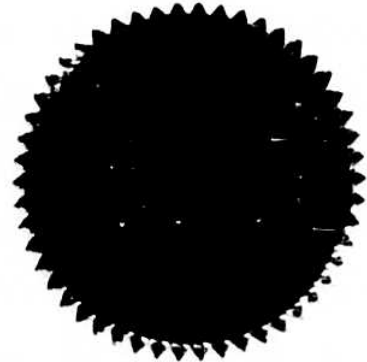


BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition for) DOCKET NO. 920949-EU
 approval of Certain Matters)
 in connection with the sale of)
 assets by Sebring Utilities)
 Commission to Florida Power)
 Corporation.)



VOLUME IV
 Page 385 - 468

RE: Hearing
 BEFORE: CHAIRMAN THOMAS M. BEARD
 COMMISSIONER BETTY EASLEY
 DATE: Tuesday, December 8, 1992
 TIME: Commenced at 8:30 a.m.
 Concluded at 11:10 a.m.
 PLACE: 101 East Gaines Street
 Tallahassee, Florida
 REPORTED BY: JANE FAUROT
 Notary Public in and for the
 State of Florida at Large

ACCURATE STENOGRAPHY REPORTERS, INC.
 100 SALEM COURT
 TALLAHASSEE, FLORIDA 32301
 (904) 878-2221

DOCUMENT NUMBER-DATE

ACCURATE STENOGRAPHY REPORTERS, INC. 14277 DEC -9 1992

FPSC-RECORDS/REPORTING

APPEARANCES:

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D. BRUCE MAY, Esquire and **LARRY P. STEVENSON**, Esquire, Holland & Knight, Post Office Drawer 810, Tallahassee, Florida 32302 and **ANDREW B. JACKSON**, P.O. Box 2025, Sebring, Florida 33871, on behalf of Sebring Utilities Commission.

JAMES FLYNN, 2503 Par Road, Post Office Box 1623, Sebring, Florida 33871, on behalf of Citizens for Utility Rate Equity.

JEREMY P. ROSS, Esquire, 220 South Franklin Street, Tampa, Florida 33602 and **HAROLD E. SEAMAN**, Chairman, 810 North Ridgewood Drive, Sebring, Florida 33870, on behalf of the Action Group.

ROBERT G. POLLARD, Chairman, 810 North Ridgewood Drive, Sebring, Florida 33870, on behalf of Concerned Citizens of Sebring.

JAMES D. BEASLEY, Esquire, Ausley, McMullen, McGehee, Carothers and Proctor, Post Office Box 391, Tallahassee, Florida 32302, on behalf of Tampa Electric Company.

NATHANIEL DOLINER, Esquire, Post Office Box 3239, Tampa, Florida 33601, on behalf of Florida Power Corporation.

MARTHA CARTER BROWN, Esquire, 101 East Gaines Street, Tallahassee, Florida 32399, on behalf of the Commission Staff.

WILLIAM WYROUGH, Esquire, 101 East Gaines Street, Tallahassee, Florida 32399, on behalf of the Commissioners.

INDEX OF EXHIBITS

EXHIBITS

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
15	Mr. Nixon's Late-filed Exhibit		467
CERTIFICATE OF REPORTER			468

P R O C E E D I N G S

1
2 CHAIRMAN BEARD: Good morning. Okay. I've got
3 all of this stuff up here I didn't have last night I
4 was looking at. Who can we get briefly to tell us what
5 we've got.

6 MS. BROWN: Mr. Nixon.

7 CHAIRMAN BEARD: Come on down.

8 WITNESS NIXON: I assume we're talking about
9 Exhibit 15 that we just handed out?

10 CHAIRMAN BEARD: Yes. I'm assuming because it
11 says that it's SR-1, adjusted for going concern at
12 1.854 cents per KWH. Now, that adjusted for going
13 concern is adjusted for the going concern proposed,
14 that being going concern of 4.85 million?

15 WITNESS NIXON: That is correct. If you go to
16 Page 2 of that exhibit, the second page.

17 CHAIRMAN BEARD: Uh-huh.

18 WITNESS NIXON: The only difference here than the
19 original exhibit that I sponsor in my testimony is that
20 we have added the full \$4.85 million of going concern
21 as a net against the purchase price, and gone through
22 the calculation that produces, once you add gross
23 receipts tax, the 1.901 cents. And if you compare that
24 to the 2.180 cents, which was the original calculation
25 with zero going concern, you have a difference of

1 \$2.79.

2 CHAIRMAN BEARD: Uh-huh.

3 WITNESS NIXON: And if you take that 2.79 and
4 divide it by 4.85 million, you get approximately 57
5 cents per million. Meaning 57 cents per megawatt hour
6 will come off of that 2.180 per megawatt hour figure to
7 give you the ratio you were looking for. Another way
8 to do it is to go over to Page 1, and you can see at
9 1,000 kilowatt hours, the annual savings is at \$196.
10 The original savings is at \$163, so that makes a \$33
11 annual savings.

12 CHAIRMAN BEARD: Associated with the 4.85 million?

13 WITNESS NIXON: That's correct. So on every
14 million, it's almost \$7 annually per million.

15 CHAIRMAN BEARD: Okay. And the third page.

16 WITNESS NIXON: And the third page, that's just
17 the background necessary to calculate the first two,
18 which is really a duplicate of my Exhibit SFN-1,
19 whatever it was renumbered.

20 CHAIRMAN BEARD: Okay. Good. Questions,
21 Commissioner?

22 COMMISSIONER EASLEY: No. Thank you.

23 WITNESS NIXON: You're welcome.

24 CHAIRMAN BEARD: Staff.

25 MS. BROWN: Yes, Mr. Chairman.

1 CHAIRMAN BEARD: Do you have anything to say? Are
2 we going to have closing arguments?

3 MS. BROWN: Yes.

4 CHAIRMAN BEARD: Oh, boy. Freudian. I was trying
5 real hard, doggone it. Okay. Who is giving, again,
6 closing arguments? One, two, three and four. My
7 clock, I checked it last night and it's working
8 perfectly, okay. Who's going first? It's your baby.

9 MR. FAMA: Thank you, Mr. Chairman. Chairman
10 Beard and Commissioner Easley, Florida Power
11 appreciates your expeditious consideration of this
12 case, and all of the time and the hard work of the
13 Commission Staff. In my allocated time I would like to
14 bring it your attention what I believe are the eight
15 key reasons why you should approve this transaction as
16 it has been presented to you by Florida Power and
17 Sebring.

18 Reason Number 1, the disparity between the Sebring
19 and the Florida Power rates. The debt service on
20 Sebring's bonds is so high that Sebring must continue
21 to raise its electric rates in order to meet its bond
22 covenant. Sebring's rates are already the highest in
23 the State of Florida. If the sale to Florida Power
24 does not occur, Sebring will be forced to raise it
25 rates to a staggering \$150 per 1,000 kilowatt hours.

1 This would put an unbearable burden on the Sebring
2 ratepayers, many of whom are retirees on fixed incomes.
3 On the other hand, Florida Power's residential electric
4 rate is approximately \$97 per 1,000 kilowatt hours, and
5 that includes the rider. So this is the comparison we
6 think you need to focus on, that is more than \$50 per
7 month in savings. This Sebring/Florida Power rate
8 disparity which promises only to get worse if the
9 transaction is not approved, has resulted in
10 disparities in property values in the Sebring area.
11 This is a problem in virtually all commercial and
12 residential property transactions, and it has also
13 adversely affected economic growth in the area.

14 Reason Number 2, the Florida Power takeover is the
15 best of the five alternatives. Sebring's general
16 manager and Sebring's chief financial officer testified
17 yesterday that Florida Power's offer is the best
18 alternative among the five options. And let me just
19 remind you what the five options are. Number 1,
20 Sebring would raise its rates to \$150; Number 2,
21 Sebring would refinance. There is some problems with
22 that Ms. Holloway talked about yesterday. Option
23 Number 3, is bankruptcy. There is many problems with
24 that. Lots of uncertainty with that. Number 4, sell
25 the system to the City. And, of course, Option Number

1 5 is sale to FPC.

2 Okay. My third reason of the eight reasons, the
3 intervenor arguments and the public input in this case
4 has not given you any good reasons to disapprove the
5 transaction as it has been proposed to you. Mr.
6 Seaman's group, the Action Group, argues that the
7 Commission lacks jurisdiction over the Sebring rider.
8 This argument utterly lacks merit. You have before you
9 a utility rate proposal, you have exclusive superior
10 jurisdiction over investor utility rates, there is no
11 question about that. In substance, the Action Group
12 raises nothing more than a routine cost of service
13 issue. They simply do not want the cost of retiring
14 Sebring's debt to be allocated to the former Sebring
15 customers. That's a cost allocation issue, even though
16 these are a legitimate cost of serving that Sebring
17 class of customers.

18 The second citizens group, or customer group, you
19 have is Concerned Citizens, and they offered no
20 witness, only the argument of Mr. Pollard. Also to the
21 effect, basically, that they don't want to pay off the
22 bonds. But they too overlook the fact that the Sebring
23 bonds must be repaid by Sebring ratepayers one way or
24 another. They are going to pay, whether it's through
25 the transition rate or they are going to pay if the

1 bond trustee forces a rate increase.

2 The third customer group you heard from was CURE,
3 and they support the transaction. And I think you need
4 to keep that in mind, that you've got a customer group
5 supporting the transaction. As Ms. Hawk told you
6 yesterday, CURE is willing to pay the transition rate.

7 Finally, I want you to recall that at the November
8 4th hearing in Sebring there were at least as many
9 people that testified in favor of Commission approval
10 of this transaction as there were people opposed.

11 Reason Number 4, prudence. The prudence issues in
12 this case should not stand in the way of your approval.
13 We are asking the Commission for approval of
14 significant rate base items outside the context of a
15 rate case. We understand that this is a lot to ask
16 for. However, there is precedent for this sort of
17 request. The Commission approved a year or two ago the
18 acquisition of the Scherer plant by Florida Power and
19 Light outside of a rate case. That was more than a
20 \$600 million rate base item outside of a rate case.
21 This dwarfs the rate recovery we are talking about in
22 this case, which is approximately \$23 million for the
23 net book value and the going concern combined. There
24 is also the precedent of approving QF purchase power
25 contracts outside of the rate case. These contracts

1 involve hundreds of millions of dollars in capacity
2 payments being paid out by utilities. Florida Power
3 has about 20 of these contracts, all of which this
4 Commission has approved outside of rate case.

5 Reason Number 5, Commission precedent. We think
6 your precedent, particularly as is mostly seen in water
7 and sewer cases, clearly favors approval of the
8 transaction presented to you. The Commission has
9 articulated a policy of encouraging large healthy
10 utilities to, quote, look for and acquire small
11 troubled systems. And I have cited those cases in my
12 prehearing memorandum. I think it should suffice to
13 say at this time if there ever was a small troubled
14 system, Sebring is it. The takeover of a small
15 troubled utility by larger healthy ones simply will not
16 happen, it will not come about if the prudence of these
17 acquisitions cannot be determined basically at the time
18 of the takeover. The prudence questions can't be
19 delayed until later.

20 Reason Number 6, the package deal. The fact that
21 we have presented you with a package deal that we ask
22 for you to approve in its totality should not stand in
23 the way of approval. All the terms taken together
24 constitute the bargain struck by the parties. This is
25 the nature of contracts. We appreciate the difficulty

1 that this poses for the Commission, because you're not
2 used to this sort of situation. You're used to big
3 cases where you can make adjustments here and there.
4 But we hope that you will understand that the agreement
5 between Sebring and Florida Power has been reached
6 after only a long, difficult, contentious negotiations
7 with lots of give and take, all done in a controversial
8 public arena. The agreement represents the best deal
9 we have been able to strike, and the bottom line is
10 that to alter any of the key terms at this late stage
11 would essentially remake the bargain to somebody's
12 detriment, and that somebody could easily, and may very
13 likely walk away from this deal.

