

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO. UNDOCKETED
REGIONAL TRANSMISSION :
ORGANIZATION WORKSHOP :

CERTIFIED ORIGINAL

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PROCEEDINGS: WORKSHOP

BEFORE: CHAIRMAN JOE GARCIA
COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER E. LEON JACOBS, JR.
COMMISSION LILA A. JABER

DATE: Friday, March 31, 2000

TIME: Commenced at 10:15 a.m.
Concluded at 1:00 p.m.

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

REPORTED BY: JOY KELLY, RPR
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100 Salem Court
Tallahassee, Florida

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1 **IN ATTENDANCE:**

2 **ROBERT ELIAS, FPSC Division of Legal**
3 **Services.**

4 **JOE JENKINS, Director, BOB TRAPP and ROLAND**
5 **FLOYD, FPSC Division of Electric & Gas.**

6 **MARTY MENNES, Florida Power & Light**

7 **CLIFFORD M. NAEVE, Florida Power & Light**

8 **BILL WALKER, Florida Power & Light**

9 **JAMES P. FAMA, Florida Power Corporation**

10 **VINNY DOLAN, Florida Power Corporation**

11 **ROBERT WILLIAMS, FMPA**

12 **GREG RAMON, Tampa Electric**

13 **FRED BRYANT, FMPA**

14 **BRUCE EDELSON, Southern Company, Atlanta**

15 **TRACY DANESE, JEA**

16 **PAUL CLARK, City of Tallahassee**

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P R O C E E D I N G S

(Workshop convened at 10:15 a.m.)

CHAIRMAN GARCIA: All right. We're going to get started.

First of all, I want to welcome you all here and thank you for your work on this thus far and how we have been moving forward.

We've got a sign-up sheet that Staff has asked to make sure that all of you sign up so we know who is here. We're looking forward to a very enlightening meeting.

Clearly, we are, again, very appreciative of the work that's been done thus far, and the movement from all sides to try to do something in the best interest of our state and the consumers here. And the spirit, I hope, will be one that continues as the work gets a little bit more tense and more difficult.

With that, I'd like Susan to say a few quick words since she's been following that, and then we'll hand it off to Staff.

COMMISSIONER CLARK: Mr. Chairman, like you, I'm happy everyone is here. And I guess my goal in this workshop is to -- sort of a preview of what we can expect will happen in Atlanta.

It's my understanding that there's not yet

1 an agenda out from FERC. I want to disclose that I
2 have been in touch with Mark Shafer, I think is his
3 name. And what I have indicated to him is that I
4 would like to see an opportunity to make a
5 presentation on what's happening in Florida. I have
6 indicated that I would be happy to do that but, of
7 course, Mr. Chairman, if you are there, I will let you
8 do it. And then I would expect that we would have
9 some presentation from the people who have been
10 working on the RTO for Florida, what has taken place
11 so far.

12 And then I thought it would be helpful for
13 us to hear what else is happening around the
14 southeast. Because, certainly, there are other states
15 that will be there and it will be interesting to hear
16 what direction they are heading in. And then I
17 indicated to them that I thought the next day would be
18 well spent if the committees that I understand have
19 been formed to look at putting together a Florida
20 proposal could meet and, perhaps, have FERC people
21 there to help them in their meetings or answer
22 questions.

23 I did hear from Mark that they were
24 proposing something different where there would be
25 working groups the next day, but it would not be

1 Florida-specific working groups. And I specifically
2 told them that I didn't think that would be helpful.
3 I didn't see where getting together with other states
4 in the southeast who maybe are going in different
5 directions would be beneficial to us being there -- to
6 the people who would be there.

7 I guess I'm interested in hearing your
8 reaction to how the agenda should go in Atlanta. I'm
9 also -- I would be interested in hearing any
10 information you have about what FERC is expecting or
11 what you would like to accomplish at that meeting, and
12 then anything you think the Commission needs to be
13 doing at that meeting or afterwards.

14 Mr. Chairman, I can't think of any other
15 preliminary matters. I understand that at least two
16 other Commissioners are going to be there,
17 Commissioner Jaber and Commissioner Deason. So we're
18 going to be very interested in what happens. And we'd
19 like to hear from you as to the way you think that
20 workshop will be beneficial. Because that is what I
21 understand FERC is interested in. This is to
22 facilitate solutions, keeping in mind the October 15th
23 deadline for filing with FERC. Thanks.

24 **CHAIRMAN GARCIA:** Bob.

25 **MR. TRAPP:** Commissioners, as you've already

1 noted, this workshop has been scheduled today to brief
2 you on comments that are going to be presented in
3 Atlanta to the FERC and FERC staff about the
4 development of a regional transmission organization in
5 Florida.

6 You're going to hear today from Florida
7 Power Corporation first, who's going to speak to the
8 organization of the stakeholders group that has been
9 formed to pursue this task. You're going to hear from
10 Florida Power & Light who has a proposal for a
11 for-profit TRANSCO that, I believe, is being discussed
12 by the parties.

13 The last is a relatively new development,
14 and the task force has been working for a couple of
15 weeks now to try to flesh it out. We hope to hear
16 what the current thinking is on that proposal.

17 Then we're going to entertain comments from
18 other interested parties. So far we've only received
19 written comments from the City of Tallahassee. If
20 anyone else has comments, we'd certainly love to hear
21 them at that time.

22 And then we intend to close by discussing
23 the schedule, the further activities in this thing, in
24 particular in light with the FERC Order 2000. Staff
25 has put forth a proposed schedule for this Commission

1 to review the final product that we hope ultimately
2 comes from this process.

3 Before we go forward, though, I think it's
4 important that we recognize that when we started this
5 process over a year and a half ago we went in to try
6 to identify what the issues were. And we identified
7 four topical areas of issues and then a general area
8 of issues.

9 And so I would recommend that you listen
10 intently today to how the stakeholders' group intends
11 to address the issues of governance of an RTO, the
12 pricing of transmission services provided by an RTO,
13 and then the operations and planning of an RTO.

14 And then the final issue, the one that I
15 think is probably most important to this Commission,
16 is what benefits can we realize from the formation of
17 an RTO in Florida.

18 And with that, I'd like to turn it over now
19 to Florida Power Corporation. Vinny Dolan, I guess
20 will present where they are with the stakeholders'
21 group.

22 **MR. DOLAN:** Thank you, Bob.

23 **COMMISSIONER CLARK:** Mr. Chairman, can I
24 make a comment initially, and reading Tallahassee's
25 comments reminded me that I need to say something.

1 We are well aware of the fact that Florida
2 just doesn't consist of the peninsula, and at least
3 the Panhandle will likely be affected by what happens
4 in -- particularly in the Southern Company's area.

5 One of the things that has been suggested is
6 that the states in the southeast area get together
7 with industry and stakeholders in the southeast area
8 at some workshops or some sort of other meeting so,
9 collectively, the regulators can hear from those
10 stakeholders as to what they are planning to do for
11 the southeast. And we would be interested in how it
12 would affect the Panhandle. And that is something I
13 hope we can talk about when we go to the SEARUC
14 summit. I did have a opportunity to talk to the
15 people from Gulf Power who indicated that they think
16 that might be beneficial.

17 So I think we have sometimes focused on
18 Peninsular Florida, and I don't want to imply that we
19 don't know that there are issues that the Panhandle
20 will be affected by and we need to participate in
21 that.

22 **MR. DOLAN:** Mr. Chairman, Commissioners,
23 thank you.

24 What I would like to do is just -- before I
25 turn it over to Florida Power & Light is to talk about

1 the TRANSCO proposal, which is really a proposal that
2 is subsumed, you know, where Florida Power
3 Corporation's proposal was on the ISA several months
4 ago. So we, really -- I think we have a consensus
5 proposal that the group is currently working on.

6 I thought it would be helpful to offer just
7 a few comments regarding where we have been and how
8 the process has unfolded since we were last before the
9 full Commission. And you will remember that that was
10 back in September 1999, and at that point we had four
11 competing proposals that were offered to the
12 Commission relative to Florida RTO.

13 I think it's fair to say we had limited
14 consensus at that point. Although the one thing that
15 the groups did focus on is a continuing belief that a
16 Florida solution, Peninsular Florida solution is the
17 right initial solution for this group to strive for.

18 And in the interim, around that same time,
19 the time when our company merged with Carolina Power
20 and Light, and that obviously that had an impact on
21 our view relative to RTOs. And, in addition, that was
22 a time when the Notice of Proposed of Rulemaking was
23 out for comments with the FERC. They had not issued
24 their final order.

25 So Florida Power Corp asked this Commission

1 to delay any formal action or recommendation regarding
2 those four proposals and allow us to have some time to
3 see if we could help the group to move to a greater
4 consensus than where we left it on that day. So we
5 began a series of individual meetings with,
6 essentially, all the key stakeholders in the process
7 that centered around a set of principles that I think
8 are largely intact, in some changes you're going to
9 hear from FPL today. But I think that was the
10 starting point of what is continuing to be a growing
11 consensus around a Florida solution.

12 We then set out to have a series of full
13 open meetings, all stakeholders welcome, that we held
14 in Tampa. We had two or three of those. And in the
15 interim during that time FERC issued their final order
16 in December relative to RTOs, I think, really, with
17 two main points.

18 That their objective was to have all
19 transmission owners place their assets under the
20 control of an RTO, and that they required, as
21 Commission Clark said, that by October 15th of this
22 year, all public utilities must either file a proposal
23 with the FERC describing -- for an RTO, or a
24 description of their efforts to form an RTO.

25 So we are, obviously, sensitive to that date

1 that lies out there in the future. And I think the
2 group is focused on trying to achieve a solution this
3 year.

4 There were two, I think, key meetings that
5 took place earlier this year. One was in late January
6 in Tampa where, at that point, I feel like with some
7 exceptions, minor exceptions, we really had a fairly
8 high degree of consensus among the stakeholders on a
9 set of principles relative to the Florida RTO that
10 Florida Power had advanced. And I think it's fair to
11 say at that point that Florida Power & Light Company
12 was still in the process of considering their position
13 relative to an RTO. And so they were with us but they
14 were still going through kind of their internal
15 decision-making as far as what their ultimate decision
16 would be.

17 And I think shortly after that, and leading
18 up to what I think was really the most important
19 meeting we had, which was on March 9th, it became
20 known that Florida Power & Light supported a
21 for-profit TRANSCO as really the top layer of this
22 Florida RTO organization. And I think you're going to
23 hear from Marty and others on that this morning.

24 And in addition, Florida Power Corporation
25 advanced a Memorandum of Understanding which was

1 really intended to set out a process on how the group
2 could work together through the course of the year
3 2000 to reach consensus on our proposal. And it set
4 out more specifically some working committees on
5 tariffs and pricing, planning and operations,
6 governance, and also the continuation of what we were
7 calling our steering committee to continue to move
8 this process forward.

9 I'm happy to tell you these committees have
10 met at least once already. Some more than once. They
11 will be meeting again next week in advance of the
12 meeting in Atlanta. And while it's in the early
13 stages and it's fair to say there's obviously quite a
14 bit of the detail that remains to be flushed out in
15 this proposal, I think we have a group that's focused
16 on a common goal. And I think that we're well
17 positioned to try to get this together and drive a
18 solution that's going to make sense for all of
19 Peninsular Florida.

20 So that's essentially where we are. I'd be
21 happy to answer any questions about the historical,
22 but if there are none, I would turn it over to Marty
23 Mennes of FPL to talk about the specifics of the
24 current proposal.

25 **MR. MENNES:** Thank you, Vinny.

1 On Page 5 of your handout it starts off,
2 "Why a TRANSCO Makes Sense for Florida." I think it's
3 important to note that we did -- and Vinny gave you an
4 excellent history of where we have been over the last
5 year -- we presented this about a month ago, or
6 probably less than that, to the stakeholders'
7 meetings, as we call them, in Tampa. This is Florida
8 Power & Light's proposal that we have been working on.
9 And we've also had additional, the one additional
10 meeting for the operating people, the planning people
11 and the pricing people.

12 I think when you look at this proposal on
13 the front sheet, if you just take the bullets, it
14 answers what most of the stakeholders have been very
15 concerned about and why we looked at a TRANSCO.

16 The first bullet talks about the
17 independence of the organization and the focus and the
18 need to serve the transmission customers.

19 Anytime we got involved with dealing with
20 any open forums or any people, the independence issue
21 became the -- or one of the big, huge, large issues.
22 And underneath that you have the five -- I guess, the
23 four type groupings that Bob Trapp alluded to of how
24 and what are you going to do about the governance,
25 pricing, organization and planning. So we've taken

1 this TRANSCO to make it this independent entity.

2 The other thing I think is important that
3 Florida Power & Light is still looking at the best way
4 to set this up, but we're making this entity -- or we
5 perceive this structure, if you would, so that others
6 can go ahead, and this TRANSCO, then, can act as the
7 RTO for any type of the four main issue areas. We'll
8 call that, you know, the governance, pricing,
9 operation and planning operation -- we'll just refer
10 to those from now on as the issue areas, as Bob said.

11 But this TRANSCO could then act as the RTO
12 for these type of issues. They could transfer their
13 operational control over to the TRANSCO for their
14 facilities.

15 And the TRANSCO has an incentive to be, we
16 feel, very cost efficient. It's a single entity that
17 leases or owns and/or operates all of these
18 facilities. The TRANSCO will be a very a
19 customer-oriented organization, will understand who
20 the customers are, what the needs are of the
21 customers. The needs to expand facilities to meet the
22 customers' needs. And finally, of course, the TRANSCO
23 will have one of its major objectives, if not the big
24 objective, to provide reliable service.

25 We feel the TRANSCO structure provides an

1 effective means to raise capital for construction of
2 new transmission assets, to improve system assets and
3 the system reliability which is needed.

4 So these are the main things and areas that
5 we looked at, the TRANSCO.

6 The remaining pages address basic
7 principles. These principles were developed, as Vinny
8 alluded to, by the stakeholders as we went through the
9 four main areas. We took these principles and have
10 worked on them. Actually the principles that are --

11 **COMMISSIONER DEASON:** Excuse me just for a
12 second.

