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March 6, 1997

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

RE: Petition for Expedited Approval of an Agreement to Purchase the Tiger Bay Cogeneration Facility and Terminate Related Purchase Power Contracts by Florida Power Corporation.
Docket No.: 970096-EQ

Dear Ms. Bayo:

Enclosed for filing in the docket referenced above are the original and fifteen (15) copies of Notice of Objection of Florida Power Corporation to FIPUG's Request for Production Number 3.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in WordPerfect format.

Sincerely,

Chris S. Coutroulis

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Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for expedited approval of an agreement to purchase the Tiger Bay cogeneration facility and terminate related purchased power contracts by Florida Power Corporation.

Docket No.: 970096-EQ

Submitted for Filing:
March 7, 1997

NOTICE OF OBJECTION OF FLORIDA POWER CORPORATION TO FIPUG'S REQUEST FOR PRODUCTION NUMBER 3

Florida Power Corporation ("FPC"), by its undersigned attorneys, hereby files this notice of objection to production request number 3 served on FPC by intervenor, The Florida Industrial Power Users Group ("FIPUG"), as part of its Notice of Service of First Set of Interrogatories (Nos. 1-8) and First Request for Production of Documents (Nos. 1-3). The objection itself was served on all parties shown on the attached service list on March 6, 1997.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

JAMES P. FAMA
JAMES A. McGEE
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and

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T#521295.1

CARLTON, FIELDS, WARD, EMMANUEL
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By: ____________________
Chris S. Coutroulis

T#521295.1

CERTIFICATE OF SERVICE
Docket No.: 970096-EQ

I HEREBY CERTIFY that a true and correct copy of the foregoing has been communicated via fax and sent by regular U.S. mail to the following individuals on March 6, 1997:

D. Bruce May
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Tallahassee, Florida 32302

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Florida Power
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

March 6, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 970096-EQ

Dear Ms. Bayó:

Enclosed for filing in the subject docket are an original and fifteen copies each of the Rebuttal Testimony of Robert D. Dolan and John Scardino, Jr. on behalf of Florida Power Corporation. 02514-97 02515-97

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in WordPerfect format. Thank you for your assistance in this matter.

Very truly yours,

James A. McGee

JAM/kp
Enclosures

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EAG Dudley
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OTH

CERTIFICATE OF SERVICE
Docket No. 970096-EQ

I HEREBY CERTIFY that a true and correct copy of Rebuttal Testimony of Robert D. Dolan and John Scardino, Jr. has been sent by regular U.S. mail to the following individuals on March 6, 1997:

D. Bruce May
Karen D. Walker
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Attorney

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 970096-EQ

Petition for Expedited Approval of an Agreement to Purchase the Tiger Bay Cogeneration Facility and Terminate Related Purchase Power Contracts

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REBUTTAL TESTIMONY OF

ROBERT D. DOLAN

FLORIDA POWER CORPORATION
DOCKET NO. 970096-EQ

REBUTTAL TESTIMONY OF
ROBERT D. DOLAN

Q. Please state your name and business address.

A. My name is Robert D. Dolan. My business address is Post Office Box 14042, St. Petersburg, Florida 33733.

Q. Have you previously testified in this proceeding?

A. Yes. I filed direct testimony on behalf of Florida Power Corporation ("Florida Power" or "the Company") on January 29, 1997.

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony addresses the contentions of Mr. Randall J. Falkenberg on behalf of the Florida Industrial Power Users Group ("FIPUG"). I will discuss each of the five general conclusions at pages 5 and 6 of his testimony. In the process, I will also respond to some of his more specific points. Mr. John Scardino is also submitting rebuttal to Mr. Falkenberg's testimony on behalf of the Company and I therefore refer to his testimony where appropriate.

In addition, my rebuttal testimony addresses the contentions of Mr. Joseph P. Catasein on behalf of Vastar Gas Marketing, Inc. ("Vastar").

