

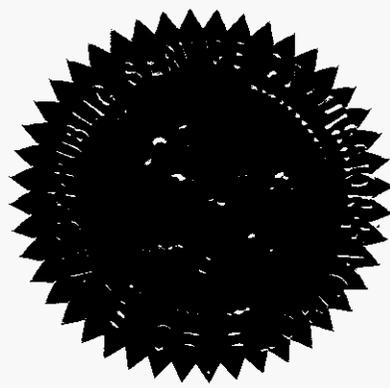
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080318-GU

In the Matter of:

PETITION FOR RATE INCREASE BY  
PEOPLES GAS SYSTEM.

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PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 15

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

DATE: Tuesday, May 5, 2009

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

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

1  
2           **COMMISSIONER EDGAR:** Okay. We are back from  
3 break. We are back on the record. When we stepped away  
4 for a few moments, we had agreed to begin our  
5 discussions at this point in time with Item 15.

6           I note for the record that this is  
7 posthearing, participation only by Commissioners and  
8 staff. And so what I'd like to do is ask our staff here  
9 in just a moment to give us a brief introduction to the  
10 item, maybe a brief overview as part of that  
11 introduction. And then, Commissioners, I think what we  
12 may try to do to begin is see if again there are  
13 overarching questions or if there are issues that we  
14 would like to identify specifically for further  
15 discussion that our staff can be ready for that and then  
16 maybe proceed by some general groupings. So with that,  
17 I'd like to ask our staff to give us a brief  
18 introduction and we'll go from there.

19           **MR. SLEMKEWICZ:** John Slemkewicz. Item 15 is  
20 Docket Number 080318-GU, petition for rate increase by  
21 Peoples Gas System.

22           Peoples Gas has requested a rate increase of  
23 \$26,488,091 in additional gross operating revenues.  
24 Based on staff's recommendation, staff has recommended a  
25 \$19,125,419 rate increase of additional gross operating

1 revenues. And in the spirit of keeping it brief, we're  
2 ready to answer any questions or go issue by issue,  
3 whatever the Commission's pleasure is.

4 **COMMISSIONER EDGAR:** All right. Thank you  
5 very much.

6 Commissioners, as I suggested, are there  
7 issues that you would like to identify specifically for  
8 discussion or kind of overarching questions before we go  
9 into issue groupings? No?

10 Commissioner McMurrin.

11 **COMMISSIONER McMURRIAN:** I've got about ten  
12 different issues noted. I have them written down just  
13 if we get to them.

14 **COMMISSIONER EDGAR:** As we, as we go?

15 **COMMISSIONER McMURRIAN:** Yeah.

16 **COMMISSIONER EDGAR:** Okay. If that's all  
17 right with you, that's fine with me to try to proceed.

18 Then I, I believe that our staff has  
19 distributed -- let me look. Making copies right now.  
20 Okay. Okay. Then -- okay. Then, well, then let me,  
21 let me try it this way. I think that our staff, if they  
22 haven't yet, had put together a two-page document that  
23 on the first page has the issues in numerical order that  
24 are pending before us and on the second page has a  
25 grouping of issues that were either stipulated or

1 removed, and then of course the two issues that after  
2 our vote today will be pending to come back -- excuse  
3 me, yeah -- pending to come back before us at a later  
4 date as kind of the fallout calculations are made. So  
5 we will try to work from that document.

6 And the first issue grouping, which is just  
7 one, is the test period which is Issue 1. So,  
8 Commissioners -- and being handed out as we speak.  
9 Thank you, Mr. Devlin. So the first issue is the test  
10 year, Issue 1. So, Commissioners, are there any  
11 questions on Issue 1? No questions? Is there a motion?

12 **COMMISSIONER SKOP:** Move to approve Issue 1 as  
13 to the test year.

14 **COMMISSIONER EDGAR:** Is there a second?

15 **CHAIRMAN CARTER:** Second.

16 **COMMISSIONER EDGAR:** Thank you, Chairman  
17 Carter. We have a motion and a second again on Item 15,  
18 just on Issue 1 at this point in time. All in favor,  
19 say aye.

20 (Unanimous affirmative vote.)

21 Opposed? Show it adopted.

22 Thank you. Then, Commissioners, I propose we  
23 move on. And, again, working from this document that  
24 our, our staff has passed out -- Chairman Carter, these  
25 are titled Rate Base issues and it's Issues 5, 7, 8, 9,

1 10 and 13. So, Commissioners, let's look at those  
2 issues, 5, 7, 8, 9, 10 and 13. And are there any  
3 questions of our staff on those issues?

4 Commissioner Skop.

5 **COMMISSIONER SKOP:** Thank you, Madam Chair.

6 I guess on Issue 5 or actually maybe I have  
7 it -- okay. Yes. For Issue 5 there were staff handout  
8 adjustments to plant calculations, and if staff could  
9 briefly speak to that.

10 **MS. GARDNER:** Commissioner, for Issue 5,  
11 adjustment to plant calculations, basically staff made  
12 an adjustment to the 2009 projection for municipal  
13 projects of \$3.8 million. Also for that same adjustment  
14 for plant we did a 2009 adjustment for an extended main  
15 for Southwest Martin Highway, and that was like \$114,000  
16 totaling, total adjustment to plant of \$3.9 million.  
17 Along with that adjustment was a depreciation expense  
18 for \$113,640. That depreciation expense was calculated  
19 at a 2.9 percent rate.

20 For the accumulated depreciation reserve we  
21 did a half-year convention of \$56,820, and we did it for  
22 both the 2009 -- 2009 projection for the municipal  
23 project and for the extended main.

24 Now in this same case there was removal cost  
25 in the projected test year for \$3.2 million, but the

1 company filed the actual expenditures and the 2008  
2 actual removal cost was \$1.5 million or \$1,552,481. The  
3 difference between those two amounts was an overstated,  
4 overstatement of the reserves of \$1.6 million. So  
5 basically staff again went before the plant-in-service  
6 for the 2009 projection period of adjustments and  
7 removed the \$56,820 for those two plant adjustments to  
8 give you a new 2008 adjustment to the reserves of  
9 \$1,590,741.

10 Looking again at the removal cost, and all of  
11 this is done on a 13-month average plan or half-year  
12 convention, for removal it became 7,900 -- 7,000 --  
13 \$795,371. The reason for the removal of the 2009  
14 municipal projects was that there was a \$3.8 million  
15 average established by the company for that, for the  
16 2009 period, but the project was constantly moving  
17 because these were municipal projects and it was based  
18 upon what was necessary by I'd say state and local  
19 government and even state government. So basically  
20 that's where the adjustment came in. And staff believed  
21 that that adjustment covered any excessive projections  
22 in 2009.

23 **COMMISSIONER EDGAR:** Commissioner Skop.

24 **COMMISSIONER SKOP:** Thank you, Madam Chair.

25 And thank you for that explanation. I think

1 that was probably a lot better than I could have done.  
2 So this one had kind of appeared and I thought it was  
3 appropriate to speak briefly to it.

4 So does this additional handout I guess  
5 explain the existing recommendation for Issue 5 or does  
6 it alter those numbers?

7 **MS. GARDNER:** No. That is the existing  
8 recommendation.

9 **COMMISSIONER SKOP:** Okay. And then one  
10 question at the bottom where it discusses reason for  
11 removal of 2009 municipal projects, I guess in the  
12 second to the last sentence or the -- yeah, second to  
13 the last sentence -- the company overspent its 2008  
14 budget by \$6.4 million, and then the -- in addition, the  
15 company revised its 2009 projected test year government  
16 mandated projects from \$3.8 million to \$5.5 million.  
17 And staff believes that the company's projections for  
18 the projected test year are excessive.

19 Does the -- is this impacted or are the  
20 projections based upon what Peoples may have to do as a  
21 result of federal mandated, you know, removals or  
22 relocations due to the stimulus package or is that kind  
23 of tied into this?

24 **MS. GARDNER:** It is tied into this. And it is  
25 also based on the presentation of, of how they presented

1 the projects that they were going to complete in 2009.  
2 Because further discussed in Issue 54 is the Gas System  
3 Reliability Rider whereas they're going to address the  
4 government-mandated relocation facilities. And we were  
5 looking at based upon the analysis that the company had  
6 provided us \$62 million worth of capital expenditures  
7 for 2008 but overspent that by \$68 million. Well, we  
8 looked closely into that \$62 million. There were some  
9 canceled, delayed projects that would have overflowed  
10 into 2009. But when you get into 2009, that overflow is  
11 basically recaptured by new projects. So basically we  
12 were looking at the \$3.8 million is really not in excess  
13 but it's a moving average of projects because they  
14 pulled so many back in 2008 that it was a safe removal,  
15 but the company still must commit by completing those  
16 projects in 2009. So if that rider is approved in 54,  
17 they can't come back and say, well, we couldn't get, do  
18 these projects in 2009, so we're going to switch them  
19 over to 2010; whereas, that's when the rider is going to  
20 go into effect.

21 So basically it was a safe, an assurance that  
22 it will be done and that -- I'll say that moving target  
23 of projects would not include the municipal projects  
24 that they have in rate base.

25 **COMMISSIONER SKOP:** Okay. So I guess, I guess

1 this is intertwined with Issue 54, and Issue 54 provides  
2 actual, or the recovery of actual costs when they have  
3 been actually incurred for such relocations. Is that a  
4 correct understanding?

5 **MS. GARDNER:** That would be correct.

6 **COMMISSIONER SKOP:** All right. Thank you.

7 **MS. BANKS:** Cheryl Banks on behalf of  
8 Commission staff. If I could just clarify that a little  
9 bit. The issue that you were discussing with  
10 Ms. Gardner really has to do with 2009. The rider has  
11 to do with costs that are actually incurred for 2010 and  
12 beyond.

13 **COMMISSIONER EDGAR:** Commissioner McMurrian.

14 **COMMISSIONER McMURRIAN:** Thank you, Chairman.

15 First I'll say that, Commissioner Skop, I  
16 asked for this, actually not exactly like this was but  
17 something that explained because in the rec statement,  
18 the numbers, I had trouble tracking the numbers in the  
19 rec statement to the numbers in the recommendation as,  
20 as you were talking about with them, the \$3.8 million,  
21 for instance. And the 114 number didn't actually end up  
22 in the recommendation statement, and this exhibit I  
23 think helps me get from Point A to Point B in the rec  
24 statement. So that was, that was why. But I have some  
25 follow-up along those lines too.

1           The \$6.4 million that's mentioned in that note  
2 at the bottom that Commissioner Skop read about they  
3 overspent its 2008 budget by 6.4, is that in  
4 plant-in-service or not? I guess I got confused about  
5 that. Because the, the company definitely was asking  
6 for the \$6.4 million to be added to plant-in-service in  
7 their position statement because the actual results for  
8 2008 I guess they're saying were \$6.4 million higher.  
9 But is staff's recommendation inclusive of that  
10 \$6.4 million?

11           **MS. GARDNER:** It is exclusive of that  
12 \$6.4 million. We're only going with what's in the MFRs.

13           **COMMISSIONER McMURRIAN:** You said exclusive  
14 of?

15           **MS. GARDNER:** Exclusive.

16           **COMMISSIONER McMURRIAN:** Okay. So the  
17 \$6.4 million is not included in the numbers that we  
18 would be recommending.

19           **MS. GARDNER:** This is correct.

20           **COMMISSIONER McMURRIAN:** Okay. I wanted to  
21 make sure of that.

22           And the \$3.8 million that we were talking  
23 about with respect to those municipal projects, we  
24 won't, and I think you've said this but I just want to  
25 make sure, we won't see that 3.8 associated with those

1 specific projects. If we approve the rider in Issue 54,  
2 we won't see that 3.8 associated with those projects in  
3 that rider. All that -- anything associated with that  
4 will be done before the rider goes into effect is what  
5 you're --

6 **MS. GARDNER:** That's correct.

7 **COMMISSIONER McMURRIAN:** Okay. And the  
8 \$114,816 that had to do with the Southwest Martin  
9 Highway project, and I know you all have explained about  
10 the territorial dispute, but are there, are there any  
11 other mains in this case that aren't presently serving  
12 customers similar to what, what would be happening with  
13 respect to that \$114,000 there, that it's -- I think  
14 you've said in here --

15 **MS. GARDNER:** This is the only one that was  
16 identified.

