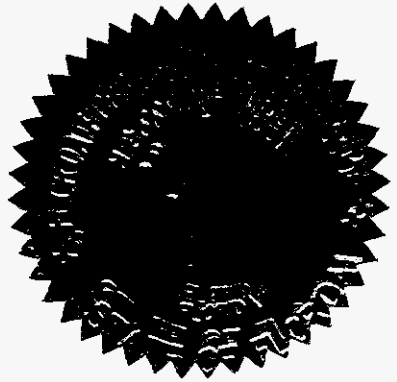


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 990007-EI
Environmental Cost :
Recovery Clause :



PROCEEDINGS: STAFF WORKSHOP

CONDUCTED BY: Commission Staff

DATE: Monday, April 5, 1999

TIME: Commenced at 9:45 a.m.
Concluded at 1:10 p.m.

PLACE: Betty Easley Conference Center
Room 171
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
FPSC, Division of Records & Reporting
Chief, Bureau of Reporting
(850) 413-6732

DOCUMENT NUMBER - DATE
05420 APR 29 99
FPSC-RECORDS/REPORTING

1 **IN ATTENDANCE:**

2

3 KATRINA TEW, JOM BREMAN, CONNIE KUMMER and

4 TODD BOHRMANN, FPSC Division of Electric and Gas

5 JEANETTE SICKEL, ANN CAUSSEAU, PAT LEE, DALE

6 MAILHOT, DAVID DRAPER, SAM MERTA, JAY REVEL and LUCY SWAIN,

7 JOHN SLEMKEWICZ, FPSC Division of Auditing and Financial

8 Analysis

9

10 LESLIE PAUGH, FPSC Division of Legal Services

11 ROGER HOWE, Office of Public Counsel

12 MATTHEW CHILDS and RITA McLELLAN, Florida Power &

Light

13 JAMES BEASLEY and MARK LAUX, Tampa Electric Company

14 JEFF STONE, SUSAN RITENOUR, RUSSELL BADDERS,

15 PAUL TRIPPE, JIM VICK and GARY LIVINGSTON, Gulf Power Company

16 GAIL KAMARAS, LEAF

17 VICKI GORDON KAUFMAN, Florida Industrial Users Group

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P R O C E E D I N G S

(Workshop convened at 9:45 a.m.)

MS. TEW: Welcome everybody to the Staff workshop. There's a signup sheet in the back corner over here if anyone hasn't made it over there yet, and a few handouts. I guess I want to start off by going around the room and having everyone introduce themselves. I'm Katrina Tew with the Commission Staff.

MR. BREMAN: Jim Breman with the Commission Staff.

MS. MERTA: Sam Merta with the Commission Staff.

MR. REVELL: Jay Revell with the Commission Staff.

MS. KUMMER: Connie Kummer.

MS. CAUSSEAU: Ann Causseaux, Commission Staff.

MS. LEE: Pat Lee, Commission Staff.

MR. MAILHOT: Dale Mailhot, Commission Staff.

MR. DRAPER: Dave Draper, Commission.

MR. HOWE: Roger Howe, definitely not Commission. I'm with the Public Counsel's Office.

MS. McLELLAN: Rita McLellan from Florida

1 Power and Light.

2 **MR. CHILDS:** Matthew Childs, representing
3 Florida Power & Light.

4 **MR. BEASLEY:** Jim Beasley, representing
5 Tampa Electric.

6 **MR. LAUX:** Mark Laux, Tampa Electric,
7 Company.

8 **MS. SICKEL:** Jeanette Sickel with the
9 Commission.

10 **MR. STONE:** Jeff Stone representing Gulf
11 Power Company.

12 **MS. RITENOUR:** Susan Ritenour, Gulf.

13 **MS. DAVIS:** Terry Davis, Gulf Power.

14 **MR. BADDERS:** Russell Badders representing
15 Gulf Power Group.

16 **MR. TRIPPE:** Paul Trippe, Gulf Power.

17 **MR. VICK:** Jim Vick, Gulf Power.

18 **MS. SWAIN:** Lucy Swain, Commission Staff.

19 **MS. KAMARAS:** Gail Kamaras, LEAF.

20 **MS. KAUFMAN:** Vicki Kaufman, McWhirter
21 Reeves.

22 **MR. BOHRMANN:** Todd Bohrmann, Commission
23 Staff.

24 **MR. LIVINGSTON:** Gary Livingston, Gulf
25 Power.

1 **MR. LAUX:** I'm going to make a guess -- I
2 understood that Florida Power Corporation was going to
3 be here today, even though they don't participate. My
4 guess is they were sitting on that same airplane.

5 **MS. TEW:** For those of you who were able to
6 make it, glad you're here. There's a signup sheet in
7 the back. There are copies of the agenda. I'll get
8 right into it.

9 As far as the purpose of this workshop, as
10 you all remember last fall in the ECRC hearing we set
11 factors for calendar year '99, and there were about
12 four issues that we essentially deferred to this
13 workshop. Two were strictly procedural-type issues
14 concerning the Minimum Filing Requirements and filing
15 projection testimony early if there were requests for
16 new projects. Jim and I will be discussing these
17 topics with you in the first part of the workshop, and
18 then AFAD will be discussing the second part of the
19 workshop, which may have to do with double
20 recovery-type issues. The other two issues were
21 company-specific type issues we thought should be
22 dealt with on an generic basis since they probably
23 have an effect on all of the companies involved in the
24 ECRC.

25 In regard to the procedural issues, E&G,

1 with considerable support from our legal Staff -- who
2 is missing right now but -- we have been continuing
3 our efforts to try to improve the hearing process with
4 ECRC. With the time constraints we have been having
5 from the time the filings come in until the time of
6 the hearings are scheduled, we just don't have much
7 time for the discovery. The last time, as you all
8 remember, we did lengthy depositions with each company
9 that were on short notice, and we're hoping to avoid
10 some of that this time. We're just going over some
11 things we think that should be in the filing and might
12 make the process a little bit easier.

13 I think in the handout there was a copy of
14 the statute. And that's basically the reason we are
15 all here today. I'm not going to go over it in
16 detail, but it's just there for your reference there
17 in this workshop. There will be sometimes, I think,
18 Jeanette is going to reference her part.

19 I'd like to ask all of you to give as much
20 feedback as possible when we get into these issues. I
21 just don't want to give a book report today. I want
22 some feedback from all of you on this process.

23 I guess to start off with we'll get into the
24 review of the 42 schedules. Basically, Jim and I sat
25 down this last week and kind of went through each of

1 the schedules to see where there were discrepancies in
2 the filings, and we were happy to find there weren't
3 many. For the most part the company filed the same
4 type of information. There were a few things we want
5 to discuss.

6 (Shows slid on projector)

7 It's not really important that you see all
8 of the details on this anyway. (Laughter)

9 There's a handout entitled "Review of Form
10 42 Schedules." It's the first one on there. It's
11 what we call the 42-4P schedule. Return on capital
12 investment, depreciation and taxes schedule.

13 Couple of things I want to point out on
14 this. First of all, FP&L isn't including the 9(a)
15 through 14 line items on there. It's Total System
16 Recoverable Expenses; right after that, through line
17 items 14. And essentially those help us in
18 determining how to get down to the jurisdictional
19 amount. And we're not trying -- I should have said to
20 start with that we're not going to try to pick on any
21 one company here today. We're just trying to get
22 little discrepancies that we have in the forms worked
23 out.

24 Another thing that we noticed on these is
25 that I think Gulf Power was putting some plant

1 expenditure numbers on the top. We really like those
2 because we think those help our auditors in tracking
3 the projects down in the books and records of the
4 company. We were hoping if TECO and FPL had some
5 similar type of internal accounting number or
6 something that they could put on there -- maybe right
7 underneath the project title -- that those might
8 really help our auditors.

9 We get considerable feedback from the
10 auditors on some things that help them and we notice
11 those have been helpful in the past. Other than that,
12 that's the only two things we wanted to point out
13 about the 4P schedule. Does anyone have any questions
14 or comments on that? Rita, did I make sense on the
15 9(a) through 14?

16 **MS. McLELLAN:** I know we're doing it on the
17 top schedule. I just don't know if we're doing it on
18 42 -- what was it is?

19 **MS. TEW:** 42-2P. We just felt like it made
20 better sense; if someone was going to pick up the
21 filing who wasn't that familiar with how the amounts
22 were jurisdictionalized, it would help you follow that
23 logic.

24 **MS. McLELLAN:** But you agree we do it on
25 42-1P, right?

1 **MS. TEW:** Right. It is done on the other
2 places in the schedule. In the future, we may be
3 putting these forms in a database. And we have done
4 that some in the past. We may be doing that again.
5 The more uniform they are, it makes it easier to be
6 doing that for all of the companies just the same.

7 There is going to be a telephone connection,
8 I understand, and that Mark Laux has the number.

9 **MR. LAUX:** I'll share. For anyone that
10 needs it the number is, I guess, area code (850)
11 413-7997.

12 **MS. TEW:** You said that Florida Power
13 Corporation may have wanted --

14 **MR. LAUX:** My understanding was that they
15 were going to have somebody here. And since I don't
16 see somebody here --

17 (Simultaneous conversation.)

18 Sometimes communication isn't effective, but
19 we can at least try.

20 **MR. BREMAN:** The workshop is being
21 transcribed and that will facilitate them, at least,
22 getting a record of the workshop.

23 **MS. TEW:** Yes. I should have made mention
24 of that. Joy Kelly is taking down all the notes from
25 the workshop today. We appreciate her help.

1 The next schedule I want to talk about was
2 the 42-5P. There are two 42-5Ps attached, and the
3 first one is the one as is currently filed and the
4 second one is the proposed new version that we're
5 hoping to talk with you about.

6 Jim and I both use these schedules. We
7 think they are extremely valuable and potentially
8 provide a detailed overview of the entire project for
9 the convenience of the Commission, the Staff, and even
10 the ratepayers that may be interested and other
11 interested parties. Filled out properly, these forms
12 answer many questions that we routinely ask in our
13 discovery process.

14 Let me hand out an example of one we felt
15 like was filled out very verbose. Give a compliment
16 to FPL on this. (Hands out document)

17 (Simultaneous conversation.)

18 Trying to even it out. Although this
19 schedule has a lot of information on it we realize on
20 some projects there's just not as much information to
21 put on these schedules.

22 In some cases, some of the projects -- I
23 mean some of the titles, the headings on these may not
24 fit a particular project. I realize sometimes there's
25 going be a need to leave those blank. But to fill

1 this in as much as possible probably alleviates the
2 need for being as verbose in your testimony; filling
3 in a lot of blanks.

4 I guess now I'll go over some of the
5 proposed changes to the schedule.

6 First of all, underneath the title we
7 were -- get an identification number, what I talked
8 about a minute ago, some type of project
9 identification number that's used internally in the
10 books and records. Once again, this is for the
11 benefit of the auditors and trying to track down the
12 projects.

13 In the description category, we have had
14 that category. I really want to emphasize that a
15 detailed description is really what we're looking for,
16 including things about scope of work, major
17 highlights, actions contemplated, that kind of thing.
18 Just as much as you can get in there would be useful
19 because people have a hard time getting their hands on
20 what these projects are about and these things have
21 really helped a lot.

22 The other new category here is environmental
23 law regulation. Most of you have been putting that
24 kind of information on this schedule, but we thought
25 it would be good to make it a heading; pointed out

1 exactly -- to point out the exact cite to the law and
2 regulation that requires the project.

3 I believe the rest of these are the same.
4 Accomplishments. Fiscal Expenditures. Progress
5 Summary. Projections. We may have just put a little
6 more detailed explanation under the headings for your
7 benefit in putting these together. Does anyone have
8 any comments on these changes in the 5P?

9 (No response)

10 Would anyone be opposed to including this
11 additional information on the 5P?

12 **MR. BEASLEY:** Katrina, who comes up with the
13 identification number? The company or the --

14 **MS. TEW:** The company. It's whatever -- I
15 think how Gulf Power uses it, it's called a plant
16 expenditure number, PE number.

17 If one doesn't apply, then obviously you
18 wouldn't use it. You could also maybe refer back to
19 the line item in the schedule or something like that.

20 Another thing I didn't put on here -- I
21 think all of the companies are doing it -- whenever
22 you put the title of the project you specify whether
23 or not it's O&M or capital, that would also be
24 helpful.

25 Put a heading on it, but if you could just

1 specify whether it was O&M or capital every time that
2 would be helpful as well.

3 And last but not least we have a proposed
4 new schedule. It's also in your handout. I guess we
5 proposed to make this the 42-8P, 42-9E and the 9A and
6 that's just -- those were the next available numbers
7 in the schedules.

8 This is to show the calculation of the
9 revenue requirement rate of return. This has
10 historically been received through interrogatories, as
11 I understand it, but we thought it would make sense to
12 simply add it to the filing; it's just one page of
13 information that's asked routinely. It's helpful to
14 AFAD, especially cost of capital section and the audit
15 Staff. And although it's not depicted in the
16 schedule, there may be other footnotes or explanations
17 that may be necessary. So you can just add those
18 wherever. With all of these schedules we understand
19 there's going to be some differences between
20 companies, but --

21 **MR. BREMAN:** The items under capital
22 components, I guess, would be unique to each company.
23 Some subject to overlap. But just because it appears
24 in our draft doesn't mean it must appear.

25 **MS. TEW:** Right. I think like with the ITC

1 things especially, some companies had two or three
2 different breakdowns of that, and maybe deferred taxes
3 were treated a little differently so we understand
4 those would be somewhat different, and if the line
5 numbers had to -- is there any feedback on this
6 schedule?

7 (No response)

8 Does anyone have a problem adding this to
9 the filing on a routine basis?

10 **MR. CHILDS:** What year are you using for
11 this?

12 **MS. TEW:** What year?

13 **MR. CHILDS:** Yeah, I mean, is it year of the
14 forecast or the prior year or what?

15 **MR. DRAPER:** I believe FPL uses their last
16 rate case but you also use expenses --

17 **MS. McLELLAN:** I think we used June's --
18 that was just approved in the last hearing.

19 **MS. TEW:** Right. Just changed that.

20 Yeah. I think one of the footnotes on your
21 schedules -- in response to interrogatories, the cost
22 of capital sections has asked in the past, I think you
23 usually footnote -- I think it was June and December
24 before; now it's going to be just June cost rates --

25 **MS. McLELLAN:** That was an issue in the last

1 hearing to use June.

2 **MS. TEW:** To me, to footnote that kind of
3 information still that would be good to do on that.
4 Did you have anything you wanted to add, David?

5 **MR. DRAPER:** No. FPL does this a little
6 different than TECO, and Gulf has theirs. I guess you
7 use somewhat different cost rate. I think that
8 formula will fit what you have been filing.

9 **MS. TEW:** Well, you all will be glad to know
10 those were the only changes in the schedules we were
11 proposing. Like I said, most of the other schedules
12 were very identical with each other, you'll be very
13 happy.

14 There's some other general comments. You
15 can use footnotes for explanations whenever possible
16 to make things more clear. For instance, if you
17 reference like a revenue tax multiplier, go ahead and
18 put that number in there; that would be a help.

19 I know we had an issue that came up last
20 time where the revenue tax multiplier had changed for
21 a few utilities. And it's just good for a quick
22 reference to have those kind of things pointed out.
23 For the most part, that's being done like it needs to
24 be.

25 In the form 42-As and Es, those are the

1 actual schedules. Now we will have 12 months of
2 actual data and the E Schedules has part actual and
3 part estimated data. We have variance schedules in
4 there. And usually the testimony brings out -- or
5 explains some of the variances, some of the larger
6 variances between what was projected and what actually
7 occurred. It would be helpful if those explanations
8 were a little more verbose sometimes. We get
9 explanations that are basically saying actual costs
10 turned out to be more than what is projected, and we
11 need more than that. It kind of screams of an
12 interrogatory, so to avoid that, we have a little more
13 explanation on all of those variances that would be
14 helpful.

15 I guess now we should get into the new
16 project petition and testimony information.

17 In reviewing the company's ECRC filing we
18 often turn most of our attention to the request for
19 new project. For that reason we thought it was
20 necessary to review the things we're looking for in a
21 new project request.

22 And in doing so the company must justify
23 that the proposed new project satisfy the following
24 criteria for ECRC recovery. I believe those are all
25 listed on the agenda.

1 You'll notice they are a little different
2 than those stated in the 940004 order, I believe that
3 was the Gulf Order we all refer to quite often.
4 Essentially they are the same.

5 I guess we'll just go down. First of all,
6 the proposed new project is legally required to comply
7 with a governmentally imposed environmental
8 regulation, became effective or whose effect was
9 triggered after the company's last test year upon
10 which rates are based.

11 We have included a specific cite to the
12 environmental law regulation, the date enacted and the
13 last revised date. I probably didn't point out like I
14 should have, but on the 5P schedule the change we
15 proposed on the environmental law regulation, you
16 could put that type of information on the 5P; it
17 wouldn't have to go into it in -- additionally your
18 testimony on it. It might be good to attach the
19 specific cite, though, if it's not too large,
20 especially if you can copy the relevant pages out of
21 the law or regulation and attach those, that would
22 also be helpful.

23 **MR. BREMAN:** I'm going to interject myself.
24 I think the active part of that statement she made
25 "the proposed new project legally required" is the

1 emphasis point. There will probably be questions
2 regarding whether or not the company's last test year
3 is appropriate. And I'm interjecting myself, probably
4 in a untimely manner, but I'm having increasing
5 concerns about whether or not that is actually a good
6 benchmark.

7 Just to keep it in mind, I didn't want to
8 interrupt her too much, and didn't want to sidetrack
9 her, but I have in my mind a serious question of
10 whether or not the last test year makes any sense, any
11 kind of sense in an era where we don't do a rate case.
12 So that's just -- I don't disagree with this statement
13 or the new projects are legally required, but the
14 question now comes what benchmark evaluation can be
15 done; whether or not there's any factual data that can
16 support it. And it becomes a real interesting
17 scenario we are going to be moving into. It's more
18 applicable to FPL, perhaps, than any other utility
19 today. But I don't know where we are going to be next
20 year or the year after that.

21 I'm sorry. Go ahead.

22 **MR. LAUX:** Jim, I'm confused by that
23 statement. Can you clarify a little bit what it
24 means?

25 **MR. BREMAN:** Sure. I'll say it this way: I

1 don't know what FPL's base rates address. And in the
2 case where there is no rate case, then there is no
3 test year.

4 **MR. LAUX:** Is it safe -- not to argue FPL's
5 case -- but is it safe to assume that these projects
6 that we would be bringing in for environmental cost
7 recovery, since you don't know what FPL's base rates
8 address, I'm assuming you're basing that on since it
9 was such a long time ago that you're not exactly sure
10 what was in those projects and not in those projects.
11 It's pretty clear that these projects are going to be
12 new.

13 **MR. BREMAN:** Well, it's just a new era. We
14 have a stipulation. It's very hard to define what is
15 in a stipulation. It's very hard to define what those
16 agreed upon rates address. And whatever definition is
17 being used that a new project is legally required, I'm
18 beginning to become concerned that our old definition,
19 our old benchmark in the 0044 order is applicable to
20 some utility but it may not be applicable to all.
21 It's just a question I have.

