BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO. 950001-EI

Fuel and Purchased Power Cost Recovery Clause with Generation Performance Incentive Factor

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SECOND DAY

VOLUME 4

Pages 439 through 543

PROCEEDINGS: **HEARING**

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING

DATE: **Thursday, March 9, 1995**

TIME: Commenced at 9:30 a.m.
Concluded at 1:00 p.m.

PLACE: Fletcher Building
FPSC Hearing Room 106
101 East Gaines Street
Tallahassee, Florida

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APPEARANCES:

(As heretofore noted.)

ALSO PRESENT:

BILL BERG, FPSC Division of Electric and Gas

ROBERTA BASS, FPSC Division of Electric and Gas

KENNETH DUDLEY, FPSC Division of Electric and Gas

I N D E X

MISCELLANEOUS

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P R O C E E D I N G S

(Hearing reconvened at 9:35 a.m.)

(Transcript follows in sequence from Volume 3.)

COMMISSIONER DEASON: Call the hearing back to order.

Ms. Brown, I believe we're at the stage where we can have closing argument, and then we can entertain Staff's recommendation on those pending issues.

MS. BROWN: Yes, Commissioner. We have Issue 10A, 10B and 10C and TECO's Issue 23A.

COMMISSIONER DEASON: Let me ask, did we dispose of all of the other issues in the 01 docket?

MS. BROWN: Yes, I believe we did yesterday.

COMMISSIONER DEASON: We just have the four outstanding issues and any effects on fallout calculations.

MS. BROWN: Subject to the fallout, that's right.

COMMISSIONER DEASON: Okay. We're going to have closing argument, and I believe ten minutes for each party would be ample. So I'm going to ask you to keep your argument limited to ten minutes. And Mr. Childs we'll begin with you.

MR. CHILDS: Commissioners, the first issue I wish to address is 10A, having to do with the allocation method being proposed by Florida Power and Light Company for the recovery of fuel cost.

I think you heard in the testimony that the cost of fuel increases and decreases as the level of generation increases and decreases from one hour to the next. And this increase and decrease is both as to the total cost of fuel for that hour, the average unit cost, that is in per-kilowatt-hour basis, and also the incremental cost. In other words, as you move up the economic dispatch curve, you see successively more expensive units being used.

The allocation method that is proposed by FPL in this proceeding is consistent with the way that capacity costs are allocated in base rate proceedings.

In base rate proceedings, as the Staff question established, approximately 92% of the capacity costs are allocated to customer classes in proportion to the customer class contribution to the 12 monthly peaks. And all that means is that if a class has 50% of the peak demand, then that class is allocated 50% of the capacity cost because they have contributed to 50% of the peak demand.

A class that has 10% of contribution to peak demand gets roughly 10%. And I say the 10% to 50% in my example recognizing I'm only talking about 92% of the total allocation methodology.

One of the issues that's been brought up, I think, through questioning and through the Staff position, is the suggestion that there's an inverse relationship between the capital costs and the fuel costs for a generating unit; or stated differently, that generating units that cost a lot to build in capital are typically thought to have lower fuel costs. I think we heard from Mr. Birkett that that may be true some of the time, but that's somewhat of a simplification.

I'm suggesting to you that it doesn't make any difference, because when you are allocating costs, what you're doing is allocating the costs of all units. You don't just allocate the cost of the most expensive generating units when you are allocating capacity cost responsibility, you're allocating the cost of the least expensive, and, therefore, covering the whole spectrum of the generating capacity available. This allocation is proportional as we've just gone through; proportional to the contribution to peak demand.

Now, on the other hand, when you are allocating fuel costs, all that's being proposed is to recognize, I think, the very similar proposition; that is, that in hours where the total average cost and the unit cost is high, the class that contributes to that should be allocated a share in proportion to their contribution. So that if in peak periods they have used 50% of the energy in that peak period, then they ought to get 50% of the cost. In an off-peak period if they have contributed 20%, then they ought to get 20% of the costs allocated in a fashion that is in proportion to their usage.

I think there is this increase in costs. I think it's well recognized and that's the reason that this Commission expects all utilities to use, to the extent possible, economic dispatch when they run their units. You run the cheapest unit first unless there is something having to do with system reliability or availability of your units that prevent you from doing that.

Therefore, when we're allocating all costs to all customers, it seems to us that it's fair to recognize that there are differences in cost causation by customer classes in the contribution to both fuel costs and capacity costs.

Very briefly I want to move to plant modifications. I think the evidence shows that the estimated cost is approximately 2.8 million; that the savings that are estimated for the upcoming six-month period are approximately 8.3 million, so that the savings are already, from that six-month period, in excess of the cost; and that the estimated savings through the next five years is approximately $80 million. That is, for the expenditure of about 2.8, there is this potential savings in fuel costs, and we believe that your order suggested to the companies that you had not exhausted the possibility for fuel cost recovery, and if there was an alternative available that the companies thought was appropriate, they should bring it to your attention. We did just that and we think that it's a very beneficial project that helps the customer and it has significant benefits that are far in excess of the costs that we're seeking to recover, even in the six-month period.

The last issue I want to move to is the issue having to do with the estimated cost of natural gas.

I'd like to remind the Commission that when we file estimates in the fuel adjustment proceeding, it is not simply a -- we have a hearing every six months, come put your case on the table and let people look at it. There's more to it than that. There's a procedure that the Commission established -- I don't know, 12, 13, 14 years ago which had not only a comprehensive list of forms but filing schedules, so a lot of detail had to be presented. And the estimation process was intended by the Commission to be consistent because there were -- when you are making a forecast of consumption for a period, you want to look at economic conditions just as you want to look at economic conditions when you're attempting to forecast fuel costs.

Those comprehensive forms -- and this is one part of what we file with the testimony and the forms -- has been used for many years. The Commission has a comprehensive procedure both for the estimation and the establishment of the fuel adjustment charge; the midcourse change, that is the filing halfway through a period with the results of two months of actual and a reestimate for the remaining four months, which is then used to quantify a variance so that that variance, if any, can be picked up in time to be implemented in the next six-month period. Then when we file our projection. We pick up not only that, but we pick up -- pick up is a bad term -- we reflect in our calculation of total cost not only the changes that I just described in the two-months actual, four-months estimate, but we reflect as well the final true-up from the prior period.

In addition, the Commission has recognized, and we have had a number of proceedings where the Commission has given directions to the utilities about when they should come in for midcourse corrections and what was the standard. And one of the things that the Commission recognized in talking about the standard, which was generally in the area of 10%, that the utility at least had to notify the Commission if you were at that level. And if you were approaching 10% or in excess of it, you needed, as a utility, to request a change.

The Commission also recognized, when it said that the utilities need to request a change, that it was important to look at the period remaining in the six-month period for the fuel factor. In other words, if you had only one month left in the period, the Commission said it didn't make much sense to have a midcourse correction with only one month left. You come back the next six-month period.

The reason for all of that summary to you of the procedures is that it is a comprehensive process that the Commission has implemented, and I think that the comprehensive process is attempting to recognize that fuel costs are volatile, but as well other impacts are felt in the factor, such as consumption levels that are different from what are estimated, and that dealing with an estimate in the first place -- as we are here today on this issue -- dealing with an estimate of the future fuel adjustment factor that the Commission will, and has the procedures in place, to address an error, if significant enough, to warrant changing the factor.

Now, Florida Power and Light believes that its estimate is a reasonable one. I think the evidence established that as to the material that's been filed with you by other companies, as to their estimate of gas prices for the next period, that we are, if not lowest, among the lowest.

COMMISSIONER KIESLING: Let me ask you a question just so I'm clear.

This 10% threshold for coming in and getting a correction, is that 10% total fuel expenditures or is that specific to each fuel type?

MR. CHILDS: It's total.

COMMISSIONER KIESLING: Okay.

MR. CHILDS: And that's one of the reasons as we talk here about gas prices, and one of the reasons, although you were shown some information about the error between -- although I don't agree it's in error -- but the difference between the estimate and the actual natural gas price for some prior periods, when counsel for Florida Steel showed some of the A schedules. The reason I showed one of the other schedules for the most current six-month period to reflect that even with those variances between the estimated price of natural gas and the actual price, that the ultimate error for the period was 1.3%.

Our point is that although we think our estimate is reasonable, we also realize that we're dealing with estimates and that it's a complex mix of many components that affects the bottom line of total costs and whether the factor needs to be changed. We don't think it does.

And we thank you.

COMMISSIONER DEASON: Mr. Beasley.

MR. BEASLEY: I'm not involved in that matter. We have the Tampa Electric issue.

COMMISSIONER DEASON: We're going to hear argument on all issues and then Staff will give its recommendation. If you have a position you want to argue on any pending issue, now is your opportunity.

MS. BROWN: Commissioner, I was just wondering if it would not be appropriate to hear all of the argument on Florida Power and Light's issues first, and then go to TECO's for your sake, to get the full perspective on --

COMMISSIONER DEASON: There's not that many issues. I can keep them straight. I'd like to get the arguments finished and then we can go into the stage of recommendations, and then we can go into the stage of vote and we'll be finished.

Mr. Beasley, you may proceed.

MR. BEASLEY: Yes, sir.

Commissioner, my issue goes to Issue 23A, which was the option payment, the $1.1 million amount which Tampa Electric negotiated in its contract modifications with Polk Power Partners.

In January this Commission approved the contract modifications which Tampa Electric and Polk Power Partners had agreed to. In doing so, you found that it would be beneficial to Tampa Electric Company's ratepayers. And Mr. Mestas you heard yesterday and in the prior proceeding testified that this will produce up to $4.5 million in fuel savings for Tampa Electric's customers.

When Polk Power Partners came to Tampa Electric seeking certain contract modifications, the two discussed various alternatives to accomplish what it was that Polk wanted to do. Tampa Electric negotiated its best deal and brought it to the Commission; it was approved and in the process it was determined that it would produce up to $4.5 million in fuel savings. The Company also exacted in that negotiating process a $1.1 million one-time option payment, which it booked above the line to other electric revenues, which is a common account for incidental revenues that are derived in various means through contract work through sale of spare parts and other nontypical transactions.

This compensation was totally transparent to Tampa Electric Company's customers. The changes that were made were totally risk-free to Tampa Electric Company's customers. The cogeneration agreement, the standard offer contract that Tampa Electric had previously entered into, the obligations and the benefits to the customers remain totally unchanged as a result of the contract modifications that the Commission approved.

The point here is that the $1.1 million other electric revenue above-the-line payment was totally unrelated to energy or capacity payments under the contract. There had been no early capacity payments, as Mr. Mestas testified yesterday, that were refunded. There was actually no funds had ever changed hands back in September or October of 1993 when this one-time payment was made. Mr. Mestas also testified that the energy and capacity payments began in January of 1995; they were negotiated consistent with that agreement, exactly unchanged from what they had originally been agreed to. The $1.1 million is totally unconnected with capacity payments.

They were booked above the line as "other electric revenues", which is a common account. I mean it's a standard account that utilities use. And as an anology, if Polk Power Partners had come to Tampa Electric and said, "We have this transformer and we don't know exactly how to install it. Would you do it for us at cost?" And if Tampa Electric said -- or they had the people available to do that, they would have agreed to install it and charge them their cost for installing it, and that would have been booked to "other electric revenues." Now the question is what do "other electric revenues" do?

Well, they are like any other revenues that a utility company earns; they help defray the revenue requirement that would otherwise have to be made up by the general body of ratepayers of the utility. So in this respect the $1.1 million benefits Tampa Electric's customers by making a contribution towards the Company's overall revenue requirement. And as you're well aware, the utility is authorized to earn within a range around the midpoint of a return. If they're somewhere in that range, the regulatory model encourages them to earn every extra dollar they can and to reduce every dollar of expense they can, and hopefully better their stature within that range. If they're really efficient and have good revenues, they could wind up above the range and be in an overearning situation, or if they are lacking in their efforts, and, you know, do not take advantage of every opportunity, they could wind up being in an underearning situation; below the bottom of the range.

