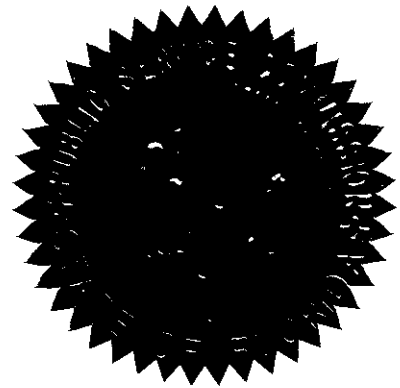


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080001-EI

In the Matter of:

FUEL AND PURCHASED POWER COST RECOVERY
CLAUSE WITH GENERATING PERFORMANCE
INCENTIVE FACTOR. (PROGRESS ENERGY
FLORIDA, INC.)



PROCEEDINGS: AGENDA CONFERENCE
ITEM 9

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, July 1, 2008

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

REPORTED BY: JANE FAUROT, RPR
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FLORIDA PUBLIC SERVICE COMMISSION

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1 PARTICIPATING:

2 JOHN W. MCWHIRTER, JR., ESQUIRE, representing Florida
3 Industrial Power Users Group.

4 J. R. KELLY, ESQUIRE, Office of Public Counsel,
5 representing the Citizens of Florida.

6 JOHN T. BURNETT, representing Progress Energy
7 Service Co., LLC.

8 ROBERT SCHEFFEL WRIGHT, representing Florida Retail
9 Federation.

10 MICHAEL COOKE, FPSC GENERAL COUNSEL, LISA BENNETT,
11 ESQUIRE, TIM DEVLIN, BILL McNULTY, JOHN SLEMKEWICZ, ELIZABETH
12 DRAPER, and PETE LESTER representing the Florida Public
13 Service Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN CARTER: Commissioners, as I mentioned early
3 on this morning, we are going to redo the order of Items 8,
4 9 and 10. So let's give staff an opportunity to get prepared
5 and we will start up with Item 9.

6 Is that right, Mr. Devlin?

7 MR. DEVLIN: Mr. Chairman.

8 CHAIRMAN CARTER: Yes, sir.

9 MR. DEVLIN: If you would, we are trying to put
10 together some analysis that we feel is going to be germane to
11 the discussions on the three cases regarding midcourse
12 corrections. It would be really helpful if we could have ten
13 minutes, 10 or 15 minutes maybe. I know it's early for a
14 break, and I apologize for that.

15 CHAIRMAN CARTER: Commissioners, we will give staff
16 an opportunity to get their ducks -- I shouldn't say ducks in a
17 row, it sounds like we are going out hunting.

18 COMMISSIONER ARGENZIANO: We're bird watching.

19 CHAIRMAN CARTER: We're bird watching. Fifteen
20 minutes of bird watching for staff, and we are on recess.

21 MR. DEVLIN: Thank you, sir.

22 (Recess.)

23 CHAIRMAN CARTER: We are back on the record, and when
24 we took a break we were getting ready to call Item 9.

25 Staff, you're recognized.

1 MR. McNULTY: Chairman, my name is Bill McNulty with
2 the Commission staff. Item 9 on the agenda is Progress Energy
3 Florida's petition for midcourse correction to its fuel factor
4 that was approved by the Commission at last year's November
5 hearing. There are five issues addressed in the
6 recommendation, including a motion to dismiss, or,
7 alternatively, to abate the proceeding.

8 With the Chairman's permission, I will turn the
9 microphone over to Ms. Bennett to address the issue of party
10 and interested persons participation.

11 CHAIRMAN CARTER: Ms. Bennett, you're recognized.

12 MS. BENNETT: Thank you, Chair and Commissioners. My
13 name is Lisa Bennett. I'm with the attorneys office for the
14 Public Service Commission.

15 Mr. Chair and Commissioners, the participation by
16 parties and interested persons is a little different between
17 Issue 1 and Issues 2 through 5 in this docket. And I would
18 suggest that the Commission vote on party and interested
19 persons participation prior to actually hearing the substance
20 of each of the issues.

21 Issue 1 is a motion to dismiss, or alternatively a
22 motion to abate the proceedings that was filed by FIPUG. And
23 Florida Power and Light did file a response. In our Florida
24 Administrative Code, Rule 25-22.0022 it governs motions to
25 dismiss. If the party does not file for a request for oral

1 argument, they have waived it. However, oral argument can be
2 asked for by the Commission. It is within your discretion to
3 request it if you so desire. And that is Issue 1.

4 But Issues 2 through 5 are also in the Commission's
5 discretion, and this one is governed by Rule
6 25-22.0021(7), which allows the Commission to recognize
7 interested persons if they wish to participate.

8 Before the Commission addresses the substantive
9 issues of the petition, staff recommends that the Commission
10 determine whether they will request oral argument in Issue
11 1 and whether they will permit participation in Issues
12 2 through 5.

13 CHAIRMAN CARTER: Commissioners, we have a long
14 history of allowing participation, and I think we should
15 probably grant it in this case. It is at our discretion, and
16 we can always get more information. So with your permission
17 and your approval we will grant permission on Issue 1. Let's
18 deal with Issue 1, that's the motion by FIPUG. And we will
19 have all the parties come and make their presentation, and we
20 will go from there.

21 First of all, we'll take appearances of the parties.

22 MR. McWHIRTER: Mr. Chairman, my name is John
23 McWhirter, appearing on behalf of FIPUG.

24 CHAIRMAN CARTER: Okay.

25 MR. BURNETT: Good morning, Commissioners. John

1 Burnett on behalf of Progress Energy Florida.

2 CHAIRMAN CARTER: Okay.

3 MR. McWHIRTER: Mr. Chairman.

4 CHAIRMAN CARTER: You're recognized, sir.

5 MR. McWHIRTER: This may surprise you, but I waive
6 the opportunity for oral argument on Issue 1 for the following
7 reason: In Issue 1, our motion requests the Commission to
8 dismiss the petition because of a variety of reasons that are
9 explained in the recommendation. In Issue Number 3 we approach
10 it and request that you deny the midcourse correction. And
11 whether you deny it or dismiss it is, in my opinion, a
12 distinction without a difference, and I would rather waive oral
13 argument on the motion and dedicate that argument to denying
14 the petition.

15 Thank you.

16 CHAIRMAN CARTER: Mr. Burnett.

17 MR. McWHIRTER: I hope he doesn't object.

18 MR. BURNETT: I certainly don't object to no oral
19 argument. I think the staff -- I can say simply that the staff
20 rec is very clear on the proper position I believe that the
21 Commission should take in its staff rec, and we fully support
22 that. I'm happy to answer any questions or legal issues.

23 CHAIRMAN CARTER: Commissioners, let's get ourselves
24 in the proper procedural posture.

25 Ms. Bennett, on Issue 1.

1 MS. BENNETT: Yes. Issue 1 is the Florida Industrial
2 Power Users Group's motion to dismiss or alternatively to abate
3 the proceedings. Staff has reviewed the petition and feels
4 that it does not meet the grounds to dismiss the petition --
5 the FIPUG motion does not meet the grounds for a dismissal.

6 The legal grounds for a motion to dismiss are whether
7 the petition itself fails to state a cause of action for which
8 relief can be granted. Progress Energy's petition meets the
9 requirements of Order Number 070333-PAA, which was issued by
10 the Commission last April.

11 As to the request to abate until a hearing is held,
12 this is analogous to an interim rate proceeding, and so the
13 Commission's opportunity is to set rates today and to have the
14 hearing in November. And that's consistent with your prior
15 orders in 2001, which state that this is a preliminary
16 procedural matter. And so staff is recommending that you could
17 go ahead and make your decision on the petition today.

18 CHAIRMAN CARTER: Commissioners, on Item 1.

19 COMMISSIONER EDGAR: Mr. Chairman.

20 CHAIRMAN CARTER: Commissioner Edgar, you're
21 recognized.

22 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

23 I think what I'm hearing is consistency between each
24 the three attorneys who have addressed us on this item.

25 CHAIRMAN CARTER: I said item, it's Issue 1.

1 COMMISSIONER EDGAR: So on Issue 1, I would make a
2 motion in favor of the staff recommendation with the
3 understanding that I'm looking forward to further discussions
4 on the remaining issues.

5 COMMISSIONER McMURRIAN: Second.

6 CHAIRMAN CARTER: It's been moved and properly
7 seconded that we adopt the staff recommendation on Issue 1.

8 Commissioners, any further discussion? All those in
9 favor let it be known by the sign of aye.

10 (Unanimous affirmative vote.)

11 CHAIRMAN CARTER: All those opposed, like sign.

12 Commissioners, let me do this. Since we did allow
13 for the parties to be heard, and there are some parties that
14 are participating here today, let's kind of let the parties get
15 assembled in their respective places so that when we do that --
16 and, also, Commissioners, after the parties have had an
17 opportunity to be heard, I would like to recognize Mr. Kelly
18 from the Office of Public Counsel.

19 So let's do this, we'll have staff introduce the
20 issue, then we will hear from the parties. Commissioners,
21 would it be more helpful to hear from the parties and then have
22 staff introduce the issue? Just whatever, for your
23 convenience.

24 COMMISSIONER EDGAR: Maybe a brief overview from
25 staff and then from the parties.

1 CHAIRMAN CARTER: A brief overview from staff, then
2 we will hear from the parties, and, Staff, we may want you to
3 come back again.

4 Staff, you're recognized.

5 MR. SLEMKEWICZ: I'm John Slemkewicz.

6 Issue 2 concerns PEF's request to end its storm
7 cost-recovery surcharge pursuant to terms of a stipulation that
8 was approved in Order Number PSC-06-0772-PAA-EI. Per that
9 stipulation, the surcharge ends with the last billing cycle in
10 July 2008.

11 For clarity, the word "with" at the end of the first
12 line in the recommendation statement on Page 10 should be
13 changed to the word "after." This does not change the staff's
14 recommendation, but just clarifies that it's after the last
15 billing cycle in July.

16 COMMISSIONER EDGAR: Commissioners, do you want to do
17 all the issues at one time?

18 Go ahead and introduce all the issues, and we will
19 come back and hear from the parties.

20 MR. LESTER: Commissioners, I'm Pete Lester with
21 staff.

22 Issue 3 addresses whether the Commission should
23 approve PEF's petition for a midcourse correction to its 2008
24 fuel factors. The company has requested to increase its fuel
25 factors for the remainder of 2008 to collect an additional

1 \$212,822,857 based on its reprojection of full costs and
2 revenues for 2008, its 2007 final true-up, and interest.

3 Staff reviewed the calculations and the underlying
4 assumptions provided by PEF of its underrecovery and believes
5 these calculations were performed correctly and the assumptions
6 appear reasonable. Staff recommends the costs included in such
7 calculations be further reviewed in the fuel hearing this
8 November.

9 Staff presented four options for recovery of these
10 costs. Option A is to approve the midcourse correction request
11 as filed. Option B is to deny the midcourse correction and
12 allow recovery of costs to take place in 2009. Option C is to
13 collect half the cost in 2008 and the remaining half in 2009.
14 And Option D is the recovery of cost over 17 months, or the
15 remainder of 2008 and all of 2009.

16 Staff recommends the Commission approve Option A to
17 approve the midcourse correction as filed in order to promote
18 rate stability for PEF's customers, and staff is available to
19 answer questions.

20 CHAIRMAN CARTER: Do you want to go ahead and do
21 Issue 4?

22 MS. DRAPER: Commissioners, Elizabeth Draper with the
23 Commission staff.

24 Issue 4 deals with the effective date of the issue if
25 the Commission approves PEF's petition for midcourse

1 correction. The company has requested and staff recommends
2 approval that any new fuel cost-recovery factors become
3 effective with the first billing cycle in August of 2008. If
4 the Commission denies Progress' petition, then the current
5 factors stay in effect and this issue is moot.

6 CHAIRMAN CARTER: Thank you. And now let's hear from
7 the parties.

8 Mr. Burnett, I think you're up, is that correct?

9 MR. BURNETT: Yes, sir. Thank you, Mr. Chairman.

10 Mr. Chairman, I would note that staff has given a
11 good lead-in on the factuials. I would like to turn to the four
12 options that staff mentioned in its overview. That's found,
13 actually, in the staff recommendation in Attachment B.

14 I think one thing that is very telling about
15 Attachment B is staff took an analytical process that was
16 neutral and pragmatic, so staff's view on this eliminates any
17 advocacy position. So I enjoy the luxury of not having to be
18 an advocate today, turning your attention to Exhibit B and just
19 letting the information speak for itself. Both, again, backed
20 up by logic and pragmatism.

21 If you look at the options, the first thing that I
22 would draw to your attention is there is a line on Attachment B
23 that talks about fuel cost-recovery. It's the second line down
24 after base rate. If you go through and highlight the
25 percentage change in each one of the four scenarios that staff

1 analyzed, you will see that under the approved petition there
2 is a 28 percent change in the fuel factor under the petition as
3 filed in the balance of 2008 and a nine percent in 2009. So
4 that is the benchmark that we would weigh all the other
5 percentage change against to see what is the true impact in
6 '08 and '09 to the customers.

7 For comparative purposes to make it apples-to-apples,
8 if you jump over to B you will see that it is a zero percent
9 change, that's to deny the petition, and then a 52 percent
10 change in the fuel factor in Option B. So you are looking at
11 52 percent total versus 37 percent total. So in Scenario A
12 versus B you see the customer necessarily, just pure
13 mathematics, enjoys less of a percentage change of the fuel
14 factors over '08 and '09.

15 If you do that same analysis in C, you will see that
16 the customers would have a 14 percent impact under the 50/50
17 scenario in '08 and a 28 percent in '09. Well, if you flip
18 those numbers around, you will see that the 28 and 28 compare
19 equally to each other. It's either a 28 in '08 or a 28 in '09,
20 versus a 14 versus a 9. So, again, by simple mathematics you
21 can look at this and show that for the ratepayer Option A is
22 more mathematically favorable than Option C.

23 Again, doing that exact same analysis in D, you see
24 9 percent and 37 percent versus 9 percent and 28 percent. So,
25 again, the math speaks for itself. The ratepayer enjoys less

1 of a percentage change in Option A than the others. Then if
2 you add to that and say the next layer that we look at is the
3 amount of interest. Well, under Option A there would be
4 approximately \$600,000 worth of interest that the ratepayer
5 would be responsible for under Option A. Option B,
6 \$4.9 million. Option C, \$2.8 million. And Option D,
7 \$3.6 million. So, again -- yes, sir.

8 CHAIRMAN CARTER: Go back again with those numbers on
9 interest.

10 MR. BURNETT: Sorry. I'll slow down.

11 On Option A approximately \$600,000. Option B,
12 approximately \$4.9 million. Option C, approximately
13 \$2.8 million. And, Option D, approximately \$3.6 million. And
14 the A, B, C, and D I'm referring to, again, is Attachment B of
15 the staff recommendation.

16 So, again, on simple mathematics the interest that
17 the ratepayer has to pay is less in Option A than any of the
18 other options. So as we stand here with these two, less
19 percentage volatility, less interest.

20 Staff, also, on Page 18 of the staff
21 recommendation --

22 CHAIRMAN CARTER: One second.

23 MR. BURNETT: Yes, sir.

24 CHAIRMAN CARTER: Commissioner Skop.

25 COMMISSIONER SKOP: I'm sorry, could you repeat --

1 could you briefly and a little bit more slowly, so I can
2 articulate and hear it, go through the interest rates and
3 specifically refer to where those numbers are being provided,
4 or if they're not, or they are just calculations?

5 MR. McNULTY: Chairman, if I could interrupt, we have
6 all of these numbers in a single document we could distribute
7 at this time, if you would like to have them.

8 CHAIRMAN CARTER: That might be helpful. One second.
9 Commissioner Argenziano.

10 COMMISSIONER ARGENZIANO: In regards to that, if we
11 are talking about tomorrow's dollars, have we taken into
12 consideration that the value of the dollar keeps dropping?

13 MR. McNULTY: Commissioner, I believe that these
14 numbers were calculated based upon the commercial paper rate
15 that was included in the petitions that were filed by -- the
16 petition that was filed by Progress Energy Florida.

17 COMMISSIONER ARGENZIANO: You know what I'm getting
18 at. If the value of the dollar drops, then the cost to the
19 consumer is less. I didn't know if that was added into the
20 calculation.

21 MR. McNULTY: The calculations that you are going to
22 see have been assembled by Progress Energy, and they would be
23 best able to address that question.

24 COMMISSIONER ARGENZIANO: Okay. Thank you.

25 CHAIRMAN CARTER: Let's go ahead and have staff pass

1 those out, and then we will come back.

2 Commissioner Skop, do you want to ask your questions
3 now or after you get the --

4 COMMISSIONER SKOP: I'll wait.

5 CHAIRMAN CARTER: Okay. Let's have staff do that.
6 Commissioner Skop, you're recognized, sir.

7 COMMISSIONER SKOP: Thank you, Mr. Chairman. I'll
8 wait until Mr. McNulty gets back to his seat.

9 Mr. McNulty, thank you for -- and I commend staff for
10 handing out this additional data, because it answered one of my
11 questions, and that was what is the actual assumption that was
12 used for the commercial paper rate interest. And I think that
13 is articulated on there. And just my question to you, just for
14 my own clarification, is that the commercial paper rate is the
15 interest rate that any underrecoveries would be financed at, is
16 that correct?

17 MR. McNULTY: That's correct.

18 COMMISSIONER SKOP: And that rate is substantially
19 lower than the utility's cost of capital, is that correct?

20 MR. McNULTY: Yes.

21 COMMISSIONER SKOP: Thank you.

22 CHAIRMAN CARTER: Commissioners?

23 Commissioner McMurrin.

24 COMMISSIONER McMURRIAN: I just wanted to check with
25 staff and make sure that I've got this right. On this handout,

1 the options would be in the order of A, B, D, and then C. I
2 just wanted to make sure. I think that's right. I think the
3 17 months is actually Option D, and I just wanted to make sure
4 I had that.

5 MR. McNULTY: Commissioner, you're correct on that.

6 COMMISSIONER McMURRIAN: Okay. Thank you.

7 CHAIRMAN CARTER: A, B, D, and C. Okay.

8 Mr. Burnett.

9 MR. BURNETT: Thank you, sir. And just closing out
10 on the interest rate point, I would note to Commissioner
11 Argenziano that, you know, anytime the interest does drop to a
12 point, if that were to happen, still the effect would be the
13 same. Although the numbers would be lower, the customer in the
14 other scenarios as opposed to A would still be paying more
15 interest, although a lower figure to your point.

