

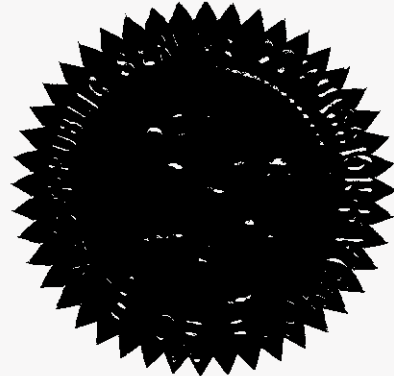
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090109-EI

PETITION FOR APPROVAL OF SOLAR
ENERGY POWER PURCHASE AGREEMENT
BETWEEN TAMPA ELECTRIC COMPANY
AND ENERGY 5.0, LLC.

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PROCEEDINGS: AGENDA CONFERENCE
 ITEM NO. 3

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

DATE: Tuesday, December 15, 2009

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

REPORTED BY: JANE FAUROT, RPR
 LINDA BOLES, RPR, CRR
 Official FPSC Reporters
 (850) 413-6732/413-6734

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P R O C E E D I N G S

1
2 **CHAIRMAN CARTER:** Let's give staff a
3 chance to move in, and then we'll start on Item 3.

4 (Pause.)

5 Staff, you're recognized.

6 **MR. GRAVES:** Good morning, Commissioners.
7 Robert Graves from Commission staff.

8 Item 3 addresses Tampa Electric Company's
9 petition for approval of a negotiated renewable
10 energy contract with Energy 5.0. At the
11 October 27th agenda conference, the Commission
12 directed staff to gather additional information
13 regarding the costs associated with Energy 5.0's
14 Solar One Facility. Staff's summary and analysis of
15 the additional information can be found on Pages 5
16 through and 7 and in Attachment 1 of the revised
17 recommendation.

18 Staff's recommendation to the Commission
19 remains that TECO be authorized to recover from its
20 ratepayers an amount equal to its avoided energy
21 costs and any costs in excess of this amount should
22 be borne by TECO's stockholders. Approval of
23 staff's recommendation would have no impact on
24 customers' bills.

25 If TECO is granted full cost-recovery of

1 the contract, customers would see a monthly bill
2 increase of roughly 50 cents in 2011. And,
3 Commissioners, at this time staff would like to
4 address two oral modifications.

5 **CHAIRMAN CARTER:** Before you address the
6 oral modifications, you said 50 cents a month for
7 2011. Is that the total amount?

8 **MR. GRAVES:** Yes, sir.

9 **CHAIRMAN CARTER:** So there is no 2012,
10 there is no --

11 **MR. GRAVES:** Oh, yes, sir, there is.

12 **CHAIRMAN CARTER:** Okay. Then let's kind
13 of clear that up.

14 **MR. GRAVES:** Okay. Can I move on to the
15 two oral modifications or do you want me to clear up
16 the monthly impact first?

17 **CHAIRMAN CARTER:** Yes, let's clear that
18 before we go further.

19 **MR. GRAVES:** Okay. On Page 7, we break it
20 down. We show the three years. We show the first
21 year of the contract, the last year of the contract,
22 and we picked 2023, which is the middle of the
23 contract, and the average is 36 cents over the 25
24 years of the contract. Starting with 52 cents in
25 2011 and 19 cents in 2035, so it declines over the

1 life of the --

2 **CHAIRMAN CARTER:** Okay. Thank you. You
3 may proceed.

4 **MR. GRAVES:** Okay. On December 11th, FPL
5 informed staff that it wished to update information
6 regarding the levelized costs of its De Soto
7 project, and as such staff would like to make two
8 oral modifications. The first modification is on
9 Page 6 of the revised recommendation, and the 49.5
10 value presented after List Number 1 in the middle of
11 the page should be changed to 26.4, so it should
12 read 26.4 cents per kilowatt hour. And the second
13 is in Table 2. The last cell of the table should
14 read 26.4 instead of 49.5.

15 And, Chairman, representatives of the
16 party, the co-party, and the intervening party are
17 present.

18 **CHAIRMAN CARTER:** Okay.

19 Commissioners, before we come to the
20 bench, let me start from my left and we will go down
21 the line. Good morning. You're recognized.

22 **MR. BEASLEY:** Thank you, Mr. Chairman.
23 Commissioners, James D. Beasley for Tampa Electric
24 Company. I'm pleased to have the opportunity to
25 appear before you again on this item.

1 Following the deferral back in October of
2 this item, the staff, as they indicated, had
3 assembled some additional information on costs, and
4 this project, the Energy 5.0 proposal, remains the
5 least-cost alternative that we have been able to
6 develop after thoroughly canvassing the market for
7 solar energy options for sometime going back to the
8 2007 request for proposals that was widely
9 disseminated among all industry participants.

10 I think the staff has recognized the value
11 of this proposal and the way it would pay for solar
12 energy development in Florida with their recommended
13 approval of cost-recovery up to Tampa Electric's
14 avoided cost. But we disagree with the suggestion
15 that amounts above that avoided cost were negotiated
16 as consideration for the renewable energy credits
17 associated with the solar generation that Energy 5.0
18 has proposed.

19 There was a single negotiated rate in the
20 contract for the output of the facility. Tampa
21 Electric with its obligations to its many customers
22 and to its investors does not have the financial
23 resources to invest in, or support, or help pay for
24 this project. And, accordingly, that's why they
25 included the provision in the agreement that full

1 cost-recovery of amounts required to be paid to
2 Energy 5.0 under the agreement are an essential part
3 of the arrangement.

4 We stress to you that we think we have
5 done our due diligence on finding the best available
6 alternative to get some meaningful solar
7 photovoltaics established in Florida. This would be
8 a stellar 25-megawatt unit within Tampa Electric's
9 service area and we urge you to approve it for
10 cost-recovery purposes in toto so that we can move
11 forward with the project.

12 Mr. Wright on behalf of Energy 5.0 would
13 like to address the Commission.

14 **CHAIRMAN CARTER:** Good morning, Mr.
15 Wright.

16 **MR. WRIGHT:** Good morning, Mr. Chairman.
17 Commissioners, thank you very much. I'm Schef
18 Wright and, again, I have the privilege to be here
19 representing Energy 5.0, LLC. Also with me today
20 are Mr. Bud Cherry, the President and CEO of Energy
21 5.0, Mr. Vince Zodiaco (phonetic), the Chief
22 Operating Officer of Energy 5.0, Mr. Zack Cherry,
23 Vice-President of Finance and Development, and Mr.
24 Gil Weisbloom (phonetic), Director of Finance and
25 Strategy for Energy 5.0. Also appearing, and he

1 would like to make some brief comments, as well, is
2 Mr. Mark McDuff (phonetic), who is the Senior
3 Business Development Manager for the Central Florida
4 Development Council.

5 I do have some brief prepared remarks, and
6 I will try to keep it as tight as I can because we
7 covered a lot five or six weeks ago, but I do have
8 some brief prepared remarks.

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

10 **MR. WRIGHT:** And then Mr. Cherry and Mr.
11 McDuff would like to address you, as well.

12 Again, we appreciate the staff's
13 recommendation that the PPA be approved as far as it
14 goes, but we disagree with the staff's parsing of
15 costs into an avoided cost piece and a REC piece.
16 As Mr. Beasley said, there is a single fixed price
17 for all the output, a levelized price for 25 years
18 for all the solar power to be produced and all the
19 environmental attributes, carbon credits, REC
20 values, RPS compliance values, et cetera, that would
21 be produced by this. All of that goes to Tampa
22 Electric.

23 And, accordingly, we also disagree with
24 the staff's recommendation to limit cost-recovery to
25 only Tampa Electric's avoided cost. We support

1 Tampa Electric's request for full cost-recovery.

2 I'd like to recap a few things that I
3 spoke about on October 27th. Tampa Electric
4 deserves great credit for its vision in going out
5 and getting this, conducting an open competitive
6 solicitation process on its own initiative. Tampa
7 Electric sought and succeeded, so far, at getting
8 out ahead of the curve of dealing with fuel price
9 volatility and potential compliance with greenhouse
10 gas regulations, RPS mandates, and so on. Tampa
11 Electric deserves great credit for its commitment to
12 the negotiations which took more than a year, but
13 got us to a very good contract for both Tampa
14 Electric and its customers and a contract that at
15 least works for Energy 5.0.

16 The process that Tampa Electric initiated
17 and followed through on produced a competitive
18 result of that process as confirmed by the
19 comparative cost estimates that the staff recite in
20 their current recommendation that showed that our
21 costs -- Mr. Cherry will talk about their cost
22 estimate, which we don't think is quite right, but
23 our price which you all know is less than every
24 other comparative item, comparative cost estimate
25 recognized by the staff.

1 Tampa Electric and Energy 5.0 are asking
2 you, the Commissioners, to exercise your vision in
3 the public interest by approving the proposed PAA.
4 And I reiterate something I said before, Tampa
5 Electric is not, as they said -- Mr. Beasley said --
6 is not in a position to invest money in RECs. We
7 are not in a position to develop this project
8 without full cost-recovery for Tampa Electric. If
9 you deny approval as requested by Tampa Electric,
10 this project will not go forward. I also reiterate
11 and emphasize --

12 **COMMISSIONER EDGAR:** Mr. Chairman, I'm
13 sorry, could you say that last part again?

14 **MR. WRIGHT:** Yes. If you deny full
15 cost-recovery as prayed by Tampa Electric Company
16 this project will not go forward.

17 **COMMISSIONER EDGAR:** In other words, if
18 the staff recommendation is approved the project
19 will not be built?

20 **MR. WRIGHT:** Yes, ma'am.

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

22 **MR. WRIGHT:** Thank you. And I also want
23 to reiterate and emphasize that the PPA is the
24 product of a competitive solicitation process that
25 produced a demonstrably and staff recognized

1 cost-effective competitive result. All the other
2 investor-owned utilities in Florida are watching
3 this with a view toward seeking additional renewable
4 energy projects and PPAs for their benefit and their
5 customers' benefit. And developers, at least around
6 the country, and I think around the world are
7 looking at this, too, to see what the Sunshine State
8 is going to do for solar.

9 You have the authority to approve the PPA,
10 to approve PPAs between renewable producers and
11 utilities. You have the directive to promote the
12 Legislature's specific prorenewable energy policies,
13 and you have two specific separate sections of the
14 statute that direct you to broadly and liberally
15 construe your statutes in the public interest and
16 for the purposes of promoting solar energy and other
17 renewable energy forms. You should approve the PPA
18 in the public interest because this project and the
19 PPA will promote fuel diversity, reduce Florida's
20 dependence on natural gas and oil as generating
21 fuels, reduce Florida's exposure to fuel price
22 volatility, improve environmental conditions, and
23 encourage investment in Florida.

24 You must consider all long-term benefits
25 to be provided. While difficult to estimate the

1 benefits to be provided, energy security, price
2 certainty, protection against price volatility,
3 protection against physical supply disruptions, and
4 protection against future regulatory contingencies
5 are valuable and in the public interest.

6 I started out talking about vision and I'd
7 like to close on that same theme. Whether or not
8 you or anybody else believes that human activity
9 causes climate change, renewable energy provides
10 many additional public interest benefits recognized
11 by the Legislature in 366.91 and 366.92 in addition
12 to reducing greenhouse gas emissions. As I said a
13 minute ago, it promotes fuel diversity; it reduces
14 dependence on natural gas and oil as generating
15 fuel; it reduces Florida's exposure to fuel price
16 volatility; it reduces our exposure to physical
17 supply disruptions; it improves environmental
18 conditions, and it encourages investment in Florida.

19 The vision that the Legislature has set
20 forth in your organic regulatory statute sees for
21 Florida and which it has directed the Commission to
22 promote is a vision of greater and greater
23 proportions of our energy, our electric energy being
24 provided by Florida-based solar and other renewable
25 energy sources. This vision is far better, far more

1 sustainable, and far more in the public interest
2 than the alternative business as usual future.

3 We import 97 percent of all the generating
4 fuel that is used in this state from outside
5 Florida. Some comes from Mobile Bay, some comes
6 from Wyoming, and some from Central Appalachia, some
7 comes from Saudi Arabia, Venezuela, and everywhere
8 else. But from outside Florida we import 97 percent
9 of all of our electric generating fuels. If we
10 continue down the business-as-usual scenario, we
11 will continue to import 97 percent, and as our net
12 energy for load grows, the amounts we import are
13 going to grow, too. We will continue to be
14 vulnerable to world energy price volatility.

15 **CHAIRMAN CARTER:** Hang on, Mr. Wright.

16 Commissioner Edgar, you're recognized. I
17 hope you were close to being done.

18 **MR. WRIGHT:** I am. Thank you.

19 **COMMISSIONER EDGAR:** Thank you, Mr.
20 Chairman. But for Mr. Wright to finish, and I
21 didn't mean to interrupt mid-sentence, but I do want
22 to follow up on my earlier question before we go
23 into some of the other issues. If I could let him
24 finish.

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

1 **COMMISSIONER EDGAR:** Go ahead, Mr. Wright,
2 and finish your statement.

3 **MR. WRIGHT:** Certainly.