14 Reason Number 7, has to do with rate basing the
15 entire cost of the transaction. You should approve the
16 transaction as filed because rate basing the entire
17 cost of the Sebring transaction we don't think is a
18 good alternative. It will cause Florida Power's
19 management to walk away from this deal, because it will
20 put too much upward pressure on the rates of our
21 general body of ratepayers. It will cause us to come
22 in for another rate case in the very near future. This
23 is something we want to avoid until at least 1995.
24 And, thirdly, it would be discriminatory to charge
25 Florida Power's general body of ratepayers with costs

1 that should be allocated to the Sebring class.

2 My last reason, Number 8, has to do with what we
3 proposed in this case. We think that rate basing the
4 net book value and an amount for going concern results
5 in a transition rate that people can live with. And I
6 think you heard this morning from Mr. Nixon that the
7 \$21 transition rate is based on FPC rate basing the net
8 book value of 17.8. But if FPC were to also rate base
9 the 4.85 million in going concern, and let me note that
10 that's the maximum amount that Florida Power has
11 supported as prudent, 4.8, that the transition rate
12 would fall to about \$18.50. We think that's a fair
13 transition rate, and we think it's one Sebring
14 ratepayers can live with.

15 That's all I have. I thank you for the
16 opportunity to address the panel in closing, and I have
17 maybe a minute left, if I can reserve that minute for
18 rebuttal, Mr. Chairman? I don't know how you want to
19 set this up, but I would like that opportunity if I can
20 get it.

21 CHAIRMAN BEARD: Well, in asking for that you ran
22 to down to 45 seconds, but that's okay.

23 MR. MAY: Commissioners, I want to use my time to
24 briefly focus on the competent substantial evidence in
25 this record that supports the sale of Sebring assets to

1 Florida Power under the specific terms of the purchase
2 and sale agreement.

3 The undisputed facts in this record establish at
4 least four public benefits that result from the sale.
5 First, the sale will provide immediate rate relief to
6 Sebring customers who now pay the highest electric
7 rates in the State of Florida. Second, it will allow
8 Sebring to retire its mounting debt obligations.
9 Third, it will enable Florida Power Corporation and its
10 customers to enjoy the benefits of cost-effective
11 expansion, as well as enhanced system efficiencies.
12 And, fourth, it will solve once and for all
13 longstanding territorial disputes and controversies
14 that have existed between the parties.

15 At the outset of the hearing you heard from Mr.
16 Calhoun as he described the events which led to this
17 crisis. He explained that in the early '80s, Sebring
18 issued a series of bonds, the proceeds from which were
19 used to construct the Phillips Power Plant. He also
20 explained that Sebring's decision to construct the
21 plant was not entered into lightly, but was based on
22 expert engineering and financial advice.
23 Unfortunately, the financial assumptions upon which
24 that plant were based never materialized. Since that
25 time Sebring has continued to confront serious problems

1 in meeting its debt service obligation under those
2 bonds.

3 You next heard from Ms. Holloway that without the
4 sale Sebring rates, which are already the highest in
5 the state, must be increased 37 percent to
6 approximately \$151 per 1,000 KWH in order to meet debt
7 service obligations under its bond covenant. Ms.
8 Holloway also explained that failure to satisfy the
9 rate covenants will cause Sebring to be in breach of
10 its bond contract and vulnerable to specific
11 enforcement actions by the bond insurer, AMBAC, as well
12 as the bond trustees. These legal actions would seek
13 to force Sebring to raise rates to meet its rate
14 covenants.

15 Mr. Calhoun and Ms. Holloway both testified
16 further that Sebring evaluated a number of alternatives
17 before executing its agreement with Florida Power,
18 including bankruptcy and refinancing. Both of those
19 options, as well as the other options that Mr. Fama
20 just mentioned, were determined not to be feasible
21 solutions to the problem. Sebring after reviewing all
22 of the options, reasonably concluded that the most
23 viable mechanism to achieve rate relief for its
24 customers was to sell its assets under the terms of
25 this purchase and sale agreement.

1 You also heard from Mr. David Rumolo that RMI was
2 retained by Sebring to establish an accurate net book
3 value of the utility system, and conducted an intensive
4 valuation study. Importantly, no one has disputed
5 RMI's conclusions as to the net book value of Sebring's
6 tangible assets in this proceeding, and that value was
7 \$17,813,753. Thus, from the perspective of the Sebring
8 rider, the only remaining issue is the proper amount of
9 going concern value that should be allocated to rate
10 base as a prudent investment. The going concern issue
11 has been identified in the prehearing order as Issue
12 Number 15.

13 The purchase and sale agreement between the
14 parties contemplate that you, as Commissioners of the
15 Public Service Commission, will be the final
16 determinant of going concern, and nothing in that
17 contract constrains you or limits the amount of going
18 concern that you can determine. As you are well aware,
19 your decision on this issue will have a dramatic impact
20 on the amount of the Sebring rider and the rates to be
21 paid by Sebring customers if the sale is approved. If
22 you recall the testimony of Mr. Nixon, as well as his
23 exhibit today, it was explained that your recognition
24 of going concern would directly reduce the level of the
25 rider. Mr. Nixon has gone over several rate

1 calculations that has shown very clearly that the
2 greater the going concern value allocated to rate base
3 as a prudent investment, the greater the rate relief to
4 Sebring's customers. Commissioners, we believe that it
5 is in the public interest that you recognize the
6 maximum going concern value that can be supported in
7 this record.

8 Now, what then does the record before you show
9 with respect to going concern value? We believe the
10 record gives you considerable flexibility in this
11 regard. Mr. Warren has shown you a range of reasonable
12 values of going concern with an identifiable floor of
13 \$4.85 million. And Mr. Warren's minimum estimate of
14 4.85 million was the sum of five readily identified
15 items that benefited Florida Power's ratepayers. Those
16 items included proponents for value of an established
17 customer base, and the value of an avoided substation.
18 With respect to the deferral of the substation, the
19 testimony of Mr. Dagostino makes it clear that Florida
20 Power's purchase of the system of Sebring will allow it
21 to avoid or defer construction of a substation at an
22 avoided cost of \$1.5 million. Now, yesterday there was
23 some discussion whether Florida Power by purchasing the
24 facilities had already paid for the value of that
25 deferral. The answer to that question is unequivocally

1 no. Remember that Florida Power has paid only the
2 depreciated net book value for Sebring's substation.
3 And the deferral of the \$1.5 million substation far
4 exceeds the net book value paid. It should also be
5 noted that Mr. Warren's method for calculating the
6 value for an established customer base was founded on
7 conservative phasing assumptions. At the request of
8 Chairman Beard, Mr. Warren calculated the value of an
9 established customer base assuming a very reasonable
10 eight-year, two-phase scenario, which resulted in a
11 positive benefit to FPC and its ratepayers of
12 \$4,491,000. This is reflected in Exhibit 14, which is
13 in the record. When this amount is included in the sum
14 of going concern value as set forth in Mr. Warren's
15 Exhibit GEW-1, the total identifiable going concern
16 value for the system is \$7,341,000.

17 Commissioners, all of the facts that I have just
18 reviewed are in the record. Those facts, along with
19 the testimony of Florida Power witnesses Mr. Southwick,
20 Mr. Dagostino, and Mr. Nixon, demonstrate clearly that
21 Florida Power by purchasing Sebring's system will
22 acquire significant benefits and value beyond the \$17.8
23 million net book value. In fact, Mr. Warren and
24 Florida Power's witnesses have made it clear that the
25 inclusion in Florida Power's rate base of \$4.85 million

1 going concern value, together with the \$17.8 million
2 net book value is prudent and will mutually benefit
3 existing Sebring customers in the form of reduced
4 rates, as well as Florida Power's general body of
5 ratepayers in the form of enhanced system efficiency
6 and cost-effective expansion. And, as I have just
7 discussed, the record in this proceeding equally
8 supports going concern at an even higher amount of
9 approximately \$7.3 million, which we believe can be
10 included in Florida Power's rate base as a prudent
11 investment.

12 In addressing the going concern issue, I would ask
13 that you please consider the fact that you do have
14 specific legal authority to include going concern in
15 Florida Power's rate base. That authority is set forth
16 specifically in Section 366.06(1), Florida Statutes.
17 Moreover, recognition of going concern in this
18 extraordinary situation is entirely consistent with
19 your policies concerning positive acquisition
20 adjustments, particularly since the acquisition by
21 Florida Power will bestow specific benefits on
22 customers of the acquired utility, as well as
23 benefiting Florida Power's own ratepayers.

24 Finally, Mr. Nixon, Mr. Warren, and other
25 witnesses have stated in the record that the facts and

1 circumstances of this transaction are very unique, and
2 should in no way bind you in future actions with
3 respect to other utilities.

4 In summary, Commissioners, we believe that the
5 transaction as presented to you in the purchase and
6 sale agreement at this time is the only viable solution
7 to this very serious problem. The transaction itself
8 is conditioned upon you approving the key elements of
9 the purchase and sale agreement. We urge you to
10 approve those conditions to closing so that the
11 benefits of the sale can be realized by the ratepayers
12 of Sebring and Florida Power as soon as possible.

13 Thank you.

14 CHAIRMAN BEARD: Would you like to reserve your
15 remaining three seconds?

16 MR. MAY: No, sir.

17 CHAIRMAN BEARD: I'm just teasing.

18 MR. ROSS: Mr. Chairman, Commissioner Easley, the
19 Action Group is a citizens committee composed of
20 individuals residing both within and without the city
21 limits of Sebring, which has collected about 3,000
22 signatures on a petition that opposes the imposition of
23 what the power companies have designated as a
24 transition rate. Some of the members of that group are
25 here this morning. I think you will agree they have

1 been a model audience, but make to mistake about it,
2 they are enormously frustrated. They are very angry.
3 They are angry because they believe that they have been
4 disenfranchised over the years. They have not been
5 given the right to vote on their own destiny with
6 regard to electric utility rates. They are very angry
7 because they believe intimidation tactics have been
8 used over and over again by everyone who has an idea as
9 to how to solve this problem. The most recent examples
10 of which you have heard this morning. I believe they
11 are angry because the water sale between the Commission
12 and the City of Sebring, which is to also take place as
13 a condition precedent to the closing of this
14 transaction, will not improve their situation, but will
15 only add to their rate base problems. They are angry
16 because the only individual who has testified in favor
17 of the imposition of this transition rate, Ms. Hawk, is
18 a former employee of the Sebring Utilities Commission.

19 It's the basic position of this intervenor,
20 Commissioners, that this Commission should decline to
21 approve the Petitioner's right that Florida Power be
22 authorized in the event that its proposed purchase from
23 the Sebring Commission is consummated to collect a
24 transition rate of the sort described in the petition.
25 That position rests upon a view that the Commission is

1 without jurisdiction to consider the subject matter of
2 Petitioner's transition rate request. It is not a rote
3 argument. It is a truism to note that this
4 Commission's authority to regulate public utility rates
5 and services is derived exclusively from Chapter 366,
6 Florida Statutes. That statute makes clear in Section
7 366.03 that a public utility shall furnish to each
8 person applying therefor, that is a customer,
9 reasonably adequate service, and that all rates
10 demanded or received by any public utility for any
11 service rendered must be fair and reasonable. Section
12 366.02 establishes the type of service to be rendered
13 will involve electric generation, transmission or
14 distribution. 366.041(3) specifically defines a public
15 utility as an entity which the Commission has the power
16 to regulate for the purpose of fixing rates for service
17 rendered. Additional sections throughout the chapter
18 reinforce the basic understanding that a rate can only
19 be charged in exchange for the rendition of a service
20 to a customer. While it's true that Section 366.075
21 expressly authorizes the Commission to approve rates on
22 a transitional basis as an aside to encourage
23 conservation or efficiency, it's equally true that
24 without the showing of a service to be rendered by the
25 utility to a customer, any payment that the utility

1 seeks Commission approval to collect from that customer
2 will not constitute a rate, transitional or otherwise,
3 and will not be within the Commission's authority to
4 grant.