16 Now, to go on, and I've almost got this wrapped up,
17 to go on to Page 18 of the staff recommendation. As well, the
18 staff does an excellent job of providing six considerations
19 that the Commission looked at in the midcourse correction
20 orders and all the histories. And those six things that are
21 available there, sending accurate price signals to the
22 customer, avoiding the compacted rate impact in '09, compacted
23 fuel factor increases, taking into consideration nonfuel rates,
24 reducing interest and reducing intergenerational inequity, all
25 of those things are achieved with Option A. So the Commission

1 gets to enjoy all six of the reasons that it has put in place
2 to have the midcourse correction in the first place.

3 In Options B, C, and D, those are not. So the denial
4 of the petition, the 50/50 or the 17 months, you don't send the
5 proper price signal, you don't reduce interest, you don't
6 reduce intergenerational inequity. None of the things on Page
7 18 will be realized. And, again, sort of turning the purpose
8 of the midcourse correction on its head.

9 Then, finally, to timely cost-recovery. The
10 regulatory compact is founded on timely cost-recovery both
11 ways. Timely recovery and timely refunds on the benefit to the
12 ratepayer and to the benefit of the utility if they are
13 underrecovered or overrecovered. Option A allows the utility
14 to timely recover its costs in the same time frame that the
15 costs are incurred. B, C, and D does not.

16 So looking at it entirely pragmatically, if I put
17 these all down the list in the columns, I would say from an
18 objective and neutral standpoint Option A would be a, quote,
19 unquote, no-brainer. And, again, that is divorced from any
20 advocacy or position. The math, the logic, and the policy
21 speaks for itself.

22 CHAIRMAN CARTER: Thank you, Mr. Burnett.

23 Mr. McWhirter.

24 MR. McWHIRTER: Thank you, Mr. Chairman. I didn't
25 know whether we were going to be able to speak. I didn't know

1 whether you were going to be as nice as you usually are, so I
2 prepared a written statement for you and I attached to it some
3 exhibits. And what I will do is what the witnesses with
4 prefiled statements do. I will give you the prepared statement
5 and ask that it go in the record, and then I will summarize it.
6 And, hopefully, the summary won't be longer than reading it.

7 If you look at Exhibit 1, you will get an idea as to
8 the significance of this case. And I'd like you to put that
9 into perspective. The largest rate increase in a base rate
10 increase that Progress Energy as ever received in the history
11 of its operation in regulation before this Commission occurred
12 in 2001, and that amount of money was \$111 million. After that
13 there were numerous reductions in base rates as a result of
14 complaints and other things, but \$111 million was the biggest
15 rate increase that was ever granted. And that was granted
16 after an eight-month review, after extensive examination and
17 discovery of the facts underlying the petition, and it was
18 based upon a principally historical as opposed to projected
19 facts.

20 In this case, Progress Energy is asking for a rate
21 increase of \$213 million, which is 91 percent more than they
22 ever got in the first -- in a base rate increase in their
23 entire history, and they are asking that that be collected in
24 five months. Bam.

25 Now, we would like you to dismiss -- or not to

1 dismiss it, that was the thing that has gone before, but to
2 deny the petition primarily on the grounds that something
3 happened in April of 2006 that changed the way that this
4 Commission does business and, essentially, the way you look
5 into midcourse corrections.

6 In 2006, the Legislature did something, and you're an
7 agency of the Legislature, as you know, it did something that
8 it has never done before. It reversed the concept of not
9 charging customers for investment in rate base until that
10 investment was in use and useful service. In other words,
11 customers don't have to pay for something until after they are
12 getting the benefit of it.

13 In 2005 or 2006, the Legislature changed that with
14 respect to nuclear plants as a matter of legislative policy.
15 They wanted to encourage those nuclear plants, because they
16 think that's a good thing to do, and they want to charge
17 customers, and your rules permit it, for the nuclear plant some
18 eight years before it comes into effect. And one of the
19 reasons -- when you compare this case to what's going to happen
20 next year and the impact on customers, that nuclear plant is
21 coming in. So if you raise the rates now for fuel cost and the
22 rates go up in January for nuclear cost, there will be a double
23 hit on customers, but that double hit may go away if fuel costs
24 go down.

25 Now, the problem we faced in 2006 was then you

1 reevaluated what the utilities tell you in their monthly
2 reports. In the monthly reports up until 2006, apparently
3 utilities did different things. But those monthly reports,
4 normally when we looked at them, what they did in November you
5 project what the fuel costs are going to be for the next year,
6 and those are the estimated fuel costs. And then each month a
7 utility files a report to see how its actual current costs are
8 matching up with the estimated costs. And the rule up until
9 2007 was that if those costs go to 10 percent more than -- the
10 actual costs go to 10 percent more than the estimated costs, or
11 10 percent less, then there will be a midcourse correction.

12 But following the concepts of the Legislature in
13 2006, what you did to conform a midcourse correction by all
14 utilities was you ordered the utilities not to take into
15 consideration only their actual costs, but also add into
16 consideration mistakes from the previous year and their
17 estimate of what's going to happen for the rest of this year.
18 And in this case, Progress Energy and your staff have not only
19 looked at what is going to happen the rest of this year, but
20 what they think is going to happen from what they read in the
21 paper next year, and what they think may happen when you have a
22 rate increase for the nuclear plants and for the other things
23 that are going on. So a lot of new things were piled into your
24 consideration.

25 The new midcourse correction procedure looks more at

1 revenues than it does at costs. Previously we looked at costs
2 and how they measure up with the actual revenues for that year,
3 or the projected revenues from last year. Now, we look at
4 actual costs to date, projected revenues from last year, plus
5 true-up from last year, plus what may happen the rest of this
6 year. And staff has recommended that you have a rate increase
7 based upon what those three items show. And it's very
8 interesting.

9 It's different from Florida Progress than it is for
10 Florida Power and Light. The staff also recommended to you,
11 and you adopted an order in April of 2007 that said whenever a
12 utility finds that it is in or out 10 percent, either over or
13 under, it should immediately file for a midcourse correction.
14 And when I filed my motion to dismiss, the response of Progress
15 Energy was we are only doing what the Commission ordered us to
16 do. We are 10 percent out, and so we are following your order.
17 And we are doing the right thing, because we are obeying your
18 regulation. But the rest of the story is shown in Exhibit 3.

19 The April 2007 order, which is 070333, ordered -- you
20 may recall, I just said it -- ordered the utility to come in
21 and file a petition for a midcourse correction as soon as it
22 became aware that it was going to be out of phase. The first
23 monthly fuel report that was filed under 007 was in June of
24 007, and the operative line is Line 13, and it showed at that
25 time it had collected from customers \$147 million through May,

1 and it estimated it was only going to collect 60 million. So
2 customers had overpaid \$86 million. So the first measure is is
3 that more than 10 percent? And the answer is yes.

4 In the next column it shows that the amount of money
5 collected from customers in June of 2007 was 141 percent more,
6 not 10 percent, but 141 percent more than the utility should
7 have collected based on its estimates because fuel costs had
8 gone down in 2007. Now, the interesting thing about that is
9 that the aspect that Progress Energy and the Commission staff
10 rely on for denying my motion to dismiss is because it was
11 compelled to come in and file as soon as its projections went
12 over 10 percent. But, unfortunately, it violated that rule a
13 year ago. And the violation of that rule has caused a
14 crescendo of activity that has resulted in this midcourse
15 correction.

16 By the end of last year, customers in 2007 had paid
17 \$169 million more than Progress Energy's fuel cost.
18 \$169 million. And Progress did the right thing, it came in in
19 December and said we are going to pay that back over the next
20 12 months. Unfortunately, in this petition they paid half of
21 it back, but they are going to eliminate the other half. We
22 don't get our refund of the remaining \$80 million because they
23 are cutting that off when they raise the rates by this
24 proceeding, which hardly seems fair to me.

25 Now, you have an exhibit that was just handed out to

1 you as to what the interest customers will be allowed to pay.
2 One of the things that FIPUG suggests to you if you just don't
3 dismiss this petition out of hand, or deny it out of hand, is
4 that you disallow interest. And you disallow interest because
5 that is what Order 070333 says will happen if utilities don't
6 comply with the requirement. You disallow it because they
7 violated the order in June of 2007 by not giving customers a
8 refund contemporaneously with the overcharges.

9 Staff talks about intergenerational inequity. Well,
10 there's a pretty bad intergenerational inequity there, because
11 in 2007 the customers paid 169 million more than they should
12 have, but nobody was worried about that. What they are worried
13 about is we may be not paying quite enough to make up for what
14 happened in the past.

15 And the intriguing thing to me, it just blows me
16 away, is that when they measure whether there has been a 10
17 percent increase this year, they don't measure it by what the
18 projected fuel costs were for 2008, they measure it by what the
19 fuel costs were less the \$169 million that customers were owed
20 to get a new number to establish the factor on. Get that? We
21 don't start with the higher number, we start with the lower
22 number. And when you start with a lower number and there is a
23 fuel cost increase, the percentage goes way up. In
24 actuality --

25 CHAIRMAN CARTER: Mr. McWhirter.

1 MR. McWHIRTER: Yes.

2 CHAIRMAN CARTER: You're closing in on your time.
3 You've got another minute left, okay?

4 MR. McWHIRTER: Okay. Well, I was --

5 CHAIRMAN CARTER: If you want to wrap this up, you
6 know the deal.

7 MR. McWHIRTER: Well, I thought that was pretty
8 exciting.

9 CHAIRMAN CARTER: It was.

10 MR. McWHIRTER: But, in any event, it was certainly
11 exciting to me. In any event, if you want to cut us off, I
12 refer you to the written document, and I also suggest to you
13 the idea of due process. Is it good due process -- could you
14 give me three more minutes?

15 CHAIRMAN CARTER: Sure; no problem.

16 MR. McWHIRTER: The idea of due process is
17 established in statute, and there are three operative statutes
18 that govern your procedure; 366.02 says that when the
19 Commission determines that there is an impropriety in the
20 rates, up or down, it shall determine what that is. And after,
21 after a hearing in which the public has notice and has the
22 opportunity to appear, after a hearing you can grant the
23 increase.

24 The next section is 366.07, which reiterated rate
25 increases, and it also requires you to have the increase after

1 a hearing. Staff referred to the interim procedure for
2 increases, and the interim procedure is contained in 366.071.
3 And what that says is that you can have an interim increase.
4 It's called a file and suspend law. The utility comes in and
5 it tells what it needs and the amount of money, and the
6 Commission has 60 days to look at it. And if it doesn't
7 disallow it in 60 days, then it goes into effect automatically
8 to be trued up after the hearing is held. And what staff said
9 is there is going to be a hearing later on in this proceeding,
10 so that will take care of everything. It takes care of
11 everything except for the irreparable injury to people who pay
12 too much for the next five months. But that's another point
13 that I won't talk about.

14 So there is another criteria in 366.071, that's also
15 called the make-whole case. And the only time you can use that
16 is when your return on your authorized base rate return is
17 outside of the range of reasonableness. So one of the proofs
18 that is on a utility seeking to use the file and suspend law is
19 that it must come in and show that it's earning below its
20 authorized rate of return. And there has been no showing of
21 that in this case.

22 What has happened in this case is we have had
23 informal discussions between the utility and the staff, and I
24 got to come to some of them. But the main things they talk
25 about are secret, and so you don't get that. And you can't get

1 it until after you sign a confidentiality agreement, and then a
2 long time later -- but I signed the confidentiality agreement
3 last week, and they sent it in the mail to me and gave me a
4 copy of the information, but I haven't had a chance to look at
5 it. So that may have changed my argument, but I don't think it
6 will. I think that -- the last thing I'm going to talk about,
7 and this will take maybe a minute and a half, is the
8 customer --

9 CHAIRMAN CARTER: You are on four now after that
10 three I gave you.

11 MR. McWHIRTER: Okay.

12 CHAIRMAN CARTER: So can you make it a minute? We
13 want to hear from all the parties.

14 MR. McWHIRTER: I'll go real fast.

15 CHAIRMAN CARTER: We want to hear from all the
16 parties, Mr. McWhirter.

17 MR. McWHIRTER: When you tell us what happens to a
18 typical customer, you chose a customer that uses a thousand
19 kilowatt hours. What the staff and Progress Energy didn't tell
20 you is that that is a subsidized customer, and the major
21 component of his bill is composed of things other than fuel
22 cost. So the increase in percentage doesn't look so big on
23 that customer because there are a lot of other things going on.
24 And the other things going on don't impact other customers.

25 If you consume what the average customer does, which

1 is around 1,200 kilowatt hours a month, then the percentages
2 are all different because that customer is subjected to an
3 inverted rate. And if you are a single-family home and use two
4 or three times what a thousand-kilowatt-hour a month customer
5 uses, you are subjected to that inverted rate and you pay a lot
6 more. And the interest impact -- the rate impact on that
7 customer is a lot different, but there's no discussion of that
8 customer.

9 There is no discussion of a convenience store owner
10 that has a lot of refrigeration and has a high load factor and
11 uses a lot of electricity. It doesn't show that he is getting
12 a 30 percent increase. My clients consume -- they are big
13 industrial consumers, mining companies and so forth, they were
14 entitled this year to get their refund from last year.
15 \$5.8 million of that refund has been eliminated by this
16 request. So they won't get what they were supposed to get for
17 their overcharges last year.

18 In addition to that, they are going to be hit for
19 another \$13 million increase for the next five months. So what
20 that means to a company that's operating a business and has
21 established a budget to operate on for the entire year is that
22 he is going -- that customer is going to get pretty serious
23 rate impact. Interruptible customers of Progress Energy are
24 going to pay in the next five months \$19 million more than
25 their budgets allow.

1 CHAIRMAN CARTER: Thank you. And that's a good
2 exclamation point.

3 MR. McWHIRTER: My time is up?

4 CHAIRMAN CARTER: Mr. Wright, you're recognized.

5 MR. WRIGHT: Thank you, Mr. Chairman. I'm Schef
6 Wright, and I'm here representing the Florida Retail
7 Federation. Thank you for hearing from me today. I will be
8 relatively brief, I believe.

9 We are here because Progress Energy Florida's fuel
10 projections have obviously been inaccurate. Apparently, they
11 were inaccurate by \$169 million one direction last year and by
12 something like 212 or \$213 million in the opposite direction
13 this year. In this context where the utility has obviously
14 shown an inaccurate record of making fuel cost projections, we
15 would submit to you that the Commission should base any
16 adjustments that it allows here on actual known cost
17 underrecoveries or overruns, as our members think of them,
18 which is exactly what the Commission did in the 2005 fuel
19 docket treatment of FPL's 2005 underrecovery or overrun.

20 In that instance, FPL reported a \$770 million
21 underrecovery for 2005. They did not seek a midcourse
22 correction. They proposed to the Commission that the
23 Commission allow them to recover that underrecovery over the
24 succeeding two years split evenly, half in '06 and half in '07.
25 The Commission, however, concerned about potential future rate

1 increases in '06 and '07, hurricane storm surcharge in
2 particular, very similar to the circumstances and
3 considerations on the table today, the Commission said, no, we
4 are not going to let you do that. What we are going to do is
5 we are going to require you to recover in 2006 what we know as
6 of today are your known cost overruns, or your known fuel cost
7 underrecoveries.

8 And what you did was you said in your vote and the
9 early vote -- the Commission was voting in early November. You
10 said we know what the actuals were, the actual known costs were
11 from January through September. You roll those costs, FPL,
12 into your '06 fuel cost factors, and we will put off
13 consideration of the October, November, December projected
14 underrecoveries to consideration in the '06 docket. Either one
15 of two things would happen. Either they will be rolled forward
16 into the '07 fuel charges, or if there were a midcourse
17 correction required in '06, then they could be taken up at that
18 time. That is what you did. You based your decisions on what
19 was known at the time.

20 We would submit to you that that is the exact logic
21 that you should follow today. Now, this is a compromise.
22 Frankly, we would rather put it off over a couple of years and
23 have a full hearing before you stick us with 200 million or
24 \$700 million. But we think this is a reasonable compromise,
25 principled based on what the Commission has done before.

1 So, as we sit here today, I think that the utilities
2 know what their fuel costs and underrecoveries were through
3 May. We would suggest that is a compromise and let them
4 recover those underrecoveries during the August to December
5 period. When we get to the fuel hearing at the beginning of
6 November, you will know what the June, July, August, September
7 actual known fuel cost underrecoveries were, and you can roll
8 those into the fuel charges for 2009. We would ask that you
9 then defer consideration of the October, November, December
10 values, which will necessarily be projected when you are voting
11 in the November hearing in this docket, for further
12 consideration during 2009. Either in the November hearing in
13 090001, or if there were to be a midcourse correction required,
14 in 2009 those underrecoveries as they were known to be actual,
15 actual experienced, could be considered at that time.

16 We believe that it is especially important and in the
17 customer's best interest in today's economy where we are all
18 being battered by high transportation costs, high food costs, a
19 soft housing market, fixed incomes, where government entities,
20 schools, hospitals, and other institutions are facing reduced
21 revenues and other constraints, we believe that it is in the
22 customers' best interest to spread the pain over this time
23 period.

24 A couple more points, Mr. Chairman, Commissioners.
25 From the customers' perspective regarding the interest issue,

1 it is not just the interest dollars, it's the interest rate.
2 The interest rate of 2.736 percent, I think, is the number at
3 issue in Progress' case, the commercial paper rate is a very
4 favorable rate relative to what most of us who have balances on
5 our credit cards are facing. In a very real sense, a typical
6 residential customer, you know, has \$100 or \$200, and they can
7 either pay their electric bill or they can use whatever they
8 have got left over to pay down their credit card rate.

9 It's a far preferable thing from a customer's
10 perspective in his, her, or its best interest to pay down a 10,
11 12, 14, 18, 20, 22 percent credit card debt than to pay
12 2.7 percent on what would be a loan on any amount that was
13 ultimately determined that we had to pay through the
14 Commission's normal hearing process.

15 Finally -- well, not quite finally, next to finally,
16 we strongly agree with FIPUG's point that there is no
17 intergenerational equity last year. And, by the way, there was
18 not accurate pricing last year, either. You know, Progress had
19 overrecovered by \$169 million. Nobody talked about
20 intergenerational equity or inequity then. Nobody talked about
21 getting an accurate pricing for the customers in 2007 then, you
22 know. And the point would that be that if you are going to
23 attempt to follow principles like that, you ought to follow
24 them consistently.

25 In 2007, you know, intergenerational equity would

1 have dictated lower rates for customers and the accurate price
2 signal criteria, which is certainly a legitimate criterion for
3 ratemaking, would have dictated lower rates for customers, but
4 nobody followed them then.

