

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of
**Undocketed merchant
plant study**

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: **UNDOCKETED**
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VOLUME 1

PROCEEDINGS: WORKSHOP

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

DATE: **Thursday, May 13, 1999**

TIME: Commenced at 10:10 a.m.
 Concluded at 4:40 p.m.

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

REPORTED BY: JOY KELLY, CSR, RPR
 FPSC Division of Records & Reporting
 Bureau Chief, Reporting

1 **IN ATTENDANCE:**

2 **LESLIE J. PAUGH**, FPSC Division of Legal
3 Services, and **JOE JENKINS**, Director, FPSC Division of
4 Electric and Gas.

5 **MATTHEW CHILDS**, **JOE CRESSE**, **SAM WATERS**,
6 Florida Power & Light.

7 **GARY SASSO**, **VINCENT DOLAN**, Florida Power
8 Corporation.

9 **LEE L. WILLIS**, **JOHN ROWE**, **MARK LAUX**, Tampa
10 Electric Company.

11 **JON MOYLE, JR.** Duke Energy, Reliant Energy,
12 Constellation Power.

13 **JOE MCGLOTHLIN**, **ALICE ADAM**, **JOHN MEYER**,
14 **DAVID McMILLAN**, Reliant Energy.

15 **SCHEFFEL WRIGHT**, **MIKE GREEN**, **RICK WOLFINGER**,
16 Duke Energy New Smyrna Beach Power Company,
17 Constellation Power Development.

18 **DICK GLICK**, Corporation for Future Resources

19 **JACK HAWKS**, U. S. Generating Company.

20 **GAIL KAMARAS**, Legal Environmental Assistance
21 Foundation.

22 **TERRY KAMMER**, IBEW.

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1 **ATTENDANCE CONTINUED:**

2 **DAVID WHITE**, Florida Wildlife Federation.

3 **DAVE CRUTHIRDS**, Dynegy (Houston), National
4 Energy Marketers Association.

5 **GERARD KORDECKI**, Potential merchant power
6 producers.

7 **SCOTT GOORLAND**, **KAREN SKINNER**, Department of
8 Environmental Protection.

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PRESENTATION

PAGE NO.

Presentation by **Rick Wolfinger**
Constellation Power Development

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Presentation by **Dick Glick**
Corporation for Future Reserves

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Presentation by **Karen Skinner**
Department of Environmental Protection

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Presentation by **Mike Green**
Duke Power New Smyrna Beach Power Co.

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

2 **(Workshop convened at 10:10 a.m.)**

3 **CHAIRMAN GARCIA:** Good morning. We're -- I
4 think you've all got the revised agenda up there
5 somewhere. Counsel, why don't you read the notice.

6 **MS. PAUGH:** Pursuant to notice issued April
7 12th, 1999, this time and place have been set for a
8 Commission workshop on the undocketed merchant plant
9 study. I would recommend that we take appearances of
10 the individuals who wish to address the Commission
11 during this workshop.

12 **CHAIRMAN GARCIA:** Very good. Why don't we
13 start with you, Mr. Childs.

14 **MR. CHILDS:** My name is Matthew Childs of
15 the firm of Steel, Hector and Davis appearing on
16 behalf of Florida Power and Light Company. With me
17 today is Mr. Joe Cresse and Mr. Sam Waters of Florida
18 Power and Light.

19 **CHAIRMAN GARCIA:** Okay.

20 **MR. SASSO:** Good morning. Gary Sasso with
21 Carlton Fields, appearing here today for Florida Power
22 Corporation. With me is Vincent Dolan, also from
23 Florida Power Corporation.

24 **MR. WILLIS:** I'm Lee L. Willis, P. O. Box
25 391, Tallahassee, Florida appearing on behalf of Tampa

1 Electric Company. With me is Mr. John Rowe of Tampa
2 Electric and Mr. Mark Laux, Tampa Electric.

3 **MR. MOYLE:** Jon Moyle, Jr. from the Moyle
4 Flanigan law firm, appearing on behalf of U. S.
5 Generating. We've jointly filed comments with Duke
6 Energy, Reliant Energy and Constellation Power.

7 **MR. MCGLOTHLIN:** Joe McGlothlin of the
8 McWhirter Reeves law firm, 117 South Gadsden,
9 Tallahassee, appearing for Reliant Energy. Seated
10 behind me are Alice Adam, corporate counsel with
11 Reliant, and John Meyer and David McMillan of Reliance
12 Development Group.

13 **MR. WRIGHT:** Schef Wright, Landers &
14 Parsons, 310 West College, Tallahassee, appearing on
15 behalf of Duke Energy New Smyrna Beach Power Company.
16 With me for Duke New Smyrna is Mr. Mike Green, vice
17 president for Duke Energy Power Services. I also
18 represent Constellation Power Development, and with me
19 on behalf of Constellation is Mr. Rick Wolfinger, vice
20 president of that company.

21 **CHAIRMAN GARCIA:** Restate the name.

22 **MR. WRIGHT:** Rick Wolfinger.

23 **CHAIRMAN GARCIA:** Let me ask, if you don't
24 mind counsel, if those who are going to, perhaps, ask
25 questions or are here to participate, just walk up to

1 that mike over at the end there and just introduce
2 yourselves. Push the button until the light turns
3 green and you'll be on.

4 **MR. GLICK:** Dick Glick, president of the
5 Corporation for Future Resources, here to discuss
6 aspects of renewable energy and merchant power.

7 **MS. KAMARAS:** Gail Kamaras, appearing on
8 behalf of the Legal Environmental Assistance
9 Foundation.

10 **MR. KAMMER:** Terry Kammer, member of IBEW.

11 **MR. WHITE:** David White with the Florida
12 Wildlife Federation.

13 **MR. CRUTHIRDS:** My name is Dave Cruthirds,
14 Dynegy in Houston. I'm also here representing the
15 National Energy Marketers Association.

16 **MR. KORDECKI:** I'm Jerry Kordecki. I
17 represent the consulting company who in turn
18 represents a set of potential producers who will be
19 unnamed.

20 **CHAIRMAN GARCIA:** Lift the mike and say your
21 name again. We didn't get it.

22 **MR. KORDECKI:** Jerry Kordecki.

23 **CHAIRMAN GARCIA:** Okay.

24 **MR. GOORLAND:** Scott Goorland, Power Plant
25 Siting attorney for the Department of Environmental

1 Protection and along with me is Karen Skinner of our
2 Siting Office.

3 **CHAIRMAN GARCIA:** Great. Good.

4 **MS. PAUGH:** Leslie Paugh and Joe Jenkins on
5 behalf of Staff.

6 **CHAIRMAN GARCIA:** Great.

7 Joe, you had some introductory remarks you
8 wanted to make.

9 **MR. JENKINS:** Yes. My only remarks are to
10 explain briefly what you have before you.

11 A few days ago we gave the members of the
12 Commission -- we printed about a hundred copies of
13 this brown booklet, or tan booklet.

14 This booklet has in it the issues that the
15 various participants submitted to us. I tried to
16 categorize these issues at a Staff workshop about a
17 week ago. The group did not like the titles I gave to
18 the categories, and what we agreed upon is that I
19 would be allowed to group the issues to ones that I
20 thought were similar or duplicative, but not put any
21 titles on them, and simply have categories, and they
22 were not to complain about what I did.

23 If you look at page -- I believe it's 8,
24 you'll see -- it just has Category I and a group of
25 issues, Category II and so forth.

1 Category II is what I thought were the legal
2 issues. The utilities could not agree on what were or
3 were not legal issues. But what I consider to be
4 legal issues are all grouped under Category II. You
5 can argue about the categories. I'm keeping the title
6 secret -- (Laughter) -- by agreement, and that's all I
7 have.

8 **CHAIRMAN GARCIA:** As I understand it,
9 Ms. Paugh, what we did was drop the legal issues that
10 the companies -- some companies had an objection to
11 because there might be some questions because of cases
12 pending before courts.

13 **MS. PAUGH:** That's correct, Mr. Chairman.

14 The reason the issues are included in the
15 tan booklet is because we could not just take them
16 out. We had to recognize that they had been posed but
17 it was not necessary to respond to them, was the way
18 we left it at the Staff workshop.

19 **CHAIRMAN GARCIA:** Very good.

20 Let me just -- Staff and I were discussing
21 how we would handle this today. And it was sort of my
22 position that what we should do is we grouped everyone
23 in alphabetical order so there wouldn't be any problem
24 there. And what we'll do is, we'll allow you some
25 time to make your presentation. We'll then allow some

1 time for questions and answers. We request that you
2 please not have repetitive questions and not ask
3 questions that are not part of the presentation and
4 the issue before us that we're discussing.

5 This is clearly an informal workshop, which
6 is part of our responsibility as a Commission to just
7 get an understanding of where we are, what's going on.
8 And this hopefully will allow for an interchange of
9 ideas in a informal fashion to sort of flush out some
10 of the concepts that are out here -- flesh out some of
11 the concepts that are out here.

12 So with that said, we've got Issue 2,
13 Request for Cancellation. We've got, I think it's two
14 letters; one from TECO and one from FPC. They are
15 part of the record. We recognize them there. We
16 understand your situation. We also understand that we
17 have a full room of people who have flown in from the
18 rest of the country, and understanding this is an
19 informal docket, or an informal discussion, workshop,
20 we appreciate them but we're going to go forward with
21 this.

22 Is there any problem with the format that I
23 have? Clearly, I know one group has a 30-minute
24 presentation. That tends to be on the long side. If
25 you can narrow it a little bit I'd like that. And

1 then we're going to allow some questions there. I
2 only ask that if you have questions, to make them
3 precise and to the point. And that's about it.

4 Commissioners, any comments? (No response.)

5 Very good. We will start with Constellation
6 Power.

7 Before Constellation begins, I also want to
8 point out we have with us, I think, one assistant from
9 every cabinet member, which is greatly appreciated and
10 we're glad -- the interest they are showing to this
11 issue. And I also invite them, that if they'd like to
12 sit down, clearly we are a technical branch of our
13 government. If any of them want to sit down with Joe
14 Jenkins, Staff and Ms. Paugh's legal people to discuss
15 what we've done in this area and what brought us to
16 this informal workshop, they are more than happy to
17 give you, I'm certain, a majority point of view, but
18 they will also be very generous about the minority
19 point of view on the Duke decision.

20 **COMMISSIONER CLARK:** I'm not sure I want
21 them representing my -- (Laughter)

22 **CHAIRMAN GARCIA:** You can visit Commissioner
23 Clark after you visit Joe. (Laughter)

24 I wanted to ask you, please introduce
25 yourself at the beginning because we have a court

1 reporter and it will be helpful for us; likewise when
2 you're asking questions. Thank you.

3 **MR. WOLFINGER:** Chairman Johnson and
4 Commissioners, my name as Rick Wolfinger, vice
5 president of the Constellation Power Development. I'm
6 pleased to have this opportunity to address you this
7 morning.

8 Basically, I'm -- Constellation is a
9 subsidiary of Baltimore Gas and Electric. I don't
10 mean to give you our pedigree, so to speak, here but
11 what I want to show, too, is, is that merchant power
12 is really a combination of things. We have one
13 company called Constellation Power Source which is a
14 brokering and marketing arm. And the key of that is,
15 is that in merchant power market, brokering and
16 marketing is a very important aspect of it.

17 I'm with Constellation Power. I'm involved
18 in new generating plants. That tends to be what we're
19 talking about today, is the permitting of new merchant
20 plants. We also have a group called Orion, which is
21 Goldman Sachs and Constellation, and they buy existing
22 generating assets, and they are just as much merchant
23 plants as are new plants.

24 So all of those pieces are important in
25 Power Source besides brokering and marketing

1 electricity. We also broker and market gas out of
2 that. And you'll see that's all part of an overall
3 program in the merchant marketplace itself.

4 I thought illustratively what I wanted to
5 talk a little bit about was merchant markets that
6 exist right now. And let's talk about New England and
7 California. In those cases, the generating assets of
8 the --

9 **COMMISSIONER CLARK:** Let me interrupt you
10 for just a minute. Do you have any experience in a
11 state where they have competition in the wholesale
12 market but not in the retail market?

13 **MR. WOLFINGER:** We're just getting into
14 Texas and I don't know if Texas has gone to a retail
15 market or not yet. I don't know. Maybe someone from
16 Reliant -- has Reliant gone -- has it gone -- that's a
17 wholesale market, isn't it?

18 **FROM THE AUDIENCE:** Wholesale.

19 **COMMISSIONER JOHNSON:** Are you all in
20 Kentucky?

21 **MR. WOLFINGER:** Pardon me?

22 **COMMISSIONER JOHNSON:** Are you all in
23 Kentucky?

