



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

1  
2 (Transcript follows in sequence from  
3 Volume 2.)

4 CHAIRMAN EDGAR: Commissioners, that will  
5 bring us to Issue 28, and I'm going to ask staff to give  
6 an overview of that issue.

7 MR. BREMAN: Commissioners, 28 is the  
8 vegetation side of 27. FPL had the opportunity to  
9 implement vegetation programs prior to the storms. They  
10 developed a program initiated in 2003, but they didn't  
11 initiate it as initially proposed. They ramped it in  
12 kind of slowly. Again, because of FPL's slow  
13 implementation of the program, it results in a basis of  
14 argument between FPL and the intervenors.

15 FPL believes no adjustment is warranted. The  
16 intervenors believe some adjustment should be made  
17 because the forensic team that reviewed FPL's system  
18 found that had FPL done some level of tree trimming,  
19 some of the pole failures would not have occurred.

20 Staff has a very similar approach in Issue 28  
21 as in 27. I don't think we need to go back through all  
22 of that. Staff is ready to answer your questions.

23 COMMISSIONER CARTER: Madam Chairman.

24 CHAIRMAN EDGAR: Commissioner Carter.

25 COMMISSIONER CARTER: I was thinking that if

1 Commissioner Deason still had his calculator handy that  
2 we could follow the process that we just did on Issue  
3 27. If that doesn't give anybody heartburn, it seems  
4 that at least we will be consistent.

5 COMMISSIONER DEASON: Madam Chairman, if I  
6 may.

7 CHAIRMAN EDGAR: Commissioner Deason.

8 COMMISSIONER DEASON: I want to be internally  
9 consistent, but there's a big factor here which applies  
10 to vegetation management adjustment, and that has to do  
11 with the third line, which is percent avoidable. And we  
12 certainly have a big difference in opinion between the  
13 Public Counsel witness and the FPL witness. And I know  
14 staff is taking the same position as Public Counsel, and  
15 I think that is partly attributable to the fact that  
16 FPL's own forensics team drew a conclusion that there  
17 were some pole failures that could have been avoided  
18 with more aggressive vegetation management; is that  
19 correct?

20 MR. BREMAN: That's correct.

21 COMMISSIONER DEASON: Did the forensic team  
22 offer any estimate of the percent of failures that would  
23 have been avoided?

24 MR. BREMAN: They only recorded what their  
25 specific observations were. They recorded three. Those

1 three observations were not on FPL-owned poles. They  
2 were third-party poles.

3 The center column, Ms. Williams' testimony,  
4 results in three -- excuse me, four avoidable pole  
5 failures. The testimony of Mr. Byerley results in 888  
6 avoidable pole failures. So that's the difference in  
7 all these factors for you.

8 COMMISSIONER DEASON: So we do have an extreme  
9 difference of opinion.

10 Madam Chairman, I've looked at this issue with  
11 some difficulty, and I'm just having difficulty jumping  
12 to the conclusion that half of the pole failures could  
13 have been avoided by a more aggressive vegetation  
14 management approach.

15 Tree trimming is certainly a vital part of the  
16 utility services necessary. It's necessary to provide  
17 reliable service. But I'm just not convinced that  
18 normal, even aggressive tree trimming is going to have  
19 that much of a meaningful impact when it comes in terms  
20 of avoiding pole failures from a hurricane.

21 Tree trimming certainly is advantageous and  
22 necessary for just the normal day-to-day operations of a  
23 reliable utility. But, Madam Chairman, I just -- it's  
24 difficult for me to conclude that simply trimming the  
25 limbs is going to have that meaningful of an effect on

1 preventing pole failures. When an entire tree -- even  
2 though its limbs may have been trimmed, if it blows  
3 over, it's going to take the line and the pole down with  
4 it whether the limbs had been trimmed or not. That's  
5 the difficulty I'm having.

6 So maybe I'll throw that out to staff for  
7 their viewpoint and discussion about the real impact of  
8 tree trimming in terms of catastrophic storms of this  
9 nature and storms of the nature we're talking about,  
10 entire pole failures as opposed to normal reliability  
11 disruptions from a branch that may swing in the wind and  
12 touch the line from time to time.

13 MR. BREMAN: I think you have two extremes  
14 being proposed to you by the witnesses, and the truth is  
15 somewhere in between. FPL does not have the data, and  
16 it's not in the record, because they just don't have the  
17 data. We're going to be getting the data through the  
18 other dockets that we have, the hardening dockets and so  
19 forth, and the pole inspection dockets.

20 So that's where we stand today. The truth is  
21 somewhere in between the two numbers, Commissioners.

22 COMMISSIONER CARTER: Madam Chairman.

23 CHAIRMAN EDGAR: Commissioner Carter.

24 COMMISSIONER CARTER: I just wanted to ask --  
25 I guess I'm just thinking aloud. It seems to me that

1 FP&L would have an incentive to provide as much  
2 information as possible, particularly something where  
3 we're talking about recovering costs on something as  
4 significant as trimming. I mean, if the data is there,  
5 it's there. I mean, if I were in that position, I would  
6 certainly want to prove my costs and say, "Here's the  
7 documentary evidence to show that these costs were  
8 incurred."

9 So I'm just having some internal concerns  
10 about the differentiation between the OPC witness,  
11 staff's recommendation, and FPL's witness on the -- I'm  
12 just zeroing in on the percent avoidable here. I don't  
13 know. There's a big difference. You say somewhere in  
14 the middle between 0.3 and 50. That's a big middle.

15 COMMISSIONER DEASON: May I ask another  
16 question at this point?

17 CHAIRMAN EDGAR: Commissioner Deason.

18 COMMISSIONER DEASON: The second line, percent  
19 due to trees, these are pole failures that were  
20 categorized as due to trees was the reason for the pole  
21 to fail?

22 MR. BREMAN: Right. There's two levels of  
23 review that the forensic team did. They determined  
24 which poles failed and for what cause. In this case,  
25 we're just interested in the cause code due to trees.

1 And the next step of the review asks the question, if  
2 FPL had trimmed, would that failure have occurred.

3 So that's what the two percentages are.  
4 Effectively, Mr. Byerley is saying 12 percent of the  
5 total poles, and Ms. Williams is 0.063 percent. That's  
6 the differences we're really talking about.

7 COMMISSIONER DEASON: And what was the  
8 rationale for Mr. Byerley's recommendation of  
9 50 percent? Was there some analysis done, or was it  
10 just a subjective professional estimate?

11 MR. BREMAN: The latter, sir.

12 COMMISSIONER DEASON: And of the percent that  
13 were due to trees, the 24 percent, how many of those  
14 were because the tree fell across the line as opposed to  
15 a limb blowing in the breeze that was not trimmed?

16 MR. BREMAN: That information is not here.

17 CHAIRMAN EDGAR: I always have discomfort when  
18 there is a data gap, a data gap or multiple data gaps.

19 MR. BREMAN: I want to -- I don't know. Maybe  
20 I'm confusing everybody more, but the percentages that  
21 we're talking about here are applicable to only those  
22 1,740-some sites that the forensic team reviewed. And  
23 those numbers are then being allocated to the pole  
24 population that FPL owned. That's Mr. Byerley's  
25 analysis and the analysis that Williams advocates if you

1 need to do an adjustment.

2 COMMISSIONER DEASON: Madam Chairman, may I  
3 ask legal a question?

4 CHAIRMAN EDGAR: Commissioner Deason for a  
5 question.

6 COMMISSIONER DEASON: How much discretion do  
7 we have in terms of -- do we need to accept the 0.3 or  
8 the 50 percent? Are those our two options that are  
9 supported in the record, or do we have discretion for  
10 something in between?

11 MR. MELSON: That's a good question. If you  
12 were talking about cost of capital, I would tell you you  
13 probably had discretion for something in between. When  
14 you're dealing with a matter of either fact or opinion,  
15 I have a hard time suggesting that you can pick a number  
16 in the middle.

17 I think you almost have to believe one number  
18 or the other or disbelieve them both. And if you  
19 disbelieve them both, then you get back to asking who  
20 has the burden of proving what, and that may not  
21 simplify your analysis.

22 COMMISSIONER DEASON: Well, Madam Chairman, if  
23 it's a question of either/or, I have more confidence in  
24 the 0.3 number than I do the 50 percent number, which  
25 almost makes the adjustment meaningless. There is some



1 adjustment, but in terms of the magnitude of this case,  
2 it's very small. Certainly it could be calculated,  
3 but --

4 COMMISSIONER CARTER: Madam Chairman.

5 COMMISSIONER DEASON: -- I just have -- and I  
6 don't think it boils down to a burden of proof either.  
7 I think that -- I believe that FP&L made a very credible  
8 case that the majority of the pole failures were not due  
9 to a lack of tree trimming. And so I just put more  
10 faith in the 0.3 number if we have to choose between the  
11 two. That's just my personal opinion.

12 CHAIRMAN EDGAR: Commissioner Carter.

13 COMMISSIONER CARTER: If I may think aloud,  
14 Madam Chairman, I just have far more credence in the OPC  
15 and staff's recommendation on this matter here, because  
16 I don't see -- I see no incentive for staff to be  
17 otherwise, and I see an incentive for FPL to be more  
18 forthcoming with data and evidence. It just -- you  
19 know, it defies logic.

20 So I'm real leery on getting beyond staff's  
21 recommendation on something as obvious as this. And  
22 obviously, if I was in the superior position with the  
23 documents and evidence, I would present that data. And  
24 I think if it were available, then, you know, we  
25 wouldn't be trying to guess between 0.3 and 50. So I

1 think that staff is right on this one.

2 COMMISSIONER DEASON: We have a difference of  
3 opinion. This is what makes this process good, though.

4 CHAIRMAN EDGAR: Commissioner Arriaga.

5 COMMISSIONER ARRIAGA: Try to explain to me  
6 why did you select that 50 percent. What was the  
7 empirical or the mathematical procedure? I mean, is it  
8 just something that I took out of a bag and this is a  
9 number that I like? And I'm saying that in a nice way.  
10 I'm not -- you know, I'm worried. Where did it come  
11 from? Why 50 and why not 0.3?

12 MR. BREMAN: I can't speak for Mr. Byerley.  
13 He used his judgment based on whatever experience he has  
14 to come up with his recommendation.

15 Staff was inclined not to agree with what  
16 Williams was proposing, because FPL does not have  
17 pole-specific data and because FPL's vegetation program  
18 was not fully rolled out. It wasn't fully developed.  
19 So there's no guarantee that at the beginning of the  
20 hurricane season of 2005, all the streets, all the trees  
21 were trimmed. Some trees were and some weren't. And we  
22 don't have the information saying how much of the system  
23 was or wasn't trimmed, was it within the cycle. All we  
24 know is that FPL was in the process of trimming trees  
25 somewhere on its system, and we hope that the 1,700

1 inspection locations the forensic review team looked at  
2 were substantially randomly selected and not chosen  
3 because they were associated with the tree trimming  
4 locations.

5 COMMISSIONER ARRIAGA: I'm going to continue.

6 CHAIRMAN EDGAR: Commissioner Arriaga.

7 COMMISSIONER ARRIAGA: If you just told us  
8 that the truth is somewhere in between, why isn't your  
9 proposal where you think it is, according to yourself?

10 MR. BREMAN: I couldn't answer the question  
11 you're struggling with, Commissioners. I just picked  
12 one side or the other.

13 COMMISSIONER ARRIAGA: So you didn't think  
14 that going in the middle was more appropriate when we  
15 don't have specific data to rely on?

16 MR. BREMAN: I just didn't come up with a  
17 methodology to pick a number one side or the other. I  
18 know it's more than four poles, and so I picked the  
19 number that was proposed by Byerley. He has some  
20 experience, some years of experience in the field, so I  
21 relied on that information. I wasn't a witness.

22 COMMISSIONER ARRIAGA: Okay.

23 CHAIRMAN EDGAR: Well, again, Commissioners, I  
24 think we're struggling with data gaps. And as the staff  
25 has told us, we have as a Commission tried to take steps

1 so that in future years, perhaps in similar situations,  
2 although we're all hoping there won't be a similar  
3 situation, but that there will be some additional data  
4 gathered for analysis. I think that's a good thing.

5 However, here we are.

6 COMMISSIONER CARTER: Madam Chairman, I'm  
7 just -- I don't know where the Commissioners are, but  
8 I'm prepared to follow staff's recommendation on Issue  
9 28. And if I'm in order, I would make a motion to that  
10 effect.

11 CHAIRMAN EDGAR: Commissioners, we do have a  
12 motion on the table in favor of the staff recommendation  
13 on Item 28. Is there discussion?

14 Commissioner Tew.

15 COMMISSIONER TEW: Commissioner Carter, if I  
16 may, I just wanted to be clear. Are we including all of  
17 staff's column in Table 28-1, all the recommendations  
18 there, or are we following some of our decision in Table  
19 27.1 in the prior issue regarding the number of poles  
20 and the conductor cost per replaced pole, number of  
21 poles replaced, those sort of things that we changed in  
22 the last issue?

23 COMMISSIONER CARTER: Madam Chair, if I may.

24 CHAIRMAN EDGAR: Commissioner Carter.

25 COMMISSIONER CARTER: In view of the

1 representation that these two would be inconsistent to  
2 do it that way, I'm prepared to go with staff's  
3 recommendation, unless staff has a perspective that  
4 would make this all different. I'm prepared to go in my  
5 motion with the recommendation as presented in 28,  
6 unless staff says that throws everything off from Item  
7 27. But from the discussion I heard earlier, they said  
8 the two were apples and grapefruit, so it didn't really  
9 throw it off that much. I mean, that's -- apples and  
10 grapefruit is my term.

11 MR. BREMAN: Commissioner Carter, the  
12 adjustment that you would have to make on this one would  
13 be to reduce the 11,400 number to one of the two pole  
14 count numbers provided by the witnesses.

15 Mr. Byerley presented a 7,400 figure. That  
16 would tend to include more than just wooden poles.  
17 Witness Williams simply used the same pole count that  
18 she used in Issue 27, the 6,500. So that's the  
19 difference between the two numbers.

20 Whichever number you all pick would be -- of  
21 those two numbers would still be consistent with your  
22 vote in Issue 27, which was to stay with company-owned  
23 assets.

24 COMMISSIONER CARTER: So in answer to your  
25 question, Commissioner Tew, yes, it would be consistent.

1 I just see it moot to Issue 28 as presented.

2 CHAIRMAN EDGAR: Commissioner Tew.

3 COMMISSIONER TEW: Let me ask Mr. Breman about  
4 the number of poles. Is there reasoning with regard to  
5 this issue that doesn't exist with regard to Issue 27  
6 when the number of pole failures may differ? In other  
7 words, would there be a reason with regard to vegetation  
8 management in this case to go along with the greater  
9 number of poles, FPL-owned and non-FPL-owned poles, with  
10 respect to vegetation management?

11 MR. BREMAN: As I understand the record, the  
12 record shows that -- the KEMA report specifically  
13 addresses that FPL practice is to trim all poles, all  
14 circuits, regardless of who owns the poles. I don't  
15 know if that helps you or not.

16 Did I answer the question about the 7,400 that  
17 has non-wood poles in it? Okay.

18 CHAIRMAN EDGAR: Commissioner Arriaga.

19 COMMISSIONER ARRIAGA: Mr. Melson, did I  
20 understand you correctly a few minutes ago to indicate  
21 that we should not pick a number in the middle, that we  
22 should go either staff recommendation or OPC  
23 recommendation? I mean, can't we just go in the middle?  
24 The staff is saying that the truth is somewhere in the  
25 middle.

1           MR. MELSON: And the problem is, we don't have  
2 support in the record to choose a number in the middle.  
3 If there was a methodology in the record and we could  
4 use different assumptions in the record and calculate a  
5 number in the middle, my answer would be different.

6           But to just pull a number out in between  
7 leaves you potentially with a decision that is not  
8 supported by the record and that someone could challenge  
9 on appeal. Whether in this case it's a significant  
10 enough issue that either party would be unhappy with  
11 choosing a number in the middle and would choose to  
12 appeal, I don't know. But with an appeal, it could be a  
13 very tough one to defend.