I. REBUTTAL TO FIPUG'S DIRECT TESTIMONY

Q. Please summarize your overall conclusions with respect to Mr. Falkenberg's testimony.

A. Mr. Falkenberg approaches the Tiger Bay acquisition using a conceptual framework that bears no relationship to the actual transaction. He tries to liken this transaction to a traditional power plant purchase which is conceived and justified as a stand-alone project, financed by utility shareholders on a long-term basis using a blend of common equity and long-term debt, carried as an asset on the utility's balance sheet, and then depreciated over the plant's useful life — typically about 30 years. Using this analogy, Mr. Falkenberg seemingly characterizes any advancement of the cost recovery period for the Tiger Bay transaction costs as causing an unacceptable intergenerational inequity.

Mr. Falkenberg's premise is wrong so his conclusion is also wrong. This case does not involve a traditional generation expansion project. Rather, it involves a unique opportunity for Florida Power to cancel five uneconomic power purchase contracts (the "PPAs") which, unlike a traditional plant purchase, ratepayers are already committed to pay for because the PSC has previously found the contracts prudent, but which are projected to cost ratepayers substantiality more than the costs that they otherwise would pay based on current avoided cost projections. As explained in Florida Power's direct testimony, the substantial ratepayer benefit achieved by cancellation could only be achieved now due to a series of fortunate events which may never repeat themselves. It is true that, in the process, the Company will acquire title to, and operating responsibility for, an electric and steam generating unit, but this unit is already part of FPC's generating fleet and ratepayers are already paying the capacity-related costs under the PPAs which were approved by this commission.

As noted in my direct testimony, the net effect of the transaction is to save — not cost — ratepayers as much as $ 2.4 billion. The transaction was structured to maximize savings to ratepayers while protecting the Company against undue risks in raising $445 million in capital. Our proposed a five-year recovery period holds down the financing costs and risks without causing an excessive rate impact. From the sixth year forward ratepayers will realize substantial cost savings under our proposal.

In order to achieve these direct ratepayer savings, Florida Power is willing to support certain annual carrying costs — the annual operation and maintenance cost for the Tiger Bay unit, site lease expenses, property taxes, insurance, and the carrying costs of the deferred taxes — with its existing base rates until such time as its overall cost increases require it to seek an increase in those rates. The Company also does not propose to earn any return on equity on the unrecovered balance of the payment to Tiger Bay during the recovery period.

Mr. Falkenberg, however, believes that the Company can and should do more. He proposes that Florida Power (i) carry the Tiger Bay acquisition cost on its books, (ii) finance the transaction cost on behalf of ratepayers on a long-term basis, and (iii) stretch out the recovery period to achieve what Mr. Falkenberg refers to as revenue neutrality.

The short answer to Mr. Falkenberg is that Florida Power has not pursued this transaction for the benefit of its shareholders. Nor is it proposing to keep any of the transaction benefits for its shareholders. Therefore, it would be inequitable to expect the shareholders to incur any further costs or financing risk to complete this deal. I will elaborate on these points later in my testimony. In addition, Mr. Scardino explains that, if the Company were to finance the transaction on the basis proposed by Mr. Falkenberg, the financing could not be accomplished without potentially jeopardizing the Company's overall credit quality ratings and causing it to incur high capital costs, which would reduce the savings to the ratepayers.

Q. How do you characterize the first of Mr. Falkenberg's five conclusions?

A. In his first conclusion (at page 5), Mr. Falkenberg states that FIPUG would not oppose the Tiger Bay transaction if it were "revenue neutral." His concern is linked purely to the notion of "intergenerational equity." A five-year payback, in his view, is unreasonable on its face. Curiously, he bases his conclusion primarily on the inequity that allegedly would be experienced by residential customers whom FIPUG does not even purport to represent.

Q. Has Mr. Falkenberg made a persuasive demonstration of an intergenerational inequity which would warrant regulatory intervention?

