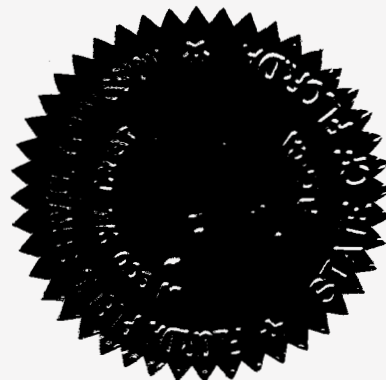


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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

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In the Matter of  
  
Joint petition for  
determination of need for an  
electrical power plant in  
Volusia County by the  
Utilities Commission, City of  
New Smyrna Beach, Florida, and  
Duke Energy New Smyrna Beach  
Power Company Ltd., L.L.P.  
-----

**DOCKET NO. 981042-EM**



**VOLUME 10**

**Pages 1237 through 1420**

**PROCEEDINGS: HEARING**

**BEFORE:** CHAIRMAN JULIA L. JOHNSON  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER SUSAN F. CLARK  
COMMISSIONER JOE GARCIA  
Video teleconferencing from Miami  
COMMISSIONER E. LEON JACOBS, JR.

**DATE: Friday, December 11, 1998**

**TIME: Commenced at 8:15 a.m.**

**PLACE:** Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

**REPORTED BY:** JOY KELLY, CSR, RPR  
Florida Public Service Commission  
Chief, Bureau of Reporting  
(904) 413-6732

DOCUMENT NUMBER - DATE

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FPSC-RECORDS/REPORTING

1 **APPEARANCES:**

2 **ROBERT SCHEFFEL WRIGHT and**  
3 **JOHN T. LAVIA, III, and ALAN SUNDBERG, Landers &**  
4 **Parsons, 310 West College Avenue, Tallahassee, Florida**  
5 **32302, appearing on behalf of Duke Energy New Smyrna**  
6 **Beach Power Company Ltd., L.L.P.**

7 **JAMES A. MCGEE, Florida Power Corporation,**  
8 **P. O. Box 14042, St. Petersburg, Florida 33733-4042, and**  
9 **GARY L. SASSO, Carlton, Fields, Ward Emmanuel, Smith & Cutler,**  
10 **P.A., Post Office Box 2861, St. Petersburg, Florida 33731,**  
11 **appearing on behalf of Florida Power Corporation.**

12 **JAMES D. BEASLEY, Ausley & McMullen, 227 South**  
13 **Calhoun Street, Tallahassee, Florida 32302, appearing on**  
14 **behalf of Tampa Electric Company.**

15 **WILLIAM B. WILLINGHAM and MICHELLE HERSHEL,**  
16 **P. O. Box 590, Tallahassee, Florida 32302, appearing**  
17 **on behalf of Florida Electric Cooperatives**  
18 **Association, Inc.**

19 **GAIL KAMARAS, 1114 Thomasville Road, Suite**  
20 **E, Tallahassee, Florida 32303, appearing on behalf of**  
21 **Legal Environmental Assistance Foundation, Inc.**

22 **(LEAF).**

23

24

25

1 **APPEARANCES CONTINUED:**

2                   **MATTHEW M. CHILDS, and CHARLES GUYTON, Steel**  
3 **Hector & Davis, 215 South Monroe Street, Suite 601,**  
4 **Tallahassee, Florida 32301, appearing on behalf of**  
5 **Florida Power & Light Company.**

6                   **LESLIE J. PAUGH, Florida Public Service**  
7 **Commission, Division of Legal Services, 2540 Shumard**  
8 **Oak Boulevard, Tallahassee, Florida 32399-0870,**  
9 **appearing on behalf of the Commission Staff.**

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## I N D E X

## WITNESSES - VOLUME 10

3	NAME	PAGE NO.
4	MICHAEL D. RIB	
5	Continued Cross Examination By Mr. Wright	1241
6	Cross Examination By Mr. Moyle	1327
7	Redirect Examination By Mr. Sasso	1389
8	Recross Examination By Mr. Wright	1411
9	Recross Examination By Mr. Moyle	1416

## EXHIBITS - VOLUME 10

11	NUMBER	ID.	ADMTD.
12			
13	31 FPC's Responses Re: Nonfirm Implementation	1307	1420
14	32 FPC's Response Re: Power Sales and Purchases	1316	1420
15			
16	33 Deposition of Michael Rib	1365	1420
17	34 1998 Forecast of Reserve Margins	1365	1420
18			
19	35 (Late-filed) 1997 Percentage of Revenues from Off-system Sales	1383	(withdrawn) 1386
20			
21			
22			
23			
24			
25			

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

(Hearing reconvened at 8:15 a.m.)

**COMMISSIONER DEASON:** Call the hearing back to order. I believe Mr. Rib is on the stand; is that correct? Okay. If he will retake his place. Obviously, he's still under oath. And we'll just begin where you left off.

Staff, who was inquiring, do you recall?

**MS. PAUGH:** Mr. Wright.

**CHAIRMAN JOHNSON:** Mr. Wright.

**MR. WRIGHT:** Thank you.

- - - - -

**MICHAEL D. RIB**

resumed the stand as a witness on behalf of Florida Power Corporation and, having been previously sworn, testified as follows:

**CONTINUED CROSS EXAMINATION**

**BY MR. WRIGHT:**

**Q** Good morning again, Mr. Rib.

**A** Good morning.

**Q** When I was last inquiring of you last Friday, we were discussing certain testimony of yours that power plants like this project --

**COMMISSIONER GARCIA:** Schef, I need you to speak into the mike.

1           **MR. WRIGHT:** Thank you, Commissioner Garcia.

2           **Q**       **(By Mr. Wright)** When I was last inquiring  
3 of you last Friday, I was asking you whether it was  
4 your testimony that power plants just appearing, that  
5 had not been previously identified in Ten Year Site  
6 Plans, created problems in the planning process. Do  
7 you recall our discussion on that subject?

8           **A**       I believe so, we can get back into it.  
9 Let's get back into it.

10          **Q**       Is it your testimony that that's kind of a  
11 surprise that causes problems in planning?

12          **A**       Well, I think that's a general question.  
13 Could you be more specific?

14          **Q**       Well, you've testified, as a planner, that  
15 the appearance of plants like this, that have not been  
16 identified in a continuum of planning through the ten  
17 year site processes, cause problems in planning, or  
18 impair our ability to plan. Is that not correct?

19          **A**       Yes. That's what I put in my testimony.

20                    I would suggest that there's a lot of  
21 stakeholders that I've identified in the process.  
22 Each stakeholder may have a different need in terms of  
23 having some advance knowledge of what plants are being  
24 planned.

25          **Q**       Well, my question for you is, isn't it true

1 that at least several times this decade investor-owned  
2 utilities in Florida have applied for determinations  
3 of need within a few months of filing their Ten Year  
4 Site Plans for power plants that were not reflected in  
5 those plans?

6 A I think when we talked about that in my  
7 deposition I said that I didn't have any personal  
8 knowledge of that.

9 Q Do you have any knowledge of that today?

10 A No, I do not.

11 Q Do you know when Florida Power Corporation  
12 filed its Petition for Determination of Need for the  
13 units that are now the Hines unit?

14 A I believe that was sometime back in 1991.

15 Q Do you know whether that unit was reflected  
16 in Florida Power's Ten Year Site Plan that was filed  
17 on April 1st of that year?

18 A No, I don't. (Pause)

19 MR. WRIGHT: Permission to approach,  
20 Commissioner Deason.

21 COMMISSIONER DEASON: Yes.

22 (Counsel hands witness a document.)

23 MR. WRIGHT: Commissioners, I just handed  
24 Mr. Rib a copy of certified excerpts from Florida  
25 Power Corporation's Ten Year Site Plans from 1991

1 through 1997. They are certified by the Clerk.

2 **COMMISSIONER DEASON:** Mr. Wright, do you  
3 plan to share that with the rest of us or just between  
4 you and the witness?

5 **MR. WRIGHT:** Commissioner Deason, this is  
6 part of a packet of documents that we filed a Request  
7 for Judicial Notice of when last we were together.

8 **COMMISSIONER DEASON:** That was a list of  
9 documents, or did you include the documents?

10 **MR. WRIGHT:** No, sir. I apologize. We  
11 filed several requests for judicial notice and this  
12 one was filed earlier this week. I apologize.

13 And my -- I can either -- we've asked for  
14 additional notice to be taken of these documents.  
15 They are certified copies of records that are  
16 maintained by the Commission. I'm happy to hand out  
17 copies. I have them. They are part of a larger  
18 packet of other excerpts of ten year site plans.  
19 Maybe it would be the best thing for me to go ahead  
20 and hand those out.

21 **COMMISSIONER GARCIA:** Schef, you're just  
22 going to hand out copies from former site plans?

23 **MR. WRIGHT:** Yes.

24 **COMMISSIONER GARCIA:** Ten Year Site Plans.

25 **MR. WRIGHT:** Excerpts, therefrom, yes, sir,



1 Commissioner Garcia.

2           **COMMISSIONER GARCIA:** I see the size of the  
3 pack and it worries me about faxed paper. If you  
4 would just cite to them relatively directly, all  
5 right? I really don't need the documents here.

6           **MR. WRIGHT:** I think that's correct,  
7 Commissioner Garcia. My questions are fairly brief  
8 and straightforward. If you guys will take judicial  
9 notice of these, then they will be in the record.

10           **COMMISSIONER GARCIA:** Okay.

11           **Q**       **(By Mr. Wright)** I'd like to ask you to  
12 look about five pages into this packet, Mr. Rib, which  
13 would be Page 45 of the excerpt from Florida Power  
14 Corporation's Ten Year Site Plan, Detail as of  
15 December 31st, 1990.

16           **A**       Okay.

17           **Q**       For the combined cycles in there.

18           **COMMISSIONER CLARK:** Where is it again?

19           **MR. WRIGHT:** Page 45.

20           **MR. SASSO:** Excuse me. There are several  
21 different --

22           **MR. WRIGHT:** I said five pages in.

23           **MR. SASSO:** There are several different  
24 packets in what has just been handed out. Could we  
25 have an idea which one it is in.

1           **MR. WRIGHT:** It's in the first one, about  
2 five pages into the total packet.

3           **COMMISSIONER CLARK:** My first one is Florida  
4 Power and Light.

5           **MR. WRIGHT:** Oh, I'm sorry. It's the second  
6 packet of the rubber banded pack, and then about the  
7 fifth page, I think, in there.

8           **CHAIRMAN DEASON:** Is there a question  
9 pending?

10          **Q**       **(By Mr. Wright)** The question is, is the  
11 Hines unit identified in this table or the Polk County  
12 units?

13          **A**       I think, to the best of my knowledge, that  
14 would be the combined cycles that are shown at the  
15 bottom of the page.

16          **Q**       Shown as "site unknown"?

17          **A**       Yes.

18          **Q**       Thank you.

19          **A**       When I turn the page I look at the next  
20 page, which in your package is identified as Page 50,  
21 which describes Florida Power's process of developing  
22 a generating site. For that it talks about an  
23 Environmental Advisory Committee, with a lot of  
24 prominent citizens involved in state environmental  
25 issues, being a party to determining the best location

1 for the site for those combined cycles. So that's  
2 what I gain from the information you've committed,  
3 yes.

4 Q Do you know whether Tampa Electric Company's  
5 Polk County integrated gasification combined cycle  
6 units were reflected in the Ten Year Site Plan  
7 immediately preceding its Petition for Determination  
8 of Need?

9 A Personally, I do not have that knowledge.

10 Q Do you know whether the Cypress coal plant  
11 with which FPL intended to contract, which they filed  
12 in 1992, was reflected in their Ten Year Site Plan  
13 filed earlier that year?

14 A Again, as we discussed in my deposition, I'm  
15 not aware of those. I'm not familiar with their site  
16 plans from year to year.

17 Q Are you aware of any adverse effect from  
18 investor-owned utilities' power plants showing up in a  
19 given year where they had not previously been  
20 identified in their Ten Year Site Plans? By adverse  
21 effect I mean adverse effect on your ability to plan?

22 A Well, I'm not, I guess, personally not as  
23 affected by the -- what the other utilities are doing  
24 in terms of their planning process. What I am trying  
25 to identify in my testimony is what I consider a

1 broader framework than just my planning activities  
2 that involve the other constituencies; look at this  
3 information -- I assume their preference is to look at  
4 this information in advance so that they have  
5 knowledge and can review these plans in a continuum of  
6 planning activities as we discussed.

7       Q     Well, did you ever hear from my stakeholder  
8 regarding any impairment of their ability to plan or  
9 its ability to plan when an investor-owned utility's  
10 power plant proposal showed up a few months after a  
11 Ten Year Site Plan was submitted that did not reflect  
12 such proposal?

13       A     I haven't personally had those discussions.  
14 However, I believe from the discussions I have had  
15 with those who participated on our advisory board for  
16 the signing of the Hines unit, that those type of  
17 cooperative efforts were intended to defray those  
18 concerns, the type of concerns that the community has  
19 in those situations. So my general knowledge of this  
20 is that these cooperative efforts produced the best  
21 results.

22       Q     I understand your testimony regarding your  
23 planning efforts and your cooperative efforts, but the  
24 question was are you aware of any instance where  
25 stakeholders, as you have described them, have

1 expressed frustration, or stated that their ability to  
2 plan for whatever they have to plan for was impaired  
3 by an IOU's proposing a new power plant within a few  
4 months after filing a Ten Year Site Plan that was not  
5 reflected in that plan? I think your answer was you  
6 don't have any knowledge of that; is that correct?

7       A     I would say that I haven't solicited input  
8 or have direct information from other stakeholders to  
9 that effect.

10       Q     How can the presence of another resource,  
11 such as the New Smyrna Beach Power Project, in the  
12 Florida Power supply grid impair your ability to plan,  
13 or interfere with your planning processes?

14       A     Well, I think that there's two potential  
15 approaches to that question. One question is how  
16 would any power plant impair the ability to plan. I  
17 guess if it were another planned power plant that had  
18 gone through and was part of the framework, that would  
19 be much easier to comprehend. If we're talking about  
20 a power plant that is being proposed as a merchant  
21 power plant, which is outside the framework as I  
22 understand it, then that changes the planning process  
23 as I understand it.

24               I mean, I don't believe that we have -- or I  
25 haven't thought through in my planning process that we

1 would have the ability to pursue a need determination  
2 for a plant that we clearly identified as a merchant  
3 power plant. So that creates concern for me. I don't  
4 know how that will ultimately change the nature of  
5 planning for utilities in Florida.

6 Q My question was --

7 COMMISSIONER DEASON: Mr. Wright, let me ask  
8 the question. I'm sorry to interrupt but Mr. Rib I'm  
9 having some difficulty understanding the rationale.

10 One phase of this hearing we heard over and  
11 over again that this plant is not needed because it  
12 has no contract; it cannot be relied upon. Now I'm  
13 hearing you say because it's a merchant plant, it  
14 interferes with your planning. So I mean by that -- I  
15 understand that to mean that you would like to rely  
16 upon it, and because you don't have any advance notice  
17 of it, you have no way to rely upon it, therefore, you  
18 cannot plan, either -- your own facilities because you  
19 don't know what the merchant plant situation is.

20 Now, perhaps I'm misunderstanding, but which  
21 is it? Either you will rely on these or you will not  
22 rely on these? And if you will not rely on them, what  
23 difference does it make to you with your own planning?  
24 It's as if it doesn't even exist.

25 WITNESS RIB: I think the easiest way to

1 answer your question would be that we don't plan to  
2 rely on it. We rely on resources that we have either  
3 under firm contract or the resources that we own.  
4 However, it does affect the planning process in that,  
5 my understanding, in the current framework, merchant  
6 plants are not part of the process. In other words,  
7 plants are built based on need identified by the  
8 retail utilities, and I don't think any of the  
9 utilities in Florida are currently planning in a  
10 framework where they or other parties can simply begin  
11 developing merchant plants at their will and  
12 discretion.

13           So I don't believe -- I've never felt that I  
14 had the opportunity to change my planning philosophy  
15 and assume that we, or others, could build merchant  
16 plants. That's what I'm trying to get at.

17           So it does make that difference to me. I'm  
18 not saying we're going to rely on them, because to me,  
19 by definition, the merchant plant is uncontracted and  
20 we, or other parties, won't rely on them.

21           **COMMISSIONER DEASON:** I guess what I'm  
22 trying to understand, if you're not going to rely on  
23 it, it's as if, for your purposes, it's not even  
24 there, how does that impact your planning? You have  
25 your need to serve your retail customers, and you have

1 the responsibility to meet that need. You're not  
2 going to rely on the merchant plant. You know what  
3 your need is. You know how you have to plan to meet  
4 that need. How does the merchant plant, either  
5 existing or not existing, impact or interfere with  
6 that process within Florida Power Corporation?

7 **WITNESS RIB:** I guess what I'm trying to  
8 explain is it's not the presence of any given plant.  
9 It's not the facility we're talking about. It's the  
10 change in the framework, the process by which plants  
11 are determined to be needed and licensed and so forth.

12 My planning process would probably change,  
13 and so would the planning process of all the other  
14 constituents involved in the framework if we changed  
15 the entire philosophy of need and decided that  
16 merchant plants were okay.

17 **COMMISSIONER GARCIA:** Explain what you mean  
18 by that.

19 **WITNESS RIB:** I guess what I've attempted to  
20 construct is a fairly simple line of reasoning. That  
21 need is determined by this Commission as a result of a  
22 need of the citizens of Florida. And those citizens  
23 are served by the retail utilities, so this Commission  
24 has been charged as gatekeeper to determine when and  
25 if the state's resources should be impacted by a new



1 power plant. That is my understanding of the process  
2 of the determination of need.

3           **COMMISSIONER GARCIA:** But wouldn't the  
4 issue -- and I think this goes -- I guess to what the  
5 heart of what we're trying to get at here -- and I  
6 think Commissioner Deason captured it. If you're not  
7 counting on this plant, you're counting on your own  
8 resources, how can that in any way be negative to you  
9 or to your planning process? If you cannot rely on  
10 this -- I mean, for example, last year, during certain  
11 periods where you had a peak demand to your system you  
12 relied on your resources, which was the customers that  
13 you can curtail, the load management, the residential  
14 customers, and you lost about 40- to 50,000 customers  
15 that dropped the system. That was something that you  
16 could rely on. How could this plant affect you in any  
17 way if you're not relying on it?

18           **WITNESS RIB:** Well, there's so many  
19 questions that I think have come my way, I don't know  
20 if I could separate them and try to answer them. I  
21 want to first attempt to finish my line of reasoning.

22           That it's my understanding that underneath  
23 the entire process of need, is that the Commission has  
24 been held up as a gatekeeper to protect the resources  
25 of Florida so that only plants that are needed would

1 be allowed to be built. So when the site  
2 certification process pauses for this moment of  
3 reflection, the Commission must make a determination  
4 that it's needed. And once that's being determined,  
5 then the process goes forward and then the local  
6 issues are looked at and so forth. But it's assumed  
7 at that point that it's needed and vital to the state  
8 that this resource be built.

9           That was my line of reasoning in that the  
10 framework is tied back to the needs of the customers  
11 of a specific retail utility. And you asked about how  
12 that would affect our planning process. Well, again I  
13 can't reemphasize the fact that we do not have in our  
14 thought process, in our planning process,  
15 consideration that we could build merchant plants;  
16 that we would in some way, shape or form begin to  
17 dismiss this whole notion of need, or the fact that it  
18 might be connected to demonstrating a need for  
19 reliability and economics to our customer base.

20           **COMMISSIONER GARCIA:** Forgive me, perhaps  
21 I'm a little bit slow here, but explain to me why you  
22 building -- you're saying "we", merchant plants --  
23 what that has to do with this plant.

24           **WITNESS RIB:** I think it has everything to  
25 do with this plant. This is a landmark decision that

1 the Commission is being asked to make.

2           **COMMISSIONER GARCIA:** That isn't the point.  
3 You said -- and perhaps I misunderstood the "we,"  
4 maybe you meant "we" as Florida, "we" this Commission,  
5 "we" FPC -- so I need you to be more specific. You  
6 said, "We didn't plan on if we could rely on building  
7 merchant plants." That's not the issue.

8           **WITNESS RIB:** I wasn't saying that we could  
9 or could not rely on building merchant plants. I'm  
10 saying that we haven't considered them -- we haven't  
11 even considered them on our menu of opportunity to  
12 pursue. We confined our thinking --

13           **COMMISSIONER GARCIA:** Isn't that an economic  
14 opportunity for the company and not a planning  
15 opportunity? And so what I'm trying to get at -- is  
16 not that the opportunity is missed, just the issue of  
17 need and dispatching and what is -- what can be relied  
18 on here. And, you know, you're on two different  
19 things. I understand the opportunities. I want you  
20 to sort of get, Mr. Rib, where exactly it impacts your  
21 planning process at this stage right now. If you  
22 don't have to rely on it, how does it impact you?

23           **WITNESS RIB:** I'll try to answer your  
24 question as simply as I can.

25           Number one, I might have to rethink my

1 planning approach and my planning philosophy as I, and  
2 all other planners in the state, were to think that  
3 need no longer had to be determined as a result of the  
4 specific customer base for reliability or economics of  
5 any specific group of customers. In essence, I could  
6 rethink our whole planning process and change to  
7 something entirely different, number one.

8           Number two --

9           **COMMISSIONER GARCIA:** Stop right there.  
10 Explain that to me. What do you mean by that?

11           **WITNESS RIB:** If I could ask a moment,  
12 please.

13           **COMMISSIONER GARCIA:** Sure. (Pause)

14           And, Mr. Rib, it's probably based on my  
15 ignorance more than anything else. And I'm asking you  
16 to walk through this. Because I think because of your  
17 sophisticated knowledge and planning you probably --  
18 you're probably ahead of me, way ahead of me. So I  
19 want to understand each point. You say several things  
20 changed. I just wanted you to sort of explain there  
21 where you were.

22           **WITNESS RIB:** Okay. Back to the first  
23 point, which was that if merchant plants, as we're  
24 discussing, i.e. in this context, a plant that's not  
25 being proposed to be needed on the basis of a specific

1 group of customers for either reliability -- either  
2 purely on reliability or on reliability and economics,  
3 but rather that the Commission will begin to determine  
4 need on the basis of perhaps the state as a whole or  
5 beyond -- I don't know -- that the way that I approach  
6 planning for our customers -- I mean, we have planning  
7 models, production cost models, fuel forecasting  
8 models, load forecasting models -- all of those models  
9 that we're using to do these type, or support these  
10 type of need determinations, are almost entirely based  
11 on our customers. In other words, our retail  
12 franchise customers, our wholesale customers. And  
13 that's who we study, the economics, the reliability  
14 needs and so forth.

15           So if the determination of need isn't  
16 necessarily any longer tied to that traditional  
17 mind-set of planning for our customer base, but rather  
18 on perhaps in this construct, to say, well, need would  
19 be determined for Peninsular Florida, I might have to  
20 reinvent my entire planning process to understand how  
21 what we might be doing to serve the needs of our  
22 customers fits in the context of a state planning  
23 process or some other means. It's just not the same  
24 way that I understood need to be determined, and  
25 reliability and economics to be determined in the

1 past.

2           Now, the second item that I wanted to  
3 address was the concept put forward by petitioners of  
4 displacement. In other words, unfortunately, I don't  
5 feel I have the luxury to assume that for some reason  
6 merchant plants would be allowed, but only one. I  
7 have no way to comfort myself that perhaps this would  
8 be a good idea for only one. To my mind -- to my mind  
9 there's certainly a precedent, potentially, at hand,  
10 that other developers -- and I go into this in my  
11 testimony -- that other developers would want similar  
12 treatment to follow suit, to come forward and do the  
13 same thing. And that potential proliferation that I  
14 described in my mind could cause more and more  
15 potential displacement as proposed by the petitioners.  
16 That displacement -- those are our plants and other  
17 plants of utilities in the state. So I have to begin  
18 to think about and under that displacement effect  
19 we're talking about. And to determine, at the end of  
20 the day, as best I could understand in this new future  
21 we're talking about, what should be done with those  
22 plants.

23           **COMMISSIONER JACOBS:** Let's suppose for a  
24 minute that we are in that new world. Remember this  
25 is going to be primarily the wholesale market. Why

1 wouldn't your response to this be simply to firm up  
2 your contracts with your major customers?

3 **WITNESS RIB:** I'm sorry, I didn't --

4 **COMMISSIONER JACOBS:** Isn't the main  
5 battleground here going to be how well you can firm up  
6 contracts, long-term contracts, with your major  
7 customers?

8 **WITNESS RIB:** Our merchant customers.

9 **COMMISSIONER JACOBS:** With your major  
10 customers.

11 **WITNESS RIB:** Oh, I'm sorry. (Pause)

12 Well, I think what you're exploring now is  
13 the other side of the equation, which is who are our  
14 customers, and to me that's a whole nother issue.  
15 That's in a sense -- in the new world where  
16 customer -- further growth of customer choice -- I  
17 guess I'm a little lost. I'm thinking on the supply  
18 side primarily.

19 **COMMISSIONER JACOBS:** On the supply side --  
20 again, I'm somewhat naive here, too, but on the supply  
21 side it would seem to be a bit more simpler because  
22 you want to -- whatever needs you assess, you have to  
23 go through a process of determining whether or not  
24 that load should be built or not anyway. In the  
25 context of that process you've got to look at all of

1 the options, alternatives to building that. And I  
2 would imagine that whatever would be available to you  
3 in terms of purchased power, would consist of whatever  
4 load comes from the merchant plant, wouldn't it?

5 **WITNESS RIB:** I'm sorry. I haven't gone  
6 into this world yet so --

7 **COMMISSIONER JACOBS:** But go in for a  
8 moment. When you come to the process of making your  
9 need determination, you have to go through the  
10 alternatives-to-build decision.

11 **WITNESS RIB:** Right.

12 **COMMISSIONER JACOBS:** You're going to have  
13 to look at purchased power as one of those options,  
14 aren't you?

15 **WITNESS RIB:** Yes.

16 **COMMISSIONER JACOBS:** Wouldn't the load  
17 that's available from a merchant plant be one of the  
18 optional purchased power elements, wouldn't it?

19 **WITNESS RIB:** Well, when I was answering  
20 Commissioner Garcia's questions earlier I was saying  
21 there were really in that context two questions in my  
22 mind. One is how we plan today versus to just  
23 ignoring all of that and just supposing that merchant  
24 plants were just like any other plant.

25 So I think -- if I can, or if I may, answer



1 your question in the context of just assuming that for  
2 some reason merchant plants are just like any other  
3 plant in the future, then in that construct I suppose  
4 that entities who buy power to serve their customer  
5 base would consider that as a resource like they would  
6 others, yes.

7 **COMMISSIONER JACOBS:** So then I go back to  
8 my first question then, the battleground really  
9 becomes to what extent you can firm up long term your  
10 customers, isn't it?

11 **WITNESS RIB:** Well, I suppose there's two  
12 sides to that: There's a retail franchise, which my  
13 current understanding is still fairly stable. Then on  
14 the other side there's the -- what we term the  
15 wholesale market, which would be the market under  
16 which the municipals and other participants buy and  
17 sell power and so forth. And that market is  
18 competitive. So we may or may not have opportunities  
19 to serve those customers given their needs, our  
20 competitiveness and so forth. So in that light,  
21 resources that are in the market compete with what we  
22 might be attempting to sell in that same market.

23 **COMMISSIONER DEASON:** You do not plan to --  
24 you're planning process is not to anticipate wholesale  
25 need and to plan and construct facilities to put in

1 your rate base to meet wholesale need; is that  
2 correct?

3           **WITNESS RIB:** I'm not sure I can give a  
4 simple yes or no to that. Because we do have  
5 contracts, and those contracts imply obligations to  
6 our company. So in that context, they become a part  
7 of our customer base. So they are considered in our  
8 planning process.

9           **COMMISSIONER DEASON:** Listen to my question:  
10 Anticipated wholesale demand. If you have wholesale  
11 demand out there that you have a contract for,  
12 obviously you have a commitment to those wholesale  
13 customers. But are you telling me that you plan that  
14 "Such and such's contract's going to expire and we  
15 want to compete for that, so let's go ahead and say  
16 that there's a need for that now and go ahead and have  
17 this Public Service Commission put that in our rate  
18 base." You don't do that, do you?

19           **WITNESS RIB:** No, we don't.

20           **COMMISSIONER DEASON:** Earlier you mentioned  
21 a concern about displacement, and I want to explore  
22 that for just a moment. And, perhaps, I'm looking at  
23 it too simplistically, and, perhaps, you can tell me  
24 where I'm wrong. But what I understand is that this  
25 merchant plant, if it is constructed, it will be

1 dispatched according to its economics, and whenever it  
2 is cost-effective for it to be -- for it to generate,  
3 they are willing to take the risk that someone is  
4 willing to purchase that energy because it will  
5 displace higher cost energy. Is that your  
6 understanding?

7           **WITNESS RIB:** Yes. In the simple economic  
8 context of pure dispatch, yes, that's true. It's an  
9 hour-to-hour type scenario.

10           **COMMISSIONER DEASON:** How does that harm  
11 you?

12           **WITNESS RIB:** Well, I guess what I've tried  
13 to offer is that it's difficult for me to envision  
14 that -- and I'm tying this back to the issue of  
15 precedent -- but it's difficult for me to envision  
16 that developers of these type of plants would simply  
17 be satisfied with one plant. Although we can talk  
18 about it as though there is one new plant, in my mind  
19 there's certainly room to consider the precedent that  
20 others would expect to follow.

21           **COMMISSIONER GARCIA:** Mr. Rib, I understand  
22 you're taking us to your conclusion there. And that's  
23 fine. But Commissioner Deason's question is a little  
24 bit more specific. You can take it to the broad  
25 later, if you want, in your answer, but let's talk

1 about FPC. You guys are short for 2001 winter, I  
2 think, right? You come down at about 13%, or  
3 whatever. So the question is very specific: How  
4 would this plant impact you in that way? Let's not  
5 talk about the possibility that 20 major 500-megawatt  
6 merchant plants come to Florida, because you're right,  
7 there are a whole series of questions there that enter  
8 your calculation. But very specifically, you're  
9 looking at tight loads. You have a new plant in  
10 Florida. You didn't rely on it. How does that impact  
11 you? How can that be negative?

12 **WITNESS RIB:** Well, I would attempt to try  
13 to answer Commissioner Deason's question, if I could,  
14 and that went to simplistically thinking of dispatch  
15 on an hour-to-hour basis.

16 In essence, the displacement concept that's  
17 been put forward for us is that those, quote, "older,  
18 less efficient plants" would run less hours.  
19 Eventually we've described the generation resources as  
20 a stack. In other words, a stack of plants that  
21 dispatch in a certain incremental operating cost  
22 order.

23 So at some point you have to examine what,  
24 you know -- how many megawatts of new capacity are  
25 coming in; how many hours some of those other plants

1 we're talking about are running. And at some point,  
2 potentially address the viability of those other  
3 plants. In other words --

4 **COMMISSIONER DEASON:** But if you're  
5 displacing higher cost generation with lesser cost  
6 generation, overall generation -- generating costs are  
7 less, and just because those are sunk costs, should we  
8 ignore current economics based upon your sunk cost?

9 **WITNESS RIB:** Well, I don't think we should  
10 ignore current economics. I mean, when I'm planning,  
11 for example, to add a combined cycle plant in the  
12 summer of 2001, I look at those very same economics  
13 and the impact on our fleet.

14 So I'm not even attempting to tell you that  
15 those economics aren't important, because they are  
16 part and parcel of the planning process that I  
17 perform. But what I'm saying is the uncertainty that  
18 merchant plants create is that -- if they are not  
19 deemed as needed and they are not -- they are not  
20 examined as part of the reliability -- the reliability  
21 and economics of a particular customer base, if  
22 eventually you get enough of those, the displacement  
23 process, on its own nature, on its face, means that  
24 you will have to re-examine the viability of other  
25 plants and they may need to be shut down.

1           **COMMISSIONER DEASON:** And what is wrong with  
2 shutting down inefficient power plants if there's  
3 adequate capacity to take their place? That happens.  
4 I mean, it routinely happens. That happens in Florida  
5 even before there was even the suggestion of a  
6 merchant plant.

7           **WITNESS RIB:** Well, I think it happens in  
8 the framework, as I understand it, with the utilities  
9 that are serving their customer base. I guess the  
10 potential exists --

11           **COMMISSIONER DEASON:** See, I don't see how  
12 you're going to get to the point to where you say a  
13 plant needs to be shut down unless you have a  
14 long-term contract that you can rely upon the plant.  
15 If you don't have that contract, and can't rely upon  
16 it for your need, the only time you're going to  
17 purchase that is when it's economic on a dispatched  
18 basis.

19           **WITNESS RIB:** I guess that presumes that the  
20 costs would be justified if keeping these other plants  
21 around, whether they are operating or not; whether  
22 those plants that have been set aside, quote/unquote,  
23 "are needed or not." Those plants potentially become  
24 stranded by proliferation of merchant plants.

25           **COMMISSIONER DEASON:** That is your concern

1 with displacement, is the potential for stranded  
2 investment of higher cost plants if there's a  
3 proliferation of merchant plants with a lower --

4           **WITNESS RIB:** That's a part of it. The  
5 other part that I believe is it's not within our  
6 current framework. So -- we're not anticipating that  
7 to happen. As a part of the current planning process,  
8 we're not anticipating that or reacting to it. If  
9 that element is reintroduced into the process under  
10 which we plan for the needs of the state, it might  
11 accelerate that and change the nature of the economics  
12 of utilities as we understand it.

13           **COMMISSIONER DEASON:** You see, it seems to  
14 me that under your own planning process you have the  
15 responsibility to look at your higher cost units. And  
16 if those need to be retired based upon good economics,  
17 it's your responsibility to plan for that, and to come  
18 to this Commission and say, "We need to retire these  
19 units. They are no longer economic and we need to  
20 replace them with another unit." But that is not an  
21 easy question to ask or answer. Because one of the  
22 concerns is we've got plants in rate base, perhaps at  
23 a depreciated level; they are there when needed. Do  
24 we risk putting a large new efficient plant with all  
25 of the up-front capital cost in rate base and require

1 our customers to bear that burden for the anticipated  
2 economic benefits of their dispatch and retirement or  
3 displacement of older units. We don't have that here.  
4 They're coming in saying, "We're not going to burden  
5 your ratepayers with this capital investment. It's  
6 strictly our risk. Just let us build it and dispatch  
7 it if we're economic and efficient." See, I'm having  
8 difficulty understanding where that harms you.

9           **WITNESS RIB:** Well, I've done my best, I  
10 think, to explain it.

11           **COMMISSIONER DEASON:** Yes, sir.

12           **COMMISSIONER CLARK:** Mr. Rib, as I  
13 understand what you're saying, it's not necessarily  
14 this plant that causes the problem. It is the  
15 multiplicity of plants that may come where the -- what  
16 is determined to be need is a different way of  
17 determining it than what's been in the past. And  
18 there's a potential in your mind for the plants to be  
19 displaced and stranded, to some extent. And I suppose  
20 there's also the potential for fuel diversity to be  
21 adversely effected. As I understand it, the most  
22 effective units these days are gas-fired. And there  
23 may be an issue of fuel diversity. But -- and when  
24 you enter into, when you decide to build a plant, you  
25 will have to make determinations, not just on that



1 particular plant and your particular need for that,  
2 but you'll have to make determinations as to its  
3 useful life if the wholesale market includes merchant  
4 plants.

5           **WITNESS RIB:** Well, I think that that would  
6 change the way we think about it certainly. Also, I  
7 mean to the point you're making, I've tried to  
8 emphasize that diversity is a strength. Diversity of  
9 different type of plants. Here we have a proposed  
10 gas-fired combined cycle which, on the merits, looks  
11 exceptionally enticing. And, of course, I'd say that  
12 because we'd like to add to our resource mix of plants  
13 just like that, so -- at the same time the fuel  
14 markets move the -- and so forth. And we try to  
15 capture the benefits of diversity as we can move  
16 generating from one resource to another. And we try  
17 to move with it. So we don't necessarily advocate  
18 just becoming focussed on a particular technology, a  
19 particular fuel; rather strengthen the state with that  
20 diversity.

21           **COMMISSIONER CLARK:** I just want to explore  
22 this for a minute. Is your concern at all that there  
23 will be one determination of need for those utilities  
24 that actually build plants and another for those --  
25 I'm not just -- there will be one way of determining

1 need for utilities that serve retail customers, and  
2 there will be another way of determining need for  
3 utilities that do not have a retail customer base. Is  
4 that your argument at all?

5           **WITNESS RIB:** I guess the way you've asked  
6 it that possibility exists. I mean, first of all,  
7 there's -- you know, I think of utilities in the  
8 sense -- in the regulatory context we have here as the  
9 retail utilities that serve customers in Florida. So  
10 one possibility exists that there could be two  
11 different standards. Another possibility exists that  
12 retail utilities would entirely change the way they  
13 pursue need and follow a merchant example instead and  
14 no longer attempt to demonstrate need tied to any  
15 particular customer. I mean, that possibility exists.  
16 But I guess it's part of the uncertainty. If this  
17 change is to be accepted in the state, then how should  
18 the utilities that are currently operating in this  
19 state react to it? What should we do? I'm afraid I  
20 don't have all the answers to that.

21           **COMMISSIONER CLARK:** Let me ask you one  
22 other question. How long would you have to -- how  
23 long, term of a contract, would be needed such that  
24 you were comfortable that -- if you determined that  
25 that was no longer an economic contract, you could get

1 out of it and build your own plant or purchase  
2 elsewhere. I've not stated it very well. But PURPA  
3 required a lot of utilities to enter into long-term  
4 contracts and we found that at least in some states,  
5 and in particular for your utility, that those  
6 contracts have now turned out to be above market. And  
7 my question is: What length of time would you think  
8 is optimum in terms of entering into long-term  
9 contracts so that you can get out of those contracts  
10 about the time they become uneconomic and can,  
11 perhaps, build your own plant or move to another  
12 wholesale provider?

13           **WITNESS RIB:** I'd have to admit, I really  
14 wish I had the answer to that question. That's an  
15 awfully tough one.

16           The best answer I could offer, I suppose, is  
17 that on the one hand, if you have a provider  
18 relationship -- if you are going to establish a  
19 provider relationship you'd hope that you have the  
20 opportunity, or some form of rights, to continue in  
21 that relationship for some time. On the other hand,  
22 you might -- from a economic point of view, you want  
23 to make sure you don't get too far away from the  
24 market. So I guess if you want to wish about what  
25 could be the ultimate -- the ultimate combination, it

1 would be a fairly long-term relationship, but one that  
2 could be tied back to the market. So that if -- so in  
3 that construct I suppose you could imagine a 20-year  
4 contract that could be tested to the market every so  
5 often; I don't know, five years or something like  
6 that. But, I mean, that's the ideal world. And I  
7 don't know if supplier relationships can be developed  
8 on those terms.

9           It's a difficult question to ask. I mean,  
10 the other side of that question is, is just a  
11 five-year contract, with nothing else, is that enough?  
12 I just don't know. And that's -- that's difficult.

13           **COMMISSIONER CLARK:** Thanks.

14           **COMMISSIONER DEASON:** We have utilities in  
15 the state who decided not to build a plant and  
16 purchase unit power sales, for example, for a stated  
17 contract period of time. And it was determined that  
18 was the best thing to do. And I think this Commission  
19 has approved those. And it has been presented to us  
20 and said this is the best alternative.

21           **WITNESS RIB:** I guess I'm aware of some  
22 examples where they might have different options, and  
23 they might say, "Well, suppose we --" you could say  
24 suppose we defer construction for a few years, if  
25 there's an opportunity to buy some surplus capacity in

1 the meantime, and examine all those alternatives based  
2 on the timing and what's going on in the marketplace.  
3 Ultimately, I'm not looking at the needs of our  
4 customers just three to five years out. I'm trying to  
5 look at it longer term than that. So I'm not trying  
6 to necessarily just plan the system and assume all I  
7 need to worry about is the next three years. So  
8 usually there's something behind that, some plan these  
9 evolving behind that, if you're talking about  
10 short-term opportunities.

11 **CHAIRMAN JOHNSON:** Mr. Wright.

12 **MR. WRIGHT:** Thank you, Madam Chairman.

13 **Q** (By Mr. Wright) Mr. Rib, I have a few  
14 questions following up on remarks you made in your  
15 colloquy with the Commissioners just now. I think you  
16 referred to the Commission as a gatekeeper. Do you  
17 recall making that remark?

18 **A** Yes, I do.

19 **Q** Do you agree that the Power Plant Siting  
20 Board, based on your understanding as a planner of the  
21 process, would you agree that the Power Plant Siting  
22 Board is also a gatekeeper?

23 **A** I suppose that they make the final decision,  
24 the final determination, so they are certainly a key  
25 to the process.

1 Q Is Florida Power Corporation a gatekeeper?

2 A Not as I understand it.

3 Q At your deposition we discussed what were,  
4 at that time, very new press reports regarding a  
5 proposal, that has been in the trade press, to build a  
6 fairly large amount, 850 megawatts, as I understand  
7 it, of peaking capacity in Brevard County. Have you  
8 become more familiar with the trade press regarding  
9 that proposal?

10 A No more familiar than I was when we talked.

11 Q Are you aware of the proposed project?

12 A If you're speaking of Oleander Power?

13 Q I am.

14 A I'm aware they have proposed construction of  
15 some peaking facilities, yes.

16 Q And is it your understanding that it's  
17 approximately 850 megawatts is the proposed capacity  
18 of their facility?

19 A That's what I've read.

20 Q Also at your deposition we discussed the  
21 prospect of an entity buying the Indian River units  
22 that the Orlando Utilities Commission has published a  
23 RFP for. Do you recall our discussion on that  
24 subject?

25 A I recall the discussion. Did we discuss

1 whether they had an RFP? I don't remember that  
2 portion of it.

3 Q Well, do you know they did --

4 A They have at least been identified in the  
5 press they were interested in potentially selling that  
6 plant.

7 Q Have you read any press regarding that  
8 process this week?

9 A No.

10 Q Okay. At your deposition I asked you to  
11 assume that, in fact, they followed through on  
12 their -- on the possibility, or the possible plan, of  
13 them selling their facilities to another entity, and  
14 such other entity then operating that facility, or  
15 those facilities, as merchant power plants. Do you  
16 recall that?

17 A We did discuss that, yes.

18 Q Okay. Now, suppose that that happened.  
19 Suppose the example we used in our conversation in  
20 your deposition was PacifiCorp's. Let's just stick  
21 with that. Suppose that a PacifiCorp affiliate bought  
22 the Indian River plants from OUC and began operating  
23 them as merchant plants. Are you with me?

24 A Yes.

25 Q And suppose that the developers of Oleander

1 were successful in developing their combustion  
2 turbines as merchant peaking facilities?

3 A Okay.

4 Q Are you okay on that?

5 A Yeah. We're supposing that those are both  
6 true.

7 Q Now, would you take the existence of those  
8 power plants, as existing merchant power plants, into  
9 account in your planning processes?

10 A In the Florida Power planning process?

11 Q In Florida Power Corporation's planning  
12 process. That is my question.

13 A I think we'd have to examine how they fit in  
14 somehow, yes. If I didn't have a contract with them I  
15 wouldn't assume that I was necessarily purchasing from  
16 them, but we need to know they exist.

17 Q Would you agree there would be some  
18 probability that such plants would be available to  
19 sell to Florida Power Corporation at any point in  
20 time?

21 A That possibility exists.

22 Q And you wouldn't ignore that possibility in  
23 your planning process, would you?

24 A I might ignore it initially, until I better  
25 understood how to incorporate it. I think you might



1 think of a different part of the world where people  
2 might communicate with them from hour to hour and see  
3 if there's anything going on. Suppose their telephone  
4 number might end up in the Rolodex across the state,  
5 yes.

6 Q Are you suggesting that short-term economy  
7 transactions are not part of your planning  
8 responsibilities? That's really somebody else's.

9 A That's generally true. That's what we've  
10 discussed.

11 Q Okay. Do you interact with the folks in  
12 Florida Power who are responsible for short-term power  
13 sales and purchases?

14 A From time to time, yes.

15 Q Do you think they would take account of the  
16 presence of these hypothetical -- at this point  
17 hypothetical merchant plants at Oleander and Indian  
18 River?

19 A I imagine that they would.

20 Q You said you had not considered the  
21 possibility of you all building merchant plants in  
22 response to some questions from the Commissioners. Is  
23 that true? Did you say that?

24 A Yes.

25 Q Do you know whether Florida Power, or any of

1 its affiliates, have considered or pursued developing  
2 merchant plants in other jurisdictions?

3       **A**     Schef, what I'm familiar with is the  
4 planning process I'm involved in, which is for Florida  
5 Power. And to my knowledge Florida Power hasn't  
6 planned for merchant plants.

7               **CHAIRMAN JOHNSON:** What was the last part of  
8 your answer?

9               **WITNESS RIB:** Florida Power has not planned  
10 for merchant plants, nor have we, to my knowledge,  
11 attempted to develop merchant plants. And we don't  
12 normally plan outside of Florida, so that would be our  
13 jurisdiction.

14               **CHAIRMAN JOHNSON:** Hold on again. Was your  
15 answer -- your answer was no, then, to his direct  
16 question? Or was it "I don't know"? Because he asked  
17 you --

18               **WITNESS RIB:** I characterize it as "I don't  
19 know." Mr. Wright would like to ask about affiliate  
20 activities that I'm not familiar with. So I'm afraid  
21 I can't respond to those. I'm responding in the  
22 context of the work that I've done for Florida Power  
23 Corporation, not for Florida Power's affiliates.

24       **Q**     While it was active, did you have any  
25 interaction with Progress Energy Corporation or

1 Progress Energy, Incorporated, whichever it is?

2 A Interaction in a planning sense, no. I did  
3 know some of the people; spoke to them on a social  
4 basis from time to time, but did not conduct any  
5 business.

6 Q Do you know Roland Bonner?

7 A Yes.

8 Q He was president of Progress Energy  
9 Corporation, was he not?

10 A Yes, he was.

11 Q Did you never discuss with him merchant  
12 plant development activities at Progress Energy  
13 Corporation?

14 A I did discuss with him, in general, some of  
15 the things that they were doing. But I didn't have  
16 any business role or business relationship in those  
17 activities.

18 Q Do you recall what you generally discussed  
19 with Mr. Bonner?

20 MR. SASSO: We would object, Madam Chairman.  
21 This is outside the scope of Mr. Rib's testimony.

22 CHAIRMAN JOHNSON: Mr. Wright.

23 MR. WRIGHT: I think the activities of  
24 Florida Power's affiliates in pursuing merchant  
25 development opportunities in other states are

1 probative as to their positions regarding the policy  
2 to be applied in this case.

3           **MR. SASSO:** Mr. Rib has already testified he  
4 has no knowledge of that. We're now getting into  
5 social conversations with Mr. Bonner.

6           **MR. WRIGHT:** That's not how I understood  
7 Mr. Rib's testimony. He said he had some social  
8 conversations with Mr. Bonner. Then he went on to say  
9 he had some general discussions with Mr. Bonner  
10 regarding what they were doing in other states. And  
11 it is that that I'm trying to follow up on.

12           **CHAIRMAN JOHNSON:** I'll allow the question.

13           **MR. WRIGHT:** Thank you.

14           **WITNESS RIB:** To assist me, you may need to  
15 repeat the question.

16           **Q**       **(By Mr. Wright)** You stated that you have  
17 had some general discussions with Mr. Bonner regarding  
18 Progress Energy Corporation's merchant plant  
19 development activities in other states. My question  
20 is do you recall --

21           **A**       I'm not sure I answered the question -- even  
22 answered the question that you just attempted to read  
23 back to me.

24           **MR. SASSO:** Yes. I would object to the  
25 characterization of Mr. Rib's testimony.

