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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040001-EI

In the Matter of:

FUEL AND PURCHASED POWER
COST RECOVERY CLAUSE WITH
GENERATING PERFORMANCE
INCENTIVE FACTOR.



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VOLUME 3

Pages 301 through 379

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN BRAULIO L. BAEZ
COMMISSIONER J. TERRY DEASON
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER CHARLES M. DAVIDSON

DATE: Monday, November 8, 2004

TIME: Commenced at 9:40 a.m.

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

REPORTED BY: TRICIA DeMARTE, RPR
Official FPSC Reporter
(850) 413-6736

APPEARANCES: (As heretofore noted.)

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 2.)

CHAIRMAN BAEZ: Ms. Kaufman.

MS. KAUFMAN: Thank you, Mr. Chairman, Commissioners. I'm Vicki Gordon-Kaufman and along with Joseph McGlothlin, we're appearing today on behalf of the Florida Industrial Power Users Group.

As you probably know, FIPUG is a group of industrial consumers who consume large amounts of power every month and whose electric bills comprise their largest variable cost each month. The size of those power bills often determines if these companies remain in Florida or go elsewhere. It often determines whether they will begin new operations in this state or do that in another state. These companies provide jobs in Florida. They contribute to the economy and to the tax base in their various locations in the state, and they, along with the other ratepayers, have a great interest in ensuring that the fuel adjustment charge which they pay every single month is reasonable and the result of cost-effective decision-making on the part of their native utilities to whom they are captive customers. And as you know, FIPUG participates in this fuel adjustment proceeding every year and in other dockets in which their interests are affected.

In the hearing you're about to begin there's several issues of concern to FIPUG about which you'll hear testimony.

1 You've already heard a great deal about the FPL issue in which
2 FPL has asked you to approve several large contracts with
3 Southern Company for about 955 megawatts which it doesn't even
4 need until the year 2010. It's obvious that this request
5 encompasses a very large amount of capacity and is equivalent
6 to several power plants. And you'll hear FPL tell you, you've
7 already heard them tell you that you have to take action right
8 now. You have to approve this deal right now or benefits, and
9 I put that in quotes, are going to be lost. And you've heard
10 Mr. Butler tell you in his opening, this is the best deal for
11 the ratepayers.

12 Commissioners, I think, as you know, FIPUG has long
13 been an advocate of a robust wholesale power market because we
14 believe that such a market will result in the lowest cost for
15 ratepayers as utilities explore that market looking for the
16 best deal. Having said that and assuming that such a market
17 has been adequately explored and analyzed, which we don't think
18 has occurred here, but if that had occurred, I want to assure
19 you that FIPUG is indifferent, as you should be I think, to
20 whether FPL's capacity needs are filled by Southern, by an
21 independent power producer, or by it's own self-build option.
22 But what you should not be indifferent to and what's missing in
23 this case, I think, is sufficient analysis and exploration of
24 the market to ensure you and to ensure the ratepayers that
25 we've got the most cost-effective alternative here.

1 The problem I think with FPL's request is essentially
2 that it's a rush to judgment, it's a large proposal, it's a lot
3 of money, and they need a decision right now. In our view, FPL
4 hasn't come close to carrying its burden to assure you that
5 it's looked at the market and analyzed all the available
6 projects. I think that you'll hear FPL tout benefits, which
7 Mr. Moyle has already commented on, that are speculative and
8 which even FPL itself cannot rank in terms of importance. And
9 you'll also hear the FIPUG witnesses, Dr. Dismukes, Mr. Knauth,
10 and Mr. Vogt, tell you that FPL hasn't really looked out in the
11 market.

12 I think Mr. Butler commented to you on the 165
13 megawatts of coal that this new deal will bring. You'll hear
14 Mr. Vogt tell you that there's 1600 megawatts of coal out there
15 and that's what FPL's really interested in. I would also
16 suggest to you that FPL's attempt to impugn the integrity or
17 the motives of these witnesses is nothing more than an attempt
18 to get you to shift your focus from where it should be, which I
19 think we would agree is, is this the best choice? So our
20 position on the FPL contract issue is that you not approve
21 those contracts at this time, but that you require Florida
22 Power & Light to perform a thorough analysis of all options
23 that could meet this need, and then you look at the
24 cost-effectiveness of those options. The Southern contract is
25 the most cost-effective, that's the one that ought to be in

1 place. If there are other options that are more
2 cost-effective, those are the ones that ought to be chosen.

3 There's two other issues that I want to comment on
4 briefly and those relate to Tampa Electric. One relates to
5 Tampa Electric's plan to purchase energy from the Hardee power
6 plant. You may recall that Tampa Electric -- or actually, TECO
7 Energy used to own a share of that plant and has recently sold
8 that to a third party. Even though the plant has now been
9 sold, customers continue to pay above market prices for this
10 power, and we think that's inappropriate.

11 There's some advantage to going last and that is that
12 you've already heard Ms. Christensen talk to you about the
13 Tampa Electric GPIF issue. And I'm not going to repeat what
14 she said, but I will tell you that the availability of the Big
15 Bend coal plants continues to decline. The performance that is
16 predicted for 2005 upon which a penalty is based is performance
17 that is -- excuse me, which a reward is based is worse than the
18 2003 numbers which garnered Tampa Electric a penalty. So, in
19 essence, what you have is a reward at ratepayers' expense for
20 declining performance. That just doesn't make any sense to us,
21 and we think, as Ms. Christensen said, that you should not
22 permit a reward for continued declining performance of these
23 coal plants. Thank you.

24 MR. BEASLEY: Thank you, Ms. Kaufman. Are there any
25 other opening statements that we have not taken?

1 All right. Commissioners, let's break for ten
2 minutes and come back and take our first witness.

3 (Brief recess.)

4 CHAIRMAN BAEZ: Go back on the record. Ms. Davis.

5 JAVIER PORTUONDO

6 was called as a witness on behalf of Progress Energy Florida
7 and, having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. DAVIS:

10 Q Mr. Portuondo, please state your name and address for
11 the record.

12 A My name is Javier Portuondo. My address is 100
13 Central Avenue, St. Petersburg, Florida.

14 Q Did you prefile direct testimony in this docket?

15 A Yes, I did.

16 Q Okay. Turning to your August testimony first --
17 Commissioners, this is the testimony that says, "Estimated
18 Actual True-Up Amounts."

19 Mr. Portuondo, do you have any additions or
20 corrections to that testimony?

21 A Yes, I do.

22 Q Would you please tell us what they are.

23 A The first correction will appear on Page 2, Line 11.
24 The figure that appears there of "138,387,535" should now read,
25 "155,959,294."

1 Line 16 should also read "155,959,294."

2 Line 23 of that same page, the number that appears of
3 "138.4" should read "155.2."

4 And in my exhibits, Schedule E1B, Page 1 and
5 Page 2 should be withdrawn.

6 Q All right. Let's stick with the testimony for just a
7 minute. If I asked you the questions in your prefiled
8 testimony today with the revisions noted, would your answers be
9 the same?

10 A Yes, they would.

11 MS. DAVIS: Mr. Chairman, I ask that Mr. Portuondo's
12 testimony be inserted in the record as though read.

13 CHAIRMAN BAEZ: Without objection, show the prefiled
14 testimony of Witness Portuondo entered into the record as
15 though read.

16 BY MS. DAVIS:

17 Q Now, Mr. Portuondo, did you have exhibits that
18 accompanied your August testimony?

19 A Yes, I did.

20 Q Do you have any additions or corrections to those
21 exhibits?

22 A Yes, I do. The exhibits, Schedule E1B, Sheet 1 and
23 Sheet 2 need to be withdrawn.

24 Q Thank you.

25 MS. DAVIS: Mr. Chairman, I request that the

1 comprehensive exhibit list be reflected to show the withdrawal
2 of Exhibit E1B.

3 CHAIRMAN BAEZ: Let the record so reflect.

4 BY MS. DAVIS:

5 Q Mr. Portuondo, would you turn to the testimony that
6 you filed in September, please. Do you have any additions or
7 corrections to that testimony?

8 A Yes, I do.

9 Q Would you please tell us what they are.

10 A The first correction can be found on Page 2, Line 17.
11 The factor of "3.869" should be replaced with "3.912."

12 Line 20, the factor of ".14700" should be replaced
13 with ".19061."

14 Going to Page 3, Line 2, the factor of "3.875" should
15 be replaced by "3.918."

16 Line 9, the amount of "138.4" should be replaced with
17 "155.2."

18 Line 12, "59.2" should be replaced with "76.8."

19 Line 15, "\$4.88" should be replaced with "\$5.32."

20 And the percent of "5.48" should be replaced with "5.97."

21 Line 19, the factor of "3.869" should be replaced
22 with "3.912."

23 Line 20, ".416" should be replaced with ".459." The
24 percentage of "12" should be replaced with "13.3."

25 And that concludes my adjustments to the direct

1 testimony.

2 Q With those revisions noted, if I asked you the
3 questions today that are in your direct testimony, would your
4 answers be the same?

5 A Yes, they would.

6 MS. DAVIS: Mr. Chairman, I request that
7 Mr. Portuondo's testimony be inserted in the record as though
8 read.

9 CHAIRMAN BAEZ: Without objection, show the testimony
10 of Witness Portuondo entered into the record as though read.

11 BY MS. DAVIS:

12 Q Mr. Portuondo, did you prepare exhibits that
13 accompany your direct testimony?

14 A Yes, I did.

15 Q Do you have additions or corrections to those?

16 A Yes, I do.

17 Q Would you please tell us what they are.

18 A My first correction would be to Schedule E1. That
19 schedule should be replaced with the E1 filed in November,
20 provided to the parties as part of my withdrawn revised
21 supplemental testimony.

22 Q So if I'm understanding your testimony correctly, you
23 would withdraw the schedules appended to your September
24 testimony and replace them with the schedules that were filed
25 last Friday, November 5th; is that correct?

1 A That is correct for Schedule E1, Schedule E1A,
2 Schedule E1C, Schedule E1D, Schedule E1E, Schedule E2 and
3 that's all.

4 MS. DAVIS: Mr. Chairman, these revised exhibits have
5 been supplied to all the parties and to the staff, and I would
6 ask that the master exhibit list be revised to indicate the
7 corrections.

8 CHAIRMAN BAEZ: Let the record show that the master
9 exhibit list, Exhibit Number 1, will show the corrected
10 schedules as set forth in Mr. Portuondo's submittals.

11 BY MS. DAVIS:

12 Q And, Mr. Portuondo, would you please confirm for the
13 record that you filed supplemental testimony on October the
14 25th and November the 5th, and both of those testimonies have
15 now been withdrawn.

16 A That is correct.

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PROGRESS ENERGY FLORIDA

DOCKET NO. 040001-EI

**Fuel and Capacity Cost Recovery
Final True-Up for the Period
January through December, 2003**

**DIRECT TESTIMONY OF
JAVIER PORTUONDO**

1 **Q. Please state your name and business address.**

2 A. My name is Javier Portuondo. My business address is Post Office Box
3 14042, St. Petersburg, Florida 33733.

4

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

6 A. I am employed by Progress Energy Service Company, LLC, in the capacity
7 of Director, Regulatory Services – Florida.

