

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

IN RE: DOCKET NO. 001148-EI - Review of Florida Power & Light Company's proposed merger with Intergy Corporation, the formation of a Florida transmission company (Florida transco), and their effect on FPL's retail rates.
DOCKET NO. 010577-EI - Review of Tampa Electric Company and impact of its participation in GridFlorida, a Florida transmission company, on TECO's retail ratepayers.
DOCKET NO. 000824-EI - Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

BEFORE: CHAIRMAN E. LEON JACOBS, JR.
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

PROCEEDINGS: AGENDA CONFERENCE

ITEM NUMBER: 13A

DATE: Tuesday, May 29, 2001

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Tallahassee, Florida

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Light Company.
DIANE KIESLING, on behalf of Calpine Eastern.
JAMES MCGEE, on behalf of Florida Power
Corporation.
JON MOYLE, JR., on behalf of CPV Atlantic.
JACK SHREVE, Office of Public Counsel.
BOB TRAPP, Commission Staff.
MICHAEL TWOMEY, on behalf of Buddy Hansen,
Sugarmill woods, and the Twomey Family.
LEE WILLIS, on behalf of Tampa Electric Company.

STAFF RECOMMENDATION

ISSUE 1: Should the Commission grant the joint motion to establish a separate generic docket to determine, on an expedited basis, the prudence of the formation of and the participation by FPC, FP&L, and TECO in the GridFlorida RTO?

RECOMMENDATION: No, the motion should be denied. While the form of the RTO was determined through a collaborative process, the impacts on each utility will depend on its unique transmission use and cost characteristics. Prudence of each utility's participation in the RTO will require utility specific data, essentially identical to what has been ordered to be filed in Dockets 000824-EI and 001148-EI. A separate docket would neither expedite the process nor provide a meaningful forum for assessing individual company impact on retail ratepayers.

If, however, the Commission decides to conduct a generic proceeding, the Commission should require each utility (FPC, FP&L, and TECO) to file a separate petition, along with direct testimony and exhibits, specifically addressing the cost-effectiveness to its ratepayers of its participation in GridFlorida. Each filing should also include specific requests for affirmative relief. All work papers, supporting documentation, assumptions, and documents reviewed in preparation for the filing should be made available to all parties at the time of the filing. Discovery should be expedited. The Commission should commit to making a decision on the petitions within 90 days of

The filing of complete testimony and exhibits. The results of the Commission's decision regarding each utility's participation in GridFlorida should be incorporated into the current rate review dockets initiated for FPC and FP&L and in any rate review docket opened in the future for TECO.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No.

1 CHAIRMAN JACOBS: Item 13A. I acknowledge
2 the presence of former Commissioner Kiesling
3 here. Welcome.

4 Staff?

5 MR. TRAPP: Good afternoon, Commissioners.
6 Thank you for having us again. I would like to
7 welcome our honored guests. And for the record,
8 I would just like to note that I think half of
9 Brooks Brothers is here. That was Bob's joke.

10 COMMISSIONER JABER: Mr. Childs is looking
11 at his suit.

12 MR. CHILDS: Somebody took my suit.

13 CHAIRMAN JACOBS: You go to the wearhouse
14 like I do.

15 MR. CHILDS: I don't have one.

16 MR. TRAPP: We're here today on a joint
17 motion from Florida Power & Light, Florida Power
18 Corporation, and Tampa Electric Company to ask
19 the Commission to establish a separate generic
20 docket to determine on an expedited basis the
21 prudence of the formation and their individual
22 participation in GridFlorida.

23 Staff's first impression is that this
24 motion is a case of too little, too late. Let
25 me make it clear, we are beyond the development

1 phase of GridFlorida. The form and function of
2 GridFlorida has been selected through the
3 collaborative process favored by the joint
4 applicants and the other parties. We are now in
5 the implementation phase of GridFlorida, and the
6 issues now before the Commission are utility
7 specific. They involve whether each regulated
8 utility's planned involvement in the GridFlorida
9 RTO is prudent, cost-effective, and in the best
10 interests of its ratepayers.

11 Florida Power Corporation, Florida Power &
12 Light, and Tampa Electric Company are at present
13 the only announced participants in GridFlorida,
14 but their involvement will be distinctly
15 different. The Commission has already initiated
16 ratemaking dockets for Florida Power Corporation
17 and Florida Power & Light, and the ratemaking
18 issues associated with GridFlorida will be
19 included in those dockets. The Commission has
20 also initiated an information-gathering docket
21 for Tampa Electric Company which staff believes
22 will ultimately provide or lead to a forum in
23 which to address ratemaking issues for that
24 utility.

25 The joint motion that has been filed

1 contains scant detail or explanation as to why
2 the requested expedited generic docket is a more
3 appropriate or efficient means of addressing the
4 prudence of each investor-owned utility's
5 participation in GridFlorida. And for that
6 reason, we believe that a generic docket, the
7 time for a generic docket has passed. Staff
8 would recommend that the motion be denied.

9 Thank you.

10 CHAIRMAN JACOBS: Very well. We have a
11 number of parties here to address the
12 Commission. Shall we begin with the movants on
13 the petition?

14 MR. CHILDS: Mr. Chairman, my name is
15 Matthew Childs. With me is Mike Nave. I'm here
16 today to address the joint motion by Florida
17 Power & Light Company, Florida Power
18 Corporation, and Tampa Electric. Though I'm
19 speaking on their behalf, their counsel,
20 Mr. Willis and Mr. McGee, are here with me.

21 We're asking that you permit the question
22 of the prudence of forming and of joining
23 GridFlorida to be addressed expeditiously and on
24 a consolidated generic basis for all of us. By
25 addressing the questions of prudence associated

1 with GridFlorida in this fashion, there can be a
2 constructive, consistent evaluation of what in
3 fact was a joint or consolidated action by
4 Florida Power & Light, Florida Power
5 Corporation, and Tampa Electric. It was clear
6 that the recommendations for Items 17 and 18
7 that were before you on the agenda for May 15th
8 raised and urged proceedings to address the
9 basic prudence of decisions connected with
10 forming and joining GridFlorida.

11 In addressing both the necessity for and
12 the benefits of this consolidated procedure, I
13 want to speak to Uniform Rule 28-106.108
14 entitled "Consolidation." That rule provides,
15 and I quote, "If there are separates matters
16 which involve similar issues of law or fact, or
17 identical parties, the matters may be
18 consolidated if it appears that consolidation
19 would promote the just, speedy, and inexpensive
20 resolution of the proceedings and would not
21 unduly prejudice the rights of a party."

22 I respectfully submit that there are not
23 just similar issues of law or of fact; there are
24 similar issues of both law and fact as it
25 relates to the prudence of each of the utilities

1 here involved.

2 Each of the three utilities responded to
3 FERC Order 2000 by proposing GridFlorida and
4 proposing to join GridFlorida. Each, I believe,
5 concluded that Order 2000 represented an
6 expression of federal policy. It would seem
7 that any inquiry as to the prudence of
8 GridFlorida and joining GridFlorida would look
9 to the following general questions: what is the
10 federal policy is the starting point; then, was
11 the response by the utilities to that policy
12 prudent; and then finally, whether the
13 alternative selected, in this case, GridFlorida,
14 was a prudent selection given the alternatives
15 that were available.

16 These issues are not just similar. They're
17 really identical. This is the basic inquiry
18 that you would want to start with, I think, in
19 evaluating GridFlorida. But our conclusion
20 about the issues being similar, if not
21 identical, is supported by the preliminary list
22 of issues that was given by your staff to both
23 Florida Power & Light and Florida Power
24 Corporation just a few days ago as possible
25 issues in the individual rate proceedings to

1 address GridFlorida. For instance, these issues
2 suggested -- included, "what are the net
3 benefits to customers of forming GridFlorida?"

4 Of course, I think the specific issue, this
5 specific issue has some concerns as to how you
6 would measure benefits. For instance, this
7 Commission in the past has looked to reserve
8 margin and what should reserve margin be. And I
9 don't believe that we ever developed a precise
10 mathematical formula for quantifying the
11 benefits of a particular reserve margin, but we
12 did look at it, and I think thoroughly so.

13 Then another issue proposed was, "what are
14 the expected benefits attributable to the
15 elimination of discrimination through open
16 transmission access resulting from the company's
17 participation in GridFlorida?" Also, what -- it
18 was posed by staff, "what are the expected
19 benefits attributable to economies of scale and
20 scope resulting from the company's participation
21 in GridFlorida?"

22 My point in identifying these -- there were
23 other issues, many other issues, and some I
24 think the staff might maintain are utility
25 specific. But I would suggest that they're

1 probably more those that you would look to in
2 the implementation phase, which we think you
3 would look to analogous to the way you would
4 evaluate the decision to construct a power
5 plant.

6 For instance, when a power plant is
7 constructed and you evaluate the choice in the
8 first instance, you do look to what were the
9 alternatives available to the utilities, what
10 were their assumptions, how did they follow
11 through on the evaluation process. But you
12 don't do a cost of service study or a rate
13 design until later on. I think that's where we
14 might be here, at least in part. Some issues I
15 think could be -- that have been posed or
16 identified are the kinds of issues that are
17 beyond this preliminary question of prudence.

18 But I also suggest to you that our request
19 for consolidation and a generic approach is
20 consistent with the remaining criteria of the
21 uniform rule on consolidation. This approach
22 promotes administrative efficiency and economy.
23 Consolidating this proceeding with an expedited
24 schedule would, as the rule provides, promote
25 the just, speedy, and inexpensive resolution of

1 the proceedings and would not unduly prejudice
2 the rights of any party.

3 Before I get to the question of speediness,
4 I want to point out that a consolidated docket
5 or a consolidated approach would mean that what
6 are clearly similar issues would not be
7 addressed separately with separate witnesses,
8 separate briefing schedules, and a separate
9 decision-making path. Instead, it would be the
10 unified approach to addressing this important
11 issue.

12 This procedure promotes speed and justness
13 and the inexpensive resolution of the matter.
14 It provides at least an opportunity for
15 personnel from the FERC to participate and
16 discuss this issue. It facilitates the
17 meaningful participation by others as well.
18 There are stakeholders in this beyond Florida
19 Power & Light, Florida Power Corporation, and
20 Tampa Electric. For instance, FMPA, Seminole,
21 and various developers of merchant facilities
22 may be affected and may have a point of view.

23 Finally, as to the similarity of the issues
24 and the beneficial results of a consolidated
25 generic approach, I would suggest to you that

1 the development of GridFlorida by Florida
2 Power & Light, by Florida Power Corporation, and
3 by Tampa Electric is not an aggregation of
4 separate or different plants by different
5 utilities. Instead, it's a joint, unified
6 approach, and it should be evaluated as such.

7 And now I want to return to the speed of
8 resolution and one reason why we think it's very
9 important. Each of the utilities, Florida
10 Power & Light, Florida Power Corporation, and
11 Tampa Electric, find themselves in a position
12 now of responding to FERC Order 2000 with an
13 expression to you at some length that you have a
14 role in looking to the prudence of the decisions
15 to form and the prudence of the decisions to
16 join GridFlorida. We believe that it's of
17 greatest importance that these matters be
18 resolved expeditiously, and that all matters
19 that are of concern to you be addressed fully,
20 and that there be a clear expression of your
21 decision, whatever it is.

