BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

IN THE MATTER OF: DOCKET NO. 080317-EI

PETITION FOR RATE INCREASE BY TAMPA ELECTRIC COMPANY.
_______________________________________/

PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 9

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

DATE: Tuesday, March 17, 2009

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

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P R O C E E D I N G S

CHAIRMAN CARTER: Commissioners, we'll be moving next to Item 9. Give staff an opportunity to set up.

And, Commissioners, while staff is setting up, I wanted to just kind of present to you my thoughts on how we will proceed. Each of you have been given a staff handout to kind of group the issues, and I think for ease of organization this will be my recommendation how we should proceed with the issues.

As you'll see, it has the rate base issues in one group, cost of capital issues, net operating income issues, then revenue increase issues, rate issues -- I think we've got them broken down in logical sections so we can proceed from that, and that's my recommendation, Commissioners. Any, any -- before we ask staff to make the oral modification and as we proceed further are there any questions or concerns?

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

It's just my understanding in talking with staff yesterday that there are some issues on 6 and 7 that are intertwined with cost of capital issues. And, again, I would wonder if the cost of capital issues might be more appropriately addressed to the extent that they are intertwined with some other issues.

CHAIRMAN CARTER: What are you, what are you saying, Commissioner, now? Because, because I was under the impression, as, as I said, that we had grouped these from a fairly logical perspective. And there's going to be that, but I think we can get there after we complete this first group and then we get to, we get to cost of capital. I think at that point in time, having made a decision from the rate base issues, it'll make more logical, it will be more logical. At least to me it would be.

COMMISSIONER SKOP: I think -- and that's fine. I mean, I'll go with the will of the Commission. I think that -- I'm looking for something that I saw yesterday. This may be it on staff handout three. Again, some of the language in staff handout three, the second to the last paragraph concerns me to the extent that it's inextricably linked to return on equity. And, again, I would have some concern in -- you know, certainly we can discuss it, but, again, whatever the will of the Commission would be.

CHAIRMAN CARTER: I think when we get there, Commissioner, as we, as we proceed from that, those other, those other concerns that you have, we can deal with them at that point in time. Just kind of, just go ahead on and deal with it when we get there.

Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Yeah. When we do get there I may have some questions because this staff handout three, this is the first that I've seen this. I have not seen this before right now. Is, is that the same for all of us?

CHAIRMAN CARTER: I just saw it. Did you just see it?

COMMISSIONER McMURRIAN: I haven't seen it.

CHAIRMAN CARTER: No. We've just seen it.

COMMISSIONER EDGAR: Okay. Because I did have maybe some earlier versions on this same issue, so I just wanted to, to make sure I got my paper in the right order. So, Mr. Chairman, I would at whatever time ask just for a second so I can read this since I have not read it, have not read it yet.

But then more specifically to -- I think -- I'm trying to understand the point that Commissioner Skop has raised, and I would have a little bit of a concern if, if, if I'm understanding that he's asking to maybe take up like Issue 37 before some of the other issues. And, Commissioner, the reason would be from my notes that the issues with the storm reserve, the equity adjustment, the capital structure, the parent debt adjustment and maybe some others, those are the ones that jump out at me, all would have an impact on revenue requirements, and in my mind that has an impact on my thinking on Issue 37. So I'd kind of like to hear the discussion on some of those other items before we get to 37. Thank you.

CHAIRMAN CARTER: Okay. Commissioners, let's do this. Let's, before staff goes through the oral modification, let's do this. Let's take like a five-minute recess so we can look at this handout.

(Recess taken.)

We are back on the record. When we left, Commissioners, we'd had a discussion on organization, first on organization of how we present the case. I'd asked staff to kind of group these in a sequential and logical order based upon the issues of the case, and it was my recommendation that we follow this procedure. There are going to be some issues that may jump out, as Commissioner Skop mentioned, and we can deal with it at that, at that point in time. But my recommendation, Commissioners, just for ease of operation and organization is to follow this, is that at least with your approval we'll proceed further with that. Okay. No objection.

With that, staff, you are recognized, first of all, for oral modification, excuse me, for oral modification.

MR. DEVLIN: Thank you, Mr. Chairman.

CHAIRMAN CARTER: Turn your mike on, Tim.

MR. DEVLIN: Mr. Chairman, this item involves staff recommendation in the TECO rate case. There's some 114 issues. Some of the issues will be taken up at the April 7th agenda conference. First we handed out three handouts this morning, and the first handout relates to oral modifications that we're going to make at this point.

CHAIRMAN CARTER: Okay. You're recognized for the oral modification.

MR. DEVLIN: What I'd like to do is just read the verbiage on the first page to get in the record the essence of the oral modification. But as far as the impact in every issue, I think it's in the record. We submitted it Friday to the clerk's office, and I don't think I need to go over every, you know, the type and strike for every issue.

CHAIRMAN CARTER: Commissioners, is everybody cool with that? Okay. You may proceed.

MR. DEVLIN: Okay. The two corrections are this. The revision to Issue 16 concerns the working capital allowance adjustment for the disallowance of the increase to the storm damage accrual. Staff inadvertently reduced working capital by $8 million. Because the storm damage reserve is a liability, it reduces working capital. Because staff is recommending that the annual accrual be denied, the storm damage reserve in working capital should be decreased -- would be decreased, I'm sorry, resulting in an $8 million increase to working capital. And that has certain impacts on various issues. That's number one correction.

Number two correction, the revision to Issue 32 concerns the incorrect adjustment to reduce working capital by $77 million to reverse the effects of the company's proposed pro forma adjustment to increase the balance of common equity in the capital structure. The $77 million adjustment should still be removed from equity. But instead of decreasing working capital by this amount as initially recommended, the appropriate offsetting adjustment is a pro rata adjustment to increase all sources of capital. And, again, this correction --

CHAIRMAN CARTER: It's in the record?

MR. DEVLIN: -- affects more than one issue.

CHAIRMAN CARTER: And that's in the record.

MR. DEVLIN: That's the corrections. That's in, that's the record.

CHAIRMAN CARTER: In the clerk's office. Okay. You may proceed.

MR. DEVLIN: Okay. We're done with the staff corrections.

The second handout you referred to, Mr. Chairman, is what we refer to as the issues to be approved at the March 17th, 2009, agenda. And we tried to stratify it in such a way, made some, have some meaningful sequence to it. We pulled out issues that were stipulated, issues that will be decided at the April 7th agenda. And we also tried to designate the fallout issues and issues at least in staff's mind that are of a significant nature, and the issues that we designated as significant the staff would be prepared to make a short introduction. But, of course, we'd make an introduction on any, any issue that the Commission wants us to, but that's how we would plan on going about the sequencing of these issues.

CHAIRMAN CARTER: Okay.

MR. DEVLIN: Regarding the fallout issues, and there's 11 of them, staff recommends that the Commission approve these recommendations subject to change depending on how, depending on the Commission's decisions in this case, and giving staff the administrative authority to make the necessary adjustments to the fallout issues. And that could be done now or that could be done as we reach these fallout issues.

CHAIRMAN CARTER: Okay. Why don't we do this, Commissioners, for ease of operation. At the end of -- as we proceed, get ready to finalize the action on the case, we'll deal with the fallout issues as a group at that point in time. And so, staff, just remember to have them as a group at that point in time so as we go with the resolution of the case and get to the last point, we can say, okay, these are the fallout issues and give us a recommendation on those at that point in time. Would that -- that would probably be easier for us.

MR. DEVLIN: That's very good, Mr. Chairman.

I did want to say, going back on the corrections, I did want to say that the end result of the corrections to staff's recommendation would increase the staff recommended revenue increase to $87,558,000.

CHAIRMAN CARTER: Does that complete your oral modifications?

MR. DEVLIN: It completes the oral modifications. I did have staff handout three --

CHAIRMAN CARTER: Okay. You're recognized.

MR. DEVLIN: -- that I would suggest that we talk about, take up with Issues 5 and 7 when --

CHAIRMAN CARTER: Issues 5 and 7?

MR. DEVLIN: And I did want to point out this was a handout that was passed out last week, I believe, and it was modified last night and so this is new to the Commissioners.

CHAIRMAN CARTER: Okay.

MR. DEVLIN: But it's not significantly different than what was passed out last Friday, I believe it was.

CHAIRMAN CARTER: Okay. When we get to Issues 5 and 7, we'd kind of ask you to flush that out a little bit more. Okay?

MR. DEVLIN: Yes, sir.

CHAIRMAN CARTER: All right.

MR. DEVLIN: I think we're ready to move on the issues.

CHAIRMAN CARTER: Okay. Commissioners, why don't we do this. We've got them grouped by topics. And, staff, we've got -- I'm looking at -- why don't we deal with the rate base issues, unless we need to deal with Issues 2 and 3 first. Do we?

MR. DEVLIN: Well, Issues 2 and 3 I don't believe would be controversial. And if there's any discussion, you might entertain a motion on those two issues.

CHAIRMAN CARTER: Commissioners? Let's -- why don't you introduce Issues 2 and 3 and we can deal with that, and then we'll go into -- the second segment would be the rate base issues picking up, starting at Issues 4, Issue 4 rather and going to Issue 28. That would be the second. So let's go now with, just introduce Issues 2 and 3 just in case there's some questions or concerns from the bench.

MR. HEWITT: Commissioners, Craig Hewitt, Commission staff.

Issue 2 is TECO's forecast of customer kilowatt hours and kilowatt hour, kilowatts by rate class for the 2009 projected test year. And the recommendation is, yes, that we agree that these are TECO's customer and load forecast assumptions. The regression models and projected system peak demands are appropriate for the 2009 projected test year.

CHAIRMAN CARTER: And also for that issue, Commissioners, just for the record, there was no position taken by the Intervenors on this matter on Issue 2. Any questions, Commissioners, on Issue 2?

Okay. Issue 3.

MR. SLEMKEWICZ: I'm John Slemkewicz. Issue 3 is the quality of service issue, and staff recommends that, yes, TECO's quality of service is adequate. Other than customer testimony at the customer service hearing, there really was no, there was no Intervenor testimony concerning the quality of service. Normally this would have been a stipulated issue. FRF took the position "No," and in their brief they also just took the position "No," and said that their, they urge the Commission to find that the company's service is no better than adequate.

CHAIRMAN CARTER: Commissioners, any question on Issue 3? Any questions? What is your pleasure, Commissioners, since there's no questions on Issues 2 and 3? Would you want to just -- Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Mr. Chairman, if it works for the body, before we get into the rate base issues, I'll make a motion in favor of the staff recommendation on Issues 2 and 3, which I think will then put us in a posture to proceed with the other issues.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: Okay. We've got a motion and a second. Commissioners, any questions, any concerns? All those in favor, let it be known by the sign of aye.

(Unanimous affirmative vote.)

All those opposed, like sign. Show it done. For the record it was unanimous.

Okay. All right. Let's do this. Now we've got ourself in a, we have ourselves in a posture where we deal with the rate base issues. As I said before though, that will be Issues 4 through Issue 28.

Staff, you are now recognized.

MS. MARSH: I'm Anne Marsh with the Commission staff.

Issue 4 addresses nonutility activities in the rate base. It's staff's recommendation that except for the item discussed in Issue 19 as part of working capital, no further adjustments are needed for this item.

CHAIRMAN CARTER: Okay. Let's continue. Let's see, Commissioners.

MR. DEVLIN: Mr. Chairman --

CHAIRMAN CARTER: Yes, sir.

MR. DEVLIN: -- could I clarify? What might move this along is that the issues we have not identified as a significant issue, the plan, one plan would be that we would not make introductory remarks and we could entertain motions to adopt and then just delve into the significant issues.

COMMISSIONER EDGAR: Mr. Chairman, just a suggestion, I will have some questions, I believe, on Issues 5 and 7, and I think that that also ties to the handout that was distributed that we haven't yet talked about. So if it -- one suggestion might be to have staff just very briefly tee up Issues 4, 5, 6 and 7 since they're a little bit related and then we could maybe have some discussion.

CHAIRMAN CARTER: Okay. Commissioner Skop.

COMMISSIONER SKOP: I would agree. I have similar questions and concerns on the same issues.

CHAIRMAN CARTER: Okay, staff. So let's tee up Issues 4, 5, 6 and 7. You're recognized.

MR. PRESTWOOD: Good morning, Commissioners. My name is Clarence Prestwood. I'm with the Commission staff.

Issue 5 deals with the five combustion turbines or CTs that the company is placing in service during the test year. This adjustment is to annualize the five CTs back to January 1 as if they had been in service all year.

COMMISSIONER EDGAR: Chairman, a question. When you say annualize back to January 1, you mean January 1, 2010?

MR. PRESTWOOD: No, Commissioner. Actually

January 1, 2009. In the test year they, they did put the CTs into their test year results for a pro rata amount. In other words, two of the CTs went in in May. They're in there for eight months. Three of the CTs went in in September. They're in there for four months. We have not made any adjustments for those. And we've left those in their test year amounts, and they amount to approximately $19 million in revenue requirements. This adjustment is to actually take it a step further and to treat the CTs as if they had been there January 1, 2009. And so for the May CTs they would add in an additional four months and for the September CTs they would add in an additional eight months.

MR. SLEMKEWICZ: Commissioners, in other words, they're, what they did was annualize the effect as though the units had been in service during 2009. That's, that's what they did.

COMMISSIONER EDGAR: Okay. I guess where I was getting confused is are you talking about what the, the utility requested, what's in the staff recommendation in the notebook or what's in what was passed out in Attachment 3?

MR. PRESTWOOD: What the -- the company actually has a two -- it's a two-part request. One part is built into their test year, which nobody is debating.

The other part is the, what we're calling the, they call the pro forma adjustment to annualize it as if it had been there all year long, and that is the adjustment that we're recommending be denied. Although we do have an alternative treatment for that that we will bring up in a little bit.

COMMISSIONER EDGAR: Okay. I appreciate that. Like I said, we've had a couple of, you know, different handouts and some changes, and I was getting a little confused as to who was on first. But that's helpful. Thank you.

CHAIRMAN CARTER: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just again to clarify too, so the staff recommendation as written is not the recommendation. I think staff has, by virtue of its handout number three has provided an alternate recommendation that will seek to address some of the inequities of the original staff recommendation; is that correct?

MR. DEVLIN: Commissioner Skop, I'll speak to that. What Mr. -- yes, sir. To answer your question directly, yes.

Mr. Prestwood addressed the 2009 test period in the adjustments that he made in that test period. Then we're going to go beyond that now because we realize there's a deficiency in doing that. I mean, we have 2009 taken care of, but our concern now is what will happen in 2010. And if you turn to Page 13, we first speak to that issue that there is a concern on staff's part with what will happen with these five combustion turbines going as planned in 2010 and we speak to the possibility of a limited scope proceeding.

COMMISSIONER SKOP: Okay. And that was my concern. I mean, I'm very versed on the issue. I had some significant concerns with the, with the primary staff recommendation. The alternate I still have some concerns with. But I think that in the interest of fairness, and I think that's what the Commission strives for, it's important to be fair to the consumers to the extent that they should not have to bear the costs of generating assets not placed in service yet, but equally fair to the company that the utility under a test year shouldn't have to strand millions of dollars in capital assets and not be able to seek recovery until the next rate case. So I think that, you know, some sort of rational reasonableness needs to be applied to looking at the test year in individual situations, and I'm hopeful we'll get to that discussion in the alternate recommendation.

CHAIRMAN CARTER: Okay. Let's do this. Why don't we launch out into staff's handout on Issue 5 so we can kind of -- I mean, you've set the issue up, but let's go ahead on and launch into this, from this handout so we can go ahead on and deal with that. Mr. Devlin, you're recognized.

MR. DEVLIN: Thank you, Mr. Chairman. Yes. We did pass out an alternative recommendation, and, quite frankly, at this point the primary recommendation is what I support anyway. And it's sort of evolved and that's why I've apologized to some. We talked about it last week in some of our briefings, we had a handout, and this is, this is different than the handout of last week because we continually try to enhance what we have here.

But I think as both Commissioner Edgar and Commissioner Skop spoke to, the adjustments for 2009 might leave a problem for 2010. That's why a step increase makes sense to staff as an alternative, really as a solution. Otherwise, we could be facing a situation where, okay, we've got the revenue requirements right in 2009, but in 2010 the company's earnings are deficient and we're right back here with another rate case, and that's not good regulation.

So we did, we are proffering now really a primary recommendation to have a step increase with certain conditions, and we have three, basically three conditions.

One, that the plans that TECO has put on the table for us when these units would go into commercial operations, those plans, at least the units that would go into commercial operation before the end of the year, if we're speaking to a step increase January 1, we'd want that as a condition that these units, five units plus the rail facilities are tied into this as well, would all be completed and in commercial service by the end of the year. So you have a matching (phonetic) of in-service and of rate change.

The second provision is we were concerned that if we had an automatic step increase as opposed to a limited proceeding where you could have some discovery and look at new information, a step increase is more automatic in nature. We didn't want to create an incentive that the company would go forward even if they didn't need to put all these units in place when they did. So we wanted to leave a provision in there that the decision to move these units into commercial operation is still subject to review. If there's a continuing downturn in the economy and there's not a need to move an extra 60 or 120 megawatts in the latter part of this year, the prudent thing for TECO to do would be to mothball them or defer them into the future. And we don't want to create an incentive for them not to do the right thing.

CHAIRMAN CARTER: Okay.

MR. DEVLIN: So that's the crux of the second decision. Decisions are still subject to regulatory review and adjustment, if we find them to be imprudent.

The third condition relates to because a step increase is much more limited in nature than a limited scope proceeding we wouldn't have the opportunity to update revenues and expenses or anything else you might look at in a limited proceeding, we thought we needed to have a safeguard, at least take one look at their return on equity the first year after rates are in effect. And if there's a precipitous increase in revenue, because we did have some testimony that if the economy turns right at the end of the year and we've got a lot of homes down in the Tampa area that are ready, the meter is there and there could be a spike in revenue, could be, this provision would be there to at least protect the ratepayers from an undue windfall, if you will, in revenue. It could be a scenario where we have an automatic increase in rates of $32.9 million at the same time we see a big uptick in revenue. And this would protect against that to some extent.

Anyway, that's the crux of the staff recommendation on the step increase. It would, it would involve the monies that Mr. Prestwood took out as adjustments and allow them to increase rates to get the full revenue requirement effect for the five units and the rail facilities effective January instead of now.

CHAIRMAN CARTER: Thank you.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Mr. Devlin, staff handout three is a little bit different than a document I saw yesterday which appears to be missing a page. It has the same calculation of step increase, but the page that's missing refers to May and September combustion turbine units and it shows the revenue requirement allowed, revenue requirement not allowed, total revenue requirements, and the effect of what staff was allowing in terms of its recommendation. And I was wondering do, do we have that available for the Commissioners?

MR. DEVLIN: Yes, sir. We made some copies. That wasn't really part of our recommendation. I think it was a request. But I think we passed this information out last night, I believe. But we could make it, we could provide it now.

COMMISSIONER SKOP: Okay. If, if we have that available, if we could do that, I would just like to illustrate a point.

(Pause.)

Thank you. So effectively as it was originally incorporated by staff into the recommendation, the allowed revenue requirements basically provided or effectively provided for the two May CTs in terms of the extent that the revenue requirement, total revenue requirement for those two CTs, if they were annualized, would be $18,895,000; is that correct?

MR. DEVLIN: That's my understanding.

COMMISSIONER SKOP: Okay. And then but the revenue requirement allowed would be slightly over that based on the 13-year -- 13-month average test year, is that correct, of $19,210,000? Is that also correct? The total number at the bottom of the first column.

MR. DEVLIN: I believe that's correct. And Mr. Prestwood or Slemkewicz could correct me. I believe that the first column is the total revenue requirements for the five units and then what you were referring to earlier is what we have embedded in our recommendation.

COMMISSIONER SKOP: Okay. And then also, too, let me see if I can find it, I guess with respect to -- there's a Late-Filed Exhibit Number 112 and on Page 1 of

1 -- but it was my understanding that as a result of that late-filed exhibit, the May CTs, the Bayside 5 and 6 will be placed in service in mid-April. Is that staff's correct understanding of that late-filed exhibit?

MR. PRESTWOOD: Yes, Commissioner. Yes.

COMMISSIONER SKOP: Okay. I guess -- and then with respect to the one comment made on the provision in staff handout three about the situation under which the economy will rebound substantially and earnings may go through the roof, again, I'm a little doubtful that that scenario will exactly occur. But wouldn't it be true that if that were to occur, rather than incorporating this language, that staff would have the ability, if the company were earning over and above 100 basis points of its authorized midpoint return on equity, that staff could bring them in, or over 100 points over its authorized earnings, staff could bring them in to address that issue?

MR. DEVLIN: Yes, that's true. There's some lag in doing that. We'd have to put together a recommendation, bring it to the Commission's attention at an agenda conference. So there would be some lag between the time the over-earnings are first identified and the time that the Commission could take action to protect those monies, if you will, make them subject to refund.

COMMISSIONER SKOP: Okay. But that's part of the normal surveillance process conducted by staff; is that correct?

MR. DEVLIN: That's correct. But this, this handout, this approach really, I didn't have in mind a normal surveillance process. I was trying to bridge the difference between a limited scope proceeding where we would have some updated information on revenues and a step increase where we would not, and this is a protective measure to recognize that difference.

COMMISSIONER SKOP: Okay. Well, let's, let's talk about step increases for a second. Because, again, that would at least for me seem like a, probably a beneficial way of addressing this issue to the extent that you're protecting the ratepayers but equally not stranding assets, the hundreds of millions of dollars of assets the company is trying to place in service for the, for the public use and benefit.

But with respect to those projects, trying to look at the step increase itself, that's been used historically in various rate cases; is that correct? For instance, Hines Unit --

MR. DEVLIN: I'm familiar with two or three cases where we've used step increases in electric, and I think we've also used them in water cases as well.

COMMISSIONER SKOP: Okay. So that's, that's a typical remedy that's available to, over and above what would be a full-blown limited proceeding to address something to the extent when an asset is placed in service for the public use and benefit, that that recognition is made and that the rate base is adjusted appropriately; is that correct?

MR. DEVLIN: I don't know if it's typical, but it's been used before.

COMMISSIONER SKOP: Okay. And I guess my, you know, my one concern, again, looking at what was allowed in the staff recommendation and then looking at the step increase, again, I am supportive of a step increase to the, for the reasons that I previously mentioned. The September CTs are less than certain, so I do think that, you know, whatever restrictions might be placed on those or might be appropriate should be tied to those plants actually coming into service, whether they be one, two or all three. But coordinating that and the likelihood of various scenarios -- again, the last thing I want to do is -- and staff in the step increase has commingled the rail with the turbines. And, you know, I know that it's, for convenience it's easy to make one step increase. But if the timing gets messed up, I wonder how we, staff might address that contingency to the extent that could two step increases be necessary or how would that be addressed to the extent that -- since they're commingled together?

MR. DEVLIN: I guess, Commissioner, that would probably depend on the materiality. I mean, what, what drew us to the January date for a step increase is that's the same date the fuel rates are changed, and we tried to reduce the number of rate changes, if you will, that the customers would experience.

COMMISSIONER SKOP: Okay. I'll yield, Mr. Chair. Thank you.

CHAIRMAN CARTER: Thank you. Commissioner McMurrian, you're recognized.

COMMISSIONER McMURRIAN: Thank you. And it's along the same lines. I agree, I think the step increase approach is preferable for the reasons we've already discussed. And I agree with the parameters you've set about it being in commercial operation by the end of '09 and that the units must be needed, and I think we talked about this a little bit in our briefing. Absolutely, we don't want customers to pay for units that may not exist, and -- but I think that this is sort of a reasonable way to go.

I do have some concerns about this third piece though. And I guess to follow up on the questions Commissioner Skop was asking you about the, about having been down this road before, at least the Commission has done step increases before, have we ever had a provision that suggested that if the earnings surveillance reports for the period suggested that the ROE was above that midpoint, that there would be an automatic refund or credit to rate base for that? I mean, that just doesn't seem familiar to me.

MR. DEVLIN: Commissioner, you're correct, it's probably unprecedented. I'd have to check to make sure of that. And the reason I put, we put this in here is because this is such an unusual economic period, and there could be a significant change in the revenue profile of the utility between now and the time that this rate increase goes in effect. That is the sole reason for this provision. But it is probably unprecedented.

COMMISSIONER McMURRIAN: And I think similar to what we were talking about before, I mean, if, if the utility ends up in like an over-earning situation -- and let me ask this too. The utility is not considered to be in an over-earning situation until they're earning above the 100 basis points above midpoint; right? I mean, we wouldn't --

MR. DEVLIN: That's correct. Of course, those, the 100 basis points has been the convention the last 15, 20 years. But whatever that authorized range is that the Commission establishes, it would be the top of that range.

COMMISSIONER McMURRIAN: Right. So normally if staff follows that through the earnings surveillance report, you wouldn't raise the notion of doing an over-earnings investigation until they were 100 points above the midpoint, over 100 points above the midpoint because that's sort of their authorized range.

MR. DEVLIN: That's correct.

COMMISSIONER McMURRIAN: So I guess, I mean, that strikes me here to the extent that we're -- we would credit it back down to the midpoint and not the top of that range.

MR. DEVLIN: My only other reason, Commissioner, is -- correct, I'm not really speaking to over-earnings at this point. I'm speaking more to the possibility of a windfall, if you will. And also of the notion that the company should, we should try to, I think, anyway set rates to afford the company to earn its midpoint rate of return its first year after the implementation of new rates. It's just been a concept.

I don't know if it's been codified in rule or order anywhere, but I always feel that's what we attempt to do. That first year after rates go into effect, our target is for them to earn their midpoint.

COMMISSIONER McMURRIAN: I mean, I agree with what you're trying to get at here with avoiding some undue windfall. I just, I guess I'm a little bit concerned about the mechanics because there's a lot of other stuff, of course, going on with the utility besides just those CTs.

MR. DEVLIN: That's true.

COMMISSIONER McMURRIAN: And if there is an upturn in the economy, I just wonder if there could be other things that -- well, I think there would have -- there necessarily are going to be other things that are going to be putting upward and downward pressures probably on how we've set rates for 2009. And so to the extent that they're above their midpoint at this time in May may not really have a whole lot to do with the CTs one way or the other. So I guess that's where I'm having some trouble. But I guess I'll yield for now, Chairman.

MR. DEVLIN: I understand.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Yes. I just need to, to flush this out a little bit more. Because I think what staff's recommendation is is saying let's, let's help the company here, but in a way that we make sure that the consumer is not hit with a very large impact because we don't know what the revenues will be next year. And I think if we didn't do it that way with the -- and I don't know if this is going to make sense. Would that mean that the company would just get to keep, even if their revenues were up, would they just get to keep, keep that money?