4 If we continue down the business-as-usual
5 scenario, which is what staff's denial of Tampa
6 Electric's petition would implement, we'll continue
7 to import greater percentages of our generating
8 fuels; we will continue to be vulnerable to price
9 volatility and physical supply disruptions; we will
10 continue to spend money outside Florida for
11 generating fuels instead of encouraging investment
12 in Florida; and we will continue to emit ever
13 increasing amounts of pollutants emitted by
14 conventional generating resources.

15 We don't believe that it is a close call
16 as to which vision is better and more serving the
17 public interests. These competing visions call up
18 the questions posed by Commissioner Klement in his
19 remarks on October 27th. If not us, who? If not
20 now, when? The best, or I would say the right
21 public interest answers to these questions are it is
22 you, the Florida Public Service Commissioners, who
23 have the ability and the authority to approve the
24 significant step which has been brought before you
25 by a forward-thinking public utility, Tampa

1 Electric.

2 As to when, although as a nation we have
3 taken some modest efficiency improvement and
4 prorenewable steps since the enactment of PURPA 31
5 years ago, the vulnerable energy dependent state in
6 which we find ourselves today, remember \$14 gas in
7 June of 2008.

8 **CHAIRMAN CARTER:** Mr. Wright, you are
9 going to force me to put out my lights on you.

10 **MR. WRIGHT:** Thirty seconds, Mr. Chairman.

11 **CHAIRMAN CARTER:** You don't want that,
12 right?

13 **MR. WRIGHT:** No, sir.

14 **CHAIRMAN CARTER:** Okay. Bring it in for a
15 landing.

16 **MR. WRIGHT:** Two sentences.

17 The vulnerable energy dependent state in
18 which we find ourselves today tells us that we are
19 way behind the curve of achieving energy
20 independence and sustainability, and that the time
21 for action is now. We urge you to approve the power
22 purchase agreement as requested by Tampa Electric.

23 I thank you for your time and
24 consideration. As I mentioned, Mr. Cherry and Mr.
25 McDuff have some brief comments, as well, and we are

1 happy to answer any questions. Thank you.

2 **CHAIRMAN CARTER:** Commissioner Edgar.

3 **COMMISSIONER EDGAR:** Thank you, Mr.

4 Chairman.

5 Mr. Wright, what was your comment just a
6 moment ago about the price of gasoline, did you say?

7 **MR. WRIGHT:** Natural gas. I said gas. I
8 said \$14 gas. The delivered price into Florida of
9 natural gas in June of 2008 was around \$14 per
10 million Btu.

11 **COMMISSIONER EDGAR:** And so are you
12 implying that if this project goes forward that the
13 price of natural gas into the state is going to be
14 reduced?

15 **MR. WRIGHT:** Mr. Chairman, Commissioner
16 Edgar, I mentioned that as a specific example well
17 known, I fear, to all of us of the exposure to price
18 volatility that we face with our high dependence on
19 natural gas as a generating fuel. That was the
20 point.

21 **COMMISSIONER EDGAR:** And with that, I have
22 talked many, many times, and whether you all want to
23 hear it or not I will many times more in the future
24 about my belief in the need for fuel diversity and a
25 diverse fuel portfolio for Florida, and I strongly

1 hope and believe and will do everything I can to
2 encourage and promote renewables as a part of that
3 more diverse fuel portfolio. But I do have a few
4 questions about this specific project that come to
5 mind particularly from some of your comments.

6 You said a couple of times about something
7 like let's not do business as usual, and so here is
8 my question on that point. For costs that are
9 incurred or proposed to be incurred by a utility
10 that would not have been included or foreseen in
11 base rates, do you believe that it would be business
12 as usual to promote those or to put those through a
13 cost-recovery clause on an annual basis?

14 **MR. WRIGHT:** You have asked me a very
15 broad categorical question.

16 **COMMISSIONER EDGAR:** I think you made some
17 very broad statements yourself, so --

18 **MR. WRIGHT:** I would propose to answer in
19 the context of this: As regards the costs of
20 renewable energy credits, potential other costs, et
21 cetera, we believe that this as an energy power
22 purchase agreement for solar power, the costs are
23 entirely appropriate to be recovered through the
24 fuel cost-recovery clause.

25 **COMMISSIONER EDGAR:** And you don't

1 consider that business as usual?

2 **MR. WRIGHT:** The difference is that the
3 business -- recovery through the fuel cost clause
4 would be business as usual. The step forward is to
5 allow recovery of a price greater than avoided cost,
6 and the real business as usual that I was talking
7 about, the scenario is if this project doesn't go
8 forward, then there is no renewable energy. That
9 leaves us --

10 **COMMISSIONER EDGAR:** No renewable energy
11 if this project doesn't go forward?

12 **MR. WRIGHT:** Excuse me, I misspoke. The
13 solar power that would otherwise be provided
14 pursuant to this contract negotiated by Tampa
15 Electric will not be provided. It will -- denial of
16 this contract will not promote additional renewable
17 energy.

18 **COMMISSIONER EDGAR:** But denial of this
19 contract is not what is before us today.

20 **MR. WRIGHT:** Approval of this PPA is what
21 is before is today.

22 **COMMISSIONER EDGAR:** Well, the
23 cost-recovery.

24 **MR. WRIGHT:** Approval of the contract for
25 full cost-recovery as requested in Tampa Electric's

1 petition is the matter before the Commission.

2 **COMMISSIONER EDGAR:** Let me take it from a
3 little different tack. Mr. Beasley, is it the
4 position of TECO, because I don't recall -- and it
5 may be that I don't remember, and I have not gone
6 back and read the transcript, so please refresh my
7 memory if I'm wrong.

8 Is it the position of Tampa Electric that
9 if the staff recommendation as to the distribution
10 of costs were to be approved that this project would
11 not be built?

12 **MR. BEASLEY:** That's -- well, the contract
13 would not go forward. There is a provision in the
14 agreement that any amounts that Tampa Electric is
15 required by the agreement to pay to Energy 5.0 would
16 have to be cost recoverable through the clause in
17 order for the contract to be effected, so that
18 approval is necessary for the contract to go
19 forward.

20 **COMMISSIONER EDGAR:** Okay. Then I guess I
21 would ask both of you on behalf of your parties, we
22 have heard a lot today and the last time, and,
23 again, I believe it, I mean it, I hope to continue
24 to live it and walk it and talk it and all of that
25 to promote renewable energy, but it just seems like

1 we are getting things all wrapped together.

2 Is this about promoting renewable energy
3 in this state or is it about where the cost burden
4 resides? And, you know, I recognize that this
5 utility has very -- what I would consider, recently
6 gone through a very meticulous and detailed rate
7 case. One of the issues that was discussed at that
8 rate case was how much risk is there, where do costs
9 reside for all sorts of different things.

10 It's kind of my thinking, and I welcome
11 your comments, and I mean that, that an ROE is
12 intended to help minimize cost fluctuations for
13 individual specific things that may come up in the
14 course of business and policy after the time of an
15 initial rate case decision. And it just seems to me
16 that for above avoided costs, for us to be told that
17 it has to absolutely be put in an additional
18 cost-recovery clause rather than absorbed by the
19 shareholders as part of that ROE, recognizing that
20 the costs below avoided costs would be borne by the
21 ratepayers, it just seems like we are kind of going
22 in circles here.

23 So I guess my more specific question with
24 all of that is one of the items it seems to me is
25 where should the cost burden reside. And in keeping

1 with the fact that we have recently gone through a
2 rate case, which is partially in my mind intended
3 to -- I realize I'm talking rather than questioning,
4 so let me try to wrap it up. But realizing that
5 part of the reason for going through a rate case,
6 setting an ROE, and all other parts of rates through
7 that mechanism is to, I would think, minimize people
8 coming in for cost-recovery, cost-recovery,
9 cost-recovery through different clauses or adding
10 things to the current clauses. Where does this fit
11 into all of that?

12 **MR. BEASLEY:** I think part of our process
13 is that if we were to invest in a private project
14 like the Energy 5.0 project, that would be a
15 nonjurisdictional investment on the part of the
16 company, which is not what I think that the
17 jurisdictional rates that you set are designed to
18 recover, or the risks associated with that are not
19 what the ROE that the Commission authorizes for the
20 utility to earn is designed to recover. That would
21 be a private investment which gets out of the realm
22 of what you do.

23 I think what we're asking for you to do is
24 to decide whether solar means enough to pay and to
25 have our ratepayers pay more than avoided cost.

1 **COMMISSIONER EDGAR:** And I guess what I
2 would turn around and say to you is may I ask that
3 same question. Does solar mean enough to TECO to
4 have the shareholders absorb that small portion that
5 you have told us is just 50 cents as part of their
6 ROE and risk, realizing it's an investment in a
7 private project?

8 **MR. BEASLEY:** It is a small amount to
9 individual utility customers. It is a very large
10 amount to Tampa Electric Company, and it is not in
11 the position to do that, and that is why the
12 agreement was drafted in the way that it was.

13 **COMMISSIONER EDGAR:** So a small amount to
14 ratepayers is a large amount to shareholders?

15 **MR. BEASLEY:** A large amount to the Tampa
16 Electric Company, yes, ma'am.

17 **COMMISSIONER EDGAR:** I may have additional
18 questions, but I absolutely will --

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

20 **COMMISSIONER EDGAR:** And that's what I was
21 trying to say. Thank you.

22 **CHAIRMAN CARTER:** I will definitely come
23 back to you.

24 Commissioner Skop, you're recognized.

25 **COMMISSIONER SKOP:** Thank you, Mr.

1 Chairman.

2 And I don't want to get off on a tangent,
3 and Commissioner Edgar and I often disagree, but in
4 this point she raised an interesting point that has
5 been troubling to me for quite sometime since this
6 Commission decided the TECO rate case. And when I
7 hear, you know, requests for cost-recovery that the
8 Commission has this discretion to use -- and I will
9 get into my analysis on why I support the staff
10 recommendation based on the financial perspective --
11 but to have a company come before the Commission and
12 say we are just going to pass this cost onto our
13 ratepayers and, you know, in response to some
14 questioning by Commissioner Edgar, which I may agree
15 with, I may not agree with, but what I'm hearing
16 from the company kind of struck a little bit of a
17 nerve with me.

18 And in the most recent rate case, you
19 know, not only did this Commission provide adequate
20 return on investment, or return on equity which some
21 have criticized as perhaps too high, and
22 Commissioner Argenziano did not support, but within
23 that rate case, we also provided for recovery of
24 prudently incurred executive salaries. Now, lo and
25 behold, after that rate case was decided, there were

1 senior executives that retired and there was
2 reorganizations within TECO.

3 Now, in the matter of equity, would it be
4 equally fair for the Commission to reopen that rate
5 case and readjust those rates, or would that be
6 retroactive ratemaking? It might be retroactive
7 ratemaking. But, again, there has been opportunity
8 where this Commission has decided something only to
9 have the situations changed. And so I do take some
10 exception to the company coming in and being
11 agnostic and saying we are not doing it, we don't
12 want to contribute, we are going to make our
13 ratepayers pay for it. Because, again, if I looked
14 at the executive salaries that have been cut since
15 the rate case was decided, I don't probably think
16 that a million dollars is out of the question for
17 the executives that retired.

18 So, again, I'm going to get back to my
19 points, but, again, when they come in and start
20 preaching the party line about we are not investing
21 our own shareholder money, or we don't have the
22 means to make this investment, and start blaming the
23 Commission for lack of a prorenewable approach, you
24 better be able to back that up with facts because I
25 come prepared. And so, again, I don't like to get

1 my -- have this come out, but I felt compelled to
2 comment on this specific point in light of the
3 representations that are being made here this
4 morning and in light of the perceived hardships that
5 are being made here. Because, again, I can go back
6 and start casting stones, too, and I would start
7 right there with executive salaries. This is my
8 first focal point, which to me seems ripe for taking
9 a close look at, in light of what some could be
10 perceived as actions that happened shortly after a
11 rate case was decided.

12 So, again, I'm going to yield back to the
13 Chair, or Commissioner Edgar, or other
14 Commissioners. I would like to hear from the other
15 parties. But, again, it struck a nerve with me, and
16 I felt compelled to finally get that off my chest.
17 Because, again, I was on the majority side of
18 deciding that rate case, and I voted for that ROE,
19 and I also voted, as appropriate, to approve
20 prudently incurred costs. But when I approve
21 something in the expectation of one thing and the
22 situation unilaterally changes, I don't really have
23 the ability to go correct that, and that results in
24 higher realized earnings for the company when you
25 make substantial cost reductions that have been

1 incorporated into rate base. So I'll leave that
2 alone and move forward.

3 **CHAIRMAN CARTER:** Thank you.

4 Commissioners, let me do this. We have
5 heard from the parties before, so I'm going to tell
6 the parties, kind of make your comments brief so we
7 can get into what we need to get into. We have
8 pretty much heard the arguments before, so let's
9 move forward now.

10 Mr. Cherry, then Mr. McDuff, and then
11 Mr. Zambo. Do you have comments, too?

12 **MR. ZAMBO:** I do, Mr. Chairman, if I may.

13 **CHAIRMAN CARTER:** You will be granted an
14 opportunity, but I will ask you to be brief.

