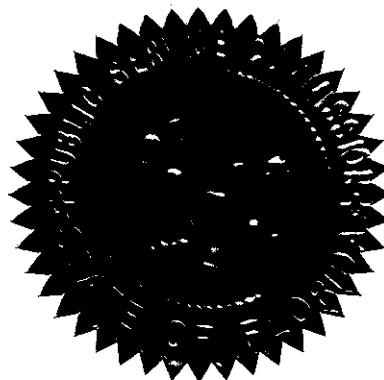


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080503-EI

In the Matter of:

ESTABLISHMENT OF RULE ON RENEWABLE
PORTFOLIO STANDARD.



PROCEEDINGS: SPECIAL AGENDA CONFERENCE

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

DATE: Friday, January 9, 2009

TIME: Commenced at 1:30 p.m.
Concluded at 7:20 p.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
00461 JAN 20 09
FPSC-COMMISSION CLERK

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

P R O C E E D I N G S

CHAIRMAN CARTER: Good afternoon. I'd like to call this special agenda conference to order. First, let me begin by asking staff to introduce the item.

Staff, you're recognized.

MR. FUTRELL: Good afternoon, Commissioners. I'm Mark Futrell with the Commission Staff.

We're here before you today to continue the process to implement the Legislature's renewable portfolio standard policies. Section 366.92 of the Florida Statutes requires the Commission to submit a draft rule on RPS to the Legislature by February 1st, 2009, for consideration. Staff is recommending in Issues 1 and 2 that both draft RPS rules be submitted to the Legislature for consideration. Also in Issue 3 we recommend that the clean energy portfolio be presented to the Legislature for consideration.

Staff is prepared to present an overview of the recommendation following comments by stakeholders and members of the public.

CHAIRMAN CARTER: Thank you.

Let me just kind of begin with a few housekeeping matters. First of all, those of you that are wishing to speak, you will need to see Judy Harlow. There she is. You can sign up there. And when we do get to the point to where we are

1 asking for comments from the stakeholders, I'll defer to
2 Mr. Futrell to call your names, and that way it will save me
3 some embarrassment from messing up people's names. Not that we
4 get a lot of comments about that -- no, just kidding.

5 But, first of all, I just want to kind of take a few
6 moments to say a few things in terms of how we're going to
7 proceed today. First of all, we're just going to take a few
8 moments to allow Commissioners, if you would like to, to make a
9 few comments regarding the recommendation before us, and then
10 we'll have comments by the stakeholders, and then we will
11 follow that with an overview of the draft rules by staff. And
12 at that point in time, Commissioners, we will have questions,
13 issues, and comments by Commissioners. And we'll proceed from
14 that standpoint there.

15 Let me just take a moment to say, first of all, I'd
16 like to take this opportunity to thank our staff for their very
17 hard work. They have been diligent and professional in their
18 work on this docket, and though some have disagreed with their
19 conclusion, no one can question their independence, their
20 integrity, and their intention to do what they believe is both
21 in the best interest of the public and is consistent with the
22 mandates placed before them.

23 Staff has been asked to reconcile old policies with
24 new policy directives to reconcile our Governor's great vision
25 with the mandates of the outstanding Legislature and to wade

1 into unfamiliar regulatory territory without completely letting
2 go of the Commission's mission, which is to facilitate the
3 efficient provision of safe and reliable utility services at
4 fair prices.

5 They have done the best with what they have been
6 given. And though some have criticized it, I believe staff's
7 recommendation is an outstanding work product, and I would
8 recommend to my colleagues that whatever we decide today, we
9 agree to send the recommendation to the Legislature as an
10 addendum for their consideration.

11 Without abandoning its own professional judgment and
12 opinion, staff provides us with several policy frameworks from
13 which we can craft our own product. And let's be clear here,
14 it is our responsibility as appointed officials to take the
15 Commission in new directions when warranted, not staff's. To
16 the extent that this Commission makes policy, it is up to the
17 Commissioners to do that, not our staff.

18 Our staff serves many masters. While they serve each
19 of us individually when they are able, Commissioners, they must
20 also serve us collectively, and sometimes that means that our
21 individual desires may not be completely satisfactory to their
22 work. However, they have one master that they serve above all
23 the others and that master is the public interest. Let me tell
24 you that there is no doubt that they are always striving to do
25 what they believe is in the best interest of the public and the

1 right thing to do. And with that, I just wanted to say before
2 we begin on behalf of my colleagues, thank you to our staff.

3 And, Commissioners, if you would like to make some
4 comments at this point in time we'll recognize our
5 Commissioners and then we'll go from there.

6 Commissioner Edgar, you're recognized.

7 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman. And I
8 appreciate your comments very much and thank you for those.

9 I also was planning, and although you have done it
10 much more eloquently than I, but I was planning, and I do want
11 also to commend our staff for the work that they have done.
12 This is a very difficult issue, and I know that all who have
13 worked on it have spent long days and long hours. And I also
14 recognize that it is one of those issues that once you think
15 you have put parts of the puzzle together then other pieces
16 kind of pop up. And, you know, it's an important issue and
17 also a highly technical one, and I think they have done an
18 excellent job and have given us a road map that will help guide
19 our discussions and our decisions, and I find that very
20 helpful.

21 Again, as I always do, and as I always mean, want to
22 thank all the stakeholders who have participated in this
23 process and have spent their time and energy and brought
24 differing perspectives that has also helped bring us to the
25 product that we have before us and the discussions that we'll

1 continue to have.

2 My goal as always, but on this item also in
3 particular today is to the best of our ability to put forward
4 good policy, a credible product, and requirements that are
5 achievable to afford protection for the ratepayers both in
6 burden and also in creating a mechanism for a good value so
7 that the money that is devoted to any effort, but in this case
8 to the effort to further investment and generation in renewable
9 technologies, that we give good value to the customers and to
10 the state.

11 My decisions will be guided by -- as always -- by my
12 desire to try to further environmentally sound generation while
13 also furthering reliability and affordable rates. I recognize
14 the RPS as an instrument to help assist us in our efforts to
15 further economic development in green technologies and job
16 creation in this state. And, again, I am very appreciative of
17 all who have helped us get to this day. I have found it just
18 an intellectually fascinating exercise. I have learned a lot,
19 and I'm looking forward to all the discussions.

20 Thank you, Mr. Chairman.

21 **CHAIRMAN CARTER:** Thank you.

22 Commissioner McMurrian.

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

24 And I certainly agree with everything that you have
25 said and Commissioner Edgar, that of both you so elegantly

1 said. I know that I'm happy to be at that point, and I'm sure
2 the staff is extremely happy to be at this point, and probably
3 a lot of the other people that are here today, too. And I join
4 my other colleagues in thanking all of you for your input,
5 including consumers who have as recently as this morning been
6 e-mailing a lot of us their thoughts about what we're doing
7 today. So I appreciate all of that input. And, again, I thank
8 staff as well for all the long hours that you all have put in.
9 We have definitely noticed and we appreciate it. Thank you.

10 **CHAIRMAN CARTER:** Thank you.

11 Commissioner Argenziano.

12 **COMMISSIONER ARGENZIANO:** Mr. Chairman, I prefer to
13 allow -- I'm going to hear, with all due respect to my
14 Commissioners, I'm here to hear you today. There has been a
15 lack of that time to do that, so I am just here to listen to
16 what's going to be presented today, and at the end I would like
17 to make a few comments.

18 Thank you.

19 **CHAIRMAN CARTER:** You do that.

20 Commissioner Skop, you're recognized.

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

22 And I appreciate all the comments that our Chair has
23 made. I think each of our respective colleagues has echoed
24 that. I do recognize staff and commend them for each of their
25 hard work. This has been a long, rigorous, tenuous process

1 with lots of criticism across the board.

2 I just wanted to make some brief comments as we move
3 into this. I do continue to support a standard offer contract
4 or negotiated contract approach, to the extent that it utilizes
5 the existing framework that's based upon sound regulatory
6 policy. That framework is well understood, flexible, readily
7 adaptable to new technologies, and would provide the state a
8 long-term revenue stream necessary for developers to obtain
9 financing of such renewable projects within our state.

10 I do further think that it represents the most
11 cost-effective option for consumers and ratepayers. It
12 fulfills and effectuates the Legislative intent of encouraging
13 immediate economic investment and creating jobs within the
14 state of Florida, and it also avoids the substantial cost and
15 delay associated with developing a captive inefficient market
16 for the trading of attributes within the state.

17 I do very much appreciate staff's hard work in terms
18 of trying to develop the framework that was presented at the
19 December 3rd Agenda Conference. I look forward to discussing
20 that with my colleagues further as well as staff's other
21 recommendations. Unfortunately, as happens anytime where we
22 are trying to do things in a rapid manner, the staff
23 recommendation presented in the draft rule in Attachment B does
24 not necessarily embody the framework that was presented at
25 December 3rd, but I have been able to try and make some

1 markups, and I think the notion of standard contract coupled
2 with the staff interpretation of the presentation has caused a
3 little bit of confusion. If I am able to help clarify that
4 today, if time permits I would like to do so. But I do have a
5 copy of a quickly hammered out draft rule that has been
6 provided to the Commissioners, or will be concurrently with the
7 aids, and also an explanation of a flow path that might be
8 helpful if we get into that discussion.

9 So, thank you, Mr. Chairman. And, again, I commend
10 staff for their hard work and look forward to the Commission
11 moving forward on this issue.

12 **CHAIRMAN CARTER:** Thank you, Commissioners.

13 Commissioners, let's do this. We want to hear from
14 the parties. And to the parties, we'll give you five minutes
15 each for your statements. I think we have on board -- let me
16 do this. Mr. Futrell, since you have the list, let me just say
17 to those of you speaking that we will give you five minutes to
18 make your statements as we go forward so we can hear from all
19 of the parties. Everyone's comments are important, and we want
20 to hear from you and to get those comments and we want to begin
21 our deliberating and our process. And at my vain attempt at
22 humor, just let me remind everyone that this is not Burger
23 King, so you probably won't be able to have it your way, but we
24 will get it done.

25 With that, we'll recognize our speakers and you will

1 have five minutes each. Mr. Futrell, you're recognized.

2 **MR. FUTRELL:** Thank you, Mr. Chairman.

3 And first we have a member of the public that has
4 phoned in, and it's Ms. Alexandra Lawson. Ms. Lawson, if you
5 are on the line you may go ahead. And as Chairman Carter
6 mentioned, you have five minutes for your comments. Thank you.

7 **MS. LAWSON:** Good afternoon, Chairman. Good
8 afternoon, members. I'll try to be brief, because I'm standing
9 outside on a highway, because I didn't know what time you guys
10 were going to do this. But I read what I could about you. I
11 didn't get to hear what you said because obviously wherever I'm
12 at is too loud and you could hear me rustling in the car. But
13 you have the ability to go before the Legislature and give some
14 good recommendations. One of them is do not let power
15 companies have until 2041 to, you know, clean up their mess,
16 and to think of renewables. We will all be dead by then unless
17 we are Rosa Dorando (phonetic) or Marjorie Stoneman Douglas.
18 They lived to be 106 and Rosa is still here at 82.

19 Renewables have to be dealt with. When they talk
20 about nuclear, the power companies now have the ability to
21 charge prior to building the plants. So, of course, they are
22 going to look at whatever is good for them and not for the
23 ratepayers. Why should we pay for something that isn't really
24 renewable. Nuclear -- is it the half-life they call the rods,
25 have a half-life, from the engineers I have spoke to, of 238

1 years. Now, that's a guesstimate because none of us are going
2 to live to be 238 years old. So we don't even know if that's
3 the life of the rods. It's the aftermath. Nuclear might be
4 clean in the process, but where are we going to put the rods?
5 Yucca Mountain is not going to happen. The Indians and the
6 environmentalists don't want us to have it, so we have nowhere
7 to put the spent rods. And if you leave them laying out there,
8 they are going to burn a hole right to the center of the earth.

9 A woman recently told me, "But the rods will only
10 take up a spot about the size of a football field." But that
11 is an awful big hole to put through to the center of the earth.
12 And I hope that you go before the Legislature and put some real
13 rules down on renewables, and that is solar, that is wind, that
14 is hydro. I think solar -- I mean, we are the Sunshine State,
15 and I feel like I'm repetitious, you have already heard this
16 from me, but we are the Sunshine State.

17 I'm not that impressed with FPL. I am only familiar
18 with FPL's solar projects, but they're spending I think it is
19 700 million at the Barley Plant. I would rather they put a
20 solar hot water heater on every house of every customer that
21 they could afford to do so, or at least the state give an
22 incentive where everybody pays half. I pay half, they pay
23 half. Or they give a tax credit or something that would be --
24 because that's instantly renewable. If everybody in the state
25 of Florida did solar in just the hot water heater, that's an

1 instant 10 percent savings. And it's directly at the consumer
2 who is saving money by not running a hot water heater.

3 So I hope you will take that into consideration in,
4 you know, your talks today, because there are -- power
5 companies only want to make profits, and that is very, very --
6 I read it every day about the profits of the power companies in
7 this state, and they are quite extensive. Their bonuses are
8 quite extensive, and, quite frankly, I think the American
9 people are tired of bailing out everybody and paying people big
10 salaries. And that's something to take into consideration,
11 because they are allowed to make a profit but, damn, they
12 should make a little bit less maybe, or give a little bit more.

13 And I do hope you will take that into consideration,
14 because with the spent rods of a nuclear power plant it is not
15 renewable. You have an aftermath and you have a definite
16 cancer-causing agent, and it only takes one mistake. Down in
17 Miami, one worker drilled one hole to make somebody disgruntled
18 at a nuclear power plant in Miami-Dade County. So I'm pretty
19 sure you guys are aware of this stuff, so I'm just hoping you
20 will take that into consideration today. And I thank you for
21 your patience. I'm done.

22 **MR. FUTRELL:** Thank you, Ms. Lawson.

23 Next is Mr. Joe McGlothlin with the Office of Public
24 Counsel, and we would request that those that are coming to
25 speak sit next to Mr. Hill over here by the court reporter.

1 And, again, if all speakers would identify themselves and the
2 party they represent for the purpose of the transcript.

3 **MR. MCGLOTHLIN:** Good afternoon. Joe McGlothlin with
4 the Office of Public Counsel. I'll divide my comments between
5 the general and the specific.

6 First, the general. Throughout this proceeding,
7 several stages of this proceeding, we have acknowledged that
8 the Commission is confronted with some competing
9 considerations, and we have emphasized the need to take into
10 account not only the environmental aspects of greenhouse gases,
11 but also the economic environment in which the Commission is
12 making this decision. And by that I am talking about the
13 deteriorating economy, I'm talking about utility bills that are
14 already increasing as a consequence of high fuel costs, the
15 Federal Clean Air Interstate Rule requirements at the cost of
16 nuclear plants.

17 And to that end, in general, we have advocated that
18 the Commission should adopt a rule that sets goals that are
19 realistic and then instructs the utilities to employ means that
20 are designed to be cost-effective so that the money of
21 ratepayers that is spent is used to achieve as much of the
22 renewable resource as is feasible.

23 Now, the specific. We have advocated that the cap on
24 annual revenues should be 1 percent, and as this proceeding has
25 progressed and the staff recommendation has focused on 2

1 percent, we think that in no event -- if you vote against us on
2 the 1 percent, in no event should it exceed the 2 percent. And
3 to those who have criticized these proposals as not going far
4 enough, I would refer them to Page 34 of the staff
5 recommendation where you will see that a 1 percent standard
6 translates into \$185 million in the first year. A 2 percent
7 standard translates into \$370 million in the first year. It
8 appears to me that's serious money by anybody's standard, and
9 it can only be expected to increase because it's expressed as a
10 percentage of annual revenues and we can only expect that the
11 utilities' revenues will increase over time.

12 Also, this is above and in addition to the monies
13 that the renewable generators will receive for the energy they
14 sell. So when you take into account those considerations, we
15 think that the 1 percent and in any event no more than
16 2 percent represents, under the economic environment in which
17 we are operating, a serious effort to move this toward the
18 renewable goals.

19 Also, another general consideration is that we
20 advocate the use of competition as the best means to ensure
21 that the money earmarked for renewables is spent in the most
22 cost-effective way. And whether the Commission adopts the rec
23 format or Commission Skop's standard offer format, we hope that
24 the Commission will include and incorporate in the final rule
25 and recommendation adequate opportunities to require those who

1 wish to participate in this renewable market the obligation of
2 putting their most competitive proposals forward for
3 consideration.

4 Now, to the even more specific. We oppose the
5 recommendation to create a separate cost-recovery mechanism for
6 the IOU-built renewable generators. And the reasons are
7 spelled out at one point at Page 41 of the staff's
8 recommendation. There the staff noted the following:
9 "Depending on a utility's specific earnings position and level
10 of revenues and expenses, it could be able to absorb some or
11 all of the costs of a self-build renewable project and still be
12 able to earn within its last authorized rate of return. If so,
13 the level of costs of the self-build project allowed to be
14 passed onto the ratepayer would be less than the amount that
15 would be recovered through an annual clause mechanism."

16 Said differently, if base rates, existing base rates
17 are adequate to absorb the costs of an IOU-built renewable
18 project and yield a return within the authorized range, then
19 the IOU, by definition, has rates that are reasonable and the
20 customers bills do not go up. If, instead, base rates are
21 adequate to provide that fair rate of return, but the utility
22 flows the cost of the renewable project through a separate
23 clause, then bills increase and are higher than would be
24 necessary to fully support the renewable project.

25 That being the case, why does the staff recommend the

1 creation of a separate cost-recovery clause? According to
2 staff, it is intended to overcome a disincentive that is
3 associated with regulatory lag involved in investments made
4 prior to a base rate proceeding. But as the staff also notes,
5 a base rate proceeding looks at a myriad of costs. And within
6 that universe of base rate-related costs, including generators,
7 over time some expenses increase, others decrease, some go away
8 entirely. And so to the extent that a utility wishes to take
9 advantage of those decreasing costs that have the effect of
10 increasing earnings on the one hand, but export through a
11 cost-recovery clause those that would otherwise affect its
12 earnings negatively, that is really a distortion and an abuse
13 of the traditional base rate process.

14 And the other point I would make is that the staff
15 recognized that this standard is going to be a mandatory
16 standard, and where the requirement is a mandatory requirement
17 under a statute and a rule that has the force of law, well,
18 there goes your disincentive. They have to do it.

19 So I haven't even touched on the fact that these
20 cost-recovery clauses over time have specified a return on
21 equity that is higher than the risk-free environment of the
22 cost-recovery clause. But for these reasons and others, we
23 hope that you will remove from the final rule the proposal to
24 adopt a separate cost-recovery mechanism for IOU-built
25 renewable generators.

1 How am I doing on my time?

2 **CHAIRMAN CARTER:** You are over it.

3 **MR. MCGLOTHLIN:** In that case, I'm through.

4 **MR. FUTRELL:** Next is Mr. Mike Twomey, who will be
5 followed by Susan Clark.

6 **MR. TWOMEY:** Mr. Chairman, Commissioners, good
7 afternoon. I'm Mike Twomey. I am appearing on behalf of AARP,
8 which, as you know, has over 3 million members here in the
9 great state of Florida.

10 First, let me say that on behalf of AARP we adopt all
11 of the comments made by Mr. McGlothlin on behalf of the Office
12 of Public Counsel. And, initially, let me draw in the obvious
13 fact outside the room that our country and this state is now
14 suffering what is generally recognized as being the worst
15 economic financial situation since the Great Depression. We
16 have failing industries. We have businesses with greatly
17 reduced sales. We have record unemployment nationally and in
18 the state of Florida. We have record home foreclosures
19 nationally and particularly here in the state of Florida. As a
20 consequence of those things and others, we have record
21 unemployment. It's a cycle that feeds on itself.

22 Now, at the national level, we have our government
23 apparently determined to spend our way out of the problem by
24 printing money. At the state level, our Legislature appears to
25 be on the cusp of borrowing money from trust funds to pay for

1 recurring expenses. Irrespective of whether those two
2 solutions are good or bad in your individual minds, they are
3 solutions that are not available to this Commission. And it's
4 important to remember that, because the solutions that you put
5 forward to the Legislature as a result of your actions today
6 are going to come out of and be funded solely by the monies of
7 these utilities' customers. No other source. The other
8 so-called stakeholders in this room haven't brought you any
9 other source.

10 So these are the very people, as is the case
11 nationally, who are losing their jobs, losing their homes,
12 struggling to put food on the table for their children, educate
13 them, pay for medicines, and pay for electric bills, the
14 current electric bills that are already going up. As we well
15 know and you know particularly, rates went up generally
16 January 1st in many cases because of increased fuel costs as
17 well as, for two companies, early nuclear cost-recovery.

18 Three of the four major investor-owned utilities will
19 be in for rate increase cases during calendar year 2009. So
20 not only do we have high rates now that people are struggling
21 to pay, and as a consequence we have seen record numbers of
22 disconnections for virtually all of the electric utilities in
23 this state, as well as, in some cases, reduced customer counts
24 and reduced sales. So the customers are struggling now, and
25 anything that you do today or whatever you do today in the

1 recommendations you make to the Legislature are going to burden
2 the electric customers further, whether they are retail or
3 industrial customers, particularly residential customers, who
4 my client's members are generally, and many of whom are living
5 on fixed often low incomes.

6 So, consequently, as the Office of Public Counsel has
7 asked you to do, we would say use great restraint in picking a
8 cap. First of all, we think it is essential that you pick a
9 cap. We would like to see the cap be set at the lowest level
10 possible, namely 1 percent, which is a \$185 million rate
11 increase on the customers of these utilities annually. We
12 think anything else is too much.

13 You have to walk before you can run here, and we
14 would urge you, as we have from the outset in this process, to
15 let the elected officials at the state level determine what the
16 appropriate level is that they are willing to place on the
17 consumers politically. So we would urge you 1 percent, send
18 that forward, nothing higher. We are facing extremely
19 difficult times, tight money.

20 As the Public Counsel said to you, there should be
21 competition. AARP has been saying that from the beginning. I
22 handed out to you a letter to the Chairman from Doctor Alfred
23 Kahn, who is, of course, not only a noted economist on the
24 national world stage, but a utility regulator for many decades.
25 The letter was sent to the Chairman by Mr. Zambo and his

1 client, but I wanted to pass it out again because it bears
2 particular resonance here because what he says in nicer terms
3 is that not having competition and providing for carve-outs to
4 any technology is essentially economic nonsense, and that's
5 what it is.

6 The foundation for our American capitalist system is
7 competition, competitive bidding, the lowest qualified bidder
8 gets the deal. And we have been urging that upon you and to
9 the Legislature since this process started. So carve-outs of
10 any kind and any level violate that fundamental principle, and
11 Doctor Kahn says it nicer and he says more of why it's wrong to
12 have carve-outs.

13 We take this position not in opposition to any
14 particular technology that might benefit from a carve-out, but
15 to say there should be head-to-head competition from all of the
16 technologies that the Legislature eventually says qualify as
17 either renewable or clean.

18 So we have tough times. We think we should have a
19 low cap. We think that in order to get the biggest bang for
20 the buck you should have fair competition, whether it's through
21 a REC system or through contracts, standard offer contracts as
22 suggested by Commission Skop. Particularly, we shouldn't have
23 carve-outs because we don't really, I think, understand fully
24 what the cost of some of the Class 1, so-called Class 1 solar
25 and wind technologies would be. I don't think that we have

1 realistic energy costs, dollars or cents per kWh that you can
2 rely upon. And if you don't know with any confidence what
3 those things will cost going forward, why in the world would
4 you consider giving them 75 percent of the scarce dollars to be
5 provided by my client's members, Public Counsel's clients, and
6 the other utility customers.

7 Thank you.

8 **CHAIRMAN CARTER:** One second, Mr. Twomey.

9 Commissioner Argenziano.

10 **COMMISSIONER ARGENZIANO:** I guess just a quick -- if
11 I can, because I read Doctor Kahn's information, and I guess I
12 should have asked OPC this also. I mean, there are some heavy
13 decisions to be made. And, ultimately, if anybody thinks it is
14 going to end here, you are just not right, in my opinion. It
15 is going to end where the policymakers are going to make it
16 end. So we're just sending them a framework.

17 **MR. TWOMEY:** Yes.

18 **COMMISSIONER ARGENZIANO:** And you have to be just not
19 in the real world to think otherwise. And they are the
20 policymakers, as you said the elected officials. So it's not
21 going to end here today. And you all know that because many of
22 you are going to be lobbying over there as soon as you leave
23 here.

24 But Doctor Kahn doesn't say that -- as a matter of
25 fact, let me read you a paragraph very quickly. "Let me be

1 crystal clear. I am not suggesting that solar or wind are
2 generally inferior to other renewable sources. I merely
3 suggest they are not inherently superior, neither economically
4 nor esthetically, to at least some other renewable
5 technologies, and that the clear preference for them in the
6 proposed rule is both unwarranted and likely to impose a burden
7 on ratepayers already burdened by soaring energy costs."

8 That is if you are not taking into consideration, I
9 guess, what the priorities are, and there are several
10 priorities to take into consideration. And I believe one of
11 them is CO2 reduction. And when you talk about CO2 reduction,
12 I don't think Doctor Kahn is really contemplating that in the
13 letter that he wrote, nor AARP. Even though I understand you
14 care about the environment and I understand very, very much
15 that cost is very important, but I, as a Commissioner, have to
16 sit here and also think about the other priorities. Why this
17 all came about and a large part of that is CO2 reduction.

18 And so I'm not sure that, in my personal opinion, and
19 everything I have tried to research, that I want to cook the
20 earth for the most economical approach. And I don't know
21 whether AARP is taking a position -- and I don't mean to
22 sound -- because I'm 54, so I am getting up there in age, too.
23 So, I mean, I know a lot of members are really strapped -- and
24 no comments, I don't want to hear any comments about that
25 age -- and I know that costs for everybody right now are very,

1 very important, and that's going to be a major part of the
2 decision I make today, and I hope with the Legislature, too.

3 But have you thought about the next members, the next
4 round of generation that's coming up to be AARP members. The
5 young people who are also calling and saying that, you know, we
6 are concerned with CO2, and if you people don't do something
7 today, and you only think of cost -- and I want to know where
8 AARP's position is, and possibly later if I can hear from OPC.
9 As I said, I should have asked that question. That's another
10 priority in this decision-making, and I would like to hear
11 where AARP is on that.

12 **MR. TWOMEY:** Yes, if I may. Commissioner, the Doctor
13 Kahn letter was an attachment to the post-workshop comments
14 supplied by Mr. Zambo. And what he said in those comments and
15 what Doctor Kahn also said -- first of all, Doctor Kahn is
16 saying --

17 **COMMISSIONER ARGENZIANO:** What is the AARP saying?

18 **MR. TWOMEY:** Well, if I may. I'll get there. Doctor
19 Kahn said to not give anybody special standing. It's what he
20 is saying. What you read says don't give anybody special
21 standing.

22 Now, he is advocating, if you will, for primarily the
23 phosphate-based, fertilizer-based heat recovery, which is --
24 you'll see in his letter and the other comments -- is
25 completely pollution free in that regard. Waste heat, as you

1 know, is otherwise going up in the atmosphere, it's utilized.
2 So, that's clean. The Legislature ultimately decides -- has
3 given you the list you are working from now, and may decide to
4 expand it in the next session. They decide what's renewable.
5 So what AARP is saying -- so none of this -- the AARP is not
6 saying burn anything that's dirty. What we have been saying
7 from the beginning, and you have been here, is do -- amongst
8 the list that the Legislature gives you ultimately, let each
9 and every one of those technologies compete head-to-head so
10 that the customers get the best bang for the buck. And that
11 should ultimately mean that you would get the most clean energy
12 for every dollar you take out of the pockets of the customers.
13 The Legislature is going to decide what's comparable and clean.
14 We're not asking for anything to be dirty.

15 **COMMISSIONER ARGENZIANO:** I know that. I think what
16 I was trying to get at, what you just said now. You said that
17 you wanted to get the most bang for the buck for the clean
18 energy, and that's what I'm trying to get at. How do you get
19 there to get the most bang for the buck, because there is a lot
20 of money to go around and there is a lot of people interested
21 in that money that's to go around. And how do you get the best
22 bang, but I wanted to hear you say clean energy. That's what I
23 think you said for AARP, interested in clean energy. It
24 doesn't just have to be solar or wind, but you are hoping that
25 it's clean energy.

1 **MR. TWOMEY:** Yes. What I'm saying inherently is that
2 the Legislature decided -- so far they are dealing with a
3 renewable list, and they have given you the technologies that
4 qualify. So they presumably, to some degree, are all
5 comparable. The way you get the most clean or renewable energy
6 from that list provided by the Legislature is put it out for
7 competitive bidding.

8 If, for example, the phosphate people who use the
9 exothermal process of recovering waste heat to produce
10 electricity have the lowest price, whether it's 12 cents per
11 kilowatt hour, or 8, or 20, whatever it is, if they can beat
12 out the other qualified technologies, what we're saying is they
13 should get first stab at the customer's money, because you'll
14 necessarily get more generation for those dollars than you
15 would for a technology that was twice as expensive. Does that
16 make sense?

17 **COMMISSIONER ARGENZIANO:** Mr. Chair.

18 It makes perfect sense. I understand. But what I'm
19 trying to say, and I'm getting you down -- maybe is that in
20 this process that we are at now, we could wind up, if we are
21 just solely looking at cost, and cost is a great big factor, a
22 great big factor, because you can't make it a reality if people
23 can't afford it ultimately. But you also can't get clean air
24 if you can't get there.

25 What I'm trying to find out, I guess, and maybe I

1 didn't articulate it well, is it all surrounding cost -- we
2 could wind up picking something that is the most
3 cost-efficient, make a rule that allows the most
4 cost-efficient, but yet not be the clean CO2 reducing ultimate
5 desire that I think the Legislature and certainly the Governor
6 has been indicating that we need to get to. And that's what I
7 was trying to pinpoint. Is AARP saying at all cost, cost is
8 the ultimate versus even the clean air? I guess I'm trying to
9 find out where the priorities are. I know cost is. AARP
10 members have to be concerned, I'm concerned, but is it at the
11 risk of the CO2 reduction also?

12 **MR. TWOMEY:** We are assuming for the purposes of our
13 statements here and the position I have given you is that the
14 list of renewables that the Legislature has given you to
15 operate from are comparable.

16 **COMMISSIONER ARGENZIANO:** Let me ask you this. Let
17 me ask you this. Would clean coal be something that AARP --

18 **MR. TWOMEY:** Clean coal is not on the list that I'm
19 aware of.

20 **COMMISSIONER ARGENZIANO:** Well, it is being
21 mentioned. It's there. I just don't want to wind up -- I
22 understand what you are saying. You are talking about from the
23 list that the Legislature had indicated was clean, and that's
24 what --

25 **MR. TWOMEY:** I think. I think. I don't have any

1 authority to say clean coal anything; I'm just going with the
2 list. And to be more specifically clear here, Commissioner
3 Argenziano, if you had a head -- you should ask Mr. Zambo, you
4 should ask the solar people, and so forth. As I understand
5 their comparative benefits and attributes, both the exothermal
6 phosphate-based heat generated electricity and solar both have
7 zero emissions. So they would be -- at least those two, if
8 that is true, would be equally clean.

9 So all we are saying is if you can get a thousand
10 megawatt hours of energy that customers will ultimately use for
11 12 cents per kilowatt hour from the phosphate people, and it
12 would cost 25, or 30, or 50 cents from the solar, people will
13 get more electricity which is renewable and clean for their
14 money.

15 Does that answer your question?

16 **COMMISSIONER ARGENZIANO:** Yes.

17 **CHAIRMAN CARTER:** Thank you.

18 Commissioner Skop, you're recognized.

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

20 Just briefly to Mr. Twomey. I think that we have had
21 many discussions with respect to RPS, which we're allowed to do
22 because of rulemaking, and I think that we do share the same
23 concerns with respect to establishing a competitive bid process
24 or a reverse auction to obtain the best pricing for capacity
25 awards. I think that there has been some confusion with

1 respect to the December 3rd proposal, that that was not
2 embodied within that.

3 And I know that that may not be completely fleshed
4 out in the recommendation, but the flowpath sheet that is
5 floating around with the Commissioners and the aides and the
6 audience, I think, attempts to not only address the competitive
7 bidding concern, but also addressing your other concern
8 regarding the need to establish the levelized costs. So I just
9 wanted to mention that as a point of information. Thank you.

10 **MR. TWOMEY:** I saw that. Thank you.

11 **CHAIRMAN CARTER:** Thank you.

12 **MR. FUTRELL:** Next is Ms. Susan Clark, who will be
13 followed by Bob McGee.

14 **MS. CLARK:** Thank you, Mr. Chairman and
15 Commissioners.

16 I'm with the law firm of Radey, Thomas, Yon, and
17 Clark, and I'm here today to make some brief comments on behalf
18 of the four IOUs: FPL, Progress Energy, Gulf Power, and Tampa
19 Electric Company. And my remarks are regarding the Navigant
20 study.

21 We want to commend Navigant and all those who worked
22 on the study to produce the report within such a short period
23 of time and with limited resources. Our main point is to echo
24 somewhat the comments of your staff and the study itself
25 regarding statements and conclusions in the report that more

1 information and analysis is required to accurately assess the
2 economic impact, the practical implementation, and the
3 commercial availability of renewable generation in Florida.

4 For example, both your staff's recommendation -- and
5 this is Appendix D at Page 1, and the Navigant report, and this
6 would be at Page 4, indicate that the report did not include a
7 comprehensive integrated resource planning process. And both
8 documents stated that a careful analysis of cost and
9 reliability impacts via an IRP is needed to understand how
10 renewables will fit into Florida's current and planned
11 generation assets, the current and potential transmission
12 infrastructure impacts, and reliability requirements and future
13 energy needs.

14 More specifically, due to the compressed schedule and
15 limited budget, the report has not compared installed costs
16 versus life-cycle costs for each of the technologies and has
17 not taken into account the transmission and distribution
18 impacts and costs that would be required to connect the various
19 levels of renewable generation, the backup and storage costs
20 for intermittent power resources, and the need to make consumer
21 costs more explicit.

22 The report also uses the term technical potential.
23 And we think a more accurate term would be theoretical resource
24 potential. And further, the report states itself that the
25 intent of the study is not to provide recommendations on the

1 renewable portfolio standard targets.

2 In summary, we want to thank Navigant for its hard
3 work in producing the report, which is of value in developing
4 the policy on renewable energy for Florida while at the same
5 time recognizing the limitations of the report, and that it was
6 not intended to determine the appropriate RPS in Florida.

7 And now, as Mr. Futrell has indicated, individuals
8 from each company would like to make comments, as well.

9 Thank you.

10 **MR. FUTRELL:** Next is Bob McGee who will be followed
11 by Eric Silagy.

12 **MR. MCGEE:** Good afternoon, Commissioners.

13 Gulf Power appreciates the opportunity to speak to
14 you again on the topic of renewable energy and how we can
15 support the development of cost-effective renewable energy in
16 Florida.

17 We offer the following specific comments on each of
18 staff's first three recommendations. Concerning staff's first
19 recommendation, we very much appreciate the fact that the goals
20 are based on a statewide renewable energy potential assessment.
21 These goals will be a stretch goal for Gulf Power, especially
22 beyond 2017. We believe the cost-recovery mechanism will be
23 helpful in promoting renewable energy development and is a
24 useful tool. We believe the renewable energy charge language
25 in Paragraph 7(c) should be modified slightly to ensure that

1 all incremental costs are included, not just REC costs. And
2 this is referring to the -- I would refer to the compliance
3 costs as described in Paragraph 5(d) of the staff rec as a
4 place that might be referred, rather than renewable energy
5 credits in that language in Paragraph 7(c). I believe that is
6 just a clarification.