But the Commission for many, many years has encouraged utilities to be efficient when you can, to save every dollar of expense that you can, and also to go after these revenues in order to improve their position within that range.

The point is that other electric revenues, like any other revenues that a utility earns, help offset and defray the need for rate increases to the general body of ratepayers. That's exactly what this $1.1 million does, in addition to the up to $4.5 million in fuel savings that these contract modifications made available to Tampa Electric's customers.

Mr. Mestas also told you yesterday that the Company's alternative to negotiating this $1.1 million option payment was to construct a temporary interchange facility to the Orange cogeneration site, which would have cost approximately $2 million; roughly twice the amount of the option payment.

This would have been booked -- would have been charged to the customer and booked to CIAC, and not one dollar of that amount would have been flowed through the capacity cost recovery clause factor. I don't think the Staff would even suggest that, or Public Counsel.

So instead of doing that, though, the Company chose a more economic alternative to all parties involved: They negotiated the $1.1 million payment as opposed to $2 million. That was better for the cogenerator, it was better for Tampa Electric and it was better for the general economy because money was not spent that didn't need to be spent.

The point I would like to make in that regard is we think that Tampa Electric should not be penalized for having made a more economic decision and negotiated a better deal for everyone involved than building a $2 million temporary facility at a much higher expense.

The Staff's position on this issue speaks in terms of risk. Again, the changes that were made were totally risk-free to Tampa Electric's customers. The obligation of the cogenerator is the same as it was before. There's no change in that regard.

The original agreement, as Mr. Mestas indicated to you yesterday, was discounted down to 80% of full avoided cost to fully compensate the utility customer, Tampa Electric's customers, for any perceived risk. There were no early capacity payments involved in this matter. There were none to be recovered. The $1.1 million option payment was not a refund of anything that the ratepayers of Tampa Electric had previously been asked to pay.

As you found in your order approving the modifications, Tampa Electric's customers are better off today than they were prior to these contract modifications. So as a bottom line I would ask you not to sweep these noncapacity related, other electric revenues into the capacity cost recovery clause as a credit any more than you would if Tampa Electric had gone out and installed a transformer or sold electricity to a cogenerator, or done anything else that would have produced revenues that are not capacity cost recovery clause related. We ask you not to penalize Tampa Electric for negotiating a good deal that benefitted its customers.

Thank you.

COMMISSIONER DEASON: Mr. Kaufmann.

MR. KAUFMANN: Commissioners, I understand in general that it's not usual for an industry acting alone to intervene in one of these matters, so I just wanted to go just for a couple of minutes to explain why I'm here and why Florida Steel is in this case.

Florida Steel, as you know from our petition, operates a steel recycling and manufacturing plant in Jacksonville, and it's what's called in the industry "a minimill," which means it uses vast quantities of electricity to melt and recycle scrap steel and to make rebarring rods, which are then sold in highly competitive markets.

In these markets, which are essentially commodity markets, buying decisions are driven for like-quality products based solely on price. In other words, if you have any other like-steel product, the one who is going to get the contract is the one with the lowest price. Therefore, cost and productivity advantages equal market advantages and cost disadvantages equal competitive disadvantages. If production costs are too high, including the cost of electricity, then the plant suffers and it suffers in its markets.

Now, this particular plant uses, as I said, vast quantities of power. It has a 45-megawatt peak load; uses 220,000 megawatt-hours per year, and it pays approximately $8 million a year in its electric bills. So electricity is one of the top three costs of producing steel; the others being labor and the cost of the scrap itself that it recycles. And when a plant pays too much for production costs, it cannot, unlike monopoly utilities, pass those costs on its customers. The customers just won't tolerate it and they'll buy from somebody else.

If a plant loses money, and it loses too much money, it has no other choice but to close. Florida Steel has already had experience with this in its Tampa melt shop: The cost of high production costs, including the cost of electricity, it closed last March. So businesses such as Florida Steel simply cannot afford to pay more than is necessary or more than fair for its power.

Now, looking specifically of the effects of this docket on Florida Steel, as I said they have an $8 million a year electric bill of which 40% represents fuel costs. So that's approximately $3.2 million annually that Florida Steel pays just for fuel. If we look at the period that's under consideration in this docket, 52% of the fuel clause is going to be represented by the cost of natural gas. That's a $1.6 million annual figure to us.

Now, if the gas price estimate is 25% too high, than Florida Steel would wind up paying, on an annual basis, over $400,000 more than it had to up front.

If you look at the FPL Schedule A3, which we discussed yesterday, over the last 13 months they have overestimated gas costs by $92 million, and that's 25% over the estimate.

Now, we've heard from FPL, and again just recently, that this is difficult and we're working with estimates but not to worry about it because eventually it all works out in the wash. But a company like Florida Steel just cannot afford to pay $400,000 a year too much because eventually its promised it will get it back. Our response is that it's not right because one, because of the timing differences and inflation, we really never get it back; we're always catching up.

Number two, an interest rate recovery somewhere between 5% and 6% is just not compensatory for a highly competitive business. That's not the kind of return that you can make and survive in a competitive world.

And finally, and most importantly, Florida Steel and the other ratepayers are not in the business of being a low interest lender to Florida Power and Light. It's just not right. It's $400,000 a year; it's money that could be better spent on productivity, plant upgrades and Florida jobs.

Now, looking at the specific issues. Going to

Issue 10C, which are the gas price estimates, yesterday from Mr. Silva admitted from the stand, and I believe it might have even been on redirect, again I don't have the transcript so I apologize if I can't point to the specific spot -- but he did admit that today's price of gas is $1.36 per MMBtu. Now, if you add to the $1.36 the 65 cents of transportation costs that he puts in his rebuttal testimony, you wind up with a current price of gas that should be $2.01.

Now, the actual rate that FPL is asking for for in this filing is $2.48. The difference is 47 cents or 19%. So right off the bat we're nearly approaching that 20% overage that we were at for all of last year.

He also admitted from the stand that current U. S. supplies for gas are even greater than anticipated when they submitted their direct testimony and greater yet again from the time that they've even submitted their rebuttal testimony. So the best that you can say about this $2.01 conservative gas estimate is that we already know that it's too high provided current information.

Mr. Silva admits in his direct testimony on Page 8 that for this period of April through September 1995, gas costs should essentially be the same as FPL's average 1994 price of gas. Keeping in mind he said that while all current trends seem to show that it's likely that prices will continue to go down because of these large and unanticipated supplies. And he also admits this.

We have the independent verification from the Wall Street Journal articles, and from the future markets which confirm this downward trend. But if you leave that cost of that conservative -- and the number that we know is going to be too high, but the conservative $2.01, you still get approximately a $55 million overestimate of gas charges for the upcoming months period. And I apologize for getting a little technical again, if I could brief it it would be easier, but I'll go through a quick argument on how that calculation is made.

If you look at Appendix 2, Page 1 on Schedule E3, FPL says it's going to burn 15,917,400 MMBtu's during the April through September period. If you multiply that by the conservative $2.01, you're paying approximately $233 million on gas.

Now, the FPL estimate and what they are asking for is actually $288 million for the same period, or $55 million overestimate which is 19%.

Now, as a percent of the total fuel factor methods being asked for, that makes this number already approaching or at that 10% of the total fuel case. They are asking for approximately $545 million total. We're already at approximately a $55 million overage on a conservative basis.

Mr. Childs had mentioned that he showed schedules saying when you account for the other factors, you know, the gas price, whether it may be wrong or not, it doesn't have such a big effect because it's just one of many factors. Well, for the previous six months, gas represented only 27% of the entire fuel package. For this period it's 52%; it's nearly double. So the effects you're going to have of an overestimate on gas are going to be that much greater the upcoming six months.

Now, everyone, including FPL, agrees that if you approach that 10% variance you require correction. If it happens midcourse, you do it midcourse. It's our position if you have good information at the start, it makes a lot more sense to get it right now than to have to catch up later instead of having the customers front the bill.

Now, there were arguments made by Mr. Silva on his rebuttal regarding credits, but the calculation I just described is not affected by the credits because those credits expired last year and they are not effective anymore.

The transmission costs are not a factor because the 65 cents that I mentioned is the transmission rate Mr. Silva uses in his rebuttal. And the heat rate argument that he made is no longer a factor because the calculation I just gave you uses the quantities on an MMBtu basis from his schedule so that's not really a problem.

If you look at Mr. Fietek's testimony, he says we have an overestimate of $43.6 million. The most we can say -- what we can say about that is that it's very conservative. Because if you just do a current analysis based on what Mr. Silva admitted yesterday about the current price of gas, Mr. Fietek's number is very conservative. And the reason that the overage is smaller than what I'm telling you now is because gas prices have actually dropped 13% just since the time that Mr. Fietek's admitted his testimony.

Now, we also have to assume, because there's no evidence to the contrary, that the remaining fuel components in the fuel case are correct because there's no evidence to challenge them by anybody. So what we're left with is an estimated $55 million overestimate which is already at a 10% level.

Now, regarding Issue 10B for the $2.8 million plant improvements, the plan to expense is $2.8 million over the fuel period asks current ratepayers to pay for capital improvements whose benefits extend well beyond the current period. Those modifications will be used and useful well into the future and we've submitted some evidence on the remaining life of those plants to show that. Under FPL scenario, today's ratepayers are going to be paying for tomorrow's ratepayers' benefits.

So our recommendation is that the Commission should require FPL to capitalize and depreciate the investment plant and equipment. Otherwise, Florida Steel and the other ratepayers are again winding up paying more than their fair share for their electric power. We're only asking that we and the other ratepayers be treated fairly and not be FPL's lender.

And we continue to hear from FPL and from Staff, to a degree, that the kind of procedures that are set up here are the ways that the Commission has been doing it for year, and that this is the way it's done and it's the best we have. Florida Steel is making a special point to say as far as it is concerned the way it's being done right now and the way it's always been done is not doing enough because we're winding up paying too much for power to have that refund; to constantly be chasing that refund that you're getting at such a low interest.

And we believe that if there is enough evidence, and we think there is in this case, that we're already at the point of too much error in a very large component of the fuel case; that the correction ought to be made now because competitive businesses cannot afford to pay more than they need to for commodities, like electricity, particularly one like Florida Steel where electricity is such a large percentage of the cost of production.

Thank you.

COMMISSIONER DEASON: Mr. Howe.

MR. HOWE: Thank you, Commissioners.

I'd like to first address Florida Power and Light's Issue 10B, $2.8 million spent for plant modifications.

Those expenditures were made over a period of approximately one year, from early 1994 to February of 1995. I believe the testimony shows they've capitalized on the financial accounts of the Company. That's the appropriate treatment. That accounting will allow for a matching between the service that is provided over of the future and the investment that was recognized over the future as depreciation. Florida Power and Light has not shown any exceptional circumstances or justification for effectively in the next six-month period requiring the customers through their fuel clause and fuel cost to pay for a long-term investment that is meant to provide benefits over time.

The fact that the customers receive the benefit, as the term is so often used by utilities, of lower fuel cost is of no significance. The utility has an obligation to provide efficient service at a reasonable cost, and in return it receives the safeguards of the regulatory compact. But the simple fact that an offshoot of the Company's decision to modify plant, to position itself to better meet competition in the future, should not be portrayed in the guise that it was all done out of altruism. The Company did it for its own business purposes. It's not too much different from General Motors lowering the prices of its cars. It might say it did it for the benefit of its consumers, but actually it was clearly for its own corporate purposes. And that's what it was for Florida Power and Light in this instance.

I'd like to next address Issue 23A, which is Tampa Electric Company's option payment from Polk Power Partners.