15 You're recognized, Mr. Cherry.

16 **MR. CHERRY:** Thank you, Mr. Chairman and
17 Commissioners. And I will be brief. Some of what I
18 was going to say Mr. Wright has already said anyway.

19 I am the Chairman and CEO of Energy 5.0.
20 I have put my money where my mouth is in the sense
21 that I have spent a significant amount of money
22 trying to advance this project on the expectation
23 that it was consistent with state policy and in the
24 full knowledge of what the conditions in the
25 contract were.

1 The points that I would like to make are
2 in addition to the points which I made at the last
3 hearing about the progress we had made on the
4 project, et cetera, and there are really just two.
5 One is time is now very critical on this project.
6 We appreciate the diligence that staff and the
7 Commission has exercised in looking at this project,
8 but we are now in a situation where unless a
9 decision is made in the very near term, the project
10 is going to be severely jeopardized because of a
11 number of items which begin to bite very hard come
12 the end of 2010.

13 I wanted to comment just very briefly on
14 the staff's analysis of costs, which we appreciate
15 and thought they did a very diligent effort in
16 trying to compare costs of our project, a self-build
17 by TECO, the Navigant study, et cetera. And the
18 comment really goes to the assumptions that the
19 staff made on the weighted average cost of capital
20 for Energy 5.0, and they assumed that our weighted
21 average cost of capital was the same as Tampa
22 Electric's. I wish that were the case. The fact is
23 that Tampa Electric as an investment grade utility
24 is our customer and there is a risk premium that the
25 market will demand in financing a project of that

1 sort.

2 The staff used a weighted average cost of
3 capital for our project of 8.3 percent
4 approximately. We think it's closer to 10 percent,
5 and this is based on discussions with numerous
6 bankers, clean tech investors and so on, and some
7 other factors that were not dealt with 100 percent
8 properly in the staff analysis. The net of all of
9 that is the staff concluded that the cost of our
10 project was around 22 cents a kilowatt hour. Our
11 analysis using these adjustments indicate that the
12 cost is in the 26 to 28-cent per kilowatt hour
13 range.

14 The staff -- the Commission and the staff
15 should note that in this project we take all the
16 risk of performance. If we don't perform, TECO's
17 customers do not pay. We're waiting to start to
18 really perform and would encourage the Commission to
19 move promptly.

20 Again, I appreciate all the hard work that
21 you all have done and the work that Tampa Electric
22 has done on this project. We think it is very
23 important and we urge its approval as petitioned for
24 by Tampa Electric Company. Thank you.

25 **CHAIRMAN CARTER:** Thank you. Mr. McDuff.

1 **MR. McDUFF:** Good morning, Chairman Carter
2 and Commission members. I am the Senior Business
3 Development Manager for the Central Florida
4 Development Council. We are located in Bartow. We
5 are a public/private partnership between the Polk
6 County Board of Commissioners and all of our cities
7 and chambers of commerce.

8 As the lead economic development agency
9 for Polk County, we are here today to voice our
10 enthusiastic support for the approval of the solar
11 power purchase agreement between Tampa Electric
12 Company and Energy 5.0.

13 Some of the reasons that we are in favor
14 of this project include a recently completed SRI
15 international industry cluster analysis cited
16 alternative energy projects as integral to Polk
17 County's current and future economic development
18 efforts. And we believe this project will clearly
19 provide the basis for significant new investment,
20 economic development, and job creation in Polk
21 County as well as in the state.

22 Our education partners at all levels
23 provide support to the electric power industry in
24 our county, and in particular our K through 12
25 students may take advantage of our public school

1 system's career academy for electric power
2 generation. Smart grid research will be
3 accomplished at the University of South Florida's
4 polytechnic campus in Lakeland, and also at Polk
5 State College's Advanced Global Technology Center to
6 be built in Bartow.

7 Such a facility will also provide our K
8 through 12 students the opportunity to see and study
9 first hand alternative energy at work. And this is
10 very important to us, because I can only imagine the
11 excitement and the interest this solar generating
12 project will create in our young students. And so
13 the impact of this project goes beyond us this
14 morning today and really will positively impact our
15 children's children.

16 Polk County has an abundance of former
17 phosphate mine lands that make solar facilities
18 economically viable and that will make use of land
19 that may otherwise go unused due to the lengthy
20 reclamation process. So it provides an opportunity
21 through these solar type projects to diversify and
22 increase the tax base for our community which has
23 been almost solely reliant on the phosphate energy
24 for many years.

25 So our community has long been a supporter

1 of electric power generation facilities, especially
2 those that bring new technologies to the marketplace
3 and the job skills, new job skills to our workforce
4 which, again, we believe that this project will
5 clearly do.

6 So this project will promote the state of
7 Florida's strong public policy favoring renewable
8 energy and Florida energy independence as envisioned
9 by the Governor, the Legislature, and this Public
10 Service Commission.

11 And, finally, this project further expands
12 upon the federal government and President Obama's
13 desire to lower the U.S. dependencies on oil and
14 gas. And so we believe this project is very
15 important to our community not just for further
16 expanding Florida's solar usage, but also in the
17 long-term economic aspects of industry and job
18 diversification in an area of high employment (sic)
19 currently at 12-1/2 percent. So this flagship solar
20 project will showcase our area as one that embraces
21 and nurtures cutting-edge technology and innovation.

22 So we thank you very much for your time
23 and consideration of this important project.

24 **COMMISSIONER EDGAR:** Thank you.

25 Mr. Zambo.

1 **MR. ZAMBO:** Yes. Mr. Chairman and
2 Commissioners, Rich Zambo appearing on behalf of
3 Mosaic Fertilizer.

4 Let me just start out by saying Mosaic
5 does not necessarily oppose approval of this
6 agreement. As a general proposition, Mosaic
7 supports renewable energy as part of a diversified
8 energy portfolio as may be determined by the
9 Commission and/or the Legislature.

10 Mosaic's interest in this stems from its
11 activities both as a consumer and a producer of
12 electricity. Mosaic currently operates about
13 300 megawatts of waste heat renewable energy at
14 locations throughout Central Florida primarily. Up
15 to 100 additional megawatts could be developed if
16 the economics were right.

17 Mosaic's waste heat, the renewable energy
18 source is waste heat that comes off our chemical
19 manufacturing process. There is no fuel consumed,
20 there is no water consumed, and much like Energy
21 5.0's solar photovoltaic facility, Mosaic's waste
22 heat renewable energy is totally emission and carbon
23 free, consumes no water and fuel, and like solar
24 energy, unless you do something to capture it and
25 use it is wasted. It just goes up into the

1 atmosphere.

2 Essentially, Mosaic's type of renewable
3 energy would provide the same environmental benefits
4 as wind or solar from a carbon emission no fossil
5 fuel use perspective. Just to put things in
6 context, Mosaic currently pays about \$100 million a
7 year for electricity that they purchase from several
8 of the utilities. It's all interruptible power, so
9 it is the lowest cost least reliable power that they
10 can purchase, and their average price for that power
11 is about eight cents per kilowatt hour.

12 What Mosaic does typically is they attempt
13 to use as much of the power they generate themselves
14 internally. They only sell what they cannot
15 consume. And the reason for that is because the
16 price they get paid for selling onto the grid is in
17 the range of 3 to 3.5 cents. So it makes -- it
18 behooves them to do what they can to use that power
19 on-site. And to some extent they build their own
20 transmission lines. They operate a fairly extensive
21 transmission network of their own to move power
22 between generating locations and the locations where
23 they have loads that they can remove from the
24 system.

25 The bottom line is no renewable energy

1 producer, Mosaic or Energy 5.0, can justify
2 investment in renewable energy at these rates that
3 are currently available, these so-called avoided
4 cost rates. So as both a producer of renewable
5 energy and a consumer of electric, Mosaic is
6 concerned that renewable resources such as its waste
7 heat be treated fairly, logically, and consistently
8 as consideration as part of a diversified energy
9 portfolio.

10 And what we would ask you to do,
11 Commissioners, in your order on this, in this
12 matter, is to clearly articulate the logic that you
13 have applied, the policies, the economics, the
14 calculations and assumptions so that other people
15 who are similarly situated can look at that for
16 guidance and applicability to their projects. And
17 that pretty much sums up about all I had to say.

18 **CHAIRMAN CARTER:** Thank you.

19 **MR. ZAMBO:** I thank you for the
20 opportunity.

21 **CHAIRMAN CARTER:** Thank you.

22 **COMMISSIONER KLEMENT:** Mr. Chairman.

23 **CHAIRMAN CARTER:** Commissioner Klement,
24 you're recognized.

25 **COMMISSIONER KLEMENT:** Thank you. I would

1 like to follow up on the litigant's request and
2 Commissioner Edgar's comments and also Mr. Wright's.
3 I heard him say that the other utilities are
4 watching what we do. I heard a request just now for
5 a clear standard on what we intend to do. So I'm
6 going to turn to staff, Mr. Ballinger perhaps, and
7 ask what would be the effect of approving this.

8 We know that we just heard that a number
9 of utilities are watching. I also am aware of
10 precedent -- I want to ask you about the
11 precedential effect of this if we approve it,
12 especially the ramifications regarding Rule
13 25-17.0825(6) and the order regarding FPL that are
14 discussed on Page 8. Could you walk us through
15 that, please?

16 **MR. BALLINGER:** I'll try. I think if the
17 Commission approves the staff recommendation as
18 proposed it would continue its policy of setting
19 prices paid to renewable generators and recoverable
20 through the clause at avoided cost. It would be
21 consistent with the prior decision that four of you
22 were on the panel for the Manatee project where the
23 cost-recovery was capped up to avoided cost. The
24 incremental above that was to be borne by the
25 utility if and when there was an RPS or a REC market

1 developed and could sell there. So I think approval
2 of the staff recommendation would be consistent with
3 prior Commission policy where it stands today.

4 There is a draft RPS rule that the
5 Commission submitted to the Legislature back in
6 January. That has not been ratified yet. So in my
7 mind the landscape has not officially changed. That
8 rule, though, did give some guidance to what the
9 Commission saw as how to move forward and pay above
10 avoided cost for renewables. We heard today that
11 renewable generation can't be developed unless it
12 gets prices above avoided cost. The draft RPS rule
13 did that. It laid out a standard to try to get
14 there.

15 Staff compared this contract to that
16 proposed standard, if you will, the draft RPS rule,
17 and, Commissioner Klement, you weren't here, but I
18 will try to explain it simply. The RPS rule is
19 really a two-pronged approach. It had the energy
20 component that you said is the RPS, but was
21 subdivided between solar, had a reference for solar,
22 and another allocation to other renewables such as
23 Mosaic and things of that nature. It was basically
24 said of the energy target we want to get 25 percent
25 of that target from solar and wind and the other 75

1 percent from other renewable resources.

2 The draft rule further went and set a rate
3 cap of two percent of retail sales. But it further
4 allocated that rate cap and said that 75 percent of
5 the rate cap would go to solar and wind because they
6 are much more expensive resources and we wanted to
7 put more money there, and 25 percent of the dollars
8 would go to the other types of renewable resources.

9 Staff did a quick calculation of this
10 project in particular with that draft RPS rule, how
11 it would fit in there. And basically the energy
12 from this project would generate about 13 percent of
13 TECO's goal for solar energy out of the draft RPS
14 rule, but the money above avoided cost would
15 constitute about 30 percent of that second bucket of
16 the dollars. So, in essence, this project would
17 generate 13 percent towards your energy goal, but
18 spend 30 percent of your available funds.

19 That tells me that if we had three of
20 these projects identical at the same price we would
21 run out of money before we would reach our energy
22 goal pursuant to the draft RPS rule. So while that
23 is not a standard, that is the only one I can think
24 of to look at right now to kind of give you a feel
25 of where this stands as far as what kind of a deal

1 it is.

2 **COMMISSIONER KLEMENT:** May I ask a
3 follow-up? What is the applicability of that RPS
4 rule then to this case?

5 **MR. BALLINGER:** I will defer to legal, but
6 to my understanding it has not been ratified yet by
7 the Legislature, so it is still in limbo, it is
8 still up in the air. I would say that it was the
9 product of many deliberations by the Commission,
10 rule hearings and workshops, and testimony from
11 independent consultants, from utilities, from
12 renewable generators to try and craft something
13 together.

14 **MS. BRUBAKER:** And I would add -- Jennifer
15 Brubaker for staff. I would just add that 366.92,
16 Florida Statutes, does specifically provide that the
17 RPS rule shall not be implemented until ratified by
18 the Legislature. And as Mr. Ballinger indicated,
19 that has not yet taken place.

20 **COMMISSIONER KLEMENT:** Mr. Chairman, does
21 this put us between the rock and the hard place?

22 **CHAIRMAN CARTER:** You got it,
23 Commissioner.

24 **COMMISSIONER EDGAR:** Welcome to the PSC.

25 **COMMISSIONER KLEMENT:** Well, certainly

1 Mr. Wright and everyone who has talked about the
2 benefits of this project, no one is arguing with it,
3 and to hear you quote my words from the previous
4 hearing is kind of -- is interesting and gratifying.
5 I know that -- I think that this Commission is
6 committed to those goals in the future, but --

7 **CHAIRMAN CARTER:** Thank you.

