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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In The Matter of	:	DOCKET NO. 891345-EI
Application of GULF POWER	:	<u>HEARING</u>
COMPANY for an increase in rates	:	<u>EIGHTH DAY</u>
and charges.	:	<u>MORNING SESSION</u>

VOLUME - XX

RECEIVED Pages 2906 through 3044
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JUN 20 1990

Florida Public Service Commission

FPSC Hearing Room 106
 Fletcher Building
 101 E. Gaines Street
 Tallahassee, Florida 32399

~~Saturday, June 15,~~ 1990
Wednesday 20

Met pursuant to adjournment at 8:35 a.m.

BEFORE: COMMISSIONER MICHAEL McK. WILSON, CHAIRMAN
 COMMISSIONER GERALD L. GUNTER
 COMMISSIONER THOMAS M. BEARD
 COMMISSIONER BETTY EASLEY

APPEARANCES:
 (As heretofore noted.)

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DOCUMENT NO.
05471-96
6-26-90

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(Transcript follows in sequence from Volume XIX.)

4

5

6

CROSS EXAMINATION

7

BY MR. PALECKI:

8

Q Mr. Pollock, are you aware that the local facility charge for supplemental service which is proposed by Gulf in this case is not projected to collect any revenue in the test year?

12

A By "supplemental service," you're referring to the standard tariffs, the LPT, PXT tariffs?

14

Q Yes, sir.

15

A Yes. I'm aware of that.

16

Q Wouldn't this be an ineffective local facilities charge? I mean if it collects no revenue, we might as we will not have it?

19

A Well, as I understood the proposal, the local facilities charge option was to collect the minimum amount of recovery from the customers. So, if the customer was using capacity at less than 80% of the capacity required to maintained, then a local facilities charge would kick in to provide that

25

1 additional revenue.

2 But the fact that the charge itself is not
3 providing any revenue doesn't mean that there aren't
4 any revenues being recovered for local facilities
5 costs, because those costs are built into the rates,
6 the demand charges.

7 Q Under the position that you espouse in your
8 testimony, if a cogenerator always bought energy and
9 capacity to replace capacity that normally was
10 generated by his own generators, could he sign up for
11 zero standby capacity and not pay any reservation
12 charge at all?

13 A The key word there is "normally." In some
14 circumstances it's conceivable that there are so many
15 infinite number of operating states that no one knows
16 how to define "normal." And especially if the
17 arrangement is new, it's not clear that you can arrive
18 at a number that reflects normality.

19 Q Well, wouldn't this be a loophole in your
20 system, in your particular -- the system you espoused,
21 that if the cogenerator claimed that he normally
22 generated this energy and capacity with his own
23 generators, he could sign up for the zero standby, pay
24 zero reservation charges. It seems that that's a
25 serious loophole in your position.

1 A Not at all. In fact, the position that we're
2 recommending would clear up that loophole. The problem
3 is, and the loophole is created by the fact that
4 standby power requirements are not determined in
5 reference to the actual demand imposed by the customer
6 in relation to the customer's supplementary or full
7 requirements demand.

8 And if you implemented the demand provisions
9 of standby service, where you calculate the additional
10 capacity required by the customer in excess of that
11 customer's supplementary power requirement, you, in
12 fact, are zeroing in on exactly the amount of
13 additional demand that the customer is imposing because
14 of forced or scheduled outages.

15 Q Referring to Issue 158, the issue concerning
16 cogenerators, under your position if a customer's
17 generator was experiencing a forced outage, could he be
18 billed on the SE rider rather than on the standby rate
19 schedule if the customer has another generator with
20 which he could generate the kilowatt hours and
21 capacity, but just chooses not to do so for economic
22 reasons?

23 A I haven't thought through that; I really
24 don't know.

25 CHAIRMAN WILSON: Would you go through that

1 again?

2 MR. PALECKI: Yes.

3 Q (By Mr. Palecki) If a customer's generator
4 were experiencing a forced outage, and I'm asking this
5 question under the position that you espoused in your
6 testimony, could he be billed on the SE rider rather
7 than on the standby service rate schedule, if that
8 customer had another generator with which he could
9 generate the kilowatt hours in capacity, but simply
10 chooses not to do so for economic reasons?

11 A I don't think so, unless the customer's total
12 demand exceeded his supplementary demand.

13 Q I'd like to ask you the same question, but
14 rather than being a forced outage, we have a scheduled
15 outage for maintenance.

16 A Again, as long as the customer is not
17 imposing any more demand on the utility, than he can
18 impose under his supplementary contract, there would be
19 no additional SE power sold to that customer. In other
20 words, the SE would only kick in at levels above the
21 customer's supplementary demand.

22 CHAIRMAN WILSON: Is your scenario where a
23 customer has two generating units?

24 MR. PALECKI: That's correct.

25 CHAIRMAN WILSON: One of them goes down under

1 a planned outage and there's an arrangement to buy SE
2 energy, because it's been planned and arranged with the
3 utility.

4 MR. PALECKI: That is correct.

5 CHAIRMAN WILSON: And then he chooses, also,
6 not to run the other generator?

7 MR. PALECKI: The other generate could just
8 be a generator that -- let's say it's antiquated, it's
9 there on the premises, and it's just being used for
10 this purpose, simply so the customer can avoid the SE
11 rider -- or, excuse me, avoid the standby service rate.

12 WITNESS POLLOCK: Let me clarify something.
13 I think that under that situation, if a customer
14 continued to operate his plant, the generator was down,
15 he would still have to have the steam. If it was a
16 boiler outage, he would still have to have the steam to
17 operate the plant. If he has the steam to operate the
18 plant, then he's also got the steam to operate the
19 other generator. So it probably would not be
20 economical under those circumstances to take the second
21 generator down, because he's got a steam requirement
22 that has to be met. If it's a quick turbine outage or
23 a trip of that nature, then the customer would probably
24 opt just to shed a load, not impose a higher demand on
25 the utility.

1 Q (By Mr. Palecki) Would it be possible for a
2 customer to maintain a generator, let's call it a dummy
3 generator? I mean, the thing could be cranked up, he
4 could get it to work, but the only purpose it's there
5 for, is so that he says he has a standby generator and
6 he can avoid the standby charges. And he can choose
7 not to run that generator purely for economic reasons
8 but avoid the standby charges under your scenario. At
9 least that's what it appears to me.

10 A Well, I guess -- I'm having trouble following
11 the question, but it's not a question of avoiding the
12 standby charges. You pay for standby based upon the
13 amount of service which you feel you need, and a
14 customer can operate -- and this customer did operate
15 for many years with a much lower supplementary contract
16 without any standby power. But if a customer feels
17 that more standby power is needed, that customer can
18 choose to. And under the rates, if he decides not to
19 operate that generation and not to shed load and impose
20 higher than his contract requirement, that contract
21 requirement ratchets upward. So you can avoid it. You
22 can cost minimize and not stand by for each and every
23 one of your generating units. But, of course, you're
24 taking a risk, and there's a cost/benefit to be made,
25 analysis that would have to be made, to determine the

1 risk of not signing up for enough standby power. It's
2 like -- and Maybe this is not a totally parallel
3 analogy: If you have an old car, you're less likely to
4 want collision damage on it because it's not worth
5 anything to maintain. You're going to take the risk
6 that you'll be in a collision and have to pay a very
7 high deductible or pay the high cost, or you just
8 decide to get rid of the car.

9 Q Is Issue 158 only -- which is the Industrial
10 Intervenors' issue, is that only a request to be
11 allowed to use SE in periods when the customer is not
12 experiencing a forced outage or scheduled outage of any
13 of his generators? We'll call that a scheduled outage
14 for maintenance of any of his generators.

15 MR. McWHIRTER: Would you repeat that
16 question, please?

17 Q Is the Industrial Intervenors' Issue 158 only
18 a request to be allowed to use SE in periods when the
19 customer is not experiencing a forced outage or a
20 scheduled outage for maintenance of any of his
21 generators? (Pause)

22 A Generally, yes. It's whenever a customer has
23 the option of backing off of generation that would
24 otherwise operate under the circumstances that is less
25 efficient. When I say "generally," yes, I can see that

1 there might be circumstances that a unit might be down,
2 but the customer may be compensating in his plant by
3 removing equivalent amount of load to compensate for
4 that situation.

5 Q What are those circumstances?

6 A Well, for example, if a small turbine does go
7 down and the customer would otherwise impose a higher
8 demand, rather than do that a customer could shed load.
9 A customer has the capability of shedding load, and
10 under those circumstances there is no standby power
11 being purchased by that customer, under those
12 circumstances. He could, however, under these
13 circumstances, be using less efficient generation to
14 meet his internal needs and, therefore, it would make
15 economic sense for him, if SE was available, to back
16 off of that less efficient generation.

17 So I think the customer would have to
18 demonstrate that there was an outage, that there was
19 some load reduction that corresponded, or some step
20 reduction load to correspond with that outage. But I
21 think most of the times when I answer, generally
22 speaking, most of the times it would be in
23 circumstances when the customer was operating less
24 efficient generation, simply trying to displace that
25 less efficient generation.

1 Q Were you here during Mr. Kisla's testimony
2 yesterday?

3 A Yes, in body.

4 Q What about Mr. Kisla's circumstance with the
5 Stone Container Company?

6 A Well, Stone Container Company is a good
7 example of how you cannot oversimplify the way
8 customers use standby power. I think that my
9 understanding of his operation is that he would just as
10 soon not use generation to provide his own requirements
11 because it costs its own extra money, it requires them
12 to use condensing generation, which is much less
13 efficient than cogeneration, and therefore you've got
14 essentially the steam requirements going up in the
15 atmosphere rather than being used sequentially in the
16 papermaking process.

17 What they would like to do is optimize their
18 generation to some extent, if it's available, by buying
19 cheaper energy from the utility and not generating less
20 efficiently and venting steam into the atmosphere.

21 Q We'll move on to another issue.

22 Do you use near-peak demands based on the
23 system's 71 highest peak hours to allocate production
24 and transmission plant in your Cost of Service Study?

25 A Yes, that's the result of applying 5%

1 threshold to define the hours that are close to the
2 peak period.

3 Q I'd like to refer you to Exhibit 601, which is
4 Gulf's Revised Response to Staff's Thirteenth Set of
5 Interrogatories. I'm not sure that I have a copy of
6 that.

7 CHAIRMAN WILSON: Did you say 601?

8 MR. PALECKI: Yes, 601

9 Q (By Mr. Palecki) I'd like to refer you to
10 Part C, which is the sum of the demands of each class
11 of the Utility's 71 highest system peak hours in 1987.

12 A I have that, yes.

13 Q Could we divide these values by 71 to arrive
14 at an estimate of your adjusted near-peak demands as
15 shown on Page 1 of Schedule 8 of your prefiled
16 testimony? (Pause) Bear with me a moment, please.

17 (Pause)

18 A Yes, you could have. These are at the meter
19 level, I believe.

20 Q Now, the data in the interrogatories is based
21 on the nonmigration scenario of six customers in PXT,
22 correct?

23 A Yes, that's my understanding.

24 Q Is your estimate of the near-peak demands
25 based on 1987 data reflecting four customers in PXT and

1 1990 kilowatt hours based on six customers of PXT?

2 A That's correct, yes.

3 Q Would you agree that the estimate of the
4 near-peak demands, using the data in Exhibit 601, is
5 more appropriate because the data for both 1987 and
6 1990 is based on six customers in PXT?

7 A I am not sure exactly if the 1987 data was
8 based on the four customers or the six customers. You
9 say it's based on the six customers, that's a little
10 different than the understanding I had as far as the
11 Company's ability to generate the hourly load data for
12 the class.

13 Q Is your estimate of the near-peak demands for
14 standby service based on 10% of standby capacity being
15 used in each of the 71 highest system peak hours?

16 A Yes, it is.

17 Q Did you use the revenue calculated by the
18 Company for the standby service class?

19 A Yes, I did.

20 Q Is the Company's calculation of the standby
21 service revenue based on the assumption that in some
22 months standby service customers would require standby
23 service for more than 10% of the time? If you don't
24 have the information, I would just like to ask you to
25 assume that the Company's calculation is based on that

1 assumption, that in some months standby service
2 customers would require standby service for more than
3 10% of the time.

4 A It's hard to tell from the information the
5 Company provided what percentage of the time, because
6 the Company 's numbers don't show you the actual
7 outages by month for various customers.

8 Q What if the Company's calculations were based
9 on that assumption, would the rate of return for
10 standby service --

11 MR. MCWHIRTER: I'm going to object to the
12 question on the grounds that he's basing the question
13 on an assumption of facts that are not in the record.
14 If you can refer us to testimony in the record that
15 supports that proposition, then I think the question
16 would be proper.

17 MR. PALECKI: This is a hypothetical question.
18 We could probably find the exact information in the
19 record, but I think we're allowed to ask an expert
20 witness a hypothetical.

21 CHAIRMAN WILSON: Let me hear what the
22 hypothetical is again.

23 MR. PALECKI: We've asked him to assume that
24 the Company's calculation of standby service revenue is
25 based on the assumption that in some months standby

1 service customers would require standby service for
2 more than 10% of the time. His previous testimony was
3 that his estimate of the near-peak demands for standby
4 service was based on 10% of standby capacity being used
5 in each of the 71 highest system peak hours.

6 CHAIRMAN WILSON: And your hypothetical is
7 what, now?

8 MR. PALECKI: We asked him that, basically,
9 the Company's calculation of the standby service
10 revenue is based on the assumption that in some months
11 standby service customers would require standby service
12 for more than 10% of the time.

13 MR. McWHIRTER: I think the problem is that
14 he's mixing a fact question with a hypothetical
15 question. He's saying that the figures that you have
16 in the record that are presented by the Company make an
17 assumption as to those figures that may or may not
18 exist. If he can give us a hypothetical that's a true
19 hypothetical, then I would object to that.

20 MR. PALECKI: Perhaps I could rephrase that
21 question to Mr. Pollock.

22 Q (By Mr. Palecki) Mr. Pollock, would you
23 accept, subject to check, that the Company's
24 calculation of standby service revenue is based on the
25 assumption that in some months standby service

1 customers would require standby service for more than
2 10% of the time?

3 MR. McWHIRTER: Mr. Chairman, I am going to
4 object to a question "subject to check." That's
5 something that has been used over the years with this
6 Commission but, frankly, to me it doesn't make sense
7 because what if he checks on it later on and finds out
8 that that's a fallacious fact? How is that
9 communicated to you? How does it get into the record?

10 CHAIRMAN WILSON: I've always wondered about
11 that, Mr. McWhirter. I've seen you do the same thing.

12 MR. McWHIRTER: I know I have.

13 CHAIRMAN WILSON: Had a question subject to
14 check.

15 MR. McWHIRTER: And I've had to bite my
16 tongue.

17 CHAIRMAN WILSON: I've also wondered what the
18 consequences of checking and finding it was wrong would
19 be.

20 MR. McWHIRTER: I try not to do it, and I make
21 you a promise that henceforth I'm not going to do that.

22 MR. BURGESS: I'll hold him to it.

23 COMMISSIONER BEARD: Thank you, because you
24 don't have to bite your tongue and all that messy
25 bleeding.

1 MR. McWHIRTER: Well, you were talking about
2 bloody lips last night, and all that.

3 MR. PALECKI: I think I can rephrase my
4 question so even Mr. McWhirter would be satisfied.

5 COMMISSIONER GUNTER: Hoping that we'd get you
6 all fighting among one another, talking about bloody
7 lips.

8 CHAIRMAN WILSON: Has the testimony been that
9 that is one of the assumptions in Gulf Power's
10 calculation? Has there been any testimony to that
11 effect?

12 MR. PALECKI: It's either testimony or it's
13 in one of the discovery interrogatories.

14 CHAIRMAN WILSON: You can ask an expert a
15 hypothetical question. It does have to have some
16 foundation in the evidence. And I think what your
17 question is is a fair variation on what we have been
18 talking about here, so I think it's a fair question.

19 MR. PALECKI: I think I can rephrase it to
20 make it even more fair and I'll ask it this way:

21 Q (By Mr. Palecki) If the Company was to have
22 calculated standby service revenue based on the
23 assumption that in some months standby service
24 customers would require standby service for more than
25 10% of the time, would the rate of return for standby

1 service from your near-peak study be overstated if that
2 were the case?

3 A If it happened so that overall throughout the
4 year standby service were used more than 10% of the
5 time, then the revenues would be greater than the cost
6 responsibility assigned. On the other hand, if as I've
7 calculated the outage rates of the various
8 self-generating customers, is that throughout the year
9 the outage rates were closer to 1% to 4%; in other
10 words, they used significantly less than 10% throughout
11 the year, then you'd have a situation where the
12 revenues would not be sufficient to recover the costs
13 except for the fact that you'd have the reservation
14 charge.

15 Q You did accept Gulf's calculation of the
16 revenues in performing your near-peak study, correct?

17 A I used their number, I didn't check the
18 arithmetic in it.

19 Q So if their number, in their calculation of
20 the number were based on the assumption that in some
21 months, standby service customers would require standby
22 service for more than 10% of the time, you accepted
23 that number. You didn't know whether they assumed that
24 or not, correct?

25 A Yes, I didn't know, and it was impossible to

1 tell from the numbers exactly what the standby use
2 pattern was from month to month. That's why I looked
3 at it on a annual basis and calculated the outage rates
4 on that basis.

5 Q And then accepting that number you would have
6 to admit that there is a good possibility that the rate
7 of return for standby service from your near-peak study
8 could be overstated?

9 A I don't see how, because if they used standby
10 10% of the time all the time, there could be more
11 revenues than exists here. The costs wouldn't change
12 because, remember, the Cost of Service Study fixes the
13 assumption at 10% of the standby contract capacity.
14 So, if anything, I think that would tend to make the
15 rate of return even higher.

16 Q Moving on to another issue. Does your cost
17 of service reflect Mr. O'Sheasy's revised apportionment
18 of dedicated substations cost to standby service? This
19 was explained in his Deposition No. 4. Are you
20 familiar with that deposition?

21 A Yes. I'm familiar with the assumptions and
22 the fact that in later version of the Cost Study
23 substation investment was shifted from, I think, the
24 PXT class to the rate SS, standby service class.

25 Q And does your cost of service reflect this

1 revised apportionment of dedicated substations cost?

2 A Yes, I believe it does. Since we use the
3 Company's Cost Study as a starting point -- we use that
4 version of the Cost Study, which I think we did, it
5 would reflect those assumptions.

6 Q There have been so many different cost
7 studies that have been filed in this docket, I guess we
8 have to make sure we're talking about the same Cost
9 Study.

10 Specifically, we're referring to the cost
11 studies in Exhibit 231. Do you have those available?
12 If not, we'll provide them.

