

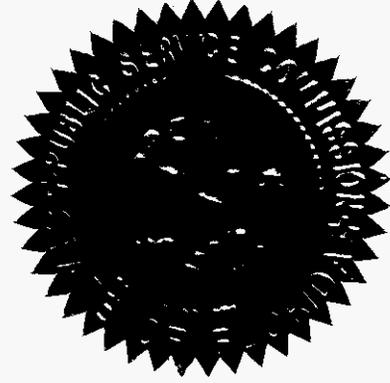
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090172-EI

PETITION TO DETERMINE NEED
FOR FLORIDA ENERGYSECURE
PIPELINE BY FLORIDA POWER
& LIGHT COMPANY.

_____ /



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 6A

COMMISSIONERS
PARTICIPATING: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, October 6, 2009

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

REPORTED BY: JANE FAUROT, RPR
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P R O C E E D I N G S

1
2 **CHAIRMAN CARTER:** This is 6A,
3 Commissioners. You should have gotten -- okay. You
4 got the memo from staff on that? Okay.

5 **MS. BROWN:** Good morning.

6 **CHAIRMAN CARTER:** Hang on. Before you
7 begin, Martha, are the parties here to speak? It's
8 our discretion for oral argument, isn't it?

9 **MS. BROWN:** Yes.

10 **CHAIRMAN CARTER:** You may proceed. You're
11 recognized.

12 **MS. BROWN:** Yes. Good morning,
13 Commissioners. Martha Brown on behalf of legal
14 staff.

15 Item 6A is staff's recommendation to deny
16 FGT's motion to terminate, or in the alternative,
17 transfer the record to DOAH. Staff does not believe
18 FGT has alleged reasonable grounds to terminate the
19 case. FGT's allegations of staff bias are based on
20 an Inspector General's report that specifically
21 found no bias. The staff recommendation that you
22 will consider next is really the best evidence of
23 the fair comprehensive review staff gave the record
24 in this proceeding.

25 With regard to transferring the record to

1 DOAH, such a process is not contemplated in DOAH's
2 governing statutes. Staff recommends that you
3 proceed with the deliberations on the post-hearing
4 recommendation. We would also note that the parties
5 did not request oral argument on the motion.

6 **CHAIRMAN CARTER:** Thank you.

7 Commissioners, in this matter we have got
8 a -- staff has briefed out the issue. There was a
9 separate issue from 7 regarding this motion to
10 terminate or, in the alternate, motion to transfer.
11 Any discussion?

12 **COMMISSIONER ARGENZIANO:** Question.

13 **CHAIRMAN CARTER:** Commissioner Argenziano,
14 you're recognized.

15 **COMMISSIONER ARGENZIANO:** If this is
16 working. Thank you.

17 Just to go over the IG's report, I read it
18 a few times to try to really get a feel for what, I
19 guess, the IG had found. And while I think he says
20 there is no bias, he said it was -- and, you know,
21 we always debate issues. Staff is going to debate
22 issues. We debate issues. It's just the way things
23 happen. But it seemed that there was an elevation
24 of the normal practice of, hey, it's more than a
25 debate. And could you tell me what you -- what

1 staff -- when you recommend that there is no bias,
2 and I think the IG said that he didn't find bias.
3 How far -- I mean, I'm not sure what the -- because
4 the only part that sticks out is that there was --
5 it was different than the ordinary debate, and I'm
6 trying to figure out if that doesn't rise above.

7 **MS. BROWN:** Well, Commissioner, it's all
8 relative. Debates can be very contentious. A lot
9 of it depends on the nature of the case, and it's my
10 view that that is one of the main reasons that we
11 all have very different opinions, because the case
12 is hard. It is a difficult decision to make. And
13 we have strong personalities on the docket, myself
14 included, and we would argue pretty vociferously
15 about what was the right recommendation to make to
16 you all in what is a difficult case. I, myself,
17 would not consider that to rise to some level of
18 inappropriate behavior, unpleasant though it was,
19 not inappropriate under these circumstances.