MR. DEVLIN: Well --

COMMISSIONER ARGENZIANO: I don't know if there's any other way to ask that.

MR. DEVLIN: No. I think I understand, Commissioner Argenziano. That's what we were struggling with. Because a step increase, in this case we're talking about nine months from now and a lot of things could change. But if the Commission decides to do this, that will be in an order and all the company would do at that point in November or December is file tariffs and the rates would be increased. And there's just a concern; things could change. And at least in my mind the goal of regulation is to afford the company an opportunity to recover their prudent costs and earn a reasonable rate of return.

COMMISSIONER ARGENZIANO: Exactly.

MR. DEVLIN: And that's all we're trying to do at least for this first year. After that, who knows what the world is going to be like.

COMMISSIONER ARGENZIANO: So it's really allowing the company to recover those.

MR. DEVLIN: Yes.

COMMISSIONER ARGENZIANO: But with a safeguard that if things do change, the consumer is not hit with something and the company doesn't have an exorbitant amount or more than what they really should be getting.

MR. DEVLIN: That's true.

COMMISSIONER ARGENZIANO: So this is, this is an approach that really is kind of like a safeguard on both ends: Not denying the company their costs, but also not knowing what the future holds, it's a safeguard for the, for the ratepayer also.

MR. DEVLIN: That's correct.

COMMISSIONER ARGENZIANO: And if we did it the other way, wouldn't it be -- if we -- tell me because I'm not sure about this. If we did it the other way or as Commissioner McMurrian was just saying, could that scenario then be that revenues go up next year and that the company gets to keep that? Tell me, is there a safeguard?

MR. DEVLIN: Well, not entirely. We have other mechanisms to safeguard.

COMMISSIONER ARGENZIANO: That's what I need you to flush out.

MR. DEVLIN: That's what Commissioner McMurrian was speaking to. And that's true, we have our earnings surveillance program. And to the extent we see a big uptick in the company's earnings, you know, enhanced to the point where they're over-earning, we could take action and do something about it through that mechanism as well. This is just a more expedient mechanism.

COMMISSIONER ARGENZIANO: Okay. So then if, if there are safeguards to say that if the company is over-earning, let's say we did it a different way and granted them that now and they were over-earning next year, you can, I'm sorry, you can then say, wait a minute. Would the consumer have already been hit with higher rates? Because I'm trying to figure out if -- what's the difference then?

MR. DEVLIN: Well, one difference, as Mr. Willis just whispered in my ear --

COMMISSIONER ARGENZIANO: Okay.

MR. DEVLIN: -- is the over-earnings system is sort of prospective in nature. And if we find they're over-earning in June of 2010, you know, we could take action from this point forward, where this would sort of safeguard the revenues during the first year of rates starting now.

COMMISSIONER ARGENZIANO: Okay. That's what I was trying to get at. In this time of hardship, and I'm not saying not give the company what they're recovering because obviously this -- I mean, what they're allowed to recover. Obviously this would do that.

The safeguard in the staff's way of doing it is saying that just in case things change, that the consumer would not have to pay more up-front at a time when it could be very detrimental to them. Is that safe to say?

MR. DEVLIN: I think that's a fair way of saying it.

COMMISSIONER ARGENZIANO: Okay. That's all I needed. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Edgar, then Commissioner Skop.

COMMISSIONER EDGAR: Okay. We've probably covered most of this, but I do have one question to clarify. But before I get to my, my question, I think I agree with much of what I've heard. I had some concern with the original staff recommendation on the limited proceedings, and just for the record I'd like to make a comment about that.

Realizing that we just had a lengthy hearing and we do have a voluminous record, to require a limited proceeding for hard assets that we had testimony about and we have record evidence about that close to this proceeding to me did not seem to be efficient or necessary. And just because you never know what situation may come before us, I would like to say that if, if there were a different time period, that maybe I would be more in favor of a limited proceeding and not just set a certain date. But if it was, you know, three, four years down the line, then to have the opportunity for additional discovery and updated information may be appropriate. But looking at the time frame and how soon the dates are and realizing all the steps that the company would need to have already done in order to have those assets ready to go commercially online in just a matter of months I think puts this in a slightly different posture. So the step increase to me makes sense without the limited proceeding for that reason, but also because I'd like to, you know, recognize that the units will be in service, that they will be providing benefits to customers and that we do try to have costs and expenses line up as much as the regulatory, thoughtful, deliberative process will allow. So, so that's my comment.

My question is when we, I met with staff, I don't even remember what day, recently I'll say and we went through this, I think I made the comment then and I'll make it again that in keeping with that, trying to tie expense and costs and revenues as closely together as, as we're able, to wait until January for the step increase to incorporate the in-service date of May also did not seem to be the most efficient or timely.

So I guess I want to make sure with the attachment or, excuse me, handout three that's been passed out, is it that basically the expense and costs for those two May scheduled CTs just would not be incorporated from the costs from May to January or is that already built in the way handout three is written?

MR. DEVLIN: The way handout three is written, Commissioner Edgar, is that the portion that -- I guess you could look at the second page of handout three. And it's really the portion of the May CTs and the September CTs and the rail facility that was adjusted out in the rate case we would put back in for a step increase to give full, full reflection of the full revenue requirement effect. So the May CTs were -- and, Mr. Slemkewicz and Mr. Prestwood, correct me if I go astray here, but the May CTs that were not recovered in our recommendation that's before you right now is approximately $7.7 million. That would be part of the step increase in January 2010 under this scenario we've laid out for you in handout three.

COMMISSIONER EDGAR: Okay. So again just for my own understanding, the proposal that we heard testimony on from the company to have all of it included January 1, '09, did not seem to me to be necessarily the most appropriate way. For very similar reasons, to have, to not have until January '10 on a go-forward didn't seem to be linking, again, those costs and revenues together as closely as I would hope we would be able to accommodate. And so is what is proposed in the new staff recommendation in handout three a third, a third way to account for those issues that more closely ties the costs and revenues together?

MR. DEVLIN: Yes, Commissioner. And it's because of the interrelation between the May units and September units and what's embodied in our recommendation. We had another schedule here, in fact, we just worked it up yesterday, that shows that it's almost happenstance, but the amount of monies that we have in the recommendation for recovery almost equals the full revenue requirements for the May, the two units that are coming on in May. We might want to --

COMMISSIONER EDGAR: And, I'm sorry, Mr. Devlin, but I hope I'm being clear because what I'm trying to think through is the best process or procedure for matching the revenues, the expenses and the rate base, realizing that we've got some different dates going on. And so that's what I'm trying to ask is is that what this handout three does in a manner that is maybe linking those more closely than was either in the original staff recommendation or the draft that we received yesterday?

MR. DEVLIN: I believe that what we have before you today pretty well addresses what you're speaking to, that we believe we have in our recommendation an adequate amount of revenue to cover the two units coming on in May and that just fits nicely. And then the other units that are planned for September, and there's some iffiness whether they'll go on as planned, but those costs then would be bundled up and recovered in January 2010 or close proximity. I mean, it's not going to be to the penny, but it pretty well comes out that way.

COMMISSIONER EDGAR: Okay. And that's helpful. Thank you. That's helpful for my own understanding.

And so I guess with that then, with handout three, Commissioners, the verbiage that's under alternative recommendation, Mr. Devlin describes three conditions with this. And the way I see that is sort of the first paragraph lays out the first condition: Under (1) is the second condition and under (3) is the third condition. Is that --

MR. DEVLIN: That's correct?

COMMISSIONER EDGAR: Okay. So with that then the verbiage in the first paragraph under alternative recommendation I think I'm comfortable with. If I'm understanding what I think I'm understanding, the second condition about wanting, you know, these units to still be needed, realizing that we do have changes in some load and demand projections.

But the, what I will label the third condition that is marked with (2), I do have some, some, some qualms about, I guess I would say. So where I'm at right now is I would maybe drop that, that last out of this if, if -- for my own thinking to move forward. I think I understand what it is we're trying to accomplish, but I do think that the processes that we have in place will accommodate those safeguards all the way around for all, all parties, all customers. And to -- when we set a range, to then come back to the midpoint of that range at a specific moment in time, realizing so many factors that are involved, as I said, just gives me some pause. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Skop, you're recognized, and then Commissioner McMurrian.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I'm going to try and touch upon some issues and then I think build on what Commissioner Edgar just stated. But to me this is -- again, I was not really comfortable with the original staff recommendation. The alternative staff recommendation I still have some issues with, which I'll get to in a second.

But the bifurcation of the rail with the turbines I think makes this a little bit more cumbersome than it otherwise would need to be. I mean, how I would have went about it is probably bifurcated the turbines, the May turbines, the September turbines and the rail project and address them as separate projects that needed to be addressed in the course of deciding how to fair and equitably treat the projects to be fair to the consumers and also to the company. But I probably would have allowed the two CTs due to the, because they're temporally coming into service at the same time with the rate increase. So that's somewhat of a discretionary call.

The three combustion turbines in September are very iffy. I would have waited until those came into service before I would have made any step increase. And then on the rail project, which I still have some additional questions on, again, that would be coincidental with that coming into service and recognizing a step increase. Hopefully they would align, but most likely nothing happens, in a perfect world, and they're very different, separate and distinct type of projects. So, you know, CTs, you're working on CTs, rail. I don't know when CSX might go down and work on some other project, so it's indeterminate. That's generally how I might have approached it. But I'm trying to work within the framework of the alternate staff recommendation.

I do want to touch on a very important part, point though. This comes down to something I think Mr. Devlin stated in response to Commissioner Argenziano where the rates might be commensurately higher to the consumers. And I really don't see that and maybe I'm misunderstanding. If I do, please help correct me, staff.

But the issue I see and how I, I thought, and hopefully I can succinctly articulate why this is tied into Issue 37 is that in Issue 37 -- economic times have changed since our FPUC decision obviously, so I don't know what's going to happen there. But it's reasonable to say that staff has recommended an ROE that is less than the current authorized ROE for the company. But it seems to me that by -- the language at the bottom acts as an additional restriction and perhaps a disincentive to the company to the extent that assuming for the sake of discussion that they are subject to an ROE reduction, then this acts as a further disincentive to the company for striving to achieve operational efficiencies and cost savings that will allow them to earn in the upper end of the range. If we lock them into the midpoint, it's analogous to socialization. I mean, we're basically saying, hey, you're stuck at the midpoint. And I have some concerns with that because, again, we as a Commission, staff as a, has the responsibility for earnings surveillance, can look. And if there is this windfall, which I think is completely being overstated here -- I mean, I just don't see, I don't reasonably foresee that happening. It could, but we do have the mechanisms from the Commission standpoint to address that.

But to me, again, if adjustments will be made on ROE and then we're causing them to refund to the midpoint, then we're just taking away any operational efficiencies they might, you know, management might want to try to bring into effect to earn at the upper end of their range. I mean, I know regulatory regulation, we strive for the midpoint. But that's where good management comes into play to, to cut costs, maximize what they're able to earn because there is a range. And previously, and I'll get to this later, you know, they have been earning below their midpoint, as many other companies have, prompting the need for the rate case. So I think that we kind of need to look at that wisely.

But the rates to the customers are going to be the same rates because they're going to be locked to the ROE, and, and I don't see how it would save customers money as was previously suggested. But if staff could briefly elaborate on that.

MR. DEVLIN: Commissioner, I probably wasn't as articulate as I should have been with Commissioner Argenziano. When I said rate effect, I was referring to refunds, which to the customers has a similar effect. I mean, if the Commission adopted condition three and the earnings were such that there would be a refund, that in essence is like a rate reduction for that one year.

COMMISSIONER SKOP: Okay.

MR. DEVLIN: But the -- and I don't have any other reasons for this, but to address a couple of your concerns about disincentive to be more efficient, that's a valid concern and that's why late last night I put in here refund or credit the rate base or maybe even increase the storm reserve, something that the company would benefit as well as the consumer. It's just something else to sort of take the edge off of that disincentive. And I guess those are the two points.

COMMISSIONER SKOP: Well, again, I'd be generally opposed to it. The latter storm reserve accrual might, you know, there might be some discussion room there.

But my other point with respect to the alternate recommendation stems to the requirement in the first paragraph that requires that the investments must be completed and in commercial operation by 31, December, 2009. Again, the rail project is commingled with the CTs, and I recognize the two CTs are covered in what's already been allowed by staff and I'm happy about that because it wasn't really clear to me up front that that was the case. But I am concerned about that date because, as we all know, dates can slip. Rail projects are different from turbine completion. But I'm concerned that by imposing that requirement on the company, that the company may be forced to rush projects to completion at the risk of safety and reliability. I mean, you know, if we're putting a hard deadline that you have to do this or else and yet if you don't do it, hundreds of millions of dollars of assets are stranded until the next rate case, I'm a little leery about that also and I'd ask staff to speak to that.

MR. DEVLIN: I'll attempt to.

Of course we feel like we needed to have a deadline to justify a rate increase. I mean, your point is well taken. But if the company is estimating their plans are to have this in place, we assume, you know, they have the wherewithal to get it done in place in time for this rate increase. But at the same time we have, that's why we have this provision in there. We don't want them to rush and create a safety issue or create an uneconomic issue as well. And that's just part of management's responsibility to do that.

COMMISSIONER SKOP: Well, the January 1, to your point, is attractive to the extent that it attempts, I think, in staff's view to be fair to the ratepayers by not having ratepayers pay for something that's not yet in service but equally fair to the company that you're not stranding substantial capital investment, which would be a further disadvantage to, a further disincentive to economic development in our state in these difficult economic times.

But the January 1 is attractive, but I know that date is not certain. So to me at least when I view a step increase, it's commensurate with when the project itself comes into service, whether it be one turbine, two turbines, three turbines. Again, I would like to avoid multiple step increases, if possible.

I think the January 1 is a good key date that could encompass the intent, but I am worried about schedule slippage. And, again, I think that's where bifurcation of the issues might have solved that problem. Because what happens if the rail issue hangs up the turbines and the turbines are a lot more expensive than the rail? Then we've got an issue. And, you know, I like to -- having something work, I don't want to say automatically because, again, everything is subject to being proven up and being checked and verified, but having something, a mechanism that auto engages upon the trigger of a certain event I think is appealing to the Commission or at least would be appealing to me. But I'm just trying to struggle with how you address those issues because I can see schedules, maybe it's off a day, a week, you know. Are we going to strand hundreds of millions of dollars over a day? I don't think that's inherently fair to either the consumers or the utility.

MR. DEVLIN: Commissioner, and Mr. Prestwood can chime in, but I would think if we had a situation like they were a week off or something like that, that TECO would have some kind of a filing to show that this would still be reasonable, within the bounds of reasonableness. And also that's why we also put in our handout three that in the event one or more of the projects, you know, slipped, it doesn't mean they wouldn't get recovery on the other projects, but they would have to resubmit the calculations.

COMMISSIONER SKOP: Thank you. And then, Mr. Chair, at the appropriate time when we get into the discussion of the rail facility that was commingled with this, I have one quick question.

But it seems that the staff handout, and at least the calculation portion, not necessarily the conditions precedent, but the calculation portion encompasses all of the capital costs and makes that appropriate adjustment to rate base at the appropriate time to, to be equally fair to the consumers as well as the utility. So I'm comfortable with the methodology, not so much with the conditions precedent.

MR. PRESTWOOD: Commissioner, if I could just point out one other item. The company itself in their late-filed exhibit actually suggested the January date for a step increase to include the last three CTs as well as the rail facility and that they felt that they would be in service at least 30 days before that date.

COMMISSIONER SKOP: And I'm fine with that. I have no problem with the January 1st date. I was just looking at the restrictive language as that they must be in commercial operations. And what happens if we find ourselves in a situation where reality doesn't meet what we anticipate? How do we address that? Are we locked in or do we have to come to some special agenda to address it? So, again, I'm trying to contingency plan maybe a little bit outside of the box to make sure we get the same intent, but can reasonably anticipate contingencies that may arise.

CHAIRMAN CARTER: Thank you.

I'll go to Commissioner McMurrian, then Commissioner Argenziano. Commissioner McMurrian, you're recognized.

COMMISSIONER McMURRIAN: Thank you. And, Commissioner Skop, I think those are all good points, and particularly I hadn't given a lot of consideration to the date with respect to December 31st and that first condition. I think where I'm at though, I think I still am okay with that, but let me ask one question of staff with respect to that condition there.

If, if for some reason there was reason for TECO to slow down their construction of the rail project and perhaps it wouldn't go into commercial operation until January of 2010, I think you said a minute ago that there may be some ways to address that. But would they -- they would also still be able to bring up the, the opportunity for a limited proceeding. If we were to get -- with respect to even the CTs as well, I mean, if some of these things got pushed out, they would still be able to come in for a filing like that; right?

MR. DEVLIN: I believe so.

COMMISSIONER McMURRIAN: Okay. So I think, Commissioner Skop, it's a good point and it does seem like it's kind of silly to quibble over December 31 to January 1 and we might be in that situation. I agree with you. I just, I'm concerned with how far we go into, you know, that next, that next year. And it does seem like, as Mr. Prestwood just pointed out, that the utility seems to think that they're going to get this in place by the end of December 2009. So given that and the fact that they've said that January 2010 would be a way to do the step increase, I think I'm comfortable with that, but I, but I do agree with your concerns there and I think those are valid points to bring up.

And I also agree with a lot of the concerns you raised about -- actually I think all of your concerns that you raised about this third condition. And consistent with what Commissioner Edgar proposed, I would also suggest dropping that. I agree that the windfall argument that we're talking about is perhaps overstated a bit, and I guess I'm concerned about the precedent we would set in doing a step increase in this manner.

I think for the reasons Commissioner Edgar stated and Commissioner Skop also stated that this alternative is a better way to go because it somewhat just leads to sort of an irrational result to say that just because it's not fully in the test year, even though we've fully litigated with a hearing all the information about these CTs and the rail facilities, that we require a limited proceeding and essentially start over with another mini rate case, if you can even call it mini. So I agree with that. I think that we've got to be reasonable there, and I think the reasonable thing is to do some sort of step increase.

But the -- I mean, we've, we've been down the road before talking about earnings tests, and to me that's what this is, what your number three condition is. And I'm just not sold that it needs to be done here. I think that the tools that we have that we've talked about to safeguard the customers, the fact that you are always monitoring the surveillance reports and we have mechanisms in place to say if a utility is over-earning, here's what we do. In fact, the parties have an ability to raise those issues with us as well and say that we think you need to take a look and propose that we get into another proceeding. So I agree with Commissioner Edgar's argument to just remove that condition. But I am comfortable with the others, given what I said earlier about the first one and Commissioner Skop's concerns there.

So I think that about says it. I just don't think it needs to be an automatic thing to ratchet it back down to the midpoint. It does seem to get us into territory in Issue 37. And I think the best way to deal with it is just to take that out and rely on the tools that the Commission already has. Thank you, Chairman.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Thank you, Mr. Chairman. I have -- I happen to agree with staff and their recommendations because I think it's very fair, and I've, I've always tried to be very fair. And being fair at a time when the consumers are out there really struggling is a very wise thing to do because the tools that staff already has they would have used and wouldn't have come up with this recommendation if they didn't realize that there would be a great impact to the people of the state. So $87 million is a rate increase that today includes some of the $19 million, is that correct, okay, for the May, for the May CTs?

MR. PRESTWOOD: Yes, ma'am. It includes, it includes eight months of the May CTs and four months of the September CTs.

COMMISSIONER ARGENZIANO: Okay. But if the three CTs go into service in September of '09, that's a big amount of money; right? I'm putting it as bluntly as I can without having to say 12 sentences to make one.

MR. PRESTWOOD: If you mean the -- do you mean the annual impact of that or just the four months is the reason I was stumbling?

COMMISSIONER ARGENZIANO: Well, both actually. But the annual amount.

MR. PRESTWOOD: The four-month effect of the September three CTs is going to impact, which we have included in the $80 million recommendation, is approximately $8 million, a little bit more. The annual impact is $26 million.

COMMISSIONER ARGENZIANO: $26 million?

MR. PRESTWOOD: Yeah. Of the three.

COMMISSIONER ARGENZIANO: Okay. So what I see, and correct me if I'm wrong, staff, you want to find a way to give TECO the dollars if these go into service without putting the risk on the ratepayer; is that correct?

MR. PRESTWOOD: That's correct.

COMMISSIONER ARGENZIANO: Hmm, that's nice. So staff's recommendation is to allow a rate increase for 2010, an amount decided today, but only if certain conditions are met; right? And these are, and correct me again if I'm wrong, the conditions are that there's no big jump in earnings earned at midpoint and that all CTs go into service, actually go into service and that the need exists. Is that, is that correct?

MR. PRESTWOOD: That's correct.

COMMISSIONER ARGENZIANO: Okay. That's hardly socialism. Okay? And if we're going to start calling names and putting labels on things, then I'm going to start putting labels on bull cocky. So I think that staff's recommendation is a safe one and a good one and I appreciate that work.

CHAIRMAN CARTER: Commissioner Edgar, you're recognized, and then Commissioner Skop.

COMMISSIONER EDGAR: Maybe I'm getting a

little ahead, but I don't think so. I think that our discussion has covered Issues 4, 5, 6 and 7. And the conditions that Commissioner Argenziano has just described about the operation date and the protections to the customers and the company I think are covered in, as we described, the first two conditions the way I described it earlier. So I'm prepared to make a motion to that effect, Mr. Chairman.

CHAIRMAN CARTER: Let me recognize Commissioner Skop, and I'll come back to you at the appropriate time for a motion.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just because this would also encompass Issue 6 in terms of the first column on the second page of staff handout three, the adjustment for the net plant in service, I initially on Issue 6 had a concern with the staff recommendation to the extent that it provided the credit from CSX to the utility -- I mean, to the customers through the clause, and I think that's a great thing. So I agree wholeheartedly with staff's recommendation on that.

What was less certain to me is how one would get that into the rate base for when it came into service. And I guess the concern I have, and then I want to touch upon one point that Commissioner Argenziano raised, but the $44,754,000 there I'm not so sure represents the true cost of the, of the project. I've heard different numbers floated in the, in staff recommendation and in the direct testimony. I think somehow that got a little bit mixed up with the fact that the adjustment that is now going to be provided to consumers totaling, I think, $15 million over time was used to offset the capital expenditure. And so I'm trying to ferret that out a little bit further as to whether that's the correct number, recognizing the total capital investment that will be made for that rail project over and above it not being representative of the amount of the capital project. Because, again, the credit that was going to be applied, which I'm wondering whether that's the reduced number as a result of the credit, is now being applied to the consumers totaling again, I believe, $15 million. So I need staff to briefly address that issue. Should that issue be, should that number for net plant in service be $60 million? And, again, I'm not trying to inflate numbers. I'm trying to be fair. So --

MR. PRESTWOOD: Yeah. We really haven't addressed the credit up to this point completely. The company's proposal was to use $45 million as their estimate of the rail facility. Any amount that the actual project exceeded that, they would use part of that credit that they get from the CSX Railroad to offset that to bring it back down to $45 million. And then the remaining amount of credit would be flowed through to customers through the fuel adjustment clause.

So to the extent that we are proposing to flow 100 percent of the credit back to ratepayers through the fuel adjustment clause immediate -- or through the first five years because they'll, the customers will benefit from it sooner, and the project for the railroad does in fact exceed $45 million, there would, there would need to be an adjustment to that number to, to reflect a proper amount for the --

COMMISSIONER SKOP: So that number would be, should that credit be stripped out and applied to the consumers through the fuel clause, the credit that would otherwise reduce that number resulting in the lower number now, if I heard you correctly, would be higher otherwise.

MR. PRESTWOOD: That's correct. Our problem is the company didn't really represent what the number was going to be above $45 million. They threw some numbers out saying it's estimated at 60 at this point, but nobody, no witness really supported that just simply because of the position they were taking was to, no matter what the number was, was to offset it with part of the credit back down to the 45, so.

COMMISSIONER SKOP: Okay. So there's a potential for stranding capital investment there, but that may be okay because it's not supported by direct testimony.

MR. PRESTWOOD: There's a potential for missing some of the capital. I'm not sure I'd go so far as to say it's okay, but.

COMMISSIONER SKOP: Okay. How would staff -- again, does staff believe that the $44,754,000 is accurate or does that need -- would staff recommend further refinement of that number prior to moving forward with Commissioner Edgar's pending motion?

MR. PRESTWOOD: I believe it would be probably more appropriate to adjust that number to the latest number that we did have identified in the record at least, which I believe was $60 million.

COMMISSIONER SKOP: Okay. So staff would recommend adjusting that first number in Column 1 on line number one from $44,754,000 to $60 million reflecting the direct testimony of the approximate capital cost, subject to check, subject to staff further reviewing the numbers, subject to prudency, but that would be the appropriate adjustment to be made.

MR. DEVLIN: Mr. Chairman, could we have a couple of minutes to discuss this because this --

CHAIRMAN CARTER: Why don't we do this, too, Commissioners. We have not given Linda a break yet and we've been going on for a couple of hours here. It's probably an appropriate time for the court reporter to break. And let's do this. I know you've got some calls and some things to do. Why don't we come back, the clock on the wall, at a quarter of. We're on recess.

(Recess taken.)

We're back on the record. Where we last left, staff was getting ready to respond to a question from Commissioner Skop. Staff, you're recognized. Then, Commissioner Skop, I think we'll go to you, and then I think Commissioner Argenziano had a question.

You're recognized.

MR. PRESTWOOD: Commissioner, in our discussion before break we were talking about whether to update this number for the railroad or not. On further reflection, the $45 million number is the number that the company did file. It's the number they supported throughout the rate case. On several occasions they threw out different numbers, but we got no support for those or anything else.

The whole point of the step increase is to try to determine a number today based on the record today so that we don't have to redo that January 1 when the time rolls around and go through any kind of a proceeding or limited proceeding.

So if we had numbers that had been supported in the record, the numbers should be updated. I would say by all means the numbers should be updated. But at this point I don't believe we have that information that's sufficient, and I would recommend that we stay with the $45 million. That's the number the company filed with and as far as supporting stayed with throughout the case.

COMMISSIONER SKOP: And thank you for that. Again, I guess that will inure to the detriment of the company to the extent that they had the ability to prove up their case and apparently they weren't specific enough on that issue.