22 The staff recommendation before you now
23 suggests, and it does so as an alternative, the
24 Commission perhaps making a commitment to reach
25 a final decision within 90 days after the

1 complete filing of testimony and exhibits by the
2 three utilities. We'll accept that. As to the
3 possible idea of filing separate petitions and
4 separate testimonies, we may be able to pursue
5 this by filing joint petitions and some joint
6 testimony, and if that would facilitate the
7 speedy resolution, we would ask to be permitted
8 to do that as well, although I don't think you
9 need to reach that conclusion today.

10 But I want to return to our request, which
11 is for a consolidated approach on an expedited
12 basis including all of the utilities. Clearly,
13 this matter is important. But we believe
14 there's an accelerated procedure available to
15 resolve this expeditiously and provide the very
16 attention to the importance that this matter
17 has. The procedure is provided by the rule that
18 I referred to, Rule 28-106.108. Thus, we ask
19 that you address these basic questions of
20 prudence on a consolidated, generic basis, and
21 you do so expeditiously. There are common
22 issues of law. There are common issues of
23 policy. There are common, if not identical,
24 issues of fact. This is an appropriate
25 procedure, and we urge you to permit it to be

1 followed.

2 Thank you.

3 COMMISSIONER DEASON: I have a quick
4 question for Mr. Childs.

5 Mr. Childs, if your joint motion is
6 granted, when can you file testimony and
7 exhibits?

8 MR. CHILDS: I believe that we can file
9 testimony and exhibits within 60 days, and if we
10 can do it more rapidly than that, we will. And
11 if there's a way for us to facilitate attempting
12 to resolve matters early on, we can do that as
13 well while we're working on testimony.

14 COMMISSIONER DEASON: Okay. Thank you.

15 MR. WILLIS: I'm Lee Willis representing
16 Tampa Electric Company. Mr. Childs made the
17 points on behalf of Tampa Electric as well as
18 Florida Power & Light and Florida Power
19 Corporation.

20 CHAIRMAN JACOBS: Mr. McGee.

21 MR. MCGEE: James McGee on behalf of
22 Florida Power Corporation. Mr. Childs spoke
23 well for us as well.

24 CHAIRMAN JACOBS: Mr. Moyle.

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

1 Moyle, Jr. from the Moyle Flannigan law firm
2 appearing on behalf of CPV Atlantic.

3 CPV Atlantic is a merchant plant developer
4 in St. Lucie County. And Mr. Childs alluded to
5 this proceeding may involve parties with
6 somewhat different points of view. I think that
7 CPV Atlantic is such a party in terms of being a
8 merchant plant developer. But we are here today
9 to support the joint motion for consolidation,
10 and we have a couple of reasons that we would
11 ask you to consider.

12 One is that the RTO formation is a very
13 important issue to a competitive, robust
14 wholesale market, and we urge that it be
15 resolved sooner rather than later. We think
16 that the motion to consolidate, and with what
17 Mr. Childs just said with respect to being able
18 to file testimony within 90 days, that that sets
19 up a track that is preferred in terms of getting
20 this issue resolved sooner rather than later.
21 Also, by keeping it entangled with the three
22 separate dockets, I think it leads to a real
23 potential for entanglement of a lot of different
24 issues.

25 The other reason that we would support the

1 motion is -- I was going to kiddingly say
2 environmental conservation, which you don't hear
3 much of. But from a practical standpoint, if
4 this RTO issue remains embedded in three
5 separate dockets, then people like CPV Atlantic
6 are forced with having to try to protect their
7 interests in three separate proceedings, which
8 then results in three separate sets of pleadings
9 coming in and going out, and it really is going
10 to be an abundance of paper that would be coming
11 in, not to even mention witnesses.

12 If witnesses are put on, then you're, I
13 think, confronted with, well, do we put them on
14 in one docket, two dockets, three dockets? How
15 do we deal with that issue? And I think it's
16 inefficient to bring down folks, if you were to
17 make the decision to put on witnesses, to bring
18 them down on an RTO related issue in three
19 separate proceedings.

20 So for those reasons, we would support the
21 joint motion.

22 COMMISSIONER JABER: Mr. Moyle, what is it
23 you see common -- tell me exactly what you see
24 as common to all of the companies related to
25 this issue.

1 MR. MOYLE: Well, the issue, as I
2 understand it, relates to the prudence of the
3 decision by the three companies to go forward
4 with the RTO. And I think that in your staff
5 recommendation that you voted on I believe on
6 May 15th, there were common issues related to
7 the benefits that are going to be derived from
8 joining an RTO. I mean, clearly, that's
9 something I believe that is common. We believe
10 there are benefits of the RTO and would like to
11 talk about those. So I think that, for example,
12 is one issue.

13 COMMISSIONER JABER: Okay. So the fact
14 that there are benefits related to joining the
15 RTO is common. The amount and kind of benefit
16 might be different. Would you agree with that?

17 MR. MOYLE: That's probably accurate,
18 right. I think your first question is are there
19 benefits. And then if that's yes, then to what
20 degree are each of the utilities --

21 COMMISSIONER JABER: Okay. What else
22 might be common among the companies as it
23 relates to the RTO?

24 MR. MOYLE: Well, I think that with respect
25 to the issue of does the RTO facilitate a

1 competitive wholesale market, I think that's an
2 issue that's generic and can be capable of
3 resolution, you know, in a generic docket. That
4 would also be -- if you don't make the decision
5 to separate them, would be something that would
6 be intertwined in the three proceedings.

7 COMMISSIONER JABER: Okay. So the fact
8 that the RTO creates a competitive wholesale
9 market would be common among the companies.

10 MR. MOYLE: In my opinion.

11 COMMISSIONER JABER: What else?

12 MR. MOYLE: Those are two. If you'll give
13 me a little while, I can think probably of some
14 others.

15 COMMISSIONER JABER: Does the FERC order
16 state that the RTO facilitates a competitive
17 wholesale market?

18 MR. MOYLE: You know, Order 2000 is a big
19 order. I'm not sure it expressly states that.
20 You have some experts, Mr. Nave and others, who
21 might be able to comment better on that. I
22 would think that that would be a question of
23 fact that would be appropriate for you all to
24 consider if you go forward with this generic
25 docket.

1 COMMISSIONER JABER: I'll wait and ask
2 someone else.

3 CHAIRMAN JACOBS: Ms. Kiesling.

4 MS. KIESLING: Yes. My name is Diane
5 Kiesling. I am with the firm of Landers &
6 Parsons, and today we represent Merritt Americas
7 Development, Inc. and Calpine Eastern.

8 Initially I would like to compliment staff
9 on a well-written recommendation. While we are
10 here today actually in support of the joint
11 motion, it's always nice to recognize good work
12 when you see it. So the issues were very well
13 laid out, and I want to compliment them.

14 As I said, we are here today to support the
15 joint motion to establish a separate generic
16 docket to determine prudence in participation in
17 GridFlorida, Inc. The two clients that I'm here
18 representing do have interests in the structure
19 of the RTO and will be likely participants
20 within the RTO at some point in the future. We
21 believe that it would be the most efficient
22 method for dealing with the RTO-specific issues
23 to do it in a separate generic docket that would
24 allow all the interested participants to have
25 access without getting us bogged down and tied

1 up in rate issues for these companies that we
2 really have no interest in.

3 However, we would also want to represent to
4 the Commission that if you choose today to take
5 another action and to perhaps follow the
6 suggestions that staff had in here for some
7 expedited proceedings, we're fully ready to
8 participate in whatever forum you create for us.

9 Thank you.

10 CHAIRMAN JACOBS: Very well. Thank you.
11 Any other comments? Mr. Twomey?

12 MR. TWOMEY: Mr. Chairman and
13 Commissioners, I'm Mike Twomey. I'm here on
14 behalf of Bud Hansen, Sugarmill woods, and the
15 Twomey Family.

16 I'm not here just to compliment your staff,
17 but to support them. I think you should go
18 ahead and adopt your staff recommendation and
19 deny this joint motion. There are a number of
20 reasons for doing so.

21 First, I wouldn't necessarily be in a rush
22 to do anything that would accelerate the loss of
23 this Commission's jurisdiction to the Federal
24 Government.

25 Now, the decision, as I understand it, for

1 these utilities to form an RTO was, despite some
2 suggestions in the press to it being mandatory,
3 I understand it to be voluntary. It was a joint
4 decision on their part, presumably because they
5 saw benefits to be accrued to their
6 shareholders, their customers, or both.

7 My understanding is that they don't need a
8 wave-off or a sign-off of prudence from this
9 Commission in order to proceed to form and
10 implement the RTO. They don't need your prior
11 approval, if I understand the process
12 correctly. The issue of prudence, I don't think
13 they require that determination from you,
14 although it is certainly understandable that
15 they would like to have it in their back pocket
16 as they proceed. The sooner they can get your
17 approval that this process is accessible and
18 must be borne by the ratepayers, the better off
19 they are, and that's understandable.

20 But if they made a determination that the
21 RTO is in the public interest and it's in the
22 provable best interests of their respective
23 customer groups, which presumably they have or
24 they wouldn't have proceeded this far in the
25 formulation of this organization, they should

1 have the strength of their convictions to go
2 ahead and proceed with the implementation, get
3 it started, switch over, and then at the
4 appropriate time, come in and defend those
5 decisions on an individual basis as being
6 prudent and warranting the recovery of the
7 associated costs, which I think we all assume
8 are going to be costs over and above what the
9 customers collectively are paying now, or
10 certainly what some of the customers are paying
11 now. We expect to see petitions or requests for
12 recovery of costs from some of these utilities
13 that will exceed what's being paid now. And, of
14 course, it would be proper for you to make the
15 determination that that cost recovery is
16 prudent, in the best interests of the public in
17 general, and from my perspective, the customers
18 specifically.

19 Now, much has been made that there are
20 common issues of fact and law here. I'm not
21 exactly sure what the questions of law would
22 necessarily be, but it strikes me that on the
23 surface, in terms of the facts, my understanding
24 is that two of the participants have decided
25 that they would turn over their transmission

1 related assets to the RTO, while the third would
2 maintain ownership and merely turn over control.
3 That's factually different. It's not common.

4 Your staff has pointed out, correctly I
5 think, that whether the customers -- whether the
6 decision of each of these three utilities to
7 participate in this RTO is in the public
8 interest and therefore prudent depends upon the
9 costs associated with each utility and the
10 benefits to be obtained from each. I don't --
11 your staff argues, and I think they're correct,
12 that trying to determine what costs for FP&L,
13 for example, what plant is going to be divested
14 and turned over to the RTO, and therefore, what
15 amount of rate base, current rate base should
16 come out of rates, current rates -- you can't
17 have it in both places, obviously, or you
18 shouldn't.

19 How much rate base comes out? What are the
20 associated costs and expenses that are in
21 current rates that should be turned over to the
22 RTO? How can you look at those in a
23 three-utility proceeding and do it without at
24 the same time looking at the associated costs of
25 the whole company and the rate base, the

1 investment? And you have that clear opportunity
2 coming up in the case of two of the utilities,
3 Florida Power & Light and Florida Power
4 Corporation. It just doesn't seem to make any
5 sense, and I think your staff argues this, to
6 try and do those -- try and make those
7 assessments outside of the context of a rate
8 case.

9 So they can proceed. I don't think there's
10 any -- I understand their desire to have the
11 seal of approval of this Commission, but I don't
12 think it's necessary. And I think your staff
13 makes a strong case that to wait and do it in
14 the context of the rate cases will give you more
15 specific information and allow you to feel more
16 fully comfortable that you're making the right
17 decisions, and in fact to make a determination
18 that the RTO is in the best interests of the
19 customers. So I would urge you to support your
20 staff recommendation.

