge, do we know what the price of delivered Powder

 2 River Basin coal to Crystal River would have been for

 3 the 2006 and 2007 years as offered in response to the

 4 April 2004 RFP that was issued by Progress, and

 5 accounting for any adjustments that would need to be

 6 made for inflaters that consider both the coal and

 7 transportation contracts that may or may not have been

 8 entered into at the time of the bid evaluations?

 9 THE WITNESS: I think the only data that may

 10 have addressed that was the exhibit that just went in

 11 and out. It may have had the proper information on

 12 there, but I'm not sure if it's anywhere else.

 13 COMMISSIONER SKOP: Okay. To your knowledge,

 14 has OPC provided the delivered price of PRB coal to

 15 Crystal River? I guess that's where -- I'm trying to

 16 figure out what we have and what we don't have so I can

 17 condense in my mind what comparisons would need to be

 18 made when ultimately I'm asked to decide this. But I'm

 19 trying to find what I feel to be, perhaps, some missing

 20 pieces. And I was wondering if you could point to any

 21 specific reference that shows the delivered price of PRB

 22 coal that would be -- you know, if, in fact, Progress

 23 had bought the coal and entered into contracts and the

 24 contracts had been adjusted for whatever inflater

 25 factors that would be in the contracts, or however the

 FLORIDA PUBLIC SERVICE COMMISSION

 605

 1 structure of those contracts would have been, do we have

 2 any data that suggests what those delivered prices would

 3 be?

 4 THE WITNESS: You do have data. I have given

 5 you the transportation costs in my original analysis

 6 that give you the cost of actually transporting the coal

 7 to the plant. The treatment of Powder River Basin bids

 8 in response to the 2004 RFP, the prices are included in

 9 those. The escalation that would have occurred under

 10 those, or the adjustments that would need to have been

 11 made because of the fact that those weren't for bids

 12 beginning in 2006 and 2007, but for 2005, that data is

 13 here, but I don't think anybody has put in anything

 14 other than what I have put in in terms of what the

 15 delivered Powder River Basin coal looks like under the

 16 test. I think that is the data you have got.

 17 COMMISSIONER SKOP: Okay. Thank you.

 18 CHAIRMAN CARTER: Thank you. Mr. McGlothlin.

 19 CROSS EXAMINATION

 20 BY MR. McGLOTHLIN:

 21 Q. Mr. Heller, in your calculation of the Btu

 22 adjustment, what do you assume to be the source of the

 23 additional Btus?

 24 A. I assume it to be a sub-bituminous Powder

 25 River Basin coal.

 FLORIDA PUBLIC SERVICE COMMISSION

 606

 1 Q. And of what blend?

 2 A. I'm sorry, the PRB coal itself is not blended.

 3 The PRB coal itself goes in as a blend with the

 4 bituminous coals.

 5 Q. I think we may be talking past each other.

 6 After the differential in Btu content is taken into

 7 account and the differential in Btus between -- that

 8 would have been provided by pure bituminous and that

 9 which is provided by the blend is quantified. There is

 10 an adjustment to balance the Btus, correct?

 11 A. Correct, you have to deliver all the Btus to

 12 the plant.

 13 Q. And as you approach it, what assumption do you

 14 make with respect to the coal that constitutes those

 15 additional Btus?

 16 A. The methodology, I think, is fairly

 17 straightforward. Under the Commission effectiveness

 18 test, we assume 2.4 million tons of coal for water

 19 delivery, 20 percent of that is -- 20 percent of that is

 20 what we are supposed to be blending. So if I take

 21 2.4 million tons, and I take 20 percent of that, that

 22 gets me 480,000 tons. Then if I use a Btu of -- 8800

 23 Btu, which is the Powder River Basin, typical Powder

 24 River Basin coal, that is 8800 Btus per pound is 17.6

 25 million Btus per ton. That gives me the 8.448 trillion

 FLORIDA PUBLIC SERVICE COMMISSION

 607

 1 Btus. That's my blending target. That's what I need to

 2 displace. That's 20 percent of the tons.

 3 Q. Are you saying that at the end of the day

 4 after you have balanced the Btus, 20 percent of the

 5 total Btus come from the sub-bituminous coal?

 6 A. It's 20 percent of the -- it's 20 percent of

 7 the tons delivered to the plant, the waterborne tons.

 8 Q. Yes.

 9 A. If they were to be PRB coal at 8800 Btu, that

 10 would be 8.448 trillion Btus. If the coal that you used

 11 to get that isn't exactly 8800 Btu coal, then you are

 12 going to end up with slightly -- it could be slightly

 13 more or less coal actually being delivered, but it's

 14 those tons that would match the -- that would hit those

 15 trillion Btus.

 16 Q. Okay. Let me ask a slightly different

 17 question. You are aware that the Commission determined

 18 in the last docket that Progress Energy can burn a blend

 19 consisting of 20 percent sub-bituminous coal, 80 percent

 20 bituminous coal at Crystal River 4 and 5, correct?

 21 A. Correct.

 22 Q. Now, in terms of quantifying the total Btus to

 23 be delivered to maintain that -- necessary to maintain

 24 operations, does your approach maintain the 20 percent

 25 PRB by weight ratio that the Commission specified in its

 FLORIDA PUBLIC SERVICE COMMISSION

 608

 1 order?

 2 A. It might vary it. If the Btus are not exactly

 3 8800 Btus, then you may end up with slightly more or

 4 slightly less. But the cost-effectiveness, I understand

 5 the pieces of the order, but the math of the

 6 cost-effectiveness test is laid out in the methodology I

 7 just described to you.

 8 Q. Is the objective of your calculation to

 9 attempt to come as close to the 20/80 as possible by

 10 weight?

 11 A. The objective of the calculation is to

 12 displace 20 percent of the 2.4 million tons with

 13 sub-bituminous coal.

 14 Q. In response to some questions from

 15 Commissioner Argenziano you referred to the Alabama

 16 state dock situation. At Page 4 you say, "Furthermore,

 17 a significant portion of the waterborne coal supply for

 18 CR4 and CR5 is delivered via the Alabama state docks

 19 near Mobile, Alabama, where Progress Energy does not

 20 have a contract that allows for coal blending."

 21 That's all you said about that subject in your

 22 prefiled testimony, isn't it, sir?

 23 A. I'm sorry, what was the question?

 24 Q. That is everything you had to say about that

 25 subject in your prefiled rebuttal in terms of that

 FLORIDA PUBLIC SERVICE COMMISSION

 609

 1 situation?

 2 A. Yes. They don't have the ability to blend.

 3 Q. Okay. Now as I understand your answer to the

 4 Commissioner, there has been some back and forth between

 5 Progress Energy and the terminal facility. And do you

 6 know whether the transaction that was contemplated at

 7 the time involved Progress Energy's request for blending

 8 services?

 9 MR. BURNETT: I object to the form; confusing,

 10 ambiguous, and I believe lacks foundation.

 11 CHAIRMAN CARTER: Just rephrase.

 12 MR. McGLOTHLIN: Did I do all of that?

 13 (Laughter.)

 14 BY MR. McGLOTHLIN:

 15 Q. All right. Correct me if I am wrong, Mr.

 16 Heller, but as I understood your answer to the

 17 Commissioner on the subject of the Alabama state docks,

 18 you said that the terminal had offered Progress Energy

 19 one aspect of the facility, but that did not include the

 20 blending capability. Am I correct or incorrect in that?

 21 A. My understanding is they offered the bulk

 22 plant. The bulk plant does not have blending

 23 capability.

 24 Q. Do you know whether Progress Energy requested

 25 the blending capability specifically when it approached

 FLORIDA PUBLIC SERVICE COMMISSION

 610

 1 the terminal for a contract?

 2 A. My understanding is they did. They requested

 3 the use of the McDuffie docks, which does have blending

 4 capability.

 5 Q. Okay. Does the bulk terminal presently have

 6 the blending capability?

 7 A. No. I'm sorry, does the bulk plant?

 8 Q. Yes.

 9 A. No.

 10 Q. In your experience, do parties respond to

 11 economic incentives?