1           **MR. WRIGHT:** I asked him whether he had  
2 discussed Progress Energy Corporation's merchant  
3 development activities in other states with  
4 Mr. Bonner. He said that he had had some general  
5 conversations with Mr. Bonner implying, to my mind,  
6 that it was on the subject matter as to the question I  
7 asked. I'm trying to follow up on that question.

8           **MR. SASSO:** The question assumes that there  
9 were merchant plant activities -- perhaps it would be  
10 helpful if Mr. Wright just asked the witness a  
11 question.

12           **CHAIRMAN JOHNSON:** Let's start over with the  
13 question. It did get a little confusing, even with  
14 respect to his answer.

15           **MR. WRIGHT:** Did you ever discuss Progress  
16 Energy Corporation's merchant plant development  
17 activities with Mr. Bonner?

18           **MR. SASSO:** Objection to the question.  
19 Assumes facts that aren't in evidence.

20           **MR. WRIGHT:** I think that he testified that  
21 he was aware that Progress Energy did have such  
22 activities. If not, I will ask that question.

23           **Q (By Mr. Wright)** Are you aware whether  
24 Progress Energy Corporation ever conducted, while it  
25 was active, merchant plant development activities in

1 other states?

2           A     Let me offer that those conversations --  
3 although I can't tell you word for word what was  
4 discussed -- I didn't discuss at any length at all the  
5 specific nature of what they were doing. In other  
6 words, we didn't have conversations that said, "Oh,  
7 how exciting. I hear you're developing a merchant  
8 plant in such and such." I think in the context of  
9 social discussions, I would characterize that we may  
10 have discussed that they are pursuing an interest in  
11 one state or pursuing an interest in another state. I  
12 didn't inquire as to whether they would contract  
13 facilities, merchant facilities, or even the nature of  
14 those. I was just aware that they were in the  
15 business of developing power plants and I didn't  
16 explore the context, legal context of what they were  
17 doing or whether they were merchant or not.

18                 To be honest with you, I'm not -- I couldn't  
19 sit here today and tell you I'm certain that they were  
20 developing merchant plants. I know they had  
21 activities in many states and I'm not sure what they  
22 were doing.

23           Q     In response to an earlier question, I think  
24 you indicated you felt it was important to know in  
25 advance when a power plant was proposed. Did you make

1 such a comment?

2 A Yes.

3 Q Okay. When do you first recall hearing  
4 about the New Smyrna Beach Power Project as a concept  
5 that has now come to be before the Commission in this  
6 case?

7 A I think when we discussed that in the  
8 deposition -- I think you offered that the proposed  
9 request for declaratory statement might have been  
10 in -- what was that, in '97 sometime? That's more or  
11 less when I became aware of this, when that was put  
12 forth at the Commission.

13 Q You don't recall seeing press reports of it  
14 several months before, say, in June 1997?

15 A Honestly, I don't recall specifically. But  
16 that would be the general time frame.

17 Q Following up on a question that Commissioner  
18 Deason asked you, or actually maybe it was  
19 Commissioner Clark -- it was Commissioner Clark. She  
20 asked you questions about contracts. And you said, "I  
21 think that the ideal thing -- that the ideal scenario  
22 would be to have a longer term contract that could be  
23 tied back to market." Is that a fair characterization  
24 of your testimony?

25 A Yes.

1 Q Have you explored the possibility of such  
2 contracts with any merchant power plant developers?

3 A I have not.

4 Q It is your understanding -- sorry, did you  
5 want to continue?

6 A No. Go ahead.

7 Q It is your understanding, is it not, that  
8 the developer of the New Smyrna Beach Power Project  
9 plans to sell its power at market prices; is that  
10 correct?

11 A I guess there's two ways to think about  
12 that. I suppose they'll sell at whatever prices they  
13 can, assume those to be market prices. But on the  
14 other hand, I can't tell you I have any knowledge  
15 whatsoever what price they would sell it for.

16 Q Well, would you agree they can't sell it for  
17 more than market price?

18 A What is market price?

19 Q You tell me. I'm asking you to define the  
20 term "market price" for your purposes in answering my  
21 question. I think it's a concept that most of the  
22 people in this room know, but if you want to define  
23 it, go ahead.

24 A I didn't offer to define it.

25 Q Well, you asked me what it was, and I'm



1 asking you for a definition that you're comfortable  
2 using in answering my question.

3       **A**     Well, the question, "What is market price?"  
4 is almost a rhetorical question in the sense it's tied  
5 to a time frame, to an instance. It's a very  
6 complicated question. It's not a simple question.

7               **CHAIRMAN JOHNSON:** Mr. Rib, could you try to  
8 answer the question, though? Start with a definition,  
9 and he had some follow-up questions.

10               **WITNESS RIB:** I think Mr. Wright was asking  
11 would they sell at market price.

12               **CHAIRMAN JOHNSON:** Uh-huh.

13               **WITNESS RIB:** And that almost implies that  
14 whatever they sell it for would be the market price.  
15 What I'm saying is I don't know how to determine what  
16 they will sell it for. But if Mr. Wright is  
17 suggesting that whatever they sell it for is the  
18 market price, then, I guess, I'd accept his definition  
19 for the moment.

20       **Q**     **(By Mr. Wright)** Well, will you agree that  
21 market price is a price entered into between  
22 unaffiliated, unconstrained willing buyers and sellers  
23 in a market or negotiated-type transaction?

24       **A**     That would be an acceptable definition.

25       **Q**     Okay. Duke New Smyrna as the operator of

1 the New Smyrna Beach Power Project can't sell its  
2 power for more than it can negotiate with somebody  
3 else in the wholesale market, can they?

4       **A**     I guess I'd agree -- I can't understand how  
5 they would sell it for more than a willing party would  
6 pay so --

7               **CHAIRMAN JOHNSON:** You know one other thing  
8 that would be helpful -- and it's fine for you to  
9 elaborate on the answer -- but if you could start off  
10 with a "yes/no," and then elaborate.

11               **WITNESS RIB:** Okay. So I think the answer  
12 to that question would be yes, as you proposed it.

13       **Q**     **(By Mr. Wright)** Thank you. And my  
14 question then is if there were a merchant plant  
15 operator, such as Duke New Smyrna in this case, that  
16 has expressed its interest in building a power plant  
17 and selling at market prices, do you agree that it's  
18 reasonable to think that they would be interested in  
19 discussing a contract that would pay them market  
20 prices for a reasonable period of time?

21       **A**     I don't know whether they would or wouldn't.  
22 So, first, I'd answer I don't know. Number two, they  
23 may or may not have a interest in entering contracts.  
24 It's up to them. They own the plant. Nobody controls  
25 them.

1           Q     But I did not ask you to speculate as to  
2 what is in the mind of my clients. I asked you  
3 whether it would be reasonable, in your opinion, based  
4 on your knowledge, to expect that they would be  
5 willing to enter into contracts to sell power at  
6 market prices or contracts that were tied to market  
7 prices given their stated intent that they want to  
8 sell power at market prices.

9           **MR. SASSO:** I must object. He said he's not  
10 asking the witness to speculate about what is in his  
11 client's mind. Now he's asking him to answer based on  
12 what his clients have said.

13           Mr. Rib hasn't indicated he has any  
14 experience in dealing with merchant plants, so I'm not  
15 sure how he has a foundation or how it has been  
16 established for answering this question. I think it  
17 does call for speculation about what Mr. Wright's  
18 client will do.

19           **CHAIRMAN JOHNSON:** Mr. Wright.

20           **MR. WRIGHT:** I'm trying to ask him if it's  
21 reason to think that somebody who wants to sell power  
22 at market prices will enter into a contract to sell  
23 power at market prices. I think it's a fair question.

24           **CHAIRMAN JOHNSON:** If you can answer the  
25 question, fine. If you don't know, then that can be

1 your answer.

2           **COMMISSIONER GARCIA:** Schef, I don't even  
3 understand the question. Before you answer, could you  
4 ask a question again, because I don't -- the question  
5 that I'm hearing -- and perhaps it may be distance  
6 that's effecting me -- would someone who has said they  
7 are going to sell power at market prices enter into  
8 contracts to sell power at market prices? Is that the  
9 question?

10           **MR. WRIGHT:** Well, with the preface would it  
11 be reasonable to expect that, the question as you just  
12 stated it, yes, sir.

13           **COMMISSIONER GARCIA:** You need Mr. Rib to  
14 answer that? A dumb politician can answer that  
15 question "yes". But I don't understand the complexity  
16 of the question?

17           **MR. WRIGHT:** I don't think it's a complex  
18 question. I was trying to follow up on Commissioner  
19 Clark's question, and Mr. Rib's answer, regarding his  
20 expressed desire to enter into -- or, well, his  
21 expression it might be a good thing to be able to  
22 enter into longer term contracts that tie it back to  
23 market. That's all.

24           **WITNESS RIB:** If I may, I answered the  
25 question "I don't know," and let me offer you an

1 explanation why I answered it that way.

2           Let's suppose two simple examples. Suppose  
3 that the company that wanted to build this plant  
4 thought it would be in their best interest to enter  
5 longer term contracts. And in that construct, I  
6 suppose the answer would be yes, they might offer to  
7 do that. Suppose on the other hand, that the company  
8 had decided they had no interest in entering contracts  
9 other than to simply make transmission arrangements  
10 with parties if they could, and simply play the market  
11 from hour to hour, in which case they would choose not  
12 to enter contracts. I don't know how they will choose  
13 to proceed. And you're asking me to speculate what  
14 your client's preference is. I don't know. I'm  
15 sorry. I don't know what they have in their mind  
16 about what they might potentially want to do with this  
17 plant.

18           Q     Will you agree that Florida Power  
19 Corporation cannot be forced to buy power from Duke  
20 New Smyrna?

21           A     In my current understanding that would be  
22 difficult to imagine, so, yes, I'd agree we wouldn't  
23 be forced to buy it from them.

24           Q     I'd like to return to our brief discussion  
25 regarding the possibility of the --

1           **COMMISSIONER DEASON:** Schef, before you  
2 leave that last question, I want to take that one step  
3 further. Let's just assume that the proposed power  
4 plant is built and it begins generating, and that  
5 there is economic generation such that they could  
6 displace other utilities' generation. Is it incumbent  
7 upon regulated utilities, if that is available, to  
8 purchase that if it displaces higher cost generation  
9 of their own, such that if they did not, they would  
10 have to explain why it was not in their customers'  
11 interest to make that purchase?

12           **WITNESS RIB:** I suppose that could be true.  
13 In other words, I think Mr. Wright's question was  
14 fairly narrow, but there are, in essence, in response  
15 to what you're asking there, are two ways that a  
16 utility might be -- there are two ways where an  
17 expectation might develop that utilities should behave  
18 in some way. So I guess there's a difference between  
19 forced to and should. But it could be implied if an  
20 economic option existed, that it should be pursued.

21           I've also constructed in my thought process  
22 in some of my testimony that there exists an  
23 underlying concern that if merchant plants were  
24 developed to such an extent that they consumed what  
25 I'd call -- I believe I called the tolerable limits of

1 environmental impact, and that the utility then came  
2 forward with a need for a plant, the Commission at  
3 some point in their role said that -- that for  
4 whatever reason, I don't want to pursue that. In  
5 other words, I believe somehow or another we have  
6 enough plants, and that you should consider strongly  
7 buying from one of the plants that already exists  
8 instead of developing another one. There's another  
9 potential construction of a concept on a longer term  
10 basis that utilities should consider. Now, would they  
11 be forced to? I think there's a latitude of  
12 discretion of the Commission in this type of  
13 situation.

14 **COMMISSIONER GARCIA:** But aren't you asking  
15 us to do precisely what you just said on the first  
16 point?

17 You're saying that we understand -- in other  
18 words, correct me where my analysis of your thinking  
19 is wrong. If I run too far astray, you can stop me.

20 But you're saying the way we plan is by this  
21 system that we have in place, where the Commission  
22 determines need. Because that's how it's been done,  
23 or the way we at FPC perceive it to be. Anything else  
24 just doesn't work. Then you go on to say what you  
25 just said to Commissioner Deason, which is, if you

1 remove your thinking, you can stop plants because  
2 there are too many? I don't understand how you get to  
3 your first answer to Commissioner Deason's question.

4           **WITNESS RIB:** Okay. Let me attempt -- I  
5 think there were two different scenarios I was  
6 addressing.

7           **COMMISSIONER GARCIA:** Right.

8           **WITNESS RIB:** One scenario was in the  
9 hour-to-hour type of situation. And I think  
10 Commissioner Deason was asking me if another  
11 alternative existed, should it be considered; an  
12 economic alternative existed? And I guess if you --  
13 on the premise that whatever it is we're talking about  
14 is out there, then the utilities would attempt -- and  
15 Florida Power would attempt to find the most economic  
16 solution. So that's kind of the operating scenario.

17           The other scenario I was suggesting is very  
18 different from that. That was a scenario which I was  
19 describing potential for, perhaps -- I've used the  
20 word "proliferation" -- the proliferation of merchant  
21 plants to enter the state, and at some point  
22 potentially consume what I term the tolerable limits  
23 of impact on the state.

24           **COMMISSIONER GARCIA:** Let me ask you, could  
25 we use that point? In other words, that tolerable



1 limit? Let's say, for example, that we buy into the  
2 scenario where you create where there's going to be a  
3 proliferation of 10, 15 of these plants. Wouldn't it  
4 be reasonable that at some point -- because it may be  
5 costing us in terms of -- not us, you; but us, the  
6 ratepayers, or the state -- because of stranded  
7 investment, that we may say we don't want any more  
8 plants. And then turn them down on that; it's not  
9 economic for the state of Florida.

10           **WITNESS RIB:** Well, that possibility exists.  
11 But I don't even know where to begin anticipating how  
12 to react to that or when that process would end or  
13 what point we'd reach that. But then I take that  
14 construction a step further, and to say if you feel  
15 like you had reached that point, or you were getting  
16 very close to it, and we step back to some of the  
17 discussions earlier in these hearings where we -- you  
18 know, there have been some proponents on the  
19 petitioner's side that have said it doesn't matter to  
20 them whether utilities continue to develop or not. I  
21 mean, this is separate from the utility's  
22 decision-making process. Then the utility comes  
23 forward -- and the Commission may have reached their  
24 limit -- their tolerable limit. At the same time the  
25 utility comes forward and says, "We have ignored the

1 presence of merchant plants," as we discussed on the  
2 premise of some of these conversations, "and we're  
3 coming forward and planning for another unit." The  
4 Commission could say, "We don't feel that unit is  
5 needed. Go buy from one of the merchant plants  
6 instead." And I guess that was an attempt on the  
7 second portion of the answer to my question to say  
8 some possibility exists in the realm of this tolerable  
9 limit of new plants.

10 **COMMISSIONER GARCIA:** You'd agree there's  
11 also another positive side, though. Let's say, for  
12 example, that FPC came in here and said, "We want to  
13 build a plant." And you build one pretty much -- give  
14 of take something -- pretty much the same thing Duke  
15 is building. Wouldn't it give this Commission a great  
16 understanding of how efficient you're being by having  
17 this other producer that's out there that's just like  
18 you, that's not within the regulatory process, and  
19 isn't that a check on making sure you're producing the  
20 lowest cost power for the ratepayers of the state of  
21 Florida? I'm not stopping you from producing. I'm  
22 just saying it gives us a nice comparison. If Duke is  
23 selling their energy at -- and I'm not going to say  
24 that's going to happen -- at \$18.50, and you're  
25 selling it to yourself at \$30, it gives this

1 Commission a better understanding of what you're doing  
2 right or what you're not doing right, and perhaps what  
3 we should do in the future, doesn't it?

4           **WITNESS RIB:** I suppose that would be true.  
5 I don't think that we would necessarily need to change  
6 the regulatory process in Florida to accommodate that  
7 type of information, though. There are other states  
8 in the country where power is being deregulated and  
9 where these new type of markets exist, and that  
10 information can be gleaned elsewhere, if that's the  
11 objective.

12           I guess I can't help make the comment that  
13 if I thought I could buy 470 megawatts for 20 years at  
14 \$18.50, that I might not take that very seriously --

15           **COMMISSIONER GARCIA:** That would be  
16 wonderful for Florida ratepayers, wouldn't it?

17           **WITNESS RIB:** I suppose. I just have  
18 serious doubts whether that would be put on the table  
19 by the Petitioner.

20           **CHAIRMAN JOHNSON:** Could you just go back  
21 over -- I still wasn't completely following the  
22 analysis that you talked about in your testimony and  
23 as you just articulated. The tolerable limits of  
24 merchant plants and what we would do if you came  
25 forward to build a plant. Explain that scenario and

1 how it would play out for the PSC. What would be the  
2 analysis?

3           **WITNESS RIB:** I don't think I can tell you  
4 exactly how we would get there. I do have a sense  
5 that this need determination -- this entire need  
6 determination process, and the siting process that  
7 came out of the Siting Act, somehow -- is somehow  
8 premised on the fact that Florida, the  
9 decision-makers, do not want unchecked expansion of  
10 power plants. Whatever reason, whatever wisdom they  
11 might have depended on, they wanted a process by which  
12 these would -- each be examined on their merits, and  
13 the way I understand the rules were developed, be  
14 examined specific to the need of the utilities that  
15 were proposing them.

16           So in my mind the very beginning of that is  
17 that the process includes consideration for the  
18 impact, and that they be carefully examined.

19           **CHAIRMAN JOHNSON:** I'm sorry, say that  
20 again. You said the "impact" and that they be --  
21 impact on --

22           **WITNESS RIB:** The impact on state resources.

23           **CHAIRMAN JOHNSON:** And is that going to more  
24 of an environmental analysis? Is that what you mean  
25 by impact? Is it an environmental analysis or --.

1           **WITNESS RIB:** I wish I could give you a well  
2 reasoned answer to what they might have been thinking.  
3 And I don't really have the knowledge of what the  
4 framers of this requirement were thinking.

5           I'm saying that in the sense that I  
6 understand it, it's a process by which each  
7 determination -- each determination of a selection of  
8 one of these resources is to be carefully examined  
9 because it has an impact. An impact on many things.  
10 And certainly it comes out of an environmental  
11 construct, so that's certainly one of the issues.

12           I'm afraid I'm losing track of what the  
13 question was. Could you help me?

14           **CHAIRMAN JOHNSON:** I was trying to just  
15 better understand the whole concept and you provided  
16 some comment in your testimony, and then you have been  
17 talking about it again today, the -- that you're  
18 afraid that we might have too many merchant plants.  
19 And when you come forward, that tolerable limit of  
20 merchant plants might have maxed out your opportunity  
21 to build a plant. I wanted to better understand the  
22 analysis. Because it might be a convincing point.  
23 I'm not following it thoroughly enough.

24           I kind of follow it almost in the context of  
25 the next step; when DEP might have these applications.

1 And when they are looking at more than just  
2 economic-type impacts, that's when we might have put  
3 ourselves in a box. When they might say, "I don't  
4 care if you could build it and even build it cheaper.  
5 There's enough of them out there." I can more see it  
6 in that context, someone making an argument. But I'm  
7 trying to figure out in the first instance here at the  
8 PSC, how we have somewhat checkmated ourselves by your  
9 analysis. So I need to better understand your  
10 analysis just to see if I have that same concern that  
11 you're trying to articulate.

12           **WITNESS RIB:** Okay. I think the Commission  
13 oversees -- we've heard this -- the Commission  
14 oversees much of the economics. But they are also  
15 responsible for a consideration of all of the impacts,  
16 including conservation, impact on the environment, and  
17 all those things. Again, not to the point where you  
18 ask questions about specific permitting issues, but to  
19 the point where you help look at the measures  
20 utilities have taken to avoid the construction of the  
21 plant that's proposed.

22           So in all of that framework, you first begin  
23 by examining what you may have done or what could be  
24 done to avoid the addition of that plant to begin  
25 with. And then you get past that hurdle and

1 eventually you say all things being equal we've  
2 examined all of that and looks like we need this  
3 resource in the state. Please go ahead with the  
4 permitting process.

5           Now, if somehow merchant plants begin to  
6 enter that framework to my knowledge I guess there  
7 wouldn't be an examination of what could have been  
8 done to avoid them, at least not by the Petitioners.  
9 So you wouldn't have looked at conservation measures  
10 to avoid them since there aren't measures of that type  
11 available to the Petitioners building a merchant  
12 plant. And then eventually if they are allowed to be  
13 built just on some other premise -- suppose it's the  
14 economics that's been discussed -- eventually you  
15 might decide that the economics are overwhelming; that  
16 you ought to stop. In other words, economics no  
17 longer support the continuing need for additional  
18 plants of the nature being proposed, so you might  
19 attempt to stop them at that point, I guess. I mean,  
20 that's a whole nother line of logic that would need to  
21 be developed.

22           In other words, if the Commission decides  
23 for some reason we do want to allow merchant plants,  
24 you have to develop a whole philosophical context in  
25 which you will, or will not, allow them. I don't know

1 that I'm offering much help as to how to do that.

2           **COMMISSIONER GARCIA:** Wouldn't it be great,  
3 though, for you if there was a huge proliferation of  
4 new plants in the state for being able to buy power?  
5 Doesn't that give you a tremendous -- I mean, let's  
6 say we've got Mr. Wright, and Mr. Wright's customer  
7 builds two or three of these plants and are selling on  
8 the market, yet this Commission still grants you the  
9 power to sell. Isn't that wonderful for you when  
10 you're running a little low, as opposed to turning off  
11 the electricity for 250,000 people in the Tampa Bay  
12 area, you simply turn to Mr. Wright who has too much  
13 power, or that market, and just buy it there?

14           **WITNESS RIB:** Well, I guess there's a couple  
15 of thoughts I'd offer there.

16           First, I have to wonder what the implication  
17 is for the assets that we own. What does all of that  
18 mean for the assets that we have, if we get into some  
19 kind of overbuilt situation where values in essence  
20 has been destroyed?

21           **COMMISSIONER GARCIA:** Mr. Rib, I would still  
22 expect you to dispatch only the units that are  
23 economically viable in the market. Because it's  
24 cheaper for all of us, including you, to buy cheap  
25 power as opposed to produce it yourself.



1           **WITNESS RIB:** Yes. But economic viability  
2 is not a question that's determined hour by hour. I  
3 mean, these plants stand by approved and built and are  
4 put in rate base for a long-term run. I mean, these  
5 plants aren't just dropped off, installed, and the  
6 moment they are ineffective then they just disappear.

7           **COMMISSIONER GARCIA:** Absolutely. There is  
8 stranded investment involved, perhaps, in some of  
9 these plants. But you would agree with me that when  
10 you were cutting off your customers this last summer  
11 in huge amounts, they were angry and you had no other  
12 choice than to do what you did, correct?

13           **WITNESS RIB:** Well, I think we're talking  
14 about -- this is a little bit uncomfortable, because  
15 we're talking about customers, I think those you're  
16 referring to, who have signed up for nonfirm  
17 service --

18           **COMMISSIONER GARCIA:** Correct.

19           **WITNESS RIB:** -- and who have agreed that  
20 under certain conditions, whether they be economic or  
21 whether they be reliability, under those conditions  
22 they've agreed we can interrupt them. They might  
23 not -- on the one hand they might not like it, but on  
24 the other hand, that's a group of customers who have  
25 agreed to that level of service. So I mean that's

1 just --

2           **COMMISSIONER GARCIA:** A group of customers  
3 that today has 58,000 less, because they left your  
4 system after they experienced windows-type periods?

5           **WITNESS RIB:** Yeah. You're saying that some  
6 of those customers decided they didn't like that level  
7 of service and they decided to firm up their service  
8 for their -- for whatever it might have been. If they  
9 had air conditioners under control and they decided  
10 they didn't like that, so they changed their level of  
11 service. Yes.

12           **COMMISSIONER GARCIA:** But you would agree  
13 with me that when you have 58,000 customers drop from  
14 a system -- from your load management system, there's  
15 clearly a huge cost involved in that?

16           **WITNESS RIB:** I'm sorry, could you try that  
17 again?

18           **COMMISSIONER GARCIA:** Sure. When you knew  
19 it was 58,000 customers, there's a great cost involved  
20 in that?

21           **WITNESS RIB:** Are you asking --

22           **COMMISSIONER GARCIA:** Let me go back. If  
23 you would have had another option -- in other words,  
24 curtailing the customers as tightly as you did, or  
25 buying some power if you could have gotten it -- you

1 probably would have bought some of that power as  
2 opposed to keeping these customers curtailed as long  
3 as you did.

4           **WITNESS RIB:** Actually, I think that it  
5 really depends on the circumstances we're in. If  
6 you're asking me do we enjoy interrupting our  
7 customers, certainly we don't.

8           **COMMISSIONER GARCIA:** I would assume that  
9 the business you're in, Mr. Rib, is to sell  
10 electricity. I would imagine you'd rather sell more  
11 than less, although we want to conserve and everything  
12 else. But in this case you had to cut of your  
13 customers, and I'm using that case specifically,  
14 probably --

15           **WITNESS RIB:** I don't --

16           **COMMISSIONER GARCIA:** Go ahead, Mr. Rib. I  
17 don't want to interrupt you. I just want to try to  
18 understand you. You are the expert, not myself.

19           **WITNESS RIB:** I guess there are economic  
20 trade-offs during those periods. And I guess there  
21 are no -- no magical answers that apply over all time.  
22 But those customers signed up for a level of service.  
23 They understood and agreed they could be interrupted  
24 under certain conditions. And all I'm offering is  
25 that there was probably a price at which we ought to

1 go ahead and cut them off. There's economic prudence  
2 involved. And I don't think the Commission would  
3 necessarily advocate that we pay any price to keep  
4 power served to those nonfirm customers, or at least  
5 to their nonfirm load.

6 **COMMISSIONER GARCIA:** Mr. Rib, no.  
7 Absolutely. I don't think this Commission should pay  
8 any price. And, clearly, if you want to get into a  
9 discussion of whether your interruptible customers are  
10 good or bad for the system, I think that's for another  
11 day. But you would agree with me that the last time  
12 you did this, it was because you were running tight  
13 and you had to put it out in a massive way; more than  
14 you normally did, you had to interrupt customers,  
15 correct?

16 **WITNESS RIB:** Well, you're asking me were we  
17 tight? Yes. Did we interrupt them more than we  
18 usually did? I think -- we usually don't have record  
19 breaking heat waves like that, so I don't have a whole  
20 lot to compare it to. But I think it's fair to say  
21 that we use the resources we had. And yes, our system  
22 was tight. And it certainly is also true that the  
23 customers being cut off didn't appreciate it. So we  
24 began to examine and test under duress -- under  
25 extreme conditions we began to test the tolerance of

1 our customers who are -- who have that particular type  
2 of service, and some of them weren't very happy and  
3 they let us know.

4 **COMMISSIONER GARCIA:** I agree. And clearly  
5 when you lose 58,000 customers, the economics of it  
6 does change considerably.

7 **WITNESS RIB:** That part I'm not sure I  
8 follow, but --.

9 **COMMISSIONER GARCIA:** Okay. If you want me  
10 to walk you through. You clearly put an apparatus in  
11 everyone's house. You spent money doing this. You  
12 spent money advertising it. You spent money; people  
13 installing it, buying, purchasing. You have 58,000  
14 units spread across your territory. With 58,000 of  
15 these units, the people say, "Pull this thing out.  
16 Stop doing this," there's a cost there because you can  
17 no longer count on them and now you've got to go  
18 elsewhere, correct? And they are dissatisfied  
19 customers. There are all sorts of costs involved. I  
20 understand your testimony, duress, but clearly there's  
21 a cost involved.

22 **WITNESS RIB:** Yeah. I suppose in the  
23 example you're giving out there's a cost involved.

24 **COMMISSIONER GARCIA:** No. In the example of  
25 what occurred.

1           **WITNESS RIB:** Yes. Of course, what happened  
2 is certainly not what we would desire. We operated  
3 the system the best we could under those conditions.

4           I still go back to the point, though, that  
5 would we pay any price not to interrupt customers who  
6 had agreed to nonfirm load? No, we wouldn't. I just  
7 want to make sure that's understood as well.

8           **CHAIRMAN JOHNSON:** Mr. Wright.

9           **MR. WRIGHT:** Madam Chairman,  
10 Commissioner Garcia, I'm going to distribute what I  
11 ask be marked as an exhibit. It's Florida Power  
12 Corporation's Responses to the Staff's Data Request  
13 regarding implementation of tariffs on June 2 and 3,  
14 1998, directly related to the line of questions  
15 Commissioner Garcia was just pursuing.

16           **CHAIRMAN JOHNSON:** Go ahead.

17           **MR. WRIGHT:** I think the next number on my  
18 list is 31.

19           **CHAIRMAN JOHNSON:** It will be marked as 31.  
20 Short title Mr. Wright?

21           **MR. WRIGHT:** FPC's Responses Re: Nonfirm  
22 Implementation.

23           **CHAIRMAN JOHNSON:** We'll have that  
24 identified as 31.

25           (Exhibit 31 marked for identification.)

1           Q        (By Mr. Wright) Mr. Rib, you seem to be  
2 conversant with the subject matter that  
3 Commissioner Garcia was asking you about relating to  
4 FPC's implementation of its nonfirm tariffs in early  
5 June of this year. Do you recognize this document?

6           A        I have not seen it before, but I'm taking a  
7 look at it now. Okay. If there was something  
8 specific you wanted to address, we can go to that  
9 point.

10          Q        I wanted to ask you if it appears to you to  
11 be authentic, and to address the Public Service  
12 Commission Staff's questions relating to FPC's  
13 implementation of its nonfirm tariffs in early June of  
14 this year as it purports to do?

15          A        Yes, I believe so.

16          Q        Thank you.

17                   Following on a question Commissioner Garcia  
18 asked, don't you think you who have been better off  
19 had there been more capacity available to purchase in  
20 early June of 1998, when you had to implement these  
21 tariffs at virtually their maximum levels?

22          A        Not necessarily. It depends on the price of  
23 power. In a earlier discussion you constructed that  
24 the merchant plant would potentially sell at the  
25 market price of power. If the market price of power,

1 as you've described it, would exceed reasonable  
2 limits -- what was deemed at that time a reasonable  
3 limit, then we would probably exercise our  
4 opportunities to interrupt nonfirm load. That's what  
5 the tariffs are designed for.

6 Q Well, wouldn't the presence of additional  
7 uncommitted capacity in the Peninsula at the time of  
8 such an event tend to suppress the market price?

9 CHAIRMAN JOHNSON: Could you ask your  
10 question again?

11 Q (By Mr. Wright) Wouldn't the presence of  
12 additional uncommitted capacity in Peninsular Florida  
13 at the time of such an event tend to suppress the  
14 market price?

15 A Number one -- again, I'd answer not  
16 necessarily. Let me explain.

17 Number one, this proposed plant was not in  
18 service this summer. Number two, this is a plant that  
19 has been deemed a merchant plant, that a  
20 representative of the company has said they have no  
21 obligation whatsoever to sell power in Florida. And  
22 in a condition like we experienced this summer, where  
23 power prices were higher outside of the state, to the  
24 north in Georgia, TVA and beyond, the producer  
25 operating this plant may very well have chosen to sell



1 their power elsewhere, not here. And so would it  
2 necessarily affect the market price in Florida? Not  
3 necessarily.

4 Q Would it not tend to do so?

5 A Not necessarily.

6 Q If you've got 45,000 megawatts of capacity  
7 chasing 40,000 megawatts of sales, isn't that going to  
8 tend to suppress the price?

9 A Are you asking me something that --

10 Q I'm asking you a hypothetical, Mr. Rib.

11 A That's not necessarily related to what we're  
12 talking about.

13 Q Not necessarily.

14 A So you're asking me -- you're asking me a  
15 general question: Is more better?

16 Q Yeah. If you've got more capacity seeking  
17 to sell to any given load, and the example I used is  
18 if you have 45,000 megawatts of capacity seeking to  
19 serve 40,000 megawatts of load, don't you think that's  
20 going to tend to suppress the market price, as  
21 compared to a scenario where you have 39,000 megawatts  
22 of capacity chasing 40,000 megawatts of load?

23 A Well, in the context on a given moment, if  
24 that just happened to be true, and we're not  
25 addressing any long-term implications whatsoever, then

1 just general business principle, on a given moment,  
2 would say the competition would force the price down.  
3 I mean, I can't argue with that, Mr. Wright. But I've  
4 expressed time and time again in my testimony, and  
5 here in these discussions, that I have long-term  
6 concerns with the potential proliferation of merchant  
7 plants. Now you've asked me if there were 45,000  
8 megawatts chasing it, instead of 39,000 -- now we're  
9 suggesting that there's another 6,000 that just  
10 appeared out of nowhere.

11 Q I'm giving you hypothetical.

12 A I mean the long-term implications of having  
13 that much capacity could be disastrous. I think we've  
14 gone through that. And I have concerns. So I'm  
15 trying to separate what the impact on market price  
16 might be in a situation that could occur for hour  
17 versus the long-term implications of policy that might  
18 allow some proliferation and excess to occur and the  
19 ramifications that come with that.

20 **COMMISSIONER DEASON:** Let me ask a question  
21 at this point. And, Mr. Rib, I'm going to ask a  
22 hypothetical, and to the extent you can give any  
23 opinion on it, I'd appreciate it. If you can't,  
24 that's fine too.

25 I want you to assume for a moment that last

1 summer, on June 2nd and 3rd, that the plant that is in  
2 question now, New Smyrna Project, was in existence,  
3 and was generating at its stated capacity. What do  
4 you think would have happened at that point? Do you  
5 think that as demand grew and you went about your  
6 normal dispatch that you would have looked to New  
7 Smyrna to have supplied energy, if they were willing  
8 to do so, at an economic rate, and you would have  
9 displaced some of your units? Or do you think that  
10 New Smyrna would have been aware that there was going  
11 to be a severe capacity shortage and would not have  
12 dispatched until at the very peak of the demand curve  
13 and demanded the highest price they could from you?  
14 Which do you think would have happened? And I know  
15 it's strictly a hypothetical.

16           **WITNESS RIB:** I'm not certain that either of  
17 those would have happened necessarily. I believe that  
18 the plant -- I believe that an operator of a merchant  
19 plant, under these kind of circumstances, is going to  
20 be very aware of what's happening around them.  
21 Because that's the framework of their opportunity that  
22 they are pursuing. So even before you hit a 4:00,  
23 5:00 afternoon peak, there's still an awful lot of  
24 expensive peaking-type resources running, and they  
25 would have had the opportunity to sell power in that

1 environment. So you're asking me would the plant be  
2 running. In this hypothetical example, I'm quite  
3 certain the plant would have been running.

4 **COMMISSIONER DEASON:** I'm assuming it's  
5 running. They are there to sell. I'm making that  
6 assumption they are running. The question is: Who  
7 are they going to sell to, at what price?

8 **WITNESS RIB:** Well, in Florida, the  
9 regulated utilities, as I understand have interchange  
10 contracts that have different type of conditions under  
11 which power is bought and sold, so that the folks that  
12 are operating the various portions of the grid would  
13 be able to chose from various different sources of  
14 supply, and potentially make some tough decisions.

15 For example, if they had been asked to serve  
16 under a cost-based tariff from one utility to the  
17 other that a merchant plant wasn't operating under,  
18 they may be more inclined to sell power to a utility  
19 in Florida for, say, \$200 a megawatt-hour, than they  
20 might have been inclined to pursue an opportunity,  
21 say, in Georgia, to sell for a thousand, if that  
22 opportunity existed. And we know that the prices  
23 outside of Florida, in the example we're going  
24 through, were spiking much higher than they were in  
25 Florida.

1           So in that example it's entirely possible  
2 that to maximize their economic opportunity, which is  
3 their stated goal, as I understand it, that they would  
4 pursue the opportunity for the highest income  
5 potential.

6           **COMMISSIONER DEASON:** So if that had  
7 happened and they said, "Well, we know you're in a  
8 real crunch. Here's our price. Take it or leave it,"  
9 then I guess you would have made an analysis whether  
10 we curtail our customers -- if this price is too high,  
11 the economic decision is to curtail our customers  
12 under our tariff?

13           **WITNESS RIB:** Well -- certainly that  
14 decision certainly comes much more easily when you're  
15 evaluating customers who agree to be on nonfirm  
16 tariffs or have nonfirm load. The question certainly  
17 would get more difficult if you thought you were going  
18 to impact your firm customers. And I don't think  
19 we've tested the limits of what a utility in Florida  
20 would pay if they got to that point.

21           **COMMISSIONER DEASON:** But your Ten Year Site  
22 Plan says there's adequate capacity to always meet  
23 demand for firm.

24           **WITNESS RIB:** It's based on a planning  
25 framework in which we're dealing with normalized

1 weather forecasts and so forth. So the utilities in  
2 Florida I don't think have ever said that they would  
3 have adequate capacity under any imaginable  
4 circumstance.

5 **COMMISSIONER DEASON:** And I didn't mean to  
6 characterize it that way. And I don't think that you  
7 realistically thought that I was characterizing it  
8 that way. I have been around here long enough to know  
9 what a Ten Year Site Plan is, okay?

10 Now, but you've indicated under normal  
11 planning circumstances that there's adequate capacity  
12 to meet firm demand in the state, and that you don't  
13 have to rely upon New Smyrna for that.

14 **WITNESS RIB:** Yes.

15 **COMMISSIONER DEASON:** Your telling me that's  
16 not accurate and that you do need to rely on New  
17 Smyrna for firm demand?

18 **WITNESS RIB:** No.

19 **COMMISSIONER DEASON:** Okay. Fine. Thank  
20 you.

21 **Q** (By Mr. Wright) Mr. Rib, we've been  
22 talking about the heat wave that occurred in Florida  
23 on June 2nd and 3rd. That's the heat wave we have  
24 been talking about for the last half hour, isn't it?

25 **A** That's part of what we have been talking

1 about, yes.

2 Q Is it your testimony that that occurred  
3 simultaneously with the big price spikes in what is  
4 called ECAR, or the Midwest?

5 A I guess --

6 Q The \$7,000 megawatt-hour price spikes that  
7 were reported in the press this summer?

8 A Are you asking me if I understand then that  
9 they occurred on June 2nd or 3rd --

10 Q Whether they occurred simultaneously with  
11 the heat wave in Florida?

12 A I don't know if they did or not. I haven't  
13 studied the exact dates, the correlation between the  
14 prices.

15 Q So you don't know whether the \$7,000 prices  
16 that were going -- at which power was being transacted  
17 in the Midwest was simultaneous with the heat wave in  
18 Florida, do you?

19 A It's my general understanding that we were  
20 experiencing abnormally extreme summer conditions  
21 while that was going on. I don't know that that was  
22 the case on June 2nd or June 3rd specifically. This  
23 heat wave we're talking about lasted almost a month.

24 Q Did Florida Power Corporation sell out of  
25 state at high market based prices during the ECAR

1 situation?

2           **A**     First of all, I don't think we sold power to  
3 ECAR. I think we did sell power to Georgia at prices  
4 that were higher than the prices that were in Florida.  
5 I think that would have occurred at a time when the  
6 resources were available. Is that information in the  
7 letter that you handed me?

8           **Q**     No. . It's actually in a different  
9 communication from, I believe, Mr. Stanfield to  
10 Mr. Ballinger.

11           **MR. WRIGHT:** And, Chairman, I'd like to go  
12 ahead and distribute this. (Counsel hands out copies.)

13           **CHAIRMAN JOHNSON:** Okay. Mr. Wright, how  
14 much more do you have?

15           **MR. WRIGHT:** I hope not a whole lot, Madam  
16 Chairman. Perhaps ten to 20 minutes, depending on how  
17 quickly it goes.

18           **CHAIRMAN JOHNSON:** We will mark this 32, and  
19 a short title?

20           **MR. WRIGHT:** FPC's Response Re: Power Sales  
21 and Purchases.

22           **CHAIRMAN JOHNSON:** Thank you.

23           **MR. WRIGHT:** Thank you.

24           (Exhibit 32 marked for identification.)

25           **WITNESS RIB:** Okay.



1 Q (By Mr. Wright) Have you seen this  
2 document, Mr. Rib?

3 A I think I have seen this. I saw it this  
4 summer.

5 Q Okay. And it appears to be what it purports  
6 to be; that is, Power Corp's response to the Staff's  
7 inquiry on purchased power?

8 A Yes.

9 Q If you'll look on the last line under the  
10 response of No. 2 on the second page, it indicates  
11 that FPSC sold out-of-state \$3250 a megawatt-hour for  
12 two hours during some time period ending July 20th; is  
13 that correct?

14 A That's what it says.

15 Q Okay. You weren't selling at \$3250 a  
16 megawatt-hour out-of-state on June 2 and 3rd, were  
17 you?

18 A I doubt it. I don't know the exact  
19 chronology but I certainly doubt it.

20 Q Do you know when the high prices occurred in  
21 the Midwest?

22 A Not exactly.

23 Q Are you familiar with the publication "PUR  
24 Utility Weekly"?

25 A I don't receive that.

1 Q Have you seen it?

2 A I'm looking at it now.

3 Q Have you ever seen such an edition?

4 Published by Public Utility Reports.

5 A I don't receive that.

6 Q Okay. You've never seen one?

7 A I don't read that, no.

8 Q Subject to check, will you agree that the  
9 Midwest price spikes occurred in the last week of  
10 June, not when Florida was experiencing the heat wave  
11 on June 2 and 3rd?

12 MR. SASSO: The witness has just indicated  
13 he's not in a position to agree to this, so I don't  
14 think --

15 MR. WRIGHT: I didn't ask him about the  
16 publication.

17 MR. SASSO: Well, you said subject to check  
18 would he agree. I'm not sure that he can answer a  
19 question like that.

20 CHAIRMAN JOHNSON: Mr. Wright, obviously he  
21 doesn't know.

22 MR. WRIGHT: If he doesn't know, he doesn't  
23 know.

24 CHAIRMAN JOHNSON: Strike the question.

25 Q (By Mr. Wright) Mr. Rib, Commissioner

1 Deason asked you a question regarding whether there  
2 might be some expectation that Florida Power  
3 Corporation, or another utility, would purchase from  
4 cost-effective resources. Do you recall his question  
5 and your answer?

6 A I recall the discussion that we talked  
7 about. It was certainly a lot of discussion.

8 Q Well --

9 A Is there a question?

10 Q The question was did you recall his question  
11 and your answer?

12 Did you agree in response to Commissioner  
13 Deason's questions that there might be some  
14 expectation that you had purchased cost-effective  
15 power from a merchant plant when such power was  
16 available at cost-effective rates?

17 A I don't know that he asked me that question.  
18 But my recollection of that discussion was that there  
19 would certainly be, on the Commission's point of view,  
20 especially when we're talking about -- the short term  
21 we talked about, hour-to-hour type transactions -- I  
22 think the Commission's general expectation is that the  
23 utility buys or supplies power resources that are as  
24 cost-effective as possible.

25 So in that construct I think -- if this

1 plant existed, you know, hour-to-hour, day-to-day  
2 would you potentially buy power from it? And I said  
3 potentially yes, we would, if it was out there.

4 Q Will you agree that whatever expectation  
5 might be had or held of a utility's behavior under  
6 such circumstances would apply equally to merchant  
7 power that was available and to power that was  
8 available from traditional vertically integrated  
9 utilities as interchange power?

10 A Yes. In the simplest terms I think they  
11 would. I don't know -- I think they have been  
12 introduced to a line of reasoning, however, in our  
13 discussions where they are beginning to think about or  
14 examine that the flow-through benefits of transaction  
15 might be different in the case of a sale between  
16 regulated utilities versus a merchant plant. And, you  
17 know, I think that's going to require some examination  
18 of some thought to say over time, might an expectation  
19 develop that maybe a utility would be preferred to  
20 examine the overall flow-through impacts of utility  
21 interchange sales and the benefit to the general body  
22 of ratepayers versus the purchase of economy energy  
23 from a merchant plant where that flow-through benefit  
24 does not occur. And that's a whole new line of  
25 thought. I think we talked about it, giving examples

1 and examined it, but I don't think anybody has any  
2 opportunity to reach my conclusions about that yet.

3 But that's a possible circumstance under  
4 which they would re-examine that and say, well, maybe  
5 that's not the best for everybody, or that there would  
6 be some different way of thinking about it.

7 Q My question really was isn't the expectation  
8 more general and that you would be expected to buy  
9 cost-effective power from any resource available,  
10 whether it was from another preexisting traditional  
11 vertically integrated utility for from a merchant  
12 plant. I'm just asking you wouldn't the expectation  
13 be the same; that you would avail yourself of  
14 cost-effective power resources?

15 A And my answer was yes. The general  
16 expectation, given these circumstances, is yes. But I  
17 also -- again, I offered an explanation that gives us  
18 pause to consider the overall benefits to the general  
19 body of ratepayers. And I think the Commission would  
20 probably think about that as well, and out of that  
21 might come some different conclusion. I don't know.  
22 I think it's a new idea that hasn't really been  
23 examined very closely at this point.

24 Q Have you reviewed the Ten Year Site Plans of  
25 the other utilities in Florida that file such plans?

1           A     I do from time to time. I can't say that  
2 I'm conversant or familiar with all of them over all  
3 time, but from time to time I do take a look at them.

4           Q     Are you familiar with how many sites have  
5 been identified in those plans as either existing  
6 sites capable of being expanded or potential new sites  
7 on which power plants are capable of being  
8 constructed?

9           A     It would be fair to say I have more of a  
10 general knowledge of the plants and sites in the state  
11 than I would necessarily be relying on specifically  
12 reading Ten Year Site Plans. That's more a general  
13 body of knowledge. I'm sorry, I don't know that I  
14 could refer to a site in a --

15          Q     You --

16          A     -- Ten Year Site Plan.

17          Q     I did not mean to interrupt you.

18          A     Go ahead.

19          Q     You've testified regarding what you  
20 characterize as a construct in which some  
21 proliferation of merchant power plants might consume  
22 the tolerable limits of power plants that could be  
23 built in this. My question for you is have you made  
24 any analysis of what that limit might be?

25          A     No, I really haven't. I've listened to a

1 lot of discussion here about that, but I haven't.

2 Q I'd like to return to a subject we discussed  
3 in your deposition. And it's the hypothetical  
4 scenario in which a PacifiCorp affiliate, or some  
5 other utility affiliate -- that's not material -- buys  
6 OUC's Indian River units and begins operating those as  
7 merchant power plants. And my question for you is, if  
8 that were to happen, if PacifiCorp were to buy that  
9 power plant and market its power on a merchant basis,  
10 would that power plant and that entity owning and  
11 operating it, be operating within the current  
12 regulations?

13 MR. GUYTON: Objection, to the extent that  
14 this calls for a legal conclusion on the part of the  
15 witness. I think you're clearly asking for a legal  
16 conclusion.

17 MR. SASSO: Join in that objection.

18 MR. WRIGHT: I'm asking for his opinion as a  
19 planner who is active in the Florida wholesale market.

20 Q (By Mr. Wright) With that preface, as a  
21 utility system planner active in the Florida wholesale  
22 market and somewhat knowledgeable thereof, if an  
23 entity such as PacifiCorp were to buy the Indian River  
24 power plants from OUC and then operate them and market  
25 their power output as merchant capacity, would that

1 power plant and the entity owning it and operating it  
2 be operating within current regulations as he  
3 understands them?

4 **CHAIRMAN JOHNSON:** I'll let him answer.

5 **WITNESS RIB:** I think when we were  
6 discussing that I said that as far as I know first it  
7 would not. It -- I don't believe it, in any essence,  
8 would go through the siting process we're discussing.  
9 And, personally, I guess, I don't know of regulations  
10 that would prevent that from happening. So --

11 **Q** I'm not asking you --

12 **A** -- to the best of my knowledge I think it  
13 would be within the current framework. I don't know  
14 of anything that would prevent that. I mean, there  
15 could be some limitations on the ability of OUC to  
16 sell the plant, and that would -- you know, any of  
17 those financial, economic, tax or any other  
18 implications like that about whether they are even  
19 able to sell the plant or what type of review, I don't  
20 really have much knowledge on that end of it. But if  
21 you're asking they go through all of that, and all of  
22 that is examined, and that's -- and now the plant's  
23 available, I suppose they would be operating within  
24 the framework as I understand it.