21 Thank you.

22 COMMISSIONER JABER: Mr. Twomey, let me ask
23 you the same question I asked Mr. Moyle. It's
24 my recollection from the FERC 2000 order that
25 they justified the creation of an RTO because

1 they believe that a true wholesale competitive
2 market will create benefits, not just for the
3 companies, but for the average ratepayer. Is
4 that your understanding of the order?

5 MR. TWOMEY: I don't know. I can't answer
6 that.

7 COMMISSIONER JABER: Does anybody know the
8 answer to that question? Doesn't the FERC order
9 state that the RTO is a necessary step in
10 ensuring a wholesale competitive market?

11 MR. TRAPP: That's essentially what they
12 said; that's correct.

13 COMMISSIONER JABER: So, Mr. Twomey, your
14 point with respect to prudence I think is that
15 that decision has been made by FERC. What might
16 be left for the State PSC to determine, which is
17 what I'm trying to get my hands around, is
18 perhaps each company's participation in the RTO
19 needs to go through a prudence review. For
20 example, maybe -- and I'm making this up as I
21 go, but maybe leasing facilities as opposed to
22 transferring the assets to the RTO is not the
23 most prudent thing for X company, or vice versa,
24 and that's certainly a decision that the State
25 PSC can make. And --

1 MR. TWOMEY: I'm sorry. I think at a
2 minimum you have to do that. I would have to
3 look more closely at the FERC order. But I'm
4 not prepared without doing so to accept that the
5 FERC is in any position to rule on the prudence
6 of factors that go into the retail rates of
7 these three utilities.

8 COMMISSIONER JABER: Right. Set aside --

9 MR. TWOMEY: And I don't think they did
10 that. I don't think you could jump -- you could
11 make a huge leap that a FERC order has concluded
12 that because there might be an expanded
13 wholesale market in the state, if they made that
14 determination, that that ipso facto means that
15 the decision -- the decisions that they've
16 entered into, there are a lot of variables
17 there; they've done it amongst themselves --
18 that per se that means that those decisions are
19 prudent. And again, to answer your question, at
20 a minimum, you would have to look at the things
21 you described.

22 COMMISSIONER JABER: All right. And so
23 therefore, your point is with respect to the
24 effect on the retail ratepayer, that's where a
25 PSC proceeding would come in and help answer the

1 question, what's the impact to the retail
2 ratepayer, and what are the benefits --

3 MR. TWOMEY: Yes.

4 COMMISSIONER JABER: -- for the retail
5 ratepayer.

6 MR. TWOMEY: Yes. I mean, it could be, I
7 think, at least in theory, that the decision to
8 join an RTO could be to the benefit of one
9 utility's retail customers and not the other's.

10 COMMISSIONER JABER: When is the Energy
11 Commission's final report due?

12 MR. TWOMEY: I don't know.

13 CHAIRMAN JACOBS: December, isn't it?

14 COMMISSIONER JABER: Staff?

15 MR. TRAPP: I believe it's in December.

16 COMMISSIONER JABER: And have we heard,
17 Dr. Bane, from the Senate committee on any
18 interim projects?

19 DR. BANE: No, they haven't provided the
20 detail to us yet.

21 COMMISSIONER JABER: All right. Someone
22 confirm for me whether the interim report
23 contained a proposal to create an RTO recovery
24 clause.

25 MR. TRAPP: The 2020 Energy Study

1 Commission report? My recollection is that it
2 did.

3 COMMISSIONER JABER: That it did?

4 MR. TRAPP: Yes, ma'am.

5 COMMISSIONER JABER: And my recollection is
6 that report would be due at the end of the year,
7 this year?

8 MR. TRAPP: That's the December report that
9 is due.

10 COMMISSIONER JABER: All right. So if my
11 goal was to assist the Energy Commission and the
12 Legislature in answering questions related to
13 costs and benefits associated with the Federal
14 Government requiring, arguably, the creation of
15 an RTO, we should try to make that decision well
16 before December or the end of this year.

17 MR. TRAPP: If that information is to be
18 provided in specific data as opposed to
19 generalities, yes.

20 COMMISSIONER JABER: All right. Now, our
21 normal rate case process, as we ordered the last
22 couple of weeks ago, would have the rate case
23 not being completed before December or the end
24 of this year.

25 MR. TRAPP: That's correct.

1 COMMISSIONER JABER: So in some form or
2 fashion, if I'm trying to make sure that
3 everyone has the answers he or she needs to go
4 forward, whether it be the Legislature or the
5 Energy Commission, we should find a way to
6 expeditiously answer those questions.

7 MR. TRAPP: The information through the
8 MFRs and data and discovery I believe would be
9 available by that time. But clearly, a decision
10 by the Commission may not be available --

11 COMMISSIONER JABER: All right.

12 MR. TRAPP: -- within that time frame.

13 COMMISSIONER JABER: So now answer the
14 question for me, what's the difference between
15 going forward in the three dockets that we have
16 and identifying these issues -- let me back up.
17 I know, Bob, you're not -- both Bobs are not
18 familiar with the reciprocal compensation docket
19 and the UNE dockets. We actually -- but I know,
20 Dr. Bane, you are.

21 We have other dockets where the Federal
22 Government has issued decisions that impact --
23 and water too -- that impact all companies. The
24 impact is common to all companies, in the sense
25 that the Federal Government has required

1 something. The degree of impact and how each
2 company participates in implementing the Federal
3 Government's requirement is different for each
4 company.

5 MR. TRAPP: I think that's true anytime the
6 Federal Government acts.

7 COMMISSIONER JABER: All right. Now, in
8 the --

9 MR. TRAPP: And we've dealt with that
10 before in rate case matters or other matters in
11 the electric industry.

12 COMMISSIONER JABER: All right. Now, in
13 the past with telephone and I think water, we
14 have taken those kinds of decisions that are
15 time sensitive and acted on them quicker. We've
16 done them in phases or in parts. Is there a
17 problem with dealing with all of the
18 transmission issues, let's say, by November 1st
19 in each respective docket? Why does it have to
20 be a separate docket?

21 MR. TRAPP: The principal difficulty I see
22 is in the ratemaking aspects. I think what
23 we're here with is to look at the costs and the
24 benefits that are specific to the utilities that
25 we regulate and for the ratepayers that we have

1 a responsibility to set rates for, to ensure
2 that the costs that may be passed on to them
3 were prudently incurred, and hence were
4 cost-effective and in their best interests, and
5 then also consideration of other regulatory
6 factors, such as the timing of recoveries, the
7 place of recovery, base rates relative to
8 adjustment clauses, and then the class recovery
9 issues. Those are all very specific rate
10 issues.

11 Now, one might be able to address some of
12 the more common or generic issues of commonality
13 affecting the grosser system-wide identification
14 of costs and benefits. But once one does that,
15 in order to get the pot right for the consumer,
16 you've got to take those system costs and those
17 system benefits, you've got to allocate them and
18 specify and designate which company gets what of
19 what pot, and then that pot needs to go into the
20 ratemaking process. So there may be some issues
21 of commonality that could be addressed, for
22 instance, early on through stipulation or maybe
23 separate hearing in the ratemaking processes
24 that we find ourselves entering into.

25 But I'm not convinced that all of the

1 issues, particularly the specific "what's going
2 to be on the bill" ratemaking issues, can be
3 addressed in that expedited time frame unless
4 you wish to accelerate the ratemaking clock that
5 we currently operate under.

6 COMMISSIONER JABER: Sounds good to me.

7 COMMISSIONER PALECKI: Following up on
8 Commissioner Jaber's question, on page 5 of the
9 recommendation starting in the paragraph that
10 starts, "Once the issue of costs versus benefits
11 has been addressed," you have numerous issues
12 that need to be addressed by this Commission,
13 the first being costs versus benefits; the
14 second being who pays, ratepayers or
15 stockholders; the third being whether it's paid
16 through base rates or through a recovery clause.
17 Finally, you have the rate structure issues.

18 If you were going to go ahead and leave
19 these issues in the respective rate proceedings,
20 could you split out the first three issues,
21 costs versus benefits, ratepayers or
22 stockholders, and whether it will be through
23 base rates or cost recovery clauses, in a
24 expedited proceeding that is part of the rate
25 case so that those particular issues could be

1 determined by this Commission prior to the
2 resolution of the entire rate case?

3 MR. TRAPP: Well, certainly nothing is
4 impossible, but I do suggest that if you do
5 that, you're going to have to pay attention to
6 detail, pay attention to the specifics of each
7 company's costs and benefits, each company's
8 ratepayers or stockholders, and the other issues
9 here, because each of the company's decisions
10 relative to the RTO were based on different
11 circumstances, and they came to different
12 conclusions, different resolutions, and
13 different factors. You know, I don't believe
14 that they could be entirely genericized.

15 Now, recall that staff's recommendation of
16 some 18 months or so ago for a generic
17 proceeding was intended to try to assist the
18 parties and guiding them with our direct formal
19 input to what we thought would conform from a
20 statewide perspective and an individual utility
21 perspective in the formation of GridFlorida. We
22 no longer have the availability of that input
23 in the decisions being made. And I think
24 primarily what we're being faced with now is a
25 rate impact type of conclusion with respect to

1 the individual company decisions to participate
2 in GridFlorida. So a lot of the, in my mind,
3 generic issues are behind us at this point.

4 COMMISSIONER JABER: Perhaps I
5 misunderstood, Commissioner Palecki, but I think
6 that is what you were talking about, that each
7 -- you would take into account each company's
8 cost-benefit analysis in each case.

9 COMMISSIONER PALECKI: Yes. These would be
10 -- I guess what I'm trying to get at is, I would
11 like expedited answers to some of these
12 GridFlorida issues, but within the rate case
13 proceedings, so that we would actually perhaps
14 have two evidentiary proceedings, one
15 GridFlorida as part of the rate case, where we
16 would answer all of these GridFlorida issues
17 except with regard to rate structure and those
18 very specific rate issues, and then we would
19 have a second proceeding where we would go ahead
20 and do the rate setting functions. But we would
21 leave them within the same dockets. They would
22 be company specific rather than genericized.
23 But we would get some expedited answers, and
24 this Commission might have an opportunity to
25 make some expedited determinations on some of

1 these GridFlorida issues.

2 MR. ELIAS: Commissioner Palecki, if I had
3 answered your question, I was going to give you
4 a qualified yes. The concerns that we have go
5 to the impacts that are on other areas of the
6 companies' financial operations, to-wit: They
7 can say, "These are the costs associated with
8 the transmission assets," and then we will say,
9 "well, is that out of capital structure that
10 includes about 65% equity and a cost rate of
11 12%, or should we perhaps look at those issues
12 with what, you know, some people would advocate
13 is a more reasonable percentage of equities
14 and/or cost rates for the equity component?"

15 I'm not sure how far down this road you go
16 without understanding how all this stuff fits in
17 with the utility's overall cost of service. We
18 can say -- you know, even if we can come to some
19 kind of consensus as far as the costs
20 themselves, we really need to be able to look at
21 the whole, or at the very least reserve judgment
22 as to how this impacts the whole to make sure
23 that we do the best possible job with the rate
24 proceedings.