22 **MS. TEW:** We're going to come into a lot
23 more detail in the second part of the presentation, I
24 think, today; second part of the workshop.

25 **MR. BREMAN:** I'll just be quiet. I said I

1 interjected.

2 **MS. TEW:** That's fine.

3 **MR. LAUX:** Your suggestion is that the
4 Commission may be changing its benchmark on how it
5 evaluates these projects.

6 **MR. BREMAN:** It's an idea. Whether or not
7 it's valid we'll find out.

8 **MS. TEW:** We're willing to think outside the
9 box. Right, Jim?

10 **MR. BREMAN:** Absolutely. (Laughter)

11 **MS. TEW:** That was evil. I'm sorry.

12 The second criteria, proposed new projects
13 are not recorded through some other cost recovery
14 mechanism or through base rates. I'm not going to go
15 into this now because this is going to be adequately
16 covered, I believe, in the second part of the
17 workshops.

18 **MS. SICKEL:** That's going to be addressed
19 for sure.

20 **MS. TEW:** So we'll postpone that.

21 The third is the proposed new project is the
22 most cost-effective option for compliance.

23 I think here what we're looking for is some
24 kind of list of compliance alternatives considered,
25 the estimated cost of those alternatives and the

1 reasons why the requested project is one that was
2 chosen out of those alternatives. Whether or not
3 that's because it was the most cost-effective or
4 because it was the only viable option that you had. I
5 mean, that has been the case at times, the
6 requirements were so specific that it basically called
7 for an exact type of project.

8 So we're just looking for a little better
9 explanation of that. Even though this has not been
10 one that was listed in the 0044 Order as being a
11 criteria for recovery, we always try to look for the
12 most cost-effective options in just everything we do
13 here. So in our minds that really is a criteria. We
14 want to point that out.

15 The fourth criteria that's listed there is
16 all costs of the proposed new project are projected
17 costs.

18 I guess here what we're looking for is that
19 the company's projection of the cost should be
20 included in a filing and some kind of explanation of
21 how that estimate was derived. It should include some
22 kind of detailed breakdown of that amount. Specify
23 whether the project is capital or O&M; how much labor
24 is involved.

25 We have an example, and this is a TECO

1 example. I'll let Jim pass those out and kind of go
2 through that. So we received this information through
3 TECO through deposition and it's exactly the type of
4 information we're looking for in the original filing
5 for a new project request. I think Jim will take you
6 through each of the pages just to kind of point out
7 some things.

8 **MR. BREMAN:** The summary schedule that
9 Katrina was reviewing, and possible changes, TECO has
10 those ID numbers up there, the G-3277, W-32, those are
11 identification numbers and an example of what Katrina
12 was talking about. The description and scope, there
13 again if you take that language that's right there and
14 drop it into the schedule, that's a perfect example of
15 what she's looking for in those schedules. Project
16 status. Schedule of information, gives a time line of
17 when the expenditures are expected to be incurred.
18 Project scope approval. This is a wonderful document.
19 In total what it shows is what the company reviewed,
20 on the first page, summary statement; second page is
21 the green diagram which a lot of people don't
22 understand.

23 **MS. TEW:** Jim loves them.

24 **MR. BREMAN:** I love them.

25 The next document is an Internal Production

1 of Documents that indicates communications going on
2 between several levels of management and shows
3 components of what the costs are, the major ones;
4 what's going to happen where and what accounts to look
5 for. I think this is a wonderful document that
6 explains all -- here's the history on the following
7 page, Page 502. It talks about how the company came
8 to the decision that it was coming to; what the
9 problems were. It tells what the company is going to
10 have to go through in order to achieve installation.

11 And then on 504, this is stylized for the
12 company -- I'm sure each one of the companies has
13 similar type documents inside -- showing the entire
14 review process, the initials, the dates they were
15 signed. What type of expenditures you're going to
16 see. What kind of retirements you're going to see.
17 Whether or not it's budgeted, nonbudgeted, deferred,
18 nondeferral; all of that.

19 And Projection Justification on 505, it's
20 really nice. I like seeing that word because that's
21 what this document tends to do; it tends to justify
22 the project. This whole composite document tends to
23 justify the project.

24 **MS. TEW:** We'd like to see this type of
25 information included in the original filing. We think

1 that would be much more helpful than going through
2 lengthy depositions to get to this kind of information
3 that could have been provided up front.

4 **MR. BREMAN:** We've seen similar documents
5 from FPL, Tampa Electric -- this is Tampa Electric and
6 Gulf Power. And I think it's a good idea to let you
7 all know the type of document that we recognize and
8 respond to. We're not asking you to create a
9 document. This is a production of documents. This is
10 a document internal to the company. This is the style
11 and the content.

12 **MS. TEW:** Does anyone have any comments on
13 that?

14 **MR. LAUX:** We think it's wonderful.

15 **MR. CHILDS:** Did they allow any costs?

16 (Laughter)

17 **MR. LAUX:** No. (Laughter)

18 **MR. BREMAN:** Actually we did; we allowed
19 some.

20 **MR. CHILDS:** Can I ask a question about your
21 use of the word -- on the 2B1D, which says "all costs
22 are projected costs."

23 **MS. TEW:** Yes.

24 **MR. CHILDS:** Does that mean -- I mean, if
25 we're filing once year take that if you have a project

1 that is not anticipated when you made your prior
2 annual filing, that you now either can't get it, if it
3 starts too early or that you need to have an interim
4 filing.

5 **MS. TEW:** Actually that's a great segue into
6 what we're going to do next.

7 **MR. CHILDS:** Well, we just rehearsed it a
8 little bit. I didn't know any answer. (Laughter)

9 **MS. TEW:** In the next part we were going to
10 talk about the timing of filing new project petitions
11 or testimony, and the first thing I wanted to talk
12 about was a separate petition for recovery of a new
13 project. And Gulf has done that, got an example, got
14 a Gulf example now.

15 **MR. BREMAN:** Because of the size of the
16 filing we made only four copies. I believe Roger is
17 going to get one. (Laughter)

18 **MR. HOWE:** I hope I've already got one.

19 **MR. BREMAN:** Here's one for Tampa Electric;
20 one for FPL.

21 **MR. VICK:** Which filing was it that we
22 filed?

23 **MR. BREMAN:** Most recent petition.

24 (Simultaneous conversation.)

25 **MS. TEW:** We're not going to go through this

1 one page by page like we did with the TECO. This one
2 is going to be before the Commission soon so we're not
3 going to go into it in detail. But it is a good
4 example of a company sort of filing in the middle.

5 We understand that a company is going to
6 find it necessary from time to time to meet a new
7 environmental requirement on short notice. There's
8 going to be some kind of directive or something that
9 will come from EPA saying you have to do something by
10 this date. And it may be that we have just calculated
11 the factors for the upcoming calendar year and that
12 this new project will have to be started within that
13 next calendar year. Obviously, the factors didn't
14 include that new project, but something has got to be
15 done obviously.

16 So what Gulf has done in this example is
17 they came in -- I believe it was December of '98 and
18 requested recovery of this new project. And it's not
19 a project that's big enough that will affect the
20 factors so they're not asking for a midcourse
21 correction, which is also an option. But they are
22 basically letting us know what the project is and
23 letting us have our initial review of the project to
24 see if it's something appropriate for recovery through
25 the clause before they put it in the true-up filing.

1 So it won't be included in the original projections.
2 And it will end up in the true-up. I think that
3 answers what you're talking about, Matt; if approved,
4 it will end up in the true-up. Jim is good -- keeping
5 me straight.

6 **MR. CHILDS:** But the point is you'd rather
7 see it in a filing that was, I guess, more timely than
8 in the true-up filing.

9 **MS. TEW:** Right. Whenever you first find
10 out about the project and you can put something
11 together for our review, we would rather see it then.
12 And what we have done -- I believe the first time Gulf
13 did one of these filings it was filed under the 07
14 docket number and we had it spun off into a separate
15 docket so we could go PAA on it. And TECO even did
16 something similar with a scrubber docket and we spun
17 that off too.

18 **MR. BREMAN:** Makes the hearing at the end of
19 the year more efficient.

20 **MS. TEW:** Basically what we can do is refer
21 back to whatever order comes out of the PAA
22 proceeding, or if it's a hearing, we can refer to the
23 final order in that docket as it was in the TECO
24 scrubber case.

25 **MS. KUMMER:** So you do not want them to file

1 under the 0007?

2 MS. TEW: It would probably be better not
3 to, but whenever you have a separate one like that, it
4 would probably be better not to put the 07 docket
5 number on there. I think the second time Gulf came in
6 like that they didn't do that so that it would just go
7 ahead -- the first time we had to go through the
8 process of asking for a new docket number and spinning
9 it off, whereas whenever they filed it without the
10 docket number on it, it was assigned by Records and
11 Reporting a new docket number. So it probably does
12 make it cleaner to do it that way.

13 We would prefer to see that kind of
14 information as soon as you have it and let us know
15 what the project entails. Because like I said, these
16 new projects is where we spend most of our time
17 gathering discovery and trying to find out more
18 information. As soon as we can get into that, it
19 makes things a whole lot easier, I think, on both
20 sides.

21 Does anyone --

22 MR. LAUX: I guess I'm somewhat confused. I
23 seem to remember one of the overall objectives of
24 going to annualized filings was to be able to condense
25 all of the hearing time so you only have one hearing

1 and things like that. Now it sounds like what I'm
2 hearing is you want us to file, depending on when the
3 projects come up, regardless of the time frame of the
4 future hearing, that whenever it's jelled to come --
5 and that doesn't seem to fit with the overall
6 objective, I thought, of going to annualized filings.

7 **MS. TEW:** If you hear word from EPA in
8 June -- June '98 that you're going to have to do
9 something in '99, calendar year '99, then that would
10 be something you would include in your October
11 projection filing because your costs are going to be
12 incurred in '99.

13 **MR. LAUX:** I'm trying to figure out what
14 objective are we trying to satisfy here? The last
15 thing that is listed, that all costs be projected
16 or --

17 **MS. TEW:** That's --

18 **MR. BREMAN:** When you have a new project,
19 your costs will be projected, number one. Number two,
20 new projects are, obviously, three-quarters of our
21 discovery time, somewhere in that neighbor. The other
22 part has to do with procedural stuff and bearing
23 review and expiration of variance schedules. It's
24 more efficient that when we have a project that
25 comes -- that you all have a project that comes up,

1 that you know you're going to be asking cost recovery
2 for, that you go ahead and file for it in that fashion
3 so the material can be provided and the issue totally
4 resolved -- more than likely totally resolved, unless
5 there's a dispute, prior to the hearing. So,
6 essentially, it's a stipulated issue.

7 **MR. BEASLEY:** But you're not contemplating a
8 separate hearing on approval of the program itself,
9 are you?

10 **MR. LAUX:** That's what I'm hearing.

11 **MS. TEW:** No -- well, it depends.

12 **MR. LAUX:** There isn't a depends.

13 **MS. TEW:** Well, as you know in your case
14 whenever you came in for the scrubber we found it
15 necessary to have a hearing in that process because it
16 was very -- much more contentious issue.

17 **MR. LAUX:** But the bottom line is that
18 regardless of the detail of the filing, it will go in
19 as a PAA, and if any party decides to protest it, it's
20 going to hearing. That hearing is not necessarily
21 going to be scheduled as a 07. You already told us it
22 isn't going to be that. So potentially for every
23 project you file throughout the year, you potentially
24 have a hearing you're going to have to deal with.

25 **MS. TEW:** I suppose it would even be

1 necessary to file it as separate petition. And then
2 if it were protested, to be included somehow in the
3 next 07 hearing.

4 **MR. CHILDS:** Why don't you do it in 07?
5 What's wrong with filing it in 07?

6 **MS. TEW:** Essentially, like with this
7 example, it will end up 07.

8 **MR. BEASLEY:** You could do a notice
9 filing -- if you do a petition, it almost
10 automatically winds up going to a hearing, I mean,
11 most of the time. But if you did a notice filing,
12 then you could do your discovery; get a heads up that
13 it's going to be coming up in the true-up period.

14 **MR. BREMAN:** I think we've done at least one
15 project for FPL in recent history. We went PAA and it
16 was approved.

17 **MR. LAUX:** Roger, how did you let that go
18 by?

19 **MR. BREMAN:** I think we've done it for Gulf
20 Power at least once.

21 (Simultaneous conversation.)

22 **MR. CHILDS:** I don't know that it has to go
23 to hearing. The reason I asked the question about why
24 is the filing not in 07, is that if it's in 07, then
25 everybody that's a party, like Public Counsel and

1 others who are potentially following that issue of
2 environmental costs, are going to get a copy of the
3 filing. Where if you do it in a new docket, then you
4 have to start all over again.

5 **MS. TEW:** What we did when Gulf first came
6 in the first time with another project it was a -- **
7 low-nox burner additions of some sort. What we did
8 when we spun it off, we made the people that were
9 parties to the 07 docket parties to that spin-off
10 docket. I suppose it doesn't always have to be true
11 but I believe when you file the petition you can list
12 who the interested parties were, and it would stand to
13 reason that you would list OPC, FIPUG, and the other
14 interested -- LEAF.

15 **MS. McLELLAN:** We have quite a bit of
16 trouble of getting documents from TECO's scrubber
17 project because for some reason they didn't put FPL on
18 the service notice.

19 **MR. LAUX:** All you had to do was call and I
20 would have sent them to you.

21 **MS. PAUGH:** If I could interject at this
22 point, frankly, this is new to me. I haven't had a
23 chance to discuss it with Staff and I'd like to be
24 able to do that so don't consider this etched in
25 stone. I think we need to go over our direction in

1 this.

2 **MR. BREMAN:** The issues, as Mr. Childs
3 pointed out, was whether or not to file it under 07 or
4 under a docket number. Is that the one you're looking
5 into?

6 **MS. PAUGH:** Yes.

7 **MS. TEW:** It may be that the best thing is
8 to file the 07 --

9 **MR. BEASLEY:** That would give you all the
10 discretion whether you want --

11 **MR. CHILDS:** If you want to spin it out then
12 you can. But there's a central -- it just seems to us
13 there's a central spot where it goes.

14 **MS. TEW:** I guess we see -- well, that may
15 be the best thing to do. This is why we're having the
16 workshop, to get at these kind of answers.

17 **MS. RITENOUR:** Can you still do a PAA
18 decision on it if you file it in the 07.

19 **MS. TEW:** I guess if you filed it in 07 and
20 you spin it out like we did the last time, we could.

21 (Simultaneous conversation.)

22 **MS. KUMMER:** What's the issue with spinning
23 it out?

24 **MR. BREMAN:** The question is: If the
25 company files -- like, for example, Gulf Power's

1 current petition to the Commission, if it had been
2 filed under 07, could Staff come with a recommendation
3 they are supposed to file the 8th under the 07 docket
4 looking for a PAA order or decision?

5 **MS. PAUGH:** No.

6 **MR. CHILDS:** You could not. Why not?

7 **MS. PAUGH:** 07 is set up as formal
8 proceedings. I would think we would have to spin it
9 out first.

10 **MS. TEW:** See, in the first instance, when
11 Gulf came in --

12 **MR. CHILDS:** It's the end result no matter
13 what you do.

14 **MS. TEW:** -- it had the 07 --

15 **MR. LAUX:** Let's go back to going to
16 annualized --

17 **MS. TEW:** -- and we spun it out and then
18 went PAA. The second time they didn't put the 07
19 number on there. They petitioned for it as an
20 environmental project and we all understood that it
21 would be, essentially, if it were approved, it would
22 be essentially rolled into the ECRC hearing process.
23 That's the way we essentially did it the last time.
24 We had the PAA order in a separate docket, but then
25 whenever the next hearing came up, we recognized that

1 that was part of that true-up that was associated with
2 the new project that we had approved through a
3 spin-off docket. So we essentially see them all
4 eventually coming into the ECRC hearing process.

5 **MR. BREMAN:** The end result is every
6 petition, whether it is PAA or hearing, ends up being
7 spun out unless it's filed -- and the timing of the
8 new project coming before the Commission, or to you
9 all or whatever, is that it matches with the hearing
10 time already set for 07.

11 **MS. KUMMER:** I think that Leslie is right.
12 We probably need to table this and talk about it
13 because it sounds like it's an internal procedure
14 problem.

15 **MS. TEW:** That's probably my fault. I
16 should have probably talked to Leslie more about that
17 to start with. I saw it from my standpoint. It was,
18 to me, it seemed to work easier the second time,
19 because we didn't have to go through the motions of
20 spinning it off and, you know, changing the docket
21 numbers. It was a little bit confusing on some of the
22 dockets. We had to go through, you know, change it
23 from 07 to the separate number. To me worked better
24 this time for it to be filed separately. And I guess
25 I always intended it would come in the 07 docket. But

1 I hadn't thought of the problem of the other
2 interested parties getting all of the documents.

3 **MS. KUMMER:** This isn't something that needs
4 to be addressed right away, is it?

5 **MR. CHILDS:** Unless you have an emergency
6 program. (Laughter)

7 **MS. TEW:** The main point is that we do
8 recognize that there's going to be times when you're
9 going to have projects come up like that that you
10 couldn't have possibly included in the filing for
11 October to set the factors for the next calendar year.
12 And sometimes there may be a need for a midcourse
13 correction. We haven't had that yet, but I definitely
14 see that as a possibility, depending on the cost of
15 the project.

16 The other thing we wanted to talk about was
17 filing new project testimony early. There was an
18 issue in the last hearing, I believe it was worded
19 whether or not it would be appropriate to file three
20 months earlier if you had new projects; the new
21 project part of the testimony.

22 We're not talking about the entire filing
23 that you would file in October normally. We're saying
24 after a new project request, since that's where we
25 spend most of our time and discovery, and because we

1 have had such a short period for discovery in the
2 past -- it looks like that's going to be continued in
3 the future -- but if you know about a new project
4 request, that you can file the information associated
5 with that new project early. It would be part of the
6 07, can file it as part of the 07, and it would simply
7 be filing the same information a little bit earlier.
8 And then the bulk of your filing, or the projection
9 schedules and all of that, would be filed at the
10 regular October time frame. Is that confusing?

11 **MR. CHILDS:** You file it July?

12 **MR. LAUX:** What would you file in July?

13 That's what my confusion is.

14 **MS. TEW:** In July.

15 **MR. LAUX:** You suggested that we -- for each
16 new project we file we should follow some type of a
17 minimum filing requirement format, which has a got a
18 lot of information in it. But is that what you want
19 to see for every new forecasted project that will go
20 into the next filing?

21 **MS. TEW:** We do want to establish minimum
22 filing requirements for each one, but -- there is some
23 kind of crossover between the schedules. The first
24 part of this presentation I went through the schedule
25 changes. Yet there's a lot of information you can put

1 on 5P associated with the new project. But if, for
2 instance, the October filing is coming up, you know
3 you're going to be asking for three new projects in
4 that October filing, if you can possibly file that
5 kind of information with us early so we can start
6 doing the discovery on it, that's where we're running
7 into the problem. We have a lot -- for instance, I
8 believe TECO had nine new projects the last time. It
9 is just very difficult to go to try to schedule
10 depositions or even -- I don't believe we even had
11 time to get out a formal set of interrogatories that
12 last time.

