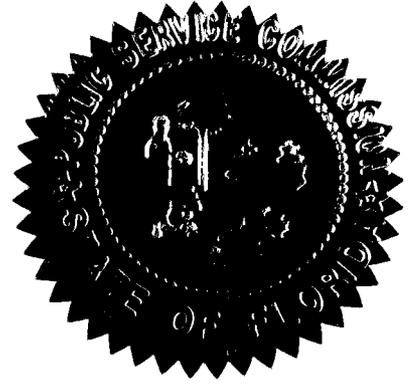


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060150-EI

In the Matter of

PETITION FOR APPROVAL OF REVISIONS TO
CONTRIBUTION-IN-AID-OF-CONSTRUCTION
DEFINITION IN SECTION 12.1 OF FIRST
REVISED TARIFF SHEET NO. 6.300, BY
FLORIDA POWER & LIGHT COMPANY.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 6

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. MCMURRIAN

DATE: Tuesday, April 24, 2007

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

REPORTED BY: JANE FAUROT, RPR
Official Commission Reporter
(850)413-6732

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION

03612 APR 30 07

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1 APPEARANCES:

2 JOHN BUTLER, ESQUIRE, appearing on behalf of
3 Florida Power and Light Company.

4 ROBERT SCHEFFEL WRIGHT, ESQUIRE, appearing on
5 behalf of Towns of Palm Beach and Jupiter Island, and the
6 Municipal Underground Utilities Consortium.

7 CHARLES FALCONE, Mayor, appearing on behalf of the
8 Town of Jupiter Island, Florida.

9 JOHN FIND, Commissioner, appearing on behalf of
10 Town of Flagler Beach.

11 DANIEL COMERFORD, Commissioner, appearing on behalf
12 of the Town of Jupiter Inlet Colony.

13 R. L. WILLOWBY and PETER RANT, appearing on behalf
14 of Power Services, Incorporated.

15 THOMAS G. BRADFORD, Deputy Town Manager, appearing
16 on behalf of the Town of Palm Beach, Florida.

17 ROSANNE GERVASI, appearing on behalf of the
18 Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN EDGAR: Yes. We will be on Item 6.

3 Commissioners, we will ask for our staff to give us
4 an overview of the item, but before we go into the merits, my
5 understanding is that Issue 1 of Item 6 is a procedural
6 question and we probably need -- Ms. Gervasi, you can help me
7 through this, but we probably will need a motion on just
8 Issue 1 before we get into the merits and the further
9 discussion.

10 Ms. Gervasi.

11 MS. GERVASI: Yes, ma'am, that's correct.

12 CHAIRMAN EDGAR: Okay. Then let's have one of you go
13 ahead and give us a brief overview on Issue 1, please.

14 MS. GERVASI: Issue 1 is staff's recommendation to
15 deny oral argument pursuant to the oral argument rule, but that
16 interested persons are allowed to speak regardless of that.

17 CHAIRMAN EDGAR: Thank you.

18 Commissioners, my understanding is this is just a
19 procedural question. We do have participants. We will open up
20 for discussion and questions and answers and presentations.
21 But in order to get us in the proper posture for that
22 discussion, I need a motion in favor of the staff
23 recommendation just on Issue 1.

24 COMMISSIONER CARTER: Am I to understand --

25 CHAIRMAN EDGAR: And you may ask a question.

1 COMMISSIONER CARTER: -- that will still allow for
2 public input?

3 CHAIRMAN EDGAR: Absolutely.

4 COMMISSIONER CARTER: Okay. I so move.

5 COMMISSIONER McMURRIAN: Second.

6 CHAIRMAN EDGAR: All in favor say aye.

7 (Unanimous affirmative vote.)

8 CHAIRMAN EDGAR: Thank you. And we will be on Issues
9 2 through 5.

10 Ms. Draper.

11 MS. DRAPER: Elizabeth Draper with the Commission
12 staff. I will give an introduction to the item. Item 6 is
13 FP&L's proposed tariff to provide local governments that wish
14 to convert their overhead distribution facilities to
15 underground, a 25 percent reduction in the conversion costs.
16 That 25 percent reduction is called the Governmental Adjustment
17 Factor, or GAF waiver. FP&L requests that the 25 percent not
18 borne by the local government be recovered from the general
19 body of ratepayers in a future rate case. The 25 percent is
20 based on savings and storm restoration costs which are shared
21 by all ratepayers when large contiguous areas are converted
22 from overhead to underground.

23 Issue 2 is another legal issue dealing with the
24 Municipal Underground Utilities Consortium request for oral
25 argument and petition to intervene.

1 Issue 3 addresses the stipulation FP&L and the
2 intervenors filed.

3 Staff recommends that the Commission decline to
4 approve the stipulation in its entirety because two provisions
5 in the stipulation, bifurcation and relation back
6 inappropriately address matters that are outside the scope of
7 this docket.

8 However, the stipulation also contains certain
9 clarifications of the GAF tariff sheets. Primary staff on
10 Issue 4 recommends that you incorporate the amended tariff
11 sheets attached to the stipulation as part of the approved
12 tariff. FP&L states that it does not object to the inclusion
13 of those tariff changes in the event you deny the stipulation.

14 Issue 4 is whether FP&L's proposed tariff should be
15 approved. Staff has presented two recommendations. The
16 primary recommendation is that you approve the tariff as a
17 pilot program to expire by October 2008. According to the
18 order suspending the tariff, the tariff applies to
19 undergrounding contracts entered into on or after April 4,
20 2006. So the tariff would be in effect from April 2006 until
21 October 2008, a two-and-a-half year period.

22 Primary staff believes that while not perfect, this
23 tariff is a first step in the right direction to encourage
24 undergrounding. More information on all costs and benefits of
25 undergrounding will be filed with the Commission within the

1 next two years, and the limited duration of the tariff is tied
2 to receipt of that additional information. Based on the
3 additional information received, the Commission can then
4 reevaluate the benefits of undergrounding and make a decision
5 on whether it continue, modify, or discontinue the tariff.

6 The alternative recommendation is that you deny the
7 tariff because FP&L has not adequately justified the 25 percent
8 waiver and FP&L has not filed yet its plans to implement the
9 requirements of Amended Rule 25-6.115. Mr. Trapp will be
10 presenting the alternative staff position.

11 Staff would also like to make an oral modification.
12 On Page 30 of the recommendation, which is Page 6 of the
13 stipulation, there is a Paragraph 5B that contemplates the
14 Commission include grandfathering language in its order if the
15 GAF tariff is approved. The staff recommendation does not
16 discuss Paragraph 5B and whether it should be included in the
17 order or not. Staff recommends that this paragraph, Paragraph
18 5B of the stipulation, be included in the order if you approve
19 the GAF tariff, because grandfathering an existing contract is
20 standard practice. If the contract is signed pursuant to an
21 approved tariff, it normally runs its course even if the
22 underlying tariff is closed or modified.

23 FP&L and Mr. Schef Wright are here to address the
24 Commission. I believe we also have representatives from
25 several cities who wish to speak. And this concludes my

1 introduction.

2 CHAIRMAN EDGAR: Thank you, Ms. Draper.

3 Mr. Trapp, how about a brief overview of the
4 alternative recommendation?

5 And then, Mr. Butler, your petition, and so we will
6 begin next with you.

7 MR. TRAPP: Here again, the staff alternate appears
8 in Issue 4, and we will be happy to answer any questions the
9 Commission has at that time. With respect to a brief overview,
10 alternate staff is recommending that the Commission deny the
11 tariff.

12 Basically, I need to make, I guess, two points. One
13 is we don't believe the tariff is in full compliance with the
14 recent rule adoption by the Commission in that it is limited in
15 its scope and does not include the storm hardening construction
16 costs that the Commission ordered to be reflected in CIAC
17 calculations in the adoption of Rule 25-6.115.

18 The other point has to do with the reasonableness of
19 Florida Power and Light's assumptions in deriving the
20 25 percent credit under the GAF waiver. In alternate staff's
21 opinion, it all comes down to whether or not the Commission
22 believes that there is a likelihood that all ratepayers will
23 benefit by reduced storm costs by the undergrounding that may
24 occur by those parties that agree to the GAF tariff. And to
25 the extent that the damages forecasted by Florida Power and

1 Light to be avoided by such undergrounding do not occur, it
2 then comes down to a fairness issue about all ratepayers having
3 to carry the costs for the benefits received by a few. And
4 that's my summary.

5 CHAIRMAN EDGAR: Thank you, Mr. Trapp.

6 Mr. Butler.

7 MR. BUTLER: Thank you, Madam Chairman. Good morning
8 to you and to the other Commissioners. I am John Butler
9 appearing on behalf of Florida Power and Light Company. I have
10 with me Tom Coke (phonetic) and Rosemary Morley (phonetic),
11 also of FPL, who won't be participating directly in our brief
12 presentation, but are available to answer questions if you or
13 others have them.

14 I would like to start with just a little bit of the
15 background of what brought us here and then explain why we are
16 in very enthusiastic support of the primary staff
17 recommendation. FPL filed its initial GAF tariff last February
18 as part of our Storm Secure initiatives to help harden our
19 electric distribution system against hurricanes and other major
20 storms. The idea of the GAF tariff has always been to provide
21 a voluntary optional mechanism that local governments can use
22 to help them pay for the cost of converting the overhead
23 electric distribution lines within their boundaries to
24 underground.

25 In the aftermath of the 2004 and 2005 hurricane

1 seasons, FPL consistently heard from local governments that
2 they would like to do underground conversions but were deterred
3 by the high cost of those conversions. The GAF tariff provides
4 a 25 percent reduction in the contribution in aid of
5 construction, or CIAC, the local government must pay FPL for
6 converting a large contiguous area to underground service.

7 The GAF tariff focuses on local government
8 underground conversions because those conversions tend to
9 involve these large contiguous areas, and the local governments
10 are in the best position to require 100 percent customer
11 participation in the conversion and aid in expediting the
12 construction through permitting, et cetera. Both of these
13 factors are very important to FPL's actually realizing
14 substantial storm restoration benefits from an underground
15 conversion.

16 FPL worked with the staff and with the towns that
17 have intervened in this docket throughout last spring and
18 summer to explain the GAF tariff and show how the 25 percent
19 reduction would be justified for FPL's general body of
20 customers by the expected avoided storm restoration costs from
21 these large contiguous conversion projects. Based on the
22 results of these interactions with staff and the towns, FPL
23 refined the original GAF tariff and filed an amended petition
24 for approval of the refined tariff in September. FPL continued
25 to respond to inquiries about the GAF tariff since the amended

1 petition was filed, including several informal meetings with
2 staff and the towns to address remaining questions.

3 In February, the Municipal Underground Utilities
4 Consortium, or MUUC, petitioned to intervene. FPL worked with
5 MUUC and the towns to resolve their concerns over the GAF
6 tariff. The process resulted in a stipulation and settlement
7 among FPL, the towns, and MUUC, which was filed with the
8 Commission on March 23. Included in the stipulation were some
9 minor tweaks to the GAF tariff which staff's primary
10 recommendation proposes that you include in the approved
11 tariff.

12 The GAF tariff that you have before you for approval
13 has been thoroughly vetted. It is well suited for its intended
14 purpose. It is not, and it is not intended to be, the final
15 word on calculating CIAC for underground conversions, but it
16 can provide an important incentive for the specific
17 circumstances to which it is targeted.

18 FPL is aware of local governments that are anxiously
19 awaiting the Commission's decision on the GAF tariff before
20 they make their own decisions on underground conversions. A
21 25 percent cost reduction on large underground conversion
22 projects can be quite important to those decisions. And those
23 municipalities need to know whether the reduction is or is not
24 going to be available to them as soon as possible.

25 While the Commission has provided that the GAF tariff

1 will apply back to undergrounding contracts entered into on or
2 after April 6th, 2006, this doesn't eliminate the uncertainty
3 that local governments are currently facing as to how much of a
4 cost reduction, if any, the Commission will ultimately approve.
5 And this, again, underscores the need for you to act promptly.

6 FPL has provided solid documentation that based on
7 reasonable expectations about future storm activity, the
8 25 percent discount in the GAF tariff will be fully offset by
9 savings in storm restoration costs that the general body of
10 customers otherwise would pay. FPL's data is indirectly
11 corroborated by the underground conversion cost study that was
12 filed by MUUC.

