BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of	**UNDOCKETED**
WORKSHOP CONCERNING NON-FIRM ELECTRIC SERVICE PROVIDED BY PENINSULAR FLORIDA INVESTOR-OWNED UTILITIES.	

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PROCEEDINGS:	WORKSHOP
BEFORE:	CHAIRMAN JOE GARCIA COMMISSIONER J. TERRY DEASON COMMISSIONER SUSAN F. CLARK COMMISSIONER E. LEON JACOBS, JR.
DATE:	Monday, February 14, 2000
TIME:	Commenced at 10:00 a.m. Concluded at 1:35 p.m.
PLACE:	Lakeland City Commission Chambers City Hall 228 South Massachusetts Avenue Lakeland, Florida
REPORTED BY:	JANE FAUROT, RPR Chief, Bureau of Reporting

IN ATTENDANCE:

ROBERT ELIAS, FPSC, Division of Legal Services

JOE JENKINS and **REESE GOAD**, FPSC Division of Electric & Gas.

THOMAS PAIGE, representing the Governor's Office.

JOHN EMERSON, representing Jones Hardie Building Products.

JOHN McWHIRTER, representing Florida Industrial Power Users Group (FIPUG).

DONALD HIRSCH, Consultant.

KERRY TEMOIN, representing International Paper Company.

ROB AYERST, representing International Paper Company.

HUEY GREENE, representing Kendall Copmpany.

DAVE HINES, representing Coronet Industries.

RICHARD PARTYKA, representing Lafarge Florida, Inc.

GEORGE McFADDEN, representing Praxair Corporation.

ED WHITE, representing Mulberry Corporation.

P R O C E E D I N G S

CHAIRMAN GARCIA: Good morning. We are going to take care of some preliminaries very quickly. First, I want to introduce the Commissioners that are here. To my right is Terry Deason; and to the right of Terry, not politically, but just sitting there is Leon Jacobs. And I am to the extreme left of both of them.

We are going to listen to a presentation that staff is going to make, and then there are two other presenters that have some facts to give us. Clearly this is fact finding for the Commission. Obviously what we do here will be seen by the Commissioner that is not present. And probably to some degree by the newly-appointed Commissioner, which is Ms. Lila Jaber, which was appointed I believe last week, Friday.

So we are going to hear what you have to say. After we finish these presentations, we are going to have the Public Counsel's Office in the form of Mr. Beck, who works for Jack Shreve who represents the citizens of the State of Florida, call up witnesses and we will hear what you have to say, what your comments are.

Clearly we are here because we have heard there is a problem. And we want to hear from those people who have the problem. And clearly we have heard it from different corners of the state, not only from the people

who have the problem, but from the politicians who answer to the people who have the problem. So clearly we want to be sensitive to those needs and to make sure we are doing right by all Floridians.

And, finally, I want to introduce -- by the way, let me also say that Commissioner Clark is scheduled to be here. The flights from Tallahassee were delayed because of fog this morning entering Orlando, or leaving Tallahassee, I don't know which, so she will probably be here shortly.

Finally, I want to introduce the Governor's representative here. Mr. Villamil could not make it due to some budgeting concerns that he had to take care of with the Governor's Office as they prepare for the session that is coming up. So Mr. Thomas Paige, who is the General Counsel to Enterprise Florida -- Mr. Paige, will you stand up.

MR. PAIGE: Good morning.

CHAIRMAN GARCIA: Enterprise Florida is, in essence, the Department of Commerce/Economic Development Agency for the entire state of Florida, and he is representing the governor as well as Mr. Villamil, who is the Secretary for Economic Development and Tourism in our state. It is the Office of OTTED. And with that we are going to hand it over to Mr. Goad, who is going to present

staff's summary of where we stand on some of the issues that are before us.

MR. GOAD: Good morning. I would like to welcome everybody. Again, my name --

CHAIRMAN GARCIA: You may need to get to a mike of some sort.

MR. GOAD: Is this one working? We will try it. If you guys can't hear me, if you can't hear me, just let me know. We will make sure we speak up. We had some handouts earlier. I hope everybody got one. If you didn't, make sure you give me your business card and I will provide you a handout, or mail it to you, however we need to do to get it to you.

Basically, we are here to discuss the status of non-firm service in Florida today. My presentation will give a general overview of that status of non-firm service.

First and foremost is exactly what is a non-firm customer. Essentially, a non-firm customer is a customer who accepts interruptible service for a reduced bill. You can see by the flashing light bulb, I think it has gone out already, but non-firm service is not absolute.

There are basically three types of -- let me stop here. If you guys have any questions, raise your hand and we will stop and take them up during the

presentation.

There are three basic type of non-firm service, the, first being interruptible service. This service is where the company has full control over the customer's load or a contracted amount of load, and they cut service off on fairly short notice.

The second type being curtailable service is where the local utility will request generally by a phone call, maybe by electronic device, they will request the customer reduce load to a predetermined amount. If the customer fails to do so, a penalty will be imposed on a subsequent bill.

The third type of non-firm service is load management. Load management, generally used by smaller customers, is where the company controls specific devices or possibly specific load.

SPEAKER: Excuse me, do you include real time power as a form of interruptible service?

MR. GOAD: No, I would not. There are approximately 16,000 commercial/industrial non-firm customers being served by the three peninsular investor-owned utilities. These customers make up about a thousand megawatts of interruptible load. As you can see, it may not be absolutely clear, but FPL serves well over 15,000 of those 16,000 customers. However, they only

represent about 40 percent of the load. On the other end of that scale, TECO has 258 megawatts of load with only 57 non-firm customers.

A term I'm sure we will discuss today that we have heard sometimes or will be used, it seems to be a buzz word or a buzz term is reserve margin. Reserve margin is fairly simple, the way we use it and the way the Commission uses it and the utilities uses it. It is the amount of megawatts or capacity above and beyond firm load. You can see it represented between the dotted lines. On the right you have total available capacity, which is available generation plus purchases. And on the left you have firm load. As you can see in the red block, non-firm load simply operates within this margin. Non-firm load and firm load make up the systems total load.

It is important to note that utilities don't plan reserve for non-firm load. They plan reserve for firm load and that is how we assess generation adequacy. If non-firm customers were, in fact, firm load, in other words, the total load was the firm load of the system, reserve would obviously be significant less.

In fact, we have taken some historical data for the three peninsular investor-owneds for the past six years, the red bar indicates what reserves would have been

had we determined those relative to total load. As you can see in 1999 for all three peninsular investor-owneds it would have be in the single digits. The yellow bar represents what we actually do look at for assessing generation adequacy. As you can see, mid to high teens in 1999, somewhat higher in prior years.

As I have said earlier, customers receive a bill reduction or a reduced bill in exchange for interruptible service. That reduction ranges anywhere from 19 to 27 percent. That is for a typical industrial customer using 250,000 kilowatt hours.

SPEAKER: Question.

MR. GOAD: Yes.

SPEAKER: Is it also true that because interruptible customers use available power when significant amounts of power are available, for instance in the middle of the night, that in addition to them receiving a lower bill they also play a beneficial role in the cost of power to the other ratepayers on the system?

MR. GOAD: I would probably agree with that statement; yes, sir. You are saying the benefit that they provide to the utility is increased capacity factor, yes, I would agree with that.

SPEAKER: So it is increased revenue and also reduce the costs for the other ratepayers?

MR. GOAD: Yes, I would agree with that statement. Yes, sir.

SPEAKER: Thank you.

MR. GOAD: During the past six years we have noticed a trend of increased interruptions on an annual basis. As you can see represented by the blue bars, there has been an increasing trend as far as the number of days customers have been interrupted. Now, this isn't very scientific. Simply what it is is just a calculation of any day in the calendar year that an interruption on one of the three utilities occurred. They may be overlapping. It is not necessarily all interruptible clients, it is just simply a tabulation.

While at the same time we have seen that increasing trend, we have seen a decline trend in peninsular reserves. You can see it's down to 17 percent in 1999. We expect these trends will subside by the summer of 2004 when the peninsular investor-owned utilities have agreed to increase their planning reserves to 20 percent.

CHAIRMAN GARCIA: Just so I understand, Reese, the back line is the reserve margin that we calculate as a state. In other words, the dark -- I'm sorry, I'm looking at it in black and white. The red is the margin reserve that we as a Commission calculate. The blue in the front

is the number of interruptions?

MR. GOAD: Yes, sir.

CHAIRMAN GARCIA: So there seems to be some correlation in type.

MR. GOAD: Yes, sir. The red is -- actually it is calculated by the FRCC and reviewed by us for the peninsular.

CHAIRMAN GARCIA: You might want to say who the FRCC is.

MR. GOAD: The FRCC is the Florida Reliability Coordinating Council. It is made up of the utilities in Florida. I believe every utility -- in fact, there are other out-of-state entities that serve on that committee, and they just review things; also generation planning, transmission planning, things of that nature.

COMMISSIONER JACOBS: In '97 there was a particularly significant increase in interruptions. Do you have any information on what led to that?

MR. GOAD: The only speculation I can have is in looking at the dates that added up to those 88 days, the majority were in the summer. It seemed to be a very high frequency in the summer. And just from personal recollection I know that summer was very hot. So it seemed that the utilities were using the non-firm service. And, again, I will point out that may not have been the

interruptible service. It may have been the load management, something of that nature. And it is just commercial/industrial that we have looked at. But I think it occurred because of weather in the summer.

COMMISSIONER JACOBS: Thank you.

MR. GOAD: Where are we? Okay. There is a provision available to customers that will help mitigate interruptions called a buy-through provision. A buy-though provision is where the utility will actually go out and buy power on the interruptible or non-firm customers -- I think it is limited to interruptibles. No, curtailable, too -- will go out and buy power on the customer's behalf in lieu of an interruption.

In other words, if the utility knew they were going to have to interrupt a customer, they would go out and search the market, maybe in-state, out-of-state and try to buy power for them. That power is passed on directly at the purchased price plus a small handling charge.

Currently those customers have to indicate whether or not they are willing to except buy-throughs up front. In other words, when service is initiated they sign a waiver where the company has the ability to go out and purchase the power. And there is no specification of price, it is just a blanket statement of buy the power if

you can and avoid my interruption.

Recently customers have indicated that they would like to know on a case-by-case basis what the purchased price is. Because it may be critical that they could just stop operations on an economic basis or they could go forward, and that would be determined based on the purchased price.

And, finally, where do we go from here? Well, that is why we are here. We need to get input on everybody's feelings on this and maybe get some ideas. At this point, have I got any questions?

SPEAKER: Just a question about sales of wholesale power.

MR. GOAD: Yes, sir.

SPEAKER: How are wholesale power sales treated in the calculation of your reserve margins?

MR. GOAD: If it is a firm contract commitment by the utility it is part of the firm demand.

SPEAKER: So your earlier slide that shows in the case of '97, a 22 percent return margin, did you look at all at the amount of off-system sales that were made during those years and compare it to the interruptions that occurred?

MR. GOAD: No, sir, I did not.

CHAIRMAN GARCIA: I do want to point out, you

said 22 percent return. That is reserve. I just didn't -- because if we were allowing 22 percent, we wouldn't be here. All right.

MR. GOAD: Yes, sir.

SPEAKER: You present your information in terms of three major utilities, yet this one slide we are looking at as far as interruptions are concerned, we are only seeing a composite there. Do you have that information available on the three independent utilities that you used?

MR. GOAD: I did not prepare in that manner, and I can tell you it would be a little different. It did vary utility to utility. Again, for example, the 88 days, there may be a day where all three companies interrupted customers. There may be a day where only one company interrupted customers. So it would be difficult to compare. It may be close to that same number for a given utility because of the overlapping nature. But I did not prepare it in that manner, no, sir.

If I could turn it over to the Chairman.

CHAIRMAN GARCIA: Very good. Mr. Goad will be here to answer questions along with the rest of the staff, and Mr. Jenkins, who is the director of our electric division is also here. Most of you will probably be able to stump some of us up here, but you won't be able to

stump Joe. And what we are going to do is -- Mr. Beck, why don't you come up here, since there are two formal presentations that are going to be given.

Mr. Goad, you might want to give Mr. Beck the names of those so that he can call them up.

MR. GOAD: Mr. McWhirter, would you like to be first?

MR. McWHIRTER: Mr. Emerson wanted to go first. We may get a little lengthy.

MR. GOAD: Very well.

MR. EMERSON: Okay. Can everybody hear me, because I'm not used to talking into microphones? First, I would like to thank the Commission for allowing me to talk. My name is John Emerson. I'm the plant manager of the James Hardie Building Products firm. I'm a nervous type guy, so if I can walk a little bit I would feel a lot more comfortable.

Like I said, my name is John Emerson. I am the plant manager for the James Hardie Building Products firm in Plant City. We are the largest, or if not the largest, one of the largest fiber cement manufacturing plants in the world. We produce an exterior siding product, we also produce a tile, a ceramic tile, a laminate product.

We ship throughout the U.S. and Canada. Our company is actually Australian-based. We just recently

moved our headquarters to Southern California. We are a publicly-held firm. We are the largest fiber cement company in the world.

Just to give you a base, we are located in the TECO service area. And since last year we have had a lot of issues with our power and that is why I would like to at least like to say a few things. Our plant in Plant City employs 215 people with benefits. We average about $50,000 an employee in wages, wages and benefits. We operate 24 hours a day, 365 days a year. We bring to the community -- we spend within the State of Florida over $50 million a year.

So, our problems with power really started last April. Now, we signed an interruptible contract, which we understand one of the benefits of signing an interruptible contract is some discounts on the cost of power. When we actually signed that contract, it was back in '93. We started our plant in '94. We operate under a very similar contract in Southern California, also at a manufacturing facility in Texas. All of those sites as well as one in Tacoma, Washington. All four of us have interruptible contracts with the utilities.

We took a very close look at that because with fiber cement we operate with cement, we pump cement around in pipes. And when you stop pumping comment, it gets

hard. When it gets hard, you don't run very well. And not only do you not run, you then subject your employees to doing very difficult cleaning tasks. We use 10,000 PSI water, which is very dangerous. So when our power stops, we have problems.

So we looked at the agreement, the tariff very closely to see what we could expect in interruptions. TECO gave us previous information on what we could expect from interruptions. And based on the information that they gave us and the discussions that we had, we felt very comfortable that there would be a chance of interruptions, they would be infrequent in nature and short in duration.

Now, what we have had since April of last year has not been infrequent or short in duration. Since April of '99, we also buy -- we also take the pass-through power. Since April of '99, we have actually had pass-through power, the power they purchase for us over 850 hours worth of time.

Now, prior to that, you know, it was very rare, very rare that we purchased power. We had close to fifty hours of curtailment in 1999. Now, prior to that, it was -- you know, if it was five hours I would say that would be a very large number. In fact, several years we didn't have any curtailable. The only time we actually had blips in our power was with our very common electrical

storms.

As an example, I would like to show you just two bills. What I have, and it is very small, I'm sorry it wouldn't fit on the overhead. But essentially what I would like to show you is the amount of money that we actually paid as part of our pass-through power. Our normal bill, to give you an idea per month, is about 160, 140, $180,000 a month. In August of last year our bill was $284,000. And all of that was due to pass-through power charges.