 12 A. Is that like a very general question? Yes,

 13 people generally will.

 14 Q. If the terminal had the opportunity to provide

 15 additional blending services for compensation, wouldn't

 16 it have the incentive to install the blending capability

 17 at that point?

 18 A. If your question is could Progress Energy have

 19 underwritten development of a blending facility at the

 20 bulk plant, I don't know if the capability is there or

 21 if that would be at all an economic option.

 22 Q. Well, basically to summarize the situation,

 23 the utility doesn't presently have a contract for

 24 blending services. Mr. Putman assumes that the parties

 25 would have -- I mean, it would be in their mutual

 FLORIDA PUBLIC SERVICE COMMISSION

 611

 1 interest to work something out and that that could

 2 change. Your assumption is that the status quo would

 3 continue, is that where we are?

 4 A. No. I inquired, and my understanding is that

 5 Progress Energy approached the Alabama state docks to be

 6 able to use the McDuffie facility. The McDuffie

 7 facility is highly utilized. The Alabama state docks

 8 was not interested in them as a customer. However, the

 9 bulk plant, which does not have blending capability, is

 10 available and they could use that. So they could move

 11 coal through there, but they can't blend.

 12 Q. Well, your assumption in the answer to my

 13 question was that only the McDuffie would continue to

 14 have a blending capability, but that could also change,

 15 could it not?

 16 A. Meaning they could lose the capability or the

 17 bulk -- you are saying they could -- they have expanded

 18 the facility. In the future it could expand again, but

 19 at the time -- when they inquired, it was not available.

 20 Q. In your rebuttal you also address the capital

 21 cost, and you and I have conversed about that more than

 22 one time, haven't we?

 23 A. Yes, sir.

 24 MR. McGLOTHLIN: I believe I'll not repeat

 25 that question and answer session. I have no further

 FLORIDA PUBLIC SERVICE COMMISSION

 612

 1 questions.

 2 CHAIRMAN CARTER: I just wanted to give Mr.

 3 McGlothlin a compliment. He is a gentleman and a

 4 scholar.

 5 Commissioner Argenziano, you're recognized.

 6 COMMISSIONER ARGENZIANO: Just one other

 7 question. If the Mobile site could not do the blending,

 8 or they are congested as you say, or just busy, is there

 9 any other plant close by, or any other port close by, or

 10 dock close by that could do that?

 11 THE WITNESS: The best blending facilities are

 12 the ones that they use currently either at IMT or the

 13 United bulk terminal. Those are in New Orleans. There

 14 are no other facilities -- I'm pretty sure about this,

 15 there are no other facilities along the Gulf Coast which

 16 would be the logical place to go where you could do that

 17 blending. So the Alabama state docks would be the right

 18 next area, but it's unavailable.

 19 COMMISSIONER ARGENZIANO: And is there a plant

 20 in Theodore, Alabama? I am just pulling that, I don't

 21 know. I'm asking you if you know.

 22 THE WITNESS: If there were a major port there

 23 I would know about it.

 24 COMMISSIONER ARGENZIANO: You would know about

 25 it. Okay.

 FLORIDA PUBLIC SERVICE COMMISSION

 613

 1 THE WITNESS: I don't know about it.

 2 COMMISSIONER ARGENZIANO: There is not a major

 3 port. Okay, thank you.

 4 CHAIRMAN CARTER: Thank you. Ms. Bradley.

 5 MS. BRADLEY: No questions.

 6 CHAIRMAN CARTER: Thank you very much, Ms.

 7 Bradley.

 8 Commissioners, I'm going to go to staff and

 9 then I will come back to the bench. Staff, you're

 10 recognized.

 11 MR. YOUNG: No questions.

 12 CHAIRMAN CARTER: Back at the bench. Anything

 13 further from the bench?

 14 Mr. Burnett.

 15 MR. BURNETT: Hoping to also get the gentleman

 16 and scholar designation, no redirect, sir.

 17 CHAIRMAN CARTER: Absolutely. You are a

 18 gentleman and a scholar, sir.

 19 MR. BURNETT: I would move the prefiled

 20 rebuttal testimony into evidence, as well as Exhibits

 21 31, 32, 33, and 34.

 22 CHAIRMAN CARTER: Are there any objections?

 23 MR. McGLOTHLIN: No.

 24 CHAIRMAN CARTER: Without objection, show it

 25 done.

 FLORIDA PUBLIC SERVICE COMMISSION

 614

 1 (Exhibit Number 31 through 34 admitted into

 2 the record.)

 3 CHAIRMAN CARTER: And you, Ms. Bradley, are a

 4 gentle lady and a scholar.

 5 MS. BRADLEY: Thank you.

 6 CHAIRMAN CARTER: Plus one, because you were

 7 better than these guys. Okay.

 8 You may be excused, Mr. Heller.

 9 Call your next witness.

 10 MR. BURNETT: Yes, sir. We call Jennifer

 11 Stenger. Mr. Chair, while Ms. Stenger is approaching

 12 the bench, I wanted to say that if at anytime during her

 13 questioning that she refers to any of the JS-9 blowups

 14 that we have over there, that does not represent the

 15 full JS-9. The full JS-9 would be what you would see in

 16 your testimony, and the difference is at the bottom of

 17 the full JS-9 there is also an analysis of what the

 18 blends would look like, a blend comparison. So I just

 19 wanted to make that clear that if she does use one of

 20 those boards, you would need to turn to her actual

 21 testimony to see the blend comparison, as well.

 22 CHAIRMAN CARTER: Okay. Looking forward to

 23 it.

 24 MR. BURNETT: I'm not sure that will happen, I

 25 just wanted to fairly disclose that.

 FLORIDA PUBLIC SERVICE COMMISSION

 615

 1 CHAIRMAN CARTER: Oh, it's time for the blue

 2 folder.

 3 MR. BURNETT: Mr. Chair, if I may.

 4 CHAIRMAN CARTER: You're recognized.

 5 MR. BURNETT: Any of these boards should be in

 6 your blue folder. That is a good point. And I don't

 7 know if Ms. Stenger plans to move; if she does, we may

 8 want to get the mobile microphone issue taken care of

 9 before she starts.

 10 Thank you, Mr. Chair. May I proceed?

 11 CHAIRMAN CARTER: You may proceed.

 12 JENNIFER STENGER

 13 was called as a witness on behalf of Progress Energy

 14 Florida, and having been duly sworn, testified as

 15 follows:

 16 DIRECT EXAMINATION

 17 BY MR. BURNETT:

 18 Q. Good afternoon. Will you please introduce

 19 yourself to the Commission and provide your business

 20 address.

 21 A. My name is Jennifer Stenger, and my business

 22 is 299 First Avenue North, St. Petersburg, Florida, zip

 23 code 33701.

 24 Q. Have you already been sworn as a witness, Ms.

 25 Stenger?

 FLORIDA PUBLIC SERVICE COMMISSION

 616

 1 A. Yes, I have.

 2 Q. Who do you work for and what is your position?

 3 A. I work for Progress Energy Florida, and my

 4 position is Lead Technical Project Management

 5 Specialist.

 6 Q. Have you filed prefiled rebuttal testimony and

 7 exhibits in this matter?

 8 A. Yes, I have.

 9 Q. Do you have your prefiled rebuttal testimony

 10 and exhibits with you?

 11 A. Yes.

 12 Q. Do you have any changes to make to your

 13 prefiled rebuttal testimony and exhibits?

 14 A. I do not.

 15 Q. If I asked you the same questions in your

 16 prefiled rebuttal testimony today, would you give me the

 17 same answers that are in that testimony?

 18 A. Yes, I would.

 19 MR. BURNETT: Mr. Chair, we request that the

 20 prefiled rebuttal testimony be entered into the record

 21 as if read here today.

 22 CHAIRMAN CARTER: The prefiled testimony of

 23 the witness will be inserted into the record as though

 24 read. You may proceed.

 25 MR. BURNETT: Thank you, sir.

 FLORIDA PUBLIC SERVICE COMMISSION

 664

 1 BY MR. BURNETT:

 2 Q. Ms. Stenger, do you have a summary of your

 3 prefiled rebuttal testimony?