13 A If you can just describe to me which versions
14 you're talking about.

15 Q That's the second and third versions.

16 A Is that the no-migration scenario or the
17 scenario that shows SE as a separate class?

18 Q It's the no-migration scenario.

19 A Yes, I have that.

20 Q Did you use that one?

21 A Yes, we did.

22 CHAIRMAN WILSON: Let's take a ten-minute
23 break.

24 (Recess)

25

1 COMMISSIONER GUNTER: All right, let's come
2 to order.

3 Q (By Mr. Palecki) Mr. Pollock, I'd like to
4 refer to you Lines 20 through 24 of Page 33 of your
5 prefiled testimony and Line 1 of Page 34. There you
6 state that, classifying a portion of the distribution
7 network as customer-related recognizes the reality that
8 energy -- or, excuse me -- that every utility must
9 provide a path through which electricity can be
10 delivered to each and every customer, regardless of the
11 peak demand and energy consumed."

12 Isn't it true that this reclassification of
13 these distribution system capital costs as
14 customer-related would result in these costs being
15 allocated only to secondary voltage customers or
16 primary voltage customers served through a substation
17 serving more than one customer?

18 A Well, they would be, the customers affected
19 would be those customers who take service from the
20 distribution grid, primary service customers that
21 receive power from a primary feeder or the secondary
22 customers that likewise receive service from a
23 secondary feeder.

24 Q So the answer to my question would be yes?

25 A If I understood your question, yes, it would.

1 The customers who take service from a direct substation
2 would not be affected, from a distribution substation
3 would not be affected by it.

4 Q Would transmission voltage customers or
5 primary voltage customers served from a dedicated
6 substation -- and by "dedicated substation" I mean a
7 substation serving only one customer -- be allocated
8 any of these costs at all?

9 A No.

10 Q Are the equivalent of service drops allocated
11 or assigned to primary and transmission voltage
12 customers?

13 A I'm sorry, what do you mean by "the
14 equivalent of service drops"?

15 Q The line running from the common transmission
16 or subtransmission line to the customer's facilities.

17 A It would depend on where that investment is
18 booked. If the subtransmission investment, 46 kV line,
19 for example, is in a transmission account, of course it
20 would be allocated to all customers.

21 Q What about a primary customer?

22 A If you took a 13.8 kV feeder to a direct, a
23 customer served from a dedicated substation? I'm
24 sorry, I'm a little lost.

25 Q Yes.

1 A I don't really know of any instances like
2 that. I guess I have a hard time answering it. If you
3 had a customer from a dedicated substation that didn't
4 get -- that to get that power to the substation, he'd
5 be taking service at 13.8 kV into the substation or
6 something less. I think that would be considered a
7 primary feeder and that cost would be allocated. I
8 also don't know if the Company has -- I don't think the
9 Company has signed any dedicated substations under
10 those circumstances.

11 Q Let's refer specifically to your clients.
12 Are the lines from the dedicated substations to the
13 customer's facilities owned by each of your clients who
14 are served through dedicated substations?

15 A I'm sorry, I missed something. The lines
16 from what point to what point?

17 Q The lines from the dedicated substation to
18 the customer's facilities?

19 A I believe that all the facilities downstream
20 of the substation, including whatever lines and
21 equipment are required, switch gear and so on, are
22 owned by the customer.

23 Q Aren't the lines running from dedicated
24 substations to a customer facilities -- to a customer's
25 facilities primary voltage lines?

1 A You're talking about facilities that the
2 customers own?

3 Q Correct.

4 A You could characterize them that way.
5 They're kind of the -- yes, they are the kind of the
6 equivalent, if you will, of a service drop to a
7 customer facility that in this case the customers own.

8 Q Now, is it true that, the way Gulf has
9 performed its cost of service study, only secondary
10 voltage customers pay for the secondary drops and
11 secondary voltage customers also pay part of the cost
12 for drops or taps for primary or transmission voltage
13 customers? (Pause)

14 A Account 369, "Service Drops, Other Services,"
15 are allocated strictly to secondary service customers.

16 Q If more of the distribution system is
17 classified as customer-related, wouldn't that cost be
18 allocated on average number of customers and included
19 in the customer charge?

20 A No. I would think that the customer
21 component would either be average number of customers,
22 or there might be some weighting involved to reflect
23 the fact that certain equipment is more expensive to
24 install. Three-phase service, for example, is more
25 expensive than single-phase service. So you might take

1 into account that cost differential and weight the
2 customer component accordingly.

3 Q Would that cost be included in the customer
4 charge?

5 A I think that's a policy decision that the
6 Commission would have to make. Clearly, for cost
7 allocation purposes, it should be reflected. But
8 recognizing that there may be different policies
9 involved in different philosophies as far as tradeoffs
10 between customer charges and other charges, I think
11 that's a judgment call the Commission can make at the
12 time that they design the rate.

13 Q Would it be included in the customer unit
14 cost?

15 A In the cost of service study, yes, it would.

16 Q What's your position on that policy issue?

17 A I haven't made a recommendation in the case.
18 But I don't see any reason, unless it's one of
19 gradualism or other factors that may come into play
20 that normally you take into account in the rate design
21 process. I would use the unit cost including the
22 component of the distribution cost that are
23 customer-related and include that in the unit customer
24 charge and use that as a starting point for designing
25 the rate. Now whether the rate would exactly reflect

1 that unit cost would depend on other policy
2 considerations that the Commission might employ, such
3 as gradualism.

4 Q Isn't the effect of classifying more of the
5 system as customer-related to increase the cost of
6 classes with small usage customers and to decrease the
7 cost for classes with large customers?

8 A That may be the effect. But, of course, what
9 we're trying to do is allocate costs on the basis that
10 reflects cost causation. And what we're trying to do
11 is to find a cost of service study that closely matches
12 that cost causation concept and the reality that the
13 utilities have in serving their customers. To do
14 otherwise, I guess you could say, would have the
15 opposite effect.

16 Q Mr. Pollock, in the nine or ten years that
17 you've been appearing before the Public Service
18 Commission, have you ever testified on the
19 inappropriateness or questioned the existence of the
20 PX/PXT class? Specifically because of the potential
21 instability of a class with a small number of
22 customers.

23 A I don't believe I have.

24 Q On Page 61, Lines 1 through 3 of your
25 testimony, you state in response to Monsanto's First

1 Set of Interrogatories No. 11, that Gulf supplied data
2 necessary to calculate the forced outage rates of three
3 of its four self-generating customers. What was the
4 source of this data?

5 A I understood it was data that Gulf Power had
6 available which they needed to obtain customer
7 authorization for it to be released to us.

8 Q Did one customer refuse to give Gulf
9 information about its forced outages?

10 A That's what was indicated in the response,
11 yes. Or they maybe didn't refuse to give them the
12 data, I think they refused to disclose the data.

13 Q And was one of those customers one of your
14 clients?

15 A Fortunately not. My clients know better.

16 Q If the revenues in the rate case at present
17 rates are based on the rates of the class in which the
18 customer is currently taking service or migrating from,
19 isn't this an assignment to the migrating customer of
20 the cost of the class in which they are taking service
21 before migration?

22 A May I try to restate the question as I think
23 I understood it? If you have a customer that's in an
24 existing class, let's say GSD, that determines after a
25 rate change that the GS rate or the LP rate were more

1 appropriate, where would the cost responsibility of
2 that customer go if that customer migrated to a
3 different class?

4 Q Correct. (Pause)

5 A Well, ideally, what you try to do is -- it
6 would go to the class that the customer was migrating
7 to. In other words, if you had the ability to redo the
8 cost of service study after the migration had taken
9 place, then the costs that are associated with that
10 customer would be in the class that the customer
11 migrated to.

12 Unfortunately, you don't have -- maybe it's
13 fortunate -- you don't have the ability to precisely
14 track the cost responsibility of customers that migrate
15 from one class to another in the context of the rate
16 case, and therefore you would have to look at the next
17 rate case to determine the cost for that class with the
18 migration included.

19 Q Do we know what the cost to serve that group
20 is?

21 A We certainly know what the cost is for that
22 group of customers or that class that the customer
23 migrated from. We know what the cost to serve of the
24 class as a group which the customer is migrating to.
25 The real question is does that customer's --

1 presumably, therefore, that customer's characteristics
2 for the way that the rate is designed, it provides an
3 incentive for that customer to move from one rate class
4 to the other.

5 So that I guess what I'm leading to -- and I
6 don't profess to have thought into great depth about
7 this. But what I'm leading to is that, under those
8 circumstances and the rate design and the rate levels
9 between different classes, that customer's
10 characteristics, the one that's migrating, will be more
11 reflective of the class that he's migrating to than the
12 class he's migrating from. Or it could be that his
13 characteristics are not the same; but the way the rate
14 is designed in the minimums and things, that the other
15 provisions of the rate that affect the decision, that
16 that customer simply finds it economically advantage --
17 an economic advantage to switch rates without really
18 changing his characteristics.

19 Q Is it probable that the cost to serve of a
20 group of migrating customers is somewhere between the
21 cost to serve each of the two involved classes?

22 A I have a hard time making a general statement
23 like that. I think, you know, if you're dealing with
24 situations of customers that are not on the, let's say,
25 on the extremes or near the minimums where the rate

1 kicks in, that would certainly be the case.

2 If you're dealing with customers that may be
3 affected because of the minimum provisions -- for
4 example, if you have a customer that his demand is
5 slightly below the qualifying level for the class that
6 he's in, and now the rate level of the low demand class
7 changes in a favorable way, that customer is going to
8 migrate to the low demand class, simply because the
9 rate is lower, not because his characteristics
10 necessarily warrant it.

11 Q Would it be fair to require either the class
12 to which they are migrating -- or from which they are
13 migrating to absorb the entire shortfall when we don't
14 know what the actual cost to serve the customers is?

15 And I follow that up: Is splitting the shortfall
16 due to the migration between the two involved classes
17 on the revenues of the two classes a reasonable and
18 fair method, given that we don't know the cost to serve
19 of the migrating customers?

20 A I would accept that. You really are not
21 dealing in a very precise situation and I don't think
22 there's any question whatever shortfall occurs has to
23 be recovered from somebody. And that may be a very
24 equitable way to do it.

25 Q Are you --

1 A I've seen it done different ways which may or
2 may not be equitable. But the way the Commission
3 decides to do it.

4 Q Are you aware of any more equitable method?

5 A I can't say I think one method is more
6 equitable than the other. I think the idea, if we're
7 talking about a fairly small amount of money, I don't
8 see any inequity in trying to split the difference
9 between the two classes.

10 MR. PALECKI: Thank you. Staff has no
11 further questions.

12 WITNESS POLLOCK: Thank you.

13 CHAIRMAN WILSON: Questions, Commissioners?
14 Redirect?

15 REDIRECT EXAMINATION

16 BY MR. McWHIRTER:

17 Q Mr. Pollock, you were asked a hypothetical
18 question concerning an assumption that 10% of the time
19 that a standby customer had a forced outage, it would
20 be during a peak period. Do you recall that
21 hypothetical question?

22 A I think the question was: "Are there some
23 months when standby customers are using standby power
24 more than 10% of the time.

25 Q Has your investigation disclosed that to be

1 the fact?

2 A As I responded earlier, it's difficult to
3 tell from the data. Because I think what's happening
4 is the assumption is made that if the customer incurs
5 daily demand charges which generally only kick in after
6 you have used standby power for two calendar days, that
7 that means that the customer's use of standby service
8 exceeds 10% of the time because three days out of 30
9 days is 10%.

10 And the difficulty I was having with that
11 assumption was the fact that the way the rate works,
12 you're charged for a day of standby power, even if you
13 use it for just a couple of hours or one 15-minute
14 interval. So you can't really tell from the daily
15 standby charges what percentage of the the total time
16 standby power was being used.

17 Q Is there some way that you can remedy that
18 circumstance?

19 A Only by knowing the underlying assumptions as
20 to what hours, actual hours, of outage were being
21 assumed could you really remedy that.

22 Q Is there any information in this record to
23 date that would help you to solve the riddle?

24 A The only information I have is the hours on
25 an annual basis. And which demonstrate that throughout

1 the year forced outage rates are considerably less than
2 10%.

3 Q Are you familiar with an association of
4 utility companies known as the Florida Coordinating
5 Group?

6 A Yes.

7 Q And are you familiar with the concept of
8 economic dispatch of energy?

9 A Yes.

10 Q Can you give us a quick nutshell of what that
11 is?

12 A Economic dispatch is the loading of
13 generation facilities in order of cost to try to always
14 put on line the cheapest generation first and to use
15 the more expensive resources as they are needed.

16 Q Is that essentially the same kind of theory
17 that you're espousing for cogenerators, an economic
18 dispatch concept?

19 A Very similar, yes. And, in fact, I'd say it
20 was very synonymous.

21 Q And with the FCG's program, is there any
22 concern that the customers of the selling utility are
23 subsidizing the customers of the buying utility for the
24 capital costs associated with production facilities?

25 A Well, what they're trying to do is what makes

1 economic sense. It doesn't make sense to --
2 economically to run generation that is more costly if
3 you have access to less cost, lower cost energy that
4 can fulfill the same purpose.

5 COMMISSIONER GUNTER: Can I ask a question?

6 WITNESS POLLOCK: Yes.

7 COMMISSIONER GUNTER: But there is an
8 economic benefit in the broker system than a split
9 savings concept, correct?

10 WITNESS POLLOCK: That's true.

11 COMMISSIONER GUNTER: And -- your broker
12 system doesn't run one way? All participants are
13 members, is that correct?

14 WITNESS POLLOCK: That's right.

15 COMMISSIONER GUNTER: So in order for it to
16 really work, like in response to a question from your
17 Counsel, to work like the broker system, then wouldn't
18 it almost require the cogenerators to be dispatchable
19 units, and in the time when their generation was less
20 than the system average, that they would be required to
21 also sell?

22 WITNESS POLLOCK: Well --

23 COMMISSIONER GUNTER: Because not doing that,
24 it only cuts one way.

25 WITNESS POLLOCK: Well, I see your point. I

1 think the problem is there needs to be -- there would
2 have to be a much greater dialogue between the Company
3 -- the utility and the customer for this to really
4 work.

5 COMMISSIONER GUNTER: I'm not looking for --
6 what I'm talking about, philosophically, it has to cut
7 both ways in order for it to mirror the broker system.

8 WITNESS POLLOCK: That's right.

9 COMMISSIONER GUNTER: You're doing one of the
10 things I used to talk about, people would give you 400
11 reasons it wouldn't work. Certainly would have to be
12 improvements and have to be some dispatchability, a
13 number of, probably, equipment changes.

14 WITNESS POLLOCK: I don't think
15 dispatchability is necessarily the key. What we are
16 saying --

17 COMMISSIONER GUNTER: But for the economic
18 benefit to flow both ways, it has to be.

19 WITNESS POLLOCK: For the economic benefit to
20 flow both ways, the charge that would be levied for
21 this supplemental energy would have to provide more
22 than just recovery of out-of-pocket costs to the
23 utility and provide some contribution to the fixed cost
24 customers.

25 Now, my understanding is that that would

1 happen by definition under the SE rate because it's
2 only available when the cost to generate is less than
3 the average fuel charge that the customer pays at the
4 time that that service is taken. So, in effect, there
5 is a margin being provided under the SE rate from the
6 customer to the Company, which helps the Company to
7 defray more of its fixed costs.

8 COMMISSIONER GUNTER: Well, again, what I'm
9 saying is you're responding, yeah, that's the way it
10 should work, going one way with the cogenerator in
11 response to a question from Counsel.

12 WITNESS POLLOCK: Well, the other way is --

13 COMMISSIONER GUNTER: Then all of a sudden
14 you start getting into a rate activity when he was
15 asking you a philosophical. And I asked you a
16 philosophical, and now you're starting to give me
17 reasons why it won't work because of a rate structure.
18 You need to stay philosophical to philosophical or
19 factual to factual. But somehow we are not making
20 ambrosia, you know, oranges and coconuts.

21 WITNESS POLLOCK: I agree with that.

22 COMMISSIONER GUNTER: Go ahead, Counselor. I
23 apologize to you.

24 MR. McWHIRTER: That's all right. When you
25 get into philosophy, I sort of think on a higher plane,

1 and sometimes it takes me a little bit --

2 COMMISSIONER GUNTER: I thought that's what
3 you were doing.

4 MR. McWHIRTER: -- a long time to get back.

5 CHAIRMAN WILSON: Only problem, Mr.

6 McWhirter, is when you start thinking on a higher
7 plane, when you start getting confused on a higher
8 plane.

9 Q (By Mr. McWhirter) Mr. Pollock, with respect
10 to the SE rate, the alternatives, I presume, would be
11 that the utility would not sell the electricity at all
12 as opposed to selling additional electricity off-peak,
13 is that correct?

14 A That's correct. If a customer didn't have
15 the option or couldn't have access to the lower cost
16 energy, the customer would simply operate that less
17 efficient generation and not buy extra energy from the
18 utility.

19 Q When Mr. Haskins was on the stand, he said
20 that utility system had a 55% load factor and that it
21 was -- would be beneficial to the utility to improve
22 its load factor. Is the SE rate a way that the load
23 factor of a utility can be improved?

24 A Very definitely, yes.

25 Q And why would that be beneficial to the

1 utility?

2 A Because, as I indicated before, the fact that
3 the Company is able to sell more energy at times when
4 capacity is not critical at a cost that exceeds -- or
5 at a cost which is less than the price received for
6 that extra energy, it not only improves the Company's
7 load factor, it improves the efficiency of the
8 generation system. It provides more revenues, more
9 contribution to the fixed costs than would otherwise be
10 the case.

11 Q And to that degree, it benefits all
12 customers, not just the customer involved, is that
13 correct?

14 A That's correct.

15 Q So there is a two-way flowing economics, is
16 that correct?

17 A Yes.

18 Q Now, if the -- if you schedule your
19 maintenance outage contemporaneously with the time that
20 the utility had available power, which apparently it
21 does 45% of the time --

22 MR. PALECKI: I'd object. I'm not sure this
23 is in the line of redirect. I don't recall this being
24 covered by cross.

25 MR. McWHIRTER: I thought you asked questions

1 about maintenance power, selling it to the cogenerator
2 during time when he was maintaining without triggering
3 a new standby demand.

4 MR. PALECKI: I don't recall asking about
5 maintenance power. Are you talking about forgiveness
6 of the reservation charge? Because if that's the case,
7 we didn't go into that issue.

8 MR. McWHIRTER: Let me tell you what I'm
9 talking about and see if you think this was in the
10 realm of your direct.

11 CHAIRMAN WILSON: Tell me what you're talking
12 about and then if you have an objection, you can tell
13 me what your objection is and then I'll decide whether
14 you can do that or not. How does that sound?