25 I want to say, because it's not stated

1 explicitly in the recommendation, that staff is
2 very much mindful of the need for timely
3 decisions on these issues. You know, while it
4 was not mentioned at the table here today, there
5 was a suggestion publicized that the applicants
6 were going to suspend GridFlorida development
7 pending resolution of these issues before the
8 Commission. And that's certainly something
9 that, you know, we take seriously and we think
10 is important, because if there are benefits to
11 be derived from this RTO, then certainly we want
12 to realize them as quickly as possible. So --

13 COMMISSIONER JABER: But that's why I
14 focused back on the FERC order and why I was
15 appreciative of what Mr. Twomey was saying.
16 FERC has said, whether, you know, voluntarily or
17 not, companies should participate in an RTO. So
18 I don't -- prudence -- at some point prudence is
19 the wrong word, because I don't think the
20 companies need us to make a decision that it's
21 prudent for them to participant in a federally
22 mandated thing. I think what --

23 MR. TRAPP: That still is a contested point
24 as to whether or not it's federally mandated.
25 And, of course, that's one of the issues. That

1 particular issue may be generically argued or
2 commonly argued.

3 COMMISSIONER JABER: Well, does it matter
4 now, Bob? Because they have -- FERC has
5 conditionally approved their organizational
6 setup for the RTO.

7 MR. TRAPP: It's not the --

8 COMMISSIONER JABER: It seems to me now the
9 companies need to know how much they can recover
10 of the costs associated with the RTO and how
11 those costs need to be split, and I'm really
12 trying to get my hands on that piece. I'm not
13 -- and we probably need to discuss this at the
14 Commission level, but I'm not interested in
15 second-guessing FERC. That's why I'm
16 concentrating on what that order says. I don't
17 want to second-guess what FERC has done. If
18 they think the creation of an RTO is a necessary
19 step to a wholesale competitive market, that's
20 fine. I'm there. My job, I think, is to
21 minimize the impact, the negative impact on the
22 retail ratepayer, and to the degree there are
23 benefits for the retail ratepayer, I want to
24 capture them. It's that simple.

25 MR. TRAPP: And again, we think those are

1 very specific issues involving rates, involving
2 complete disclosure of MFR data. You know, I'm
3 disturbed about hearing arguments going in that,
4 "well, FERC made us do it; therefore, you've got
5 to pass the cost on," when we've asked since the
6 beginning of the collaborative process, which
7 was the process ultimately of choice -- these
8 issues have been on the table --

9 COMMISSIONER JABER: Right. And I'm
10 beyond --

11 MR. TRAPP: -- since day one.

12 COMMISSIONER JABER: And I'm beyond that.
13 The collaborative process is what it is. Bob --

14 MR. TRAPP: And again, with the MFR data,
15 we can do that.

16 COMMISSIONER JABER: Bob, my question is,
17 with those very bare responsibilities with
18 respect to determining what the impact on the
19 retail ratepayer is and what benefits, can we do
20 that in a 90-day time frame? How is that unlike
21 what you were already going to do with respect
22 to separating the transmission costs out?

23 MR. TRAPP: Staff has proposed in the
24 alternative part of the recommendation that if
25 the companies are prepared to file complete

1 testimony, the complete backup data, the MFR
2 type data, we think we can process it within 90
3 days, but it has to begin with the complete
4 revelation of the data necessary to make
5 decisions.

6 COMMISSIONER JABER: And in fact, you don't
7 even know what the companies want.

8 MR. TRAPP: That's correct.

9 COMMISSIONER JABER: So not only do you
10 think you can do it in 90 days, but you also
11 need them to make a specific pleading letting us
12 know what it is that's on their wish list.

13 MR. TRAPP: Exactly what relief they are
14 seeking and dollars and cents what the rates are
15 going to be, and then justify them. That's
16 their job, to justify them.

17 CHAIRMAN JACOBS: Mr. Childs, what would be
18 the impact of an order from a separate docket
19 here? what would be the context, and what would
20 be its relevance in the context of both the
21 finalization of the RTO, and second, the
22 promulgation of the rate proceedings?

23 MR. CHILDS: Well, I think that that goes
24 to a lot of the discussion. And my answer will
25 be -- cover a number of points. We see the

1 question quite differently than this being a
2 suggestion to you that we are merely at the
3 implementation stage of the RTO and that the
4 only thing that remains is, given the RTO, that
5 you want to look to separation and rate design
6 questions.

7 And, you know, I want to ask this
8 Commission to remember that it was -- I think
9 the original recommendation was predicated on an
10 assertion that the filing of the RTO was
11 voluntary, which leaves open the question of --
12 and made some comments about the impact of the
13 RTO on customers. And that raised some serious
14 issues sort of, we believe, as the fundamental
15 going-in position.

16 And so the significance of an order can be
17 that if there is this underlying concern that
18 what the three utilities propose with
19 GridFlorida is, in the view of your staff,
20 imprudent, then what we think you should do is
21 that you should look at it and decide what
22 satisfies you. Don't go to the point of saying,
23 "well, we're only at the implementation stage,
24 so if it's imprudent, what we're going to do is
25 wait until you implement it and disallow costs."

1 I mean, I thought that one of the concerns
2 was that the Commission and the staff had a
3 point of view as to some items associated with
4 GridFlorida that they thought should be
5 recognized. For instance, you know, they make a
6 general comment about winners and losers. We
7 think you need to know that and evaluate it. So
8 the impact can be that you shouldn't, I think,
9 presume that we're simply at the stage of
10 implementation.

11 I mean, we're more analogous to being at
12 the stage of having made a preliminary decision
13 to build a power plant, and someone gives a
14 recommendation to you that they don't believe
15 that that power plant is the appropriate
16 technology, and they don't think maybe that the
17 timing is correct, and that therefore the costs
18 would be disallowed and recommend that, for
19 instance, you should not permit the utilities to
20 record various costs in various accounts
21 currently until that issue is resolved. And,
22 yeah, we realize there should be responsibility
23 to make the appropriate decision. What I'm
24 saying is that we are asking the Commission, in
25 view of the serious expression of concern about

1 what step to take, to follow this procedure, to
2 permit there to be an inquiry as to where to go.

3 Commissioner Palecki had a suggestion of
4 issues that could be addressed, and as I recall,
5 one of the things he suggested was to split out
6 the cost of service and rate design. We had no
7 intention of presuming that you would set rates
8 for us in this kind of a proceeding. Instead,
9 what our expectation was is that you would be
10 evaluating the general concerns about the
11 decision. And by general, I don't mean to limit
12 them, but I mean the concerns that are not rate
13 design and cost of service type questions, and
14 make that decision.

15 And I'm sorry in terms of the length of the
16 answer to the question, but I think that points
17 out the significance of treating this as though
18 it's an implementation issue, that it's an issue
19 that the utilities made a decision, and
20 therefore, let's go through with it. I would
21 hope that if the Commission had and the staff
22 had some ideas -- for instance, a comment was
23 made about transferring assets as opposed to
24 leasing them. I don't know what the answer is.
25 But if there's a point there that ought to be

1 evaluated, I would hope that it would be
2 evaluated, rather than saying, "utilities, do
3 whatever you want, and we'll come back and look
4 at cost recovery."

5 COMMISSIONER JACOBS: Thank you.

6 COMMISSIONER DEASON: Mr. Chairman, can --

7 CHAIRMAN JACOBS: Mr. Shreve.

8 COMMISSIONER DEASON: Okay. That's what I
9 was going to ask you, if we were going to be
10 able to hear from Mr. Shreve.

11 MR. SHREVE: My concern has really
12 developed since we've been here, and I think the
13 staff is moving in the right direction.

14 The companies' representations that they're
15 going to put on a case, the three of them
16 together, concerns me greatly. I'm sure there
17 will be some common issues, but surely we're not
18 going to -- you're not going to decide on
19 whether or not something is prudent without
20 looking at each individual effect on the
21 ratepayers.

22 I really wonder just exactly what the
23 effect is going to be. It clearly has not been
24 expressed to us that it's going to be a benefit
25 to the ratepayers, the retail ratepayers that

1 you regulate, that you set the rates for. I do
2 not see how you can rule on the prudence for
3 something based on a concerted presentation by
4 the three companies, because the individual
5 effects on the rates are going to be there for
6 each individual company.

7 I think Mr. Trapp expressed everything as
8 well as you can. And I see your concerns about
9 this. It looks to me like if you want to
10 expedite it, that's fine, but you're going to
11 have to go ahead and proceed in each individual
12 case and perhaps pull out the things that aren't
13 concerted and go ahead with those and get it out
14 front. But I don't think you can make a
15 decision for your ratepayers until you know what
16 the specifics are for each company. I just
17 don't see how you can do it.

18 Now, as far as the recommendation that's
19 going to be coming out of the Commission, I
20 don't know exactly what that's going to be. It
21 hasn't been finalized yet. The thing that I
22 have raised time and time again, and I know is
23 on the front burner there for everybody to
24 consider, is the freeze of the rates. That has
25 to be considered, and that's one reason I think

1 you're going forward with what you are now. And
2 this is a very big part of that.

3 And even if you were to roll this out, I
4 think the companies are going to have to still
5 make individual presentations as to what the
6 effect on their ratepayer is. I just don't
7 think you can approve something as being prudent
8 without knowing what the negative effect might
9 be.

10 COMMISSIONER JABER: And in fact, could the
11 cost-benefit analysis actually drive how the
12 companies participate in the RTO?

13 Commissioners, but I'm not interested in
14 separating the issues out. I don't think we
15 have to. But I am interested in expediting the
16 decision. And I don't know -- first, I don't
17 know how you feel about that. But the second
18 thing is, I don't know necessarily that there's
19 a magic answer.

20 I know that the way we handled the UNE
21 docket and the reciprocal compensation docket
22 worked well. Where we have a Phase 1 in the
23 same proceeding, companies have filed testimony
24 earlier than the rest of the proceeding,
25 discovery is had earlier in the proceeding, the

1 Commission conducts an evidentiary hearing on
2 that phase or on that part earlier in the
3 proceeding, there is a recommendation, an
4 agenda, and a vote.

5 And I hear staff saying that that can
6 happen in 90 days. I think what we probably
7 have to add to something like that is a
8 requirement that the parties submit their rate
9 request or their recovery mechanism request
10 within a certain amount of time and a list of
11 issues.

12 Were you saying the same thing, or were you
13 contemplating something different?

14 COMMISSIONER PALECKI: That's what I was
15 contemplating. And I hate to do anything that
16 puts more of a burden on staff, and I realize
17 that that will, because it means that staff is
18 going to have to separate out all of the MFRs
19 that they believe are pertinent to these RTO
20 issues and have all of those MFRs done on an
21 expedited basis and then do expedited discovery
22 on all of those issues. And I understand that
23 would be basically double the work for staff.
24 But I think it is important that we expedite
25 these GridFlorida issues. And I like the idea

1 of doing it within the rate case, because these
2 GridFlorida issues will definitely have a
3 significant effect on rates, at least I suspect
4 they will.

5 CHAIRMAN JACOBS: Do we have to separate
6 that out? I know we were going to undertake an
7 exercise to see about streamlining MFRs. Would
8 we have to do -- could the streamlined MFRs be
9 identified in the whole thing, Bob?

10 MR. TRAPP: I think the staff is already
11 working toward that. We've already had one
12 meeting with the companies to begin the process
13 of sorting through the MFRs for Florida Power &
14 Light and Florida Power Corporation.