17 **COMMISSIONER McMURRIAN:** Okay. Okay. So  
18 throughout discovery this is the only one that you're  
19 aware of that wasn't serving or already, or being built  
20 to serve particular customers.

21 **MS. GARDNER:** Right. And then, and basically  
22 what we're looking at is it's in conflict with any other  
23 utility.

24 **COMMISSIONER McMURRIAN:** Right. And that's, I  
25 guess that's what I was getting at is if there are any

1 other mains that have been built out by the utility that  
2 they're asking for recovery for that may not be serving  
3 customers or may not be planned to serve any particular  
4 customers already, and then you get into that issue of  
5 are we allowing for recovery for them to build out and  
6 basically -- and I'm not suggesting the utility is doing  
7 something they shouldn't, I don't know, but essentially  
8 allowing them to hold on to territory for future  
9 customers. Is it the case that there wouldn't be other  
10 mains in, that we would be approving in these  
11 plant-in-service numbers that would be built without  
12 customers?

13 **MS. GARDNER:** We're not aware of it.

14 **COMMISSIONER McMURRIAN:** Okay. I think -- and  
15 there was one other one, Madam Chair.

16 **COMMISSIONER EDGAR:** Okay.

17 **COMMISSIONER McMURRIAN:** In OPC's brief they  
18 talked about how the capital numbers had grown so much  
19 over the past few years and that there were a large of  
20 number of expenses in this case in 2008 and 2009 without  
21 customer growth. And I just wanted to, I wanted you all  
22 to explain to me why you were comfortable with the  
23 amount of plant-in-service here given that perhaps the  
24 customer growth isn't what it was originally planned to  
25 be.

1           **MS. GARDNER:** Well, basically from that  
2 standpoint, and I did discuss it with our economic  
3 liaison staff concerning the customer growth and capital  
4 expenditures, and basically they didn't see the  
5 relationship whereas the customer growth was actually  
6 impacting upon the capital expenditures especially  
7 for -- when we looked at the new developments and the  
8 build out the company was doing, a lot of their process  
9 was like a multiphase segment whereas they would  
10 establish a distribution main system for this new  
11 development, and as a part of that new development  
12 process they would establish it on customer usage but  
13 not specifically customer growth.

14           And we were looking at -- and I was looking at  
15 also too the fact that in prior cases with Peoples Gas  
16 that they did establish a lot of their expenditures  
17 based on customer growth, but those are things that we  
18 took out in the past. Just like even the last rate  
19 case, they had it based on customer growth. That's  
20 something we did not allow. In this case it was totally  
21 different. They even recognized the process of what was  
22 occurring in the market, and it was like, it's just  
23 leveled out to the point that it wasn't inclusive.

24           **MS. BANKS:** Cheryl Banks on behalf of  
25 Commission staff. Also you have to look at the numbers

1 that are included in this capital budget. It's not just  
2 growth mains. What you're looking at in main  
3 replacements, you're looking at looping to take care of  
4 pressure issues, you're talking about cathodic  
5 protection issues. There's a lot more than just growth  
6 in this capital budget. It's main replacements that are  
7 old. And of course the significant cost that we're  
8 talking about is gas main relocations, and that you  
9 obviously aren't going to probably get any customer  
10 growth, but you have no choice but to move those mains.  
11 And so in that case all those costs that you're seeing  
12 in 2008/2009 are in there for those type of expenditures  
13 that you won't have necessarily tied to customer growth.

14 **COMMISSIONER McMURRIAN:** Okay. Thank you.

15 That's all for now I think.

16 **COMMISSIONER EDGAR:** Okay. Commissioners, any  
17 further questions on this grouping of issues, 5, 7, 8,  
18 and the fallout issues 9, 10 and 13? Hearing none, is  
19 there a motion?

20 **COMMISSIONER SKOP:** Madam Chair, I'd move to  
21 approve Issues, staff recommendation for Issues 5, 7, 8,  
22 9, 10 and 13.

23 **COMMISSIONER EDGAR:** Thank you.

24 **CHAIRMAN CARTER:** Second.

25 **COMMISSIONER EDGAR:** And we have a second from

1 Chairman Carter. All in favor of the motion, say aye.

2 (Unanimous affirmative vote.)

3 Opposed? Show it adopted.

4 Commissioners, I would ask that we move then  
5 down the page to the second grouping of issues headed  
6 capital structure issues. That includes Issues 14, 15,  
7 17, 18 and 20. Are there questions for our staff?

8 **COMMISSIONER ARGENZIANO:** Yes.

9 **COMMISSIONER EDGAR:** Commissioner Argenziano.

10 **COMMISSIONER ARGENZIANO:** All right. On, on  
11 Issue 15, the, let me ask a question as far as the  
12 recommendation, 54.7. That is still higher than the  
13 average, right, from the proxy group?

14 **MR. MAUREY:** Andrew Maurey, Commission staff.  
15 That's correct.

16 **COMMISSIONER ARGENZIANO:** So then that would  
17 justify the lower recommended ROE because of lower risk?

18 **MR. MAUREY:** We believe the recommended ROE of  
19 10.75 reflects the lower financial risk of the 54.7.

20 **COMMISSIONER ARGENZIANO:** Right. Okay. And I  
21 think that's all I needed to ask at this time.

22 **COMMISSIONER EDGAR:** Okay. Commissioners, any  
23 other questions on this subset of issues?

24 Commissioner Skop.

25 **COMMISSIONER SKOP:** Thank you, Mr. Chair -- I

1 mean, Madam Chair. I had to -- and I apologize for  
2 that.

3 **COMMISSIONER EDGAR:** That's okay.

4 **COMMISSIONER SKOP:** I had the same, you know,  
5 concern. And, you know, as a Commission I think that we  
6 want to be, have uniform and consistent results that  
7 are, that are fair to all parties. I spoke extensively  
8 with staff on this issue. They did a tremendous job  
9 spanning many hours of articulating and defending their  
10 point, and I thought that the analysis for the reasons  
11 that they articulated to me, I really couldn't find a  
12 whole lot of fault in. So, again, I commend our staff  
13 for their work and their diligence in preparing all of  
14 their backup things that, that they had discussed. They  
15 came pretty prepared and we talked for many hours. I'm  
16 not necessarily sure about this, but I won't get into  
17 the other spillover issue that we've temporarily  
18 postponed for a second.

19 But in any event, again, I think that the  
20 staff recommendation here is at least in my view  
21 appropriate. So, again, there may be some additional  
22 discussion on that, but, again, I think that staff has  
23 done a pretty thorough analysis.

24 **COMMISSIONER EDGAR:** Thank you, Commissioner  
25 Skop.

1           And just to echo that, our excellent staff is,  
2 as always, here to serve, as, as are each of us. So,  
3 Commissioner McMurrrian.

4           **COMMISSIONER McMURRIAN:** I think this is  
5 quick. With respect to Issue 18, and, Andrew, you and I  
6 may have talked about this already but I wanted to go  
7 ahead and ask it again, at the bottom of Page 34, the  
8 next to the last sentence there that talked about OPC  
9 asserted if the Commission allows the company's  
10 proposal, we should at least follow Commission precedent  
11 and adjust the deferred tax balance by reconciling  
12 capital structure to rate balance for these dollars over  
13 investor-supplied sources of capital. And I just wanted  
14 to make sure we did do this; right? With the staff  
15 recommendation it does capture that, that even if there  
16 are, they don't like the approach, they realize it's  
17 consistent with what we've done in a recent docket, but  
18 we have adjusted the deferred tax balances they're  
19 proposing there.

20           **MR. MAUREY:** That's correct.

21           **COMMISSIONER McMURRIAN:** Correct? Okay.  
22 Thank you. That was all.

23           **COMMISSIONER EDGAR:** Okay. Commissioner Skop.

24           **COMMISSIONER SKOP:** Thank you, Madam Chair.

25           It's not, I don't think, readily applicable in

1 this one, but, again, I just want to comment on a point  
2 in passing that was made earlier because I think there  
3 is some spillover into this. The board of directors is  
4 the one that actually sets executive compensation, and I  
5 agree with the comments that were made earlier this  
6 morning that generally speaking, you know, having an  
7 ROE, and staff has adopted maybe a higher or lower ROE,  
8 but the higher ROE does afford the board of directors  
9 with the ability to pay for executive compensation out  
10 of the retained earnings instead of including the  
11 majority of those within the rate base. So I think that  
12 the comment this morning was pretty much spot on with  
13 the way I view things, and at least in this particular  
14 instance noting the equity ratio and also in conjunction  
15 with the established ROE I think is the appropriate  
16 balance, so.

17 **COMMISSIONER EDGAR:** Thank you.

18 Commissioners, any further questions or  
19 comments on this set of issues, 14, 15, 17, 18 and 20?  
20 Seeing none, is there a motion?

21 **COMMISSIONER SKOP:** Yes, Madam Chair. At the  
22 appropriate -- I'd move to adopt the staff  
23 recommendation as to Issues 14, 15, 17, 18 and 20.

24 **CHAIRMAN CARTER:** Second.

25 **COMMISSIONER EDGAR:** Thank you. We have a

1 motion and a second. Any further discussion? Hearing  
2 none, all in favor, say aye.

3 (Unanimous affirmative vote.)

4 Opposed? Show it adopted.

5 Commissioners, then I would ask that we move  
6 down the page. We do have here under the heading Net  
7 Operating Income issues a larger grouping. So let me  
8 just kind of maybe split it roughly and ask if there are  
9 questions or comments on Issues 23, 24, 25, 26, 28, 29  
10 and break it there for purposes of our discussion?

11 Commissioner McMurrian.

12 **COMMISSIONER McMURRIAN:** Thank you. I'll  
13 start with 23 on all Off-System Sales revenues. I just  
14 want to -- I think I understand the treatment and how  
15 this, how staff's recommendation would provide a greater  
16 incentive, but I just want to make sure I've got it  
17 right.

18 The increase in, from \$500,000 as being the  
19 threshold to \$2 million, what you're saying, or at least  
20 I guess that was in OPC's position about it being a  
21 greater incentive, would be that the company would have  
22 to reach \$2 million before it would get to share in the  
23 benefits above that. So the incentive would be greater  
24 to have more off-system sales revenues. There would be  
25 more, there would be more off-system sales revenues that

1 would be an incentive to them. Or perhaps let me just  
2 have you explain what the, how the incentive to the  
3 company works.

4 **MS. BANKS:** Off-system sales just in general,  
5 just as a brief is the extra pipeline capacity that  
6 Peoples Gas may not be using from time to time. And so  
7 what happens is when they sell this, they get to recoup  
8 revenues.

9 The sharing takes place automatically. What  
10 happens is, is what we decided in this particular  
11 recommendation was that instead of splitting the  
12 revenues as a basis of 500 going into, into net  
13 revenues, we're going to say 2 million goes into net  
14 revenues. And what that means is about the company  
15 probably had a gross margin, we're assuming, at about  
16 \$8 million. And based on the Commission's last order,  
17 it says when you have off-system sales, whatever the  
18 amount is, 25 percent is going to go into net revenues,  
19 in your calculation of net operating income, and the  
20 75 percent is credited to PGA. When I put monies into  
21 revenues and recognize revenues, what that does is it  
22 reduces the amount of revenue that you need from other  
23 sources, reduces the revenue deficiency. So there is no  
24 threshold. We're just saying for this point forward we  
25 think on average you probably will spend, I mean,

1 probably will sell about \$8 million on a gross margin  
2 basis. So 25 percent of that is going to be recognized  
3 as revenue.

4 The problem with this is kind of difficult in  
5 that it fluctuates all the time. If -- a lot of times  
6 what they're selling is in the summer months when they  
7 have excess gas capacity which are sold to electric  
8 providers. So if you're having a reduced demand on the  
9 electric side, the chance of them selling that extra  
10 capacity is probably lower. So it fluctuates, so we  
11 have to try to target an amount that we think is  
12 reasonable.

13 And looking at an interrogatory that we had,  
14 Staff's Number 129B and D, it looked like in the last  
15 few years that appeared to be a reasonable amount based  
16 on the gross margin that we saw looking at years 2003  
17 through 2008. Now 2004 was a real low year. They only  
18 would have put \$846,000 actually in revenues. Their  
19 gross margin was only \$3.3 million. But the following  
20 years it varied \$10, \$12, \$11 and \$8 million. So we  
21 were trying to think of a reasonable amount on average  
22 that they probably would hit and be reasonable to  
23 include in revenues.