14           CHAIRMAN EDGAR: Commissioner Tew.

15           COMMISSIONER TEW: I just want to be clear  
16 about the motion again. Is it to move the staff  
17 recommendation as we have before us without any changes  
18 to the number of pole failures?

19           COMMISSIONER CARTER: Yes.

20           COMMISSIONER TEW: I can second the motion.

21           CHAIRMAN EDGAR: Commissioners, we have a  
22 motion and a second. Is there further discussion?

23           Okay. All in favor of the motion say aye.

24           (Simultaneous affirmative responses.)

25           CHAIRMAN EDGAR: Opposed?

1 COMMISSIONER DEASON: Nay.

2 COMMISSIONER ARRIAGA: Nay.

3 CHAIRMAN EDGAR: Commissioners, Issue 29 has  
4 been withdrawn. That will bring us to Issue 30.

5 COMMISSIONER DEASON: Madam Chairman, this  
6 appears to be duplicative, but I can move staff on Issue  
7 30.

8 CHAIRMAN EDGAR: Thank you, Commissioner  
9 Deason. Is there a second?

10 COMMISSIONER CARTER: Second.

11 CHAIRMAN EDGAR: I have a motion and a second  
12 on Issue 30. All in favor say aye.

13 (Simultaneous affirmative responses.)

14 CHAIRMAN EDGAR: Opposed? Show Issue 30  
15 adopted.

16 That will bring us to Issue 31, which is also,  
17 Commissioner Deason, similarly duplicative, but I will  
18 look for a motion.

19 COMMISSIONER DEASON: Move staff.

20 COMMISSIONER CARTER: Second.

21 CHAIRMAN EDGAR: I have a motion and a second  
22 on Issue 31.

23 Issue 32 has been withdrawn.

24 It is almost three o'clock. I am expecting  
25 that we will have some discussion on the next issue, so



1 I would say let's take 15-minute break and come back at  
2 3:15.

3 (Short recess.)

4 CHAIRMAN EDGAR: We'll go ahead and go back on  
5 the record.

6 Commissioners, at the break, we were just  
7 coming to Issue 33. For planning purposes, I think that  
8 my thinking is that we will move through Items 33, 34,  
9 35, 36, and then go back to the two items that we TP'd,  
10 which was a portion of Issue 17, and then Issue 25.  
11 That will then have us have moved through all of the  
12 issues dealing with charges.

13 So with that, I'm going to ask staff to start  
14 us off with a discussion of Issue 33.

15 MR. BREMAN: Commissioners, Issue 33 has to do  
16 with a transmission line that failed during Hurricane  
17 Wilma, the Conservation-Corbett line. And when it  
18 failed, it fell on top of the Alva-Corbett transmission  
19 line and took that line out of service.

20 The question that's being raised in this issue  
21 is whether or not FPL acted reasonably and prudently to  
22 avoid this transmission line failure.

23 In brief, the history of the transmission line  
24 is that it went into service in 1996. In 1998, FPL had  
25 a transmission line outage due to a failed insulator.

1 During that investigation and review, FPL found that  
2 bolts were missing off the towers. An FPL engineer  
3 subsequently reviewed the scenario and recommended that  
4 FPL peen its bolts that are on the towers and also  
5 address the conductor vibration. Conductor vibration is  
6 a phenomenon that exists on all transmission lines, and  
7 it is apparently the cause for the outage that happened  
8 in 1998.

9 Now, FPL proceeded with the conductor  
10 vibration analysis and wanted to minimize it. Prior to  
11 1998, FPL had no history of transmission towers  
12 similarly built with bolts coming loose and falling off,  
13 so this is a rather unique event on FPL's system.

14 FPL proceeded with the conductor vibration  
15 analysis remediation and operated under the assumption  
16 that all problems were associated with conductor  
17 vibration, including the missing bolts or the bolts that  
18 had come loose. FPL proceeded to do subsequent  
19 inspections to verify they were addressing the assumed  
20 conductor vibration problem in subsequent years.

21 In 2000, everything looked good. The  
22 vibration problem was not a problem. 2001, same story.  
23 In 2002, no conductor vibration, but they found a  
24 missing bolt. FPL decided that that bolt problem, that  
25 one bolt was an anomaly. They apparently didn't go back

1 and test themselves to see whether or not their initial  
2 assumption that everything was a conductor vibration  
3 problem was correct. They didn't apparently go back and  
4 revisit the bolt peening recommendation by their  
5 engineers.

6 In 2003, FPL did another conductor vibration  
7 review and inspection, and again, no missing bolts were  
8 found. And the record does not show that -- well, the  
9 record shows that FPL did not do any subsequent  
10 inspections after 2003, so we don't know if there were  
11 missing bolts in 2004 and in 2005 prior to Hurricane  
12 Wilma.

13 The intervenors, and staff agrees with the  
14 intervenors, believe that FPL had a unique circumstance.  
15 Bolts were coming off towers. It was unique to FPL's  
16 system, and it was unique in North America. And in  
17 2002, FPL had a warning sign, the one missing bolt, that  
18 the problem still was not fully addressed, but  
19 apparently FPL decided otherwise. And that's where  
20 staff and intervenors recommend that you make an  
21 adjustment to recognize that FPL should have taken the  
22 precaution to peen the bolts and tighten the bolts.

23 Mr. Byerley's testimony has an exhibit that  
24 includes a forensic review by FPL. FPL's engineers  
25 reviewed the situation and found that FPL had not

1 tightened the bolts in 1998. They found that there was  
2 no evidence that bolt tightening had occurred, which  
3 further supports the lack of activity by FPL to avoid  
4 transmission tower failure. So that really puts the  
5 icing on the cake, so to speak, and suggests that an  
6 adjustment is appropriate.

7 CHAIRMAN EDGAR: Thank you, Mr. Breman.

8 Commissioners, there are questions or discussion?

9 COMMISSIONER DEASON: Move staff.

10 COMMISSIONER CARTER: Second.

11 CHAIRMAN EDGAR: I have a motion and a second  
12 on the staff recommendation for this issue. Is there  
13 further discussion? Seeing none, all in favor say aye.

14 (Simultaneous affirmative responses.)

15 CHAIRMAN EDGAR: Opposed? Show Issue 33  
16 approved. Issue 34.

17 COMMISSIONER DEASON: Move staff.

18 COMMISSIONER CARTER: Second.

19 MR. SLEMKEWICZ: Commissioners, I just would  
20 like to point out that you really can't vote on the  
21 dollar amount. You can vote on the concept that there  
22 should be interest, but because of subsequent  
23 adjustments, that dollar amount will change.

24 CHAIRMAN EDGAR: Thank you. Commissioners,  
25 Issue 34, we have a motion and a second. All in favor

1 say aye.

2 (Simultaneous affirmative responses.)

3 CHAIRMAN EDGAR: Opposed? Show Issue 34

4 approved.

5 That will bring us to Issue 35, and I'll ask  
6 for an overview.

7 MR. DEVLIN: Madam Chair, Issue 35 deals with  
8 the issue of sharing. And this may, by the way the  
9 issue is worded, be a moot issue, but that's something  
10 for the Commissioners to consider. By virtue of other  
11 decisions in the case, I would proffer that sharing has  
12 already taken place.

13 Staff agrees that FPL should not be 100  
14 percent insulated from the adverse effects of storms,  
15 and indeed, they have not been. We talked earlier about  
16 the business risk associated with weather changes and  
17 lost revenue, et cetera. FPL through your decision is  
18 absorbing that risk in their cost of capital. The same  
19 with the uncollectibles. To the extent there's prudence  
20 adjustments that Mr. Breman talked about, to me, that's  
21 an adverse effect to FPL. Even being subject to  
22 prudence adjustments is an element of risk for FPL.

23 So I'm giving you two examples where I think  
24 the shareholders of FPL are sharing in the adverse  
25 effects of storms. And the third area I think is still

1 up for grabs, and that would be the indirect costs  
2 issue, backfill and catch-up work. To the extent that  
3 FPL absorbs those costs, that would be a third category  
4 of costs that FPL would absorb and share in the risk of  
5 the storms. So I guess in that sense, staff is saying  
6 sharing does make sense, and it has indeed happened as a  
7 result of other issues in the case.

8 CHAIRMAN EDGAR: Thank you, Mr. Devlin.

9 Commissioner Carter.

10 COMMISSIONER CARTER: Thank you, Madam Chair.

11 I don't know if I heard you right, but did you say that  
12 this is -- because of other votes we've taken so far in  
13 this case, that this issue is moot? Or what are you  
14 saying?

15 MR. DEVLIN: Commissioner Carter, I think you  
16 could entertain taking that position, that it's moot  
17 because of other issues that have been decided upon in  
18 this case, such as the lost revenue and the  
19 uncollectibles and a couple of the issues that  
20 Mr. Breman talked about.

21 My view is that because of those decisions,  
22 FPL has shared in the adverse effects of the storms. So  
23 the answer is yes, and, yes, they have already done that  
24 as a result of your decisions in other issues. There  
25 are a couple of them that are still pending, but there

1 have been decisions in three or four areas that will  
2 result in adverse effects to FPL shareholders.

3 COMMISSIONER CARTER: Madam Chair, permission  
4 to follow up, please.

5 CHAIRMAN EDGAR: Commissioner Carter.

6 COMMISSIONER CARTER: So what is your  
7 recommendation on Issue 35?

8 MR. DEVLIN: No further action is necessary.  
9 And by virtue of other adjustments in the case, FPL  
10 shareholders are sharing in the adverse effects of the  
11 storms, and no further adjustments are necessary.

12 COMMISSIONER CARTER: Thank you.

13 CHAIRMAN EDGAR: Commissioner Arriaga.

14 COMMISSIONER ARRIAGA: I like the way you say  
15 Arriaga. It's really appropriate Spanish.

16 CHAIRMAN EDGAR: I've been practicing.

17 COMMISSIONER ARRIAGA: You are rolling the  
18 R's.

19 My question is to Mr. Keating. It's basically  
20 a legal issue here. During the whole process, there  
21 were a lot of comments regarding our not being bound by  
22 this settlement agreement, and I would like to interact  
23 with you a little bit regarding this issue.

24 First of all, am I understanding correctly  
25 that whatever recommendation you're making right now is

1 based on the fact that we are not bound by the  
2 settlement agreement?

3 MR. KEATING: I think to accept staff's  
4 recommendation here, which is essentially to recognize  
5 that the items that are listed here on page 124, with  
6 the exception of, I guess, the matters raised in Issues  
7 17B and C that have yet to be addressed, essentially  
8 result in some sharing of adverse effects. I don't  
9 think you have to get into an analysis of what the  
10 stipulation does or doesn't preclude to recognize that.

11 COMMISSIONER ARRIAGA: Nevertheless, on page  
12 128, in the last paragraph, in the second sentence, you  
13 indicated that we are not entirely bound. And when I  
14 read that, it means that we are partially bound. So  
15 what is it?

16 MR. KEATING: I'll clarify. I think we are  
17 bound to the extent that we're bound by any final order  
18 we issue setting rates. Any order we issue setting  
19 rates, we do so recognizing that we retain authority  
20 going forward to set fair and reasonable rates. If  
21 there's a change in circumstances that warrants doing so  
22 or if there's a modification of those rates that's  
23 required in the public interest, we retain the authority  
24 to make a change.

25 Now, that said, I'm sure we've discussed this



1 before, and it has been discussed in the public forum  
2 before that the Commission has given deference to  
3 settlements. But as a legal matter, you're bound by it  
4 not an as a signatory as the other parties are, but to  
5 the extent that it's adopted as your final order setting  
6 rates for FPL.

7 COMMISSIONER ARRIAGA: May I continue, please?

8 And I have a little concern here, because to me, the  
9 issue is -- originally I had some second thoughts, and  
10 during the discussion, I was wondering if we are bound  
11 or not.

12 And to me, it was very important to notice the  
13 silence of certain intervenors and the active  
14 participation of others, whether we are bound or not.  
15 And after listening to the discussion, I came to the  
16 conclusion personally that we are not. And like you  
17 just said, we do have -- the Commission has deference  
18 for these types of agreements, and we encourage them, as  
19 a matter of fact.

20 Now, the point that I'm trying to make is, for  
21 future references about our own personal participation,  
22 or institutional participation, I should say, wouldn't  
23 it be better -- and this is more or less a legal  
24 semantics issue. Rather than approving settlement  
25 agreements, wouldn't it be better to authorize

1 settlement agreements?

2 And let me read -- may I read, Madam Chair? I  
3 went to Webster's dictionary, and I started looking at  
4 the definition of approved versus authorized, and  
5 approved says, "To give one's consent to, to sanction,  
6 to confirm, to be favorable towards, think or declare to  
7 be good and satisfactory." To authorize means to give  
8 official approval to or permission for, to give power or  
9 authority, to empower, to commission.

10 Wouldn't it be better in the future, to avoid  
11 this kind of confusion, to authorize settlements rather  
12 than approve settlements?

13 MR. KEATING: I think as a practical matter,  
14 you would get to the same point. The decision or the  
15 order approving the settlement would have the same legal  
16 effect, in my opinion.

17 COMMISSIONER ARRIAGA: It may have the same  
18 legal effect, but the interpretation of third parties  
19 may be different as to their request for us to intervene  
20 in something that we have authorized rather than -- and  
21 the reason being that you're saying we're not entirely  
22 bound, which to me meant that we are partially bound.

23 MR. KEATING: And again, only to the extent  
24 that we would be bound by any final order we issue.  
25 There is the doctrine of administrative finality. We

1 issue an order, and it speaks to the matters addressed  
2 in that order. And so that the parties have some  
3 assurance going forward that we're not just going to  
4 reverse ourselves on that order, the doctrine is that --  
5 the legal doctrine is that we allow that order to govern  
6 unless we find that there's a significant change in  
7 circumstances or some modification is warranted to be in  
8 the public interest.

9 COMMISSIONER ARRIAGA: And allow me make a  
10 clarification, if I may, Madam Chairman. I'm not trying  
11 to send a message. Let's be very clear. I'm not  
12 sending a message out there that I'm not supporting  
13 settlement agreements. On the contrary, welcome, do  
14 them as much as you can.

15 But this Commission, how much it interferes or  
16 intervenes or participates in approval or authorization  
17 is my worry, because one of the intervenors during the  
18 case indicated thoroughly many times that we should  
19 intervene because we're not bound. And I just want to  
20 reserve that possibility and leave it there just for the  
21 sake of argument.

22 I'm just thinking out loud here, because I'm  
23 concerned about how much should we participate or  
24 endorse or, you know, become part of the settlement  
25 agreements, which are really the responsibility of the

1 people out there. We should authorize, overview, but  
2 not become participants in any way.

3 MR. KEATING: From my recollection of the  
4 settlements that we've seen in recent years, in rate  
5 cases in particular, I think we've always been careful  
6 to say that the settlement binds the parties, that it  
7 doesn't necessarily bind the Commission, that it's  
8 subject to the standard that I cited before, significant  
9 change in circumstances or some modification to make  
10 sure our decisions are in the public interest.

11 We have, I think, almost always made that  
12 point in recommending or presenting a settlement to the  
13 Commission for discussion or for approval, that while we  
14 have given them great deference and encouraged  
15 settlements, there may come a point when circumstances  
16 change to the extent that we feel it's necessary going  
17 forward in the public interest to do something  
18 different, even though -- using this settlement as an  
19 example, it's got a certain term. If you were to find  
20 two or three years into the term that something  
21 significant has changed and that it's just not a fair  
22 arrangement anymore, we could pursue that.

23 COMMISSIONER ARRIAGA: Okay. Thank you.

24 CHAIRMAN EDGAR: Commissioners, questions on  
25 Issue 35?

1                   COMMISSIONER DEASON: I have a couple of  
2 questions.

3                   CHAIRMAN EDGAR: Commissioner Deason.

4                   COMMISSIONER DEASON: I guess my question  
5 pertains to just the concept of sharing and what that  
6 term implies. And the way I think staff is using it  
7 here is that if we make any determination that an amount  
8 is unreasonable or imprudent or inappropriate and we  
9 disallow that, that's a sharing.

10                   And I'm not sure that I agree with that, but I  
11 think that's where you are. You're certainly not  
12 adopting a certain percentage sharing. It's that you've  
13 gone in and you've analyzed all the issues and you've  
14 made recommendations. And in fact, this Commission has  
15 voted on a number of those, and there have been  
16 adjustments made for various reasons. And by  
17 disallowing those amounts from total costs, staff is  
18 interpreting that as a sharing of those costs. Is that  
19 correct?