5 Therefore, in seeking approval to collect the
6 payment the Petitioners have characterized as a
7 transitional rate, it is not enough, we submit, for
8 Petitioners to show that the Sebring Commission
9 presently charges a rate that is the equivalent of or
10 in excess of the Petitioner's proposed transition rate.
11 The simple fact is that the Sebring Commission is not a
12 regulated public utility, and is not subject to the
13 provisions of Chapter 366 except as to tangential or
14 overlapping matters. Rather, the Intervenor believe
15 that it is the Petitioner's burden to first demonstrate
16 that Florida Power will be providing a customer service
17 in exchange for which the designated transition rate is
18 to be collected. We submit that the evidence before
19 this Commission forces the opposite conclusion. Mr.
20 Dagostino and Mr. Nixon both acknowledge that if the
21 purchase and sale transaction is consummated, the
22 service that will be provided to former Sebring
23 Commission ratepayers and to now existing Florida Power
24 ratepayers will be identical. It is only as noted by
25 Mr. Nixon, the cost of providing that identical service

1 that will be differentiated by the imposition of the
2 Sebring rider.

3 So what we have here, Commissioners, is an
4 instance where a regulated public utility decides for
5 perfectly appropriate business reasons to bid on an
6 existing transmission and distribution system. It's
7 aware that it must establish a mechanism by which the
8 Sebring Commission will be able to satisfy its
9 outstanding bonded indebtedness as a condition
10 precedent to the closing of the transaction, but it
11 also concludes that it could not be financially prudent
12 or possibly even permissible from a regulatory point of
13 view to pay that sum out of Florida Power's equity
14 reserves, or to ask that its system-wide customer base
15 undertake the responsibility for its initial payment or
16 amortization. So Florida Power devises a creative and
17 arguably nondiscriminatory plan, pursuant to which it
18 will use its substantial borrowing power to raise the
19 money needed by the Sebring Commission to satisfy its
20 debt. Then Florida Power will effectively lend that
21 money to the Sebring Commission at the prevailing
22 interest rates to that the Sebring Commission's bonded
23 debt can be retired, its hard assets can be sold, and
24 the Commission itself can close up shop. Then Florida
25 Power will, again, effectively obtain an assignment

1 from the Sebring Commission of that entity's clearly
2 legal right to impose on its customer base whatever
3 charge may be necessary to amortize the debt. And,
4 finally, Florida Power will ensure its own legal
5 ability to exercise that assignment right directly
6 against the same customer base by obtaining the
7 Commission's blessing for Florida Power to treat the
8 amortization payments as a transition rate collectible
9 in exchange for service rendered to customers.

10 Mr. Chairman, Commissioner Easley, there is no
11 service to be rendered in exchange for the proposed
12 imposition and collection of the transition rate, and
13 so it is not a Chapter 366 rate at all, but rather a
14 debt repayment surcharge that the Sebring Commission
15 had the legal right to impose, but Florida Power does
16 not. It might have, by the way, had Special Acts
17 91-343 ever been submitted to the required voter
18 referendum, but for reasons of which we are not aware,
19 over the more than 18 months that have elapsed since
20 the legislative adoption of that act, no referendum has
21 been called, and the act, therefore, remains legally
22 ineffective.

23 Florida Power's effort to have you believe that
24 the excess payment it's willing to advance is really in
25 exchange for a 15-year exclusive right of service also

1 falls short of its mark. The simple response to that
2 effort is so what? Even if you believe that Florida
3 Power really values a Sebring Commission 15-year
4 covenant not to compete within its existing service
5 area, an area, as an aside, completely surrounded by
6 Florida Power at more than \$30 million, you're still
7 faced with a certain understanding that such a payment,
8 or more accurately such a loan, will have been induced
9 by Florida Power's business considerations and will
10 have been designed to give Florida Power the right to
11 acquire Sebring's hard assets. And that it cannot,
12 even with the aid of an active imagination, be
13 characterized as a payment to acquire assets that will
14 be used to provide Florida Power's new customers with
15 electric service.

16 Mr. Chairman, Commissioner Easley, the Action
17 Group respectfully requests that this Commission
18 decline to consider or to approve Petitioner's request
19 for the right to impose a debt repayment surcharge
20 directly upon the existing Sebring Commission's
21 customer base on the grounds that this Commission is
22 simply without the jurisdictional means to do so.
23 Thank you.

24 CHAIRMAN BEARD: Thank you.

25 MR. POLLARD: It has been a long road to this

1 hearing, and a long day at this hearing yesterday.
2 Testimony has been given and heard, positions taken and
3 explained. The facts still remains that the Sebring
4 utility ratepayers pay the highest rates in the state,
5 and will continue to be so burdened unless this Florida
6 Public Service Commission comes to our aid. Sebring
7 Utilities Commission and Florida Power have signed a
8 contract with the blessing of the Sebring City Council
9 that will put Sebring Utilities Commission out of
10 business, the City in the water business, and Florida
11 Power Corporation in control.

12 The Sebring ratepayer, who will for the first time
13 be under the auspices of the Florida Public Service
14 Commission, will still be paying the state's highest
15 rates. What can be done? Mr. and Mrs. Commissioners,
16 you can turn this petition down and send us back home
17 to work it out as best we can, or you can recognize
18 that the Sebring ratepayer has not received fair value
19 for the electric system. You can please recognize and
20 grant a generous going concern value, thus reducing
21 Sebring's rider which we still believe to be
22 discriminatory and know to be burdensome. You can also
23 extend the time of the transition period, thus giving
24 more immediate rate relief, the testimony shows about
25 \$4.50 per 1,000 if it were extended to 20 years, and

1 make this deal better for all of us. Or you can roll
2 the whole Sebring rider principal into the Florida
3 Power rate base and eliminate the whole burden. If
4 this is a fair and just contract that has been
5 dissected here yesterday and today, the Sebring
6 ratepayer does not need justice; we need mercy.

7 If you cannot allow either of the last
8 alternatives, then please just send us back to square
9 one. Great fear and trepidation has been expressed by
10 Staff as regards allowing going concern value, and is
11 apparently inherent in stated Commission policy as
12 being precedent setting and habit forming, allowable
13 only in very extraordinary and unusual cases. I submit
14 to you that the Sebring case is unique, it is
15 extraordinary, unusual, and warrants going concern
16 value to the limit as in the amount of \$15 million as
17 stated in Mr. Warren's testimony as conservative.

18 A far greater fear with many more far reaching
19 consequences of being precedent setting, and habit
20 forming, is the imposition of the discriminatory
21 transition fee or Sebring rider. Many other utilities,
22 electric, gas, water and so forth, will be looking at
23 this method of financing future acquisitions. Rumor
24 has it that two or more targets have already been
25 selected. Having said these things, I thank you for

1 the opportunity to have been heard and ask that you
2 judge this case very carefully. Thank you.

3 CHAIRMAN BEARD: Thank you.

4 MS. BROWN: Mr. Chairman, may we be permitted to
5 have about half an hour to get together and review the
6 case yesterday and the arguments heard here before we
7 present our recommendation?

8 CHAIRMAN BEARD: You can after I ask a few
9 questions.

10 MS. BROWN: I'm sorry, I didn't mean to get in --

11 CHAIRMAN BEARD: Let me preface this when I ask
12 each of the attorneys questions. I was here all day
13 yesterday, and I heard all the testimony, and I don't
14 want to hear it again. So I'm asking specific
15 questions that I would prefer, I guess, conciseness is
16 next to Godliness where I come from.

17 Mr. Fama, you made a statement and I want to make
18 sure I clarify it in my mind. You stated that the
19 highest going concern value your company supported was
20 the 4.85?

21 MR. FAMA: Yes, that's correct.

22 CHAIRMAN BEARD: I want to clarify what that
23 means. Does that mean that 4.86 is a deal buster?

24 MR. FAMA: That's correct. It's not necessarily a
25 deal buster, but Florida Power under our contract has

1 an option to walk away if the Commission approves a
2 going concern in excess of 4.85.

3 CHAIRMAN BEARD: Well, bear with me, because that
4 is a direct contradiction to what Mr. May said. And
5 Mr. May, I believe, stated that whatever the going
6 concern, and I thought one of the witnesses yesterday
7 that I asked, basically, said -- as a matter of fact,
8 it was your first witness, if I'm not mistaken. That
9 if the money falls into one of two places, transition
10 rider or rate base, that they're -- how do I say this
11 properly -- less concerned? I don't know. Anyway, my
12 specific question is is it your company's position that
13 if we approve a going concern value of greater than
14 4.85 that you have the option to walk away?

15 MR. FAMA: No. Commissioner, let me correct just
16 what I said. No, I was wrong about that. No, we
17 agreed in this case to support the prudence of the
18 going concern that was offered by Sebring's witnesses.
19 So the only evidence you have of prudence as far as
20 Florida Power's case is up to 4.85. And, of course,
21 prudence is the key issue for rate basing. But if you
22 were to approve a greater amount of going concern, it
23 would not be a deal breaker so long as you determined
24 that it's prudent for us to recover it.

25 CHAIRMAN BEARD: I understand. Now, Mr. May, you

1 made a statement that we had a fair amount of
2 flexibility in a going concern value, and I believe you
3 made the statement that the record supported a floor of
4 4.85, is that a fair assessment of what you said?

5 MR. MAY: Yes, sir. That's our position based on
6 Mr. Warren's testimony.

7 CHAIRMAN BEARD: Well, just to clarify my
8 understanding of the record, if I go to the testimony
9 and I look at a four-phase, eight-year that presents a
10 net present value of 1.453 million, and I substitute
11 that for the 2 million requested, that drops it to a
12 floor of 4.3 million. And that's before we get into
13 any of the other extraneous issues associated with
14 going concern. I want the record to be clear that my
15 understanding of the record, that it would support a
16 floor of something less than that, even if we accepted
17 going concern.

18 MR. MAY: Perhaps floor was the inappropriate
19 term. What I was trying to convey, Commissioner Beard,
20 is that the estimates of going concern set forth in Mr.
21 Warren's testimony were extremely conservative.

22 CHAIRMAN BEARD: Okay. I found a range of
23 somewhere between zero and 16 million, I think, in my
24 review of the record. So it's a pretty broad range,
25 you're correct. I didn't want any confusion, at least

1 in my mind, about what the record supports.

2 MR. MAY: I think you have considerable
3 flexibility in establishing going concern value.

4 CHAIRMAN BEARD: Counselor, if I understand your
5 position, and to some degree both of your positions,
6 you would have us, rather than approve a transition
7 rider, walk away from this?

8 MR. ROSS: That is correct, Mr. Chairman. We
9 would have this Commission decline --

10 CHAIRMAN BEARD: I confess to being totally and
11 completely baffled by that position, because I try to
12 get this in the perspective of my pocketbook. And what
13 that would say to me is either give us it all or we
14 will go back and pay \$150 a month. If I believe that
15 they will walk away from this deal, okay. And I
16 believe that, that the people in your group would
17 rather pay \$150 a month rather than \$97 a month. That
18 baffles me.

19 MR. ROSS: That, of course, is not necessarily
20 what may happen. As both Commissioners heard
21 yesterday, nobody is totally certain what would happen
22 in the event of a bankruptcy petition being filed. By
23 the same token, as you both are aware, 18 months ago an
24 attempt at a legislative decision was enacted through
25 Chapter 91-343, Special Acts of Florida. Clearly there

1 is a potential for a legislative decision here.
2 Clearly there is a potential for a bankruptcy decision.
3 Clearly there is the potential for other ways to
4 resolve this case. What we are simply saying is that
5 this Commission is not the proper party to consider the
6 imposition and collection of the transition rate.

7 CHAIRMAN BEARD: Well, the legal aspects of it, I
8 listened to your argument, and I'm going to get some
9 advice from Staff, but I've some pretty strong feelings
10 about that, as well. I'm trying to get right down to
11 practical dollars out of my pocket. And where I come
12 from, if there is a debt owed, somebody pays. And the
13 legislature in all their benevolent wisdom and
14 everything else, can't erase that debt.

