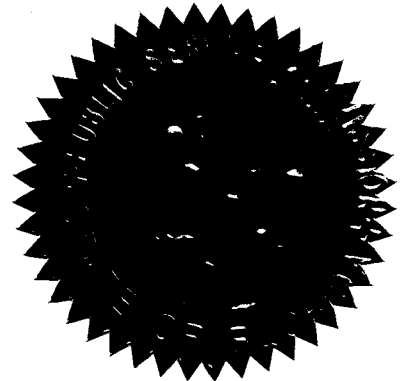


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080621-EI

IN THE MATTER OF:

APPLICATION FOR AUTHORITY TO ISSUE AND
SELL SECURITIES DURING CALENDAR YEAR
2009 PURSUANT TO SECTION 366.04, F.S.,
AND CHAPTER 25-8, F.A.C., BY FLORIDA
POWER & LIGHT COMPANY.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS: AGENDA CONFERENCE
 ITEM NO. 13

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

DATE: Thursday, November 13, 2008

TIME: Commenced at 9:30 a.m.

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

REPORTED BY: JANE FAUROT, RPR
 Official FPSC Reporter
 (850) 413-6732

DOCUMENT NUMBER - DATE
10986 NOV 26 08
FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 JOHN BUTLER, ESQUIRE, representing Florida Power and
3 Light Company.

4 KATHERINE FLEMING, ESQUIRE, MICHAEL SPRINGER, and
5 ANDREW MAUREY, representing the Commission Staff.

6 CHARLIE BECK, ESQUIRE, representing the Office of
7 Public Counsel.

8 SCHEF WRIGHT, ESQUIRE, representing the Florida
9 Retail Federation.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN CARTER: Commissioners, we are back on the record. And when we left we were going to start with Item 13.

Staff, you're recognized.

MR. SPRINGER: Good morning, Commissioners. I am Michael Springer on behalf of technical staff, and this is Katherine Fleming on behalf of staff counsel.

The Commission routinely places security applications on the consent agenda, but FPL's security application contains a new request that has not been examined by the Commission. For purposes of full disclosure, we have placed this item on the regular agenda.

FPL has proposed that approximately \$30 million of its requested \$6.1 billion of 2009 long-term financing be appropriated for the planned Seabrook Substation Reliability Improvement Project in the state of New Hampshire on behalf of the FPL New England Division. These proposed expenditures are not recovered or otherwise imposed on FPL's customers in Florida.

The company is present and staff is prepared to answer your questions.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

1 Just in short, I fully support approval of FPL's request
2 for the authority to sell and exchange debt and equity for
3 the purpose of providing the necessary capital related to
4 services that are strictly limited to benefiting FPL's
5 ratepayers.

6 My concern with this PAA item, as staff has
7 mentioned, is that FPL ratepayers are being asked to
8 assume the risk of an unregulated affiliate in the amount
9 of up to \$30 million without any opportunity for receiving
10 any benefit for doing so. And as I see it, and I have
11 given some thought to this, and I'll be asking staff some
12 questions, Florida Power and Light, as a regulated
13 utility, should not be allowed to incur debt to finance
14 the construction of its unregulated out-of-state projects
15 that provide no benefit to Florida Power and Light
16 ratepayers and have no nexus to serving consumers in the
17 state of Florida.

18 To that point, the Florida Power and Light
19 request to use the creditworthiness of its regulated
20 utility to borrow funds for an unregulated project is yet
21 another instance of shifting risk to the ratepayers to the
22 benefit of its unregulated business and the shareholders
23 of FPL Group.

24 To the best of my knowledge, as mentioned by
25 staff, this is a case of first impression. As a matter of

1 policy, the Florida Public Service Commission has not
2 allowed ratepayers of a regulated utility to assume the
3 default risk of securities without there being a tangible
4 benefit to the ratepayers. This appears to be a shift in
5 policy and a slippery slope where risk is now shifted from
6 the nonregulated business to the regulated utility without
7 any compensatory benefit to the ratepayer.

8 A few questions for staff, which will further
9 illustrate these points, and at the appropriate time I'd
10 like to make a motion to approve the FPL financing
11 application in the aggregate amount not to exceed
12 \$6.1 billion with the following modifications: First,
13 deletion of the authority to finance construction
14 expenditures in the amount of approximately \$30 million
15 for the planned Seabrook Station Reliability Improvement
16 Projects, which are located in the state of New Hampshire.
17 And, secondly, the insertion of the requirement that the
18 capital raised pursuant to the application will be used in
19 connection with the activities of Florida Power and Light
20 Company and not the unregulated activities of its
21 affiliates.

22 So, to staff, I guess -- I have a few questions,
23 and hopefully we can work through this because, again, I
24 think staff would agree that this is a case of first
25 impression.

1 **MR. SPRINGER:** I agree, this is a case of first
2 impression; yes, sir.

3 **COMMISSIONER SKOP:** And can staff explain how
4 the issuance and exchange of securities to finance
5 construction expenditure of the planned Seabrook
6 Substation Reliability Improvement Project in the state of
7 New Hampshire will benefit Florida Power and Light
8 ratepayers?

9 **MR. SPRINGER:** The way I understand it is this
10 is a structural deal. It's really not in the benefit of
11 the ratepayers directly. This is something the way it was
12 structured that FPL has a generating utility up there in
13 New Hampshire, and they couldn't recover their
14 transmission assets in the same way because of their --
15 they have a deregulated market, and so this is the way
16 that FPL structured it. They have a regulated entity that
17 is a transmission provider, and so -- back to your
18 question, I don't know offhand of any direct benefit to
19 the customers on that point.

20 **COMMISSIONER SKOP:** Okay. And to that point, my
21 understanding is that \$30 million will be used for a
22 substation, and I guess, Mr. Maurey, if you could chime in
23 here. Pursuant to our discussion, 30 million would be
24 used for substation upgrades and new transmission lines
25 which would solely benefit their unregulated entity in New

1 Hampshire. Is that correct?

2 **MR. MAUREY:** Yes. We don't know exactly how it
3 would be spent, but it would be spent on upgrades to the
4 New Hampshire substation.

5 **COMMISSIONER SKOP:** Okay. And with respect to
6 the comment made that FPL customers are insulated from
7 this, is it fair, just, or reasonable for FPL ratepayers
8 to bear the transaction costs for issuing debt to support
9 the construction of an unregulated out-of-state project?

10 **MR. MAUREY:** All costs associated with
11 nonregulated activities should not be passed on to the
12 ratepayers of Florida.

13 **COMMISSIONER SKOP:** Okay. So for our discussion
14 where we talked about issuance costs of debt, not equity,
15 and assuming that would be about 4 percent on \$30 million,
16 so it would be 1.2 million in transaction fees that
17 obviously if this is part of FPL, a Florida Power and
18 Light related issuance, then the ratepayers are on the
19 hook for that, absent any exculpatory language, is that
20 correct?

21 **MR. MAUREY:** I believe the company could address
22 how they would break that cost out, but I think 2 to 4
23 percent for issuance cost is standard for something like
24 this.

25 **COMMISSIONER SKOP:** Okay. So for financing the

1 \$30 million, the ratepayers are basically not getting
2 anything from that, to the extent that it is a
3 nonregulated operation that receives revenue, none of that
4 is shared with the ratepayers, is that correct?

5 MR. MAUREY: That's correct.

6 COMMISSIONER SKOP: Are you familiar with FPL
7 Group capital?

8 MR. MAUREY: Yes.

9 COMMISSIONER SKOP: And that is typically the
10 entity that raises capital for the unregulated FPL Energy
11 historically?

12 MR. MAUREY: That's correct.

13 COMMISSIONER SKOP: Okay. And that is not being
14 done here, correct?

15 MR. MAUREY: That's correct.

16 COMMISSIONER SKOP: So essentially what is being
17 done is that the unregulated entity is attempting to
18 piggyback on a regulated utility's offering of debt and
19 securities.

20 MR. MAUREY: We believe for corporate
21 convenience they are raising that money through the
22 utility as opposed to their normal vehicle for raising
23 nonregulated capital.

24 COMMISSIONER SKOP: Okay. With all due respect,
25 though, we're not interested in corporate convenience.

1 I'm interested in protecting the ratepayer. And what we
2 have seen historically, recently, is a disturbing shift of
3 shifting risk to the ratepayer, and that's where I have a
4 concern. And I know staff looked at this strictly from a
5 materiality in terms of the amount that was being offered,
6 but, again, I think that in response to my question, there
7 has been no direct benefit to the ratepayer that has been
8 defined by this. And, in fact, the ratepayer may actually
9 incur transaction costs as a result of somebody trying to
10 put debt into this offering, is that correct?

11 **MR. MAUREY:** Yes.

12 **COMMISSIONER SKOP:** So in the event that there
13 is a default on some or all portion of the \$30 million of
14 securities issued by this New Hampshire substation
15 project, is it correct that Florida Power and Light
16 customers would be liable for the amount in default?

17 **MR. MAUREY:** That's my understanding, yes.

18 **COMMISSIONER SKOP:** Okay. So what compensation,
19 if any, do FPL ratepayers receive for taking on such risk?

20 **MR. MAUREY:** None has been defined.

21 **COMMISSIONER SKOP:** Okay. Can you explain
22 whether FPL utility assets are or will be collateralized
23 or otherwise encumbered for the purposes of issuing
24 securities on the Seabrook project?

25 **MR. MAUREY:** We don't know the answer to that

1 question.

2 **COMMISSIONER SKOP:** Okay. And do you know if
3 FPL ratepayers will receive a security interest in the New
4 Hampshire project?

5 **MR. MAUREY:** They would not.

6 **COMMISSIONER SKOP:** So, again, it goes back to
7 my central argument. There's no benefit for the ratepayer
8 here. The only one that benefits is the unregulated
9 entity and FPL Group shareholders, and that's problematic.
10 This has never been done before.

11 Would you also agree that we are in a tight
12 credit market?

13 **MR. MAUREY:** Yes.

14 **COMMISSIONER SKOP:** Okay. So by borrowing
15 \$30 million at the regulated utility level, that would
16 theoretically be \$30 million they could not otherwise --
17 and I recognize they have a strong balance sheet, so,
18 again, but that does detract from their ability to borrow
19 for other projects that would benefit the state, is that
20 correct?