7 Item 4, we, as OPC and AARP, have opposed a carve-out
8 because we believe it unnecessarily drives up costs to
9 customers. We have previously in workshops here at the
10 Commission and still do continue to propose that the Commission
11 use a declining multiplier instead. This allows the solar
12 industry to compete without giving the carve-out. We would
13 recommend starting the multiplier at 5, reducing it by 15
14 percent per year for the next ten years, and then retiring it.
15 We believe that would be adequate.

16 In the event that the Commission believes that a
17 carve-out must be used, a declining carve-out is recommended.
18 For example, one could start at 25 percent as a carve-out,
19 reduce it by 2-1/2 percent per year for the next ten years, and
20 then retire it. We believe an expiration date is important for
21 this element.

22 Fifthly, we believe the revenue cap should be no more
23 than 2 percent, and ideally should be 1 percent in order to
24 control costs for customers.

25 And, lastly, on the first item we believe the penalty

1 provision in staff's rec on Issue 1 is unnecessary, but if
2 kept, should be balanced to provide the potential for a
3 25 basis point reward or a 25 basis point penalty like the GPIF
4 filing. These are, again, comments that we have made
5 previously in previous settings.

6 Now, concerning staff's second recommendation, and I
7 apologize, I haven't had the time to completely digest the
8 recent information, but I will comment on the information that
9 is in staff's second recommendation. We would say, first, that
10 if the language of this recommendation were modified to focus
11 on requiring renewable standard offer contracts rather than
12 requiring a combination of standard offer contracts and percent
13 goals, we believe the potential opportunity to export RECs in
14 order to reduce costs for the state of Florida would warrant
15 further investigation of this standard offer contract
16 alternative. We believe that's an attractive component of that
17 plan. We believe, though, that the mandatory percent goals as
18 the language is written currently would preclude the sale of
19 RECs for purposes other than Florida RPS compliance.

20 Secondly, we applaud the effort overall in this
21 component of the recommendation to reduce cost and
22 administrative burden through the elimination of statewide REC
23 trading market requirements.

24 We are concerned about the degree of uncertainty in
25 the plan, and, of course, we have got recent information to

1 review. Specifically the price level that would be set for
2 each renewable energy type will have a significant impact on
3 our ability to meet the goals and manage the costs to our
4 customers. The cost-recovery language in staff's second
5 recommendation as it is written is somewhat confusing. For
6 instance, there is a reference to a true-up of the renewable
7 energy charge as well as a true-up of renewable energy
8 cost-recovery clause, and we are a bit confused about the
9 intent there.

10 We also note that the administrative requirements of
11 the current draft could be very significant. As we understand
12 the language, the RPS is reviewed every three years and all
13 renewable standard offer contracts are reviewed every two
14 years.

15 Now, concerning the third recommendation of staff, we
16 understand that broadening the definition of renewables may be
17 necessary if a more aggressive goal is prescribed. Based on
18 Navigant's study, the staff recommendation, and our own
19 observations, we believe that 20 percent in 2041 is an
20 appropriate goal. We're concerned about putting conservation
21 under a mandatory goal. Given the longstanding success of
22 FEECA in Florida, we recommend keeping the FEECA process as is
23 and managing cost-effective conservation under FEECA and only
24 including noncost-effective conservation in a clean portfolio
25 standard.

1 Thirdly, we recommend or are concerned about the
2 heightened importance of energy conservation measurement and
3 verification under a mandated goal with strict penalties tied
4 to it. For instance, answering the question, "How much energy
5 did a customer not use because they installed attic
6 insulation," is not as easy as measuring the output of a
7 biomass generator, but both of those numbers are equally
8 important to both compliance and setting goals. It raises the
9 stakes for determining what energy conservation numbers are.

10 Fourthly, we prefer to account for the benefit of
11 nonemitting generation resources such as nuclear by backing
12 that generation out of the baseline when calculating a
13 utility's renewable energy requirement. We believe that gets
14 to the point without classifying nuclear as a renewable.

15 And lastly, under this recommendation we would again
16 reiterate that we believe a 2 percent revenue cap is the
17 appropriate amount.

18 Commissioners, we thank you for the opportunity to
19 speak today, and we look forward to working with you in the
20 future on this important topic, and would be glad to answer any
21 questions you may have.

22 **CHAIRMAN CARTER:** Commissioner Argenziano.

23 **COMMISSIONER ARGENZIANO:** You are favoring the
24 staff's recommendation, is that what I heard overall, with some
25 reservations and some concerns?

1 **MR. MCGEE:** Well, we see benefits of both of the
2 plans that are laid out there, but we don't have enough details
3 about staff's second recommendation, especially as revised, to
4 be able to make a recommendation on that.

5 **COMMISSIONER ARGENZIANO:** So you see pros and cons in
6 both.

7 **MR. MCGEE:** Yes, ma'am.

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

9 **CHAIRMAN CARTER:** Thank you.

10 Commissioner Skop.

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

12 Just a quick point of clarification with respect to a
13 comment made by Mr. McGee. And, again, I apologize, there are
14 some differences between, again, the December 3rd proposal and
15 what have you. But just as a point of clarification with
16 respect to the burden on the review of the standard offer
17 contracts. I think, again, the standard offer contract, as I
18 envision it, could be a standard contract or it could be a
19 negotiated type contract.

20 Again, in the draft I have provided some flexibility.
21 But the intent is more to review the levelized cost every two
22 years to the extent that representations have been made by the
23 solar industry that if we make investment that that will drive
24 the cost of that technology and those higher cost renewables
25 down substantially. So you would expect to see an annual

1 capacity award on a forward-going basis, and that would be a
2 mechanism to leverage that further pushing that price down by
3 hoping the levelized costs would come down periodically in a
4 biennial review.

5 **CHAIRMAN CARTER:** Thank you.

6 Commissioner McMurrian.

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

8 Mr. McGee, I just didn't quite get your point about
9 7(c), and I was trying to turn there. I'm there now, so if you
10 could tell me again concern about in the staff draft, or Issue
11 1 essentially the --

12 **CHAIRMAN CARTER:** What page are you on, Commissioner?

13 **COMMISSIONER EDGAR:** What page is that, Commissioner?

14 **COMMISSIONER McMURRIAN:** Page 64. I think that's
15 right. Is that right, Mr. McGee?

16 **MR. MCGEE:** I would recommend that the language in
17 7(c) be rewritten to say, "For instance, the cost of compliance
18 as defined in 5(d) shall appear as a separate line item on
19 customers' bills," et cetera. I think that captures what I
20 understand from staff's commentary to be the intent, which was
21 to show on the bills the incremental cost of renewables. And
22 referring back to the compliance section of 5(d) captures all
23 of those incremental costs. As it is written in 7(c), it
24 mentions the cost of renewable energy credits which might be
25 interpreted to miss the cost of the market administration,

1 energy purchases that are above incremental cost, self-build
2 that's a cost above self-build, and so on.

3 **COMMISSIONER McMURRIAN:** I think I understand what
4 you're saying.

5 Mr. Chairman, this may be a good time for me to ask
6 you is this the time for us to ask staff about these kind of
7 things that come up, or should we hold that to the end?

8 **CHAIRMAN CARTER:** I would prefer, Commissioners, that
9 we get the testimony out of the way. Because we are really
10 going to go -- I started to say head first, but maybe I will
11 just say headlong into our discussion after we hear from the
12 parties, and then we can go through. And, staff, at that point
13 in time you can ask either one of the parties or you can ask
14 staff and we can also ask one another different questions and
15 all like that. But I would like to, just out of courtesy, just
16 kind of let them go and say what they need to say so we can go
17 forward from there.

18 Thank you.

19 **MR. MCGEE:** Thank you, Mr. Chairman.

20 **CHAIRMAN CARTER:** Mr. Futrell, you may proceed.

21 **MR. FUTRELL:** Next is Erik Silagy who will be
22 followed by Bill Ashburn.

23 **MR. SILAGY:** Mr. Chairman, members of the Commission,
24 thank you for the opportunity to speak. I recognize we are
25 pressed for time, so I will try and keep it brief and maybe

1 even speak a little bit faster. But, first, I would like to
2 thank the Commission and the staff for all of the tremendous
3 work that has been put into this issue. I know it's difficult
4 and we appreciate all the hard work.

5 With respect to the two proposals that are under
6 consideration, we also believe there are elements of both that
7 if adopted would produce a strong, viable, and sustainable
8 renewables program here in Florida. Accordingly, I'd like to
9 take just a few moments to go through the provisions that FPL
10 supports.

11 First, we fully support the Governor's call for a
12 20 percent in 2020 standard. With the right framework and
13 expenditure levels, we believe that it's an achievable standard
14 and it will clearly demonstrate Florida's commitment to
15 fighting climate change.

16 Second, we strongly support the adoption of a CEPS,
17 or a Clean Energy Portfolio Standard. We believe that in order
18 to maximize the results and mitigate the costs to the
19 customers, we believe all new sources of clean energy,
20 including new nuclear energy, should be counted toward the
21 goals.

22 A recommendation to the Legislature to incorporate
23 all of these clean resources will ultimately serve to produce a
24 long-term sustainable renewables program and bring more
25 renewables to Florida in the long-run by dampening the price

1 impacts as we get underway and move toward our goals of
2 reaching 20 percent in 2020.

3 In order to ensure that the state meets the goal of
4 20 percent in 2020, we support a 3 percent expenditure cap, and
5 would encourage the Commission to also retain authority of
6 raising that expenditure cap to up to 5 percent in the future
7 should it be necessary to achieve the goals and if the economy
8 is strong enough to withstand that.

9 FPL recommends the use of a commercially reasonable
10 competitive process, and I'll call it a renewable bidding
11 process. Whereas in the case of the 110 megawatts that is
12 currently under construction, the solar plants, we would accept
13 multiple bids from parties from around the world to ensure that
14 the design, procurement, and construction of a competitively
15 priced renewable project occurs. This will require the use of
16 a strict screening criteria that would, among other things,
17 ensure that adequate credit ratings, warranty, performance
18 guarantees, and a sustained reliability project over the
19 lifetime occurs.

20 Such an approach would help mitigate the many
21 problems that have been formally identified by the California
22 Public Utility Commission under California's standard offer
23 contract approach. Problems such as significant delay or
24 cancellation of projects after PPAs have been signed, customers
25 paying for projects that never materialize or fail technically

1 because they are offered by unproven start-up developers who
2 lack the real world experience, and/or whose projects are
3 simply not financeable.

4 Additionally, such developers and/or technology that
5 is not proven are usually unable to access the capital and the
6 debt markets and do not possess the operational wherewithal and
7 the resources to deliver sustained reliable power to our
8 customers over the life of the contract term. We certainly do
9 not oppose a rule where an IOU would be given the option to
10 utilize either this renewable bidding process or a more
11 traditional RFP approach if that IOU determines that a more
12 traditional approach is in the best interest or practical means
13 for them to comply with their targets.

14 We do support the staff's recommendation that
15 cost-recovery be through a renewable environmental
16 cost-recovery clause, and we agree that review of the RPS
17 targets and related issues in the rule should be done. We
18 recommend every three years, but only by the Commission opening
19 a docket, much in the same way that they handle DSM currently.

20 Obviously, there are many aspects to these proposals
21 that we could discuss, I would be willing to bet, for hours, if
22 not days. I think the Chairman would give me the hook long
23 before that, so I'll close. But I would like to leave you with
24 one final thought. I believe Florida is at a crossroads on
25 renewable energy, and the opportunity to showcase the state as

1 being a real leader on the fight on climate change and
2 simultaneously being able to attract jobs, industry, and the
3 research and development that comes with that for the next
4 generation of renewable projects.

5 In the end, the rules promulgated, the legislation
6 that's passed, the speeches and the goals that are articulated
7 around renewable energy is really not, I believe, what we'll be
8 measured on. It's what will actually be accomplished. And I
9 believe that if we put forth a framework that adopts these
10 policies, we'll be able to meet those goals and objectives, if
11 not exceed those goals and objectives simultaneously keeping
12 prices down and attracting new jobs and industry here to
13 Florida.

14 Again, thank you for the time, the staff's hard work
15 on this, and that ends my remarks.

16 **CHAIRMAN CARTER:** Commissioner Argenziano.

17 **COMMISSIONER ARGENZIANO:** Thank you.

18 I think I'm going to ask this of everybody so I have
19 a clear understanding. And I heard the particulars, but you
20 are not in support of one particular recommendation. I think
21 you said at the beginning you see benefits -- I guess pros and
22 cons in both?

23 **MR. SILAGY:** Yes, ma'am.

24 **COMMISSIONER ARGENZIANO:** Thank you.

25 **MR. SILAGY:** You're welcome.

1 **CHAIRMAN CARTER:** Yes, Commissioner Skop.

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

3 Good afternoon, Mr. Silagy. I recognize that you may
4 not have had a chance to look at the flowpath, but I know that
5 you mentioned in your comments the need for a competitive
6 bidding process, and the one-sheet paper is pretty
7 straightforward. But I was wondering whether that might
8 comport or embody some of the concerns that you have mentioned
9 in terms of the comments that you made.

10 **MR. SILAGY:** It might. I would like to read through
11 it and also put some practical applicability to it to
12 understand how it would work. But, again, our intent is not to
13 circumvent a competitive bidding process, but it is to make
14 sure that in the end we have either technology, constructors,
15 designers, engineers who are real who will actually execute
16 around their contracts and not just from a standpoint of
17 installing that capacity on day one for the cheapest price, but
18 over the life of the project.

19 Because as the world's largest provider of renewable
20 energy, we have been in other jurisdictions where we have seen
21 people come in and two years later they're gone, the plants are
22 no longer working, you have somebody stuck with the bill. And
23 here it would be our customers, and that's what we're concerned
24 about.

25 **COMMISSIONER SKOP:** Thank you.

1 And if you were able during the course of this
2 proceeding to provide a brief comment upon review of that, I
3 would be appreciative if you could address the Commission on
4 that issue.

5 Thank you.

6 **MR. SILAGY:** Thank you, Mr. Chairman.

7 **CHAIRMAN CARTER:** Thank you.

8 Mr. Futrell.

9 **MR. FUTRELL:** Bill Ashburn is next, who will be
10 followed by John Burnett.

11 **MR. ASHBURN:** Good afternoon, Mr. Chairman,
12 Commissioners. Bill Ashburn with Tampa Electric Company.

13 Tampa Electric shares the goal of the Legislature and
14 of this Commission to promote the development and expand the
15 economic viability of renewable energy resources in Florida to
16 the fullest extent those resources are available within the
17 state at reasonable cost. And we appreciate the efforts, as
18 Ms. Clark said, by Navigant in producing their final report;
19 and, of course, support her comments made on behalf of us and
20 the other IOUs.

21 We commend the Commissioners and the Commission
22 staff's efforts during this docket. I think we agree with the
23 Chairman's comments earlier that it was a very professional
24 effort, and everyone worked very hard and all the various
25 stakeholders participated, I think, as well, in the effort

1 culminating in the staff recommendation that's before you.

2 The recommendation provides a very thoughtful
3 analysis of all that has occurred leading up to today and lays
4 out some options about moving forward. We also appreciate
5 Commissioner Skop's efforts to explore different options to
6 encourage the development of renewable generation in Florida.
7 We haven't had a chance to read your new writeup on it, and we
8 certainly will read that.

9 Several alternatives have been laid out by the staff
10 in the recommendation and the path forward, as has been said
11 before, involves to some extent a policy judgment which you are
12 going to be seeking some additional judgment from the
13 Legislature as well as uncertainty of risk. Tampa Electric
14 sort of echoes the comments we've heard, certainly from what
15 Gulf and others have said. There are parts of the
16 recommendation from both of the two alternatives that appeal to
17 us, and I think we would allay ourselves with many of the
18 comments that Gulf said and others here about what we think are
19 beneficial, particularly things about cost-recovery and goals
20 and what can be achievable.

21 We do want to focus on one thing that has not been
22 brought up, and it is a major concern that we have, I think,
23 identified in all of our comments previously. That concern
24 centers around designing and establishing a Florida RPS,
25 recognizing that the state will have to manage compliance with

1 perhaps a federal RPS very soon. Reports from Washington
2 suggest that a federal RPS is probably coming soon. It's high
3 on the agenda of Congress and the President, and whatever
4 Florida RPS is put into place it has got to recognize that
5 there is going to be a federal obligation that we are going to
6 have to comply with and synchronize with to some extent,
7 whatever the Florida one may be.

8 And some of the drafts of language that we have seen
9 in the past of a federal RPS don't include some of the Florida
10 defined renewables. Things like the waste heat that we talked
11 about earlier or municipal solid waste that we are kind of
12 counting on to help us get to the numbers that are in the
13 Navigant report. So those are significant resources that we
14 need to deal with if we have a federal RPS.

15 Tampa Electric believes that whatever obligations are
16 imposed on us by a federal RPS should count towards any
17 additional obligation imposed by a Florida RPS to ensure that
18 consumers don't get double burdened by two different competing
19 obligations.

20 We thank you for this opportunity to comment and
21 would answer any questions you might have.

22 **CHAIRMAN CARTER:** Commissioner Argenziano.

23 **COMMISSIONER ARGENZIANO:** The same question. Are you
24 saying you see pros and cons? I understand you didn't get a
25 chance to really read that. Do you have the same, I guess,

1 answer as to whether you believe there are pros and cons to
2 both recommendations?

3 **MR. ASHBURN:** Yes, Commissioner, that is our view, as
4 well.

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

6 **MR. FUTRELL:** Next is Mr. John Burnett followed by
7 Jim Dean.

8 **MR. BURNETT:** Thank you.

9 Good afternoon, Mr. Chairman and Commissioners. We
10 also would like to thank the Commission and its staff for its
11 thoughtful and deliberative process throughout this rulemaking
12 proceeding.

13 There are four bellweather principles that have
14 consistently been recognized in all of the approaches that the
15 Commission has under consideration at this time that are vital
16 to Progress Energy Florida. The first one, reasonable price
17 caps to protect our customers. The second one, excusal
18 provisions that protect the utility if there is a justifiable
19 reason for noncompliance. The third, objectively defined goals
20 and timelines. And then the fourth, reasonable cost-recovery
21 mechanisms.

22 Commissioner Argenziano, I'll answer your question up
23 front. We do see pros and cons in all of the approaches, and
24 those have been outlined by the people who came before me and
25 by staff in the recommendation, as well. So there are definite

1 pros and cons to each of the approaches, but we would just ask
2 that the Commission in any of the approaches would recognize
3 those four bellweather principles that have been recognized in
4 all three of the ones under consideration now and continue to
5 have those in place and that they remain prominent in any RPS
6 strategy.

7 So thank you for the opportunity to participate, and
8 we are also here to answer any questions.

9 **COMMISSIONER ARGENZIANO:** You may have said it and I
10 didn't hear you. You are in agreement with the 2020 time
11 frame?

12 **MR. BURNETT:** Commissioner, that's such a
13 policy-based question. You know, one of the key bellweathers I
14 mentioned is the price impact to the customers, so it is such a
15 policy decision. You know, the more aggressive in spending, of
16 course, and in time that you need to do the more impactful it
17 is on costs.

18 You know, reading the staff analysis, the longer you
19 get out in time it's generally less, but that is such a policy
20 decision for our policymakers, it's really hard for us to say
21 one way or another on agreement. It's just an impact and a
22 decision that the policymakers will need to make.

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

24 **MR. BURNETT:** Yes, ma'am.

25 **CHAIRMAN CARTER:** Mr. Futrell.

1 **MR. FUTRELL:** Next, Mr. Chairman, is Jim Dean
2 followed by Gus Cepero.

3 **MR. DEAN:** Good afternoon, Mr. Chairman and
4 Commissioners.

5 My name is Jim Dean; I'm here today to speak on
6 behalf of the Florida Pulp and Paper Association, and I promise
7 to stay under five minutes. I've got my watch here to keep
8 myself on track.

9 We have filed comments in the docket, and our
10 fundamental position is we think staff's original
11 recommendation was a good framework and model to proceed. We
12 carefully looked at Issue 2, the new framework, and we think
13 there are some things that can be done or adjusted on that that
14 will make that an acceptable alternative.

15 Quite frankly, my client's concern has to do with the
16 speed at which the RPS goal is set and the pricing formulas or
17 the allocation of the revenue cap funds, and it goes something
18 like this: There's going to be approximately \$400 million of
19 ratepayer money that is going to be used for renewables. The
20 range of costs for renewables range from nearly competitive to
21 competitive renewables now like waste heat and biomass to some
22 extraordinarily expensive renewables. And the question you
23 have, and it's an extraordinarily difficult question, is how do
24 you allocate that pot of money to encourage the high cost stuff
25 and not subsidize industries that can already become nearly

1 competitive. Thus, our comments today go to that issue.

2 Our fundamental concern is that the members of this
3 industry are something of the stewards of the forest. They
4 have had plants in Florida for 70 years and they have had
5 sustainable forest practices for that time period. Our concern
6 is that if you go to a pure competitive bidding model where the
7 cheapest resource gets the money you could have some severe
8 threats to the sustainability of that forest stock.

9 So with that in mind, we have a couple of
10 recommendations to propose that I will just run by you within
11 my five minutes. We think to prevent that undue burden on the
12 forest resource and potential threat to the sustainability of
13 the amount harvested now, that the revenue ratio should be
14 allocated primarily to Class 1 and Class 2. The staff's ratio
15 of 75/25 seemed reasonable, but that certainly can be tweaked
16 or adjusted. We just don't believe a lot of money should go to
17 resources that are already competitive.

18 Number 2, we believe that the targeted goals on Page
19 74 of Staff Recommendation 2 are much too aggressive. It is
20 probably better to establish reasonable goals based on the
21 Navigant study which showed what near-term potential resources
22 are and then adjust those goals higher, than start with a high
23 goal and then have to adjust downward and not meet it. I think
24 the important thing to realize is the percentage goal that is
25 set in staff's proposal is on a growing base number. We may

1 have 3 percent renewables now on a base of X number of gigawatt
2 hour sales, but when you go to a 6 percent goal in 2017, the
3 number of sales is much larger. It is not a doubling of the
4 renewable amount, it is much larger than a doubling of the
5 percentage goals. So we would prefer staff's goal percentages
6 phase-in in Recommendation 1.

7 And, finally, if you go to a standard offer contract
8 approach under Issue 2, we would urge you to please separate
9 out biomass projects from waste-to-energy projects. And I
10 think this is not going to be controversial. Navigant's own
11 study shows that there is a huge construction cost difference
12 to build a traditional biomass plant and a waste-to-energy
13 plant. They are fundamentally different technologies. And if
14 you lump them together in the same standard offer contract, you
15 create a target price that people bid against that is way too
16 high for biomass developers and probably way too low to attract
17 waste-to-energy developers. So we would urge you just to
18 separate those out as two different contract classes.

19 I thank you for your time. I know this is an
20 extraordinarily difficult decision to make. You are under a
21 tremendous number of conflicting pressures, but we really
22 appreciate the openness of staff and the Commission to hear our
23 concerns.

24 Thank you.

25 **MR. FUTRELL:** Next is Gus Cepero who will be followed

1 by Rich Zambo.

2

3 **MR. CEPERO:** Thank you. I appreciate the opportunity
4 to --

5 **CHAIRMAN CARTER:** Hang on one second, Gus. I don't
6 want to hold your time for passing out against your time to
7 speak, okay, because I want to give you your whole five
8 minutes, all right?

9 **MR. CEPERO:** Okay. I appreciate that, Mr. Chairman.

10 **CHAIRMAN CARTER:** You may proceed.

11 **MR. CEPERO:** Thank you.

12 I'm Gus Cepero; I'm representing Florida Crystals.
13 I will also say that we have submitted and just passed out a
14 markup in the type and strike format of Attachment A, and that
15 my friends at Covanta and Rich Zambo endorse the changes that
16 we are proposing on Attachment A.

17 I do echo the Chairman's comments regarding the
18 effort put forth by staff and others in coming up with a
19 balancing act, and that's really what we have here is a
20 balancing of interests. We believe that the Attachment A draft
21 is a bit too biased in favor of cost containment and is a bit
22 modest in terms of the targets that we should be striving for
23 on the RPS.

24 So our principal comments are that we should have
25 more aggressive targets culminating in 20 percent by 2020; as

1 importantly, we should have targets starting in 2010. We
2 should not wait until 2017 to have the first target and have a
3 blank period of seven or eight years.

4 Again, in the handout we have proposed specific
5 numbers for specific years, and the numbers that we are using
6 track, I believe, verbatim the numbers which were proposed in
7 Attachment B of the staff proposal. So they match the
8 Attachment B of the staff proposal.

9 The second and corollary concept is the price cap
10 that should be adopted. And I think it is important to talk
11 about targets and price cap together. It's fine to say
12 everybody is for the lowest possible cost. Nobody likes rate
13 increases, and we certainly respect that. I go back to
14 Commissioner Argenziano's comments that if we want to have
15 cleaner air, if we want to have lower carbon emissions, in
16 addition if we want to have fuel diversity and an economic
17 development program that creates jobs in the state, there may
18 be some costs associated with it.

19 And it is very tough for anybody to defend higher
20 costs, and we are certainly not doing that. What we are saying
21 is this is a new direction. If we want to implement a new
22 direction, there may be an impact on rates. Presumably there
23 is going to be offsetting benefits in terms of the environment
24 and in terms of job creation.

25 So we're proposing a 5 percent rate cap, and we're

1 proposing an allocation of 50 percent of that rate cap to Class
2 1, so the Class 1 rate cap would be 2.5 percent, and the rate
3 cap for Class 2 would be 2.5 percent. So we're moving away
4 from the 75/25 split, and we're proposing a 50/50 split.

5 We are accepting and we are willing to move forward
6 with a set aside for Class 1. We don't particularly like it,
7 but we understand it's a compromise in an effort to, again,
8 balance interests. But we do think that a 50/50 allocation of
9 the rate cap is a more fair allocation, and really a more
10 necessary allocation under the 2 percent rate cap and only
11 25 percent going to Class 2. I don't think you would create
12 the incentives necessary to get more Class 2 resources.

13 We have other comments which are probably not as
14 critical on Section 17-400. You're able to look at them, and
15 I'm happy to answer questions.

16 Regarding the REC market, I do want to highlight a
17 couple of comments which I think are particularly important.
18 One concern we have is that the establishment of the REC market
19 may take too long and we may be pushing the implementation of
20 this program past 2010 and perhaps into 2011. So we are
21 proposing shorter time periods. Not unreasonable, we don't
22 think, but shorter time periods to implement the REC market, to
23 select an administrator and to recommend policies and
24 procedures for the REC market. Altogether I think you still
25 have about 180 days to do all of this, which we think is really

1 more than adequate.

2 Finally, we are recommending some modifications to
3 the definitions which appear in 17-401, Subparagraph 5. These
4 are very important definitions because they establish the kinds
5 of transactions and facilities which are eligible for the REC
6 market. Right now under the Attachment A draft, nonutility
7 resources would only qualify if they are providing as-available
8 energy pursuant to a tariff, or if they are selling both
9 capacity and energy pursuant to a power purchase agreement.

10 For example, we sell about 30 percent of our energy
11 today to people like Seminole Electric, and Tampa Electric, and
12 Orlando Utilities under bilateral contracts for energy only.
13 So I think the intent clearly is to include those kind of
14 transactions and make them eligible for the program. So we're
15 proposing some broadening of that definition that simply say
16 any renewable producer that sells energy or delivers energy to
17 a Florida electric utility is eligible. Hopefully that will
18 not be controversial, but I do emphasize it's of critical
19 importance to get these definitions correct.

20 Those are my remarks. And, again, I appreciate the
21 opportunity, and I appreciate the effort that everyone has put
22 into coming up with this. Please remember it's a balancing
23 act. You can't just look at one thing and say I like lower
24 costs, but still I want everything else, you know, all the good
25 things that come with it.

1 Thank you.

2 **CHAIRMAN CARTER:** Thank you.

3 Commissioner Argenziano.

4 **COMMISSIONER ARGENZIANO:** I have heard the changes
5 that you have felt that you need to -- that you'd like to
6 recommend, or you have recommended, but can you tell me do you
7 have a preference over one recommendation that we have before
8 us over another, or do you find, as I have asked before, pros
9 and cons in both?

10 **MR. CEPERO:** I would say that, in our view, the most
11 important, the must have recommendations are the targets which
12 appear under Section 3 of the draft rule, the renewable
13 portfolio standard section.

14 **COMMISSIONER ARGENZIANO:** You're talking in staff's
15 recommendation, under staff's recommendation?

16 **MR. CEPERO:** Under staff's recommendation, right.

17 I did not mention, in the interest of time, under the
18 compliance section, which is Section 5, utilities can be
19 excused from compliance if they are not able to meet the
20 renewable portfolio standard. And we have accepted that
21 concept, but we have added that that showing must be by the
22 preponderance of the evidence. And my attorney friend, Rich
23 Zambo, can explain why that is important and why it's not just
24 saying that we could not meet it, but there is a burden of
25 proof of why you didn't meet it. We think that is very

1 important.

2 Of course, under compliance, also, the price cap is
3 very important, and to me it has got to be absolutely a
4 corollary to the targets. The targets and the price caps have
5 to be in harmony, so we do propose an increase and a different
6 allocation.

7 And then, finally, the implementing the REC markets,
8 I think the timeline does need to be aggressive. That's an
9 important one. And getting the definitions of facilities which
10 are eligible and transactions which are eligible to participate
11 in the REC market is absolutely essential and really should not
12 be controversial.

13 **CHAIRMAN CARTER:** Thank you.

14 **MR. CEPERO:** Thank you.

15 **MR. FUTRELL:** Next is Rich Zambo followed by Suzanne
16 Brownless.

17 **MR. ZAMBO:** Good afternoon, Mr. Chairman and
18 Commissioners. I appreciate the opportunity to be here to
19 address you on this important issue today.

20 I'd like to start out by echoing your comments about
21 the staff's hard work on this. This has been something that I
22 think we have been working on since early 2001. So a
23 complicated issue, lots of input, lots of stakeholders. And as
24 Mr. Cepero said, it is clearly a balancing act and we
25 appreciate the opportunity to --

1 **COMMISSIONER ARGENZIANO:** Excuse me, Mr. Chair.

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

3 **COMMISSIONER ARGENZIANO:** Can everyone who comes up
4 please tell me who you represent so I know ahead of time.

5 **MR. ZAMBO:** Oh, I apologize.

6 Rich Zambo, and today I'm representing the City of
7 Tampa, Florida, the Palm Beach County Solid Waste Authority,
8 and the Florida Industrial Cogeneration Association, which is
9 primarily made up of the Florida phosphate industry.

10 **COMMISSIONER ARGENZIANO:** Thank you.

11 **MR. ZAMBO:** So, again, thank you for the opportunity
12 to participate in this process.

13 And let me just start out with a comment. We headed
14 up our last written comments that we submitted to you in
15 December with the statement that said promoting renewables
16 should never be divorced from electric system reliability or
17 the cost impact of such programs on Florida electric's
18 consumers. And we say that because my clients are not only
19 producers of renewable energy, but we are also large energy
20 consumers, so we're looking at both sides of the equation.

21 And where Mr. Cepero said we do support his markup of
22 the staff recommendation, we do support that with perhaps one
23 difference. We are not necessarily in agreement on his 5
24 percent revenue cap. We could probably support a cap more
25 along the lines of FPL's proposal of 3 percent, but other than

1 that, we are in sync with all the proposed changes that
2 Mr. Cepero had proposed.

3 And before I forget, I would like to go through the
4 issues list, I guess, so that we are on the record as to our
5 position of each of the issues. With respect to Issue 1 and
6 Issue 2, we prefer Issue 1. Issue 2 has a lot of merit, but we
7 weren't quite sure of how to interpret some of those
8 provisions. So for purposes of our appearance here today, we
9 support Issue 1 with the changes that were submitted by
10 Mr. Cepero, but along with the suggestion and actually the
11 urging that the Commission submit only one recommendation to
12 the Legislature.

13 I think it is important. They are relying on you for
14 your policy expertise, and I think in light of your exhaustive
15 research and hearings and proceedings on this, you have got the
16 information in front of you, and hopefully you can put that
17 into one recommendation for the Legislature, and then let's us
18 fight it out on the lobbying side.

19 As far as Issue 3 is concerned, we do not support the
20 idea of clean energy, energy resources. It is our
21 understanding that the purpose of this rulemaking is as it says
22 in the first few lines of the Commission staff's proposed rule,
23 and that is that the purpose is to establish rules which will,
24 among other things, promote the development of renewable
25 energy, protect the economic viability of existing facilities,

1 diversify types of fuel used, lessen our dependence on fossil
2 fuels, minimize volatility of fuel costs, encourage investment,
3 improve environmental conditions. It may be true that some
4 so-called clean technologies can do those, but I think this is
5 clearly directed toward renewable energy.

6 As far as including supply-side and demand-side
7 energy efficiency improvements in the RPS, I don't think we
8 would object to that so long as they don't overlap with what is
9 already being done under FEECA. I would presume that the
10 utilities have already implemented all cost-effective
11 conservation and supply-side alternatives that have been
12 available. So if we are to include that in the RPS, it would
13 have to be demonstrated that they are legitimate programs.

14 Issue Number 4, we really have no position on the
15 co-ops and munies. And should this docket be closed, although
16 as much as I would like to say yes, I think as a practical
17 matter we are going to probably be back here sometime later
18 this year.

19 Now, a few others things. I had these great seamless
20 comments prepared, but --

21 **CHAIRMAN CARTER:** I hope you are close to one and not
22 a few.

23 **MR. ZAMBO:** I'm very close to winding up, but all of
24 these folks that proceeded me, they raised some issues, and I
25 wanted to just clarify a few things.

1 First, Doctor Kahn's letter was definitely written on
2 behalf of the industrial cogenerators, the phosphate industry,
3 which are zero emitters, but I would also like to point out
4 that waste-to-energy, in many respects, on a life-cycle basis
5 is nearly carbon neutral because the fuel that is burned
6 absorbed carbon from the atmosphere, it then gets released
7 again during combustion.

8 We would agree with Public Counsel that the renewable
9 energy cost-recovery clause should not apply to utility
10 self-build options, that those ought to be carried through
11 through base rates and full rate case proceedings. And I think
12 the final thought I would like to leave you with is no one
13 wants to pay additional money for their electricity, but I
14 can't help but think what position would we be in today if we
15 had encouraged renewables very aggressively 10 or 15 years ago.
16 We might have avoided some of the run-up in fuels prices that
17 we are seeing today. We may be in a much better situation. So
18 at some point in time I think we have just got to bite the
19 bullet. We have got to take that step, and a 3 percent price
20 cap seems like that might be a reasonable way to proceed and
21 move forward with that.

22 And, again, thank you for the opportunity.

23 **CHAIRMAN CARTER:** Commissioner Argenziano.

24 **COMMISSIONER ARGENZIANO:** Thank you.

25 I heard you say you only wanted to send one

1 recommendation. You don't want me to guess which one, so I
2 want to hear which one from you.

3 **MR. ZAMBO:** Well, definitely what's considered
4 Attachment 1 to the staff recommendation, but with the mark-ups
5 that Mr. Cepero provided for you.

6 **COMMISSIONER ARGENZIANO:** Thank you.

7 **CHAIRMAN CARTER:** Thank you.

8 **MR. FUTRELL:** Next is Suzanne Brownless followed by
9 Vicki Kaufman.

10 **MS. BROWNLESS:** Good afternoon.