24 **COMMISSIONER McMURRIAN:** So the 75/25 is  
25 applied to the whole, to the entire amount.

1                   **MS. BANKS:** Yes, ma'am.

2                   **COMMISSIONER McMURRIAN:** There's not a  
3 threshold.

4                   **MS. BANKS:** Yes, ma'am.

5                   **COMMISSIONER McMURRIAN:** Okay. So I did  
6 misunderstand, so I'm glad I asked. Okay. But it  
7 provides a greater incentive to increase it.

8                   **MS. BANKS:** It's an -- it's really, it  
9 benefits the ratepayers because the more revenues I  
10 include in, in my revenue stream, the less amount of  
11 deficiency I will need. It really benefits the  
12 customers.

13                   **COMMISSIONER McMURRIAN:** Okay. I know I read  
14 that in here somewhere. Actually I believe it's in  
15 OPC's position statement. "To provide the proper  
16 incentive for sales that have benefit for the  
17 shareholders." Or perhaps it's a different way of  
18 looking at it.

19                   **MS. BANKS:** It's a different twist if you're  
20 saying I'll have higher levels of earnings the more  
21 revenues I put in. I was just looking at it from a rate  
22 case perspective because it's lowering our deficiency  
23 but it does increase your level of earnings for the  
24 year.

25                   **COMMISSIONER McMURRIAN:** All right. Okay.

1 And I also had one on 25, I think. With respect to the  
2 table on Page 43, which I guess is the exact same as the  
3 table on Page 42, should that correlate in any way to  
4 the table on Page 49 under the issue on administrative  
5 and general salaries? Is there any correlation between  
6 those amounts?

7 **MS. BANKS:** The table that you have on, on  
8 Page 49 relates to the executive salaries.

9 **COMMISSIONER McMURRIAN:** Right. But how do  
10 the payroll trend factors, do they have any bearing on  
11 the merit increase guidelines that are listed there?

12 **MS. BANKS:** No.

13 **COMMISSIONER McMURRIAN:** Okay. So it's just a  
14 completely separate thing.

15 **MS. BANKS:** That's the base.

16 **COMMISSIONER McMURRIAN:** Okay. And then the  
17 other question with respect to 25 is at the bottom of  
18 Page 43, and I believe this might have come up earlier  
19 today, a couple of sentences there at the end, is that,  
20 is that in the record?

21 **MR. HEWITT:** Craig Hewitt, Commission staff.  
22 This is personal knowledge. I'm not sure if it's in the  
23 record or not.

24 **COMMISSIONER McMURRIAN:** All right. I may, I  
25 may want to think about that some more before I say

1 anything else, so perhaps move on to another issue. And  
2 I may --

3 **COMMISSIONER EDGAR:** Okay. Do you have  
4 questions on other issues in this?

5 **COMMISSIONER McMURRIAN:** I think I did on 28.

6 **COMMISSIONER EDGAR:** Okay.

7 **COMMISSIONER McMURRIAN:** Okay. And I'm not  
8 sure exactly how to ask this, but in OPC's brief there  
9 was a discussion about a missing \$697,000. And I  
10 followed the math in the brief about where they were  
11 coming up with the \$697,000. And I realize here you all  
12 are explaining that there's a difference in how the  
13 budget is done versus what's done for the MFRs, but I  
14 didn't quite get a good answer in the rec or at least I  
15 felt like I was still confused about how to account for  
16 that \$697,000. Because even if the accounting is done  
17 differently and there's a difference in budget versus  
18 MFRs, shouldn't we be able to tell where that \$697,000  
19 is accounted for in the MFRs or can we not?

20 **MS. BANKS:** No.

21 **COMMISSIONER McMURRIAN:** No.

22 **MS. BANKS:** Because what happens is the way  
23 the gas MFRs are structured, they're designed to save  
24 time and effort for small gas companies theoretically.  
25 What you do is that the trend study starts with a two

1 thousand and -- your test, you base year, which in this  
2 case was 2007. We take those numbers, we make any audit  
3 adjustments that are necessary. That serves as the base  
4 year. Each account, what you have in the trend study is  
5 every one of the FERC accounts that are used by the  
6 utility from 870 talking about maintenance,  
7 distribution, payroll, office supplies, every single  
8 account is listed. And every amount within that account  
9 is deemed by category like payroll or supplies or it's  
10 materials, and each one of those components is trended  
11 by a different amount. So if it's payroll dollars, it's  
12 trended by a payroll factor. If it's materials, it may  
13 be inflation or inflation times customer growth.

14 And what this is designed to do is be a very  
15 simplistic method to determine what your projected test  
16 year expenses are. It also gives the utilities an  
17 opportunity to insert a flat line, other not trended.  
18 For instance, if they had a very large medical expense  
19 for insurance or something that trending would not get  
20 you to, different things that are in there that you knew  
21 are known expenses that wouldn't be recovered through  
22 just a trend. Instead of -- like in most large electric  
23 utilities they do zero-based budgeting. When they do  
24 the projected test year, they come up with a budget.  
25 Peoples, like all the other gas companies, filled out

1 the trend study. When they were asked on an  
2 interrogatory for their budgeting process, Peoples  
3 provided their budget for payroll, but their budget for  
4 payroll was \$697,000 higher than what was in the MFRs.  
5 It's a different methodology. You know, they're saying  
6 what they actually believe in their budget they were  
7 going to spend. The trend study however doesn't do  
8 that; it's looking at 2007 and trending up. That's why  
9 that cannot be explained. But Peoples did not ask for  
10 that \$697,000 addition based on its budget. We keyed  
11 off of what the trend study resulted that was in the  
12 MFRs.

13 **COMMISSIONER McMURRIAN:** It's on the MFRs. So  
14 it's not unusual, and I think I'm remembering this  
15 right, but I think the way they described it is the 2007  
16 numbers you could look at two different places in that  
17 interrogatory response and you could track them to the  
18 MFRs. But with respect to 2009, you couldn't track  
19 those same numbers to the same places.

20 **MS. BANKS:** Because when they're budgeting,  
21 they're not budgeting in those kind of categories.  
22 After it's all said and done, you can go and pick out  
23 pieces, okay, this was capital payroll, this was O&M  
24 payroll, these were kind of after the fact. But when  
25 they're budgeting, they're not budgeting like that.

1 They're just budgeting generally by probably human  
2 resources, you know, personnel in the divisions. Their  
3 budget structure is different. After it's all said and  
4 done, you can go back and piece it together.

5 What gave staff a sense of comfort is that  
6 when you looked at Peoples' total O&M budget that it  
7 made up and you looked at the total O&M derived from the  
8 trend study, that's where the variation, the  
9 reconciliation is almost the same. So on a total basis  
10 the budget truly matched what, what essentially was in  
11 the entire trend study that gave us a level of comfort  
12 that those numbers were fairly accurate.

13 **COMMISSIONER McMURRIAN:** Okay. Thank you. I  
14 guess I'll go temporarily back to 25, back to my earlier  
15 question, or --

16 **COMMISSIONER EDGAR:** Okay. Although,  
17 Commissioner Skop, I know you had a question. Was it on  
18 this same issue? Okay. Then let's --

19 **COMMISSIONER McMURRIAN:** That's fine.

20 **COMMISSIONER EDGAR:** Okay. Commissioner Skop.

21 **COMMISSIONER SKOP:** Thank you, Madam Chair.

22 Just as to Issue 28 in the staff  
23 recommendation, the recommendation is, yes, staff  
24 recommends an adjustment to reduce the Account 920,  
25 Administrative and General Salaries, by \$253,300, to

1 reduce the officers' 2009 payroll increases to zero and  
2 to reduce the salaries of other employees. Is the word  
3 "salaries" a typo? I don't think that they're reducing  
4 the salaries. I think that they're reducing the merit  
5 increases. So I'm wondering if that salary perhaps  
6 is -- I know, I know my salary is being reduced, but I  
7 just, I didn't know if that was perhaps a typo.

8 **MS. KAPROTH:** Yes. Staff could consider that  
9 as a typo because the decrease to the salaries were not  
10 the base salary but part of the incentive compensation.

11 **COMMISSIONER SKOP:** The merit, merit increase,  
12 annual merit increase.

13 **MS. KAPROTH:** Right. Exactly.

14 **COMMISSIONER SKOP:** Okay. Thank you. And  
15 then again I would recognize our staff for making the  
16 appropriate adjustments. I think there's been good  
17 discussion on the OPC contention regarding the \$697,000  
18 issue, but again making the appropriate adjustments  
19 based upon adhering, TECO had revised and was very  
20 forthcoming with their revisions to their merit increase  
21 guidelines. And under the original guidelines,  
22 officers, exempt employees and nonexempt employees were  
23 originally budgeted for a 4 percent increase, and under  
24 the revised guidelines executive officers have a zero  
25 increase for incentive compensation; whereas, the exempt

1 and nonexempt employees are still getting a, are  
2 eligible for an annual merit increase. So, again, I  
3 think that that was the appropriate adjustment. I  
4 commend our staff and TECO for bringing that forth  
5 during the hearing, and also I think that from a  
6 corporate perspective I think that that shows excellent  
7 leadership by example of the corporate officers and  
8 sends a good example to the rank and file employees.

9 **MS. BANKS:** And also I would note on that  
10 issue that for salary allocations that are from TECO,  
11 those are removed in Issue 37 for the portion that is  
12 allocated to Peoples as merit is reduced in that issue.

13 **COMMISSIONER SKOP:** Thank you, Ms. Banks.

14 **COMMISSIONER EDGAR:** Thank you.

15 Commissioner McMurrian.

16 **COMMISSIONER MCMURRIAN:** Sure. And you  
17 included Number 29 also, didn't you?

18 **COMMISSIONER EDGAR:** I did.

19 **COMMISSIONER MCMURRIAN:** I think I had  
20 questions on 29, but I'll go ahead with 25 first to  
21 Mr. Hewitt. You should never ask a question you don't  
22 already know the answer to.

23 Given that those last couple of sentences are  
24 not in the record on Page 43, what is --

25 **COMMISSIONER EDGAR:** And, Commissioner, I'm

1 sorry to interrupt, but I think our legal staff wanted  
2 to jump in and that might be helpful.

3 **COMMISSIONER McMURRIAN:** Okay.

4 **COMMISSIONER EDGAR:** Okay.

5 **MS. KLANCKE:** Perhaps I can make a suggestion  
6 that'll ameliorate your concerns. I would like to  
7 suggest that we strike the second to last sentence on  
8 Page 43 in that issue as they are not, as they do not  
9 form the basis of staff's decision and are not based on  
10 record information that is currently within the record.

11 **MR. HEWITT:** Excuse me. That's fine. The  
12 correct citation is at the top of that page where the  
13 late-filed deposition Exhibit Number 9 would have the  
14 Moody's Economy.com January 2009 CPI forecast, which  
15 would be the correct citation in the record.

16 **COMMISSIONER McMURRIAN:** That would be the  
17 correct citation for the 2.1, or for the statement that  
18 we just talked about striking?

19 **MR. HEWITT:** For the 2.1 out years. But  
20 Moody's Economy.com in 2010 has a 2.7 percent forecasted  
21 CPI, so it would match the facts and what's in the  
22 evidence as far as ongoing CPI inflation rate.

23 **COMMISSIONER McMURRIAN:** I don't think I'm  
24 following you yet, Mr. Hewitt. Are we assuming that  
25 that entire sentence is gone and was not in the record,

1 or are you saying that part of that was in the record?

2 **MR. HEWITT:** I agree with counsel that that  
3 second to last sentence should be stricken, but the  
4 information in it does have basis in the record as far  
5 as Economy.com's forecasted inflation rate.

6 **COMMISSIONER McMURRIAN:** Okay. So Economy.com  
7 by Moody's talks about the -- how afterwards will not  
8 fall below 2.7 going out to 2019?

9 **MR. HEWITT:** It would not fall below  
10 2.1 percent, which is what PGS uses.