5 What we're asking you -- and this is my conclusion.
6 What we are asking you to do is strike a balance. There are
7 competing concerns here; rate stability, customers' best
8 interest. We suggest that rate stability means rates going up
9 something like this at some more reasonable trajectory from
10 today, rather than like this from today, which is what Progress
11 is asking you to do and what FPL is asking you to do.

12 We would suggest that you strike a balance in light
13 of the competing considerations. This is especially important
14 in light of today's all too real world economic realities.
15 Spread the pain over a little bit longer period, please.
16 Spread whatever the cost overruns or whatever the
17 underrecoveries are on the basis of what you know when you do
18 it.

19 Thank you.

20 CHAIRMAN CARTER: Thank you, Mr. Wright.

21 Mr. Kelly, you're recognized, sir. And good morning.

22 MR. KELLY: Thank you, Mr. Chairman, and
23 Commissioners. I'll be very brief. I don't think I have to
24 tell you you have a very tough decision before you today in
25 several cases. And as Mr. Wright said, the increase in the

1 price of fuel is just hitting all of us Floridians terribly in
2 our pocketbook, whether it's paying for groceries,
3 transportation, energy, or whatever. And then you add on to
4 that property taxes and add on to that insurance. And
5 unemployment is increasing every day. So I don't know that
6 there is a good answer today.

7 It seems to me there is two options, really viable
8 options. Either allow the recovery of all of the fuel costs
9 this year, or come up with some type of a deferral plan over
10 the next year or so. And then, of course, we know -- and I'm
11 not telling you anything that you don't already know about the
12 big increases that are going to hit the ratepayers in 2009 from
13 various aspects, whether it's nuclear cost-recovery, increased
14 fuel costs, whatever. We know they are going to hit also.

15 There are two things that I would just like for you
16 to consider when you're making your decision today, and one is
17 there is an uncertainty in forecasting. Whenever we make
18 assumptions we know that they can be right, they can be wrong,
19 we can be in the middle, but there is an uncertainty there.
20 And, most importantly, I ask you to please consider the
21 ratepayers, our brothers and sisters in Florida that my office
22 generally represents, and that is the consumers that are on
23 fixed incomes and very tight budgets, and how they are being
24 impacted.

25 I don't really have a good recommendation for you

1 today, but I know that you have got some good information.
2 Staff has done a very good job, in our opinion, in putting
3 together some information for you to consider. You have got
4 the consideration of, again, the increases in other areas that
5 are going to hit in 2009 and the years beyond. And we simply
6 ask you to please take all of that into consideration,
7 especially in light of those consumers on fixed incomes and
8 tight budgets, in making your decision. And I feel certain
9 that once you do that, you will come to a very good decision
10 for Florida.

11 Thank you.

12 CHAIRMAN CARTER: Thank you, Mr. Kelly. Once again
13 your wisdom comes through, and we sincerely appreciate hearing
14 from you.

15 Commissioners, we probably need to have staff
16 reintroduce the issue. Would that be appropriate to kind of
17 get us back?

18 Staff, can you give us the short version on the
19 issues, please. You're recognized, staff.

20 MR. McNULTY: Chairman, basically, staff is
21 recommending approval of what is laid out in the end of the
22 recommendation. We present the four different options, and we
23 have recommended that Option A be approved by the Commission.
24 Option A is allowing the full \$212,822,857 of projected cost
25 underrecovery to be incorporated into rates during the last

1 five months of 2008. We have three other options there for
2 how that amount could be spread over not just 2008, but also
3 2009.

4 However, we made our recommendation on the basis of
5 rate stability, looking at both rates and bill impacts. And,
6 again, based upon projected numbers, we looked at the
7 assumptions that were associated with those numbers. The
8 assumptions looked reasonable. We reviewed the calculations
9 that underlie the 212 million, and we were able to reconcile
10 that number, and that's our recommendation.

11 CHAIRMAN CARTER: Thank you.

12 Commissioners, we are in our discussion phase.

13 Commissioners.

14 MS. BENNETT: I'm sorry, Mr. Chairman.

15 CHAIRMAN CARTER: Oh, Ms. Bennett.

16 MS. BENNETT: That was Issue 3. You still also have
17 Issue 2 before you, which was to eliminate the storm surcharge
18 which is in Progress' petition, and you will also want to vote
19 on that. And then Issue 4, the effective date.

20 CHAIRMAN CARTER: Okay. All right.

21 Commissioners, we're into discussion, and then we
22 will go forward from there, but we are in discussion now on
23 Issues 2 through 4.

24 Commissioner McMurrrian, you're recognized.

25 COMMISSIONER McMURRIAN: Thank you. I had a question

1 for staff. And on Page 7 of actually both the Progress and the
2 FPL recommendations there is an analysis by staff, or it
3 includes their analysis, or it begins their analysis on Page 7.
4 And staff states in that, and I may be paraphrasing, but that
5 the midcourse corrections are for the benefit of ratepayers,
6 not for the benefit of the utility. And I just wanted to say I
7 think that is probably a huge surprise to folks listening to
8 this. And I just wanted to ask staff to elaborate on that, you
9 know, what was their thinking in that statement. And I know
10 they have elaborated there, but I just wanted to have that
11 discussion here today.

12 MS. BENNETT: In my research on the midcourse
13 corrections and the orders granting them, the first thing that
14 came to my attention was Order 13694, which is a mandatory
15 requirement for the utilities to notify the Commission and to
16 file a petition when they are 10 percent over or
17 underrecovered, and it comes with a penalty. So in my reading
18 of that type of order that was reiterated in Order 980691, I
19 believe, that tells me that it's more of a mandate on the
20 utility for the protection of the ratepayers. Then I went to
21 the different orders where we have granted midcourse
22 corrections or have considered them. And all of your
23 considerations on midcourse corrections have focused on what is
24 the best interest for the ratepayers.

25 And as you mentioned before, the staff has done a

1 good analysis of the different reasons. Basically, it's for
2 rate stability. You don't want to have rate shock for the
3 customers. You don't want the customers to pay too much
4 interest. These are considerations that the Commission looks
5 at, and I have laid them out on Page 7, and then again on the
6 six issues on Page, I think, 14. So when you are considering a
7 midcourse correction, what you are considering is what is in
8 the best interest of the ratepayers.

9 CHAIRMAN CARTER: Commissioner.

10 COMMISSIONER McMURRIAN: Thank you.

11 I wanted to look at Page 23 of the rec that had the
12 options laid out on it, and this is sort of following up on my
13 last question. The option labeled Option B is to deny the
14 midcourse request and recover the underrecovery totally in
15 2009. And would I be correct in saying that the impact of this
16 option, the option as shown on that chart, demonstrates how the
17 midcourse correction does benefit the ratepayers as far as
18 having some kind of mechanism to adjust the rates in a
19 midcourse fashion? And I guess I'm comparing it to Option A,
20 and perhaps even the other options, but to Option A to show
21 what happens to the rates in 2009 if we were to forgo a
22 midcourse correction at this point and recover everything in
23 2009.

24 MR. McNULTY: Yes, Commissioner, I think it clearly
25 shows that the ultimate rate that would be paid by customers,

1 and, again, this is 1,000-kilowatt-hour bill for residential
2 class, but we think it is indicative of other analyses that
3 would apply to other classes. Basically, what we see here is
4 that the ultimate rate that is paid and the ultimate bill that
5 is paid would be higher if you were to incorporate, and this is
6 just common sense, all of the underrecovery in a 12-month
7 period, you know -- excuse me, yes, in that 12-month period in
8 addition to the other rate effects that are expected at this
9 time in 2009.

10 COMMISSIONER McMURRIAN: May I continue?

11 CHAIRMAN CARTER: Yes, ma'am.

12 COMMISSIONER McMURRIAN: And, essentially, in Options
13 C and D, as well, the reason that you -- and, again, correct me
14 if I'm wrong, but the reason that you recommended Option A is
15 because in all of these other options you believed, and for the
16 reasons I think that maybe Ms. Bennett pointed out the six
17 options -- perhaps it was someone else. But, anyway, the
18 reasons that you have pointed out, when you analyzed these four
19 options that you believed that putting either 50 percent now
20 and 50 percent in next year, or spreading it out over a
21 17-month period, or, of course, denying it and recovering
22 everything in January through December of '09 were not as
23 preferable because of the rate shock that would occur with
24 those other methods? And I know there are different scenarios,
25 different percentages that we talked about a minute ago. But

1 all of those other options as opposed to Option A is not a's
2 beneficial to the customer in the sense of rate shock, is that
3 correct?

4 MR. McNULTY: Commissioner, I agree with that
5 characterization. I would say that given these numbers, which
6 are, of course, very high numbers, that there is going to be
7 rate shock no matter how you do this as long as you are looking
8 at recovering these in the 2008/2009 time period. I think
9 there is less rate shock if you do it under the Option A
10 approach.

11 COMMISSIONER McMURRIAN: And I guess one more,
12 Mr. Chairman.

13 Do utilities make a profit on fuel?

14 MR. McNULTY: No. Historically, the fuel
15 cost-recovery clause has been based upon a dollar-for-dollar
16 recovery of the costs that are incurred. We have a true-up
17 mechanism that ensures that over and underrecoveries are either
18 credited or refunded appropriately in the next fuel factor that
19 is established. So the concept has always been within the fuel
20 clause to limit it to actual costs incurred by the company,
21 plus projections, but those projections as they are trued up
22 are either refunded or credited.

23 COMMISSIONER McMURRIAN: Thank you. That's all I
24 have for now, Mr. Chairman.

25 CHAIRMAN CARTER: Thank you.

1 Commissioner Skop, you're recognized.

2 COMMISSIONER SKOP: Thank you, Mr. Chairman.

3 Commissioners, at least from my perspective, I
4 believe that the Commission has two approaches within our
5 discretion to address the midcourse fuel adjustment request
6 that is pending before us today. And, certainly, on one hand
7 we could send the appropriate price signal and avoid rate shock
8 as staff has suggested by granting the proposed midcourse
9 correction increase.

10 On the other hand, this Commission could take a more
11 consumer friendly approach and give consumers some near term
12 economic relief by deferring all or a portion of the proposed
13 increase. As we used to say in the defense industry, there's
14 no such thing as a free ham sandwich. I do not dispute the
15 fact that the IOUs are legally entitled to recover prudently
16 incurred costs for fuel expenses. And in that regard, it's
17 extremely important to note, and Commissioner McMurrian
18 mentioned this, that the utilities are not allowed to earn a
19 profit on the cost of fuel. I think it's very, very, very
20 important for the consumers out there that may be listening to
21 this to recognize that. There is no profit on the cost of
22 fuel.

23 That being said, Florida's investor-owned utilities
24 perform extremely well and remain financially strong as a
25 result of this Commission's sound regulatory and rate-setting

1 policies. Florida is recognized for its above average return
2 on equities. Hence, deferring all or part of the requested
3 increase is not detrimental to the utilities as they continue
4 to earn interest at the commercial paper rate on any
5 underrecoveries until such time as those costs are recovered by
6 the ratepayers -- or recovered from the ratepayers.

7 The benefits to consumers, industry, and Florida's
8 economy, however, is substantial in that any underrecoveries
9 are carried forward at a low interest rate expense in a manner
10 very analogous to not paying off a low interest student loan,
11 in which I incurred many of which in law school. I've got two
12 tranches. I'm not paying off the 2.9 percent one; I'm paying
13 off the high interest one.

14 But, anyway, to my point, you know, the benefit to
15 the consumers, industry, and Florida's economy is substantial
16 in that the underrecoveries are carried forward at a low
17 interest rate. Thus, leaving consumers with more disposable
18 income to pay their expenses and also to avoid defaulting on
19 other higher interest rate obligations, such as mortgages. And
20 it also gives consumers some well-needed economic -- I mean,
21 some well-needed near-term economic relief. Similarly, it
22 allows small business and Florida's industry to remain going
23 concerns and to continue to contribute and to grow Florida's
24 economy in difficult economic times.

25 In summary, deferring all or part of the requested

1 increase may be the best overall option for Florida as a whole.
2 Florida's IOUs have both the financial stability and the
3 near-term and long-term economic incentive in terms of
4 stability and continued growth of their customer base in better
5 economic times to embrace and openly support this option.

6 I would note that under different economic times I
7 would likely approve the proposed increase as requested by the
8 IOUs if it was determined to be prudently incurred and
9 warranted. Under these difficult economic times, however, I
10 must fairly balance the interests of all stakeholders and try
11 and do what's in the best interest of the consumers, the
12 investor-owned utilities, and the State of Florida as a whole.

13 I would also note in passing that fuel forecasts and
14 pricing can change dramatically over short periods of time. I
15 sincerely hope that the fuel commodity prices will stabilize
16 and perhaps decline slightly near the end of the year, but I'm
17 not optimistic due to what is meant -- but I'm not optimistic
18 due to what many have perceived as speculation and market
19 manipulation. And in that regard, I would cite the ongoing
20 congressional investigation of the Intercontinental Exchange.

21 In closing, I'm not sure what the best option is,
22 and, certainly, we have a lot to consider. But I wanted to
23 kind of put this out there as the basis for additional
24 discussion amongst my colleagues as we move forward and decide
25 this matter of great importance to our state.

1 Thank you.

2 CHAIRMAN CARTER: Thank you, Commissioner.

3 Commissioners, I think that -- Commissioner Skop, I
4 sincerely appreciate your comments. And, Commissioner
5 McMurrian, I appreciate yours, as well. We find ourselves in
6 a -- I don't know what to call it, a perfect storm. I don't
7 know where that expression comes from, but -- I don't know why
8 they call it a perfect storm, but we are in a time when
9 everything is going up for the consumers.

10 Mr. Kelly, I appreciate your comments, because,
11 really, it does put us in a perspective to where we have to
12 look at -- do we look at these options that are presented to us
13 in terms of the rates before us in Option A? Do we look at
14 maybe deferring a portion of it and carrying it out? I'm not
15 sure, Commissioners. I really am not sure. I just -- I do
16 know this, that each one of us are consumers, so we feel the
17 pain, too. I mean, it's a -- I don't know. I just don't know.

18 Commissioner Argenziano, you're recognized.

19 COMMISSIONER ARGENZIANO: Mr. Chairman, I don't
20 ordinarily bite my comments. Everybody knows me. I'm off the
21 cuff. But I worked on the weekend, and I studied the statutes
22 carefully, because I heard you have to do this; you have to do
23 that; you have to do this. And I read the statutes and found
24 out what I had to do. And I'm going to read my comments,
25 because I want them to be succinct and to the point. And, of

1 course, I had Larry help me to make them less blunt, and I'll
2 try to do the best.

3 And for Mr. Kelly, I appreciate your comments. I had
4 hoped that you had a suggestion a little bit tougher, that
5 maybe he would listen carefully to what I may be suggesting,
6 and maybe we can -- we can all come to some kind of agreement.
7 And at that I will just read my comments, and I have to put on
8 my glasses because I'm getting old.

9 All right. I would like to begin by noting that the
10 Commission has not made a substantive decision other than
11 approving stipulations on base rates for Progress in 16 years,
12 and I will go ahead, and FPL for 24 years. That's 16 years and
13 24 years that we've just done approving stipulations. Both
14 companies' 2000 and 2005 rate cases were settled by stipulation
15 among the various parties. And it is my understanding that the
16 Commission's role was basically limited to approving what the
17 parties had agreed to and not what the Commission would
18 necessarily have thought was appropriate.

19 When I reviewed the rate-setting portions of Chapter
20 366 as a whole, including Sections 366.06, 366.07, and 366.076,
21 I believe there is an underlying assumption that when a
22 regulated entity applies for a rate increase there is some
23 review of all of the company's relevant information and
24 factors. And I can't come to any other conclusion without all
25 of those things being reviewed.

1 I do not believe that it was the Legislature's intent
2 to permit regulated entities to cherry-pick their rate increase
3 petitions, especially when a full rate review was so long ago.
4 Rather, I believe it was the intent of the Legislature that we
5 would consider all relevant factors in context.

6 Since there is no statutory provision for the fuel or
7 conservation proceedings, and going to Chapter 366 for our
8 statutory authority, it appears to me the limited proceeding
9 statute is most similar to the fuel proceedings. And for
10 limited proceedings, reading the statute, I believe there is an
11 underlying assumption that the other components which went to
12 the establishment of rates remained the same, and that a merely
13 slight change has occurred entitling the utility to rate
14 adjustment.

15 Since I believe the clause proceedings are most like
16 a limited proceeding, I think the same logic applies, that we
17 should not be granting increases piecemeal without some
18 consideration of all the circumstances of a particular company.
19 As we are all aware, that is not the case here. We have not
20 set base rates through our decision-making process for either
21 of these two companies in more than 16 years.

22 Permit me to recount some of the impactful
23 occurrences since the last rate cases conducted for the
24 petitioners. One, the Legislature has acted in three areas to
25 eliminate ordinary shareholder and business risk. As a public

1 policy matter, when utilities may have been reasonably expected
2 to pursue an interest, their storm cost-recovery, construction
3 related to nuclear facilities, as Mr. McWhirter had pointed out
4 before, and the cost of renewable projects up to 110 megawatts.
5 At the time of the rate case stipulations, these would all have
6 been treated as base rate items, subject to our review in
7 connection with all other company particulars.

8 Two, the rising cost of fossil fuels is so great that
9 it is impacting entire economies, not simply the commodity
10 experienced cost increase.

11 Significantly -- three, I'm sorry. Significantly
12 underperforming or failing areas of the economy, the sub-prime
13 mortgage area, among others, have driven investment capital to
14 other areas, which will make high quality, well-performing
15 companies very attractive to investors.

16 Four, technology advances may have significantly
17 altered the relationship between asset depreciation and asset
18 acquisition. How would I know? Replacing old generators, for
19 example, with new more efficient generators and greater than
20 anticipated resale or salvage value. Fair, just, and
21 reasonable, which is our charge comes to mind. Those are
22 things I need to be looking at. How do I know there is
23 prudence?

24 Five, we are at extremely low interest rates. The
25 Federal Reserve has acted in the past year to inject

1 significant liquidity in the financial sector keeping rates
2 even lower. This significant lowering of the cost of capital
3 warrants inspections of utilities' capital structures to assure
4 maximum benefits to the ratepayers. That's the statute. I'm
5 suppose to be looking at all of these things.

6 Six, salaries and other compensatory aspects. After
7 nine years, or sixteen years, or whatever it is, require a
8 review, such as CEOs, CFOs, board members and employees. How
9 do I know what has changed in all these years?

10 Seven, the contractual relationships entered into by
11 the utility have been untethered for nine years and are
12 entitled to a review. A review, essentially, in the interest
13 of determining prudence.

14 Eight, the advantageous permissible rate of return
15 for the utility, given a decreasing risk environment and
16 increased difficulty to other entities to perpetuate
17 historically achieved rates of return. Some people say, well,
18 you know, other entities are not regulated. And my answer to
19 that is, well, regulated get a government guaranteed profit;
20 the other entities don't.