 4 A. Yes, I do.

 5 Q. Keep the seven minutes in mind, please, and

 6 summarize your testimony.

 7 A. All right. Thank you.

 8 Good day, Commissioners. My name is Jennifer

 9 Stenger, and I have been employed as an engineer with

 10 Progress Energy Florida for the last 17 years since I

 11 graduated from the Georgia Institute of Technology. My

 12 position resides as strategic engineering under the

 13 power operations group, and I am responsible for

 14 assessing impacts to PEF's power generation fleet for

 15 significant strategic initiatives and industry

 16 challenges. These initiatives range from evaluating

 17 impacts to our fleet from major regulatory and

 18 legislative activities to leading a task force to review

 19 fuel flexibility issues for our generating units.

 20 I want to start my testimony, or my summary by

 21 addressing what you have heard from Mr. Putman regarding

 22 operational impacts, coal evaluation durations, and

 23 evaluation processes for Unit 4 and 5. Said simply,

 24 virtually everything that you heard is either wrong or

 25 highly misrepresented. For example, Mr. Putman told you

 FLORIDA PUBLIC SERVICE COMMISSION

 665

 1 that you can blend away slagging and fouling impacts for

 2 high sodium content. This is an incorrect analysis due

 3 to the low melting temperature of the sodium in the

 4 coal.

 5 It's real easy to sound fancy and technical

 6 when you are talking to people who may not understand

 7 all of the technical details, but unless you first

 8 understand the chemical reactions associated with this

 9 mineral constituent and other components you cannot make

 10 these claims that Mr. Putman has. If you let me, I will

 11 address these issues in more detail when I complete my

 12 summary.

 13 Now, turning to my rebuttal testimony. Before

 14 coals of a different type or coals with different

 15 qualities are burned at CR4 and 5, PEF carefully

 16 evaluates these coals to determine the impact that they

 17 will have on operation and production of these units.

 18 Without previous burning experience or knowledge of how

 19 their coal characteristics will impact operation, PEF

 20 places these units at a risk of an outage, a derate, an

 21 environmental permit violation, or other operational

 22 difficulties.

 23 PEF's operational obligations at Crystal River

 24 Units 4 and 5 require a demonstration of performance

 25 impacts of any new coal so that we can evaluate those

 FLORIDA PUBLIC SERVICE COMMISSION

 666

 1 impacts and make an educated decision about the use of

 2 the new coal at our plants. Typically, this means

 3 predictive modeling, equipment evaluations, and test

 4 burns need to be conducted. In the previous case,

 5 Docket 060658, the Commission considered and accepted

 6 PEF's process to test PRB coal, a coal that it had no

 7 previous experience with. The accepted process included

 8 predictive paper tests, benchmarking, test burns,

 9 independent analysis and studies, environmental

 10 permitting, and other related activities.

 11 The Commission also recognized that an

 12 analysis had to be done during the course of test burns,

 13 and such analysis may include various degrees of

 14 engineering studies as well as determining potential

 15 capital upgrades to the plants. And the Commission

 16 recognized that it would have taken PEF over two full

 17 years to be ready to burn PRB coal had PEF begun the

 18 process in 2001.

 19 The process that PEF continues to use when it

 20 considers burning a new type of coal in Crystal River

 21 Units 4 and 5 is the same one the Commission heard

 22 evidence on and ruled on in the previous case. With

 23 this in mind, however, it is critically important to

 24 understand that in the previous case the Commission

 25 heard testimony and evidence only on Wyoming Powder

 FLORIDA PUBLIC SERVICE COMMISSION

 667

 1 River Basin coal and how that coal may perform at

 2 Crystal River 4 and 5.

 3 Wyoming PRB coal is a very different coal from

 4 Spring Creek coal and Indonesian coal that OPC Witness

 5 David Putman alleges PEF should have purchased in 2006

 6 and 2007. The company has not previously tested either

 7 of these coals, nor did the Commission hear evidence on

 8 them in the previous case.

 9 As you can see from my Exhibit 9 to my

 10 prefiled testimony, Spring Creek coal has over 400

 11 percent more sodium than the PRB coal that the

 12 Commission considered in the previous case, as well as a

 13 51 percent higher base-to-acid ratio. Pages 19 to 22 of

 14 my prefiled testimony describe the dramatic slagging and

 15 fouling effects that these differences may have on the

 16 operational performance of Units 4 and 5, and Exhibit 14

 17 provides pictures to illustrate what slagging and

 18 fouling look like in other units.

 19 Exhibit 9 to my prefiled testimony also shows

 20 the dramatic differences between the Indonesian coals

 21 that Mr. Putman uses in his testimony and the coals that

 22 the Commission actually heard evidence on in the

 23 previous case. That exhibit shows sulfur differences of

 24 78 percent, iron differences of 119 percent,

 25 base-to-acid ratio differences of 142 percent, and most

 FLORIDA PUBLIC SERVICE COMMISSION

 668

 1 important for safety, self-heating temperatures which

 2 indicate the potential for spontaneous combustion at

 3 ambient conditions that are up to 56 percent lower than

 4 Wyoming PRB coal and the Commission considered in the

 5 previous case.

 6 Pages 38 through 43 of my prefiled testimony

 7 discuss what impacts these Indonesian coals may have at

 8 Units 4 and 5. If PEF could have safely and effectively

 9 burned Spring Creek or Indonesian coal on a long-term

 10 basis, a fact that only proper testing and evaluation

 11 could prove, it would have been at least January to

 12 October of 2007 before PEF could have completed proper

 13 testing on the Spring Creek coal offered in 2004 RFP for

 14 2006 delivery; and at least November 2008 to October

 15 2009 before PEF could have completed testing on

 16 Indonesian coal offered in the 2006 RFP for 2007

 17 delivery.

 18 My supporting analysis for these dates are

 19 provided in Exhibits 11 and 12 to my testimony, and

 20 potential capital upgrades that may be needed, upgrades

 21 that are incremental and different from the ones that

 22 the Commission addressed for PRB coal in the last case,

 23 are included in Exhibit 8.

 24 In conclusion, PEF could not have reasonably

 25 been able to burn the coals that Mr. Putman addresses in

 FLORIDA PUBLIC SERVICE COMMISSION

 669

 1 his testimony in 2006 and 2007 as Mr. Putman suggests

 2 because PEF could not have completed the evaluation,

 3 testing, permitting, and any necessary capital upgrades

 4 and integration of those coals until times well after

 5 2006 and 2007, assuming that everything went perfectly

 6 without any issues in the testing process.

 7 Also, PEF may have to spend up to $176 million

 8 in new capital upgrades to burn these coals. Mr.

 9 Putman's assertions that no testing or a short four-day

 10 test is all that is needed to burn these coals is

 11 completely out of line with any reasonable process that

 12 I am familiar with and simply does not pass the test of

 13 logic and common sense when scrutinized.

 14 Thank you for your time, Commissioners, and I

 15 ask you to please ask me any questions that you may have

 16 so that I can provide you with further detail on the

 17 points that I have raised in this brief summary.

 18 MR. BURNETT: We tender Ms. Stenger.

 19 CHAIRMAN CARTER: Thank you.

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

 21 CROSS EXAMINATION

 22 BY MR. McGLOTHLIN:

 23 Q. Good afternoon, Ms. Stenger. You began your

 24 presentation and made some references to Mr. Putman, and

 25 then you said, "Now, I am turning to my rebuttal

 FLORIDA PUBLIC SERVICE COMMISSION

 670

 1 summary." Were those two different presentations?

 2 A. That was part of my summary.

 3 Q. Do you recall the statement that you said,

 4 "Now, turning to my rebuttal testimony," do you remember

 5 saying that?

 6 A. Yes.

 7 Q. Well, do I understand correctly that your

 8 remarks were not part of the summary of your rebuttal

 9 testimony?