11 I'm Suzanne Brownless appearing today on behalf of
12 the Florida Solar Coalition. And, Commissioner Argenziano,
13 that is the Florida solar industry, the solar manufacturers and
14 suppliers, as well as solar proponents in Florida.

15 I would like to organize my comments with three major
16 points and then some smaller points. First of all, I agree
17 that the goal of the RPS rule is three-fold: CO2 reduction,
18 job development in the green industry in Florida, and
19 diversification of generation in the electric utility industry.
20 A diversification which also would provide for distributed
21 generation which would limit transmission and distribution
22 costs.

23 Now, it's obvious that the Legislature has seen the
24 means to accomplish these goals as the setting of a renewable
25 energy portfolio standard, and that that is the whole point of

1 what we are trying to do here. I agree with absolutely
2 everyone who said that this is a balancing act and an extremely
3 difficult one at that, between the goals that I just outlined
4 and the cost to consumers to accomplish those goals so that the
5 cost and the benefits can be weighted and that the consumers
6 can and ratepayers can ultimately come out ahead of the game,
7 if you will.

8 I want to be very clear that we believe you should
9 send only one proposal to the Legislature, and that proposal is
10 Staff's B proposal, a standard offer contract proposal. We
11 have not had an opportunity to review the newest comments from
12 Commissioner Skop, and so any comments I would make with regard
13 to the modifications we'd like to make to the standard offer
14 contract are based upon what we were previously provided. And
15 I apologize for not having had the ability to look at your most
16 current proposals, Commissioner Skop.

17 We do not want to expand the definition of renewable.
18 We'd like to limit it to the current definition. And to be
19 more succinct, that means no nuclear, no IGCC, no supply-side
20 energy efficiency. We are amenable, because we do understand
21 the economics and have looked at the results of the Navigant
22 study, to expand the definition to include demand-side energy
23 efficiencies up to 5 percent of the megawatt hours. And we
24 appreciate that that will require adjustment in the FEECA
25 docket, but we are confident that that can be worked out. And

1 we have the FEECA docket, as you all know, coming up in the
2 fall, so I think that's a doable deal.

3 We want 20 percent by 2020 to start in 2010, and
4 basically these would be the goals that staff has laid out in
5 their Attachment B, which as I understand it are 4 to 8 percent
6 from 2010 to 2014, which is a 1 percent increase per year, and
7 from 2014 to 2020, 2 percent per year going from 8 percent to
8 20 percent.

9 We want a 4 percent cap, or renewable energy charge,
10 whatever one wants to call that. We would like to see
11 mandatory goals. In other words, penalties for noncompliance
12 in staff's B, and we agree that 50 basis points if they fail to
13 meet goals, which is what was proposed in Attachment A, would
14 be appropriate.

15 We would like net metered customers, and those would
16 be small residential customers who are putting in solar thermal
17 systems, hot water heating, and small PV systems or some hybrid
18 to have their own RECs, to own their own RECs, and that those
19 could be sold under the standard offer contracts, or they could
20 be transferred to the IOU if they took the 5 percent set aside
21 rebate.

22 As expressed by Gulf Power, we do have some concern
23 about the definition of RECs and a possible double counting
24 issue, but I believe that those can be worked out. We want a
25 contract that's 20 years minimum term. We would like to see

1 the 5 percent cap 95 percent division maintained. We would
2 also like to see within the 95 percent allocated for standard
3 offer contracts a 25 percent megawatt hour carve-out for solar
4 projects greater than 100 kW.

5 With regard to utility self-build options, we think
6 that having RFPs before they can self-build is a great idea.
7 We would urge the Commission to allow stakeholders to have
8 input into the development of those RFPs.

9 With regard to cost recovery, we have focused on what
10 would count against the revenue cap, and our concern there is
11 that this self-build option be put on a level playing field
12 with third parties. So whatever third parties are allowed to
13 recover, or whatever is counted by third parties should be
14 counted by the IOU, however you all come up with that.

15 We would like to have a REC-only option for both
16 existing facilities, and these would be existing garbage
17 burners. I don't think that's what you call them.
18 Waste-to-energy, I think, is what we call them now -- excuse
19 it, I have been doing this awhile -- as well as waste heat
20 products, existing facilities as well as new facilities.

21 Our bottom line is that we believe a standard offer
22 contract is the most expedient way to get renewable energy.
23 It's fast, it's efficient, it uses a mechanism we are all
24 familiar with. It can be implemented in the most expedient
25 manner.

1 The other thing that is very important to our folks
2 is that it is the simplest thing to implement from their point
3 of view. They go in, they get a standard offer contract. If
4 they have a certifying facility, they sign on the line and they
5 are done.

6 Attachment A, which is the REC market, in our opinion
7 will be difficult to establish, require a tremendous amount of
8 money to set up, and basically it puts 24 to 36 months on the
9 front end when a standard offer contract could be in place in a
10 year and your renewable projects could be on the ground within
11 90 to 120 days after that, depending on the size of the
12 projects. And for residential, Commissioner Argenziano, it
13 could be 30 days.

14 **CHAIRMAN CARTER:** Ms. Brownless.

15 **MS. BROWNLESS:** Thank you.

16 **COMMISSIONER ARGENZIANO:** The same question. I think
17 you have already answered it. You seem to be in favor of
18 staff's recommendation.

19 **MS. BROWNLESS:** We're in favor of a standard offer
20 contract with the modifications that we discussed.

21 **COMMISSIONER ARGENZIANO:** Okay, very good. Thank
22 you.

23 **CHAIRMAN CARTER:** Mr. Futrell.

24 **MR. FUTRELL:** Next is Vicki Kaufman followed by
25 George Cavros.

1 **CHAIRMAN CARTER:** And I'm being a stickler for time
2 because, one, we do want to hear from all of the parties; but
3 by the same token, we have questions that we want to ask not
4 only of the parties, but questions that we want to ask of
5 staff. So I do need you to be respectful of time because we
6 want to hear from everyone. Thank you.

7 You're recognized.

8 **MS. KAUFMAN:** Thank you, Chairman Carter.

9 Commissioners, I'm Vicki Gordon Kaufman, and I'm
10 appearing today on behalf of Wheelabrator Technologies, Inc. I
11 think I will try to even stay under the five-minute limit.

12 As most of you know, Wheelabrator Technologies is a
13 current provider of renewable energy in the state and
14 throughout the United States. And as others have said before
15 me, we appreciate staff's hard work in this docket, and, of
16 course, the Commissioners' hard work, and all the people that
17 are in this room that have provided you input, much of it
18 conflicting. And I don't envy you, your job that is upcoming
19 to sort it all out.

20 Wheelabrator has participated in this process since
21 we first began which, as others have said, seems some time ago.
22 And we know that the issues are complex, and as others have
23 said, you have got a lot of competing interests and goals that
24 you have to balance.

25 I want to answer Commissioner Argenziano's question

1 before she asks me, and that is we see some merit in the first
2 proposal and in the second. And I am going to discuss some of
3 my general concerns, so maybe a blending of those might be
4 something that would work.

5 As to both proposals, however, we are disappointed
6 that the alternative compliance payment mechanism has not been
7 included. We think that this is a very important mechanism.
8 It's important to reach whatever goal the Commission ultimately
9 decides to set, and I think as some speakers before me have
10 said we think it should be a mandatory goal.

11 We disagree respectfully, of course, with your staff
12 that you are not authorized to do that. We think you are
13 clearly authorized to include compliance mechanisms in whatever
14 proposal you do send to the Legislature, because the
15 legislation specifically says that you should include
16 appropriate compliance mechanisms, and they don't limit those
17 mechanisms in any way. And I would suggest to you on that
18 point that even if there is some uncertainty in your minds
19 about that, that you include it and discuss it when we are all
20 over their discussing the legislation very shortly.

21 The incentive compliance mechanism is widely used
22 throughout the United States. It sends the right incentives
23 and signals to the market, so we commend that approach to you.

24 As to the first proposal, staff's rule, we have some
25 concerns that it starts too late and it takes too long, and

1 that the goals are not as aggressive as we would like to see.
2 On the second proposal that I'll call the standard offer
3 proposal, we certainly appreciate Commissioner Skop's very hard
4 work on that proposal. And as others have said, we will review
5 the newest iteration of it. We appreciate that it does move
6 more quickly and that it does set more aggressive goals. We
7 think that's important.

8 However, Wheelabrator is very concerned with the
9 paradigm or use of the standard offer contract. We have a
10 number of issues with that, and the way it works, and we have
11 concerns as to how we might be able to ultimately implement it
12 to get it to work in reality. We don't think it's quite as
13 easy or as simple as Ms. Brownless described to you right
14 before me.

15 And on the last recommendation, if you will, in
16 regard to the nuclear energy, we think that that sort of
17 proposal is clearly beyond what the Legislature has asked you
18 to do in the context of this proceeding. They have defined for
19 you what is included in renewable energy and in your RPS goals,
20 and we think that for purposes of the work product that you
21 send to the Legislature that you should not include that
22 particular option.

23 And, again, we appreciate the opportunity and look
24 forward to continuing to work with you on this project.

25 **CHAIRMAN CARTER:** Thank you.

1 Mr. Futrell.

2 **MR. FUTRELL:** Next is George Cavros followed by Deb
3 Swim.

4 **MR. CAVROS:** George Cavros on behalf of the Natural
5 Resources Defense Council and Southern Alliance for Clean
6 Energy. You have several recommendations before you, and
7 there's pros and cons to both. One recommendation is virtually
8 an unchanged version of staff's October proposal, another is an
9 interpretation of -- staff's interpretation of Commissioner
10 Skop's proposal, and yet another recommends going outside the
11 scope of the statute to include other resources that are
12 eligible to meet the target.

13 And my recommendation is that to cut through the maze
14 of rule language and options in the recommendations, we would
15 encourage you to consider certain high level principles to
16 guide your deliberations. And the first principle would be to
17 support the Governor's stated target and timeline of 20 percent
18 by 2020, and for several reasons. Number one, we have the
19 resources to meet the goal. Number two, it's obtainable at a
20 minimal cost, and I will touch on that in a moment. It
21 diversifies the state's energy portfolio thereby insulating
22 ratepayers from price shock, and it's a job creator.

23 And I believe Navigant has finally laid to rest the
24 myth that the sun doesn't shine in Florida and the crops don't
25 grow. The technical potential for solar and biomass in Florida

1 in the consultant's report was enormous. In its favorable
2 scenario, the Navigant study demonstrated with the right
3 policies Florida could achieve 24 percent of its electricity
4 from renewable energy by 2020. And more importantly, Navigant
5 concluded that 20 percent of renewables by 2020 would come in
6 at less than a 5 percent rate impact. Our analysis also
7 indicated that it would come in at less than 5 percent, and
8 that finding is consistent with experiences in other states
9 where rate impacts from RPS policies have been minimal, and we
10 believe that the cap that you decide on should be consistent
11 with reaching the 20 percent goal by 2020.

12 Additionally, the report also showed the levelized
13 cost of biomass now is already competitive with current base
14 load generation, and also solar PV panels are price competitive
15 with natural gas combustion turbine peaking units. Now, you
16 have heard complaints today or arguments that even the smallest
17 rate impact is unacceptable and you have been urged to maintain
18 the status quo. Those folks argue that the fossil fuel price
19 spikes and skyrocketing power plant construction costs are
20 already hurting consumers and, you know, they are absolutely
21 right about the fuel price spikes and the soaring conventional
22 power plant construction costs. But, Commissioners, there is
23 one fundamental flaw in that argument, and it's the status quo
24 that is hurting consumers, not renewable resources.

25 Conventional energy, you know, is like a ball and

1 chain around ratepayers' necks. They want relief, and
2 renewable energy is poised to provide them with relief.
3 Maintaining the status quo on these subjects ratepayers to
4 price spikes into the foreseeable future, and I think we ought
5 to be looking at how we can mitigate those price spikes.

6 Mr. Twomey referred to a 185 million rate impact from
7 renewable energy as somehow exorbitant. But oddly enough, he
8 forgot to mention the \$40 billion rate impact from four
9 proposed nuclear power plants on consumers in Florida over the
10 next ten years. Now, renewable resources have less price
11 volatility than conventional resources. For instance, solar
12 power has no fuel, it uses the sun, and the costs of PV solar
13 panels continue to drop in price. Now, contrast this with the
14 highly volatile natural gas prices that we have seen, steadily
15 increasing coal prices, and the skyrocketing costs to build
16 conventional power plants, especially nuclear plants.

17 Now, biomass fuels are also very stable. It's a
18 home-grown fuel, and it doesn't have anywhere near the
19 volatility price risk that natural gas does. Now, these
20 renewables resources reduce long-term risk to ratepayers from
21 volatility because as they become a larger and larger part of
22 the energy mix, overreliance on conventional resources will
23 decrease and ratepayers will have less risk exposure. So the
24 cost argument has to include not only initial rate impacts, but
25 it has to include reducing risk to ratepayers. And renewables

1 have a vital role to play in protecting consumers, and I think
2 that has been lost in the argument here.

3 And it's also important to note that rate impacts
4 don't occur in a vacuum. Energy Information Agency data
5 indicates that statewide 2006 average Florida residential rates
6 are 41 percent higher than they were in 2000. Renewable energy
7 was not responsible for that. Next year customers in Progress
8 Energy's territory are going to incur rate hikes of about
9 25 percent due to fossil fuel costs and early cost-recovery for
10 nukes. So the rate impacts for renewables pales in comparison
11 to that, and it also holds out the best option, we believe,
12 along with aggressive energy efficiency to providing relief to
13 weary ratepayers.

14 Additionally, Mr. Twomey mentioned that, you know, we
15 are in a bad economic situation, and I think we can all agree
16 that we are. And it's bad. There is high unemployment in
17 Florida and it may go higher, but you have to remember that
18 renewable energy creates jobs in addition to insulating
19 ratepayers from price spikes. The Governor's Office said that
20 there is gold in green, and a lot of studies bear that out.
21 There is a recent Navigant study that shows there is a
22 potential for up to 32,000 new jobs in Florida by 2016 due to
23 the Federal Solar Investment Tax Credit extension, if proper
24 policies are in place.

25 The second principle I would ask you to consider is

1 that you need to level the playing field in a way that
2 third-party -- you know, that third-party and utility providers
3 are treated the same way. The rules should provide a more
4 level playing field for renewables by requiring utilities to
5 buy power from renewable energy developers through long-term
6 contracts, up to 20 years, that provide adequate compensation
7 for these third parties and a fair rate of return. I think
8 Commissioner Skop's proposal takes us closer to more equal
9 treatment of self-build and third-party providers. We would
10 only add that there should be a carve-out to ensure that Class
11 1 renewables in that proposal are actually utilized.

12 And, lastly, the third principal is please don't defy
13 the statute with respect to eligible resources. At an August
14 workshop, Florida Power and Light introduced the notion of
15 including more eligible resources, such as nuclear and
16 coal-derived energy, and also efficiencies. And the staff
17 initially met that proposal with a lot of skepticism and asked
18 pointed questions about their source of statutory authority.

19 And I would like to turn to staff now and ask them
20 what is their statutory authority for including that in this
21 proposal. Because the statute is very clear, "Renewable energy
22 means electrical energy produced from a method that uses one or
23 more of the following fuels or energy sources," and it goes
24 ahead and lists them all, and nuclear is not in there, coal is
25 not in there, efficiencies are not in there. Inclusion of

1 other sources is simply not consistent with the plain meaning
2 of the law, and that's why I was so surprised to see it in
3 here.

4 You know, if the Legislature wanted to provide more
5 incentive for nuclear energy, they would have done that. Just
6 like they did in 2006 when they provided early cost-recovery
7 and last year when they extended some other provisions.

8 And, in closing, because I know I'm running out of
9 time, we ask that you adopt a single rule. Just not one rule.
10 I'm sorry, not multiples rules, because the Legislature didn't
11 ask for recommendations. If they wanted to, they could have,
12 just like they asked for a decoupling recommendation. It asked
13 for a rule. It wasn't plural, it was singular.

14 The rule should support the Governor's goal of
15 20 percent by 2020, provide a level playing field for
16 third-party producers, and comport to the resources that are
17 statutorily authorized in the statute. And I want to thank you
18 in advance for protecting the interest of ratepayers by
19 adopting a bold RPS.

20 **CHAIRMAN CARTER:** Thank you.

21 **MR. FUTRELL:** Next is Deb Swim followed by Jerry
22 Karnas.

23 **MS. SWIM:** Hi, Commissioners. Deb Swim. I'm here on
24 behalf of the Legal Environmental Assistance Foundation, LEAF.
25 We strongly support the goals that have been set by Governor

1 Crist and the Legislature to develop Florida's renewable energy
2 industry.

3 These goals were set for very good reasons. Our
4 elected leaders hear from people and they know what the
5 citizens want. These reasons include both economic benefits
6 and environmental and health benefits that will come from
7 developing our native energy supplies. The economic benefits,
8 if we develop our native supplies, sun, wind, plants, that we
9 are going to keep jobs here in contrast to using resources that
10 come from out of state. That makes a lot of sense here in our
11 recession that we are dealing with on our peninsula down here.
12 We want to develop our native supplies and get the jobs from
13 that.

14 Another benefit economically is that you can reduce
15 the volatility of fuel prices because you have got your fuel in
16 state. Those are very, very strong economic benefits that only
17 come if we develop our native renewable energy supplies. There
18 is also, of course, the environmental and health benefits that
19 come from developing native renewables, because by developing
20 our native renewables we will displace conventional supplies
21 that have significant environmental impacts, climate impacts,
22 and health impacts. We're trying to develop renewables in
23 order to displace nuclear and fossil options. That's what the
24 directive was from our elected leaders, and we strongly support
25 that.

1 To this end, we urge you to follow the 20 percent by
2 2020 directive from the elected leaders, and we would like to
3 see that start right away in 2010, and include a set aside for
4 solar and wind so that they can have a role in the renewables
5 that will be acquired under the new policy.

6 On Issue 3, we would strongly oppose the -- and urge
7 you to exclude nuclear and coal. They are not renewable, they
8 don't provide the job benefits, they don't provide the
9 environmental and health benefits as would development of other
10 renewables. Certainly there is some climate benefits, but
11 there is a lot of the other adverse environmental and health
12 benefits.

13 On the topic, you know, of affordability and rate
14 impacts and cost impacts, obviously that's the sticky wicket.
15 The way I look at it is, you know, there is an industry that
16 has increasing costs associated with it of the conventional
17 supplies, and there is a new emerging industry that has
18 lowering costs being associated with it, the new renewables;
19 sun, plants, wind, and hydro. And I want to jump on the train
20 that not only is cleaner and adds diversity, but also has
21 declining costs.

22 So I think, you know, as Mr. Cavros was saying, you
23 have to take a bigger picture look when you are looking at rate
24 impacts. I mean, look at how many costs got lumped onto
25 ratepayers through the fuel adjustment clause because of the

1 volatility in the fossil fuel market. I mean, we have to, like
2 Mr. Zambo was saying, act now so that ten years from now we are
3 not doing the same thing. If we would have acted ten years ago
4 to develop Florida's native renewables, we would not only have
5 the job benefits, we would have lowered the costs even more.
6 So I urge you to be bold and to follow the direction that the
7 elected leaders have set.

8 And the third point we wanted to make is that
9 whatever rule you come up with, it is really important that you
10 maximize financial certainty for the renewable developers. We
11 need to send a very strong message that when it comes to
12 renewables, Florida is open for business. If we do not do
13 that, all of these investors that are out there wanting to
14 invest in green jobs, wanting to invest in renewables are going
15 to go someplace else other than our state. And since we have
16 renewable supplies here that would be a real shame. We need to
17 develop our native energy supplies.

18 Thank you.

19 **CHAIRMAN CARTER:** Thank you.

20 Commissioner Argenziano.

21 **COMMISSIONER ARGENZIANO:** Two things. One, I think I
22 heard you say that we were directed by the Legislature to
23 lessen the use of nuclear, and I have not seen that in the --

24 **MS. SWIM:** I didn't mean to say that.

25 **COMMISSIONER ARGENZIANO:** Okay. I just wanted to

1 clarify.

2 And the second part, as I have asked everyone else,
3 do you have a preference on which recommendation, or do you
4 like bits and pieces of both? I know it's kind of hard, but
5 I'm trying to figure out --

6 **MS. SWIM:** You know, I mean, I think it's -- I can't
7 really offer you a specific recommendation. I do, you know,
8 like some of the -- like I was saying, maximizing the financial
9 certainty for renewables developers, that is an attractive
10 feature of the second issue. And I haven't had a chance to
11 look and see what, you know, Mr. Cepero's proposal was on the
12 first issue, that sounded kind of intriguing. But certainly on
13 the third issue, we would not want to see nuclear or coal
14 added. We would like to see solar thermal made an eligible
15 component. And in the area of trying to make the costs go
16 down, that would be a way to do it, and a way to encourage
17 private investment for the solar thermal piece.

18 **COMMISSIONER ARGENZIANO:** Thank you.

19 **CHAIRMAN CARTER:** Thank you.

20 **MR. FUTRELL:** Next is Jerry Karnas followed by Leon
21 Jacobs.

22 **MR. KARNAS:** Thank you very much. I'm Jerry Karnas,
23 Florida Climate Project Director for the Environmental Defense
24 Fund.

25 I'd like to thank the Commissioners for your

1 diligence and patience and attention. This is a really
2 important matter. I would like to thank staff, particularly
3 for your thick skin. This is coming from a guy who could never
4 be staff for the agency. So I've got a lot of respect for the
5 work that you guys do.

6 I would also like to thank Governor Crist for getting
7 us to this point. It has been a long time coming. And I would
8 like to thank late Representative Mayfield for getting a
9 unanimous bill through the Legislature, which I think the folks
10 in Washington could learn a lot from. I would also like to
11 thank the generations of environmentalists since the first
12 Earth Day who have dreamed of a new clean energy economy and
13 future for our country. And if we have been a little rough
14 with staff, the environmental community, it is because we take
15 that responsibility of the people that came before us very
16 seriously. And the thought that coming so close this time and
17 that dream being deferred again was something that we take
18 very, very seriously.

19 I'd like to get into the components of the
20 Environmental Defense view of the plan today. Number one, we
21 believe 20 percent by 2020 is priority number one today. Our
22 climate security, our energy security, and our economic
23 security demand nothing less.

24 I also would like to point out that I believe that
25 Commissioner Edgar at the beginning used the key word that we

1 need to be considering, and that's value. It's not cost. We
2 agree that the people of Florida don't want to pay a lot for
3 renewable energy. They don't want to pay a lot for traditional
4 energy. People don't want to pay a lot for anything right now.
5 And so we agree with that point, you know, we concede that
6 point. But we also know that they want renewable energy and
7 they want a lot of it. So the question is how do we get the
8 most renewable energy for the least cost. And the key
9 component to that is market diversification. Allowing new
10 entrants into the market and allowing a stable
11 investment-secure market.

12 And so a cursory review of renewable energy policy in
13 the United States and in the country would find that successful
14 renewable energy programs have a couple of key components. And
15 those components are long-term contracts, 20 years is where it
16 has been most successful; pricing by technology to the 20-year
17 contracts, given the state of finance in our nation, it is
18 absolutely imperative that long-term contracts be available to
19 renewable energy providers. We recommend 20 years as the
20 minimum. And the economic realities that started in August
21 should have precluded any further consideration of an hourly,
22 daily, weekly tradable REC market. That is not a financeable
23 RPS, particularly in the environmental climate.

24 Pricing by technology. Pricing should be set
25 according to a cost-plus model by type of technology. Prices

1 should not be set on a negotiated case-by-case basis between
2 renewable energy providers and a utility. Implementing a rule
3 of transparent pricing that digresses over time -- and let me
4 point that out. We have never asked the fossil fuel industry
5 to digress their prices over time. The solar energy will tell
6 you we can digress our prices over time if we create economies
7 of scale. That's something that we have never had the electric
8 utilities commit to, or any fossil fuel. The solar industry,
9 the wind industry, the wave industry, these emerging
10 industries, they will commit to that if they are allowed to
11 create the economies of scale, a digression over time. Where
12 you have allowed this component to happen, markets have rapidly
13 matured and then the pricing is reevaluated every two to three
14 years.

15 The standard offer contract process to allow for
16 market diversification, rapid investment, and job creation, the
17 RPS must simplify the standard offer contract process. The
18 goal is a simple, easily understood contract that any renewable
19 energy provider or investor can complete with little difficulty
20 in days and not months. We like the word streamlining in the
21 state. That is what we need to do for renewable energy.

22 In addition, renewable energy providers who meet
23 minimum requirements, and I appreciate FPL talking about the
24 requirements needed before, who meet minimum requirements must
25 receive priority access to the grid. The utilities must accept

1 the contracts.

2 We believe that -- the utilities have said that they
3 are going to have problems meeting this target. And we take
4 them at their word, which is all the more reason why we need to
5 support what Mike Twomey said earlier about the free market.
6 We need to allow the market to diversify. The utilities, it's
7 not fair to ask them to shoulder this burden alone. Florida's
8 entrepreneurs and Florida's innovators, if they are given a
9 stable market that works, will rise to the challenge and we'll
10 meet this shared goal together.

11 On the question of jobs, everywhere good policies
12 have been put in place job growth has expanded. Germany has
13 got 60,000 jobs in solar alone. They have the solar equivalent
14 of Juno, Alaska. I know that the folks in Sarasota, where we
15 have 10 percent unemployment where I'm from, and is largely due
16 to the construction industry, would love to have that type of
17 market right now, to have jobs. Jobs cannot be underscored in
18 this situation.

19 The last recommendation to the Legislature, it comes
20 with a little bit of an if. If those elements are adopted, we
21 recommend one recommendation to the Legislature.

22 Thank you.

23 **COMMISSIONER ARGENZIANO:** Mr. Chair.

24 **CHAIRMAN CARTER:** Commissioner Argenziano.

25 **COMMISSIONER ARGENZIANO:** Okay. To try to get you

1 to -- what I heard you say is you are really more pro-solar
2 because you think that solar will come down in price, and then
3 I think I heard you say that you agree with Mr. Twomey, who's
4 not really for a solar carve-out. So I need to ask you to
5 specify. I think you're talking about the second
6 recommendation, which is the standard offer contract rather
7 than the solar carve-out. And let me ask you -- why I'm asking
8 you to specify, because some of the problems -- I see some good
9 and I see some bad, some good and maybe some problematic issues
10 in both recommendations.

11 And in the recommendation of the standard offer
12 contract, I see a lot of good, but I also see -- I'm afraid
13 that for solar and some of the other industries, the
14 renewables, we may never get there. It may sound great and in
15 reality I'm not sure that the contracts -- I mean, there won't
16 be challenges to that that will last forever. And I'm
17 wondering if you have taken that into consideration, and what
18 it is you like better about that than the other recommendation.

19 **MR. KARNAS:** If it was the current standard offer
20 process, we would have some problems with that. In combination
21 with Commissioner Skop's proposal, there would have to be some
22 key elements adopted to allow it to work. One is the must-take
23 nature of the contracts. Meeting minimum requirements, the
24 utilities must take it, and they must buy the energy back.

25 Second is the transparent pricing by technology. So

1 each box that Commissioner Skop highlighted has a set price,
2 not a price negotiated individually between providers. And
3 then the standard offer contract would have to be changed,
4 which I believe you have a docket on, to a very simple
5 two-page. Now, it's not one-size-fits-all. For more
6 complicated larger projects, obviously it would be a little
7 different, but for an under 20-megawatt solar project, that
8 should be something that could be completed on two pieces of
9 paper within a couple of days.

10 **COMMISSIONER ARGENZIANO:** Mr. Chair, if I can, just
11 quickly. Then you are in favor of the standard offer contract
12 with changes?

13 **MR. KARNAS:** Yes. We believe that the experiences in
14 New Jersey, Maryland, and also now England which had a tradable
15 REC market and they were paying twice as much for the amount of
16 wind energy as the Germans were paying, which had a system more
17 similar to Commissioner Skop's proposal, and they just switched
18 away from -- we believe the renewable energy policy is shifting
19 away from tradable RECs, which was about an eight years ago,
20 ten years ago policy towards long-term contracts, fixed price
21 RECs set by technology. We don't believe technologies that
22 have nothing to do with each other should compete against each
23 other. Technology should be competed by sector.

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

25 **MR. KARNAS:** Thank you.

1 **CHAIRMAN CARTER:** Commissioner Skop.

2 **COMMISSIONER SKOP:** Thank you, Mr. Chairman. Just
3 very briefly.

4 **CHAIRMAN CARTER:** And also, Commissioners, before you
5 go any further, let me give you kind of a heads up. I've been
6 sending signals to our court reporter about giving her a break,
7 so what I was hoping to do was get through all of the --
8 obviously feel free to ask the question, but I was hoping to
9 get through the comments from the parties then we could take a
10 break and come back and be fresh and start anew.

11 Commissioner Skop, you're recognized.

12 **COMMISSIONER SKOP:** Thank you, Mr. Chairman. And
13 very briefly to Mr. Karnas, and thank you for providing the
14 Commission with your views.

15 Just with respect to the current capital markets, can
16 you just briefly elaborate on how important it would be to have
17 a stable revenue stream in terms of being able to finance a
18 project. I know you recommend a 20-year contract. I have seen
19 longer contracts in my career. I have seen shorter contracts.
20 But can you just briefly elaborate on the importance of that
21 revenue stream and having a certain revenue stream.

22 **MR. KARNAS:** Well, you know, I run environmental
23 campaigns. I'm not an economist, but what I can tell you is
24 that when I was at the Solar Energy Conference in San Diego,
25 which is an international conference, folks from Wall Street

1 were addressing the conference and we largely, in this country,
2 finance renewable energy projects through tax equity. And that
3 market was \$15 billion last year for renewable energy. It's
4 going to be less than 5 this year, and that was back in
5 October. So it's likely to have increasingly shrunk.

6 So there is just not the money out there. So what we
7 are going to have to do is projects are going to have to be
8 debt financed. And so countries, states that have allowed
9 80 to 75, even 90 percent of projects to be debt financed are
10 the ones that get more renewable energy on the ground quicker.
11 You are also saving consumers money because you're not paying
12 as much interest over time. So it's critically important that
13 we create that type of long-term stable fixed priced market for
14 providers that they can get the financing they need and, in
15 turn, not make ratepayers shoulder interest costs, as well as
16 -- that's how I would answer that.

17 **COMMISSIONER SKOP:** Thank you.

18 **MR. FUTRELL:** Mr. Chairman and Commissioners, just to
19 give you a sense of where we are, we have five more speakers.
20 People added and have jumped in here as we have been
21 proceeding.

22 **CHAIRMAN CARTER:** Well, hold on then. With all
23 fairness to the court reporter, you know, we've been going
24 since 1:30, and we have got one court reporter. And if we're
25 going to add, then we are going to have to -- let's be

1 reasonable. So, let's do this, Commissioners, let's gave Janie
2 a break, and then we'll come back after that.

3 I'm looking at the clock to my right. We'll come
4 back on the hour.

5 (Recess.)

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

7 Mr. Futrell, call your next person, please.

8 **MR. FUTRELL:** The next speaker is Mr. Leon Jacobs
9 followed by Rob Brinkman.

10 **MR. JACOBS:** Good afternoon, Commissioners. How are
11 you? Thank you for this opportunity. And let me also add my
12 thanks for the efforts and incredible commitment that your
13 staff has demonstrated in working through these complex and
14 somewhat challenging issues. So much of the substance of what
15 I would like to say has been said; I won't belabor that at all.

16 Let me kind of address this. This is an important --
17 as was stated earlier, this is an important crossroads. It's a
18 crossroads for renewable energy in Florida, I agree absolutely
19 with that. I would suggest to you that it is not the first
20 instance, however, of renewable energy in the public policy
21 framework. The Legislature has been absolutely clear,
22 renewable energy is purposed to have a prominent role in energy
23 policy in Florida. The statute is clear; the intent is clear.
24 We have had nascent and ad hoc understandings of how that role
25 should work. You have seen rebates be exhausted very quickly.

1 You have seen examples such as the low income solar program
2 where low-income families saw their bills reduced as a result
3 of installing panels on their homes.

4 Now, however, as a result of your efforts we have
5 clear independent evidence of the viability of renewable energy
6 in Florida. Navigant has given you a study that, I think,
7 stands on its own, and it's clear in making the points that we
8 would make that renewable energy has a role of viable -- an
9 economically sustainable role in the energy policy in Florida.

10 The issue now, I suggest to you, is how you do that.
11 And, of course, the details are always the most difficult.
12 First of all, I forgot to state, Commissioner Argenziano, I'm
13 here on behalf of the National Resource Defense Council and
14 Southern Alliance for Clean Energy. We would echo a lot of the
15 points that have been made thus far. Twenty percent by 2020 is
16 a fundamental threshold.

17 We believe that while there can be an argument made
18 that you shouldn't have such a harsh view of cost containment
19 in this docket, we recognize in reality that that debate is on
20 the table. We think a 4 percent -- we could begin with 2
21 percent, but I think you ought to graduate very quickly.
22 Navigant says 5 percent. We think 4 percent is a happy medium.

23 We think that an absolute must in this policy is a
24 compliance structure that is geared to ensure verified results.
25 If you don't have a compliance structure that is designed to do

1 that, we think you set this up for at least mediocrity, if not
2 failure.

3 We believe that the discussion of an alternative
4 compliance statement should not be taken off the table. I
5 agree with many of the comments made by Ms. Kaufman earlier.
6 We believe the statute is clear that you do have authority to
7 consider it. If you aren't clear about how to deal with the
8 proceeds of that, I think that's something you could seek
9 further direction on, but I think it stands on its own around
10 the country as a viable and a very important mechanism of
11 compliance.

12 The basis reduction, I'm not opposed to that, but I
13 think the ACP should be absolutely considered. We would argue
14 that the idea -- if you want to create a viable renewable
15 marketplace, it strikes me as unreasonable that you would tie
16 into that these other technologies. If I'm not mistaken, I
17 agree with the comments of Mr. Karnas that the short and
18 long-term history of these nascent technologies is that with
19 economies of scale their cost to produce are going to decline.
20 It strikes me that -- not that it strikes me, Navigant gives
21 you evidence that you are exposing consumers to a risk that is
22 probably going to be a maximum of 5 percent of whatever they're
23 paying now to give them these new resources. It strikes me
24 that it would be unreasonable to expose them to an incredibly
25 less certain and probably much higher risk of rate impact if

1 you mix in these other technologies. It strikes me that you
2 would want to build this market and build this policy so that
3 you give back to the Legislature something that says this has a
4 long-term sustainable chance of building renewable energy to
5 fit the role you've already told us you want to take in
6 Florida. You want to diversify the energy mix. You want to
7 become economically viable and offsetting new generation. You
8 want to have important impacts in reducing greenhouse gases.
9 Those are the things that are absolutely clear in the direction
10 the Legislature has given you.

11 It strikes me, then, that to wed in these new issues
12 complicates that significantly. And my mind sends a somewhat
13 contradictory message back to the Legislature. They have
14 already told you about leaving it off the list, and it's a
15 common axiom of legislative interpretation that they would have
16 said it if they wanted to say it. So to come back to them and
17 say you want to send them now a more expensive, less certain,
18 more risky technology to make this market more sustainable I
19 think is contradictory.

20 I would urge you then to take this step very
21 precisely, very confidently, and boldly but with reason. I
22 think it is the time. These statutes have been on the books
23 for several years to make renewable energy viable. Now we have
24 the important opportunity. I think you have the tools
25 available to you and you have the expertise, and I think the

1 capacity in your staff and in yourselves to do that. And I
2 encourage you to do that, and thank you for your time.