13 **MS. KUMMER:** Katrina, what you really need
14 is 5P and the testimony supporting the 5P.

15 **MS. TEW:** Testimony supporting the 5P.

16 **MR. LAUX:** Yes and no. You're now talking
17 about a potential project that I may not start within
18 a 15-month period from the time that you're filing
19 this information.

20 **MR. BREMAN:** The difference is whether or
21 not you're going to file the testimony -- what's the
22 CASR say that the company's projections are do this
23 year?

24 **MS. TEW:** October 1st.

25 **MR. BREMAN:** October 1st. For a hearing

1 that's almost a little more than a month later, that
2 is boarder line ridiculous.

3 **MR. LAUX:** Well, I'm not going to argue the
4 sanity of the schedule, I mean --

5 **MR. BREMAN:** And that's what we're talking
6 about. We're just talking about taking that filing
7 date and moving --

8 **MR. LAUX:** I argued the sanity of a
9 scheduling and going to annualized fuel adjustment.
10 That was rejected by this Commission. So you all have
11 to sit down and live with that. You can't change the
12 horse now mid-stream, I believe. You all thought that
13 was appropriate; you went through it and that's what
14 was changed.

15 What I'm trying to figure out is what are
16 the expectations of the Staff in this early filing?
17 What -- the kind of the information that you're asking
18 for in this filing and the depth of it. How much are
19 you really looking for?

20 **MS. TEW:** We're not talking about the
21 complete set of schedules. We're basically talking
22 about witness testimony that explains what the new
23 project is.

24 **MR. LAUX:** What testimony do you believe
25 this witness is going to testify to?

1 **MR. BREMAN:** You have an example of it
2 already, Mark.

3 **MR. LAUX:** I know. We went through -- I
4 know the difficulty of going through this process and
5 then -- because we just went through this. I was on
6 the other side of what you're asking for. The types
7 of questions that the Staff was asking for as to
8 the -- how should I say this? How solid are these
9 numbers in this thing? And how can we justify these
10 things? You're now talking about me forecasting what
11 the weather is going to look like two years out
12 almost; 18 months out. And whether or not that was an
13 appropriate forecast or not. How solid are those
14 numbers? And you're moving that hurdle further and
15 further back to where we're really talking about true
16 out and out forecasts on some of these things.

17 **MR. BREMAN:** Well, it's either that or just
18 defer decision from October to some future date when
19 discovery is finally produced, Mark. It's basically
20 one or the other.

21 **MS. TEW:** See, we saw that it really is --

22 **MR. LAUX:** Now I'm going to go back to being
23 confused again. I believe that from what I
24 understand, the Commission laid all of these schedules
25 out in going to an annualized plan with a schedule to

1 it and they found that to be appropriate. Now I'm
2 hearing that you're saying maybe that isn't
3 appropriate; that you don't have the time to do
4 things. I'm not exactly sure what went on the last
5 time. I'm not going to argue that decision. I'm just
6 saying you decided -- the Commission decided that
7 schedule was appropriate. Now I'm trying to figure
8 out what types of standards you want to hold us to to
9 be able to work within that other time frame.

10 **MS. TEW:** Well, there are a lot of
11 differences in the fuel and the environmental
12 proceedings. Even though we wanted the hearings at
13 the same time, there's a lot of differences in the way
14 we conduct our discovery process and the way fuel does
15 because ours are so centered around new project
16 requests.

17 **MR. LAUX:** I agree.

18 **MS. TEW:** And we have to basically find
19 everything out about that new project and do a lot of
20 discovery on that, and we have basically no time to
21 get interrogatories and things out like we had in the
22 past. It's either move the entire filing up -- which
23 we didn't feel like was a good idea because as we
24 understand it, that it takes a lot of effort to put
25 those filings together with all those schedules and

1 all those numbers to make those things up -- or simply
2 try to get some of the information on the new project
3 request; only the new project request a little bit
4 earlier so that we can start discovery on those things
5 so we can not have everything at once.

6 **MS. RITENOUR:** I see two things on this.
7 First of all, things that we know about, filing early
8 is probably not that big of a problem recognizing the
9 fact that the change of the law in October, there may
10 be something that comes up that we didn't know about
11 in July that we know about by October.

12 **MR. BREMAN:** That's totally rational.

13 **MS. RITENOUR:** Secondly, in terms of filing
14 that early -- and some of the concerns that Mark
15 mentioned, about how far ahead you're projecting, I
16 would assume and hope that what we could do is to the
17 extent that by October, when we file all of our
18 numbers, we fine-tune them from what we told you they
19 would be in July, you know. Say we know more
20 information in October when we file the actual
21 projection, I would intend to update those numbers
22 from the testimony that we gave you in July, if that
23 three months made a difference.

24 **MS. TEW:** That makes sense. I guess what I
25 see it as is sort of like your petition that we have

1 now, you made a project cost estimate. You didn't
2 file the lengthy detailed schedules --

3 **MS. RITENOUR:** Didn't file the AP, for
4 example.

5 **MS. TEW:** Right. You filed something about
6 that particular project that kind of gives you an idea
7 of what the project cost estimate is, but, true,
8 whenever you filed the October filing, you could have
9 those revised because you have more detailed
10 information now. And it's also true you may have a
11 project that comes up so close to the October filing
12 that you couldn't have possibly really given us
13 anything early. So it's basically where possible.

14 **MR. CHILDS:** Would you think about an
15 alternative there? In other words --

16 **MS. TEW:** Sure.

17 **MR. CHILDS:** -- rather than necessarily
18 filing the testimony, that if there's a form -- as to
19 what -- the programs -- because some of the
20 problems -- and maybe it can be done, but some of the
21 problems are going through the process of preparing
22 the testimony and getting that done and it can be
23 time-consuming. And if you get a heads up with a
24 basic detail and a form that maybe gives you a way to
25 start it might work out better for everybody.

1 **MR. BREMAN:** I'm going to try to be the
2 devil's advocate here.

3 If I understand Katrina, what she's asking
4 for is essentially the project justification so that
5 Staff can do its discovery in less than a month -- if
6 the company has the data before October.

7 Mark was holding up TECO's project, internal
8 project document. That, like I said earlier, is
9 project justification. And if that is attached as
10 some sort of document or sent to the Commission in
11 correspondence, or whatever it is you all file under a
12 petition, I assume that's what Katrina is looking for.
13 Because it's filed under docket cover; it'll be part
14 of the record of the docket.

15 I think that's what she's looking at. I
16 don't think she's looking for the complete calculation
17 of the forecasted project for the next year, nor the
18 true-up calculation, nor the actuals. The actuals are
19 already terminated by then as well, so it's not an
20 issue. I'm only talking about projected cost anyway.
21 I think Mark is right when he's suggesting that
22 document is what Katrina is looking for.

23 **MR. STONE:** You're not necessarily looking
24 for testimony per se, you're looking for justification
25 of the project.

1 **MS. TEW:** True. It doesn't have to be.
2 True. It doesn't have to be Witness X; this is a
3 great project.

4 **MR. CHILDS:** As an illustration, what I'm
5 trying to describe is a situation where you see the
6 evaluation of the project goes through a process
7 internally at the company. You may know you have to
8 comply with the law or a regulation, you're just not
9 sure how, how much it's going to cost, what your
10 schedule is. And that's something that you're working
11 on as you go through time. We may be able to say
12 we're going to have to do this. We have a pretty good
13 idea. But we're not far enough along to file the
14 commitment yet. So if we can file something less than
15 that.

16 **MR. LAUX:** That gets to the second half of
17 the depth of the information that you will see on some
18 of these.

19 **MR. BREMAN:** Sure. The truth is whatever it
20 is. Just don't wait until October to show it. I
21 think that's what Katrina is asking for.

22 **MR. LAUX:** Part of the difficulty, when we
23 went through this last time, was on some of those
24 numbers they are very, very soft numbers. And we
25 were -- went through a whole series of questions. And

1 there was some question on the Staff's part of how
2 much due diligence had we done before we actually came
3 in for the project. I'm not exactly sure how to
4 answer that. You know, you start moving the time
5 frames back, I can't tell you what those dollars are
6 actually going to look like.

7 Part of one we were trying to respond to
8 that we knew was a criteria that was changing, we knew
9 it was going to change, and we had to meet it at a
10 certain date, but the actual criteria hadn't been
11 formed yet.

12 **MR. STONE:** If I understand what Staff is
13 after, you're not asking us to change our internal
14 processes so much as just take a look at where we are
15 in July, and if there's something we know we're going
16 to put in the October filing, to give you a heads up
17 about it; and give you as much detail as we have at
18 that time.

19 **MS. TEW:** Right. And I'm not -- I kind of
20 pulled July out of the air. It could be August.

21 **MR. CHILDS:** Hey, getting better now.

22 **MR. LAUX:** I'll vote September. (Laughter)

23 **MR. STONE:** If there's things you know
24 you're going to be asking for that's going to have
25 projected dollars in the next recovery period, give us

1 a notice of intent, or something along those lines,
2 that gives you what we know at that point. And then
3 we still go on with our process of trying to identify
4 projects and set up budgets and do all of those
5 things. So you're not asking us to change the
6 internal process so much as just to give you a
7 snapshot of where we are at that point in time.

8 **MS. TEW:** Right. It can be very soft
9 numbers. We're just looking for something --
10 essentially in the depositions last time, we spent a
11 lot of time just getting our hands around what the
12 project actually was. I mean, it takes us a while to
13 sit down and say this is the environmental
14 requirement, this is what they need to do. Just
15 understanding -- some of these projects are very
16 detailed. Some of them refer to several different
17 environmental laws and regulations, and we spend a lot
18 of time just going through what is the project.

19 **MR. BREMAN:** This type of document shortens
20 Staff's learning curve.

21 **MR. STONE:** One model I'm thinking of that
22 may be useful for us, when Gulf wanted to move to an
23 annual capacity cost recovery clause, we filed a
24 Notice of Intent to seek that kind of recovery ahead
25 of the testimony deadline, just to put everybody on

1 notice that that's what we intended to do. I think
2 that's sort of where your are coming from. I can
3 envision that the notice would include some of that
4 type of documentation to the extent it exists at that
5 point.

6 (Simultaneous conversation.)

7 **MR. BREMAN:** Very much like you all's
8 current petition, that it attached correspondence and
9 documentation between you and the environmental
10 regulator.

11 **MR. STONE:** I concur in that. But the idea
12 of formalizing it in testimony at that stage of the
13 game may be premature.

14 **MR. CHILDS:** I agree.

15 **MS. TEW:** Essentially, the inference is to
16 get the information. It doesn't have to be attached
17 to witness testimony. If it's some kind of document
18 with information -- document letting us know Gulf,
19 TECO or FPL is expecting to include this project in
20 the upcoming cost recovery clause hearings, and they
21 just wanted to go ahead and give us a heads up, this
22 is the kind the project entails; here's a rough
23 estimate of the cost, then we can go ahead and --

24 **MR. BREMAN:** If you have a good one, use the
25 good one.

1 **MS. RITENOUR:** Yeah.

2 **MS. TEW:** If you have a good one.

3 (Simultaneous conversation.) It gives us
4 something to start the discovery process on. I don't
5 think anyone -- and you can correct me if I'm wrong,
6 but I don't think anyone liked what we went through
7 last time, especially not Leslie.

8 **MR. STONE:** Well, but I also think last time
9 was a little artificial because we were making the
10 transition in between recovery cycles. I don't think
11 that's a fair gauge of what we would expect to have --

12 **MS. TEW:** That's true. But the time periods
13 we have, they are going to be -- it looks like they
14 are going to be maintained into the future, the
15 October to November 15th or something. You know, it's
16 just really hard. When you have to give 35 days for
17 turnaround time, we have to get the petition, look
18 over it, write questions, get them out and get them
19 back and we didn't even have the 35 days last time.

20 **MS. KUMMER:** What's the likelihood of
21 getting the schedule changed?

22 **MS. PAUGH:** I attempted to do that and I was
23 flatly turned down.

24 **MR. STONE:** Well, I think there's problems
25 with changing the schedule because that would entail a

1 change in internal processes in terms of budgeting.
2 And that would be a big problem -- I think it would be
3 a big problem for us and I suspect it would be for the
4 other companies. And I think that's why the schedule
5 is what it is. But to the extent we can give you
6 heads up on things we know are coming down the pike,
7 that's a different animal all together.

8 **MS. TEW:** If the time of the October filing
9 comes and there's a new project you have to include in
10 there we haven't heard about before, you know -- Jim
11 says not to make a habit of it.

12 **MR. VICK:** Jim, one of the problems I see
13 that's a little bit of a problem --

14 **THE REPORTER:** I'm sorry, could I have your
15 name?

16 **MR. VICK:** Jim Vick, Gulf Power -- is that
17 if we're submitting some of this information to you
18 earlier, then when we've got a lot more information,
19 say, a month or two down the road, it seems like
20 you're going to increase your discovery a whole lot
21 more than if I could wait the two months, get you some
22 additional information, such as a document like this
23 where it eliminated a lot of the discovery because a
24 lot of it is already in here.

25 And if we're just giving you a heads up, you

1 know, and that's it, you're going to be looking for
2 all sorts of discovery. But if you're able to put
3 together a pretty comprehensive document, you know,
4 that's one thing. You know, a lot of detail, a lot of
5 what I would call not soft numbers -- then you've
6 eliminated a lot of the discovery. But this may
7 actually increase your discovery.

8 **MS. RITENOUR:** My thought on that as we're
9 sitting here talking is what I would intend to file in
10 July or August, whenever we gave this information,
11 would be an indication to you of how final it is.
12 Like we may know all of that in July on some things,
13 Jim, and on other things we may know in July that
14 we'll know more in September, you know, what I'm
15 saying?

16 What I would tell you what I filed in July
17 or August or whatever is, "Here's the information.
18 Here's how firm I think it is." Or "Here's what I
19 know now. I expect to have some permit back from DEP
20 in the next month or two and I'll know more then." I
21 would tell you that when I filed to alleviate the very
22 thing that Jim is talking about.

23 **MR. BREMAN:** And what we have as an example
24 of that is the petition here; we have two: TECO's and
25 Gulf's.

1 Gulf filed something in December. We sent
2 out discovery -- for all practical purposes we'll say
3 that's the thing that the company sends to us in July
4 or late July. And Staff responds to it. The numbers
5 in that petition had a degree of softness. That
6 changed in the discovery. That changed by the time
7 the hearing occurred. The truth is whatever it is,
8 and we go forward with it. You know, that's all we're
9 asking.

10 MS. RITENOUR: I'm saying we'll tell you how
11 solid or how firm that is at that time, you know, and
12 that would give you one more piece of information and
13 maybe save you some of that extra work that he's
14 talking about.

15 MR. STONE: Hopefully what we're asking is
16 that we get to a point -- the fact we give you heads
17 up doesn't send a flood of interrogatories. If we
18 tell you in a heads up we'll know more in a month from
19 now, that's when the interrogatories ought to start.

20 MR. BREMAN: I think we offset you five.
21 (Laughter)

22 MS. RITENOUR: All right. But I'm saying
23 you would send them on a timely basis if we give you
24 that information of when is a good time to ask.

25 (Laughter)

1 I'm saying this would be helpful to them,
2 too, and us.

3 MS. TEW: For instance, if you tell us in a
4 month that you're going to have --

5 MS. RITENOUR: Yeah. That's what I'm
6 saying.

7 MS. TEW: -- we wouldn't waste time sending
8 out an interrogatory.

9 MS. RITENOUR: It would help you and us.

10 MS. TEW: -- ask you a question that you
11 tell us you would provide us in a month.

12 MS. RITENOUR: Right. That's fine. Make my
13 job easier.

14 MS. TEW: It even helps us in just kind of
15 determining a rough number of how many projects we're
16 going to be dealing with in the upcoming year. And,
17 you know, we had just so many new projects this year.
18 Remember, we had what, 20-something issues or
19 something. We can handle what we have to handle, but
20 it would help out, I think -- and we feel like it
21 would help out both -- all sides. Everyone has a
22 better idea of what we're getting into ahead of time
23 instead of October, we've got 12 new projects we're
24 trying to deal with at one time. Even scheduling
25 depositions is hard in that kind of time frame. But

1 we'll do what we have to do.

2 **MR. LAUX:** We all do that. The question
3 here is more of expectation. What is the Staff
4 expecting to see? And what are you trying to solve by
5 this early filing? And if it's just a time frame-type
6 thing, that's one thing. If you're trying to actually
7 have information to be able to sit down and do a
8 thorough analysis or an evaluation on a project,
9 that's going to be more project-by-project dependent.
10 You may have that information early; you may not. And
11 from what I understand, from a earlier one, is that if
12 we come up with this information, we're supposed to
13 file it as soon as we're ready to file it if we're in
14 between a filing. So in one sense I'm not exactly
15 sure what you're solving here.

16 **MS. TEW:** It is aimed at all costs need to
17 be projected. In fact, that comes from the Staff --
18 the costs requested for recovery are supposed to be
19 projected. Let me see if I can find in here where it
20 is. (Pause) Yes. It's under No. 2 in the statute.
21 "An electric utility may submit to the Commission a
22 petition describing the utility's proposed
23 environmental activities and projected environmental
24 compliance cost."

25 If a project kind of springs up after you

1 filed your October projection filing, you decide that
2 as in the Gulf case, you're going to have to be
3 incurring dollars for this project into calendar year
4 '99, even though the factors have already been set,
5 you should let us know ahead of time so you can sort
6 of project -- you can project those dollars then
7 instead of waiting and including them in the true-up
8 when they are already actual costs. And then you're
9 telling us, "Well, we incurred all of these costs and
10 we're expecting recovery of these now," without us
11 doing any kind of an analysis ahead of time to see if
12 that project should be really included.

13 **MR. BREMAN:** Mark, what we're trying to do
14 is to the extent possible and reasonable -- because it
15 is a case-by-case basis -- is resolve whether or not
16 of the proposed new project -- and, again, it's only
17 the new projects -- are appropriate for the ECRC
18 clause. Recovery clause. That's what we're trying to
19 almost bifurcate, if at all possible, under whatever
20 scenarios you come up with. And it shortens the
21 frustration time at the hearing.

22 **MR. LAUX:** So the whole extent is whether or
23 not the project is eligible. It is not how much the
24 project cost, what that project -- basically the scope
25 of that project. It's just whether or not it should

1 be eligible under this criteria.

2 Part of the criteria says what are your
3 projected costs? Now, the projected cost then goes
4 into -- and also you have in there the
5 cost-effectiveness. A lot of people there will sit
6 down and say, "Well, this number, you know, there is
7 another technology out there that is -- we believe is
8 this much," and now you're into an argument about the
9 numbers and how solid are those numbers? How much
10 will they vary? And occasionally some people will
11 say, "Okay, since you guys said this is the best
12 alternative for you to do at this point, we'll cap how
13 much you can expend on this at the price you used in
14 that calculation of cost-effectiveness." And you're
15 starting off with a number that's soft to begin with
16 because you're doing it way in advance. There's a lot
17 of risk in heading down this particular path. If all
18 you're looking --

19 MS. TEW: I don't see that the dollars are
20 ever capped like that.

21 MR. BREMAN: The distinction that you're
22 making has to do with setting the ECRC factors for a
23 projected period, yet the company recovers the actual
24 cost of projects that are approved for ECRC recovery.
25 To date, to my knowledge, I don't think the Commission

1 has disallowed actual costs that weren't already
2 considered in base rates.