 10 A. It's a summary of information that I have.

 11 Q. Well, it's a summary of information that you

 12 may have, but it wasn't a summary of the content of your

 13 prefiled rebuttal testimony, was it? That was

 14 something --

 15 A. Well, yes, actually it is, because it is

 16 assertions that the information that Mr. Putman provided

 17 is different from anything that's in my rebuttal

 18 testimony, yes.

 19 COMMISSIONER McMURRIAN: Commissioner

 20 Argenziano.

 21 COMMISSIONER ARGENZIANO: Well, if you can

 22 point that out in that summary where that is.

 23 THE WITNESS: Excuse me?

 24 COMMISSIONER ARGENZIANO: I think what's being

 25 asked -- what you are indicating is that her first

 FLORIDA PUBLIC SERVICE COMMISSION

 671

 1 remarks were not part of her original direct?

 2 MR. McGLOTHLIN: That's correct.

 3 COMMISSIONER ARGENZIANO: Okay. And you're

 4 saying it is.

 5 THE WITNESS: Well, the information that has

 6 been suggested by Mr. Putman is different from the

 7 information that is part of my rebuttal testimony.

 8 COMMISSIONER ARGENZIANO: Okay. I'm not a

 9 lawyer and that just went around in circles. Is what

 10 you first said part of your direct testimony?

 11 THE WITNESS: Rebuttal testimony.

 12 COMMISSIONER ARGENZIANO: Isn't that what you

 13 asked? Can you repeat the question that you asked her.

 14 MR. McGLOTHLIN: Yes. I'm not trying to make

 15 this hard. I don't think it has to be this hard.

 16 BY MR. McGLOTHLIN:

 17 Q. Ms. Stenger, you first began with some remarks

 18 which included some references to Mr. Putman and whether

 19 he understands chemistry or not, and then you said at

 20 one point, "Now, to my rebuttal testimony," which

 21 suggested to me that there was a line of demarcation

 22 there, and that your first remarks were an addition to

 23 your summary of what was -- of the content in your

 24 rebuttal that was prefiled. Am I correct?

 25 A. It's information -- when I say in regards to

 FLORIDA PUBLIC SERVICE COMMISSION

 672

 1 my rebuttal testimony, I got into the specifics of the

 2 exhibits that I have included as part of my rebuttal

 3 testimony.

 4 Q. I don't know how else to ask the question to

 5 get a response.

 6 COMMISSIONER ARGENZIANO: Okay. Can we get a

 7 yes or no if it is part, and if it is can we find out

 8 where?

 9 MR. BURNETT: Mr. Chair.

 10 CHAIRMAN CARTER: Mr. Burnett.

 11 MR. BURNETT: Mr. Chair, I can help. I think

 12 Mr. McGlothlin in a round about way is asking is sodium

 13 part of her rebuttal testimony. It's on Page 11

 14 beginning at Lines 4, to Page 12, Line 2.

 15 MR. McGLOTHLIN: Well, nice try, Mr. Burnett,

 16 but that was not my question.

 17 I'll tell you what, I will move on.

 18 CHAIRMAN CARTER: Okay. Let's move on.

 19 BY MR. McGLOTHLIN:

 20 Q. Ms. Stenger, I am looking at Page 10 of your

 21 prefiled rebuttal testimony. At Line 14 you say for the

 22 purpose of my testimony, I assumed that by 2004 PEF had

 23 completed all its testing for PRB coal and completed all

 24 of the capital upgrades for PRB coal that the Commission

 25 recognized in Order 070816, and I assumed that PEF had

 FLORIDA PUBLIC SERVICE COMMISSION

 673

 1 an environmental permit in place that would allow PEF to

 2 burn up to a 20 percent blend of PRB coal. Do you see

 3 that statement?

 4 A. I do see that.

 5 Q. And by PRB coal, you are there referring to

 6 what others have described as the typical Wyoming Powder

 7 River Basin sub-bituminous coal?

 8 A. Yes, the coal that was part of the final

 9 order.

 10 Q. Would you agree that under the assumptions you

 11 have presented here that with those in place by 2004

 12 Progress Energy would have been fully positioned to burn

 13 that PRB coal on a commercial basis?

 14 A. Based on the assumptions I used to prepare my

 15 testimony, that is correct. And, again, those

 16 assumptions go into the capital upgrades that are listed

 17 in Exhibit 8, Exhibit 11 and 12, which go into the

 18 evaluation timeline, and you will note that at the very

 19 top of those exhibits those assumptions are clearly

 20 stated. And in addition to that, in the Exhibit 9 that

 21 I have here, the distinction between the percent change

 22 between the various coals is basing that change on the

 23 new coals that Mr. Putman suggests that we should have

 24 burned with the PRB coal that was reflected in the final

 25 order.

 FLORIDA PUBLIC SERVICE COMMISSION

 674

 1 Q. My question had nothing to do with the coals

 2 that Mr. Putman has suggested. My question had only to

 3 do with what you described as the typical PRB coal from

 4 Wyoming. Do you understand that question?

 5 A. Well, I believe your question was that you

 6 were talking about my assumptions, and I'm just letting

 7 you know what those assumptions were used in this

 8 rebuttal testimony, and where that was reflected.

 9 Q. Well, the assumptions as delineated at Page

 10 10, Line 14, are you completed all of your testing for

 11 the PRB coal, completed all the capital upgrades for PRB

 12 coal that the Commission recognized in its order, and

 13 you assumed that the environmental permit is in place

 14 that would allow the utility to burn up to a 20 percent

 15 blend, correct?

 16 A. Correct.

 17 Q. With those assumptions and only those

 18 assumptions, do I understand correctly that Progress

 19 Energy would have been fully positioned to burn that PRB

 20 coal on a commercial basis as of the beginning of 2004?

 21 A. Based on the assumptions of working through

 22 the exhibits that I have in this document, yes.

 23 Q. It's true, is it not, that you began your

 24 research on the Spring Creek coal and the Indonesian

 25 coal in approximately February of this year?

 FLORIDA PUBLIC SERVICE COMMISSION

 675

 1 A. That is correct, and that is about a week

 2 after the actual direct or rebuttal testimony of Mr.

 3 Putman was filed which mentioned Spring Creek coal and

 4 Indonesian coal as a coal that we should be looking at.

 5 Q. And is it true, Ms. Stenger, that you have

 6 never conducted a test burn?

 7 A. It depends on how you define test burn.

 8 Q. I define it as we discussed the subject matter

 9 in your deposition at Pages 17 and 18.

 10 A. Then, no, from that respect I have not

 11 conducted test burns. However, I am very familiar with

 12 the testing process.

 13 MR. McGLOTHLIN: No further questions.

 14 CHAIRMAN CARTER: Thank you, Mr. McGlothlin.

 15 Ms. Bradley.

 16 MS. BRADLEY: No questions.

 17 CHAIRMAN CARTER: Thank you.

 18 Commissioner Skop, you're recognized.

 19 COMMISSIONER SKOP: Thank you, Mr. Chairman.

 20 I just have a few questions, and I need to

 21 find one page, so if we can pause in place for one

 22 moment.

 23 With respect to your rebuttal testimony that

 24 you filed, and I guess Mr. McGlothlin just questioned

 25 you on Page 10, Lines 14 through 17, and then I'm

 FLORIDA PUBLIC SERVICE COMMISSION

 676

 1 looking also at JS-9, which basically articulates -- and

 2 correct me if I'm wrong, I think JS-9 articulates only

 3 those incremental capital improvements that would need

 4 to be made to burn the Indonesian coal and the Spring

 5 Hill coal to the extent that I think Mr. Weintraub

 6 alluded to differences in particulate matter and

 7 opacity, specifically on the Indonesian coal. Can you

 8 elaborate briefly on that?

 9 THE WITNESS: Yes. And you were talking about

 10 Exhibit 8, right? Because originally you had said

 11 Exhibit 9, which is this exhibit.

 12 COMMISSIONER SKOP: Yes. Sometimes I twist my

 13 words around, but, yes.

 14 THE WITNESS: Okay. Yes, these capital

 15 additions that I have on here that are potential capital

 16 additions for burning these two types of coals are

 17 incremental and above what was discussed and part of the

 18 final order. If you want me to go into more detail

 19 about the specifics of any of these, I'll be happy to do

 20 that.