20                   MR. DEVLIN: That's correct. Not necessarily  
21 costs even. I'm looking at it in a more broader sense,  
22 a sharing of adverse effects, which could be a shifting  
23 of business risk to shareholders.

24                   COMMISSIONER DEASON: But the goal is that by  
25 analyzing all these issues that we're in the process of

1 doing, the ultimate goal is to determine the reasonable,  
2 prudent, and appropriate amount of recovery for storm  
3 recovery; is that correct?

4 MR. DEVLIN: Yes, sir.

5 COMMISSIONER DEASON: Okay. But we're not  
6 recommending sharing any of the reasonable, prudent, and  
7 appropriate amounts. It's just that there may be some  
8 amounts beyond that that we're disallowing.

9 MR. DEVLIN: Correct.

10 COMMISSIONER DEASON: Okay. Madam Chairman,  
11 with that understanding, I can move staff's  
12 recommendation, realizing that some of the numbers in  
13 the table on page 124 may change. In fact, I think  
14 maybe some of those numbers have changed.

15 COMMISSIONER CARTER: Second.

16 CHAIRMAN EDGAR: Commissioners, we have a  
17 motion and a second on Issue 35. Is there further  
18 discussion? All in favor of the motion say aye.

19 (Simultaneous affirmative responses.)

20 CHAIRMAN EDGAR: Opposed? Show Issue 35  
21 adopted.

22 And, Commissioners, I did say a few moments  
23 ago that we would finish this sort of subsection of our  
24 issues, but upon further reflection, I think it makes  
25 sense to go back to 17 now, so I would like to go ahead

1 and do that. And if the staff can give us just a second  
2 so that we all get the right papers in front of us, we  
3 will go back and take up the remainder of Issue 17,  
4 which began on page 62. And when we TP'd this item, we  
5 left subparts B, C, and E that still need to be disposed  
6 of. So, Mr. Breman.

7 MR. BREMAN: Commissioner, the record only has  
8 one number. I don't remember who -- I think it was  
9 Commissioner --

10 CHAIRMAN EDGAR: Actually, it was me.

11 MR. BREMAN: Okay. There's only one number  
12 that's not broken down. There's no breakdown between  
13 whether or not it's outsourced or not, capital versus  
14 noncapital. There's only one number.

15 COMMISSIONER CARTER: I'm sorry. I couldn't  
16 hear.

17 CHAIRMAN EDGAR: Mr. Breman, a little louder.  
18 And, Commissioner Carter, I'll paraphrase, and then  
19 staff can certainly jump in.

20 When we were discussing this item, I had asked  
21 about the number. I think it's a couple of times in the  
22 item, but I'm looking right now at the top of page 68,  
23 where it gives a dollar value estimated at 7.8 million  
24 for catch-up work. And I was wondering if there was  
25 some additional information in the record to help break

1 that down, and Mr. Breman I believe is telling us that  
2 there really is not.

3 MR. BREMAN: There is not. It's Exhibit  
4 KMD-13, page 2 of 2, line 11. There's only one number.

5 CHAIRMAN EDGAR: Thank you.

6 So, Commissioners, with that additional  
7 discussion and review that our staff has done of the  
8 record while we proceeded with the other items -- as I  
9 said, we still have subparts B, C, and E before us. Are  
10 there further questions?

11 COMMISSIONER DEASON: I have a question.

12 CHAIRMAN EDGAR: Commissioner Deason.

13 COMMISSIONER DEASON: Well, as a follow-up  
14 question, does staff has an opinion as to whether the  
15 \$7.8 million of catch-up work is an appropriate estimate  
16 at this point or not?

17 MR. BREMAN: It's appropriate for the purposes  
18 of this proceeding, Commissioner. It will be trued up,  
19 and there's no way to avoid that.

20 CHAIRMAN EDGAR: Mr. Breman, I thank you for  
21 raising that point, because I was about to ask that  
22 question, that there would be true-up as we move through  
23 the process.

24 Commissioners, are there further questions or  
25 discussion? Then I think it's time for a motion.



1                   COMMISSIONER DEASON: Madam Chairman, I can  
2 make a motion. I would move that we deny staff's  
3 recommendation on Issues 17B, C, and E, and that we  
4 allow backfill and catch-up work to be charged to the  
5 reserve for recovery.

6                   CHAIRMAN EDGAR: Okay. Commissioner Deason  
7 has made a motion on all three of the subparts that we  
8 had yet to take up. We will have some further  
9 discussion on his motion.

10                   I do note that in the discussion that the  
11 staff has laid out an analysis for us that -- my  
12 understanding is that one of distinctions they had used  
13 was trying to draw that line between indirect and direct  
14 costs that can be attributed to storm restoration. And  
15 I note again -- I think I said this earlier -- that I  
16 fully recognize that sometimes there can be a gray area.  
17 It's not always a bright line. But yet in my opinion,  
18 it is one way, and it is a very useful way of trying to  
19 categorize costs and expenses.

20                   Commissioners, we do have a motion on the  
21 table. Is there a second or discussion or a question?

22                   Commissioner Arriaga.

23                   COMMISSIONER ARRIAGA: I'm not going to second  
24 it yet. I just want a clarification from Commissioner  
25 Deason.

1 CHAIRMAN EDGAR: You're recognized.

2 COMMISSIONER ARRIAGA: Thank you.

3 Commissioner, please explain to me, are you  
4 proposing this for the same reason that we did the  
5 previous Issue 17 items, the same reason, that we may be  
6 sending a message to the company not to appropriately go  
7 ahead and do what they need to do to restore power?

8 COMMISSIONER DEASON: Yes, Commissioner. I'm  
9 concerned that we're providing a financial disincentive  
10 to make decisions to restore service as quickly and as  
11 efficiently as possible.

12 And I also think that -- while I agree with  
13 the Chairman that there may be degrees of difference  
14 between true incremental costs and directly associated  
15 costs and unassociated costs, I think this type work,  
16 while perhaps it was not direct costs of restoring  
17 service, it's costs that are the direct consequence of  
18 trying to restore service quickly and efficiently. And  
19 for that reason, I would think they are costs that  
20 should be allowed for recovery.

21 COMMISSIONER ARRIAGA: May I continue, please?

22 CHAIRMAN EDGAR: Commissioner Arriaga.

23 COMMISSIONER ARRIAGA: Listening to what  
24 Commissioner Deason has to say, Mr. Breman, what would  
25 be your reasoning to propose that we don't allow this

1 expense?

2 MR. DEVLIN: I have two reasons. One is the  
3 reason that the Chair mentioned, that it's not directly  
4 related to storm restoration. And the other is, I think  
5 it would be very difficult to verify these costs. I  
6 mean, they're after the fact. It could be six months,  
7 could be a year down the road that this backfill and  
8 catch-up work takes place. And I think it might be very  
9 hard to discern, you know, regular O&M costs from costs  
10 that were incurred because people were taken off the job  
11 six months earlier. So I have a little auditability  
12 question that comes into play here as well.

13 COMMISSIONER ARRIAGA: But if there's going to  
14 be a true-up, wouldn't that be an opportunity for us to  
15 determine --

16 MR. DEVLIN: I was just asking John about how  
17 difficult that might be to true up, because these are  
18 costs -- and somebody can correct me if I'm wrong --  
19 that are not charged to the storm reserve. They would  
20 be charged to perhaps an O&M account. And if we allow  
21 these costs in this case, yes, we would do an audit, and  
22 I didn't know how difficult it would be to discern that  
23 these costs related to backfill and catch-up versus  
24 normal O&M, and I don't have an answer to that question.  
25 I think it might be difficult to audit and verify.

1                   COMMISSIONER ARRIAGA:  But it says it  
2 represents additional overtime hours or contractor work  
3 incurred until catch-up work is completed.  Additional  
4 overtime hours are -- I mean, a record is kept in any  
5 company of overtime, and so is a record of contractor  
6 work.  There are invoices.  There are all kinds of  
7 things that you can verify.

8                   MR. DEVLIN:  That's very true, Commissioner,  
9 but overtime takes place all the time, and they have  
10 contract labor all the time as well.

11                   COMMISSIONER ARRIAGA:  So what you're saying  
12 is that it's difficult to determine whether that  
13 overtime was applied to storm-related activities or to  
14 normal overtime that the company incurs?

15                   MR. DEVLIN:  It might be difficult.  I'm not  
16 sure.  It's not really storm restoration activities.  It  
17 would be this backfill and catch-up work that they'll be  
18 doing, you know, after the fact.  And I'm just not sure  
19 how -- I think it would be difficult to tag those  
20 dollars as relating to the hurricanes.

21                   COMMISSIONER ARRIAGA:  So because it is  
22 difficult for us as the Commission and staff to  
23 determine, we are denying it because of the difficulty?

24                   MR. DEVLIN:  That was one reason I have, and  
25 the other is that it's not directly related to

1 restoration. Those are my two reasons.

2 CHAIRMAN EDGAR: Commissioner Deason, I agree  
3 wholeheartedly with your thought about us wanting to  
4 avoid trying to unpurposefully put in a disincentive to  
5 the actions that we want our regulated utilities to  
6 carry out. And I think that -- and I am also,  
7 Commissioner Carter, thinking out loud here. But there  
8 certainly are times when, you know, decisions are made,  
9 and down the road you realize that there was an impact  
10 or effect that had not been realized.

11 In this instance, though, I am somewhat  
12 persuaded by comments made by Mr. Devlin earlier about  
13 the good work done by the utilities in the state and the  
14 seriousness with which they take the responsibility to  
15 provide service and to provide it reliably and safely  
16 and efficiently to all of the customers that they serve.

17 And again, pointing out that -- I've said it  
18 now two or three times, but that is because I'm thinking  
19 out loud -- that I fully recognize there are some gray  
20 areas, but trying to provide some consistency between  
21 direct and indirect costs to me seems like a good  
22 message and a clear message to send as well. And I put  
23 that out also just for discussion.

24 Commissioners, are there further questions or  
25 comments?

1 Commissioner Carter.

2 COMMISSIONER CARTER: Madam Chairman, I would  
3 agree wholeheartedly, because I think if you have an  
4 incentive to have a bifurcated process or have at least  
5 some distinguishable perspective in terms of what costs  
6 are and what they are pertinent to in terms of cost  
7 areas and income areas and things like that, it gives a  
8 greater perspective, and it makes the whole process more  
9 transparent. And I think that's really what we should  
10 be doing as Public Service Commissioners.

11 And I just think that it -- the industry is  
12 doing a great job, and we appreciate that, but also, in  
13 the process of doing a great job that should be  
14 appreciated, it should also be a transparent job so that  
15 we don't come back six months or four months or whatever  
16 down the road and say, you know, we don't really know  
17 what the real number is.

18 And I think that if we put in some parameters,  
19 then at least they will have some direction to say the  
20 Commission says put these costs in this category, put  
21 these costs in this category, such that later on when  
22 there's a process for audit, then there's legitimate  
23 audit process taking place. So that's why I'm convinced  
24 to take staff's position on Items B, C, and E that are  
25 outstanding.

1                   COMMISSIONER DEASON: Madam Chairman, I don't  
2 think the motion is going to have a second, but I want  
3 to clarify the motion for just a moment. I'm not  
4 recommending that we do anything of an opaque nature,  
5 and I'm not recommending that we do anything that can't  
6 be audited and verified. I'm simply recommending or  
7 suggesting that we make decisions internally consistent  
8 with what we expect a well run and managed utility to  
9 do. Our decisions should be consistent with what we  
10 expect management to do, and that was the reason for the  
11 motion.

12                   COMMISSIONER ARRIAGA: May I?

13                   CHAIRMAN EDGAR: Commissioner Arriaga.

14                   COMMISSIONER ARRIAGA: And I truly understand  
15 what Commissioner Deason has just clarified, and I take  
16 the same point of view, and I even go one step further.  
17 We're telling the company, "You're doing a good job, and  
18 whenever you're doing a good job, we appreciate it, but  
19 at the same time, we're going to penalize you for it."  
20 It's sort of like, "Stop doing a good job," and that  
21 worries me a little bit. So, Commissioner Deason, I'm  
22 going to second your motion.

23                   CHAIRMAN EDGAR: Commissioners, we have a  
24 motion and a second. Is there further discussion?  
25 Seeing none, all in favor of the motion say aye.

1 COMMISSIONER DEASON: Aye.

2 COMMISSIONER ARRIAGA: Aye.

3 CHAIRMAN EDGAR: All opposed? Nay.

4 COMMISSIONER TEW: Nay.

5 COMMISSIONER CARTER: Aye, aye for opposed. I  
6 thought you were going to say "like sign."

7 CHAIRMAN EDGAR: Commissioner Tew, I'm sorry,  
8 but I did not hear you, and that means I hear a 2-2, and  
9 so I'm going to ask for a clarification of your vote.

10 COMMISSIONER TEW: I also said nay. But let  
11 me just clarify that I also have concerns about sending  
12 the wrong signals to utilities and feel like I'm  
13 believer in incentive based regulation, but I've just  
14 really struggled with this, and I feel like I just have  
15 to come down on the side of staff in this case.

16 CHAIRMAN EDGAR: Thank you. Commissioners, I  
17 believe that means we need a motion.

18 COMMISSIONER CARTER: We're on -- where are we  
19 at? Two to 2?

20 CHAIRMAN EDGAR: No. The motion failed.

21 COMMISSIONER CARTER: The motion failed.

22 CHAIRMAN EDGAR: And so if we want to adopt  
23 the staff recommendation --

24 COMMISSIONER CARTER: Okay. I would move we  
25 follow the staff recommendation on Items B, C, and E,



1 Madam Chairman, on Issue 17.

2 CHAIRMAN EDGAR: Thank you, Commissioner  
3 Carter.

4 COMMISSIONER TEW: Second.

5 CHAIRMAN EDGAR: I have a motion and a second.  
6 All in favor of Commissioner Carter's motion say aye.

7 COMMISSIONER CARTER: Aye.

8 CHAIRMAN EDGAR: Aye.

9 COMMISSIONER TEW: Aye.

10 CHAIRMAN EDGAR: Opposed?

11 COMMISSIONER DEASON: Nay.

12 COMMISSIONER ARRIAGA: Nay.

13 CHAIRMAN EDGAR: All right. Thank you very  
14 much. And with that, we will move to the next  
15 temporarily passed item, which was Issue 25, and that  
16 was on page 87.

17 Mr. Slemkewicz, in light of the votes that we  
18 have just taken, can you give us an overview of Issue  
19 25, please.

20 MR. SLEMKEWICZ: Okay. Issue 25, the only  
21 change -- let's see. Okay. There were no changes  
22 through Issue 25, so there would not be a -- there  
23 should not be a change to the number. The number in the  
24 recommendation does not reflect the change we made to  
25 Issue 22. And the bottom line number based on the

1 changes to Issue 22, if you turn to page 88, on the  
2 third number from the bottom, the 725,972,500 would now  
3 be \$730,129,115, and the jurisdictional portion of that  
4 would be \$729,552,313.

5 CHAIRMAN EDGAR: Thank you, Mr. Slemkewicz.  
6 Commissioners?

7 COMMISSIONER DEASON: I have a question. I  
8 thought that we made an adjustment to staff's  
9 recommendation on the issue dealing with pole  
10 inspections and pole replacements. Am I mistaken?

11 MR. SLEMKEWICZ: Yes, 27, but that's past 25.

12 COMMISSIONER DEASON: Okay. That's going to  
13 be taken up in the next --

14 MR. SLEMKEWICZ: That's in the next fallout  
15 issue, in 36.

16 COMMISSIONER DEASON: That's fine. So there  
17 will be a further adjustment on that fallout issue.

18 MR. SLEMKEWICZ: Yes, sir.

19 COMMISSIONER DEASON: Okay. Thank you.

20 CHAIRMAN EDGAR: Thank you, Commissioner  
21 Deason.

22 Commissioners, with the clarification, are  
23 there further questions?

24 COMMISSIONER DEASON: Move staff as modified  
25 and described by staff.

1 CHAIRMAN EDGAR: Thank you. Do I have a  
2 second?

3 COMMISSIONER CARTER: Second.

4 CHAIRMAN EDGAR: I have a motion and a second.  
5 All in favor say aye.

6 (Simultaneous affirmative responses.)