13 While FPL does not agree with some of the analyses
14 and conclusion of that study, we think it is useful to note
15 that MUUC estimates the savings attributed specifically to
16 reduce storm restoration costs for large contiguous projects,
17 which is what the GAF tariff is directed at, to be
18 approximately 24 percent, almost exactly the same conclusion as
19 FPL's 25 percent.

20 The GAF tariff is equitable for all FPL's customers.
21 The savings in storm restoration costs from new underground
22 conversions benefit all customers equally, because storm
23 restoration costs are recovered from all customers equally.
24 FPL does not charge one storm recovery surcharge to customers
25 who have underground service and a different storm restoration

1 surcharge to customers who have overhead service. Therefore, a
2 customer who currently has underground service will be just as
3 benefitted by a new underground conversion as a customer who
4 currently has overhead service. For these reasons, FPL urges
5 you to approve the GAF tariff, which is staff's primary
6 recommendation.

7 Primary staff also recommends that you deny FPL's
8 stipulation with MUUC and the towns. Although staff does
9 propose, as I mentioned earlier, incorporating the minor
10 revisions to the tariff that we had proposed in the
11 stipulation. I expect that Mr. Wright will have more to say
12 about the details of the stipulation and why it should be
13 approved, but I want to make it clear that FPL continues to
14 support the stipulation and requests that you approve it as
15 part of your decision here today.

16 Let me just speak very briefly, and then I will be
17 done, to the alternate staff recommendation. Alternate staff
18 recommends that you deny FPL's GAF tariff, basically, because
19 of three stated concerns, none of which we believe justifies
20 denial. The first concern is that FPL has not yet filed its
21 plans to implement the CIAC calculations under the recent
22 revisions to Rule 25-6.115. This concern is misplaced, because
23 the GAF tariff is a voluntary alternative to the normal
24 calculation of CIAC under that rule. The GAF tariff is
25 independent of the normal CIAC calculation, so it is not

1 necessary for FPL to have filed implementation plans for that
2 calculation in order for you to evaluate and approve the GAF
3 waiver.

4 The second concern raised by alternate staff is that
5 FPL has not provided adequate factual support for its
6 25 percent GAF waiver. We disagree. We have provided a
7 reasoned and well-documented justification for the waiver, and
8 FPL's estimate of 25 percent storm restoration savings is
9 consistent with the results obtained by MUUC using a very
10 different approach.

11 I should add that we have -- you know, our evaluation
12 necessarily shows a range. We don't know exactly how
13 frequently storms will hit in the future or exactly what the
14 restoration cost savings will be. But we have tried to do a
15 range from sort of, you know, infrequent storms with minimal
16 storm restoration differentials to frequent storms with
17 substantial storm restoration differentials, and the 25 percent
18 falls right in the middle.

19 You know, it is a reasonable estimate. Customers may
20 end up being benefitted more than the 25 percent if the
21 underground projects can proceed. They might be benefitted
22 slightly less. But it is a very reasonable estimate, and we
23 feel that the Commission can and should move forward based on
24 the information that is available today. We don't know how
25 long it will take to develop better information. The

1 information essentially evolves during the course of storms.
2 Now, that may be something that we have additional data for
3 this year or, hopefully, for all of us we won't have additional
4 information available this year. And so putting the decision
5 off until we have better storm restoration data is really just
6 putting this off to the indefinite future.

7 Finally, alternate staff argues that there is no need
8 to approve the GAF tariff now because it can't be fully
9 implemented until the rest of the CIAC calculation has been
10 approved. We think that misses the point on a couple of
11 levels.

12 First, if the GAF tariff is denied, the important
13 connection back to April 4, 2006, will be lost. Any
14 undergrounding projects that went under contract between
15 April 2006 and today would suddenly find themselves ineligible
16 for the GAF waiver even if the GAF tariff or something like it
17 were ultimately refiled and approved. This would penalize
18 those applicants who made an early commitment to storm harden
19 by investing in undergrounding.

20 Furthermore, alternate staff ignores the important
21 positive signal that approval of the GAF tariff will send to
22 municipalities that are presently considering undergrounding.
23 Once the tariff is approved, municipalities will know that they
24 can count on receiving a 25 percent reduction in their CIAC
25 payments based on storm restoration savings. Those savings are

1 a key element of the CIAC calculation, and certainty on that
2 key element will allow municipalities to make undergrounding
3 decisions with greater confidence.

4 In contrast, if the Commission denies the GAF tariff
5 as alternate staff proposes, municipalities will be left to
6 guess as to what credit they will ultimately get for storm
7 restoration savings. The likely outcome of this uncertainty
8 will be for those customers to continue delaying planned
9 projects until after the Commission's decision on any CIAC
10 adjustments, which could take a number of months from the point
11 when those calculation filings are made here in the next month
12 or two. For these reasons we ask that you deny the alternate
13 staff recommendation and approve the GAF tariff as primary
14 staff recommends.

15 Thank you for your indulgence and, as I said earlier,
16 we have Mr. Coke and Ms. Morley here to answer any detailed
17 questions that you may have.

18 CHAIRMAN EDGAR: Thank you. Mr. Butler, on the third
19 point that you raised as information counter to the alternative
20 recommendation, you mentioned contracts since the April
21 '06 date. Can you give us a snapshot of what contracts are in
22 place or have been entered into or are pending?

23 MR. BUTLER: Let me let Mr. Coke speak to that
24 directly. There are not a large number, but there are a
25 handful of contracts that actually fall into that window.

1 MR. COKE: Thank you. Yeah, there are a handful of
2 contracts that fall into that. In fact, Jupiter Island, who is
3 represented here today, is one of those parties, and Flagler
4 Beach, as well. I think that the other thing is that depending
5 upon how long from this point in time to whenever this issue
6 would be resolved, there will be other contracts where people
7 are interested in entering into. And, of course, we're coming
8 up on the next hurricane season, and so there is going to be
9 more that are teed up right now that we are working on that
10 they haven't necessarily signed the paper yet, but we expect
11 that that will be happening within the next few months.

12 CHAIRMAN EDGAR: So just for my own understanding, I
13 think I am hearing you say that there are contracts in place
14 under the proposed 25 percent GAF currently between some
15 municipalities and FPL.

16 MR. COKE: That's correct.

17 CHAIRMAN EDGAR: Okay. Commissioners, before we hear
18 from Mr. Wright and the others that are joining him, do you
19 have any questions for Mr. Butler yet? No.

20 We'll come back to you, then, Mr. Butler.

21 Mr. Wright.

22 MR. WRIGHT: Thank you, Madam Chairman and
23 Commissioners. I am Schef Wright, and I have the privilege to
24 be here today on behalf of the Municipal Underground Utilities
25 Consortium, which is a group of around 30 cities and towns all

1 in Florida Power and Light Company's service area, all
2 customers of FPL who came together pursuant to an interlocal
3 agreement that they executed last summer to investigate and
4 evaluate the cost and benefits of undergrounding and, as
5 appropriate, to proceed to support undergrounding. Most all of
6 them are proceeding to support undergrounding and, accordingly,
7 we are here today in support of FPL's proposed GAF tariff and
8 in support of the stipulation.

9 Before I continue into my substance, I want to let
10 you know who else is here. Mayor Charles Falcone, the Mayor of
11 Jupiter Island, Florida, is here. Commissioner John Find
12 (phonetic), who is the vice chairman of the Flagler Beach City
13 Commission is here. Dr. Daniel Comerford (phonetic), who is a
14 town commissioner with the Town of Jupiter Inlet Colony is
15 here. Mr. Thomas Bradford, who is the deputy town manager for
16 the Town of Palm Beach is also here to address you. And two of
17 the engineering folks with Power Services, Incorporated, who
18 did the study that we filed last November, Mr. Peter Rant, a
19 professional engineer, and R. L. Willowby, who is also a former
20 city utility director and a former city manager, so he's got a
21 very broad and unique perspective on this, as well, are also
22 here to address you briefly.

23 In summary, Commissioners, with FPL, the Municipal
24 Underground Utilities Consortium, and the town of Palm Beach
25 and the town of Jupiter Island support all elements of the

1 stipulation. Accordingly and correspondingly we support most
2 of the primary staff's recommendation. However, we do differ
3 with them on their recommendation that you deny what we call
4 the bifurcation and relation-back provisions of the
5 stipulation.

6 To be real clear, the bifurcation provision would
7 allow for, as we have agreed with FPL through extensive and
8 good cooperative negotiations, would ask you to enter a final
9 order approving the 25 percent GAF credit now and keep the
10 docket open for the purpose of determining in this docket what
11 other credits are to be resolved.

12 You know, the relation back is kind of a lawyer's
13 term. Another way you might say it is just preserve our rights
14 to get whatever credits you, the Commission, ultimately
15 determine are appropriate to be included in underground CIAC
16 calculations. It's not a pig in a poke. We are asking for
17 final approval of the 25 percent today based on FPL's analysis,
18 based on our bottom-up engineering cost analysis using FPL
19 system information, and we are asking that you preserve our
20 right to get whatever credits you ultimately determine are
21 appropriate.

22 In our view of the world, that is another 25 percent
23 based on the Power Services' calculations. You may determine
24 that it is not that great, you may determine after hearing all
25 the evidence that it is greater than that. But whatever it is,

1 after you say, we think so much extra credit should be provided
2 for tree-trimming costs, et cetera. We think we should get
3 that. That is the relation-back provision.

4 Kind of as a big picture overview, I think certainly
5 the way I understand how we got here following the events of
6 2004 and 2005, was beginning January 23rd of last year with
7 your infrastructure hardening inquiry workshop that we held in
8 this room and Mayor Falcone and I both addressed you all at,
9 everybody, I think, is on the same page and the same team, that
10 we need to harden our distribution infrastructure in Florida.
11 Accordingly, FPL came forward the following month, February of
12 last year, with its Storm Secure proposal which includes its
13 GAF tariff and other initiatives for the purpose of encouraging
14 undergrounding as an important element of enhancing
15 distribution reliability in Florida.

16 As we sit here today you have got the opportunity to
17 take what we believe is a giant step to encourage
18 undergrounding. You have got the opportunity to send a pretty
19 strong message that will make it more uncertain and discourage
20 undergrounding. And if you were to adopt the alternate staff
21 recommendation, frankly, you have got the opportunity to pretty
22 much put the brakes on anything until this all gets sorted out
23 in future proceedings probably that will conclude -- my guess
24 is, best case, late this year more likely the first quarter of
25 next year. Naturally, the cities and towns and I and FPL urge

1 you to approve the stipulation, urge you to take the big giant
2 step that you have available to you to encourage
3 undergrounding.

4 Now, I do have a few substantive comments before the
5 city and town representatives speak, and these are kind of --
6 because I am who I am with my background in rates and
7 undergrounding issues. I will say, we don't necessarily agree
8 with several of the staff's legal points, but I really want to
9 focus on the substantive points, and I don't think we are even
10 really going to need to get to them. So unless you have
11 questions about them, I'm not going to talk about those
12 anymore.

13 Okay. We support the entire stipulation. We agree
14 with the primary staff recommendation to approve the GAF waiver
15 at the 25 percent level and to approve FPL's entirely
16 reasonable request that FPL be allowed to include the amounts
17 that it invests, the 25 percent additional amount that it
18 invests in underground facilities in its rate base, subject to
19 normal ratemaking treatment. We also support the
20 clarifications in the stipulation that primary staff support,
21 as well. We disagree with the staff's recommendation that you
22 reject the bifurcation and the relation-back provisions. I do
23 have a procedural point to make to you regarding that.

24 When FPL filed its initial petition last February, it
25 did not state in that petition that it was only intended to

1 reflect estimated storm restoration cost savings. Less than a
2 month later, on St. Patrick's Day of last year, Palm Beach and
3 Jupiter Island filed our petitions to intervene in this docket,
4 060150, and we made very clear, we stated very explicitly in
5 our petitions to intervene that we believed that the 25 percent
6 is a step in the right direction, but we believe that
7 additional credits, substantial additional credits as of then
8 yet to be determined, yet to be even estimated by us, are
9 appropriate to be included.