A. In my opinion, he hasn't come close. Mr. Falkenberg's arguments regarding intergenerational equity are misleading. For example, he states that "[t]he ultimate benefit of the $353 million in extra costs will not be fully realized until 29 years into the future." While this statement may create a dramatic impression, it merely reflects the fact that the benefits that are spread out over the years included in the economic analysis will not be <u>fully</u> recognized until the end of the study period. The benefits will start flowing to ratepayers — in a material way — in <u>six</u> years ($38 million). Moreover, they continue in <u>each</u> <u>and</u> <u>every</u> <u>year</u> thereafter.

Q. Is the timing issue which Mr. Falkenberg relies on so heavily unique to the Tiger Bay purchase?

A. No. It is in the nature of QF buyouts, buydowns and renegotiations, as well as many conventional transactions, to have some separation in time between the incurrence of costs and the realization of benefits. The Commission over time and in varying circumstances has allowed some measure of front-end loading for contract costs. This occurs, for example, whenever payments are levelized or accelerated under a QF contract instead of using the alternative value of deferral pricing method. There is nothing necessarily inequitable about recovering the out-of-pocket costs of such a transaction in early years as long as overall benefits can be realized by utility customers. Indeed, Mr. Falkenberg himself concedes (at page 8) that early terminations are justified "in any case where a buy out is more economical than continued purchase under an existing contract." He also acknowledges (at page 10) that "[i]f the cost of the buy out (and replacement power and energy) is lower in present value terms than the remaining contract prices then it could be economical."

There is no question that the Tiger Bay transaction produces substantial ratepayer savings consistent with traditional system planning approaches, as quantified in our direct testimony. However, Mr. Falkenberg uses the term "intergenerational inequity" loosely and as a convenience in an effort to mask these obvious savings.

Q. Is there anything inequitable in the way in which Florida Power is proposing to recover the transaction costs for the Tiger Bay purchase?

A. No, there is not. Equity in ratemaking suggests that benefits and burdens should be fairly, but not necessarily perfectly, matched. This is exactly what Florida Power is proposing in this case. It is unfair to say that a five-year deferral of savings is unreasonable, given the magnitude of those savings and the fact that they would not be realized at all in the absence of the Company's proposal. Five years is not a lengthy period to await such material savings, and it certainly is not a "generation" by any common interpretation of that term.

Q. Mr. Falkenberg mentions your analogy between the Tiger Bay transaction and a home mortgage, and devotes a considerable part of his testimony to so-called "internal rate of return" comparisons between the Tiger Bay arrangement and other "conventional investment opportunities." Do his conclusions have merit?

A. No. Both his assumptions and conclusions are invalid. I used the mortgage analogy in my direct testimony as an intentionally simplified example simply to give some perspective to the mechanics by which savings will be generated for ratepayers under the Tiger Bay transaction. Mr. Falkenberg is trying to create precision in my analogy which was never intended. In doing so, he has painted an incorrect and misleading picture.

Q. Please explain why his conclusions are misleading.

A. Mr. Falkenberg has mixed apples and oranges by comparing an after-tax (or tax free) event (i.e., the Tiger Bay transaction) with other pre-tax events that he regards as "investment alternatives" for the Company's ratepayers (e.g., mutual fund investments). The Tiger Bay savings have no tax consequence for ratepayers because the ratepayers' savings will come in the form of lower costs rather than higher taxable earnings. In contrast, the "investment alternatives" assumed by Mr. Falkenberg typically would yield taxable income. In order to make his numbers at all meaningful, it therefore would be necessary to gross-up the Tiger Bay savings so that those savings are also evaluated on a pre-tax basis.

Q. What happens to Mr. Falkenberg's comparisons if consistent pre-tax numbers are used?

A. Mr. Falkenberg says that a 12.84% return for the Tiger Bay transaction (10.4% diluted for presumed customer growth) should be compared to the opportunity value of an alternative mutual fund investment. When compared on a consistent basis, the Tiger Bay transaction actually compares quite favorably. The 12.84% return calculated by Mr. Falkenberg is equivalent to a 15.1% return on a pre-tax basis using 15% personal income tax rate, and a 17.8% return using the next incremental federal tax rate of 28%.