15 MR. ROSS: As Commissioner Easley noted yesterday,
16 \$3 million was paid for insurance with apparently no
17 expectation on the part of the parties to that
18 transaction to ever cause that insurance to be paid
19 under any condition.

20 COMMISSIONER EASLEY: But I gather that's not all
21 that unusual. You also remember that I decided I'm in
22 the wrong business, and I may have just discovered what
23 my future life is.

24 MR. ROSS: We both are, Commissioner.

25 CHAIRMAN BEARD: Well, I understand about

1 bankruptcy, and I understand that one way or another
2 somebody pays.

3 MR. ROSS: Mr. Chairman, just to dwell on the
4 point for a second. You have to recall my comment
5 about intimidating tactics. Intimidation has been used
6 in this case since 1963. Remember that date, 1963.
7 For years since that date people have attempted to
8 resolve the difficulties that the Commission has found
9 itself involved in. And they have usually attempted to
10 resolve those difficulties by saying you've got to do
11 it this way, because if you don't, look at the
12 thundercloud coming. Look at the tornado that's going
13 to be visited upon you. That's not the way to resolve
14 an issue as incendiary as this.

15 COMMISSIONER EASLEY: Forgive me, Counselor, but
16 all I can think of is that you have had a couple of
17 special acts since that date, and by your own
18 statement, they haven't been used. Ain't nobody done
19 what they said they were going to do in the special
20 act, and the legislative delegation is the only one who
21 can do anything about that, we can't.

22 CHAIRMAN BEARD: And that raises another issue.
23 My history, life prior to Commission, I have some
24 experience in electric utilities where there are
25 elected officials that tend to run that organization or

1 are supposed to. And I have since that time advised
2 them that if they don't want to be treated like a
3 red-headed stepchild, step forward and take full rate
4 base regulation, because I think overall it's in your
5 best interest. No one has taken me up on that yet,
6 because there are some disadvantages to that. But your
7 comment about being frustrated, one of your comments, I
8 can't remember which now, about being frustrated, that
9 raises an issue to me that the Commission is appointed
10 by the City Council, if I'm not mistaken, aren't they?

11 MR. ROSS: Correct.

12 CHAIRMAN BEARD: And aren't they elected?

13 MR. ROSS: Correct.

14 CHAIRMAN BEARD: So you're telling me that system
15 doesn't work?

16 MR. ROSS: But it's important, Mr. Chairman, to
17 recognize that more than 60 percent of the ratepayers
18 who presently pay their rates to the Sebring Commission
19 are located outside of the city limits of Sebring, so
20 that they particularly have been totally
21 disenfranchised in this whole process.

22 CHAIRMAN BEARD: And that translates in my brain
23 to your telling me that it don't work.

24 MR. ROSS: It certainly hasn't worked to this
25 point.

1 CHAIRMAN BEARD: Okay. I think that's the
2 questions I needed clarified.

3 COMMISSIONER EASLEY: Let's take ten.

4 CHAIRMAN BEARD: Can we be back here at ten
5 minutes till?

6 MS. BROWN: We will certainly try.

7 (Recess taken.)

8 CHAIRMAN BEARD: Okay.

9 MS. BROWN: Commissioners, this is Staff's
10 recommendation on the Sebring case. With your
11 permission, we would like to present a brief summary, a
12 fairly brief summary of your recommendation to you, and
13 then we would like to go through each of the issues as
14 presented in the prehearing order. The case has
15 several parts to it, each of which needs to be
16 specifically addressed, and it seems it would be the
17 best way to ensure that we don't miss anything.

18 Well, I'm taking a deep breath and I'm gritting my
19 teeth when I say we recommend that you approve the
20 matter Florida Power Corporation and Sebring have asked
21 you to approve in their joint petition. We don't make
22 this recommendation happily. There are aspects of the
23 acquisition that we don't like very much, but we
24 believe it's in the public interest to resolve the
25 problems with Sebring Utilities over the long-term.

1 And we believe the acquisition is the most reasonable
2 way to do that.

3 We wish the difficulties in Sebring could be
4 resolved overnight, but they can't be. They weren't
5 created overnight. They were created over a decade by
6 a utility that simply could not manage its affairs
7 prudently. On the record it does not appear to us that
8 there is any other reasonable alternative available to
9 Sebring and its customers than the sale to Florida
10 Power Corporation. We don't like the rider, we don't
11 like preapproval of prudence of rate case assets, and
12 acquisition adjustments outside of a rate case. We
13 don't like separating out particular debt costs and
14 applying them to a particular group of ratepayers.
15 Nevertheless, Commissioners, unique problems require
16 unique solutions. That's part of this administrative
17 agency's mission as an arm of the legislative branch of
18 government to respond with expertise and reasonable
19 creativity, and reasonable speed to changing
20 circumstances and problems. We consider this situation
21 to be unique, and we assure everyone that the decisions
22 the Commission makes today will not become habit
23 forming.

24 So we recommend approval with the conditions we
25 will describe below with respect to the particular

1 issues. The conditions we recommend do not alter any
2 of the key terms of the contract, but there is a point
3 beyond which we are not willing to go to accomplish
4 this acquisition, however. And we believe it important
5 to the Commission's regulatory scheme to require
6 reports and frequent review of the aspects of this
7 acquisition we are approving today. And now we are
8 ready to proceed on the particular issues, unless you
9 have any questions to start with.

10 CHAIRMAN BEARD: Let's go through the issues and
11 as we get to the specifics, if I have questions --

12 COMMISSIONER EASLEY: All right. What you're
13 going to do is make the recommendation on the specific
14 issues, and then we are going to come back, or is it
15 your intent to vote as we go, Mr. Chairman?

16 CHAIRMAN BEARD: Some of these issues we can vote
17 as we go, but some of them I want the whole enchilada
18 before I vote, if you catch me. Well, specifically,
19 going concern issues, and there are subparts to that, I
20 think, are of interest to me. Let's try moving along
21 and voting as we go. And I'm looking at, for example,
22 Issue Number 1, which is more of a legal issue.

23 MS. BROWN: Yes. Mr. Chairman, how about if we
24 try -- my understanding of this is that there are no
25 preconditioned issues in here. You don't have to

1 approve one before you approve the other, so we could
2 probably go through and approve the ones that you want
3 to at the time you want to, and then go back to the
4 others if you need to.

5 CHAIRMAN BEARD: Let me get something out here, I
6 guess, just from my perspective. Bear with me if you
7 will, Commissioner. I think a point that was made from
8 my perspective is that the Sebring customers need
9 mercy. I agree with that. I honestly don't believe
10 mercy is sending this contract back to the drawing
11 board and risking, no guarantees, but risking \$150 a
12 month rates on top of what they have been paying at
13 \$110 a month. I can tell you, if I was a Sebring
14 customer and came back and found out that people that I
15 had sent up there had won, and what they had won for me
16 was 150 a month, I'd find my sharpest knife and my
17 biggest gun. And I appreciate your position, and legal
18 position, but all I can tell you is how I would feel if
19 it was me paying the electric bill. And in the
20 long-term best interest, I think that there is mercy in
21 this rider. We have got to get into the specifics of
22 that at this stage, but I do agree with that statement,
23 I believe, Mr. Pollard you made, and I feel strongly
24 about that. My concern is how best to show some mercy
25 to these customers and give them relief in their best

1 interest.

2 MS. BROWN: Commissioner, Issue 1 is the legal
3 issue stated this way: Does the proposed Sebring rider
4 unduly discriminate against Sebring's customers?
5 Before I get to that particular question, I would like
6 to take just a brief minute to address Mr. Ross'
7 subject matter jurisdiction argument. I disagree with
8 him. I believe that the Commission has exclusive
9 plenary jurisdiction over the rates and charges of
10 electric utilities, investor-owned electric utilities
11 in the state, and that that exclusive plenary
12 jurisdiction includes a determination of whether
13 something is a rate or isn't. There is no other forum
14 to decide whether any particular charge that a utility
15 is going to try to make is or is not a rate, or is or
16 is not appropriate. You have the jurisdiction over all
17 aspects of that, including determining what is or isn't
18 a rate. I think Mr. Ross' argument is the flip side to
19 the discrimination argument. What he is really saying
20 is that this rate is not properly based upon the
21 service provided, and it is, therefore, discriminatory.
22 That's really what he's saying.

23 Our position on whether or not this rate is unduly
24 discriminatory or not, gritting our teeth again, we do
25 not believe that it is unduly discriminatory. We

1 believe that it is reflective of the cost to serve
2 these particular customers, and the cost to serve
3 particular customers is a part of that service. A debt
4 cost for any public utility is a cost to serve, and
5 that particular cost to serve goes into the
6 determination of what is the appropriate rate. And,
7 therefore, we do not believe that this particular
8 rider, this particular rate, this particular surcharge,
9 unduly discriminates against the Sebring customers.

10 The determination that the Commission needs to
11 make when it determines whether rates are just and
12 reasonable or unduly discriminatory is based upon the
13 circumstances in each case. It's a factual
14 determination. I think the facts in this case clearly
15 indicate that the cost to serve these Sebring customers
16 goes with them whoever serves them, and it is clearly a
17 cost to serve them. Therefore, we recommend to you
18 that the Sebring rider does not unduly discriminate
19 against the Sebring customers.

20 COMMISSIONER EASLEY: Let me comment, if I may,
21 Mr. Chairman, on the legal aspect of this argument. I
22 agree with Staff to the extent that the Staff went. I
23 think there is one more piece to this jurisdictional
24 issue, and whether or not we have the authority to
25 impose a rider, and then whether or not it's

1 discriminatory. We do have jurisdiction over the
2 munies and the REAs to the extent of territorial
3 disputes and rate structure. This certainly can be
4 viewed as a territorial dispute. It has been a
5 territorial dispute, this resolves a territorial
6 dispute, even though it may not have been phrased in
7 quite that way, that is indeed the end result of it.

8 If the contract is approved these customers become
9 customers of a regulated industry, and are a regulated
10 utility, and, therefore, subject to our jurisdiction.
11 So if you assume that there is something beyond just
12 they have to be customers of a regulated utility to
13 begin with, and become customers of a regulated utility
14 as a result of that territorial dispute resolution, I
15 think that aspect of the legal argument tends to be
16 lost a little bit. I would feel less comfort in that
17 argument had Sebring, the City of Sebring elected to do
18 anything with their special acts, but they did not.

19 CHAIRMAN BEARD: To echo a little bit, I guess,
20 the question you kept asking, one of which was what
21 service? And the first thing that popped in my mind
22 was debt service. What is unduly discriminatory to me,
23 even if it is only nickels, Mr. Pollard, would be to
24 force a problem onto the ratepayers of Florida Power
25 Corporation that they in no way had anything to do

1 with. And I appreciate that maybe 60 percent of
2 Sebring's customers didn't have a chance to vote for
3 the City Council, zero of Florida Power Corporations'
4 had that opportunity in this instance on these issues.
5 And that would be completely discriminatory from my
6 thinking to put this on. And granted it's only
7 nickels, but at some point in time if it happened to be
8 some other entity, and you are the Florida Power
9 Corporation customer, then saying, "Whoa, I don't want
10 their responsibility, I didn't get that debt." And the
11 door swings two ways. We run into this all the time,
12 and everybody wants local calling service, telephone
13 service, and they want it for the same price they are
14 paying now until they find out here's what our bill
15 would be if we did it from Fort Lauderdale to Miami.
16 Whoa, I don't care about Fort Lauderdale to Miami. But
17 the door swings two ways, and that is the concern that
18 I have. And I, again, appreciate the need of the
19 Sebring customers, but I think we have an equal
20 obligation not to hoist this on existing Corporation
21 customers.

22 COMMISSIONER EASLEY: Mr. Chairman, I can move
23 Staff on Issue 1 at this time.

24 CHAIRMAN BEARD: And I would agree, without
25 objection.

1 MS. BROWN: Issue 2, Commissioners, is the method
2 used to calculate the rate of the Sebring rider, and
3 any changes thereto appropriate.