10 You, indeed, recognized this in your order. You
11 recognized that the towns argue that FPL's proposed 25 percent
12 credit is a step in the right direction, but does not go far
13 enough to provide sufficient or appropriate incentives to local
14 governments to undertake underground conversion projects.

15 And then you went on to say, we, the Commission, do
16 not wish to discourage cities or counties who are willing to
17 pursue undergrounding of their existing facilities at this
18 time. And you then went on to say, in order to facilitate that
19 encouragement, to implement that encouragement, any later --
20 any such later approved discount to the cost of undergrounding
21 facilities for local governments that proceed with underground
22 conversion projects shall apply to undergrounding contracts
23 entered into with local governments on or after April 4th,
24 2006, the date of our vote and your vote on this matter.

25 You didn't limit it to savings related to storm

1 restoration costs. That really only came out in June when FPL
2 provided, in response to a staff data request, their
3 spreadsheet analysis that showed their estimates which show a
4 range of 20 to 41 percent of storm restoration costs offset,
5 depending on what assumptions you make about intensity and the
6 intensity of the development and the frequency of storms.
7 That's the procedural point. So procedurally I think that we
8 are on very solid ground. I think you are on very solid ground
9 in preserving the relation back, because I think it's fully
10 consistent with what you said a year ago.

11 More importantly, though, the key substantive point
12 is this: We are not trying to get some special untested,
13 unproven discount based on some kind of lawyering approach.
14 You know, I'm not asking for this procedurally. What we are
15 asking you to do is to ensure that if we go forward this
16 summer -- and Mayor Falcone's city, and he will tell you this,
17 they are ready to go. They are ready to get with the balance
18 of their undergrounding program. They have already done a
19 small pilot phase last year. They are ready to proceed.

20 What we are asking you is this, for the towns and
21 cities that go forward this year, that you ensure that we get
22 the 25 percent storm restoration cost piece of this that's
23 confirmed by FPL's analysis and by the Power Services study,
24 which is -- it is a nontrivial study. It's in your files. You
25 have probably seen it. And we are asking that you preserve our

1 rights to get incorporated into the ultimate credits applied to
2 our undergrounding project CIACs the values that our
3 undergrounding projects provide.

4 If we underground Jupiter Island, or Palm Beach, or
5 Flagler Beach, or Jupiter Island Colony, or any of these other
6 cities, there will not be any more tree trimming. You don't
7 have to trim trees for the underground facilities. And it is
8 not a trivial amount. It's about 9 percent, I think, of the --
9 according to the Power Services analysis, it is about a nine --
10 it is equivalent to about a 9 percent additional credit. And
11 there are other benefits, as well.

12 But all we are asking you to do is to preserve our
13 right to get those credits based on what you, the Commission,
14 ultimately determine are the right values to be included here.

15 You know, I would say, you know, and hold on, I was
16 the rates chief my last year here on the staff. As a
17 fundamental matter of fair ratemaking policy, whatever the cost
18 savings that our undergrounding projects provide, they should
19 be reflected in the CIACs. If you don't, then the CIAC hasn't
20 been calculated properly. In fact, it won't have been
21 calculated pursuant to what your rule that you just adopted
22 that became effective in February provides.

23 Now, I would like to make a point here relative to
24 the potential base rate impact of the GAF waiver. For whatever
25 credits you approve, FPL will properly get rate base treatment

1 for its net investment in underground facilities, because they
2 are reasonable and prudent costs. This is as it should be.
3 And, yes, this will result, at some future point after some
4 future rate case, will result in FPL's base rates being
5 somewhat higher than they would otherwise be, other things
6 being equal. And this is because more distribution plant in
7 service should mean more distribution rate base which will mean
8 a higher -- excuse me, a higher authorized revenue requirement.
9 That is Ratemaking 101.

10 However, that is only one side of the equation. The
11 important point that I want to emphasize to you is this -- and
12 Mr. Butler hit on this pretty well, as well, and it's this,
13 that the credits we are asking you to ensure that we get are
14 direct offsets to costs that would otherwise be incurred by
15 FPL, and they would otherwise show up in one or another
16 component of FPL's rates. Vegetation management costs show up
17 in FPL's O&M costs that show up in FPL's revenue requirement.
18 To the extent those are reduced, those benefits flow through to
19 all of FPL's customers.

20 In 2004 and 2005, FPL spent nearly \$2 billion on
21 storm restoration costs that they came to you all and sought
22 recovery of. You granted most of that. The vast majority of
23 that -- I don't know what the exact number is, we think it's
24 probably in the 80, 82, 83 percent range, was
25 distribution-related costs. So probably something on the order

1 of magnitude of 1.4, 1.5, maybe a little more than that,
2 billion dollars in two storm seasons wound up in FPL's storm
3 restoration cost surcharge.

4 Every dollar that you avoid, that FPL avoids from
5 reduced storm restoration costs is a dollar that all of FPL's
6 customers don't have to pay. That's why it's completely fair
7 to have these credits and these values, these cost-saving
8 benefit values factored into the CIAC. And, as you will hear
9 from the city and town officials, it's important. Because
10 these are not trivial numbers. These are numbers that make
11 differences even for the smallest communities, in the six
12 figures. And for most -- even 6,000-person communities, these
13 are numbers that make differences into the seven figures. And
14 in the case of even some of the larger cities, potentially
15 eight figures. I mean, into the ten-plus-million-dollar
16 difference in what their CIAC will be. This has a direct and
17 significant impact on their decision whether to go forward.

18 I probably will have a few more points to make, kind
19 of as a wrap-up following the other presentations, but for now
20 I would like to introduce Mayor Charles Falcone of Jupiter
21 Island. Mayor Falcone has more -- and you do have some written
22 comments that Mayor Falcone prepared. I do want to mention to
23 you that Mayor Falcone has more than 30 years of experience in
24 the electric utility industry having held senior management
25 positions with AEP, American Electric Power Company, and also

1 having served as director of power supply and reliability in
2 the Office of Utility Systems for the United States Department
3 of Energy.

4 Mayor Falcone.

5 CHAIRMAN EDGAR: Mayor, welcome back.

6 MR. FALCONE: Thank you, Madam Chair. Commissioners,
7 I appreciate the opportunity to address you this morning.

8 As Schef said, I have a written document and I see a
9 good bit of it is repetitious of what Mr. Wright has already
10 said. I'll try hard not to repeat as much of that as possible.

11 But it's a new and different environment that we live
12 in today, and underground electric distribution today provides
13 significant operational cost savings. Years ago it was
14 perceived that the principal difference between overhead and
15 underground lines was aesthetics. And it was perceived that
16 the O&M cost differences between overhead and underground were
17 small enough to be negligible for ratemaking purposes. And
18 that's not true anymore. We are talking about larger and more
19 significant numbers in the difference in O&M costs for the two
20 types. And Schef has already mentioned that.

21 If you don't recognize, frankly, and give credit for
22 these differences and others, you'll perpetuate a bad public
23 policy that discourages underground conversion by continuing to
24 impose unrealistic cost penalties. You have got to get the
25 numbers right. I mean, it's absolutely clear that

1 undergrounding saves tree trimming costs. What is not so clear
2 is how much money it is. How much does that amount to? Well,
3 your staff could be studying that. I didn't hear any numbers
4 that they proposed as alternatives to that. It's clear and
5 obvious that there is a savings. Just how much it is, whether
6 it is a Power Services' number or a different number is
7 debatable. But it is that debate we should be having, not
8 just -- not just saying no to the categorical item.

9 We commend FPL for proposing Storm Secure. As a
10 consequence of the hurricanes of 2004 and 2005, it's clear that
11 hardship, wide-spread power outages, extended restoration
12 times, and large costs for restoration are the order of the day
13 if you continue to have frail overhead distribution lines.
14 Now, you can harden them. It's necessary to either harden them
15 by strengthening the overhead system or by undergrounding. And
16 undergrounding is recognized, and we thank FPL for recognizing
17 that undergrounding is an excellent form of hardening. Some
18 say perhaps the ultimate form of hardening. Storm Secure is a
19 ray of light to many of the cities in Florida.

20 The town of Jupiter Island has been endeavoring to
21 make an underground conversion, investigating it, probing it,
22 studying it, cajoling FPL for, I think, seven years. It goes
23 back before my term on the commission. But only since FPL's
24 announcement of Storm Secure last year have we been able to
25 regard such an undertaking as actually feasible.

1 So after your order in April of last year, we
2 commenced a pilot project, not a very big thing, but enough to
3 test all types of construction, about a quarter of a mile, a
4 little over a quarter of a mile of conversion. It's actual
5 conversion, using a new waterproof switch, which we think
6 solves the flooding risk problem on a barrier island. The
7 switch is one now that FPL supports as well as Jupiter Island.

8 Just a few days ago -- well, more like a month ago,
9 on March 20th, we had a referendum asking the town's residents
10 support for the town commission to undertake the necessary
11 borrowing of funds to do an entire town underground conversion.
12 We asked for their support to enable the Commission not to go
13 forward necessarily, but to let the Commission decide whether
14 to go forward. The referendum passed with an excellent turnout
15 and with 93 percent of all votes in favor. We are a bit
16 surprised with the high number, and we think that's indicative
17 not only of high citizen support in Jupiter Island, but
18 probably in many other towns and cities in South Florida.

19 So the Commission now has the decision to go forward,
20 not to go forward, to go fast, to go slow, all of those. The
21 Town Commission closely followed your proceedings, is following
22 now your proceedings in this docket, and considers it to be
23 very important to its endeavor in several respects, and looks
24 for your assurance in a number of things, most of which Mr.
25 Wright has indicated, so I will be brief.

1 Your approval, at a minimum, of FPL's proposed
2 25 percent cost sharing. I can support the vast majority of
3 what Mr. Butler had to say to you this morning.

4 Deny the staff's proposed two and a half year time
5 limit on the GAF starting a year ago, this leaves such a narrow
6 window as to almost preclude the opportunity for some towns to
7 get going and get started. But if you do -- if you do continue
8 with that, with the two and a half year window, please make it
9 clear that those projects that are started, signed and
10 commenced in that time period are allowed to be completed.

11 Provide assurance that the town at its option will be
12 permitted to employ its own FPL qualified contractors to carry
13 out all or part of the conversion work. This has been the
14 policy of this Commission for sometime, of course, in
15 compliance with FPL's standards. But the important point,
16 still let those folks still be eligible for all the credits
17 that you approve in this docket whether or not FPL carries out
18 the work or whether the town chooses to employ its own
19 contractor, one that FPL gets the opportunity to sign off on
20 and carries out the work.

21 Assure that FPL would not be entitled to bill the
22 town for corporate overheads on work that the town carries out
23 itself. Other than, of course, FPL's right to charge
24 appropriate and reasonable engineering service fees for their
25 design work and for their inspection of the work. That's

1 understood, but not the corporate overheads on work that the
2 town carries out, not FPL.

3 Assure that all credits that you ultimately approve
4 in this docket will apply to qualified projects begun after
5 April 2006.

6 The Town of Jupiter Island is not as concerned about
7 the quarter mile project we did last summer. We are much more
8 concerned about what we would do from this day forward. And if
9 there is some debate about what the Commission meant a year
10 ago, we would be satisfied at Jupiter Island if you simply
11 would affirm a refer back provision to today. That would be
12 good enough for us, and probably for many towns. But it seems
13 logical that it should be referred back to April 2006.

14 In light of the projections by many for more and
15 increasingly severe hurricanes and tropical storms in the
16 Atlantic Basin, I submit to you that the sooner we get the
17 underground projects done, the better off everyone will be.
18 That's why the relation back is important. It would be a shame
19 if your actions or inactions today discouraged towns from
20 proceeding with their plans for conversion.

21 Seventy to eighty percent of all new subdivisions in
22 South Florida, and I think the number probably applies to other
23 areas, large other areas in the country, are going in with
24 underground utilities. What does this tell you? It tells you
25 that underground distribution is the state of the art.

1 I have one more thought. We have labored long and
2 hard with FPL to get closure on a stipulation. What's our
3 leverage? Have you ever negotiated with a huge monopoly? Not
4 while you are sitting on the Commission, that's different. If
5 you are a customer. I know, I was on the other side of that
6 one. It sounds like something -- I wish we are here again, you
7 know. It's long ago, but those were the good old days.