20 **COMMISSIONER ARGENZIANO:** But it was a
21 marked difference from the normal debate, and I
22 think that --

23 **MS. BROWN:** No, not marked, just perhaps
24 in degree.

25 **COMMISSIONER ARGENZIANO:** And I say I read

1 it a few times, because when I read no bias, and I
2 thought well, okay, it's normal stuff that we all go
3 through when we have a difference of opinion, but it
4 is still outstanding to me that the report says it
5 was above the normal, and that's what I get from it.

6 But let me ask another question. When it
7 comes to the General Counsel's suggestions that were
8 input to the decisions that were removed, and I
9 understand they were removed because the issue was
10 removed, is that correct?

11 **MS. BROWN:** No, that's not correct. We
12 had a series of meetings, and it was proposed by SGA
13 staff that we include an executive summary in the
14 case to try to lay it all out for you all, because
15 it is really complicated. And SGA staff volunteered
16 to draft that report, or that initial executive
17 summary, and then provided us the opportunity, the
18 other members on the staff, to make comments or
19 revisions to that. Which I did, in order to, I
20 think, bring a balance that I found not to be there
21 the first time.

22 That said, my view of this is quite
23 different than SGA's, and it was difficult for them
24 in their next draft to reconcile the two. And they
25 took a lot out of what I wrote, and I got mad about

1 it. But in the process there were further revisions
2 after that to the executive summary which was made
3 much more objective, much more standard. And the
4 one that is in the recommendation that we all agreed
5 on in the end is pretty objective. And I don't mind
6 not having my stuff it, because my stuff is now in
7 other parts of the rec.

8 So I guess what I'm saying is the end
9 result of this recommendation is fair,
10 comprehensive, and comprises all of the multitude of
11 views that the staff brought to the case.

12 **COMMISSIONER ARGENZIANO:** Okay. And the
13 reason I asked is because I would be concerned as a
14 Commissioner that the General Counsel's concerns
15 were just taken out. I would like to know those
16 things so that I can weight it, you know. But what
17 I want to feel comfortable with, and I hear, I
18 think, what you are telling me is that you feel
19 comfortable now that they are in there anyway, they
20 are just spread out.

21 **MS. BROWN:** Yes. Yes. Everything that I
22 had put in that first cut at the executive summary
23 that I made that is relevant to your decision is in
24 the case now, in the recommendation now.

25 **COMMISSIONER ARGENZIANO:** Okay. And I

1 guess one other thing I would ask to try to be fair
2 in all ways, because it is difficult, it's something
3 new, and it is hard to come to, I guess, one
4 mind-set on the issue. But since there's an
5 allegation or was an allegation, I don't know, I
6 guess it is still remaining, of course, that there
7 was bias, and I appreciate the report indicating
8 there wasn't, but still having that level of, well,
9 there's always debate and always discussion, but
10 this one -- and I forgot the word that he used and I
11 read it three or four times, so I should remember
12 the word, but it's escaping me. But it was out of
13 the ordinary.

14 When you have someone basically saying
15 there may be bias, is it not wise at this point
16 since there is -- contentious, I think that was the
17 word -- that it was so contentious to remove that
18 doubt maybe by sending it to DOAH? And I'm not
19 saying that's what I'm recommending, I'm just trying
20 to weigh -- you know, is it not wise to do that, or
21 do we feel comfortable now, is staff comfortable.

22 And, I mean, I don't know now because
23 there is other staff who may have, you know, felt
24 very strongly at first and there may be changes in
25 opinion now. I'm just sitting here trying to figure

1 out was anybody censored. You know, I mean, these
2 are things that were in the report that come to
3 mind, and I just want to kind of drag them out to
4 make sure whether they are or they aren't. Go right
5 ahead. Go right ahead.

6 **COMMISSIONER EDGAR:** I apologize. I just
7 wanted to kind of piggyback on that comment, which
8 it is -- I love the fact that we have staff who feel
9 passionate about these issues. We certainly -- I
10 think each of us often have issues that come before
11 us that we feel passionate about. But it is in my
12 almost five years here somewhat unusual, I think, to
13 have an Inspector General do a review of how a staff
14 recommendation is put together. At least it's the
15 first that I can recall. So I would like to
16 piggyback on that and ask a very basic question. Is
17 there a member of staff who alleged bias or
18 misconduct?

