

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 981890-EU
:
Generic investigation into the:
aggregate electric utility :
reserve margins planned for :
Peninsular Florida :

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PROCEEDINGS: HEARING

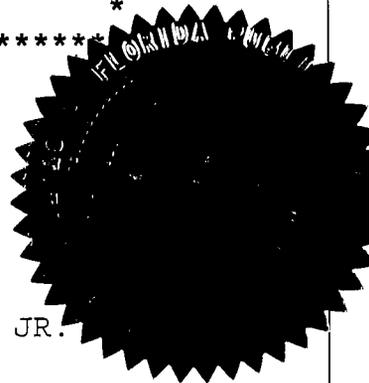
BEFORE: CHAIRMAN JOE GARCIA
COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER E. LEON JACOBS, JR.

DATE: Tuesday, November 2, 1999

TIME: Commenced at 9:30 a.m.
Concluded at 2:45 p.m.

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

REPORTED BY: KIMBERLY K. BERENS, CSR, RPR
FPSC Commission Reporter



DOCUMENT NUMBER - DATE

199825 NOV 10 99

FPSC REPORTING

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4 32302, appearing on behalf of **Tampa Electric Company**.

5 **JOSEPH A. McGLOTHLIN**, McWhirter, Reeves,
6 McGlothlin, Davidson, Dekker, Kaufman, Arnold & Steen,
7 117 South Gadsden Street, Tallahassee, Florida 32301,
8 appearing on behalf of **Reliant Energy Power**
9 **Generation**.

10 **VICKI GORDON KAUFMAN** and **JOHN MCWHIRTER**,
11 McWhirter, Reeves, McGlothlin, Davidson, Dekker,
12 Kaufman, Arnold & Steen, 117 South Gadsden Street,
13 Tallahassee, Florida 32301, appearing on behalf of the
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15 **GARY L. SASSO**, Carlton, Fields, Ward,
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17 St. Petersburg, Florida 33731, appearing on behalf of
18 **Florida Power Corporation**.

19 **MATTHEW M. CHILDS**, Steel, Hector & Davis,
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21 Florida 32301, appearing on behalf of **Florida Power &**
22 **Light Company**.

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1 **APPEARANCES CONTINUED:**

2 **DEBRA SWIM**, Legal Environmental Assistance
3 Foundation, 1115 North Gadsden Street Tallahassee,
4 Florida 32301, appearing on behalf of **Legal**
5 **Environmental Assistance Foundation (LEAF)**.

6 **ROY YOUNG**, Young, van Assenderp and
7 Varnadoe, P. A., P. O. Box 1833, Tallahassee, Florida
8 32302-1833, appearing on behalf of the **City of**
9 **Lakeland and Kissimmee Utility Authority**.

10 **PAUL SEXTON**, Thornton Williams & Associates,
11 215 South Monroe Street, Suite 600-A, Tallahassee,
12 Florida 32301, appearing on behalf of the **Florida**
13 **Reliability Coordinating Council, Inc.**

14 **JON C. MOYLE, JR.** Moyle, Flanigan, Katz,
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16 Tallahassee, Florida 32301, appearing on behalf of
17 **PG&E Generating Company**.

18 **ROBERT SHEFFEL WRIGHT**, Landers & Parsons,
19 310 West College Avenue, Tallahassee, Florida 32302,
20 appearing on behalf of **Duke Energy New Smyrna Beach**
21 **Power Company, Ltd., L.L.P.**

22 **FREDERICK M. BRYANT**, General Counsel,
23 Florida Municipal Power Agency, 2010 Delta Boulevard,
24 Tallahassee, Florida 32315, appearing on behalf of
25 **Florida Municipal Power Agency**.

1 **APPEARANCES CONTINUED:**

2 **THOMAS J. MAIDA, III**, Foley & Lardner, Post
3 Office Box 508, Tallahassee, Florida 32302, appearing
4 on behalf of **Seminole Electric Cooperative**.

5 **KENNETH A. HOFFMAN**, Rutledge, Ecenia,
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7 South Monroe Street, Suite 420, Tallahassee, Florida
8 32302-0551, appearing on behalf of the **City of**
9 **Tallahassee**.

10 **MICHAEL B. WEDNER**, Office of General
11 Counsel, 117 West Duval Street, Suite 480,
12 Jacksonville, Florida 32202, appearing on behalf of
13 **Jacksonville Electric Authority**.

14 **ROBERT V. ELIAS, GRACE JAYE and COCHRAN**
15 **KEATING**, FPSC Division of Legal Services, 2540 Shumard
16 Oak Boulevard, Tallahassee, Florida 32399-0850,
17 appearing on behalf of the **Florida Public Service**
18 **Commission**.

19 Also Appearing:

20 Bob Trapp, FPSC Commission Staff

21 Thomas Hernandez, Tampa Electric Company

22 Sam Waters, Florida Power Corporation

23 Vincent Dolan, Florida Power Corporation

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P R O C E E D I N G S

(Hearing Convened at 9:40 a.m.)

CHAIRMAN GARCIA: Good morning. We are --
counsel, will you please read the Notice.

MR. ELIAS: Notice issued by the Clerk of
the Florida Public Service Commission on September 22,
1999, advises that this time and place have been
reserved for hearing in Docket No. 981890. That is
the generic investigation into the aggregate electric
utility reserve margins planned for Peninsular
Florida.

CHAIRMAN GARCIA: We'll take appearances.
Start on the left and work our way.

MR. MAIDA: Tom Maida, Seminole Electric.

MR. SASSO: Gary Sasso, for Florida Power
Corporation.

MR. CHILDS: Matt Childs for Florida Power &
Light Company.

MR. BEASLEY: James D. Beasley and Leo
Willis for Tampa Electric Company.

MR. MOYLE: Jon Moyle, Junior from PG&E
Generating.

MS. SWIM: Deb Swim from LEAF.

MR. YOUNG: Roy Young representing
Kissimmee, Lakeland and OUC.

1 **MR. BRYANT:** Fred Bryant for the Florida
2 Municipal Power Agency.

3 **CHAIRMAN GARCIA:** Mr. McGlothlin, give me a
4 second.

5 **MR. SEXTON:** Paul Sexton with Thornton
6 Williams & Associates on behalf of FRCC.

7 **MR. MCGLOTHLIN:** Joe McGlothlin for Reliant
8 Energy Power Generation.

9 **MS. KAUFMAN:** John McWhirter and Vicki
10 Gordon Kaufman on behalf of the Florida Industrial
11 Power Users Group.

12 **MR. HOFFMAN:** Kenneth Hoffman for the City
13 of Tallahassee.

14 **MR. WRIGHT:** Robert Sheffel Wright on behalf
15 of Duke Energy New Smyrna Beach Power Company,
16 Limited, L.L.P, Duke Energy North America L.L.C., and
17 the Utilities Commission City of New Smyrna Beach,
18 Florida.

19 **MR. WEDNER:** Mike Wedner for JEA.

20 **MR. ELIAS:** And I'm Bob Elias with Grace
21 Jaye and Cochran Keating on behalf of the Commission
22 Staff.

23 **CHAIRMAN GARCIA:** Okay. Due to the fact
24 that we had a stipulation worked out apparently but --
25 from some of the parties here and other parties

1 haven't seen it, what Staff advised me is that we're
2 going to take an hour and a half break so that you can
3 talk with each other about this, make sure that we're
4 all on the same page on what we're agreeing with, and
5 then we will reconvene at which time the Commissioners
6 may have some questions about the stipulation and we
7 will go from there. So if everyone is amenable we are
8 going to take a recess for an hour and a half. Thank
9 you.

10 (Recess taken from 9:40 until 1:00 p.m.)

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12 **CHAIRMAN GARCIA:** All right. We'll get
13 started. I'll check with my counsel, but what I was
14 thinking of doing -- Bob, don't choke on me.

15 **MR. ELIAS:** I'm ready.

16 **CHAIRMAN GARCIA:** What I was going to do is
17 have the parties speak to the stipulation and then
18 listen to all of them. I assume that the IOUs will be
19 presenting this in one voice, and then the other
20 parties may have a problem or might want to agree to
21 this, and then we'll go from there. All right. And
22 then the Commissioners, I guess, can ask questions to
23 the presentation.

24 **MR. ELIAS:** After the other parties have had
25 their opportunity, we'd like to add a few remarks,

1 too, before --

2 **CHAIRMAN GARCIA:** That would be fine. Okay.
3 Who is going to speak for the IOUs?

4 **MR. SASSO:** I am, Mr. Chairman. Gary Sasso
5 on behalf of the IOUs. In this docket we have a
6 number of parties and a number of issues. A number of
7 issues have been identified in the prehearing order
8 and a number of issues have been put on the table by
9 parties even apart from that. Several of the parties
10 have filed testimony, and what has emerged, in our
11 view, is a central concern about a perception that
12 there have been declining reserves in Peninsular
13 Florida from historic eyes.

14 It's our perception that what led to the
15 opening of this docket, and certainly what's reflected
16 in the Staff's testimony, is the central concern of
17 this docket is that issue; declining reserves in
18 Peninsular Florida.

19 The Staff, in its testimony, attempted to
20 identify a number of issues which we believe to be
21 subsidiary to the central one and they proposed a
22 solution, sort of an overarching solution, which is a
23 20% reserve margin planning criterion for Peninsular
24 Florida.

25 In response, and in an effort to satisfy the

1 concerns that we believe underlie this proceeding, the
2 three IOUs of Peninsular Florida have stepped up to
3 the plate and have proposed that they voluntarily
4 adopt a 20% reserve margin planning criterion with a
5 four year transition period.

6 Specifically, we've presented a written
7 proposal, and let me read the two critical elements of
8 it.

9 One, the IOUs will voluntarily adopt a
10 minimum 20% reserve margin planning criterion
11 employing current methodology with a four year
12 transition period. We've now clarified that that
13 would take effect in the summer of 2004.

14 Two, consistent with long-standing
15 Commission practice, the generating capacity on which
16 the IOUs will rely to achieve and maintain these
17 reserves is generating capacity owned by the IOUs or
18 capacity for which there is a firm commitment to the
19 IOUs.

20 Staff has responded to this proposal by
21 providing a number of questions to clarify it and
22 we've attempted as best we can to provide a joint
23 written response to those questions and we've had a
24 discussion this morning about that and we believe
25 we've clarified the proposal.

1 Having said all that, it's evident that
2 there may well be some residual issues that certain
3 participants in this proceeding may feel aren't being
4 addressed by this proposal. And to that I would
5 reiterate that we're attempting, as we believe the
6 Staff attempted in its testimony, to address the core
7 concerns of the Commission and the Staff; cut to the
8 chase, so to speak, and bypass the controversy over
9 some of the subsidiary issues and the legal debate.

10 And we would also say that fundamentally
11 this is a Commission investigation. The Commission
12 initiated this investigation and the Commission can
13 conclude this investigation if the Commission is
14 satisfied that our proposal meets its central concern.

15 And that may leave some side issues that may
16 be serious issues in the Staff's mind or certain
17 participants' minds, but they can be addressed at
18 another time and perhaps in a superior forum. A forum
19 where the Staff, for example, would be able to
20 participate freely without being shackled by having
21 party status and so on.

22 So we offer our proposal as a good faith
23 effort to compromise on these issues and to restore
24 confidence on the part of the Commission and the
25 reserves in Peninsular Florida.