15 MR. McWHIRTER: Does your objection still
16 pertain after counseling with Ms. Meeter?

17 MR. PALECKI: That's correct.

18 CHAIRMAN WILSON: Do you have an objection
19 that it's beyond the scope of cross?

20 MR. PALECKI: That's correct.

21 CHAIRMAN WILSON: All right.

22 MR. McWHIRTER: Mr. Chairman, I don't believe
23 it's beyond the scope of the cross because his cross
24 dealt with the registering of a new reservation charge
25 when the utility, the cogenerator, maintained its own

1 cogeneration units. One of the issues that has been
2 raised by Mr. Pollock was that if there's available
3 power, it should not set a new standby charge during
4 the maintenance period. And I believe, if I'm not
5 mistaken, that Counsel for the Commission Staff did
6 inquire into the things that trigger a new standby
7 reservation charge. I may be in error on that. I
8 certainly recall somebody asking. It may have been Mr.
9 Burgess. I didn't make a note of the person that asked
10 the question.

11 CHAIRMAN WILSON: I'm going to allow the
12 question. Go ahead.

13 Q (By Mr. McWhirter) You have a situation from
14 -- as you pointed out, every five years or so you have
15 to take the cogenerator down for maintenance, and there
16 is a problem in that when you take it down for
17 maintenance, that's treated the same as a forced
18 outage, is that correct?

19 A There's a risk that, along with the other
20 needs of the cogenerator, that your demand is going to
21 exceed the existing standby contract capacity and that
22 will trigger the next 23 months additional reservation
23 local facilities charges for that particular outage.

24 Q Are there a steps a customer can take to
25 protect against this happening?

1 A Well, what Stone does is they shut the plant
2 down enough so that they can take their large turbine
3 out for maintenance and do other plant maintenance and
4 simply not produce paper as they would otherwise like
5 to.

6 Q If the plant bought as-available power during
7 this period of time, would the utility receive any
8 benefit from those sales?

9 A Are we talking about now the idea that
10 coordinated maintenance scheduled in advance would not
11 cause the customer to trigger the 23-month ratchet?

12 Q That's correct.

13 A That would provide, I think, an economical
14 alternative for both the utility and the company in
15 question, or the customer in question, provide two-way
16 flow of economic benefits in the sense that the utility
17 will provide -- will get more revenues from the
18 service, they'll get it at a time when the capacity is
19 available, when they know it's available and it's
20 available for a certain fixed period of time. Whereas,
21 in the alternative, they would not get that additional
22 revenue. The customer, of course, benefits because he
23 can continue to produce his product, which is what the
24 customer is in business to do.

25 Q Can you visualize as rational, economic

1 justification for disallowing the coordinated
2 maintenance, or is it your opinion that the refusal to
3 allow coordinated maintenance is essentially a barrier
4 to cogeneration?

5 A Well, to the extent that you make a standby
6 rate less attractive, that could be viewed as a
7 barrier. It's certainly a factor. But, as far as the
8 economic justification is concerned, it's a different
9 quality of service than backup power because it's
10 provided in a known quantity for a known duration and
11 it's scheduled at a time when capacity is available.
12 So I would argue that there is ample economic
13 justification for treating that type of service
14 differently, and I think the Commission recognized that
15 possibility.

16 Q Is there any economic justification for
17 refusing to allow coordinated maintenance?

18 A I don't see there is one.

19 MR. McWHIRTER: I have no further redirect.

20 CHAIRMAN WILSON: Let me ask you a question.
21 Do you have Mr. Scheff Wright's testimony there?

22 WITNESS POLLOCK: I'm sorry, I do not. His
23 direct testimony?

24 CHAIRMAN WILSON: Yes, I'm looking at Exhibit
25 RSW-4.

1 WITNESS POLLOCK: Yes, I have that.

2 CHAIRMAN WILSON: If I wanted to compare the
3 different cost study methodologies, would this be the
4 format that I would -- that would appropriately do
5 that? Have you looked at any of this?

6 WITNESS POLLOCK: I've looked at his
7 schedules, yes. Your question is, if I wanted to
8 compare the cost allocation methods, would this be a
9 way of comparing them?

10 CHAIRMAN WILSON: Would this be the best way
11 of comparing them, or a good way of comparing them?

12 WITNESS POLLOCK: I would say it wasn't the
13 most complete way to compare them. I would say it's
14 not a very good way to compare them.

15 CHAIRMAN WILSON: What else would you put on
16 there, or what would you do different?

17 WITNESS POLLOCK: I think that what you would
18 have to do is look at the percentages of plant and
19 percentages of operating costs and the per-unit plant
20 and the per-unit operating costs being allocated under
21 each of the different methods to test the consistency
22 of that method, to determine whether or not a method,
23 in fact, does what it says it's supposed to do or what
24 the underlying theory says it's supposed to do.

25 CHAIRMAN WILSON: Have you done a comparison

1 like that, yourself?

2 WITNESS POLLOCK: I have done a limited --
3 more limited comparison in looking at the -- for
4 example, the refined equivalent peaker method and
5 comparing the per-unit capital costs and per-unit fuel
6 costs that are implicitly allocated to the classes.
7 That's in -- if I can uncover it. (Pause)

8 That's in Schedule 2, revised, of my
9 exhibit. I've taken the comparison one step further
10 and said, okay, let's look at the production plant
11 costs and what that means on a per-unit of demand and
12 compare that; and said, okay, let's look at the
13 operating costs that would be recovered from these
14 classes and compare that on a per-unit of energy. And
15 the question is, if the theory says that one class is
16 assigned higher than average plant cost, is that theory
17 also being applied logically and consistently to result
18 in that same class being assigned lower operating
19 costs? I guess you'd call that a sanity check.

20 And the conclusion of this schedule is, no,
21 this method is not allocating costs properly.

22 CHAIRMAN WILSON: Does the RSW-4 schedule
23 tell me anything useful here?

24 RSW-4 just simply carves out certain cost
25 components and the way they are being allocated under

1 the different methods.

2 CHAIRMAN WILSON: Do you agree with the
3 percentages that are displayed in that?

4 WITNESS POLLACK: I haven't actually checked
5 them. I think the percentages are probably all
6 different now, because I think this exhibit was based
7 upon the cost studies that are attached to Mr. Wright's
8 testimony, which have gone through and discussed for
9 several revisions, so I haven't rechecked these
10 percentages.

11 I have trouble just comparing percentages,
12 because percentages don't really tell you what's behind
13 the methodology and how the methodology is working.
14 And whether it's doing what it's supposed to.

15 CHAIRMAN WILSON: No, but it can show you the
16 effect of that methodology, sort of a broad-base look
17 at it.

18 WITNESS POLLOCK: I think the better way is
19 to look at the overall results and try to make some
20 comparisons; compare the revenue requirement by
21 component, production demand, energy, transmission, as
22 I believe the Staff often does when they line up each
23 of these Cost of Service Studies and say, "Here's how
24 much production cost is assigned to this class and here
25 are the transmission costs. And you can just look at

1 it in a spread sheet and appreciate the effect on the
2 different components, on all of the components and not
3 just certain components.

4 CHAIRMAN WILSON: All right. Thank you.
5 Anything further of this witness? If not, thank you
6 very much. You may stand down. He'll be back with us
7 on rebuttal, is that right?

8 WITNESS POLLOCK: I will.

9 (Witness Pollock excused)

10

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11

MR. VANDIVER: Commissioner?

12

CHAIRMAN WILSON: Yes?

13

14 MR. VANDIVER: At this time, as a
15 housekeeping matter, I would like to move for insertion
16 into the record as though read, the testimony of Mr.
17 Seery, along with his exhibits that have been
18 previously stipulated.

18

19 CHAIRMAN WILSON: Without objection, his
20 testimony will be so inserted into the record and the
21 exhibits have been so stipulated.

21

22 MR. McWHIRTER: Mr. Chairman, I'd like to
23 offer in Mr. Pollock's exhibits which were 612, I
24 believe. I believe I got 610 and 611 last night, but
25 if not, I'd like to offer those at this time.

25

CHAIRMAN WILSON: All right. Without

1 objection those exhibits are admitted into evidence.

2 (Exhibit No. 610 and 611 received into
3 evidence)

4 (Witness Seery's Exhibit No. 381 stipulated
5 into evidence.)

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1 DIRECT TESTIMONY OF SCOTT SEERY

2 Q Please state your name and business address.

3 A My name is Scott Seery. My business address is 101 East
4 Gaines Street, Tallahassee, Florida, 32399-0850.

5 Q By whom are you employed and in what capacity?

6 A I am employed by the Florida Public Service Commission as a
7 regulatory analyst in the Bureau of Finance.8 Q Please outline your educational qualifications and
9 experience.10 A I received a Bachelor of Science degree in Business
11 Administration, with honors, in 1976 from West Virginia
12 University and a Master of Business Administration degree with a
13 concentration in Finance from the University of South Florida in
14 1985.15 Prior to accepting my current position with the Florida
16 Public Service Commission in January of 1986, I was employed as
17 a buyer for Mercantile Stores Company Incorporated. My
18 responsibilities included purchasing, inventory control, and
19 sales supervision.20 Shortly after obtaining my MBA in Finance, I began
21 employment as a regulatory analyst with the Florida Public
22 Service Commission, where my primary responsibilities have
23 consisted of analyzing and evaluating financial, economic, and
24 statistical data relating to rate of return testimony in utility
25 rate proceedings and preparing and presenting recommendations to

DIRECT TESTIMONY OF SCOTT SEERY

1 the Commission based upon this data. I have also researched
2 other related topics and have previously presented cost of
3 equity testimony before the Commission.

4 I am a member of the Financial Management Association
5 and the National Society of Rate of Return Analysts.

6 Q What is the purpose of your testimony?

7 A The purpose of my testimony is to establish the appropriate
8 cost of common equity capital for Gulf Power Company (Gulf
9 Power) for use in determining an appropriate allowed rate of
10 return for Gulf Power.

11 My testimony will also address the appropriate
12 regulatory treatment of non-utility related assets, temporary
13 cash investments, and continuing cash balances when reconciling
14 rate base and capital structure.

15 Q What principles provided the legal framework for your
16 determination of a fair rate of return?

17 A The principles established by the Supreme Court of the
18 United States in Bluefield Waterworks and Improvement Company v.
19 Public Service Commission of West Virginia, 262 U.S. 679 (1923)
20 and Federal Power Commission v. Hope Natural Gas Company 320
21 U.S. 591 (1944) provided the primary legal basis for my
22 analysis. The Supreme Court held in both the Hope and Bluefield
23 decisions that the return to the equity owner should be
24 commensurate with returns on investments in other enterprises
25 having corresponding risks. The return, moreover, should be

1 sufficient to assure confidence in the financial integrity of
2 the enterprise so as to maintain credit and attract capital.

3 Q In addition to the principles established by the Hope and
4 Bluefield decisions, what other guidelines did you consider?

5 A Based upon my understanding of the Hope and Bluefield
6 decisions, a regulated utility should be allowed to recover all
7 costs prudently incurred in the provision of utility service,
8 including an appropriate return on common equity capital.
9 Recovery of all prudently incurred costs, including capital
10 costs, effectively balances the interests of investors and
11 ratepayers. Investors are provided with a return commensurate
12 with returns on investments of comparable risk, while ratepayers
13 pay the true cost for the services provided.

14 Q How does the allowed return on common equity relate to a
15 balancing of the interests of investors and ratepayers?

16 A The adequacy of expected earnings can be determined by a
17 comparison of the market price of a firm's common stock to its
18 book value. If the expected return on common equity equals
19 investor requirements, the market-to-book ratio can be expected
20 to approximate one over the long run. If the expected return on
21 book equity exceeds the cost of common equity investors will bid
22 the price of the stock up, such that the market price per share
23 exceeds the book value per share, resulting in a market-to-book
24 ratio above one. The market price will move up or down in
25 response to the level of the utility's expected returns relative

DIRECT TESTIMONY OF SCOTT SEERY

1 to the investor's risk driven, required rate of return. To the
2 extent utility rates reflect a return above that required by
3 investors ratepayers are overcharged. Conversely, if a
4 utility's market-to-book ratio is less than one, external issues
5 of common stock will confiscate shareholders' wealth through the
6 dilution of earnings per share and book value per share.
7 Therefore, regulators should strive to set authorized rates of
8 return that result in market-to-book ratios of approximately 1.0
9 over the long run.

10 Q How does your analysis of a fair rate of return on Gulf
11 Power's common equity capital meet these basic legal criteria?

12 A My analysis of an appropriate rate of return on Gulf Power's
13 common equity capital is based upon an evaluation of return
14 requirements for comparable risk common equity investments as
15 determined through the direct application of capital market
16 valuation models to current financial and economic data. In my
17 opinion, a market based equity pricing analysis satisfies the
18 comparable returns, capital attraction, and financial integrity
19 guidelines established by Hope and Bluefield for determining a
20 fair and reasonable rate of return on common equity capital.

21 Q What have you concluded is the cost of common equity capital
22 for Gulf Power?

23 A Based upon the results of my analysis, I conclude the
24 current cost of common equity capital for Gulf Power is 12.25%.

25 Q Could you describe your general approach to measuring Gulf

DIRECT TESTIMONY OF SCOTT SEERY

1 Power's equity cost rate?

2 A In order to properly evaluate the returns obtained through
3 use of a market based equity pricing analysis, I first examined
4 general economic conditions, as well as industry and company
5 factors, which drive capital market return requirements. I then
6 applied two generally accepted market rate of return models to
7 an index of comparable companies as a means to estimate Gulf
8 Power's cost of common equity capital.

9 Q How do economic conditions impact capital market return
10 requirements?

11 A The interrelated factors of inflation and interest rates
12 have a significant impact on investor return requirements.

13 Q Please elaborate.

14 A Increases in the general level of prices affect interest
15 rates because investors are unwilling to commit their funds
16 unless they are adequately protected against future losses in
17 purchasing power. If investors anticipate a higher rate of
18 inflation they will adjust their return requirements upward to
19 guard against the erosion of purchasing power.

20 In addition, accelerating inflation and rising interest
21 rates increase the uncertainty surrounding a firm's earnings and
22 dividends. Historically, the utility industry has been
23 particularly vulnerable to the effects of high inflation and
24 high interest rates. During periods of accelerating inflation,
25 earnings deterioration has resulted from rising labor and other

1 operating expenses and also from the substantial impact of
2 increasing plant costs and the associated financing due to the
3 capital intensive nature of the utility industry.

4 Q Have you examined changes in inflation rates?

5 A Yes, I have. Schedule 1 shows the level of inflation as
6 measured by the Consumer Price Index.

7 Q Have you examined changes in interest rates?

8 A Yes, I have. Page 1 of Schedule 2 is a graph for yields on
9 seasoned "A" rated utility bonds. These bonds averaged
10 approximately 9.77% during 1989 and 10.49% in 1988. The monthly
11 average for March was 9.85%. The yield on the bellwether
12 30-year Treasury bond averaged 8.44% during 1989. The current
13 yield on the 30-year Treasury bond is 8.96%.

14 Q Please discuss the current economic environment and current
15 expectations regarding inflation and interest rates.

16 A The U.S. economy slowed appreciably in the fourth quarter of
17 1989, impacted by such factors as the earthquake in California,
18 a strike at the Boeing Company, and a reduction in consumer
19 spending. Recently, however, the economy has begun to show some
20 signs of renewed vigor.

21 In March of this year, the civilian unemployment rate
22 fell to 5.2% after remaining at 5.3% for nine consecutive
23 months. Although payrolls grew by a modest 26,000 people in
24 March, employers hired over 700,000 new workers in the first two
25 months of this year.

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1 The retail sector accounts for approximately one third
2 of the nation's economic activity. Retail sales fell by 0.6% in
3 March after declining 0.3% in February. However, excluding
4 automobile sales, which remain troublesome, retail sales were up
5 1.1% in January, 1.5% in February, and down 0.4% in March.
6 Given the strong gains posted in both January and February, most
7 economists do not find the slip in March alarming. Further,
8 despite recent surveys that indicate a decline in consumer
9 confidence, many economists believe consumer spending remains
10 strong enough to sustain continued economic growth.

11 Industrial production increased by 0.7% in March
12 following a 0.6% increase in February. Industrial capacity
13 utilization rose in March to 83.3% from the 82.9% level recorded
14 in February. Analysts said a return to normal temperatures,
15 following an unseasonably warm February, caused a surge in
16 utility output, which, in conjunction with increased automobile
17 production, accounted for the increased production in March. In
18 addition, the latest Commerce Department report indicates that
19 business inventories decreased by 0.4% in February, at the same
20 times sales increased by 1.3%, keeping inventories at manageable
21 levels.

22 As it has for much of the recent past, the specter of
23 inflation remains on the horizon posing a threat to continued
24 economic expansion. Over the past 12 months, producer prices
25 have increased by 4.4%. However, excluding the typically

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1 volatile food and energy costs, prices grew at a more moderate
2 3.8% pace over the past year. A more widely followed measure of
3 inflation, the Consumer Price Index increased by 0.5% in March,
4 the same rate as in February. The March increase pushes the
5 rate of inflation for the first quarter to an 8.5% annual rate,
6 the highest quarterly rate since the first quarter of 1990.
7 Many economists believe the latest numbers indicate that
8 inflation remains a persistent problem.

9 Many analysts believe the latest inflation numbers will
10 prevent any easing of interest rates by the Fed. Over the past
11 year, the Fed has been keeping interest rates high in an effort
12 to curb demand and reduce upward pressure on prices. Although
13 higher interest rates have served to slow the economy, many
14 economists believe the Fed has made progress in controlling, but
15 not reducing, inflation.

16 Q What other economic factors have you considered?

17 A The trade and budget deficits continue to overshadow the
18 performance of the U.S. economy. The trade deficit narrowed by
19 \$2.83 billion in February, to \$6.49 billion, the smallest
20 monthly imbalance since December 1983. Imports, which fell by
21 7.6%, accounted for the marked improvement. However, at the
22 same time, exports fell 1% from the record high reached in
23 January.

24 A significant reduction in U.S. purchases of foreign
25 oil, reflecting both a decline in prices and a reduction in

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1 volume, led the drop in imports. Accompanying the recent
2 progress made in reducing the trade deficit has been a reduction
3 in the gap in the U.S. balance of payments which fell to \$105.88
4 billion in 1989, the lowest level in five years.

5 Congress enacted legislation in 1989 allowing the
6 national debt level to rise to \$3.1 trillion, an amount over
7 three times the \$1 trillion mark reached in 1980. Many analysts
8 believe the prospects for near-term improvement in the budget
9 deficit are bleak. However, U.S. Representative Daniel
10 Rostenkowski, Chairman of the U.S. House of Representatives Ways
11 and Means Committee, recently introduced a deficit reduction
12 plan calling for a \$511.6 billion reduction over five years
13 (1990-1995). The deficit reduction plan proposes to balance the
14 budget in three years and achieve a budget surplus by fiscal
15 year 1994.