11 **COMMISSIONER McMURRIAN:** Right. I guess the  
12 point -- I was looking at OPC has said that CPI has  
13 fallen since 2008. In fact, I'm even wondering what the  
14 rest of that first sentence there with the economy in  
15 recession, that is not typical. Is that supposed to be  
16 not atypical?

17 **MR. HEWITT:** The recession we are in is a very  
18 deep one and extended, and it's working its way toward  
19 being the longest recession since the Great Depression,  
20 so it is a not typical, it's an unusual or atypical  
21 recession.

22 **COMMISSIONER McMURRIAN:** So I guess, maybe I  
23 should ask it this way. What would you normally expect  
24 to see with respect to CPI? What direction would you  
25 expect CPI to go when the economy is in a recession?

1           **MR. HEWITT:** In a recession? It can drop down  
2 probably under 2 percent, barely. Sometimes we have  
3 recessions with inflation, stagflation. So it varies  
4 according to economic conditions. But to fall down to  
5 the estimated for this year's negative 1.1 percent is  
6 very unusual. So to rely on this year's falling CPI  
7 because of the deep recession would be atypical, and it  
8 would be a mistake going forward, I believe.

9           **COMMISSIONER McMURRIAN:** Okay. So you believe  
10 the company's projected test year CPI-U factor inflation  
11 only should be for 2009 2.1.

12           **MR. HEWITT:** 2.1 percent would be  
13 an appropriate and reasonable CPI going forward, yes,  
14 ma'am.

15           **COMMISSIONER McMURRIAN:** And even though more  
16 recent information shows that that number has declined,  
17 you wouldn't expect -- you think that that may be a  
18 short-term decline?

19           **MR. HEWITT:** That's correct.

20           **COMMISSIONER McMURRIAN:** I'll go ahead and ask  
21 some questions on 29, if I may.

22           **COMMISSIONER EDGAR:** Okay.

23           **COMMISSIONER McMURRIAN:** On 29 with respect to  
24 rate case expense, staff has recommended some  
25 adjustments there of 78,875, Ms. Gardner. Is there a

1 breakdown of that adjustment somewhere so I can tell? I  
2 realize that there is discussion in here about OPC has  
3 suggested cutting the consultant's contracts in the  
4 amount of 65,500, but I had trouble tracking that back  
5 to the language above it that talked about the different  
6 consulting contracts. So, can you tell me what the  
7 breakdown is for your adjustment of the 78,875, or the  
8 65,500. Again, I think it's just an issue of trying to  
9 track the numbers in the recommendation statement to  
10 what is supported in the staff analysis.

11 **MS. GARDNER:** Okay, Commissioner. For the  
12 contract agreements that were reviewed, there were  
13 several that were reduced and only one that was  
14 increased. There was one contract for Currency and  
15 Company (phonetic) that was increased by \$3,000 because  
16 the contract stated it was for 48,000, and the company  
17 had 45,000. Now, this is based on contractual  
18 agreement, so we are going by what was in the contracts.

19 **COMMISSIONER McMURRIAN:** So your  
20 recommendation includes the 48,000.

21 **MS. GARDNER:** It includes the 48,000. I'm  
22 increasing it by 3,000.

23 **COMMISSIONER McMURRIAN:** Okay.

24 **MS. GARDNER:** Okay. The second adjustment was  
25 for Huron Consulting. That contract was for 200,000,

1 but it was reduced to 163,000, which is a \$37,500  
2 reduction. And the reason why that was reduced is  
3 because of scope of services within that contract stated  
4 that it was for a fixed price limit of 80,000, a budget  
5 limit of 15,000, another budget limit of 42,000, and the  
6 final budget limit was for 26,000 for four different  
7 tasks, which equal 163,000. So based upon that  
8 contract, if there was any additional cost it was not  
9 covered within that segment. So that is was the 37,500  
10 reduction.

11 Then we had a reduction for AUS Consulting,  
12 whereas for the company they asked for 45,000, we  
13 reduced it to 38,500. It was reduced to 38,500, which  
14 is a \$6,500 reduction based upon the cost of the  
15 contract.

16 **COMMISSIONER McMURRIAN:** Okay. And I think it  
17 is in the fourth one that I really --

18 **MS. GARDNER:** Seholden (phonetic).

19 **COMMISSIONER McMURRIAN:** Right.

20 **MS. GARDNER:** For the company they requested  
21 50,000. It was reduced to 25,000, which is a \$25,000  
22 reduction because it is an as-is contract, as required.  
23 The company did not provide any additional information  
24 to validate how much time that that individual had  
25 served in work or any type of product, whereas in the

1 terms of the agreement it stated that the person would  
2 keep up with project work, time, and expenses and will  
3 provide it to the company for payments. That was not  
4 provided to staff, so basically we could not make a  
5 determination. And we agreed with OPC that it should be  
6 reduced because how else would we know the time that  
7 person served to be paid that 50,000. And it did state  
8 that that 50,000 was an estimate, so that totals the  
9 65,500.

10 **COMMISSIONER McMURRIAN:** Okay. I think that  
11 helps. And so half of that contract was supported, the  
12 25,000 of the \$50,000 contract was supported in the  
13 record.

14 **MS. GARDNER:** (Indicating affirmatively.)

15 **COMMISSIONER McMURRIAN:** Okay. I think that  
16 was it.

17 **COMMISSIONER EDGAR:** Okay. Commissioner Skop.

18 **COMMISSIONER SKOP:** Thank you, Madam Chair. I  
19 just have a quick question on that point.

20 I guess my understanding as to the rate case  
21 expense, we had an extensive discussion on this at  
22 hearing, and discussion of the contracts, but I guess in  
23 a nutshell, staff adopted the OPC not to exceed  
24 threshold of \$684,500 for rate case expense, but did not  
25 adopt the amortization period. In doing so, staff

1 adopted a four-year period as opposed to the five-year  
2 recommended by OPC, and that was on the basis of the  
3 staff analysis at the bottom of Page 52. In a prior  
4 case it was amortized over four years, is that correct?

5 **MS. GARDNER:** That is correct.

6 **COMMISSIONER SKOP:** Thank you.

7 **COMMISSIONER EDGAR:** Thank you.

8 Commissioners, any further questions on this  
9 subset of issues?

10 **COMMISSIONER ARGENZIANO:** (Inaudible.  
11 Microphone off.)

12 **COMMISSIONER EDGAR:** 29.

13 Commissioners, hearing no further questions,  
14 may I have a motion on Issues 23, 24, 25, 26, 28, and  
15 29?

16 **MS. KLANCKE:** Madam Chairman, if I will, could  
17 I reiterate the suggestion that Legal Staff previously  
18 made with respect to striking --

19 **COMMISSIONER EDGAR:** Page 43?

20 **MS. KLANCKE:** -- the second to last on Page  
21 43?

22 **COMMISSIONER EDGAR:** I expect we may get to  
23 it. Thank you.

24 **MS. KLANCKE:** Excellent.

25 **COMMISSIONER EDGAR:** Commissioner Skop.

1                   **COMMISSIONER SKOP:** Thank you, Madam Chair.

2                   I would move staff recommendation as to Issues  
3 23, 24, 25, 26, 28, and 29, with the understanding that  
4 the typo in Issue 28 will be corrected in the final  
5 order and the strike that staff had recommended would  
6 also be not -- addressed within the final order, also.

7                   **COMMISSIONER EDGAR:** Okay. And for  
8 clarification, that would be on Issue 25 and the  
9 suggestion on Page 43.

10                  **COMMISSIONER SKOP:** Thank you.

11                  **COMMISSIONER EDGAR:** Thank you, Commissioner  
12 Skop. Is there a second?

13                  **CHAIRMAN CARTER:** Second.

14                  **COMMISSIONER EDGAR:** Thank you, Commissioner  
15 Carter.

16                  We have heard the motion and the second. Any  
17 further discussion? Hearing none, all in favor say aye.

18                  (Simultaneous aye.)

19                  **COMMISSIONER EDGAR:** Opposed? Show it  
20 adopted.

21                  Commissioners, I would suggest that we move to  
22 the next subset of issues, and I would ask that we  
23 consider in this portion of our discussion Issues  
24 30 through 36. Are there any questions for our staff?

25                  Commissioner Skop.

1           **COMMISSIONER SKOP:** Just a quick comment as to  
2 Issue 36 with respect to director and officer liability  
3 insurance. I guess staff rightfully so has recommended  
4 approval of that expense, and I also view it as a  
5 legitimate cost of doing business. I think just as a  
6 comment, if we are going to apply it in this case it  
7 ought to be equally applied, I would think, to all of  
8 our utilities as recognition of a legitimate business  
9 expense. I just want to make sure for consistency  
10 purposes that that carries through not only into energy,  
11 gas, but also in water and wastewater, just so we are  
12 consistent if staff deems it appropriate to do so.

13           **COMMISSIONER EDGAR:** And, Commissioner Skop,  
14 I'm sorry, I wasn't sure if that was a question or a  
15 comment. I'm getting tired, I apologize.

16           **COMMISSIONER SKOP:** No, I think it was more of  
17 a comment, and I also do have a question. The question  
18 part of that would be with respect to Issue 31 on the  
19 bad debt expense. I just wanted to have staff refresh  
20 my memory to make sure that the treatment here was  
21 consistent with the way we would normally do it in terms  
22 of other proceedings that have come before us.

23           **COMMISSIONER EDGAR:** Ms. Banks.

24           **MS. BULECZA-BANKS:** I'm sorry, I was  
25 conferring with Mr. Slemkewicz on that issue.

1                   **COMMISSIONER SKOP:** Just as to Issue 31, I  
2 just want to make sure that we are applying that  
3 treatment consistently and that basically recognizes on  
4 the bad debt expense that it's consistent with our past  
5 practices.

6                   **MS. BULECZA-BANKS:** Yes, Commissioner, it is.  
7 That's why we're making the adjustment to revert back to  
8 how it is normally done for all the other gas companies.

9                   **COMMISSIONER SKOP:** Okay. And that reflects  
10 current economic conditions, also?

11                   **MS. BULECZA-BANKS:** Yes, sir.

12                   **COMMISSIONER SKOP:** Thank you.

13                   **COMMISSIONER EDGAR:** Thank you, Commissioner  
14 Skop, for that clarification. I appreciate it.

15                   Commissioners, any other questions on this  
16 subset of issues?

17                   Commissioner McMurrian.

18                   **COMMISSIONER McMURRIAN:** I think this is  
19 similar to the one I asked earlier with respect to how  
20 it relates to Issue 54 about the rider. In Issue 33, on  
21 pipeline integrity expense, would these costs be  
22 recovered by that rider if it were ultimately approved?

23                   **MR. RIEGER:** Yes, Commissioner. This is Stan  
24 Rieger with Commission staff. Yes, they are addressed  
25 in the rider, Issue 54.

1                   **COMMISSIONER McMURRIAN:** But as far as the  
2 amounts we have here, these would be for the projected  
3 test year, so the amount that would remain after the  
4 adjustment of 250,000, which I think is 500,500 that  
5 remains, we wouldn't see that in the rider, right,  
6 because that is for the 2009 test year?

7                   **MR. RIEGER:** Yes, as I understand it.

8                   **COMMISSIONER McMURRIAN:** But you're saying  
9 these types of expenses would be the types that would be  
10 recovered in the rider, but not this specific amount for  
11 2009?

12                   **MR. RIEGER:** That's correct.

13                   **COMMISSIONER McMURRIAN:** Okay.

14                   **MS. BULECZA-BANKS:** Again, the riders will  
15 begin in 2010.

16                   **COMMISSIONER McMURRIAN:** Okay. I just wanted  
17 to make sure. Thank you.

18                   **COMMISSIONER EDGAR:** Thank you.

19                   Commissioners, any further questions on these  
20 particular issues? Hearing none, may I have a motion to  
21 address Issues 30, 31, 32, 33, 34, 35, and 36?

22                   **COMMISSIONER SKOP:** You may. I move to adopt  
23 staff recommendation as to Issues 30, 31, 32, 33, 34,  
24 35, and 36.

25                   **CHAIRMAN CARTER:** Second.

1                   **COMMISSIONER EDGAR:** Thank you.

2                   We have a motion and a second. Any  
3 discussion? Hearing none, all in favor say aye.

4                   (Simultaneous aye.)