So you can say that we get a discount. But if we have to buy power, pass-through power plus the couple of mils that they charge on as a handling charge, that very quickly is not a very economical thing. So, maybe we want to get off that rate. Well, part of the issue with that is it is a five-year wait. If you want to get off of it in less than five years, then you pay a very high penalty. So essentially, we are stuck, for a better word.

Now, one of my biggest concerns is not necessarily what happened last year, although it was a very painful time. My biggest concern is actually the future. Now we have already purchased power nearly 48 hours and we are just barely in a month and a half of 2000. So things aren't stabilizing. Things are continuing to get worse, in my mind. And that has a huge

impact on me and our business moving forward.

Now, I would like to -- we are in the process of at least thinking about expanding. We want to spend another $30 million-plus in growing some new product basis. We are currently looking at our Plant City facility as well as some others in Central Florida. But we are also looking in Alabama and Georgia. And I can tell you right now a large reason for that is due to the reliability and the cost of power.

From my standpoint as being the plant manager, I would like it to be in Plant City. It would be a good thing for my facility. I think it would be a great thing for Plant City. I think it would be a great thing for Florida. So I'm pushing very strongly to have it in Plant City.

But our board of directors and our upper management are the ones that will make that decision. So one of the things -- we are very autonomous, so I pretty much operate the facility with very little restrictions from our corporate. And I felt that the response and the willingness of TECO to help mitigate this problem was not very good. And after repeatedly trying to work through things, we could come to no resolution.

So, we actually filed a suit based on we felt that we were unfairly taken advantage of. And we are

currently in litigation on that based on what we were told when we signed our contract and what we have now. And that is unreliable power.

CHAIRMAN GARCIA: Can I ask you a question? When you take on the buy-though portion, do you have a clue of what that price is going to come down like?

MR. EMERSON: We usually get -- our customer service rep will usually send us a piece of paper shortly before the bill comes and tell us this is how much it is at the end of the month. But absolutely not. We have no idea how much it is, or how much they are paying for it or anything else.

CHAIRMAN GARCIA: Does your company have any other plants in the U.S., did you say?

MR. EMERSON: Yes, we have four plants altogether. We have a plant in Cleburne, Texas, which is near Dallas/Fort Worth. We have one in Fontana, California, which is in Southern California. We also have one in Tacoma, Washington. All of those have interruptible power contracts. None of them have experienced anything like what we have experienced.

COMMISSIONER JACOBS: On the buy-though provisions, you said you get a note but it is after the purchase has been made. Do you know what the terms or conditions or anything of that power?

MR. EMERSON: No. In fact, that August bill there, that 200-something, $100,000 more than what we normally pay, we got that the day we actually got the statement. So, no, we don't know during the day when they purchase it or anything else.

CHAIRMAN GARCIA: Your power usage, does it fluctuate a lot?

MR. EMERSON: Very little. We run pretty much straight through day and night.

CHAIRMAN GARCIA: TECO can pretty much forecast what your usage is going to be as a general rule, and you know also the fluctuations that you may have beforehand usually?

MR. EMERSON: Yes. It varies very little. Less than maybe 6 percent month-to-month.

COMMISSIONER DEASON: I have a question. Do you understand or was it made clear to you at the time the contract was signed that capacity is not planned for or built to serve your load?

MR. EMERSON: Actually I will have to answer that in two ways. I didn't actually -- I was not actually here when we signed the contract. But based on the notes, and the plant manager that is Tacoma, Washington actually was here building the plant. He made the agreement. Based on my conversations with him, no, he didn't

understand that part at all.

COMMISSIONER DEASON: Did you review the tariff provisions on file with the Public Service Commission?

MR. EMERSON: I'm not sure what you mean by -- we understood, we looked at multiple tariffs and chose that one based on what we thought was a reasonable expectation of the reliability of the power and the cost.

COMMISSIONER DEASON: And you say during the early years that you experienced little if any interruption at all?

MR. EMERSON: From '94 through last April we had very, very few interruptions. We had relatively few buy-throughs, very small.

COMMISSIONER DEASON: So you essentially had firm service at a discounted rate?

MR. EMERSON: We had some interruptions that were short in duration and they were infrequent. So I guess if you consider that, yes, we did get a discount. And we do have a straight base or a relatively constant load during peak and off-peak times all the same, so we have a base load that goes all the time.

COMMISSIONER JACOBS: Did you track the interruptions across time?

MR. EMERSON: No. Up until last year we never had any issues about power. So it was one of those things

that we never really worried about, which I would say is a normal expectation.

COMMISSIONER JACOBS: What about last year, you say they started in April?

MR. EMERSON: Since April we track it very closely now.

COMMISSIONER JACOBS: Are they consistent or do they vary over time?

MR. EMERSON: The interruptions?

COMMISSIONER JACOBS: Yes.

MR. EMERSON: When you look at the data, it doesn't look like there is any type of consistency there. It's just a lot of --

COMMISSIONER JACOBS: By peak. So you are mostly getting in -- I guess my question goes to --

MR. EMERSON: You mean as far as throughout the year?

COMMISSIONER JACOBS: If you look at a major peak, you can pretty much guarantee there is going to be an interruption, is that what you are saying?

MR. EMERSON: You know, I don't feel comfortable answering that because I haven't actually looked at it versus weather data or that sort of thing. As we looked at it over all of last year and last fall, we actually had -- we thought the interruptions would stop sometime in

September when the weather broke. We had interruptions all the way through December.

COMMISSIONER JACOBS: That's it.

CHAIRMAN GARCIA: Mr. McWhirter, I think you are up.

MR. McWHIRTER: My name is John McWhirter, and I'm an attorney that has represented industrial consumers of electricity for about thirty years. Prior to that time I was an employee of the Public Service Commission and kind of learned how things operated from inside of that organization.

When this workshop was announced, a group of non-firm customers got together to discuss the issues and especially the questions that were posed in Chairman Garcia's letter, and they shared experiences. And it has been very interesting to go through these experiences. I don't think -- we may not have time to do it all this morning, so before I start I would like to introduce the people who participated in that group and their companies in case you don't get to them today. And I will go up the rows. And if I miss somebody, I hope they will stand up and say that they were missed. And I would also suggest to you that they can tell their story much better than I. I'm just kind of making an opening statement, and I would hope that it will be very short.

In the first row we have Mr. Roger Yot (phonetic), who is with Air Products Corporation. He came down from Harrisburg, Pennsylvania to be here today. In the third row there is Mr. George McFadden, and Mr. McFadden came from Tonawanda, New York. And he can tell you what happens around the United States. In the next row we have Mr. Kevin Tennison (phonetic), who is with Kendall Corporation, which makes medical equipment for medical companies.

MR. GREENE: John, Kevin is not here. I'm the plant manager.

MR. McWHIRTER: I'm sorry, Huey Green. Huey Green, and I apologize. And I'm still on the right-hand side. We have Richard Parteka (phonetic) and Steve Jeffries, they are customers of Florida Power & Light and Tampa Electric Company. They are in the cement industry. Their company is known as Lafarge. Mr. Yot is a customer of Florida Power Corporation. Mr. McFadden is a customer of Florida Power & Light.

In the next row we have Roger Fernandez, who is with Cargill Corporation (phonetic). In this row we have the reticent Mr. Muhlhan, who is with Ameristeel, who used to be a customer of Tampa Electric, and he used to be customer of Florida Power & Light, and is now a customer of JEA. And I asked him to come and tell you why that

was, but he is so reticent he may not do it.

Right behind him we have people from International Paper. Mr. Rob Ayerst (phonetic) is here from Memphis, Tennessee, and Mr. Kevin Demoyne (phonetic) is here all the way from Plant City. Behind him is Henry Lilley with CF Industries. Further back I see Steve Davis who is with International Minerals and Chemicals. And I probably missed somebody that I have overlooked. Is there anybody that is going to talk in our group that I missed? I think Ed Marlowitz (phonetic) was supposed to be here, and David Heinz is here from Coronet Industries. He came all the way from Plant City.

Our first speaker today is going to be Doctor Hirsch, and he has been involved in the electric industry since shortly before Thomas Edison was born. And he has been in California on the east coast and in Florida, so he has a vast historical experience of the electrical industry from the industrial side of it.

The group last week said we have all talked about this and we all know what we want to say and the experiences of our company, but we would like you, McWhirter, to prepare a learned paper on the subject which would be our position paper, and kind of summarize our positions and your understanding of what has happened in the industry.

And, of course, with your experience with me, you know it will not be a learned paper and you will find that the utilities will find that most of the things I say in here are woefully inaccurate and I would hope that they will come and explain where they are. I mean, what the real facts are.

The learned paper I won't go into, and it may give you a headache to read it, but I will identify the problem as we perceive it. And the problem is high electric rates. And you will see Florida sticks out like a sore thumb, and what that is telling you is that the industrial rates in Florida -- I can't read that, but you can see it in your position paper -- it goes from five to six cents.

And the problem with those industrial rates is that Florida competes with other states. And the states that this industry competes with are located right here. And they are located down here in the Caribbean basin and they are located in China, and in Europe, and in India.

And when the people in Florida have high electric rates, the industry has high electric rates, they have a problem, and they have to address that problem. It was not a problem until 1974. Until 1974 there was competition. You don't realize that, but there was competition in the electric industry in Florida. And the

utilities were far apart, but they were growing together and they were trying to get the customers. And the big customers were apparently desirable to the utilities and they would compete in price.

And finally in the '60s, Florida Power and Tampa Electric said what we will do is have a favored nations clause. And we can fight for these industries, but whichever one of you decide -- whatever one utility charges, the other one can match that price. So that was wonderful for the industries. They liked that. And they liked the fact that they had been in the generation business and Tampa Electric and Florida Power had taken them out.

Tampa Electric bought their generators at more than they paid for them. Florida Power bought their power lines at more than they paid for them. And that was a good deal, and the industry was very happy about that. And they were happy about the competitive rates, and Florida was growing and everything was going fine.

But then the OPEC crisis came in the '70s, and Mr. McGinnis at Tampa Electric and Mr. Higgins at Florida Power sat down in the back room over bourbon and branch water and entered into a noncompete agreement with one another. And that was a problem because that violated the Antitrust Act.

And the Department of Justice came to Florida and complained about them violating the Antitrust Act, so that was resolved by legislation in 1974 that permitted noncompetitive territorial agreements.

They divided up the territories and from that point on rates began to go up. And the only source of competition at that time was self-generation, which was a significant source of competition, but the Fuel Use Act was in place and oil prices were going up and interest costs were going up. And the industry at that point in time was not in a position to go to its number one competitor, self-generation. That changed somewhat later.

The problem was high rates. And rates started going up in the '70s. And when rates went up in the '70s, industrial rates were soaring, utilities were very concerned about the industry because they new that it could -- it would still have to remain competitive, and so it was very concerned about it.

And the industry was concerned about the electric utilities. They gave them all the support they possibly could in revenue procedures, and said we understand you need the money, and we will help you in that respect and they did help industry in that respect.

So, Florida Power came up with the idea, it went to its competitive rate customers who were firm customers

at that time and said we have got a new deal in order to keep your rates low. We will come up with what we will now call the interruptible rate. But you don't have much problem with the interruptible rate because our growth has been going at something like 12 percent per year and now that OPEC has come about, electric prices are going up and demand has dropped as a result of those prices. And what has happened to us is that we have got plenty of capacity and we have new capacity in construction and you probably won't have to worry too much about interruption.

In 1984, the old IS-1schedule was dropped because it was determined not to be cost-effective to the utilities. And at that time they opened up the IS-3 rate. Those customers were told that they would be interruptible. But they were told that by a mutual funds salesman, who said, look at our history and you will see no interruptions in the history, no sweat. And so they hadn't been sweating it until last year.

The other aspect of the problem is on Exhibit 3, which is going to surprise you because you can't read it. But what this is is a comparison of residential electric bills. A Florida residential bill is right here. And I have broken it down to Florida state average, and then FPL, FPC, Gulf, and TECO. Fortunately, Gulf is in the state and it brings down the state average.

Florida Power & Light, Florida Power, and TECO, these are 1997 figures. They were published by the Energy Information Agency of the Department of Energy. The Energy Information Agency took the number of residential customers, they took the revenues that the utilities get from residential customers, they took the kilowatt hour sales that they get from residential customers, and then they took the cents per kilowatt hour. And they have all of this information on reports that are given.

I'm not good at computers, but I went ahead and added some other columns. And it was kind of interesting. I took the rates times the average consumption of the various companies -- states, and came up with what the annual actual bills are. And you can see this in your position paper. You can't see it very well here. But what we find is that Florida residential customers have the highest bills in the United States. These are residential customers in the peninsular of Florida when you leave Gulf out of it. And that is a problem.

When you see reports from the utilities, they compare Florida's residential electric rates to other states. And other states have higher rates. But if you will go back to the eighth grade and remember those very difficult word problems you had where the train left Cleveland and it went to Cincinnati, and it was traveling

at a rate of thirty miles an hour, and it took so much time, and you were able to figure out the distance. Well, the same thing happens when you are dealing with electric bills for residential customers. It is a rate times time equals not distance, but bill.

And these states that have the high rates that are considered to be much higher than Florida, they have less time in the purchase of electricity because for some reason or another their climates are milder. And so when they say that, compare San Diego, California and show that its bill is 24 percent higher, the average residential bill, and instead of using the actual consumption they use 1000 kilowatt hours, it makes San Diego look a lot worse than Plant City.

But in truth and fact, San Diego has a very mild temperature, and the average customer in San Diego, California only has a monthly bill of around $60. So what happens is a Florida Power & Light customer's bill is really 30 percent higher than California where the rates are high.

So why do we as industrial customers get concerned about high residential bills? The reason we get concerned is residential customers want to do something about their high bills, also. And they were offered an opportunity through the conservation surcharge. A

resident can reduce his bill if he will agree to have his heating turned off in the wintertime when it is cold and his air conditioning turned off in the summer time when it is hot. And that was a highly successful program for Florida Power Corporation. They signed up 532,000 customers, residential customers who wanted to reduce their electric bill.

You say, well, these people are interested in conservation and the greenness and so forth. But the fact is if they were interested in that they could have done the same thing by turning up their thermostat or turning off the lights. What they were interested in, they were elderly retired people, and they are interested in low electric bills. This was an opportunity to lower their electric bills. And so they went after it in droves.

Almost half of Florida Power Corporation's non-firm or residential customers are on this non-firm rate. So you don't plan plant for them. And they are part of the reserve margin. The only problem with that is that in the summer of 1998 when they cut off the air conditioning, those people didn't like it. Sixty thousand of them departed the program. And they can do that with thirty days notice. So when you rely on that for long-term, non-firm service, that is a problem.

We have had mild winters. Can you imagine half

a million residential, elderly residential customers in the west coast of Florida up to DeLand not having heat if we have a ten-day cold spell? That is going to be a serious problem.

And it brings up problem number two, which is what has happened in the interim. Well, what has happened in the interim is these conservation surcharges that utilities are allowed to keep are designed to stop constructing new power plants. They are designed to stop constructing new power plants. And that is part of our conservation program.

The beauty of it for the utility is that under your procedure a utility can get firm rates for providing non-firm service. He can get firm rates for providing non-firm service. What they do is they give a discount to the customers who are willing to become non-firm, half of them, and then they charge all the other customers a surcharge and keep the money.