1 **CHAIRMAN GARCIA:** Very good. All right.
2 UNEs, are they going to be speaking with one voice
3 or --

4 **MR. YOUNG:** Mr. Chairman, maybe three or
5 four. I'm Roy Young representing Kissimmee, Lakeland
6 and Orlando. We have no objection to the proposal put
7 forth by the three investor-owned utilities as we
8 understand it and as we discussed it this morning with
9 Staff. It would apply to them and them only.

10 **CHAIRMAN GARCIA:** Bring the mike a little
11 bit closer.

12 **MR. YOUNG:** It would apply to just those
13 three and those three only, and with that
14 understanding, we certainly have no objection and if
15 the docket is closed and other issues come forward
16 that impact us, we'll participate in those dockets.

17 **CHAIRMAN GARCIA:** All right.

18 **MR. HOFFMAN:** Mr. Chairman, on behalf of the
19 City of Tallahassee, I can tell you I concur with
20 Mr. Young's comments.

21 **MR. BRYANT:** Mr. Chairman, on behalf of
22 Florida Municipal Power Agency, we also concur.

23 **CHAIRMAN GARCIA:** Okay.

24 **MR. MAIDA:** Mr. Chairman, Tom Maida,
25 Seminole Electric. We have no objection to the

1 proposal.

2 **CHAIRMAN GARCIA:** Very good.

3 **MR. WEDNER:** Mr. Chairman, JEA also concerns
4 with the comments.

5 **CHAIRMAN GARCIA:** Who do we have left? We
6 have FIPUG and LEAF. All right. And Mr. Moyle --

7 **MR. MOYLE:** PG&E.

8 **CHAIRMAN GARCIA:** Sheff, are you --

9 **MR. WRIGHT:** I represent Duke, but I'm just
10 kind of waiting until we come down the table.

11 **CHAIRMAN GARCIA:** All right. Very good.
12 Let's do that that way then in order. That puts you
13 up first, Mr. Moyle.

14 **MR. MOYLE:** Thank you. We had a chance to
15 gather up during the lunch break, myself on behalf of
16 PG&E Generating, Duke, Reliant, FIPUG, and I think IMC
17 Agrico -- they're not a party, but they were at our
18 meeting -- as well as Enron. And Ms. Kaufman is
19 authorized to make a general proposition on behalf of
20 us, so if I could, I would defer to her.

21 **CHAIRMAN GARCIA:** Very good. We will go to
22 Ms. Swim.

23 **MS. SWIM:** Commissioners, LEAF has put forth
24 a proposal that would satisfy our concerns in this
25 docket. From our perspective what's at issue here is

1 how to provide an adequate margin of safety for the
2 state, and in looking at that we think that
3 distributed resources, both generation and demand side
4 resources, are an important thing to become better
5 informed about. We think there's evidence and have
6 provided testimony that shows indications that these
7 resources can be less expensive than central
8 generation.

9 And we've basically proposed that we would
10 state no objection to the settlement that's been
11 proposed so long as there was agreement to have the
12 Commission become better informed about distributed
13 resources, both demand and supply side through an
14 informal investigation that basically reviews their
15 costs and benefits and looks at what appropriate role
16 they might have in utility planning, including asking
17 the regulatory assistance project to conduct free
18 in-house workshops on distributed resources for the
19 Commission and interested parties.

20 **CHAIRMAN GARCIA:** Is there any problem with
21 that?

22 **MR. SASSO:** No. As we understand it LEAF is
23 proposing that the Commission -- Commission or the
24 Commission Staff pursue this matter informally. We
25 have no objection to that.

1 **CHAIRMAN GARCIA:** Staff doesn't have a
2 problem with that?

3 **COMMISSIONER CLARK:** I would appreciate it
4 if, at all possible, that could be at a time where
5 Commissioners could attend, too. I would like to see
6 a workshop.

7 **CHAIRMAN GARCIA:** Great.

8 **MS. SWIM:** Certainly try to do that. Thanks
9 for your interest.

10 **CHAIRMAN GARCIA:** Okay. Good.
11 Mr. McGlothlin.

12 **MR. MCGLOTHLIN:** I do have some brief
13 comments on behalf of Reliant Energy, but I think the
14 logical sequence would put me after the joint comments
15 that Ms. Kaufman is going to make.

16 **CHAIRMAN GARCIA:** Ms. Kaufman.

17 **MS. KAUFMAN:** Thank you, Mr. Chairman. As
18 Mr. Moyle said, at lunch some of the parties to this
19 proceeding got together and discussed the progress of
20 events and how we got to where we are. And I think it
21 may be helpful just to take a minute to review that
22 and I want to start out by saying that the proposal
23 that's before you from the three IOUs was not served
24 on any of the other parties to this case. We received
25 it after requesting it from Staff and we got it late

1 Friday.

2 And that kind of brings me to my procedural
3 point, and it's a segue from what Mr. Sasso said which
4 is that this Commission opened the docket and this
5 Commission can close the docket.

6 I want to remind you all, and I know you're
7 well aware of it, that, for example, FIPUG was granted
8 over the vigorous objection of the utilities,
9 intervenor status in this case, as was PG&E, as was
10 Duke.

11 I won't take you through the series of
12 orders that you're all familiar with; reconsideration,
13 denial of the motion to bifurcate; granting of FIPUG's
14 numerous motions to compel in which you reiterated our
15 party status and that we have all the rights of any
16 party to a proceeding.

17 That being said, it would seem to us that
18 you cannot unilaterally accept what I would not call a
19 stipulation, but I would call a proposal from a few of
20 the parties to this docket. There are a number of
21 issues that have been raised here. They effect the
22 substantial interests of the intervenors to this
23 docket.

24 That said, we certainly welcome the ability
25 to try to reach a settlement, an agreement, among all

1 the parties. We are very far from that at this point
2 in time, at least from FIPUG and Duke and PG&E's
3 perspective.

4 So we have a proposal to make to you that we
5 think might help move this process along. That is, as
6 I said, the utilities have unilaterally proffered a
7 proposal and we would like the opportunity to proffer
8 a proposed stipulation as well.

9 We would propose to do that in two weeks by
10 November 17th. We would then propose that the date of
11 November 29th, which I understand has been tentatively
12 set aside to convene this hearing if agreement is not
13 reached. We would suggest that that day be used for
14 all the parties to convene to discuss our stipulation,
15 to continue to discuss the utilities' stipulation and
16 to see if we can reach an agreement among all the
17 parties.

18 We would further suggest that we report back
19 to you on our progress at your December internal
20 affairs meeting. And we would last ask that you
21 select some new hearing dates after the first of the
22 year, perhaps in the spring, and just hold them in
23 reserve, no pun intended, for this matter in case we
24 cannot reach agreement.

25 We feel like we have been left out of the

1 process in terms of the proposal that has been made to
2 you and we would certainly like the opportunity to
3 provide you with our thoughts.

4 FIPUG has, at the meeting this morning,
5 distributed a list of its concerns, but we've had very
6 little time to work on it and we would like that
7 opportunity. So on behalf of PG&E and Duke and FIPUG,
8 that would be our proposal to you as to how we go
9 forward.

10 **CHAIRMAN GARCIA:** Okay.

11 **COMMISSIONER DEASON:** I have a question
12 about that process. Ms. Kaufman, I take it from your
13 comments that you are concerned that, first of all,
14 the Commission does not -- in your opinion, does not
15 have the authority to unilaterally accept this
16 proposal, and if we were to do so, it would be a
17 violation of your due process right?

18 **MS. KAUFMAN:** Well, Mr. Chairman, I think
19 since you have granted us and other parties intervenor
20 status and through that determination found that we
21 are substantially effected by the issues in this
22 docket, and since we have not gone to hearing yet, it
23 would be our position that unless all the parties can
24 come to a joint agreement, that yes, that would be the
25 case.

1 Now, if you were to issue some sort of an
2 order without having a hearing, I'm assuming it would
3 have to be issued as a PAA and then any parties that
4 were substantially effected by that would have the
5 opportunity to protest it, and then there would be a
6 hearing at any rate.

7 **COMMISSIONER DEASON:** And your proposal to
8 give you until the 29th to present your own proposal
9 and then have a report to the Commission in December
10 with the possibility of hearings in the future, that
11 process that you lay out, that is in hopes of having
12 all parties agree so that there is a stipulation among
13 all parties?

14 **MS. KAUFMAN:** Yes, Mr. Deason. I think I
15 said we would provide our proposal November 17th, in
16 two weeks, give the other parties some opportunity to
17 look it over and think about it, and then everyone
18 would meet. And yes, that would be with the hope that
19 all the parties could present to you a true
20 stipulation to resolve this docket.

21 **COMMISSIONER DEASON:** I'm sorry. That was
22 on the 17th that you would make the proposal.

23 **MS. KAUFMAN:** Yes, sir.

24 **COMMISSIONER DEASON:** If we go through that
25 process and there is not agreement among the parties,

1 where do we find ourselves at that point?

2 **MS. KAUFMAN:** Well, that was the last part
3 of what I said. We would ask that you go ahead now
4 and reserve some hearing dates in the future so that
5 we've got this salted away, and if there is not
6 agreement among all the parties, you would proceed to
7 hearing just as would have happened today if we hadn't
8 received this last minute offer.

9 **COMMISSIONER DEASON:** I'm going to want to
10 hear from our Staff at some point about the
11 legality -- the legal question of what our authority
12 is in this investigation and that can wait until the
13 parties --

14 **CHAIRMAN GARCIA:** Okay. I do believe though
15 that, that's it, right? Unless people want to --
16 everyone is fine. We're going to hear from Staff.

17 **MR. MCGLOTHLIN:** I did want to make some
18 brief comments separately for Reliant Energy and I
19 asked to do this individually in part because Reliant
20 Energy has had a very focused objective in
21 participating in this docket.

22 We aren't an intervenor. We have party
23 status and have sponsored testimony addressing one of
24 the issues which asks should there be a maximum
25 reserve margin. And our position in the case is that

1 any standard -- reserve margin standard should be a
2 minimum, not a maximum.

3 But we also believe that just as wholesale
4 competition should not be adversely effected by the
5 adjudication of those issues, such as Issue 16 that we
6 addressed, nor should wholesale competition be
7 disadvantaged by any type of unilateral settlement
8 offer. And so we have some questions that we raised
9 during the break and during the discussion with the
10 IOUs concerning whether the proposal was designed, for
11 instance, to advantage an IOU with respect to seeking
12 a waiver of the bid rule or some understanding that by
13 accepting the higher standard of 20%, there's some
14 presumption that the IOU gets to bill what it's
15 offered to take. And we think it's important that any
16 resolution of this case, whether by adjudication or by
17 settlement, be carefully crafted so as not to
18 advantage one party or disadvantage another.

19 And as a party to the proceeding, we would
20 expect that to happen through a stipulation of all
21 parties as opposed to an acknowledgement of the
22 unilateral suggestion.

23 **COMMISSIONER DEASON:** Mr. McGlothlin, is
24 there any particular language in the proposed
25 settlement or the proposal before us which would

1 indicate that there is any preference being granted or
2 any anticipation that they're going to be waivers of
3 the bid rule granted because of this change in
4 criterion?

5 **MR. MCGLOTHLIN:** Well, I think the way that
6 I feel is that the absence of language spelling out
7 that there is no such event and I would like to see
8 language to that effect so that there is no
9 misunderstanding possible.

10 **CHAIRMAN GARCIA:** I don't think you could
11 get -- and clearly, we're not going to give away, I
12 guess, our right to react in a certain circumstance
13 that may require a waiver of some process to meet the
14 needs in Florida. But, I think it's understood, at
15 least the way it's been presented to me by Staff, that
16 this is a minimum, not a maximum, correct?