3 So what we're really talking about is just
4 trying to do the preapproval, if you want to use that
5 term, which I don't like using -- and to resolve that
6 issue to the extent possible and reasonable before the
7 November hearing. That's all we're trying to address.

8 **MS. TEW:** I guess I see a difference because
9 of the variance schedules they have. We compare what
10 you originally projected to what you actually incur.
11 If there's some big swing in the numbers there, we're
12 going to ask questions about it --

13 **MR. LAUX:** I am actually basing my arguments
14 on an earlier statement that you said, that change in
15 projections is not an reasonable response to a
16 variance you want to know more about.

17 **MS. TEW:** That's true.

18 **MR. LAUX:** I'm not exactly sure how I can
19 explain some of this stuff.

20 **MS. TEW:** For instance, if you put the
21 project out -- well, I'm not sure if that's a good
22 example.

23 **MR. LAUX:** Give me another one.

24 **MS. TEW:** There are going to be times where
25 something unexpected occurs.

1 I know there was some project where I think
2 they ran into some problems with asbestos or
3 something.

4 MR. LAUX: Part of these things -- I mean,
5 you're actually saying organization, okay, once you
6 get into the project from your earlier -- what you
7 believe the cost of the project is going to be until
8 you start working through the project, there can be
9 all different kinds of variances and things like that.
10 But if you sit down and you have an idea of what
11 you're going to do, and you make that projection 18
12 months before you start the project, between then and
13 you actually start the project a lot of things can
14 change. Labor rates can change. A change in my
15 forecast. It's just a change in the forecast. And
16 I've already heard that that's not going to cut the
17 mustard. I'm not exactly sure how to respond to --

18 MR. BREMAN: The 18 months you keep stating
19 is very interesting.

20 MR. LAUX: That's the outside -- from what I
21 understand, that's basically the outside envelope on
22 this.

23 MS. TEW: The explanation I'm wanting is
24 that the labor rates have changed. What I'm saying is
25 don't file in there when you're explaining your

1 variance that the cost just ended being more than they
2 were.

3 And I realize that's the case, but there's
4 some part of the cost or something, like in your
5 example, you said labor rates have changed. Tell me
6 that. And if I need more information than that then
7 I'll ask for it. But, you know, we're not being
8 unreasonable. It's just that we understand that
9 projections are going to be different from actual
10 costs, so don't just tell me that as an explanation
11 for the variance. I need more. I need labor rates
12 have changed and that caused a difference; that
13 explains the variance between -- you know, or maybe
14 that's the primary part of the variance. Maybe
15 there's something else in there.

16 It's not like you have to do a detailed
17 explanation of every part of the number that's
18 changed. I just need something to give us an idea of
19 what's causing the change.

20 **MR. LAUX:** You got that down, don't you,
21 Joy? Thank you very much. That's all I needed to
22 hear. Thank you.

23 **MS. TEW:** Well, if we need more information,
24 we'll ask for it.

25 **MR. LAUX:** Well, now, wait a minute now.

1 How can you need more information and you don't need
2 detailed information --

3 **MS. TEW:** Sometimes the explanations we're
4 getting is just that, well, actual costs ended up
5 being different than projections.

6 **MR. LAUX:** Okay. That's all I want to know.
7 I'm not trying -- I know I'm sounding like I'm trying
8 to be argumentative here.

9 **MS. TEW:** I understand. I understand that
10 it's more difficult --

11 **MR. LAUX:** But I'm sitting here trying to
12 figure out what the future looks like. We went
13 through this future once before. I was told this
14 wasn't going to be a problem. As a matter of fact,
15 the Staff did an economic cost recovery review of
16 changing the -- from a six months to an annual
17 schedule. And I believe the costs on the
18 environmental was a positive savings. It was de
19 minimis, the cost; it was a positive. And right now
20 I'm doing -- what I'm hearing is my company is
21 probably going to incur more costs going to this thing
22 because of trying to dig into a lot of these programs
23 and things like that. Looking at the differences in
24 the cost. Why did my labor rate change from 6% to 8%
25 or whatever? What's the justification for that? And

1 all of the other different things. And, I mean, you
2 just said you may not necessarily want to go into the
3 details and things like that.

4 I'm trying to just test some of the things
5 that you're asking for to make sure I know what the
6 expectations of the Staff is going forward in the
7 future, so that I can send back to my company and tell
8 them, "Yeah, this is a good thing to do." Or, "No.
9 Their expectations don't line up with what we will be
10 able to file without completely changing our internal
11 processes." That's all I'm trying to get.

12 **MS. TEW:** I understand that, Mark. But the
13 explanation of the variances is something we have been
14 trying to get more detail on for a long time back
15 before we went to an annual recovery process.

16 **MR. LAUX:** I agree.

17 **MS. TEW:** We have been asking follow-up
18 interrogatories on explanations of variances. That's
19 something we have been doing for before TECO was even
20 involved in the clause. We did that -- FPL and Gulf,
21 I think, will both tell you we asked a lot of
22 questions on explanations of variances.

23 **MR. LAUX:** Explanation of --

24 **MR. CHILDS:** You get the average amount,
25 see.

1 **MR. LAUX:** Explanations of variances on a --
2 when you begin -- on a true-up basis, which means
3 you've started a project and the project then comes
4 in. There's a lot more information on that as
5 compared to next year I'm going to spend \$100 on
6 something and then six months later I sit down and
7 said no, I'm going to spend \$75 on that. What's the
8 difference between those two things? I haven't even
9 begun to do that yet. But you're looking for a
10 change.

11 **MS. TEW:** I see what you're saying. You're
12 saying that whenever you come in and let us know ahead
13 of time that you're going to have a project, and you
14 make an initial projection and it's a soft number and
15 then you come in a few months later and it's
16 revised --

17 **MR. LAUX:** And I'm starting to firm that
18 number up and you want to know how did I firm it up.

19 **MS. TEW:** I don't think it's the same.

20 **MR. LAUX:** Okay.

21 **MS. TEW:** I do see a difference there, Mark.

22 **MR. LAUX:** I believe it's a big difference.

23 **MS. TEW:** Because you're letting us know
24 ahead of time so we can go ahead and start doing
25 discovery on the numbers and all. I don't see that

1 that is as big of a -- I just see it as a different --
2 I don't see that as problematic because we're needing
3 an initial estimate. We realize that that may be a
4 soft number and that's different. When you finally
5 put that number in the schedules that you file in
6 October, then we later compare that to what is
7 actually incurred, that's where we're wanting the
8 explanation of the variance. In other words, on your
9 variance schedule, where you compare the original --

10 **MR. LAUX:** Right.

11 **MS. TEW:** -- projection to what actually
12 happens. If you come in in July and you tell me about
13 a new project that you're going to include in your
14 October filing --

15 **MR. LAUX:** Right.

16 **MS. TEW:** -- and you say you have an
17 estimate it's going to cost you \$50,000. Whenever you
18 come in October that's now \$60,000.

19 **MR. LAUX:** Right.

20 **MS. TEW:** And, you know, I would expect that
21 you would say that, "Well, this is the reason why."
22 I'm not saying it has to be extremely detailed because
23 we understood that was letting us know ahead of time
24 that it was a soft number and that things could
25 change. And so then it comes in at 60,000. Then when

1 it actually turns out to be 70,000, I want to know the
2 explanation in the variance schedule and all --

3 **MR. LAUX:** Between the 60s and 70s.

4 **MS. TEW:** Between the 60s and the 70s.

5 **MR. LAUX:** And I don't disagree with that.

6 It's that between -- it's that first difference and
7 what is your expectations between that first change.

8 **MR. BREMAN:** Whatever --

9 **MS. TEW:** If you let us know to start with
10 that that number is likely to change and that it's a
11 soft number, yes, I don't see that --

12 **MR. LAUX:** I heard that that's not going to
13 be sufficient.

14 **MR. CHILDS:** She said she didn't want to
15 know that, though.

16 **MS. TEW:** It's because we're looking at
17 two -- to me there are two different parts of the
18 process.

19 **MR. LAUX:** I agree. And that's why I have
20 been trying to go through and figure out what the
21 expectations are.

22 **MS. TEW:** And when we originally said that,
23 we were talking about the explanation of the variance
24 schedule in the A's and the E's whenever you're
25 comparing the original projections to what's actually

1 incurred.

2 **MS. KUMMER:** This is going to be a learning
3 process, is it not?

4 **MS. TEW:** Right.

5 **MS. KUMMER:** I mean, there's no penalties
6 assessed if you don't file exactly what we're looking
7 for the first time around, you're just going to have a
8 few more interrogatories or depositions, as I hear.
9 But there's no, you know, big problem if we miss the
10 mark the first time. We're just trying to learn what
11 makes it better for everybody.

12 **MS. TEW:** Right. I'm sure we're never going
13 to come up with something perfect for both of us. I'm
14 sure it's going to be -- and we're going to have
15 questions even if you say, "Well, I gave you all of
16 the information you asked for. And you asked me a
17 question because I gave you that information." I
18 realize that's going to come up. We're going to have
19 questions. That's what we do.

20 **MR. LAUX:** Now, that I'm -- maybe more
21 comfortable with how the Staff's expectation is, is it
22 appropriate to ask what potential intervenors that may
23 be in this room, what their expectations may be from
24 filing this earlier?

25 **MR. HOWE:** Are you looking at me?

1 (Laughter)

2 MR. LAUX: I'm going to look real far over
3 there.

4 MR. HOWE: I don't have any expectations. I
5 think it will have to shake out over time. For
6 example, depends on what the company files, what it
7 addresses, what the company says about the detail it
8 has available to it. You know, maybe something will
9 pop up after, you know, one or two filings have been
10 made. But right now I have no idea how it will shake
11 out.

12 MR. LAUX: Hey Vicki.

13 MS. KAUFMAN: Hi, Mark. I guess I agree
14 with Staff. I think that the shortened time frame
15 makes it really hard for everybody. It makes it hard
16 for the intervenors, it makes it hard for Staff. I
17 think the more information we get earlier, the better.
18 Am I going to agree that, you know, I'm not going to
19 ask about this number or that number? No. I think
20 everything is going to be specific to whatever you're
21 asking for.

22 MR. LAUX: My wife says I'm not clear at all
23 because every time I say something, she doesn't hear
24 what I thought I was saying.

25 But you just made the statement more

1 information is better. And the whole point I'm
2 arguing at this point right now, by filing early, I'm
3 not necessarily giving you the information. What I'm
4 giving you is a collection of numbers that are
5 forecast. They may not hit the threshold of
6 information. They give you some idea of what's out
7 there, but it doesn't really necessarily give you the
8 threshold of information. Is that going to be
9 something that eases your expectations, gives you some
10 feeling that it's going to be okay? As compared to us
11 starting, throwing a number out here and now we're
12 going to start running down a whole bunch of rabbit
13 traps -- rabbit trails and get 20, 30, 40
14 interrogatories off of that.

15 **MS. KUMMER:** I think Susan hit it on the
16 head when she said tell us where you are in the
17 process. If this is preliminary, if this is your
18 first cut at it, say that.

19 **MR. BREMAN:** She's just stating the truth.

20 **MS. KUMMER:** If you go further down the road
21 your numbers will firm up. But if this is the first
22 cut and the first time you've even thought about this,
23 you need to say that. Obviously, it's difficult to
24 hold you to something that's a first blush account.
25 But don't represent it as something that it's not.

1 Simply state up front, "These are really ballpark,
2 guys. This is what we think is going to fall."

3 **MR. CHILDS:** Yeah, but don't we still
4 have -- I'm now a little confused. I thought we were
5 trying to do -- as we get to the comment about it's
6 information -- I thought we were dealing with
7 projections all along and everyone knew that, and that
8 you're filing a projection; you're projecting what
9 your costs are; you're describing how you think the
10 program is going to work. However, I mean, you don't
11 have to do everything in terms of discovery for that
12 program before that first hearing on projections
13 because you're going to have to come back when it's
14 final and they are going to look at the program.

15 So -- and I thought it was -- yeah, it was
16 information, but it was so that you would do the
17 review that, you know, is appropriate associated with
18 letting the projects go in for cost recovery; not that
19 that's supposed to be the final review of the project.

20 **MR. BREMAN:** Right. It's to get us started
21 on the discovery process.

22 **MR. CHILDS:** But I also thought, too, I
23 mean, I don't know what you want. And I'm not sure of
24 the capability, but if you've got a program that has a
25 long period of time that you're talking about that's a

1 potential for a multitude of changes in that program
2 in terms of priorities, in terms of estimates of cost,
3 are possible. And you're not necessarily after saying
4 "Well, I can recreate everything that went wrong."
5 There can be 50,000 items that went wrong.

6 **MR. BREMAN:** In that scenario, if you want a
7 specific response, FPL has its project, RCRA. It's a
8 very big project; it lasts quite a few years. And
9 this one-page document doesn't present that type of
10 information.

11 **MR. CHILDS:** Okay. I'm saying I think you
12 can do it if you recognize -- if you recognize that's
13 what it is in the beginning and deal with it that way.

14 **MR. LAUX:** Matt, you said it much more
15 eloquently than I ever would and that's exactly what I
16 was trying to get at: What are the expectations of
17 that filing?

18 **MR. CHILDS:** Yeah. Okay.

19 **MS. TEW:** Anyone else have any more comments
20 on that?

21 That's essentially what we're looking for.
22 We understand that projections are just that, that
23 they are projections, and that things will change.
24 And just give us some kind of indication. Jeff.

25 **MR. STONE:** I just want to go back to, I

1 guess it's Paragraph C, where you say the most
2 cost-effective option. And I think by and large most
3 of what we do, we file that kind of information. But
4 the statute actually talks in terms of prudence. And
5 I would hope we're not going to try and modify the
6 statute. A prudent expenditure may not equate to what
7 somebody considers the most cost-effective. I want to
8 make sure we're not tending to modify the statute.
9 We're talking about establishing the prudence of the
10 expenditure.

11 **MR. BREMAN:** If you want the word
12 "reasonable" in there, "most reasonable" as well, and
13 if you want to put the word "prudent" in there as
14 well, that's fine. I think we're all in agreement. I
15 don't think we're talking past each other.

16 **MR. STONE:** I think we are too, and I just
17 want to make sure that we clarified that.

18 **MS. TEW:** For instance, you may have
19 alternatives that aren't viable for some reason. Like
20 Mark mentioned, someone mentioned some technology that
21 they just heard of. Maybe that wasn't viable at a
22 particular company for certain reasons. If it was one
23 of the alternatives considered, just explain why it
24 was eliminated to begin with; because it wasn't viable
25 and you explain why. There may be that there is only

1 actually one project that is viable. That could
2 happen sometimes.

3 **MR. STONE:** Okay.

4 **MS. TEW:** I think it may be a good time to
5 take a short break. We're through with the first part
6 of the workshop.

7 **MS. SICKEL:** Come back at 11:20 by that
8 clock, to commence the next part.

9 (Brief recess taken.)

10 - - - - -

11 **MS. SICKEL:** For openers, to get started,
12 let me direct your attention to a copy of the 366
13 statute. I believe you probably all picked one
14 upcoming in back there at the table, if you don't have
15 it firmly embedded in your memory.

16 I want to especially focus on the last two
17 lines of -- Paragraph (2), the wording of the last two
18 lines reads "An adjustment for the level of costs
19 currently being recovered through base rates or other
20 rate adjustment clauses must be included in the
21 filing."

22 There is an effort underway -- and I need
23 contributions at this point from the company. Let's
24 take just a minute and think about it. I'd like for
25 the companies, in rotation, to please provide for us

1 some illustrative an example, a hypothetical, an
2 imaginary situation or case that you believe would
3 comprise the costs currently being recovered that
4 these words go to "where an adjustment would be
5 appropriate" and so forth. So take a minute and see
6 if we can come up -- and do your people at TECO have
7 something they could contribute, Mark?

8 **MR. LAUX:** I don't hear anything so I guess
9 not. (Laughter)

10 **MS. SICKEL:** We'll give you 30 seconds to
11 ring you up. (Pause)

12 **MR. LAUX:** I'm not exactly sure -- I'm not
13 sure I can sit down and give you example. I think we
14 can sit down and give you some philosophies and things
15 like that.

16 **MS. SICKEL:** If there is a philosophy that
17 produces a case where this would hold, then I'd like
18 the case and the philosophy.

19 **MR. LAUX:** There were a number of different
20 questions that were asked of us through
21 interrogatories that went through whether or not your
22 labor costs have changed since the last rate case;
23 whether or not somebody worked for you and left the
24 company and then came back and worked for you. I'm
25 not exactly sure what any of that has to do with any

1 of these different --

2 **MS. SICKEL:** Do you have any concept of a
3 situation that you can describe that would give rise
4 to the circumstance that is being addressed in this
5 366 wording?

6 **MR. LAUX:** Let me try. One of the things I
7 think there's a question as to the O&M cost for labor
8 of a new project that you're doing to meet an
9 environmental type of thing.

10 **MS. SICKEL:** Let me clarify here. This O&M
11 cost for labor, do you mean, for example, where there
12 is ten or 12, or a certain number of "X" hours per
13 week on a going-forward basis required to do the
14 environmental thing? What do you mean?

15 **MR. LAUX:** If you have a project.

16 **MS. SICKEL:** You have a project.

17 **MR. LAUX:** An identified project that is
18 used to meet some type of a new standard that is being
19 put into place.

20 **MS. SICKEL:** An ECRC qualified project.

21 **MR. LAUX:** And I'm going to take the example
22 that it is for monitoring emissions out of the smoke
23 stack.

24 There is an amount of time year to year that
25 is going to be done to be able to collect that data

1 and then analyze that data and then report that data
2 to whatever agency is in charge of that type of thing.
3 And you can identify how many hours those activities
4 each are going to take.

5 The question then becomes should that labor
6 charge, that O&M labor charge, be able to be recovered
7 through the environmental cost recovery clause? And
8 to me the question to that one is a "maybe." I will
9 tell you how it is a "maybe."

10 **MS. SICKEL:** Good.

11 **MR. LAUX:** If it requires some type of
12 special type of skills that we know -- that we do not
13 currently have, I think it's more than appropriate
14 that we should be able to recover that O&M cost
15 through the environmental cost recovery clause, even
16 if back in our last rate case, in 1992, we may have
17 had an individual that had those types of skills but
18 had left the company. I don't think we have to go
19 through and identify everybody that has left, that was
20 on payroll in 1992; what their skill sets were and
21 things like that, and then as to a determination
22 whether or not these types of costs should be allowed.
23 So that should be the case.

24 Two, if those activities can be included in
25 someone who is currently working in a area right now,

1 we can fold those activities into current
2 activities -- maybe we're doing some other types of
3 monitoring and we're only showing a small incremental
4 cost -- basically, we'd say, "No, we don't need to
5 hire somebody new to do that," or whatever, and then
6 that O&M probably would not be recoverable through the
7 environmental cost recovery clause.

8 Again, if it looks like that you couldn't --
9 that activity is so foreign to what you're currently
10 doing that you can't fold that in, or that there is so
11 much work that has to be done that it would require
12 basically some type of an incremental change, then we
13 think that that incremental change should be in there.