15 I would mention that TECO is in the mix,
16 and we currently do not have a ratemaking type
17 of docket open for TECO. Would you have them
18 adhere to the 90-day filing of MFRs as well, or
19 actually the filing of testimony and MFRs
20 followed by a 90-day process?

21 COMMISSIONER JABER: I would.

22 CHAIRMAN JACOBS: To resolve -- resolve all
23 the issues at once.

24 COMMISSIONER JABER: Yes. I started with
25 -- you know, my concern is not just enabling the

1 companies to meet their FERC deadline. I think
2 that's critical. But, you know, Bob, I'm also
3 mindful of the fact that this has been a year
4 and a half process, so my sympathies aren't in
5 the companies now find themselves in this
6 crunch. But there is a need to have these
7 answers before the Energy Commission finishes
8 its job, and there is a need, I think, to have
9 these answers before the next legislative
10 session.

11 MR. TRAPP: Yes, ma'am.

12 CHAIRMAN JACOBS: Commissioner Palecki, are
13 you clear on the actual logistics here? I
14 wasn't exactly clear. It sounds like what we're
15 anticipating is a Phase 1 and a Phase -- at
16 least a Phase 1 and a Phase 2 in each of the
17 dockets, and it could possibly three dockets.
18 And the Phase 1 process would be the enunciation
19 of RTO related issues. And then is there going
20 to be a common hearing for Phase 1 in all
21 dockets or separate Phase 1 hearings in each
22 docket?

23 COMMISSIONER JABER: It seems like that
24 might depend on the testimony you get.

25 MR. ELIAS: I think you can reserve that

1 decision. Initially and without thinking it
2 through, my thought is separate, so that you
3 don't have three sets of lawyers and three sets
4 of witnesses sitting there for three days when
5 one day for each company might do it.

6 COMMISSIONER DEASON: Okay. I don't need
7 to, if you think that's fine.

8 And are we clear, because I want to be real
9 clear on what it is we're going to be deciding
10 as a result of that process.

11 MR. ELIAS: Well, I --

12 CHAIRMAN JACOBS: I guess you really can't
13 do that now. You have to come up with the
14 issues first. I understand.

15 MR. ELIAS: I think, you know, as we
16 suggested in the recommendation, the utilities
17 need to tell us specifically what they want us
18 to decide in terms of the issues to be addressed
19 in Phase 1, and that would be what they feel
20 they need to proceed forward on the
21 implementation of GridFlorida.

22 MR. CHILDS: Commissioner, is it -- in
23 terms of commenting on that, could I, what he
24 just said as to the procedure?

25 CHAIRMAN JACOBS: Go ahead.

1 MR. CHILDS: Some of your discussion
2 clearly relates to what we argued, but as to the
3 point about us telling you what we want you to
4 decide -- and I think maybe there is some
5 confusion as to what we want you to decide. We
6 would be happy to try to do that, because I
7 think that maybe that would be a way to better
8 focus on what we're talking about as to when you
9 make the decisions. I mean, we're not asking
10 anybody to not look to rate impact. We're not.
11 But we would like to be able to file that with
12 you as to what we would propose to have you
13 decide. We can even talk to staff before or
14 after we do that and get to you if that would
15 facilitate the process.

16 COMMISSIONER JABER: Mr. Childs, in
17 response to Commissioner Deason's question
18 earlier, you said you could file testimony
19 within 60 days if your joint motion was
20 granted. Could you actually -- in light of
21 that, could you actually file a specific request
22 within 30 days, with a commitment on our part
23 that we would actually decide Phase 1 within 90
24 days after that?

25 MR. CHILDS: I think we could. And if

1 there's a problem with individual participants,
2 we can let you and the staff and others know
3 within a very few days.

4 CHAIRMAN JACOBS: Let's give staff a moment
5 to think about that, because that puts us on a
6 pretty expedited, pretty intense track. And how
7 about TECO? What about TECO?

8 COMMISSIONER JABER: Well, in terms of
9 staff, they said that 90 days was acceptable to
10 them. This actually adds 30 more days. But,
11 yes, TECO, I don't know.

12 COMMISSIONER DEASON: Commissioners, before
13 we get too far down this road, let me say
14 something.

15 Based upon what I've heard here today, and
16 reviewing staff's recommendation, and listening
17 to all of the arguments and the pros and cons of
18 the various positions, I'm inclined to grant the
19 motion, the joint motion to deny staff's
20 recommendation. And let me tell you why. It's
21 their motion, and the way I read that is,
22 they're basically coming to the Commission and
23 saying that there are some common issues here,
24 we want to present that to you.

25 There are some efficiencies to be gained

1 not only for the companies, but for other
2 participants which would be involved in the
3 hearing process. They are confronting a time
4 constraint. Some could say it was imposed by
5 the FERC, or you could say that the companies
6 let FERC impose it upon them. But whatever, we
7 have a December 15th date. That date is in
8 question.

9 I would be willing to let the companies
10 come forward, grant their motion, and give them
11 an opportunity to proceed and present to the
12 Commission what they feel we need to hear and
13 what issues they want resolved, realizing that
14 it is totally their burden. And depending upon
15 what they present, we may or may not be inclined
16 to grant the relief they request, if you call it
17 that. I think they're wanting some guidance
18 from this Commission as to how to proceed with
19 this whole question of the RTO. I think it's
20 probably prudent on their part to seek that
21 guidance from us.

22 I think the only regret that I have is that
23 perhaps we should have been doing this six
24 months ago as opposed to right now. But
25 nevertheless, we're here now. I would be

1 inclined to grant the motion, go forward,
2 realizing it's the companies' burden.

3 And I agree with Mr. Shreve, though, that
4 there has to be some type of an evaluation done
5 on an individual company basis. The facts will
6 differ from each company, and there need to be
7 determinations as to what the costs are and what
8 the benefits are for each individual company.
9 But that's the companies' burden. And if they
10 come forward with information and we're not
11 confident or comfortable with making a decision
12 that yes, it's prudent, we always have the
13 ability to say, "we're making no decision on the
14 prudence. You've not given us sufficient
15 information within this time frame." But I
16 would give the companies that opportunity,
17 realizing it's their burden.

18 COMMISSIONER JABER: Commissioner Deason,
19 when would we do the opposite? With respect to
20 the company having the burden to seek the
21 recovery, you know, I think that's -- my problem
22 with not supporting approving the joint motion
23 is the opposite. At what point would we try to
24 capture benefits, if there are any, with respect
25 to efficiencies that are gained if a company

1 joins the RTO or, you know, transmission costs
2 that are transferred, and maybe --

3 COMMISSIONER DEASON: Well, see, I think
4 that we're -- and I may be looking at this in an
5 incorrect manner, but I think that we're at a
6 threshold situation here, and the companies are
7 wanting some guidance from this Commission as to
8 how they proceed from this point.

9 I believe that we should in an expeditious
10 manner try to get as much information as we can
11 and get our hands around it and give as much
12 guidance as we can, given the time constraints.
13 I think that there has to be -- and it's
14 probably going to have to come within the
15 context of each individual rate proceeding.
16 There will have to be ultimate decisions made as
17 to the exact rate impacts in terms of rate
18 structure, and questions of that nature. And to
19 the extent that we can begin addressing those
20 within this joint motion, so be it. But I think
21 there are some more fundamental, basic,
22 threshold questions that we need to address
23 before we get there, and I'm willing to go
24 forward and see what the companies can present
25 to us. And I think that we do need to move as

1 expeditiously as possible.

2 I believe that the ultimate decision as far
3 as actual rate structures and rates to customers
4 are going to have to be determined within the
5 rate proceeding, and to the extent that we can
6 give guidance in the meantime, I think it's
7 something that we should endeavor to do if we
8 can.

9 COMMISSIONER PALECKI: Commissioner --

10 COMMISSIONER BAEZ: Commissioner Deason --
11 I'm sorry, Commissioner Palecki. You go ahead.

12 COMMISSIONER PALECKI: Commissioner
13 Deason, I'm not in disagreement with you. The
14 concern I have as a Commissioner is the effect
15 GridFlorida will have on rates, and I would at
16 least want at the initial proceeding some of
17 those issues addressed.

18 I don't need to know to the penny what
19 GridFlorida is going to cost the ratepayers, but
20 I need to know some sort of order of magnitude.
21 I need some reassurance that this is not going
22 to cause massive rate increases. I need to
23 develop a comfort level that is integral with
24 rate issues. And if that can be done in a
25 generic proceeding, I wouldn't have any

1 objection to moving forward generically. But I
2 would want to make sure that some of those rate
3 issues -- and like I said, I don't need to know
4 to the penny what the rates will be. But I need
5 to have a general picture, a pretty good idea of
6 what GridFlorida is going to cause -- what
7 effect it will have on the respective rates of
8 the companies, and I'm not sure we can do that
9 in a generic proceeding, and that's the
10 difficulty that I'm having. And if we can, I
11 wouldn't have any problem moving forward.

12 COMMISSIONER DEASON: Well, I'm not sure
13 that we can either. I'm just saying let's give
14 the companies an opportunity to present their
15 case, and we'll evaluate it based upon what they
16 present, but I would give them that opportunity.

17 CHAIRMAN JACOBS: Commissioner Baez, you
18 had a point.

19 COMMISSIONER BAEZ: I just -- I wanted to
20 share Commissioner Palecki's concerns. I think
21 while I would agree with Commissioner Deason --
22 and I'm a big fan of consolidating. If there
23 are things that we can -- you know, if there
24 were issues that we could identify to be treated
25 on a consolidated basis, that would be all the

1 better, and the Commission has historically
2 searched out for that type of alternative.

3 The problem that I wind up having is that
4 you can only peel back one or two layers. I
5 mean, the issues that a consolidated effort
6 might address, it seems to me, are superficial,
7 and you're always going to wind up -- and I
8 think Commissioner Deason has recognized that as
9 well, that you're always going to wind up at a
10 point where you're going to have to address
11 certain questions on an individual basis.

12 And those kinds of questions I suspect are
13 going to be included in any list that the
14 companies would come back -- I mean, we've
15 essentially thrown down the gauntlet and said,
16 "Hey, companies, come on in and tell us what
17 kind of relief you all are going to seek." And
18 I suspect that those questions, questions that
19 have to answered on an individual basis, are
20 going to be on that list.

21 I don't know -- I've tried to -- I've
22 mulled it over and over again, and I can't come
23 up with a situation where we can answer what I
24 would anticipate to be several important
25 questions that the companies would come back for

1 relief for that could be addressed on a
2 consolidated basis, and I think that's the
3 problem that I'm having.

4 If you want to have a consolidated
5 proceeding, be my guest, but eventually we're
6 not going to -- I don't think that a
7 consolidated proceeding is going to allow us to
8 offer the guidance or the results or the
9 determinations that are going to form a complete
10 package of guidelines or of guidance and results
11 that these companies are going to be able to
12 move forward with the RTO process with the kind
13 of certainty that they're going to be seeking
14 from us.

15 And then ultimately you have to ask
16 yourself, well, what was the point to all of it
17 in the end? We answered a couple of generic
18 questions, and then the -- we obstructed the RTO
19 process. We obstructed the movement towards a
20 more competitive wholesale market, because we
21 couldn't offer on a generic basis answers that
22 would have given the companies the comfort to
23 move forward with their process, and that kind
24 of concerns me.

25 COMMISSIONER DEASON: Well, I think I agree

1 with what you're saying. I think that,
2 unfortunately, we find ourselves where we are
3 today. And here again, I don't mean to get on
4 the band wagon of being a FERC basher. There
5 seems to be enough of that going on without me.
6 But I think that there should have been an
7 obligation on FERC early on to make a
8 determination of costs and benefits, and it was
9 never done at FERC.

