

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

2 CHAIRMAN CLARK: All right. Next item up is
3 Item No. 12. Mr. Futrell, will you introduce the
4 item, please?

5 MR. FUTRELL: Good morning, Mr. Chairman and
6 Commissioners.

7 Item 12 is staff's recommendation to approve
8 Peoples Gas System's petition for approval of a
9 liquified natural gas service tariff. LNG results
10 from a process that cools natural gas in a gaseous
11 state to negative 260 degrees Fahrenheit, which
12 causes the gas to condense into a liquid.

13 Peoples states that the LNG market is
14 expanding, especially in the maritime,
15 transportation and railroad industries, and that
16 this tariff would allow the company to meet growing
17 gas needs.

18 Under this tariff, Peoples would enter into an
19 agreement with the customer to construct and
20 operate an LNG facility for the purpose of
21 providing that customer with liquified natural gas.
22 A customer enrolled in this tariff would pay
23 Peoples' applicable rates, clauses, riders and
24 taxes, along with a monthly services charge, which
25 would be calculated based on Peoples' gross

1 investment in the LNG facilities. The contract
2 would require all capital and operational costs to
3 be borne by the customer through the monthly
4 services charge, and fully satisfied within the
5 term of the contract.

6 Peoples Gas, Eagle LNG Partners and the Office
7 of Public Counsel would like to speak on this item.
8 Staff is available for questions.

9 CHAIRMAN CLARK: All right. Thank you, Mr.
10 Futrell.

11 Okay. We will begin with Peoples Gas.
12 Mr. Brown, are you available?

13 MR. BROWN: Yes, Mr. Chairman, thank you.

14 Andy Brown here from the law firm of
15 Macfarlane Ferguson. I am here with Luke Buzard,
16 Vice-President of Regulatory, Tim O'Connor,
17 Vice-President of Business Development, and Kandi
18 Floyd, Manager of Regulatory.

19 And I would just like to give some brief
20 comments just to kind of frame this issue and kind
21 of give a little bit of the history of the
22 involvement and address, I think, the two main
23 questions that the -- the Commission likely has
24 concerning why it should be -- this should be done
25 in a regulated fashion, and why there is -- and --

1 and whether there is any subsidization by the
2 general body of ratepayers.

3 One of the things that we have learned in
4 going through this process is that people seem to
5 have their own initial reaction and understanding
6 to LNG and the LNG market. And because of that, we
7 are particularly grateful for the staff for taking
8 the time that they have taken on this issue. They
9 have issued data requests. We've had meetings, and
10 they have taken the time to understand the details
11 of what Peoples is asking permission to do, as well
12 as understanding the LNG markets and the specific
13 sort of nuance aspects to the LNG markets.

14 I would also point out that in the meeting
15 that was held by the staff at which OPC and Eagle
16 was present, Eagle LNG's concerns were all raised
17 at that meeting, and they have all been considered
18 by the staff in reaching their recommendation.

19 I would also point out that Eagle is not an
20 actual party in this case. They did not intervene,
21 but they are an interested party. And what that
22 means is they did not subject themselves to
23 discovery, and so there has been no opportunity to
24 really determine the specific nature of their
25 business and, in particular, the type of market

1 that they were in and plan to be in.

2 Let me talk a little bit about who you Peoples
3 kind of got into this LNG world.

4 This is not a situation where Peoples one day
5 decided we are going to get into LNG, and we are
6 going to suddenly go out there and beat the bushes
7 and find LNG customers. Instead, what happened is
8 that Peoples, over time, has been contacted by a
9 number of customers in a number of different
10 industries and different development contexts who
11 have requested Peoples provide LNG service for
12 their business.

13 Now, we are not in a position to be able to
14 name the names of who these people are because of
15 confidentiality and -- and -- concerns, and
16 competition concerns, but those names have been
17 made available to staff in responding to discovery,
18 and to the OPC. But what I can tell you is that is
19 in a variety of contexts.

20 There are customers -- potential customers
21 that have approached Peoples to get in the LNG
22 business -- to have Peoples provide LNG service so
23 that they can fuel fleet vehicles, for example,
24 with liquified natural gas. There have been rail
25 concerns that have approached Peoples wanting to

1 fuel rail locomotives with LNG. There have been
2 various types of on-site storage applications where
3 Peoples has been approached by a number of
4 different industries and customers who have asked
5 Peoples to produce and -- and build an LNG storage
6 facility. And these can be used for -- for power
7 generation on a variety of scales. These can be
8 used for -- well, to store -- to have access to
9 natural gas at various times and -- and the
10 customers, for example, would otherwise have to
11 have coal pile or an old boil-fired oil tank to
12 deal with an oil-fired generator.

13 And there has also obviously been the maritime
14 market, which has been the most, kind of the most
15 commonly thought of when people think of LNG is the
16 maritime market, and that is certainly a
17 significant potential market, given the recent
18 changes that have happened from an environmental
19 perspective.

20 But it is important to understand that this is
21 customer driven. And the next important thing to
22 understand is that Peoples will not be building LNG
23 facilities on spec. What Peoples is asking for
24 permission to do is to respond to customer demand,
25 and when a customer comes and says, we would like

1 you to build an on-site LNG facility so that we can
2 fuel vehicles ourselves, our own vehicles, at that
3 facility, Peoples wants simply to have the right to
4 be in that business.

5 And so what -- what -- the way Peoples has set
6 this up is they are not going into the retail sales
7 business. In other words, Peoples is not going to
8 build an LNG facility and then sell gas on a
9 volumetric basis based on some sort of tariff that
10 is trying to set a volumetric price for natural
11 gas. Instead, what Peoples is doing is when a
12 business comes to them -- and we will just call it,
13 you know, business X, and they say we want you to
14 build us an LNG facility so we can fuel our
15 vehicles, Peoples then is -- is getting in the
16 business in a different way.

17 What they are going to do -- or what they are
18 asking permission to -- to introduce into the
19 market is simply to say, okay, here's how we are
20 going to do this. We are going to build you the
21 facility, and the cost of that facility is going to
22 be paid by you over time based on a monthly amount
23 of money and monthly charge. On top of that, the
24 amount of -- of return on that investment is going
25 to be built into that monthly fee as well as taxes

1 as well as all of the cost associated with that
2 facility.

3 So in doing that, Peoples is not getting in
4 the LNG business, per se, on a retail level. It
5 is, instead, getting into a business of providing
6 this type of service for its customers, but not on
7 a retail basis.

8 And so that's an important distinction in what
9 it is that Peoples is asking to do. They are not
10 getting in the open market of LNG and -- and trying
11 to sell LNG to cover the facility. The facility is
12 going to be covered when the customers sign on to
13 that facility and when the customers then agree to
14 pay for that facility in its entirety.

15 Now, there is obviously two major questions
16 that arise, and they are questions that the staff
17 should be concerned with, and frankly the
18 Commission should be concerned with, and Peoples is
19 happy to address those issues. And the first of
20 those is why does Peoples need to do this in a
21 regulated fashion as opposed to an unregulated
22 fashion?

23 And I would say first of all, doing this
24 business in this fashion that Peoples is proposing
25 to be allowed to do is simply a natural extension

1 of all of its other natural gas business.

2 Peoples is in the business of providing
3 natural gas. It is in the business of providing
4 infrastructure for that natural gas, such as gas
5 pipes, regulator stations, compression stations,
6 whatever it is that customers may need. And
7 Peoples essentially does this very thing in the
8 case of larger industrial customers that need a
9 pipeline built out to their facility, and they --
10 they are in the gas business. That's what they do.

11 They also -- Peoples is also in the CNG
12 business, which is very similar to what is going
13 on -- what we are asking to do with regard to LNG.
14 The business models and -- and the tariff concepts
15 are essentially the same.

16 Peoples is also getting into the RNG business,
17 which is similar, slightly different because it's
18 taking gas. But in terms of the structure of the
19 tariff, it is generally the same concept, and is
20 part of the same menu of services that Peoples
21 offers to its customers.

22 So that is the first reason why it is -- it is
23 reasonable for it to be done in a regulated basis.
24 The alternative is less efficient for customers.

25 If Peoples has to go out and set up a separate

1 corporation in some degree, then they have to have
2 separate overheads, you have to have -- you lose
3 efficiency. The customer has to deal with multiple
4 entities, and the reality is that the customers
5 may, frankly, be more comfortable with having
6 Peoples do this, and that is why they have come to
7 Peoples to do it.