Mr. Mestas testified there are essentially two components of that transaction. There is a cogeneration contract and Tampa Electrice has obligated itself to pay capacity payments and energy payments to Polk Power Partners, which is the cogenerator. It has also negotiated a separate agreement, which it calls an option payment, which it has booked as "other electric revenues."

Now, Commissioners, I'm not an accountant but I think I can safely say that you don't earn revenues when you buy something. The transaction between Tampa Electric Company and Polk Power Partners has Tampa as the purchaser and Polk as the seller.

Mr. Beasley used some examples of such things when Tampa Electric, or an electric utility, were to install a transformer, they are the seller; they are providing electric service. If Tampa Electric -- and should properly book those receipts as other revenues. If Tampa Electric sells spare parts, it is again the seller, it is not the purchaser.

I think most of us would like to be in a position where every time we bought something we were receiving revenues. Essentially what you have in this transaction between Polk and Tampa Electric Company is a rebate. Polk found it in its best interest to give Tampa Electric dollars up front for a stream of revenues to Polk that would follow later in the form of capacity and energy payments. It's not too much different from what you see with car manufacturers when they want to sell more cars but they don't want to change the list or selling price of their vehicles, they offer a rebate. But if you get a $1,000 rebate up front, the fact that in the future you're going to make the same payments that you would have made if you bought the car for full list price doesn't mean your total purchase price in that transaction is not less. Clearly you are in a better position than another purchaser who did not get a rebate.

I would suggest that the option payment does not fall in the category of "other electric revenues" and, in fact, is not a revenue item for the simple reason that a purchase does not generate revenues. Tampa Electric can only generate revenues where it is either the seller of a product, a service, or a commodity. It received a rebate; the rebate has reduced the total cost to Tampa Electric over the life of the contract paid to Polk Power Partners. What has flowed through the capacity cost recovery clause, the fuel adjustment clause, should only be the total cost to Tampa Electric Company, which will be net of the option payment from Polk Power Partners.

Thank you very much.

COMMISSIONER DEASON: Staff.

MS. BROWN: Commissioner, Mr. Berg will present the recommendation on Issue 10A. Ms. Bass will present the recommendations on 10B and 10C, and Mr. Berg will present the recommendation on 23A.

MR. BERG: Commissioners, Issue 10A is FPL's proposed new methodology for allocating fuel cost to the various customer classes.

Staff recommends that the Commission deny FPL's proposed fuel allocation methodology. The proposed methodology will result in an inappropriate shifting of cost to the residential and small commercial customer classes.

The reason why we believe that FPL's proposal should be denied is because it fails to recognize that fuel costs are in part a function of the capital cost associated with generating units on FPL's system.

To illustrate the relationship between the capital cost and the fuel cost, assume that FPL had nothing but peakers on its system, they would have relatively lower capital cost but their overall fuel cost would be higher. And the converse is true: If you assume that FPL had nothing but nuclear units and coal units on their system, their capital cost would be high but their fuel cost would be lower. Because of this relationship, Staff believes that the reason why fuel costs go up in periods when the system load goes up is because the plant costs that are generating those incremental units are lower. And again the converse is true. The reason why fuel costs are going down in periods of lower system load is because the plant costs are going up.

Consequently, we believe that if a customer class is assigned a larger portion of the fuel cost because it contributes relatively more to the peaking load hours, as FPL's proposal does, then we believe that the capital cost of those generating units should be allocated in the same fashion. FPL has not proposed to change the way it allocates its capital cost for production.

Consequently, Staff believes that there's currently consistency in the cost -- and the way the capital costs of FPL's generating units and the way the fuel costs are allocated to the customer classes. This methodology is employed by all of Florida's IOUs, electric IOUs, and we believe it should remain that way. Thank you.

COMMISSIONER DEASON: That's the recommendation for Issue 10A.

MR. BERG: Yes.

COMMISSIONER DEASON: Commissioners, do you wish to address issue-by-issue?

COMMISSIONER JOHNSON: Issue-by-issue.

COMMISSIONER DEASON: Okay.

COMMISSIONER JOHNSON: I think I have a question for Staff and it's some confusion for me.

It seemed as if FPL's argument on 10A was that the cost of fuel increases or decreases as the level of generation increases; that it's more of a direct relationship, and you all are saying it's an inverse relationship.

If you could respond to his initial comments regarding the cost of fuel; how the cost of fuel, if it increases or decreases the level of generation, that there is a direct relationship as opposed to an indirect relationship. Kind of distinguish what he was --

MR. BERG: Okay. I believe what Florida Power and Light was saying is that as the system load goes up, your fuel costs go up, and conversely as your system load goes down your fuel costs go down.

COMMISSIONER JOHNSON: And intuitively that makes sense.

MR. BERG: Intuitively that makes sense. And I believe their allocation methodology attempts to assign fuel cost to the cost causer, but it doesn't consider the capital cost. And what we're saying is that the fuel costs are a function, at least in part, of the capital costs, so you can't consider the allocation methodology of fuel in isolation of the capital cost.

COMMISSIONER JOHNSON: I understand.

MR. BERG: That's our position.

COMMISSIONER JOHNSON: Okay.

COMMISSIONER DEASON: Any further questions? Do I have a motion for Issue 10A?

COMMISSIONER JOHNSON: I'm going to move Staff's recommendation. Staff, is that you --

COMMISSIONER DEASON: Staff's recommendation --

COMMISSIONER JOHNSON: -- the new allocation is not appropriate; the new methodology is not appropriate. So that would be to deny the new allocation methodology.

COMMISSIONER DEASON: Yes. That's your motion?

COMMISSIONER JOHNSON: Yeah.

COMMISSIONER DEASON: That's the motion. Is there a second?

COMMISSIONER KIESLING: I'll second it. For purposes of some discussion, I guess, between the three of us, I'm having a little bit of trouble, I guess, reconciling what FPL says its new methodology will do and what Staff says the new methodology will do. And since this is my first fuel adjustment hearing, I'm hoping to hear some words of wisdom on how this works, and about what kind of precedent we have for the methodology that we follow of tying the fuel costs and the capital costs in a methodology where they are both considered, I guess.

COMMISSIONER DEASON: Let me share some thoughts.

COMMISSIONER KIESLING: Thank you.

COMMISSIONER DEASON: And we can have some dialogue here.

I agree with the Staff's position because I think that there is a relationship between capital costs and the cost of fuel that's being consumed at any given time.

Now, taken in isolation, Florida Power and Light's argument has merit, but that's considering it in isolation. They want to take, basically, a hourly look at the consumption of fuel and assign it accordingly, but we don't do that with capital costs of the plants. We do it on a peak basis because that's the primary driving force for the construction of new plants is the peak load at any given time.

If we were going to be totally consistent -- and I'm not proposing we do this because it's going to be highly complicated, but it seems to me that if you were going to be totally consistent, you'd have to look at capital costs on a hourly basis, and for all of those hours when you're not at a peak, and you've got large industrial customers who are running those plants 24 hours a day and are taking advantage of the low fuel costs that are being generated by the nuclear units and the baseload coal units, then you would have to assign them higher capital costs during all of those off-peak times and I don't think any industrial customers want that done.

I think that there is a mismatch that would result from FPL's proposal. Now, I'm just not sure that we want to start down that path. And that's why I would support Staff's recommendation to simply keep the status quo.

COMMISSIONER KIESLING: That helped me considerably because I was trying to figure out if there was a way to do the capital costs, to keep them tied together, and I felt like I really didn't know enough to be able to vote at this time.

COMMISSIONER DEASON: All right. We have a motion and a second to approve Staff recommendation on

Issue 10A. All in favor say "aye" Aye.

COMMISSIONER KIESLING: Aye

COMMISSIONER JOHNSON: Aye.

COMMISSIONER DEASON: I think that is unanimous. Staff's recommendation is approved on 10A.

COMMISSIONER DEASON: Issue 10B.

MS. BASS: Commissioners, Issue 10B relates to Florida Power and Light's request to recover approximately $2.8 million associated with equipment modifications in aid to its generating unit.

Essentially there are two parts to this issue: Should the Company be allowed to recover these costs through the fuel adjustment clause, and if so, over what period of time should they be recovered?

Staff agrees that these costs, or any costs associated with modifications or additions to generating plants, normally are evaluated during a rate case and recovered through base rates. However, in Order No. 14546 on Page 5, the Commission stated its intent to establish comprehensive guidelines for the treatment of fossil fuel-related costs, recognizing that certain unanticipated costs may have been overlooked.

The Commission previously has allowed utilities to recover through the fuel clause costs associated with railcars and gas pipeline laterals and enhancements. The approvals were based on the demonstration that these expenditures would result in the savings to the utility's ratepayers. Based on Florida Power and Light's projectionss, the plant modifications are expected to result in fuel savings over $80 million through 1999. Staff recommends that the Company's request to recover these expenditures through the fuel cost recover clause be approved.

As for the period of time over which the costs should be recovered, if the costs are capitalized and amortized over a period of time, the overall cost to the ratepayers will be higher due to the associated carrying costs. Staff recommends that the cost should be expensed and included in the April through September 1995 fuel factor.

Commissioner Deason, in response to your questions and your concerns expressed regarding how the utility will ensure that those expenditures are removed from the capital assets account, if the Commission approves Staff recommendation, Staff would request that the PSC auditors look at the adjustments made by the Company in conjunction with the annual fuel audit to ensure that those adjustments have been properly made to remove the cost from depreciable plant balances.

COMMISSIONER DEASON: Questions,

Commissioners?

COMMISSIONER KIESLING: I move Staff, with the modification.

COMMISSIONER JOHNSON: I'm going to second that, I think. Are you comfortable with the methodology that they suggested to --

COMMISSIONER DEASON: Yes, I am. And the reason is that I, in reading the order that has been cited to so often during these hearings, is I think this is an item which fits in with that category in that it is established Commission policy. And I am even more comforted by the fact that the savings are so substantial that it would be appropriate in this situation to expense it, as Staff is suggesting, with the safeguards they've mentioned; that there will be an audit done to ensure that those costs which normally would be capitalized are taken off of the capital depreciable assets of the Company and that they are, in fact, expensed during this period. The net benefit to customers is still positive, even by expensing all of the cost during this one period, and for those reasons I'm in agreement with Staff's recommendation.

COMMISSIONER KIESLING: Could I ask you another question in terms of the period? In your view, is that six month -- I guess it's -- six-month period of adequate length to amortize this?

COMMISSIONER DEASON: Yes. To answer your question directly. I think the Commission has a great deal of discretion when it comes to setting amortization periods and setting depreciation rates. At best it's -- you're trying to balance benefits with cost, and lots of times you're having to look into your crystal ball.

I believe the fact that the savings are so substantial that even by expensing the total cost within the current period, that the savings are still positive. That that, in my opinion, is a valid reason to simply go ahead and expense those costs in the current period.

COMMISSIONER KIESLING: Okay. Thank you.

COMMISSIONER DEASON: We have a motion and a second to approve Staff recommendation on 10B. All in favor say "aye". Aye.

COMMISSIONER KIESLING: Aye.

COMMISSIONER JOHNSON: Aye.

COMMISSIONER DEASON: That's aunanimous vote. Staff's recommendation is approved for 10B. 10C.

MS. BASS: Commissioners, Issue 10C questions the reasonableness of Florida Power and Light's projection of natural gas prices during the period December 1949 through April 1995.

The specific area of concern lies in the fact that as of today the Company is aware that the natural gas price estimates used to calculate the projected period fuel costs are indeed somewhat above actual prices. However, I believe all of the parties are aware that the projection testimony in this proceeding was due in mid-January, and the actual fuel prices for December 1994 and January 1995 were not available until late January and late February respectively.

Therefore, unless the Utility's recovery amount is in danger of moving out of the 10% zone of reasonableness, recognizing the Commission established midcourse correction, the revised estimates are considered reasonable and are used to calculate the projected fuel factor.