So what happens is they are getting firm rates. You wouldn't want to build a power plant if you could get the price that you get for having a power plant without having to build it. So that is nice. And customer growth has come up. And the large capacity margin that we had in the late part of the '70s, and as late as 1984 when Tampa Electric Big Bend unit came on and we had a 40 percent

excess capacity has now evaporated. And that reserve margin has gotten slimmer, and we have seen the light. It is kind of like a talk I give sometimes about the canary in the mines. The canary are the non-firm customers and it is not chirping anymore, it is beginning to gag. And we have gagged a lot.

So what if you took the -- put all the non-firm customers back into the mix, what would you have? And Exhibit 4 will show you what we have, and how Florida compares with the rest of the United States. Now, Florida has the Florida Reliability Council. And if you bring in all the customers' demands we will find that the generating plant available to Florida from all sources has a reserve margin of 2.7 percent.

Now, these aren't generating plants that run all the time, they are generating plants that run 75 percent of the time. They are generating plants that are approaching the end of their useful life. They are thirty years old. They are nuclear plants with which we have had problems. And they are big plants. So when a big plant goes down, it must have problems.

How do we stand with the rest of the United States when you take total demand? Florida is worst. The FRCC has Florida with only. Our neighbor to the north is SERC and you will see how they are. So your power out of

state is going to come from SERC to that. But, my guess is that that may be a problem, too.

A problem with this number is that major Florida power plants are located in Georgia that are part of the installed capacity. So those power plants may be called on by Georgians, as they can do under Georgia law in the event of a power emergency, and you won't even get what our installed capacity is.

Now, let's look at Exhibit 5.

COMMISSIONER DEASON: Which plant is that? Are you talking about Plant Scherer?

MR. McWHIRTER: Yes.

COMMISSIONER DEASON: What is the Florida capacity of that plant?

MR. McWHIRTER: I think it is 400 megawatts.

COMMISSIONER DEASON: How does that compare to all the capacity in the state?

MR. McWHIRTER: That is 1 percent, I guess.

COMMISSIONER DEASON: One percent?

MR. McWHIRTER: Yes. But if you are dealing with 2.7 percent, that is half of what you've got. And the question is are the others going to work. Put up 4, please. I mean 5. Now, the numbers at the top are extracted from Florida Power & Light's ten-year site plan. And the columns, it doesn't look likes it fits on the

form, but the columns on the black shows the total demand of that company's customers. And the column on the left shows Florida Power & Light's owned capacity.

Now, I don't want to mislead you and let you think that the demand is presently far exceeding the capacity of Florida Power & Light.

CHAIRMAN GARCIA: I'm sorry, I missed you. On the bottom graph --

MR. McWHIRTER: Okay. Look at 1999. The left column, and the left column on each one of the years is Florida Power & Light's installed capacity.

CHAIRMAN GARCIA: Okay.

MR. McWHIRTER: The one on the right is the demand of all of Florida Power & Light's customers, firm and non-firm. It doesn't have the installed capacity to meet them. It has to go out and buy --

CHAIRMAN GARCIA: Does that include interruptible customers?

MR. McWHIRTER: That includes interruptible and includes DSM, it includes all of their customers.

CHAIRMAN GARCIA: Okay.

MR. McWHIRTER: And so Florida Power & Light buys power elsewhere to serve that total demand, if it can. Go to Schedule 6, if you will.

COMMISSIONER CLARK: Mr. McWhirter, just so I'm

clear, when you say it goes and buys from other sources if it can, are you saying it is non-firm power?

MR. McWHIRTER: We think it is firm power. It is represented as firm power. I will get to that in just a minute.

CHAIRMAN GARCIA: Let me just introduce Commissioner Clark, who just got out of Orlando. But I told you she would be here and here she is.

MR. McWHIRTER: I would like to hasten to say that you are not going to see a lot of indignant Florida Power & Light customers at this meeting because Florida Power & Light's customers have had a good experience in the last few years. They have not been interrupted, they have only been subjected to modest buy-throughs, and their rates have benefited quite substantially because Florida Power & Light is selling power to Florida Power and Tampa Electric at high prices. And the Florida Power & Light customers are getting lower bills as a result of those credits. Unfortunately, Tampa Electric's customers are getting much higher bills.

But here we are for Florida Power Corporation, and you will see that the Florida Power Corporation's installed and owned capacity is woefully insufficient. It must rely on power from other sources. Okay. If you will give us the next one, please, sir. Here is Tampa

Electric. Once again, the left column is what Tampa Electric owns, and the right column is what all the customers, including the non-firm customers would demand if the forecasts are right and if the customers want to get served rather than be cut off. So that is Tampa Electric.

Each of these three utilities, which provide somewhere between 80 and 87 percent of all the power in the state, don't have enough capacity to meet their own load. They have to buy it from somewhere else.

Where is it they buy it from? Well, let's go to Exhibit 8, please. This is taken from the FRCC study that was filed in August of last year and it shows you all of the capacity of Florida utilities. And you will see that Florida Power & Light is big; and JEA is big; and Orlando is pretty big. Seminole is kind of big. Florida Power, of course, is big, and Tampa Electric. There are the big three.

But these other municipal utilities are the other utilities in the state. And do they have the capacity to provide for the shortfall? Probably not. They might not have the capacity to supply their own needs and they may be calling on the big three for power.

If you will slip that up a little bit you will see where the power comes from. It comes from non-utility

generating facilities, 2,076 megawatts which is a fairly substantial percentage of the total capacity in the state. I'm using the left column rather than the right column because the left column shows the summer peak period. And in the summertime the generators are less efficient than they are in the wintertime. But the problem is in the summertime is when the big, continuous, persistent demand goes on, and these generators are called upon to perform. Let's see what Exhibit 9 is.

COMMISSIONER CLARK: Just so I'm clear, Mr. McWhirter, on the non-utility generating facilities, are those QFs?

MR. McWHIRTER: As far as -- all that says is non-utility, but I think they are primarily QFs. And now that you have raised that question, QFs provide power and they have firm contracts, and they --

CHAIRMAN GARCIA: Just because we have a bigger audience, I know we are sort of the audience, but you might want to just explain what QFs are real quick.

MR. McWHIRTER: A QF is a qualifying facility. In the Public Utilities Regulatory Policies Act of 1978, Congress determined that they had to do something about energy problems because prices were high in 1978; much higher than they are today, in fact. And what they did was they wanted to encourage a conservation of the energy.

And so they said if an industrial customer can use steam both for its process and use the waste heat for making electricity, or vice versa, then we will call you a cogenerator and we will require the utilities to buy your electricity at the price they say it would cost them to produce it.

So these companies went out and they invested in non-utility generators. And in the last 15 years, and this is just an estimate on my part, and I hope you will check it, I think the vast majority of new capacity that has been built in the state has been built by industrial cogenerators as opposed to utility companies.

COMMISSIONER CLARK: When you have -- would that figure relate to the figure you have on Exhibit 5 in the column "purchased capacity"?

MR. McWHIRTER: With the time constraints I have not tried to reconcile the numbers. And the numbers come from different sources. And that's why I would really like it if the utilities would come and explain why it is that I am lying to you.

COMMISSIONER CLARK: You have installed capacity, and that is what the utilities own and generate from.

MR. McWHIRTER: Yes, ma'am.

COMMISSIONER CLARK: And then you have purchased

capacity. Can we assume that purchased capacity would be the same as non-utility generating facilities or not?

MR. McWHIRTER: No. I think that is the vast majority of it. But there are also other contracts. And the main difference between a PURPA contract and the other contracts is the degree of scrutiny that you give to the contracts. You are very careful with PURPA contracts. There are big penalties for an industrial customer that doesn't produce the energy that it promises to produce. But any electricity that comes from another source, I'm not sure what consideration, if any, your Commission gives to that.

CHAIRMAN GARCIA: We will certainly ask staff to look in and answer that question for us. I'm sure the companies will be more than happy to dispute your numbers.

COMMISSIONER JACOBS: Mr. McWhirter.

MR. McWHIRTER: Yes.

COMMISSIONER JACOBS: That category would also include this growing trend of subsidiaries of companies that have generation, nonregulated independent subsidiaries. Would that be in that latter category, as well?

MR. McWHIRTER: Oh, yes, I would think so. If you have Hardee Power that sells to Tampa Electric, then that is -- some people would call it a merchant plant, I'm

not sure what Tampa Electric calls it. Mr. Long appeared before the Supreme Court last week, and he said something that was very encouraging to me in answer to one of the Justice's questions. They said, "How is Tampa Electric in its merchant operations different than the merchant plants that these other people have?" And he said, "Well, the main difference is before we build something we have to show a need for it. And it is subject to the Public Service Commission's demand for the retail class. And our power can be recalled."

Now, I may be misstating what Mr. Long said. And I would hope you would look at the video. But if that is the case, I think that will be something that you really could do for the benefit of Tampa Electric's hurting customers, recall some of the wholesale sales. Of course that might hurt some of the other utilities in the state, and so you have got a problem.

Why is it that we are so upset? Well, Florida Power had a bad year last year when its two big coal plants, one and two at Crystal River, were down. But here is what happened in 1999 for Tampa Electric. This is something that it filed with you. And these are the times when customers, some of its customers didn't receive any power at all. If you go to Exhibit 10 you will see the impact of TECO's shortfall on customers in 1999. And this

is taken from a report that it files with you. You will see that customers as a whole paid $49 million extra for purchased power from other utilities during Tampa Electric's inability to serve from its own generation or from its contracts. And interruptible customers paid 9.8 million. Together they paid $59 million in extra purchased price costs.

Interruptible customers paid about 10 percent of the 49, and that is the 5.4 million down here. They paid all of the 9.8. So these 57 customers that your staff told you about last year paid $15.2 million more for electricity because Tampa Electric was unable to serve it.

COMMISSIONER DEASON: How does that compare to the discounts they have enjoyed over the years, Mr. McWhirter?

MR. McWHIRTER: Well, I'm glad you used the word discount. Because what are you talking about? If it is a discount from a high industrial rate that is higher than anywhere in the state --

COMMISSIONER DEASON: Mr. McWhirter, you know our rates are cost-based in the state based upon what it costs to produce it. If it costs more to produce it here, so be it. But I don't understand -- what is the relevance of what the other states charge? I know there is a relevance in the sense of where companies have to

make economic decisions to where they locate or expand. I'm certainly aware of that. But the fact is is that we set the rates based upon what it cost. And you have been through rate cases, and there is always lots of issues and people debate as to what the cost is. But I think we all agree that we try to base it on cost. There is a lot of issues as to what cost is. So I'm trying to understand what the relevance is.

MR. McWHIRTER: When you use the term discount, I presume you are referring to the price difference between the firm industrial rate and the interruptible industrial rate.

COMMISSIONER DEASON: Yes.

MR. McWHIRTER: I would suggest to you that none of the large customers would go to the firm industrial rate. They would do what Mr. Muhlhan's company has done and leave the territory. They would do what other companies have done and not locate in Florida. They would do what most of the phosphate industry has done and self-generate. They can self-generate and pay for the self-generator in a period of three or four years and get substantially cheaper power for the remaining useful life of that plant.

Some companies, the small people that are going to talk to you today, can't self-generate. Their energy

cost is not such a major portion of their power that they cannot still be competitive and pay firm rates. They would like to go back, but they can't.

What has happened with interruptible customers who don't want to pay the firm rates and had to pay interruptible to get competitive, and for the residential customers who wanted to get a lower bill, we now have the non-firm service, it is somewhere between 60 and 80 percent of the reserve margin. Mr. Yot prepared an exhibit for me from the utility's ten-year site plan filings, which is Exhibit 13, and he concludes that the reserve margin totally eats up the total demand of the customers. That appears on -- come back down again. Here you are.

The first column is FPL in '99 and 2008. It still has an 8 percent reserve margin in 1999 according to Mr. Yot's extraction of information from the ten-year site plan on Line 13. Neither Florida Power Corporation nor Tampa Electric could meet the total demands of all their customers in the peak periods. Of course, the interruptions frequently occur in the nonpeak periods when you can't interrupt the residential class, because the big generators are down for maintenance, and another generator goes down.

And that is Exhibit 11. Here is a typical

Indian summer day for Tampa Electric. This column shows its installed capacity. This column shows the installed capacity that is unavailable. This column shows that it had a bunch of capacity down for maintenance on October 20th, and then it had a forced outage of another 925 megawatts.

Now this is a normal day, this is not unusual. If you look at that exhibit and examine it carefully, and I'm taking too much time so I'm not going to go into it, but on that day Tampa Electric was selling a substantial amount of power on the wholesale market and then buying back power. They still came up 300 megawatts short and interrupted their customers.

And this happened, as we see in the earlier exhibit, quite a number of times last year. It portends to happen even more this year unless something dramatic happens, because the FUMPA contract is now going to be satisfied, 165 megawatts is going to be satisfied from the Tampa Electric native capacity along with 149 megawatts of Big Bend. And we found when Florida Power Corporation filed its FERC filing for the merger with CPL it has got a long-term contract of 60 megawatts from Tampa Electric that wasn't even mentioned anywhere else.

So we think we have a problem. And I'm going to wind it up now unless you have questions for me, and ask

some of our people to talk to you. And the first one is Doctor Don Hirsch, Thomas Edison's good friend.

COMMISSIONER CLARK: Mr. McWhirter, let me just ask you a question. You mentioned that FPL sells to Florida Power Corporation. At what price do they sell that power? You said it was a high price. How is that price set?

MR. McWHIRTER: Well, they filed a rate case with FERC back about four years ago, and they said, wait a minute, it looks like we, Florida Power & Light, are the reserve standby capacity for the rest of the state. They said Tampa Electric is not maintaining its system well, and they are calling on us for this capacity. And so we don't want to have to sale that capacity, we want Tampa Electric to do right.

And so the Commission responded and Florida Power and Tampa Electric responded and said, you are right, we won't require Florida Power & Light to sell at the regular price to serve your interruptible customers because they are part of your reserve margin for the state.

COMMISSIONER CLARK: Let me ask you this. Is it a cost-based rate?

MR. McWHIRTER: I think it is a market-based rate. It's what they call an opportunity cost rate. They

said we don't want to sell at Schedule A or Schedule B, which is emergency power, we want the opportunity cost rate.

COMMISSIONER CLARK: But at any given time they can't say today we are going to sell it at X amount, it is in their tariff what they will sell it for.

MR. McWHIRTER: I will defer to Mr. Waters on that. He can tell you how they charge for that. We know that they got $100 million. We also know --

COMMISSIONER CLARK: Where does that money go back -- does it flow back to the retail rates of FPL?

MR. McWHIRTER: It flows from the Tampa Electric customers to the FPL customers.

COMMISSIONER CLARK: So that the FPL customers are not paying for the reserves of the Tampa Electric customers, isn't that the logic behind it?

MR. McWHIRTER: I guess that is a wonderful way to put it. All we know is that we paid --

COMMISSIONER CLARK: Would that be correct?

MR. McWHIRTER: -- another 15 million that we didn't expect to pay.

COMMISSIONER CLARK: Would that be correct? That way if you didn't sell it, if you sold it such that the FPL customers were paying for that extra margin of reserve, then they would be paying for the reserve margin

that Tampa Electric customers would use. Would that be correct?