8

9 **Q. Have your duties and responsibilities remained the same since you**
10 **last testified in this proceeding?**

11 A. Yes.

12

13 **Q. What is the purpose of your testimony?**

14 A. The purpose of my testimony is to describe Progress Energy Florida's
15 (Progress Energy or the Company) Fuel Cost Recovery Clause final true-up
16 amount for the period of January through December 2003, and the
17 Company's Capacity Cost Recovery Clause final true-up amount for the
18 same period.

1 **Q. Have you prepared exhibits to your testimony?**

2 A. Yes, I have prepared and attached to my true-up testimony as Exhibit No.
3 ____ (JP-1T), a four-page true-up variance analysis of the difference
4 between the estimated true-up balance (based on the Company's February
5 18, 2003 Mid-Course Correction) and the actual period-ending true-up
6 balance. My Exhibit No. ____ (JP-2T) contains the Capacity Cost Recovery
7 true-up calculations for the January - December 2003 period. Exhibit No.
8 ____ (JP-3T) presents the revenues and expenses associated with the
9 purchase of the Tiger Bay facility approved in Docket 970096-EQ and the
10 corresponding amortization. In addition, I will sponsor the applicable
11 Schedules A1 through A9 for December 2003, period-to-date, as previously
12 filed with the Commission. For ease of reference, the schedules are
13 attached as Exhibit No. ____ (JP-4T).

14
15 **Q. What is the source of the data that you will present by way of**
16 **testimony or exhibits in this proceeding?**

17 A. Unless otherwise indicated, the actual data is taken from the books and
18 records of the Company. The books and records are kept in the regular
19 course of business in accordance with generally accepted accounting
20 principles and practices, and provisions of the Uniform System of Accounts
21 as prescribed by this Commission.

22

23

FUEL COST RECOVERY

24 **Q. What is the Company's jurisdictional ending balance as of December**
25 **31, 2003 for fuel cost recovery?**

1 A. The actual ending balance as of December 31, 2003 for true-up purposes
2 is an under-recovery of \$211,227,688.

3

4 **Q. How does this amount compare to the Company's estimated 2003**
5 **ending balance included in the Company's approved Mid-Course**
6 **Correction for the calendar year 2003?**

7 A. The final true-up attributable to the January - December 2002 period was
8 an under-recovery of \$66,271,472. Pursuant to Order No. PSC-03-0382-
9 PCO-EI approving the Company's 2003 Mid-Course Correction, Progress
10 Energy collected \$28,493,826 of this 2002 under-recovery in 2003 along
11 with all of the estimated under-recovery. This leaves the remaining 2002
12 under-recovery of \$37,777,646 as the estimated 2003 year-end balance in
13 the approved Mid-Course Correction. The portion of the \$211,227,688
14 actual 2003 year-end balance attributable solely to calendar year 2003,
15 after subtracting the remaining 2002 under-recovery, is an under-recovery
16 of \$173,450,042.

17

18 **Q. How was the final true-up ending balance determined?**

19 A. The amount was determined in the manner set forth on Schedule A2 of the
20 Commission's standard forms previously submitted by the Company on a
21 monthly basis.

22

23 **Q. What factors contributed to the period-ending jurisdictional under-**
24 **recovery of \$173,450,042 shown on your Exhibit No. ____ (JP-1T)?**

1 A. The factors contributing to the under-recovery are summarized on JP-1T,
2 Sheet 1 of 4. Jurisdictional fuel revenues fell below the forecast by \$11.0
3 million, while jurisdictional fuel and purchased power expense increased
4 \$161.8 million. This \$161.8 million unfavorable variance is primarily
5 attributable to escalating fuel prices throughout the year which not only
6 increased the Company's generation expense but also affected the cost of
7 power purchases.

8 By combining the differences in jurisdictional revenues and
9 jurisdictional fuel expenses, the net result is an under-recovery of \$172.8
10 million related to the January through December 2003 true-up period.
11 When interest of \$.7 million is included, the actual ending under-recovery
12 balance is \$173.5 million as of December 31, 2003.

13
14 **Q. Please explain the components shown on Exhibit No. ___ (JP-1T),**
15 **sheet 2 of 4, which produced the \$163.1 million unfavorable system**
16 **variance from the projected cost of fuel and net purchased power**
17 **transactions.**

18 A. Sheet 2 of 4 shows an analysis of the system variance for each energy
19 source in terms of three interrelated components; (1) changes in the
20 amount (MWH's) of energy required; (2) changes in the heat rate, or
21 efficiency, of generated energy (BTU's per KWH); and (3) changes in the
22 unit price of either fuel consumed for generation (\$ per million BTU) or
23 energy purchases and sales (cents per KWH).

1 **Q. What effect did these components have on the system fuel and net**
2 **power variance for the true-up period?**

3 A. As can be seen from sheet 2 of 4, variances in the amount of MWH
4 requirements from each energy source (column B) combined to produce a
5 cost increase of \$34.8 million. The primary reason for the unfavorable
6 variance in MWH requirements is the effect that generation mix had on total
7 net system fuel and purchased power cost.

8 The heat rate variance for each source of generated energy (column
9 C) results in an unfavorable variance of \$37.5 million. A large component
10 of this variance is due to greater peaker activity than estimated.

11 A cost increase of \$90.9 million resulted from the price variance
12 (column D), which was caused by a number of sources detailed on lines 1
13 through 19 of sheet 2 of 4, of Exhibit JP-1T. The significant factors
14 contributing to this unfavorable variance were increases in coal and gas
15 prices. Coal prices were higher than projected primarily due to reduced
16 supplies resulting from regulatory issues which hindered mountain top
17 mining as well as increased export demand. Gas prices were higher than
18 projected primarily due to the low level of underground storage. Higher
19 coal and gas prices increased the cost of generation (lines 3 and 4, column
20 D). Higher coal prices also resulted in higher energy payments to qualifying
21 facilities (line 11, column D) since nearly all the contracts are tied to coal
22 unit pricing.

23
24 **Q. Does this period ending true-up balance include any noteworthy**
25 **adjustments to fuel expense?**

1 A. Yes. Noteworthy adjustments are shown on Exhibit JP-4T in the footnote
2 to line 6b on page 1 of 4, Schedule A2. These adjustments include the
3 recovery of depreciation and return associated with Hines Unit 2
4 (authorized in Order No. PSC-02-0655-AS-EI) and removal of the expense
5 for inefficiently used fuel during the testing and start-up of Hines Unit 2.
6 Also included is the recovery of the Company's investment in the remaining
7 two of the 11 previously approved combustion turbine gas conversion
8 projects, Debary Unit P8 and Suwannee Unit P3. The final adjustment to
9 fuel expense of note is the amortization true-up of the Tiger Bay regulatory
10 asset which was fully amortized in September 2003.

11
12 **Q. Did Progress Energy's customers benefit during the true-up period**
13 **from its investment in the Gas Conversion projects previously**
14 **approved by the Commission?**

15 A. While customers have received significant cumulative net savings from
16 these gas conversion projects, one of the two remaining gas conversion
17 projects, Suwannee P3, did not produce fuel savings in 2003 to offset the
18 project's conversion costs for the year. Consistent with Order No. PSC-98-
19 0412-FOF-EI, which approved cost recovery for the conversion projects,
20 the Company will credit to fuel expense in the first quarter of this year the
21 depreciation and return costs for Suwannee P3 collected in 2003.
22 Including interest through January, this credit is \$178,798, which will be
23 deferred for subsequent recovery as sufficient fuel savings are realized in
24 the future. The other gas conversion project, Debary P8, produced fuel

1 savings of \$382,026 in 2003, which exceeded the project's 2003
2 conversion costs of \$277,818.

3
4 **Q. Has Progress Energy included any sulfur dioxide emission allowance
5 transactions in fuel expense for the true-up period?**

6 A. Yes, during the true-up period the Company included \$7.5 million of
7 emission allowances in fuel expense.

8
9 **Q. Were any other adjustments of note included in the current true-up
10 period?**

11 A. Yes. On January 20, 1997, the Company entered an agreement with Tiger
12 Bay Limited Partnership to purchase the Tiger Bay cogeneration facility and
13 terminate the five related purchase power agreements (PPAs). The
14 purchase agreement approved in Docket No. 970096-EQ was executed on
15 July 15, 1997, at which time Tiger Bay became one of Progress Energy's
16 generating facilities. Pursuant with the terms and conditions of the
17 approved stipulation, the Company placed approximately \$75 million of the
18 purchase price into rate base, with the remaining amount set up as a
19 regulatory asset for the retail jurisdiction, according to the Company's
20 jurisdictional separation at that time. The stipulation allows the Company to
21 continue collecting revenues from its ratepayer's as if the five related
22 purchase power agreements were still in effect. The revenues collected
23 would then be used to offset all fuel expenses relating to the Tiger Bay
24 facility and interest applicable to the unamortized balance of the retail

1 portion of the Tiger Bay regulatory asset, with any remaining balance used
2 to amortize the regulatory asset.

3 Following this methodology, a \$30.5 million adjustment was made to
4 remove the cost of fuel consumed by the Tiger Bay facility during the true-
5 up period, since these costs were recovered from the PPA revenues. As of
6 September 30, 2003 the Tiger Bay regulatory asset has been fully
7 amortized. Exhibit JP-3T shows the monthly amortization of the regulatory
8 asset computed in accordance with the approved stipulation.

9
10 **Q. Has the three-year rolling average gain on economy sales included in**
11 **the Company's filing for the November, 2003 hearings been updated**
12 **to incorporate actual data for all of year 2003?**

13 A. Yes. Progress Energy has calculated its three-year rolling average gain on
14 economy sales, based entirely on actual data for calendar years 2001
15 through 2003, as follows.

<u>Year</u>	<u>Actual Gain</u>
2001	\$10,283,714
2002	5,628,586
2003	<u>9,844,761</u>
Three-Year Average	\$ 8,585,687

21 PEF exceeded the 2003 threshold by \$1,560,962.

22
23 **Q. Order No. PSC-02-1484-FOF-EI, issued in Docket No. 011605-EI,**
24 **requires each utility to include in the final true-up each year all base**
25 **year and recovery year operating and maintenance expenses**

1 associated with financial and physical hedging activities. What were
2 the base year and recovery year O&M expenses associated with
3 hedging?

- 4 A. There were no base year or recovery year O&M expenses associated with
5 financial and physical hedging. No financial hedging activities took place in
6 the Company's base year (projected 2002) nor the recovery year (true-up
7 2003), and while PEF was actively hedging physically, there were no
8 transaction costs associated with any of the physical hedging activities that
9 occurred in either period. Future incremental hedging costs will include net
10 new personnel assigned to physical and financial hedging, new computer
11 systems and infrastructure for hedging activities, and transaction costs.

12 CAPACITY COST RECOVERY

13
14 Q. What is the Company's jurisdictional ending balance as of December
15 31, 2003 for capacity cost recovery?

- 16 A. The actual ending balance as of December 31, 2003 for true-up purposes
17 is an over-recovery of \$9,395,829.

18
19 Q. How does this amount compare to the estimated 2003 ending balance
20 included in the Company's Mid-Course Correction filing for the
21 calendar year 2003?

- 22 A. The Company's Mid-Course Correction filing estimated an over-recovery
23 balance of \$21,066,752 for the twelve-month period ending December 31,
24 2003. In accordance with Order No. PSC-03-0382-PCO-EI approving the
25 Mid-Course Correction, the entire estimated balance was applied to offset

1 the significant under-recovery of fuel and purchased power costs.
2 Therefore, the final net true-up attributable to 2003 is an over-recovery of
3 \$9,395,829.