8 Peoples is not asking it is simply asking for
9 the Commission to get involved in the regulation of
10 the LNG market. It is simply asking that it be
11 allowed to offer this service on a tariff basis
12 consistent with the way it handles other types of
13 business, such as CNG and RNG in particular.

14 There is also a benefit to ratepayers by
15 having the LNG business included in a regulated --
16 in a regulated format. Obviously, when you expand
17 the -- the overall business, you get -- you get
18 economies of scale and scope that would occur, and
19 obviously, the costs get lessened for the
20 individual general body of ratepayers.

21 Let me now address the issue of subsidy.
22 There has been a lot of issues about whether or not
23 Peoples' general body of ratepayers will be
24 subsidizing the LNG business. And again, a very
25 legitimate question that should be asked and what

1 the Commission and staff should be looking at, and
2 they have investigated -- the staff have
3 investigated this very well.

4 The general body of ratepayers will not be
5 subsidizing this business. Again, this is not a
6 spec development, where Peoples is building a
7 facility that's just going to be included in rate
8 base and then is going out into the market to try
9 to find customers to sell LNG to. This is a
10 situation where the customers are coming to Peoples
11 and saying, we know we will have a need for LNG
12 service.

13 For example, we would like to convert our
14 truck fleet to LNG powered vehicles, and we are
15 committed to doing this, and so we are coming to
16 you to build the facility which we will pay for.

17 Peoples is therefore not involved in the
18 business risk of LNG somehow drives up, or -- or
19 the market goes away, which is extremely unlikely
20 in any event.

21 The customers that Peoples are going to -- is
22 going to be dealing with are very well capitalized
23 large corporations. Again, those names are in the
24 discovery which is confidential. But that
25 information has been available to some -- to a

1 large extent to the staff and to the OPC.

2 Peoples has, in addition, a long history of
3 dealing with these type of issues. They have been
4 involved in the CNG projects, and have -- and also
5 have been involved in building large pipelines,
6 building facilities to get the gas to a particular
7 industrial customer that might include, you know,
8 compression changing pressures, et cetera. But
9 they have been involved in this type of capital
10 investment and have an excellent track record in
11 terms of not running into financial problems as a
12 result of these type of investments.

13 In this case as well, it is -- as I mentioned,
14 it is the customers that are contracting with
15 Peoples that deal with -- that will have to deal
16 with any short-term downturn in the -- in the LNG
17 business. And it's really not even a short -- it's
18 really -- they are not even involved in the overall
19 LNG business. All it really is is that for those
20 customers, they are simply making a decision to
21 switch to LNG.

22 Now -- so they are not really even affected by
23 the market for LNG because they have made a
24 business decision to make that switch. They are
25 going to be entering into long-term contracts with

1 Peoples, and -- and they certainly have the
2 financial ability to make the payments on those
3 contracts.

4 But in addition, Peoples' corporate governance
5 will cause Peoples to require financial guarantees,
6 letters of credit, security agreements, whatever it
7 is that Peoples feels is necessary in order to
8 provide for those customers, and provide financial
9 security for the company.

10 There has been some discussion of whether --
11 what happens if one of these companies goes
12 bankrupt? I would say given who we are talking
13 about, that is extremely unlikely. And -- and even
14 if some company, for example, who said we want --
15 we want an LNG to power our vehicles ran into some
16 sort of financial trouble, there is a lot of things
17 that happen along the way. Assets get sold.
18 People buy -- buy those assets. They continue
19 contracts. Even a bankruptcy would not mean that
20 Peoples would not be paid, but again, I would say
21 that is extremely unlikely.

22 Even if it happened, Peoples would have to go
23 belong its -- its range of earnings. It would have
24 to go before the Commission to petition the
25 Commission to change its rates to adjust for that.

1 And the Commission would have the opportunity to
2 review any Peoples' investments in the LNG market
3 and determine whether those were prudent at the
4 time.

5 There has also been some suggestion that
6 Peoples could potentially underbid competition and
7 shift that cost to the ratepayers. I would point
8 out that that has simply not happened in other
9 context where Peoples is in a similar business.
10 Most specifically, in the CNG market, there are
11 approximately 58 CNG stations throughout the state
12 of Florida. Peoples is in contracts for three of
13 those stations.

14 If Peoples was in the business of trying to
15 corner a market and undercut competition, you would
16 see them having done that in the CNG market so that
17 they could obtain a -- a much wider share of the
18 market in CNG, and Peoples simply hasn't done that.
19 There is nothing in the company's history to
20 suggest they would do that.

21 And again, if -- even if they did that, the
22 only way they could be passed to general body of
23 ratepayers is if it were approved by the
24 Commission, and it would be fairly obvious if
25 Peoples were building facilities at below cost in

1 order to get into the market.

2 So I talked about as long as I can, but I
3 think it's important just to understand the
4 framework of where we are and what Peoples is
5 trying to do, and understand a lot of those
6 details. As I mentioned, that we have people here
7 that are available to answer questions, and I thank
8 you for your time.

9 CHAIRMAN CLARK: Thank you, Mr. Brown.

10 Ms. Morse, OPC.

11 MS. MORSE: Hi there. Can you hear me well?

12 CHAIRMAN CLARK: Yes, we can hear you.

13 MS. MORSE: Okay. Good morning,
14 Commissioners. This is Stephanie Morse for the
15 Office of Public Counsel, so thank you for the
16 opportunity to comment.

17 OPC is -- is concerned that the proposed
18 tariff results in too much financial risk to the
19 general body of ratepayers, and improperly puts
20 ratepayers in the role of insurers if the
21 projections for the LNG facilities and related
22 contracts don't pan out.

23 The evidence indicates that customers will, in
24 fact, pay through their rates for certain costs
25 related to the proposed LNG scheme, and they also

1 have to provide payment in the event of any
2 shortfalls.

3 All the evidence shows that the utility could
4 achieve its plan to operate these LNG facilities in
5 the unregulated sector. The main compelling reason
6 to have a tariff -- a tariff in place is to have a
7 general body on standby to cover the risk.

8 OPC is concerned about the information we
9 received about the tariff over time. Originally it
10 was represented there would be no risks to the
11 non-LNG customers as the tariff design assures any
12 new LNG facilities would effectively operate
13 separately through the rates paid by the general
14 body of ratepayers because the customers on the
15 other contracts for these LNG facilities would pay
16 all the costs and the revenue requirements.

17 But after repeated questioning, the -- the
18 risk to customers were revealed, and the story went
19 from no cost to the general body to it's now
20 unlikely that a default or other circumstance would
21 occur such that the general body would be forced to
22 pay the LNG costs. Thus, the undisputed fact is
23 that the general body of PGS's ratepayers will
24 shoulder all the risk in this proposal.

25 Then still later it was revealed in the recent

1 August 21st deposition of PGS's witness that
2 business development expenses for the subject LNG
3 facilities would be included in the general body's
4 future rates, and could not be backed out if those
5 expenses survived the pending rate case. This
6 testimony -- this testimony occurred after the
7 staff's recommendation had already been published.

8 Additionally, the discovery and deposition
9 revealed that the assurance on what would happen in
10 the purportedly unlikely event of an LNG customer's
11 default is not quite as simple as originally
12 presented. Because each LNG facility will be
13 customized for the particular customer, or
14 customers, who contract for it, it may not be
15 feasible for another customer to simply come in and
16 take over the contract. So this factor increases
17 the risk that the general body of ratepayers will
18 eventually be on the hook for any shortfalls in the
19 utility's plan and any stranded assets.

20 So the evidence shows that certain costs for
21 the LNG services would, in fact, be embedded in
22 base rates, and could not be allocated fully to the
23 contract and the utility's -- or contracts with the
24 utility's prospective LNG customers.

25 Commissioners, as we know all too well, the

1 world is currently in an economic downturn that no
2 one foresaw or projected a year ago. Now is not
3 the time to force more unnecessary risks on PGS's
4 general body of tax -- ratepayers, where they are
5 already in the midst of suffering the consequence
6 of a global pandemic.

7 There is no assurance that a credit worthiness
8 review or similar measures regarding the proposed
9 LNG customers would avoid a worst-case scenario for
10 the general body of customers. And frankly, we've
11 seen in the news repeatedly lately, you know, a
12 number of companies that no one ever thought would
13 go bankrupt have, in fact, gone bankrupt.

14 So today's unquantified references to
15 potential benefits from economies of scale do not
16 outweigh the risks and potential cost to the
17 general body of ratepayers in this docket,
18 especially when you consider that PGS can achieve
19 its plan to operate these LNG facilities in the
20 unregulated sector with no harm or risk to its
21 ratepayers.