5                   **COMMISSIONER EDGAR:** Opposed? Show it  
6 adopted.

7                   Commissioners, then I propose that at this  
8 time we take up any questions for Issues 37, 38, 39, 40,  
9 41, 42, 43, 44, and 46, recognizing that the bulk of  
10 that subset would consist of fallout issues. Are there  
11 any questions on that subset of issues at this time?

12                   Ms. Banks.

13                   **MS. BULECZA-BANKS:** Yes, Commissioners.  
14 Before you vote on that, staff has determined that there  
15 happens to be a small error in the income tax  
16 calculation for one of the adjustments, so we are going  
17 to need to recalculate the income tax effect.

18                   **COMMISSIONER EDGAR:** So that would be Issue  
19 40?

20                   **MR. SLEMKEWICZ:** Right. That would be Issue  
21 40, and that would affect the total net operating income  
22 and the amount of the rate increase. And I spotted this  
23 this morning when I was preparing for today. On  
24 Schedule 3 for the adjustment for the storm damage  
25 accrual, the adjustment was correct, however, it was not

1 affected for income taxes. And what that will do is  
2 change the net operating -- I'm sorry, the rate increase  
3 from 19,125,419 to \$19,152,365. That's about a \$24,000  
4 increase.

5 **COMMISSIONER EDGAR:** I was just going to ask  
6 you to do the math for me on that difference. Thank  
7 you.

8 Commissioners, any questions for our staff?  
9 No questions? Okay.

10 Then, Commissioners, may I ask for a motion to  
11 address Issues 37, 38, 39, 40, 41, 42, 43, 44, and 46 in  
12 recognition, also, of the math adjustment that staff has  
13 brought to our attention.

14 **COMMISSIONER SKOP:** Yes. I would move to  
15 adopt staff's recommendation as to Issue 37, 38, 39, 40,  
16 41, 42, 43, 44, and 46 with the recognition of the math  
17 error identified for staff in Issue 40 as to the income  
18 tax expense.

19 **COMMISSIONER EDGAR:** And wherever else that  
20 would fall out.

21 **COMMISSIONER SKOP:** That's correct.

22 **COMMISSIONER EDGAR:** Thank you, Commissioner  
23 Skop. May I have a second?

24 **CHAIRMAN CARTER:** Second.

25 **COMMISSIONER EDGAR:** Thank you, Commissioner

1 Carter.

2 We have a motion and a second. Any further  
3 discussion or questions? Hearing none, all in favor say  
4 aye.

5 (Simultaneous aye.)

6 **COMMISSIONER EDGAR:** Opposed? Show it  
7 adopted.

8 Commissioners, that brings us to Issues 54,  
9 55, and 57. Any questions for our staff?

10 Commissioner Argenziano.

11 **COMMISSIONER ARGENZIANO:** Yes. Thank you. On  
12 Issue 54, can staff cite to me the legislative authority  
13 to create a recovery clause?

14 **MS. KLANCKE:** I'd like to answer that  
15 question. This is Caroline Klancke for Commission  
16 staff.

17 Although there is no specific statutory  
18 authority, we do have broad ratemaking authority under  
19 Section 366. Moreover, the characterization of this  
20 rider as a clause, although at first blush may seem  
21 applicable, there are certain distinct, definite  
22 differences for the proceeding rider that staff is  
23 recommending, which would act not as a clause, but more  
24 as a surcharge, or more analogous to a surcharge.

25 **COMMISSIONER ARGENZIANO:** Well, with all due

1 respect, I appreciate that answer, just don't -- it  
2 doesn't cut it for me when it comes to a policy call  
3 such as creating a recovery clause coming from the  
4 legislature that allowed the recovery clauses that are  
5 in place.

6 I think it is a policy call. So if you are  
7 using -- and, Booter, you might be able to give me some  
8 better guidance here. I don't see anything in the  
9 statute. I understand our ratemaking generalities, but  
10 that really doesn't go to recovery clauses. And isn't  
11 it true that the only recovery clauses we have were  
12 established by the legislature?

13 **MR. IMHOF:** For the recovery clauses; yes,  
14 ma'am.

15 **COMMISSIONER ARGENZIANO:** Okay. So that is  
16 number one. I don't think we have statutory authority  
17 to do that, and I would want to confer with the  
18 legislature.

19 **MR. IMHOF:** Commissioner, I'm being corrected  
20 on that. Could we take a couple of minutes to confer,  
21 Madam Chairman?

22 **COMMISSIONER ARGENZIANO:** Do you want me to  
23 ask other question?

24 **COMMISSIONER EDGAR:** Rest in place, confer,  
25 and I suspect it will just take a moment. So we will

1 stay right here. We are off the record for just a  
2 moment.

3 (Off the record.)

4 **COMMISSIONER EDGAR:** Okay. We are going to  
5 get started again. Thank you, everyone, for your  
6 patience. I think we have addressed some of our  
7 technical issues. And right before we went on break, we  
8 had a question from Commissioner Argenziano, and our  
9 staff was going to give us some additional information.  
10 So if I may ask our staff to respond.

11 **MR. IMHOF:** Thank you, Madam Chair. I'll see  
12 if I can get this correct this time.

13 The clauses that are established by statute,  
14 there are two of them, the conservation clause and the  
15 environmental recovery clause. There are two clauses  
16 that are not established by statute, the fuel clause and  
17 the purchased gas adjustment clause. The fuel clause  
18 has been upheld by the courts as within the Commission's  
19 jurisdiction.

20 **COMMISSIONER ARGENZIANO:** Madam Chair. Before  
21 you go through all of that, let me restate the question,  
22 because I'm aware of the fuel clauses. I'm talking  
23 about a nonbased rate recovery clause. What you are  
24 talking about are -- I'm talking about two different  
25 types of recoveries. And if you look at the ones that

1 are statutorily created they are very different. They  
2 are capital intensive and they are non-rate based. So I  
3 should have phrased it that way. I understand those,  
4 but they are very different. And really what it comes  
5 down to as the bottom line is do you think that the  
6 legislature really intended for the PSC to make those  
7 kind of calls. I say no, and we don't have specific  
8 authority anywhere that says we do. And they are very  
9 different things. So that's what I'm getting to.

10 When you are talking about the types of  
11 recovery the Commission has created, they are very, very  
12 different than the types of recoveries, and they are not  
13 volatile. And, you know, fuel, of course, is very  
14 volatile. Millions if not billions of dollars per year.  
15 So I want to establish that I asked the question wrong.

16 Eliminating those types of recoveries, that  
17 I'm not sure we have authority to really do anyway, but  
18 for a non-based rate recovery mechanism, that has been  
19 legislative designed, and in my opinion we don't have  
20 the authority to do that. I don't think the legislature  
21 ever intended for us to do that.

22 **COMMISSIONER EDGAR:** Commissioners, any  
23 additional questions on these?

24 Commissioner Skop.

25 **COMMISSIONER SKOP:** Thank you, Madam Chairman.

1           I think Commissioner Argenziano in her  
2 discussion raised an interesting point, and I guess  
3 staff has concluded that this gas system reliability  
4 rider is a new concept or issue of first impression.  
5 But to the point that Commissioner Argenziano made about  
6 the other clauses address volatility measures, and I  
7 think that is a good point, is not relocation costs  
8 addressed by this proposed rider not in themselves, you  
9 know, perhaps somewhat variable or volatile to the  
10 extent that the federal action for the most part should  
11 drive a near term or a one-time increase in these costs  
12 that were not otherwise historically typical and could  
13 drive those for, you know, a year, two years, three  
14 years, however long these capital projects under the  
15 federal economic stimulus package would take place? And  
16 I'm just trying to get a better handle on whether -- how  
17 Commissioner Argenziano might feel with respect to that.

18           At least from my perspective in trying to  
19 fully vet this out, if federal mandates are imposing  
20 significant, you know, expense that's not otherwise  
21 picked up, to me at least that would result in stranded  
22 costs and regulatory lag which would not otherwise be  
23 recoverable until the next rate case. So I don't know  
24 if that would perhaps -- you know, I'm trying to  
25 simulate discussion.

1                   **COMMISSIONER ARGENZIANO:** Do you want me to  
2 answer that?

3                   **COMMISSIONER SKOP:** No, I'm just trying to  
4 gain your --

5                   **COMMISSIONER ARGENZIANO:** I don't know if  
6 you're asking me the question.

7                   **COMMISSIONER SKOP:** I'm trying engage in a  
8 well-vetted discussion. I think the point you raised  
9 was an excellent one distinguishing between clauses  
10 adopted by the Commission that are intended to address  
11 volatility and huge amounts of stranded costs, but  
12 equally in a sense, although not as great a magnitude, I  
13 could see where in some instances this could be somewhat  
14 volatile or variable to the extent that because of a  
15 federal mandate they are being caused in a way to incur  
16 this additional amount of cost that is over and above  
17 the ordinary expense. And I guess in the interest of  
18 fairness, and, you know, stranded costs and regulatory  
19 lag, would it not in a sense be, you know, somewhat  
20 volatile? Again, not the same magnitude by far where  
21 you are talking hundreds of millions of dollars, but --

22                   **COMMISSIONER ARGENZIANO:** Madam Chair.

23                   **COMMISSIONER EDGAR:** Commissioner Argenziano.

24                   **COMMISSIONER ARGENZIANO:** Not by any means as  
25 volatile as I think what our other clauses are dealing

1 with. And if the feds did something, you know, as the  
2 legislature frequently says, that's great. Who cares?  
3 In that respect, let the legislature decide then because  
4 of the federal action.

5 I still point to show me the statutory  
6 authority for that type of clause, recovery clause. And  
7 then if we are talking about that, if we are talking  
8 about having the Public Service Commission do that, then  
9 you have to consider a lot of other things also. You  
10 would then have to say that you have just reduced the  
11 risk again, so should ROE be lowered again, because the  
12 risk has been lowered because you have a definite  
13 recovery now?

14 And what incentive really is there for the  
15 company then to come back in to ask for a rate case if  
16 everything is going well and everything could be going  
17 well? We have had some cases here, rate cases that  
18 haven't been heard for 16 and 20 something years. There  
19 is no way then for the PSC to really take a closer look  
20 at what's happening outside of that rate case. And it  
21 could be many, many years that consumers could be  
22 burdened with things that we may never see.

23 It really gets down to, to me, is do we have  
24 the legislative authority to do that, and I don't think  
25 we do. Irregardless of what the feds have done, that's

1 not a policy call, I think, that we should make. And  
2 despite what anybody else may think here, this is my  
3 opinion, and I'm the only one who sat in the legislative  
4 process. And there are very many different opinions in  
5 that process, but one is overwhelming, and it is that if  
6 you don't have the legislative authority to do it, you  
7 don't. And that has been -- that is one thing that I  
8 have heard legislators time and time again say, and  
9 actually slap down agencies who go above and beyond the  
10 legislative authority.

11 Now, if we believe, Commissioner Skop, that  
12 that is something that should be done, and let me tell  
13 you the companies have -- they are not shy when they  
14 lobby the legislature at all by any means, and if we  
15 believe that those federal steps were taken, and as you  
16 say might be more volatile, or somewhat volatile, well,  
17 then that's the legislature's prerogative to give us  
18 that.

19 But as of today, if you look at the recovery  
20 clauses that we have that the PSC has established they  
21 are not of the same magnitude or the same type as what  
22 the legislature -- there is a very clear delineation  
23 there. And that to me -- if the legislature could turn  
24 around next session, or maybe in time this session, but  
25 I doubt it, and turn around and say that that is

1 something that we want to institute as policy, well,  
2 then, that's is their call.

3 **COMMISSIONER SKOP:** Madam Chair. Thank you.

4 And, again, it's not to be argumentative, it's  
5 just to fully vet out the issue, and I think the  
6 discussion is a good one. If a clause was not an  
7 appropriate mechanism and there were significant costs  
8 that would mount up that would be incurred costs in the  
9 reasonable course of doing business, I guess to recover  
10 those costs would either require a full-blown rate case,  
11 absent a clause, and I'm not so sure that the staff  
12 recommendation in terms of limiting recovery to actual  
13 costs after they have been incurred would address the  
14 concern, the underlying concern that you have in terms  
15 of not having legislative authority to enact a clause.