17 All right. Okay. Is there anyone else who
18 wants to -- yes.

19 **MR. MOYLE:** Just a couple of brief comments,
20 if I could, on behalf of PG&E. You know, we have just
21 gotten a lot of information here in the last couple of
22 days and it's very difficult to digest everything that
23 has been put on the table in such a short time frame
24 and then ask to make a decision.

25 You know, FP&L, I guess, on behalf of all

1 the utilities, just this morning provided their
2 responses to the Staff questions.

3 Mr. Chairman, I think at the outset you had
4 suggested that this was a stipulation. Most of the
5 cases I've been involved with with respect to parties
6 stipulating, there's back and forth, there's
7 negotiation, there's discussion, and a conclusion and
8 decision and agreement is reached. I don't feel that
9 there's been an adequate opportunity for that type of
10 a dialogue to occur.

11 But that being said, I do appreciate the
12 fact that if there can be some type of a resolution
13 short of a hearing and spending the resources, that we
14 ought to give that an opportunity to take place, which
15 is why I think it's a constructive proposal that we do
16 be afforded the chance to sit down with the parties to
17 this case and have that back and forth dialogue that
18 stipulations usually entail.

19 So on behalf of PG&E, we are still -- I
20 faxed documents up this morning to have some review of
21 it and it's just a difficult position for a lawyer to
22 have to make, you know, judgments on such short time
23 frames.

24 **MR. SASSO:** Would it be appropriate for me
25 to offer some clarifying remarks at this time?

1 **CHAIRMAN GARCIA:** Yes. Go ahead.

2 **MR. SASSO:** I just want to make clear that
3 what we're proposing is intended to be very simple and
4 that is, that the three IOUs are voluntarily adopting
5 a 20% planning criterion in lieu of their current 15%
6 planning criterion.

7 We are not asking the Commission to impose
8 any relief upon us or anyone else in this proceeding,
9 and therefore, we are not asking the Commission to
10 take any action that will effect or prejudice the
11 substantial interests of any participant in this
12 proceeding.

13 None of these other parties, PG&E, FIPUG,
14 et cetera, have petitioned for any relief. They have
15 intervened in this investigation, but they have not
16 affirmatively sought any relief. If the Commission
17 simply agreed to close this investigation in view of
18 the willingness of the three IOUs to make this
19 voluntary adjustment to their reserve margin
20 criterion, that would not prejudice the rights of any
21 of these participants to petition for whatever relief
22 they felt was appropriate in some other proceeding or
23 to pursue their interests in some other way. But we
24 are not asking this Commission to enter any order that
25 effects the substantial interests of any party.

1 We're simply asking the Commission to
2 consider whether our voluntary proposal meets the
3 concerns of the Commission and the Staff, and
4 therefore, would provide a basis to close the
5 investigation.

6 **CHAIRMAN GARCIA:** Okay. Bob.

7 **MR. ELIAS:** Commissioners, we find ourselves
8 in the rather atypical position of assuming an
9 advocacy role in this proceeding and charged with
10 representing the public interest, and we think we're
11 fighting the good fight. There are advisory staff
12 assigned to the docket to fulfill that function.

13 From our perspective, as an advocate, we
14 believe the agreement should be approved or the
15 proposal should be approved. It satisfies most, but
16 not all of our concerns, but we fully recognize that
17 this is a compromise resolution.

18 There were some clarifications made this
19 morning that I just want to repeat to make sure that
20 it's understood by everybody what the basis for our
21 position is.

22 The first is that this applies only to the
23 three Peninsular Florida generating utilities.
24 Mr. Sasso is correct. Our underlying concern has been
25 the adequacy of the reserve margins in this state.

1 Those three utilities that have agreed to adopt a 20%
2 reserve margin compromise approximately 80% of the
3 Peninsular Florida load. If the other 20% of the load
4 remains at a 15% reserve margin, by simple math the
5 Peninsula has a 19% reserve margin, and that's a
6 minimum criteria, and in the real world it's seldom
7 that all the utilities are operating at the minimum.

8 Beginning with the plan, the ten year site
9 plans filed in April of 2000, these three utilities,
10 will demonstrate a 20% reserve margin by summer 2004,
11 and each season thereafter.

12 The Commission's determination of the
13 suitability or unsuitability of any Ten Year Site Plan
14 is not prejudged by this proposal. As is -- and that
15 goes to any other action that the Commission
16 subsequently deems -- determines is appropriate with
17 respect to this whole subject area of adequacy of
18 planning and how the state's energy needs are going to
19 be met.

20 There is pending before the Division of
21 Administrative Hearings a challenge to one of the
22 rules that's the basis of our -- of this proceeding.
23 The investor-owned utilities have indicated that
24 they're not going to, as part of this agreement,
25 withdraw that rule challenge. There is a pending

1 motion to dismiss that we filed which is -- the
2 Administrative Law Judge has indicated is going to be
3 ruled on this week.

4 **COMMISSIONER CLARK:** I'm sorry. What rule
5 have they challenged?

6 **MR. ELIAS:** 2522.036(3) which is the rule
7 that says the Commission may initiate a proceeding on
8 its own motion by filing -- you know, issuing a notice
9 and setting the proceeding.

10 **COMMISSIONER CLARK:** Okay.

11 **MR. ELIAS:** If that motion is not granted
12 the investor-owned utilities have agreed to a
13 continuance for a time certain for us to sit down and
14 see if we can come to some kind of resolution of that
15 issue.

16 I want to take just a minute to speak to
17 some of the procedural issues that have been raised
18 here. This is a Commission initiated action. There
19 is no affirmative request for relief that's been filed
20 by any party. This is an agreed to resolution, which
21 we believe has no impact on the substantial interests
22 of the other parties. This is Florida Power
23 Corporation, Florida Power & Light Company and Tampa
24 Electric Company committing to do something on a
25 voluntarily basis that impacts their particular

1 situation.

2 Therefore, we, position as advocates,
3 believe it's appropriate to accept the proposal, close
4 the docket, and issue the result as final agency
5 action.

6 There are a couple of other issues that were
7 raised and were discussed briefly that need further
8 actions. Specifically -- or need further
9 investigation at least.

10 Specifically is the question of distributed
11 generation. We're going to work with Ms. Swim to
12 schedule a workshop as soon as practicable to explore
13 that area, and we will coordinate that with your
14 calendar so that you can be there if you desire.

15 The question of the nonfirm load and the
16 customers taking under interruptible rates is
17 something else that we need to look at and we welcome
18 proposals from Mr. McWhirter and FIPUG as to what the
19 best and fastest way to proceed on that is.

20 **CHAIRMAN GARCIA:** I guess -- I would even
21 like to have a more formalized proceeding in terms of
22 looking at that. In other words, having, to some
23 degree, perhaps actual customer hearings to get a
24 feeling for what's out there, to get an understanding
25 of what this problem is. And Mr. McWhirter is a

1 wonderful advocate, but I'd like to see the reality
2 and the effect that this is having, both from our
3 planning side and what effects that has for us, as
4 well as from the user side and what effects these
5 interruptibles -- what effect being interrupted has on
6 them besides the lights going on.

7 **MR. ELIAS:** And we can certainly do that.
8 That's certainly well within the realm of possibility.

9 And then the third issue, and this is one of
10 the questions that we posed, is we have voiced some
11 concerns over the way that unit capacity is rated.
12 And there is currently undergoing a Staff audit to
13 determine the appropriateness of the methodologies
14 that the utilities are employing.

15 **CHAIRMAN GARCIA:** Is this -- would this be
16 something better suited for the FRCC to report to us?

17 **MR. ELIAS:** I don't think so. I mean, I
18 think this is something that we need to make our own
19 independent determination as to whether or not what
20 they're doing is appropriate and based on the results
21 of that audit, see if we need to initiate a rulemaking
22 docket, have a workshop, however we -- you know, we
23 can find best to proceed, but what we first need to do
24 is wait and see what the audit says.

25 **CHAIRMAN GARCIA:** Okay.

1 **MR. ELIAS:** Obviously, we're reacting as
2 everyone else is to the proposal that FIPUG put on the
3 table just now. And we have two comments.

4 One that is delay is not in our minds
5 advantageous. If we do not proceed to hearing on this
6 docket until sometime in the spring that means that
7 we'll have another round of ten year site plans filed
8 using existing criteria which, for the time being, is
9 15%, and we'll be that much delayed in terms of
10 bringing the state to a sufficient -- what we believe
11 is a sufficient reserve position.

12 The more general concerns with nonfirm load
13 that have been -- were raised by FIPUG in the list of
14 conditions that they put forth during the discussion
15 this morning we don't think are covered by the
16 evidence that's been prefiled in this case. And we
17 don't think that they're covered sufficiently by the
18 issues to grant them the relief that's sought in these
19 particular points. So we're not sure what a delay
20 might serve; what purpose it will serve. And that's
21 all we have to say.

22 **CHAIRMAN GARCIA:** Let's do this. I don't
23 want to get into it back and forth here. I do want to
24 hear -- I'm sure Commissioners will, but Commissioners
25 may have some questions. Let's take those questions

1 and then we'll decide from there. All right.

2 **COMMISSIONER CLARK:** On what basis were the
3 other parties granted status? That their substantial
4 interests were effected?

5 **MR. ELIAS:** Yes. But remember there are
6 issues in this case that are not reached by this
7 resolution that were identified as part of this case
8 that are not touched on by this resolution.

9 **COMMISSIONER JACOBS:** Does your
10 recommendation include closing the docket?

11 **MR. ELIAS:** Yes.

12 **COMMISSIONER JACOBS:** So how do -- those
13 issues will go unresolved, I assume?

14 **MR. ELIAS:** And if anyone feels the need and
15 the right, they can file a complaint, petition to
16 initiate rulemaking or some other affirmative request
17 for relief with the Commission. There is nothing
18 pending before the Commission from some party who
19 claims that their substantial interests are adversely
20 effected by the current situation. And those issues,
21 you know, at least as they've been identified here and
22 discussed today, I don't believe are fully addressed
23 in the issues that are in this case either.

24 **COMMISSIONER JACOBS:** I had a couple of
25 questions. The stipulation reads that -- that the 20%

1 reserve margin would employ current methodologies, and
2 the second point says that consistent with
3 long-standing Commission practice, generating capacity
4 will rely -- the IOUs are allowed to achieve that
5 these are areas where there is firm commitment to the
6 IOUs. And the concerns raised by Staff initially --
7 and there were a couple of issues that I wanted to see
8 how we anticipate this agreement would address those.
9 Probably the most important one would be that issue of
10 quantifying QF capacity. As I understood the issue
11 that was raised in Staff's testimony, is that when you
12 calculate a reserve margin you want to be sure of what
13 really is committed in terms of that kind of a
14 purchase.

15 Do we anticipate looking at the conduct
16 under these agreements and ensuring that your concerns
17 are addressed or will the parties basically have the
18 opportunity to either go ahead and pursue them as they
19 normally would, and then you come in and audit that or
20 review that? How is this going to happen?

21 **MR. TRAPP:** My understanding of the
22 stipulation is that the Staff is free to continue to
23 pursue issues of counting and identification of
24 capacity resources in the state and we are free in the
25 ten year site plan process to recommend to the

1 Commissioners how that counting should take place and
2 the Commission is further free then to voice an
3 opinion in the annual report that we do in the ten
4 year siting process about QF capacity or other
5 uncommitted resources that may exist in the state, how
6 they should be addressed with respect to statewide
7 peninsular reserves, how they should be addressed from
8 an individual utility basis.