16 Analysts contend that the continuation of such huge
17 trade and budget deficits erodes confidence in both the dollar
18 and the U.S. economy and, absent productivity gains, will reduce
19 the standard of living in the U.S.

20 The future course of the economy and of inflation
21 remains unclear. In any case, a component of required yields is
22 compensation for expected inflation, the level of which directly
23 affects the cost of debt and equity. Schedule 3 is a summary of
24 various interest rates and inflation rates. Schedule 3 also
25 shows Blue Chip forecasts for various measures of inflation and

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1 interest rates.

2 In summary, electric stocks remain sensitive to
3 interest rates and inflation. Investor perceptions of higher
4 interest rates would place downward pressure on electric utility
5 stock prices. Conversely, a slowing economy and falling
6 interest rates could cause electric utility stock prices to rise
7 since utility stocks are generally regarded as defensive issues.

8 Q What financial models did you use to determine the required
9 return on common equity for Gulf Power?

10 A I used a two-stage, annually compounded discounted cash flow
11 (DCF) model and a risk premium analysis to determine the
12 required return on common equity.

13 Q How did you apply these models to obtain Gulf Power's cost
14 of common equity capital?

15 A I conducted a DCF and a risk premium analysis on an index of
16 high quality electric utilities and adjusted the results for the
17 difference in risk between Gulf Power and the index. Relying on
18 an index of companies, rather than a single company, helps
19 minimize forecasting errors and should provide more reliable
20 information for estimating the cost of common equity.

21 Q Please describe the investment risk characteristics of the
22 companies that comprise your index.

23 A The investment risk characteristics for the index are: a
24 Value Line Safety Rank of 1; a Value Line beta of .70; an S&P
25 stock ranking of A; and an S&P and a Moody's bond rating of AA

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1 and Aa2, respectively. Schedules 4 provides the investment risk
2 characteristics for the index.

3 Q Briefly describe the models you used.

4 A The discounted cash flow model is the most commonly used
5 market based approach for estimating a utility investor's
6 expected return on equity capital. In a DCF analysis, the cost
7 of equity is the discount rate which equates the present value
8 of expected cash flows associated with a share of stock to the
9 present price of the stock.

10 A risk premium analysis recognizes that equity is
11 riskier than debt. Equity investors thus require a "risk
12 premium" over the cost of debt as compensation for assuming
13 additional risk.

14 Q Would you provide the equation and define the terms for the
15 discounted cash flow model?

16 A Yes, I will. This information is provided on Schedule 7.
17 Inherent in this basic model are several simplifying
18 assumptions: 1) dividends are paid annually and grow at a
19 constant rate; 2) the price, P_0 , is determined on a dividend
20 payment date; and 3) dividends increase once a year starting
21 exactly one year hence.

22 Q Is Equation (4), Schedule 7, the DCF model you used to
23 determine the cost of common equity capital?

24 A No, it is not. As mentioned above, the basic DCF model
25 assumes that dividend growth rate is constant over time. If,

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1 however, the future growth rate is expected to change, a
2 two-stage or variable growth rate model should be used.
3 Equation (5) on Schedule 8, shows a two-stage DCF model. In the
4 two-stage model, dividend growth is estimated on an individual
5 basis for an initial growth period. Dividends are then assumed
6 to grow infinitely at the expected long-term growth rate.

7 Q How did you use this model to determine the cost of common
8 equity capital for the index?

9 A The current stock price (P_0) was determined by averaging
10 the high and the low stock price for April 1990 of each
11 company. I first assumed an initial growth period based upon
12 Value Line's explicit dividend forecasts (n). I used Value
13 Line's forecast of dividends for 1990 and 1993, and assumed a
14 constant rate of growth in between to estimate the expected
15 dividends (D_t) during the initial growth period. The
16 long-term constant rate of growth expected after 1993 (g_n) was
17 calculated by the earnings retention method ($b \times r$ approach)
18 using Value Line's expected return on equity (r) and expected
19 retention rate (b) for 1993.

20 Q Does your DCF calculation include an allowance for issuance
21 costs?

22 A Yes, it does. Historically, utility underwriting expenses
23 associated with issuing common stock have averaged 3 to 4
24 percent of gross proceeds. Therefore, I believe a 3% adjustment
25 to the DCF calculation to account for issuance cost is

1 appropriate. (See, Pettway, R.H., "A Note on the Flotation
2 Costs of New Equity Capital Issues of Electric Companies",
3 Public Utilities Fortnightly, March 18, 1982 pp. 68-69.)
4 Equation (6), Schedule 8, includes the adjustment for issuance
5 costs.

6 Q What is the cost of common equity for the index companies
7 based upon your two-stage, annually compounded DCF model?

8 A Solving Equation (6) on Schedule 8, produces a cost of
9 common equity for the index of 11.30%. Schedule 9 contains the
10 inputs and results of my analysis.

11 Q Please describe the risk premium analysis.

12 A The junior position of equity relative to debt adds
13 additional uncertainty to the return of equity owners. Equity
14 owners require compensation for this added risk. A risk premium
15 analysis quantifies this additional compensation and adds it to
16 the cost rate of debt to then estimate the cost of common
17 equity. The equation expressing the basic risk premium model is
18 contained on Schedule 10.

19 Q How did you begin the risk premium analysis?

20 A I relied upon the risk premium study prepared by the staff
21 of the Finance Bureau. The analysis first used the DCF
22 methodology discussed above to estimate the expected market
23 return for the index for each month from June 1980 through May
24 1990.

25 Q How is the equity-debt risk premium measured?

DIRECT TESTIMONY OF SCOTT SEERY

1 A For each month of the period, the expected return on common
2 equity was compared to the then current yield on long-term
3 government bonds, as reported by Moody's, to determine the risk
4 premium for common equity over the yield of long-term government
5 bonds.

6 Q What is your estimate of the equity-debt risk premium for
7 the index?

8 A As shown on Schedule 11, the equity-debt risk premium for
9 the index average 3.165% over the period 1980-1990.

10 Q What measure of debt cost did you add to the risk premium to
11 determine the cost of equity?

12 A I used the May 1, 1990 Blue Chip Financial Forecasts' (Blue
13 Chip) consensus forecast for long-term government bond yields
14 for the coming year of 8.475%. Blue Chip is a publication that
15 provides interest rate forecasts from 50 leading financial
16 forecasters.

17 Q What is the risk premium cost of common equity for the index?

18 A As shown on Schedule 10, combining the average expected
19 yield on long-term government bonds of 8.475% with the
20 equity-debt risk premium of 3.165% results in a risk premium
21 cost of equity of 11.65% (rounded) for the index.

22 Q Based upon your DCF analysis and your risk premium analysis,
23 what is your conclusion as to the cost of common equity for the
24 index?

25 A Based upon my DCF and risk premium analyses, I believe the

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1 cost of common equity for the index is within the range of
2 11.30% to 11.65%.

3 Q Is this result an appropriate measure of the cost of common
4 equity to Gulf Power?

5 A No, it is not. The cost of common equity for an index of
6 companies possessing the risk characteristics discussed earlier
7 and illustrated on Schedule 4 is, in my estimate, between 11.30%
8 and 11.65%. However, in my opinion, Gulf Power is riskier than
9 the index and should therefore be allowed a higher cost of
10 equity.

11 Q Have you examined the investment risk characteristics of
12 Gulf Power?

13 A Yes, I have. Schedule 6 shows Gulf Power's earned returns,
14 coverage ratios, percent AFUDC to net income ratios and percent
15 internally generated funds ratios for the last five years.
16 Schedule 5 provides financial ratios for "A" rated electric
17 utilities and Schedule 4, page 2 of 2, provides the information
18 necessary to compare the AA/Aa electric index to Gulf Power with
19 regard to debt leverage, return on equity, coverage ratio,
20 percent of AFUDC to net income, and percent of internally
21 generated funds.

22 Q In general, how does the investment risk of Gulf Power
23 compare to that of the electric index?

24 A Gulf Power is riskier than the electric index. It has a
25 lower bond rating, A/A, as compared to an average Aa/AA for the

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1 electric index. This rating is affected by such factors as debt
2 leverage and interest coverage. As shown on Schedules 4, 5, and
3 6, Gulf Power has significantly higher debt leverage and much
4 lower interest coverage ratios than the index. Additionally,
5 Schedule 5 shows the equity ratio, debt leverage, coverage
6 ratio, and net cash flow to capital spending for Gulf Power and
7 comparable "A" rated electric utilities. Relative to comparable
8 "A" rated utilities Gulf Power has a lower equity ratio, higher
9 debt leverage, and a lower coverage ratio.

10 Q What adjustment have you made to reflect the difference in
11 risk between Gulf Power and the index?

12 A First, I used a bond rating differential to estimate the
13 additional return required by an "A" rated electric utility over
14 the "AA" rated index. As indicated on Schedule 12, the average
15 spread between "AA" and "A" bonds has been approximately 30
16 basis points over the past 60 months. Adding this spread to the
17 index's cost of equity range of 11.30% to 11.65% results in a
18 cost of equity range of 11.60% to 11.95%. I believe that,
19 generally, a bond yield differential is a reasonable method to
20 estimate the difference in the cost of common equity when
21 examining companies of different bond ratings. However, given
22 Gulf Power's lower equity ratio, higher debt leverage, and lower
23 coverage ratio relative to comparable "A" and "AA" rated
24 electric utilities, I believe an additional premium, from the
25 top of the adjusted range, is warranted to arrive at Gulf

DIRECT TESTIMONY OF SCOTT SEERY

1 Power's cost of common equity.

2 As shown on Schedule 14, applying a 12.25% return on
3 common equity, 30 basis points above the top of the adjusted
4 range, results in a pretax times interest earned (TIE) ratio and
5 pretax cost of capital comparable to that which would have been
6 incurred by Gulf Power if their debt leverage and equity ratio
7 were similar to the average of the utilities comprising the "A"
8 rated index. The resulting TIE ratio also compares favorably
9 with other "A" rated electric utilities and with the benchmark
10 guidelines provided by S&P.

11 Q Why did you use annually compounded, rather than quarterly
12 compounded, models in your analysis to determine the cost of
13 common equity capital to Gulf Power?

14 A In Docket No. 880558-EI, the Commission expressed their
15 opinion that the specificity obtained by recognizing the effects
16 of compounding to determine the cost of equity was an
17 unnecessary refinement. Therefore, I have conducted an analysis
18 using annually compounded models, the results of which, in my
19 opinion, approximate the appropriate point at which rates should
20 be set to meet investor return requirements.

21 Q Please continue.

22 A In my opinion, the use of models that accurately reflect the
23 receipt and timing of cash flows provides a better estimate of
24 the cost of equity. However, using the results derived from a
25 quarterly DCF model without making a ratemaking rate of return

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1 adjustment is inconsistent. The ratemaking rate of return
2 adjustment recognizes the time value of money associated with
3 the Company's monthly receipt of revenues. It is inconsistent
4 to selectively recognize the time value associated with the
5 investor's quarterly receipt of dividends, through use of a
6 quarterly model, and then not recognize the time value
7 associated with the Company's monthly receipt of revenues.
8 Ignoring the Company's monthly receipt of revenues, as reflected
9 in the 13-month average equity balance, overestimates the point
10 at which rates should be set.

11 Q What is your recommendation regarding the appropriate
12 regulatory treatment of non-utility related property and
13 non-regulated subsidiaries?

14 A I recommend non-utility property and non-regulated
15 subsidiaries be removed from the capital structure directly from
16 equity unless the Company can show, through competent evidence,
17 that to do otherwise would result in a more equitable
18 determination of the cost of capital for regulatory purposes.

19 Q In making this recommendation are you assuming the
20 investment in non-regulated assets can be traced directly to
21 equity funds?

22 A No. Assets cannot be associated with specific sources of
23 funds. Funds are fungible.

24 Q If funds cannot be traced, why do you recommend, in the
25 absence of persuasive evidence to the contrary, non-regulated

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1 property and non-regulated subsidiaries be removed from equity?

2 A I recommend this treatment for two reasons. The first is
3 the basic principle that the cost of capital allowed for
4 ratemaking purposes should be the cost of capital associated
5 with the provision of utility service. The second relates to
6 the signals and incentives sent to the companies.

7 Q Please continue.

8 A The cost of capital is the minimum rate of return necessary
9 to attract capital to an investment. It is a function of the
10 risk of the investment. The greater the risk the greater the
11 return investors require.

12 Regulated entities are of relatively low risk and have
13 correspondingly low costs of capital. There are very few
14 investments a regulated company can make that are of equal or
15 lower risk. Therefore, investments in non-regulated
16 subsidiaries will almost certainly increase a regulated
17 utility's cost of capital. The effects may be difficult to
18 quantify, but the fundamental risk-return relationship points to
19 their existence. It is important that these effects be removed
20 from the Company's overall cost of capital in order that
21 ratepayers are charged only for the cost of capital associated
22 with the provision of regulated service.

23 Removing the effects of investments in non-utility
24 property can present a more difficult problem. For example, it
25 may be difficult to quantify the cost of capital effects

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1 associated with a utility officer's purchase of an automobile
2 for personal use. In this circumstance, I believe the signals
3 and incentives associated with the Commission's policies should
4 be of primary concern. If a utility can finance non-utility
5 property at the utility's cost of capital rather than at market
6 rates, it will have every economic incentive to do so. If this
7 is allowed to occur, ratepayers will be subsidizing, through
8 capital costs, investments not necessary for the provision of
9 regulated service.

10 Q What is your position as to the appropriate regulatory
11 treatment of cash and temporary cash investment balances?

12 A In my opinion, the appropriate regulatory treatment of
13 either continuing cash balances or temporary cash investments
14 should depend upon their prudence. If the utility can
15 demonstrate, through competent evidence, that their cash
16 balances or temporary cash investments are necessary for the
17 provision of regulated utility service they should remain in
18 rate base and earn at the utility's overall rate of return. Any
19 earnings generated by these funds should then be used to offset
20 revenue requirements. In general, short-term investments can be
21 expected to earn less than the utility's overall cost of
22 capital. Therefore, a blanket policy of excluding temporary
23 cash investments from rate base could result in an asset,
24 potentially necessary for the provision of regulated service,
25 earning less than a fair rate of return.

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1 However, if the utility fails to demonstrate the
2 prudency of either their temporary cash investments or
3 continuing cash balances, they should be removed directly from
4 equity when reconciling the capital structure with rate base.
5 Such treatment removes the capital structure implications of
6 excessive cash or temporary cash investments. In a competitive
7 environment the cost of poorly managed cash resources cannot be
8 passed through to customers, instead, shareholders bear the
9 cost. Similar treatment by the Commission would mirror the
10 competitive environment and send appropriate signals to utility
11 owners and managers regarding cash balances and working capital
12 allowances.

13 Q Please summarize your testimony.

14 A The purpose of my testimony was to determine the appropriate
15 cost of common equity capital for Gulf Power to use in
16 determining an appropriate allowed overall rate of return. I
17 also discussed the appropriate regulatory treatment of
18 non-utility property and non-regulated subsidiaries, temporary
19 cash investments, and continuing cash balances when reconciling
20 rate base and capital structure.

21 Using the widely accepted discounted cash flow and risk
22 premium methodologies I estimated a cost of common equity range
23 of 11.00% to 11.50% for an index of "Aa/Aa" rated electric
24 utilities. I then adjusted this range to account for the
25 difference in risk between Gulf Power and the index. I

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1 determined that Gulf Power's cost of common equity fell within a
2 range of 11.30% to 12.10%. Given Gulf Power's higher debt
3 leverage, lower equity ratio, and lower coverage ratio relative
4 to both the "AA" and "A" indices I examined, it is my opinion
5 that the top of the range, 12.10% best represents Gulf Power's
6 cost of common equity capital. Schedule 15 summarizes my
7 conclusions regarding the cost of common equity capital.

8 I also recommend that non-utility property and
9 non-regulated subsidiaries be removed from the capital structure
10 directly from equity unless the company can show, through
11 competent evidence, that to do otherwise would result in a more
12 equitable determination of the cost of capital for regulatory
13 purposes. In addition, I recommend that, absent a showing of
14 their prudence, temporary cash investments and continuing cash
15 balances be removed directly from equity when reconciling the
16 capital structure with rate base.

17 Q Does this conclude your testimony?

18 A Yes, it does.

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1 MR. VANDIVER: Staff would call Robert
2 Freeman.

3 Commissioners, at this time I'd like to pass
4 out an errata sheet from the audit. I think it would
5 be quicker than going through it on the stand. A clean
6 copy of the audit has been provided to the court
7 reporters and counsel were given this last week.

8 MR. STONE: Mr. Vandiver?

9 MR. VANDIVER: Yes?

10 MR. STONE: Would you have any objection to
11 making the errata sheet also an exhibit, in addition to
12 the clean copy, just so that the record is clear that
13 those were the changes made? That's the essence of
14 what is done about your errata is read from the stand.

15 MR. VANDIVER: I have no objection.

16 CHAIRMAN WILSON: Do we need to make that an
17 exhibit?

18 MR. STONE: Commissioner, I think it helps in
19 making sure that things are kept clear.

20 CHAIRMAN WILSON: All right, 613.

21 MR. PRUITT: I have 612, Mr. Chairman.

22 CHAIRMAN WILSON: All right, 612. Was there
23 an exhibit during Mr. Pollock's testimony? There
24 wasn't, was there? All right. You're correct, 612 is
25 the next exhibit number.

1 (Exhibit No. 612 received into evidence).

2 ROBERT FREEMAN

3 was called as a witness on behalf of the Florida Public
4 Service Commission and, having been first duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. VANDIVER:

8 Q Could you state your name for the record,
9 please?

10 A My name is Robert Freeman.

11 Q Did you cause to be filed three pages of
12 prefiled testimony in this case?

13 A Yes, sir, I did.

14 Q Do you have any additions or corrections to
15 make to those three pages?

16 A No, sir.

17 Q If I were to ask you those questions would
18 your answers be the same?

19 A Yes, they would.

20 MR. VANDIVER: Mr. Chairman, I move for the
21 insertion of his testimony as though read.

22 CHAIRMAN WILSON: Without objection it will
23 be so inserted into the record.

24 Q Have you been previously sworn, Mr. Freeman?

25 A Yes, sir, I have.

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(Witness Freeman's Exhibits No. 382 and 384
stipulated into evidence.)

