

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FLORIDA POWER CORPORATION'S DOCKET NO. 000824-EI
EARNINGS INCLUDING EFFECTS OF
PROPOSED ACQUISITION OF FLORIDA POWER
CORPORATION BY CAROLINA POWER & LIGHT.

REVIEW OF FLORIDA POWER & LIGHT DOCKET NO. 001148-EI
COMPANY'S PROPOSED MERGER WITH ENERGY
CORPORATION, THE FORMATION OF A FLORIDA
TRANSCO, AND THEIR EFFECT ON FLORIDA
POWER & LIGHT'S RETAIL RATES.

REVIEW OF TAMPA ELECTRIC COMPANY AND DOCKET NO. 010577-EI
IMPACT OF ITS PARTICIPATION IN
GRIDFLORIDA, A FLORIDA TRANSMISSION
COMPANY, ON TECO'S RETAIL RATEPAYERS.

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PROCEEDINGS: SPECIAL COMMISSION CONFERENCE

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

DATE: Wednesday, November 7, 2001

TIME: Commenced at 10:00 a.m.
Concluded at 1:15 p.m.

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

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I N D E X

1		
2	ISSUE NUMBERS.	PAGE NO.
3	Issue 1	43
4	Issue 2	45
5	Issue 3	46
6	Issue 4	47
7	Issue 5	51
8	Issue 6	51
9	Issue 7	53
10	Issue 8	65
11	Issue 9	67
12	Issue 10	75
13	Issue 11	98
14	Issue 12	101
15		
16		
17	CERTIFICATE OF REPORTER	109
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

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2 CHAIRMAN JACOBS: Good morning. We will convene the
3 agenda, and we are here for a special agenda on a particular
4 item.

5 Staff, do you want to introduce the item?

6 MS. BASS: Yes. Commissioners, this is staff's
7 recommendation regarding the prudence of FPL's, FPC's, and
8 TECO's participation in the RTO GridFlorida. Staff is
9 recommending that the companies not proceed with GridFlorida as
10 a Transco, but rather follow a proposal to create an
11 independent system operator, an ISO.

12 Staff is also recommending that the companies should
13 be allowed to recover the approximately \$9 million in start-up
14 costs that they incurred as of May 31st, 2001 regarding the
15 development of GridFlorida.

16 We're available for questions. I don't know if you
17 want to proceed on an issue-by-issue basis --

18 COMMISSIONER DEASON: Mr. Chairman, we can go
19 issue-by-issue is fine. But just as a matter of clarification
20 at the very beginning that the \$9 million that was discussed by
21 staff very briefly here, I just want to make it clear that it
22 is staff's recommendation that those dollars were prudent,
23 there should -- and the Commission will make no decision in
24 this docket as to the manner in which those costs would be
25 recovered, that that would be the subject matter of future

1 proceedings. Is that correct?

2 MS. BASS: That's correct. We are recommending --
3 the \$9 million represents a system number, removing the
4 wholesale portion of it. It is approximately \$8 million, and
5 that would be allocated among the three companies. And we
6 would recommend that no decision be made recovering (sic) the
7 manner in which those dollars are recovered, that that would be
8 a Phase II issue. We are also suggesting that those dollars be
9 subject to audit and review for reasonableness in the Phase II
10 portion of the docket.

11 COMMISSIONER DEASON: Okay. Now, when you say Phase
12 II, as far as Florida Power and Light and Florida Power
13 Corporation, you are talking about the rate proceedings,
14 correct?

15 MS. BASS: The rate proceedings. For TECO, we are
16 recommending that the methodology and the reasonableness of
17 those costs be evaluated when TECO seeks to recover those
18 costs.

19 COMMISSIONER DEASON: Okay. And if we approve your
20 recommendation, we would be finding that the actions taken by
21 the investor-owned utilities, as far as the costs incurred
22 going through the collaborative process and trying to put
23 together a workable solution, that those costs incurred for
24 that purpose were prudently incurred. Actual recovery of those
25 costs would be left for the Phase II proceedings, at least for

1 Florida Power and Light and Florida Power Corporation. I guess
2 my question is, will parties to those particular dockets still
3 be allowed to present evidence as to the timing or manner of
4 recovery and that sort of thing, and will they be precluded
5 from presenting evidence on the prudence, just to the question
6 as to the manner of recovery? I'm just trying to clarify where
7 we are at this point and where we think we are going to be if
8 we follow your recommendation.

9 MS. BASS: I would say that, yes, that any parties
10 would be able to question the method of recovery of those
11 dollars in the Phase II. The determination of the prudence, I
12 believe, would be made during this proceeding, that you would
13 find that the costs were incurred prudently in their actions in
14 the development of GridFlorida. If there is any question
15 concerning the reasonableness of the actual costs, that would
16 be in the Phase II, and I think those would be subject to --
17 subject to review or testimony by any parties. At this point I
18 believe it is staff's intent to file testimony in the Phase II
19 proceedings of the two rate cases regarding the methodologies
20 of recovery of those costs.

21 COMMISSIONER DEASON: Okay. I just thought we needed
22 to clarify that up front before we got too far along.

23 COMMISSIONER JABER: Mr. Chairman, in that spirit,
24 that is sort of how I would like to go forward, with your
25 indulgence. I have got just three or four clarifying questions

1 like that that I think would help me move quicker on the
2 issues. Because it's harder -- actually, they are big picture
3 sort of questions that are inherent in every issue.

4 CHAIRMAN JACOBS: Sure, go ahead.

5 COMMISSIONER JABER: To follow up on the cost
6 recovery, Roberta, to the degree we want to, we agree with you
7 that we want to pursue the actual cost-recovery mechanism in
8 Phase II, there will be time to identify a specific issue and
9 allow specific testimony in the rate -- in Phase II.

10 MS. BASS: Yes. There is sufficient time to do that.
11 I believe as far as staff testimony is concerned, it is due in
12 January for one of the dockets, and I don't remember the other
13 one, but there is sufficient time to identify it as a specific
14 issue in those two dockets, and to allow the parties, all the
15 parties, companies and intervenors and staff to file testimony.

16 COMMISSIONER JABER: Okay. And as it relates to
17 prudence, if we agree with staff today, we are not going to
18 relitigate prudence, you are just looking at sort of the audit
19 -- you would be looking at the audit numbers and whether the
20 costs that were incurred were reasonably incurred?

21 MS. BASS: Were reasonably incurred and that the
22 costs that were included and billed to the -- or incurred by
23 the companies were specifically for development purposes
24 related to GridFlorida.

25 COMMISSIONER JABER: Okay. And I think you just

1 confirmed for me that the numbers really total to about 8
2 million, it's not 9 million.

3 MS. BASS: It was approximately 8 million for the
4 three companies, jurisdictional numbers.

5 COMMISSIONER JABER: Okay. And then as it relates to
6 TECO, whenever they seek recovery is whenever they seek
7 recovery. You are not suggesting that they also be part of a
8 Phase II proceeding.

9 MS. BASS: No.

10 COMMISSIONER JABER: ISO versus Transco, if we sort
11 of get away from the terminology, your recommendation is to
12 support a GridFlorida, a Florida-specific RTO that does not
13 require the companies to transfer assets.

14 MS. BASS: That's correct.

15 COMMISSIONER JABER: That is what you mean by an ISO?

16 MS. BASS: That would be one aspect of an ISO.

17 COMMISSIONER JABER: You need to tell me all the
18 aspects of an ISO that you think your recommendation
19 contemplates. And I will be very blunt, you know, as it
20 relates to what the public knows about ISO, it's going to be
21 something more similar, and the perception of a California ISO,
22 and that's not what you are talking about at all. You are
23 talking about a state-specific regional transmission
24 organization that allows the companies to keep ownership of
25 their assets, but sort of forces them to share their facilities

1 with all electric companies in the State of Florida.

2 MR. TRAPP: Yes, ma'am, I believe so. And, quite
3 frankly, in preparation for today and thinking about the
4 request for a 90-day filing of an ISO that conforms to the
5 staff recommendation, if that is what the Commission votes, we
6 prepared kind of a little list here of some things, functions
7 we think the ISO would cover. If you would like, we would like
8 to hand that out because it may be easier for you to look at it
9 rather than us to read through it.

10 COMMISSIONER JABER: That's fine. That may make it
11 easier. I just want to make sure that we are all clear on what
12 it is we are going to be voting on today so that you don't get
13 a lot of questions after the fact and that the order can be
14 real clear.

15 COMMISSIONER DEASON: Do you have any extra copies
16 that you might could put in the back? I'm sure there are
17 probably interested folks that might want to follow along, too.
18 Or maybe we can have some extra copies made.

19 COMMISSIONER JABER: Bob, if I understand this
20 correctly, you are really telling me what you expect in the
21 90-day filing. I'm not there yet. I am going to ask you that
22 question, but I'm not there yet. In an effort not to be
23 confused, just give me your boilerplate understanding
24 definition of ISO as contemplated in staff's recommendation.

25 MR. TRAPP: An independent system operator would be a

1 company with the corporate objectives and goals of operating
2 the integrated transmission planning, the transmission
3 operations, and the transmission maintenance of the
4 transmission assets owned by the participating utilities. It
5 would administer transmission pricing through the tariff
6 administration. It would, we believe, take into consideration,
7 however --

8 COMMISSIONER DEASON: Let me interrupt. We are going
9 to try to have kind of a free-flow here, I think. When you say
10 tariff administration, you are talking about tariffs filed with
11 FERC.

12 MR. TRAPP: Yes, sir.

13 COMMISSIONER DEASON: Okay.

14 MR. TRAPP: But we believe that those tariffs should
15 take into consideration the revenue requirements set for the
16 retail component of transmission by this Commission for the
17 regulated utilities under our jurisdiction.

18 CHAIRMAN JACOBS: And that would be a filing that
19 each company would make. In other words, before the companies
20 make their filings to FERC, they would have to come through
21 here to undertake that process of setting those retail
22 components.

23 MR. TRAPP: Yes, sir.

24 COMMISSIONER DEASON: Let me make sure I understand.
25 You are envisioning -- and, of course, we are not making any

1 final decisions today. You are talking about a filing that
2 would be required. And based upon that filing, obviously, we
3 would get more information and we would make final decisions at
4 some future point. But you envision -- am I correct in that?

5 MR. TRAPP: Yes, sir.

6 COMMISSIONER DEASON: Okay. You envision that this
7 would be an entity that would file tariffs with FERC, but that
8 we, as the state regulatory entity, would still have
9 jurisdiction over those assets which are continued to be owned
10 by our regulated utilities. We would determine a revenue
11 requirement associated with that investment, the depreciation,
12 the return on that investment and the cost of operating,
13 maintaining, et cetera, those transmission assets, correct?

14 MR. TRAPP: For the retail component.

15 COMMISSIONER DEASON: For the retail component. And
16 we would identify that, and that revenue requirement would be
17 part of the revenue requirement which the ISO would file with
18 FERC to get dollars in terms of rates from transmission users
19 to recover the cost of those transmission-related assets.

20 MR. TRAPP: That's correct.

21 COMMISSIONER DEASON: So it's kind of a joint effort
22 with state regulation and federal regulation in that regard.

23 MR. TRAPP: Yes, sir, it is a partnership.

24 COMMISSIONER DEASON: Okay.

25 MR. TRAPP: The other areas that the ISO would be

1 responsible for would be the development and implementation of
2 the ancillary service market that is required by Order 2000 and
3 also for the security coordination of the state.

4 COMMISSIONER JABER: Okay. And the PSC would be
5 responsible -- you said the PSC would be responsible for the
6 development of the ancillary services?

7 MR. TRAPP: No, no, no. The ISO would be responsible
8 for the development of that market, and I think that the
9 Commission would certainly have input into that process and
10 review of that process. But these are basically the
11 requirements of Order 2000. And it is our intent that the ISO
12 would conform to the basic functions and characteristics of an
13 RTO that have been established by FERC in their Order 2000.

14 So, again, we are not doing anything that is contrary
15 to FERC. We think we are trying to build something that will
16 bridge the gap, if you would, between the State's
17 responsibility to regulate retail aspects of transmission and
18 the FERC's responsibilities to regulate wholesale aspects of
19 transmission, as well as conform to FERC's vision of
20 facilitating open access transmission and the role that it
21 plays in fostering competitive markets.

22 COMMISSIONER JABER: Okay. And said a different way,
23 what you contemplated an ISO being is consistent with
24 GridFlorida as filed and conditionally approved at FERC but for
25 the fact that we would not be encouraging companies to transfer

1 their assets?

2 MR. TRAPP: I think in large part that is correct.
3 Although there are some nuances in the recommendation with
4 respect to effects on this Commission's jurisdiction. For
5 instance, we want to make it clear that while we generally
6 agree with the processes that have been proposed for Commission
7 staff monitoring and oversight of GridFlorida with respect to
8 planning, with respect to security issues and that type of
9 thing, we want to make it clear that that does not foreclose or
10 impose any type of restrictions on the Commission's
11 jurisdiction. The Commission's jurisdiction is the
12 Commission's jurisdiction, in other words.

13 COMMISSIONER JABER: And isn't that sort of ensured
14 by our lack of support that the companies transfer their
15 assets? I mean, isn't that all the same thing? If they don't
16 transfer their assets, we maintain jurisdiction over the
17 electric companies?

18 CHAIRMAN JACOBS: I don't think that's an automatic.

19 MR. TRAPP: The transfer of assets in my mind from a
20 policy perspective affects more the ratesetting aspects of our
21 jurisdiction over the retail component of transmission. The
22 other areas of our jurisdiction with respect to planning and
23 reliability, I think, are there under a Transco model or an ISO
24 model.

25 COMMISSIONER JABER: Okay. Now, that's a good segue

1 into my next questions related to jurisdiction. In various
2 parts of the recommendation, you say that clearly GridFlorida,
3 as you contemplate it in the recommendation, fits the
4 definition of an electric utility because it will be an
5 investor-owned utility. Can you sort of walk me through that?
6 How will it be an investor-owned utility? How will its board
7 be made up?

8 MR. TRAPP: I need to respond perhaps from a policy
9 perspective and let the lawyers address the legal, because I
10 will confess that there needs to be more clarification about
11 that point made in the recommendation, because the absolute
12 jurisdiction over the RTO is going to depend upon the form of
13 the RTO. If we deal with an ISO, one has to determine is it
14 for profit, not-for-profit, is it going to be a
15 stockholder-owned or privately-owned corporation? What type of
16 business structure is the ISO going to take? And that may
17 affect how this Commission exercises its jurisdiction.

18 From a policy perspective, I would contend that
19 irrespective of the form, the Commission has a jurisdictional
20 role. It may be if it is an investor-owned utility type of ISO,
21 that the Commission will have direct jurisdiction over the ISO.
22 If, however, the ISO is a not-for-profit type of structure with
23 no stockholder basis, it may not fit the definitions in 366.
24 But the Commission will still have jurisdiction over the
25 underlying transmission owner utilities, and through that

1 jurisdiction would affect what services the ISO provides.

2 CHAIRMAN JACOBS: I think what I'm going to ask is,
3 because I know that there are some pretty significant and
4 pretty obvious restrictions on those definitions, rather than
5 going by pure functional analysis, why don't we let you walk us
6 through your functional overview? But I want to have the legal
7 staff come back and give us how we are going to walk through
8 the legal analysis of that jurisdictional march. Because I
9 think it would be unwise for us to take a pure functional
10 approach to this when it's clear there is going to be some
11 legal restrictions here.

12 MR. KEATING: If I could make more of a general
13 comment before we do that. At one point in the recommendation
14 where we were asked -- we were asked to discuss what our
15 jurisdiction would be over GridFlorida, we discussed what our
16 grid bill jurisdiction would be over GridFlorida as it has been
17 proposed, as a for-profit Transco. Under that analysis we felt
18 that GridFlorida clearly was an investor-owned utility that
19 owned or operated transmission and, therefore, met the
20 definition of an electric utility for purposes of the grid
21 bill.

22 And the question has come up since then, how would
23 what has been proposed by staff fall under our grid bill
24 jurisdiction? As Mr. Trapp suggested, you know, I guess there
25 could be an argument that a form of ISO, depending on what form

1 is ultimately approved, may not technically meet that
2 definition if it is not investor-owned, although we would have
3 jurisdiction over the underlying utilities whose assets are
4 being operated.