Staff recommends that since the Company's projected amount lies within this 10% zone of reasonableness, its revised estimates of natural gas prices for the current period and the projection period are reasonable to use when calculating the Utility's projected fuel factor.

COMMISSIONER DEASON: Let me ask a question. Mr. Kaufmann, in his closing argument, indicated that according to his calculations there would be a 55 million overestimate, and that that is approaching or exceeding a 10% threshold. What is Staff's position on that?

MS. BASS: I have not looked specifically at his calculations, but I'm assuming that his is based on looking at gas prices in isolation of the Company's other fuels.

COMMISSIONER DEASON: I didn't understand it would be that way. I thought his $55 million was approaching the 10% threshold of total fuel cost for the six-month period. And it was not just gas in isolation, that there was a 19% overestimate on just gas, and with gas approaching 50% of usage during this period, that would approach a 10% overall threshold. That's what I understood him to say. I mean, I've not done the calculations and I don't know, but if we were to just assume that those calculations are correct and we are approaching the 10% threshold, that causes me some concern. If we're going in at this stage with our best guess -- and here again, a lot of it is looking into a crystal ball and we all understand that's what we're doing here and that's why we have true-ups and midcourse corrections and all these other things, which do give us some comfort, but why would we go in if we're reasonably at a point to where we're approaching that 10% threshold?

MS. BASS: If we're at a point where we're approaching that 10% threshold, I think it's appropriate to relook at the projections and have the Company do revised projections and provide those to us so that we can see what they expect for the remaining six months of the period, or we're looking at probably seven months of the period now, of the projected period.

My concern is that in the past we have had utilities come in at the last minute when they have four months of actual data available to them, as opposed to just two months actual, which is what they file in their projection filings, when their estimates have been sufficiently above what their actual costs are, or below, and there was going to be a substantial under/overrecovery, it places a tremendous burden on the Commission and Staff with these late filings that come in.

In the best of worlds, it would be nice to have all actual data so we could always zero out and never have a true-up. This just can't be done, especially when we have a Prehearing Order that has to be issued, we have positions we have to take, we have to let the companies know where we stand on different positions. At some point in time, we do need to cut it off and say this is our best estimate at this particular time.

I agree, though, as time goes on, if we do have better information which will substantially affect the cost that ratepayers will pay, then we should update the information.

We can ask Florida Power and Light to refile their schedules, and with the actual data that they have and perhaps provide us with actual information through -- potentially through February if it's available. That would require us coming back and having the Commission relook at it and vote on establishing a new factor for the Company.

COMMISSIONER DEASON: Let me make it clear, I do not want to delay these proceedings. I want to make a decision today. Obviously these factors are going to be implemented shortly, and the companies need to know what those factors are, as well as the customers need to know what those factors are. We're at a stage now where perhaps some fine-tuning needs to be done; perhaps fine-tuning does not need to be done.

Part of the concern that I have is that -- I do agree with you that at some point you've got to go with your best estimates, and that given our procedures here at the Commission, and all of the due process that we go through, that at some point you'd have to submit your information and go forward with it. And I'm not criticizing anyone for any estimates that have been made or any efforts that have been undertaken in that regard.

What I am concerned with is we have a party who has intervened in this case, and that party is making an assertion that they will be harmed by an overestimation in their very competitive business. And they are also making the allegation that they are not protected by the interest rate that is calculated on overrecoveries.

I don't know if that's correct or incorrect, but we do make the assumption with using the commercial paper rate that that is a good surrogate for the general cost of money, and by using that interest rate, there's no incentive for the Company to overestimate or underestimate. I generally agree with that. I think that is a good policy. But, nevertheless, we have one party who is saying that is not a reasonable compensatory return, at least for them in the way they conduct business. I don't know if that's true or not but at least that is being said.

And if we do go in at this point and we do feel reasonably competent that the gas prices in the six-month period are going to be lower than what is projected, that we probably should take steps to correct that if we feel strong enough -- if we feel strong enough we have better information now to make that fine-tuning adjustment. And that's what I guess I need some feedback from Staff on, as to whether there should be some type of a fine-tuning of that, or if the current -- I'm sorry, the estimation that was submitted by Power and Light is still reasonable to not have any type of a fine-tuning at this point.

MS. BROWN: Commissioner, could we have just one minute?

COMMISSIONER DEASON: Sure.

COMMISSIONER KIESLING: While you're doing that, could I add just one more question to that so you don't have to take -- I guess I want to know if Staff is in disagreement with the assertions made that more than 50% of generation currently is going to be from gas and that approximately -- and that gas is overestimated at approximately 20% currently. Because if those two are true, it does seem we're awfully close to the 10% threshold.

COMMISSIONER DEASON: We'll take ten minutes at this time.

(Brief recess.)

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COMMISSIONER DEASON: Call the hearing back to order. Ms. Brown.

MS. BROWN: Commissioner Deason, Staff is having trouble preparing all of the information that you wanted in your questions. They need a little more time to crunch some numbers. We would like to go ahead and do the TECO issue and then adjourn for a half hour so that Staff will have the opportunity to look at the most current figures and see if they can determine how close to the 10% zone of reasonableness Power and Light's projections are.

Mr. Kaufmann has another suggestion on how to deal with this I thought you might like to here.

COMMISSIONER DEASON: Commissioners, do you wish to hear from Mr. Kaufmann?

COMMISSIONER KIESLING: Sure.

COMMISSIONER JOHNSON: Sure.

COMMISSIONER DEASON: Then we'll afford Mr. Childs an opportunity to respond if he needs to.

Mr. Kaufmann, do you have any suggestion?

MR. KAUFMANN: Two points. First for clarification, the 52% number that I mentioned I have given to Staff and I have copies available for you; the page out of the FPL filing which has the total dollars estimated for the upcoming period by fuel type, including for the total and the total gas, which shows that that was 52% of total, at least to answer that question -- I forget which one had that.

Addressing the concerns for the timing of this, we appreciate that the Commission is under a tight schedule with these kinds of cases, and we are not trying to be unreasonable and forcing you to do something hastily.

We came here to make a point about the effect that this has on us and to try to correct it. If we can correct it now, now that our attention has been focused on it, I would suggest one way out for the Commission would be to go ahead and put in the fuel factor under the timing that you anticipated, but ask FPL to go ahead and refile their fuel estimates immediately, including their updated -- their current data and an updated gas price estimate for the period and see if we can get that moving quickly. Of course, subject to refund, and try to -- again anticipating this would probably happen midcourse anyway, I think there is fairly good evidence that this is something that is going to have to be done, we might as well move to do it now.

COMMISSIONER DEASON: First of all, obviously all fuel is subject to refund.

MR. KAUFMANN: Obviously.

COMMISSIONER DEASON: And maybe Mr. Childs will want to address this, but the reason I hesitate is that even though Florida Power and Light is a large utility and they do have resources, just requiring them to refile and resubmit things, that it's going to be a burden on them, and they have to devote resources and there's costs involved in having a total resubmittal of all of the information. As Mr. Childs indicated, we already require information that's probably an inch and a half thick, and that's just necessary, though, for this process to work.

But having to redo all of that -- we're looking at one component. It seems to me we, as reasonable people, could sit here today and, hopefully, with Staff, and when they are looking at some numbers, can do some crunching and say, "Well, the current one is reasonable enough" or "We need to reduce their estimate by 10% or whatever is reasonable," and we can just go on and have business, and then the midcourse corrections and the true-ups would just take care of themselves.

That's what I would like to see done, personally, is just go ahead and get this matter resolved and not have resubmittals and refilings; just takes up time and expense.

MR. KAUFMANN: I agree with you. Ideally it's our position that the adjustment should be made now if you're comfortable in doing that.

I'm trying to give an alternative if you weren't comfortable in setting a number without more information, but I think there is enough information out to do that, and I'll hand these out if you'd like.

COMMISSIONER DEASON: Just hold on for just a second. Mr. Childs.

MR. CHILDS: Very briefly. I don't want to get into reargument, but I think that the suggestion suggests that there's a decision about the feeling as to the accuracy of the gas forecast, which I don't presume would come out the same way that Mr. Kaufmann made. No, we're not interested in refiling. It's very expensive and time-consuming and we prefer not to.

COMMISSIONER DEASON: Let me, since we're kind of talking to the parties again here in this process, does FPL have a fear that if this Commission approves the gas forecast as submitted, that we have a high likelihood of at some point during this process having a midcourse correction? It seems to me it would be in your own interest to avoid that going in as it would be the Commission's.

MR. CHILDS: To answer that in part I'm going to have to comment on one of the questions that was proposed, and in commenting on it -- because that explains how I get to where I get.

I realize you're going to ask the Staff and the Staff is going to crunch some numbers to give you some of that information from their perspective. But setting that aside, first of all, I do not see the 10%. That the number that we heard through testimony of Florida Steel's witness was it changed to 43 million. That's based upon their assumption about how you ought to calculate fuel prices, which we pointed out we disagree with. On the other hand, it's 43 million.

I think they've represented that the total difference is -- that gas is 50% of the total and that if you use that amount mathematically flowing from that 50%, the number that they've used, that that would approach the 10%. Well, I suggest you don't look, as I believe counsel has asked you to -- you don't look at simply the number for system fuel costs. We recover purchased power cost. The total that we're recovering in this proceeding is not the $540 million, it's about 680 or 690, if memory serves me right. That's our total. Because a substantial amount of what we buy is coal-fired power from other places; from JEA and from Georgia. So I disagree with the premise and I disagree with the math to do the calculation.

COMMISSIONER DEASON: Thank you.

COMMISSIONER KIESLING: Could I ask Mr.

Childs --

So when Mr. Kaufmann looks at the document that he has that was filed by FPL that projects the fuel mix, and that document show also 52% of the projected fuel mix is going to be gas, that does not include some other factors that would actually bring that mix down below 50%?

MR. CHILDS: That's right. And even --

COMMISSIONER KIESLING: That's what I want to understand.

MR. CHILDS: The document he's looked at calculates the number; it's approximately 544 million. That number is in one of the numbers on the E1 Schedule. It's Line 1. That's one of the numbers, 544 million. But when you add it all up, you end up with total fuel and net power transactions, Line 20, 690 million.

COMMISSIONER KIESLING: And is it your position that the 10% threshold applies to the total number and not just the fuel component on Line 1?

MR. CHILDS: The 10%, I believe, has always applied to the total. And I believe that it has because of the recognition that you could have, hypothetically, a cost -- you could have one component that is off by 30%, 40%, but the compensating changes in other directions make that change less than 10% bottom line.

And/or you could have a change simply on sales so that your cost item for one component of fuel may be off, but your sales figure has -- your generation figure has changed.

COMMISSIONER KIESLING: Maybe I wasn't entirely clear. I just want to know as between the 500-and-some-thousand number and 600-and-some-thousand.

MR. CHILDS: 600-and-some-thousand.

COMMISSIONER KIESLING: Million, million, sorry --

MR. CHILDS: Yes.

COMMISSIONER KIESLING: -- numbers, which of those numbers is the one to which the 10% threshold applies?

MR. CHILDS: I believe it's the total number.

COMMISSIONER KIESLING: 600 something.

MR. CHILDS: That's right.

COMMISSIONER KIESLING: That's all I want to understand. You keep saying the total of the fuel but you weren't saying the total of the fuel plus the purchase price.

MR. CHILDS: Well, I think my confusion in one comment is that the 690 is total fuel costs, it's just that part of it we are paying another utility their fuel costs associated with our purchased power. In other words, we didn't generate it through our unit that we own, we bought it out of a unit that someone else owns and we pay them their cost.

COMMISSIONER KIESLING: Can I ask Staff another question. Since you all do this calculation, when you calculate during a midcourse correction, or any other time, the 10% threshold, do you calculate it on the total?