21 And very simply it comes down to my confidence in the
22 elements to be considered by this Commission in either fixing
23 rates or promoting the existing rate structure to continue such
24 that no violation of 366.07 occurs and permitting me to
25 consider a limiting inquiry to simply a fuel adjustment

1 increase in the absence of acceptable assurances consistent
2 with full rate case review does not exist. And as a result, I
3 just cannot, as a matter of conscience, simply agree to pass
4 through over one billion in fuel recoveries this year alone.
5 And I want to remind you that this is not one billion total;
6 this is on top of the billions already built into rates for
7 this year's fuel purchases.

8 It has been my position for some time that at some
9 point never ending rate increases have got to be controlled or
10 looked at and reviewed. We have to allow our regulated
11 entities to recover cost of service, absolutely, and remain
12 strong, healthy, and do business in the state of Florida. But
13 the constructure of automatic fuel, conservation, and
14 environmental cost pass-throughs with the addition of nuclear
15 and renewable constructions next year cannot continue in
16 isolation.

17 It is time for us to look at the entire structure of
18 a utility's rates, not in isolated piece parts, but in totality
19 in perceiving where we have the ability to consider the entire
20 monthly bill at one time.

21 I mean, I'm prepared to grant the utility's midcourse
22 correction today of approximately half of their requested
23 amount, because fuels have risen to be recovered through the
24 remainder of 2008. And I understand the entirety of the
25 company's request would normally be audited and reviewed for

1 prudence in our November clause hearing. But as I stated
2 before, I believe the paradigm of reviewing individual costs or
3 rate increase requests in isolation is flawed. And as a
4 consequence, I move that we direct our staff to immediately
5 open a separate docket or dockets for the purposes of
6 presenting the entire picture of our utilities' financial
7 status before us, so that we can consider the necessity of
8 granting any additional or incremental fuel increases. I would
9 call it an overearnings investigation or investigation whether
10 to initiate base rate increase proceedings, or something, but I
11 will leave that to staff to determine what the most appropriate
12 vehicle is.

13 And in closing, I believe the law requires, this
14 proceeding should be done in such a way to give all interested
15 parties, including the utilities, a right to be heard and to
16 put all the facts before us. But just to make clear, I do not
17 believe we can continue to grant piecemeal rate increases where
18 only one cost or item is considered out of context from the
19 entire set of circumstances, which the statute directs me to
20 look at.

21 The time has come to make sure that in addition to
22 our regulated utilities remaining in business and
23 being financially healthy and viable, because that is so
24 essential when any customer who wants to turn on a light switch
25 knows they want that to happen when that switch is turned

1 that -- I'm sorry, that the time has come to make sure that in
2 addition to our regulated industries remaining in business and
3 being healthy, and I can't reiterate that enough, that the
4 ratepayers of the state, who we are charged with protecting,
5 are paying fair, just, and reasonable rates which are not
6 unjust, unreasonable, insufficient, excessive, or unjustly
7 discriminatory or preferential.

8 I just need more information, and I hope that OPC
9 understands. I hope the utilities understand. I'm trying to
10 do what the statutes direct me to do.

11 And, in closing, I just hope that we make the right
12 decision. And I will reiterate that the utilities of the state
13 are entitled to make a profit. We want them to be healthy.
14 But I can't make a determination piecemealing things, Mr.
15 Chairman, and that's about all I have to say at the moment.

16 CHAIRMAN CARTER: Thank you, Commissioner. Excellent
17 words, words of wisdom. And I think it kind of summarizes
18 where we are at this point in time, because, you know,
19 obviously, the industry has to be healthy to be in business, so
20 that when people hit the switch, they get some power. And it
21 also has to be in the context of these economic times that we
22 all live in, and I think that is something that we are all
23 grasping with now in the process of that.

24 Commissioner McMurrian and then Commissioner Skop.

25 COMMISSIONER McMURRIAN: Thank you, Chairman.

1 First, I wanted to say that I appreciated the
2 heart-felt comments of my colleagues on this, and I think this
3 is a tough thing for all of us. And I also appreciated Mr.
4 Kelly's candor. I don't think there are any perfect options,
5 and I think that was kind of what he was trying to say and --
6 or what he did say.

7 And I know that I have said this before, and I'll say
8 it again, in fact, probably just a few months ago I said that
9 the cost of electricity is on the rise all across the nation,
10 and I believe that that's true. So I don't think this is
11 happening just in this hearing room. I think it's happening
12 all across the United States. It doesn't make it any easier to
13 know that it is happening elsewhere, because we first and
14 foremost care about Florida's consumers. And we all know that
15 the prices of most everything are on the rise now and that
16 consumers are nervous about all the mounting pressures they are
17 under.

18 And I think Mr. Kelly and several others mentioned
19 those, everything from insurance and property taxes and even at
20 the grocery store. And we've been getting letters from people
21 that are very concerned about these proposed increases, and I
22 sympathize with them, and I know a lot of people in that boat.
23 Again, I think it's hitting everyone. And we talked at a
24 recent agenda conference about how it's not just affecting low
25 income, it's also affecting the middle class. And, again, I

1 definitely concur with that, that people are having a hard
2 time.

3 It makes this decision extremely tough, but I still
4 believe it's the right thing to do, to grant the utility's
5 request, the Option A. And the reason -- and you can probably
6 tell from my questions earlier of staff, I believe that --
7 well, let me step back and say this: I think a lot of it
8 depends on what each of us thinks will happen over the course
9 of the next year. And we've talked about that in several
10 cases, and a lot of what we do is very subjective in trying to
11 determine what we think will happen. The utilities all file
12 fuel forecasts, sometimes also forecasts about what will happen
13 with carbon regulations and things, so a lot of it is a good
14 bit of a guessing game.

15 And I hope the utility forecasts are wrong. In fact,
16 I can guarantee they are wrong. All forecasts are always
17 wrong. But I believe, unfortunately, that the forecasts that
18 they've put forward are reasonable, given the panoply of the
19 world events that are affecting fuel prices. And I think that
20 in 2009 we're going to see more of it. And I'm afraid that
21 deferring, whether it's 50 percent, or spreading it out over
22 the entire 17-month period, and I appreciate those options
23 being put forward, I think that it's really putting off the
24 inevitable, and I think that ultimately the rate hikes will be
25 a lot worse than we are seeing now, at least given the

1 projections. And, again, I do realize they are projections,
2 but that we will have significant increases in 2009 under any
3 of those options. And, frankly, I think that in this situation
4 the best thing to do is to recover the underrecovery over the
5 remaining portion of this year.

6 So I support staff's recommendation on Option A.
7 I'll just throw that out, but I do appreciate the concerns of
8 my colleagues. I do share them. And I think one of the
9 greatest things about having five of us is we bring different
10 perspectives, and I think all five of us can reasonably
11 disagree on things. And I just really believe that it is the
12 right thing to do to try to recover this over the remainder of
13 calendar year 2008.

14 Thank you, Mr. Chairman.

15 CHAIRMAN CARTER: Mr. Skop, you're recognized.

16 COMMISSIONER SKOP: Thank you, Mr. Chairman.

17 And I appreciate Commissioner McMurrian's concerns,
18 also, because, you know, like I said, as I stated if it were
19 different economic times, I would certainly, if it were prudent
20 have no problem with that. It's just, at least to me, an
21 interest balancing analysis where that commercial paper rate is
22 very, very, very attractive. And, actually, I think it's
23 cheaper than my student loans. So if I had a choice between
24 servicing the debt on my service loans and floating my fuel
25 costs, I think I would go service the higher cost debt, but

1 that's just my financial perspective.

2 But just in passing, I had a quick question to staff,
3 and this was pertaining to a prior Commission order regarding
4 the process of the midcourse mechanism. And I think that order
5 was December 20th, 1990. And, apparently, I had some
6 additional information I guess staff provided that indicated
7 that the Commission at that time approved a midcourse
8 correction for FPL without a hearing, because it was not
9 practical to schedule a hearing. Can you just elaborate a
10 little bit more on that?

11 MS. BENNETT: As I'm looking for the order, as I
12 recall the 1990 midcourse correction for Florida Power and
13 Light, at that time we were following a PAA process. And so
14 the Commission approved the rate, but it was a PAA, a proposed
15 agency action order, and a subsequent hearing could be held.

16 That's different than it is today. And today's
17 2001 -- well, in 2001 the Commission said we're going to call
18 these preliminary procedural orders, and our hearing will be in
19 the November fuel proceedings. So there was a distinction.
20 But, yes, in the early '90s they were PAAs.

21 COMMISSIONER SKOP: Okay. And I guess with the
22 chairman, Chairman Wilson at the time, is that the same
23 Commissioner that the Mike Wilson rule prompted from?

24 MS. BENNETT: I'm not familiar -- my agency history
25 is not all that far back.

1 COMMISSIONER SKOP: Just checking. I guess just
2 given the history, I guess that at least is not my idea of what
3 I consider strong embodying precedent in reviewing the data
4 that the Commission gave. I mean, anytime that we go forward
5 and permit millions of dollars without a hearing raises a level
6 of scrutiny in my eyes. But, anyway, I just wanted to briefly
7 comment on that. Thank you.

8 CHAIRMAN CARTER: Thank you.

9 Commission Edgar.

10 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

11 And I need to take just a moment to echo some of the
12 thoughts of my colleagues and also to thank our staff for the
13 great work that they've done laying out the options. I thought
14 it was laid out very clearly and was very, very helpful, and
15 also for getting us the additional information on the interest
16 payments, which I find also to be helpful.

17 I would also like to say thank you as well to Mr.
18 Kelly for participating, and as has been said, for your candor.
19 And I hope that we will be seeing more of you. It's very
20 helpful to have your perspective and to have the advocacy from
21 your office participating as we deliberate.

22 Mr. McWhirter made some comments earlier, and I think
23 in one of your comments you talked about some of the -- maybe,
24 you know, middle-class households whose bills are also
25 increasing and don't maybe qualify for some of the programs and

1 kind of fall above that, maybe fixed income, but also are being
2 hit so desperately. And not to overpersonalize, but I think a
3 few of you have heard me say before I remember last August
4 vividly. On one of those homes with two adults and two
5 children, and significantly even with all of our conservation
6 efforts above the 1,000 per month usage and finding it
7 difficult to reduce it much more, candidly.

8 At my house our utility bill almost doubled last
9 August. And it truly was a, okay, we cannot go out to dinner,
10 and we cannot do some of those things as a family that we might
11 have tried to, go to a movie or whatever, because we have to
12 pay the utility bill. And that certainly is not the same thing
13 as not being able to eat, but it's significant when you're
14 trying to raise children. Who, by the way, cannot fit into
15 shoes for more than two months at a time no matter what I try
16 to do.

17 So trying to look at these issues, I mean, I know
18 that we all do in our professional capacity feel the weight of
19 these decisions, and we all do, as our Chairman said, feel it
20 at home and in our own lives, as well. And it is real and it
21 hurts. And the cost of insurance, and of groceries, and, yes,
22 the cost of milk. I may be the only one up here that is still
23 buying a gallon of milk a week at our house with young
24 children. And it's just -- it's just amazing.

25 I don't know, again, not to belabor it, but what the

1 right answer is here. I have real concerns about deferring or
2 denying all of the request. That just doesn't feel like a
3 smart financial forward-thinking approach to me. Although I,
4 as I think we probably all do, always dread voting for anything
5 that could be felt or described as an increase, of course. And
6 the easy thing to do would be to say put it off and put it off
7 and put it off. But I don't think that that is smart
8 financially.

9 And as Mr. Burnett pointed out, when you look at the
10 math and the numbers that were so clearly laid out by our
11 staff, some of those deferrals to the out years and the numbers
12 that are reflected, realizing that they are forecasts, and they
13 will probably not be exact to the penny, but yet the trends and
14 the analysis and the factors that have gone into that, I do
15 believe is pretty solid.

16 And so when, again, you look at the math and some of
17 those alternate options, they concern me. I mean, they just,
18 quite frankly, concern me as to what those impacts would be in
19 the next six months, 12 months, 18 months, realizing that we
20 will all be back having these same conversations over these
21 same issues, and the cost of fuel and how it impacts the
22 monthly bill, and future issues that come before us.

23 So, Mr. Chairman, I'm not at a position to be able
24 necessarily to speak for any one option yet. I'm still
25 thinking it through. However, I do not feel that the right

1 course would be to go with Option B at this time.

2 CHAIRMAN CARTER: Option --

3 COMMISSIONER EDGAR: Option B gives me great concern.

4 CHAIRMAN CARTER: Okay. Thank you, Commissioner.

5 Commissioners, if I may --

6 Commissioner Skop.

7 COMMISSIONER SKOP: Thank you, Mr. Chairman.

8 And I appreciate the discussion. I think

9 Commissioner Edgar's comments were extremely well-taken and
10 along the lines of Commissioner Argenziano's points that some
11 of the points she made about things going in the rate base and
12 others.

13 Just as a point of perspective, I just wanted to kind
14 of put out a thought, and I do this with all due respect. I
15 guess what I'm saying, and I think that Commissioner Argenziano
16 kind of raised the issue, but there is a tremendous -- we're in
17 a build-out cycle in Florida, and there is a tremendous amount
18 of cost being passed through. Either they are pursuant to
19 statute where we have no discretion, and we pretty much have to
20 approve them and they go in the rate base or through the
21 settlement agreements that are mentioned.

22 So if we're putting those costs into the rate base,
23 those are, you know, accruing the return on equity at, you
24 know, 11.5 percent on some of the utilities, I think, pursuant
25 to the settlement agreements. And the interest rate with the

1 commercial paper that any underrecoveries are floated at is
2 significantly lower. I mean, probably -- I'll have to do some
3 math, but 900 basis points lower, nine percent lower.

4 So it seems to me that the consumers, again, they're
5 feeling the pain both ways. They're feeling it from the base
6 rate increase, but also through the clauses. And, you know,
7 maybe if we could find some happy hybrid. And I think that may
8 be some of the suggestions that I'm hearing is that certainly
9 no increase -- that may not be the best thing for the
10 Commission to do, but approving the increase in totality, given
11 the hard economic times, that might be complicated, also.

12 But it just seems to me that, you know, in an
13 interest balancing analysis, if they're getting the costs
14 passed through in their rate base, which they are, and bills
15 continue to rise. I think Mr. McWhirter brought up some points
16 how that's going to happen. Certainly, if you take a portion
17 of this at a low interest rate and float it for a while, no one
18 is really being harmed. The consumers are getting their
19 relief, the utilities remain financially healthy, the utilities
20 collect interest on the amounts due.

21 I know that you all don't like that, but, again, it
22 is -- you know, I'm trying to balance the interest. But it
23 just seems to me that that interest rate is so attractive that
24 it would, you know, at least from a financial management
25 perspective in trying to balance the interest, it seems that --

1 you know, I wish I could borrow that amount of money at that
2 interest rate, because I would go redeploy the capital and make
3 a higher rate of return.

4 So analogous in the same method of a consumer, like
5 if we were to purchase a new car with an interest rate of six
6 or seven percent, or make a mortgage payment at seven and a
7 half percent. If you don't pass the full amount of this cost
8 through, the consumers have more disposable income or more
9 income at their disposal to make some of these other types of
10 payments to keep afloat in these hard economic times to keep
11 their house. Because if you don't have the house and it's
12 foreclosed, you lose a customer, because you can't sell
13 electricity. So it's kind of like a balancing symbiotic
14 relationship. And I just think that there is something to be
15 said and something to be attractive in that low interest rate
16 at the commercial rate in floating, perhaps, some of the cost
17 of the proposed increase to a later time and allowing those to
18 accrue with interest.

19 Because, again, the interest rates, as I see them on
20 the chart that staff provided, seem to be nominal. Unless I'm
21 looking at this wrong, we're talking, you know, millions of
22 dollars, where they might be at the higher interest rate of the
23 return on equity hundreds of millions of dollars. So to me,
24 it's like a cheap way in the near term to provide some economic
25 relief to the consumers and the ratepayers without being unduly

1 harsh or unfair to the utilities.

2 And I think that in retrospect, as I've mentioned or
3 tried to point out, at least -- you know, Florida, as a
4 commission, we are recognized for rewarding our utilities and
5 keeping them healthy. And, I mean, I think that speaks
6 strongly in the current ROE. So, you know, at least from my
7 perspective it seems like everyone could perhaps pitch in here
8 and come to some common consensus that would try to win-win for
9 not only the utilities, but also their ratepayers, and us as a
10 commission to try and look out for the consumers and do the
11 right thing for the state of Florida.

12 Because it's not about the increase alone. Frankly,
13 I think it boils down to this has a tremendous impact on
14 Florida's economy. And, you know, by trying to do the right
15 things where we have the discretion to do so, you can just have
16 like a multiplier effect that trickles through the economy, and
17 I think that's a good thing for our state.

18 So, again, I think as Commissioner Edgar and also
19 Argenziano have duly pointed out, I'm not so sure I would
20 support, necessarily, the denial option, because I don't think
21 that's in the best interest of everyone. But certainly
22 approving the requested increase as a whole, I'm not so sure
23 that that's the most financial -- from a financial management
24 perspective the most prudent thing to do, either, if I had that
25 discretion. Because, again, the consumers can benefit in the

1 economy and Florida can benefit from consumers, millions of
2 consumers, having that extra disposable income.

3 So I just wanted to kind of add that out of respect
4 and to facilitate the discussion. But it seems like we're
5 making some -- a lot more headway than I thought we would be at
6 this time. So I'm happy to hear the concerns and equally
7 respect the views of all my colleagues.

8 Thank you.

9 CHAIRMAN CARTER: Thank you, Commissioner.

10 Commissioners, if I may be permitted to think out
11 loud for a moment. I sincerely appreciate Mr. Kelly in terms
12 of what he had to say. I mean, we all know that, too, in terms
13 of people are hurting all over the place. And as I said
14 initially, even before Commissioner Argenziano made her
15 comments, that I have a grave concern about the economy and
16 where people are, and things of that nature. But I just feel
17 that -- in fact, just kind of think about it in a global
18 context. I was reading the other day in the Wall Street
19 Journal, and I think I read something in one of the Florida
20 business papers about the third quarter in '09 possibly
21 things -- you know, us picking up a bounce in our economy.