14 So it goes back to one, what are you
15 actually asking for in the project? And then two,
16 what are the actual impacts of that project on your
17 current work force?

18 So to me it's looked at on a case-by-case
19 basis, but it isn't based on whether or not back in
20 1992 we had hundred people working in Tampa
21 Electric -- Tampa Electric Company and now we only
22 have 90, or if we had 3,000 people or whatever, that
23 doesn't seem to have any --

24 **MS. SICKEL:** If I may, let me summarize your
25 situation.

1 You're depicting ongoing labor particularly
2 a monitoring function. You have got a couple of
3 different possible scenarios, one in which this
4 function, the labor hours can easily, readily be
5 enfolded in the current company situation. And in
6 that case you're looking at the possibility that the
7 company might very readily absorb that without any
8 environmental cost recoveries specified in the filing.
9 Right?

10 **MR. LAUX:** Yes.

11 **MS. SICKEL:** Separately, you're looking at a
12 different situation which might merit an ECRC-type
13 filing and that would be a case where there is a
14 special set of qualifications or expertise --

15 **MR. LAUX:** Correct.

16 **MS. SICKEL:** -- added to the payroll beyond
17 what was there just -- in other words, just prior to
18 the project. And there's an alternative possible
19 thing there where you could not have -- perhaps it's
20 not an addition of expertise but rather a substantial
21 addition of manhours involved.

22 **MR. LAUX:** Exactly.

23 **MS. SICKEL:** Okay. Can I ask companies in
24 addition to TECO for a description -- let me ask you,
25 what you're saying -- let me go back and wrap up this

1 summary we've just done of Mark's case.

2 What you're -- you're differentiating where
3 the company would absorb versus where the company
4 would include recovery through ECRC in the filing. In
5 other words, where the activities enfolded you're
6 saying the company -- you can envision them absorbing
7 that --

8 **MR. LAUX:** We look at it from a different
9 viewpoint. It's not whether you can absorb it or not
10 absorb it. It's what does the project actually have?
11 What is the impact of that project on your labor force
12 at that point in time? If you can, find different
13 ways to redo your processes or something like that so
14 you can fold those into a current thing. There is no
15 incremental impact to your labor, so you would not be
16 running it through the ECRC. If there was sort of an
17 incremental -- but a change to that type of labor,
18 then it should be appropriate to be able to be
19 recovered through the ECRC.

20 So our philosophy is based more on that
21 particular project; what does it do to your current
22 operations as compared to something -- being able to
23 absorb it or not absorb it.

24 **MS. KUMMER:** Can I see if I can understand
25 in a real world example. For example, the person who

1 is going to be performing this new task. He currently
2 does A, B, C, D in his regular job. This will mean he
3 has to do D, E, F. Which means he can't do A, B and C
4 that he used to do. Does that make sense?

5 **MR. LAUX:** No. That's not necessarily --
6 let's say he's doing A, B, C and D right now in his
7 current job. And we have to pick up E and F -- 2 and
8 3 -- E and F. We may be able to modify computer
9 programs or something like that so that we can make
10 that person more effective at what they are doing,
11 more efficient at what they are doing. Or the
12 incremental impact of looking at another line of code
13 or an another column of information is really
14 de minimis, there's no impact to it.

15 **MS. KUMMER:** I don't quite understand what
16 the difference is, in what circumstance, using that
17 same context, would you ask for recovery through the
18 clause or some portion of that for labor?

19 **MR. LAUX:** Where all of a sudden it's not a
20 hour or a 15-minute extra addition in a week or an
21 hour addition in a week, but to be able to look at
22 that job and do the job, it requires a hundred hours a
23 week to do that. You can't expect somebody to pick up
24 an extra hundred hours to go through it.

25 Now, there's going to be a gray area there.

1 If it's only a hour, should it be; should it not be?
2 Is it two hours, should it be, should it not be? I
3 think you have to look at each one of those on a
4 case-by-case basis because I don't believe you can
5 draw a bright line and say if there's an additional
6 five hours, that means you have to go out and buy
7 another -- you have to bring in another employee. But
8 if it's 4.75 hours, then you don't. I don't think you
9 can draw those types of bright lines. Nor do I
10 believe that the labor situation and what jobs people
11 have to do are so static that you can sit back and say
12 back in 1992, or whenever your last rate case was, you
13 had "X" number of people, and they all did these
14 particular jobs, and so now something has to be set
15 back to those -- or you go back and look at and say
16 okay, well, no one was doing their job so it's okay,
17 but somebody was kind of doing that job and it's not
18 okay. I don't think you can do that. I believe every
19 one of our -- and anyone that's sitting here right
20 now, if they went back and looked even two years ago,
21 their skill sets have changed as to what they actually
22 do while they are on the job. What they do on the job
23 has changed a lot than what they did two years ago,
24 and how many hours they put in has maybe changed.

25 **MR. BREMAN:** So it's a three-point thing.

1 First of all, it's case by case. Second, it's
2 incremental. And third, it's a company-system
3 approach to the problem, is basically what you're
4 saying.

5 **MR. LAUX:** I agree.

6 **MS. LEE:** Incremental in current operations.

7 **MR. LAUX:** Not incremental back to the last
8 rate case, it's incremental to your current situation.

9 **MS. SICKEL:** I think, too, that you're
10 getting at a situation where you're looking at the
11 philosophy rather than homing in on an adjustment for
12 level of costs. In other words, what you're saying
13 here is that you might adjust -- by looking at the
14 philosophy, by melding job descriptions, you might
15 adjust what you're putting into your filing, and
16 that's the kind of thing you're talking about.

17 In other words, where a small number of
18 manhours are involved and you see that you can meld
19 the job descriptions around that, that this would
20 adjust your filing and you would not be putting that
21 additional requirement of monitoring into the filing.
22 So in that sense you would be operating --

23 **MR. LAUX:** You mean as to the labor hours we
24 would not be putting it into the filing?

25 **MS. SICKEL:** We're isolating only this thing

1 that you had talked about, right; this ongoing
2 monitoring function example.

3 **MR. LAUX:** The ongoing monitoring function
4 may include capital costs and O&M charges.

5 **MS. SICKEL:** We're only talking about your
6 ongoing monitoring function for labor.

7 **MR. LAUX:** Right.

8 **MS. SICKEL:** And I'm not trapping you to say
9 that I won't allow the capital cost of equipment to
10 come in, or software or anything.

11 **MR. LAUX:** Got you.

12 **MS. SICKEL:** I'm just saying we're looking
13 at this ongoing manhour situation involved with the
14 monitoring function on going-forward basis and we've
15 got a case --

16 **MR. LAUX:** I think what you said is correct.

17 **MS. SICKEL:** And what you're driving at is
18 that you would probably adjust -- even though your
19 company might be planning to absorb this function to
20 the tune of a few hours a week, a few hours a day,
21 that you wouldn't necessarily put that -- you would
22 not necessarily put that into your ECRC filing because
23 of your work where you would adjust the situation
24 before you made up your filing to absorb this couple
25 of manhours kind of thing.

1 **MR. LAUX:** I agree.

2 **MS. SICKEL:** Okay. Can we get some input
3 from Gulf?

4 **MS. RITENOUR:** Yeah. I was going to go back
5 to a more broad example than just talking about the
6 people. And in response to your initial question was
7 what's an example of what the statute said where it
8 talks about an adjustment to the level of costs
9 currently being recovered through base rates.

10 The way this is implemented with Gulf in
11 that initial Order, the 940044 Order, essentially the
12 adjustment for the amount included in base rates,
13 basically if a project was new, in response to a new
14 law -- and I'll say new law to include regulation,
15 rules whatever else -- if it's in response to a new
16 law that didn't exist or wasn't in effect at the time
17 our rates were last set, then that activity was
18 recoverable.

19 We had two activities that existed at the
20 time our last rates were set but the law itself, or
21 compliance with the law had changed to the extent that
22 it was a material change in scope. It wasn't just an
23 ongoing, "Oh, it costs more to do this now."

24 **MS. SICKEL:** Can you tell us the change in
25 scope? Can you capture that in a few words? What was

1 the nature of the requirement prior to the change, and
2 then how did it change?

3 **MS. RITENOUR:** I characterize it generally.
4 It says -- okay, here's what the Order says. This
5 explains the reasoning. Before I do that, what they
6 did on these two items was give us an incremental
7 recovery amount over the level that was in base rates.
8 It says this activity, which was ground one
9 monitoring, this activity was included in Gulf's last
10 rate case, but the costs associated with this activity
11 have increased because of new environmental
12 regulations.

13 **MS. SICKEL:** And that was that new
14 regulation, new requirement? Did you have to count
15 tadpoles or something in water?

16 **MS. RITENOUR:** I don't know what the law
17 was. But the fact was that it was an existing
18 activity that had changed because of a new law.

19 **MR. VICK:** It was an increase in the scope
20 of the law.

21 **MS. SICKEL:** I was trying to get a handle on
22 what that really was and that's kind of been lost in
23 this work here.

24 **MS. RITENOUR:** I think the details of the
25 law aren't as significant as the fact that the law

1 itself had made a significant change.

2 **MS. SICKEL:** Okay.

3 **MS. RITENOUR:** And to contrast that, there
4 were other existing activities that may cost twice as
5 much to do now for whatever reason, but that
6 difference wasn't allowed for recovery but the
7 activity existed in base rates, and the law hasn't
8 really changed -- maybe inflation, maybe whatever --
9 it costs twice as much to do. That difference as not
10 recoverable because it wasn't in response to a
11 significant scope change like this was. That's the
12 distinction.

13 And, of course, like I said to start with, a
14 new activity, a new law didn't exist in the last rate
15 case. No money in the last rate case that's
16 recoverable. I don't know. It was as simple as that,
17 really.

18 **MS. SICKEL:** Would it be a reasonable
19 example that would correlate to, say, for example,
20 where some pollutant substance had been allowed at 50
21 parts per million and the allowance has been cut to
22 ten parts per million, that kind of specific new scope
23 would be an example of what you're talking about.

24 **MS. RITENOUR:** Yes.

25 **MS. SICKEL:** Okay. And so the adjustment on

1 the new project would be to include the costs that had
2 dealt with the previous scope. Okay.

3 We have had TECO, we have had Gulf. Can
4 FPL --

5 **MR. CHILDS:** Are we responding to this
6 sentence in Subsection 2 of the statute?

7 **MS. SICKEL:** Yes. I have requested, if you
8 can, to provide a specific example that you believe is
9 an example of what is meant when the statute says "an
10 adjustment for the level of costs currently being
11 recovered through base rates must be included in the
12 filing."

13 **MS. McLELLAN:** In our response in some of
14 these informal questions we quoted the same Order that
15 Ms. Ritenour was just referring to in a Gulf case.

16 If it's a new activity since the last rate
17 case and it's a new law, then we believe it's
18 recoverable.

19 **MS. SICKEL:** The part that you're citing as
20 an adjustment as the 366 is talking about in this
21 Paragraph 2 would -- again, you would cite an increase
22 in scope, a change in scope that, for example, is a
23 more stringent requirement so that the adjustment --
24 the adjustment is what I'm homing in on. And your
25 citation of adjustment would be a situation where your

1 cost for the new project might be adjusted to allow --
2 in other words, to back out the less stringent
3 function, the function --

4 MS. McLELLAN: If you had some activity that
5 was recovered in your base rates before the law.

6 MS. SICKEL: Okay.

7 MS. McLELLAN: But we haven't had that
8 situation.

9 MS. SICKEL: Okay. Let me --

10 MR. BREMAN: Can I interject?

11 MS. SICKEL: Yes.

12 MR. BREMAN: Would any of the intervenors
13 like to sponsor an different example or an additional
14 example or another point of view?

15 MS. SICKEL: That's a good -- yeah.

16 MR. HOWE: I'm Roger Howe with Public
17 Counsel's Office.

18 I guess my view of this has not changed
19 since -- was it -- I guess it was '93 when the
20 hearings occurred that led to the 940044 Order. And
21 it's always been our view that if a utility is earning
22 a fair return on its investment after including any
23 environmental activity, that it is by definition
24 recovering all of its costs, including its cost of
25 capital.

1 One of the concerns we have had with Staff's
2 interpretation of the statute is you get into
3 discussions of such things as new scope, old scope and
4 so forth, but it can't capture such things as, for
5 example, an old project was included in base rates and
6 it's over and done with. There's something in the
7 utility's rates to cover some environmental compliance
8 activities. As I understand it, the Commission
9 Staff's interpretations has been if it's a new project
10 that did not exist at the time of the last rate case,
11 that the company's allowed to recover it even if they
12 had environmental costs that are no longer being used
13 for that purpose, and even if they're earning a fair
14 return on investment.

15 I guess we adopted a position in late '93,
16 and that's our story and we're sticking with it.

17 (Laughter)

18 **MR. CHILDS:** That's disappointing.

19 (Laughter)

20 **MS. SICKEL:** I think you have explained
21 this. And I'm not sure -- I don't think we want to
22 try to spend a lot of time on the views and how that
23 relates to the intent of 366. I, frankly, am not
24 certain that I understand how you would tie that to
25 the intent of 366.

1 **MR. HOWE:** I guess to answer that, it's just
2 the language. The fact whether it's being recovered
3 in base rates.

4 **MR. LAUX:** Roger, you said something, it had
5 to be a new project and that Staff was allowing us to
6 recover costs for that. And I don't believe that's
7 the case. I believe they made a number of adjustments
8 in our projects last year, in our last filing.

9 **MR. HOWE:** Yes, if you had similar ones.
10 But, for example, if you had a totally new project --

11 **MR. LAUX:** Not even similar ones.

12 **MR. HOWE:** -- I don't think they would make
13 an adjustment for the level of environmental cost as a
14 category that you have in base rate project-by-project
15 evaluation.

16 **MS. SICKEL:** We might want to do that after
17 our --

18 **MR. LAUX:** I agree with you on that one.

19 **MR. BREMAN:** Just for the record, FIPUG was
20 agreeing with the company or with Public Counsel?

21 **MS. KAUFMAN:** We agree with Public Counsel
22 on this. And I think that's been our story as well.
23 And we're sticking with it, okay?

24 **MS. SICKEL:** So you would look at costs for
25 any environmental project discontinued or whatever,

1 and look at those costs as available -- in other
2 words, they were a part of the approved base rate
3 recovery and then applying those to new projects would
4 be appropriate in your view?

5 **MS. KAUFMAN:** Right. And as Roger said, as
6 long as the company is earning its return, no matter
7 what it does, whether it's in an environmental project
8 or any other activity in that case, it's recovering
9 its cost for that.

10 **MR. CHILDS:** Can I ask a question?

11 **MS. SICKEL:** Certainly.

12 **MR. CHILDS:** On posing the question, are
13 we -- is the decision -- I mean, is there disagreement
14 as to what the Commission decided in the past, or is
15 this a we-may-reopen-that-and-do-something-different
16 discussion?

17 **MS. SICKEL:** I think our focus is going
18 forward. But there is a -- there are several possible
19 interpretations of the wording in this 366(2) that I
20 read. One wording might be, for example, to go back
21 and -- I think we don't have many cases where the
22 project was specified to a certain degree, or perhaps
23 this, again, could be open to interpretation, but a
24 project that was clearly in base rates and continues,
25 and then we have to subsume that into a new project,

1 that's kind of a neat situation. And we say -- we can
2 say well, you know, you do have -- without Roger's
3 situation being involved, but that's an agreed-to
4 thing, where the old part is there and the new part is
5 going to be an add on, so the new part cost is
6 adjusted downward because of the subsumed function.
7 We don't have many things that happen like that.

8 **MR. LAUX:** I keep getting -- I have a little
9 bit of a problem when you keep saying "subsumed
10 function adjusted downward." I don't exactly
11 understand what you mean by that.

12 **MS. SICKEL:** One example that might qualify
13 for that was the data request that we sent out.

14 **MR. LAUX:** Then I have a problem with it.

15 **MR. CHILDS:** You're not going to let me get
16 my question in.

17 (Simultaneous conversation.)

18 **MS. SICKEL:** Let me see if I can get Mark to
19 understand that what we mean --

20 **MR. LAUX:** No, answer Matt's question first
21 because I want to know what the answer is.

22 **MR. CHILDS:** Let me tell you why I'm asking.
23 I think some of us will remember going through that
24 process of hearings where the Commission -- the
25 Commission had workshops and talked about how to

1 interpret the statute. And then it was talking about
2 proposing a rule to implement the statute. Then said
3 "No, we're not going to do that. We're going to do
4 that on a case-by-case basis," and I guess I always
5 thought when I saw all of these questions this time
6 around I thought, well -- I thought we were doing what
7 the Commission decided. In other words, it
8 interpreted this language and said this is how we
9 interpret it.

10 So my question was really now is that wrong,
11 or is the idea that despite the interpretation in the
12 Gulf case that there's some sentiment to change that?

13 **MS. SICKEL:** I don't recognize sentiment as
14 I think you're describing it. I think that the best
15 thing for me to do on this question of subsuming and
16 referring to this set of questions we sent out in the
17 data request, that was an ideal world set up that we
18 looked at talking about a couple of old scrubbers that
19 had been involved in working at the time of the last
20 rate case situation, but with a new environmental
21 requirement these old scrubbers are not adequate. And
22 so a new scrubber comes in, it does a better job of
23 scrubbing and you end up with less pollution. This is
24 where the word "subsuming" is being used to indicate
25 that the new scrubber functions up to the level of

1 scrubbing function that the old ones had and goes
2 beyond it.

3 **MR. BREMAN:** The incremental portion.

4 **MS. SICKEL:** Incremental portion, right.

5 **MR. LAUX:** I have yet to be able to figure
6 out how you make only an incremental investment in
7 something to meet a new standard. You won't make the
8 incremental investment unless the new standard is
9 there to begin with. I'm assuming the first time you
10 built a scrubber there was a reason for building the
11 scrubber in the first place. And just because now
12 something has changed and you have to go out a build
13 something new doesn't -- in my opinion, doesn't mean
14 that that invalidates any recovery of that earlier
15 investment, especially if that earlier investment
16 still has a fairly significant remaining life left to
17 it.

18 **MS. SICKEL:** Is it your position that
19 regardless of the project and the cost recovery
20 situation relating to the old scrubber that the new
21 scrubber constitutes a new project and the entire
22 portion of investment, or the entire investment
23 associated with the new project, is deemed recoverable
24 through ECRC and the recovery for the old one is
25 separated from that?

1 **MR. LAUX:** Is separate from that? Yes, I
2 would agree with that.

3 **MS. SICKEL:** So that you would not adjust
4 the recovery through ECRC for the new project, you
5 would not adjust it to recognize anything relating to
6 the old scrubbers?

7 **MR. LAUX:** I believe the answer to that
8 question is yes.

9 **MS. RITENOUR:** I have a question. Are the
10 old scrubbers in this example -- are you assuming that
11 old scrubbers are in base rates or the cost?

12 **MS. SICKEL:** We were saying that the old
13 scrubbers had been in at the time of the last rate
14 case, was one scenario. Would there be any kind of
15 difference? How would you see the difference?
16 Comparing the situation if the scrubbers were in
17 service at the time of the last rate case and compare
18 that to the situation where these old scrubbers have
19 been put in service since the last rate case. Does it
20 make a difference? And if it does, what would the
21 difference be?