19 **MS. BROWN:** Not to my knowledge.

20 **COMMISSIONER EDGAR:** Well --

21 **COMMISSIONER ARGENZIANO:** It makes it --
22 it does make you sit here and scratch your head,
23 because it seems like somebody brought forward
24 something. And I guess, maybe now -- maybe now --
25 now I have to wonder whether they don't want to come

1 forward or they are just saying it is okay now. We
2 had a disagreement and I firmly believe -- and maybe
3 there is still a disagreement on the opinion, you
4 know, having a difference of opinion. It is just
5 that when you hear words of censoring and that it
6 has gone beyond the normal, you have to sit and
7 question, and wonder --

8 **COMMISSIONER EDGAR:** I'm sorry. The
9 phrase of allegations of bias or misconduct
10 certainly gets my attention, I mean, just by that
11 phrase.

12 **COMMISSIONER ARGENZIANO:** Right.

13 **COMMISSIONER EDGAR:** And the fact that
14 even an allegation of bias can in and of itself
15 perhaps potentially foster bias.

16 **CHAIRMAN CARTER:** Commissioners, I know we
17 are having a interesting dialogue, but right now we
18 need to take a pause for the cause. A station
19 break. The whole system just went down, so we're
20 just going to take a break in place and we will come
21 back.

22 **COMMISSIONER ARGENZIANO:** Okay.

23 (Off the record.)

24 **CHAIRMAN CARTER:** We are back on the
25 record. And when we last left, was it Commissioner

1 Edgar? You're recognized, and then we will come
2 back to Commissioner Skop, and then back to
3 Commissioner Argenziano.

4 **COMMISSIONER EDGAR:** Okay, thank you.

5 And I was just following up, I think, when
6 we stopped on Commissioner Argenziano's comments and
7 questions. And I think what I was asking was if a
8 staff member had alleged misconduct or bias, which
9 is what the report, I think, says it was intended to
10 determine whether there is evidence of misconduct or
11 bias. And so my first question was did a staff
12 member allege misconduct or bias, because an
13 allegation, as we all know, is not necessarily the
14 same thing as a fact, but an allegation would
15 certainly be of concern. And so did that happen;
16 and, if not, why was there a review or investigation
17 of how a staff rec is put together, which is
18 something that has always been a mystery to me, and
19 I'm fine with that continuing to be a mystery to me.

20 **MS. BROWN:** It's probably good that it is.

21 **COMMISSIONER EDGAR:** Yes.

22 **MS. BROWN:** Well, let me see if I can put
23 this in some context. I'm not aware of any specific
24 allegation of misconduct. I think what happened
25 here is that there was the initial investigation of

1 the former SGA Director and his visit to the party
2 of the FPL employee. And that this -- because he
3 was removed from this case right as we were
4 beginning to deliberate it, the investigation of
5 whether there had been any undue influence stems
6 from that, and the two go together.

7 As far as my knowing who asked for it, I
8 don't, but I would imagine that that's how it
9 happened. You would have to ask the Inspector
10 General, I guess, if you really wanted, you know, a
11 clear answer to that question.

12 I might tell you that having privacy in
13 this kind of investigation is probably a good idea
14 for the Inspector General going forward. Otherwise,
15 there could be a chilling effect on his ability to
16 investigate matters. That's why confidentiality is
17 sometimes a good idea. That's my own view. You'd
18 have to follow through with him on that. But that's
19 about all I can tell you about how it happened, the
20 two things ran together.

21 **COMMISSIONER EDGAR:** I guess at this point
22 I would just make this comment to that. Which is,
23 first off, I think our Inspector General does an
24 excellent job. I have worked with a number of IGs
25 over the years, almost all of whom have done an

1 excellent job, in my opinion, and I certainly put
2 this agency in that category. And I do think that
3 having an Inspector General as a resource to staff
4 and to anybody in the suite as well is a good thing.