 21 COMMISSIONER SKOP: No, I think that is what I

 22 wanted to ascertain, specifically to the extent whether

 23 those were incremental capital improvements that would

 24 be required specific to those two alternate coals, or

 25 whether they are capital improvements necessary to just

 FLORIDA PUBLIC SERVICE COMMISSION

 677

 1 burn PRB. Because if it were just the general, I think

 2 I would have some significant issues based upon --

 3 THE WITNESS: No, they are definitely

 4 incremental.

 5 COMMISSIONER SKOP: Okay. All right. And so

 6 I think that answers that question, and let me find one

 7 or two follow-ups. I need to find it in Mr.

 8 Weintraub's. But, basically on another area, what

 9 specific steps, if any, has PEF taken since our last

 10 order to remedy the inherent capability of the CR4 and

 11 CR5 units to burn a blend of PRB coal of the kind that

 12 we talked about last time?

 13 THE WITNESS: Right. Well, at this point

 14 following the 2006 test burn of PRB coal, at that point

 15 a decision analysis -- a decision point becomes evident,

 16 as you can tell from my Exhibit 11 and 12. That same

 17 process was used for PRB coal. And at that point we

 18 were under -- we had been given instructions that PRB

 19 coal was no longer economic, and so we did not continue

 20 with the expense of upgrading or making those specific

 21 changes in order to be able to burn PRB coal because it

 22 was no longer economic to do so.

 23 COMMISSIONER SKOP: Okay. And I guess to that

 24 point, and help me better understand, instead of moving

 25 forward with that, they looked at the other alternative,

 FLORIDA PUBLIC SERVICE COMMISSION

 678

 1 which I think is in 29A, which I believe Witness Putman

 2 stated that if those numbers were accurate that that was

 3 probably an equally innovative way of saving money for

 4 the consumers.

 5 I don't want to put words in his mouth, but am

 6 I to correctly understand that in lieu of burning the

 7 80/20 blend, that in subsequent years 2006 and 2007 that

 8 Progress burned a blend of bituminous coal, whether that

 9 be the CAPP coal plus some international bituminous coal

 10 that it received to accomplish the same thing at a lower

 11 cost?

 12 THE WITNESS: That is my understanding, and I

 13 believe that that was also done without any additional

 14 capital upgrades needed.

 15 COMMISSIONER SKOP: Okay. And I guess in

 16 speaking to those capital upgrades, I guess Mr.

 17 Weintraub on Page 13 of his rebuttal testimony at Line 2

 18 basically speaks to the Indonesian coal being extremely

 19 low in sulfur, but has much -- and it has different

 20 opacity and PM discharge properties as compared to the

 21 PRB coal that the Commission previously considered. So

 22 those issues in terms of the opacity and the PM

 23 emissions are at the bottom of your chart in JS-8, is

 24 that correct? That capital costs, and I am reading --

 25 THE WITNESS: Yes, those are potential capital

 FLORIDA PUBLIC SERVICE COMMISSION

 679

 1 costs that would be needed to address any issues that

 2 would be -- that would come from reduced ESP efficiency

 3 from the low sulfur coal.

 4 COMMISSIONER SKOP: Okay. And that is

 5 basically the bag house conversion, the 80 to

 6 $100 million, that is to capture the reduced particulate

 7 matter, the change in particulate matter and basically

 8 the opacities, the -- making sure you are able to

 9 measure what those particulates are to adjust?

 10 THE WITNESS: Yes. Opacity is -- for those

 11 that may not be familiar, opacity is the actual smoke

 12 that you see coming out the stack, and we have very

 13 specific requirements, environmental requirements of

 14 what that permit limit is.

 15 COMMISSIONER SKOP: Okay. All right. And I

 16 think I just have one final question, and it's not to

 17 belittle the point, but it goes back to the inherent

 18 capability of these units to be able to burn an 80/20

 19 blend. And I don't want to get out the stick, but,

 20 again, that was built into the units. And I know that

 21 there may be currently cost-effective alternatives

 22 which, again, Progress has alleged in 29A that it is

 23 currently doing in terms of the blend of bituminous

 24 coals. But if that changes at some point in the future

 25 and it becomes cost-effective to burn an 80/20 blend, I,

 FLORIDA PUBLIC SERVICE COMMISSION

 680

 1 as a Commissioner, want to know are we -- or Progress

 2 adequately positioned to leverage that opportunity on a

 3 forward-going basis should it ever arise again. And

 4 that is, I think, my concern from the prior order. So

 5 if you could briefly speak to that.

 6 THE WITNESS: Yes. And that would definitely

 7 be our position, as well, that we would want to make

 8 sure that if there was a coal that was economically

 9 viable and it was economically viable for the

 10 foreseeable future, not something that was a

 11 fly-by-night as has been mentioned previously in this

 12 hearing, then, yes, we would look at performing the

 13 evaluation and the steps that I have laid out. If that

 14 meant that after doing our evaluation that capital

 15 upgrades were needed, then we would move forward with

 16 that, as well.

 17 Now, I would like to mention, if I may, some

 18 additional information that I have that goes back to the

 19 concept of that these units were designed for burning

 20 some of these other types of coals. I actually have

 21 some documentation that has already been entered in as

 22 an exhibit that goes to show for a severe slagging and

 23 severe fouling unit that the information that was

 24 represented is not necessarily what we have on Crystal

 25 River Units 4 and 5. And if I may, I would like to talk

 FLORIDA PUBLIC SERVICE COMMISSION

 681

 1 to that a little.

 2 CHAIRMAN CARTER: Well --

 3 COMMISSIONER SKOP: Let me ask Mr. McGlothlin

 4 a question on that. Again, I think this overlaps a

 5 little bit with restoring the inherent capability of the

 6 unit. So, again, I don't want to impede upon any case

 7 that OPC is making, but, again, I would like to know

 8 where we are at on being able to leverage whatever

 9 capability that was inherent to those units, and I think

 10 what the witness may be suggesting is perhaps the

 11 as-built condition of the unit is not as it was designed

 12 by B&W. I don't know, but I just want to -- I would

 13 like to get some clarity in the interest of being able

 14 to save consumers money on a forward-going basis to burn

 15 an 80/20 blend if that was the inherent capability of

 16 the unit.

 17 Now, if that is going to be called into

 18 question, and OPC has some heartache with that, then I'm

 19 willing to let it go. But by virtue of my strong

 20 position I took in the last docket where I said that

 21 that inherent capability should be restored because,

 22 again, it was allowed to lapse, you know, I have a

 23 vested interest in that. But I don't know whether Mr.

 24 McGlothlin would have objections.

 25 CHAIRMAN CARTER: Well, hang on. Before the

 FLORIDA PUBLIC SERVICE COMMISSION

 682

 1 witness says anything, let's just see where Mr.

 2 McGlothlin is. We obviously want to make sure that we

 3 don't -- if we are going to ask you not to tread down a

 4 certain path, we probably shouldn't do that, as well.

 5 You are recognized, sir.

 6 MR. McGLOTHLIN: It is sort of the eleventh

 7 hour and then some for us to receive additional

 8 documents on a subject that is somewhat tangential to

 9 the matter in front of Commission. But I don't know if

 10 I will object until I see it, so I would like to

 11 preserve my objection until we see where this goes.

 12 MR. BURNETT: Mr. Chair.

 13 CHAIRMAN CARTER: Mr. Burnett.

 14 MR. BURNETT: Hold onto your seats, because

 15 I'm about to agree with Mr. McGlothlin. I believe we

 16 are talking apples and oranges. I understand, I think,

 17 where Ms. Stenger is going, and I think her intention

 18 was to offer documentation with respect to Spring Creek

 19 and Indonesian coal. That is fairly not what

 20 Commissioner Skop was talking about, so I think we could

 21 avoid this whole issue. I believe -- she's talking

 22 apples and he's talking oranges, so I don't --

 23 CHAIRMAN CARTER: Well, let's stay on point.

 24 It's too late to do something new.

 25 MR. McGLOTHLIN: I agree with Mr. Burnett's

 FLORIDA PUBLIC SERVICE COMMISSION

 683

 1 objection.