4
5 **Q. Is this true-up calculation consistent with the true-up methodology**
6 **used for the other cost recovery clauses?**

7 A. Yes. The calculation of the final net true-up amount follows the procedures
8 established by the Commission, as set forth on Schedule A2, "Calculation
9 of True-Up and Interest Provision" for fuel cost recovery.

10
11 **Q. What factors contributed to the actual period-end over-recovery of**
12 **\$9.4 million?**

13 A. My Exhibit JP-2T, sheet 1 of 3, entitled "Capacity Cost Recovery Clause
14 Summary of Actual True-Up Amount," compares actual results to the
15 original forecast for the period. As can be seen from sheet 1, the actual
16 jurisdictional revenues were \$1.1 million higher than forecasted revenues
17 due to increased customer usage. A \$6.6 million reduction in net capacity
18 expenses resulted from fully amortizing the Tiger Bay Regulatory Asset a
19 month earlier than projected, which eliminated the capacity payment
20 charges for the five related purchase power agreements sooner than
21 expected. In addition, incremental security expenses were lower than
22 projected by \$1.7 million, which also contributed to the favorable capacity
23 expense variance. The Company achieved this expense reduction by
24 implementing less costly, yet equally effective, security measures.

1 **Q. Were there any items of note included in the current true-up period?**

2 A. Yes. In Order No. PSC-02-1761-FOF-EI, issued in Docket No. 020001-EI,
3 the Commission addressed the recovery of incremental security costs
4 through the capacity cost recovery clause. Exhibit JP-2T includes
5 incremental security costs of \$1,497,319 (system).

6

7 **Q. Does this conclude your direct true-up testimony?**

8 A. Yes.

PROGRESS ENERGY FLORIDA**DOCKET No. 040001-EI****Fuel and Capacity Cost Recovery
Estimated/Actual True-Up Amounts
January through December 2004****DIRECT TESTIMONY OF
JAVIER PORTUONDO**

1 **Q. Please state your name and business address.**

2 A. My name is Javier Portuondo. My business address is Post Office Box 14042,
3 St. Petersburg, Florida 33733.

4

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

6 A. I am employed by Progress Energy Service Company, LLC, in the capacity of
7 Director, Regulatory Services - Florida.

8

9 **Q. Have your duties and responsibilities remained the same since your**
10 **testimony was last filed in this docket?**

11 A. Yes.

12

13 **Q. What is the purpose of your testimony?**

14 A. The purpose of my testimony is to present for Commission approval Progress
15 Energy Florida's (Progress Energy or the Company) estimated/actual fuel and
16 capacity cost recovery true-up amounts for the period of January through
17 December 2004, based on actual results through July and reprojected results
18 for August through December.

1 **Q. Do you have an exhibit to your testimony?**

2 A. Yes. I have prepared an exhibit attached to my prepared testimony consisting
3 of Parts A through D and Commission Schedules E1 through E9, which
4 contain the calculation of the Company's true-up balances and the supporting
5 data. Parts A through C contain the assumptions which support the
6 Company's reprojected of fuel costs for the months of August through
7 December 2004. Part D contains the Company's reprojected capacity cost
8 recovery true-up balance and supporting data.

9
10 **FUEL COST RECOVERY**

11 **Q. How was the estimated true-up under-recovery of ^{\$155,959,294}~~\$138,387,535~~ shown**
12 **on Schedule E1-B, Sheet 1, line 21, developed?**

13 A. The estimated true-up calculation begins with the actual balance of
14 (\$182,034,760), taken from Schedule A2, page 2 of 2, for the month of July
15 2004. This balance, plus the estimated August through December 2004
16 monthly true-up calculations, comprise the estimated ^{\$155,959,294}~~\$138,387,535~~ under-
17 recovery balance at year-end. The projected December 2004 true-up balance
18 includes interest estimated at the July-ending rate of 0.117% per month. The
19 development of the actual/estimated true-up amount for the period ending
20 December 31, 2004 is shown on Schedule E1-B.

21
22 **Q. What are the primary reasons for the projected December-ending 2004**
23 **under-recovery of ^{\$155.2}~~\$138.4~~ million?**

24 A. Oil and gas prices have steadily increased over forecasted prices contained in
25 the Company's 2004 projections filed in September 2003, primarily due to

1 political instability in the Middle East, rising overseas demand, and fears of
2 continuing disruptions in supply. Progress Energy originally forecasted fuel
3 prices to increase through the first quarter 2004, then decrease over the
4 remainder of the year except for slightly higher prices toward year end. In
5 actuality, gas and oil prices have continued to increase throughout 2004 and
6 are projected to remain higher than originally forecasted for the remainder of
7 the year.

8
9 **Q. Does Progress Energy expect to exceed the three-year rolling average**
10 **gain on Other Power Sales?**

11 A. No, Progress Energy estimates the total gain on non-separated sales during
12 2004 will be \$8,191,662, which does not exceed the three-year rolling average
13 for such sales of \$8,585,687.

14
15 **Q. How does the current commodity fuel price forecast for August –**
16 **December 2004 compare with the forecast for the same period contained**
17 **in the Company's September 2003 filing?**

18 A. Forecasted prices for natural gas rose \$1.07 per MMBTU, or 19.6%. Residual
19 (heavy or No. 6) oil prices increased an average of \$3.50 per barrel, or 12.9%,
20 while distillate (light or No. 2) oil prices increased an average of \$15.15 per
21 barrel, or 43.2%.

22
23 **Q. What is the basis of the Company's fuel price forecast for the August -**
24 **December 2004 period?**

- 1 A. The Company's fuel price forecast was based on the forecast assumptions for
2 residual oil, distillate oil, natural gas, and coal shown in Part B of my exhibit.
3 The forecasted prices for each fuel type are shown in Part C.
4

5 CAPACITY COST RECOVERY

6 **Q. How was the estimated true-up over-recovery of \$11,358,199 shown on**
7 **Part D, Line 29, developed?**

- 8 A. The estimated true-up calculation begins with the actual balance of
9 \$4,688,381 for the month of July 2004. This balance, plus the estimated
10 August through December 2004 monthly true-up calculations, comprise the
11 estimated \$11,358,199 over-recovery balance at year-end. The projected
12 December 2004 true-up balance includes interest estimated at the July-ending
13 rate of 0.117% per month.
14

15 **Q. What are the major changes between the original projections for 2004**
16 **and the estimated/actual rejections?**

- 17 A. The variance between the projected and actual true-up balance at year-end
18 2003 accounts for \$6.1 million of the \$11.4 million over-recovery. Other
19 factors contributing to the over-recovery were lower than projected incremental
20 security costs, the termination of a QF Purchase Power Agreement (PPA)
21 sooner than expected, and the application of performance penalties under
22 another QF PPA.
23

24 **Q. Does this conclude your estimated/actual true-up testimony?**

- 25 A. Yes.

1 **Q. Do you have an exhibit to your testimony?**

2 A. Yes. I have prepared an exhibit attached to my prepared testimony consisting
3 of Parts A through E and the Commission's minimum filing requirements for
4 these proceedings, Schedules E1 through E10 and H1, which contain the
5 Company's levelized fuel cost factors and the supporting data. Parts A
6 through C contain the assumptions which support the Company's cost
7 projections, Part D contains the Company's capacity cost recovery factors and
8 supporting data, Part E contains the calculation of recoverable depreciation
9 expense and return on capital associated with Progress Energy's Hines Unit 2
10 in accordance with the rate case stipulation and settlement approved by the
11 Commission in April 2002.

12
13 **FUEL COST RECOVERY**

14 **Q. Please describe the levelized fuel cost factors calculated by the**
15 **Company for the upcoming projection period.**

16 A. Schedule E1, page 1 of the "E" Schedules in my exhibit, shows the calculation
17 of the Company's basic fuel cost factor of ^{3.912}~~3.869~~ ¢/kWh (before metering
18 voltage adjustments). The basic factor consists of a fuel cost for the
19 projection period of 3.71365 ¢/kWh (adjusted for jurisdictional losses), a GPIF
20 reward of 0.00531 ¢/kWh, and an estimated prior period true-up of ^{0.19061}~~0.14700~~
21 ¢/kWh.

22 Utilizing this basic factor, Schedule E1-D shows the calculation and
23 supporting data for the Company's final levelized fuel cost factors for service
24 received at secondary, primary, and transmission metering voltage levels. To
25 perform this calculation, effective jurisdictional sales at the secondary level are
26 calculated by applying 1% and 2% metering reduction factors to primary and
27 transmission sales, respectively (forecasted at meter level). This is consistent

1 with the methodology used in the development of the capacity cost recovery
2 factors. The final fuel cost factor for residential service is ~~3.875~~^{3.918} ¢/kWh.

3 Schedule E1-E develops the Time Of Use (TOU) multipliers of 1.288 On-peak
4 and 0.877 Off-peak. The multipliers are then applied to the levelized fuel cost
5 factors for each metering voltage level, which results in the final TOU fuel
6 factors for application to customer bills during the projection period.

7
8 **Q. Does the Company's basic fuel cost factor for 2005 include the entire**
9 **projected 2004 true-up under-recovery amount of ~~\$138.4~~^{#155.2}?**

10 A. No. In order to limit the price impact to customers, and given the potential
11 need to recover some of the storm costs caused by Hurricanes Charley and
12 Frances the Company is proposing to collect ~~\$59.2~~^{\$76.8} million of the 2004 true-up
13 balance in 2005 with the remaining \$79.2 million being deferred until 2006. By
14 deferring a portion of the true-up balance to 2006 a 1,000 kWh residential bill
15 would increase ~~\$4.88~~^{\$5.32} or ~~5.48~~^{5.97}% in 2005.

16
17 **Q. What is the change in the fuel factor for the projection period from the**
18 **fuel factor currently in effect?**

19 A. The projected average fuel factor for 2005 of ~~3.869~~^{3.912} ¢/kWh is an increase of
20 ~~0.416~~^{0.459} ¢/kWh, or ~~12.0~~^{13.3}%, from the 2004 average fuel factor of 3.453 ¢/kWh.