I guess where I had gotten confused was that there are in the staff recommendation on Page 16 different discussions of various numbers that had been discussed. I think the confusion is that as originally presented by the company that the project capital costs would be offset by the CSX credit, which staff has now recommended being applied to the consumers. So, again, in the interest of fairness I was just trying to say the way I looked at it, for the sake of a hypothetical discussion, if the capital cost of the project was $60 million but that amount had been offset by $15 million in proposed credits with the resultant net capital cost of the project of 44.5 or whatever the number is, then that would reflect that the application of the credit that now staff -- and then the 44.5 would go to the rate base. But staff has now taken that credit and said, no, that will be applied to the consumers through the fuel clause, which is a good thing.

But, again, I'm just wondering whether that 44 reflected the true capital cost of the project. And, again, I think, as I've heard staff say, there may not be conclusive evidence as to what the number should or should not be.

MR. PRESTWOOD: That's correct. I mean, the $45 million is the number that we feel comfortable with that's been supported, and so that's one we would recommend that we go with.

COMMISSIONER SKOP: Okay. And then just I wanted to clarify a prior comment that I made which may have been misconstrued.

Again, in looking at the, on the staff

alternate proposal for staff handout three in terms of putting a limitation on the midpoint of earnings and requiring refunds, you know, I want to emphasize and be crystal clear that the capital projects that we're talking about are all coming into service in the test year for 2009. It's just that under the staff alternate proposal, adjustment is made on January 1st to be fair not only to the consumers who should not have to pay but also to, for something not yet in service, but also to the utility that recognize that those substantial capital projects would now be placed in service for the benefit of the customers.

But I think that the, the part that was misconstrued is that beyond making that adjustment, which is perfectly consistent with sound regulatory practice and the test year in the instant case before us is that we're further capping the, or putting a limit on the earnings over and above the typical range that this Commission authorized. So, again, that's how I'm saying this is interrelated because once we set that earnings, if we go with the staff proposal, you're putting a cap on something that we're going to set in a future item here before us today. But that's an additional restriction and limitation, and I do view that as a significant restraint to additional capital investment in Florida. I view it as a significant restraint to, to business because, again, it deviates from historical practice of the Commission.

I think, as Commissioner McMurrian pointed out, this may be an issue of first impression, adding such a restriction. But what I'm very concerned about is the regulatory signal that it would send in light of credit ratings and the capital markets being in a state of turmoil. I don't think I want to add to that.

Again, I want to protect the consumer. I'm not trying to inflate numbers or do anything that is extraordinary because, again, they're allowed to earn in the range. But we're putting additional restrictions on something which is effectively capping a company's ability to earn a return that we're going to authorize today. And so to me it's a little bit inconsistent. We're going to authorize a return. It's plus or minus 100 basis points. But then we're also adding an additional restriction that further caps that return that we will authorize, and to me that is just, as I think Commissioner McMurrian pointed out, an irrational result. And I'm just not comfortable with it because, again, I think it -- again, to be fair to the consumer, but, again, I'm very concerned about the precedential value and the negative regulatory signal that would send.

CHAIRMAN CARTER: Thank you.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Thank you. I have a couple of different questions.

First, I'd like to ask staff that every time that we depart from one of your issues, from one of your recommendations, an example with the, with the rail transport from $45 million to $60 million, I want to know what increase in rate, what rate increase that will be. And if at the end of the day we have departed from all of your recommendations, I want to know before I make a decision what increase or what impact that is on the rates. So if you can keep a running total of that, I'd appreciate that.

The second thing I need to know, and please correct me if I'm, if I'm wrong, is that Commissioner Edgar had mentioned that she believed that two of the, the first two of staff's conditions would satisfy my concerns, and I don't see that so. So I'm going to tell you why I don't think that's so, and then please tell me if I'm correct or if I'm wrong.

Number one, I think that if you remove the condition or any of the conditions, but especially the one condition that was mentioned, if you have revenues go up, it would take, what, I believe 45 days to file a report at least, then realistically take staff another month or so to get it on the agenda, and then there's still more time after that to actually come to a final vote; is that correct? About correct?

MR. DEVLIN: That's fair.

COMMISSIONER ARGENZIANO: Okay. So that means then that by the time you get, this is prospective, by the time you get to the final vote, several months could have passed already. And, and, again, correct me if I'm wrong, because I'm just looking at things and trying to find out why it would be okay just to have the two conditions and not the third, if Commissioner Edgar is correct, it found that there is an over-earning, that would mean it's 100 basis points above; is that correct?

MR. DEVLIN: Correct.

COMMISSIONER ARGENZIANO: So if the ROE was established today at 10.75, at staff's recommendations, and it could go higher, okay, and if it went higher, that would mean if it was 10.75, let's say, that would mean that there could be an over-earnings of up to 11.75; is that correct?

MR. DEVLIN: That's correct.

COMMISSIONER ARGENZIANO: So those consumers then who are in a hurt right now could be faced with having to pay several months worth of a higher over-earnings which they'll never get back; is that correct?

MR. DEVLIN: The only exception I take to your statement, Commissioner, is that probably I wouldn't characterize it as over-earnings if they're earning within the range.

COMMISSIONER ARGENZIANO: Well, let's say it's -- we don't -- okay. Let's say it's above because we don't know.

MR. DEVLIN: Above the midpoint.

COMMISSIONER ARGENZIANO: If there is an over-earning, that's -- I -- what I am assuming is that your condition, the one that they want to remove, discussed as removing is a trigger point that protects in case there is an over-earning; is that right?

MR. DEVLIN: It's a trigger point to protect in case -- I wouldn't characterize it as over-earnings, but to protect in case there's a big upswing in the economy and the revenue, and the company is flush with revenues and they don't need a full step increase that they otherwise would get.

COMMISSIONER ARGENZIANO: But it's, but it's a, but it's a protection in that respect.

MR. DEVLIN: It's a protection. That's

correct.

COMMISSIONER ARGENZIANO: Without it there would be no, be no protection and there could be the possibility, not to say that there would be, but there could be the possibility that the consumer then would be stuck with months by the time we got to a final vote and would never be able to earn that money back unless today if we agreed that, on something that said that if we do it without that condition, that they would have to pay back to the consumer those several months of possible over-earnings; is that right?

MR. DEVLIN: I agree with everything you say, except I wouldn't characterize it as over-earnings.

COMMISSIONER ARGENZIANO: Please. That's what I'm asking for.

MR. DEVLIN: It's not over-earnings in my opinion.

COMMISSIONER ARGENZIANO: So then why -- then tell me why you have that third condition in there.

MR. DEVLIN: Because, first of all, I believe the philosophy of ratemaking is to set rates to afford the company the opportunity to achieve its midpoint, before we even get into over-earnings, midpoint, whatever it is, 10.75, whatever it is, for that first year of rates. So I'm trying to be consistent there.

Recognizing the step increase is not normal would be perhaps making a decision today that will go in effect eight months from now. The conditions could change, revenues could -- it's just a different situation than a normal rate case, and I was trying to come up with a provision that is consistent with the philosophy of affording the company the opportunity to earn its midpoint; at the same time don't have a windfall, don't make more than that because of something that we have no control over now, an upswing in the economy and all the sudden revenues come in higher than we expected.

COMMISSIONER ARGENZIANO: Okay. And in that case, the revenues come in higher than you expected during those months before we got to a final vote, what happens? Is the consumer, is the consumer then given back any of -- can that money -- because it sounded like to me there were safety protections to protect the consumer. That's what I heard here.

MR. DEVLIN: Our typical safety mechanism is prospective.

COMMISSIONER ARGENZIANO: Not typical. In this case.

MR. DEVLIN: Oh, in this case.

COMMISSIONER ARGENZIANO: Okay. If this occurs and that provision is removed and that we're allowed, we allow the company to do that and, and it is above -- I mean, you have that in there for a reason, as you just explained. Will the consumer ever be able to get that money back?

MR. DEVLIN: No. Our decisions on refunds would be prospective only.

COMMISSIONER ARGENZIANO: So it could be several months of loss to the consumers.

MR. DEVLIN: To -- yes.

COMMISSIONER ARGENZIANO: That's all I want is your professional opinion. That's what I saw and that's what I thought was the case. So removing one of those provisions does not safeguard the consumer. But it also in keeping those provisions in allows the company to get what they deserve also, doesn't it?

MR. DEVLIN: I believe so.

COMMISSIONER ARGENZIANO: Okay. Thank you.

CHAIRMAN CARTER: Thank you, Commissioners. Anything further before I recognize Commissioner Edgar for a motion?

Commissioner Edgar, you're recognized for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman. And first let me apologize to Commissioner Skop. I completely forgot that you had said that you had a question on one of these items. I did not mean to jump ahead of that.

My understanding at this point is that we have discussed Issues 4, 5, 6 and 7, so I would make a motion in favor of the staff recommendation on Issues 4, 5, 6 and 7, recognizing within that that it would include the what I'm going to call alternative recommendation that we have discussed from staff that was handed out this morning on handout three with the exception of the wording from (2) down.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: Commissioners, it's been moved and properly seconded on this issue. Any discussion? Any debate? It's been moved and properly seconded. All in favor, let it be known by the sign of aye. Aye.

COMMISSIONER EDGAR: Aye.

COMMISSIONER McMURRIAN: Aye.

COMMISSIONER SKOP: Aye.

CHAIRMAN CARTER: All those opposed.

COMMISSIONER ARGENZIANO: Aye.

CHAIRMAN CARTER: Show it done. Thank you.

MR. SLEMKEWICZ: Commissioner, I would just like to point out that $32.9 million that's referenced in the alternative recommendation may change based on the outcome of votes on other issues.

COMMISSIONER EDGAR: And, Mr. Chairman, I appreciate the staff pointing that out for the record, and I do recognize that there will be some adjustments probably as we go forward relating to many decisions. And if you will recognize me at that point in time towards the end of our discussions, I would ask that we consider giving staff the ability to make whatever technical adjustments due to decisions that we make today.

CHAIRMAN CARTER: And, staff, also when we do make that recommendation at the same time that we deal with the fallout issues, so just kind of keep us on track at that -- that will be at the end.

I think our next grouping of issues -- we just dealt with 4 through 7. Our next grouping, unless I'm going too fast, would be Issues 8 through, is it 8 through 14 or 8 through 16?

COMMISSIONER EDGAR: Mr. Chairman, I would ask if we could maybe as a group take up Issues 8 through 15 to see if there are any questions.

CHAIRMAN CARTER: Okay.

COMMISSIONER EDGAR: And I may have some questions on 16, but I don't have on those before that.

CHAIRMAN CARTER: Okay. So, Commissioners, we're on Issues 8 through 16.

Staff, you're recognized to introduce the issues, please.

MS. MARSH: Issue 8 addresses TECO's projected level of plant in service. It's staff's recommendation that the amount should be reduced to reflect over projections in the amounts by 31, excuse me, 35671, with corresponding reductions to accumulated depreciation and depreciation expense.

CHAIRMAN CARTER: Okay. Issue 9.

MS. MARSH: Issue 9 addresses TECO's request to increase plant in service for customer information system modifications. It's staff's recommendation that the modification should be approved.

CHAIRMAN CARTER: Issue 10?

MS. MARSH: 10 is a fallout.

CHAIRMAN CARTER: Okay. And 11.

MS. MARSH: And 11 is a fallout.

CHAIRMAN CARTER: 12.

MS. MARSH: Issue 12 addresses costs to be removed through environmental cost recovery. It's staff's recommendation that those costs have been removed from construction work in progress, so no further adjustment is needed.

CHAIRMAN CARTER: Issue 13.

MS. MARSH: Issue 13 addresses the construction work in progress. It's staff's recommendation that the amount requested by TECO is appropriate and no adjustment is needed there.

CHAIRMAN CARTER: Issue 14.

MS. MARSH: Issue 14 addresses property held for future use. Staff recommends that TECO's requested level is appropriate and no adjustment is needed.

CHAIRMAN CARTER: Issue 15.

MS. MARSH: Issue 15 addresses the working capital portion of deferred dredging costs. This issue is also a part of Issue 56. It's staff's recommendation that the working capital should be reduced to reflect those recommendations in Issue 56, and that adjustment is $1.3 million.

CHAIRMAN CARTER: Okay. Issue 16.

MR. PRESTWOOD: Issue 16 is the company's request to increase their annual accrual to the storm reserve by $16 million and increase the target to $120 million. Staff's recommendation is to deny that increase in accrual.

CHAIRMAN CARTER: Okay. Speak to your oral modification also on Issue 16.

MR. PRESTWOOD: Part of that adjustment was an adjustment to working capital. In the original filing we showed that as a reduction of $8 million in working capital. It should have been an increase of $8 million in working capital, and we've made that modification in the handout.

CHAIRMAN CARTER: Commissioners, we are now on discussion of Issues 8 through 16. 8 through 16.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just a brief question. These are very straightforward issues and we've had some good discussion.

On 16, I know that the, the issue of the appropriate storm damage reserve was hotly contested at hearing. I tend to agree with the staff recommendation. Again, I think that such an increase in expense is discretionary, I think taking it to $20 million. Again, it's not a -- I'm trying to think of the proper terminology. It's not a, a hard reserve account. It's not going --

MR. PRESTWOOD: Funded.

COMMISSIONER SKOP: Excuse me?

MR. PRESTWOOD: It's not a funded --

COMMISSIONER SKOP: It's not a funded reserve. It just operates to, as additional cash flow. There's pros and cons to that.

If it were a funded reserve, I might or might not think a little bit differently. But long story short, I think the Commission has adequate -- has proven historically, you know, through securitization and other mechanisms that when there is a catastrophic event, that we move forward and try to do the right things. But having reserves is also a good thing, but in this regulatory environment with the economy the way it is I look at that as opportunity to save consumers $16 million a year. Again, they may have to pay for it later, but, again, I think that we have mechanisms to deal with that, and that provides some rate relief to consumers. So I agree with staff.

The only question I would have would be through the Commission's hardening initiatives we've required utilities to do inspections, to improve infrastructure, to replace poles with, you know, thicker concrete poles or such. Does that additional infrastructure and the higher costs associated with that, because as you go through a continuous cycle of replacing old equipment with new equipment, typically the cost escalates, does that reserve adequately address the increased cost to the infrastructure in terms of what's projected in terms of the $4 million? That's the only question that I really have on this.

MR. PRESTWOOD: The whole issue around storms is one of statistical occurrence. It's a matter of if and when and how damaging the storm is. But your, but your question is appropriate. We think so. The company had a $4 million accrual that it put into in the early '90s. When all was said and done, when the 2004 storm damage occurred from three storms, the worst year the company had ever incurred, even though there was some discussion and squabbling about how much was real storm damage, the company still had a positive storm reserve once that storm damage was booked, so.

COMMISSIONER SKOP: Okay. So I think, if I heard you correctly, that the $4 million accrual amount is sufficient to keep parity with incremental increase in the replacement costs.

MR. PRESTWOOD: It has been. And, again, it depends on the level of storm damage they incur, so.

COMMISSIONER SKOP: Well, hopefully, knock on wood, we won't have any more storms in our future.

No further questions, Mr. Chair.

CHAIRMAN CARTER: Thank you.

Commissioner McMurrian, you're recognized.

COMMISSIONER McMURRIAN: Thank you. And I have questions as well on 16. And I guess just to follow up on I think where Commissioner Skop was talking about, that, of course, all of these issues are based on the record we have in this particular case. If we were looking at this in the future, it would be up, of course, it would be up to a company to make some argument that perhaps, like what Commissioner Skop was saying, that they've put substantial investment in under the storm hardening or maybe even beyond that, I don't know, to try to address the storm issues in hopes that that would ultimately reduce cost to ratepayers down the road in avoiding perhaps surcharges and things like that. And that despite what we recommend here, based on the case we have before us, we'd have the opportunity to look at those individual circumstances given what utility we would have before us at the time. Is that --

MR. PRESTWOOD: That's correct.

COMMISSIONER McMURRIAN: That's correct?

MR. PRESTWOOD: Uh-huh.

COMMISSIONER McMURRIAN: And I guess sort of along -- well, back to actually TECO specific here, in the last line where it says the issue should be readdressed if and when the target level is actually achieved, I guess I just wanted to get clarification because sometimes I get concerned about how we have things in orders that say we need to do something by a certain time, and then when the time comes there might be some reason that perhaps we don't want to go about it that way. And I just -- I don't know. So I just wanted to talk through that.

I think you are saying that it wouldn't be -- it would be premature to require that the storm damage accrual stop when it reaches that $55 million target amount. So you're not going as far to say that it stops there but you are saying it should be readdressed. And I guess I want to be clear about how you're talking about we readdress it. Would staff necessarily be bringing something back? Would staff just be looking at it with the company and sort of using some judgment about whether or not to bring it back to us? I just, I guess I want to be clear what those next steps are.

MR. PRESTWOOD: Well, as you pointed out, staff doesn't believe it should just automatically stop because they hit that target level. And depending on the circumstances at the time, the company's earnings, whether they're in a rate case, so forth and so on, if they could continue to accrue without, you know, without further increases to customers and so forth, I would envision that the staff would bring that to the Commission and ask that they just continue to accrue to build that reserve, in case there is a storm that they have plenty of reserve there and can avoid a surcharge in the future would be our view of how it would work.

COMMISSIONER McMURRIAN: Commissioners, my thought is -- I mean, I don't know that I would want to go beyond the target amount when we, when we got to that point, assuming we're here to talk about it then. But at the same time I'm not sure that it would necessarily make sense to stop it, especially given -- well, we'll have a lot more information by that point. We'll know whether or not, since some of these years upcoming, whether or not we'll have bad storm years and that sort of thing. And so I just, I wanted to see that.

And given the evidence in the record about $73 million of damage to their system in 2004, and I realize that was sort of an anomaly compared to the other years, it seems like a $55 million target amount is not necessarily that large.

At the same time, I agree with Commissioner Skop. I'm comfortable with where we are given the evidence and the times we're in and that sort of thing, but I just wanted to make sure that we're able to apply the set of facts before us at the time in a different case. I just, I don't want to feel boxed in. And I don't think it's always true that we would necessarily not want to look at that level of accrual, and possibly look at what Commissioner Skop was saying about whether or not they put in substantial investment that might not really be covered adequately with the current level of reserve. Thank you, Commissioner, Chairman.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Thank you. Staff, if you'd help me out on this one because, you know, there is a lot of talk about the health of the company and keeping it healthy. Isn't this a way for the company to increase value of assets? Wouldn't that be a way of the company doing that?

And the reason I say that is because I guess you're not really saving $16 million, you're not saving the consumer now. Eventually they're going to pay for the storm that hits. And I'm trying to figure out if increasing the storm recovery actually helps the company in that respect.

MR. PRESTWOOD: Well, as you, as you point out, it's strictly a timing issue. The customer is going to pay for the storm damage whether they pay for it along $4 million a year or through a surcharge or some other mechanism.

In this case it helps the company through their cash flow in that, as Commissioner Skop pointed out, it's not a funded reserve that they have to set aside and earn interest on and so forth. So, so it's

$4 million they collect each year from customers that they're, it improves their cash flow. And any time you improve cash flow, and I'll leave that to another staff member to discuss, but that helps the company's --

COMMISSIONER ARGENZIANO: Right. So I guess my question is why not help the company in this respect, especially since we know inevitably there are storms to come? And I'm trying to figure out amongst all the talk of keeping the company healthy why this is not a good one to increase.

MR. PRESTWOOD: Well, a couple of reasons. One, one is we think that the storm study that they filed in support of increasing the accrual from $4 million to $6 -- to $20 million was biased in that they included that 2004 year where they, which was the worst year in their entire history, 106-year history. In fact, it increased the results, by including that it increased the results of a storm hazard by 60 percent by including that one year. So we think that greatly distorted the results.

We, we're not recommending that the $4 million that they have today go away. So they are going to continue to accrue storm damage. And they have a reserve; as of August I believe the reserve was in the $22 million range, August of last year, and growing.

And as long as there's no storms, it will continue to grow.

And then finally we believe the company is fully protected. So from, you know, an investor standpoint, investors don't need to be concerned about storm damage to the company because they are protected through either the storm reserve or through, collecting it through securitization or surcharges on the customer's bill, so.

COMMISSIONER ARGENZIANO: Okay. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: In your response and discussion just a moment ago, you described that you thought including the 2004 storm events, my word, maybe skewed the results of that analysis. So, so am I understanding you to say if 2004 were not included in the analysis, that you think the analysis would point towards $4 million being the most appropriate number or some number in between?

MR. PRESTWOOD: Some other number. We don't know what it would have been without the, the 2004 year included, so.

COMMISSIONER EDGAR: Can you extrapolate?

MR. PRESTWOOD: It would definitely be closer to the $4 million. I don't know exactly. I wouldn't attempt to do that right now.

COMMISSIONER EDGAR: And I guess, Commissioners, this is one that I really struggle with because I really see arguments both ways. I appreciate the points made about additional cash flow and the maybe flexibility or strength that that gives. Having experienced a number of surcharge and securitization discussions in hearing, I think that those are tools that this Commission has well used in the past. But in my own view they are not perfect, but, I mean, they're tools and they're good tools to have and I think they were generally utilized in a positive manner, but that they are not perfect.

And I know -- I'm trying to think which storm was, I almost want to say Charley, but I could have that wrong, that at one point when it came into the Gulf was projected to veer straight into Tampa Bay. And the initial -- again, that didn't happen. I fully recognize. But initially with the moving people out of the area and steps that were taken in advance, the projections were that it was going to hit those more heavily populated areas and with more industry and other things than the path that it ultimately took. And I know I really, really, as I'm sure the rest of the state does as well, live in fear of a large Category 3 or above storm hitting straight into that populated area and what that would mean for storm surge and industry and homes and schools and all of that.

So with that in mind, having an amount that may go beyond what that $4 million would do may have some benefits. But, again, I can see it -- I just think there are benefits both ways and I'm candidly on the fence.

CHAIRMAN CARTER: Commissioner Skop, then Commissioner McMurrian.

COMMISSIONER SKOP: Question to staff on the points raised by Commissioner Argenziano and Commissioner Edgar.

I understand, again, that this is not a funded reserve. I understand clearly the benefits of free cash flow to a company. With respect to the reserve amounts, do those reserve amounts accrue interest in terms of the account on reserve?

MR. PRESTWOOD: No, but they are treated as a reduction of rate base. So they, the company does not earn on those reserves.

COMMISSIONER SKOP: Okay. So they don't, they don't earn a return. But, again, making the dollar amount higher obviously drives revenue requirements, is that correct, in terms of the customers' bills?

MR. PRESTWOOD: It would, you know, all else being equal, effectively it lowers rates because they don't, it's cash, it's cost-free capital in a way of looking at it but it's treated as a reduction of rate base, so.

COMMISSIONER SKOP: I get confused sometimes. I'm not perfect, I'm fighting a cold, but you just said something that just went way over my head. Just plain or simple answer, all things else being equal, if, if the funded reserve amount were $20 million as requested by the company versus the $4 million recommended by staff, noting that the additional $16 million represents free cash flow, what is the impact on customers' bills, higher or lower?

MR. PRESTWOOD: That is higher. I'm sorry.

MR. SLEMKEWICZ: And it would be about a $15 million higher rate increase.

COMMISSIONER SKOP: I can see merits of doing it either way. I mean, I see, you know, strength in the company by having that reserve, it's on account. I also recognize equally the benefit of free cash flow to the company; whereas, the consumer is being asked to pay more in difficult economic times. But, again, I look at that as discretionary subject to the will of the

Commission. Do we want to raise rates to enhance free cash flow or do we want to take a more conservative approach of keeping rates low in the interim and addressing the issue on a case-by-case basis on a forward-going basis? That's just my view. I can go either way because I see benefits on both sides.

CHAIRMAN CARTER: Thank you.

I'm going to go to Commissioner McMurrian and then I'll come back to you, Commissioner Edgar.

Commissioner McMurrian.

COMMISSIONER McMURRIAN: Thank you, Chairman.

I guess I'll ask staff this way, do we have the ability to go anywhere between $4 and $20 million because those two numbers are in the record?

MR. PRESTWOOD: Yes.

COMMISSIONER McMURRIAN: I guess that's some of the -- I don't, I don't necessarily -- I wouldn't say that because Hurricanes Charley, Frances and Jeanne in 2004 were in the analysis that it was biased. I don't agree with the witnesses there, and I guess I probably alluded to that somewhat whenever I was talking about the, the target amount being set at $55 million and us talking about coming back whenever that's hit. And I guess to me it seems like some give on that. If we were, if we were addressing that today, that would be, and we are and we can, that I think that the target amount could definitely go higher.

I don't, I didn't feel that comfortable with knowing what the number would be, if it weren't $4 million and if it weren't $20 million, what that number would be. And I guess that's where I was saying I was comfortable with the staff recommendation as it was. I didn't feel like I knew what number we could be talking about between 4 and 20.

MR. PRESTWOOD: Well, the $20 million number was actually a judgment number by the company. The witness who actually performed the study did not make a recommendation. They just presented their statistical analysis and actually presented some ranges of what they would estimate the reserve to be in five years if you used this accrual level or actually three different accrual levels they picked. They could have picked ten for that matter. It was the company witness that actually chose $20 million based on partly, or largely, I should say, the study results and his own judgment of what he felt the number should be. So the Commission has full latitude as far as I'm concerned on what number they might want to choose; anywhere between zero and $50 million for that matter, you know.

COMMISSIONER McMURRIAN: I guess one other question along those lines. To the point that Commissioner Skop brought up earlier about how the Commission storm hardening initiatives had, of course, required companies to invest more in tree trimming and all the other things that go along with hardening the system, is there information that can be used in the record with respect to those issues and somehow perhaps look at taking a percentage of the, you know, the yearly increase? You know, this is all on the fly, so I haven't, I haven't thought it through. But if we were to talk about some kind of increase of the $4 million, is there a rational way to base it on what's been done with respect to storm hardening?

MR. PRESTWOOD: I'm having some difficulty with that because the whole purpose of the storm hardening is to prevent or minimize damage in the first place. So, you know, the whole concept behind that is that if we spend this money on tree trimming or wood pole inspections or whatever it may be, is we will actually incur less storm damage when there is a storm, and what damage we do incur will be less and it will be quicker to bring back to service. So I'm having trouble with it costing more.

What does cost more is just general, the general cost of inflation and so forth of building plant today, cost is going up. And so when there is damage to a facility, it obviously costs more if it were built in the last ten years than if it were built 30 years ago, for example, so.