 2 (Laughter.)

 3 MR. BURNETT: In summary, I don't think Ms.

 4 Stenger needs to get into these documents. I would

 5 agree that it is beyond the scope of anything. She is

 6 going back to the other cause.

 7 CHAIRMAN CARTER: Okay.

 8 Commissioner Argenziano, you're recognized.

 9 COMMISSIONER ARGENZIANO: Thank you.

 10 A couple of things. One, is it -- I guess

 11 it's my understanding that Progress couldn't burn any of

 12 those coals without a permit anyway, right?

 13 THE WITNESS: Excuse me, could you repeat

 14 that?

 15 COMMISSIONER ARGENZIANO: Progress couldn't

 16 burn any of those coals in question without a permit

 17 anyway, right?

 18 THE WITNESS: At what point in time?

 19 COMMISSIONER ARGENZIANO: At the point in time

 20 we are discussing, when the bids came in and the testing

 21 was --

 22 THE WITNESS: Yes. When the bids came in,

 23 that is a true statement. The permit had not been

 24 modified at that point in time. The final permit came

 25 in 2007.

 FLORIDA PUBLIC SERVICE COMMISSION

 684

 1 COMMISSIONER ARGENZIANO: Okay. And let me

 2 ask you another question. Would you ever burn Spruce

 3 Creek, or Indonesian, or any coal with the same

 4 characteristics?

 5 THE WITNESS: From my understanding and the

 6 research that I have done on these coals, I would have

 7 serious concerns about the operational impacts and

 8 safety impacts with these coals, and environmental

 9 impacts with these coals.

 10 Now, I would not come back and say that we

 11 would never burn those coals, but my job would be to go

 12 to our management and operational staff and make sure

 13 that they are fully aware of the risks associated with

 14 these coals and make sure that the availability of the

 15 coal and the economic benefits of these coals made it

 16 worth our while to move forward with the evaluation

 17 process as I have it laid out.

 18 COMMISSIONER ARGENZIANO: Sure. Are you aware

 19 of other plants that burn those coals?

 20 THE WITNESS: I am aware of some other plants

 21 that burn those coals. And for the most part, just to

 22 get into that a little bit, the other plants from the

 23 research that I have done have completely different

 24 boilers than what we have. Their manufacturer is

 25 completely different and the type of boiler that they

 FLORIDA PUBLIC SERVICE COMMISSION

 685

 1 have is completely different.

 2 COMMISSIONER ARGENZIANO: And it is my

 3 understanding that those plants, the Crystal River

 4 plants were built for the use of different -- with

 5 different coals being more, I guess, I'm trying to use

 6 the word.

 7 THE WITNESS: Flexible.

 8 COMMISSIONER ARGENZIANO: Yes. That's a good

 9 word, yes. Flexible for the types of coal mixes and

 10 blends. Is that your understanding?

 11 THE WITNESS: That is my understanding to a

 12 certain extent. However, again, am I now allowed to

 13 introduce this document that goes into the --

 14 COMMISSIONER ARGENZIANO: Well, let me finish

 15 my questions first.

 16 CHAIRMAN CARTER: Hold the phone. Hold the

 17 phone.

 18 COMMISSIONER ARGENZIANO: Did you graduate

 19 with a Bachelor's of Mechanical Engineering?

 20 THE WITNESS: Civil engineering.

 21 COMMISSIONER ARGENZIANO: Civil engineering.

 22 Do you have any experience in plant managing,

 23 just curious, or procurement of coals?

 24 THE WITNESS: My experience is related to the

 25 environmental field operationally from outage management

 FLORIDA PUBLIC SERVICE COMMISSION

 686

 1 and outages, and testing, environment testing, and air

 2 testing. That's the bulk of my experience. However,

 3 the role that I am in now is to look at the operational

 4 impacts to all of our generating fleets. And that

 5 includes Crystal River, but it also includes every

 6 single other generating asset that we have. And

 7 basically what I am doing now is working with the fuel

 8 flexibility initiative, which I have been doing for the

 9 past year looking at this exact same issue but for a

 10 different coal.

 11 COMMISSIONER ARGENZIANO: And the pictures

 12 that you showed of the slagging and fouling, as you

 13 mentioned, I guess, when you opened your statement, you

 14 said that anybody could come here and talk to people

 15 that may not really understand the issue, and I guess

 16 you were saying could be led to believe certain things.

 17 Couldn't I be led to believe certain things with your

 18 pictures and your statements, also? And I'm sorry to

 19 ask that, but I'm just trying to -- you said it, so I

 20 want to ask.

 21 THE WITNESS: I understand what you're saying.

 22 COMMISSIONER SKOP: Could those be pictures

 23 that happen -- I don't know the time frame of the

 24 slagging or fouling, and couldn't that be just what

 25 happens in plants? And then as Mr. -- I think it was

 FLORIDA PUBLIC SERVICE COMMISSION

 687

 1 Mr. Putman mentioned before, that sometimes when that

 2 occurs then you have to blast those things out.

 3 Couldn't that be normal and you -- I don't know where

 4 those pictures came from, so I guess I'm putting the

 5 question back to you because you mentioned that to me,

 6 as a Commissioner, that people with experience could

 7 come here and try to buffalo maybe some people who

 8 can't. How do I know you're not?

 9 THE WITNESS: Well, mainly because I have all

 10 of my reference documents right here for all of the

 11 information that I cover in my prefiled testimony.

 12 COMMISSIONER ARGENZIANO: And when were those

 13 pictures taken and how long was that fouling and

 14 slagging?

 15 THE WITNESS: Those particular pictures were

 16 just for illustrative purposes. But the rest of my

 17 documentation I have actual reference information that

 18 goes back to everything that I have mentioned in my

 19 prefiled testimony.

 20 COMMISSIONER ARGENZIANO: But you used those

 21 pictures to indicate that possibly using that mixture or

 22 to leave an impression in my mind that possibly using

 23 that mixture could cause that, and that is one of the

 24 concerns you may legitimately have. But I would like to

 25 know if in the real world of practice how -- or that

 FLORIDA PUBLIC SERVICE COMMISSION

 688

 1 picture that you used, what would that represent in the

 2 time frame of using maybe the coals, the blends that we

 3 are talking about as far as fouling and slagging? What

 4 time frame would that take place in? Would that be a

 5 normal process that does occur?

 6 THE WITNESS: For these type of coals,

 7 specifically the Spring Creek coal with the high sodium

 8 content, slagging and fouling is a known industry issue.

 9 I have plenty of documents that discuss that exact

 10 issue. I understand where you're going, but --

 11 COMMISSIONER ARGENZIANO: I'm not asking you

 12 that. I asked you a question. Is that a normal

 13 reaction when using a blend, and isn't there another

 14 reaction to that reaction that one would take? Because

 15 otherwise what you are saying is you never use a blend

 16 and that is the end. That's what I'm really hearing

 17 from you, I never really think you should use a blend

 18 because I have real problems with it. Even though the

 19 industry may be aware of those problems and have

 20 corrections to those problems, and I'm trying to

 21 differentiate the differences between the two arguments

 22 that I have heard. And that's what I'm getting from

 23 you. Is that a normal reaction when using a blend in

 24 facilities, especially plants that maybe are capable or

 25 more flexible to use blends?

 FLORIDA PUBLIC SERVICE COMMISSION

 689

 1 THE WITNESS: That particular statement kind

 2 of mixes up a couple of different pieces, so I'm not

 3 quite sure I understand where you're going with that

 4 statement, because you started talking about the

 5 impression that those pictures would leave, and then you

 6 start talking about blends. And when you start talking

 7 about blends, especially with this particular type of

 8 coal, the sodium content is a huge factor. And having

 9 the sodium content in there, which is one of the things

 10 that I mentioned in my summary, is that you cannot blend

 11 away sodium. So whether you have that in a blend, you

 12 can't just all of a sudden say, okay, we have 8 percent

 13 here and now all of a sudden we have blended it away.