21
22 **Q. Please explain the reasons for the increase.**

23 A. The increase is mainly driven by rising coal, oil and natural gas prices. 2005
24 estimated coal prices are 17.0% above 2004 estimates. Rising coal prices are
25 due primarily to increased demand by foreign countries. 2005 estimated
26 heavy and light oil prices are 31.2% and 40% above 2004 estimated prices.
27 Natural gas prices for 2005 are 16.6% higher than 2004 estimates. Tight

1 supplies and increased global demand continue to keep oil and natural gas
2 prices high. Also contributing to the higher fuel factor is a less favorable fuel
3 mix due to the nuclear (CR3) refueling outage scheduled for the fall of 2005.
4

5 **Q. What is included in Schedule E1, line 4, "Adjustments to Fuel Cost"?**

6 A. Line 4 shows the recovery of the depreciation and return associated with
7 Hines Unit 2 (\$37,694,571) and the annual payment to the Department of
8 Energy for the decommissioning and decontamination of their enrichment
9 facilities (\$1,743,831). These fuel cost adjustments total \$39,438,402.
10

11 **Q. What is included in Schedule E1, line 6, "Energy Cost of Purchased
12 Power"?**

13 A. Line 6 includes energy costs for the purchase of 70 MWs from Tampa Electric
14 Company and the purchase of 414 MWs under a Unit Power Sales (UPS)
15 agreement with the Southern Company. The capacity payments associated
16 with the UPS contract are based on the original contract of 400 MWs. The
17 additional 14 MWs are the result of revised SERC ratings for the five units
18 involved in the unit power purchase, providing a benefit to Progress Energy in
19 the form of reduced costs per kW. Both of these contracts have been
20 approved for cost recovery by the Commission. Also included is a 150 Mw
21 purchase from Reliant Energy (Vandolah) beginning in June 2005 and a
22 peaking capacity purchase from Reedy Creek for the months of January (30
23 MWs) and February (20 MWs). The capacity costs associated with these
24 purchases are included in the capacity cost recovery factor.
25

26 **Q. What is included in Schedule E1, line 8, "Energy Cost of Economy
27 Purchases"?**

1 A. Line 8 consists primarily of economy purchases from within or outside the
2 state. Line 8 also includes energy costs for purchases from Seminole Electric
3 Cooperative, Inc. (SECI) for load following, and off-peak hydroelectric
4 purchases from the Southeast Electric Power Agency (SEPA). The SECI
5 contract is an ongoing contract under which the Company purchases energy
6 from SECI at 95% of its avoided fuel cost. Purchases from SEPA are on an
7 as-available basis. There are no capacity payments associated with either of
8 these purchases. Other purchases may have non-fuel charges, but since
9 such purchases are made only if the total cost of the purchase is lower than
10 the Company's cost to generate the energy, it is appropriate to recover the
11 associated non-fuel costs through the fuel adjustment clause rather than the
12 capacity cost recovery clause. Such non-fuel charges, if any, are reported on
13 line 10.

14

15 **Q. How was the Gain on Other Power Sales, shown on Schedule E-1, Line**
16 **15a, developed?**

17 A. Progress Energy estimates the total gain on non-separated sales during 2005
18 to be \$6,891,443, which is below the three-year rolling average for such sales
19 of \$7,888,336 by \$996,893. Based on the sharing mechanism approved by
20 the Commission in Docket No. 991779-EI, the total gain will be distributed to
21 customers.

22

23 **Q. How was Progress Energy's three-year rolling average gain on economy**
24 **sales determined?**

25 A. The three-year rolling average of \$7,888,336 is based on calendar years 2002
26 through 2004, and was calculated in accordance with Order No. PSC-00-
27 1744-PAA-EI, issued September 26, 2000 in Docket 991779-EI.

1 **Q. Why has the depreciation expense and return on capital associated with**
2 **Hines Unit 2 been included in the Adjustments to Fuel Cost entry you**
3 **described earlier?**

4 A. The stipulation approved by the Commission in April 2002 for Progress
5 Energy's base rate review proceeding (Docket No. 000824-EI) provides that
6 the Company will be allowed the opportunity to recover the depreciation
7 expenses and return on capital for its new Hines Unit 2 through the fuel clause
8 beginning with the unit's commercial operation (December 2003) through the
9 end of 2005, subject to the limitation that the costs of Hines Unit 2 recovered
10 over this period may not exceed the cumulative fuel savings provided by the
11 unit over the same period. Part E of my exhibit shows the calculation of the
12 depreciation expense and return on capital associated with Hines Unit 2 for
13 2005.

14
15 **Q. Please explain the entry on Schedule E1, line 17, "Fuel Cost of Stratified**
16 **Sales."**

17 A. Progress Energy has several wholesale contracts with Seminole, some of
18 which represent Seminole's own firm resources, and others that provide for
19 the sale of supplemental energy to supply the portion of their load in excess of
20 Seminole's own resources, 1525 MW in 2005. The fuel costs charged to
21 Seminole for supplemental sales are calculated on a "stratified" basis, in a
22 manner which recovers the higher cost of intermediate/peaking generation
23 used to provide the energy. New contracts for fixed amounts of intermediate
24 and peaking capacity began in January of 2000. While those sales are not
25 necessarily priced at the average cost of peaking or intermediate, Progress
26 Energy is crediting average fuel cost of the appropriate stratification
27 (intermediate or peaking) in accordance with Order No. PSC-97-0262-FOF-EI.

1 The fuel costs of wholesale sales are normally included in the total cost of fuel
2 and net power transactions used to calculate the average system cost per
3 kWh for fuel adjustment purposes. However, since the fuel costs of the
4 stratified sales are not recovered on an average system cost basis, an
5 adjustment has been made to remove these costs and the related kWh sales
6 from the fuel adjustment calculation in the same manner that interchange
7 sales are removed from the calculation. This adjustment is necessary to avoid
8 an over-recovery by the Company which would result from the treatment of
9 these fuel costs on an average system cost basis in this proceeding, while
10 actually recovering the costs from these customers on a higher, stratified cost
11 basis.

12 Line 17 also includes the fuel cost of sales made to the City of
13 Tallahassee in accordance with Order No. PSC-99-1741-PAA-EI, a 200 MW
14 sale to Florida Power & Light and 15 MW sale to the City of Homestead.
15

16 **Q. Please explain the procedure for forecasting the unit cost of nuclear fuel.**

17 A. The cost per million BTU of the nuclear fuel which will be in the reactor during
18 the projection period (primarily Cycle 14) was developed from the unamortized
19 investment cost of the fuel in the reactor. Cycle 14 consists of several
20 "batches" of fuel assemblies which are separately accounted for throughout
21 their life in several fuel cycles. The cost for each batch is determined from the
22 actual cost incurred by the Company, which is audited and reviewed by the
23 Commission's field auditors. The expected available energy from each batch
24 over its life is developed from an evaluation of various fuel management
25 schemes and estimated fuel cycle lengths. From this information, a cost per
26 unit of energy (cents per million BTU) is calculated for each batch. However,
27 since the rate of energy consumption is not uniform among the individual fuel

1 assemblies and batches within the reactor core, an estimate of consumption
2 within each batch must be made to properly weigh the batch unit costs in
3 calculating a composite unit cost for the overall fuel cycle. The projected cost
4 per million BTU for Cycle 15, which will be in effect following the fall 2005
5 refueling outage, was calculated using the same methodology.

6

7 **Q. How was the rate of energy consumption for each batch within Cycles 14**
8 **& 15 estimated for the upcoming projection period?**

9 A. The consumption rate of each batch has been estimated by utilizing a core
10 physics computer program which simulates reactor operations over the
11 projection period. When this consumption pattern is applied to the individual
12 batch costs, the resultant composite cost of Cycles 14 & 15 is \$.35 per million
13 BTU.

14

15 **Q. Please give a brief overview of the procedure used in developing the**
16 **projected fuel cost data from which the Company's basic fuel cost**
17 **recovery factor was calculated.**

18 A. The process begins with the fuel price forecast and the system sales forecast.
19 These forecasts are input into the Company's production cost model,
20 PROSYM, along with purchased power information, generating unit operating
21 characteristics, maintenance schedules, and other pertinent data. PROSYM
22 then computes system fuel consumption, replacement fuel costs, and energy
23 purchases and costs. This information is the basis for the calculation of the
24 Company's levelized fuel cost factors and supporting schedules.

25

26

27

1 **Q. What is the source of the system sales forecast?**

2 A. The system sales forecast is made by the forecasting section of the Financial
3 Planning & Regulatory Services Department using the most recent data
4 available. The forecast used for this projection period was prepared in June
5 2004.

6

7 **Q. Is the methodology used to produce the sales forecast for this projection**
8 **period the same as previously used by the Company in these**
9 **proceedings?**

10 A. Yes. The methodology employed to produce the forecast for the projection
11 period is the same as used in the Company's most recent filings, and was
12 developed with an econometric forecasting model. The forecast assumptions
13 are shown in Part A of my exhibit.

14

15 **Q. What is the source of the Company's fuel price forecast?**

16 A. The fuel price forecast was made by the Regulated Commercial Operations
17 Department based on forecast assumptions for residual (#6) oil, distillate (#2)
18 oil, natural gas, and coal. The assumptions for the projection period are
19 shown in Part B of my exhibit. The forecasted prices for each fuel type are
20 shown in Part C.

21

22 **CAPACITY COST RECOVERY**

23 **Q. How was the Capacity Cost Recovery factor developed?**

24 A. The calculation of the capacity cost recovery (CCR) factor is shown in Part D
25 of my exhibit. The factor allocates capacity costs to rate classes in the same
26 manner that they would be allocated if they were recovered in base rates. A
27 brief explanation of the schedules in the exhibit follows.

1 Sheet 1: Projected Capacity Payments. This schedule contains system
2 capacity payments for UPS, TECO, Chattahoochee, Vandolah and QF
3 purchases. The retail portion of the capacity payments is calculated using
4 separation factors from the Company's most recent Jurisdictional Separation
5 Study available at the time this filing was prepared.

6 Sheet 2: Estimated/Actual True-Up. This schedule presents the actual
7 ending true-up balance as of July, 2004 and re-forecasts the over/(under)
8 recovery balances for the next five months to obtain an ending balance for the
9 current period. This estimated/actual balance of \$11,358,199 is then carried
10 forward to Sheet 1, to be refunded during the January through December,
11 2005 period.

12 Sheet 3: Development of Jurisdictional Loss Multipliers. The same
13 delivery efficiencies and loss multipliers presented on Schedule E1-F.

14 Sheet 4: Calculation of 12 CP and Annual Average Demand. The
15 calculation of average 12 CP and annual average demand is based on 2003
16 load research data and the delivery efficiencies on Sheet 3.

17 Sheet 5: Calculation of Capacity Cost Recovery Factors. The total
18 demand allocators in column (7) are computed by adding 12/13 of the 12 CP
19 demand allocators to 1/13 of the annual average demand allocators. The CCR
20 factor for each secondary delivery rate class in cents per kWh is the product of
21 total jurisdictional capacity costs (including revenue taxes) from Sheet 1, times
22 the class demand allocation factor, divided by projected effective sales at the
23 secondary level. The CCR factor for primary and transmission rate classes
24 reflects the application of metering reduction factors of 1% and 2% from the
25 secondary CCR factor.
26

1 **Q. Please explain the decrease in the CCR factor for the projection period**
2 **compared to the CCR factor currently in effect.**

3 A. The projected average retail CCR factor of 0.77186/kWh is 0.4% lower than
4 the 2004 factor of 0.77482 ¢/kWh. The decrease in the factor is primarily due
5 to an \$8.0 million increase in the true-up overrecovery from last year. Partially
6 offsetting the decrease is the annual contractual escalation in capacity
7 payments.

8
9 **Q. Has Progress Energy included incremental security charges in the 2005**
10 **projected capacity amount?**

11 A. Yes. The Company has included \$2,382,920 related to incremental security
12 charges for 2005.

13
14 **Q. What additional internal and/or external security initiatives have taken**
15 **place or are anticipated to take place that will impact Progress Energy's**
16 **request for recovery through the Capacity Cost Recovery Clause in**
17 **2005?**

18 A. On April 29, 2003, the U.S. Nuclear Regulatory Commission (NRC) issued
19 three orders intended to strengthen protection requirements for nuclear
20 reactors (Design Basis Threat or DBT), limit working hours for security
21 personnel, and improve training for guards. The NRC required plans to be
22 submitted for review and approval by April 29, 2004 and implementation must
23 be completed by October 29, 2004. The infrastructure has already been
24 constructed, and Progress Energy expects to comply fully with these
25 requirements. No additional capital modifications are expected to be made in
26 2005 related to NRC requirements.