8 Commissioner Argenziano and then
9 Commissioner Skop and then Commissioner Edgar.
10 Commissioner Argenziano.

11 **COMMISSIONER ARGENZIANO:** This is for
12 staff. Could you -- I don't remember the specific
13 statutory number, the area in the statute where the
14 Legislature basically says or has preference for
15 solar. Do you remember the statutory citation?

16 **MR. BALLINGER:** It said the Commission may
17 give a preference for solar and the Commission did
18 in its draft RPS rules.

19 **COMMISSIONER ARGENZIANO:** In the RPS?

20 **MR. BALLINGER:** Yes.

21 **COMMISSIONER ARGENZIANO:** And to add
22 confusion here, it really added confusion when
23 Commissioner Edgar and Commissioner Skop were both
24 on the same page, because I am like, okay, wait a
25 minute. And I'm just jesting. But it is really --

1 somebody is really laughing at that one. Sorry.
2 It's really difficult, because I'm looking at it --
3 and I understand the points that were made by
4 Commissioners, but I also understand that we have
5 these impediments in the way to solar, it seems, and
6 renewables.

7 And if we don't get off our duffs and do
8 something about it, I don't know how we are ever
9 going to get there. And I guess the question to the
10 company is is it impossible for the company to be
11 able to do this on their own above the avoided costs
12 to get there with the other incentives that may be
13 around? I need to have a better understanding.

14 **CHAIRMAN CARTER:** Mr. Beasley.

15 **MR. BEASLEY:** This project is not built
16 into the company's current base rates. And I think
17 the evidence in the staff recommendation suggests to
18 you that it would cost more than what we would pay
19 Energy 5.0 for us to self-build a similar project of
20 our own. So it is more than avoided cost, but it is
21 the best that we could find after carefully scouring
22 the market and looking for every solar opportunity
23 that we could find. And our people worked hard on
24 that and did a good job, and they came up with
25 Energy 5.0.

1 **COMMISSIONER ARGENZIANO:** I'm just having
2 a very difficult time understanding that the
3 Legislature as well as the PSC has said that we need
4 to move forward, having just a difficult time
5 because it seems that there really are impediments
6 in the way to getting actually these things on-line.
7 I think everybody did a good job on this one. I
8 just -- I share some of the concerns that the
9 Commissioners have stated except that I'm feeling
10 like we allow so much other recoveries everywhere
11 else, and yet when it comes to renewables that we
12 are supposed to be moving forward on there seems to
13 be many obstacles in the way. And I really am
14 having a difficult time on this one, Mr. Chair.

15 **MR. WRIGHT:** Mr. Chairman.

16 **CHAIRMAN CARTER:** Briefly, Mr. Wright,
17 briefly.

18 **MR. WRIGHT:** Thank you. There have been a
19 few questions and comments that I would appreciate
20 the opportunity to respond to. Thank you.

21 To respond to an earlier question posed by
22 Commissioner Edgar as regarding whether you can
23 separate promotion of renewable energy from
24 cost-recovery. The fact is, as we sit here today,
25 the promotion of this project cannot be separated

1 from full cost-recovery because of where Tampa
2 Electric is and because of where Energy 5.0 is. We
3 can't spend the difference between the as-available
4 cost and the total cost of the project and make it
5 work. We couldn't finance it. And Tampa Electric
6 has indicated that for their own business reasons
7 they are not in a position to do that.

8 As Mr. Ballinger said, I think the
9 Commission recognized explicitly in promulgating the
10 proposed RPS rule, all renewable energy sources with
11 a possible hypothetical exception of a
12 waste-to-energy plant with a high tipping fee, all
13 renewable energy costs more than utilities avoided
14 costs as we sit here today. Mr. Ballinger's
15 calculations were correct that --

16 **CHAIRMAN CARTER:** One second, Mr. Wright.
17 I think Commissioner Skop has a question.

18 Commissioner Skop, you're recognized.

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

21 To the point that Mr. Wright just made
22 that all renewable energy is above avoided cost,
23 clearly I remember many cases that have come before
24 the Commission for biomass projects where the cost
25 was actually below avoided cost, which is why those

1 projects were approved in the first place. So how
2 can you quantify or reconcile the statement you just
3 made to this Commission?

4 **MR. WRIGHT:** I can reconcile it as
5 follows. As the Commissioners know, I work
6 extensively with biomass developers. I had one of
7 the projects that was approved by the Commission, a
8 PPA, the Biomass Investment Group contract with
9 Progress Energy Florida. We built a lot of money
10 into our pricing for land. When push came to shove,
11 we could not get the land necessary to build that
12 project. The observation I would make is this:
13 Yes, the Commission has approved, I think the number
14 is around seven or eight power purchase agreements
15 with biomass facilities that have projected costs
16 below avoided costs. To the best of my knowledge,
17 not one of those contracts has yet obtained
18 financing, let alone turned dirt, let alone
19 generated the first kilowatt hour of electricity.
20 That is where the biomass market is.

21 If I can just continue. Mr. Ballinger's
22 comments -- calculations were right. This would
23 take roughly 13 percent of -- meet 13 percent of
24 Tampa Electric's goal for solar energy, and it would
25 take roughly 30 percent of the two percent rate cap,

1 but it's still the most cost-effective option that
2 Tampa Electric through its process and evaluations
3 identified and it's more cost-effective than any
4 other competitive alternative identified by the
5 staff.

6 This isn't news. This is one of the
7 effects of the two percent rate cap. The two
8 percent rate cap is not likely -- especially with
9 the 75 percent solar carve out, the two percent rate
10 cap is almost certainly not going to get you to the
11 20 percent clean energy or renewable energy goal.

12 **CHAIRMAN CARTER:** Commissioner Skop.

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

14 Mr. Wright, are you done, because I had
15 some comments. I mean, I don't think the purpose of
16 this proceeding before us is to really debate the
17 RPS. I mean, certainly it comes into the
18 decision-making calculus.

19 **MR. WRIGHT:** Mr. Chairman and
20 Commissioners, I was simply -- I was done. I was
21 simply following along and responding, I think,
22 constructively to Mr. Ballinger's comments and
23 explaining where this stands in relation to the RPS
24 rule because of the two percent rate cap, Mr. Chair.

25 **CHAIRMAN CARTER:** Okay. Commissioner Skop

1 and then Commissioner Edgar, and then I will go back
2 to Commissioner Klement.

3 Commissioner Skop, you're recognized.

4 **COMMISSIONER SKOP:** Thank you, Mr.
5 Chairman.

6 I just want to -- the last time, you know,
7 I had significant concerns about the staff
8 recommendation, and I commend our staff for actually
9 moving forward and trying to do some additional
10 analysis.

11 Let me start by saying I'm a very strong
12 supporter of renewable energy in this state. I've
13 got extensive renewable energy experience. In this
14 instance, however, I support the staff
15 recommendation. More importantly, and as to the
16 importance of determining the levelized cost of the
17 project is an objective evaluation of whether the
18 ratepayers are overpaying for a given renewable
19 resource.

20 The additional staff analysis on Page
21 6 clearly illustrates the point that I was trying to
22 make at the last agenda conference, and that point
23 is that the contract price to be paid exceeds the
24 estimated levelized cost of the project as shown on
25 Table 2 of Page 6 for this project. And that

1 difference is significant. Over the 25-year life of
2 the project, consumers could overpay by
3 approximately \$44 million based on a rough
4 calculation I did between that cost difference.
5 It's roughly a third of the retail cost of
6 electricity.

7 Energy 5.0 has made the point that they
8 disagree with the staff analysis. To rebut that
9 point, I would note, however, that Energy 5.0 had
10 ample opportunity at the last agenda conference to
11 address my comments, to provide staff with
12 additional information, and they did not do so.
13 They provided a rough estimate without any backup
14 data, no scintilla of any backup data other than to
15 estimate here is the capital cost and here is a
16 forward-going O&M requirement, okay. So staff had
17 to do the rough analysis that staff had to do
18 because of a lack of cooperation from the company.

19 Now, I recognize that the company may feel
20 that its data is confidential and proprietary. We
21 have protective mechanisms that this Commission uses
22 to protect the confidential nature and trade secrets
23 of businesses. We use that; we use it liberally,
24 okay. But the bottom line here is when I have a
25 petitioner come before the Commission and fail to be

1 responsive to legitimate question regarding the
2 financial economics of a project, it reminds me of
3 COLR with our days of Nocatee. In that case you had
4 a petitioner who wanted something from the
5 Commission, but then refused to cooperate with
6 Commission staff. So, again, you know, I find it
7 somewhat disingenuous to criticize the staff
8 analysis when the company had every opportunity to
9 provide data in a manner which would allow the staff
10 to have a more accurate understanding of the
11 levelized costs.

12 But the point that I was trying to make,
13 and this is a significant point that this Commission
14 needs to recognize on a forward-going basis, and I
15 think staff actually did the calculation, probably
16 reluctantly, and I commend you for doing it, but I
17 think that it illustrates the importance of the
18 point, and I think that the staff really doesn't
19 recognize the significance of that. In this case,
20 based on your own calculation you came up with a
21 cost that's lower than what the contract says. And
22 that cost difference is significant, which means
23 potentially assuming all things are accurate, that
24 the consumer is being asked, the ratepayer is being
25 asked to overpay for this renewable resource. So

1 that makes my point for me, and I commend staff for
2 that.

3 As to the RFP and it was the best that
4 could be had, you know, an RFP in an imperfect
5 market with few bidders has no bearing on the
6 cost-effectiveness of a given project, because one
7 is what the bidders are willing to bid, and the
8 other is what are the actual costs. And to be
9 agnostic to the actual cost of the project denies
10 the ratepayer the opportunity to know that they are
11 getting value for what they are being asked to pay
12 for.

13 And this Commission passes through a lot
14 of costs, as Commissioner Argenziano has alluded to,
15 and this project, you know, in terms of the grand
16 scale of things, the significant dollars in play,
17 significant dollars is referenced to proposed RFPs,
18 alternative RFPs, but, you know, it boils down to me
19 are the economic reasonable in light of what is
20 being asked for. And you can't just look at
21 something and say, oh, we took the best bid. That
22 just doesn't get me there. I need to have
23 confidence that the consumer is not being asked to
24 overpay or the ratepayer is not being asked to
25 overpay for a given renewable resource.

1 I want to also emphasize on Page 5 that in
2 addition to the costs that the ratepayers would be
3 asked to pay to TECO to reimburse Energy 5.0 for
4 this contract, in the middle of the page there is
5 also a TECO cost that ratepayers would have to pay
6 to TECO which reflects a three-quarter of a million
7 dollar investment for transmission upgrades for this
8 project.

9 Now, certainly TECO is not going to do
10 that for free and there is going to be additional
11 cost and expenses over and above what the company is
12 going to be paid for the project. Now, again, that
13 doesn't affect the levelized costs because we are
14 looking at the contract price to the company versus
15 what the company's costs should be, and that is
16 separate and distinct from the transition cost.

17 A couple of other points is that on Page
18 6, the TECO self-build is estimated by staff.
19 Again, at the top of Page 6, TECO provided a capital
20 cost estimate but provided no annual O&M. Again,
21 you know, that just leads me to believe, you know,
22 what type of confidence can I have in TECO's ability
23 to understand their own cost structure on a
24 self-build option.

25 Certainly, again, you could have provided

1 infinite backup data to support one's position, but,
2 again, staff is getting just rudimentary imperfect
3 guesstimate data. So if the analysis on Page 6 in
4 Table 2 is disagreed upon by the parties, well, the
5 parties should not be heard to cry foul because you
6 had the opportunity to provide our staff with the
7 data to do the calculation and show them where they
8 were wrong, but you failed to do so.

9 The alternate RPS. This Commission spent
10 an extensive amount of time providing a draft RPS to
11 the Legislature for ratification. The statute
12 requires ratification. The one spoke to, as Mr.
13 Ballinger correctly alluded to, a two percent cap
14 using 75 percent of the money towards wind and
15 solar, the more expensive type of renewables.

16 There is also an alternate RPS which this
17 Commission approved that recommended a standard
18 offer contract approach or a negotiated contract
19 approach that took five percent of the two percent
20 cap and used it for solar rebates. That's very
21 analogous to what the Commission recently did in the
22 energy conservation goals-setting procedure where we
23 had 10 percent of funds for your estimate of energy
24 conservation clause costs to move towards solar
25 thermal and solar PV. So there is an opportunity

1 there that the utility could use to facilitate
2 development of solar. Certainly the ratepayers are
3 already paying for that on top of any proposed
4 project.

5 As to the differences, again, in the
6 weighted average cost of capital referenced by
7 Mr. Cherry as to what staff used versus what Energy
8 5.0 deems to be the appropriate weighted average
9 cost of capital and the resultant levelized costs,
10 again, the company was asked specifically by me
11 multiple times at the last agenda conference to
12 provide backup data, it chose not to do so. And
13 frankly had the audacity on the top of Page 6 in
14 response to a staff interrogatory to say from Energy
15 5.0's perspective it is not meaningful to discuss
16 levelized costs because Energy 5.0 will incur
17 whatever costs are required, yadda, yadda, yadda.
18 It is meaningful from my perspective as a regulator
19 to have a commanding understanding of the levelized
20 costs to ensure that consumers and ratepayers are
21 not being asked to overpay for a renewable resource.