10 And so we're at the point now to where we
11 have raised some questions, what are the costs,
12 how are we going to allow recovery of those
13 costs, what are the benefits, do the benefits
14 exceed the costs? we've raised some concerns.
15 It has gotten the attention of our regulated
16 utilities, and I'm glad it has, and I'm glad to
17 see them here.

18 They're looking for the opportunity to make
19 a case before us, to give us the comfort level
20 that we seek, and I think we should give them
21 that opportunity. And if we can give them -- if
22 they can give us enough comfort that we can give
23 comfort back in return to them and they want to
24 go forward with the December 15th date, so be
25 it.

1 But if they can't prove their case to us
2 and we can't give that comfort that them, then
3 they're going to be in a dilemma of either going
4 forward without having any assurances on cost
5 recovery from us, or else they're going to have
6 to go back to FERC and say, "FERC, we appreciate
7 all your efforts, and we've tried to comply, but
8 we've got some serious concerns about being
9 caught between two different jurisdictions, and
10 we're not going to proceed with GridFlorida."

11 It's not my intent to put our regulated
12 companies in a dilemma between two regulatory
13 entities. I think it would be much better for
14 us and FERC to have worked together, and I think
15 we certainly extended that opportunity and that
16 hope, and we were rebuffed in that effort. But
17 our ultimate responsibility is to the customers
18 in this state. And while it is not a good
19 situation to have our regulated utilities caught
20 between two different jurisdictional entities,
21 if we have -- whatever means we have to have to
22 go forward with protecting Florida customers is
23 what we have to do.

24 I think that we should give our companies
25 the opportunity to make their case before us and

1 see if we reach that comfort level and give some
2 guidance to our utilities, at least enough to
3 know what course of action they need to take at
4 the FERC.

5 COMMISSIONER JABER: But aren't we all
6 saying the same thing? I think where we differ
7 is -- it's almost like I want to grant the joint
8 motion in part, Commissioner, Deason. I do want
9 them to have their opportunity to make their
10 case. I want it to be in the current dockets,
11 because I think there are enough differences in
12 determining impacts and benefits than there are
13 commonalities.

14 The FERC order is what's common. The fact
15 that they all have to comply with the FERC order
16 is what's common. We'll have to take official
17 recognition of the order. They'll have to put
18 on witnesses either way. There's nothing that
19 would prohibit them from putting on a joint
20 witness in each case. There's nothing that
21 prohibits them from later on moving for
22 consolidation, because then we'll know what the
23 issues are, and we'll have the testimony, and it
24 will make more -- it will be clearer that
25 consolidation is more efficient.

1 But to me, the efficiencies gained are with
2 expediting it. And if we can expedite it with
3 the current dockets we have, where we have a
4 whole breadth of ability to have information, I
5 would -- I'm still wanting to go that way. That
6 is giving them an opportunity to make their
7 case.

8 CHAIRMAN JACOBS: I think it's -- the
9 points are very consistent. I agree. One thing
10 that kind of stood out to me as a distinguishing
11 factor perhaps could be the context in which
12 this showing is made. What we're facing is, are
13 we going to assess the relative merits of the
14 RTO proposal in the context of rate issues as
15 they pertain to retail customers in Florida or
16 as they relate to the general body of customers
17 in the state and a general, quote, unquote, body
18 of benefits that would inure to the state. Both
19 have very valid, I think, rationale for
20 pursuing.

21 I'm persuaded that in the context of this
22 agency and this docket, a more reasonable course
23 is to go forward in the context of what we have
24 strongest jurisdiction to do, and the strongest
25 expertise and the strongest ability to do.

1 I agree with Commissioner Deason that it
2 would have been best to undertake it in the
3 other context, and it would have been best if
4 the complex issues that are incorporated in this
5 proceeding could have been fleshed out in a more
6 profound manner, but we find ourselves where we
7 are. And I think we will pursue the strongest
8 course if we take care of these issues in the
9 context we're most capable and I think most
10 legally authorized to do so.

11 COMMISSIONER DEASON: Well, let me just
12 say I agree that it needs to be expedited. I
13 just think that there's more opportunity for it
14 to be expedited in a joint case. And we've got
15 input not only from the utilities, but from
16 other parties who would be appearing, that it
17 would be more conducive for them to present
18 their case at one time. There are common
19 issues. There are certain threshold issues.

20 But I agree with Mr. Shreve, we cannot
21 ignore what the individual impacts would be for
22 customers of one utility versus another utility.
23 We've got to have enough information that -- I
24 think we need to understand that on a utility by
25 utility basis. But I think the burden falls on

1 the utilities to make that showing.

2 CHAIRMAN JACOBS: what I hear staff to be
3 saying is that there may be an opportunity to
4 pursue some of these issues in a common setting.
5 That is not foreclosed at this point in time; is
6 that correct?

7 MR. ELIAS: I didn't quite hear the first
8 part of your question.

9 CHAIRMAN JACOBS: That there may be some
10 opportunity to address the issues in a common
11 setting, that has not been foreclosed yet.

12 MR. ELIAS: That's correct.

13 COMMISSIONER JABER: Let me take a stab at
14 making a motion, and maybe it can be modified
15 along the way if you all want to jump in. But
16 the motion would be to grant the joint motion in
17 part with respect to expediting the decision on
18 GridFlorida to 90 days. It would be to deny the
19 joint motion with respect to separating the
20 issue into a generic docket.

21 CHAIRMAN JACOBS: Did you back off the
22 extra 30 days then?

23 COMMISSIONER JABER: No. I'm sorry. The
24 new part would be to allow the companies, all
25 three companies to file a specific request

1 within 30 days of today's vote with respect to
2 all of the GridFlorida issues. And I think it's
3 also helpful to have a list of potential issues.

4 MR. TRAPP: And that would include complete
5 supporting data, just for clarity, the MFRs?

6 COMMISSIONER JABER: Yes, yes. Your
7 recommendation with respect to requiring
8 testimony, supporting documentation, assumptions
9 and documents -- see, now, that begs the
10 question. Can that be done within 30 days?

11 COMMISSIONER DEASON: When you use in the
12 same sentence the words "MFR" and "expedited," I
13 just don't know that they fit, you know. And
14 maybe they can be. I'm not saying -- but
15 usually that's not the case.

16 COMMISSIONER JABER: Well, let me ask
17 staff. What is it you thought -- what is it you
18 thought you were getting, and when did you think
19 you wanted it by? Because all I saw was, okay,
20 the Commissioners need to be ready to vote
21 within 90 days. I can do that.

22 MR. ELIAS: And again, that's predicated on
23 what they put on the table, you know, here's
24 what we want, here's the evidence, here's what
25 we based our decision on, have at it.

1 COMMISSIONER JABER: Okay. So basically,
2 it's their burden of proof to ask for what they
3 want. But can all of this be provided within 30
4 days?

5 MR. CHILDS: Can we file the issues and the
6 requests, even if it's the petition, within 30
7 days and make the complete filing within 60
8 days? That's what I had answered earlier, how
9 long we thought it would take, is that we would
10 make the complete filing consistent with what
11 we've requested in that time.

12 COMMISSIONER BAEZ: And the 90 days starts
13 -- our 90 days starts after the 60, after your
14 filing.

15 MR. CHILDS: Right.

16 COMMISSIONER JABER: That's right up on
17 December.

18 COMMISSIONER BAEZ: Where does that put --

19 MR. TRAPP: That's what staff is asking
20 for, is basically 90 days to analyze a complete
21 filing, 90 days for us, whatever time it takes
22 for them to put it together.

23 MR. ELIAS: Ninety days after 60 days takes
24 us to the end of October. That means -- that
25 would mean that an order would be issued

1 sometime in November, or maybe sooner if they
2 could do it sooner. And we would certainly do
3 our best to expedite the process so that the
4 Energy Commission and the Legislature would have
5 the benefit of those decisions before --

6 COMMISSIONER DEASON: And let me ask a
7 question just procedurally. Given that time
8 frame, and you want to do it in three different
9 dockets at three different times, you're going
10 to have one day -- I assume you're going to have
11 to be going to hearing in -- when? In
12 September, late August, early September? I
13 don't know. You're going to have one day for
14 Florida Power & Light and then the next day for
15 Florida Power and then the next day for TECO.
16 Why not have one hearing one time, consolidate
17 it?

18 MR. ELIAS: And I think the answer is that
19 you would wind up asking a set of questions to a
20 Florida Power Corporation witness that deal with
21 their particular situation, their particular
22 costs, their particular benefits, while the TECO
23 witness just sat and watched. And then you
24 would do the same thing again the next day.

25 COMMISSIONER DEASON: They're going to be

1 sitting here watching what other companies do
2 regardless of whether it's their docket. Look
3 at everybody that's here now.

4 CHAIRMAN JACOBS: I'll guaran-darn-tee
5 they'll be here.

6 MR. ELIAS: And again, you know, the focus
7 of what we see as important, and have since
8 before we filed the recommendations in early
9 May, is company specific. You know --

10 COMMISSIONER BAEZ: And I guess that's --
11 and that's the concern, or I guess the question
12 that I have. See, Commissioner, when you speak
13 of a consolidated proceeding, are you
14 anticipating, you know, a consolidated "one size
15 fits all" determination? And I don't think --
16 because if it's not, if that's not the end
17 result, you can have them all in -- you know, it
18 doesn't matter how they show up, whether
19 together or apart.

20 MR. CHILDS: That is not what we would
21 contemplate. We did not contemplate that by
22 asking that you consolidate this that you would
23 have --

24 COMMISSIONER BAEZ: It is not a generic
25 proceeding. It's a consolidated proceeding.

1 MR. CHILDS: Well, I mean, our reaction is
2 that the issues may be the same. It's somewhat
3 analogous to what this Commission recently has
4 gone through in fuel adjustment, is that it
5 asked some general questions, and the utilities
6 had utility-specific data. And we also may have
7 some general data. But we think there are
8 general issues, and to the extent we're going to
9 go into the questions that relate to specific
10 utility information, we're going to endeavor to
11 have that.

12 COMMISSIONER PALECKI: Commissioner Jaber,
13 could I ask you a question with regard to your
14 motion? You had used the word "MFRs" as part of
15 the expedited portion of the proceeding, but
16 were you talking about a complete set of MFRs,
17 or were you talking about staff separating out
18 the specific MFRs that were pertinent and most
19 probative on the issues regarding GridFlorida?

20 COMMISSIONER JABER: Transmission,
21 actually. As the companies correctly pointed
22 out and staff has confirmed, there are no MFRs
23 on the RTO, so what I envisioned was that they
24 would separate out the requirements related to
25 transmission costs. And the idea is that you

1 have to figure out what's already included in
2 transmission and then assess the incremental
3 portion related to the RTO or remove the
4 duplication. So when I was talking about MFRs,
5 I'm talking about only the requirements to the
6 transmission.

7 MR. TRAPP: And I think staff has already
8 begun steps toward that end. Connie can correct
9 me if I'm wrong. I may get the number wrong,
10 but I think it's B7s of the MFRs that we've been
11 isolating on.