4 COMMISSIONER EASLEY: Is this determinative of the
5 final amount, or is this just methodology?

6 COMMISSION STAFF: Actually, I think it
7 accommodates both.

8 CHAIRMAN BEARD: Well, then I need to understand
9 what numbers we are voting, if we are voting numbers
10 here. If we are voting theory, fine. If we are voting
11 numbers, then we have got work to do.

12 COMMISSION STAFF: The numbers you vote on will
13 fall into this methodology.

14 CHAIRMAN BEARD: We will vote on the numbers
15 later?

16 COMMISSION STAFF: Right.

17 CHAIRMAN BEARD: That's all I wanted to know.

18 MS. BROWN: Staff recommends that the rider is
19 calculated as a formula rate which is consistent with
20 other formula rates such as fuel, and it can
21 accommodate any necessary changes required over the
22 life of the rider. We recommend, however, that we
23 approve the reasonableness of this methodology with
24 this small condition, that a separate line item be
25 provided on Florida Power Corporation's monthly

1 surveillance report to present the revenue received
2 from the Sebring rider. That allows us to keep close
3 tabs on what it's doing, where it's going, whether it
4 fits with the purpose that it was established for, and
5 we feel much more comfortable if we can keep our eye on
6 it.

7 CHAIRMAN BEARD: That would allow us to review in
8 the event that their growth was more than projected,
9 and, in effect, you would be retiring debt faster?

10 MS. BROWN: Yes. That's the way we understand it,
11 and Florida Power Corporation themselves have said that
12 they will bring it in at least every four years. We
13 don't believe that this particular condition alters any
14 of the key provisions of the contract. It just allows
15 us, as well as Florida Power Corporation, to keep tabs
16 on what happens.

17 COMMISSIONER EASLEY: Wasn't their testimony -- I
18 don't know if it was Mr. Dagostino or not, but one of
19 the Company witnesses testified that they would have no
20 problem with an annual report, I thought.

21 MS. BROWN: That's right.

22 COMMISSIONER EASLEY: And that would take place in
23 the form of surveillance reports, is that what you're
24 saying?

25 COMMISSION STAFF: No, we would like the

1 surveillance report, and if they wanted to --

2 COMMISSIONER EASLEY: That's quarterly?

3 COMMISSION STAFF: (Indicating yes.)

4 COMMISSIONER EASLEY: All right.

5 COMMISSION STAFF: I don't think the Company has a
6 problem with that.

7 COMMISSIONER EASLEY: With the annual report? My
8 recollection of the testimony was that there was no
9 problem with that, and I would like that included.
10 Whether it needs to be in Issue 2 or not, I think that
11 is the only way. See, I'm troubled by the whole issue
12 of predetermining prudence. And the only way I figure
13 we can ever get a hand on whether or not what has been
14 presented here is what is going to come to pass, and is
15 indeed going to be prudent is continue to review it,
16 and not wait until 15, 20 years down the line.

17 CHAIRMAN BEARD: Let me just understand. You have
18 said annual report, Staff has said surveillance
19 reports. Surveillance is quarterly.

20 COMMISSIONER EASLEY: Both. What they are talking
21 about, as I understood it, was a line item on the
22 surveillance report that would be added. That would be
23 a routine as part of the quarterly surveillance report.
24 What I'm talking about is the kind of annual report
25 that was discussed in the testimony yesterday, which is

1 more than just a line item. I would think it would
2 include things like the forecast is right on line, the
3 forecast is not, whatever is happening based on the
4 representations that have been made in this case.

5 CHAIRMAN BEARD: Okay.

6 MS. BROWN: That sounds very reasonable to Staff.
7 The surveillance reports, as we understand it, would be
8 done monthly, not quarterly.

9 COMMISSIONER EASLEY: That's even better.

10 MS. BROWN: And then we would a year's worth of
11 monthly surveillance reports to measure against the
12 annual report that we got from Florida Power
13 Corporation that discussed the rider.

14 COMMISSIONER EASLEY: And I don't think in any way
15 that disturbs the terms of the contract.

16 MS. BROWN: We also think that this will assure
17 the Sebring customers that we are keeping our eyes on
18 how this rider is administered.

19 CHAIRMAN BEARD: Okay. With that those
20 modifications, Commissioner?

21 COMMISSIONER EASLEY: With those modifications and
22 the understanding that this is not the numbers, this is
23 strictly we are talking methodology, I would move
24 approval of Issue 2.

25 CHAIRMAN BEARD: Issue 2 is approved. Issue 3.

1 MS. BROWN: Issue 3 is the forecast of customers
2 and usage used to develop the rate of the Sebring rider
3 appropriate? Staff's recommendation is that the load
4 forecast used in this case to determine the rate that
5 Sebring customers will be charged to pay for the rider
6 is appropriate.

7 COMMISSIONER EASLEY: I don't remember any
8 testimony, if there was any it must have been minor,
9 disputing the load forecast, do you?

10 MS. BROWN: Staff introduced an exhibit that
11 demonstrated that TECO had conducted a load forecast
12 independently of Sebring, and if you look you will see
13 that the little lines follow each other very closely.
14 And that is our fundamental reason for recommending its
15 appropriateness.

16 COMMISSIONER EASLEY: But there was no challenge
17 to those, as I recall, Staff?

18 COMMISSION STAFF: That's correct, Commissioner.

19 COMMISSIONER EASLEY: I can move approval of Issue
20 3.

21 CHAIRMAN BEARD: Without objection. Issue 4.

22 MS. BROWN: Issue 4, Mr. Chairman, is the method
23 used to identify customers who will be subject to the
24 Sebring rider appropriate? Staff finds that the method
25 used is appropriate. We recommend that the Commission

1 find that -- prior to 1985 Florida Power Corporation
2 and Sebring Utilities Commission competed openly in the
3 Sebring area for electrical customers. We have had
4 testimony that the territorial dispute between these
5 two range warriors has lasted for decades.

6 CHAIRMAN BEARD: One of the last of the great
7 range wars.

8 MS. BROWN: Yes.

9 COMMISSIONER EASLEY: You know, as a matter of
10 fact, let me make a comment at this point. This is not
11 only a very unique case, which is probably the
12 understatement of the year, and to say it has been a
13 difficult case is a probably even larger
14 understatement. I will tell you the honest to Pete
15 truth, I woke up at 4:30 this morning, and I started
16 making notes on this miserable thing. I was dreaming
17 about it last night. The City isn't a party to this
18 case, and I would give my right arm to be able to
19 string them up by their thumbs, because I've got to
20 tell you, I think they are responsible for putting us
21 in the box we are in, and you're in right now. And I
22 don't mind telling you that I find that annoying. The
23 law requires us to make sure FPC's ratepayers are
24 protected from any bad decisions made by FPC. We do
25 not have jurisdiction over Sebring as it is presently

1 constituted. The plea for assistance, if we let you go
2 back to square one falls on this Commission not having
3 jurisdiction. We can't help you if we send you back.
4 We are also charged with the general utility health for
5 the State of Florida. That includes public interest.
6 So when you really stop and look at it, we almost have
7 to do something, because the general utility health in
8 this state -- and to let you all just flounder out
9 there for another ten years is unacceptable to me.
10 Absolutely unacceptable. I have been a little
11 irritated about this one, and it's not you all's fault.
12 I would move approval of Issue 4.

13 CHAIRMAN BEARD: Without objection.

14 COMMISSIONER EASLEY: I'm shy, retiring, and quiet
15 today, Mr. Chairman.

16 CHAIRMAN BEARD: I noticed. I know when to stay
17 out of the way, too.

18 COMMISSIONER EASLEY: I noticed that one, too. I
19 taught him well, didn't I?

20 CHAIRMAN BEARD: Issue 5.

21 COMMISSIONER EASLEY: Issue 5.

22 MS. BROWN: May we take just one second,
23 Commissioner, I need to confer with a Staff member down
24 here. That was quick. Issue 5, Commissioners, is the
25 proposed 15-year period to collect the Sebring rider

1 appropriate? Staff recommends that it is. The 15-year
2 time period provides immediate rate relief to the
3 Sebring customers, and aggressively reduces the amount
4 of the outstanding debt associated with the Sebring
5 purchase.

6 COMMISSIONER EASLEY: I think we need to wait on
7 this one, Mr. Chairman.

8 CHAIRMAN BEARD: Yes, we are going to hold on
9 Issue Number 5 for a few minutes. Issue Number 6.

10 MS. BROWN: Issue 6, is the proposed regulatory
11 treatment of the Sebring rider financing appropriate?
12 Yes, Commissioner, we find that the proposed regulatory
13 treatment is appropriate, but we are not very happy
14 with it.

15 MS. SALEK: Basically, Commissioner, our concern
16 is that we are color coding dollars. The debt will
17 specifically be traced to Sebring, and that is not the
18 Commission practice, nor our norm. We don't believe
19 funds can be traced. So we are making an exception to
20 a Commission practice. In this case the reason you
21 would need to do it, if you accept the contract, is
22 that for the rider to be implemented it's the debt of
23 Sebring that will be being paid off, and that will
24 directly impact the rider.

25 MS. BROWN: But, Commissioners, we want to retain

1 jurisdiction over it and keep reviewing it. I'm not
2 exactly sure what form that review would take. Staff
3 might want to help me out.

4 COMMISSIONER EASLEY: Wouldn't that fall as a
5 result of the surveillance reports and the annual
6 report? Wouldn't you be able to get a handle on it at
7 that point to make sure that the parallel lines
8 continue to march in parallel, and are not separating
9 or diverging?

10 MS. SALEK: Yes. I think we would be able to --
11 one of our concerns is to make sure that here is 30 or
12 however million dollars goes to the rider, we will want
13 to make sure that the financial integrity of FPC as a
14 utility is maintained. That we don't see, as from the
15 evidence, there was some evidence that your equity
16 ratio will be increased as you start to remove debt
17 specifically. You have to watch your interest coverage
18 ratios and everything else. I don't think that it will
19 impact or harm FPC, but we will be able to monitor
20 that.

21 CHAIRMAN BEARD: I guess from my kind of
22 simplistic mind, it's almost like you set up an
23 amortization schedule over here for X amount of debt,
24 and you have got X number of dollars from the rider
25 coming in, certainly reducing, and it's almost like

1 your holding the whole thing out here as a separate
2 entity. And I don't think you can do it quite that
3 simply, but that's kind of where it was playing in my
4 mind.

5 MS. SALEK: And I think that through the
6 accounting system that they are going to have set up,
7 that's somewhat what will happen. It's just that when
8 you look at the financial integrity of FPC, nobody will
9 be able to do that.

10 COMMISSIONER EASLEY: And it's going to have to
11 happen in some regard, because in order to determine a
12 time period you're going to have to be able to track it
13 to some extent and know when the time period is up.
14 And not just a matter of years, I would think, and
15 whether or not that is realistic.

16 MS. SALEK: Right. And I would add, on the record
17 reflects, they are using the normal course of
18 financing, the medium term notes they are going to use.
19 If you impact that 15-year time frame, that that will
20 also impact the timing of their debt, and --

21 COMMISSIONER EASLEY: I understand that.

22 MS. SALEK: -- and the costs associated with it.

23 COMMISSIONER EASLEY: But the reviewing in the out
24 period of time -- let's say we go with 15 --

25 MS. SALEK: Yes.

1 COMMISSIONER EASLEY: -- knowing that ten years
2 down the road, yes, indeed in five years it's going to
3 realistically cut off, they are not going to be back in
4 here asking for another three. Or if there is growth,
5 it can be retired early, or whatever is going to happen
6 to it, is what I'm saying. You're almost going to have
7 to be keeping track of it. They are going to have to
8 be keeping track of it.