22 If, as PGS has attempted to portray in its
23 proposal, it would be paid entirely from new
24 customers who specifically contract for the LNG
25 service, you have to ask yourself PGS why, then,

1 would you need to burden the general body of tax --
2 ratepayers?

3 It is it appears more protections are needed
4 to ensure that the regulated natural gas customers
5 are not forced to subsidize the utility's proposed
6 LNG activities.

7 Additionally, the utility has stated this
8 tariff requested similar its previous tariff for
9 RNC and CNG; however, both the LNG technology in
10 this tariff are -- are different in material ways,
11 such that a direct comparison actually fails. The
12 cost and scope of the proposed LNG facilities seems
13 to be much greater. Moreover, the global economy
14 is far different now than it was in 2017, when you
15 issued previous orders on those other technologies.

16 Right now, the natural gas and LNG markets are
17 in the time of marked volatility. There is an
18 oversupply of LNG on top of decreased demand, and
19 industry analysts don't see a likelihood for a
20 quick rebound for LNG. The prices are out of
21 whack, and in some places it costs more to produce
22 than the market price. Due to the volatility, no
23 one knows what will happen in the years to come.

24 So in summary, the utility should gamble with
25 its own money, not with that of the general body of

1 ratepayers. And if the plan is such a sure then,
2 the utility shouldn't hold it over the general
3 body's head in the first place, especially during
4 the uncertainty of the current economic crises.
5 Simply put, this activity belongs in the
6 unregulated sector of PGS's business.

7 And finally, we note that the indications on
8 the case law are a protest period after today's
9 decision. However, we -- we -- we are seeking
10 clarification on the circumstances of the
11 substantially affected party's ability to request a
12 hearing should the tariff be approved today.

13 And for the record, if the post-agenda
14 procedures are, in fact, in any way different or
15 inconsistent with the case law or with the
16 opportunity for an evidentiary hearing before a
17 tariff goes into effect, OPC objects to that.

18 So thank you for your consideration of this
19 matter, and that concludes our comments.

20 CHAIRMAN CLARK: Thank you, Ms. Morse.

21 Before we go, Mr. Moyle, I -- Ms. Morse, I
22 would like -- you made a couple of statements there
23 at the end that I think caught our attention.
24 Could you repeat your objections? I am looking to
25 Ms. Helton for some direction here.

1 MS. HELTON: I would appreciate you asking
2 her, because I am not sure that I understood her
3 objections either, Mr. Chairman.

4 CHAIRMAN CLARK: Ms. Morse, could you state
5 your objections?

6 MS. MORSE: What we were -- yeah. What we
7 were drawing attention to is the fact that there
8 appeared, at least in recent days on the case law,
9 a time for a protest period, and -- and a
10 consummating order. So if those -- if that's not,
11 in fact, how this case would proceed afterwards, if
12 there is some other procedure, we just want to
13 know.

14 CHAIRMAN CLARK: Ms. Helton.

15 MS. HELTON: Let me make sure I am
16 understanding Ms. Morse's concerns.

17 This is a tariff recommendation, so for --
18 with all tariff recommendations, the Commission
19 must give a point of entry for anyone to request a
20 hearing, and that point of entry lasts 21 days from
21 the issuance of the order. So anyone who can show
22 that they are substantially affected by the
23 Commission's decision can request a hearing.

24 Normally, in a tariff situation, you are
25 setting out a charge, and so -- or a new rate, and

1 so normally that new charge, or that new rate, the
2 Commission -- the utility could collect that
3 subject to refund in the -- in the case of a
4 hearing.

5 As I understand this tariff, there is no new
6 charge or new rate. So what staff's recommendation
7 is that simply the utility could not start engaging
8 in this process until there was a final order.

9 Hopefully answers the question or the concern,
10 Mr. Chairman?

11 CHAIRMAN CLARK: And at the conclusion of the
12 final order is the 21-day protest period would
13 begin, is that correct?

14 MS. HELTON: Yes, sir. If there is no request
15 for a hearing within the 21-day point of entry
16 period, then your decision -- if the Commission
17 were to approve staff's recommendation, then the
18 order would become final.

19 CHAIRMAN CLARK: Ms. Morse, does that address
20 your concern?

21 MS. MORSE: Yes, Mr. Chair, it does. Thank
22 you.

23 CHAIRMAN CLARK: Okay. Thank you very much.
24 Mr. Moyle, you are recognized.

25 MR. MOYLE: Thank you, Mr. Chairman. I

1 appreciate it.

2 It's my privilege to represent Eagle LNG
3 Partners. They are a company that is headquartered
4 in Texas. They have been operating in -- in the
5 Jacksonville area since 2016, and they have already
6 invested approximately \$100 million in their
7 Jacksonville facility, and have plans to continue
8 investing private capital in Florida as long as the
9 Florida market remains robust and competitive.

10 And I have with me today the President and CEO
11 of Eagle, Sean Lalani, and also Matt Fisher, who is
12 the Director of Business Development. So if any
13 questions arise, they will be able to address them,
14 and they will be happy to answer any questions
15 that -- that you may have.

16 Mr. Brown went through in detail some of the
17 points, and I have prepared remarks that will
18 address a number of issues that are before you, and
19 I think that warrant consideration.

20 I -- I wanted to share with you something that
21 this -- you know, this LNG that makes, I think, a
22 real significant difference from an operational
23 standpoint. You know, people talk about, well,
24 the -- the renewable tariff, or the compressed
25 natural gas, I mean, that largely, I think, is

1 still tied to pipes, which are the traditional way
2 of distributing natural gas.

3 But the liquified natural gas -- and your
4 staff has done a good job of explaining this in the
5 analysis, when you liquefy it, it -- it has the
6 ability to -- to -- when you turn it back into gas,
7 to do a lot. And you can move it around. You are
8 not tied to the pipes.

9 There is an example of a beach ball, that if
10 you -- if you took the gas and liquified it, it
11 would -- you could put what would be in a beach
12 ball that would be the -- the gaseous state, it
13 would go into a golf ball, and so that is a game
14 changer. It allows people like Eagle to -- to move
15 gas in by trucks and other things.

16 And I just think that before we get into
17 arguments that -- that it's really important to
18 note that this LNG, which you all have never --
19 never had before you in terms of a tariff like you
20 have today, you know, it's a -- it's a milestone
21 decision that you are having to make today, and
22 Eagle would -- would suggest that you not approve
23 the tariff, or decline to exercise your
24 jurisdiction to act on this at this point.

25 Eagle is an interested party, and there are

1 four other LNG interest that are interested parties
2 in this -- in this docket. And some of the reasons
3 that we think should be considered for not acting
4 on this is that as Mr. Brown noted, as your staff
5 noted, as PGS noted, there is presently a
6 competitive market in LNG, and that competitive
7 market is growing and. Expanding. And granting
8 the tariff would be, we believe, anticompetitive,
9 and send the wrong signal to this existing and
10 expanding LNG market. It's competitive today, and
11 private capital is being used, and there is no need
12 to put ratepayer dollars at risk to promote LNG
13 in -- in Florida.

14 The Commission has acknowledged that if free
15 markets are operating, and there is competition,
16 that regulation does not need to take place. The
17 free markets and the competition are an effective
18 regulator in a public market. And we've cited --
19 cited the reference in a letter that we sent to
20 you, and I would also just reference for the
21 record, you know, Order No. 93-1120.

22 The Public Counsel, I think, rightly noted
23 that ratepayers are put at risk for cross
24 subsidizing the -- the efforts of PGS to get into
25 this LNG business. There are a whole host of

1 reasons why we think you should not exercise
2 jurisdiction, and I am just going to run through
3 those. But there is no -- no natural monopoly or
4 captive customers, again, because of the way that
5 LNG can be transported, by ship, by rail, you --
6 you don't have the natural monopoly with the lines,
7 like the electric lines, or the water lines, or the
8 gas lines. So that is -- is a significant factual
9 difference.

10 And as OPC noted, it appears that
11 cross-subsidization is already -- already taking
12 place, because PGS is out knocking on doors, and
13 having legal research done, having engineering
14 research done, and all of this is presently being
15 paid for by ratepayers, and is part of the general
16 overhead.

17 Eagle and other LNG competitors don't have
18 this ability to have their costs subsidized by a
19 general body of ratepayers, and PGS should not be
20 given that advantage either. I mean, at the end of
21 the day, Eagle is not concerned about -- about
22 competition, and welcomes competition, but believes
23 it should be on a level playing field, and there
24 shouldn't be this cross-subsidization that is -- is
25 presented by you all approving a tariff and -- and

1 saying to the regulated utility, you know, go -- go
2 compete.