 14 COMMISSIONER ARGENZIANO: I heard you say

 15 that. What are the pictures supposed to represent?

 16 THE WITNESS: Those are illustrations of what

 17 slagging and fouling can look like in a boiler.

 18 COMMISSIONER ARGENZIANO: From what, from what

 19 type of coal?

 20 THE WITNESS: From any type of coal that has

 21 significant slagging and fouling capability.

 22 COMMISSIONER ARGENZIANO: Okay. Then is that

 23 a normal reaction to any type of coal that has slagging

 24 and characteristics as you mentioned?

 25 THE WITNESS: Yes.

 FLORIDA PUBLIC SERVICE COMMISSION

 690

 1 COMMISSIONER ARGENZIANO: That would happen,

 2 and it is dealt with in plants that are using those

 3 coals?

 4 THE WITNESS: Yes, that is potentially what

 5 they have.

 6 COMMISSIONER ARGENZIANO: There can be

 7 problems, I understand, but it is not like that is

 8 abnormal. It is a known effect.

 9 THE WITNESS: It is a known effect that needs

 10 to be mitigated.

 11 COMMISSIONER ARGENZIANO: And is mitigated in

 12 plants that are using them?

 13 THE WITNESS: To some degree. There are

 14 different ways to mitigate them, but, yes.

 15 COMMISSIONER ARGENZIANO: Thank you.

 16 CHAIRMAN CARTER: Thank you.

 17 At the risk of -- Commissioner Skop, you're

 18 recognized.

 19 COMMISSIONER SKOP: Thank you, Mr. Chair.

 20 I will try and respect the parties' desire not

 21 to get another exhibit into evidence, but I do have one

 22 question kind of along the same line. But, again, we

 23 are not going to enter anything in. I am just trying

 24 to --

 25 THE WITNESS: It is actually an exhibit that

 FLORIDA PUBLIC SERVICE COMMISSION

 691

 1 has already been admitted, but that is a different

 2 issue.

 3 COMMISSIONER SKOP: I guess I'm wondering

 4 based upon, you know, inquiring minds want to know, but

 5 something you said jogged my brain, and I am trying to

 6 get clarity on an issue that, again, I may think one

 7 thing and the truth may be something completely

 8 different.

 9 So with that in mind, I'm wondering if you are

 10 suggesting that the as-built configurations of the

 11 CR4/CR5 units were different from the design

 12 configuration to the extent that the as-built

 13 configuration would preclude being able to burn a 50/50

 14 blend of CAPP coal and PRB, and also an 80/20 blend, if

 15 you are comfortable answering that. If not, I will just

 16 withdraw the question.

 17 THE WITNESS: I would say from a 50/50 blend

 18 that may be the case, but from the 80/20 blend, again,

 19 we would have to go back and -- well, we did do some

 20 initial testing with an 80/20 blend, so that may not

 21 necessarily be the same issue.

 22 COMMISSIONER SKOP: Okay. Thank you.

 23 CHAIRMAN CARTER: Thank you. Staff, you had

 24 no questions, correct?

 25 MR. YOUNG: No questions.

 FLORIDA PUBLIC SERVICE COMMISSION

 692

 1 CHAIRMAN CARTER: Okay. Mr. Burnett.

 2 MR. BURNETT: Yes, sir. Just some very brief

 3 ones.

 4 REDIRECT EXAMINATION

 5 BY MR. BURNETT:

 6 Q. Ms. Stenger, do you remember when Commissioner

 7 Skop asked you about what, if anything, the company had

 8 done to preserve the optionality to burn PRB in the

 9 future?

 10 A. Yes.

 11 Q. And you are familiar with what has been marked

 12 and entered as Exhibit 59, it is Late-filed Exhibit 1 to

 13 your deposition? Are you familiar that you had that

 14 late-filed exhibit to your deposition?

 15 A. Yes. Yes, the one that has the --

 16 Q. And I would like to read a couple of things

 17 ask if these are true statements. Cascade room. You

 18 say on there, "Funding has been budgeted for

 19 installation of a misting and fogging system in 2009 to

 20 address dusting. This system addresses the broader

 21 purpose of minimizing dusting from coal lines for a

 22 number of coals, not just PRB."

 23 A. Yes.

 24 Q. So do I understand that correctly that the

 25 cascade room upgrades would further preserve optionality

 FLORIDA PUBLIC SERVICE COMMISSION

 693

 1 to burn PRB if that ever became economic?

 2 A. Yes.

 3 Q. And on that same exhibit, dust suppression,

 4 you say as mentioned above the project has been funded

 5 in 2009 to address dusting. Is that also preserving the

 6 optionality to burn PRB in the future?

 7 A. Yes, it would.

 8 Q. And mill inerting, you mentioned that

 9 additional valves were installed for a manual inerting

 10 system in Unit 5, and then the same modification was

 11 made to Unit 4. Is that also something that would

 12 preserve optionality to burn PRB in the future?

 13 A. Yes, it would.

 14 Q. And with respect to the environmental

 15 equipment being installed and some of the modifications

 16 being made to the boilers today at Crystal River 4 and

 17 5, what, if anything, in that would preserve optionality

 18 to potentially help burn PRB in the future?

 19 A. Some of the additional equipment relates

 20 specifically to slagging and fouling, such as

 21 installation of new soot blowers, and like an

 22 intelligent soot blowing system, all of those things

 23 would be beneficial to PRB coal as well as other types

 24 of coals.

 25 MR. BURNETT: Thank you.

 FLORIDA PUBLIC SERVICE COMMISSION

 694

 1 I have nothing further, sir.

 2 CHAIRMAN CARTER: Thank you.

 3 Commissioner Skop.

 4 COMMISSIONER SKOP: Thank you.

 5 Just a point of information, Mr. Burnett.

 6 With respect to the exhibit that was listed, can you

 7 help me. Is that 59? I thought I heard correctly.

 8 MR. BURNETT: Yes, sir, it is 59. It was

 9 entered in today, and it also Exhibit 1 to Stenger's

 10 depo.

 11 COMMISSIONER SKOP: Okay. And just one final

 12 question to the witness. Again, just so I'm clear in my

 13 mind, because we have had a lot of evidence entered, and

 14 I am even having trouble finding Exhibit 59, but I'm

 15 sure I will locate it in a moment. But on JS-8, those

 16 capital improvements are incremental over and above

 17 those that would be necessary to preserve the capability

 18 to burn an 80/20 blend, and those are specific to using

 19 alternate coals, whether it be the Indonesian coal and

 20 whether it be the Spring Creek high sodium coal, is that

 21 correct?

 22 THE WITNESS: Yes. And keep in mind

 23 incremental above and beyond what was issued in the

 24 order, which was at 3 cents per MMBtu function.

 25 COMMISSIONER SKOP: All right. Thank you.

 FLORIDA PUBLIC SERVICE COMMISSION

 695

 1 CHAIRMAN CARTER: Mr. Young.

 2 MR. YOUNG: I'm sorry, Mr. Chairman, we do

 3 have some questions after all.

 4 CHAIRMAN CARTER: You're recognized.

 5 CROSS EXAMINATION

 6 BY MR. YOUNG:

 7 Q. Very quickly. Looking at what has been marked

 8 as Exhibit Number 59, Page 4 of the exhibit.

 9 A. Hold on. Let me get my actual copy.

 10 Q. While you find the copy, I'll ask you a series

 11 of questions in terms of setting it up. Page 4 of the

 12 exhibit lists a series of recommendations. Now, earlier

 13 you said that you -- correct me if I'm wrong, that you

 14 guys, Progress Energy Florida discontinued implementing

 15 some of these recommendations. And correct me if I'm

 16 wrong, these are the recommendation you are talking

 17 about, correct?

 18 A. I need to get to that page, that exact page so

 19 I can address it properly. And what page was that, 4?

 20 Q. Page 4 of the exhibit.

 21 A. Yes. Under next steps?

 22 Q. Well, if you look at Number 3, the page before

 23 that, it says recommendations.