25 **Q** Thank you. Will you agree that both Florida



1 Power Corporation and Progress Power Marketing have  
2 market-based rate authority?

3 A Yes. We did discuss that as well in our  
4 deposition.

5 My understanding is that Florida Power  
6 Corporation's marketing arm has the ability to sell at  
7 market-based rates outside of the state. And you  
8 showed me a copy of a FERC Order, in our deposition  
9 discussions, that said that Progress Power Marketing  
10 had market rate -- market rate authority as well. I  
11 also mentioned to you at that time that I don't think  
12 that entity is accurate. And you asked me does it  
13 legally exist? And I said I don't know. But there is  
14 a FERC order to that effect.

15 Q Okay. We've talked a lot about your  
16 planning. Does Florida Power Corporation plan for  
17 competition in the wholesale market?

18 A Yes. Yes. Florida Power does assume that  
19 competition exists in the wholesale market. And,  
20 therefore, there are certain assumptions made about  
21 power sales in that arena.

22 Q And will you agree that you have been  
23 planning accordingly since at least 1994 when you  
24 became involved in Florida Power's planning  
25 activities?

1           **A**     Yes.  Those have been included in that  
2 framework, yes.

3           **Q**     You testified briefly regarding conservation  
4 measures.  Is it your understanding that the Florida  
5 Public Service Commission sets conservation goals for  
6 utilities that are subject to its goal-setting  
7 authority that require, or attempt to achieve the  
8 implementation of all reasonably achievable  
9 cost-effective conservation measures?

10          **A**     That question has an awful lot of -- there  
11 was an awful lot of detail in there, and I'm not sure  
12 how to answer the question because I don't know  
13 exactly what you're asking me.  Can I answer a general  
14 question to that effect?

15          **Q**     Let me try to break it up.  The Commission  
16 sets conservation goals for a number of utilities in  
17 Florida, does it not?

18          **A**     Yes.

19          **Q**     And in setting those goals, does the  
20 Commission try to set those goals such that all  
21 reasonably achievable, cost-effective conservation  
22 will be undertaken and implemented?

23          **A**     I think that's a fair general understanding,  
24 yes.

25                 **MR. WRIGHT:**  Thank you.  I have no more



1 you, if you will. So can you try to answer the  
2 questions yes or no for me?

3 A I'd offer a couple of comments --

4 Q Let's just start with that one. If you  
5 could answer that one yes or no, that --

6 A Am I allowed to answer "I don't know," for  
7 example?

8 Q No. No. The question I'm asking you is can  
9 you try, consistent with the Chairman's directions to  
10 you, to answer my questions yes or no? Can you answer  
11 that question yes or no?

12 A No. I would try to answer the questions  
13 "yes", "no", or "I don't know." I think I'm allowed  
14 to tell you that I don't know.

15 Q Okay. I have been kind of keeping a count  
16 here and I haven't heard many yes or nos come out,  
17 so --

18 MR. GUYTON: Commissioner, could we just  
19 move this on with some questions, please?

20 MR. MOYLE: We have been here for quite some  
21 time. I'm trying to make it go quicker. I think if  
22 we get compliance with your request, that it will go  
23 quicker in my opinion. So all I'm trying to do is  
24 remind him of your directive, Madam Chairman.

25 Q (By Mr. Moyle) Mr. Rib, let me start with

1 a simple question again I think that can be answered  
2 yes or no.

3 Do you support a robust wholesale market in  
4 Florida?

5 A Mr. Moyle, you asked me that in deposition.  
6 I would attempt to answer it the same way I did. I  
7 support a competitive wholesale market in Florida. I  
8 think a competitive wholesale market exists. I  
9 honestly don't have a specific definition or know-how  
10 to understand the meaning of "robust."

11 Q In your answer you say you did support  
12 competition in Florida's wholesale market; is that  
13 correct?

14 A Yes.

15 Q Do you disagree with the opinion that was  
16 expressed by Dr. Nesbitt, the Stanford-educated PhD  
17 economist, that the introduction of a merchant plant  
18 in Florida will increase competition in the wholesale  
19 market?

20 A No, I don't disagree with that conclusion.

21 Q All right. Thank you.

22 You're a planner by training, isn't that  
23 correct?

24 A That is currently what I do, yes.

25 Q Do you consider yourself an expert planner?

1           A     Certainly -- yes, to the best of my ability.

2           Q     And as part of planning, aren't you forced  
3 to look into the future and see what the future may  
4 hold?

5           A     Yes.

6           Q     And as part of your planning, don't you have  
7 the ability to adjust for change that may occur in the  
8 future?

9           A     Certainly we would, yes.

10          Q     And don't you have the ability to react to  
11 events that may take place that would govern how you  
12 plan for the future?

13          A     Yes.

14          Q     Okay. And given your answers to those  
15 questions, don't you think that if this Commission  
16 were to indicate that Duke could go forward with their  
17 merchant plant, that you would be able, as a planner,  
18 to react to that change?

19          A     Yes. I think I'd have to react to that  
20 change if they chose to do so.

21          Q     Mr. Wright asked you some questions, and I'm  
22 not sure in my mind I ever understood what the answer  
23 was. But the questions related to Progress Power  
24 Marketing Group. Do you have a group that markets  
25 power within your corporate structure?

1           A     I'll do my best to answer that. We had, and  
2 I think that's past tense, although there's an  
3 underlying question here -- but we had a group called  
4 Progress Power Marketing that you would have found in  
5 publications' list of power marketers. And that was a  
6 portion, or a part of, or subsidiary of Progress  
7 Energy, which is a subsidiary of Florida Progress. So  
8 that, I guess, would have made that an affiliate of  
9 Florida Power.

10                 With Mr. Wright's question, I told him I  
11 didn't know if that entity was active because I don't  
12 think the company, as a whole, is pursuing those kind  
13 of opportunities anymore. To my knowledge, there are  
14 no employees remaining in the function. If Progress  
15 Power Marketing exists, that that would imply that  
16 it's simply in name only, and I don't believe that  
17 that entity is operating in any fashion. That was  
18 my --

19           Q     You do have -- and I may not have the right  
20 official name of the group -- but you do have  
21 individuals within your organization that market power  
22 today, don't you?

23           A     Within Florida Power, sure, yes, there is a  
24 Power Marketing Department.

25           Q     And they market that power based on market

1 rates, don't they?

2           A     They have the ability to market power  
3 outside of the state, yes. Outside of the state they  
4 have the ability to market power at market-based  
5 rates.

6           Q     And --

7           A     Inside, they do not.

8           Q     Outside of the state of Florida, their  
9 ability to market power, they sell into that market  
10 sometimes on a daily basis, don't they?

11          A     You mean outside the state?

12          Q     I'm sorry, outside of the state of Florida.

13          A     Well, from time to time, as opportunity  
14 permits.

15          Q     And they also sell into the market outside  
16 of Florida on a weekly basis, don't they?

17          A     Again, probably, from time to time, as  
18 opportunity permits.

19          Q     Isn't it true that you have 10 to 15 people  
20 now employed by Florida Power, that that's all they do  
21 is market power?

22          A     That's approximately correct, yeah.

23          Q     Do you see any huge distinction with respect  
24 to what your current employees, these 10, 15 people do  
25 in terms of marketing power, as compared to the



1 testimony that Duke has given with respect to how, at  
2 least in part, they intend to market power?

3       A     Well, I do see --

4       Q     Try yes or no, and then you can explain,  
5 please.

6       A     I'm sorry. What exactly was the yes or no?  
7 Do I see similarity --

8       Q     No. Do you see a huge difference between  
9 what your 10 to 15 --

10      A     Yes.

11      Q     -- people currently do?

12      A     Yes, I do.

13      Q     And what is that huge difference?

14      A     I think the distinction, as I would draw it,  
15 is that the primary mission of our power marketing  
16 group is to maximize the utilization and the benefits  
17 of the generating assets of our company. And the  
18 distinction that we've drawn in earlier conversation  
19 is that the benefits of the largest portion of that  
20 activity flow back to the ratepayers. Whereas, with a  
21 merchant like Duke doing similar power marketing  
22 activities, the benefits of those marketing activities  
23 would flow back to the -- to their shareholders.

24      Q     So the distinction then is who gets the  
25 economic benefit from the sales; is that correct? In

1 your case you're saying some ratepayers?

2 A That's the distinction I've highlighted,  
3 yes.

4 Q Okay. But your shareholders also benefit  
5 from those power marketing sales, don't they?

6 A In certain sales, to some extent they do,  
7 but for the lion's portion they don't.

8 Q Mr. Rib, last week -- and, again, I'm no  
9 expert in this area -- but I left a little bit  
10 confused. And the reason I was confused is as I read  
11 in your filed testimony, you indicated that in  
12 developing your Ten Year Site Plans, in calculating  
13 reserve margins, that you couldn't take into account  
14 plans to purchase power that is not based on an  
15 agreement that provides for the sale of firm capacity  
16 and energy; isn't that correct?

17 A I understood most of your question but you  
18 lost me at the end.

19 Q Let me refer you to Page 11 of your prefiled  
20 testimony.

21 A Is this Page 11 in what we've had called the  
22 "corrected" version?

23 Q In your prefiled testimony, on Page 11,  
24 Line 18, the question is posed "In developing this Ten  
25 Year Site Plan and calculating its reserve margin, is

1 FPC permitted to take into account plans to purchase  
2 power that are not based upon an agreement that  
3 provides for the sale to FPC of firm capacity and  
4 energy?"

5 MR. SASSO: Excuse me. I believe you're  
6 reading from the pre-corrected version.

7 WITNESS RIB: I don't have that version up  
8 here with me, I'm sorry.

9 Q (By Mr. Moyle) Let me ask you that  
10 question: Is that your recollection of your  
11 testimony, that you can't take into account plans to  
12 purchase power that are not based on an agreement that  
13 provides for the sale of firm energy and capacity?

14 A Mr. Moyle, I'd appreciate the opportunity to  
15 at least catch up with where you are so I can acquaint  
16 myself with the context.

17 Did the question start, "As a planner, when  
18 you're attempting to assess generating capacity --" et  
19 cetera, et cetera?

20 Q Let me just refer you to Page 8 of your  
21 corrected prefiled testimony.

22 A Thank you.

23 Q Line 11, the question -- if you would read  
24 the question and the answer.

25 A Okay. I think the question, Line 11 "In

1 developing its Ten Year Site Plan and in calculating  
2 its reserve margin, is FPC permitted to take into  
3 account plans to purchase power that are not based on  
4 an agreement that provides for the sale to FPC of firm  
5 capacity and energy?" The answer is "No. FPC may not  
6 take capacity into account at all."

7 Q And I had indicated I was a little confused,  
8 because didn't last week, in response to a question  
9 from Mr. Deason, Commissioner Deason, I thought you  
10 indicated that you had relied on capacity in your Ten  
11 Year Site Plan for which you didn't have a contract?

12 A No, sir, I did not.

13 Q Is that correct?

14 A I did not.

15 Q You didn't say that?

16 A No, sir, I did not.

17 Q As we sit here today you're not willing to  
18 rely on uncontracted capacity for your planning  
19 purposes?

20 A What I believe Commissioner Deason was  
21 asking is if I were -- let me back up.

22 If I were relying on some form of capacity I  
23 wasn't aware of, then perhaps my reserve margin might  
24 have been higher than 13%. I think that was the line  
25 of questioning. What I was offering in response was

1 that we were trying to resolve an issue on the load  
2 side of the formula, not the supplier research side of  
3 the formula.

4           What I was attempting to explain there was  
5 that there was some uncertainty on the load side that  
6 caused us to report the 13% reserve margin. If I had  
7 put something in there and simply said "unspecified  
8 purchase" to prop that up to 15% and then Commissioner  
9 Deason would have asked me a whole nother line of  
10 questions, potentially, about where am I going to get  
11 that, and so forth. And I was saying if we needed to  
12 go explore that, we would, but we hadn't reported in  
13 our reserve margin because we hadn't made a commitment  
14 to it.

15           Q     Let me ask you this, do you recall this  
16 question from Commissioner Deason last week and your  
17 answer, and I'm quoting from Commissioner Deason, "And  
18 so you're indicating to me that to the extent of a 2%  
19 shortfall in reserve you were willing to rely on  
20 uncontracted capacity? Now am I oversimplifying it or  
21 not? Witness Rib: I don't think you are." Do you  
22 recall that question and answer?

23           MR. SASSO: I would like to object. If this  
24 is intended to be an impeachment, that's not a  
25 contradiction. The question states that to the extent

1 that there is a 2% shortfall in reserve you're relying  
2 on et cetera, et cetera. The question does not  
3 indicate that Florida Power was relying on nonfirm  
4 purchases to contribute to the reserve.

5 **CHAIRMAN JOHNSON:** Mr. Moyle.

6 **MR. MOYLE:** I'm just trying to ask him  
7 whether he remembered that question and that answer.  
8 That's all I'm asking.

9 **CHAIRMAN JOHNSON:** We'll start with that  
10 point.

11 **WITNESS RIB:** I remember that line of  
12 discussion, yes. May I offer further explanation --

13 **Q (By Mr. Moyle)** My question was whether you  
14 recall it. Your other lawyer will have a chance to  
15 ask you some more questions.

16 You had indicated you're a professional  
17 planner, and as you plan, would you consider, under  
18 any circumstances, contracting for capacity and energy  
19 out of a Florida-based merchant plant? Assuming one  
20 was permitted to go forward and in the ground and  
21 operating?

22 **A** I think I've answered that on many occasions  
23 today already. I said that if, somehow, through this  
24 entire process, it was determined that that resource  
25 was available, then we would likely have discussions

1 with them. So the answer would be, yes, we would have  
2 discussions with them if they existed.

3 Q And you don't dispute, do you, the testimony  
4 of their witness, Mr. Green, where he said it was  
5 their intention to enter into contracts with  
6 Florida-based utilities if they were permitted to go  
7 forward?

8 MR. SASSO: Object to the question. I don't  
9 know how Mr. Rib can dispute Mr. Green's statement of  
10 his intent.

11 CHAIRMAN JOHNSON: I can't hear you,  
12 Mr. Sasso.

13 MR. SASSO: I'm sorry. I'm objecting on the  
14 ground that the question asked Mr. Rib to dispute  
15 Mr. Green's statement of intent.

16 MR. MOYLE: I'm simply asking the witness  
17 whether he thinks Mr. Green was telling the truth when  
18 Mr. Green said it's Duke's intention to sell energy  
19 and capacity out of that plant to Florida-based  
20 utilities.

21 MR. SASSO: That's not an appropriate  
22 question. We would object.

23 CHAIRMAN JOHNSON: I'll allow the question.

24 WITNESS RIB: I think we discussed earlier,  
25 in this morning's testimony, that Mr. Green -- I'm

1 aware that he made that statement. I'm also aware  
2 that he made a statement somewhat to the effect that  
3 he had, however, no obligation to sell to any Florida  
4 utility. So it leaves me a bit confused on what his  
5 ultimate intentions are. He's not obligated to do so.

6 Q I understand. You're mixing obligation with  
7 a direct question, which is do you have any reason to  
8 doubt Mr. Green's stated intention, which was to sell  
9 energy and capacity out of the Duke plant to  
10 Florida-based utilities if the Duke plant is permitted  
11 to go forward? You can answer it yes or no.

12 A Yes, I have some reason to doubt that.

13 Q And what would that reason be?

14 **CHAIRMAN JOHNSON:** Joe.

15 **COMMISSIONER GARCIA:** That was going to be  
16 my question.

17 **WITNESS RIB:** I'm sorry. Well, I guess we  
18 could go back over -- what I've just said and what I  
19 said earlier today and that -- I simply have some  
20 reason to doubt that he might, at some point in time,  
21 elect to sell wherever it's in the best interest of  
22 the owners of the plant. And I don't know where that  
23 might be.

24 Q **(By Mr. Moyle)** I'm not asking you about  
25 one specific point in time. I'm asking you from a



1 standpoint of putting in an asset worth \$160 million  
2 and him getting on the stand and raising his hand  
3 saying it's their intention to sell the capacity and  
4 energy out of that, at least some of the time, to  
5 Florida-based utilities. Do you have any reason to  
6 doubt that?

7           **MR. SASSO:** Madam Chairman, I must object.  
8 This is argumentative. And it is the Commission's  
9 function, not Mr. Rib's, to pass to the credibility of  
10 witnesses.

11           **CHAIRMAN JOHNSON:** Mr. Moyle, what was your  
12 question?

13           **MR. MOYLE:** I was trying to ask him if he  
14 has any reason to doubt that what Duke said it wants  
15 to do with respect to selling energy and capacity out  
16 of this plant, if it's permitted to go forward, that  
17 that's not their intent.

18           **CHAIRMAN JOHNSON:** Your earlier answer, I  
19 think you said yes, you -- maybe not answering that  
20 question directly, but I understood him to almost say  
21 yes, he had his reasons to doubt it, and then he tried  
22 to explain it.

23           **MR. MOYLE:** And as I thought -- not to argue  
24 but as I thought he explained, he said at some point  
25 in time they may sell out of the state. And I asked

1 as follow-up and clarification to say, you know,  
2 generally speaking, do you understand it to be -- or  
3 do you have any reason to disagree with Mr. Green's  
4 testimony, that Duke intends to sell out of that plant  
5 to Florida-based utilities?

6 **CHAIRMAN JOHNSON:** Let me make sure I'm  
7 following your question again. You're asking him  
8 whether he -- ask it again, please.

9 **COMMISSIONER CLARK:** Mr. Moyle, can I ask a  
10 question?

11 Mr. Rib, I take it your concern about -- you  
12 might not doubt what Mr. Green has to say about his  
13 intentions, but your concern is that without a firm  
14 contract you have no way to enforce and make him sell  
15 it to you. Therefore, you're not relying on it.

16 **WITNESS RIB:** That would be true.

17 **COMMISSIONER CLARK:** But in terms of the  
18 economics of it, you would assume that if it -- the  
19 plant is running and it has excess power, he would be  
20 willing to sell it?

21 **WITNESS RIB:** Yeah, certainly. I believe  
22 so. And if it's any consolation to Mr. Moyle, he's  
23 asking me do I believe this plant would sell at least  
24 some of its power to Florida? Yeah, I do. I think  
25 that's -- that would be an obvious conclusion from a

1 planning perspective.

2           **COMMISSIONER GARCIA:** Mr. Rib, from a  
3 planner -- following on that concert as a planner,  
4 because I think we're trying to split hairs here and  
5 that's not what -- we just want to get to the facts  
6 here. Clearly, if you were to flop down -- if FPC  
7 asked you about building \$160 million plant, clearly  
8 it would be cheaper to build that plant in other  
9 places than build it in Florida to ship north, so  
10 you'd obviously expect to sell some of that power in  
11 Florida, correct?

12           **WITNESS RIB:** Yes, I was willing to concede  
13 that.

14           **COMMISSIONER GARCIA:** And as a secondary  
15 issue to that, you would also concede that if you were  
16 building this plant, you would probably enter into  
17 contract for at least some of that capacity locally  
18 because clearly it's a huge investment and you can't  
19 just rely on hourly market prices for all your  
20 production costs correction.

21           **WITNESS RIB:** Well, actually that's not  
22 exactly what I said earlier. I said I thought there  
23 were clearly two possibilities. One, that the company  
24 would pursue -- by their nature, they would pursue  
25 long-term contracts, or two, that the possibility

1 might exist they prefer not to do that; might actually  
2 have a preference to sell hourly, as an hourly  
3 merchant plant. I don't know -- have really any way  
4 of knowing what their plans are.

5           **COMMISSIONER GARCIA:** But to sell hourly, to  
6 rely totally, completely on hourly, they would have to  
7 sell the majority of that energy into the Florida  
8 system, because you and I both know that it wouldn't  
9 be able to sell on a hourly basis all of its  
10 production to the north.

11           **WITNESS RIB:** I guess we're talking --  
12 possibly talking about the merchant world, which  
13 Dr. Nesbitt described, where, even as he put it, you  
14 could go naked, and he said he thought he might  
15 recommend that you go naked and just take all of your  
16 bets on the hourly market. So he, at least, explored  
17 that possibility with us, that an investor might want  
18 to do that.

19           **COMMISSIONER GARCIA:** But if you recall  
20 Mr. Nesbitt's testimony, then he pulled back, and he  
21 said but knowing how bankers are and how Wall Street  
22 works, you sort of want to guarantee something,  
23 correct? And it would probably, even if it were  
24 printing money, I think was his line, they still sign  
25 long-term contracts.

1           **WITNESS RIB:** I suppose that could be true.  
2 I don't know if Dr. Nesbitt is speaking for the  
3 preferences of management of the petitioners. I don't  
4 know.

5           **COMMISSIONER GARCIA:** Okay.

6           **CHAIRMAN JOHNSON:** Mr. Moyle.

7           **Q**       **(By Mr. Moyle)** Mr. Rib, let me ask this:  
8 As a planner, isn't it true that you already had  
9 reliability and planning discussions with the FRCC  
10 about Duke's merchant plant?

11          **A**       I remember when we were talking about this  
12 in my deposition I said that there had been general  
13 conversations at the FRCC about merchant plants. I  
14 don't believe I personally had any conversation with  
15 anybody about this specific plant. I think they were  
16 more general questions about how might merchant plants  
17 fit in, or how should they be fitted by the FRCC. It  
18 was really speculative discussions. I don't know that  
19 I ever heard a conclusion to any of that.

20          **CHAIRMAN JOHNSON:** Mr. Moyle, could you ask  
21 that question again? And Mr. Rib, you do need to  
22 start with a yes or no, because sometimes when you get  
23 to the end of your answer, I don't remember what the  
24 question is and don't know what your answer goes to.

25          **WITNESS RIB:** I'm sorry.

1           **Q**        **(By Mr. Moyle)** My question was, as a  
2 planner, isn't it true that you have already had  
3 reliability and planning discussions with the FRCC,  
4 Florida Reliability Coordinating Council, about Duke's  
5 merchant plant?

6           **A**        Okay, I apologize for not answering that  
7 directly.

8                    The answer would be no. And the follow-up  
9 would be the explanation I offered, that I don't  
10 recall having specific discussions with the FRCC about  
11 Duke's merchant plant proposal.

12           **Q**        Okay. Let me direct you to your deposition,  
13 Page 123. Do you recall your deposition, Mr. Rib? Do  
14 you recall me asking you the question, "Who have you  
15 discussed the merchant plant with with respect to the  
16 other utilities?" And your answer was, and I quote,  
17 "I guess I'm trying to recall any personal  
18 conversations that you would be implying. I might  
19 have talked to some folks in the FRCC environment. I  
20 mean, the FRCC has been doing planning and reliability  
21 analyses, and that's probably come up in the  
22 discussions." Do you recall that answer?

23           **A**        Yes.

24           **Q**        Okay.

25           **A**        I also followed that -- you followed that

1 with a question about general conversations with the  
2 FRCC.

3 Q Let me ask you another planning question.  
4 Is it good planning in today's world to plan for  
5 efficient gas-fired units and displace or retire  
6 older, dirtier, less efficient units?

7 A Well, I would answer that in two parts:  
8 Yes, it is good planning to consider new efficient,  
9 state-of-the-art gas-fired combined cycles. As we  
10 discussed, they do fit in the mix very well.

11 The other part, do I agree that we should  
12 displace older, as you term them, dirtier plants? The  
13 answer is not necessarily. That has yet to be  
14 determined in the planning process. That may be an  
15 outcome.

16 Q And I think you had answered the question of  
17 Mr. Deason earlier with respect to a general  
18 proposition, don't you want to try to retire your  
19 older, dirtier, less efficient plants and replace them  
20 with newer more efficient plants?

21 A That is a general proposition, yes.

22 Q Do you disagree with any of the earlier  
23 expert testimony provided in this hearing that Duke's  
24 proposed plant would result in a net benefit to the  
25 environment in terms of air emissions?

1           **MR. SASSO:** I've got to object to that  
2 question. It refers to any earlier testimony. I  
3 don't think that's a fair question.

4           **CHAIRMAN JOHNSON:** Mr. Moyle.

5           **MR. SASSO:** If he would like to refer him to  
6 a specific issue or statement, I think that would be  
7 more appropriate.

8           **MR. MOYLE:** Mr. Rib's been here throughout  
9 the course of the proceeding. Duke put on a number of  
10 experts. One was an environmental expert who  
11 indicated that the Duke plant, because it's coming in  
12 and burning cleaner fuel more efficiently, would have,  
13 I believe, a net reduction in the pollutants being put  
14 out in the air. I'm asking him if he disagrees with  
15 that expert testimony.

16           **MR. SASSO:** I would object on the ground  
17 I've already stated, and also on the ground this is  
18 outside the scope of Mr. Rib's testimony. He hasn't  
19 appeared to testify on environmental issues. He's now  
20 evidently being asked to retain in his memory every  
21 statement made about environmental issues and to  
22 express an opinion yea or nay on them. And that's not  
23 appropriate.

24           **CHAIRMAN JOHNSON:** Mr. Moyle, I don't  
25 believe this goes to anything that he directly



1 testified to. It is outside of the scope. So we'll  
2 strike that.

3 Q (By Mr. Moyle) Mr. Rib, you testified  
4 previously, didn't you, that in your opinion Duke  
5 can't satisfy a "need" as that term is used in Florida  
6 law?

7 A Yes. I think we might have adjusted that as  
8 a result of some conversations.

9 Q You're a planning expert, correct?

10 A Yes.

11 Q And you're not offering us a legal opinion,  
12 are you?

13 A No, I'm not.

14 Q And you're not a lawyer in this state.

15 A No, I'm not.

16 Q Wouldn't you agree that that is a legal  
17 issue that needs to be decided by the Commission up  
18 here?

19 A No. I believe that -- yes, I think the  
20 Commission has to decide that. But I think that what  
21 I've offered is an expert opinion, from the planning  
22 perspective, on how that applies to the way we plan in  
23 Florida.

24 Q Okay. Part of the reason you oppose Duke's  
25 merchant plant is due to the impact the plant, as I

1 understand it, if permitted to go forward, could have  
2 on the Ten Year Site planning process as it currently  
3 exists; isn't that correct?

4       A     No. I don't think I've implied that the  
5 plant would impact the Ten Year Site planning process.  
6 I've implied that there are concerns about how it  
7 relates to that process.

8       Q     So you don't think this plant will have any  
9 negative impact on the Ten Year Site planning process.  
10 Is that your testimony?

11       A     I didn't say that.

12       Q     Do you think this plant will have any  
13 negative impact on the Ten Year Site planning process?

14       A     I think it potentially could. I think it  
15 puts the Commission in a quandary to determine how to  
16 treat this plant; whether to treat it as, for example,  
17 a nonutility generator that is not required to file  
18 plans, or to begin to construct, as petitioners might  
19 have, that somehow this is a utility. I don't know.  
20 It creates some uncertainty and confusion in my mind.  
21 I don't think I arbitrate or settle those type of  
22 issues.

23       Q     Do you think that the Ten Year Site planning  
24 process, as it exists, is a good thing for the state?

25       A     As a whole, yes, I do.

1           Q     Okay. You were asked some questions earlier  
2 about would the existence of Duke's 500 megawatts in  
3 the Florida market have helped during the critical  
4 time period last summer. Do you believe that if  
5 Duke's plant had been in the ground and had had  
6 capacity available, that that would have been  
7 beneficial to Florida last summer?

8           A     I testified that it might have been.

9           Q     Do you think that if that had been in the  
10 ground, it could have in any way harmed Florida?

11          A     Yes. I've attempted to construct in my  
12 explanations the fact that I think that the presence  
13 of merchant plants changes the regulatory framework,  
14 changes the way in which we plan.

15                   **COMMISSIONER GARCIA:** Mr. Rib, could you  
16 answer the question then you can expound on it. How  
17 could that plant being in the ground last summer have  
18 hurt the state of Florida or hurt you, or hurt FPC or  
19 hurt its ratepayers? I'll expand a little bit more.  
20 Then you can go off into telling me the theory about a  
21 hundred new merchant plants. Tell me about this:  
22 Could it have hurt you, your company, or its  
23 ratepayers to have had that plant in the ground last  
24 summer?

25                   **WITNESS RIB:** I'm sorry, that's a difficult

1 question.

2           **COMMISSIONER GARCIA:** Well, think about it.  
3 Because you're the planner. I'm just saying -- I  
4 guess you're not the one that's dispatching the  
5 plants -- but if there was a plant, 500 megawatts,  
6 that would have been available in Florida, on the  
7 market, would it have been bad for you -- and when I  
8 say "you", your company, or your ratepayers, or the  
9 state reliability in some way?

10           **WITNESS RIB:** Commissioner Garcia, I guess  
11 what I've attempted -- the way I've attempted to  
12 answer that is to say if we leap across to the  
13 conclusion that the plants are allowed, and we leap  
14 across all of the policy ramifications and everything  
15 else about how they got there, I think I was willing  
16 to concede that a generation resource in that kind of  
17 situation could be beneficial. And I have been asked  
18 quite a few times would we consider them? Would we  
19 call them? Would we potentially buy from them?  
20 Leaping all the way across to the assumption that now  
21 they're there, and however they got there, they would  
22 be a wholesale market participant, and we would most  
23 likely work with them like we would anybody else.

24           I hope I've answered the question.

25           **CHAIRMAN JOHNSON:** Mr. Moyle.

1           **Q**           **(By Mr. Moyle)** Mr. Rib, you're aware,  
2 aren't you, that other Florida investor-owned  
3 utilities are pursuing merchant plants in other  
4 states?

5                   **MR. GUYTON:** (Mike not on.) It's really not  
6 relevant as to this proceeding.

7                   **MR. SASSO:** Join in the objection.

8                   **MR. MOYLE:** Madam Chairman, I think we've  
9 talked a lot about merchant plants. Some of his  
10 testimony is related to policy issues. Mr. Wright  
11 asked him a series of questions about FPC pursuing  
12 merchant plants in other states. I think it's a  
13 wholly appropriate question.

14                   **CHAIRMAN JOHNSON:** What does it relate to  
15 that he testified to? Specifically.

16                   **MR. MOYLE:** The question I want to have  
17 answered is, is he aware that other Florida-based  
18 utilities are pursuing merchant plants in other  
19 states? And he's already testified with respect to  
20 merchant plant activities in other states. From  
21 Florida Power Corp's perspective, I think with respect  
22 to impeachment, you know, if the -- as a matter of  
23 policy, if the investor-owned utilities are here say  
24 merchant plants are bad; they are bad for the  
25 environment, they are bad public policy, you ought not

1 to do them, I think it is legitimate to ask a question  
2 as to what merchant plant activities these same  
3 companies are pursuing in other states.

4 **CHAIRMAN JOHNSON:** Mr. Sasso.

5 **MR. SASSO:** I don't believe that that would  
6 remotely impeach Mr. Rib's testimony in this case. I  
7 don't believe it's relevant for that or any other  
8 purpose.

9 **CHAIRMAN JOHNSON:** I'm going to strike the  
10 question.

11 **COMMISSIONER GARCIA:** Let me ask Mr. Rib a  
12 question, Mr. Moyle, real quick.

13 You stated in one of the exchanges that your  
14 company buys from other people outside the state of  
15 Florida, correct?

16 **WITNESS RIB:** Yes, we do.

17 **COMMISSIONER GARCIA:** And you, I believe,  
18 buy from merchant plants outside the state of Florida?

19 **WITNESS RIB:** I guess I don't have any  
20 specific knowledge of that. I think by and large our  
21 purchases from outside of the state are firm contracts  
22 with Southern Company that I don't think those are  
23 merchant plants.

24 **COMMISSIONER GARCIA:** Okay. Now, you stated  
25 also -- I think Mr. Moyle quoted you from your

1 deposition and you agreed with him, that you support a  
2 competitive wholesale market.

3 **WITNESS RIB:** Yes.

4 **COMMISSIONER GARCIA:** Could you tell me in  
5 that context of that question, and I think you might  
6 have answered it, but I was surprised you had said it  
7 so directly, so I kept thinking about it -- how this  
8 plant negatively affects that wholesale market?

9 **WITNESS RIB:** I'll do my best.

10 I think what I've raised as my concerns are  
11 more related to the policy and long-term implications  
12 of allowing merchant plants into the framework and  
13 changing the framework. I've also allowed that on a  
14 short-term basis they may end up being just another  
15 resource.

16 So I think my concerns are more related to  
17 planning and policy within the regulatory framework,  
18 and the impact of that changing in this type of a  
19 proceeding, a very limited discussion -- a narrow  
20 discussion, without addressing other constituents'  
21 interests and other parties' interests, rather than  
22 long term, how they may have an impact if they are  
23 allowed. I'm sorry. I'm struggling with your  
24 question a little bit.

25 **COMMISSIONER GARCIA:** I just imagine it

1 would be a natural yes or no. I would assume that  
2 someone who supports a competitive wholesale market in  
3 Florida would support competitive wholesalers. Or is  
4 it you support a competitive wholesale market in which  
5 there is a limited number of wholesalers? I don't  
6 understand. A competitive market. The words  
7 "competitive market" assumes that you want more  
8 players. Because someone who supports a competitive  
9 market is looking for, I imagine, a competitive  
10 advantage that that market brings. So I thought it  
11 was a relatively easy answer.

12 Now, I know you have some other planning  
13 issues. And I think Commissioner Deason has addressed  
14 some of those and your concerns there, and I think  
15 that's been an interesting debate. But just on a  
16 simple question I would assume that it's a simple  
17 answer.

18 **WITNESS RIB:** Well, I guess I'd offer this:  
19 Almost any competitive market that I can imagine has  
20 rules and some regulations. And I think those rules  
21 and regulations are held as paramount by all of the  
22 participants. As I understand it today we have  
23 certain rules and regulations under which this  
24 competitive wholesale market in Florida operates. And  
25 my concern is mostly about a change in the rules. And



1 I think if you change the rules in other competitive  
2 markets --

3 **COMMISSIONER GARCIA:** Stop right there.  
4 Stop right there. That's the scenario you've drawn.  
5 Now add 500 megawatts to that competitive market.  
6 Tell me how that is negative. I'm not asking you to  
7 add 10,000 megawatts or 4500 megawatts or 5,400  
8 megawatts, I'm asking you to add 500 megawatts and  
9 tell me how that is bad?

10 **WITNESS RIB:** I don't think that 500  
11 megawatts is bad. I think what we're debating is the  
12 change in the rules and how they got there.

13 **COMMISSIONER GARCIA:** You believe that this  
14 would be a policy change. If this Commission approved  
15 this, determined that there was a need, you know --  
16 you believe that the 30 megawatts is not a real need  
17 but we determined there was a need.

18 **WITNESS RIB:** Yes, sir.

19 **COMMISSIONER GARCIA:** -- it would be wrong  
20 because the rules changed to let these guys in.

21 **WITNESS RIB:** Yes, sir. I'm here. I can  
22 only offer my impression. But my impression is that  
23 that would change the rules as I understand them.

24 **COMMISSIONER GARCIA:** You would assume,  
25 then, that this Commission, if it did that, would then

1 go forward and make other some changes in the rules to  
2 make sure that you wouldn't be hurt by this. Once  
3 your company demonstrated some kind of hurt -- because  
4 I've yet to hear any real hurt, but --.

5           **WITNESS RIB:** I assume that that type of  
6 change would be explored in a different environment,  
7 perhaps. Maybe an environment where all of the change  
8 and the ramifications were being considered and  
9 discussed, and where all of the stakeholders were  
10 forward-speaking their concerns. And all of that is  
11 taken into consideration.

12           I guess when I commented earlier -- I'm not  
13 trying to be difficult, but I commented earlier that I  
14 thought this proceeding was -- might be considered  
15 narrow in that context. It's addressing a specific  
16 question and not the framework.

17           **COMMISSIONER GARCIA:** Just so I understand,  
18 what do you think is the question we're considering?  
19 Because you're not a lawyer. You're here to talk  
20 about, I would assume, need, correct?

21           **WITNESS RIB:** I've offered that -- I've  
22 offered that we're --

23           **COMMISSIONER GARCIA:** Don't give me your  
24 whole testimony, but just tell me why we're here.

25           **WITNESS RIB:** I will.

1 I've offered that I think we're here in a  
2 narrow context to determine whether or not Duke and --  
3 these applicants are qualified applicants and whether  
4 there is a need for the power plant. But I've also  
5 stated that I feel it's precedential, and that from a  
6 policy point of view, it could change the framework  
7 within which this market operates.

8 **COMMISSIONER GARCIA:** But your basic two  
9 reasons -- one of them, is the legal applicant  
10 question, which I think Mr. Moyle is probably right,  
11 is a legal question and we can leave to this  
12 Commission, your lawyers, our lawyers and the rest.  
13 The other one is the question of need. I go through  
14 your citing plans and I could only find that you don't  
15 even meet the standard that the group you work with,  
16 the Florida Reliability Council, works with. You're  
17 under 15% at certain points, correct? And I imagine  
18 that the information in here was put together by you  
19 and your Staff and the group you work on.

20 **WITNESS RIB:** That's true. And I've  
21 attempted to offer an explanation for that in terms of  
22 how that fits within the planning process.

23 **COMMISSIONER GARCIA:** So, if I read what you  
24 filed before this Commission, which I have -- on  
25 several times this week already, I would come to the

1 conclusion as of what's in here as of, I believe, I  
2 think it was April when this all closed up; that there  
3 is a need -- you have a need that's unmet to meet your  
4 15% margin reserve, correct?

5 **WITNESS RIB:** Not exactly. What I've  
6 offered is that we've reported some uncertainty in  
7 load -- just absent anything else, based on that  
8 report, we've reported that we have a need for the  
9 resources to meet the 13%. We did not say that we had  
10 a need to meet the resources to meet 15%. And the  
11 fact that we published a need for resources only to  
12 meet 13% would imply that we're pursuing something to  
13 resolve that since we're trying to meet our criteria  
14 of 15.

15 **COMMISSIONER GARCIA:** But you understand  
16 where that puts this Commission, don't you? When the  
17 lights go out in Florida because you have too much  
18 cold weather or too much hot weather, besides blaming  
19 you, the policymakers of this state are going to look  
20 to this Commission, aren't they?

21 **WITNESS RIB:** In simple terms, yes, I guess  
22 they would. And I believe I owe you a reasonable  
23 explanation as to why that is not 15% of that plan. I  
24 understand that I'll be providing that.

25 **COMMISSIONER GARCIA:** If I'm not mistaken,

1 about 16% of -- your reference at, I think it's that  
2 year where you go at 15%, is interruptible customers,  
3 right? Do you remember that or recall? Am I in the  
4 ballpark?

5 **WITNESS RIB:** Sir, are you looking at the  
6 plan we filed in April?

7 **COMMISSIONER GARCIA:** I'm looking at my  
8 notes from the plan. Looking at my notes from the  
9 plan, yeah. So for you to find it directly -- you  
10 probably could find it directly and that wouldn't  
11 cause me a problem. (Pause)

12 **WITNESS RIB:** Okay. I'm looking at Page 68.

13 I guess -- and I don't mean to be difficult  
14 when we're talking about the planning process, but the  
15 way we calculate reserve margins, we calculate them  
16 based on generation available to serve firm load  
17 requirements.

18 **COMMISSIONER GARCIA:** Right.

19 **WITNESS RIB:** So on that premise, 100% of  
20 our reported reserves are actually generation and that  
21 might seem like a convoluted point, but we're actually  
22 calculating how much generation we have in excess of  
23 our firm load requirements.

24 **COMMISSIONER GARCIA:** You and I both realize  
25 that, for example, the City of New Smyrna, when they

1 don't have that interruptible power, it's quite a  
2 problem for them and its residents and its people,  
3 correct, when you interrupt them? I'm not arguing  
4 what you're doing for planning purposes, but clearly  
5 there is a consequence when you cut people off.

6           **WITNESS RIB:** There's two different issues  
7 here. There's an issue of customers who agree to  
8 be -- to have either all or a portion of their load  
9 considered nonfirm, in which case we have the ability  
10 under our tariffs to interrupt them if it's necessary.  
11 For example, a contract we might have with  
12 New Smyrna Beach would not be nonfirm, it would be  
13 firm. And we would honor that just like we would any  
14 of our firm customers on the system. We did not  
15 interrupt them and we don't plan to.

16           **COMMISSIONER GARCIA:** All right. You can go  
17 on, Mr. Moyle.

18           **MR. MOYLE:** Thank you.

19           **Q**       **(By Mr. Moyle)** I have just one further  
20 question. Before I ask it, I want to tell you in  
21 terms of cross examination, you understand that it's  
22 not -- hard questions are posed, and I posed what I  
23 have tried to make as some hard questions to be  
24 answered but nothing personal in terms of our  
25 discourse back and forth.

1           The one final question I want to ask you is  
2 would you support a merchant plant in Florida under  
3 any condition?

4           **A**       That being a global question that I'd answer  
5 yes, I think ultimately, and we're -- we might be  
6 heading off towards merchant world -- but ultimately  
7 this state may evolve and make a lot of decisions  
8 about retail competition and all kinds of other things  
9 that -- under which these merchant plants may make a  
10 lot more sense than they do today. So, the answer  
11 would be yes, I do envision circumstances under which  
12 they would make sense.

13                   **MR. MOYLE:** Thank you.

14                   **CHAIRMAN JOHNSON:** Let me follow up on that.  
15 And I know maybe it was broad and vague, and maybe  
16 that's the only way that you could answer it, but what  
17 would be those circumstances? What needs to occur?

18                   **WITNESS RIB:** I guess it's hard to define  
19 exactly, but if I may reflect on some of the  
20 deregulation activities that have been going on  
21 elsewhere in the country, we've seen enormous effort  
22 and opinion and -- just an enormous amount of effort  
23 that goes into having those discussions about how  
24 should we change the rule? Should we change the  
25 rules? When should we change the rules? As it

1 relates to either changing the rules in the wholesale  
2 arena and/or rules in the retail arena, and all of the  
3 ramifications, and all the constituents and parties  
4 that come forward, it's an enormous undertaking, in my  
5 mind, to change all of those rules. But eventually I  
6 know those discussions will be here as they are  
7 elsewhere.

8           So I guess I reflect on the most immediate  
9 examples we have, is how that's being conducted in  
10 other areas of the country where these merchant plants  
11 are starting to emerge. Like New England, for  
12 example, where they've gone through a whole  
13 restructuring effort of the retail and the wholesale  
14 markets; merchant plants are proliferating everywhere.  
15 It's an enormous amount of change going on up there.

16           **CHAIRMAN JOHNSON:** Okay. And perhaps it's  
17 more appropriate for the next witness because he talks  
18 more about what's happening --

19           **WITNESS RIB:** I think he'll be getting it.

20           **CHAIRMAN JOHNSON:** -- in New England. Okay.  
21 Staff.

22           **MS. PAUGH:** Madam Chairman, Staff has two  
23 exhibits they are passing out now. The first exhibit  
24 we request be marked is the deposition of Mr. Rib.

25           **CHAIRMAN JOHNSON:** Show that marked as 33,



1 and identified as Deposition of Michael Rib.

2 **MS. PAUGH:** Taken by Staff; is that correct.

3 (Exhibit 33 marked for identification.)

4 The second exhibit we would request be marked.

5 The short title is "1998 Forecast of Reserve Margins."

6 **CHAIRMAN JOHNSON:** We'll mark that as 34 and

7 identify it as stated.

8 **MS. PAUGH:** Thank you, Madam Chairman.

9 (Exhibit 34 marked for identification.)

10 **BY MS. PAUGH:**

11 **Q** Mr. Rib, if you will turn to your deposition

12 which has been marked as Exhibit No. 33.

13 **A** Yes. I have that.

14 **Q** Do you recall in your deposition that I

15 asked you if you are familiar with the Commission's

16 bidding rule, that's Rule 25-22.082 Florida

17 Administrative Code?

18 **A** I remember us discussing that area, yes.

19 **Q** Thank you, sir. Mr. Rib, as a planner, in

20 your opinion does the bidding rule only apply to

21 investor-owned utilities next planned generation unit

22 subject to the Power Plant Siting Act?

23 **A** I believe that's an accurate interpretation

24 of the rule.

25 **Q** Thank you, sir. Again as a planner, in your

1 opinion does the bidding rule require investor-owned  
2 utilities to purchase from an electric provider  
3 similar to that proposed by the petitioners?

4 A No, I don't believe that it does.

5 Q In your opinion, as a planner, do any of the  
6 Commission's rules or statutes require utilities to  
7 purchase from a plant like Petitioner's?

8 A Within the current framework, I don't  
9 believe so.

10 Q Thank you, sir. Mr. Rib, would you agree  
11 that the bidding rule allows investor-owned utilities  
12 the final decision on how it will meet its needs with  
13 respect to its ratepayers and customers?

14 A Yes, subject to Commission review.

15 Q Thank you, sir. Do you recall during your  
16 deposition we discussed the Power Plant Siting Act. I  
17 could refer you to Page 43 of your deposition.

18 A Yes, I remember we talked about it, and I  
19 will turn to Page 43.

20 Q Thank you, sir. Would you agree, as a  
21 planner, that the Power Plant Siting Act is intended  
22 to balance the need for a proposed generating unit  
23 with the environmental impact of that unit?

24 A Yes, I believe that's the general context.  
25 And it also includes the requirement that petitioners

1 attempt to defer or eliminate the need for that plant  
2 through conservation needs, et cetera.

3 Q Yes, sir. In your opinion as a planner for  
4 Florida Power Corporation, does every power plant have  
5 to receive approval under the Power Plant Siting Act?  
6 And by that I mean every type mechanically of power  
7 plant?

8 A No, it does not, actually. The Siting Act  
9 provides for exemptions of certain types of facilities  
10 that do not have to come through the Siting Act or  
11 site certification process.

12 Q What types of plants do not have to go  
13 through the Power Plant Siting Act?

14 A I think in my deposition I've offered up  
15 some examples, although I don't know that I could  
16 cover all possibilities. But some examples include  
17 plants that do not have a steam cycle, like simple  
18 cycle combustion turbines. The Siting Act requires  
19 that plants that have a steam cycle 75 megawatts or  
20 greater need to come through the process we're  
21 discussing. Plants that do not don't have to. So I  
22 offered an example of a combustion turbine that was a  
23 simple cycle, no steam.

24 Another example of that, as I understand it  
25 in the current construct, is that plants could be

1 repowered. And as long as the steam cycle did not  
2 increase, then they would not necessarily be required  
3 to go through this process either.

4 Q Could a combustion turbine plant that did  
5 not have a steam cycle in excess of 75 megawatts, but  
6 had capacity of in excess of 800 megawatts, be sited  
7 without going through the Power Plant Siting Act, for  
8 example?

9 A Well, there's -- I guess that has yet to be  
10 finally determined, but in my understanding, yes, it  
11 could be sited.

12 Q Mr. Rib, you stated both in your direct  
13 testimony and in response to Mr. Wright's questions on  
14 cross examination that you were concerned with this  
15 merchant plant proposed by Duke New Smyrna because it  
16 will -- and this is a quote -- "impair your ability to  
17 plan." If you could explain for me -- if you can  
18 reconcile for me, rather, how your ability to plan is  
19 impaired by Duke's New Smyrna proposed plant and it is  
20 not impaired by a plant, a combustion turbine plant in  
21 excess of 800 megawatts that would not have to go  
22 through the Power Plant Siting Act, I don't understand  
23 why this plant is being singled out as impairing your  
24 ability to plan.

25 A I'd offer a few thoughts in response.

1           Again, I don't know what the -- what was  
2 necessarily in the mind of the people who drafted this  
3 Siting Act or the requirement. I'd venture a guess  
4 that they weren't thinking about the proliferation of  
5 merchant plants in any way, whether they be exempt or  
6 not exempt from the requirement.

7           I think what I've attempted to offer is that  
8 the planning environment, yes, it does need to adapt,  
9 but the challenge is how to adapt to changing rules.  
10 It so happens, as Mr. Jenkins' has described, that in  
11 the Siting Act there are loopholes, as he's described  
12 them in other conversations, that allow some of these  
13 things to occur. But we have to adapt to whatever is  
14 in front of us. If the rules about the siting change  
15 also as a result of this application, we will have to  
16 adapt to that as well. But it doesn't mean it doesn't  
17 frustrate the planning process or make it difficult.  
18 I know I've gone on about that at length.