5 But there is a provision in the grid bill that is
6 cited in the recommendation, although not for this position,
7 that does not rely on any particular definition of a utility in
8 my mind, and that is the provision that says the Commission
9 shall further have jurisdiction over the planning, development,
10 and maintenance of a coordinated electric power grid throughout
11 Florida to assure an adequate and reliable source of energy for
12 operational and emergency purposes, and it goes on.

13 There is no reference in that section to electric
14 utility or public utility or any particular definition. I
15 think that that section gives us broad jurisdiction over those
16 areas, that is, planning, development, and maintenance of a
17 coordinated grid in the State of Florida.

18 COMMISSIONER JABER: Well, see, my question on that,
19 though, is why would the jurisdiction over GridFlorida, the
20 entity, be so critical if we are maintaining jurisdiction over
21 the IOU's transmission responsibilities? For example, let's
22 say that staff, the Commission, someone believes that there is
23 a need for additional facilities someplace in the State of
24 Florida. I didn't think you envisioned under this
25 recommendation that you would be ordering -- that we would be

1 ordering GridFlorida to construct additional facilities, we
2 would be ordering the IOUs to construct additional facilities,
3 wouldn't we?

4 MR. TRAPP: From a policy perspective, if additional
5 facilities needed to be built in Florida, we would find someone
6 to order. And whether it be the utilities or the ISO, I think
7 we would get there. From a legal matter that may be --

8 CHAIRMAN JACOBS: But let's look at it -- let's look
9 at it from a rational perspective. As I understand it, there
10 is provision -- and I guess this is speculating, because I'm
11 not sure how this provision would operate going forward. But
12 if I'm not mistaken, in GridFlorida as proposed, in the event
13 that there is found a need for transmission, it is the
14 responsibility of that entity to determine the parameters of
15 that and to make provision and order -- I shouldn't say order,
16 but make provision for the building of that. What we are
17 saying is we are going to make the determination of what that
18 is. And so the question will be who's driving that train?

19 MR. TRAPP: I think it will be the responsibility of
20 the ISO, if that is the form selected, to look at the joint
21 planning in the state, and that is the first step in
22 identifying the need for new facilities. Once a need has been
23 identified in that integrated planning process, or Peninsular
24 Florida planning process, it will then be up to someone to
25 build those facilities.

1 Now, that is going to be a contractual relationship
2 actually between the ISO and the transmission owners. I mean,
3 first of all, staff has not addressed in this recommendation
4 whether or not the ISO will be empowered to build new
5 facilities. It is conceivable that the ISO could build new
6 transmission facilities. If the ISO does not have that
7 authority, then it would be up to the utilities in the State of
8 Florida, all of them to have a role in building -- under the
9 grid bill, as I understand it, the grid bill says you identify
10 a need, you make sure that need is met, and then you spread the
11 costs of building that new facility in proportion to the
12 benefits received.

13 So this Commission may ultimately -- I mean, if the
14 utilities don't voluntarily come and say, okay, we are going to
15 get this benefit from this transmission line, so we are going
16 to help build it, this Commission has the authority to step in
17 and say -- do an evidentiary proceeding that this facility is
18 needed, these utilities will benefit; therefore, they will
19 share in the cost of building that facility on the basis of
20 that benefit received, and they are ordered to do it.

21 CHAIRMAN JACOBS: But the first round of that process
22 would preferably be that the IOU would see that need and either
23 approach this Commission or approach its members to do that.
24 And the second round would be if that couldn't be --

25 MR. TRAPP: Yes. Again, it is our intent that the

1 ISO be a real company with these real functions and have the
2 ability and the independence to do their job. And that will
3 require action on their part, coordination with their member
4 systems, everybody will have to do their job. We, as
5 regulators, we don't micromanage the companies in what they do,
6 but we oversight, we provide oversight of what they do and we
7 are the fallback. The grid bill says if we perceive that they
8 are not doing what they are supposed to do, we, then, are
9 required to step in and ensure that the citizens of Florida get
10 the facilities they need to support their services.

11 COMMISSIONER JABER: Bob, I guess --

12 MR. TRAPP: Excuse me.

13 COMMISSIONER JABER: I guess the follow-up, though,
14 the thing I'm not clear on is do you ever envision a situation
15 where the ISO would own assets? And the reason I'm asking that
16 is could we be setting up, if we agree with staff's
17 recommendation, a situation where we have got IOUs that own
18 transmission assets, have a rate base, have a revenue
19 requirement, and a need arises that additional facilities are
20 necessary. The ISO whether ordered or not, constructs those
21 facilities and then now it has an investment, a rate base and a
22 revenue requirement. That doesn't sound -- and if we are
23 looking for efficiencies that, perhaps, is not the most
24 efficient way of handling it.

25 MR. TRAPP: I have to plead that I don't have an

1 absolute answer for that because the record in this case did
2 not go to the detail of comparing one form to another. I think
3 it was broadly looked at. There was testimony received about
4 the relative merits and opportunities to benefit from an ISO
5 versus a Transco, but the record in this case did not really
6 get down to the nuts and bolts. And that, quite frankly, is
7 the reason we are asking the utilities to come back to us with
8 another proposal.

9 COMMISSIONER DEASON: Let me interject here. I think
10 -- well, first of all, I think that is the key that you just
11 pointed out, that we're asking for -- in your recommendation
12 we're asking for another proposal. And, hopefully, we'll get
13 some additional insight, perspective and perhaps suggestions,
14 or recommendations, or whatever you want to call them that will
15 help us go through this evolutionary process. So having said
16 that to start with, I think the question is a very good one.
17 But I think sometimes we need to look at it in kind of a real
18 world practical light, and then maybe try to put things, as we
19 go forward, try to put them and compare them to the way we have
20 done things in the past and how we transition.

21 And the reality of the situation, and I guess the
22 future could be different, but the reality of the situation is
23 that our investor-owned utilities have built a transmission
24 system that provides adequate reliable service to customers.
25 We have not had to go into a utility and say you are derelict

1 in your responsibility. It is obvious your transmission system
2 is not reliable. Build a line from Point A to Point B. We've
3 never had to do that.

4 MR. TRAPP: Once.

5 COMMISSIONER DEASON: One time?

6 MR. TRAPP: It never went to hearing, though.

7 COMMISSIONER DEASON: It never went to hearing.

8 Okay. So, first of all, I think that the utilities see the
9 need to have a reliable system. It is in their own best
10 interest and they are probably going to do that. Now, we may
11 enter at some point in the future a gray area where maybe some
12 people think it is needed and some people think that it's not.
13 But under the proposal as you have just described here earlier
14 today in response to questions, the utility even if they have a
15 question as to whether it is really needed, if we determine it
16 is needed, and it becomes part of their PSC regulated rate
17 base, they know they are going to recover the costs.

18 MR. TRAPP: Sure.

19 COMMISSIONER DEASON: They are going to recover a
20 return on their investment, and they are going to -- at least
21 we will determine that in their revenue requirements, which we
22 identified to the ISO has to recover for the benefit of our
23 regulated utility. So I don't foresee it being a real big
24 problem. But I guess I temper that to some extent by realizing
25 we are taking steps towards this brave new world and we are

1 maybe taking small steps and waiting and assessing and looking
2 around and make sure that we should take the next step, which I
3 think is the prudent way to go. But if you put it in the light
4 of where we have been in the past, I am optimistic that it is
5 not going to be a big problem in the future.

6 COMMISSIONER JABER: Yes, and I would agree. But,
7 see, that also minimizes the concern we may have about
8 GridFlorida meeting the definition of an electric utility, too.
9 That's my only point. Now --

10 MR. KEATING: If I could address that. I'm sorry.

11 COMMISSIONER JABER: Let me go back to the 90-day
12 filing now. Before you tell me what it is your expectations
13 are that these companies would be filing in 90 days, because I
14 think we need to be absolutely clear, tell me procedurally what
15 you envisioned. Did you envision another hearing? Did you
16 envision, you know, a PAA process and then another hearing?
17 Did you envision that you would bring the filing in 90 days to
18 an Internal Affairs?

19 And, again, let me be real clear on why I'm asking
20 that question. I don't want to relitigate what we will decide
21 today, and I don't want to knowingly create an opportunity for
22 this agency, parties, and perhaps other agencies to spend more
23 money on the same issues. I'm sort of interested in moving
24 forward.

25 MR. TRAPP: We absolutely share your concerns, and

1 I'm going to turn that over to Roberta Bass, because we've
2 talked about it, and she has volunteered to do that.

3 MS. BASS: I think that what we envision is we would
4 ask the utilities to file the proposal in 90 days after the
5 issuance of the order. During that time, I think it would be
6 in our best interest to work with the utilities very closely.
7 To meet with them, to invite the other parties in the docket,
8 if interested, to sit down so that we can talk about what staff
9 expects or what we would like to see in an ISO, what we think
10 the Commission would like to see in an ISO, and what they would
11 like to have included in it. And come up with a workable plan
12 that we can bring back to the Commission with everyone somewhat
13 happy with it so that we don't have to go to a hearing. I
14 don't think we can foreclose the possibility of a hearing in
15 the future, but I would like to try to do everything to
16 minimize the possibility of that and bring it back as a PAA
17 before the Commission.

18 COMMISSIONER PALECKI: So what staff is attempting to
19 do is come out with broad guidelines, which I believe we have
20 in front of us, and without micromanaging the utilities, let
21 them come up with the specifics, at the same time meeting with
22 staff and making sure those specifics are in keeping with our
23 philosophy and the broad guidelines we have issued.

24 MS. BASS: That is correct. Also, what we would
25 recommend is that when the proposal is filed that we open a

1 generic docket to look at the proposal by itself and not keep
2 it included in the rate case dockets, and we would close TECO's
3 docket at the same time, and then just have one specific docket
4 to address the ISO proposal.

5 COMMISSIONER DEASON: Let me try to clarify
6 something. Does staff envision -- at least it is my
7 understanding that staff envisions that as we go forward with
8 this 90-day filing, that it is not an entire substitute for the
9 work that has already been done. It should be a compliment to
10 the work, the collaborative process that went forward
11 developing the Transco proposal, such as governance and
12 independence and some of the things that were put together in
13 that structure, which has already been approved by FERC. That
14 the ISO proposal build upon that and adopt what is workable
15 from that within the context of an ISO as opposed to a Transco.
16 Am I understanding that correctly?

17 MS. BASS: That is correct. Basically, we're looking
18 at the four characteristics and the eight functions that are
19 included in Order 2000, FERC's order. And there has been a
20 approval of GridFlorida on most of that. I think there is some
21 outstanding or conditional approvals yet. But we would take
22 those very basics, because we agree with quite a bit under the
23 characteristics that they have sufficiently identified those.
24 Those have been approved by FERC. And those are ones that we
25 would build upon.

1 I think there is only -- there is a few issues still
2 outstanding we have some concerns with. And maybe some of the
3 other parties do, too, and those are the ones that we would
4 want to specifically address as we go forward during the 90
5 days.

6 We would also -- if possible, we would take that time
7 to layout what everyone agrees on. And there may only be one
8 or two small issues that we would have to bring back for this
9 Commission to look at and to resolve. And then we could be
10 more -- if we had to go to hearing it could be on more specific
11 issues than the broad proposal. We will try to do it as a PAA
12 first. And if those specific issues couldn't be resolved, then
13 we would narrowly identify those and perhaps have to go to
14 hearing.

15 But you are absolutely right. The basis of what the
16 utilities have filed with FERC under the GridFlorida, most of
17 that would be applicable under the ISO or what we foresee as a
18 reasonable ISO.

19 COMMISSIONER DEASON: Now, I guess I'm a little
20 unclear as far as the chain of events, the timing of things.
21 From the time that the order is issued in this docket, what we
22 are doing here today, whatever decision we make, as you
23 envision it, once that order is issued there would be a filing
24 90 days later. Now, what will we do during that 90 days? Just
25 rely upon the utilities to come forward with their proposal or

1 will there be opportunity for interaction during the 90 days?

2 MS. BASS: I would hope there would be a lot of
3 opportunity for interaction during that 90 days between the
4 staff and all the parties and the utilities. I mean, if the
5 utilities want to, we are more than willing to meet with them
6 and talk about what our concerns are and what we think we would
7 like to see in a proposal, so that we have something that could
8 possibly be a final proposal in the 90 days when it is filed.
9 And then if it is not, then we can continue to work with them
10 even after that point until we actually schedule it to come
11 back to the Commission.

12 COMMISSIONER DEASON: I'm not opposed to that. It
13 just seems like 90 days may be optimistic to allow that
14 interaction to take place and then still allow the utilities
15 time to formulate a final proposal. But if it can be done, I
16 certainly don't object to it.

17 COMMISSIONER PALECKI: Commissioner Deason, I was
18 almost going to ask with all the work that has already been
19 done on the RTO, my question was is 90 days necessary and would
20 60 days suffice?

21 COMMISSIONER DEASON: Well, maybe we can compromise
22 on 90, then.

23 COMMISSIONER BAEZ: I have a couple of questions.
24 First of all, as a practical matter what you all are
25 discussing, whatever, the prefiling work and discussions to be

1 done and so on, is everything geared to create a proposal that,
2 in essence, if approved just gets dropped into the FERC -- I
3 mean, it constitutes a FERC filing or what would be the basis
4 of a FERC filing?

5 MR. TRAPP: I think so. Obviously, this has got to
6 be approved by FERC ultimately. They've approved one form.
7 This constitutes a variance or modification to that. They are
8 going to have to go back to FERC. Efficiency to me would
9 dictate the filing before us would be in the form of the filing
10 that would be going to FERC, and that we would just, you know,
11 address our state concerns and then, hopefully, go together as
12 partners to Washington.

13 COMMISSIONER BAEZ: My point exactly, I guess. If
14 what our goal through this whole 90-day process and whatever
15 further process is necessary for us to consider and approve a
16 proposal, it is going to produce a filing, call it a joint
17 filing. I'm not sure what the proprieties of that are
18 necessarily, but some cooperative or cooperatively backed
19 filing.

20 What understanding do you have, and this is going
21 back to the 90 days or the 60 days as Commissioner Palecki has
22 mentioned, what is our understanding, or what is the staff's
23 understanding of the time lines at FERC and how does that play
24 into whatever sense of urgency or whatever sense of laxity we
25 have? You know --

1 MR. TRAPP: I don't know at this time to tell you the
2 truth. We approached this on the docket record we had before
3 us. We are here at this stage. Obviously, that scheduling,
4 that planning, that coordination has to be the next step.
5 Quite frankly, I'm not even sure I have the right staff here to
6 answer that question.

7 COMMISSIONER BAEZ: And my point is this, if this is
8 something -- if we are on the outside looking to establish a
9 process that is going to result in something that everybody can
10 hold hands on, walk it up to FERC, naturally with great
11 expectations that it would get approved, then isn't there some
12 superior time line that we have to be adhering to, or is there
13 something else that is really dictating, isn't there going to
14 be something else that is really dictating how quickly we have
15 to move, what kind of time lines? What kind of time we really
16 can afford ourselves. I mean, there may be more time. I tend
17 to fall on the side of Commissioner Deason's suggestion that
18 maybe 90 days is -- you know, we are putting ourselves under --
19 we're rushing it.

20 MR. TRAPP: You know, I haven't had -- you know,
21 people haven't been screaming at me about the 90 days, so I can
22 only take that as a sign that it appears maybe doable. As far
23 as FERC's schedule, I don't know what their schedule is. I
24 think that is largely up to FERC and perhaps the new Chairman.
25 He certainly has made statements about his desires with respect

1 to December 15th. Obviously, we are not going to make December
2 15th, but he has also said that he wants to work with the
3 states. And I think that's what we're offering.

4 COMMISSIONER JABER: Bob, you may not hear a lot of
5 screaming about the 90 days because a PAA 90 days is really
6 eight months. I tend to agree with Commissioner Deason in the
7 sense that it is going to take more time, but I think I reached
8 the bottom line for a different reason. I want a negotiated
9 time line not necessarily with the companies. I think where
10 our negotiation needs to be is at FERC. And could it be more
11 effective if we keep ourselves flexible on a time line, but
12 commit to negotiating with FERC and the companies on what is a
13 reasonable time line for a Florida-specific RTO implementation.