22 One more observation on Page 6 as to the
23 FPL De Soto project. I would like to distinguish
24 between that project and this power purchase
25 agreement that we are being asked to approve here.

1 With the case of the three FPL solar projects, the
2 Legislature saw fit in House Bill 7135 to allow a
3 110 megawatts to be built statewide irrespective of
4 the cost. The companies had to meet certain
5 requirements. Almost shovel ready type projects,
6 permitting well in development phase, and, you know,
7 whether it be right or wrong, one company basically
8 assimilated the 110 megawatts that the Legislature
9 saw fit to ratify.

10 The difference between that, that was a
11 legislative mandate. Here we are being asked to use
12 discretion, and I'm not apt to use any discretion I
13 have when I don't have a firm understanding that we
14 don't know what our levelized cost is in relation to
15 a contract price that seems to be higher than what
16 staff has calculated.

17 So in this case, again, there's a couple
18 of ways to do this. You can look at it, you could
19 do a more detailed analysis to give me some
20 confidence where I would feel comfortable using my
21 discretion. That opportunity has been denied to me,
22 so I have to defer and rely on our staff who I
23 commend for doing the best under the limited
24 resources they had available.

25 Again, you proved my point for me and I

1 hope that staff appreciates the significance of your
2 calculation, because you show the levelized cost for
3 this project recognizing the effect of the
4 convertible investment tax credit which provides a
5 30 percent check from the U.S. Treasury to the
6 developer within 60 days of project completion for
7 the qualified project costs is reflected in the
8 staff analysis. And, again, that doesn't also
9 account for all the other state tax benefits that
10 are not incorporated and picked up in the staff
11 analysis that might equally wash out the difference
12 in weighted average cost of capital.

13 So, again, the analysis is imperfect, but
14 that is the cards that were dealt to staff. That is
15 the response I got in response to my specific
16 inquiry, so I think the lesson learned is if you
17 come before the Commission and petition something,
18 don't tell me as to what is relevant and not
19 relevant, because, again, I have renewable
20 experience and I want to do my own independent
21 thinking here.

22 One final point, again, that has been, I
23 think, brought up is that it is important to be
24 consistent with past Commission precedent and sound
25 regulatory practices and staff alluded to and

1 briefly spoke to past Commission precedent regarding
2 the Manatee project and some other projects to be
3 noting the point that it has not been the Commission
4 practice to allow rate recovery of renewable energy
5 credits when there is no mandatory RPS yet.

6 Whether that be right or wrong, I don't
7 know. I mean, what is clear to me is that this
8 project is not economically effective as shown on
9 Page 4 unless you get up to a renewable energy
10 credit cost of \$300 per megawatt hour as articulated
11 by staff. So, again, the REC market would have to
12 be substantial. There are substantial costs for
13 solar PV. I am in firm support of solar PV and
14 solar projects. But, again, I think we need to look
15 at the conundrum the Commission is in between the
16 legislative direction in terms of the mandate and
17 being asked to use discretion. And I'm not apt to
18 commit the ratepayer to incurring higher costs than
19 are necessary, absent somebody being forthcoming
20 with the data to support the analysis I want done,
21 which is a legitimate request based on any sound
22 practice is to have an objective evaluation of
23 whether ratepayers are being asked to overpay for a
24 given renewable resource. So, anyway, that's pretty
25 much it, Mr. Chair.

1 **CHAIRMAN CARTER:** Thank you.

2 You're recognized for a moment.

3 **COMMISSIONER ARGENZIANO:** What I would
4 like to do is can I have the company and those
5 parties involved answer to some of the, I guess,
6 allegations to the Commissioner? Because I want to
7 know if the consumer is going to be paying more than
8 necessary. I want to know if there were questions
9 that a Commissioner had for specific information why
10 they were not applied, and if you could answer those
11 it would help me in making a decision.

12 **CHAIRMAN CARTER:** Briefly. Let's start
13 with Mr. Wright. You first.

14 **MR. WRIGHT:** Mr. Chairman --

15 **CHAIRMAN CARTER:** Turn your mike on.

16 **MR. WRIGHT:** I apologize. I thought it
17 was on. I had one more comment to make in response
18 to some comments by Commissioner Argenziano and
19 Commissioner Klement. Mr. Cherry will respond to
20 Commissioner Skop's statements. This really is a
21 response to Commissioner Argenziano's and
22 Commissioner Klement's specific question does this
23 put us between the rock and the hard place. And I
24 think the answer is yes, you are somewhat between
25 the rock and the hard place because you have the old

1 avoided cost ceiling paradigm. And on the other
2 hand -- and perhaps that is the rock -- and on the
3 other hand you have the hard place of being directed
4 explicitly in three separate sections of the
5 statutes to promote renewable energy and to promote
6 solar energy and to liberally and broadly construe
7 your statutes for these purposes.

8 We don't believe, and we haven't seen one
9 yet, biomass project, solar, or anything else, we
10 don't believe that you can promote renewable energy
11 under the old avoided cost ceiling paradigm. That's
12 the rub. That is the rock and the hard place. And
13 we are asking you, based on policy directions and
14 explicit statutory directions, to broadly and
15 liberally construe your statutes in the public
16 interest to approve the PPA as requested by Tampa
17 Electric. And Mr. Cherry will talk about finances
18 and related matters.

19 Thank you, Mr. Chairman.

20 **CHAIRMAN CARTER:** Mr. Cherry.

21 **MR. CHERRY:** Yes. Thank you, Mr.
22 Chairman.

23 First of all, Commissioner Skop, I tried
24 very hard not to be critical of the staff. In fact,
25 I think you will recall that I congratulated the

1 staff several times on the good work that they did.

2 What I observed was a difference in what
3 their assumptions were for the capital structure of
4 the project. And when we had the conversation at
5 the last hearing, you asked me what I thought the
6 cap structure was going to be and what I thought the
7 weighted average cost of capital was going to be,
8 and I didn't answer that because I didn't want to
9 guess, and I didn't want to guess because I didn't
10 want to say something in front of the Commission
11 that was erroneous.

12 Had somebody asked me whether we could get
13 25-year financing at 8.3 percent, I could have
14 answered that very clearly, and the answer to that
15 was no. I know we can't. I know we can't because
16 of the conversations that we have had with banks and
17 other investors. So I was not trying to be cute and
18 ignore a question from the Commission. When we
19 saw -- when we saw the staff analysis and the way in
20 which they had approached it, we recognized that
21 there were some aspects of that analysis which were
22 simply inconsistent with the way the rules work.

23 For example, one of the other factors in
24 the staff analysis was, A, they assumed that 100
25 percent of the project costs were eligible for the

1 grant in lieu of tax credit. That is simply not the
2 case. There is about \$5 million of project costs
3 that are not -- that do not qualify for the grant in
4 lieu of tax credit.

5 We can't do 100 percent debt financing. I
6 don't know if we can do 65 percent, 50 percent,
7 49 percent, and I didn't want to guess. All I did
8 want to do in this presentation was react to what
9 looked like an approach to the analysis which
10 suggested that an independent developer had the same
11 capital structure as a large regulated creditworthy
12 utility. And I think the fact is that that is
13 simply just not the case.

14 So I apologize if there is any
15 misconception as to what our approach has been here.
16 We have not been trying to stiff-arm the Commission
17 or the staff in this proceeding. I think we tried
18 to be very, very open in that. You and I had an
19 open discussion about grants at the last -- at the
20 last hearing where we respectfully disagreed. In
21 hindsight, I think there were parts of that
22 conversation where we were both right, and there
23 were parts where you were completely right. So, as
24 I say, I do apologize if there is any inference that
25 I was being critical of the staff. That was

1 certainly not my intent.

2 **CHAIRMAN CARTER:** Let me do this,
3 Commissioners, because I see all of you want to
4 speak at this time. Let me do this. I'm going to
5 take a break and then when we come back I will go
6 with Commissioner Edgar, Commissioner Klement,
7 Commissioner Argenziano, and then Commissioner Skop.
8 Maybe I should be writing that down. Commissioner
9 Edgar, Commissioner Klement, Commissioner
10 Argenziano, and then Commissioner Skop when we come
11 back.

12 Staff, why don't we give you guys about
13 ten minutes. We will be back in ten minutes,
14 Commissioners.

15 (Recess.)

16 We are back on the record. And,
17 Commissioners, when we last left, I gave the
18 following order to be recognized: Commissioner
19 Edgar, Commissioner Klement, Commissioner
20 Argenziano, then Commissioner Skop, and I may make a
21 few comments or maybe not.

22 Commissioner Edgar, you're recognized.

23 **COMMISSIONER EDGAR:** Thank you, Mr.
24 Chairman. And I was just thinking that I, before we
25 broke -- and I was ready for a break, so I thank you

1 for giving us a few minutes to stretch, Mr.
2 Chairman, but I know I had a really great comment to
3 make and it may have just flown. But a few brief
4 comments.

5 The first is I would absolutely like to,
6 for my sake, commend TECO and, Mr. Wright, your
7 client and all involved in this project. And I
8 learned a little bit about it while I was getting
9 ready for the last agenda, I learned a lot more
10 while we were sitting in that meeting, learned more
11 since then, and have learned more about it today.
12 And as I've said earlier, and we will all again
13 continue to say, I do believe in this effort, and I
14 commend and believe that TECO and those that you are
15 working with are making every effort to reach out
16 and to try to find ways to diversify and bring
17 renewables in.

18 But with all of that in mind, I look at
19 part of, a large part of our role as being to, you
20 know, look at the financials and to determine where
21 the costs will and perhaps should reside, what the
22 benefits are to the ratepayers, and where the risks
23 and benefits of any project reside within the, the
24 statutory authority and the structure that we have
25 in place, and that's kind of what I'm trying to

1 think through with this one. And I do believe that
2 there is certainly the potential that whatever we
3 decide on this project, whether that be a good thing
4 or less so, is precedent setting and certainly could
5 and perhaps should set some guidelines for other
6 projects in the future. So I want you to know I
7 take it very, very seriously, and I do think it's
8 wonderful that we are having these efforts take
9 place.

10 Now with that said, and I am serious about
11 all of that, I would also like to point out, since
12 it was raised more than once, that Commissioner Skop
13 and I agree way more than we disagree, as is the
14 case with every other Commissioner that I have
15 worked with in the past, present, and I'm sure
16 future as well. Some, however, Commissioner Skop,
17 I'm sure you'll agree, tend to try to focus for
18 whatever reason on disagreements more than on the
19 more, more, multitudes of agreements. And any time
20 there's a disagreement, generally in my view it is
21 really probably more style and tone than substance
22 even often.

23 Commissioner Argenziano, you mentioned
24 that as we look at renewables, there are often
25 impediments, and I agree with that, of course. And

1 one of those impediments, as we all have recognized,
2 is cost. Renewables, as we have all said, do cost
3 more than more traditional generation technologies,
4 but yet we are under a directive and also a desire
5 to promote more, more renewables.

6 Mr. Wright stated that it is explicit in
7 the statute that we promote renewables, but I also
8 note that it is not explicit in the statute exactly
9 how or where those cost burdens should be. And I
10 again think that that is part of our role and part
11 of the reason that the Legislature, who I have seen,
12 just as an aside, more times than not pass very
13 explicit statute and directions many, many times.
14 But in this area they have given us I think some,
15 some broad guidelines and some discretion.

16 So with, with all of that in mind, I, I, I
17 have a little bit of resistance to some of the
18 rhetoric that occasionally comes up with these types
19 of issues in that, hey, PSC, if you don't agree to
20 pass all these costs through to the ratepayers, then
21 you are not supporting renewables and you are not
22 promoting, and I just don't think that's the issue.
23 I believe we are on record many, many, many times
24 for our desire individually and collectively to
25 support, promote and to try to think about new ways

1 of doing so.

2 But I also -- we've had some discussion a
3 little bit, and I may be the one who brought it up,
4 about the rate case that we had recently for this
5 particular utility because it was recent and many of
6 us have had to speak to that decision. I maybe more
7 than some, maybe not, have had to defend that
8 decision, and I still believe that -- I know I feel
9 like I made the best decision at the time based on
10 the information that, that we had and I stand by
11 that.

12 But when we look at ROE, I do believe in
13 my mind and in my vote, in my thinking, not trying
14 to speak for anybody else, but that an ROE is set by
15 the Commission. And as part of that, that it is
16 intended to compensate shareholders and the company
17 for risk, and that that risk, part of that risk is
18 with investment in the future, and that investment
19 could be defined narrowly or more broadly probably
20 by, by different people.

21 I also think that, coming back now more
22 specifically to this project that is before us, that
23 the risk to the stockholders if, or the shareholders
24 if indeed the staff recommendation were to carry the
25 day, that the risk to the shareholders or those

1 costs would be, could be potentially mitigated by
2 the ability of the company to participate in the REC
3 market and potentially receive financial benefit
4 from the environmental attributes.