3 **CHAIRMAN CARTER:** Thank you, Mr. Jacobs.

4 Mr. Futrell.

5 **MR. FUTRELL:** Next is Rob Brinkman followed by Susan
6 Glickman.

7 **MR. BRINKMAN:** Good afternoon, Mr. Chairman and
8 Commissioners.

9 My name is Rob Brinkman. I am the chair of and
10 speaking on behalf of the Suwannee/St. Johns Group of the
11 Sierra Club. The Sierra Club's Group Area includes Levy and
12 Alachua Counties, within which are found contrasting and indeed
13 conflicting efforts to address the climate disruption facing us
14 all. But let me begin with the positive aspects.

15 As you know, GRU has proposed to the Gainesville City
16 Commission the first feed-in tariff in North America by a
17 utility. What you may not have heard is that at their recent
18 December 18th meeting, the tariff was raised to 32 cents per
19 kilowatt hour for all systems installed from March 1st of 2009
20 to December 31st of 2010. It will then degress (phonetic)
21 approximately 5 percent to be adjusted as needed.

22 What frankly surprised myself as well as even some of
23 the Commissioners was that the rate impact -- and GRU is
24 projecting one megawatt of solar installations in the
25 Gainesville region per year -- and they are estimating that the

1 rate impact to their customers will be 42 cents per month. A
2 typical customer of GRU consumers about a megawatt hour a
3 month. So the rate impact was surprisingly small.

4 GRU will soon sign a purchased power agreement for a
5 100 megawatt biomass plant, and is still pursuing other
6 renewable energy options. And, also, recently competed to a
7 tie with the City of Tallahassee on an energy efficiency
8 contest, which I take some pride in because I originally
9 proposed it to Mayor Marks. On the other hand, in Levy
10 County -- oh, and I forgot to mention, GRU and the City of
11 Gainesville declined the offer from Progress Energy Florida to
12 participate in the Levy Nuclear project.

13 On the other hand, in Levy County, Progress Energy
14 Florida is planning the Levy nuclear project situated far from
15 the majority of customers it will serve and without a national
16 geologic repository for the waste that will be generated from
17 that plant. Yucca Mountain is not designed for any new
18 reactors. Nuclear power is not now and never will be clean.
19 It is low carbon, not carbon free.

20 For 35 years the Sierra Club has opposed nuclear
21 power because of concerns in three areas, safety, storage of
22 waste, and nuclear weapons proliferation. There has been no
23 substantial progress in that time on at least the last two of
24 those concerns. But leaving all of those aside, the economics
25 of nuclear power from the perspective of the ratepayers is

1 stupendously risky.

2 At best, Progress Energy Florida and Florida Power
3 and Light customers are being asked to pay now for nuclear
4 plants that could never be built or completed for a hoped for
5 savings on future fuel costs. For those savings to actually
6 materialize, the proposed plants would have to be completed on
7 time and on budget. I don't think that has ever happened to a
8 U.S. commercial nuclear power plant, on time and on budget.

9 Nuclear and so-called clean coal are not, by
10 definition, renewable. Any plain common understanding of the
11 word renewable means naturally replenishable, and neither
12 nuclear nor fossil fuels meet that definition. Nuclear is also
13 simply too expensive and will take too long to provide the
14 reductions in greenhouse gases needed in the next ten years.
15 The CO2 equivalent target required for climate stabilization is
16 now thought to be 350 parts per million rather than the
17 450 parts per million previously believed. The disconcerting
18 part about this is the world is currently at 387 parts per
19 million and we continue to increase emissions.

20 While the Sierra Club applauds the work done on the
21 RPS by this Commission and its staff, and indeed I must say it
22 is very nice to be sitting here discussing this instead of many
23 other things we could be discussing. The fact of the matter is
24 we need 20 percent by 2020. You know, I think someone
25 calculated that if we go to 2041, Governor Crist would be

1 94 years old. And, you know, average life expectancy being
2 what it is in this country, it's conceivable that he would not
3 live to see the goal he set ever implemented in his lifetime.
4 And I don't think that was his intent. I think he wants to see
5 it.

6 So, in conclusion -- oh, I want to point out
7 something, too. There has been a lot of talk from the
8 utilities, the IOUs, about not being able to meet this
9 standard. Gainesville will meet this standard even though it
10 won't be required to because it's a municipal, in five years.
11 If it can meet it in five years with the meager resources of a
12 municipal utility, I think the investor-owned utilities could
13 very easily meet it by 2020.

14 On some of the issues that have been raised, as to
15 revenue cap, while I certainly understand the impact on low
16 income customers, the people who are most vulnerable in this
17 world due to the effects of climate change are, in fact, those
18 same low income customers. If anything, if we are to have an
19 alternative compliance payment system, perhaps some of that
20 money should be designated towards offering relief to those
21 same customers, such as ensuring that they also get solar
22 panels on their roof so that they can see a reduction in their
23 bill.

24 This kind of reminds me of what the country of
25 Belgium did ten years ago. They decided that they were going

1 to put solar systems on their schools. And I just don't mean
2 demonstration systems, I mean they were going to power the
3 school buildings with solar. And they started with the
4 elementary schools so that --

5 **CHAIRMAN CARTER:** Mr. Brinkman.

6 **MR. BRINKMAN:** -- all their children --

7 **CHAIRMAN CARTER:** You are already over.

8 **MR. BRINKMAN:** I am concluding with this sentence.

9 So that all their children would grow up and think of renewable
10 energy as just the way we normally get energy.

11 Thank you for your time.

12 **CHAIRMAN CARTER:** Thank you.

13 Mr. Futrell.

14 **MR. FUTRELL:** Next is Susan Glickman followed by
15 Brian Armstrong, our last speaker.

16 **MS. GLICKMAN:** Good afternoon, Commissioners. I'm
17 Susan Glickman, I'm the U.S. Southern Region Director for the
18 Climate Group, and I have been involved in this process both
19 here and in the Legislature for a really long time. And even
20 though in my work with the Climate Group, which is an
21 international NGO, we are headquartered in London, we have
22 offices in India, China, and Australia, and in the U.S., and
23 our focus is accelerating the low carbon economy. So I'm
24 spending a lot less time on state issues in Florida, sadly so,
25 and much more time on the federal landscape. But I fell like I

1 really wanted to be part of what I consider a historic moment
2 and a historic day.

3 And the reason that I decided at the last minute to
4 tempt fate with the Chairman here and speak was because I
5 hadn't heard anyone speak to what is going on in the federal
6 landscape, which is a huge impact on what you all are dealing
7 with here today.

8 Our President Elect who is going to take office in
9 11 days has promised far and wide \$150 billion over the next
10 ten years to go to renewable energy and energy efficiency.
11 They are going to be jump-starting a clean energy economy that
12 is unlike anything anybody in this room even can begin to think
13 about, because we're going to be living in a whole nother
14 world.

15 And I would like to echo Rob's comments before me
16 that that is a good thing, because we don't have a long time to
17 turn this clean energy supertanker around. And the idea of
18 doing things like we have done before really isn't an option
19 when we need to reduce our carbon in the atmosphere from 380
20 back down to 350. And where business-as-usual gets us into
21 600, and that is not a world that we want to live in. So I
22 wanted to make the point that not only are we looking at this
23 investment -- and, honestly, I don't think Florida is in a
24 position to get their fair share.

25 You know, we don't have a clean energy trust fund set

1 up, we don't have a renewable portfolio standard, and these
2 things are going to happen in February and I'm a little bit
3 concerned about what that means when we go to stand in line for
4 money, because we don't have an RPS and we are not going to
5 have an RPS until the Legislature deals with it. And since
6 this will be my 22nd year in the Legislature, or something or
7 another, that means we are not going to have it until May or
8 June or whenever it kicks in. So I'm not sure what that means
9 when they offer manufacturing loan guarantees, the five million
10 jobs over the next ten years.

11 So I just wanted to say that the point of the
12 renewable target is to create certainty in the market to
13 unleash investment so you need a strong target. So I stand
14 with many other people today who talked about supporting
15 Governor Crist's aspirational goals of 20 by '20, and to do
16 that, and to have a cost cap that allows this to develop. And
17 it was Commissioner Skop that said, you know, the notion of
18 the -- you know, the scales of economy going up so that the
19 cost of renewables come down, that is what we are seeing all
20 over the world. That is what we are going to see here, but we
21 need to make sure that that is going to -- start-up is going to
22 cost a little more up front, but it goes down, that is the
23 nature. And as you all know, traditional fossil fuels are
24 going up.

25 So, Commissioner Argenziano, I'm right on your heels

1 in terms of the AARP. So I had to comment on Mike Twomey's
2 comments, and we are all worried about that, about what people
3 have to pay, but there is also something to be said for
4 creating jobs, because people who are working are the ones that
5 money in to pay for the Social Security for those AARP members,
6 so we need to talk about creating jobs.

7 In 2008, GRU did a study that a 50-megawatt biomass
8 plant creates between 1,000 and 2,000 jobs. Well, those are
9 real jobs. Those are right here in Florida, and you don't
10 outsource them. Oakridge National Lab just did a study that
11 you can create a million jobs and 60 percent emission
12 reductions with combined heat and power. We have not done much
13 in this state over recent years to really emphasize these
14 industries and these technologies. Other states that have had
15 RPSs in place have done a whole lot more.

16 I just read about a company, Hemlock, which is a very
17 funny name in Michigan, Hemlock Semiconductor has 1400
18 full-time jobs. They make materials for PV, and they run 24
19 hours a day. The very same day that the auto industry was
20 asking for a bailout, they announced a \$3 billion expansion.
21 So these are the things, the opportunities that we have been
22 missing out for a long time. So a lot of my colleagues said a
23 lot of things that I would have said, so I won't go on, but I
24 appreciate your time, and I just wanted to honor all of you on
25 this historic day for your hard work, the Commissioners and

1 staff alike.

2 Thank you.

3 **CHAIRMAN CARTER:** Susan, when you go to the
4 Legislature, you tell them that you have got 150 billion
5 reasons why this should be the first bill that they pass.

6 **MS. GLICKMAN:** Amen.

7 **CHAIRMAN CARTER:** Thank you.

8 Mr. Futrell.

9 **MR. FUTRELL:** The last speaker I have on my list is
10 Brian Armstrong.

11 **MR. ARMSTRONG:** Good afternoon, Mr. Chairman and
12 Commissioners.

13 **CHAIRMAN CARTER:** Good afternoon.

14 **MR. ARMSTRONG:** My name is Brian Armstrong. I'm here
15 representing myself. As I mentioned when I was here the last
16 time, I have been keeping involved in this issue and a number
17 of the people you have spoken with today I have continued to be
18 involved with.

19 I wanted to say that I agree with Commission
20 Argenziano when she reminds all of us that the focus of the RPS
21 should be on the long-term. I ask that you consider the big
22 picture when you address the multitude of subissues involved.
23 The reduction or even elimination of CO2 emissions is the
24 long-term goal. So what are the key factors for future power
25 decisions? The cost and the impact of those costs on rates,

1 the public health impacts, and the environmental impacts.

2 A significant reason we are here today, the rush in
3 the recent past of the IOUs to build coal plants. Coal plants
4 have been stopped in many states because governors,
5 legislators, public service commissioners, environmental
6 regulators, and others have recognized the harm to the public
7 health and the environment from coal plants.

8 All over our country the handwriting is on the wall
9 in favor of renewables. The courts have held that a CO2
10 standard must be established. With regard to auto emissions,
11 twelve states and perhaps soon in Florida the tougher
12 California standards will be in place. As to renewables
13 specifically, many states already have established a 20 by
14 2020 standard or even higher goals. California is way out in
15 front recently having approved a utility's request to San Diego
16 Utility to build an additional transmission pipe that will
17 facilitate renewables power.

18 So here is the big picture. In virtually all of
19 those states that have adopted a 20 by 2020 standard, the state
20 commissions and legislators heard the same arguments you are
21 hearing today from the IOUs, but they adopted a 20 by
22 2020 standard. There are big investors that are investing in
23 renewables to the tune of billions of dollars. Warren Buffett,
24 Bill Gates, T. Boone Pickens, Ted Turner, there are many
25 investment funds, and even in this past week the Tallahassee

1 Democrat had a full page ad indicating that there was a new
2 renewables fund established to the billion of dollars.

3 I want to relate to you that my recent conversations
4 with investment bankers and banks regarding investments in the
5 water and wastewater industry, each one of them are expressing
6 interest in the renewables market. They are asking what
7 Florida is doing. It is far less likely that they will invest
8 here in Florida if staff's paltry renewables goals are
9 approved. The higher goals already approved by so many other
10 states sends a far better signal to those investors. Florida
11 would be leaving billions of investment dollars behind.

12 This Commission asked for the Navigant report. That
13 report shows 20 by 2020 is feasible. I heard a suggestion
14 earlier today that the Navigant report is deficient because it
15 does not include an integrated resource plan. That report
16 could never include a generic IRP analysis that would apply
17 statewide. Never. Because each project is heavily dependent
18 on its unique facts and circumstances. This Commission asked
19 for the Navigant report, you received it, the IOUs have not
20 discredited it, so please be guided by it.

21 I believe Navigant may have participated in the City
22 of Tallahassee's recent integrated resources plan. Based on
23 the specific facts in this area, the IRP showed that a mix of
24 natural gas, biomass, and a conservation program was superior
25 even to coal power over the long-term. And that report

1 specifically included the potential cost to a utility if carbon
2 emissions are not reduced.

3 I heard nothing today about the potential cost of a
4 carbon emissions tax or a penalty being applied in the future.
5 This potential penalty was considered by the City of
6 Tallahassee in its IRP. To repeat, we cannot forget that the
7 principal driver toward renewables is to replace fossil fuels,
8 and I would hope to the maximum extent possible. For this
9 reason there should be no arbitrary rate cap for renewables
10 investments. If we all view the issue for the long-term, the
11 rate issue will work itself out, not just in electric rates,
12 but in the savings of medical costs and costs which will be
13 required to remediate the environment if we don't move quickly
14 toward renewables.

15 Just think of our Florida Everglades. The millions
16 spent in the Everglades for canals, et cetera, years ago. The
17 billions spent to fill in the Everglades to build homes which
18 now face water use restrictions. The billions that are now
19 being spent to remediate the Everglades to buy sugar plants and
20 to buy property. This Commission by thinking long-term and
21 looking at the big picture can join Governor Crist in leading
22 this state toward renewables and avoiding Everglades type
23 consequences in the future. And I believe a 20 by '20 standard
24 will almost certainly result in lower rates for customers in
25 the long-term.

1 Thank you for allowing me to address you.

2 **CHAIRMAN CARTER:** Thank you, Mr. Armstrong.

3 Mr. Futrell, does that complete our --

4 **MR. FUTRELL:** Yes, sir, that is the list of names
5 that I have been forwarded to.

6 **CHAIRMAN CARTER:** Okay. Commissioners, here is what
7 I would like to do. We have heard from a lot of the parties
8 and all. I wanted to give staff an opportunity to give us an
9 overview so that we may begin our deliberations and questions
10 and concerns from either questions that we may have for staff,
11 questions we may have from the parties, and I think that will
12 probably give us a good forum to jump off from.

13 Are there any questions before we proceed further,
14 Commissioners?

15 Staff, you're recognized.

16 **MR. FUTRELL:** Thank you, Mr. Chairman.

17 And, briefly, I would like to point you to start off
18 our discussion on Page 8 of the recommendation, Figure 1, which
19 is staff's effort to try to graphically represent the issues
20 before you.

21 As you can see on the left is RPS -- we're calling it
22 Strategy A, which is the draft rule contained and described in
23 Issue 1. This strategy was first presented at the
24 October 14th, 2008, Agenda Conference, and staff has made some
25 subsequent modifications based on comments and discussion since

1 that workshop, since that agenda conference. This strategy
2 features a market-based approach with compliance primarily
3 through the purchase of renewable energy certificates, or RECs.

4 And on the right side of that figure is what we're
5 calling the December 8th Commission workshop proposal, which
6 we're referring to as the standard offer contract approach.
7 This strategy features compliance through a mixture of energy
8 and renewable attributes from utility self-build projects and
9 nonutility renewable resources.

10 Staff believes that each of these strategies would
11 establish reasonable mechanisms to implement the Legislature's
12 RPS policies, and the Commission should submit both of these to
13 the Legislature for consideration. As you can see in Figure 1
14 there are many policy options that are common to both
15 approaches. Many of these policy options are intertwined.
16 However, we believe the pivotal issues to consider before you
17 are the RPS percentages of the ultimate standard, the timing of
18 the standard, and the rate cap. Also, we have introduced the
19 idea of a clean portfolio. Particularly this would be critical
20 with the consideration of an aggressive RPS standard. This
21 allows -- would be a recommendation to the Legislature for
22 consideration to provide additional options to provide an
23 integrated approach to meeting a clean portfolio standard.

24 I would point you to one thing I'd like to leave with
25 you before we begin the discussion, is that in Strategy A staff

1 believes while we are recommending a 20 percent by
2 2041 standard, staff believes this mechanism may be used to set
3 a stronger standard as we have heard discussed earlier today.
4 However, we believe some of the related issues would need to be
5 addressed, specifically the Commission would need to rely on
6 its existing penalty authority in Section 366.095, and also the
7 frequency of review should be changed to three years.

8 And with that, Mr. Chairman, I would conclude my
9 remarks.

10 **CHAIRMAN CARTER:** Thank you.

11 Commissioners, let's proceed with our questions.

12 Commissioner Skop, you're recognized.

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

14 I just have some questions to staff, mainly to answer
15 some finer points within the staff recommendation. Just with
16 respect to the timing and magnitude, again, as I have stated
17 repeatedly, I am in strong favor of a 20 percent RPS by 2020,
18 and I think that's reflected in the draft rule. I know staff
19 has some concerns, but with respect to Issue 1, has staff
20 looked at the cost of developing the market and the time in
21 which it would take to do that?

22 **MR. FUTRELL:** We have not developed in this process
23 cost estimates of creating a market. However, we do have some
24 time frames in the rule to bring a market before the
25 Commissioners to establish an administrator, and then also to

1 approve a governance structure for the market. We believe that
2 can be accomplished in approximately two years.

3 **COMMISSIONER SKOP:** And in that same regard, would it
4 be correct that at this time we have no hard evidence in terms
5 of what the recurring costs for the administration and overhead
6 of such a market would be?

7 **MR. FUTRELL:** That's correct, Commissioner.

8 **COMMISSIONER SKOP:** All right. Moving on to Issue 3.
9 And, again, without getting into the merits of whether the
10 definition should or should not be changed. Again, it seemed
11 from the stakeholders that seems to have a little bit of a
12 controversial nature to it, but with respect to the mechanism
13 as it applies to Issue 1, at least for me I have never heard of
14 a nuclear attribute nor an IGCC attribute, both of which
15 projects would be effectively built, put into rate base, and
16 already paid for consumers. So could you, please, you know, I
17 guess describe how that might work in a REC market? I mean, I
18 can understand how it would work in a framework that would
19 account for energy, which is the framework that was presented
20 at the December 3rd agenda conference, but I certainly do not
21 see how that might work, and I would look to staff to
22 elaborate.

23 **MR. FUTRELL:** Certainly I think one of the comments
24 earlier from Mr. Silagy that those resources could act to
25 reduce the overall baseline of energy that you would determine

1 what the standard would be is certainly an option to use to
2 consider that.

3 **COMMISSIONER SKOP:** Okay. But I don't think that
4 answers my question specifically. Issue 1 and the rule in
5 Attachment A uses the notion of attributes not energy generated
6 as a compliance mechanism. So, again, to my point, I have
7 never heard of a nuclear attribute. I have never heard of an
8 IGCC attribute. I have not seen anywhere in the United States
9 where such attributes would be tradable.

10 But I could envision, again, if the energy was used,
11 the energy produced would be used for compliance and the
12 Legislature deemed fit to change their definition again -- they
13 are the ultimate policymakers -- how that would comport nicely
14 with a framework that uses energy generated as a compliance
15 mechanism. And, again, the framework that was presented
16 December 3rd, again, uses energy generated. I think staff is
17 characterizing it as energy and attributes. But, again, as
18 articulated in the draft rule today, I've changed that to
19 energy. But if staff could elaborate or if that needs to be
20 thought out a little bit more.

21 **MR. FUTRELL:** I think we do see the opportunity to
22 use the energy from those resources for compliance with the
23 standard.

24 **COMMISSIONER SKOP:** Okay. But how does that
25 translate if we have a REC market, I guess, that's what I'm

1 saying, we are trading RECs and we are counting RECs for
2 compliance.

3 **MR. BALLINGER:** I think we would have to do some
4 amendments to Attachment A of a REC-only market to account --
5 if we have these resources. You know, Option 3, or Issue 3 is
6 out there as another suggestion depending if you go to a more
7 aggressive RPS, and I think it would have to be folded in with
8 the other two options to be accommodating.

9 **COMMISSIONER SKOP:** So to that extent, it has a
10 dependency upon what framework would be chosen if those options
11 were to be included.

12 **MR. BALLINGER:** I'm sorry?

13 **COMMISSIONER SKOP:** So to an extent it has a
14 dependency as to the framework chosen for those type of options
15 to be included.

16 **MR. BALLINGER:** Maybe, maybe not.

17 **CHAIRMAN CARTER:** I think where we were on it -- I'm
18 just speaking from my understanding of it, is that in the
19 process of the workshops we looked at a number of things, and
20 in the process of looking at a number of things, we also looked
21 at the context of efficiencies, we looked at the context of
22 what some of the parties had said. Not so much as staff was
23 taking their position, but what some of the parties had said is
24 that you can get there if you do a nuke, you can get there if
25 you do efficiencies, and all like that. So I just don't want

1 to put staff in the posture of having to defend something that
2 they just got from --

3 **MR. TRAPP:** If I could add to the discussion, please.
4 I think that the concept is important here, and the concept is,
5 you know, what is clean? And then the attribute goes with the
6 definition of what is clean.

7 Quite frankly, the REC market is nothing more
8 nationwide or here or what is being proposed than a paper
9 trail. It accounts for 1,000 kilowatt hours of electricity
10 generated by something clean. So I think that, you know, RECs
11 are just a piece of paper assigned to energy, and whether you
12 account for the piece of paper that represents the energy or
13 you account for the energy itself, it really doesn't make much
14 difference. The real key point is is that we get energy
15 production by clean resources in the most cost-effective manner
16 in Florida to serve our reliability and our cost needs.

17 **COMMISSIONER SKOP:** Fair enough. And, again --

18 **CHAIRMAN CARTER:** Excuse me. The reason I jumped in,
19 Commissioner, is because I was having those questions and
20 concerns as we were talking about how do we get to 20 by '20,
21 and what are some of the kinds of things. And in the workshop
22 process we said, hey, give us your best ideas, and those were
23 some of the things -- and what staff had done was said, well,
24 it depends on how you look at it. And if you look at it where
25 you are just looking at the energy and the results from that,

1 and you are looking at the market for that, then there is a way
2 to quantify it. Am I close to --

3 **MR. TRAPP:** Yes, sir, I agree. And, again, the
4 point, I think, that staff was trying to make by using RECs is
5 a paper trail to trace the energy, was that in a market type
6 system it gives you more mobility with regard to trading that
7 piece of paper. You are not forced to actually buy the energy
8 or transmit the energy to your system. You allow it to be
9 generated somewhere else in Florida, and then you can convert
10 that attribute associated with it to a monetary valued piece of
11 paper that can be traded for compliance purposes with the RPS.
12 That's a market-based system, and I think we saw some
13 efficiencies there.

14 **CHAIRMAN CARTER:** Commissioner.

15 **COMMISSIONER SKOP:** Mr. Chair, just two more
16 questions. And, again, I didn't want to belabor the point in
17 terms of the clean energy or not, because, again, that has some
18 controversy. I'm just trying to understand the mechanism and
19 whether sufficient thought has been provided into how that
20 would be accounted for to include those options. But I'll move
21 on.

22 With respect to a REC market, certainly like when a
23 company issues a stock they get par value and the issuance
24 price, but beyond that, they don't participate. You know, as
25 the stock goes up, the stock goes up, and as the stock goes

1 down it goes down accordingly.

2 If an attribute were to trade in a captive market
3 within the state of Florida, and that attribute was -- you
4 know, it was a migratory species, if you will, that migrated
5 its way from a supply to those that needed it to comply in a
6 demand type environment, would it not along the way, I guess
7 analogous to a bouncing ball, continue to -- prices would
8 increase at each incremental trade, if you will.

9 And I guess to that extent, if the cost of the REC as
10 I understand it in Issue 1, and the cost-recovery mechanism
11 provides for cost of RECs, then I could see a REC trading in a
12 market increasing in price, and then suddenly we are spending a
13 lot of money on this notion of REC which has been -- initially
14 cost a small amount, but then grew to a big amount, but it is
15 the same REC. And suddenly to comply they are having to spend
16 money on this REC which is an inflated piece of thin air, and
17 that might erode the cap, cut into the monies that were
18 available.

19 And, again, I think as Chairman Carter has mentioned
20 and others, it's very important in a resource-constrained
21 environment to make sure we get the most bang for the buck for
22 the resources. And I'm kind of trying to struggle with the
23 notion of spending cap money on trading RECs that might inflate
24 in value versus making that capital investment to get real
25 economic investment in the state.

1 So if staff could comment on that briefly, and then I
2 just have one follow-up question, Mr. Chair.

3 **MR. FUTRELL:** Commissioner, I think certainly to the
4 extent the REC proposal contemplates a mixture of not just spot
5 market prices where what you are describing could happen, but
6 also a negotiated contract where utilities could enter into
7 contracts to purchase RECs through some sort of a fixed priced
8 mechanism, certainly the Commission is going to have oversight
9 over the structure and governance of the market, and hopefully
10 to preclude those kind of situations from happening.

11 Certainly, the rule expresses a desire to have
12 compliance through the least-cost mechanism possible. There is
13 also excusal provisions so that if costs are beyond what the
14 rate cap provides that they would be excused from the
15 compliance provisions of the rule.

16 **COMMISSIONER SKOP:** Okay. And I appreciate that.
17 I'm just looking at the efficiency of the economic transfer
18 there. If you have a REC that bounces around and continues to
19 escalate in price, then that's consuming valuable resources
20 that otherwise might be expended on actual physical renewables
21 in the state as well as, again, the market.

22 Just one quick follow-on to that. And I apologize,
23 Mr. Chair, I have one additional question after this. With
24 respect to the notion, I think staff mentioned an hourly
25 tradable market. I have seen that for spot price of

1 electricity, but for RECs would that be overkill?

2 **MR. FUTRELL:** It could be. It could be. But, again,
3 the idea is to allow utilities to have an option to find a
4 least-cost method of compliance. And if they are coming up to,
5 for example, a compliance date, it would give them flexibility
6 to go out and purchase the RECs they need if they are
7 reasonably priced.

8 **COMMISSIONER SKOP:** Thank you.

9 And then just my final question. I guess, and I hope
10 everyone listens carefully to this, because from the bottom of
11 my heart and with no disrespect I am very, very, very concerned
12 about this for the reasons I'm going to articulate.

13 Notwithstanding the costs, delay, and inefficiency of
14 creating a market from scratch, I guess part of my biggest
15 concern about a REC market would be the extensive lobbying that
16 might occur to allow out-of-state RECs to be imported to the
17 state of Florida to comply with the standard. And while that
18 is best left for the Legislature to make that policy decision,
19 the Commission has to answer to consumers asking why their
20 rates are going to be going up. And as I have previously
21 stated many times, in these tough economic times, I could not
22 in good conscience ask ratepayers to reach in their pockets to
23 buy thin air.

24 And I think as the statute properly provides for and
25 as enacted by our Legislature, and I would commend

1 Representative Mayfield who is now deceased for his leadership
2 in pushing forward 7135, I believe our Legislature wrote it
3 right, because it requires domestic content. It stimulates
4 economic investment in this state and requires clean energy to
5 be produced within the confines of the state of Florida, and
6 that has benefit for the ratepayers. And if I'm going to ask
7 the ratepayers to feel the pain of going through an RPS, I feel
8 it is incumbently important for them to see value within the
9 state, not to buy thin air exported from somewhere -- I mean,
10 imported from somewhere else. And that's the only point I
11 would want to make in passing.

12 I do greatly appreciate all of staff's efforts and
13 hard work. I know that there are some issues reflected in
14 Attachment B that I think need clarification, but I will defer
15 to my colleagues. And should my colleagues have any questions
16 regarding the December 3rd proposal, or any concerns, I would
17 be most happy to answer them. Thank you.

18 **CHAIRMAN CARTER:** Well, let me just say this,
19 Commissioner. I disagree with the premise of your last
20 statement in that the market -- whether the consumers are going
21 to pay more or less does not depend on whether the market is
22 just Florida, because the REC market itself is -- we know that
23 we don't function in a vacuum. The federal government has
24 talked about it ad nauseam, and as Ms. Glickman has just
25 reminded us, there are some proposals on the drawing board now

1 to deal with that. And obviously with a vibrant marketplace
2 there, I don't know how you could qualitatively or
3 quantitatively say whether or not that impact is going to be
4 positive or negative in the marketplace.

5 I think the marketplace will determine what it is.
6 And when you consider what you are getting for the value, the
7 value itself based upon you buying a unit of energy and that
8 unit of energy for whatever the case may be, that marketplace
9 will drive the marketplace. And so I disagree with the
10 premise. Not necessarily with what you said, but I disagree
11 with that premise on that.

12 Secondly is that the perspective on what a lot of
13 Governor Crist has said, if you go all the way back to his
14 original executive order, one of the things that Governor Crist
15 said was economic development. Economic development. And
16 economic development is -- you can't just take -- if you're
17 doing development, you can't just sell me the label. Someone
18 has to make the label to this bottle. Someone has to make the
19 bottle. Someone has to make the cap. Someone has to bottle
20 the water. Someone has to distribute the water in terms of
21 wholesale distributor. Someone has to sell it retail. Someone
22 may want to sell it at gas stations, convenience stores,
23 Publix, or whatever the case may be.

24 So I think that in the context of looking at it from
25 an economic development standpoint, we have to look at the

1 total picture. And I think in the total picture in this market
2 here, as we open up -- and we have said this before, as we open
3 up the welcome mat saying Florida is open for business, open
4 for economic development, as we look at this we have to look at
5 it in the context of our policymakers. First of all, I agree
6 wholeheartedly with what the Governor has said in terms of our
7 RPS standard should be 20 percent by 2020. And I think that
8 works from the market perspective.

9 On the timing, we can deal with that, as well. But
10 in terms of the rate cap, it can be 1 percent, 2 percent,
11 3 percent. I won't go so far as to say 5 percent, although
12 that may sound good, but I won't go that far. But let me just
13 say, Commissioners, if you will permit me, I think I seem a
14 little more eloquent when I write my things down, so let me
15 just say this, because I wanted to say this before we got into
16 our deliberations. And I see where we're going, so let me
17 just -- if you would permit me, let me just do this. Because I
18 think that the best way for me to operate is to begin at the
19 beginning.

20 Just over a year ago when I took office as Chairman
21 of the Commission, I took the opportunity to talk about an
22 important balancing act inherent in everything we do at the
23 PSC. The balance is that we must strike the balance between
24 reliability of service and affordability of service to the
25 people that we serve. As Commissioner Argenziano always says,

1 we have got to be fair to the company and we have got to be
2 fair to the people.

3 On that day -- I'm quoting myself -- on that day I
4 said as servants in the people's government, part of our job is
5 to make sure the people have reliable access to electricity,
6 water, and telecommunications services. When a man in Miami
7 plugs in the oxygen machine so that he can breathe, the machine
8 needs to work. When a mom in Oviedo opens the tap to get water
9 for her kids, what comes out needs to be safe, clean, and
10 affordable. In other words, people need to be able to rely on
11 essential life-giving services and commodities like water and
12 electricity, and they also need to be able to afford those
13 services and commodities.

14 Unfortunately, reliability and affordability are
15 inextricably intertwined. In most cases, what makes a system
16 more reliable also makes it more expensive. And that
17 interrelationship between reliability and affordability creates
18 an incredible challenge to those of us in government, because
19 we understand what the people face today. The people are beset
20 on all sides by changes that threaten our quality of life:
21 Rising taxes, rising insurance rates, the specter of inflation,
22 and the fear that protecting our environment only means another
23 financial straw on the camel's back. I understand this. I
24 believe my fellow Commissioners understand this. Everything we
25 do in the coming months and years must take into account the

1 very real circumstances of everyday people. It is critical we
2 find a proper balance between these often competing principles.

3 Now, add now to the challenges faced by our people,
4 the collapsed housing market, the convulsions of the financial
5 markets, extreme volatility in the prices of commodities, and
6 rising unemployment. Before this backdrop we are here today
7 charged with putting our stamp on a mechanism that will require
8 our investor-owned utilities by certain dates to generate a
9 fixed percentage of electricity delivered to the people from
10 certain types of energy sources.

11 While our staff has been criticized for the
12 recommendations they bring before us in this docket, I know
13 that they have always strived to maintain that critical balance
14 between reliability and affordability. What they have done is
15 provide a program that attempts to reconcile multiple policy
16 directives while meeting this agency's responsibility to
17 protect affordability to the consumer.

18 If a more aggressive approach is called for, then it
19 is our job as appointed officials to say so. I say today that
20 I believe we must embrace more ambitious goals than those set
21 forth by our staff, including a renewable standard of
22 20 percent by the year 2020. I also believe that such an
23 aggressive standard must be tempered by appropriate revenue
24 caps that are both protective of the ratepayer and cognizant of
25 the challenges that will be faced by a group of very different

1 utilities. Perhaps a revenue cap of 2 percent with the
2 2 percent dedicated -- I said 3 percent, perhaps a revenue cap
3 of 3 percent with 2 percent dedicated to Class 1 renewables and
4 1 percent dedicated to Class 2 renewables. And that would be
5 50 percent; I think someone said 50 percent. I'm just telling
6 you where I'm coming from, and so everybody -- we can all agree
7 or disagree, but at least you will know where I'm coming from.

8 While I'm not generally in favor of providing an
9 inherent advantage to potentially higher-cost alternatives, I
10 believe it is necessary in this case to avoid the potential
11 unintended consequences of over-exploitation of our woody
12 biomass resources and the application of new and negative
13 economic pressures on mature Florida industries not within the
14 scope of our regulatory mandate.

15 In addition, some preference under the cap for Class
16 1 renewables will improve our stewardship for the air and water
17 by building in a preference for nonemitting energy sources that
18 use far less water to generate electricity. As we continue our
19 deliberations today, first, I thank you for listening to me;
20 Secondly, I look forward to hearing what my colleagues think,
21 and I am hopeful that we can resolve this docket today
22 fulfilling the mandates of the Legislature and stepping closer
23 to the vision set forth by Governor Crist.

24 And with that, Commissioners, I think that what staff
25 has put before us here today in terms of our REC market and the

1 opportunities for us, they have given us a framework where we
2 can come to an agreement and move forward and do what the
3 Legislature has required us to do. And with that, thank you
4 for the opportunity.

5 And we're now open for further discussion. I just
6 wanted to kind of get that out there.

7 Commissioner Argenziano, you're recognized.

8 **COMMISSIONER ARGENZIANO:** Okay. Unlike you, I really
9 stink when I read from paper. I learned that a long time ago,
10 so what I do is just some bullets. I wrote some bullets,
11 because I don't want to forget certain points.