22 But I think that right now in the context of where we
23 are with mothers and dads and senior citizens on fixed incomes,
24 is that we don't want to be the straw that breaks the camel's
25 back. And just as I said, I hope you don't mind me just kind

1 of thinking out loud with you. But I do think there is a --
2 there is a common ground here in terms of -- I think
3 Commissioner Argenziano articulated it far better than I did,
4 that maybe looking at a possible approval of a portion in '08
5 and the remainder in '09. Because what that does is it keeps
6 the companies whole, and it doesn't give -- it doesn't put folk
7 in the position of where -- I mean, I don't live on the coast,
8 I live in Tallahassee, but my property insurance went up 100
9 percent. And, I mean, I couldn't control that. I had to pay
10 it or I don't get any coverage. And I know most of you here
11 have looked at your bill for this month, your utility bill, and
12 I think mine was like 60 percent up more than last year this
13 time. And as we talk about groceries and then the fuel costs
14 and things of that nature.

15 I do believe that if we're going to ask the
16 ratepayers to take a hit over a period of time, and maybe the
17 companies will understand that -- maybe they could take a
18 deferral at best, because they will be able to recoup their
19 resources. And I believe that if the market prognosticators
20 are correct in the third quarter of '09, and then things being
21 better with our unemployment maybe rebounding, that people can
22 get jobs and our economy may pick up, and more and more people
23 will start to come to Florida from our tourism-based economy as
24 well as some of the other kinds of things that are on the line,
25 I think we can get there, Commissioners.

1 And I just wanted to kind of think out loud. I don't
2 really have a magic ball or anything like that, but I do think
3 in the context of this economic environment that we're living
4 in, it may foster us looking at possible -- I mean, I'm looking
5 at Option C. And, I mean, I would be more than happy to have
6 staff speak to that, but I'm just thinking that based upon
7 where we are, you know, we probably do -- and I don't think it
8 puts the company at a disadvantage financially, and I don't
9 think it puts the consumers at a disadvantage financially,
10 because, you know, the fuel costs will be paid. We know that
11 there is no profit in it for the company. They will be paid.
12 But there should be some -- I'm struggling for the right word
13 to use. So let me just leave it out there, Commissioners. I
14 just wanted to give you the benefit of me thinking out loud.

15 Commissioner Skop and then Commissioner Argenziano.

16 Commissioner Skop.

17 COMMISSIONER SKOP: And thank you, Chairman Carter,
18 for your excellent comments on that point. I mean, I think
19 that that is spot on. I'm not opposed to Option C. I think
20 that that's, you know, an alternative, given the differential
21 percentage increases, or the difference in percentage increases
22 across the board between the three petitioners that have come
23 in for a midcourse correction. I'm not necessarily sure that
24 perhaps it might not be more fair to just -- in lieu of a
25 50/50, just to pick, you know, a fair appropriate number that

1 might be passed through, but I'm open on that. I like the
2 discussion. I think that we're working together here
3 excellently as a collegial body today in trying to do the right
4 thing by consumers. I'm very proud of what we're about ready
5 to undertake in the ensuing discussion.

6 CHAIRMAN CARTER: Okay.

7 Commissioner Argenziano, and then we'll come back to
8 Commissioner McMurrian.

9 COMMISSIONER ARGENZIANO: Mr. Chairman, as I
10 mentioned before, I still would have -- I wouldn't mind today
11 going, as I said before, with allowing half of the approximate
12 request for the remainder of 2008, but could not agree to just
13 say, okay, in 2009 here you get it without looking at what I
14 expressed, I thought, in detail before, was not knowing the
15 whole picture. And without the whole picture, the statute -- I
16 mean, the statutes tell us that we have to -- we really have to
17 look at the whole picture to be able to determine whether there
18 is prudence and all the other things that we have in the
19 statute that we are directed to look at to protect the consumer
20 and the utility at the same time.

21 And what I -- actually, what I would move is that we
22 direct, as I said before, our staff to immediately, I guess,
23 open a separate docket or dockets for the purposes of
24 presenting the entire picture of our utilities' financial
25 status before us so that we can make that determination.

1 Because I can't, in good conscience, just piecemeal.

2 So if we did the 50 percent now, I would want the
3 caveat that next year at least we get to look at the entire
4 picture so that we have a good understanding of what we haven't
5 seen for many, many years. And it could fall on the benefit of
6 the utility just as well. But without having that information,
7 I just don't feel like I would be doing the job I was sent here
8 to do.

9 CHAIRMAN CARTER: Thank you, Commissioner.

10 Commissioner McMurrian.

11 COMMISSIONER McMURRIAN: Thank you, Chairman.

12 And this is more of a procedural comment. I'm sort
13 of getting to the point where I need a break. And I really --
14 and joking aside about the break. I would like some time. If
15 it might be a good time to take a lunch break, some time to
16 sort of think over what I've heard from my colleagues and
17 deliberate on it a little bit before we get to the point of
18 motions. But, again, I respect the will of the majority.

19 CHAIRMAN CARTER: Thank you, Commissioner.

20 I should have looked over at the court reporter to
21 give her a break. And this is a very weighty matter, too.
22 It's very creative. And in the context of what I'm hearing
23 from my colleagues, I think we could just go ahead on and do
24 lunch and that will give staff an opportunity to do some things
25 as well as give us an opportunity to collect our thoughts.

1 Let's see here. How about we come back at 1:30.
2 Would that work for you, Commissioners?

3 Commissioner Argenziano.

4 COMMISSIONER ARGENZIANO: Yes, that would be fine,
5 but keeping in mind we have some confidential information on
6 the desk. Will it be secured or --

7 CHAIRMAN CARTER: We are going to have to -- Staff,
8 these confidential documents, will someone be responsible for
9 securing those while we're gone?

10 MS. BENNETT: Staff will secure them.

11 CHAIRMAN CARTER: Staff will take care of them.
12 Okay.

13 Anything further, Commissioners?

14 We're on recess until 1:30.

15 (Lunch recess.)

16 CHAIRMAN CARTER: We are back on the record, and we
17 were in our discussion phase last time we left.

18 Commissioners, if you will permit me for a moment, is
19 that during the break I had an opportunity to talk with the
20 staff on some -- possibly looking at some numbers and also
21 looking at the companies and all like that. And if you would
22 indulge me for a moment, I would like to have staff to kind of
23 talk about some of the things that I have spoken with them on.

24 And, Mr. Devlin, you're recognized, sir.

25 MR. DEVLIN: Thank you, Mr. Chairman.

1 We were just trying to get our heads together in
2 response to some of the comments that were made at the bench
3 about looking at earnings in preparation for the November fuel
4 hearings. And, of course, here I think we're talking about
5 primarily FPL, Progress, and Gulf Power, since TECO has filed
6 for a rate case. FPUC has just finished a rate case, and
7 have -- you know, I'll try to explain exactly what kind of
8 earnings review we are talking about. It would be a very high
9 level review.

10 Quite frankly, we have staff resource issues we will
11 have to deal with. So we haven't thought out all the detail,
12 but it would be a high-level open type review with all parties
13 would be involved. It would be docketed for that reason. And
14 we would be looking at high dollar, high level items, such as
15 maintenance, such as salary, such as depreciation, such as
16 plant additions and retirements. But, again, at a very, very
17 high level. When you are talking about a 12 or \$15 billion
18 company, there is only so much you can do in two or three
19 months. But this is something we could do, and I think we
20 could do that under the parameters of the settlements that we
21 are operating under. I'm not an attorney, but I believe we can
22 do that.

23 Let's see. What else did I leave out? We would
24 agree if this is something the Commission desires to report
25 back before the November fuel hearings so that information

1 could be used however the Commission sees fit. Depending on --
2 and I can't predict what the results would be, but the
3 financial condition, the evaluation of maintenance and plant
4 additions, et cetera, may lead to, you know, a different type
5 of proceeding, and I just don't know. I can't predict, but it
6 would be information that we could reveal to the Commission at
7 that time.

8 CHAIRMAN CARTER: Thank you, Mr. Devlin.

9 MR. DEVLIN: That's as far as I got with the idea.

10 CHAIRMAN CARTER: That's as far as he has gotten.

11 But, Commissioners, what I was doing there, and I know I
12 probably should have allowed staff to have lunch, but I was
13 just kind of picking their brains on some ideas based upon what
14 we were talking about today, and I wanted them to kind of share
15 that. And as he said, he hasn't had a chance to kind of fully
16 develop it or anything like that, but it's some of the kind of
17 things that we talked about earlier this morning. And I just
18 wanted to explore it a little further with them. And you're
19 more than happy -- within the context of where Mr. Devlin is,
20 he would be more than happy to answer whatever questions he
21 can, Commissioners.

22 Commissioner Argenziano.

23 COMMISSIONER ARGENZIANO: Well, Mr. Chairman, with
24 respect, and I appreciate staff's comments, whether it is high
25 level or not, it is really what we are charged with. And while

1 it may be something that hasn't been done in a long time, I
2 think at some point -- not that it has to be done all the time,
3 but I think at some point after a long period of time has
4 passed, the only way to determine prudence or other issues that
5 we are charged with and finding out if it is just and
6 reasonable and those things that the statutes require us to do,
7 that's exactly, whether it is high level or not, what we are
8 charged with doing.

9 I do appreciate that, though, and I understand time
10 constraints and so on. But it could be more costly to the
11 utility and the consumer if things are done in an
12 unreasonableness way or a way that does not conform to the
13 statute. So I think it is just time.

14 CHAIRMAN CARTER: Thank you, Commissioner.
15 Commissioner Skop.

16 COMMISSIONER SKOP: Thank you, Mr. Chairman. And,
17 again, I think that we are making good progress on converging
18 on what is a very important issue. I think that I would like
19 to ask to go back to -- I think I heard something earlier from
20 Mr. Wright. Again, I'm trying to consider all the options that
21 the Commission has available to it. But I thought that -- if I
22 heard him correctly, he mentioned something about, you know,
23 basically, a pay-as-you-go methodology in terms of you're
24 incurring the actual costs as they -- I mean, you're paying for
25 the actual costs as they are incurred for each utility. Again,

1 it was in passing, and then I'll hear from him, and then I've
2 got a quick --

3 CHAIRMAN CARTER: Sure. Mr. Wright.

4 MR. WRIGHT: Thank you, Mr. Chairman.

5 Commissioner, I think pay as you go is close to what
6 I was getting at. What we're proposing is that on a
7 going-forward basis, you roll the known actual underrecoveries
8 into the fuel charges for the next period. So, as of today, we
9 know -- we know what the underrecoveries were through May, or
10 at least those are calculable from the A-10s that just came in.
11 Our proposal would be to allow them to recover the accumulated
12 underrecovery through May in the August/December period. When
13 we get to the hearing in November, we will know the actual
14 underrecoveries from June, July, August, and September. Roll
15 those into the 2009 fuel charges and then defer consideration
16 of the October, November, December '08 underrecoveries until
17 they are known.

18 One of two things would happen next year. Either
19 there would be a midcourse correction, in which case they could
20 be considered at that time, or they could be considered as an
21 accumulated underrecovery from the prior year in the November
22 '09 fuel hearing.

23 COMMISSIONER SKOP: So to my point, I think, I guess
24 that would kind of be proposing similar to a month-to-month
25 adjustment or true-up similar to some of the past Commission

1 precedent that I think I read last night. Is that --

2 MR. WRIGHT: I hesitate to -- I would hesitate to
3 call it month-to-month. I would call it period-to-period, but
4 I believe it is directly analogous and follows directly the
5 principles that the Commission used in a similar circumstance
6 in the 2005 fuel docket. FPL wanted to actually postpone the
7 whole thing, spread it over the succeeding two years. The
8 Commission said, no, you know what it is through September of
9 '05. You are going to recover that in '06. We will put off
10 the October/December underrecovery to the '06 docket and see
11 what happens.

12 COMMISSIONER SKOP: Fair enough. And to my
13 colleagues, also, again, I think that when we departed for
14 lunch, I think there was some convergence or movement towards
15 the -- I believe it's Option C, which was the 50/50 approach.
16 But I guess what I would like to maybe hear from my colleagues,
17 you know, certainly, the 50/50 approach is an option, but, I
18 mean, would there -- does anyone have any interest in maybe
19 discussing like a fixed number increase that might be a little
20 bit different from the 50/50, or is the consensus that 50/50 is
21 probably one of the options to go for?

22 CHAIRMAN CARTER: Commissioner Argenziano.

23 COMMISSIONER ARGENZIANO: Well, number one, I'm not
24 sure what you're asking. Do you have you a number in mind?
25 Are you talking about a percentage rather than a 50/50? What

1 are you talking, 60/40, 30/70? I'm not sure.

2 COMMISSIONER SKOP: I guess --

3 COMMISSIONER ARGENZIANO: Wait a minute,
4 Commissioner. And then the other thing is that, remember, my
5 suggestion -- it's only mine, and I don't know that there is
6 consensus, but it is my, what I am going to be looking for --
7 is the 50/50 or something similar with the caveat that before
8 we go into giving any other additional, that there is to be
9 information, this high level look, so that we have a review.
10 Because all of those years have passed by, and I can't, in good
11 conscience, come to a determination of something of this
12 magnitude without knowing all the particulars. So let me
13 reemphasize that, and I don't know whether there is consensus
14 on that or not. But that's what I left off on.

15 COMMISSIONER SKOP: And I guess my concern in terms
16 of the 50/50, because each of the respective petitioners is
17 asking for something a little bit different in terms of
18 percentage, which is based on their projections, of course.
19 But, you know, I didn't really have a number in mind. I just
20 wanted to kind of float that out there. But, you know, maybe
21 like a 5 or 6 percent or something like that, but I'm certainly
22 okay with the 50/50 if that is the direction the Commission
23 goes in its discussion.

24 CHAIRMAN CARTER: Let me -- and after Commissioner
25 Argenziano, we will go to Commissioner McMurrian.

1 But the reason I said 50/50 was that's one of the
2 options that is presented to us that staff has already reviewed
3 and analyzed, and we have already had discussion on it with the
4 parties and all. And so that was the reason that I saw that in
5 particular in terms of our discussion this morning.

6 Commissioner Argenziano, then Commissioner McMurrian.

7 COMMISSIONER ARGENZIANO: Just to Commissioner Skop's
8 point, if there is a motion out there, of course, I'm sure we
9 would equally individually, you know, debate it, or discuss it,
10 or take it into consideration.

11 CHAIRMAN CARTER: Commissioner McMurrian.

12 COMMISSIONER McMURRIAN: Thank you, Chairman. And I
13 guess first I'll address the idea of looking at the full
14 picture before we deal with the remaining half of 2009, and
15 then I will talk a little bit more, I guess, about the fuel.
16 And it is probably all mixed. I haven't thought this all
17 through in a very organized fashion, but I'll do my best.

18 Let me say I understand how appealing it is to get a
19 full picture of the utility before you make a decision. But I
20 really don't think we can reasonably do that every time a
21 utility petitions for some kind of cost-recovery. I mean,
22 we're talking about doing this now, maybe you do it one time,
23 perhaps next year we are in the same boat. And I really think
24 with the direction that we, perhaps, are heading in that we are
25 going to be in this boat again next year. And I will get back

1 to that in a minute.

2 But, I don't even -- I don't know how you do a
3 piecemeal rate case, either, I guess, Mr. Devlin. I'm not sure
4 how we pick out maintenance cost and salaries without looking
5 at the rest of it. I'm not sure that that is fair, either. It
6 seems like you have to look at the entire picture in order to
7 really get some kind of idea about the entire workings of the
8 utility. And that perhaps that's not really having the full
9 picture, either. And I think you even admitted that in two to
10 three months it is hard to get very much good detailed
11 information.

12 And, secondly, I guess I have some concerns. I mean,
13 you mentioned you are not an attorney, and neither am I. But
14 we did approve a stipulation, and it seems like to bring up a
15 mini rate case before the end of that stipulation -- again, I'm
16 not an attorney, and I don't want to act like that I am, but it
17 just seems -- it doesn't seem consistent to me with how I view
18 regulatory theory. It doesn't seem consistent with that, in my
19 opinion.

20 But I wanted to share that with you, Commissioner
21 Argenziano, because I think -- I do think it would be nice to
22 have a full picture every time, but I don't think -- I just
23 don't think we can do that. And not only in fuel, but in the
24 environmental cost-recovery clause, or any other time when we
25 might have some big rate impact to go in and look at the entire

1 workings of the utility.

2 With respect to the fuel, you know, I appreciate you
3 taking the break, Chairman, and I did want to think about
4 everything that I had heard, and I understand where my
5 colleagues are coming from. I still think that the right thing
6 to do for the consumer is to recover the full underrecovery in
7 the remaining months of 2008. You know, I was thinking over
8 the break that, you know, my dad taught me to save up, and
9 sometimes you can't -- you don't know what's going happen.
10 And, granted, there are a lot of things that people would have
11 had to save up for to be able to afford what's happening now.

12 It is hitting all of us, as we have talked about.
13 Everyone is having a tough time. But I'm worried we're going
14 to be here in 2009 talking about what a tough time it's going
15 to be for consumers to make up the difference. And if we are
16 talking about a 50/50 approach, for instance, I guess we would
17 be talking about a \$48.81 charge for fuel now. But given the
18 forecast that we have in front of us, \$62.36 next year, which
19 is a 28 percent increase then. I can't in good conscience do
20 that. I believe that that is putting too much a burden on
21 consumers next year.

22 I know that there is no easy answer. As I said
23 before, I don't like Option A, but I think that Option A is the
24 most preferable option that we have before us. And at the
25 appropriate time I want to make a motion for Option A. I

1 believe that that's the right thing to do. I know that it's
2 not going to sound like the right thing to do for a lot of
3 people, but in my gut I believe that that is the right thing.

4 It's not an easy decision, because, again, as I have
5 said, I don't think any of these options are an easy decision.
6 And I don't think -- I appreciate what Commissioner Argenziano
7 has thrown out, but I don't think that that is going to make it
8 any easier. In fact, I think that by the time we get there, we
9 are just going to have put off more of the fuel increase that
10 is likely to happen in 2009.

11 So, in my opinion, what is best for the customers --
12 and I appreciate that everyone is trying to address that, but,
13 in my opinion, what's best for the customers is not to put off
14 for tomorrow what it looks like to me is best to take care of
15 today. And, again, a few years ago -- and I know we've talked
16 a lot about history and the fuel clause. Several years ago we
17 had one of these last fuel price increases. We were talking
18 about this in my meeting the other day. I think the rec was
19 about three pages. And this time we have a very well thought
20 out -- and not to say it wasn't well thought out in, I think it
21 was maybe 2003 -- not to say it wasn't well thought out then,
22 but this time I think the staff has done a really good job in
23 saying there are these concepts out there, that maybe you could
24 do half now and half later, maybe you could spread it out over
25 the full 17 months. And I know that there are a lot of parties

1 who think that is better. And for budgeting purposes and all,
2 I understand where they are coming from. But we're talked
3 about those things in concept.