5 So I think there are a lot of moving
6 pieces, and I want to try to get beyond a little bit
7 of that are you for or against renewables because I
8 don't think that's an issue to the specifics of this
9 project -- what precedent are we setting, where
10 should the costs and benefits reside?

11 And I think we're probably coming in for a
12 landing, but I just kind of wanted to elaborate on a
13 few of my comments and frame it that way. And I
14 look forward to the further discussion and a
15 decision. Thank you.

16 **CHAIRMAN CARTER:** Thank you.

17 Commissioner Klement, you're recognized.

18 **COMMISSIONER KLEMENT:** Thank you, Mr.
19 Chairman.

20 I would like to direct a question to legal
21 staff, General Counsel or Ms. Brubaker.

22 Could you walk us through where we stand
23 on legal grounds with this request which they're
24 asking? Do, do we have the statutory authority to
25 grant this pass, cost pass-through? And if not, can

1 we in effect legislate from the bench?

2 **MS. BRUBAKER:** I'll do my best.

3 We've talked a lot about 366.92, and it
4 does specifically contemplate an RPS. It
5 specifically provides, as I mentioned earlier today,
6 that the RPS rule which has been sent to the
7 Legislature shall not be implemented until ratified
8 by the Legislature. And so right now we do not have
9 a ratified RPS that can be implemented.

10 There was a lot of discussion at the last
11 agenda on this item regarding whether we have the
12 statutory discretion to, for the Commission to award
13 this request at above avoided cost. We've taken a
14 long look at the FERC and applicable federal cases,
15 we've looked at the state statutory law, we've
16 looked at Commission precedent. And I believe I
17 come down in the same place pretty much I came down
18 at the last agenda, that even if you were to read
19 the statutes as allowing the Commission that rim of
20 discretion, that measure of discretion, the tension
21 between wanting to promote renewable energy and then
22 our standard of not avoiding, not allowing contracts
23 at above avoided cost, even if we have that measure
24 of discretion, I think the Commission has spoken to
25 its policy, and that policy is avoided cost.

1 We have promulgated rules that talk
2 about -- for instance, there's a rule on negotiated
3 contracts, 25-17.240, and it talks about negotiated
4 contracts are considered prudent for cost recovery,
5 and then at the very end it talks about at a cost to
6 the utility's ratepayers which does not exceed full
7 avoided cost. We've had prior Commission cases
8 where that was the standard.

9 In my legal judgment the best policy is to
10 let the Legislature give us the directive that it
11 intends us to follow, the Commission to follow. I
12 think it has done that in 366.92. I appreciate the
13 frustration that things aren't moving as quickly as
14 I think we would all like to see them move. But I
15 think we are at that rock and a hard place, and in
16 my mind the correct outcome of this item, this
17 25 megawatts of solar, is staff's recommendation.

18 **COMMISSIONER KLEMENT:** Thank you.

19 **MS. BRUBAKER:** I hope that answers the
20 question.

21 **CHAIRMAN CARTER:** Commissioner Argenziano.

22 **COMMISSIONER ARGENZIANO:** Well, to staff
23 in regards to Commissioner Klement's question, is
24 there any prohibition anywhere in the statute?
25 Because, Commissioner Klement, you're going to find

1 the longer you're here that the statute gives the
2 PSC broad discretion in a lot of areas. So is there
3 a prohibition?

4 **MS. BRUBAKER:** Well, actually, and I'll
5 leave it to Mr. Wright to correct me if I'm wrong
6 about this, I've been listening to Mr. Wright say
7 again and again that we're to liberally and broadly,
8 you know, exercise discretion.

9 The only reference I can find to that
10 would be 366.81 that really talks more about
11 demand-side management. I can't find that language
12 in 366.92. Now generally speaking, the Commission
13 does have broad discretion to interpret its rules
14 and statutes. Specifically with regard to renewable
15 energy as in 366.92, I don't find that language.

16 **COMMISSIONER ARGENZIANO:** Which language
17 are you referring to, broad discretion?

18 **MS. BRUBAKER:** The language about
19 liberally -- looking at 366.81, which again tends to
20 discuss more on conservation, demand-side
21 management, it talks about the Legislature further
22 finds and declares essentially the FEECA statutes to
23 be, are to be liberally construed in order to meet
24 the complex problems of reducing and controlling the
25 growth rates of electric consumption, reducing the

1 growth rates of weather sensitive peak demand, so on
2 and so forth.

3 When I, when I turn to 366.92 I don't find
4 that specific language although --

5 **COMMISSIONER ARGENZIANO:** But it's implied
6 and ratemaking --

7 **MS. BRUBAKER:** It's -- you can certainly
8 imply it. Yes.

9 **COMMISSIONER ARGENZIANO:** And as staff has
10 told me time and time again when I have questions
11 that we have very broad discretion. So, but my
12 question is is there a prohibition?

13 **MS. BRUBAKER:** I am not aware of a
14 specific prohibition in 366.92 that says you cannot
15 award a contract similar to this at above avoided
16 cost. We do, however, as I say, the Commission has
17 promulgated rules to speak to what its policy is.

18 **COMMISSIONER ARGENZIANO:** Okay. Rules,
19 rules don't trump statute. There is no prohibition
20 in the statute, Commissioner Klement. So you get a
21 full answer, there's no -- what there is in the
22 statutes, and it doesn't mean that the Commission
23 has to grant this or doesn't, but to be fair, the
24 statute in many areas is, is saying that we may
25 provide added weight to energy provided by wind or

1 solar photovoltaic in the RPS and so on and so on,
2 but there's no prohibition.

3 And if -- I -- the way I'm looking at is I
4 have broad discretion here at the PCS. So if
5 there's no prohibition and I see language that says
6 you're going to promote, that's just my opinion.
7 With respect to the Commissioners', the other
8 Commissioners' concerns, I have those concerns also.
9 But at the same time I'm, I'm, I look at the
10 Legislature for not really specifying in the
11 statutes what they want and do not want, and they're
12 going to have to do that. But at the same time I'm
13 not going, I'm not going to sit and wait for them to
14 do that unless I saw a prohibition somewhere. I
15 have concerns about consumers paying more for
16 something than, than they should be, but I'm not
17 convinced that that's the case here. I just, it
18 hasn't been -- I haven't -- it hasn't been
19 convincing to me.

20 My concern is that we are not moving
21 towards the renewables in this state. And you have
22 a company who's ready to go with, with another
23 company who I think in my opinion can do it cheaper
24 with -- than they can themselves. So in making my
25 comments today, I'm probably going to vote in favor

1 of TECO's position because I think that we are not
2 moving towards renewables that many places in the
3 statute we are being directed to.

4 Now the statute -- the statutes need to be
5 clarified, they need to specify more, and that is
6 the policymakers. They're going to have to give us
7 more specific direction. Did you have -- do you
8 want to --

9 **COMMISSIONER KLEMENT:** Mr. Chairman, if I
10 can follow up.

11 **CHAIRMAN CARTER:** Commissioner Klement.

12 **COMMISSIONER KLEMENT:** Then why do we go
13 through the formality of going to the Legislature
14 and saying give, give us statutory authority to do
15 this anyway?

16 **COMMISSIONER ARGENZIANO:** Well, do you
17 really want me to get into that? We, we -- the
18 Legislature right now can't make up its mind on the
19 RPS portfolio that we sent forward, and they're
20 going to do that eventually. But at the same time,
21 they've given direction in many different places
22 that we should give, in their words, "may provide
23 added weight," may, and that's up to each
24 Commissioner, you know, with their concerns.

25 But to answer your question as far as the

1 Legislature, they're going to have to do something.
2 And right now what I see is you're asking the PSC to
3 move forward and say put extra weight or added
4 weight, yet not adopting our RPS standards yet.
5 And, you know, I'm just going to take it as a single
6 Commissioner here saying if there's no prohibition,
7 then I have to make up my own mind.

8 **COMMISSIONER KLEMENT:** And -- Mr.
9 Chairman.

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

11 **COMMISSIONER KLEMENT:** If, if, if that's
12 the case then, what would we -- if we approve this
13 request, would we be sending a message to the
14 Legislature that this Commission is moving forward
15 with or without you, and would that be, wouldn't
16 that be positive for the issue and for the, our
17 image to promote renewables?

18 **COMMISSIONER ARGENZIANO:** Mr. Chair?
19 Well, in my opinion, yes, that's part -- because I'm
20 listening to what they're saying. But you can't
21 neglect the fact that other Commissioners have
22 concerns that are legitimate concerns.

23 **COMMISSIONER KLEMENT:** Right.

24 **COMMISSIONER ARGENZIANO:** And each one of
25 them have to vote according to how they feel of

1 course. Each one of us have to do that. I'm
2 looking at it exactly as you are. I'm looking at
3 the added weight and the, and the Legislature saying
4 you shall do this, but yet they haven't specified,
5 but they haven't prohibited. So I'm saying, okay,
6 then my decision is let's move forward. If you
7 don't like it, then get on the ball, legislators,
8 and do something one way or the other, make it more
9 specific. And I think Mr. Wright's hand is -- he
10 wants to add something, and I just have a couple of
11 other comments.

12 **CHAIRMAN CARTER:** Mr. Wright, ever so
13 briefly, sir, because I really appreciate where we
14 are on the bench right now, so I really don't want
15 to lose the flow.

16 **COMMISSIONER ARGENZIANO:** Right. Okay.

17 **CHAIRMAN CARTER:** You know, I don't really
18 want, don't want to lose the flow. So, Commissioner
19 Klement, your question.

20 **COMMISSIONER KLEMENT:** For now, that's all
21 for now.

22 **CHAIRMAN CARTER:** Ever so briefly, Mr.
23 Wright.

24 **MR. WRIGHT:** Thank you, Mr. Chairman. I
25 did want to respond briefly to two comments made by

1 Commissioner Argenziano and to Ms. Brubaker's --

2 **COMMISSIONER ARGENZIANO:** You're using up
3 all your, you're using up all your time just
4 explaining.

5 **MR. WRIGHT:** Thank you. With regard to
6 the liberally construed and broadly construed,
7 366.81 specifically says that the Legislature
8 intends that the use of solar energy, renewable
9 energy sources, et cetera, are to be encouraged, and
10 closes by saying that the provisions of FEECA are to
11 be liberally construed.

12 The other citation to which I've referred
13 several times is to Section 366.01, and I'm going to
14 leave out a few words, but it says, "The regulation
15 of public utilities is declared to be in the public
16 interest, and this chapter," 366, "shall be deemed
17 to be an exercise of the police power and shall be
18 liberally construed for the accomplishment of that
19 purpose." That's the liberal construction, broad
20 construction language upon which we rely.

21 Briefly, Commissioner Argenziano said she
22 wanted to be sure that ratepayers, Tampa Electric's
23 customers were not paying more than they needed to.
24 I would simply submit to you that the best, most
25 current information you have on what the current

1 real cost is is the cost that FPL just updated,
2 which has something to do with the fact why we have
3 difficulty estimating our costs. They changed their
4 costs very recently and reported to you that their
5 levelized cost is 26.4 cents per kilowatt hour,
6 which, as you know, is modestly higher than the
7 price, the levelized price to be paid by Tampa
8 Electric for our electricity. Thank you.

9 **CHAIRMAN CARTER:** Thank you.

10 **COMMISSIONER ARGENZIANO:** Mr. Chair.

11 **CHAIRMAN CARTER:** Commissioner Argenziano
12 and then Commissioner Skop. Commissioner
13 Argenziano.

14 **COMMISSIONER ARGENZIANO:** And just to,
15 just to finish up on the comments, that's exactly --
16 I understand staff's position, but I also see
17 throughout the statute that we are to be encouraged,
18 we're to add weight, we're to move forward, and
19 that's been a policy that the Governor as well as
20 the Legislature has indicated. Now they have to
21 tighten it up, but -- and, again, I'm going to say
22 seeing no prohibition in the statute for me to do
23 that, then it's my decision of course with the facts
24 before me, just as each one of us have.

25 And just to speak to precedent, and I've

1 said this before, regulatory certainty is important
2 in certain, in certain areas, but it's not always --
3 I don't know if there's such a word, surety -- it
4 has a different meaning. And, and precedent to me
5 doesn't always apply because I may not agree with
6 some of the past decisions. Even as a past
7 legislator I didn't agree with some of the decisions
8 that the PSC made. So precedent to me is not, not
9 set in stone. You have to have regulatory certainty
10 of course to a certain degree. And when we speak to
11 the policy that has been in place and, you know, I'm
12 not, just not saying I always, I've not always
13 agreed with some of the policy decisions that were
14 made at the PCS and probably will not always agree
15 with them in the future, just as each one of us
16 might have.

17 So I understand regulatory certainty, but
18 at the same time, I've heard many -- well, I've
19 heard a few of us mention that, you know, there's a
20 new day and there's new things that occur, and there
21 are new laws and new directions the state is moving
22 in. So moving with the direction that the
23 Legislature has so loudly announced that's in
24 statute, then I look towards that policy that may
25 have been in place as having to move along with what

1 I see in the statutes. So I'm -- that's my
2 position. And, you know, I respect everyone's
3 position here, but that's the reason I'll be voting
4 for TECO and against staff's recommendation on this
5 one.