12 But, first, I think what I want to do is just read
13 one small paragraph from the statute to take us back to what
14 our mandate really is; 366.92, Florida Renewable Energy Policy,
15 "It is the intent of the Legislature to promote the development
16 of renewable energy, protect the economic viability of
17 Florida's existing renewable energy facilities, diversify the
18 types of fuel used to generate electricity in Florida, lessen
19 Florida's dependence on natural gas and fuel oil for the
20 production of electricity, minimize the volatility of fuel
21 costs, encourage investment within the state, improve
22 environmental conditions, and at the same time minimize the
23 cost of power supply to electric utilities and their customers.

24 That's a heck of a tall order to try to get
25 everything in there, okay. For instance, people are saying the

1 lowest cost is very important, especially at a time when people
2 are losing their homes. We all know it is. But how do you
3 uphold the mandate to improve environmental conditions if the
4 lowest cost may not be the -- may not get you to keep a cleaner
5 environment. So you have to weigh these things. And, of
6 course, cost to the consumer as well as to the utility is
7 extremely important in this discussion. But you really have to
8 decipher each individual mandate in that section.

9 So while I'm very concerned with cost, I do believe
10 that if there is a proposal that invites the lowest cost at all
11 expenses, then we are not sticking to the mandate that we have
12 if it means throwing the environmental -- you know, improving
13 environmental conditions at a lower cost is not what I see the
14 mandate as being. But we have a hard job of trying to get to
15 it as close as we can.

16 So I have always insisted that it needed to be 20 by
17 2020 if we are going to get real, okay. So I agree. And I
18 can't praise the Governor enough, because no matter what the
19 Legislature has put through, and I agree the Legislature has
20 given us some mandates and they see what's happening, and they
21 hear from their constituents, the Governor really is the guy
22 who put this forward and said, hey, go and do this for all
23 these reasons. And the Legislature said to us this is what you
24 shall do. It's easy when you are just saying it, let's get to
25 all of these things. It is not as easy when you are all

1 sitting here and there are a lot of competing interests to make
2 sure that we get to all of these mandates.

3 Now, you all have different reasons for being here,
4 and some may agree that a solar carve-out is not the way and
5 some may say cost is better. We have the mandates. And that's
6 why I read them, because I want to remember what those mandates
7 are. And let me just say that I think that the both of the
8 recommendations that we had, or the recommendations that we
9 have in front of us have pros and cons. I think we all heard
10 that today. Some didn't, but most did. Most saw the pros and
11 cons of the approaches that we have in front of us.

12 Some said that by sending only one is what we should
13 do because that is what the Legislature mandated us to do is
14 come up with a recommendation. That is not how I see that. I
15 see we come up with the framework for their policy decisions.
16 Some of these things that we look at here come down to a policy
17 decision within these recommendations. Should it be market
18 driven, should it be this way. Some of those things, from my
19 point of view, are legislative decisions and not PSC decisions.

20 I think what we have done, and staff has done, and
21 with everybody else's help here is create thought provoking
22 provisions that need to be considered by the policymakers. And
23 I think we have built a framework. And I think in those
24 recommendations, as I said, there are some problematic issues
25 that still remain that we may be able to hopefully get through,

1 and maybe the Legislature can, but by not sending both to the
2 Legislature, even if one is a preferred recommendation over
3 another, but by not sending even the background information
4 that we have accumulated that many people here agree there is a
5 lot of pros to, we are making a very big mistake by not sending
6 that to the Legislature.

7 So I say we send everything. Maybe with a
8 preference, maybe with not. That's up to this Commission and
9 individual Commissioners. The Legislature did say, and this is
10 something to consider, and some of you may not want to hear
11 this, but it did say that we may provide added weight to solar
12 and wind. Now, that's something you have to consider. Why did
13 the Legislature put that in there if they didn't have special
14 interest in us looking at that? So that's another reason to
15 send the total package as a framework, or one preferred, as I
16 said before.

17 I have heard, I think, compliance. I have heard
18 people talk about compliance. I think compliance is critical.
19 I mean, how do you say this is what we want, this is what the
20 Legislature intends, this is our goal, and not have some kind
21 of compliance in there. And I hope that that can be achieved.

22 Clean energy. The component of clean energy here, I
23 first want to say I could never vote for clean energy if it
24 includes coal at this point, because I don't know of any clean
25 coal, and I don't know how that got in there. And I don't know

1 of any practicing sequestration in the nation or in the world?
2 And at this point I have to adamantly disagree with putting
3 IGCC in there as clean.

4 On the other hand, the Legislature basically said --
5 let me see if I can find it very quick. Basically said -- I
6 have it here somewhere. Hang on one second. Okay. The
7 statutory mandate was to improve environmental conditions. In
8 the statutes that is one of our mandates. So clean energy, I
9 can't consider nuclear as renewable, but I can consider it
10 clean, and I think it is part of the package that the
11 Legislature needs to be talking about. When you are talking
12 about clean energy, did you want us to -- do you want to maybe
13 take a look.

14 So if we send this without the coal on it and saying
15 that, you know, you decide whether you want this, because your
16 emphasis in the statutes to me says clean energy. Renewable is
17 separate, and I don't want them to be mistaken for the same
18 thing. But I think in sending the nuclear language with clean
19 on it says to the legislators you make the decision whether you
20 want to add this in there. And I think it is important, since
21 in the statutes it does talk about clean energy as improving
22 environmental conditions and let them make the policy decision.

23 I have concerns for our existing papermills. I know
24 that some of them are at wits end. They used to be in my
25 Senate district, and I understand how many people work there

1 and are dependent upon the jobs and what it does for the
2 counties that they are in. And I know that they are in dire
3 straits to begin with. I'm not here to judge whether they are
4 clean or not, but I have concerns that some of the issues that
5 we may be putting forward could put these guys, or those guys,
6 or women, or whoever out of business, and I don't want us to do
7 that, either. I want us to be real careful.

8 So what I'm going to come down to, basically, is just
9 saying my desire would be to look at all this great information
10 we have in front of us. The Legislature, as I said before, is
11 really going to be the final determination, and the battles are
12 going to begin really when you leave this room. Even after
13 February, I believe. And I think everything that the people
14 have put input to, as well as our staff, and, Commissioner
15 Skop, your ideas, Commissioners, all that we are putting
16 together is critical in the policymakers deciding. If you
17 leave it out, then you are saying, well, this doesn't matter,
18 and that is just not true as we have heard today.

19 So, I think a good job on everybody's part. We are
20 not all there yet. What I would insist on today would be that
21 we do the 20 by 2020. I think that's essential. And that
22 probably, Mr. Chair, my rate cap would be between 2 -- probably
23 2 and 3 percent, and that's probably where I would want to go,
24 and just ask that maybe we consider sending all this good
25 information as a framework to the Legislature, and basically

1 saying, you know, there are some things that you need to look
2 at. And I guess that is really all I have to say, unless I
3 have left out a bullet somewhere.

4 **CHAIRMAN CARTER:** I will come back to you.

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

6 **CHAIRMAN CARTER:** Commissioner McMurrian.

7 **COMMISSIONER McMURRIAN:** Thank you.

8 And I was really going to take the opportunity to ask
9 a few questions. I will do that, as well, but I will go ahead
10 and say, since we are making some comments, that I do agree
11 with, I think, probably all of what I'm hearing so far, but I
12 definitely agree with the 20 percent by 2020. That is where I
13 am, too. The rate cap, I think we need to talk a little bit
14 more about that, and I have a couple of questions aimed at
15 that, but I think we are -- it sounds like we are gaining some
16 consensus here, so I'm very pleased to hear that.

17 I heard Susan Glickman say it was a historic day, and
18 I'm starting to think it is even more of a historic day, that
19 when we started this it was hard to believe we could ever gain
20 this much consensus as perhaps we already have accomplished
21 this afternoon. So I'm very happy about that.

22 I will say that I do have -- at least I believe I
23 have a preferred strategy. I prefer the staff approach under
24 the Attachment A. And I didn't come by that easily, and I will
25 say to Commissioner Skop that I did appreciate the proposal

1 that you put forward. And no matter -- you know, I have heard
2 some rumblings and definitely some concerns, and I think
3 legitimate about things coming in late and people not being
4 prepared to speak to them, but that really wasn't my concern.
5 Because in my world, if you get a good idea, it doesn't really
6 matter how late it comes. And so I will say that I did give it
7 some thought.

8 I probably can't articulate that well, you know, how
9 I have come to that conclusion because, again, I have sort of
10 gone back and forth. And I think, as some of the other
11 Commissioners mentioned, there are sort of pros and cons to
12 each. And I think we can talk about a few little things here
13 that perhaps we can tweak, and definitely the staff approach
14 didn't include 20 percent by 2020 and yours did. And so,
15 definitely, I'm there.

16 I think in moving to a 20 percent by 2020, I know
17 that staff has said in a few places in the recommendation that
18 we would need to look at moving the review period from five
19 years to three years, or at least three years, and perhaps
20 looking at what to do about the penalty authority. And I think
21 Mark mentioned a specific statute, so we'll probably need to
22 talk about some of those things more, too. But generally it
23 sounds like, Chairman and Commissioner Argenziano, I'm in
24 agreement with you. But if it is the appropriate time I will
25 go ahead and ask a few questions that I had.

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

2 **COMMISSIONER McMURRIAN:** Thank you.

3 **CHAIRMAN CARTER:** And after you we'll go to
4 Commissioner Edgar.

5 **COMMISSIONER McMURRIAN:** Okay. Earlier, when Gulf
6 Power was up we were talking about -- he mentioned the cost
7 containment issue. It was Mr. McGee from Gulf Power, and I
8 mentioned then that I would probably have a question, so you
9 all probably knew this was coming. But he referenced 7(c) of
10 the Staff Draft A on Page 64. And I don't have his exact
11 wording that he was throwing out, but I just wanted to raise
12 it. And I know you all remember where we referred back to
13 Section 5(d), and I wanted to get staff's opinion on that. I'm
14 just not sure I understand.

15 **COMMISSIONER EDGAR:** Can I get the page again?

16 **COMMISSIONER McMURRIAN:** Page 64.

17 **COMMISSIONER EDGAR:** Thank you.

18 **MR. FUTRELL:** Commissioner Edgar, it's Lines 10 and
19 11.

20 And, Commissioner McMurrin, I think that's a good
21 point. That certainly was staff's intent was to show that what
22 would be reflected in the renewable energy charge would be what
23 is shown in 5(d), which is on Page 62, which includes the costs
24 associated with the purchase of RECs as well as the incremental
25 costs associated with -- the costs, the administrative costs

1 with the REC market and the incremental cost of the self-build
2 alternative if the utility were to build one.

3 **COMMISSIONER McMURRIAN:** So I think his point was
4 that the way it's worded in 7(c) might suggest that it's just
5 the cost of renewable --

6 **MR. FUTRELL:** Correct.

7 **COMMISSIONER McMURRIAN:** -- energy credits
8 themselves. So we need to make sure it's the list of the three
9 things.

10 **MR. FUTRELL:** That was staff's intent, so that is a
11 good catch.

12 **COMMISSIONER McMURRIAN:** Okay. And I think I'm in
13 agreement with that, Commissioners. I had some questions about
14 the -- and I've heard this, and we haven't heard it as much, I
15 think, today as we have heard it in the past, the issue about
16 the multiplier instead of the carve-out. Can you remind me why
17 staff went with the carve-out approach versus the multiplier?
18 I'm just a little fuzzy on that.

19 **MR. FUTRELL:** Well, I think we felt like from
20 listening to the discussion at the workshops that a multiplier
21 really diminishes the amount of real energy you are really
22 getting. Essentially you take any sort of a REC that you might
23 get from a solar project, for example, and then that is
24 multiplied by whatever your factor is. Let's say it's five.
25 So instead of getting, say, one megawatt hour from solar, you

1 would get five megawatt hours. But it really masks the real
2 amount of energy that's being produced. Whereas a carve-out,
3 it identifies the actual amount of real resources that are
4 being produced on the ground.

5 **COMMISSIONER McMURRIAN:** Okay, thank you. That
6 helped.

7 When Mr. Silagy was speaking to us and he mentioned
8 about supporting the 3 percent expenditure cap, and we talked a
9 little bit about that, and he mentioned retaining the authority
10 to raise it. And, again, it sounds like there may be some
11 consensus around 2 or 3, but I wanted to just make sure I
12 understand. The way I read the staff draft there would be
13 authority for us in looking in our review period, whatever that
14 review period would be, but it sounds like it might be needed
15 to be changed to three years or something more frequent. But
16 do we have the authority to raise it if we see a need to raise
17 it, and maybe in better economic times?

18 **MR. FUTRELL:** I think if in that proceeding we
19 envisioned that proceeding to be a rule proceeding where the
20 whole rule would be open for your consideration to make
21 modifications as you see fit, and one of those would be the
22 rate cap. Assuming what we ultimately get here is a hard-wired
23 rate cap in the rule, if that's what results here, then in that
24 proceeding you could change the rate cap in that context.

25 **COMMISSIONER McMURRIAN:** Right. And it's hard-wired

1 in the rule right now?

2 **MR. FUTRELL:** Correct.

3 **COMMISSIONER McMURRIAN:** I can't remember exactly
4 where, but I thought I remembered it in there. Okay.

5 I guess one point -- I'm not really sure if it is a
6 question. Mr. Ashburn from TECO was one of the first ones to
7 talk about the federal RPS, and I think Ms. Glickman did, as
8 well, or some other speakers. At some of the NARUC meetings,
9 for instance, they've talked about Senator Bingaman may be very
10 well introducing something that has a federal RPS, and it
11 sounds like to me it's probably not going to be as broad of a
12 definition of what we have in Florida, and so some of our stuff
13 wouldn't count. So I'm not really sure there's a question in
14 that anywhere, but I do think that's a concern.

15 And I guess my second thought to that would be I
16 think as we go forward in doing our part to enact whatever the
17 Legislature gives back to us, that we can also look at doing
18 what we can at the federal level through letters to Congress
19 and things like that to try to make sure that what Florida has
20 is included, if at all possible, to try to reduce the cost as
21 much to the ratepayer, given that it sounds like it's likely
22 they will be doing something.

23 Mr. Cepero, I was looking through his type and
24 strike, and there were two or three questions that sparked --
25 so let me see if I can find that. On Page 4 of his handout, I

1 noted that he included the line, "To the extent the Class 1
2 renewable energy sources are not available to supply the full
3 25 percent of the RPS, then Class 2 sources shall be used to
4 supply any shortfall." And I had not really thought about that
5 before, and I wanted to ask the staff what does happen if
6 there's not enough Class 1 renewables to meet that 25 percent
7 under staff's draft as it is? I mean, would it be that the
8 rest would be made up -- could be made up by Class 2, or is
9 this just presumed not be a problem?

10 **MR. BALLINGER:** I don't think there's any prohibition
11 on making it up with Class 2, or the alternative could be
12 another reason or ask for an excusal for that portion of it
13 since you have made a carve-out for Class 1. So I think
14 there's two options. You could go either way. Either ask for
15 an excusal for that Class 1, if you will, RPS, since there's
16 not enough there, or allow Class 2 to make it up.

17 **COMMISSIONER McMURRIAN:** Okay. And do you think that
18 what we send over needs to nail that down in some way, or do
19 you think we are better off leaving that -- probably the way
20 I'm asking my question might suggest that I -- it's not
21 something that I had given any thought until I looked over this
22 again today.

23 **MR. BALLINGER:** It's possible it could. I think it's
24 one thing that could be done within the review proceeding
25 during the implementation plans. When we are reviewing these

1 things, it will come up periodically.

2 **MR. TRAPP:** One thing, Commissioner McMurrian, that
3 hadn't been addressed in meeting the 20 percent by 2020 is the
4 extent to which the Commission wants to establish interim goals
5 to 2020, and I think your question on this point really relates
6 to that. Because if we're going to rely on a three-year
7 review, then it seems to me that you can't have interim goals
8 that overlap a three-year review. If, however, you're going to
9 use this fungibility language that may be more consistent with
10 a year-to-year type approach -- but I am driven by the words
11 that staff used on Page 3 of Mr. Cepero's type and strike. It
12 says, "At a minimum, 25 percent of renewable portfolio
13 standards shall be provided from Class 1." That sounds like a
14 mandate to me.

15 So in order to excuse oneself from a mandate, I think
16 Mr. Ballinger is correct, you have to get permission. And,
17 therefore, the question then becomes do you want the review to
18 be the only place in which they can get that permission, or
19 there are some other language sets that we have used in the
20 rulemaking that allows you to do it in the annual cost-recovery
21 clause proceeding.

22 So I think there are many options that you could use.
23 I think the importance is that when you make these major
24 decisions about the three-legged stool, the percent, the
25 timing, and the rate cap, they are going to drive these things.

1 And given what we have got, I don't know how much we can beat
2 this dead horse to sleep to tell you the truth, because it's
3 going to require a real fine-tuning based on your policy drive.

4 I tend to understand the issue that has been raised
5 by Mr. Cepero, and I think it's a good point. But it's a level
6 of fine-tuning that I'm not sure we are at yet. So I guess
7 what I'm saying is once you have got the big three, then I
8 think it's up to whoever the ultimate policymaker is, and in
9 this case it may be the Legislature, to take some of these
10 concepts and coddle together a more specific rule. But I have
11 got to have the big three before I could answer your questions
12 on the little pieces.

13 **COMMISSIONER McMURRIAN:** Well, you have brought up
14 something I did want to ask about, and I guess it's the right
15 time. I wasn't sure when to ask it. But if there is some
16 consensus for 20 percent by 2020, and it sounds like there
17 might be, what is staff's recommendation for the steps?
18 Because I don't think that's in here anywhere, since you are
19 recommending 20 percent by 2041. When would the start date be,
20 and that was a point that Mr. Cepero raised, too.

21 **MR. TRAPP:** Well, you know, to be consistent with our
22 position on Issue 1, my recommendation would be 2017 would be
23 the first point. That gives us plenty time to get there and
24 then time for a five-year review. If, however, you want to be
25 really aggressive with the 2020 and establish the year-by-year

1 goals that are established in Issue 2, I think we were looking
2 at it earlier today, and I think we were thinking that, you
3 know, 2012 would probably be the most complete and nearest term
4 year of revenues -- or, excuse me, sales that we could measure.

5 I have heard a lot of talk here today about 2010. We
6 think that's too soon for the full REC compliance market to be
7 in place. We would make the first measurement point -- I think
8 we were discussing 2012. Now, if you want to have your goals
9 after that, that's fine.

10 In combination with that, I want to remind you that
11 we don't have to wait until 2012 to see what's happening,
12 because this rule also says within 180 days you will kick off
13 your first RFP, and you will file implementation plans, and you
14 will start showing us how you are going to reach that 2012 or
15 whatever year date that you're proposing. So, you know, this
16 rule, whenever it's ratified, is going to kick off 180 days
17 after that with an RFP. We are going to have a big -- what did
18 you call it, Tom?

19 **MR. BALLINGER:** The Fair.

20 **MR. TRAPP:** Fair. We're going to have a big
21 Renewables Fair in 180 days and everybody is going to come to
22 the table and tell us what they can do, and we're going to tell
23 them how much money we can spend.

24 **CHAIRMAN CARTER:** It's going to be something else.

25 **MR. TRAPP:** So come to the Fair. In the meantime, we

1 are going to be working hopefully very close with the industry
2 to get together all the pieces of a market. So, bottom line, I
3 think staff is at this point of recommending 2012 the first
4 compliance year. If you want to do annual goals from there,
5 that's fine. With 20 by 2020 we were looking at, I think, 6 or
6 7 percent in 2012.

7 **MR. BALLINGER:** Bob's right. If you did take the
8 20 percent by 2012 and ramp it back, by 2012 you are looking at
9 about a 7 percent RPS as your compliance target.

10 **COMMISSIONER McMURRIAN:** And do you all have a
11 recommendation for the steps in between?

12 **MR. BALLINGER:** Of how long it would take?

13 **COMMISSIONER McMURRIAN:** No. I mean, in other words,
14 I know Attachment B had more of a yearly date.

15 **MR. TRAPP:** Basically, we have looked at picking up
16 Attachment B at 2012.

17 **MR. FUTRELL:** I think staff would recommend that that
18 progression you see in Attachment B on Page 74 that that would
19 work.

20 **COMMISSIONER McMURRIAN:** Okay, thank you. That's
21 what I was asking you. I do have a few more, I think. One of
22 the other -- and I think we have sort of been talking about
23 this, and definitely there has been some discussion about which
24 option allows us to get there faster. There has been some
25 discussion about that, and some questions from Commissioner

1 Skop about that, as well. And I've heard that it would take
2 longer to get staff's approach up and running, Option A versus
3 Option B. I guess I also seemed to think that in practice in
4 dealing with standard offer contracts they don't necessarily
5 move as fast as we'd like them to move, and I won't go any
6 further than that.

7 But I did want to ask about the dates, since
8 Mr. Cepero had brought it up about the 90 days that we would
9 get the administrator up and running, and the 180 days, and
10 just talk about those. I don't have a feel for how many days
11 that takes. Do we have an idea? I mean, how did we come up
12 with those kinds of numbers, and do we feel like -- it may be
13 that we could do it faster, but we don't want to hamstring
14 ourselves to do anything any faster than that. I mean, what
15 was sort of the analysis behind those numbers?

16 **MR. BALLINGER:** It started out as more aggressive
17 dates and, quite frankly, the stakeholders, the utilities in
18 particular had a heart attack about developing something,
19 because it is a massive undertaking to come up with this to get
20 it right, and so we backed off of it to make it 180 days. So
21 we are trying to feel -- we really don't have a feel. We went
22 through the RTO experience of trying to get approval of a
23 governance structure for an RTO, and that took several months.
24 I don't know if it ever really got to a point where it could
25 even come for approval, so we're kind of open-ended. We didn't

1 hear a lot of negative comments about it today, so maybe we are
2 getting close.

3 **COMMISSIONER McMURRIAN:** Okay. And that's the only
4 thing I could remember. Actually, I was thinking about the RTO
5 thing, too, because I used to sit in some of those meetings,
6 but I have no idea how long it was. But I do remember that
7 there were -- it was definitely at least months in discussing
8 how to accomplish the governance. In fact, a lot of discussion
9 on just who sat on the advisory entity.

10 Okay. I think that's almost it. One other question
11 from Mr. Cepero's document. On Page 13, where he struck the
12 term customer-owned and replaced it with nonutility Florida
13 energy resources, two megawatts or less. And I just want to
14 know what would be the implication of striking customer-owned
15 and saying nonutility? And that's in Part G, I'm sorry, on
16 Line 6.

17 **MR. BALLINGER:** The only thing I can think of is
18 perhaps it's an out-of-state company that owns it and not the
19 actual customer owns the facility, but I don't see the
20 difference real quickly.

21 **COMMISSIONER McMURRIAN:** Mr. Trapp.

22 **MR. TRAPP:** The only distinction I can see there is
23 customer-owned implies that there is not going to be an
24 improper retail sale on-site. Nonutility may open the door
25 for -- I would hope that that wouldn't let anybody interpret

1 that to be a Commission waiver of the PW Ventures ruling
2 without expressed statutory authority to do so.

3 **COMMISSIONER McMURRIAN:** Okay. That was enough for
4 me to not go any further. I do remember that case.

5 **MR. TRAPP:** Yes.

6 **COMMISSIONER McMURRIAN:** Well, I mean, it just struck
7 me as is customer-owned essentially the same thing as
8 nonutility? Was it in some way more restrictive to say
9 customer-owned, and I guess I didn't fully understand the --

10 **MR. TRAPP:** This language was pretty much taken out
11 of our net metering rule as I recall, and I think that is the
12 language that we were comfortable with there, and so we went
13 with it here. Again, I'm not sure there is that much
14 distinction between the two, but it does raise that enigma to
15 me about --

16 **COMMISSIONER McMURRIAN:** Okay. I appreciate that. I
17 think, Mr. Chairman, unless there was something else. I think
18 that's it for now. Thank you.

19 **CHAIRMAN CARTER:** Commissioner Edgar, you're
20 recognized.

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

22 And following along the lines of the comments
23 Commissioner McMurrian opened with, much of what I was going to
24 say has already been said, and Commissioner McMurrian asked
25 most, maybe not all, but most of the questions that I was going

1 to ask, and so I think that goes in line with your comment
2 about consensus. If you have already said everything that I
3 was going say, then maybe we are thinking along the same lines.

4 But, of course, since I have the opportunity, I would
5 like to say that similar to what I think I have heard now from
6 each of my fellow Commissioners of setting the RPS percentage
7 and timing at 20 percent by the year 2020 is also what I think
8 is the right thing for us to do today. I do recognize that
9 that is the words of someone earlier; I see it as a stretch
10 goal, but I also see that as part of the purpose.

11 I do have some thoughts about some of the other
12 pieces of the overall rule that is before us in draft language,
13 and I will touch on those. But, also, as our Chairman said in
14 his comments, I see the rate cap issue as being a very
15 important component. I mean, they are all important, but I see
16 that absolutely as a very important component both to give some
17 certainty to the marketplace as to how much we are talking
18 about and how much the state is committing, and also certainly
19 for protection to the ratepayers, and just as each of us has
20 talked about the balance that we are striving for.

21 Also, as Commissioner Argenziano said, I think we
22 have built in conjunction obviously the work of the staff and
23 the contributions that everybody has made to that has worked to
24 build a framework. I know it certainly helped me to be able to
25 pull out issues and look at each of them that are pieces of

1 this, which I think is in keeping with the framework
2 description, and that that will be helpful to the Legislature
3 and to others who be will participating in that process.

4 And with that I think coming up with a way -- and I
5 may look to staff to this, and certainly to each of you as to
6 how to best put a package together to send. But, as
7 Commissioner Argenziano always reminds us, looking at the
8 language of the statute it says that we shall -- and I quote,
9 "Present a draft rule for legislative consideration." And by
10 saying "present a draft rule," I think that that makes it, in
11 my thinking, incumbent for us to express a preference from this
12 body by virtue of our statutory considerations, affordability,
13 reliability, et cetera. But yet I do think that that should
14 include, to the best that we can package it all, the other
15 proposals and the pieces that have gone into that.

16 And I would include with that as we move a little
17 further through our discussion probably part of what is
18 described in Issue 3 as something that we have looked at, that
19 we have heard testimony about, and that we have taken comments
20 on. And if we do as I think we going -- I'm hearing from
21 everybody, support, propose, and recommend in our draft 20 by
22 2020, then to give additional consideration, or to suggest that
23 the Legislature consider considering energy efficiency, and
24 DSM, and nuclear, and maybe other technologies to help us move
25 aggressively and affirmatively towards that 20 by 2020, I think

1 is something that should be considered. And that's the way I
2 would kind of describe it and look at it.

3 I do also think and agree with efforts to protect
4 other Florida industries. We are certainly, as a goal, looking
5 at economic development, job creation, and bringing in new and
6 clean technologies. But I also feel strongly about protecting
7 our forest resources, protecting industry in North Florida in
8 particular, and also high regard for our silviculture industry
9 and the jobs that it does provide. So, again, I'm not exactly
10 sure how to do that, but I do see that as a goal. We have
11 heard testimony about that specifically and that has resonated
12 with me.

13 So let me make sure that Commissioner McMurrin -- I
14 almost called you Katrina -- that Commissioner McMurrin hit
15 all of my questions. And I think, Mr. Chairman, if I can --
16 and I will do it quickly, I promise -- if I can maybe run
17 through some of the issues.

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

19 **COMMISSIONER EDGAR:** Thank you.

20 I want to especially commend and thank Commissioner
21 Skop for the work that you have done, and for putting out some
22 other concepts, and also putting some meat on those bones. I
23 think that it has been very helpful to my educational process
24 to be able to have kind of two different strategies to put next
25 to each other to help me work through the issues, and I think

1 the overall product, whatever we end up with, is better for
2 that. And I really do appreciate that. It has helped me.

3 So, general concept, I do think that I am probably as
4 a preference more comfortable with Strategy A for a couple of
5 reasons. I do have some concerns about getting bogged down in
6 the standard offer contract process, simply because that has
7 been my experience in the past four years. I would love to say
8 that that will not always be the case, and I certainly will
9 work for that individually, but that has been my experience.

10 I also do have some concern with the annual goals. I
11 think that maybe some groupings -- and I'll touch on that.
12 Commissioner McMurrian raised my question about maybe some
13 interim goals. And so with that, a general concept of Strategy
14 A, 20 percent by 2020 is where I think we are, where I am; I
15 would put out there some interim goals as our staff has
16 suggested, probably 6 or 7 percent, probably 7 by 2012 is what
17 I'm thinking right now. Again, looking at some stretch, but
18 also wanting to have something on the books or that we are
19 recommending that we do see as achievable with everybody
20 buckling down and diving in. And I also think that that is
21 consistent with a frequency of review -- and I would change
22 that in Strategy A to every three years, which I think I have
23 heard some discussion about today.

24 Also, I would recognize that with that frequency of
25 review, I think it is in there, in that version, if it's not, I

1 would add it, that review every three years or at -- and with
2 the addition of at Commission initiative any other time.

3 The rate cap, we have had some discussion. We have
4 heard a couple of different numbers, so I hope we will have a
5 little more discussion about that. My thinking before I walked
6 in today was probably 2 or 3 percent or in-between. We have
7 heard 1, 2, 3, 5, 10. There again, it's not -- some of it is
8 kind of a gut level, you know. So I welcome some discussion
9 about that.

10 I just go back and forth in my own mind about the
11 carve-out and what is the right way to go there.
12 Philosophically, I'm not generally predisposed to carve-outs,
13 but yet I do recognize the language in the statute that
14 discusses preference and encouragement for solar and wind, and
15 also some of the different economic and technological and
16 resource conditions there, and that we are trying to kind of
17 give that industry a positive push.

18 And, again, in keeping with what we have talked about
19 the silviculture industry in North Florida, so maybe 50/50. I
20 think that has been suggested. We have heard none, we have
21 heard 25/75. I'm kind of at 50/50, but I welcome discussion
22 about that. I think what that would do is recognize, again, a
23 desire to encourage investment in the solar and wind industries
24 in this state, but would also recognize the lower cost now of
25 biomass, and that's what I'm trying to -- that's what I'm

1 trying to say with that suggestion is the recognition of both
2 of those two things.

3 I think that for -- I like having a penalty
4 provision, not because I like giving penalties, but because I
5 do think that that bolsters the purpose of this, which is that
6 it is not just a goal, it is a strong directive. And I also
7 realize that we would be, again, reviewing every three years or
8 at our initiation under what I'm kind of talking about. And
9 that there would be -- and I think there is language in
10 Strategy A, and I will look to staff to clarify that for me if
11 need be, what I would call as a safety valve. In other words,
12 for good cause shown by any of the regulated entities, for good
13 cause shown then that penalty provision obviously would not
14 apply. I think that's in there, and that's the way I would be
15 comfortable with it working.

16 We have heard some discussion about the cost-recovery
17 provision. I think I'm comfortable with that to the extent I
18 am ever comfortable with cost-recovery clauses. And I think
19 that the suggested change that Commissioner McMurrian pointed
20 out from one of our presenters, that change on Page 64 that we
21 have discussed, that makes sense to me, so I would add that in.
22 And then I have already talked about Issue 3. My thinking is
23 as the package that we send over, that that should be discussed
24 as something for potential additional consideration, especially
25 with the aggressive goal. And I think I have touched on all of

1 my comments, Mr. Chairman, but if I realize I forgot one I may
2 ask to be recognized again.

3 **CHAIRMAN CARTER:** We will do that. And we are in the
4 comment phase.

5 With that, Commissioner Skop, you're recognized for
6 comments.

7 **COMMISSIONER SKOP:** Thank you, Mr. Chairman. And I
8 appreciate all the comments of my colleagues. And I have
9 listened to them, and hopefully I can address a few or perhaps
10 add some value to the discussion, the good discussion that each
11 of us has had so far.

12 If I could refer my colleagues to the current version
13 of the draft rule that I guess was handed out today. I want to
14 go back to a point that Commissioner McMurrian briefly touched
15 upon about the Commission's ability on a forward-going basis to
16 increase or decrease -- I'm sorry, it's on Page 4 of the draft
17 rule. And I apologize, this is not really a complete draft
18 rule. It has got a good framework, but there are some holes
19 that would need to be filled in consistent with a lot of
20 discussions we have had and the comments today, but it is
21 pretty solid.

22 But at least on Page 4, on Paragraph 4 that I have
23 entitled consumer rate impact protection, I think that is some
24 of the language that, you know, I had asked our staff to add to
25 the extent to address Commissioner McMurrian's concerns that,

1 you know, you set the initial rate cap, like each -- I'm going
2 to parse the language -- each investor-owned utility shall
3 establish a renewable energy charge initially set at 2 percent
4 of each investor-owned utility's annual revenue from retail
5 sales of electricity for the prior year, and then how it would
6 be included, like a line item.

7 But, basically, the Commission on its own motion or
8 as part of the annual proceeding under the renewable energy
9 cost-recovery clause may increase or decrease the renewable
10 energy charge, but in no instance shall the charge be less than
11 2 percent. So you have the ability to increase or decrease on
12 your own motion or on an annual basis, but you also have a
13 floor to protect the utilities that have contractual
14 commitments.

15 When increasing or decreasing the renewable energy
16 charge, the Commission shall take into consideration prevailing
17 economic conditions and the rate impact to utility customers.
18 And then you would have a repeal provision, upon repeal of this
19 rule due to changes in state or federal law, the renewable
20 energy charge shall continue at the minimum percentage
21 necessary to fulfill previously approved contracts and
22 commitments.

23 So I think it encompasses pretty much the concern
24 that Commissioner McMurrian had had about do we set a rate cap
25 and leave it forever, or does the Commission have flexibility

1 to adjust upward or down, and what criteria are used, and what
2 criteria must the Commission apply when it takes such action.
3 And then you have that floor that keeps the revenue stream
4 there, and also you have a repeal provision or a sunset
5 provision. So I thought that was a good comment by
6 Commissioner McMurrian that I wanted to touch upon.

7 The other thing that escaped discussion, and then I
8 will briefly go through some other highlights, but is the solar
9 rebate, I guess, idea. And I just wanted to bring some
10 perspective to that. I see Mr. Susac from the Energy Office in
11 the back there. I know that they have had a very good program
12 in place. They have been fortunate enough to receive
13 legislative appropriation. However, the demand for rebates
14 exceeds the amount of funding in today's budgetary crisis.
15 Again, being able to offer those rebates either at a state
16 level or through the utility, I think, is critical in terms of
17 some of the concerns we have heard from each of the respective
18 stakeholders as well as the Navigant study of trying to do the
19 worthy cause of expanding distributed solar generation
20 throughout the state.

21 And, basically, Provision 6 on Page 6 of the draft
22 rule basically articulates along the concept that was presented
23 at the December 3rd Agenda Conference that a total of 5 percent
24 of the renewable energy charge, or the revenue cap, if you
25 will, shall be directed by the utility to provide rebates for

1 those projects that are able or fall under the existing
2 Commission's net metering rule. And it has the -- a table of
3 the existing rebates that are currently offered by the
4 Governor's Energy Office and the class. They apply to
5 residential as well as commercial. There are rebates for solar
6 PV at \$4 per watt, or 4,000 per kilowatt, solar water heating,
7 and solar pool heating, and those are the things that I think
8 the stakeholders -- I know Commissioner McMurrian and I think
9 Commissioner Edgar, as well as Commissioner Argenziano, and the
10 Chair have all thought that that was a good idea in the past to
11 promote, you know, solar thermal and solar PV.

12 So I thought that that was a good idea. Again, there
13 was not a footnote that I meant to include that would --
14 another option in having the utility do it would be to allow,
15 you know, the Legislature to continue to give that amount of
16 money to the Governor's Office, or whatever appropriate agency
17 would be necessary to administer those rebates.