Q. Is the 15.1% pre-tax return on the Tiger Bay transaction a valid percentage to use for comparison to other "investment alternatives"?

A. No. Even the 15.1% return is understated because Mr. Falkenberg has used the erroneous assumption that ratepayers will begin paying the annual non-fuel operating costs of the Tiger Bay project immediately in 1997. As I have already explained, we do not expect the ratepayers to be asked to pay higher base rates for several years, and perhaps not for many years. Therefore, it is more appropriate to use the scenario shown in my Exhibit No. ____ (RDD-4, page 2 of 4) in which base rate recovery of the Tiger Bay operating costs does not begin until after 2002.

Q. How would the calculation of the return to ratepayers from the Tiger Bay transaction change when base rate recovery is assumed to begin in 2003?

A. Using this assumption, the return to ratepayers on an equivalent pre-tax basis would be 18.2% at a personal income tax rate of 15% and 21.5% at a personal income tax rate of 28%. In the context of Mr. Falkenberg's analysis, ratepayers would need to make a single financial investment or a series of such investments yielding 18.2% or more from 1997 through 2025 in order to match this return. For comparison purposes, the current yield on a 30-year Treasury Bond is only 6.86%. Moreover, in the event that Florida Power actually begins recovering the base rate costs later than 2003, the return to ratepayers from the Tiger Bay transaction would be increased still further.

Q. Mr. Falkenberg has attempted to liken this case (at page 14) to the Orlando Cogen case in which the Commission raised an intergenerational concern. Are these cases similar?

A. No. In contrast to the Orlando Cogen case, where the Company proposed to buy out the last ten years of a thirty-year contract and the ratepayer benefits were not expected to be realized until after the seventeenth year, the ratepayers here will realize the transaction savings beginning in the sixth year. There is simply no basis for comparison between these two cases.

Q. How do you respond to Mr. Falkenberg's proposal that the Commission address the alleged "intergenerational inequity" issue by allowing the Tiger Bay purchase to go forward, but only on a so-called "revenue neutral" cost recovery basis?

A. Mr. Falkenberg is trying to write a deal that does not exist. The choice here is between two clear alternatives: (1) Case 1, consisting of a status quo continuation of the existing PPAs for their remaining lives; and (2) Case 2, consisting of the transaction which Florida Power and Tiger Bay were able to negotiate after considerable effort and which this Commission is being asked to consider.

As shown in our direct testimony, Case 2 has clearly identified ratepayer benefits following a relatively short payout period. After the initial payback period, ratepayers will realize annual savings ranging from about \$38 million to \$206 million. Mr. Falkenberg does not refute the savings in year six and beyond, but he proposes to give up those savings on behalf of his client and other customers because he would prefer to introduce his own alternative — Case 3 (Exhibit No. _____ RJF-3) — which would attempt to achieve the same ratepayer benefits as Case 2, but would impose a financing burden on the Company at unacceptably high costs and risks. The fact of the matter is that Case 3 has never been "on the table," i.e., Case 3 was not an alternative which the Company's management will consider or endorse. In short, Florida Power is not asking the Commission to consider any such alternative cost recovery arrangement in this case.

Q. Mr. Falkenberg suggests (at pages 10-11) that there may be some inherent benefit in continuing a contract that is based on a coal-fired proxy unit, rather than terminating it. Please respond.

A. Although Mr. Falkenberg puts this point forth as a general proposition, he makes no effort to connect his point to the Tiger Bay transaction. He willingly concedes that the Commission should not be reluctant to accept termination of a contract that is based on a coal proxy so long as there are "clear cut economic advantages." Florida Power has demonstrated that there will, in fact, be "clear cut economic advantages" associated with the Tiger Bay termination. These advantages will be achieved even assuming that FPC takes over the existing Tiger Bay gas supply contract. The Company has also shown that the advantages of terminating the Tiger Bay PPAs will only be <u>improved</u> if the assumed gas prices are lowered in the future by means of a renegotiation or restructuring of the gas contract. Mr. Falkenberg tries to create an inference that continuation of a contract based on coal proxy pricing necessarily is a good thing, but he offers no concrete evidence to prove that it is a good thing in this case. In fact, this Commission has recognized the virtues of having a diverse fuel mix. This transaction will actually contribute to that goal by better balancing FPC's portfolio between coal (both actual units and QF-coal based PPAs) and natural gas.