1 PREFILED TESTIMONY OF ROBERT ALAN FREEMAN

2 Q. Would you please state your name and business address?

3 A. Robert Alan Freeman, 101 East Gaines Street,
4 Tallahassee, Florida, 32399-0865.

5 Q. By whom are you employed?

6 A. The Florida Public Service Commission.

7 Q. How long have you been employed?

8 A. Since February 10, 1982.

9 Q. Would you state your educational background and
10 experience?11 A. I received a Bachelor of Science Degree with a major in
12 Accounting from Florida State University in August 1974. After
13 graduation I was employed by Peat, Marwick, Mitchell, CPA's. In
14 May, 1976 I became employed with the State of Florida, joining
15 the Public Service Commission in February 1982.

16 Q. Are you a certified public accountant?

17 A. Yes. I received my certificate from the Florida State
18 Board of Accountancy in February, 1976.

19 Q. What are your responsibilities as a Commission employee?

20 A. I am a regulatory audit supervisor for the Tallahassee
21 Audit District. I control and direct all audits in the north
22 Florida district which ranges from Pensacola to Jacksonville.
23 Audits are assigned to me by my supervisor, Frank Doud, Deputy
24 Director of the Division of Auditing & Financial Analysis.

25 Q. Have you testified in any previous Florida Public

PREFILED TESTIMONY OF ROBERT ALAN FREEMAN

1 Service Commission cases?

2 A. Yes, in three dockets.

3 820158-WS -- Intracoastal Utilities regarding Valuation
4 of an Acquisition Adjustment.

5 820067-WS -- Ferncrest Utilities regarding providing an
6 Allowance for Funds Prudently Invested (AFPI).

7 870981-WS -- Miles Grant Water and Sewer Company
8 regarding failure to properly depreciate utility plant.

9 Q. What other type of work have you performed for Florida
10 State government?

11 A. A seven page resume is provided (Exhibit (RAF-3 384))
12 which describes my professional, accounting and auditing
13 experience. Since February 1988, my responsibilities have
14 included planning, controlling and, in some instances, preparing
15 internal accounting reports for use by Commission Staff. These
16 reports are commonly referred to as "audits".

17 Q. What is the purpose of your testimony in this case?

18 A. I'm sponsoring the rate case audit report as filed with
19 the Division of Records and Reporting in Docket 871167-EI as
20 Exhibit (RAF-1 382) (composite). I'm also sponsoring
21 Exhibit (RAF-2 383) which is the rate case audit of Gulf
22 Power Company in Docket No. 891345-EI. Exhibit (RAF-2 383)
23 will be filed and served on all parties as soon as the audit
24 report is completed and Gulf Power Company has had an
25 opportunity to review the stated facts for errors or omissions.

PREFILED TESTIMONY OF ROBERT ALAN FREEMAN

1 Q. Were both of these audits conducted under your
2 supervision and control?

3 A. Yes.

4 Q. Does this conclude your testimony?

5 A. Yes it does.

6 (End of Prefiled Direct Testimony)

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1 MR. VANDIVER: Commissioners, I believe the
2 audits speak for themselves. In the spirit of Mr.
3 Burgess, I'll just tender the witness to cross.

4 CHAIRMAN WILSON: Ah, yes, the spirit of Mr.
5 Burgess walks these halls at night.

6 COMMISSIONER EASLEY: I'm going to wait for
7 the movie. (Laughter)

8 CHAIRMAN WILSON: I have the sound track.
9 It's really -- (Laughter)

10 MR. BURGESS: I don't have any questions.

11 MAJOR ENDERS: No questions.

12 CROSS EXAMINATION

13 BY MR. HOLLAND:

14 Q Mr. Freeman, would you agree that the
15 purpose of the audit which you performed was for the
16 benefit of the Electric and Gas Department, and was, in
17 fact, conducted at their request?

18 A Yes, sir.

19 Q Would you agree that an audit exception is a
20 finding made during the course of your audit, that
21 there is an error in the books and records that needs
22 to be corrected?

23 A That's correct.

24 Q And a disclosure, on the other hand is a
25 finding that you made that, in your opinion, might

1 dictate further examination by the the Staff of the
2 Electric and Gas Department?

3 A That's also correct.

4 Q Would you also agree -- well, let me ask you
5 this: Your audit contains two exceptions, does it not?

6 A Yes, sir, it does.

7 Q Would you agree that an audit of the
8 magnitude which you conducted that contains only two
9 exceptions is a good audit from the perspective of Gulf
10 Power Company?

11 A Not necessarily. Many times industry staff
12 can make adjustments in a case based upon a disclosure;
13 so, therefore, if you had small exceptions I wouldn't
14 necessarily consider it a good audit. If you had no
15 exceptions and no disclosures it would be an excellent
16 audit. But a disclosure definitely could lead to a
17 material adjustment.

18 Q A disclosure could lead, but would not
19 necessarily lead to an adjustment, and the only
20 adjustment that -- adjustments that you are
21 recommending absolutely should be made are the two
22 exceptions, is that correct?

23 A Yes, and I believe they were both made.

24 Q And they both have been made, is that
25 correct?

1 A Well, one was reported as made; the other one
2 we observed and it was made. (Pause)

3 Q Okay. In your audit that you performed, you
4 commented on a number of occasions with respect to the
5 plant accounting system, and the question that I have
6 is directed toward the exit conference where the
7 disclosures were discussed. And as I recollection you
8 stated that you did not take exception to the
9 appropriateness of the plant accounting system or the
10 work order system, but that the system that is in place
11 at Gulf Power Company did not, within the time frame of
12 your audit, given the time that you had to do the
13 audit, enable you to conduct the full audit that you
14 would have liked to. Is that accurate?

15 A Yes, sir, that's correct.

16 Q Okay. And the audit that you, or the
17 methodology which you have proposed in the disclosure,
18 would you agree that it is a filing system, a work
19 order filing system?

20 A Primarily that was the gist of the
21 disclosure. Naturally, everything would have to be
22 integrated into the reports as well.

23 Q What you are suggesting that be done is for
24 Gulf Power Company to maintain in a central location,
25 in one file drawer or if it takes two file drawers, all

1 the work orders, project origination notes, completion
2 notes, drawings, memoranda, et cetera, related to a
3 particular project, is that correct?

4 A That would be one solution. The Company may
5 be able to come up with acceptable alternatives. For
6 example, as I recall, the Company indicated the price
7 of doing that was around 300,000. For 300,000 we could
8 probably hire the auditors and get it done for probably
9 less than that.

10 Another method that also might be acceptable
11 may be if we could coordinate our efforts a little bit
12 better with the FERC, but that would still leave me
13 with the problem, in that I go into a 1989 test year
14 and I have \$73 million to audit. It takes a long time
15 to audit \$73 million. Particularly if I have to go to
16 a number of files to look at the documents.

17 Q Okay.

18 A It's just a time problem. But there could be
19 more than one answer.

20 Q You are aware, and I think have acknowledged
21 that the plant accounting system of Gulf Power Company
22 has been audited by your audit staff previously, by the
23 Federal Energy Regulatory Commission auditors, by
24 internal auditors and by Southern Company Services,
25 have you not?

1 A I would agree with that with the exception of
2 the fact that our auditors, to a great deal, have
3 relied on other auditors to take a look at the work.
4 We really have not gone through a full examination of
5 the plant records, to my knowledge, at least since
6 1983.

7 Q You would agree, would you not, that the
8 findings of those internal and external audits have not
9 detected any type of overall weakness in the internal
10 control structure, nor in the plant accounting system?

11 A None that I'm aware of.

12 MR. HOLLAND: That's all I have.

13 MR. VANDIVER: Staff has no redirect.

14 CHAIRMAN WILSON: Questions, Commissioners?

15 Thank you very much.

16 (Witness Frecman excused)

17

- - - - -

18 MR. VANDIVER: Staff would call Roberta Bass.

19 ROBERTA S. BASS

20 was called as a witness on behalf of the Florida Public
21 Service Commission and, having been first duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. VANDIVER:

25 Q Could you state your name for the record,

1 please?

2 A My name is Roberta S. Bass.

3 Q Did you cause to be filed in this docket 16
4 pages of direct testimony?

5 A Yes, I did.

6 Q Do you have any additions or corrections to
7 make to that testimony?

8 A No, I do not.

9 Q If I were to ask you the questions contained
10 in that testimony would your answers be the same?

11 A Yes, they would.

12 MR. VANDIVER: Mr. Chairman, I would move for
13 the insertion of Mrs. Bass's testimony as though read.

14 CHAIRMAN WILSON: Without objection it will
15 be so inserted into the record.

16 (Witness Bass' Exhibits 386 and 387
17 stipulated into the record.)

18

19

20

21

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24

25

1 DIRECT TESTIMONY - ROBERTA S. BASS

2 Q Please state your name and business address.

3 A My name is Roberta S. Bass. My business address is 101 E.
4 Gaines Street, Tallahassee, Florida 32301.

5

6 Q By whom are you employed and in what capacity?

7 A I am employed as an Economic Analyst in the Fuel
8 Procurement Bureau of the Division of Electric and Gas of
9 the Florida Public Service Commission.

10

11 Q What is your educational and professional background?

12 A I have a Bachelor of Science degree in Finance from
13 Florida State University. I have been employed with the
14 Florida Public Service Commission since April 1983.

15

16 Q What is the purpose of your testimony?

17 A The purpose of my testimony is to discuss circumstances
18 which may cast a cloud over the numbers submitted by Gulf
19 Power Company (Gulf) which support its request for a rate
20 increase. Essentially, these circumstances are the result
21 of allegations made, and events that have occurred, since
22 the Company's last rate case in 1984.

23

24 Q How have you been made aware of these allegations and
25 events?

1 A There has been extensive news coverage about Gulf over the
2 last couple of years. In addition, Staff has conducted
3 depositions, propounded interrogatories, obtained court
4 pleadings and performed an audit of the Company.

5

6 Q Please describe the allegations and events previously
7 mentioned.

8 A To facilitate understanding, I will list the allegations
9 and events and then describe them individually. They are
10 as follows:

11

- 12 1. Inventory shortages of potentially \$2,000,000;
- 13 2. Theft of inventory by Kyle Croft;
- 14 3. A kick-back to a Gulf employee from a contract vendor;
- 15 4. Gulf's continued business dealings with vendors once
 involved in schemes to defraud Gulf;
- 16 5. Potential conflicts of interest;
- 17 6. Recommended dismissal of Jacob Horton; and
- 18 7. Atlanta Federal Grand Jury.

19 Q Please describe the possible inventory shortage of
20 \$2,000,000.

21 A During a warehouse audit in 1982, a net loss of \$10,000 of
22 inventory was found. According to Gulf executives, there
23 were problems with the inventory audit because certain
24 items were not tagged or identified and the warehouse
25 generally was in a sloppy condition. In 1983, another

1 audit was initiated and found a net shortage of \$8,462 of
2 inventory in the warehouse. Carolyn Sirmon, a warehouse
3 supervisor, testified in the Richard Leeper perjury trial
4 and in a staff-conducted deposition that the 1983 audit
5 was inaccurate because Gulf Power had concealed an
6 enormous shortage by counting obsolete and damaged items
7 as good items in the inventory. She estimated the actual
8 shortage at around \$2,000,000. Gulf disputes this amount
9 and maintains the net shortage of \$8,642 is correct.

10

11 Q Please describe the theft of property by Kyle Croft.

12 A In late 1983, Gulf President Doug McCrary received an
13 anonymous letter implicating Kyle Croft, Manager of
14 General Services Operation, in the theft of Gulf
15 property. The author of the letter stated that he
16 recognized Gulf employees at the construction site of
17 Croft's new home over the course of one year and reported
18 the license numbers of Gulf trucks at the site.

19 McCrary ordered an investigation, an audit and an
20 inventory of Gulf warehouses which revealed that Croft was
21 misusing employees and converting company property and
22 supplies for his own use. Misappropriations were
23 estimated to be around \$300,000.

24 Mr. McCrary confronted Croft who denied the
25 allegations. Croft was given the opportunity to resign

1 and when he refused to resign, he was fired by Mr.
2 McCrary. Croft appealed to Jacob Horton, Senior Vice
3 President, to intercede on his behalf. Mr. Horton
4 persuaded Mr. McCrary to allow Croft to resign if he would
5 admit to stealing approximately \$16,000 in supplies,
6 equipment and labor and sign a promissory note for a like
7 amount. Gulf agreed not to bring civil or criminal action
8 against Croft or subject him to civil liability to force
9 payment of the promissory note. To demonstrate the
10 Company's good faith, Mr. Horton signed a personal
11 promissory note to Croft for the same amount. On February
12 3, 1984, Croft agreed to these conditions and was allowed
13 to resign. Croft is now receiving his pension.

14
15 Q Did Croft subsequently file a suit against Gulf regarding
16 his resignation?

17 A Yes. In 1986, Croft filed suit against Gulf and six
18 current and former executives; Edward Addison, Jacob
19 Horton, Ben Kickliter, Alvin Vogtle, Jr., Charles Lambert,
20 and Douglas McCrary. The suit alleged conspiracy to
21 intentionally interfere with a contractual employment
22 relationship, extortion, civil conspiracy to defame, libel
23 and slander, and the intentional infliction of emotional
24 distress. As a remedy, Croft asked that his resignation
25 be rescinded; the \$16,000 promissory note be declared

1 void; and for other direct and consequential damages.

2 Gulf filed a motion for Summary Judgment which was
3 granted on July 11, 1988. On August 10, 1988, Croft
4 appealed the decision to the First District Court of
5 Appeal (DCA) in Tallahassee. The DCA affirmed the Summary
6 Judgment.

7

8 Q Did Gulf conduct a further investigation to determine if
9 other were involved in misappropriations of Company assets?

10 A Yes. The investigation revealed that Joseph Lamar
11 Brazwell, Supervisor of Support Services, was involved in
12 a scheme to defraud Gulf of \$42,000. False invoices had
13 been submitted by West Florida Landscaping through
14 Brazwell. He resigned in 1984, after 15 years with
15 Company and is not currently receiving a pension. Mr.
16 Brazwell also was part-owner, along with Richard Leeper, a
17 former employee of Gulf, of Reliable Electric Distributing
18 Company (REDCO).

19 Another scheme involved the theft of equipment and
20 its ultimate installation at military bases by Line Power
21 Company. Croft had, and continues to have, a 40%
22 ownership interest in this company.

23

24 Q Please discuss the kick-back to a Gulf employee from a
25 contract vendor.

1 A Peggy Miller, a partner in Self Window Cleaning, accused
2 Mark Rubenacker, an accountant at Gulf, of demanding \$750
3 in kick-backs after her company won a \$20,600 contract to
4 wash windows twice at Gulf's new headquarters building in
5 1988. Mr. Rubenacker was dismissed by Gulf on February
6 24, 1989.

7
8 Q Does Gulf continue to do business with vendors who were
9 once involved in schemes to defraud Gulf?

10 A Gulf has represented that, effective December 31, 1988, it
11 has discontinued doing business with three of the four
12 companies involved in schemes to defraud Gulf. The three
13 companies are Southern Scrap, Gulf Coast Paving and
14 Grading, and REDCO Electrical Distributors. Gulf
15 continues to do business with West Florida Landscaping.

16
17 Q How much did Gulf pay these companies in 1987 and 1988?

18 A West Florida Landscaping was paid \$202,127 in 1987 and
19 \$231,234 in 1988 for landscaping services. Gulf Coast
20 Paving and Grading was paid \$61,066 in 1987 and \$44,305 in
21 1988. REDCO was paid \$115,492 in 1987 and \$174,206 in
22 1988.

23
24 Q Have any outside agencies conducted investigations of
25 misappropriations of Gulf assets?

1 A Yes. Around the same time Croft filed his suit, the
2 Internal Revenue Service (IRS) and the FBI began
3 investigations. In 1988, a Pensacola Grand Jury indicted
4 Croft, Brazwell, and Leeper for evading income taxes on
5 money fraudulently obtained from Gulf. Croft pled guilty
6 to tax charges for submitting \$40,000 in fraudulent bills
7 to Gulf. He received a four-month sentence and a \$10,000
8 fine. Brazwell pled guilty and received a nine-year
9 sentence and \$30,000 fine. Leeper was convicted of
10 perjury for lying to the Grand Jury and received an
11 eighteen month sentence.

12

13 Q As a result of the misappropriation of Gulf assets by two
14 employees, did Gulf take any corrective actions?

15 A Yes. Gulf implemented inventory and security procedures
16 to provide better safeguards against further
17 misappropriations. In addition, Gulf adopted a Company
18 Code of Ethics. Part of the implementation of the Code of
19 Ethics was a program to provide employees the confidential
20 opportunity to voluntarily make monetary amends to Gulf
21 without fear of embarrassment or punitive action. This
22 program was called the Amnesty Program.

23

24 Q Please describe the Amnesty Program.

25 A. The program was initiated by Gulf executives and

1 administered through the Levin Law Firm. The Amnesty
2 Program was initiated on June 27, 1984 and was available
3 to all employees of Gulf. Via a company bulletin, Gulf
4 employees were instructed to contact the Levin Law Firm
5 directly, if they wished to participate. The program
6 continued in effect until September 30, 1984. Payments
7 from employees were made to the law firm and deposited in
8 their escrow account. The law firm periodically remitted
9 refund checks from their escrow account to Gulf. The law
10 firm remitted 9 payments to Gulf over the period August 6,
11 1984 through November 16, 1984 totalling \$13,124.23.

12

13 Q What potential conflict of interest was identified by the
14 PSC auditors?

15 A Mr. J. K. Tannehill is on the Board of Directors of Gulf.
16 He also is an officer of Stock Equipment Company. Gulf
17 paid Stock Equipment \$278,977 in 1987, \$344,791 in 1988
18 and continues to do business with this company.

19

20 Q Did the PSC auditors specifically review any documentation
21 of transactions with Stock Equipment Company?

22 A Yes. The auditors reviewed transactions and chose to
23 trace three invoices back to the company's bid list to
24 ensure that the lowest price was paid for the merchandise
25 specified.

1 Q Were the auditors able to do this?

2 A The auditors were informed by Gulf that two of the
3 invoices selected were not bid because the maintenance on
4 the plants in question could only be done by Stock
5 Equipment Company because the machines to be worked on
6 were their machines and only they could work on their
7 machines.

8

9 Q What about the third invoice?

10 A The third invoice was traced back to a bid package. There
11 was only one other bid and it was approximately twice as
12 much as the Stock bid. However, Gulf could not furnish a
13 list of vendors who were notified about the project nor
14 could the auditors verify how many notices, if any, were
15 sent out describing the work that was needed.

16

17 Q What is your opinion of these transactions?

18 A I don't believe a utility should be prohibited from doing
19 business with a company which shares a common officer,
20 director or employee. However, since the potential for a
21 conflict of interest exists, the utility should maintain
22 sufficient documentation of the transaction so that it can
23 prove without a doubt that the transaction was an
24 arms-length transaction.