COMMISSIONER McMURRIAN: I hear what you're saying and I guess that maybe we're in a sense saying the same thing. I mean, if you're storm hardening, you're requiring concrete poles where you were requiring wood poles before. To the extent that system gets knocked down anyway, it's going to cost more to reerect that same kind of storm hardening system. And I guess that's what -- I think, I think, I mean, I don't want to put words in his mouth, but I think that's some of what Commissioner Skop was saying is that essentially your system is worth more as you storm harden it, and so do you -- you know, should the accrual somehow track the additional value of the system that's been hardened anyway? I'd just throw that out and let you all think about it. I'm not sure what to do.

MR. PRESTWOOD: The study actually looks at actual storm losses over periods of time to come up with averages of what was experienced. And the staff, we did ask a number of discovery questions of whether any storm hardening activities had been taken into consideration in that study, and none were. So we don't have any evidence in the record from the study about what that might do plus or minus as far as the effects on the storm.

CHAIRMAN CARTER: Thank you.

Commissioner Edgar and then Commissioner Skop. Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Thank you, Mr. Chairman. Actually Commissioner McMurrian asked my question, which was are we limited to the two numbers, the 4 or the 20, or is there a midpoint or a number in between that would be available to us based upon the information that we have, and that was the answer. So thank you.

CHAIRMAN CARTER: Okay. And the $4 million, that's the annual; is that correct?

MR. PRESTWOOD: The $4 million is what's in place today and it has been in place for years. They accrue annually.

CHAIRMAN CARTER: Annually.

MR. PRESTWOOD: Annually. Yes.

CHAIRMAN CARTER: Okay. Thank you.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I guess, again, I see merits either way. Again, I'd probably feel different if it were a funded reserve. But, again, I recognize that benefits inure on both sides of the argument.

If we were to, to move higher, recognizing some of the concerns that my colleagues have mentioned, you know, I'm comfortable moving higher. Again, I just think that in doing so for every step that we take there's, you know, a proportional rate impact on the other side of that. Not, not that that's bad because, again, we're building a reserve for a rainy day. So, again, I'm open-minded to, to moving higher, should we need to. I think $20 million would obviously be somewhat probably excessive, given historical norms and the ability to securitize. But, again, I think that we're having a productive discussion and I'll yield.

CHAIRMAN CARTER: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you.

And I had had a second question, I had forgotten it, but thank you because now that reminded me. And I think we talked about this in briefing and you may have said it already, but to staff, the incremental amount additional charge on whatever you're using as a typical bill would be how much for, and that doesn't mean I'm proposing it, but just for quantification purposes how much for the additional $16 million that was requested on a monthly bill?

MR. PRESTWOOD: We had that calculated.

$16 million spread over 650,000.

MR. DEVLIN: I believe 70 cents, but we can verify that.

COMMISSIONER EDGAR: Okay. I think that sounds like what you told me earlier, but I wanted to verify -- verify, clarify.

MR. PRESTWOOD: It's approximately 70 cents. Yes.

COMMISSIONER EDGAR: 70 cents?

MR. PRESTWOOD: Uh-huh.

COMMISSIONER EDGAR: Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

I'm going to, before I go to Commissioner Edgar for a motion, Commissioner Skop, you're recognized. And, Commissioners, we'll be asking for additional questions and then I'll go to Commissioner Edgar for a motion.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just a question to staff. I was trying to hear the unified voice there and it got, kind of got jumbled. But am I correct to understand that for a $20 million accrual versus the $4 million, the delta difference between those two accruals would be 70 cents per month for customers or 70 cents per year?

MR. DEVLIN: I believe it's 70 cents per month for a typical 100-kilowatt hour residential customer.

COMMISSIONER SKOP: Okay. And then that's the difference, the delta difference between --

MR. DEVLIN: Thousand. I apologize.

COMMISSIONER EDGAR: I think Mr. Devlin meant thousand.

COMMISSIONER SKOP: Okay. And that, that -- again, not to, not to, not to belabor the point, but that's the difference between the, the incremental difference between the $20 million and the $4 million accrual.

MR. DEVLIN: Right. Correct.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: But if you -- in the $4 million, if you left it at the $4 million, you wouldn't pay the additional 70 cents; right?

MR. DEVLIN: Correct.

MR. PRESTWOOD: Correct. That's already built into rates. Correct.

CHAIRMAN CARTER: Okay. Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Just so I have an understanding, on the storm issue, the additional $12 million, I guess, that would be, that the company has suggested from the 4 -- excuse me. 16, I'm sorry, so 16, will increase from 4 to the 16. I'm getting it all backwards. Okay. Four to the 20. Okay. Then that is more or less in holding, is that, is that true, versus the last thing we passed that could be $29 million that could have an impact that goes to the company rather than in holding for the consumer? So I understand the storm recovery better.

MR. SLEMKEWICZ: No. In rates the company would just collect that extra $16 million.

COMMISSIONER ARGENZIANO: But it goes for storm recovery?

MR. SLEMKEWICZ: No. That cash, because it's not a funded reserve, that cash could be used for any purpose. It's just that when a storm does occur, the expenses they incur, they would charge that against the reserve and not as an expense. So the customer would not get charged for those storm damages unless they exceeded the amount in the reserve.

COMMISSIONER ARGENZIANO: Okay.

MR. SLEMKEWICZ: So that if they had $50 million in the reserve and they had $55 million worth of damage, there would be $5 million left over, which, you know, the company could either just not recover or they could do it through a surcharge or something.

COMMISSIONER ARGENZIANO: Right. So in a way to me it's kind of in holding because -- and I understand what you're saying. But what I'm looking at is the last thing that we passed that had your conditions on it, the $29 million would be definitely for the company and not for specific -- I'm trying to articulate it because I tried to figured out the differences.

Commissioner Skop had mentioned that there would be an impact to the consumers, and I'm trying to see which impact really is less, the one we just passed a few minutes ago or this one in my mind. And I understand there's an impact, but I'm trying to figure out the differences in those impacts and what they really mean.

Because, as I said, as I opened up saying, that I thought it was valuable for the company as far as the value of their assets. And trying to look at where it does the company better, I actually think it probably does them better in the storm recovery. And what it does for the consumer versus the last thing we passed that I think does more for the company than the consumer. That's what I'm trying to get at. And I understand that they can spend the money any way and that's problematic. But if the storm damage surpasses that number, then they have to eat that; is that correct? All right. Then what did you just tell me about the 50 to 55?

MR. SLEMKEWICZ: No. I said if, if it exceeds the amount in the reserve, and, again, if it was $50 million in the reserve and it was $55 million worth of damage, which gives you $5 million which is not covered by the reserve, the company could elect not to recover that from the ratepayer or they could elect to have a petition for a surcharge or for a securitization if the amount was high enough. So they would still have the ability to recover that excess from the ratepayer.

COMMISSIONER ARGENZIANO: And just indulge me here. Why is it that the company can recover money for storm damages and use it any way other, for anything other than storm damages?

MR. SLEMKEWICZ: Well, any revenue they collect is, they use it however -- the cash that comes into the company is used --

COMMISSIONER ARGENZIANO: I get that. I'm trying to figure out if it's specified for storm damages. There's no legislative intent to use it for storm damage. If a storm comes and you've used all the money and you have no money for a storm, what happens?

I don't think they're going to elect not to take the money from the consumer.

MR. SLEMKEWICZ: No. When that amount of money goes into an accrual, which is, even though it's unfunded, it's a pot that the company would draw money from. Now because they may use the cash for other purposes, they may have to go out and borrow money.

COMMISSIONER ARGENZIANO: Okay. So there's no restriction then on them using the storm recoveries for storm recoveries?

MR. SLEMKEWICZ: That's correct.

COMMISSIONER ARGENZIANO: Okay. Well, that would probably be a legislative thing. But the main thing that I was trying to get to was thinking that if it made the -- if, if there was a safeguard that the storm money be used just for storms, it would be valuable for the company to have that as, as a value to the assets. That's, that's what I was trying to get at. And, and I guess what I'll have to do is sit down later with staff to determine the other thing, the last, the previous vote and the impact. And at the end of the day, as I said, anything that we depart from your recommendations, I really would like to know what the rate impacts are before I make a final vote today. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Okay. I lost it there for a moment, but I'd like to just put this out for discussion, if, if I may.

I think that with a self-insurance scheme, which is what we are operating under in this state, that a storm reserve is an important part, an important part of making that self-insurance scheme workable. And clearly I hope that we never have another year like either 2004 or 2005, but I certainly recognize it as not beyond the pale. And so I think having a reserve that is based on some actuals, an annual accrual is a very important part of, of the rate process and of the ratemaking process.

I also again would point out in my own mind that having the surcharge and the securitization are good tools. I am glad that they're available to us under the statutes. But, you know, the storm -- after a storm event when so much is in disarray, going through what really can amount to a mini rate case also entails a lot of expense and a lot of resources. And don't even get me started on securitization, which is also, can be fairly process intensive, although, again, a good tool and I'm glad we have it available to us.

So with that in mind, $20 million to me feels like not the right amount. It feels high to me under the record that we have and the experience that we have had in the state in the past five or so years.

So I'm looking at the staff analysis, and according to the information before us there it does say that after the 2004 surcharge and the -- I'll say book balancing and accounting balancing that was prescribed after that, that the reserve for TECO had a balance, it says here on Page 37, of $7.9 million. So in not exactly a crystal clear scientific analysis but yet in kind of a common sense in my mind, I'm wondering if taking that 7.9, which I will say $8 million balance that the reserve for this particular entity started with after the last storm events hit in that area might be a good starting point. And for that I'm just with that very lengthy explanation, I apologize, putting out as that number between 4 and 20. Perhaps that's a good basis for another number which would be 8 on an annual basis, and I'm going to have to do the math. That would be 16, 70, 35 -- approximately 16 cents a month additional.

CHAIRMAN CARTER: Before I go to Commissioner Skop, I'm still at $4 million. And the reason I'm there is they, even though they said that that was an anomaly, they had four storms that hit and they still did not extinguish their reserve. Also it's a bookkeeping allotment. And, you know, 70 cents may not seem like much to some people. But, you know, if you layer that on other things, it may be significant. So I'm still at the $4 million on this because I think it gives them an opportunity to put aside a reasonable amount. And not withstanding -- well, in addition to that, they have other avenues if it exceeds that. So I'm still at $4 million.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I guess to -- I appreciate the discussion we've had. I've kind of changed my views a little bit from that. I've heard Commissioner Argenziano support a higher reserve, I've heard Commissioner Edgar support a higher reserve. You know, I see merit in doing, in both. It is correct that it's not a funded reserve. There's not monies being actually put into a separate bank account. It is free cash flow that has advantages and pluses to the extent that the utility can use it for continuing operations, it can be swept up to the parent, a host of reasons, you can earn interest on it. But, again, I think that the points that Commissioner Edgar made were well taken to the extent that we do have other mechanisms: Securitization and what have you. Those do provide a mechanism for recovery, but they're costly proceedings to address not only in the transaction costs associated with such offerings, but there are tangible costs.

So, again, I'm not opposed to increasing the reserve amount, probably would be even comfortable going up to 10. But, again, I'm going to leave that to the will of the Commission. Because, you know, I can see merits in anywhere from 4 to 20 as long as the money is used for the right things. And, again, it's there for the consumers to, in time of need if there were to be another storm.

But, again, I think my view has changed a little bit, which is unusual for me, because usually I commit and I'm pretty, pretty rigid in my thinking. But, you know, not to, not to -- and I think the Chairman's comments are extremely well taken because that is my baseline of thinking and I think it's right on point. I just -- it's one of those discretionary items. And, you know, moving it upwards slightly reduces rate impact later and might have a negligible increase. So, again, I think that a little bit more refinement and discussion as to what an appropriate number would be and I'm on board, so.

CHAIRMAN CARTER: The, the reason I was saying the $4 million, Commissioners, is that, as I said, is that they said that the, the study that they did, that was done was an anomaly because they had four storms in one season, but they still had a reserve amount even after those four storms.

I do think that the companies should be entitled to have resources available when the storm comes, but this is a reserve account that we're talking about. And I think that the $4 million is reasonable in the context of the history of this company. I think somewhere in the report it says this was the worst storms in the history of the company. So I don't see why we should move the needle off the $4 million because it's going into a bookkeeping account for all practical purposes. And I think that the, the company would, obviously would be entitled to a reserve from other places, but I think the $4 million is significant in light of the totality of the circumstances of this case here, particularly where this company finds itself.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Yes. I, I have problems with this one. And the reason I have problems with this one is because I understand the company's positions about the bond markets and so on and lowering the risk and having a higher value of your assets. My problem is, is that it's not a reserve that is intended solely for storm recovery. If that were, if we were able to do that and still help the company to reduce their risk as far as those bond markets, then I would be amenable to the motion. Without that, I'm probably with you, Mr. Chairman, on the 4, because if it can't be used for storms, if it can be used for anything other, then what we've done essentially is double the impact to the consumer right now. Whether you call it 70 cents or 30 cents, you want to add up all these things, I don't want to be on the record as going down and doubling the impact to the consumer without having that storm reserve, fund reserve for the storms.

So I don't know if we have the authority to do that or not. I can see the company's point where this would help them in the bond markets and I'd like to do that. But I don't want to see the company come a year from now and saying, hey, you know, oh, you know, we don't have the money because we spent it somewhere else. I don't know that I can justify doing that today without maybe some kind of caveat that says you can only use it for storm recovery, and I'm not sure we can even do that. So can somebody answer that for me?

MR. DEVLIN: Commissioner Argenziano, there's a lot of cross talk on this issue of whether it's earmarked for storms or not. In TECO's case there isn't a funded account that the money goes towards. That's why we speak of an accounting reserve as opposed to a funded reserve. But the reserve is earmarked or designated for storm costs, if that helps any. If the storm reserve goes to $50 million, it's there for customers. If the company incurs restoration costs, instead of charging the customers at that point they charge the reserve and the customers are --

COMMISSIONER ARGENZIANO: But that's if the money is still there.

MR. DEVLIN: The money, they may have to go out and get the money in a short-term debt market, but they are, they will not charge the customers. The customers' stake is in that reserve, if you will, that's there. It's sort of a credit to the customers in the event there's a storm. And then all the sudden there's a storm, it costs $20 million, if there's a reserve there, the customers won't pay any more. They're protected by that reserve, if that makes any sense. Even though there isn't --

COMMISSIONER ARGENZIANO: No. Because I thought I heard something else before. I thought I heard that if there was $20 million in the storm reserve and the storm damages were $25 million, the company could seek more from --

MR. DEVLIN: That's true. If it exceeds the storm reserve to that extent, then either the company --

COMMISSIONER ARGENZIANO: Just for the exceeded amount?

MR. DEVLIN: Yes. Just for the exceeded amount.

COMMISSIONER ARGENZIANO: So if the company collects $20 million from the consumer, the consumer is safeguarded that they have that $20 million, and the company then will have to go out and get that somewhere else without charging the consumer. Now if there's a difference -- well, then that's, then that kind of, to me it kind of benefits both. It gives the company the asset that they need for the bond markets and yet protects the consumer. It is a hit right now on the consumer, but it's a hit that could actually, could actually cost less if the storms are a few years away. So as long as I know that, that changes my feeling and I probably could go to that and give them that, but as long as they know that in a year from now or two years from now if a storm comes, if I'm still here, that it's like I told you so. But if that is in reserve for the consumers for the storm costs and that can't be charged back to them again, in other words, we spent it, we have to go get it somewhere else, then that's, that makes a big difference. Okay. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

There's been some, as Mr. Devlin said, some cross talk. I think that sometimes when people say what the capital markets will do, I think the capital markets will recognize the fact that this -- and that's why I don't think the $4 million is unreasonable because in the worst-case scenario in the history of this company they had enough reserves, you know, appropriate to take care of the storms. So I think that we can continue with that amount. So if anything happens extraordinary, then they can come back to the Commission and say, hey, we've got additional storm damages, we need to have the consumers pay that.

But I think that from, from the capital markets they, they know that worst-case scenario, the company has a way to fund that. Let's take your example, $20 million that they have in there and they have $25 million worth of damage. Well, they've got the $20 million, so they take that. So they need that additional five. The capital markets can know that the company will be able to pay that because they can come out, borrow it from the capital markets and have the customers repay it over time, and in the meantime they can start accruing again.

So I think that based upon this company and the way they're set up, I think the $4 million is significant. I think we did with the storm costs with FPL that was far more significant than that. So this is, I think this is a different animal.

COMMISSIONER ARGENZIANO: With each company, of course, there are different plug-ins.

CHAIRMAN CARTER: Right. This is a bookkeeping as opposed to specific funds set aside for that. And that's what gives me comfort in knowing that this is, I think the $4 million is good because they're accruing that every year. And even at the rate of accruing $4 million, in the worst-case scenario they still had about nearly $8 million dollars left over for that within the confines of the reserve account, the storm reserve account. And, Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just two follow-on questions to staff on the points that you've made.

With respect to the current funding of the reserve balance, again, I've been looking at a lot of numbers this morning, but can somebody succinctly articulate what the current funding balance is?

MR. PRESTWOOD: As of August it was approximately $22 million --

CHAIRMAN CARTER: Turn your mike on.

MR. PRESTWOOD: As of August it was approximately $22 million, August '08, and I think they're projected to be at $24 million by the end of '08.

COMMISSIONER SKOP: Okay. So assume for the sake of discussion, which, knock on wood, I hope never happens, if a storm were to come through, the reserve would be underfunded if it were a major storm in relation to past expenses; is that correct?

MR. PRESTWOOD: It could be, yes, sir. Yes, Commissioner. It just, again, it depends on the amount of damage, how it hits and what it does.

COMMISSIONER SKOP: Okay.

MR. PRESTWOOD: In the year 2004 they were hit by three storms. But as they describe it, they were glancing blows, they weren't direct hits, so.

COMMISSIONER SKOP: Okay. And then to the Chairman, with all due respect, because, again, I think the position that the Chairman is adopting is my original position, which has kind of been enlightened somewhat by the discussion.

Mr. Chair, would there, would there be, I guess, any openness in terms of your perspective on this issue to the extent that Commissioner McMurrian raised the issue that the, keeping parity with the replacement cost of the hardened infrastructure -- would that, I know that staff mentioned that the reserve, existing reserve may keep parity with that. Again, I have some question with that. But would that change your view or perhaps, you know, bring us into alignment on what Commissioner Edgar mentioned in terms of maybe increasing the reserve, not a whole bunch but at least somewhat, to maybe reflect that contingency or that unknown?

CHAIRMAN CARTER: Thank you, Commissioner, for the question. I considered that and I looked at that and I looked at this company, this specific company here, its history. I looked at, you know, the case and looked at where they've been and looked at their reserve. Also taking into consideration that with the storm hardening processes there may very well be less damage in my opinion. And because of the nature of this company I think that this amount is, is a, is in the right place at the right time for where we are now and the circumstances of this case.

I think that that gives them a requisite amount for the damages that they may have. And I think it also in my opinion takes into consideration the fact that with the storm hardening processes that they've employed they will have less damage, the hardening of the processes, the increased vegetation management and going from there, so there will be less of that. And I just think that if we're going to have a, for lack of a better word, an insurance policy, then let's have this insurance policy at the minimum that would take -- and this minimum is based upon a fact, the minimum is based upon the fact that even with those four storms they still had $8 million left over. So that's why I feel comfortable with staying with the $4 million, Commissioner.

COMMISSIONER SKOP: Thank you for the clarification. I mean, I see no, no fault with that line of reasoning. I mean, that's the exact same reasoning that I had when I first came into this discussion. I think that where I look at overall rate impact, and, again, Commissioner Argenziano made reference to the prior issue, voted on the Commission, to me I view those issues as separate and distinct and standalone although they may have a cumulative effect. Those were related to providing generated service for putting company funds to the public use, which they earned a return. In this case they don't earn a return on investment but it is free cash flow. And, you know, when free cash flow is involved, obviously free cash flow is good to the company, but it equally accrues a reserve amount sufficient to cover reserves.

But the part of me that -- you know, there's an opportunity cost to that. The opportunity cost is it's discretionary, you can move it upwards, but rates track accordingly. You can keep it the same and, you know, that reduces rates somewhat over and above what they would be if, if the amount, reserve amount or accrual amount were increased. Again, I'm open-minded to upward movement somewhat. But, again, it's the same position I walked in here with.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: And I'm going to reiterate what I had said before to make it perfectly clear and so that it's on the record.

The prior vote in my mind and in my opinion only obviously was that, was that that money, that $29 million that we're referring to was for CTs that may never be in use in my opinion and maybe -- may and may not be. And with staff's recommendations I thought were proper safeguards. Because without those recommendations or without one of those components of those recommendations, it allowed a lot of time to go by. And if revenues did jump up, that is, that is money that would go -- would never get back to the consumer and would go straight to the company.

This, however, on storm recovery is a different subject because it does go into a reserve and it is -- even though the company can use it for what they have said, to me is a better place to help the company with their bond market and their value or their assets than the prior one. So I want to make sure it's understood and on the record what my vote was and no one else interpreting what my vote was. That's what it was. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

In a minute I'm going to recommend Commissioner Edgar for a motion pertaining to Issues 8 through 16.

Commissioners, as, as we go forward on this motion, just for the record as we vote on it I'd just like, as it relates only to Item 16, I'm going to be at $4 million. So whatever number that my colleagues come up to over $4 million on storm reserve, for that issue only I'll be voting no if it's more than $4 million. So, Commissioner Edgar, I hope that helps to muddy up things.

COMMISSIONER EDGAR: Well, Mr. Chairman, let me try it this way, if I may. And I think I'll -- for ease of my thinking and hopefully the record as well, let me parse it this way.

I at this point in time would like to make a staff, excuse me, a motion in favor of the staff recommendation for Issues 8 through 15. And then, Mr. Chairman, I'd like to address 16 separately.

CHAIRMAN CARTER: Okay.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: It's been moved and properly seconded, Commissioners, on Items 8, Issues, rather, 8 through 15. Any questions, any debate? Hearing none, it's been moved and properly seconded. All in favor, let it be known by the sign of aye.

(Unanimous affirmative vote.)

All those opposed, like sign. Show it done.

We are now on Issue 16. Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Thank you, Mr. Chairman. And, again, we've had some really good discussion on this issue, which I appreciate. I appreciate each of my colleagues for participating and sharing your thoughts. As I said at the beginning, I think of our discussion on this item, I see it many different ways and pros and cons. Having been up here as a member of this body during a large number in, both in dollar amount and in days spent on storm follow-up issues, I think that this Commission learned a lot through that process and did some really good work on behalf of the consumers and on behalf of our electric infrastructure on a go-forward basis and, as I just said, many, many lessons learned.

And with that in mind, I don't think that this is one of those where there is one right number. I think that there -- I know for me and as each of us have said, we want to do everything we can to keep rates affordable and fair and just and compensatory and not burden the ratepayers, especially with so many things that are coming at every one of us in the state who, you know, have to pay our bills on a monthly basis. But yet I also think that it is important, as I pointed out, to have a strong self-insurance program and that a component of that is a storm accrual.

So, again, recognizing that I don't think there is any one right number and I think very solid arguments can be made for a number of numbers in this instance and probably in other rate cases past and future, but trying to hit that balance which I know we all strive for at this time I would make a motion on Item 16 to change the staff recommendation, recognize the modifications that were made based upon the earlier discussion as to the reserve -- I got the wrong word there.

MR. DEVLIN: Working capital?

COMMISSIONER EDGAR: The working capital. Thank you, Mr. Devlin. Including the modification based on the change to working capital, thank you, but that the accrual amount would be $8 million per year.

COMMISSIONER SKOP: Second, Mr. Chairman. And I would add that I do share your views on the $4 million, but the balancing I think addresses some of the intangibles in terms of having adequate reserve amount as well as replacement cost of infrastructure. So I think that that's an appropriate balance that I can live with.

CHAIRMAN CARTER: Thank you. It's been moved and seconded. We're in our discussion phase. Commissioners and for all parties interested, just for the record my, my perspective on this has nothing to do with any other company that will come before us. It's specifically only to this company. And so -- and I don't want anyone to take this, my perspective on this to mean that I would be in the same position with other companies because they have a different setup in terms of how they fund their storm damages and all.

But for this company and for this time and based upon the facts and circumstances for this case, I, I just feel that the $4 million would be appropriate. I don't -- I mean, like I think all of us have said, that there is some number. We don't know what that magical number is. But since we don't know what the magical number is, I'm going to stick with the $4 million. So that's kind of where I'm coming from. It's not a precedential vote. It's just a vote based upon this particular company because this is the way that they're set up. The other companies actually have to go out in the market and do things to raise the funds to pay for the storm damages. But in this particular case for this company, you know, I feel fairly strongly about keeping the storm damage reserve at the $4 million level.

Commissioners, we're in debate. Commissioner McMurrian, you're recognized.

COMMISSIONER McMURRIAN: Thank you, Chairman. And I appreciate where you are and I think where I was when I came in today is exactly where you are. But I also like to think that when we have discussion like this, that we do benefit from our colleagues' views. And I believe I'm officially on the fence and that I could be comfortable with $8 million or $4 million. I will support the motion. I did want to ask -- because I do think that there is some basis there for this and that we can make an argument similar to the discussion I had with Mr. Prestwood earlier and given some of the other information that's here. I mean, frankly, with Charley, Jeanne and Frances, those were not direct hits, I don't believe, to, to TECO's service area. I hope we don't ever look at that. But I think that it's reasonable to expect with the increased activity we've had that, and since they've been able to dodge bullets for a while and that we may very well be looking at that at some point in the future, so an $8 million accrual seems reasonable.

I did have one question about the motion. Would it also, would there also be an adjustment upwards for the target amount? I guess in my mind I was thinking -- for instance, if you were to take $8 million for five years, that would be -- and five years is really kind of pulled out of the air thinking that perhaps, perhaps we may not be in a rate case situation for a period of time like that, given that the company has been out for, what, 16, I believe, in the past. Saying $8 million accruing for five years is about 40. If you add that to the 24 that's in there now, that perhaps you at least might want to increase it to $64 million, somewhere around there, before you were looking at readdressing the target level. But that's a question for Commissioner Edgar.

COMMISSIONER EDGAR: I appreciate the question, Commissioner McMurrian. And I was, I just had not been able to compute the math at the same time I was talking and so I was still thinking through the question about the cap then at that annual accrual. And the math that you have described I think is very much in keeping with my thought process that I tried to lay out with the motion that I had. So I see that as the continuation and, therefore, I would wrap that up into it.

CHAIRMAN CARTER: We're in debate, Commissioners. We're in debate. Any further debate? Any further comments? There's a motion and a second on the floor. All in favor, let it be known by the sign of aye.

COMMISSIONER EDGAR: Aye.

COMMISSIONER McMURRIAN: Aye.

COMMISSIONER ARGENZIANO: Aye.

COMMISSIONER SKOP: Aye.