MR. McWHIRTER: Yes, I think that is right, yes. So, I guess -- but what has happened from the interruptible viewpoint, customers' viewpoint is that his risk -- he is not at risk just to serve the Tampa Electric load now, he is at risk to serve the Florida Power & Light load. And since we are moving from a winter peaking state to a summer peaking state, the circumstances are far different in the summertime. And Florida Power & Light needs it power maybe for its own customers with its aging system.

Now, one of the issues -- I'm glad you delayed me from quitting -- is merchant plants. What I have talked to you about is we have gone from problem number one, which was high rates, to problem number two, ways to avoid high rates as interruptible service. And so now we don't have adequate capacity. What is the answer to that? The obvious short answer is build more power plants.

The next question is who should build the power plants? And that is a decision that you made last year when you said it makes some sense to have merchant plants build them. And we think that probably makes sense, because those plants won't go into rate base as the Florida Power & Light reserve would. And if they don't

have to -- if they don't have to put it them in the rate base and only use it when the power is cheaper than the home-produced power, to us that makes a lot of sense.

We may not understand all the issues, but on the surface the whole thing is controlled by the law of supply and demand. And there is a great benefit to utilities to have a low supply if they think deregulation is coming. It is a great benefit to them to build up a fence at the border of Florida to keep other capacity from coming in. So capacity needs to be built in Florida and the question is who builds it. Doctor Hirsch --

CHAIRMAN GARCIA: Thank you, Mr. McWhirter.

MR. McWHIRTER: You're welcome.

CHAIRMAN GARCIA: Yes, sir.

MR. GANDA: Tom Ganda (phonetic), Vice President of Regulatory Affairs with Tampa Electric, and I would very much enjoy to engage Mr. McWhirter on some of the misinformation and mischaracterizations. But the only thing I would like to clarify, Mr. Chairman, is the characterization of the Hardee Power Plant as a merchant plant. A hundred percent of that capacity is under contract by both Tampa Electric and Seminole Electric. But I will address that later.

CHAIRMAN GARCIA: Very good. And let me just say that I expect -- clearly we probably won't have time

here today, because we are scheduled to end this today at 1:00 o'clock. But I would expect that in our Tampa hearing, which is on the 27th, that TECO and the other companies that wish to can address some of the issues that have been brought up here. I think it is a good opportunity to discuss that and get that on the record that we are going to be look at.

MR. GANDA: Rather than doing that here, we need to wait until the meeting --

CHAIRMAN GARCIA: If we run out of time here. We are going to be running tight on time, and we knew it from the get-go. But part of the issue isn't necessarily your fault, it's that we need to get back to Tallahassee for agenda tomorrow to do other issues. But I think we have got -- hopefully we will have ample time at the Tampa hearing. And there is one more hearing that we just haven't found a date for which is going be in FPL's service area. Sir.

DR. HIRSCH: Thank you. First, as Mr. McWhirter said, I am here to try to put this into some kind of historical perspective. But first let me introduce myself and give my background. I'm Donald Hirsch, I have a B.S. in Mechanical Engineering, and a Ph.D. in Chemical Engineering and --

CHAIRMAN GARCIA: Doctor Hirsch, you will

probably be heard better if you sit down and take the mike and look at us. You may gave them your back, but you have got a presentation and that way they will hear you.

DR. HIRSCH: Very good. That is more comfortable for me.

CHAIRMAN GARCIA: Great.

DR. HIRSCH: I retired in 1991 from the position of Director of Technical Services at IMC. And since then I have been consulting. I first became intimately involved in cogeneration and self-generation when I joined American Potash in Trona, California back in 1962 to head their process engineering group. And later as a technical assistant to the President of Kerr McGee (phonetic), and then chief process design engineer.

I was part of a group that was responsible for the design, construction, and startup of a $275 million plant in Trona that included two 32-megawatt coal-fired generating units. The first coal-fired units that had ever met California's very strict environmental regulations. I joined IMC in '81, and have been active since then in Florida cogeneration matters, both within IMC and before the Public Service Commission.

When electricity became indispensible to industry in the late 19th century, there were no utilities to provide it. Electricity was made available either

through entrepreneurs building independent plants to serve a small community or by self-generation in the industry itself. Sometimes the industry also provided electrical service to the neighboring communities.

When the American Potash plant was built in the early part of the 20th century in California, there was neither electrical service nor railroad access nearer than 80 miles. So the company built its own railroad and its own electrical generation system. The company provided electricity for the company town as well as for the plant itself. And it wasn't until 1954 when they sold off the company town that there was a utility line into the valley at all.

The plant continues to generate its own electricity today as being the most reliable and the least expensive source available. And in the same manner, IMC's predecessor company provided power from their own generators to the people of Mulberry. IMC continued to do so until TECO brought their lines east and took over the service in 1924.

There were good economic reasons why the investor-owned utilities took over the responsibility of building and operating generation plants to serve the communities and the industrial and commercial establishments. They could bring to bear the latest in

technology which combined with the economy of scale allowed them to produce and distribute electricity far cheaper than the small independent or industrial facilities.

Moreover, with the multiplicity of generating facilities, the diversity of loads, the interconnected distribution systems, they offered a high level of reliability.

Because generating, transporting, and delivering electricity appeared to be a natural monopoly, the '50s and '60s saw the spread of regulation of the utilities, and the early '70s saw the zenith of the electrical utilities. Fuel costs were at an all time low in constant dollars. The shine had not yet come off the atomic plants. And new and modern plants were being installed with all the bells and whistles that technology could provide. Electricity was being generated at heat rates lower than ever before achieved. Costs were low, reliability high.

But then came OPEC's moves in the early '70s. Fuel prices soared and things have been downhill since then. Small cars became the rage. With the encouragement of the new FERC rules, the industry began to look at becoming a qualified facility and doing some self-generation or cogeneration. The utilities fought

back with some price concessions and special rates, but mostly in the courts. In many states laws were passed that permitted self-generation only if all of the output was sold to the utility for a price based on their marginal rate and then repurchased from the utility at the full rate.

By the early '70s and early '80s, most of the states' public service commissions had led the way through this legal and emotional minefield to come up with some compromises. Non-firm rates were introduced, self-generation rules were established. Florida saw non-firm rates embraced and self-generation pop up in almost every industry, principally citrus, sugar, and phosphate. The controversy still goes on.

The bottom line is economics, and how economics has to consider both cost and reliability. The lowest priced electricity is of absolutely no value if it is not reliable. An idle plant is not economic. Therefore, if industry can find a way to reduce their energy costs and/or increase the reliability of their service, they will. If the utilities, with the backing or urging of the Florida Public Service Commission, cannot solve the problem, then industry will have to do it by themselves.

Industry has no government protection. Its customers are not prohibited from buying from another

producer. It is not guaranteed a profit. It has competitors in other states and abroad. Foreign competition is in many cases our most serious threat. They must keep their costs low and their quality high.

Some will run to other parts of the country or the world where reliable power is available at lower cost. Several companies have shut down and moved out of Florida. For others, like the phosphate fertilizer industry, that alternative, although available, is not nearly as attractive. They must first turn to self-generation or other sources of electricity.

There have been some doubters saying that industry will not really do this, but they will. For example, in the mid-'80s, IMC was often generating more electricity at the New Wales plant than could be consumed within the plant. Because the value placed on this excess electricity was so low, we tried to get TECO to wheel our excess electricity to a nearby mill to reduce their costs, the mill's costs, and minimize outages.

I announced at a Florida Public Service Commission meeting where we were trying to get this limited wheeling approved that if wheeling could not be made available we would install a tie line to that mill. Both TECO and the Florida Public Service Commission members said they thought I was bluffing. Wheeling was

denied, and we built the tie line. It is in still in use today.

I chose these examples to illustrate what industry must do to remain competitive. And they will do it whenever it is necessary. They have chosen to take interruptible service in spite of the possibility of interruption. The obvious question is if interruptible has become so unreliable as to approach the intolerable, why don't the large industries take firm power?

The answer is a few might elect to do that if they were not prevented by the five-year limit. But the large industries for whom power is a large fraction of their costs simply can't afford to do it. The phosphate industry could not survive with power costs of that level. Its principal best competitors are in Idaho where power costs a third less than in Florida. Actually, firm in Idaho is about the same as Florida's interruptible according to a recent DOE report.

Foreign competitors are even better situated. No, those that would stay in business probably would go to self-generation completely. Alternatively, they would contract directly with power marketers if that opportunity were to become available. Industry is not promoting power marketers, or any other single solution to their problem, and they do have a problem. The phosphate industry's

eroding profits testify to this. The loss of good paying jobs hurts all of us in Polk County. Indeed, all of Florida.

The industry is looking at everything they can do to regain their competitive edge and get back to economic health. Electrical costs are high. And as more and more people are depending upon electricity for their quality of life, it is becoming more an more expensive. Based on '97 FERC reports, the average Florida residential customer's utility bill is higher than in any other state in the union except Hawaii and Texas.

True, the Florida customers consume more electricity, but they have nowhere else to turn. If natural gas were available, it is probable that many of them would opt for gas stoves and furnaces. Perhaps ammonia cycle refrigerators or even air conditioners would become popular. I know in Maine when they shut down the atomic plants, I have a summer home up there, and the electricity tripled in value. And every one of us put in oil furnaces. We just simply could not continue to heat with electricity.

We seem to be coming full cycle. The cost of electricity is high and reliability is being eroded as demand increases and reserve capacity is being taken up by contracts to supply power outside of the system. Current

costs are attracting venture capital to compete with utilities just as happened, but in the opposite direction, in the early years of the last century. The direction is back to the independent power producer, that is the merchant plant, and to industry self-generation. In fact, several states, driven by high consumer electric bills, but not as high as Florida's, have deregulated the generation of electricity completely. The latest is Maine, where this takes effect in March.

I would like to close with a quote from the Maine Public Utilities Commission's web site. They publish a web site guide for those of us who have to respond to this deregulation, and they say this, quote, "Maine is opening up its electricity supply to a competitive market. These changes are a result of state legislation passed in 1997 in which Maine joined more than a dozen states currently restructuring their electrical markets. Electric restructuring is an important issue for Maine and New England, since we have some of the highest electric rates in the country," end of quote. The article closes by saying that competition will, quote, "encourage greater efficiency in electric generation."

Non-firm service does not appear to be doing as good a job of reducing rates as was hoped at its inception. Higher than ever frequency of interruption,

increasing cost of buy-though power adds to the serious erosion of the industry's ability to compete in today's markets. Industry is suffering and layoffs and plant closures are occurring here in Polk County. There may be other factors, but energy costs are significant.

It is most encouraging that the Public Service Commission is aware of these problems; is favorably considering merchant power producer to increase the generating capacity in Florida; and is also conducting these workshops to seek a solution. Now, I will pass it on to my colleagues now to talk about their details of the problem.

CHAIRMAN GARCIA: Thank you very much.

MR. McWHIRTER: Mr. Chairman, our next witness is Kerry Temoin with International Paper Company.

MR. TEMOIN: Good morning. Again, my name is Kerry Temoin. I'm facility manager for International Paper Company in Plant City. Our facility has --

CHAIRMAN GARCIA: Hold your mike up.

MR. TEMOIN: Our facility is located at 2104 Henderson Way in Plant City, Florida. Our electrical supplier is Tampa Electric, and we are part of their IS-3 rate. At our peak demand we are just over about a 3-megawatt facility.

The facility opened in 1992 employing 125 team

members. The primary purpose of the business to service the packaging needs of the fresh orange juice market here in Florida. Our business has continued to grow. And in 1997 International Paper embarked on a plant expansion which doubled the size of the facility to 300,000 square feet. We currently employ over 200 team members with an annual payroll of over $6 million.

Much of our frustrations with the utility is that we are not informed about the critical state of the electrical power here in Florida. Had we known what we know today, perhaps we would not have made the expansion here in Florida. To the minimum, we would at least have devised the expansion to allow us to deal with and mitigate the interruptions that have occurred, particularly in the last 12 months.

The primary reason why our business has grown is due in part to our ability to develop an inventory system with our customers here in Florida to try to live to a just-in-time type of material supply. Our customers are dependent on our facility to service their immediate needs for packaging as our warehouse is really an extension of their facility.

To service our customers we operate the plant 24 hours a day, five days a week. As such, we do not have the ability to move production to those off-peak hours.

We are the only gable top (phonetic) manufacturer remaining in Florida, although our direct competition ships into Florida every day. We compete in an extremely competitive environment with other types of packaging systems. This forces us, as it should, to continually improve the process to fulfill our present and future needs of our customers. This is the primary reason we invested an additional $30 million into our plant over the last two plus years in expansion and additional capacity.

The current condition of dependable electrical power has changed significantly since we first signed our IS-3 tariff with TECO in 1992. TECO has failed to keep the pace with their responsibilities to service the growing demand for power in terms of both installed capacity and reliability. In particular, the level of reserve margin and how it is comprised has changed dramatically over the last eight years to the extent that it has placed the non-firm users into a compromising position. To add to this condition, the cost of third-party purchases has hit obscene rates that we are unable to do anything about. I am gravely concerned with what is in store for the IS-3 customers in 2000.

In 1999, we experienced numerous demands for mandatory curtailment as well as power interruptions. The

Plant City facility lost over 300 hours of equipment down time due to TECO's inability to manage their system. These production outages impact our ability to not only service our customers, but to allow many of our Plant City team members a safe opportunity to earn a full weeks wages.

To add to this situation, in 1999 we were charged an additional 16 percent to our total electrical bill for third party purchases. This is four times what it was in 1998 and ten times what it was in 1997. So far in 2000 this trend continues to increase at an alarming rate.

The only solution TECO has offered is for us to formally request to be switched to a firm rate and wait five years to qualify or pay three-quarters of a million dollars in penalties to get off the IS-3 rate.

Another option that was offered was from one of their affiliate companies to install backup generation at a cost of over a million dollars. We are in the business to make packaging for our customers, not generate electricity. Many of my customers have long-term contracts to purchase their packaging from International Paper Company. Even with contracts, they have options to go elsewhere if we fail to perform. We do not have the same options with our electrical vendor.

The IS-3 tariff signed eight years ago does not reflect the condition of electrical service currently in Florida. All we are asking for is the opportunity to be treated by the utilities as a customer instead of just a user.

Thank you for your time. And I hope that these proceedings will lead to some resolution to the needs that we have here in Florida.

CHAIRMAN GARCIA: Commissioners.

COMMISSIONER CLARK: You operate 24 hours a day, five days a week; is that year-round?

MR. TEMOIN: Yes, it is.

COMMISSIONER CLARK: Okay.

CHAIRMAN GARCIA: Commissioners. Thank you very much for coming.

MR. McWHIRTER: Our next witness is Mr. Rob Ayerst with International Paper.

CHAIRMAN GARCIA: If I could ask staff, could we get a report from the company on the customers that testify before us on what the interruptions look like, is that possible?

MR. JENKINS: Yes, we can do that.

CHAIRMAN GARCIA: Can you do that, Mr. Hernandez?

MR. HERNANDEZ: Yes, sir.

CHAIRMAN GARCIA: Thank you.

MR. AYERST: Good morning. My name is Rob Ayerst, and I work for International Paper and your buyer of electricity. I have responsibility for electric purchases in 14 states; that includes Florida, New York, the Carolinas, Tennessee, Kentucky, and the Midwest. My responsibilities include 77 facilities that purchase $64 million a year of electricity.