18 But just to put that into perspective on what could
19 be accomplished with just using a small amount of the revenue
20 cap, that 5 percent. Basically, that would translate at a
21 2 percent rate cap to over \$18 million per year. And applying
22 the solar PV rebates, that rebate program could stimulate the
23 deployment and installation of approximately 4.63 megawatts of
24 solar PV throughout the state, distributed solar generation on
25 an annual recurring basis. So in three years you would have

1 over 12 megawatts of solar for a one-time payment.

2 Yes.

3 **CHAIRMAN CARTER:** Let me interrupt you on this. And
4 this is where I think we had this discussion before, and
5 Commissioner Argenziano having served in the Legislature knows
6 that, you know, once you send money over there, you know, it
7 may go anywhere but where you want it to go. So that gives me
8 the willies. That's a technical term. Is that -- I mean, it's
9 a good plan, but I just don't think we could control it once we
10 did that, because we don't have authority to do line items. In
11 this budget environment that we are currently existing in, in
12 my opinion, it wouldn't be fair for the ratepayers, for the
13 investor-owned utilities to subsidize the whole state budget.

14 So it's a great idea and all like that, but I just
15 don't think that we could control these provisions to
16 specifically designate them to go to the Governor's Energy
17 Office. And I don't know if we've talked about that, but that
18 is what gives me a great concern about that.

19 **COMMISSIONER SKOP:** I understand. That's why the
20 footnote is not there, with all due respect, Mr. Chair. You
21 know, that would be an alternative option. But as written, and
22 I think even as staff has incorporated, that instead of doing
23 it through the Energy Office as it's currently done, the
24 utilities do it under the draft rule not only in Attachment B,
25 but also in the attachment that my colleagues are looking at.

1 But, again, I think the benefit of that is
2 encouraging distributed generation throughout the state. But
3 another benefit of having the utilities do it is it is directly
4 applicable to only their customers in their service area. So
5 they would take 5 percent of the annual rate cap and be able to
6 do that in lieu of the rebates that are no longer adequately
7 funded. But, again, just as a -- you know, to throw that out
8 there just as part of the discussion, because, again, I
9 think -- I'm not bound to that. It's just an idea.

10 **CHAIRMAN CARTER:** I was just saying that, because I
11 think that's when my mind got -- you know, having worked in the
12 Legislature, and Commissioner Argenziano having served there,
13 is that, you know, once it comes in, then the appropriations,
14 the Speaker, and the Senate President determines pretty much
15 where everything goes from that point on. Even as we speak now
16 they are taking trust funds. They are raiding trust funds, so
17 I get real nervous.

18 **COMMISSIONER SKOP:** Well, I think that's why staff
19 wrote it in the manner in which they did instead of trying to
20 get it into the state budget only to have it diverted. The
21 staff and I discussed about the possibility of having the
22 utilities offer the rebates directly using funds that would be
23 provided in the revenue cap. And, again, having the utilities
24 do that does have some benefits because it avoids the very
25 problems that the Chair has spoken to.

1 But, again, it encourages that distributed solar PV
2 generation throughout the state, and does have a -- if the
3 demand is there, it would have a substantial impact on
4 addressing some of the stakeholder concerns about are the small
5 mom and pop solar PV developers going to be left out of this
6 process, and also doing that distributed generation. But, you
7 know --

8 **CHAIRMAN CARTER:** And let me follow-up with you,
9 Commissioner, because -- and the reason I was -- Part A was
10 what I just stated why that gave me the willies. The other
11 thing is that as we look at this carve-out, remember I think I
12 mentioned when I was talking about Class 1 and Class 2, and as
13 we look at Option A, we can look at those and still accomplish
14 the same thing without, you know, putting a big bull's eye on
15 some resources out there.

16 And, I mean, it could be -- and in my comments I said
17 it could be 50 percent, but it really -- you know, it really
18 doesn't matter. But at least there will be a carve-out or
19 there will be resources available for solar and wind there.

20 **COMMISSIONER SKOP:** And all I was doing, with all due
21 respect, Mr. Chair, and I appreciate that, and I very much
22 appreciate the potential option that the Chair has advanced,
23 and I'm certainly willing to consider that and talk around it.
24 The only reason, again, I brought up the solar rebates is at
25 the end of the day it's -- and with all due respect, it is a

1 very much more cost-efficient way than a carve-out. I mean, it
2 could be integrated in conjunction with a carve-out, but,
3 again, it's a much more cost-effective option to consumers than
4 a carve-out to the extent that it is a one-time payment that
5 leverages the rebate, the federal investment tax credit, and as
6 well as the net metering rule that the Commission has adopted
7 that is recognized as one of the best in the nation. The
8 consideration of that is that the utility would get the
9 attributes through the net metering rule which I think is a
10 good thing. But, again, I will leave it at that.

11 And the only other thing that I just wanted to kind
12 of clarify, again, the draft rule is what it is, but on the
13 other sheet, and I'll make this very brief, on the flowpath
14 that is attached at the last page of the draft rule. And I
15 think Mr. Twomey made this comment earlier on when we dealt
16 with carve-outs, and I think it is -- yes, sir. It's the last
17 page, Page 9. This one, Mr. Chair.

18 Essentially, under the December 3rd proposal, which
19 is embodied in the staff recommendation, Attachment B, which,
20 again, does not reflect wholeheartedly some of the way that it
21 had been presented. But clarifying some of those points and
22 the concerns around the standard offer contract approach is
23 that the first step addressing the concern I heard from
24 Mr. Twomey would be to establish levelized costs by renewable
25 type.

1 So, for instance, if the Legislature or the
2 Commission deemed it appropriate to send another rule over and
3 if the Legislature ratified a standard offer contract approach,
4 the first step of the Commission would be to establish
5 levelized costs by renewable type. And that would represent a
6 not to exceed ceiling price. And the reason for that, as
7 discussed in the footnote, is that the levelized costs would be
8 established based upon the expected economic life of the
9 renewable project, whatever that would be, perhaps 25 years for
10 solar or wind.

11 And the reason for that is that this is necessary to
12 ensure that consumers would not be overpaying for the renewable
13 resource and contracts having a shorter term than the expected
14 life of the project. And without this step it would be
15 difficult to establish, I think as Mr. Twomey has mentioned,
16 the objective comparison of the cost effectiveness in
17 negotiated contracts. I think Mr. Karnas mentioned that, also.

18 And as an illustrative example, negotiated pricing
19 under a ten-year contract might reflect the full payback on a
20 project having an economic useful life of 25 years as opposed
21 to properly paying only the levelized lifecycle cost over the
22 project. And in a resource constrained environment this is
23 important because we need to maximize revenue cap resources by
24 not overpaying for resources. And a comparison to levelized
25 costs thus provides an essential check and balance for

1 evaluating any negotiated contracts, and I think that's even
2 addressed in Option A of staff's recommendation.

3 But, essentially, again, I'm not wed to a standard
4 offer contract approach. I mean, that could certainly be
5 adopted, but developed during this process that's shown on this
6 flowchart, but a negotiated contract, or bilateral contract
7 approach, or a streamlined approach as Mr. Karnas mentioned
8 could also be adopted by the Commission.

9 But the second part, and I think this is a very
10 important part that kind of got left out of the translation in
11 the staff recommendation is that once the Commission set the
12 levelized costs which would represent an absolute ceiling price
13 that a utility would be authorized by the Commission to
14 contract for, there would be a competitive bidding process by
15 renewable type, and that would contain a reverse auction. And
16 the reason for that is it would be used to obtain the best
17 pricing of capacity awards by renewable type, and it would be
18 conducted annually by each utility.

19 So, for instance, when you are giving out your annual
20 capacity awards, you would have that competitive bid, that
21 reverse auction, and say, hey, you know, we know what the
22 ceiling is, tell us how you could do better.

23 The utility would be able to participate in the
24 bidding process providing the self-build option that the
25 December 3rd proposal had alluded to, but the difference

1 between staff's recommendation and what I intended to provide
2 was that the utility cost-recovery in a self-build option would
3 be limited to the same levelized cost payment stream that a
4 competing bidder would receive.

5 Putting a quick example to this, if the levelized
6 cost determined by the Commission for solar PV was 40 cents per
7 kilowatt hour and then you had a competitive bidding process,
8 you might get a bid of 39 cents, 38 cents, a utility may walk
9 in and say we can do it for 36 cents, and then you have XYZ,
10 Acme, Roadrunner renewables that comes in and says we could do
11 it for 12 cents. Well, obviously, as Mr. Silagy has pointed
12 out, there would be significant concern by contracting with an
13 unproven vendor that promises the world and may not be able to
14 deliver. So if the utility were able to bid 36 cents under
15 that hypothetical, then that's the payment stream that they
16 would get, not full cost-recovery. Because, again, that has
17 been a --

18 **CHAIRMAN CARTER:** Hang on. Don't lose your train of
19 thought. Hang on, hang on. This is real important. Those of
20 you that are visiting with us today, in about nine minutes the
21 doors lock automatically, and you won't be able to get back in.
22 So you will have to have someone to kind of let you out. I'm
23 sorry, I should have mentioned that earlier. But they are on
24 timers and there are automatic locks on the doors.

25 Commissioner, I'm sorry for stopping your train of

1 thought, but I looked at the clock and --

2 **COMMISSIONER SKOP:** That's fine. And I'll wrap this
3 up briefly.

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

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

6 So, again, the first step -- not to be redundant, but
7 to bring us back on point, establish a levelized cost by
8 renewable type. The second part in the process would be a
9 competitive bidding process by renewable type that would
10 incorporate a reverse auction. Then the next step would be the
11 utility's review and evaluation of those bids that came in.
12 There would be vendor source selection, contract negotiation,
13 if a standard contract offer approach was not used, and it was
14 a negotiated framework, which I'm open to.

15 But the last step would be the Commission approval of
16 the renewable capacity awards and that would be done annually.
17 So, again, I think that kind of clarifies some of the concerns.
18 One other concern that I think Ms. Brownless addressed was
19 would existing projects as well as new projects be able to
20 leverage the values of the attributes. And I know that is very
21 important to those self-generators such as Mosaic,
22 Wheelabrator, and Covanta, and so on and so forth. If the
23 attributes were not already contracted for by the parties, then
24 that is a basis for contract renegotiation or monetizing the
25 values of the attributes. So, again, not really reflected, but

1 actually that is fair because, again, it's pursuant to statute.
2 But I just wanted to touch briefly. I appreciate the
3 discussion that we have had, and I'll yield.

4 **CHAIRMAN CARTER:** Commissioner Argenziano.

5 **COMMISSIONER ARGENZIANO:** A question for Commissioner
6 Skop, I guess. Maybe I would just like a little more detail.
7 I think I like your number four, your consumer rate impact
8 protection. And if you could just elaborate a little bit on
9 that for me, I'd appreciate it.

10 And then just -- you know, that's why I had said
11 there is pros and cons to both parts of these things and
12 understanding what the Legislature had asked for in a
13 recommendation. I also understand what you're trying to do
14 with the useful life of the 25 years, and I think that's
15 important information. But if you would on number four --
16 because that is something maybe we could incorporate if
17 everybody agrees in the preferred package.

18 **COMMISSIONER SKOP:** I will, and I'll do it very
19 briefly. And for my colleagues and the members of the audience
20 who have endured this long process, I think I failed to mention
21 that my beloved Florida Gators and Coach Myer in the football
22 game.

23 **CHAIRMAN CARTER:** I knew it was coming. I knew it
24 was coming.

25 **COMMISSIONER SKOP:** Won yet another National

1 Championship, so for all the Gators in the audience, let's hear
2 a Go Gators. All right. Moving on to --

3 **COMMISSIONER ARGENZIANO:** He almost forgot. I was
4 waiting.

5 **CHAIRMAN CARTER:** That was a record. He took so
6 long.

7 **COMMISSIONER SKOP:** No, I thought it was a good point
8 to bring a lighter moment to the proceeding that has lingered.

9 But on Page 4, Paragraph 4, the consumer rate impact
10 protection. Again, I just chose that title over staff's, but
11 basically what that does is kind of lay it out in plain English
12 for anyone that would take the time to read a statute or our
13 Legislature that would enact an RPS that there are hard
14 consumer rate impact protections built into any proposed draft
15 rule that we would send.

16 And, basically, what that would encompass in four
17 lines without regurgitating them is you initially set the rate
18 cap, you have the ability to increase or decrease the rate cap
19 on a motion or annually. When you increase or decrease the
20 rate cap, it tells you what express criteria the Commission
21 must consider, i.e., prevailing economic conditions and
22 potential rate impact, and then also provides a repeal
23 provision to protect the utilities that have already entered
24 into contracts. For instance, if the statute was repealed five
25 years from now, or ten years from now, there's ten years of

1 contracts that have already been entered into, and the
2 utilities need to pay for that payment stream under either
3 competing mechanism.

4 So, again, that was just my stab at some language,
5 because I agree with the Chair as well as Commissioner
6 McMurrian and my other colleagues that, you know, if we just
7 set the cap then what if. So, again, that gives some
8 flexibility to the Commission because if economic times -- if
9 we go into a booming economy and come out of a recessionary
10 environment and we are not in the midst of a huge energy or
11 utility infrastructure build cycle, then obviously the rate
12 impact would not be as great as it would be today and we would
13 have more margin to increase it later if the Commission deemed
14 to do so.

15 Briefly to your other point, establishing the
16 levelized cost. Again, just to put that in a nutshell, if
17 there were negotiated contracts, as staff has alluded to under
18 Attachment A, it's hard to distinguish the value of each of
19 those respective contracts, and that has been a problem for the
20 Commission in the past. And I have a seen a renewable project
21 in Florida to the extent that if you have an eight-year payback
22 on a project, and that's the pricing that they bring to
23 approval and we approve that, well, then at the end of the
24 eight years when that contract is done, that project is paid
25 for, but it has 16 years economic useful on top of that, which

1 is gravy. So that means we have overpaid.

2 So that's where that levelized cost based upon the
3 total lifecycle of the project is a very important benchmark
4 and metric to use as an objective comparison for ascertaining
5 the value of any negotiated contract that would be brought by
6 the utilities to the Commission to the extent that if the
7 pricing is at or below the levelized cost, then there's value
8 for the consumer, because we are fulfilling the Commission's
9 objectives and some of the consumer advocate objectives of
10 obtaining that renewable resource at the lowest possible cost.

11 Thank you.

12 **CHAIRMAN CARTER:** Commissioner, you're recognized.

13 **COMMISSIONER ARGENZIANO:** I don't know -- I guess I
14 would ask the other Commissioners what you think about that
15 Number 4 on Page 4. I don't see why it can't be, unless we
16 have a problem with it somewhere, incorporated into the
17 preferred recommendation.

18 **CHAIRMAN CARTER:** Commissioner McMurrian.

19 **COMMISSIONER McMURRIAN:** Sure. Actually, that was
20 one of the things I wanted to bring up, too. I mean, it
21 strikes me that it could work and that it might be better than
22 going through rulemaking every time to try to adjust it. But I
23 did want to ask the staff about it just because --

24 **COMMISSIONER ARGENZIANO:** Absolutely.

25 **COMMISSIONER McMURRIAN:** -- I thought it might help

1 us.

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

3 **MR. RUDD:** Chairman, we would recommend that instead
4 of it being a starting amount, make it a true cap versus right
5 now it's laid out as a charge.

6 **COMMISSIONER SKOP:** But, Mr. Chairman, to that
7 point --

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

9 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

10 How is that going to be reflected -- you know, one of
11 staff's concerns was -- and, Mr. Trapp, I think you could
12 elaborate -- was making sure this was adequately reflected on a
13 consumer's bill for the incremental price that they would pay
14 over avoided cost. So, again, to me putting a cap doesn't
15 translate to what would show up on the thing.

16 And I think what I did is I took the extra step in
17 the definition section of that to define what renewable energy
18 charge was. So if staff could briefly address that.

19 **MR. TRAPP:** Yes. We, quite frankly, embraced this
20 concept in both of the strategies of showing on the bill the
21 actual renewable energy charge, which is basically the
22 incremental or extra cost that consumers are paying for
23 renewables.

24 The point, I think, that Mr. Rudd is trying to make,
25 though, is that the wording here was that -- this is going to

1 work in conjunction with the fuel adjustment clause, and it may
2 be just a nuance, but this says we're going to go up front and
3 charge customers on the bill up front 2 percent and then see
4 how we spend the money. That's a little different from what we
5 had, which was the utility has to file a plan -- has to file a
6 cost-recovery schedule in the fuel adjustment that projects
7 their actual expenditures.

8 The two may be identical and the same. We may be
9 just talking about a hair here, but we just needed to make you
10 aware that this wording says you're going to put 2 percent on
11 the bill right away and the utility is going to spend the
12 money, as opposed the utility is going to file for approval of
13 a cost-recovery schedule for the upcoming year.

14 **CHAIRMAN CARTER:** Commissioner McMurrin.

15 **COMMISSIONER McMURRIAN:** Well, I have to say I'm more
16 comfortable with the way the fuel adjustment works just because
17 we are used to dealing with the fuel adjustment. But is there
18 a way to take that concept of --

19 **MR. TRAPP:** Oh, yes. I didn't mean to --

20 **COMMISSIONER McMURRIAN:** -- not having to go back to
21 the rule, not having to change the rule.

22 **MR. TRAPP:** Yes, staff does --

23 **CHAIRMAN CARTER:** You guys could wordsmith it, right?

24 **MR. TRAPP:** Yes.

25 **CHAIRMAN CARTER:** You know what we're saying.

1 **MR. TRAPP:** Just a small tweak.

2 **COMMISSIONER McMURRIAN:** I mean, I don't know if the
3 other Commissioners agree with that, but for me it seems like
4 if you --

5 **MR. TRAPP:** No, we thought 4 made a lot of sense.

6 **COMMISSIONER McMURRIAN:** -- pull that concept out,
7 but didn't necessarily say that you were going to be charged 2
8 percent on the bill up front and then we figure out how it's
9 spent.

10 **MR. TRAPP:** Right.

11 **COMMISSIONER McMURRIAN:** I mean, I kind of agree with
12 you. I'm at least more comfortable, for whatever that's worth,
13 I'm more comfortable with the way we usually do it.

14 **MR. TRAPP:** But the merits of this takes you, in my
15 opinion, and maybe Legal wants to get involved from a
16 rulemaking standpoint, but if you're having to review the rate
17 cap in the every three-year process through a rulemaking, you
18 know how rulemaking can be, it can be long and drawn out, as
19 opposed to the fuel adjustment clause where you all pretty much
20 make a decision every year, you know. So there's merit to
21 that, in my mind, to move that decision of if you want to give
22 yourself the ability to tweak the rate cap in the fuel
23 adjustment clause -- or, excuse me, in the renewables
24 cost-recovery clause, that made sense to staff, I believe.

25 **COMMISSIONER McMURRIAN:** That's consistent with the

1 way I see it, but I don't know about --

2 **CHAIRMAN CARTER:** Commissioners.

3 **COMMISSIONER ARGENZIANO:** I think that will work.

4 **CHAIRMAN CARTER:** It works? So, staff, you guys can
5 wordsmith it and plug and play in the right place?

6 **MR. TRAPP:** Yes, sir.

7 **CHAIRMAN CARTER:** Commissioner Argenziano, you have
8 got another question.

9 I'll come back to you.

10 Commissioner McMurrian, you're recognized.

11 **COMMISSIONER McMURRIAN:** It's actually kind of
12 related to that. In that discussion he reminded me that I had
13 some questions regarding the self-build issue, and I think the
14 question sort of ran at Attachment A and Attachment B, and,
15 quite frankly, I'm just a little bit confused about the whole
16 self-build. But I know that 6(a) addresses -- in the staff
17 draft, addresses the self-build approach and suggests that the
18 utility should seek out the least-cost option which, again, we
19 are familiar with.

20 I guess what I want to make sure I understand,
21 though, is if a utility wanted to build, for instance, solar,
22 would they be able to build solar if they wanted to do that, or
23 would they have to build a lesser cost renewable under a
24 self-build?

25 **MR. TRAPP:** My opinion of that is they would have to

1 operate within the complete context of the rule, and they could
2 only -- they couldn't build solar if something else was cheaper
3 unless they need to build solar to meet the set-aside, which is
4 a mandate.

5 **CHAIRMAN CARTER:** Commissioner Argenziano.

6 **COMMISSIONER ARGENZIANO:** Well, then how do we meet
7 the mandate of environmental concerns, also, at the same time?
8 Because I'm hearing you say, then, the self-build then has to
9 be the cheapest and not concern -- or am I mixing something up?

10 **MR. TRAPP:** No. I think, first of all, you addressed
11 your environmental concerns by establishing the set-aside for
12 solar and wind, because my understanding of the discussion was
13 that was the reason for the preference because it had better
14 environmental attributes, if you would. So within that subset,
15 if you're going to establish a 75/25 or a 50/50 -- I think I've
16 heard 50/50 set-aside for solar, utilities could build within
17 that mandate solar. But if they have met their 50 percent
18 solar mandate and they still need to get some renewables on --
19 you know, if they still need renewables to meet their
20 standards, then I want to go to the next step, and say, okay,
21 in order to go now into a Class 2 subscription, whatever, I'm
22 going to pick the lowest cost to get there. It's a subset
23 within a subset.

24 **COMMISSIONER ARGENZIANO:** And I understand that. I
25 guess what I'm saying is if you are 50 percent here and

1 50 percent here, isn't then when you move away from the more
2 environmentally friendly, and I don't know of any other way to
3 say it, aren't you then also not -- I'm trying to find the
4 exact words -- improving environmental conditions? I'm just
5 wondering.

6 **MR. TRAPP:** I believe by definition in the statute
7 all renewables have some environmental attributes. It may be
8 that some have more than others. The statute doesn't give us
9 clear guidance about how to weight them.

10 **COMMISSIONER ARGENZIANO:** That's the point. I don't
11 know if some -- in my mind, and I understand they do, but in my
12 mind the statute also says that you may give added weight to a
13 select two over all others. And I'm wondering if then when you
14 go 50/50 if you are not shifting the weight or not adding
15 weight. And it says may, so I guess that's our decision.

16 **MR. RUDD:** Well, by allowing that carve-out you are
17 essentially saying that you are saying a specific pot of that
18 money is going to be for those specific technologies, wind and
19 solar.

20 **COMMISSIONER ARGENZIANO:** I know. But we are
21 changing --

22 **MR. RUDD:** Then when it gets to that point it's
23 saying that -- you have said there is a specific pot of money
24 for wind and solar here. The utilities could do a self-build
25 up to that goal right now, which is 25 percent of the standard.

1 But once that standard was met, then they would have to pursue
2 or -- have they used all the money in that carve-out of the
3 cap.

4 **COMMISSIONER ARGENZIANO:** I know what it says. I get
5 it. I guess something else popped up in my mind. Just
6 somewhere down the line it may not make sense, but --

7 **MR. TRAPP:** If the language makes you uncomfortable,
8 quite frankly, the second part of that particular rule provides
9 additional protections, and that's the RFP bidding process.
10 And, quite frankly, I believe that this may be a strategy to
11 implement that part of the rule. This could be a strategy for
12 this part of the rule, and the Commission would have a lot of
13 control, I believe, in determining whether the utility had put
14 together a prudent RFP bid and had not loaded up the deck
15 toward the self-build option.

16 Again, the intent here was to try to ensure that the
17 utility didn't have an advantage over purchased power options
18 for renewables. That the utility didn't, of necessity, go
19 directly and take up all of the rate cap, but there was an
20 equal playing field for both. Now, maybe we tipped it a little
21 too one way, but the intent was a level playing field for both.
22 But if you feel comfortable with just the RFP doing that, then
23 maybe you don't need that first sentence. But we are so used
24 to saying buy the lowest cost that we put it in there.

25 **CHAIRMAN CARTER:** Commissioner McMurrian.

1 **COMMISSIONER McMURRIAN:** Mr. Trapp, I'm hearing you
2 say that you don't think you need Provision A, that Provision B
3 provides the protection that you think you need if a utility
4 were to self-build.

5 **MR. TRAPP:** We liked them both, but if you feel B has
6 enough protection, I, for one, I don't know, staff may disagree
7 with me, but --

8 **CHAIRMAN CARTER:** Commissioner Skop.

9 **COMMISSIONER SKOP:** Thank you.

10 And sometimes, again, I have hearing problems down
11 here, but I just wanted to ask Mr. Trapp when he briefly held
12 up the piece of paper --

13 **MR. TRAPP:** I'm sorry, that was your Page 9, I
14 believe.

15 **COMMISSIONER SKOP:** How does staff feel about Page 9?
16 If staff is able to offer some sort -- would that address some
17 of the gamesmanship that has been played in the past and ensure
18 value in terms of economically maximizing the value of the
19 revenue cap in terms of the competitive bidding process?

20 **MR. TRAPP:** I'd like to have a workshop on it, quite
21 frankly. And I'm really being serious. I'd like to have a
22 workshop on it to see if this is not the basis for an
23 implementation mechanism for Section 6(b) of our draft rule,
24 because I do think it has elements of merit.

25 **COMMISSIONER SKOP:** Thank you.

1 **CHAIRMAN CARTER:** You're still recognized.
2 Commissioner McMurrian.

3 **COMMISSIONER McMURRIAN:** I do have one other question
4 on that same point. I think it's related to that. I have
5 heard this concern about how in California they used standard
6 offer contracts and things didn't work out so well because
7 there were companies that came in and bid, and substantially
8 underbid maybe some other companies, and then when the time
9 came for them to be there they were gone, or bankrupt, or that
10 sort of thing.

11 And I know we've addressed those sorts of issues in
12 bid rules and things in the past, but how does our rule take
13 care of those sorts of things? Because sometimes the -- I'm
14 trying to find the right way to say this. I don't want to make
15 it sound like I think the self-build is always the better
16 option, and I don't think it necessarily will be, and I think
17 that there are protections there for that.

18 But how do we make sure that we get the things built
19 that we want built in order to try to meet our timelines, and
20 take care of those kinds of concerns about will the power
21 actually be there when it's time.

22 **MR. BALLINGER:** We have taken care in a variety of
23 ways in our standard offer contract rules that are currently on
24 the books for renewable generators. There's provisions in
25 there utilities put in contracts for performance milestones,

1 when you get permitting, securing bonds for either early
2 payments or for completion security, things of this nature. So
3 you have some requirements. You look at the credit rating of
4 the renewable developer. It has to be a certain level. Things
5 of that nature. There are contractual provisions you can look
6 at both either in a standard offer or in a negotiated contract
7 to try to get you some assurance that you have a real facility.

8 **CHAIRMAN CARTER:** Commissioner Skop.

9 **COMMISSIONER SKOP:** Thank you.

10 And to Commissioner McMurrian's point with respect to
11 the use of the standard offer contract in the state of
12 California. I do concur that recently when the utility has
13 been in a position to demand and strong-arm certainly there
14 have been problems and likely to, you know, just liberally
15 contracting with fly-by-night developer's offers concerns
16 because then they are not able to produce. And then if you are
17 in a mandate with a penalty provision then you are in deep
18 trouble.

19 But, historically, though, back in the, I believe,
20 early '80s, if not maybe a little bit later, standard offer
21 contracts were used extensively throughout the state of
22 California. And, as a matter of fact, if the Commission in
23 Florida had problems with standard offer contracts, I think
24 Pacific Gas and Electric SO4 standard offer contract would be a
25 good model to help resolve some of the problems we have had in

1 Florida.

2 Not that those could not be overcome on a
3 forward-going basis in the manner in which Mr. Karnas has
4 suggested and the December 3rd proposal advocates, but
5 historically PG&E has had thousands of megawatts contracted
6 under standard offer contracts. At least when I was managing
7 renewable energy projects in the state of California it had
8 nine standard offer contracts through PG&E and Southern
9 California Edison, and they were worked quite well. And when
10 there were times to do contract amendments, and negotiations
11 are always tough when you want to do something that the utility
12 doesn't want you to do. So, thank you.

13 **CHAIRMAN CARTER:** Commissioner McMurrian.

14 **COMMISSIONER McMURRIAN:** And I guess just to round
15 out, you know, where I was on all those things in that
16 discussion about 6(a), I guess the thing in generally reading
17 the sentence it sounds like sentences that we have been
18 comfortable with before, and we do operate under the least-cost
19 option generally. I guess what concerns me about it is it
20 doesn't seem to account for more things than just the cost.
21 That these other sort of noncost factors that may play into it,
22 and I guess that's what makes me nervous. I'm not real sure
23 how to deal with it other than to say to possibly delete it.
24 But I just throw that out there for other Commissioners to
25 consider, and maybe we can talk about that more, but I had a

1 couple of other things.

2 **CHAIRMAN CARTER:** Hang on a second.

3 **MR. FUTRELL:** Commissioner McMurrian, if I could
4 suggest --

5 **COMMISSIONER McMURRIAN:** Yes; sure.

6 **MR. FUTRELL:** -- one option for that as opposed to
7 that least-cost option phrase is to have it the concept of most
8 cost-effective. And that allows you to consider factors, for
9 example, if it's an apples-to-apples comparison of what may
10 come through with an RFP bid to what the utility proposes,
11 whether it matches up appropriately. That gives the Commission
12 more options to look at what they're proposing.

13 **CHAIRMAN CARTER:** Commissioner Skop.

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

15 And to Commissioner McMurrian's point, I think
16 that -- and Mr. Trapp may be more appropriate to speak to that.
17 I think that Commissioner McMurrian's concern, if I understood
18 it correctly, was that under the existing language that the
19 utility may be forced to build a lower-cost option over those
20 more expensive resources such as solar or what have you. And,
21 you know, that might force the utility to build a biomass
22 plant, which obviously would be controversial.

23 But at least the proposal on Page 9 in terms of
24 looking at established levelized cost by renewable type and
25 then a competitive bidding process by renewable type, I think

1 allows the utility to compete in each renewable type that they
2 might want to build a self-build option project in, but they
3 are going to get the same equivalent revenue stream resulting
4 from that as a developer that they would otherwise contract
5 for.

6 And I think that, you know, the Legislature has
7 previously deemed fit to have a provision in the statute that
8 authorized 110 megawatts at full cost-recovery, which FPL has
9 availed themselves of, and I commend FPL for developing the
10 three solar projects throughout our state. I think that's a
11 very good great first step. But the rate impact, again, is a
12 concern.

13 And so, again, the approach of that levelized cost
14 payment stream I think, again, becomes more of an affordability
15 option, because if you were to put something in rate base you
16 have the higher ROE, you have the carrying costs. It's not
17 necessarily a bad thing, but a utility has a lot of overhead.
18 Whereas under the concept that was advanced at the December 3rd
19 proposal, if you look at levelized costs, the components of
20 that are the capital cost of the investment of the renewable
21 facility, the variable O&M costs, perhaps a fuel component for
22 a biomass plant, and then an appropriate ROE.

23 And I would -- based on representations that solar
24 and other project developers have had in discussions, I mean,
25 some people out there are wanting to take single-digit ROEs,

1 which seems a little bit -- whatever. But, again, I looked at
2 that as providing a cost-effective option so we can maximize
3 the value of a resource constrained cap. So, again, I just
4 wanted to clarify that, and if staff would like to add to that.

5 **CHAIRMAN CARTER:** Thank you.

6 Commissioners, anything further?

7 And Commissioner Argenziano has reminded me that it
8 is against the law to beat a dead horse to sleep in Florida, so
9 I can't do that anymore. I was innocent, it was just -- my
10 evil twin Skippy is the one that actually did it, it was not
11 me. Yes, beware of Skippy.

12 Commissioner McMurrian and then Commissioner Skop.

13 **COMMISSIONER McMURRIAN:** Well, I'm just reminded that
14 Bob Trapp pointed out that it's -- you know, that kind of
15 detail is something that he would like to have a workshop on.
16 I'm not sure when that would be, and in what forum, and that
17 sort of thing. And maybe this is just too complicated to try
18 to narrow down today. But I do like the idea of changing at
19 least the most cost-effective option from the least-cost
20 option. So that would be on Line 7.

21 The other things -- and I'll switch gears, because I
22 wouldn't want to beat that dead horse, either. I just wanted
23 to touch on a few things that Commissioner Edgar brought up,
24 and make sure I sort of respond to the things she raised.

25 I do agree with starting off somewhere -- I guess

1 7 percent by 2012, and having some kind of steps. I think we
2 still need to go back to that, though, and where our steps are.

3 **MR. TRAPP:** I need to clarify that point. I was
4 afraid that I didn't communicate that properly. What we were
5 looking at was a compliance, the first full compliance year
6 would be 2012. The way this thing is written is that would
7 read by January 1st, 2013. You know, we have been quoting 20
8 by 2020. It is really 20 by 2019, because the full compliance
9 year is measured on the year before. So I want to make sure
10 that our words are very clear.

11 What we're recommending for startup there is by
12 January 1st, 2013, which would be measured on the full
13 compliance year of 2012. And if you let me, I'll argue for
14 December 31st.

15 **COMMISSIONER McMURRIAN:** That's up to the Chairman.

16 No, I just wanted to -- I'm not sure if we are at
17 that stage or not, but I think somehow starting off with
18 perhaps 7 percent by 2013, and you said that is consistent with
19 the steps in Strategy B. Commissioner Edgar, I believe, said
20 that she was more inclined to have groupings, so I think we
21 need to try to figure out what those groupings are. But I'm in
22 favor of that, and I guess we will go back to that in a minute.

23 The clean energy option I agree with somehow. Given
24 all the things we heard about what our statutory requirements
25 are, I think it is clear that we were asked to do a renewable

1 portfolio standard. I don't think that nuclear is included in
2 the definition under the statute, or some of those other
3 things, but I definitely am in favor of also saying that clean
4 energy resources is something that we might like for them to
5 consider as well in looking at that.

6 Now, to the point about IGCC, I don't feel strongly
7 about that one way or the other. I agree with Commissioner
8 Argenziano, there are no carbon capture and sequestration
9 plans, at least that we know of, on working plants. I will say
10 that I have been told that there will be some demonstration
11 projects on carbon capture and sequestration, and hopefully
12 some of those will pan out. But at this point it doesn't seem
13 like it's that important, perhaps, one way or the other to
14 include the IGCC. So I just wanted to come back to that.

15 **CHAIRMAN CARTER:** While you're getting your thoughts
16 together, we will with January 1, Bob.

17 **COMMISSIONER ARGENZIANO:** Mr. Chair.

18 **CHAIRMAN CARTER:** Yes, ma'am.

19 **COMMISSIONER ARGENZIANO:** I just wanted to say it is
20 real important to me that IGCC not be included in anything that
21 we call clean at this time.

22 **CHAIRMAN CARTER:** Got it. And I just wanted to
23 parenthetically, because you were saying that you preferred
24 December 31 --

25 **MR. TRAPP:** You don't let me get away with anything.

1 You caught me. You got me.

2 **CHAIRMAN CARTER:** I was listening.

3 Commissioner McMurrin and then Commissioner Skop.

4 **COMMISSIONER McMURRIAN:** I think I just have one
5 more. Commissioner Edgar mentioned about using the 50/50 split
6 on the carve-out, and I'm assuming that is 50 percent for --

7 **CHAIRMAN CARTER:** Class 1 and Class 2.

8 **COMMISSIONER McMURRIAN:** Right. Now, what about the
9 split -- I just wanted to raise the issue about the split of
10 the rate cap, because under the 2 percent in staff's
11 recommendation it was 75 percent of the money would go toward
12 solar and wind and 25 percent would go to the other resources.
13 Would that split of the -- and I just wanted to raise that.
14 Would it also, perhaps, under your --

15 **COMMISSIONER EDGAR:** My thinking was 50/50, 50/50.
16 But, again, I am not wed to that, and, you know, if there is a
17 better way or a policy consideration that we want to recognize
18 and talk about otherwise, I'm open to that.