21 **MR. MAUREY:** Incrementally, yes.

22 **COMMISSIONER SKOP:** Okay. And they have
23 numerous capital projects, you know, in the ten-year site
24 plan, some of which are covered by this offering, but also
25 approximately, you know, two nuclear reactors which are,

1 you know, double-digit billions of dollars coming, is that
2 correct?

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

4 **COMMISSIONER SKOP:** So, again, I guess, we
5 are -- you know, I fail to see the benefit here. And, you
6 know, certainly, you know, I just have one point of view,
7 but, you know, to me it's problematic because, again, you
8 know, we don't have full visibility. You know, would
9 staff also agree that by adopting this it adds incremental
10 burden on staff to account for this and track all of this?
11 And, you know, every time -- especially in an upcoming
12 rate case where, you know, staff would probably have to
13 fight FPL over adjustment to equity associated with this
14 project?

15 **MR. MAUREY:** There may be incremental work in
16 making these adjustments, but these are adjustments that
17 we are familiar with, we make in other cases.

18 **COMMISSIONER SKOP:** Okay. If I could draw
19 staff's attention to Items 2B and 2E on the consent
20 agenda, please. And, again, just to staff, I do respect
21 the framework in which this was analyzed and the
22 recommendation, so I'm not being critical of that. But I
23 think I would be correct to say that this was not -- the
24 recommendation was not made on the basis of a policy
25 decision or on perceived benefit to the ratepayers, is

1 that correct?

2 MR. MAUREY: I'm sorry, I was -- you said 2B and
3 2 --

4 COMMISSIONER SKOP: 2B and 2E, echo.

5 MR. MAUREY: And, I'm sorry, your question
6 again.

7 COMMISSIONER SKOP: Let me start with the 2B and
8 2E, I'm sorry. I'm sorry for double-hitting you on that
9 one. With respect to 2B and 2E, 2B is an application for
10 Gulf Power Company to issue debt and securities, 2D is one
11 for Progress Energy. On Page 2 of 2B, into the second to
12 the last paragraph, that's typically the standard clause
13 that the Commission uses in consent agendas that the
14 capital raised pursuant to this application will not be
15 used in connection with the activities of the unregulated
16 side of the business, basically.

17 MR. MAUREY: That's correct.

18 COMMISSIONER SKOP: Okay. And the same language
19 is encompassed at the bottom of recommendation 2E, is that
20 correct?

21 MR. MAUREY: That's correct.

22 COMMISSIONER SKOP: Okay. So in terms of the
23 FPL application, that's in direct opposition to what has
24 been historically done, is that correct?

25 MR. MAUREY: Well, yes. For the 30 million,

1 yes. We do have similar language in the FPL application
2 about for no other unregulated uses except for this New
3 England division.

4 **COMMISSIONER SKOP:** Okay. And you would agree
5 that based on previous financing through FPL Group Capital
6 and such, FPL Energy or its unregulated business has many
7 different sources to go borrow the \$30 million?

8 **MR. MAUREY:** FPL Group Capital is very capable
9 of raising large sums of money, yes.

10 **COMMISSIONER SKOP:** And with respect to the
11 staff recommendation, again, I'm not being critical
12 because my understanding is it was analyzed on the basis
13 of the amount in question and the materiality in relation
14 to the requested financing amount, but would it be fair to
15 say that that was not really viewed, or analyzed, or a
16 recommendation in terms of policy decision, or the impact,
17 or detriment to ratepayers?

18 **MR. MAUREY:** We weren't looking at it from a
19 policy standpoint, that's correct. We read the statute,
20 the Commission may deny an application if the proceeds are
21 used for nonregulated purposes. We looked at the may as
22 the Commission had the discretion to deny it or accept it.
23 And in this case we are looking at the 30 million versus
24 the 6.1 billion was our rationale for our recommendation
25 to accept it.

1 **COMMISSIONER SKOP:** And the Commission just
2 spent three days talking about an amount of \$6 million
3 which was directly related to shifting risk to the
4 ratepayer in some way, form, or fashion; but I see OPC in
5 the back of the room, and I was wondering if based on the
6 points raised whether they might have some sort of
7 position on whether this would be appropriate from a
8 public policy perspective, since it has the ability to
9 impact ratepayers.

10 **MR. BECK:** My name is Charlie Beck with the
11 Office of Public Counsel. We concur with the points
12 raised by Commissioner Skop. He raises excellent points
13 about this shifting risk to the ratepayers. You know, we
14 see this constantly as an issue. And as Commissioner Skop
15 said, this was a big issue this week in the fuel case
16 proceeding.

17 One of the things that we intend to do, if the
18 Commission authorizes this, is to look at it in the rate
19 case, because not only are you putting regulated customers
20 at risk for this amount, it seems to me, but you might be
21 changing the whole risk profile of Florida Power and
22 Light.

23 I realize it's not a large amount considering
24 the total, but that is one of the things we will
25 definitely look at in a rate case if you authorize this.

1 I think Commissioner Skop is spot on that this is
2 something new. There is no benefit to the regulated
3 ratepayers by this. And I think they have a very clear
4 and heavy burden to justify this, and I haven't heard
5 anything that would justify putting that burden on
6 ratepayers.

7 **COMMISSIONER SKOP:** Thank you, Mr. Beck.

8 And then just one additional question to staff.
9 On Page 13 of the -- it's after the recommendation, I
10 guess, of Attachment A. Just at the bottom of the
11 paragraph before the last paragraph, and also continuing
12 on to Page 14. It clearly speaks in a different context,
13 but readily applicable to the instant case that when a
14 utility undertakes something on behalf of its ratepayers,
15 it clearly will demonstrate benefits to the ratepayers.
16 Would you agree that that is what is stated on Page 13 of
17 Attachment A in the paragraph?

18 **MR. MAUREY:** Okay, I see where you're asking
19 now. Yes, it states that.

20 **COMMISSIONER SKOP:** Okay. And in this instant
21 case they have not demonstrated any benefit to the
22 ratepayers, is that correct?

23 **MR. MAUREY:** We believe that in the case of them
24 passing any costs onto the ratepayers. No, they have not
25 made that demonstration with respect to the 30 million.

1 **COMMISSIONER SKOP:** And staff has not, again,
2 gone into the detail to the extent, because, if I view it
3 as if we -- and this is the argument I would make if I was
4 FPL -- if we, as the Commission, approved the financing
5 application, then certainly all issuance costs associated
6 with that, I think, are attributable to FPL and its
7 ratepayers. So that little \$30 million, to me this seems
8 to be a cute way of trying to get money and avoiding the
9 finance costs. And, again, who does that benefit, the
10 unregulated business and FPL Group stockholders.

11 So, again, this to me is a classic case of a
12 cross-subsidy. And I hate to be critical of this, but,
13 again, my view as a Commissioner is that this has no
14 business being in here, and it could have been very
15 simplified if it would have been taken out. But, again,
16 that is the envelope that continues to be pushed, and it
17 is problematic.

18 But, again, getting back to my point, Florida
19 Power and Light's request to use the creditworthiness of
20 its regulated utility to borrow funds for an aggregate
21 unregulated project, again, in my view is just yet another
22 instance of shifting risk to the ratepayers for the
23 benefits of this unregulated business and shareholders of
24 FPL Group.

25 And, you know, at this point, Mr. Chair, I will

1 yield to questions; but at the appropriate time I would
2 like to make a motion to approve the FPL financing
3 application in the aggregate amount not to exceed
4 \$6.1 billion with the modifications that I have previously
5 mentioned.

6 **CHAIRMAN CARTER:** Thank you, Commissioner.
7 Commissioner McMurrrian, you're recognized.

8 **COMMISSIONER McMURRIAN:** Mr. Chairman, I just
9 wanted to hear from the company at some point, because I
10 think --

11 **CHAIRMAN CARTER:** Do you want to hear from Mr.
12 Butler now?

13 **COMMISSIONER McMURRIAN:** I think it's time.
14 Thank you.

15 **CHAIRMAN CARTER:** Mr. Butler, you're recognized.

16 **COMMISSIONER McMURRIAN:** Thank you.

17 **MR. BUTLER:** Thank you, Mr. Chairman. John
18 Butler on behalf of FPL.

19 If I may respond to some of the points that
20 Commissioner Skop has raised, and particularly provide him
21 and the rest of the Commission assurances that this is to
22 be structured with zero cost to FPL retail customers.

23 Going to a couple of the items that
24 Commissioner Skop had mentioned, you know, the financing
25 costs, the costs of acquiring the financial instruments is

1 something that will be allocated to the retail and
2 wholesale aspects of FPL's business so that to the extent
3 this \$30 million, and it's roughly half of a percent of
4 the 6.1 billion, then half a percent of the financing
5 charges would go to, you know, would basically not be
6 collected from retail customers. It would be zeroed out
7 by virtue of applying jurisdictional separations to it.

8 The same thing applies to any of the costs of
9 the debt, you know, the interest or other amounts that
10 have to be paid to the debt holders. The same principle
11 would apply as it would to all of the expenses, other
12 nonfinancing aspects of the business for the NED division
13 operations. So, customers are fully protected, you know,
14 as thoroughly as it can be done against sharing in any of
15 the additional costs that would be a consequence of the
16 NED financing.

17 I would also like to point out that the assets,
18 the substation in question, would be subject to -- first
19 mortgage bonds would be collateral for the bondholders,
20 just as FPL's other property in Florida, the retail assets
21 would be, as well. So, in a sense, I suppose it's true
22 that there is collateralization with respect to the
23 substation from these retail assets, but by the same token
24 there is collateralization with respect to the retail
25 assets from the security interests that would exist with

1 respect to the substation property in New Hampshire. It
2 works both ways. It's done evenly.

3 In a sense this is a new issue. We thought it
4 was important to point it out, because it is a
5 geographically disparate facility. But I think that it is
6 really not quite on point to characterize it as being a
7 completely new concept here. FPL has had for as long as I
8 have been practicing law wholesale customers, and has had
9 to undertake the exercise of separating out all of the
10 activities, the operating expenses, the investment, the
11 revenues, the costs of financing, et cetera, for wholesale
12 activities from its retail business.