24 **MR. WOLFINGER:** We are not. In Texas we
25 bought -- Constellation Power Source bought 250

1 megawatts of merchant power from FPL Energy, who is a
2 thousand megawatt merchant market there -- power plant
3 there. So we're actually a broker and marketer in
4 Texas and have signed a contract with FPL Energy
5 for -- from their merchant plant in Texas, so --

6 **COMMISSIONER CLARK:** But what you're going
7 to tell us about is New England and California?

8 **MR. WOLFINGER:** Right. But I think it's
9 illustrative of a couple various -- because there are
10 a whole bunch of issues that were brought up in many
11 of these questions. How does it affect stranded
12 costs? Is it reliable? And I think at least if you
13 see how markets have worked, my purpose here is to say
14 that all of the generating assets that were sold in
15 these markets, they are all merchant plants. I mean,
16 just because the generating assets were sold, there is
17 no requirement of supply. There are few plants in
18 California that are must-run facilities.

19 But the point I'm trying to make is there's
20 a concept: Are merchant plants reliable? And my
21 answer to that is absolutely they are reliable. Many
22 areas of this country are relying solely on the
23 ability of merchant plants to supply the power for
24 areas.

25 So my point of this one was it is, in fact,

1 very reliable and that we've not seen outages.

2 **COMMISSIONER CLARK:** I was just curious as
3 to whether you had experience in a market where it had
4 wholesale only and not wholesale --

5 **MR. WOLFINGER:** And by the way, I don't
6 mind, as a power plant supplier, okay, in the
7 generic -- I don't mind as long as we have a very
8 active wholesale market, I'm not -- I don't think
9 there's a need necessarily to have retail
10 deregulation.

11 **COMMISSIONER CLARK:** Okay.

12 **MR. WOLFINGER:** This is really trying to
13 address the issue of reliability of supply and what's
14 really happening. I think that's one of the questions
15 is can a merchant be reliable? If you don't have the
16 obligation to supply or serve, can you be reliable?
17 And I'm saying yes, you can be; it's been shown
18 throughout the United States. We're a supplier in
19 Bolivia, Guatemala where they have wholesale
20 deregulation but do not have retail deregulation. So
21 it's been all over the world, too, by the way.

22 In the case of these markets, by the way,
23 the stranded costs were lowered because overbooked
24 value sale prices were actually paid in these markets.
25 So there was a concern is were merchants depressed? I

1 don't think so. And they also have stimulated a very
2 active new merchant plant market itself.

3 I want to address a specific area of
4 reliability, okay.

5 The market -- I see, you're trying to make
6 it a little bit smaller -- (speaker referring to
7 overhead projection) -- the market demands that you're
8 reliable. These plants are \$200 million,
9 \$300 million. When people like U. S. Genco bought
10 assets up in New England they paid over a billion
11 dollars for those facilities. If you fail to perform
12 in that market, people are not going to buy from you
13 anymore. You can't afford a failure. And so I don't
14 think the reliability ought to be an issue. The IPP
15 industry as a whole has an excellent record of supply
16 reliability.

17 The other are, if you had a rogue plant
18 where somebody had some plant that they decided to
19 withhold, you have protection of that anyway. You
20 have reserve margins and no one plant can cause a
21 problem any more than a forced outage at Crystal
22 River, your largest plant here in Florida, of 9 or 10
23 megawatts, or a line failure can create a problem.

24 So if you think that an individual plant for
25 some reason is not going to supply, you should have

1 reserve margins that take care of it as if it was a
2 forced outage. So I think the reliability issue is
3 not a particularly --

4 **COMMISSIONER JACOBS:** Can I ask you a -- are
5 you aware in those areas the extent to which the --
6 you indicated earlier that the merchant plants were
7 essentially existing facilities that were sold when
8 they convert to -- when there was restructuring that
9 occurred.

10 Is it correct to assume that it was pretty
11 much equal -- capacity of those plants were pretty
12 much equal to the demand in those markets and that
13 there was no oversupply there?

14 **MR. WOLFINGER:** Umm --

15 **COMMISSIONER JACOBS:** In other words, you
16 didn't have the instance of new merchant plant
17 applications come in to serve a market that's already
18 being supplied.

19 **MR. WOLFINGER:** I understand. I'm trying to
20 think. I'm trying to think of some place like
21 California, for example, where there's as phenomenal
22 amount of capacity outside of that state that, quite
23 frankly, drives the marketplace, drives the capacity
24 and drives any number of things.

25 There was certainly a lot of excess -- I'd

1 categorize California -- except maybe down in San
2 Diego, which is tough on the transmission -- I'd
3 categorize California as having a surplus of power
4 because of so much capacity to be able to come into
5 that state. New England certainly wasn't hurting for
6 capacity. In other words, it didn't have necessarily
7 a limitation that drove those prices up. PJM, from
8 where my utility is located, Southern California
9 Edison paid \$1.8 billion for 1800 megawatt coal-fired
10 plant that is 30 years old. There's plenty of
11 capacity in PJM.

12 So I see what it is you're getting at.
13 You're saying if we've too much merchant capacity and,
14 say, the reserve margin is 25%, is that going to
15 depress the stranded cost? In areas that had high
16 reserve margins, that's not the case.

17 In the case down here, your growth is so
18 fast that a few merchant plants in here is not going
19 to give you some sort of a wildly excessive reserve
20 margin, in my estimation. And I don't think that will
21 happen. That's just an opinion.

22 **COMMISSIONER CLARK:** Let me just follow --

23 **COMMISSIONER JOHNSON:** Back to your --

24 **COMMISSIONER CLARK:** -- on something. Are
25 you suggesting that we require the maintenance of some

1 reserve margin for load-serving entities and then let
2 merchant plants make up some additional reserve
3 margin?

4 **MR. WOLFINGER:** Commissioner Clark, I guess
5 I'd rather not get into that, I'll tell you. I don't
6 feel myself as an expertise in reserve margins and how
7 that works out. You have a pretty unique circumstance
8 here. You have a peninsula with a very thin thread to
9 Georgia.

10 **COMMISSIONER CLARK:** I'm sorry. Thin --

11 **MR. WOLFINGER:** The kind of market issues
12 here, reserve margins, are different than --

13 **COMMISSIONER CLARK:** Just a minute. You
14 said something that I don't understand. A thin threat
15 to Georgia. What does that mean?

16 **MR. WOLFINGER:** A thin thread.

17 **COMMISSIONER CLARK:** Oh, "d", okay.

18 **MR. WOLFINGER:** We just have a couple of
19 lines going up there. And you've got a real issue
20 with -- you don't have a lot of --

21 **CHAIRMAN GARCIA:** We can take them. If
22 there's a fight, we can take Georgia. (Laughter)

23 **MR. WOLFINGER:** It's just that you have some
24 pretty unique circumstances here. And I really am not
25 enough of a -- don't have enough knowledge to talk

1 about whether reserve margins are appropriate or not
2 for the FRCC area that you have here. I don't feel
3 capable of handling that question.

4 **COMMISSIONER CLARK:** I'm sorry. You don't
5 feel you have the expertise to say whether we should
6 have a reserve margin or the amount of the reserve
7 margin.

8 **MR. WOLFINGER:** Right. My inclination would
9 say --

10 **COMMISSIONER CLARK:** No. Which one is it?

11 **MR. WOLFINGER:** It's either. It's both.

12 My inclination is I think you probably
13 should look at reserve margins more than any other
14 place in the United States because of the uniqueness
15 of being a peninsula with very little. But I know
16 enough about markets and things -- I don't know enough
17 about reserve margins and those type of things to
18 really answer your question. Sorry.

19 **COMMISSIONER JOHNSON:** Then you need to be
20 clear then. Because when you started making your
21 presentation you were making some points with respect
22 to safety and reliability, and a part of your comfort
23 was the margin reserve. But now you're saying -- I
24 need to better understand what you're saying. Let's
25 start first, though, with the first part of your

1 presentation where you stated that the reliability is
2 irrelevant or wasn't necessary to the analysis. And I
3 think you were saying not because we didn't --
4 shouldn't be concerned, but that the market, when
5 you're making these kind of investments, the market
6 powers and market forces would force a company to
7 ensure that they had the best systems in place.

8 **MR. WOLFINGER:** Commissioner Johnson, I was
9 responding to Commissioner Clark as does the Public
10 Service Commission -- should they get into reserve
11 margins? I think the retail suppliers of power have
12 to make a judgment on their own in that they have a
13 requirement to serve for their own reserve margins and
14 how much excess reserves they want to have.

15 In this example should the state of Florida
16 set reserve margins or should Tampa Electric Company
17 set its own reserve margins to where they think it's
18 adequate for the customers.

19 My personal opinion is leave it to the
20 market. Leave it to the suppliers to decide how much
21 reserve margin they need to supply it. That would be
22 my personal opinion.

23 Does the Florida Public Service Commission
24 have an overriding because of the geographical
25 location? I can't address that specifically. But I

1 would be in favor of saying that I think the market
2 will decide what its reserve margins are in the fact
3 that the end-serving entities, that the retail-serving
4 utilities, can determine how much reserve they have
5 by, in fact, the mix of capacity they have bought for
6 their customers.

7 **COMMISSIONER JACOBS:** That's the great
8 ambiguity I find here, is -- well, there's an
9 assumption that I have that you will -- if you embark
10 on the course of merchant plants, you will attract a
11 good bit of capacity. I can't understand why that
12 capacity would sit around waiting to serve our reserve
13 margin.

14 **MR. WOLFINGER:** Let me explain my Olenader
15 Power Project because I am a 900-megawatt merchant
16 plant being sited right now in your state. And, in
17 fact, I will do exactly that: I will sit around and
18 not operate. I'm being paid to sit around and not
19 operate. I mean, that's why you have peaking plants.
20 I'm the last ones to come on when all of the baseload
21 intermediate plants are there, and I get paid for
22 being capacity. And I hope people will buy my
23 capacity, okay, for reserve margins; for the hot days,
24 for the cold days, for the other days. I mean, that's
25 exactly what I'm providing. I'm providing reserve

1 margin. And that's really what peaking does to a very
2 large extent.

3 And so I actually am providing that piece
4 that we talked about. And individual utilities will
5 make that decision, is how much of that reserve margin
6 they need, how much backup capacity, how much can they
7 call on in the case of emergencies.

8 The interesting thing is I will never
9 generate a kilowatt without a contract. Now, right
10 now I don't have any contracts. But when you think
11 about it, I can't put a kilowatt onto the grid,
12 whether it's on an hourly contract, a daily, seasonal,
13 whatever it might be, unless there's some user out
14 there that uses it; unless somebody contracts for it,
15 you just can't, like, inventory it. I can't make it
16 and put it in inventory. I have to have a contract to
17 sell that. And it will -- by the way, my plant will
18 satisfy some serving utility's needs. Every kilowatt
19 that comes out there is going to go to some --
20 eventually -- retail customer someplace that's going
21 to serve a need. I don't have those contracts now. I
22 hope -- I thoroughly expect, or I certainly hope that
23 I have contracts by the time I have this plant built.
24 I can't operate without a contract. So I will always
25 have to have a contract. You just can't -- you can't

1 put it in the system. It has to go someplace and
2 somebody has to be supplying an end user. I will be
3 an electric wholesale generator. I will be only
4 wholesale-only.

5 The other interesting thing, too, I think we
6 talk about merchant plants, is I will be cleaner and I
7 will be more efficient than what your existing fleet
8 is out there. And I notice that we have some people
9 from the environmental areas that are looking at that.

10 By the way, this is just a site view of this
11 plant. This is a 900-megawatt plant on 22 acres; the
12 entire area is 38 acres. Plants these days are very
13 different than many of the other plants that we've
14 seen in the future. The spot right above it
15 (indicating overhead projection) is the Florida Power
16 and Light Brevard substation, a very large substation
17 in the area. But let me talk about emissions, for an
18 example.

19 This is a level of the emissions of the
20 Oleander Power Project on natural gas against a fleet
21 of existing gas turbines in this state. The blue is
22 the existing fleet. The green is Oleander. And the
23 scale is pounds of nitrous oxides per million Btus
24 going in. As you can see, our merchant plant is
25 considerably friendlier to the environment than the

1 existing fleet. And that's one of the things you will
2 get from new merchant plants -- not from existing
3 facilities, but new merchant plants -- is you'll get a
4 considerable reduction in the amount of emissions per
5 output on the plant.

6 We have a similar graph on oil.
7 Particularly notice the sulfur dioxide levels are
8 considerably lower because we're using much lower
9 quality -- I mean much higher quality fuel, lower
10 sulfur in that area. And then I think there's another
11 area you are going to have to think about, too, and
12 this is look at the thermal efficiency. The standard
13 existing fleet is in the blue; conventional new gas
14 turbines are in the red, and what looks like just a
15 white box is the Oleander. We'll be conserving fuel
16 too. So if you're thinking about -- and one of the
17 advantages of these new plants is cleaner and more
18 efficient in the category that they are serving.