14 I mean, instead of -- here is the scenario, and I see
15 it time and time again. We put a deadline in our order. FERC,
16 because they are on a whole different schedule, their process
17 is different, will do something in the next 90 days. The
18 companies, because they are craving certainty, and I want to
19 provide them as much certainty as we can today, they are going
20 to come back and say, Commissioners, we are caught between a
21 rock and a hard place. We have got this 90-day filing that you
22 are asked us for. Pat Wood is over here doing something
23 completely different. We just don't know what to do. They are
24 going to go to FERC. And they will say, the PSC is making us
25 do this, and let us get through this 90-day process, which, by

1 the way, by now has been protested, and we have got a hearing
2 course that we are on. So we are looking for a year out.

3 Why not in that 90 days, though, commit our staff to
4 go to FERC and say, here is what the PSC has done. Here is why
5 we want to work with you in a collaborative fashion, and we
6 will make the commitment that we will work with you in a
7 collaborative fashion on reaching those time lines, and the
8 agencies work hand-in-hand.

9 And lest anyone think that I am sort of deferring our
10 jurisdiction or giving up our jurisdiction to the federal
11 government, I would suggest that this Commission doesn't have
12 that reputation. So this is really for looking at the most
13 effective way of accomplishing a true wholesale market. I
14 don't think you get there by putting in regulatory deadlines.
15 I think you get there cooperatively. What's wrong with that?

16 MR. TRAPP: Well --

17 CHAIRMAN JACOBS: Excuse me. Before you answer that,
18 one of the things that I want to make sure we don't do today is
19 basically predict FERC. If there is one thing the last couple
20 of months has taught us is that that is a fruitless exercise,
21 as much as I like some of the people there. So I'm really
22 concerned today that we don't try and anticipate how we respond
23 to an action that is not yet on the record. And as you -- I
24 think you can respond to Commissioner Jaber's inquiry.

25 Let's kind of move forward with the most practical

1 and critical path that we can find. Because I really do
2 believe that we have had some fruitful -- call me the eternal
3 optimist, but we have had some very fruitful exchanges with
4 FERC thus far. I have found both the staff and commissioners
5 to be very receptive to looking at what is coming at them and
6 being able to work with us on that accord. But in terms of
7 what happens formally up there right now, it is an absolute,
8 you know, dark hole. So I just would caution -- ask that
9 caution before we give a response. And having said that --

10 COMMISSIONER PALECKI: Chairman Jacobs, let me jump
11 in here. I certainly don't want to predict FERC, but I think
12 it is so important for this Commission and its staff to be
13 proactive in that we shape the form of the debate. And I fully
14 believe that the staff's recommended approach complies with
15 FERC's Order 2000. I believe what we are doing is fully in
16 cooperation with FERC, but yet there have already -- there has
17 been at least one media article that views the staff
18 recommendation as being contrary to FERC. And I think that we
19 have to send a message immediately to FERC that we are in
20 compliance with Order 2000. That we intend to fully cooperate
21 with them, and that we are working hand-in-hand with FERC to
22 create a seamless transmission system.

23 I think we need to send staff up to Washington, D. C.
24 immediately after this agenda conference. I think we need to
25 issue press releases, because I don't want this Commission's

1 actions to be misinterpreted as being contrary to FERC's
2 orders. Our actions, if we do go with the staff
3 recommendation, will be fully in compliance, and I believe they
4 need to be understood by FERC that we are acting in cooperation
5 with them.

6 CHAIRMAN JACOBS: I endorse and agree with that. And
7 I didn't want to -- I'm sorry, I didn't want to interfere too
8 much into the answer to the previous question. And I
9 absolutely, heartily endorse the idea of being proactive.

10 COMMISSIONER BAEZ: Well, Mr. Chairman, I don't think
11 anything that has been said here is in an effort to try and,
12 you know, divine what FERC is going to do. I think really the
13 issue here is how do we make FERC's formality a nonissue. If
14 we can -- if we can have a cooperative effort, the companies,
15 this Commission, and FERC involved ideally without any
16 discussion as to jurisdictional differences that we may have,
17 and just arrive at a product that everyone can agree to that is
18 in the best interest of the state, then why, you know, I don't
19 care what FERC does in the end, because they are going to have
20 to do something that is consistent with everything that has
21 come before it, and I'm not worried about what they're going to
22 do.

23 CHAIRMAN JACOBS: Before you answer, we are in
24 agreement. My concern was that we would try in an effort to
25 respond -- first of all, absolutely in agreement, that is the

1 preferred route. I think that is absolutely the way we have
2 approached this thus far. But as of this moment, for staff to
3 try and give us an answer about how FERC will respond in those
4 scenarios, we will affirmatively and proactively do that, but I
5 don't think they can give us a response about how FERC -- and
6 with the time lines that FERC will engage in from that
7 standpoint.

8 COMMISSIONER JABER: No, and I have been more
9 articulate in other days, but I don't think I asked staff to
10 give me a prediction on FERC time lines. I'm actually
11 suggesting that we do the opposite, where we sort of guide FERC
12 along in a collaborative. And, you know what, I don't want to
13 sell FERC short, either. They need us. They need us. Come
14 on, folks, they need us. They need a state that is going to
15 take the lead and drive this. And, you know what, Florida has
16 been a leader in the past. I'm not scared.

17 MR. TRAPP: Could I --

18 COMMISSIONER JABER: No. Before we go to specific
19 questions, I want to sort of have a discussion with the
20 Commissioners on philosophy. If we can agree on a
21 philosophical approach to RTOs, I can so quickly go through
22 this recommendation. Are we in agreement that it would be
23 beneficial for the State of Florida to have a Florida-specific
24 RTO? We need to get to the details, but I'm listening to the
25 discussion, and I think philosophically we are in agreement.

1 COMMISSIONER DEASON: Let me take the first stab in
2 answering that. I think that the answer to your question is
3 probably a qualified yes. And the only reason I qualify it is
4 that -- and I think to some extent it is contained within
5 staff's recommendation -- is that we do not, and it is not my
6 desire to make any decisions today, or 90 days from now, or
7 whenever that would preclude the possibility of Florida, if we
8 deem it is in our own best interest and, hopefully, given the
9 latitude from FERC to have some input into that decision, that
10 if it is in our own best interest to become part of a larger
11 southeastern RTO, that that is something that we consider. But
12 that we kind of be the ones to guide our own destiny, and us
13 not to be at the whim, and I don't mean that in a negative
14 sense, but be at the whim of FERC.

15 So to the extent that we can craft something which
16 allows us strategically to be in a position to consider to go
17 forward with the 90-day filing and the ISO concept, but not
18 forever give up the idea that there may be some strategic
19 advantages to a southeastern RTO. And I don't know that there
20 are. Right now I am inclined to think that we're probably --
21 given what I know at this time, we are probably inclined better
22 off to be part of -- have a GridFlorida approach, a Florida
23 only, a Peninsular Florida only approach. But we do not know
24 what is going to happen, and there are a lot of unknowns at the
25 federal level. So with that one qualification, I can answer

1 your question yes.

2 CHAIRMAN JACOBS: Let me wade in. I don't think
3 anybody can give an affirmative answer right now. What we
4 concluded yet is that the background information that is
5 absolutely necessary to come to that conclusion has not been
6 developed. And what we have proposed is that that be
7 developed. That has been a recommendation from NARUC, and it
8 has now been endorsed by SEARUC, that somebody sit down and
9 figure out what the flows are, what the gates are, what the
10 transaction patterns are, so that we understand what the true
11 boundaries are for the markets that are out there.

12 With that information in hand, then we can begin to
13 understand what the demands are on the grid. Right now what we
14 have -- probably the best information we can get on that will
15 come from FRCC, and, therefore, I think probably argues for a
16 Florida boundary -- I mean, a GridFlorida boundary as proposed.
17 However, I highly recommend that before we -- that we not -- we
18 not leave this discussion unless we endorse the idea that that
19 kind of background be the basis of any determination about the
20 scope of a transmission organization. Because if we are
21 focused on developing a market, we ought to know what those
22 markets are and not speculate on them.

23 We ought to understand what the demands on the
24 transmission grid will be and not speculate on them. I don't
25 want to go too far outside the record, but my colleagues in

1 other states that have -- have seen some more access issues and
2 have had greater access are now understanding with painful
3 reality and detail the need for this information when you sit
4 down to determine your transmission planning.

5 And I'm not an engineer, but all that I have been
6 told and instructed is that it will be those determinations
7 that make for the real markets. And it will be congestion
8 pricing that will determine how effective the market can
9 endorse an independent transmission organization. And to the
10 extent that we don't understand what the transmission flows
11 are, and we are going to -- and, therefore, we don't understand
12 what the congestion points are; and, therefore, we don't
13 understand what the impact of congestion-based pricing will be,
14 we are going to be operating in the dark.

15 And so at the moment, because of where we are,
16 because of the level of education point we are, I believe that
17 that boundary is probably the best we have going for us. But I
18 am not convinced that is the only boundary out there.

19 COMMISSIONER PALECKI: Commissioner Jaber, it is
20 interesting in asking a simple question you will probably get
21 five very much less than simple answers. I think I agree with
22 both Chairman Jacobs and Commissioner Deason, but I would
23 phrase my answer in this way. I would say that I endorse the
24 philosophy of a stand-alone Florida transmission system at this
25 time with the expectation that we will work very closely with

1 FERC to eliminate any seams and create an open and seamless
2 transmission system that will eventually incorporate the State
3 of Florida with a southeast RTO, or whatever else is created.
4 We don't even know if there will be a southeast RTO at this
5 point. But that we fully expect to work closely with FERC to
6 make sure we do have a system that can work very well with
7 transmission in the rest of the southeast. But at this time I
8 believe that a stand-alone system will eliminate risk to the
9 greatest extent.

10 COMMISSIONER BAEZ: I will give you the easy answer.
11 The only proposal that we have before us has a Florida-only
12 scope, a Peninsular Florida scope. It is consistent with
13 everything that this Commission has supported leading up to
14 today. And I agree with Commissioner Deason, we shouldn't
15 foreclose anything, but I don't believe that we are. It
16 doesn't -- you know, nothing binds us. And I guess for reasons
17 that may later become clearer by someone else's action, you
18 know, we may have to deal with a regional issue in the future.

19 So I don't think that we are foreclosing -- by
20 endorsing this scope that we have before us today, we are not
21 foreclosing our ability to consider something that may be in
22 the best -- I mean, the public interest or the best interest of
23 the ratepayers of Florida is an ongoing -- you know, it's a
24 going concern. It is not something that is necessarily
25 foreclosed by decisions certainly like this.

1 With the information that we have, with the record
2 that we have, with the support and endorsements that we have
3 given prior, I don't think that supporting a Florida-only or a
4 Peninsular Florida scope for this coming proposal, whatever it
5 might look like, is contrary or disadvantageous to us. So I
6 think you have my agreement.

7 COMMISSIONER DEASON: And let me clarify my answer,
8 too, because I am for maintaining options.

9 COMMISSIONER BAEZ: Absolutely.

10 COMMISSIONER DEASON: But it is kind of a unique
11 situation that we find ourselves in. For us to maintain our
12 option, I think we need to come out with an endorsement of the
13 GridFlorida approach. Now, whether it is RTO, ISO or whatever,
14 and I think staff did a very excellent job in their
15 recommendation in presenting all of the arguments. And I would
16 direct you to Page 75 of the recommendation where there is a
17 quotation there from Witness Naeve. And I agree with this.
18 And if you will indulge me for just a moment, I'm going to read
19 about the last half of the second paragraph there where Witness
20 Naeve is quoted, and he says:

21 "If each of the Florida participants and the Florida
22 Commission strongly believe that there should be a separate
23 Florida RTO, and that is our best chance of having it, then
24 maybe under those circumstances with the sort of uniform
25 approach we would have a good chance of retaining it and

1 getting FERC to go along with it. If there was division among
2 the GridFlorida companies, and in particular if the Florida
3 Commission didn't express strong feelings for GridFlorida, then
4 I think the chance of us being able to go forward with
5 GridFlorida is not very good."

6 I believe that.

7 COMMISSIONER JABER: I do, too.

8 COMMISSIONER DEASON: Okay.

9 COMMISSIONER JABER: We are there.

10 COMMISSIONER DEASON: All right.

11 COMMISSIONER JABER: That means we think highly of
12 Witness Naeve.

13 CHAIRMAN JACOBS: I hate to beat a dead horse, but
14 I've got to do this. We all began this, and I recall that the
15 very premise of Order 2000 is the creation -- is that
16 transmission organizations are fundamental to the creation of
17 competitive markets. To my recollection, and I stand to be
18 corrected, we did not discuss at any great length what the
19 marketplace in Florida needs in this proposal.

20 We did not talk about where the flow gates were, per
21 se, although I understand that there is some documentation of
22 that. We did not identify where the congestion pricing is
23 going to occur. We did not talk about the impact of location
24 of marginal pricing. And I want to be certain that we are
25 clear. We are embarking on the development of a market, not of

1 a transmission organization. The transmission organization is
2 a means to an end. It is not the end, and that is becoming
3 more and more clear. It is becoming stated more and more
4 definitively. Chairman Wood has said it very clearly recently.
5 And so let us keep our eyes on that end.

6 And to the extent that we are going to endorse any
7 proposal, it must be held accountable to that end. And if it
8 does not meet that end, it should be refined and redirected to
9 meet that end, lest we become caught on a train to nowhere.

10 But having said that, I can agree with the idea that
11 based on what we have before us now this scope seems to be the
12 most logical. We don't have anything to take us anyplace else.
13 But I guess what I'm saying -- let me just be clear. I think
14 if we are going to -- if we are going to do any analysis in
15 this filing, will we anticipate engaging in that kind of
16 discussion in this next filing, in the next -- the filing that
17 comes to you from the ISO?

18 MR. TRAPP: I don't know the depth of discussion that
19 we will get into in this 90-day filing with respect to the
20 formation of competitive markets or how the ISO will help to
21 facilitate those markets. I don't think -- I don't think
22 that's a discussion that can be held in 90 days, quite frankly.
23 I think that is an on-going discussion that's going to have to
24 evolve --

25 CHAIRMAN JACOBS: Ninety days doesn't make a

1 difference to me.

2 MR. TRAPP: I think that we are going to have to
3 ensure ourselves that the ISO that is proposed and the
4 corporate structure that is going to do it facilitates, you
5 know, transmission access in Florida. But I agree with you,
6 transmission is not generation and the competition is in
7 generation. Transmission is just the conduit by which you get
8 generation to the load. And, certainly, you know, you want the
9 whole system to be efficient. GridFlorida will have a role in
10 that, and we need to ensure in the filing that is made to us
11 that they fulfill that role.

12 CHAIRMAN JACOBS: Right.

13 MR. TRAPP: And much of that role, I think, is
14 defined by the characteristics and functions in Order 2000, and
15 we have endorsed and made a way for that.

16 CHAIRMAN JACOBS: Lest I be misunderstood, this
17 process has been designed to respond to Order 2000, so I'm not
18 arguing that somehow we have been misdirected. I think that is
19 what this process was designed to do, and that is exactly my
20 point. What I hear us doing is saying, yes, we believe that
21 that was a good step.

22 MR. TRAPP: Yes.

23 CHAIRMAN JACOBS: But I want to make clear that we
24 are also saying that is a step towards some end.

25 MR. TRAPP: Yes.

1 CHAIRMAN JACOBS: And we have to begin to enunciate
2 the boundaries of what that end is, lest we keep our focus on
3 the car, but we don't know where the road is going. And I am
4 suggesting that somehow -- it doesn't have to be 90 days, but
5 we have to begin enunciating. If there is a direction that I
6 believe we must give, is that is the direction, what are we
7 going to do to arrive at some idea of where we are headed.
8 What will the competitive market boundaries look like. Not
9 definitive. I don't think we need to be defining what the
10 market conduct rules are or market rules are. That is the goal
11 of the market participants. But if there is some direction, I
12 hope we can begin to figure out how we are going to get to that
13 end.