13 And we do that on a routine basis, it's
14 something that happens routinely with respect to the
15 financing of the wholesale portion of the company's
16 business. And most of the time for most of those assets,
17 what it amounts to is a very small fraction of the entire
18 asset. There are some other instances, as would be the
19 case here, where something is 100 percent wholesale, so
20 100 percent of it gets taken out of the operating expenses
21 out of the rate base, out of the capital structure that
22 would be retail oriented. But, that particular process
23 has occurred before. It will occur here and the same
24 principles that we have applied heretofore would apply
25 with respect to the NED division substation assets.

1 Finally, I would just like to point out that
2 this is something done -- Mr. Maurey had kind of alluded
3 to earlier for some complicated reasons I can get into if
4 anybody really wants to hear them, but I will try at the
5 summary level to say that because of an interaction of
6 FERC regulatory requirements, the New England pool
7 interconnection requirements, it is important for -- or
8 it's essential for this asset to be held by a utility that
9 is not a generator in that New England pool.

10 And the utility that FPL chose to use for that
11 purpose is Florida Power and Light Company. You know, it
12 is a utility in Florida, it is a utility under the FERC
13 regulatory scheme, it is a utility for this limited
14 purpose pursuant to the New Hampshire law and regulated in
15 a limited sense by the New Hampshire Public Utilities
16 Commission. So these are, indeed, utility-regulated
17 assets. They clearly don't serve the needs or interests
18 of the retail customers in Florida, and as such, all of
19 the costs associated with them have been removed, will be
20 removed prospectively so that retail customers bear none
21 of the costs associated with it. But I don't think that
22 it is the major change in policy that has been suggested.

23 Thank you.

24 **CHAIRMAN CARTER:** Let Commissioner McMurrian
25 finish, she did not ask her question. She wanted to hear

1 from the company. Commissioner McMurrrian.

2 I'll come back.

3 **COMMISSIONER McMURRIAN:** Thank you.

4 I just wanted to -- I think it will help me if I
5 just ask it this way, too. So what cost exactly with
6 respect to the New England division will Florida
7 ratepayers be accountable for? And then the second part
8 of that, what benefits, if any, would there be for Florida
9 ratepayers?

10 **MR. BUTLER:** On the cost side, Commissioner, you
11 know, I truly do not believe there are any that the retail
12 customers will be responsible for. As I indicated,
13 whatever costs there are of acquiring the financial
14 instruments, that will be split such that the share that
15 the New England facilities represent will end up being
16 picked up -- picked up, if you want to call it that, by
17 those customers. It will not be charged to FPL retail
18 customers.

19 The cost of the debt, the interest that would be
20 paid on it, or any other return requirements is something
21 that will be zeroed out of the determination of the cost
22 of capital. It will not be paid by retail customers.
23 These assets won't be in the retail rate base that is
24 supported by retail customers. And because of the dollar
25 amount involved here, roughly half a percent of the total

1 financing requirements for the company, I've talked with
2 our financing department about something that concerned
3 me, which is the possibility that perhaps the incremental
4 requirement to go into the market for some additional
5 source of funds beyond what would be necessary if one only
6 met the retail funding requirements, whether that would
7 make it more difficult to secure the financing or would
8 make it more expensive to get the financing than if we had
9 the \$30 million lower figure. And I have been assured
10 that, you know, at this level and given the
11 oversubscription that occurs routinely on FPL finances,
12 that there is no impact on either the availability of
13 funds or the cost of the funds for either the FPL retail
14 customers or the wholesale New Hampshire business as a
15 result of the additional \$30 million of financing.

16 Now, on the benefit side, you know, I would
17 agree with Commissioner Skop and with the staff on that
18 point. I don't think there is any benefit, per se, to the
19 FPL retail customers more than there probably would be in
20 serving wholesale business generally. What FPL has always
21 tried to do is to be sure that whatever, you know,
22 business that's not retail-regulated business that it
23 would have does not adversely impact the retail customers.
24 And I think we have done a good job of assuring that that
25 would not occur here.

1 **CHAIRMAN CARTER:** I'm going to go to
2 Commissioner Argenziano; I'll come back.

3 Commissioner Argenziano.

4 **COMMISSIONER ARGENZIANO:** Thank you, Mr. Chair.

5 One for Mr. Beck. You just heard the company
6 attorney's explain that there is no cost to the consumer.
7 And I don't know if there is a difference between risk and
8 cost, and can you tell me your opinion of that first.

9 **MR. BECK:** I think that is an issue of fact
10 whether there would be. I think in concept they are
11 issuing \$30 million more of securities than they would
12 otherwise. To some extent, that's going to -- I mean,
13 there is an order of magnitude issue here whether it is
14 material or not. But in concept, if you are issuing
15 \$30 million using the creditworthiness of Florida Power
16 and Light behind that, then that may be \$30 million less
17 available for regulated purposes.

18 You also have the issue of whether that changes
19 the risk overall of the debt they are issuing. If it
20 increases the risk, then it's spread across the general
21 body of ratepayers in the total issuance of the cost.
22 These are issues I think an expert would have to look at;
23 but I think in concept they are there.

24 **COMMISSIONER ARGENZIANO:** So there is kind of a
25 difference between costs to consumers and risk to

1 consumers?

2 **MR. BECK:** No. If the debt issuance was higher
3 cost because of this, then that would be a cost to
4 consumers.

5 **COMMISSIONER ARGENZIANO:** Well, didn't I hear
6 the company say that consumers in the other area would be
7 paying?

8 **MR. BECK:** Yes. As I understood that, that
9 would be the discount, the 4 percent issuance cost,
10 4 percent of \$30 million being 1.2 million. But separate
11 from the issuance cost is the issue of whether the cost
12 rate would be different because of that and the risk would
13 affect the cost rate. And if that were so, then that
14 would affect the general body of ratepayers. It would be
15 an issue. It would be something in a rate case we would
16 be sure to look at.

17 **COMMISSIONER ARGENZIANO:** So then at this point
18 OPC is opposed?

19 **MR. BECK:** I would agree with Commissioner Skop.
20 The company concedes there is no benefit to customers and
21 there is certainly the potential for risk and harm to
22 customers.

23 **COMMISSIONER ARGENZIANO:** So then OPC is
24 opposed.

25 **MR. BECK:** We would support what Commissioner

1 Skop proposed that he was okay with the issuance, but
2 wouldn't allow it for the Seabrook, the proposed station.
3 We would agree with Commissioner Skop on that.

4 **COMMISSIONER ARGENZIANO:** Okay. Thank you.

5 **MR. BUTLER:** Mr. Chairman.

6 **COMMISSIONER ARGENZIANO:** And can the company
7 respond?

8 **MR. BUTLER:** Thank you, yes, I would like to,
9 Commissioner Argenziano.

10 There has been a lot of discussion over the
11 years of the issue of what sort of impact additional risk
12 of an investment may have on the overall return
13 requirements for a regulated business which is perceived
14 as being pretty stable and predictable and consistent if,
15 you know, funds are used to finance some sort of activity
16 that is going to be unregulated and perhaps has a
17 different risk profile associated with it.

18 I would like to point out here, though, keep in
19 mind this is a regulated asset. The point of why it is in
20 the FPL utility structure as a below the line -- you know,
21 for retail purposes below the line asset rather than in an
22 unregulated affiliate is that it is a utility asset. It
23 will be regulated by FERC. The return, you know, the
24 revenues that are received on it are pursuant to FERC
25 approved OATT tariffs as I understand it in the New

1 England pool, and it is a solid, steady revenue stream
2 that I do not think raises the sort of concerns that would
3 arise if one were using the money to finance some business
4 activity that had a considerably different risk profile.

5 And when you add that to the sort of minimal
6 size of the additional funds required here, I really -- I
7 asked this particular question to our finance department
8 preparing to talk to you today, and, you know, this isn't
9 the sort of either difference in nature of risk or
10 magnitude of investment that would move the needle.

11 **COMMISSIONER ARGENZIANO:** So let me just -- you
12 used a lot of words, and I appreciate that, but sometimes
13 brevity helps me a lot more. Are you saying that there is
14 no risk to the customer, Florida customer?

15 **MR. BUTLER:** I am saying that I don't see how
16 this changes the risk profile in any measurable way from
17 what the retail customers currently see; and, therefore,
18 should not change the cost of capital for retail
19 customers.

20 **COMMISSIONER ARGENZIANO:** And that is the crux
21 of the issue. And if I could have OPC one more time, and
22 I think we have another individual who wants to jump in.
23 If we could allow that, Mr. Chairman, that would be most
24 helpful.

25 **MR. BECK:** Again, we would need a finance person

1 to answer this. But in concept, there's other risks out
2 there other than what you have for Florida regulated
3 utility operations. I don't know what the risk profile is
4 of ISO New England or this, but it certainly could be
5 different. And if it is greater, then the debt issuing
6 costs could be greater, the debt costs could be greater;
7 and if that's so, that raises the overall cost of capital
8 of the company.

9 Now, I understand the company arguing that it is
10 not material or it wouldn't be, but, you know, we would
11 need an expert on that. Certainly the potential is there,
12 and in concept it very easily could change the cost of
13 capital. And on the other side of that, there's no
14 benefit to customers, so you have the potential for risk
15 and higher costs, you know, versus no benefit.

16 **CHAIRMAN CARTER:** You wanted to hear from Mr.
17 Wright, Commissioner Argenziano?

18 **COMMISSIONER ARGENZIANO:** Yes, please.

19 **CHAIRMAN CARTER:** Mr. Wright.

20 **MR. WRIGHT:** Thank you, Mr. Chairman,
21 Commissioners. Schef Wright on behalf of the Florida
22 Retail Federation. As you know, we participate regularly,
23 including for four recent days before the Commission.

24 I'd like to speak in support of the proposition
25 advanced by Commissioner Skop. I think there is a

1 legitimate question as to whether the impact of this
2 \$30 million, half a percent, out of 6.1 billion is
3 material. But, you know, at best, there's some
4 incremental risk to customers, and at best there -- or at
5 best, there's no incremental risk, there is the
6 possibility of incremental risk. At best there is no
7 incremental cost. There could be some. And at best there
8 is no impact on FPL's ability to borrow another
9 \$30 million that it might need for Florida operations.
10 But there is some risk that it could. And as Mr. Maurey
11 said, FPL Group Capital can certainly raise plenty of
12 capital for FPL's unregulated activities.