Q. How do you respond to Mr. Falkenberg's second major point -- i.e., that the real beneficiary of this transaction is Florida Power?

A. I could not disagree more. Florida Power entered into this transaction to save as much as $ 2.4 billion for its customers. It would have been contrary to the ratepayers' interests for Florida Power not to have jumped at this one-of-a-kind opportunity. Indeed, as I have already noted, Florida

Power will incur substantial initial annual costs in connection with the Tiger Bay transaction — but it realizes none of the financial benefits. Thus, this was not a transaction that was sought out to improve shareholder earnings. It was, to repeat, part of an ongoing effort to lower ratepayer costs by mitigating the high sunk costs of long-term uneconomic power purchase arrangements — costs which flow through directly to the customers under the Commission's accepted QF pricing mechanism.

As explained in my direct testimony, the phenomenon of QF buyouts, buydowns and renegotiations is occurring nationally, with the active support of both federal and state regulators. Florida Power is not asking to keep one dime of the resulting savings — unlike the situation in California, for example, where utilities are allowed to divert a substantial share of their QF buyout benefits to their shareholders (i.e., 10% in California).

It may be that avoiding existing high-priced power purchase commitments will assist the Company in meeting future competitive challenges (a point which can only be debated at this time), but this will occur, if at all, because such initiatives result in lower customer rates — a result that clearly benefits all customers. Indeed, to the extent that any utility is able to hold down its rates and thereby remain competitive, its customers will benefit.

Q. Mr. Falkenberg claims (at page 29) that Florida Power's current effort to reduce prices in the long-term is anticompetitive. Do you agree?

A. Absolutely not. While Florida Power, of course, wants to remain a viable, competitive utility, it is grossly unfair for Mr. Falkenberg to claim that the sole or primary beneficiary of such competitive strength would be the Company and not its customers, or that Florida Power's proposed ratemaking treatment for the Tiger Bay transaction will be anticompetitive. The witness' vague assertion of some potential advantage, at some point in time, in relation to some unidentified competitor is a red herring which scarcely warrants comment. By seeking to serve as a more efficient, low cost supplier, Florida Power is acting in a procompetitive manner. After all, the primary goal of economic competition is to lower prices to consumers.

Q. Does the Company agree that this transaction will hinder economic development?

A. No, to the contrary. By lowering rates over the medium- and long-terms, this transaction actually should help to promote such development. Our experience shows that businesses make decisions on where to locate or expand based on long-term analyses of the business climate, not simply on where it will be cheapest to operate for the next several years. This transaction will result in medium- and long-term cost savings on the Florida Power system and should actually encourage growth as compared to the <u>status quo</u>, or as compared to a scheme that extends recovery over a longer period and therefore reduces the amount of ratepayer savings.

Q. Mr. Falkenberg's third general conclusion is that the Tiger Bay transaction will increase fuel costs to the detriment of high load factor customers. Do you agree?

A. We have not hidden the fact that, in order to achieve the substantial ratepayer savings associated with the Tiger Bay transaction, Florida Power had to accept a relatively high-priced gas supply contract. I explained in my direct testimony that the Company intends to pursue a buyout of that gas contract. If we are successful, the overall benefits of the transaction will be even more significant than we have assumed for purposes of our testimony in this case. If not, then as Mr. Falkenberg asserts, Florida Power will experience an increase in its energy (i.e., fuel) costs as compared with the fuel costs under the PPAs as they exist today. As I have also explained, however, the capacity-related cost savings will more than offset the relatively modest fuel cost increase.