16 But the only alternative I would see, if not a  
17 clause or a rider, would be maybe a limited proceeding,  
18 or some other mechanism, because beyond that, you know,  
19 those costs are stranded. And I don't know what those  
20 costs would amount to. I haven't refreshed my memory on  
21 the record, perhaps staff could comment on that. But it  
22 would seem to me that, you know, in any limited  
23 proceeding, or rate case there's cost and expense of  
24 going through that to grant that recovery. So I guess  
25 what I am struggling with is, you know, staying within

1 the bounds of our legislative grant of authority, but  
2 equally making sure that we are not stranding a whole  
3 bunch of costs without providing recovery that would  
4 otherwise drive costs and expenses of trying to  
5 adjudicate those costs. Sure, we're having a good  
6 discussion.

7 **COMMISSIONER ARGENZIANO:** And I understand  
8 that; I understand that. And I have always said that I  
9 believe you need to be fair and it is a very big  
10 balancing act that we all play here -- that we all play  
11 out here. The problem is also you are talking about  
12 passing through automatic pass-throughs, and let's say  
13 in the event that a company just does overwhelmingly  
14 well, and I hope they do, it's great. We want our  
15 companies to be healthy and do well. But what incentive  
16 would there be to ever come in? I mean, we are  
17 almost -- we might as well just say, okay, you know,  
18 let's -- we don't need to look at everything here. And  
19 as you remember not too long ago I said that I would  
20 like to see some of the cases come in so I can see those  
21 particulars, so I can feel confident that we are looking  
22 at everything we need to do.

23 If a company is doing very, very well, okay,  
24 let's say they are, when do you think they would -- I  
25 mean, would they come in for a rate case if they are

1 doing very well? How would you know? Is there any kind  
2 of oversight? So it's like me relinquishing oversight  
3 on the consumers' behalf, and I don't feel comfortable  
4 with doing that. Especially knowing and feeling that we  
5 don't have legislative authority to do that with a  
6 non-based rate recovery type of clause.

7 We are not talking about rate base here, we're  
8 talking about something totally different. And the  
9 legislature has not yet said that you guys shall do  
10 that. And I just have -- with all that and the  
11 component missing that I may not get as a Commissioner  
12 or future Commissioners that sit here may not get the  
13 ability for many, many years down the road to really  
14 look at what's happening, I think that errs on the wrong  
15 side and not fair. It errs on the wrong -- possibly  
16 could err on the other side. And right now, our  
17 companies not only need fair, but so do our consumers  
18 and that's where my angst comes from.

19 **COMMISSIONER SKOP:** And to Commissioner  
20 Argenziano's point, could staff refresh my recollection  
21 as to what the expected relocation cost would be on an  
22 annual basis? I mean, how many millions of dollars or  
23 hundreds of thousands of dollars are we talking about?  
24 Is it going to be material in the grand scheme of  
25 things, or is it going to be so material that it might

1 make an issue?

2 **MS. DRAPER:** Elizabeth Draper with Commission  
3 staff.

4 The information we have in the record is  
5 historical relocation costs. And on average for the  
6 years 2003 through 2007 it has been 4.28 million. That  
7 number alone staff feels is fairly significant. But the  
8 rider is really decided for future costs that could be  
9 potentially larger. We have the stimulus package that  
10 could prompt further or increased relocations when towns  
11 have additional money available to widen roads,  
12 relocate; and then the rider is also designed for any  
13 new federal pipeline integrity measures that may come  
14 down the pipeline.

15 At this point Peoples, during the hearing,  
16 admitted that those costs aren't known at this point  
17 since they are still evaluating their system, but the  
18 potential for large costs is there. And if I just make  
19 one point to clarify, the company will come in every  
20 year with a petition to file a tariff for those  
21 surcharge factors, so there will be Commission  
22 oversight. The numbers can be audited, and since the  
23 staff is recommending that only costs after they have  
24 been incurred can be audited that are verifiable are  
25 passed through for the surcharge, there will be

1 Commission oversight, so it is not an automatic  
2 pass-through.

3           **COMMISSIONER SKOP:** Madam Chair, just as a  
4 quick follow-up to a point that Commissioner Argenziano  
5 raised. If the Commission were to adopt the rider, I  
6 guess the point -- and I don't want to put words in her  
7 mouth, but she had mentioned the reduction in risk that  
8 would occur from that. If the Commission were not to  
9 approve the rider, has that perhaps incremental risk  
10 been addressed or factored into staff's analysis that we  
11 previously voted on on Issue 14? Would that be  
12 encompassed or adequately addressed within that or would  
13 it require an upward revision based on the comprehensive  
14 all things -- again, we can't look at return on common  
15 equity in isolation, you have to look at the totality,  
16 and I just was wondering whether staff in coming up with  
17 its thoughtful analysis had addressed the possibility  
18 that this might not be approved.

19           **MR. MAUREY:** In the record in this case there  
20 was discussion about riders that were available to other  
21 companies in other jurisdictions. And in arriving at  
22 our recommended return on equity, we did not believe  
23 that this clause in and of itself, or rider in and of  
24 itself differentiated it, PGS, from the other companies  
25 in the proxy groups.

1                   Now, it would differentiate PGS from any of  
2 the other LDCs in Florida, but they weren't in the proxy  
3 group that we used for estimating return on equity. So,  
4 to your question, it was not a factor in determining  
5 return on equity because the record showed that other  
6 states have similar clauses. They don't all function  
7 exactly the same and certainly not all called the same  
8 thing.

9                   **COMMISSIONER ARGENZIANO:** Madam Chair. And  
10 aren't some of those in the other states legislatively  
11 mandated?

12                   **MR. MAUREY:** Staff doesn't know the answer to  
13 that.

14                   **COMMISSIONER ARGENZIANO:** I can tell you some  
15 of them are and some of them are not.

16                   **MR. MAUREY:** That is probably the case.

17                   **COMMISSIONER ARGENZIANO:** And I'll reserve my  
18 questions for a moment.

19                   **COMMISSIONER EDGAR:** Thank you.

20                   To staff, first a comment, then a question.  
21 In my mind, I see some distinction between the issues of  
22 54 and 55. And I am the one that grouped them together  
23 for our discussion. The staff recommendation on Issue 5  
24 to deny the request for a carbon reduction rider, I am  
25 very comfortable with the staff recommendation on that

1 for many of the reasons that have been discussed here at  
2 the bench.

3 Issue 54 I do see as somewhat different, at  
4 least in my own mind. So here is my question: The  
5 staff recommendation is to include the creation of a gas  
6 system reliability rider in this instance in this case.  
7 What do you point to in your analysis as our statutory  
8 jurisdiction to move forward in that way?

9 **MS. KLANCKE:** Because the rider proposed with  
10 the modifications suggested by staff is so analogous to  
11 a surcharge, I would point you to those instances in  
12 which the Commission has created a surcharge that  
13 functions not unlike the rider that we are suggesting.

14 There are two orders that are cited on Page 88  
15 of staff's recommendation that are largely similar to  
16 the way that this functions, i.e., that it forms not an  
17 annual pass-through of costs, but rather you would have  
18 the company in a limited proceeding petition the  
19 Commission for a full review of those costs that would  
20 be subsequently audited, only we are taking it a step  
21 further and saying that these costs that could even  
22 potentially be recovered through this particular rider,  
23 the GSR rider, would be limited to only those  
24 discernible, government-mandated discernible past-tense  
25 costs that had already been incurred.

1                   **COMMISSIONER EDGAR:** A comment and then a  
2 follow-up question. Some of the discussion that we have  
3 had at the bench on these issues here are about trying  
4 to, in my words, facilitate transparency and review and  
5 protections through audit and protections to consumers  
6 and ratepayers by items coming before the Commission.  
7 And that's where I see the potential for the rider  
8 proposed in Issue 54 to maybe be helpful and provide  
9 additional protections to consumers for some of the  
10 reasons that have been discussed with many issues not  
11 coming before us for a number of years.

12                   So that's a comment. And then my more  
13 specific follow-up question is, again, realizing that  
14 staff has recommended in favor on Issue 54, could you  
15 point me more specifically to the statutory provision  
16 that you would direct us to for our jurisdiction and  
17 authority, if indeed -- or for the basis of your  
18 recommendation?

19                   **MS. KLANCKE:** Although I cannot say that there  
20 is a specific statutory provision that allows for the  
21 creation of this rider under 366.05, I would assert that  
22 it affords the Commission with broad statutory authority  
23 for the creation of riders such as this cost-recovery  
24 mechanism.

25                   **COMMISSIONER EDGAR:** Commissioner McMurrian.

1 Thank you.

2 **COMMISSIONER McMURRIAN:** Let me get my  
3 thoughts back together. I guess I need to confirm how I  
4 understand what staff is recommending here; because of  
5 some of the things that have been said, I didn't  
6 completely understand them that way. And I guess the  
7 first is we have talked about it, we keep calling it a  
8 rider, a surcharge, and I think that's important because  
9 the company asked for it more like what we typically  
10 deal with in the clause.

11 That they would be proposing projected costs,  
12 we would look at them, and then true-up when things were  
13 actual based on what actually happened. So you might  
14 actually have a situation where customers might be  
15 charged, in the way they proposed it, for things that  
16 might not materialize, and we would be truing up to take  
17 those costs out. And customers in the end would never  
18 pay anything other than actual costs incurred.

19 But staff's recommendation, as I understand  
20 it, has changed it such that the company wouldn't even  
21 file a petition until after they had incurred costs and  
22 they were filing actual expenses, actual known things  
23 that we could audit and look into before we were putting  
24 any kind of surcharge in, but it wouldn't be like our  
25 other clauses.

1                   So am I right so far? Definitely correct me  
2 if I'm wrong.

3                   **MS. DRAPER:** Yes.

4                   **COMMISSIONER McMURRIAN:** Okay, thank you. And  
5 on the volatility, I guess, and I think that we did  
6 cover this already about the relocation costs. To me it  
7 does seem like those can't be planned whether we are  
8 talking about federal or municipal. They may have some  
9 kind of idea, and it sounded like with the other  
10 information in the record that you do have some kind of  
11 heads up that perhaps there is going to be some kind of  
12 right-of-way project and that you need to start planning  
13 to move your lines, but it's not predictable, I think I  
14 would say. Whether or not it's volatile in the same way  
15 that fuel is, I would disagree, but I do think it's  
16 unpredictable.

17                   And back on the surcharge thing, I did want to  
18 say this. Caroline, did you mention about the storm  
19 cases? Is that the ones that we mentioned on Page 88?  
20 Because in the storm cases we set up a surcharge for  
21 those extraordinary costs due to the storms that we had  
22 in those terrible years that we hope don't get repeated.

23                   We had -- or at least we believed we had  
24 statutory authority in those cases. What statutory  
25 authority did we cite when we set up the storm-recovery

1 surcharge? And I certainly hope we had authority to do  
2 it.

3 **MS. BRUBAKER:** Jennifer Brubaker for staff. I  
4 confess I do have that order right in front of me, and  
5 if any staff does, I would really appreciate a copy.

6 But it is my recall, subject to check, that it  
7 was under the same broad powers. Actually -- thank you,  
8 Elizabeth. She has the order for Progress, establishing  
9 Progress Energy's storm surcharge, and we do cite to  
10 366.04, 366.05, and 366.06. If I'm correct, 366.05 is  
11 the broad -- do you have that statute?

12 It talks about the Commission's powers and the  
13 exercise of our jurisdiction. The Commission shall have  
14 the power to prescribe fair and reasonable rates and  
15 charges, classification, standards of quality and  
16 measurements, and so forth. And it is a broad grant of  
17 authority. It is what we relied upon in establishing  
18 that storm surcharge.

19 **COMMISSIONER McMURRIAN:** Now, back to  
20 Commissioner Edgar's question about what is our  
21 authority here. Are you all citing all three of those  
22 statutes there or one in particular?

23 **MS. BRUBAKER:** My immediate thought was  
24 366.05, but also we do have in 364 the Commission shall  
25 have jurisdiction to regulate and supervise each public

1 utility with respect to its and service. That would  
2 certainly be applicable in this case.

3 **COMMISSIONER McMURRIAN:** And that was which  
4 one, I'm sorry?

5 **MS. BRUBAKER:** 366.04.