13 **MR. MENNES:** Sure.

14 **COMMISSIONER DEASON:** Are we going to take
15 questions during presentation or do you want us to
16 hold questions until the end, Mr. Chairman?

17 **CHAIRMAN GARCIA:** I think we'll take them
18 during the presentation.

19 **MR. MENNES:** Probably during. I think it
20 would be better, might be fresher.

21 **COMMISSIONER DEASON:** Okay. Back to the
22 previous page, then. Your very last bullet point
23 there talking about the ability to raise capital in a
24 effective manner.

25 I'm sure these are things that we're going

1 to talk about later on when we start talking more
2 about the specifics, and so I'm not looking for a
3 definitive answer now. But when you start talking
4 about raising capital, it seems to me that all of that
5 kind of depends on what the financial structure of
6 this new entity is to be. And, obviously, we're
7 looking at transmission assets being transferred over,
8 but is there going to be a certain amount of debt that
9 transfers over? Is it strictly going to be equity?
10 If it is going to be debt, is it going to be some type
11 of existing debt from the existing regulated
12 utilities?

13 And I'm not looking -- these are the type
14 things -- these are questions we're going to have to
15 be asking, and, obviously, we want an entity that's
16 able to raise capital when it's needed, but we don't
17 want to an entity that happens to be too strong
18 financially so that it weakens what's left behind.
19 But at the same time you don't want to a new entity to
20 be trying to raise capital and not be able to do so.
21 It seems like a lot of what we're going to have to do
22 is try to reach some type of a balance. And I assume
23 these are things you all are going to be taking a look
24 at and hopefully we'll have some input into that
25 process.

1 **MR. NAEVE:** Yes. We are evaluating a
2 variety of factors in trying to determine how do you
3 structure the TRANSCO. And one of the most important
4 factors, of course, is we want an entity that's
5 financially strong, and it does have access to the
6 capital for new construction and expansion and
7 reliability.

8 One of the -- this is one of the reasons we
9 decided we preferred a TRANSCO over an ISO, because
10 ISOs generally do not have access to the capital
11 markets. They generally cannot build facilities
12 themselves but rely on the transmission owners to
13 build the facilities because they don't own assets.
14 ISOs are usually not-for-profit. So we wanted a
15 for-profit corporation that had publicly traded stock,
16 hopefully, and could go into the capital markets and
17 raise both debt and equity to finance facilities.

18 And we will be -- depending on how we end up
19 structuring this, because we're evaluating a variety
20 of proposals, we will be transferring some debt to the
21 new company, and --

22 **COMMISSIONER DEASON:** You anticipate there
23 will be a transfer of debt?

24 **MR. NAEVE:** I expect there will be some,
25 yes.

1 **COMMISSIONER DEASON:** Okay. Thank you.

2 **COMMISSIONER CLARK:** I want to ask the
3 question, provide reliable service. Do you anticipate
4 that this entity would be the area reliability
5 organization or would that be separate?

6 **MR. MENNES:** We're addressing all of these,
7 Susan, this collaborative process, if you would. The
8 way we perceive it is the responsibility for such
9 things as security coordination, communication,
10 coordination of transmission, outages and all, would
11 all be the responsibility of the TRANSCO.

12 The Reliability Council, as we now know it,
13 the FRCC, would work with the NARUC, or whatever it
14 is. That organization would still exist to some kind
15 of standard setter. And the standard setter would
16 still act to go ahead and tell various -- at least
17 this is my opinion -- various -- all of the market
18 participants would be developing their standards. How
19 do you work with the OASIS? How do marketers do
20 various things when it affects not only marketers, but
21 when it affects the transmission reliability.

22 The engineering folks and standard settings
23 there would all still be done through the Reliability
24 Council. And the implementation of some of these type
25 national standards, or maybe the penalties that would

1 accompany these, would then be the responsibility of
2 the TRANSCO as the implementer.

3 **MR. NAEVE:** And they would be the security
4 coordinator.

5 **COMMISSIONER CLARK:** I'm sorry?

6 **MR. NAEVE:** The TRANSCO would be the
7 security coordinator for the state.

8 **COMMISSIONER JACOBS:** One of the critical
9 aspects of that is there will be moments when the
10 balancing between the reliability function and the
11 economic interest will be very important. Will that
12 be purely in the hands of the TRANSCO or the governing
13 body, a standard set -- who will be on board and at
14 the helm when that critical balancing decision has to
15 take place?

16 **MR. MENNES:** It will be the TRANSCO's
17 responsibility to act -- as we now look at a security
18 coordinator -- take control of all of those that have
19 not only put their assets into, but turned over the
20 operation and control of their transmission system.
21 And it will act, as we said, just like the security
22 coordinator does right now, it will have that control.

23 **COMMISSIONER JACOBS:** Okay.

24 **MR. WALKER:** The Commission still has
25 jurisdiction over reliability, though, so that would

1 not change.

2 **MR. MENNES:** We're talking operational
3 control here.

4 And there's one thing I really need to make
5 clear before -- a lot of the folks in the back may or
6 may not disagree with me. We're in a process right
7 now, and what you see now as we go through some of
8 these principles, they will answer some of these
9 questions you all have brought up -- but what's
10 important to note is that we have broken down the four
11 issues now into three groups. We're going to address
12 planning and operations as one group, pricing as one
13 group, and governance as another group, in a
14 collaborative process.

15 And we have put -- from the principles that
16 you have here, with the meetings we've already had,
17 just quit a bit of more information under each one of
18 these principles. Issues we have to figure out how to
19 decide.

20 The group meetings have been all inclusive,
21 a large number of people. I think everybody in the
22 group understands there's a tremendous amount of items
23 there still to go and certainly how does this relate
24 to the FRCC. Exactly how the OASIS functions, and all
25 of these issues still -- we're prepared, and are

1 working as a stakeholder group to resolve these
2 issues.

3 **COMMISSIONER JABER:** In light of the entire
4 discussion on your second bullet you said, "A TRANSCO
5 can act as the RTO for all transmission owners that
6 choose to transfer operational control."

7 If not all of the transmission owners
8 transfer operational control, then how effective can
9 we be in maintaining reliability and addressing the
10 concerns that Commissioner Deason asked you about with
11 respect to raising capital?

12 **MR. MENNES:** That's a good question. That
13 was brought up at our last operating meeting. We're
14 going to have to really address that. It is very
15 important.

16 I think there are certain guidelines that we
17 have right now, working with the Reliability Councils
18 and NERC, and one of them is how the security
19 coordinator acts and the accountabilities, if you
20 would, of that overall security coordination.

21 And right now the industry themselves, at
22 the actual NERC level, is trying to address such
23 issues as that. You know, what happens if there's
24 holes? What do you need to be to be a security
25 coordinator? Do all entities have to have their, if

1 you would, transmission under the jurisdiction of a
2 security coordinator? The answer really comes back --
3 as far as NERC is concerned, the answer, of course, is
4 yes. But the issue is can NERC, or anybody else, tell
5 somebody that they have to do that? And right now the
6 answer is no. There is no clout that NERC really has
7 to tell anybody to do anything.

8 **COMMISSIONER JABER:** How can you move
9 forward without knowing the answer to that question?
10 It seems pivotal to me that you need to have
11 everyone's involvement. Maybe not. I could be wrong.

12 **MR. NAEVE:** Could I make a footnote to what
13 Marty said. Let me elaborate on that a little bit .

14 The first point is that this issue is
15 identical whether you're talking about a TRANSCO or an
16 ISO. The FERC Order 2000 has directed investor-owned
17 utilities -- and FERC jurisdictional utilities to
18 contribute their assets to an RTO. FERC doesn't have
19 jurisdiction over public utilities, so, consequently,
20 you may have holes where the RTO is a TRANSCO or is an
21 ISO. The issue is the same.

22 Secondly, when we talk about transferring
23 control, there are really two ways that that might
24 happen. And the first is that the owner of a
25 transmission asset may actually contribute the asset

1 to the TRANSCO. So the TRANSCO acquires the asset,
2 owns the asset, becomes part of their system. And we
3 would hope that everybody would do that. Just like
4 FPL is proposing to transfer their assets to the
5 TRANSCO so the TRANSCO would own them. We hope that
6 every other transmission owner in Florida would do the
7 same thing. But we recognize, for a variety of
8 reasons, some of them may not choose to do that.

9 With respect to those who have not chosen to
10 do that, the TRANSCO, nonetheless, will offer RTO
11 services or ISO services to those other entities so
12 they can transfer control over their assets to the
13 TRANSCO while retaining ownership, just like you would
14 if they were just purely an ISO.

15 So hopefully the TRANSCO will own assets for
16 most of the systems in Florida. And for the other
17 systems that don't choose to actually sell or
18 contribute their assets for a stake in the ownership
19 of the TRANSCO, they, in turn, can take RTO service
20 and transfer control to the TRANSCO. So it would
21 function as an ISO, in effect, for those other
22 systems.

23 Hopefully, it will be as inclusive as
24 possible. But, still, because public utilities are
25 not required to contribute their assets either to an

1 ISO or an RTO you do have this potential holes
2 problem. But that's the same in either case.

3 MR. TRAPP: Could you explain how native
4 load is protected by the TRANSCO?

5 MR. NAEVE: I think native load would be --
6 you mean reliability to native load or -- what's
7 your --

8 MR. TRAPP: My thinking is if Florida Power
9 & Light transfers its transmission assets to a
10 TRANSCO, it no longer owns, operates and controls the
11 transmission it serves its retail customers, how do
12 you serve your retail customers? How do you preserve
13 their allocation of the transmission service with the
14 TRANSCO operation?

15 MR. NAEVE: We would take transmission
16 service from the TRANSCO. The TRANSCO would have an
17 obligation to build an operative system in a way to
18 provide reliable service to us. And assuming the
19 transmission system is adequate today to serve our
20 native load as it is, that transmission system will be
21 adequate to serve the native load tomorrow.

22 To the extent that native load expands and
23 transmission assets have to be expanded in turn to
24 accommodate the native load growth, I think that's why
25 we want a TRANSCO that has access to the capital

1 markets and can build and can expand its system. I
2 think that issue, again, is probably the same whether
3 you do an ISO or a TRANSCO, though.

4 **MR. TRAPP:** What obligation to serve does
5 the TRANSCO have, though?

6 **MR. NAEVE:** The TRANSCO will have an
7 obligation, both a contractual obligation and a NERC
8 obligation, to maintain reliable service. They'll
9 have a contractual obligation with us to provide us
10 with the transmission services that we need and to
11 plan for the system. There will be -- the TRANSCO
12 will be responsible for planning, and, of course, they
13 will be subject to your jurisdiction with respect to
14 planning and new facility construction and so forth.
15 So I think they will have a very similar
16 responsibility today that FPL has.

17 **MR. TRAPP:** Will the retail customer still
18 have the priority service that they currently enjoy
19 with Florida Power & Light's transmission system under
20 the TRANSCO arrangement?

21 **MR. NAEVE:** I think they will get an
22 equivalent level of service. And I'm not sure that
23 issue is as important in a peninsula configuration,
24 like Florida, as it might be in another state where
25 you have a lot of through transactions that go through

1 the state, and might, you know, claim access to the
2 system. But in a state like Florida, I'm not sure
3 that really is an issue that has much --

4 **MR. TRAPP:** So you don't envision a whole
5 lot of generators locating in Florida to congest the
6 system by sending power out of the state? (Laughter)

7 **MR. MENNES:** I think the main issue there is
8 the TRANSCO will put the pipes in place. We'll have
9 the delivery system in place for the customers under
10 that that require the FERC service and require
11 whatever services are properly requested by the
12 customers under there. But the TRANSCO -- the
13 TRANSCO's job is to make sure all of these pipes are
14 there, the transmission is there so that you can get
15 the electricity to the customer.

16 **COMMISSIONER CLARK:** Would it be fair to say
17 then it will be up to FPL to secure -- the retail
18 delivery company, it will be up to them to secure
19 adequate capacity. And to the extent they don't, if
20 they were imprudent in not securing that, and maybe
21 had to build a generator or take some other more
22 expensive fix, then you would disallow it in the
23 retail rates. You would still hold them responsible
24 for delivering power to their retail customers. If
25 they failed to secure the capacity they needed from

1 the TRANSCO, they would have to take some action to
2 make sure they maintain that reliability. If it is
3 something that needs -- there needs to be a
4 transmission line built or some change made, we would
5 have jurisdiction off the TRANSCO to tell them to do
6 it under our grid authority. Would that be a fair
7 statement?

8 **MR. MENNES:** I think so.

9 **MR. NAEVE:** I think that's a fair statement.

10 **MR. MENNES:** I think the responsibility is
11 still -- we'll call it the retail or the native
12 whatever it is down there, to figure out what they
13 need, how much they need, and exactly that; to secure
14 it. To figure out how to tell the transmission -- it
15 almost -- you could call it like a network-type
16 service, that transmission is going to be responsible
17 to provide to the retail customers. So retail is
18 going to say, "I want to be able to get power from
19 there, there, there, there, there. These are my
20 sources of power. And I know what my loads are.
21 These are my sources of power. Next year, the year
22 after, the year after, the year after -- and TRANSCO,
23 your job is to get that power to me."

24 **COMMISSIONER DEASON:** Let me ask a question
25 along those lines, or maybe it's a comment. If you

1 have any feedback on it, that would be fine.

2 It seems to me that another ingredient in
3 this is the for-profit incentive which goes along with
4 what is envisioned here, in that the TRANSCO should
5 have the perspective that all of the persons wanting
6 to utilize that system and transmit energy basically
7 are the customers of the TRANSCO. And if they want to
8 satisfy those customers, and they want to maximize the
9 throughput on the system in a efficient manner, which
10 is going to maximize their own profits, and in
11 maximizing their profits, they are going to probably
12 result in the most efficient system and the most
13 satisfied customers on that system. Is that a fair
14 statement?