5 But I do have just, you know, I guess a
6 question and maybe even a concern, because I can say
7 that the mere fact of an investigation occurring can
8 be very intimidating, and that is something that I
9 think needs to be always weighed very carefully. So
10 thank you for your responses.

11 **MS. BROWN:** Sure.

12 **CHAIRMAN CARTER:** Commissioners, I'm going
13 to go to Commissioner Skop, but I think -- and then,
14 staff, I will just ask this question up front.
15 There are two recommendations. There is an
16 alternative recommendation, as well. Do those two
17 recommendations represent the divergent views of
18 staff, is that --

19 **MS. BROWN:** Yes. I would say that would
20 be true as well as some of the other options that
21 are included in the staff recommendation. That's
22 pretty much it. The whole scope is there in that
23 recommendation.

24 I want to point out, if I just might,
25 something that Mr. Ballinger mentioned to me about

1 the contentious nature of those discussions. We
2 were -- staff was conducting multiple cases at the
3 time; FPL's rate case, multiple rate cases, DSM
4 goals. The General Counsel's office has a million
5 things to do, still does, and people were tired, and
6 their tempers were short, and they were frustrated
7 about getting things done because there was so much
8 going on. And I think that created the atmosphere
9 of contention that the Inspector General discusses.
10 I agree with Mr. Ballinger on that.

11 **CHAIRMAN CARTER:** Okay. Commissioner
12 Skop.

13 **COMMISSIONER SKOP:** Thank you, Mr. Chair.
14 Just a couple of questions with respect to
15 some of the comments made about the Petitioner's
16 desire to transfer this to DOAH. Would it be
17 correct to understand that the Florida Public
18 Service Commission has exclusive jurisdiction for
19 determinations of need?

20 **MS. BROWN:** Yes, that's correct. And if I
21 might also add to what I wrote in that
22 recommendation about -- I'm sorry, go ahead. I'll
23 be quiet.

24 **COMMISSIONER SKOP:** I would appreciate
25 more of a straight response. So sending it to DOAH

1 would do nothing more than have them come back with
2 findings of facts, and also, more likely than not,
3 they would want to establish their own evidentiary
4 record before making such findings of fact, is that
5 correct?

6 **MS. BROWN:** That's my opinion. If you
7 could turn it around and put yourself in that
8 position, if DOAH gave you a hearing record to make
9 determinations on, would you want to do it without
10 listening to witnesses and hearing -- testing their
11 credibility? I don't think DOAH would want to do
12 that. But there I went on again. I'm sorry.

13 **CHAIRMAN CARTER:** Commissioner?

14 **COMMISSIONER SKOP:** I have additional
15 questions.

16 Ms. Brown, you're lead attorney on this
17 docket, is that correct?

18 **MS. BROWN:** That's correct.

19 **COMMISSIONER SKOP:** At any time as lead
20 attorney on this docket, did you observe SGA staff
21 seeking to solicit another legal opinion that
22 supported their position?

23 **MS. BROWN:** Yes, it's my understanding
24 that that did happen.

25 **COMMISSIONER SKOP:** So they were shopping

1 essentially for legal opinions?

2 **MS. BROWN:** Yes.

3 **COMMISSIONER SKOP:** Okay.

4 **MS. BROWN:** That's not -- that has
5 happened before.

6 **COMMISSIONER SKOP:** Well, that doesn't
7 make it right. Okay. So notwithstanding what
8 previously happened in this docket, and the fact
9 that by virtue of your comments that now both sides
10 of staff recommendation, whether it be primary or
11 alternate, are clearly presented and embodied within
12 the final recommendation, without the intervention
13 or intervening event of the IG's report, do you
14 honestly feel that that would have happened, that
15 both sides of staff's perspective would have been
16 incorporated in the final opinion?

17 **MS. BROWN:** Yes.