12 MR. KUMMER: Commissioners, if we could
13 back up just a little, I've tried very hard not
14 to jump into the discussion, but you can't talk
15 about a cost study as a separate entity. A cost
16 study is the culmination of everything else.
17 It's cost of capital. It's capital structure.
18 It's investment. It's expenses. So unless you
19 look at those, your cost study doesn't tell you
20 anything. That's why we have a problem saying
21 doing one piece apart from looking at the impact
22 on rates, because the cost study is going to
23 show you the impact on rates, but that's not
24 going to tell you anything if you don't have
25 everything that goes into that.

1 But, yes, we are trying to pare down the
2 MFR schedules, and we have had discussions.
3 We're meeting again --

4 MR. TRAPP: And I think Connie makes a very
5 good point. Let me tell you that just from my
6 old-time experience, I'm kind of here talking to
7 you from the part of the rate case that deals
8 with system costs. Connie then takes those
9 system costs and breaks them down to the classes
10 and everything.

11 I believe you can do this in two phases as
12 long as you don't lose track of the parts. You
13 can look at the system first in this Phase 1
14 system cost basis, and then in the specific rate
15 dockets that are going to continue in Phase 2 of
16 that rate docket, you look at the specific
17 allocations to the classes.

18 CHAIRMAN JACOBS: Is it then feasible --

19 MR. TRAPP: I think you'll give the
20 companies enough --

21 CHAIRMAN JACOBS: Let me ask this.

22 MR. TRAPP: -- confidence on Phase 1 --

23 CHAIRMAN JACOBS: Is it then feasible in
24 the filings within 30 or 60 days, whichever of
25 those is the proposal, to have -- I guess I

1 should ask the companies. Is it going to be
2 feasible to file the information that's
3 necessary to support that first phase analysis?
4 Are we looking at being able to get that
5 information in within 30 or 60 days? And I'm
6 assuming, staff, that what I hear you saying is
7 that you can identify what that is as a subset
8 of the complete filing.

9 MS. KUMMER: I think that Bob is correct in
10 that. There is a line that goes from
11 functionalization, which is what Commissioner
12 Jaber is talking about in identifying
13 transmission, to the actual design and spreading
14 it across rate classes. There is a distinction
15 in that.

16 CHAIRMAN JACOBS: And the calculation that
17 would need to be done, it would be feasible to
18 be done from that filing, from the first phase
19 filing?

20 MS. KUMMER: Yes, if we get sufficient
21 information. In the discussions we had last
22 week, the utilities seemed to have trouble
23 filing even that level of information in the
24 time frames that we had specified, but that's --

25 CHAIRMAN JACOBS: Well, we're going to get

1 an answer now on that one.

2 So we're all waiting. The question is
3 whether or not -- I don't know if we're clear on
4 the exact specifics here, but I think there's
5 conceptual understanding of what the potential
6 filings are -- whether or not it's feasible to
7 get those in within the time frame that we've
8 identified.

9 MR. CHILDS: Well, I think -- you know, I
10 assume, I think there may be some outstanding
11 definitive comments as to what all that might
12 include, but I'll go back to my 60-day comment.
13 We will endeavor to file within 30 days to set
14 out the scope.

15 But as I think this discussion maybe points
16 out, we're not -- we were talking more in the
17 nature of a Phase 1 review, because we would not
18 propose to ask you to change rates at this
19 stage. We may talk about, you know, this is the
20 -- these are the costs that are associated with
21 individual utilities given this particular
22 structure, these are general costs and benefits
23 as well, but not to go to the cost of service
24 analysis or rate design questions, because we
25 don't think we're there yet and wouldn't presume

1 to ask you that question.

2 CHAIRMAN JACOBS: Well, what I understand
3 our --

4 MR. CHILDS: So if we can't do it --

5 CHAIRMAN JACOBS: -- point of analysis is
6 that we're anticipating getting there. That was
7 the whole point of the dockets initially. So in
8 anticipation of getting there, we want to get
9 everything that we need and do it in a proper
10 fashion.

11 Mr. Shreve, you had a response?

12 MR. SHREVE: Well, I'm not real clear on
13 what Mr. Childs would consider the -- what
14 decision would be made at the end of this Phase
15 1. Does that mean that the utilities are in a
16 position to accept the fact that they may not be
17 able to recover any of these costs at a later
18 date? If you're not going to face the effects
19 until later, how much of a decision will you
20 make in that Phase 1, or what would that
21 decision be?

22 CHAIRMAN JACOBS: Well, staff, why don't
23 you take a stab at that first, and then I'll
24 come back to you, Mr. Childs, if that's okay.
25 Did you understand the question?

1 MR. ELIAS: Yes. And again, I think it's
2 key to what they ask for.

3 MR. TRAPP: That's right.

4 CHAIRMAN JACOBS: Okay. Then I guess --

5 MR. ELIAS: We need to know --

6 CHAIRMAN JACOBS: Now, excuse me a second.
7 I know why I came to you first, because what I
8 understand Mr. Childs to be saying is that he
9 doesn't they want to ask for a rate
10 determination analysis in the first phase.
11 That's not their purpose. Don't let me
12 misspeak.

13 MR. CHILDS: Well, what I'm trying to
14 convey is that I do not believe we're going to
15 ask you to set a rate for recovery --

16 CHAIRMAN JACOBS: Okay.

17 MR. CHILDS: Or to make the decision as to
18 how costs ought to be allocated between customer
19 classes. We're not asking you how to allocate
20 costs between customer classes, I don't think,
21 at this stage.

22 CHAIRMAN JACOBS: Okay.

23 MR. CHILDS: And I think that simplifies
24 the approach of trying to decide is this
25 something that ought to be pursued in this form.

1 CHAIRMAN JACOBS: Now, understanding that,
2 is that consistent --

3 MR. ELIAS: I don't --

4 CHAIRMAN JACOBS: Excuse me. Is that
5 consistent now with what your idea of the first
6 phase analysis is and consistent with the data
7 that you would expect to get in that analysis?

8 MR. TRAPP: I'm not sure that it is. I
9 perceive a trap. What can I say?

10 CHAIRMAN JACOBS: No pun intended.

11 MR. TRAPP: No pun intended. You know, I
12 need to caution the Commission not to get into a
13 catch-22 position where if you make a ruling on
14 a limited scope Phase 1, it precludes you from
15 taking specific rate action in a specific Phase
16 2 based on rates set for a 2002 test year which
17 includes the full cost and operation of an RTO.

18 MR. CHILDS: And I would hope --

19 CHAIRMAN JACOBS: Are you done?

20 MR. TRAPP: Yes.

21 CHAIRMAN JACOBS: Okay. Mr. Childs.

22 MR. CHILDS: I would hope that if that's a
23 concern -- first of all, I don't think we can
24 put you in that position, and we would hope that
25 if anything like that is identified that this

1 Commission would make clear just exactly what it
2 was deciding. But it would permit us to get to
3 you as to some of these Phase 1 general issues
4 without getting to the rate design, which can be
5 fairly complicated and fairly specific.

6 COMMISSIONER JABER: Well, Bob, I don't
7 understand your concern, because all I'm
8 envisioning is we take one piece of the rate
9 case out and handle it quickly. So why the
10 concern over the test year? There won't be a
11 change in the test year.

12 MR. TRAPP: Some of this may become evident
13 as the issues unfold. I mean, depending on what
14 the Commission's decisions are with respect to
15 certain, you know, rate issues, rate parity
16 issues, all winners, some winners, some losers,
17 revenue neutrality, or we'll accept increased
18 costs because FERC told us to, a lot of those
19 issues have to be addressed first and will then
20 play on each other. I think it is premature at
21 this time to make commitments as to, you know,
22 what the Commission will or will not preclude
23 its look at in this proceeding.

24 I'm willing to commit to going forward with
25 a -- you know, staff support of a Phase 1 look

1 at a system approach of things without going to
2 the finite cost of service, recognizing that
3 that will be picked up in Phase 2 of the actual
4 rate proceeding. Some of the generic issues
5 that we can get off the table we want to get off
6 the table, and if we can do that, that's fine.
7 But I just again am very cautious of a trap or a
8 catch-22 position where a decision you make now
9 may wind up trapping you down the line to a
10 certain course of action that you may not like
11 when you get there.

12 COMMISSIONER PALECKI: I would like to ask
13 staff as well as the companies the same
14 question, and that is, my concern is, at the
15 Phase 1 level, I want to have at least a general
16 picture of what effect GridFlorida will have on
17 rates. And like I said earlier, I don't need to
18 know to the penny how much each rate class is
19 going to pay. But I need to have some sort of
20 comfort level. Under the scenario you have set
21 forth for Phase 1, will I receive that
22 information?

23 MR. TRAPP: I believe that's -- what I am
24 understanding is a Phase 1 system type look at,
25 you know, revenues, expenses, and rate base.

1 COMMISSIONER PALECKI: And, Mr. Childs, is
2 that your understanding as well?

3 MR. CHILDS: We will give you that kind of
4 a look, yes, and anticipate that that would be
5 what we would do in this kind of a presentation.

6 CHAIRMAN JACOBS: And now, Ms. Kummer and
7 Mr. Trapp, aren't we able to reserve -- in the
8 event that we find inconsistencies later in
9 Phase 2, you're not saying, and I'm hoping
10 nobody else is saying, that we can't then make
11 our final decision consistent with our total
12 analysis.

13 MR. TRAPP: We would recommend that you
14 reserve that right, yes, sir.

15 CHAIRMAN JACOBS: So you would want to
16 minimize the impact of anything coming at the
17 back end by virtue of us discovering something
18 in Phase 2 that was not completely laid out in
19 Phase 1.

20 MR. CHILDS: I can't -- I don't know how
21 to anticipate all of the ways that things might
22 fit together, but what I'm hopeful for is that
23 at the end of Phase 1 -- excuse me. At the end
24 of the filing that we have clearly identified
25 the issues, that we all know where we're going,

1 and that at the end of that process it is clear
2 what you have considered and what you haven't
3 considered and the extent of your ruling.

4 CHAIRMAN JACOBS: Here's my point. I want
5 to be very clear on this. If at the end of
6 Phase 2 there is some development, some finding
7 that is inconsistent with what we come out of
8 Phase 1 with, what I'm expecting is that we
9 could make our final order in these dockets
10 consistent with the total analysis.

11 Now, what that means is somehow, some way,
12 there's some risk that something we found to be
13 the case in Phase 1 is overturned. I want to
14 make sure you --

15 MR. CHILDS: Oh, I think we can do that,
16 but I -- and I don't think anybody contemplates
17 this. But I don't want to have it to be totally
18 opened up. I don't think that we would --

19 CHAIRMAN JACOBS: No, this is only
20 inconsistencies.

21 MR. CHILDS: -- have a situation where
22 everyone was satisfied and you had reached a
23 decision as to what the RTO ought to look like
24 in a particular respect because you knew what
25 the impact was.

1 CHAIRMAN JACOBS: Okay. Is that
2 acceptable?

3 MR. CHILDS: And I wouldn't want to go
4 forward and say, "well, since it wasn't finally
5 closed, you have to litigate that issue all over
6 again."

7 CHAIRMAN JACOBS: Understood. Is that
8 satisfactory?

9 MR. CHILDS: I'm just saying that you would
10 know that -- you would identify what issues you
11 had decided and what you hadn't, and if there
12 were some things that remained to be done, you
13 would say so.