As some of you may well know, International Paper is the world's largest pulp and paper forest product company with sales in excess of $24 billion, operations in nearly 50 countries, and more than 100,000 employees worldwide. In spite of our size, our presence in Florida is quite small. We only have six manufacturing facilities in the state with just under 1,300 employees. We recently moved our Arizona Chemical global headquarters from Panama City to Jacksonville, Florida.

The bulk of our manufacturing operations in Florida are the chemical plants that are located in the panhandle region. Down in the Florida peninsular region we only have two small plants, Plant City and Auburndale. You have heard from Kerry about Plant City. Our Auburndale plant, which is nearby, is a corrugated box plant. They have a load of approximately 1.4 megawatts, an annual billing of about $300,000, and about 175

employees. They have also been impacted by the issue with non-firm service. And they are a customer of Tampa Electric.

Throughout the past two years the level of service under the non-firm contracts have become an issue for our company. Therefore, I have been asked to provide assistance to these two facilities. What I want to share with you today are some of my thoughts as well as our position on a few of the 11 items that you have requested comments on from non-firm customers.

In reference to Item 11 on the correlation between reserve margins and interruptions, I am very concerned about the lack of public awareness or concern over the low reserve margin that this state is facing. John McWhirter showed you some numbers from the FRCC on the 1999 summer predictions. They recently reported for the 1999/2000 winter season that the reserve margin was 15.9 percent.

However, when you really look at the numbers, 70 percent of the reserve margin is made up of interruptible and demand-side management customers. And the remaining 30 percent is made up of purchased power. None of the reserve margin is made up of generation equipment.

The result is that the interruptible customers are the first line of defense if and when generation

equipment experiences any kind of outage, as opposed to being the second line of defense that is practiced elsewhere in the U.S. For example, in the Southeastern Electric Reliability Council to our north they have a capacity margin of about 20 percent. And the interruptible and demand-side management customers only represent 21 percent of their reserve margin, as opposed to the 70 percent I referenced in Florida.

I appreciate the Commission's recent ruling that requires the utility to increase their reserve margin from 15 to 20 percent. However, my facility cannot afford to wait years for this to occur, they need answers today. We support the Commission's position on the approval of merchant plants to be built in this state. We feel that this situation can be corrected without having to subject utility ratepayers to potential stranded costs if the utilities were required to make these kind of investments.

I also would like to recommend that the PSC consider guideline of some nature that would limit the amount of firm -- I'm sorry, non-firm and demand-side management load make up no more than 25 percent of the reserve margin. We may not do that today, but it could be a goal to go through for ten years.

The second point I want to make is in reference to Item 10.

COMMISSIONER DEASON: Let me interrupt you just a second and ask you a question on that point. Then we should limit -- if there are customers who want to become interruptible customers, tell them they can't do that because the reserve margin may be made up of more than 25 percent by interruptible customers?

MR. AYERST: They are already limited today.

COMMISSIONER DEASON: So there should be a limit, and in your opinion it should be 25 percent of the reserve margin should be made up of interruptible?

MR. AYERST: I'm not sure I want to call it a limit. I would prefer it to be a goal to improve reliability.

COMMISSIONER DEASON: So you would just want them --

MR. AYERST: What I want to focus on is the generation side of the equation, not the non-firm load side.

COMMISSIONER DEASON: Okay.

MR. AYERST: In reference to Item 10 regarding the charge and time frames to return to firm service, we think we should have the ability to establish short-term firm -- I'm sorry, short-term non-firm agreements and the ability to switch back to firm service with two years notice or less without penalty. Many of my colleagues

agree when I state the companies requiring five years notice to move from non-firm to firm is just plain too long. The lead time for new generation equipment is approximately two years.

Also, based on my observation of what I have heard over the last year or so, we have seen capacity margins change from a surplus to a deficit. The utilities have changed the way they operate, and there is plenty of evidence to the non-firm customer that the rules have changed in the middle of the game. And all of these rule changes have been unfavorable to the non-firm customer.

CHAIRMAN GARCIA: Give me an example, when you say the rules have changed.

MR. AYERST: For example, a lot of these contracts were signed back when there was a surplus. The capacity margin was much greater than we see today. We go and run our business and we wake up one day and we find out that we are not only being curtailed but we are the lion's share of the reserve margin. I don't see this anywhere else in the country.

The third point. And this is just a suggestion. I would like to see the ability to transfer part of our load from non-firm to firm service behind the meter. This should facilitate our problem at Plant City. Right now you are pretty much limited to 100 percent firm or 100

percent non-firm. There are some rules and regulations in place that prevent that from happening. In other words, we have a 3-megawatt load, and we could remain on non-firm for 2 megawatts and be firm for a megawatt. Then when we get curtailed we can cut back to a megawatt, and we can have the flexibility behind the meters to determine at the plant manager's discretion which load he wants to run with that one megawatt. We can't do that today.

CHAIRMAN GARCIA: That would obviously, though, require that you would keep the company to some degree more informed than you do now. Because clearly if you could switch back and forth it would be impossible for them to put you within their planning spectrum.

MR. AYERST: I'm sorry, I didn't follow the line.

CHAIRMAN GARCIA: The utility would have to have under the present scenario, and now we are talking all things remaining equal, and I think we are all trying to solve a problem as it moves, but that you would have to inform -- the utility would have to have some knowledge of how that flexibility would work because they couldn't plan for you if you were switching back and forth.

MR. AYERST: I don't mean we would switch back and forth. I would say we would --

CHAIRMAN GARCIA: For a percentage of your load.

MR. AYERST: -- we would remain at a firm load of X megawatts and we would cut back to that level. I want to share with you, we have that option in some of our other paper mills.

CHAIRMAN GARCIA: But that strikes me, I know -- for example, I think the University of Miami runs part on a firm load and part on an interruptible load. You can't do that in your --

MR. AYERST: That might be called a curtailable service, and that is not what I'm advocating. I'm advocating that we pay for firm service for a portion of our load and interruptible for the remainder, and it's all done through the same meter. If we were to separate the meter, it would be very expensive in terms of rewiring the plant to set up firm load for part of the plant. And then he wouldn't have the discretion as to which load he wants to run. Because you can only have firm load that is wired to that equipment.

COMMISSIONER CLARK: Well, clarify for me, under a curtailable rate does it say it can be curtailed X megawatts and not completely interrupted?

MR. AYERST: I can't answer about the curtailable rate, because I'm not familiar with it. I just know from the presentation that was made that they pay a penalty to remain on firm service as opposed to

paying just the firm rate.

COMMISSIONER CLARK: Right. I guess the issue would be whether or not they could confirm that you had reduced your consumption by the 2 megawatts.

MR. AYERST: I believe the technology has approved today where real time data is available on a very inexpensive basis.

COMMISSIONER CLARK: Do any of your plants outside of Florida have those real time meters?

MR. AYERST: Yes.

COMMISSIONER CLARK: And they offer you the kind of service you would like, they offer you the ability to curtail part of your load?

MR. AYERST: Yes. We get the notice --

COMMISSIONER CLARK: What states --

MR. AYERST: We get the notice and we can drop our load down to our firm level. The plant can exercise where they want to run that load behind the meter.

COMMISSIONER CLARK: What states give you that opportunity?

MR. AYERST: Wisconsin. The fourth point, and I'm not going to belabor it, but industrial rates in Florida are high for industrial customers. We have spoken well on that, and that is one of the reasons why many of us have to choose non-firm service. For example, we have

facilities of similar size to Plant City in Alabama and Georgia that are paying rates that are comparable to the non-firm rates in Florida but they are getting firm service. It becomes an issue when reliability is a question.

COMMISSIONER CLARK: Mr. Ayerst, let me ask you about Georgia. When you located your plant there, did you have a choice of suppliers initially?

CHAIRMAN GARCIA: Did you say Georgia or Alabama?

COMMISSIONER CLARK: Georgia.

MR. AYERST: No, I don't believe so.

COMMISSIONER CLARK: You are not aware of the fact --

MR. AYERST: You're talking about a choice when we located the plant?

COMMISSIONER CLARK: Right. That when you located, when you first signed up for power you had a choice of what entity to take that power from?

MR. AYERST: When we site a plant that is one things we look at is utility rates.

COMMISSIONER CLARK: No, what I'm asking you is whether or not anywhere you locate it you could choose any producer in Georgia. You could have chosen Southern Company, you could have -- I'm sorry, Gulf Power, you

could have chosen Oglethorpe. You didn't have that ability to do that?

MR. AYERST: No, ma'am.

COMMISSIONER CLARK: Okay. I was under the impression that you could initially, I think, and lock it in for five years, choose your supplier.

MR. AYERST: I don't have Georgia -- I can't speak for my Georgia --

COMMISSIONER CLARK: Okay.

CHAIRMAN GARCIA: Maybe you can file something with us. Have Mr. McWhirter file something with us about whether you could make those choices.

MR. McWHIRTER: That is the way the Georgia law reads. You have the initial choice and then you are stuck with it.

COMMISSIONER CLARK: For how many years, five years?

MR. McWHIRTER: I'm not sure. I thought it was permanent.

COMMISSIONER CLARK: Okay. Well, we will find that out.

SPEAKER: Five kw or greater, you are stuck with it forever.

COMMISSIONER CLARK: Okay.

CHAIRMAN GARCIA: Keep going.

MR. AYERST: In reference to Item 2 on your list, notice for buy-though rates. The current practice of giving us the buy-though price after the fact is unacceptable and unworkable because the rates have gone up in the past several years. Again, one of our facilities in Wisconsin gets a notice every 15 minutes when they are buying through what the price of that power will be. And then they can elect whether or not they want to buy that power. Again, new technology, I believe, allows for that, and we would like to see that in Florida.

And then my final point is that on Item 9 requiring utilities to recall power sales to the wholesale market before curtailing native load non-firm service. The notion that utilities are allowed to sell power to the wholesale market at a higher priority over native load non-firm third customer in my opinion is discriminatory.

These customers don't have a choice but to purchase power from their native utility and yet the utility should not be allowed to interrupt service in order to sell at the wholesale market at market opportunity prices. I believe there should be an additional level of scrutiny by the Public Service Commission to ensure that the utilities are not using their non-firm customers in order to make short-term market opportunity transactions.

That concludes my presentation and I appreciate the opportunity.

CHAIRMAN GARCIA: Thank you. Commissioners. Thank you very much.

MR. McWHIRTER: Our next witness is Mr. Huey Greene with the Kendall Company.

CHAIRMAN GARCIA: All right, Mr. Greene.

MR. GREENE: Hello, Commission. My name is Huey Greene, I'm the plant manager for the Kendall Company, which is a division of Tyco Health Care and Tyco International. Tyco International is a $26 billion global company. Kendall has 26 plants in the United States, and we have a large manufacturing plant in DeLand, Florida, which makes medical needles and syringes.

We entered into a non-firm agreement with Florida Power because it was an economic advantage for our business to do so in May of 1995. We have 800 employees with a payroll of $26 million in DeLand, with also a $12 million purchasing base within the city limits of DeLand. And as you are aware, there is a tremendous pressure on the medical industry today to reduce cost. And we, being a manufacturer of needles and syringes throughout the world, we have to do all we can to lower our costs to remain competitive.

Our product cost is divided, as you might

expect, into labor, materials, and overhead. And the utility cost is a large piece of our overhead. Our electric bills are around $2.5 million for our annual cost. Prior to 1998 -- and I think this was touched on by Mr. Emerson -- prior to 1998, we had very few interruptions with minimal time down. Starting in early 1998, there were 16 interruptions in the first part of the year, 25 percent of which basically came with no warning.

From the period of June 1998 to June 1999, we had 102 hours of plant down time because of interruptions. The cost for that one-year period of down time was $225,000 in lost wages to our employees, $245,000 in equipment failures and maintenance cost. And also one million units of lost production during that time frame.

We cannot afford to have many interruptions throughout the year because we have to make that time up. And this hurts our business, our customers, and probably more importantly, our employees. Having to run overtime to make up for lost production is not a sound business practice. In our business we have also gone to inventory controls and we carry very little finished goods inventory. And being a medical manufacturer, we cannot afford disruptions, because when we do hospitals are impacted.

The DeLand area is a rural community in west Volusia County. Kendall is the largest manufacturer and offers some of the best wages and benefits in all of Central Florida. We have been there for forty years and have been the largest employer during that time. When we lose power we have to send our people home with no pay, and we have many single parents that work in our plant. They live payday-to-payday and this creates a significant financial burden for those people. Hundreds of employees and their families have been effected when our power is interrupted. And over the past one to two years we have had hundreds of employees voice their concerns and displeasure with this situation.

We have heard there is a 25 percent capacity shortage of power, and that the interruption frequencies will most likely increase in the future. If this is true, this will most definitely have an adverse impact on the business decisions concerning the future of the DeLand plant.

The DeLand plant has an aggressive expansion program for the future. But frankly the interruptible power situation will have an adverse impact on our ability to expand. Our other plants in Nebraska, South Carolina, Georgia, Alabama, Mexico, and Puerto Rico will get strong consideration.

In closing, we would like to say if there is a capacity shortage and there are no plans to offer relief to the interruptible group by the utilities by adding more plants or by allowing merchant plants to operate in Florida, the adverse consequences mentioned earlier more than likely will prevail. Thank you.

COMMISSIONER CLARK: How many days a week and how many hours a day do you operate?

MR. GREENE: We are a five-day-a-week, three-shift operation. We operate 24 hours a day, five days a week and about two weekends per month.

COMMISSIONER CLARK: Do you know if any of your other plants, if they have real time pricing?

MR. GREENE: I think the one in Nebraska does, and I'm not sure about some of the other ones.

COMMISSIONER CLARK: In the places where you have real time pricing, have you shifted any of your production to take advantage of lower cost power?

MR. GREENE: Well, all I can say on that right now, because it is not really public is that there are some consolidation efforts in place. And there is a strategic analysis going on about where to shift some future expansion.

COMMISSIONER CLARK: Is the level of your production the same all day long?

MR. GREENE: Yes. And a large portion of that operation is injection molding. And we run 55 injection machines around the clock every day. So we pretty much know what our power usage is throughout the year.

COMMISSIONER CLARK: Do you have back-up power on-site?

MR. GREENE: We have a small generator.

COMMISSIONER CLARK: And how long and how much power does that deliver to you?

MR. GREENE: You know, I'm not quite sure. We could isolate some of the high -- I think the high visibility, high impact injection molding machines to operate for a period of time, but it certainly couldn't serve anywhere near 25 percent of our needs.

COMMISSIONER CLARK: Okay. But when these interruptions occur, you have to send people home because you have to suspend your manufacturing?

MR. GREENE: That's correct.

COMMISSIONER JACOBS: So you don't have buy-though provisions, then?

MR. GREENE: No.

CHAIRMAN GARCIA: Thank you, Mr. Greene. We appreciate it.

MR. McWHIRTER: Our next witness is Mr. Dave Hines with Coronet Industries.

CHAIRMAN GARCIA: Mr. Paige, I would assume you are going to develop a lot of leads here for Enterprise Florida, all of these businesses thinking about relocating.

MR. PAIGE: I'm taking copious notes.

CHAIRMAN GARCIA: Go ahead.