6 **COMMISSIONER McMURRIAN:** Commissioners, I  
7 realize that with environmental cost-recovery, which is  
8 also a clause, not a surcharge, but it is set up to  
9 recover capital costs, and I realize it has statutory  
10 language there, and that the examples that we had with  
11 respect to fuel and PGA do not have statutory language,  
12 but they do not recover, at least not much, capital  
13 expenditures through those. So I realize there is some  
14 difference. And Commissioner Argenziano has made a good  
15 point. And I think that that's why that this is more so  
16 a case of first impression than it might look like on  
17 the surface.

18 But it seems to me that we do have authority  
19 under those broad statutory references to take care of  
20 issues like these. Of course, I was not a former  
21 legislator, so I don't have the benefit of knowing what  
22 the statutory intent was and whether or not the  
23 legislature might look at it as broader than what we  
24 have power to. But it seems to me consistent with what  
25 we have done in cases like the storm case where we have

1 set up a surcharge. And I think as long as we put some  
2 fairly strict parameters on a surcharge like this, and I  
3 know several -- and I wanted to point some of them out.  
4 And some of them are very similar to what we do in the  
5 environmental cost-recovery clause, and perhaps some of  
6 these aren't even mentioned specifically in here, but I  
7 had written a couple of things down.

8 I think that if we were to approve a surcharge  
9 like this, there would have to be a showing that any  
10 expense that would be recovered from ratepayers would  
11 have to be required, and that there would have to be  
12 some kind of documentation, and this is similar to the  
13 environmental. I keep thinking like that, that there  
14 would have to be some kind of documentation showing an  
15 actual requirement by some kind of government authority.

16 It would have to not already be recovered in  
17 base rates; obviously we wouldn't want to allow any sort  
18 of double recovery. I know that in the staff analysis  
19 it mentions that the costs should be prudently incurred.  
20 I think that whatever would be determined should be the  
21 most cost-effective option, whatever was proposed. In  
22 other words, if there were two ways to relocate the line  
23 and one was more cost-effective than the other one, then  
24 that is -- and even if the utility did something else,  
25 that the only thing that should be recovered would be

1 the most cost-effective option.

2 I know that staff notes at the very bottom of  
3 Page 88 that costs would be actual, verifiable, and  
4 prudent. And I think the only other thing I had pointed  
5 to was a sentence that essentially got back to not  
6 allowing recovery for things that were already in base  
7 rates.

8 **MS. BRUBAKER:** Commissioner, if I may. I'm  
9 sorry, I will just throw one more element out there that  
10 I think staff believes would be important if the  
11 Commission were to approve this, is that this would be  
12 filed essentially as a PAA and any interested parties  
13 who have concerns with what the utility is requesting  
14 would have a point of entry and an opportunity to  
15 request a 120.57 hearing on what the company is asking.

16 **COMMISSIONER McMURRIAN:** And I realize that it  
17 wasn't staff's intent necessarily to nail down with this  
18 recommendation exactly how the surcharge would work, but  
19 I think that -- and I don't know where the vote is going  
20 to go, but I think in the event that we were to set  
21 something up like this, it's important to go ahead  
22 and -- I would like to, anyway, go ahead and share my  
23 thoughts about what I would expect for that, because we  
24 wouldn't want something open-ended. We would want  
25 similar to some of the other clauses. Even though,

1 again, this is not a clause, we would want those  
2 parameters to be set from the outset to make sure that  
3 we didn't have anything recovered twice, and to make  
4 sure that it was the most cost-effective for the  
5 ratepayers.

6 But I agree with what Commissioner Edgar said  
7 as well about Issue 55. I don't have any -- and,  
8 frankly, my original gut reaction on 55 and the carbon  
9 reduction rider was I didn't think it was appropriate,  
10 at least not at this time.

11 But with respect to 54, I do believe we have  
12 statutory authority there. Perhaps I'm wrong, and I  
13 would be willing to admit it if I am, but it seems to me  
14 similar to surcharges we have done in the past and that  
15 I believe the Commission has authority to put in place.  
16 And I do think given these types of costs that it could  
17 be beneficial.

18 And to the point about how companies may not  
19 come in and we may not have a chance to look fully at  
20 their books and records, I guess I would say that we  
21 have a lot of clauses in the electric and the gas  
22 industry, and we still have a lot of rate cases planned  
23 for this year. So I don't think it necessarily would  
24 prevent the ability to look fully at the books and  
25 records, because I think there would still be other

1 things, perhaps issues with respect to this Issue 55 and  
2 what's going to happen with carbon regulations. It may  
3 be other things that drive the company to come back in  
4 for rate increases or rate changes in the future. Those  
5 are just my thoughts on 54.

6 Thank you.

7 **COMMISSIONER EDGAR:** Thank you, Commissioner  
8 McMurrian.

9 Just one moment. Just to clarify, Ms.  
10 Brubaker, so that I understood your comment about the  
11 PAA portion. You were speaking to if this were to be  
12 approved in the future as items would come to us after  
13 they were audited and requested that that would be PAA  
14 with --

15 **MS. BRUBAKER:** Absolutely.

16 **COMMISSIONER EDGAR:** I just wanted to make  
17 sure that I understood that.

18 Commissioner Argenziano.

19 **COMMISSIONER ARGENZIANO:** Well, a couple of  
20 things. Let me ask staff. Let's call it the federal  
21 law mandates anything act that they do. And let's say  
22 they just mandate anything they want. There is another  
23 law next week, next month, next year that the feds  
24 mandate. And especially if it is outside of the base  
25 rate charge, something that provides a company to have

1 to expend dollars outside of the rate base charge.

2 Does that mean you're going to recommend every  
3 time that we have a recovery clause when the feds just  
4 decide that they are going to mandate something,  
5 whatever, as I said, call it the federal whatever act.  
6 Would that be the -- that seems to be that that will be  
7 the movement, then. That would be what we would want to  
8 do then if we are recommending that today. So I am  
9 wondering if you have given that some thought.

10 **MS. BRUBAKER:** I don't think -- I think it  
11 would be a situation-by-situation circumstance. I think  
12 in this case we could foresee a number of years of  
13 potential requests for this type of recovery. Rather  
14 than have the expense of repeated base rate proceedings  
15 or limited proceedings, we saw this as a more  
16 streamlined efficient way to address this type of  
17 request. Again, we felt it very important to have  
18 certain built-in protections.

19 **COMMISSIONER ARGENZIANO:** And I get that.  
20 That is not what I asked you. I understand that. I see  
21 that, but I also see the other side of that of them not  
22 seeing a rate case for many, many years has been pretty  
23 much what we have had here with certain entities, and I  
24 could see that potential also from doing that. But I  
25 also see the potential of every time the feds pass a law

1 that we are going to now recommend that everything  
2 become a recovery, and especially when it is outside of  
3 the base rates, which makes it dangerous. And it makes  
4 it dangerous to me to think about that happening outside  
5 of the base rates because we won't see rate cases come  
6 before us for a very long time.

7 And I would ask of our counsel, I would like a  
8 legal opinion from JAPC whether we have legislative  
9 authority to do that or not. And I think that's  
10 critical. And if the legislature decides that's what we  
11 do, well, then that's what we do.

12 But I disagree, I don't think we have  
13 legislative authority to do that, and I think a JAPC  
14 opinion is critical here. And I don't care, you know,  
15 one way or the other how the other Commissioners vote.  
16 That's up to them individually. And I would like to  
17 speak to JAPC. As a matter of fact, I will do that. I  
18 will ask myself, but I would think that it would be  
19 incumbent upon our counsel to find out if JAPC could  
20 tell us or not whether we have legislative authority,  
21 and it has to be very specific in what we are asking  
22 them, the question that we ask them.

23 And if we look at the feds, you know, coming  
24 up with different types of mandates upon companies,  
25 Florida companies, I want to differentiate between the

1 differences in clauses -- excuse me, the ones that are  
2 outside of the base rate charges. And what the  
3 potential, I think, would be if that proliferates, if  
4 that continues. If we keep having federal mandates and  
5 we decide that we are going to have these recoveries,  
6 what are the potentials down the road.

7 And, again, I'm concerned with -- Commissioner  
8 Edgar used the word transparency, which I would really  
9 like to see a lot more of. But my concern is that there  
10 is lack of transparency, because we will not get the  
11 benefit of rate cases coming before us quite often. And  
12 that is my opinion, and that's my concern.

13 So asking the question as to if staff believes  
14 that there was more of this type of mandates that came  
15 down from the feds, then I guess using your logic here  
16 today would be the same thing that we would just pretty  
17 much allow the recoveries even though it's outside of  
18 the base rates.

19 And I go back to that, I say that because that  
20 is what bothers me the most. There is a very big  
21 difference here of the recovery clauses that I'm talking  
22 about that are legislatively mandated and what we are  
23 trying to do here today. And it is outside of the base  
24 rates charge, and it's not to say that the companies  
25 won't have this mandate. We know that's obvious to see,

1 it's just that I do believe that you are not going to  
2 see many rate cases come before you, and we will not  
3 have the benefit, or the Commissioners sitting in this  
4 space, because I think that the legislature really needs  
5 to take a look at that and they need to decide for us.

6 That's a policy call, that really is. And I  
7 think that if you can get an opinion from JAPC -- and I  
8 certainly will. I will try to get that also. I think  
9 that would benefit us because this is going to come to  
10 us more and more now if we pass this today.

11 And I can pretty much predict how it is going  
12 to happen here today. I can see that, and it's fine.  
13 My opinion is I see it coming more, and I would like to  
14 have a definite opinion from the legislature as to  
15 whether we have that specific authority. I don't see it  
16 in the general statute specifying that we can go ahead  
17 and make this policy call. I think it's a policy call  
18 and not your typical clause that the -- or I shouldn't  
19 even say typical -- not the clauses that the Commission  
20 has passed before.

21 **CHAIRMAN CARTER:** Madam Chair.

22 **COMMISSIONER EDGAR:** Commissioner Carter.

23 **CHAIRMAN CARTER:** We been voting on these in  
24 groups.

25 **COMMISSIONER EDGAR:** Yes, sir, we have been.

1                   **CHAIRMAN CARTER:** Can we carve this issue out  
2 separate and apart?

3                   **COMMISSIONER EDGAR:** Commissioner Carter, that  
4 was going to be my suggestion, as well. So I appreciate  
5 you bringing that up.

6                   Commissioners, I would suggest -- we had taken  
7 up Issues 54, 55, and 57 together for our discussion  
8 purposes. What I would ask is if we have any further  
9 questions on any of those at this time, let's go ahead  
10 and get those out and have them responded to, and any  
11 further discussion, and then I would like to ask that we  
12 take up each of those three issues individually when we  
13 come to vote, and I think that will facilitate our  
14 discussions and resolution.

15                   Commissioner Skop.

16                   **COMMISSIONER SKOP:** Thank you, Madam Chair. I  
17 just had a quick question on 55, and then I'd like to go  
18 back to 54 briefly. But on Issue 55, I read the staff  
19 recommendation, and I have read a lot, so help refresh  
20 my memory if you're able to. I know that the Senate  
21 Bill that recently passed, Senate Bill 1154, actually  
22 included such a carbon reduction rider in it, although  
23 the House did not take that up.

24                   But with respect to staff's recommendation, I  
25 thought -- and correct me if I'm wrong, but I thought

1 one of the reasons advanced for why this is not  
2 appropriate over and above some of the other concerns  
3 that staff expressed was the fact that this rider would  
4 only apply to one gas company as opposed to the  
5 aggregate. Is that correct? And if so, can you direct  
6 me specifically to where that is in the recommendation.

7 **MS. KUMMER:** That is correct, sir. Let me see  
8 if I can find exactly where it is. I believe if you  
9 look on Page 92. Let's see, I think it's in the second  
10 paragraph. That may not be.

11 The second full paragraph on Page 92 speaks to  
12 that. It says staff agrees with OPC's assessment that  
13 the expansion of facilities should be cost-effective  
14 with the current rates. Extension of the supply mains  
15 and the CRR does not require them being actual  
16 customers. Facilities may be extended to make gas  
17 available to install -- I'm trying to find the exact  
18 language in there, because I know we did talk about it,  
19 and that certainly was staff's main concern is that the  
20 company would be encouraged to extend supply mains where  
21 there may not be current customers as a territory grab.  
22 That's kind of a harsh assessment. And, again, I'm not  
23 saying that they would exactly do that, but the  
24 potential would be there, and that would be to the  
25 detriment of -- someone else is going to help me.