19           Q     Mr. Rib, I'm still confused. Is it your  
20 testimony that a plant like I've described, in excess  
21 of 800 megawatts of combustion turbine plant, that  
22 does not have a steam cycle in excess of 75 megawatts,  
23 is it your testimony that that type of plant will not  
24 impair your ability to plan?

25           A     Well, yes, it really will impair our ability

1 to plan. But since it's allowed under the current  
2 rules we're going to have to adapt to that now.  
3 That's a recent announcement. I don't think I can  
4 offer an example of anything like that ever being done  
5 in the state before. And I know I'm forced to adapt  
6 to that. But it will, at least until we understand it  
7 better, impair our planning process.

8 Q Thank you, sir.

9 I refer you now to Page 51 of your  
10 deposition. In that section of the deposition I asked  
11 you some questions regarding the laws and regulations  
12 regarding transmission of electric energy,  
13 particularly with respect to the jurisdiction of the  
14 FERC. Do you recall those questions, sir?

15 A I do remember us discussing that. I mention  
16 that I don't do transmission planning myself but I  
17 might offer at least some insights there.

18 Q To the extent that you know, under current  
19 regulations -- and this is based on your opinion as a  
20 planner -- how is short-term transmission service  
21 acquired?

22 A It's my understanding that it's requested  
23 from the transmission provider on the electronic  
24 bulletin board that they call OASIS.

25 Q That's the OASIS system?

1           A     Yes.

2           Q     Is this the same mechanism by which the  
3 owners of the proposed plant, if it's built, would  
4 access transmission on a short-term basis?

5           A     I believe so, yes.

6           Q     Would you agree that in order for the  
7 petitioner to acquire short-term transmission access,  
8 they must pay the rates posed on the OASIS system?

9           A     I believe that's true. I suppose there  
10 are -- there might be FERC rules that relate to what  
11 is charged for transmission. I'm just not an expert  
12 in that area. But absent knowing how rates might be  
13 other, I assume you'd look them up on the bulletin  
14 board and subscribe at those rates.

15          Q     Just as other short-term transmission  
16 purchasers would access it? It's the same manner; is  
17 that correct?

18          A     I believe so. And I think the construct  
19 there is that there's no preference offered to any  
20 party.

21          Q     Thank you, sir. Now, thinking about  
22 long-term transmission for a moment, would the  
23 petitioner, if the plant as proposed is built, have to  
24 pay for any increase in transmission capacity  
25 associated with a long-term sale it made pursuant to

1 FERC jurisdiction? I request this in your opinion as  
2 a planner.

3 A Okay. I'm sorry, could you ask one more  
4 time?

5 Q With respect to long-term transmission  
6 sales, if Petitioner's plant is built, would it have  
7 to pay for any increase in transmission capacity  
8 associated with the sale pursuant to FERC  
9 jurisdiction?

10 A I will give you my best explanation as I  
11 understand it as a planner.

12 When a transmission request is made it may  
13 or may not require upgrades, modifications or changes  
14 to the system. And as I understand the way the FERC  
15 rules were applied, they would pay -- any participant  
16 who signed up for long-term service would pay the  
17 tariff rate for transmission under all cases, unless  
18 it required upgrades to the system greater than the  
19 imbedded cost tariff rates. If it did -- in other  
20 words, suppose there was a request that caused a  
21 billion dollar line to be required to be built, as an  
22 example, then they could be charged for the impact on  
23 the system of that additional requirement.

24 So there are two different types of  
25 situations. One in which modifications, improvements



1 are within or below the imbedded rate of tariff  
2 service, and others which might exceed that and FERC  
3 has rules which govern both situations.

4 Q Thank you, sir. Again, during your  
5 deposition I asked you several questions regarding  
6 purchased power versus utility ownership. I refer you  
7 to Page 53 of your deposition. Do you recall those  
8 questions, sir?

9 A I see the range of questions here.

10 Q Thank you. Mr. Rib, does utility ownership  
11 of new generation assume at least a 30-year commitment  
12 on the part of the utility and its ratepayers?

13 A As I did there, I think the answer is yes.

14 Q Thank you. Is the selection of new  
15 generation by utilities driven primarily by fuel price  
16 projections in your opinion?

17 A Well, I think fuel price projections are  
18 very important. I think the decision to commit to a  
19 new resource depends not only on the fuel price  
20 projection, but the utility's resource mix, the growth  
21 rate of the customers -- there's actually a lot of  
22 things that come into play. But the fuel price  
23 forecast or the environment vision in the future does  
24 have a large effect on the decision.

25 Q Who bears the risk of fuel price forecast

1 associated with new utility generation, Mr. Rib?

2           A     I think by and large ultimately the  
3 customers do. In the current environment we have a  
4 fuel clause which there's a process for that.

5           Q     Are the shareholders of a utility affected  
6 by fuel price increases?

7           A     Potentially they could be. I think there  
8 are bounds within which the Commission governs our  
9 operations. So I think that the fuel price risk --  
10 the shareholders could ultimately bear some of that  
11 risk, but by and large the general ongoing -- general  
12 ongoing operation within the regulations provide for  
13 fuel cost to pass through.

14          Q     Thank you, sir. I would like you to turn  
15 now to the exhibit that's been marked for  
16 identification as Exhibit No. 34.

17          A     Forecasted reserve margins.

18          Q     Yes, sir. For purposes of getting some  
19 information into the record, I'm going to first ask  
20 you to confirm that this exhibit is correct copies of  
21 the pages of the documents from which it was compiled.  
22 I have provided you with the full copies of the 1998  
23 Regional Load and Resource Plan. You should see the  
24 cover page of that.

25          A     I'd be willing to concede that the excerpts

1 come from these documents. I assume they did. If  
2 you'd like me to be absolutely to confirm them, I will  
3 take the time to do so.

4 Q Only if your counsel has an objection, I  
5 will take your acceptance as sufficient for the  
6 record.

7 A All right. I trust that they have been  
8 properly excerpted by Staff.

9 Q For the record, the remainder of the  
10 documents from which these copies and excerpts have  
11 been made are the Florida Power and Light appendix to  
12 its Ten Year Power Plant Site Plan, dated April 1998,  
13 pages attached thereto from that appendix.

14 In addition, there is the Florida Power  
15 Corporation Ten Year Site Plan, detail as of December  
16 31st, 1997, and pages attached thereto.

17 On the top of this exhibit there is a  
18 document that Staff has compiled that reflects  
19 mathematical calculations. My next series of  
20 questions relates to these mathematical calculations.  
21 So unless you are willing to accept, subject to check,  
22 that these numbers are correct, we will go through the  
23 calculations which can be made from the documents in  
24 Exhibit 34.

25 A Well, I trust that the math is correct. But

1 I think there is some merit to spend a moment or two  
2 discussing what these numbers are and what they mean.

3 Q We intend to do that, sir. But first I'm  
4 trying to verify that the calculations are correct.  
5 So do you accept them, subject to check?

6 A Yes.

7 Q Thank you. Mr. Rib, you are familiar with  
8 Florida Power Corporation's Ten Year Site Plan and its  
9 Ten Year Site planning process, are you not?

10 A Yes.

11 Q In Florida Power Corporation's Ten Year Site  
12 Plan you show a reserve margin of 13% in the year  
13 2001 -- I'm sorry, that's for the winter of 2001;  
14 isn't that correct?

15 A Yes, as you've depicted and excerpted from  
16 the plan.

17 **MR. GUYTON:** I want to make sure the record  
18 is clear here. That's the winter of 2000-2001?

19 **MS. PAUGH:** Yes, Mr. Guyton. Thank you for  
20 that clarification. In fact, all of in my questions  
21 relate to the winter of 2002-2001.

22 **WITNESS RIB:** Which, by our definition would  
23 be December 2000, January and February of 2001.

24 Q (By Ms. Paugh) Thank you, sir, for the  
25 further clarification.

1           Mr. Rib, do you know if Florida Power  
2 Corporation intends to meet some of its needs in the  
3 winter 2002-2001 by purchasing short-term power?

4           A     That potential does exist.

5           Q     Would that be -- is that power contracted  
6 for?

7           A     Not at the present time. Had it been  
8 contracted for -- under these circumstances we  
9 probably would have reported that as a firm contract  
10 in our reserve margins.

11          Q     Yes, sir. Thank you. Based on the data  
12 from Florida Power Corporation's Ten Year Site Plan,  
13 isn't it true that Power Corporation's reserve margin  
14 for the winter 2002-2001 is made up entirely of load  
15 management and interruptible load? If you'd like to  
16 take a look at the exhibit, I believe you'll find it  
17 reflected in there.

18          A     Yes. I'll try to give you a page reference.  
19 Actually, the very last page of the package, or the  
20 exhibit that you handed out, shows schedule 7.2  
21 forecasted capacity and demand scheduled maintenance  
22 at the time of winter peak. And looking across the  
23 row entitled "Year 2000/01," I look across and find at  
24 the far right column, reserve margin after maintenance  
25 percent of peak, 13%. That number appears on the

1 summary page that you've offered. You'll also notice  
2 a reserve margin after maintenance and megawatts of  
3 1,065. That 1,065 is generation. It's not  
4 interruptible capability. By the way we define  
5 reserve margins, and this is traditional planning  
6 practice by us and all others to whom I'm familiar,  
7 the reserve margin is based on firm load; not on firm  
8 load plus nonfirm load. Therefore, the way this  
9 calculation is done is based on our firm load  
10 requirements, all of the firm requirements of our  
11 system, we have 1065 megawatts of generation above the  
12 generation resources we have to cover that firm load.  
13 So our reserve is actually generation and not load  
14 management.

15 Q Mr. Rib, referring to Page 66 of this  
16 Exhibit 34, it's table 3.3, for the winter of  
17 2002-2001 you show a total of 1481 megawatts if you  
18 add the interruptible load column and the load  
19 management column, do you not?

20 A Under "winter." I presume that would be  
21 true, yes. What that means to me is that's what the  
22 amount of customer subscription we have who have  
23 agreed to have either part or all of their load  
24 considered nonfirm.

25 Q So you have 1481 megawatts of interruptible

1 load and load management in the winter of 2002-2001,  
2 and you have 1065 megawatts of generation; is that  
3 your testimony?

4 A Yes, ma'am. I'm sorry. Let me clarify.

5 The total capacity available in that winter  
6 is actually -- 9,517 megawatts available to serve that  
7 firm load. The firm load is 8,452.

8 Q That's correct. And your reserve margin is  
9 1,065; is that correct?

10 A Yes, of generation.

11 Q Just as a matter of mathematics, if you  
12 divided the amount of your load, which is  
13 interruptible and load management, and that figure  
14 you've agreed to is 1,481, if you divided that by  
15 1,065, that equals 1.39, does it not?

16 A I imagine that it does.

17 Q Times 100 gives you 139%. That figure would  
18 reflect the percentage of your reserve that is  
19 reflected as load management and interruptible, would  
20 it not?

21 A No, it doesn't. I guess that's where I  
22 depart. On the one hand, one of those numbers implies  
23 a subscription rate of customers who have agreed to  
24 nonfirm service for a portion of all of their load.  
25 The other figure is the amount of generation that we

1 have available to meet our firm load requirements.  
2 And it's -- I realize it's very easy to mix these  
3 together, but they are not the same thing in my mind.  
4 I'm first and foremost looking at the firm load  
5 requirements of the system and trying to determine the  
6 reserve margins required to serve that firm load. I  
7 guess that's not exactly the same thing as you're  
8 saying. They are not apples-to-apples comparison  
9 there. The calculation is correct, though. The  
10 numbers themselves, I suppose.

11 Q Just to make sure I understand, Mr. Rib, is  
12 it your testimony that 139% of Florida Power  
13 Corporation's reserve margin for winter 2002-2001 is  
14 not load management and interruptible?

15 A I would love the opportunity to restate  
16 that, if I could, to give you what I understand to be  
17 the case.

18 I guess -- and I'm not trying to be  
19 confusing or difficult. I define 100% of Florida  
20 Power Corporation's reserves to be generation  
21 reserves. Now, you're asking me then can I confer  
22 between the load management, or interruptible portion,  
23 and the generation reserves, when we compare those two  
24 numbers, the mathematics come out to 139%.

25 But I guess I'm trying to imply that our



1 reserves are generation, they are not load management.

2 Q If you added residential load management  
3 back into the firm load number, you would have a  
4 negative reserve margin, would you not?

5 A We don't calculate reserve margin that way.  
6 I mean I might be able to make it a little simpler for  
7 you. If you're asking me -- if we hit a winter peak  
8 where -- the forecast winter peak, in this example  
9 that you've given us, would we need to interrupt  
10 nonfirm load? The construct of this answer would be  
11 yes; simply by taking the numbers, the answer would be  
12 yes.

13 COMMISSIONER GARCIA: Let me slow you down  
14 because I think I lost you. You're telling me that --  
15 because Staff and you are either talking past each  
16 other or you're both reading different things. But  
17 you're saying to me that the 13% margin reserve is  
18 purely based on generation. So the 100%, plus the 13%  
19 margin reserve is based all on generation; not that --  
20 because you're not giving someone electricity like an  
21 interruptible, but it's based on generation. Because  
22 I think you guys are speaking past each other.

23 A I think that's correct. I guess what -- all  
24 I'm offering is -- and this is not -- all I'm offering  
25 is the very, very basic approach to calculating

1 reserve margin that's based on firm load.

2           **COMMISSIONER GARCIA:** I know. What you're  
3 saying to me is that you could operate -- you could  
4 operate at a 113%. In other words, you could supply  
5 13% margin. It's all based on generation. None of  
6 that would be interruptible.

7           **WITNESS RIB:** Presuming that 113% of those  
8 resources were available at that moment, we'd attempt  
9 to serve every bit of that, yes.

10           **COMMISSIONER GARCIA:** When you say resources  
11 you mean generation?

12           **WITNESS RIB:** Right. I mean, one of the  
13 reasons that reserve margins are included are to help  
14 to cover the potential for a loss of a unit or  
15 something like that. So to the extent we can, we try  
16 to provide for -- we will attempt to provide to the  
17 extent that the system is available.

18           **Q**       **(By Ms. Paugh)** Mr. Rib, would you agree  
19 that Florida Power Corporation's short-term off-system  
20 sales -- and by that I mean less than a year -- were  
21 probably minor compared to Florida Power Corporation's  
22 total revenue?

23           **A**       Probably. Yes, probably.

24           **Q**       Do you know what the percentage is of  
25 dollars for 1997 that flowed back to customers of

1 Florida Power Corporation from short-term off-system  
2 sales through the fuel clause in relation to  
3 Power Corp's total system revenues?

4 A No, I'm afraid I don't.

5 Q We would request a late-filed exhibit from  
6 this witness to be titled "1997 Percentage of Revenues  
7 from Off-system Sales" that would reflect that  
8 percentage.

9 A By that are you requesting that I provide  
10 that information?

11 Q Yes, sir. Unless your counsel has an  
12 objection.

13 A I don't see them objecting.

14 CHAIRMAN JOHNSON: We'll identify that as  
15 late-filed 35.

16 MS. PAUGH: Thank you, Madam Chairman.

17 (Late-filed Exhibit 35 identified.)

18 WITNESS RIB: And to ensure that I have it  
19 accurately, it's the percent of --

20 Q (By Ms. Paugh) It's the percentage of  
21 dollars for 1997 that were flowed back to customers of  
22 Florida Power Corporation from short-term off-system  
23 sales through the fuel clause in relation to Florida  
24 Power Corporation's total system revenues.

25 A Thank you.

1           Q     Thank you.  Okay.  Mr. Rib, when Florida  
2 Power Corporation builds a power plant, isn't it true  
3 that at least initially there tends to be excess  
4 capacity, and by that I mean excess over your then  
5 current requirements.

6           A     That does happen, i.e., load growth for a  
7 utility of our size might be in the neighborhood of  
8 150, 200 megawatts a year, so there are lumps over the  
9 years.

10          Q     Could that excess capacity be sold on the  
11 wholesale market?

12          A     Yes.  It's my belief that it could be, and  
13 chances are to the ultimate benefit of all parties we  
14 would attempt to do so.

15          Q     Would that excess capacity affect adversely  
16 the wholesale sales of other Florida utilities?

17          A     I suppose you can say that it would in that  
18 as new plants came on, depending on what they were,  
19 there could be some interplay between sales made by  
20 other utilities from their resources.

21          Q     Does Florida Power Corporation currently  
22 have plans to accelerate construction of a plant in  
23 the year 2001?

24          A     Yes.  That's what we've proposed in our  
25 request for waiver with the bidding requirements.

1 Q Is that the Hines Unit 2, Mr. Rib?

2 A Yes, that's what's been proposed.

3 Q How many megawatts is that unit?

4 A Nominally, 500, maybe 520, something like  
5 that.

6 Q Would that plant that's being proposed, if  
7 it's built, have a effect on the reserve margin of  
8 Florida Power Corporation in the years 2001 and 2002?

9 A Well, it would have an affect, not on this  
10 winter we have been talking about, because it would  
11 come in service after that. It would have a affect  
12 once it was in service, yes.

13 Q If the plant is constructed -- and I know  
14 this may be a little speculative -- if it's  
15 constructed according to your current time line, when  
16 would it go on line, do you know?

17 A I believe what we've stated is the summer of  
18 2001. I think the schedule might be for June.

19 Q Okay. With that assumption in mind, would  
20 it be possible for you to supply us with a late-filed  
21 exhibit that would reflect your analysis of the effect  
22 on reserve margin that plant would have? And I  
23 understand that's something that has not been  
24 permitted yet, but if it were as proposed?

25 A Well, I guess what you're asking is

1 something we would normally respond to in the planning  
2 process, which would either imply the filings we make  
3 early next year and/or what we file in the need  
4 determination. And we are working to try to finalize  
5 all of those as we speak. I mean, that's -- all  
6 that's not been finalized yet. So that's --.

7           **MR. SASSO:** We would object to that  
8 late-filed exhibit on the basis that Mr. Rib has  
9 stated. It's difficult to focus on just one variable  
10 ahead of the planning process, ahead of that need  
11 determination proceeding.

12           **MS. PAUGH:** We'll withdraw the request.  
13           (Request for Late-filed Ex. 35 withdrawn.)

14           **Q**     **(By Ms. Paugh)** Mr. Rib, is one of the  
15 reasons Florida Power Corporation is requesting to  
16 accelerate the Hines unit is that the company is  
17 concerned about the sustainability of its load  
18 management on its system?

19           **A**     Yes. We have expressed some concern about  
20 the current mix that we have in terms of interruptible  
21 versus supplied resources.

22           **Q**     Thank you, sir.

23           **MS. PAUGH:** We have no further questions.

24           **COMMISSIONER GARCIA:** Mr. Rib, I think I  
25 understood your distinction between where Staff was

1 driving at and where you were driving at. Correct me  
2 if I'm wrong. You take all of your interruptible and  
3 load management customers off from that which you need  
4 to serve; is that correct?

5 **WITNESS RIB:** Well --

6 **COMMISSIONER GARCIA:** In other words, when  
7 you calculate -- because I wasn't understanding the  
8 difference between you and Staff. When you calculate  
9 your need, your company's need to serve, that 100% or  
10 115%, interruptible customers are not in that group.

11 **WITNESS RIB:** I think the answer to the  
12 question is yes. When we calculated firm load --

13 **COMMISSIONER GARCIA:** Is that true also of  
14 load management customers?

15 **WITNESS RIB:** Suppose we -- that I'm a load  
16 management customer and I have a whole household and  
17 you can interrupt my air conditioner. The air  
18 conditioner would be considered nonfirm. The rest of  
19 my load is firm. In that example, the rest of my load  
20 is, in the planning context, is firm load.

21 **COMMISSIONER GARCIA:** Got you. So what you  
22 basically do is you back out those people from your  
23 need, that which you can interrupt is backed away from  
24 your need so they do not encompass the -- 100% of the  
25 115% that you need to always have, correct?

1           **WITNESS RIB:** That's exactly how we do the  
2 calculation. I wouldn't necessarily go so far as to  
3 say we don't take it into account at all, just saying  
4 that's -- traditionally that's the measure which we've  
5 submitted our reports on and that's how it's been  
6 done.

7           **COMMISSIONER GARCIA:** So when you're meeting  
8 115%, if you weren't using -- if you were keeping  
9 those people off -- (phone rings) -- they would  
10 obviously not -- (phone rings) They would not be  
11 served for you to be able to meet that margin? (phone  
12 rings)

13           **WITNESS RIB:** Yes. I believe you're  
14 asking -- (phone taken off hook) (Laughter)

15           **COMMISSIONER GARCIA:** I'm the only one in  
16 this office here, so --

17           **WITNESS RIB:** I apologize. I guess what  
18 you're saying, when we calculate reserve margins it's  
19 based on firm loads so that calculation assumes that  
20 nonfirm load is not present, which means that the  
21 reserves are required above only firm load, and not  
22 above what the total demand could have been if we  
23 didn't have any of those type of programs.

24           **COMMISSIONER GARCIA:** So all of the  
25 customers that you have that are load management, that



1 part of the load management bill, or whatever it is,  
2 the air conditioning, as well as all of those larger  
3 customers that are interruptible are not included in  
4 your basic needs?

5 **WITNESS RIB:** You're asking me if they are  
6 included in the basic need --

7 **COMMISSIONER GARCIA:** I'm sorry. They are  
8 not included in the 113%.

9 **WITNESS RIB:** That's correct. That's simply  
10 the way it's calculated universally. I guess I'd  
11 offer the clarification that we do take a lot more  
12 than that into consideration when we look at need.

13 **CHAIRMAN JOHNSON:** Any other questions?

14 **COMMISSIONER CLARK:** Joe, was that your wife  
15 you hung up on? (Laughter)

16 **COMMISSIONER GARCIA:** I certainly hope not.

17 **CHAIRMAN JOHNSON:** Redirect? Staff?

18 **MS. PAUGH:** Request that 34 and 35 be moved  
19 into the record. Redirect.

20 **MR. SASSO:** I'm confused about one of the  
21 exhibits. Perhaps, Madam Chairman, if you could  
22 clarify what has been marked as Exhibit 32?

23 **CHAIRMAN JOHNSON:** 32 is FPC's Response in  
24 Re: Power Sales Purchases.

25 **MR. SASSO:** Very well, thank you.



1 but perhaps in the example of the Duke plant, that I  
2 didn't know, ultimately, whether that would be  
3 required or not.

4 Q Did you intend to express any opinion about  
5 whether a plant such as that would be subject to  
6 FEECA?

7 A The best as I can say, a similar line of  
8 questioning, I don't know if they would be subject to  
9 that or not; whether they would be considered a  
10 utility or not.

11 Q Do you know whether that plant would be  
12 required to file an emergency energy plan?

13 A Again, I don't know that it would or would  
14 not.

15 Q We've also talked today about your concern  
16 about the potential duplication of generation  
17 resources. Are utilities currently planning to phase  
18 in new power plants --

19 A Yes.

20 Q -- in the next ten years in the context of  
21 each utilities' system diversity and need?

22 A Yes, I think that's very true.

23 Q Do you understand whether Duke is proposing  
24 to have its plant approve based on need as you  
25 understand it or economic opportunity?

1           **A**     I've tried to explain --

2                   **MR. WRIGHT:** Object to the form. I think  
3 it's argumentative.

4                   **MR. SASSO:** I don't believe it's  
5 argumentative. It's a fairly straightforward  
6 question.

7                   **CHAIRMAN JOHNSON:** Would you rephrase the  
8 question?

9           **Q**       **(By Mr. Sasso)** Mr. Rib, do you have an  
10 understanding whether Duke is proposing to have its  
11 plant approved based on need as you understand it?

12           **A**     My understanding -- I'm sorry, I'm losing  
13 track. Ask again, please.

14           **Q**     Would you like the question again?

15           **A**     Yes.

16           **Q**     Is Duke proposing to have its plant approved  
17 based on need as you understand it?

18           **A**     No.

19           **Q**     Do you have a concern whether, if Duke  
20 builds this plant, it will duplicate the facilities  
21 that the utilities are intending to build?

22           **A**     Yes, I do.

23           **Q**     Does that create a concern in your mind  
24 about uneconomic duplication of future generation  
25 resources?

1           **A**     Yes, I believe that it does.

2           **Q**     Now, Mr. Wright asked you some questions  
3 about a communication that he says he had with  
4 Mr. Jenkins of the Public Service Commission Staff.  
5 Do you have any idea what Mr. Wright discussed with  
6 Mr. Jenkins about a Ten Year Site Plan?

7           **A**     No idea whatsoever.

8           **Q**     If Duke files a Ten Year Site Plan next  
9 year, and the Public Service Commission Staff reads  
10 it, does that establish to your satisfaction that Duke  
11 would be operating an electric generation system?

12          **A**     No, it doesn't establish anything to my  
13 satisfaction.

14          **Q**     Are you aware of other independent power  
15 producers in this state with generating units with 250  
16 megawatts or greater that do not file Ten Year Site  
17 Plans?

18          **A**     Yes. I'm aware of at least a couple.

19          **Q**     Could you name them?

20          **A**     I know of two facilities under contract to  
21 Florida Power and Light, Cedar Bay and Indiantown,  
22 that are both fully under contract, but to my  
23 knowledge they don't file site plans on their own.

24          **Q**     Mr. Wright asked you about a reference in a  
25 1995 Florida Power Corporation Ten Year Site Plan

1 concerning a CT plant, combustion turbine plant, that  
2 was projected to be installed or in service in  
3 November 2003, with a location that was undetermined  
4 at that time.

5           When a site plan says "unspecified location"  
6 what's the significance of that from a planning  
7 perspective?

8           A     Well, certainly, in the context of this  
9 question, what I would mean by that in a plan is that  
10 we might not have determined which specific location  
11 or which specific existing site that plant would  
12 likely be located, simply because decisions like that  
13 weren't necessary to be made yet. But we knew in our  
14 minds that we had at least several potential locations  
15 for a plant of that type, and it wasn't necessary to  
16 define the exact final location until a commitment was  
17 made.

18           Q     What is your normal time line for selecting  
19 a plant site?

20           A     I guess that depends on the type of plant.  
21 I think we -- on our Hines Energy Complex we worked on  
22 the siting issues well before we actually -- to try to  
23 develop the constituency for the location of a major  
24 generating facility of that type.

25                     In terms of locating a plant that's --

1 locating an additional unit on an existing site,  
2 that's probably more oriented towards the type of  
3 equipment it is. Combustion turbines might be the  
4 time frame it requires to order the equipment and to  
5 do the transmission studies for the ultimate  
6 beneficial location.

7 Q Now, I believe you also mentioned to  
8 Mr. Wright that you didn't have a contract in place  
9 for equipment for that plant back in 1995 when the  
10 plan was developed. What is the normal time line for  
11 getting such contracts into place?

12 A For a combustion turbine of that type, maybe  
13 18 months to two years versus -- if I'm doing my math  
14 correct -- something identified eight years on the  
15 horizon.

16 Q Mr. Wright showed you an exhibit, which I  
17 believe was mark as Exhibit 30, which was a graphic,  
18 you may recall, which depicts Florida Power  
19 Corporation's service territory and some contiguous  
20 regions. Do you recall that? And I believe you  
21 mentioned that it was used as part of Florida Power  
22 Corporation's determination of loss of load  
23 probability calculations. Do you recall that?

24 A I believe you're referring to Assistance  
25 Area Model for TIGER.

1 Q You talked a bit about assisted and  
2 unassisted loss of load probability calculations.

3 A Yes.

4 Q With respect to assisted calculations, you  
5 talked about consideration that might be given to  
6 buying power from generating resources that were not  
7 under firm contract to Florida Power Corporation. Do  
8 you recall that?

9 A Yes.

10 Q Do you base -- and by you, I mean do you and  
11 Florida Power Corporation -- base decisions to build a  
12 new plant on assisted loss of load probability  
13 analyses?

14 A No, we do not.

15 Q Do you use loss of load probability analysis  
16 to determine reserve margins?

17 A No, we do not.

18 Q Do you base reserve margins on nonfirm  
19 resources?

20 A No, we do not.

21 Q When determining whether to develop a new  
22 power plant, what drives that decision?

23 A The decisions that I have been a party to  
24 are driven largely by meeting reserve margin criteria  
25 for a reasonably expected load and service



1 requirements. And also looking at -- so it's a  
2 reliability basis, plus we look at the economics and  
3 we look at the mix of resources.

4 Q Now, there was some discussion last week  
5 about when Power Marketing came into existence in  
6 planning and so on. And I believe Commissioner Garcia  
7 was asking you a question about whether a company had  
8 either a power marketing arm or a planning arm in  
9 place five years ago. And I just wanted to clear up  
10 what the status of that was because I was confused.

11 Did Florida Power Corporation have a  
12 planning arm in place five years ago?

13 A Yes, we did.

14 Q Did it have one in place, say, 20 years ago?

15 A I believe it's planning -- the planning  
16 function, as I understand it, has been in place at  
17 least 20 years.

18 Q Did Florida Power Corporation make broker  
19 purchases and sales five years ago?

20 A Yes.

21 Q Did it make off-broker purchases and sales  
22 five years ago?

23 A Yes, it did.

24 Q Now, we've talked some about the benefit of  
25 wholesale transactions between regulated utilities

1 flowing back to customers. And I understand that  
2 you're going to be preparing a late-filed exhibit on  
3 that.

4 Can you explain how, and to what extent,  
5 that operates? How benefits flow to ratepayers in  
6 both broker and off-broker transactions?

7 A In broker transactions -- I did offer an  
8 example. I'll try to go back through that.

9 In a broker transaction I offered the  
10 example that a selling utility was offering power at  
11 \$20 and a buying utility's next best choice was \$30,  
12 so the opportunity to match them on the broker  
13 existed. That the utility then -- that it had the \$30  
14 operating opportunity -- could chose power for \$25  
15 through that match. And the simple concept I was  
16 presenting there is that the margin that the utility  
17 that bought for \$25, of course, would save the \$5 on  
18 the purchase; the utility that sold -- that sold for  
19 \$25 would have a margin of \$5 over their cost. And  
20 under the current Commission rules, and the way this  
21 was constructed, and, again, involving the oversight,  
22 knowledge of the Commission, that 20% of that margin,  
23 in this example \$5, could be retained to the  
24 shareholders as an incentive to participate in this  
25 broker, and the remaining 80% of the benefits would be

1 returned through the fuel clause to the customers.

2 Q And with respect to off-broker transactions,  
3 what percentage of the benefit of any sales is  
4 returned to the ratepayers?

5 A As it presently stands, to my knowledge, is  
6 that for transactions that are sold from Florida  
7 Power's generation system, that 100% of those margins  
8 flow back through the fuel clause to the customers.

9 Q Can you give us a ballpark about whether  
10 more transactions take place through the broker or  
11 off-broker?

12 A I don't have a percentage for you, but it's  
13 my understanding that the off-broker has gotten much  
14 more popular with development of the traders, trading  
15 floors and so forth. So it's the large majority of  
16 the transactions today.

17 Q There's been considerable discussion about a  
18 window in time where Florida Power Corporation  
19 projected a 13% reserve margin in its April '98 site  
20 plan.

21 Just for the sake of clarity, as I  
22 understand it, that window period concerned the winter  
23 of 2002-2001; is that right?

24 A Yes.

25 Q And a three-month period, December of 2000

1 through February of 2001; is that correct?

2 A Yes.

3 Q Now, when Commissioner Deason was asking you  
4 some questions about this last week and again today,  
5 you provided some explanation that the 13% number  
6 reflected some uncertainty about whether all of the  
7 load forecasted by a wholesale customer might come to  
8 pass. Can you just explain more fully what your  
9 decision-making process was that lead you to specify  
10 13% reserve margin during that window period?

11 A Yes. The essence of that was more a concern  
12 on the load side than it was the resources I mentioned  
13 earlier.

14 The concern we had is that we were trying to  
15 reconcile a load forecast with our largest wholesale  
16 customer, and we -- we have certain means in our  
17 forecasting function to make comparisons about how we  
18 believe their forecast will evolve versus what they  
19 report to us. We had a discrepancy of well over 200  
20 megawatts between our forecast and our customer's  
21 forecast. And we were working towards resolving that  
22 but we hadn't resolved that -- really fully exhausted  
23 and resolved that question with that customer at the  
24 time we had to file that plan. So there was  
25 uncertainty going on. And I have been asked did we

1 use the best numbers and best information available?  
2 Well, I guess in our opinion the best information  
3 available would have been our estimate of that  
4 forecast. But we feel it was pretty important to  
5 respect our customer's forecast and not simply imply  
6 we have a better number than they do.

7           So we respected that. We included that,  
8 their higher forecast of requirements into our  
9 forecast, but we knew we had to resolve this before we  
10 made a commitment to resources for the purpose --  
11 commitment of resources that would cost us and our  
12 customers money on that.

13           Subsequent to that, in late August we got at  
14 least an unofficial version of their updated forecast.  
15 Their updated forecast in that particular instance  
16 dropped 261 megawatts in that winter, and our concern  
17 was real and had been validated by that change in  
18 their forecast. That was not load that was to be  
19 served by somebody else or a contract that had  
20 expired. It was simply that they had a problem with  
21 their forecast, they were overforecasting and they  
22 made an adjustment to their forecast, which would have  
23 left us at a higher reserve margin had we simply been  
24 able to use that number earlier.

25           Q     If you were to take a snapshot of your

1 margin reserve with the benefit of that information,  
2 what impact would that adjustment in their load  
3 forecast have had on your margin reserve for that  
4 window period?

5       A     If we made the adjustment of 261 megawatts,  
6 our margin reserve, it would have been 16%.

7       Q     Now, you mention that during this period of  
8 uncertainty when you were discussing the forecast with  
9 a customer, that you gave some consideration to making  
10 commitments to purchase resources to cover that  
11 preliminary forecast by the customer. Why didn't you  
12 make a judgment at that time to go out and line up a  
13 firm contract to cover their higher forecast?

14       A     I'd offer that first we were concerned about  
15 committing to resources against that uncertainty which  
16 we felt was a very high probability of being resolved  
17 in the fashion it was, and we didn't want to impose  
18 that additional cost on your customers. We also felt  
19 that had that change not occurred, that we had ample  
20 time to explore different options to provide for that,  
21 the requirements that winter.

22       Q     Under any set of circumstances, did you  
23 anticipate being in the market in the winter of  
24 2002-2001 looking for power at that time?

25       A     Not at all. I think as that comes into

1 focus and we have the clarity we need to make those  
2 commitments, we'd make those commitments well ahead of  
3 time.

4 Q There's some discussion about what the  
5 future might bring, but have the final planning  
6 numbers become available to you yet for the plan that  
7 you're going to be submitting next year?

8 A No, they have not. Those come together in  
9 this time frame.

10 Q Now, at the time that you were projecting a  
11 13% reserve margin for that window period of time,  
12 just to be clear, was that due in any way to the  
13 unavailability of power purchase resource options at  
14 the time that you were doing your plan?

15 A No.

16 Q If the Duke plant had been up and running in  
17 April '98 when you filed that plan, would you have  
18 projected anything different?

19 A No.

20 Q When does Duke propose to put its plan into  
21 service, as you understand it?

22 A My understanding is in the fall of 2001.

23 Q If the plant were approved and permitted and  
24 built and put in service by that time, would it even  
25 have been available to you as a purchase power

1 resource during that window period of time in the  
2 winter of 2002-2001?

3 A No.

4 Q Now, at the time you made this projection,  
5 you explained that you were making some determinations  
6 about whether to make a commitment, et cetera. Now,  
7 in the event that you were going to make a commitment  
8 for a firm purchase power resources, what is your  
9 typical commitment horizon for doing that?

10 A I normally look to the -- our power  
11 marketing group to make those type of arrangements.  
12 And I think they -- typically in a situation like this  
13 they would probably like 18 months, perhaps two years,  
14 to work through that.

15 Q Is Florida Power Corporation relying on the  
16 possible construction of the Duke plant to meet its  
17 power resource needs at any point in time?

18 A No.

19 Q Is Florida Power Corporation planning to  
20 meet its needs throughout this ten year planning  
21 period by other means?

22 A Yes. I think you'll see in our plan that  
23 there are several proposed resources to meet our  
24 needs.

25 Q Commissioner Garcia asked you a series of



1 questions, both today and last week, about the  
2 interest you might have in buying power that's  
3 available on the market. And I believe last week he  
4 asked you to assume that you were in the market buying  
5 power, shopping for price as opposed to anything else,  
6 and wouldn't you benefit if there were more people  
7 offering power out there. Do you recall that  
8 discussion?

9           A     Yes.

10           Q     And last week -- and this week several times  
11 you talked about in a certain construction you suppose  
12 that would be true. Can you tell us what construction  
13 you have in mind when you're making those statements?

14           A     As we've discussed this morning, I have to  
15 assume as a leap of faith it would have somehow have  
16 gotten through the issues within the regulatory  
17 framework and the rules as to how that plant appears.

18                     But I suppose on the other side of that, if  
19 you assume it's there, I've offered it would be  
20 another resource in the market.

21                     The only other thought I'd offer is that  
22 it's -- I guess I haven't been able to simply  
23 accept -- and we talked about this a little earlier --  
24 simply that more is better. I spoke to the fact I  
25 think that if more is better, I don't know that we'd

1 be here today talking about how the Commission had  
2 been asked in the first place to regulate or to make  
3 these determinations that they were needed. In theory  
4 it would just be a matter of going to the local  
5 whomever and saying, "I'm building a power plant  
6 here." And they'd say fine. So there's obviously  
7 some need to regulate this process.

8 Q On that subject, Mr. Rib, is a policy of  
9 "more is better" consistent with your understanding of  
10 the policy that underlies a determination of need  
11 under 403.519 in the Siting Act?

12 A Considering what I just offered, no. It  
13 seems quite the opposite of that.

14 MR. MOYLE: Objection. This calls for a  
15 legal conclusion.

16 MR. SASSO: He's already answered it.

17 CHAIRMAN JOHNSON: I'll allow the answer.

18 MR. SASSO: And I have no further questions.

19 COMMISSIONER GARCIA: Madam Chairman, I have  
20 one more, because I gained a better understanding of  
21 it after his answer. And just want to make sure,  
22 Mr. Rib, that I understand this correctly.

23 In terms of me, if I'm -- I'm a customer  
24 with Florida Power Corp and I'm an interruptible  
25 customer. You don't take that need into account when

1 you're trying to meet your margin?

2 **WITNESS RIB:** We don't -- we don't take that  
3 load into account when we're calculating our margin  
4 reserve -- I think I'd be repeating --

5 **COMMISSIONER GARCIA:** If you could hold  
6 right there. Just so I could get a full  
7 understanding. You spoke past me. That's what  
8 happened. It's my ignorance, not your explanation of  
9 it.

10 Florida Power has -- do you recall how many  
11 interruptible customers, you know, load management  
12 customers? Something like 200,000, 250,000? It's a  
13 huge number, right?

14 **WITNESS RIB:** We have load management --  
15 like residential load management participants --

16 **COMMISSIONER GARCIA:** Yes.

17 **WITNESS RIB:** -- probably still in excess  
18 500,000.

19 **COMMISSIONER GARCIA:** 500,00. Oh, you're  
20 way ahead of me. Now, in terms of those customers,  
21 let's say half of those, and this is just so that I  
22 get a better understanding, have load management for  
23 air conditioning, correct?

24 **WITNESS RIB:** Yes.

25 **COMMISSIONER GARCIA:** That need would not be

1 reflected, correct? When you did your whole  
2 calculation on when you needed, that need would not be  
3 reflected because they are load management customers.

4 **WITNESS RIB:** I guess what I'm struggling  
5 with is that there's a difference in my mind between  
6 ultimately how we plan our system and all of the  
7 resources. It goes far beyond just calculating  
8 reserve margin.

9 **COMMISSIONER GARCIA:** I understand. It's  
10 just for my understanding. I'm not arguing that you  
11 always take into account these customers because they  
12 are your customers. What I'm saying to you is that  
13 half a million customers, if they happen to have air  
14 conditioning limited interruption, that need does not  
15 go into your margin reserve, correct?

16 **WITNESS RIB:** Right. That load is  
17 considered nonfirm and is not calculated --

18 **COMMISSIONER GARCIA:** Let me ask you about  
19 your interruptible customers. In other words, many, I  
20 guess, businesses, large businesses and the like sign  
21 up for an interruptible load with your company,  
22 correct?

23 **WITNESS RIB:** Yes.

24 **COMMISSIONER GARCIA:** That's because there  
25 are some price benefits to that. And I would assume

1 in that we include -- and correct me if I'm wrong --  
2 factories, I guess -- I don't know what else --

3 **WITNESS RIB:** Mines, stores, people who  
4 want --

5 **COMMISSIONER GARCIA:** Phosphate clients.  
6 Just big producers to some degree.

7 **WITNESS RIB:** Not only those, but others  
8 like stores, who have decided that they are somehow  
9 incented to enjoy these rate benefits.

10 **COMMISSIONER GARCIA:** And if they sign up  
11 for those rate base benefits, they do not exist in  
12 terms of when you calculate your need. Not in the  
13 broader, when you calculate your need to us, the 115%  
14 that we sort of acquired.

15 **WITNESS RIB:** When we calculate our reserve  
16 margin they are not included, that's correct. They  
17 are nonfirm load.

18 **COMMISSIONER GARCIA:** Mr. Rib, thank you  
19 very much. I appreciate it.

20 **COMMISSIONER DEASON:** I have a question. In  
21 response to an earlier question I got the impression  
22 that you have a wholesale customer who it is your  
23 responsibility to meet whatever demand they project  
24 from time to time? In other words, it's not a set  
25 contract that you provide them 50 megawatts or 100

1 megawatts. It's whatever --

2 **WITNESS RIB:** It's a very flexible contract.

3 **COMMISSIONER DEASON:** That seems to place a  
4 lot of risk on Florida Power Corporation, does it not?

5 **WITNESS RIB:** Yes, sir, it does.

6 **COMMISSIONER DEASON:** Does your contract  
7 adequately compensate you for that risk and your  
8 retail customers for that risk?

9 **WITNESS RIB:** I don't know that I can do  
10 that question justice. It's a difficult question.

11 **COMMISSIONER DEASON:** Is it normal for  
12 companies to have that type of a wholesale contract,  
13 full revenue -- full needs, what have they project?

14 **WITNESS RIB:** The customer we're talking  
15 about, we actually supply partial requirements rather  
16 than full requirements to. And that creates a degree  
17 of uncertainty as they manage their portfolio and  
18 adjust their needs and -- within ours as well and what  
19 they convey to us as our requirements. But I'd also  
20 offer that this can't grow or explode in wild amounts.  
21 There are some constraints in the contract as to how  
22 it can change.

23 We happened in this situation,  
24 unfortunately, to be dealing with somebody in their  
25 company who is brand new in the forecasting process

1 and was just not -- I guess, had not gotten completely  
2 grounded yet on what was going on so it took them some  
3 time.

4 **MR. WRIGHT:** Recross, please, Madam  
5 Chairman.

6 **RE CROSS EXAMINATION**

7 **BY MR. WRIGHT:**

8 Q Mr. Rib, in response to questions by  
9 Mr. Sasso I believe you indicated that in recent  
10 history Florida Power does not base its power plant  
11 construction decision on its loss of load probability  
12 analysis. Is that a correct characterization of your  
13 previous testimony?

14 A Yes.

15 Q And is it also correct that in recent  
16 history your power plant construction decisions have  
17 been based primarily on reserve margin analyses?

18 A I think I answered that by saying reserve  
19 margin was certainly a prime consideration, not the  
20 only one.

21 Q Is it true that Florida Power considers all  
22 of the reliability criteria, unassisted loss of load  
23 probability, assisted loss of load probability and  
24 reserve margin. And if anyone of them looks like it  
25 is going to be violated or the threshold value will be

1 exceeded, then that triggers a more serious look at  
2 whether FPC needs capacity?

3       A     Yes, that's true. I guess what I meant by  
4 recent history is that loss of load probability hasn't  
5 really been a significant factor or a threshold  
6 criteria for us or most of the other utilities in the  
7 state in recent history.

8       Q     I understood that to be your answer. I just  
9 wanted to clarify my understanding of your planning  
10 process, and you confirmed that.

11       A     That's correct.

12       Q     Mr. Sasso asked you some questions regarding  
13 what might be called the flow back of benefits that  
14 accrue to selling utilities.

15               Will you agree that if the New Smyrna Power  
16 Project is not built, and its merchant power capacity  
17 doesn't become available in Florida, that there will  
18 probably be some transactions that would otherwise be  
19 economic between that facility and utilities in  
20 Florida that will not occur?

21       A     No, I wouldn't necessarily agree with that.

22       Q     Well, you agreed --

23       A     May I finish my answer?

24       Q     Certainly.

25       A     I think utilities have proposed facilities



1 with similar benefits and similar capabilities that  
2 may offer from time to time similar opportunities for  
3 economic benefit. So I don't know that it all hinges  
4 on the presence of this plant we're talking about.

5 Q Earlier -- it may have been in response to  
6 questions by the Staff, I think it was -- you  
7 agreed -- or maybe the Commissioners -- you agreed  
8 that if the plant is built, it would run and it would  
9 make some sales. Do you recall agreeing to that?

10 A Yes, I imagine that it would.

11 Q Okay. If it's not built, that won't happen,  
12 will it?

13 A If the plant is built, I agree, it will not  
14 run.

15 Q Okay. As to the flow back of benefits,  
16 whatever they are from off-broker sales, doesn't the  
17 flow back depend to at least some degree on the  
18 jurisdictional separation of cost and revenues as  
19 between the first jurisdiction and the FPSC's  
20 jurisdiction?

21 A Yes.

22 Q Mr. Sasso asked you a question regarding  
23 whether the policy that "more is better" is consistent  
24 with the underlying philosophy of the Power Plant  
25 Siting Act as you understand it. Do you recall his

1 question?

2           A     I believe I answered that it was not  
3 consistent.

4           Q     Do you understand -- in your role as a  
5 planner -- I'm not asking you for a legal  
6 conclusion -- do you understand that the policy  
7 enunciated in the Act is to balance the need for new  
8 power plants against the environmental consequences of  
9 their construction and operation?

10          A     No. I don't think that covers nearly enough  
11 ground. I think there's a lot more consideration.  
12 That's a part of it. There's also a requirement in  
13 this process to try to defer the need to build the  
14 plant to begin with. And there's an examination of  
15 other alternatives available. There's a lot to it  
16 other than -- in addition to the balancing that you're  
17 describing.

18          Q     Well, will you agree that a power plant that  
19 would result -- the construction and operation of  
20 which would result in less environmental degradation,  
21 greater reliability, and more low cost power would be  
22 consistent with the underlying philosophy of the Power  
23 Plant Siting Act as you understand it?

24          A     I guess -- I feel like I may be treading on  
25 legal turf here, but if I understood it to be proposed

1 by a qualified participant in the framework, then the  
2 answer would yes.

3 Q Okay. If you want to go on, go on. But  
4 that was a good enough answer for me.

5 MR. WRIGHT: Thank you, Madam Chairman.

6 CHAIRMAN JOHNSON: Any follow-up, Mr. Sasso?

7 MR. SASSO: Yes. Just one follow-up  
8 question.

9 Mr. Rib, do you regard a merchant plant to  
10 be a qualified participant in the process?

11 MR. WRIGHT: Objection. That's the legal  
12 argument in this case, Madam Chairman.

13 CHAIRMAN JOHNSON: I'm going to allow the  
14 answer.

15 WITNESS RIB: No, I don't.

16 MR. SASSO: That's all I have. Thank you.

17 MR. MOYLE: Madam Chair, I had a couple of  
18 things that he brought up on redirect that I'd like to  
19 ask about, if I could.

20 CHAIRMAN JOHNSON: I asked you to tell me  
21 that a little earlier. I'm trying to allow latitude,  
22 and oftentimes we do this. Mr. Moyle, I'll allow you  
23 a few brief questions and I'll allow Mr. Sasso  
24 follow-up.