CHAIRMAN CARTER: All those opposed, like sign. Aye as in nay.

Commissioners, let me do this. I've -- we've had a good morning and you have not had any nutrition. And we've had the same court reporter -- Linda, I appreciate your patience. We've had the same court reporter for the whole time. We usually give her a break.

And let's do this, Commissioners. I'm looking at the clock but I can't from my distance -- suggestion on, on lunch? Can you see it? Can you see it from here?

COMMISSIONER EDGAR: Mr. Chairman, I see that sign as 1:05.

CHAIRMAN CARTER: Okay. So 2:00? All right. We're on recess until 2:00.

(Recess taken.)

CHAIRMAN CARTER: We are back on the record.

And when we last stopped, we had completed down through Issue 16, and now we'll begin with 17 through -- Commissioners, I'm going to suggest 17 through 28 with a possible -- I'm open to suggestions if any of that can be broken up. But, otherwise, we'll go 17 through 28. I'm open for recommendations on how to proceed with those. Is that good as a group?

Okay. Staff, let's do this; just go through -- just give us -- on each issue, just go all the way down, 17 through 28, okay, in that next group. I'll go with you.

You're recognized to introduce Issue 17.

MR. KYLE: Good afternoon, Commissioners, Jan Kyle for Commission Staff.

Issue 17 is whether an adjustment should be made to prepaid pension expense in TECO's calculation of working capital. Staff is recommending that no adjustment is necessary.

CHAIRMAN CARTER: Thank you.

Issue 18.

MS. MARSH: Issue 18 addresses working capital included in other -- excuse me -- other accounts receivable included in working capital. It's staff's recommendation that working capital should be reduced in the amount of 10,959,000.

CHAIRMAN CARTER: Thank you.

Issue 19.

MS. MARSH: Issue 19 is an adjustment related to accounts receivable from associated companies. It's staff's recommendation to reduce the amount by $390,000.

CHAIRMAN CARTER: Issue 20.

MR. KYLE: Issue 20 is whether an adjustment should be made to rate base for unfunded Other Post-retirement Employee Benefit liability.

Staff's recommendation is that no adjustment is necessary.

CHAIRMAN CARTER: Issue 21.

MR. MATLOCK: Issue 21 is whether an adjustment should be made to Tampa Electric Company's proposed coal inventory. Staff recommends that no adjustment be made.

CHAIRMAN CARTER: Issue 22.

MR. MATLOCK: Issue 22 is the same as 21 for heavy oil.

CHAIRMAN CARTER: And I presume 23 is also the same, Issue 23 is also the same? Is that in the same vein?

MR. MATLOCK: 23 is the same thing for distillate oil; 24 is for natural gas.

CHAIRMAN CARTER: Okay. 26.

MS. MARSH: 26 addresses unamortized rate case expense in working capital. Staff's recommendation is that the rate case expense amount of 2,628,000 should be removed from the working capital.

CHAIRMAN CARTER: Issue 27.

MR. SLEMKEWITZ: 27 and 28 are both fall-out issues. The first one is the level of working capital, and the other one is the rate base.

CHAIRMAN CARTER: Thank you, Staff.

Commissioners, we are now open for discussion, concerns, and disposition on Issues 17 through 28.

Hearing no discussion, Commissioner Edgar, you're recognized for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I move that we approve the staff recommendation for Issues 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, and 28, noting the modifications to 27 and 28 that were brought up to us by staff this morning.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: Moved and properly seconded, Commissioners.

Any debate, any concerns, any questions? Hearing none, it has been moved and properly seconded. All in favor, let it be known by the sign of aye.

(Simultaneous vote.)

CHAIRMAN CARTER: All those opposed, like sign.

Show it done.

Let's kind of get together now, Commissioners, because we are getting into a new subject area. This is our cost of capital issues starting with Issue 29, 30, 31, 32, 33, 34, 37, and 38. Do you think, Commissioners, we ought to go 29, 30, 31, 32, and 33, or just deal with them all as a group?

Commissioner Skop, you're recognized, sir.

COMMISSIONER SKOP: I would -- there's probably going to be some discussion on Issue 32, so perhaps your suggestion of 29 through 32 would be appropriate, and then we can address the others, but I'm open to the will of the Commission.

CHAIRMAN CARTER: Commissioners, we have got a recommendation on just discuss Issues 29 through 32.

Any questions, any concerns on Issues 29 through 32?

Any debate?

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Yes, Mr. Chairman.

With respect to Issue 32, I guess I just wanted to kind of speak to that a little bit with respect to the recognition of off balance sheet PPAs, or purchased power agreements. And I know that --

CHAIRMAN CARTER: Excuse me, Commissioner, did you get the staff update on 32? Is that Staff Handout 1, is that correct, the modifications you had for Issue 32?

MR. DEVLIN: Yes, sir, it should be Staff Handout 1.

CHAIRMAN CARTER: Commissioner, do you have that?

COMMISSIONER SKOP: Yes, I do. Thank you.

CHAIRMAN CARTER: All right, then. You're recognized.

COMMISSIONER SKOP: Okay. And perhaps if staff could just briefly speak to that issue and then --

CHAIRMAN CARTER: Staff, why don't we do that. Kind of speak to your modification on Issue 32, and kind of flesh that out, please.

MR. MAUREY: Andrew Maurey, Commission staff.

On Issue 32, when staff originally removed the 77 million from equity, the offsetting adjustment was a $77 million reduction to rate base through working capital. That was incorrect. We are still recommending the 77 million be removed from equity; however, the offsetting entry is a $77 million increase pro rata over all sources of capital.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I just had some discussion on this particular issue. I know that it was discussed extensively at hearing with respect to how Standard & Poor's goes about imputing debt for purchased power agreements. I guess, as staff has articulated on Pages 76 and 77, that in certain cases those adjustments have been made as part of a stipulation in the past, and I guess that was subsequently approved by the Commission, the Commission approved that stipulation. I guess looking at a transcript where I think that staff had mentioned that issue in passing, but there didn't seem to be a whole lot of discussion. I haven't had a chance to review the transcript in full, but there does seem to be some sort of support for acknowledging this sort of adjustment in the past.

And I guess the way I'm viewing it in trying to be fair -- personally, do I think the adjustment is warranted? Probably not. But I'm looking at what has been done historically, I'm looking at the Standard and Poor's methodology, that if you were to ask Standard and Poor's, but I don't sit in the credit committee, so, again, I don't have that transparency behind the curtain, I would tend to think that they would look at a regulatory environment as Florida different from Arizona to the extent that not a whole lot of certainty with some commissions in other states.

So I think that that would, you know, if I were able to do that, it might give me some comfort that such an adjustment would not be warranted. However, I don't have that luxury. And in an environment where credit ratings are in question, I'm somewhat concerned by, you know, acting on an unfounded assumption as opposed to doing something that might further undermine the stability of the credit rating process.

And, again, you know, we have seen big

blue-chip companies like GE lose their esteemed credit rating. Again, BBB companies are under substantial pressure. Again, that is not either a pro or a con or against, I'm just trying to go through a rationalized thought process on how we should consider this in terms of the adjustment that would be made.

Again, I look back to what was previously agreed to in a settlement, and I know a settlement is not for intents purposes binding upon the Commission, but I'm equally somewhat concerned by the fact that the same parties who now openly oppose such an adjustment effectively approved it before. And so I'm struggling with that, also. I'm not saying that a judgment should come as a matter of course, but obviously there has been some record evidence to suggest, as well as some historical orders on standard offer contracts, that such an adjustment has been made historically by the Commission or via stipulation.

Certainly, S&P does the adjustment, but there is no clarity behind the curtain whether they may or may not make such an adjustment for entities that we regulate in Florida. So, again, I wanted to tee up some discussion on this issue to try and understand the views of my colleagues.

I view this as an issue of first impression before the Commission, and there has been, again, some stipulations the Commission has approved, but this is the first time, I think, that the Commission has had the opportunity to talk collectively on this issue. And I think that in light of the staff recommendation, it might warrant a little bit more detailed discussion, and certainly I would like to understand the views of my colleagues.

CHAIRMAN CARTER: Thank you, Commissioner Skop.

Commissioners, we're on discussion on this Issue 32, particularly as it relates to the treatment of the $77 million. Is that correct, Commissioner?

COMMISSIONER SKOP: Yes, sir.

CHAIRMAN CARTER: And we're in discussion.

Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

And I'll look, I think, to Mr. Maurey, but direct me otherwise. In briefing we had some conversation about this and I think since, but to follow up on Commissioner Skop's comments, Mr. Maurey, if you could expand upon the statement in the staff analysis. It is on Page 77, the first full sentence, that says that staff believes that the requested treatment would be using that treatment for a purpose that it was not intended. And if you could just expand on that statement for me.

MR. MAUREY: Thank you. I'll be happy to.

In its credit rating analysis of companies, Standard and Poor's and other rating agencies do evaluate the impact off balance sheet obligations have on the financial integrity of the subject companies. And they make certain adjustments so that they can compare one company to the next based on this analysis. And when this adjustment was first proposed to the Commission about adjusting the capital structure, it wasn't to adjust the capital structure itself, it was presented more in the vein of justification for having a higher equity ratio than the other electric utilities in its peer group. And that's a suitable argument that if you have a great deal of purchased power, the rating agencies do recognize that that lowers your financial flexibility to some extent because of the long-term fixed payment obligations associated with that, but that can be offset by having a higher equity balance invested in the utility. And if a utility was arguing, say, that it needed a 62 percent equity ratio and most of its peer group was in the mid-50s, they could put forth this S&P argument, if you will, to justify having a higher than average equity ratio. That's one argument.

The second, and what you have before you today is different. They're not arguing justification for a high equity ratio, the company is arguing that you allow it to earn a risk-adjusted return on hypothetical equity that hasn't actually been invested in the utility, and staff has drawn a distinction there.

We're not ignoring S&P's evaluation of company's financial flexibility due to these off balance sheet obligations. Quite the contrary; by recommending a 54 percent equity ratio, we are giving the company a very strong financial footing on which to offset those off balance sheet obligations. But we believe, as we have expressed here, that introducing hypothetical equity into the capital structure and then earning a risk adjusted return on that equity is too far, and we have reversed that adjustment.

COMMISSIONER EDGAR: Thank you, Mr. Maurey.

And just to follow up, and then I'll be done, Mr. Chairman. This issue, in particular, I'm very glad that the discussion was short, because I had to read it over and over and over and over and over and over, which I could do, because it was short, so that worked to my benefit. And I had long discussions in my office about this trying to have a greater understanding myself. And when we talked about imputed equity, in fact in my own thinking, I thought, you know, is this Enron type equity. Don't quote me on that.

But as I spent more time with it, for my own benefit, developed a greater depth of understanding, and to me this is one of those issues that I identified earlier on that the decision here kind of flows into some of my thought process on Issue 37. And my thanks to staff for spending some additional time with me on this item. And at this time I'm comfortable with the staff recommendation.

CHAIRMAN CARTER: Thank you, Commissioner.

Commission McMurrian, you're recognized, and then we'll go to Commissioner Argenziano.

COMMISSIONER McMURRIAN: Thank you, Chairman.

And this is for Mr. Maurey, as well. You talk about in your Staff recommendation, how the rating agencies treat the long-term power purchase agreements as debt. And I guess -- well, maybe I've got a couple of questions.

Shouldn't we also treat those long-term PPAs as imputed debt, that maybe the distinction with the TECO case here as opposed to some of these other precedent which are really about settlements and the two cases that are mentioned here with regard to settlements, isn't the difference here that we are talking about imputing equity and that maybe TECO hasn't -- well, let me ask, has TECO made the equity infusion?

MR. MAUREY: Not the 77 million that is the subject of this issue.

COMMISSIONER McMURRIAN: I mean, isn't that, isn't that particularly relevant to how we treat this type of issue? Because it seems like to me that there would be an argument for imputing debt, and, you know, that is sort of one part of the issue. But the second part would be about this imputed equity issue, and whether TECO is actually also put the equity in, which might be different in some of the other cases, as you were talking about, I think, to justify the higher equity ratio.

MR. MAUREY: Yes. We have drawn that distinction. We will talk a little further when we get to Issue 34 about how staff arrived at the recommended equity ratio, and that deals with equity infusions in the projected test year, and we'll discuss that in time. But in this one we did draw a distinction.

There isn't 77 million in equity in this utility that they would be assigning that return on equity to. It would only be in a bookkeeping entry that would generate an additional $5 million a year in revenue requirement. We're not opposed to the equity ratio of 56 percent on an absolute basis, or on its face, it's just how the company got there in this particular evidentiary proceeding.

COMMISSIONER ARGENZIANO: So I guess to follow up, Chairman, do you see this recommendation as -- I mean, Commissioner Skop said it was an issue of first impression, and we have dealt with similar things about imputing debt in some of the bid rule things that I recall. But with respect to how we are dealing with it here, it seems like we are probably are -- maybe I should ask you, is this an issue of first impression for the Commission?

MR. MAUREY: In terms of a rate case, yes. Because the only other time it was brought up in the context of putting imputed equity in a capital structure for purposes of setting rates was in the PEF case in '05. That got settled. It didn't go the distance, so this is the first time through an evidentiary proceeding where you're going to be asked to include imputed equity in the capital structure for purposes of setting rates.

COMMISSIONER McMURRIAN: And do you think your recommendation that you put before us is saying -- and I guess I'm trying to draw distinctions between the imputed debt and the imputed equity and whether or not equity has been infused. Do you think your recommendation is saying that the Commission should not recognize power purchase agreements as imputed debt?

Because I didn't really get that out of it, but at the same time, it sort of feels like that's what we are saying, and I want to be careful about what we're saying.

MR. MAUREY: We're not saying that. What we have looked at -- and, again, I don't want to bleed into Issue 34 unnecessarily, but Issue 34 talks about the overall cost of the capital structure. And in that issue, staff is recommending an equity ratio that is at the high end of the range of its group of peer groups. And that's where recognition of purchased power agreements or other factors that might impact the financial flexibility of the utility is taken, and we don't have to have a specific adjustment, because S&P quantifies an imputed debt adjustment in its own analysis. That doesn't necessarily link to an imputed equity adjustment on a regulatory basis. I know they have used that to equate the math, but there is no direct tie there.

The ratings agencies, you're not going to find any write-ups saying -- recommending regulatory Commissions to impute equity when rate setting for utilities that have PPAs on their books. It was alluded to a little earlier about recovery. I mean, this Commission has a forward-looking recovery mechanism for these payments. That is better than an historic-looking recovery for these payments. The Commission's reputation as being a constructive regulatory environment is intact, even if we disallow this imputed equity in this instance.

COMMISSIONER McMURRIAN: And I guess one more. Do you think that drawing a distinction between companies who, you know, make that equity infusion to go along with that imputation of debt versus those who don't, like in this case --

MR. MAUREY: Yes.

COMMISSIONER McMURRIAN: -- makes sense. Okay. Thank you. That's all I have.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: I guess some of it has already been said, but I'll just either say it a different way or ask staff to correct me if I'm wrong so I get it right and get my thoughts on record.

Aren't the costs for the PPAs recovered through the recovery clause, the Commission's recovery clause?

MR. MAUREY: Yes, ma'am.

COMMISSIONER ARGENZIANO: And that basically makes, in this matter, TECO really bear no risk?

MR. MAUREY: Well, I can't say they bear no risk, because these are long-term agreements, and they have signed contracts.

COMMISSIONER ARGENZIANO: How about very little risk?

MR. MAUREY: Yes. The risk of recovery is limited.

COMMISSIONER ARGENZIANO: Okay. And then I guess in trying to fix it all in my mind, I guess I see that sometimes, and it may be that the long-term fixed payments are looked at by the rating agencies to be somewhat, I guess, like long-term debt, maybe. And I'm trying to go there, as I jotted down my notes, thinking of how I see it, and perhaps we should look at the real true debt cost of these power contracts.

But I guess in this case what was disturbing to me is that if the company wants us to give a return on the amount of imputed debt that doesn't reflect the actual, the real investment, that's where I have a problem with it. And that's what I think we're looking at here.

MR. MAUREY: Well, you said imputed debt, but it's really imputed equity.

COMMISSIONER ARGENZIANO: Equity.

MR. MAUREY: Yes, that's it in a nutshell.

COMMISSIONER ARGENZIANO: Okay. Then I support staff on the recommendation.

Thank you, Mr. Chair.

CHAIRMAN CARTER: I'm all in favor of making it simple, Commissioner. As you say, breaking it down so the folks at home can understand it.

COMMISSIONER ARGENZIANO: Me, too.

CHAIRMAN CARTER: I was surprised at the number of people -- I was down in the Fort Lauderdale area recently, and surprised at the number of people that actually watch proceedings here.

You're recognized.

COMMISSIONER ARGENZIANO: I hear from them all the time. And I think the biggest fool in life is one that doesn't want to know what it really means. Sit back and pretend you think you know what it is, and I would rather never do that. And if I repeat something, it's because I either want to get a better understanding of it or help people back home to get a better understanding. And sometimes I just want to, as you say it, just to get it on record, I may already know the answer. But I appreciate that. And people really do pay attention. I didn't think they did. The media sometimes doesn't, but the people do.

CHAIRMAN CARTER: The people do. You're absolutely right.

Commissioner Skop, you're recognized, sir.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I appreciate the discussion.

Just two quick follow-on questions to staff, because, again, I do view this as an issue of first impression. I wish there was a little bit more clarity in terms of the black box mechanics that happened, as far as the rating agencies, and the way that this factors into their credit rating analysis, but we don't have that transparency.

With respect to staff's view and the position taken, and as this is an issue of first impression, again, I'm trying to ascertain the effect of a ruling. And I know each case stands on its own merits and is independent, but it's important, I think, to have uniform and consistent outcomes across the board.

Would staff's thinking change somewhat -- I know that Commissioner Argenziano has duly pointed out that with Florida's cost-recovery clauses, again, we're proactive in terms of our recovery and allowance of those recoveries. So, again, that's arguably less risk and a more productive regulatory environment than, say, some of our sister states. I won't identify them, but they are out there.

But would that thinking change to any degree by, say, you know, for -- in the notion that we currently purchased power today, when we talk about a PPA for the most part, it's long-term, you know, intermediate or base load type generation. You know, we do have renewable contracts periodically. But, you know, for the most part it's to meet large scale power requirements, and so those go through the clause.

In the advent of additional contracts like that, either through municipalities or other things, or a renewable portfolio standard where you're dealing with multiple developers where default risk may go up and, hopefully, if the companies contract appropriately, there is no risk to the ratepayer and those are shielded, but that doesn't get you out of the situation, theoretically, where, say, in a ten-year site plan you've contracted for said amount of capacity, and that capacity doesn't materialize, then you have to go out and cover in the market where you arguably could have higher costs. So how would staff's thinking -- forward-looking thinking change, if at all, with respect to some of those points? And I think that it adds to the complete discussion.

MR. MAUREY: Well, we still stand by the recommendation. Purchased power relative percentages are going to change over time. New contracts are signed, other contracts roll off, and all along the company is building -- self-building generation so that the relative mix -- and that's what they're trying to capture. That's what S&P is trying to measure is the relative percentage of purchased power as the total generation mix. And when growing utilities such as what Florida has where they are adding generation, and we know some of these contracts because we monitor it through ten-year site plans, some of these are going to be rolling off, they're not going to be renewed. So at any point in time that percentage may change, and you will want to look at it at that point in time. But today, as I sit here before you today, we stand by the recommendation before you.

COMMISSIONER SKOP: And I tend to agree with that. I guess my hunch would be that the S&P methodology is more geared towards addressing those issues that are associated with utilities that really don't pursue self-build generation options and maybe have a larger percentage of their purchased power requirements under contract as opposed to self-generation. But, again, it's hard to say.

Some part of me agrees. Part of me, you know, senses that, you know, what effect detrimentally, if at all, could have as a result of, you know, trying to second guess what a credit agency or a rating agency might or might not do when credit ratings are under pressure. But I think that we have a good thoughtful discussion on this. I think it's an important decision as the Commission has addressed it for the first time.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner McMurrian.

COMMISSIONER McMURRIAN: Just one other thought. I mean, based on some of the discussion we had earlier, I guess what -- I think I'm comfortable with the recommendation with the clarification we have had kind of in the discussion here; that it's an issue of first impression, at the same time, there are, you know, different facts here with respect to the equity infusion and that sort of thing that perhaps make it different. I wouldn't want this to be seen as a decision to say that we don't recognize imputed debt.

So if there's some way to clarify that, I don't know -- I don't know if it is just based on the discussion we have had that we have given enough, or, you know, in the sense that we haven't taken a vote yet, but I think what I'm hearing maybe is some consensus there. Can you help me out, Mr. Maurey?

MR. MAUREY: I'll try. We haven't talked about the imputed debt in as many words in this recommendation. We certainly consider what S&P writes. We look at all of those reports. They're in the record and many witnesses refer to them. We also -- in the later issue, in 34 you will set a capital structure, and that is what they ultimately look at. The rating agencies are interested in cash flow and what's the cash flow that's going to be generated by the capital structure you actually employ.

Whether you made this 77 -- oh, that does remind me. We have been talking about equity infusions and imputed equity, and I want to make sure that we are clear that those are not the same thing. Imputed equity is separate and apart from an equity infusion, so we can't use those interchangeably.

In 34 we are talking about equity infusions, that's where the company actually makes the next -- the parent company makes an actual equity investment in the utility, and we have recognized that in Issue 34, staff has.

COMMISSIONER McMURRIAN: But they haven't made the equity infusion with respect to the 77 million that they are trying to impute as equity with respect to this issue?

MR. MAUREY: That is correct. That's imputed equity that hasn't actually been invested in the utility.

COMMISSIONER McMURRIAN: And that's a distinguishing factor at least for this case. It may impact -- in my mind it sort of impacts how you look at this imputed debt and imputed equity issue.

MR. MAUREY: We have certainly drawn that distinction.

COMMISSIONER McMURRIAN: Okay. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just two final questions of Mr. Maurey.

I guess we discussed how staff's recommendation would not change in the current perspective, and I respect that. Just developing the discussion a little bit further along with the hypotheticals because, again, I agree with some of the caveats that Commissioner McMurrian made. Although this is an issue of first impression, it pertains solely to the facts before us in this rate case, and probably we might want to put some appropriate language in there that maybe even -- as what was in the stipulated agreement, that it should not be viewed as binding or precedent, you know, for what have you, I'll leave that to discussion.

But how would that -- the one other issue that I wanted to explore is either in a long-term requirements contract, or for nuclear, say, for instance, that there was co-ownership or somebody, you know, decided, hey, we want a large share of capacity. Does that change the risk analysis any?

MR. MAUREY: I'm not certain how a sale of the nuclear plant would factor in. I can tell you that within the nuclear-owning utilities, often off balance sheet obligations will include a very small piece related to nuclear leasing, but that is very, very small. It is by and far purchased power agreements. Now the actual sale or participation in a nuclear unit, I don't think that would go through here.

COMMISSIONER SKOP: I understand. That's not what I was trying to ask. I was just trying to better understand, again, it comes along the lines of if you expect to get your power from a source, and the source either in a renewable the developer defaults and suddenly you have to cover, or in the case of base load generation where you're looking to get a base load generation and suddenly you're forced to cover at a higher cost, yes, our clauses provide for that, we have prudency review of that, but does that warrant any further discussion or consideration of the imputation of debt.

I'm trying to separate the debt from the equity. But, again, in terms of how S&P might look at things, in terms of enhanced risks -- recognizing the risk is minimal by virtue of clause recovery, I don't argue that, but in terms of how that is viewed by Staff, I'm just trying to have a better appreciation on the full spectrum of the analysis.

MR. MAUREY: Well, Standard and Poor's will look at this issue at any point in time, and they will do their evaluation at that point in time, a snapshot, and they will compare it to utilities. And even if a particular subject company has had an increase in its purchased power, but all the other companies had a larger increase in their relative reliance on purchased power, then it's all relative, they will look at it that way. Or a company can come back before you in the next rate case. They will have a different capital structure and they may raise this issue again.

I think in my very opening remarks, this argument has been based on justification for having a particular actual equity ratio. And we understand the merits of those arguments, and we don't always agree, we have debated them, but in this case we think it's -- it's beyond S&P's imputation of debt in its analytical evaluation of these companies. This is setting rates on nonexistent equity, and that is where we drew the line.

COMMISSIONER SKOP: Fair enough.

CHAIRMAN CARTER: Thank you, Commissioners. I'm going to looking to Commissioner Edgar for a motion in a minute, but I wanted to make sure that you had all of your questions answered on Issues 29 through 32.

Commissioners, anything further on that group of issues?

Hearing none, Commissioner Edgar, you're recognized for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I move that we approve the staff recommendation for Issues 29, 30, 31, and 32, and that that include the modifications given us this morning in the handout from staff for 31 and 32.

COMMISSIONER ARGENZIANO: Second.

CHAIRMAN CARTER: It has been moved and properly seconded.

Commissioners, any debate, any questions? Hearing none. All in favor, let it be known by the sign of aye.

(Simultaneous vote.)

CHAIRMAN CARTER: All those opposed, like sign.

Show it done.

Next we're in the group 33 through 38.

I think, Commissioner Skop, you had a comment?

COMMISSIONER SKOP: That's fine.

CHAIRMAN CARTER: Commissioner, we're now on the group of issues from 33, 34, 37, and 38.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: My issues would probably center on Issue 34 and --

CHAIRMAN CARTER: Okay. Let's look at it.

You may proceed.

COMMISSIONER SKOP: I guess this one is linked somewhat to Issue 37 to the extent that staff -- and I'm trying to find it -- has made a comment that depending upon how low the return on equity may go, that the equity ratio may need to go up, or vice versa. I'm trying to find the exact phrase if staff could point me to that, please.

MR. MAUREY: That's Page 86.

COMMISSIONER SKOP: And I think it's the last comment, if staff could just pick up on that and explain that briefly.

MR. MAUREY: Thank you.

What we were trying to communicate there, equity ratio, we have a range of equity ratios recommended in this issue. We also have a range of returns on equity.

It is often thought that the ROE and equity ratio are related. If you are recommending a lower equity ratio, there's greater financial risk. You might see a higher ROE and vice versa. With the capital structure issue coming first, we took a position of 54 percent, and then when Issue 37 comes up we recommended an ROE of 10.75 knowing what we recommended in the previous issue.

And now what we're trying to communicate there was that if this issue, say 34 there was a much lower equity ratio, 48 or 49 percent, then staff might recommend a higher ROE in a subsequent issue.