9 So I think we're free to continue to pursue
10 those issues and do it in the ten year site planning
11 process, which at least from a technical staff
12 standpoint we tend to prefer because it's an
13 opportunity for more open exchange between the
14 technical staff and the industry. It's only in these
15 rare instances where we, I guess, agree to disagree
16 that things become formalized and docketized and what
17 have you, to the point that we have to knock heads
18 like we have gotten in this docket.

19 I, for one, am hopeful that -- and in
20 talking to members of the industry, I think FRCC
21 recognizes that there are changes that are going on
22 with respect to capacity markets, wholesale markets,
23 uncommitted capacity. They're beginning to recognize
24 that they're going to have to take those into account
25 in some form or fashion. I would hope the individual

1 utilities are realizing that too and we can continue
2 our dialogue on those issues.

3 To the point that we reach loggerhead again,
4 again the stipulation does not restrain the Commission
5 with respect to our ability to open a grid bill
6 docket, open a rulemaking, or take whatever action is
7 legal and proper.

8 **COMMISSIONER JACOBS:** And that takes me to
9 my next question. The agreement calls for a minimum
10 of 20%. I took it by the analysis that you gave as to
11 how bad it had to do with whether or not all parties
12 are in agreement, but it sounds like there is a zone,
13 whether 19 to 20 or 20 to 21, where Staff might look
14 at this agreement and determine that, i.e., it's not a
15 full 20% margin at that moment in time, but given
16 circumstances, a 19% reserve at that point in time
17 would be sufficient.

18 Is that how you consider conducting that
19 type of a review or is it really that it's going to be
20 always a minimum of 20% in any period in time?

21 **MR. TRAPP:** Had I had the opportunity to
22 testify I think one of the messages that I would want
23 to impress upon the Commission is that planning is a
24 very dynamic process. Planning involves utilization
25 of many tools. One of which -- only one of which is

1 the reserve margin criteria. And that the bottom line
2 is you use the tools to reinforce the most important
3 part of planning, the final judgment that has to be
4 made. And it is simply that, a judgment; what makes
5 you feel most comfortable that the lights will remain
6 on in the State of Florida.

7 Now, 20% is being recommended as a minimum
8 criteria for purposes of planning for these three
9 investor-owned utilities, and I believe that that is a
10 number we should aspire to. There may be
11 circumstances, there may be reasons, there may be
12 justifications that you can go a little bit below or
13 above or whatever -- I guess I should say below that
14 number.

15 So, again, it comes down to basic judgment.
16 If you've got 19% and no time to put additional
17 resources on, then you may be stuck with 19%. There
18 are other operational considerations that many of the
19 witnesses testified to in this case and Staff would
20 agree with a lot of the testimony that was presented
21 in the case.

22 We feel comfortable with the stipulation
23 that these three investor-owned utilities have put
24 before us and are looking forward to working with them
25 as well as the municipal and cooperative utility

1 groups, LEAF and the other parties to this case, to
2 ensure that the lights do stay on in Florida.

3 **COMMISSIONER JACOBS:** One final question.
4 Again, one of the concerns you raised had to do with
5 this trend of the utilization factors rising in
6 off-peak hours, or off-peak periods, and most
7 specifically, during times of maintenance. I would
8 expect that the parties are anticipating proceeding as
9 they normally would in terms of the maintenance
10 procedure and so forth. What I would suggest,
11 however, is that we're going to continue the other
12 issues, investigation. I would very specifically like
13 to look at what we may want to explore in term of
14 practices that -- how we do it through the Ten Year
15 Site Plan, how -- it doesn't really matter. But I
16 think we ought to consider what measures may be
17 effective in looking at these periods where -- and I
18 admit they're unexpected. Normally you wouldn't
19 expect those kind of events to occur. But I think we
20 ought to at least address those issues and what
21 practices might be effective in that.

22 **MR. TRAPP:** If I could respond just briefly
23 from a Staff perspective. I agree with you that that
24 remains and area of concern from the Staff's
25 perspective and I'm happy to report that there are two

1 aspects to this. There's the operational aspect,
2 which is how do you deal with the capacity you have on
3 hand to respond to circumstances. And then there is
4 the planning side of it, which is how do you plan the
5 appropriate amount of capacity to make sure the
6 operators have something on hand to deal with.

7 And I am aware that from an operational
8 standpoint the FRCC is discussing some of the
9 experiences that we've had in Florida with respect to
10 shortages during off-peak -- what are normally
11 considered off-peak periods in which maintenance is
12 taking place. They are looking at enhanced
13 maintenance schedules, enhanced maintenance
14 coordination. I think in terms of this docket, what
15 we had hoped to bring to the Commission was the need
16 for planners also to make sure there is a line of
17 communication between the operations side of the
18 business and the planning side of the business to
19 ensure that enough resources are being planned out
20 there so that the operators have something to work
21 with.

22 Again, we feel more comfortable with this
23 stipulation now, the 20% level for the three main
24 investor-owned utilities, than we did going into the
25 hearing process where reserves were less than that.

1 Again, some of the -- to some degree an
2 issue in this case has been the number 15. I would
3 remind you that the actual reserves in the state that
4 I showed in an exhibit in my testimony are actually
5 well above 15%. Part of the concern Staff had from a
6 policy aspect was if the Commission were to endorse
7 and codify 15% as a minimum planning criterion, that
8 might be misinterpreted by the planners and we would
9 migrate to a 15% actual reserve. That certainly was
10 not our desire and it's part of our worry. Our
11 current reserves on the books for the next ten year
12 period appear to be in the low of 17%, but fall in the
13 18%, 19%, 20% range.

14 We selected the 20% number because we felt
15 that that would give us the most comfort that the
16 state would be able to deal with emergencies and we
17 felt that that was a number that historically had been
18 borne out as adequate for the state.

19 I think as Bob has suggested, the parties to
20 this stipulation represent the large majority of the
21 load in the state and it puts us -- even if the others
22 were at 15, which they're not, the MUNEs and co-ops,
23 quite frankly, some of them are above 20, puts us very
24 close to that 20% range.

25 **CHAIRMAN GARCIA:** Okay.

1 **COMMISSIONER CLARK:** I have a question.
2 Does this mean that demand side management and
3 interruptibles would not be included in the 20% for
4 these three investor-owned utilities?

5 **MR. SASSO:** No. The demand side is taken
6 out of load before reserve margin is calculated. That
7 would remain the same. We would continue to pursue
8 demand side practices.

9 **COMMISSIONER CLARK:** I guess I'm just not
10 clear. For some utilities, as I recall, their margin
11 of reserve included demand side interruptibles to
12 customers on load control. FPC comes to mind,
13 frankly.

14 Are you no longer going to include those
15 kind of numbers in your reserve margin so all your
16 reserve margin is going to be generating or firm
17 capacity that you've contracted for?

18 **MR. SASSO:** There -- I'm struggling a little
19 bit with your question. Our demand side management
20 programs are outside of the firm reserves. There is
21 voltage regulation for winter, but that's it.

22 **COMMISSIONER CLARK:** Nope. I know you had
23 it in there for your margin of reserve.

24 **MR. SASSO:** Mr. Dolan will try.

25 **COMMISSIONER CLARK:** Okay.

1 **MR. DOLAN:** Commissioner Clark, I think
2 we're mixing two issues here. When we calculate
3 reserve margin we take our firm capacity and calculate
4 15% above that. Whether or not -- I mean to the
5 extent that, you know, how nonfirm matches up with
6 our -- how we calculate reserve margin I think are two
7 different calculations.

8 Now, I would say that in our current filed
9 site plan, our dependence on nonfirm, we show it as
10 declining, and also with this capacity addition I
11 think that changes the situation in two ways in a
12 positive way.

13 **COMMISSIONER CLARK:** Isn't there an issue in
14 here about how much demand side should -- I guess
15 it's -- let me see. Issue 11.

16 **MR. SASSO:** Commissioner Clark, I think
17 there is some confusion that arises out of the usage
18 of terms. Some parties refer to the --

19 **COMMISSIONER CLARK:** Issue 12, actually.

20 **MR. SASSO:** Some parties refer to the
21 practices involving demand side management as what
22 percentage of reserves are accounted for by nonfirm
23 load, but that is really a misnomer because the
24 utilities don't calculate reserve margins using
25 nonfirm resources. What they do is they take nonfirm

1 load out of load and determine reserve margins based
2 on firm load. And some participants in this
3 proceeding refer to that in shorthand. They refer to
4 the relationship between nonfirm load and -- or
5 nonfirm resources and reserve margin as what
6 percentage of reserves are accounted for by demand
7 side management. But that is a misnomer.

8 They're talking about a relationship, but
9 it's not the one that is directly indicated by that
10 phraseology. The phraseology is inaccurate.

11 **MR. TRAPP:** Staff would concur with that,
12 Commissioner Clark. There is confusion between the
13 word reserves and the term reserve margin. We have
14 perhaps erroneously misled you by saying that nonfirm
15 demand is part of the reserves in the sense that
16 nonfirm demand is utilized in order to keep firm
17 demand from being interrupted. But in the purest
18 technical sense a reserve margin is a calculation that
19 is done after you deduct the nonfirm load from firm
20 load -- from total load in order to determine what
21 real capacity is left over to serve as a reserve
22 margin.

23 **COMMISSIONER CLARK:** So the thought is you
24 would take --

25 **MR. TRAPP:** That's part of the concerns that

1 Bob Elias addressed was that one of the issues in this
2 case that had to do with the nonfirm relationship
3 percentage or contribution to the reliability of the
4 state is an issue that in my mind -- I know in my
5 testimony I did not address on it strongly. I just
6 recommended that it need to be pursued further.

7 And I think that's what we're recognizing
8 that the stipulation does not address it and that we
9 do recognize that we need to address it further and
10 are, therefore, willing to go forward in a more formal
11 or informal way to continue the dialogue on that
12 issue.

13 **COMMISSIONER CLARK:** You're saying that
14 under this proposal, nonfirm load would not make a
15 contribution to the margin of reserve.

16 **MR. TRAPP:** Well, the nonfirm load would be
17 deducted from the total load in order to determine the
18 firm load for which a reserve margin of 20% for these
19 three utilities would be carried.

20 **COMMISSIONER CLARK:** So it's just taken out
21 of the equation. Is that cost effective to do? I
22 recall that we made some changes to the tariffs for
23 those nonfirm customers so it was clear that they
24 would act like generating capacity.

25 **MR. TRAPP:** And one of the issues I think I

1 touched on that needed pursuit -- further pursuit, was
2 whether or not the full economics of that nonfirm
3 treatment had been considered in the programs where
4 the conservation approval process, where they were
5 approved. It occurs to Staff that if you truly treat
6 them like a peaking unit, there may be some lost
7 revenue sales associated that with the calculation,
8 because if you had a peaking unit out there, a real
9 live generating machine, and you had an opportunity to
10 make sales out of it when someone else needed it, you
11 would make those sales and you would derive some
12 revenue from that. Whether or not that has been
13 considered in the cost-effectiveness calculation of
14 load management, which at least Staff perceives is
15 more constrained with respect to making off-system
16 sales, we're not sure that had been totally included
17 in the calculation and maybe should be in order to get
18 a better approximation or apples to apples comparison
19 of a peaking unit versus a load management process.

20 **COMMISSIONER CLARK:** But that --

21 **MR. TRAPP:** My point being, that's an issue
22 that we think we should continue to pursue. We think
23 we can pursue it outside of this docket because,
24 again, even in my testimony I didn't touch on it
25 strongly.

1 **COMMISSIONER CLARK:** And it might effect the
2 20%. It might effect whether you think 20% is a good
3 idea to maintain.