8 But we, the towns, labored long and hard with FPL to
9 get closure on a stipulation. And our only leverage, believe
10 it or not, was the existence of this docket. Sure enough, you
11 would be deciding this case, and they didn't know, nor do we,
12 what you are going to decide. That's a little leverage. You
13 must know that negotiating with a giant monopoly is not an
14 equal strength proposition. Were that not so, there would no
15 need for a Public Service Commission.

16 If you reject this stipulation out of hand, you will
17 put extra regulatory burdens on the parties, all the parties.
18 You will set us back with FPL, since they will take your action
19 as a signal that perhaps they don't have to negotiate with us.
20 And this will place a huge barrier measured in time, cost, and
21 uncertainty in front of those towns trying to move forward with
22 underground conversion.

23 I respectfully ask that this testimony be included in
24 the record of the docket, and I thank you for your
25 consideration.

1 CHAIRMAN EDGAR: Thank you, Mayor Falcone.

2 Commissioner Find.

3 MR. FIND: Good morning. Thank you for having us
4 here.

5 I'm John Find. I'm a commissioner from Flagler
6 Beach. Flagler Beach is a small town located on the east coast
7 midway between Daytona Beach and St. Augustine. Almost the
8 entire town is located on a barrier island. We are about to
9 complete Phase One of our undergrounding project. Originally
10 the project was inspired by a desire to improve the esthetics
11 of the downtown area. The recent hurricanes have certainly
12 changed our perspective on undergrounding. Our focus now is to
13 protect our utility infrastructures from the storms and the
14 constant exposure to the harsh elements on the barrier island.

15 One of the elements that we are particularly
16 interested in and concerned about is the relation-back
17 provision of the stipulation, because the City did sign our
18 contract with FPL in August of 2006, and naturally it's
19 important to us that any decisions relating to the rates and
20 whatever money we would receive that this goes back to 2006.

21 I believe that the undergrounding will provide real
22 benefits to not only our residents, but to all of Florida Power
23 and Light customers, and I would ask you to approve all the
24 elements of the stipulation as presented to you by FPL and by
25 us.

1 Thank you.

2 CHAIRMAN EDGAR: Thank you.

3 Commissioner Comerford.

4 MR. COMERFORD: Thank you very much, Commissioners,
5 for having us this morning. I don't want to repeat what Schef
6 and Mayor Falcone have so eloquently presented to you, but I
7 would like to just tell you a personal story.

8 Jupiter Inlet Colony is a municipality on the
9 southern tip of Jupiter Island, 226 homes and a beach club.
10 The Jupiter Inlet, which is 300 feet from my house, is an
11 official reporting station for the National Weather Service,
12 and we were hit by three hurricanes, Frances first at 118 miles
13 an hour, Jeanne at 115 miles an hour, and we like to say Wilma
14 only at 107 miles an hour. We were without power after Frances
15 for eleven days, after Jeanne for seven days, and after Wilma
16 for seven days. And I would like to commend the hard work that
17 FPL put in to get us back.

18 We are not complaining about the service, but we are
19 operating with a 50-year-old pole-to-pole service, and it
20 requires a lot of care. We have 78 percent backyard easements.
21 When the guys from FPL come out to do something simple,
22 unhurricane-related like replace a transformer, the piece of
23 engineering to turn the pole into a crane to elevate the
24 transformer up onto that pole because no trucks can get
25 anywhere near the poles is truly remarkable. And those guys

1 are out there until 2:00 or 3:00 o'clock in the morning with
2 spotlights on doing a job which should take about one hour if
3 the pole was out on the street. It takes six, seven,
4 eight hours. So I commend FPL for all of their hard work in
5 getting us up those times.

6 I would like to say that it's obvious that
7 undergrounding is the state of the art. We are ready to move
8 forward right now. We will be unable to move forward if we
9 don't get the 25 percent credit that's before you this morning.
10 You, of course, have the opportunity at some future date to
11 provide more credit to us.

12 I would support the stipulation in its entirety. I
13 haven't been to any of these Commission hearings before, but I
14 would imagine that it's not often that 30 or 40 towns
15 representing millions of customers come in holding hands with
16 the utility and saying that the stipulation is a great idea.
17 We think we should move forward. We think we should move
18 forward now.

19 And just to reiterate a little of what Mayor Falcone
20 just touched on, the ability for the Jupiter Inlet Colony with
21 its 226 homes and its beach club to negotiate with FPL without
22 having some sort of leverage would be impossible for us, quite
23 frankly. And an order from you today granting the 25 percent
24 credit, which will allow us to move forward within the next
25 month or two would be very, very useful for us.

1 I would also like to say that without the credit now,
2 and the ability to not have to negotiate with FPL, it would be
3 time-consuming and, quite frankly, extremely costly and
4 probably prohibitive for us to move forward. The only reason
5 that we can do this is because of the credit and anticipated
6 future credits that we might get, which, of course, you would
7 evaluate and determine what they might be.

8 So I thank you for your time today, and I appreciate
9 the opportunity to speak with you.

10 CHAIRMAN EDGAR: Thank you, Commissioner.

11 Mr. Bradford.

12 MR. BRADFORD: Madam Chair, Commissioners, thank you
13 for the opportunity to speak to you this morning. My name is
14 Thomas Bradford, Deputy Town Manager, Town of Palm Beach. I'm
15 the lead staff person for the town for undergrounding.

16 Palm Beach was one of the first communities in
17 Florida that required undergrounding for all new construction.
18 It's been a leader in that area for many years from a municipal
19 perspective. However, having an ordinance to that effect
20 doesn't do much good for a town that was incorporated in 1911,
21 and it was built out almost 40 years ago from today.

22 The primary issue for us was always aesthetics. We
23 wanted to have a beautiful community. Most people do
24 understand the problems with the aesthetics with overhead
25 utilities. But we learned in 2004 and 2005 that reliability

1 should be the key issue. We had areas of our community that
2 were without power for three weeks or more in all of the
3 instances with Frances, Jeanne, and Wilma.

4 So undergrounding became a key issue in our
5 community, but we realized early on that we couldn't do it
6 alone, that we needed other people's help. And so I was
7 instructed to go about the business of seeking the other
8 municipalities in Florida to join together in a consortium.
9 And with the help of Schef Wright and others, we formed the
10 Municipal Underground Utilities Consortium. So the subject is
11 very important to us. We have been doing studies and cost
12 estimates for years. And after the hurricanes, of course, it
13 became a front-burner issue instead of a back-burner issue.

14 And we did a survey in the fall of 2006 of our
15 residents, and we had high turnout and participation, and
16 83 percent of the households in Palm Beach indicated that they
17 strongly supported undergrounding, strongly.

18 However, their concern was cost. Let me give you
19 some data to share with you. Fifty-five percent of our
20 residents said that they would support it if the cost fell
21 within a range of \$500 and \$1,000 per year for 30 years. The
22 Town of Palm Beach, to underground all of our utilities, just
23 so you will get an understanding of what we are talking about,
24 is \$77 million. We have 10,000 citizens, four square miles, 40
25 linear miles of utility grid. So we are not that big, but that

1 is still a big number.

2 When it is all said and done at today's interest
3 rates, it comes down to \$400 per \$1 million of taxable value
4 per year for 30 years is what we are talking about. The
5 average home in Palm Beach has a taxable value of \$3 million.
6 So without the credit, we are looking at a cost of about \$1,200
7 per year for 30 years for the average home. So the credit
8 means that we will get the cost within the range of 500 to
9 \$1,000 that the majority of the respondents to our survey said
10 they would support. So it is very important to us.

11 In regard to the details of the stipulated
12 agreement -- first of all, let me say the Town of Palm Beach
13 fully supports the stipulated agreement as executed by the
14 parties. We are very concerned about the concept of the
15 25 percent credit being a pilot program. It's just not
16 practical from our point of view to limit it to a pilot program
17 that really only has 18 more months of life left to it, meaning
18 October of 2008 is when this pilot program would be revisited.

19 Listen to some of what would have to occur between
20 now and October in order to make all of this happen. We have
21 to conduct a bond referendum, and whether to put the 25 percent
22 credit in the numbers that we put forth would be a giant
23 question mark. Number two, if the referendum is approved, we
24 have to design the entire city's underground plans. We have to
25 negotiate the underground savings with FPL for those savings

1 that are not related to storm restoration costs, as well as the
2 other utilities involved. We may have to have those savings
3 approved by you. We may have to negotiate the -- well, we
4 would have to negotiate the conversion agreements with FPL,
5 BellSouth, and the cable TV provider. And then we would have
6 to bid the construction project and then convert the entire
7 town in 18 months. It just isn't going to happen.

8 Now, we're thankful that they've proposed the idea of
9 grandfathering, which will be helpful, but ask yourself this
10 question: Is a community, and we are just a small community,
11 with a \$77 million tab, are they going to sign a contract to do
12 the entire town that takes ten years to convert with one
13 contract? No. The plan is to execute a series of contracts as
14 time goes by with each of the utilities. So if we do it the
15 way it's planned today, the grandfathering will really grant
16 you 1/10th of what we need to do over the next ten years, if we
17 get all of the other stuff completed.

18 So we support the stipulation as executed by the
19 parties, and we ask that you approve that so that we can take
20 back to our citizens a tariff that they can bank on and that we
21 can deliver the undergrounding that they have asked for.

22 Thank you for your time and your attention.

23 CHAIRMAN EDGAR: Thank you, Mr. Bradford.

24 Mr. Wright, is there another person with your
25 consortium who would like to address the Commission at this

1 time?

2 MR. WRIGHT: Yes, Madam Chairman, Mr. Peter Rant and
3 Mr. R.L. Willowby of Power Services, Incorporated are going to
4 address you briefly.

5 CHAIRMAN EDGAR: Thank you.

6 MR. WRIGHT: Thank you.

7 CHAIRMAN EDGAR: Mr. Rant or Mr. Willowby.

8 MR. WILLOWBY: My name is R. L. Willowby.

9 CHAIRMAN EDGAR: Okay.

10 MR. WILLOWBY: I'll go first. Thank you.

11 As you have heard today, we were retained by the MUUC
12 to provide an analysis of comparing insulation of underground
13 to hardened overhead costs and identify any potential benefits
14 and/or costs that would be incurred in the undergrounding
15 process.

16 Our analysis was a bottom up review. We had no
17 preconceived idea of what the end result would be. I would
18 like to state at this time, too, that a significant amount of
19 the information we needed was provided by FPL in some data
20 requests. And they were very timely and responsive in getting
21 that information to us, and that was very helpful in our end
22 result.

23 Our analysis, as you have already heard today,
24 supports the 25 percent GAF waiver tariff. In fact, the most
25 significant component of our analysis was storm restoration

1 cost savings. And as you have heard, again, our analysis shows
2 about 24 percent. Our analysis also identified other benefits
3 that you are not going to discuss today, but at a future time I
4 hope you will consider, such as reduced restoration costs for
5 nonmajor events, revenue losses for major and nonmajor events,
6 reduced O&M costs and acts of litigation awards.

7 Other issues that we looked at, too, were additional
8 expenses incurred by FP&L, such as underground cable locates
9 and revenue loss, such as pole attachment fees that they
10 wouldn't get if it was underground. The sum of those was an
11 additional 26 percent. I know we are not here to talk about it
12 today, but at a future time I hope those will be considered.

13 I will wrap it up by just saying I have had the
14 opportunity and pleasure of working in the electric
15 distribution, transmission and distribution business since
16 1967. And over that period, I have seen a lot of changes in
17 technology and attitudes about undergrounding. It's certainly
18 my experience operating and managing electric distribution
19 systems that these benefits that are before you today and in
20 future days down the road are quantifiable and justified that
21 you would consider these.

22 Thank you.

23 CHAIRMAN EDGAR: Thank you.

24 Mr. Rant, additional comments?

25 MR. RANT: Madam Chairman, Commissioners, thank you

1 for the opportunity to be here. I'm speaking on behalf of the
2 Municipal Underground Utilities Consortium and in support of
3 the provision that we're discussing.

4 Particularly, I would like to speak very briefly
5 about my experience with undergrounding with regard to storm
6 hazard mitigation with regard to barrier islands and coastal
7 areas, very similar to the areas that are considering
8 undergrounding throughout the FP&L service territory.