1                   **COMMISSIONER SKOP:** Okay.

2                   **MS. KUMMER:** Page 93.

3                   **COMMISSIONER SKOP:** And I saw it at the bottom  
4 of 92 where disadvantaged utilities which do not have  
5 the ability to immediately pass on such costs, so I saw  
6 that, and I thought that that was a principle that staff  
7 had mentioned. Would not the same concern readily apply  
8 on Issue 54?

9                   **MS. BULECZA-BANKS:** Not to the extent that you  
10 would see it in here, and the reason why is that Peoples  
11 has 15 different divisions. It is a very large company  
12 compared to the next gas company, which is very, very  
13 small.

14                   It's not a competitive issue in Issue 54,  
15 because they are mandated by the local governments to  
16 move the lines. If another utility had to move the  
17 lines, they would have to also comply. What Peoples is  
18 saying is because they are in larger cities they are  
19 having to move these lines much more often as roads are  
20 expanding. This is why you are seeing it now.

21                   It's not necessarily tied to any kind of  
22 federal funding monies. These are local governments  
23 that on their on, road construction, I mean, congestion,  
24 you are having to expand the roads just like we see in  
25 Tallahassee, requiring those lines to be moved. You see

1 it more to the extent in Peoples because it is serving  
2 in the larger cities.

3 **COMMISSIONER SKOP:** Thank you.

4 And then a question to Commissioner  
5 Argenziano, if I may.

6 Commissioner, you had previously raised the  
7 concern about the length of period of time that approval  
8 of such a rider in -- notwithstanding the objection to  
9 lack of authority to do so, but beyond that you cited  
10 some reasons about that it would keep or encourage  
11 utilities to stay out longer for rate cases and such.

12 And, again, I'm looking at grappling with not  
13 only the grant of jurisdiction or authority, but also  
14 trying to avoid the stranded costs and regulatory lag  
15 that might occur absent some provision for recovery of  
16 such costs. Would it address any of your concerns, and  
17 I recognize the answer is probably no, but I thought I  
18 would ask -- if this rider, if it were approved, to put  
19 a provision on there that would be a sunset provision  
20 that would be coincidental (phonetic) with the expiration  
21 of the federal economic stimulus package to the extent  
22 that, you know, basically this extraordinary expense is  
23 expected to be incurred as a result of that stimulus  
24 package in some of the federal mandated projects. And  
25 if you put a sunset on the approval of the rider, would

1 that do anything, if any, to gain your support or  
2 address any of the concerns that you previously  
3 expressed? Because, again, if there were a sunset, then  
4 they couldn't stay out forever.

5 **COMMISSIONER ARGENZIANO:** Well, thank you, and  
6 I appreciate you caring about my concerns. I really do.  
7 If we don't have legislative authority, and if I feel we  
8 don't have legislative authority, and that's just my  
9 opinion at this time, then that wouldn't help.

10 If we had legislative authority, or if the  
11 legislature decided that that should be the direction  
12 that the PSC should take, well, then that would be  
13 probably helpful.

14 **COMMISSIONER SKOP:** And I guess that's my  
15 only question. Thank you.

16 **COMMISSIONER ARGENZIANO:** Thank you.

17 **CHAIRMAN CARTER:** Madam Chairman.

18 **COMMISSIONER EDGAR:** Commissioner Carter.

19 **CHAIRMAN CARTER:** The reason I was suggesting  
20 about the carve out, I think we were talking about that  
21 Issue 54, and it seems from what I have heard and read  
22 it seems like this is a case of first impression. And  
23 if it is a case of first impression, while we do not  
24 necessarily have, you know, statutory or legislative  
25 authority to do that, it may be worthwhile to ask JAPC

1 or the legislature to weigh in on this. Because if they  
2 did, I don't think it would be a process where the  
3 company would actually lose out. That they can come  
4 back and say, okay, we have expended this based upon  
5 this clause and this is why we could come back in there.

6 But I do think it may be significant enough to  
7 where -- one, I think it should be set aside as a  
8 separate issue so that we would not vote in a group.  
9 But, secondly, if this is a case of first impression  
10 that we are just getting ready to do that, maybe we do  
11 need to be a little cautious in treading down that road.

12 **COMMISSIONER EDGAR:** Thank you for your  
13 comments, Commissioner, and we will take them up here, I  
14 think, in just a few moments individually for a vote.  
15 And we will tread carefully on this item as we do on all  
16 of them.

17 Commissioner Skop.

18 **COMMISSIONER SKOP:** Thank you, Madam Chair.

19 I guess Chairman Carter hinted to the question  
20 that I didn't ask, but since he opened the door I think  
21 I'm going to ask staff. I noted at the back of this  
22 sheet that there are two remaining issues to be approved  
23 at the April 19th agenda. And I guess the question I  
24 would have for staff, seeing this is an issue of first  
25 impression and there is some question of grant of

1 jurisdiction, would it be possible without violating the  
2 closed record and the facts before us to do something  
3 which would basically be analogous to certifying a  
4 question to JAPC as to whether we had jurisdiction and  
5 getting an answer back before that agenda? Actually,  
6 wait, I'm sorry, April 2009. It's already past April of  
7 2009.

8 **COMMISSIONER EDGAR:** It is. But,  
9 Commissioner, just for clarification, I think that it is  
10 May 19th is when those remaining issues are projected to  
11 come back to us. And if I may, just to kind of follow  
12 along, I think that your question there, along with, or  
13 additionally, or as an alternative, additional legal  
14 analysis from our staff as to the specific  
15 jurisdictional question which has arisen would perhaps  
16 be helpful to all of us. I mean, a fleshing out of the  
17 legal analysis of that portion of this issue. But I  
18 would also then, to piggyback on your question, pose to  
19 our staff about the evidentiary record being closed, but  
20 yet I am thinking more of legal analysis. So I have  
21 probably belabored that point, I apologize, and we will  
22 ask our staff to respond to both of us, all of us.

23 **CHAIRMAN CARTER:** Did I lose you guys?

24 **COMMISSIONER EDGAR:** No, you didn't.

25 Commissioner Carter, hold on. You have been so patient.

1 If you can hold on and continue to bear with us here.  
2 Just a moment longer on this, or two.

3 I guess what I would maybe ask of our staff,  
4 and, again, to kind of piggyback, I think, on what I'm  
5 hearing, let me pose it this way, a more specific  
6 question. Realizing that we have worked our way through  
7 almost all of the issues that were pending before us,  
8 and that we have three that are remaining for a vote  
9 with the understanding that May 19th we are expected to  
10 hear -- I mean, to have before us the two remaining  
11 issues to dispose of this particular docket at this  
12 time.

13 Would it be possible to defer a decision on  
14 Issue 54 until May 19th when this comes back before us,  
15 and give our staff the additional time to consider the  
16 questions that have come up on this specifically, and if  
17 there is the opportunity to do additional legal analysis  
18 to do so. If that would be in violation of a rule or  
19 process, then obviously don't.

20 **MR. IMHOF:** Yes. I think we could do that.  
21 This is really a legal question as opposed to a  
22 evidentiary question, so I don't think we have to worry  
23 about the record.

24 **COMMISSIONER EDGAR:** Okay. That is my  
25 thinking, but --

1           **MS. KUMMER:** And if I could chime in, as well.  
2 From a practical standpoint, this clause would only  
3 address future costs. So we would not be in any problem  
4 delaying it until the next agenda, because it will not  
5 effect any current costs.

6           **COMMISSIONER EDGAR:** In other words, it will  
7 not have an impact on the recommendation that the staff  
8 will bring to us for Issues 49 and 50, is that correct?

9           **MS. KUMMER:** No, ma'am, it will not.

10          **COMMISSIONER EDGAR:** Okay.

11          Commissioner Skop.

12          **COMMISSIONER SKOP:** Thank you, Madam Chairman.

13                 I think that that embodied pretty much what I  
14 heard Chairman Carter say, as well as a concern,  
15 lingering concern I had. Not to hold up the show, but  
16 if it is possible in addition to having additional legal  
17 analysis, if that analysis, since this is a question of  
18 law, whether we have jurisdiction to approve such a  
19 thing, if it would be possible, and I don't know if it  
20 is atypical, but to certify the question to JAPC to get  
21 an affirmative response in that time frame, that might  
22 go a long way in getting consensus, I would think,  
23 because it would address some of the concerns that have  
24 come up.

25          **COMMISSIONER EDGAR:** Commissioner Argenziano.

1                   **COMMISSIONER ARGENZIANO:** What I would want  
2 from JAPC, and I will ask myself if the Commission  
3 doesn't do it this way, is their opinion, their unbiased  
4 opinion of what we have legislative authority to do  
5 regarding recoveries. And if we are going to give a  
6 legal analysis of what we think, then I have mine  
7 included in that.

8                   **COMMISSIONER EDGAR:** Okay. Commissioners, I  
9 think what I'm hearing is a consensus that we defer a  
10 decision today on Issue 54. That we ask our staff to  
11 take the full discussion and questions and suggestions  
12 and all that we have had, and that that item come back  
13 to us on May 19th with Issues 49 and 50.

14                   Commissioners, is that in keeping -- okay, I'm  
15 seeing nods. So we will defer the final vote today on  
16 Issue 54. I think we have finished our questions, so  
17 let me ask --

18                   **CHAIRMAN CARTER:** Madam Chairman.

19                   **COMMISSIONER EDGAR:** Commissioner Carter.

20                   **CHAIRMAN CARTER:** I just wanted to ask a  
21 question. When Legal talks to JAPC, they possibly ask  
22 them to expedite it because of the time frame we're  
23 working in. I think they can accommodate us on that.

24                   **COMMISSIONER EDGAR:** Absolutely, Commissioner  
25 Carter. Thank you for the additional suggestion. Okay.

1           Commissioners, I think that brings us now to  
2 Issue 55. We have had some discussion and some  
3 questions on that. Is there another specific question  
4 on this or is there a motion on Issue 55?

5           **COMMISSIONER SKOP:** I would move to approve  
6 staff recommendation as to Issue 55.

7           **CHAIRMAN CARTER:** Second.

8           **COMMISSIONER EDGAR:** There is a motion and a  
9 second on Issue 55. Any further discussion? Hearing  
10 none, all in favor say aye.

11           (Simultaneous aye.)

12           **COMMISSIONER EDGAR:** Opposed? Show it  
13 adopted.

14           That brings us to Issue 57. Hearing no  
15 further questions, may I have a motion on Issue 57?

16           **COMMISSIONER SKOP:** I move to approve staff  
17 recommendation for Issue 57.

18           **CHAIRMAN CARTER:** Second.

19           **COMMISSIONER EDGAR:** Thank you. We have a  
20 motion and a second. Hearing no further discussion, all  
21 in favor of the motion say aye.

22           (Simultaneous aye.)

23           **COMMISSIONER EDGAR:** Opposed? Show it  
24 adopted.

25           Commissioners, we have worked our way through

1 the issues that were on the first page of the sheet that  
 2 we have been using to facilitate our discussions.  
 3 Turning to Page 2, all of those issues were stipulated  
 4 and approved at hearing, or were dropped from the case  
 5 prior to. As we have discussed, that leaves us with  
 6 Issues 49 and 50, and now 54 to come back before us on  
 7 May 19th.

8 Let me ask staff are there any other matters  
 9 on this particular item that we should address while we  
 10 are gathered here?

11 **MS. KLANCKE:** Not that staff is aware of.

12 **COMMISSIONER EDGAR:** Okay. Commissioners, any  
 13 other final comments on this before we close this one  
 14 out? Okay. Hearing none, I thank everybody for their  
 15 work and thoughtful questions. And we have completed  
 16 our work on Item 15.

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STATE OF FLORIDA )

: CERTIFICATE OF REPORTERS

COUNTY OF LEON )

WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR, Official Commission Reporters, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

WE FURTHER CERTIFY that we are not a relative, employee, attorney or counsel of any of the parties, nor are we a relative or employee of any of the parties' attorneys or counsel connected with the action, nor are we financially interested in the action.

DATED THIS 18th day of May, 2009.



JANE FAUROT, RPR  
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