COMMISSIONER SKOP: Okay. So just as a point of clarification, the appropriate way -- that staff would recommend that the Commission would be addressing these issues would be 34 first followed by a ruling on Issue 37, is that correct?

MR. MAUREY: Yes.

COMMISSIONER SKOP: Okay. Mr. Chair, I have no -- unless there's further discussion, in accord with the staff recommendation on Issue 34, which would be the appropriate capital structure.

CHAIRMAN CARTER: We're in discussion, Commissioners, on Issue 34, the appropriate capital structure. I think that's 54 --

COMMISSIONER SKOP: A 54 percent equity ratio.

CHAIRMAN CARTER: A 54 percent equity, is that right?

MR. MAUREY: 54 percent equity as a percentage of investor capital.

CHAIRMAN CARTER: Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I do not have questions on Issue 34. I, again, thank the staff for spending some extra time -- and my staff -- with spending some extra time with me on this particular issue as well recognizing the point that Commissioner Skop has highlighted for us, which I concur with, that some of these earlier decisions, 34 in particular, may have some bearing on the discussion for 37.

If it would be helpful, I can move the staff recommendation for 33 and 34, 33 as modified by the handout, and that would then get us in the appropriate posture for discussion of 37.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: Commissioners, it has been moved and properly seconded on Issues 33 and 34 with the modification that was presented by the staff.

COMMISSIONER ARGENZIANO: Could I have a moment?

CHAIRMAN CARTER: Let's take about a five-minute recess.

(Off the record.)

CHAIRMAN CARTER: We are back on the record.

And before we go further, Commissioners, let me apologize to you for my fast just kind of moving things together, a little faster before you got an opportunity to have comments.

Commissioner Edgar, would you -- I'm going to ask you if you would -- we have not carried the motion through. If you would withdraw your motion, and also withdraw the second, and maybe we can look at these issues as a group, Issue 33, 34, 37, and 38.

COMMISSIONER EDGAR: Mr. Chairman, that's fine. I will withdraw my motion, recognizing that those issues are in many ways linked, and to approach it either way is fine with me, so I look forward to more discussion.

CHAIRMAN CARTER: Commissioner Skop, was that your second?

COMMISSIONER SKOP: That's fine.

CHAIRMAN CARTER: Okay, thank you.

And, Commissioners, I apologize to you. I do want you to have a full opportunity to have a full airing and complete discussion on all of the issues. And the mistake was mine, so I apologize to you.

And let's do this, let's take them as a group, and we'll deal with Issues 33, 34, 37, and 38. And I think we had talked through 33 and 34. Let's have staff to kind of lay out Issues 37 and 38, and we'll go from there.

Staff, you're recognized.

MR. MAUREY: Thank you. On Issue 37, staff has recommended an appropriate return on equity for the projected test year of 10.75 percent with a range of plus or minus 100 basis points.

CHAIRMAN CARTER: And 38?

MR. SPRINGER: Good afternoon, Commissioners. I'm Michael Springer on behalf of Commission staff.

Issue 38, which deals with the overall cost of capital, is typically a fallout issue based on the resolution of previous issues. However, in this instance staff is recommending an adjustment that is not discussed in any of the previously discussed cost of capital issues.

In its filing, TECO proposed to reconcile rate base to the capital structure through a pro rata adjustment over all sources of capital. Staff is recommending the Commission approve a pro rata adjustment over just investor sources of capital only to reconcile rate base to capital structure. This recommended treatment is consistent with past Commission practice.

CHAIRMAN CARTER: Thank you, staff.

And, Commissioners, again, my apology for moving a little fast there. We are now in discussion on Issues 33, 34, 37, and 38.

Mr. Maurey, were you handling 37? Who's handling 37?

MR. MAUREY: I am handling 37, yes.

CHAIRMAN CARTER: Tee it up for us, please.

MR. MAUREY: Okay. Issue 37 deals with appropriate return on equity for this company. Based on the evidence in the record, staff is recommending a return of 10.75 percent with a range of plus or minus 100 basis points.

CHAIRMAN CARTER: Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I know that we had a lot of testimony on this issue specifically during the hearing, and discussions of different models, and different factors, and we had what I would term as competing expert testimony which, again, points, I think, to one of my comments on one of the earlier issues that, in my mind, there is no one specific right number, but our jobs on this issue today is to try to find that appropriate balance.

I know in, for instance, some of the discussion that we had at our customer meetings that we had in the subject area, there was some discussion about, you know, if our decision on this point in particular is low, that means we're leaning toward the consumer; if it's high, that means we are leaning towards the company; and if we go right down the middle, then we are trying to balance.

And my approach is absolutely to try to balance and to hit that point to the best of my ability. And to my belief that is in keeping with all of the factors that we have had, and then trying to find that balanced midpoint, recognizing our general approach of a range of 100 basis points, and that range of 100 basis points I am in agreement with.

Some of the factors, Commissioners, that I have tried to weigh in my mind getting ready for this discussion today is recognizing some of the decisions that have been made in the past, recognizing those issues that are specific in the record to this company. I note specifically the significant construction program that they have in the next five years, 2.7 billion, I believe. I also recognize some of the dicta that we have had in our own opinions about strong financial indicators being a protection to the customers and also to the state, and I believe that protection to the state is important, as well.

I recognize that for this company in particular that they do require significant capital to finance generating needs. That this is a generating utility right here within our own state boundaries. And I also recognize another factor that we maybe didn't have in years past when the Commission would consider some of these issues, and that is that in this state we are undertaking a very large and costly program to build new nuclear facilities, and that that will put some competition out there in particular for dollars in the capital markets.

And I would think it would be unfortunate for a smaller company, such as TECO, with a different generating portfolio and a different proposed way to meet future demand, for them to be squeezed out because of some of those other large projects that will require a lot of capital and that are also priorities that this Commission has noted and supported.

So with all of that as kind of my discussion leading up to it, I recognize that we have had a wide range presented to us in the nine to 13-something numbers that was the range that we were discussing through the hearing. I also recognize that in my mind with all the factors that I have discussed, my belief is that the range then would fall in that 11 to 11.5 as the appropriate ROE for this company with the circumstances that I have discussed. And then in my effort to try to reach that balance right down the middle, Commissioners, what I would offer for your consideration is on Issue and 37 an ROE of 11.25.

And I hope I have kind of laid out my thinking on that. I think that that is, again, a good effort to find the balance, to recognize the capital needs, and as we discussed earlier today, the need for capital and for strong financial indicators, and also to recognize that the market conditions have changed and are different out there. Certainly, to my knowledge, are different than when the current ROE was allowed. And the 11.25 that I'm putting out there for your consideration, I would also note is a significant reduction from what the company is earning today.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner Skop, you're recognized, sir.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I guess on those same lines, again, I have struggled with this. We have taken a lot of testimony and a lot has changed in the economy since the Commission's FPUC decision. Again, each case stands alone on its individual merits and each is fact specific.

You know, I guess just with respect to, you know, I have been on the Commission almost two years now, but rely heavily upon my background, multi-disciplined background, and my experience to try and do the fair things. And a lot of times, you know, we are asked to make a discretionary decision that could be subject to heavy criticism. But my regulatory philosophy is pretty straightforward. It's basically trying to ensure consistent outcomes that are fair to all the parties.

And with respect to ratemaking, it's even a more simpler standard. You know, I'm pretty keen on taking a basic and stable approach. I believe that, at least from my perspective, that you should make appropriate adjustments based on prevailing economic conditions, and that clearly benefits the ratepayers, but equally, too, at that midpoint, which is a midpoint earning range, it offers some incentive to the company to the extent that if we authorize a midpoint and the company is able to bring operational efficiencies with their management to their company, then they have the incentive to capture the upper side of that midpoint, which is within the 100 plus or minus basis points. So I think that that is a win/win solution.

With respect to the testimony that we had, again, there are competing economic models, whether it be the CAPM model or discounted cash flow, and obviously the spectrum for the most part was bounded between two numbers. Mr. Herndon gave some testimony. I did not find his testimony to be persuasive, and I felt compelled to comment on that. I thought that his -- while he's entitled to his opinion, I thought that the results were completely outside the zone of reasonableness. In terms of the question presented about, you know, having substantial financial background, I asked a very basic question as to what the credit rating of GE was, and the response was I didn't know. So, again, his testimony, again, didn't really carry any weight.

But I think that the zone of reasonableness has been bounded, as staff has pointed out, from 12, which is the requested percentage for ROE by TECO, versus the 9.75 offered by OPC and some other intervenors.

I guess getting to my point, but, again, making sure that I had my thinking articulated for the record, I would also support a slightly higher ROE than what staff has recommended. I guess my appropriate ROE would be a midpoint in the range of 11 to 11.25 for the following reasons. And, again, I lean more towards 11.25. But a midpoint in that range using 11 for the sake of discussion would be 100 basis points less than 12 percent ROE requested by TECO. 100 basis points is a significant decrease.

A midpoint ROE of 11 percent is also 75 basis points less than the current authorized 11.75 percent ROE for TECO. So, again, that's a significant decrease. I would also note, for the record, that staff has made the appropriate adjustments for executive salaries and benefits, that staff has also made appropriate adjustments for executive incentive compensation. So, again, to me, I think, as the discussion has centered that with the ROE, it's like burning both ends of the candle. If you're going to cut from one side, you can't cut from both sides, because with the ROE they have the ability to use shareholder money to pay for other things that are otherwise being denied in the course of the rate proceeding.

But I think another compelling point, and I think this gesture of goodwill oft goes unnoted, so I thought that it was somewhat impressive, but although legally entitled to do so, TECO did not seek interim rate increase during the pendency of this rate case. And the result of not seeking that increase, and their earnings were well below the authorized return, was that they saved consumers over $5 million, subject to check, as a result of not seeking those interim rates. And I think it is clearly established by law they are able to do so. They forwent that. I think that that is a show of good faith on their part.

Again, as staff has discussed with me, you know, 100 basis points is about $29 million in this case. $7 million is 25 basis points. But, again, in not seeking interim rates, consumers saved money. And, you know, I don't think that that is a point that should got unnoted.

And so, again, I'm open to discussion. I guess there may be varied views on this, but generally I am in support of somewhere in the midpoint of 11 to

11.25. Again, that downward trend from their current authorized ROE recognizes prevailing economic conditions. It benefits consumers, but it also, you know, if you move lower than that, you know, if you get the lower end of that 100 basis point spread, I am very concerned that there are going to be some negative regulatory consequences of that. Credit ratings are under pressure.

And, again, you know, looking at controlling U.S. Supreme Court precedent, as well as Florida precedent certainly they are within the zone of reasonableness. But, again, getting back to my basic and stable approach, it's appropriate to make appropriate adjustments based on those economic conditions, but that's a different thing from jumping off the cliff.

And, again, for the reasons that I articulated, I think that 10.75 is a little bit too drastic from the current authorized ROE. But, again, I look forward to the discussion. I'm not bound to any one result.

CHAIRMAN CARTER: Thank you, Commissioner. Commissioner McMurrian.

COMMISSIONER McMURRIAN: Thank you, Chairman. And I guess I should first say I appreciate staff's position on this. And I know that they have worked hard on this as well as on a number of cases on these, and it's a difficult issue, and it's highly subjective, and I also appreciate my colleagues sort of stepping up and sharing where they were right off the bat. And I have some notes sort of written down about my thinking, too, and some of them are very similar to some of the things that have been said about construction, but I will go ahead and sort of go through them so that I can share my thinking.

In the record, TECO explained its substantial construction program that its planned for the next five years and how it is driven by several factors, and I thought they justified going over. One was continued generation needs, two was storm hardening of the transmission and distribution systems, three was transmission needs for peninsular Florida as part of the FRCC efforts, and fourth was environmental requirements. And overall was, you know, how labor and material costs have significantly increased over the years and driven higher costs for each of those four things.

And I think it is important that not just TECO, but the other utilities in our state and utilities across the country are embarking on massive capital construction. And I don't just say that word for hyperbole. I think that it's true. And for all the reasons that TECO enumerated, but not to mention the capital expenditures that will be necessary if carbon reduction legislation gets passed at the federal level. And, frankly, not just at the federal level, we are also talking about that here in the state. And I think that the end result of some of those efforts could be that base load power generation that we have relied on for a number of years could be retired early and we'll have to replace those plants.

And so despite the things that TECO has mentioned here, I think that we have got things on the horizon that could make a huge impact in the construction that is to come. And, of course, it's ultimately the will of the public as decided by our leaders whether that certain generation would be replaced, but it will take substantial time and substantial capital to do that.

Once those investment decisions are made to meet all of these requirements, the financing has to happen. And perhaps it seems that I'm focusing too much on the company side, but I think that the same logic applies to the customer side. The customer wants that necessary infrastructure to be there when they need it. They want careful and thoughtful siting of generation and transmission that promotes reliability; they want cleaner environment; they want more planning for storms; and we need financing to accomplish all of these things that are also objectives of the customer.

So at a time when most utilities are looking at costs to serve, they're substantially rising, utilities along with other firms will all be competing for that investor dollar. And I think similar to what Commissioner Edgar said, there will be a lot of competition for that and our decisions in the nuclear area probably only make that more competitive. And, selfishly, I want our utilities and customers to be positioned to be the beneficiaries of the lowest cost financing possible, and so I think this decision is important along those lines.

And another thing to mention here, we talked a lot about what happened and what other states have done and what their decisions have been in the ROE area. I'm not particularly moved by that myself. I think it's a good sanity check just to look and see where we are, but frankly it doesn't tell me what we need to do for our state. I care a lot about our decisions, though, in other cases and how our results could be compared to each other. And I think we have got to be careful that we don't produce nonsensical results.

And that sort of brings me to the FPUC case, and that has been touched upon a little bit here, and where we approved an 11 percent ROE. And while nothing is perfect, I think that was a good decision that we made then. And, in my mind, FPUC is very distinguishable from the other IOUs we have in the state, including TECO with respect to what Commissioner Edgar mentioned that TECO has generation along with our other utilities.

And so going back to those four drivers that TECO is looking at in its construction program, at least two of those would impact -- would not impact FPUC in the same way it would the generating utilities, and that is with respect to the continued need for generation, because obviously FPUC doesn't have generation, and the environmental requirements with respect to that generation.

And, of course, it will impact FPUC and what they are able to contract for with generating utilities, but it's different. And I would add that there are also susceptible to the impact of future -- the investor-owned utilities with respect to -- other than FPUC -- are susceptible to the impact of future carbon reduction legislation in a ginormous way, if I can use that word.

They simply just don't share the same level of risk as other our generating IOUs, and with that I mean FPUC. So I go back to the fact that we have got an 11 percent for FPUC. I believe we can't go any lower than 11.25, and that's my opinion. And with respect to the range that you mentioned, Commissioner Edgar, I would even be willing to discuss going higher than 11.25. But to me 11.25 has to be the floor for ROE for TECO because of the differences in the generating utilities and the nongenerating utilities.

And I guess just let me say that I think our decisions to apply regulatory approaches and philosophies consistently while accounting for the particular facts pertaining to the case before us. And I think the capital markets and the public need to see decisions based on sound rationale. And given our recent decisions, I think that leads us to a different ROE than the one staff is recommending here.

And, again, I appreciate staff's work on this. I think the staff has been consistent in how they have applied the ROE information in these cases, but I believe that given the things that I have gone through here that we have to be at a higher ROE for TECO, and I believe 11.25 or something higher is in order.

Thank you, Chairman.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

That was actually the one point that I failed to touch upon that Commissioner McMurrian raised that arguably for a generating utility there is more risk than for a T&D, transmission and distribution, and that needs to be factored appropriately. But an overarching concern that I'm concerned about and that factors into looking at the relative risk amongst various IOUs, and, again, each case stands on its own merit, but, you know, having the uniform outcomes that alluded to with Commissioner McMurrian and Commissioner Edgar leads to -- those outcomes are essential to prevent the flight of capital.

Again, Florida attracts investment. Our investment-owned utilities are healthy. We want that to continue in an otherwise unstable market. But, again, the last thing I want to do is unduly penalize one at the detriment of another to the extent that investors are going to take their money where they can get the best return. And I'd hate to see that interstate flight of capital amongst our utilities. Again, that basic and stable approach, I think, is very sound rationale. We tweak things, make appropriate adjustments as necessary, and, you know, that does benefit the consumer because basis point reductions are substantial. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Thank you, Mr. Chairman. I agree with staff. And I don't always agree with staff, but I agree with staff. I think that staff has come up with the right amount. We are talking about 10.75 when all through this hearing we found that 10.50 was the national average. So we are now giving this company more than the national average, and I think that is more than fair.

And let's remember, because when it is read in the newspaper it will be TECO gets 10.75 or 11.25, when really they are getting 11.75 or 12.25. So for the people out there watching, it's 100 basis points more than the number you will see in the paper tomorrow, which is a very healthy, in my opinion, profit.

And I'm going to go through some of my notes, because I believe that we were talking about compensation for executives. Well, I think this country has just about had it with hearing some of the compensation packages, and I think we have looked at that. But to say that reducing compensation -- and I don't know if -- and, staff, maybe you help me here --

rank and file. I'm not sure if the rank and file of TECO gets cut, but I remember looking at some pretty hefty salaries, like 1.3 million for one person, and very high salaries.

And now we're talking about -- and, Commissioner Skop, in case you didn't see the small amount that was reduced, it is 206,000. And I don't think that benefits the rank and file worker or benefits the consumer of the state of Florida. While it may sound good, any way you want to say it, I don't think so.

And I selfishly -- as Commissioner McMurrian says, I selfishly want fairness for the company and for the consumer. And in a time that we are just in such a bad way, I don't -- I couldn't, in good conscience, look any one of you in the face, or any one of the people of the State of Florida and say that I am willing right now to go above a national average for profit of a company because their capital might run away, or because they can't get funding when I know from what I have learned here that is not really true.

You have a company or companies who are doing very in the state and Wall Street loves you, investors love your stocks. They are relatively risk free. You are monopolies. It's unbelievable to me that at this time -- and it's a bad time for the companies to come in for this, but it is believable to me that we would go above a national average.

I think staff did an excellent job of finding the midpoint, especially knowing that there is 100 basis points above that. So, you know, to me it doesn't benefit the consumer to raise the profit levels of a company that is doing fairly well.

Yes, there is construction to be done, and perhaps maybe construction should be halted for awhile until this economic crisis departs from us, because I think you are going to see the Legislature understanding and listening to the -- maybe certain people in the Legislature listening to the public out there that how can you raise the profit levels of a company right now at a time like this. And in good conscience not trying to hurt the company, and I don't think you hurt the company at all by giving them above the national average.

I think a 10.75 is a darn hefty rate of return. I think so many companies in the state of Florida who are not monopolies and are not backed by government to recovery everything or pretty much everything they spend would love to have a 10.75.

So, with that said, and with some angst and trying to keep my voice contained, and I can't help it, I wholeheartedly agree with staff. And if I am the only one, that is okay with me. I have been there many times before. I just think at this time to say that it would do the people good in the state of Florida to me doesn't wash, that it would hurt the company because they can't get funding doesn't wash, and to say that the capital would fly away doesn't wash.

So, staff, thank you for your work on this, and with all due respect to my fellow Commissioners, we are not here to agree or rubber stamp each other's ideas or thoughts. Those are my opinions, obviously, and with that said I could not approve more than what the staff has recommended.

Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioners, we are in discussion on Issues 33 through 38, in discussion. Any further discussion, Commissioners?

With no further discussion, I'll recognize Commissioner Edgar for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

And my thanks to each of my colleagues for sharing your individual thoughts on this item. I always benefit from the discussion and from hearing your perspective, and I think a number of excellent points have been raised. I would just reiterate that in my effort to try to find that balance, I would reference my earlier comments, and I will not make you listen to them, again.

But at this point, Mr. Chairman, I would make a motion in favor of the staff recommendation for Issue 33, as modified, Issue 34, Issue 37, with the change that the recommendation or the motion would include that we adopt an appropriate rate of return on common equity for the 2009 projected test year at 11.25 percent with a range of plus or minus 100 basis points, and then also include Issue 38, as modified.

COMMISSIONER ARGENZIANO: Mr. Chair.

CHAIRMAN CARTER: Yes, ma'am.

COMMISSIONER ARGENZIANO: I need something clarified by staff, because we voted for the 54 percent before, and I need you to clarify now with a higher ROE what that does to the capital structure; and as I asked before, what this all does to the rate increases. So there is a difference, because we voted in the 54 on the basis that it worked with the 10.75, and I'd like it on record as to what happens now.

COMMISSIONER EDGAR: Commissioner Argenziano, we didn't vote on that.

COMMISSIONER ARGENZIANO: I thought we did. Oh, that's right we took that back. Okay. We took that back. So then where are we now with the -- with your motion, Commissioner Edgar, we are at staff's recommendation on the 54?

COMMISSIONER EDGAR: Yes, ma'am.

COMMISSIONER ARGENZIANO: Okay. So when we vote on this, I still need it addressed, because it will make a difference, won't it, if the ROE goes up?

MR. MAUREY: Yes. If the ROE is 11.25, the overall cost of capital will go up and certain other amounts that have been voted on will go up commensurately. We can't calculate that instantly, but we will have that for you in short order.

COMMISSIONER ARGENZIANO: And how long is short order? I'd like to know that.

MR. MAUREY: I will need a laptop.

COMMISSIONER ARGENZIANO: Mr. Chair, I would like to recess because I would like to know that before we have to vote, because it does make a difference. All those other things that we are voting on will make a difference, and I would like to know what that difference is. I think it's a logical question.

CHAIRMAN CARTER: Okay. Let's do this, Commissioner, to get in proper posture. We have a motion on the floor, did we get a second? We got a second, so that puts us in discussion. And your discussion relates to the equity of 54 percent, so we can have staff now crunch that out before we close out on the motion.

COMMISSIONER ARGENZIANO: Mr. Chair, I think I heard staff before say that if they were looking at a higher ROE, then the capital structure may need to be decreased. And I want to know what they think, and I want to know if it should be; and, of course, the things I have already asked as far as what impact that would be.

CHAIRMAN CARTER: And those answers will be commensurate with the disposition of Issues 33, 34, 37, and 38. So let's do this, Commissioners. We have got a motion, we have got a second. Let's have staff get us the information -- because we are in discussion on the motion, give staff an opportunity to crunch some numbers and get back with us.

Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Thank you.

And I just wanted to be clear that my motion did thoughtfully and purposefully include the staff recommendation on 34, in my thinking, to get to that 11.25. I just want it to be clear.

CHAIRMAN CARTER: Okay. Let's go off the record.

(Off the record.)

CHAIRMAN CARTER: We are back on the record.

And when we last left we had a motion and a second. We were in discussion, and a question was raised. And, staff, you're recognized for the answer.

MR. MAUREY: Thank you.

Earlier, I apologize, I misunderstood the question. We are going to calculate those dollars that you are asking about. That's separate and apart from the question that you just asked. When we were -- when staff was formulating the recommendation on Issue 34 regarding the equity ratio, we looked at that level of equity as reasonable. And then we moved to the return on equity in Issue 37, and we set, or based our recommendation on that level, recommended level of equity, not vice versa. And what we were trying to explain with our language is that if the equity ratio was lower or materially lower than what was approved, then we might recommend a higher ROE to recognize that reduction in financial risk at a lower equity ratio.

Now, it doesn't move as easily in the other direction. Return on equity is the penultimate decision, that is what the investment community is looking for, and it is based on the company's financial risk, business risk. The 54 percent equity ratio that we recommended is reasonable, and it would also support 11.25. I mean, you could use a lower equity ratio, because 11.25 is higher than 10.75, but there is no -- the 54 percent did not become unreasonable because the Commission may move forward with 11.25.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Given that, and Commissioner Edgar's motion was 54 percent with the ROE at 11.25. And I guess -- was it before that -- hang on one second. I think it was -- I think you had said before that the 54 percent was the high end of the range to account for the lower ROE.

MR. MAUREY: Yes. It's near the high end of the range of the proxy companies that the TECO witness identified as comparable in risk to TECO.

COMMISSIONER ARGENZIANO: So let me get this right. It was at the higher end of the range.

MR. MAUREY: Yes.

COMMISSIONER ARGENZIANO: And it's still appropriate -- let me see how to phrase that differently. It's still appropriate with the 11.25? I've got to think of a better way to ask this question.

MR. MAUREY: The company will be better

positioned with an 11.25 ROE at 54 percent --

COMMISSIONER ARGENZIANO: Certainly.

MR. MAUREY: -- than it would be at 10.75, yes, but the 11.25 does not make the 54 percent less reasonable.

COMMISSIONER ARGENZIANO: But it's still at the high end. So now -- what are the dollar figures? Because if we are talking about an ROE bumping up from 10.75 to 11.25, I guess, what's the number there?

MR. MAUREY: That's approximately 14.5 million.

COMMISSIONER ARGENZIANO: 14.5 million. Hang on. So I guess the ratepayer will pay that each and every year from the 10.7 --

MR. MAUREY: Annual revenue requirement, yes.

COMMISSIONER ARGENZIANO: From the lower staff's recommendation of 10.75.

MR. MAUREY: Well, that would be at the midpoint.

COMMISSIONER ARGENZIANO: No, no. What I'm saying is the difference between -- the 14 million that you just told me is from the staff's recommendation of the so-called lower ROE, which is still above the national average, but that's $14 million more. Now, how much more with the 54 percent will the consumer have to bear on that?

MR. MAUREY: 54 percent over what?

COMMISSIONER ARGENZIANO: Let me see here. If you have -- if the consumers are paying the 14 million more, what would the dollar amount have been at the -- I'm sorry, I'm making myself confused. My notes -- my handwriting is not very good when I write very quickly.

What I'm trying to get, I guess -- let me ask it this way. With the will of the Commission, with the higher ROE at 11.25, what amount -- and this is the best way to ask it -- can the consumers expect to pay each and every year from -- moving away from the 10.75, the difference, and I think that's what you answered, the difference from 10.75 to 11.25? Is that the 14 --

MR. MAUREY: That's the 14.5 million per year, approximately.

COMMISSIONER ARGENZIANO: And, now, let me see if I can ask this a different way. I guess let me ask it this way. Where does the 54 percent fall into the range of the appropriate capital structures with the 11.25 percent?

MR. MAUREY: Okay. The group of proxy companies had equity ratios that range from a low of 32.6 to a high of 59.8, and the average was 47.8. That's where staff drew the opinion that the 54 was at the high end of the range.

Now, we do have testimony that it should be 48 or 49 percent. So are you asking what is the incremental difference between if we went down to 48 or 49 percent off the 54?