25 MR. MOYLE: Part of the reason, he

1 specifically mentioned two power plants that are owned  
2 by my client, and so I think it's appropriate to ask  
3 some questions about that and some other things, if I  
4 could. Thank you for your indulgence.

5 **REXCROSS EXAMINATION**

6 **BY MR. MOYLE:**

7 Q In response to a question by your attorney,  
8 you specifically mentioned that the Indiantown and  
9 Cedar Bay facilities did not file Ten Year Site Plans,  
10 correct?

11 A That's my understanding. I've never seen  
12 one filed by them.

13 Q Are you aware that the generating assets  
14 represented by those facilities are included in the  
15 Ten Year Site Plans filed by Florida Power and Light?

16 A I believe they are under contract to Power &  
17 Light in part of their resource mix.

18 Q You answered a number of questions from  
19 Mr. Sasso about the 13% issue that Mr. Deason had  
20 raised with you?

21 A Yes.

22 Q And you explained that it was partially  
23 based on this large wholesale customer. Is that large  
24 wholesale customer another municipal utility?

25 A I don't believe it would be considered a

1 municipal utility. I think it would be considered a  
2 cooperative.

3 Q So it is a cooperative that has an  
4 underlying retail load; is that correct?

5 A I'm not sure what you're asking me.

6 Q Let me ask it this way: Who is your largest  
7 wholesale customer?

8 A Seminole Electric Cooperative.

9 Q You also raised a point in response to a  
10 question from Mr. Sasso, and I think you said why are  
11 we here? That if Duke had the ability to go out and  
12 do this on their own, they would have already done it.  
13 Do you remember that answer to the question from  
14 Mr. Sasso?

15 A I'm sorry, I don't remember exactly.

16 Q In response to a question from Mr. Sasso, I  
17 think you -- as I interpret it, you made the point  
18 that if this were permissible, Duke would have already  
19 been out there constructing this type of plant and  
20 that -- (Simultaneous conversation)

21 A I don't think I said anything like that.

22 Q I'm sorry?

23 A I don't believe I said anything to that  
24 effect. It's not my recollection. If we can have the  
25 record read back to your point, I might --

1           Q     Let me ask you this question: Do you  
2 believe that the -- let me go on.

3                     You had answered a question from Mr. Garcia  
4 about people and customers that were not considered  
5 when you were calculating your reserve margins. And  
6 you had mentioned, I think, large phosphate companies  
7 and then you had also said stores, correct?

8           A     Yes.

9           Q     And would those stores include grocery  
10 stores?

11          A     I doubt it. I don't know of any.

12          Q     Would they include large department stores?

13          A     I believe we do have a large department  
14 store that is on an interruptible rate for some  
15 reason.

16          Q     Would they include large office complexes?

17          A     You're going beyond my personal knowledge.  
18 I think the most notable interruptible customers --  
19 well, you're going beyond my knowledge.

20          Q     What type of stores did you mean in response  
21 to that answer -- I'm sorry, in response to that  
22 question?

23          A     Well, I think the store -- the store that's  
24 the most interesting, I suppose, is Burdines, who for  
25 some reason decided they wanted to be incented -- or

1 they chose to join this interruptible rate and to  
2 potentially be interrupted. I think that's the answer  
3 to your question.

4 Q Are there any other department stores that  
5 have made this choice?

6 A I am not aware of any.

7 Q And again, these are the types of customers  
8 who are not -- who you are not planning for when  
9 you're doing your reserve calculations, correct?

10 A Mr. Moyle, I guess I've attempted to say  
11 that the reserve margin does not include nonfirm load.  
12 I've also commented that these customers have made  
13 willing choices by how they are incented by their  
14 economics, so simplistically --

15 Q Thank you. You've answered it. I'm just  
16 trying to understand if there's a problem, who is  
17 going to suffer the consequences. Thank you.

18 MR. SASSO: I'd like to have that last  
19 statement stricken.

20 CHAIRMAN JOHNSON: Show it stricken.

21 Any other -- Mr. Sasso, do you need any --

22 MR. SASSO: No further questions. Thank  
23 you.

24 CHAIRMAN JOHNSON: Exhibits.

25 MR. WRIGHT: I moved and you admitted on

1 last Friday Exhibit 30.

2 **CHAIRMAN JOHNSON:** I did.

3 **MR. WRIGHT:** I move Exhibits 31 and 32.

4 **CHAIRMAN JOHNSON:** Show those admitted  
5 without objection. And Staff.

6 **MS. PAUGH:** Staff moves exhibits 33, 34 and  
7 35, please.

8 **CHAIRMAN JOHNSON:** 35 is the late-filed. So  
9 we'll admit 33 and 34.

10 (Exhibits 31 through 34 received in  
11 evidence.)

12 **CHAIRMAN JOHNSON:** Thank you, sir. You're  
13 excused.

14 We're going to break for lunch until 2:30.  
15 Break until 2:30. We have another proceeding that  
16 begins at 1:30.

17 (Witness Rib excused.)

18 (Recess taken.)

19 (Transcript continues in Volume 11.)

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<p>\$160 1341/1, 1343/7 \$18.50 1294/24, 1295/14 \$20 1398/11 \$200 1312/19 \$25 1398/14, 1398/17, 1398/19 \$30 1294/25, 1398/11, 1398/13 \$3250 1317/11, 1317/15 \$5 1398/17, 1398/19, 1398/23 \$7,000 1315/6, 1315/15</p>	<p>2002-2001 1376/21, 1377/3, 1377/14, 1378/17, 1379/1, 1380/13, 1399/23, 1402/24, 1404/2 2003 1394/3 20th 1317/12 215 1299/3 227 1238/12 25-22,002 1365/16 250 1393/15 250,000 1300/11, 1407/12 2540 1239/7 261 1401/16, 1402/5 2861 1230/10 2:30 1420/14 2nd 1311/1, 1314/23, 1315/9, 1315/22</p>	<p>9,517 1379/6 904 1237/23 981042-EM 1237/4</p>
<p>* 1230/3, 1230/9, 1230/12, 1239/3, 1239/5, 1416/16</p>	<p>3</p>	<p>A</p>
<p>*97 1283/10 *98 1399/19, 1403/17</p>	<p>3 1306/13 3.3 1378/16 30 1387/16, 1395/17, 1420/1 30-year 1373/11 31 1240/13, 1306/18, 1306/19, 1306/24, 1306/25, 1420/3, 1420/10 310 1230/4 31st 1245/15, 1375/16 32 1240/14, 1316/18, 1316/24, 1389/22, 1389/23, 1420/3 32301 1239/4 32302 1238/5, 1238/13, 1238/16 32303 1238/20 32399-0870 1239/8 33 1240/16, 1364/25, 1365/3, 1365/12, 1420/6, 1420/9 33731 1238/10 33733-4042 1238/8 34 1240/17, 1365/6, 1365/9, 1374/16, 1375/24, 1378/16, 1389/18, 1420/6, 1420/9, 1420/10 35 1240/18, 1383/15, 1383/17, 1386/13, 1389/18, 1420/7, 1420/8 366 1390/16 39,000 1309/21, 1310/8 3rd 1311/1, 1314/23, 1315/9, 1315/22, 1317/16, 1318/11</p>	<p>a.m. 1237/18, 1241/2 ability 1242/18, 1247/21, 1248/8, 1248/9, 1249/1, 1249/12, 1249/16, 1250/1, 1324/15, 1325/6, 1330/1, 1330/7, 1330/10, 1332/2, 1332/4, 1332/9, 1362/9, 1368/16, 1368/18, 1368/24, 1369/24, 1369/25, 1417/11 abnormally 1315/20 absent 1360/7, 1371/12 accelerate 1267/11, 1384/22, 1386/16 accept 1285/18, 1375/21, 1376/5, 1405/23 acceptable 1285/24 acceptance 1375/5 accepted 1270/17 access 1371/4, 1371/7, 1371/16 accommodate 1295/6 account 1276/9, 1277/15, 1334/13, 1335/1, 1335/11, 1336/3, 1336/6, 1388/3, 1406/25, 1407/3, 1408/11 accrue 1412/14 accurate 1314/16, 1325/12, 1365/23 accurately 1383/19 achievable 1326/8, 1326/21 achieve 1326/7 acquaint 1335/15 acquire 1371/7 acquired 1370/21, 1390/8, 1409/14 Act 1296/7, 1365/22, 1366/16, 1366/21, 1367/5, 1367/8, 1367/10, 1367/13, 1367/18, 1368/7, 1368/22, 1369/3, 1369/11, 1406/11, 1413/25, 1414/7, 1414/23 active 1278/24, 1281/25, 1323/19, 1323/21, 1331/11 activities 1248/1, 1248/6, 1278/20, 1279/12, 1279/17, 1279/23, 1280/19, 1281/3, 1281/9, 1281/17, 1281/22, 1281/25, 1282/21, 1325/25, 1333/22, 1353/20, 1354/2, 1363/20 activity 1333/20 adapt 1369/8, 1369/9, 1369/13, 1369/16, 1370/2, 1370/5 add 1265/11, 1269/12, 1357/5, 1357/7, 1357/8, 1378/18 added 1381/2 address 1258/3, 1265/2, 1307/8, 1307/11 addressed 1356/13, 1390/20 addressing 1292/6, 1309/25, 1355/20, 1358/15 adequate 1266/3, 1313/22, 1314/3, 1314/11 adjust 1330/7, 1410/18 adjusted 1349/7 adjustment 1401/22, 1402/2, 1402/5 Administrative 1365/17 admit 1271/13, 1420/9 admitted 1419/25, 1420/4 ADMTD 1240/11 advance 1242/23, 1248/4, 1250/16, 1282/25 advantage 1356/10 adverse 1247/17, 1247/20, 1247/21 adversely 1268/21, 1304/15 advertising 1305/12 Advisory 1246/23, 1248/15 advocate 1269/17, 1304/3 affect 1251/4, 1253/16, 1254/12, 1309/2, 1384/15, 1385/9, 1385/11 affected 1247/23, 1374/5 affects 1355/8 affiliate 1275/21, 1278/19, 1323/4, 1323/5, 1331/8 affiliates 1278/1, 1278/23, 1279/24 afraid 1270/19, 1278/20, 1297/12, 1297/18, 1383/4 afternoon 1311/23 agree 1273/19, 1273/21, 1276/17, 1284/16, 1285/20, 1286/4, 1286/17, 1289/18, 1289/22, 1294/10, 1301/9, 1302/12, 1304/11, 1305/4, 1313/15, 1318/8, 1318/13, 1318/18, 1319/12, 1320/4, 1324/25, 1325/22, 1347/11, 1349/16, 1362/7, 1366/10, 1366/20, 1371/6, 1382/18, 1412/15, 1412/21, 1413/13, 1414/18 agreed 1301/19, 1301/22, 1301/25, 1303/23, 1306/6, 1355/1, 1378/23, 1379/14, 1379/23, 1412/22, 1413/7 agreeing 1413/9 agreement 1334/15, 1335/2, 1335/12, 1336/4 air 1302/9, 1347/25, 1348/14, 1387/17, 1389/2, 1407/23, 1408/13 ALAN 1230/3 allow 1280/12, 1299/23, 1299/25, 1310/18, 1339/23, 1369/12, 1406/17, 1415/13, 1415/21, 1415/22, 1415/23 allowed 1254/1, 1258/6, 1299/12, 1328/6, 1328/13,</p>
<p>*97 1283/10 *98 1399/19, 1403/17</p>	<p>3 1306/13 3.3 1378/16 30 1387/16, 1395/17, 1420/1 30-year 1373/11 31 1240/13, 1306/18, 1306/19, 1306/24, 1306/25, 1420/3, 1420/10 310 1230/4 31st 1245/15, 1375/16 32 1240/14, 1316/18, 1316/24, 1389/22, 1389/23, 1420/3 32301 1239/4 32302 1238/5, 1238/13, 1238/16 32303 1238/20 32399-0870 1239/8 33 1240/16, 1364/25, 1365/3, 1365/12, 1420/6, 1420/9 33731 1238/10 33733-4042 1238/8 34 1240/17, 1365/6, 1365/9, 1374/16, 1375/24, 1378/16, 1389/18, 1420/6, 1420/9, 1420/10 35 1240/18, 1383/15, 1383/17, 1386/13, 1389/18, 1420/7, 1420/8 366 1390/16 39,000 1309/21, 1310/8 3rd 1311/1, 1314/23, 1315/9, 1315/22, 1317/16, 1318/11</p>	<p>4</p>
<p>1,065 1378/3, 1379/9, 1379/15 1,481 1379/14 1.39 1379/15 10 1237/10, 1240/2, 1240/10, 1293/3, 1332/19, 1332/24, 1333/9 10,000 1357/7 100 1379/17, 1409/25 100% 1361/19, 1380/19, 1381/18, 1387/9, 1387/24, 1399/7 1065 1378/11, 1379/2 10:30 1327/3 11 1237/17, 1334/19, 1334/21, 1334/23, 1335/23, 1335/25 1114 1238/19 113% 1382/4, 1382/7, 1389/8 115% 1387/10, 1387/25, 1388/8, 1409/13 123 1346/13 1237 1237/11 1241 1240/5 13% 1264/2, 1336/24, 1337/6, 1360/9, 1360/12, 1376/12, 1377/25, 1381/17, 1381/18, 1382/5, 1399/19, 1400/5, 1400/10, 1403/11, 1416/19 1307 1240/13 1316 1240/14 1327 1240/6 1365 1240/16, 1240/17 1383 1240/18 1386 1240/19 1389 1240/6 139% 1379/17, 1380/12, 1380/24 14042 1238/8 1411 1240/7 1416 1420 1237/11, 1240/13, 1240/14, 1240/16, 1240/17 148 1237/20 1481 1378/17, 1378/25 15 1293/3, 1332/19, 1332/24, 1333/9, 1360/14 15% 1397/8, 1399/17, 1360/4, 1360/10, 1360/23, 1361/2 150 1384/8 16% 1361/1, 1402/6 18 1334/24, 1395/13, 1404/13 1990 1245/15 1991 1243/14, 1243/25 1992 1247/12 1994 1325/23 1995 1393/25, 1395/9 1997 1240/18, 1244/1, 1283/14, 1375/16, 1382/25, 1383/6, 1383/21 1998 1237/17, 1240/17, 1306/14, 1307/20, 1365/5, 1374/22, 1375/12 1st 1243/17</p>	<p>40 1253/14 40,000 1309/7, 1309/19, 1309/22 403.519 1406/11 4075 1237/20 413-6732 1237/23 43 1366/17, 1366/19 45 1245/13, 1245/19 45,000 1309/6, 1309/18, 1310/7 4500 1387/7 470 1295/13 4:00 1311/22</p>	<p>5</p>
<p>2 1306/13, 1317/10, 1317/16, 1318/11, 1385/1 2% 1337/18, 1338/1 20 1264/5, 1295/13, 1316/16, 1397/14, 1397/17 20% 1398/22 20-year 1272/3 200 1384/8, 1400/19 200,000 1407/12 2000 1376/23, 1399/25 2000-2001 1376/18 2000/01 1377/23 2001 1264/1, 1265/12, 1376/13, 1376/23, 1384/23, 1385/8, 1385/18, 1400/1, 1403/22 2002 1385/8</p>	<p>5,400 1357/7 50 1246/20, 1409/25 50,000 1253/14 500 1351/2, 1352/5, 1357/5, 1357/8, 1357/10, 1385/4 500,00 1407/19 500,000 1407/18 500-megawatt 1264/5 51 1370/9 520 1385/4 53 1373/7 58,000 1302/3, 1302/13, 1302/19, 1305/5, 1305/13, 1305/14 590 1238/16 5:00 1311/23</p>	<p>6</p>
<p>2 1306/13, 1317/10, 1317/16, 1318/11, 1385/1 2% 1337/18, 1338/1 20 1264/5, 1295/13, 1316/16, 1397/14, 1397/17 20% 1398/22 20-year 1272/3 200 1384/8, 1400/19 200,000 1407/12 2000 1376/23, 1399/25 2000-2001 1376/18 2000/01 1377/23 2001 1264/1, 1265/12, 1376/13, 1376/23, 1384/23, 1385/8, 1385/18, 1400/1, 1403/22 2002 1385/8</p>	<p>6,000 1310/9 601 1239/3 66 1378/15 68 1361/12</p>	<p>7</p>
<p>20-year 1272/3 200 1384/8, 1400/19 200,000 1407/12 2000 1376/23, 1399/25 2000-2001 1376/18 2000/01 1377/23 2001 1264/1, 1265/12, 1376/13, 1376/23, 1384/23, 1385/8, 1385/18, 1400/1, 1403/22 2002 1385/8</p>	<p>7.2 1377/20 75 1367/19, 1368/5, 1369/22</p>	<p>8</p>
<p>2 1306/13, 1317/10, 1317/16, 1318/11, 1385/1 2% 1337/18, 1338/1 20 1264/5, 1295/13, 1316/16, 1397/14, 1397/17 20% 1398/22 20-year 1272/3 200 1384/8, 1400/19 200,000 1407/12 2000 1376/23, 1399/25 2000-2001 1376/18 2000/01 1377/23 2001 1264/1, 1265/12, 1376/13, 1376/23, 1384/23, 1385/8, 1385/18, 1400/1, 1403/22 2002 1385/8</p>	<p>8 1338/20 8,452 1379/7 80% 1398/25</p>	<p>8</p>

1352/13, 1355/13, 1355/23, 1370/1  
 allowing 1355/12  
 allows 1366/11  
 alternative 1272/20, 1292/11, 1292/12  
 alternatives 1260/1, 1273/1, 1414/15  
 alternatives-to-build 1260/10  
 amount 1274/6, 1363/22, 1364/15, 1378/22, 1379/12, 1379/25  
 amounts 1301/11, 1410/20  
 ample 1402/19  
 analyses 1346/21, 1396/13, 1411/17  
 analysis 1291/18, 1295/22, 1296/2, 1296/24, 1296/25, 1297/22, 1298/9, 1298/10, 1313/9, 1322/24, 1308/21, 1396/15, 1411/12  
 angry 1301/11  
 announcement 1370/3  
 answer 1249/5, 1251/1, 1253/20, 1255/23, 1260/25, 1263/25, 1264/13, 1267/21, 1271/14, 1271/16, 1278/8, 1278/15, 1281/14, 1285/8, 1286/9, 1286/11, 1286/22, 1287/11, 1287/24, 1288/1, 1288/3, 1288/14, 1288/19, 1289/6, 1292/3, 1294/7, 1297/2, 1300/15, 1318/18, 1319/5, 1319/11, 1321/15, 1334/4, 1336/12, 1336/13, 1327/18, 1328/1, 1328/5, 1328/6, 1328/10, 1328/12, 1329/6, 1329/11, 1330/22, 1331/1, 1336/24, 1336/5, 1337/17, 1337/22, 1338/7, 1339/1, 1340/11, 1341/18, 1345/23, 1345/24, 1346/8, 1346/16, 1346/22, 1347/7, 1347/13, 1351/16, 1352/12, 1366/11, 1366/17, 1363/4, 1363/10, 1363/16, 1373/13, 1381/10, 1381/11, 1387/11, 1406/17, 1406/21, 1412/8, 1412/23, 1415/2, 1415/4, 1415/14, 1417/13, 1418/21, 1419/2  
 answered 1280/21, 1280/22, 1280/24, 1280/1, 1327/23, 1329/1, 1330/22, 1347/16, 1352/24, 1353/17, 1355/6, 1362/24, 1406/16, 1411/18, 1414/2, 1416/18, 1418/3, 1419/15  
 answering 1260/19, 1284/20, 1285/2, 1287/16, 1341/19, 1346/6  
 answers 1270/20, 1303/21, 1330/14  
 anticipate 1261/24, 1402/23  
 Anticipated 1262/10, 1268/1  
 anticipating 1267/6, 1267/8, 1293/11  
 apologize 1244/10, 1244/12, 1346/6, 1388/17  
 apparatus 1308/10  
 appearance 1242/15  
 APPEARANCES 1238/1, 1239/1  
 appendix 1375/11, 1375/13  
 apples-to-apples 1390/8  
 applicant 1399/9  
 applicants 1399/3  
 application 1369/15  
 applications 1297/25  
 applied 1243/2, 1280/2, 1372/15  
 applies 1349/22  
 apply 1303/21, 1320/6, 1365/20  
 appreciate 1304/23, 1310/23, 1335/14, 1409/19  
 approach 1243/19, 1256/1, 1257/5, 1381/25  
 approaches 1249/15  
 appropriate 1339/21, 1348/7, 1348/23, 1353/13, 1364/17, 1416/2  
 approval 1367/5  
 approve 1391/24  
 approved 1272/19, 1301/3, 1357/14, 1392/11, 1392/16, 1403/23  
 April 1243/17, 1360/2, 1361/6, 1375/12, 1399/19, 1403/17  
 arbitrate 1390/21  
 area 1300/12, 1334/9, 1365/18, 1371/12, 1395/25  
 areas 1364/10  
 arena 1325/21, 1364/2  
 argue 1310/3, 1341/23  
 arguing 1362/3, 1408/10  
 argument 1270/4, 1290/6, 1415/12  
 argumentative 1341/8, 1392/3, 1392/5  
 arm 1325/6, 1397/8, 1397/12  
 arrangements 1299/9, 1404/11  
 articulate 1298/11  
 articulated 1295/23  
 assess 1259/22, 1335/18  
 asset 1341/1  
 assets 1300/17, 1300/18, 1333/17, 1416/13  
 assist 1280/14  
 Assistance 1238/21, 1395/24  
 assisted 1396/1, 1396/4, 1396/12, 1411/23  
 assisting 1327/18  
 associated 1371/25, 1372/8, 1374/1  
 Association 1230/18  
 assumption 1312/6, 1352/20, 1385/19  
 assumptions 1325/20  
 astray 1291/19  
 attached 1375/13, 1375/16  
 attempt 1253/21, 1264/12, 1270/14, 1292/4, 1292/14, 1292/15, 1294/6, 1299/19, 1336/7, 1329/6, 1367/1, 1382/8, 1382/16, 1384/14  
 attempted 1252/19, 1278/11, 1280/22, 1351/11,

1352/11, 1359/21, 1369/7, 1419/10  
 attempting 1261/22, 1265/14, 1335/18, 1337/4  
 attorney 1416/7  
 August 1401/13  
 Ausley 1230/12  
 authentic 1307/11  
 authority 1325/2, 1325/10, 1326/7  
 available 1260/2, 1260/17, 1276/18, 1290/7, 1299/11, 1307/19, 1316/6, 1319/16, 1320/7, 1320/8, 1321/9, 1324/23, 1330/25, 1351/6, 1352/6, 1361/16, 1379/5, 1379/6, 1380/1, 1382/8, 1382/17, 1401/1, 1401/3, 1403/6, 1403/25, 1405/3, 1412/17, 1414/15  
 Avenue 1230/4  
 avoid 1298/20, 1298/24, 1299/8, 1299/10

**B**

backed 1307/23  
 bad 1304/10, 1352/7, 1353/24, 1353/25, 1357/9, 1357/11  
 balance 1366/22, 1414/7  
 balancing 1414/16  
 ballpark 1361/4, 1399/9  
 banded 1246/6  
 bankers 1344/21  
 base 1254/19, 1256/4, 1257/17, 1261/5, 1262/1, 1262/7, 1262/18, 1265/21, 1266/9, 1267/22, 1267/25, 1270/3, 1301/4, 1396/10, 1396/11, 1396/18, 1409/11, 1411/10  
 based 1251/7, 1256/14, 1257/10, 1265/8, 1267/16, 1273/1, 1273/20, 1287/3, 1287/11, 1313/24, 1315/25, 1331/25, 1334/14, 1335/2, 1335/12, 1336/3, 1360/7, 1361/16, 1370/19, 1377/11, 1378/7, 1378/9, 1381/18, 1381/19, 1381/21, 1382/1, 1382/5, 1380/19, 1391/24, 1392/11, 1392/17, 1411/17, 1416/23  
 basic 1256/25, 1257/4, 1264/15, 1266/18, 1279/4, 1291/10, 1323/9, 1332/10, 1332/16, 1344/9, 1355/14, 1371/4, 1386/8, 1397/2  
 battleground 1259/5, 1261/8  
 Bay 1300/11, 1393/21, 1416/9  
 Beach 1237/7, 1237/8, 1238/6, 1249/11, 1283/4, 1284/8, 1286/1, 1362/12  
 bear 1268/1, 1374/10  
 bears 1373/25  
 BEASLEY 1238/12  
 behave 1290/17  
 behavior 1320/5  
 belief 1304/12  
 beneficial 1361/7, 1352/17, 1395/6  
 benefit 1320/21, 1320/23, 1333/25, 1334/4, 1347/24, 1384/13, 1397/24, 1399/3, 1402/1, 1405/6, 1413/3  
 benefits 1268/2, 1269/15, 1320/14, 1321/18, 1333/16, 1333/19, 1333/22, 1390/5, 1390/25, 1400/25, 1409/9, 1409/11, 1412/13, 1413/1, 1413/15  
 bets 1344/16  
 Betty 1237/19  
 bidding 1365/16, 1365/20, 1366/1, 1366/11, 1384/25  
 big 1315/3, 1409/6  
 bill 1309/1  
 billion 1372/21  
 bit 1284/21, 1259/21, 1263/24, 1301/14, 1334/9, 1340/4, 1351/19, 1355/24, 1382/9, 1390/3, 1396/1  
 blissing 1368/18  
 board 1248/15, 1273/20, 1273/22, 1370/24, 1371/14  
 body 1320/21, 1321/19, 1322/13  
 Bommer 1279/6  
 bottom 1246/15  
 bought 1275/21, 1303/1, 1312/11, 1390/17  
 Boulevard 1239/8  
 bounds 1374/8  
 Box 1230/8, 1230/10, 1230/16, 1290/3  
 brand 1410/25  
 break 1326/15, 1327/3, 1420/14  
 breaking 1304/19  
 Brevard 1274/7  
 brief 1245/7, 1289/24, 1327/4, 1415/23  
 bring 1403/5  
 brings 1356/10  
 brood 1263/24, 1363/15  
 broader 1240/1, 1409/13  
 broker 1397/18, 1398/6, 1398/7, 1398/9, 1398/12, 1398/25, 1399/10  
 brought 1415/18  
 build 1251/15, 1254/15, 1268/6, 1268/24, 1269/24, 1271/1, 1271/11, 1272/15, 1274/5, 1289/3, 1294/13, 1295/25, 1297/21, 1298/4, 1343/8, 1343/9, 1392/21, 1396/11, 1414/13  
 building 1254/22, 1255/6, 1255/9, 1260/1, 1277/21, 1285/16, 1294/15, 1299/11, 1343/7, 1343/16, 1406/5  
 builds 1300/7, 1304/2, 1392/20  
 built 1251/7, 1254/1, 1254/8, 1259/24, 1290/4, 1299/13, 1301/3, 1322/23, 1371/3, 1371/23, 1372/6, 1372/11, 1385/7, 1403/24, 1412/16, 1413/8, 1413/11,

**C**

1413/13  
 bulletin 1370/24, 1371/13  
 burden 1268/1, 1268/4  
 Burdness 1418/24  
 Bureau 1237/23  
 burning 1348/12  
 business 1279/5, 1279/16, 1282/15, 1303/9, 1310/1  
 businesses 1406/20  
 buy 1261/4, 1261/16, 1272/25, 1289/19, 1289/23, 1293/1, 1294/5, 1295/13, 1300/4, 1300/13, 1300/24, 1320/2, 1321/8, 1323/8, 1323/23, 1352/19, 1354/18  
 buyers 1285/22  
 buying 1274/21, 1291/7, 1302/25, 1305/13, 1396/6, 1398/11, 1405/2, 1405/4  
 buys 1319/23, 1323/5, 1354/14  
 calculate 1361/15, 1361/5, 1367/7, 1367/8, 1388/18, 1409/12, 1409/13, 1409/15  
 calculated 1367/12, 1389/10, 1408/17  
 calculating 1334/12, 1334/25, 1336/1, 1361/22, 1381/25, 1407/3, 1408/7, 1418/5  
 calculation 1264/8, 1378/9, 1380/9, 1388/2, 1388/19, 1408/2  
 calculations 1375/19, 1375/20, 1375/23, 1376/4, 1395/23, 1396/2, 1396/4, 1419/9  
 Calhoun 1238/13  
 Call 1241/3, 1287/17, 1290/25, 1352/19, 1370/24  
 calls 1323/14, 1406/14  
 came 1291/1, 1294/12, 1295/24, 1296/7, 1384/18, 1397/5  
 capabilities 1413/1  
 capability 1378/4  
 capacity 1264/24, 1266/3, 1272/25, 1274/7, 1274/17, 1307/19, 1308/7, 1308/12, 1309/6, 1309/16, 1309/18, 1309/22, 1310/13, 1311/3, 1311/11, 1313/22, 1314/3, 1314/11, 1323/25, 1334/15, 1335/3, 1335/13, 1335/18, 1336/5, 1336/6, 1336/10, 1336/18, 1336/22, 1337/20, 1338/18, 1339/19, 1340/9, 1341/3, 1341/15, 1343/17, 1351/6, 1368/6, 1371/24, 1372/7, 1377/21, 1379/5, 1384/4, 1384/10, 1384/15, 1412/2, 1412/16  
 capital 1267/25, 1268/5  
 capture 1269/15  
 captured 1253/6  
 care 1298/4  
 carefully 1296/18, 1297/8  
 Carlson 1238/9  
 case 1280/2, 1283/6, 1286/15, 1289/11, 1303/12, 1303/13, 1315/22, 1320/15, 1334/1, 1354/6, 1362/9, 1380/17, 1415/12  
 cases 1372/17  
 catch 1336/15  
 caused 1337/6, 1372/20  
 causes 1242/11, 1268/10  
 Cedar 1393/21, 1416/9  
 Center 1237/19  
 certification 1254/2, 1367/11  
 certified 1243/24, 1244/1, 1244/15  
 Chair 1415/17  
 CHAIRMAN 1237/14, 1241/10, 1246/8, 1273/11, 1273/12, 1278/7, 1278/14, 1279/20, 1279/22, 1280/12, 1281/12, 1285/7, 1285/12, 1286/7, 1287/19, 1287/24, 1295/20, 1296/19, 1296/23, 1297/14, 1306/8, 1306/9, 1306/16, 1306/19, 1306/23, 1308/9, 1316/11, 1316/13, 1316/16, 1316/18, 1316/22, 1318/20, 1318/24, 1324/4, 1327/2, 1327/6, 1327/8, 1327/16, 1328/24, 1338/5, 1338/9, 1339/11, 1339/23, 1340/14, 1341/7, 1341/11, 1341/18, 1342/6, 1345/6, 1345/20, 1348/4, 1348/24, 1352/25, 1353/8, 1353/14, 1354/4, 1354/9, 1363/14, 1364/16, 1364/20, 1364/22, 1364/25, 1365/6, 1365/8, 1383/14, 1383/16, 1389/13, 1389/17, 1389/21, 1389/23, 1392/7, 1406/17, 1406/19, 1411/5, 1415/3, 1415/6, 1415/12, 1415/13, 1415/20, 1419/20, 1419/24, 1420/2, 1420/4, 1420/8, 1420/12  
 Chairman's 1328/9  
 challenge 1369/9  
 chance 1327/24, 1338/14  
 chances 1384/13  
 change 1250/4, 1251/14, 1252/10, 1252/12, 1256/6, 1267/11, 1269/6, 1270/12, 1270/17, 1295/5, 1305/6, 1330/7, 1330/18, 1330/20, 1356/25, 1357/1, 1357/12, 1357/14, 1357/23, 1358/6, 1358/7, 1359/6, 1363/24, 1363/25, 1364/5, 1364/15, 1369/14, 1401/17, 1402/19, 1410/22  
 changed 1252/14, 1256/20, 1302/10, 1357/20  
 changes 1249/22, 1351/13, 1351/14, 1358/1, 1372/13  
 changing 1355/13, 1355/18, 1364/1, 1369/9  
 Chapter 1390/16  
 characterization 1280/25, 1283/23, 1411/12  
 characterize 1278/18, 1282/9, 1314/6, 1322/20  
 characterizing 1314/7  
 charged 1252/24, 1371/11, 1372/22

CHARLES 1239/2  
chasing 1309/7, 1309/22, 1310/8  
cheap 1300/24  
cheaper 1298/4, 1300/24, 1343/8  
check 1294/19, 1318/8, 1318/17, 1375/21, 1376/5  
checkmated 1298/8  
Chief 1237/23  
CHILD8 1239/2  
choice 1299/16, 1301/12, 1398/11, 1419/5  
choices 1419/13  
choose 1289/11, 1289/12  
chose 1312/13, 1330/20, 1390/14, 1419/1  
choosen 1300/25  
chronology 1317/19  
circumstance 1314/4, 1321/3  
circumstances 1303/5, 1311/19, 1314/11, 1320/6,  
1321/16, 1330/18, 1363/11, 1363/17, 1377/8, 1402/22  
cite 1245/4  
cliking 1359/14  
citizens 1246/24, 1252/22  
City 1237/7, 1361/25  
clarification 1327/25, 1342/1, 1376/20, 1376/25,  
1389/11  
clarify 1379/4, 1389/22, 1390/12, 1412/9  
clarity 1399/21, 1403/1  
CLARK 1237/15, 1248/18, 1246/3, 1268/12, 1269/21,  
1270/21, 1272/13, 1283/19, 1342/9, 1342/17, 1389/14  
Clark's 1288/19  
clause 1374/4, 1383/2, 1383/23, 1399/1, 1399/8  
cleaner 1348/12  
clear 1376/18, 1397/9, 1403/12  
clearly 1250/2, 1302/15, 1304/8, 1308/4, 1308/10,  
1305/20, 1323/15, 1343/6, 1343/7, 1343/18, 1343/23,  
1362/4  
Clerk 1244/1  
client 1287/18, 1416/2  
client's 1287/11, 1289/14  
clients 1287/2, 1287/12, 1409/5  
close 1293/16  
closed 1360/2  
coal 1247/10  
Code 1365/17  
cold 1360/18  
College 1238/4  
collequy 1273/15  
column 1377/24, 1378/18, 1378/19  
combination 1271/25  
combined 1248/17, 1246/14, 1247/1, 1247/5,  
1265/11, 1269/10, 1347/9  
combustion 1276/1, 1367/18, 1367/22, 1368/4,  
1368/20, 1369/21, 1394/1, 1395/3, 1395/12  
comfort 1258/7  
comfortable 1270/24, 1285/1  
Commenced 1237/18  
comment 1283/1, 1295/12, 1297/16  
commented 1358/12, 1358/13, 1419/12  
comments 1328/3  
COMMISSION 1237/1, 1237/7, 1237/22, 1239/7,  
1239/9, 1244/16, 1252/21, 1252/23, 1253/23, 1254/3,  
1255/1, 1255/4, 1257/3, 1262/17, 1267/18, 1272/18,  
1273/16, 1274/22, 1283/5, 1283/12, 1291/2, 1291/12,  
1291/21, 1293/23, 1294/4, 1294/15, 1295/1, 1298/12,  
1298/13, 1299/22, 1300/8, 1304/2, 1304/7, 1307/12,  
1321/19, 1326/5, 1326/15, 1326/20, 1327/17, 1330/15,  
1349/17, 1349/20, 1380/15, 1387/14, 1387/25, 1399/12,  
1389/24, 1360/16, 1360/20, 1366/14, 1374/8, 1393/4,  
1393/9, 1398/20, 1398/22, 1406/1  
Commissioner's 1319/19, 1319/22, 1341/8, 1365/15,  
1366/6, 1390/15  
COMMISSIONER 1237/14, 1237/15, 1237/16,  
1241/3, 1241/24, 1242/1, 1243/20, 1243/21, 1244/2,  
1244/5, 1244/8, 1244/21, 1244/24, 1245/1, 1245/2,  
1245/7, 1245/10, 1245/18, 1246/3, 1280/7, 1251/21,  
1252/17, 1253/3, 1253/6, 1254/20, 1255/2, 1255/13,  
1256/9, 1256/13, 1258/23, 1259/4, 1299/9, 1299/19,  
1260/7, 1260/12, 1260/16, 1260/20, 1261/7, 1261/23,  
1262/9, 1262/20, 1263/10, 1263/21, 1263/23, 1264/13,  
1265/4, 1266/1, 1266/11, 1266/25, 1267/13, 1268/11,  
1268/12, 1269/21, 1270/21, 1272/13, 1272/14, 1283/17,  
1283/19, 1288/2, 1288/13, 1288/18, 1289/1, 1291/14,  
1291/25, 1292/3, 1292/7, 1292/10, 1292/24, 1294/10,  
1295/15, 1300/2, 1300/21, 1301/7, 1301/18, 1302/2,  
1302/12, 1302/18, 1302/22, 1303/8, 1303/16, 1304/6,  
1305/4, 1305/9, 1308/24, 1306/10, 1306/15, 1307/3,  
1307/17, 1310/20, 1312/4, 1313/6, 1313/21, 1314/5,  
1314/15, 1314/19, 1318/25, 1319/12, 1328/18, 1336/9,  
1336/20, 1337/8, 1337/16, 1337/17, 1340/15, 1342/9,  
1342/17, 1343/2, 1343/14, 1344/5, 1344/19, 1345/5,  
1351/15, 1352/2, 1352/10, 1354/11, 1354/17, 1354/24,  
1355/4, 1355/25, 1356/13, 1357/3, 1357/13, 1357/19,  
1357/24, 1358/17, 1358/23, 1390/8, 1389/23, 1360/15,  
1360/25, 1361/7, 1361/18, 1361/24, 1362/16, 1361/13,  
1362/2, 1362/10, 1366/24, 1367/6, 1367/13, 1367/21,

1368/7, 1368/15, 1368/24, 1389/7, 1389/14, 1389/16,  
1397/6, 1400/3, 1404/25, 1406/19, 1407/5, 1407/16,  
1407/19, 1407/25, 1408/9, 1408/18, 1408/24, 1409/5,  
1409/10, 1409/18, 1409/20, 1410/3, 1410/6, 1410/11  
Commissioners 1243/23, 1273/15, 1277/22, 1413/7  
commit 1373/18  
commitment 1262/12, 1337/13, 1373/11, 1394/16,  
1401/10, 1401/11, 1404/6, 1404/7, 1404/9  
commitments 1402/10, 1403/2  
committed 1247/2  
Committee 1246/23  
committing 1402/15  
communicate 1277/2  
communication 1316/9, 1393/3  
community 1248/18  
companies 1354/3, 1410/12, 1418/6  
Company 1237/8, 1238/6, 1238/14, 1239/5, 1255/14,  
1262/6, 1289/3, 1289/7, 1308/20, 1331/12, 1333/17,  
1343/23, 1351/22, 1352/8, 1354/14, 1354/22, 1358/3,  
1366/16, 1397/7, 1400/21, 1410/25  
Company's 1247/4, 1387/9  
compare 1304/20, 1300/23  
compared 1309/21, 1332/25, 1382/21  
comparison 1294/22, 1300/8  
comparisons 1400/17  
compensate 1410/7  
compete 1261/21, 1262/15  
competition 1310/2, 1325/17, 1325/19, 1329/12,  
1329/18, 1363/8  
competitive 1261/18, 1329/7, 1329/8, 1355/2, 1356/2,  
1356/3, 1356/4, 1356/6, 1356/7, 1356/8, 1356/9,  
1356/19, 1356/24, 1357/1, 1357/5  
competitiveness 1261/20  
compiled 1374/21, 1375/18  
complex 1288/17, 1394/21  
complexes 1418/16  
complexity 1288/15  
compliance 1328/22  
complicated 1285/6  
comprehend 1249/19  
comcode 1343/12, 1343/15, 1352/16, 1374/25  
concept 1258/3, 1264/16, 1283/4, 1284/21, 1291/9,  
1297/15, 1398/15  
concern 1250/3, 1262/21, 1266/25, 1269/22, 1290/23,  
1290/10, 1342/11, 1342/13, 1356/25, 1386/19, 1391/15,  
1392/19, 1392/23, 1400/11, 1400/14, 1401/16  
concerned 1368/14, 1386/17, 1399/22, 1402/14  
concerns 1248/18, 1267/22, 1310/6, 1310/14, 1350/6,  
1355/10, 1355/16, 1356/14, 1358/10  
concert 1343/3  
conclusion 1263/22, 1321/21, 1323/14, 1323/16,  
1329/20, 1342/25, 1345/19, 1352/13, 1360/1, 1406/15,  
1414/6  
conclusions 1321/2  
condition 1300/22, 1363/3  
conditioner 1387/17, 1387/18  
conditioners 1362/9  
conditioning 1309/2, 1407/23, 1408/14  
conditions 1301/20, 1301/21, 1303/24, 1304/25,  
1306/3, 1312/10, 1315/20  
conduct 1279/4  
conducted 1281/24, 1364/9  
conducting 1327/22  
confir 1300/21  
Conference 1237/19  
confined 1255/12  
confirm 1374/20, 1375/2  
confirmed 1412/10  
confused 1334/10, 1336/7, 1340/4, 1369/19, 1389/20,  
1397/10  
confusing 1281/13, 1300/19  
confusion 1350/20  
connected 1254/18  
consequence 1362/5  
consequences 1414/8, 1419/17  
conservation 1298/16, 1299/9, 1326/3, 1326/5,  
1326/9, 1326/16, 1326/21, 1367/2  
conserve 1383/11  
considerable 1399/17  
consideration 1254/15, 1296/17, 1298/15, 1358/11,  
1389/12, 1396/5, 1402/9, 1411/19, 1414/11  
consistent 1328/9, 1406/9, 1413/23, 1414/3, 1414/22  
consolation 1342/22  
constituencies 1248/2  
constituency 1394/23  
constitutions 1252/14, 1364/3  
constituents' 1355/20  
constraints 1410/21  
construct 1252/20, 1257/18, 1261/3, 1261/25, 1272/3,  
1289/5, 1297/11, 1319/25, 1322/20, 1350/18, 1351/11,  
1367/25, 1371/18, 1381/10  
constructed 1262/25, 1290/21, 1307/23, 1322/8,  
1385/13, 1385/15, 1396/21

constructing 1417/19  
construction 1272/24, 1274/14, 1291/9, 1293/14,  
1298/20, 1304/22, 1404/16, 1405/11, 1405/12, 1411/11,  
1411/16, 1414/9, 1414/19  
consume 1292/22, 1322/21  
consumed 1290/24  
context 1256/24, 1257/22, 1259/25, 1260/21, 1261/1,  
1262/6, 1263/8, 1270/8, 1270/22, 1282/8, 1282/16,  
1297/24, 1298/6, 1299/24, 1309/23, 1335/16, 1355/5,  
1388/15, 1389/2, 1366/24, 1387/20, 1391/20, 1394/8  
contiguous 1395/19  
continue 1271/20, 1284/5, 1293/20  
CONTINUED 1239/1, 1240/5, 1241/17  
continuing 1299/17  
continuum 1242/16, 1248/5  
contract 1247/11, 1250/12, 1251/3, 1262/11, 1266/14,  
1266/18, 1270/23, 1270/25, 1272/4, 1272/11, 1272/17,  
1276/14, 1282/12, 1283/22, 1286/19, 1287/22, 1336/11,  
1342/14, 1343/17, 1362/11, 1377/9, 1393/20, 1393/22,  
1395/8, 1396/7, 1401/19, 1402/13, 1409/25, 1410/2,  
1410/6, 1410/12, 1410/21, 1416/16  
contract's 1262/14  
contracted 1377/5, 1377/8  
contracting 1338/18  
contracts 1259/2, 1259/6, 1262/5, 1271/4, 1271/6,  
1271/9, 1283/20, 1284/2, 1286/23, 1287/5, 1287/6,  
1288/8, 1288/22, 1289/5, 1289/8, 1289/12, 1312/10,  
1339/5, 1343/25, 1344/25, 1354/21, 1395/11  
contradiction 1337/25  
contribute 1338/4  
control 1302/9  
controls 1286/24  
conversation 1275/19, 1333/18, 1345/14, 1417/20  
conversations 1280/5, 1280/8, 1281/5, 1282/2,  
1282/6, 1294/2, 1345/13, 1346/18, 1347/1, 1349/8,  
1369/12, 1390/18  
convey 1410/19  
convincing 1297/22  
convoluted 1361/21  
cooperative 1248/17, 1248/20, 1248/23, 1417/2,  
1417/3, 1417/8  
Cooperatives 1238/17  
Coordinating 1346/4  
copies 1244/15, 1244/17, 1244/22, 1316/12, 1374/20,  
1374/22, 1375/10  
copy 1243/24, 1325/8  
Corp's 1317/6, 1353/21, 1383/3  
corporate 1330/25  
Corporation 1238/7, 1238/11, 1241/15, 1243/11,  
1252/6, 1274/1, 1276/19, 1278/23, 1278/25, 1279/9,  
1279/13, 1281/24, 1289/19, 1315/24, 1319/3, 1325/1,  
1325/16, 1367/4, 1375/15, 1377/2, 1383/1, 1383/22,  
1384/2, 1384/21, 1385/8, 1386/15, 1393/25, 1396/7,  
1396/11, 1397/11, 1397/18, 1399/18, 1404/15, 1404/19,  
1410/4  
Corporation's 1243/25, 1245/14, 1276/11, 1280/18,  
1281/2, 1281/16, 1306/12, 1325/6, 1376/8, 1376/11,  
1377/12, 1377/13, 1380/13, 1380/20, 1382/19, 1382/21,  
1383/24, 1395/19, 1395/22  
correct 1241/5, 1242/18, 1245/6, 1249/6, 1262/2,  
1284/10, 1291/18, 1301/12, 1301/18, 1304/15, 1305/18,  
1317/13, 1329/13, 1329/23, 1332/22, 1333/25, 1334/16,  
1336/13, 1343/11, 1344/23, 1349/9, 1350/3, 1354/15,  
1358/20, 1389/17, 1360/4, 1362/3, 1368/2, 1371/17,  
1374/20, 1375/22, 1375/25, 1376/4, 1376/14, 1379/8,  
1379/9, 1380/9, 1381/23, 1387/1, 1387/4, 1387/25,  
1389/9, 1395/14, 1400/1, 1407/23, 1408/1, 1408/15,  
1408/22, 1409/1, 1409/16, 1411/12, 1411/15, 1412/11,  
1416/10, 1417/4, 1418/7, 1419/9  
corrected 1334/22, 1335/21  
correction 1343/20  
correctly 1406/22  
correlation 1315/13  
cost 1257/7, 1263/5, 1264/21, 1265/5, 1265/8, 1267/2,  
1267/15, 1267/25, 1290/8, 1294/20, 1302/15, 1302/19,  
1305/16, 1305/21, 1305/23, 1372/19, 1374/13, 1398/19,  
1401/11, 1402/18, 1413/18, 1414/21  
cost-based 1312/16  
cost-effective 1263/2, 1319/4, 1319/14, 1319/16,  
1319/24, 1321/9, 1321/14, 1326/9, 1326/21  
costing 1293/5  
costs 1265/6, 1265/7, 1266/20, 1305/19, 1343/20  
Council 1346/4, 1359/16  
Council 1243/22, 1316/12, 1375/4, 1383/11  
count 1388/17, 1328/15  
counting 1253/7  
country 1295/8, 1363/21, 1364/10  
County 1237/6, 1246/11, 1247/5, 1274/7  
couple 1300/14, 1328/3, 1393/18, 1415/17  
course 1269/11, 1306/1, 1348/9, 1398/17  
cover 1367/16, 1374/24, 1378/12, 1382/14, 1402/10,  
1402/13  
covers 1414/10

create 1265/18, 1293/2, 1392/23  
created 1242/6  
creates 1250/3, 1350/20, 1410/16  
credibility 1341/9  
criteria 1360/13, 1396/24, 1411/22, 1412/6  
critical 1351/3  
Cross 1240/5, 1240/6, 1241/17, 1327/9, 1327/22,  
1362/21, 1368/14  
crunch 1313/8  
CSR 1237/22  
CT 1394/1  
currently 1251/9, 1270/18, 1329/24, 1333/11, 1350/2,  
1364/21, 1391/17  
curtail 1253/13, 1313/10, 1313/11  
curtailed 1303/2  
curtailing 1302/24  
curve 1311/12  
customer 1254/19, 1256/4, 1257/17, 1259/16, 1261/4,  
1262/7, 1265/21, 1266/9, 1270/3, 1270/15, 1300/6,  
1378/22, 1387/16, 1400/7, 1400/16, 1400/23, 1402/9,  
1402/11, 1406/23, 1406/25, 1409/22, 1410/14, 1416/23,  
1416/24, 1417/7  
customer's 1400/20, 1401/5  
customers 1251/25, 1253/12, 1253/14, 1254/10,  
1256/5, 1257/11, 1257/6, 1257/11, 1257/12, 1257/22,  
1259/2, 1259/7, 1259/8, 1259/10, 1259/14, 1261/10,  
1261/19, 1262/13, 1268/1, 1270/1, 1270/9, 1273/4,  
1301/10, 1301/15, 1301/24, 1302/2, 1302/6, 1302/13,  
1302/19, 1302/24, 1303/2, 1303/7, 1303/13, 1303/22,  
1304/4, 1304/9, 1304/14, 1304/23, 1306/1, 1306/5,  
1305/19, 1306/5, 1313/10, 1313/11, 1313/15, 1313/18,  
1361/2, 1362/7, 1362/14, 1366/13, 1373/21, 1374/3,  
1379/23, 1382/25, 1383/21, 1387/3, 1387/10, 1387/14,  
1388/25, 1389/3, 1390/1, 1399/1, 1399/8, 1401/12,  
1402/18, 1407/11, 1407/12, 1407/20, 1408/3, 1408/11,  
1408/12, 1408/13, 1408/19, 1410/8, 1418/4, 1418/18,  
1419/7, 1419/12  
customers' 1290/10  
cut 1303/12, 1304/1, 1304/23, 1362/5  
Cutler 1238/9  
cutting 1301/10  
cycle 1247/5, 1265/11, 1269/10, 1367/17, 1367/18,  
1367/19, 1367/23, 1368/1, 1368/5, 1369/22  
cycles 1245/17, 1246/14, 1247/1, 1347/9  
Cypress 1247/10