9 In 1996, North Carolina experienced a similar, I
10 guess, negative experience with regard to storms, with
11 Hurricanes Bertha and Fran. Subsequently, throughout the 1990s
12 with the increased hurricane frequency, as well as other
13 storms, reliability was impacted throughout a number of service
14 territories.

15 One electric cooperative, Brunswick EMC in North
16 Carolina, which has four -- which serves four barrier islands,
17 this is the extreme southeastern coast of North Carolina,
18 experienced a major impact in their area. To characterize this
19 area, the distribution lines were almost completely overhead.
20 They were rear lot line power lines, and they were, basically,
21 exactly similar to what we experienced throughout Florida.

22 Brunswick EMC undertook a program to mitigate against
23 the storms, and that program was funded by local government, by
24 Brunswick EMC, and then partially funded by FEMA. As an
25 electrical cooperative they were able to do that. The overall

1 experience that they had had was, number one, it took a
2 significant amount of time to get the project moving forward
3 from 1996 until 2001.

4 In 2001, they embarked on a three-year program to
5 underground the utilities, and I was the project manager for
6 that program. Over that period we converted about 88 miles of
7 power line, and with a lot of disruption and a lot of effort to
8 do that and significant expense. And there has been experience
9 since 2004 when that program was largely completed, which
10 supports the provision today.

11 Particularly, there were benefits that were not just
12 during major storms, but outside of major storms. Brunswick
13 EMC has experienced a reduced number and duration of outages
14 due to lightning, animals, and other contacts; virtually
15 eliminated problems with salt spray; transformer hardware
16 corrosion and short-circuiting due to salt accumulation; a
17 significant reduction in restoration times and costs; improved
18 restoration of overhead facilities elsewhere on the system
19 following storms due to reallocation of resources to inland
20 areas of the system; and elimination of nearly all of
21 right-of-way trimming and clearing costs in the areas converted
22 from overhead to underground. And, lastly, the elimination of
23 all clearance and maintenance problems that have been
24 associated with overhead rear lot line construction. These
25 lines were moved to the street frontage, which is what most

1 communities are considering here in Florida.

2 The issue of overall benefit to the general
3 population of ratepayers is significant from this experience.
4 In particular, a recent storm, Ernesto in 2006, came through
5 and was a direct strike at tropical storm strength to the
6 barrier islands that were affected, and the islands are Oak
7 Island, Holden Beach, Ocean Island, and Sunset Beach. That
8 impact in reliability was that the barrier islands experienced
9 no outages, and that the inland areas did experience
10 significant outages due to overhead construction. No crews
11 were dispatched to the barrier islands, and all the crews that
12 would have been dispatched, roughly half of the storm
13 restoration force that Brunswick EMC would have brought in had
14 they remained overhead was reallocated to the inland areas, and
15 those inland areas were restored substantially quicker.

16 We don't know exactly how long that would have been,
17 but it was estimated by the staff that that probably reduced
18 their storm restoration -- or cut their storm restoration time
19 possibly in half. Again, due to the nature of the
20 construction.

21 I guess from this experience my conclusion is that we
22 have a direct example that this type of undergrounding program
23 will be supported or will support the general population of
24 ratepayers in a very substantial way. And this supports the
25 stipulation completely.

1 I guess that concludes my remarks, and I appreciate
2 the opportunity to be here.

3 MR. WRIGHT: Madam Chair, if I could just wrap up
4 briefly.

5 CHAIRMAN EDGAR: Briefly?

6 MR. WRIGHT: Yes, ma'am.

7 CHAIRMAN EDGAR: Yes.

8 MR. WRIGHT: Thank you. I just want to emphasize
9 several points made by our folks.

10 As Mr. Rant and Mr. Willowby told you, we've got real
11 case experience that shows barrier island communities on the
12 Atlantic coast, significant reliability benefits from
13 undergrounding. As Mr. Bradford said, calling this a pilot
14 project sends the wrong signal, and we believe that you should
15 treat it like you treat any other tariff. This is a tariff
16 that, as Mr. Butler said, has been fully vetted. It has been
17 vetted by FPL's analysis. It has been confirmed by a bottom
18 up, different direction analysis performed by Power Services
19 that support, very strongly, within one percent of each other,
20 the 25 percent credit as proposed by FPL for the GAF waiver
21 itself.

22 We believe the proper course is to accept FPL's
23 proposal, approve the tariff, and accept FPL's proposal that it
24 will submit a report down the road. Whether it's two years
25 from now or three years from now, that is something that you

1 can talk about or you can certainly decide. Review the
2 project, review the report at the time you get it. If
3 something needs to be changed, fine. If it doesn't, fine.

4 This is ratemaking. At some point you will have
5 additional information just like you do with rate cases and
6 anything else. And if the rates need to be changed down the
7 road based on evidence available at the time, you can do it.

8 As I said at the outset, you have the opportunity to
9 take a giant step to encourage undergrounding. You have the
10 opportunity to throw a fair amount of uncertainty into the mix
11 and at least somewhat discourage undergrounding. And you have
12 the opportunity to just flat out put the kibosh on pretty much
13 everything that would get done before next year.

14 We join with FPL in supporting the stipulation and
15 all the towns and cities do, and we ask that you take that
16 giant step, encourage undergrounding. Let's get undergrounding
17 underway. It's a valuable proven tool for hardening the
18 system, for improving reliability. Please approve the
19 stipulation.

20 Thank you very much, and we are all available for
21 questions.

22 CHAIRMAN EDGAR: Thank you, Mr. Wright. And thank
23 you to each of you for your comments and presentations.

24 I think what I would like to do now is take a few
25 minutes break, quite frankly, and clear the cobwebs a little

1 bit and have a stretch, and we will come back at quarter after.
2 And, Commissioners, we will have the opportunity for questions
3 and discussion. So about a 15-minute break.

4 (Recess.)

5 CHAIRMAN EDGAR: Thank you for staying with us so
6 that we could have a short stretch, but we are going to get
7 started again. Questions and discussion. And I think we will
8 begin. Commissioner McMurrin, if you have questions.

9 COMMISSIONER McMURRIAN: Thank you, Chairman. I
10 guess I will start with one for Mr. Wright.

11 Mr. Wright, you said something about the final
12 approval of 25 percent, and I just wanted to make sure I was
13 clear. You are suggesting we finally approve 25 percent today,
14 but as I understood what we would do today, especially with the
15 closed docket issue, that there would be sort of a protest
16 period.

17 Am I unclear about what you are saying about the
18 final approval of 25 percent, because whatever we approve today
19 would be subject to a protest period, correct?

20 MR. WRIGHT: That is correct, yes. What we are
21 asking you for is a final order, or a tariff order approving
22 the 25 percent. It would be subject to the protest period,
23 that piece of it. Additionally, we are asking you, along with
24 FPL, pursuant to the stipulation to keep the docket open.

25 COMMISSIONER McMURRIAN: Okay. Thank you for that

1 clarification.

2 Mr. Falcone, something you said I didn't quite catch
3 fully and it was with respect to FPL will take the action of
4 the PSC, that they don't have to negotiate with us. Do you
5 remember talking about that? I just wasn't clear on which
6 action the PSC would take that would result in FPL --

7 MR. FALCONE: I was referring to the stipulation.
8 Because we labored long and hard, that is Mr. Wright primarily
9 with Mr. Butler worked and worked and had many meetings. And
10 I'm sure Mr. Butler had to go back to his staff at the company,
11 and this interaction took months, you know. The summer season
12 is in a couple of months, so that's the kind of time delay that
13 could result from rejecting the stipulation.

14 COMMISSIONER McMURRIAN: So you think if we don't
15 approve the stipulation in that issue that we would be sending
16 a signal that they don't have to negotiate, is that correct?

17 MR. FALCONE: You know, well, the way I looked at it
18 when I was wearing those shoes years and years ago, that if I'm
19 dealing with someone who really wants something quite different
20 from what the company wants, I hang tough if indeed there's no
21 evident threat. And I'm just saying what should be very
22 obvious to all of us, that the Commission is very important.
23 The role of the Commission and the existence of the docket is
24 important to our bringing closure and getting anything close to
25 what we think is just and reasonable for the towns.

1 COMMISSIONER McMURRIAN: Thank you. I have several
2 for staff, too. And I'm not sure who I direct this to. I
3 guess anyone can jump in as would be helpful. I asked a
4 question yesterday, we met on this issue, about the difference
5 in what we did when we related back, so to speak, with respect
6 to the suspension order to April of 2006, and the town's
7 request to relate back our ultimate decision about the value of
8 these projects and the calculation of the CIAC. And I just
9 wanted to ask you that again today so that we will all be on
10 the same page and be clear about what the difference in the
11 two, in your mind, is.

12 MS. GERVASI: Commissioner, in the suspension order
13 what the Commission did was it suspended the tariff that was
14 before you at that time, and it said that whatever the
15 Commission decides with respect to the docket, the tariff
16 filing docket, that discount, if a discount was ultimately
17 approved in this docket, would relate back to April 4th of last
18 year, which was the date of that agenda conference. The tariff
19 that was before you at that time was a request for FPL to
20 invest 25 percent of the cost of local government sponsored
21 conversion projects, and they requested that that investment be
22 recognized as new plant-in-service. So 20 percent was the
23 ceiling.

24 The Commission said whatever we decide in this
25 docket, that percentage will relate back. In my mind what that

1 means is if the Commission denied the tariff, the percentage
2 would be zero and the ceiling would be 25 percent because that
3 is what the tariff request was, and anything in between that,
4 between zero and 25 percent depending on what the Commission
5 decided. Then the company filed an amended tariff after the
6 suspension order, again requesting a 25 percent reduction in
7 the CIAC, but they specified that it was with respect to storm
8 restoration cost savings only.

9 What I think the cities are asking for is that the
10 Commission also recognize that some greater percentage or
11 another percentage to represent a CIAC discount for other
12 savings, operational costs savings should also relate back to
13 the April 4th, 2006 date. Any of those types of savings are
14 not before you today and are not in the docket.

15 My guess is that when FPL decides that they can
16 quantify what those savings are they will come in and make
17 another tariff filing. That will be for another day and
18 another docket.

19 COMMISSIONER McMURRIAN: To follow up on that, are
20 there particular policy implications or special hardships, I
21 guess, relating back in the manner that they are proposing
22 would cause, or -- I'm trying to get at what is the difficulty
23 with the relating-back proposal?

24 MS. GERVASI: I think the theory is that it would be
25 easier to apply a specific percentage for each project rather

1 than having to specifically calculate on a case-by-case basis
2 what that savings is. So I believe it is a measure intended to
3 streamline the calculation. But they can still negotiate on a
4 case-by-case basis what that cost savings should be between now
5 and whenever there is a formula percentage that might be
6 approved at some later date.

7 COMMISSIONER McMURRIAN: Actually, that was one of my
8 questions about the negotiations, and it sort of leads to what
9 impact of approving your recommendation not to allow this
10 relating back will there be on these contracts that are already
11 signed and underway?

12 MS. GERVASI: With respect to the nonstorm
13 restoration cost savings piece, is that your --

14 COMMISSIONER McMURRIAN: I guess I'm asking broader
15 than that. I guess I just want to understand what harm will be
16 placed on the towns that already have contracts underway if we
17 don't approve some kind of relating-back mechanism as they have
18 proposed. I see that Mr. Cooke wants to jump in, as well.

19 MR. COOKE: I think maybe what you're asking is what
20 impact would this nonrelating back that the companies -- if we
21 were not to approve the relating back that the companies are
22 asking for have on contracts that are already signed, or that
23 are signed during the time period whenever it is that this may
24 be in effect. And those contracts still would be subject to
25 the 25 percent if that's what's approved. In other words, a

1 contract signed during the pendency of the tariff would get
2 whatever benefits or obligations go along with that tariff. I
3 think that's the question you are asking us.

4 COMMISSIONER McMURRIAN: It is. I'm just trying to
5 think of what the next question would be after that. And, of
6 course, I want to allow the parties to address these issues,
7 too, after we get through them. I think that maybe -- Mr.
8 Bradford was talking about the things that would have to be
9 done in this time period, and I think this relates to the
10 relating-back proposal. And there was a long list, and I took
11 notes, but it sounded like that there was a belief that they
12 would have to get everything done in an 18-month period in
13 order to take advantage of the proposal on the table. Would
14 someone like to respond to that? And, of course, we'll hear
15 from Mr. Bradford, as well, to further clarify that.