19 One other thing that was not part of my
20 presentation, but since there are other people here,
21 is people are concerned, am I going to take up the
22 increment of air. This is an example of our project
23 compared to the ambient air quality standards and the
24 level of prevention of significant deterioration.
25 This happens to be in micrograms per cubic meter.

1 Real small areas of -- our project impact is .3
2 microgram per cubic meter when prevention of
3 significant deterioration is 25. So if you think
4 these merchant plants are going to come in here and
5 take up the air increment, I think people are sadly
6 mistaken. These plants, the Duke New Smyrna Project,
7 that similar type of thing, they are very, very, very
8 small aspects -- these kind of technologies these days
9 of the overall air quality in the state of Florida and
10 will do a lot to improve them.

11 My last slide, and then I'll allow other
12 people -- is I think merchant plants are part of an
13 overall program you ought to be looking at. I ask the
14 Public Service Commission to actively support a
15 wholesale generation market. Part of that market is
16 obviously new merchant plants. In other areas I think
17 it will encourage innovation and cost reductions in
18 this state. I believe it will improve the environment
19 in the state. It fosters fuel conservation. And it
20 will lower generating costs in this state. And I have
21 been before, I believe, this board before. I know I
22 have been with the Staff. Your state has the highest
23 marginal cost of generation of any place in the United
24 States of America, in the Continental U. S. And
25 there's a reason for that: You don't have a lot of

1 hydro that's cheap; your nuclear is moderate and your
2 coal units are a long ways away from the coal fields.
3 But you do have very high generating costs. And part
4 of it is, is you have a lot of thermal steam plants
5 that burn natural gas and oil instead of advanced
6 combined cycle plants or advanced machinery that has a
7 much better efficient rate. And I think that this
8 would help -- the merchant plants will help accelerate
9 the retirement of older machines and clean up your
10 environment and lowering the generating cost.

11 Thank you very much.

12 **COMMISSIONER CLARK:** Mr. Wolfinger, can I
13 ask you about you have 800 megawatts planned at your
14 plant.

15 **MR. WOLFINGER:** Yes, ma'am. 900.

16 **COMMISSIONER CLARK:** 900?

17 **MR. WOLFINGER:** 900.

18 **COMMISSIONER CLARK:** Where are you on that
19 plan?

20 **MR. WOLFINGER:** We have an air permit that's
21 presently with the DEP. They have a Notice of Intent
22 to issue that air permit. I have some intervenors on
23 that, so we're going through a proceeding to listen to
24 our -- that program. I have a site plan that's in
25 front of the Brevard County Commission. They have a

1 moratorium on power plants at this moment that's up on
2 April 12 -- August 12th, where they have a study
3 going. But I do expect to have my permits probably in
4 hand by -- on-appeal permits by the middle of 2000. I
5 have a delay of about a year. Some people have
6 intervened on me.

7 **COMMISSIONER CLARK:** What is your long-term
8 plan for that site, assuming that you do get the
9 permits? At some point will you change them into a
10 combined cycle?

11 **MR. WOLFINGER:** No. I'm not planning on
12 doing that. There are three distinct types of
13 generation in any kind of a market. And that market
14 is, you know, baseload, intermediate and peaking. And
15 one of the things I've seen in the state, I've
16 participated in a lot of the bids that are in this
17 state. I bid a lot where people have gone out and done
18 self-build. And what are they all building? They are
19 all building combined-cycles. There's a lack of
20 people building peaking. So I've looked at that
21 market and said I think that's a near-term market that
22 I can get into that really needs to be served in this
23 state. I know Florida Power Corp just said they are
24 going to put in 300-megawatts of peaking. But I
25 believe it's an excellent market and I plan to

1 participate in that market.

2 I think once you end up putting a peaking
3 plant in, converting it doesn't make a whole lot of
4 sense. People talk about it over and over again. But
5 the real issue is, is that the way technology is
6 moving so rapidly that there's another set of
7 generation of power plants that are coming along --
8 Lakeland is putting in what's is called a "G gas
9 turbine." General Electric and Westinghouse have the
10 "H". By the time you wanted to convert something in
11 five years, you're better off to build a new combined
12 cycle plant, continue to sell the peaking -- there's
13 always going to be a need for peaking -- sell that as
14 a peaking unit, and put a new unit in someplace with
15 more advanced technology in the year 2008 when you
16 wanted to convert. So I don't see that -- people talk
17 about that all the time, but I don't see that as a
18 viable option.

19 **COMMISSIONER CLARK:** You don't have to go
20 under the Power Plant Siting Act because you don't
21 have a steam component.

22 **MR. WOLFINGER:** We do not have a steam
23 turbine over 75 megawatts that's brand new. If I had
24 an existing steam turbine, I could put it in. That's
25 what Florida Power and Light is doing with their 2,000

1 megawatts they are adding. But you have to put a new
2 steam turbine in for the Power Plant Siting Act.

3 **COMMISSIONER CLARK:** Do you have an opinion
4 as to whether in terms of sort of encouraging the most
5 efficient type of plant, that there -- all plants
6 should be exempted from the Power Plant Siting Act and
7 just go locally, or should all plants be part of the
8 Power Plant Siting Act?

9 **MR. WOLFINGER:** Well, I think we had this
10 conversation in early January when I talked to you.
11 And I believe, quite frankly, the need determination
12 portion of the Power Plant Siting Act should only
13 apply to utilities that want to put assets into rate
14 bases and really are the equivalent of a prudency. In
15 that case, those utilities are going to put plants
16 into rate base, you want to make sure before we start
17 building them and doing everything that it is prudent.
18 I don't think any plants that are not going into rate
19 base should have part of need determination.

20 As for the need to go through the Power
21 Plant Siting Act for plants that don't have a steam
22 component, I think the question there is do you, in
23 fact, want to elevate all plants to Cabinet-level
24 decisions? Do you want -- where the smaller plants
25 tend not to have issues with water and some other

1 areas, it's primarily just -- these peaking plants
2 tend to be an air issue, which tend to have fairly
3 strong regulations and well perceived -- I don't know
4 if you want or if it's cost-effective to have people
5 put them through such a process. I have to say,
6 though, in California, where I'm permitting a
7 750-megawatt plant, in that state, all plants over 50
8 megawatts must go through the California Energy
9 Commission which is, in essence, a CEQA process, which
10 the California Energy Quality Act -- and that's what I
11 really --

12 **COMMISSIONER CLARK:** The what process?

13 **MR. WOLFINGER:** CEQA. It stands for the
14 California Environmental Quality Act. And any
15 projects over certain sizes -- in fact, anything; if
16 you put a pipe in the ground, a sewer line, you have
17 to show that you meet certain environmental aspects.
18 If, in fact, you look at your Siting Act as a way to
19 look at a broad range of environmental aspects into
20 one source, that would be the reason you would want to
21 do the Citing Act. Not from Public Service protection
22 point of view -- in fact, in California, the Public
23 Service Commission does not get involved with the
24 environmental analysis. It's a whole nother group.
25 So I think from a Public Service Commission point of

1 view, maybe not. From an environmental point of view,
2 I think that's a regulatory issue to talk to DEP or
3 something, is should there be a central clearinghouse
4 for large projects or not? I would be against that.
5 I think that, especially in your state, where low
6 growth can happen very rapidly, to not allow to be
7 able to put in generating assets for 15, 18, 20 months
8 because of a fairly long detailed process, might be a
9 problem, problematic in the reliability supply, quite
10 frankly.

11 **COMMISSIONER CLARK:** How would it be a
12 problem if we might require the utilities to carry a
13 reserve margin and let merchant plants make up
14 whatever the market dictates is above that amount?

15 **MR. WOLFINGER:** I'm sorry, I didn't quit
16 understand the question.

17 **COMMISSIONER CLARK:** Well, one of the ways
18 we could deal with merchant plants and continuing to
19 have a regulated retail environment, and addressing
20 our concern that there is adequate facilities to serve
21 the retail load is to set a reserve margin that the
22 utilities are responsible for and can put into their
23 rate base. And then let merchant plants sort of --
24 some measure of reserve margin above that.

25 **MR. WOLFINGER:** Well, I will be -- when I

1 operate, I will be somebody's reserve margin. I will
2 have a contract for every kilowatt I sell. So I mean,
3 what you're doing is you're saying in the permitting
4 phase you want to limit people doing things, okay.
5 This is all talking about permitting, is what we're
6 taking about at this stage. It's kind of in a way
7 theoretical. My plant will be operating until 2001,
8 2002. To limit -- what are you going to do, limit the
9 amount of people that want to get permits? I will, at
10 some point in time, have a contract for all of this
11 capacity with a retail-serving utility by nature, and
12 so, therefore, I mean, to limit me now -- I can be
13 part of a strategy. In fact, Florida Power and Light,
14 in their announcement, I think the press announcement
15 of April the 12th, said that part of their long-term
16 program is to buy 2200 megawatts of outside capacity.
17 I want to be part of that 2200 megawatts.

18 **COMMISSIONER CLARK:** I'm getting back to
19 your issue that you think the environmental process is
20 not a good idea because it would delay getting
21 capacity when it's needed.

22 **MR. WOLFINGER:** I'm concerned about the
23 peaking plants.

24 **COMMISSIONER CLARK:** Well, I include the --

25 **MR. WOLFINGER:** I'm not so sure -- in other

1 words, what you're talking about is that the Power
2 Plant Siting Act really only applies to plants that
3 have steam turbines over 75 megawatts. And there
4 might be some rationale in saying those are larger
5 developments. They have a miriadtude of water issues
6 in those areas. And so the environmental side of the
7 Power Plant Siting Act may be very apropos for all
8 people.

9 **COMMISSIONER CLARK:** See, I was trying to
10 further explore your -- sort of your suggestion that
11 maybe the way California does it -- and they don't
12 determine need but you do have to go through what I
13 would characterize as an environmental process. And
14 you had suggested that you would oppose that because
15 it would delay putting plants in the ground to serve
16 customers. And I guess I'm trying to explore why
17 would that be a concern if we would require
18 retail-load serving entities to have a margin of
19 reserve and that gives you some cushion so you can go
20 through that process and have an environmental
21 proceeding.

22 **MR. WOLFINGER:** Well, reserve margins and
23 environmental are two different aspects. I think
24 reserve margins, we're talking about whether people
25 have excess capacity. Do you want a Power Plant

1 Siting Act for environmental reasons or do you want to
2 have a Power Plant Siting Act for reserve margins? I
3 think they are two different issues.

4 I think the process in California is very
5 long, and it's unnecessary for protection of the
6 environment to have such an onerous -- not onerous,
7 but I guess such a complex process to go through. I
8 think also probably for simple cycle gas turbines you
9 don't need to have that.

10 I do want to say one other thing. We did
11 have to go through a need certification in California.
12 It's an automatic waiver process, as a matter of fact.
13 They never took it out. But you get an automatic
14 waiver if you go in under certain circumstances, and
15 so that's how they actually do that; they get around
16 that in that way. It's just an automatic waiver.

17 Thank you --

18 **COMMISSIONER CLARK:** Let me ask one other
19 thing. Will you have any need for ancillary services?

20 **MR. WOLFINGER:** No, I will not.

21 **COMMISSIONER CLARK:** Will you supply all
22 your own ancillary services?

23 **MR. WOLFINGER:** I won't supply any ancillary
24 services. I sell to end users. It's the end user --
25 not the end user -- I sell only in the wholesale

1 market. The person that is supplying the power to the
2 retail customer is responsible for getting ancillary
3 services. He will be responsible for buying it, but
4 since I'm not selling power to the retail, I don't
5 have a need for supplying voltage control. I don't
6 have a need for supplying reserves. I will be part of
7 an ancillary package that a serving utility will buy
8 from. I will be somebody's reserve margin. I can be
9 somebody's voltage support. I can be somebody's
10 spinning reserve. But I, myself, don't have a
11 responsibility to provide spinning reserve ancillary
12 services because I'm not the person that is supplying
13 the end user. It's the person supplying the end user
14 is responsible for coming up with those ancillary
15 services and that package of products they need to
16 adequately supply their retail customers.

17 **COMMISSIONER CLARK:** Whoever buys your power
18 will secure ancillary services necessary for the
19 transmission of that power. You will not provide it.

20 **MR. WOLFINGER:** Right. Not only the
21 transmission but the ultimate delivery of the power,
22 right, to the end user. That's correct. Not only the
23 transmission services but also the spinning reserve.
24 I will be part of the ancillary service package that
25 people buy.

1 Let's try to get down to an example. Tampa
2 Electric, say, may buy -- they have to supply people
3 in Tampa, okay. They may buy the some of the output
4 of my plant; have me, at certain times, start my
5 plant, run it 50% load and be spinning reserve.
6 That's an ancillary service, spinning reserve. I may
7 provide the ancillary services for Tampa Electric.
8 But Tampa Electric is the one that's responsible for
9 buying ancillary services. I don't have an obligation
10 to give Tampa Electric those ancillary services. I
11 don't have the responsibility for voltage control to
12 the resident that's in Tampa. Tampa Electric has a
13 responsibility to have adequate generation, adequate
14 reserve margins, adequate spinning reserves to make
15 sure that somebody in their house gets 120 volts and
16 not 110.