D

daily 1332/10  
Data 1306/12, 1377/11  
DATE 1237/17  
dated 1375/12  
dates 1315/13  
Davis 1239/3  
day 1258/20, 1304/11  
days 1268/22  
dealing 1287/14, 1313/25, 1410/24  
DEASON 1237/14, 1241/3, 1243/20, 1243/21,  
1244/2, 1244/5, 1244/8, 1246/8, 1250/7, 1251/21,  
1253/6, 1261/23, 1262/9, 1262/20, 1263/10, 1263/4,  
1266/1, 1266/11, 1266/25, 1267/13, 1268/11, 1272/14,  
1283/18, 1290/1, 1291/25, 1292/10, 1310/20, 1312/4,  
1313/6, 1313/21, 1314/5, 1314/15, 1314/19, 1319/1,  
1336/9, 1336/20, 1337/9, 1337/16, 1337/17, 1356/13,  
1400/3, 1409/20, 1410/3, 1410/6, 1410/11  
Deason's 1263/23, 1264/13, 1292/3, 1319/13  
debate 1356/15  
debating 1357/11  
decade 1243/1  
December 1237/17, 1245/15, 1375/15, 1376/23,  
1399/25  
decide 1268/24, 1299/15, 1349/20  
decided 1252/15, 1272/15, 1280/8, 1302/6, 1302/7,  
1302/9, 1349/17, 1409/8, 1418/25  
decides 1299/22  
decision 1254/25, 1260/10, 1273/23, 1313/11,  
1313/14, 1366/12, 1373/18, 1373/24, 1396/22, 1411/11  
decision-makers 1296/9  
decision-making 1293/22, 1400/9  
decisions 1312/14, 1363/7, 1394/12, 1396/11,  
1396/23, 1411/16  
declaratory 1283/9  
defer 1272/24, 1367/1, 1414/13  
define 1284/19, 1284/22, 1284/24, 1363/18, 1378/4,  
1380/19, 1394/16  
definition 1251/19, 1285/1, 1285/8, 1285/18,  
1285/24, 1329/9, 1376/22  
defray 1248/17  
degradation 1414/20  
degree 1409/6, 1410/16, 1413/17  
demand 1253/11, 1262/10, 1262/11, 1311/5, 1311/12,  
1313/23, 1314/12, 1314/17, 1377/21, 1380/22, 1409/23  
demanded 1311/13

demonstrate 1270/14  
demonstrated 1358/3  
demonstrating 1254/18  
DEP 1297/25  
depart 1379/22  
Department 1331/24, 1418/12, 1418/13, 1419/4  
depend 1413/17  
depended 1296/11  
depends 1303/5, 1307/22, 1373/19, 1394/20  
depicted 1376/15  
depicts 1396/18  
Deposition 1240/16, 1243/7, 1247/14, 1274/3,  
1274/20, 1275/10, 1275/20, 1283/8, 1323/3, 1325/4,  
1325/8, 1329/5, 1345/12, 1346/12, 1346/13, 1345/1,  
1364/24, 1365/1, 1365/11, 1365/14, 1366/16, 1366/17,  
1367/14, 1370/10, 1373/5, 1373/7  
depreciated 1267/23  
deregulated 1295/8  
deregulation 1363/20  
described 1248/25, 1258/14, 1264/19, 1300/1,  
1344/13, 1369/10, 1369/11, 1369/20  
describes 1246/21  
describing 1292/19, 1414/17  
designed 1300/5  
desire 1288/20, 1306/2  
destroyed 1300/20  
Detail 1245/14, 1326/11, 1375/15  
determination 1237/5, 1243/12, 1247/7, 1250/1,  
1253/2, 1254/3, 1257/15, 1260/9, 1269/23, 1273/24,  
1286/5, 1296/6, 1297/7, 1306/4, 1306/11, 1395/22,  
1406/10  
determinations 1243/2, 1257/10, 1268/25, 1269/2,  
1404/5, 1406/3  
determine 1252/24, 1257/3, 1258/19, 1285/15,  
1300/15, 1359/2, 1380/5, 1396/16  
determined 1252/11, 1252/21, 1254/4, 1256/3,  
1257/19, 1257/24, 1257/25, 1268/16, 1270/24, 1272/17,  
1301/2, 1338/24, 1347/14, 1357/15, 1357/17, 1368/10,  
1394/10  
determines 1291/22  
determining 1246/25, 1259/23, 1268/17, 1269/25,  
1270/2, 1396/21  
develop 1278/11, 1290/17, 1293/20, 1299/24,  
1320/19, 1394/23, 1396/21  
developed 1272/7, 1290/24, 1296/13, 1299/21,  
1395/10  
developer 1284/8  
developers 1258/10, 1258/11, 1263/16, 1275/25,  
1284/2  
developing 1246/21, 1251/11, 1276/1, 1278/1,  
1282/7, 1282/15, 1282/20, 1291/8, 1334/12, 1334/24,  
1336/1  
development 1279/12, 1279/25, 1280/19, 1281/3,  
1281/16, 1281/25, 1399/14  
difference 1250/23, 1251/17, 1290/18, 1333/8,  
1333/13, 1387/8, 1400/5  
difficult 1263/13, 1263/15, 1272/9, 1272/12, 1289/22,  
1313/17, 1351/25, 1358/13, 1361/13, 1369/17, 1380/19,  
1386/9, 1410/10  
difficulty 1250/9, 1268/8  
direct 1249/8, 1278/15, 1340/7, 1346/12, 1368/12  
directions 1328/9  
directive 1328/24  
dirter 1347/6, 1347/12, 1347/19  
disagree 1329/15, 1329/20, 1342/3, 1347/22  
disagrees 1348/14  
disappear 1301/6  
disasters 1310/13  
discourse 1362/25  
discrepancy 1400/19  
discretion 1251/12, 1291/12  
discuss 1274/25, 1275/17, 1279/11, 1279/14, 1281/15,  
1282/4, 1325/3  
discussed 1247/14, 1248/6, 1274/3, 1274/20, 1277/10,  
1279/18, 1281/2, 1282/4, 1282/10, 1283/7, 1294/1,  
1299/14, 1323/2, 1339/24, 1346/15, 1347/10, 1358/9,  
1366/16, 1393/5, 1405/14  
discussing 1241/22, 1256/24, 1286/19, 1324/6,  
1324/8, 1365/18, 1367/21, 1370/15, 1376/2, 1402/8  
discussion 1242/7, 1274/23, 1274/25, 1289/24,  
1304/9, 1307/23, 1319/6, 1319/7, 1319/18, 1323/1,  
1330/12, 1355/19, 1355/20, 1390/6, 1397/4, 1399/17,  
1403/4, 1405/8  
discussions 1248/13, 1248/14, 1280/9, 1280/17,  
1282/9, 1293/17, 1310/5, 1320/13, 1325/9, 1338/25,  
1339/2, 1345/9, 1345/18, 1346/3, 1346/10, 1346/22,  
1363/23, 1364/6  
dishes 1254/17  
dispatch 1263/8, 1264/14, 1264/21, 1268/2, 1268/6,  
1300/22, 1311/6  
dispatched 1263/1, 1266/17, 1311/12  
dispatching 1255/17, 1352/4  
displace 1263/5, 1290/6, 1347/5, 1347/12

displaced 1268/19, 1311/9  
displacement 1258/4, 1258/15, 1258/16, 1258/18,  
1262/21, 1264/16, 1265/22, 1267/1, 1268/3  
displaces 1290/8  
displacing 1265/5  
dispute 1339/3, 1339/9, 1339/14  
disqualified 1305/18  
distance 1288/5  
distinction 1332/23, 1333/14, 1333/18, 1333/24,  
1334/2, 1366/25  
distribute 1306/10, 1316/12  
diversity 1268/20, 1268/23, 1269/8, 1269/15,  
1269/20, 1391/21  
divided 1379/12, 1379/14  
Division 1239/7  
DOCKET 1237/4  
document 1243/22, 1307/5, 1317/2, 1375/18  
documents 1244/6, 1244/9, 1244/14, 1245/5,  
1374/21, 1375/1, 1375/10, 1375/23  
doesn't 1250/24, 1291/24, 1293/19, 1295/3, 1300/5,  
1318/21, 1318/22, 1369/16, 1379/21, 1393/12, 1412/17,  
1413/16  
dollar 1372/21  
dollars 1382/25, 1383/21  
doubt 1317/18, 1317/19, 1340/8, 1340/12, 1340/20,  
1341/6, 1341/14, 1341/21, 1342/12, 1418/11  
doubts 1295/18  
Dr. Neabitt 1329/16, 1344/13, 1345/2  
drafted 1369/2  
draw 1333/14  
drawn 1333/18, 1357/4  
driven 1373/15, 1396/24  
drives 1396/22  
driving 1387/1  
drop 1302/13  
dropped 1253/15, 1301/5, 1401/16  
Duke 1237/8, 1238/5, 1285/25, 1286/15, 1289/19,  
1294/14, 1294/22, 1330/16, 1333/1, 1333/21, 1340/9,  
1340/10, 1341/14, 1342/4, 1348/9, 1348/11, 1349/4,  
1359/2, 1368/15, 1391/1, 1391/23, 1392/10, 1392/16,  
1392/19, 1393/8, 1393/10, 1403/16, 1403/20, 1404/16,  
1417/11, 1417/18  
Duke's 1339/18, 1345/10, 1346/4, 1346/11, 1347/23,  
1349/24, 1351/2, 1351/5, 1368/19  
dumb 1288/14  
duplicate 1392/20  
duplication 1391/16, 1392/24  
dureas 1304/24, 1305/20  
during 1253/10, 1303/20, 1315/25, 1317/12, 1351/3,  
1366/15, 1373/4, 1400/10, 1402/7, 1404/1

E

easier 1249/19  
easiest 1250/25  
easily 1313/14, 1327/23  
Easley 1237/19  
easy 1267/21, 1356/11, 1380/2  
ECAR 1315/4, 1315/25, 1316/3  
economic 1253/13, 1263/7, 1266/17, 1267/19, 1268/2,  
1268/7, 1270/25, 1271/22, 1290/5, 1290/20, 1292/12,  
1292/15, 1293/9, 1301/1, 1301/20, 1303/19, 1304/1,  
1311/8, 1313/2, 1313/11, 1324/17, 1333/25, 1391/25,  
1412/19, 1413/3  
economic-type 1290/2  
economically 1300/23  
economics 1254/19, 1256/4, 1257/2, 1257/13,  
1257/25, 1263/1, 1265/8, 1265/10, 1265/12, 1265/15,  
1265/21, 1267/11, 1267/16, 1298/14, 1299/14, 1299/15,  
1299/16, 1305/5, 1342/18, 1397/2, 1419/14  
economist 1329/17  
economy 1277/6, 1320/22  
edition 1318/3  
effect 1247/17, 1247/21, 1249/9, 1258/18, 1325/14,  
1326/14, 1340/2, 1373/24, 1385/7, 1385/21, 1417/24  
effected 1268/21  
effecting 1288/6  
effective 1268/22  
efficient 1264/18, 1267/24, 1268/7, 1294/16, 1347/5,  
1347/6, 1347/8, 1347/19, 1347/20  
efficiently 1348/12  
effort 1363/21, 1363/22, 1364/13  
efforts 1248/17, 1248/20, 1248/23  
eight 1395/14  
elaborate 1286/9, 1286/10  
elect 1340/21  
Electric 1238/14, 1238/17, 1247/4, 1366/2, 1370/12,  
1393/11, 1417/8  
electrical 1237/6  
electricity 1300/11, 1303/10, 1381/20  
electronic 1378/23  
element 1267/9  
elements 1260/18

eliminate 1367/1  
emerge 1364/11  
emergency 1391/12  
emissions 1347/25  
Emmanuel 1230/9  
emphases 1269/8  
employed 1332/20  
employees 1331/14, 1332/24  
encompass 1307/24  
end 1280/19, 1277/4, 1293/12, 1324/20, 1334/18, 1345/23, 1355/14  
ending 1317/12  
Energy 1237/8, 1238/5, 1263/4, 1263/5, 1278/25, 1279/1, 1279/8, 1279/12, 1280/18, 1281/2, 1281/16, 1281/21, 1281/24, 1294/23, 1311/7, 1320/22, 1331/7, 1334/16, 1335/4, 1338/13, 1338/5, 1338/18, 1339/18, 1340/9, 1341/4, 1341/15, 1344/7, 1370/12, 1391/12, 1394/21  
enforce 1342/14  
England 1364/11, 1364/20  
enjoy 1303/6, 1409/9  
ensure 1303/18  
enter 1264/7, 1268/24, 1271/3, 1287/5, 1287/22, 1288/7, 1288/20, 1288/22, 1289/4, 1289/12, 1292/21, 1299/6, 1339/5, 1343/16  
entered 1285/21  
entering 1271/8, 1286/23, 1289/8  
enticing 1269/11  
entities 1261/4  
entitled 1377/23  
entity 1274/21, 1275/13, 1275/14, 1323/10, 1323/23, 1324/1, 1325/12, 1331/11, 1331/17  
enunciated 1414/7  
environment 1290/16, 1312/1, 1346/19, 1347/25, 1353/25, 1358/6, 1358/7, 1369/8, 1373/23, 1374/3  
Environmental 1238/21, 1246/23, 1246/24, 1291/1, 1296/24, 1296/25, 1297/10, 1348/10, 1348/19, 1348/21, 1366/23, 1414/8, 1414/20  
envision 1263/13, 1263/15, 1363/11  
equal 1299/1  
equality 1320/6  
equals 1379/15  
equation 1289/13  
equipment 1395/3, 1395/4, 1395/9  
Espanade 1237/20  
essence 1256/5, 1264/16, 1290/14, 1300/19, 1324/7, 1400/11  
establish 1271/18, 1393/10, 1393/12  
established 1287/16  
estimate 1401/3  
evaluating 1313/15  
event 1308/8, 1308/13, 1404/7  
events 1330/11  
evidence 1281/19, 1420/11  
evolve 1363/7, 1400/18  
evolving 1273/9  
Ex 1306/13  
Examination 1240/5, 1240/6, 1240/7, 1241/17, 1299/7, 1320/17, 1327/9, 1327/22, 1362/21, 1368/14, 1390/1, 1411/6, 1414/14, 1416/5  
examine 1264/23, 1273/1, 1276/13, 1304/24, 1320/14, 1320/20  
examined 1268/20, 1296/12, 1296/14, 1296/18, 1297/8, 1299/2, 1321/1, 1321/23, 1324/22  
examining 1298/23  
exceed 1300/1, 1373/2  
exceeded 1412/1  
excerpt 1245/13  
excerpted 1375/8, 1376/15  
excerpts 1243/24, 1244/18, 1244/25, 1374/25, 1375/10  
excess 1310/18, 1342/19, 1361/22, 1368/5, 1368/6, 1368/21, 1369/20, 1369/22, 1384/3, 1384/4, 1384/10, 1384/15, 1407/17  
exchanges 1354/13  
exchanging 1282/7  
Excuse 1245/20, 1335/5  
excused 1420/13  
exempt 1369/5, 1369/6  
exemptions 1367/9  
exercise 1308/3  
exhausted 1400/22  
exhibit 1306/11, 1306/25, 1316/24, 1364/23, 1365/3, 1365/4, 1365/9, 1368/12, 1374/15, 1374/16, 1374/20, 1375/17, 1375/24, 1377/16, 1377/20, 1378/16, 1383/5, 1383/17, 1385/21, 1386/8, 1389/22, 1393/16, 1395/17, 1398/2, 1420/1  
EXHIBITS 1240/10, 1364/23, 1389/21, 1419/24, 1420/3, 1420/6, 1420/10  
exist 1250/24, 1276/16, 1298/9, 1325/13, 1344/1, 1377/4, 1390/11, 1409/11  
existed 1290/20, 1292/11, 1292/12, 1312/22, 1320/1, 1339/2, 1398/13  
existence 1276/7, 1311/2, 1351/2, 1397/5

existing 1252/5, 1276/8, 1322/5, 1390/5, 1394/11, 1395/1  
exists 1266/10, 1270/6, 1270/10, 1270/11, 1270/15, 1276/21, 1280/22, 1291/7, 1293/10, 1294/8, 1325/19, 1329/8, 1331/15, 1380/3, 1390/24  
expand 1351/19  
expanded 1322/6  
expansion 1296/9  
expect 1263/20, 1287/4, 1288/11, 1300/22, 1343/10  
expectation 1290/17, 1319/2, 1319/14, 1319/22, 1320/4, 1320/18, 1321/7, 1321/12, 1321/16  
expected 1321/8, 1396/25  
expensive 1311/24  
experience 1287/14  
experienced 1302/4, 1308/22  
experiencing 1315/20, 1318/10  
export 1303/18, 1329/25, 1334/9, 1347/23, 1348/10, 1348/15, 1349/9, 1349/21, 1371/11  
exports 1348/10  
expire 1262/14  
expired 1401/20  
explanation 1289/1, 1321/17, 1327/20, 1330/12, 1346/9, 1399/21, 1360/23, 1372/10, 1400/5, 1407/8  
explanations 1351/12  
explode 1410/20  
explore 1262/21, 1269/21, 1282/16, 1337/12, 1402/20  
explored 1284/1, 1344/16, 1358/6  
exploring 1259/12  
expound 1351/16  
express 1348/22, 1390/22, 1391/4  
expressed 1249/1, 1286/16, 1288/20, 1310/4, 1329/16, 1386/19, 1390/9, 1390/18  
expression 1288/21  
extend 1261/9  
extreme 1304/25, 1315/20

F

face 1268/23  
facilities 1250/18, 1261/25, 1274/15, 1275/13, 1275/15, 1276/2, 1282/13, 1367/9, 1392/20, 1393/20, 1412/25, 1416/9, 1416/14  
facility 1252/9, 1274/18, 1275/14, 1394/24, 1412/19  
fact 1254/13, 1254/17, 1275/11, 1296/8, 1351/12, 1360/11, 1376/20, 1405/24  
factor 1412/5  
factories 1409/2  
facts 1281/19, 1343/5  
fair 1283/23, 1287/23, 1304/20, 1322/9, 1326/23, 1348/3  
faith 1405/15  
fall 1403/22  
fashion 1331/17, 1402/17  
fixed 1245/3  
February 1376/23, 1400/1  
FEECA 1391/6  
FERC 1325/8, 1325/14, 1370/14, 1371/10, 1372/1, 1372/8, 1372/14, 1373/2  
Fields 1238/9  
fifth 1246/7  
figure 1298/7, 1379/13, 1379/17, 1379/25  
file 1321/25, 1380/17, 1386/3, 1391/12, 1393/16, 1393/23, 1400/24, 1416/9  
filed 1243/12, 1243/16, 1244/6, 1244/11, 1244/12, 1247/11, 1247/13, 1334/11, 1389/24, 1361/6, 1403/17, 1416/12, 1416/15  
files 1393/8  
filling 1243/3, 1249/4  
filings 1306/2  
finalize 1306/4  
finalized 1306/6  
financial 1324/17  
find 1292/15, 1399/14, 1361/9, 1361/10, 1377/16, 1377/23  
fine 1263/23, 1286/8, 1287/25, 1310/24, 1314/19, 1406/6  
finish 1253/21, 1412/23  
firm 1251/3, 1299/1, 1299/5, 1261/9, 1302/7, 1313/18, 1313/23, 1314/12, 1314/17, 1334/15, 1338/3, 1338/13, 1336/4, 1342/13, 1354/21, 1361/16, 1361/23, 1362/13, 1362/14, 1377/9, 1378/7, 1378/9, 1378/10, 1378/12, 1379/7, 1380/1, 1380/4, 1380/6, 1381/3, 1382/1, 1387/12, 1387/19, 1387/20, 1388/19, 1388/21, 1396/7, 1402/13, 1404/8  
fit 1276/13, 1345/17, 1347/10  
fits 1257/22, 1359/22  
fitted 1345/17  
five 1245/12, 1245/22, 1246/2, 1272/5, 1273/4, 1397/9, 1397/12, 1397/19, 1397/22  
five-year 1272/11  
fleet 1265/13  
flexible 1410/2  
floors 1399/15

flip 1343/6  
FLORIDA 1237/1, 1237/7, 1237/21, 1237/22, 1238/4, 1238/7, 1238/8, 1238/10, 1238/11, 1238/13, 1238/16, 1238/17, 1238/20, 1239/4, 1239/5, 1239/6, 1239/8, 1241/14, 1243/2, 1243/11, 1243/16, 1243/24, 1245/13, 1246/3, 1246/21, 1249/12, 1290/5, 1291/9, 1252/6, 1252/22, 1253/25, 1255/4, 1257/19, 1264/6, 1264/10, 1266/4, 1270/9, 1274/1, 1276/10, 1276/11, 1276/19, 1277/12, 1277/25, 1278/4, 1278/5, 1278/9, 1278/12, 1278/22, 1278/23, 1279/24, 1289/18, 1292/15, 1293/9, 1294/21, 1295/6, 1295/16, 1296/8, 1306/11, 1308/12, 1308/21, 1309/2, 1312/8, 1312/19, 1312/23, 1312/25, 1313/19, 1314/2, 1314/22, 1315/11, 1315/18, 1315/24, 1316/4, 1318/10, 1319/2, 1321/25, 1323/19, 1323/21, 1324/25, 1325/5, 1325/16, 1325/18, 1325/24, 1326/4, 1326/17, 1329/4, 1329/7, 1329/18, 1331/7, 1331/9, 1331/23, 1332/8, 1332/12, 1332/16, 1332/20, 1338/3, 1340/3, 1342/24, 1343/9, 1343/11, 1344/7, 1346/4, 1349/5, 1349/23, 1351/3, 1351/7, 1351/10, 1351/18, 1352/6, 1353/2, 1353/21, 1354/15, 1354/18, 1356/3, 1356/24, 1359/16, 1360/17, 1363/2, 1365/16, 1367/4, 1375/11, 1375/14, 1376/8, 1376/11, 1377/1, 1377/12, 1380/12, 1380/19, 1382/19, 1382/21, 1383/1, 1383/22, 1383/23, 1384/1, 1384/16, 1384/21, 1385/8, 1386/15, 1393/21, 1393/25, 1395/18, 1395/21, 1396/7, 1396/11, 1397/11, 1397/18, 1399/6, 1399/18, 1404/15, 1404/19, 1406/24, 1407/10, 1410/4, 1411/10, 1411/21, 1412/17, 1412/20, 1416/15  
Florida's 1329/12  
Florida-based 1338/19, 1339/6, 1339/19, 1340/10, 1341/5, 1342/5, 1353/17  
flow 1333/20, 1333/23, 1398/5, 1399/8, 1412/13, 1413/15, 1413/17  
flow-through 1320/14, 1320/20, 1320/23  
flowed 1302/25, 1383/21  
flowing 1398/1  
focus 1386/9, 1403/1  
focused 1269/18  
folks 1277/11, 1312/11, 1346/19  
follow 1258/12, 1263/20, 1270/13, 1280/11, 1281/7, 1288/18, 1297/24, 1305/8, 1363/14  
follow-up 1285/9, 1342/1, 1346/8, 1415/6, 1415/7, 1415/24  
followed 1275/11, 1346/25  
follows 1241/16  
force 1310/2  
forced 1289/19, 1289/23, 1290/19, 1291/11, 1330/2, 1370/5  
Forecast 1240/17, 1365/5, 1373/23, 1373/25, 1381/8, 1400/15, 1400/18, 1400/20, 1400/21, 1401/4, 1401/5, 1401/8, 1401/9, 1401/14, 1401/15, 1401/18, 1401/21, 1401/22, 1402/3, 1402/8, 1402/11, 1402/13  
Forecasting 1374/17, 1377/21, 1400/7  
forecasting 1257/7, 1257/8, 1400/17, 1410/25  
forecasts 1314/1  
foremost 1300/4  
Forgive 1254/20  
form 1254/16, 1271/20, 1336/22, 1392/2  
formula 1337/2, 1337/3  
forward-speaking 1358/10  
found 1271/4, 1331/4  
Foundation 1238/21, 1287/15  
FPC 1255/5, 1264/1, 1291/23, 1294/12, 1335/1, 1335/3, 1336/2, 1336/4, 1336/5, 1343/6, 1351/18, 1353/11, 1412/2  
FPC's 1240/13, 1240/14, 1306/21, 1307/4, 1307/12, 1316/20, 1389/23  
FPL 1247/11  
FPSC 1317/11  
FPSC's 1413/19  
frame 1283/16, 1285/5, 1395/4, 1403/9  
framers 1297/4  
framework 1248/1, 1249/18, 1249/21, 1251/5, 1251/10, 1252/10, 1252/14, 1254/10, 1266/8, 1267/6, 1298/22, 1299/6, 1311/21, 1313/25, 1324/13, 1324/24, 1326/2, 1351/13, 1355/12, 1355/13, 1355/17, 1358/16, 1359/6, 1366/8, 1390/4, 1390/5, 1390/12, 1405/17, 1415/1  
franchise 1257/12, 1261/12  
FRCC 1345/9, 1345/13, 1345/17, 1346/3, 1346/10, 1346/19, 1346/20, 1347/2  
Friday 1237/17, 1241/22, 1242/3, 1327/14, 1420/1  
front 1369/14  
frustrate 1369/17  
frustration 1249/1  
fuel 1257/7, 1268/20, 1268/23, 1269/13, 1269/19, 1348/12, 1373/15, 1373/17, 1373/19, 1373/22, 1373/25, 1374/4, 1374/6, 1374/9, 1374/13, 1383/2, 1383/23, 1399/1, 1399/8  
function 1331/14, 1341/9, 1397/16, 1400/17  
future 1258/20, 1261/3, 1295/3, 1330/3, 1330/8, 1330/12, 1373/23, 1392/24, 1403/5

G

GAIL 1238/19  
 gain 1247/2  
 gained 1406/20  
 GARCIA 1237/15, 1241/24, 1242/1, 1244/21, 1244/24, 1245/1, 1245/2, 1245/7, 1245/10, 1252/17, 1253/3, 1254/20, 1258/2, 1258/13, 1258/9, 1258/13, 1263/21, 1268/2, 1268/13, 1291/14, 1292/7, 1292/24, 1294/10, 1295/15, 1300/2, 1300/21, 1301/7, 1301/18, 1302/2, 1302/12, 1302/18, 1302/22, 1303/8, 1303/16, 1304/6, 1305/4, 1305/9, 1305/24, 1306/10, 1306/15, 1307/3, 1307/17, 1340/15, 1343/2, 1343/14, 1344/5, 1344/19, 1345/5, 1351/15, 1352/2, 1352/10, 1354/11, 1354/17, 1354/24, 1355/4, 1355/25, 1357/3, 1357/13, 1357/19, 1357/24, 1358/17, 1358/23, 1359/8, 1359/23, 1360/15, 1360/25, 1361/7, 1361/18, 1361/24, 1362/16, 1361/13, 1362/2, 1362/10, 1366/24, 1367/6, 1367/13, 1367/21, 1368/7, 1368/15, 1368/24, 1369/7, 1369/16, 1397/6, 1404/25, 1406/19, 1407/5, 1407/16, 1407/19, 1407/25, 1408/9, 1408/18, 1408/24, 1409/5, 1409/10, 1409/18  
 Garcia's 1260/20  
 GARY 1238/9  
 gas-fired 1268/22, 1269/10, 1347/5, 1347/9  
 gasification 1247/5  
 gatekeeper 1252/24, 1253/24, 1273/16, 1273/22, 1274/1  
 generate 1263/2  
 generating 1246/22, 1265/6, 1269/16, 1290/4, 1311/3, 1327/13, 1333/17, 1338/18, 1366/22, 1393/15, 1394/24, 1396/6, 1416/13  
 generation 1264/19, 1265/5, 1265/6, 1290/5, 1290/6, 1290/8, 1362/16, 1361/16, 1361/20, 1361/22, 1365/21, 1373/11, 1373/15, 1374/1, 1376/3, 1376/11, 1378/12, 1378/13, 1379/2, 1379/10, 1379/25, 1380/20, 1380/23, 1381/1, 1381/18, 1381/19, 1381/21, 1382/5, 1382/11, 1391/16, 1392/24, 1393/11, 1399/7  
 generator 1350/17  
 Georgia 1308/24, 1312/21, 1316/3  
 gleaned 1295/10  
 global 1363/4  
 goal 1313/3  
 goal-setting 1326/6  
 goals 1326/5, 1326/16, 1326/19, 1326/20  
 govern 1330/11, 1373/3  
 governs 1374/8  
 grants 1300/8  
 graphic 1395/17  
 greater 1367/20, 1372/18, 1393/16, 1414/21  
 grew 1311/5  
 grid 1249/12, 1312/12  
 grocery 1418/9  
 ground 1330/20, 1339/14, 1340/16, 1348/17, 1351/5, 1351/10, 1351/17, 1351/23, 1414/11  
 grounded 1411/2  
 group 1256/5, 1257/1, 1301/24, 1302/2, 1330/24, 1331/3, 1331/20, 1333/16, 1399/15, 1399/19, 1367/10, 1404/11  
 grow 1410/20  
 growth 1259/16, 1373/20, 1394/6  
 guarantee 1344/22  
 guess 1247/22, 1249/17, 1251/21, 1252/7, 1252/19, 1253/4, 1259/17, 1263/12, 1266/9, 1266/19, 1270/5, 1270/16, 1271/24, 1272/21, 1284/11, 1285/18, 1286/4, 1290/18, 1292/12, 1294/6, 1295/12, 1299/6, 1299/19, 1300/14, 1303/19, 1303/20, 1313/9, 1315/5, 1324/9, 1331/8, 1340/17, 1344/11, 1346/17, 1352/4, 1352/10, 1354/19, 1356/18, 1358/12, 1360/21, 1361/13, 1363/18, 1364/8, 1368/9, 1369/3, 1379/21, 1380/7, 1380/18, 1380/25, 1381/23, 1385/25, 1388/17, 1389/10, 1390/17, 1394/20, 1441/2, 1405/22, 1408/4, 1408/20, 1409/2, 1411/1, 1412/3, 1414/24, 1419/10  
 guys 1245/8, 1264/1, 1357/20, 1381/22  
 GUYTON 1239/2

heart 1253/5  
 heat 1304/19, 1314/22, 1314/23, 1315/11, 1315/17, 1315/23, 1318/10  
 Hector 1239/3  
 held 1253/24, 1320/5, 1356/21  
 help 1295/12, 1297/13, 1298/19, 1300/1, 1382/13  
 helped 1351/3  
 helpful 1281/10, 1286/8  
 HERSHEL 1230/15  
 high 1313/10, 1315/25, 1317/20, 1402/16  
 higher 1263/5, 1265/5, 1267/2, 1267/15, 1290/8, 1308/23, 1312/24, 1316/4, 1336/24, 1401/8, 1401/23, 1402/13  
 highest 1311/13, 1313/4  
 highlighted 1334/2  
 Hines 1243/13, 1246/11, 1248/16, 1385/1, 1386/16, 1394/21  
 hinges 1413/3  
 history 1411/10, 1411/16, 1412/4, 1412/7  
 hit 1311/22, 1381/7  
 hold 1278/14, 1330/4, 1407/5  
 honest 1282/18  
 Honesty 1283/15, 1329/9  
 honor 1362/13  
 hook 1308/14  
 hope 1271/19, 1316/15, 1352/24, 1389/16  
 horizon 1395/15, 1404/9  
 hot 1360/18  
 hour 1277/2, 1289/11, 1301/2, 1310/16, 1314/24  
 hour-40-hour 1263/9, 1264/15, 1292/9, 1319/21, 1320/1  
 hourly 1343/19, 1344/2, 1344/5, 1344/6, 1344/9, 1344/16  
 hours 1264/18, 1264/25, 1317/12  
 house 1305/11  
 household 1307/16  
 huge 1306/3, 1301/11, 1302/15, 1332/23, 1333/8, 1333/13, 1343/18, 1407/13  
 hundred 1351/21  
 hung 1309/15  
 hurdle 1298/25  
 hurt 1351/18, 1351/19, 1351/22, 1358/2, 1358/3, 1380/4  
 hypothetical 1277/16, 1277/17, 1309/10, 1310/11, 1310/22, 1311/15, 1312/2, 1323/3  
 hypotheticals 1390/7

I

Le 1256/24, 1304/6  
 ID 1240/11  
 idea 1245/25, 1258/8, 1321/22, 1393/5, 1393/7  
 ideal 1272/6, 1283/21  
 identification 1306/25, 1316/24, 1365/3, 1365/9, 1374/16  
 identified 1242/5, 1242/16, 1242/21, 1246/11, 1246/20, 1247/20, 1250/2, 1251/7, 1275/4, 1306/24, 1322/5, 1365/1, 1363/17, 1395/14  
 identify 1247/25, 1365/7, 1383/14  
 ignorance 1256/15, 1407/8  
 ignore 1265/8, 1265/10, 1276/22, 1276/24  
 ignored 1293/25  
 ignoring 1260/23  
 III 1238/3  
 imaginable 1314/3  
 imagine 1260/2, 1272/3, 1277/19, 1289/22, 1303/10, 1355/25, 1356/9, 1356/19, 1359/17, 1379/16, 1413/10  
 imbedded 1372/19, 1373/1  
 immediate 1364/8  
 impact 1251/24, 1252/5, 1255/22, 1264/4, 1264/10, 1265/13, 1291/1, 1292/23, 1296/18, 1296/20, 1296/21, 1296/22, 1296/25, 1297/9, 1298/16, 1310/15, 1313/18, 1349/25, 1380/5, 1380/9, 1380/13, 1385/18, 1385/22, 1366/23, 1372/22, 1402/2  
 impacted 1252/25  
 impacts 1255/20, 1298/2, 1298/15, 1320/20  
 impair 1242/18, 1249/12, 1249/16, 1368/16, 1369/24, 1369/25, 1370/7  
 impaired 1249/2, 1368/19, 1368/20  
 impairing 1368/23  
 impairment 1248/8  
 impeach 1384/6  
 impeachment 1337/24, 1353/22  
 implement 1307/20  
 Implementation 1240/13, 1306/13, 1306/22, 1307/4, 1307/13, 1326/8  
 implemented 1326/22  
 implication 1300/16  
 implications 1309/25, 1310/12, 1310/17, 1324/18, 1365/11  
 implied 1290/19, 1380/4, 1380/6  
 implies 1285/13, 1379/22  
 imply 1262/5, 1331/15, 1360/12, 1380/25, 1386/2,

1401/5  
 implying 1281/5, 1346/18  
 impose 1402/17  
 impression 1357/22, 1409/21  
 improvements 1372/25  
 incanted 1409/9, 1418/25, 1419/13  
 incentive 1398/24  
 inclined 1312/18, 1312/20  
 income 1313/4  
 incorporate 1276/25  
 Incorporated 1279/1  
 increase 1329/18, 1368/2, 1371/24, 1372/7  
 increases 1374/6  
 incremental 1264/21  
 incumbent 1290/6  
 independent 1393/14  
 Indian 1274/21, 1275/22, 1277/17, 1323/6, 1323/23, 1390/6  
 Indiantown 1393/21, 1416/8  
 indicate 1330/16, 1338/3  
 indicated 1282/24, 1287/13, 1314/10, 1318/12, 1327/17, 1334/11, 1336/7, 1336/10, 1338/16, 1348/11, 1411/9  
 indicates 1317/10  
 indicating 1337/18  
 indulgence 1416/4  
 ineffective 1301/6  
 inefficient 1266/2  
 information 1247/2, 1248/3, 1248/4, 1249/8, 1295/7, 1295/10, 1316/6, 1359/18, 1374/19, 1383/10, 1401/1, 1401/2, 1402/1  
 input 1249/7  
 inquire 1282/12  
 inquiring 1241/8, 1241/21, 1242/2  
 inquiry 1317/7  
 insights 1370/17  
 installed 1301/5, 1394/2  
 installing 1305/13  
 integrated 1247/5, 1320/8, 1321/11  
 intent 1287/7, 1339/10, 1339/15, 1341/17  
 intention 1339/5, 1339/18, 1340/8, 1341/3  
 intentions 1340/5, 1342/13  
 interact 1277/11  
 interaction 1278/25, 1279/2  
 interchange 1312/9, 1320/9, 1320/21  
 interest 1282/10, 1282/11, 1286/16, 1286/23, 1289/4, 1289/8, 1290/11, 1340/21, 1405/2  
 interfere 1249/13, 1252/5  
 interferes 1250/14  
 interplay 1304/19  
 interpret 1417/17  
 interpretation 1365/23  
 interrupt 1250/8, 1301/22, 1303/17, 1304/14, 1304/17, 1306/5, 1308/4, 1322/17, 1362/3, 1362/10, 1362/15, 1361/9, 1367/17, 1367/23  
 interrupted 1303/23, 1419/2  
 interruptible 1304/9, 1361/2, 1362/1, 1377/15, 1378/4, 1378/18, 1378/25, 1379/13, 1379/19, 1380/14, 1380/22, 1381/21, 1382/6, 1386/20, 1387/2, 1387/10, 1389/3, 1406/24, 1407/11, 1408/19, 1408/21, 1418/14, 1418/18, 1419/1  
 interrupting 1303/6  
 interruption 1408/14  
 intervenor 1327/12  
 introduced 1320/12  
 introduction 1329/17  
 investment 1267/2, 1268/5, 1293/7, 1301/8, 1343/18  
 investor 1344/17  
 investor-owned 1243/1, 1247/18, 1248/9, 1353/2, 1353/23, 1365/21, 1366/1, 1366/11  
 IOU's 1249/3  
 issue 1253/4, 1255/7, 1255/16, 1259/14, 1263/14, 1268/23, 1337/1, 1343/15, 1348/6, 1349/17, 1362/7, 1416/19  
 issues 1246/25, 1254/6, 1297/11, 1298/18, 1348/19, 1348/21, 1350/22, 1353/10, 1356/13, 1362/6, 1394/22, 1405/16  
 item 1258/2

J

JACOBS 1237/16, 1258/23, 1259/4, 1259/9, 1259/19, 1260/7, 1260/12, 1260/16, 1261/7  
 JAMES 1238/7, 1238/12  
 January 1376/23  
 JOE 1237/15, 1340/14, 1389/14  
 JOHN 1238/3, 1327/11  
 JOHNSON 1237/14, 1241/10, 1273/11, 1278/7, 1278/14, 1279/22, 1280/12, 1281/12, 1285/7, 1285/12, 1286/7, 1287/19, 1287/24, 1295/20, 1296/19, 1296/23, 1297/14, 1306/8, 1306/16, 1306/19, 1306/23, 1308/9, 1316/13, 1316/18, 1316/22, 1318/20, 1318/24, 1324/4, 1327/2, 1327/6, 1338/5, 1338/9, 1339/11, 1339/23,

H

hairs 1343/4  
 half 1314/24, 1407/21, 1408/13  
 hand 1244/16, 1244/20, 1244/22, 1258/9, 1271/17, 1271/21, 1284/14, 1289/7, 1301/23, 1301/24, 1341/2, 1379/22  
 handed 1243/23, 1245/24, 1316/7, 1377/20  
 hands 1243/22, 1316/12  
 happy 1244/16, 1305/2  
 hard 1362/22, 1362/23, 1363/18  
 harm 1263/10  
 harmed 1351/10  
 harms 1268/8  
 heading 1363/6  
 hearings 1293/17

1340/14, 1341/11, 1341/18, 1342/6, 1345/6, 1345/20, 1348/4, 1348/24, 1352/25, 1353/14, 1354/4, 1354/9, 1363/14, 1364/16, 1364/20, 1364/25, 1368/6, 1368/14, 1369/13, 1369/17, 1369/23, 1392/7, 1406/17, 1415/6, 1415/13, 1415/20, 1419/20, 1419/24, 1420/2, 1420/4, 1420/8, 1420/12  
 Join 1323/17, 1353/7, 1419/1  
 Joint 1237/5  
 JOY 1237/22  
 Judgment 1402/12  
 Judicial 1244/7, 1244/11, 1245/8  
 JULIA 1237/14  
 July 1317/12  
 June 1283/14, 1306/13, 1307/5, 1307/13, 1307/20, 1311/1, 1314/23, 1315/9, 1315/22, 1317/16, 1318/10, 1318/11, 1385/18  
 Jurisdiction 1278/13, 1370/13, 1372/1, 1372/9, 1390/16, 1413/19, 1413/20  
 Jurisdictional 1413/18  
 Jurisdictions 1278/2  
 Justice 1410/10  
 Justified 1266/20

**K**

KAMARAS 1230/19  
 KELLY 1237/22  
 key 1273/24  
 know-how 1329/9  
 knowledge 1242/23, 1243/8, 1243/9, 1246/13, 1247/9, 1248/5, 1248/19, 1249/6, 1286/17, 1278/5, 1278/10, 1280/4, 1284/14, 1287/4, 1297/3, 1299/6, 1322/10, 1322/13, 1324/12, 1324/20, 1331/13, 1354/20, 1393/23, 1390/22, 1399/5, 1418/17, 1418/19  
 knowledgeable 1323/22

**L**

L.L.P 1237/8, 1238/6  
 Landers 1230/3  
 landmark 1254/25  
 large 1267/24, 1274/6, 1354/20, 1373/24, 1374/2, 1374/11, 1399/15, 1408/20, 1416/23, 1418/6, 1418/12, 1418/13, 1418/16  
 larger 1244/17, 1309/2  
 largest 1333/19, 1400/15, 1417/6  
 listed 1315/23  
 Late-filed 1240/18, 1303/5, 1303/15, 1303/17, 1305/20, 1306/8, 1306/13, 1390/2, 1420/8  
 later 1263/25  
 latitude 1291/11, 1415/21  
 Laughter 1308/14, 1309/15  
 LAVIA 1230/3  
 law 1349/6, 1390/24  
 laws 1370/11  
 lawyer 1327/24, 1330/14, 1349/14, 1360/19  
 lawyers 1359/12  
 lead 1400/9  
 LEAF 1230/22  
 leap 1352/12, 1352/13, 1405/15  
 Leaping 1352/20  
 leave 1290/2, 1313/8, 1359/11  
 leaves 1340/4  
 left 1241/7, 1302/3, 1334/9, 1401/23  
 Legal 1230/21, 1239/7, 1282/16, 1323/14, 1323/15, 1349/11, 1349/16, 1399/9, 1399/11, 1390/13, 1406/15, 1414/5, 1414/25, 1415/11  
 legally 1325/13  
 legitimate 1364/1  
 length 1271/7, 1282/4, 1369/18  
 LEON 1237/16  
 LESLIE 1239/6  
 letter 1316/7  
 level 1267/23, 1301/25, 1302/6, 1302/10, 1303/22  
 levels 1307/21  
 licensed 1252/11  
 life 1269/3  
 Light 1239/5, 1246/4, 1261/20, 1375/11, 1393/21, 1416/15, 1416/17  
 Rights 1360/17  
 Limit 1293/1, 1293/24, 1294/9, 1297/19, 1300/3, 1322/24  
 Limitations 1324/15  
 Limited 1355/19, 1365/5, 1400/14  
 Limits 1290/25, 1292/22, 1295/23, 1300/2, 1313/19, 1322/22  
 Mine 1252/20, 1253/21, 1254/9, 1299/20, 1306/14, 1317/9, 1320/12, 1320/24, 1334/24, 1335/23, 1335/25, 1336/24, 1337/9, 1338/11, 1344/24, 1372/21, 1385/15, 1385/16, 1391/7, 1394/18, 1395/10, 1402/12  
 Mom's 1334/7  
 Not 1244/8, 1306/18, 1331/5

Listen 1262/9  
 Noted 1322/25  
 Notening 1327/13  
 little 1254/21, 1259/17, 1263/23, 1281/13, 1300/10, 1301/14, 1334/9, 1336/7, 1351/19, 1355/24, 1361/6, 1368/14, 1405/23, 1415/21  
 load 1253/13, 1257/8, 1259/24, 1260/4, 1260/16, 1302/14, 1304/5, 1306/6, 1308/4, 1309/17, 1309/19, 1309/22, 1313/16, 1337/1, 1337/5, 1360/7, 1361/16, 1361/23, 1362/8, 1374/23, 1377/14, 1377/15, 1378/7, 1378/8, 1378/9, 1378/12, 1378/13, 1378/18, 1378/23, 1379/1, 1379/7, 1379/12, 1379/13, 1379/19, 1379/24, 1380/1, 1380/4, 1380/6, 1380/14, 1380/22, 1381/1, 1381/2, 1381/3, 1381/10, 1382/1, 1384/6, 1386/17, 1387/3, 1387/12, 1387/14, 1387/15, 1387/19, 1387/20, 1388/20, 1388/21, 1388/25, 1389/1, 1395/22, 1396/2, 1396/12, 1396/15, 1396/25, 1400/7, 1400/12, 1400/15, 1401/18, 1402/2, 1407/3, 1407/11, 1407/14, 1407/15, 1407/22, 1408/3, 1408/16, 1408/21, 1409/17, 1411/11, 1411/22, 1411/23, 1412/4, 1417/4, 1419/11  
 loads 1264/9, 1308/19  
 local 1254/5, 1406/4  
 locally 1343/17  
 located 1394/12  
 locating 1394/25, 1395/1  
 location 1246/25, 1394/3, 1394/5, 1394/10, 1394/16, 1394/23, 1395/6  
 locations 1394/14  
 logic 1299/20  
 long-term 1259/6, 1266/14, 1271/3, 1271/8, 1272/1, 1301/4, 1309/25, 1310/5, 1310/12, 1310/17, 1343/25, 1344/25, 1395/11, 1371/22, 1371/25, 1372/5, 1372/16  
 loopholes 1369/11  
 lose 1305/5  
 losing 1297/12, 1392/12  
 loss 1302/14, 1395/22, 1396/2, 1396/12, 1396/15, 1411/11, 1411/22, 1411/23, 1412/4  
 lost 1253/14, 1259/17, 1334/18, 1381/14  
 love 1300/15  
 low 1300/10, 1414/21  
 lower 1267/3  
 lowest 1294/20  
 lumps 1304/8  
 lunch 1420/14  
 luxury 1258/5