9 MS. SALEK: Right. That's my understanding, they
10 are going to do that through accounting, a separate
11 accounting.

12 MS. BROWN: But Staff also doesn't believe that
13 this form of review impacts any of the key factors in
14 this case.

15 COMMISSIONER EASLEY: No, I don't either. Mr.
16 Chairman, I guess we can move 6. It sounds like it's
17 not that tied into some off the other decisions, so I
18 would move approval on 6.

19 CHAIRMAN BEARD: Without objection, Issue Number 6
20 is approved.

21 COMMISSIONER EASLEY: You know, that might change.
22 I don't think so, if I understand what we just did.

23 CHAIRMAN BEARD: Issue 7.

24 MS. BROWN: Commissioners, Issue 7 states should
25 the Commission approve the SR-1 rate schedule as part

1 of Florida Power Corporation's rate schedules. Staff
2 recommends that it should.

3 COMMISSIONER EASLEY: Again, is this an amount or
4 just the schedule?

5 MS. BROWN: This is just to approve the manner in
6 which the SR-1 rider is reflected, and it needs to be
7 reflected in a tariff.

8 CHAIRMAN BEARD: Okay.

9 MS. BROWN: And we approve it because that is the
10 way Florida Power Corporation has proposed to do it.

11 CHAIRMAN BEARD: Without objection?

12 COMMISSIONER EASLEY: Without objection.

13 CHAIRMAN BEARD: Issue Number 8.

14 COMMISSIONER EASLEY: We have really been talking
15 about this.

16 MS. BROWN: Issue 8, should the Commission approve
17 the Sebring rider and retain jurisdiction of it in
18 accordance with the terms of the joint petition? Staff
19 recommends yes. I think we spoke earlier about how we
20 would like to retain that jurisdiction. We recommend
21 that you approve the rider.

22 CHAIRMAN BEARD: I would assume we were approving
23 Issue 8 as clarified or modified, if you will.

24 MS. BROWN: Yes. Commissioners, I think it's
25 probably important to understand some of these issues

1 and how they were developed. They are directed to the
2 joint petition and the contract. They are somewhat
3 confusing sometimes, but they are done in order to make
4 sure that the Commission addresses the factors in the
5 contract that are necessary.

6 CHAIRMAN BEARD: Sure. Without objection?

7 COMMISSIONER EASLEY: Without objection.

8 MS. BROWN: Commissioners, I forgot something
9 about Issue 7. When the tariff is filed, Staff would
10 like permission to administratively approve it.

11 COMMISSIONER EASLEY: I see no problem with that.

12 CHAIRMAN BEARD: I don't have a problem with that,
13 within the confines of the decisions made today.

14 MS. BROWN: Right. And if there is anything the
15 matter with it we will bring it to you all.

16 CHAIRMAN BEARD: Issue 8, without objection?

17 COMMISSIONER EASLEY: Yes. Again, I echo Staff.
18 I don't like most of the solutions here, but I don't
19 see any alternatives.

20 CHAIRMAN BEARD: Issue 9.

21 MS. BROWN: May we just have a second?

22 CHAIRMAN BEARD: Sure.

23 (Pause.)

24 MS. BROWN: Issue 9, Commissioners, is the cost
25 study performed by RMI to value Sebring's distribution

1 system, transmission system, and other tangible assets
2 reasonable and appropriate? We believe that it is. We
3 recommend that you approve the prudence of it. We
4 reserve the right to review it in the next rate case.

5 CHAIRMAN BEARD: Without objection?

6 COMMISSIONER EASLEY: Yes.

7 CHAIRMAN BEARD: Issue 9 is approved. Issue
8 Number 10.

9 MS. BROWN: Issue 10, is the proposed regulatory
10 treatment of the Sebring system acquisition financing
11 appropriate? We recommend that it is appropriate. We
12 recommend that you approve it. Again, like any other
13 financing issues, we will review it in the next rate
14 case.

15 CHAIRMAN BEARD: Without objection?

16 COMMISSIONER EASLEY: Yes, without objection.

17 CHAIRMAN BEARD: Issue 11.

18 MS. BROWN: Is the methodology used to arrive at
19 the valuation of Sebring's rate base assets
20 appropriate? Staff recommends that it is appropriate.
21 We recommend that you approve it. We recommend that
22 you approve it once again subject to review in the next
23 rate case. We do not believe that any of these reviews
24 are outside of our ordinary surveillance and review of
25 any utility matter. We always review these things in

1 rate cases. We don't believe that that review violates
2 any of the key aspects of this case.

3 COMMISSIONER EASLEY: No, and I would hope that
4 would include the adjustment to the exhibit after
5 everything was filed. The adjustment to the proposed
6 substation that went from a half million to 1.5 million
7 where you all can keep an eye on that as we go out, as
8 well. That doesn't impact the contract because that is
9 an adjustment outside the contract.

10 CHAIRMAN BEARD: Well, I think there are a number
11 of adjustments --

12 COMMISSIONER EASLEY: Outside the contract.

13 CHAIRMAN BEARD: -- in there of dollars. I think
14 it was like 750,000 in two different instances that
15 were prospective, I guess, is the way to say it, and
16 that would be reviewed as we move on that would have an
17 impact.

18 MS. BROWN: With respect to some of these
19 continuing reviews that we want to make, we really
20 believe it's very important to keep track of all of the
21 aspects of this very unique situation. We want to do
22 it for several reasons. One is because we want to see
23 how it works, and what is the effect going to be if we
24 just flat out say, "Okay, go and do this." And what
25 kind of precedent do we set. So we need to keep track

1 of it all to make sure that it's all working the way it
2 should.

3 COMMISSIONER EASLEY: And by the way, on the issue
4 of precedence, I would hope that all of the ones who
5 are sitting out there rubbing their hands in glee over
6 the prospect of being able to do something like this,
7 better look and see what the circumstances were of this
8 particular case. Because I'm not sure that it isn't
9 unique enough that it would be darn difficult for
10 another company to come in and say we need to do this
11 kind of acquisition, or we need this kind of rider, or
12 we need this kind of set of circumstances just because
13 you did it in the FPC/Sebring case. They had better be
14 prepared, I would hope to demonstrate that they have
15 got the same set of unique circumstances. And I don't
16 think they can do that.

17 CHAIRMAN BEARD: Well, I think more specifically,
18 Mr. Fama made in his closing argument a couple of
19 comments about financially -- I think he actually said
20 larger financially healthy taking over smaller
21 financially unhealthy. In all honesty, I would modify
22 that in my thinking to say financially healthy and
23 financially unhealthy, because there are diseconomies
24 of scale at some point in time and size in any
25 organization. And I can point to some vertical

1 hierarchies in the telecommunications arena that are
2 having to be flattened pretty rapidly to survive. So I
3 think the point is that this is a very financially
4 healthy company, that has a record of being well run,
5 and we have a financially unhealthy company that is in
6 desperate need of some kind of mercy, to borrow a
7 phrase. And I think that is appropriate. This is not
8 precedent setting, this is a case-by-case situation
9 from my perspective. And I have seen financially
10 healthy smaller companies take over financial unhealthy
11 larger companies, so the size is not the issue, I think
12 it's the health and the needs that are at issue here.

13 MS. BROWN: If we might borrow another phrase from
14 Mr. Pollard, as I did before, this won't be habit
15 forming.

16 COMMISSIONER EASLEY: Say it again.

17 MS. BROWN: This won't be habit forming.

18 COMMISSIONER EASLEY: No.

19 CHAIRMAN BEARD: Without objection, Issue 11.
20 Issue Number 12.

21 MS. BROWN: Issue 12, Commissioners, is should the
22 Commission approve the depreciated net book value of
23 Sebring's electric system assets, as of September 30th,
24 1991, in the amount of \$17,813,753? Staff recommends
25 that this amount should be approved. It appears to be

1 prudent. We recommend that you so find. Once again,
2 we make this recommendation that you approve it subject
3 to review in the next rate case.

4 CHAIRMAN BEARD: Without objection?

5 COMMISSIONER EASLEY: Yes, I don't remember a
6 great deal of dispute over this, either.

7 CHAIRMAN BEARD: I don't, either.

8 MS. BROWN: It's simply the preapproval of the
9 prudent stuff.

10 COMMISSIONER EASLEY: I understand that.

11 CHAIRMAN BEARD: Without objection, Issue Number
12 12 is approved. Issue Number 13.

13 MS. BROWN: Issue Issue 13, what are the tax
14 consequences associated with Florida Power
15 Corporation's acquisition of the Sebring system? Staff
16 believes that Florida Power Corporation should have the
17 opportunity to minimize the tax impact of the
18 acquisition. It appears that the major tax
19 consideration is approval of both the concept of
20 amortization of intangibles, and the period of time
21 over which the amortization should occur. The contract
22 is predicated on amortization over 15 years. You will
23 approve the period of time in Issue 5. You have
24 approved the period of time in Issue 5, 15 years.

25 CHAIRMAN BEARD: We have not.

1 COMMISSIONER EASLEY: We have not approved it.

2 MS. BROWN: Okay. If you do.

3 COMMISSIONER EASLEY: Whatever period of time
4 comes out of Issue 5 will apply to this issue?

5 MS. BROWN: Yes.

6 CHAIRMAN BEARD: So that they match?

7 MS. BROWN: Yes.

8 CHAIRMAN BEARD: Did I get that right, Pat,
9 matching?

10 MS. BROWN: Staff believes Florida Power
11 Corporation should amortize the intangibles in order to
12 secure a tax deduction. Review of the tax effect
13 should occur through surveillance and rate cases.

14 COMMISSIONER BEARD: Without objection?

15 COMMISSIONER EASLEY: Without objection.

16 CHAIRMAN BEARD: Issue 13 is approved. 14.

17 MS. BROWN: Should the Commission approve at this
18 time the prudence of the proposed acquisition of
19 Sebring's electric system assets for recovery from
20 Florida Power Corporation's general body of ratepayers?
21 Staff recommends yes. The distribution system being
22 acquired by Florida Power Corporation includes land,
23 buildings, facilities, construction work in progress,
24 assignment of certain easements, tangible personal
25 property including furniture, furnishings, and

1 equipment, certain assets, certain current assets, and
2 certain intangibles, including amounts owed to Sebring
3 as of closing date for electricity provided but not yet
4 billed, certain contract rights, and any going concern
5 value the Commission determines to be a prudent
6 investment. Staff recommends that the Commission
7 approve the prudence of this at this time. This issue
8 is one of these issues that is directed to making sure
9 that the Commission takes the action that the contract
10 contemplates.

11 CHAIRMAN BEARD: Well, here is the question, and
12 in Florida Power Corporation's position in here, there
13 is a number of approximately 23 million, which I would
14 assume includes going concern?

15 MS. BROWN: That's Florida Power Corporation's
16 position.

17 CHAIRMAN BEARD: Well, my point is are we voting a
18 number here?

19 MS. BROWN: No. We are not doing the number until
20 you get to the number. We are dealing with --

21 CHAIRMAN BEARD: We in effect have approved a
22 number so far of 17.8 million?

23 COMMISSIONER EASLEY: That's depreciation.

24 MS. BROWN: Yes. That is depreciated net book
25 value, right.

1 COMMISSIONER EASLEY: That's the only number.

2 MS. BROWN: That's the only number so far.

3 CHAIRMAN BEARD: And I would have to assume that
4 that much would go into Issue 14, at a minimum.

5 MS. BROWN: At a minimum, yes.

6 CHAIRMAN BEARD: We're on the same sheet of music.

7 MS. BROWN: We are dealing with the concept of
8 whether this acquisition is prudent.

9 CHAIRMAN BEARD: Okay. Without objection? 14 is
10 approved. 15.

11 MS. BROWN: Should the Commission approve at this
12 time the prudence of any proposed going concern value
13 of the Sebring system for recovery from Florida Power
14 Corporation's general body of ratepayers, and in what
15 amount should the Commission --

16 CHAIRMAN BEARD: Methinks we just arrived at the
17 issue.

18 MS. BROWN: I think so, too. Mr. Chairman, Staff
19 recommends that the Commission should approve the
20 prudence of a proposed going concern value at this
21 time. Staff recommends a particular amount --

22 CHAIRMAN BEARD: Wait a minute. Let me get to the
23 right sheet here so I can follow you. Okay. Are you
24 going to break it down into the five components it was
25 broken down into?