3 A couple of points about the comments of --
4 of -- of PGS that, well, it's not likely to happen
5 that -- that, you know, businesses are not going to
6 be there on these long-term contracts.

7 You know, we take exception with that. No one
8 has the ability to see over the horizon, much less
9 in a business, in the natural gas business that,
10 you know, throughout all the involvement in utility
11 cases and fuel dockets, you know, people have often
12 said, if I could predict what the natural gas
13 markets are doing, I wouldn't be here today
14 testifying.

15 You know, the natural gas markets vary, and
16 it's surely something that if you have the option
17 to say let private capital take that risk of -- of
18 natural gas markets, not ratepayer dollars, that
19 you should opt to have the private markets bear
20 that risk.

21 The point about long-term contracts and
22 customers. In the petition, PGS identified the
23 cruise ship industry as a potential customer. And
24 the cruise ship industry is an important industry.
25 I am not going to disparage them in any way, shape

1 or form, but they are having a tough time as we sit
2 here today. And this is to the point that things
3 happen.

4 You know, a year ago at this time, the cruise
5 ship industry was doing well, and then the pandemic
6 hits and the cruise ship industry is not doing well
7 now. They are not operating. The plans going
8 forward are -- are checkered, and I don't think
9 people know how many people will be coming back
10 to -- to cruise ships. So that's just an example
11 of how things can shift and -- and turn around.

12 And again, my client, Eagle, which is involved
13 in the LNG business, but is also a customer of PGS.
14 They -- they take gas from PGS. They pay for the
15 gas that's taken. PGS is making money from them as
16 we sit here today; but, you know, now they want to
17 get in and compete against them, and we have real
18 concerns about that.

19 Another thing that came out during Mr. Brown's
20 comments, you know, he -- he said that what they
21 are going to do is they are going to go in to
22 individual customers and they are going to invest
23 money, and then, you know, hopefully things will go
24 well.

25 Well, the amount of money that they are going

1 to invest -- and this is in your staff
2 recommendation -- is -- is between -- they say
3 between -- staff says between 25 million and 100
4 million. You know, that was -- that was a heck of
5 a lot of money. And if it's investment that's
6 being put on the property of a third party, who is
7 going to own that? If things go south, you know,
8 how -- how does that get repurposed, reused? It
9 sounds like the potential facts for a big stranded
10 cost case that would be in front of the Commission,
11 and we just don't think that is in order or -- or
12 necessary, and that the ratepayers should not be
13 used as a financial backstop.

14 A couple more points. This situation, there
15 is a cautionary tale out of -- out of British
16 Columbia, where there was a competitive LNG market
17 there, and monopoly gas company there, a company
18 called Fortis, wanted to get in and compete
19 against -- against the LNG companies that were
20 there.

21 They went to the regulatory body analogous to
22 the PSC, and that regulatory body told them, no.
23 Bad idea. We are not going to -- we are not going
24 to allow this.

25 They then went to the legislative body, and

1 the legislative body permitted it. And what
2 happened? The competitive LNG market went away,
3 and also the ratepayers, the -- the natural gas
4 market went away from them as well. And today, the
5 ratepayers are sending money to Fortis to subsidize
6 the effort because it's a -- it's a losing money
7 venture. And that could have been a different
8 decision, and the ratepayers would not have been
9 affected.

10 A couple of other points. There is no showing
11 of a public necessity for this tariff. PGS says,
12 we would like to -- we would like to have it,
13 but -- but really there is nothing that says they
14 have to have it. You know, we've argued, and OPC
15 said, look, if they want to do that, let them do it
16 with a -- with a nonregulated subsidiary company.

17 My client is in Jacksonville. There is
18 another company in Jacksonville called JAX LNG,
19 that interestingly was -- was owned by the Southern
20 Company partially. So that s, I think, reflective
21 that some entities are getting into this, but not
22 through their regulated companies.

23 You know, Emera is free to get a company
24 together and compete, and Eagle would welcome that
25 competition. We just have serious concerns as we

1 are expressing about letting the regulated company
2 get in there.

3 They also don't have any contracts in place.
4 So they have been out talking to people. There are
5 no contracts. I think they could have come in and
6 said, here are three contracts that are contingent
7 on you approving the -- the tariff. There is
8 nothing there, and we just don't think it's a good
9 idea to let them, as a regulated utility, get in
10 into the LNG business.

11 A couple of points that I wanted to address.
12 Mr. Brown today, for the first time, made clear,
13 made the distinction that -- that they are not
14 looking -- that PGS is not looking to really get in
15 and provide this LNG on a -- on a retail level.
16 That was a note I wrote down, not on a retail
17 level. But my understanding is that's what
18 regulated monopolies do, is that they provide
19 services that are macro monopolies to retail
20 customers.

21 So they are saying, well, we are going to come
22 in and we are going to go on the, you know, on the
23 wholesale level. That -- that was a new change to
24 me today, and I think it's a noteworthy change.

25 Let me talk just for a minute about compressed

1 natural gas. They said, well, this is sort of like
2 the compressed natural gas tariff. Respectfully,
3 we disagree.

4 You all approved the compressed natural gas
5 tariff for the first time in 1992. And compressed
6 natural gas at that time did not have a competitive
7 market like it exists today for LNG. That's a
8 material factual distinction.

9 Another important material factual distinction
10 when you read the order approving the 1992 CNG
11 tariff, it says that ratepayer exposure is limited
12 to \$216,000 per year times eight years. So maximum
13 ratepayer exposure, if things didn't work out, is
14 1.7 million.

15 Here, as mentioned, you have -- you have a
16 huge level of exposure. If each potential
17 customer, they are going to build a facility
18 between 25 and 100 million, you know, that's --
19 that's -- that's vastly different than that. So I
20 think that -- that is noteworthy.

21 The RNG issue, that's coming from -- from
22 landfills and from wastewater treatment plants.

23 Mr. Chair, landfills -- you know, Class I
24 landfills have -- have some methane, but there are
25 not a ton of Class I landfills. The C&D landfills

1 in the state don't collect methane. It's just
2 factually vastly different, and we don't think
3 those are good reasons or comparisons for the basis
4 of granting the petition.

5 Staff suggested that, you know, that you have
6 jurisdiction under 366.021. And I am fond of
7 saying just because you can do something doesn't
8 mean that you have to do something.

9 And staff, when they are having that analysis,
10 that they actually say, the Commission may exercise
11 jurisdiction over Peoples' rates. They didn't say
12 they shall exercise.

13 So we think that if you all are not
14 comfortable with what is being presented, you have
15 the ability to decline to exercise your
16 jurisdiction today, and we would urge you to do
17 that, or to send a strong message and just deny the
18 tariff.

19 So to conclude, the -- this would be a
20 troublesome chapter if -- if the tariff were
21 approved for a -- for a number of reasons.

22 Right now, my client gets service from -- from
23 PGS. And as a regulated monopoly, PGS will get out
24 and talk to them and say, can you tell us about
25 your future business plans, because we need to know

1 as we are working on our system what kind of
2 capacity to design, how much -- how much pipe you
3 will need, where that pipe will be, and those
4 conversations are taking place. They are
5 confidential conversations, because the client is
6 providing confidential information, but they
7 traditionally work because the regulated monopoly
8 is not directly competing with the customer.

9 Here, if you approve of this tariff, those
10 conversations probably aren't even going to take
11 place because there will be direct competition
12 between Eagle and other companies like Eagle
13 with -- with PGS. They are competing for the, you
14 know, for the same customers. So that is a -- a
15 big change, and we think a problem that should be
16 considered and recognized.

17 So again, we don't have a problem competing
18 with an unregulated subsidiary, but the plan, as
19 proposed, we think is untenable, would send a bad
20 message, and that the Commission should continue
21 and allow the markets to work, private capital to
22 be invested and decline to exercise jurisdiction at
23 this time, or deny the PGS tariff request.

24 So thank you -- thank you for the time and
25 consideration of the arguments, Mr. Chair.

1 CHAIRMAN CLARK: Thank you, Mr. Moyle.

2 Okay. Commissioners, do you have any
3 questions for either of the parties?

4 Commissioner Brown, you are shaking your head,
5 so we will let you begin.

6 COMMISSIONER BROWN: Thank you.

7 I was kind of going to sit back, but there was
8 so much discussion here from -- from all of the
9 interested parties that I want to just jump right
10 on in.