1 A. Yes. The Company recently entered into two long-term contracts for the
2 purchase of energy and capacity. The Company has contracted with Shady
3 Hills Power LLC to purchase the energy and capacity of a 517 MW combined
4 cycle facility located in Pasco County. The term of the contract runs from April
5 1, 2007 to April 30, 2014. This contract is more fully described in the testimony
6 of Mr. Waters. I am advised that this purchase is needed to maintain a 20%
7 reserve margin for the period in question. Mr. Waters addresses this point in his
8 testimony.

9
10 The Company is also in the final stages of negotiating an extension of its UPS
11 (Unit Power Sales) contract with the Southern Company. The parties have a
12 Letter of Intent that provides for the purchase of 425 MW of energy and
13 capacity for the period June 1, 2010 through May 31, 2015. Mr. Waters will
14 describe this contract in greater detail in his testimony. I am advised that this
15 purchase is needed to maintain a 20% reserve margin for the period in
16 question. As noted above Mr. Waters will address this point in his testimony.

17
18 **Q. Why is the Company presenting these contracts in this proceeding?**

19 A. We ask that the Commission approve these contracts for cost recovery now,
20 although actual purchases for energy and capacity under the contracts will not
21 be presented for cost recovery for several years. At that time the energy
22 purchases under the contract would be reviewed and approved for recovery
23 through the fuel clause and the capacity payments would be reviewed and
24 approved for recovery through the capacity clause. However because these
25 contracts are entered into to maintain the required reserve margin, and there
26 would be a significant lead time to pursue other alternatives, we have presented

1 the contracts for approval in this cycle of the fuel adjustment clause
2 proceedings.

3
4 **Q. Why are these contracts candidates for cost recovery through the fuel and**
5 **capacity clause?**

6 A. The Commission has required recovery of the energy and capacity charges
7 associated with power purchases, made after a company's last base rate
8 proceeding, through the fuel clause since it adopted the capacity cost recovery
9 factor in 1992 in Docket No. 910794-EQ. Until that time only the energy
10 portion of long term contracts was recovered through the fuel clause; the
11 capacity component was recovered through base rates. The Commission
12 found this created a disincentive to utilities to consider long term purchases that
13 did not coincide with base rate proceedings. The Commission adopted the
14 Capacity Cost Recovery Factor as part of the fuel adjustment clause to permit
15 recovery of capacity costs for contracts entered into after a company's last rate
16 case, that is, for capacity costs not otherwise recovered through its base rates.
17 In establishing the new factor the Commission required that the capacity cost of
18 a power purchase be allocated among customers on the basis of contribution to
19 peak demand, thus ensuring that whether capacity was constructed or
20 purchased, costs would be allocated among customers on a consistent basis.
21 At the time this policy was adopted the Commission noted that in PEF's
22 previous rate case the costs associated with the energy and capacity
23 components of the Southern UPS contract and a long term contract with
24 Seminole Electric were moved from base rates to the fuel clause for cost
25 recovery purposes. Thus the power purchased under the existing UPS contract
26 has been recovered through the fuel clause, with the capacity being recovered

1 through the capacity clause since the conclusion of the Company's 1987 rate
2 case.

3
4 We see no reason not to continue implementation of this Commission policy.
5 The capacity component of these contracts would be recovered through the
6 capacity clause while the energy purchases associated with them would be
7 recovered through the fuel clause as would any other energy or fuel related
8 expense. Although it will be several years before any capacity or energy costs
9 are proposed for recovery under these contracts, for reliability planning
10 purposes, the Commission should find, as part of this proceeding that entering
11 these two contracts at this time is a reasonable and prudent action by the
12 Company to maintain a 20% reserve margin. Recovery of energy and capacity
13 costs pursuant to the contracts would be permitted subject to a finding of
14 reasonableness and prudence at the expenses are presented for cost recovery.

15

16 **Q. Does this conclude your testimony?**

17 A. Yes, it does.

18

1 BY MS. DAVIS:

2 Q Mr. Portuondo, have you prepared a summary of your
3 testimony?

4 A Yes, I have.

5 Q Would you please give it.

6 A Commissioners, we are here before you today
7 requesting your approval to implement factors effective 2005 to
8 recover our projected costs of approximately 1.5 million in
9 projected fuel and capacity costs related to 2005. And in that
10 recovery, we have proposed to you the recovery of the
11 underrecovery associated with 2004 over a two-year period.
12 That concludes my summary.

13 MS. DAVIS: The witness is tendered for
14 cross-examination.

15 CHAIRMAN BAEZ: What order? Does OPC have cross?

16 MS. CHRISTENSEN: Commissioner, we have no
17 cross-examination of this witness at this time.

18 CHAIRMAN BAEZ: Thank you, Ms. Kaufman.

19 MS. KAUFMAN: I do. Thank you, Mr. Chairman.

20 CROSS EXAMINATION

21 BY MS. KAUFMAN:

22 Q Mr. Portuondo, good morning.

23 A Good morning.

24 Q My cross is substantially shorter after all of your
25 revisions. Do you have your September testimony with you?

1 A I do.

2 Q And in response to Ms. Davis's questions, you made a
3 number of changes and withdrawals and substitutions. Can I
4 just confirm with you that Schedule E4, has that schedule
5 changed?

6 A No, it has not.

7 Q So what's attached to your September testimony is
8 what we should be looking at for the information there?

9 A Yes, it is.

10 Q If you would turn to E4 and if you would turn to
11 the -- it's several pages, and they are not numbered, but if
12 you could turn to the one that gives a summary for January
13 '05 through December '05.

14 A Yes.

15 Q Okay. I'm going to be distributing -- Mr. McGlothlin
16 is going to be distributing an exhibit, and this is an excerpt
17 of one page from your ten-year site plan.

18 MS. KAUFMAN: Mr. Chairman, if I could have an
19 exhibit number.

20 CHAIRMAN BAEZ: That will be Number 61.

21 MS. KAUFMAN: What number? I'm sorry.

22 CHAIRMAN BAEZ: 61.

23 (Exhibit 61 marked for identification.)

24 BY MS. KAUFMAN:

25 Q Looking at your E4, would I be correct that this

1 schedule summarizes Progress's projection of which of its units
2 are going to run and how much generation is going to be
3 produced from each unit?

4 A That is correct.

5 Q Now, if you look at this excerpt from your ten-year
6 site plan, and we're only going to be looking at 2005 so that
7 should correspond to your E4, would you agree that this is also
8 a projection of the types of units that are going to be running
9 in 2005?

10 A That is correct.

11 Q Okay. Would you agree with me, Mr. Portuondo, that
12 sort of as a general rule a coal unit is cheaper to run on an
13 energy basis than a gas unit?

14 A That is correct.

15 Q And if you just take a look for a second at your E4,
16 you would agree with me that, for example, your Crystal River
17 plant, that's a coal plant, right, Crystal River 1?

18 A Yes.

19 Q You're projecting a fuel cost of 2.74 cents per
20 kilowatt hour?

21 A Yes.

22 Q And then your Bartow plant is a gas plant; correct?

23 A It's Bartow is -- Bartow Unit 3 is dual fuel.

24 Q The Bartow unit that's reflected on Line 22 of E4,
25 which kind of fuel is that plant?

1 A That's a peaker.

2 Q Okay.

3 A And it's gas-fired.

4 Q Okay. And the projected cost per kilowatt hour for
5 that plant is 10.81; correct?

6 A That is correct.

7 Q Now, looking at the excerpt from your ten-year site
8 plan, you'd agree with me, wouldn't you, that -- well, first of
9 all, when was the ten-year site plan filed here at the
10 Commission? Do you know?

11 A It was April of 2004.

12 Q Okay. Now, looking at Schedule 6.1, Progress was
13 projecting about 17,000 gigawatts of energy would be generated
14 from coal; correct?

15 A That is correct.

16 Q And about almost 7600 gigawatts from gas; correct?

17 A That's correct.

18 Q Now, if you would accept, subject to check, what I've
19 done with your Schedule E4 is simply total up the generation
20 from coal and total up the generation from gas. And it looks
21 to me like you're projected in your E4 to generate about 16,000
22 gigawatts of coal -- from coal versus the almost 18,000 in your
23 ten-year site plan. Does that look about right?

24 A Versus the 17,198.

25 Q Right.

1 A Subject to check, I would agree.

2 Q Can you tell me why it is that you are now projecting
3 to generate less from your coal-based units than when you filed
4 your ten-year site plan?

5 A No, I cannot. I don't know intimately the
6 assumptions that went into the development of the ten-year site
7 plan. It was pretty early in the year when these figures were
8 developed as compared to when my testimony was filed. One
9 thing that I am aware of that's associated with my testimony is
10 that there was a coal outage that was deferred from this year
11 to next year that would have reduced the number of megawatts
12 produced. That may not be the entire story, but there are
13 probably other variables that differ due to the timing of these
14 projections.

15 Q And I think you said that you're not the right person
16 to inquire?

17 A Not on the ten-year site plan, no, I'm not.

18 Q Is there another witness that Progress has that would
19 know the reason for the difference in this case?

20 A Not in this docket, no.

21 Q And just to conclude this line of questioning, when I
22 did my calculations, I also noticed that in your E4s you're
23 scheduled to generate more energy from your gas-fired plants
24 than you projected in your ten-year site plan. Would your
25 answer be the same, that you can't explain the reason for the

1 .ncrease in gas?

2 A I cannot. I'd have to inquire within the company
3 about the development of the ten-year site plan detail.

4 MS. KAUFMAN: Thank you, Mr. Chairman.

5 CHAIRMAN BAEZ: Staff.

6 MS. VINING: Staff doesn't have any questions of this
7 witness.

8 CHAIRMAN BAEZ: Ms. Davis.

9 MS. DAVIS: No redirect.

10 CHAIRMAN BAEZ: Commissioners, any questions? No
11 questions. Thank you.

12 Thank you, Mr. Portuondo.

13 THE WITNESS: Thank you.

14 (Witness excused.)

15 CHAIRMAN BAEZ: Ms. Davis.

16 MS. DAVIS: Progress calls Donna Davis.

17 MS. KAUFMAN: Mr. Chairman, I'd like to move the
18 admission of 61, Exhibit 61.

19 CHAIRMAN BAEZ: Without objection, show
20 Exhibit 61 moved into the record.

21 MS. DAVIS: Well, actually, Mr. Chairman, I think we
22 would object to Exhibit 61 if it's the excerpt from the
23 ten-year site plan because Mr. Portuondo indicated that he's
24 not the person responsible for developing it and can't testify
25 as to the meaning of the numbers there.

1 MS. KAUFMAN: Mr. Chairman, I don't think there's any
2 disagreement that this is a document that was filed on
3 Progress's behalf at the Commission and that it's a true and
4 accurate excerpt from that document.

5 CHAIRMAN BAEZ: I mean, it doesn't -- Ms. Davis, I'm
6 not sure what the prejudice is of having an excerpt from a
7 document that was publicly filed on behalf of the company. I
8 mean, he's already gone on record as saying that he can't vouch
9 for the details of the development of these numbers. I mean,
10 he himself has impeached it well enough --

11 MS. DAVIS: Yes, sir, it's just a question of
12 relevance.

13 CHAIRMAN BAEZ: I'm going to allow it. Show
14 Exhibit 61 entered into the record. Ms. Vining, I'm also
15 showing that Exhibit 59 hadn't been entered; is that --

16 MS. VINING: Yes.

17 CHAIRMAN BAEZ: Okay. We'll go ahead and admit
18 Exhibit 59 into the record. And I'm wondering if it might not
19 be cleaner just to make sure and get all of Mr. Portuondo's
20 exhibits in off of the comprehensive list that we have not
21 done. And by my observation, I'm showing those to be Exhibits
22 31, 32, 33, and 34. And if there are no objections, we'll show
23 those moved into the record as well.