14 MS. KUMMER: I totally agree with
15 Mr. Childs' last comments. I share Mr. Trapp's
16 concern that even inadvertently, in a generic
17 sense, you may make a decision which, when you
18 start looking at the impact on an individual
19 company, you may go, "Uh-oh. We didn't figure
20 it was going to do this." And we're a little
21 concerned about making dollar type decisions,
22 especially in the first generic phase that will
23 then be fed into the second phase, which, as
24 Mr. Childs again said, he doesn't want to
25 relitigate things. And I'm sure that would be

1 their argument should we get to the second phase
2 and realize that maybe it wasn't the best
3 decision once you look at the real numbers.

4 CHAIRMAN JACOBS: well -- I'm sorry.
5 Commissioner Palecki, did you have a point?

6 COMMISSIONER PALECKI: You go ahead. I'll
7 wait.

8 CHAIRMAN JACOBS: I think that sounds like
9 a reasonable posture to move forward on, but I
10 ultimately am going to rely on the fact that our
11 final decision has to be consistent with the
12 docket that we develop, and that is how I would
13 resolve that whole question.

14 COMMISSIONER PALECKI: Mr. Chairman.

15 CHAIRMAN JACOBS: I'm sorry. You had a
16 point, Mr. Childs?

17 MR. CHILDS: well, I was going to say, one
18 other -- just sort of as we went into the
19 discussion of how we would proceed. If and to
20 the extent we can cover something with a joint
21 person, we would propose to do that and
22 facilitate it. And we fully recognize the
23 discussion about discussions and evidence as to
24 individual companies, but I think there may be
25 some things that we can cover jointly, and we

1 propose to do that if that's okay.

2 CHAIRMAN JACOBS: Very well.

3 MR. SHREVE: Mr. Chairman, I'm still not
4 clear on exactly what the companies would
5 propose as a decision to be made at the end of
6 Phase 1. I just hope we're not put in a
7 position of making a decision as to something
8 like prudence, have the companies rely on it,
9 with the understanding, though, that still the
10 cost to the customer has not been covered, and
11 you're going to be looking at that in the
12 future. And I think that's where the staff was
13 going when they first put everything in the rate
14 cases, where you would look at everything and
15 see that. That's the one thing I'm concerned
16 about.

17 And I'm not sure I understand what
18 Mr. Childs is saying. You're presenting all of
19 this, but what decision are you looking -- are
20 they looking for a decision that says, "well, it
21 looks like the decision you companies are making
22 is okay. But rest assured, we're not going to
23 give you the money yet. We don't know whether
24 we're going to give it to you or not"? I think
25 what they're looking for is a decision that

1 you're going to pass on the RTO and make a
2 determination they will be allowed to recover
3 the money. I think that's the reason they
4 backed off at this point and said, "We're not
5 going to invest any more money until we have
6 that decision made."

7 I would just like to have a clear parameter
8 on that as to whether or not that's where we're
9 going, or what is going to be made -- what
10 decision is going to be made at the end of that
11 first phase.

12 MR. CHILDS: Can I --

13 CHAIRMAN JACOBS: Mr. Childs, go ahead.

14 MR. CHILDS: And I've tried to make it --
15 and we will try to do a better job when we file,
16 if that's acceptable. We would try to identify
17 and make sure that we have been clear as to what
18 it is we're asking you to do and the extent of
19 it. I thought I did, and clearly, I haven't
20 been successful with you, Mr. Shreve.

21 MR. SHREVE: What is it?

22 CHAIRMAN JACOBS: What I think -- let me --
23 there's a great deal of danger when I try and do
24 this, but your question is, they're going to
25 want to try and get some final determination as

1 to the level of cost recovery in Phase 1. And
2 what I'm understanding is that that is -- and
3 let me not put any words in anyone's mouth, but
4 the answer back is, no, that is not what -- at
5 least at a specific level. Obviously, you can't
6 eliminate any connotations of a determination at
7 a systems level on value and benefits issues.
8 But in terms of dollars and cents, it is my
9 understanding that Phase 1 will not yield that.
10 Is that correct, Mr. Childs?

11 MR. CHILDS: It will not yield a
12 quantification of what we're entitled to
13 recover. We would hope, however -- and maybe
14 this is where the confusion comes in. We would
15 hope that we could do a good job in telling you
16 what we think the costs are. And if we did a
17 good job and told you what we think the costs
18 are, and it turned out that that's exactly the
19 cost, what we told you, then all I'm saying is
20 that we would hope that we wouldn't have to
21 cover that issue all over again. In other
22 words, we're not asking for them. We recognize
23 that you haven't addressed it.

24 On the other hand, in order to address
25 whether we have engaged in reasonable, informed

1 decision-making in the best interests of our
2 customers, we would expect to tell you what the
3 numbers are and how the numbers compare and let
4 you make an informed judgment. That's all I'm
5 saying, is that in terms of is this the right
6 thing to do, we would be asking you that. And
7 if ultimately it turned out there's a difference
8 in the expenditures, and someone has a concern
9 about the difference of the expenditures, we're
10 not saying that you're bound by that later on.

11 CHAIRMAN JACOBS: So you'll make a showing
12 in Phase 1, but we don't have to accept your
13 showing. We can still make our determination in
14 Phase 2.

15 MR. SHREVE: Well, what Mr. Childs said is
16 that if there's a difference in the
17 expenditures. I think if they're willing to
18 accept the decision in Phase 1 that they have
19 established what the costs are, and they may be
20 modified at some later time, but they accept
21 that decision, that the Commission has not made
22 a decision as to whether or not they're going to
23 be allowed to recover any of that cost, then
24 that's a different story.

25 MR. CHILDS: You know, I thought it was, as

1 I said before, analogous to a need determination
2 proceeding where we might come to you and say
3 it's going to cost us 550 million to construct a
4 power plant, and it turns out that it cost 575
5 or 600, you know, we would expect to come back
6 and tell you what the difference is. But we
7 would also not expect to have to litigate all
8 over again and -- we would expect to tell you
9 and justify that, but we would hope not to have
10 to come back and say, "You shouldn't get
11 anything."

12 CHAIRMAN JACOBS: In like fashion, our
13 final order there would be determinative --
14 would not be determinative about what you asked
15 for. It would --

16 MR. CHILDS: That's right.

17 CHAIRMAN JACOBS: -- be determinative of
18 what's needed and what's prudent --

19 MR. TRAPP: Commissioners, I need to
20 clarify one more thing in this discussion. One
21 of the issues that staff has on the table that
22 we believe is fair game in Phase 1 as well as
23 Phase 2 are the methods of cost recovery. You
24 know, recovery through base rates is different
25 than recovery through adjustment clauses. They

1 can have different impacts on how costs and
2 benefits are matched and dispensed to consumers.
3 And I'm troubled by the need determination
4 analogy here, because in the need determination
5 the Commission doesn't address prudence or cost
6 recovery. It just says it's needed.

7 MR. CHILDS: We can address those issues of
8 the base rate recovery or clause recovery. You
9 know, if you -- we hope to address that fully,
10 and the method of quantification, whether
11 there's a difference in the method and how you
12 would recover it and when you would start. We
13 can address that.

14 COMMISSIONER PALECKI: Chairman Jacobs?

15 CHAIRMAN JACOBS: Yes.

16 COMMISSIONER PALECKI: I believe
17 Commissioner Jaber has a motion that is on the
18 table, and I would like to second that motion.

19 COMMISSIONER JABER: Okay. I should
20 probably articulate it again, because I don't
21 remember what my motion was.

22 I would envision that the parties would
23 file their request in the form of a petition
24 within 30 days from today's vote. I heard
25 Mr. Childs say two different things. My motion

1 would be that they file their supporting
2 documentation within 30 days after that. And
3 then I would envision that the Commission make
4 its decision within 90 days. If I've done -- 90
5 days after that. If I've done the math
6 correctly, the numbers, the dates should fall
7 out that the petitions are filed around June
8 30th, the supporting documentation would be
9 filed around August 1st, and the Commission
10 would be making a vote at the beginning of
11 November, mid November, depending on the
12 agendas.

13 CHAIRMAN JACOBS: Very well. There's a
14 motion, and Commissioner Palecki --

15 MR. ELIAS: Point of clarification.

16 CHAIRMAN JACOBS: Yes.

17 MR. ELIAS: Is that one petition from all
18 three utilities, or is that separate petitions
19 for each utility?

20 COMMISSIONER JABER: No. Remember, the
21 beginning of the motion was to deny the part of
22 the joint motion that has us establishing a
23 generic docket, but granting the joint motion
24 with respect to expediting the decision related
25 to transmission and GridFlorida.

1 But I would add -- and I don't know that
2 it's part of the motion. I would add that I
3 would like staff to pursue the idea of combining
4 the hearings, because I don't -- we will know
5 more when we see the petitions. When we see
6 these issues, we'll know how much can be
7 consolidated. And I don't see a difference
8 between handling the consolidation in the fuel
9 adjustment dockets, for example, and this, or in
10 telephone, the reciprocal compensation dockets
11 and this. But absent knowing what the issues
12 are and who the witnesses are, I don't feel
13 comfortable now saying that consolidation is the
14 way to go, but maybe that's something the
15 prehearing officer can decide later.

16 COMMISSIONER DEASON: Well, that's
17 interesting. You've got two different
18 prehearing officers, because you've got three
19 different dockets.

20 COMMISSIONER JABER: I assumed it was one
21 prehearing officer. Well, teamwork.

22 COMMISSIONER DEASON: Of course, I'm
23 willing to give mine up to Commissioner Baez if
24 he wants it.

25 COMMISSIONER BAEZ: I thought I already had

1 it.

2 COMMISSIONER JABER: Yes, you know I did;
3 right?

4 That would be my motion.

5 CHAIRMAN JACOBS: It's been moved --

6 COMMISSIONER PALECKI: And I would second
7 that motion.

8 CHAIRMAN JACOBS: Moved and seconded. All
9 in favor, aye.

10 COMMISSIONER DEASON: Before we vote, just
11 let me say that this is not my preferred
12 alternative. I would simply grant the motion
13 and put the burden on the companies to come
14 forward. I think, though, that the motion
15 essentially accomplishes that, so I will be
16 voting for it.

17 CHAIRMAN JACOBS: Thank you. It has been
18 moved and seconded. All in favor, aye.

19 COMMISSIONER PALECKI: Aye.

20 COMMISSIONER BAEZ: Aye.

21 COMMISSIONER JABER: Aye.

22 COMMISSIONER DEASON: Aye.

23 CHAIRMAN JACOBS: Aye. Opposed?
24 Show it's approved.

25 Thank you all very much. That --

1 MR. SHREVE: Commissioner, could I raise
2 one point that possibly I should have raised
3 just before you finished that. Since everything
4 is going to be on an expedited basis, could we
5 go ahead and make the decision at this time for
6 expedited discovery, or should we take that up
7 with the prehearing officer? Because I think
8 you're going to have to really have expedited
9 discovery. I would suggest ten days for
10 interrogatories and productions.

11 CHAIRMAN JACOBS: I'm comfortable leaving
12 that to the prehearing officers. I think,
13 obviously, we've kind of set in motion a time
14 frame that's going to almost require it, but I
15 don't want to take away that jurisdiction,
16 because you've got some flexibility that you can
17 weave into each one of these.

18 MR. SHREVE: Mr. Chairman, I would like the
19 record to reflect that the utilities just
20 laughed at me.

21 CHAIRMAN JACOBS: Duly noted. Thank you.
22 We'll adjourn. Internal affairs at three
23 o'clock.

24 (Conclusion of consideration of Item 13A.)
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DATED THIS 1st day of June, 2001.



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