15 **MR. MENNES:** Yes, I think so. I think it's
16 applicable -- you've got two issues there. You make
17 the pipes to make sure you're going to take care of
18 everybody's native load. Also if you see an
19 opportunity to build a pipe, or to build transmission
20 to somewhere else to facilitate more of an economic or
21 more of a growth or more of an opportunity thing, that
22 the transmission then would make some profit on it,
23 certainly the transmission would build to go ahead --
24 that's the advantage of the for-profit.

25 **CHAIRMAN GARCIA:** How do we deal with times

1 when capacity on transmission is full, and, clearly,
2 the distribution company will obviously be the largest
3 taker of the transmission capacity on tight days that
4 they reserve capacity that doesn't allow others to
5 participate in the market on those days. How does the
6 TRANSCO deal with that? Or who deals with that?

7 **MR. NAEVE:** Marty, if I might. I think the
8 issue on how you deal with congested transmission
9 lines is a very similar issue, whether you're talking
10 about an ISO or TRANSCO. And we have a working group
11 that's going to try to pull together a proposal for
12 what's the best way for dealing with congestion in
13 Florida. We don't have an answer for you yet other
14 than to say with one exception -- I think it's the
15 same whether you do a TRANSCO or an ISO -- the one
16 exception being that we believe with the TRANSCO that
17 if the right answer to congestion is to expand the
18 transmission system, we think they have better
19 incentives to do it and better access to capital to do
20 it.

21 **COMMISSIONER JABER:** In response to
22 Commissioner Clark's clarification, or as a follow-up
23 to that, is there consensus that the PSC would have
24 jurisdiction over this TRANSCO concept?

25 **MR. NAEVE:** I'm not as familiar with your

1 state legislation, so maybe I'm not the right person
2 to answer this. But I think there's clearly no doubt
3 that in Florida, as well as in all states, they
4 typically have jurisdiction over citing facilities and
5 construction for reliability purposes. And that that
6 jurisdiction is not lost whether you have a TRANSCO or
7 an ISO. But, again, I'm not as familiar with your
8 particular statute.

9 **COMMISSIONER CLARK:** I think it would be
10 fair to say that there is -- I think we have to be
11 well aware of the fact that when a TRANSCO is
12 formed -- or even if it was an ISO -- there is at
13 least substantial suggestion in existing case law that
14 it is a FERC jurisdictional entity, and it is by no
15 means clear as to the extent of our authority, or the
16 extent of theirs, really. There's no bright line, I
17 guess, would be a fair statement.

18 **MR. BRYANT:** I think, Commissioner, as to
19 the grid responsibility, that if there were any
20 question as to whether or not the Commission had
21 jurisdiction over the TRANSCO, that all utilities in
22 Florida would want to ensure as to the grid
23 responsibility that you did have.

24 **COMMISSIONER JABER:** I'm sorry, I didn't
25 understand.

1 **MR. BRYANT:** Well, I think all utilities,
2 electric utilities in Florida, would be in agreement
3 that if you -- if there was any question as to the
4 grid responsibility of the Commission, that all
5 electric utilities would want to make sure that you
6 did have grid responsibility.

7 **MR. TRAPP:** I guess I'm still troubled with
8 the native load customer question. I think we
9 understand in the current jurisdictional setups what
10 happens to native load in the state of Florida,
11 Florida Power and Light and in Homestead under the
12 current system.

13 But if you had a situation where Homestead
14 went out on the marketplace and found some very cheap
15 power up in Georgia, but there wasn't transmission
16 because it was being used to serve Florida Power &
17 Light's native ratepayers, what would the TRANSCO do?
18 Would it curtail Florida Power & Light to get the
19 cheap power for Homestead? Would it be conditioned
20 upon some contractual who-got-there-first arrangement?
21 Or --

22 **MR. NAEVE:** You're actually asking the
23 question of congestion management. Again, we have --
24 we have a group working on this issue of congestion
25 management. They'll make a recommendation on that.

1 I'll point out that if the TRANSCO had a
2 tariff, much like a FERC 88 tariff, and FPL became a,
3 quote, "network customer" under that, they would have
4 a native load priority equivalent to the priority that
5 other network customers have and that they presumably
6 have themselves.

7 So they would have -- to the extent they
8 were using those facilities to import power to serve
9 native load, and they had designated, quote, "network
10 resources" to provide service to the native load, they
11 would have continued priority in that use.

12 That's one way of managing congestion.
13 That's the way it's done under 888, but there are
14 other ways to do it as well. And we hopefully will
15 come up with a logical recommendation on how to manage
16 congestion facilities.

17 **MR. MENNES:** I think what you've done is
18 you've hit a tremendous amount of the hot buttons and
19 topics that are in the "Principles." And with that,
20 maybe I'll just kind of -- we'll zing through them a
21 little bit and stop between them. And if it generates
22 any more questions -- I think the best thing to do
23 would be handle them on principle by principle.

24 It's really important to note -- and there's
25 a couple of things you heard -- when we originally

1 started these with Florida Power Corp and basic
2 stakeholder input. A lot of this is the same type of
3 answer whether you do a TRANSCO or an RTO.

4 The collaborative process that we're now
5 involved in is large. And I know I said that before,
6 but we've had some very good input, they are good
7 stakeholder meetings, and we'll continue to go through
8 these principles that are identified. We'll develop
9 either some kind of flow charts or statements to
10 identify how we're going to take care of these when we
11 finish the process. Some of them are very simple and
12 can be handled and some of it is going to take quite a
13 bit of time and conversation.

14 So that said, I'd just like to go ahead and
15 mention Principle 1, the "Independence and Corporate
16 Governance."

17 The TRANSCO will be an investor-owned
18 transmission company that's independent of market
19 participants. And that seems to be the big hot
20 button. The market participants there is whether
21 you're a buyer, a seller, a generator, an IPP, et
22 cetera, et cetera. It will be independent of all of
23 the market participants.

24 The Board will be elected by voting class of
25 shareholders. We'll have to work on how to replace

1 directors. How to develop this board. All board
2 members and TRANSCO employees will be independent of
3 the market participants. And the Board may be advised
4 by committees containing stakeholder representation.
5 And we feel right now in our process that we can work
6 that.

7 **COMMISSIONER JACOBS:** How are the shares
8 allocated?

9 **MR. NAEVE:** Well, that's one of the
10 structural issues we're working on. What we have in
11 mind, and what we can hopefully accomplish, is to have
12 a group of public shareholders. We can issue stock to
13 the public through some sort of IPO. But whether that
14 IPO -- whether it's accomplished by us transferring
15 ownership in the TRANSCO to our existing shareholders
16 or whether we create a corporation that issues stock
17 to the public and we transfer the assets to that
18 corporation, they in turn issue some or all of their
19 stock to the public, or whether we transfer our assets
20 to a partnership and have that partnership owned by a
21 corporation, or partially owned by a corporation,
22 which transfers -- which issues stock to the public --
23 there are a variety of ways to do it. But, hopefully,
24 they will be public shareholders.

25 One other possible option would be for there

1 to be some independent entity that is a transmission
2 operator that comes in and is the public entity that
3 does this. I think we're currently not inclined in
4 that direction but it's another possible option, like
5 the National Grid Co or something like that.

6 **MR. MENNES:** The second principle is just
7 the regional scope. Right now most stakeholders feel
8 that's the appropriate thing. There's certainly
9 enough effort and work to do just to do it for
10 Peninsular Florida. It is a market and that really
11 hasn't been a contentious issue at any of our
12 meetings.

13 Principle 3. Operation Authority over the
14 Transmission Facilities. These are some of the
15 questions.

16 A Peninsular Florida TRANSCO will have
17 authority over the operation of all transmission
18 facilities under its control. It will be the security
19 coordinator and have authority for maintaining
20 short-term reliability. By that we mean improving,
21 reviewing various construction-type clearances or
22 other clearances for maintenance.

23 Control area operators will continue to be
24 responsible for realtime operations under the
25 direction of the security coordinator. That's very

1 much like how we operate to a certain extent today in
2 Florida.

3 Principle 4 takes into account the
4 short-term reliability.

5 The Peninsular Florida TRANSCO, RTO,
6 authority for maintaining the short-term reliability
7 of the transmission facility subject to its control.

8 The TRANSCO will receive and approve or
9 reject all transmission reservations and interchange
10 schedules, and will direct the implementation of all
11 interchange schedules.

12 Let me just add, when you hear some of these
13 words and say what in the heck does that really mean
14 and why is that there?

15 We started with the principles, and we've
16 worked on them. Some of these things are pulled right
17 out of the verbiage where in Order 2000 the rule says
18 this is what the RTO needs to do. And we, in our
19 process, are going to have to work on to say, okay,
20 this is how it will pertain to this Florida TRANSCO.
21 This is what we can do. This is how the various
22 control areas in the various entities will work with
23 each other.

24 **CHAIRMAN GARCIA:** Will it -- and maybe this
25 is my own ignorance, but can you reserve transmission

1 rates or will it be based on actual transmissions?

2 **MR. MENNES:** That's one of our big
3 questions. The whole pricing team and the whole --
4 how to develop a tariff and what it looks like will
5 have to be done by this collaborative process. It's
6 going to take quite a bit of time.

7 **MR. NAEVE:** Kind of goes back to that
8 congestion management issue one more time. I mean,
9 it's not important to reserve transmission if the
10 lines are never congested. If they are always
11 available, you don't have to reserve it. You could
12 just use it. It's only if you perceive potential
13 congestion that you might want to reserve a space on
14 that line. And that's one form of managing the
15 congestion: First come, first serve or file a
16 reservation and pay for it. But there are other
17 variations and we'll look at all of them.

18 **CHAIRMAN GARCIA:** But the larger market
19 players, like FPL, could literally reserve the entire
20 capacity on hot days well in advance knowing more or
21 less where they are going to be. And the great
22 benefits of reserving that transmission capacity is to
23 sell that space, to some degree, to not themselves but
24 to others in Florida who may be trying to import into
25 the state.

1 **MR. MENNES:** I think -- and I hate to jump
2 ahead of our collaborative process and the answers
3 that everybody is going to come up with, but you will
4 have the responsibilities for network services that
5 priorities this TRANSCO will have to serve native --
6 or make sure that the designated generation that some
7 of the entities have set, the first call will be for
8 that generation to serve those entities before you get
9 into all these issues.

10 And, quite frankly, there is a hoarding
11 issue and everything else -- that will be addressed by
12 the process that even nationally the people -- the way
13 business is done right now is very much of a concern.

14 And the last bullet on there talks about the
15 RTO will order redispatch if necessary. Again,
16 there's going to be quit a bit of work to do in how to
17 take care of all of that and compensate.

18 The next page. The TRANSCO will have
19 authority to approve or disapprove for reliability
20 purposes all request for scheduled outages of
21 transmission facilities.

22 The Florida TRANSCO will notify FERC and the
23 Public Service Commission if implementation of NERC,
24 FRCC or any other externally established reliability
25 standards will prevent the RTO from meeting its

1 obligation to provide reliable, non-discriminatory and
2 efficiently priced transmission service.

3 **COMMISSIONER DEASON:** I have a question on
4 the first bullet there on that page.

5 When you're referencing requests for
6 scheduled outages, who is going to be making those
7 requests? The way I envision it, the TRANSCO is going
8 to own the transmission assets except it's going to be
9 asking itself if it can have a scheduled maintenance
10 outage, or are you talking about those limited assets
11 which would actually be owned by someone else? But
12 even in that case I thought that the TRANSCO would
13 have operational control of those assets.

14 **MR. MENNES:** Yes. Yes. This is there to
15 address the need for the entity that would basically
16 turn over the assets to the TRANSCO. And it's just
17 the principle that is understood. Okay, this is what
18 the TRANSCO is going to be responsible for. And,
19 again, these principles are so all of the stakeholders
20 can understand them and see them.

21 **COMMISSIONER DEASON:** Who's going to be
22 making the request of a scheduled outage of
23 transmission facilities?

24 **MR. MENNES:** It could be one of the other
25 entities. I think this is what -- you actually

1 said -- an entity, it doesn't turn over complete
2 assets but turns over the control and turns over to
3 the TRANSCO the RTO-type of authority.

4 **COMMISSIONER DEASON:** So they would turn
5 over -- they would continue to own but -- and they
6 would be responsible for maintaining the assets they
7 owned, and they would have to coordinate maintenance
8 schedules through the TRANSCO.

9 **MR. MENNES:** That is correct. And we'll
10 have the procedures on all of that worked out with our
11 process. Good question.

12 Principle 5. The Tariff Administration and
13 design.

14 The TRANSCO will administer an open access
15 transmission tariff for transmission facilities within
16 the RTO which eliminates the pancaking of transmission
17 access charges, minimizes transmission cost shifting
18 and recovers the revenue requirements of transmission
19 owners. Quite a mouthful to work on.

20 Transmission users will pay a single
21 transmission access charge based on the zone where the
22 power is delivered or exits the TRANSCO. Zone rates
23 will be based on the revenue requirements of the
24 transmission owner providing service in that zone.

25 Each jurisdictional transmission owner will

1 make a Federal Power Act filing to establish the
2 revenue requirement for the transmission facilities it
3 places under the authority of the Peninsular Florida
4 TRANSCO.

5 The Peninsular Florida TRANSCO will make a
6 Federal Power Act, Section 205 filing for rates for
7 transmission service that recover from transmission
8 customers the cost of payments it makes to
9 transmission owners. General cost, administration and
10 general, operation and maintenance and the cost of
11 transmission facilities the RTO owns.

12 So this principle will have a lot of work in
13 tariff design. These principles will be discussed
14 quite a bit by the collaborative process, and you can
15 see that it will have a lot of work.

16 **COMMISSIONER DEASON:** What exactly is a
17 Section 205 filing? Is that kind of like a rate --

18 **MR. NAEVE:** That's the rate section. That's
19 for initial rate filings or for rate filings by
20 jurisdictional utilities. FERC jurisdictional.

21 **COMMISSIONER DEASON:** This may be a silly
22 question, but would the Florida Public Service
23 Commission have a jurisdiction to intervene in a FERC
24 Section 205 Filing?

25 **MR. NAEVE:** Yes, by right they do. By

1 statutory right they do.