17 So I'm providing services into the wholesale
18 market. The person that takes that wholesale and
19 turns it into retail needs to package a group of
20 baseloader plants, peaking plants, reserve margins,
21 voltage control. They have the responsibility of
22 power quality at the end user; reliability, voltage
23 support.

24 **COMMISSIONER CLARK:** Okay. But you may
25 contract to provide those services?

1 **MR. WOLFINGER:** I wouldn't contract. Tampa
2 Electric will contract with me to provide them
3 ancillary services.

4 **COMMISSIONER CLARK:** That's what I mean.

5 **MR. WOLFINGER:** Because I don't -- right.
6 Tampa Electric will buy -- and he'll look at what I
7 have to offer and he'll say, "I'm going to use you for
8 spinning reserve today, Rick. I'm going use you for
9 simply emergency power tomorrow, Rick. The following
10 day, Rick, I want you to be up; I need the kilowatts.
11 I need the megawatt-hours." So I may provide any
12 number of different aspects to Tampa Electric but, you
13 know, they are just using my equipment to provide them
14 a myriad of things they need for good support.

15 **COMMISSIONER CLARK:** You are capable of
16 providing -- are there seven ancillary services
17 identified. I'm not sure anyone has a clear picture
18 of what they are. But are you capable of providing
19 ancillary services?

20 **MR. WOLFINGER:** I don't have that list,
21 either, Commissioner Clark. I certainly can provide
22 spinning reserves. I can provide emergency backups.
23 I can do some things. But voltage regulation, I
24 guess, to an extent I could do, but mostly that's
25 probably on a distribution or transmission level. I

1 don't know enough of that to say what I can do and
2 can't do.

3 **COMMISSIONER CLARK:** Okay.

4 **CHAIRMAN GARCIA:** Hopefully there are not
5 any questions. Good. (Laughter)

6 **MR. WOLFINGER:** I'm sorry.

7 **CHAIRMAN GARCIA:** No, no, that's all right.
8 I guess some of the questions that Commissioner Clark
9 asked can now be incorporated into certain of the
10 presentations so that we can elucidate that.

11 **MS. PAUGH:** Mr. Chairman, if I may interrupt
12 before we proceed. I have just been advised that
13 Page 58, that's Bates Stamped Page 58, is missing from
14 some of the booklets, and we have made copies
15 available over here (indicating). That is to Enron's
16 principle comments.

17 **CHAIRMAN GARCIA:** All right. Is he the next
18 presenter?

19 **MS. PAUGH:** The Corporation for Future
20 Resources.

21 **MR. GLICK:** I don't have any overhead, so if
22 it's okay with the Commission, I can sit here and --

23 **CHAIRMAN GARCIA:** Go right ahead.

24 **MR. GLICK:** My name is Dick Glick. I'm a
25 retired Florida State University professor of physical

1 chemistry, having served at that institution from 1959
2 to 1993. Been president of the Florida-based
3 Corporation for Future Resources and related companies
4 since 1986. We interacted with the Commission for a
5 long period of time from 1987 through 1992 as an
6 initial developer of a PURPA contract now operating in
7 Bartow, Florida.

8 We have an interest in -- economic interest
9 in the technologies which we have presented in the
10 information given to the Commission. These include a
11 teaming association with Duke Engineering and
12 Services. And because of the relationships that are
13 associated here, I need to indicate that there is no
14 current connection between CFR, Corporation for Future
15 Resources, activities and Duke Energy Power Services
16 proposed New Smyrna merchant power facility. We
17 would, if they are interested, discuss the
18 circumstance with us but currently we have no
19 interaction with that group.

20 What we're going to propose and what we have
21 proposed in the booklet that you have received is some
22 merchant power producer qualification conditions.
23 These merchant power qualification conditions, as
24 proposed in the rule that we've indicated potentially,
25 a potential rule that the Commission may or may not

1 wish to adopt, have been adopted -- adapted after a
2 similar rule in the state of Minnesota.

3 What we're proposing, in a nutshell, is that
4 merchant power -- and, in fact, if we follow the
5 circumstance in a large number of states in the United
6 States, that all power have a certain renewable energy
7 component.

8 The suggestion for Florida of 10% renewable
9 energy may seem to some of you as something very, very
10 excessive, particularly since the Commission currently
11 talks about things in kilowatts rather than in
12 megawatts, and since the power circumstance in Florida
13 addresses a deficiency, or a new power to be
14 developed, in the thousands of megawatts, you might
15 question our ability to provide such renewable energy
16 resources.

17 We have, in fact, developed a circumstance
18 that we can call the Florida renewable energy
19 situation. It's much different than in any other part
20 of the United States, although we will -- and we have
21 been addressing the same circumstance for the Southern
22 part of Texas. However, Florida has both the
23 sunshine, as we all know, and rain, and large amounts
24 of agricultural lands which are undeveloped.

25 It is our purpose to develop these lands to

1 produce a renewable resource based on a perennial
2 giant legume, leucaena, or those of you that are more
3 familiar with the Latin, leucaena, that is a -- that
4 is grown currently in the state of Florida, and that
5 we are currently growing in two locations in Florida:
6 One in St. Leo, Florida, a circumstance that has been
7 in existence with us since 1994; and on clay settling
8 lands in the phosphate region of Polk County, where
9 this material has been grown for the past 18 years, to
10 my recollection. But a stand now exists, and I have
11 some pictures of same if we could possibly show them,
12 that is four years old.

13 This material is the -- one of the fastest
14 growing substances known. We will demonstrate
15 harvestability of -- and the number is, probably, to
16 those of you in the electric business, somewhat
17 meaningless -- 25 dry tons per acre per year; about
18 three times as fast as eucalyptus grows; about five
19 times as fast as the most of the pines that are grown
20 in Florida grow.

21 **COMMISSIONER DEASON:** How does that compare
22 with kudzu?

23 **MR. GLICK:** With kudzu?

24 **COMMISSIONER DEASON:** Yes.

25 **MR. GLICK:** Much faster. Must greater

1 density, which is the most important part.

2 At any rate, the important element of all of
3 this is that we've developed not a unique process,
4 we've developed a particular process for the material
5 that we're growing in Florida that will provide as a
6 product among three products, methane, methane being
7 the major component of natural gas, and we can deliver
8 such in Florida sufficient -- and we've indicated in
9 the information that appears on Page 68 in the
10 handout -- sufficient, at 1,000 Btus per cubic foot
11 equivalent for the gas -- sufficient to produce 7800
12 megawatts in Florida. Not today, not tomorrow, but
13 within the near future; by near future, within the
14 next 10 to 15 years. We have something extremely
15 special. It is Florida. We have something that has
16 additional consequences.

17 The methane is essentially put into a
18 pipeline. The gas then in the pipeline is sold as
19 pipeline gas. It has that quality attached to it
20 which could be called a "green fuel," and produces
21 then "green power." And in states -- particularly in
22 California, such green power has an add-on as a
23 selection made by the customer themselves that amount
24 to something normally about a cent a kilowatt-hour.
25 So there's an additional incentive for the producer of

1 electricity.

2 We're not producing electricity; we're
3 producing a fuel. The fuel could be used in standard
4 equipment; equipment described previously for a
5 peaking unit. It could be used in a combined cycle
6 unit. It's indifferent to its actual use. It's
7 something that is available as a power source.

8 I don't want to repeat all of the things
9 that have been included in our information that has
10 been handed out, but I want to emphasize the very,
11 very important aspects of this circumstance.

12 We view this Florida circumstance and
13 situation as having considerable economic impact on
14 the state of Florida. In particular, since we're
15 using -- since we're producing a gas, that gas -- and
16 it is a pure fuel rather than a mixed gas, it doesn't
17 contain sulfur components -- it can be used not only
18 in the production of electric power, but also in the
19 production of energy using the gas as a gas source;
20 that is, for gas utilities. Used directly in
21 vehicles. It could be used directly into absorption
22 air conditioning units. And you can enumerate all of
23 those possible sets of circumstances where the gas
24 would be available.

25 What makes our circumstance and situation

1 very much different than renewable energy in other
2 parts of the United States is that there is an
3 extremely valuable co-product in our process which,
4 for a lack of a better term let's call it an organic
5 fertilizer. That organic fertilizer is what we call a
6 slow release fertilizer. It's a mechanism whereby
7 that its action is instead of the stuff that normally
8 is associated with the general run of fertilizers that
9 are available, it is slow release; it has minimum
10 impact. You use a minimum amount of material. But it
11 also has a special set of circumstances associated
12 with it that provide for better control of soil
13 conditions.

14 In a nutshell, there is no runoff or there
15 is minimum runoff. There are no exceptional
16 environmental impacts, either in the air or in water.
17 And there are considerable improvements in the soil.

18 This particular component of the system
19 would be made available to all of the agricultural in
20 Florida, in particular with our location in Central
21 Florida it could impact the agricultural circumstance
22 in the citrus industry, in the fruit and vegetable
23 industries in Florida, and this combined with the
24 value of the fuel makes our circumstance economically
25 viable; quite economically viable.

1 The third component we have in this
2 circumstance has a defined market currently relatively
3 small with respect to the total amount of methane that
4 we could produce, and that is carbon dioxide as a
5 co-product that could be used in a large number of
6 uses there as well. We have then the maximum
7 environmental benefit that one could imagine.

8 I don't want to use any catch phrases but
9 the important part is that atmospheric gas, carbon
10 dioxide, is recycled, and, in fact, there's a net loss
11 of carbon dioxide in our process.

12 The other things that need to be considered
13 is that in the process, our process, which is as I
14 say, not unique but especially adapted to the
15 circumstance in Florida, there are, in fact,
16 processing equipment of this type that is anaerobic
17 fermentation systems that are active in a great many
18 parts of world. There are 8 million supposedly small
19 systems that are used by Chinese farmers up to large
20 systems that are used in Europe mostly for the control
21 of industrial and animal waste.

22 At any rate, there are extremely important
23 economic impacts. We look at the economic impact as
24 something which defines development but does not limit
25 development. We are not environmentally oriented

1 towards reducing development. We're oriented toward
2 increasing the quality life in Florida under its
3 normal development sets of circumstances.

4 I think I can stop at that point. If you
5 have any questions, I'll be glad to answer them.

6 **COMMISSIONER CLARK:** I just want to be
7 clear. Are you -- what do you want us to do with
8 respect to merchant plants and your issue of using
9 renewable resources?

10 **MR. GLICK:** In the adaptation of the
11 Minnesota legislation, it's framed in such a way that
12 merchant power would have a certain fraction. We've
13 indicated 10% of energy associated with a renewable
14 resource.

15 **COMMISSIONER CLARK:** Are you saying if we
16 set sort of parameters on how much power we want to
17 allocate to a merchant plant category, 10% of that
18 would have to come from renewable sources?

19 **MR. GLICK:** Right.

20 **COMMISSIONER CLARK:** All right. It's not
21 that 10% of the fuel for any particular plant must be
22 a renewable resource, but of the aggregate 10% is set
23 aside --

24 **MR. GLICK:** Yes.

25 **COMMISSIONER CLARK:** -- for renewable.

1 **MR. GLICK:** Yes.

2 **COMMISSIONER CLARK:** Let ask you this
3 question: In my mind that's a suggestion that there
4 would be a market failure with respect to renewables
5 and you need to dictate that you have that as a fuel
6 source. Because if, in fact, it is economic to do it,
7 it will be part of that fuel source.

8 **MR. GLICK:** We've indicated in the suggested
9 rules what the circumstance would be if there were.

10 But let me qualify this. This plant is
11 indigenous to Nicaragua. I visited Nicaragua two
12 months or three months ago right now. There's a grove
13 of leucaena growing in Nicaragua of considerable size
14 that was immediately inundated by that horrible
15 catastrophic accident associated with the Cassita
16 volcano where several thousand people were killed.
17 The entire area associated with that flooding was an
18 area that was one, affected -- that is, where the
19 leucaena grows was affected by that without affecting
20 the leucaena at all. That's number one.

21 Number two, it's a -- not only did it
22 continue to grow under those circumstances, but it
23 seems to have improved in quality because of it. It
24 was not affected by the wind or the water, and that's
25 the kind of plant that it is. It's essentially a

1 pest-free, fertilizer-free plant that grows extremely
2 well. It's actually a member of the mimosa family and
3 we all know that grows all around Tallahassee like
4 mad, except that it is, in fact, a much more vigorous
5 member of that family.

6 **COMMISSIONER CLARK:** Thank you.

7 **MR. WRIGHT:** Mr. Chairman, could I ask one
8 question?

9 **CHAIRMAN GARCIA:** Sure, Schef.

10 **MR. WRIGHT:** That you.