13 I did want to make one point about the
14 suggestion that this is just like a wholesale investment.
15 I don't agree at all. The wholesale investments that
16 Mr. Butler talks about as being separated appropriately by
17 the retail/wholesale jurisdictional separation are
18 typically, if not entirely, and I think pretty close to
19 entirely power plants and transmission lines that are in
20 the state of Florida, with the exception of Scherer 4,
21 which is in Georgia that FPL owns most of. But they are
22 power plants that serve predominately FPL, and somewhere
23 between 93 and 97 percent of those costs are allocated to
24 the retail jurisdiction with the small difference based on
25 off-system sales or off-system usage of transmission

1 facilities is allocated to the wholesale jurisdiction.

2 So to answer Commissioner Argenziano's question
3 directly, we oppose FPL's proposal to be allowed to put
4 this borrowing on the balance sheet of the regulated
5 customers in Florida. Thank you.

6 **COMMISSIONER ARGENZIANO:** Mr. Chair.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** To staff, did this
9 come up at all in your evaluation of this proposal,
10 whether it could have the potential of changing the cost
11 of capital?

12 **MR. SPRINGER:** We really looked at the
13 materiality being that it is one-half of one percent of
14 the 6.1 billion, and we also just looked at that they
15 assured us that these expenditures were not going to be
16 imposed on FPL's Florida customers. So that's the crux of
17 what we looked at.

18 We didn't look at what Commissioner Skop had
19 mentioned, the direct benefit to customers. Security
20 applications are sort of routine every year. This was a
21 new thing. We brought it before the Commission, but we
22 were looking at it just as are the ratepayers protected
23 and just the materiality of it.

24 **COMMISSIONER ARGENZIANO:** And I appreciate that,
25 because that's what I was looking for. But what I'm

1 hearing from OPC and Mr. Wright is that it has a greater
2 potential that could affect Florida customers, and that's
3 what I was asking, if you looked at that at all.

4 **MR. SPRINGER:** No.

5 **COMMISSIONER ARGENZIANO:** Okay. So there is the
6 possibility then that this has the potential to be a real
7 risk, or somewhat of a risk for our Florida consumers.
8 That's what I'm getting from this right now.

9 **MR. MAUREY:** We would like to add, though, we do
10 take the issue of risk shifting seriously. We do focus on
11 it. And as Mr. Beck stated, that's definitely an issue in
12 rate cases when we affect ROE, and so we do consider it.
13 We didn't look at it specifically in this application, but
14 it is something we track.

15 **COMMISSIONER ARGENZIANO:** Maybe Commissioner
16 Skop --

17 **CHAIRMAN CARTER:** Commissioner Skop.

18 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

19 And, again, to the point of materiality, again,
20 I view this as an issue of first impression. It's also a
21 slippery slope. If we open the door, although the number
22 is benign this time, \$30 million, it may not be benign
23 next time and then it may open the door for Progress,
24 Gulf, and TECO to do the same thing.

25 So from a policy perspective, this is getting on

1 unsettled ground for me. Because, again, it's an
2 accounting exercise that's not necessary if we don't open
3 the door. If we just say no and adopt what -- I have
4 heard OPC support my position, I've heard Mr. Wright on
5 behalf of Florida Retail Federation support my position.
6 If you don't open the door, the accounting exercise is not
7 necessary.

8 I do want to commend Mr. Wright for articulating
9 the discussion, the foggy discussion related to
10 jurisdictional and wholesale operations, because I fully
11 agree with what Mr. Wright said. Most of the generating
12 access -- I mean, wholesale assets are located in Florida
13 with the exception of Georgia, but that provides a direct
14 and tangible benefit to FPL's ratepayers in Florida.
15 There is a substantial nexus. Here there is no nexus.

16 And, Mr. Butler, if you're done talking, I have
17 additional questions on a point that you brought out.
18 With respect to --

19 **MR. BUTLER:** Certainly.

20 **COMMISSIONER SKOP:** -- the Seabrook, and the
21 substation, and the FERC and all of that discussion that
22 was there, you know, it's correct that -- my understanding
23 is FPL Energy, the unregulated business, bought Seabrook
24 Nuclear Station, is that correct?

25 **MR. BUTLER:** That's right. FPL Energy bought

1 the plant initially.

2 **COMMISSIONER SKOP:** And as part of that under
3 New Hampshire law, which has nothing to do with Florida
4 PSC jurisdiction, they could not own a substation, is that
5 correct?

6 **MR. BUTLER:** As a generator they could not,
7 that's my understanding.

8 **COMMISSIONER SKOP:** Okay. So for administrative
9 convenience, somebody dreamed up the idea to put that into
10 FPL NED and just put it within the regulated entity, kind
11 of loosely related as an affiliate to Florida. So that
12 was convenience on your part, is that correct?

13 **MR. BUTLER:** I wouldn't characterize it as
14 convenience. Let me explain a little bit more in detail
15 why it happened. The asset needed to be owned by a
16 utility for it to be -- well, said the other way around,
17 the entity that would own the asset would end up being a
18 utility.

19 If FPL Group had set up another entity to own
20 the asset and that entity became a utility, it would
21 result in FPL Group losing its exempt status under the
22 Public Utility Holding Company Act, and would, as a
23 consequence, result in substantially additional burdensome
24 and expensive regulatory requirements as a consequence.
25 So it's not for convenience, it was put into the utility

1 that existed so that there would not be the need to create
2 a second utility that would have that consequence.

3 **COMMISSIONER SKOP:** Okay. But benefiting for
4 that, basically that asset has nothing do with anything
5 remotely possible with serving the ratepayers in the state
6 of Florida, is that correct?

7 **MR. BUTLER:** It will not be used to serve
8 ratepayers in Florida, that's true.

9 **COMMISSIONER SKOP:** Okay. Mr. Chair, I would
10 yield to further questions, but, again, at the appropriate
11 time I would like to make my original motion.

12 **CHAIRMAN CARTER:** Thank you.

13 Commissioner Edgar, you're recognized.

14 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

15 I'm getting a little confused, so I apologize
16 for that, but I feel like I have heard some answers that
17 are not completely in concert. And as Commissioner
18 Argenziano raised, when I reviewed this item my first
19 questions were what are the impacts to ratepayers; what
20 are the impacts to the state; what, if any, risk
21 additionally would be borne from the transaction as it was
22 laid out?

23 And I thought I heard in the opening
24 presentation from staff that there would be no additional
25 cost or risk to Florida ratepayers, and then I thought I

1 heard in response to some of the questions from
2 Commissioner Skop that there may be some question about
3 where the transaction costs would be borne, and also some
4 discussion of shifting of risk.

5 And in reviewing, again, as the discussion is
6 going on some of the information before us, it is just not
7 completely clear to me. And I apologize if it is to
8 everybody else, but it just isn't to me.

9 So I'm just going to throw this out, if I may,
10 Mr. Chairman. I note on the first page where it says
11 critical dates, none. And Commissioner Skop has raised
12 some policy questions, we have had some points raised from
13 OPC and from the Florida Retail Federation, and I
14 appreciate your participation and willingness to join in
15 the discussion. But in my listening to you, some of the
16 way you have presented your comments as conceptually, and
17 I appreciate that, as well, but trying to take that sort
18 of conceptual framework and apply it to a specific factual
19 scenario before me is what I'm grappling with.

20 So I'm just wondering, and I pose this to the
21 company and also our staff, and anybody else, is seeing as
22 how it says no critical dates, with many of the questions
23 that have been posed, would it be possible and open to
24 maybe defer this item and ask our staff to do some
25 additional analysis, realizing that questions have come up

1 about the shifting of risk, impact potentially on the cost
2 of capital and/or transaction costs, and whatever other
3 points have been raised that I haven't mentioned, and if
4 indeed there is a detriment if we were to take some
5 additional time and ask our staff to do some additional
6 written analysis for us.

7 Thank you, Mr. Chairman.

8 **MR. BUTLER:** Commissioner Edgar, if I may
9 respond to your question initially. I think there is a
10 critical date for FPL. It's very important that the
11 finance application, the approval of it be final before
12 the end of the year, since this is for financing
13 commencing at the beginning of January 2009.

14 Now, if there is something that it would be
15 productive to have a short deferral that, you know,
16 allowed additional discussions and gathered additional
17 information, you know, that's something that would be -- I
18 guess in principle, at least, that could be accommodated
19 and still get to that result, but there is that critical
20 date for FPL. We are very interested in getting a
21 decision that would become a final agency action on this
22 by 12-31-2008.

23 **CHAIRMAN CARTER:** Commissioner Edgar.

24 **COMMISSIONER EDGAR:** And I appreciate your
25 raising the importance of the end of the calendar year for

1 this transaction, because I was not sure about specific
2 timing from reading the item, just as I'm not sure about
3 specific responses to some of the questions that have been
4 raised.

5 So I guess, if I may, Mr. Chairman, I would pose
6 that to staff, then, to see if realizing that there are
7 some timing issues, if some of the questions that have
8 been raised could potentially be looked at a little more
9 closely. If that would have enough time for you to be
10 able to answer some questions realizing that it's going to
11 be a very busy couple of weeks, I know that.

12 **CHAIRMAN CARTER:** Before staff responds,
13 Commissioner Edgar, I would like to say that in order to
14 do that, we would have to be fair to give OPC an
15 opportunity to get experts, bring in witnesses and all
16 like that. And I think it would be -- I don't think it
17 will be something that we can do on a short notice,
18 because obviously the issues that we are talking about on
19 the surface they seem simple, but they are fairly
20 complicated.

21 When you want to be able to present information
22 and evidence to the contrary, I think that -- I just don't
23 think that would give OPC, and even if the Retail
24 Federation wanted to participate, I don't know if that
25 would give them enough time to do that if we did that,

1 particularly in light of Mr. Butler's perspective on there
2 is a critical date involved in this. I just want to say
3 that before we got to --

4 **COMMISSIONER EDGAR:** And I think the questions
5 of -- and that's why I wanted to say, staff, would there
6 be enough time, and certainly would want fairness to all
7 parties to raise concerns and help us flesh out the issues
8 and the potential impacts, which is what I'm trying to
9 understand, both from a policy perspective and from more
10 detail to this particular factual scenario.