2 **MR. MENNES:** Principle 6 is the Congestion
3 Management that talks about the RTO will develop and
4 implement market compatible mechanisms to manage
5 congestion appropriate with the Florida region.

6 Principle 7. The Parallel Path Flow issue.
7 The Florida TRANSCO will develop and implement
8 procedures to address parallel path flow issues within
9 its region and with other regions as necessary.

10 Principle 8 governs the Ancillary Services.
11 And this is another thing that the TRANSCO will be
12 obligated to supply, will have -- the Peninsular
13 Florida RTO will have adequate arrangements in place
14 to provide FERC-required ancillary services to
15 transmission users seeking these services as a last
16 resort.

17 These services may be provided through
18 contractual arrangements, control over generation
19 facilities or through market mechanisms.

20 The Peninsular Florida RTO will have the
21 authority to decide the minimum required amounts of
22 each ancillary service, and, if necessary, the
23 locations at which these services will be provided.

24 Market participants will continue to have
25 the option of self-supplying or acquiring ancillary

1 services from third parties.

2 **COMMISSIONER DEASON:** I assume that there is
3 a cost associated with these ancillary services and
4 that there would be a cost that would need to be
5 recovered from those entities utilizing those
6 services.

7 **MR. MENNES:** That's right. The TRANSCO will
8 end up -- just like the FERC jurisdictional utilities
9 and others right now have a filed tariff that
10 addresses these ancillary services cost that are
11 identified by the FERC of what you have to supply. So
12 that will be part of the tariff that will have to be
13 developed by the TRANSCO.

14 **MR. NAEVE:** One point on that, though, is
15 we're proposing that entities be permitted to
16 self-supply ancillary services. So today to the
17 extent that FPL, for example, provides ancillary
18 services, is a part of providing bundled service, if
19 they could self-supply those services, they may not
20 need to go to the TRANSCO to procure them.

21 **MR. MENNES:** Gee, Greg, I was hoping they
22 would come up with a high tech question for ancillary
23 services down there. (Laughter)

24 Principle 9. This open access same time
25 information system, which is the OASIS, is used for

1 the scheduling and to make sure that there's a proper
2 queueing and everything else of the reservation
3 system, of the reservations to use the pipes or to use
4 the transport system, if you would.

5 The Peninsular Florida RTO will operate a
6 single OASIS for all transmission facilities under its
7 control. The TRANSCO will calculate all values for
8 total transfer capability and available transfer
9 capability based upon data developed particularly by
10 the RTO.

11 What that means is the RTO will be the one
12 that says how much transmission is there and how much
13 is used and how much is still unused, and will have
14 all the guidelines. But it will come from this one
15 single entity.

16 And the RTO will develop procedures to
17 validate the total transfer capability and the
18 available transfer capability values.

19 Principle 10, Market Monitoring. Again,
20 this is required by the Order 2000.

21 The TRANSCO will propose to FERC a market
22 monitoring plan that identifies what the RTO
23 participants believe are the appropriate -- are the
24 appropriate monitoring activities for the RTO or an
25 independent monitor to perform.

1 Planning and Expansion. The RTO will be
2 responsible for planning and for directing or
3 arranging necessary transmission expansions, and
4 encouraging market-driven operating and investment
5 actions for preventing and relieving congestion,
6 accommodating efforts by state regulatory commissions
7 to create multistate agreements to review and approve
8 new transmission facilities, coordinating with
9 existing regional transmission groups where
10 appropriate, and filing with the FERC a plan that will
11 ensure that it meets this requirement.

12 **MR. ELIAS:** Can I ask a question? This is
13 Bob Elias on behalf of the Commission Staff.

14 Is it the consensus of the stakeholders that
15 a for-profit TRANSCO can site transmission facilities
16 under Florida law?

17 **MR. MENNES:** I think that's something that
18 we need to talk about. And we think --

19 **COMMISSIONER JABER:** Mr. Elias, repeat your
20 question.

21 **MR. ELIAS:** Is the consensus of the
22 stakeholder group that a for-profit TRANSCO, which
23 does not have a retail obligation to serve, can site
24 transmission facilities under existing Florida law or
25 is this going to require a statutory change?

1 **MR. MENNES:** The first part of that is when
2 you say the consensus of the stakeholder group, we're
3 there and discussing these issues. So to start off
4 with anything and saying that, you know, we have
5 consensus -- you know, we've talked about a lot of
6 these issues and Bill can give them what we've talked
7 about.

8 **MR. WALKER:** Bob, we've looked at it and we
9 think that the statutes do provide for it. You know,
10 if somebody has a different opinion, we'd be glad to
11 hear from them.

12 **MR. TRAPP:** I think you've already said you
13 anticipate this being a Grid Bill-regulated electric
14 utility.

15 **MR. WALKER:** Right.

16 **MR. TRAPP:** So you would file ten year plans
17 for transmission and go through need determinations
18 and --

19 **MR. WALKER:** Whatever you make us do.

20 **MR. TRAPP:** Well, Bill, that's not often the
21 case, but, thank you, I appreciate that. (Laughter)

22 **COMMISSIONER CLARK:** I guess certainly
23 something we need to assure ourselves of, that it is
24 something that can be done under the Grid Bill or
25 other authority. And if it's not, make sure that that

1 gets accomplished if that's what we think we should
2 do.

3 **COMMISSIONER JACOBS:** If I'm not mistaken,
4 presently the load requirements of the IOUs generate
5 the siting request for transmission; is that correct?
6 What about merchant plants, if they were to come on
7 board, are the load requirements going to generate
8 expansion requirements?

9 **MR. ELIAS:** Is your question directed to --

10 **COMMISSIONER JACOBS:** No. No. I would ask
11 if that's been discussed.

12 **MR. MENNES:** When a generator comes on
13 board, if you look at the next level, we'll have
14 interconnection standards and how to deal with the
15 various generators as they come on. And that's
16 something that the TRANSCO will have to develop, be
17 part of the process in developing these standards.
18 There are some that exist here and there. But this
19 will actually become part of how the TRANSCO does
20 business. How the interconnection -- there's two
21 issues here. How the generator builds into the
22 system, is what you actually call the interconnection
23 of the generation. And then, you know, after that
24 what happens -- and the request and how to get the
25 power to the various areas, or will someone designate

1 that as a resource. So all of those issues will be
2 thought of and gone through.

3 **COMMISSIONER JABER:** What time line are you
4 on? I know obviously you have to report to FERC by
5 October 13th. But do you have any sort of internal
6 company time lines?

7 **MR. MENNES:** Boy, that's a good one.

8 We're trying to get -- we understand the
9 need that Florida Power Corporation has. We're
10 working with them as part of their merger. We
11 understand that all the stakeholders want to see
12 something as soon as possible. So from that aspect,
13 you know, we're trying to lay out a very ambitious
14 type schedule. But I don't think we have completed
15 and agreed at the stakeholder meetings to anything
16 final, have we? I'm just looking down the road. I
17 know you all have put up some stuff before of what you
18 thought were -- do you want to speak to that?

19 **MR. DOLAN:** I think, Commissioner Jaber, in
20 our Memorandum of Understanding with the stakeholders
21 we have the current target to try to have a filing
22 ready for FERC by the end of this calendar year.

23 There's a difference -- people have
24 different views. Some think that's -- that's longer
25 than what it should take. Some think it may take

1 longer. But that's our current target date to see if
2 we can have something ready by the end of the year.

3 COMMISSIONER CLARK: Well, you have to file
4 something by October 15th telling them what you're
5 going to do.

6 MR. DOLAN: That is correct, Commissioner
7 Clark.

8 COMMISSIONER CLARK: And it has to be up and
9 running by December 2001.

10 MR. DOLAN: December 15th.

11 COMMISSIONER CLARK: I'm sorry?

12 MR. DOLAN: December 15th of 2001.

13 COMMISSIONER CLARK: Whatever we put
14 together for an RTO has to be operational.

15 MR. DOLAN: That's correct. That's what's
16 in the current FERC order, right.

17 COMMISSIONER JABER: Maybe I misunderstood.
18 I thought in the beginning of the presentation you
19 said you have to either file a proposal by
20 October 15th or you need to outline your efforts as
21 such. I don't know by --

22 MR. DOLAN: That's correct.

23 COMMISSIONER JABER: So you -- it looks like
24 where you are is that by October 15th you're going to
25 be outlining what your efforts have been, and then

1 you'll have something finalized by the end of this
2 year.

3 **MR. DOLAN:** I think that's probably
4 realistic, Commissioner Jaber. I think the -- if
5 things were to go better than expected, it's possible
6 a filing could be made by October 15th, but certainly
7 between there and the end of the year that's the
8 target timeframe that I think things are focused on.

9 And just to clarify a comment Marty made,
10 we -- as you are probably aware in our filing with the
11 FERC for approval of our merger -- one of the things
12 that we stated, there was a commitment that within 90
13 days following the completion of the merger that
14 Florida Power Corp would make a filing with the FERC
15 relative to an RTO.

16 **COMMISSIONER JABER:** Let me ask you a
17 question on that point, on the merger.

18 What is it FERC will expect from you in the
19 merger process with respect to the RTO proposal? Will
20 FERC just want to know what it is you're doing with
21 respect to the RTO proposal?

22 **MR. DOLAN:** Commissioner Jaber, that's
23 probably the \$6 million question at the moment. I
24 think a lot of people would like to know that answer
25 before they decide whether or not to intervene on

1 Monday.

2 But it's really -- it's really -- we don't
3 know, is really the only answer I could tell you. We
4 have made our best efforts to take the process in its
5 current form and represent that to the FERC. And
6 we're hopeful that they'll understand where we are
7 with the process in Florida, and give us the time that
8 we've requested to do the filing, also taking into
9 consideration some of the more recent developments.

10 **COMMISSIONER JABER:** Does FERC have the
11 authority, or does the PSC have the authority to make
12 sure you follow through in your commitment with
13 respect to the RTO? Asked a different way: If you
14 make a representation in your merger filing with
15 respect to your participation in an RTO, who has the
16 authority to make sure that you follow through with
17 your commitment?

18 **MR. DOLAN:** We certainly made the commitment
19 with the intention of follow through on it. I think
20 that if that's part of our filing, that the FERC would
21 ensure that we do that.

22 I think in -- it really depends on
23 ultimately what the order says approving our merger
24 whether or not it's conditioned or not specific to
25 that. So it's hard to predict how that's legally

1 going to shake out. But I think our intention is
2 that, you know, we think that the timetables match up
3 very nicely and that we will be able to not only honor
4 that commitment but also participate in Florida and
5 the time line should jell.

6 **MR. TRAPP:** Commissioner, that is a topic we
7 need to talk about in this case. And Staff has put a
8 proposed agenda for a potential Commission hearing,
9 and I think we're going to discuss how these processes
10 should meld.

11 Staff is concerned, quite frankly, about
12 Florida Power Corporation making a filing at FERC and
13 what posture that may put the Commission in. Do we
14 then intervene to what, since we haven't reviewed an
15 approved the filing here at the Commission? That to
16 me is the key question.

17 **COMMISSIONER JABER:** Yeah. To the degree
18 you can always comment on jurisdiction. That's still
19 where I continue to be unclear, with respect to the
20 jurisdictional issues. So that would be very helpful
21 to me.

22 **COMMISSIONER CLARK:** We have intervened in
23 the case. It's just what we would say, right?
24 Haven't we intervened?

25 **MR. TRAPP:** The Commission voted --

1 MR. ELIAS: To do that Monday in Internal
2 Affairs.

3 MR. TRAPP: The merger -- it's not clear
4 that we've intervened yet in the RTO proposal.

5 MR. DOLAN: Well, we haven't filed anything
6 yet either.

7 If I can just comment on that. We certainly
8 don't want to arrive at a point -- ideally the goal of
9 this process, I think this is a shared goal of all of
10 the stakeholders. And the stakeholders, in my mind,
11 includes this Commission and the Staff, that these
12 meetings are open to all participants. And our common
13 goal is to get a proposal that represents the combined
14 interest of all of the group, including the
15 Commission.

16 So it's certainly not our intention to get
17 out ahead of that. And, ideally, like I said, we
18 would like for the timeframe to work in a way that we
19 have a degree of consensus and that we have a proposal
20 that we can file with the FERC that folks are
21 comfortable with.

22 In the unlikely event that does not occur,
23 then obviously we would have to deal with that, both
24 with the FERC and other stakeholders, if the timing
25 doesn't match up. And we would obviously seek to do

1 that in a way that keeps everybody, you know, moving
2 in the same direction. That's all I can say.

3 **MR. MENNES:** I think we're on Principle 11,
4 which is Page 15 in the package. Page 18, I guess, in
5 the package or Page 15 in the presentation.

6 Talking about the Planning and Expansion.
7 The RTO may build and own transmission facilities
8 giving it the ability to execute grid expansion
9 requirements, independent of transmission owners.
10 Transmission owners will retain the right to expand
11 their system. It's based upon their own initiative
12 after coordination with the RTO.

13 **COMMISSIONER DEASON:** I have a question on
14 that particular item. Hopefully, this would not
15 arise, but what happens in the situation where there
16 is an entity which chooses to continue to own his
17 transmission assets but relinquishes control. And
18 after review by the TRANSCO, is determined there needs
19 to be some type of an upgrade to that particular
20 entity's transmission system which the TRANSCO does
21 not own. And there's reluctance on the part of that
22 transmission owner to make what is considered to be
23 the efficient and cost-effective way to improve the
24 system. Does this Commission get involved through the
25 Grid Bill, or have you all contemplated what would

1 happen in that scenario?

2 **MR. BRYANT:** The Grid Bill has language,
3 Commissioner, right now that assuming the TRANSCO is
4 under that jurisdiction, specifically addresses that
5 question you just had.

6 **COMMISSIONER DEASON:** Do you think it would
7 be under Grid Bill authority?

8 **MR. BRYANT:** If the assumption is that the
9 TRANSCO is under the Grid Bill authority, then the
10 answer to your question is that you have the authority
11 to solve that problem. You have language in the Grid
12 Bill right now that can force a utility, a group of
13 utilities to build transmission, and then an
14 allocation of the cost based upon the benefits
15 received. That's in your Grid Bill right now, sir.