18 **COMMISSIONER SKOP:** Okay. All right. Mr.
19 Chair, just to answer Commissioner Edgar's inquiry
20 and as it has been reported, for the record I was
21 the one that requested the IG investigation. And I
22 have no problem doing that based upon numerous staff
23 members expressing concerns to me as to how this was
24 happening in terms of some of the pressure that's
25 somewhat reflected in the IG's report, although it

1 seems to be somewhat watered down in context of what
2 was initially alleged to me. But, again, I have a
3 duty as a Commissioner to ensure the integrity of
4 the process, and I had no reservations about taking
5 those concerns to the IG, whose purpose it is is to
6 investigate such concerns.

7 So, again, the report is what it is. It
8 was necessary, I believe, based upon the concerns
9 that were expressed to me, and I would have no
10 problem doing that again. Again, do I feel that the
11 report is 100 percent, you know, reflective of some
12 of the comments that were expressed to me? No. Is
13 confidentiality important? Absolutely. I will
14 never reveal who brought those concerns to me. But
15 at the end of the day, some of the comments within
16 the Petitioner's motion seemed to be somewhat
17 reflective, they are somewhat critical of the IG
18 report, you know, I could draw a few criticisms of
19 my own on that. But, again, I think the important
20 thing is to recognize from the Commission's
21 perspective that this got off on the wrong foot to
22 begin with given the tension, given the full court
23 press that was being put on by technical staff to
24 other staff members. I think that is accurately
25 reflected in the IG's report.

1 Now, at the end of the day did we get back
2 on track and both sides of the staff's concerns get
3 presented? I think we did. So I'm somewhat
4 comfortable in that. But I think the lesson learned
5 here is to never repeat that experience.

6 There seemed to be some serious
7 reservations about what was happening from the staff
8 perspective. You know, some of that appears to be
9 perhaps glossed over in this morning's discussion,
10 but I would not have, as an attorney, taken my
11 concerns to the IG had I not thought those concerns
12 to be well reflective of concerns that were
13 expressed to me by staff and worthy of additional
14 review and consideration by the IG. So I just
15 wanted to state that for the record.

16 And I know given the attendant
17 circumstances with respect to the SGA director
18 attending a party in a post-hearing posture, that
19 presents its own set of question marks. Again,
20 obviously an invitation was extended. That
21 invitation unfortunately was accepted. Again, it's
22 hard to determine. Maybe nothing happened wrong,
23 maybe something did, I don't know. I wasn't there.
24 But at the end of the day, that combined with some
25 of the other concerns that are addressed in the

1 staff's alternate and/or primary recommendation I
2 think certainly are worthy of consideration.

3 I know that staff has raised some concerns
4 about the openness of the bidding process and
5 perhaps we can get to those concerns within the
6 context of considering the recommendation as a
7 whole. At least for me, from my perspective, in
8 light of what I have observed, in light of what has
9 been communicated to me by members of our staff, in
10 light of the IG's report, it seems to me that, you
11 know, perhaps in the interest of fairness, you know,
12 we might consider as a Commission, based on some of
13 the staff recommendations perhaps moving forward in
14 a posture that would allow this to be rebid. And,
15 basically, you know, have another two-day hearing to
16 address the evidentiary -- or create an evidentiary
17 record based on the new bids that would be, perhaps,
18 more reflective of ensuring that this \$1.5 billion
19 project ultimately is the best decision to be made
20 on behalf of Florida's consumers.

21 You know, it's easy to put branding on
22 stuff with cute names like EnergySecure and market
23 it and try and sway public opinion. But at the end
24 of the day, I mean, this is a very expensive,
25 perhaps very necessary project for Florida. But,

1 again, what it needs to be approved on is its
2 individual merits, and ensuring that we have the
3 business possible data, I think, is very important.
4 And I'm not suggesting that this should preclude us
5 moving forward with the staff recommendation,
6 because I think that we can do so should the will of
7 the Commission desire to move in that direction.