 24 A. Oh, okay. I see, recommendations, yes.

 25 Q. These are the recommendations that you are

 FLORIDA PUBLIC SERVICE COMMISSION

 696

 1 talking about in terms of you discontinued after PRB

 2 coal became not economical?

 3 A. Yes.

 4 Q. Of these lists, from this list what

 5 recommendations have you implemented thus far?

 6 A. Well, the permit has been modified to burn

 7 sub-bituminous coal as of now. The soot blowers for the

 8 most part have become operational again. Unfortunately,

 9 in the nature of soot blowers, they can become

 10 operational and getting them to 100 percent operational

 11 and keeping them 100 percent operational is another

 12 issue.

 13 The mill inerting system was done. Again, it

 14 was a manual type system, not necessarily a fully

 15 automatic system. But there is a manual version of the

 16 mill inerting system that has been completed.

 17 Increased housekeeping. You know, we haven't

 18 necessarily done anything specific to that because we

 19 don't have the same type of issues with bituminous coal

 20 as we would with a sub-bituminous coal.

 21 Installation of vacuum lines to improve

 22 cleaning in the cascade room. I think that particular

 23 recommendation is being switched with this fogging and

 24 misting in the cascade room to address the dusting

 25 issues. There are two difference types of mechanisms to

 FLORIDA PUBLIC SERVICE COMMISSION

 697

 1 address that same issue.

 2 However, we have not -- for the last piece of

 3 that, we have not conducted a longer test burn to

 4 determine what the operational impacts would be from

 5 burning this on a longer term basis. So that last

 6 recommendation there has not been done.

 7 Q. What about the next page, Page 4?

 8 A. Yes. The refurbishment of the conveyor,

 9 nothing was done with the refurbishment of the conveyor.

 10 The cascade room we have already addressed. The dust

 11 suppression systems. Again, we've addressed the dust

 12 suppression system that has been -- that we have funding

 13 for in the cascade room. We have not, to my knowledge,

 14 done anything with the dust suppression systems at the

 15 north or south coal yard turning points.

 16 MR. YOUNG: Thank you.

 17 CHAIRMAN CARTER: Okay.

 18 Having had redirect, having had questions,

 19 anything further from the bench? Okay. Let's do this

 20 -- you may be excused.

 21 Exhibits. Mr. Burnett.

 22 MR. BURNETT: Yes, sir. We would move the

 23 prefiled rebuttal testimony in as well as Exhibits 35

 24 through 48, sir.

 25 CHAIRMAN CARTER: Are there any objections?

 FLORIDA PUBLIC SERVICE COMMISSION

 698

 1 Without objection, show it done.

 2 (Exhibit Number 35 through 48 admitted into

 3 the record.)

 4 CHAIRMAN CARTER: Okay. Staff, you're

 5 recognized. Go ahead.

 6 MS. BENNETT: Transcripts will be due on

 7 April 29th and available. Briefs are due May 26th.

 8 Staff will have a recommendation for the June 15th

 9 agenda conference.

 10 CHAIRMAN CARTER: Okay. Are there any other

 11 concluding matters from any of the parties?

 12 Mr. Burnett?

 13 MR. BURNETT: No, sir.

 14 CHAIRMAN CARTER: Mr. McGlothlin.

 15 MR. McGLOTHLIN: Nothing here.

 16 CHAIRMAN CARTER: Ms. Bradley, you're

 17 recognized.

 18 MS. BRADLEY: I just need to clarify one

 19 thing. I know that Mr. McGlothlin's Number 60 wasn't

 20 admitted, but it was marked for identification and as

 21 part of the record is marked.

 22 CHAIRMAN CARTER: We actually didn't -- I

 23 don't know if we -- did we give it a number? I don't

 24 think we gave it a number.

 25 MS. BRADLEY: I think it was given Exhibit 60

 FLORIDA PUBLIC SERVICE COMMISSION

 699

 1 and then was not admitted.

 2 MS. HELTON: One minute. I started closing

 3 up. I'm sorry.

 4 CHAIRMAN CARTER: I didn't have -- I've got my

 5 list here and I didn't give it a number.

 6 MS. BENNETT: I don't have it listed in my

 7 numbering.

 8 CHAIRMAN CARTER: No, there is no 60.

 9 MS. HELTON: My recollection is, Mr. Chairman,

 10 that we had marked it as Number 60, but we didn't get

 11 much further than that. So it would be identified as

 12 Exhibit Number 60 for purposes of the record, but it has

 13 not been admitted into the record.

 14 MS. BRADLEY: Okay.

 15 CHAIRMAN CARTER: Thank you, Ms. Bradley.

 16 MS. BRADLEY: Let me ask you one thing

 17 further, actually. And I will be happy to address it in

 18 my brief, but in an abundance of fairness, since Mr.

 19 McGlothlin wasn't allowed to question Mr. Putman

 20 regarding the information in that exhibit, I would move

 21 to strike Mr. Weintraub's testimony in regard to the

 22 same issue.

 23 CHAIRMAN CARTER: Regarding this particular

 24 issue as related to what has been marked as Exhibit

 25 Number 60?

 FLORIDA PUBLIC SERVICE COMMISSION

 700

 1 MS. BRADLEY: Yes, sir.

 2 CHAIRMAN CARTER: Okay. Ms. Helton.

 3 MS. BRADLEY: Their exhibit was not admitted

 4 also, but he had been questioned about it.

 5 COMMISSIONER SKOP: On that point, I will move

 6 to strike my own questions, because -- in the interest

 7 of fairness. It's a valid point.

 8 MS. BRADLEY: Thank you.

 9 CHAIRMAN CARTER: I love it when a plan comes

 10 together.

 11 Let me do this before we adjourn. Let me just

 12 say to the attorneys thank you so kindly for your

 13 professionalism, and I sincerely appreciate how you

 14 presented your witnesses and presented yourselves in

 15 this matter before us. Every now and then things get a

 16 little testy, but we try to keep it professional, and I

 17 appreciate the sincerity and the professionalism of the

 18 attorneys that were before us in this matter.

 19 Commissioners, I appreciate your time, and

 20 sorry about -- I was just kind of going on and on and on

 21 and didn't think a break or anything like that, but

 22 sometimes you get your best efforts when you keep going

 23 like that.

 24 Commissioners, anything further?

 25 Staff, any further matters? Did you give the

 FLORIDA PUBLIC SERVICE COMMISSION

 701

 1 briefing schedules?

 2 MS. BENNETT: Yes, but I did, but I will be

 3 willing to do it again, if you would like.

 4 CHAIRMAN CARTER: Do all the parties have the

 5 briefing schedules? Any questions from any of the

 6 parties?

 7 MR. BURNETT: No, sir.

 8 CHAIRMAN CARTER: Staff, anything further

 9 before we adjourn?

 10 MS. BENNETT: No, sir.

 11 CHAIRMAN CARTER: Commissioners, anything

 12 further?

 13 With that, we are adjourned.

 14 (The hearing concluded at 5:35 p.m.)

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 FLORIDA PUBLIC SERVICE COMMISSION

 702

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 2 STATE OF FLORIDA )

 3 : CERTIFICATE OF REPORTERS

 4 COUNTY OF LEON )

 5 WE, JANE FAUROT, RPR, and LINDA BOLES, RPR,

 CRR, Official Commission Reporters, do hereby certify

 6 that the foregoing proceeding was heard at the time and

 place herein stated.

 7

 IT IS FURTHER CERTIFIED that we

 8 stenographically reported the said proceedings; that the

 same has been transcribed under our direct supervision;

 9 and that this transcript constitutes a true

 transcription of our notes of said proceedings.

 10

 WE FURTHER CERTIFY that we are not a

 11 relative, employee, attorney or counsel of any of the

 parties, nor are we a relative or employee of any of the

 12 parties' attorneys or counsel connected with the action,

 nor are we financially interested in the action.

 13

 14 DATED THIS 29th day of April, 2009

 15

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 JANE FAUROT, RPR LINDA BOLES, RPR, CRR

 17 Commission Reporter Commission Reporter

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