COMMISSIONER ARGENZIANO: Yes. I'm trying to get the whole picture. I got the 14 million that goes up if we go from the 10.75, the staff recommendation to the motion of 11.25 plus adding the high end of that scale of going to the 54.

MR. MAUREY: One percentage point on equity ratio is approximately 3.8 million per year annual revenue requirement. Again, these are approximations. If the equity ratio were to be lowered, say, down to -- if it were lowered down to, say, 50 percent from 54, that's approximately 15 million a year, 15.2. That's about the break even.

COMMISSIONER ARGENZIANO: So that's on top of the 14 million?

MR. MAUREY: No, no, that would be in the other direction.

COMMISSIONER ARGENZIANO: Got you. Got you. And that was at 50, you said?

MR. MAUREY: It would take them down to 50. We haven't -- we know the relationships, but we don't have a leverage formula in our back pocket here.

COMMISSIONER ARGENZIANO: Okay. But it's definitely a jump up from staff's recommendation. Because what you had said before, it was the higher end, but you would have -- if you would have gone the higher of 58, I guess the ROE would have changed.

MR. MAUREY: I guess the way to express it, if staff had gone with a lower equity ratio, we probably would have recommended a higher ROE, that's what we were trying to convey in the recommendation on Page 86.

COMMISSIONER ARGENZIANO: Okay. So it basically comes down to it's going to cost at least 14 million more for the consumers to go with this motion.

MR. MAUREY: An extra 50 basis points on ROE, yes, approximately.

COMMISSIONER ARGENZIANO: And the 54 percent on the capital.

MR. MAUREY: At 54 percent.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Not to belabor the issue, but, again, a question to staff. I guess they said that one percent equity is equal to 3.8 million, is that correct?

MR. MAUREY: Approximately, yes.

COMMISSIONER SKOP: Now, the way the question has been presented, again, staff recommended an ROE of 10.75, correct?

MR. MAUREY: That's correct.

COMMISSIONER SKOP: And the Commission has voted for an ROE of 11.25.

MR. MAUREY: That's the motion.

COMMISSIONER SKOP: That's the pending motion, okay.

What is TECO's current authorized ROE?

MR. MAUREY: 11.75.

COMMISSIONER SKOP: So the difference between the staff-proposed ROE and the motion on the table is 50 basis points, is that correct?

MR. MAUREY: Yes.

COMMISSIONER SKOP: And the difference between TECO's current ROE and the amount that's in the motion, the 11.25, is an equal 50 basis points, is that correct?

MR. MAUREY: Yes.

COMMISSIONER SKOP: So the same 14.5 million that is over and above the staff recommendation, again, the staff recommendation, the range of reasonableness is from 9.75 to 12, so there is no perfect number. But at the end of the day we're reducing, or the motion on the table is to reduce the current authorized ROE by 50 basis points, is that correct?

MR. MAUREY: The recommendation is to reduce the authorized ROE by 100 basis points. I believe the motion is to reduce it by 50 basis points from its --

COMMISSIONER SKOP: Let me reframe the question again. I've got a cold and I'm trying to fight that. In relation to TECO's current authorized ROE, which is 11.75 percent, the motion on the table to make the ROE midpoint 11.25 percent is a 50-basis-point reduction over TECO's currently authorized ROE, is that correct?

MR. MAUREY: Yes.

COMMISSIONER SKOP: And that would be net over current rates of $14.5 million savings to consumers in terms of the reduction in ROE?

MR. MAUREY: If rates were set at that 11.75, yes.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Yes. And not to belabor the point, but you're talking about a reduction of 14 million, but giving 80 million in O&M and salaries and everything else. So there is no savings here. And the point of a rate case is to change things, whether in the negative or positive. And how long has it been since TECO came in for a full-blown rate case?

MR. MAUREY: They were here in the '92/'93 time frame.

COMMISSIONER ARGENZIANO: Okay. And is it unusual that sometimes the rate goes down? Isn't it because of what you find in a case that makes it go up or down?

MR. MAUREY: Capital costs goes up and down, yes.

COMMISSIONER ARGENZIANO: Okay. So the consumer, while it might sound nice what Commissioner Skop just said, the ROE, the current rate of ROE which was authorized when?

MR. MAUREY: It was authorized in 1995.

COMMISSIONER ARGENZIANO: In 1995 was higher than it is now. And, of course, your recommendations are based on things that have changed, is that correct?

MR. MAUREY: That's correct.

COMMISSIONER ARGENZIANO: And am I correct that they are also getting 80 million now, so a nice reduction in ROE, but getting 80 million in increased O&M and all of those other things that are in this?

MR. MAUREY: It will be more than 80 million.

COMMISSIONER ARGENZIANO: Okay. And can I ask you this, too, are the consumers going to see less of a bill right now if we pass this motion than they're getting now, or more charges, higher charges?

I'm trying to make a difference. Commissioner Skop said that the consumers would pay less, and I don't see it that way. And I want to find out who is right. And if we are going to vote for something, let's vote for it because that's what we see and that's what we say. And he has every right to feel that way, but I want to make sure what I'm voting on, and I don't want it to just sound that, I want to know if it really is.

So what I'm asking, and I don't mean to put you on the spot, are the consumers today, if this motion is passed, going to realize any savings or lesser charges?

MR. MAUREY: If the 11.25 is approved and other issues in here, the rate increase will be greater than the rates the company currently charges. But they will also be less than if rates were based on 11.75 as he's suggesting.

COMMISSIONER ARGENZIANO: And, of course, if they went down to the staff's recommendation, this company would -- they would be even less to the consumer?

MR. MAUREY: That's correct.

COMMISSIONER ARGENZIANO: Okay. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Skop.

COMMISSIONER SKOP: Thank you.

And that was the point that I was trying to make, that my discussion was limited to the ROE to the extent that it is coming down. It wasn't in relation to the entire corpus of the rate case. Obviously there are capital investments that have been made that need to be recognized into the rate base. But I was merely trying to articulate that, yes, and I agree with Commissioner Argenziano, if the ROE was 10.75 as adopted by the Commission, there would be savings in ROE. But as the results with the motion on the table, there is savings over the current authorized ROE as limited to the discussion of ROE. Is that your understanding?

MR. MAUREY: The company filed a rate case asking for an ROE of 12 percent. And if the motion and the second carries at 11.25, the rates will be less than if the 12 percent requested were adopted, yes, sir.

CHAIRMAN CARTER: Any debate, Commissioners? Any debate?

Commissioner Argenziano in debate.

COMMISSIONER ARGENZIANO: Yes, Mr. Chair.

I sense a lot of tension around this bench. And it should never be taken personal, anything that each one of us do here. So I will make it very clear. While I respect my colleagues and their opinions, I don't have to agree with them. But there is one thing that I am known for and will continue to do for the rest of my life, however long that may be, and the way my blood pressure keeps rising, I'm not sure it's going to be very long. But, believe me, I will fight it all the way anyway. What I want to make very clear, and to my colleagues, also, is that when I see a duck I call it a duck. And I can't help it. And nothing is going to change that.

And with no disrespect to my fellow Commissioners, understand that. If you don't like it, I can't tell you anything but tough. That's the way it is. I'm too old to change, and I'm not going to change for anybody unless God comes down and tells me, "Hey, that's what you've got to do." Believe me, I'll listen to him. So no personal anything here.

But when we go back and forth, and I understand that's part of debate. And, trust me, I think it is healthy. But if the duck starts mutating into a mouse and a chicken and everything, I'm going to say that's what I see. Don't take it personal. Because

I see faces, and I hear little (indicating), and I want to make it clear that I respect your opinions. I may not agree with them at all, just don't take it personal.

And the point where I'm coming from is if this is what it looks like to me, then that's what I'm going to call it out to be. I don't want one consumer out there -- I'm not changing my positions since I served the public from whenever the heck it was when I started serving the public. I'm going to tell them like it is, like I see it. They may not agree with me sometimes, and I may not agree with them sometimes, but I'm certainly not going to camouflage it, and that's what I'm asking for, is just to understand it.

It is not disrespect of any one of you. You are going to do whatever the heck you want to do, and so am I. But understand that I'm not going to make apologies for having my own opinion, and neither should any of you.

And I don't want it to go tit-for-tat, but the truth is, in my opinion, the consumers do not save here. I'm not trying to hurt the company. I think we need to have our companies fair. And I think each case has different inputs that have different outcomes, but I'm not going to camouflage something in my opinion, and I'm not going to say it does something it doesn't, in my opinion. And that's solely my opinion, so don't take it personal.

CHAIRMAN CARTER: Thank you, Commissioner. I think we get our best decisions when we have a lively debate. And we are five independent individuals, and we all have our own mindsets, and that's a good thing, that is what makes it a good process.

Any further comments? Any further debate? Any further debate?

Hearing none. We have a motion and a second on the floor. All those in favor, let it be known by the sign of aye. Aye.

COMMISSIONER EDGAR: Aye.

COMMISSIONER McMURRIAN: Aye.

COMMISSIONER SKOP: Aye.

CHAIRMAN CARTER: All those opposed, like sign.

COMMISSIONER ARGENZIANO: Aye.

CHAIRMAN CARTER: Show it done. That is Issues 33, 34, 37, and 38.

Excuse me for a moment, Commissioners. Let me just check with the Clerk to make sure that that was recorded. Let's take five minutes.

(Off the record.)

CHAIRMAN CARTER: We are back on the record.

And now, Commissioners, we are in the next group of issues starting with net operating income issues. Starting with Issue 39 going down through Issue 78. I'm going to ask staff, would you briefly introduce those issues. I mean, this section of issues.

MR. SLEMKEWITZ: Issue 39 is what is the appropriate total operating revenues for the test year, and that's a fallout issue. Issue 40 has been stipulated, and Issue 41 is what is the appropriate level of O&M expenses, and that is also a fallout issue. And then the next issue we would address would be 46.

CHAIRMAN CARTER: Go ahead.

MR. PRESTWOOD: Issue 46 deals with the advertising expense, and Staff's recommendation is no change to the company's forecast.

CHAIRMAN CARTER: 47.

MR. PRESTWOOD: 47 deals with lobbying expense, and staff recommends no adjustment to that expense, as well.

CHAIRMAN CARTER: 48.

MR. PRESTWOOD: Issue 48 deals with the company's level of salaries and employee benefits for the test year. We do recommend two adjustments in that area. The first adjustment deals with the officers and directors pay raises for the test year, 2009. At the hearing they announced that they were going to accept a zero increase and provided that information, and so this adjustment simply reflects that $206,000 decrease in O&M expense.

The second part of the adjustment is an elimination of 90 positions. The companies had projected approximately 160 position increase average 2007 compared to the test year. For 11 out of the last 15 years, the company has had a decrease in the number of employees. We tried to get various support for that issue, for what the employees were for and so forth, and weren't very successful, so we have accepted the OPC recommendation with respect to that issue, Number 48.

CHAIRMAN CARTER: You are on 48? That was 49.

MR. PRESTWOOD: 49 deals with other post-employment benefits. And we recommend no change to the company's position -- to the company's forecast of that issue.

CHAIRMAN CARTER: Issue 50.

MR. PRESTWOOD: Issue 50 takes into consideration the number of budgeted positions that will not be filled during the test year, and we feel that Issue 48 adequately takes care of that issue.

CHAIRMAN CARTER: Issue 51.

MR. PRESTWOOD: Issue 51 takes into

consideration the various service initiatives that TECO has undertaken to improve its service reliability. Again, we recommend no issue with respect to that particular issue. We believe that Issue 48 has adequately addressed it.

CHAIRMAN CARTER: Issue 52.

MR. PRESTWOOD: Issue 52 is TECO's incentive compensation plan. We do recommend one small adjustment to that. In general, we believe they have supported their plan adequately, and that the combination of their incentive plan and their normal pay has been completely supported.

What we do recommend is an adjustment to certain officers and directors, those portions of their incentive that are tied to the parent company, TECO Energy, Inc., and not to the utility. OPC recommended that those expenses should be thrown out because they do not benefit the utility. The company, although not agreeing with the adjustment, did recalculate it, and we accepted the company's recalculation of that adjustment.

CHAIRMAN CARTER: Issue 53.

MR. PRESTWOOD: Issue 53 takes into consideration the company's new generating units that are going to be maintained under contractual service agreements, or CSAs, and we recommend no adjustment to this area.

CHAIRMAN CARTER: Issue 54.

MR. PRESTWOOD: Issue 54 covers the area of generation maintenance expense, and we do recommend an adjustment to this area where we have looked at a broader level of generation management expense -- maintenance expense, and we are recommending a reduction of $2,850,000 on a jurisdictional basis for this issue.

CHAIRMAN CARTER: Issue 55.

MR. PRESTWOOD: Issue 55 is substation preventative maintenance and we are accepting TECO's projection for this issue.

CHAIRMAN CARTER: Issue 56.

MS. MARSH: Issue 56 addresses dredging expense. Staff recommends the company be allowed a total cost of 3,400,272 with reductions to expense of 650,056, and a reduction to working capital of 1,346,649.

CHAIRMAN CARTER: Those are reductions that staff recommended?

MS. MARSH: Those are the reductions.

CHAIRMAN CARTER: Okay, good.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

On that issue, just one point with respect to the increased disposal cost to the staff recommendation. I know that some of the estimates were iffy, and I'm not questioning those, but did the recommendation take into account the increased disposal cost of the dredge spoil?

MS. MARSH: The particular estimate that we based the recommendation on that we recommended allowing does not include anything for that. There are some reasons for that. Basically, for one thing, the company doesn't know whether it's going to build up the dikes higher or whether it is going to transport the spoil elsewhere. If they increase the dikes, it may carry forward to future dredgings, and the company simply was not able to support even what they were going to do, let alone what the costs would be.

COMMISSIONER SKOP: Okay. So the total adjustments, though, is staff's professional opinion of the adjustments that are necessary for it to be fair?

MS. MARSH: Yes, sir.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN CARTER: Thank you. Commissioners, anything further as we proceed?

Issue 57.

MR. PRESTWOOD: Issue 57 deals with economic development expense. Staff recommends no adjustment to this expense.

CHAIRMAN CARTER: Issue 58.

MR. KYLE: Issue 58 deals with pension expense. Staff is recommending that no adjustment is necessary.

CHAIRMAN CARTER: Issue 59.

MR. SLEMKEWITZ: Issue 59 relates to the accrual for property damage, which is really related to the storm damage accrual, which you voted on in Issue 16. And staff's original recommendation was a reduction of 16 million. That would be revised now to a reduction of 12 million, which would allow an accrual of $8 million per year.

CHAIRMAN CARTER: Okay. Issue 60.

MR. PRESTWOOD: Issue 60 is the injuries and damage reserve, and the staff recommends no adjustment to this expense.

CHAIRMAN CARTER: Issue 61.

MR. PRESTWOOD: Issue 61 is the company's directors and officers liability insurance, and the staff recommends no adjustment to this expense.

CHAIRMAN CARTER: Issue 62.

MS. MARSH: Issue 62 addresses meter expense. Staff recommends that no adjustment is needed to those expenses.

CHAIRMAN CARTER: Issue 63.

MR. PRESTWOOD: Issue 63 deals with the company's rate case expense, and the staff makes several recommendations with respect to adjusting this expense. First, the staff recommends that Witness Cannell that was listed in the original case, but the company decided not to use, the cost for that witness was 116,000, that that be eliminated.

Secondly, Witness Abbott who testified on behalf of rating agencies, the level of expense for this witness was extremely high and also somewhat redundant with some of the company's own witnesses' testimony. We are recommending that her expense be reduced by $222,000 to bring it down to the same level as Witness Murry, the cost of capital witness. Even though she is not exactly a cost of capital witness, we thought that was a fair comparison of what expense should be.

And then, finally, Huron, which is the company that is not affiliated with TECO, but does have common board membership, their original estimate was 1,180,000 to oversee the company's filing. That came in two parts. The first part was 625,000 with the second part to be authorized. We asked for a late-filed exhibit to give us more detail on rate case expense. That exhibit did not give us the kind of detail we really needed to support the rate case expense and break it out into pieces. So what we have recommended is limiting Huron to the first $625,000 of expense that was approved, and that would reduce rate case expense from the original number of $3,153,000 down to $1,973,000, which is a decrease of $1,180,000.

And then we further recommended rather than amortize that expense over a three-year period, to amortize it over a four-year period, which is more consistent with the Commission's decisions in several later cases. And also, the three-year number is not a magic number, and the company's own witness said that it would be at least less than five years, so we picked four years. So that reduced the amortization expense by another $557,750 to an annual expense for rate case of $493,250.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just a quick question to staff on this issue.

Staff recommended the appropriate amount of rate case expense be set at 1,973,000. And looking at the OPC positions, they asserted that the rate case expense should be reduced to a higher number, which is 2.032 million, and then looking at FRF, they suggested a slightly lower number of 1,905,000. I guess can staff explain where the staff recommendation fell in relation to those two other numbers by the intervening parties?

MR. PRESTWOOD: No, Commissioner, not exactly. We came at the numbers slightly differently than how we got to them. I did use their numbers as just checks for reasonableness as to where we came out, but offhand I can't give you the detail of exactly how they arrived at their numbers.

COMMISSIONER SKOP: Okay. Thank you.

CHAIRMAN CARTER: Any further questions, Commissioners, on Issue 63?

Issue 64.

MR. PRESTWOOD: Issue 64 deals with bad debt expense. Staff makes no recommendation to the company's forecast for the test year.

CHAIRMAN CARTER: Issue 65.

MR. PRESTWOOD: This adjustment deals with office supplies and expense. And, again, staff makes no recommendation for adjustment to this expense.

CHAIRMAN CARTER: Issue 66.

MR. PRESTWOOD: This adjustment, or this issue deals with tree-trimming expense. And while the staff is certainly in support of the company's tree-trimming expense to reach the three year annual level as required by the storm hardening rules, their testimony towards the end of the case indicated they wouldn't quite make it to the three-year level by 2009. And so this adjustment adjusts the tree trimming level down to what they told us they would actually do in terms of the percentage in 2009. So we have reduced tree-trimming expense by $1,314,000.

CHAIRMAN CARTER: Based on what they would actually do as opposed to --

MR. PRESTWOOD: Based on what they would do in 2009. Their intentions are to reach the three-year annual trimming level by 2010.

CHAIRMAN CARTER: Commissioners, any questions on the tree trimming?

Issue 67.

MR. PRESTWOOD: Issue 67 deals with pole inspection expense. And we have made -- we recommend no adjustment for this issue.

CHAIRMAN CARTER: Issue 68.

MR. PRESTWOOD: This issue deals with the company's transmission inspection expense; and, again, we recommend no adjustment for this issue.

CHAIRMAN CARTER: Issue 69.

MR. PRESTWOOD: Issue 69 deals with the number of outages, planned outages for generation, and in particular the Big Bend power plant. While the staff believes that the number of outages are overstated for the test year, we believe that Issue 54 is a more comprehensive approach to dealing with the generation maintenance expense, and we have already made an adjustment there for $2.8 million. So we make no further -- recommend no further adjustment for Issue 69.

CHAIRMAN CARTER: Okay. Issue 70.

MS. MARSH: Issue 70 is the amortization expense associated with the CIS costs approved in Issue 9. Staff recommends that the amortization expense over a five-year amortization period is appropriate.

CHAIRMAN CARTER: Issue 71.

MR. PRESTWOOD: Issue 71 is just the net operating income effects of Issue 5, which you have already voted on on those amounts.

CHAIRMAN CARTER: Okay. Issue 72.

MR. PRESTWOOD: And 72 is the net operating income effects of the rail facilities, which you also have already voted on.

CHAIRMAN CARTER: Issue 73.

MS. MARSH: Issue 73 is the test year depreciation expense, whether it has reflected their rates approved in their most recent depreciation study. Staff recommends that the rates have been properly reflected and no adjustments are necessary.

CHAIRMAN CARTER: Okay. Issue 74.

MS. MARSH: Issue 74 is a fallout of the depreciation expense for the 2009 projected test year.

CHAIRMAN CARTER: Issue 75.

MR. PRESTWOOD: Issue 75 is a fallout issue for taxes other than income taxes.

CHAIRMAN CARTER: Issue 76.

MR. KYLE: Issue 76 considers whether it is appropriate to make a parent debt adjustment. Staff is recommending that this adjustment be made in the amount of approximately $9.6 million. Rule 25-14.004 discusses this adjustment, which is to reflect the income tax expense of the parent -- debt at the parent level that may be invested in the equity of the subsidiary. The rule provides the mechanics of calculating the adjustment and states that there is a rebuttable presumption that the adjustment should be made.

The utility filed testimony objecting to the application of the rule in this case. Their primary objection was that they stated that the approximately $400 million remaining in their debt at the parent level is a result of borrowing that took place in the 1993 time frame. The utility maintains that none of that, none of those funds were invested in TECO.

No other party filed testimony on this issue. However, in its brief OPC objected to the utility's reasoning and stated that the funds could not be traced specifically, you know, to any particular application. Staff has found two prior cases in which the Commission also took this position, and staff believes that that is reasonable, that the funds cannot be traced.

The $400 million are still on the books of the parent company. The payments of interest on this debt are supported by the resources of the parent and the entire group, and, therefore, we believe that the adjustment is appropriate.

CHAIRMAN CARTER: Thank you. Commissioners.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

This issue, again, there was a substantial discussion at hearing. I thought in terms of looking at this issue in particular, I thought that Mr. Gillette did make a colorable argument that the debt was used by the parent for investment in its unregulated subsidiaries. However, as staff has astutely pointed out, it's not possible to trace the flow of dollars. So I do think that the parent debt adjustment in this case is appropriate as recommended by staff, and that serves to reduce the income tax expense that staff has noted by $9.657 million. So I think that that is a good thing in itself, to the extent that it results in a reduced revenue requirement by that stated amount.

But, again, I thought that there was good discussion by all the parties on that issue. It was well briefed, well discussed at hearing, but I tend to concur with staff.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioners, anything further on Issue 76?

Issue 77.

MR. KYLE: Issue 77 is overall income tax expense. It's a fallout issue.

CHAIRMAN CARTER: Issue 78.

MR. SLEMKEWICZ: And Issue 78 is what is the appropriate net operating income for the test year, and that is also a fallout issue.

CHAIRMAN CARTER: Thank you, staff, for that introduction.

Commissioners, we have just gone through and had staff to introduce to you the issues under the heading of net operating income issues. Starting at Issue 39 going down to Issue 78.

Are there any questions or concerns before I ask Commissioner Edgar for a motion? Any question or concern or issues on any of those?

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just quickly as to Issue 47, staff recommended no adjustment. But just to be clear, that no lobbying expenses were actually submitted in the test year, so there was no need for any adjustment, is that correct?

MR. PRESTWOOD: That's correct, Commissioner.

COMMISSIONER SKOP: Okay. And then moving briefly back to Issue 69, at the bottom of Page 54 under analysis, staff noted that the 2009 planned outages are approximately 5.6 weeks higher in the test year than the average, or the historical average. But that last sentence, I was trying to understand that -- is staff stating that although the planned outage weeks are higher, that it actually results in a savings for the test year? Can staff further elaborate on that last sentence of that analysis paragraph.

MR. PRESTWOOD: I think it should have been reworded to say that it was -- that the 333,000 in the previous sentence, which was the average, was 1.44 million lower -- would have been 1.44 million lower than what was in the test year.

I think, quickly glancing at this, I know for a fact that we came to the conclusion that the number of outages that did occur that were planned for Big Bend were higher than historical over the last several years. Plus, we just for a reasonable check looked into the future, 2010, '11, and '12, and they were even higher than that period. And the company's problem with us zeroing in on planned outages was that it ignored unplanned outages as well as other generating expense. And so that's why we chose Issue 54, which looks at all of those things combined, planned outages, unplanned outages, and all other generating maintenance expense, and is a more comprehensive approach.

As far as the wording on this last sentence, it's clearly in error, but I might take a minute or two to tell you what it is exactly.

COMMISSIONER SKOP: That's alright. I mean, it is enough that it's an error. That's what got me confused. If 54 is the appropriate comprehensive issue, I'll take staff's word for that.

MR. PRESTWOOD: Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioners, anything further on the issues in this group from Issue -- excuse me. Let's try that again. The group under the heading net operating income issues beginning at Issue 39 going through Issue 78.

Any further comment? Any concerns? Hearing none, Commissioner Edgar, you're recognized for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I move that we adopt the staff recommendation for Issue 39 through 78, and including the modifications therein to 77 and 78.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: It has been moved and properly seconded.

Commissioners, any further questions. Any concerns. Any debate? Any debate? Hearing none, all in favor, let it be known by the sign of aye.

(Simultaneous aye.)

CHAIRMAN CARTER: All those opposed, like sign? Show it done.

Now we go to the group 79 and 80 under the heading revenue increase issues.

COMMISSIONER SKOP: Mr. Chair.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: I'm sorry, I was trying to catch this before, but, Commissioner Edgar, on that previous motion I think staff also mentioned an adjustment in Issue 59, and I just wanted to make sure the motion encompassed that. I think the number changed from 16 down to 12.

MR. SLEMKEWICZ: Yes, it did.

COMMISSIONER SKOP: And, I'm sorry, I didn't catch that before. I had forgotten where I wrote it down.

COMMISSIONER EDGAR: No, I appreciate you drawing that to my attention. I was using the Handout 1 for modifications, and I don't see Issue 59 on here.

MR. SLEMKEWICZ: Well, when you voted on Issue 16, it changed the dollar amount for Issue 59. And it won't be on that handout, because you vote -- it was based on what you voted on today.

COMMISSIONER EDGAR: Okay. Then let me ask this question. From the modifications that were described to us to reflect the change in working capital throughout the document, are there any other issues that have modifications proposed that are not included on this sheet other than 59?

MR. SLEMKEWICZ: There is probably going to be some slight change to possibly what the weighted average cost of capital is. There's a lot of fallout issues when you change rate base, but those have been identified as fallout issues. The only issue that really is not addressed here is the issue concerning the storm damage, which was -- the expense side is Issue 59.

COMMISSIONER EDGAR: Thank you for that clarification. And I appreciate the catch, Commissioner Skop. And for the record, my motion certainly is intended to include, as I discussed earlier, the discretion to staff to make the changes per our discussion.

CHAIRMAN CARTER: Show it done by unanimous consent. For the record, because we voted on that. I just wanted to make sure it's in there.

Commissioners, now we are on the heading the revenue increase issues, Issues 79 and 80.

Staff, you're recognized.

MR. PRESTWOOD: Issue 79 is the net operating income multiplier, and Issue 80 is the actual calculation of the annual operating revenue increase, and both of those are fallout issues. I will have to go back to calculate what Issue 80 would be, the total annual operating revenue increase is.