16 **COMMISSIONER DEASON:** I see there's a
17 general nodding of heads around the table.

18 **MR. DOLAN:** Commissioner Deason, just to
19 add, this is an area, obviously, that we have talked
20 about. And if there was a future, one of the other
21 areas I think we're coming up to is we would have to
22 have some type of dispute resolution procedures, and
23 it's Florida Power Corporation's view that this
24 Commission would be involved in that process.

25 **MR. MENNES:** Good issue.

1 Close coordination and planning input from
2 each load serving entity will be required regarding
3 local area regional transmission facilities and
4 connections to distribution substation facilities.

5 The Florida Reliability Coordinating Council
6 will provide input to TRANSCO and oversee NERC or
7 NAERO or other regional criteria are met.

8 Principle 12. You'll have to have an
9 interregional coordination mechanism there.

10 The TRANSCO will develop mechanisms to
11 coordinate its activities with other RTO regions
12 whether or not an RTO yet exists in these other
13 regions. This is the type of thing that you hear a
14 lot about which is the so-called seam. Sooner or
15 later you have to run into a seam. So it's up to the
16 RTOs to coordinate their activities there.

17 The Peninsular Florida RTO will be designed
18 to have the ability to evolve over time and will have
19 a open architecture.

20 Membership. With respect to the goals and
21 requirements of Order 2000, any transmission owner in
22 Peninsular Florida may transfer operational control
23 over its facilities to the RTO.

24 The TRANSCO may assume operational control
25 of transmission facilities either by conveyance of

1 operational control from participating transmission
2 owners, by leasing the transmission facilities, or by
3 direct ownership of the transmission facilities.

4 Advisory committees maybe formed for the
5 purpose of conveying the customer and marketplace
6 concerns to the TRANSCO or RTO.

7 Membership and advisory committees will be
8 open to the owners and operators of transmission and
9 generation facilities, the users of those facilities,
10 other market participants and representatives of the
11 Florida Public Service Commission and the Florida
12 Reliability Coordinating Council.

13 **MR. TRAPP:** Marty, when you say membership,
14 what about just participation, observation? I mean,
15 would these be open -- will they be open meetings at
16 the RTO or will it be closed to members?

17 **MR. MENNES:** Again, that will have to be
18 spelled out. My perception is they would be -- they
19 would have a board. I'm sure they'll have some open
20 members.

21 **MR. NAEVE:** Membership is really a misnomer.
22 This is a term we borrowed from the FPC document when
23 they were dealing with ISOs and we just kept that
24 terminology.

25 But your either contribute your assets and

1 they are owned by a corporation, which is a TRANSCO,
2 and I presume their board meetings would be like all
3 board meetings at private corporations, they would be
4 held privately. And then argue -- transfer
5 operational control to them. And they will have
6 advisory committees and those advisory committee
7 meetings will be open to public. But membership is
8 probably a misnomer.

9 **MR. MENNES:** I think the issue is that right
10 now dealing with -- in the industry you see an
11 independent board and where they are going to get
12 their information and how. And they are going to need
13 input to make certain decisions just like any other
14 board does. And this input would be coming from these
15 stakeholders' committees which would be set up, open
16 forums, so that all stakeholders could go ahead and
17 get their issues developed so they could be brought to
18 the board. That's what I think is perceived by most
19 stakeholders.

20 Principle 15. Service for Wholesale and
21 Retail Transmission Provided Under the RTO.

22 Peninsular Florida RTO will establish the
23 tariff rates, terms and conditions for all wholesale
24 and unbundled transmission service.

25 **COMMISSIONER CLARK:** Can I ask a question?

1 If we have an RTO, how will there be anything but
2 unbundled retail service?

3 **MR. MENNES:** You could still have entities
4 just giving the control, if you would, to the RTO and
5 not turning over the assets, or the RTO would not have
6 control over that.

7 **MR. NAEVE:** To the extent that your retail
8 customer -- to the extent there's not retail choice,
9 they will buy a service from their local utility. And
10 that service will include all of the services procured
11 or provided by that local utilities because the local
12 utility will provide generation. They will provide
13 everything that's necessary to deliver the power to
14 that customer. And they will have procured
15 transmission service in the process of delivering that
16 bundled service, but they will just charge the retail
17 customer a single rate, a bundled rate that includes
18 the cost of all of those different services that they
19 are either providing themselves or they had to procure
20 in the marketplace in connection with providing it.

21 **COMMISSIONER CLARK:** It strikes me that all
22 of it -- who is going to be providing the bundled
23 transmission service? It's going to be the RTO. It's
24 going to be unbundled at that level and rebundled at
25 the retail. So there is going to be -- the only --

1 let me put it this way. All transmission service will
2 be either wholesale or retail and there's no reason to
3 make a distinction between bundled and unbundled.

4 MR. NAEVE: Yeah. Like I say, it all would
5 be wholesale.

6 COMMISSIONER CLARK: Correct. You're
7 correct.

8 MR. NAEVE: And then the distribution
9 companies will purchase that service and they will
10 provide a bundled service to their customers. But
11 you're right, the way -- all transmission service will
12 be wholesale and it will be unbundled.

13 COMMISSIONER CLARK: And the authority over
14 rates, terms and conditions in that case would be
15 clearly with FERC. Would that be correct?

16 MR. NAEVE: That's correct.

17 COMMISSIONER CLARK: So in effect, all
18 transmission in Florida will be under the jurisdiction
19 of FERC.

20 MR. NAEVE: Rate jurisdiction.

21 COMMISSIONER CLARK: Rates, terms and
22 conditions.

23 MR. NAEVE: That's right.

24 MR. DOLAN: Commissioner Clark, if I might
25 add to that. I'm not sure I would agree with that a

1 hundred percent. I think in the case of terms and
2 conditions that's true. But in the event, for
3 example, Florida Power Corp keeps their assets intact
4 as they are today, and just takes RTO-type services
5 from this new TRANSCO organization, you know, our
6 expectation is from a rate standpoint, that our
7 transmission service to retail would remain bundled.

8 **COMMISSIONER CLARK:** Yes. It will be
9 bundled at the retail level but you're going to be
10 buying an unbundled transmission service to rebundle
11 into the rates that you charge your retail customers.
12 So I think it's correct to say that all wholesale --
13 all transmission will be wholesale transmission.

14 **MR. DOLAN:** I guess I'm not sure I
15 necessarily agree with that.

16 **COMMISSIONER CLARK:** You're going to be
17 buying transmission that you turn around and sell as
18 part of your bundled rates to the retail customers.

19 **CHAIRMAN GARCIA:** His premise was that if
20 they didn't divest themselves of the transmission
21 assets, correct?

22 **MR. DOLAN:** That's correct.

23 **COMMISSIONER JABER:** What difference does
24 that make? I think Commissioner Clark's question
25 is -- even if you are taking advantage of the RTO's

1 services without contributing your assets, you're
2 still getting wholesale bundled service. No?

3 **MR. NAEVE:** When I responded to Commissioner
4 Clark's questions, I was responding in the context of
5 when you contribute your assets to the TRANSCO, then
6 you -- if FPL contributes its transmission assets to
7 the TRANSCO, then it will no longer own transmission
8 assets. It will take transmission service from the
9 TRANSCO and all service that it receives will be
10 wholesale.

11 **COMMISSIONER CLARK:** So if FPC or anyone
12 else kept their assets, they would turn over the
13 operation and control, then they would split, say,
14 the -- they would do a jurisdictional split, the same
15 way we do now.

16 **MR. NAEVE:** There's more than one way to do
17 it but one way to do it would be to have a
18 jurisdictional split.

19 **MR. TRAPP:** I think you need to turn to Page
20 9. I think that was addressed somewhat there. That's
21 one of the things that Staff would like to pursue with
22 you all in these meetings, is understand the
23 ratemaking implications of whether or not you divest
24 the assets or you turn over control and, at least, the
25 assets, and how this revenue requirement impact that

1 comes back affects jurisdiction. We're not clear
2 whether it does or not.

3 **MR. DOLAN:** It may be semantics, but the
4 operational control and service, by and large, would
5 come through this new organization. But I don't know
6 that we're anticipating -- if we maintain bundled --
7 if we do not divest of our assets, which is not
8 currently our intention, then we would anticipate that
9 the retail component of transmission service would
10 remain the way it is today. There may be changes on
11 the wholesale side due to through sales and other
12 things, but the retail, for all intents and purposes,
13 would remain intact.

14 **COMMISSIONER CLARK:** But, say, the operation
15 of it would have to be -- would -- you're anticipating
16 turning it over to an RTO.

17 **MR. DOLAN:** Yes.

18 **COMMISSIONER CLARK:** And to the extent your
19 use of that transmission may be affected by their
20 operation of it.

21 **MR. DOLAN:** I guess that would be a function
22 of ultimately what the arrangement is between existing
23 native load and the TRANSCO.

24 **MR. TRAPP:** Vinny, could I ask this question
25 as a means of trying to clarify, or at least focus

1 what the issue is.

2 If you go to Page 12 at the bottom --
3 Page 12 in your handouts, Page 9 of Power and Light's
4 proposal. Bullet 1 says that you're going to
5 establish a revenue requirement for the transmission
6 facilities placed under the authority of the RTO.

7 I think the question is, is that revenue
8 requirement -- are you going to separate your
9 transmission facilities for purposes of the RTO? Are
10 you going to put all of your transmission facilities
11 under the control of the RTO, in which case FERC would
12 be doing a revenue requirement calculation for all of
13 your transmission facilities, or the separated portion
14 of your transmission facilities.

15 If it's just on the separated portion, I
16 think we've got the same jurisdictional ratemaking we
17 do now. If you turn total control over, though, and
18 have FERC do revenue requirements coming back, then I
19 think we've turned over to FERC jurisdiction what is
20 currently done at the retail level. It's not clear.

21 **MR. DOLAN:** I think the last part of your
22 example I would agree with. The other part I think
23 is -- the wholesale portion -- turning over the
24 operational control in my mind doesn't necessarily
25 change the jurisdictional oversight of the ratemaking

1 as it exists today. But now if the assets change,
2 which is contemplated with the TRANSCO, then I think
3 you do have a change in jurisdiction.

4 **MR. TRAPP:** Clearly.

5 **MR. RAMON:** I'd like to make a point on that
6 bullet. I think there's something maybe more
7 important that's in those words that -- the revenue
8 requirements for the facilities it places under the
9 authority of the Peninsular Florida RTO.

10 We haven't even discussed this in the
11 collaborative process. But as we look at forming the
12 RTO, we're going to have to deal with
13 reclassifications. The drawing the bright line
14 between transmission and distribution. And for Tampa
15 Electric over half of our transmission plant performs
16 the function of distribution, subtransmission. So I
17 think that adds a whole new specter to this ongoing
18 determination of what facilities that you put under
19 the authority of the Peninsular Florida RTO.

20 **COMMISSIONER CLARK:** That's a good point.
21 Are we going to -- when are we going to do the
22 assessment of the function, or the
23 refunctionalization, as some people call it? You'll
24 have to do that as part of this process, won't you?

25 **MR. RAMON:** Yes.

1 MR. DOLAN: Yes.

2 COMMISSIONER CLARK: If that's -- you have
3 to do it in advance of the process to see what you'll
4 transfer?

5 MR. DOLAN: Yes, I believe that's right.

6 MR. RAMON: As a part of the pricing working
7 group, the tariff efforts, it will have to be
8 integrated with that before the fact.

9 COMMISSIONER CLARK: How much of the
10 transmission -- oh, okay.

11 So do we have any idea of how much of the
12 transmission system is likely to be classified as
13 distribution? When are we going to know that?

14 MR. DOLAN: I don't think we know sitting
15 here today, Commissioner.

16 COMMISSIONER CLARK: Okay.

17 MR. BRYANT: One of the problems you have,
18 Commissioner, is for some entities distribution is
19 distribution, for some entities distribution is
20 transmission. And so each --

21 COMMISSIONER CLARK: You're saying if you
22 set it at a level, if you use a numeric level --

23 MR. BRYANT: Numerical level may not be
24 appropriate.

25 COMMISSIONER CLARK: I understand that. And

1 what I think the Order 888 calls for is actually
2 looking at its use.

3 MR. BRYANT: Yes.

4 COMMISSIONER CLARK: Its function. And it
5 doesn't set a numeric amount.

6 MR. BRYANT: Yes. And it may be also -- one
7 approach may be that a entity may have the ability to
8 choose to divest what it chooses, what it classifies
9 itself as transmission. In other words, some entities
10 may say well, we want to divest this. We say this is
11 transmission. Another entity may say we want to
12 divest more and that's what we say is transmission.
13 Because each entity may well be different.

14 MR. RAMON: Fred, I don't think it's that
15 easy.

16 MR. BRYANT: That was a lawyer's answer.
17 Simplicity I recognize.

18 MR. RAMON: I'd encourage the Staff and the
19 all of us to look at the FERC seven factor test. I
20 think it even encourages or asks the states to be very
21 involved in that drawing of the bright line. Because
22 I assume if you wanted to, you could sell your
23 distribution or lower voltage transmission or
24 subtransmission to TRANSCO, but you raise some pretty
25 thorny issues there if you do that. Because that's

1 clearly, you know, to me a state purview. I'm sure
2 there's some overlap. So if you have -- if you
3 transferred your subtransmission or what's performing
4 a distribution function to the TRANSCO, indeed the
5 TRANSCO is providing direct service to the retail
6 load.

7 **COMMISSIONER JACOBS:** Going back to the
8 discussion of how you do all of this categorization,
9 you're going to wind up -- as I understand the
10 proposal, your tariff is going to bill for the revenue
11 requirements of the facilities that have -- that, I
12 guess, that TRANSCO has control over, whether they
13 lease them or whatever. Is that true?

14 So if facilities are only leased, the
15 TRANSCO's tariff is still in charge of recovering the
16 cost of those; is that correct?