11 Dr. Glick, I understand your proposal to be
12 to impose this 10% renewables requirement on merchant
13 power facilities. Why would there be any policy
14 distinction between merchant facilities and all power
15 plants --

16 **MR. GLICK:** I don't see any personally
17 myself, and we've included in the information that
18 we've given facts such that some industries, large
19 industries, United Airlines, I think, in one case, the
20 federal government in another -- would have -- may
21 very well have a condition which requires that
22 renewable resources be used in the power that they
23 purchase.

24 **MR. WRIGHT:** Thank you.

25 **CHAIRMAN GARCIA:** Thank you, Doctor. The

1 next presentation.

2 **MS. PAUGH:** The Department of Environmental
3 Protection, if they wish to present.

4 **MS. SKINNER:** I'm Karen Skinner with the
5 Siting Coordination Office of the Department
6 of Environmental Protection.

7 I believe you're quite familiar with our
8 office and the interaction between the Power Plant
9 Siting Act and the need determination process so I
10 won't go into that in too much detail.

11 We just wanted to reiterate the fact that
12 either a merchant just like -- excuse me, a merchant
13 just like non-merchant plant would be reviewed based
14 on the exact same standards and regulations. There
15 would be no distinction between those two from our
16 standpoint.

17 Some of the other questions that were posed
18 to in the environmental questions portion of the
19 handouts last week we wanted to touch on. Use of
20 allowable air increments, those are allocated on a
21 first-come-first-serve basis, so a merchant, again,
22 would not really be treated any differently than a
23 non -- excuse me, a non-merchant plant would not be
24 treated any differently than a merchant plant. The
25 same goes to available power plant sites and other

1 finite resources. There's no site banking per se, so
2 non-merchants and merchants would be treated alike.

3 There was a question about infrastructure
4 and whether or not there would be a problem with
5 matters such as, say, for example, the use of
6 transmission lines and how that might be dealt with.

7 I can speak to that under the Power Plant
8 Siting Act. This does not apply to plants that might
9 not be Power Plant Siting Act issues. But under the
10 Power Plant Siting Act, of course, the Public Service
11 Commission issues its need determination as a report
12 to the DEP. In conjunction with that report, it is
13 within the Commission's purview to recommend
14 conditions of certification that might address
15 concerns that you have as far as protection of the
16 grid.

17 Say, for example, a merchant was going to
18 ship power over another company's transmission line,
19 and take up, say, too much of that transmission line,
20 in the interest of protecting the grid, you could
21 recommend that that merchant be required to construct
22 additional transmission someplace. We feel that's
23 within your right to make that recommendation for
24 consideration by the Governor and Cabinet.

25 Beyond that we just are open to any

1 questions you might have.

2 **COMMISSIONER DEASON:** I have one question.

3 Constellation Power suggested earlier in
4 their presentation that a merchant plant should not
5 even be subject to a determination of need. Do you
6 have any opinion on that?

7 **MS. SKINNER:** No, sir. We feel that that
8 whole issue should remain within the decision grounds
9 of the Public Service Commission.

10 **COMMISSIONER DEASON:** Thank you.

11 **CHAIRMAN GARCIA:** Thank you very much,
12 Ms. Skinner. The next presentation.

13 **MS. PAUGH:** Duke Energy New Smyrna Beach
14 Power Company.

15 **MR. GREEN:** Good morning, Mr. Chairman
16 members of the Commission. My name is Mike Green.
17 I'm vice president of Duke Energy for the Florida
18 operations. Appreciate the opportunity to be here.

19 I think the purpose of this workshop is to
20 provide you additional information on merchant plant
21 issues, and so I withheld my initial thought of
22 rehashing the entire need determination process with
23 you for New Smyrna Beach. And I'm going to try to
24 keep my comments not specific to New Smyrna Beach but
25 to really have them broadened up to the overall

1 merchant issue.

2 **CHAIRMAN GARCIA:** Mr. Green, may I ask you a
3 favor? On Monday something occurred at the Cabinet,
4 and so since we weren't there, could you just give us
5 a perspective of what occurred just broadly? And if
6 you'd rather not, for legal reasons, I don't need a
7 legal description. I just want to know what exactly
8 occurred. Not exactly, just broadly what occurred.

9 **MR. GREEN:** I'll go broadly and then I'll
10 let my counsel here speak.

11 We were scheduled to have the land use
12 hearing ruled upon by the Governor and the Cabinet
13 earlier this week. A recommended order had been
14 submitted by the Administrative Law Judge to that
15 body.

16 It was determined that day of the proposed
17 ruling, I think, that they should defer that ruling on
18 that land use hearing, and also defer any other
19 Cabinet and Governor rulings on any subsequent
20 Administrative Law Judge recommended orders, a/k/a the
21 SCA order, when and if it comes through, until after
22 the field process with the Supreme Court. And I
23 probably shouldn't say much more than that, and I'll
24 let my counselor say anything more.

25 **MR. WRIGHT:** I think Mr. Green covered it as

1 presented by Secretary Struhs of the Department of
2 Environmental Protection.

3 We agreed to a stipulation relating to a
4 postponement of activity by the Siting Board on the
5 application until after the Supreme Court rules. That
6 basically puts off the Siting Board's action on the
7 land use recommended order, and on the yet-to-be
8 prepared Site Certification Order until after the
9 Supreme Court rules on the appeal pending coming out
10 of our case before you.

11 Part of the stipulation is that we, and the
12 Department, will ask the Administrative Law Judge in
13 the site cert hearing to withhold issuing his
14 recommended order until after the Supreme Court rules.
15 But the rest of the process, the Site Certification
16 Hearing that's presently scheduled for a week from
17 Monday, our filing of briefs or proposed recommended
18 orders and other interim measures will go forward.
19 That's the terms of the stipulation. It has not yet
20 been reduced to writing.

21 **COMMISSIONER CLARK:** In a sense, the process
22 is going forward as if you had the land use hearing
23 and had it favorably acted upon. But at the end, all
24 of those questions, all those issues will be ripe for
25 determination.

1 **MR. WRIGHT:** Commissioner Clark, I guess I
2 think that's a fair statement, except that it hasn't.
3 But there's no real legal significance to the fact
4 that the land use recommended order was not acted
5 upon. The only prerequisite to go forward to the site
6 certification is the issuance of the order granting
7 determination of need by the Commission.

8 **CHAIRMAN GARCIA:** Sorry for the
9 interruption. Go right ahead.

10 **MR. GREEN:** Again, the purpose of this is to
11 provide you additional information, so I'm going to
12 keep my comments very brief.

13 I think originally you had 13 or 15
14 questions that kind of came out of the New Smyrna
15 Beach need determination process. I think that number
16 has grown to 85 or 93, depending on how you want to
17 count them.

18 We have submitted both joint comments with
19 other developers, and we've submitted
20 Duke Energy-specific comments to each of those issues.
21 So we're truly willing to share our thoughts with you
22 on those and any other issues as you go forward.

23 I would like to talk about just a few
24 general questions, if I could, and just see where that
25 discussion goes and answer any questions you have.

1 What is a merchant plant? I really
2 encourage that definition be clear in all of your
3 thought processes going forward. This Commission
4 defined merchant plant in your order on New Smyrna
5 Beach as a power plant with no rate base and no
6 captive retail customers. And I suggest you're
7 absolutely right. That means that the developers pay
8 all of the construction costs of that plant. That the
9 construction costs are not put into the rate base by
10 any retail-serving utility. The developers take the
11 operational risks for the operation of that plant. If
12 a merchant plant is not economic, if it becomes a bad
13 decision, we put in a plant that will not dispatch,
14 the developer eats that. If a -- in a traditional
15 sense, if a plant is built and put in rate base and it
16 is not economic, the ratepayers are going to pay that
17 throughout the life or the mortgage of that rate. So
18 your definition of merchant plant is absolutely
19 correct. I just state that to make sure that we
20 encourage that merchant plants are focussed on the
21 wholesale market. It is not a retail market issue.
22 It's a wholesale market issue.

23 Where are merchant plants flourishing?

24 I pulled up on the Internet what's called
25 "The Merchant Plant Scoreboard," which -- we can call

1 it up and see where it is, but it gives you a somewhat
2 up-to-date look of where merchant plants exist today.
3 Currently ten states have merchant plants operating.
4 They are already operating in those states and
5 dispatching their energy to wholesale buyers in those
6 states. That's in ten states today, as we speak.
7 Last updated March 22nd.

8 Six more states, in addition to the initial
9 ten, have plans already under construction. That
10 means they have passed all of the regulatory
11 approvals, all of the environmental approvals; gone
12 through all of the financings. They are under
13 construction. And they will be on line within the
14 next 12 to 18 months, for a total of 16 states that
15 have wholesale plants.

16 An additional five more states have plants
17 that are under development; have not quite started
18 construction yet, but they are under development.
19 They, too, have passed all of the regulatory hurdles;
20 they have passed all of the environmental hurdles;
21 they have just not quite yet gone to the construction
22 phase.

23 **COMMISSIONER JOHNSON:** Could you do one
24 thing?

25 **MR. GREEN:** Yes, ma'am.

1 **COMMISSIONER JOHNSON:** You stated that when
2 you go through your state analysis, could you say the
3 states, and if you know, which ones have competition
4 wholesale, retail level or both, if you could
5 articulate that.

6 **MR. GREEN:** I'll take my best shot at it. I
7 might have to hold this further away to see it.

8 (Indicating document.)

9 Ten states that currently have merchant
10 plants operating today selling wholesale, the
11 wholesale buyers in the states: California, Colorado,
12 Connecticut, Massachusetts, Maine, New Mexico,
13 New York, Texas, West Virginia, and one very small
14 plant in Wisconsin, 53 megawatts.

15 Under construction, the additional six
16 states that have plants under construction today:
17 Illinois, Mississippi, Missouri, Nevada,
18 Rhode Island -- and I think it says Pennsylvania. I
19 have to hold this a litter further out. I'm close on
20 that one.

21 The five additional states that have them
22 under development that also have passed all the
23 hurdles, got the environmental permits -- and the
24 New Smyrna Beach plant isn't in this list yet -- those
25 states include New Hampshire, Oregon, Washington

1 State, Pennsylvania and Virginia.

2 **COMMISSIONER JOHNSON:** Do you know if any of
3 those states prohibit competition on the retail level,
4 or which of those states?

5 **MR. GREEN:** I would suggest California --
6 the only states that permit retail competition out of
7 that list would be California; Pennsylvania, I believe
8 has some retail competition capability, I believe;
9 Rhode Island, I think, has some retail competition.

10 **COMMISSIONER JOHNSON:** But the majority of
11 them don't?

12 **MR. GREEN:** The majority do not. I believe
13 there's only three or four states, perhaps five now,
14 and I'm a little dated in any memory here, that have
15 passed and have implemented any retail
16 restructuring --

17 **COMMISSIONER CLARK:** I thought Massachusetts
18 did.

19 **MR. GREEN:** Yeah. I was going over my other
20 list. I think Massachusetts is in that list, and I
21 believe Maine might be in that list at some level.

22 But I believe that that is the list. Colorado,
23 Connecticut, New Mexico, New York, Texas,
24 West Virginia, Wisconsin, Illinois --

25 **COMMISSIONER CLARK:** Illinois has

1 competition now. They have been mandated to have
2 competition.

3 **MR. GREEN:** Mississippi does not. Missouri
4 does not. Nevada does not.

5 **COMMISSIONER JOHNSON:** What about Texas?

6 **MR. GREEN:** Texas does not.

7 **COMMISSIONER CLARK:** Texas is a whole nother
8 world.

9 **MR. GREEN:** I said that about California, is
10 another country, but I won't go there.

11 **COMMISSIONER JOHNSON:** Okay. That's
12 sufficient. I just wanted to get a gauge.

13 **MR. GREEN:** I'm sorry. My point is that
14 there are five or six or perhaps seven that have some
15 limited to California, which has very expansive retail
16 sort of restructuring implemented, but the majority of
17 these -- 10 plus 6 plus 5 -- 21 states that have
18 plants that are already -- passed all of the hurdles
19 and are going to be built do not have retail
20 competition at this time.

21 **COMMISSIONER JOHNSON:** Thank you.

22 **MR. GREEN:** Yes, ma'am.

23 There's another -- there's no category in
24 this list of a lot of plants that have been reported,
25 and that's where the Duke New Smyrna Beach plant would

1 fall in. Their plans have been identified to be built
2 but they have not passed all of the regulatory or
3 environmental or whatever state rules and regulations
4 require them to go through to get to the point where
5 you can firmly say that this plant will be built. The
6 Constellation facility would fall in that category
7 too. Both those plants are listed in this database.

8 My point in saying this is that merchant
9 plants are flourishing throughout the country. They
10 are occurring in many, many states; many states that
11 do not have any retail exception issues at this time.
12 And, again, I encourage that we maintain the
13 difference between retail and the wholesale issues.