Actually, I find it somewhat ironic for FIPUG to argue that the Company's proposal in this case will disadvantage high load factor customers relative to other customer classes, because it could be argued that there is, on the contrary, an implicit benefit for high load factor customers under the Company's methodology. This is because Florida Power is proposing to recover all of the Tiger Bay transaction costs through the capacity cost recovery ("CCR") clause, instead of assigning a portion of the transaction costs to the fuel adjustment clause ("FAC"). Mr. Scardino's direct testimony devoted considerable attention to the reasons why the Company considers this approach to be appropriate. To summarize very briefly, he concluded that this methodology is consistent with Commission precedent and is an appropriate way to match, as closely as possible, capacity-related benefits with capacity-related costs. That matching principle could only be accomplished more completely by putting more than 100 percent of the cost recovery dollars into the CCR — i.e., moving some fuel-related dollars from the FAC into the CCR. Florida Power has not proposed to shift the fuel-related dollars in this manner.

Q. Mr. Falkenberg contends in his fourth conclusion that the Tiger Bay acquisition is no different than any other case in which Florida Power buys or builds a generator, and that, therefore, the Company should be required to capitalize the generator-related costs and recover them in a more "conventional" way. Do you agree?

A. No As I explained previously, this certainly is not a conventional power plant purchase. This is not a "new" unit as inferred by Mr. Falkenberg (at page 24), nor was Florida Power in the market for a new unit, and it has not agreed to carry a new plant on its balance sheet. Mr. Scardino's rebuttal testimony explains why it would not make sense for the Company to carry this asset on its balance sheet, and why such treatment would be inconsistent with the premises under which Florida Power entered into this transaction.

I would like to add just one point in response to Mr. Falkenberg's suggestion that the Commission should review the prudence of this arrangement in a future rate case. We are asking the Commission to judge the prudence of the transaction now – before it is consummated – and to authorize the proposed rate recovery now because the agreement permits the Company to avoid the deal if it does not receive acceptable rate treatment. It would be unduly risky to incur these substantial transaction costs without the rate certainty which the Company is looking for in this docket. I should also note that the need for the Tiger Bay capacity and energy has already been approved by this Commission. Thus, the ultimate recovery of costs associated with these contracts is not in doubt. The only question is whether FPC's proposal to reduce them significantly through this buyout should be approved.

Q. Mr. Falkenberg says (at page 31) that, if the Commission adopts the Company's proposal, it should separately investigate the continued viability of existing DSM programs. Do you have any comment on that proposal?

A. It is entirely irrelevant to the question before the Commission in this case. The cost effectiveness of DSM is not at issue. The current DSM programs exist because the Commission has found them to be cost effective for ratepayers. Similarly, the Tiger Bay transaction should be approved because it is good for ratepayers. To suggest that these separate, beneficial ratepayer initiatives should be traded off against each other is because it is good for ratepayers. To suggest that these separate, beneficial ratepayer initiatives should be traded off against each other is nonsensical. They are not alternatives. Tiger Bay is already providing capacity to Florida Power's ratepayers and deleting a DSM program will require the addition of new capacity.

Q. Mr. Falkenberg's last major suggestion is that, if the Commission approves the Company's "proposal," it should "allow" the Company to continue to charge ratepayers on the basis of the current PPAs and defer any unrecovered termination charges. Do you have an opinion on this suggestion?

A. Mr. Scardino discusses this suggestion in his rebuttal, but I should add that Mr. Falkenberg is not referring to anything FPC has proposed. Rather, he has completely rewritten the Company's proposal. Florida Power is not "proposing" the deferred recovery scheme that Mr. Falkenberg suggests and is not asking the Commission to "allow" it to use that scheme. Nor is the Company willing to adopt such a scheme because Mr. Falkenberg's suggestion would force the Company to accept risks that were not part of the deal that the Commission is being asked to review.

II. REBUTTAL TO VASTAR'S DIRECT TESTIMONY

Q. Vastar's witness Catasein claims in his direct testimony (at page 5) that the Company's purchase of the Tiger Bay facility and assumption of the

gas supply contract between Vastar and Tiger Bay could have an impact on the gas supply contract. Do you agree?