4 **MR. TRAPP:** It could.

5 **COMMISSIONER DEASON:** Let me clarify this.
6 It could effect in the long-term how much firm demand
7 you have. Depending on how you price interruptible
8 service you may have more people wanting it and more
9 people wanting to get off and some of that load
10 becoming firm, but it doesn't change the reserve
11 margin criterion in that it's 20%. The question is,
12 are you changing the other side of that equation or
13 the other factor in that equation. That is, how much
14 firm demand do you have upon which 20% is applied to
15 determine how much reserve margin you want to plan
16 for. Is that correct?

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

18 **COMMISSIONER CLARK:** So that it would -- it
19 might effect whether or not you think 20% is
20 cost-effective or some other percent is
21 cost-effective?

22 **MR. TRAPP:** That is correct.

23 **MR. BALLINGER:** One other thing while we're
24 on this topic. Tampa Electric, in its testimony,
25 proposed to adopt of its reserve margin criteria,

1 whatever it is -- 7% of that would be capacity; would
2 actually be machine related. That was under the
3 current 15%. So roughly half would be machine, half
4 would be nonfirm load to make up its total reserve
5 margin. Tampa Electric is still maintaining to keep
6 that 7% capacity reserve margin even though they've
7 moved up to a 20% total reserve margin.

8 **MR. TRAPP:** These issues, again,
9 Commissioners, we intend to pursue -- continue to
10 pursue in the ten year site plan process, review
11 process. We have a report that I think is due by the
12 end of this year. They'll be filing again next year's
13 plan in April. We'll have to review that. Staff
14 consistently asks for cost information in that
15 proceeding.

16 You know, quite honestly, I believe that the
17 cost-effectiveness issue was very lightly touched on
18 in this docket so far and we hope to develop it
19 further in our ten year site plan review process.
20 Quite frankly, I haven't seen cost justification for
21 the 15.

22 **COMMISSIONER JACOBS:** Would there be a
23 review in your review of the 20%? Would you look at
24 the extent to which there may be a disproportionate
25 reliance on nonfirm in coming up with what capacity

1 you're going to apply your 20% to?

2 **MR. TRAPP:** I think, Commissioner Jacobs, we
3 will continue to voice an opinion on that, the
4 strength of which is dependent upon the data that
5 we're able to gather from the utilities and the
6 discussions we're able to have with them. But
7 additional focused look at this issue may be
8 warranted. And I think that's what we're
9 contemplating here by suggesting that we continue to
10 look at that as a focused issue.

11 **COMMISSIONER JACOBS:** Then that, of course,
12 leads me to the next question. When is 20% really
13 20%?

14 **MR. TRAPP:** Well, these are all
15 calculational methodologies, and again, they're tools
16 that you use --

17 **COMMISSIONER JACOBS:** Let me --

18 **MR. TRAPP:** -- to make a judgment.

19 **COMMISSIONER JACOBS:** I was somewhat
20 facetious. And this really goes back to the answer
21 that you gave me earlier on where you said at the
22 moment that you look down the brass tacks as opposed
23 to whether or not 19.5 is okay or 20.5 or 22 is okay,
24 it's a judgment call.

25 **MR. TRAPP:** Yes, sir.

1 **COMMISSIONER JACOBS:** And my -- I'm
2 concerned with, are we approaching that with a firm
3 handle on what we consider to be appropriate on this
4 issue? All the issues I know are out there; but on
5 this issue. And if it's an evolving assessment,
6 that's okay. But I don't necessarily -- because it's
7 a challenging issue and the factors that play into it
8 are evolving. That's okay. But I want to understand
9 how it's evolving. I don't want to get there and say,
10 you know, 20% means this. We shouldn't have to
11 explain what 20% means. Do you understand what I'm
12 saying?

13 **MR. TRAPP:** Again, to reiterate my
14 testimony, the 20% from the Staff's viewpoint, the
15 analysis that Mr. Ballinger did, based on the data
16 from the FRCC and the utilities, was that we believe
17 that a 20% planning reserve margin would give the
18 Commission comfort that should we have a repeat of the
19 1989 extreme cold weather event, it would give us
20 comfort that we would at least lose no more load than
21 we did in 1989. And even that was based on
22 assumptions with respect to maintenance.

23 If the FRCC and individual utilities do a
24 good job in coordinating their maintenance and in
25 watching the weather forecasts and in anticipating the

1 potential for adverse weather, then -- and therefore,
2 keep maintenance off of the potential for that extreme
3 weather temperatures, we should be in good shape.

4 **COMMISSIONER JACOBS:** Okay. So those are
5 the factors --

6 **MR. TRAPP:** We should also be able, because
7 of that, to weather any emergency conditions or alert
8 conditions where you alarm customers by asking for
9 conservation or you extensively use load management
10 during summer months as well based on the information
11 that Mr. Ballinger analyzed.

12 So, again, at what level do you feel most
13 comforted that you've balanced the cost of providing
14 the reserves with a need for having the reserves to
15 ensure that the customers of Florida receive adequate
16 and reliable electric service? Our best judgment
17 call, 20%.

18 **COMMISSIONER JACOBS:** Okay.

19 **CHAIRMAN GARCIA:** All right. Let's -- Terry
20 had some questions and he promised that they would be
21 shorter than Leon's. So let's see if we can answer
22 some of those and narrow this down.

23 **COMMISSIONER DEASON:** I'm looking at the
24 settlement proposal, proposed agreement and the
25 terminology, "employing current methodology". I guess

1 my question to Staff is that, are we confident that it
2 is the current methodology and that we're not going to
3 get into a situation where there are differing
4 viewpoints on how you calculate the reserve margin?
5 We're not shooting at a moving target. We know how
6 it's going to be calculated.

7 **MR. TRAPP:** I think we're relatively assured
8 we know how each utility is calculating their reserve
9 margin and what data goes into it. I think, you know,
10 those words might, quite frankly, pertain to another
11 issue that's not really an issue in this docket. We
12 called it uncommitted capacity in this docket. Others
13 call it merchant plant capacity.

14 And one of the points of clarification that
15 Staff asked with respect to the impact of this
16 stipulation had to do with the ability of Staff to, in
17 the review of the ten year site planning process, to
18 explore how uncommitted capacity should be treated
19 with respect to adequacy and reliability of service in
20 Florida. The stipulating parties assured us that we
21 were not constrained with at least voicing an opinion
22 in the ten year site planning process. That perhaps
23 from a statewide FRCC level, one should give some
24 consideration to the planned capacity of uncommitted
25 capacity that's coming into the state because we feel

1 that may give a cushion.

2 One then has to look at how that is being
3 relied on by individual utilities and I think what
4 Power & Light, Power Corp. and TECO have said is they
5 will continue to only count what they have contracted
6 for or planned to build themselves in terms of the
7 calculation of the 20%, and not at this time recognize
8 any reliance on unspecified or uncommitted capacity
9 which I think from an individual utility standpoint is
10 probably a proper conservative approach to it. I just
11 don't want to be constrained from a statewide
12 perspective of looking at and assessing the additional
13 cushion that might be out there that gives me more
14 assurance than what the individual utility's done is
15 being bolstered by other activity in the wholesale
16 marketplace in Florida.

17 **COMMISSIONER DEASON:** We're free to look at
18 what we want. But they're constrained to make the
19 calculation on a methodology which we all understand
20 as to how it's calculated and the 20% for which there
21 is a firm commitment to the IOU or else the IOU
22 actually owns the capacity, and it is committed to
23 service load.

24 **MR. TRAPP:** Yes, sir.

25 **COMMISSIONER DEASON:** Mr. Chairman, the

1 problem is not with the questions, it's with the long
2 answers.

3 **MR. TRAPP:** Somebody ought to shut the
4 witness up.

5 **COMMISSIONER DEASON:** Okay.

6 **CHAIRMAN GARCIA:** Bob didn't get to testify
7 so he's taking it --

8 **MR. TRAPP:** I haven't done this in 15 years.
9 I was looking so forward to it.

10 **COMMISSIONER DEASON:** I did have another
11 question come up with a comment that Mr. Ballinger
12 made and that was, Mr. Ballinger, you gave the example
13 of TECO and something and then a magnitude of 7% of
14 their 15% in which now would be 20% would be of a
15 certain characteristic. Could you explain that?

16 **MR. BALLINGER:** Yes. TECO proposed in its
17 testimony to basically take part of its reserve margin
18 and make sure it's supply side, make sure it's
19 machines. What we see in the past, for example, Power
20 Corp., if you look at their total load versus their
21 generation, they didn't have enough to meet their
22 total load. Once you subtracted out the nonfirm load,
23 that's when they got a reserve margin. So Staff was
24 seeing that as all of their reserve margin was made of
25 nonfirm load.

1 TECO is proposing to mitigate that type of
2 thing by saying, of our reserve margin, we're going to
3 make sure at least 50% -- or 7% -- I'm sorry -- is
4 made up of machines. The rest of it can be nonfirm
5 load.

6 **COMMISSIONER DEASON:** In answer to a
7 previous question from Commissioner Clark you
8 indicated that reserve margin is a calculation of a
9 percentage applied to firm capacity and that the
10 consideration of nonfirm is subtracted before you even
11 get to that phase of the calculation of reserve
12 margin. And what you've just answered there seems to
13 be a contradiction of that calculation methodology.

14 **MR. BALLINGER:** It's not. Bob answered the
15 right way, that reserve margin is based on firm load.
16 If I understand what TECO is doing, though, they are
17 recognizing that reserves in general can be nonfirm
18 and machine and they're going to make sure that 7% of
19 them are machines.

20 **COMMISSIONER DEASON:** 7% of their reserve
21 margin or 7% of reserve?

22 **MR. BALLINGER:** Reserves.

23 **COMMISSIONER DEASON:** Okay. So it's a
24 difference between definition of reserve and
25 definition of reserve margin.

1 **MR. BALLINGER:** The way I understand it is
2 TECO is going to make sure that even at total load
3 they have some gap of extra machines to serve that.

4 **COMMISSIONER CLARK:** But it won't be 20%?

5 **MR. BALLINGER:** No.

6 **COMMISSIONER DEASON:** And then when we're
7 talking about reserve margin -- 20% reserve margin as
8 a percentage of firm load, all that is going to be
9 machine; either machines that the utility owns or else
10 machines that --

11 **COMMISSIONER CLARK:** I knew it.

12 **COMMISSIONER DEASON:** -- they have
13 contracted for to provide that they can assure in the
14 time of need that that capacity is theirs to call
15 upon?

16 **COMMISSIONER JACOBS:** No.

17 **COMMISSIONER CLARK:** We are getting a lot of
18 different answers.

19 **CHAIRMAN GARCIA:** They are all shaking their
20 heads the same way. They're all saying no across the
21 board.

22 **COMMISSIONER DEASON:** That's correct,
23 Mr. Sasso?

24 **MR. SASSO:** Yes.

25 **CHAIRMAN GARCIA:** No. Wait a minute. No,

1 it's not correct.

2 **COMMISSIONER DEASON:** All right. We need
3 some clarification then.

4 **CHAIRMAN GARCIA:** Because that is not
5 what --

6 **MR. SASSO:** That is correct.

7 **COMMISSIONER CLARK:** Mr. Sasso, I am happy
8 to see that there is some confusion over on your side
9 of the table, too.

10 **CHAIRMAN GARCIA:** I think all the engineers
11 were agreeing so I worry when the lawyers are telling
12 us what happens.

13 **MR. SASSO:** My client just backed me up.
14 From our point of view, it is correct.