14 MR. TRAPP: I think what we are hoping in the filing
15 will be the mechanism to address those issues. Again, this is
16 a tough situation we find ourselves in. We all believe in a
17 competitive marketplace, and we all believe in the benefits
18 that it can bring us, but we are not there. And there are
19 blocks in the road to getting there. And some of those we can
20 control and some of those we can't control.

21 We believe the ISO is a means to, first of all,
22 improve what we have got in terms of coordinated, integrated
23 transmission planning operations and maintenance. Beyond that,
24 it is a means to facilitating a competitive marketplace, but we
25 are not there yet. So we are taking the steps, we think, in

1 going the ISO route rather than the full Transco route and the
2 full jump, to take the steps necessary to go down the path
3 toward competition. That we truly believe is what we are
4 doing.

5 COMMISSIONER JABER: You are creating an environment
6 which facilitates competition. And we're doing our small piece
7 in a very big picture. And that big picture and the "we"
8 involves everyone. It involves the Energy Commission. It
9 involves FERC. It involves the Department of Community
10 Affairs. It will involve the Legislature, and it will involve
11 the Governor. This is the small piece that the PSC has in
12 front of it that it could sort of contribute toward.

13 Commissioners, I'm ready to make a motion on Issue 1,
14 if you would like.

15 CHAIRMAN JACOBS: Any further discussion? Questions?
16 All right. Issue 1.

17 COMMISSIONER JABER: On Issue 1, I agree with staff's
18 recommendation, but I would like to add a sentence. And rather
19 than inartfully come up with one, I would ask that we accept
20 Calpine's position. The words and the rationale is this: The
21 words of Order Number 2000, expressed terms are voluntary. But
22 if you look at what we have in the record that are post-2000,
23 at least on behalf of FERC, there is an expectation that the
24 companies would be participating in an RTO, in something less
25 than forcefully, I guess. So if you read Calpine's position

1 from their brief, I think it says it much better than I could.
2 So that would be my motion.

3 COMMISSIONER BAEZ: I can second that.

4 CHAIRMAN JACOBS: Can I ask does that have any
5 ramifications in later proceedings?

6 MR. KEATING: Let me clarify. You would add
7 Calpine's position --

8 COMMISSIONER JABER: I would just substitute
9 Calpine's position --

10 MR. KEATING: Substitute Calpine's position for the
11 recommendation?

12 COMMISSIONER JABER: That's right.

13 MR. TRAPP: It appears to be a clear statement of
14 fact to me. I have no problem with it.

15 CHAIRMAN JACOBS: The only concern I had is it is my
16 understanding that this distinction was really important when
17 it comes down to cost-recovery issues, and I just wanted to
18 make sure this doesn't fog that question up at all.

19 COMMISSIONER BAEZ: I don't think that the language
20 changes the determination that it is a voluntary standard.

21 CHAIRMAN JACOBS: Okay.

22 COMMISSIONER BAEZ: I believe it is just a more
23 accurate portrayal of what the realities are.

24 CHAIRMAN JACOBS: Very well.

25 MR. TRAPP: To make it clear, staff is always scared

1 about that word mandate. But the way it is used in the context
2 here doesn't appear to scare us that much.

3 COMMISSIONER JABER: I don't want you to be scared.
4 Don't be scared.

5 CHAIRMAN JACOBS: We have a motion and a second. All
6 in favor?

7 (Simultaneous affirmative vote.)

8 COMMISSIONER JACOBS: Opposed?

9 Show it approved.

10 Issue 2.

11 COMMISSIONER JABER: What page is Issue 2 on?

12 MR. TRAPP: 12.

13 COMMISSIONER JABER: Issue 2, I would move staff's
14 recommendation. I found some benefits, though, that were
15 articulated in briefs, and I did not, staff, go and do an
16 analysis of making sure all the articulated benefits were
17 included in this issue. But, generically, the qualitative
18 benefits I would make sure that we are real clear in the order
19 and -- there were like seven witnesses that talked about the
20 benefits of the RTO. So my motion would be to move staff's
21 recommendation and just be real clear to pick up all of the
22 witnesses' testimony on benefits.

23 CHAIRMAN JACOBS: I want to see if we can add one.
24 And, actually, it was -- it was almost a quote you gave a few
25 minutes ago. That one of the central benefits of that would be

1 to facilitate and create the environment to move towards -- to
2 remove access impediments as restrictions to a competitive
3 market. Is that acceptable?

4 COMMISSIONER DEASON: I have no problem with that.

5 COMMISSIONER JABER: Uh-huh.

6 CHAIRMAN JACOBS: Okay. Very well. We have a
7 motion. A second?

8 COMMISSIONER PALECKI: Second.

9 CHAIRMAN JACOBS: Moved and seconded. All in favor?
10 (Simultaneous affirmative vote.)

11 CHAIRMAN JACOBS: Show it approved.

12 Issue 3.

13 COMMISSIONER JABER: And the same thing with Issue 3.

14 My motion would be to move staff's recommendation on Issue 3
15 and just make sure to pick up the qualitative benefits. And
16 let me just say my view on whether there are benefits to
17 ratepayers is the understanding that those are long-term
18 benefits. I do not want to mislead anyone. I want the
19 consumers to be clear that I understand that these are
20 long-term benefits. You have to have faith in the market. And
21 if you have faith in the market, those sorts of reductions that
22 wholesale participants see should flow to the retail market.
23 So that would be my motion.

24 COMMISSIONER PALECKI: And when we are talking about
25 benefits, I wanted to compliment staff on the staff

1 recommendation, because I think what staff has done in
2 recommending the ISO is to a very large extent derived all of
3 the benefits of the RTO that was previously offered by the
4 parties, while at the same time avoiding the pitfalls that were
5 warned by the Office of Public Counsel and Mr. Twomey.

6 And I really think that to a large extent all of the
7 benefits that could be derived from the RTO are still there,
8 but yet we have minimized some of the risk. And I really
9 appreciate the approach that you have taken here, and I would
10 second the motion.

11 CHAIRMAN JACOBS: Moved and seconded. All in favor?
12 (Simultaneous affirmative vote.)

13 CHAIRMAN JACOBS: Show it approved.

14 Issue 4.

15 COMMISSIONER JABER: In Issue 4, Commissioner Deason,
16 did we sort of in our discussion we modify it, or do we need to
17 at least make clear in a motion that we are recognizing that
18 the costs incurred today -- or at least through May 31st, 2001,
19 something close to \$8 million, were prudently incurred,
20 obviously, because of our vote related to Issue 1. But the
21 cost-recovery mechanism, whatever that might be, will be
22 addressed in Phase II for FPL and Florida Power and for TECO at
23 the time that TECO seeks cost recovery.

24 COMMISSIONER BAEZ: I can support that modification.
25 I actually had a question as to whether this issue in light of

1 everything that has been discussed is -- or in light of the
2 major policy decisions, whether this is even relevant anymore.

3 COMMISSIONER JABER: Absent a vote, we should at
4 least make clear that we have decided on the prudence issue as
5 it relates to expenses through May 31st.

6 COMMISSIONER BAEZ: And I don't know what staff
7 thinks. I mean, is that a proper substitution? I mean, we do
8 have to say something about costs that have been incurred to
9 date.

10 MS. BASS: Yes. I think you do need to address what
11 staff has recommended relative to the \$9 million costs incurred
12 to date. And I think it is included in here, although I can't
13 read it very clearly, regarding that the methodology would be
14 identified in Phase II.

15 COMMISSIONER BAEZ: Right. But I guess to my limited
16 understanding I think that is probably the only part of this
17 issue that is relevant at this point. I don't know what need
18 there might be -- and, you know, I can be corrected on this,
19 but what need there might be to accept or take the larger
20 numbers, I guess, the start-up costs and that kind of thing, if
21 that's --

22 COMMISSIONER JABER: It gives clarity. You've got
23 the numbers in the order.

24 COMMISSIONER BAEZ: I don't have a problem adopting.
25 I guess I'm just not too clear on what the purpose of that is

1 going to be and what relevance it is going to have come some
2 subsequent decision, because you are going to get all new
3 numbers it would be my -- I would suppose. They might look the
4 same, but --

5 COMMISSIONER DEASON: These numbers are in the
6 context of the proposal that was in front of us, which we are
7 not accepting in its entirety. We are going to have a 90-day
8 filing. One of the things that I note that you have indicated
9 that you want to see in your 90-day filing is a discussion of
10 costs and benefits. So we are going to get more information
11 and more refinement there. So, I mean -- but this record is
12 pretty clear, and I think these numbers were really -- there
13 was really any evidence taken to the contrary from what we have
14 presented in front of us. But at the same time, since we are
15 not adopting the RTO proposal in front of us, I don't know the
16 relevancy of these numbers, either.

17 COMMISSIONER BAEZ: I think really the only value
18 they are is to have some kind of sanity check with what might
19 be part of a revised filing, but I guess I just don't know what
20 the effect --

21 COMMISSIONER DEASON: What is staff's desire? Do you
22 want to incorporate these numbers in the order?

23 COMMISSIONER BAEZ: If someone can give me a good
24 reason to do it, that's fine.

25 MR. TRAPP: I agree with what the Commission has

1 discussed. I think you may see some of these numbers come back
2 as, perhaps, a starting point basis for the ISO. Because,
3 again, as Ms. Bass has said, we haven't changed that many
4 features of GridFlorida. But for the purposes of this record,
5 you know, I think the sunk costs, the \$9 million and the
6 decision to treat it in Phase II is relevant, but I'm not sure
7 of the relevance of the rest.

8 MS. BASS: I think I would agree with that. The
9 important numbers that should be reflected are the
10 approximately 9 million, because those --

11 COMMISSIONER BAEZ: Right.

12 MS. BASS: -- were pretty firm numbers as far as
13 start-up costs, and they had been incurred through the end of
14 May. So the \$9 million associated with the start-up costs and
15 the recognition of the cost-recovery methodology in Phase II, I
16 think are the salient points of the recommendation. I think
17 all the rest of them were just estimates and are subject to
18 change.

19 COMMISSIONER JABER: Okay. Then how about I move to
20 direct staff to make a statement in the order that the expenses
21 incurred up to May 31st, 2001 were prudently incurred and that
22 in Phase II for FPL and Florida Power Corporation the
23 cost-recovery mechanism for those costs will be decided. And
24 for TECO, the cost-recovery mechanism will be decided at the
25 point TECO seeks recovery.

1 MS. BASS: And those costs would be subject to audit.

2 COMMISSIONER JABER: Yes.

3 MS. LEE: That's what I was going to suggest that you
4 would want to include that language, the subject to audit in
5 Phase II.

6 COMMISSIONER JABER: Okay.

7 COMMISSIONER BAEZ: Is that a motion?

8 COMMISSIONER JABER: Yes, that is a motion.

9 COMMISSIONER PALECKI: I would second that.

10 CHAIRMAN JACOBS: Motion and second. All in favor?
11 (Simultaneous affirmative vote.)

12 CHAIRMAN JACOBS: Opposed? Show it approved.
13 Issue 5.

14 COMMISSIONER JABER: What page is 5 on?

15 CHAIRMAN JACOBS: 42.

16 COMMISSIONER JABER: I would move staff's
17 recommendation on Issue 5.

18 COMMISSIONER PALECKI: Second.

19 CHAIRMAN JACOBS: A motion and a second. Any
20 questions?

21 COMMISSIONER DEASON: No questions.

22 CHAIRMAN JACOBS: All in favor?

23 (Simultaneous affirmative vote.)

24 CHAIRMAN JACOBS: Opposed? Show it approved.
25 Issue 6.

1 MS. BASS: Commissioners, can I make a slight change
2 in the recommendation? On the second sentence it states,
3 "However, at this time the Commission should not find that the
4 utilities continued participation in GridFlorida is prudent."
5 After GridFlorida, I would insert in there, "as a Transco."

6 COMMISSIONER BAEZ: As currently proposed?

7 MS. BASS: Yes.

8 COMMISSIONER JABER: Okay. And my question on this
9 one -- this is the one I thought, well, you know, you don't
10 need to vote on Issue 6 if you are clear in 7 about the policy
11 going forward. So would it be better for us to sort of discuss
12 7 and come back to 6, because it's a fallout, isn't it?

13 MS. BASS: Essentially, yes.

14 COMMISSIONER BAEZ: Just as a legal, would we need
15 something like this as a basis for granting the cost recovery
16 of the sunk costs?

17 MR. KEATING: A decision that specifically says that
18 up to this point it has been prudent?

19 COMMISSIONER BAEZ: So we have enough -- we have
20 enough with, I guess it was Issue 4, and we don't need Issue 6
21 to support it.

22 MR. KEATING: I think if that is clear on Issue 4
23 then we wouldn't need it.

24 CHAIRMAN JACOBS: Everybody agree with that? Okay.
25 Is it the consensus, then, that we not vote on Issue 6?

1 COMMISSIONER JABER: Well, we may need to come back
2 to make sure that we are real clear, because we are finding
3 that the expenses incurred today were prudently incurred. So
4 inherent in that is a finding that the companies' participation
5 in GridFlorida to date has been prudent participation.

6 COMMISSIONER PALECKI: Why don't we just take up
7 Issue 7 first, and then we will decide whether we need to go
8 back to Issue 6?

9 COMMISSIONER JABER: Now, on Issue 7, Commissioners,
10 I need help and guidance on this because the 90-day filing is
11 not my preferred choice, but I'm sure I can be brought around.
12 I have given you my concern related to the 90 days.
13 Procedurally, I don't want it to turn into a litigation mess.
14 Procedurally, I don't think we necessarily have to have a
15 filing if we could sort of do it informally with FERC, the
16 parties, and negotiate the next course of events.

17 COMMISSIONER DEASON: Let me just make a suggestion,
18 and maybe it can further the discussion some. We are looking
19 for a 90-day filing, and we have had some discussion that 90
20 days may be a little fast and that it may be a little slow, so
21 maybe it's the right number, I don't know. But we really don't
22 know what is going to come of that 90-day filing. So I think
23 that while we could set 90 days and direct the utilities to
24 make the filing, that we acknowledge up front that as that goes
25 forward, and as staff in answer to a previous question, staff

1 envisions there is going to be interaction even after the order
2 is issued and during the 90 days, just let the parties petition
3 the Commission to change the 90-day filing for good reason.

4 And I think we are going to be flexible. And maybe
5 that reason is to facilitate and enhance a dialogue with FERC
6 to form more of a cooperative partnership approach to this. I
7 mean, obviously, that is good cause to change the 90-day
8 filing. So I want to have as much flexibility out there. So
9 maybe that's kind of a compromise on it.

10 I think Bob is just chomping at the bit to say
11 something. Go ahead.

12 MR. ELIAS: I want to speak to that point and some of
13 the arguments that -- or points that were raised earlier.
14 First of all, as an overview, I don't see what we have
15 recommended here today as being a fundamental shift from the
16 proposal that is already out there. I think the GridFlorida
17 structure with just a few tweaks can accommodate the ISO that
18 we are talking about here.

19 The second thing is that legally I would not agree at
20 this point that further formal proceedings will necessarily be
21 required. It may very well be that we can bring back in 90
22 days, given the universe of what we have defined that we want
23 to change, a consensus filing that we can bring to you in the
24 form of a stipulation to be approved and presented to FERC for
25 whatever approval is necessary. And that would kind of be the

1 direction that I would expect us to work towards.

2 All the parties who participated in the case
3 obviously will have something to say about that proposal. But
4 I don't think based on the arguments that were made that there
5 is that much completely new or heretofore not considered that
6 would have to be on the table.

7 The second thing is, as far as FERC, based on the
8 volume of pleadings that have come across my desk in the last
9 two months, I would think that they would be ecstatic that a
10 southeastern state regulatory commission is going to push to
11 present a proposal to them for a truly independent regional
12 transmission organization sometime in the first quarter of next
13 year. I would think that that would be considered good news in
14 Washington and that we are working towards. And with that in
15 mind, I don't necessarily see that this process going in needs
16 to be the expectation that it is going to take six months or a
17 year to complete is the only possibility out there.