11 Mr. Chairman, I may have misspoke because I was
12 not -- in asking my questions, I was not posing the
13 possibility or the request for an evidentiary proceeding
14 with testimony and experts. I was just wondering if there
15 may be the opportunity for some additional analysis. And
16 if there isn't time for that benefit -- but I would just
17 like to throw that out there.

18 **CHAIRMAN CARTER:** My response to you,
19 Commissioner, was based on, you know, listening to what
20 OPC had said and what Mr. Wright had said as well as in
21 response to some of Commissioner Skop's questions by
22 staff, to me it does seem to lend itself to a full-blown
23 evidentiary proceeding in the context of that.

24 I may be misreading it, but that's what I heard,
25 and I just don't know. Let me do this, get a response

1 from staff, and then I will go to Commissioner Skop for a
2 question and comment.

3 Staff.

4 **MS. FLEMING:** There are a couple of things --

5 **CHAIRMAN CARTER:** You remember Commissioner
6 Edgar's question, right?

7 **MS. FLEMING:** Yes, I do remember the question.

8 Mr. Butler is correct as far as the critical
9 date being the order being final by the end of the year so
10 that they can issue these securities starting on
11 January 1st, 2009. The other critical date that's within
12 the statute is that the Commission does need to publish an
13 FAW notice at least seven days prior to the agenda
14 conference in which they will address this matter.

15 We could potentially file an FAW notice on
16 Tuesday, which will be published on November 28th.
17 However, we will not be able to address this issue until
18 the December 16th agenda conference. Staff could get an
19 order out fairly quickly, but I'm not sure that the order
20 will be final by the end of the year, and those would be
21 the parameters that we would be working within.

22 **CHAIRMAN CARTER:** Are you okay with that?

23 **COMMISSIONER EDGAR:** And I realize the end of
24 the calendar year is -- in fact, I don't even know what
25 has happened to the first part of November, it has just

1 flown by me. And we do have a number of issues before us,
2 and I know we have additionally calendar constraints and
3 agenda conference constraints. I would just pose it,
4 again, that it may be helpful to have some additional
5 analysis, although I recognize that the timing is tight.

6 I'd be interested in hearing from FPL and the
7 other parties about that time frame that our staff has
8 suggested, and it's just an idea that I'm putting out
9 there for discussion.

10 **MR. BUTLER:** Mr. Chairman.

11 **CHAIRMAN CARTER:** Mr. Butler, then Mr. Beck,
12 then Mr. Wright, and then Commissioner Skop.

13 **MR. BUTLER:** I think the thing that may make the
14 most sense here, certainly from FPL's perspective, is that
15 as staff -- I think it was Mr. Maurey, I'm not sure which
16 staff person had noted this a few moments ago, but, you
17 know, the impact, if there is any, of additional risk from
18 utility operations that don't benefit retail customers, is
19 something that is appropriately taken up in rate case
20 settings. You know, it can be looked at as sort of an
21 overall cost of capital to the utility, the retail utility
22 that customers are supporting.

23 And I think that it makes sense to have the FPL
24 application, as it was submitted, approved with -- you
25 know, to address Commissioner Skop's concerns, a

1 proceeding of some form. You know, if there is
2 appropriate timing of a rate proceeding, a full rate
3 proceeding, that would be probably the most appropriate.
4 It could also be in a separate proceeding that would
5 specifically be had for the purpose of addressing the
6 impact on the regulated, the retail regulated cost of
7 capital.

8 But that is an issue that I think is well beyond
9 what normally gets covered in the approval of these
10 financing applications, and I would urge that you not take
11 a path that would hold up approval of this application for
12 resolution of that issue, recognizing that some form of
13 proceeding to provide parties with a full opportunity to
14 participate and, you know, state their views, express
15 their views, support their views with evidence as
16 necessary could be appropriate.

17 Thank you.

18 **CHAIRMAN CARTER:** Let me come back to you,
19 Commissioner. I want to finish this line of questioning
20 for Commissioner Edgar and then I will come back to you.

21 Mr. Beck.

22 **MR. BECK:** Commissioners, we will certainly go
23 with whatever scenario is set out. One possibility is
24 that you could approve the application subject to the
25 qualification proposed by Commissioner Skop, and then give

1 Florida Power and Light the opportunity to come in on the
2 remainder for this Seabrook Substation Reliability
3 Improvement Plan. If you approve it as is, we will
4 certainly address it in a rate case. So, I would
5 recommend that you go with Commissioner Skop's proposal
6 with the qualification and let FPL come in later and prove
7 up the substation if they wish.

8 **CHAIRMAN CARTER:** Mr. Wright.

9 **MR. WRIGHT:** Thank you, Mr. Chairman.

10 I could not have said it any better than
11 Mr. Beck did. I agree with what he just said, that we
12 support Commissioner Skop's proposal and let FPL come
13 back, you know, at some appropriate time and prove up the
14 \$30 million as a borrowing by Florida Power and Light
15 Company Florida.

16 And we support Commissioner Skop's proposition.
17 Thank you.

18 **CHAIRMAN CARTER:** Thank you.

19 Commissioner Skop and then Commissioner
20 Argenziano.

21 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

22 I just want to respond quickly to something that
23 Mr. Butler said. He would have the Commission believe
24 that the appropriate forum to address these issues and the
25 impact is within the rate case. I would adamantly

1 disagree with that. It's proper for this Commission to
2 not to approve this and to do what Mr. Beck -- at a
3 minimum, to do what Mr. Beck and Mr. Wright have also
4 suggested. If we need to go hearing on this issue, fine,
5 but this issue, to approve it opens the door, it's a
6 slippery slope.

7 I personally don't think that, you know, I would
8 want to go down that path. Because if you open the door,
9 you never know what is coming next time. And, you know,
10 30 million now, and it is benign to some degree, but it
11 won't -- you know, there is nothing to say that once you
12 give them that entree, that it's 500 million, you know,
13 next time. And this is, to me, poor policy.

14 But, you know, I thought I was reasonable. I
15 have stated openly at the onset that I support the
16 financing application. We can move forward today up to
17 \$6.1 billion for the Florida projects, which include the
18 two conversion plants that we recently approved, Canaveral
19 and -- I'm trying to think of the other one off the top of
20 my head, but I can't think of it right now.

21 **MR. BUTLER:** Riviera.

22 **COMMISSIONER SKOP:** Riviera, thank you. My
23 navigational aids that you guys have taken away when I
24 come back from the Bahamas.

25 But, you know, I think my frustration is FPL's

1 unwillingness to compromise. Here it is, they can get
2 exactly what they ask for subject to just compromising and
3 removing the offensive portion, and they don't compromise.
4 It is just push, push, push.

5 Now, that's their job; and my job is to be a
6 regulator and to protect the ratepayers, all of our jobs
7 are. And I think that we have shown and we have heard,
8 maybe not conclusively, but at least certainly beyond any
9 reasonable doubt that there is no benefit to the
10 ratepayers here. There could be substantial risk, and we,
11 as a matter of public policy, the creditworthiness of a
12 regulated utility should not be used to borrow for
13 unregulated operations out of state that have absolutely
14 nothing to do, no nexus to the ratepayers. The only
15 winner out of that situation is FPL Energy and FPL Group
16 shareholders.

17 There is no benefit sharing. Certainly if they
18 make a profit off of their substation operations, do you
19 think FPL's ratepayers are going to have their fuel bill
20 reduced? Absolutely not. So I would respectfully request
21 if we need to take it up later, you know, certainly FPL
22 can petition for a hearing. My gut feel is that if we
23 were -- if I were to make my motion and we approve as
24 modified by stripping out the \$30 million, you know, FPL
25 is going to take it and they are going to go do their

1 financing, and, you know, I doubt they will come back. If
2 they want to, fine. You know, we can tee up the issue
3 then.

4 But it's not appropriate to make a hasty rush
5 decision that would be an order of this Commission that
6 would open the door to a slippery slope. And, you know, I
7 don't respond well to having a gun to my head. So, you
8 know, I think that it would be appropriate to, if the
9 Commission deems fit, based on my motion, to approve the
10 financing application in the stated not to exceed amount
11 with the two modifications that I previously mentioned.
12 And I think that comports well with OPC's position and
13 also the Florida Retail Federation's position. I thank
14 them both for their support.

15 **CHAIRMAN CARTER:** Thank you.

16 Commissioner Argenziano.

17 **COMMISSIONER ARGENZIANO:** Just to make a comment
18 first. I appreciate the heads up in a sense, because I
19 took this, I was reading it and I was not advised of the
20 potential anywhere else. So I appreciate that. And
21 whether it unfolds that way or not, I still would like to
22 have the opportunity up front. And with that said, I
23 don't know if it was proper that OPC could have come up
24 without you asking them. Is that possible? Or the Retail
25 Federation, because I hadn't heard from anybody.

1 **CHAIRMAN CARTER:** Interested persons could
2 participate.

3 **COMMISSIONER ARGENZIANO:** Okay. It would have
4 been probably a good thing to hear ahead of time or know
5 that. Because right now I'm sitting here reading this and
6 just was not advised any other way until Commissioner Skop
7 brought it up. So I do appreciate that. And with that,
8 if that was a motion, I'll second your motion.

9 **CHAIRMAN CARTER:** Let me make sure. Any further
10 discussion before we go to Commissioner Skop for a motion?

11 Commissioner Edgar, you're recognized.

12 **COMMISSIONER EDGAR:** I do need, Commissioner,
13 for you to clarify for me the modifications that you are
14 proposing and your understanding of the impact and the
15 purpose, just so I am clearer.

16 **COMMISSIONER SKOP:** Yes, ma'am. I'll be happy
17 to do so.

18 I would basically move to approve FPL's
19 financing application in the aggregate amount not to
20 exceed \$6.1 billion with the following modifications to
21 the staff recommendation: Deletion of the authority to
22 finance construction expenditures of approximately
23 30 million for the planned Seabrook Substation Reliability
24 Improvement Project in the state of New Hampshire, and
25 insertion of the requirement consistent with the same

1 language in Consent Agenda Items 2B and 2E that the
2 capital raised pursuant to the financing application will
3 be used in conjunction with the activities of Florida
4 Power and Light and not the unregulated entities of its
5 affiliates.