14 **CHAIRMAN GARCIA:** Encourage that we maintain
15 that difference?

16 **MR. GREEN:** Yeah. This workshop I thought
17 was wholesale merchant plants. And I think a lot of
18 the issues what were identified in the 85 or 93 issues
19 really cross over in some retail issues, in my
20 opinion.

21 What are the results to date in these
22 states? Let's just talk about the ten states that
23 have implemented wholesale competition that have
24 wholesale merchant plants operating today.

25 Indeed those plants have been built and,

1 indeed, the ratepayers did not pay for them. They did
2 not go in any rate base. Indeed, the developers have
3 taken 100% of that construction risk on those plants.

4 In these other ten states where it's already
5 operating. Indeed the market clearing price, if you
6 look at the wholesale clearing price in those states,
7 there has been downward pressure on the clearing price
8 on wholesale. Duke has a plant operating in
9 Connecticut. I know this for a fact; that price has
10 gone down. It is downward pressure on wholesale
11 clearing prices. Every time a new plant is built in
12 one of these regions that sells at wholesale, every
13 developer in this region or that state recalculates
14 what's called the forward price curve, which
15 recalculates what they think the forward price of
16 energy is going to be. And with every new entrant of
17 a clean burning cost-effective plant, that forward
18 price prediction goes down. It puts the downward
19 pressure on wholesale prices.

20 And, indeed, in every one of those states
21 where we had merchant plants operating, the
22 reliability has increased. You have more generation
23 on the ground that is available for retail serving
24 wholesale buying entities to purchase from, and the
25 reliability has increased. There are more people they

1 can purchase from. That's part of what's driving the
2 clearing price down.

3 And, finally, indeed these cleaner and more
4 efficient units that are in these states that are
5 already operating, they, indeed, are running more than
6 the less efficient and less clean plants that already
7 existed. Indeed there are environmental benefits. If
8 you look how they are running. Look at FERC Form 1s
9 that every plant must report how much they run, the
10 older efficient plants are running less now than they
11 were before the newer merchant plants came on line.
12 It's in FERC form. You can look at it. Indeed they
13 do run more. The environment does benefit due to less
14 emissions.

15 **COMMISSIONER JOHNSON:** Could you go back to
16 two points ago. You stated what's happening in those
17 states, is when the merchant plant is on line, that
18 it's actually helping the reliability because they
19 are -- actually this goes to my question -- so the
20 plants are selling intrastate as opposed to building
21 in a state and selling out of the state, or what's
22 happening that you can make the statement that it's a
23 positive impact on reliability and margin reserve?

24 **MR. GREEN:** Let me just speak from Duke's
25 position. We have wholesale plants in California. We

1 have wholesale plants in Connecticut.

2 **COMMISSIONER JOHNSON:** You might need to
3 turn your mike up a bit.

4 **MR. GREEN:** Let me just get closer to it.
5 Schef made me go workout last night. I can't lean
6 forward to good.

7 In California and Connecticut, both states,
8 Duke sells wholesale into the pool, into the power
9 exchange in California, into the pool up in New
10 England. The numbers of people selling, trying to bid
11 their energy into that pool is growing every time a
12 new merchant developer puts a plant down. That
13 increases the reliability of the pool. I mean, the
14 power exchange has more and more people to rely upon
15 to serve their needs. If one plant goes down for some
16 maintenance or some outage, there are other plants
17 that will fall right in line and fill that gap. It
18 just enhances reliability. It enhances the number of
19 people that are there capable of and able to serve the
20 load of the pool, of the power exchange, whatever the
21 entity is into which these merchant plants are
22 selling.

23 **COMMISSIONER CLARK:** As I understand, it
24 could be interstate or it could be intrastate, and if
25 you're talking about PJM and NEPOOL, up in the -- I

1 guess it's from New Jersey north --

2 **MR. GREEN:** That's right.

3 **COMMISSIONER CLARK:** -- they already had a
4 system sort of like what we have, the broker system,
5 and they have -- at least in PJM, which is
6 Pennsylvania, Maryland, New Jersey -- they have been
7 pooling for years; a hundred years or more. I mean, I
8 heard it was a long time; since the 1930s they have
9 been pooling. Because it's a fairly compact
10 geographic area. So it could go anywhere. But they
11 have done that. I mean the incumbent utilities have
12 been doing that for a long time.

13 **MR. GREEN:** You're exactly right. The
14 incumbent utilities, take the northeast, PJM, NEPOOL,
15 or whatever else, the transmission was set up for
16 liability. The states are small, the transmission
17 grid is a maze of transmission wires overlapping on
18 each other, and so it really enhances interstate sales
19 out of those states. In regions where you don't have
20 that interconnected maze of transmission grids,
21 interstate sales do not occur; it's intrastate. Just
22 depends what the state is.

23 **CHAIRMAN GARCIA:** You brought up a good
24 point that has sort of been a discussion out there,
25 and maybe you could address it, and, hopefully, some

1 others will address it too.

2 One of the fears is you're coming to Florida
3 and if you build your plant you're going to sell it to
4 Georgia -- or threat to the north, Georgia.

5 **MR. GREEN:** The thin threat.

6 **CHAIRMAN GARCIA:** The thin threat.

7 (Laughter)

8 If you could explain why that's possible;
9 why that's not possible.

10 **MR. GREEN:** A couple of reasons. Look at
11 the market conditions. The market in Georgia -- do
12 you want to pick Georgia or Alabama, look at the
13 clearing price of electricity in Georgia and Alabama,
14 then look at the clearing price of wholesale
15 electricity in Florida.

16 You know, Duke is coming to Florida because
17 it's a good business opportunity. We're putting an
18 office in Florida because that's where the market is;
19 that the clearing price for electricity is greater in
20 Florida than it is in Georgia, Alabama or Mississippi.
21 It would make -- even if the market was there, let's
22 say the market was the same in Georgia than it was in
23 Florida. I could get the same amount of money for a
24 kilowatt-hour in Georgia as I could here, I would put
25 a plant on Transco's pipeline in Georgia or Alabama

1 and not pay the transportation charge I'd have to pay
2 to get gas to Florida. You buy gas at the wellhead
3 over there in Mobile Bay, Alabama, you transport it to
4 wherever your plant is. Transportation charges might
5 be 25 cents to transport it to Alabama. It's 85
6 cents, perhaps, to get it down here to Florida. It
7 would make absolutely no sense for me to pay an
8 additional cost of my fuel when my fuel costs are 80%
9 of my operating costs, to pay that much more for my
10 fuel to get it here just to sell it back where the
11 fuel was originally. That just economically -- I'd be
12 fired first. It doesn't make economic sense.

13 Also you'd have to pay wheeling charges to
14 get the electricity out of the state back up there.
15 There are wheeling charges I have to pay to the
16 transmission owners to get the electricity back out of
17 this state, if the transmission corridor was there,
18 it's a thin thread as earlier said, I'd have to pay
19 transmission fees to get it back out. It makes
20 absolutely no economic sense.

21 First, the clearing price is less in
22 Mississippi, Alabama and Georgia. The fuel is cheaper
23 in Mississippi, Alabama and Georgia, and I don't have
24 to pay transmission charges in Mississippi, Alabama
25 and Georgia if my plant was there. There's no

1 logic -- it's just illogical to suggest we do that.
2 You put your plants in where the markets are. That's
3 where you locate plants.

4 I want to try to keep my comments fairly
5 brief.

6 What are some of the negatives from the ten
7 states that have plants operating now? I really have
8 a hard time to find the negatives, the proven negative
9 things that have happened because of the ten states
10 that have merchant plants. Forget about hypothesizing
11 in the future. Just what's happened negatively.

12 As I've already said, there is now a
13 pressure on wholesale prices. Almost every state fuel
14 clause or purchased power clause that allows the
15 savings of purchased power to be passed on to the
16 retail customers through their retail-serving utility.
17 In every case where there's a wholesale savings, at
18 least some portion of that wholesale saving is passed
19 on depending on what the state laws and regulations
20 are, it's passed on to the retail customers.

21 A lot of suggestions have been made that
22 there's no regulation in these states of merchant
23 plants. Well, I know in the two states in which we
24 are currently operating, and in the other three that
25 we're building plants in, we're subject to the same

1 state regulations, whether it has to do with air and
2 water permitting, whether it has to do with land use,
3 overall planning, coordination with the other
4 utilities, emergency situations, energy emergencies
5 and overall reliability issues, we fall under the same
6 rules and regulations as the retail-serving utility.
7 The only areas that we don't have the same regulations
8 is relative to retail ratemaking because we have no
9 captive customers, and, therefore, don't fall
10 underneath those regulations.

11 **COMMISSIONER CLARK:** Mr. Green, let me ask
12 you a question about that, because that was a question
13 I had written down.

14 In the states you named, do they have a
15 process that is a determination of need? Do they come
16 first to a Commission and determine that the power is
17 needed to serve -- I think retail customers, but do
18 they have that similar process?

19 **MR. GREEN:** Each state is somewhat
20 different. Most of the determinations of need are
21 really environmental checks.

22 **COMMISSIONER CLARK:** Would it be your
23 position that you let the market decide the need for
24 power, and then your process for actually siting it
25 should just be an environmental process?

1 **MR. GREEN:** My opinion is that the market
2 will determine where the economic limit of plants are.
3 I think as long as no ratepayer is burdened with the
4 investment costs and capital expenditures of building
5 a plant, I think it's an environmental check you need
6 to go through.

7 **COMMISSIONER CLARK:** Well, then would it be
8 your position that merchant plants should not even
9 have to come to the Commission for a need
10 determination?

11 **MR. GREEN:** It's my position -- in this case
12 I think that's your decision. That's this
13 Commission's decision what it needs to do.

14 My position is I don't think you need to go
15 to a need determination process for merchant plants in
16 this state as long as there's no ratepayer impact. In
17 merchant plants there's no ratepayer impact, so my
18 position is they would not need to go through that
19 need determination.

20 The Florida process isn't broken. I mean,
21 we're going through this process as it's laid out
22 today; and it worked, quite frankly. I've experienced
23 the process. And the need determination process, you
24 addressed the right issues.

25 **COMMISSIONER CLARK:** It just strikes me that

1 if merchant plants are not going to be in the rate
2 base, then you're suggesting there is no need for a
3 need determination. Why should you have to come here
4 first? What do we accomplish by that process?

5 **MR. GREEN:** I'm not sure we needed to come
6 here. The current process says I needed to come here
7 the way I interpreted the process.

8 **COMMISSIONER CLARK:** Right. I'm not really
9 interested in what the law is today. I'm interested
10 in the way it ought to be. And it strikes me that for
11 merchant plants, you know, maybe you could set
12 parameters on how much extra margin -- you might set a
13 cap on them, as Joe has suggested, and just let people
14 come in and serve that need as they see the market
15 dictating. All we would say is here's what we think
16 is available for a merchant plant and you don't come
17 here to determine need. If you think it's a good
18 deal, you get in the queue.

19 **MR. GREEN:** I fully support the concept you
20 do not need to bring a merchant plant before the
21 Commission to evaluate economic need.

22 I do not believe that you need to put caps,
23 though, on how many merchant plants. I think that cap
24 will be -- it will be a self-limiting process.

25 You can look in New England where 35,000

1 megawatts of plants were announced. 4,000, I think,
2 have been built and I predict two or three more
3 thousand will be built, but 35,000 will not be built.
4 The economic viability of the projects will impose a
5 cap on it. You don't have to worry about it.

6 **COMMISSIONER CLARK:** Okay. As long as I've
7 interrupted you, when you were talking about the
8 market clearing price, is that on a hourly, daily or
9 weekly basis? Can it be any of those?

10 **MR. GREEN:** Could be any -- I mean, you look
11 at, you know -- since we're -- a lot of us are
12 engineers and accountants, we go hourly and you
13 predict for 20 years what the hourly price is every
14 hour of every year. But what a developer has to do is
15 look at how many hours in the year can I produce
16 energy and sell it on that market. How many hours can
17 I get a revenue stream that's in excess of my fuel
18 costs that can be a contribution to my fixed cost?

19 **COMMISSIONER CLARK:** Where do you get --
20 where do you find the clearing price? Where is that
21 published?

22 **MR. GREEN:** "Megawatt Daily."

23 "Megawatt Daily" has a day-ahead indicator.
24 There's two or three sources.

25 **COMMISSIONER CLARK:** Yeah. But where do

1 they get their information? And that sort of feeds
2 into my next question, what would we need to do --
3 what would we need to do in ensure there is
4 transparency in the market so you could, in fact,
5 reliably determine the market price? Can you
6 determine that in Florida today?

7 **MR. GREEN:** No, I cannot. It's not a very
8 open market yet. My forward price here for Florida is
9 hazy.

10 **COMMISSIONER CLARK:** Pardon me?