18 COMMISSIONER BAEZ: A question, Commissioner Deason,
19 is it your suggestion to keep the 90 days as a soft date?

20 COMMISSIONER DEASON: Keep the 90 days, but with the
21 understanding that there is flexibility, and that we realize
22 that, you know, for good cause that that 90 days maybe should
23 change. But that given what we know now and our optimistic
24 friendly nature that 90 days is doable.

25 COMMISSIONER JABER: You know, I can accept that as

1 long as in those 90 days we take advantage of bringing FERC
2 along. You know, when we started out this whole process we
3 said we wanted to provide guidance, direction. We wanted to
4 have our own comfort level, our own proceeding, and then FERC
5 will be there advising you, providing you information, and I
6 want to keep that word. I mean, that makes us credible so that
7 at the end of the day they will be excited when the first state
8 commission is there.

9 But it is also if you adhere to the philosophy which
10 we have clearly established today, then you have got to be able
11 to look at each of those FERC Commissioners in the face and say
12 this is what we voted on; this is why, now let's move forward.
13 And I say all of this probably to give more direction to the
14 parties. Yes, I want to be flexible on the time lines. I hope
15 that no one uses or abuses our flexibility. I am not
16 interested in delay.

17 MR. TRAPP: Could I just make one comment? You know,
18 I represent the Division of Policy Analysis and
19 Intergovernmental Liaison. We have got two sides to the shop.
20 We are down here today on the policy side recommending a policy
21 action. And to do policy actions you've got to have something
22 to work with. You have got to have a filing. So that's why we
23 are pushing for a filing to see what we are going to work with
24 as an ISO. You have got to look at the details, nuts and
25 bolts.

1 On the other side of the shop, though, we have got a
2 whole other team just waiting to play the game with FERC. And
3 we hear what you are saying, and we want to get with you and we
4 want to work out what the game plan is. So we are ready,
5 coach.

6 COMMISSIONER JABER: I think, Bob, both of those
7 teams are in your division. And I think with Chuck's
8 leadership, your leadership, and certainly Mary's, we have
9 nothing to worry about.

10 MR. TRAPP: We're ready to play, coach.

11 COMMISSIONER JABER: Well, the Chuck part probably
12 scares me.

13 So, Commissioner Deason, that's fine.

14 COMMISSIONER DEASON: Okay. I don't want to slow
15 this down, because we seem to be on a little bit of a roll
16 here, but I have a question for staff. And I guess it is kind
17 of highlighted on Pages 62 and 63 of the recommendation. Let's
18 just start at the bottom of Page 62. And it states, "The
19 advisory committee should be authorized to" -- and then there
20 are a number of things listed.

21 I guess the question is, is this something in
22 addition to the RTO Transco proposal that was in front of us,
23 or is this consistent with what is already in front of us?

24 MR. TRAPP: I think the only point of clarification,
25 possible addition, is that we have recommended that any

1 interaction between the stakeholder advisory committee and --

2 COMMISSIONER DEASON: That is on the middle of Page
3 63. You're talking about --

4 MR. TRAPP: Middle of Page 63, that that be an open,
5 in-the-public type of process, so there is no, even appearance
6 of behind the doors.

7 COMMISSIONER DEASON: And that sounds well and good,
8 and knowing what I know now, I probably would support that.
9 But we are looking for a 90-day filing, and I don't want to be
10 doing anything today that is going to prejudge -- the parties
11 may come forward and say, well, there needs to be an exception
12 to that for this reason, this reason, and this reason or
13 whatever. And maybe for good reason we need to make exceptions
14 or maybe this is not workable. I don't know. I just don't
15 want to do anything today that is prejudging that 90-day
16 filing.

17 I don't have a problem saying it is our desire that
18 these things be in that filing, but that we are not making a
19 decision today that it has to be that way. I want to hear from
20 the companies and the parties as to why things maybe should be
21 tweaked one way or the other.

22 MR. TRAPP: I have to be honest with you and say that
23 staff is recommending to hard-wire these features from this
24 page forward. However, at the same time I don't really have a
25 lot of heartburn with the type of discretion that you are

1 offering. If they have a good alternative to this, certainly
2 we should look at it and be willing to entertain it in the next
3 filing. But I think our intention was that we felt that these
4 aspects of GridFlorida were particularly important and
5 particularly good to try to hard-wire, absent some better idea
6 that they may come forth with.

7 COMMISSIONER DEASON: I agree these are important
8 concepts and they need to be addressed in the 90-day filing.
9 And knowing what we know now, they probably should be
10 incorporated, but we've still got to give -- if the 90-day
11 filing is going to have meaning, the companies making the
12 filing as well as parties that are going to participate in this
13 process have to have the ability to show us, as reasonable
14 people, why this needs to be changed one way or the other.

15 MR. TRAPP: I agree. I don't have a problem with
16 that.

17 COMMISSIONER DEASON: You say you don't have a
18 problem with that.

19 MR. TRAPP: I don't have a problem with that.

20 COMMISSIONER DEASON: Okay.

21 COMMISSIONER PALECKI: I would like to point out a
22 couple of aspects of the staff recommendation that give me a
23 real comfort level. The first is the recommendation that the
24 Commission should find that the get-what-you-bid approach is
25 preferable for now. And also that the concept of balanced

1 schedules remains fixed for now.

2 I think one of the things that worried me about the
3 RTO proposal was the risk that if we went forward with the
4 proposal as written, we would have a very good chance of
5 significant increases in transmission rates, and that is one of
6 the things that Mr. Twomey warned about at the hearing. I
7 think that what we have in the staff's recommendation is a good
8 general framework to encourage markets that will benefit the
9 ratepayers over the long-term, but at the same time we have a
10 minimization of the risk of short-term rate increases. And for
11 that reason, I would move staff on Issue Number 7.

12 CHAIRMAN JACOBS: Before we get there, I have a
13 couple of questions.

14 COMMISSIONER JABER: With Commissioner Deason's
15 modification?

16 COMMISSIONER PALECKI: Yes, with the modification
17 that has been suggested by Commission Deason.

18 CHAIRMAN JACOBS: I have a couple of questions, if I
19 may. And I don't know that it is a great distinction, but on a
20 going-forward basis we may want to be aware of this. On Page
21 68 of the recommendation, in the second full paragraph, this is
22 where we're discussing the choices between for-profit and
23 not-for-profit. One of the big issues that came up, and I'm
24 not sure if I am -- counselor, grab me if I go too far outside
25 of the bounds here. But in the development of GridSouth, and

1 particular in the mediation, there were important -- there were
2 significant issues raised on this point. And if I'm not
3 mistaken, one of the fundamental drivers for the development of
4 the independent market administrator in the finally proposed
5 product was out of a concern that certain functions of the
6 regional transmission organization should not go through a
7 for-profit entity. Is that consistent with your understanding?

8 MR. TRAPP: I believe it is. I'm not really totally
9 versed with GridSouth. I do know that it is a for-profit ISO
10 type structure.

11 CHAIRMAN JACOBS: Right. But an independent
12 administrator was established within that organization, and
13 certain functions of the RTO were delegated to the independent
14 administrator.

15 MR. TRAPP: I'm sorry, I misunderstood you. I
16 thought you were talking about the Southern Company proposal.
17 You are talking about the ALJ's recommended GridSouth forum?

18 CHAIRMAN JACOBS: Correct.

19 MR. TRAPP: Yes, that is true.

20 CHAIRMAN JACOBS: And if I'm not mistaken, the
21 fundamental driver for establishing that independent
22 organization within the Transco was out of a concern that
23 certain functions of the RTO would be best left outside of a
24 for-profit mechanism.

25 MR. TRAPP: Yes.

1 CHAIRMAN JACOBS: I take your discussion here to be
2 saying that there are no real issues one way or the other if
3 you go for-profit or not.

4 MR. TRAPP: I don't think that is what staff intended
5 to say in this portion of the recommendation. I think what we
6 intended to say -- it really wasn't addressed in this record,
7 and that it needed to be addressed in the filing, the
8 subsequent 90-day filing. What we are saying is we don't have
9 information in the record now to form a strong opinion one way
10 or the other with respect to a for-profit or not-for-profit
11 ISO. I think there are arguments on both sides that I am
12 familiar with, too, they are just not in this record, so I
13 don't have a real basis for making a judgment at this time.

14 CHAIRMAN JACOBS: Okay. You would expect to have
15 that discussion in a subsequent filing?

16 MR. TRAPP: We would invite the GridFlorida companies
17 to propose and then justify their proposal as to what form they
18 would see the ISO best functioning as.

19 CHAIRMAN JACOBS: Okay. Very well. Did I have a
20 motion? Were there any other questions?

21 COMMISSIONER DEASON: There was a motion.

22 CHAIRMAN JACOBS: Okay. And a second?

23 COMMISSIONER DEASON: Second.

24 CHAIRMAN JACOBS: That was as modified, Issue 7 as
25 modified. All in favor?

1 (Simultaneous affirmative vote.)

2 CHAIRMAN JACOBS: Opposed? Show it approved.

3 COMMISSIONER JABER: So, now, staff, do we need a
4 vote on Issue 6?

5 MR. KEATING: I guess it does provide some foundation
6 for what we are doing -- for what we are recommending in Issue
7 4. I don't know that -- I think it perhaps compliments Issue
8 4. I don't know that it does any harm to vote on it.

9 COMMISSIONER JABER: Okay. I can make a motion on 6.
10 I will tell you the part that makes me uncomfortable, and I
11 don't think we need to go there anyway, is that the Commission
12 should not find that the utilities' continued participation in
13 GridFlorida is prudent as a Transco. The trouble I have with
14 that is going back to something Commissioner Baez and
15 Commissioner Deason said, which I wholeheartedly agree with.
16 We are not trying to preclude continued discussion on a
17 regional approach. We are sort of trying to keep all options
18 open, and so I don't want anyone to misunderstand.

19 I don't want this to hold discussions back in the
20 spirit of giving flexibility. I would move that we find the
21 parties' decision to participate in GridFlorida as a Transco to
22 date have been prudent. Would that sort of get you where you
23 want to go?

24 MR. KEATING: I think so.

25 COMMISSIONER JABER: Commissioners, do you --

1 COMMISSIONER DEASON: Can you repeat that again,
2 please?

3 COMMISSIONER JABER: I guess what staff wants us to
4 say is that what the companies have done so far on GridFlorida
5 is prudent. And I can say that, so the motion would be that
6 the companies, collectively their decision to participate in
7 GridFlorida to date has been prudent. I just don't want to go
8 further.

9 COMMISSIONER PALECKI: Commissioner Jaber, could we
10 perhaps place that as the first sentence in what we vote on.
11 The second sentence of the recommendation, I think, is what
12 gives you heartburn. It also gives me heartburn. I would like
13 to -- rather than a negative sentence there, say something to
14 the effect, however, at this time the Commission encourages the
15 parties to continue participation in GridFlorida as an ISO.

16 COMMISSIONER BAEZ: Or as outlined in the --

17 COMMISSIONER PALECKI: Or as outlined in this
18 recommendation.

19 COMMISSIONER BAEZ: I guess that is my problem with
20 that negative statement is that now all of a sudden we have
21 frozen them. Because any discussions that they might have for
22 this new and upcoming filing, or any revisions or any
23 discussions are imprudent. And I don't think we can afford to
24 send that kind of signal.

25 COMMISSIONER PALECKI: I agree.

1 COMMISSIONER JABER: It takes me back to why do we
2 have to vote on this issue at all. That is sort of the trouble
3 I have with this issue. We are trying to give certainty that
4 what they have done so far has been prudently incurred. We
5 want to provide that certainty. We want to provide certainty
6 on our philosophy that we are supportive as it relates to an
7 RTO in general. We want to provide guidance that we believe
8 that at this time a Florida-specific ISO is beneficial to the
9 state. And haven't we already said all of that?

10 COMMISSIONER DEASON: I think we have already said
11 that in all the other issues.

12 MR. KEATING: And I think in Issue 7 we have asked
13 and we have required them to come back with a filing that
14 conforms to the GridFlorida proposal using an ISO model. And
15 the difference I was hearing in how you would approach Issue 6
16 was that we would encourage them rather than require them to
17 come back to that model.

18 COMMISSIONER JABER: I think we don't want to vote on
19 Issue 6, because we don't think we have to vote on Issue 6.

20 COMMISSIONER DEASON: I can second that.

21 CHAIRMAN JACOBS: Moved and a second for no vote.

22 COMMISSIONER DEASON: Which brings us to Issue 8, and
23 my first question for staff is, is this something that we need
24 to vote? And I direct your attention to Florida Power
25 Corporation's position. At the end they state, "The question

1 of whether Commission authorization is required before retail
2 electric rates can be unbundled is not raised under the factual
3 circumstances presented in this proceeding."

4 MR. KEATING: Staff's analysis under this
5 recommendation essentially agrees with that, that the utilities
6 are not unbundling their retail electric service, so,
7 therefore, there doesn't need to be a vote on the question of
8 whether Commission authorization is required for them to do so.

9 COMMISSIONER PALECKI: And I would say that Issue 8
10 gives me a comfort level with regard to the jurisdictional
11 argument and our assertion that we will continue jurisdiction
12 over this transmission system.

13 MR. KEATING: Yes. I think some of the discussion in
14 the analysis on Issue 8 carries forward into the discussion in
15 Issue 10 on what our jurisdiction would be over GridFlorida.

16 COMMISSIONER DEASON: Well, I guess my question is,
17 is there a purpose for us voting on Issue 8? If there is,
18 that's fine. If not, then why does this issue --

19 MR. KEATING: I don't think it was listed as an issue
20 for resolution, and that's why it was addressed in the
21 recommendation.

22 COMMISSIONER PALECKI: Commissioner Deason, I believe
23 there is a purpose in our voting on Issue 8. If a party
24 decides to appeal our order in this docket, I think Issue 8
25 would give our appellate attorneys something to put before the

1 court with regard to the jurisdictional arguments. And so I
2 like Issue 8. I would like to vote on Issue 8.

3 COMMISSIONER DEASON: Very well, if there is
4 something to be gained by it.

5 COMMISSIONER PALECKI: And I would move the staff's
6 recommendation on Issue 8.

7 COMMISSIONER JABER: Second.

8 CHAIRMAN JACOBS: Motion and a second. All in favor?
9 (Simultaneous affirmative vote.)

10 CHAIRMAN JACOBS: Opposed? Show Issue 8 is approved.

11 COMMISSIONER JABER: I have the same question on
12 Issue 9, Commissioner Palecki. Do you sort of have the same
13 concern?

14 COMMISSIONER PALECKI: Perhaps I would like to ask
15 staff. I believe both Issue 8 and Issue 9 are very much tied
16 to our assertion of jurisdiction. Do you agree with that
17 statement?

18 MR. KEATING: I would agree so. We are saying this
19 is still transmission and it is provided as part of a bundled
20 retail service. Issue 8 says that more clearly than Issue 9.
21 A lot of the argument that was provided in the briefs on these
22 issues really wasn't distinguished issue-by-issue at times. It
23 really all runs together. And I think what we have said in our
24 analysis is that Issue 8 is very similar to Issue 9.

25 COMMISSIONER PALECKI: Isn't Issue 9 important in

1 that we have state action, that we have a situation where we
2 are exercising our authority and that -- you know, basically,
3 we are just saying is Commission authorization required before
4 a utility can stop providing retail transmission service. And
5 I think we can say with full confidence that this Commission is
6 exercising its jurisdiction and has not unbundled retail
7 electric service. Isn't that the purpose of Issue 9?

8 MR. KEATING: Well, I'm not sure what the exact
9 purpose for the reason that -- it wasn't an issue that staff
10 had raised. It was an issue that Public Counsel had raised.
11 I'm not sure beyond the analysis in Issue 8 if Issue 9 asks a
12 different question than Issue 8.

13 COMMISSIONER PALECKI: Well, Commissioners, the
14 reason I would like to vote on Issue 9 as well as Issue 8 is
15 that I recall very clearly the Office of Public Counsel making
16 a strong argument that by going to an RTO this Commission would
17 completely lose its jurisdiction over its transmission, the
18 State's transmission assets. And I think that Issues 8 and 9
19 give us, or at least give me, a stronger comfort level that we
20 are not doing that, and that we can argue to the appellate
21 courts that we are not doing that.