4 This time I see is it in front me on this exhibit.
5 And I really believe that it is putting off for tomorrow
6 something that we should responsibly try to take care of in the
7 remainder of 2008. And we may even be looking at further
8 increases. I know -- and I really don't mean to jump into the
9 other docket, but I wanted to mention this. I know there is
10 information in the FPL docket that based on another NYMEX
11 forecast that we are already in another \$300 million
12 underrecovery. We are looking at that possibly.

13 I realize that next week NYMEX may something else.
14 These forecasts all change. But given all the world events, I
15 really don't see the price of gas and the price of coal really
16 going back to what they were anytime soon. It seems like it's
17 inevitable to me.

18 And, again, Chairman, I think it is the right thing
19 to do for the customers to recover over the remainder of 2008.
20 And I would like to make that motion, but I also think that
21 what we do in this case is going to impact the other two cases,
22 and at some point we might want to talk about at least seeing
23 if the other parties might want to give any input. Because,
24 again, I believe that what we are getting ready to do here will
25 have an impact on those other two cases, as well, and perhaps

1 they should be heard, as well. But, again, they may not want
2 to be heard, but I think that it's important enough to allow
3 them to do that.

4 But I do want to make that motion. I realize that a
5 lot of you may have doubts about that, but I do feel strongly
6 about it, that I would like to put that motion out there to
7 accept the staff recommendation on all the remaining issues in
8 this case.

9 CHAIRMAN CARTER: Okay. Commissioner Argenziano.
10 Before I recognize your motion, Commissioner
11 Argenziano.

12 COMMISSIONER ARGENZIANO: Well, I would just like to
13 respond briefly. With all due respect to Commissioner
14 McMurrin, and the comment that looking at the full picture is
15 either -- I don't know if she said costly, but looking at it
16 every time. Well, I can hardly call 24 years and 16 years
17 every time. And to not realize that after 24 years and 16
18 years looking at the whole picture, circumstances change
19 drastically. And it is your charge as a Commissioner to look
20 at those changes to make determinations. So I respectfully
21 disagree according to the statutes that our charge is to make
22 sure that we are looking at that picture. And far too much
23 time has passed to know what the picture is to determine.

24 Now, it has nothing to do with the fuel cost, per se,
25 okay? There is a whole different thing that I'm bringing up

1 here. It is looking at all the other things. How do we know
2 they have acted prudently in 24 years? That's your charge.
3 That's my charge. It is not known, 24 years and 16 years. So
4 I'm sorry, I respectfully disagree. And as far as
5 piecemealing, that's exactly what has been done here for 24
6 years and 16 years respectively. And that is my point. It is
7 not to your point about the fuel adjustment. Everybody knows
8 the fuel is going up. And without looking at what has changed
9 in all of that time, what you are doing is hurting the consumer
10 and possibly the utilities far more than the cost of a full
11 review.

12 And the stipulation, with all due respect, I believe
13 that upon appropriate scrutiny it may be found that a material
14 misstatement has been made and relied upon such as the
15 stipulation may be set aside. And, more importantly, that the
16 stipulation, in my opinion, has terminated any appropriate
17 degree of review and proof-making. That is my whole point. So
18 not to the fuel adjustment, because that may be very well
19 granted. But until you start looking at the whole picture and
20 find out if they have practiced what the statutes say we need
21 to be looking at, then to me you are doing a tremendous
22 disservice to the consumer as well as the utilities.

23 So that's my point. Not that I disagree with the
24 fuel cost rising, I understand that very well. But by not
25 doing that, I think that what you have done is basically

1 allowed more harm to come to the consumer out there than
2 waiting a year.

3 And one other thing. As far as interest, as far as
4 interest rates, there are things you could -- there are
5 remedies on the interest rate. I don't go for if you don't do
6 it now it is going to cost more later. Because if you don't --
7 if you have a full review, and you find out that there wasn't
8 real prudence where CFOs' and CEOs' salaries have changed and
9 things that need to be computed into our response here are not
10 taken into consideration, or if they are not just and right,
11 then you have skewed everything in the sake of saving interest,
12 when at the end of this in full review you might find that you
13 have actually saved more money by waiting rather than going
14 ahead now. So with all due respect, I don't agree.

15 CHAIRMAN CARTER: Thank you, Commissioner.

16 Commissioner McMurrian and then Commissioner Skop.

17 COMMISSIONER McMURRIAN: Thank you. I just would --
18 as usual, I'm not as articulate as I should have been. And I
19 wasn't meaning to suggest, Commissioner, that it wasn't time to
20 look at the full picture. And I also didn't mean to suggest
21 that you are saying that we should look at it every -- that we
22 should look at the full picture every time. And I guess I'm
23 worried about the precedent of doing that. And I feel like the
24 fuel costs are something that are sort of different, and that
25 we do look at those outside of a rate case, but I'm definitely

1 not saying that in 24 years we shouldn't get a full look.

2 I do think, though, the Commission has had
3 opportunities to do that, and then the parties with all sides
4 represented have brought us a settlement agreement to look at.
5 And I think that at least the past Commission decisions -- and
6 I can't really speak for all of those, of course, because I
7 wasn't a part of those. But I think that the past Commission
8 weighed everything that it had before it and felt like that
9 both sides were well represented in those cases and approved
10 those stipulations.

11 And I'm not sure about what the details say about
12 whether or not we are bound to those until the end of the
13 agreement or not. As I said before, I'm not an attorney. But
14 I did want to correct that I didn't mean to make it sound that
15 you were suggesting that we shouldn't look in 24 years, or that
16 you were suggesting we look at it every time. But I am
17 concerned about setting up that kind of a process, that it
18 could be continued. And I don't think that that -- frankly, I
19 don't think we really have the means to do that on a continuous
20 basis. So I just wanted to clarify that.

21 Thank you, Chairman.

22 CHAIRMAN CARTER: Commissioner Skop.

23 COMMISSIONER SKOP: Thank you, Mr. Chairman. And I
24 think that -- I think that there has been some excellent
25 discussion. I mean, I certainly can appreciate Commissioner

1 McMurrin's points. In my prior comments, you know, I
2 mentioned that absent the current economic times, I might think
3 very differently about this. But, likewise, too, to
4 Commissioner Argenziano's points, you know, with the various
5 clauses and settlement agreements that enable the quick
6 recovery of costs, utilities in the state are able to
7 efficiently pass those costs on into the rate base, which is
8 driving rates in a period of construction and with commodity
9 costs going up on fuel and consumers for gasoline, everything
10 is going up, you know, particularly even the restaurant
11 industry, I mean, they are getting hit, you know, ten different
12 ways.

13 But I guess the way I'm looking at it, again,
14 holistically is that, again, as I said, you know, our utilities
15 are strong and flourish in Florida. They are financially
16 healthy for a reason. And the reason they are healthy is
17 because of this Commission's sound regulatory and rate-setting
18 policies. They have above average return on equity. You know,
19 I think that we take care of our own when they do the right
20 job. And our utilities have in this state performed admirably.
21 And, again, Florida is nationally recognized for its regulatory
22 policies in that regard.

23 Again, the deferral, I think, is a fairer option
24 under the circumstances. You know, I certainly legally
25 respect -- and I am an attorney -- respect the legal precedent

1 for full cost-recovery of prudently incurred expenses,
2 including fuel. Not a problem with that. But where the
3 discretion that the Commission has is how much of that do we
4 pass through? Do we do it in small incremental steps or do we
5 do it, you know, just basically give everyone what they ask
6 for.

7 Two different approaches. Again, each has their ups
8 and downs. But what is compelling and attractive to me, and,
9 again, I guess I can put this in perspective, from a homeowner
10 or consumer's perspective, if I'm going to increase the cost or
11 if this Commission passes through the entire request,
12 certainly, that's fair to do. But the incremental \$10 in
13 income under hard economic times could make the difference
14 between a consumer filing for bankruptcy or not filing for
15 bankruptcy in some instances.

16 I mean, in commentary to the utilities who have also
17 shown a commitment to the community, you know, I read an
18 article the other day that indicated to me that many of the
19 utility sponsored need programs, whether it be FPL's Care to
20 Share, Progress', Gulf's, they don't -- they have little or any
21 money left. There is little money left at the federal program
22 level. So consumers are really, really, really feeling the
23 pain.

24 And I know that, you know, with all practical
25 purposes I can understand the investor-owned utilities cringing

1 at what I'm saying or suggesting. But, again, I think it's
2 everyone trying to come together and find the best possible
3 solution here. Because here this Commission has consistently
4 rewarded our utilities with better than average return on
5 equities, and you guys are all financially healthy. I'm not
6 going to get in the whole analysis of what is right or what is
7 wrong. I am just merely saying that the commercial paper rate
8 of 2.3 -- or 2.736 percent is lower than my lowest student
9 loans from law school.

10 And so to me, if I'm a consumer, or a senior citizen,
11 or someone on a fixed income and everything is going up, if I
12 don't have to absorb the \$10 increase now, you know, I might be
13 able to pay my other bills. I might be able to afford
14 medication. I might able to do other things with that
15 disposable income in the near term.

16 Certainly, I would like to grant the request and,
17 certainly, the utilities I think have a legal right to the
18 request. But what I'm merely saying is that given the economic
19 times, the impact to the economy, many different things, that
20 taking a more consumer friendly approach, for lack of a better
21 term, might be the best course of action, not only for the
22 consumers, but for the investor-owned utilities and for the
23 state as a whole.

24 And, again, that interest rate and floating it, I see
25 the numbers here, but those numbers to me are a mere pittance

1 of what the carrying costs would be on something in the rate
2 base. So, again, the interest that would accrue as a result of
3 not passing through this fuel cost to me is borrowing cheap
4 money, or taking advantage or leveraging cheap money. So from
5 my perspective, at least in terms of prudent financial
6 management, if I can float something at a smaller interest
7 rate, the impact, although it's going to be greater down the
8 line, and I am going to accrue interest, that interest is not
9 really that expensive when you look at the totality of things.

10 So to me I really do think, and I think Commissioner
11 Carter, or Chairman Carter, as he has pointed out, perhaps the
12 midpoint approach might be a more appropriate option. Because,
13 again, any underrecoveries are carried forward and the utility
14 is properly and adequately compensated for those
15 underrecoveries pursuant to the commercial paper rate as long
16 as those recoveries aren't allowed to go out from here to
17 eternity.

18 I think that everyone could probably, hopefully --
19 and I'm reaching out to the utilities here, because I'm trying
20 to ask for you all's help in embracing this concept, because I
21 know times are tough. But, you know, as long as we are not
22 carrying this out like the national deficit, in the near term
23 we might be able to give consumers near-term economic relief.
24 And then when times get better, and by keeping everyone afloat,
25 the utilities also benefit in the near term in terms of

1 stability and also, hopefully, increased economic growth as the
2 economy rebuilds and grows in Florida.

3 So I think in order to do the best thing for the
4 state and ensure the nature of a strong economy for all the
5 stakeholders, I really kind of feel in my heart that, again, we
6 do take care of our utilities here. I mean, you guys aren't --
7 you have got pretty good return on equities. But this interest
8 rate that you would be asked to undertake and then float the
9 underrecovery for a short period of time, again, I think that
10 has a lot of benefits from the consumers to industry to small
11 businesses that might otherwise not be able to absorb this.

12 I mean, I went to a restaurant in Gainesville on
13 Saturday night, and certainly he charged us too little. I
14 don't know where else you can get an import beer for \$3. But
15 this guy is just hurting from each direction on commodity costs
16 of food, commodity costs of fuel, rent, insurance. He is
17 getting pressures from every direction. And just to industry,
18 consumers and small business, again, I just think for the state
19 of Florida the best thing to do, and I think some of my
20 colleagues probably agree, is to not pass on the full requested
21 amount.

22 And like I said, and I think somebody picked up on
23 the point, maybe Commissioner Edgar or Commissioner Argenziano,
24 like I said in the defense industry there is no such thing as a
25 free ham sandwich. The consumers are going to have to pay for

1 the fuel at some future point in time, and they are going to
2 have to pay the interest on that fuel. But if you can float
3 that cost at a very low interest rate, then no harm, no foul,
4 and everyone wins. But you have that economic relief that is
5 so desperately needed by the consumers, by the senior citizens
6 that are on fixed income, by the veterans, by small business
7 that is on the verge of being a going concern, and by large
8 industrial users.

9 So I think that, you know, while I would in better
10 economic times certainly be right there to second my
11 colleague's motion to approve these costs, assuming I thought
12 that they were reasonably incurred and prudent, I just don't
13 think in the interest, the best interest of the state of
14 Florida, I can do that at this time.

15 And I do think that, again, as we look at the cost
16 and the pass-through, I think what Commissioner Argenziano may
17 be trying to advocate, and I don't want to speak for her words,
18 but I guess that there are a lot of costs going through the
19 rate base and that is at a much higher carrying cost, I think
20 11.75 percent or whatever it works out to be for the ROE on
21 that. And so they are getting the pinch on both sides. They
22 are getting the build-out and the new construction on the rate
23 base, and they are getting the clauses that are kind of kicking
24 in, so the bills keep going up and up and up and up.

25 And I think that what Commissioner Argenziano might

1 be suggesting, and rightfully so, I don't know, I haven't seen
2 the data, would be that perhaps the rate increases -- I mean,
3 the rate base is ripe for review to mitigate some of the other
4 costs that are being passed directly through the clause. And
5 like I say, I don't know, because, I mean, it is up to the
6 utilities and our staff to do due diligence. But what I do
7 know is that the commercial paper rate interest is at an all
8 time historic low. And I just think it would be detrimental
9 for the Commission not to avail itself of its discretion.

10 Although, again, I'm reaching out to my investor-owned
11 utilities, too, that are also stakeholders in the process.

12 But, again, I'm trying to be fair to everyone. And I
13 just think that, you know, certainly you guys are financially
14 healthy and strong, and I see no detriment, at least in my
15 eyes, in the near term, as long as this doesn't go on from here
16 to eternity, for floating a small part of the underrecovery at
17 the commercial paper rate, because I think it is good for the
18 state, I think it's good for consumers, I think it's good for
19 small business, I think it's good for industry. I think
20 ultimately it benefits the economic -- the economy in our
21 state, and it also helps on the near term in a forward-looking
22 basis the utilities themselves. Because as soon as the economy
23 turns, the regulated utilities that generate the revenue stream
24 for the holding companies, they depend upon growth to grow
25 their business. And when that economy turns and people start,

1 you know, building again in Florida, or whatever, it is
2 win/win.

3 So in the near term, again, I think it may be in the
4 best interest of the state of Florida to defer part of the
5 requested increase. And I say that with all due respect,
6 because under any other different economic times, I would be
7 lockstep with -- I believe with my colleague, Commissioner
8 McMurrian. But in good faith, I think that this is the right
9 thing to do. It's a low interest rate. It's deferring those
10 costs that consumers will pay later, but I see no detriment to
11 doing that, because, frankly, the costs that the consumers have
12 to borrow for any other thing would be higher than what this
13 commercial paper rate would be.

14 Consumers cannot borrow at this commercial paper
15 rate. So to me it's good for people to have that extra \$10 to
16 pay for insurance, to put gas in their gas tank, to pay their
17 mortgage so they don't file for bankruptcy. It's good for
18 small business, too, to have that. And I think that it would
19 be a substantial detriment to the economy for us not to at
20 least consider the merits of deferring part of this in terms of
21 I think what Chairman Carter has rightfully called the
22 50/50 option that the staff has proposed.

23 Because, again, I think that it is the best of both
24 worlds, although the consumers -- again, at the end of the day
25 there is no such thing as a free lunch. They are going to have

1 to pay for this. But the interest rate is so negligible, I
2 don't see any detriment in floating it. And that's just with
3 all due respect to my colleagues.

4 And, Commissioner McMurrian, I think that -- like I
5 say, I would be right there with you under any other economic
6 times, but I can't in good faith do that right now, because I
7 think it would bring Florida's economy to its knees and harm
8 consumers, harm small business, harm industry, and ultimately
9 be detrimental to the investor-owned utilities, because they
10 depend upon growth to increase their revenues. So --

11 CHAIRMAN CARTER: Thank you, Commissioner.

12 Commissioner Edgar, you're recognized.

13 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

14 Wow. I had a number of thoughts, and I'm going to
15 try to still tie them together, because we have had so many
16 things sort of thrown out here this last part of our
17 discussion. So a couple of thoughts as I have been listening.

18 The first of which is, or for me to start anyway, is
19 that I think -- you know, there has been discussion at some
20 point about what is best for the consumer. And I think that
21 the way staff has laid out the four options -- and, again, I
22 think they were good options and clearly described. Each of
23 those, I think, has benefits for consumers, and it's just kind
24 of your own individual and/or professional regulatory
25 philosophy as to, with all of the circumstances today, which

1 one appears to be the better course with these circumstances
2 today. But I think each of them have some benefits.

3 I appreciate the staff recommending Option A. As I
4 said earlier, when you look at the numbers and look at the
5 math, Option A does stand out to me, and that is the
6 recommendation that our staff made, but in my own independent
7 assessment that is the option that stands out.

8 I see Option A as being, in my opinion, again, the
9 more probably financially sound approach, probably the most --
10 if you look at talking about ratemaking and regulatory theory,
11 probably the approach that stands out the most. But I also
12 recognize much of the discussion that we have had. Each of us
13 worried about all of the other things that are going on, and as
14 Commissioner Argenziano and others have pointed out, the
15 totality of all of the circumstances, both in the statutory
16 areas that we have before us, but also just with the economy as
17 a whole.

18 And so when I factor some of those in, both from
19 probably more of an emotional standpoint as well as an
20 intellectual approach, I do think that I could get comfortable
21 or get close to comfortable with Option C, when I look at A, B,
22 C, and D before us. And, again, that is looking at the numbers
23 and the way they are laid out in the spreadsheet that is
24 included in the item, and that we have before us.

25 To touch just briefly on the question of the larger

1 kind of ratemaking issues and review, I absolutely agree with
2 my colleagues that to have more information and a more update
3 understanding is always helpful. I have to harken back, if you
4 will humor me for just a moment, to when I was a brand-new
5 Commissioner, and I can't help but think of some of the
6 differences.

7 I remember at one point we had a proposed stipulation
8 before us that had been brought by the parties, and this was a
9 telecom item, so it had nothing to do with any of these issues,
10 but a telecom item. And I asked some questions, because I
11 had -- well, I had some questions about how that stipulation
12 had been arrived at. And I was criticized, quite frankly, in
13 the papers and elsewhere for questioning the Office of Public
14 Counsel with the stipulation that they had brought before us.
15 So it just goes to show that you just never know how something
16 is going to be responded to.