11 **MR. GREEN:** Any forward price curve in
12 Florida is somewhat hazy because it's hard to tell
13 exactly what all the wholesale clearing prices are. I
14 can look what the broker clears at.

15 **COMMISSIONER CLARK:** When you say the
16 "broker" are you talking about the Florida Broker?

17 **MR. GREEN:** Excuse me, yes, ma'am. The
18 Florida Broker.

19 **COMMISSIONER CLARK:** What changes would we
20 need to make to the Florida Broker to make sure that
21 there is price transparency and that it is --
22 everybody is truly competing on the same basis?
23 Because as I think it would be structured now, you
24 might be able to bid in your power at whatever price
25 you decide, but the regulated companies have to do it

1 on their cost, which may be different. Maybe that's
2 not bad. I don't know.

3 **MR. GREEN:** It's a complex issue and I'm not
4 sure I have the right answer, or an answer for you. I
5 mean, it's -- I'm not sure what systems -- the way I
6 envision it, you have got wholesale buyers here, and
7 if there are four or five different merchant plants in
8 the state, and they have a need for 100 megawatts,
9 they're going to go out there and try to find the best
10 deal for 100 megawatts. They will consider their
11 self-build; they will consider their self-run and they
12 will consider the four, five, six, or three or
13 whatever number of merchant plants exist in this
14 state. They will consider out-of-state sales;
15 whatever you could transmit across the thin thread
16 from Georgia. They will consider all of those things.
17 Each individual buying entity will do that.

18 I don't know what amount of sharing of that
19 information between municipalities, cooperatives,
20 investment utilities is either legal or appropriate.
21 I'm not sure. I really don't know how you could share
22 that right now.

23 **COMMISSIONER CLARK:** But don't you need to
24 share it to get the market running? I mean, isn't
25 that information necessary to have a robust wholesale

1 market?

2 **MR. GREEN:** I'm not sure it's absolutely
3 necessary.

4 **COMMISSIONER CLARK:** How are you going to
5 tell if you should come into the Florida market?

6 **MR. GREEN:** I have a prediction what I think
7 the wholesale clearing prices are in Florida. I know
8 what -- Duke is very good at operating plants. We
9 are -- our variable fuel cost would be very low and
10 much lower than some existing facilities in the state.
11 And I think I can sell enough hours of the year that
12 I'll recoup my investment.

13 **COMMISSIONER CLARK:** So you've used other
14 information to make your own prediction as to --

15 **MR. GREEN:** Yes.

16 **COMMISSIONER CLARK:** -- what their hourly
17 price may be.

18 **MR. GREEN:** I've used some of the "Megawatt
19 Daily." There's a couple of them, and I can't think
20 of the other sources -- a couple other sources are
21 somewhat hazy in their predictions for Florida. But
22 we've looked at it and we've made our predictions.

23 **COMMISSIONER CLARK:** Let me sort of ask the
24 basic question. If we were interested in making sure
25 that we did have a robust wholesale market, and we

1 wanted to include merchant plants in there, I think
2 we've already said we wanted to include them in there,
3 what else do we have to do? Don't we have to readjust
4 our broker system in some way?

5 **MR. GREEN:** I realize I haven't focussed on
6 the broker system that much. I'm not all that clear
7 on exactly how it operates today.

8 I personally don't think that you need to
9 change much, if anything, in the current system. I
10 mean, until you get many merchant plants down here,
11 until you get some experience with the wholesale
12 buying at no risk to any of the ratepayers in the
13 state, you know, get some experience with how the
14 buying utilities are purchasing and their purchasing
15 practices from the merchant plants, then -- I think
16 then you can determine what, if any, changes are
17 needed. But it's until that time I don't think you
18 need to do anything.

19 **CHAIRMAN GARCIA:** Okay.

20 **MR. GREEN:** I'll just conclude.

21 You know, again, I appreciate the
22 opportunity to be here. Florida has a tremendous
23 thirst for energy. And, you know, bottom line is that
24 due to geography, Florida is going to need eight or
25 10,000 -- depending on who you talk to -- 8,000 or

1 10,000 megawatts of new generation in this state.
2 That's in addition to maintaining the existing fleet
3 of generation that's already there. Someone is going
4 to spend -- if you believe \$400 of kW is an average
5 construction cost on 10,000 megawatts, someone is
6 going to spend \$4 billion to build plants in this
7 state. Someone is going to do it. Either that \$4
8 billion is going to be put on the backs of your
9 constituents, the ratepayers of this state, or
10 merchant plants can be a part of that solution and
11 take some of that investment risk and some of that
12 operational risk off the backs of the ratepayers.

13 And I encourage the Commission to continue
14 down the path and determine ways in which the benefits
15 of merchant plants can help be a part of that solution
16 for Florida.

17 **CHAIRMAN GARCIA:** Thank you very much,
18 Mr. Green. Some questions?

19 **COMMISSIONER DEASON:** I have a question.

20 Mr. Green, I'm looking on Page 16 of your
21 comments, which is Page 45 of the booklet. At the
22 bottom of that page there is a response to a question.
23 The question is "How is merchant capacity to be
24 treated in future need proceedings?" And the answer
25 begins that "The Commission should recognize the

1 presence and availability of uncommitted merchant
2 capacity in future need proceedings."

3 I need that clarified. Are you saying that
4 if we have an incumbent utility come before this
5 Commission indicating that there is a need for
6 capacity, for reliability purposes, are you saying
7 that we should deny that need because you have a plant
8 sitting out there but they may not have a contract
9 with you, but just because your plant exists that we
10 should deny that determination of need?

11 **MR. GREEN:** No, sir, absolutely not. This
12 response was meant to suggest that if you were to
13 assume that further need applications would come
14 before you for further merchant capacity; for merchant
15 capacity. As new merchant capacity applications came
16 before you, I think you should take into account how
17 much merchant capacity is out there on the ground
18 today.

19 I personally believe that your 15% reserve
20 margin that is currently -- the FRCC, if that's a
21 guideline, a requirement, whatever it is, is fairly
22 tight. I think merchant plants supplement that floor,
23 that bottom minimum reserve, if you will. And I think
24 this Commission should determine -- take into account
25 whatever merchant plants exist on the ground as future

1 applications come in to you. It's not to suggest that
2 you should deny or approve anything, I think you
3 should just take into account.

4 If you happen to have -- if you went down a
5 path to allow merchant plants to flourish, and let's
6 say you had a 40% or 50% equivalent reserve margin --
7 you had 50% more plants than what your peak load
8 was -- maybe there's a point out there at which you
9 would say, "Time out. That's enough."

10 **COMMISSIONER DEASON:** But you indicated
11 earlier that you don't think that that situation would
12 ever arise. If the economics are not there, people
13 are not going to come to Florida and invest the
14 millions of dollars on pure speculation. They're
15 going to have a good idea as to the dispatch of that
16 plant and what the anticipated revenue streams are
17 going to be.

18 **MR. GREEN:** I agree. It don't think that
19 point will ever get here. I think the economics will
20 drive that limit and you will see a self-imposed limit
21 by developers of how many merchant plants are brought
22 into the state. All I'm suggesting, if I'm wrong and,
23 indeed, for some reason somebody starts putting
24 uneconomic plants in here, then you have the authority
25 to say, "That's enough." I'm not sure where that

1 limit is.

2 **COMMISSIONER DEASON:** But you are not saying
3 that we should have -- somehow limit, put a limit on
4 incumbent utilities determinations of need just
5 because there's merchant capacity out there that has
6 not been contracted.

7 **MR. GREEN:** I believe that incumbent
8 utilities, the retail-serving utilities in this state,
9 they have needs and they need to determine the best
10 way to satisfy those needs.

11 **COMMISSIONER DEASON:** And they do have an
12 obligation to come forward and demonstrate why they're
13 choosing to build as opposed to not contracting for
14 your capacity.

15 **MR. GREEN:** I would suggest that's a prudent
16 behavior that you would expect.

17 **COMMISSIONER JACOBS:** Aren't you going to
18 show up in that same proceeding or about that same
19 time looking to make your decisions?

20 **MR. GREEN:** Excuse me, sir?

21 **COMMISSIONER JACOBS:** At about the time that
22 that the utility, that IOU shows up looking to -- at
23 the point of their build decision, aren't you going to
24 be making your decisions about that time as well in
25 terms of whether you or some other nonutility

1 generator is going to be looking at that same decision
2 about that same time as to whether or not they are
3 going to invest. And that's the thing that confuses
4 me. We're what, 18, 20 months in advance of the thing
5 being in the ground. Without the advantage of a
6 firm -- you having an advantage of a firm contract,
7 and in the absence of what I hear you advocating of a
8 firm wholesale market, you're going to make investment
9 decisions on a hour basis that basically will
10 determine how your revenue stream is going to occur
11 18, 20 months down the road. Then at the same time we
12 have to look at -- we're going to be required then to
13 look at a void. We don't know what you're deciding to
14 build. We have to look at what's available now. And
15 at the time that that utility comes in and says, "We
16 have a need. We want to build." We're going to make
17 a decision not to give them authority in lieu of what
18 might be happening in your build decision. Is that
19 the dynamic we have to be involved in?

20 **CHAIRMAN GARCIA:** No. He said the opposite.
21 He said the opposite. His point, if I understand it
22 correctly, is that he's not going to ask us not to let
23 them build. He'd like a right, which under our rule,
24 I guess, they have, is to bid on new generation.

25 **COMMISSIONER JACOBS:** That was my point.

1 You're going to come in and bid at the time we're
2 reviewing that application. Or you're going to give
3 us some indication of what your --

4 **COMMISSIONER CLARK:** They have to bid
5 before.

6 **MR. GREEN:** The way understand it, I think
7 you have an expectation, if not a requirement, that
8 the people bid out their needs. I think that's a --

9 **CHAIRMAN GARCIA:** Likewise, FPC can come in
10 here and say, "We're not sure that project is going
11 up. We think we can build it cheaper. We're not
12 going to buy it." If Mr. Green is in the ground, you
13 know, I really don't care if he goes bust. I mean,
14 he's not going to pick up a power plant and take it
15 back to Charlotte with him. It's in the ground. But
16 our ratepayers didn't pay for it. And I'll tell you
17 what, it's going to dispatch power. Maybe his
18 investors are going to pay, but it's going to be in
19 the state and it's going to function.

20 I don't think you would ever ask us not to
21 allow new generation. You would simply be asking to
22 be able to provide that generation through the bid
23 process that presently exist.

24 **MR. GREEN:** I would never ask this
25 Commission not to allow a new generation. I would

1 just ask this Commission allow merchant capacity to be
2 a part of that solution to meet those needs that are
3 identified.

4 **COMMISSIONER CLARK:** Let me ask specifically
5 the process that that would follow. It seems to me
6 one way we could -- you have indicated you think that
7 retail-load serving utilities do have a obligation to
8 maintain sufficient resources to provide service to
9 their customer, and I presume that would mean, you
10 know, capacity to serve peak plus 15%.

11 **MR. GREEN:** Yes, ma'am.

12 **COMMISSIONER CLARK:** Okay. They would come
13 in and go through a need determination process in
14 order to be able to build that capacity or buy that
15 capacity.

16 **MR. GREEN:** Yes, ma'am.

17 **COMMISSIONER CLARK:** You would agree with
18 that?

19 And as part of that process, our rule says
20 before you come into us with a determination of need,
21 you have to bid it out. And it would be at that point
22 that you would make your bid to be that firm capacity
23 that can be included in the margin of reserve of that
24 retail utility.

25 **MR. GREEN:** I don't want to assume that I'm

1 going to set policy here for you, but my crystal ball
2 would suggest that when a need exists for a
3 retail-serving utility, that they should seek out
4 every conceivable avenue --

5 **COMMISSIONER CLARK:** Right. Our rule
6 requires them to bid it out.

7 **MR. GREEN:** Merchant plants should be a part
8 of that solution. How that goes through, if it's a
9 bid process or if it's a consideration on this
10 Commission that, as Chairman Garcia says, Mike Green's
11 plant is sitting on the ground there, and I'm selling
12 for \$28 a megawatt-hour, whatever the price is, that's
13 a bogie that to me has to be met. Whatever the
14 merchant plant -- the merchant plant should be a part
15 of that solution. And if that's the bid process
16 before they come to you or after they come to you, I'm
17 not sure how it should play out.

18 **COMMISSIONER CLARK:** What's what I'm asking
19 you. I want to know how you think it should play out.
20 And the way I see it playing out, is at that point
21 before they have come into us, they are under our
22 rules; they are required to bid it out to show they
23 have chosen the least-cost method. And it would be at
24 that point that you would bid on the plan. You would
25 bid to provide that capacity. And you would become

1 firm capacity if you won the bid for that utility and
2 you would become part of the firm capacity to serve
3 retail load.

4 **MR. GREEN:** The only risk --

5 **COMMISSIONER CLARK:** I think Schef is saying
6 you need to say yes. (Laughter)

7 **MR. GREEN:** Schef tells me a lot of things
8 to say I don't say.