19 **CHAIRMAN CARTER:** Well, I have talked about it as
20 well, and I was thinking for symmetry it would coalesce and it
21 would just make sense.

22 **COMMISSIONER McMURRIAN:** That was all I had.

23 **CHAIRMAN CARTER:** Commissioner Skop.

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

25 And given the late hour, I will try and make this

1 very brief. With respect to Commissioner McMurrian's comments
2 on the addition of the replacement of the most cost-effective
3 option, I guess I would ask a friendly whether that should be
4 perhaps add the words after that to by renewable type. But,
5 again, I'm not really sure I fully understood that. But,
6 again, most cost-effective option by renewable type would
7 preserve the ability of the utility to demonstrate that they
8 should be awarded the ability to build those more expensive
9 renewable projects if they have the technical expertise to do
10 so as a cost-effective option.

11 **CHAIRMAN CARTER:** Did you get that, Bob?

12 **MR. TRAPP:** I'm sorry, we were conferring about the
13 set-aside numbers, which we do have some concerns about.

14 **CHAIRMAN CARTER:** Oh, now you have concerns.

15 **MR. TRAPP:** Yes, sir.

16 **COMMISSIONER ARGENZIANO:** Now is the time to hear
17 them.

18 **MR. TRAPP:** I'm sorry, what was the question?

19 **COMMISSIONER ARGENZIANO:** Now I want to know what
20 your concerns.

21 **COMMISSIONER EDGAR:** May I, Mr. Chairman?

22 **CHAIRMAN CARTER:** Yes. Commissioner Edgar.

23 **COMMISSIONER EDGAR:** I'm sorry, I didn't mean to
24 speak over you. But I got it, Bob. And usually you're ahead
25 of me, so I had to point that out to Mr. Trapp.

1 **CHAIRMAN CARTER:** Okay.

2 **COMMISSIONER EDGAR:** Commissioner Skop, I think I
3 understand what you are saying, and I think I may even agree
4 if, indeed, I do understand it. My concern would be if we
5 start adding new terms, you know, how are we defining
6 cost-effective and would that need to be added to a definition
7 or a formula, in which case I think we're getting a little bit
8 ahead of ourselves in what we need to accomplish today.

9 **COMMISSIONER SKOP:** And I guess I'm fine with that.
10 I would just defer to staff to the extent that, again, that
11 kind of tracks the Page 9 that Mr. Trapp had looked at and
12 mentioned that he might want to have a workshop on. But,
13 again, to me establishing that levelized cost is very critical
14 because, again, it's hard to make an objective comparison and
15 evaluation of any negotiated contract when the terms of the
16 contracts may be five years, seven years, eight years, ten
17 years, twenty-five years. And it is very easy to do voodoo
18 mathematics to make a number look better than it is, or bury
19 that in terms and conditions. So, again, levelized cost is a
20 useful benchmark and screening device. I think it has a lot of
21 merit and addresses Mr. Twomey's concern as well as mine.

22 But the other part that I wanted to mention is I
23 really haven't chimed in on Issue 3. With respect to nuclear,
24 again, it's not part of the current statutory definition. You
25 know, certainly I'm not opposed to a footnote or a paragraph

1 within a Commission order that would basically, you know, just
2 track along the lines should the Legislature deem fit as the
3 ultimate policymaker to change the definition of renewable,
4 then certainly renewable considering nuclear that's already
5 paid for by the consumers would factor prominently towards
6 meeting those mandatory goals of 20 percent by 2020.

7 But, again, as a fellow member of the bar, again, you
8 know, the law is what it currently is. And I think that, you
9 know, if we are advocating change to statutes, certainly that's
10 within the Commission's purview, but we need to tread lightly.
11 And basically, I think, the phrasing should be if the
12 Legislature deems fit. Because, again, the ultimate
13 policymakers is my respected and esteemed colleague
14 Commissioner Argenziano, as a former Senator, used to know.

15 **COMMISSIONER ARGENZIANO:** A House member, too.

16 **COMMISSIONER SKOP:** I'm sorry. But I do share
17 Commissioner Argenziano's views. I don't know how -- you know,
18 I have had some discussions, I'm not exactly sure how IGCC
19 clean coal found its way into the mix. Maybe in the interest
20 of equity and fairness. The only project I know of in the
21 United States that actually has carbon capture and
22 sequestration is the Great Plains project, which sends the
23 carbon to Saskatchewan to pump into the oil fields. But,
24 again, that's not going to work in Florida, and I think there
25 has been some grave reservations about trying to pump into the

1 aquifer. So I would concur with Commissioner Argenziano and I
2 think the views of my colleagues that maybe it might be a
3 little bit premature to include that in our recommendation.
4 But I just think that if we are going to speak to nuclear we
5 should tread lightly. And just basically, you know, along the
6 lines of if the Legislature deems fit to change the definition.

7 One quick final question to our legal staff and
8 Ms. Helton. With respect to providing the draft rule, I'm
9 uncertain as to what cover letter -- format that would be.
10 Would that be a Commission order or a typical cover letter like
11 a deliverable, and, if so, would the various Commissioners have
12 the ability to provide comments within the body of that
13 submittal?

14 **MS. HELTON:** I hope staff will correct me if I'm
15 wrong, but it is my understanding that we envisioned
16 essentially turning staff's recommendation into a report and
17 that would go over to the Legislature with a cover letter. It
18 would not be an order that was issued.

19 **COMMISSIONER SKOP:** Okay.

20 **CHAIRMAN CARTER:** And in that cover letter,
21 Commissioner, because it's a consensus of the Commission, it
22 could be all of our signatures on there, or all of our names on
23 it, because what we're talking about --

24 **COMMISSIONER EDGAR:** Oh, no, no, no, Mr. Chairman.

25 **CHAIRMAN CARTER:** Whatever happened to all for one

1 and one for all?

2 **COMMISSIONER EDGAR:** However you would --

3 **CHAIRMAN CARTER:** Anyway, let me just say this about
4 something else. I agree with Commissioner Argenziano about
5 not -- it's kind of an oxymoron to say clean coal. But, in the
6 context there has been a discussion that we have received about
7 nuclear, and it's up to the Legislature if they want to do that
8 to get those goals. But there is a tremendous amount of
9 opportunities in terms of efficiencies. You know, we say it so
10 much to where it just becomes a trite expression, the cheapest
11 kilowatt is the one not generated, but there are a tremendous
12 amount of things that we can do towards efficiency.

13 There are great, great technologies out there. I
14 know you guys have been down to FAU, and the University of
15 Florida, and Florida State at the mag lab, and Florida Gulf
16 Coast University. A lot of the kinds of things that those guys
17 are doing down there. A lot of whizbang things that they can
18 do, and a lot of things that the companies are doing with new
19 technologies that are coming on-line to where -- I mean, smart
20 meters, all kinds of things that are coming on-line to where
21 energy efficiency can be an even greater portion of this.

22 So I feel that we -- in that context, even though
23 that's not within the confines -- in the context of us sending
24 them the rule, but also sending them all of this other
25 information, too. That gives the Legislature a basis to say,

1 well, you know what, we need to give the PSC some more tools to
2 make these things happen faster and all. And that's what --
3 and, you know, we'll just send it over under the Chairman's
4 signature so you guys can -- I'll provide you guys some cover.

5 Commissioner Argenziano.

6 **COMMISSIONER ARGENZIANO:** Yes. In regards to the
7 clean energy that we are talking about here, there is no -- we
8 are not defining or redefining anything.

9 **CHAIRMAN CARTER:** No, we're not.

10 **COMMISSIONER ARGENZIANO:** We are not adding clean
11 nuclear as a renewable, because it's not, and I don't think any
12 of us agree that it is. I think all we are doing is sending
13 that over because, again, in our mandate it does mandate that
14 we improve environmental conditions, and part of that is by
15 reducing CO2 levels. So clean energy is a very big component
16 along with renewable energy. And whether you like nuclear or
17 not, that is not the point. The point is looking at it and
18 what it is at face value. The Legislature and the Governor and
19 the wave of the country seems to be for cleaner energy. You
20 can't say clean energy and just maybe because you don't like
21 nuclear exclude it from the discussion.

22 So I am in favor of sending that over to the
23 Legislature and having them decide whether they want to make
24 that policy call. Because to me, as a past legislator, that is
25 their job to make that call, not ours. But also, just again,

1 once again, no to the clean coal, because I'm not sure there is
2 clean coal.

3 And I believe that the pilot project that was
4 supposed to be ongoing in Oklahoma, the DOE has pulled the
5 funding for that project. So that may be a long time off
6 before we find out if clean coal actually can work, and if it
7 could even work in Florida, we don't know. So at this time I
8 would say that needs to come out if we do send that.

9 And also I would like to -- I think we all agreed on
10 incorporating Commissioner Skop's consumer rate impact
11 protection with the suggestions that staff made into the
12 preferred recommendation, if we do that. And I think that's
13 all I have to say at this point.

14 **CHAIRMAN CARTER:** Commissioners, anything further?
15 Commissioner Skop.

16 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

17 I have listened to my colleagues, and I guess
18 ultimately we'll get down to making a decision as to what the
19 Commission deems fit to do, whether it is appropriate, as
20 Commissioner Argenziano has stated, to send multiple options or
21 to coalesce that into just one. I'm not sure, and I'll reserve
22 judgment.

23 I'm flexible and open to, you know, doing whatever
24 the majority wants to do. If we were to send the staff's
25 recommendation, it would be a REC-driven market, again, I would

1 just merely, for the record, express my concerns about the
2 cost, the delay and inefficiency that it would take to bring
3 such a market into existence, not to mention the annual
4 recurring costs. But, again, the concern about -- that that
5 might be used as a first step in terms of allowing the import
6 of RECs, I think those are important policy decisions to
7 consider.

8 That being said, my only other two concerns would be
9 if the staff approach in Attachment A was adopted under a REC
10 market, then, again, I think it's very important to establish
11 levelized cost to use as a benchmark, as an objective criteria
12 to make sure you know what you are getting into when you
13 approve a contract at the Commission level. And also I think
14 it is equally important to have that competitive bidding
15 process by renewable type in a reverse auction format to
16 achieve the best pricing for capacity awards. And, again, the
17 utilities could conduct that and judge that as they deem
18 appropriate.

19 Thank you.

20 **CHAIRMAN CARTER:** Thank you.

21 Commissioner Argenziano then Commissioner Edgar.

22 **COMMISSIONER ARGENZIANO:** And, I'm sorry, I just
23 wanted to respond. And with all due respect to Commissioner
24 Skop, I think you did a lot of work on this, and there is a lot
25 of pros in this, and that's why I really feel it's necessary to

1 send -- if this Commission decides that the staff's
2 recommendation with the changes is the preferred method, I
3 still want to send along with it, because I think it is
4 important that we heard today that a lot of people felt that
5 were pros, and there are.

6 But I just wanted to say one thing, and it is just
7 really to explain that while you have indicated that the other
8 version may go slower and may take longer, I think that the
9 pros -- one of the pros of yours may move it more rapidly, but
10 I'm not sure that once -- you know, will it really get the
11 faster implementation, will it be challenged forever. So I
12 have some real concerns about the speed of that, too.

13 So in saying that, I still want to make sure that,
14 you know, we include, if that's the way -- I don't know how we
15 are going to go here, but I think I see how it's going to go,
16 and if that is the case, we are still sending those
17 recommendations or those ideas that have been expressed here
18 today, whether it's in staff's recommendation, or in the B
19 recommendation, that all of those things be taken into
20 consideration. But I'm not so certain that the standard
21 contract approach would not be delayed forever, also, and that
22 is a real concern I have had.

23 **CHAIRMAN CARTER:** Thank you.

24 Commissioner Edgar, you're recognized.

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

1 I do have a question I would like to put to staff,
2 and I think this follows up where Commissioner McMurrian was,
3 and maybe where I was, too. Anyway, some of the things we have
4 talked about. And this is coming back to the carve-out issue,
5 and how to distribute that then within the rate cap. And I had
6 thrown out 50/50 for Tier 1, Tier 2, and was asked about the
7 dollars tracking that, and I think I heard that staff had some
8 additional comments on that. And if you do, then I would like
9 to hear them. And if you don't, okay.

10 **MR. TRAPP:** I think staff's concern is more toward
11 the amount of energy that's represented by 50 percent. That's
12 3.5 percent solar by 2012 measurement year, and then --

13 **COMMISSIONER EDGAR:** Solar/wind, right?

14 **MR. TRAPP:** Solar/wind, yes. And then that would be
15 10 percent by 2020.

16 **COMMISSIONER EDGAR:** And as far as achievability?

17 **MR. TRAPP:** That's a whole lot of solar.

18 **COMMISSIONER EDGAR:** Point well taken.

19 **MR. TRAPP:** But the money part of it, I'm less
20 concerned how you split the money. But we felt that the
21 25/75 mix for solar, 25 percent energy and 75 (inaudible)
22 represented a relationship that was being shown to us in the
23 workshops with regard to the monies they needed up front. And,
24 again, I think the anticipation is that that 75 percent of the
25 money will go down over time as their price drops. But they

1 have a higher requirement for, you know, the money up front in
2 order to get the business established, and that implies to me a
3 lower energy contribution up front with higher money
4 requirements, and those relationships hopefully will reverse
5 themselves over time. That's what we were thinking originally
6 when we proposed the 25/75.

7 **CHAIRMAN CARTER:** Commissioner Argenziano.

8 **COMMISSIONER ARGENZIANO:** So then what you are saying
9 is that if we did a 50/50, solar would not be able to achieve
10 because of the money, the lack of money.

11 **MR. TRAPP:** Yes.

12 **COMMISSIONER ARGENZIANO:** Because that was what my
13 concern was before.

14 **MR. BALLINGER:** Well, it is a little of both. It is
15 the money and the physical kilowatt hours. As Bob said, solar
16 and wind has a much lower capacity factor, the ability to
17 generate energy, so if you have allocated a bigger portion of
18 the RPS to it, it's going to make it that much harder to get
19 the physical facilities there in that short of time.

20 **COMMISSIONER ARGENZIANO:** Can I just express
21 something, and maybe you can formulate an answer. And I hope
22 you can. I know there are people who don't want carve-outs,
23 and there are people who would like to move forward with solar
24 and wind. And with solar and wind my understanding is if we
25 don't fund them they can't develop. But once they do develop,

1 their costs go down rather than go up. So I have real
2 reluctance to maybe want to carve them out a higher amount, but
3 I don't want to stifle them, because then what's the sense in
4 what we're doing, and then what we are doing is for nothing.

5 **MR. BALLINGER:** And I think that's what staff
6 attempted in A was to take -- from the kilowatt hour
7 perspective take the 25 percent, which is a more manageable
8 number as far as physically developing it. But then on the
9 flip side provide them 75 percent of the rate cap to give the
10 funding to get that industry going. As Bob said, I think going
11 to a 50 percent kilowatt hour is going to make it really
12 difficult to get the facilities built in that time.

13 **COMMISSIONER ARGENZIANO:** Okay. Then basically if we
14 went to a 50 percent we are stifling the development and
15 eventually getting to -- we may not be able to allow them to
16 build what they need to build.

17 **MR. BALLINGER:** I don't know if you're stifling
18 development, I think you are making the excusal provision kick
19 in much quicker, that the RECs aren't available from solar. I
20 can't meet my mandate of 50 percent because they physically
21 can't get built. So I think the compliance proportion might
22 kick in.

23 **MR. FUTRELL:** It just may be that much more difficult
24 to meet the goal by having half the goal come from solar and
25 wind.

1 **COMMISSIONER ARGENZIANO:** Right. So then we are out
2 there several years down the road and we can't meet a goal
3 because we didn't properly fund or give them the funding to get
4 where they needed to go. Am I correct -- and I've heard other
5 people say it, but I want to make sure, because I have tried to
6 research it, and it does look like that as solar becomes more
7 prominently used or is out there more that the cost really is
8 coming down.

9 **MR. FUTRELL:** Yes, there is documentation that costs
10 have declined from where we are today from where we were 10,
11 15, 20 years ago. Costs have declined.

12 **COMMISSIONER ARGENZIANO:** So, Mr. Chair, my concern
13 is that if we don't fund it properly up front then we have done
14 this for nothing. And I know that some people don't want
15 carve-outs, but unfortunately I'm one who really thinks the
16 environment plays a big part of why we are doing all of this,
17 and renewables to me, I want them all to have a fair chance.
18 And if it just takes a little bit more up front to get solar
19 kicked in and to get it to actually work and then to bring the
20 price down, then I think I would rather go that route.

21 **CHAIRMAN CARTER:** Well, I mean, I was in favor of
22 giving -- obviously I was in favor of a carve-out. I was at
23 50, but if that's what it takes to get us where we need to get
24 to -- and as the cheerleader, I'm not wearing the pom-poms or
25 anything like that, but --

1 **COMMISSIONER ARGENZIANO:** That would require me to
2 have a camera in my hand.

3 **CHAIRMAN CARTER:** What I was saying is that if we
4 want Florida to be a leader, I do think that if we were to put
5 a significant amount of resources there then not only do we
6 have the companies wanting to provide solar, greater solar
7 capacity, but also some manufacturing concerns coming closer to
8 the marketplace and creating some jobs in Florida.

9 **COMMISSIONER ARGENZIANO:** And the legislative mandate
10 that gives greater weight. And not to try to give advantage to
11 one over another, because they are all very important in
12 everything we are trying to do, but if we were to do it the
13 other way and then three or four years down the road can't get
14 there, then we have wasted money and we are back to route one,
15 and I think it would be short-sighted not to look at that.

16 **CHAIRMAN CARTER:** Okay. Commissioner Edgar, I will
17 be right back to you, okay? I will be right back to you.

18 Commissioner Skop and then Commissioner McMurrin.

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

20 And Commissioner Argenziano brought up a point, and I
21 was remiss in not asking staff earlier, so I'm doing so to
22 better flesh out a point that was just made, and to gain a
23 better understanding of how Attachment A might operate. Again,
24 I have not really paid a lot of detailed attention, because I'm
25 familiar with the concept, having listened to the same thing

1 for quite sometime.

2 But exactly with respect to the attributes for
3 Class 1 renewables, being wind and solar, how would the price
4 of the attribute be initially set in the staff's REC market
5 proposal? Because, again, we have avoided costs, but then that
6 attribute has got to pay for the renewables somehow.

7 **MR. FUTRELL:** Certainly. It would be reflected
8 through negotiated contracts, and then it could develop in the
9 marketplace for those RECs that are available and what parties
10 are willing to bid for them. Again, we see the focus primarily
11 being in the negotiated contract.

12 **COMMISSIONER SKOP:** Well, would that not be
13 essentially then the same contentious debate that would
14 otherwise occur in the review of the standard offer contract?

15 **MR. FUTRELL:** But it would be confined between two
16 parties, the utility and a potential developer on a
17 case-by-case basis.

18 **COMMISSIONER SKOP:** And would staff envision that
19 that would be adequate, that the price of the REC would be
20 adequate to support development of the renewable project?

21 **MR. FUTRELL:** It very well could. We have seen some
22 proposals brought before the Commission that include pricing
23 for attributes that are acceptable.

24 **COMMISSIONER SKOP:** Okay. So say for the sake of
25 discussion you have a whole bunch of different negotiated

1 contracts floating around with different prices of attributes,
2 but then you have a tradable REC market which is, again, a step
3 beyond negotiated contracts. How do you ascertain the value of
4 the attribute in that market to the extent that Class 1 and
5 Class 2 are solar and wind and kind of hodgepodged, but they
6 don't really -- I guess what I'm saying -- do they have the
7 same value in the market, or do you distinguish it by the type
8 of REC, because I don't see that -- or is that something --

9 **MR. FUTRELL:** I don't think they would have the same
10 value, because certainly they require different costs to make
11 those projects feasible, so the RECs demanded would potentially
12 be higher in cost.

13 **COMMISSIONER SKOP:** Okay. Thank you.

14 **CHAIRMAN CARTER:** Commissioner McMurrin and then to
15 Commissioner Edgar.

16 Let me do this before I go to Commissioner Edgar.
17 Commissioners, any further questions from staff or any
18 comments? Oh, I thought you didn't have anything.

19 Commissioner McMurrin.

20 **COMMISSIONER McMURRIAN:** Well, if we are about to cut
21 off the questions from staff, then I think we still have to go
22 back to these percentages and timing. Ryder looks ready and
23 Bob looks ready. I don't know.

24 **MR. RUDD:** Both of us are probably ready at this
25 point.

1 **CHAIRMAN CARTER:** Make sure you guys give her the
2 same answer you gave her before, okay? I'm just kidding. Go
3 ahead.

4 **MR. RUDD:** What we have proposed, and several
5 Commissioners have brought up at this point, and what we would
6 propose to do for your consideration to send over to the
7 Legislature is a cover document in which we would go over the
8 actions that the Commission has taken in order to make a
9 decision, and then lay out the decisions that you have talked
10 about and debated today. From that then we would create the
11 proposed rule or proposed rules, whatever you decide you wanted
12 to send over to the Legislature as an appendix to that cover
13 document.

14 **COMMISSIONER ARGENZIANO:** Draft rules.

15 **MR. RUDD:** Draft rules, of course, until they are
16 ratified by the Legislature. At which point we would also ask,
17 as several of you have pointed out as well, to include the
18 staff recommendation as well as Commissioner Skop's handouts of
19 his proposal, as well as the other additional handout that was
20 included.

21 **CHAIRMAN CARTER:** Commissioner Argenziano.

22 **COMMISSIONER ARGENZIANO:** Well, if we did it that
23 way, I'd like to know that there is something indicating, along
24 with the rule, that there is an additional set or additional
25 information that follows with the rule that we considered, or

1 others considered that were here today considered important,
2 some things that probably should be looked at. I don't want
3 them to think, oh, there is just some tailend following the
4 preferred recommendation and they are not taking that into
5 consideration. I'd like them to see something that says, hey,
6 there's other stuff here that we think you might want to look
7 at, and then it's your call from there.

8 **MR. RUDD:** Yes, ma'am. We can absolutely include
9 whatever you would like us to include. I think that we had
10 envisioned to include, for instance, you have talked about
11 clean energy, of course, with the exclusion of coal. Which you
12 haven't voted on yet, but to include that as an appendix. Or
13 not as an appendix, but laying that out in that cover document
14 that you feel it's important for them to evaluate or consider.

15 **COMMISSIONER ARGENZIANO:** Great. Thank you.

16 **CHAIRMAN CARTER:** Commissioner McMurrrian.

17 **COMMISSIONER McMURRIAN:** Perhaps that was it. I
18 guess what I was struggling with when we talked about the
19 7 percent by 2013, and we talked a little bit about January
20 versus December 31st. We were also talking about having groups
21 instead of a percentage each year, and I just don't think we
22 ever came back to that. But maybe I missed it.

23 **CHAIRMAN CARTER:** Bob, help us.

24 **MR. TRAPP:** The Chairman said no to December 31st.
25 What I have heard so far is 7 percent by January 1st, 2013,

1 20 percent by 2020, and then there are the in-betweens. And I
2 think we have recommended in Option B an annual flow, in Option
3 A, it's 7, 8, 9, 10, 12, 14, 16, how does that run?

4 **MR. FUTRELL:** Yes, Commissioners. The progression
5 would be starting for the compliance year 2012, effective
6 January 1st, 2013, it would be 7 percent, and then annually
7 going up to 8, 10, 12, 14, 16, 18, and 20.

8 **MR. RUDD:** And Doctor Bane just passed out maybe a
9 document that would help us walk through this easier in going
10 through those decisions that you have been debating. The first
11 of which is I think there has obviously been a unanimous
12 agreement for 20 percent by 2020, which will bring us down to
13 the timing of it, which obviously from what I've gathered is
14 7 percent by 2013. If you would like to include interim dates
15 ending obviously at 2020, we can include those interim dates.
16 We can skip years, we can add years, whatever your preference
17 is. I can give you a suggestion of 20 percent -- I'm sorry,
18 7 percent by 2012, which is the first year of compliance,
19 obviously that would be 2013; 2015, 12 percent; 2018, 18
20 percent; and 2020, 20 percent if you were wanting some interim
21 years.

22 **COMMISSIONER McMURRIAN:** Mr. Chairman, I was really
23 just trying to get some kind of recommendation. Maybe
24 Commissioner Edgar has some idea about how she wants these
25 groups to fall out. I didn't know, but I just wanted to come

1 back to that if we were -- again, I'm not -- okay. But one
2 more time, Ryder. You said 7 percent by 2013?

3 **MR. RUDD:** It is just truly your preference. You can
4 choose just one date and you can have zero dates in between and
5 then an end date. But it's truly your choice. There is the
6 review process that is built in to see where we are.

7 **MR. TRAPP:** Let me just offer, if I would, that I
8 think I have also heard the Commission is leaning toward a
9 three-year review process. So the span of time between 2013
10 and 2020 gives you a 2017 break-point in there that kind of
11 coincides with the three-year review process. So I guess I
12 would offer, if you want another interim year, let's pick a
13 number between 7 and 20 to hit by 2017.

14 **COMMISSIONER McMURRIAN:** Let me just add --
15 Commissioner Edgar, I know that I have sort of overly
16 complicated this. I was trying to get staff to give us some
17 suggestion about your idea about going groups instead of a
18 percentage each and every year, and I think it is somewhat
19 complicated, because Bob keeps reminding me that with the
20 three-year review that perhaps that, you know, there is some
21 consideration of that to go into it. Of course, the three-year
22 review, I guess, could just have easily been a different
23 number, as well. But I know that is what we had talked about,
24 so I was just trying to get some recommendation there. But if
25 you have got something you're willing to throw out, then I'm

1 not trying to --

2 **MR. TRAPP:** And I think that -- I'm sorry for my
3 confusion, but I can't stick to a script. If you go to the
4 strategy side-by-side that we handed out and look at Strategy
5 B, it lays out an annual stream to 2020. If you want to go
6 annually, those would be the numbers we would recommend
7 starting in 2013. If you want just one interim step between
8 2013 and 2020, we would pick 14 percent by 2017 would be our
9 suggestion.

10 **CHAIRMAN CARTER:** I'm not even going to attempt to
11 try to interpret this. I'm going to defer to you,
12 Commissioner. You can walk us through this.

13 Are there any further questions before we ask
14 Commissioner Edgar to walk us through this process where we are
15 now? Any further questions of staff?

16 Any comments, Commissioners?

17 Hearing none, Commissioner Edgar, you're recognized
18 for a motion.

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

20 And I am -- the sheet that Doctor Bane passed out a
21 few moments ago is something that my office had asked for
22 earlier this week. Not the detail. What we had asked for kind
23 of as a breakdown issue-by-issue with Strategy A and Strategy
24 B, and I think it was distributed to every office earlier. And
25 it helped me think through some of the issues, and so I'm going

1 to kind of go in that order.

2 And, Mr. Chairman, at your request I will put this in
3 the form of a motion. But, please, Commissioners, recognize
4 that I offer this in the same spirit that I tried to on a
5 recent matter earlier this week, which is not putting a stake
6 in the ground on any of these points, but trying to put in all
7 in one place what I think I'm hearing as consensus on the
8 bench. If I got that wrong, then I certainly would welcome an
9 amendment clarifying, and I would see that as a friendly
10 amendment.

11 So I'll give it a whirl, Mr. Chairman.

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

13 **COMMISSIONER EDGAR:** Thank you.

14 I would offer the motion that in order to comply with
15 the directive in the statute, 366.923, directing the Commission
16 to present a draft rule for legislative consideration by
17 February 1st of '09, that we put forward as our draft the staff
18 recommendation in Strategy A with these changes that I will try
19 to move through.

20 Working down this sheet, I think the general concept
21 describes it. So, Number 2, ultimate RPS, change that from
22 20 by 2041 to 20 percent by 2020. As far as the timing,
23 Commissioner McMurrian, I think this is a point we were just
24 talking, and I'll go through this slowly. And, again, it is
25 just trying to incorporate what I think I have heard. I do

1 think to have some interim goals is important, and I offer
2 these dates in keeping with the later issue of frequency of
3 review, and I'm going to offer three years on that point.

4 So, for timing, I would say 7 percent by January 1 of
5 2013 with the recognition that that would be based upon the
6 year 2012. Then the same 12 percent by January 1, 2016, with
7 that being then the year in full of 2015. Eighteen percent by
8 January 1, 2019, with the recognition that that would be for
9 the year in complete of 2018. Twenty percent by January 1 of
10 2021, but I still think that meets the 20 by 2020, since it
11 would be the year 2020.

12 A rate cap of two percent mandatory, and review every
13 three years, or at the initiation of the Commission. And
14 mandatory, but including what I will call a safety valve, which
15 would mean the opportunity for the Commission to consider good
16 cause shown.

17 Again, frequency of review every three years or at
18 the initiation of the Commission. We haven't really talked
19 amount, but I did say earlier that I felt like having a penalty
20 incorporated into the rule is my preference, because I think
21 that that expresses the nature of it being mandatory and a
22 strong directive. But I also recognize that, again, we would
23 be reviewing every three years and have that safety valve built
24 in.

25 The staff recommendation includes 50 basis points as

1 per I have described. I haven't heard any objection to that
2 amount, so I'm going to leave that as is in the staff
3 recommendation.

4 As to the carve-out, we have had a good amount of
5 discussion. I admit I get confused on this point sometimes,
6 but let me try it this way. I would say of the money or the
7 rate cap, 50 percent for Class 1 and 50 percent for Class 2.
8 However, for the standard to meet the RPS, 25 percent for Class
9 1, and 75 percent for Class 2. And that's my effort to try to
10 incorporate, again, what I think I've been hearing at the
11 bench.

12 Cost-recovery through the clause. With the change
13 that we discussed in the language, I see that as a
14 clarification on Page 64. I would ask that in my motion
15 include, that we also include Strategy B, and whatever from the
16 record and the workshops accompanying explanatory type
17 information so that the Legislature and their staff would have
18 a full record of everything that we have had so that there is
19 no need for them to start to recreate the wheel.

20 I would ask that we into Strategy A incorporate the
21 language that we have discussed suggested by Commission Skop,
22 which was labeled consumer rate impact. And I would also
23 include in this motion that we include the discussion of
24 consideration of a clean energy option, or clean energy
25 portfolio for the Legislature's potential consideration and

1 statutory change, but that we exclude the mention of the IGCC.

2 I think that addresses Issue 1 and Issue 2 and Issue
3 3. Then I would include in my motion staff recommendation on
4 Issue 4 and Issue 5.

5 And I think, Mr. Chairman, that that incorporates
6 everything. But, again, if I have missed something, I would
7 see that as a friendly amendment.

8 **CHAIRMAN CARTER:** Commissioner Argenziano.

9 **COMMISSIONER ARGENZIANO:** I may be confused here. On
10 the carve-out, did we go back to the staff's initial --

11 **CHAIRMAN CARTER:** On the carve-out.

12 **COMMISSIONER EDGAR:** Yes and no.

13 **MR. RUDD:** Not exactly. You split the rate cap. You
14 split the amount of money that's available.

15 **COMMISSIONER ARGENZIANO:** Let me get right to the
16 nuts and bolts. Are we going to enable the solar industry to
17 meet what they need to, or are we going to hear them say they
18 couldn't comply by 2012?

19 **MR. RUDD:** That's somewhat of a loaded question.

20 I think, you know, it's a good compromise between
21 where you were before where you were allocating 75 percent of
22 the funds to solar's 25 percent goal. Now you're splitting
23 those funds saying only 50 percent of those funds will go to
24 solar's goal.

25 **COMMISSIONER ARGENZIANO:** But isn't that the problem

1 we just identified a few minutes ago as not being able to meet?

2 **MR. RUDD:** No, ma'am. Because before you were making
3 the goal 50 percent, the standard was 50 percent that was going
4 to be solar and wind and there are other type of Class 2
5 renewables.

6 **COMMISSIONER ARGENZIANO:** So now we have lowered the
7 goal, but --

8 **MR. RUDD:** You have lowered the amount of the
9 standard for wind and solar, which means they have less amount
10 of power they are required to provide to meet the overall
11 standard.

12 **COMMISSIONER ARGENZIANO:** Right. So we are basically
13 saying, well, we want solar, and the Legislature has said that
14 you may give extra consideration to solar, and we're telling
15 them then we'll take a minimum amount. That I don't agree
16 with. And I know that some people may not understand that. If
17 we're going to really get real about renewables and try to get
18 solar and other renewables, and I'm not saying not to consider
19 biomass and all those other things, but in my mind, what I have
20 learned, if we are not going to get real about solar actually
21 getting on the ground, it's never going to get there.

22 **MR. RUDD:** I may have not said that as clear as --

23 **COMMISSIONER EDGAR:** Could we try one more time.
24 Because, Commissioner, I think you and I are actually thinking
25 the same thing, I think. And I get confused on this point,

1 too.

2 **CHAIRMAN CARTER:** Bob, give it a shot.

3 **COMMISSIONER ARGENZIANO:** Bob doesn't look so
4 enthused.

5 **MR. TRAPP:** I don't have an answer. I mean, I don't
6 have a crystal ball, either.

7 **CHAIRMAN CARTER:** Here is what I was thinking. I
8 thought what we did was we split the resources, the financial
9 resources, but we still gave the preference, the greater
10 preference.

11 **MR. TRAPP:** I think because you have established a
12 set-aside you have said that you expect 25 percent of the RPS
13 to be met from solar. That's a set-aside. You have reduced
14 the amount of dollars, though, to support that 25 percent.
15 Whether 50 percent of the rate cap is enough to sustain a
16 25 percent compliance, I really don't know, and, quite frankly,
17 I doubt.

18 **COMMISSIONER ARGENZIANO:** So do I.

19 **CHAIRMAN CARTER:** Well, what do you think, Bob?

20 **MR. TRAPP:** But you can adjust it as --

21 **CHAIRMAN CARTER:** What do you think, Bob? Excuse me,
22 Commissioners.

23 **MR. TRAPP:** We based our recommendation, as I recall,
24 and these guys may have to correct me, but as I recall it we
25 based our 75/25 split on looking at the levelized cost

1 associated with solar and other technologies, and realizing
2 that many of the existing technologies really don't need that
3 much extra money to come into business. Any extra money they
4 were going to get might be looking greedy to tell you the
5 truth.

6 There were a lot of those existing technologies that
7 were right at avoided cost. Now, the problem, of course, is
8 complicated by the fact that we have got the need for a
9 reliability issue and, you know, the timing of avoided units is
10 considerably out there. So some of this money may be covering
11 some advanced -- well, I won't go there.

12 So my question still remains. Our analysis showed
13 that a 75/25 dollar split seemed to be consistent with what we
14 were seeing in the Navigant information that was being
15 submitted by the stakeholders with regard to the levelized
16 costs associated with the different technologies.

17 **CHAIRMAN CARTER:** So what you're saying then is the
18 foundation for the 75/25 is based on the Navigant consultant
19 study?

20 **MR. BALLINGER:** Navigant and the information we got
21 from the stakeholders.

22 **CHAIRMAN CARTER:** And so, basically, that's why this
23 recommendation -- so you're saying basically based upon what we
24 got from the stakeholders and what was in the Navigant
25 consultant, the basis for our decision should possibly be the

1 75/25.

2 **MR. TRAPP:** When staff showed me the data, that was
3 my conclusion, and I believe we reached consensus on that
4 internally that that was our conclusion to split that way.

5 **CHAIRMAN CARTER:** Commissioners, let's do this.
6 Let's holdup for a second. Let's figure this one out.