11 I think the LNG business, first off, has
12 tremendous opportunity here in our state,
13 absolutely. And whether this proposed tariff is a
14 natural extension of Peoples Gas natural gas
15 business, that, quite frankly, could be, maybe on a
16 wholesale level. I have got some questions and
17 concerns, though, that were raised by OPC and Eagle
18 that are very valid. Really, the central point
19 that I would like to talk about with Mr. Brown is
20 where are the customer protections?

21 I think OPC raised the point that after the
22 staff recommendation -- which I was surprised --
23 actually, after reading it, I was very surprised
24 because it was based on a lot of assurances rather
25 than actual tangible facts. So she raised a point

1 that -- about the revenue requirement, and that the
2 business development costs will be built into the
3 general body of ratepayers.

4 So I just want to have a discussion with
5 Mr. Brown about customer protections, because I
6 don't really see any right now.

7 CHAIRMAN CLARK: Mr. Brown.

8 MR. BROWN: Yes. Let me just -- there is
9 always going to be some business development cost
10 in the natural gas business, and that's -- it's no
11 different than business development costs when we
12 are dealing with developers, when we are dealing
13 with residential developers, and when we are
14 dealing with industrial customers.

15 So there is -- some of that is going to be --
16 it's always included in the business as part of
17 sort of the overhead, but I will let Mr. O'Connor
18 kind of address that issue more directly than that.

19 MR. O'CONNOR: Okay. Good morning, and thanks
20 for the question, Commissioner.

21 In terms of the customer protections, we
22 talked a little bit about the revenue requirement
23 already, and the structuring of contracts to -- to
24 provide for the recovery of that revenue
25 requirement over the life of the contract. And so

1 it might be helpful if I just describe how -- how
2 we approach this, and how this would work with a --
3 with a potential customer.

4 Just as we do with -- with a natural gas
5 pipeline extension to a large industrial customer,
6 we go through a thorough evaluation on the capital
7 costs required to put that infrastructure in place,
8 the ongoing operation and maintenance charges, all
9 other related expenses, such as property taxes and
10 other taxes, and construct, using your typical cost
11 of service model, that revenue requirement.

12 We include in that the evaluation of the
13 counter-party within the contractual terms that we
14 would seek to provide us comfort that that revenue
15 requirement and the payments within the contract
16 term will be met, and that those payments will be
17 made.

18 The contract is -- is reviewed from multiple
19 perspectives. First, we go through a detailed due
20 diligence of the counter-party. Mr. Brown
21 mentioned that often these are well capitalized
22 counter-parties or customers seeking a kind of
23 service, but we review their financial ability to
24 meet the obligations within the contract. The
25 result of that would --

1 COMMISSIONER BROWN: If I could interrupt you.
2 Would the Commission, though, have the ability
3 to review that -- that information as well, since
4 you are not proposing bringing the individual
5 LNG -- and we are not talking a small amount here.
6 We are talking 25 to 100 million. Would the
7 Commission then have that same ability to review
8 the viability of the customer since, ultimately, if
9 that customer defaults, what would happen?

10 MR. O'CONNOR: So as we thought about this
11 structure with this tariff, it's important to
12 remember that in a default scenario -- and it's --
13 and it's good to look at worst case -- there is not
14 an automatic impact to rates. So certainly, the
15 PSC can review the diligence that was undertaken
16 to -- to evaluate the financial risk with the
17 counter-party.

18 What would happen, directly to your question,
19 is if -- if Peoples Gas came to the Commission and
20 said, we have this downsize scenario materialize,
21 we are now seeking rate relief for that impact;
22 certainly, the Commission would -- would undertake
23 a very thorough analysis, and -- and it could
24 result in the Commission not approving that.

25 So right away, you have that -- that assurance

1 through the regulatory process that already exists
2 that there is not an automatic impact to rates.
3 The Commission will simply follow the practice that
4 it already has in place with the rest of our entire
5 business, and look at the underlying facts, and
6 again, in a downsize scenario, the Commission would
7 potentially say, no you are not adjusting rates on
8 behalf of the general body of ratepayers. You did
9 not take the necessary steps to ensure protections
10 were in place. And so I think that's important to
11 understand.

12 COMMISSIONER BROWN: I got it.

13 MR. O'CONNOR: All right. I am sorry.

14 COMMISSIONER BROWN: Got it. Okay.

15 And irrespective of whether the impact happens
16 today or tomorrow with a separate Commission, a
17 different Commission entirely, it still could have
18 the potential impact on the general body of
19 ratepayers even though it's for the benefit of an
20 individual customer.

21 And then, of course, we strive very diligently
22 avoid any cross-subsidization. I think LNG is
23 great for our state. I think especially our
24 Peninsula state, with very limited storage
25 capacity, but -- but the risk that is being

1 presented, you know, if -- if the utility came in
2 and said, hey, Commissioners, you know, we want you
3 to approve the tariff, and you have authority to
4 look at each contract as well as the viability of
5 the individual customer, you know, we are
6 evaluating all of those factors.

7 Here, you are giving us -- you are asking us
8 to just give you carte blanche approval to go ahead
9 and pursue discussions with -- and listen, I have
10 no problem with y'all -- y'all doing it through an
11 unregulated model, but the customer protections
12 seem to be lacking here ultimately, and I -- I do
13 feel very strongly about this.

14 I -- I think there is an opportunity for
15 Peoples to participate in this work space, whether
16 on the wholesale level or through an affiliated
17 entity, but -- but having the customers assume the
18 risk without even giving the Commission an
19 opportunity to evaluate whether these big customers
20 that are out there have those capabilities just
21 there is a lot of questions unanswered, including
22 who owns those LNG facilities if a customer
23 defaults? Is it general body? Is it Peoples? Is
24 it the customers? I am just having a hard time
25 supporting it, even based on your answers. Sorry.

1 CHAIRMAN CLARK: Thank you, Commissioner
2 Brown.

3 MR. BROWN: Commissioner Brown, this is Andy
4 Brown. If -- if I could just respond briefly to
5 that.

6 If that would give the Commission comfort that
7 they would want to review and approve the contracts
8 before they are entered into, Peoples would be
9 willing to -- to review the cost of service models,
10 for example, Peoples would be willing to do that,
11 and -- and modify the tariff so that the Commission
12 would have that pre-approval right.

13 COMMISSIONER BROWN: So that would give me a
14 lot more comfort. My central concern, quite
15 frankly, is the vagueness of the assurances of the
16 customer protection against the general body of
17 ratepayers. I just -- it's so vague.

18 CHAIRMAN CLARK: Commissioner --

19 MR. BROWN: Well, it's always a little vague
20 from the sense that any time you are doing a big
21 project and you are entering into a contract, you
22 know, you -- you take the normal precautions. You
23 write a very tight contract. You make sure you
24 financially vetted people. You make sure that if
25 necessary they post letters of credit, or whatever

1 it is you feel is necessary do, and so it's always
2 going to vary a bit by situation.

3 But I do understand a little bit of concern
4 that it's not spelled out, but it's not -- it's
5 going to vary, but if the Commission were in a
6 position to look over the cost of service model,
7 they could look over that information and -- and,
8 you know, address it in that manner.

9 CHAIRMAN CLARK: Commissioner Brown, could I
10 ask one -- one quick question? I have some
11 follow-on to that.

12 COMMISSIONER BROWN: Of course.

13 CHAIRMAN CLARK: So, Mr. Brown, would you be
14 willing to modify the tariff to include a provision
15 such that any new customer that had internal
16 infrastructure costs that exceeded half-a-million
17 dollars be bonded out 100 percent for the life of
18 the project?

19 MR. BROWN: Well, I think the problem is you
20 would probably not have anybody that would be
21 agreeing to do that at 100 percent. I mean, I
22 think there is no way anybody would -- any
23 counter-party would agree to that.

24 I think we are willing to talk about different
25 things that can be done to assuage the concerns on

1 that issue, but that specific concern -- that
2 specific mechanism I don't think would -- would
3 functionally work.

4 CHAIRMAN CLARK: So you -- we are talking
5 about the financial stability of the company, and
6 so their -- they have the bonding capacity to be
7 able to do that. You are just saying that it's
8 something that additional costs they wouldn't be
9 willing to incur, or is it the liability they don't
10 want?