7 CHAIRMAN EDGAR: Opposed? Show Item 25  
8 adopted.

9 Commissioners, that will bring us then to Item  
10 36.

11 MR. SLEMKEWICZ: Okay. Item 36 is again  
12 another fallout issue, and this one will incorporate  
13 Issue 27, where the amount changed from 4,460,0000 to  
14 1,650,000. So if you turn to page 132, the fifth number  
15 from the bottom, where it says -- let's see.  
16 \$718,962,500 would now be \$725,929,115. The  
17 jurisdictional factor doesn't change. The net  
18 jurisdictional costs would then be -- instead of the  
19 718 million that's listed there, it would be  
20 \$725,355,631. The interest adjustment or the total  
21 interest would increase to \$10,213,507, which would give  
22 you a grand total of \$735,569,138.

23 CHAIRMAN EDGAR: I'm sorry, Mr. Slemkewicz. I  
24 was still one number up. Can you give me the very last  
25 number there, the total jurisdictional number?

1 MR. SLEMKEWICZ: 735,569,138.

2 CHAIRMAN EDGAR: Thank you.

3 MR. MELSON: Chairman Edgar, could I ask  
4 Mr. Slemkewicz one question?

5 CHAIRMAN EDGAR: Mr. Melson.

6 MR. MELSON: John, did that include the change  
7 to the top number on the page, the carryover from  
8 changed Item 25?

9 MR. SLEMKEWICZ: Yes. All those numbers would  
10 change. I was just trying to get to the bottom line.  
11 I'll have to redo all these schedules to get all the  
12 numbers to show correctly. I was just trying to get to  
13 the bottom line numbers.

14 CHAIRMAN EDGAR: Thank you. Commissioners,  
15 with the numbers that have been described to us by  
16 staff, are there other questions for Issue 36?

17 COMMISSIONER DEASON: I can move staff.

18 CHAIRMAN EDGAR: I have a motion. Is there a  
19 second?

20 COMMISSIONER CARTER: Second.

21 CHAIRMAN EDGAR: I have a motion and a second  
22 on Issue 36. All in favor say aye.

23 (Simultaneous affirmative responses.)

24 CHAIRMAN EDGAR: Opposed? Please show 36  
25 adopted.

1           Commissioners, that will bring us to Item 37.  
2           And I'll look to our staff to give us an overview.

3           MR. BREMAN: Issue 37 has to do with the  
4           contribution to the storm damage reserve. It's a  
5           one-time infusion. FPL has recommended a \$650 million  
6           figure, and it's based on the traditional sense of, if  
7           we were insuring, where would we try to target the  
8           reserve to.

9           The intervenors took a different tack. They  
10          said that FPL had no risk; therefore, how much are we  
11          willing to pay as a one-time infusion into the reserve  
12          so that we're going to mitigate some level of price or  
13          bill volatility. And that's the difference between the  
14          two presentations.

15          In this case, FPL's rebuttal witness indicated  
16          the company is not at risk with the lower reserve level,  
17          and it has no effect except resulting in the volatility  
18          that we just spoke about. And the intervenors appear to  
19          be in agreement with that and are willing to go forward  
20          with a lower reserve level because they think that's in  
21          their best interest, at least today.

22          And witness Stewart provided an exhibit to his  
23          testimony where he calculated 16 years of FPL hurricane  
24          costs. He averaged those 16 years and came up with a  
25          \$147 million figure, and he added a little bit more to

1 that and came up with his \$200 million contribution to  
2 try to pad the reserve so that there wouldn't be a  
3 filing, hopefully, this year.

4 FPL made an assumption using traditional  
5 long-term hurricane insurance methodologies, and they  
6 came up with an estimate that on average, FPL will have  
7 about \$73.7 million of annual storm damage. Whichever  
8 is approximately correct, the \$200 million will cover us  
9 either for one year, or perhaps three years. Again, the  
10 intervenors are willing to go forward with the higher  
11 risk and the volatility associated with the lower  
12 amount.

13 CHAIRMAN EDGAR: Commissioners?

14 COMMISSIONER CARTER: Madam Chairman, just for  
15 a comment. I think the 200 million gives an opportunity  
16 for -- if things do happen in a, quote, unquote,  
17 worst-case scenario, at least we can come back and  
18 revisit this issue, and everybody, including the public,  
19 will be able to see the nature of that.

20 So the 200 million seems to be a reasonable  
21 amount for the storm damage reserve. I notice there was  
22 testimony to between 140 million all the way up to 650  
23 million, and the perspective of the AG's office, as well  
24 as from staff, is 200 million.

25 And I think that's a reasonable amount,

1 because nobody really knows -- notwithstanding the  
2 predictors, nobody really knows what the level of storms  
3 will be in any given year. But it certainly will give  
4 the public comfort if there is a catastrophic storm  
5 season to have a process where they get some input as we  
6 go through this process. And I think that people are  
7 reasonable. If things are significant like that, they  
8 will want to have it taken care of. So I think the 200  
9 million is a fairly reasonable amount to have in the  
10 storm damage reserve.

11 CHAIRMAN EDGAR: Commissioner Arriaga.

12 COMMISSIONER ARRIAGA: I think I totally agree  
13 with staff and with the intervenors on the fact that  
14 this is a 100 percent consumer risk. I agree with that.  
15 And you have indicated that the consumers are willing  
16 to -- the citizens are willing to take that risk.

17 But at the same time, I think this Commission  
18 needs to weight what the citizens -- we're not  
19 second-guessing them, but we need to weight whether  
20 their proposals are also in the best public interest.

21 So I don't have any problem with the figure.  
22 It could be 100, 600, or whatever. My problem is, how  
23 do we get to \$200 million? What is the mathematical  
24 formula we use to get to that? Why not 150?

25 MR. BREMAN: I relied on the testimony that

1 was provided. And there's two groups of testimony.  
2 There's testimony supporting 200 million, and there's  
3 testimony supporting 650 million, and those are the only  
4 two numbers in the record.

5 The 200 million was sponsored by witness  
6 Stewart, and the way he calculated it was simply  
7 averaging the 16-year history of FPL and adding to it a  
8 50 million kicker, so to speak, to get to the round  
9 figure of 200 million. His theory was that the kicker  
10 was necessary to recognize the potential for more  
11 frequent storms.

12 That's essentially it, Commissioners. So you  
13 have two options, either 200 million or 650 million.

14 COMMISSIONER ARRIAGA: Nowhere in between?

15 MR. BREMAN: Not in the record.

16 COMMISSIONER ARRIAGA: Not in the record.

17 MR. MELSON: Commissioner Arriaga?

18 COMMISSIONER ARRIAGA: Yes.

19 MR. MELSON: This is one where there are a  
20 number of factors that each witness who sponsored a  
21 number testified to that went into their calculation.  
22 And without examining it further, I'm reluctant to tell  
23 you that this is a case where you could not choose a  
24 number in between if you weighed those factors  
25 differently, for example, the likelihood of increased



1 storm activity, the more recent experience.

2 Obviously, the safest thing to do is to go  
3 with one of the two numbers in the record. But unlike  
4 the prior discussion, I would be hesitant to tell you  
5 that choosing something in the middle would be  
6 inappropriate. If you did choose something in the  
7 middle, you would have to think about it in terms of the  
8 specific factors in the record and how you weighed  
9 those.

10 COMMISSIONER ARRIAGA: May I, Madam Chair?

11 CHAIRMAN EDGAR: Commissioner Arriaga.

12 COMMISSIONER ARRIAGA: And I appreciate that,  
13 and let me clarify my position. I said at the beginning  
14 that I truly understand that it is the citizens' call,  
15 and if they want 200 million, I'm willing to go with  
16 that. There's absolutely no problem. But I think that  
17 we have an obligation to weight all the factors,  
18 considering, for the record, that this is a call made by  
19 who is assuming 100 percent of the risk, and they're  
20 entitled to assume that risk. And if that's what they  
21 want to do, that's fine with me. I have absolutely no  
22 problem with that. I'm willing to go with the 200  
23 million reserve.

24 But I do need to ask the question, because  
25 again, these numbers pulled out of the hat worry me a

1 lot. Let's talk about any other utility, maybe Progress  
2 Energy, for example. What would be the storm reserve  
3 that is being discussed right now for Progress Energy,  
4 if at all? And what I'm trying to get here is the size  
5 of Progress Energy versus the size of Florida Power &  
6 Light and the amounts that would be going to the storm  
7 reserve in either case. Is that a fair question? I'm  
8 just trying to figure out where did this 200 million  
9 number come from. And, again, beforehand, I'm saying  
10 I'm going to approve the million 200, because that's  
11 what the citizens want, but I'm trying to figure out  
12 what mathematical calculation was made to get to that  
13 point.

14 MR. BREMAN: As I said, the record has a very  
15 simple mathematical process. They took historical data  
16 for the past 16 years and averaged it, and that came up  
17 to \$147 million. And then witness Stewart added \$50  
18 million, in his judgment, took into account the other  
19 various factors that he was concerned about.

20 No witness specifically quantified all the  
21 various factors. They didn't say factor A has these  
22 dollars associated, factor B has these dollars, and then  
23 added all those complements up. The witnesses simply  
24 produced one number based on a judgment.

25 COMMISSIONER ARRIAGA: May I continue, please?

1                   CHAIRMAN EDGAR: Commissioner Arriaga.

2                   COMMISSIONER ARRIAGA: Thank you. Would it be  
3 fair to say in the future, for example, that -- let's  
4 say Gulf Power, which is five time smaller than FPL, or  
5 ten times smaller. Would it have been fair to say that  
6 in the case of Gulf Power, if we had a similar case  
7 presented here, and assuming they're ten times less than  
8 FPL, that we would be approving a storm reserve of  
9 20 million?

10                  MR. BREMAN: No. I think the facts and  
11 circumstances of each utility have to be considered,  
12 including such things as what are the customers already  
13 paying for through their base rates. That's a factor  
14 you have to consider. And FPL has a different set of  
15 facts and circumstances. In this case, FPL's base rates  
16 do not include a component for storm damage reserve, so  
17 you set a target level.

18                  The theory of that would be, suppose they have  
19 no storms for a period of years and the storm reserve  
20 continues to accrue that annual amount and it starts  
21 getting really big. So that becomes the concern about  
22 what level do you have before you say, "Okay. Stop  
23 accruing to it. Let's do something else with the  
24 dollars."

25                  So the whole regulatory concept of how you

1 deal with the utility has to be done case by case,  
2 looking at the specific facts and circumstances of that  
3 utility. It's very hard to make a generalized statement  
4 about what a storm damage reserve should be for any  
5 given utility using some uniform rule.

6 COMMISSIONER ARRIAGA: Madam Chair, with those  
7 clarifications, I'm prepared to move staff's  
8 recommendation.

9 COMMISSIONER CARTER: Second.

10 COMMISSIONER DEASON: Madam Chairman, if I  
11 may.

12 CHAIRMAN EDGAR: Commissioner Deason.

13 COMMISSIONER DEASON: I'm going to support the  
14 motion, but just let me say that it causes me some  
15 concern. And I believe that the comfort that I find is  
16 in the possibility that we're going to approve the  
17 securitization. And I know that's in subsequent issues,  
18 and we will deal with that.

19 But let me say this. If we were to choose not  
20 to go the route of securitization and go back to a more  
21 traditional surcharge, reserve target approach, maybe  
22 even trying to -- in the future, after this stipulation  
23 expires, trying to have some type of an accrual in base  
24 rates, I think that the number should be higher than  
25 200 million.

1 I know that when the Commission reviewed the  
2 target of an appropriate reserve that was necessitated  
3 by Andrew and the fact that insurance was no longer  
4 available in that era, and continues now, I think the  
5 Commission had internally set a target of having in the  
6 reserve at least enough to cover one type Andrew event.  
7 And I don't know what that would be in current dollars,  
8 but I would anticipate it probably would be 400 million  
9 plus, just in round numbers.

10 So I'm comfortable with the 200 million, even  
11 though -- given that hopefully we're going to review  
12 securitization, and maybe that's what the Commission is  
13 going to decide. If the Commission were not to decide  
14 to go to securitization and go to a more traditional  
15 approach, Madam Chairman, I probably would move that we  
16 reconsider the 200 million and maybe look at a higher  
17 number. But given what I know now, I'm comfortable with  
18 going with the 200 million.

19 CHAIRMAN EDGAR: Thank you. Commissioner  
20 Arriaga, you did make a motion?

21 COMMISSIONER ARRIAGA: Yes, I did.

22 CHAIRMAN EDGAR: And we had a second?

23 COMMISSIONER CARTER: Yes.

24 CHAIRMAN EDGAR: And we had a second. Okay.  
25 Thank you. Is there further discussion?

1           Okay. All in favor of the motion say aye.

2           (Simultaneous affirmative responses.)

3           CHAIRMAN EDGAR: Opposed? Motion carries.

4           We are on Item 38. Commissioners, are there  
5 questions for our staff or discussion on Issue 38?

6           COMMISSIONER DEASON: Move staff.

7           COMMISSIONER CARTER: Second.

8           CHAIRMAN EDGAR: Motion and a second on Issue  
9 38. All in favor say aye.

10          (Simultaneous affirmative responses.)

11          CHAIRMAN EDGAR: Opposed? Issue 38 is  
12 carried.

13          That will bring us to Issue 39.  
14 Commissioners, questions or discussion?

15          COMMISSIONER DEASON: I can move staff.

16          COMMISSIONER CARTER: Second.

17          CHAIRMAN EDGAR: Motion and a second. All in  
18 favor say aye.

19          (Simultaneous affirmative responses.)

20          CHAIRMAN EDGAR: Issue 39 is approved.

21          Issue 40 has been withdrawn. That will bring  
22 us to Issue 41.

23          COMMISSIONER DEASON: Move staff.

24          COMMISSIONER CARTER: Second.

25          CHAIRMAN EDGAR: Motion and a second on Issue

1 41. All in favor say aye.

2 (Simultaneous affirmative responses.)

3 CHAIRMAN EDGAR: Opposed? Issue 41 is  
4 approved. Issue 42. Mr. Slemkewicz.

5 MR. SLEMKEWICZ: Issue 42 is the last fallout  
6 issue. And based on all the other adjustments that have  
7 been made, I'll give you the bottom line number  
8 equivalent. If you look on page 149, the bottom line  
9 number would now be 708,137,799. And that would include  
10 the estimated up-front bond issuance costs of  
11 11,425,000. And there probably would be some rounding.  
12 When they want to issue bonds, they're not going to  
13 issue them in these dollar amounts. They would at least  
14 round up to the nearest thousand anyway, if not  
15 millions.

16 COMMISSIONER DEASON: Move staff.

17 COMMISSIONER CARTER: Second.

18 CHAIRMAN EDGAR: Motion and a second. All in  
19 favor say aye.

20 (Simultaneous affirmative responses.)

21 CHAIRMAN EDGAR: Opposed? Show Issue 42  
22 approved.

23 Issue 43. Commissioners, are there questions?

24 COMMISSIONER DEASON: Well, given our earlier  
25 vote, how does that affect this issue? Is it moot, or

1 is it --

2 MR. KEATING: I believe it's moot. Basically,  
3 through Issues 39, 41 and 42, you voted to approve  
4 recovery through the securitization mechanism.  
5 Forty-three just gives you the dollar amount if we're  
6 going to go the route of a traditional surcharge, so I  
7 don't think there's any approval required there.

8 CHAIRMAN EDGAR: Commissioner Arriaga.

9 COMMISSIONER ARRIAGA: And you just mentioned  
10 that we did approve securitization. Therefore,  
11 Commissioner Deason's observation on the last issue  
12 kicks in; correct?

13 COMMISSIONER DEASON: Well, I'm comfortable  
14 with the 200 million, since we --

15 COMMISSIONER ARRIAGA: Because of the  
16 securitization issue.

17 COMMISSIONER DEASON: Yes.

18 MR. KEATING: Let me try to avoid a potential  
19 problem up front. I just second-guessed myself already.  
20 There is an Issue -- we won't look at it for quite a  
21 while -- 76, which asks whether -- if the bond issuance  
22 is delayed, whether a surcharge should go into effect  
23 temporarily until the bonds are issued. In the event  
24 that the Commission approves that request from FPL --  
25 and I'll look to staff to some extent. I'm not sure



1 that -- well, the number in Issue 43 may be relevant  
2 there.