24 (Exhibits 31, 32, 33, 34, 59, and 61 admitted into
25 the record.)

1 CHAIRMAN BAEZ: Ms. Davis were you sworn, ma'am?

2 MS. DAVIS: Yes, sir, I was.

3 CHAIRMAN BAEZ: Okay. Go ahead, Ms. Davis.

4 DONNA M. DAVIS

5 was called as a witness on behalf of Progress Energy Florida
6 and, having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. DAVIS:

9 Q Ms. Davis, could you state your name and address,
10 please.

11 A Yes. My name is Donna M. Davis, and my address is
12 410 South Wilmington Street, Raleigh, North Carolina 27601.

13 Q Ms. Davis, have you previously appeared as a live
14 witness before the Commission?

15 A No, ma'am. This is my first time.

16 Q Did you file testimony in this docket?

17 A Yes, I did.

18 Q Do you have any additions or corrections to your
19 testimony?

20 A No, I do not.

21 Q If I asked you the questions today, would your
22 answers be the same?

23 A Yes, they would.

24 MS. DAVIS: Mr. Chairman, I request that Ms. Davis's
25 testimony be inserted in the record as though read.

1 CHAIRMAN BAEZ: Without objection, show the prefiled
2 testimony of Witness Davis entered into the record as though
3 read.

4 BY MS. DAVIS:

5 Q Ms. Davis, did you prepare any exhibits to accompany
6 your testimony?

7 A No, I did not.

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PROGRESS ENERGY FLORIDA
DOCKET NO. 040001-EI

SUPPLEMENTAL
DIRECT TESTIMONY OF
DONNA M. DAVIS

1 **Q. Please state your name and business address.**

2 A. My name is Donna M. Davis. My business address is P.O. Box 1551,
3 Raleigh, North Carolina 27602.

4

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

6 A. I am employed by Progress Fuels Corporation (PFC) in the capacity of
7 Controller, Coal Accounting and Regulatory Services.

8

9 **Q. What are the duties and responsibilities of your position with PFC?**

10 A. As Controller of Coal Accounting and Regulatory Services, my duties
11 include responsibility for the books and records of PFC's "regulated"
12 business, *i.e.*, the procurement and delivery of coal to the Crystal River
13 plant site of Progress Energy Florida (Progress Energy or the Company) to
14 supply the requirements of its four coal-fired generating units located at the
15 site. This responsibility includes managing the accounting functions related
16 to the costs of waterborne coal transportation services provided to Progress
17 Energy and the Commission's market proxy pricing mechanism for these
18 services, which I participated in developing for presentation to the
19 Commission in 1993. My duties also include supervising the preparation of
20 the Commission's monthly Form 423-2 regarding coal purchases and
21 transportation for Progress Energy.

DOCUMENT NUMBER-DATE

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1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is to address the issue recently raised by the
3 Office of Public Counsel (OPC) regarding whether adjustments made by
4 PFC to remove transloading costs from foreign coal purchases are
5 consistent with the Commission's 1994 order establishing a market proxy
6 pricing mechanism for waterborne transportation of foreign coal by PFC to
7 Progress Energy's Crystal River plant.

8
9 **Q. Please describe the market price proxy established by the**
10 **Commission for waterborne transportation of foreign coal.**

11 A. In 1993 the Commission approved a market price proxy for waterborne
12 transportation of coal by PFC from mines in the Appalachian region to
13 Progress Energy's Crystal River plant. (Order No. PSC-93-1331-FOF-EI,
14 issued September 13, 1993 in Docket No. 930001-EI) The market proxy
15 price was intended to cover PFC's costs for five segments of the overall
16 waterborne transportation route: Upriver transportation from mine to river
17 terminal; upriver terminal storage and loading on river barges; river-barge
18 transportation down the Ohio and Mississippi Rivers; Gulf terminal storage
19 and transloading from river barges to ocean-going barges; and cross-Gulf
20 transportation to the Crystal River plant.

21 At that time PFC had not purchased coal from foreign sources for
22 several years. Shortly thereafter, however, when the opportunity to again
23 purchase foreign coal arose, it became apparent that the domestic coal
24 market proxy required modification in order for it to be properly applied to
25 the transportation of foreign coal. This was because foreign coal is typically

1 purchased at the Gulf terminal, which means that its delivery to Crystal
2 River involves only the last two segments of the waterborne transportation
3 route for domestic coal; Gulf terminal storage and transloading, and cross-
4 Gulf transportation. Since these two segments constituted 50.2 percent of
5 the total waterborne transportation costs used by the Commission to
6 establish the market price proxy for domestic coal in 1993, the Commission
7 used this percentage of the domestic market proxy (less the fee for
8 governmental impositions) to establish the market price proxy for
9 waterborne transportation of foreign coal. (Order No. PSC-94-0390-FOF-
10 EI, issued April 4, 1994 in Docket No. 940001-EI.) For example, if the
11 domestic market price proxy is \$25.00, including a governmental
12 impositions fee of 20 cents, the market proxy for foreign coal would be
13 $(\$25.00 - \$0.20) \times 50.2\%$, or \$12.45. This method of determining the
14 market proxy for foreign coal was in effect continuously from 1994 through
15 2003, when the Commission terminated both the domestic and foreign coal
16 market price proxies.

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Q. What are the circumstances that led to OPC's issue now before the Commission?

A. As I understand OPC's issue, it involves the occasional situation where foreign coal has already been delivered to, and is in ground storage at, the Gulf terminal, which is then purchased by PFC, FOB the Dixie Fuels Limited (DFL) vessels. This means that the seller has incurred transloading costs to deliver the coal aboard the DFL vessels, in contrast to the normal situation where PFC takes title to foreign coal purchases before the coal

1 has been unloaded to the Gulf terminal, *i.e.*, before the seller has incurred
2 any transloading costs. For these occasional purchases made on a FOB
3 DFL vessel basis, it is reasonable to assume that at least a portion of the
4 seller's transloading costs are included in the commodity price of the coal.

5
6 **Q. How does PFC treat these transloading costs that have been included**
7 **in the commodity price of foreign coal?**

8 A. PFC adjusts the commodity price to remove the seller's transloading costs
9 in order to arrive at an adjusted commodity price equivalent to the more
10 typical foreign coal purchases that are made before transloading takes
11 place. Since the transloading rate charged to the seller by the terminal is
12 proprietary and unavailable publicly, PFC uses the rate it is charged for
13 comparable transloading services by the terminal to adjust the commodity
14 price of these on-the-ground foreign coal purchases. PFC then charges
15 Progress Energy the lower, adjusted commodity price plus the foreign coal
16 market price proxy when the coal has been delivered to Crystal River.

17
18 **Q. Does this conclude your testimony?**

19 A. Yes, it does.

1 BY MS. DAVIS:

2 Q Did you prepare a summary of your testimony?

3 A Yes, I did.

4 Q Would you please give it.

5 A Yes. My testimony addresses a recent issue raised by
6 the Office of Public Counsel whether an additional adjustment
7 should be made in addition to the adjustment that the PSC has
8 already made to deduct transloading from the commodity price of
9 foreign coal. My testimony explains in detail the two market
10 proxies that were allowed by this Commission in 1993 and
11 1994 for domestic coal and for foreign coal purchased for
12 delivery to Crystal River.

13 Q Does that complete your summary?

14 A Yes, it does.

15 MS. DAVIS: The witness is tendered for
16 cross-examination.

17 CHAIRMAN BAEZ: Thank you, Ms. Davis.

18 Ms. Christensen.

19 MS. CHRISTENSEN: Thank you.

20 CROSS EXAMINATION

21 BY MS. CHRISTENSEN:

22 Q Good morning, Ms. Davis. Can you tell us the name of
23 your employer?

24 A Progress Fuels Corporation.

25 Q And can you explain why you're testifying on behalf

1 of Progress Energy Florida today?

2 A Yes. Progress Fuels Corporation delivers the coal to
3 Crystal River, and the Commission in the past has asked us on
4 behalf of Progress Energy Florida to testify on coal matters --
5 coal purchases and deliveries.

6 Q Can you tell us where your office is located?

7 A Yes. 410 South Wilmington Street.

8 Q Are you familiar with the 423 forms that are filed
9 with this Commission and the FCC?

10 A Yes, I am. I helped develop those forms back in the
11 early '80s.

12 Q Okay. Do you prepare the information on the 423
13 forms related to the coal transactions that are filed each
14 month with this Commission?

15 A They're prepared under my supervision.

16 Q And does that information include the amount of coal
17 purchased by Progress and the purchase prices for those coal?

18 A Yes, it does.

19 Q And the information is filed by mine source and
20 plant; is that correct?

21 A Yes, it is.

22 Q And you also report the various freight charges that
23 the company collects for rail and waterborne transport;
24 correct?

25 A That is correct.

1 Q Regarding the waterborne transport, is it correct
2 that you report the expenses for each of the elements?

3 A No, we do not.

4 Q Okay. Can you explain which elements you do report
5 for?

6 A Yes. When the Form 423 was originally developed,
7 there were numerous -- they were -- each segment was on the
8 Form 4423 (sic), but in 1993 when the Commission developed the
9 two market proxies that we have, the domestic and the foreign
10 rate, we had to come up with a method for this form only for
11 reporting domestic coal and foreign coal when we purchased it.
12 At that point we reported a market proxy rate. The coal that
13 comes in by water comes into IMT of which it loses its identity
14 at that point. So at that point we had to implement something
15 for this report and to show coal into IMT with a transportation
16 rate and then out of IMT when it's delivered to Crystal River.
17 The proxy was not broken into two components. So internally we
18 developed something on the report.

19 Q Would you -- for the 423, would these be the upriver
20 trucking, upriver terminal cost, river barge transportation
21 cost, transloading cost, and then the cross-Gulf?

22 A The domestic market proxy includes all of those
23 items.

24 Q Okay. And the foreign coal proxy includes
25 transloading and cross-Gulf; is that correct?

1 A Yes, that is correct. There are two market proxies.

2 Q Okay. As you stated on Page 2 of your testimony,
3 that the proxy you charged all the way up through 2003 was
4 intended to cover PFC's cost for those five segments; is that
5 correct?

6 A The market proxy was an all-inclusive number. It was
7 just one number. And when it was developed originally, it was
8 developed all the way down from mine mouth to Crystal River.
9 So it would have included all of those components.

10 Q Can you tell us how long you've been providing the
11 data to support the proxy cost which you've been passing
12 through to the customers?

13 A The market proxy came into effect in 1993. I think
14 the first time we put it on a form was 1994.

15 Q And are you required to report those costs for each
16 of the elements?

17 A We're required to report the market proxy.

18 Q So in the past when you purchased domestic coal at
19 your terminal in Louisiana, did you simply pass on the total
20 proxy rate for domestic coal that included the cost for hauling
21 the domestic coal from the mine to the river and down the Ohio,
22 Mississippi Rivers to Louisiana?

23 A I'm sorry. Would you repeat that?

24 Q Sure. In the past when you purchased domestic coal
25 at the terminal in Louisiana, would you simply pass on the

1 total proxy rate for domestic coal which included the cost of
2 hauling the coal from the mine to the river, down the river
3 into the terminal?