11 MR. BROWN: Well, I think if they are bonding
12 that up, I think what that means is they got to
13 park the amount of money somewhere where it's
14 sitting somewhere, and so that becomes an issue for
15 the companies to do that. And it's true, anytime
16 you are doing -- anytime you are in a construction
17 case and you are dealing with the bonding of it 100
18 percent, we would certainly require surety type
19 bonds for construction and that type of thing, but
20 if you are talking about bonding off the entire
21 amount, what this literally may mean is they've go
22 to go park the cash somewhere that's just, and it's
23 just sitting there.

24 CHAIRMAN CLARK: But if you are talking about
25 a utility -- a company that needed, and I think

1 your numbers said some of these could range from
2 25- to 100-million-dollars in infrastructure costs.
3 You know, I think when we are looking at the
4 concerns the general body of ratepayers, if you
5 took a small amount that went into default, surely
6 you could spread that cost and it not be a
7 substantial amount of money, but you can't do that
8 with 100-million-dollar infrastructure cost; is
9 that a fair statement?

10 MR. BROWN: I will let Mr. O'Connor address
11 that issue.

12 MR. O'CONNOR: Yes. Generally speaking, you
13 are -- you are correct.

14 So -- so -- and -- and I am sure you are aware
15 of this through our existing tariff. So when we
16 evaluate the financial backing of a counter-party,
17 we -- we look for every way to mitigate downside
18 risk financially, right. And so that's a number of
19 different products that are available to us. It
20 could be a letter of credit. It could be a cash
21 deposit. It could be a parental guarantee. And we
22 will seek, in the most commercial -- commercial way
23 to -- to get that financial backing in support of
24 that contract.

25 I believe the point Mr. Brown was trying to

1 make was if you are -- if the customer is asking
2 for an LNG facility service to then add them to
3 fully back up by putting an equivalent amount of
4 that project up front, then, you know, then you are
5 going to have to run that service without a
6 substantial charge up front.

7 The evaluation that we go through is -- is --
8 is multifaceted, but you are looking at the
9 long-term contract. It could be a 10-year, 15-,
10 20-year contract, and you want to put adequate
11 commercially based financial backing in place for
12 that counter-party based on that counter-party's
13 profile. If you are looking at a Fortune 500
14 company with a substantial balance sheet, you might
15 be more comfortable than an entity that was just
16 created last week for -- for a new development.
17 And so all of that gets factored into the
18 evaluation, but our interests are aligned on this.

19 We have no interest in talking on financial
20 risk on behalf of ratepayers, so we are going to
21 seek the most commercially appropriate backstop
22 from a financial perspective on these contracts.

23 CHAIRMAN CLARK: Commissioners, other
24 questions?

25 Commissioner Polmann.

1 COMMISSIONER POLMANN: Thank you, Mr.
2 Chairman. Just a follow-up on this particular
3 point, and then I have a number of other questions.

4 On the issue of the contract and the financial
5 risk, a question for -- for Peoples. How -- how
6 would PGS respond to a Commission approval of this
7 tariff explicitly conditioned on Peoples holding
8 all of the LNG service contract financial risk?

9 CHAIRMAN CLARK: Mr. Brown.

10 MR. BROWN: I'm not sure I understand.

11 COMMISSIONER POLMANN: Well, what we are
12 talking about is holding harmless the general body
13 of ratepayers. So we can approve the tariff and,
14 in the final order, require that any contract or
15 LNG that you enter into with a customer, that all
16 of the financial risk is between you and the
17 customer, period. But that's a condition of the
18 final order, that you -- that you, under no
19 circumstances, come back to us seeking recovery for
20 anything that -- that goes awry with -- with that
21 project.

22 MR. BROWN: I am --

23 COMMISSIONER POLMANN: You can have the
24 tariff, but you take all of the financial risk.

25 MR. BROWN: That may be above my paygrade

1 level. I will let Mr. Buzard address that.

2 MR. BUZARD: Yes, thank you, Commissioner
3 Polmann, and again thank you, Andy. And, again, I
4 appreciate the time in front of the Commission
5 today. This is Luke Buzard with Peoples Gas.

6 I -- I -- I do want to acknowledge, yes, I
7 think that there are opportunities for us to
8 entertain, you know, a segregation of our LNG
9 pursuits from a rate base standpoint, which would
10 offer a -- you know, that would not impact the ROE
11 calculations associated with the general body of
12 ratepayers. It would separate out our specific LNG
13 service offerings, and it would -- it would not
14 provide for a potential risk to our -- our company
15 dropping below the ROE and then pursuing recovery
16 through other customers.

17 MR. BROWN: Let me just add -- this is Andy
18 Brown -- if it that were to be done, then it would
19 be understanding that if the LNG business made a
20 lot of money, that would not enure to the benefit
21 of the ratepayers either. So there is a -- there
22 is kind of a flip side to this. I just want to
23 make sure that we are talking about it in the
24 same -- in that context.

25 MR. BUZARD: And I also, if I may, Mr. Chair,

1 is just offer the thought of our overall natural
2 gas business. I think it is important for us to
3 talk through to a certain level that, you know,
4 contrary to an electric utility, PGS has an
5 opportunity to offer service, and we are -- we are
6 always competing because we are offering a -- a
7 energy source that I can -- I can easily argue that
8 most of our customers don't have to have, they
9 choose it. Our customers choose natural gas,
10 whether it be the traditional sense of a pipeline,
11 or whether they choose compressed natural gas; or
12 in this case they choose LNG. They are choosing
13 that for economic value, for these potential
14 environmental benefits, and the storage portion of
15 using LNG for storage.

16 CHAIRMAN CLARK: Thanks, Mr.--

17 COMMISSIONER POLMANN: Mr. Chairman, I have a
18 series of other questions that get to the nature of
19 the offering, if I may.

20 CHAIRMAN CLARK: Yeah, Commissioner Polmann,
21 one second, let me ask one question just for
22 consideration before we get into in-depth
23 questions.

24 Are we under any particular statutory
25 timelines with this request today? We are, Ms.

1 Helton? What's that?

2 MS. HELTON: As with all tariffs, 366 requires
3 a final order within eight months of the -- of the
4 petition, and then you must make a decision within
5 12 months; however, the utility can waive that.

6 CHAIRMAN CLARK: In light of some of the
7 conversation today, and the opportunity to make
8 potential revisions in the tariff to look for some
9 ways to offer customer protections, is that
10 something that Peoples might be interested in
11 before we pursue Commissioner Polmann's next line
12 of interrogatories?

13 MR. BROWN: Mr. Chairman, if I understand, you
14 are asking whether we would be willing to
15 essentially waive the eight-month period in order
16 for there to be more time to investigate this --

17 CHAIRMAN CLARK: Yes, sir. I --

18 MR. BROWN: -- and address the issue raised?

19 CHAIRMAN CLARK: Yes, that's the question.

20 MR. BROWN: Yes, we would be willing to do
21 that.

22 CHAIRMAN CLARK: In light of that, I would
23 make just a -- a statement that I -- I am still
24 kind of torn on the issue myself. I have -- I have
25 gone both sides. I see a lot of benefits in

1 Peoples Gas being in the LNG business. I see a lot
2 of potential rewards to help to reduce cost to the
3 existing customer base.

4 I don't think that -- in most cases, utilities
5 aren't going to be able to compete on a price
6 advantage with free enterprise. I think that
7 typically private companies are going to be able to
8 move faster, respond to market conditions better,
9 and usually have better prices. I think, in a lot
10 of cases, utility companies can differentiate
11 themselves with the level of service that they
12 provide.

13 I see pros and cons to both sides of this
14 argument. I typically will usually defer to the
15 free market side of things in most cases, but this
16 LNG market -- the LNG business in general, I don't
17 have a -- a real firm grasp on what this market
18 looks like, and I -- we don't see any facilities
19 even up in our particular region of the state. I
20 am not familiar with any.

21 So I would personally like some time to give
22 you an opportunity to take a look at your tariff,
23 make some revisions that gave me some better
24 feelings that the ratepayers of Peoples Gas would
25 be better protected. And if you came back with

1 that, I would have a little warm and fuzzier
2 feeling with about the concept of approving the
3 tariff, but that is one person's opinion.

4 I will defer to the remainder of the
5 Commissioners for your thoughts and ideas. If you
6 would like to continue to pursue this today and
7 bring it to a decision point, we can do so.
8 Peoples has agreed to defer their eight-month time
9 period if we choose to do this route.