3 MR. SLEMKEWICZ: Well, I can give you the  
4 number that 43 -- if you turn to page 151, I will give  
5 you all three numbers. Instead of the 728 million, it's  
6 now 735,569,138. The 200 million remains the same, and  
7 the 198 million remains the same. So the total would be  
8 \$1,134,249,570.

9 COMMISSIONER DEASON: Madam Chairman, if it's  
10 going to facilitate the potential for other issues, I  
11 can move staff on 43.

12 COMMISSIONER CARTER: I want to second that --  
13 Madam Chairman?

14 CHAIRMAN EDGAR: Commissioner Carter.

15 COMMISSIONER CARTER: I want to second it, but  
16 I wanted to find out -- I mean, we're into the  
17 securitization right now, are we not? So by  
18 approving -- I'm asking for legal. By approving these  
19 numbers, the 43 basically will tie into the actual  
20 securitization process; is that correct?

21 MR. MELSON: Commissioner Carter, on further  
22 reflection, I think the best thing to do may be to treat  
23 Issue 43 as moot, since you've approved securitization.  
24 If in one of the later issues you decide to approve an  
25 interim surcharge, we could simply write the correct

1 number in in that issue and avoid having any confusion  
2 here.

3 COMMISSIONER DEASON: Madam Chairman, I'll  
4 withdraw my motion. I'm comfortable with just finding  
5 Issue 43 moot.

6 CHAIRMAN EDGAR: And I am more comfortable  
7 with that as well, so I say thank you to you all,  
8 because --

9 COMMISSIONER CARTER: That's great.

10 CHAIRMAN EDGAR: -- I was finding myself in  
11 this sort of circular reasoning.

12 Okay, so with that, we will take up Item 44.  
13 Commissioners --

14 COMMISSIONER CARTER: Is this -- excuse me,  
15 Madam Chairman.

16 CHAIRMAN EDGAR: In light of this, are there  
17 questions? Commissioner Carter.

18 COMMISSIONER CARTER: I was going to ask  
19 Mr. Melson, are we now into this 49? I thought you said  
20 it was 73. Is this the real issue here?

21 MR. MELSON: I asked Mr. Keating to look at  
22 this one, but I think this one is moot also.

23 MR. KEATING: I would agree. And I think for  
24 clarification of my earlier comments, if we get to Issue  
25 76 and approve some sort of interim mechanism, I think

1 it was only envisioned to be based on 2005 costs and not  
2 replenishment of the reserve. That's just a  
3 clarification, but I do agree that 44 is moot.

4 CHAIRMAN EDGAR: Commissioner Deason, did you  
5 have a question? No? Okay.

6 All right, Commissioners. Then we will move  
7 on to Issue 45, and I'll look to staff.

8 MR. LOWE: Commissioners, 45 deals with  
9 deferred taxes. The issue as stated specifically refers  
10 to the deferred tax liability. All parties are in  
11 agreement on that particular part of it. However, OPC  
12 has expanded the issue to include the deferred tax  
13 debits and their treatment.

14 Staff agrees with most of what OPC wishes to  
15 do, which would eliminate the deferred tax debits for  
16 AFUDC and surveillance purposes in the future.

17 COMMISSIONER DEASON: Move staff.

18 COMMISSIONER CARTER: Second.

19 CHAIRMAN EDGAR: Is there discussion? There's  
20 a motion and a second for Issue 45. All in favor say  
21 aye.

22 (Simultaneous affirmative responses.)

23 CHAIRMAN EDGAR: Opposed? Issue 45 is  
24 approved. Issue 46.

25 COMMISSIONER DEASON: Move staff.

1 COMMISSIONER CARTER: Second.

2 CHAIRMAN EDGAR: Motion and a second on Issue  
3 46. All in favor say aye.

4 (Simultaneous affirmative responses.)

5 CHAIRMAN EDGAR: Opposed? Issue 46 is  
6 approved. Issue 47.

7 COMMISSIONER DEASON: Move staff.

8 COMMISSIONER CARTER: Second.

9 CHAIRMAN EDGAR: Motion and a second. All in  
10 favor of the motion on Issue 47 say aye.

11 (Simultaneous affirmative responses.)

12 CHAIRMAN EDGAR: Opposed? Issue 47 is  
13 approved. Issue 48.

14 COMMISSIONER DEASON: Move staff.

15 COMMISSIONER CARTER: Second.

16 CHAIRMAN EDGAR: Motion and a second on Issue  
17 48. All in favor say aye.

18 (Simultaneous affirmative responses.)

19 CHAIRMAN EDGAR: Opposed? Issue 48 is  
20 approved. Issue 49 has been withdrawn. We are on Issue  
21 50.

22 COMMISSIONER DEASON: Move staff.

23 COMMISSIONER CARTER: Second.

24 CHAIRMAN EDGAR: Motion and a second on Issue  
25 50. All in favor say aye.

1 (Simultaneous affirmative responses.)

2 CHAIRMAN EDGAR: Opposed? Issue 50 is  
3 approved. Issue 51.

4 COMMISSIONER DEASON: Move staff.

5 COMMISSIONER CARTER: Second.

6 CHAIRMAN EDGAR: Motion and second. All in  
7 favor say aye.

8 (Simultaneous affirmative responses.)

9 CHAIRMAN EDGAR: Opposed? Issue 51 is  
10 approved. Issue 52.

11 COMMISSIONER DEASON: I move staff.

12 COMMISSIONER CARTER: Second.

13 CHAIRMAN EDGAR: All in favor of the motion on  
14 Issue 52 say aye.

15 (Simultaneous affirmative responses.)

16 CHAIRMAN EDGAR: Opposed? Issue 52 is  
17 approved. Issue 53.

18 COMMISSIONER DEASON: I move staff.

19 COMMISSIONER CARTER: Second.

20 CHAIRMAN EDGAR: All in favor of the motion on  
21 Issue 53 say aye.

22 (Simultaneous affirmative responses.)

23 CHAIRMAN EDGAR: Opposed? Issue 53 is  
24 approved. We are on 54.

25 COMMISSIONER DEASON: Madam Chairman, I

1 thought Item 54 was stipulated. So we need to vote on  
2 the stipulation; is that correct?

3 MR. KEATING: Yes.

4 COMMISSIONER DEASON: Move to approve the  
5 stipulation.

6 COMMISSIONER CARTER: Second.

7 CHAIRMAN EDGAR: All in favor say aye.

8 (Simultaneous affirmative responses.)

9 CHAIRMAN EDGAR: Opposed? Fifty-five.

10 COMMISSIONER DEASON: Move staff.

11 COMMISSIONER CARTER: Second.

12 CHAIRMAN EDGAR: All in favor of the motion  
13 say aye.

14 (Simultaneous affirmative responses.)

15 CHAIRMAN EDGAR: Opposed? Issue 55 is  
16 approved. We are on 56.

17 COMMISSIONER DEASON: Move staff.

18 COMMISSIONER CARTER: Second.

19 CHAIRMAN EDGAR: All in favor of the motion  
20 say aye.

21 (Simultaneous affirmative responses.)

22 CHAIRMAN EDGAR: Opposed? Issue 56 is  
23 approved. Issue 57.

24 COMMISSIONER DEASON: Move staff.

25 COMMISSIONER CARTER: Second.

1           CHAIRMAN EDGAR: All in favor of the motion on  
2 Issue 57 say aye.

3           (Simultaneous affirmative responses.)

4           CHAIRMAN EDGAR: Opposed? Issue 57 is  
5 approved. Fifty-eight.

6           COMMISSIONER DEASON: Madam Chairman, I know  
7 that this is not something that we initially set up for  
8 staff to discuss, but it would be helpful for me if  
9 staff could --

10          CHAIRMAN EDGAR: Absolutely.

11          COMMISSIONER DEASON: -- give us some  
12 background information on 58.

13          CHAIRMAN EDGAR: Mr. Maurey.

14          MR. MAUREY: Thank you. Commissioners, the  
15 process that was recommended by FP&L for review of these  
16 costs was to look at their estimates of the costs, the  
17 background they provided, and to -- that if they fell  
18 within a given range of estimates, that they would be  
19 approved.

20                 Staff is recommending that the Commission look  
21 at these costs in the 120-day look-back review when  
22 there are actual costs provided and make a determination  
23 there. The initial costs, or the estimated costs that  
24 will be used in the initial charge will still be in  
25 place. However, if the Commission determines that any

1 of the estimated costs were excessive, the Commission  
2 can make a charge to the reserve in the amount of that  
3 excess.

4 This review is consistent the statutory  
5 review.

6 COMMISSIONER DEASON: Move staff.

7 COMMISSIONER CARTER: Second.

8 CHAIRMAN EDGAR: All in favor of the motion on  
9 Issue 58 say aye.

10 (Simultaneous affirmative responses.)

11 CHAIRMAN EDGAR: Opposed? Issue 58 is  
12 approved. We are on 59.

13 COMMISSIONER DEASON: Move staff.

14 COMMISSIONER CARTER: Second.

15 CHAIRMAN EDGAR: All in favor of the motion  
16 say aye.

17 (Simultaneous affirmative responses.)

18 CHAIRMAN EDGAR: Opposed? Issue 59 is  
19 approved. Issue 60.

20 COMMISSIONER DEASON: Move staff.

21 COMMISSIONER CARTER: Second.

22 CHAIRMAN EDGAR: All in favor of the motion  
23 say aye.

24 (Simultaneous affirmative responses.)

25 CHAIRMAN EDGAR: Opposed? Issue 60 is



1 approved. We are on Issue 61, and I will look to our  
2 staff for an overview.

3 MR. MAUREY: In Issue 61, staff is  
4 recommending certain findings of fact, conclusions of  
5 law, and ordering paragraphs be included in the  
6 financing order to provide the appropriate comfort to  
7 investors regarding the high quality of these storm  
8 recovery bonds. In addition, staff is recommending that  
9 the financing order require fully accountable  
10 certifications from the lead underwriter, FPL, and the  
11 Commission's financial advisor that the actual  
12 structuring, marketing, and pricing of the storm  
13 recovery bonds in fact resulted in the lowest storm  
14 recovery charges consistent with then prevailing market  
15 conditions, the financing order, and applicable law.

16 CHAIRMAN EDGAR: Thank you. Commissioners,  
17 are there questions for our staff?

18 COMMISSIONER CARTER: I have a question.

19 CHAIRMAN EDGAR: Commissioner Carter.

20 COMMISSIONER CARTER: Thank you, Madam  
21 Chairman. Just for staff, this won't have any negative  
22 impact on FP&L getting the appropriate amount necessary  
23 for their storm cost recovery; is that correct?

24 MR. MAUREY: That's correct. It will not  
25 hinder their ability to raise that money, no.

1                   COMMISSIONER CARTER: And if I may, Madam  
2 Chairman, this will in no way enhance the rating quality  
3 of the bonds?

4                   MR. MAUREY: It will enhance the rating  
5 quality of the bonds.

6                   COMMISSIONER CARTER: I'm sorry. I was trying  
7 to go in the inverse, but that makes sense. I just  
8 wanted to make sure that it would not deter the value or  
9 reduce it from investment grade quality or reduce the  
10 quality of the bonds. That's my question.

11                   MR. MAUREY: That's correct.

12                   COMMISSIONER CARTER: All right. My brain got  
13 ahead of my mouth on that one. Thank you.

14                   CHAIRMAN EDGAR: Commissioner Deason.

15                   COMMISSIONER DEASON: I have a question on  
16 Items 5 and 6 within Issue 61. This seems to be some  
17 fairly specific conclusions of law that we are being  
18 asked to make. First of all, I want to make sure that  
19 it's consistent with Florida Statutes, and do we have --  
20 is this something that we need evidence in the record,  
21 or is this just a conclusion of law that we can make  
22 based upon counsel's representations?

23                   MR. KEATING: We believe it's a conclusion of  
24 law that you can make based on the statute that we  
25 operate under here in Florida, the new securitization

1 law. We looked at these proposed conclusions of law in  
2 relation to the statutory provisions to ensure that they  
3 are supported, and we do believe that they are supported  
4 by the securitization law.

5 COMMISSIONER DEASON: And these provisions  
6 will enhance the marketability of the bonds and perhaps  
7 expand the potential participants, potential buyers of  
8 these bonds?

9 MR. KEATING: That is what's anticipated, and  
10 that is the intended purpose of including those  
11 conclusions.

12 COMMISSIONER DEASON: I can move staff if  
13 there are no other questions.

14 COMMISSIONER CARTER: Second.

15 CHAIRMAN EDGAR: Commissioners, any further  
16 questions?

17 COMMISSIONER ARRIAGA: May I ask something,  
18 please.

19 CHAIRMAN EDGAR: Commissioner Arriaga.

20 COMMISSIONER ARRIAGA: Mr. Keating, page 185  
21 again. And I know we have spoken about this, but I just  
22 want to make sure it's clear for everyone. At the top  
23 of page 185, you went into a whole explanation of what  
24 the Legislature intended to do but did not do. Is it at  
25 all necessary to try to second-guess the Legislature or

1 something like that?

2 MR. KEATING: Probably not, in hindsight,  
3 after having a little more time, after the short  
4 turnaround time for the recommendation.

5 When you look at construing the statute, you  
6 look at the plain language of the statute first, and if  
7 it's real clear, there's really no need to try to go  
8 behind the plain language to discern what the  
9 Legislature's intent was. In this case, we believe that  
10 the plain language of the statute is clear that it gives  
11 the Commission the opportunity to impose any other  
12 conditions that it deems appropriate in the financing  
13 order. And we don't see any provisions of the statute  
14 that are inconsistent with using the lowest cost  
15 standard.

16 COMMISSIONER ARRIAGA: I appreciate the  
17 clarification. And I know that sometime in the future  
18 this is going to come back to us eventually. Not this  
19 specific issue, but the fact that the Legislature  
20 intended but did not do, somebody is going to raise that  
21 argument eventually for other things. That's why I  
22 wanted to clarify it.

23 CHAIRMAN EDGAR: Commissioners, we have a  
24 motion and a second on Issue 61. All in favor of the  
25 motion say aye.

1 (Simultaneous affirmative responses.)

2 CHAIRMAN EDGAR: Opposed? The item is  
3 approved. We are on Issue 62.

4 COMMISSIONER DEASON: Madam Chairman, I have a  
5 question on 62.

6 CHAIRMAN EDGAR: Commissioner Deason.

7 COMMISSIONER DEASON: The recommendation  
8 actually references a decision to be made in Issue 74B  
9 and references the bond team concept. I guess the first  
10 question is, should we go ahead and address this before  
11 we address 74B, or will we come back and revisit this if  
12 something in 74B is inconsistent with the decision in  
13 Issue 62?

14 MR. MELSON: Commissioner, if you wanted to  
15 proceed to 74B, I notice there are several issues in a  
16 row here that do cross-reference 74B, at least Issues  
17 62, 63, and 64, and several -- there's another one. It  
18 might make sense to take 74A and B both out of order and  
19 deal with the review process, because that then helps  
20 answer the question on these. I'm sorry we didn't pick  
21 up on that earlier.

22 CHAIRMAN EDGAR: I'm sorry. Mr. Melson?

23 MR. MELSON: I recommend that you may want to  
24 move to 74A and B, because we've got several issues in a  
25 row that really assume a decision on 74B that has not

1           been made.

2                   CHAIRMAN EDGAR:   Okay.   Then on the advice of  
3   counsel, we will take items out of order, and we will  
4   move now to Item 74A.   For those following along, I  
5   believe that begins on page 205.

6                   MR. KEATING:   Commissioners, in Item 74A,  
7   staff recommends that an informal meeting with staff,  
8   its counsel and advisors, FPL, its counsel and advisors,  
9   and intervenors be held at some point before issuance of  
10   the financing order to allow input on the portions of  
11   the order related to securitization.

12                   The purpose of the meeting would be to ensure  
13   that the order -- that there's precise wording in the  
14   order that allows for issuance of the bonds on the most  
15   favorable terms and meets the anticipated requirements  
16   of the financial community.