MS. BASS: We calculate it on the total fuel and net power transactions, which would include the actual fuel cost to the Company to generate, plus purchased power. It takes into consideration their sales to other utilities; all of that flows through to one number.

COMMISSIONER KIESLING: Then if I understand that part, then if we were to compare, from the projections, the total amount -- or the percentage of that total, which is to gas, it would no longer be over 50% if you include in the purchased power.

MS. BASS: Exactly. It's less than 50%.

COMMISSIONER KIESLING: Okay. Even if they have overestimated by 20%, 20% of less than 50% is not going to be 10%. I think I understand the basic decimal system.

MS. BASS: I'll agree with that.

Another thing that I think I need to point out is that there's not a direct relationship. You can't look at just the change in one component of all of the components that add up to this total fuel and net power transaction. Because you have a significant change in one fuel type, there may also be significant fuel changes in other fuel types which would offset it, or even in purchased power there can be significant changes in what the utility projects to purchase and actually purchases. So that's why we look at total fuel and net power transactions when determining the 10% midcourse correction threshold.

COMMISSIONER DEASON: It's safe to say that it is a dynamic process. There are many different factors and those factors are interdependent upon each other and how they and the Company reacts from the various economic factors that go in, and that's why estimates are always different from actuals.

MS. BASS: Exactly. It's not necessarily only tied to just the fuel cost and the purchased power transactions. It's also tied to whether or not the utility has right-on-the-nose projected what their sales are going to be, because that has an impact on the dollars that are collected.

COMMISSIONER DEASON: That was the reason, I just wanted Staff just to kind of take a commonsense approach and take a look at this and see what is the likelihood that we're going to be faced with a midcourse correction. If we know going in the likelihood is high, why don't we fine-tune a few things to where we think we're going to avoid a midcourse correction. If we think the current numbers are such that the likelihood is small we're going to have a midcourse correction, it seems to me that maybe it's reasonable enough realizing that things are going to go up and down during the six months, and sales are going to be different than are projected. The availability of units may be different. The price of electricity through purchased power may change and that may change the mix, but if we think that going in all of those things are going to counterbalance, that we're going to avoid a midcourse correction, perhaps then it's reasonable and we can go forward.

My concern is that it seemed to me is that there was -- at least it was one party's position that we were right on the verge of a midcourse correction before we even started the period, and that's what I wanted to try to avoid. And I wanted Staff to try to take a look at that and see what they felt. And they would consider these things. I'm sure they would consider the purchased power mix in the things, into the various calculations to see if whether a midcourse correction would be likely or unlikely.

MS. BASS: We would be more than happy to do that given a little additional time to look at it.

I would like to say I do have some concerns in fine-tuning the Company's projections. There are so many variables included in that and I'm not sure how much we should correct. You know, what are we going to establish now, percentage, that if they are close to 10 we bring them to 5. You know, I have some real concerns in getting into those areas of projections, and when do we determine that a particular utility's projections are way out of line and that we take it upon ourselves to bring them back? I don't want to put us in a position of bringing them to a point where we may reverse a process and put them into a midcourse correction the other way. It's so arbitrary. I have some real concerns with doing that. But we'd be more than happy to look the these and give you our opinion on how close we are to that.

COMMISSIONER DEASON: I agree, we don't want to err on the other side and have a midcourse correction for the wrong reason. We don't want to cause a midcourse correction. That would be the furthest thing

I would desire to do. I want to try to avoid a midcourse correction on the front end.

COMMISSIONER KIESLING: Let me just say this: Having heard the explanation that I finally got of what the total is that you make that calculation on, I am now satisfied that the calculations that were made by Florida Steel were not made taking into consideration the purchased power, the fuel cost on that, and that, therefore, their total hypothesis now is -- I don't find to be valid, because it's not -- gas is not based on the projections; going to be anywhere close to 50%, so even a 20% overestimate isn't going to come close to the 10%.

I'm not trying to stop you all from going and doing the calculations, but it seems to me that the hypothesis that was offered by Florida Steel on how they get to the point of thinking we're close to 10% is no longer valid in my mind.

MR. KAUFMANN: Commissioner, if I can address that.

COMMISSIONER KIESLING: No, I'm not asking you to address anything.

(Simultaneous conversation)

COMMISSIONER KIESLING: Mr. Kaufmann, I'm not asking you to address anything.

MR. KAUFMANN: I understand.

COMMISSIONER KIESLING: I'm not asking you to address anything. Thank you.

So all I'm saying at this point is that with the final answers that I finally got on what you use to calculate that, I'm satisfied with the reasonableness of the projections, and for myself, I don't need anything else. I'm not trying to say we aren't going to do that but I just wanted to -- since I was the one who asked those initial questions about is it over 50%, is it over 20%, you know, I'm now satisfied for the questions that I asked.

COMMISSIONER DEASON: Commissioner Johnson, do you have any questions or directions to Staff?

COMMISSIONER JOHNSON: No.

COMMISSIONER DEASON: I'd like for Staff to do a quick and dirty calculation, if that's all it is, to try to assure yourselves at least that we're not right on the verge of a midcourse correction before we even enter the six-month period, and just get some feedback from you all from that and then I'd be in a better position to know.

And I do understand that it's difficult, this is a very dynamic process and it's difficult to pick one factor in isolation and change it because it probably will have a ripple effect on other things. And by trying to fine-tune you maybe throwing the whole thing out of whack, and I certainly want to avoid that. I think if you all can take a look at it and give us some feedback from your viewpoint, then we would be better prepared to make a decision. And I understand Commissioner Kiesling's position that she's satisfied, and I certainly respect that and it's for very valid reasons that she reaches that conclusion. I personally would just like a little more feedback from Staff.

MS. BASS: We'll be happy to make those calculations.

MS. BROWN: Commissioner, why don't we proceed with TECO's remaining issue and if we could adjourn for a half hour and reconvene.

COMMISSIONER DEASON: We can proceed now to Issue 23A.

MR. BERG: Issue 23A read, "Should the 'Option Payment' that Tampa Electric received from Polk in 1993 be treated as a credit in the capacity cost recovery clause?"

Staff recommends that the Commission require Tampa Electric to credit the $1.1 million option payment back to the retail ratepayer through this clause.

We believe that requiring Tampa Electric to credit this money back to the ratepayer would result in a proper matching of the risk and benefits associated with this transaction.

The risk of this transaction that I'm referring to is the risk that the ratepayer bears on a dollar-for-dollar basis to reimburse Tampa Electric for all of the energy and capacity payments they will make to Orange Cogen over the contract life. Because the ratepayers have assumed this risk, I believe they should receive all of the benefits that also result from this transaction; not just part of the benefits as Tampa Electric is proposing, but all of them; that would include the fuel savings that are already there, and this option payment.

One final point I would like to make is this principle of matching risk and benefits is the same principle that Staff and parties filed in Issue 23B which was stipulated by all of the parties.

In that issue we recognize that the shareholders were effectively required to bear all the risk associated with this wholesale -- this separated wholesale class of customers, and in return we recommended to the Commission that the shareholders be allowed to receive any of the benefits that would later arise from this transaction as well.

So I guess our simple straightforward position is that we believe the ratepayer bears all of the risk associated with this transaction and should, therefore, receive all of the benefits.

That concludes Staff's recommendation.

COMMISSIONER DEASON: Questions, Commissioners?

Let me ask a question. I agree with you that there are risks that are being taken on by the customers when we're dealing with these type of contracts. In fact, that's the only way these contracts can come about is because they are submitted to the Commission and we look at them and we include them for recovery purposes, and that's part of the process. And the customers basically are at risk for providing the revenue stream to support the benefits derived from those contracts, which is the capacity and energy that is provided.

But there was a modification, and we looked at that and we found it to be in the public interest and there were some benefits that were derived for the customers. I guess my question is if we strictly follow Staff's recommendation, where's the incentive for TECO to look at these type contract modifications, try to look at alternatives, try to negotiate with the cogenerator or whomever to try to come out with the best deal for the customer if 100% of every benefit is going to flow through the clause to the customer. Where would we be if TECO had not gone to the effort of negotiating this arrangement and had just constructed the temporary interconnection and had just had the CIAC booked, there would have been no net benefit that we're now looking at to the customer. And what I want to avoid is a policy which would negate all potential benefit to a company such as TECO to look at all of the alternatives and to earnestly negotiate and try to strike the very best bargain for everyone involved. That's my concern.

MR. BERG: I understand your concern.

I guess my first response would be simply the regulatory compact, and that is that the utility is allowed to recover reasonable and prudent costs and in return, they are granted the opportunity to earn a fair, just and reasonable return on their investment.

I guess that would be my response. And something else -- and I'm not intimately familiar with the contract modifications and all of that, but it is my understanding that the benefits that were spoken of, i.e., the fuel savings, would have been there regardless of whether or not the option payment was chosen or the temporary interconnection option was chosen.

So I think the benefits would have been there regardless of the choice that Orange Cogen made. And that's my response.

COMMISSIONER KIESLING: Let me ask another question. I mean I'm looking back over my notes, and thinking back over the testimony, and my recollection is that TECO's witness was fairly firm in his conviction that all of the risks were not on the ratepayers. And I guess I would like you to kind of summarise, if you can in a very quick way, what testimony there is in the record that establishes your perspective that all of the risk is on the ratepayer. And that may be one for the lawyer, and I'm not trying to pick who does it, but you were asking the questions so I figure you must know the answers.

MS. BROWN: Commissioner, I think part of the problem with the testimony stems from Mr. Mestas' perspective on the option payment versus the standard offer contract and our perspective on that.

I think he did testify that the ratepayers are fully responsible dollar for dollar for the costs of the standard offer contract. That's the risk that Staff is talking about. There is a risk in fluctuation in energy costs that come out of that contract and are very simple but not simplistic, but the simple principle is that if the ratepayers bear those risks, then they are entitled to the benefits that stem from that standard offer contract.

Now, this is unique. This option payment is unusual and it's not the same as capacity payments or purchases, but it still arises from Staff's perspective out of that standard offer contract for which the ratepayers are responsible.

And I think that's why we were sort of talking at cross purposes in the testimony because Mr. Mestas' perspective was this was something entirely separate from anything that had to do with capacity costs associated with the contract, and our perspective is that it is not.

COMMISSIONER KIESLING: I guess my concern is that certainly as I understand, you know, what I'm supposed to be doing here is that Staff may have its perspective, but Staff didn't put on a witness, and, therefore, the only witness whose testimony I can look to for factual support for Staff's position is Mr. Mestas. And in your cross of him, I agree, you were going at cross purposes. But I don't recall that through your cross you were able to get testimony that supports your perspective in that I do recall you started leading him down the proverbial "primrose path", dollar for dollar, "Do you agree with this? Do you agree with that?" but there came a point where he said, "No, I don't agree." And there's nothing to counter that. Or if there is, please tell me what it is.

MS. BROWN: I don't know that I can remember exactly the testimony and I don't have the transcript before me. I think I would simply repeat it's not my understanding that the cross purposes we were at was on a factual basis; it was a philosophical policy disagreement.

COMMISSIONER KIESLING: Okay.

COMMISSIONER JOHNSON: Explain to me what you thought the philosophical policy disagreement was.

It was quite clear from his testimony and from the closing arguments that TECO was stating the changes were basically risk-free and it wasn't something that impacted the ratepayer on a dollar-for-dollar basis. And what Staff is saying, no, there is a risk associated with it, and, therefore --

MS. BROWN: The risk does not arise from the option payment transaction from our perspective. The risk arises from the fundamental underlying standard offer contract from which all of these other transactions sort of -- it was the basis. There would not have been an option payment if there weren't a standard offer contract to transfer from one cogen facility to the other. The risks that the ratepayers bear under that standard offer contract is what we're talking about.