25

1 Q Please describe the recommended dismissal of Jacob Horton.
2 A Jacob Horton was a Senior Vice President of Gulf. He was
3 killed in a Southern Company plane crash on April 10,
4 1989. The cause of the plane crash is still under
5 investigation by the appropriate federal agencies. Just
6 prior to the crash, Mr. Horton attended a meeting at Gulf
7 with Gulf President McCrary and Dr. Reed Bell, an outside
8 director of Gulf and chairman of the audit committee of
9 the board. At the meeting Mr. Horton was allegedly told
10 that the audit committee had recommended his dismissal.
11 An article in the Pensacola News Journal stated that
12 according to a prepared statement by the Company, "McCrary
13 and Bell discussed with Horton the audit committee's
14 concern over Horton's possible circumvention of company
15 policies and procedures and his supervision of the
16 processing of invoices from vendors."

17
18 Q Please describe the Federal Grand Jury investigation.
19 A In 1988, the Atlanta Federal Grand Jury began an
20 investigation based on an Internal Revenue Service report
21 alleging that top financial officers of Southern Company
22 and its subsidiaries, which includes Gulf Power, have
23 conspired with the accounting firm of Arthur Andersen and
24 Company since 1982 to avoid paying tens of millions of
25 dollars in federal income taxes. The alleged conspiracy

1 was accomplished by establishing an "off-the-books-scheme"
2 to hide the existence of spare parts. It also has been
3 alleged that the Grand Jury's investigation has been
4 expanded to include a review of Political Action
5 Committees established by employees of Gulf. Numerous
6 employees of Gulf and some vendors supplying goods and
7 services to Gulf have been subpoenaed to testify before
8 the Grand Jury.

9

10 Q Have the results of the Grand Jury investigation been
11 released?

12 A No. The report of the Grand Jury is not ever released to
13 the public. The Grand Jury either issues an indictment or
14 remains silent as to the information presented to them.
15 However, as a result of the Grand Jury investigation, on
16 October 30, 1989, Gulf pled guilty to two counts: 1)
17 making contributions to various political candidates on
18 the local, state and national levels; and, 2) impairing,
19 impeding and obstructing the Internal Revenue Service in
20 its audit function and in the ascertainment and collection
21 of income taxes.

22

23 Q Were the contributions to political candidates directly
24 made?

25 A No. Outside vendors were asked to make contributions to

1 various campaigns and candidates. On some occasions, the
2 vendors were asked to submit their contributions to Gulf
3 Power for disbursement to the candidates, while on other
4 occasions, the vendors were asked to transmit their
5 contributions directly to the candidate. Regardless of
6 how the contributions were transmitted, many of the
7 vendors involved submitted, at the direction of Gulf
8 employees, false or inflated invoices in order to recover
9 the amount of the political contribution.

10

11 Q Which vendors were involved in this situation?

12 A According to the plea agreement, Gulf directed money to
13 the 1988 State Senate campaign of W.D. Childers through
14 its payments to Design Associates, Inc. A specific amount
15 was not identified in the plea agreement. However, during
16 1988, Gulf paid \$379,892 to Design Associates for
17 services. Gulf has filed a complaint in Escambia County
18 Circuit Court charging that Design Associates overcharged
19 Gulf for services rendered and expenses incurred and that
20 not all services and expenses invoiced were rendered.

21

22 Q What other vendors were involved?

23 A The Dick Leonard Group II, Inc. was instructed to make
24 campaign contributions to specified candidates in 1984,
25 1985, 1986, 1987, and 1988 and to submit inflated invoices

1 to Gulf in order to be reimbursed for those
2 contributions. Gulf instructed the John Appleyard Agency
3 to make political contributions to specified candidates
4 during 1982, 1983, and 1984. The contributions were
5 funded by Gulf through its monthly payments of \$1,000 -
6 \$2,000 to a "special production file" maintained at the
7 Appleyard Agency.

8 Gulf also instructed Hemmer & Yates to make political
9 contributions to specified candidates. These
10 contributions were funded, in part, through a monthly
11 retainer of \$2,000 paid to the agency during the years
12 1985, 1986 and 1987.

13

14 Q What was the total amount contributed to political
15 candidates and billed to Gulf?

16 A The total amount identified in the plea agreement was
17 \$22,850. Exhibit RSB-1 (Exh. 386) provides a breakdown of
18 this amount by year and vendor.

19

20 Q Please describe the second count in the plea agreement.

21 A The second count is similar to the first. However, in
22 this case, Gulf employees instructed some of its outside
23 vendors to submit false or inflated invoices to Gulf to
24 reimburse those vendors for payments made to others at the
25 direction of Gulf Power.

1 Q Which vendors were involved in this situation and what
2 were the payments ultimately for?

3 A During the period 1981 to 1984, the Appleyard Agency
4 billed Gulf approximately \$39,000 as special production
5 fees which were actually reimbursements for various
6 expenditures to others made at Gulf's direction. Exhibit
7 RSB-2 (Exh. 387) provides a breakdown of this amount and
8 the purpose of the expenditure.

9 The Hemmer and Yates agency expended approximately
10 \$24,000 to others at Gulf's direction during the period
11 1983 to 1986. The reimbursement of these expenditures
12 were billed to Gulf as miscellaneous expenses associated
13 with advertising, public relations and marketing. Exhibit
14 RSB-2 (Exh. 387) provides the details of these
15 expenditures.

16 The Dick Leonard Group billed Gulf \$10,000 as costs
17 and expenses associated with photography and production of
18 television spots relating to Gulf Power projects to secure
19 reimbursement for payments made to others during the
20 period 1983 to 1988. Exhibit RSB-2 (Exh. 387) provides
21 the details of these expenditures.

22

23 Q Did Gulf receive a sentence as the result of this plea
24 agreement?

25 A Yes. Gulf was fined \$500,000 as their sentence. In

1 addition, Gulf agreed that the fine imposed in this case
2 would not be paid by, or passed through to, its ratepayers.

3

4 Q Were there any Gulf employees identified in the plea
5 agreement as being involved in the reimbursement process
6 of falsified vendor invoices?

7 A Yes. The plea agreement indicates that Gulf, in entering
8 a plea of guilty, acknowledges and accepts its
9 responsibility for the unauthorized and illegal activities
10 of its senior vice-president and Board member, Jake
11 Horton, and other employees, Doug Knowles and Ray
12 Yarborough.

13

14 Q What is the employment status of Mr. Knowles and Mr.
15 Yarborough with respect to Gulf?

16 A Mr. Knowles resigned October 30, 1989 and Mr. Yarborough
17 retired October 31, 1989.

18

19 Q Do you have any additional comments you wish to make?

20 A Yes. Although collusion and management override can
21 circumvent and render ineffective even the strictest
22 internal controls, the criminal activity documented as
23 having occurred at Gulf Power extended over a period of
24 approximately eight years. The inability of Gulf
25 management to discover and correct these overt illegal

1 actions leads me to believe that the corporate culture was
2 such that employees believed these types of illegal
3 actions were, at the least, condoned by top management.

4

5 Q After reviewing the above information, what action do you
6 recommend that the Commission take?

7 A The information recounted above establishes a pattern of
8 continuous and serious mismanagement of this utility for
9 at least a period of eight years. Although Gulf has
10 worked hard in the recent past to eliminate many of the
11 factors which made the above described illegal activities
12 possible, the utility should be held accountable for its
13 previous lack of effective and ethical management. Thus,
14 the Commission should make the factual finding that Gulf
15 Power has been grossly mismanaged and its return on equity
16 should be appropriately adjusted downward to reflect this
17 finding.

18

19 Q Does this conclude your testimony?

20 A Yes.

21 (End of Prefiled Direct Testimony)

22

23

24

25

1 Q (By Mr. Vandiver) Ms. Bass, could you
2 provide a very brief summary of your testimony, please?

3 A Yes. My testimony describes events that have
4 occurred at Gulf Power Company since the Company's last
5 rate case in 1984.

6 In my opinion, Gulf has suffered from
7 mismanagement for an extended period of time. Although
8 Gulf has worked hard in the recent past to eliminate
9 many of the factors which made illegal activities
10 possible, the Utility should be held accountable for
11 its previous lack of effective and ethical management.

12 I believe the Commission should find that
13 Gulf Power has been mismanaged, and its return on
14 equity should be appropriately adjusted downward to
15 reflect this finding. That concludes my summary.

16 Q Were you previously sworn, Ms. Bass? I
17 neglected to ask you.

18 A Yes, I was.

19 MR. VANDIVER: Thank you. The witness is
20 tendered for cross.

21 CROSS EXAMINATION

22 BY MR. BURGESS:

23 Q Ms. Bass, as I understand it, you are
24 recommending some type of adjustment to the allowed
25 return on equity for consideration of the lack of

1 quality management at Gulf Power, at least for some
2 point in the past?

3 A Yes.

4 Q Have you given much consideration to
5 quantifying that amount?

6 A No, I have not.

7 Q Do you have any opinion as to what a
8 reasonable amount would be?

9 A No, I don't. I think that's something that
10 the Commission should decide based on their decision on
11 if there was mismanagement or not.

12 Q So you think that's something that the
13 Commission should simply deal with within its own
14 discretion?

15 A Yes, I do.

16 MR. BURGESS: Thank you, Ms. Bass, that's all
17 I have.

18 CHAIRMAN WILSON: Mr. Holland?

19 MR. HOLLAND: Commissioners, before I begin
20 my cross examination, I would just like to state for
21 record that many of the questions that I'm about to ask
22 and I think the answers that will be given will not be
23 beneficial to Gulf Power Company in other civil
24 litigation in which its engaged. But because of the
25 nature of Ms. Bass' testimony, I feel like the Company

1 is compelled to nevertheless ask those questions. And
2 with that, I'd like to proceed.

3 CHAIRMAN WILSON: All right.

4 CROSS EXAMINATION

5 BY MR. HOLLAND:

6 Q Ms. Bass, have you ever fired anyone?

7 A No, I have not.

8 Q Have you ever supervised or managed anybody?

9 A Yes, I have.

10 Q Can you tell me where that was?

11 A I supervised individuals when I worked as an

12 Internal Auditor with the Department of Health and

13 Rehabilitative Services prior to coming to the

14 Commission. In addition, I owned my own business and

15 had employees that worked for me there.

16 Q But you never fired any of those employees?

17 A No. I never had a reason to.

18 Q Your current position is Economic Analyst in

19 the Fuel Procurement Department, is that correct?

20 A Yes, it is.

21 Q Do you supervise anybody in that capacity?

22 A No, I do not.

23 Q Do you have any special expertise in the area

24 of management? Have you ever testified about

25 management, how management should conduct itself?

1 A I have never testified how management should
2 conduct itself. However, I have, in my job, been
3 required to review management decisions.

4 Q I don't intend to drag this out, as has been
5 done on at least one occasion in this proceeding, but I
6 would like to ask you: Is your testimony today
7 presented as an expert on management, or are you a fact
8 witness, as Mr. McWhirter would define it, for purposes
9 of testifying before this Commission as to your
10 findings regarding those facts?

11 A I believe I would qualify it more as a fact
12 witness. However, I believe that I'm qualified, based
13 on my previous experience, to determine whether or not
14 certain actions I would consider them to be good
15 management or bad management.

16 Q Well, let me ask you this. Is that opinion a
17 lay opinion based on what you have reviewed, or is it
18 tendered for purposes of this Commission as an expert
19 opinion?

20 A I believe it would be tendered as a lay
21 opinion.

22 Q Okay. You would agree -- you stated that you
23 had not fired anyone. That before doing so, that you
24 would want to have a legitimate basis for terminating
25 someone's employment?

1 A Yes. I would.

2 Q You would not want to be fired or fire
3 someone based on rumor or inuendo, would you?

4 A No. I would not.

5 Q You would want the facts?

6 A Definitely.

7 Q Okay. And obtaining those facts would be a
8 prudent, sound management practice, would it not?

9 A Yes. It would.

10 Q Although you've never done it -- and I'm not
11 casting aspersions on you, because I've never done it
12 either. But firing an employee is a very, very serious
13 matter, is it not?

14 A Yes. I would think so.

15 Q And it can have a major impact on someone's
16 life, being fired from their position?

17 A Yes. It could.

18 Q A person's livelihood or career is something
19 you don't want to make a mistake about, is it?

20 A No. I don't believe so.

21 Q In addition to the harm to the individual,
22 can't there be very serious consequences if the action
23 is unfounded? And by that, I mean it can subject you
24 or the Company to lawsuits for defamation, slander,
25 wrongful termination -- the damages associated with it,

1 the legal expenses and the expenses associated with
2 rehiring and back pay?

3 A All those factors should be considered. But
4 it also, if you have the facts to fire someone and you
5 feel justified in doing that and feel you can
6 substantiate it, then I believe it's something you
7 should do.

8 Considering terminating someone's livelihood
9 is definitely a consideration. However, if it's in the
10 best interests of your organization to do that, I think
11 as a manager you would look at your organization first
12 and the impact it has on it.

13 Q You would agree also, would you not, that
14 accusing someone of mismanagement is a very serious
15 thing?

16 A Yes. I do believe it's serious.

17 Q And the consequences are serious and
18 shouldn't be done without knowledge of the facts?

19 A That's true.

20 Q And you shouldn't base your opinion on things
21 that you read in the paper or what a single individual
22 might say?

23 A No. I don't think you should make your
24 decision based on one thing.

25 Q Ms. Bass, what I would like to do, and I'll

1 just ask you, have you ever heard the Cherokee saying
2 about "walking a mile in someone's moccasins?"

3 A Something similar to that.

4 Q Okay. And you remember the Ray Stevens
5 country song about, "Before you abuse, criticize and
6 accuse, walk a mile in my shoes." Are you familiar
7 with that song?

8 A Not real familiar.

9 Q Okay.

10 COMMISSIONER GUNTER: Is that the one about
11 where you get the atheletes foot if you do that?

12 (Laughter)

13 Q (By Mr. Holland) What I would like for us to
14 do --

15 COMMISSIONER BEARD: Are you tendering a job
16 offer?

17 MR. HOLLAND: What?

18 COMMISSIONER BEARD: Are you tendering a job
19 offer?

20 MR. HOLLAND: To whom? (Laughter)

21 Q (By Mr. Holland) What I would like for us to
22 do for the next few minutes is to walk in Mr. McCrary's
23 shoes in the management of Gulf Power Company and look
24 very closely at the facts.

25 You're aware, are you not, that Mr. McCrary

1 came to Gulf Power in May of 1983?

2 A Yes. I am.

3 Q And you're also aware that he had been at
4 Gulf Power approximately six months when he received
5 the anonymous letters respecting the thefts in the
6 warehouse and the Kyle Croft's activities?

7 A Yes.

8 Q Were you aware of the fact that the first
9 letter he received was on December 13th; and the second
10 letter was December 15th; and that, in fact, on
11 December the 22nd, 1983, he commenced a full-scale
12 investigation that was conducted by Mr. Baker and Mr.
13 Childers?

14 A I'll accept those dates subject to check. I
15 believe those are correct.

16 Q In your opinion, was it sound -- in your lay
17 opinion, was it sound management for him to have acted
18 decisively, given the information that had been
19 provided him in those management -- in those anonymous
20 letters?

21 A Ask that again, please?

22 Q In your opinion, was it sound management for
23 him to have acted to commence the investigation based
24 upon receipt of those two anonymous letters?

25 A Yes.

1 Q You would agree, would you not, that much of
2 what has been revealed over the last five or six years
3 is as a result of that investigation? And by that, I
4 mean the Kyle Croft thefts; the bill-back schemes;
5 thefts by other employees; another area that I want to
6 spend some time on, goods and services to executives;
7 and the inventory shortage that you deal with in your
8 testimony?

9 A I believe all those came out as a result of
10 the investigation.

11 Q I believe you would also agree, would you
12 not, that those items which I described all occurred
13 from a period of 1978 to 1984?

14 A Yes.

15 Q Do you have any evidence that the type of
16 activity -- and I do not mean by that, the activity
17 that's described in the plea agreement, I want to talk
18 about that later. But the activity that I outlined for
19 you -- the thefts from the warehouse, the bill-back
20 schemes, thefts from other employees, goods and
21 services to executives, or inventory problems -- have
22 occurred since 1984?

23 A They have occurred since 1984?

24 Q Have they occurred since 1984?

25 A No. They occurred prior.

1 Q Okay. With respect to the inventory shortage
2 that you describe in your testimony at Page 2 and 3, do
3 you remember when the \$2 million figure that you
4 mentioned was first mentioned in public?

5 A I don't remember when, if it was first -- it
6 was probably first mentioned in a newspaper article
7 that I read. However, it was also mentioned again
8 during a Staff-conducted deposition of Carolyn Sirmon.
9 And that would have been conducted, I believe, during
10 the last rate case, or the one that was withdrawn.

11 Q The newspaper article that you read, do you
12 recall if that was in fact related to the trial of Mr.
13 Leeper?

14 A I don't remember exactly.

15 Q Do you know when the trial of Mr. Leeper was?

16 A It would have been during the 1983-84 time
17 frame, I believe.

18 Q Mr. Leeper's trial? (Pause)

19 Would you agree that it occurred in June of
20 1988?

21 A Excuse me, 1988.

22 Q And that was some six years after the audit
23 was conducted to which Ms. Sirmons referred?

24 A V.s.

25 Q Were you there when the deposition was

1 conducted to which you referred?

2 A No. I was not.

3 Q Have you read that deposition?

4 A Yes. I have.

5 Q Would you agree that in that deposition that
6 she had no documentation or support for that \$2 million
7 figure and it was just something that she remembered
8 hearing?

9 A I don't remember if she said, if she said
10 exactly she remembered hearing it, or if it was just a
11 number that she remembered.

12 Q But she was asked specifically if she had any
13 documentation for that figure, did she -- wasn't she?

14 A Yes, she was.

15 Q And she stated that she didn't?

16 A She did.

17 Q She didn't have any basis to support the
18 figure, did she?

19 A Not that she presented during her deposition.

20 Q What I'd like to do is deal for just a minute
21 with the facts. In the 1981-1982 time period, the
22 warehouse was in fact undergoing renovation, was it
23 not?

24 A I know it was in a state of disarray during
25 the time that the audit was --

1 Q You're not aware of the renovations that were
2 going on at the time?

3 A No. I was not.

4 Q Okay. You're aware that some of the
5 inventory had been moved out into the yard, are you
6 not?

7 A Yes.

8 Q And you're aware or have you read Mr.
9 Monroe's deposition that was taken about the same time
10 as Ms. Sirmons. Have you read that one?

11 A I don't remember if I have or not.

12 Q That was conducted by the Commission, was it
13 not?

14 A I couldn't say for sure.

15 Q Are you familiar with the facts surrounding
16 the recount and why the Auditing Department, along with
17 the head of the -- the guy who was over the audits
18 decided that a recount should take place?