MR. HINES: Mr. Chairman, distinguished Commissioners, thank you very much for this opportunity to voice our company's concerns about these issues. I am David Hines in charge of government and community relations, and also the added pleasure of overseeing our utility purchases, which are mainly electricity and natural gas.

Coronet Industries is one of three major U.S. companies that manufacture a defluorinated animal feed phosphate supplement. Our company's sole manufacturing location is Plant City. We are serviced by TECO. We employ 162 people at a payroll of nearly $8 million including fringe benefits. Our annual approximate electrical demand is 27 million megawatt hours at a cost of about $1.2 million.

Coronet Industries, unlike our two competitors who do have cogeneration, we do not have the capability of installing cogeneration. In October of 1993, as part of an asset purchase agreement, Coronet Industries assumed

the non-firm agreement that our predecessor had with TECO. During the due diligence in which I participated for that asset purchase in '93, the assumption of the non-firm service seemed practical for two reasons. One was the cost, and secondly there was no history of any -- or I should say very few, if any, interruptions.

Retrospectively, it could be said that the practice of pass-through costs for supplementary high peak period market rates to non-firm customers was not an issue in '93 at the time that Coronet Industries assumed the prior agreement with TECO.

In 1999 we were hit with a total of 13 interruptions for 87.43 hours. Combined with the loss of income from the loss of production and the cost of reprocessing offgrade because we had to go down and then come back up, along with the times that we did not go down but we did have to pay premium cost for power that was a pass-through at market rates, we are looking at almost $123,000 of additional cost.

Besides those costs that we can quantify, there are some impacts on our business that we know they haven't been able to cost impact but they are difficult to quantify. For instance, we have five major manufacturing units. All of them are lined with refractory, brick. We heat those units up to about 2,700 degrees Fahrenheit.

When we are forced to shut them down or put them on idle because of curtailment or because of interruption, that cooling and then reheating of the brick, the refractory is very closely. It just reduces the life of the brick.

We almost constantly have outside contractors working in our plant doing various maintenance and repairs. Whenever they are shut down, that affects their operation and those costs to them are passed through to us. Our own workers we have to reschedule every time. We have to reschedule their work every time we are shut down or curtailed.

A very unsettling aspects of these above-mentioned impacts is that during a meeting last October, TECO management matter-of-factly told us that the lack of capacity is expected to be worst next year. Well, this year 2000 now. Also, they said we should expect the capacity problem to continue for the next three to five years. That is unsettling.

Whenever we have an interruption or loss of -- or curtailment which means a loss of production, a loss of product, especially for this year 2000, we have the capability of selling our plant out, which means working at minimal finished product inventories. So unplanned power outages by TECO cause production delays and loss leading to lost sales and decreased revenues. Lost sales

can mean lost customers. Please keep in mind our two competitors do have cogeneration, we do not.

Attempting to pass on these unplanned costs of third-party premium power and down time is a dilemma for us. Under idealistic conditions we could pass on our increased costs to our customers. However, since almost all of our business is contracted on an annual basis, increasing prices during the contract term is neither feasible nor is it competitive. Those increased costs negatively impact our bottom line, which in turn negatively affects, among many things, our ability to attract and maintain a quality work force and maintain customers.

Coronet believes that in light of the serious interruptions and excessive power costs that we have discussed today, the Florida Public Service Commission must act to encourage and implement changes to the manner in which interruptible customers are served. We are encouraged by the Commission's convening of this workshop to address these matters.

At this early juncture, Coronet believes that the possible changes that the Commission has identified all merit examination. Given the different factors present on each public utility, one or a combination of several of the proposed changes may be appropriate for

each utility either on a generic or case-by-case basis.

With respect to specific comments on the proposed changes, Coronet would like to make the following general observations. One, a key for industrial customers, such as Coronet, is having adequate lead time in advance of a potential interruption and sufficient information on which to make an informed choice on its power options. For instance, length and timing of interruption, price of alternative buy-though power. At this point I might say that last year in 1999 there were three times that we were told that we would be -- there would be an interruption. We consequently idled all of our units and there was no interruption.

This is very costly and for no reason except that -- well, I don't know, I wouldn't want to speculate on why it never happened. And it might as well have happened because we were shut down anyway. Placing a limit on the total interruptions per year in conjunction with a review of the manner in which a utility calculates its generating reserve margin to ensure that adequate reserves do exist should be considered regardless of whatever other changes are implemented.

Thirdly, interruptible customers should have the option of dealing directly with marketers to obtain power in lieu of interruption. However, this option is feasible

only if there are steps taken to ensure that there exists sufficient capacity to allow these alternate supply arrangements to occur. Towards this end, Coronet supports the listing of interruptible customers on a central web site to assist marketer/customer communication and facilitate such alternate arrangements well in advance of potential interruptions.

And last, Coronet strongly supports a Commission requirement that a utility recall all in-state and/or out-of-state wholesale sales prior to interrupting any Florida non-firm customer. Utilities should not be permitted to overextend their wholesale sales capability at the expense of their interruptible customers.

CHAIRMAN GARCIA: Thank you very much. Questions? We are going to -- our stenographer has been going for awhile now. We are going to take -- is ten minutes all right? Five minute break and then we will reconvene promptly, because we are running on short time.

(Recess.)

CHAIRMAN GARCIA: Because I'm dieting and the other Commissioners are amenable, we may stay a little bit longer than 1:00 o'clock if we can all hold on and not have lunch.

COMMISSIONER CLARK: You know what, I just want to point out -- Terry pointed out that you have reneged on

your promise when we elected you Chairman that you were going to give us lunches.

But that is fine with me since I was late.

CHAIRMAN GARCIA: I have lost weight since I became Chairman, so that is important, too.

All right. Mr. McWhirter, we will take your next client.

MR. McWHIRTER: Our next witness is Mr. Richard Partyka with Lafarge Cement Company. Let me get some water, just go ahead.

MR. PARTYKA: Good morning. My name is Richard Partyka. I'm the operations manager for Lafarge Florida, Inc. We are located in -- I'm sorry, 2001 Maritime Boulevard in Port of Tampa. Our operation operates 24 hours a day. Lafarge has inherited the IST rate from General Portland during a takeover. General Portland met with TECO to discuss the cost of power. The offshoot of that discussion was to put part of the plant on an interruptible rate. It was presented to the plant that the interruptions would be extremely rare. This move was required for the Tampa plant to remain an economically viable business unit.

When Tampa has a no-notice interruption it costs us as much as $4,000 to manually evacuate our system prior to being able to restart, not including the off-spec

product made at each incident. Taking this into account, the additional costs incurred depending on the product type may range from 26 to $30,000. As a result we prefer a planned shutdown when we receive notice of an impending interruption. This gives us more equipment downtime than actual interruption time.

In 1999 we had 13 interruptions. The obvious answer is to go to a firm rate, but we have received an unequivocal cost of $2.7 million to do that. Economically this is not an option for Lafarge in Tampa as an increase of this dimension would force Lafarge to move assets out of the area.

Originally only our mills were on interruptible power. Four to five years ago we brought the remainder of the plant on interruptible power for a couple of reasons. The factors weighed were our history of interruption, TECO's claim that our history would be indicative of our future, save catastrophic events, and the obvious economic benefit. We were told of 20 percent reserve margins in the beginning, but now learn that these reserves have eroded down to what level depends on whom you listen to. Where are these reserves now and why are the rules allowed to change without recourse to us as a customer?

When the power is interrupted at the Lafarge Tampa plant, we have circumstances that exist that affect

not only our operation but that of our customers, as well. Our customers, particularly on the bulk side of our business, use Lafarge as their warehouse for just-in-time inventories. Interruptions cause construction sites dependent on Lafarge around Central Florida to close down.

When the masons are unable to work, this has caused complaints from our trades not being able to work due to the masons not being on schedule. This has the potential of Lafarge losing clients as a result of not meeting our customer needs.

Of less operational impact, but of a far greater financial impact is a third party buy-though clause. If any business is to survive, it must manage its costs. The management of our power costs is not possible under TECO's arrangement. There are plants in Lafarge's system using third-party power management from the plant. We are appalled that we have no option but to pay rates that are undisclosed until after the fact. If TECO is unable to provide power to Lafarge, we recommend there be a mechanism in place to allow Lafarge to buy power from a merchant plant. Thank you. Any questions?

CHAIRMAN GARCIA: Thank you very much. No. That's it. Thank you very much.

MR. McWHIRTER: Our next witness is Mr. George McFadden with Praxair Corporation.

MR. McFADDEN: Good morning. Thank you for this opportunity. I appreciate it very much. I am a manager of engineering for Praxair, we are an international industrial gas company. We produce oxygen, nitrogen, and argon. And specifically in Florida oxygen for NASA's requirements at the Cape. We spend in excess of $2 million a year with Florida Power & Light. We have on-site generation for 300 kW to handle our critical power requirements, be it computers and other critical requirements, safety requirements for the plant. We are on the CILC rate.

We are the third largest industrial gas company in the word, the largest in the U.S. and South America. We are a $4.6 billion corporation, and we operate in 42 countries. Praxair Service Technology in North Miami resurfaces aircraft blades and coating services for industry and employs 66 people.

CHAIRMAN GARCIA: Could you bring the mike a little bit closer.

MR. McFADDEN: The location in Mims employs 22 people. We have sales offices in Tampa, Miami, Jacksonville, and Lakeland, which employs 20 people. The Mims plant has served NASA requirements since the Mercury program in the early '60s. The plant is highly energy intensive and energy represents approximately 70 percent

of its production costs. We have a 9-megawatt demand and operate in excess of a 90 percent load factor. It is a seven-day-per-week year-round operation.

NASA as a customer requires a low-cost product. We have two major competitors in Orlando, and they both enjoy interruptible rates. The only means to keep our power competitive, our product competitive is through interruptible service. Air separation is one of the very few industrial processes that can take interruptions. We provide a valuable resource to the utility in terms of managing system peak, and the value we receive is reflected in the discount to the demand charge.

When I say discount, I also want to build upon Mr. McWhirter's earlier comments. I define credit as a cost-based credit to the cost of providing that capital resource to us.

The early version of the interruptible service included no notice and shut down. And this is one of the first locations and practice areas worldwide that gave the utility total control of the process without prior notice. What I'm saying here is that we are a very flexible process, very price responsive to power costs and the process is designed to best match the requirements of that utility.

The Mims plant is cable of interrupting on

limited or no notice requirements, but cannot withstand extended interruptions during NASA peak activities. Recent hurricanes have caused extended outages, but not to the utilities invoking the interruption.

In the mid-1980s, Florida Power & Light rates, the predecessor to the current CILC were much higher than neighboring FPC rates. Our two principle competitors both have enjoyed new plants at advantageous rates at that time.

Praxair, a division of Union Carbide, sued FPL to wheel power from FPC. The suit was eventually dismissed, and Praxair, independent from Union Carbide since 1992 has become a CILC customer. Our relationship with FP&L improved and the pricing disadvantage has disappeared.

Now in an era of declining capacity reserve margin the value of interruptible is even greater then in the 1980s when loads were smaller, new base load was being built, and coal by wire supplemented native generation .

Because of extraordinary growth in residential/commercial customers, the need for new base load units is significant. Some of the new capacity can be satisfied through new merchant plants and the rest with the traditional utility construction. Additional purchased power can be obtained on the wholesale market

from neighboring utilities to satisfy peak needs. Interruption of current interruptible customers should only be invoked at a time of system peak when it is more advantageous to the utility control area to back off the interruptible customers rather than bring on a peaker.

Economic interruptions, that is off-system sales at the expense of interruptible customers don't provide any benefits to the customers generally, are a major disadvantage to interruptible customers who are subsidizing the system and benefitting the utility's bottom line only.

If new plants are built to alleviate the capacity shortage, there may be opportunities for non-firm customers to buy-though at times when the host utility calls for interruption. Of course, the buy-though price is likely much higher than the host's system tariff, but the industrial customer may have no choice, no other choice if his own customers demand this product. This is perhaps the only example of customer choice in the traditional regulated system.

Real time pricing, another rate available on the Southern Company and another utility systems whereby the customer has the option to interrupt or buy-though on a day ahead price signal from the utility. This requires a high degree of operating flexibility on the part of the

customer. Special contracts in some instances are opportunities to tailor fit special contracts to customers on a nondiscriminatory basis. Whether it be for interruptible, economic development, or otherwise. And these examples vary from utility-to-utility.

For Praxair, the current interruptible tariff is satisfactory, and we are fully capable of performing under the tariff. There is no reason to modify the contract to make it less attractive and therefore more disadvantageous to the customer. In the big picture, Florida will need new capacity to serve its growing population, but it will always need the margin of interruptible capacity to provide additional operating flexibility for the utilities. Thank you very much.

COMMISSIONER CLARK: Did I hear you correctly that you have not been interrupted by FPL?

MR. McFADDEN: We have been interrupted. Not to the extent other customers here have identified earlier today.

COMMISSIONER CLARK: When you became independent from Union Carbide, when was that?

MR. McFADDEN: 1992.

COMMISSIONER CLARK: And you negotiated an interruptible rate at that time?

MR. McFADDEN: CILC rate, yes.

COMMISSIONER CLARK: And how many times have you been interrupted since then?

MR. McFADDEN: On average, once per year.

COMMISSIONER CLARK: For how long?

MR. McFADDEN: The past seven years.

COMMISSIONER CLARK: I'm sorry. How long has the interruption, each interruption been?

MR. McFADDEN: Three to six hours in duration.

COMMISSIONER CLARK: And does that interrupt your -- it does interrupt your manufacturing process?

MR. McFADDEN: It does. But every plant in the U.S. except for two is on real time or interruptible type power supplies. It is an integral part of our business structure. We design plants around being interrupted. We study the tariff and design the plant to fit the requirements, the anticipated requirements of the utility for the interruption.

COMMISSIONER CLARK: Within your company, do you have -- what other facilities besides the one in Florida do you have?

MR. McFADDEN: We have two carbon dioxide facilities; one in Miami and one in Jacksonville. And the coating services location in Miami, as well.

COMMISSIONER CLARK: You don't have any in other states?

MR. McFADDEN: Oh. In other states, yes, we have 337 locations throughout the U.S. And large plants like the Mims plant is in excess of 10 megawatts, about 45 or 47 plants of that size.

COMMISSIONER CLARK: Within your company do you have a single person that sort of reviews and manages electric purchases?

MR. McFADDEN: I'm one of five people for Praxair worldwide that have that responsibility. I have South America, North America, and part of Canada.

COMMISSIONER CLARK: Are there offerings in those other states or countries that you would like to see happen here?

MR. McFADDEN: Yes, very definitely. I think special contracts mentioned earlier, I think each person here can live by a different standard for interruptible service. We all can live under the same basic criteria. The limitations of frequency and duration, for example, and advanced notice provided are three dimensions that can vary from customer to customer. We have elected to take a zero notice condition for an optimum economy. Also, real time power which has been a growing product in many markets, I don't feel has been fully developed by FPL yet. I think further dimensions of that rate need to be built by that utility.

COMMISSIONER CLARK: Did you say you get real time power from Georgia Power?

MR. McFADDEN: Not Georgia Power, no. TVA, for example, Sante Cooper (phonetic), Carolina Power and Light, Kansas City Power and Light.