22 **MS. RITENOUR:** I think it does make a
23 difference. I agree with Mark, the level that's
24 included in base rates or a capital project -- let me
25 be specific here -- a capital project that is included

1 in base rates should just be left there. You know,
2 the impact of that retirement should be felt in the
3 Surveillance Report. But to the extent that you have
4 a new project that you're doing to comply with the new
5 law -- and I guess that's part of what confused Gulf
6 on the question. Because we -- the Clean Air Act was
7 implemented since our last rate case, so anything that
8 we've done to comply with that we consider to be
9 compliance with the new law, and any incremental cost,
10 capital cost that we incur to comply in the most
11 cost-effective manner for our customers, we would put
12 through the clause with no adjustment for what went on
13 before in base rates. That's a new incremental
14 capital expenditure. The entire thing is incremental.
15 And that's how, you know -- Matt alluded to this a
16 little bit earlier when you talked about Gulf's
17 initial order and whether we -- the question of
18 whether we're changing direction or investigating
19 whether we implement it correctly.

20 I think in Gulf's initial order it's pretty
21 clear, on capital projects, if you are incurring
22 capital dollars to comply with a new law -- and I'll
23 say "law" to include rule, regulation or whatever,
24 then the costs associated with that, carrying costs,
25 depreciation and everything else is recoverable

1 through the clause on a capital project. And
2 likewise -- and this is getting a little bit off but I
3 thought a little history might be useful -- but on
4 O&M, too, they were very specific about part of what
5 Roger went into: What if a project you had in base
6 rates has gone away?

7 Gulf's initial filing filed it that way.
8 Our filing was reduced for amounts that had gone away
9 for O&M activities in base rates, and then it included
10 new activities. The Commission rejected that. They
11 said activities that were in base rates, whether they
12 have gone up or down, we don't care, let that go
13 through the Surveillance Report. New activities or
14 significantly expanded activities like the two I
15 mentioned to you, they go through the clause.

16 So I mean, I think what we're doing now is
17 pretty clearly what the Order determined at the time.

18 **MS. SICKEL:** Okay.

19 **MS. RITENOUR:** Both are for capital projects
20 and O&M.

21 **MR. STONE:** To the extent the arguments
22 haven't changed is kind of the situation we've already
23 asked the question, we've already answered it and I'm
24 not sure why we're revisiting it.

25 **MR. BREMAN:** Can I sort of play with that a

1 so I think, you know, we're being real premature to
2 try to address those issues in this workshop. To the
3 extent there are some issues, I think that that may
4 warrant further discussion at some point in the
5 future.

6 My concern is what we're talking about is
7 we're wasting a lot of time rearguing the same
8 arguments that were made five, six years ago. And we
9 made those arguments then; we had extensive workshops
10 in discovery; we had an extensive hearing. Roger had
11 his day in court; we had our day to court. We didn't
12 get exactly what he asked for, Roger didn't get
13 exactly what he asked for. The Commission made a
14 decision and we've all been operating under the
15 guidelines of that decision ever since. Yes, there
16 have been some fine-tuning along the way, but what I
17 hear in the nature of the question is not fine-tuning,
18 we're talking about throwing the baby out with the
19 bath water and starting all over again. I think that
20 is not prudent regulatory policy.

21 MS. TEW: The Commission may very well agree
22 with you. I guess we just see it as our job when we
23 see things that have a potential for double recovery
24 that we need to bring those kind of issues to the
25 Commission's attention. If they decide that, well, we

1 decided this a long time ago, go away Staff --

2 (Simultaneous conversation.)

3 **MR. LAUX:** Katrina, what has changed since
4 then?

5 **MS. KUMMER:** Can I answer Mark's question?
6 Jim alluded to it.

7 We're not having rate cases anymore. I
8 don't think we're going to have any more, certainly
9 not in the near future. But base rates are changing
10 earnings, allowed returns; those kinds of things are
11 changing. They are being set in different
12 proceedings, not rate cases, so we don't have a test
13 year anymore.

14 And I think there's a feeling that the
15 '83-84 test year, '90 test year, '91, '92 test year --
16 maybe we're getting so far away from those that those
17 aren't the appropriate base to be looking at anymore.
18 And maybe we need to look at these new base rate
19 setting proceedings as a new starting point.

20 **MS. SICKEL:** To put your comments together
21 with Connie's -- Susan and Connie's together -- where
22 you're talking about projects that have come into
23 operation and they are ECRC qualified projects since
24 your test year, now we come to the point where we're
25 saying are those, in fact, really base rate -- part of

1 the base rates or not? And it may be we're moving in
2 the direction of saying, yes, they really are.

3 **MS. RITENOUR:** And I guess my feelings on
4 that, Connie, specifically is regardless of how the
5 base rates are set -- and I'm not involved in the
6 discussions that are going on now, so I don't want to
7 even be misinterpreted at all on that -- but
8 regardless of what FPL's agreement was -- I guess
9 regardless of how base rates are set, rate case
10 stipulation, agreement, grant a new ROE, new
11 whatever -- they're still set at a level which is
12 another thing that the infamous 0044 Order talked
13 about. It talked about test years used to represent
14 the cost, you know, the things that are in base rates,
15 the rate base, expenses, revenues, growth and revenues
16 due to kilowatt-hours -- all of that figures in there,
17 in your base rate calculation.

18 And so I guess my feelings on that question
19 is that it really doesn't matter whether you recently
20 had a rate case or not. That new laws that are --
21 that the reason the statute -- I'm no attorney -- but
22 the statute was to allow you to recover these
23 incremental environmental costs that you're having to
24 incur to comply with these laws, and that your base
25 rates are a level; they are not that specific anymore

1 into the extent you're having to do something to
2 comply with the law. That's still incremental. I
3 don't know if I made that very clear. But the
4 Order -- and I think we quoted this in one of our
5 responses -- the Order talks about base rates as a
6 level and all of the little things that added up to
7 that level at the time don't particularly matter
8 anymore, because you're still at that level, and
9 what's new is new; these new requirements are new
10 regardless.

11 **MS. SICKEL:** And that is a question about
12 holding new up to recent orders that do adjust base
13 rates without the test year. All of these things are
14 the -- the relationship, I think, is in flux.

15 **MS. KUMMER:** I think it sort of goes back --
16 It's not really all the way to Roger's position, but
17 it's kind of looking at things a little more from that
18 perspective.

19 **MR. CHILDS:** You know, I kept asking the
20 question, sort of rhetorically, of the people that
21 were trying to come up with answers to the question:
22 Why are these questions being asked? And this is what
23 I asked today. And I think that the questions were
24 asked, I thought, independent of the concern that we
25 were setting rates in other proceedings.

1 Respectfully, I don't think that's -- we
2 didn't set return on equity for the purpose of setting
3 rates and then have a test year. And we're not going
4 to be -- personally, for Florida Power and Light
5 Company -- be involved in that kind of review, I hope,
6 for a while anyway. But just sort of as the concept
7 of it -- when we -- back up.

8 Historically, when we first filed for FPL
9 for environmental cost recovery we didn't file the way
10 we might now or might have in the past because the
11 Gulf decision wasn't out and we were applying it
12 differently. And we read the Gulf decision and said
13 this is what it says. Now, I don't know that we've
14 ever made any filing with that in mind; any adjustment
15 at all. I kind of doubt it, but, nevertheless, it was
16 a big decision in terms of how you were to view the
17 relationship of the cost recovery of the environmental
18 factor and base rates and what was new.

19 I really don't see the idea that because
20 there's been some change or settlement or stipulation
21 that we now have suddenly those costs incorporated
22 into base rates any more than I would see that the
23 decision would, for purposes of applying the O&M
24 benchmark calculation, mean that in the future the O&M
25 benchmark calculation will be applied as of a more

1 recent period. I don't really think anybody has given
2 it much attention from that perspective.

3 But I thought the question was posed
4 independently of the issue of whether rates have been
5 changed. I think when you bring it up, Jim, you say
6 well, that's something maybe we need to think about.
7 But I still want to go back to the other question and
8 say -- so we know -- is it on the table that the Order
9 of the Commission either is in doubt or that someone
10 wants to change it?

11 **MS. SICKEL:** I can tell you that when I read
12 the words "costs currently being recovered through
13 base rates" that the word "current" in there does not
14 say costs that were part of the analysis in the last
15 rate case. So if it said costs that were part of the
16 analysis, I could pull papers and look at numbers and
17 know what was in the last rate case. That's not what
18 this says.

19 **MR. CHILDS:** And what I'm saying is that the
20 decision in Gulf was intended in part to look at these
21 words and see what they said; not to do it -- to look
22 at it afresh and say, "Well, I'm going to ignore Gulf"
23 and say, "No, we shouldn't do." But I think you can
24 also read it and say the level of cost is not the
25 level of cost you have an employee that's been there

1 since the last rate case and he's still there. And
2 now he's doing something different. I thought you
3 could read this to say the level of cost is the level
4 of costs for the environmental program, not for the
5 person.

6 **MS. SICKEL:** Taking that point, let's look
7 at your filing or the project submission that Jim
8 handed out. Look on Page 501.

9 And when we talk about cost for the project
10 versus cost for other things, this is a projection or
11 an estimate of costs the company expects to put out in
12 order to accomplish the project that is presumably
13 going to qualify for ECRC. I mean, this does look
14 like there's a situation here where something is being
15 done by this company to comply with an environmental
16 requirement.

17 And when I get down to the A&G cost,
18 Administrative and General, I question why these costs
19 would not have existed within the outlays of this
20 company, even without this environmental project.

21 It appears to me that this amount of money
22 likely would not be -- in other words, there would be
23 no reduction in expenditures if this project did not
24 exist.

25 **MR. CHILDS:** I think that's a different

1 question. And I don't know -- I can't answer it that
2 way this project -- because I don't know -- my
3 reaction is is that whether a cost is a cost of the
4 project, it's altogether a different question of
5 whether it's included in base rates.

6 **MS. SICKEL:** I believe that there's going to
7 be a cost relating to work done, and it will be logged
8 in as A&G costs. Whether that's 8,000 or 80,000 or
9 800 isn't the question here now. It is really a
10 matter of fact that we're wondering if this is
11 properly cost unique to this project, or if it's costs
12 that are part of the company's operation and, in fact,
13 would be recovered, would be provided, would be
14 accounted for -- all of those terms -- within the
15 normal operations of the company, even if this
16 environmental thing had not happened. Even if the
17 environmental requirement were not made, even if the
18 company did not need to mount this project to meet
19 those requirements, does this look like a cost that
20 would be what is talked about here in the 366? And
21 that's one of the questions we have right now.

22 And we'd like to hear from the companies why
23 you agree or disagree that it should or should not be.
24 Yes, Susan.

25 **MS. RITENOUR:** I think the answer is, you

1 know, tomorrow would you let go a supervisor or an
2 engineer that planned the scope of this project if you
3 didn't have to do this project? The answer would be
4 no, not tomorrow. But to the extent that you have to
5 have a certain level of supervision, engineering
6 costs, all of these A&G type costs, whatever they
7 are -- I don't know what all goes in there. Paula
8 could tell better than that. But you wouldn't incur
9 these costs on an ongoing basis if you weren't doing
10 this project. I think the answer is yes, they would
11 go away if you weren't doing this project; that they
12 wouldn't be -- what I'm saying is I think they should
13 be capitalized. That's proper accounting for it.
14 They wouldn't be absorbed elsewhere in the business.
15 They would go away if you weren't having to do this
16 project. They are general, they are A&G, but they are
17 attributable to doing capital projects. And if you
18 didn't have capital projects to do, you would have a
19 smaller level of companywide A&G.

20 **MR. BREMAN:** Can I jump in here? Let me
21 take what Mark said earlier today; a little bit may be
22 out of context. I'm sure you'll jump in if I do.

23 Fifteen minutes is probably de minimis until
24 you take a whole bunch of people's 15 minutes time and
25 aggregate it: Office clerical work, pro rata,

1 whatever, and you come up with \$88,000. Again \$88,000
2 may not change the company's factor. That's not the
3 question. The question is: Are those levels of
4 activities already addressed by base rates?

5 **MS. RITENOUR:** I think not. Because even in
6 the time you did a rate base rate, you had a certain
7 amount of ongoing A&G expenses that were capitalized.
8 They are not in that level of expenses that were
9 included in your O&M expense in your last rate case.
10 You had A&G that was capitalized then, too, on
11 projects that are long gone, or -- you know, whatever.
12 They are not reflected in base rates.

13 **MS. SICKEL:** I want to make a
14 differentiation very clear at this point, and it goes
15 to the point that we would not see -- I'm going to
16 round that up to \$90,000 depicted in this project.

17 We would not see the \$90,000 reducing that
18 project, but we might see that the \$90,000 recovery
19 would not necessarily go through ECRC. There's a
20 differentiation that I'm making here as to the proper
21 total for the project versus whether or not all of
22 that project should be additional recovery through
23 ECRC.

24 **MS. RITENOUR:** And I understand that, and
25 I'm --

1 MS. SICKEL: Okay.

2 MS. RITENOUR: That's what I was addressing
3 with Jim; that I don't think you'd make an adjustment
4 for that --

5 MS. SICKEL: All right.

6 MS. RITENOUR: -- based on an argument that
7 say it's already in base rates.

8 MS. SICKEL: I think we have earlier --

9 MR. BREMAN: So you define it whatever is
10 recovered through the ECRCs project in toto. You
11 don't take the components and say, well, this
12 component is defined by an activity of a certain piece
13 of equipment or certain staff person or certain
14 computer program or anything like that. And it gets
15 allocated on some sort of accounting thing. You don't
16 take those subcomponents and say whether or not those
17 components are recovered through base rates. You just
18 say the total project, no matter how much it is or
19 what it encompasses, if it's new since the last rate
20 case or last base rate setting, it's ECRC recoverable.

21 MR. STONE: Assuming it meets the other
22 standards that it's prudent --

23 MR. BREMAN: Yeah. That, I believe, is
24 consistent with Mr. Childs --

25 MR. CHILDS: I'm not sure. I mean -- I'm

1 not sure. I said, you know -- that's why I was trying
2 to understand the question and the basis of it because
3 I don't know what's in this number. I don't know what
4 they had in A&G capitalized, uncapitalized in the last
5 rate case. I'm just saying as it relates to that
6 language in the statute, I don't see that as being the
7 determinative factor. It seems that if you're going
8 to look at a project and the costs associated with it,
9 that your first question is, is this a cost of the
10 project? I mean, I can come up with another
11 hypothetical and say, "Well, this particular utility,
12 in the last rate case, we gave them a certain
13 allowance for O&M expenses for everything that had to
14 do with administering environmental programs. So when
15 that comes along in the future, it's a different
16 program, but it's the same department. So you don't
17 get that cost every time you come back in.

18 Okay. But if it's not done that way, then I
19 have difficulty saying, well, because you had A&G and
20 A&G costs, then you don't get any A&G expenses for
21 environmental programs in the future. I don't see
22 that. But I don't know where you draw the line. But
23 I don't think that it's because of what the statute
24 says.

25 **MS. SICKEL:** Are you saying that A&G costs

1 having been provided in earlier ECRC approvals means
2 that that is a scope that is covered, and then the
3 adjustment would be removing that part of the project
4 because it's already covered? How would you interpret
5 the adjustment called for in the statute with the
6 situation, in your view?

7 **MR. CHILDS:** What I'd first do -- and I
8 don't know how I'd do that except I'd first go to the
9 Gulf Order and say I'm not going to apply that
10 language in the statute without looking at the Gulf
11 Order. And to see what kind of an analysis and trying
12 to reconstruct it. As I said, it's been a while, but
13 I remember when we first filed years ago we had a lot
14 of discussion and it was still somewhat up in the air.
15 And when we filed the first time, we filed differently
16 than Gulf did, and then the Gulf Order came out. And
17 I view that as the interpretation of how the clause
18 applies; not just what the statute says. So we start
19 afresh and say "What does that mean?"

20 **MS. SICKEL:** Right.

21 **MR. CHILDS:** And I think that you -- you
22 know, Roger's comment that you can take a view and say
23 that so long as overall rates are adequate, then we
24 will make the conclusion that all costs that you incur
25 are recovered already through base rates, which is

1 kind of the argument, I think, he made in Gulf. They
2 said no, that's not what we want to do here. The
3 statute clearly didn't intend to be applied that way.
4 He may still believe his position is correct, and I'm
5 sure he does, but my point is I thought they addressed
6 it.

7 **MS. SICKEL:** I think we probably all agree
8 that the Gulf Order, for example, did not take
9 projects that have been accomplished, done and
10 completed, or no longer there, and take the capital
11 monies that would have been associated with those
12 projects, and say use that lump of capital as part of
13 the capital required for this new project. The Gulf
14 order said that's not the way we're going to do this
15 thing.

16 **MR. CHILDS:** And I think they also said --
17 and I may be absolutely wrong -- I also thought it was
18 said or implicit in that case that if, for instance,
19 you had \$5 million of environmental costs in your last
20 rate case, that you were not going to go forward with
21 a permanent offset of \$5 million every year against
22 any environmental cost that you might seek to recover.

23 **MR. BREMAN:** I might take some exception
24 with you.

25 **MR. CHILDS:** Okay. If that's the

1 interpretation, then that's how it ought to be
2 applied.

3 **MR. BREMAN:** There's probably more than one
4 project, but there's one that comes to mind. It's an
5 O&M project of Gulf Power. It has a permanent offset
6 for an amount --

7 **MR. CHILDS:** I don't mean on a project
8 basis. I mean on an undifferentiated dollar basis to
9 say you have got \$5 million that you're recovering
10 through base rates, so in the future, any time that
11 you have an environmental cost, we'll first take off
12 \$5 million. They didn't do that.

13 **MR. BREMAN:** They identified -- in that
14 Order they identified an amount that was probably
15 included and addressed --

16 **MR. CHILDS:** For a project.

17 **MR. BREMAN:** -- for hazardous waste.

18 Nothing more specific than that.

19 **MR. CHILDS:** Right.

20 **MR. BREMAN:** Very big, very broad umbrella.

21 **MR. CHILDS:** I know. But I'm saying I don't
22 think you go forward and say in the future that
23 there's a -- use your term, "the deductible," that you
24 have to get over the deductible amount in order to
25 seek cost recovery. And if you don't have it and

1 treat it as a deductible amount, then I would say you
2 didn't interpret it -- was not interpreted to mean
3 that anything that you were spending money on at the
4 time you had a rate case, even if it comes in the
5 future, that you would take that out first before you
6 allowed cost recovery. I mean, that's what I thought
7 they did.

8 **MS. RITENOUR:** Just to read a little
9 language from the Order about the project-type thing
10 we're talking about now, it says "qualifier" -- it's
11 talking about plant in service and CWIP for projects
12 that qualify for recovery, i.e. they meet this new law
13 or whatever -- "To qualify for recovery, these
14 projects must not have been included in Gulf's last
15 rate case. It must be required to comply with the
16 governmentally imposed environmental regulation."
17 They didn't require us at that time to go look at
18 these different components. They said this project --
19 continuous emission monitors -- I can't get too
20 technical, that would be Jim -- but we had continuous
21 emission monitors back then. The capital cost
22 associated with installing these monitors wasn't
23 included in base rates, so, therefore, those capital
24 costs, including the A&G expenses associated with
25 getting them in there, are recoverable. And if you

1 didn't, as a practical matter, I don't know how you do
2 otherwise, really. We thought about this a good bit
3 in conjunction with some of the personnel questions
4 that you -- the same concept.