10 Commissioners.

11 Commissioner Brown.

12 COMMISSIONER BROWN: I agree wholeheartedly
13 with everything that you said, and especially the
14 comment about the free marketplace. And I support
15 a deferral of this to give Peoples an opportunity
16 to address some of the minor concerns that -- not
17 minor, but some of the concerns that we have raised
18 here today to give them ample time to address the
19 customer protections. And maybe, if it comes back
20 with some of those issues, including the bonding
21 issue, which I think was very important that you
22 raised, Gary, I think it would be very helpful.

23 CHAIRMAN CLARK: Thank you, Commissioner
24 Brown.

25 Other Commissioners?

1 Commissioner Polmann.

2 COMMISSIONER POLMANN: I have no problem with,
3 you know, this -- having additional time to review,
4 but I do have some questions that I think may --
5 may be relevant --

6 CHAIRMAN CLARK: Oh, yes, sir.

7 COMMISSIONER POLMANN: -- or pertinent for
8 additional review that may inform some of that
9 discussion, but I have no problem with not taking
10 action on it today.

11 CHAIRMAN CLARK: Other Commissioners, how are
12 you on deferral?

13 Commissioner Fay.

14 COMMISSIONER FAY: Mr. Chairman, can I just
15 ask a quick question --

16 CHAIRMAN CLARK: Yes, sir.

17 COMMISSIONER FAY: -- to staff?

18 So the posture we are in for this tariff, I
19 know we have got a proposed waiver of the time
20 period from the petitioners, the 20 -- there is a
21 21-day period following the petition decision, and
22 then depending on that decision, interested
23 parties, I think, based on my interpretation from
24 the comments here today, stated there would likely
25 be a challenge to that, depending on what decision

1 is made. And so I would fully support giving them
2 the opportunity, like you mentioned, to work
3 through some of those conditions to maybe bring
4 something to the Commission that would not be
5 further litigated, and potentially resolve the
6 parties' issues.

7 Thank you.

8 CHAIRMAN CLARK: Ms. Helton, Mr. Hetrick, any
9 response to that?

10 MS. HELTON: And one thing, Mr. Chairman, I
11 think I may have neglected to say is if Peoples
12 substantially revises its tariff and presents a new
13 tariff, I think that may start a new clock. I am
14 not the -- the tariff expert on your staff, but I
15 think that there would be a good argument that if
16 they were to present a different tariff for your
17 consideration, that that would start a new clock.

18 CHAIRMAN CLARK: Who would be our tariff
19 expert, Ms. Helton?

20 MS. HELTON: Ms. Cibula or Ms. Crawford may
21 have a more -- a better answer, and Ms. Draper may
22 have a better answer.

23 CHAIRMAN CLARK: Okay. Any of those parties
24 available to answer that question?

25 MS. DRAPER: This is Elisabeth Draper. I will

1 take a first stab.

2 I can't tell you when a tariff is being
3 revised officially would restart the clock. We,
4 often enough, have utilities revise tariffs based
5 on discussions with staff and interested parties to
6 make everybody a party agree to the revised tariff
7 and those did not restart the clock. So I really
8 doesn't recall an example where a tariff changed
9 that much where it required restarting the clock.
10 I don't know what that distinction is, but it's --
11 we've seen before where we work on, and the utility
12 agrees to change some language in the tariff that
13 all parties can agree to.

14 CHAIRMAN CLARK: Okay. So we are saying that
15 the parties could agree that we are going to just
16 stay on the same timeline; is that fair, Ms.
17 Helton?

18 MS. HELTON: Well, I think sometimes when we
19 work with -- with the utility and parties, we are
20 not faced with coming up to the eight-month clocks,
21 which I think it might be the case.

22 CHAIRMAN CLARK: November 16th?

23 MS. HELTON: Yeah, November.

24 CHAIRMAN CLARK: We have some time.

25 MS. HELTON: We do have some time. So I think

1 we should be okay, but I just wanted to put that
2 out there, that that -- I am not sure how
3 substantial that the changes might be.

4 CHAIRMAN CLARK: Okay.

5 All right. Commissioner Graham, your --
6 how -- your -- no comments?

7 COMMISSIONER GRAHAM: No. I think they
8 addressed my question. I just thought if you made
9 enough changes to a tariff, then basically you kick
10 open discovery and everything else all over again.
11 So I think Ms. Draper sufficiently answered my
12 question.

13 CHAIRMAN CLARK: Okay. Great.

14 Commissioner Brown.

15 COMMISSIONER BROWN: Or we could move forward
16 and vote, and then, on the existing tariff, and
17 then they can come back and refile.

18 CHAIRMAN CLARK: True. That is an option as
19 well. Yes.

20 Okay. Let's move with the remainder of
21 Commissioner Polmann's questions, and then we will
22 pose this to the -- well, let me, before we go to
23 Commissioner Polmann's questions.

24 Mr. Brown, what are your thoughts on -- what
25 would Peoples' position be here?

1 MR. BROWN: We -- we would prefer to keep
2 everything on this docket essentially, and on the
3 current -- we prefer not to start over again, is
4 what I am saying --

5 CHAIRMAN CLARK: Okay.

6 COMMISSIONER FAY: -- is our point.

7 CHAIRMAN CLARK: I think that's fair. And I
8 think given -- we are 45 days, basically, if we
9 can't come up with some revisions, I mean, I know
10 they may be substantial in terms of their impact,
11 but based on the -- the tariff I looked at, I don't
12 see where it would have -- you could argue that one
13 either way. I am not going to go there any
14 further.

15 Okay, Commissioner Polmann, your questions.

16 COMMISSIONER POLMANN: Thank you, Mr.
17 Chairman.

18 I have some comments in between the questions,
19 but it kind of sets up the question, if you bear
20 with me.

21 So I understand that -- that LNG will be
22 provided as a service on a case-by-case basis by
23 contract. I think that -- that was fairly clear,
24 if I understand it. And I would suspect that those
25 contracts are confidential business products. Can

1 I get a confirmation from Peoples on that?

2 CHAIRMAN CLARK: Mr. Brown.

3 MR. BROWN: Yes, in their -- in their draft
4 form, before they would be entered into, yes.

5 COMMISSIONER POLMANN: Okay. So I will make
6 the comment that -- that I believe one would agree
7 that natural gas is -- is a commodity on the broad
8 market. I think that's generally available. But
9 from my perspective, I see LNG as a local
10 commercial service, and I think there has been some
11 comments to that effect.

12 In -- in any case, I see LNG as a service. It
13 involves some specific infrastructure, and
14 operations, and so forth. And, Mr. Brown, you made
15 comments with regard to LNG and that you being
16 approached by existing natural gas customers. And
17 I took that in your initial comments to -- to mean
18 that you intend to provide LNG service to existing
19 customers, that they were coming you to asking for
20 that.

21 So is it -- is it your intention to provide
22 LNG to your existing customers? And by that, I
23 mean only to your natural gas customers?

24 MR. BROWN: No, it would not be limited to
25 existing customers. What I -- what I probably

1 didn't convey very well is Peoples has been
2 approached by potential customers for LNG, and --
3 and so those customers, potential customers, have
4 approached -- I think some may be already existing
5 customers, but probably most of them -- I don't
6 know, most of them are. Some are and some aren't,
7 I think is a safer way to say it.

8 So part of it would be providing new service
9 to existing customers. The others would be
10 providing, not just the LNG service, but also
11 providing the natural gas to make the LNG service
12 possible, so it would be both.

13 COMMISSIONER POLMANN: Okay. That's an
14 important distinction for me.

15 And in that context, is it your expectation
16 that you would, or could be treated as a sole
17 source LNG provider? Would you anticipate that --
18 that the -- the existing natural gas customer
19 asking for LNG would be treating you as a sole
20 source provider through a solicitation, or that the
21 potential customer would see Peoples as a sole
22 source provider? Or is it going to be an open
23 market solicitation?

24 MR. BROWN: Certainly, the answer is, no, it
25 wouldn't be sole sourced. I will let Mr. Buzard

1 delve into of that further.

2 MR. BUZARD: Thank you, Commissioner Polmann,
3 for that question.

4 I think it is important the distinction, and
5 we are not asking do an overall regulation for the
6 LNG market, and that is important. We are asking
7 for the opportunity to provide the service of LNG.

8 So it is important that -- that, you know,
9 some claims have been made, you know, to -- to the
10 case of regulating an entire market, but that is
11 not what PGS is asking. We are asking for the
12 tariff opportunity to provide the service and
13 charge to a subscriber.

14 MR. O'CONNOR: Yeah, and Commissioner, this is
15 Tim O'Connor again. I can just put a little bit
16 more detail behind that with two -- two examples to
17 cover both of your questions.