**M**

Madam 1273/12, 1279/20, 1306/9, 1316/15, 1327/8, 1328/24, 1341/7, 1353/8, 1364/22, 1365/8, 1383/16, 1389/21, 1406/19, 1411/4, 1415/5, 1415/12, 1415/17  
 magical 1303/21  
 main 1299/4  
 maintained 1244/16  
 maintenance 1377/21, 1377/24, 1378/2  
 major 1299/2, 1299/6, 1299/9, 1264/5, 1394/23  
 majority 1344/7, 1399/15  
 manage 1410/17  
 management 1253/13, 1302/14, 1345/3, 1377/15, 1378/14, 1378/19, 1379/1, 1379/13, 1379/19, 1380/14, 1380/22, 1381/1, 1381/2, 1386/18, 1387/3, 1387/14, 1387/16, 1388/25, 1389/1, 1407/11, 1407/14, 1407/15, 1407/22, 1408/3  
 manner 1371/16  
 margin 1334/25, 1336/2, 1336/23, 1337/6, 1337/13, 1360/4, 1376/12, 1377/13, 1377/24, 1378/2, 1378/7, 1379/8, 1380/13, 1381/4, 1381/5, 1381/17, 1381/19, 1382/1, 1382/5, 1385/7, 1385/22, 1388/11, 1396/24, 1398/16, 1398/19, 1398/22, 1399/19, 1400/10, 1401/23, 1402/1, 1402/5, 1402/6, 1403/11, 1407/1, 1407/3, 1408/8, 1408/15, 1409/16, 1411/17, 1411/19, 1411/24, 1419/11  
 Margins 1240/17, 1334/13, 1361/15, 1365/5, 1374/17, 1377/10, 1378/5, 1380/6, 1382/13, 1388/18, 1396/16, 1396/18, 1399/7, 1418/5  
 mark 1316/18, 1365/6, 1395/17  
 marked 1306/11, 1306/19, 1306/25, 1316/24, 1364/24, 1364/25, 1365/3, 1365/4, 1365/9, 1365/12, 1374/15, 1380/22  
 market 1290/25, 1261/15, 1261/17, 1261/21, 1261/22, 1269/3, 1271/6, 1271/24, 1272/2, 1272/4, 1283/23, 1284/9, 1284/13, 1284/17, 1284/18, 1284/20, 1285/3, 1285/11, 1285/14, 1285/18, 1285/21, 1285/23, 1286/3, 1286/17, 1286/19, 1287/6, 1287/8, 1287/22, 1287/23, 1288/7, 1288/8, 1288/23, 1289/10, 1300/8, 1300/13, 1300/23, 1307/25, 1308/8, 1308/14, 1309/2, 1309/20, 1310/15, 1315/25, 1323/9, 1323/19, 1323/22, 1323/24, 1325/10, 1325/17, 1325/19, 1329/3, 1329/7, 1329/8, 1329/12, 1329/19, 1331/21, 1331/25, 1332/2, 1332/4, 1332/9, 1332/15, 1332/21, 1333/2, 1343/19, 1344/16, 1351/3, 1352/7, 1352/22, 1355/2, 1355/8, 1356/2, 1356/4, 1356/6, 1356/7, 1356/9, 1356/10, 1356/19, 1356/24, 1357/5, 1359/7, 1364/11, 1402/23, 1405/3,

1405/4, 1405/20  
 market-based 1325/2, 1325/7, 1332/4  
 marketers 1331/5  
 Marketing 1325/1, 1325/6, 1325/9, 1330/24, 1331/4, 1331/15, 1331/24, 1332/25, 1333/15, 1333/21, 1333/22, 1334/5, 1397/5, 1397/8, 1404/11  
 marketplace 1273/2  
 markets 1269/14, 1295/9, 1330/24, 1357/2, 1364/14  
 massive 1304/13  
 match 1390/12, 1390/15  
 material 1323/5  
 math 1375/25, 1395/13  
 mathematical 1375/19, 1375/20  
 mathematics 1379/11, 1380/24  
 Matter 1237/4, 1281/6, 1293/19, 1307/2, 1327/12, 1353/22, 1379/11, 1406/4  
 MATTHEW 1239/2  
 maxed 1297/20  
 maximize 1313/2, 1333/16  
 maximum 1307/21  
 McGEE 1230/7  
 McMillen 1230/12  
 meaning 1329/10  
 measure 1388/4  
 measures 1290/19, 1299/9, 1299/10, 1326/4, 1326/9  
 mechanically 1367/6  
 mechanism 1371/2  
 meet 1252/1, 1252/3, 1262/1, 1313/22, 1314/12, 1399/15, 1360/3, 1360/9, 1360/10, 1360/12, 1360/13, 1366/12, 1377/2, 1380/1, 1380/11, 1404/16, 1404/20, 1404/23, 1407/1, 1409/23  
 meeting 1308/7, 1396/24  
 megawatt-hour 1312/19, 1315/6, 1317/11, 1317/16  
 megawatts 1264/24, 1274/6, 1274/17, 1295/13, 1309/6, 1309/7, 1309/18, 1309/19, 1309/21, 1309/22, 1310/8, 1351/2, 1352/5, 1357/5, 1357/7, 1357/8, 1357/11, 1357/16, 1367/19, 1368/5, 1368/6, 1368/21, 1369/21, 1369/22, 1378/2, 1378/11, 1378/17, 1378/25, 1379/2, 1379/6, 1384/8, 1385/3, 1393/16, 1400/20, 1401/16, 1402/5, 1409/25, 1410/1  
 memory 1340/20  
 mention 1370/15, 1402/7  
 mentioned 1262/20, 1325/11, 1395/7, 1395/21, 1400/12, 1416/1, 1416/8, 1418/6  
 menu 1255/11  
 merchant 1249/20, 1250/2, 1250/13, 1250/19, 1251/5, 1251/11, 1251/15, 1251/19, 1252/2, 1252/4, 1252/16, 1254/15, 1254/22, 1255/7, 1255/9, 1256/23, 1258/6, 1299/8, 1260/4, 1260/17, 1260/23, 1261/2, 1262/25, 1264/6, 1265/18, 1266/6, 1266/24, 1267/3, 1269/3, 1270/13, 1275/15, 1275/23, 1276/2, 1276/8, 1277/17, 1277/21, 1278/2, 1278/6, 1278/10, 1278/11, 1279/11, 1279/24, 1280/18, 1281/2, 1281/9, 1281/16, 1281/25, 1282/7, 1282/13, 1282/17, 1282/20, 1284/2, 1286/14, 1287/14, 1290/23, 1292/20, 1294/1, 1294/5, 1295/24, 1297/18, 1297/20, 1299/5, 1299/11, 1299/23, 1307/24, 1308/19, 1310/6, 1311/18, 1312/17, 1319/15, 1320/6, 1320/16, 1320/23, 1321/11, 1322/21, 1323/7, 1323/9, 1323/25, 1329/17, 1330/17, 1333/21, 1338/19, 1344/3, 1344/12, 1345/10, 1345/13, 1345/16, 1346/5, 1346/11, 1346/15, 1349/25, 1351/13, 1351/21, 1353/3, 1353/9, 1353/12, 1353/18, 1353/20, 1353/24, 1354/2, 1354/18, 1354/23, 1355/12, 1363/2, 1363/6, 1363/9, 1364/10, 1364/14, 1368/15, 1369/5, 1390/9, 1412/16, 1415/9  
 merit 1376/1  
 merits 1269/10, 1296/12  
 Miami 1237/16  
 MICHAEL 1240/4, 1240/16, 1241/13, 1365/1  
 MICHELLE 1230/15  
 Midwest 1315/4, 1315/17, 1317/21, 1318/9  
 mike 1241/25, 1353/5  
 million 1341/1, 1343/7, 1400/13  
 mind 1258/8, 1258/14, 1260/22, 1263/18, 1268/18, 1281/5, 1287/2, 1287/11, 1299/15, 1296/16, 1330/22, 1350/20, 1364/5, 1369/2, 1380/3, 1385/19, 1392/23, 1405/13, 1408/5  
 mind-set 1257/17  
 minds 1394/14  
 Mines 1409/3  
 minor 1302/21  
 minute 1258/24, 1269/22  
 minutes 1316/16  
 mixed 1255/16  
 mission 1333/15  
 mistaken 1360/25  
 misunderstanding 1250/20  
 misunderstood 1255/3  
 mix 1269/12, 1347/10, 1373/20, 1380/2, 1386/20, 1397/3, 1416/17  
 mixing 1340/6  
 Model 1395/25  
 models 1257/7, 1257/8

modifications 1372/13, 1372/25  
moment 1254/2, 1256/11, 1260/8, 1262/22, 1285/19,  
1301/6, 1309/23, 1310/1, 1310/25, 1371/22, 1376/1,  
1382/8  
money 1305/11, 1305/12, 1344/24, 1401/12  
Monroe 1239/3  
month 1315/23  
months 1243/3, 1248/10, 1249/4, 1283/14, 1395/13,  
1404/13  
morning 1241/19, 1241/20, 1405/14  
morning's 1339/25  
move 1269/14, 1269/15, 1269/17, 1271/11, 1328/19,  
1420/3  
moved 1309/18, 1419/25  
moves 1420/6  
Moyle 1327/11  
Mr. Ballinger 1316/10  
Mr. Bonner 1279/19, 1280/5, 1280/8, 1280/9,  
1280/17, 1281/4, 1281/5, 1281/17  
Mr. Denson 1336/9, 1347/17, 1416/19  
Mr. Garcia 1418/3  
Mr. Green 1339/4, 1339/17, 1339/18, 1339/25,  
1342/12  
Mr. Green's 1339/9, 1339/15, 1340/8, 1342/3  
MR. GUYTON 1323/13, 1328/18, 1363/5, 1376/17,  
1376/19  
Mr. Jenkins 1393/4, 1393/6  
Mr. Jenkins' 1369/10  
Mr. Moyle 1240/6, 1240/7, 1327/8, 1327/10,  
1328/20, 1328/25, 1329/5, 1330/9, 1330/14, 1330/5,  
1330/6, 1330/13, 1330/16, 1340/24, 1341/11, 1341/13,  
1341/23, 1342/9, 1342/22, 1345/6, 1345/7, 1345/20,  
1346/1, 1348/4, 1348/8, 1348/24, 1349/3, 1352/25,  
1353/1, 1353/8, 1353/16, 1354/12, 1354/25, 1359/10,  
1362/17, 1362/18, 1362/19, 1363/13, 1406/14, 1415/17,  
1415/22, 1415/25, 1416/6, 1419/10  
Mr. Nesbitt's 1344/20  
Mr. Rib 1241/4, 1241/19, 1243/24, 1245/12, 1250/8,  
1255/20, 1256/14, 1263/21, 1268/12, 1273/13, 1280/3,  
1285/7, 1287/13, 1288/13, 1300/21, 1303/9, 1303/16,  
1304/6, 1307/1, 1309/10, 1310/21, 1314/21, 1317/2,  
1318/25, 1327/11, 1328/25, 1334/8, 1339/9, 1339/14,  
1342/11, 1343/2, 1345/7, 1345/21, 1346/13, 1349/3,  
1351/15, 1353/1, 1354/11, 1354/24, 1358/11, 1365/19,  
1366/10, 1368/12, 1369/19, 1373/10, 1374/1, 1376/7,  
1377/1, 1378/15, 1380/11, 1382/18, 1384/1, 1388/1,  
1386/8, 1386/14, 1386/24, 1390/3, 1392/9, 1406/8,  
1406/22, 1409/18, 1411/8, 1415/9  
Mr. Rib's 1279/21, 1280/7, 1280/25, 1288/19,  
1341/9, 1348/8, 1348/18, 1354/6  
Mr. Sano 1240/6, 1245/20, 1245/23, 1279/20,  
1280/3, 1280/24, 1281/8, 1281/18, 1287/9, 1318/12,  
1318/17, 1323/17, 1335/5, 1337/23, 1339/8, 1339/12,  
1339/13, 1339/21, 1341/7, 1348/1, 1348/5, 1348/16,  
1353/7, 1354/4, 1354/5, 1366/7, 1369/20, 1369/25,  
1390/2, 1392/4, 1392/9, 1406/16, 1406/18, 1411/9,  
1412/12, 1413/22, 1415/6, 1415/7, 1415/16, 1415/23,  
1416/19, 1417/10, 1417/14, 1417/16, 1419/18, 1419/21,  
1419/22  
Mr. Stanfield 1316/9  
Mr. Wright 1240/5, 1240/7, 1241/9, 1241/10,  
1241/11, 1241/18, 1242/1, 1242/2, 1243/19, 1243/23,  
1244/2, 1244/5, 1244/10, 1244/23, 1244/25, 1245/6,  
1245/11, 1245/19, 1245/22, 1246/1, 1246/5, 1246/10,  
1250/7, 1273/11, 1273/12, 1273/13, 1278/19, 1279/22,  
1279/23, 1280/6, 1280/13, 1280/16, 1281/1, 1281/10,  
1281/15, 1281/20, 1281/23, 1288/10, 1288/16, 1288/20,  
1286/13, 1287/19, 1287/20, 1288/10, 1288/17, 1300/6,  
1300/12, 1306/8, 1306/9, 1306/17, 1306/20, 1306/21,  
1307/1, 1308/11, 1310/3, 1314/21, 1316/11, 1316/13,  
1316/15, 1316/20, 1316/23, 1317/1, 1318/15, 1318/20,  
1318/22, 1318/25, 1323/18, 1323/20, 1326/25, 1330/21,  
1353/10, 1392/2, 1393/2, 1393/5, 1393/24, 1395/8,  
1395/16, 1411/4, 1411/7, 1415/5, 1415/11, 1419/25,  
1420/3  
Mr. Wright's 1287/17, 1290/13, 1300/6, 1331/10,  
1368/13  
MS. PAUGH 1241/9, 1364/22, 1368/2, 1365/8,  
1365/10, 1376/19, 1376/24, 1382/18, 1383/16, 1383/20,  
1386/12, 1386/14, 1386/23, 1389/18, 1420/6  
multiplicity 1268/15  
municipal 1416/24, 1417/1  
municipals 1261/16

**N**

naive 1259/20  
naked 1344/14, 1344/15  
NAME 1240/3, 1327/11, 1331/16, 1331/20, 1393/19  
narrow 1290/14, 1365/19, 1380/15, 1389/2  
natural 1356/1  
nature 1250/4, 1265/23, 1267/11, 1282/5, 1282/13,  
1299/18, 1343/24

may 1348/22  
necessary 1362/10, 1394/13, 1394/15  
need 1237/5, 1241/24, 1242/22, 1243/3, 1243/12,  
1245/5, 1247/8, 1250/1, 1251/7, 1251/25, 1252/1,  
1252/3, 1252/4, 1252/15, 1252/21, 1252/22, 1253/2,  
1253/23, 1254/17, 1254/18, 1255/5, 1255/17, 1256/3,  
1257/4, 1257/10, 1257/15, 1257/18, 1257/24, 1260/9,  
1261/25, 1262/1, 1262/16, 1265/25, 1266/16, 1267/16,  
1267/18, 1267/19, 1268/16, 1269/1, 1269/23, 1270/1,  
1270/2, 1270/13, 1270/14, 1273/7, 1276/16, 1280/14,  
1280/13, 1291/2, 1291/22, 1295/5, 1296/5, 1296/14,  
1298/9, 1299/2, 1299/17, 1299/20, 1314/16, 1345/21,  
1349/5, 1357/15, 1357/16, 1357/17, 1358/20, 1359/4,  
1359/13, 1360/3, 1360/8, 1360/10, 1360/11, 1366/22,  
1367/1, 1367/20, 1369/8, 1361/9, 1363/3, 1366/10,  
1367/5, 1367/9, 1367/23, 1367/24, 1367/25, 1369/6,  
1369/12, 1391/21, 1391/24, 1392/11, 1392/17, 1403/1,  
1406/7, 1406/10, 1406/25, 1407/25, 1408/2, 1408/14,  
1409/12, 1409/13, 1414/7, 1414/13, 1419/21  
needed 1280/11, 1252/11, 1253/25, 1254/4, 1254/7,  
1256/25, 1265/19, 1266/23, 1267/23, 1270/23, 1294/5,  
1337/11, 1406/9, 1408/2  
needs 1254/10, 1257/14, 1257/21, 1259/22, 1261/19,  
1266/13, 1267/10, 1273/3, 1327/19, 1349/17, 1363/17,  
1366/12, 1367/2, 1377/2, 1380/4, 1404/17, 1404/20,  
1404/24, 1410/13, 1410/18, 1412/2  
negative 1253/8, 1264/11, 1350/9, 1350/13, 1357/6,  
1381/4  
negatively 1355/8  
negotiate 1286/2  
negotiated-type 1285/23  
neighborhood 1304/7  
net 1347/24, 1348/13  
New 1237/7, 1237/8, 1238/5, 1249/3, 1249/11,  
1252/25, 1258/20, 1258/24, 1259/15, 1263/18, 1264/9,  
1264/24, 1267/24, 1274/4, 1283/4, 1284/8, 1285/25,  
1286/1, 1286/15, 1289/20, 1294/9, 1295/9, 1300/4,  
1311/2, 1311/6, 1311/10, 1314/13, 1314/16, 1320/24,  
1321/22, 1322/6, 1347/8, 1351/21, 1361/25, 1362/12,  
1364/11, 1364/20, 1368/15, 1368/19, 1373/11, 1373/14,  
1373/19, 1374/1, 1384/18, 1391/18, 1396/12, 1396/21,  
1410/25, 1412/15, 1414/7  
newer 1347/20  
nice 1294/22  
Nonfirm 1240/13, 1301/16, 1304/4, 1304/5, 1306/6,  
1306/21, 1307/4, 1307/13, 1308/4, 1313/15, 1313/16,  
1330/3, 1362/9, 1362/12, 1378/8, 1378/24, 1379/24,  
1381/10, 1387/18, 1388/20, 1396/18, 1408/17, 1409/17,  
1419/11  
monthly 1350/17  
normal 1311/6, 1314/10, 1394/18, 1395/10, 1410/11  
normalised 1313/25  
normally 1278/12, 1304/14, 1386/1, 1404/10  
north 1308/24, 1343/9, 1344/10  
nos 1328/16  
notice 1418/18  
notes 1361/8  
nother 1259/14, 1299/20, 1337/9  
Notice 1244/7, 1244/11, 1244/14, 1245/9, 1250/16,  
1378/1  
notion 1254/17  
November 1394/3  
NUMBER 1240/11, 1255/25, 1256/7, 1256/8, 1277/4,  
1286/22, 1306/17, 1308/15, 1308/17, 1308/18, 1326/16,  
1340/9, 1386/5, 1377/25, 1381/3, 1400/5, 1401/6,  
1401/24, 1407/13, 1416/18  
numbers 1375/22, 1376/2, 1379/22, 1380/10,  
1380/24, 1381/11, 1401/1, 1403/6

**O**

Oak 1239/8  
OASIS 1370/24, 1370/25, 1371/8  
oath 1241/6  
object 1279/20, 1280/24, 1287/9, 1337/23, 1339/8,  
1339/22, 1341/7, 1348/1, 1348/16, 1386/7, 1392/2  
objecting 1339/13, 1383/13  
Objection 1281/18, 1323/13, 1323/17, 1353/7,  
1375/4, 1383/12, 1406/14, 1415/11, 1420/5  
objective 1295/11  
obligated 1340/5  
obligation 1308/21, 1340/3, 1340/6  
obligations 1262/5  
occasions 1338/22  
off-broker 1397/21, 1398/6, 1399/2, 1399/11,  
1399/13, 1413/16  
Off-system 1240/19, 1382/19, 1383/1, 1383/7, 1383/22  
offer 1263/13, 1271/16, 1282/2, 1284/24, 1288/25,  
1289/6, 1300/15, 1328/3, 1338/12, 1356/18, 1357/22,  
1359/21, 1368/25, 1369/7, 1370/4, 1370/17, 1389/11,  
1398/7, 1402/14, 1405/21, 1410/20, 1413/2  
offered 1283/8, 1321/17, 1346/9, 1349/21, 1358/21,  
1358/22, 1359/1, 1360/6, 1367/14, 1367/22, 1371/19,

1378/1, 1390/25, 1398/9, 1405/19, 1406/12  
offering 1306/1, 1303/24, 1336/25, 1349/11, 1381/24,  
1390/10, 1405/7  
Office 1238/10, 1388/16, 1418/16  
official 1331/20  
elder 1264/17, 1268/3, 1347/6, 1347/12, 1347/19  
Oleander 1274/12, 1275/25, 1277/17  
operate 1323/24, 1382/3, 1382/4  
operated 1306/2, 1390/9  
operates 1386/24, 1389/7, 1398/5  
operating 1264/21, 1266/21, 1270/18, 1275/14,  
1275/22, 1292/16, 1308/25, 1312/12, 1312/17, 1323/6,  
1323/11, 1324/1, 1324/2, 1324/23, 1331/17, 1338/21,  
1390/11, 1393/11, 1398/14  
operation 1374/12, 1414/9, 1414/19  
operations 1374/9  
operator 1285/25, 1286/15, 1311/18  
opinion 1287/3, 1310/23, 1323/18, 1328/23, 1329/15,  
1348/22, 1349/4, 1349/11, 1349/21, 1363/22, 1365/20,  
1366/1, 1366/5, 1367/3, 1370/19, 1372/1, 1373/16,  
1390/10, 1390/13, 1390/22, 1391/4, 1401/2  
opportunities 1255/19, 1261/18, 1273/10, 1279/25,  
1308/4, 1331/13, 1413/2  
opportunity 1251/14, 1255/11, 1255/14, 1255/15,  
1255/16, 1271/20, 1272/25, 1297/20, 1311/21, 1311/25,  
1312/20, 1312/22, 1313/2, 1313/4, 1321/2, 1327/25,  
1332/13, 1332/18, 1335/14, 1380/15, 1391/25, 1398/12,  
1398/14  
oppose 1349/24  
opposed 1308/10, 1300/25, 1303/2, 1405/5  
opposite 1406/13  
optimum 1271/8  
option 1290/20, 1302/23  
optional 1260/18  
options 1260/1, 1260/13, 1272/22, 1402/20, 1403/13  
order 1241/4, 1264/22, 1325/8, 1325/14, 1371/6,  
1395/4  
organization 1331/21  
oriented 1395/2  
Orlando 1274/22  
OUC 1275/22, 1323/24, 1324/15  
OUC's 1323/6  
out-of-state 1317/11, 1317/16  
outcome 1347/15  
output 1323/25  
overbuilt 1300/19  
overforecasting 1401/21  
overuses 1290/13, 1290/14  
overnight 1390/21  
oversimplifying 1337/20  
overwhelming 1299/15  
owe 1360/22  
owned 1416/1  
owners 1340/22, 1371/3  
ownership 1373/6, 1373/10  
owning 1323/10, 1324/1

**P**

P.A. 1230/10  
PacificCorp 1275/21, 1323/4, 1323/8, 1323/23  
PacificCorp's 1275/20  
pack 1245/3, 1246/6  
package 1246/20, 1377/19  
packet 1244/6, 1244/18, 1245/12, 1246/2, 1246/6  
packets 1245/24  
Pages 1237/11, 1245/12, 1245/22, 1246/2, 1374/21,  
1375/13, 1375/16  
paper 1245/3  
paramount 1356/21  
parcel 1265/16  
Parsons 1238/4  
part 1244/6, 1244/17, 1249/18, 1251/6, 1262/6,  
1265/16, 1265/20, 1267/4, 1267/5, 1267/7, 1270/16,  
1277/1, 1277/7, 1278/7, 1305/7, 1314/25, 1323/14,  
1330/2, 1330/6, 1331/6, 1333/2, 1347/11, 1349/24,  
1373/12, 1378/23, 1389/1, 1395/21, 1414/12, 1415/25,  
1416/17  
partial 1410/15  
participant 1352/22, 1372/15, 1415/1, 1415/10  
participants 1261/16, 1356/22, 1407/15  
participate 1398/24  
participated 1248/15  
parties 1251/10, 1251/20, 1289/10, 1364/3, 1384/13  
parties' 1355/21  
parts 1347/7  
party 1246/25, 1286/5, 1371/20, 1396/23  
pass 1341/9, 1374/13, 1400/8  
passing 1364/23  
PAUGH 1239/6  
Pause 1243/18, 1256/13, 1259/11, 1321/18, 1361/11  
pauses 1254/2  
pay 1286/6, 1286/19, 1304/3, 1304/7, 1306/5,



1313/20, 1371/8, 1371/24, 1372/7, 1372/15, 1372/16  
peak 1253/11, 1311/12, 1311/23, 1377/22, 1377/25,  
1381/7, 1381/8  
peaking 1274/7, 1274/15, 1276/2  
peaking-type 1311/24  
pending 1246/9  
Peninsula 1308/7  
Peninsular 1257/19, 1308/12  
perceive 1291/23  
Percentage 1240/18, 1379/18, 1382/24, 1383/6,  
1383/8, 1383/20, 1399/3, 1399/12  
perform 1265/17  
period 1272/17, 1286/20, 1317/12, 1361/4, 1399/22,  
1399/25, 1400/10, 1402/4, 1402/7, 1403/11, 1404/1,  
1404/21  
periode 1253/11, 1302/4, 1303/20  
permissible 1417/18  
Permission 1243/19  
permits 1332/14, 1332/18  
permitted 1336/1, 1336/2, 1338/20, 1339/6, 1340/10,  
1341/16, 1350/1, 1368/24, 1403/23  
permitting 1298/18, 1299/4  
personal 1243/7, 1346/17, 1362/24, 1418/17  
Personality 1247/9, 1247/22, 1248/13, 1324/9, 1345/14  
perspective 1343/1, 1349/22, 1353/21, 1394/7  
Peterburg 1238/8, 1238/10  
petitioner 1237/5, 1243/12, 1247/7  
Petitioner 1293/19, 1371/7, 1371/23  
petitioner's 1293/19, 1366/7, 1372/6  
petitioners 1288/3, 1288/15, 1299/8, 1299/11,  
1345/3, 1350/18, 1366/3, 1366/25  
phase 1250/10, 1391/17  
PhD 1329/16  
philosophical 1299/24  
philosophy 1251/14, 1252/15, 1256/1, 1413/24,  
1414/22  
phone 1388/9, 1388/10, 1388/11, 1388/14  
Phosphate 1409/5, 1418/6  
PLACE 1237/19, 1241/5, 1266/3, 1291/21, 1330/11,  
1395/8, 1395/11, 1397/9, 1397/12, 1397/14, 1397/16,  
1399/10, 1406/2, 1410/3  
places 1343/9  
plan 1242/18, 1243/16, 1244/3, 1245/14, 1247/6,  
1247/12, 1247/21, 1248/8, 1248/9, 1248/11, 1249/2,  
1249/4, 1249/5, 1249/12, 1249/16, 1280/18, 1251/1,  
1252/3, 1255/6, 1260/22, 1261/23, 1261/25, 1262/13,  
1267/10, 1267/17, 1273/6, 1273/8, 1275/12, 1278/12,  
1291/20, 1313/22, 1314/9, 1322/16, 1328/16, 1330/12,  
1334/25, 1336/1, 1336/11, 1338/17, 1347/4, 1349/22,  
1351/14, 1360/23, 1361/6, 1361/8, 1361/9, 1362/15,  
1368/17, 1368/18, 1368/24, 1369/24, 1370/1, 1374/23,  
1375/12, 1375/15, 1376/8, 1376/12, 1376/16, 1377/12,  
1390/24, 1391/12, 1393/6, 1393/8, 1393/25, 1394/5,  
1394/9, 1395/10, 1399/20, 1400/24, 1403/6, 1403/14,  
1403/17, 1403/20, 1404/22, 1408/6  
planned 1242/24, 1249/17, 1278/6, 1278/9, 1365/21  
planner 1242/14, 1273/20, 1323/19, 1323/21,  
1329/22, 1329/25, 1330/17, 1338/17, 1338/17, 1343/3,  
1345/8, 1346/2, 1352/3, 1365/19, 1365/25, 1366/5,  
1366/21, 1367/3, 1370/20, 1372/2, 1372/11, 1414/5  
planners 1256/2  
planning 1242/6, 1242/11, 1242/16, 1242/17,  
1247/24, 1248/1, 1248/6, 1248/23, 1249/13, 1249/22,  
1249/25, 1250/5, 1250/14, 1250/23, 1251/4, 1251/9,  
1251/14, 1251/24, 1252/12, 1252/13, 1253/9, 1254/12,  
1254/14, 1255/14, 1255/21, 1256/1, 1256/6, 1256/17,  
1257/6, 1257/17, 1257/20, 1257/22, 1261/24, 1262/8,  
1265/10, 1265/16, 1267/7, 1267/14, 1276/9, 1276/10,  
1276/11, 1276/23, 1277/7, 1278/4, 1279/2, 1294/3,  
1313/24, 1314/11, 1325/16, 1328/23, 1328/24, 1330/2,  
1330/6, 1336/18, 1343/1, 1346/9, 1346/3, 1346/20,  
1347/3, 1347/14, 1347/8, 1347/14, 1349/9, 1349/21,  
1350/2, 1350/5, 1350/9, 1350/13, 1350/23, 1355/17,  
1356/12, 1359/22, 1361/14, 1362/4, 1366/8, 1369/17,  
1370/7, 1370/16, 1376/9, 1378/5, 1386/1, 1386/10,  
1387/20, 1391/17, 1394/6, 1397/6, 1397/8, 1397/12,  
1397/15, 1403/5, 1404/19, 1404/20, 1412/9, 1419/8  
Plans 1242/6, 1243/4, 1243/5, 1243/25, 1244/18,  
1244/22, 1244/24, 1247/16, 1247/20, 1248/5, 1284/9,  
1321/24, 1321/25, 1322/5, 1322/12, 1334/12, 1334/14,  
1335/1, 1335/11, 1336/3, 1344/4, 1380/18, 1389/14,  
1384/22, 1390/21, 1393/17, 1393/23, 1416/9, 1416/15  
plant 1237/6, 1247/10, 1248/10, 1249/3, 1249/16,  
1249/17, 1249/20, 1249/21, 1280/2, 1290/3, 1280/11,  
1250/13, 1250/19, 1251/19, 1282/2, 1282/4, 1282/8,  
1253/1, 1253/7, 1253/16, 1254/23, 1254/25, 1256/24,  
1260/4, 1260/17, 1260/24, 1261/3, 1262/25, 1263/17,  
1263/18, 1264/4, 1264/9, 1265/11, 1266/6, 1266/13,  
1266/14, 1267/24, 1268/14, 1268/24, 1269/1, 1271/1,  
1271/11, 1272/15, 1273/19, 1273/21, 1275/6, 1279/12,  
1280/18, 1281/9, 1281/16, 1281/25, 1282/8, 1282/25,  
1284/2, 1286/14, 1286/16, 1286/24, 1289/3, 1289/19,  
1290/4, 1291/2, 1294/13, 1295/25, 1297/21, 1298/21,

1298/24, 1299/12, 1307/24, 1308/17, 1308/18, 1308/19,  
1308/25, 1311/1, 1311/18, 1311/19, 1312/1, 1312/3,  
1312/17, 1319/15, 1320/1, 1320/16, 1320/23, 1321/12,  
1323/9, 1323/10, 1324/1, 1324/16, 1324/19, 1329/17,  
1330/17, 1330/19, 1339/19, 1340/9, 1340/10, 1340/22,  
1341/16, 1342/4, 1342/19, 1342/23, 1343/7, 1343/8,  
1343/16, 1344/3, 1345/10, 1345/15, 1346/5, 1346/11,  
1346/15, 1347/24, 1348/11, 1349/25, 1350/5, 1350/8,  
1350/12, 1350/16, 1351/5, 1351/17, 1351/23, 1352/5,  
1353/20, 1354/2, 1355/8, 1359/4, 1363/2, 1365/22,  
1366/7, 1366/16, 1366/21, 1367/1, 1367/4, 1367/5,  
1367/7, 1367/13, 1368/4, 1368/7, 1368/15, 1368/19,  
1368/20, 1368/22, 1368/23, 1369/20, 1369/21, 1369/23,  
1371/3, 1371/23, 1372/6, 1375/12, 1384/2, 1384/22,  
1385/6, 1385/13, 1385/22, 1390/6, 1390/8, 1390/9,  
1390/14, 1390/19, 1390/23, 1391/1, 1391/5, 1391/11,  
1391/24, 1392/11, 1392/16, 1392/20, 1394/1, 1394/11,  
1394/15, 1394/19, 1394/20, 1394/25, 1395/9, 1396/12,  
1396/22, 1403/16, 1403/23, 1404/16, 1405/17, 1406/5,  
1411/10, 1411/16, 1413/4, 1413/8, 1413/13, 1413/24,  
1414/14, 1414/18, 1414/23, 1415/9, 1417/19  
plant's 1324/22  
plants 1241/23, 1242/4, 1242/15, 1242/23, 1243/4,  
1247/18, 1251/6, 1251/7, 1251/11, 1251/16, 1252/10,  
1252/16, 1253/25, 1254/15, 1254/22, 1255/7, 1255/9,  
1256/23, 1258/6, 1258/16, 1258/17, 1258/22, 1260/24,  
1261/2, 1263/16, 1264/6, 1264/18, 1264/20, 1264/25,  
1265/3, 1265/18, 1265/25, 1266/2, 1266/20, 1266/22,  
1266/23, 1266/24, 1267/2, 1267/3, 1267/22, 1268/15,  
1268/18, 1269/4, 1269/9, 1269/12, 1269/24, 1275/15,  
1275/22, 1275/23, 1276/8, 1276/18, 1277/17, 1277/21,  
1278/2, 1278/6, 1278/10, 1278/11, 1282/15, 1282/20,  
1287/14, 1288/23, 1291/6, 1291/7, 1292/1, 1292/21,  
1293/3, 1293/8, 1294/1, 1294/5, 1294/9, 1295/24,  
1296/10, 1297/18, 1297/20, 1299/5, 1299/18, 1299/23,  
1300/4, 1300/7, 1301/3, 1301/5, 1301/9, 1301/7,  
1322/7, 1322/10, 1322/21, 1322/22, 1323/7, 1323/24,  
1348/13, 1348/16, 1347/12, 1347/19, 1347/20, 1361/13,  
1361/21, 1362/5, 1362/13, 1363/3, 1363/9, 1363/12,  
1363/18, 1363/24, 1364/18, 1364/23, 1365/12, 1363/9,  
1364/10, 1364/14, 1367/12, 1367/17, 1367/19, 1367/21,  
1367/25, 1369/5, 1384/18, 1390/4, 1391/18, 1414/8,  
1416/1  
play 1289/10, 1296/1, 1373/22  
players 1356/8  
plus 1378/8, 1381/18, 1397/2  
point 1254/7, 1255/2, 1256/19, 1256/23, 1264/23,  
1268/1, 1266/12, 1269/7, 1271/22, 1276/19, 1277/16,  
1291/3, 1291/16, 1292/21, 1292/25, 1293/4, 1293/13,  
1293/15, 1297/22, 1298/17, 1298/19, 1299/19, 1306/4,  
1307/9, 1310/21, 1311/4, 1313/20, 1319/19, 1321/23,  
1330/10, 1340/20, 1340/25, 1341/24, 1309/6, 1361/21,  
1404/17, 1417/9, 1417/17, 1417/25  
points 1399/17  
policy 1280/1, 1310/17, 1352/14, 1353/10, 1353/23,  
1353/25, 1355/11, 1355/17, 1357/14, 1359/6, 1406/8,  
1406/10, 1413/23, 1414/6  
policymakers 1360/19  
politician 1288/14  
Polk 1246/11, 1247/5  
pollutants 1348/13  
popular 1399/14  
portfolio 1410/17  
portion 1275/2, 1294/7, 1331/6, 1333/19, 1334/7,  
1362/8, 1379/24, 1380/22  
portions 1312/12  
posed 1334/24, 1362/22, 1371/8  
position 1318/13  
positions 1280/1  
positive 1294/11  
possibilities 1343/23, 1367/16  
possibility 1264/5, 1270/6, 1270/10, 1270/11,  
1270/15, 1275/12, 1276/21, 1276/22, 1277/21, 1284/1,  
1289/25, 1293/10, 1294/8, 1343/25, 1344/17  
possible 1275/12, 1313/1, 1319/24, 1321/3, 1385/20,  
1404/16  
Post 1238/10  
potential 1249/14, 1258/13, 1258/15, 1266/10,  
1267/1, 1268/18, 1268/20, 1291/9, 1292/19, 1310/6,  
1313/5, 1322/6, 1377/4, 1382/14, 1391/16, 1394/14  
pour 1404/17  
power 1237/6, 1237/8, 1238/6, 1238/7, 1238/11,  
1239/5, 1240/14, 1241/15, 1241/23, 1242/4, 1243/4,  
1243/11, 1243/25, 1245/13, 1246/4, 1247/18, 1248/10,  
1249/3, 1249/11, 1249/12, 1249/16, 1249/17, 1249/20,  
1249/21, 1250/3, 1252/6, 1253/1, 1260/3, 1260/13,  
1260/18, 1261/4, 1261/17, 1266/2, 1272/16, 1273/19,  
1273/21, 1274/1, 1274/12, 1275/15, 1276/8, 1276/10,  
1276/11, 1276/19, 1277/12, 1277/25, 1278/5, 1278/9,  
1278/22, 1282/15, 1282/25, 1283/4, 1284/2, 1284/8,  
1284/9, 1286/1, 1286/2, 1286/16, 1287/5, 1287/8,  
1287/21, 1287/23, 1288/7, 1288/8, 1289/18, 1289/19,  
1290/3, 1292/15, 1294/20, 1295/8, 1296/10, 1300/4,

1300/9, 1300/13, 1300/25, 1302/25, 1303/1, 1304/4,  
1306/11, 1307/23, 1307/25, 1308/21, 1308/23, 1309/1,  
1311/25, 1312/11, 1312/18, 1315/16, 1315/24, 1316/2,  
1316/3, 1316/20, 1317/6, 1317/7, 1319/2, 1319/15,  
1319/23, 1320/2, 1320/7, 1320/9, 1321/9, 1321/14,  
1322/7, 1322/21, 1322/22, 1323/7, 1323/9, 1323/10,  
1323/24, 1323/25, 1324/1, 1325/1, 1325/5, 1325/9,  
1325/16, 1325/18, 1325/21, 1330/23, 1330/25, 1331/4,  
1331/5, 1331/9, 1331/15, 1331/21, 1331/23, 1331/24,  
1331/25, 1332/2, 1332/4, 1332/9, 1332/20, 1332/21,  
1332/25, 1333/2, 1333/15, 1333/21, 1334/5, 1334/14,  
1335/2, 1335/12, 1336/3, 1336/3, 1342/19, 1342/24,  
1343/10, 1353/21, 1359/4, 1363/1, 1365/22, 1366/16,  
1366/21, 1367/4, 1367/5, 1367/6, 1367/13, 1368/7,  
1368/22, 1373/6, 1375/11, 1375/12, 1375/14, 1376/8,  
1376/11, 1377/1, 1377/3, 1377/5, 1377/12, 1377/13,  
1380/12, 1380/20, 1382/19, 1382/21, 1383/1, 1383/3,  
1383/22, 1383/24, 1384/2, 1384/21, 1385/8, 1386/15,  
1389/24, 1391/18, 1393/14, 1393/21, 1393/25, 1395/18,  
1395/21, 1396/6, 1396/7, 1396/11, 1396/22, 1397/5,  
1397/8, 1397/11, 1397/18, 1398/10, 1398/14, 1399/18,  
1402/24, 1403/13, 1403/25, 1404/8, 1404/10, 1404/15,  
1404/19, 1405/2, 1405/5, 1405/7, 1406/5, 1406/24,  
1407/10, 1410/4, 1411/10, 1411/16, 1411/21, 1412/15,  
1412/16, 1413/24, 1414/8, 1414/18, 1414/21, 1414/22,  
1416/1, 1416/15, 1416/16  
Power's 1243/16, 1246/21, 1278/23, 1279/24,  
1325/24, 1399/7  
practice 1370/6  
pre-corrected 1335/6  
precedent 1258/9, 1263/15, 1263/19  
precedential 1359/5  
preceding 1247/7  
preexisting 1321/10  
preface 1288/10, 1323/20  
prefer 1344/1  
preference 1248/3, 1289/14, 1344/2, 1371/19  
preferences 1348/3  
preferred 1320/19  
prefilled 1334/19, 1334/23, 1335/21  
preliminary 1402/11  
premise 1292/13, 1294/2, 1299/13, 1361/19  
premixed 1296/8  
prepare 1327/6  
preparing 1398/2  
presence 1249/10, 1252/8, 1277/16, 1294/1, 1308/6,  
1308/11, 1351/12, 1413/4  
presented 1272/19  
presenting 1398/16  
president 1279/8  
press 1274/4, 1274/5, 1274/8, 1275/5, 1275/7,  
1283/13, 1315/7  
Presuming 1382/7  
pretty 1294/13, 1294/14, 1401/4  
prevent 1324/10, 1324/14  
price 1284/15, 1284/17, 1284/18, 1284/20, 1285/3,  
1285/11, 1285/14, 1285/18, 1285/21, 1303/25, 1304/3,  
1304/8, 1306/5, 1307/22, 1307/25, 1308/8, 1308/14,  
1309/2, 1309/8, 1309/20, 1310/2, 1310/15, 1311/13,  
1312/7, 1313/8, 1313/10, 1315/3, 1315/6, 1318/9,  
1373/15, 1373/17, 1373/19, 1373/22, 1373/25, 1374/6,  
1374/9, 1405/5, 1408/25  
prices 1284/9, 1284/12, 1284/13, 1286/17, 1286/20,  
1287/6, 1287/7, 1287/8, 1287/22, 1287/23, 1288/7,  
1288/8, 1308/23, 1312/22, 1315/14, 1315/15, 1315/25,  
1316/3, 1316/4, 1317/20, 1343/19  
primary 1333/15  
prime 1411/19  
principle 1310/1  
printing 1344/24  
probability 1276/18, 1395/23, 1396/2, 1396/12,  
1396/15, 1402/16, 1411/11, 1411/23, 1412/4  
probative 1280/1  
problem 1268/14, 1361/11, 1362/2, 1401/20, 1419/16  
problems 1242/6, 1242/11, 1242/17  
proceed 1289/13  
proceeding 1348/9, 1353/6, 1355/19, 1358/14,  
1386/11  
PROCEEDINGS 1237/12  
process 1242/6, 1242/21, 1246/21, 1247/24, 1249/22,  
1249/25, 1251/4, 1251/6, 1252/6, 1252/10, 1252/12,  
1252/13, 1253/1, 1253/9, 1253/23, 1254/2, 1254/5,  
1254/12, 1254/14, 1255/21, 1256/6, 1257/20, 1257/23,  
1259/23, 1259/25, 1260/8, 1261/24, 1262/8, 1265/16,  
1265/23, 1267/7, 1267/9, 1267/14, 1273/21, 1273/25,  
1275/8, 1276/10, 1276/12, 1276/13, 1278/4, 1290/21,  
1293/12, 1293/22, 1294/18, 1295/6, 1296/6, 1296/11,  
1296/17, 1297/6, 1299/4, 1324/8, 1327/18, 1327/21,  
1330/24, 1347/14, 1350/2, 1350/5, 1350/7, 1350/9,  
1350/13, 1350/24, 1359/22, 1361/14, 1367/11, 1367/20,  
1368/3, 1369/17, 1370/7, 1374/4, 1376/9, 1396/2,  
1396/10, 1400/9, 1406/7, 1410/25, 1412/10, 1414/13,  
1415/10

processes 1242/17, 1249/13, 1276/9  
 produce 1308/25  
 produced 1248/20  
 producer 1294/17, 1308/24  
 producers 1393/15, 1409/6  
 producing 1294/19, 1294/21  
 production 1287/7, 1343/20, 1344/10  
 professional 1338/16  
 programs 1388/23  
 Program 1278/25, 1279/1, 1279/8, 1279/12, 1280/18,  
 1281/2, 1281/15, 1281/21, 1281/24, 1325/1, 1325/9,  
 1330/23, 1331/4, 1331/6, 1331/7, 1331/14  
 project 1241/23, 1249/11, 1274/11, 1283/4, 1284/8,  
 1286/1, 1311/2, 1409/23, 1410/13, 1412/16  
 projected 1394/2, 1399/19, 1403/18  
 projecting 1403/10  
 projection 1373/20, 1404/4  
 projections 1373/16, 1373/17  
 proliferating 1364/14  
 proliferation 1258/13, 1266/24, 1267/3, 1292/20,  
 1293/3, 1300/3, 1310/6, 1310/18, 1322/21, 1369/4  
 prominent 1246/24  
 prop 1337/8  
 proponents 1293/18  
 proposal 1248/10, 1248/12, 1274/5, 1274/9, 1346/11  
 propose 1403/20  
 proposed 1249/20, 1256/25, 1258/15, 1269/9,  
 1274/11, 1274/14, 1274/17, 1282/25, 1283/8, 1286/12,  
 1290/3, 1298/21, 1299/18, 1308/17, 1347/24, 1366/3,  
 1366/22, 1368/15, 1368/19, 1371/3, 1371/23, 1384/24,  
 1385/2, 1385/6, 1388/24, 1404/23, 1412/25, 1414/25  
 proposing 1249/3, 1296/15, 1391/23, 1392/10,  
 1392/16  
 proposition 1347/18, 1347/21  
 prospect 1274/21  
 protect 1253/24  
 provide 1374/12, 1382/16, 1383/9, 1402/20, 1409/25  
 provider 1271/12, 1271/17, 1271/19, 1366/2, 1370/23  
 provides 1334/15, 1338/3, 1338/13, 1336/4, 1367/9  
 prudence 1304/1  
 PSC 1296/1, 1298/8  
 PUBLIC 1237/1, 1237/22, 1239/6, 1262/17, 1307/11,  
 1318/4, 1326/5, 1353/25, 1390/15, 1393/4, 1393/9  
 publication 1317/23, 1318/16  
 publications' 1331/5  
 published 1274/22, 1318/4, 1360/11  
 Pull 1305/15  
 pulled 1344/20  
 PUR 1317/23  
 purchase 1263/4, 1266/17, 1271/1, 1272/16, 1290/8,  
 1290/11, 1307/19, 1319/3, 1320/22, 1334/14, 1338/1,  
 1335/12, 1336/3, 1337/8, 1366/2, 1366/7, 1398/18,  
 1402/10, 1403/13, 1403/25, 1404/8  
 purchased 1260/3, 1260/13, 1260/18, 1317/7,  
 1319/14, 1373/6  
 purchasers 1371/16  
 Purchases 1240/15, 1277/13, 1316/21, 1338/4,  
 1354/21, 1389/24, 1397/19, 1397/21  
 purchasing 1276/15, 1305/13, 1377/3  
 pure 1263/8  
 PURPA 1271/2  
 purpose 1354/8, 1401/10  
 purposes 1251/23, 1284/20, 1336/19, 1362/4, 1374/18  
 pursue 1250/1, 1255/12, 1270/13, 1291/4, 1312/20,  
 1313/4, 1343/24  
 pursued 1278/1, 1290/20  
 pursuing 1279/24, 1282/10, 1282/11, 1306/15,  
 1311/22, 1331/12, 1353/3, 1353/11, 1353/18, 1354/3,  
 1360/12  
 put 1242/19, 1258/3, 1261/25, 1262/17, 1264/17,  
 1283/11, 1295/18, 1298/2, 1301/4, 1304/13, 1305/10,  
 1337/7, 1344/13, 1348/9, 1348/13, 1389/18, 1403/20,  
 1403/24  
 puts 1350/15, 1360/16  
 putting 1267/24, 1341/1