5 In our test year you had capitalized A&G
6 related to 40 or 50 different years because that's how
7 some of that investment is, it's in our rate base in
8 1990. How would you make an adjustment for
9 capitalized A&G anyway? I mean, I just think you have
10 to look at it on an incremental project basis. This
11 is the incremental cost. Total cost of putting in
12 CEMs or whatever.

13 **MS. SICKEL:** To look at one variety of the
14 subject of capital cost, and a question that has come
15 up before, I do want to take a look at the situation
16 where there's some retirements. And this is not an
17 official schedule. This is a study. And I'm sure
18 Susan and I are going to recognize this. (Hands out
19 documents.)

20 And this is not ECRC; this is going back to
21 classical depreciation. What I'm depicting here is a
22 situation where we currently have an account. Easy
23 numbers; I'm looking at \$500 million in plant and 250
24 in reserve, with a depreciation rate of 3.3 you're
25 going to recognize that these numbers, that were part

1 of our examples, in the data request. And the
2 situation on a yearly basis will get you a
3 depreciation expense of \$16,500,000.

4 Now, if you have in that account a
5 retirement, an addition as you see in the middle
6 segment of this page, addition of 120 million, with
7 40 million retired, then your expense is going to
8 change. It will go up to 19 million.

9 I want to vary that situation just slightly
10 and look at the idea of putting the \$120 million
11 coming into an ECRC qualified project. This will then
12 be on the bottom segment of the page. And I'm going
13 to retire old equipment out of my base account, so
14 that the plant in service goes from 500 million down
15 to 460. The important number in that bottom segment
16 is the amount of depreciation expense in the year
17 after retirement. Only 15,180,000 is recognized in
18 that account.

19 Now, the question becomes whether the
20 \$16 million that was recognized is, in fact, what has
21 impacted the actual costs that are recovered or what's
22 accounted for. There's a decrease from 16.5 down to
23 15 million 180.

24 The other thing I want to point out is on a
25 going-forward basis the new \$120 million that's booked

1 in as an addition, when we do a depreciation study,
2 when there is a change -- and this is not -- we're not
3 into depreciation studies like we're into rate cases,
4 these are still happening on a cyclical basis -- the
5 bottom segment is going to be treated exactly as the
6 middle segment. In other words, there would be, upon
7 this retirement, a classical view that the \$40 million
8 retiring is not fully recovered, even though you
9 booked the \$40 million retirement to plant and to
10 reserve. The piece that is not recovered would be
11 showing up as a decrease in the reserve percentage.
12 And at the next depreciation study that is going to be
13 impacting the depreciation rate. And on a
14 going-forward basis, you will recover any unrecovered
15 portion.

16 And what I'd like to point out is that that
17 won't change because of ECRC. ECRC won't alter that
18 mechanism. So that we can't see the idea that the
19 unrecovered part of the 40 would be reason to do
20 something in ECRC, or not do it.

21 What we do anticipate is that the new
22 \$120 million addition, having a 3.3 depreciation rate,
23 would have a depreciation expense annually of
24 \$3,960,000, and that a \$1,320,000 of that is actually
25 provided, and would be recognized, as an adjustment,

1 and then the portion that would be subject to ECRC
2 would be 2,640,000.

3 **MR. CHILDS:** Where'd you get the million
4 offset?

5 **MS. SICKEL:** The million offset comes from a
6 decrease. If you look at the top segment where your
7 amount of depreciation for the year is 16,500,000, in
8 the bottom segment, once the retirement is made,
9 there's a decrease. And the expense goes down to
10 15,180,000. There's a lesser amount recognized in
11 that primary account. The decrease is the 1,320,000
12 we're talking about.

13 And what we're thinking is that the 16.5 is
14 currently recognized. The change where 15,180,000 is
15 recognized in the primary account portion would have
16 the 1,320,000 left to be recognized in the ECRC. So
17 that 2,640,000 of additional recovery would be
18 required through ECRC. And that is a view of the
19 situation as we have gotten these facts and these
20 numbers on paper.

21 And we have a schedule of proposed
22 revisions. If something like this does, in fact,
23 shake out, if our analysis -- and we're continuing to
24 analyze this. This is not something we have -- at
25 this point, the depreciation mechanism appears to be

1 consistently applied on this sheet of paper regardless
2 of whether you put your retirement into the base rate
3 account or primary account, or whether there's a new
4 addition in the ECRC.

5 Now, if that is going to be the way this
6 goes forward, we would expect to make an adjustment on
7 ECRC recovery. And this is a set of schedules that
8 provides a place for such an adjustment.

9 I think we have decided through our
10 discussions today that there are reasons why a company
11 might make an adjustment in the recovery that's
12 proposed for labor. Do I understand that all of the
13 companies believe that they are, in effect, adjusting
14 their environmental cost recovery proposals to
15 accommodate activities that they have, in effect,
16 folded into their normal routines? In the way that
17 Mark described it?

18 **MR. STONE:** Well, to some extent, ECRC
19 recovery is an elective procedure. Power Corp is not
20 a participant in ECRC. That doesn't mean they don't
21 have eligible ECRC activities. They have elected not
22 to seek recovery. There's no mandatory requirement in
23 the statute.

24 **MS. SICKEL:** Correct. That says you have
25 to -- uh-huh.

1 **MR. STONE:** But if you do go forward with
2 it, you have to meet certain requirements. It doesn't
3 require you to -- Tampa didn't come in initially. As
4 Matt indicated, there were differences in the
5 approaches that FPL and Gulf took initially.
6 Apparently they both met the statute, as interpreted
7 by the Commission.

8 So there is an element of an election as to
9 whether or not you choose to go with ECRC recovery or
10 not. So the notion that because you haven't asked for
11 something doesn't necessarily mean it's not eligible
12 for recovery.

13 **MS. SICKEL:** So you're saying that there are
14 adjustments made for a multiple of reasons in the
15 company's decisions, and incorporated in the decisions
16 for application of ECRC and the amounts that they
17 apply for.

18 **MR. STONE:** I'm saying I don't believe we
19 have necessarily asked for every dollar that is
20 eligible for ECRC recovery under the statute. We have
21 made some decisions as to whether or not to pursue
22 recovery on the individual elements.

23 **MR. LAUX:** I believe that's how I tried to
24 answer the question you posed to me: How would Tampa
25 Electric apply in that situation? Other companies may

1 apply that differently. I agree 100% with Jeff that
2 we have not asked for all of the dollars that we
3 believe are eligible to be recovered through the ECRC.

4 **MS. SICKEL:** Okay. And would I understand
5 FPL to have the same situation where you believe that
6 there may be recovery that you have not applied for?

7 **MS. MCLELLAN:** Definitely.

8 **MR. CHILDS:** Let me make a comment.

9 First of all, I get a little anxious in
10 terms of there being a general conclusion when you ask
11 a question that way. Because I'm not sure -- I don't
12 want you to misunderstand, you know, that generally,
13 or do you do that? You say, "Well, I think so." But
14 I think the comment is, too -- and I don't mean it
15 facetiously -- that part of the review is we have a
16 program here; it may be an environmental program. Do
17 we even ask for recovery at all? It may not even make
18 it but the program goes forward. It may be a
19 question: Well, how are we going to establish that
20 this expenditure is incremental, or are we satisfied
21 that it's incremental or do we want to fool with it?
22 And for any of those reasons and others you may say,
23 "No, we're not going to ask for it."

24 **MS. SICKEL:** I think that Staff sees the
25 questions that we were addressing in the workshop as

1 part of a work in progress. We don't see that we've
2 got the answers nailed, and that all of the projects
3 that are of a certain sort are going to fall within
4 numerical guidelines, and that -- in other words, we
5 don't think we've got it nailed. So -- yes.

6 **MR. VICK:** I'd just like to make a couple of
7 comments.

8 With respect to environmental rules,
9 regulations, laws, those things started coming out in
10 the late '60s and early '70s. And pretty much we
11 have -- everybody who has been under, basically
12 subject to those laws and regulations, has to have
13 been meeting those things since Day One. Unlike a lot
14 of things, environmental laws and regulations don't go
15 away. You go ask DEP the last time they rescinded or
16 revoked any law or regulation, you won't find the
17 first one. And pretty much the same thing for EPA.

18 So we're still complying with things that
19 were put upon us in 1970; we're doing it here in the
20 year 1999. And on top of that, we've got this
21 steadily escalating exponential thing of new laws and
22 regulations that we have had to address.

23 I can't speak for the other utilities, but
24 we have increased our staff almost by fourfold since
25 the early '80s just to deal with these environmental

1 requirements. We're not recovering any of that.

2 **MR. BREMAN:** Through the ECRC.

3 **MR. VICK:** Through the ECRC. Actually, back
4 in 1989-1990 we only had three and four people in
5 environmental affairs. We now have ten, plus we've
6 got environmental coordinators at the plants in the
7 districts. I can't cite a specific law or regulation
8 that says that's why I got that guy or girl. It's the
9 whole gamut of them that's caused us to do that.

10 But we're still meeting regulations that
11 were made back in the '70s. Those have not gone away.
12 Everything is just in addition. It's a different
13 thing with a lot of things we do. Some things go away
14 and we get a new program that replaces it. These are
15 just added to for the most part.

16 **MR. BREMAN:** And Jim, I appreciate what
17 you're saying, because in a large way it really
18 supported Staff's argument that lead up to the 0044
19 Order. Whether anybody likes it or not, especially
20 me, we don't sit still just because that definition
21 was good back then, based on the way we used to do
22 everything, is it still the right practice? Is it
23 still the right definition? And we need to test
24 ourselves.

25 **MR. VICK:** And I'm not faulting that.

1 That's not it.

2 What I was trying to do was make a point.
3 It seems like a lot of these assumptions I'm hearing
4 today is that, well, you have got this program you
5 were complying with at the time base rates were set
6 and there's a good chance it went away. That's not
7 the case. I've yet to know an environmental program
8 since I've been doing this for the last 20-some years
9 has gone away. You've got that, plus things on top.
10 Those things just didn't go away in this particular
11 field.

12 **MS. SICKEL:** Although, presumably, you do
13 have expendable or perishable items that are consumed
14 and they go away and that's part of your expenses on
15 an annual basis. And you do have parts that wear out
16 and are replaced and they are part of your operation.
17 So we're -- as Jim says, we're looking at changes that
18 are happening today. We're looking at the -- the
19 statute appears to want us to reevaluate developments
20 or it would not have used the word "current."

21 So maybe the answer to Mark's idea that are
22 we revisiting work that has been done previously is
23 that we should say we are, at least in part, going
24 back to verify that what we did three, five, ten years
25 ago is a valid position for us to have today.

1 **MS. KUMMER:** I guess that sort of goes to
2 one of Matt's early questions, what are we going to
3 do? Is this going to be an issue in the next hearing?
4 Is this something we're going to proceed with
5 workshops on?

6 **MS. TEW:** The intent was to have them
7 reappear as issues in the next ECRC hearing in
8 November.

9 **MS. KUMMER:** You say as issues. What
10 particular -- are you going to look at the
11 project-specific should this be included? Or the
12 generic concept?

13 **MS. TEW:** Looks like it's going to have to
14 be the specific issues at the time the Gulf Power
15 issue and the TECO issue that we basically -- I think
16 we answered the TECO issue, but we basically said the
17 amounts that we adjusted --

18 **MR. LAUX:** You adjusted them out --
19 (Simultaneous conversation.)

20 **MS. TEW:** -- was subject to what we
21 determined.

22 **MR. BREMAN:** We adjusted the amount out.
23 But I believe TECO, there was some agreement to find a
24 better way to do it. And I think AFAD has presented a
25 schedule that might suggest a better way to do the

1 adjustment. If I read it right, Page 1 of 2, of
2 Attachment C. And instead of doing the adjustment to
3 the --

4 **MR. LAUX:** The AFAD schedule here is based
5 on the -- that certain portions that we requested in
6 the ECRC were actually being recovered in our base
7 rates. Thus, we weren't allowed to recover them
8 through the ECRC. And we're getting back to the
9 threshold question Matt has brought up: It doesn't
10 make any difference what line you have here and
11 adjusted. Matt's going back and saying those are
12 appropriate costs you should be recovering; not that
13 you should be making these adjustments to begin with.

14 **MR. BREMAN:** We said those are differences
15 of opinions. You'll probably see those as issues.

16 **MR. LAUX:** I thought the workshop was to sit
17 down and try to work out the principle things; not
18 that what we agreed to in --

19 **MR. BREMAN:** It's just that we have a
20 different philosophy of what base rates is, Mark.

21 **MR. LAUX:** I know what my company agreed to
22 in the last filing. And that was that we would forego
23 fighting this out at that last agenda, or last
24 environmental cost recovery clause hearing, to come
25 and sit down at a workshop, as long as we were not

1 precluded from going back and recovering those costs
2 if our positions -- if our philosophy was deemed to be
3 correct.

4 Quite frankly, our philosophy hasn't changed
5 on this. It is still in line with what was decided in
6 the Gulf case. The Staff's view on it has changed.
7 And right now my company is not collecting dollars
8 that they should be collecting, and were allowed to
9 collect if this same issue were to come up a year and
10 a half ago, two years ago.

11 **MS. TEW:** You're right. Those dollars were
12 only deferred, basically, until the outcome of this
13 workshop; actually the outcome of the issue.

14 **MR. LAUX:** We agreed to suspend recovery of
15 this until the philosophical issue was decided.

16 **MS. TEW:** In that respect, I guess there's a
17 question in my mind as whether or not there still
18 should be -- what I saw happening was that there was
19 going to be a generic issue which covers the issue of
20 replacements and the generic issue on labor, A&G-type
21 costs. And I suppose we can go forth with that.
22 Everyone can just -- in their prehearing statement can
23 take whatever position they take, and if Staff still
24 maintains that there's a problem there --

25 **MS. LEE:** I think it needs to be generic.

1 **MS. TEW:** I really think it has to be. I
2 said a minute ago that -- I think we have to maintain
3 those specific issues, but really they need to be --

4 **MS. SICKEL:** Wrapped up into a -- yes,
5 Susan.

6 **MS. RITENOUR:** On your example, to make sure
7 I understand it, I agree you have 19 -- once you put
8 it in the new equipment, I think it's safe we can
9 agree you have a total of 19,140,000 in depreciation.

10 **MS. SICKEL:** Right.

11 **MS. RITENOUR:** Which is the sum of the 15180
12 and 3960 below once you break it out.

13 **MS. SICKEL:** Right.

14 **MS. RITENOUR:** From what I'm seeing you're
15 proposing for recovery here, you get 15180 in base
16 rates through the Surveillance Report; you'd have 2640
17 through ECRC, for a total of 17820 for total
18 depreciation expense; that you're incurring 19140.
19 You have lost the affect of 1,320,000 in depreciation.

20 **MS. SICKEL:** We believe that the 1,320,000
21 would remain -- and I would defer to some of my plant
22 accounting people -- and be recognized as part of the
23 3,960,000 booked for the \$120 million addition, and
24 that 2,640,000 would come through ECRC.

25 **MS. RITENOUR:** So you would make an

1 adjustment to add 1320 back to the Surveillance
2 Report?

3 **MS. SICKEL:** I don't know exactly how the
4 plant accounting people would do that.

5 **MS. RITENOUR:** It seems to me it would have
6 to be in one place or the other. I mean, I would
7 still hold to our original position we talked about
8 way back when that the whole 3,960,000 should be
9 through ECRC because it's incremental.

10 **MS. SICKEL:** Because you associate that, if
11 I'm correct, with 120 million of new equipment going
12 in.

13 **MS. RITENOUR:** Right. And I made this
14 comment, it goes back to some of what we talked about.
15 And we talked about this when we were talking about
16 your --

17 **MS. SICKEL:** Earlier issues.

18 **MS. RITENOUR:** -- that in my mind the whole
19 intent of the statute to start with was so you, as a
20 company, would be no worse off having to comply with a
21 mirage of lots of new environmental requirements.
22 Barrage, right. (Laughter) But you, as a company,
23 would be the same before and after as you were before
24 the powers-that-be imposed all of these requirements
25 on you.

1 **MS. SICKEL:** Environmental requirements.

2 **MS. RITENOUR:** Therefore, anything
3 incremental should go through the clause, and
4 everything else, your increases or decreases in
5 people, your increase or decreases in depreciation
6 that aren't environmental ought to all go over there
7 and be left in the Surveillance Report.

8 And not to open up a can of worms, but we're
9 talking about the people. What if you have hundred
10 people now and hundred people in your last test year?
11 But absent a bunch of environmental laws, you could
12 have pared your work force down to 80 because you have
13 a lot more PCs now. The last rate case we did, half
14 of it was by hand still. We're doing a lot more by
15 PC. We need fewer secretaries. I do my own memos,
16 that kind of thing. Say if I work my way down to 80
17 employees and have a lot of efficiencies, I submit
18 that that additional 20 people that are still on board
19 is a different 20 people probably, for one thing. But
20 those 20 people ought to be going through the clause.
21 That's because I still have 20 more people on the
22 payroll because of environmental laws. And when you
23 start getting down to where your splitting all of
24 these hairs and figuring all of this out, in my mind
25 it defeats the purpose of why they put that statute in

1 there in the first place, which was to make you whole,
2 so to speak, over where you would have been otherwise.

3 **MS. KUMMER:** And I think that really is the
4 point. It's going to have to be a generic issue.
5 Because really what we are asking is, is that order
6 still where we want to go? And that's really a
7 generic question.

8 **MR. LAUX:** Did you get a response of any of
9 the parties that are involved in it? You all got
10 responses, basically, and were they significantly
11 different, that the Gulf Order no longer applies, or
12 the way it should account for it, these costs should
13 be accounted for, no longer apply? You all got the
14 answers; we didn't. I mean not the answers, the
15 responses.

16 **MS. TEW:** No. I would not characterize them
17 as significantly different.

18 **MR. LAUX:** At some point then -- I mean, I
19 get back to the thing that this sounds like this is
20 something Staff has led and is looking at it
21 differently. I still don't understand what you all
22 see as being different and, then, how it should be
23 handled.

24 **MR. CHILDS:** And your rationale. Could you
25 share that with us?

1 **MR. LAUX:** Currently.

2 **MR. BREMAN:** I guess there's been
3 miscommunication. Because every time we describe what
4 the base rates is -- for example, A&G hasn't changed
5 because of environmental requirement, you're
6 allocating it.

7 **MR. LAUX:** But our A&G costs have changed
8 year to year to year to year to year.

9 **MR. BREMAN:** That's what base rates does.

10 **MS. TEW:** Whether it goes up and down, it's
11 still supposedly set at a level -- it can go up or
12 down the company --

13 (Simultaneous conversation.)

14 **MR. BREMAN:** We all have different starting
15 points in defining what's in base rates, what base
16 rates is. You all are describing the definition of
17 well, the project wasn't in base rates. And we're
18 saying the components of the costs that the company's
19 incurring, some of them are; some of them aren't.
20 Because of our difference in the definition of base
21 rates.