17 **MR. NAEVE:** That's correct.

18 **COMMISSIONER CLARK:** Okay. Mr. Chairman, we
19 have a court reporter here and it occurs to me that we
20 probably should make sure people identify themselves
21 when they speak. I'm sorry.

22 **COMMISSIONER JACOBS:** In my mind, that would
23 kind of define how you're going to deal with this
24 issue, wouldn't it? Or I assume that you could still
25 not unbundle it?

1 **MR. DOLAN:** Commissioner Jacobs, if I might,
2 the proposal contemplates the open architecture where
3 some owners, existing owners, may chose to divest of
4 their assets. And in the event they do, I personally
5 think, you know, there's going to be a change in
6 jurisdiction on ratemaking for all of those assets.
7 In the event that the owners retain assets -- for
8 example, if Florida Power Corporation retains their
9 assets in their current form but just takes services,
10 transfers -- creates independence by transferring
11 operational control over to this new entity, this
12 TRANSCO, but we still retain our assets, then in our
13 view the retail jurisdiction over ratemaking is going
14 to remain as it is today.

15 **COMMISSIONER JACOBS:** So you're going to
16 recover the cost for yours under retail.

17 **MR. DOLAN:** Well, I think either way the
18 cost would ultimately be recovered from retail. It's
19 a question of -- I think there's still an open
20 question about -- at least in my mind about how the
21 money is going to flow either through the TRANSCO or
22 direct from the utility to the retail customers. And
23 I think there's probably different variations of that
24 that will be discussed.

25 But in my simple terms, our retail customers

1 are going to essentially seek no change from a
2 ratemaking standpoint to what we see today for bundled
3 transmission service.

4 **COMMISSIONER JACOBS:** Okay.

5 **MR. TRAPP:** Where do the benefits then come,
6 Vinny? Is that our goal here, no change? Or are we
7 trying to accomplish net savings? The topic of
8 benefits of the RTO, is no change a benefit, do we
9 need to get savings out of this?

10 **MR. DOLAN:** I'm sure, Bob, we could go back
11 to FERC's order and search for the outline of the
12 benefits in Order 2000 as they describe them for
13 regional transmission organizations. But generally
14 speaking, I think they are looking for more -- looking
15 to create independence. They are looking for
16 efficiencies. They are looking for the types of
17 organization that may grow over time. You know, to
18 sit here today and outline ultimately how we're going
19 to describe the benefits of this new organization I
20 think is somewhat premature.

21 **MR. TRAPP:** My question then is when are you
22 going to identify --

23 **MR. DOLAN:** I think those will be evident to
24 us when the proposal is ready for filing.

25 **CHAIRMAN GARCIA:** Let's go ahead. We have

1 been going a while. Let's go ahead and take a
2 15-minute break and we'll reconvene then.

3 (Brief recess taken.)

4 - - - - -

5 **CHAIRMAN GARCIA:** Okay. We'll get started
6 again.

7 **MR. MENNES:** Just go ahead and start?

8 **CHAIRMAN GARCIA:** Go right ahead. If we
9 could settle down so we can get going.

10 **MR. MENNES:** Thank you, Chairman.

11 Principle 16 was left out of the package and
12 it's a separate sheet, the two principles, 16 and 17.
13 I'll review those real quick like. That's where we
14 left off.

15 Principle 16 is Performance Based Rates.

16 **MR. FLOYD:** Marty, excuse me, in case people
17 don't know -- this is Roland Floyd, Commission Staff.
18 There's an extra page over here. If you are out in
19 the audience and didn't get a copy. Sorry.

20 **MR. MENNES:** Thank you, Roland.

21 Performance-based rates then other
22 incentive-based transmission rates may be proposed.
23 These rates will be mostly the through-type deals, if
24 you would, through the TRANSCO.

25 Principle 17, Costs. The Peninsular Florida

1 TRANSCO will promote the creation of cost-effective
2 infrastructure and supporting processes utilizing
3 existing infrastructure and processes where possible
4 or practical.

5 Peninsular Florida TRANSCO startup costs
6 will be deferred and recovered through user charges.
7 That takes us back to the package in Principle 18.

8 With respect to disputes concerning matters
9 subject to its purview, the Peninsular Florida RTO
10 will establish alternative dispute resolution
11 procedures which first attempt to resolve disputes
12 without resort to assistance from third parties.
13 Disputes that cannot be resolved will be referred to
14 an independent arbitrator in a accordance with FERC
15 and PSC rules and regulations.

16 And the final principle, Principle 19,
17 reliance on existing law. Establishment of the
18 Peninsular Florida RTO will be accomplished without
19 the need for new state or federal legislation, as a
20 principle.

21 **COMMISSIONER DEASON:** The question I have is
22 on Principle 19 and it really is a question that
23 Mr. Elias raised earlier, and that is the question of
24 the status of a TRANSCO to initiate -- to request to
25 site transmission facilities. And, apparently,

1 everyone is comfortable that that status responds
2 under the existing law, but it may need a second look,
3 and just to make sure that that's the case. Because
4 it would be bad to go this route and then have some
5 type of a court challenge and find out that we have a
6 TRANSCO that doesn't even have authority to request
7 the siting of a transmission line.

8 **MR. TRAPP:** Marty, I'd like to close by
9 asking you the same question I posed to Vinny. What
10 are the benefits that you see coming from this RTO
11 structure?

12 **MR. MENNES:** I like Vinny's answer. I don't
13 know really what more I could really add to it. I
14 guess the benefits compared to an ISO or compared to
15 --

16 **MR. TRAPP:** Today.

17 **MR. MENNES:** Today's status quo.

18 I think that -- you know, I'm just trying to
19 think of what I could add to what Vinny said other
20 than what the federal folks have put into the RTO
21 document itself.

22 It remains to be seen how -- when we get
23 though all the principles in the communications with
24 all the stakeholders exactly how everything is set up
25 to whose advantage and disadvantage, and, you know, it

1 remains to be seen.

2 **MR. NAEVE:** I would just make one
3 observation. When we were thinking about TRANSCOs and
4 ISOs and so forth, the way we thought about benefits
5 was in the comparison of TRANSCOs versus ISOs. And
6 the reason we were thinking about it that way is
7 because there is some ambiguity with respect to FERC's
8 jurisdiction to order RTOs under Order 2000, and they,
9 themselves, have not outright said they are going to
10 order them, but they did indicate in merger cases and
11 other situations they may have more authority. And
12 it's clear in mergers if they can identify a vertical
13 market power issue or anything to that effect, they
14 have much clearer jurisdiction to require RTOs.

15 So our view was that there is probably going
16 to be an RTO in Florida in part because of the FPC
17 merger because the FERC may well have the jurisdiction
18 there to require it.

19 So then we asked ourselves the question if
20 there's going to be an RTO, what's the better way to
21 go, an ISO or a TRANSCO? And as between those two we
22 felt the TRANSCO had substantial benefits compared to
23 ISO.

24 **MR. TRAPP:** So FERC has done no analysis of
25 the impact on Florida. They are just making you do

1 it. You feel like you've got to do it.

2 **MR. NAEVE:** We're, again, speculating what
3 they may do in the merger of Florida Progress, because
4 that is pending before them and they do have greater
5 jurisdiction in merger cases, Section 203 cases, than
6 they do under Section 205.

7 **MR. BRYANT:** Bob, you've heard this before
8 but I'm going to repeat it. The transmission
9 dependent utilities believe that there are tremendous
10 benefits to be achieved by the creation of an ISO,
11 RTO, TRANSCO or whatever ultimate form that it takes
12 under the FERC Order 2000. And one of those benefits
13 is that we've always thought what we realized is a
14 truly vibrant wholesale marketplace. And when you are
15 transmission dependent and when you're not a
16 generating utility or mostly dependent upon wholesale
17 power to serve your native load, then our native load
18 customers will benefit. And so we think there are
19 tremendous benefits to be achieved if it's done
20 properly.

21 **MR. TRAPP:** Does the vibrant wholesale
22 marketplace depend upon competitive generation?

23 **MR. BRYANT:** Competitive generation?

24 **MR. TRAPP:** Yes.

25 **MR. BRYANT:** I think absolutely. There has

1 to be a generation market. And you can't get
2 generation to market without transmission.

3 **CHAIRMAN GARCIA:** Well, why go to an RTO --
4 I mean, a TRANSCO if the proposer of the TRANSCO
5 believes that we can't legally have competitive
6 generation in the state of Florida, so why are we
7 doing this?

8 **MR. BRYANT:** My daddy always told me not to
9 get into the middle of a dog fight and I'm not going
10 to get in the middle.

11 **CHAIRMAN GARCIA:** Your dog is in the hunt.
12 I don't have to provide electricity to your
13 constituents. But what I'm saying is what is the
14 benefit of a TRANSCO if under Florida law, as is
15 perceived, I have to assume we have to then move to
16 change the law in Florida to allow competitors to
17 enter to have any true benefit.

18 **MR. BRYANT:** Let me give you a specific
19 answer to a benefit from my company's perspective.

20 We have load centers in North Florida,
21 Central Florida and South Florida. To get power from
22 south to north or north to south to serve our load we
23 have to pay a minimum of two wheeling rates right now,
24 if, indeed, transmission is available.

25 That's a disincentive, if not a cost

1 penalty, for my company in trying to effectively deal
2 in a wholesale market even as it exists today. It's
3 very difficult for us to buy power, for example, from
4 Tampa Electric Company or Florida Power Corp to serve
5 in Key West. Going to a TRANSCO-type situation in and
6 of itself will create economic efficiencies, creates a
7 more vibrant wholesale market just among the
8 participants in the market today, not to mention who
9 might else be in the market in the future.

10 As you know, Commissioner, my CEO testified
11 in that Duke case that we support a vibrant wholesale
12 marketplace with all entrants. And that is our
13 continued position. But that's not our fight in this
14 proceeding dealing with TRANSCOs. We think there are
15 significant benefits for our company.

16 **COMMISSIONER DEASON:** I have a question. If
17 there are to be transmission assets, ownership
18 actually transferred to the TRANSCO, at what value are
19 those assets to be transferred at? Net book value?
20 Market value? Replacement cost less depreciation? Or
21 something else?

22 **MR. NAEVE:** It depends, of course, on how
23 one transfers the assets. And as we've said a couple
24 of times, FPL hasn't yet finalized a particular
25 approach for transfer of these assets. We're

1 balancing tax issues, accounting issues, and also the
2 ease of other people putting their assets into the
3 same entity at a minimum of adverse tax consequences
4 to them as well so that everybody can contribute as
5 easily as possible. So the answer depends in part on
6 how you do that.

7 Let's assume, though, for example, FPL --
8 because we're looking at a variety of structures at
9 which we might transfer our transmission assets into a
10 sub, and then spin off a piece of that sub to the
11 public or whatever. In that situation, certainly for
12 ratemaking purposes, they would remain in their book
13 value.

14 Now, this entity may also go out --

15 **COMMISSIONER DEASON:** That's the value FERC
16 would utilize in setting the transmission rate?

17 **MR. NAEVE:** That's correct. Existing book
18 value. This entity may also go out and purchase
19 transmission assets from other parties. And there it
20 may be a little bit more difficult. If they were to
21 purchase assets from another investor-owned utility,
22 at least if FERC's historic practices were to
23 continue, it may not matter what price they pay for
24 ratemaking purposes. The rates may well be set on
25 their historic depreciated book value even if their

1 price were different.

2 If we were to purchase assets from a
3 municipal utility which doesn't maintain a traditional
4 rate base and maintain its books by FERC accounts,
5 it's a little bit less clear what price would be used
6 for purposes of ratemaking and perhaps it would be the
7 purchase price.

8 **MR. DANESE:** Mr. Chairman, my name is Tracy
9 Danese with Jacksonville Electric Authority.

10 The answer he gave is true. It depends on
11 how it's going to be done. There's also another
12 answer that's equally true.

13 **CHAIRMAN GARCIA:** I don't think the people
14 in the back of the room can hear you. You need to
15 speak up.

16 **MR. DANESE:** It is on. Oh.

17 The answer the gentlemen gave is quite true,
18 and there's another answer to the same question that's
19 also equally true.

20 The TRANSCO is going to want to have a rate
21 base as big as it can have. Now, you start off with
22 that desire. Now, I would think if you transferred
23 transmission assets in a book value less depreciation,
24 you're not going to have a really nice size rate base.
25 And I would also wonder in the long term -- and

1 there's no evidence one way or the other because we're
2 talking about the future -- I would question the
3 access to the financial market for setting up a
4 regulated company with a rate base based on book value
5 of those assets as they came from the previous owner.

6 Now, you're going to have to face up to the
7 fact sooner or later that a TRANSCO privately owned
8 has got to maximize its profits and it's going to have
9 had to do that by virtue -- as a function of the rate
10 base. There's no other way to do it.

11 Now, we've heard a lot of conversation about
12 competition assures more efficiency. That's an
13 absolutely true statement when you are talking about a
14 competitive enterprise. This enterprise is not going
15 to be competitive. This is going to be a monopoly.

16 Now, the whole reason over the past 15 years
17 we've gotten to the point where we are is of a growing
18 recognition that regulated monopolies are in many
19 instances, and in the case of utilities -- we're at
20 the point where regulated monopolies are not
21 efficient. That's why you have merchant plants coming
22 into the world now. That's why we have recognized
23 that generation is competitive. And that led to the
24 very difficult question of how do you unbundle?

25 And if you notice today, I would estimate,

1 without a lot of clear thought on it -- but I'd
2 estimate that about 80% of the questions that all of
3 you all asked of the people down here, the responses
4 were sort of like those are good questions and we're
5 going to study those in the collaborative process.

6 We are not very much further along in the
7 structure of an RTO than we were eight or ten months
8 ago in this state, or maybe a year ago, except one
9 thing: There is a recognition of a TRANSCO. There
10 seems to be an emerging recognition that a TRANSCO is
11 better than an ISO, or some lesser form of ISO.