1 MS. BROWN: We can if you need us to.

2 COMMISSIONER EASLEY: It would be helpful if you
3 did.

4 MS. BROWN: The amount that Staff recommends to be
5 approved for going concern value reduces the amount
6 proposed by Florida Power Corporation to \$3.15 million,
7 which reflects the disallowance of the 1.5 million for
8 the deferred substation, and \$200,000 for avoided legal
9 and administrative costs related to territorial
10 disputes.

11 Staff believes that allowing \$1.5 million for a
12 deferred substation, as we attempted to establish
13 through cross examination yesterday, requires that
14 Florida Power Corporation's ratepayers pay for that
15 deferred substation in several different ways, and we
16 don't think it's appropriate. We believe that the
17 \$200,000 avoided legal and administrative costs is
18 extremely speculative, and we are not paying a whole
19 lot of addition to Mr. Warren's additional
20 justification for that at the hearing. It still
21 remains something that was not well established in the
22 record.

23 Furthermore, as with the other aspects that we
24 have talked about, we want to review the going concern
25 value and it's amount in the next rate case. If the

1 benefits do not come to pass, then there is the
2 potential that we might at that point recommend that it
3 be disallowed. This is the way we have done
4 acquisition adjustments when we do them, which is
5 extraordinary that we do them before.

6 I direct you to the Chesapeake case, Peoples Gas
7 case. Peoples Gas requested an acquisition adjustment,
8 the Commission granted it, and said it would continue
9 to review it, and if the benefits to the acquired
10 customers did not surface when it was reviewed, it
11 could be disallowed. In Chesapeake, Chesapeake
12 acquired Central Florida, and the same decision was
13 made by the Commission. When there was a rate case, it
14 was determined that the benefits had not come to be,
15 and that acquisition adjustment was disallowed. We
16 recommend that this condition that we are placing is
17 well within our usual regulatory scheme, and we don't
18 really want to go much further than that.

19 CHAIRMAN BEARD: I don't have a problem with the
20 condition, but let me give you my concerns as you go
21 through. The first item there is the 2 million value
22 of established customer base. That number is extremely
23 conservative from my perspective. From what little I
24 know, I can tell you that the revenue is not a straight
25 line. The revenue typically is like this, and it's

1 only in the out years that you begin to catch up. I
2 don't see a straight line.

3 I can also tell you that conversely, you don't
4 have that nice neat little graph of expenditures, as
5 well. That tends to curve from the opposite direction,
6 and my point is that the numbers are conservative.
7 There was a method in my madness in asking for the
8 two-phase, eight-year just to see what kind of
9 differences were there. I think the point was well
10 made that there is a broad range speculative, the only
11 thing we can be sure of whatever figure we choose, it
12 won't be right, and we will never really know.

13 Conversely, I have concern that the current
14 Sebring customers don't be impacted any more than
15 necessary. And while I have to protect Florida Power
16 Corporation from picking up debt that they didn't
17 deserve, and don't deserve to pay for, conversely, they
18 ought not to get something for nothing. And that's the
19 balance. At the same time, the value of training at
20 \$900,000, from my perspective, I used to be in that
21 business, and that is very conservative. That's 19,000
22 per employee, and if you spread that over a number of
23 years, any company that has qualified, well-trained
24 individuals spends a hell of a lot more than that, let
25 me tell you, because I've done the budgets.

1 I share the concern you have in the 1.5 million.
2 You start balancing this thing out, and I don't know
3 where I end up, in all honesty. The figure that arose
4 yesterday, if you had left everything else constant and
5 just gone to a two-phased, eight-year, speculation if
6 you will, ongoing concern would have driven a figure of
7 7.341 million. If you took out -- I did something
8 wrong. If you took out 1-1/2 million, you're down at
9 6, you're down at 5.5, another 200,000, you're down at
10 5.3, and all of a sudden you're bouncing all over the
11 map.

12 COMMISSIONER EASLEY: Why are you down to 5.5?
13 I've got the one in the wrong place. You're using a
14 calculator, I'm trying to do it --

15 CHAIRMAN BEARD: The calculator didn't work. I'm
16 trying do it in my head. I don't know how exactly we
17 need to do this, because I think we need to give you
18 guidance as to specifics within this overall, and just
19 to throw a number out there, I think there needs to be
20 some numbers to give you some rationale from the
21 standpoint of being able to monitor in a rate case.

22 MR. SLEMKEWICZ: Probably what you need to do in
23 those five categories is just vote on an amount for
24 each of those.

25 MS. BROWN: And, Commissioners, this is your call,

1 I think. There is certainly some room for discretion
2 and difference of opinion in this area.

3 COMMISSIONER EASLEY: Well, I'm not sure I have a
4 number at this point, either, Mr. Chairman. I share
5 your feeling that raising going concern offers an
6 opportunity to put a little bit better balance toward
7 both sides of the ratepayer fence. I have a problem
8 with the 1-1/2 million. I don't know whether to leave
9 it in there with the review situation for later, or go
10 ahead and take it out now and tell them that if it is
11 going to be 1.5 million for real, to come back and ask
12 for it in the next rate case. Which is certainly an
13 option available. As a matter of fact, you wouldn't
14 take out the whole 1-1/2 million, you would take out a
15 million, because the 500,000 was already predicated
16 upon a prior plan to upgrade that substation anyway.
17 So you wouldn't take out -- if I recall the testimony
18 -- you wouldn't take out the full 1.5 million, you
19 would only take out a million, if you didn't want to go
20 with the upgraded substation. Am I right about that,
21 about the 1.5 million?

22 MR. SLEMKEWICZ: Well, I believe that was for an
23 operation center.

24 CHAIRMAN BEARD: There were actually, I think, two
25 operation centers at 500,000 a pop.

1 MR. SLEMKEWICZ: It had nothing to do with the
2 substation.

3 COMMISSIONER EASLEY: But wasn't it really an
4 increase of a million, or was it an increase of 1.5
5 million? What am I remembering wrong?

6 MR. SLEMKEWICZ: You're remembering about the
7 operation center. Instead of having one at 500,000,
8 they were going to have -- and build another one, I
9 think they were going to combine it, and it was going
10 to be like 1.5 million.

11 COMMISSIONER EASLEY: All right, that was the
12 problem. We had a change in the number at the time the
13 exhibit was presented, but we didn't have the backup
14 pieces of paper that went with it to explain precisely
15 what that was.

16 CHAIRMAN BEARD: The testimony was, if I remember
17 correctly, they were going to add an operation center
18 at Avon Park at 500,000, and they were going to add an
19 operation center at Lake Placid at 500,000, and with
20 the purchase of the utility they would use a
21 centralized Sebring facility that currently existed and
22 not build those two units; is that accurate?

23 COMMISSIONER EASLEY: Yes.

24 CHAIRMAN BEARD: That's the testimony that I
25 heard. If I didn't hear right, somebody help me. And

1 I can't remember who the witness was.

2 COMMISSIONER EASLEY: It was Dagostino.

3 MR. SLEMKEWICZ: Again, my perception of what the
4 testimony was is that they were going to combine into
5 one center and it was going to cost \$1.5 million
6 instead of 500,000.

7 COMMISSIONER EASLEY: But, now --

8 CHAIRMAN BEARD: I don't know how to get at this,
9 because I want to go back and clarify, because it was
10 no Avon Park, no Lake Placid, and the use of the
11 existing Sebring facilities which was centralized
12 between those two entities. And that's what eliminated
13 the spending of those two \$500,000 each. If I'm
14 remembering the testimony incorrectly, and I don't know
15 how to get at this because I think it's important that
16 I understand that.

17 MS. BROWN: Commissioners, we don't have the
18 record yet. We may have part of the transcript.
19 Actually if we could take five minutes to see if we can
20 pin it down, we were to have daily transcripts, and my
21 understanding from the court reporter was that we would
22 have the first part of the transcript this morning, the
23 second part this afternoon.

24 (Recess taken.)

25 CHAIRMAN BEARD: The FPC substation, that Line

1 Item 4, help we out.

2 MR. SLEMKEWICZ: First, let me clear up what we
3 were talking about before. The thing that went from
4 500,000 to -- it really went to 1.4 million or 1.5
5 million. That was talking about the operating center
6 that Florida Power Corp was going to build in Avon
7 Park. They had originally budgeted \$500,000 to build a
8 building in Avon Park. However, as a result of the
9 Sebring acquisition, they decided to combine Avon Park
10 and Lake Placid operations into the Sebring operation,
11 and they would have to expend \$1.4 million to do that
12 rather than the \$500,000 they were going to spend at
13 Avon Park. But it has nothing to do with the deferred
14 substation, whatsoever.

15 COMMISSIONER EASLEY: So it shouldn't --

16 MR. SLEMKEWICZ: It doesn't come into play, it's
17 not involved in the going concern or anything.

18 COMMISSIONER EASLEY: Mr. Warren's exhibit where
19 is says value of avoided or deferred 1.5 million, is
20 that different, or is that --

21 MR. SLEMKEWICZ: That's for a substation.

22 COMMISSIONER EASLEY: That is strictly the
23 substation, it has nothing to do with what Mr.
24 Dagostino was testifying to?

25 MR. SLEMKEWICZ: Correct.

1 CHAIRMAN BEARD: Okay, I apologize.

2 COMMISSIONER EASLEY: And the question I asked Mr.
3 Dagostino yesterday was concerning recovery, and he
4 said that that was not currently in, as I recall, and
5 would have to be considered in the next rate case, if I
6 recall that correctly.

7 MR. SLEMKEWICZ: Because that has not been
8 constructed yet. They have not expended the funds.

9 COMMISSIONER EASLEY: So the 1.5 million in this
10 particular issue has to do with the substation?

11 MR. SLEMKEWICZ: That's correct.

12 COMMISSIONER EASLEY: And has nothing to do with
13 the original \$500,000?

14 MR. SLEMKEWICZ: Right.

15 CHAIRMAN BEARD: Now, to the extent that we
16 eliminate that line item and the substation is
17 constructed, it would go into rate base as is normal,
18 is that correct? Assuming prudence and all of that
19 other good stuff?

20 MR. SLEMKEWICZ: That's correct, when and if it is
21 built.

22 CHAIRMAN BEARD: To the extent that we allowed a
23 line item of 1-1/2 million here, and then went ahead
24 and constructed that substation, we wouldn't put that
25 in rate base, would we?

1 MR. SLEMKEWICZ: Yes, we would.

2 CHAIRMAN BEARD: Why, if you paid for it once?

3 MR. SLEMKEWICZ: Again, this is just on, you know,
4 an acquisition adjustment, you know, it's a potential
5 benefit, but I don't believe it would be used to offset
6 the cost of constructing the substation when it
7 actually is unless we order it to be.

8 CHAIRMAN BEARD: Let me try this a different way.
9 We do value of deferral on avoided costs and those
10 kinds of things, help me. The testimony was that the
11 deferral of this substation would be for what period of
12 time?

13 MR. SLEMKEWICZ: They said they would have to
14 reevaluate that. Right now they did not really know
15 that. Once the acquisition took place they would have
16 to go back and reevaluate it. I think the year 1997
17 was thrown out, but I'm not sure.

18 CHAIRMAN BEARD: Let me tell you where I am, and
19 I'm going to break this down line item by line item.
20 And using this exhibit, Page 1 of 1, GEW-1, which has
21 four line items. The first line item is value of
22 established customer base. I would establish at a
23 figure of \$4.491 million; \$4,491,000.