17 Now, I remember when the stipulations that we have
18 before -- that are in place came before us, and I remember also
19 having some questions, but also recognizing that at the time we
20 had Attorney General Crist, the Office of Public Counsel, AARP,
21 business groups, and other consumer watchdogs who stood before
22 us and held hands and told us as Commissioners and as a
23 Commission that they had reviewed all of the information, that
24 they, quite frankly, had had negotiations that, you know, we
25 would not be in a position to be privy to, and that it was

1 their opinion that the stipulations at that point in time were
2 in the best interest of the state and of consumers. And in
3 every decision and every vote that we make, we have to, you
4 know, assess the information that is before us. And with those
5 stipulations -- I know that at the time I had questions, but to
6 hear those statements requesting approval, I found to be
7 compelling.

8 So here we are a couple of years later. I do think
9 that there is some real value to consumers and to the economy
10 as a whole to having some provisions that go into costs being
11 broken out and handled somewhat separately. We did that with
12 the storm costs. We have been doing it with fuel charges. And
13 I think there is some really good sound reasons for that, and
14 certainly also with, you know, capacity and with the
15 environmental costs.

16 And getting back to a few of the points that were
17 made. Having some of those costs, fuel in particular, but also
18 some of the environmental costs come to my mind and having
19 those be tied more at the point in time the cost-recovery to
20 the costs being incurred, I think, is sound regulatory policy
21 and does provide protection to consumers.

22 I have to harken back to some of the discussions that
23 we've all been privy to that were occurring in other states
24 that had gone forward further than Florida did with overall
25 deregulation and some of the heavy, heavy hits that consumers

1 took when some of those deferred costs were -- when some of the
2 costs from day-to-day operations were deferred for some period
3 of years, and then hit consumers very, very, very hard. And
4 that is a situation that I know that we all want to avoid.

5 So with all of that, I will sum up, and thank you for
6 hearing me to try to tie a couple of my thoughts together here.
7 To summarize, I believe that Option A probably would have been
8 the appropriate recommendation and is for staff to make to us.
9 I think that it is very sound. I think that it has a lot of
10 reasons and protections to consumers that make sense to me.
11 But looking at the totality of the circumstances and candidly
12 trying, hopefully, to help us reach some consensus as a body, I
13 think that Option C is a sound, perhaps, option as well under
14 the circumstances.

15 Commissioner Skop, to your question earlier about an
16 amount, you know, if there is a number that makes more sense, I
17 am very open to that. On the other hand, just the symmetry of
18 50/50 I think has some appeal, as well.

19 So with that, Mr. Chairman and colleagues, I think
20 that I would be leaning towards Option C, with the
21 understanding that as we proceed through the year that our
22 staff will be coming before us with information from October,
23 and then in November with the fuel proceedings, and that for
24 that additional 50 percent and also all of the numbers for 2009
25 that are forecast will be before us for discussion and for the

1 most up-to-date information that is possible at that time for
2 us to review and make decisions on.

3 Thank you.

4 CHAIRMAN CARTER: Thank you, Commissioner.

5 And I appreciate you allowing me, Commissioners, to
6 think out loud. I didn't arrive at this Option C just
7 accidentally. I think that some perspective is necessary. A
8 year ago we were looking at a \$72 billion budget in the state
9 of Florida. And this year it is like just shy of 66 billion.
10 A lot of those resources that would have been within the
11 confines of that budget impacts on the least fortunate among
12 us.

13 Secondly, is that whereas the interest rates have
14 gone down for a lot of businesses, a lot of folks are on the
15 threshold of financial disaster. And I've just got to tell
16 you, Commissioners, is that there are a lot of people out there
17 that are really, really hurting. They are on the verge of
18 where even another dollar may be a little bit more. And I know
19 that if we've got an opportunity before us where we can make a
20 decision, and all of these options, all four, staff just
21 recommends A, but all four of these options are rational and
22 reasonable to me.

23 But I think that in the context of where we find
24 ourselves economically as a state, the environment where our
25 constituents are -- when I say our constituents, our fellow

1 citizens are financially is that I know that I've got family
2 who are senior citizens in this state. My aunt is in Pompano
3 Beach in a facility. My sister is in St. Petersburg in a
4 facility. And an interesting thing that my sister told me is
5 that when she got her cost of living from Social Security it
6 was five dollars a month. That's all she got. Guess what?
7 The rent on the facility went up five dollars a month. So, you
8 know, I feel sometimes like in the courtroom when the judge
9 calls the jury, he says, you know what, you can still use your
10 common sense. And I think that in view of where we are,
11 Commissioners, I think it's a bit much for us to do more than
12 that.

13 I think that Commissioner Skop so eloquently laid out
14 the fact that the industry in Florida is healthy, it's vibrant.
15 I think the staff has laid out some recommendations to us, and
16 I think that the 50/50 puts us in a posture where we can do the
17 50 now with the 50 later. You know, you can say, well -- and,
18 Commissioner McMurrian, I admire you, and I think highly of
19 your intellect as well as where you are on Option A. I just
20 can't get there because of this environment that we're in. I
21 really -- I can't get there. I wish that I could, but I can't.
22 Because it is just -- I just know too many people that are on
23 the verge.

24 And I think that if we can do something to, one,
25 maintain a vibrant environment for our businesses to flourish.

1 When I say the businesses, the regulated entities to flourish,
2 but also provide an environment for senior citizens and working
3 moms and dads to say, you know, this won't be another -- you
4 know, if you pick up your mail, you guys probably have your
5 mail addressed to you personally. I get some sometimes that
6 says occupant or resident. But even with those, it seems like
7 there is a cost increase in there.

8 And I appreciate you letting me think out loud, but I
9 believe that in this current environment where we are
10 financially with our state budget, fiscally with our moms and
11 dads, economically with the Florida economy being where it is
12 now, and looking forward to it rebounding in the third quarter
13 of '09, I think that in my opinion, the Option C is our best
14 option.

15 Commissioner Argenziano, you're recognized.

16 COMMISSIONER ARGENZIANO: I'm sorry, because I'm not
17 sure where we are. We are talking about Option C, and I have
18 from the beginning said I would agree because we know that the
19 fuel costs have undeniably gone up, but because we don't have
20 all the other factors, which I think are important in not
21 piecemealing this, and that --

22 CHAIRMAN CARTER: Pull your mike a little closer.

23 COMMISSIONER ARGENZIANO: -- as a matter of
24 conscience, I just couldn't simply pass through over a billion
25 dollars in fuel recoveries on structure of, basically,

1 automatic fuel cost pass-throughs alone without looking at the
2 total picture. And I can hardly think that any stipulation
3 that terminates a degree of review and proof-making is a
4 protection to consumers. So I totally disagree that the
5 protection being there from a past stipulation. I think that
6 was -- that just takes away review. So I -- I can hear -- I
7 think what I hear happening here and what my comments were is
8 that I -- because I know that fuel costs have gone up, I would
9 move that 50 percent be granted in '08, and then the full
10 review, which is the only way to find out what is really
11 happening in order for us to really make a decision that I
12 think would be best for the consumers as well as the utilities,
13 whether they agree with that today or not, would be my motion.

14 So I move that we go with the 50 percent with -- for
15 the 50 percent for '08, and then in '09 before -- as I said
16 before, have the staff call it whatever you want, open a docket
17 for the purposes of presenting the entire picture to enable us
18 to do what I believe the statutes mandate us to do. And that
19 is my motion. If it fails, it fails. That's okay.

20 MR. BURNETT: Chairman Carter, at the risk of your
21 wrath --

22 CHAIRMAN CARTER: Mr. Burnett.

23 MR. BURNETT: At the risk of your wrath, I know this
24 Commission has said it always wants the most information it can
25 have before it. And I know this is somewhat procedurally

1 unusual, but if that motion is pending, may this utility please
2 be heard on that point before you entertain such motion? I
3 think that Option C versus A is a fair debate, and I'm prepared
4 to be very quiet. But I would just ask to be heard if
5 the extended rate case review procedure is going to be a
6 motion. I think the Commission should hear from us.

7 CHAIRMAN CARTER: You're recognized.

8 MR. BURNETT: Thank you, sir. I appreciate it.

9 One of the fundamental things I think that has led to
10 the positive environment that Commissioner Skop has spoke about
11 is that Florida is viewed not only as a positive regulatory
12 environment, but one that has had a lot of history. They have
13 tried a lot of things. A lot of things with the fuel clause, a
14 lot of things with base rate proceeding. And through that
15 history I think Florida has come to a point to where the
16 mechanisms used to set base rates to deal with clauses, to deal
17 with statutory clauses, as well as the fuel clause, is viewed
18 throughout the country as being one that not only works, but
19 sets the standard. I think that is fundamental to a lot of the
20 things that Commissioner Skop was acknowledging.

21 From our perspective a suggestion that that is broken
22 or that that is in conflict with certain statutes, we would
23 argue just the opposite. We think it is absolutely not broken.
24 We think to have the review that is being asked for would be in
25 conflict with several of the statutes, some of the statutory

1 clauses, for example, that are by statute required to be in the
2 clause and looked at piecemeal.

3 I think a lot of the history in Florida would show
4 that that is an idea that has been tested and it has been
5 rejected for reasons in the past. So I think that that
6 implicates issues that are well beyond what's being considered
7 here, and that should be -- if considered should be fully
8 briefed by the parties. I think that raises legal issues
9 beyond me being able to articulate them even now as to whether
10 that is truly consistent with the statutes and other issues.

11 COMMISSIONER ARGENZIANO: Excuse me, Mr. Chairman.

12 CHAIRMAN CARTER: One second.

13 Commissioner, you're recognized.

14 COMMISSIONER ARGENZIANO: You are actually intimating
15 that to have a full review is not at the discretion of the
16 Commission or is somehow not legal? Let me ask you, too, what
17 is the harm of looking at the full picture, or are you afraid
18 of showing the full picture?

19 MR. BURNETT: No, ma'am, not at all. The Commission
20 looks at the full picture. I have been involved in the last
21 two rate settlements. I have been through the 140 MFRs, the
22 thousands and thousands of pages of discovery. I have had the
23 Attorney General put me through my rigors and test my case to
24 the limits that I would never believe. So you do get the full
25 review, whether it is through a litigated rate case that goes

1 the full distance or a settlement that every one of the people
2 before you stand up and say we have put them through the paces,
3 and we stand behind it. It has happened.

4 And the full review is what you get for base rates.
5 For fuel, you have a proceeding every year where you look very
6 deeply at projections, at actuals, and it's trued up every
7 year.

8 COMMISSIONER ARGENZIANO: That's for fuel. I'm
9 talking about the big picture on everything. How do I know
10 that you have been prudent, which is part of my charge, in your
11 salvaging generators, or your payroll, or all of those other
12 things that to me after so many years just need to be looked at
13 just to be fair? And as I said before, it could turn out to be
14 in your favor. So I'm not sure where the "maybe not legal"
15 part comes in. And I would like you to really tell me where we
16 don't have discretion to do that.

17 MR. BURNETT: Respectfully, what we do in the base
18 rate charge has nothing to do with what we do in fuel. Fuel is
19 what it is. We don't earn on it. If we earned on fuel and
20 could mark it up and it was part of something we earned a
21 return on, I think, Commissioner, you may have an argument
22 there. But, respectfully, fuel is a pass-through. It is not
23 part of our base rate charges. Whether we salvage a generator
24 has nothing to do with our fuel costs.

25 COMMISSIONER ARGENZIANO: No, no. That's not what

1 I'm saying. That's not what I'm saying. Beg my indulgence.

2 CHAIRMAN CARTER: You're recognized.

3 COMMISSIONER ARGENZIANO: That's not what I'm saying,
4 and I think you're not listening to what I'm saying. I said
5 before that I have no doubt that fuel has gone up. But I
6 haven't been able to take a big look at your picture, at the
7 whole picture of any company that is before us now that the
8 Commission and the past Commissioners for a number of years.
9 And that whole picture at this point needs to be looked at
10 because we are in such a state, as Commissioner Skop had
11 mentioned before, that other entities are, you know, are being
12 affected economically. Not just the residential homeowner, but
13 major businesses, small businesses who are laying off people.
14 People that you speak of frequently, Mr. Chairman. And the
15 churches who have no money and they need -- they need us to
16 finally take a look at it.

17 And what I'm telling you is that while I may agree
18 with you, I understand that the fuel costs have gone up, and I
19 have no doubt that they have for all of us, we have a right to
20 look at the whole picture and put it into a full rate case.
21 And there is nothing illegal or that needs to be separate about
22 that whatsoever in the statutes. And it's time, since it
23 hasn't been done.

24 I mean, if it is illegal, then it shouldn't have been
25 in 16 years ago or 24 years ago. I just don't agree with you

1 there at all. I think you are mixing up apples and oranges.
2 And I'm not -- I'm keeping the fuel thing separate. But
3 looking at the rest of the picture is very, very important to
4 figure out whether -- that this increase be given the way you
5 have asked for it.

6 CHAIRMAN CARTER: Mr. Butler.

7 MR. BUTLER: Mr. Chairman, this is sort of unusual
8 for me to be asking to be heard at this point, because -- of
9 course, it's not our item, Florida Power and Light Company --
10 John Butler on behalf of Florida Power and Light Company. But
11 I would ask the opportunity to make a few comments on this
12 particular subject, because it does have an awful lot of policy
13 implications, and we're going to be having the same issue
14 brought before you shortly, and it seems like it might be
15 appropriate to hear from FPL at this point.

16 CHAIRMAN CARTER: You're recognized.

17 MR. BUTLER: Thank you.

18 I think that, first of all, we need to understand the
19 Commission has had a fuel adjustment clause since it has been a
20 Commission. There has always been a mechanism that has always
21 had the purpose of looking at fuel costs and evaluating them
22 for recovery separately from other costs. Base rate
23 proceedings have happened sometimes very frequently, sometimes
24 less frequently, but it has been a separate matter throughout
25 the Commission's history of regulating electric utilities. I

1 think it would extremely bad policy and, perhaps, illegal from
2 the perspective of a retroactive change in policy to suddenly
3 change the rules of the game with respect to our 2008 fuel
4 adjustment costs in the middle of our recovery of those costs.

5 Regarding the subject of what has been reviewed
6 previously for base rates and what comfort has been there,
7 Mr. Burnett has spoken, I think, very eloquently to that point.
8 Let me just add a few factors there specifically with respect
9 to FPL. We had a rate review in 1999. We had a rate review in
10 2002. We had a rate review in 2005. In each of those
11 instances we produced voluminous MFRs, as Mr. Burnett had
12 indicated for Progress. They were audited by the Public
13 Service Commission staff. There was extensive discovery with
14 respect to them. And the settlements that were reached were
15 reached only after those processes of review had been concluded
16 by parties that, you know, were looking to see whether the
17 company actually had a basis for what it was seeking in those
18 cases.

19 And the review was extensive and complete. It
20 resulted in stipulations, as Commissioner Edgar had mentioned,
21 that were supported by a wide variety of groups having
22 perspectives of a very different range of customer interests,
23 and I think they did so effectively. Those stipulations
24 resulted for FPL in a reduction from what rates were before the
25 1999 settlement of \$600 million per year in base rates that

1 have now been in effect over that time since 1999. The figures
2 I have is that it has been about \$5-1/2 billion of rate savings
3 or customer savings compared to what we would have had had
4 those stipulations not been in effect.

5 We also had a revenue sharing mechanism that where
6 our revenues reached certain target levels there would be a
7 sharing of those revenues with customers. There was an extra
8 nearly quarter of a billion of dollars of revenue sharing
9 benefits that went back as refunds to customers. I think the
10 Commission has done a very thorough job of looking at our rates
11 over that period and it has been a very effective period of
12 stipulations that have worked both to the companies' and to
13 customers' interests.

14 We are in a stipulation right now that basically has
15 a year and a half to go. It will expire at the end of 2009.
16 Everybody's expectation when we entered into it was that we
17 would not be mixing subjects like base rate reviews with clause
18 recovery of costs that are properly within clauses during that
19 period of time.

20 At the end of that period, any party is permitted to
21 seek to initiate a base rate proceeding. And there is a fairly
22 good chance that FPL will initiate a base rate proceeding that
23 would coincide with the end of that settlement. So it is not
24 like this is a long ways down the road before there will be a
25 review of base rates. I think it would be very inappropriate

1 to slip in the back door -- I started and I will finish -- to
2 try to combine issues of overall company performance with what
3 are supposed to be set aside as separate issues of specific
4 single subject recovery of costs. In this instance, the
5 recovery of fuel costs. The Commission has used that mechanism
6 effectively for all of the time it has been in existence and I
7 would certainly not see a reason that it would be appropriate
8 to change it now.

9 CHAIRMAN CARTER: Thank you.

10 Commissioner Argenziano.

11 COMMISSIONER ARGENZIANO: That's great, because the
12 stipulation wasn't really the Commission's; it was OPC's and
13 AARP's at the time, and they had their reasons. So to your
14 point, it wasn't the Commission's decision. It was a
15 stipulation of other parties. And I understand that. And that
16 stipulation is not holding on me. I can open that up at any
17 time if I want. And, unfortunately, I'm not a lawyer, and I
18 probably can't maybe mince words like you can, but I can be
19 very open and very blunt, which I'm sure you are not happy
20 with.

21 And I'm not trying to be adversarial to the
22 utilities. I'm trying to do a job, and I'm trying to do my job
23 the way the statutes require me to. And by you even suggesting
24 that I cannot, as a Commissioner, ask for a full review is
25 entirely wrong, and I disagree with you wholeheartedly. I

1 understand your point of view. You like things the way they
2 have been. The stipulations have been that way, and I'm sure
3 staff has done a great job for the most part on most of what
4 they do. And I commend the utilities for the information they
5 provide, but it wasn't a full and thorough investigation, which
6 I was asking for.

7 And it's not to beat down the utilities. It's not to
8 say I'm looking for something. I'm trying to get a bigger
9 picture in a very difficult decision that we have here today.
10 And when I read the statutes, I read that I have statutory
11 authority to ask for a picture, a bigger picture besides just a
12 stipulation of other parties as a Commissioner. And that's all
13 I'm trying to say.

14 I'm sure you're not happy with me asking for that,
15 but I can't -- what can I say? I have been in the Legislature
16 11 years and lot of people weren't happy with me when I asked a
17 lot of questions. I need those questions to able to formulate
18 a decision, and one that I can do with good conscience. For
19 the utilities of the state of Florida to be fairly just
20 compensated, but I also need to see those things that I haven't
21 seen that haven't been here in 24 years or 16 years.