15 **MR. HERNANDEZ:** From TECO's point of view,
16 I mean, the reserve margin calculation is simply
17 relative to firm peak. So when you calculate percent
18 reserves it's simply the difference between firm
19 supply minus firm peak, divided by firm peak. The way
20 you get to firm peak is accounting for nonfirm load
21 resources. So the 20% is comprised of both supply
22 side and nonfirm load resources. It's not all
23 machine.

24 **COMMISSIONER CLARK:** Yes, but look at what
25 your stipulation says. "It will be either generating

1 capacity or firm commitment to the IOUs."

2 Now, do you mean firm commitment by either
3 it being interruptible or do you mean it will be
4 capacity from another generating source?

5 **COMMISSIONER JACOBS:** It could be 20% of
6 something that could -- will reflect -- let me be
7 sure. But it will be 20% of a total that reflects
8 nonfirm; is that correct?

9 **MR. HERNANDEZ:** I'm sorry, Commissioner
10 Jacobs.

11 **COMMISSIONER JACOBS:** The 20% will be
12 applied to a base that reflects nonfirm; is that true?

13 **MR. HERNANDEZ:** That's correct. It's a
14 result of accounting for nonfirm load resources to get
15 you to firm peak. The point two in the stipulation
16 gets to the supply side issue only. It does not infer
17 that all 20% will be generating resource.

18 **CHAIRMAN GARCIA:** It would be interruptible
19 customers. The only distinction that we're making is
20 that TECO was using all --

21 **COMMISSIONER CLARK:** Let me ask it another
22 way.

23 **CHAIRMAN GARCIA:** Wait a minute because I
24 want to -- and then we can move to yours because I
25 want to make sure that we're all on the same page.

1 What Mr. Ballinger was alluding to is
2 specific to TECO, which is that a large percentage of
3 its reserve was interrupted and TECO's making
4 commitment to reduce the amount of that that's
5 interrupted.

6 **MR. HERNANDEZ:** That's correct, by
7 maintaining a 7% minimum supply side contributing to
8 either the 15% or now the 20%.

9 **CHAIRMAN GARCIA:** Correct. Susan, I'm
10 sorry.

11 **COMMISSIONER CLARK:** Let me ask, if you had
12 interruptible or demand side, you had your total load
13 and you include that, and when you subtract
14 interruptible and demand side you take off 20%. Let's
15 just assume that's the amount of customers that you
16 have on that kind of schedule. When you figure up
17 your margin of reserve it will be 20% in generating or
18 firm commitment. So that means your total load, your
19 whole margin, in effect, is made up of your nonfirm
20 and your interruptible.

21 **MR. HERNANDEZ:** In your example, that's
22 correct.

23 **COMMISSIONER DEASON:** And that's the reason
24 I asked my first question about the methodology we're
25 going to use to calculate it because the way Mr. Sasso

1 explained it is not the way you explained it and it's
2 not the way Staff explained it. Staff explained that
3 the reserve margin, the 20%, is going to be a factor
4 applied to firm demand. Okay.

5 **MR. HERNANDEZ:** That's correct. That's what
6 I'm saying, too.

7 **COMMISSIONER DEASON:** All right. Your 20%
8 is going to be applied -- you're going to have a
9 reserve margin of 20% and that 20% is applied to firm
10 demand.

11 **MR. HERNANDEZ:** That's correct.

12 **COMMISSIONER DEASON:** All right. How then,
13 can part of that 20% be made up of something other
14 than machines, either the ones you own or the ones
15 you've contracted with to perform when you request it?

16 **MR. HERNANDEZ:** We've got an existing system
17 of supply side resources and we've got nonfirm load
18 resources. You calculate the firm peak. And the way
19 you --

20 **CHAIRMAN GARCIA:** The demand is also firm.

21 **MR. HERNANDEZ:** The demand is firm. And you
22 take your total system demand less your nonfirm load
23 resources and you get the firm peak. By definition,
24 if we set a criteria of 20%, you can back into that by
25 taking your firm peak times .2 and that gives you the

1 amount of megawatts that you've got to maintain in
2 reserves. Those megawatts --

3 **COMMISSIONER DEASON:** How are you defining
4 firm peak? What does that consist of?

5 **MR. HERNANDEZ:** It consists of DSM programs
6 like load management. It consists of interruptible
7 service. It's those --

8 **COMMISSIONER DEASON:** You're saying that's
9 firm, but that's not firm service. If you can
10 interrupt it, that is not firm. But you're saying
11 that's firm demand.

12 **MR. HERNANDEZ:** No. You use those
13 components to go from total peak to firm peak. The
14 difference is the nonfirm load resources. So if you
15 have a 20% margin relative to firm peak -- and let's
16 use some numbers. If you've got a 100 megawatt system
17 and a 20% reserve margin, you would have 20 megawatts
18 of reserves. Those reserves can be made up of all
19 machines or they can be made up of all nonfirm load
20 resources.

21 Tampa Electric is simply saying, out of
22 those 20 megawatts, using those numbers, we will
23 guarantee that seven megawatts out of those 20 would
24 be supply.

25 **COMMISSIONER JACOBS:** So, in essence, your

1 subtraction is going to now be broken up into two.
2 You're never going to be subtract out more than --
3 well, no. 13 -- you're never going to subtract out
4 more than -- not even trying it with the numbers.

5 When you do your subtraction, you're going
6 to leave in that pot at least machines that make up
7 7%. Okay. So that you'll never subtract out more
8 than that in hard, fast machines?

9 **MR. HERNANDEZ:** Right. The way we would do
10 it is the way I described. We'd calculate the firm
11 peak, apply a 20% factor, and then we would look at
12 what makes up those reserves. If 20% of those
13 reserves were all nonfirm load resources, we don't
14 satisfy the 7% so then you add back in 7% supply. So
15 you end up with 27%.

16 **CHAIRMAN GARCIA:** Okay.

17 **COMMISSIONER CLARK:** I guess, to me the
18 point being, what you would accept as a reserve
19 margin, you need to factor in how much nonfirm you
20 were serving.

21 **MR. HERNANDEZ:** It's independent.

22 **COMMISSIONER CLARK:** It's not independent in
23 the sense of what is cost-effective to carry.

24 **MR. HERNANDEZ:** And there's rules in place
25 to determine the cost-effectiveness of both the DSM

1 programs and the interruptible rates. That's a
2 different issue.

3 **COMMISSIONER CLARK:** All right. Maybe it
4 is. Let me just ask for some clarification. The fact
5 that this is a planning margin does not mean that if
6 we do have a rate case from any of the utilities that
7 agreed to this planning reserve, it doesn't mean that
8 we will find it cost-effective to have a 20% margin
9 for you all, does it?

10 **MR. SASSO:** This doesn't prejudge the
11 outcome of those future proceedings.

12 **COMMISSIONER CLARK:** Well, let me ask you
13 this. If we should determine that as a matter of fact
14 only 15% reserve margin is appropriate for your
15 ratepayers to carry, how does that -- how would that
16 impact future planning? You would still plan on a 20%
17 margin?

18 **MR. SASSO:** I think that would be a strong
19 message not to.

20 **COMMISSIONER CLARK:** That's what I think,
21 too.

22 **COMMISSIONER JACOBS:** I was thinking -- I'll
23 definitely defer to Susan. But I was thinking the
24 more likely result that we would come in and find out
25 you're probably needing to do more than 20. And that

1 would be a real conundrum, if we come in to say that,
2 wait a minute, you guys said you'd do 20%, you've done
3 20%, but because of what we perceive to be now a
4 reliance in these circumstances on nonfirm and come up
5 with your calculation, we think a higher percentage is
6 called for. That would put us in a difficult place
7 that I wouldn't want the Commission to be in. That
8 was the concern I had.

9 **COMMISSIONER CLARK:** Well, I guess it might
10 not concern me if you knew that you had 20% more
11 capacity out there in the form of merchant plants.
12 Now, I understand that that -- you know, if you need
13 the capacity and the availability of energy becomes
14 tight, the price goes up. But the other side of that
15 is the ratepayers aren't carrying it. So you might be
16 happy with a less of a reserve margin because you
17 actually knew there was capacity out there.

18 **MR. SASSO:** Right.

19 **CHAIRMAN GARCIA:** Okay. Terry.

20 **COMMISSIONER DEASON:** Mr. Sasso, how do you
21 calculate your reserve margin?

22 **MR. SASSO:** We take firm load. We take
23 nonfirm load out of total load and take firm load and
24 calculate our capacity as a relationship to firm load.
25 Firm capacity available to meet firm load. And firm

1 capacity would include our own equipment and equipment
2 that we have a contract right to. It's consistent
3 with the formula and the reserve sharing rule,
4 Chairman Deason -- I'm sorry, Commissioner Deason.

5 **MR. FLOYD:** Commissioners, I got a simple
6 example that will clear up the whole thing on how it's
7 calculated.

8 **CHAIRMAN GARCIA:** Let's do something. Let
9 Terry finish the line of questions because I think
10 he's trying to hash it out for himself and then we can
11 all jump in if he wants some help.

12 **COMMISSIONER DEASON:** Thanks. I'm just
13 trying to determine -- the way I thought it was
14 calculated is the way you explained it. It's firm
15 capacity over firm load. And that you want that ratio
16 to be 120%, right?

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

18 **COMMISSIONER DEASON:** Okay. And firm
19 capacity -- I'm sorry. Firm load already has deducted
20 from it all the nonfirm, the interruptible and DSM
21 load management and things of that nature.

22 **MR. SASSO:** That's correct. Total load has
23 all that deducted and you wind up with firm load.

24 **COMMISSIONER DEASON:** So when you calculate
25 your 20% reserve margin, 100% of that margin is going

1 to be made up of either machines you own or else
2 machines you've contracted for that someone else has
3 owned that you can call upon when you need them.

4 **MR. SASSO:** That's correct.

5 **COMMISSIONER DEASON:** And that's different
6 from the way TECO calculates it.

7 **MR. SASSO:** Well, I think we may be
8 suffering from a difference in terminology here. I
9 think TECO -- I may not have followed the explanation,
10 but I think TECO looks at nonfirm load as part of its
11 peak load which is why we have a difference in
12 terminology.

13 **COMMISSIONER DEASON:** Okay.

14 **CHAIRMAN GARCIA:** All right. Let's -- Tom,
15 why don't you explain the difference to us for a
16 second between what Mr. Sasso explained and what you
17 explained to us. We can consider this a tutorial
18 preparing, if we do go to hearing, so that we all know
19 what we're talking about.

20 **MR. HERNANDEZ:** If you have 100 megawatt
21 system --

22 **CHAIRMAN GARCIA:** No. No. Don't do that.
23 Because I followed that one. I want you to explain
24 where you're different from what Mr. Sasso explained
25 to us.

1 **MR. HERNANDEZ:** You can have the
2 difference -- and I'm not sure that they're different.
3 It my just be interpretation. We do not include--

4 **CHAIRMAN GARCIA:** He said it's firm capacity
5 over firm load. That was his explanation of how he
6 calculates.

7 **MR. HERNANDEZ:** We calculate reserve margin
8 by taking firm capacity less firm peak divided by firm
9 peak, which gets you to a percentage related to firm
10 peak.

11 **CHAIRMAN GARCIA:** Take firm capacity and
12 divide it by --

13 **MR. HERNANDEZ:** Firm capacity -- the
14 difference between firm capacity and firm peak.
15 That's a differential. And you divide by firm peak so
16 you get a reserve margin relative to firm peak.
17 That's how you would calculate a percent reserve.