17                   Most orders that we issue are done so without  
18   the input -- once the Commission's vote has been taken,  
19   without the input of other parties.   I think we want to  
20   make sure, given the irrevocable nature of this order,  
21   that it doesn't include any provisions that are going to  
22   throw a wrench in the works when it comes time to do the  
23   financing, and that's why we've proposed -- and I  
24   believe that the parties that did brief this issue  
25   appear to be in agreement that an informal meeting would

1 be appropriate.

2 And again, that would be limited to review of  
3 the financing portions of the order. The order would  
4 still be subject to reconsideration under the time frame  
5 permitted in the statute.

6 CHAIRMAN EDGAR: Commissioner Carter.

7 COMMISSIONER CARTER: I like the language, but  
8 I just want to be sure that this meeting is not  
9 something that's going to -- I mean, we're talking about  
10 presecuritization interest and things like that. This  
11 is not going to be a meeting that's going to hold up the  
12 process. This is -- you know what I'm trying to get to  
13 here? Because I don't want us to pat ourselves on the  
14 back on the front end and stab ourselves in the back on  
15 the back end with these meetings.

16 So give me some comfort here in terms of what  
17 the nature of this meeting is. I mean, is this a stop  
18 meeting, this is a drop dead meeting, is this a "let's  
19 get together have a cup of coffee" meeting? You know  
20 what I'm saying?

21 MR. KEATING: Again, it would be for the  
22 limited purpose of looking at the financing provisions  
23 in the order. To the extent that there's something  
24 perhaps that comes up that would require  
25 reconsideration, I think that would have to take place.

1 I don't think we can modify your order, modify an order  
2 inconsistent with the vote. I mean, the order is going  
3 to have to be consistent with the vote here today. And  
4 I don't anticipate it being a meeting where we open up  
5 everything for discussion again. It should be a limited  
6 scope meeting.

7 COMMISSIONER CARTER: Thank you, Madam  
8 Chairman.

9 CHAIRMAN EDGAR: Commissioners? Yes,  
10 Commissioner Deason.

11 COMMISSIONER DEASON: And this is just for the  
12 period of time from the vote until the order is actually  
13 issued. It's a very narrow focus; correct?

14 MR. KEATING: Correct.

15 COMMISSIONER DEASON: And the purpose is to  
16 make sure that the securitization portion of the order  
17 is consistent with best practices, I suppose, using that  
18 term kind of loosely, but to make sure that the order  
19 does not do anything that would do harm to the ultimate  
20 issuance of the bonds.

21 MR. MELSON: That's correct. And to the  
22 extent after the order is actually issued any party  
23 feels that violence is done, they will have an  
24 opportunity to seek reconsideration. But we're hoping  
25 if there were any issues that could be worked out



1 consistent with the order and written in a way that  
2 would satisfy the financial community, we could perhaps  
3 avoid some delay caused by reconsideration.

4 COMMISSIONER DEASON: I can move staff, Madam  
5 Chairman.

6 COMMISSIONER CARTER: Second.

7 CHAIRMAN EDGAR: Commissioners, we have a  
8 motion and a second on Issue 74A. All in favor say aye.

9 (Simultaneous affirmative responses.)

10 CHAIRMAN EDGAR: Opposed? Show 74A approved.  
11 And we will now take up 74B.

12 MR. MAUREY: Commissioner, 74B concerns the  
13 level of post-financing order regulatory oversight for  
14 the transaction.

15 Staff recommends the Commission, its staff,  
16 its outside counsel and financial advisor, along with  
17 FPL, FPL'S financial advisor, and its counsel work in a  
18 collaborative process to ensure that the structure,  
19 marketing, and pricing of the storm recovery bonds  
20 result in the lowest cost consistent with prevailing  
21 market conditions and the terms of the financing order.  
22 Staff recommends that the Commission be represented  
23 primarily by its staff, but be advised by its outside  
24 counsel and financial advisor. Staff would periodically  
25 brief the Commissioners and parties on the progress of

1 the transaction.

2 Issues that arise during the process that  
3 cannot be resolved collaboratively should be submitted  
4 in writing to a designated Commissioner for guidance.  
5 If any party objects to the designated Commissioner's  
6 proposed resolution, the matter should be submitted to  
7 the full Commission for de novo consideration.

8 The final structure of the transaction,  
9 including pricing, should be subject to a limited review  
10 of the full Commission for the limited purpose of  
11 ensuring that all requirements of the law and the  
12 financing order have been met.

13 In this recommendation, we will talk about  
14 three key decisions staff recommends the Commission make  
15 regarding its participation in the transaction. We also  
16 have a discussion of FPL's proposed review process, a  
17 seven-step process with the staff's comments on each  
18 step. But if we decide on the first initial three  
19 decisions, that encompasses the seven-step process that  
20 FPL has proposed.

21 CHAIRMAN EDGAR: Commissioner Carter.

22 COMMISSIONER CARTER: Thank you, Madam Chair.  
23 On staff's recommendation, just kind of in my brain, I'm  
24 -- did we not in the process of the hearings, the public  
25 hearings, and in the process of the evidentiary hearings

1 say that whatever we did, we wanted it to be in the most  
2 immediate manner possible so that we don't hold up the  
3 financing process? We said that; right?

4 MR. MAUREY: I believe so, yes.

5 COMMISSIONER CARTER: Madam Chairman, if I may  
6 follow up.

7 CHAIRMAN EDGAR: Commissioner Carter.

8 COMMISSIONER CARTER: And in your  
9 recommendations, it's incumbent upon that to where, even  
10 going with your recommendations, if there were an  
11 appeal -- I know if we were to say there's one  
12 Commissioner that's responsible, but in case there was  
13 an appeal by the parties to the full Commission, we  
14 would expedite that hearing as soon as possible. That's  
15 what I'm thinking, Madam Chairman. I know that I didn't  
16 see it in here anywhere, but that's what I'm thinking,  
17 because when you're talking about bonds, you're talking  
18 about dollars, and when you're talking about dollars,  
19 you're talking about interest, you're talking about the  
20 time value of money. So I'm -- I mean, if that's not in  
21 there, that's what my thinking was on that issue, to  
22 make it as expeditious as possible. Did you guys get  
23 that?

24 MR. MAUREY: Well, we looked at this. If it  
25 had to -- first of all, if it could not be resolved in a

1 collaborative process and it had to be kicked up to a  
2 designated Commissioner, we would hope that that  
3 decision would be final. But if necessary for a look by  
4 the full Commission, we would work within the noticing  
5 requirements, but we would hold those meetings as  
6 expeditiously as possible. We would not necessarily --  
7 we wouldn't have to hold any additional hearings, but we  
8 would have to notice those meetings for the full  
9 Commission.

10 COMMISSIONER CARTER: Madam Chairman, just --

11 CHAIRMAN EDGAR: Commissioner Carter.

12 COMMISSIONER CARTER: And I don't want to beat  
13 a dead horse to sleep or anything like that, but it  
14 seems to me that the parties that would have to be  
15 notified would be the parties to the transaction; right?

16 MR. MAUREY: Yes.

17 COMMISSIONER CARTER: And if I may follow up,  
18 Madam Chairman, obviously, in Florida, we pride  
19 ourselves on Government in the Sunshine, so we would  
20 obviously have to notify the press and the public at  
21 large.

22 But in that process, my thing is that if  
23 there's a bump in the road and it cannot be resolved by  
24 one sitting Commissioner, we need to specifically say we  
25 want this process to be expedited so that we don't have,

1 you know, the regular -- this is not a regular matter,  
2 in my opinion, and I think we want to have it expedited  
3 as soon as possible so that the financial markets will  
4 be comfortable. And we're really just talking about  
5 best practice in business and all that, but I think that  
6 the financial markets would find some comfort in knowing  
7 that we're not going to dilly and dally or -- what is it  
8 they say in baseball? You know -- well, I won't use  
9 that term, but lollygag.

10 Thank you, Madam Chairman.

11 CHAIRMAN EDGAR: Thank you. Commissioner  
12 Deason.

13 COMMISSIONER DEASON: When you use the term  
14 "collaborative process," you know, collaborative is a  
15 good thing. You know, we encourage collaboration. You  
16 know, it's reasonable people getting together and  
17 discussing matters and hopefully resolving them. But is  
18 there some special connotation you give to collaborative  
19 process, perhaps something that was done in other  
20 states? Is there some legal meaning to the term  
21 "collaborative process"?

22 MR. MAUREY: I don't know if it has a legal  
23 distinction, but it is a process that has been modeled  
24 in other states, yes. This recommendation is based on  
25 the record in this case, but it has also been

1       successfully employed in other transactions in other  
2       states. And I would say collaborative process, because  
3       there are different parties, different transaction  
4       parties involved. Each has their own interests that  
5       they're representing, and those interests aren't --  
6       while they're not all mutually exclusive, they're not  
7       all overlapping either, and so there has to be some give  
8       and take so that the specific credit quality of this  
9       instrument can be communicated effectively and  
10      accurately, but also that all of the rights and  
11      responsibilities are understood by everyone and that the  
12      instruments can be marketed and sold so that we can take  
13      the maximum advantage of the legislation and place the  
14      minimum financial burden on the ratepayers.

15                COMMISSIONER DEASON: Well, let me ask this  
16      question. As a result -- hopefully, the collaborative  
17      process would go very smoothly. Being an optimist, I  
18      would hope that would be the case. But what happens in  
19      the -- I know you've got some backstop things here, but  
20      if the collaborative process does not work, who has the  
21      final say as to what happens, when, and what process is  
22      followed?

23                MR. MAUREY: Based on staff's recommendation  
24      here, it would be the full Commission that would have  
25      the final say.

1                   COMMISSIONER DEASON:  And it would be -- it's  
2 your recommendation that it would be a de novo -- now,  
3 your recommendation is to have one Commissioner  
4 assigned, is that correct, and then have a de novo  
5 proceeding to the full Commission if necessary?  Explain  
6 that to me.

7                   MR. MAUREY:  That's correct.  One Commissioner  
8 would be designated to not necessarily be on the bond  
9 team.  We're not recommending against their  
10 participation on the bond team.  But looking at, from a  
11 practical standpoint, all of the responsibilities, the  
12 weekly conference calls which may turn into multiple  
13 calls within a week and even within a day as we get  
14 closer to the pricing, the range of responsibilities  
15 might be too much for the Commissioner's other  
16 responsibilities.

17                   So we didn't want to force a Commissioner to  
18 be on the bond team, but we certainly wouldn't recommend  
19 against it if they wanted to be part of the process.  
20 But that's why we recommended multiple staff members be  
21 on the bond team for day-to-day activities.

22                   But for the designated Commissioner that's  
23 going to resolve differences between the principal  
24 transaction parties, if there's a difference between  
25 FPL's financial advisor and the Commission's financial

1 advisor on some key point, that will be -- those  
2 differences would be submitted in writing to the  
3 designated Commissioner for a proposed resolution. And  
4 only then if some party disagrees with that resolution  
5 would it get kicked up to the full Commission for a  
6 de novo look.

7 COMMISSIONER DEASON: And when it gets kicked  
8 up to the full Commission, what type -- and maybe this  
9 is a quasi-legal question. What type of noticing  
10 requirements, what type of time frames are involved?  
11 Does it jeopardize the overall process that we're trying  
12 to achieve here?

13 MR. MAUREY: We've talked about that, and we  
14 didn't believe that we would be able to get along with  
15 the FAW notice requirements, but that we would be able  
16 to satisfy the minimum notice requirements and still  
17 have these meetings in a timely manner.

18 MR. KEATING: Commissioner, I think what I had  
19 envisioned in the process is, to the extent possible, to  
20 use the existing agenda conference schedule. Those are  
21 already noticed. You've got the full Commission  
22 present. That would probably be the preference to avoid  
23 having to have a meeting that's separately noticed.

24 COMMISSIONER DEASON: Okay. Madam Chairman, I  
25 had one other question.



1           I'm looking at your recommendation statement,  
2           which is on page 207, the last sentence. It says the  
3           Commission should specifically determine that the fees  
4           and expenses of its financial advisor and outside  
5           counsel in this post-financing order collaborative  
6           process are entitled to payment from the bond proceeds.

7           Now, I don't have a problem with that  
8           statement if that's as far as it goes. But I do I have  
9           -- let me ask this question. Is there going to be some  
10          type of review by someone, someplace, somehow, as to the  
11          reasonableness of the fees and expenses of our financial  
12          advisor and our outside counsel for ultimate payment  
13          from bond proceeds?

14          MR. MAUREY: Yes.

15          COMMISSIONER DEASON: And how is that to take  
16          place?

17          MR. MAUREY: I believe it's going to be done  
18          in-house. We have -- the contract manager will review  
19          those costs for approval.

20          COMMISSIONER DEASON: Who is contract manager?

21          MR. MELSON: Commissioner Deason, let me give  
22          maybe a slightly different answer. We've got a contract  
23          with a financial advisor that at this point is on an  
24          hourly basis, and that contract was entered into as a  
25          result of an RFP. Under that contract, the staff

1 instructs the financial advisor on what tasks he's to  
2 undertake, basically approves participation in meetings,  
3 that sort of thing. So long as he has performed within  
4 the scope of that assignment, there's no post facto  
5 review to say, "Hey, wait a minute. This was a lot of  
6 hours and a lot of dollars." We've got a contract that  
7 calls for those costs to be paid out of the bond  
8 proceeds.

9 COMMISSIONER DEASON: Is there any outside  
10 limitation on what the ultimate amount would be?

11 MR. MELSON: Not at this point. There may be  
12 in terms of the certifications that were referred to in  
13 Issue 61, I believe it is. At this point, that type of  
14 certification is beyond the scope of the contract, so  
15 there will have to be a contract modification  
16 negotiated, and presumably we could look at a cap on the  
17 fee for that portion of the work. But at this point,  
18 there is no overall dollar cap on the contract, and the  
19 contract would have to be amended to include one.

20 COMMISSIONER DEASON: Well, let me tell you  
21 what my concern is. If we agree with staff's  
22 recommendation, these fees are going to be paid out of  
23 bond proceeds. Well, what that means is it's coming  
24 directly out of the pocket of the ratepayers.

25 MR. MELSON: Yes, sir.

1                   COMMISSIONER DEASON:  And I think we should  
2 engage in the same prudency review of our own internal  
3 counsel -- I mean our outside counsel and our advisor as  
4 if we were reviewing what we've just gone through with  
5 FP&L, the prudency of all the actions and costs that  
6 they've incurred, because it's ultimately coming out of  
7 the pocket of the ratepayer.  I don't want to write a  
8 blank check.  While I think it's appropriate that we  
9 have counsel and that we have an advisor, there needs to  
10 be limitations on those costs as well.  Would you agree  
11 with that?

12                   MR. MELSON:  In the abstract, yes.  In many  
13 other states, the arrangement has been a fee that is a  
14 percentage of the bonds issued, subject to a cap.  I  
15 think we are unique in having gone to an hourly rate,  
16 and that was a conscious decision that staff made at the  
17 front end to go to an hourly rate.

18                   The contracts are -- payment of the advisor is  
19 contingent on a bond closing.  If we never get to a  
20 closing, the Commission is on the hook for nothing.  The  
21 statute contemplates that our advisor's fees will be  
22 paid out of the bond proceeds.

23                   I guess what I'm saying is, we could have  
24 negotiated a different type of contract, but the RFP we  
25 put out we thought after consulting with folks at the

1 Division of Bond Finance and elsewhere was going to be  
2 the way that would get us a reasonable cost for the  
3 services.

4 COMMISSIONER DEASON: There is going to be a  
5 review as to the reasonableness of the fees associated  
6 with counsel and the advisor?

7 MR. MELSON: There's a review to ensure that  
8 the advisor was performing the work that was assigned  
9 under the contract. But if he was performing the work  
10 that was assigned, there's no post facto judgment about  
11 the total dollar amount, as I recall the current  
12 contract.

13 CHAIRMAN EDGAR: Commissioner Arriaga.

14 COMMISSIONER ARRIAGA: I'm going to try to get  
15 some of the money's worth out of legal counsel, outside  
16 counsel. I do have a question for you. He came all the  
17 way from San Francisco, so we might as well use him.