8 But I also wanted to take the opportunity
9 to point out the obvious. And, you know, I think
10 perhaps on a forward-going basis things will be done
11 differently. I would hope they would, and I would
12 expect they would. But, you know, I think that this
13 is the perils of what has transpired with respect to
14 the docket lends the same question mark as I think
15 Commissioner Argenziano alluded to. So I will just
16 stop there. I wanted to put that out there and
17 we'll see where the discussion goes.

18 **CHAIRMAN CARTER:** Thank you. I'm going to
19 go to Commissioner Edgar, and then I will come back
20 to you, Commissioner Argenziano.

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

23 Very briefly a couple of comments. First,
24 Commissioner, I think you carried us over into 7,
25 and I'm still on 6A. So I wanted -- and on 7 I do

1 have a number of questions, and I'm looking forward
2 to some full discussion on that, because I agree
3 with you it is a very important issue and a very
4 intriguing legal issue, in my opinion.

5 But back to 6A, you apparently have a
6 great deal more knowledge about how this staff
7 recommendation was formulated from the beginning
8 until its completion than I do, and you have
9 mentioned that perhaps we should do some things
10 differently. And I'm always, always looking for
11 improvement, but it does raise a concern about staff
12 going to an individual Commissioner during the
13 analysis and formulation of drafts. And I would
14 hope that maybe that's something that on a
15 go-forward basis is taken into account.

16 **CHAIRMAN CARTER:** One second.

17 Commissioner Argenziano.

18 **COMMISSIONER ARGENZIANO:** Thank you.

19 Mr. Chairman, my concerns are simply that
20 it rose to a level of extraordinary. It wasn't the
21 ordinary, but -- and I have to say that if I were on
22 one side and then found that there was contention
23 and that possible censorship -- or just heard about
24 it, I think I would feel, hey, wait a minute; this
25 is my case and I'm concerned. If somebody is

1 censoring and somebody is pushing in one direction,
2 they have a right to be concerned, and that's just
3 so easy to see.

4 What I think gave me the most heartburn
5 was that it did rise and that there was somewhat of
6 an allegation of censorship and that did bother me.
7 And what really bothered me, to be honest, is the --
8 not that I wouldn't be honest -- I don't know why we
9 say that, but really was that General Counsel's
10 suggestions or recommendations might be withheld or
11 stifled, and that really concerned me, because I
12 don't want that to ever occur. I want to know what
13 our counsel's concerns are regardless of staff,
14 whether staff thinks they belong in there or not. I
15 think that is very important and I think I have
16 heard that they are in there. And that makes me
17 feel more comfortable.

18 I wouldn't feel comfortable if there
19 wasn't an alternative, another alternative, then I
20 would feel that somebody was stifled and their side
21 was not heard. So given the fact -- and I'm going
22 back and forth with this -- that there is an
23 alternative, that tells me that their side came
24 through, both opinions. No one was stifled. No one
25 was censored. I hope not. And that makes me feel

1 better, and that's just where I come from.

2 **CHAIRMAN CARTER:** Thank you, Commissioner.

3 Commissioner Skop, you're recognized.

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

5 Just to Commissioner Edgar's comment. My
6 door is always open to listen to valid employee
7 concerns, particularly in light of if they affect
8 the integrity of the process. That has absolutely
9 nothing to do with the merits and it should not be
10 even remotely construed as having a discussion on
11 any merits. It's just merely a fact. Some of the
12 terminology that was used when concerns was
13 explained was railroading, amongst other choice
14 words, some of which were reflected in the staff --
15 I mean in the IG's report.

16 So, again, I think that this, from my
17 perspective, seemed to have some valid issues that
18 warranted taking the extraordinary step of
19 requesting the IG to look at what was going on. And
20 I truly feel, absent the IG's intervention in this
21 case, you would not have had the second minority
22 voice or the alternate recommendations that
23 Commissioner Argenziano just alluded to.

24 I don't care how you want to cut it, it
25 just -- from what I observed, what was going on from

1 the concerns that was expressed to me, that wasn't
2 going to happen. The likelihood was not promising.
3 So it's always important, I think, to have a
4 balanced recommendation. I don't care what is in
5 the recommendation myself. That is for staff to
6 determine. But when the allegations rose to the
7 level that are presented in the IG's report,
8 absolutely, I have no problem with requesting that
9 to be looked at, and I wouldn't hesitate to do it
10 again.