6 **CHAIRMAN CARTER:** Thank you, Commissioner.
7 Commissioner Klement, then Commissioner
8 Skop. Do you have a response for Commissioner
9 Argenziano?

10 **COMMISSIONER KLEMENT:** Commissioner Skop,
11 do you mind if I just follow up on what Commissioner
12 Argenziano --

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

14 **COMMISSIONER KLEMENT:** If I may -- if I
15 had a better understanding of the precedent, I would
16 feel more comfortable. I was pretty vocal last time
17 we talked about this at the, at the burden on the
18 ratepayer being what we've said, we've been given an
19 average of 36 cents per month over the life of the
20 contract and that didn't bother me. I used the can
21 of Coke as an analogy. But I want to know what,
22 what is going to be our threshold? The staff asked
23 us last time -- Mr. Devlin, or I'm not sure.

24 **CHAIRMAN CARTER:** Devlin. That's correct.
25 Tim.

1 **COMMISSIONER KLEMENT:** Asked us what is
2 going to be our threshold, and should we be talking
3 about that now if we say yes to this? I don't know.
4 36 cents does not bother me. But what if somebody
5 comes forward with \$1.36 next time?

6 **CHAIRMAN CARTER:** Commissioner Argenziano.

7 **COMMISSIONER ARGENZIANO:** Well, may I
8 answer? Well, Commissioner Klement, that will be up
9 to us in each individual case before us. I think in
10 my opinion we have, we have impediments. At the
11 same time the Legislature is saying we need to move
12 forward, they need to start removing some of the
13 impediments. And if, if they're leaving it up to
14 the Public Service Commission, as you see, we have
15 different opinions on things, then they're going to
16 have to come up with some, some sure language that
17 directs us. But at the time, since I don't see that
18 now, and I'll look at each case by case, but I'll
19 tell you this in my opinion, we can't get to where
20 we're going to go on renewables unless we start
21 removing some of these impediments.

22 We've -- I've seen, not only as a past
23 legislator but now as a Public Service Commissioner,
24 that we allow a great deal of ratepayer money to go
25 into new projects and, on the traditional side of

1 energy production, and now of course with nuclear,
2 nuclear recoveries and so on, to promote
3 reliability, you know, and ensure that we have
4 energy when people demand it. But, but I see real
5 obstacles in the way of getting to renewables,
6 whether they be political or, or monetary.

7 To me right now 36 cents is -- I've heard
8 from the public many, many times over that they'd
9 much rather pay, you know, and I've heard all
10 different kind of numbers, for us to move forward to
11 push to renewables, and I have to respect that large
12 portion of the public that I've heard from also. I
13 don't think it's -- I think it should be commended
14 that they're moving in that direction, trying to
15 meet that goal that the state and the Governor has
16 said that that's what we need to do. And if we keep
17 putting up roadblocks, they're just never going to
18 get there.

19 Now I'm not for just giving away, you
20 know, and saying let's not have scrutiny. But we
21 should be, we should scrutinize some of the much
22 larger projects to the same degree. And I'm, I'm
23 just -- I think to answer short, and it's too late
24 for that, but basically to answer you is that --
25 hey, I've got my day too. I'm pretty short and

1 blunt most times. But, but to answer your question
2 is that each case we're going to look at
3 individually.

4 **COMMISSIONER KLEMENT:** Thank you. That's
5 all, Mr. Chair.

6 **CHAIRMAN CARTER:** Commissioner Skop.

7 **COMMISSIONER SKOP:** Thank you, Mr.
8 Chairman. I wanted to briefly respond to
9 Commissioner Klement's inquiry to Commissioner
10 Argenziano as to, you know, what is going to be the
11 objective criteria or objective measure to be used
12 should this project be approved on a forward going
13 basis, and then I'll get into my other points.

14 You know, I firmly support renewable
15 projects. I think this project has merit. I think
16 the tension here is that in our desire to promote
17 renewables we are not placing enough significance
18 into, you know, understanding the various cost
19 structures on any given project, and it becomes a
20 very slippery slope on a forward-going basis as we
21 are asked to approve additional projects. Because
22 if this Commission acts to approve this project,
23 which perhaps it will today, there's going to be a
24 flood of projects coming in the door. And without
25 an objective benchmark, i.e., levelized costs by

1 renewable type for a specific project technology,
2 you are not as a -- we as a Commission, staff as
3 Commission staff are not going to be in a position
4 to have an objective benchmark to properly evaluate
5 the value to the ratepayer for any given project.
6 You may have a project here which has a 25-year term
7 using solar PV panels that have a 25-year useful
8 life. You may have another project that comes in
9 that has the same size project but for a five-year
10 term. How do you objectively evaluate what price
11 you should actually be paying without doing what
12 I've suggested, without doing what staff has
13 prepared here?

14 So, again, to answer Commissioner
15 Klement's question, you need to have that objective
16 benchmark being levelized cost by technology type,
17 by renewable resource to have that objective
18 benchmark for saying are we paying too much or are
19 we paying too little.

20 So to, to get to my other points, and I'll
21 try and address these briefly because, again, I am
22 somewhat in favor of the project and I am somewhat
23 in favor of using broad discretion pursuant to
24 statute when it's appropriate to do so. Not exactly
25 there yet. Perhaps I can be persuaded.

1 To Mr. Cherry's point about our prior
2 disagreement and regarding taking a more critical
3 look at the financial statements here, you know,
4 reasonable people can, can disagree. I think that
5 what I had previously asked for was a pro forma
6 analysis done by the company, to which I believe the
7 response was, well, we didn't, we don't have that,
8 or a response to staff interrogatory, we don't have
9 that because we just developed a, a negotiated cost
10 out of -- that was acceptable to both parties.
11 Well, no developer in their right mind just pulls a
12 number out of the sky and says we think we can get
13 there. It's supported by backup information. It's
14 called a pro forma analysis. I did when this I
15 managed wind projects, I did this when I managed
16 renewable projects. I did the same thing when I
17 managed a cogeneration plant out in Stockton,
18 California. You've got a pro forma, you know what
19 your project needs, you know what your rate of
20 returns are, all that. So to, to assert that it's
21 not supported by some backup data that the
22 Commission doesn't have, you know, I just -- that
23 may be the case, but I find that to be doubtful at
24 best.

25 But, again, that's not an impediment. I

1 think that, you know -- you know, I'm a reasonable
2 person. I can be reasonable here. What I want to
3 do is have a better understanding of what the costs
4 are. And, you know, we're a little bit hamstrung
5 here by making a broad-based comparison to whatever
6 the request for proposals came in at. We're looking
7 at a summary of other costs.

8 Just to further illustrate this, Mr.,
9 Mr. Wright made a point that FPL recently revised
10 its costs shown in Table 2 to 26.4 cents per
11 kilowatt hour. Well, that may be current costs, but
12 my rebuttal to that would be then how can the TECO
13 self-build option be so far out of whack on the same
14 table? I mean, they have no concept of cost
15 there -- 38 cents versus what FPL says is 26 cents.
16 So, again, there's, there's a lot of wiggle room
17 there.

18 In terms of using the broad discretion, I
19 would support this project or consider supporting
20 this project. And to that point, part of promoting
21 renewables within the state pursuant to 366.92,
22 *Florida Statute*, is to encourage renewables, but
23 also to drive down the cost of those renewables
24 because they are above avoided cost.

25 I think in this case that the contract

1 price as agreed to that remains a confidential
2 number is significantly above the levelized cost of
3 the project as estimated by staff. There may be
4 some differences there in terms of the average cost
5 of capital and the return, but the, the 22.4 cents
6 per kilowatt hour as calculated by staff assumes
7 TECO's weighted average cost of capital. So that's
8 a sufficient return to TECO. It may be marginally
9 higher for a private investor. But those
10 calculations don't also consider some of the other
11 favorable tax impacts and credits that the project
12 will inure that aren't embodied in that number.
13 That number that staff did only considered the
14 federal investment tax credit. So there's a little
15 wiggle room there.

16 I think where I'm at on this is if the
17 company would want to go back and either within a
18 brief recess or perhaps come back at the next agenda
19 and sharpen the pencil a little bit and try and
20 drive that cost down to a more reasonable cost that
21 again would not cost the ratepayers nearly
22 \$44 million than it reasonably should, I'm willing
23 to use and exercise the broad discretion under
24 statute, as Commissioner Argenziano has alluded to,
25 to move forward and to set an example. But I don't

1 want to open the floodgates of a slippery slope
2 blindly. I want to do so with analytical knowledge
3 of that here's the cost, here's what's being paid,
4 and those costs are reasonable, and we can use that
5 on a forward-going basis as an objective measure to
6 evaluate any subsequent projects that'll be coming
7 before the Commission. I think that's fair, it's a
8 reasonable approach.

9 The other point that I wanted to make
10 briefly, and this is staff's Christmas present, so
11 Merry Christmas, I haven't had time to fully run it,
12 but NREL, National Renewable Energy Laboratory,
13 actually has a computer model that addresses this
14 very concern that I've been trying to get staff to
15 take a look at. Staff did it empirically. There is
16 an analytical tool out there that perhaps staff
17 could take a look at. It's still under development,
18 but it's the Solar Advisor Model, and it uses some
19 various benchmark tools. And, you know, it's
20 available for download from the Enron site -- I
21 mean, the NREL site, not Enron.

22 **CHAIRMAN CARTER:** I hope it wasn't Enron.

23 **COMMISSIONER SKOP:** Yeah. And I've been
24 playing with it a little bit on the computer. But,
25 again, it's, you know, a 300-page user manual, so --

1 **COMMISSIONER ARGENZIANO:** That's their
2 Christmas present?

3 **COMMISSIONER SKOP:** Yeah. They can, they
4 can use that to move forward.

5 **CHAIRMAN CARTER:** That seems like a lump
6 of coal.

7 **COMMISSIONER SKOP:** But, you know, just in
8 the, I mean, just in totality, you know, the
9 Commission has approved projects for renewables. I
10 mean, we have one project that Mr. Zambo is working
11 on, the City of Tampa waste energy. Certainly waste
12 energy is below avoided cost. Biomass, again, we've
13 approved those projects financially that say they're
14 below avoided cost and some are in the process of
15 being built. It remains to be seen. But clearly
16 solar and wind and other more expensive technologies
17 are well above avoided cost, and we need to be
18 cognizant of the cost to ensure that we get the most
19 bang for the buck.

20 And when we did the RPS, Mike Twomey came
21 before us and basically, you know, was advocating
22 the cheapest renewable source first type of thing.
23 But, you know, staff and the RPS that was adopted by
24 the Commission, including an alternate RPS, looked
25 at having a balance of various renewable types and

1 trying to meet the 20 percent by 2020 goal with the
2 limited resources that the Commission had.

3 So I guess where I'm at is I probably
4 share the view of Commissioner Argenziano with the
5 caveat that, you know, I do think that the, the
6 confidential cost is higher than it needs to be. I
7 think that if the company could agree to a cents per
8 kilowatt hour somewhere, you know, between the two,
9 I would be more amenable. You know, certainly I've
10 run some, some preliminary numbers -- 24 cents per
11 kilowatt hour. You know, what we're being asked to
12 do here is absent what the Legislature did, which is
13 expressly codify a mandate saying that you'll have
14 110 megawatts statewide, which, again, one utility
15 has captured and the others are scratching their
16 heads saying, well, how come we can't get something
17 like this?

18 Well, there's, there's many ways to go
19 about it. You can get the Legislature to do another
20 mandate that makes you specifically eligible -- good
21 luck -- or we can use our discretion here. But part
22 of using our discretion is to ensure that rates are
23 fair, just and reasonable, and that's an equal
24 important part of this. And I really think from my
25 perspective it sounds like we're dealing with a few

1 cents, and Commissioner Klement stated 37 cents over
2 the life of the project at least from the cost
3 impact that I saw in the appendix that was, you
4 know, in the near-term in the midst of these
5 difficult economic times like 50 cents per, per
6 customer per month increase on the bill.

7 So I guess what I'm trying to do is be a
8 reasonable person, you know, appeal to Mr. Cherry
9 and, and his company to see if we can sharpen the
10 pencil and get a little bit better deal for the
11 ratepayer, in which case might entice me to exercise
12 the broad discretion I have to move forward and to
13 set a meaningful example that, you know, puts the
14 Commission somewhat out on a limb, but it seems to
15 be consistent with the discretion, I mean the
16 direction from the Legislature to move forward. And
17 I agree with Commissioner Argenziano; if we don't do
18 it, you know, when are we going to get to, to moving
19 forward?

20 But, again, price point is very important
21 to me given my financial background, given my
22 renewable experience, and I'm not ready to buy off
23 on this at the contracted price. I think it's, it's
24 a little bit too high, and I do think that -- you
25 know, the FPL cost I would expect to be higher than

1 the levelized cost for this project because FPL for
2 regulatory accounting treatment cannot deal with the
3 investment tax credit in the same manner in which a
4 private entity can.

5 So, again, it would seem to support the
6 conclusion that levelized costs for the project
7 should be lower than the FPL number. So, again, if
8 we can get some downward movement, sharpen the
9 pencil, maybe that could be done, a gentleman's
10 agreement with a brief break, I'm willing to move
11 forward. If not, again, I'll be supporting the
12 staff recommendation because I feel, based on the
13 analysis and the limited analysis that's done, I
14 don't have a significant degree of confidence that
15 the consumer and the ratepayer are being asked to
16 overpay for this renewable resource. Thank you,
17 Mr. Chair.