16 MR. COOKE: I will take a stab at it, and ask staff
17 with greater expertise to chime in if I say something off the
18 mark. But if the contract is signed and, for example, there is
19 a multi-phase contract, those would still have the benefit. It
20 doesn't have to -- in other words, I don't believe there has to
21 be a completion of the implementation of the project within
22 that time period.

23 COMMISSIONER McMURRIAN: Chairman, that was all the
24 questions, I think, with respect to the relating back, if it's
25 appropriate for the other parties that want to address those

1 questions I raised.

2 CHAIRMAN EDGAR: Certainly. Mr. Wright or Mr.
3 Bradford.

4 MR. WRIGHT: Madam Chairman, just very briefly to
5 respond to the question Commissioner McMurrian posed to the
6 staff. I will tell you in preparing for today I tried to find
7 a transcript from last year, and there does not seem to be one,
8 at least not in the docket file from the agenda discussion on
9 April 4th last year.

10 I know that we came to you last year. I sat right
11 here, and our petitions said we believe additional credits
12 above the 25 percent are warranted and justified, and we asked
13 you in our petitions to intervene in this docket to please have
14 the appropriate hearing to address those issues.

15 I don't recall any discussion of a ceiling from last
16 year. I do recall discussion that it could possibly be less
17 than the 25 percent. I believe that there was a discussion to
18 the effect that it could possibly be more than 25 percent,
19 based on our representations that additional benefits are
20 warranted.

21 In any event, I don't think you are limited in any
22 way to 25 percent as a ceiling based on the record you had
23 before you last year, the record of pleadings that you had
24 before you last year in which we said we believe additional
25 credits are warranted. You recognized that in your order and

1 you said any later approved discount would apply.

2 More importantly, you know, again, and I have said
3 this before, I will be very brief, but I think what we all want
4 is the right substantive result. And the right substantive
5 result, I submit to you, is what is contemplated by your rules,
6 and that is we would get credit for the 25 -- for whatever you
7 approve as differential storm restoration costs, and you have
8 two studies and analyses on the table that show that that
9 number should be about 25 percent, plus any other differences
10 in operational costs.

11 Now we may have some differences of opinion with FPL,
12 we may not. I'm hopeful that we can agree on what the
13 appropriate components are, and I'm hopeful that we can come
14 pretty close on what the numeric values are such that down the
15 road we will come back to you, in my most preferred of all
16 worlds, with another stipulation that says the ultimate credit
17 should be X, and present you another stipulation and that will
18 be fine. If not, perhaps we will have a hearing on specific
19 things.

20 But the right substantive result is that contemplated
21 by your rules. And I think there is no harm to anybody from
22 preserving the relation back so that communities that go
23 forward now get the full credit as contemplated by your rules.
24 And that's all we're asking for you to do. And, again, these
25 are numbers that you will have ultimate approval authority one

1 way or the other. And in my best of all possible worlds, it's
2 a stipulation in which we come before you and say the total
3 number is 50.56 percent, or 44.22 percent, or whatever it is,
4 and you can say yea or nay on that. Or if we wind up having a
5 difference of opinion with FPL, we will have a hearing on what
6 those numbers should be and you will make the ultimate
7 determination as to what the other credits should be for
8 revenue preservation, damage awards, vehicular damage costs,
9 vegetation management, and things like that.

10 But, regardless, you will have the ultimate say
11 pursuant to your rules, and that's all we are asking for is
12 that those values be reflected in the credits for jobs that go
13 forward in the meantime. And, you know, as Mayor Falcone and
14 Commissioner Comerford said, you know, the staff's proffered
15 remedy is -- I mean, it's workable, but it's not optimal. And
16 I think FPL will agree with this, and that is we can go
17 negotiate individually with FPL for all of those different
18 credits. We are entitled to those credits under the rule as it
19 stands today and, yes, we can do that.

20 However, the point of the 25 percent for storm
21 restoration costs is that it's an appropriate
22 analytically-based value that can be used as a shortcut for
23 municipal town-wide or at least large contiguous area projects,
24 and we would look forward to hopefully having the same kind of
25 percentage available as a shortcut, easy-to-implement measure

1 rather than us having to go negotiate on a town-specific basis
2 with FPL. Thank you.

3 COMMISSIONER McMURRIAN: I want to jump in with a
4 question.

5 Mr. Wright, what happens if we go forward and do that
6 type of analysis that you are talking about, we actually end up
7 believing that the number should be lower than 25 percent, and
8 we have set in place some relation back. I mean, what happens
9 then?

10 MR. WRIGHT: In what I would consider to be the
11 unlikely event that that would occur, you know, we have got two
12 studies that indicate that that's probably not going to be the
13 case. But in the event that that would occur, communities that
14 had signed their agreements in the meantime would be entitled
15 to the 25 percent. Those going forward thereafter would not.
16 They would be entitled to whatever else would happen.

17 And just harking back to the point Mr. Trapp made and
18 that I think Mr. Butler addressed, as well, you know, it does
19 depend on what the future storm experience is. But as Mr.
20 Butler pointed out, it will cut both ways. If storms are, as
21 the vast majority of meteorological opinion seems to believe
22 today, going to be more severe and more frequent with more
23 strikes, the benefits could be a whole lot bigger than
24 25 percent. In fact, the high end of FPL's range in their
25 analysis was 41 percent. You know, that could turn out to the

1 number. It could turn out to be 60 percent depending on actual
2 strike experience. It could turn out to 14. But I think the
3 answer to your question is those who sign in the meantime, if
4 you approve the 25 percent, will get 25 percent.

5 COMMISSIONER McMURRIAN: Mr. Wright, I don't mean to
6 be thick if I'm missing something here, but I guess it doesn't
7 seem to me that that really cuts both ways. I guess it seems
8 to me that what you're saying is if we went beyond 25 percent
9 to a number greater than 25 percent that that would relate
10 back, and the towns would be able to get that percentage, or
11 they would get 25 percent in either situation, whether the
12 number gets higher or --

13 MR. WRIGHT: I don't mean to be thick, either,
14 Commissioner McMurrian, and I apologize if I wasn't clear. If
15 you approve the 25 percent by itself, that's what it would be
16 for the time being that that was in effect. The cut both ways
17 point I was making is that the actual benefits will depend on
18 what the actual storm experience is. It could be less than 25
19 percent, it could be significantly greater than 25 percent
20 depending on that.

21 The other issue that I have been trying to address is
22 that what we would like, and what I believe is the
23 substantively correct result consistent with your rule that
24 says the CIAC shall contain, shall incorporate the estimated
25 difference in storm restoration costs and the estimated

1 difference in other operational costs. And what we're asking
2 for is that you preserve the rights, our rights through the
3 relation-back provision to get whatever additional credit you
4 ultimately determine and sign off on as appropriate.

5 If that number is 19 percent, then that what is it
6 is. If it is 7 percent, that is what it is. If it is
7 25.56 percent, that is what it is. And if you should, you
8 know, I don't think it is likely, but if you should determine
9 that it is negative, then that would show up as a negative in
10 the calculations on a going-forward basis after whatever
11 proceeding was held at that point.

12 MR. BUTLER: Madam Chairman.

13 CHAIRMAN EDGAR: Mr. Butler.

14 MR. BUTLER: May I interject on this point and
15 attempt to add clarity. We will see if I succeed, but I think
16 there is some risk in discussing this concept of the discounts
17 and the relation back of mixing up two different components
18 here. You know, what our tariff addresses is a fixed number
19 for storm restoration cost differential. That's the
20 25 percent, and as Mr. Wright indicated, we are asking you to
21 approve that, and until you change that, that piece wouldn't go
22 up or down. It would be 25 percent for any municipalities that
23 chose to use the GAF tariff.

24 What I think the relation-back concept is mostly at
25 issue with respect to are the other elements of the CIAC

1 calculation that basically are the operational cost
2 differential, and there is another issue we really haven't been
3 talking that much about, but there is a calculation of the
4 difference between the underground costs and the costs of the
5 assumed overhead facilities, the hypothetical overhead
6 facilities that would have been built otherwise. And that's
7 kind of in play, because that's likely to be more expensive
8 than it used to be, thanks to the plans to harden the overhead
9 facilities.

10 So those elements have not yet been determined, and
11 what our stipulation addresses is the idea of having, you know,
12 people who are signing up for the 25 percent storm restoration
13 cost GAF waiver amount being in a position where whatever you
14 ultimately determine is the right number for this operational
15 cost differential and for the calculation of the hypothetical
16 overhead cost that plugs into the CIAC calculation, that that
17 would apply to them for whatever they ultimately pay to us as
18 the CIAC.

19 And so I don't think there is really an issue of the
20 25 percent changing for what it represents over the whatever
21 time period you approve it for, but there is this question of
22 what, if anything, is going to get reflected for the
23 operational cost differential and the impact of the
24 hypothetical overhead system cost.

25 COMMISSIONER McMURRIAN: That helps. I didn't know

1 if there were other responses to some of the points I brought
2 up earlier. I didn't know if Mr. Bradford wanted to address
3 the question I raised about his comment or not.

4 MR. BRADFORD: Yes, ma'am, I will. In the words of
5 FPL when we began negotiating our conversion agreement, this
6 has never been done before on such a large scale. And so what
7 we anticipate is that we are going to learn along the way. So
8 while it may be true that if the grandfathering provision is
9 approved today, that all one needs to do is sign a contract in
10 order to get the 25 percent, what I was trying to relay to you
11 was that that's not the game plan.

12 The game plan is to sign a series of contracts over
13 time so that what we learn in one phase we can incorporate into
14 the next contract. And as the knowledge grows we come up with
15 a better contract along the way. So we envisioned, in our
16 case, signing up to ten conversion agreements with FPL. So on
17 its face, we may only have one agreement that is signed between
18 now and October of 2008 with 9/10ths of our system still not
19 converted is the practical problem that I was trying to
20 describe.

21 COMMISSIONER McMURRIAN: Can I go back to staff now.
22 I guess I remain confused about that, because I was under the
23 impression if the contract starting the overall project began
24 in this time period that the 25 percent would apply no matter
25 if there were ten total contracts or not, but I think we

1 need --

2 MR. BUTLER: Commissioner McMurrrian, if I could
3 interject, that is FPL's expectation. Our view of it would be
4 that we would sign a contract. And if it was signed within the
5 window that subsequent phases would probably be addenda that
6 just added the details about those particular phases
7 subsequently. But our intent would be that we would apply the
8 contract on the terms that were applicable when it was first
9 entered into to all of the phases that would constitute the
10 full project in question.

11 COMMISSIONER McMURRIAN: Thank you.

12 CHAIRMAN EDGAR: Mr. Cooke, did you have additional?

13 MR. COOKE: I guess I just wanted -- the clearest way
14 to look at it is a contract that is signed during the pendency
15 of that tariff would be eligible for the benefits of that
16 tariff, and you can get into different ways to structure a
17 contract, which Mr. Butler was just referring to. I do think
18 if there were additional contracts signed after 2008, if that's
19 the date that is used, then those would be subject to whatever
20 tariff applies at that time.

21 So, in other words, you can have a contract that has
22 multiphases in it, or you may be able to have modifications of
23 the contract that's signed before that time.

24 COMMISSIONER McMURRIAN: So if Mr. Butler designed a
25 contract such that it could be reopened under that same kind of

1 provision to allow for the 25 percent, then the 25 percent
2 would apply no matter if later contracts were signed outside
3 that 2008 period?

4 MR. COOKE: I think so. I think it depends on what
5 the definition of a contract is. And because of these
6 uncertainties, that's why we are struggling with this
7 relation-back issue. And that's why staff is so concerned
8 about what it is we are really agreeing to, what it opens up
9 for the future, and making sure that we are not back here at
10 some point having this same discussion based on things that
11 people understood that a discount either did or didn't apply,
12 et cetera. But I think what Mr. Butler described would be
13 subject to the tariff in effect before 2008, if that's the date
14 that is chosen.