22 COMMISSIONER BAEZ: And I just have a question.
23 Issues 8 and 9 are to the specific proposal. I mean, the
24 answer would be -- the answer might be different.
25 Specifically, the latter part of the answer might be different.

1 MR. KEATING: The way the issues are worded, it's a
2 generic wording, but they were raised with respect to the
3 proposal that was made in this docket.

4 COMMISSIONER BAEZ: They were answered -- I mean,
5 from the recommendation, they were answered in the context of
6 the proposal that was before them. And I guess my question is
7 does the answer change as the circumstances change? I would
8 assume that is correct. But is it possible to get, you know --
9 I mean, of the three, I'm looking at the three issues, and the
10 only one that really sets out a good generic policy answer that
11 we can rest -- that we can rest on is Issue 10. Issue 8 and 9
12 seems to be geared more to the specific circumstances of
13 GridFlorida as proposed, and I'm not sure that -- I'm not sure
14 that the circumstances don't change the answers at some future
15 point.

16 MR. KEATING: I would agree that they were written to
17 answer the question of whether it's required for -- whether
18 these certain authorizations were required for GridFlorida as
19 it is proposed. And I do believe that the analysis in Issue 9
20 essentially looks back to Issue 8. And what is included in
21 Issue 8, some of the discussion of bundling versus unbundling
22 is also discussed in Issue 10.

23 COMMISSIONER BAEZ: I mean, Commissioner Palecki, I
24 don't have a strong feeling on voting on 8 or 9 either way. I
25 think if there is something that can be gained from it, so be

1 it. I'm just not sure that those decisions that we make on
2 those two issues are not, in fact, on a case-by-case basis.
3 And, you know, whatever we can glean from it in a general sense
4 is just -- we're lucky to have it.

5 COMMISSIONER PALECKI: I understand that. I don't
6 see any harm that would come from voting on Issue 9, and I
7 guess perhaps, perhaps, there might be some benefit if there is
8 an appeal based on the jurisdictional issues. I would move
9 Issue 9. I don't feel all that strongly that it is --

10 COMMISSIONER DEASON: Let me toss this out. By
11 adopting these issues we may be inviting an appeal that we
12 otherwise wouldn't get. Because these are pretty broad
13 jurisdictional statements that really don't have to be made at
14 this point. So, I mean, you kind of need to weigh that also.

15 CHAIRMAN JACOBS: Let me ask this, is the law unclear
16 here?

17 MR. KEATING: For Issues 8 and 9?

18 CHAIRMAN JACOBS: Uh-huh.

19 MR. KEATING: I don't believe so. The only -- under
20 Issue 8, I think Public Counsel says it is unclear exactly what
21 effects an unbundling for FERC's purposes. And I guess they're
22 suggesting that the GridFlorida proposal would have that
23 effect, and that FERC would under the GridFlorida proposal,
24 have some -- take jurisdiction over the ratemaking aspects of
25 the transmission.

1 CHAIRMAN JACOBS: So in the absence of that, and here
2 is my real concern, are we inviting someone to take advantage
3 of FERC's assertion of jurisdiction here?

4 MR. KEATING: I'm sorry. Could you repeat that?

5 CHAIRMAN JACOBS: What I understood FERC to have
6 asserted jurisdiction over is retail ratemaking to some extent,
7 correct?

8 MR. KEATING: Right. FERC has said that they will
9 have jurisdiction -- their jurisdiction goes as far as
10 transmission in interstate commerce, which goes as far as
11 retail transmissions that are a part of unbundled retail
12 services.

13 CHAIRMAN JACOBS: So are we inviting somebody to file
14 a tariff which includes rates for retail transmission that we
15 have no ability to refute? Or that we have to then go to court
16 or we have to have some kind of a proceeding to refute, let me
17 put it that way. We do have the ability, but we then have to
18 come in and, basically, defend our jurisdiction in the face of
19 a filed tariff. That is my concern at FERC.

20 MR. KEATING: I'm not sure I completely understand
21 the question.

22 CHAIRMAN JACOBS: This will come up if somebody files
23 -- if the ISO files a tariff with FERC, is that right? So I
24 don't want us to be in the position of having to go intervene
25 there to defend our jurisdiction to maintain that. And if

1 that's not an issue, then I'm okay with leaving this question
2 unanswered. If it is an issue, then by stating it here, we get
3 the question cleared up now. We don't have to go up there to
4 fight it on their turf.

5 COMMISSIONER DEASON: Well, see, I think this is
6 really not an issue in front of us, because the proposal
7 doesn't envision that. The issue says, is Commission
8 authorization required before the utility can stop providing
9 retail transmission service? Well, that wasn't part of
10 the Transco, for-profit Transco. And it's not part of what we
11 are envisioning as far as an ISO, unless I'm mistaken. Tell me
12 if I'm mistaken. Are we envisioning that our utilities will
13 stop providing retail transmission service?

14 MR. KEATING: No.

15 COMMISSIONER DEASON: So regardless -- as you
16 envision the ISO, when they file a tariff with FERC, it has
17 nothing to do with unbundling retail transmission. It is just
18 a tariff filing between a FERC-regulated ISO and what they are
19 going to charge our regulated utilities for transmission
20 service.

21 MR. KEATING: Right. Staff has taken the position
22 under Issue 8 that the utilities will continue -- the
23 GridFlorida companies would continue providing bundled retail
24 service under the GridFlorida proposal.

25 CHAIRMAN JACOBS: Okay. If that is the way you see

1 it.

2 COMMISSIONER JABER: I think to the degree we don't
3 vote on this issue, but there is a feeling that we need to
4 address some appellate concern, we need to just be clear today.
5 Because the transcript from today's vote, the recommendation
6 from staff, all of the briefs can be filed at the Supreme
7 Court.

8 So for purposes of today's vote what we could say is
9 we did not reach a vote on that issue because we have found
10 that the issue is moot in that our decision doesn't require us
11 to reach the issue of unbundling retail service.

12 COMMISSIONER BAEZ: I think, in essence, you either
13 want to vote on it or not. That, in essence, is what the
14 recommendation says is that the proposal isn't proposing this.
15 I mean, I guess --

16 COMMISSIONER DEASON: What you're saying is if we
17 vote on it, we are not really making a statement of anything of
18 import.

19 COMMISSIONER BAEZ: That is, in fact, what the, you
20 know, the recommendation says. In essence, it's not -- you
21 know, it's not an issue.

22 COMMISSIONER PALECKI: And I would expect if there
23 are briefs filed it probably won't be the Florida Supreme
24 Court. I'm thinking it might be the United States Supreme
25 Court or a federal court, because, really, the jurisdictional

1 issue will boil down to one between this Commission and FERC.
2 I'm not sure it will be a decision for the Florida Supreme
3 Court to make. I don't know what bearing that has on anything,
4 but --

5 CHAIRMAN JACOBS: We are at the point that we don't
6 think we need to vote on this it sounds like.

7 COMMISSIONER JABER: I think there was motion,
8 though.

9 CHAIRMAN JACOBS: There was a motion?

10 COMMISSIONER DEASON: You know, I --

11 COMMISSIONER PALECKI: I will withdraw my motion.
12 It's not -- I don't think that it is absolutely essential that
13 we vote on this issue. I think Issue 10 is the more critical
14 issue.

15 CHAIRMAN JACOBS: Very well. By consensus, we will
16 not vote on Issue 9.

17 COMMISSIONER PALECKI: And if staff disagrees with me
18 on that, please let us know.

19 MR. KEATING: I don't have any disagreement with not
20 voting on Issue 9, or Issue 8 for that matter. I think it is
21 fair to at this point to not have to decide something that you
22 don't have to decide.

23 COMMISSIONER DEASON: Well, to be consistent, if we
24 are not going to vote on 9, should we reconsider our vote that
25 we --

1 MR. KEATING: Well, that's what I wanted to ask.
2 There was a vote on Issue 8, and since then there has been
3 discussion that might suggest --

4 COMMISSIONER PALECKI: Since I moved staff on Issue
5 8, I would at this time move for reconsideration of our --

6 COMMISSIONER JABER: Second.

7 CHAIRMAN JACOBS: Moved and seconded. All in favor?
8 (Simultaneous affirmative vote.)

9 CHAIRMAN JACOBS: Show we are on reconsideration for
10 Issue 8. Did you wish to withdraw?

11 COMMISSIONER DEASON: Well, since we are on
12 reconsideration --

13 COMMISSIONER PALECKI: I would make an alternate
14 motion that we not vote on Issue 8.

15 COMMISSIONER DEASON: Second.

16 CHAIRMAN JACOBS: Moved and seconded. And by
17 consensus we will not vote on Issue 8. The same consensus for
18 Issue 9.

19 COMMISSIONER DEASON: I think Issue 10 is the real
20 meat of this jurisdictional question, at least as to what is
21 relevant to what is in front of us in the sense of a Transco.
22 And it is also relevant in the sense of what we hope to have
23 filed within 90 days for an ISO, because in that situation you
24 are still talking about allowing a transfer of operational
25 control. So Issue 10 is relevant.

1 MR. KEATING: I would point out that within Issue 10
2 there are two matters that the Chairman had asked to have
3 briefed, which was this Commission's jurisdiction over
4 GridFlorida. That section was written to explain what our
5 jurisdiction would be over GridFlorida as has been proposed.

6 There is another section following that, the second
7 matter that the Chairman had asked the parties to brief
8 concerning FERC's jurisdiction to mandate participation in an
9 RTO. And I wanted to point that out, because I think you can
10 look at those as separate and apart from Issue 10. And if
11 those are matters that you would like to vote on and approve
12 that analysis, I think that would be fine. But I wanted to
13 point out that those weren't issues that were originally
14 listed. I wasn't sure if the Chairman's intent was to have
15 those as informational issues or to have something to vote on
16 today.

17 COMMISSIONER DEASON: So break down Issue 10 again
18 for me, then.

19 MR. KEATING: Issue 10, as it was listed in the
20 prehearing order asks if our authorization is required before
21 ownership or operational control of the retail transmission
22 assets could be transferred. That is what is addressed in the
23 positions of the parties that are listed under that issue on
24 Page 88, and then the recommendation statement that is on Page
25 88 addresses that question, and the analysis that follows it

1 addresses that question.

2 Beginning at Page 93, there is a separate analysis
3 based on the Chairman's request that we brief the issue of this
4 Commission's jurisdiction over GridFlorida as proposed. And
5 then beginning at Page 97 there is a separate analysis on
6 FERC's authority to mandate participation in RTOs, which was
7 the second matter that the parties were asked to brief and that
8 we have provided some analysis on.

9 It has all been provided, tacked onto the end of
10 Issue 10. I want to point out that the question that Issue 10
11 asks and the analysis to answer that question only goes through
12 Page 93.

13 COMMISSIONER JABER: All right. Let me make sure I
14 understand what you are trying to tell us. At the hearing we
15 identified an issue to be briefed. The parties have briefed
16 that issue.

17 MR. KEATING: Correct.

18 COMMISSIONER DEASON: You have taken that analysis
19 and stuck it at the end of Issue 10.

20 MS.KEATING: That is correct.

21 COMMISSIONER JABER: Okay.

22 MR. KEATING: Issue 10 itself, the question that
23 Issue 10 asks is addressed on Pages 88 through the bottom of
24 Page 93, where we pick up on the discussion of what our
25 jurisdiction would be over GridFlorida as proposed.

1 COMMISSIONER DEASON: Well, the discussion that
2 begins on Page 97, contrast that with me for what we did in
3 Issue 1.

4 MR. KEATING: In Issue 1, the question was very
5 specific as to whether under Order 2000 participation in an RTO
6 was voluntary. And in Issue 1 you have adopted Calpines'
7 position, which essentially says by its terms it is voluntary.
8 But for practical purposes it is -- and I'm roughly
9 paraphrasing, but for practical purposes FERC is putting the
10 pressure on to do this and it's probably a good idea to do
11 that.

12 The analysis that begins on Page 97, FERC's authority
13 to mandate participation in RTOs, is a more broad look at
14 whether they have jurisdiction to mandate participation in an
15 RTO, based on their statutory authority and the court's
16 interpretation of that authority.

17 COMMISSIONER DEASON: Your conclusion is still no,
18 correct?

19 MR. KEATING: My conclusion is still no, correct.
20 Well, my conclusion on Issue 1 was, yes, that it was legally
21 voluntary. And my conclusion on --

22 COMMISSIONER DEASON: It just depends on how the
23 issue is framed. Issue 1 is in the sense of voluntary. Issue
24 2 is in the sense of a mandate.

25 MR. KEATING: Right. And Issue 1 asked whether by

1 the terms of Order 2000.

2 COMMISSIONER BAEZ: One is interpreting an order.
3 The other one is interpreting authority.

4 MR. KEATING: Right.

5 COMMISSIONER BAEZ: I've got to tell you I'm
6 uncomfortable with that remaining in an order.

7 COMMISSIONER DEASON: With this issue?

8 COMMISSIONER BAEZ: Yes.

9 COMMISSIONER JABER: And my question on that same
10 paragraph was why do we even need to go that far. For what we
11 are doing today, we've handled it in Issue 1 and Issue 4, so --

12 COMMISSIONER BAEZ: I don't think interpreting FERC's
13 authority in one of our orders is worth -- that's for a
14 lawsuit, that's not for --

15 COMMISSIONER PALECKI: And I'm not sure if we have to
16 address this issue. I just want to make sure that this
17 Commission does make an assertion that we are not unbundling
18 our retail electric service and that we are continuing to
19 assert jurisdiction. As long as we accomplish both of those
20 things in our order, I'm not sure that we need to address the
21 specific issue. But I just want to make sure from staff if we
22 don't vote on Issue 10 or 9 or 8, are we accomplishing that in
23 our order here?

24 MR. KEATING: I don't think it would be addressed in
25 any of the other issues.

1 COMMISSIONER BAEZ: But as a practical matter, I
2 think that's what you are doing. I mean, if you are sending
3 away a proposal, then you are, in fact, not accepting whether
4 it is unbundling, whether it is not unbundling, you are just
5 not taking it up. You have to answer that question when you
6 have got a proposal that you are ready to approve, it would
7 seem to me.

8 COMMISSIONER PALECKI: Well, Commissioner Cresse
9 always used to say that this Commission has jurisdiction as
10 long as it asserts jurisdiction and no court of competent
11 jurisdiction has told us otherwise. I want to make sure that
12 we are stating affirmatively that we are asserting
13 jurisdiction, and we make it clear that we are not unbundling
14 our transmission from our electric retail utilities.

15 MR. KEATING: And I don't recall exactly everything
16 that is in -- I know there is some discussion in Issue 7 about
17 the effects of retaining jurisdiction over, or having the
18 assets remain with the individual GridFlorida companies. And
19 there is some discussion that gets into -- if you added some
20 cites it, it would look like a legal analysis.

21 COMMISSIONER JABER: I have an idea. From our days
22 in Legal, remember how Noreen used to make us put a conclusions
23 of law section in the order?

24 MR. KEATING: Uh-huh.

25 COMMISSIONER JABER: That's really all you are

1 talking about, is you want to set forth in our order what our
2 jurisdiction is. And it would say -- it would be something
3 very simple: Pursuant to Section 366 dot whatever, and
4 pursuant to Section 403 dot whatever.

5 Bob, you know what I'm talking about, the three or
6 four conclusions of law that have become boilerplate over the
7 years.

8 MR. ELIAS: I don't think that the specific analysis
9 that is advanced in the first part of Issue 10 up to Page 93 is
10 necessarily in other parts of the recommendation in toto and as
11 concisely and as laid out step-by-step-by-step as it is here.
12 It is kind of a cornerstone of what we have done in previous
13 issues. So in one form or another I think the Commission,
14 either impliedly through its votes on prior issues or through
15 an express vote on this issue, needs to base its order on the
16 analysis and the construction of the statutes that is advanced
17 in the analysis of Issue 10, at least through the bottom of
18 Page 93.

19 COMMISSIONER BAEZ: Not the additional issues?

20 MR. ELIAS: Not the additional issues. I don't think
21 we need to get to those to address the issue that was
22 identified in the prehearing order.