19 A Yes.

20 Q And was that based upon -- or wasn't it based
21 upon a determination that a number of items had not
22 been counted?

23 A I believe a number of items had not been
24 counted. Some of them had been mistagged. Some of
25 them were out in the yard and had not been counted. I

1 believe there were various reasons.

2 Q And it was Ms. Sirmon's testimony, was it
3 not, that in the recount that some obsolete material --
4 and specifically in her deposition, she referred to
5 "obsolete transmission wire" -- had been counted?

6 A Yes.

7 Q In making a count or an inventory, would
8 obsolescence not be immaterial in terms of trying to
9 balance the inventory to the books?

10 A In what way?

11 Q Okay. If it's in inventory, whether it's
12 obsolete or not, it either ought to be counted or it
13 ought to be declared obsolete and removed from the
14 inventory, should it not?

15 A Yes. It should be accounted for in some
16 manner.

17 Q You would agree, would you not, that in her
18 deposition, Carolyn Sirmon stated that she was not an
19 engineer?

20 A Yes.

21 Q Have you made any effort to talk to the people
22 who were involved in the audit who were engineers and
23 who saw the wire?

24 A No, I have not talked to anyone in the audit
25 team.

1 Q Have you reviewed -- I think you said you had
2 not reviewed Mr. Monroe's deposition, but have you
3 reviewed Mr. Oerting's deposition?

4 A Not that I -- I don't remember specifically.
5 I read a number of depositions.

6 Q Are you familiar with the testimony from those
7 two engineers, as well as statements made by others who
8 have stated that the transmission wire that was brought
9 into the warehouse was, in fact, still in inventory and
10 was still good, usable wire?

11 A I have heard that stated. Whether I read that
12 in a deposition or heard it through the course of the
13 hearings or during the last rate case, I don't recall.

14 Q Have you reviewed the Baker-Childers report?

15 A Yes.

16 Q In some detail?

17 A Yes.

18 Q Did you note in there the various schemes in
19 which the individual who made the allegation relative
20 to the \$2 million, the allegations that she was
21 involved heavily in those schemes?

22 A Yes, I have read that.

23 Q Are you familiar with the allegation by at
24 least one individual that she, in fact, after the
25 recount, participated in the transfer of wire out of

1 inventory to line power?

2 A I have read that allegation.

3 Q Did you seek to determine the total value of
4 the inventory in the 1982 to 1983 time frame?

5 A No, I did not, myself.

6 Q Have you read Mr. Fell's rebuttal testimony?

7 A In this docket?

8 Q Yes.

9 A Yes, I have.

10 Q Would you agree that his testimony there was
11 that the total inventory was \$3.7 million and that a \$2
12 million shortage would have represented a 54% shrinkage
13 in inventory?

14 A Yes, I've read that.

15 Q Do you think somebody would have noticed if
16 that amount of inventory was missing from the
17 warehouse?

18 A I would think someone would have noticed.

19 Q You state in your testimony, and it is, in
20 fact, the case, that it's very difficult to detect
21 theft through an inventory if there's collusion going
22 on.

23 A That is correct.

24 Q Have you read the 1983 audit?

25 A The inventory audit?

1 Q Yes.

2 A I don't believe so.

3 Q You're not familiar with the recommendations,
4 then, that were made in there regarding the
5 improvements to be made with respect to the inventory?

6 A I'm familiar with the improvements that were
7 recommended, yes.

8 Q And I think you note in your testimony that
9 significant improvements have, in fact, been made?

10 A Yes, that's true.

11 Q I want to turn for just a few minutes to the
12 theft of inventory by Kyle Croft. And that's the
13 second item in your testimony at Pages 3, 4, I believe,
14 and through 5. You would agree, would you not, that
15 within a very short time after the Baker-Childers
16 investigation was commenced, that a certain amount of
17 the thefts were documented and that based upon
18 documentation, Mr. McCrary made the decision to fire
19 Kyle Croft?

20 A Yes.

21 Q And he did, in fact, fire him, did he not?

22 A Yes, he did.

23 Q And later, a few days later, Mr. McCrary on
24 advice of counsel and in order to attempt to avoid a
25 lawsuit, agreed, in lieu of firing, to allow Mr. Croft

1 to resign?

2 A I'm not sure that's the way I interpreted it,
3 "on advice of counsel." It's my understanding that Mr.
4 Horton was allowed to talk to Mr. Croft and to convince
5 him -- or to -- he went to Mr. McCrary to get
6 permission to be allowed to try to convince Mr. Croft
7 to resign rather than being fired.

8 Q Have you ever talked to Mr. McCrary or to Mr.
9 Horton about the circumstances surrounding that
10 decision?

11 A No, I have not.

12 Q In your testimony, and specifically I believe
13 this is at Lines 9 and 10, you state that to
14 demonstrate the Company's good faith, Mr. Horton signed
15 a personal promissory note to Mr. Croft for the amount
16 that Mr. Croft had given a note to the Company. What
17 is the basis for your statement that that was done in
18 order to demonstrate the Company's good faith?

19 A "To demonstrate the Company's good faith,"
20 what I meant by that was that to ensure that the
21 Company, or to demonstrate that the Company would not
22 sue Mr. Croft to pay the promissory note, and he would
23 be forced to pay it, Mr. Horton signed a personal note.
24 So if the Company were to -- and as far as I know, Mr.
25 Horton was acting on behalf of the Company.

1 Q What evidence do you have to support that
2 statement?

3 A The statements made by the individuals in the
4 Croft lawsuit, the filings that they made rebutting the
5 things that Mr. Croft said.

6 Q Was Mr. McCrary aware that Mr. Horton had, in
7 fact, signed a note back to Mr. Croft until the filing
8 of the Kyle Croft lawsuit two years later?

9 A I don't have anything to show that he was
10 aware of it.

11 Q But you didn't ask Mr. Horton what his
12 rationale was or why he might have done that?

13 A No.

14 Q In your testimony at Line 13, at Page 4, you
15 state that "Croft is now receiving his pension." Did
16 you seek to determine what the significance of this
17 was, or whether resignation or firing would have any
18 impact whatsoever on his entitlement to a pension?

19 A No, I did not.

20 Q Is the statement here intended to mean that if
21 he had been fired he would not have received his
22 pension?

23 A No. It's my understanding he would have
24 received his pension because he was entitled to it.

25 Q But he had reached age 55 at the time of the

1 action and was entitled to a pension, is that correct?

2 A Yes.

3 Q Okay. The strategy that had been put in place
4 to attempt to avoid a lawsuit didn't work, and Mr.
5 Croft filed suit, didn't he?

6 A No, not for him.

7 Q But he did -- the strategy that the Company
8 employed in attempting to avoid a lawsuit did not work?

9 A Oh, no.

10 Q And Mr. Croft did file a lawsuit?

11 A Yes, he did.

12 Q I believe that was in 1986?

13 A Yes.

14 Q And would you agree that as a result the
15 Company incurred substantial legal fees in defending
16 itself and its officers against a suit that was
17 ultimately found to be without merit?

18 A Yes.

19 Q And the Company also filed a countersuit for
20 damages, did they not?

21 A Yes, it did.

22 Q Have you reviewed the suit in some detail
23 relative to the allegations of slander based on the
24 Company's having reported the firing in the press?

25 (Pause)

1 A Repeat your question, please.

2 Q Have you reviewed the suit that Mr. Croft
3 filed regarding the allegations of slander based on the
4 Company having provided information to the press about
5 the firing? Do you recall that in the lawsuit?

6 A Yes, I recall that.

7 Q It wasn't a secret that the Company had fired
8 Mr. Croft, was it?

9 A No, it was not.

10 Q Let me diverge for just a minute. Many of the
11 allegations, and specifically with reference to the
12 executives' receipt of goods and services, they came
13 out of the Kyle Croft lawsuit, did they not?

14 A Yes, they did.

15 Q And some of them came out of the
16 Baker-Childers report?

17 A Correct.

18 Q Two of these allegations that earlier -- or
19 last week seem to be of some peculiar interest to the
20 Staff, I want to ask you some questions about. And
21 those two are Mr. Kickliter truck and Jake Horton's
22 sprinkler system. First, with reference to Mr.
23 Kickliter's truck, have you ever discussed the
24 situation or the circumstances surrounding his truck
25 with Mr. Kickliter?

1 A No, I have not.

2 Q Have you reviewed in detail the Baker-Childers
3 report? I think you earlier stated that you had.

4 A Yes, I have.

5 Q Would you agree that that report contains an
6 appraisal of the truck for \$2,050?

7 A Yes, it does.

8 Q And it also contains proof that that is, in
9 fact, what Mr. Kickliter paid for it, does it not?

10 A Yes, it does. I believe the appraisal, or the
11 indications in the report was the appraisal was done
12 prior to the time that work was done on the truck.

13 Q Well, let me ask you about that. Doesn't the
14 report also contain statements that Mr. Kickliter only
15 paid \$750 for the truck? I believe one employee made
16 that statement.

17 MR. VANDIVER: If you're going to ask her
18 about the report and specific things, I'd request that
19 you show it to her. I mean, generally is fine.

20 Q (By Mr. Holland) Well, let me just ask you in
21 general: Do you recall a statement by one of the
22 employees in the report that Mr. Kickliter only paid
23 \$750 for truck?

24 A Yes, I do.

25 Q Do you also recall the statement by one of the

1 employees that the work was done some six months before
2 he bought the truck?

3 A I don't recall that statement.

4 Q Would you agree that there are a number of
5 inconsistent statements that were made by a number of
6 people in that report, many of whom were later
7 implicated in the various bill-back schemes that were
8 going on? Let me just ask you this: Have you --

9 A Let me answer that question.

10 Q Okay. I'm sorry.

11 A There are conflicting statements within the
12 Baker-Childers' report. Some of the statements do come
13 from people who were involved in various bill-back
14 schemes. However, there's a lot more information in
15 there that came from individuals who, based on their
16 statements, had nothing to gain from what was going on
17 at the general warehouse and the repair shop. And I
18 don't believe they have been proven to be involved in
19 those schemes.

20 Q Okay. But you have not discussed or talked or
21 gotten the facts from the people who they implicated?

22 A We have talked with Mr. Croft.

23 Q Was that --

24 A We have talked with someone who was not
25 implicated in these schemes.

1 Q Was the talk with Mr. Croft in his deposition
2 that was taken by the Staff, or have you talked to him
3 --

4 A It was during his deposition taken by Staff.

5 Q I'm getting ahead of myself, but have you
6 reviewed all of Mr. Croft's depositions, all five of
7 them?

8 A I'm not sure if I've looked at all five of
9 them or not.

10 Q Have you tried to go through and make some
11 determination of the number of inconsistencies that are
12 contained in his testimony?

13 A I recognize there are inconsistencies in Mr.
14 Croft's depositions, and in pleadings that he filed
15 with the court. I am not saying that everything that
16 Mr. Croft said to us was the absolute truth. I don't
17 know that for a fact. I do know that Mr. Croft -- or I
18 believe Mr. Croft was guilty of mismanagement within
19 the general warehouse.

20 And I think, if I can go on for just a moment,
21 I think most of your questions are leading to where I
22 have said that Mr. McCrary is guilty of mismanagement
23 himself. That was not the intent of my testimony, the
24 intent of my testimony to say that there was
25 mismanagement within Gulf Power Company, without

1 looking specifically at one particular level.

2 Q And then it would be your testimony that Mr.
3 Croft was guilty of mismanagement with respect to the
4 warehouse, and it would not be your testimony then, I'm
5 assuming, that Mr. McCrary was guilty of mismanagement
6 in having fired Mr. Croft?

7 A No, I don't believe Mr. McCrary would be
8 guilty of mismanagement for firing Mr. Croft.

9 CHAIRMAN WILSON: Does the management of the
10 warehouse in any way play a part in your conclusion of
11 mismanagement at Gulf, of which Mr. McCrary is
12 responsible?

13 WITNESS BASS: I don't believe I've stated
14 anywhere in my testimony that I believe Mr. McCrary is
15 specifically guilty of mismanagement himself. I
16 believe he is ultimately responsible, being the
17 President of the Company, but it's my belief that there
18 is mismanagement -- there was mismanagement all the way
19 to Gulf Power Company. Mr. Croft mismanaged. He was
20 guilty of it. People below him were guilty of it.
21 People above him, I believe, were guilty of it.

22 I believe Mr. Horton was guilty of
23 mismanagement, and I think that that's been documented,
24 and I believe the Company has stated that Mr. Horton
25 was guilty, or was responsible for the illegal and

1 unethical activities that occurred in Gulf Power
2 Company. So I believe there was mismanagement at that
3 level, too.

4 I don't have any facts to say that Mr.
5 McCrary knew everything that was going on within Gulf
6 Power Company and he specifically himself condoned it.
7 But I'm saying that as president of the Company that
8 he's responsible for the Company and the actions of his
9 employees, especially the ones that are placed in top
10 management.

11 CHAIRMAN WILSON: So the conclusion you draw
12 is that there are these specific instances that
13 happened on his watch?

14 WITNESS BASS: Yes.

15 CHAIRMAN WILSON: All right.

16 Q (By Mr. Holland) And if that's the case, Ms.
17 Bass, the standard that ought to be applied is whether
18 or not Mr. McCrary should have, in the normal course of
19 his duties, been aware and taken action sooner with
20 respect to these areas of mismanagement that you
21 described?

22 A Yes. I think that as the activities came to
23 light, they were dealt with. I believe that there were
24 indications over a period of time that something was
25 wrong, there was going on within the Company. And,

1 very specifically, I think it was activities that Mr.
2 Horton was involved in. I think that there were red
3 flags shooting up that no one dealt with because of Mr.
4 Horton's position within the Company. And I don't
5 think anyone within any company is above reasonable
6 suspicion, if you want to call it that.

7 But if someone's name continues to pop up in
8 illegal or unethical activities, I would think that's a
9 pretty good indication that we need to do something
10 specifically in that regard to look at it, regardless
11 of who the person is. And I don't think that they
12 acted quick enough. And I think the actions that were
13 taken were appropriate actions, but I don't think the
14 actions were any more than any other company would have
15 taken under the circumstances.

16 I don't think Gulf Power went above and
17 beyond. And I think that in a regulated environment
18 the Company knew what actions would be expected of it
19 and those actions were taken. I'm not saying they were
20 bad actions; they were good actions; they have improved
21 substantially. But I can't afford overcredit, as a
22 word, for what they did.

23 Q I understand. And I agree with you that if
24 the indications are there that illegal acts are being
25 perpetrated, that some action is warranted, and that's

1 what I want to ask you about.

2 The first one I think, and the one that just
3 came up during the direct -- or the cross examination
4 of Mr. Horton was with respect to his sprinkler system.
5 And I think there is an allegation in there in the
6 Baker-Childers that his sprinkler system was paid for
7 by the Company in 1979. Are you familiar with that
8 allegation?

9 A I've heard that allegation.

10 Q Okay. You didn't talk to Mr. Horton about
11 that allegation?

12 A No, I did not.

13 Q Are you aware that he, in fact, had invoices
14 showing that he paid for his sprinkler system?

15 A No, I didn't.

16 Q If he did have those invoices, would that
17 give rise to suspicion that he was engaged in unethical
18 or illegal activity?

19 A No.

20 Q At Page 6 of your testimony, you discuss
21 Gulf's business relationship with the vendors involved
22 in the various schemes.

23 Are you aware that most of these vendors were
24 cooperating with Gulf's own investigation as well as
25 the government's investigation during much of this

1 period?

2 A I was not aware that they were.

3 Q You're aware, are you not for the most part,
4 that the vendors themselves did not profit from the
5 schemes?

6 A That's my understanding.

7 Q You would agree, would you not that, as with
8 employees, that it's not the wisest course to terminate
9 a vendor until the facts are known?

10 A I agree.

11 Q Would you also agree that Mr. Croft was
12 indicted on the West Florida landscaping scheme in
13 February of 1988, although the scheme was perpetrated
14 from November of 1982 to February of 1983?

15 A Yes.

16 Q Would you agree that Mr. Brazwell was
17 indicted on the Southern Scrap, Gulf Coast Paving and
18 Grading, West Coast Landscaping and REDCO on April 7th
19 of 1988, and that those schemes were perpetrated
20 January of '81 through November of 1981?

21 A I'll accept your dates, subject to check,
22 yes.

23 Q At Page 5, I'm sorry, Page 5, Line 16, you
24 state that Lamar Brazwell was an owner of REDCO?

25 A Yes.

1 Q Do you have any evidence to support that?
2 Did you read that in the newspaper?

3 A I don't believe so. I'd have to check
4 exactly where I got this information. I don't remember
5 specifically.

6 Q You don't have with you any evidence, then,
7 to support your statement that he was an owner?

8 A I don't have it here with me, no.

9 Q We don't have any either.

10 Are you aware that Mr. Leeper sold his
11 interest in REDCO in 1981 to the Esmark Corporation?

12 A No, I did not know that.

13 Q And that he, in fact, had no interest at all
14 in REDCO when the scheme was discovered?

15 A I didn't know that.

16 Q I want to ask you a few questions about some
17 vendors that you didn't name in your testimony.

18 You're aware, I believe, that immediately
19 upon discovery of the involvement of Line Power in
20 several of these schemes at Gulf Power Company, Mr.
21 McCrary terminated the Company's relationship with Line
22 Power?

23 A I know their relationship with them was
24 terminated.

25 Q And are you also aware that the scheme with

1 respect to the transformers occurred from 1977 to 1981?

2 A I know it was over an extended period.

3 Q Prior to 1984.

4 A Yes, it was prior to 1984.

5 Q Are you aware of the extensive efforts that
6 the Company went to to track down the 10 transformers
7 that have a total value, I believe, of about \$3,000?

8 A I know they went to an effort to find them,
9 yes.

10 Q Those transformers were, in fact, located all
11 across the country, were they not? Some in California,
12 Virginia?

13 A Yes, they were.

14 Q And you're aware, are you not, of the suit
15 that is pending against Line Power?

16 A Yes.

17 Q The four advertising agencies that are named
18 in the plea agreement, Appleyard Agencies, the Dick
19 Leonard Group, Hemmer & Yates, and Design Associates.
20 Gulf Power Company has, in fact, discontinued its
21 relationship with all four of those, has it not?

22 A Yes, it has.

23 Q At Page 7, Line 15, of your testimony, you
24 acknowledge some but not all of the corrective actions
25 taken by management and then you described the amnesty

1 program. Is your description of the amnesty program
2 just a statement of the facts surrounding that, or do
3 you have some problem with Gulf's having instituted an
4 amnesty program?