COMMISSIONER JOHNSON: So you would almost agree with him with respect to the option, what's that called, option payment or whatever, that there aren't direct risks associated with that, but you tie the option back to the original instrument in saying that with respect to that.

MS. BROWN: There would be no option --

COMMISSIONER JOHNSON: And that's where you totally disagree.

MS. BROWN: And that's a philosophical difference, I think, not a factual difference. From our perspective, there would be no option payment if it weren't for that original contract that the ratepayers were responsible totally for.

COMMISSIONER JOHNSON: So the opportunity to have that option payment arose because of --

MS. BROWN: That's right. And for that reason the ratepayers ought to be the ones to get the benefits from whatever transactions arise out of this standard offer contract.

COMMISSIONER JOHNSON: One of the things I know TECO also suggested is that by a ruling consistent with what Staff has articulated, is that you'll end up penalizing companies for making those more economical decisions. On its face that does appear to be --

MS. BROWN: I disagree with that characterization of what you would be doing if you allowed this benefit to flow to the ratepayers. I see no penalty associated with this to TECO.

COMMISSIONER JOHNSON: It's a disincentive maybe from entering into the --

MS. BROWN: TECO would be held harmless otherwise, and the economic decision was made by the cogenerator, not by TECO. The cogenerator decided to pay $1 million option payment as opposed to $2 million in interconnection fees. So I don't see -- I don't think you can characterize this as a penalty to TECO. It doesn't seem to fit. It's a benefit that they have taken but there's no taking it, putting it to their ratepayers. They are saying it's going to benefit their ratepayers anyway. Putting it through the clause dollar for dollar doesn't penalize them I don't think.

COMMISSIONER KIESLING: I have one more question and I think it's probably for Mr. Pruitt.

Is it within our discretion to divide this option payment in any way and have some go into one account and some go to the benefit of the ratepayers? Or are we bound on this statute to do only one or the other?

MR. PRUITT: I think you are bound by the statute to do one or the other. And I think you are bound by the rule that it takes compete substantial evidence to overcome testimony.

MS. BROWN: May I just add something to that? I'm not sure what statute we're talking about. There is no statute with respect to the fuel clause.

COMMISSIONER KIESLING: That's true.

MS. BROWN: It was established by order.

COMMISSIONER DEASON: Let me say that this Commission has a history of sharing benefits.

MS. BROWN: Yes.

COMMISSIONER DEASON: To offer incentives to companies to take certain actions, that they would share in the benefits themselves for taking initiatives. We have, you know, what is it, economy transactions, where there's a split-the-savings approach. So I mean it's something the Commission has done. It's not a situation where there's no precedent for doing something along those lines.

COMMISSIONER KIESLING: It's your view if we wanted to, we do have the discretion to come to some split in this situation?

COMMISSIONER DEASON: I would think we would have that discretion. We've exercised that discretion in the past. Obviously, whatever we do is going to have to be consistent with the statute, but as far as I know the statutes give us enough discretion to allow that type of sharing the benefits.

MS. BROWN: I'm uncertain to make a recommendation to you on it until I talk to Staff people who know a little more about how that is done. But my initial reaction is that you do have the discretion to split the baby if you want to.

COMMISSIONER DEASON: Let me reiterate that what brought on my initial questions was not the fact that the ratepayer -- I think the ratepayers are entitled to some of these benefits. It's a question of all or how much. And my concern is that I want companies such as TECO to have an incentive to engage in the type practice which TECO has engaged in in the very situation. Because if they had not taken the initiative and ended up with this result, we wouldn't even have the issue here. We wouldn't even be debating what benefits to share with whom. There would be the construction of a temporary interconnect at some $2 million, and there would be $2 million of CIAC booked, and be a net wash to the company and the customers. There would be no benefit for anyone. That's what my concern is.

I agree with Staff that -- I think we all can agree that there's two basic mechanisms for the recognition of cost and risk and how those costs and risks are going to be reimbursed or taken care of. We have base rate proceedings and we have fuel adjustment proceedings.

I think that this contract that has been modified falls squarely in the situation of fuel adjustment type proceedings. All of the risk associated with that contract -- there's no base rate risk associated -- it's not in the rate base of the Company. It's all within the clause. And the customers have the risk of reimbursing dollar for dollar for the cost associated with that contract. And it is a standard offer contract. It is a creation of this Commission. I don't know of the Commission ever disallowing any cost from a standard offer contract. I'm not saying it could never happen but I'm not aware of it ever happening.

So I think that it falls squarely within the fuel adjustment proceedings. That's where the risks are and the risks are on the ratepayers.

The example which Mr. Beasley gave of the transformer, whatever, and that being "other electric revenue," I agree that would be the treatment for that and that would be the proper treatment for that. But that would be cost associated with base rate proceedings. That would be some O&M expenses for the employees who would do -- install the transformer. I guess the transformer maybe would come out of materials and supplies, which is a rate base component, and all of that is part of the rate base. And when they got that revenue, it rightfully would be booked as "other electric revenue" and it would go into that pot of dollars.

This is a different situation we have here. The only reason that this option payment came about is because of the existence of this standard offer contract, which is the creation of this Commission, the concept, and the fact that those costs are going to be included dollar for dollar in fuel adjustment recovery clauses.

So my concern is where is the incentive for a company to do as TECO did in this case and come up with a novel solution to a problem that creates positive benefits. And that's where my concern is.

MS. BROWN: Let me try to address that just for a minute. First of all, the incentive is that in any way that the companies can lower the costs of these rather expensive standard offer cogeneration contracts, they are going to lower rates to their ratepayers, put themselves in a better rate position by doing it. That's the fundamental incentive they have is to lower their customers' rates. If they can use a creative means to come up with a benefit that is going to lower those rates, then that's the real incentive they have.

The trouble I have with this particular arrangement is that the benefits that Mr. Mestas testified to are all projected fuel savings. They are somewhere out there in the blue. The dollars, the real dollars, are in the "other electric revenues" account. Dollar for dollar goes out from the ratepayers, but it doesn't look like the dollars for dollars are coming back in.

COMMISSIONER DEASON: Does Staff agree that there's a 4.5 million savings in fuel?

MS. BROWN: The Commission has already determined there will be a between $1.5 and $4.5 million fuel savings benefit to increase the capacity factor, or I think it's Orange Cogen operates under --

COMMISSIONER DEASON: Is that over the life of that contract or is that for a finite period?

MS. BROWN: No. I think it's over the life of the contract.

COMMISSIONER DEASON: And that is --

MS. BROWN: 20 years.

COMMISSIONER DEASON: That could change but right now it appears that's the situation.

MS. BROWN: It could. So we're talking 4.5 over 20 years as opposed to $1 million credit now.

COMMISSIONER DEASON: But the 4.5 million savings is not contingent upon the 1.1 million. They are two different concepts.

The option payment was made and is not contingent on there being some type of a fuel savings or anything of that nature. That was basically a concession paid to TECO to avoid the necessity of having an expensive interconnection built to abide by the strict terms of the original contract.

MS. BROWN: Yes. That's the evidence that is on the record.

There was the additional benefit to Orange Cogen to transfer -- to Polk Power Partners to transfer of the standard offer contract, and this came up in the -- when you approved the modifications to the contract, to transfer the standard offer contract to be served from Orange Cogen, freed up the capacity on the Mulberry plant to sell additional capacity to Florida Power Corporation. That was another motivation for switching the TECO standard offer consider from the cogenerators' perspective.

COMMISSIONER JOHNSON: Let me get a clarification. I know legal -- with respect to the incentive issue and whether or not we should be concerned about that, your position is that they have their own incentive with respect to just lowering those rates.

MS. BROWN: Fundamentally I think they do.

COMMISSIONER JOHNSON: I'm not sure this is appropriate, Mr. Chair, but Public Counsel had mentioned almost the same issue and I wanted to hear a little bit more about them, when he talked about, in his closing, this particular decision. He stated that it was in their own business interest -- and I have down here and I don't know if you said this or I was thinking about this -- the approaching competitive market will act as the incentive to induce them to do these kind of things again and again and again. And I wanted to hear a little bit more about Public Counsel's position on that whole issue, if that's okay.

COMMISSIONER DEASON: I don't have a problem with that. Obviously, we'd have to give Mr. Beasley an opportunity to give his viewpoint on it as well, I would think, to be fair, but I don't have any an objection if you want to ask a question of Public Counsel.

MR. HOWE: Thank you, Commissioners.

I guess I'd have to tie it in with something I said yesterday. I think we're seeing a change, a significant change in the electric utility industry.

Whereas before, if a utility could justify costs, the motivation was to come in and get the rates to cover the cost. Now we're in a time frame where we're seeing utilities cutting back on their work forces, introducing economies, doing everything they can to pare expenses and streamline their operations.

Now, clearly anything they do to reduce expenses, to reduce fuel costs, to make more prudent investments will work out to the ratepayers' benefit under a traditional cost recovery regulatory scheme because the sum total of the costs you're going to add up for them to recover is going to be lower. And if their investment is lower, obviously the return component will be lower also.

But yet I think what you are seeing now is the fact we're moving away from the regulatory scheme and the motivation now is for them to position themselves for what they see as future competition, so they have an internal business reason for getting their expenses lower, to make their investments very prudent, to streamline their operations so they don't find themselves, for example, with the high cost units or high cost fuel when a municipalty goes into the market, for example, "We're looking for a utility that can provide us with service over the next 30 years. Who has the cheapest power available, the most efficient?" So you're seeing a change in motivation. I think when a utility makes a decision to engage in these things, you get an after-the-fact appraisal. They say, "Okay, we looked at this, now for this short time period, though, could we get a few dollars by saying it saved the customers money." That's where you see it being brought into the cost recovery mechanism simply because the rate base mechanism, it isn't taken away but it's not perceived as being as available as it used to be because it doesn't fit the Company's own internal motivations.

Thank you.

COMMISSIONER DEASON: Mr. Beasley.

MR. BEASLEY: Commissioners, I would just say that this negotiation was conducted in the framework of the existing regulatory model, not something that may occur out in the future as Mr. Howe suggests. And in that model a utility is encouraged to go after a dollar of revenue and to go after a dollar of cost savings, and if they can better themselves by doing that within their allowed range of their rate of return, the Commission has indicated they should.

That's what the Company did in this instance, and that's why we feel that the Company should be allowed to retain the $1.1 million option payment.

COMMISSIONER DEASON: Any questions? Does Staff have any concluding comments before we entertain a motion?

MR. BERG: I'd like to point out something Mr. Beasley said. He said Tampa Electric is operating under the old regulatory model where a utility is going out and doing everything they can to increase revenues and reduce cost. But the distinction we're making is that they're doing it at the expense of the ratepayers in this particular case. And it's the difference between the base rate cost and the dollar-for-dollar adjustment clause cost, and I just wanted to make that distinccion.

COMMISSIONER DEASON: Do I have a motion? We're going to have to come back, I think, in about a half hour. If you wish to address it then or if you want to address it now, I'm flexible.

COMMISSIONER KIESLING: I don't know if a half hour is going to make any difference for me.

I'm still unclear on whether we can split it in some way, and I guess if I feel comfortable that we can do that, then I feel comfortable that we can allow them to retain some portion so that we do have this -- I'll call it an incentive even though I'm not talking a technical incentive -- to look for these kind of deals.

And I guess I'm troubled by the fact that our counsel says we don't have the discretion to do that, and the legal Staff says we do, and I'm just not sure what we have.

MS. BROWN: I'm sorry for this -- Commissioner, if we are going to take a half an hour, while the Staff is crunching numbers for FPL's gas forecast, perhaps I can get with Mr. Pruitt and we can discuss this and I can also talk to technical Staff, so that I'm not really comfortable with telling you you can or can't right now either. I would like to research it a little bit. Would that be all right?

COMMISSIONER DEASON: I have no problem with that. We'll -- is a half hour sufficient time for us?