23 COMMISSIONER JABER: Commissioner Deason, were you
24 done with your questioning?

25 COMMISSIONER DEASON: No, I have a question, I guess,

1 on the first part of Issue 10, the issue that was contemplated
2 from the prehearing order that would be addressed. And I guess
3 I need a little clarification. We are basically asking if a
4 regulated company has to have Commission authorization before
5 they either sell retail transmission assets or before they
6 relinquish operational control over a retail transmission
7 asset.

8 And I know it's in the context of transmission
9 assets, which is what is relevant for this proceeding, but are
10 you saying that we have this jurisdiction, that it is a
11 requirement for companies to seek our authorization because it
12 is transmission assets or because any asset?

13 And the reason I ask the question is we have to put
14 in context what we are doing here and how it all fits into the
15 big picture of regulation. One could then say, well, when
16 Florida Power and Light sells a crew truck, you know, they have
17 got to come here and seek authorization before they sell that
18 truck because it was part of their retail rate base. And I
19 don't think we want to go there.

20 MR. KEATING: And I think what we are trying to get
21 at here is that under the Grid Bill that gives us jurisdiction
22 over planning, development, and maintenance of the coordinated
23 grid in the state, that implies some jurisdiction, that implies
24 our jurisdiction over what goes in and out of the grid if we
25 are responsible for maintenance of the grid. I don't know that

1 our explicit approval is required for all of those
2 transactions, but I think it is something that we at least
3 monitor to an extent, and that if we wish to assert
4 jurisdiction -- to review a particular asset transfer that we
5 do have that jurisdiction.

6 COMMISSIONER DEASON: And it is because of the Grid
7 Bill that places transmission assets in a separate category?

8 MR. KEATING: I don't think that they are placed in a
9 separate category.

10 COMMISSIONER DEASON: Okay. So if we have
11 jurisdiction, and we wish to assert it, we can. And if we wish
12 not to, we don't.

13 MR. KEATING: Right. And it is my understanding that
14 to this point -- well, perhaps it is not that we haven't
15 asserted it as much as that we have asserted it in cases with a
16 hands-off approach and simply monitored.

17 COMMISSIONER PALECKI: Could we say that we have
18 jurisdiction, that we assert our jurisdiction and that we
19 choose to exercise the jurisdiction whenever necessary and
20 prudent? I think it is our exercise of the jurisdiction we are
21 really talking about. And, you know, if we ask a question if
22 there is a minor transmission facility that the utility wishes
23 to transfer or to sell, does this Commission need to exercise
24 its jurisdiction and give its approval in every instance where
25 there is any transfer of a transmission facility? I would say

1 no. But do we have jurisdiction if we choose to exercise that
2 jurisdiction? I would say yes.

3 But I think it's important in our order in this
4 docket that we do assert our jurisdiction. Certainly, we can
5 say that over the past several years FERC has very strongly
6 asserted its jurisdiction, and I'm afraid if we don't do the
7 same, our jurisdiction will be lost.

8 COMMISSIONER DEASON: And I guess I'm just seeking
9 clarification as to if we are going to assert this
10 jurisdiction, how are we going to exercise it in the future?
11 And we need to give some guidance, you know, to companies, as
12 well. You know, sitting here today we are talking about,
13 basically, the sale or transfer of all of a company's
14 transmission assets. That is a big undertaking. And if we are
15 going to assert jurisdiction, that would be the time to do it.

16 But what happens, at what threshold then do we let
17 our companies know. And what happens, you know, a small
18 transmission line, you know, maybe that is only five miles long
19 and Florida Power and Light wants to sell that to a municipal
20 or something because it better fits their system, I have no
21 idea. And they think, well, that is not important enough. And
22 then we find out about it in an audit and six months later we
23 show cause them for why didn't you tell us you sold this
24 transmission line. It puts them in a difficult spot. We need
25 to define how we are going to exercise our jurisdiction, it

1 seems to me, at some point. And maybe that's something for a
2 future date.

3 MR. KEATING: I don't know where we would draw that
4 line. It's something that I hadn't given any thought to. I
5 know there are people that have been here longer than me that
6 may have seen how we have overseen those types of matters in
7 the past and how we have exercised our jurisdiction in the past
8 in that area.

9 COMMISSIONER DEASON: Well, you see, I think this is
10 the first time -- and correct me if I'm wrong, the first time
11 that we have said we have jurisdiction such that a utility has
12 to come and get authorization before they dispose of an asset.
13 Is that true or not?

14 MR. ELIAS: I don't recall --

15 COMMISSIONER DEASON: Now, before there have been
16 disposals of assets, and we have not said you should have
17 checked with us before you sold that office building. We came
18 in and said, you sold it, but what price did you get for it?
19 And we have come in and we say, you didn't get enough. We are
20 going to protect ratepayers. But that is after the fact, not
21 prior approval.

22 MR. ELIAS: And I also think that there is a bright
23 line distinction between what is reasonably implied under the
24 Grid Bill in as far as assuring an adequate supply of
25 electricity for operational and emergency needs and the garden

1 variety plant assets like a truck or an office building or
2 something else. This authority is derived from our
3 responsibility to assure an adequate grid and to be able to
4 order extensions to the plant of a public utility as may be
5 necessary.

6 COMMISSIONER PALECKI: Let me ask staff. I'm sorry,
7 I didn't want to interrupt. But let ask you, Bob, can we in
8 this docket say that Commission authorization is required
9 before the utility can unbundle its retail electric service
10 without actually drawing a line or getting into fine
11 distinctions as to whether or not the utility would have to
12 come before us if they sold or eliminated any transmission
13 asset? I don't see that we have to draw a fine line here.

14 MR. TRAPP: I don't think that we have a basis to
15 really draw a precise line at any point. I think that we could
16 probably say -- focus this on the proposal that is here, which
17 was basically to divest all the transmission assets or turn
18 over operational control of all the transmission assets, and
19 say in this instance we choose to exercise the jurisdiction
20 over that transaction. And beyond that, you know, provide some
21 guidance to the utility that if they have something that they
22 think needs Commission approval, that they need to give us the
23 opportunity to --

24 COMMISSIONER DEASON: But if we clarify that this
25 assertion of jurisdiction is just for this situation that is in

1 front of us, and we are talking about a mass sale of all
2 transmission assets and be silent on the other and not imply
3 that it goes beyond that, and clarify that we are really not
4 indicating it goes -- it is just limited to this situation,
5 that gives me some more comfort. Is there a way that we can
6 clarify that?

7 MR. ELIAS: We can certainly say that. On the other
8 hand, I don't want to imply that --

9 COMMISSIONER DEASON: I'm not saying that we don't on
10 the other situation, either. I just -- we have regulated for
11 50 years without giving any -- you know, our jurisdiction is
12 our jurisdiction. It's just not something that has come up
13 that has caused problems in the regulatory arena, and I don't
14 want to do anything here that is going to cause problems.

15 We have got a situation in front of us, and I guess
16 if we are going to assert jurisdiction, we can just -- and say
17 that we have jurisdiction, we can confine it to the situation
18 that is in front of us.

19 MR. ELIAS: I think that we can take some of the
20 comments that Commissioner Palecki made and some of what you
21 said and add it to the analysis that is in here to cogently
22 state that rationale and response to the issue that is posed.

23 COMMISSIONER JABER: We haven't taken a break. Would
24 it be helpful to seek some language?

25 COMMISSIONER DEASON: Sure. Can we do that, because

1 I would like to have a break.

2 COMMISSIONER JABER: Thank you, Commissioner Deason.

3 CHAIRMAN JACOBS: So you want to pause in our
4 discussion of Issue 10 and come back and finish 10 and 11?

5 COMMISSIONER DEASON: Yeah, that's fine. I think we
6 could just break for 15 minutes.

7 CHAIRMAN JACOBS: Will that give you enough time to
8 -- you're not going to be able to come up with specific
9 language. Probably an outline is going to be the best option.

10 MR. ELIAS: Certainly. Fifteen minutes for an
11 outline of what we would -- how we could propose to --

12 CHAIRMAN JACOBS: All right. Back in 15 minutes.

13 (Recess.)

14 CHAIRMAN JACOBS: Staff, do you want to outline for
15 us your outline?

16 MR. KEATING: Commissioners, what we would propose to
17 try to address the concerns that were raised regarding Issue 10
18 is to add in the rec statement, or just make sure we add in the
19 order in the analysis that our assertion of jurisdiction in
20 this case is based on the specific proposal put before us by
21 the GridFlorida companies, specifically the plan to divest or
22 turn over operational control of all transmission assets of
23 those companies.

24 CHAIRMAN JACOBS: And the implication being that we
25 will continue to assert all jurisdiction outside of that.

1 COMMISSIONER DEASON: We are just asserting
2 jurisdiction over the question that was put in front of us,
3 nothing more. Not to say one way or the other, we are just not
4 addressing it.

5 CHAIRMAN JACOBS: And with that language in the
6 order, am I taking it then that we would want to refrain from
7 voting on Issue 10?

8 COMMISSIONER PALECKI: Well, Commissioners, what I
9 would propose is with that language that we move the staff's
10 recommendation up to Page 93 of the staff's recommendation, and
11 that the entire portion of Issue 10 addressed after Page 93
12 that we don't have to vote on.

13 COMMISSIONER JABER: Commissioner Palecki, in the
14 effort of putting everything out there, I want to tell you that
15 I'm not going to support that motion, because in the spirit of
16 8 and 9, Issues 8 and 9 and 10, I don't think these are
17 questions we necessarily have to reach today. They are just
18 not questions we have to reach today, and I see that sort of
19 concern in Issue 10, as well, even up to Page 93.

20 COMMISSIONER DEASON: Well, let me say that I share
21 that concern. And I agree that I don't think it is something
22 we need to address today. I guess the concern that I have is
23 if we go forward with a 90-day filing and we're looking at an
24 ISO, we are still looking at transferring operational control.
25 And I suppose it's one thing for the companies to come in and

1 voluntarily seek our authorization without us having
2 jurisdiction. And I guess if they do that, well, then maybe it
3 is a moot point. By the action we are taking today, by
4 directing, requesting, ordering, I don't know what the correct
5 verb is, but whatever action we are taking we are anticipating
6 a 90-day filing. And to do that one would think that we must
7 feel like we have some jurisdiction.

8 MR. KEATING: I see a distinction with 8, 9, and 10
9 in that 8 and 9 ask what our authority is over certain things
10 that we have determined aren't actually being put before us.
11 Whereas, Issue 10 deals with the transfer of assets for
12 operational control, and that is something that is part of the
13 proposal before us.

14 COMMISSIONER DEASON: That is the dilemma that I'm --
15 I agree technically -- you know, if we don't assert
16 jurisdiction, I suppose our companies could say you don't have
17 jurisdiction, and we are not going to do the 90-day filing. I
18 don't think they are going to do that. They have worked
19 cooperatively, gone beyond the call of duty in my opinion to
20 try to do this in a cooperative manner, so I don't anticipate
21 that happening. But, how do we request, direct, order or
22 whatever there to be a 90-day filing if we don't think we have
23 some jurisdiction in this matter?

24 COMMISSIONER JABER: Exactly. And the proposal, what
25 we have agreed on is a philosophy, and our votes have been

1 consistent with that philosophy. The exact proposal, as I
2 recall, is sort of what you want in the 90 days. You want more
3 details on the exact proposal, so -- you also don't want to be
4 in a position of revisiting this issue. I would just much
5 rather not reach this question.

6 COMMISSIONER PALECKI: Commissioners, let me tell you
7 what my concern is here. It is not whether we have
8 jurisdiction to require our companies to come in after 90 days
9 or whatever the time period, it is our jurisdiction with regard
10 to the issues that were raised by the Office of Public Counsel.
11 And the issues that they raised and the position that they
12 stated at the hearing was a concern that there would be a shift
13 of jurisdiction to FERC, and that this Commission would lose
14 its jurisdiction and authority to the federal agency.

15 I am certain that our investor-owned utilities will
16 cooperate and will submit a proposal, but I am more concerned
17 about a situation down the road where FERC will assert its
18 jurisdiction, and I would feel much more comfortable in that
19 position if we had an order where we clearly stated that we
20 weren't unbundling our investor-owned utilities and that we
21 continued to assert jurisdiction over them. And that is my
22 concern, and that's why I think this Issue 10 is important.

23 COMMISSIONER BAEZ: Well, I agree and I disagree, and
24 here is where I'm at. I am uncomfortable reaching a
25 jurisdictional question on broad terms because of things that

1 have gone on before that will force us to ask a lot of tough
2 questions over decisions or approaches that have been taken by
3 this Commission knowingly. So in order to avoid having to look
4 back, I'm not averse to just saying -- because logic would
5 dictate in order for us to say go back and -- go back and come
6 back with something else, there has to be some kind of
7 jurisdiction implied. And in my mind I think as limited as
8 that statement has to be, that is how it should be.

9 Secondly, as to your point, Commissioner Palecki,
10 that you are concerned that FERC would take jurisdiction where
11 we have not asserted it, I don't anything precludes them. I
12 don't think that we could put anything out there on paper or
13 otherwise that would make FERC, if they have a mind to do it,
14 to say, oh, well, wait a second, you know, Florida took it, so
15 we don't have to -- never mind, we were going to do it, but
16 Florida did it first. I don't think that there is anything
17 realistically that we could say that would have that kind of
18 effect.

19 And on the other hand, nothing precludes us from
20 disputing some reach for jurisdiction on FERC's part. That has
21 always been an option or an alternative that is available to
22 us. In fact, it is part of the normal give and take of the
23 process. So in terms of -- I would be of a mind to say as
24 little as possible on this because I don't want to -- I don't
25 want to blow this -- to me this is suggesting bigger questions

1 that I don't think today are necessary to answer.

2 COMMISSIONER DEASON: And let me say this. I think
3 there may be some advantage for FERC basically to be put on
4 notice that we feel like that before our utilities join an RTO,
5 or an ISO, or whatever, that there needs to be authorization
6 from this Commission, either if it is a transfer of assets
7 ownership or if it's just a transfer of operation. Now, it
8 could get challenged and a court may tell us we don't have the
9 jurisdiction, but I think during this process we need to kind
10 of be on an equal footing with FERC and let them know, at
11 least, we believe if we are going to -- we want to be a partner
12 in this, and part of the reason we are your partner is we have
13 to authorize the transfer, either control or operation or
14 ownership, whatever.

15 And I don't think that is going to be a threat to
16 FERC. I just think they realize that, you know, we are
17 asserting that for, and not beyond that, for the purposes of
18 what is in front of us, whether it's an RTO or an ISO, for that
19 limited purpose we are asserting jurisdiction.

20 COMMISSIONER BAEZ: I would agree with Commissioner
21 Deason. I think that our only purpose or what our primary
22 purpose has to be here is to allow ourselves to step into this
23 cooperative process as equals, nothing more and nothing less.
24 And I think that some, you know, some limited statement perhaps
25 as staff has suggested is enough to get you there.

1 I'm sorry, Mr. Chairman.

2 CHAIRMAN JACOBS: Correct me if I'm wrong, but what I
3 think I hear is essentially an agreement.

4 COMMISSIONER PALECKI: I think we are all very much
5 in agreement, but we all want to -- we don't want to go to the
6 same place.

7 CHAIRMAN JACOBS: But the question is whether or not
8 we use this analysis to support that agreement, is that a fair
9 statement?

10 COMMISSIONER BAEZ: I'm not willing to go with a
11 broad analysis that is contained in a broad sense.

12 COMMISSIONER JABER: Let me make a suggestion. This
13 is something I wanted to do sort of after we finished voting,
14 but maybe this would be a good place to start the dialogue.

15 Mr. Chairman, one of the things I was going to ask
16 you to do with the Commissioners' agreement is to prepare a
17 cover letter to Chairman Wood that includes our order. And in
18 that cover letter I envisioned saying things like Commissioner
19 Deason, and I was jotting down, we want to be FERC's partner.
20 You know, refer back to some of the things we have said in the
21 past where in response to the mediation order we informed you
22 that we had on-going proceedings and at the conclusion of the
23 proceedings we would be informing you of our decision. And
24 here is our decision, and let us summarize our decision for you
25 in a cover letter.