11 **CHAIRMAN CARTER:** As I said earlier,
12 Commissioners, is that -- and I take Ms. Brown at
13 her word, she's a member of the bar and been there
14 for a long time. She said -- and I asked were both
15 sides put in this, because I saw their alternate
16 recommendation and their other recommendation, and
17 she said that they were. I'm comfortable with that,
18 because both sides got their opinion in there. And
19 it is up to us as Commissioners to make a decision
20 on where we fall down on it. You know, and that's
21 just the way it is. And I think we need to go ahead
22 on and move forward.

23 I'm comfortable with staff's
24 recommendation on how we should proceed further. I
25 look forward to us delving into Item 7. But on Item

1 6A, I think that we are Commissioners, we have
2 exclusive authority on the need determination, it's
3 our responsibility. We shouldn't pass the buck; we
4 should do our job.

5 Commissioner Argenziano.

6 **COMMISSIONER ARGENZIANO:** I don't want to
7 lengthen the debate on this at all, but I think
8 staff should always feel free to be able to have
9 their input. And sometimes there is more than one
10 alternative, and if other staff is trying to stifle
11 staff, then that need not occur. They need to feel
12 free to be able to show difference of opinions. Of
13 course you can't have 800 of them, because then
14 where would you ever get to. Within reason, of
15 course.

16 But, I think what I'm hearing today is
17 that if staff ever feels that one Commissioner is
18 pushing in one direction -- I mean, Commissioners
19 should let staff do their job and then we take it or
20 leave it. If we feel that there should be some
21 information included -- well, of course, you can do
22 that. But I think no Commissioner should tell staff
23 this is what you have to do. And I hope that if
24 that ever occurs, they would come to us as a whole
25 and say, look, in the best way you can, because I

1 know it is difficult having five or four bosses at
2 the time. So I think saying that -- that is why I
3 wanted to make it clear. Of course we had concerns.
4 There were words that were -- things that were out
5 there, and the company -- both sides have a right to
6 feel concerned. But since two alternatives are
7 there, and that is what I would hope that in the
8 future if there ever was a difference in opinion,
9 we're big enough to understand that people have
10 differences of opinion --

11 **CHAIRMAN CARTER:** Absolutely.

12 **COMMISSIONER ARGENZIANO:** -- and then we
13 just judge on those. So I hope that staff never
14 feels pressured by any one Commissioner. And we
15 will just leave it at that, I hope.

16 **CHAIRMAN CARTER:** Okay. Let's do this,
17 Commissioners. On Item 6A, we have a recommendation
18 from staff.

19 **COMMISSIONER EDGAR:** Mr. Chairman, very
20 briefly. I'm looking forward to the discussion I
21 hope here in a minute on the merits on Item 7. I
22 know that at the hearing, I asked both parties if
23 there was a third alternative. I didn't want 800,
24 but I did ask both parties at the hearing if there
25 was a third alternative. And staff has given us two

1 and maybe more as we hopefully here walk our way
2 through the flow chart. So I was hopeful that staff
3 would look into a third alternative, and I think
4 that was clear from my questions at hearing.

5 But as to this matter before us, I'm glad
6 that we have had the opportunity to discuss it out
7 in the open with staff. And I am comfortable moving
8 forward and getting into the merits. So, Mr.
9 Chairman, if it is all right with you, I would like
10 at this time to make a motion that we deny the FGT
11 motion to terminate or transfer, and that as part of
12 that then we would obviously not close the docket,
13 and we would then here in a moment at your pleasure
14 move into a discussion on Item 7.

15 **COMMISSIONER SKOP:** Second.

16 **CHAIRMAN CARTER:** It has been moved and
17 properly seconded. Commissioners, any further
18 questions? Any further debate?

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

21 (Unanimous affirmative vote.)

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

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

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

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

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

DATED THIS 16th day of October, 2009.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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