18 During the hearing process, I asked two or  
19 three times different people a specific question, and  
20 every one related me to outside counsel or legal  
21 counsel. And the question was, our oversight could be  
22 somehow interpreted as some kind of limitation on SEC  
23 rulings or SEC regulations. In other words, by  
24 participating the way staff is suggesting we participate  
25 with full Commission involvement, that could make some

1 kind of liability on behalf of the Commission. Is that  
2 true?

3 MR. CRIDDLE: Under the federal securities  
4 laws, responsibility for any materially false or  
5 misleading statements rests in the first instance with  
6 the issuer of bonds. In this case, it would be the  
7 special purpose subsidiary, generally referred to in the  
8 application as the SPE, special purpose subsidiary of  
9 FPL. That entity would be fully responsible for the  
10 entire disclosure. Therefore, the federal securities  
11 liability, if any, would rest initially with the issuer.

12 There are other parties who might have  
13 derivative responsibility. For example, FPL as the  
14 wholly owned -- the owner of the SPE issuer might have  
15 responsibility as a control party. Although it would be  
16 derivative responsibility, because FPL wouldn't be the  
17 issuer, FPL would be responsible if it either knew or  
18 had reasonable grounds to believe that any statement in  
19 the disclosure was false or misleading.

20 If the Public Service Commission were deemed  
21 to be a control person of the SPE issuer, then the  
22 Public Service Commission in theory might also have  
23 responsibility to the extent it also knew or had  
24 reasonable grounds to believe that a statement in the  
25 disclosure document was false or misleading. We're not

1 aware of any case or statement by the SEC that takes the  
2 position or even suggests that a regulatory body acting  
3 within the scope of its regulatory authority would be  
4 treated as a control person of a regulated entity. We  
5 also would fully intend and be vigilant to ensure that  
6 nothing the Commission requests or urges be included in  
7 a disclosure document be false or misleading in any  
8 respect.

9           However, the financial advisor has testified  
10 that in its experience, it's important for a financial  
11 advisor to step forward on behalf of ratepayers to  
12 ensure that the full credit story in favorable terms is  
13 put forward in the disclosure document for the benefit  
14 of ratepayers. And so that's what we've seen, for  
15 example, take place in Texas, in a recent New Jersey  
16 transaction, and the groundwork is set for that same  
17 model in a recent West Virginia financing order and in a  
18 recent Wisconsin financing order.

19           Having said all that, staff's recommendation  
20 would be that FPL -- would recognize that FPL also has a  
21 responsibility as a control party. If anything that's  
22 recommended by any party in a disclosure document in the  
23 view of FPL would be false or misleading, staff's  
24 recommendation, at our urging, has been that FPL have an  
25 affirmative duty to step back and not allow the bonds to

1 be issued.

2 So we envision that each party, the Commission  
3 and its representatives, as well as FPL, would have a  
4 responsibility with respect to disclosure, that the  
5 Commission wouldn't supplant the responsibility of FPL,  
6 but would be an active and aggressive advocate for the  
7 benefit of correct favorable disclosure so as to capture  
8 the credit of the instrument for ratepayers.

9 COMMISSIONER ARRIAGA: So would it be -- let  
10 me go to a hypothetical exercise here. Let us assume  
11 that we're in the middle of the process, we're ready to  
12 write up the prospectus, and all of a sudden FPL says,  
13 "I want to include a disclaimer, a bottom footnote  
14 disclaimer saying that because the Commission has  
15 participated fully, we're not totally responsible, or  
16 there is a proportional liability on behalf of the  
17 Commission, on the part of the Commission." Is that  
18 something that could happen? Could you foresee  
19 something like that happening? And this is  
20 hypothetical. And again, it goes back to all the  
21 questions that I asked in the hearing, and I did not get  
22 a straight answer.

23 MR. CRIDDLE: I suppose you would really need  
24 to ask FPL, but I haven't seen that dynamic arise. What  
25 I have seen arise in other transactions in other states

1 has been the financial advisor pressing for a more  
2 fulsome, a more complete disclosure of the favorable  
3 credit features of securitized utility bonds and  
4 utilities being more reticent about including a more  
5 complete statement of the favorable features, and there  
6 has been considerable give and take. But in each case,  
7 the utilities had the responsibility to make sure  
8 ultimately it's comfortable with the disclosure, and if  
9 it were uncomfortable, it would have had a  
10 responsibility to step back and not allow the bonds to  
11 be issued.

12 COMMISSIONER ARRIAGA: Thank you. May I  
13 continue?

14 CHAIRMAN EDGAR: Commissioner Arriaga.

15 COMMISSIONER ARRIAGA: Thank you. So now,  
16 having heard that, I go to Decisions 1, 2, and 3 that we  
17 have to make according to the staff proposal, because we  
18 can be unconcerned with the fact that there may be some  
19 kind of disclaimer, and we can go ahead and review  
20 staff's recommendation with Decisions 1, 2, and 3.

21 Two and 3 are okay to me, perfectly okay. But  
22 I see that you stepped away on Issue 1, and you do not  
23 include the Commissioner in your recommendation. You  
24 include the bond team without the Commissioner, and you  
25 insinuate that X Commissioner may not have the proper



1 time to take care of this and work along with you. And  
2 I can understand that. I personally will say, yes,  
3 you're right. But would it be wrong, would it be a  
4 problem to include a Commissioner in Decision 1 in the  
5 bond team all from the beginning?

6 MR. MAUREY: Absolutely not. It would not  
7 wrong. You could have a Commissioner on the bond team.

8 COMMISSIONER ARRIAGA: Then why are you not  
9 recommending that possibility?

10 MR. MAUREY: Well, for the reasons you just --

11 COMMISSIONER ARRIAGA: Because of our time?

12 MR. MAUREY: Because of the time constraints.  
13 We looked at it purely from a practical standpoint, not  
14 that any given Commissioner couldn't do it, but we just  
15 didn't want to put that kind of demands on their time.

16 COMMISSIONER ARRIAGA: And I appreciate that.

17 Madam Chair, I'm going to yield to you and to  
18 Commissioner Deason any kind of personal interest in  
19 being the Commissioner. I am not -- I would allow you  
20 make that -- I would suggest that you make that decision  
21 yourself, but if you don't want to make it, I'm going to  
22 also suggest that Commissioner Deason would be the most  
23 appropriate. I'm sorry to throw that in your lap.

24 CHAIRMAN EDGAR: I'm not sure I had a chance.

25 COMMISSIONER ARRIAGA: He's the Prehearing

1 Officer.

2 CHAIRMAN EDGAR: That was a pretty short  
3 window to --

4 COMMISSIONER ARRIAGA: What I really wanted to  
5 say, I yield. I yield to do whatever you wish.

6 COMMISSIONER DEASON: So after you confirmed  
7 that it would be very burdensome. Thank you,  
8 Commissioner.

9 COMMISSIONER ARRIAGA: You're really the best  
10 prepared because of your background and all that.

11 COMMISSIONER DEASON: I would defer to the  
12 Chairman, and if she would free my schedule up --

13 COMMISSIONER ARRIAGA: I'm comfortable with  
14 the proposals made by staff, except in Decision 1, I  
15 would suggest that if the designated Commissioner wants  
16 to take on that responsibility, that he also be  
17 included, he or she be included on the bond team. That  
18 would be my only modification to the proposal made by  
19 staff.

20 CHAIRMAN EDGAR: Commissioners, discussion?

21 COMMISSIONER CARTER: Madam Chair, on this  
22 Commissioner that's involved, particularly if it's our  
23 Chairman, I mean, with the demands on your time, and if  
24 it's Commissioner Deason and the demands on his time,  
25 still I would think that -- I would hate -- I'm just

1 thinking aloud. I would hate to have the bond team  
2 cancel a meeting just because a Commissioner can't make  
3 it, even when staff is there to check out the dotting of  
4 the I's and the crossing of the T's.

5 So I would just -- if you're going to do that  
6 -- I mean, I don't read it as precluding the  
7 Commissioner from participating, but if I am, then I  
8 just would say you would want to put it in such a manner  
9 where the Commissioner could participate at his or her  
10 discretion with the support of staff, because staff  
11 would be there on a day-to-day basis.

12 CHAIRMAN EDGAR: Commissioner Carter, I am in  
13 agreement with your comments and am very comfortable  
14 with that.

15 In essence, since I'm obviously just speaking  
16 personally as the Chair of the moment, and hopefully a  
17 little while beyond, but I would think each of you, many  
18 of you sitting here with me might have an interest in  
19 this as well, which is that I think it's important  
20 within the structure that we have that we don't start  
21 carving out exceptions for the administrative function  
22 of the Chairman's office. So, with that, my preference  
23 is that the Chairman's office, and I do mean office,  
24 from this point forward and into the next years retains  
25 that ability. I think that's important.

1           With that said, while I am the Chair, I am  
2 always going to look first to the Prehearing Officer for  
3 any post-hearing activities, decisions, or items that  
4 need to be addressed. But I do, Commissioner Carter --  
5 again, I am comfortable with a Commissioner, and in this  
6 instance, I think it should be the Prehearing Officer  
7 being the one Commissioner who is most involved in those  
8 items. But as far as -- and for them to be able to  
9 determine their degree of participation and the method  
10 of that participation is the way that I'm most  
11 comfortable.

12           So Commissioners, with that, we are on 74B.  
13 Is there a motion?

14           COMMISSIONER DEASON: I would move staff's  
15 recommendation consistent with the discussion that we've  
16 had.

17           COMMISSIONER CARTER: Second.

18           COMMISSIONER DEASON: Whatever that means.

19           CHAIRMAN EDGAR: All in favor of the motion  
20 say aye.

21           (Simultaneous affirmative responses.)

22           CHAIRMAN EDGAR: Opposed? And the motion  
23 carries. It is almost five o'clock. Commissioners, I  
24 do think we're in the home stretch. Although we're  
25 about two-thirds of the way through the issues by

1 number, there are a number of issues ahead that have  
2 been stipulated and/or withdrawn. But as it is five  
3 o'clock, I would like to take about a 10-minute break,  
4 and then we will come back.

5 Mr. Keating, did you have a comment?

6 MR. KEATING: I was just going to add that  
7 based on the vote on 74B, during the break we can go  
8 back through some of the prior issues to see which ones  
9 are essentially resolved by the vote on Issue 74B.

10 CHAIRMAN EDGAR: Thank you. And with that, we  
11 will come back at 5:15.

12 (Short recess.)

13 CHAIRMAN EDGAR: We'll go back on the record.

14 Commissioners, our legal counsel tells me that  
15 although we have covered probably much in our discussion  
16 that is contained in some of the previous items, in the  
17 interest of making sure that we don't miss something, it  
18 probably behooves to us to go back through the items  
19 that we have not yet addressed in our chronological  
20 order. So with that, we will begin on Issue 62 and move  
21 through the list until we get to the end. And so if  
22 we'll take up Issue 62, Commissioners, questions or  
23 discussion?

24 Commissioner Carter.

25 COMMISSIONER CARTER: I just had a -- excuse

1 me, Madam Chairman. I just had brief question about --  
2 in light of what we've done in our earlier votes on 74B,  
3 what implication does this have on Issue 62?

4 CHAIRMAN EDGAR: Mr. Keating.

5 MR. KEATING: Looking at the recommendation  
6 statement in Issue 62, I believe what we've discussed in  
7 74B probably addresses the first sentence in the  
8 recommendation statement. I'm not sure the second  
9 sentence is explicitly addressed. That's part of the  
10 reason I suggested to the Chair that we go back through  
11 these. I don't want to inadvertently not address  
12 something that we had intended to address in these  
13 separate issues. And I look to Mr. Maurey to help me if  
14 my recollection is incorrect on any of these.

15 CHAIRMAN EDGAR: Commissioner Carter.

16 COMMISSIONER CARTER: For a follow-up, Madam  
17 Chairman. So in essence, your recommendation for Item  
18 62 stands?

19 MR. KEATING: Yes.

20 COMMISSIONER CARTER: Okay. Thank you.

21 CHAIRMAN EDGAR: Thank you.

22 COMMISSIONER DEASON: Move staff on 62.

23 COMMISSIONER CARTER: Second.

24 CHAIRMAN EDGAR: Motion and a second. All in  
25 favor of the motion on Issue 62 say aye.

1 (Simultaneous affirmative responses.)

2 CHAIRMAN EDGAR: Opposed? Show Issue 62  
3 approved. That brings us to 63.

4 COMMISSIONER DEASON: Move staff.

5 COMMISSIONER CARTER: Second.

6 CHAIRMAN EDGAR: Motion and a second on Issue  
7 63. All in favor say aye.

8 (Simultaneous affirmative responses.)

9 CHAIRMAN EDGAR: Opposed? Show Issue 63  
10 approved. Issue 64.

11 COMMISSIONER DEASON: Move staff.

12 COMMISSIONER CARTER: Second.

13 CHAIRMAN EDGAR: Motion and a second on Issue  
14 64. All in favor say aye.

15 (Simultaneous affirmative responses.)

16 CHAIRMAN EDGAR: Opposed? Show Issue 64  
17 approved. We are on Issue 65.

18 COMMISSIONER DEASON: Move staff.

19 COMMISSIONER CARTER: Second.

20 CHAIRMAN EDGAR: Motion and a second. All in  
21 favor of the motion for Issue 65 say aye.

22 (Simultaneous affirmative responses.)

23 CHAIRMAN EDGAR: Opposed? Show Issue 65  
24 approved. Issue 66.

25 COMMISSIONER DEASON: I had a --

1 CHAIRMAN EDGAR: Commissioner Deason.

2 COMMISSIONER DEASON: -- question as to -- is  
3 this issue moot at this point, or is this something we  
4 need to address?

5 MR. MAUREY: I don't believe it's moot. We're  
6 proposing that the initial true-up letter be combined  
7 with the issuance advice letter. There wouldn't be a  
8 need for a separate letter. The initial true-up letter  
9 will provide the projected initial storm bond repayment  
10 charges and tax charges and also provide the tariff  
11 sheets, but we can have that all combined with the  
12 issuance advice letter, as discussed in Issue 65.

13 COMMISSIONER DEASON: With that understanding,  
14 I can move staff.

15 COMMISSIONER CARTER: Second.

16 CHAIRMAN EDGAR: Motion and a second. All in  
17 favor of the motion for Issue 66 say aye.

18 (Simultaneous affirmative responses.)

19 CHAIRMAN EDGAR: Opposed? Issue 66 is  
20 approved. Issue 67.

21 COMMISSIONER DEASON: Move staff on 67.

22 COMMISSIONER CARTER: Second.

23 CHAIRMAN EDGAR: Those in favor of the motion  
24 say aye.

25 (Simultaneous affirmative responses.)



1 CHAIRMAN EDGAR: Opposed? Issue 67 is  
2 approved. Issue 68.

3 COMMISSIONER DEASON: Move staff.

4 COMMISSIONER CARTER: Second.

5 CHAIRMAN EDGAR: Motion and a second. All in  
6 favor of the motion say aye.

7 (Simultaneous affirmative responses.)

8 CHAIRMAN EDGAR: Opposed? Issue 68 is  
9 approved.

10 Commissioners, Issue 69 and Issue 70 have been  
11 withdrawn. We are on Issue 71.

12 COMMISSIONER DEASON: Move staff.

13 COMMISSIONER CARTER: Second.

14 CHAIRMAN EDGAR: All in favor of the motion on  
15 Issue 71 say aye.

16 (Simultaneous affirmative responses.)

17 CHAIRMAN EDGAR: Opposed? Show 71 approved.

18 Commissioners, Issue 72 and 73 have been  
19 stipulated. We need a motion to approve the  
20 stipulations.

21 COMMISSIONER CARTER: Move staff on 73, Issues  
22 72 and 73.

23 COMMISSIONER DEASON: Second.

24 CHAIRMAN EDGAR: Those in favor of the motion  
25 say aye.

1 (Simultaneous affirmative responses.)

2 CHAIRMAN EDGAR: We are on Issue 74.

3 COMMISSIONER DEASON: Move staff.

4 COMMISSIONER CARTER: Second.

5 CHAIRMAN EDGAR: All in favor of the motion  
6 say aye.

7 (Simultaneous affirmative responses.)