1319/17, 1321/7, 1322/23, 1323/7, 1326/10, 1326/12,  
 1326/14, 1327/19, 1328/8, 1328/11, 1329/1, 1331/3,  
 1331/10, 1334/17, 1334/24, 1338/10, 1338/17, 1338/23,  
 1338/24, 1338/25, 1336/8, 1337/16, 1337/22, 1337/25,  
 1338/2, 1338/7, 1338/13, 1339/8, 1339/14, 1339/22,  
 1339/23, 1340/7, 1340/16, 1341/12, 1341/20, 1342/7,  
 1342/10, 1345/21, 1345/24, 1346/1, 1346/14, 1347/1,  
 1347/3, 1347/16, 1348/2, 1348/3, 1351/16, 1352/1,  
 1352/24, 1353/13, 1353/16, 1354/1, 1354/10, 1354/12,  
 1355/5, 1355/24, 1356/16, 1358/16, 1358/18, 1359/10,  
 1359/11, 1359/12, 1362/20, 1363/1, 1363/4, 1367/12,  
 1392/6, 1392/8, 1392/14, 1394/9, 1397/7, 1400/23,  
 1409/20, 1409/21, 1410/10, 1413/22, 1414/1, 1415/8,  
 1416/7, 1417/10, 1417/13, 1417/16, 1418/1, 1418/3,  
 1418/22, 1419/3  
 questioning 1336/25, 1391/8  
 questions 1245/7, 1253/19, 1260/20, 1260/21, 1264/7,  
 1273/14, 1277/22, 1283/20, 1285/9, 1298/18, 1306/14,  
 1307/12, 1319/13, 1327/1, 1327/15, 1327/23, 1328/2,  
 1328/10, 1328/12, 1328/19, 1330/15, 1330/21, 1330/23,  
 1337/10, 1338/15, 1345/16, 1351/1, 1353/11, 1362/22,  
 1362/23, 1368/13, 1370/11, 1370/14, 1373/5, 1373/8,  
 1373/9, 1375/20, 1376/20, 1386/23, 1389/13, 1393/2,  
 1400/4, 1405/1, 1406/18, 1411/8, 1412/12, 1413/6,  
 1415/23, 1416/3, 1416/18, 1419/22  
 quick 1354/12  
 quicker 1328/21, 1328/23  
 quote 1264/17, 1346/16, 1368/16  
 quote/unquote 1266/22  
 quoted 1354/25  
 quoting 1337/17

R

raised 1355/10, 1416/20, 1417/9  
 raising 1341/2  
 ramifications 1310/19, 1352/14, 1358/8, 1364/3  
 range 1373/9  
 rate 1262/1, 1262/17, 1267/22, 1267/25, 1301/4,  
 1311/8, 1325/2, 1325/10, 1372/17, 1373/1, 1373/21,  
 1379/23, 1409/9, 1409/11, 1418/14, 1419/1  
 ratpayers 1268/5, 1293/6, 1294/20, 1295/16,  
 1320/22, 1321/19, 1333/20, 1334/1, 1351/19, 1351/23,  
 1352/8, 1366/13, 1373/12, 1398/5, 1399/4  
 rates 1319/16, 1325/7, 1332/1, 1332/5, 1371/8,  
 1371/12, 1371/14, 1372/19  
 rationale 1250/9  
 Re 1240/13, 1240/14, 1306/21, 1316/20, 1389/24  
 re-examine 1265/24, 1321/4  
 reach 1293/13, 1321/2  
 reached 1293/15, 1293/23  
 react 1270/19, 1293/12, 1330/10, 1330/18, 1330/19  
 reacting 1267/8  
 read 1274/19, 1275/7, 1280/22, 1318/7, 1334/10,  
 1338/23, 1359/23, 1417/25  
 reading 1322/12, 1335/6, 1381/16  
 reads 1393/9  
 realm 1294/8  
 reason 1258/5, 1261/2, 1287/21, 1291/4, 1296/10,  
 1299/23, 1334/10, 1340/7, 1340/12, 1340/13, 1340/20,  
 1341/5, 1341/14, 1342/3, 1349/24, 1415/25, 1418/15,  
 1418/25  
 reasonable 1286/18, 1286/20, 1287/3, 1288/11,  
 1293/4, 1308/1, 1308/2, 1360/22  
 reasoned 1297/2  
 reasoning 1252/20, 1253/21, 1254/9, 1320/12  
 reasons 1341/21, 1399/9, 1382/13, 1386/15  
 recall 1241/8, 1242/7, 1273/17, 1274/23, 1274/25,  
 1275/16, 1279/18, 1280/20, 1283/3, 1283/13, 1283/15,  
 1319/4, 1319/6, 1319/10, 1337/15, 1337/22, 1338/14,  
 1344/19, 1346/10, 1346/13, 1346/14, 1346/17, 1346/22,  
 1361/3, 1365/14, 1366/15, 1370/14, 1373/7, 1395/18,  
 1395/20, 1395/23, 1396/8, 1405/7, 1407/10, 1413/9,  
 1413/25  
 receive 1317/25, 1318/5, 1367/5  
 received 1420/10  
 recess 1327/4  
 recollection 1319/18, 1335/10, 1417/24  
 recommend 1344/15  
 reconcile 1368/18, 1400/15  
 reconvened 1241/2  
 record 1245/9, 1304/18, 1327/7, 1374/19, 1375/6,  
 1375/9, 1376/17, 1389/19, 1417/25  
 records 1244/15  
 Recross 1240/7, 1411/4, 1411/6, 1416/5  
 Redirect 1240/6, 1327/25, 1389/17, 1389/19, 1390/1,  
 1415/18  
 reduction 1348/13  
 reemphasize 1254/13  
 reference 1361/1, 1377/18, 1393/24  
 reflect 1248/11, 1363/19, 1364/8, 1379/18, 1383/7,  
 1385/21  
 reflected 1243/4, 1243/15, 1247/6, 1247/12, 1249/5,

1377/17, 1379/19, 1400/6, 1408/1, 1408/3  
 reflection 1254/3  
 reflects 1375/18  
 Regional 1374/23  
 regions 1395/20  
 regulate 1406/2, 1406/7  
 regulated 1290/7, 1312/9, 1320/16, 1397/25  
 regulations 1323/12, 1324/2, 1324/9, 1356/20,  
 1356/21, 1356/23, 1370/11, 1370/19, 1374/12  
 regulatory 1270/8, 1294/18, 1295/6, 1351/13,  
 1355/17, 1390/5, 1405/16  
 reintroduced 1267/9  
 relevant 1257/20  
 relate 1353/14, 1371/10, 1376/21  
 related 1306/14, 1309/11, 1330/23, 1353/10, 1355/11,  
 1355/16  
 relates 1350/7, 1364/1, 1375/20  
 relation 1363/2, 1363/23  
 relationship 1271/18, 1271/19, 1271/21, 1272/1,  
 1279/16  
 relationships 1272/7  
 reliability 1254/19, 1256/4, 1257/1, 1257/2, 1257/13,  
 1257/25, 1265/20, 1301/21, 1345/9, 1346/3, 1346/4,  
 1346/20, 1352/9, 1359/16, 1397/2, 1411/22, 1414/21  
 role 1251/22  
 rolled 1250/12, 1253/12, 1255/17, 1336/10  
 rely 1250/15, 1250/17, 1250/21, 1250/22, 1251/2,  
 1251/18, 1251/20, 1252/2, 1253/9, 1253/16, 1255/6,  
 1255/9, 1255/22, 1264/10, 1266/14, 1266/15, 1314/13,  
 1314/16, 1336/18, 1337/19, 1343/19, 1344/6  
 relying 1253/17, 1322/11, 1336/22, 1338/1, 1338/3,  
 1342/15, 1404/15  
 remainder 1375/9  
 remaining 1331/14, 1390/25  
 remark 1273/17  
 remarks 1273/14  
 Remember 1258/24, 1275/1, 1338/11, 1345/11,  
 1345/23, 1361/3, 1365/18, 1366/18, 1370/15, 1417/13,  
 1417/15  
 remembered 1338/7  
 remind 1327/16, 1328/24  
 remotely 1354/6  
 remove 1292/1  
 repeat 1280/15  
 repeating 1407/4  
 rephrase 1392/7  
 replace 1267/20, 1347/19  
 report 1337/6, 1360/8, 1400/19  
 REPORTED 1237/22, 1315/7, 1337/12, 1360/6,  
 1360/8, 1361/20, 1377/9  
 Reporting 1237/23  
 reports 1274/4, 1283/13, 1318/4, 1388/5  
 repowered 1368/1  
 represent 1327/12  
 representative 1308/20  
 represented 1416/14  
 Request 1244/6, 1283/9, 1306/12, 1328/22, 1364/24,  
 1365/4, 1372/1, 1372/12, 1372/20, 1383/5, 1384/25,  
 1386/12, 1386/13, 1389/18  
 requested 1370/22  
 requesting 1383/9, 1386/15  
 requests 1244/11  
 require 1267/25, 1320/17, 1326/7, 1366/1, 1366/6,  
 1372/13  
 required 1271/3, 1350/17, 1368/2, 1372/18, 1372/21,  
 1380/6, 1388/21, 1390/21, 1391/3, 1391/12  
 requirement 1297/4, 1366/25, 1369/3, 1369/6,  
 1372/23, 1414/12  
 requirements 1361/17, 1361/23, 1378/10, 1380/1,  
 1380/5, 1384/5, 1384/25, 1397/1, 1401/8, 1402/21,  
 1410/15, 1410/16, 1410/19  
 requires 1367/18, 1395/4  
 research 1337/2  
 Reserve 1240/17, 1334/13, 1334/25, 1336/2, 1336/23,  
 1337/6, 1337/13, 1337/19, 1338/1, 1338/4, 1360/4,  
 1361/15, 1365/5, 1374/17, 1376/12, 1377/10, 1377/13,  
 1377/24, 1378/2, 1378/5, 1378/7, 1378/13, 1379/8,  
 1379/18, 1380/6, 1380/13, 1381/4, 1381/5, 1381/17,  
 1381/19, 1382/1, 1382/13, 1385/7, 1385/22, 1388/18,  
 1396/16, 1396/18, 1396/24, 1399/19, 1400/10, 1401/23,  
 1402/1, 1402/3, 1402/6, 1403/11, 1407/4, 1408/8,  
 1408/15, 1409/15, 1411/17, 1411/18, 1411/24, 1418/5,  
 1419/9, 1419/11  
 reserves 1361/20, 1380/20, 1380/21, 1380/23, 1381/1,  
 1388/21  
 residential 1253/13, 1381/2, 1407/15  
 residents 1362/2  
 resolve 1337/1, 1360/13, 1401/9  
 resolved 1400/22, 1400/23, 1402/16  
 resolving 1400/21  
 resource 1240/10, 1261/5, 1269/12, 1269/16, 1299/3,  
 1321/9, 1338/24, 1352/16, 1355/15, 1373/19, 1373/20,  
 1374/23, 1403/13, 1404/1, 1404/17, 1405/20, 1416/17

Q

qualified 1359/3, 1415/1, 1415/10  
 quandary 1350/15  
 question 1242/12, 1242/25, 1246/8, 1246/10, 1248/24,  
 1249/15, 1250/6, 1250/8, 1251/1, 1258/24, 1261/1,  
 1261/8, 1262/9, 1263/23, 1264/3, 1264/13, 1267/21,  
 1270/22, 1271/7, 1271/14, 1272/9, 1272/10, 1276/12,  
 1278/16, 1280/12, 1280/15, 1280/19, 1280/21, 1280/22,  
 1281/6, 1281/7, 1281/8, 1281/11, 1281/13, 1281/18,  
 1281/22, 1282/23, 1283/17, 1284/21, 1286/2, 1288/3,  
 1285/4, 1285/6, 1285/8, 1286/12, 1286/14, 1287/16,  
 1287/23, 1287/25, 1288/3, 1288/4, 1288/9, 1288/11,  
 1288/15, 1288/16, 1288/18, 1288/19, 1288/25, 1290/2,  
 1290/13, 1292/3, 1294/7, 1297/13, 1301/2, 1307/17,  
 1308/10, 1309/15, 1310/20, 1311/2, 1312/6, 1313/16,  
 1318/19, 1318/24, 1319/1, 1319/4, 1319/9, 1319/10,

resources 1251/2, 1251/3, 1252/25, 1253/8, 1253/12, 1253/24, 1261/21, 1264/19, 1296/22, 1297/8, 1304/21, 1311/24, 1316/6, 1319/4, 1319/23, 1321/14, 1364/9, 1369/10, 1369/11, 1378/12, 1382/8, 1382/10, 1384/20, 1386/21, 1391/17, 1392/25, 1396/6, 1396/19, 1397/3, 1400/12, 1401/10, 1401/11, 1402/10, 1402/15, 1404/8, 1404/23, 1408/7  
resource 1254/8  
respect 1281/14, 1332/23, 1333/1, 1341/15, 1346/15, 1347/17, 1353/19, 1383/21, 1366/13, 1370/13, 1372/5, 1396/4, 1399/2, 1401/5  
respected 1401/7  
respond 1278/21, 1386/1  
responding 1278/21  
Response 1240/14, 1259/1, 1277/22, 1282/23, 1296/14, 1316/20, 1317/6, 1317/10, 1319/12, 1336/8, 1336/25, 1360/13, 1360/25, 1380/23, 1400/21, 1411/8, 1413/5, 1416/7, 1417/9, 1417/16, 1418/20, 1418/21  
Responses 1240/13, 1386/12, 1386/21  
responsibilities 1277/8  
responsibility 1252/1, 1267/15, 1267/17, 1409/23  
responsible 1277/12, 1290/15  
rest 1244/3, 1359/12, 1387/18, 1387/19  
restate 1308/15  
restructuring 1364/13  
result 1252/21, 1256/3, 1347/24, 1349/8, 1369/15, 1414/19, 1414/20  
results 1248/21  
resumed 1241/14  
retail 1251/8, 1251/25, 1252/23, 1254/11, 1257/11, 1261/12, 1270/1, 1270/3, 1270/9, 1270/12, 1363/8, 1364/2, 1364/13, 1410/8, 1417/4  
retain 1348/20  
retained 1390/23  
retake 1241/5  
rethink 1253/25, 1256/6  
retire 1267/18, 1347/5, 1347/18  
retired 1267/16  
retirement 1268/2  
return 1289/24, 1323/2  
returned 1399/1, 1399/4  
revenue 1382/22, 1410/13  
Revenues 1240/19, 1383/3, 1383/6, 1383/24, 1413/18  
review 1248/5, 1324/19, 1366/14  
reviewed 1321/24  
RFP 1274/23, 1275/1  
rhetorical 1286/4  
RIB 1240/4, 1240/16, 1241/13, 1250/25, 1252/7, 1252/19, 1253/18, 1254/24, 1258/8, 1255/23, 1256/11, 1256/22, 1259/3, 1259/8, 1259/11, 1260/5, 1260/11, 1260/15, 1260/19, 1261/11, 1262/3, 1262/19, 1263/7, 1263/12, 1264/12, 1265/9, 1266/7, 1266/19, 1267/4, 1268/9, 1269/5, 1270/5, 1271/13, 1272/21, 1278/9, 1278/18, 1280/14, 1280/16, 1280/13, 1280/11, 1280/24, 1290/12, 1292/4, 1292/8, 1293/10, 1298/4, 1298/17, 1296/3, 1296/22, 1297/1, 1298/12, 1300/14, 1301/1, 1301/13, 1301/19, 1302/5, 1302/16, 1302/21, 1303/4, 1303/15, 1303/19, 1304/16, 1308/7, 1308/22, 1306/1, 1311/16, 1312/8, 1313/13, 1313/24, 1314/14, 1314/18, 1316/25, 1324/5, 1336/7, 1337/21, 1338/11, 1339/24, 1340/17, 1342/16, 1342/21, 1343/12, 1343/21, 1344/11, 1345/1, 1345/25, 1351/25, 1352/10, 1354/16, 1354/19, 1355/3, 1355/9, 1356/18, 1357/10, 1357/18, 1357/21, 1358/5, 1358/21, 1358/25, 1359/20, 1360/5, 1360/21, 1361/5, 1361/12, 1361/19, 1362/6, 1363/18, 1364/19, 1365/1, 1376/22, 1382/7, 1382/12, 1383/18, 1387/5, 1387/11, 1387/15, 1388/1, 1388/13, 1388/17, 1389/5, 1389/9, 1407/2, 1407/14, 1407/17, 1407/24, 1408/4, 1408/16, 1408/23, 1409/3, 1409/7, 1409/15, 1410/2, 1410/5, 1410/9, 1410/14, 1415/15  
rights 1271/20  
rings 1388/9, 1388/10, 1388/12  
risk 1263/3, 1267/24, 1268/6, 1373/25, 1374/9, 1374/11, 1410/4, 1410/7, 1410/8  
River 1274/21, 1275/22, 1277/18, 1323/6, 1323/23, 1390/6  
Road 1238/19  
ROBERT 1238/2  
robust 1329/3, 1329/10  
Roland 1279/6  
role 1279/16, 1291/3, 1414/4  
Rolodex 1277/4  
Room 1237/20, 1263/19, 1284/22  
routinely 1266/4  
row 1377/23  
RPR 1237/22  
rubber 1246/6  
rule 1363/24, 1365/16, 1365/20, 1365/24, 1366/1, 1366/11  
rules 1296/13, 1386/20, 1386/23, 1386/25, 1357/1, 1357/12, 1357/20, 1357/23, 1388/1, 1363/25, 1364/1, 1364/2, 1364/5, 1366/6, 1369/9, 1369/14, 1370/2, 1371/10, 1372/15, 1373/3, 1390/20, 1408/17

run 1264/18, 1291/19, 1301/4, 1413/8, 1413/14  
running 1265/1, 1300/10, 1304/12, 1311/24, 1312/2, 1312/3, 1312/5, 1312/6, 1342/19, 1403/16

## S

sake 1320/15, 1334/15, 1335/3, 1335/13, 1336/4, 1371/25, 1372/8  
Sales 1240/15, 1240/19, 1272/16, 1277/13, 1309/7, 1316/20, 1320/21, 1325/21, 1333/25, 1334/5, 1334/6, 1372/6, 1382/20, 1383/2, 1383/7, 1383/23, 1384/16, 1384/19, 1389/24, 1397/19, 1397/21, 1399/3, 1413/9, 1413/16  
SASSO 1238/9  
satisfaction 1393/10, 1393/13  
satisfied 1263/17  
satisfy 1349/5  
save 1398/17  
saw 1317/3  
scenario 1263/9, 1283/21, 1292/8, 1292/16, 1292/17, 1293/18, 1293/2, 1295/25, 1309/21, 1323/4, 1357/4  
scenarios 1292/5  
schedule 1377/20, 1385/18  
scheduled 1377/21  
Schof 1241/24, 1244/21, 1278/3, 1288/2, 1290/1  
SCHEFFEL 1238/2  
scope 1279/21, 1348/18, 1349/1  
second 1246/5, 1258/2, 1294/7, 1317/10, 1365/4  
secondary 1343/14  
section 1370/10  
seek 1327/25  
seeking 1309/16, 1309/18  
selecting 1394/18  
selection 1297/7, 1373/14  
sell 1261/17, 1261/22, 1276/19, 1284/9, 1284/12, 1284/15, 1284/16, 1285/11, 1285/14, 1285/16, 1285/17, 1286/1, 1286/5, 1287/5, 1287/8, 1287/21, 1287/22, 1288/7, 1288/8, 1300/9, 1303/9, 1303/10, 1307/24, 1308/21, 1308/25, 1309/17, 1311/25, 1312/5, 1312/7, 1312/18, 1312/21, 1315/24, 1316/3, 1324/16, 1324/19, 1325/6, 1332/9, 1332/15, 1339/18, 1340/3, 1340/8, 1340/21, 1341/3, 1341/25, 1342/4, 1342/14, 1342/20, 1342/23, 1343/10, 1344/2, 1344/5, 1344/7, 1344/9  
sellers 1285/22  
selling 1275/5, 1275/13, 1286/17, 1294/23, 1294/25, 1300/7, 1317/15, 1341/15, 1398/10, 1412/14  
Seminole 1417/8  
sense 1259/15, 1270/8, 1279/2, 1285/4, 1296/4, 1297/5, 1363/10, 1363/12  
separate 1253/20, 1293/21, 1310/15  
separation 1413/18  
series 1264/7, 1353/11, 1375/19, 1390/7, 1404/25  
serious 1295/18, 1412/1  
serve 1251/25, 1257/21, 1261/4, 1261/19, 1270/1, 1270/9, 1309/19, 1312/15, 1361/16, 1379/6, 1380/6, 1382/9, 1387/4, 1387/9  
served 1252/23, 1304/4, 1388/11, 1401/19  
SERVICE 1237/1, 1237/22, 1239/6, 1262/17, 1301/17, 1301/25, 1302/7, 1302/11, 1303/22, 1305/2, 1307/11, 1308/18, 1326/5, 1370/20, 1372/16, 1373/2, 1379/24, 1385/11, 1385/12, 1390/15, 1393/4, 1393/9, 1394/2, 1395/19, 1396/25, 1403/21, 1403/24  
Services 1239/7  
serving 1264/9  
set 1266/22, 1326/20, 1402/22, 1409/24  
sets 1326/5, 1326/16  
setting 1326/19  
settle 1380/21  
severe 1311/11  
shape 1254/16  
share 1244/3  
shareholders 1333/23, 1334/4, 1374/5, 1374/10, 1390/24  
ship 1343/9  
shopping 1405/5  
short 1264/1, 1306/20, 1316/19, 1319/20, 1365/5  
short-term 1273/10, 1277/6, 1277/12, 1355/14, 1370/20, 1371/4, 1371/7, 1371/15, 1377/3, 1382/19, 1383/1, 1383/22  
shortage 1311/11  
shortfall 1337/19, 1338/1  
Show 1364/25, 1376/12, 1378/17, 1419/20, 1420/4  
shows 1377/20  
Shumard 1239/7  
shot 1265/25, 1266/13  
shutting 1266/2  
side 1299/13, 1299/18, 1299/19, 1299/21, 1261/14, 1272/10, 1293/19, 1294/11, 1327/24, 1337/2, 1337/5, 1400/12, 1405/18  
slides 1261/12  
sign 1344/24, 1408/20, 1409/10  
signed 1301/16, 1303/22, 1372/16  
significance 1394/6

signing 1248/16  
similarity 1333/7  
simple 1252/20, 1262/4, 1263/7, 1285/6, 1289/2, 1329/1, 1356/16, 1360/21, 1367/17, 1367/23, 1398/15  
simpler 1259/21, 1381/6  
simplest 1320/10  
simplistically 1262/23, 1264/14, 1419/14  
simultaneous 1315/17, 1417/20  
singled 1368/23  
sit 1282/19, 1336/17  
Site 1242/5, 1242/17, 1243/4, 1243/16, 1243/25, 1244/18, 1244/22, 1244/24, 1245/14, 1246/16, 1246/22, 1247/1, 1247/6, 1247/12, 1247/15, 1247/20, 1248/11, 1249/4, 1254/1, 1313/21, 1314/9, 1321/24, 1322/12, 1322/14, 1322/16, 1334/12, 1334/25, 1336/1, 1336/11, 1350/2, 1350/5, 1350/9, 1350/13, 1350/23, 1367/11, 1375/12, 1375/15, 1376/8, 1376/9, 1376/11, 1377/12, 1390/21, 1390/24, 1393/6, 1393/8, 1393/16, 1393/23, 1393/25, 1394/5, 1394/11, 1394/19, 1395/1, 1399/19, 1416/9, 1416/15  
sited 1360/6, 1368/11  
sites 1322/4, 1322/6, 1322/10  
Siting 1273/19, 1273/21, 1296/6, 1296/7, 1324/8, 1365/22, 1366/16, 1366/21, 1367/5, 1367/8, 1367/10, 1367/13, 1367/18, 1368/7, 1368/22, 1369/3, 1369/11, 1369/14, 1394/22, 1406/11, 1413/25, 1414/23  
situation 1250/19, 1291/13, 1292/9, 1300/19, 1310/16, 1316/1, 1352/17, 1404/12, 1410/23  
situations 1248/19, 1372/25, 1373/3  
size 1245/2, 1384/7  
slow 1254/21, 1381/13  
Smith 1238/9  
Smyrna 1237/7, 1237/8, 1238/5, 1249/11, 1283/4, 1284/8, 1285/25, 1286/1, 1286/15, 1289/20, 1311/2, 1311/7, 1311/10, 1314/13, 1314/17, 1361/25, 1362/12, 1368/15, 1368/19, 1412/15  
snapshot 1401/25  
social 1279/3, 1280/5, 1280/7, 1282/9  
sold 1312/11, 1316/2, 1317/11, 1384/10, 1398/18, 1399/6  
solicited 1249/7  
solution 1292/16  
sophisticated 1256/17  
sort 1255/20, 1256/20, 1344/22, 1409/14  
sources 1312/13  
South 1238/12, 1239/3  
Southern 1364/22  
specify 1400/9  
speculate 1287/1, 1287/10, 1289/13  
speculation 1287/17  
speculative 1345/18, 1385/14  
spend 1376/1  
spent 1305/11, 1305/12  
spikes 1315/3, 1315/6, 1318/9  
spiking 1312/24  
split 1343/4  
spread 1305/14  
stable 1261/13  
stack 1264/20  
Staff 1239/9, 1241/8, 1359/19, 1364/21, 1364/22, 1365/2, 1375/8, 1375/18, 1381/15, 1386/25, 1387/8, 1389/17, 1393/4, 1393/9, 1413/6, 1420/5, 1420/6  
Staff's 1306/12, 1307/12, 1317/6  
stage 1255/21  
stakeholder 1242/22, 1248/7  
stakeholders 1242/21, 1248/25, 1249/8, 1358/9  
stand 1241/4, 1241/14, 1301/3, 1341/2  
standard 1359/15  
standards 1270/11  
standpoint 1341/1  
stands 1399/5  
Stanford-educated 1329/16  
start 1281/12, 1285/8, 1286/9, 1328/4, 1328/25, 1335/17, 1338/9, 1345/22  
started 1327/15  
starting 1364/11  
state 1246/24, 1254/7, 1256/2, 1257/4, 1257/22, 1258/17, 1267/10, 1269/19, 1270/17, 1270/19, 1272/15, 1277/4, 1282/11, 1282/21, 1282/23, 1293/6, 1293/9, 1294/20, 1296/22, 1299/3, 1300/4, 1308/23, 1314/12, 1315/25, 1322/10, 1325/7, 1332/3, 1332/8, 1332/11, 1332/12, 1341/25, 1349/14, 1350/24, 1351/18, 1352/9, 1354/14, 1354/18, 1354/21, 1360/19, 1363/7, 1370/5, 1393/15, 1412/7  
state's 1252/25  
state-of-the-art 1347/9  
statement 1283/9, 1339/9, 1339/15, 1340/1, 1340/2, 1348/6, 1348/21, 1390/10, 1419/19  
statements 1405/13  
states 1271/4, 1279/25, 1280/10, 1280/19, 1281/3, 1282/1, 1282/21, 1295/7, 1337/25, 1353/4, 1353/12, 1353/19, 1353/20, 1354/3  
status 1397/10

statutes 1366/6  
 steam 1367/17, 1367/19, 1367/23, 1368/1, 1368/5, 1369/22  
 Steel 1239/2  
 step 1290/2, 1293/14, 1293/16, 1297/25  
 stick 1275/20  
 Stop 1256/9, 1291/19, 1292/1, 1299/16, 1299/19, 1305/16, 1357/3, 1357/4  
 stopping 1294/21  
 store 1418/14, 1418/23  
 stores 1409/3, 1409/8, 1418/7, 1418/9, 1418/10, 1418/12, 1418/20, 1419/4  
 stranded 1266/24, 1267/1, 1268/19, 1293/6, 1301/8  
 Street 1230/13, 1239/3, 1344/21  
 strength 1269/8  
 strengthen 1269/19  
 stricken 1419/19, 1419/20  
 Strike 1318/24, 1349/2, 1364/9  
 structure 1330/25  
 struggling 1355/23, 1408/4  
 studied 1315/13  
 studies 1395/5  
 study 1257/13  
 subject 1242/7, 1274/24, 1281/6, 1307/2, 1318/8, 1318/17, 1323/2, 1326/6, 1368/22, 1366/14, 1375/21, 1376/5, 1390/15, 1390/23, 1391/5, 1391/8, 1406/8  
 submitted 1248/11, 1308/5  
 submitting 1403/7  
 subscribe 1371/14  
 subscription 1378/22, 1379/23  
 subsidiary 1331/6, 1331/7  
 successful 1276/1  
 such's 1262/14  
 suffer 1419/17  
 sufficient 1375/5  
 suggestion 1266/5  
 suit 1258/12  
 Suite 1230/19, 1239/3  
 summary 1378/1  
 summer 1265/12, 1301/10, 1308/18, 1308/22, 1311/1, 1315/7, 1315/20, 1317/4, 1351/4, 1351/7, 1351/17, 1351/24, 1385/17  
 SUNDBERG 1230/3  
 sunk 1265/7, 1268/8  
 supplied 1311/7, 1306/21  
 supplier 1272/7, 1337/2  
 supplies 1319/23  
 supply 1249/12, 1259/17, 1259/19, 1259/20, 1312/14, 1362/4, 1385/20, 1410/15  
 support 1257/9, 1299/17, 1329/3, 1329/7, 1329/11, 1355/1, 1366/3, 1366/4, 1363/2  
 supports 1356/2, 1366/8  
 suppress 1308/8, 1308/13, 1309/20  
 surplus 1272/25  
 suppress 1309/8  
 surprise 1242/11  
 SUSAN 1237/15  
 sustainability 1306/17  
 sworn 1241/15  
 system 1253/11, 1253/15, 1273/6, 1291/21, 1302/4, 1302/14, 1304/10, 1304/21, 1306/3, 1323/21, 1344/8, 1362/14, 1370/25, 1371/8, 1372/14, 1372/18, 1372/23, 1378/11, 1300/5, 1382/17, 1383/3, 1383/24, 1306/18, 1391/21, 1393/11, 1399/7, 1400/6

**T**

table 1246/11, 1295/18, 1370/16  
 talk 1263/17, 1263/25, 1264/5, 1308/19  
 talked 1243/6, 1274/10, 1288/22, 1319/6, 1319/21, 1320/25, 1325/15, 1346/19, 1363/9, 1366/18, 1390/3, 1391/15, 1396/1, 1396/5, 1397/24, 1408/11, 1408/23  
 talking 1249/19, 1252/9, 1280/19, 1280/21, 1265/1, 1273/9, 1292/13, 1297/17, 1301/13, 1301/15, 1309/12, 1314/22, 1314/24, 1314/25, 1315/23, 1319/20, 1344/11, 1344/12, 1345/11, 1361/14, 1381/15, 1385/10, 1406/1, 1410/14, 1413/4  
 talks 1246/22, 1364/17  
 Tallahassee 1237/21, 1238/4, 1238/13, 1238/16, 1238/20, 1239/4, 1239/8  
 Tampa 1238/14, 1247/4, 1300/11  
 tariff 1312/16, 1313/12, 1372/17, 1372/19, 1373/1  
 tariffs 1306/13, 1307/4, 1307/13, 1307/21, 1308/5, 1313/16, 1362/10  
 tax 1324/17  
 technology 1269/18  
 teleconferencing 1237/16  
 telephone 1277/3  
 Tea 1242/5, 1242/16, 1243/3, 1243/16, 1243/25, 1244/18, 1244/24, 1248/14, 1247/6, 1247/12, 1247/20, 1248/11, 1249/4, 1313/21, 1314/9, 1316/16, 1321/24, 1322/12, 1322/16, 1334/12, 1334/24, 1336/1, 1336/10, 1350/2, 1350/5, 1350/9, 1380/13, 1380/23, 1375/12,

1375/15, 1376/8, 1376/9, 1376/11, 1377/12, 1390/24, 1391/20, 1393/6, 1393/8, 1393/16, 1393/25, 1404/20, 1416/9, 1416/15  
 tend 1308/8, 1308/13, 1309/4, 1309/8, 1309/20  
 tends 1304/3  
 tense 1331/2  
 term 1261/9, 1261/14, 1270/23, 1273/5, 1283/22, 1284/20, 1288/22, 1289/5, 1291/9, 1292/22, 1319/20, 1347/12, 1349/5, 1385/22  
 terms 1242/22, 1247/24, 1260/3, 1271/8, 1272/8, 1293/5, 1320/10, 1327/17, 1332/25, 1342/17, 1347/25, 1399/21, 1300/21, 1362/21, 1362/24, 1366/20, 1394/25, 1406/23, 1407/20, 1409/12  
 territory 1305/14, 1395/19  
 TERRY 1237/14  
 test 1304/24, 1304/25  
 tested 1272/4, 1313/19  
 testified 1241/16, 1242/14, 1280/3, 1281/20, 1322/19, 1326/3, 1349/1, 1349/3, 1351/8, 1353/15, 1353/19  
 testify 1348/19  
 testimony 1241/22, 1242/4, 1242/10, 1242/19, 1247/28, 1248/22, 1258/11, 1279/21, 1280/7, 1280/25, 1283/24, 1290/22, 1293/22, 1297/16, 1305/20, 1310/4, 1315/2, 1327/14, 1333/1, 1334/11, 1334/20, 1334/23, 1338/11, 1338/21, 1339/3, 1339/25, 1342/4, 1344/20, 1347/23, 1348/2, 1348/15, 1348/18, 1380/10, 1383/10, 1384/6, 1388/24, 1368/13, 1369/20, 1369/23, 1379/3, 1380/12, 1411/13  
 Thank 1241/11, 1242/1, 1246/18, 1273/12, 1280/13, 1286/13, 1307/16, 1314/19, 1316/22, 1316/23, 1324/25, 1326/25, 1327/8, 1329/21, 1335/22, 1362/18, 1363/13, 1365/8, 1365/19, 1365/25, 1366/10, 1366/15, 1366/20, 1370/8, 1371/21, 1373/4, 1373/10, 1373/14, 1374/14, 1376/7, 1376/19, 1376/24, 1377/11, 1383/16, 1383/25, 1384/1, 1386/22, 1389/25, 1409/18, 1415/5, 1415/16, 1416/4, 1419/15, 1419/17, 1419/22, 1420/12  
 Thanks 1272/13  
 theory 1351/20, 1406/3  
 they've 1301/22, 1364/12  
 Thomasville 1238/19  
 thousand 1312/21  
 three 1273/4, 1273/7, 1300/7  
 three-month 1399/25  
 threshold 1411/25, 1412/5  
 tie 1280/22  
 tied 1254/10, 1257/16, 1270/14, 1272/2, 1283/23, 1285/4, 1287/6  
 TIGER 1395/25  
 tight 1264/9, 1304/12, 1304/17, 1304/22  
 tightly 1302/24  
 TIME 1237/18, 1266/16, 1269/13, 1271/7, 1271/10, 1271/21, 1272/17, 1274/4, 1276/20, 1277/14, 1279/4, 1283/16, 1285/5, 1286/20, 1293/24, 1303/21, 1304/11, 1308/2, 1308/7, 1308/13, 1310/4, 1316/5, 1317/12, 1320/18, 1322/1, 1322/3, 1325/11, 1328/21, 1332/13, 1332/17, 1340/20, 1340/25, 1341/4, 1341/25, 1351/4, 1372/4, 1375/3, 1377/7, 1377/22, 1385/15, 1394/4, 1394/18, 1395/4, 1395/10, 1399/18, 1400/24, 1402/12, 1402/20, 1402/24, 1403/3, 1403/9, 1403/10, 1403/11, 1403/14, 1403/24, 1404/1, 1404/4, 1404/17, 1409/24, 1411/3, 1413/2  
 times 1243/1, 1352/18, 1359/25, 1379/17, 1405/10  
 timing 1273/2  
 title 1306/20, 1316/19, 1365/5  
 titled 1303/6  
 tolerable 1290/25, 1292/22, 1292/25, 1293/24, 1294/8, 1295/23, 1297/19, 1322/22  
 tolerance 1304/25  
 top 1375/17  
 tough 1271/15, 1312/14  
 track 1297/12, 1392/13  
 trade 1274/5, 1274/8  
 trade-offs 1303/20  
 traders 1399/14  
 trading  
 traditional 1257/16, 1320/8, 1321/10, 1378/5  
 traditionally 1308/4  
 training 1329/22  
 transacted 1315/16  
 transaction 1285/23, 1320/14, 1390/9  
 transactions 1277/7, 1319/21, 1397/25, 1398/6, 1398/7, 1399/2, 1399/6, 1399/10, 1399/16, 1412/18  
 transmission 1289/9, 1370/12, 1370/16, 1370/20, 1370/23, 1371/4, 1371/7, 1371/11, 1371/15, 1371/22, 1371/24, 1372/5, 1372/7, 1372/12, 1372/17, 1395/5  
 treading 1414/24  
 treat 1300/16  
 treatment 1258/12  
 triggers 1412/1  
 true 1242/25, 1263/8, 1276/6, 1277/9, 1277/23, 1290/12, 1295/4, 1304/22, 1309/24, 1332/19, 1342/16, 1345/1, 1345/8, 1346/2, 1359/20, 1371/9, 1377/13, 1378/21, 1384/2, 1387/13, 1391/22, 1405/12, 1411/21,

1412/3  
 trust 1375/7, 1375/25  
 truth 1339/17  
 turbine 1367/22, 1368/4, 1368/20, 1369/21, 1396/1, 1395/12  
 turbines 1276/2, 1367/18, 1395/3  
 turf 1414/25  
 turn 1246/19, 1293/8, 1300/12, 1365/11, 1366/10, 1374/14  
 turned 1271/6  
 turning 1300/10  
 TVA 1308/24  
 two 1249/14, 1255/18, 1256/8, 1260/21, 1261/11, 1270/10, 1284/11, 1286/22, 1289/2, 1290/15, 1290/16, 1292/5, 1300/7, 1308/18, 1317/12, 1343/23, 1343/25, 1347/7, 1359/8, 1362/6, 1364/22, 1372/24, 1376/1, 1380/23, 1393/20, 1395/13, 1404/13, 1416/1  
 tying 1263/14  
 type 1248/16, 1248/18, 1257/9, 1257/10, 1263/9, 1263/16, 1269/9, 1291/12, 1292/9, 1295/7, 1295/9, 1299/10, 1305/1, 1312/10, 1319/21, 1324/19, 1350/21, 1355/18, 1358/5, 1367/6, 1369/23, 1388/23, 1390/19, 1394/15, 1394/20, 1394/24, 1395/2, 1395/12, 1404/11, 1410/12, 1417/19, 1418/20  
 types 1367/9, 1367/12, 1372/24, 1419/7

**U**

unaffiliated 1285/22  
 unassisted 1396/2, 1411/22  
 unavailable 1403/13  
 uncertainty 1265/17, 1270/16, 1337/5, 1350/20, 1360/6, 1400/6, 1400/25, 1402/8, 1402/15, 1410/17  
 unchecked 1296/9  
 uncomfortable 1301/14  
 uncommitted 1308/7, 1308/12  
 unconstrained 1285/22  
 uncontracted 1251/19, 1336/18, 1337/20  
 underlies 1406/10  
 underlying 1290/23, 1331/3, 1413/24, 1414/22, 1417/4  
 undertaken 1326/22  
 undetermined 1394/3  
 uneconomic 1271/10, 1392/24  
 unit 1243/13, 1243/15, 1246/11, 1248/16, 1267/20, 1272/16, 1294/3, 1294/4, 1365/21, 1366/22, 1366/23, 1382/14, 1385/1, 1385/3, 1386/16, 1395/1  
 units 1243/13, 1246/12, 1247/6, 1267/15, 1267/19, 1268/3, 1268/22, 1274/21, 1300/22, 1305/14, 1305/15, 1311/9, 1323/6, 1347/5, 1347/6, 1393/15  
 unknown 1246/16  
 unmet 1360/3  
 unofficial 1401/14  
 up-front 1267/25  
 updated 1401/14, 1401/15  
 upgrades 1372/13, 1372/18  
 useful 1269/3  
 Utilities 1237/7, 1243/2, 1247/23, 1250/5, 1251/8, 1251/9, 1252/23, 1258/17, 1266/8, 1267/12, 1269/23, 1270/1, 1270/3, 1270/7, 1270/9, 1270/12, 1270/18, 1271/3, 1272/14, 1274/22, 1290/7, 1290/17, 1291/10, 1292/14, 1293/20, 1295/14, 1298/20, 1312/9, 1314/1, 1320/9, 1320/16, 1321/25, 1326/6, 1326/16, 1339/6, 1339/20, 1340/10, 1341/5, 1342/5, 1346/16, 1353/3, 1353/18, 1353/23, 1365/21, 1366/2, 1366/6, 1366/11, 1373/15, 1384/16, 1384/20, 1391/17, 1392/21, 1397/25, 1412/6, 1412/14, 1412/19, 1412/25  
 utilities' 1247/18, 1290/6, 1391/21  
 utility 1254/11, 1271/5, 1290/16, 1291/1, 1293/22, 1293/25, 1312/16, 1312/18, 1313/19, 1317/24, 1318/4, 1319/3, 1319/23, 1320/19, 1320/20, 1321/11, 1323/5, 1323/21, 1340/4, 1350/19, 1373/6, 1373/10, 1373/12, 1374/1, 1374/5, 1384/7, 1390/20, 1391/10, 1398/10, 1398/13, 1398/16, 1398/18, 1416/24, 1417/1  
 utility's 1248/9, 1293/21, 1320/5, 1373/20, 1398/11  
 utilization 1333/16

**V**

vague 1363/15  
 validated 1401/17  
 value 1411/25  
 values 1308/19  
 variable 1306/9  
 venture 1369/3  
 verify 1376/4  
 version 1334/22, 1335/6, 1335/7, 1401/14  
 vertically 1320/5, 1321/11  
 viability 1265/2, 1265/24, 1301/1  
 viable 1300/23  
 Video 1237/16  
 view 1271/22, 1319/19, 1359/6  
 violated 1411/25

vision 1373/23  
vital 1254/7  
VOLUME 1237/10, 1240/2, 1240/10  
Volume 1237/6

X

X 1240/1

W

Y

waiver 1304/25  
walk 1256/16, 1305/10  
Wall 1344/21  
Ward 1230/9  
wave 1314/22, 1314/23, 1315/11, 1315/17, 1315/23, 1318/10  
waves 1304/19  
weather 1314/1, 1360/18  
week 1244/12, 1275/8, 1310/9, 1334/8, 1336/8, 1337/16, 1389/25, 1397/4, 1400/4, 1405/1, 1405/3, 1405/10  
Weekly 1317/24, 1332/16  
West 1238/4  
wherever 1340/21  
wholesale 1287/12, 1288/25, 1261/15, 1261/24, 1262/1, 1262/10, 1262/12, 1269/3, 1271/12, 1286/3, 1323/19, 1323/21, 1328/17, 1328/19, 1329/3, 1329/7, 1329/8, 1329/12, 1329/18, 1362/22, 1368/2, 1368/6, 1356/2, 1366/4, 1366/24, 1364/1, 1364/13, 1384/11, 1384/16, 1397/25, 1400/7, 1400/15, 1409/22, 1410/12, 1416/23, 1416/24, 1417/7  
wholesalers 1386/3, 1386/5  
wife 1309/14  
wild 1410/20  
WILLIAM 1230/15  
willing 1263/3, 1263/4, 1286/22, 1286/5, 1287/5, 1311/7, 1336/17, 1337/19, 1342/20, 1343/12, 1352/15, 1374/25, 1375/21, 1419/13  
WILLINGHAM 1230/15  
window 1399/18, 1399/22, 1400/10, 1402/4, 1403/11, 1404/1  
windows-type 1302/4  
winter 1264/1, 1376/13, 1376/18, 1376/21, 1377/3, 1377/14, 1377/22, 1378/16, 1378/20, 1379/1, 1379/5, 1380/13, 1381/7, 1381/8, 1388/10, 1399/22, 1401/16, 1402/21, 1402/23, 1404/2  
wisdom 1296/10  
wish 1271/14, 1271/24, 1297/1  
withdraw 1306/12  
withdrawn 1240/18, 1306/13  
witness 1241/14, 1243/22, 1244/4, 1280/25, 1252/7, 1252/19, 1253/18, 1284/24, 1288/8, 1288/23, 1296/11, 1256/22, 1299/3, 1299/8, 1299/11, 1260/8, 1260/11, 1260/15, 1260/19, 1261/11, 1262/3, 1262/19, 1263/7, 1263/12, 1264/12, 1265/9, 1266/7, 1266/19, 1267/4, 1268/9, 1269/5, 1270/5, 1271/13, 1272/21, 1278/9, 1278/18, 1280/14, 1281/10, 1286/10, 1286/13, 1286/11, 1287/10, 1288/24, 1290/12, 1292/4, 1292/8, 1293/10, 1293/4, 1293/17, 1296/3, 1296/22, 1297/1, 1298/12, 1300/14, 1301/1, 1301/13, 1301/19, 1302/5, 1302/16, 1302/21, 1303/4, 1303/15, 1303/19, 1304/16, 1305/7, 1305/22, 1306/1, 1311/16, 1312/8, 1313/13, 1313/24, 1314/14, 1314/18, 1316/25, 1318/12, 1323/15, 1324/5, 1335/7, 1337/21, 1338/11, 1339/4, 1339/16, 1339/24, 1340/17, 1342/16, 1342/21, 1343/12, 1343/21, 1344/11, 1345/1, 1345/25, 1351/25, 1352/10, 1364/16, 1364/19, 1355/3, 1355/9, 1356/18, 1367/10, 1367/18, 1367/21, 1358/5, 1358/21, 1358/25, 1369/20, 1360/5, 1360/21, 1361/5, 1361/12, 1361/19, 1362/6, 1363/18, 1364/17, 1364/19, 1376/22, 1382/7, 1382/12, 1383/6, 1383/18, 1367/5, 1367/11, 1367/15, 1380/1, 1380/13, 1380/17, 1389/5, 1389/9, 1407/2, 1407/14, 1407/17, 1407/24, 1408/4, 1408/16, 1408/23, 1409/3, 1409/7, 1409/15, 1410/2, 1410/5, 1410/9, 1410/14, 1415/15  
WITNESSES 1240/2, 1341/10  
wonder 1300/16  
word 1282/3, 1292/20  
words 1251/6, 1297/11, 1288/4, 1264/20, 1265/3, 1282/6, 1290/13, 1291/5, 1291/18, 1292/25, 1299/16, 1299/22, 1302/23, 1366/6, 1372/20, 1382/4, 1387/6, 1400/19, 1409/24  
work 1278/22, 1291/24, 1352/23, 1389/15, 1389/19, 1404/14  
worked 1394/21  
working 1306/4, 1400/21  
works 1327/21, 1344/22, 1389/16  
world 1258/24, 1289/15, 1260/6, 1272/6, 1277/1, 1344/12, 1347/4, 1363/6  
worries 1248/3  
worry 1273/7  
worth 1341/1  
WRIGHT 1238/2  
wrong 1262/24, 1266/1, 1291/19, 1357/19, 1387/2, 1409/1

Year 1242/5, 1242/17, 1243/3, 1243/16, 1243/17, 1243/25, 1244/18, 1244/24, 1248/14, 1247/6, 1247/12, 1247/13, 1247/16, 1247/19, 1247/20, 1248/11, 1249/4, 1283/10, 1307/5, 1307/14, 1313/21, 1314/9, 1321/24, 1322/12, 1322/16, 1334/12, 1334/25, 1336/1, 1336/11, 1380/2, 1380/5, 1380/9, 1380/13, 1380/23, 1361/2, 1375/12, 1375/15, 1376/8, 1376/9, 1376/11, 1376/12, 1377/12, 1377/23, 1382/20, 1384/8, 1384/23, 1386/3, 1390/24, 1393/6, 1393/8, 1393/9, 1393/16, 1393/25, 1403/7, 1404/20, 1416/9, 1416/15  
years 1272/5, 1272/24, 1273/4, 1273/7, 1295/13, 1384/9, 1385/8, 1391/20, 1395/13, 1395/14, 1397/9, 1397/12, 1397/14, 1397/17, 1397/19, 1397/22, 1404/13  
year/no 1286/10