15 CHAIRMAN EDGAR: On a slightly different but related
16 point, if the tariff were to be approved today as recommended
17 by staff, and for the time period that's included in the
18 primary staff recommendation, what would be the process for
19 that after that 18 months, or prior to that 18 months to get us
20 to whatever the next step would be? I presume that if, indeed,
21 there was a desire to further it beyond that point, that FPL
22 would need to submit a petition for an extension, or a renewal,
23 or a slightly different tariff, but what would be the steps
24 that would get us to that point? What would be coming before
25 the Commission for further consideration and evaluation at what

1 points?

2 MS. GERVASI: At that point, Commissioner, we would
3 expect a filing from FPL, and it's hard to say what would be
4 contained in it at this point. But we would expect that they
5 would be able to analyze the actual savings that had been
6 realized up until that point to either further substantiate the
7 25 percent or to ask for some other amount and then we would
8 take it from there.

9 CHAIRMAN EDGAR: Mr. Butler.

10 MR. BUTLER: If it's structured as staff is
11 suggesting as a pilot project, I think that is right, that is
12 what we would end up doing. We would file a petition sometime
13 in advance of the anticipated termination of the pilot project
14 saying keep it the same or change it, however we had found
15 based on the information in the interim it would be changed.

16 Now, obviously what we had originally conceived was
17 that it wouldn't it be that formal a stop point. That we would
18 be submitting a report that you would end up evaluating and
19 deciding whether you wanted to tell us to do something
20 differently with it or not. And that's another way that one
21 could get to a similar result, but if the primary staff
22 recommendation is approved, I think what Ms. Gervasi just
23 described is exactly what would happen.

24 CHAIRMAN EDGAR: I guess in my reading of it, it
25 seems that that is built in as a protection to the general body

1 of ratepayers realizing -- and Mr. Wright I am hopeful that you
2 are correct that there are significant savings if, indeed, we
3 are to go forward with this. But realizing that we are looking
4 at many unknowns, and none of us have that crystal ball, and as
5 Mr. Butler has pointed out, many of the differentials are
6 on-goingly needing to be adjusted as other requirements and
7 realities and information is built in.

8 Commissioner Carter, did you have some questions?

9 COMMISSIONER CARTER: Yes, Madam Chairman. I wanted
10 to ask staff my first question. I thought I had it framed
11 until the responses that Commissioner McMurrian got to hers.
12 Let me give it a shot anyway. The basis for the two and a half
13 years for the pilot program is to see where we are at a
14 specific point in time in terms of how this process works, is
15 that not correct? Was that the reason why we selected that
16 time?

17 MS. GERVASI: Yes, sir.

18 COMMISSIONER CARTER: Madam Chairman.

19 And in the process of this time, because there are
20 some unknown variables there, and because there are programs
21 that may or may not be engaged into by FPL and other
22 municipalities, it gives us an opportunity to look at this and
23 see what implication it may have going further with the tariffs
24 and things of that nature, is that correct?

25 MS. GERVASI: Yes.

1 COMMISSIONER CARTER: Madam Chairman.

2 And the concept of the pilot program also would be to
3 signal to other municipalities that because it is a pilot
4 program does not preclude them from going through -- the two
5 and a half years does not impact on them, it is really whenever
6 they engage in the program. Is that the way you read it?

7 For example -- Madam Chairman.

8 For an example, the municipalities that are
9 represented here today, were they to engage in this program
10 with FPL, we are looking at it from a two and a half year time
11 frame, but let's say, hypothetically, there is another group of
12 municipalities out there that decide we want to engage in that,
13 and let's say they do that maybe a year or so down the road.
14 Would that give them a two-and-a-half-year window? Do you
15 understand the question I'm asking you?

16 MS. GERVASI: I think so. If they enter into a
17 contract during that two-and-a-half-year period then they would
18 be able to avail themselves of that 25 percent discount, if
19 that's what is approved.

20 MR. COOKE: Commissioner, it wouldn't be a rolling
21 two-and-a-half-year period for other persons.

22 COMMISSIONER CARTER: That's what I'm asking.

23 MR. COOKE: It would be two-and-a-half years from
24 this date, anybody who wants to take advantage of it that
25 qualified. Actually it is a year and a half from this date,

1 two and a half from --

2 CHAIRMAN EDGAR: From April '06.

3 MR. COOKE: But whoever wanted to take advantage of
4 it would have to do it during that window of time. It wouldn't
5 roll for new participants.

6 COMMISSIONER CARTER: Okay, thank you. Madam
7 Chairman, I thought I was through with this line, but I do want
8 to ask one other question, maybe from Mr. Butler. Other than
9 this group of municipalities that have signed up for the
10 program, what is your anticipation, or do you have any
11 currently? And if it is proprietary, I don't really want to
12 know, but are in the process of negotiation to participate in
13 this program?

14 MR. BUTLER: Well, I think the number is close to 60,
15 isn't it, Tom, of municipalities that we have had pretty active
16 negotiations, at least gotten to the point of having sort of
17 preliminary estimates of cost for the work. It's a substantial
18 number of people interested in participating, applicants
19 interested in participating.

20 COMMISSIONER CARTER: You heard my question from our
21 general counsel about this two-and-a-half year, and he
22 straightened me that it is not a rolling two-and-a-half years,
23 it is a finite amount of time. I guess if you back -- well, I
24 don't say backdating, that's bad, say backtracking or retrace
25 it, or what is a good politically correct term to use?

1 MR. BUTLER: Relate back.

2 COMMISSIONER CARTER: Relate back to the April date
3 of '06, which encompasses the entire two-and-a-half year time
4 frame. Does that, in your opinion, Mr. Butler, give FPL ample
5 amount of time to sign up those entities, particular
6 municipalities that will be interested in participating in the
7 program?

8 MR. BUTLER: I would have to say I actually would
9 like Mr. Coke to speak to this, as well, from an operational
10 perspective. I'm suspecting it is a little tight. I mean,
11 obviously one of the things that has happened is that things
12 have been kind of on hold through this year since the
13 April 2006 Agenda Conference, because nobody has known exactly
14 what was going to get approved, and that is one of the points
15 we were making earlier in our presentation, and so some of that
16 two-and-a-half years has kind of gone by the wayside.

17 I think we can live with it. We certainly don't want
18 the time period to stand in the way of your approval of our
19 program on a pilot basis, if that's what you think is
20 appropriate. And the additional benefit of the, you know, sort
21 of October 2008 end point is that it's a time after which this
22 PURC, the PURC study is going to have been completed and
23 perhaps that is going to provide some additional information.

24 So there are good reasons for the October 2008 end
25 point. It is for the reasons expressed by some of the cities a

1 little tight. I mean, it's going to probably cause a little
2 bit of difficulties for some entities to pull everything
3 together in time to enter into the contracts.

4 And, Tom, you have anything that you would like to
5 add to that?

6 MR. COKE: You have pretty much covered it.

7 MR. BUTLER: Okay.

8 CHAIRMAN EDGAR: Just to note that it is intended to
9 be an incentive, is it not?

10 MR. BUTLER: It is. And, obviously I suppose one
11 could see the short period as being even more of an incentive
12 to act quickly, but we obviously just want to be sure that it
13 is not so short that it is impossible for people to go through
14 all of the steps that they need to get in place before they
15 would be prepared to sign the contract.

16 CHAIRMAN EDGAR: And if this tariff were to be
17 approved as we have discussed or considered, and it is intended
18 to be an incentive, and part of that incentive is that it is,
19 as I think Mr. Wright described, a short cut, there also,
20 though, is the rule that is in place now which is related, but
21 a different process to address some of these same issues, is
22 that correct?

23 MR. BUTLER: There is, absolutely, yes. And so, if a
24 project didn't qualify for the GAF because just hypothetically
25 they weren't able to get all of the steps in place by October

1 2008, and the GAF tariff weren't continued past that, then the
2 CIAC would be calculated under the rule which will include an
3 element for storm restoration costs. But our expectation is
4 that this 25 percent element that we have brought to you for
5 approval in the GAF is going to be larger than what we would
6 see in the ordinary rule implementation because we have focused
7 it on these large contiguous projects that have these special
8 benefits to us.

9 And if we reach some point where for some reason the
10 tariff weren't available, but the concept still made sense, I
11 suppose we would be into case-by-case type negotiations. But,
12 as Mr. Wright said, and we wholeheartedly agree, that's what we
13 would like to avoid. I mean, the bottom line is, my sense is
14 that if this is something that still made sense in
15 October 2008, we would be strongly recommending that you
16 approve continuation of it thereafter.

17 CHAIRMAN EDGAR: And at that point, we are hopeful
18 that perhaps there would be additional information such that
19 some of the questions raised in the alternative staff
20 recommendation would have possibly more data, more answers, or
21 more information to address them.

22 MR. BUTLER: We are hopeful for more analysis. We
23 are hopeful there is no more raw data.

24 CHAIRMAN EDGAR: Understood. I could agree with
25 that.

1 MR. WRIGHT: Madam Chairman.

2 CHAIRMAN EDGAR: Mr. Wright.

3 MR. WRIGHT: Commissioner Find has some additional
4 direct experiential light to shed on the question to the
5 tightness of the time frame.

6 CHAIRMAN EDGAR: Okay, certainly. Commissioner Find.

7 COMMISSIONER FIND: Thank you. Again, personal
8 experience. We are a small town, we have a small staff. And
9 one of the stumbling blocks to getting the contract actually
10 signed was obtaining the easements that were necessary.
11 Chasing the people down, talking to them. We had one that was
12 unavailable for three months. They were incommunicado in
13 Canada or wherever it was. Another one died. And a final one,
14 when finally they had agreed for months that they would have
15 signed, when it finally came time for them to sign, they said
16 no. And that meant we had to go back and redraw the plans and
17 move all of the engineering necessary.

18 I think that just my observation on my own city's
19 personal experience is it took a lot of longer than the time
20 that we have left from now until October just to get ready to
21 actually sign the contracts, because the easements were a major
22 stumbling block. Every time that somebody backed out or we
23 couldn't obtain it, that meant the plans had to go back and be
24 redrawn because the property wasn't available to us.

25 CHAIRMAN EDGAR: Commissioner Carter.

1 COMMISSIONER CARTER: Thank you, Madam Chair. That
2 concluded that line of questioning.

3 CHAIRMAN EDGAR: Do you have others?

4 COMMISSIONER CARTER: Yes, ma'am. Just briefly for
5 staff.

6 I read your perspective on the stipulation, but just
7 kind of walk me through. I think you said there were two
8 issues in there, it was bifurcation and the relating back.
9 Could you kind of help me understand that, please, in terms of
10 why we shouldn't deal with the stipulation, or why we should
11 not approve the stipulation.

12 MS. GERVASI: Certainly. Those are the two
13 provisions that caused us the concern, bifurcation and relation
14 back. What the parties are requesting is bifurcation of the
15 storm restoration cost savings tariff, which is the GAF
16 25 percent tariff that's before you today, from the nonstorm
17 restoration cost operational savings that will be realized by
18 undergrounding as well as the overhead, hypothetical overhead
19 costs. Those costs are not before you today.

20 What the towns and the company are agreeing to is to
21 have them come back at a later time in this docket to propose a
22 uniform percentage that those costs savings would amount to and
23 have you decide or approve a percentage for those savings. And
24 then by way of bifurcating that issue in the same docket, then
25 that percentage could also relate back based on the

1 Commission's decision to suspend this tariff, which says
2 whatever the Commission decides in this docket will relate back
3 to that last year's date.

4 So it is a way of them to preserve a future decision
5 and having that relate back to a previous date. And our
6 concern with that is that that is all very speculative at this
7 point, very uncertain. There are no calculations on the table
8 at all about any kind of CIAC cost savings that will occur as a
9 result of nonstorm restoration costs.

10 COMMISSIONER CARTER: Just a follow up, Madam
11 Chairman. And based upon your recommendation in terms of your
12 primary staff recommendation, nothing that we do if we were to
13 approve that would preclude any of the parties to come back if
14 there were some concerns or some issues that are outside the
15 confines of this docket and open another docket for that
16 specific purpose, would it?