CHAIRMAN CARTER: Commissioners, any questions for staff on Issues 79 and 80? Any concerns?

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just with respect to -- on Page 170 on the bad debt rate, and I guess it's articulated under Number 4, that the staff adopted the TECO bad debt rate over and above the OPC based on the record evidence, is that correct?

MR. SLEMKEWICZ: We made no adjustment to the bad debt expense; so, therefore, there was no change to this number.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Any further questions, Commissioners, on Issues 79 and 80?

Hearing none, Commissioner Edgar, you're recognized for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I move staff recommendation on Issue 79, recognizing that is a fallout issue, and 80 as modified by the handout.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: I think that covers it.

Staff, does that motion cover the adjustments necessary for you to make, is that correct?

MR. SLEMKEWICZ: Yes, it does.

COMMISSIONER SKOP: Okay. It has been moved and properly seconded. Are there any questions? Any concerns? Any debate? Any debate?

Hearing none, all in favor, let it be known by the sign of aye.

(Simultaneous aye.)

CHAIRMAN CARTER: All those opposed, like sign?

Show it done.

Commissioners, now we move to the section entitled rate issues.

MR. DEVLIN: Mr. Chairman.

CHAIRMAN CARTER: Yes, sir.

MR. DEVLIN: A point of clarification.

I believe Commissioner Argenziano wanted to know the fallout of all the other decisions made and what the bottom line effect is on the revenue calculations.

CHAIRMAN CARTER: Are you ready to do that now?

MR. DEVLIN: Well, Mr. Slemkewicz said he needed a few minutes to do that. And before moving into the rate issues -- I just wanted to clarify that was I think what was expressed.

CHAIRMAN CARTER: So you need a break before we go into the next section, is that what you're asking?

MR. DEVLIN: I believe so.

CHAIRMAN CARTER: Let's do this, why don't we just take -- Staff, Commissioners, why don't we just take about 10 minutes or so, 15 minutes, give him time to do that, and we can reconvene and then pick up from there.

Had you rather -- can we do that afterwards?

MR. DEVLIN: Mr. Chairman, I've just heard -- if it's okay, I was trying to honor Commissioner

Argenziano's request. It's going to take Mr. Slemkewicz probably 30 minutes to do the calculations. My suggestion is to move forward with some of the rate issues now.

CHAIRMAN CARTER: Okay. Let him go, and let the guy that was in the second chair with him pick up and we'll go from there.

Now, Commissioners, let's go with the grouping of issues under the heading rate issues. That would be Issue 83 through -- let's see, staff, help me. Does that go all the way to 112, or 110?

Okay. So, Commissioners, we are on the next group that picks up with Issue 83 through 110.

Staff, you're recognized.

MS. DRAPER: Commissioners, Elizabeth Draper with the staff.

Issue 83 is the cost of service issue which forms the cost basis for establishing the revenue requirement for each rate class. TECO's proposed method represents a change from what was approved in TECO's last rate case, and that it provides a greater recognition to energy responsibility, 25 percent as opposed to the current 8 percent as a determinant of production demand costs.

That change to a greater energy allocation does not change total dollars collected by TECO, but does decrease the revenue requirement for the residential and small commercial rate class while increasing the revenue requirement for the larger commercial and lighting rate classes. That is because the larger customers have a greater energy responsibility relative to peak demand.

AARP supports TECO's proposed cost of service method, FIPUG objects. Staff recommends approval of TECO's proposed cost of service.

CHAIRMAN CARTER: Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I guess this is, as the parties or staff has noted, there is some opposition in the intervening parties over this issue. You know, clearly I can see AARP's position to the extent that it reduces rates for consumers that typically derive -- I mean, that drive the demand charge, whereas the industrial users, FIPUG, are being charged more on the energy side.

Again, I just wish there was a different way to approach this; but, again, I have to -- you know, while I'm sympathetic to both sides, I'm almost in a position where I have to defer to the subject matter experts on rate design, being staff, to the extent that the analysis that staff presented appears reasonable.

But, again, I'm very sensitive to the additional cost industrial users will bear on this to the extent that, you know, that industry is facing problems, also. So I think I would be in support of staff recommendation, but I do think that each of the respective parties' positions are well taken on this issue.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioners, anything further on 83?

Issue 84.

MS. DRAPER: Issue 84 deals with the allocation of Polk Unit 1 gasifier and the scrubber of the Big Bend Units 3 and 4. TECO proposes to allocate the cost of those two production plant facilities as energy. Staff recommends approval of TECO's proposal.

CHAIRMAN CARTER: Issue 86.

MS. DRAPER: Issue 86 deals with the appropriate allocation of any change in revenue requirement that is -- the issue is dependent on the cost of service, which you just approved, and on the final revenue increase amount, so it is mostly a fallout issue.

CHAIRMAN CARTER: Okay. Issue 87.

MS. DRAPER: Issue 87 address the treatment of the current interruptible IS-1 and IS-3 rate schedules. The current IS rates provide for a reduction in base rates. TECO proposed the rate treatment which would develop costs for the IS customers based on their usage characteristics as if the requirements are firm. The value of their load being interruptible is recognized separately by payment of credits as a demand-side management program, which will be the current GSLM-2 and 3 rate riders.

CHAIRMAN CARTER: Okay. Issue 88.

MS. DRAPER: Issue 88 addresses whether the GSD, GSLD, and IS rate classes should be combined or not. TECO has proposed to combine all three classes under one new GSD class. Staff recommends that only the GSD and GSLD classes be combined, while the IS rate class remain a separate rate schedule with the interruptible credits being provided under the GSLM programs. This will result in lower rate base charges for the IS customers compared to TECO's proposal.

CHAIRMAN CARTER: Any questions? Issue 91.

MR. STALLCUP: Issue 91 deals with TECO's proposal to implement an inverted base energy charge rate structure for the utility's residential class. Staff recommends we adopt the company's proposal.

CHAIRMAN CARTER: Issue 93.

MS. LEE: Commissioners, Issue 93 addresses TECO's proposal to consolidate its three street lighting rate schedules into one. And it also addresses TECO's proposed street lighting charges, terms, and conditions. Staff recommends that TECO's proposal be approved, subject to adjustment, based on the Commission's decisions in prior issues, and also reflecting TECO's corrected labor costs.

CHAIRMAN CARTER: Okay. Issue 94.

MS. OLLILA: Commissioners, Issue 94 addresses TECO's one-time service charges for new reconnection options same day and Saturday reconnect. Staff recommends approval of both and associated rates of $65 and $300.

CHAIRMAN CARTER: Okay. Issue 95.

MS. OLLILA: Issue 95 addresses the reconnection charges for customers who have been disconnected for cause. TECO recommends two reconnection charges. One where disconnection occurred at the meter, and one where it occurred at the pole. Staff recommends that both charges be approved. The recommended rates for the disconnection at the meter, $50 and $140 for the pole. Staff recommends they be approved.

CHAIRMAN CARTER: Okay. Issue 97.

MR. HIGGINS: Issue 97 addresses TECO's proposal for a new minimum late payment charge of $5.00. Staff recommends the Commission approve TECO's proposal.

CHAIRMAN CARTER: Okay. Issue 98.

MS. OLLILA: Issue 98 addresses four service charges; the initial connection charge with a proposed recommended rate of $75; a normal reconnect for a subsequent subscriber with a recommended rate of $25; a field credit visit with a recommended rate of $20; and a returned check fee with the tariff language recommended to refer to the statutory language.

CHAIRMAN CARTER: Thank you. Issue 99.

MS. OLLILA: Issue 99 concerns temporary service and the recommended rate of $235. It is also a one-time service charge.

CHAIRMAN CARTER: Issue 100.

MR. HIGGINS: Issue 100 addresses TECO's proposed customer charges. Staff recommends the Commission approve TECO's customer charges as proposed.

CHAIRMAN CARTER: Issue 103.

MS. KUMMER: Issue 103 addresses when a transformer ownership credit is applicable. The modification clarifies the existing language. Staff recommends approval.

CHAIRMAN CARTER: Issue 104.

MS. LEE: Commissioners, Issue 104 addresses the appropriate transformer ownership discounts to be applied to billing. Staff recommends that the appropriate discounts are those calculated by TECO reflected by the Commission's decision in Issue 88, which is to keep or maintain IS as a separate rate class.

CHAIRMAN CARTER: Thank you. Issue 105.

MS. LEE: Commissioners, Issue 105 addresses the appropriate emergency relay charge. As with Issue 104, staff recommends the appropriate charges are those calculated by TECO adjusted to reflect the Commission's decision in Issue 88.

CHAIRMAN CARTER: Okay. Issue 109.

MS. LEE: Issue 109 addresses the monthly rental and termination factors for TECO's facilities rental agreement. Staff recommends that TECO's proposed factors should be recalculated based on the Commission's decision on the approved capital structure and cost of capital.

CHAIRMAN CARTER: Thank you. Issue 110.

MS. KUMMER: Issue 110 addresses whether or not TECO should be ordered to develop a special rate for schools. Staff does not recommend that the Commission order TECO to develop a special school rate at this time for three primary reasons. First, Section 366.03 of Florida Statutes states the utility shall give no undue preference to any entity. That language is quoted on Page 246 of the staff's recommendation. Now, the Commission has broad discretion on what is undue, but staff believes that in this case a discount rate simply for schools based on current economic conditions may well constitute undue discrimination.

Secondly, the cost to serve schools does not go away simply because they don't pay it. Those costs will be shifted to other TECO ratepayers. That means that cost will going to the elderly, the retired, the unemployed, the struggling businesses. In essence, a discount rate simply because a school is a school amounts to a tax on TECO's utility customers to support public education, and staff does not believe that Section 366.041, Florida Statutes, allows that type of subsidy to be included in setting electric rates.

And, third, staff believes this is a very slippery slope. However meritorious school support may be, if we go down this road, I strongly believe that every governmental-supported agency in the state will be in here clamoring for a similar discount and that sort of throws cost-based rates out of the window.

Therefore, staff recommends against it.

CHAIRMAN CARTER: Thank you.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Again, I'm very sympathetic to Ms. Elia at the Hillsborough School System. I agree with the staff recommendation to the extent that ratemaking cannot be discriminatory in nature. However, I would offer words of encouragement. Again, I don't think this is something that the Commission could order, nor would I, but if the Legislature adopts an RPS, there might be incentive mechanisms where, you know, carrot and reward.

But I would encourage TECO as well as our other investor-owned utilities in Florida that have partnered with our public school systems, with our universities, to continue that. If there is any way to align the utilities' interests with promoting energy efficiency and meeting the needs of a school to reduce their energy consumption or enhance energy efficiency, then certainly making donations of that nature, putting solar panels on schools, net metering, those helps out. So, again, words of encouragement that I would hope that TECO as well as our other IOUs would continue helping out our school system, because education is our future.

CHAIRMAN CARTER: Thank you, Commissioner.

And we really -- and I want to commend staff, because they really looked under every bush, and behind every tree, and underneath every rock to find a way to accommodate the Hillsborough School System, and also trying to see what they could do for any school system. But the process would be discriminatory to other, you know, ratepayers. In essence, they would be subsidizing that. And it ended up -- staff did a very, very thorough job. I mean, they really, really, looked at it, but it ended up showing that in order to do that for Hillsborough County Schools, we would end up, like she said, having all the school districts in the state en masse appear asking for that. And I just don't think it would be fair to the other ratepayers, because you would say, well, you know -- well, anyway, I don't want to get into people that are on public assistance and things of that nature that can't afford it.

Commissioner Skop.

COMMISSIONER SKOP: Excellent points.

And, again, I think from a legal perspective, in my opinion, I mean, the staff recommendation was spot on in terms of what would happen as a result of violating that well-established principle. I was merely suggesting, again, in their philanthropic nature, our investor-owned utilities has always sought to give back to their respective communities. And, you know, 100 kilowatts of solar panels probably costs, you know, $1.2 million. So, again, making those investments, you know, if every school could have a two-kilowatt array, or something like that, again, it provides an educational benefit, it provides some energy reduction. It's just a good thing to partner with schools.

And then for the investor-owned utilities, there is also a 30 percent investment tax credit at the federal level. So, again, at the end of the day, what may cost 1.2 million is probably substantially less than that when the tax benefits are factored into that. So, again, I would just merely -- words of encouragement to continue our utilities to give back to the community and do the right things, and I think everyone will win/win. You know, it's a difficult situation that really we have no recourse to address. But, again, those little things, helping your community are ways to help mitigate the issue that the schools and others are facing.

Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioners, anything further on Issues 83 through 110? Any questions? Commissioner Edgar, you're recognized for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

And just as a very brief aside, I would like to, of course, adopt the comments of Commissioner Skop, as the very proud, as you know, mother of two children in a public elementary school here in Leon County. The increasing costs to public schools, and the efforts that our school boards across the state are having to look at possible reductions is very, very tender and very much on my mind. But I do agree with the philosophy that was laid out in the staff recommendation and am, as well, sympathetic to the kind of the slippery slope argument.

So with that, Mr. Chairman, I would like to move that we adopt the staff recommendation for Issues 83 through 112.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: 110.

COMMISSIONER EDGAR: I'm so sorry, 83 through 110, which will leave 112 for further discussion. Thank you.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: It has been moved and properly seconded on rate Issues 83 through 110.

Commissioners, any further debate? Any questions? Any concerns?

Hearing none. It has been moved and properly seconded. All in favor, let it be known by the sign of aye.

(Simultaneous aye.)

CHAIRMAN CARTER: All those opposed, like sign.

Show it done.

Now we're on other issues, which would be Issue 112. Give staff a moment to adjust, and, Commissioners, we will be on Issue 112.

MS. MARSH: Issue 112 is TECO's request to establish a transmission base rate adjustment mechanism. Staff recommends that the request be denied because the mechanism considers the cost of constructing new transmission facilities without considering other factors such as increased sales that will result from that construction. Given the long-term nature of transmission planning and construction, should TECO need a rate increase as a result of transmission, there would be ample opportunity for them to come in and request a rate increase.

CHAIRMAN CARTER: Thank you.

Commissioners, any questions for staff on the transmission? It's under the heading of other issues, Issue Number 112, transmission base rate adjustment mechanism.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Just putting this in, again, perspective, this would be an issue of first impression for the Commission in terms of granting such a request?

MS. MARSH: I believe that would be the case as far as transmission is concerned, yes.

COMMISSIONER SKOP: Okay. And with respect to the type of transmission requested as opposed to other transmission that's referenced in House Bill 7135, the legislation that was enacted, can staff briefly articulate the cost-recovery differences between what was proposed by the utility in 112 versus the statutory recovery mechanisms and whether they would apply to what is being requested.

MS. SICKEL: Jeanette Bass -- Jeanette Sickel for staff. I am not familiar with House Bill 135. What I can tell you about the TBRA, as proposed, it was relating to FRCC, and FRCC, the Florida Reliability Coordinating Council, only deals with issues that are 112 kV and above; 69 kV, for example, is not included, if that helps any.

COMMISSIONER SKOP: Again, I'm going to test my knowledge without pulling the statute, but I think House Bill 1735 dealt with cost-recovery for nuclear-related transmission. I was just trying to ferret out a little bit more, I guess, with respect to this issue, you know, the pros and cons, since it is an issue of first impression. I have read the staff analysis, obviously staff has concurred with OPC, and, again, I have a high degree of deference to staff recommendations on certain issues. Sometimes I disagree, but, again, I just wanted to flesh that out as an issue of first impression. If my colleagues had any additional questions, I just would like to have --

MS. SICKEL: To add to your view, I believe you are spot on, to use your phrase. I think that all of that must come through FRCC in the planning process and would come in front of this Commission in a need determination.

COMMISSIONER SKOP: Okay. Fair enough. If it would cover under a need determination, in staff's opinion, I believe that would address the case-by-case situation in which it might arise before us for cost-recovery. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner McMurrian.

COMMISSIONER McMURRIAN: Thank you, Chairman.

I guess I would just say that I would agree with staff's recommendation here to not implement this cost-recovery mechanism at this time. There was a statement on Page 253 near the bottom in kind of a middle paragraph that starts with, "To date there does not appear to be any measurable impacts," and there's a sentence, I don't know, three-quarters of the way down maybe, "If the Commission determines at a future the companies are filing rate cases primarily to recoup the cost of --" I'm guessing that means transmission projects right there.

MS. MARSH: Yes, ma'am, that is correct.

COMMISSIONER McMURRIAN: I'm sorry. The Commission can always consider implementation of a recovery mechanism at that time. And I somewhat agree with that. The only thing I would say there is I don't necessarily 100 percent agree with that. You know, I kind of want to leave things open to look at in the future. In other words, saying it primarily to recoup the cost of transmission, I mean, it could be that there were rate cases filed and that was a large aspect, but maybe not primarily. But it may be at some point that we would want to look at that. I just want to say that for me my mind is not made up forever more on that, but at this time I don't think it's appropriate to have another cost-recovery clause for this purpose.

CHAIRMAN CARTER: Thank you, Commissioner. Commissioners, anything further on Issue 112? Hearing none, Commissioner Edgar, you're recognized for a motion.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I move adoption of the staff recommendation on Issue 112.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: It has been moved and properly seconded. Commissioners, any further questions? Any comment? Any debate? Any debate?

Hearing none, all in favor, let it be known by the sign of aye.

(Simultaneous aye.)

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

Commissioners, where we are now is at the beginning staff was going to get to us -- first, Commissioner Edgar, I forgot the other part of it, but the part I remember was the fallout issues. And you made a request, also.

COMMISSIONER EDGAR: I did, Mr. Chairman.

I tried to track them as we went, but in case I or we missed any as we were moving through, I would move at this time that we give our staff the administrative authority to make whatever technical adjustments for fallout issues or modifications that were discussed throughout our discussion, realizing that those are technical calculations.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: It has been moved and properly seconded. Commissioners, any further questions? Any debate? That's giving staff an opportunity to get back with us with those technical changes.

Hearing none, all in favor, let it be known by the sign of aye.

(Simultaneous aye.)

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

One thing. Mr. Devlin, help me. You're recognized.

MR. DEVLIN: Mr. Chairman, we are waiting for John Slemkewicz and the staff to calculate the effect of all the decisions made today and what the effect would be on the revenue change. And he mentioned 30 minutes. It has probably been about 15 minutes now, and we haven't heard back from him.

CHAIRMAN CARTER: Let's do this, Commissioners. I believe that the information that he is bringing to us we have already voted on. It is basically information, is that correct, Mr. Devlin?

MR. DEVLIN: That is correct, except I thought the Commission may want to see what the bottom line effect is.

CHAIRMAN CARTER: Yes, we do want to see that. Let's see. What say we give him another 15 minutes and we come back at quarter after, Commissioners.

We're on recess.

(Off the record.)

CHAIRMAN CARTER: We are back on the record. And when we left we were waiting on staff to get back with us to do the final crunch to come through as Commissioner Argenziano wanted to see the impact of these decisions that we have made in terms of where it would go in terms of rates and costs and all. I know I am probably not explaining it properly, but staff knows what the answer is, so let's recognize staff.

You're recognized.

MR. SLEMKEWICZ: I handed out a packet of the schedules from the rate case that have been revised, and the first one naturally is -- the rate base is Schedule 1, cost of capital is Schedule 2, and the overall cost of capital using 11.25 percent ROE is 8.11 percent. Schedule 3 is the net operating income. Schedule 4 is the net operating income multiplier. Schedule 5 is the rate increase. And based on the Commission's vote, the overall operating revenue increase is $104,268,536. And then the next schedule is the effect of the Commission's vote on the step increase, and the step increase becomes $33,561,370.

CHAIRMAN CARTER: Okay. John, you took us a little fast.

MR. SLEMKEWICZ: I thought you wanted to get to the last chapter.

CHAIRMAN CARTER: I do. I do indeed. And let's do this, Commissioners. I'm trying to frame my questions, and while I'm trying to frame my questions, let me just recognize -- any questions, Commissioners? I think that this is a very comprehensive perspective. And, John, I appreciate your efforts to go and crunch the numbers and kind of do a complete wash based upon our votes today.

These are the results of the fallout issues, both in terms of the adjustment for the 11.25 percent. I think he said that brings the cost down to 8.11 percent.

MR. SLEMKEWICZ: And the other adjustment is Issue 16 on the rate base, which is storm damage accrual, and Issue 59, which was the expense for the storm damage.

CHAIRMAN CARTER: Okay. Any further questions? Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: First of all, I want to say thank you, because I appreciate that, and this is a great chart to go by. But what I want to make clear is we went from -- and please just jump in there if I'm wrong, or right, or whatever. Today's number of 104 would have been 87?

MR. SLEMKEWICZ: That's correct.

COMMISSIONER ARGENZIANO: So 87 million went to 104 million; and the step up is higher because of the higher ROE?

MR. SLEMKEWICZ: That's correct. I believe it was 32-million-something, and now it's 33.5 million.

COMMISSIONER ARGENZIANO: Okay. But as of today it is 104, and then next year the 33,561,370 comes into play.

MR. SLEMKEWICZ: Right. That would go into effect January 1, 2010.

COMMISSIONER ARGENZIANO: Let me take a look here. This will give me more time to look at it later; but, in effect, basically the changes went from 87 to 104 and the 32 basically to the 33.5.

MR. SLEMKEWICZ: That is correct.

COMMISSIONER ARGENZIANO: Thank you very much. I really appreciate that.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioner Skop.

COMMISSIONER SKOP: Thank you.

Just to Mr. Slemkewicz, the change that you mentioned and showing the effect of the 33 -- and it's late in the day, and I'm trying to follow. Which page is that on?

MR. SLEMKEWICZ: That is the very last schedule.

COMMISSIONER SKOP: And exactly where?

MR. SLEMKEWICZ: Well, the rate of return went up from 7.88 percent to 8.11 percent, and that's the major driver.

COMMISSIONER SKOP: That is 24 basis points. I've got that. But where is the delta increase? I'm not seeing that on the last page.

MR. SLEMKEWICZ: I don't have the delta. Prior to this change it was 32.9 million, and now it's 33.6 million.

COMMISSIONER SKOP: Hold on for one second so I make sure I understand this. So, repeat those last two numbers, please.

MR. SLEMKEWICZ: Okay. The original step increase was 32.9 million; and the revised one is 33.6 million.

COMMISSIONER SKOP: So we are talking about

$700,000?

MR. SLEMKEWICZ: That's correct.

COMMISSIONER SKOP: Okay. And that's a result of the step increase adjustments that were made?

MR. SLEMKEWICZ: That's correct. The adjustments to the calculation of the step increase based on the revised numbers that were voted on.

COMMISSIONER SKOP: And with respect to the weighted average cost of capital, that increased by 24 basis points, is that correct?

MR. SLEMKEWICZ: I guess it's 23. It went from 7.88 to --

COMMISSIONER SKOP: Subject to check. Okay. So, basically, the weighted average cost of capital went up 23 basis point and the step increase went up $700,000.

MR. SLEMKEWICZ: That's correct.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN CARTER: Commissioners, anything further? Anything further?

Just before we go, Commissioners, I join you in thanking our staff for the hard work on this. They did a yeoman's job in terms of all of the issues. And also being able to craft this document here on the fallout by the end of the day, this is just outstanding work. We have a great staff here at the Florida Public Service Commission; hard working people doing a great job.

And, Commissioners, I tell you, I appreciate your efforts, too, because this was quite a task for us. We spent a lot of time on this case with the testimony, with the witnesses, listening to that, reading the documentation, looking at the exhibits and things of that nature, and I appreciate your efforts on that. And today we had a great day.

Any last words before we adjourn, Commissioners?

Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

Just briefly just to harken back a little while to my first year here at the Commission when I was very much a junior freshman and green Commissioner, and we were getting ready to go into a very large rate case. And on the morning of the hearing a settlement was brought before us for consideration. And at the time I was very disappointed because I had looked forward to having a rate case, and saw it as an opportunity as a new Commissioner to really learn and dig into the issues.

So I just harken back to that, because I'm sitting here remembering, it does seem like longer ago than four years, I must say. But the opportunity to go through a full-blown rate case for a large utility like this has certainly a learning experience for me, and I appreciate that, although I recognize that the purpose is not for my own professional education. But I have definitely gained some greater knowledge from some of it.

I think it is good for us to dig into these issues in this manner in addition to all of the other ways that we work with our staff to do so, but I also must say that having had the rate case and having had some settlements when the parties came together before us as a group to kind of hold hands and say that they have agreed to bring forward a product that they each feel is good for the state and good for the consumer is certainly another way of going about it, and I look forward to continuing to work on these issues with each of you.

CHAIRMAN CARTER: Thank you.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I just wanted to also commend staff, each of them respectively, for all of the hard work that they put into this rate case. This is probably the biggest rate case that the Commission has had in quite sometime. Again, sometimes as Commissioners and staff we disagree on various issues, but that certainly doesn't diminish the overall quality and value of the analysis, the rigorous analysis that staff brings to the equation. So, again, I commend you guys for all the hard work. I know that working extra overtime, particularly in light of all the pending rate cases that we have, they seem to grow like Tribbles but, again, the hard work and dedication is greatly appreciate. Thank you.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: I have learned that I am going to bring a very large case of Tums with me the next time.

CHAIRMAN CARTER: I think it is time to go. We are adjourned.

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTERS

COUNTY OF LEON)

WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR, Official Commission Reporters, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that we stenographically reported the said proceedings; that the same has been transcribed under our direct supervision; and that this transcript constitutes a true transcription of our notes of said proceedings.

WE FURTHER CERTIFY that we are not a relative, employee, attorney or counsel of any of the parties, nor are we a relative or employee of any of the parties' attorneys or counsel connected with the action, nor are we financially interested in the action.

DATED THIS 24th DAY OF MARCH, 2009.

Jane Faurot　　Linda Boles

JANE FAUROT, RPR　　LINDA BOLES, RPR, CRR
Commission Reporter　　Commission Reporter
(850) 413-6732　　(850) 413-6734

Parties/Staff Handout
Internal Affairs/Agenda
on 3/17/09
Item No. 9

TAMPA ELECTRIC COMPANY
DOCKET NO. 080317-EI
<u>MAY & SEPTEMBER COMBUSTION TURBINE UNITS</u>

	($000) Revenue Requirement Allowed	($000) Revenue Requirement Not Allowed	($000) Total Revenue Requirement
May CTs (2 units)	11,106	7,789	18,895
September CTs (3 units)	8,104	18,275	26,379
Total	19,210	26,064	45,274

Effectively, the Total Revenue Requirement for the two May CTs is included in the Revenue Requirement Allowed.

Calculations are based on the staff's recommendation.