9 **COMMISSIONER CLARK:** And then it seems to me
10 that's how you become part of the plan for assuring
11 the reliability in Florida.

12 **MR. GREEN:** I think generally -- my
13 hesitation in just saying "yes" is this: I mean, if
14 you require firm contracts on the bidding thing, and
15 certainly I think that's what you should do, but the
16 piece you're missing, as new merchants are brought on
17 line and new plants are brought on the ground, the
18 clearing price, the bid price will go down two years
19 from that bid than what it was now. So I think, just
20 eliminate that downward pressure on it, but I agree
21 they should go off and solicit some sort of bid, firm
22 if it is, firm on a monthly basis -- I don't know how
23 firm it has got to be, is it five years, one year or
24 six months.

25 **COMMISSIONER CLARK:** What I'm suggesting is

1 if we still think that we have an obligation as the
2 entity that regulates a utility of ensuring a reliable
3 service to our customers, that there ought to be firm
4 capacity to meet the retail load. We would have to be
5 assured that that plant is there and able to -- and is
6 required to run to provide it. If you just rely on
7 merchant plant, there's no requirement that you run to
8 serve retail load.

9 **MR. GREEN:** We will not run to serve retail
10 load. We'll serve wholesale load which will become
11 the retail load. But there's no place for me, for any
12 merchant plant in Florida to sell that. It's got to
13 be sold here. And we're not going to build a plant
14 unless we intend to sell it. An only place we can
15 sell it is to the wholesale buyer. So it will be sold
16 here. I guess I'm missing the logic.

17 **MR. WRIGHT:** Can I --

18 **COMMISSIONER CLARK:** Yes, if it's okay with
19 you.

20 **MR. WRIGHT:** I'd like to attempt to address
21 the questions posed by both Commissioner Jacobs and
22 Commissioner Clark, if I can do this quickly.

23 Your rules contemplate that public utilities
24 subject -- who propose to build power plants subject
25 to need determinations must conduct some kind of

1 competitive selection process before bringing their
2 need determination. We may participate in that
3 competitive selection process. If we win, great. We
4 come in and we have a contract for part or,
5 hypothetically, all of the capacity of our project to
6 serve that. We may win the bid with a capacity --
7 firm capacity and energy sale out of an existing power
8 plant, in which case there is no further need
9 determination because that was already held last
10 December, hypothetically.

11 **COMMISSIONER CLARK:** No, no. I think there
12 would be a further need determination because we're
13 determining the need of the retail-serving entity.

14 **CHAIRMAN GARCIA:** I'd go further. If FPC
15 comes to us and puts out a bid, and you bid for it and
16 you say, you know, "I'm going to bid and I'm going to
17 offer you two years of generation at this price," and
18 it's a great price; similar to what New Smyrna got,
19 \$18 a megawatt. You're giving this stuff away. But
20 only can get two years. Most probably FPC is going to
21 come in here and say, "I'll build it myself." Florida
22 can't count on it. A two-year span is not enough for
23 them to count on. We certainly can't put a plant up
24 in quicker order or shorter order if we have some
25 reserve problems. So I would assume we would tell FPC

1 maybe our plant is a little bit more expensive, but
2 you should build.

3 **MR. WRIGHT:** And that may well be. It may
4 well be that they don't get a bid that satisfies their
5 requirements or the bid they get is for too short a
6 term to be the most cost-effective alternative for
7 their requirements, at which point they say, "No. No
8 winners," or "The winner is us. We think we should
9 build ours." They then apply for the need
10 determination and it's judged on the statutory
11 criteria.

12 **COMMISSIONER CLARK:** Is that how you think
13 it should work?

14 **MR. WRIGHT:** I think that is how it works.

15 **COMMISSIONER CLARK:** I have indicated that I
16 don't really care what the law is. I want to know
17 what it should be.

18 **MR. WRIGHT:** And that probably is how it
19 should work. Now, I think that if an unsuccessful
20 participant in the selection process feels like they
21 got --

22 **COMMISSIONER CLARK:** They should be able to
23 intervene.

24 **MR. WRIGHT:** -- I think your rules
25 contemplate specifically that they have the

1 opportunity to intervene and show that they had a
2 better deal. And that could happen. But I don't --
3 your rules don't contemplate that you can sit back,
4 let the competitive selection process go and then come
5 in at the end after not participating in the selection
6 process.

7 I did want to respond to one other thing
8 that Commissioner Clark asked Mr. Green, which was
9 about becoming part of the plan for assuring
10 reliability. I just want to reemphasize that there
11 are two ways to be part of the plan viewed from your
12 perspective as the statewide overseers of reliability
13 in Florida.

14 One is as a specified purchase of a
15 retail-serving utility that shows up in their Ten Year
16 Site Plan. Another way that I think you can and
17 should legitimately look at uncommitted merchant
18 capacity as something that's out there that most
19 probably is going to be available, certainly at a fair
20 minimum, available on a probabilistic basis to serve
21 under any load conditions.

22 **COMMISSIONER CLARK:** Then let me ask you, is
23 one way that we should handle merchant plants is to
24 continue to specify a margin of reserve that must be
25 carried by the retail-serving utilities, and then let

1 the merchant plant meet whatever amount over that the
2 market will bear?

3 **MR. WRIGHT:** Commissioner, I certainly agree
4 with the second part of that. I may be --

5 **COMMISSIONER CLARK:** How do we assure
6 reliability if we don't have firm contracts? You're
7 saying let the market ensure reliability.

8 **MR. WRIGHT:** The point I wanted to make --
9 and I will answer your question, I promise -- but the
10 point I wanted to make is that I don't believe that
11 this Commission presently specifies a minimum reserve
12 margin for the retail-serving utilities.

13 **CHAIRMAN GARCIA:** We have an open docket on
14 the issue.

15 **MR. WRIGHT:** You review the Ten Year Site
16 Plans on an annual basis to determine whether those
17 plans and the reliability information that is
18 projected to come out of those plans, the reliability
19 characteristics of the Florida supply system that is
20 projected to result from the implementation of those
21 plants, is suitable for planning purpose. And that
22 probably translates in reasonable terms to whether
23 it's satisfactory. But I don't think you specify a
24 minimum reserve margin.

25 But as to your second point, as to merchants

1 being developed to the point that the market will
2 support them, again, in your annual reviews of the Ten
3 Year Site Plan you all are going to look at the whole
4 state. And you'll look at it and say, "Well, we've
5 got this much LSE-built capacity, and this much
6 merchant-built capacity in the plants, you know,
7 either it looks bad, you know, quote from last year's
8 review, reserves are razor thin and we need to do
9 something, or you say, "By golly, you know, we're
10 looking at a reserve margin in the 2003 to 2010 frame;
11 the range is somewhere between 22% and 28%. Things
12 look great; the system is going to be reliable; these
13 plans are suitable, and we go on to the next thing.

14 **COMMISSIONER CLARK:** Okay. I think I
15 understand. For the Ten Year Site Plan you would sort
16 of factor in some amount of merchant plant that you
17 could probably rely on.

18 **MR. WRIGHT:** Yes, ma'am. Committed and --
19 contractually committed and uncommitted.

20 **COMMISSIONER CLARK:** Okay. Then with
21 respect to actually having a determination of need and
22 determining what you're going to allow to be put in
23 the retail rates, then you would look at that
24 utility's margin of reserve and say, "Yeah, they are
25 at 5%. They need more." We're going to find need and

1 the way we're going to make sure it is the least-cost
2 power is they would have bid it out. And that's how
3 the merchant plant may become part of the firm
4 capacity to meet need. Is that correct?

5 **MR. WRIGHT:** Yeah. That's right. And you
6 look at all the statutory criteria, not just the --

7 **COMMISSIONER CLARK:** Yes, I would agree.

8 **CHAIRMAN GARCIA:** Are there any others
9 questions, Commissioners?

10 **COMMISSIONER CLARK:** I do have more
11 questions but you get antsy and it seems like you
12 don't want me to ask those questions.

13 **MR. GREEN:** I'm can come see you now.

14 **COMMISSIONER CLARK:** You know, let me just
15 ask this one, because I hope we're going to have more
16 of these, and, hopefully, after this workshop we maybe
17 can go back and better define what we need to look at.

18 I understood that you were part of the group
19 that filed joint comments.

20 **MR. GREEN:** Yes, ma'am.

21 **COMMISSIONER CLARK:** And I want to pursue on
22 Bates Stamp 20, I guess it's an FPL issue. "What
23 obligations to provide electric service does an EWG
24 have independent of any bilateral agreement for such
25 service?" And the concept of an appropriately

1 governed RTO is introduced. And the best interest of
2 an interconnected grid.

3 Does that mean that we don't have any
4 authority with respect to that? Because I guess it
5 turns on what you mean by "appropriately governed RTO
6 organization."

7 **MR. GREEN:** I might -- though Joe doesn't
8 know, I might ask Joe to give the legal definition.
9 But I think right now ancillary services are basically
10 governed or overseen by FERC. I think that's what
11 happens now. If I was to sell ancillary services, or
12 anybody was to sell ancillary services, I think that's
13 a FERC-regulated tariff, I believe, but let me ask
14 Joe --

15 **COMMISSIONER CLARK:** I don't understand how
16 the issue of ancillary services addresses what you
17 mean by "appropriately governed RTO," regional
18 transmission organization.

19 **MR. WRIGHT:** I think Joe is probably better
20 to respond. I just want to say it depends on what the
21 form of whatever transmission organization ultimately
22 winds up here. I think all this says is some
23 appropriately governed transmission organization, RTO,
24 ISO, a Transco or whatever, and that, as I think
25 everybody in this room knows, is pretty much up for

1 grabs. We have an ongoing workshop process in which a
2 proposal has been put forth; another proposal is
3 expected shortly and so on.

4 **COMMISSIONER CLARK:** We might be able to
5 short circuit this in the sense that I'm interested in
6 that question being answered from the standpoint of
7 what authority we have over EWGs with respect to
8 electric reliability needs in the state. It may have
9 answered a question -- a different question than I
10 think was asked.

11 **MR. GREEN:** I think EWGs, they have a
12 responsibility -- for voltage for reliability of the
13 overall grid, and you need a plant to run in a certain
14 location in the grid to maintain voltage, I think -- I
15 believe you would have the authority, or somebody has
16 the authority to --

17 **COMMISSIONER CLARK:** Tell them they will
18 run. Okay.

19 **MR. GREEN:** I believe that's -- my guess --

20 **COMMISSIONER DEASON:** Let me interject here
21 and see if there's disagreement with what I'm about to
22 say, and if there is, please let me know. But it's my
23 understanding that the decision we made is that your
24 project is going to be subject to the Grid Bill,
25 whatever Grid Bill authority that we have, and there's

1 maybe some question exactly what that authority is.
2 But whatever authority it is, you're subject to it
3 just like any other utility in the state. Do you
4 agree with that or disagree with that?

5 **MR. GREEN:** I believe, generally, that's
6 true. I'll let my counsel correct me. I don't know
7 where the ratemaking rulemaking part for
8 retail-serving customers, is that ratemaking authority
9 is out of it --

10 **COMMISSIONER DEASON:** That's not part of the
11 Grid Bill.

12 **MR. GREEN:** -- then all of the planning, the
13 Ten Year Site planning, the reliability, the emergency
14 situations, and I believe the need for reliability of
15 the grid, I believe that all falls under the Grid Bill
16 and we fall under that just like any other generator
17 in the state.

18 **COMMISSIONER CLARK:** Joe, is that also the
19 position of your clients?

20 **MR. McGLOTHLIN:** Let me just say that you
21 were right a minute ago when you said that this
22 response is answering a question different than the
23 one you're asking now. And it was the approach of the
24 group for purposes of the joint comments to suggest
25 that if the question was getting at emergency

1 situations, then we saw the appropriate vehicle to be
2 the appropriately governed regional transmission
3 organization, over which the Commission would have
4 some oversight role yet to be defined.

5 With respect to the second question, again
6 these are joint comments and the commenters -- not
7 everyone has been close to that case -- of course,
8 Reliant is aware of the outcome, but Reliant
9 individually has not studied -- is not prepared to
10 take a position on legal issues such as the extent of
11 authority.

12 **COMMISSIONER CLARK:** Under the Grid Bill.

13 **MR. MCGLOTHLIN:** Under the Grid Bill.

14 Our comments and approach to this workshop
15 were under the program of -- the Commission has
16 approved one applicant under the Siting Act. What are
17 those implications for future applications of Siting
18 Act? That was the tenor of our comments at this
19 point. Mr. Meyer has some input in the responses you
20 see there. And if you're interested in taking it up
21 in more detail either now or later, he's available to
22 talk to you about that.

23 **CHAIRMAN GARCIA:** Joe, I noticed -- did you
24 have a question?

25 **MR. CRESSE:** I was just going to ask

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