18 And so an existing customer could be a large
19 industrial or power generation user who now is
20 seeking -- or who is now using natural gas for
21 their business and is now seeking on-site LNG for
22 backup purposes to increase their reliability.
23 So -- so in that scenario, we would like to have
24 the conversation and the option to provide an LNG
25 service to them. They certainly could seek other

1 options in the marketplace.

2 In the case of a new customer, an example
3 would be where a customer is not close to the
4 pipeline system. For the same reasons as other
5 customers in terms of looking for natural gas
6 service for affordability, reliability and a
7 cleaner option, is seeking Peoples Gas to provide
8 LNG, which would then be regassed and then used
9 within that facilities.

10 In both of those scenarios, those contracts
11 would fall under this tariff and be supported fully
12 by that customer.

13 COMMISSIONER POLMANN: Okay. So what you
14 clarified is that there would be a unique
15 relationship between Peoples Gas and -- and that
16 individual customer through the service contract,
17 and that's a case-by-case basis, so I understand
18 that. And the application of -- of the tariff
19 would be to that contract.

20 But I think -- I think you made clear that the
21 application of the tariff would -- would be for
22 purposes of competing in the LNG market openly to
23 any solicitation in a commercial LNG market, but
24 you are not dealing in a -- what would otherwise be
25 a business that you are regulated in natural gas

1 with existing, or -- or what would be your sole
2 source solicitation.

3 So this is a commercial activity where other
4 competitors in LNG would also be open to provide
5 essentially similar services, do I understand that?

6 MR. BROWN: Yeah. I think, in other words,
7 Peoples' desires to have the tariff so that they
8 can offer these services to customers who want the
9 LNG services under the circumstances we've already
10 talked about; at the same time, other competitors,
11 such as Eagle or others, may be trying to offer the
12 same services, and so, yes, it would be in a
13 competitive market in that sense, if that answers
14 your question.

15 COMMISSIONER POLMANN: Yes, sir. Thank you.

16 Okay. Mr. Chairman, I think the other
17 questions that I would have had have already been
18 asked by other Commissioners, so I think we've
19 covered the items that were on my list.

20 I appreciate the time. That's all I had, sir.
21 Thank you.

22 CHAIRMAN CLARK: Thank you very much.

23 So I will go back and recap this with, I
24 guess, more so with Peoples than anyone.

25 Are you willing to sit back down at the table

1 and renegotiate some specific points within the
2 tariff with our staff that gets the Commission to a
3 little more comfort level and bring this back at
4 the next Agenda item?

5 MR. BROWN: Yes, we are, Mr. Chairman. The
6 only thing I would ask is that we need a little
7 guidance as to what it is that is -- is the
8 consensus, if there is one, from the Commission.
9 For example, on whether we are going to treat it as
10 a carve-out, or whether we are going to have
11 pre-approval of contracts, or whether there is
12 going to be a certain size, and that kind of thing.

13 So we are happy to discuss those issues. I
14 think we can reach an arrangement on those issues,
15 but we just need to know specifically what it --
16 what the Commission's desires are in that realm.

17 CHAIRMAN CLARK: I am going to ask the
18 Commissioners if you would, through your staffs,
19 have them get back with our Commission staff and
20 discussions about what your concerns and inputs
21 are, and we will try to craft something, maybe get
22 something drafted out early on.

23 Commissioner Polmann?

24 COMMISSIONER POLMANN: Thank you, Mr.
25 Chairman.

1 I am unaware, or maybe -- maybe this is not a
2 question that needs to be answered here today, but
3 I am aware -- I am unaware of circumstances in
4 general where this Commission is in the business of
5 reviewing and approving contracts. So I just put
6 that out there for some consideration.

7 I would -- I would be cautious, if not
8 apprehensive, that we enter into a situation where,
9 on a case-by-case basis, we are burdened with --
10 with the judgment requirements for -- for a private
11 business where we are acting in contract review and
12 approval.

13 I would be more inclined to -- to impose
14 within a final order explicit requirements, and put
15 that burden on the utility to meet those
16 requirements.

17 In general, I think the -- the position of all
18 the Commissioners, at least some of the
19 Commissioners, has been clearly stated here, and we
20 have raised some issues in terms of the risk, and
21 so forth. I don't know that General Counsel's
22 Office needs to reply to my particular comment
23 on -- on contract review and approval. I just
24 raise that as a major -- a major factor. And
25 again, as I said, I am not aware of one way or

1 another but that would be a major concern of mine.

2 Thank you, Mr. Chairman.

3 CHAIRMAN CLARK: Right. And I think that's a
4 good point, Commissioner Polmann. I don't think
5 the Commission wants to get into reviewing
6 contracts, however, if in -- in -- in the absence
7 of provisions in a tariff that do not constrain a
8 contract, you might want to do that, but we have
9 the opportunity now to develop provisions within
10 the contract -- excuse me, within the tariff, that
11 would guide the contract, but it would have to meet
12 those. I think that would address that issue.

13 Commissioner Graham?

14 COMMISSIONER GRAHAM: Yeah, thank you, Mr.
15 Chairman.

16 In response to what Commissioner Polmann just
17 said. I agree with him. We are really not in the
18 business of approving contracts, but one of the
19 things we did, this was in the past year or two,
20 the solar companies came before us and had
21 different provisions that they indicated they were
22 going to put in the contract, and the Commission
23 didn't have a comfort level of something like this,
24 or something like this, or something like that, so
25 we required to actually see one of their contracts.

1 And we read through it, and we gave comments back,
2 this is the kind of thing that we are looking for,
3 and that was it.

4 We just looked at one contract and left it
5 alone, so we didn't get into the -- the job of
6 approving all of the contracts. We just wanted
7 that comfort level to see what the contract looked
8 like.

9 CHAIRMAN CLARK: That's a good -- that's a
10 great point, Commissioner Graham. Well stated.

11 Okay. We are going to defer this item until
12 the next Agenda if all Commissioners are in
13 agreement. Are you in agreement? We are. Okay.
14 This item is hereby deferred.

15 MR. MOYLE: Mr. Chair, just -- if I could be
16 heard just briefly --

17 CHAIRMAN CLARK: Yes.

18 MR. MOYLE: -- on a -- on a point of
19 clarification, not -- not dissimilar to the point
20 OPC asked you about, and Mr. Brown said, well, you
21 know, Eagle hadn't intervened.

22 You know, I -- I have practiced in front of
23 the Commission for a long time, and had discussions
24 with your staff about -- about the appropriateness
25 of intervening. And what -- what I heard back was

1 this is like a PAA, you know. And -- and Mary Anne
2 said, you will get a point of entry, but obviously,
3 we have significant interest in this.

4 And to the extent that there is going to be,
5 you know, discussions with OPC and -- and with
6 staff about -- about issues, obviously, we would
7 like to -- we would like to be included in those.

8 CHAIRMAN CLARK: Oh, absolutely. Yes, Mr.
9 Moyle. Agreed.

10 MR. MOYLE: Okay. Thank you.

11 CHAIRMAN CLARK: All right. Anything else?

12 All right. Next item. My apologies, I have
13 lost my agenda.

14 MS. HELTON: I think that was the last item,
15 Mr. Chairman.

16 CHAIRMAN CLARK: Maybe that's why I lost it.

17 All right. If there is no further business,
18 we are going to stand in recess for 10 minutes, 10
19 minutes, and we will come back and conclude the
20 Duke hearing at that point in time.

21 Thank you.

22 I am sorry? Hold on one second.

23 Ms. Helton?

24 MS. HELTON: I thought we were going to have a
25 30-minute break for -- to make sure -- do we

1 need -- I am not sure how long we need. Oh, I
2 thought we were switching over. I --

3 CHAIRMAN CLARK: Yes, we are going to hearing
4 mode next, aren't we?

5 MS. HELTON: Right.

6 CHAIRMAN CLARK: Okay. My apologies. I told
7 you I have lost my notes here so I am flying blind.

8 We are going to take a 30-minute recess. We
9 will come back in 30 minutes and begin the Duke
10 hearing.

11 Thank you.

12 COMMISSIONER BROWN: Thank you.

13 (Agenda item concluded.)

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

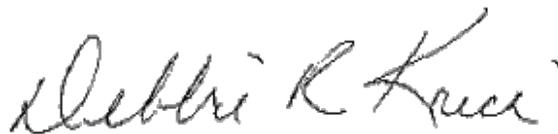
STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court 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'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 14th day of September, 2020.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024