7 **COMMISSIONER EDGAR:** If I may, Mr. Chairman. Again,
8 what I have kind of put out there, and it's a lot all at once,
9 but it was my attempt to try and incorporate what I thought I
10 was hearing.

11 **CHAIRMAN CARTER:** It's okay.

12 **COMMISSIONER EDGAR:** No, I mean, I welcome discussion
13 on it.

14 **CHAIRMAN CARTER:** Hold on, though. This is just --
15 we can get there. I'm an eternal optimist. We can get there.

16 **COMMISSIONER ARGENZIANO:** But he didn't tell you that
17 at 7:00 o'clock you can't even get out of the building. Sorry.

18 **CHAIRMAN CARTER:** Commissioner Argenziano says -- I'm
19 not speaking for you, but I'm going to use you as an example.
20 Commissioner Argenziano says that based upon the Navigant
21 consultant study and based upon the input from the
22 stakeholders, we should instead of changing from 50/50 from
23 category one and category two to leave it as it was with 75/25.

24 Did I state that correctly, Commissioner?

25 **COMMISSIONER ARGENZIANO:** I believe that's correct,

1 because what I'm afraid of is that if you do any less you are
2 not going to have any real solar development. It's not going
3 to be able to -- not development, but implementation. And if
4 we are going to do that and waste money and not be able to get
5 there, and then looking at the extra language in the statute
6 that indicates that the Legislature even looked at and added
7 weight to solar and wind. And there's a reason for that, and I
8 think the reason for that is because cost does go down once you
9 get it established. But not establishing it by not giving it
10 enough to actually get on the ground level and start producing.

11 **CHAIRMAN CARTER:** Hang on a second.

12 Commissioner McMurrian.

13 **COMMISSIONER McMURRIAN:** And I don't know if this is
14 going clear it up or not for me, but I guess what I want to ask
15 is since the first target is by -- now I'm forgetting which one
16 it was, 2012 or 2013. 2013, January 1 of 2013. Is it your
17 opinion, based on the Navigant study, that using 50 percent of
18 the money to meet a 25 percent carve-out for solar will not be
19 enough for the solar industry to meet the 25 percent?

20 **MR. TRAPP:** From my opinion, I can almost
21 categorically say yes, because remember staff believes we can't
22 get to 20 percent until 2041.

23 **COMMISSIONER McMURRIAN:** I guess I just have to say I
24 believe that the idea was a good one and that it sort of gave
25 something to strive toward. In other words, we didn't put

1 three-quarters of the money toward solar and wind and you left
2 more of it open for other alternatives, too. So I didn't think
3 it was that far off from where we started, but now I'm hearing
4 you say that you don't think it will get the solar built unless
5 we go back to, I guess, how it was in the Staff rec with a
6 25/75 and then the converse of the 25/75. That's what you're
7 saying, that you think that's the only way to make sure that
8 25 percent gets built is it has to have 75 percent of the
9 funds.

10 **MR. RUDD:** I mean, we don't know 100 percent, but, I
11 mean, the more money that you make available for that
12 technology that has not necessarily been developed to its
13 greatest potential, obviously the easier it would be for that
14 technology to come on.

15 **CHAIRMAN CARTER:** Commissioner Argenziano.

16 **COMMISSIONER ARGENZIANO:** Ryder, I think you took a
17 good attempt at this, but that's the wrong way to state it.

18 **MR. RUDD:** Okay.

19 **COMMISSIONER ARGENZIANO:** It's not to say that the
20 more money you put at it -- if you don't put enough money in
21 it, it can't get established. And that's the problem. Because
22 when we are striving for things -- we have been striving for
23 that since 1972 and we haven't done anything. And now if we go
24 and we know we are supposed to move in that direction, and, of
25 course, there are all kinds of competing entities out there,

1 which some probably want to kill me right now, but that's too
2 bad. I'm not going to go in this direction and lose money and
3 waste money. If we are going to go in this direction, and what
4 the statutes tell me, and what I think in my mind after
5 researching myself, we need to get there, and the only way to
6 get there is if you put enough money.

7 Now, I guess the right way to say it is is 50 percent
8 enough money to get there by that year? And I think we have
9 already heard it's not. It can't be, because just look at the
10 data. And it is not just Navigant, if you look at the data it
11 can't be. So if we really want to do anything for solar, let's
12 not play. Either do it and make it happen, make it possible to
13 happen, or don't do it at all.

14 **CHAIRMAN CARTER:** Commissioners, can we go back to
15 75/25?

16 **COMMISSIONER EDGAR:** Can I make a comment?

17 **CHAIRMAN CARTER:** Yes.

18 **COMMISSIONER EDGAR:** I would just say this.

19 **MR. RUDD:** Commissioners, if it makes it any easier,
20 we can include this carve-out provision in the same provision
21 that allows you to annually look at it and adjust it as
22 necessary.

23 **COMMISSIONER EDGAR:** As I was saying --

24 **CHAIRMAN CARTER:** You're not helping, Ryder.

25 Commissioner Edgar, you're recognized.

1 **COMMISSIONER EDGAR:** My thinking is that 50/50 on the
2 funds would be half of \$370 million, roughly \$185 million to
3 solar and wind, and I think that is, you know, more money than
4 we're devoting right now. I think we're saying the same thing,
5 just maybe a little differently. And I have some concern,
6 although I agree almost always with Mr. Trapp, but not always.
7 I mean, for you to say that you didn't think it's enough money
8 when much of what you have done is based on 2041, I just think
9 that is a little apples and oranges. But -- so I threw it out
10 there to try to build consensus, and I meant it, and I look
11 to --

12 **CHAIRMAN CARTER:** The reason I asked the question --

13 **COMMISSIONER EDGAR:** -- everybody, and if we're going
14 to talk about an amendment, I would ask for language so that I
15 am sure I understand what we are talking about.

16 **CHAIRMAN CARTER:** The reason I asked the question is
17 we want to be a leader in this country in solar and wind. We
18 want to establish a dynamic and vibrant marketplace, and I'm
19 not suggesting that we are throwing money. That didn't come
20 from the bench. That may have come from somewhere over there,
21 but I am suggesting that if you put -- if you create a
22 foundational marketplace where people know that they can
23 finance projects over the long-term, also projects that because
24 of their nature are generally more expensive than normal
25 projects, then this is a significant amount of resources, one,

1 to establish a foundational basis for it, but, two, to say we
2 have a long-term commitment to it to where these industries are
3 going to come to Florida, the ones that are not here. Those
4 that are in Florida are going to expand. We are going to have
5 jobs. Florida is going to be a leader, and we may even be able
6 to start exporting solar technology to other states. And that
7 is why I say, you know, if it takes us putting 75 percent of
8 the resources to make Florida the leader, you know me, I'm all
9 for leading.

10 Commissioner Argenziano.

11 **COMMISSIONER ARGENZIANO:** Well, Mr. Chairman, my
12 feeling is -- and we have asked staff, and I have heard what
13 they had to say, and I've looked at it, and I have done a
14 little research besides Navigant and so on in solar, and looked
15 it closely, and my fear is that if you don't give it enough to
16 succeed, then not only have you wasted the money, but you have
17 wasted precious, precious time that you can't get back.

18 And I think that while there are so many things to
19 consider, the job benefits in all renewables, whether it's
20 biomass, whether it's solar, wind, nuclear -- not that nuclear
21 is renewable, but in all energy fields -- if you don't look at
22 the environment component that is in the statute and you don't
23 consider that because solar has not really gotten the funding
24 before -- it's struggling to get there. It is on the cusp. If
25 you have read about solar, it is on the cusp of some major

1 efficiencies which I think just are right around the corner to
2 be able to be so much more efficient in the PV area that I
3 think that if you don't allow it to succeed, then what you have
4 done is really just wasted time. And I'm afraid that if we
5 don't fund it properly that it can't succeed.

6 **CHAIRMAN CARTER:** Commissioner Skop.

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

8 I appreciate Commissioner Edgar's unifying motion
9 that she has attempted and that we are currently discussing. I
10 just had one point of clarification and then I will chime in on
11 Commissioner Argenziano's views. But with respect to the
12 language that I think was embodied in Commissioner Edgar's
13 motion about incorporating -- and subject to the staff proposed
14 change, but the consumer rate impact, I guess the way I had
15 entitled it -- and, again, it's just semantics, and I don't
16 care one way or another, but I guess I called it consumer rate
17 impact protection, I didn't know if that was the intent of the
18 motion, but --

19 **COMMISSIONER EDGAR:** That was my intent. I'm sorry
20 if I didn't include that. That is my intent.

21 **CHAIRMAN CARTER:** Page 4 of your --

22 **COMMISSIONER SKOP:** Yes, sir. And the only other
23 comment, having listened to, I think, a fully vetted discussion
24 between Commissioner Edgar, and I do appreciate the motion and
25 the discussion, and Commissioner Argenziano's concerns, as well

1 as staff's. You know, obviously by virtue of the approach that
2 was recommended on December 3rd, again, I'm more for a balanced
3 approach, the whole carve-out nature, but under the framework
4 in which the majority is seeming to gravitate towards, you
5 know, 20 percent by 2020 is an ambitious goal and it's going to
6 take money to get there.

7 And the solar resources are very expensive. I hope
8 they will come down in time. Wind, you know, you get four
9 times the capacity for the same type of cost. But, again, I
10 think that the 50/50, while it has, again, equal merits, I do
11 think that the funding necessary to make the needle move would
12 probably be more towards the 75 percent. And I say that with
13 great pain, but, I mean, that's just the economic reality of
14 the situation in this late hour. So, again, not to take a
15 position, because I can go either way, but I just wanted to
16 kind of lend my support to piggyback Commissioner Argenziano's
17 comments as well as staff's stated concern that doing type
18 Class 1 renewables is going to be expensive.

19 **CHAIRMAN CARTER:** Thank you.

20 Commissioner McMurrian.

21 **COMMISSIONER McMURRIAN:** Thank you.

22 And perhaps I want to go back to the point that Ryder
23 raised, because I think there are good points on both sides of
24 this, and I hate to characterize it as sides, because I think
25 we are talking about the difference in 50 and 75 percent. That

1 is a lot of money. Still, perhaps the way to address it is to
2 look at it again at the review period, because I don't think
3 that the solar industry believes that it is going to take
4 75 percent of the money forever. That they are telling us, and
5 I think that there is proof, as we have talked about today,
6 that the price is coming down.

7 So perhaps a way to make a friendly amendment to the
8 motion is perhaps to make sure that the three-year review
9 includes looking at that again, with the expectation that we
10 expect that that percentage to be adjusted as the solar
11 industry and the wind industry, I guess, is included, too, gets
12 off its feet. So I guess I would throw that out, if there is a
13 way to make sure we include that kind of language with respect
14 to that option, as well. And to go back to the 75/25, and in
15 the converse, 75/25 with respect to the money, which was in the
16 staff recommendation in the draft. I throw that out as a
17 friendly amendment.

18 **CHAIRMAN CARTER:** Commissioner Argenziano.

19 **COMMISSIONER ARGENZIANO:** And I'm not sure how you do
20 it here, but in the Legislature we would move to amend the
21 motion.

22 **CHAIRMAN CARTER:** No one has seconded it yet.

23 **COMMISSIONER ARGENZIANO:** Right.

24 **CHAIRMAN CARTER:** I caught it before.

25 **COMMISSIONER ARGENZIANO:** Okay. So then I would even

1 ask the sponsor of the motion, or I would move to go back to
2 the 75/25 with the protection in there that we will review.

3 **CHAIRMAN CARTER:** From Commissioner McMurrian.

4 **COMMISSIONER ARGENZIANO:** Sure. And I think that
5 makes a lot of sense.

6 **CHAIRMAN CARTER:** Commissioner Edgar.

7 **COMMISSIONER EDGAR:** I accept it as a friendly
8 amendment.

9 **CHAIRMAN CARTER:** Okay.

10 **COMMISSIONER SKOP:** Mr. Chair, I will second the
11 amendment.

12 **CHAIRMAN CARTER:** Okay. Now, we have --

13 **COMMISSIONER EDGAR:** Mr. Chairman, I'm sorry. I just
14 would like to add that if, indeed, this carries the day, or
15 wherever we end up, I would include in that the direction for
16 our staff to make whatever technical corrections would need to
17 be, to be consistent internally within the document.

18 **CHAIRMAN CARTER:** Absolutely, throughout the
19 document.

20 And, Commissioners, the motion and -- did we get a
21 second for the omnibus motion?

22 **COMMISSIONER ARGENZIANO:** Second.

23 **CHAIRMAN CARTER:** Second. What we did on there, the
24 one thing that we did do, we also look out the IGCC because it
25 is not clean. We took that out. And all of the issues that we

1 had all addressed here have been encompassed, and I'm sure
2 staff was taking copious notes to make sure that as they craft
3 this and get it back to us. So the only thing in there in
4 terms of the wind and the solar carve-out would be the review
5 period placed in there by Commissioner McMurrin.

6 And with that, Commissioners, anything further, any
7 further discussion on this motion?

8 Anything further?

9 Mr. Trapp, you're looking at me crazy.

10 **MR. TRAPP:** Ms. Miller is reminding that the Gulf
11 Power information with respect to the reference to 5(d), was
12 that in there?

13 **COMMISSIONER EDGAR:** I think that's incorporated.
14 That's what I meant by when I said the language we had
15 discussed on Page 64.

16 **CHAIRMAN CARTER:** That's in the motion. It's in the
17 motion. And, again, this motion also includes -- as we send
18 this recommendation, it also includes sending all of the
19 supporting documentation, particularly as we talked about like
20 the clean energy, nuclear, the other kinds of things that we
21 need to have revisited in that. Commissioners?

22 Commissioner Skop.

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

24 And I think before we vote on the motion before us, I
25 just wanted to, again, commend Commissioner Edgar for the

1 motion. I thought it was a good one. I will support the will
2 of the Commission to vote in favor of the motion. I do still
3 continue to have reservations regarding some policy concerns
4 that I previously expressed about the draft rule in Attachment
5 A, but I do commend Commissioner Edgar for her motion and look
6 forward to the vote of the Commission.

7 **CHAIRMAN CARTER:** Thank you.

8 Any further debate? Any further debate?

9 Hearing none, all those in favor of the motion, let
10 it be known by the sign of aye.

11 (Simultaneous affirmative vote.)

12 **CHAIRMAN CARTER:** All those opposed, like sign?

13 Show it done. Commissioners, we are adjourned.

14 (The Special Agenda concluded at 7:20 p.m.)
15
16
17
18
19
20
21
22
23
24
25

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

STATE OF FLORIDA)

COUNTY OF LEON)

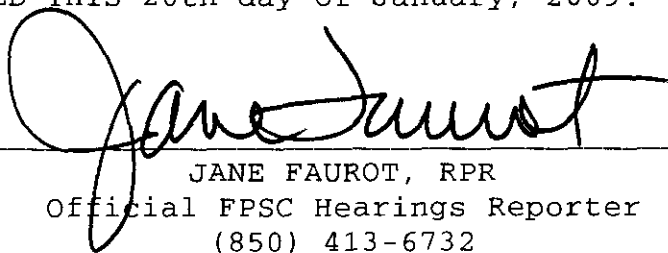
CERTIFICATE OF REPORTER

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

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

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

DATED THIS 20th day of January, 2009.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

Comparison of RPS Strategies

	<i>RPS Strategy A:</i> REC Market with Negotiated Contracts	<i>RPS Strategy B:</i> Standard Offer Contract Approach
General Concept	Compliance through RECs. Requires IOUs to generate through self-build renewables, or to purchase sufficient RECs from other utilities or non-utility renewable generators to meet RPS requirements. Establishes REC market to facilitate spot market and negotiated contracts for RECs from all in-state renewable facilities (unless subject to FECCA).	Compliance through: (1) energy from IOU self-build renewables; (2) renewable energy and attributes purchased from renewable generators through separate standard offer contracts for each specified renewable technology; (3) attributes purchased through standard offer contracts from self-service renewables; and (4) attributes from customer-owned (< 2 MW) renewables assigned to the IOU. Standardized contracts priced based on avoided cost plus a "cost added" for renewable attributes. Provides funding for IOU solar rebates.
Ultimate RPS¹	20% by 2041	20% by 2020
RPS Percentage and Timing	6% by 2017 10% by 2025 15% by 2033 20% by 2041	4% by 2010 5% by 2011 6% by 2012 7% by 2013 8% by 2014 10% by 2015 12% by 2016 14% by 2017 16% by 2018 18% by 2019 20% by 2020
Rate Cap	2% of retail revenues	2% of retail revenues. Five percent of funds collected are directed to IOU solar rebates.
Mandatory vs. Aspirational	Mandatory, due to the presence of penalties. However, non-compliance may be excused due to lack of sufficient RECs or prohibitive cost (i.e., costs over 2% rate cap).	Does not include additional penalties for non-compliance. Therefore, goals are more aspirational in nature. The Commission would rely on existing penalty authority.
Frequency of Review	At least once every five years.	At least once every 3 years.
Rewards and Penalties	Penalty of up to 50 basis points for unexcused non-compliance. No specified rewards.	No penalties for non-compliance. Rewards of up to 25 basis points and by splitting revenues from the sale of RECs 80/20 between ratepayers and shareholders.
Solar and Wind Carve-Out	Carve-out for solar and wind, such that 25% of RPS requirements must be met with these resources. Also, 3/4 of 2% rate cap (1.5%) funding is allocated to solar and wind resources.	No carve-out for solar and wind. Separate standard offer contracts established for solar PV, solar thermal and wind, with pricing for attributes. Also, five percent of rate cap directed to IOU solar rebates.
Renewable RFP Requirements	RFP is required every 2 years.	RFP required only prior to construction of an IOU self-build project.
Cost Recovery	Establishes a dedicated cost recovery clause for all costs associated with renewables. The incremental cost of compliance with the RPS would appear as a separate line-item on customer bills.	Establishes a dedicated cost recovery clause for all costs associated with renewables. The incremental cost of compliance with the RPS would appear as a separate line-item on customer bills.
Clean Energy Option	Recommendation that the Legislature recognize clean energy resources for compliance including: 1) nuclear additions and uprates approved since 2006, 2) IGCC with carbon capture and sequestration plans approved by DEP, 3) energy savings from efficiency improvements to utility generation, and 4) energy savings from customer energy efficiency programs. This option is especially critical if an aggressive, near-term RPS is established, as it would allow for an integrated approach to utilize resources that minimize the cost of compliance.	

¹ Staff is recommending an RPS of 20 percent by 2041 for each strategy.

Parties/Staff **Handout**
Internal Affairs/Agenda
 on 11/9/09
 Item No. Special Agenda
080503-EP

Commissioner Skop
Parties/Staff Handout
Internal Affairs/Agenda
on 11/9/09
Item No. *Special Agenda*
080503-E1

**DRAFT RULE FOR THE IMPLEMENTATION OF A
FLORIDA RENEWABLE PORTFOLIO STANDARD**

STANDARD OFFER CONTRACT APPROACH

January 8, 2009

Nathan A. Skop, Esq.
Commissioner
Florida Public Service Commission

DISCLAIMER

The views and opinions presented herein are strictly those of the author and have not been reviewed, endorsed, or approved by the Florida Public Service Commission.

1 **17.400 Florida Renewable Portfolio Standard**

2

3 **(1) Application and Scope.**

4 The purpose of this rule is to establish a renewable portfolio standard for investor-owned electric
5 utilities that will promote the development of renewable energy, protect the economic viability of
6 existing renewable energy facilities, diversify the types of fuel used to generate electricity in
7 Florida, lessen Florida's dependence on fossil fuels for the production of electricity, minimize
8 the volatility of fuel costs, encourage investment in the state, improve environmental conditions,
9 and minimize the costs of power supply to electric utilities and their customers.

10

11 **(2) Definitions.**

12 (a) "Florida renewable energy resources" means electrical, mechanical, or thermal energy
13 produced within the State of Florida from a method that uses one or more of the following fuels
14 or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean
15 energy, waste heat, or hydroelectric power.

16 (b) "Renewable energy" means electrical energy produced from a method that uses one or more
17 of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels,
18 biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power.
19 The term includes the alternative energy source, waste heat, from sulfuric acid manufacturing
20 operations.

21 (c) "Biomass" means a power source that is comprised of, but not limited to, combustible
22 residues or gases from forest products manufacturing, waste, or co-products from agricultural
23 and orchard crops, waste or co-products from livestock and poultry operations, waste or

1 byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid
2 waste treatment operations, and landfill gas.

3 (d) "Renewable Energy Charge," means the and shown as a separate line item on monthly
4 consumer bills.

5 (e) "Renewable Energy Credit," means a financial instrument that represents the unbundled,
6 separable, renewable attribute of renewable energy or equivalent solar thermal energy produced
7 in Florida and is equivalent to one megawatt-hour of electricity generated by a source of
8 renewable energy located in Florida.

9 (f) "Renewable Portfolio Standard," means the minimum percentage of total annual retail
10 electricity sales by an investor-owned electric utility to consumers in Florida that shall be
11 supplied by renewable energy produced in Florida.

12 (g) "Solar Energy System," means equipment that provides for the collection and use of incident
13 solar energy for water heating, space heating or cooling, or other applications that would
14 normally require a conventional source of energy such as petroleum products, natural gas, or
15 electricity that performs primarily with solar energy. In other systems in which solar energy is
16 used in a supplemental way, only those components that collect and transfer solar energy shall be
17 included in this definition.

18 (h) "Solar Photovoltaic System," means a device that converts incident sunlight into electrical
19 current.

20 (i) "Solar thermal system," means a device that traps heat from incident sunlight in order to heat
21 water.

1 (j) “Equivalent Solar Thermal Energy,” means the conversion of the thermal output, measured in
2 British Thermal Units, of a solar thermal system to equivalent units of one megawatt-hour of
3 electricity otherwise consumed from or output to the electric utility grid.

4 **ADD ADDITIONAL DEFINITIONS AS REQUIRED**

5
6 **(3) Renewable Portfolio Standard.**

7 (a) Each investor-owned electric utility shall meet or exceed⁶ the following renewable portfolio
8 standards through the production or purchase of renewable energy in Florida credits pursuant to
9 Rule 17.410, F.A.C.:

- 10 1. by January 1, 2010: 4 percent of the prior year’s retail electricity sales;
- 11 2. by January 1, 2011: 5 percent of the prior year’s retail electricity sales;
- 12 3. by January 1, 2012: 6 percent of the prior year’s retail electricity sales;
- 13 4. by January 1, 2013: 7 percent of the prior year’s retail electricity sales;
- 14 5. by January 1, 2014: 8 percent of the prior year’s retail electricity sales;
- 15 6. by January 1, 2015: 10 percent of the prior year’s retail electricity sales;
- 16 7. by January 1, 2016: 12 percent of the prior year’s retail electricity sales;
- 17 8. by January 1, 2017: 14 percent of the prior year’s retail electricity sales;
- 18 9. by January 1, 2018: 16 percent of the prior year’s retail electricity sales;
- 19 10. by January 1, 2019: 18 percent of the prior year’s retail electricity sales; and
- 20 11. by January 1, 2020: 20 percent of the prior year’s retail electricity sales.

⁶ The draft rule adopts a mandate. Adopting an aggressive implementation target rather than a firm mandate for the RPS, however, would provide utilities with the opportunity to sell the attributes out-of-state (as voluntary or compliance RECs) to further mitigate ratepayer impact. Under the draft rule, the renewable energy generated in Florida is counted toward meeting the RPS implementation target in a manner consistent with the existing statute. The attributes created by operation of law are not used for compliance with the RPS target. Legislative intent is met through the requirement that renewable energy must be generated in Florida promoting substantial and immediate economic investment within the state. Preserving the ability to sell the attributes out-of-state (as voluntary or compliance RECs) promotes the same favorable end result at a lower overall cost to consumers.

1 (b) The Commission, on its own motion, shall initiate a proceeding at least once every three
2 years to review and, if appropriate, modify the renewable portfolio standards. An investor-
3 owned electric utility or a substantially interested person may petition the Commission, pursuant
4 to Section 120.54(7), F.S., to request the initiation of a proceeding to modify the renewable
5 portfolio standards. All modifications of the approved renewable portfolio standards and the
6 associated implementation plans shall only be on a prospective basis and shall not affect
7 previously approved contracts and commitments.

8 (c) In a proceeding to review the renewable portfolio standards, each investor-owned electric
9 utility shall provide an analysis of the technical and economic potential for Florida renewable
10 energy resources.

11

12 **(4) Consumer Rate Impact Protection.**

13 (a) Each investor-owned utility shall establish a Renewable Energy Charge initially set at 2.0
14 percent of each investor-owned utility's annual revenue from retail sales of electricity for the
15 prior year. The Renewable Energy Charge shall be collected from customers pursuant to the
16 provisions of subsection (7) of this rule and shall be subject to true-up based on the actual cost of
17 compliance pursuant to subparagraph (5)(). The Commission, on its own motion or as part of
18 the annual proceedings in the Renewable Energy Cost Recovery Clause, may increase or
19 decrease the Renewable Energy Charge, but in no instance shall the Renewable Energy Charge
20 be less than 2 percent. When increasing or decreasing the Renewable Energy Charge, the
21 Commission shall take into consideration prevailing economic conditions and the rate impact to
22 utility customers. Upon repeal of this rule due to changes in State or Federal law, the Renewable

1 Energy Charge shall continue at the minimum percentage necessary to fulfill previously
2 approved contracts and commitments.

3

4 **(5) Compliance.**

5 (a) For purposes of compliance with the renewable energy portfolio standards, the following
6 shall be counted:

7 (i) The energy purchased by an investor-owned utility from a Florida renewable energy
8 resource through a Commission approved standard offer contract or negotiated contract;

9 (ii) The energy produced by an investor-owned utility self-build Florida renewable
10 energy resource;

11 (iii) The energy produced by a self-service Florida renewable energy resource, as
12 reflected through the unbundled renewable energy attributes purchased by an investor-
13 owned utility through a Commission approved standard offer contract or negotiated
14 contract;

15 (iv) The energy produced by a customer receiving electric service under a net-metering
16 arrangement pursuant to Rule 25-6.065, F.A.C.; and

17 (v) The energy produced by a customer receiving a rebate for the installation of a
18 customer-owned solar energy system pursuant to the provisions of subparagraph (6) of
19 this rule.

20 (b) Each investor-owned electric utility shall make a good faith effort to acquire sufficient
21 renewable energy to comply with the renewable portfolio standards. The Commission shall
22 consider, on a case-by-case basis, incentive-based adjustments to authorized rates of return on
23 common equity, not to exceed 25 basis points, to investor-owned electric utilities based on the

1 degree to which the utility meets or exceeds the renewable portfolio standards. The Commission
2 shall excuse an investor-owned electric utility from compliance with any renewable portfolio
3 standards based upon a showing that:

4 1. the supply of renewable energy is not adequate to satisfy the renewable portfolio
5 standard; or

6 2. the cost of securing renewable energy is prohibitive such that the total costs of
7 compliance with the renewable portfolio standards exceeds the Renewable Energy
8 Charge cost caps contained in paragraph (4)(a).

9 (c) The cost of compliance with the renewable portfolio standards shall be defined as the
10 incremental costs associated with the production or purchase of renewable energy which exceed
11 the costs to the utility of electric energy or capacity, or both, which but for the production or
12 purchase of renewable energy such utility would generate itself or purchase from another source.

13

14 **(6) Solar Rebates.**

15 (a) A total of 5 percent of the Renewable Energy Charge established pursuant to subparagraph
16 (4)(a) shall be directed by each investor-owned utility to provide the following up-front rebates
17 for the installation of customer-owned solar energy systems less than 2 MW in size used to offset
18 the customer's electricity consumption:

19

Class	Solar Pool Heater	Solar Water Heating	Solar Photo Voltaic (PV)
Residential	\$100 per installation	\$500 per installation	\$4 per Watt (2kW Min Size)
Residential Max Rebate	\$100 per installation	\$500 per installation	\$20,000 per installation
Commercial	Not Applicable	\$15 per 1000Btu	\$4 per Watt (2kW Min Size)
Commercial Max Rebate	Not Applicable	\$5,000 per installation	\$100,000 per installation

1 **(7) Cost Recovery.**

2 (a) In order to foster the development of Florida renewable energy resources, the Commission
3 shall allow full cost recovery through a Renewable Energy Cost Recovery (RECR) clause of all
4 reasonable and prudent costs incurred by the investor-owned electric utility for:

5 ADD PROVISIONS AS APPROPRIATE

6

7 **(8) Renewable Energy Credits.**

8 (a) Each investor-owned electric utility shall earn a renewable energy credit for:

9 (i) each megawatt-hour purchased from a Florida renewable energy resource;

10 (ii) each megawatt-hour produced by a self-build renewable generating resource; and

11 (iii) each megawatt-hour of energy generated by a self-service renewable energy resource
12 or net-metered renewable energy resource from which the corresponding renewable
13 energy attributes have been purchased by the utility through a standard offer or
14 negotiated contract.

15 (b) Renewable energy credits shall not be used for compliance with the utility's renewable
16 portfolio standards but may be sold in out-of-state voluntary renewable energy credit or
17 compliance markets. A total of eighty percent of the revenues derived from the sale of
18 renewable energy credits shall be credited to customers' bills in the Renewable Energy Cost
19 Recovery Clause, with the remaining twenty percent retained by the utility's stockholders.

20 (c) Each investor-owned utility shall be responsible for the issuance, retirement, certification,
21 and verification of renewable energy credits and shall establish appropriate accounts and
22 methods of recording each renewable energy credit transaction, including associated
23 administrative costs.

1 **(8) Implementation**

2 (a) Within 90 days of the effective date of this rule and biennially thereafter, the Commission
3 shall establish the appropriate levelized cost for each renewable type representing the not-to-
4 exceed ceiling price that a utility could contract for by renewable type.⁷

5

6 DEVELOP APPROPRIATE LANGUAGE PROVIDING FOR STANDARD OFFER OR
7 NEGOTIATED CONTRACT ACCORDING TO FLOW PATH SHOWN ON NEXT PAGE
8 AND INSERT HEREIN:

9

10

11

12

13

14

15

16

17

18

19

20

21

22

⁷ Levelized Cost would be established based upon the expected economic life of the renewable project (e.g., 25 years for solar and wind, etc.). This is necessary to ensure that consumers would not be overpaying for the renewable resource in contracts having a shorter term than the life of the project. Without this step, it would be difficult to establish an objective comparison of the cost-effectiveness of negotiated contracts. As an illustrative example, negotiated pricing under a 10 year contract might reflect full payback on a project having an economic useful life of 25 years as opposed to properly paying the life cycle levelized cost. In a resource constrained environment, it is important to maximize revenue cap resources by not overpaying for resources. Comparison to levelized cost thus provides an essential check and balance for evaluating negotiated contracts. While standard offer contracts could also be developed during this process, a negotiated contract or bilateral contract approach could also be adopted by the Commission.

January 7, 2009

Mr. Matthew M. Carter, II
Chairman
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Parties/Staff Handout
Internal Affairs/Agenda
on 1/9/09
Item No. Special Agenda
080503-E1

Dear Chairman Carter:

Thank you for the Florida Public Service Commission's work on the Renewable Portfolio Standard (RPS). We appreciate the opportunity to participate in these groundbreaking proceedings. Please find our below comments for your consideration relating to the final agenda conference deliberations on January 9th:

- 1) **20% RPS by 2020**: A 20% RPS by 2020 as identified by the Navigant Report reveals that Florida has the resources and capability to meet or exceed this target.
- 2) **Exclusion of Nuclear as a Renewable Energy Resource**: The RFP Rule should not amend the current statutory definition of Nuclear as a renewable energy resource. Inclusion of Nuclear would dominate the RPS compliance, and would not allow the other renewable energy technologies to develop and provide the necessary fuel diversification and economic development. Lastly, we question the Commission's authority to alter the statutory definition.
- 3) **RPS Starting Date**: IOU RPS compliance should begin earlier than the proposed 2017 date. There is no reason to wait as we are already late to the game. Immediate actions are required in order for Florida to have a meaningful renewable energy program and achieve the goals that Governor Crist outlined. Immediate compliance should be required in order to stimulate renewable energy investment.
- 4) **Standard Offer Contract Plan (SOCP)**: Long term contracts are necessary to finance renewable energy investments. SSSP supports the SOCP concept of having a long term contract mechanism rather than the Public Service Commission Staff's recommendation for a renewable energy REC program.

However, as proposed, the SOCP was drafted without the formal input of the stakeholders and there are details that still need to be discussed. These include, but not limited to, the Class 1 carve-out, coordination of the bid rules with the utility self build option and the sharing of REC sale proceeds between the ratepayers and shareholders.

- 5) **One Proposal**: While the Commission has discussed numerous approaches to the RPS rule, we strongly urge the Commission to develop and unanimously recommend one proposal to the Legislature.

Our earlier comments submittals provided details and support for the above positions and we will be available to speak in more detail on any of the above topics. In the meantime, please feel free

to contact us, Thomas Sutton 561-301-0565 or Raymond Hamilton 561-213-6085 for any additional information.

Sincerely,

Thomas Sutton

Raymond Hamilton

cc: Commissioner Nancy Argenziano
Commissioner Lisa Polak Edgar
Commissioner Katrina J. McMurrian
Commissioner Nathan Skop

SUNSHINE STATE SOLAR POWER

*Memo to Commission
Special Agenda 1-9-09
080503-E1*

January 7, 2009

Mr. Matthew M. Carter, II
Chairman
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Chairman Carter:

Thank you for the Florida Public Service Commission's work on the Renewable Portfolio Standard (RPS). We appreciate the opportunity to participate in these groundbreaking proceedings. Please find our below comments for your consideration relating to the final agenda conference deliberations on January 9th:

- 1) **20% RPS by 2020:** A 20% RPS by 2020 as identified by the Navigant Report reveals that Florida has the resources and capability to meet or exceed this target.
- 2) **Exclusion of Nuclear as a Renewable Energy Resource:** The RFP Rule should not amend the current statutory definition of Nuclear as a renewable energy resource. Inclusion of Nuclear would dominate the RPS compliance, and would not allow the other renewable energy technologies to develop and provide the necessary fuel diversification and economic development. Lastly, we question the Commission's authority to alter the statutory definition.
- 3) **RPS Starting Date:** IOU RPS compliance should begin earlier than the proposed 2017 date. There is no reason to wait as we are already late to the game. Immediate actions are required in order for Florida to have a meaningful renewable energy program and achieve the goals that Governor Crist outlined. Immediate compliance should be required in order to stimulate renewable energy investment.
- 4) **Standard Offer Contract Plan (SOCP):** Long term contracts are necessary to finance renewable energy investments. SSSP supports the SOCP concept of having a long term contract mechanism rather than the Public Service Commission Staff's recommendation for a renewable energy REC program.

However, as proposed, the SOCP was drafted without the formal input of the stakeholders and there are details that still need to be discussed. These include, but not limited to, the Class 1 carve-out, coordination of the bid rules with the utility self build option and the sharing of REC sale proceeds between the ratepayers and shareholders.

- 5) **One Proposal:** While the Commission has discussed numerous approaches to the RPS rule, we strongly urge the Commission to develop and unanimously recommend one proposal to the Legislature.

Our earlier comments submittals provided details and support for the above positions and we will be available to speak in more detail on any of the above topics. In the meantime, please feel free

to contact us, Thomas Sutton 561-301-0565 or Raymond Hamilton 561-213-6085 for any additional information.

Sincerely,

Thomas Sutton

Raymond Hamilton

cc: Commissioner Nancy Argenziano
Commissioner Lisa Polak Edgar
Commissioner Katrina J. McMurrian
Commissioner Nathan Skop

SUNSHINE STATE SOLAR POWER