12 But the real focus should be how do you make
13 the wholesale generation market function in the most
14 beneficial vein for the people of Florida? And the
15 only way you're going to have a competitive wholesale
16 market capable of, or potentially capable of operating
17 at its optimum, is to have a transmission system that
18 does not have a stake in the profits to be derived
19 through the overall process.

20 In other words, competition is available and
21 it's in generation. It's not in transmission. So
22 you're going to be left, whichever way you go, either
23 privately own or publicly owned, with a large monopoly
24 that is absolutely essential to the electric energy
25 supply and to the efficient functioning of a

1 marketplace.

2 And when you start trying to fit that into a
3 private ownership mode, and the questions that are
4 just -- well, the questions are bubbling up by the
5 minute at proceedings like this -- what is the state's
6 role? What is the state's jurisdiction? And I can't
7 assure you of anything. But I can predict that a
8 privately owned TRANSCO is going to operate in sort of
9 a no-man's land between the state regulation and
10 federal regulation. And I can predict that when the
11 state attempts to tell them something through the PSC
12 that they don't like, they are going to go over to the
13 other regulator and see if they can get relief one way
14 or the other. I don't know exactly how. And no one
15 else does. And there's no evidence because we have
16 never been in this situation before.

17 We're half in a competitive world and half
18 out. And our laws are half in and half out. A good
19 example of that is the merchant plant quandary that
20 we're in because of a law that was put on the books 25
21 years ago for environmental purposes. It wasn't put
22 on the books for competitive purposes at all. And
23 you're going to have a host of other things.

24 The Grid Bill never contemplated this half
25 in, half out world that we're in. And the

1 jurisdiction that Commissioner Clark is looking for so
2 that the state of Florida can maintain some degree of
3 control over its electric utility industry is not
4 going to be well placed -- or it's not well-defined at
5 all in the Florida Grid Law. Because the Florida Grid
6 Law was never written to contemplate this situation.

7 And the only way it's going to be done is to
8 go ahead and go back and address it to the
9 Legislature. And there will probably be a Study
10 Commission coming out of this Legislature. I think --
11 I can't say for sure, you never want to predict those
12 boys and girls down there, but they might have a Study
13 Commission this year. And this matter is at the focal
14 of the here and now on a competitive wholesale market.
15 And if the state of Florida can really optimize a
16 competitive wholesale market, there might be less push
17 and less yearning to get to a retail deregulation.

18 So you have an opportunity now to look at
19 how you can best serve a competitive wholesale
20 generation, and that would be by a transmission setup
21 that is completely independent of the marketplace
22 itself. And it's put there for one purpose, and one
23 purpose only: To serve, to benefit -- and to benefit
24 the wholesale generation market. We're there now.
25 That's the law.

1 **COMMISSIONER CLARK:** What are you
2 advocating?

3 **WITNESS DENIS:** I'm saying that the State of
4 Florida would be well-advised to take this small
5 window in the midst right now and seriously look at a
6 publicly-owned transmission system, owned by the State
7 of Florida or some agency thereof, set up in some way,
8 hopefully to remove it as far as you can without
9 taking it out of the public realm. Put the
10 transmission system in there. Give it an explicit
11 mandate, which is serve the competitive generation
12 market and let competition get on. Competition is
13 only going to exist in the generation market. It's
14 not going to exist at distribution or at transmission
15 levels because they're wires. I love Erwin Stelser's
16 (ph) comment on that. He says transmission --

17 **COMMISSIONER CLARK:** Mr. Danese, let me ask
18 you about that. You have some concern, I guess, that
19 the owners of the transmission grid will somehow take
20 action to maximize their profit.

21 **WITNESS DENIS:** We have heard today that
22 they will today, Commissioner. We have been assured
23 that they will.

24 **COMMISSIONER CLARK:** All right. I guess --
25 how would you respond to the notion that the users of

1 the transmission system will be in a very good
2 position to look at what's being spent and know
3 whether or not it's being gold-plated. I think that's
4 your fear, is it?

5 **WITNESS DENIS:** Well, the users -- they will
6 have the same ability to look at the system as they
7 had for all those years -- maybe 90 years -- to look
8 at the fully regulated vertically integrated
9 monopolies.

10 **COMMISSIONER CLARK:** Are you saying from the
11 get-go we should have had state owned --

12 **WITNESS DENIS:** No. No, no. No, no. Don't
13 get me wrong. The industry developed along the
14 integrated vertical monopoly and it worked as well as
15 it could until generation changed, the technology of
16 generation changed, probably the last 30 years or so,
17 25 years. That became competitive. Not because of a
18 regulatory move or a legislative act. That became
19 competitive because of the technology. Transmission
20 has not changed. It's still a monopoly. And that
21 monopoly could be utilized to get the benefits of the
22 competition in generation. It could be fully utilized
23 if directed that way. You don't have to direct it
24 that way -- and you can put together an ISO that will
25 work. California, the lights are still on but I don't

1 believe anybody is holding that up as a role model
2 right now for transmission. And a TRANSCO will
3 probably work, it's just not what I would say is the
4 optimal approach to it.

5 Take transmission out of the equation. Let
6 the competition available in generation be maximized,
7 and I think that overall people of Florida -- not just
8 the stakeholders -- the people of Florida will have
9 the best electrical system they could get.

10 But to go back to the other problems that
11 are arising here is, in a stakeholder collaborative
12 process everyone has got to, of necessity, try to get
13 the best position that that person can get for that
14 particular entity. The idea that you're going to
15 collaborate your way into some broad view of the
16 public interest is not realistic. It sounds good but
17 it's not realistic.

18 Now, JEA is quite interested, if you chose
19 to -- if the state chooses to maintain the status quo
20 or leave us alone or whatever you want to do -- but
21 we'll continue using our transmission system to
22 maximize the return on it for the owners, which are
23 the people of the City of Jacksonville.

24 Now, we're functioning the same as any other
25 stewards of transmission assets in that regard. On

1 the other hand, we would advocate, though, that you go
2 forth and look seriously at a question -- at a
3 publicly owned TRANSCO.

4 **COMMISSIONER DEASON:** If the study bill
5 passes, would that be something that would be
6 reviewed? The study bill. If the study bill passes,
7 is that something that would be reviewed within that
8 study?

9 **WITNESS DENIS:** It could be. If you
10 establish a Study Commission that's going to deal with
11 the question of electrical energy policy, which right
12 now is the way it's worded, I think. It actually
13 might be worded to energy in general. But it could be
14 looked at, yes. No way of guaranteeing unless you
15 legislate it into it.

16 **COMMISSIONER JABER:** I may have missed this
17 answer in my absence, but on the functionalization
18 issue, to the degree that there are disputes between
19 what is transmission and what is distribution, or what
20 assets should go into the TRANSCO, which entity do you
21 foresee would decide that issue?

22 **MR. NAEVE:** It would seem to me initially
23 that should be part of the collaborative process.

24 One would think that you would want a
25 certain amount of consistency as to what is included

1 in the TRANSCO so that if various entities contribute
2 assets to the TRANSCO, they take a similar approach,
3 at least as a starting point. But it -- once you
4 start this process of refunctionalizing assets between
5 distribution and transmission, you get into a fair
6 amount of controversy. Because some parties will be
7 concerned that if a particular facility is classified
8 as distribution and not as transmission, that they may
9 some day not be able to take wholesale service off
10 that function without having to pay a second rate.
11 And it really boils down to rate disputes in part.

12 I think what we probably want do to, at
13 least in the collaborative process at first, is see if
14 there is going to be a general agreement among all the
15 parties in the collaborative process as to how we want
16 to approach this issue, with the idea in mind that we
17 kind of take similar approaches -- each of the
18 transmission owning entities take a similar approach
19 to it.

20 If we can't reach an agreement on it as to
21 that, then I think each entity would perhaps
22 independently have to determine what they would want
23 to put in the facility, which will get rate issues
24 when you start doing that. Because assets that are
25 put into the transmission company will be paid for by

1 all transmission users. And some people may not want
2 to pay for a particular asset that's being put into it
3 because the cost will be carried in the rates and so
4 forth.

5 So that's a rather roundabout answer, but I
6 think we'll start with the collaborative process and
7 try to reach consensus. If we can't reach consensus,
8 then we're going to have to, I think, leave it up to
9 each owner to define what goes in and what does not.

10 **COMMISSIONER CLARK:** I'd like to ask a
11 question with regard to how many municipals own
12 transmission facilities or co-ops? Is it primarily
13 OUC and JEA?

14 **WITNESS DENIS:** Tallahassee owns some.

15 **COMMISSIONER CLARK:** I guess my question is,
16 would they be precluded from transferring their assets
17 to a TRANSCO?

18 **WITNESS DENIS:** Not automatically, no.

19 **MR. WILLIAMS:** In FMPA we have about six
20 entities that own transmission.

21 **COMMISSIONER CLARK:** I'm just wondering
22 there's the private usage. But that arises if you
23 chose to retain the asset. But if -- it doesn't
24 preclude you from selling it.

25 **MR. BRYANT:** Divestiture is the cleanest,

1 most efficiently way of eliminating private use, yes,
2 Commissioner. That's probably our preferred -- right
3 now my thinking is that we would prefer divesting
4 ourselves of our transmission assets.

5 **COMMISSIONER CLARK:** I guess I would -- I
6 don't know where we are in the agenda, but I'd like to
7 hear from parties about what they expect to accomplish
8 at the FERC workshops. And do they have -- I think
9 Bob, didn't you send out an e-mail about a proposed
10 presentation at the FERC workshop?

11 **MR. TRAPP:** Yes, ma'am. And I think this is
12 pretty much it.

13 **COMMISSIONER CLARK:** Okay.

14 **MR. RAMON:** I'd like to respond to that.
15 But I have some comments, too, I'd like to make about
16 the last two or three hours. And I feel we're maybe
17 losing some focus on really what really is at issue
18 here.

19 **COMMISSIONER JABER:** I'm sorry. Can you
20 tell me who you are?

21 **MR. RAMON:** Greg Ramon from Tampa Electric
22 Company. Sorry.

23 First of all, regarding the proposed agenda
24 that Bob Trapp sent out to all of us, Tampa Electric
25 fully supports the proposed Commission agenda for that

1 FERC meeting. We think it's right on target, and was
2 somewhat disappointed to hear in your conversations
3 with FERC that there wasn't a clear acceptance of
4 going to the working group meetings on the second day.
5 It just seems totally logical.

6 **COMMISSIONER CLARK:** Has anyone heard
7 anything back from them? We had anticipated seeing an
8 agenda on their web site at some point and I'm
9 informed that we haven't seen one yet.

10 **MR. TRAPP:** Commissioner Clark, I did
11 receive a phone call yesterday from a FERC Staff
12 person but it was not a confirmation they had accepted
13 the agenda. But she did ask the names of the two
14 working groups for the second day so that led me to
15 believe they had adopted the schedule.

16 **COMMISSIONER CLARK:** Okay.

17 **MR. RAMON:** And if I can be permitted, I'd
18 like to go ahead and make some comments or I could
19 hold off on doing that.

20 **CHAIRMAN GARCIA:** Go ahead.

21 First and foremost, we're very supportive of
22 the collaborative process, and, indeed, as a work in
23 progress, like Marty and others have said this
24 morning. But I think we're losing focus on the --
25 concentrating on the form, and by form I mean TRANSCO

1 for-profit, not-for-profit or ISO.

2 What this is all about is opening up
3 markets. And we must not let ourselves get so
4 immeshed in the RTO design or what flavor it should
5 be. We have to turn our attention to market design
6 sooner than later in this collaborative process.

7 What I'm talking about is market rules for
8 generation competition. We're talking about
9 congestion management. Regardless of the form we end
10 up with, you're going to have congestion.

11 Ancillary services. While transmission is
12 involved in reserving some of those services, you're
13 talking about a generation thing. You're talking
14 about balancing load and generation. You're talking
15 about reactive and voltage support from generation
16 sources. You're talking about creating a generation
17 market for that. As a part of ancillary services
18 you're talking about a balancing market.

19 What needs to be put on the table, whether
20 we're going to like it or not, we need to study it, is
21 the power exchange. Maybe even things like
22 standardized trading contracts and other market
23 mechanisms. And we're at a point --

24 **COMMISSIONER CLARK:** Let me interrupt you
25 for a minute. Does the TRANSCO have to do that?

1 Aren't there advocates of letting that develop by the
2 private industry?

3 MR. RAMON: Within the FERC final rule, at
4 least congestion management, ancillary services have
5 to be addressed through market mechanism.

6 COMMISSIONER CLARK: But a power exchange.

7 MR. RAMON: No.

8 COMMISSIONER CLARK: Are you advocating that
9 we set up a power exchange as part of the TRANSCO?

10 MR. RAMON: I'm advocating that we look at
11 it and study it.

12 COMMISSIONER CLARK: Okay.

13 MR. RAMON: We need to think about --
14 rethink reliability -- about reliability and a new
15 marketplace. Think of the words we just talked about,
16 we can't all pass a test on it yet, but congestion
17 management, ancillary services, must-run contract, it
18 connotes the reliability and unique aspects of our
19 industry.

20 But Tampa Electric Company's view, FERC's
21 views, NERC's view is that we must develop market
22 mechanisms to deal with these reliability issues and
23 not deal with it like we have in the past, command and
24 control, or else we're going to greatly limit the
25 creation of an effective generation market.

1 The transmission organization is to bring
2 about the opening of the market. And because of this
3 unique aspect of AC interconnected power systems,
4 we're going to have to come up with a market approach
5 to taking care of reliability.

6 In our focus on market design we shouldn't
7 leave any stone unturned. We have to press very hard
8 on market solutions to all of these issues. And I
9 think we should throw back on the table -- I'll have
10 people throw stones at me -- but this business about
11 multiple control area versus single control area,
12 there's some theoretical market benefits about single
13 control area. We need to think about that, talk about
14 that.

15 Tampa Electric doesn't take a position on
16 any of these market design issues other than to say
17 that's what this is all about. We need to focus on
18 this now, not later. We think that market design is
19 the most important aspect of this restructuring effort
20 before us, the Florida industry.