17 MS. GERVASI: No, that's correct.

18 COMMISSIONER CARTER: Thank you, Madam Chair.

19 CHAIRMAN EDGAR: Commissioner McMurrrian.

20 COMMISSIONER McMURRIAN: I have one more. It's along
21 the same lines that Commissioner Carter's questions were going.
22 In fact, in the discussion earlier about the two-and-a-half
23 year period and whether it would be adequate, and the Chairman
24 talked about how it serves as an incentive, and also we talked
25 about how the purpose was to gather more information. We

1 talked about the PURC study, and maybe we didn't mention, but
2 also it gives us time to get the information from the storm
3 hardening plans. And my question goes to the ability to get
4 more information in this time period. And, of course, that
5 would give us more comfort when this question is raised again
6 perhaps two-and-a-half years later.

7 A lot of the assertions in the alternative rec were
8 about the lack of information to base this kind of a decision
9 on, and I just wanted to ask FPL is there a way to perhaps put
10 more meat on the bone in that two-and-a-half year period
11 without additional raw data. Can we perhaps use more of the
12 2004 and 2005 data to get more information about what happened
13 during that time period in areas that had undergrounding versus
14 overhead and that sort of thing?

15 MR. BUTLER: I think there is. I mean, I think one
16 thing, that is a purpose that the PURC study that is
17 anticipated by the October 2008 review point will be helping to
18 generate, and we will be looking at it ourselves. I mean,
19 obviously, we will understand if you approve it on the basis
20 that you are that with additional raw data or not, one of the
21 things we are going to be needing to do is trying to figure out
22 a more comprehensive way of looking at the storm restoration
23 costs, and, you know, refining the analysis with whatever means
24 are available to us. So, yes, we would certainly be moving in
25 that direction and hopefully using what PURC is doing to help

1 us do so.

2 MR. FALCONE: Madam Chair.

3 CHAIRMAN EDGAR: Mayor.

4 MR. FALCONE: May I make a point? In regard to the
5 so-called hardened overhead costs, you know, the CIAC
6 calculation has always had the cost of overhead in today's
7 cost. That's one of the credits, in effect, when you do an
8 underground conversion. But we stand today not knowing what
9 FPL's hardened overhead cost will be, yet we know that is going
10 to be a number, and it's just we don't know it yet. I always
11 understood that that is part of the bifurcation argument. That
12 is a credit.

13 Well, you could use today's overhead cost, but that
14 probably understates the credit because hardened overhead
15 should cost more we assume than traditional overhead. Yet, if
16 we were to go forward now without approval of the bifurcation
17 and relation back, we would -- if we went forward now we would
18 get credit for simply the traditional overhead, not the
19 hardened overhead. That doesn't seem right. We are building a
20 system that will last 30 or more years. It's in the period,
21 and it is just a matter of months, I suppose, before FPL files
22 and you will approve. Clearly, we have an incentive to wait,
23 and that is just what I thought the Commission back in April of
24 '06 wanted to avoid, that is the need to avoid having towns
25 hesitating to go forward because of the uncertainty.

1 CHAIRMAN EDGAR: Thank you, Mayor.

2 Mr. Wright, did you have -- yes, no?

3 MR. WRIGHT: Well, I do want to make the point that
4 on November 13th in this docket we filed this study, which does
5 contain extensive estimates of other benefits attributable to
6 undergrounding, so we don't agree with the staff's rather
7 categorical statement that there are no estimates of what the
8 other benefits are. We have done the study, we believe -- our
9 engineers did the study, they believe it is methodologically
10 sound. There may be differences of opinion about what the
11 numbers are and whether this component should be in or out, but
12 you do have some information there. And, again, all we are
13 trying to do is really get to the substantively right result
14 which is calculate the CIACs correctly. We would rather do it,
15 as Mr. Butler and I continue to agree, in the most
16 administratively easy and efficient way possible using a
17 shortcut number that you all will have final say so over
18 somewhere down the road as opposed to putting us in the posture
19 of having to negotiate on a town-specific basis or a
20 city-specific basis with FPL in the meantime. Thank you.

21 MR. COMERFORD: Madam Chairman, if I could just make
22 a point. I was jumping up to the seat to make the exact point
23 that Mr. Wright just made. To make a statement like that there
24 isn't enough information at this point I think is inaccurate to
25 be generous. FPL's original number when they came in here was

1 somewhere between 20 and 41 percent. They came back and
2 amended their proposal to say that the number was 25 percent,
3 but it only related to storm restoration costs. We did a
4 completely different study, albeit based upon information that
5 we received from FPL, and we came up with 24 percent for storm
6 restoration only. I think that that is probably the number,
7 which is why I used the expression before coming in here as a
8 consumer group and holding hands with the utility.

9 I think that there is plenty of information,
10 scientific supported information. I think the point that we
11 made about bifurcating the order is that we would like to come
12 back here at some other point in time, hopefully not with lots
13 of testimony and lots of controversy, but with a stipulation
14 from FPL that says that -- they are saying right now that the
15 rest of the percentage is probably somewhere around 15 percent
16 given that they originally said it was about 40. We think it
17 is 50.54 percent. We think that it's about another 25 percent.

18 We think we could probably arrive at another
19 stipulation where we would come in here, again holding hands
20 and saying, look, we think it is 18 percent, and this is why we
21 think it is 18 percent. We think it is 3 percent for tree
22 trimming, we think it is 4 percent for litigation, we think it
23 is 5 percent for maintenance and operation, and it would be up
24 to you to either approve that or not approve it, or have staff
25 come up with some other information where they actually went

1 out and gathered real data and said, well, no, we don't agree
2 that it is 18 percent. We don't agree with that stipulation.
3 We think it is 11 percent. And then maybe you would say, well,
4 we will split the difference and we will make it 14 percent.
5 But right now I don't see that staff has given you information
6 based on real numbers. It is just a feeling that, well, maybe
7 we don't want to keep the docket open. Maybe we want to go to
8 a full hearing later on. Maybe we want to do something else.

9 I'm thinking that, you know, we have provided you
10 from two different sources information which we think is
11 adequate for you to make a decision today to make it 25 percent
12 and preserve our right to negotiate with FPL collectively, not
13 individually. To come back with a number somewhere down the
14 line which you would ultimately have the decision to decide on.
15 Thank you.

16 CHAIRMAN EDGAR: Thank you, Commissioner. And to my
17 colleague, Commissioners, just a few kind of random thoughts
18 and then we can see together where we are.

19 Just speaking, of course, for myself, the desire, to
20 as I said earlier, to incentivize and provide incentives is
21 strong with me. For streamlining and for efficiency we have
22 talked, this Commission, over the last two years about doing
23 what we can to contribute to a culture of preparedness, and so
24 to continue along those lines by streamlining and providing
25 efficiencies, to also support local governments who are trying

1 to take the initiative to move forward within their own
2 communities is something that I also certainly want to support
3 and to signal. I also recognize that this Commission has had
4 in the past a longstanding policy of encouraging stipulations,
5 and so I applaud that effort now and in the future, as well.

6 But in addition to that, I also recognize that we do
7 have a responsibility to protect the general body of
8 ratepayers, and it does to me seem that even with the studies
9 that have been done that there are still some important
10 questions and unknowns there. And I don't want to further --
11 what is the phrase, paralysis by analysis, analysis by
12 paralysis, whatever. You know, I mean, we can overanalyze and
13 overanalyze, and we know that as one Commissioner, as a
14 Commission, and as a state and local governments that we are
15 all working to move forward and take positive steps.

16 But yet I do recognize that there are other
17 long-established older communities within this state, many more
18 inland, that are, quite frankly, differently situated
19 economically and we have a responsibility to those ratepayers,
20 as well. And so when I'm trying to balance those things from
21 what we have heard and what we have read, to me it does seem
22 that where the staff primary recommendation is is kind of a
23 balancing. I'm open to discussion here, but I'm trying to
24 balance that incentivizing, supporting initiatives, moving
25 forward, not being hamstrung by incomplete information, but yet

1 recognizing that there are some unknowns and there are
2 communities that are differently situated. Whether the
3 two-and-a-half years is the right number, there is no magic
4 time period.

5 I am encouraged by the fact, though, that there would
6 be the opportunity, there are some things that we can point to
7 that would provide additional information that we think right
8 around that time frame, and that there would be an opportunity
9 for FPL, for the staff, if there are changes or additional
10 information to come forward prior to that, or to request an
11 extension, whatever would be the right procedure to go. So
12 those are just kind of a couple of thoughts that I have. And
13 to my colleagues I welcome your thoughts, as well.

14 Commissioner Carter.

15 COMMISSIONER CARTER: Madam Chairman, thank you so
16 kindly for your comments. I was just sitting here kind of
17 going back through my mind about the questions that I had asked
18 staff, and the reason for the two-and-a-half years is because
19 at the end of this time frame we'll have more information from
20 the study on that. Secondly, is that from what staff has told
21 us, I asked specifically about the stipulation and the
22 bifurcation and this does not preclude by -- staff's primary
23 recommendation does not preclude any party from coming before
24 this Commission and recognizing the rates and whatever issue
25 that may be.

1 Additionally, Madam Chairman, is that we all started
2 down this track together, and we started with the perspective
3 that we need to do whatever is necessary to protect the safety
4 of the citizens of Florida, to protect the safety of the
5 customers. We looked at -- we had extensive hearings on the
6 storm hardening, on pole inspections, tree trimming,
7 undergrounding. We went through this whole process. And I
8 tell you, is it a perfect? No. But is it better than what we
9 had? Yes.

10 And we have FPL willing to take a stand, we have
11 local governments willing to take a stand, and I think that
12 where we are right now, Madam Chairman, with the addition of
13 the grandfathering provision that staff has made, I think our
14 best course of action today is to make a decision and at the
15 appropriate time I'm going to move staff's primary
16 recommendation with the modification that we add in the
17 grandfathering provision.

18 CHAIRMAN EDGAR: Thank you.

19 Commissioner McMurrrian, do you have comments?

20 COMMISSIONER McMURRIAN: Yes, I do. I echo the
21 comments, actually both of your comments. I agree that is a
22 more concise statement of some of my concerns on this, too.
23 And I guess I would say to the parties that I hope you will
24 appreciate that this is a big step forward, I believe, for the
25 Commission. And probably should honestly tell you that in my

1 gut, I'm closer to the alternative recommendation.

2 I do have some concerns, and I think that is why I
3 think that staff's primary recommendation is appropriate. I
4 think it moves us forward. I appreciate what the Chairman said
5 about paralysis by analysis. I'm subject to fall into that
6 trap many times, and I do think that we need to get more
7 information. I'm hopeful in this two-and-a-half year period
8 that we are able to either use existing data to give us some
9 more information -- I, too, do not want additional raw data --
10 but I'm hoping we will use this two-and-a-half years to get
11 more information to give us more comfort. And perhaps when we
12 get to the point of October 2008 there is a very good
13 possibility that we continue what we started and further
14 encourage undergrounding and hardening of the system. So, with
15 that, I'll say I agree and am ready to second a motion.

16 CHAIRMAN EDGAR: Okay. Commissioner Carter.

17 COMMISSIONER CARTER: Madam Chairman, I would move
18 the staff recommendation as it relates to Issue 4. Actually I
19 guess all the issues from 2 through 4.

20 MS. GERVASI: Two through 5.

21 COMMISSIONER CARTER: Two through 5 with the
22 modification of adding the grandfathering provision.

23 CHAIRMAN EDGAR: And the primary recommendation in
24 Issue 4.

25 COMMISSIONER CARTER: The primary staff

1 recommendation, yes, ma'am.

2 CHAIRMAN EDGAR: Commissioner McMurrian.

3 COMMISSIONER McMURRIAN: I second that for the
4 reasons I stated earlier. I believe this is a good step
5 forward for the Commission. It will give us some more
6 information to give us a greater comfort level with moving
7 forward.

8 CHAIRMAN EDGAR: I want to say thank you to everybody
9 who has worked to hard on this, our staff and the local
10 governments. Please continue to work with us. We need your
11 help, too, as we move forward and we analyze these issues. And
12 to FPL, too, for bringing forward the tariffs. And with that,
13 I concur. All in favor of the motion say aye.

14 (Unanimous affirmative vote.)

15 CHAIRMAN EDGAR: Opposed?

16 Show it adopted. Thank you.

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, JANE FAUROT, RPR, Chief, Office of Hearing
6 Reporter Services, FPSC Division of Commission Clerk and
7 Administrative Services, do hereby certify that the foregoing
8 proceeding was 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
13 said proceedings.

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

19 DATED THIS 29th day of April, 2007.

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