8 CHAIRMAN EDGAR: Opposed? Show Issue 74  
9 approved. That will bring us to Issue 75.

10 COMMISSIONER DEASON: Move staff on 75.

11 COMMISSIONER CARTER: Second.

12 CHAIRMAN EDGAR: Those in favor of the motion  
13 on Issue 75 say aye.

14 (Simultaneous affirmative responses.)

15 CHAIRMAN EDGAR: Opposed? Show 75 approved.  
16 We are on Issue 76.

17 Commissioner Arriaga.

18 COMMISSIONER ARRIAGA: Seventy-six?

19 CHAIRMAN EDGAR: Yes.

20 COMMISSIONER ARRIAGA: I was reading this, and  
21 something came up in my mind that concerned me. Are you  
22 saying that if anything happens here that delays  
23 indefinitely or for a short period or medium-term period  
24 of time, there is absolutely no recovery?

25 MR. MAUREY: What staff is recommending in

1 this issue is that the Commission not approve an interim  
2 surcharge for 2005 at this time. With the Commission  
3 issuing a financing order in the form that we believe,  
4 based on all its decisions earlier in the case, the  
5 company will be able to issue storm recovery bonds in a  
6 timely manner.

7 If at some point in the future the company  
8 uncovers some delay, something occurs, there's an appeal  
9 and the bond issuance is delayed, at that time, the  
10 company is free to file a petition to have an interim  
11 surcharge imposed then for the recovery of 2005 costs.  
12 It would be a matter that could be taken up relatively  
13 quickly, much like the interim surcharge was approved  
14 for 2004 recovery.

15 COMMISSIONER ARRIAGA: Let me continue,  
16 please. Let's go to a hypothetical scenario, and let's  
17 remember our rate rebalancing case that went all the way  
18 up to the Supreme Court, and it took two years for it be  
19 resolved. In the meantime, everything was paralyzed  
20 completely. So let's say that XYZ party decides to  
21 protest this whole process and take it all the way to  
22 the Supreme Court. What's going to happen? Are you  
23 saying it's zero?

24 MR. MAUREY: Well, no. If that were to be the  
25 case and the company finds itself in that position, say,

1 six weeks, eight weeks from now, when they're well into  
2 the process of trying -- well, let me back up. If the  
3 financing order is appealed, that will be before the  
4 bonds are moving towards being issued. And if this  
5 financing order is appealed, then it's staff's  
6 recommendation that the company come back at that time  
7 with a separate petition and ask for a surcharge for  
8 2005 interim recovery.

9 COMMISSIONER ARRIAGA: But isn't this an  
10 unnecessary burden that can be solved? I mean, why  
11 place a additional burden on the company that I believe  
12 is unnecessary? Why not recognize the fact that a third  
13 party may come in and delay this thing for XYZ reason  
14 and put the company in harm's way?

15 MR. MAUREY: You have a point, Commissioner.  
16 There is that extra step. But we're also hopeful that  
17 the transaction goes through as planned and there isn't  
18 an appeal, there isn't any delay, and they issue the  
19 bonds.

20 COMMISSIONER ARRIAGA: Let me take you back to  
21 the rate rebalancing case. Everybody was hopeful that  
22 nothing was going to happen, and it went all the way up  
23 to the Supreme Court. We need to be fair and listen to  
24 all sides and equate them. Do you have any suggestion?

25 MR. WILLIS: Commissioner, you could put a

1 requirement in here -- and this is, of course, with  
2 legal's approval. You could put a requirement in here  
3 to have a surcharge approved if a party other than FPL  
4 protests it at that point. You could have an automatic  
5 provision.

6 COMMISSIONER ARRIAGA: What you're saying is  
7 anybody can protest except FP&L?

8 MR. WILLIS: Yes.

9 COMMISSIONER ARRIAGA: That's fine with me.

10 MR. WILLIS: That would protect FP&L at that  
11 point.

12 COMMISSIONER ARRIAGA: Okay. Thank you.

13 CHAIRMAN EDGAR: Commissioner Carter.

14 COMMISSIONER CARTER: The part that gives me  
15 heartburn is -- one would be -- well, obviously, a lot  
16 of people do a lot of things for a lot of different  
17 reasons, and we certainly wouldn't want to hold up  
18 the -- the company has incurred costs. We know that. I  
19 mean, all of us here know that. We certainly don't want  
20 to have anyone playing games out there to work an  
21 extraordinary burden on the company. By the same token,  
22 we wouldn't want the company to sandbag either.

23 But I think that somewhere there's a comfort  
24 zone, if you will, or a meeting of the minds, because  
25 I'm thinking that if -- let's say hypothetically, if you

1 take what Commissioner Arriaga has said about the rate  
2 rebalancing case, it takes two years. When you get the  
3 rate increase, do we just automatically throw a number  
4 out there, or how do we -- do you know what I'm saying?  
5 Do we just say, "Well, we'll just grant them a rate  
6 increase"? What's the amount of the rate increase?  
7 When does it -- I mean, do we not have a transparent  
8 process then? I mean, since you guys are thinking  
9 aloud, I'm thinking aloud with you. I'm trying to --

10 MR. MAUREY: In its application, the company  
11 offered a 2005 surcharge. I believe it was \$2.98 for  
12 1,000 kWh that would be additive to the 2004 surcharge  
13 currently in place, to start being billed by August 15th  
14 if the securitization bonds are delayed for any reason.

15 It's staff's position that the Commission  
16 doesn't need to make that decision now, that if there is  
17 a delay later, that the company could come back and get  
18 that interim surcharge. The prudence of those costs  
19 have already been determined earlier today, and that  
20 charge would probably need to be recalculated to be  
21 consistent with the decisions that were made earlier  
22 today. But that would be available to the company, and  
23 it would be some interim protection that would be  
24 available to them quickly. But it's staff's  
25 recommendation that if the bond transaction in fact is

1 delayed, then they come back after that and petition for  
2 that surcharge.

3 COMMISSIONER CARTER: Madam Chairman, just one  
4 itty-bitty follow-up.

5 CHAIRMAN EDGAR: Commissioner Carter.

6 COMMISSIONER CARTER: But it's multiple.

7 CHAIRMAN EDGAR: And I knew that.

8 COMMISSIONER CARTER: You're at 1.57 a month,  
9 and now you're saying it's 2.78?

10 MR. MAUREY: I'm sorry. I believe it's 1.65 a  
11 month right now, the current 2004 surcharge. It's per  
12 thousand KWH, obviously. And in its petition, FPL  
13 requested a 2005 surcharge of \$2.98 per thousand KWH.  
14 Again, that was based on their estimate of their costs.  
15 Now that you've made decisions that have adjusted that  
16 level, that factor would be reduced. Staff doesn't have  
17 that calculation in front of us. We don't know what  
18 that 2005 interim surcharge would be.

19 MR. WILLIS: The two surcharges would have to  
20 be on top of each other. They already have one for  
21 2004.

22 COMMISSIONER CARTER: That's exactly what I  
23 was asking. There you go.

24 MR. WILLIS: The new one would be only for the  
25 2005 costs. It would not include anything to rebuild

1 the reserve. It would have to be only for the 2005  
2 costs, and that would be on top of the 2004. So you  
3 would have the two costs running simultaneously.

4 COMMISSIONER CARTER: Thank you.

5 COMMISSIONER ARRIAGA: May I?

6 CHAIRMAN EDGAR: Commissioner Arriaga.

7 COMMISSIONER ARRIAGA: Thank you. And I can  
8 relate to Commissioner Carter's concern about the  
9 amount, but I wasn't talking about the amount. I'm  
10 talking about the process. I think if I read your  
11 recommendation right, it's absolutely no. That's what  
12 I'm reading in your recommendation. It says no interim  
13 surcharge. But what you said to me verbally a few  
14 minutes ago is different.

15 MR. MAUREY: Okay. I apologize.

16 COMMISSIONER ARRIAGA: Can you clarify the  
17 specific recommendation?

18 MR. MAUREY: Okay. I apologize for any  
19 misunderstanding.

20 COMMISSIONER ARRIAGA: No, don't worry.

21 MR. MAUREY: The recommendation is -- the  
22 question as it's written is, should the Commission  
23 approve an interim surcharge today to be implemented on  
24 or after August 15th in the event the bonds get delayed.  
25 And our position is no, it should not do that at this



1 time.

2 I offered in the form of an oral communication  
3 that the company is free to petition for a separate  
4 interim surcharge at any point in the future, and if the  
5 bonds are delayed at some point in the future and the  
6 company takes advantage of that opportunity then, then  
7 the Commission can consider an interim surcharge then at  
8 that point in time, and that it's staff's recommendation  
9 that it's not necessary to approve an interim surcharge  
10 today.

11 COMMISSIONER ARRIAGA: And I understand what  
12 you're saying, but I don't read it. And I'm worried  
13 that -- is this going to be interpreted as no, you  
14 cannot have an interim surcharge.

15 MR. MAUREY: Okay. I understand your  
16 question. We should clarify that. Our position is no,  
17 in the way the question is asked, should an interim  
18 surcharge be approved today. We're not saying, no, an  
19 interim surcharge should never be approved under a  
20 separate petition.

21 MR. MELSON: Commissioner Arriaga?

22 COMMISSIONER ARRIAGA: Yes, sir.

23 MR. MELSON: To address your concern, if what  
24 Mr. Maurey has described would address it, you could  
25 amend the staff's recommendation statement to add a

1 sentence that says something to the effect, "This does  
2 not preclude FPL from seeking an interim surcharge at a  
3 future date in the event of an undue delay," and make it  
4 clear that you contemplate that they could come back and  
5 that this hasn't put the issue to bed forever.

6 COMMISSIONER ARRIAGA: Thank you, Mr. Melson.  
7 I appreciate the clarification, and I accept it, and,  
8 yes, I will make a motion with that addendum.

9 CHAIRMAN EDGAR: And, Mr. Melson, if indeed we  
10 were to find ourselves in that hypothetical situation,  
11 that petition would come before us at an already  
12 scheduled agenda conference?

13 MR. MELSON: Correct.

14 CHAIRMAN EDGAR: And I'll also note that,  
15 Commissioner Arriaga, the example you used of the rate  
16 rebalancing, which was delayed for a significant amount  
17 of time, that in that instance they did not have  
18 Commissioner Deason on the bond team.

19 (Laughter.)

20 CHAIRMAN EDGAR: Commissioner Arriaga, did you  
21 make a motion?

22 COMMISSIONER ARRIAGA: I did. I did make a  
23 motion adding what Mr. Melson had indicated.

24 COMMISSIONER CARTER: Second the motion.

25 CHAIRMAN EDGAR: We have a motion and a

1 second. Is there further discussion? All in favor of  
2 the motion say aye.

3 (Simultaneous affirmative responses.)

4 CHAIRMAN EDGAR: Opposed? Show the motion  
5 approved. We are on Issue 77.

6 COMMISSIONER DEASON: Move staff.

7 COMMISSIONER CARTER: Second.

8 CHAIRMAN EDGAR: Motion and a second. All in  
9 favor say aye.

10 (Simultaneous affirmative responses.)

11 CHAIRMAN EDGAR: Approved? I'm sorry.  
12 Opposed?

13 COMMISSIONER ARRIAGA: It's getting late.

14 CHAIRMAN EDGAR: Where's my coffee? Okay.  
15 Issue 77 has been approved. We are on Issue 78.

16 COMMISSIONER DEASON: Move staff.

17 COMMISSIONER CARTER: Second.

18 CHAIRMAN EDGAR: All in favor of the motion  
19 say aye.

20 (Simultaneous affirmative responses.)

21 CHAIRMAN EDGAR: Opposed? Show Issue 78  
22 approved.

23 Issue 79 has been stipulated. We need a  
24 motion in favor of the stipulation.

25 COMMISSIONER DEASON: Move the stipulation.

1 COMMISSIONER CARTER: Second.

2 CHAIRMAN EDGAR: Those in favor of the motion  
3 say aye.

4 (Simultaneous affirmative responses.)

5 CHAIRMAN EDGAR: Opposed? Show Issue 79  
6 approved. We are on Item 80.

7 COMMISSIONER DEASON: Move staff.

8 COMMISSIONER CARTER: Second.

9 CHAIRMAN EDGAR: All in favor of the motion  
10 for Item 80 say aye.

11 (Simultaneous affirmative responses.)

12 CHAIRMAN EDGAR: Opposed? Show Item 80  
13 approved. We are on Issue 81.

14 COMMISSIONER DEASON: Move staff.

15 COMMISSIONER CARTER: Second.

16 CHAIRMAN EDGAR: All in favor of the motion  
17 say aye.

18 (Simultaneous affirmative responses.)

19 CHAIRMAN EDGAR: Opposed? Show Issue 81  
20 approved. We are on Issue 82.

21 COMMISSIONER DEASON: Move staff.

22 COMMISSIONER CARTER: Second.

23 CHAIRMAN EDGAR: Those in favor of the motion  
24 say aye.

25 (Simultaneous affirmative responses.)

1 CHAIRMAN EDGAR: Opposed? Show Item 82  
2 approved.

3 Commissioners, we are on Item 83, which is a  
4 stipulated issue. Is there a motion in favor of the  
5 stipulation?

6 COMMISSIONER CARTER: Madam Chairman.

7 CHAIRMAN EDGAR: Commissioner Carter.

8 COMMISSIONER CARTER: If I may, in light of  
9 the fact that Items 84, 85, 86, and 87 are stipulated, I  
10 would move the approval of those issues.

11 CHAIRMAN EDGAR: So moved. Is there a second?

12 COMMISSIONER DEASON: Second.

13 CHAIRMAN EDGAR: Motion and a second to  
14 approve Issues 83, 84, 85, 86, and 87. All in favor say  
15 aye.

16 (Simultaneous affirmative responses.)

17 CHAIRMAN EDGAR: Opposed? Show those issues  
18 approved. We are on Issue 88.

19 COMMISSIONER DEASON: Move staff.

20 COMMISSIONER CARTER: Second.

21 CHAIRMAN EDGAR: All in favor of Issue 88 per  
22 the motion say aye.

23 (Simultaneous affirmative responses.).

24 CHAIRMAN EDGAR: Opposed? Show Issue 88  
25 approved.

1           Commissioners, that takes us all of the way  
2 through the 90 issues that we have before us. We've  
3 moved through a lot of information thoroughly, timely,  
4 and I appreciate your cooperation.

5           I would like to before we close thank again  
6 our staff for the enormous workload that they have had  
7 to work their way through to get us to this point today.  
8 As you know, we had a very long hearing. We had a very  
9 short turnaround time for a number of the pieces to get  
10 us to this point that was dictated by the statutory  
11 framework. We are implementing a statute of first  
12 impression.

13           And I would like to take this opportunity to  
14 again urge the collaboration of the bond team and that  
15 we move forward through the next steps without undue  
16 delay.

17           Commissioner Keating -- I'm so sorry.  
18 Counselor Keating.

19           MR. KEATING: Where do I sit?

20           COMMISSIONER CARTER: She's just kidding.

21           COMMISSIONER ARRIAGA: We've got two seats.

22           CHAIRMAN EDGAR: Don't we all. Mr. Keating,  
23 are there any further items that we need to take up?

24           MR. KEATING: None that I'm aware of.

25           CHAIRMAN EDGAR: Thank you. Commissioner

1 Carter.

2 COMMISSIONER CARTER: Madam Chairman, if I may  
3 be recognized for the good of the order.

4 CHAIRMAN EDGAR: You may.

5 COMMISSIONER CARTER: On behalf of  
6 Commissioners Tew and Arriaga and myself, we have  
7 extended an opportunity to our staff to visit with us  
8 tomorrow morning before their hard work in not only  
9 doing their regular jobs, but working with us through  
10 the confirmation process, and so tomorrow we want to  
11 have a good, old-fashioned PSC breakfast. It's in Room  
12 140 for staff, all of our Tallahassee staff, at 8:00  
13 a.m. In fact, our Chairman and Commissioner Deason as  
14 well, the entire Commissioners will be there, and we  
15 want to tell staff how much we sincerely appreciate your  
16 help.

17 Thank you, Madam Chairman.

18 CHAIRMAN EDGAR: Thank you. Commissioners,  
19 further comments?

20 We are adjourned.

21 (Proceedings concluded at 5:40 p.m.)

22

23

24

25