6 **CHAIRMAN CARTER:** Hang on a second. Hold on a
7 second. We're going to get some more discussion, but,
8 Commissioner, do you have any other questions -- and I'm
9 going to go to Commissioner --

10 **COMMISSIONER EDGAR:** I did. Like I say, I
11 didn't realize we were at the motion phase. I was just
12 trying to figure out what it did.

13 Can I ask FPL to speak specifically to those
14 modifications of the staff's --

15 **CHAIRMAN CARTER:** And then I will come to you,
16 Commissioner McMurrian.

17 **COMMISSIONER EDGAR:** -- item as it is before us.

18 **MR. BUTLER:** As to the first, you know, I think
19 I have pretty well spoken to it. I will be happy to
20 provide any additional comment that the Commissioners, you
21 know, need to hear, or answer any additional questions on
22 it. We do continue to urge that you approve the financing
23 application as filed without deletion of the provision
24 that would apply or permit a small portion of that
25 financing total dollar amount to be used to support the

1 NED substation improvement project. I think that it is an
2 immaterial amount. I think that we have provided you and
3 can provide further assurances to the staff, you know, in
4 connection with any audits or reviews they performed that
5 absolutely none of the costs will end up being borne by
6 FPL retail customers at any level; at the expense level,
7 at the investment support level, at the cost of capital
8 level, at the risk level, as a result of this, you know,
9 allowing the funds to be used for that financing purpose.
10 So for that reason, we would not support and would urge
11 you to not adopt that first amendment to the staff
12 recommendation.

13 The second amendment to the staff
14 recommendation, if I understand it correctly, is basically
15 already in our financing application, what would be
16 approved for it except that there is this exception for
17 the NED substation facilities. And so I believe that we
18 are okay with that, you know, sort of as a general
19 principle, except that as we stated in our application and
20 as staff proposed to -- you know, proposed it for
21 approval, the general principle outlined in Commissioner
22 Skop's second modification would apply or would have an
23 exception for the NED facilities. And if I'm
24 misunderstanding his second modification, my apologies.
25 But, as I understand it, I don't think, with that

1 exception, we would have any concern with it.

2 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman,
3 for the opportunity to have Commissioner Skop restate what
4 he had proposed and the opportunity to have some
5 additional response. Because there are a lot of issues
6 involved, and because I do think some of the answers --
7 and this is not a criticism -- but are still kind of being
8 thought through, the opportunity for some further work and
9 written analysis by our staff is very attractive to me.
10 However, I sense no other interest from the bench on that,
11 so --

12 **COMMISSIONER ARGENZIANO:** Wait a minute. Since
13 I had a second, can I speak to that?

14 **CHAIRMAN CARTER:** You're recognized.

15 **COMMISSIONER ARGENZIANO:** Before I change that,
16 because I'm not sure I will, can I ask Mr. Beck did you
17 come up with a different solution a few minutes ago, or
18 was it just what Commissioner Skop had indicated?

19 **MR. BECK:** That is what we would recommend is
20 that you go with Commissioner Skop.

21 **COMMISSIONER ARGENZIANO:** Okay. The way he had
22 announced it. And that would -- okay.

23 And, Commissioner Edgar, you're saying you still
24 would like some more discussion or more information, and
25 that --

1 **COMMISSIONER EDGAR:** I was just saying that some
2 of the discussion that we have had about what, if any,
3 potential impact there may be on the cost of capital and
4 the protections to the ratepayers was not, to me,
5 completely crystal clear, and that, therefore, if there
6 was the opportunity for some written analysis. But I do
7 recognize that there are other time lines that need to be
8 accommodated.

9 **CHAIRMAN CARTER:** Thank you.

10 Commissioner McMurrian.

11 **COMMISSIONER McMURRIAN:** And that is actually
12 the point I was going to follow up on, and I wasn't quite
13 ready for the motion either. But, anyway, it's on the
14 table and that's fine. I just want to make sure I
15 understand, though. I think we do need to decide
16 something before the end of the year for the reasons that
17 they have mentioned, and I know Ms. Fleming told us that
18 we wouldn't -- if we put it on the December 16th agenda,
19 we wouldn't probably have a final order by then.

20 And I did want to ask Mr. Butler, and I know we
21 are sort of past the question part, but I think this is
22 important. Does it need to be a final order by the end of
23 the year?

24 **MR. BUTLER:** I think it does, Commissioner,
25 particularly in view of the controversy that has elicited.

1 I don't think that FPL or counsel asked to give opinions
2 on financing, that sort of thing, in the early part of the
3 year would be comfortable if the protest period on a PAA
4 order had not yet run. And I think that if you had a
5 December 16th Agenda Conference, even with a very quick
6 turnaround on the order, you would be looking at the
7 protest period extending fairly extensively into 2009.

8 **COMMISSIONER McMURRIAN:** 2009. And just to Ms.
9 Fleming, I guess one more time, there is no way with the
10 noticing requirements to get it on the December 2nd
11 agenda?

12 **MS. FLEMING:** No, Commissioner. The next time
13 to file for an FAW notice will be Tuesday, which would not
14 get published until the 28th of November, which would give
15 us five days, four days prior to the agenda, and the
16 notice needs to be published seven days prior to the
17 agenda.

18 **COMMISSIONER McMURRIAN:** I'm sorry, Ms. Fleming,
19 I didn't quite follow all of that.

20 **MS. FLEMING:** The next available time that we
21 are able to file an FAW notice is Tuesday, and it will not
22 be published until the 28th of November, which is only
23 four days prior to the agenda. And the statute states
24 that you need to have seven days notice prior to the
25 Commission making a decision.

1 **COMMISSIONER McMURRIAN:** It seems like we have
2 added things as emergency items before. I'm just trying
3 to remember is there any exception to do it on a quicker
4 turnaround?

5 Because I do agree with the points you raised
6 about having more information. I do feel a little bit
7 rushed without -- and I do appreciate the issue that you
8 have brought up, Commissioner Skop, and the same way that
9 Commissioner Argenziano raised it earlier. I think that
10 it is a good discussion to have.

11 I'm not sure that the parties are really
12 prepared to speak to that. I know Mr. Beck had said that
13 they would have to have someone with some financial
14 expertise probably address that. I don't think that we
15 necessarily need to go to a hearing, but I do think it
16 would be better to either put the whole item off and get
17 more information, or vote with respect to the 6.1 billion
18 and delay the other piece until we have more information
19 on the other piece. I just feel a little uncomfortable
20 saying no to that piece until I get -- I feel like we have
21 heard some different, some conflicting information, too.

22 So I was wondering if there is some way to put
23 that 30 million piece off, or the whole thing, I'm not
24 sure which way is --

25 **MR. DEVLIN:** Mr. Chairman, we were discussing --

1 **CHAIRMAN CARTER:** Mr. Devlin.

2 **MR. DEVLIN:** -- that very point, and maybe this
3 is viable, is that we could -- perhaps the Commission
4 could vote out Commissioner Skop's modified suggestion for
5 security application, and we would oblige ourselves to
6 come back and study whether an amendment -- from time to
7 time we amend, Mr. Maurey can jump in, security
8 applications as circumstances change. And we would commit
9 to come back and study the issue of the substation in New
10 Hampshire, and whether a security application should be
11 amended, you know, at a future date. And they could at
12 least get the \$6.1 billion issuance final for the majority
13 of their capital needs before the year ends.

14 **CHAIRMAN CARTER:** Commissioner McMurrin.

15 **COMMISSIONER McMURRIAN:** So to Ms. Fleming,
16 would we have -- if we didn't consider it a new item by
17 FPL, in other words, we were deferring a portion of this
18 that had already been on this agenda, would you really
19 have the same noticing requirements? I'm just trying
20 to -- in other words, we've got this before us today, the
21 item was noticed for this agenda today, and we don't
22 really complete this item, in a sense, for agenda, do you
23 still have the same noticing requirements?

24 **MS. FLEMING:** Well, just to be clear, the notice
25 stated that the Commission would address FPL's securities

1 application where they are seeking to recover -- or
2 seeking to issue securities in the amount of 6.1 billion
3 for long-term and 3.0 billion for short-term. I think the
4 notice adequately covers the motion that Commissioner Skop
5 has entailed. The notice was just a broad -- to explain
6 what the application requested. However, any
7 modifications thereof are still contemplated within the
8 notice.

9 Are you asking if we were to take this portion
10 out and come back at a later date?

11 **COMMISSIONER McMURRIAN:** Or defer the whole
12 thing entirely. I mean, we're discussing what we have
13 before us. It's noticed to be before us. And I know
14 there are other times when, for instance, we run longer
15 than we intend, we end up scheduling another day for
16 something, and we don't have to renotice everything
17 because it's a continuation of what we have already
18 noticed.

19 **MS. FLEMING:** Well, I know that in the FAW
20 notice we show the date and time for the agenda conference
21 and it is to take final action on the securities
22 application. And the statute does state that the
23 Commission may take final action when a notice is
24 published in the FAW at least seven days in advance of the
25 final agency action.

1 So one could argue that you would need to file
2 an amended notice to show that this item is going to be
3 taken up at another agenda to give anyone else that may
4 have any concerns with this item an opportunity to address
5 the Commission.

6 But, with respect Mr. Devlin's point, the
7 Commission could, with the motion itself as it is on the
8 table, the Commission could move forward with that motion
9 and it does not foreclose FPL from filing an application
10 in the future for this 30 million. So they are not
11 precluded from doing so in the future, but it gives them
12 the opportunity to move forward with their current
13 securities application.

14 **COMMISSIONER McMURRIAN:** Well, to that point,
15 though, I just don't see the need in necessarily having
16 them refile something for something they have already put
17 before us. And that seems to me to just drag everything
18 out more. If they have already filed the application for
19 the 6.1, including the 30 million, why make them file
20 something else? I realize that there would need to be
21 questions and there would need to be discussion among the
22 parties. I mean, I think we are all at a loss, in a
23 sense, we're not exactly sure -- the materiality has come
24 up, of course, but we are not exactly sure what the risk
25 will be to the ratepayers and how much cost they would

1 actually pay with respect to the New England division. It
2 seems like to me that that is just something that could be
3 done by discussions of the parties and staff between now
4 and some future decision point rather than making the
5 utility file something again and starting the whole clock
6 over if we are trying to get something done by the end of
7 '08.