24 COMMISSIONER EASLEY: And that's using the figures
25 from Exhibit 14, the two-phase, eight-year?

1 CHAIRMAN BEARD: That was modified, the two-phase,
2 eight-year, which is as good a guess as anything.
3 That's all it is is a guess, in any instance. I would
4 leave Item Number 2, maps and records as is at
5 \$250,000; I would leave Item Number 3, value of
6 training and experience of Sebring personal at
7 \$900,000, with great trepidation. I just tell you,
8 that figure is low. Item Number 4, value of avoided or
9 deferred Florida Power Corporation substation, that
10 would make zero. Item Number 5, resolution of
11 territorial analyzation disputes, I would change it to
12 100,000 from 200,000. I would not make it zero, but I
13 would not make it 200,000. And my math says that comes
14 to \$5,741,000, is the number that I arrive at if I
15 follow those numbers and my calculator has worked
16 correctly.

17 MR. SLEMKEWICZ: 5,741,000.

18 CHAIRMAN BEARD: Right. And that's what I would
19 recommend as a going concern value for this entity to
20 be removed from the \$38,134,631, which would make the
21 rider come out to, if I read it right, \$32,393,631, and
22 you all can work the math from there. That would be my
23 best cut at it.

24 COMMISSIONER EASLEY: Just for talking at this
25 point, we had the figure of \$7 annually per million in

1 the savings as a result of the going concern decision,
2 so just off the top, without having to run the full
3 math, you're talking about roughly --

4 CHAIRMAN BEARD: Another 7 bucks.

5 COMMISSIONER EASLEY: No, actually another 14 in
6 annual savings, because you're going from -- that's
7 based on the 4.85.

8 CHAIRMAN BEARD: 4.85 to 5.7 is --

9 COMMISSIONER EASLEY: It's a little under 14, if I
10 read that correctly, right?

11 CHAIRMAN BEARD: (Indicating no.)

12 COMMISSIONER EASLEY: I can't even add 4 and 5, or
13 subtract 4 and 5.

14 CHAIRMAN BEARD: About \$7, I think.

15 COMMISSIONER EASLEY: Sorry about that.

16 CHAIRMAN BEARD: Something less than \$7, round
17 numbers, if I read it correctly.

18 COMMISSIONER EASLEY: It didn't have all those
19 zeros behind it, that's why I couldn't add and subtract
20 those. Yes, you're right.

21 CHAIRMAN BEARD: I'll be honest with you, too, I
22 thought about this last night late, and you talk about
23 Solomon dividing the baby, sometimes you feel like
24 Attila when you divide it, and that's about what I feel
25 like.

1 COMMISSIONER EASLEY: Mr. Chairman, I can accept
2 those figures.

3 CHAIRMAN BEARD: Did you get the numbers?

4 MR. SLEMKEWICZ: Yes, I did. And for Issue 14, we
5 would now have a total dollar amount of -- we would
6 have the \$17,813,753 for the assets, plus the 5,741,000
7 for the going concern value, which would give a grand
8 total of \$23,554,753 that would be going into Florida
9 Power Corp's rate base.

10 CHAIRMAN BEARD: I lost my sheet. Give me the
11 last figure again.

12 MR. SLEMKEWICZ: \$23,554,753.

13 CHAIRMAN BEARD: Okay.

14 COMMISSIONER EASLEY: We are up to 16, I believe.

15 MS. BROWN: We are now at Issue 16, should the
16 Commission approve at this time the prudence of Florida
17 Power Corporation's proposed assumption of Sebring's
18 purchased power contract with Tampa Electric Company?
19 Staff recommends that the Commission should approve at
20 this time the prudence of that purchased power
21 contract. However, the Commission will continue to
22 retain jurisdiction over all costs associated with this
23 contract when recovery is sought through the fuel and
24 capacity cost recovery clauses.

25 CHAIRMAN BEARD: Questions or comment?

1 COMMISSIONER EASLEY: No, I'm going to move
2 approval.

3 CHAIRMAN BEARD: Without objection, 16 is
4 approved. 17.

5 MS. BROWN: Should the Commission approve Florida
6 Power Corporation's recovery of the fuel costs
7 associated with the Tampa Electric Company purchased
8 power contract through the fuel cost recovery clause
9 from its general body of ratepayers with no special
10 allocation of costs to Sebring's ratepayers? We agree
11 that the Commission should approve the recovery through
12 the fuel clause, it's Staff's opinion that the fuel
13 costs associated with the Tampa Electric Company
14 contract are appropriate for recovery. The Company has
15 testified that the capacity costs associated with the
16 TECO contract are prudent.

17 COMMISSIONER EASLEY: I can move approval.

18 CHAIRMAN BEARD: Without objection. 18.

19 MS. BROWN: 18 is, should the Commission approve
20 Florida Power Corporation's recovery of the capacity
21 costs? It's this sister --

22 CHAIRMAN BEARD: Without objection?

23 COMMISSIONER EASLEY: Yes.

24 MS. BROWN: We recommend approval.

25 COMMISSIONER EASLEY: We just did.

1 CHAIRMAN BEARD: 19. That's the territorial
2 issue?

3 MS. BROWN: Yes, Commissioner. Should the
4 Commission approve the proposed amendment to the
5 territorial agreement and termination of the settlement
6 agreement? We recommend that it should.

7 CHAIRMAN BEARD: We would look rather foolish if
8 we approved everything else and didn't do that,
9 wouldn't we? Without objection, 19 is approved. Item
10 Number 20.

11 MS. BROWN: Issue 20 is the assignment of the
12 Glades Electric Cooperative territorial agreement to
13 Florida Power Corporation, and we recommend approval of
14 that, as well.

15 CHAIRMAN BEARD: Without objection. Back to Item
16 Number 5.

17 COMMISSIONER EASLEY: Now, with the decision on
18 15, does that alter Staff's recommendation on 5?

19 MS. BROWN: Just a minute. No, it does not alter
20 Staff's recommendation that the 15-year period is
21 appropriate.

22 CHAIRMAN BEARD: I don't have any reason to do
23 anything different, quite frankly. I mean, I looked at
24 extremes, I thought about the 150 a month that I was
25 playing with yesterday, and I looked at what do you do

1 if you go out 20 and 25 years, which, in essence, makes
2 it forever. 15 is pretty doggone long. I'm
3 uncomfortable with making it anything shorter because
4 of impact to the Sebring current customers.

5 COMMISSIONER EASLEY: Frankly, that's the dilemma
6 I'm in. I have a grate deal of sympathy for the
7 situation with the property values, and the ability to
8 rent, and all the rest of it. From that standpoint I
9 wish I could shorten it, but I can't do that without
10 making the situation even worse in the short run. To
11 extend it out over a longer period of time, part of the
12 testimony we heard yesterday that I have some sympathy
13 for is that 20 years is an eternity as far as I'm
14 concerned. 15 is long enough. But I can't see the end
15 of 20 years, frankly. I don't see that we really have
16 much choice other than 15, and with the monitoring, if
17 the growth is such that there is a way to get rid of it
18 earlier, maybe we can do so. But I don't think we have
19 any choice.

20 CHAIRMAN BEARD: And part of my hope is that in
21 establishing a 15-year criteria you are getting enough
22 relief to take some of the pressure off the property
23 values and the resalability, so that you get some
24 growth and some stimulation out of that, that would in
25 turn cause that time period to shorten.

1 MS. BROWN: Commissioners, I might just want to
2 bring up one thing that didn't come up in our hearing
3 here, but it did when we were down in Sebring.
4 Commercial customers who appeared before you in Sebring
5 were all in favor of this transaction. It has some
6 considerable beneficial affects for them. I just
7 wanted to mention that that's part of the record in the
8 customer hearing.

9 CHAIRMAN BEARD: Sure. Well, I think without
10 objection, again. I don't know anything else to do
11 besides 15 years.

12 COMMISSIONER EASLEY: I don't, either. That's the
13 difficulty I have. I would hope that through the
14 surveillance and the rest of it that it can be
15 shortened rather than extended, simply because I think
16 the result is better for the ratepayers of Sebring.

17 CHAIRMAN BEARD: Before we go further, because I
18 know the question is going to arise, who is the
19 appropriate Staff person that is going to be able to
20 give the newspapers the number that they are going to
21 want for the impact of the rider?

22 COMMISSION STAFF: Commissioner, I have already
23 spoken with Mr. Nixon, and he said with the changes you
24 have made it should be a very minor detail for them to
25 rerun their program with the new acquisition

1 adjustment, and he should have that number for Bev in a
2 very short time period.

3 CHAIRMAN BEARD: So if you all will be patient,
4 you will have it very quickly. I'm anticipating what
5 the question will be.

6 COMMISSIONER EASLEY: Would you think that if he
7 checked back right after lunch you all would have it by
8 that time? Does that sound reasonable?

9 COMMISSION STAFF: I already have a rough one.

10 CHAIRMAN BEARD: So you're close enough for
11 government work, very good. What else do we have,
12 Staff?

13 MS. BROWN: Mr. Chairman, I'm sorry, we are
14 talking with six people at once. First of all, there
15 is one more condition that we would like to place on
16 this decision, that is it has to do with conservation
17 programs. I think you remember that I asked Mr.
18 Dagostino some questions with respect to aggressive
19 marketing of conservation programs in the Sebring area.
20 We would like to include a Commission directive to
21 Florida Power Corporation that they do so, pursue
22 conservation programs as aggressively as reasonably
23 possible, and report back to us on how they are
24 proceeding in that on a yearly basis, six-month basis.
25 I don't think there is really any problem. Staff can

1 get with them to determine what would be the most
2 reasonable way to do that.

3 CHAIRMAN BEARD: Given historically that they have
4 been one of the more aggressive marketers of
5 conservation programs without that kind of prompting, I
6 don't see too much problem there. But we can include
7 that in the order, as well.

8 MS. BROWN: They can always do better.

9 CHAIRMAN BEARD: Sure.

10 COMMISSIONER EASLEY: I would move approval with
11 that additional condition.

12 MS. BROWN: Those conservation programs may well
13 have some significant benefits for the Sebring
14 customers.

15 COMMISSIONER EASLEY: The exhibits indicate that
16 taking full advantage of the load management programs,
17 for instance, indicates a tremendous savings to
18 individual customers.

19 MS. BROWN: May we just have one minute. There is
20 one other thing that I need to talk about.

21 CHAIRMAN BEARD: Very briefly, please.

22 (Pause.)

23 COMMISSIONER EASLEY: While they are doing that,
24 Mr. Chairman, let me say this. I really don't feel any
25 particular joy in the decision that we have just made.

1 You all need to understand that. I suspect that
2 neither one of us do. But I think what we have done is
3 probably the best alternative we have for the benefit
4 of the Sebring customers. I don't know any other way
5 to do it.

6 MS. BROWN: We have nothing further.

7 COMMISSIONER EASLEY: Excellent.

8 CHAIRMAN BEARD: Thank you for your patience.

9 MR. FAMA: Mr. Chairman, excuse me. You didn't
10 admit Exhibit 15, Mr. Nixon's exhibit this morning into
11 the record. We need to do that.

12 CHAIRMAN BEARD: Without objection, 15 is in the
13 record.

14 (Exhibit Number 15 received into evidence.)

15 CHAIRMAN BEARD: Thank you.

16 (The hearing concluded at 11:10 a.m.)
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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)


3 COUNTY OF LEON)

4 I, JANE FAUROT, Court Reporter, Notary Public in
5 and for the State of Florida at Large:

6 DO HEREBY CERTIFY that the foregoing proceedings
7 was taken before me at the time and place therein
8 designated; that before testimony was taken the
9 witness/witnesses were duly sworn; that my shorthand notes
10 were thereafter reduced to typewriting; and the foregoing
11 pages are a true and correct record of the proceedings.

12 I FURTHER CERTIFY that I am not a relative,
13 employee, attorney or counsel of any of the parties, nor
14 relative or employee of such attorney or counsel, or
15 financially interested in the foregoing action.

16 WITNESS MY HAND AND SEAL this 9th day of
17 December, 1992, in the City of Tallahassee, County of Leon,
18 State of Florida.

19 
20 _____
21 JANE FAUROT, Court Reporter
22 Notary Public in and for the
23 State of Florida at Large

24 My Commission Expires: July 16, 1993
25