18 **MR. MCWHIRTER:** Mr. Chairman, can an alien
19 voice be heard on this subject?

20 **CHAIRMAN GARCIA:** Sure.

21 **MR. MCWHIRTER:** Take Mr. Hernandez's,
22 example of a 100-megawatt system and an 80-megawatt
23 demand, you have 20 megawatts left over.
24 Mr. Hernandez and Mr. Sasso's program divide that 20
25 megawatts left over, not by the capacity in the

1 system, but by peak demand. And what does that do for
2 you?

3 What it does is, if you take 100 minus 80
4 equals 20 divided by 800 -- or by 80, you come up with
5 a 25% reserve margin. If you're looking for the
6 machinery that's available to service that demand, you
7 wouldn't do like we do in Florida. You would do like
8 they do in the National Electric Reliability Council
9 in all other states. They divide the peak demand by
10 the machines. And in his example, you would subtract
11 80, the demand, from 100, the amount of machines you
12 have and then divide by 100, and you would only have a
13 20% demand. So you'd have to have 20 megawatts of
14 machinery.

15 Under the Florida reserve margin calculation
16 you only need 16 megawatts of machinery to come up
17 with a 20% reserve margin. So you don't have backup
18 machinery under the reserve margin calculation. The
19 very first issue in this case is what is the
20 appropriate methodology for purposes of calculating
21 reserve margin.

22 We would like -- well, I'm going off the
23 deep end here. I worked for this Commission 36 years
24 ago. I've been practicing as an advocate for 27 years
25 before the Commission. And all that period of time we

1 have never had a situation in which you wouldn't
2 listen to what the other parties had to say.

3 What you have in this case is two years of
4 study on the subject and we're at the eve of a hearing
5 and three utilities out of the various parties in the
6 case have offered a proposal. It's not a stipulation.
7 It is not a settlement agreement. It is a proposal
8 from three utilities.

9 And the proposition is that you will accept
10 this proposal from three utilities and you will not
11 listen to what the other people have to say on the
12 issues. All we have requested of you to do is to
13 take --

14 **CHAIRMAN GARCIA:** Now you're answering much
15 more than what you volunteered. Give me a second. I
16 don't want to go -- I don't want to enter the debate
17 of what we are going to do next. I just wanted to get
18 through this. Are you going to explain margin of
19 reserve, Mr. Childs?

20 **MR. CHILDS:** I was going to suggest for your
21 consideration, because there's been discussion about
22 what is it, how is it defined. To my information --
23 and I've looked at it. That in your annual report
24 from this Commission, for every year for the past ten
25 years at least, that's in your glossary. I mean, it's

1 not a unique term. It's in the rule here as well. It
2 describes how reserve margin is calculated.

3 I think that we've known and addressed it,
4 which is one of the reasons for the issue. It relates
5 to how much nonfirm load any utility may have. That
6 is an issue, but it's not addressed by the proposal.
7 It's just not. This proposal is worded to address the
8 generating capacity that you use to meet that reserve
9 margin criterion. If there's any desire to pursue it
10 from another perspective, the proposal doesn't prevent
11 you or anyone else from trying to do that.

12 But I wanted to suggest to you that as to
13 the methodology, when we have the reference,
14 consistent with long-standing Commission practice, I
15 don't think that's made up. I mean, it is in your
16 Rule 25-6.035. It's defined. It's defined in your
17 glossary of terms. I didn't bring that with me
18 because I didn't think we were going to hearing, but
19 it's there. It shouldn't surprise anyone. And I
20 think the Staff may confirm that for you, if you care
21 to ask them.

22 **COMMISSIONER DEASON:** That was the reason
23 for my question, Mr. Childs, is that I wanted to
24 confirm in the proposal if -- what is the calculation
25 methodology. If there's one thing I've learned

1 through many years considering stipulations is that if
2 there is anything that can be defined up front so
3 later on there's not a question about the calculation,
4 the better off you are. And I find this
5 parenthetical, "employing current methodology", and to
6 me that just raised a red flag. Is there an issue
7 here that we're really just delaying for some future
8 time when we can go ahead and clarify it right now as
9 to how we're going to calculate it.

10 We can all debate whether it's 20 or 15 or
11 25, but we should all agree on how you calculate the
12 number. And that's what I wanted to get. And I
13 thought it was clear until we started these questions,
14 and then I detected a difference of opinion among the
15 IOUs as to how you calculate it. And that's what I
16 have a concern about. And Mr. Hernandez is saying no,
17 there is not a difference of opinion.

18 **MR. HERNANDEZ:** Where we got hung up -- we
19 all three calculated exactly the same way. Where we
20 got hung up or I got hung up was the inference that
21 all of it would be made up of supply side resources.
22 That's where I stepped in.

23 **COMMISSIONER DEASON:** So you're saying that
24 under the methodology which we've used, and Mr. Childs
25 just indicated is in our rule for calculating it, it

1 allows there to be a reserve margin that is --
2 conceivably could be 100% made up of nonmachines, in
3 other words, interruptible load.

4 **MR. HERNANDEZ:** That's correct.

5 **COMMISSIONER DEASON:** And that we are not
6 addressing that issue at all by this stipulation.

7 **MR. HERNANDEZ:** We're not disputing that.
8 Mr. Waters, you agree with that?

9 **MR. WATERS:** I think so. The reason for
10 being here, I agree with Tom, that I think we were
11 okay on the calculation method until we got to the end
12 and we were starting to interpret how much of the
13 reserves are made up of specific resources.

14 And I wanted -- at the risk of confusing it
15 further, I wanted to run through a very simple example
16 just to show you -- we can talk about how you
17 interrupt this afterwards. But there's two ways to
18 get to 20%.

19 I want to start with 1,000 megawatts of
20 loads, 1,000 megawatts of customers; not firm, not
21 nonfirm. I haven't decided that yet. Just 1,000
22 megawatts of customers.

23 There are any number of ways to get to 20%
24 reserve margin under the system. I'm going to give
25 you the two extremes. The first one is, I can build

1 1,200 megawatts of generating capacity. That's the
2 simple one to understand, I think. Gives me a 20%
3 reserve margin. And I'm calling all my load firm in
4 that case.

5 An alternative way of getting there is to
6 implement roughly 150 megawatts or so of nonfirm load
7 programs. That would reduce that 1,000 down to 850
8 and I'll build 1,000 megawatts of generating capacity
9 instead. That gives me roughly a 20% reserve margin.

10 What are my alternatives? I've got 1,200
11 megawatts of capacity on one plan, 1,000 on the other
12 plus a nonfirm load program. That's the
13 cost-effectiveness question that we typically
14 evaluated in the planning process.

15 Now the question becomes, what are my
16 reserves made up of from the two plants. The first
17 one it's easy to see. It's all machines. I've never
18 implemented any nonfirm load.

19 In the second case, what we've been
20 saying -- I think this is where we start going around
21 in circles. I've got 850 megawatts of firm load and
22 1,000 megawatts of capacity. We're saying, well, all
23 my reserves are made up of machines. But the 850
24 megawatt load is after I just implemented my nonfirm
25 load. So which one is the reserve? I mean, I've got

1 20% in both cases.

2 I think what we've been saying, maybe in
3 different ways, is in the second case where I've
4 implemented nonfirm load, I have 150 megawatts of
5 reserves made up of nonfirm load. That's what you're
6 hearing in one side.

7 And the other side is saying, well, after
8 you implement that, everything that's left is machines
9 as reserves. I think that's where the confusion came
10 in.

11 But those are two alternatives for meeting
12 the same criterion with the same given conditions, the
13 same amount of load that you start with and so on.

14 **CHAIRMAN GARCIA:** All right. Good. That
15 was excellent. Floyd is happy, too, with that. All
16 right. Terry.

17 **COMMISSIONER DEASON:** The other question I
18 have is the voluntary nature of this, and I applaud
19 the utilities coming forward, but is there some type
20 of time limit on this? Are we assured that, you know,
21 after the first year you've decided that -- you know,
22 you'll decide, well, we voluntarily decide to change
23 it from 20 back to 15 or 18 or 17 or whatever.

24 **MR. SASSO:** I think it's fair to say that
25 it's an indefinite commitment and the intention is to

1 take it very seriously. If any utility attempted to
2 revert or change the criteria, that would come up
3 before the Commission for review. Commission would be
4 free to take appropriate action at that time, could
5 institute an investigation at that time, could
6 institute any type of proceeding at that time. This
7 does not foreclose the Commission from taking any
8 appropriate action in the future.

9 **COMMISSIONER CLARK:** How does this impact
10 the rule we adopted on the 15% reserve margin with
11 respect to purchasing? I guess we really did that
12 for -- to determine what tariff a load-serving entity
13 could purchase under.

14 **MR. SASSO:** That rule remains uneffected.
15 It remained intact.

16 **COMMISSIONER CLARK:** So if they carry under
17 the 15% they might have a different price?

18 **MR. SASSO:** Yes, ma'am.

19 **COMMISSIONER CLARK:** Is this an hourly peak?

20 **MR. WATERS:** I'll try and answer that. As
21 far as the reserve margin calculation itself, it is in
22 integrated hourly peak and typically we'll measure
23 two; one in winter and one in summer, seasonal peaks.
24 So all utilities are typically measuring reserve
25 margin in those two. What we are suggesting here, I

1 think, is that we use the annual peak, integrated
2 hourly peak.

3 **COMMISSIONER CLARK:** What does integrated
4 mean?

5 **MR. WATERS:** It means that -- what happens
6 over the hour, Commissioner, is the load changes, you
7 know, plus or minus a couple hundred megawatts, so you
8 smooth it from 5 to 6 p.m., for example, and sort of
9 take an average across that hour. That's the number
10 we're really measuring. There may be spikes in
11 between are slightly higher that are more of an
12 operational concern.

13 **COMMISSIONER CLARK:** Well, let me ask -- and
14 that's -- you would take -- do all the investor-owned
15 utilities -- the three investor-owns peak in the same
16 season?

17 **MR. WATERS:** No. I guess the answer
18 historically is, really it depends. If we have a cold
19 front that gets all the way down to Miami, we might
20 all peak in the same season. Typically that's not the
21 case. Typically -- historically, FPL has been more of
22 a summer peaking. The other utilities may be more
23 typically winter peaking.

24 **COMMISSIONER CLARK:** So the 20% reserve
25 margin is your individual utility margin. What does

1 that mean in terms of the statewide margin?

2 **MR. WATERS:** Well, the way FPL does
3 planning, despite the fact that we have a difference
4 historically in the timing of the peak, we typically
5 show a winter peak on a projected basis. We forecast
6 more on a -- I don't want to call it a worse case
7 basis, but it's conservative to assume that every year
8 in the future we will have cold winter. So we develop
9 our plan that way.

10 That means that for the three utilities,
11 assuming they're all planning to winter peak, the
12 effect on the state margin is nearly additive. In
13 other words, if we all carry a 20% reserve, with the
14 math that Staff has done, that will get the state to
15 about 19% reserve in the winter time.

16 **COMMISSIONER CLARK:** I guess by assuming
17 everybody is 20%, you don't take into account
18 diversity of load and --

19 **MR. WATERS:** No. That would mean, as we add
20 resources for the utilities we would -- again, it's
21 conservative. Because of diversity, if you were to
22 add up everybody's load, take into account the time
23 differential, the reserve margin would be even higher
24 on a peninsular basis; something above 20%.

25 **COMMISSIONER CLARK:** I'm sorry. I looked

1 down for a minute. So individual utilities having
2 20%, if you did it on -- if you took into account
3 diversity, you would have a statewide margin of more
4 than 20%.