1 Can't we in that cover letter also say recognizing
2 that we are partners in a mutual goal to open the wholesale
3 electric market, we would like to bring to your attention that
4 additional actions that the companies need to take to
5 participate completely in an RTO might require some sort of
6 action from the Public Service Commission? I'm making up the
7 words as I go along, but that would be the spirit of a cover
8 letter that attaches our order.

9 COMMISSIONER DEASON: You're saying doing that in
10 lieu of having it in the order?

11 COMMISSIONER JABER: In lieu of having it in the
12 order?

13 CHAIRMAN JACOBS: Yeah, I think that was the --

14 COMMISSIONER DEASON: I'm sorry, the assertion of
15 jurisdiction?

16 COMMISSIONER JABER: Yes. If our goal is only to say
17 there might be some additional votes that this Commission has
18 to make in terms of allowing the companies to transfer
19 operational control, isn't it enough to bring it to their
20 attention without taking a vote on our jurisdiction?

21 CHAIRMAN JACOBS: I'm thinking it's a moot point. If
22 I'm not mistaken we have sent at least two rounds of comments,
23 perhaps even a third round of comments up there where we have
24 very, very specifically and very deliberately announced our
25 jurisdiction under these provisions. So it would probably --

1 because Commissioner Wood is new in assuming his chairmanship,
2 it would be useful to reference him to those comments. But my
3 concern becomes now in the face of those comments -- the order
4 will stand for itself, however you want to draft that -- but I
5 wouldn't want to imply in any way, form, or fashion a softening
6 of tone from our prior comments.

7 COMMISSIONER JABER: No, that's not what I am
8 suggesting at all. Here is the -- it's not a disagreement.
9 Here is where we are. I'm not interested in voting on Issue 10
10 because I don't think we have to reach that level. That is not
11 to say another Commissioner can't make a motion to move on
12 Issue 10, I would just dissent. Commissioner Deason's good
13 point was, well, but we should indicate to FERC that there
14 might be additional actions required here at the state level to
15 authorize the companies to transfer some sort of control. And
16 we should at least tell FERC that.

17 Commissioner Palecki also made the good point that
18 FERC should know that we are asserting our jurisdiction. What
19 I'm suggesting, Chairman, is rather than take the vote, why not
20 rearticulate some of those positions we have held and send up
21 the order to Chairman Wood in a cover letter that comes from
22 you, and also it gives us an opportunity to emphasize the
23 collaborative effort. The cover letter should say here is our
24 decision. This is to inform and advise you of our decision,
25 and we intend to cooperate even more going forward.

1 COMMISSIONER BAEZ: Where does that leave us with
2 Issue 10, then, no vote?

3 COMMISSIONER JABER: I would like not like to vote on
4 Issue 10, but that doesn't mean -- maybe you all do.

5 COMMISSIONER PALECKI: Well, I think I have heard
6 most of the -- at least three of the Commissioners say that
7 they would not like to vote on it.

8 CHAIRMAN JACOBS: Let me, then, wade in. Actually, I
9 already have. I believe we have already made this statement
10 already. I don't think this analysis adds anything at all.
11 We've already indicated officially by our vote to send comments
12 of what our assertion of jurisdiction is on these issues. And
13 then as to this specific filing, now, we can maybe add to that.
14 I would highly encourage us not to detract from that in our
15 comments here, which may be arguing for silence in that regard,
16 and letting our prior comments stand for what they say.

17 But I would suggest that the idea of whether or not
18 we say what our jurisdiction is here is sort of a moot point.
19 I mean, we have already said that. The statutes speak for
20 themselves. I don't think we will avoid the controversy over
21 that. I doubt very seriously whether we will. The only thing
22 we may effect is the timing of that controversy, if it is to
23 exist. So, that will be my thought.

24 COMMISSIONER PALECKI: Well, Commissioners, I would
25 like to see a unanimous vote on this entire docket, and I

1 certainly will not dissent if there is a motion that we not
2 consider Issue 10. My feeling is that in an abundance of
3 caution I would be more comfortable going with the staff's
4 recommendation up to Page 93, but I don't see that as being
5 essential. And if there is a motion that we not vote on Issue
6 10, I'm not going to dissent on that.

7 COMMISSIONER JABER: Okay. I move that we not vote
8 on Issue 10.

9 COMMISSIONER BAEZ: Second.

10 CHAIRMAN JACOBS: Moved and seconded. All in favor?

11 COMMISSIONER JABER: Aye.

12 COMMISSIONER PALECKI: Aye.

13 COMMISSIONER BAEZ: Aye.

14 COMMISSIONER DEASON: I can accept that. I just
15 think that it is important that when we go to FERC that we go
16 with a position in a sense of equal partners, and that that is
17 going to result in the best possible outcome.

18 CHAIRMAN JACOBS: Commissioners, let me say with some
19 level of reservation, I will not support that, because I do
20 believe that we do have -- as counsel stated, we do have a
21 proposal in front of us that makes this request. And even
22 though we are asking for it to come back -- for another
23 proposal to come back, there is nothing to stop the parties to
24 appeal our order here, pursue this particular filing further.
25 And in the absence of a firm statement here, should some appeal

1 prevail, we are left with defending that particular prospect.
2 I think it is best to be very clear about what we feel our
3 jurisdiction on the issue is. So on that note it passes by a
4 four-to-one vote.

5 And we are on to Issue 11.

6 COMMISSIONER DEASON: If there is no discussion, I
7 can move staff.

8 CHAIRMAN JACOBS: I wanted to ask one question. I
9 like the way -- I'm basically in agreement, but I like the way
10 it was said -- someone else put this, and, in fact, you even
11 have the quote in here. And it says -- and it may be
12 consistent with the idea that you stated earlier, and that is,
13 even if we say now that a Florida panhandle boundary is best,
14 it is not exclusive of the prospect of a southeast. And, in
15 fact, in some ways might enhance the prospect, because as one
16 of the witnesses said, even if there is a regional southeast,
17 just from operation and reliability standpoints there needs to
18 be some locus of control and organization that exists in the
19 Florida panhandle, because you couldn't run this part of the
20 grid from Atlanta or someplace else.

21 Now, let me toss that out and see if there is some
22 desire to phrase the response to this issue along those lines.
23 In other words, the essence of it is, yes, we believe that
24 presently a Florida panhandle boundary is best, but we do not
25 believe it is exclusive of a southeast. In fact, it could, in

1 fact, enhance the prospect of a southeast.

2 MS. BASS: And I agree with that. I think that would
3 be one of the justifications for not going forward with a
4 regional approach at this time, but to go ahead and develop the
5 Peninsular Florida RTO, continue participation in the regional
6 talks, but the creation of a regional RTO puts them in a good
7 position to have that state control that may be needed if they
8 subsequently join a regional RTO.

9 COMMISSIONER JABER: Mike Naeve's testimony that we
10 referred to earlier?

11 MS. BASS: I think it was Mike Naeve's testimony. I
12 think --

13 COMMISSIONER BAEZ: It was a TECO witness, too, I
14 think.

15 MS. BASS: -- Marty Mennes from FPL alluded to that,
16 and I think that Tom Hernandez from TECO also did. And Greg
17 Ramon.

18 CHAIRMAN JACOBS: Is there a consensus on that
19 modification? Very well.

20 COMMISSIONER JABER: The modification would be just
21 to clarify that we encourage them to continue participation.
22 This is not to limit that.

23 CHAIRMAN JACOBS: Right.

24 MS. BASS: Yes. I think the modification would just
25 state that also the development of a -- recognizing that a

1 regional one would probably require a Florida operating center,
2 and that this would put them in a position of having that
3 operating center.

4 COMMISSIONER PALECKI: Do we want to say that we do
5 not wish to foreclose that option at this time?

6 MS. BASS: Foreclose the option of an operating
7 center in Florida or --

8 COMMISSIONER PALECKI: No, of the Southeast RTO.

9 MS. BASS: Oh, definitely. I think we want to
10 continue to encourage them to participate in that, in the
11 southeast regional talks.

12 COMMISSIONER PALECKI: Well, I could move staff's
13 recommendation with that modification.

14 COMMISSIONER DEASON: I don't think it is really a
15 modification as much as it is a clarification.

16 MS. BASS: I think it's a clarification.

17 COMMISSIONER PALECKI: Oh, he has already moved it.
18 I would second the motion.

19 CHAIRMAN JACOBS: Moved and seconded. All in favor?
20 (Simultaneous affirmative vote.)

21 CHAIRMAN JACOBS: Opposed. Show it approved.

22 COMMISSIONER DEASON: Issue 12.

23 CHAIRMAN JACOBS: Issue 12.

24 COMMISSIONER DEASON: I have a question on Issue 12.

25 MS. BASS: I was going to make a comment about Issue

1 12.

2 COMMISSIONER DEASON: All right. Go right ahead.

3 MS. BASS: Based on what the Commission has voted,
4 obviously the two dockets relative to FPL and FPC would need to
5 remain open to consider the Phase II in the rate case portion
6 of those dockets. I would recommend that TECO's docket be
7 closed. I don't know the correct timing of the closing of that
8 relative to an order being issued in that, but I would
9 recommend that the Commission open a new docket. And, once
10 again, I'm not sure of the timing, whether we need to wait
11 until the proposal is filed to open the new docket or whether
12 or not we need to open a new docket at this time to
13 specifically address the proposal from the companies.

14 COMMISSIONER JABER: Commissioners, my preference
15 would be to wait and see what we get and then determine whether
16 a docket needs to be officially opened and what course of
17 action to take. I mean, it's a ministerial function.

18 MS. BASS: Well, I guess that what we would be asking
19 is that we could administratively close TECO's docket based on
20 the proposal that we get and the opening of a new docket.

21 COMMISSIONER JABER: You want us to give you
22 authority to administratively close the docket after you see
23 what the proposal is?

24 MS. BASS: I guess after we open the new docket to
25 address the proposal that is filed. Right now we have a docket

1 opened that if the proposal came in, and it was separate or not
2 what we wanted, I guess we could address it. So I guess what
3 I'm saying is we would like the administrative authority to
4 close that docket and open a new one when the proposal comes
5 in. And the other ones would just remain open until the
6 conclusion of the rate case.

7 COMMISSIONER JABER: Can't we move to close TECO's
8 docket today? I'm missing something.

9 MS. BASS: That's what we need. We will need to do
10 that at some point, I'm just not sure where in the process we
11 are at. In our recommendation we said for it to remain open,
12 and I think we are changing that to say it does need to be
13 closed.

14 COMMISSIONER DEASON: My concern is that we not
15 clutter up the rate case dockets.

16 MS. BASS: That is exactly why I would suggest we
17 open a generic docket, because in 90 days a proposal coming in
18 will be right in the middle of the rate case when we are
19 getting ready for hearings and all of that, and I don't want to
20 clutter them.

21 COMMISSIONER DEASON: And right now TECO does not
22 have a rate case. I guess that is the reason you were saying
23 we could close the docket, but I guess there is no harm in
24 leaving it open until we get the filing in anyway. You know, I
25 don't want to start saying I told you so, but if we had just

1 had a generic docket to start with --

2 COMMISSIONER JABER: Okay. You were right. You were
3 right.

4 COMMISSIONER DEASON: I just don't want to clutter up
5 the rate case dockets, because they are going to take on a
6 separate direction. And I know that the rate recovery is going
7 to be in those, but they are going have a separate focus from
8 what this 90-day filing is going to be.

9 MS. BASS: Exactly. It will be specific recovery
10 issues.

11 COMMISSIONER DEASON: Whatever is the best way,
12 Commissioners, so we don't clutter up the rate cases. That's
13 my only concern.

14 COMMISSIONER JABER: Well, we know the cost-recovery
15 issue will be in the rate case.

16 MS. BASS: Right. I guess the only issue is what
17 shall we do with TECO's docket. And if we are in agreement to
18 open a new docket when the proposal is filed, then it would
19 just be the timing of the closing of the TECO docket.

20 COMMISSIONER JABER: Okay. My motion would be to
21 close the TECO docket. When you get the proposal, put all the
22 proposal in one generic docket. But I think it's okay to close
23 the TECO docket today.

24 MS. BASS: Okay.

25 COMMISSIONER DEASON: If that is a motion, I second

1 it.

2 CHAIRMAN JACOBS: Moved and seconded. Now, what
3 about -- okay, that's right, because --

4 COMMISSIONER PALECKI: The only question I have is do
5 we need a docket open for the parties to actually file the
6 proposal? Otherwise, it will have to be filed in one of the
7 existing dockets, and I think that's what we're trying to
8 avoid.

9 MS. BASS: No. They can file a petition for approval
10 of ISO or something, and when the petition comes in for
11 approval of it, then it will be assigned a docket.

12 CHAIRMAN JACOBS: Well, we are directing them to make
13 the filing today, so upon that filing you can open the docket.

14 MS. BASS: Yes. When the filing comes in as a
15 petition, it will be assigned a docket number.

16 COMMISSIONER PALECKI: I would second the motion.

17 THE COURT: Moved and seconded. Any discussions?
18 All in favor.

19 (Simultaneous affirmative vote.)

20 CHAIRMAN JACOBS: Opposed? Show it approved.

21 COMMISSIONER JABER: Now, going back to the letter,
22 Mr. Chairman, I was not clear about what it was I was trying to
23 accomplish. I'm not trying to deter from our original
24 comments. I'm trying to close up the loop on our comments.
25 What's wrong with a cover letter from you that attaches the

1 order that says consistent with what we have told you, this
2 concludes our proceedings for now. Here is what we have done.
3 And use that cover letter as an opportunity to say that we are
4 equal partners, that we would welcome a Florida -- not even
5 welcome -- we would seek a Florida/federal collaborative among
6 staffs and Commissioners to take us forward on this mutual goal
7 that we have of opening up the wholesale electric market.

8 CHAIRMAN JACOBS: It sounds reasonable.

9 COMMISSIONER PALECKI: I think that's a good idea.

10 CHAIRMAN JACOBS: Ms. Bane -- Doctor Bane, you're
11 taking notes diligently here.

12 DOCTOR BANE: Trying to.

13 CHAIRMAN JACOBS: Sounds reasonable. I think we can
14 do that. We will send a draft around for everybody before it
15 goes out.

16 COMMISSIONER PALECKI: And I would just like to,
17 again, commend the staff. I think what we have done here today
18 is best for the ratepayers, for the Florida utilities, and for
19 competing generators. And I think we have done a lot to
20 minimize the risk to the ratepayers, and we have done a lot to
21 create a structure where markets can thrive in the State of
22 Florida, so thank you.

23 COMMISSIONER DEASON: That's sounds like a good quote
24 for a press release.

25 MS. BASS: I want to tell you that we were real

1 pleased with the recommendation, and it involved the efforts of
2 four separate divisions in putting it together and doing the
3 whole case, and I thought that the efforts of staff were
4 excellent. And I appreciate all the help that was given on it.

5 COMMISSIONER JABER: You all did so well you didn't
6 get any questions.

7 CHAIRMAN JACOBS: I would like to echo those
8 comments. I think staff has done an incredible job on this.

9 COMMISSIONER DEASON: In all seriousness, I think the
10 way that Commissioner Palecki summarized the action we took
11 today, I think, would be good; that is, the direction that we
12 take in publicizing in whatever manner the decision that we
13 made today, I think that is a correct statement, a correct
14 approach of what we have done here today.

15 CHAIRMAN JACOBS: Exactly. The scribes are
16 already at work on that, and that is consistent with the
17 directions we have given assuming -- midway through our
18 discussions today, I had already given them direction to move
19 forward and that is consistent with that. I would be happy to
20 have that quote. That would be good.

21 Anything else before us today?

22 MR. KEATING: Well, I'm sure the order will be as
23 excellent as the recommendation, but I thought I would ask if
24 you would like that circulated for your review before that is
25 issued.

1 CHAIRMAN JACOBS: Yes, please.

2 MR. KEATING: Thank you.

3 CHAIRMAN JACOBS: Thank you very much. The agenda is
4 adjourned.

5 (The agenda conference was concluded 1:15 p.m.)

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

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5 I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter
6 Services, FPSC Division of Commission Clerk and Administrative
7 Services, do hereby certify that the foregoing proceeding was
8 heard at the time and place herein stated.

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

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

19 DATED THIS 15th DAY OF NOVEMBER, 2001.

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JANE FAUROT, RPR
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Administrative Services
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