MS. BROWN: We'll certainly try.

COMMISSIONER DEASON: It's about ten minutes to 12 now. We'll stand in recess until 12:20.

MS. BROWN: Okay.

(Brief recess.)

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COMMISSIONER DEASON: Call the hearing back to order.

MS. BROWN: Commissioner, in the break, Tampa Electric pointed out to me that I had misspoken and I want to correct that on the record. The $4.5 million benefit that we have been talking about is a net present value benefit.

That's what happens when you put me together with numbers. I apologize.

COMMISSIONER DEASON: And that's the net present value benefit over the life of the contract modification?

MS. BROWN: Yes, that's correct.

COMMISSIONER DEASON: Okay. Would it be best to proceed to 23A or to go to 10C?

MS. BROWN: 23A. We're still waiting on some schedules for 10C.

COMMISSIONER DEASON: I believe there was a question on 23A concerning the Commission's ability or discretion to share benefits.

MS. BROWN: Mr. Pruitt and I discussed that in the interim and he has a recommendation for you.

COMMISSIONER DEASON: Mr. Pruitt?

MR. PRUITT: Mr. Chairman, counsel for the Staff has assured me that there is sufficient, competent evidence in the record to support a Commission order, a decision, to require an immediate return of these funds to the ratepayers; and also that the record would support a Commission decision to allow TECO to retain them; and that there is of record other Commission orders allowing a, quote, "sharing" between the utility and the ratepayers.

And this being true, I have no problem in advising you that you have the necessarily implied authority to order a sharing of these funds between the utility and the ratepayer, based somewhat on a case I have cited a lot of times before you, and that is where the Supreme Court of Florida says, "The Commissioners can use their own knowledge and expertise to bolster competent, substantial evidence in order to arrive at a legally sufficient conclusion." That's the Gulf Power v. Beavis (1975), 322 So.2d 30.

I also get a little comfort out of an Alabama case that I have been carrying around here a long time, which the Supreme Court of Alabama, in Alabama Gas Corp v. Alabama Public Service Commission, 425 So.2d 430, in 1982 said, "The Commission is not rigidly bound to the particular recommendation of any particular witness. The Commission's function is to sit as an expert administrative body, analyzing the evidence and exercising its own expert judgment thereon. This is true, even though only one witness testifies as to a particular set of facts."

So based on all that, I would think that the Commission would have the lawful authority to order a sharing between the utility and the ratepayers.

COMMISSIONER DEASON: Further questions, Commissioners?

COMMISSIONER KIESLING: I'm willing to make a motion for discussion purposes. And I would move that the option payment be split 50/50 with half going into the other electric revenue category where it already is and the other half going to the benefit of the ratepayers.

COMMISSIONER DEASON: Okay. We have a motion, is there any discussion or second?

COMMISSIONER JOHNSON: I think we have already engaged in a lot of discussion with respect to the issue. And this was a rather difficult one for me, given the policy arguments on both sides with respect to whether or not the company needed this kind of an incentive but recognizing that they did make a very economical decision that did and in fact will probably benefit the ratepayers. And that is the kind of thing we want to see more of.

I do believe that we are approaching a different kind of a regulatory environment, but that the comments of TECO with respect to where we are now and how they handle their affairs were somewhat persuasive. So with that, I think the best thing to do here is probably to split it.

And for those reasons, I'll go ahead and second that motion.

COMMISSIONER DEASON: We have a motion and a second.

I'm, just so everyone is clear, I'm going to support the motion. I think it is a fair resolution. I think there is ample evidence in the record to justify this type of a decision.

I would think that the Commission would not be bound to a 50/50 split, there are other options. I know that in the split the savings, I believe it is an 80/20 split. I think the Commissions in the past have used different techniques to split, but in this case I'm not opposed to a 50/50 split. I think where we have 80/20 splits that's in a situation where you think they are going to be recurring opportunities on a fairly regular basis for there to be saving and that, give that type of scenario, we award the majority of the savings to the customers.

Here, I think this is a rather unique situation. While there may be some occasions in the future to renegotiate some standard offer contracts or similar things, I don't think it's of quite the recurring nature as we view economy sales and things of that nature; so I think this was a rather unique situation in that there was a great deal of initiative demonstrated and I believe a 50/50 split would certainly be fair.

We do have a motion and a second. All in favor say aye.

(All Commissioners vote aye.)

COMMISSIONER DEASON: I think the motion carries unanimously. That disposes of Issue 23A. Yes?

MR. BEASLEY: Mr. Chairman, I have one question of the portion to be flowed through to the customers. We wanted to propose and see if it would be acceptable to show that as a credit in the forthcoming true-up as opposed to recalculating the factor, so we could leave here with a factor that would be in the true-up with interest.

COMMISSIONER DEASON: Staff have a position on that?

MR. BERG: That really doesn't bother us too much because there is interest applied to it.

COMMISSIONER KIESLING: With that, then I would amend my motion to reflect that method for passing it through to the customers.

COMMISSIONER DEASON: So the portion that is to be flowed through the clause would be part of the true-up in the next projection period and it obviously would earn interest during the intervening time period.

MR. BEASLEY: Yes, sir.

COMMISSIONER DEASON: And that is acceptable without objection?

COMMISSIONER JOHNSON: Yes.

COMMISSIONER DEASON: Show that would be the case.

All right, Issue 10C?

MS. BASS: Commissioner, Staff performed some calculations -- and I want to preface it by saying that these were definitely quick-and-dirty calculations. And rather than trying to go back and look at what the other parties have done and rebut their methods of calculating the change, Staff came up with a somewhat simple method to do it and it is something we would do if we were doing a sanity check. I am going to let Mr. Dudley explain to you exactly how the calculations were done.

COMMISSIONER DEASON: That's the term I was looking for the whole time, "sanity check."

MR. DUDLEY: I was requested to take and first replace the revised estimates for December and January with actuals and see how that affected the factor. I did that for December and January and the revised factor would be 1.699, resulting in leaving the projected period alone, the April through September, FPL would recover 2.6% more than what is currently projected.

COMMISSIONER DEASON: This is total fuel costs including purchased power?

MR. DUDLEY: Total fuel costs including purchased power. All I did was, in the estimated actual amount, they have estimated fuel costs and every other component. What we did for those two months is simply go to the A Schedules which they file with us, replace the actuals where the revised were. And the fallout number, leaving the projected period alone, not adjusting it, it would result in a 2% overrecovery.

COMMISSIONER DEASON: Now that's just within the true-up calculation, right?

MR. DUDLEY: Yes, sir, and that carries forward -- leaving the projected costs alone.

COMMISSIONER DEASON: Okay.

MR. DUDLEY: Next, I was told to look at the recent trend that FPL has been overprojecting the cost of gas. We looked at the period October through January, October '94 through January '95. The average overestimation of gas cost has been 30.65%. What I did then was, leaving the actuals for October, November, December and January, reduced the cost of gas in the total fuel costs as a component by this 30.65% in February and March. I also reduced the price of gas, the cost of gas, during the projected period by this same amount.

Doing that, if those new costs were being correct, FPL would currently, based on this, the current factor proposed would overrecover 21.9%.

COMMISSIONER DEASON: Based upon total fuel costs and purchased power?

MR. DUDLEY: Yes, sir.

If you take and look at the E3s or an A3, on that there is a total system cost for fuel. Gas is a component of that. Having determined this 30.65 trend of overprojection, we reduced that total cost for the gas by that amount. And then when you include all the components in the factor calculation, you wind up with a 21.9% lower factor.

COMMISSIONER DEASON: So you're saying that, following the methodology which you just described, that you feel that there would be the need for a midcourse correction?

MR. DUDLEY: If you reduced the cost of gas by 30.65%, assuming the new projections were correct, FPL would be in a situation where they would be overrecovering beyond the 10%.

COMMISSIONER DEASON: Well, now, how did you calculate the 30.65 and how did you apply that to your calculation?

MR. DUDLEY: I calculated the 30.65 by going back to the October through January A Schedules, that's Schedule A3, and looking at the dollar per million Btu price per gas -- the A Schedules are actuals. On those A Schedules, they also include a column that says "Estimated." I think we've looked at several of these during the course of this hearing. And then like two columns over is a "Percent Difference" Column.

What we did is we summed up for October through January the actual cost. Then for October through January you sum up the estimated cost. You do your current calculation to wind up with 30.65 percent. Having found --

COMMISSIONER DEASON: All that shows is what's the difference between what they really projected and the actual for those four months, that doesn't mean that trend is going to continue.

MR. DUDLEY: No, sir, it doesn't. But what we were trying to find out is what was the recent trend? And with that recent trend, if it were to continue, assuming that FPL would continue to overproject by 30.65%, how would that affect their factor and would it put them in a position of overrecovery?

COMMISSIONER DEASON: I don't think even the intervenor position is there is going to be a continued overprojection of 30.65%, so that's what I'm having the difficulty with.

MS. BASS: We agree with that.

I was trying to find some way of looking at if we were to make an adjustment how would we to justify or base the adjustment on? It was my feeling if we looked at what the overprojections trend was with the actual price of gas and worked that through all the numbers with all the other components to get an idea of what trend was being set and, if we continued that trend, what the overrecovery would be or how close it would be to the midcourse correction.

I think we can look at what actual gas prices are, but I don't think that gives us -- or what other people are projecting gas prices to be, but I think we have already determined that Florida Power and Light's gas prices are in line with and lower than what other utilities are projecting. So I don't have other utilities to look at for their projections to say that they're closer and we should adjust to those projections. So I was trying to get a trend going and seeing what impact, if this difference between actual and estimated continued to occur for the next eight months, how would that impact what the Utility is requesting for recovery?

COMMISSIONER KIESLING: I guess my question is, having done that quick, down-and-dirty, or whatever you call it, calculation, is Staff still comfortable with the position that it has taken that the estimation of natural gas prices is not unreasonably overstated and will not result in a midcourse correction?

MS. BASS: I don't think they're unreasonably overstated if you look at what other utilities are projecting. The problem with doing a calculation like this, or even putting in what the actual prices are and holding them constant for the next eight months, is that there are so many other factors involved in this that it's hard to say. The gas prices don't operate in isolation, there's so much more.

If I was to suggest that the trend has been 30% and maybe we should reduce their gas prices by 15%, I'm not even sure that would be enough or that would be too much. It is very difficult when you are looking at projections to say whose are right and whose are wrong.

COMMISSIONER DEASON: Let me ask the question this way. Is there any information that we have now that's in the record that was not available at the time the original forecast was made, just due to the time frames involved, that we know now that's in the record that would give us a basis to modify those projections so as to avoid a midcourse correction if we realistically feel that a midcourse correction would result?

MS. BASS: I think information that's in the record now would be the actual prices that the utility has paid for the months of December '94 and January of '95. When we redid our calculations just reflecting those two months of actuals versus what was estimated, it was essentially a 2.6% increase in the overrecovery, or compared to a 10% threshold, we were looking at 2.6%.

So no, based on the information that's in the record now on the actual amounts, I do not think we have enough to warrant recommending a change in projections.

COMMISSIONER DEASON: Okay, let me ask you this.

Within Florida Power and Light's original projection, are they estimating that the price of gas during the six months projection period will be trending up or trending down or staying steady?

MR. DUDLEY: I believe it's fairly steady up through August and then you start seeing a bit of seasonality effect with it jumping in August and then jumping a little bit more in September.

COMMISSIONER DEASON: Now, if we were to take the actual '95 and apply that actual cost of gas during the projection period, using whatever trending that Power and Light is using in its projection, what would that result in? Or would that take some detailed calculations?

MR. DUDLEY: I'm sorry, could you say it again?

COMMISSIONER DEASON: We have January 1995 actual data.

MR. DUDLEY: Yes, sir.

COMMISSIONER DEASON: That's the most recent actual data we have.

MR. DUDLEY: Yes, sir.