22 **MS. RITENOUR:** Where I go back to on that is
23 what I said a minute ago. A&G is the same with my 180
24 employee example. To the extent that we had a level
25 of A&G in our last rate case. And I don't know what

1 impact environmental exactly has on A&G. Paul just
2 mentioned to me a lot of the overheads were
3 capitalized; the A&G is capitalized and have to do
4 with planning. Accounting people that happen to be on
5 board to keep up with it all, who wouldn't be there if
6 we didn't have these particular projects to do. But
7 in my mind, the level of A&G that we had in the last
8 case, perhaps it would have been 20% lower now because
9 we have been efficient, or whatever, than it is now
10 because we're having to do these environmental
11 requirements. Of course, that would raise another
12 question. The return that we've achieved in the
13 Surveillance Report would have gone up if we had
14 hundred employees then and 80 now. But I submit the
15 proper place to look at that would be in the
16 Surveillance Report, or would be like they do with
17 FPL, and they are doing with us, looking at our
18 earnings that are achieved. That's the place to look
19 at that, not the environmental clause.

20 **MR. BREMAN:** Sort of sounds like you're
21 moving towards Roger.

22 **MS. RITENOUR:** No. No. (Laughter)

23 (Simultaneous conversation.)

24 No. No absolutely not. Basically, that's
25 the benefit of the -- that the benefit of what the --

1 change in earnings that we can achieve absent the
2 environmental clause ought to all be considered over
3 there and the environmental clause ought to be
4 incremental; it's the exact opposite of what Roger
5 says. And look at the rest of it in the Surveillance
6 Report.

7 **MR. BREMAN:** You used a term earlier,
8 something about making a company whole. Does that
9 mean the ECRC is supposed to be revenue neutral or --

10 **MS. RITENOUR:** No, I didn't say make them
11 whole. I said leave them in the position they would
12 have been in absent the environmental activities. And
13 if that position -- you know, if we saved so much in
14 salaries and A&Gs, that that position puts you in a
15 overearnings situation, deal with that in the proper
16 venue. But don't adjust your ECRC that this statute,
17 you know -- I believe the statute was intended to put
18 you where you would be absent all these other
19 environmental requirements. Deal with it in the right
20 forum. That's all I'm saying. I'm not saying make
21 you whole. I'm saying put you where you would be -- I
22 think the legislature wanted you -- wanted the
23 utilities to be able to recover environmental cost.

24 **MR. BREMAN:** So the evidence or the
25 evaluation Staff is supposed to look at is earnings,

1 is revenue?

2 **MS. RITENOUR:** No. It's what environmental
3 requirement you're having to meet now that you did not
4 have to meet when you were in the last time your base
5 rates were set, which has nothing to do with earnings;
6 it has to do with what happened in your last test
7 year -- what has happened since your last test year
8 regardless of your earnings. Deal with your earnings
9 in the venue that we've always dealt with them before,
10 which is in the surveillance and monitoring.

11 **MS. LEE:** Susan, I have a question. When
12 you talked about last time base rates were set, you're
13 going back to the your last rate case. Anytime base
14 rates are changed, whether that is a matter of a
15 stipulation or earnings investigation, whatever, but
16 it's not a full rate case, would you consider going
17 back to that point? As the last time base rates were
18 changed.

19 **MS. RITENOUR:** We alluded to that a little
20 bit -- I read a little bit out of the Order.

21 The reason I wouldn't is they talked about
22 environmental order when I think they are addressing
23 Roger's earnings issues; that rates are set at a
24 level. What was in your rates in 1990, what added up
25 to get to that level, it's a whole different set of

1 stuff adds up to that level now. You know, you've got
2 expenses that have come, expenses that have gone. You
3 know, a bunch of different things actually add up to
4 that level now. So, therefore, I just -- just because
5 you reset rates through a negotiation or whatever, the
6 tests for the environmental should still be what
7 was -- what has happened since your last rate case
8 where you looked at all those expenses. Whatever else
9 has happened since then, whatever you renegotiate
10 since then, ought to be left in the surveillance side
11 of it.

12 **MR. SLEMKEWICZ:** I think we did address
13 that, Matt and I did in the capacity clause, where you
14 had the rate change because of the income tax rate
15 change. If I remember correctly, the outcome was that
16 the capacity costs that were in there at that time
17 were considered recovered. Am I correct on that?

18 **MR. CHILDS:** You probably are. I don't
19 recall that.

20 **MR. SLEMKEWICZ:** That was a while back when
21 it first came about.

22 **MS. KUMMER:** We're back down to where do we
23 go from here? I don't think there's going to be any
24 agreement sitting around the table today just from the
25 discussions.

1 **MS. TEW:** I think you have to go forward
2 with a generic-type issue. If all of the --

3 **MR. CHILDS:** Is Staff --

4 **MS. TEW:** The Commission is going to have to
5 decide.

6 **MR. CHILDS:** You're going to present
7 testimony to support your view as to what should be
8 done or what are you going to do?

9 **MS. KUMMER:** That's what I was thinking of.
10 Obviously we're not communicating very well. We've
11 talked -- we keep going around in circles to some
12 extent. And I think we're all kind of talking past
13 each other at some point.

14 Would it be helpful or would it be feasible
15 for Staff to simply try to put out in words, like a
16 Position Paper, on what is a better definition of what
17 the problem is. And that way at least you guys could
18 maybe get a better idea. Would that help?

19 **MR. CHILDS:** You know, it would help me a
20 lot -- it may not help anyone; maybe everybody else
21 knows what's going on. Candidly, I had no idea; why
22 are these questions being asked? I'm reacting. Where
23 are we going? I mean, this was decided five years
24 ago. And so I thought well, there's something secret
25 in there, you know. (Laughter)

1 **MR. STONE:** Just for the record, it would
2 help me too.

3 **MR. CHILDS:** I have no idea what's going on.

4 **MS. TEW:** There's nothing secret.

5 **MR. LAUX:** I wasn't clear. That's what I
6 asked for earlier. (Laughter) I have no earthly
7 idea.

8 **MR. STONE:** Staff wants to look at it; had
9 not made a decision. But what I'm hearing now is
10 Staff has made a decision; that you have an opinion on
11 the subject but you haven't shared that opinion with
12 us. It's not just are we looking at it and is it
13 still appropriate? You're saying you've looked at it
14 and you don't believe it's appropriate and we don't
15 know why.

16 **MS. TEW:** I think Staff's opinion -- and
17 maybe I shouldn't speak for all the Staff, so feel
18 free to jump in and correct me -- is that we see a
19 potential for double recovery in these kind of
20 instances. We are not agreed, I don't think, on how
21 to resolve them. That was the purpose of the workshop
22 was to try to come up with, well, what are some ideas
23 to resolve them. It sounds like from the companies --
24 we can't agree that there is a problem. So that
25 sounds like to me we have to go forward with some kind

1 of issue. We state that we think there is a problem
2 and try to support it and I guess come up --

3 **MR. STONE:** Maybe the first step is to try
4 to figure out if there's a problem before if we try to
5 figure out what the solution is.

6 **MR. BREMAN:** Let's pick on Gulf Power. The
7 particular instance for Gulf Power is the recording of
8 the underground tanks and what the appropriate amount,
9 if any, should be to the ECRC.

10 I think the schedule that Jeanette has
11 handed out tends to suggest the concept that Staff has
12 regarding that issue. And I don't believe you have
13 expressed agreement with this approach. So that has
14 very clearly -- you know, it's very clear that
15 philosophies differ and our thought processes are
16 different, and whether or not they are invalid hasn't
17 been decided by the Commission, I guess.

18 **MS. TEW:** I also think that issue for Gulf
19 Power could very well be an issue in the future for
20 FPL, or it could be similar. It may not be
21 underground or aboveground tanks, but the accounting
22 treatment should be handled consistently. That's why
23 we thought we should make these a generic issue.

24 **MR. LAUX:** I think we already have the
25 issue; the bulk, the crushers, I think lines up

1 exactly. The philosophy behind that, the adjustment
2 you all made was exactly the same.

3 **MR. BREMAN:** Exactly the same concept.

4 **MR. LAUX:** We disagreed with you.

5 **MR. BREMAN:** Yes, sir.

6 **MS. TEW:** It looks like we just have to go
7 forward with an issue and each take a position.
8 Because it doesn't look like we can agree that there
9 is or is not a problem.

10 **MS. SICKEL:** And how to resolve it.

11 **MS. TEW:** I mean, I understand your
12 confusion. Yes, we've got an order that kind of
13 speaks to some of these issues, but I guess we still
14 have questions on some of them. Whether or not it's
15 really clear to us that the Commission saw things the
16 way you think they did, I don't see it. I don't
17 see -- I guess I don't agree on your interpretation of
18 what the Commission has said in that Order.

19 **MR. CHILDS:** Well, okay. But the reason I
20 made the comment that it would be helpful to me is
21 just so you understand. You may not see it. I didn't
22 know that. I didn't interpret this letter that came
23 out January 27th of Mr. Walker that had anything to
24 do -- I didn't know where you were going or why. I
25 didn't know it related to somebody's interpretation of

1 the statute or of the Gulf Order. It was sort of like
2 why are we doing this?

3 **MS. TEW:** To begin with, I'm not an
4 attorney --

5 **MR. CHILDS:** I mean, it doesn't say.

6 **MS. TEW:** -- wouldn't be the one who should
7 interpret an order or a statute.

8 **MR. CHILDS:** -- so that when you discuss it
9 here, I'm saying that's helpful to me to at least know
10 why you're pursuing it because I didn't before.

11 That's why I think the answers say -- a lot
12 of the answers to the questions say assuming we
13 petition and you allow cost recovery, this is what we
14 do, is just because we didn't know what the nuance
15 was.

16 **MR. BREMAN:** That was an appropriate
17 response, in my opinion. All of the questions you had
18 were after the fact. After the Commission has made a
19 finding, what was your behavior. This is a similar
20 situation for Gulf Power. Very similar.

21 And to some extent it's applicable to TECO's
22 situation where I took an exception to certain costs
23 because I perceive them as being in base rates and
24 everybody chose not to dispute it at that moment.

25 **MR. LAUX:** Jim, you were just being

1 consistent. That's what's good about you. Right
2 across the line on all three of them.

3 **MS. LEE:** I think a couple questions keep
4 coming back. Number one is what do you consider base
5 rates? Clearly, from the company's standpoint I'm
6 hearing the last rate case, regardless of any base
7 rate change since that point.

8 **MR. CHILDS:** Oh, I don't think so, and I
9 think the statute says -- the statute says that's not
10 the case. The statute says you can -- you may even
11 for the new costs -- it says they may be or may not be
12 in base rates. Now, if you had a program that was
13 implemented after the last rate case, and before the
14 implementation of this cost recovery, I don't think
15 it's in base rates but it certainly predated the
16 legislation.

17 **MR. BREMAN:** Not to play attorney --

18 **MR. CHILDS:** Go ahead.

19 **MR. BREMAN:** But I'm not --

20 **MR. CHILDS:** Go ahead.

21 **MR. LAUX:** We all do at one time.

22 **MR. BREMAN:** My problem is I have to
23 aggregate a bunch of numbers because it says level of
24 costs; it doesn't say level of projects. It doesn't
25 say name the projects; doesn't say identify projects.

1 It says level of costs.

2 My problem -- because I'm just aggregating a
3 bunch of numbers -- I can't come to the same
4 definition as you do, Mr. Childs.

5 MR. CHILDS: Yeah. That's why I say go to
6 the Gulf Order. You may disagree with it but I
7 thought that addressed it. As I say, we had a
8 different starting point. But I didn't think that it
9 was that much up in the air subject to continuing
10 question as to what it meant. In fact, that's why
11 that decision was there was because of the language in
12 the statute.

13 MS. LEE: But I'm not sure the Gulf Order --
14 I'm not sure at the time we were really thinking of
15 replacement activities. At least I wasn't. I mean,
16 new projects was something coming in brand new to meet
17 environmental regulation going through ECRC, fine.
18 But when it comes to replacements, where you were
19 replacing something that has been in service with some
20 other gizmo for environmental concerns, that I don't
21 think was ever addressed in the Gulf Order.

22 MR. LAUX: I'm not exactly sure it wasn't,
23 in theory.

24 MS. LEE: I couldn't find it in the Gulf
25 Order.

1 **MR. LAUX:** Well, I don't think it said
2 "Okay. Here's a replacement item," or something like
3 that. But in theory, it goes back to the question of
4 would you have taken that gizmo out of service if it
5 wasn't for the environmental law you were trying to
6 meet?

7 **MS. LEE:** Exactly.

8 **MR. LAUX:** And the answer there is no. No,
9 if it wasn't there --

10 (Laughter ensues as a rooster-sounding
11 beeper goes off in room.)

12 **MS. SICKEL:** I think there are things about
13 044 Order that aren't clear enough for us to be
14 equally confident once that other side comes together,
15 that we know what should be done in line with that
16 Order. We may feel that every possible question you
17 can come up with is answered by that Order. I'm quite
18 sure I don't have same perception.

19 **MR. CHILDS:** Well, no, I wouldn't suggest
20 that at all. In fact, I haven't reviewed it for that
21 purpose. But I think if we've got a specific
22 question, you know, that it is open, you say, "I'm not
23 sure it's answered by what the Gulf Order said," I
24 think that's the question that we ought to be
25 directing our attention to, as opposed to saying let's

1 just generally revisit what we ought to do here.

2 Because I'm not.

3 **MS. SICKEL:** I think that what we're doing
4 is looking at questions that have come up in our view.

5 **MR. CHILDS:** You are. Now, we're talking
6 right now saying we need a generic issue, which is
7 what should we do -- not specifically, I took it, but
8 generally.

9 **MS. SICKEL:** If the Gulf Order doesn't go to
10 certain ideas, and we're seeing the possibility that
11 we have to deal with those ideas, I think it's
12 possible that we could aggregate several of them into
13 a generic.

14 **MR. CHILDS:** Tell us what they are. And I
15 say tell us, I mean is it in the instance of if you
16 have a replacement that we're talking about or is it
17 just in general the theory, or --

18 **MS. TEW:** I think one generic issue would be
19 with respect to replacement. The other generic issue
20 would be with respect to, I guess, A&G-type costs and
21 labor, capitalized labor.

22 **MR. LAUX:** Did Gulf -- Before that order,
23 any of the projects that you had that that order
24 addressed, did it have them capitalizing? Is there
25 any capitalized labor in there?

1 **MR. VICK:** Yes.

2 **MR. LAUX:** Was there any A&G in there?

3 **MR. VICK:** Yes.

4 **MR. LAUX:** So the Order did address, at
5 least, those two questions. You're suggesting now
6 there's a different view, a different look at that.

7 **MR. BREMAN:** I'm not sure that we can come
8 to the same conclusion. And the specifics of what
9 that Order addressed, I'm going to leave to the
10 attorneys.

11 **MS. TEW:** We feel like we have to call
12 things like that to the Commission's attention, if we
13 feel like there's any level of --

14 **MR. LAUX:** Part of that discussion is going
15 to be even though there were capitalized labor charges
16 included in the project that were approved under this
17 order, we believe that the -- and you go on like that?

18 **MR. BREMAN:** If there's any change -- my
19 feeling is it should always be prospective, if there
20 is a change. I'm not retroactive.

21 **MR. LAUX:** I wasn't arguing retroactive.
22 Jeff is going to do that.

23 **MS. TEW:** We're at a different point in time
24 than we were whenever the environmental cost recovery
25 clause started. Now you can look back and say here's

1 some of the problems we see occurring. Maybe no one
2 will agree that those are problems. I mean, we could
3 go to the Commission and say these are the things we
4 see occurring. And they don't agree with us and we're
5 back to doing things the way we have been doing in the
6 past.

7 We just feel like we should raise them. So
8 that's what we've done.

9 MS. SICKEL: I think we may have something
10 that you all may not want to give us and that is a
11 learning curve on Staff's part.

12 MR. BREMAN: It looks like E&G Staff and
13 AFAD are going to get together to try to clarify --

14 MS. SICKEL: New views.

15 MR. BREMAN: -- according to what Connie
16 said. I'm not sure whether it will say different than
17 what we just said. It might say it more clearly.

18 Is there any other material that we need to
19 address before we wrap it up and call it a day?

20 MS. TEW: I guess we'll close the Staff
21 Workshop.

22 MR. LAUX: Jim, I don't know if there's any
23 value to this at all, but once there is a
24 clarification or something like that, I don't know if
25 there's a value getting these people back together

1 again, sitting down and discussing that with the
2 Staff. I don't necessarily see that that's going to
3 change a whole lot of things.

4 **MR. BREMAN:** I'm open to any discussion.

5 **MS. LEE:** Why don't you put it in the --

6 **MR. LAUX:** It would be very helpful to me if
7 you had examples in there and if -- just as you asked
8 us to put in, you know, what accounts -- what FERC
9 accounts would you record things in and all of that
10 other stuff. It would be helpful to me if I saw that
11 type of information; it makes it a lot easier to
12 understand people's argument.

13 **MS. TEW:** Would the companies be interested
14 in filing some type of post workshop comments on this
15 thing? You could discuss -- that you think that that
16 was -- that was covered in a prior Commission order
17 and you can --

18 **MS. SICKEL:** Expound on why, where and what
19 you would do.

20 **MS. TEW:** I don't know if that's appropriate
21 or not.

22 **MR. CHILDS:** No.

23 **MR. LAUX:** I think you've got a lot of
24 information from us already. I don't know -- first
25 called them answers and they weren't answers; they

1 were responses to questions.

2 **MR. BREMAN:** This is a real dangerous thing
3 to say, now. If you're going to file post comments,
4 OPC and FIPUG are going to also.

5 **MR. HOWE:** I haven't heard yet that anybody
6 is going to file anything. We would certainly file if
7 somebody else.

8 **MR. BREMAN:** Something you wanted to file
9 just go for it.

10 (Whereupon, the workshop concluded at
11 1:10 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

: CERTIFICATE OF REPORTER

3 I, JOY KELLY, CSR, RPR, Chief, Bureau of
4 Reporting, Official Commission Reporter,

5 DO HEREBY CERTIFY that the Staff Workshop in
6 Docket No. 990007-EI was conducted by the Staff of the
7 Florida Public Service Commission at the time and
8 place herein stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed by me; and that this transcript,
12 consisting of 148 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 29 day of April, 1999.

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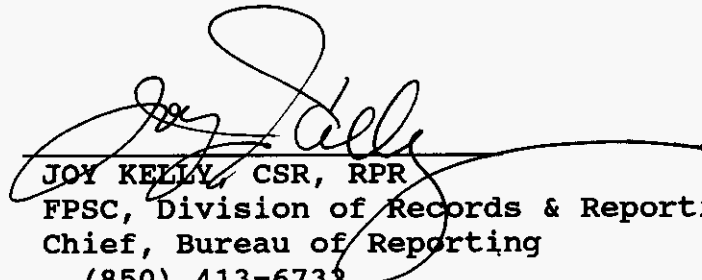
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JOY KELLY, CSR, RPR
FPSC, Division of Records & Reporting
Chief, Bureau of Reporting
(850) 413-6732

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