4 A Domestic coal is purchased FOB the mine which is
5 either in Kentucky or West Virginia. It's not purchased at
6 IMT. There may have been one or two occasions over the 10 to
7 12 years where a distressed shipment may have been purchased at
8 IMT. But domestic coal is purchased at a mine site in West
9 Virginia or Kentucky.

10 Q Would you agree that our disagreement today is
11 whether you're entitled to collect the proxy for foreign coal
12 purchased that's designated FOB Dixie barge; is that correct?

13 A That was not my understanding. My understanding that
14 our disagreement is, is that we have tried to follow the
15 Commission's rule and apply the foreign proxy to the commodity
16 price of foreign coal we have bought at IMT, and that your
17 disagreement is whether that foreign proxy should be applied or
18 not.

19 Q On Page 2 of your testimony, Line 25 and it continues
20 on to the next page, 3, you state that the foreign coal proxy
21 is based on the assumption that it includes transloading
22 expenses and cross-Gulf transportation; is that correct?

23 A That is correct.

24 Q Now, some of this may be confidential, and we're
25 going to try and do this without revealing confidential

1 information, so let me ask you in this way. We have identified
2 a specific source and a specific tonnage that we agree about is
3 the items that are in dispute; is that correct?

4 A That is correct.

5 Q Okay. And these are the 2003 shipments; correct?

6 A Foreign shipments; correct.

7 Q Foreign shipments. Can you tell me the name of the
8 source of those shipments that we are talking about here?

9 A The foreign suppliers?

10 Q Yes, the foreign supplier's name.

11 A The foreign suppliers that we are in disagreement on
12 are the Emerald coal purchases in 2003.

13 Q Okay. And can you tell me the amount of tonnage that
14 we are in disagreement about? If you can do so without
15 revealing confidential information.

16 A 267,000 tons.

17 Q And that's the total tonnage that we're talking
18 about; correct?

19 A That is the tonnage that we have been discussing.

20 Q When we were discussing the location of the Emerald
21 mine in deposition, you weren't sure where the location is. Do
22 you now know where the Emerald mine is located?

23 A Emerald is a broker, and that coal that came into IMT
24 for 2003, it was Polish coal.

25 Q Okay. And from the Emerald mine contracts, are we

1 correct that those were received at the Louisiana terminal?

2 A Yes, they were at the Louisiana terminal.

3 Q Let me give you an example. Would it be correct, as
4 we discussed in your deposition, that you purchased
5 approximately 80,000 tons of coal from Emerald on, like, April
6 2nd, 2003 based on a contract that stated FOB Dixie barge; is
7 that correct?

8 A Subject to check the month of April. Correct.

9 Q Is it correct that FOB means free on board?

10 A That is correct.

11 Q Now, without revealing the charge, is it correct that
12 you took the invoice from that transaction and reduced the
13 purchase price of the coal on your Commission 423 Report to
14 show that you had paid a transloading rate based on your
15 contract with the terminal company? Would that be correct?

16 A I think the correct answer is we deducted it from the
17 invoice price charged to the customer, and then showed that on
18 the Form 423. Correct.

19 Q And that deduction was based on the contract you had
20 with MIT, am I correct, Louisiana terminal?

21 A With IMT, that is correct.

22 Q IMT. Okay. And then it would be correct to say that
23 you collected the full amount of the proxy from the customer?

24 A Yes. We only had one proxy that was allowed by the
25 Commission. And the foreign proxy was what we applied to the

1 price.

2 Q Would it be correct that you have designated an
3 amount of that proxy that relates to transloading cost?

4 A Internally we have designated an amount because of
5 the Form 423. We had to do that for reporting purposes.

6 Q And then it would be correct that you have also
7 designated a portion of the foreign coal proxy for trans-Gulf
8 cost?

9 A For reporting purposes on the Form 423.

10 Q You agreed at your deposition that you made precisely
11 the same dollar adjustment we just described for every Emerald
12 shipment you processed in 2003; is that correct?

13 A The same adjustment, that is correct.

14 Q Okay. And the total tonnage was how much again?

15 A 267,000 rounded.

16 Q When you made those adjustments, why didn't you
17 adjust the total proxy amount for the terminal since Progress
18 did not pay any invoices for those transloading expenses?

19 A Because a Commission order in 1993 and 1994 only gave
20 us two proxies. They gave us a proxy for domestic coal out of
21 West Virginia and Kentucky to Crystal River, and they gave us a
22 foreign coal proxy from IMT to Crystal River. So to be
23 consistent with the order and not to overrecover, we had to
24 deduct an amount from the commodity price in order to apply the
25 market proxy which was allowed by the Commission.

1 Q Now, would you agree that it's -- can you please tell
2 us what the difference is, if it doesn't lead to a confidential
3 number, between the transloading portion of the proxy versus
4 the adjustment that you made.

5 A No, ma'am, that would be a confidential number.

6 Q I'm going to show you an exhibit that we used during
7 deposition.

8 MS. CHRISTENSEN: If we could have that marked for
9 identification.

10 CHAIRMAN BAEZ: Ms. Davis, is there a title to this
11 that doesn't breach confidentiality? Ms. Davis.

12 THE WITNESS: I'm sorry. Are you addressing --
13 there's two Davises here.

14 CHAIRMAN BAEZ: You know, I didn't even realize that.
15 I'm sorry. And you can give me an answer too, either one.

16 MS. DAVIS: This is not a schedule that Progress
17 Energy developed. This schedule was developed by the Office of
18 Public Counsel. And I believe at the deposition we called it
19 the transloading spreadsheet.

20 CHAIRMAN BAEZ: Is that a fair title? We'll call it
21 the transloading spreadsheet. Show it marked as Exhibit 62.

22 MS. CHRISTENSEN: That's fine.

23 (Exhibit 62 marked for identification.)

24 BY MS. CHRISTENSEN:

25 Q Ms. Davis, do you recognize this sheet?

1 A Yes, I do.

2 Q And is this the sheet that we used to discuss the
3 transactions in your deposition?

4 A Yes, it was.

5 Q I'm going to ask you a few questions about that and
6 see if we can get to the answer. In the far right column,
7 looking at Line 1, there's a number there. Is that the
8 adjustment that you made to those purchases?

9 A That is the adjustment that we made to the commodity
10

11

12

13

14 A The market proxy is one number. That is an internal
15 number of which in order to do Form 423 for the Commission's
16 requirement, the way we tried to break out and report the
17 transaction on the form as requested.

18 Q Okay. So that's the internal number that you
19 attribute to the transloading portion of the proxy; correct?

20 A That is correct.

21 Q Okay. And our dispute is regarding at this time the
22 difference between that number and the adjustment that you have
23 already made; correct?

24 A For Line 1, that is correct.

25 Q Okay. And that would be true for all similar

1 transactions that involve Emerald Shipping in the year 2003;
2 correct?

3 A If it was comparable to Line 1.

4 Q And I think you've already stated this earlier, but
5 we're talking a total tonnage of approximately 267,000 tons; is
6 that correct?

7 A That is correct.

8 MS. CHRISTENSEN: Okay. We have no further
9 questions. Thank you. I would ask --

10 CHAIRMAN BAEZ: If you can hold on, I think --
11 Ms. Kaufman, do you have cross for this witness?

12 MS. KAUFMAN: No, Mr. Chairman. I have no questions.

13 CHAIRMAN BAEZ: Staff.

14 MS. VINING: Staff has no questions of this witness.

15 CHAIRMAN BAEZ: Commissioners, any questions?

16 COMMISSIONER DEASON: I have a few questions.

17 CHAIRMAN BAEZ: Commissioner Deason.

18 COMMISSIONER DEASON: I'm just trying to understand
19 this last exhibit that was handed out, the confidential
20 exhibit. There is a column of numbers at the top. It says,
21 "Terminal." Do you see that?

22 THE WITNESS: Yes, sir.

23 COMMISSIONER DEASON: And then there's numbers that
24 appear below that.

25 THE WITNESS: Yes.

1 COMMISSIONER DEASON: What do those numbers
2 represent?

3 THE WITNESS: The column that says, "Terminal" was --
4 in order to comply with the Form 423, the Commission form, coal
5 comes into IMT and the market proxy we had to break to go in
6 and figure out some way on this form to report coal going into
7 MT. So that was our internal calculation of what that
8 terminal cost would be if I broke -- if I somehow broke that
9 market proxy out.

10 COMMISSIONER DEASON: And the column entitled, "Gulf"
11 and then there's a series of numbers below that, that
12 represents the cross-Gulf transportation component?

13 THE WITNESS: The two numbers together was our market
14 proxy for 2003, and for this form I could not report that
15 number in total on Form 423. So I had to come up with some
16 method on the form to break out cost, and that is the method of
17 which we chose to break it out.

18 COMMISSIONER DEASON: Well, what does the numbers
19 underneath the column entitled, "Contract," what does that
20 represent?

21 THE WITNESS: That number is the invoice price, the
22 commodity price prior to any adjustment.

23 COMMISSIONER DEASON: Well, what relation does that
24 have to the 423 Form numbers that appear in that fourth column?

25 THE WITNESS: What we had to do is to take those

1 numbers under the contract price in order not to double recover
2 because the market proxy included transloading and a Gulf
3 charge. It was one number that was a combination back in
4 1993 when we -- actually, 1994 for the Gulf proxy. So we
5 deducted the last column amount, which was a cost for
6 transloading at IMT, and then applied the market proxy of the
7 two numbers under terminal and Gulf, but it was only one
8 number. The market proxy is only one number.

9 COMMISSIONER DEASON: I see that the mathematical
10 relationship is that if you take the amount under the contract
11 column and you subtract the adjustment, that you end up with
12 the amount shown on Form 423; correct?

13 THE WITNESS: Right. And that will give you a
14 commodity price at IMT. Then in order to get it to Crystal
15 River, the foreign market proxy was a total of the two numbers
16 listed in the fifth and sixth column.

17 COMMISSIONER DEASON: And then that gives you the
18 total amount that you -- what do you do with that total amount?

19 THE WITNESS: That is the total amount of the coal
20 and transportation to get it to Crystal River. The coal
21 commodity price plus the market proxy that we were allowed to
22 get it to Crystal River.

23 COMMISSIONER DEASON: And then to the extent you can
24 answer this question, what is your understanding as to the
25 amount of the adjustment Public Counsel's position would make?

1 THE WITNESS: On Line 1, the difference between the
2 adjustment column and the terminal column.

3 COMMISSIONER DEASON: Their position is that the
4 amount shown on the terminal column should be the amount of the
5 adjustment as opposed to the amounts you've shown under your
6 adjustment column.

7 THE WITNESS: That's correct. And our position is
8 there is no market proxy just for the terminal. The market
9 proxy was an all-inclusive number.

10 COMMISSIONER DEASON: And you broke it out just for
11 reporting purposes?

12 THE WITNESS: Yes, sir, I had to according to the
13 form.

14 COMMISSIONER DEASON: So how did you make that
15 determination as to what that amount would be?

16 THE WITNESS: That determination was made based on me
17 carrying from 1993 an approximate of what the cost would have
18 been in 2003.