22 So I'm not trying to say, oh, bad utility, you're
23 hiding something. I need that information. And whether you
24 like it or not -- at this point, Mr. Chairman, I have heard
25 from a lot of consumers whether they are the residential

1 homeowner or the businessman out there. As I said before, I
2 heard one from yesterday that said they laid off 30 people
3 already. And that weighs on my shoulders, and I want to know.
4 Because whether it is a fuel adjustment -- and I said before,
5 we understand that fuel has risen -- has gone up. But the
6 statutes also say that I can look in a greater detail to find
7 out if everything else is where it should be, and that's all
8 I'm asking.

9 So for any suggestion that it is not right to do
10 simply because that you have been doing it that way for so
11 long, quite frankly, that doesn't go with me, because I'm not
12 getting the information I need by just doing it the way it has
13 been done all along. So I don't want you to take it as
14 personal, because it's not. If you were sitting in my seat and
15 it weighed on your conscience, you would ask the same
16 questions. I need this information to make an informed
17 decision. That's all I'm asking.

18 You all don't have to agree with me, whatever the
19 case is, but I don't want to make it be thought of out there by
20 anybody who could possibly be listening to this issue that
21 could probably make the average consumer glaze over, to think
22 that we don't have authority to ask you for more information,
23 because we do. I'm separating the differences between the fuel
24 adjustment. I understand that. But I also am saying at this
25 point I would like more information to make a better decision

1 as a whole.

2 CHAIRMAN CARTER: Thank you, Commissioner.

3 Commissioner Skop.

4 COMMISSIONER SKOP: Thank you, Mr. --

5 CHAIRMAN CARTER: I will remind you, Commissioners,
6 that we do have a motion.

7 Commissioner Skop, you're recognized.

8 COMMISSIONER SKOP: Thank you, Mr. Chairman.

9 Just briefly speaking to a point that Commissioner
10 Argenziano has raised twice. And it's a point that equally
11 gives me concerns. Oftentimes, again, from the legal process,
12 attorneys, judges, the judiciary like the parties to reach
13 agreements. But, you know, I have to say, with all due respect
14 to Commissioner Argenziano's concerns, that I share her same
15 concerns to the extent that some of the agreements I have seen
16 that settlements have been entered into, I kind of shake my
17 head and question whether those were really in the best
18 interest of all the parties.

19 But, again, I just think that the scrutiny goes up in
20 relation to how many costs and when those costs are being
21 passed through to the consumers. And then there is quite a bit
22 happening now. I mean, we have the legislative mandates, we
23 have all kinds of mandates. But when costs start rolling in, I
24 mean, I think that we have to, at the Commission level, have to
25 be diligent in reviewing those costs and any proposed

1 settlements.

2 So I think that, in fact, some of Commissioner
3 Argenziano's points, at least related to the concerns that she
4 raised on the benefit of the settlements to the general body of
5 ratepayers, are extremely well taken at least as I'm concerned.

6 Thank you.

7 CHAIRMAN CARTER: Commissioners, is there a second?
8 Hearing none. Commissioners, we are open for another motion.

9 Commissioner Edgar, you're recognized.

10 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

11 I appreciate all of the comments, and especially
12 Commissioner Argenziano's comment about people listening in
13 perhaps glazing over, because I know I'm getting tired. I
14 think we have had a lot of really good discussion, and I look
15 forward to more discussion about settlements and stipulations
16 and rate base and clauses. And all of those are issues that,
17 because of my interest in them, is why I applied to come to the
18 Commission in the first place, is to have discussion and to
19 learn more and, hopefully, weigh in and be helpful as we have
20 full public discussions.

21 But I do think that we do have perhaps a more narrow
22 issue before us, which has to do with the request for a
23 midcourse, midyear, correction. And in full recognition of, as
24 I said earlier, both kind of the head and the heart aspect of
25 it, I do think that on Issue 2 before us that the staff has

1 recommended approval of that, which I'm not even sure that we
2 needed to take action on, because I think it might have come --
3 happened as a matter of law. But, regardless, I would make a
4 motion that we accept the staff recommendation on Issue 2. And
5 then on -- I believe it's Issue 3. Let me make sure I get my
6 papers in front of me. Hang on. That we substitute for the
7 staff recommendation on Option A, Option C. And if there is
8 anything that falls out from that, have that fall out.

9 CHAIRMAN CARTER: Commissioners, there's a motion.
10 Any response?

11 Hearing none. Commissioners, we are open for a
12 motion. We are open for a motion now. There was no second to
13 the second motion, so we are open for a third motion.

14 Commissioner Skop, you're recognized.

15 COMMISSIONER SKOP: Thank you, Mr. Chairman.

16 I'll try and take a stab at this. I mean, I think
17 that Commissioner Argenziano has raised some concerns. And,
18 certainly, you know, I share and respect the views of each of
19 my colleagues. I guess, the Option C -- I mean, it seems to be
20 a good option. But, again, I want to -- I want to make sure
21 that if -- if it's the will of the Commission, that we can at
22 least accommodate some of Commissioner Argenziano's concerns,
23 either directly through incorporation in a motion, or I'll
24 yield to try and fabricate something that everyone could be
25 comfortable with, or get some assurances from staff that as we

1 move forward on a forward-going basis that we are going to be
2 extremely diligent in reviewing some of these costs.

3 And I think Mr. McNulty had mentioned some of those
4 things that might be able to be done in the interim. You know,
5 as an attorney, I've heard some legal argument that would
6 suggest that, you know, you can't change the rules of the game
7 midstream. There may be merit to that. But, you know,
8 midstream doesn't go on forever, and I think that Commissioner
9 Argenziano has raised some excellent points. I'm not
10 necessarily sure that, you know, I agree in principle with all
11 of them. I mean, because it is good to agree to disagree on
12 various issues.

13 But, you know, as I stated previously, you know, some
14 of these ongoing agreements tend to cause some concerns. And I
15 think that, you know, the scuttlebutt is is that at some point
16 in time, and I don't think -- well, I'm not going to talk about
17 that because one of which I already know about.

18 But, anyway, at some point in time, you know, the
19 Commission is going to be tasked with addressing this, and the
20 Public Counsel is going to be tasked with finding out what's in
21 the best interest of the ratepayers, and the Commission is
22 going to be tasked with approving that. And, you know, again,
23 historically, I think, as Commissioner Argenziano has so duly
24 pointed out, a lot of times these things just kind of get, you
25 know, lumped in and everyone just throws in the towel and says,

1 okay, you know, it's a horse trade.

2 But, you know, some of these questions are the same
3 questions that financial analysts are asking that monitor the
4 utilities, because they are very concerned about stranded
5 recoveries and other things when, you know, certain agreements
6 are in effect for a long period of time. So I think that, you
7 know, it takes a tremendous amount of leadership on
8 Commissioner Argenziano's point -- I mean, part, to just come
9 out and -- you know, it is like Jerry McGuire, the things
10 people say -- I mean, think but don't say sometimes. And, you
11 know, I can't say that I don't share all of her concerns.

12 I do think that, you know, this is somewhat of a
13 limited proceeding. You know, if we can have a little bit
14 further discussion on how we might be able to accommodate a
15 concern of one of our colleagues, fine. If not, at the
16 appropriate time, you know, we could try and get a motion that
17 everyone could buy into.

18 But I think that Option C, at least in my mind, seems
19 to be the appropriate direction for passing through a smaller
20 fuel adjustment increase at the present time, which I think
21 builds upon the deferral concept that Commissioner Carter has
22 given a lot of consideration to and certainly Commissioner
23 Edgar, as well as Commissioner Argenziano. And I know
24 Commissioner McMurrian -- we are going to get you on board.
25 We're trying.

1 But, anyway, as it works out, you know, it's okay to
2 agree to disagree on issues. Because, again, when it comes
3 down to financial management or other concerns, you know,
4 everyone needs to balance the interests of their respective
5 stakeholders. But, again, to my Commissioner -- I mean, to my
6 colleague, Commissioner Argenziano, if we could, you know, find
7 something that would at least give some certainty, you know, it
8 would be good, I think, to have a unanimous decision here on
9 this as we move forward with these fuel adjustment proceedings,
10 if we could find a way to accommodate that.

11 CHAIRMAN CARTER: Is that a motion, Commissioner?

12 COMMISSIONER SKOP: Well, I think if -- Commissioner
13 Argenziano, if you could give me some help here, maybe I could
14 form a --

15 COMMISSIONER ARGENZIANO: You know, I just say vote
16 your conscience. That's all. That's what I'm going to do.

17 COMMISSIONER SKOP: Okay.

18 MR. COOKE: Chairman.

19 CHAIRMAN CARTER: Mr. Cooke.

20 MR. COOKE: Chairman, can I just -- at the risk of
21 making things messier, the legality of looking into the
22 information I think was raised, and I think it is appropriate
23 for me to say what I understood Commissioner Argenziano asking
24 for was data gathering, essentially. And I view us as having
25 that ability to do regardless of whether there are stipulations

1 or not.

2 We're not talking about opening a rate case. We're
3 not talking about a limited proceeding. All we would be doing
4 would be collecting information and analyzing information and
5 reporting that to the Commission. That seems to me is a
6 separate subject, and I don't think -- I didn't get the
7 understanding that Commissioner Argenziano was trying to mix
8 the fuel clause with the stipulations, et cetera. I think she
9 was asking for that type of information. So you may want to
10 address it in terms of -- I am hearing, quite frankly, a
11 consensus on C, and maybe you might want to address separately
12 some information gathering, if that is useful to you.

13 CHAIRMAN CARTER: Commissioners, does that help us
14 get to where -- I mean, does that clear it up for us a little?

15 One second. Commissioner McMurrian, and then I will
16 come back to you, Commissioner Skop.

17 COMMISSIONER McMURRIAN: I was thinking as we were --
18 as we had the earlier motion before us, and I think you all
19 know where I'm headed. But I thought maybe it might be good to
20 take Issue 2 separately, because my vote would, I think, be
21 consistent with the majority on Issue 2, so I will make a
22 motion at this time to approve staff's recommendation on Issue
23 2, with the clarification that Mr. Slemkewicz made earlier,
24 that the word "with" in the recommendation statement would be
25 changed to "after."

1 COMMISSIONER EDGAR: Second.

2 CHAIRMAN CARTER: Commissioners, on Issue 2 we have a
3 motion and a second, with the staff language change on Page 10,
4 changed from the word "with" to the word "after." Are we all
5 clear on that?

6 COMMISSIONER SKOP: (Inaudible; microphone off.)

7 CHAIRMAN CARTER: Okay. Page 10 in Issue 2 on the
8 recommendation, the word at the end of that sentence on the
9 recommendation, change the word "with" to the word "after,"
10 where it would read, "The storm cost-recovery surcharge should
11 be eliminated after the last billing cycle in July 2008."

12 Commissioners, any further --

13 COMMISSIONER SKOP: I'm fine with that.

14 CHAIRMAN CARTER: Okay. We've got a motion just to
15 Issue 2.

16 COMMISSIONER SKOP: Second.

17 CHAIRMAN CARTER: All those in favor let it be known
18 by the sign of aye.

19 (Unanimous affirmative vote.)

20 CHAIRMAN CARTER: All those opposed, like sign.
21 Show it done. Okay.

22 Thank you, Commissioner McMurrian.

23 Okay. Now, I guess that brings us back to Issue 3.

24 COMMISSIONER SKOP: Mr. Chairman, I guess I can --

25 CHAIRMAN CARTER: I believe it does. Is that right?

1 COMMISSIONER SKOP: Yes, sir.

2 CHAIRMAN CARTER: Commissioner Skop.

3 COMMISSIONER SKOP: Thank you for recognizing me,
4 Mr. Chair.

5 And I guess I would be in favor of adopting Option C
6 with respect to Issue 3. You know, perhaps, I guess, in the
7 order or whatever the Commission would grant approving this,
8 perhaps there could be some language that would encompass
9 Commissioner Argenziano's concerns that, you know, that we need
10 to be diligent in reviewing costs on any opportunity we have,
11 because that is the task of the Commission. But at least --
12 and I may have missed -- and my apologies if I missed something
13 earlier on a motion because I've got some tunnel vision going
14 on here. But perhaps I don't often hear things, and I couldn't
15 hear half of what our general counsel was kind of saying
16 before. So I may have missed the opportunity to second
17 Commissioner Argenziano's motion previously, and for which I
18 would probably apologize. But sometimes I hear -- don't hear
19 everything that I should.

20 But, anyway, I guess where I would be with this is I
21 would make a motion to adopt Option C, and subject to staff
22 putting in some sort of per/cu/tory ckkkk 1:15:39 T2 precatory
23 sppppp language that we need to look at costs on a diligent
24 manner on a forward-going basis. And, Mr. Cooke, could you
25 help me out with that a little bit on how to frame that?

1 CHAIRMAN CARTER: Mr. Cooke.

2 COMMISSIONER ARGENZIANO: (Inaudible. Microphone
3 off.)

4 CHAIRMAN CARTER: Yes, ma'am. Commissioner
5 Argenziano.

6 COMMISSIONER ARGENZIANO: I think my motion came and
7 went, and it was more specific. So I think that you just
8 better go with what is on the table and vote however you want.
9 Because the motion I made was a specific motion for detailed
10 and full review. And if you're making that motion which
11 already got shot down, then you might as well just stick --

12 COMMISSIONER SKOP: Mr. Chair, thank you. I will
13 make the motion to adopt Option C.

14 CHAIRMAN CARTER: Thank you.
15 Commissioner Edgar.

16 COMMISSIONER EDGAR: Mr. Chairman, I'm sorry, I am
17 compelled.

18 Commissioner Argenziano, I agree with almost
19 everything that I think you said. A few points not, but almost
20 all. Commissioner Skop's suggestion that we add language
21 saying that we will diligently review costs, quite frankly, to
22 me makes the inference that we don't on a general basis, and I
23 think that that would not be truthful.

24 The reason I did not second or agree with the motion
25 that Commissioner Argenziano made was because, quite frankly,

1 in your statement about needing a full review, I interpreted
2 that as a full-blown rate case either in November or January.
3 And, quite frankly, I just didn't think that was realistic.
4 That's not the same thing as not desirable, but not realistic.
5 And that was -- that was my concern as to the meaning of full
6 review. And if, indeed, we could get there in recognition of
7 your comments that you had said earlier that perhaps a more
8 high level review would not get you to where you were trying to
9 help us get. So I think we are actually pretty close.

10 However, I made a motion in favor of Option C, and it
11 did not get a second. And, quite frankly, I don't understand
12 the difference between your motion and mine, and I would like
13 to have that clarified.

14 Thank you.

15 COMMISSIONER SKOP: Thank you, Commissioner Edgar,
16 and my apologies to the Commission. Oftentimes -- sometimes I
17 have trouble hearing things down here, and, frankly, I may have
18 missed the motion, so my personal apologies to you. And I
19 would withdraw my motion and defer to you to make the motion,
20 as a gesture of my apology.

21 CHAIRMAN CARTER: Commissioner Edgar.

22 COMMISSIONER EDGAR: Thank you, Commissioner Skop.
23 Because I just, quite frankly, wasn't sure why when I made it
24 it didn't go, and why you are willing to follow up with what I
25 thought was the same thing. But if there was a distinction,

1 then I just wanted to make sure that I was clear on that. So
2 thank you for that clarification.

3 Mr. Chairman, if it is appropriate, and if it does
4 not -- if it is not the will of the majority, I certainly
5 understand that, but I appreciate the opportunity to try to
6 make a second try at trying to reach consensus and take into
7 account the concerns that I have heard and that I have myself.

8 So realizing that we have disposed of Issue 1, we
9 have disposed of Issue 2, then looking at Issues 3, 4, and then
10 5, I would make a motion that instead of the staff
11 recommendation for Option A, that we adopt Option C. And my
12 understanding of Option C includes, as we stated earlier, that
13 when we are back for the rest of the fuel clause discussion in
14 November that the staff will present to us the most accurate
15 numbers and information that we have at that point in time,
16 looking backward and forward, and that that would be a part of
17 our further discussion in November. And if that is not clear,
18 I'll try again.

19 COMMISSIONER SKOP: I would second that. And just,
20 again, in apology to Commissioner Edgar for not seconding the
21 motion at the appropriate time. I think repeatedly through
22 multiple agendas and hearings that I seem to have trouble
23 hearing down at this end. And I know that staff is trying to
24 work diligently to address some of the sound quality issues of
25 the room.

1 But, again, no disrespect was meant or intended in
2 any way. I think I probably stated that I have trouble hearing
3 many different times, and I think that if I failed to do
4 something that was appropriate, again, I extend my apologies.
5 But it is probably, honestly, because I couldn't hear it.

6 CHAIRMAN CARTER: Thank you, Commissioner Skop. As
7 always, a scholar and a gentleman.

8 Commissioners, we have a motion. Is there a debate?
9 It has been moved and properly seconded. All those
10 in favor, let it be known by the sign of aye.

11 COMMISSIONER EDGAR: Aye.

12 COMMISSIONER SKOP: Aye.

13 CHAIRMAN CARTER: Aye.

14 All those opposed, like sign.

15 COMMISSIONER ARGENZIANO: Aye.

16 COMMISSIONER McMURRIAN: Aye.

17 CHAIRMAN CARTER: Okay. Show it done, 3-2.

18 Commissioner McMurrrian.

19 COMMISSIONER McMURRIAN: And along with my earlier
20 thought about Issue 2, with respect to Issues 4 and 5, I don't
21 really intend to dissent on Issues 4 and 5, because the
22 effective date would be the same whether you choose Option A or
23 Option C. And, of course, the docket is to remain open. So I
24 just wanted to clarify that.

25 CHAIRMAN CARTER: So your dissent would be on --

1 COMMISSIONER McMURRIAN: Issue 3.

2 CHAIRMAN CARTER: Issue 3 as pertaining to Option C,
3 correct?

4 COMMISSIONER McMURRIAN: Right.

5 CHAIRMAN CARTER: Commissioner Argenziano.

6 COMMISSIONER ARGENZIANO: Just to get on record why I
7 dissent will be following is because there is not a full
8 review.

9 CHAIRMAN CARTER: Thank you, Commissioner.

10 Thank you, Commissioners.

11 Let's do this, Commissioners, I know we just got
12 back, and we've got -- we are going to be going next to Item
13 10 -- I'm looking at my notes here. But let's take a quick
14 break. Ten after. We'll come back at ten after.

15 (Recess.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

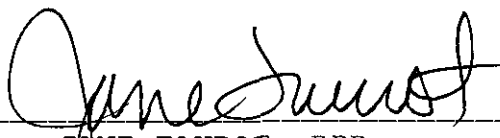
3 COUNTY OF LEON)

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

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

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

16 DATED THIS 21st DAY OF JULY, 2008.

17 

18 JANE FAUROT, RPR
19 Official FPSC Hearings Reporter
20 FPSC Division of Commission Clerk
21 (850) 413-6732