5 A Just a statement of the facts.

6 Q At Page 13 -- I'm sorry, at Page 8, Line 13,
7 you raise a potential conflict of interest between Gulf
8 and Mr. Tannehill, one of Gulf's directors, is that
9 correct?

10 A That's correct. It was a potential conflict
11 of interest that was identified by the auditors.

12 Q Okay. You haven't established that a
13 conflict, in fact, exists then?

14 A No, I have not. And I think I state that
15 further on.

16 Q I agree.

17 A That I don't have the problem with the
18 Company dealing with affiliated companies or with a
19 business that shares a common officer. However, they
20 should ensure that all transactions are substantiated
21 and documented so that the potential conflict of
22 interest does not occur.

23 Q You've never met or discussed this
24 relationship with Mr. Tannenhill, have you?

25 A No, I did not.

1 Q Are you aware of the existence of extensive
2 conflict disclosure forms that are required to be
3 filled out by the the SEC?

4 A Yes, I am.

5 Q Okay. And have you reviewed those?

6 A I have looked at them before, not
7 specifically in this instance, because I didn't
8 specifically have a problem with this. Other than that
9 it occurred, the auditors during their last audit
10 raised it as a disclosure, and I simply expressed an
11 opinion on it.

12 Q At Page 10, top of that page, you discuss the
13 recommended dismissal of Mr. Horton.

14 A Yes.

15 Q And I believe you've agreed earlier on
16 several occasions that you should have hard evidence
17 before you before you move to dismiss an individual?

18 A Yes.

19 Q Can you tell me what hard evidence Mr.
20 McCrary had that Mr. Horton had committed an illegal or
21 unethical act until he saw the all Appleyard ledger in
22 August or September of 1988?

23 A I'm sorry, Mr. Holland, will you repeat that?

24 Q Yes. Can you tell me what hard evidence Mr.
25 McCrary has that Jake Horton had committed an illegal

1 or unethical act until he saw the Appleyard ledger in
2 August or September of 1988?

3 A I don't know if he had any.

4 Q You agree, do you not, that Mr. McCrary does
5 not, under the Company's bylaws, have the authority to
6 hire or fire an officer of the Company?

7 A That's my understanding.

8 Q That's a prerogative of the Board, is it not?

9 A Yes, it is.

10 Q You would agree also, I believe, that
11 immediately upon seeing the Appleyard ledger, Mr.
12 McCrary mandated that an audit of all advertising
13 accounts be performed?

14 A Yes.

15 Q I'm sure you have also, and it's part of the
16 evidence, part of the record in this case, reviewed the
17 various audits that were performed by Mr. Fell, as well
18 as the minutes of the various Audit Committee meetings?

19 A Yes.

20 Q Have you interviewed any of the members of
21 the Audit Committee?

22 A No, I have not.

23 Q I don't want to spend a lot of time on this
24 because the Company's and government's investigation
25 parallel each other; but at the top of Page 10, or at

1 Page 10, Line 19, you describe the spare parts
2 investigation as having included Gulf Power Company?

3 A I think it was expanded to include them or
4 they were brought into as being part of The Southern
5 Company.

6 Q Have you read the affidavit -- I'm sorry,
7 were you finished?

8 A Yes.

9 Q Have you read the affidavit that was, in
10 fact, the instigator, or precipitated the investigation
11 of the Southern Companies and the Operating Companies,
12 with respect to spare parts?

13 A Yes. I have.

14 Q You would agree, would you not, that it
15 states in that affidavit that Gulf Power Company is, in
16 fact, properly accounting for spare parts?

17 A Yes.

18 Q And you're aware, are you not, that the IRS
19 gave Gulf Power a clean bill in its accounting
20 treatment of spare parts?

21 A Yes.

22 Q You also are aware, are you not, that the
23 government has recently dropped its investigation of
24 Georgia Power and the Southern Company with respect to
25 the accounting treatment of spare parts?

1 A I read that in the newspapers.

2 Q Okay. Do you have any evidence or do you
3 know what bases there was to support the allegations
4 with respect to two sets of books at Georgia Power
5 Company, or an off-the-books scheme?

6 A Only what I've read in the initial document
7 that started the investigation, the grand jury
8 investigation.

9 Q At Page 10 and 11 of your testimony, you
10 describe the extensive grand jury investigation Gulf
11 Power Company went through. You would agree, I
12 believe, that the investigation was, in fact,
13 extensive?

14 A Yes. I believe it was.

15 Q There were a multitude of Gulf Power
16 employees and others who attended and testified before
17 that grand jury, were there not?

18 A Yes.

19 Q Would you agree that the grand jury
20 investigation covered not only those matters that are
21 contained in your testimony but a variety of other
22 matters?

23 A I can't speak to all that the grand jury
24 investigated.

25 Q Okay. It did go back, did it not, to the

1 matters that were contained in the Baker-Childers
2 Reports?

3 A To the extent that those were included in the
4 indictments, yes, or the pleas.

5 Q Was there anything that's contained in the
6 Baker-Childers Report that was contained in the plea
7 agreement? (Pause)

8 A No. I don't believe there was.

9 Q Before we get into the details of the
10 investigation, at Page 15, Line 25, you state that
11 after you've acknowledged that collusion and management
12 override can circumvent and render ineffective even the
13 strictest of internal controls -- and you still agree
14 that that's the case?

15 A Yes.

16 Q You state that, "The inability of Gulf
17 managements to discover and correct these overt illegal
18 actions leads me to believe that the corporate culture
19 was such that the employees believed that these types
20 of illegal actions were, at the least, condoned by top
21 management." Is that an accurate statement of your
22 testimony?

23 A Yes. It is.

24 Q You're not taking issue in your testimony
25 with our internal controls, are you? You're taking

1 issue with our having failed to detect --

2 A Yes.

3 Q -- the overt acts?

4 A Failed to detect within a reasonable period
5 of time.

6 Q Okay. What employees have you determined
7 believed that the illegal acts were condoned by top
8 management?

9 A Some of the statements made by the
10 individuals in the Baker-Childers report, where they
11 indicated that they were just to go along with what was
12 going on, not to say anything to anyone about it, they
13 just were expected to do these things.

14 Q That were prior to 1984?

15 A Yes. That was prior to 1984.

16 Q How about since 1984?

17 A I don't have anything specific that I could
18 offer you, other than my opinion that activities that
19 go on for an extended period of time in an
20 organization, it's just extremely hard for me to
21 believe that no one ever says anything to anybody.

22 Q You've stated and would agree, though, that
23 when there's collusion, it's difficult to detect, would
24 you not?

25 A Yes. It is.

1 Q And, specifically, with respect to the plea
2 agreement and the Appleyard account, you would agree
3 that, in that case, the only two people named or in any
4 way insinuated had any knowledge of what was going on
5 there are Ray Yarborough and Jake Horton?

6 A Yes.

7 Q And with respect to Himmer and Yates -- Mr.
8 Yates and Mr. Horton?

9 A Yes.

10 Q And with respect to Design Associates, Ray
11 Howell and Mr. Horton?

12 A Yes.

13 Q And with respect to Dick Leonard, Doug
14 Knowles and Mr. Horton?

15 A Yes.

16 Q You would agree, would you not, that every
17 one of the overt acts that are contained in that
18 testimony involve Mr. Horton, the vendor, and in only
19 two of the, with respect to two of the vendors, another
20 employee of Gulf Power Company?

21 A Yes.

22 Q You would agree, would you not, that the
23 government's investigation began with the FBI in early
24 1985?

25 A Yes.

1 Q And that the IRS began an investigation in
2 earnest sometime in 1986?

3 A They began an investigation in 1986.

4 Q Okay. Would you agree that since those
5 investigations began that Gulf Power Company has been
6 under what I would describe as a relentless and almost
7 nonstop investigation?

8 A The investigations have been continuous, yes.

9 Q You would agree also, would you not, that the
10 government, the FBI and the Internal Revenue Service,
11 through the subpoena power of the U.S. Attorney and the
12 Grand Jury, can obtain statements from documents, or
13 can obtain documents and statements from witnesses that
14 Gulf Power Company does not have the power to obtain?

15 A I don't think I can answer that. I don't
16 know.

17 Q Does Gulf Power Company have subpoena power?

18 A I don't believe so, no.

19 Q Were you aware that the government in 1986,
20 in fact, requested that we stop discussing matters
21 related to their investigation with our employees?

22 A No. I did not know that.

23 Q You would agree, would you not, that even
24 with all the powers of the investigation, or
25 investigative powers that were at their disposal, that

1 the government did not and was not ready to move
2 forward, with respect to the items contained in the
3 plea agreement until the summer of '89?

4 A I can't speak to what the government's intent
5 was or what they planned to do.

6 Q They had not indicted us at that time, had
7 they?

8 A There were no indictments as of that time,
9 no.

10 Q Okay, and the plea agreement, in fact, took
11 place in October of '89, did it not?

12 A Yes.

13 Q You would agree also, would you not, that the
14 government was unable to ascertain the factual basis to
15 support the overt acts relating to Himmer and Yates and
16 the Dick Leonard group, only after Mr. Horton had died
17 in the plane crash?

18 A It's my understanding from the plea
19 agreement.

20 Q Were you aware that in late 1986 or early
21 1987, Mr. Horton was notified by the Internal Revenue
22 Service that he was a target for the Grand Jury
23 investigation?

24 A I was not aware of that.

25 Q Would you suspect that an individual who was

1 under investigation by the Internal Revenue Service and
2 the FBI, for the period 1986 through 1989, would have
3 engaged in the activity, the overt acts, that are
4 described in the plea agreement?

5 If you were under that type of scrutiny,
6 would you be doing the kinds of things that Mr. Horton
7 was apparently doing?

8 A I personally wouldn't, but I can't speak to
9 what Mr. Horton may or may not do.

10 Q Would you think that a rational individual
11 would, under those circumstances, have engaged in that
12 type of activity, given the fact that he was under
13 intense investigation by the government?

14 A Generally, I would not expect a rational
15 person to do that, no.

16 Q Okay. Looking specifically at the plea
17 agreement, I think you state in your testimony that the
18 amount involved in Count One is \$22,850 and in Count
19 Two, \$73,585.59. And if my math is correct, the total
20 was about \$96,500. Does that sound accurate?

21 A That sounds about right.

22 Q To your knowledge, have any of the overt acts
23 contained in the plea agreement caused the lights to go
24 out or impacted the reliability of Gulf's service?

25 A No. I don't believe it's impacted its

1 reliability.

2 Q Have you made any determination or any
3 assessment of the impact of the overt acts on the rates
4 that are to be set in this rate case? Whether there's
5 been any impact at all?

6 A No. I don't believe any of these amounts
7 impact the current rate case. These are all historical
8 amounts.

9 Q Okay. And you're aware, are you not, that
10 the Commission has a docket open to make a
11 determination whether or not there was any impact on
12 these overt acts on the ratepayers?

13 A Yes. I'm aware of the docket.

14 Q And you're also aware that Gulf Power Company
15 has agreed, on a number of occasions, that if there was
16 an impact that it will refund those dollars?

17 A Yes.

18 Q I would assume, given your position, that
19 you're aware that Gulf's rates are among the lowest in
20 the State of Florida and in the Southeast?

21 A Yes.

22 Q And you're also aware, are you not -- or do
23 you have any question about the reliability of Gulf
24 Power Company?

25 A No I don't.

1 Q Have you got the plea agreement with you?

2 A Yes.

3 Q Would you turn, please, to Page 10 of the
4 statement of facts?

5 Commissioners, that's an exhibit, I'm not
6 sure what the number is.

7 CHAIRMAN WILSON: 413.

8 MR. HOLLAND: 413?

9 CHAIRMAN WILSON: Are you talking about Page
10 10 marked at the bottom?

11 MR. HOLLAND: Yes, sir. I don't have the
12 record copy. I'm looking at the statement of facts,
13 Page 10, as the document was filed with the court.

14 CHAIRMAN WILSON: All right.

15 Q (By Mr. Holland) Would you read that first
16 full paragraph that begins, "The government also
17 submits"?

18 CHAIRMAN WILSON: Wait a minute.

19 WITNESS BASS: We're not on the same page.

20 MR. HOLLAND: Okay, let me find --

21 CHAIRMAN WILSON: What are you on?

22 MR. HOLLAND: I'm on the Government's
23 Statement of Facts. And at the bottom of the page,
24 typed in, "Page 10." Not the stamped -- what do they
25 call that, the Bates System?

1 CHAIRMAN WILSON: Whatever. And what
2 paragraph?

3 MR. HOLLAND: The middle paragraph, the first
4 full paragraph that begins, "The government also
5 submits."

6 CHAIRMAN WILSON: All right.

7 MR. HOLLAND: Would you read that into the
8 record, please?

9 WITNESS BASS: I'm sorry, I haven't found
10 that.

11 CHAIRMAN WILSON: Do you have the exhibit?

12 WITNESS BASS: No, I do not have the exhibit.

13 MR. Holland, do you have the page number from
14 the original plea agreement?

15 MR. STONE: It's Page 49 for everyone else
16 that's looking at the record copy, 49 of 58.

17 WITNESS BASS: I found it.

18 Q (By Mr. Holland) Would you read that middle
19 paragraph?

20 A "The government also submits to this Court
21 that Gulf Power Company through its representatives,
22 Board of Directors, and the majority of its employees,
23 has cooperated in this investigation. The President of
24 Gulf Power Company and the Board of Directors have
25 taken positive steps to put a stop to the illegal

1 activities occurring within the Company."

2 Q Okay. And on the next page, the
3 next-to-the-last paragraph that begins, "In October
4 1988"?

5 A "In October 1988, the Audit Committee of the
6 Board of Directors of Gulf Power Company began its own
7 internal investigation of political contributions based
8 on the information which had developed over the
9 preceding months.

10 Numerous interviews were conducted within the
11 Company and the Auditing Department, under the
12 direction of Director of Auditing and Security, George
13 Fell. An in-depth interview was conducted, a bill was
14 submitted to the Company by certain outside vendors,
15 particularly advertising agencies."

16 Q Okay, and finally on the last page, Page 13,
17 if you would read the first and second paragraphs, the
18 first one that begins, "Gulf Power Company has
19 suffered"?

20 A "Gulf Power Company has suffered from the
21 dishonesty of the Senior Executive Vice President, and
22 certain others who acted under his direction, without
23 the approval of the Board of Directors of Gulf Power
24 Company. Gulf Power Company, itself, by its own
25 initiative has substantially contributed to the

1 investigation and the uncovering of the wrongdoing by
2 this now deceased Senior Vice President and a handful
3 of other employees who worked under him.

4 Throughout this investigation, Gulf Power
5 Company's Auditing Department, its Security Department,
6 its managers, its employees and its counsel have
7 cooperated and have agreed to continue to cooperate
8 with the IRS investigators, the Grand Jury and the
9 offices of the United States Attorney for the Northern
10 District of Georgia and the Northern District of
11 Florida and the Tax Division of the Department of
12 Justice, in a concerted efforts to root out the
13 unlawful actions which have resulted in this criminal
14 information."

15 Q Ms. Bass, would you agree that given the
16 length, four or five years, and the depth of the
17 investigation that was conducted by the government,
18 that they are, in fact, in a better position than you
19 are to assess the merit of the actions taken by Gulf's
20 management?

21 A I think they are judging the merits of the
22 actions taken after-the-fact.

23 Q Isn't that, in fact, what you're doing?

24 A I'm looking at the events that occurred over
25 a period of time and the actions that were taken and

1 the actions that were not taken as based on the
2 information that the management had at the time.

3 Q Is that any different than what the
4 government was doing in their assessment?

5 A I think the government is complimenting Gulf
6 Power on its cooperation.

7 Q Well, let me ask you about that. Do they
8 not, in fact, at a number of pages, specifically Page
9 10, and I believe in other areas where you read,
10 document the fact that Gulf Power took affirmative
11 steps to root out -- I believe they say, "a concerted
12 effort to root out the unlawful actions," which are a
13 part of the plea agreement? That's on Page 13.

14 A I think Gulf Power has made an effort to do
15 that.

16 Q They don't make any finding in this plea
17 agreement that Gulf Power Company was somehow negligent
18 or didn't do something that it should have done in
19 order to discover the wrongdoing? Do you know any
20 allegation of that type that's contained in this plea
21 agreement?

22 A I don't think they are speaking to what Gulf
23 Power did prior to the investigations or while the
24 investigations were going on.

25 Q They're not speaking to activities that Gulf

1 Power --

2 A They're saying once these activities were
3 uncovered, or there was an indication of some of the
4 activities, Gulf Power cooperated in the investigation
5 and has taken actions to keep these activities from
6 occurring again.

7 Q But you can't point me, and you stated
8 earlier that you can't point me to any specific thing
9 that the management of Gulf Power Company should have
10 seen or detected that would have indicated earlier than
11 they were that the illegal activities were going on?

12 A I think there were indications, beginning in
13 1984 with the Kyle Croft thefts, there were other
14 things that came up, I believe, that Mr. McCrary
15 testified to last week on the contribution by Mr.
16 Graves. I think Mr. Horton's name was mentioned. I
17 know Mr. Horton's name was mentioned in the Baker
18 Childers.

19 Q But we've established that just because
20 someone's name is mentioned that we ought to try to
21 deal with the facts, and, in fact, seek to ascertain
22 whether the allegations are, in fact, true.

23 A Yes. I don't think you should come to a
24 conclusion based on a one-time occurrence, no.

25 Q Let me ask you specifically with respect to

1 the Bill Graves matter, you did not talk to Mr. Horton
2 to ascertain his version of what happened with respect
3 to that?

4 A No, I did not.

5 Q Have you talked to either of the other two
6 employees who were involved?

7 A No, I haven't.

8 Q Is it your testimony then, without having
9 done that, that Mr. Horton somehow acted improperly and
10 that Mr. McCrary should have, as a result of that,
11 known that there was some type of improper or illegal
12 act occurring?

13 A No, that's not my testimony.

14 Q Are you, in fact, aware of Mr. McCrary's
15 reaction when he found out, two years later, that the
16 Company had, in fact, reimbursed Mr. Graves rather than
17 Mr. Horton having done so?

18 A Only to the extent of what he testified here.

19 Q Have you read the memo with Mr. Scarbrough
20 dated November 13, 1986, wherein Mr. McCrary met with
21 all of the executives and very clearly indicated to
22 them that he would not tolerate any type of pressure on
23 vendors of Gulf Power Company?

24 A No, I have not read that memo.

25 MR. HOLLAND: That's all I have,

1 Commissioners.

2 CHAIRMAN WILSON: All right. We're going to
3 break for lunch and come back and see if there are any
4 questions or redirect.

5 COMMISSIONER EASLEY: What time?

6 CHAIRMAN WILSON: We'll come back at about
7 ten minutes after one.

8 (Thereupon lunch recess was taken at 12:20 p.m.)

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