A. No. Mr. Catasein's testimony seems to assume that Florida Power does not intend to abide by and perform to the terms and provisions of the gas supply contract as written. This is not the case, and Mr. Catasein admits in his testimony that the Company has represented in this proceeding that it seeks no alteration of, and will perform under, that contract. Indeed, the Tiger Bay purchase agreement and the assignment and assumption agreement under which the project contracts will be acquired by Florida Power (including the gas supply contract), contemplate no alterations to those project contracts.

Q. Mr. Catasein expresses concern (at pages 7-8) that the termination of the Tiger Bay PPAs will have an impact on the gas supply contract with respect to volumes of gas sold, the price of gas and payment mechanism. Is he correct?

A. No. None of the provisions of the gas supply contract dealing with the substantive terms addressed by Mr. Catasein will be automatically changed as a result of the termination of the PPAs. Each of these contract provisions can and will be performed by Florida Power after the PPAs are terminated. However, there is nothing to prevent Vastar and Florida Power from mutually agreeing to alter the terms of the gas supply contracts, and the Company has advised Vastar that it is willing to make such reasonable technical changes as Vastar may desire to reflect the termination of the PPAs and the termination of Tiger Bay's permanent financing arrangements for the Tiger Bay facility.

Q. Will Vastar be adversely affected by the substitution of Florida Power for Tiger Bay as primary obligor under the gas supply contract?

A. Clearly not. Tiger Bay's only assets consist of the Tiger Bay facility and related contracts, primarily the PPAs, all of which are heavily encumbered by liens securing the permanent financing of the facility's construction cost. Tiger Bay's primary source of revenue and income to meet its obligations to Vastar (other than relatively small steam sales revenues) is Florida Power's payments under the PPAs. After (i) the purchase of the Tiger Bay facility and the assignment to Florida Power of the gas supply contract, and (ii) the resulting retirement of Tiger Bay's debt and release of related liens, Vastar can look directly to Florida Power for payment.

Q. Is there any reason why the Commission should delay its decision on the merits of Florida Power's proposal in this case until Vastar consents to the assignment of the gas supply contract to, and its assumption by, Florida Power?

A. No, there is not. To the contrary, if the Commission did so delay its decision it would jeopardize the entire Tiger Bay transaction. Even if the transaction could still be consummated given the delay, such a decision would provide Vastar great leverage to exact new and more favorable terms and conditions for the sale of gas under the gas supply contract--leverage to which Vastar has no contractual or other right. If the

Commission were to delay its decision until Vastar consented to the assignment of the gas supply contract, the Tiger Bay transaction would effectively be Vastar's hostage.

Q. Explain why delay by the Commission until Vastar consents to the assignment of the gas supply contract would provide Vastar such leverage.

A. The Tiger Bay purchase agreement gives either party the right to terminate the contemplated transaction if the Commission has not issued an order approving Florida Power's proposal for recovery of the purchase price in its rates by July 1, 1997. Tiger Bay insisted on having this termination right because delay in the closing would reduce the value of the transaction to it. Even though the gas supply contract expressly provides that Vastar will not unreasonably withhold its consent to assignment, and there is no basis upon which Vastar could reasonably withhold such consent, if Vastar does in fact withhold its consent, Florida Power and Tiger Bay would likely seek relief in the civil court system. Vastar's own petition to intervene in this proceeding points out that the Commission has no jurisdiction to interpret the gas supply contract or to resolve disputes arising under it. It would be practically impossible for Florida Power to get relief in court by July 1, 1997 if Vastar refused to consent, and thus if the Commission delayed action until Vastar either gives its consent or is ordered by a court to do so, Tiger Bay would have the right to walk away from the transaction. If the Commission delays its action as Vastar

requests, there is good reason to believe that the ratepayer benefits of the Tiger Bay transaction will be lost.

Q. Does that conclude your rebuttal testimony?

A. Yes.