21 Whatever the form is, let's just keep in
22 mind -- don't want to beat a dead horse -- what it's
23 all about is to bring about this generation market.
24 The worst thing we can do is put blinders on and only
25 focus on this RTO design, planning, operations,

1 governance, divestiture analysis, drawing the bright
2 line between distribution and transmission,
3 transmission tariffs -- awfully important. But we
4 have to make our decisions on the form based on
5 bringing about a Florida market design that will best
6 bring about effective generation in Florida.

7 I think we have been too much focused today,
8 and in the working group, on the nitty-gritty aspects
9 of designing a transmission organization and not on
10 the market design. I'm not saying we're not going to
11 do that, but I just want to emphasize that we need to
12 move on that.

13 COMMISSIONER CLARK: Mr. Chairman, are you
14 going to say anything about this?

15 CHAIRMAN GARCIA: Is that the agenda?

16 COMMISSIONER CLARK: It looks like we just
17 got the agenda from FERC.

18 COMMISSIONER JABER: It was just posted
19 today. Actually, Maria said about a half hour ago.

20 CHAIRMAN GARCIA: We'll make some copies and
21 distribute it.

22 COMMISSIONER CLARK: It does show
23 progress -- it does indicate that there would be
24 presentations on Thursday. And it looks like Florida
25 would go first. And then on Friday there will be a

1 plenary session but then there will be concurrent
2 sessions. And one of the sessions is Peninsular
3 Florida TRANSCO. One of them is Entergy models. And
4 one of them is progress towards a region-wide
5 solution.

6 Mr. Chairman, I should ask Staff, is there
7 any -- should we hear --

8 MR. JENKINS: We're making copies of that
9 now.

10 CHAIRMAN GARCIA: Do you want to take some
11 additional comments? Does anyone else want to make
12 any additional comments? Just one.

13 COMMISSIONER CLARK: Is Gulf Power -- do
14 they want to make any comments about what's happening
15 in -- Bruce Edelston is from the Southern Company.
16 Maybe he would comment on what they are doing there.

17 CHAIRMAN GARCIA: Give us your name.

18 MR. EDELSON: I think many of you were -- my
19 name is Bruce Edelson. I'm with the Southern Company
20 out of Atlanta.

21 Many of you were at the PURC conference and
22 heard Bill Newman, our senior vice president of
23 transmission, speak at that meeting about our current
24 study effort that's going on right now.

25 We're in the process of addressing a lot of

1 these same questions that have been discussed this
2 morning in the Southern Company area. Our tentative
3 conclusion is also that a TRANSCO is a much better
4 form of an RTO than an ISO for several reasons, and
5 that's the form of RTO that we're pursuing right now.

6 At the current time, Southern is really
7 looking just at its subregion of SERC as being an RTO
8 for a lot of reasons, including the complexity of just
9 negotiating with other utilities within Southern's
10 control area, including the co-ops and municipals.
11 And also tax problems associated with merging
12 transmission systems across the region.

13 At the April 6th and 7th FERC meeting,
14 that's essentially what we intend to say, that we're
15 studying the issue. We're looking in detail at the
16 possibility of a Southern Company basically spinning
17 off its transmission to an independent transmission
18 company that would be publicly traded, where the
19 cooperatives and municipals would either sell their
20 transmission to the TRANSCO, or lease it or, as
21 Florida Power & Light has suggested, turn over control
22 of their transmission to the TRANSCO.

23 So the proposal that we're looking at is
24 very similar to what Florida Power & Light is talking
25 about, although there are some differences in the

1 details.

2 I'll be happy to answer any questions.

3 **COMMISSIONER DEASON:** You mentioned some tax
4 problems that would arise if you tried to do a TRANSCO
5 which went outside of the so-called Southern control
6 area.

7 **MR. EDELSON:** Yeah.

8 **COMMISSIONER DEASON:** Is that tax
9 consequence unique or is that the same tax
10 consequences we see within the state of Florida when
11 you're looking at different entities, different
12 investor-owned utilities, putting assets together.
13 I'm just trying to understand what your tax
14 consequences are versus what we're trying to
15 contemplate --

16 **MR. EDELSON:** My understanding is that if
17 two Florida utilities attempted to merge their
18 transmission assets, that would be a taxable
19 transaction. Now, there are some organizational ways
20 around that, including partnerships whereby each
21 individual utility might continue to have an ownership
22 interest in a partnership that owns the transmission
23 assets.

24 We've decided that that's really -- amounts
25 to passive ownership, which is one of the things that

1 we're trying to avoid in the development of our RTO.
2 But I don't think that the tax issues for Florida
3 companies are any different than they are for us.

4 **CHAIRMAN GARCIA:** I guess this would be to
5 FPL and FPC. The status that your company is in right
6 now, is there any tax problems with the transferring
7 of those assets because of where you are in terms of a
8 merger? And then I guess more properly to FPL, if I
9 read the newspapers properly -- and the Spanish are
10 participating in an acquisition of your company --

11 **COMMISSIONER CLARK:** Did you arrange that?

12 **CHAIRMAN GARCIA:** Yeah. (Laughter)

13 Also arranging the Spanish lessons for
14 Broadhead (ph). But the -- that change there, what
15 effect does that have? Isn't there a tax effect
16 there? I know you have to be speculative, and that's
17 all I'm asking. But part of the -- one of the issues
18 that one of the players in this process came to me and
19 said, you know, one of the great fears we have is that
20 as you start down this road, you know, you make a
21 series of certain assertions about creating this
22 TRANSCO, about being for a TRANSCO. And then because
23 of these sales or mergers, suddenly once those are
24 approved, oh, maybe it's not such a good idea. And
25 obviously everyone in this room is proceeding under

1 the aspect that -- and I assume also that you're
2 dealing in good faith -- but what do these -- either a
3 foreign acquisition or simply a -- go ahead, Vinny.

4 **MR. DOLAN:** Mr. Chairman, we -- it's not --
5 as I understand earlier, it's not our intention, it's
6 not Florida Power Corporation's intention at the
7 initial formation of this RTO to divest of our assets.
8 So I don't think the tax issue will necessarily be an
9 issue for us. However, we have made our intentions
10 known in our filing with the FERC. We are moving
11 along that path. And, you know, it's impossible for
12 me to sit here and predict what the outcome of that
13 proceeding is going to be.

14 However, I will say that, you know, we
15 certainly are not -- we're cognizant of Order 2000 and
16 requirements of Order 2000. So I believe we're -- you
17 know, our intentions are going to remain the same, and
18 that is to, you know, participate in this process and
19 move forward with an RTO in Florida. And I think the
20 type things we're talking about are reasonable. So as
21 to the tax issue, I don't feel that's necessarily
22 going to be an issue for us.

23 **MR. NAEVE:** I'll address this, although I
24 don't purport to be a tax expert, this is more for tax
25 lawyers and investment bankers.

1 But it's my understanding that there is a
2 tax-free way to spin off your transmission assets into
3 a new corporation so you transfer a hundred percent of
4 your assets to your shareholders and then it becomes a
5 separate corporation. But there are certain caveats
6 on maintaining tax-free status for that. And one of
7 the caveats is that for a two-year window -- I think
8 it's a minimum of two years, there can't be any change
9 in control transactions either involving the entity
10 that was spun off or involving the entity that spun it
11 off. And I shouldn't speak to Florida Progress, but I
12 think because of their change in control transaction,
13 they would not be permitted to engage in this type of
14 tax-free spin-off.

15 Likewise, I won't comment on any rumors one
16 way or another about FPL, but if any entity that -- in
17 this business today, a utility in this business today,
18 with so much consolidation and change of control going
19 on, there's a high likelihood or a reasonable
20 likelihood that any entity may be subject to a change
21 in control transaction. If they were to spin off --
22 if such a entity were to spin off its transmission
23 assets today in one of these tax-free transactions and
24 then be subject within a two-year window to a change
25 in control transaction, they would be hit with an

1 after-the-fact tax bill for that spin, and in the case
2 of FPL it could be hundreds of millions of dollars.

3 So that is the -- were it not for that
4 problem of potential after-the-fact tax consequence,
5 that would be a very convenient way of creating a
6 transmission company and not having any passive
7 ownership interest. Other ways of creating
8 transmission companies not having passive ownership
9 interest would be to set up a company and sell your
10 assets to it, but that creates tax problems as well;
11 substantial tax problems.

12 So once you get past those, there aren't
13 many convenient ways to avoid having passive ownership
14 and not have significant tax problems. We've
15 identified a couple of structures that can avoid
16 massive tax liabilities, but they do require you to
17 retain some passive ownership interest. Now, why is
18 Southern Company different? One reason is Southern
19 Company is such a big company, it's less likely to be
20 subject to a change in a control situation than
21 smaller companies, so maybe that's one reason why they
22 might be more willing or more able to engage in that
23 type of transaction than a smaller company.

24 But that change in control requirement also
25 affects the entity that was spun off. So, if, for

1 example, two utilities were to spin off their
2 transmission separately and avoid having passive
3 ownership, then those two transmission companies were
4 to merge within a two-year period to form a statewide
5 TRANSCO, you'd also have a tax issue. The same tax
6 issue.

7 So it's not easy to create one of these
8 independent companies and avoid major tax liability
9 unless you retain some form of passive ownership.

10 **COMMISSIONER CLARK:** Is anyone thinking
11 about going to Congress and suggesting they change the
12 tax law for that limited purpose?

13 **MR. NAEVE:** Yes.

14 **COMMISSIONER CLARK:** Okay.

15 **MR. NAEVE:** Now, you can't count on Congress
16 doing that, but there have been a variety of people
17 that have proposed that. In fact, I was having a
18 conversation with Commissioner Herbert at FERC
19 recently, and he's going to make such a proposal to
20 permit people to spin off their transmission assets
21 and to avoid the tax consequences. Just dealing with
22 present law, it's very difficult to do.

23 **CHAIRMAN GARCIA:** Bob, is there anything
24 else you want?

25 **MR. TRAPP:** I think at this point we were

1 going to look at Gulf Power, maybe get a briefing
2 quickly -- did you do that? I'm sorry, I was out
3 copying.

4 Did Tallahassee have a opportunity to
5 express their concerns?

6 **CHAIRMAN GARCIA:** No.

7 **COMMISSIONER CLARK:** Does Tallahassee want
8 to or we'll just rely on the comments filed?

9 **MR. CLARK:** We'll just rely on our written
10 comments for now. We're working within the
11 collaborative process.

12 **CHAIRMAN GARCIA:** If you're going to keep --
13 you need to get on the mike. And identify yourself
14 for the court reporter.

15 **MR. CLARK:** I'm Paul Clark with the City of
16 Tallahassee.

17 As I said, we're working within the current
18 collaborative process and believe that our concerns,
19 as written, stand for now. And we'll address them
20 through the process as needed.

21 **CHAIRMAN GARCIA:** Bob.

22 **MR. TRAPP:** The only remaining item we have,
23 Commissioners, is the last page of the handout, and it
24 has to do with what we perceive to be a potential
25 scheduling problem with how this Commission intends to

1 review whatever is proposed, and how that review
2 process should coordinate with whatever activity has
3 to take place at FERC.

4 Staff is of the opinion -- and I think we'd
5 like input from Florida Power Corporation because we
6 feel they are most directly impacted. We feel that
7 Order 2000 from FERC basically only requires a report
8 in October of this year. And that report could very
9 well be that we are making progress in Florida with
10 respect to TRANSCO formation and identification of the
11 issues that go with that.

12 The filing that Vinny has alluded to that
13 they would make before FERC we would propose come
14 before us. When they come up with a proposal, we
15 believe, Staff believes, and would recommend that it
16 should come to the Florida Commission first for our
17 review. I think there are other parties that are not
18 present today that represent ratepayer interests that
19 would want to be here, want to evaluate, and somehow
20 we need to address how to address those parties'
21 concerns.

22 Our proposal would be to open a docket to
23 address those concerns. Carry that on after this
24 filing into next year with hopes that we could go for
25 the second FERC deadline date of December 15th, 2001,

1 with a ready-to-go operational RTO that the Florida
2 Commission could support.

3 We've laid out what we think a CSAR would
4 look like. Roland Floyd did it, so if you have any
5 questions I'll let him answer them.

6 But, mainly, we just wanted to throw that
7 out on the table and see how it came back at us.

8 **CHAIRMAN GARCIA:** Anybody?

9 **COMMISSIONER CLARK:** I think we're just
10 interested in getting a process to assure ourselves
11 that -- frankly, that we have a substantial say in how
12 an RTO is established in Florida and what -- the
13 parameters of it, and that we have a clear
14 understanding of the impact on the retail customers.

15 **MR. WALKER:** Commissioners, we fully intend
16 to keep you plugged in all the way along the line.
17 One concern I would add is if you formalize the
18 process to assume it might inhibit some of the
19 free-falling conversations we have going on among all
20 the stakeholders. So to the extent we can kind of
21 keep it informal for a while before everybody has to
22 take a formal position going forward, that would be
23 helpful.

24 **MR. TRAPP:** This proposal bill would wait
25 until you gave us a proposal.

1 MR. WALKER: I see that.

2 MR. TRAPP: To open a docket.

3 MR. WALKER: And that's the better way to do
4 it.

5 MR. FLOYD: Let me clear up one thing. We
6 did have a item on here, order establishing procedure.
7 I don't know if we can do that and have a docket or
8 not.

9 CHAIRMAN GARCIA: We'll wait until FPL files
10 something.

11 MR. FLOYD: Okay.

12 CHAIRMAN GARCIA: Is there anything else?

13 Again, I want to thank you. This has been
14 tremendously informative. Mr. Danese, I would suggest
15 that you communicate those feeling to Chairman Lee. I
16 will do likewise. If you think that the study process
17 should look at that, I don't see why not. The whole
18 study is precisely along those lines, energy policy.
19 I'm going to mention it also to Chairman Rojas, and I
20 might suggest that you do the same. I know you wrote
21 a letter yesterday -- or a few days ago to Speaker
22 Thrasher. I'm sure he takes those to heart. But you
23 might want to mention that to them and I shall too.
24 It's something we should keep at least in the
25 forefront, if there's going to be a study that could