8 I'm just trying to think if there is some way to
9 do it. But, again, I know that we have a motion and all
10 out. I just think that for me it would be preferable to
11 either put the entire decision off somehow, if we could
12 meet the noticing requirements under the statute, or at
13 least put the portion of it that we are most concerned
14 about off in some way.

15 **MR. BUTLER:** Mr. Chairman, could I make a brief
16 comment on a procedural issue?

17 **CHAIRMAN CARTER:** A brief one, Mr. Butler. Then
18 Commissioner Argenziano.

19 **MR. BUTLER:** The concern in the statute is in
20 the notice requirements before you take final agency
21 action. As I understand what's being proposed, you're not
22 proposing to take final agency action. You are proposing
23 to take or considering taking proposed agency action here.
24 So I have a question as to whether that seven-day
25 requirement applies to what you are envisioning doing

1 here.

2 CHAIRMAN CARTER: Commissioner Argenziano.

3 COMMISSIONER ARGENZIANO: I just wanted to say
4 that I felt that since everything was getting crammed in,
5 and it seems like we are going to rush with all of this
6 information, if, as was just mentioned, they could come
7 back with that, why not just do that and give it more
8 time?

9 CHAIRMAN CARTER: Commissioner Skop.

10 COMMISSIONER SKOP: Thank you, Mr. Chair.

11 I think staff has supported this, and I think if
12 I hear Commissioner Argenziano, who seconded my motion, I
13 think supports it, and certainly OPC and Florida Retail
14 Federation. To me just from a procedural standpoint, I
15 think that it is administratively convenient for the
16 Commission to move forward with the motion that's on the
17 table and properly seconded, vote that out, as staff has
18 recommended. If that passes, great. If not, we can punt
19 and decide what happens later.

20 But, to me, you know, it does not preclude FPL,
21 it just basically states that -- it gives them what they
22 need now to go finance Florida-related projects. They can
23 get their financing in place.

24 With respect to the \$30 million, you know, they
25 can come back later and make their case and we can have a

1 hearing, or some sort of evidentiary proceeding, or
2 briefs, or what have you. But it doesn't preclude them
3 from doing that, it just kind of says, look, we are giving
4 them only what we feel comfortable in moving forward with
5 at this point. And to me I'm not comfortable with the
6 \$30 million for an unregulated facility.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** To the point just made
9 by the company. Does that make a difference on the seven
10 days, if you could respond to that?

11 **MS. FLEMING:** Thank you, Commissioner.

12 We were looking at that. To the point with the
13 company, generally as staff has stated earlier, we do deal
14 with this as a consent item, so it is a final order. Here
15 we do need to allow a point of entry, so I would suspect
16 it would be a PAA order, but we need to take into account
17 we need to have the 21-day period. So we could
18 potentially take this up at the December 2nd agenda;
19 however, depending on the timing of when the order comes
20 out and the timing of when the protest period runs, the
21 order may or may not be final by the end of the year. So
22 we're looking at a very tight time frame.

23 **CHAIRMAN CARTER:** But the order would be final
24 as it relates to -- if the motion passes, the order would
25 be final at it relates to the financing, it's just we

1 would not have dealt with the 30 million, is that correct?

2 **MS. FLEMING:** If the motion passes, the order
3 will be final with the exception of the -- if the motion
4 passes, the order will be final prior to the end of the
5 year.

6 **CHAIRMAN CARTER:** Because Mr. Butler said that
7 the company would need to have a final -- the order has to
8 be final before they could proceed with their financing.
9 So the portion of their financing which we are concerned
10 about as it relates to Florida would be final, they can go
11 to the markets. The area that we have had the most
12 discussion of that deals with New Hampshire would be
13 something totally different altogether. I mean, whatever
14 we decide to slice it and dice it as, it will be something
15 different, correct?

16 **MS. FLEMING:** That's correct. So if the
17 Commission chose to vote on the motion today, then staff
18 could issue an order, allow the protest period to run so
19 that there is an ample point of entry for the parties.
20 That portion of the order would be final by the end of the
21 year, which is what the utility is seeking for. The staff
22 at that point could still come back, if the Commission
23 chooses and FPL chooses to request the 30 million for
24 another agenda on December 2nd, provide the Commissioners
25 additional information, and that order may or may not be

1 final by the end of the year. But the Florida portion of
2 the securities that we are discussing would be final.

3 **CHAIRMAN CARTER:** Commissioner McMurrian.

4 **COMMISSIONER McMURRIAN:** Okay. Let's see if I
5 can get this straight. So if we were to vote on the
6 motion that's on the table now, we could get that out in
7 time, and I think that that is clear. But you are saying
8 that FPL would be able to come back with respect to the
9 30 million and try to make a stronger case, and you said
10 we might be able to get that on the December 2nd agenda?

11 **MS. FLEMING:** My understanding was if we needed
12 to get additional information, if we didn't need anything
13 in addition to what is in the filing currently, and the
14 Commissioners wanted us to bring back additional
15 information, and we were able to do it on the December 2nd
16 agenda, then that order may or may not be final.

17 However, if FPL needs to refile an application
18 for that 30 million, and we need to have additional
19 discussions with OPC, or Mr. Wright, then that may be at a
20 later agenda.

21 **COMMISSIONER McMURRIAN:** So it seems to me that
22 the hold up would be if we were able to get the remainder
23 on the December 2nd agenda, that what your concern is is
24 how many days it takes to get the order out.

25 **MS. FLEMING:** I really don't have any concern

1 with the 30 million because it doesn't affect the Florida
2 securities application. What is really at issue is that
3 the utilities need to have an order that is final for them
4 to pursue their Florida securities. So, really, what the
5 most entails will take care of any concerns that we have
6 with respect to the utility needing to be able to issue
7 securities starting in January of 2009.

8 So with respect to the 30 million, that could be
9 taken up at the December 2nd agenda, or it could be
10 something that could be taken up three months from now or
11 a year from now. That really doesn't play a factor as far
12 as the Florida securities.

13 **CHAIRMAN CARTER:** Commissioner McMurrin.

14 **COMMISSIONER McMURRIAN:** Mr. Chairman, I'm
15 looking at Mr. Butler.

16 So the time constraint is with respect to the
17 6.1 million and not so much the 30 million.

18 **CHAIRMAN CARTER:** 6.1 billion.

19 **COMMISSIONER McMURRIAN:** Billion. I'm sorry,
20 6.1 billion.

21 **MR. BUTLER:** It is for both, actually. Some of
22 the activity that will need to be financed pretty early in
23 the year are the upgrades at the Seabrook substation. So,
24 what I thought I was beginning to hear, and I think might
25 end up making some sense would be to decide on the

1 application sort of without the financing for 30 million
2 for the Seabrook, have the additional discussions, come
3 back on December 2, present that additional information,
4 and, you know, you could at that point, I think,
5 approve -- take whatever action you chose to take with
6 respect to the financing for the 30 million Seabrook
7 substation improvements, and that could end up being an
8 order issued, I think, anything before December 10. You
9 would still end up having the 21-day protest period run.
10 We would get kind of a final determination on all of it by
11 the end of the year.

12 **COMMISSIONER SKOP:** Mr. Chair.

13 **CHAIRMAN CARTER:** Commissioner Skop.

14 **COMMISSIONER SKOP:** I just have to go there. I
15 think we have a motion on the table. I think the motion
16 in question is articulated by staff, and the concerns that
17 have been raised by Commissioners adequately addresses the
18 important part, which is the Florida funding and the
19 Florida project. So, you know, hopefully we will get to
20 voting that out. But for the life of me, I cannot
21 understand why FPL is so adamant about not compromising.
22 You know, you can come back later. You have other funding
23 vehicles. You have FPL Group Capital, you have a host of
24 commercial paper options, and it's just constantly pushing
25 the envelope. And it leads me to believe that there is no

1 benefit to the ratepayer here. Why are you pushing so
2 hard for that? I don't understand why there is no
3 compromise. It's just very frustrating.

4 With that, Mr. Chairman, if there's no further
5 discussion, I would respectfully vote the issue.

6 **CHAIRMAN CARTER:** Thank you, Commissioners, for
7 your patience.

8 Anything further? Any further debate, any
9 further discussion, any further comments on the motion?

10 Commissioner McMurrian, you're recognized.

11 **COMMISSIONER McMURRIAN:** I'll just say, I mean,
12 if we need to go forward with the motion we will. I'm not
13 really sure what I feel comfortable doing. I wanted more
14 information with respect to the 30 million. Again, I'm
15 trying to decide, but it sounds like that is not something
16 that perhaps Commissioner Skop is willing to do, so I
17 guess we will go ahead and vote on the motion.

18 But I would feel more comfortable getting
19 information. I think that it is a possibility. I don't
20 know, I don't have enough information to know, but it's a
21 possibility that, given the conflicting information I have
22 heard -- and I understand where Mr. Beck is coming from
23 and Mr. Wright, but they would have to have more
24 information to look into it to really say for sure what
25 exactly the costs are to the ratepayer and what the risks

1 are to the ratepayer, but their gut feel is that there
2 would be some risk to the ratepayer to go forward, and
3 they are more comfortable with approving just the larger
4 piece of it now and taking out the 30 million. I
5 understand that.

6 I would prefer to get more information with
7 respect to the 30 million before I decide and answer these
8 questions. But, again, I realize that there is a motion
9 on the table, and if we are going forward with that, then
10 I guess I need to decide how I'm going to vote.

11 **CHAIRMAN CARTER:** Commissioner Argenziano then
12 Commissioner Edgar.

13 **COMMISSIONER ARGENZIANO:** Well, I guess just to
14 elaborate. The important thing for Florida is to make
15 sure that this component that we have is done before the
16 end of the year. That is taken care of in this motion.
17 What is the -- let me ask it in a way, and I mean it with
18 all due respect, what is the time frame for the company if
19 they needed that other -- which I'm not sure they are
20 going to get, or they are, or they are not, what is the
21 time frame there? If you could come back and possibly be
22 on the December 2nd, what's the problem with that,
23 ensuring that we get the component for Florida taken care
24 of today?