5 **MR. WATERS:** Probably more than 20%, yes.

6 **COMMISSIONER CLARK:** Let me ask you about
7 ratings on plants. I gather from the prehearing order
8 there's a diversity on how people rate their plants?

9 **MR. WATERS:** Yes. I think in part that's
10 due to different technologies. FPL rates different
11 units slightly differently. We use what's called a
12 peaking rating and there are different levels of
13 peaking. I don't want to get too much into the
14 technical.

15 **COMMISSIONER CLARK:** I guess, all these
16 things to me are -- were part of what I wanted to find
17 out to be comfortable with the reserve margin that was
18 being suggested. Your investor-owns have suggested
19 the 15% is appropriate because you are getting better
20 at maintenance and getting better at running them at
21 capacity. If those things are, in fact, true, it
22 strikes me that maybe 15% is appropriate.

23 And I just had anticipated having some of
24 these issues answered so we don't have sort of a
25 debate about how you rate them. We don't have a

1 debate about how you consider the weather.

2 I guess I was looking for some basic
3 criteria that you could check off and say, yeah,
4 that's how you did it and we agree with that, or you
5 deviated that -- from that, and you did it for this
6 purpose, you had a good reason to do it, because all
7 of you advocate that every utility should take into
8 account their own set of circumstances, and I don't
9 necessarily dispute that. But I wanted to have some
10 common understanding that normally you plan this way
11 and if you don't think this common way of doing is
12 appropriate because you found something else, we could
13 be comfortable with that, and then we could arrive at
14 a reserve margin and we could arrive at an appropriate
15 amount of nonfirm load.

16 **MR. WATERS:** I think, Commissioner -- this
17 agreement I don't think precludes the continuing
18 investigation by the Staff into specific issues. As
19 time has gone on, a number of individual aspects of
20 our planning processes have been audited or
21 investigated. Right now we're just completing an
22 audit -- I think all the IOUs were audited -- on unit
23 ratings, that issue specifically.

24 I suspect that report will be out fairly
25 soon and some judgment will be made on the

1 appropriateness of what we're using. We've had, every
2 year, questions on our load forecasting processes and
3 investigations on some of the assumptions we've made.
4 I think it's an ongoing process. Each year I think
5 Staff digs a little deeper in the process and gets a
6 little more into the assumptions. I don't think this
7 agreement at all precludes any further investigations
8 into those issues.

9 **COMMISSIONER CLARK:** Let me ask you one
10 other thing. Is there agreement on how to treat
11 wholesale load that's under contract? Does everyone
12 presume at the end of the contract they will go away?

13 Again, Sam, it strikes me that that does go
14 to methodology you, but the methodology and things you
15 consider all contribute to what you think should be
16 inappropriate --

17 **MR. WATERS:** I'm thinking, Commissioner, the
18 types of wholesale load we have. We have -- frankly,
19 we don't have that much and I don't think it has a
20 date certain. It has a five year termination notice,
21 but until the point somebody actually notifies us, we
22 would continue to carry it in the plant.

23 So if we receive notice for -- and this
24 happened with the Seminole load. I think we discussed
25 this a few years ago in a need filing. They notified

1 us of a change in their service level and we
2 immediately put that in the plant.

3 **COMMISSIONER CLARK:** So unless you've had a
4 notice, then you presume, even in that five to ten
5 year period, you will continue to need to serve them?

6 **MR. WATERS:** Right. I think our perspective
7 is, it's easier to delay projects than to accelerate.
8 So we would rather wait until we're notified to
9 actually cancel an expectation of service.

10 **COMMISSIONER CLARK:** Okay. Thank you,
11 Mr. Chairman.

12 **CHAIRMAN GARCIA:** Leon, do you have anything
13 else?

14 **COMMISSIONER JACOBS:** No.

15 **CHAIRMAN GARCIA:** Okay. All right. Well, I
16 think we're given, I guess, two options. One is that
17 we allow you to go out and take two weeks, I think was
18 the time frame, and come back. What is the next
19 possibility for us to come back?

20 **MR. TRAPP:** What FIPUG asked for was --

21 **MR. ELIAS:** The 17th to make a counter
22 proposal, and then discuss the two proposals on the
23 29th.

24 **CHAIRMAN GARCIA:** All right. Frankly, I
25 feel relatively comfortable with the proposal that's

1 before us, but I don't have any disagreement with
2 allowing the other parties to have an opportunity to
3 make their proposal, and then what we can do is let
4 them -- they're going to submit it in two weeks, is
5 it? On -- what was the date? 14th?

6 **MR. ELIAS:** 17th.

7 **CHAIRMAN GARCIA:** 17th. And we have an
8 agenda, I think, at the end of the month.

9 **MR. ELIAS:** On the 30th.

10 **CHAIRMAN GARCIA:** And what we will do is let
11 them file it. The companies can look at it. Our
12 Staff can look at it. Maybe it might even change some
13 minds on Staff, although, who knows. And then we'll
14 come back here on the 29th, not -- we'll put it as an
15 agenda item.

16 **MR. ELIAS:** That would be the 30th.

17 **CHAIRMAN GARCIA:** On the 30th. I'm sorry.
18 And we will discuss it then and we will make it one of
19 the items on the agenda for our discussion. And Staff
20 can -- I guess, then Staff has enough time to file
21 its -- what would it be? You're proposing for final
22 agency action, right?

23 **COMMISSIONER CLARK:** It strikes me we might
24 not need to do anything depending on what we do. I
25 mean, they may agree to plan on the basis of a 20%

1 reserve margin. We may say, all right, you can --
2 we're not going to pursue this further based on that
3 representation. And I'm not sure that we need to do
4 anything further. If we want to --

5 **CHAIRMAN GARCIA:** All right. So then we
6 will --

7 **COMMISSIONER CLARK:** -- dictate some of how
8 they calculate things we might --

9 **CHAIRMAN GARCIA:** All right. So then we'll
10 have a discussion on -- we'll make it one of the
11 items. I guess, the last item of that day will be
12 discussion of this proposed stipulation and whatever
13 FIPUG and company will have for us. All right. And
14 that will allow some free roaming discussion and Staff
15 will also make its comments on that day. Let's make
16 sure we are all on the same page.

17 **MR. MOYLE:** Is there going to be a Staff
18 recommendation on this proposal? If I can just take a
19 minute. It seems to me, that -- you know, this is a
20 critical issue that you all do which is look at the
21 state's reserve margins. And based on the hour and a
22 half discussion we had today, you know, it's not clear
23 in my mind.

24 **CHAIRMAN GARCIA:** First of all, Mr. Moyle, I
25 don't think we're giving it a short shrift. I think

1 that clearly what we're doing is relying on our Staff
2 to some degree, who had a concern, who brought up this
3 docket and feel very comfortable apparently with the
4 settlement offer that is out there.

5 And that being the case, it almost doesn't
6 make sense to proceed to hearing if their concerns
7 have been meet. Now, Commissioner Clark has pointed
8 some concerns that she has, which I think we can meet
9 with workshops and perhaps even formal proceedings on
10 specific issues that I think Staff is in agreement
11 that we can do. You were going to say something,
12 Mr. Elias.

13 **MR. ELIAS:** Just thinking real quickly, and
14 it may be procedurally the way to go, is to continue
15 the hearing to the conclusion of the agenda conference
16 on the 30th and take it up that way.

17 **CHAIRMAN GARCIA:** All right. Okay.

18 **COMMISSIONER CLARK:** But that is with the
19 understanding you all will submit a proposal on the
20 17th and have all parties know about it, and then that
21 way, the people who have proposed this way of
22 approaching it will have been opportunity to look
23 at --

24 **MS. KAUFMAN:** Yes, ma'am.

25 **MR. WRIGHT:** Mr. Chairman.

1 **CHAIRMAN GARCIA:** Yes, Sheff.

2 **MR. WRIGHT:** Two things. One, are we going
3 to have a workshop type event on the 29th?

4 **CHAIRMAN GARCIA:** We're going to have the
5 exact same thing that we're having right now.

6 **MR. WRIGHT:** On the 29th.

7 **CHAIRMAN GARCIA:** On the 29th, no. Wait a
8 minute.

9 **MR. WRIGHT:** Ms. Kaufman's proposal on
10 behalf of the group was that there be a convening of
11 all parties or all interested parties to discuss
12 all -- both proposals for a stipulated resolution of
13 the docket on the 29th and then we come see you all on
14 the 30th or sometime subsequent. I just want to get
15 clear as to what is going on, and then I have one
16 other comment to make.

17 **CHAIRMAN GARCIA:** All right. I think that
18 that would just facilitate a little bit of agreement
19 if there's any flexibility that everyone get together
20 on the 29th so we don't have happen what happened
21 today. And I know everyone is busy, but that does
22 seem to make sense, Sheff, that you all get
23 together -- that's without us on the 29th to discuss
24 this. All right.

25 **MR. WRIGHT:** Thank you. Can I have 30 or 40

1 more seconds, Mr. Chairman.

2 **CHAIRMAN GARCIA:** Yes. 20. Go ahead.

3 **MR. WRIGHT:** Thank you. One problem we have
4 here -- and this is following along comments that
5 Commissioner Clark made three or four minutes ago
6 about what the outcome of this might be. A problem
7 that those of us not of the IOUs have here is we don't
8 know what that order is going to say. If it said all
9 that Commissioner Clark said, that is, based on the
10 representation of the IOUs we see no need to continue,
11 we would have one reaction. If it said something
12 else, or particularly if it said a whole lot more than
13 that, we would have a different reaction.

14 We don't know what it was going to say and
15 all I would say is that I would submit to you that it
16 would not be appropriate to issue an order adopting
17 anything with any kind of factual findings or factual
18 statements in it when you haven't had a hearing and
19 haven't had evidence on the record.

20 **CHAIRMAN GARCIA:** Right. I think you're
21 right. We don't need -- we may not need that at all.
22 I understand your point and that was my mistake. I
23 overstated what we were going to do.

24 All right. No one gets anymore time. We
25 are going to continue this until the 30th. I would

1 appreciate it if you all got together on the 29th in a
2 workshop type format. Staff will find the proper
3 place, have a discussion so that we can deal with this
4 on the 30th. Thank you very much.

5 **COMMISSIONER CLARK:** I noticed that there
6 seem to be some issues in here that there were --
7 there appear to be agreement on.

8 **CHAIRMAN GARCIA:** Yes.

9 **COMMISSIONER CLARK:** And to the extent that
10 we can have clarification on that, that would be
11 helpful.

12 **CHAIRMAN GARCIA:** Staff, I would appreciate
13 from Staff that -- give us a little -- put a little
14 bit of thought into those issues that were left out of
15 this docket and how we would proceed, whether by
16 workshop or a formal proceeding to find resolution to
17 some of those other issues which we think are still
18 significant but we can pursue on different tracks.
19 All right. Thank you very much.

20 (Thereupon, the hearing concluded at
21 2:45 p.m.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4 I, KIMBERLY K. BERENS, CSR, RPR, Official
5 Commission Reporter,

6 DO HEREBY CERTIFY that the Hearing in Docket
7 No. 981890-EU was heard by the Florida Public Service
8 Commission at the time and place herein stated; it is
9 further

10 CERTIFIED that I stenographically reported
11 the said proceedings; that the same has been
12 transcribed by me; and that this transcript,
13 consisting of 83 pages, constitutes a true
14 transcription of my notes of said proceedings.

15 DATED this 8th day of November, 1999.

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KIMBERLY K. BERENS, CSR, RPR
Florida Public Service Commission
Official Commission Reporter

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