COMMISSIONER DEASON: Okay. If we were to take that, substitute that in as the price of gas during the projection period and adjust it by whatever trending Power and Light felt appropriate during the projection period -- if that was a trend up or steady or down, whatever -- and substitute that in with FP&L's projected price of gas, what would that do to the 10% threshold of a midcourse correction being necessary?

MR. DUDLEY: If you will give me a second just to look at the actual versus the starting point of projected? (Pause)

What I think that you asked is, if we took and reduced the starting point, that being February, to the point of being equal to the actual for January and then trended that out based on their assumptions, how would that affect the midcourse? Or how would it affect their recovery situation?

Given the fact that the actual for January is less than what they originally estimated it, I would have to say that it would put them in a position of overrecovery. The magnitude -- this is for January, it is a 23.6 reduction; so it would not be as significant as the 30.65 effect was.

It's not a linear relationship, so I couldn't --

COMMISSIONER DEASON: I understand that. If we were to assume just for the sake of argument that there is going to be a 23.6 reduction in the price of gas from the projections --

MR. DUDLEY: I'm sorry, Commissioner Deason. I looked, I saw January and assumed it was correct. For January of 95, it was a 37.1, so it would be even more significant.

COMMISSIONER DEASON: Even more than the 30.65 that you calculated earlier?

MR. DUDLEY: Yes. I apologize for that.

COMMISSIONER DEASON: Okay. Well, I guess my bottom line question to Staff, I mean, this is a very complicated area and there are many relationships which exist between the various fuel types and generating mixes and things of that nature, and they're all kind of interdependent. With the further review that you have conducted in the information, is it your opinion that there's going to be the necessity of a midcourse correction using the information that was originally projected by Florida Power and Light?

MR. DUDLEY: By replacing the --

COMMISSIONER DEASON: No, I'm not talking about -- just do you think we're going to have to have a midcourse correction? I know I'm asking to you look in a crystal ball and that's a dangerous thing to do, but I'm asking for your opinion.

MR. DUDLEY: If I can give you a personal opinion, FPL does tend to overproject the price of natural gas. That opinion has been displayed by the Commission in the Ten-Year Site Plan and in other recent need determinations.

There is a chance that if FPL's projections are overpriced there may be the need for a midcourse, say, probably in July or maybe August. But realizing that the midcourse is there and realizing that replacing it with actuals of what we know today only has a 3% effect, then I would suggest that we leave the factor as it is; and, if it becomes necessary, FPL can come in, say, midsummer, can file for a midcourse correction to avoid rate shock in the fall.

COMMISSIONER DEASON: Further questions, Commissioners?

COMMISSIONER KIESLING: Just one so I'm clear.

When you say Florida Power and Light may come in, are you saying that they must come in if it exceeds it, or it is permissible? I just want to be clear on how mandatory it is.

MS. BASS: According to the order on the midcourse correction, at 10% they must notify the Commission that they are in that position. It is up to the Commission to determine whether or not the utility needs to come in. Generally, the utility will request -- or the utility at 10% must notify the Commission; they may request to come in; the Commission may request them to come in; or another party to the proceeding may request them to come in. But at any point -- at the 10% they must notify the Commission.

COMMISSIONER KIESLING: And how long, what is the lag time between when it is actually, you know, paid and all of that and when they know that they have exceeded the 10%? I mean, for example, this is March.

MS. BASS: It depends on how quickly they filed it. In the past, we have turned these petitions around very quickly, understanding that the longer period of time any correction can be spread over, the better off the ratepayers are and the less rate shock is felt by the ratepayer.

Generally, what we do is we look at how long do we have left? But we can turn a petition around very quickly. And the utilities have been very responsive; and once they reach that 10% threshold, they immediately notify us. They keep up with it very closely.

COMMISSIONER KIESLING: And any party to this proceeding can also do it?

MS. BASS: Upon notification that they are in that situation, any party can request that they come in.

I don't think in the past any utility has notified us -- they have notified us and requested to come in at the same time.

COMMISSIONER DEASON: The problem is that, obviously, the utility keeps up with it and has access to the most current information; and they would know when they start approaching the 10% threshold long before any intervenor could conduct discovery and get the information.

MS. BASS: Exactly. We would not be aware of it until they actually filed their A Schedules, which are due the 20th of the following month after the reporting month.

COMMISSIONER JOHNSON: Let me ask one final question, then, just to make sure I understand Staff's position.

I know we were dealing with estimates and some information is provided in the record to give us some actual information. But what I think you all are saying is, even given the actual information now in the record, that that, what we have thus far, is insufficient to change your analysis for you to feel comfortable concluding that the estimation of natural gas would be overstated?

MS. BASS: Based on the information in the record, yes.

COMMISSIONER JOHNSON: Could there ever be an instance where the actual information could indeed wave a red flag for you all to say, "Wait, we need to do something now"? Or is this a position where we're always going to be in this predictment -- (Simultaneous conversation)

MS. BASS: -- if we have actual information, we review that on a monthly basis as it is filed. We're continuing to look at those.

And the projections, although we look at the projections and their impact on the ratepayers and we compare them among the utilities -- which the utilities generally don't prefer us not to compare utility-to-utility. But we do look at the projections and see whether or not they're reasonable based on the estimates that other utilities are making and other publications that we get. But estimates are just that; and I think we've always recognized that, that they're going to be wrong.

COMMISSIONER JOHNSON: And didn't you -- I don't know which, perhaps you -- stated that Florida Power and Light's estimates were, with respect to a relative analysis to the others, lower? I don't know if that was in the record or where I got that note from.

MS. BASS: I think that Florida Power and Light's witness stated that theirs was lower. I believe we stated that based on the review that Staff had that they were within the reasonableness range of the other utilities.

COMMISSIONER DEASON: At what point would the actuals have to be so different from the projections that Staff would come in and say, "This is unreasonable and we need to do something now to ensure that we're not going to have to have a midcourse correction as we enter the new projection period"?

MS. BASS: I guess I would have the default to the 10%. If we saw a utility getting close to that, based on the information that they were filing with us on the actual fuel schedules, I think at that point we would call the utility and ask them, you know, "According to our information, you're getting pretty fairly close. Have you done an analysis of this?" and see what point they were at. Whether or not they had projected the information that at one month they may be 9% but they have information available that their transportation costs or something else are going to decrease in the next month which will take them and move that midcourse correction percentage the other way. So they're thinking that they may be 9 now, but next month they're going to be back down to 5.

So I think it is something that they look at on a continual basis. And we would look at it. And I think we've called them before and asked them, "You're getting close, it's getting up there, are you looking at it?" But I can't say that we have a set percentage that we initiate any type of action.

COMMISSIONER DEASON: Well, no, no. I understand that. I guess that's during -- once we enter into the current recovery period and the monitoring that goes on. My question is, at the stage we're in right now, at what point would -- in this case, natural gas or any other fuel, but probably natural gas, because it seems to be more volatile than other fuels -- at what point would the current trend or the current prices of natural gas have to be different from what was projected that it would cause you all to come to us and say, you know, "These were projections and they were fine when they were projected, but we know now something has happened in the intervening time period and we know that those projections are going to be wrong and it is probably going to cause a midcourse correction. And we need to make corrective fine-tuning now to prevent that from happening during the actual recovery period"?

I take it we have not reached that, it is not the situation here; but it seems to me at some point something could happen to where it would be necessary for us, sitting in the mode that we are right now, to make a change.

MS. BASS: I think if we had come to this point and, instead of having this 3% or 2.6%

differential, that now we know that we had projections -- because time has passed since they filed the projections we now have actuals to compare it to -- if we had gotten those actuals in and it showed that there was a substantial difference between the actual and the projections and now we were sitting in a projection period, then I think Staff would recommend that the projections need to be changed and we need to adjust the factor to reflect the actual information that's available.

Am I missing?

COMMISSIONER DEASON: No, no, I just --

MS. BASS: I think --

COMMISSIONER DEASON: -- I want some assurance that during our procedures and our review that if we feel that the utility's projections are off -- through no fault of their own, just maybe because of some catastrophic event happened between the time they made their original projections and we're sitting here today looking at those -- that we can catch those and we are capable of making those adjustments so that the actual factors that are charged to customers at the beginning of the current recovery period are such that hopefully we will avoid a midcourse correction.

MS. BASS: I think Staff does that on an

ongoing basis. When we do get the actual information, we compare it to what was estimated to see whether or not we are getting close to that point.

As I stated earlier, the utilities will also -- if when they file their information with two months of actual data and four months of estimated and then and additional six months projected, as we get closer to the hearing and that actual information becomes available, if it has a significant impact on the fuel factor, the utility will substitute full data for estimated data as close up to the hearing as we can get and still provide positions. And we have done that on a number of times ended up with four months of actual and two months estimated and then six months projected, instead of two/four the other way.

So we try to continually update it, especially if it is going to have an impact on the fuel factor.

COMMISSIONER DEASON: Further questions? Is there a motion?

COMMISSIONER KIESLING: I move Staff, with the understanding that if there is an overearnings situation which presents itself, that we will do what we need to do to get the utility in here as quickly as possible to adjust for that.

COMMISSIONER JOHNSON: Second.

COMMISSIONER DEASON: We have a motion and second.

Let me say that this is a very -- here, again, it is a difficult area. Once again, it is looking into a crystal ball, and none of us can do that with 100% accuracy.

I'm comforted to some extent that our Staff has looked at it thoroughly and they're still not convinced there's going to be a necessity for a midcourse correction. I think that obviously Power and Light has looked at this. I don't think that Power and Light has an incentive to overrecover or underrecover, and that it is in their own interests to try to make it as accurate as possible. They don't think that any adjustments need to be made.

And I think that we have encouraged our Staff, as well as the parties, particularly in this case Florida Power and Light, to keep a very close watch on this; and if it does appear there is going to be the necessity of a midcourse correction, that we can do it as quickly as possible so that the magnitude of the correction can be minimized.

For those reasons, I can support the motion.

We have a motion and a second. All in favor, say aye. Aye.

I believe that motion carries unanimously.

MS. BASS: Commissioner, I assure you we will keep a close eye on this and track these costs.

COMMISSIONER KIESLING: Yeah. I just wanted to assure you I don't have any doubts of that; and by my questions and statements, I'm not implying that you don't do that.

MS. BASS: Thank you.

COMMISSIONER DEASON: That conclude all matters?

MS. BROWN: I think that does, Commissioner, I think we're finished.

COMMISSIONER DEASON: Okay. The hearing is adjourned. Thank you all.

(Thereupon, the hearing concluded at 1:00 p.m.)

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STATE OF FLORIDA)
:
COUNTY OF LEON)

CERTIFICATE OF REPORTERS

We, JOY KELLY, CSR, RPR, Chief, Bureau of Reporting, SYDNEY C. SILVA, CSR, RPR, and ROWENA NASH HACKNEY, Official Commission Reporters,

DO HEREBY CERTIFY that the Hearing in Docket No. 950001-EI was heard by the Florida Public Service Commission 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, consisting of 543 pages, Volumes 1 through 4 inclusive, constitutes a true transcription of our notes of said proceedings.

DATED this 15th day of March, 1995.

JOY KELLY, CSR, RPR
Chief, Bureau of Reporting

SYDNEY C. SILVA, CSR, RPR
Official Commission Reporter

ROWENA NASH HACKNEY
Official Commission Reporter

STATE OF FLORIDA)
:
COUNTY OF LEON)

The foregoing certificate was acknowledged before me this 15th day of March, 1995, by JOY KELLY, SYDNEY C. SILVA, and ROWENA NASH HACKNEY, who are personally known to me.

PATRICIA A. CHURCH
Notary Public - State of Florida
My Commission No. CC-90785

Notary Public, State of Florida
My Commission Expires April 20, 1995
Bonded Thru Troy Fain - Insurance Inc.