25 **MR. BUTLER:** I don't think there is a problem

1 with that.

2 COMMISSIONER ARGENZIANO: Then that may help --

3 MR. BUTLER: I'm sorry, excuse me.

4 COMMISSIONER ARGENZIANO: -- with Commissioner
5 McMurrian's concern over that portion that there really is
6 no time frame for that as much as the amount that we are
7 approving today.

8 MR. BUTLER: Recognizing, again, the time frame,
9 we have concerns about getting an answer to both pieces
10 before the end of the year, but I think that what
11 Commissioner McMurrian had suggested would get there.

12 I'm a little bit confused as to what exactly you
13 are prepared to vote on as to the timing of it. I mean,
14 it is clear that what you are prepared to vote on would
15 involve sort of excepting out the approval for the
16 Seabrook station financing costs now, but the timing of
17 when that would be brought up back to you is --

18 COMMISSIONER ARGENZIANO: Well, I thought what
19 we heard was the component that ensures that the Florida
20 portion of that is taken care of would be final before the
21 end of the year.

22 MR. BUTLER: That's right.

23 COMMISSIONER ARGENZIANO: So I'm not sure where
24 the confusion is. It is on the other issue that would be
25 brought back.

1 **MR. BUTLER:** If it is brought back on
2 December 2 and then you vote based on the additional
3 information you have at that point up or down whether to
4 also approve that which would be proposed agency action,
5 we would end up getting the order out -- I think Ms.
6 Fleming said before December 10 wouldn't be a problem. I
7 think that works. I mean, that is a satisfactory timing
8 answer to the concerns that we have. It wasn't clear to
9 me, I'm sorry, Commissioner, whether that was specifically
10 what was being considered.

11 **COMMISSIONER ARGENZIANO:** And it seems to me
12 that that would clear up Commissioner McMurrian's concern
13 also.

14 **MR. BUTLER:** I think it would. Well, I can't
15 speak for her. It would for us.

16 **CHAIRMAN CARTER:** Commissioner McMurrian and
17 then Commissioner Edgar. She is going respond to --

18 **COMMISSIONER McMURRIAN:** I'm sorry.

19 **CHAIRMAN CARTER:** You're recognized.

20 **COMMISSIONER McMURRIAN:** I think it would clear
21 it up. I don't think that Commissioner Skop -- I think
22 what Commissioner Skop -- and maybe I need to just ask
23 Commissioner Skop, but I think his motion was to go ahead
24 and rule on the entire application today in favor of the
25 6.1 billion, but not in favor of including the 30 million,

1 and sort of decide that today. Not putting off the
2 decision with respect to the 30 million. And I guess I
3 was saying that I would be more comfortable if the
4 30 million piece was something that we took up separately
5 after getting more information and the parties had time to
6 talk to each other and get clearer with the staff, of
7 course, and then to come back to us with that information
8 before deciding that piece.

9 **COMMISSIONER ARGENZIANO:** Mr. Chair, I
10 thought -- that's exactly what I was talking about.
11 Commissioner Skop's suggestion -- I mean, motion, but that
12 the company had the ability to still come back with the
13 other 30 million portion of that. Is that correct; is
14 that what I heard? They can refile, and that's why I
15 asked your time sensitivity.

16 **CHAIRMAN CARTER:** Staff.

17 **COMMISSIONER ARGENZIANO:** Let me have staff --

18 **MR. DEVLIN:** My understanding is that the
19 company could come back and refile and amend their
20 request.

21 **COMMISSIONER ARGENZIANO:** Right.

22 And, Mr. Chair, that was my point to the
23 company, what is your time frame. To me the important
24 component of making sure is the Florida portion of that,
25 which is taken care of in this motion. As far as the

1 other amount that we are all having discussion over, and
2 some want to hear more about it in the future, is there a
3 time sensitive or time critical on that issue, or why
4 couldn't the company come back and refile on that one?

5 **MR. BUTLER:** Well, it is time sensitive to us.
6 As I had indicated to Commissioner McMurrin earlier, we
7 have a need to begin the construction expenditures with
8 respect to the Seabrook project pretty early in 2009.
9 What I'm pausing on here is, I guess, really what seems
10 like just a logistical challenge. If we don't, or if you
11 don't in your vote sort of set this up so that it will, as
12 a matter of course, come back at the December 2 agenda,
13 and instead we, FPL, are directed to come file something
14 new if we want to pursue the \$30 million approval for the
15 Seabrook project, I don't see how that could come to the
16 December 2 agenda. And that's, I think, where my
17 hesitation comes.

18 If you make that part of what you approve so you
19 are approving now the baseline, you know, Florida portion
20 of the securities application as it has been described and
21 say that what is going to happen is that the other issue
22 with additional information will come up at December 2,
23 then I think that works for us. If you decide that you --
24 you know, the first part of that, but then the second is
25 whenever, FPL, you would like to refile, feel free, I

1 don't see how we could make that work logistically to have
2 it come up at December 2, and without that we won't end up
3 getting the answer by the end of 2008.

4 **COMMISSIONER SKOP:** Mr. Chair.

5 **MR. BUTLER:** That's what I was trying to point
6 out.

7 **CHAIRMAN CARTER:** Hang on a second. I'm going
8 to our general counsel.

9 Mr. Cooke.

10 **MR. COOKE:** I agree that it sounds like it is
11 important for the company to get a final decision out of
12 the agency, and in order to make sure we are doing this
13 appropriately and can, in fact, bring it back December 2nd
14 if need be, I would like to take a break so we can discuss
15 these procedural issues amongst ourselves for a few
16 minutes, make sure we have our ducks in a row, and can
17 advise the Commission appropriately.

18 **CHAIRMAN CARTER:** Okay.

19 Commissioners, I think that's fair to give staff
20 an opportunity to do that. Because, on the one hand, we
21 have talked about dealing with the Florida issue now, but
22 on the other hand, Commissioner McMurrian, Commissioner
23 Edgar, and even Commissioner Argenziano has expressed an
24 interest in getting some additional detail.

25 I spoke about OPC being able to have some time

1 to do that. If we could do it all on December 2nd that
2 may be what everyone needs, but I'm prepared to give staff
3 an opportunity to get their ducks in a row before we move
4 forward on the motion.

5 Let's take -- we'll come back on the half hour.

6 (Recess.)

7 **CHAIRMAN CARTER:** We are back on the record.

8 And once we left, we gave staff an opportunity
9 to do some strategizing or some strategy. And let's do
10 this, Commissioners, I want to go to Commissioner Skop
11 first, and then we will go to staff and get whatever
12 questions they may have.

13 Commissioner Skop, you're recognized, sir.

14 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

15 And in the spirit of compromise, and I have
16 heard some concerns from my colleagues, so I'm trying to
17 incorporate that into my thought process. I would
18 respectfully amend my prior motion that's on the table to
19 approve the Florida portion of the FPL financing
20 application in the aggregate amount not to exceed
21 \$6.1 billion with the following understandings, that the
22 Commission would defer consideration of the authority to
23 finance the construction expenditures of the approximately
24 30 million for the planned Seabrook Substation Reliability
25 Improvement Project located in the state of New Hampshire

1 until the December 2nd agenda conference. And that would
2 give adequate time for the parties and any interested
3 parties to provide that additional information on an issue
4 of critical public policy.

5 And also, too, that pending that, we would be
6 able to insert the appropriate language based on whether
7 that was approved or denied to ensure that any funds
8 raised were not used. But, essentially in a nutshell, the
9 motion would be to approve -- the amended motion would be
10 to approve the Florida portion of the FPL financing
11 application in the aggregate amount not exceeding
12 \$6.1 billion, and to defer consideration of the 30 million
13 out-of-state portion until the December 2nd agenda
14 conference.

15 **COMMISSIONER ARGENZIANO:** I second that. And
16 thank you for that compromise. It's never hurtful to get
17 more information, and I definitely appreciate that.

18 **CHAIRMAN CARTER:** Thank you, Commissioners.
19 Commissioner Edgar.

20 **COMMISSIONER EDGAR:** Thank you. I also
21 appreciate the taking into account some of the questions
22 that have been asked. I think I said this earlier, but in
23 case I didn't, let me say it now. I appreciate some of
24 the points that you have raised very much. I was just
25 feeling a little rushed, and I appreciate the opportunity

1 to have our staff look at it. And realizing it is not a
2 lot of time, but I think it will be helpful, and I
3 appreciate the amendment and will be prepared to support
4 it.

5 **CHAIRMAN CARTER:** Commissioners, anything?
6 Commissioner McMurrin, you're recognized.

7 **COMMISSIONER McMURRIAN:** Yes. I also appreciate
8 that spirit of compromise, and I'm hoping that in the time
9 between now and December 2nd that the parties will be able
10 to get together and with the staff, and so that everyone
11 understands better what it is that is being proposed, what
12 are the costs and the risks and the benefits, if any --
13 and it sounds like none, but I won't go back there -- but,
14 anyway, I hope that that can be done so that it makes the
15 December 2nd much more efficient.

16 **CHAIRMAN CARTER:** Commissioner Skop.

17 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

18 And I thank my colleagues for the kind comments.
19 And to the point of feeling rushed, I also feel rushed,
20 and I think that frankly that could have been avoided by
21 an earlier more timely filing of the financing
22 application, knowing full well that they have had a year
23 to anticipate future capital needs for 2009.

24 **CHAIRMAN CARTER:** Thank you, Commissioners.
25 Anything further? We have a motion and a

1 second. We have gone through debate, we have gone through
2 discussion. We have had questions, we have had comments.
3 And we've talked to the parties; we've talked to the
4 staff; and Commissioners have had their -- we have
5 individually asked each other questions and all like that.

6 Anything further? Okay. Hearing none. All
7 those in favor of the motion, let it be known by the sign
8 of aye.

9 (Simultaneous aye.)

10 **CHAIRMAN CARTER:** All those opposed, like sign.
11 Show it done.

12 * * * * *

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

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

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

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

19 DATED THIS 26th day of November, 2008.

20
21 
22 _____
23 JANE FAUROT, RPR
24 Official FPSC Hearings Reporter
25 (850) 413-6732