19 COMMISSIONER DEASON: You took an amount and
20 escalated it to 2003; is that --

21 THE WITNESS: Escalated it and de-escalated it from
22 year to year.

23 COMMISSIONER DEASON: But your position has no
24 relevance other than just to put a number on a report?

25 THE WITNESS: The Form 423 -- when coal comes into

1 IMT, it loses its identity. You no longer can identify that
2 it's a particular supplier when it gets to Crystal River. So
3 in order to -- when you report coal on Form 423 into Crystal
4 River into IMT, you have to break it out on the form. So
5 internally that's what we did.

6 CHAIRMAN BAEZ: Ms. Davis, do you have redirect?

7 MS. DAVIS: Just a few, Commissioner.

8 REDIRECT EXAMINATION

9 BY MS. DAVIS:

10 Q Ms. Davis, directing your attention to this
11 spreadsheet, do you note any errors or mistakes on it?

12 A I'm sorry, I cannot hear.

13 Q Did you note any errors or mistakes on Exhibit 62,
14 the spreadsheet prepared by the Office of Public Counsel?

15 A Yes, ma'am. And we filed a late-filed exhibit
16 explaining what those errors were.

17 Q Would you please review them for the Commission.

18 A Yes. Numerous of the errors is -- the way the Form
19 423 works is you report your current month purchases 45 days
20 after the fact and you report the market proxy or, in the rail
21 case, the cost for rail coal. There are Btu adjustments made
22 for when you buy coal. It can be a positive, a negative, and
23 most of those Btu adjustments do not come in in the current
24 month. They come in sometimes as late as six months later. So
25 what has happened when Public Counsel put this sheet together,

1 they did not pick up the Btu adjustments which would have
2 brought all of the lines back to the number that is on Line 1.

3 Q So is it your testimony that to the extent the number
4 in the far right column called "Adjustment" contains a number
5 other than the one on Line 1, it's a meaningless number?

6 A Yes, ma'am.

7 Q Now, I look at the third line on this exhibit. It
8 indicates that the month is March and the supplier is Emerald.
9 It shows no adjustment for that month; is that correct?

10 A Yes, but let me explain that. That coal was
11 brought -- purchased what we call FAS IMT, and FAS stands for
12 free alongside. You buy it at the dock. And when we bought it
13 at the dock, then we have to pay IMT a separate and distinct
14 transloading charge and then we would apply the market proxy.
15 So it is consistent with the same method that we used for the
16 others.

17 Q Now, Ms. Davis, the last column marked "Adjustment,"
18 that was your best estimate of the seller's transloading cost;
19 is that correct?

20 A That is correct.

21 Q And that's what you backed out of the commodity price
22 for the coal?

23 A Yes. Again, we had to do that in order to apply the
24 market proxy.

25 Q Given your understanding of how the market proxy

1 works, if the number in the far right-hand column marked
2 "Adjustment" had exceeded the market proxy, would it have been
3 your position that you could recover the extent to which it
4 exceeded the market proxy?

5 A We would deduct it out the -- if it exceeded, we
6 would deduct it out that price, and then we would again put in
7 the market proxy. We could not recover higher than the market
8 proxy.

9 MS. DAVIS: Thank you. No further questions.

10 CHAIRMAN BAEZ: Exhibits.

11 MS. CHRISTENSEN: Commissioner, we would ask to have
12 Exhibit 62 moved into the record, please.

13 MS. DAVIS: Commissioner, we would like to note that
14 this is an exhibit that was prepared and shown to the witness
15 at deposition and was the subject of a late-filed deposition
16 that indicated that there were several errors on it which in
17 discussions with Public Counsel have not been contested by them
18 nor are they corrected on the exhibit. For that reason, we
19 would object to its admission because it hasn't been shown to
20 have probative value by the witness.

21 CHAIRMAN BAEZ: Explain to me the deposition exhibit
22 and --

23 MS. DAVIS: The deposition exhibit is exactly the
24 same as this exhibit. And if, for example, you look at the
25 month of June where it says, "Guasare" and you followed those

1 numbers across to the last column, I believe Ms. Davis
2 testified at her exhibit (sic) and in the late-filed deposition
3 exhibit and again today that that number has nothing to do with
4 the transloading and that the exhibit does not correctly depict
5 the adjustment or lack of it for many of the entries on it.

6 CHAIRMAN BAEZ: And where's the deposition exhibit?

7 MS. DAVIS: I have a copy -- this is the same exhibit
8 that was passed out at the deposition. I have my copy of the
9 one that I received at the deposition.

10 CHAIRMAN BAEZ: Was that deposition late-filed? Is
11 it part of the record?

12 MS. DAVIS: No. This spreadsheet was presented to
13 the witness at the deposition.

14 CHAIRMAN BAEZ: 62.

15 MS. DAVIS: Yes, sir.

16 CHAIRMAN BAEZ: I'm trying to ascertain the location
17 and the status of the late-filed deposition exhibit.

18 MS. DAVIS: It is right here.

19 CHAIRMAN BAEZ: And that was filed -- is that part of
20 the record now?

21 MS. DAVIS: Sorry. I now understand your question.

22 CHAIRMAN BAEZ: Ms. Christensen, I know that you may
23 have a response and I just want my question answered and then
24 we'll go ahead.

25 MS. DAVIS: It is Late-Filed Deposition Exhibit 3.

1 CHAIRMAN BAEZ: Ms. Vining, can you help me and show
2 me where -- if that's been at least presented into the record
3 or --

4 MS. VINING: At this point it's not part of the
5 record. It was part of the subject of the motion for
6 protective order that you ruled on earlier today. It in
7 redacted fashion was filed with the Commission with that
8 motion, I believe.

9 CHAIRMAN BAEZ: And again, is that exhibit
10 contemplated on being entered into the record?

11 MS. VINING: Not at this time, but it could be.

12 CHAIRMAN BAEZ: Okay. Ms. Christensen, you were
13 going to have a response.

14 MS. CHRISTENSEN: Yes, Commissioner. The purpose of
15 the exhibit is to essentially show the numbers that we're
16 talking about and adjustments we're talking about related to
17 Emerald. And I'm not sure that I would have an objection to
18 having the corrections, the late-filed exhibit with Progress's
19 rebuttal to the other items on there admitted into the record
20 as well in the interest of fairness. But I really don't think
21 there's any dispute as to the Emerald transactions, what the
22 terminal proxy is, what the cross-loading portion of the proxy
23 was. And that's the purpose for it because there's no other
24 way to get those numbers into the record without -- and
25 maintaining the confidentiality. That was the purpose for that

1 exhibit, and we still maintain that that purpose is relevant.

2 CHAIRMAN BAEZ: Ms. Davis, I'm inclined to let OPC
3 present and enter its exhibit. And you've stated -- or you've
4 heard her state the intended use of the exhibit. However, in
5 order to maintain fairness and balance, to quote a phrase, I
6 think you've identified an exhibit. Now, I don't know enough
7 to say where the opportunity lies to allow you to present that
8 rebuttal and get it into the record, but you can see what I'm
9 trying to -- if you can see what I'm trying to achieve here --

10 MS. DAVIS: Yes, sir. What I would suggest is that
11 the deposition -- or Exhibit 62 be revised so that all entries
12 except those for Emerald in months in which there was an
13 adjustment made for Emerald are removed from the exhibit.

14 MS. CHRISTENSEN: No objection.

15 CHAIRMAN BAEZ: No objection. Okay. Then we're
16 going to need you to submit it in its -- you know, with
17 whatever redactions or modifications need to be.

18 MS. CHRISTENSEN: I believe what we could do then is
19 black out the irrelevant transactions and file a
20 supplemental -- or we can just file that.

21 CHAIRMAN BAEZ: If you'll just make it available to
22 the court reporter. Just for the record, there's an agreement
23 that Exhibit 62 should reflect only the shipments identified as
24 Emerald under the source column; is that correct?

25 MS. DAVIS: Yes, sir.

1 CHAIRMAN BAEZ: Of which there are, by my count,
2 perhaps 10 or 11.

3 MS. DAVIS: Yes, sir. I would just note --

4 CHAIRMAN BAEZ: But they are all -- all and only
5 those that are -- okay.

6 MS. DAVIS: Yes, sir. And for the March entry even
7 for Emerald, there is no adjustment.

8 CHAIRMAN BAEZ: I'm sorry. What was that?

9 MS. DAVIS: I said if you look on Line 3, it says,
10 "March, Emerald" and then if you follow that across, there is
11 no adjustment for that particular purchase, and I believe
12 Ms. Davis testified that that is correct.

13 CHAIRMAN BAEZ: Very well.

14 COMMISSIONER DEASON: Mr. Chairman, before we leave I
15 have just a follow-up question.

16 CHAIRMAN BAEZ: Go ahead, Commissioner Deason.

17 COMMISSIONER DEASON: Ms. Davis, I understand the
18 mathematical relationship once again between the adjustment
19 column, the contract column, and the Form 423 column. But how
20 did you determine the amount that appears under the adjustment
21 column?

22 THE WITNESS: That is the -- the adjustment column --
23 some of the adjustment columns are in error when the Office of
24 Public Counsel put their schedule together. But the ones --

25 COMMISSIONER DEASON: I'm sorry. I got distracted.

1 Could you start again?

2 THE WITNESS: Some of the columns are in error
3 because of Btu adjustments in the adjustment column. But the
4 Column 1, that is the cost that Progress Fuels paid to IMT for
5 transloading in 2003.

6 COMMISSIONER DEASON: I'm sorry. You lost me when
7 you said, "Column 1." What are you referring to as Column 1?

8 THE WITNESS: The adjustment column.

9 COMMISSIONER DEASON: Okay. The adjustment column.

10 THE WITNESS: Yes, sir. And the adjustment column in
11 Row 1, that amount is the amount that Progress Fuels
12 Corporation paid to IMT for transloading in 2003.

13 COMMISSIONER DEASON: So that was the actual amount
14 paid.

15 THE WITNESS: That is correct.

16 COMMISSIONER DEASON: Okay. Thank you.

17 CHAIRMAN BAEZ: And with those clarifications and
18 representations, we'll enter Confidential Exhibit 62 into the
19 record.

20 (Exhibit 62 admitted into the record.)

21 CHAIRMAN BAEZ: Thank you, Ms. Davis.

22 MS. VINING: Chairman, will 62 be late-filed or are
23 they making the adjustments right now?

24 CHAIRMAN BAEZ: I think what my understanding was,
25 Ms. Vining, was that Ms. Christensen is going to go ahead and

1 prepare a confidential 62 that will reflect the changes and the
2 modifications that were agreed to among the parties.

3 Ms. Davis has excused herself and that's quite fine.
4 Well, she can't certainly count on me to do it. It's 12:45. I
5 think we can break for an hour, and we'll be back here at 1:45.
6 Thank you. Just for the record, the next witness up I have is
7 Witness Knapp.

8 (Lunch recess.)

9 (Transcript continues in sequence with Volume 4.)

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STATE OF FLORIDA)
 :
COUNTY OF LEON)

CERTIFICATE OF REPORTER

I, TRICIA DeMARTE, RPR, Official Commission Reporter,
do hereby certify that the foregoing proceeding was heard at
the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically
reported the said proceedings; that the same has been
transcribed under my direct supervision; and that this
transcript constitutes a true transcription of my notes of said
proceedings.

I FURTHER CERTIFY that I am not a relative, employee,
attorney or counsel of any of the parties, nor am I a relative
or employee of any of the parties' attorneys or counsel
connected with the action, nor am I financially interested in
the action.

DATED THIS 17th DAY OF NOVEMBER, 2004.

Tricia DeMarte

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