COMMISSIONER CLARK: And let me ask a question. Do you vary your manufacturing depending on the price of the power, then?

MR. McFADDEN: Oh, yes. We are very much responsive to price. And certain markets -- we don't have pipeline delivery customers. It is all liquid produced product that is a real market-based driven price. We have been very responsive to price in the marketplace. And we fill more tanks and less tanks to compensate for running during low cost hours and building increased inventories.

COMMISSIONER CLARK: Okay.

MR. McFADDEN: Thank you.

CHAIRMAN GARCIA: Thank you very much.

MR. McWHIRTER: Mr. Chairman, our next witness is Mr. Ed White of the Mulberry Corporation.

MR. WHITE: Good afternoon. I am Ed White, manager of business planning for the Mulberry Corporation. Thank you all for coming down to Central Florida to see us and listen to our gripes.

Mulberry is a phosphate producer. We have a

plant in Mulberry in TECO's area where we purchase about 9 megawatts. We have an adjacent cogen facility where we sell about 9 megawatts to Florida Power & Light. We have a separate fertilizer facility in Manatee County in FPL's territory, right across the street from Port Manatee. And then a phosphate mine in FPL's territory. Each of the FPL units buy about 9 megawatts. So we are buying a total of 27 rough megawatts when we are running at capacity. We would employ about 500 people at capacity. Right now we are totally down for soft market reasons.

As we look at the problem with the interruptible question, I think part of the problem goes back to, apparently goes back to the rule that existed when we signed up or our understanding. I know the question has been asked. For about 25 years Rule 25.6035 was about one sentence long, and it said that the utilities will provide enough power -- the words are right up there -- to meet all reasonable demands for service and provide a reasonable reserve for emergencies. That was the extent of that paragraph when we signed up. And the words all reasonable demands for service is certainly what strikes us. The reserve for emergencies would imply that there is a little more.

From that what we assumed at the time we signed up and really pretty much today is that we would expect an

interruption if the Tampa temperature goes above about 97 degrees in the summertime, below about 30 degrees in the wintertime. Perhaps for a couple of months before capacity expansion starts up because we can't forecast demand growth accurately five years in the future. And perhaps for some unusual event, and that is what we expect as an interruptible customer. Understanding there is no way you are going to build enough plants to meet the potential demand when the temperatures goes to 16 degrees, as you well know the winter problems as well as the summer problems. You just can't build that much capacity or nobody wants to pay for that. So we are willing to take some. That is what we really expect.

I think in 1996 the rule changed. And the first paragraph starts off the same way. And it still says to meet all reasonable demands for service and provide a reasonable reserve for emergencies. And that sounds okay to us as we just read it to right there.

It then added some language about a reserve margin, a 15 percent planned reserve margin. And that is to achieve an equitable sharing of reserves among the utilities. That is something that the utilities are doing between themselves, not between the utility and the customer. That is my interpretation of that paragraph. And I may be wrong in my interpretation of what we were

setting out to do at that time.

We then added a part of treatment of non-firm load. It says the utility shall be required to make such reserves available to maintain the firm service requirements of other utilities. I think that's where we gave up something or it was given up for us to the other utility and we are not really being compensated for that. I don't think in TECO's area that is much of a concern that we are giving it up.

But apparently we can be curtailed to meet firm service throughout the state for all the utilities and nothing was done to compensate us for that. And I don't know that that is bad public policy. I'm just commenting that is what we are now facing which is not what we thought when we got into this game.

Number five, buy-though power for the interruptible customer. It starts off saying interruption of service to a noninterruptible customer is not an emergency. In my facility those are fighting words. Interruption of service to a non-firm customer is not an emergency. We think it is. Now, it goes on to say that means that you are not going to use your emergency clause of the pricing mechanism. But that word emergency is the same word that is up in that first paragraph and now it says that they are not going to provide a reasonable --

all of a sudden the words, "All reasonable demand for service and provide a reasonable reserve for emergencies," is beginning to say that we are not going to build plants for the interruptible customers.

COMMISSIONER DEASON: Sir, let me ask you a question there. I thought it was never contemplated that the utilities would plan for or build plants to serve interruptible customers. And you are telling me just the opposite.

MR. WHITE: To my understanding we were going to interrupted to prevent those true unusual spikes that you really can't take care of.

COMMISSIONER DEASON: Well, you should have heard the very adequate and convincing testimony Mr. McWhirter would provide in utility rate cases when he said, "Utilities don't plan and build plants for our customers, therefore don't allocate the costs to my customers."

MR. WHITE: I think the -- my understanding, and I have not been a client of Mr. McWhirter for very long, and what he said three or four years ago certainly did not represent me, I can assure you.

MR. McWHIRTER: People say that all the time.

MR. WHITE: I think that if we are talking about an unusual event, we are talking about interruptible

customers, I think we are talking about conservation people, too. And if we don't build the plant at some point, you are not going to have a plant to meet the need.

And it is one thing to be a little tight, the above 97-degree question or whatever is honest, if we are late in getting a plant built, we are willing to take that hit. We are willing to take that multiple three-standard deviation problem.

If there is -- out here somewhere you will never have enough to be 100 percent sure. And we will take that, that is okay. But you can't walk away from what is 10 percent, 5 percent, whatever it may be of your total business during peak periods. This is a peak hour problem that we are talking about. It is peaking capacity rather than total. That is just my observations on this at this point. I think it is food for a lot of thought as you go forward.

The summary of the capacity and demand forecast, this was in the ten-year site plan last year that I think you have seen all the numbers, and it basically says three lines from the bottom or two lines from the bottom, looking at it on a total demand basis there is not much margin, whatever it may be. I have added a line on the bottom, the capacity of the three largest generating units as a percent of total capacity. For TECO that is about 35

percent of their capacity. There is a Big Bend, I think, 3, 4 and 5 are each about 12 percent of their capacity. Florida Power, their largest three is about 24 percent, and for FPL is 13.

The Florida Power and Florida Power & Light plants are gas/nuclear plants that probably tend to run when they are scheduled to run. The TECO plants are all coal, they have a very different reliability factor. And that reliability, if one of TECO's plants goes down, it is worth 12 percent of their capacity. And you are doing that at a time when you have a 6 percent total margin on your total requirements.

So as soon as one of their plants goes down, you are 6 percent short supplying the power they need. And the plants typically are going to be down during daylight hours for maintenance. A similar event at FP&L would only knock off 4 percent of their load, which is no big deal for them. And that 4 percent would be a nuclear plant which tends to run.

Now, I think that is just something I think that is said that the margins should be different for your various utilities, and I think that is part of the reason why. Nobody every addresses it quite that way.

As I see the cause of the generating shortage that we had last year, I think TECO ignored the summer

crisis in '98 in the midwest when we had the spiking demand. I didn't see much reaction to that. Florida Power that summer here had some problems that I was aware of. I didn't see us run and start building plants.

On September the 14th of 1998, the Tampa Tribune had an article in their business section on the cover that said the nights the lights went out in Tampa Bay may come sooner than you think, and that forecast supply problem is in two years. Eleven months later was when we were having our severe problems. And during that 11 months I didn't see much action to build capacity.

The Tampa Tribune pointed out to us that we have got a problem coming. And the forecast that the ten-year site plan that TECO submitted this last year that I got a copy of talked about their summer peak demand. In 1998 it was 3444 megawatts. They forecast 3426, a decline year-to-year.

August, the month of August, there is a chart in there that shows that it was projected to go down 1.48 percent. And then they showed a very small growth in their total consumption. If you are going to forecast that your volume goes down year over year as your starting point, you are going to have problems. And that is where the problem is. They forecast the August peak to go down 50 megawatts. If they forced it to go up 100 megawatts,

we would be looking at a little different situation.

Electricity pricing. I think it is true, we picked the interruptible rate because we can save about 20 percent, roughly $40 a megawatt hour over a 50 firm. I'm not positive that that firm is really real. I question of large consumers how many people are really paying it or is it just a rate schedule that exists that nobody uses. TECO tells you guys and us we get a bargain. We get interruptible power, 20 percent savings. We don't have very many interruptions. We should be happy.

I had a merchant plant developer visit me last week that quoted 28 to $35. He says if he can put in a plant he can sell it to me somewhere in that range. Now, he may be pulling my leg, but that is what he keeps telling me. He is not the only one that tells me. That's what they say, 28 to $35. They tell me they are more reliable than my existing supplier.

I know the IMC Agrico wants to build a plant because they think they can make money. They think they can beat TECO's prices. Cogeneration that we sell, we are offered practically nothing, $20. We get two weeks to decide on these offers, which we can't put much together. We are at 9 megawatts. We were thinking about putting cogen into this Piney Point facility several odd years ago, and I think we were in a surplus at that time. And I

went around looking. And TECO was offering us I think $18. I went to FUMPA, and that was the time that they were entertaining offers. And we didn't want to deal with them, it was going to be too much work to try to put something together. But they claimed that they were going to get $20 for a multi-year contract from TECO, which I at the time understood was below the cost of this new coal plant that TECO was building.

The Lakeland Ledger right here in November of 1997, there is an article that says that they have offered their customers, their largest customers special rates of $27 a megawatt hour if they sign up for interruptible service for ten years. We are about four miles outside of Lakeland's territory. I don't know what the story is. It doesn't matter, we can't deal with them. They have a 50 percent reserve margin. They have got plenty of electricity.

CHAIRMAN GARCIA: That is what, an economic development tariff that they offer?

MR. WHITE: I think they did this as a shield against competition coming, and the city council that manages that allowed them to do that, and I think there are economic rates that are secret for these other utilities, so those rates may be available. I don't know. I don't know what TECO is offering to people because their

economic riders are secret as I understand it. Now, during these periods when we have this buy-though power --

CHAIRMAN GARCIA: Just so I understand, because maybe I'm missing something here. Staff, could you answer that? What are we talking about, the CISR rate or what?

MR. JENKINS: That is correct. The CISR rate is confidential. Tampa Electric has one or two customers -- one customer on that.

CHAIRMAN GARCIA: All right. So besides that one customer --

MR. JENKINS: All rates are standard and published.

MR. WHITE: Okay. And I think Gulf Power has that also, and the other utilities. But there are secret rates that I understand are lower than what we see. I don't know what they are, I just know that they exist.

CHAIRMAN GARCIA: If I'm not mistaken, though, there as I criterion for testing that, right, Joe?

MR. JENKINS: For testing a CISR rate?

CHAIRMAN GARCIA: Yes.

MR. JENKINS: That is correct. The customer, one, has to be at risk as defined by the utility. And, two, the rate has to cover incremental cost, however defined.

CHAIRMAN GARCIA: And, again, I want to tell you

they are very limited. I mean, we said TECO has one. I believe --

MR. JENKINS: Gulf, I think, has two.

CHAIRMAN GARCIA: Two, if not three. Two. And that is about it, right, on those?

MR. JENKINS: That's it.

MR. WHITE: All right. As a DAP producer (phonetic), I will pull some industry costs out to show that in the normal conditions in 1997 if we spent $40, which is what our industry publications tell us, at $40 a megawatt hour we use about 236 kilowatt hours to make a ton of DAP, that is a roll-through of the mining cost and phosphoric acid, all the costs, all the energy put together. That is about $9 a ton of DAP. We purchase some sulfur, ammonia, and we have other costs to have a $141 cost.

When we start having these high-priced power, I chose the $290 power, at that rate our purchased raw materials plus our electricity adds up to $130. That is approximately what the market price is today, $130. We can't pay any labor, taxes, materials if we are paying $290 for power for an hour.

During a spike -- during a spike, what I will call a true spike, the power may go to $550. And at that rate we will be paying $130 a ton of DAP in electricity in

and of itself. At that point if we need the power company to prevent a spike, cut us off for economic reasons, we have got no problem. Somebody has got to stop the spikes, if the spikes are a problem. And I think this is true of everybody, that if you are going to pay a lot of money for power at some point it is economic to not buy it. And I want to share that with you, with the TECO people, and let them see a little bit about what our cost structure is.

The buy-through option that TECO has, first, it doesn't really appear to us to be an option. When the power was curtailed or when they did the buy-though 47 days in July and August of last year, they had to go outside of their system on 47 days to get the electricity. That is basically every day Monday through Friday in the afternoon they were having to buy power. If we had not wanted the buy-through we would have to shut down every day. I think there was 165 hours in July and 220-odd in August by our records of how often that was going on.

I don't think it is an option because one buyer, one person who says don't do the buy-through suddenly becomes the most interrupted customer in TECO's territory. If they are 10 megawatts short, that's who gets interrupted. And there is about 200-odd megawatts I think of interruptible load. And it is quite different to be part of 200, or should be different to be part of 200

versus the first 10.

CHAIRMAN GARCIA: Your allegation is that if you say you don't want to buy-through, you are the only one that is cut off.

MR. WHITE: I will be the first one every time. If they were 15 short, they would be obligated to cut me.

COMMISSIONER CLARK: You know that for a fact that you would be the first interrupted rather than everybody being interrupted the same and somebody chooses to buy-though?

MR. WHITE: Well, if not they would be -- they are not going to curtail the other people, they are going to buy for the other people. And if they are buying for the other people and I'm running, that would be unfair.

COMMISSIONER CLARK: But they would have been -- they chose to buy-through, so they are getting power from a different source.

MR. WHITE: If the utility were going to be 10 megawatts short, that is all, they are 10 megawatts short, and I say, "Don't buy-though," shouldn't I be curtailed?

COMMISSIONER CLARK: I don't think so. I think it would be --

MR. WHITE: I should receive power and somebody else should have to do the buy-through?

COMMISSIONER CLARK: What is your understanding

of what happens in a buy-though? You think that you will be the one interrupted?

MR. WHITE: I think so.

COMMISSIONER CLARK: I think we need that clarified, because I don't think that is correct.

MR. WHITE: I think it's an interesting game of chicken that I don't really want to play. Because I think if I tell them to do that and they then have 10 megawatts left, if they come back with ten megawatts left, if I can point to their generators and say there is a total of 10, start me back up, I think they are supposed to do that. And out of a system in TECO's territory of 33,000 that is a heck of a number.

COMMISSIONER CLARK: What does your tariff provide with respect to if they need X amount of power, say they need 30 megawatts, but they have 100 megawatts of interruptible power. What does the tariff say in terms of how they would interrupt power?

MR. WHITE: I don't recall their interruption procedures. I thought that they were interrupting part of the interruptible loads on a rotating basis. Now, that is not the problem that we have had this summer, but certainly that's what we should do is go through on some rotating basis.

COMMISSIONER CLARK: So if it then rotated to

somebody, the next interruptible customer, if he chose to buy-through he could buy-through, but he would still --

MR. WHITE: I think if the buy-throughs come after -- before or after the interruption. What is happening right now to everybody is that we get the buy-throughs. To my understanding everybody says do the buy-through, which is a very simple thing. If we don't have enough capacity, do you want us to do a buy-through? And conceptually the answer to that is yes. It is a very -- if the price becomes reasonable, the answer is yes. Right now we don't get to vote on price. It's a yes or no. And if the price is reasonable, obviously yes. If the price is unreasonable, then the answer starts to become why are we doing this?

I think we need to improve that. I think we are going to improve that. I think TECO wants to improve that. I just don't see that I truly have the option in light of all of this. If I'm one person, I think I get treated differently. If everybody else goes one way and I go another, I'm concerned about how that works. It's a situation we have never ever faced. Buy-through hours versus deficient hours, I'm not sure they are the same.

What TECO is doing, and if they are deficient and in order to buy the power in the most economic fashion, apparently they will buy it for a block of time,

perhaps a day ahead for a longer period of time. And that may mean that we buy power into a period that we are not deficient, maybe. The pricing mechanics of how this buy-though is working, I don't believe are fair. We have got this day ahead versus spot problem. If they buy a day ahead for the interruptible customer because they know it is going to happen, then something else happens. That relatively cheap power is going to roll into the firm base and we are still now stuck paying the high price on the day in question. We are going to pay for the spikes.

The price spike is going to the customer who has already identified himself as being the most price sensitive person there is. I have already said I'm willing to take a supply interruption. I have already said that. I am sensitive. But yet any price spike tends to flow to me. I think the 12-hour block for one hour of need is going to mask the problem, shift the dollars around a little bit.

The monthly average technique that is being used means there is no point in us curtailing during a price spike or a price shortage. Right now if we know the price is high during this hour, we know the price is going to be high to buy outside electricity, we might as well continue to take it because the price is going to be averaged over the full month. We don't have this -- that is not a --

CHAIRMAN GARCIA: You mean TECO doesn't give you an incentive to make that decision with them?

MR. WHITE: That's right. It is averaged over the entire month, and I think that -- either they need to do it or we need to do it.

CHAIRMAN GARCIA: You can imagine the people who are more sensitive to price, and then they would get stuck with the bill every time.

MR. WHITE: Yes. I think if we go to real time pricing that some people want to talk about, and you tell me of the price is going to be $500, you also have to allow me to stop. And right now it's not a question if I -- right now it goes into the monthly average. So there is no motivation to stop even if I know TECO is going to pay a lot of money because it gets spread. And I think that from a public policy standpoint to prevent price spikes somebody has got to stand there. The pricing is allocated, the electricity is allocated by vendor or by rate schedule, if you will.

I think as TECO is paying the higher prices to get us power in the open market, as I understand it the cost to produce power is about maybe $25 of variable cost and $5 for fixed for a total of around thirty bucks. That is about what the cost to make power is. If we are talking about somebody that is going to produce power as a

peaking unit, they may pay 75 for their fuels because they are very inefficient, they may pay a high fixed cost. I'm hard pressed to know who it is as the price goes over $125, who is it that is going to generate that power. And I don't think anybody is.

I think the only thing we are trying to do is to drive the price up and reallocate the power out of Georgia. That is the only possible thing we are doing is reallocating power, not generating it. And I just don't believe there is very many generating facilities that can't take advantage of a $125 price. I don't know. If there are, then we need to raise the price to get to them. But once TECO's offering price exceeds that amount, they are not buying that power necessarily for me, they are buying it for their firm customer. The firm customer may be willing to pay large sums of money.

CHAIRMAN GARCIA: Wait a minute. Take me back through that, because it seemed to make sense towards the end there. Walk me through why is it that you would say that because TECO had to market themselves for their firm customers you are then on the back end of that, so you are being forced into this narrow tight market?

MR. WHITE: When they go into the market, then they are going to offer prices for tomorrow's power, today's power, or whatever for their customers, which is

including us. And they start offering sums of money for that one hour, not for that period, when they can mask it. If they buy it for 16 hours at $100, that is really one hour at $600. When they start coming off and saying for that one hour I'm going to pay over some amount of money that I think is fairly low, they are offering enough that anybody that has a generator ought to be willing to sell at that price, unless they think they can sell it for a higher amount. That's why they would hold it back. Or they need it for their own cities and so forth.

I'm sure that if you hold the power back, if you know TECO is going come in tomorrow and buy 50 megawatts, why would you sell it? Why would you sell it for 100 if you know they will pay 170? You are going to sit.

COMMISSIONER DEASON: And who is it in your scenario that is holding it back, who is this?

MR. WHITE: I think whoever has the power.

COMMISSIONER DEASON: Another investor-owned utility, a qualifying facility?

MR. WHITE: Well, let me get to the next chart. This chart here shows your interruptible customers in this last column paid $147. That was the charge for the power that was bought for us. What was purchased for the fuel clause exclusive of what came out of the Hardee, and cogen, and prior monthly adjustments was $59. So what

TECO bought for the firm customer was $148, what it bought -- excuse me, for the interruptible customer was 148 and for the fuel it is 59. And I'm price sensitive.

CHAIRMAN GARCIA: Go back, go back. No, don't worry, I don't want to set that thing off. Keep going I will look at it later.

COMMISSIONER CLARK: Do you know from whom they bought the buy-though power?

MR. WHITE: Yes. That is going back. The interruptible customers, the buy-though power for interruptible customers in August is 47,000 megawatt hours for $147 a megawatt hour.

COMMISSIONER CLARK: From whom did they purchase that?

MR. WHITE: That is the next chart.

COMMISSIONER DEASON: So what? I mean, you are saying that you should be -- yours should be averaged in with everyone elses, even though you are the one, the last on the margin to supply power to you?

MR. WHITE: Yes, with the exception of that clause. And I think when we start talking about $147, I know there is some in there that is more than that. I know there is more. Now, let me go to the next chart. This is a very hard chart to read, but it came out of one of the exhibits in the reserve margin case, A-1. The

energy authority is on Line 1. And I can't read that either, but they are the largest supplier. I believe the interruptibles got 12,000 megawatts hours from the energy authority versus firm at 1,800 for a total of 14,000 at whatever that number is. Can you read the number? 188 per megawatt hour. All of those purchases were allocated that way.

Line 2, the City of Lakeland sold -- it was the second biggest supplier to the interruptible. Cook is the third line. Morgan Stanley, FPL, Tallahassee. Aquila (phonetic) down there, for some reason the data that I had showed that they purchased 1,600 megawatt hours and they were only purchasing for two hours. That would be 800 per hour, which is a lot for a 200-megawatt load. If you slide all the way down, during those hours I thought they were buying for a total of 220 hours. They bought an average of 215 that they allocated to us at those amounts.

The lower half of the table is their outside purchases from other suppliers. And if you can read it, a lot of those things -- JC under Florida Power and so forth, I understand that is a rate schedule, Schedule JC, as opposed to these that are, I think, JA, I believe is what it is called. And what is happening, the difference between those rate schedules is largely the difference between $150 and $50. If that is our intent, that is what

we are doing. If that is not our intent, that is not what we need to be doing.

What I would like to see, or what we would like to see just to simply it, I would be very happy if I could just have a five-year purchased contract for $30 a megawatt hour flat from somebody, I don't care who, delivered. No questions asked, no special items, just simple. If we need to have interruptions, okay. The first eight hours a year, none. Next 16, give me 100 bucks, give me something. Give me liquidating damages and let's be done with it. I think --

COMMISSIONER DEASON: Well, you want a firm service at $30 a megawatt is what you want.

MR. WHITE: No, I will give you liquidating damages if you can't supply the power. If you were to cut me off eight hours a year, no problems. Next 16, just give me 100 bucks per megawatt hour that you were unable to deliver. Next 24, give me 200. I don't care whether you buy the power or make the power, just deliver the power. If you can't buy it for that amount, shut me down, that's okay.

COMMISSIONER DEASON: So you want the equivalent of firm service, but you want liquidating damages.

MR. WHITE: No, this is interruptible.

COMMISSIONER DEASON: That is interruptible?

MR. WHITE: Yes. They can interrupt me for eight hours with no penalty; they can interrupt me for the next 16 at only a $100 penalty. Their choice.

COMMISSIONER CLARK: But they would have to have or build capacity to assure that you could not be interrupted more than the eight hours, is that correct?

MR. WHITE: Unless they have a big bank account to pay those liquidating damages, yes.

COMMISSIONER CLARK: Then you would be a firm customer except for eight hours a year?

MR. WHITE: Except for receiving liquidating damages. They don't have to provide me with any power, just pay the damages.

CHAIRMAN GARCIA: Which in your contention is that it is cheaper than what they are buying it for you anyway?

MR. WHITE: I mean, I think they could go out in the open market and buy power at a reasonable price in a competitive market. Let them go do it.

CHAIRMAN GARCIA: Because you're saying --

MR. WHITE: If I go into competition this is the kind of deal I want. I mean, we are going to have liquidating damages. If they can't supply me with power, they are going to pay me. Now, we may negotiate what they are, but I wouldn't buy my power from somebody that is

going to promise to deliver with no backup if they can't.

CHAIRMAN GARCIA: But you did. You did in this case.

MR. WHITE: You didn't give me a choice.

CHAIRMAN GARCIA: I did. It was just too expensive, according to you.

MR. WHITE: Yes.

COMMISSIONER CLARK: Would it be okay with you if every customer got to negotiate an acceptable interruption? I mean, given the fact that some manufacturing can stand interruptions and some can't, and they would probably get a better rate if they can withstand more interruptions?

MR. WHITE: I will say I would be hesitant if you try to do something quickly, because we don't have enough capacity in the state right now. But if you give the people lead time and say, let's go, and here is us some lead time. But whoever wants to buy power is fine, however we do it.

COMMISSIONER CLARK: Are you suggesting that the utility have the ability to tailor an interruptible schedule to the needs of particular customers?

MR. WHITE: At a point, sure.

COMMISSIONER CLARK: Assuming it was on the same basis. If you contract for eight hours a year and

somebody else contracts for that --

MR. WHITE: If we get to competition -- as we go to competition, I would like to go all the way to competition. I think when we try to get our little toe in is where we are going to get hurt. When you do a little bit, it's a problem. I think this stuff right now we are heading in there, we are doing this 80/20 revenue split so that we can kind of incentivize the utility to do stuff out here and kind of become competitive and do this, and I think we are opening a lot of doors. It's tough to manage.

Managing, which I'm going to get in just a second, if you had -- what you have got is a planned economy, that's what we are, except we are so darn convoluted. We have got the federal law, the state law, we have got munies in the way. You guys don't manage the whole system, you manage a small part. And you have got to do the legislative side versus here.

And even if we were to set out how we are going to plan to run the electric business, if it is not a profit-making entity this is not what we would have. I grew up in Memphis, Tennessee, which is a municipal buy from TVA and you do that. And I thought that utilities was part of the government as I grew up. And that you can run. You can run that business. You can't run it when

you start having investor-owneds sitting next to munies sitting in the federal thing, and people are trying to make money and not. And that convoluted piece is a tremendous, tremendous problem, and you all face it. I mean, it is a tough thing to do, as you well understand.

COMMISSIONER CLARK: You are not suggesting we municipalize all the utilities, are you?

MR. WHITE: I don't have a problem with that. I have suggested that to my customer service rep. I find that the munies have the capacity, they have got a 50 percent reserve margin. It's better than what we have got now. At least as I understand.

Let me go forward. What I would really like, I think they have overcharged me on last years buy-though premium, I would like about half of that back and we won't have to worry with it. Retail competition, I would like everybody to just go and support putting it effective January 1, 2005. I would like the Commission to study the debt/equity ratio and the cost of service methodology.

I think we are heading into competition debt/equity ratio. I think you ought to have a lot more debt on the regulated utility. They are carrying more -- the debt/equity is kind of tilted between the regulated side and the total. I'm looking at a municipal that is carrying 100 percent debt. If we are going to be

regulated, I go back to my upbringing and I don't understand why we don't have 100 percent debt if we are going to guarantee the return. That is going to cut the bill.

In California, I think what we did was increased the debt burden on those utilities. We called it stranded cost and did some fancy thing. If the only reason we are going to have competition is to increase the debt on the utilities, we might as well just increase the debt.

COMMISSIONER DEASON: That was securitization, where basically the government came in and guaranteed it.

MR. WHITE: Yes, yes.

COMMISSIONER DEASON: But what we hear is that with more competition that the utilities that we regulate, so they indicate to us, is that they need more equity because they are in a riskier position. When things were fully regulated and there was no competition, they could carry higher debt because it was a less risky business.

MR. WHITE: Well, they are regulated today. So I'm saying if indeed -- and I have suggested here, if we could study what is here, I'm suggesting that if they are regulated today, then we can go for more debt. And these merchant developers, if they try to talk to them, they are going to talk about using debt. And if they are competitive and you need more equity, that is a different

story. I will say yes, when you go that way you are probably going to have more equity than debt.

It would help to review, have your staff review the cost of service methodology. Sooner or later we are going to get into it, and I think it would be good to know whether or not we like the rules before we go use them. I don't know of anything wrong with them, but I don't know anything about them.

The benefits of competition I think are -- include that there is going to be efficient generation decisions made. That's easy. Everybody is going to build gas turbines today. We know that. We are not going to have to worry about questions about converting coal plants and how we pay for them. Is there a disconnect between what is the lowest cost way to produce power and how you get paid for it? Through an environmental clause, not an environmental clause if you all are going to face that issue. You don't have been to worry about it. The decision will be made. Whatever is the best will be done.

Optimal return on equity. Somebody that wants to get in the business with a 9.5 percent return on equity, they can get in the business. If you don't like 9.5, you won't be in the business.

Reduced administration. I think we are spending a lot of money on people. Lawyers, lobbyists, Mr.

McWhirter, all of these lobbyists that are trying to find a hole in the system. They are trying to corner us to talk about one issue, talk about that to the benefit of the owners of that regulated investor-owned utility. We've spent a lot of money doing it, but that makes sense because that is what the incentive is.

CHAIRMAN GARCIA: You said that you don't want to stick our little pinky in the water. Do you think that what we did on merchant plants is wrong? We should have just kept the system as it is and not allowed merchants?

MR. WHITE: I think at that level at that point that should be fine. I think they are taking some degree of a risk, because I don't know who they are going to sell it to.

CHAIRMAN GARCIA: That's not your problem.

MR. WHITE: But, I mean, hey, if somebody wants to sink $160 million, that is their business not mine. I would like to help them by buying some of it. And I think the real -- you can do a lot of things, but I really believe that competition is going to beat your planned economy. I really believe that. And that goes beyond everything else. We aren't anywhere near being able to even take the planned side of this thing and optimize a planned economy.

Okay. I'm done.

CHAIRMAN GARCIA: Could you give a copy of that to our staff before you take off, or send it to us?

MR. WHITE: We will send it to someone.

CHAIRMAN GARCIA: Great. We have sort of exhausted our time, Mr. McWhirter. Can I ask you to continue with those witnesses in our Tampa hearing, which I think in my letter it is scheduled for Hillsborough County Commission Board Room, County Center, 601 East Kennedy Boulevard,Tampa, Florida, on March 27th at 10:00 a.m. it is going to begin.

MR. McWHIRTER: We will ask them to come, sir.

CHAIRMAN GARCIA: Very good. Thank you very much for coming. Likewise, I hope that TECO and FPC in particular will be there to make presentations to us, also.

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief,FPSC Bureau of Reporting FPSC Commission Reporter,

DO HEREBY CERTIFY that the undocketed workshop held February 14, 2000 in Lakeland Florida, was heard by the Florida Public Service Commission at the time and place herein stated; it is further

CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed by me; and that this transcript, consisting of 127 pages, constitutes a true transcription of my notes of said proceedings.

DATED this 23rd day of February, 2000.

JANE FAUROT, RPR
FPSC Division of Records & Reporting
Chief, Bureau of Reporting