18 **CHAIRMAN CARTER:** Commissioners, let me
19 kind of make it easy for you guys. I really don't
20 need a break, not on this matter. We've talked
21 about it before and we talked about it last time.
22 Although Mr. Wright didn't quote me, is that last
23 time I said that when we went forward with the RPS
24 standard, is that we went forward from the
25 standpoint to where we had a 70 percent carve-out

1 for solar. The other thing I said last time was
2 that we wanted to, and I've said this several times,
3 Commissioners, you've heard me say this, whenever we
4 got to renewables I said we want to put out the
5 welcome mat to let companies and let the capital
6 markets know that Florida is open for business, and
7 I've said that we need to move forward.

8 And the thing about it is, Commissioner
9 Argenziano is correct, is that the Legislature left
10 it up to our discretion. This, this project here,
11 as far as I'm concerned, meets the standards for us
12 to move forward.

13 Now I think if the costs were far more
14 significant than 36 cents a month, yeah, I'd be
15 concerned about that. But by the other thing is
16 that I'm more moved by the vision that the
17 Legislature and the Governor has set forth for us in
18 terms of moving forward on renewables is that if we
19 don't do it now, Commissioner Klement, if not now,
20 when? If not us, who? Now is the time. Is that
21 Tampa Electric has gone out, they tried to do a
22 self-build and tried to see could they do it
23 themselves. No, they're not -- they couldn't do
24 that. They put out an RFP, went through an open
25 process, and subsequent to that came back, staff has

1 done a recommendation, we did, we've met on this
2 before, we're meeting on it again. And,
3 Commissioners, I'm saying let's move forward. I'm
4 okay with this. I'm okay with moving forward on
5 this. I support it. I support Commissioner
6 Argenziano in terms of denying staff and moving
7 forward.

8 **COMMISSIONER KLEMENT:** Mr. Chairman.

9 **CHAIRMAN CARTER:** Commissioner Klement.

10 **COMMISSIONER KLEMENT:** Can either Mr.
11 Wright or, I'm sorry, Mr. --

12 **MR. BEASLEY:** Lee.

13 **CHAIRMAN CARTER:** Mr. Beasley.

14 **COMMISSIONER KLEMENT:** I'm sorry. I don't
15 have all the names down. Respond to Commissioner
16 Skop's -- was it a proffer as I understand in legal
17 terms?

18 **COMMISSIONER SKOP:** I don't, I don't think
19 I'm proffering because I'm not appearing before the
20 Commission. I think that it's a, it's an
21 invitation, I think, to build consensus on what I
22 see forming up to seeing Commission approval of this
23 project, and it can either be a majority approval or
24 a unanimous approval. I think getting my approval
25 would require some sort of compromise to sharpen the

1 pencil to ensure that the ratepayer by my own
2 calculation based on staff's analysis is not paying
3 \$44 million more than necessary over the life of
4 this project, which translates into pure profit for
5 Energy 5.0.

6 Just to emphasize, again, I'm not doing
7 this objectively. I actually have actual renewable
8 energy experience. So I tend to think I have a good
9 handle on what I'm talking about. And if we want to
10 ignore the economic reality of just, you know,
11 moving forward with renewables without being
12 cognizant of, you know, \$44 million, then that's the
13 Commission's prerogative. But what I'm trying to do
14 is be fair to the utility, fair to the company, but
15 also fair to the ratepayers.

16 **CHAIRMAN CARTER:** Commissioner Argenziano.

17 **COMMISSIONER ARGENZIANO:** And I appreciate
18 that experience, and I didn't fall off the turnip
19 truck yesterday either, and have done a lot of
20 research on what the costs for solar is. And I
21 respect Commissioner Skop's opinion on that. I just
22 don't see it as out of line as maybe you do. And
23 profit is not a bad thing. And if you want
24 companies to move forward to be able to start to
25 move in the direction that the state is saying, hey,

1 this is what we need you to do; otherwise, they're
2 going to stay, continue to do the same thing where
3 they are having, there is profit. So I don't see
4 profit as being bad. I see taking advantage as
5 being a bad thing, and that's where I raised a
6 concern. But I don't have the same level of concern
7 as the cost of the solar. I think from what I've
8 seen in other countries as well as this country it's
9 in line and, and I'm comfortable with that.

10 And that's not in any way disrespectful of
11 your opinion, Commissioner Skop. I appreciate that.
12 I have taken the time to do some research on my own
13 and asked some experts as far as costs with solar is
14 concerned. And I'm just afraid that, you know, if
15 we don't start moving forward, and with those
16 cautions that Commissioner Skop indicates, that
17 we're just not going to get there. And I appreciate
18 that. And I also appreciate the Commissioner's
19 attempt to try to get it cheaper for the consumer
20 because that's a good thing to do.

21 **COMMISSIONER SKOP:** Mr. Chair.

22 **CHAIRMAN CARTER:** Commissioner Skop.

23 **COMMISSIONER SKOP:** Thank you. And --
24 thank you, Mr. Chair. And, Commissioner Argenziano,
25 you know, I totally -- it's a subtle but important

1 part I think that, again, for the precedential
2 effect in terms of the Commission moving forward in
3 a bold direction and breaking from past precedent,
4 again, certainly having a majority or actually a
5 unanimous decision would go a long way in sending a
6 regulatory signal not only that Florida is open for
7 business but also to the Legislature, also to the
8 company.

9 So, again, I think that, you know,
10 certainly in the -- we've had some discussion about
11 ROE and, you know, shareholders investing rather
12 than the ratepayers, and I know that you dissented
13 against the ROE that was awarded there. But, again,
14 I think that in light of what the ratepayers are
15 being asked to bear in light of all the other
16 increases, including the, some of the rate cases,
17 you know, the \$44 million is somewhat important.
18 And, again, I think that at least from my
19 perspective I'd have a better comfort level if the
20 cost was below, somewhat below what was contracted
21 for and in between the estimated levelized cost
22 calculated by staff and what was contracted for.

23 And, again, Mr. Cherry, it's up to you,
24 because my, my, my decision on this pretty much
25 turns on the balance. I'm trying to find, strike a

1 better bargain for the, for the ratepayers.

2 **CHAIRMAN CARTER:** I don't, I don't know if
3 that's possible, Commissioner, because what we're
4 talking about now is the cost. The company is going
5 to have to go to the capital markets and borrow the
6 money. So by, by the same token that we have this
7 estimated cost, that by, by definition would mean
8 that they wouldn't have a precise cost to come in
9 and say, okay, well, let's whittle it down. I think
10 that would be, this is just my own opinion, but I
11 think that would be unfair to the company to have
12 them negotiate against themselves when they've got
13 to go into the capital markets.

14 I think what we've got here -- we know
15 what this cost is going to be. And if they come in
16 to us for more than that, then the Commission has
17 the right, the authority and the ability to say
18 we're not going to approve anymore than this.

19 But I think that to say, Commissioner,
20 that we have to go back and, that the company has to
21 go back and sharpen their pencil, I think that, I
22 think that that puts them in a posture to where they
23 say, well, you know what? It was already, you know,
24 too expensive before. Let's make it even more
25 expensive to where we won't do it at all, and I

1 think that's disingenuous. I think that that's
2 disingenuous, Commissioner.

3 Commissioner Skop.

4 **COMMISSIONER SKOP:** Thank you, Mr.
5 Chairman, and I certainly respect your view on that.
6 Again, my concern is not to ask them to, to sharpen
7 the pencil, it's just to recognize the fact that if
8 there is some opportunity to look at, you know,
9 bettering the cost over and above what was
10 contracted for. And, again, the estimated cost is
11 based on imperfect information.

12 I mean, we'd have a much better, and I
13 think I see staff nodding their head, a much better
14 handle on what the levelized cost was had the
15 company given staff some additional information
16 other than the rudimentary data that they provided,
17 you know. So, again, my confidence level is based
18 on the imperfect information I have. And what my
19 gut tells me is that based on the information we had
20 to do our best thoughtful analysis, that the
21 levelized cost as determined by staff is less than
22 the contracted price. And that levelized cost
23 incurred -- includes a fair rate of return for the
24 project.

25 So, again, I think that -- you know, I

1 want to be part of this decision and I want to be
2 part of a unanimous decision, but I also want to be
3 part of being fair to the ratepayers. And I do feel
4 that we're slightly overpaying here on the contract
5 price based on the levelized cost. And that's
6 strictly an analytical analysis. It has nothing to
7 do with policy. I support renewables. But, you
8 know, fair, just and reasonable is an equal
9 criteria, and I just can't ignore \$44 million, just
10 having that evaporate into thin air and saying the
11 ratepayer is on the hook for that.

12 **CHAIRMAN CARTER:** I don't think anybody on
13 this Commission is ignoring \$44 million,
14 Commissioner. And I think the issue is whether or
15 not we as Commissioners are going to exercise our
16 right to vote on this issue. And I think the issue
17 is fairly clear to us: Do we want to say that we're
18 in favor of renewables in Florida? Staff has done
19 an outstanding job on this recommendation, but staff
20 doesn't get to vote. It's our vote on where we want
21 to go. And I don't think that because I'm in favor
22 of this makes my, my reasoning ability or my
23 commitment to the ratepayers any less than any
24 Commissioner on here. I think that's a, a rabbit
25 trail.

1 I think the real issue in Florida, the
2 Sunshine State, in Florida where we sent in our RPS
3 standard, where the Legislature recalibrated the
4 renewables in 7135, where the Governor is standing
5 up between God -- before God and everybody saying we
6 need to do renewables, and these companies stepping
7 up to the plate saying, look, we've gone through an
8 RPS process. It was a public, open process, and
9 this is the best we could do. Right now is that if
10 we keep doing what we've always done, we'll always
11 get what we've always gotten. It's time now, my
12 brothers and sisters, to cut bait. It's time to cut
13 bait. It's time to cut bait. I mean, it's time to
14 kind of bring this to a closure.

15 **COMMISSIONER SKOP:** Mr. Chair.

16 **CHAIRMAN CARTER:** Commissioner Skop and
17 then Commissioner Edgar.

18 **COMMISSIONER SKOP:** Thank you. And just
19 one, again, final point. Again, the difference
20 between the contract price and the levelized cost
21 determined by staff is roughly the equivalent of
22 one-third the residential retail rate of
23 electricity. I don't think I'm wrong on that. It
24 may be actually a little bit more than that. That's
25 the difference. You're allowing then on top of

1 TECO's weighted average cost of capital to get
2 roughly one-third of the retail cost of electricity
3 over and above that. And, again, I think that that
4 gets to be an issue because even for net metering I
5 think it's eight cents per kilowatt hour when we pay
6 out on that credit at the end of the year. Tom, can
7 you help me out with that?

8 **MR. BALLINGER:** For net metering it's a
9 carry forward credit of the retail rate. It's a
10 kilowatt hour offset is what it is. So you are
11 getting whatever the retail rate, whether it's
12 eight, ten --

13 **COMMISSIONER SKOP:** But the true-up at the
14 very end --

15 **MR. BALLINGER:** Yes.

16 **COMMISSIONER SKOP:** The true-up at the
17 very end is not, it's not --

18 **MR. BALLINGER:** No. The true-up at the
19 end is at the as-available energy rate.

20 **COMMISSIONER SKOP:** Okay. And what is
21 that roughly?

22 **MR. BALLINGER:** Three to four cents per
23 kilowatt hour.

24 **COMMISSIONER SKOP:** Three to four cents?

25 **MR. BALLINGER:** Uh-huh.

1 **COMMISSIONER SKOP:** Okay. All right.

2 **MR. BALLINGER:** And, again, that varies by
3 utility.

4 **COMMISSIONER SKOP:** Right. All right.
5 So, again, just a consideration. I'm not opposed to
6 the project. I'm just trying to make the point very
7 well known that that's my sticking point is simply
8 the numbers are higher than the record evidence show
9 me they need to be.

10 **CHAIRMAN CARTER:** We're all making our
11 points, Commissioner. That's, that's part of the
12 process. Our debate -- five independent
13 Commissioners with five independent ideas. But I do
14 think where we are now on this issue based upon the
15 fact that the company followed the rules and then
16 they followed the rules and said this is the best
17 possible alternative based upon our company as
18 they're situated and they brought it to us. We, we
19 deferred it last time. They brought back some
20 additional information. And I think that everyone
21 in this state, even Commissioner Edgar was on there
22 before I was, on the Energy Commission and now it's
23 the Energy and Climate Commission, it's known
24 universally in this country that the cost for solar
25 or wind is more expensive, and it's only going to

1 get more expensive if we don't do something now. Is
2 that -- it's like the old Fram Filter guy said, "Pay
3 me now or pay me" -- "Pay me now or pay me later."
4 You're going to pay more later.

5 And if we are going to say that we are
6 supportive of renewable energy in Florida, if we are
7 going to say that we're going to cut the Gordian
8 Knot and just move forward, if we are going to say
9 that we want to let the Legislature know that we
10 hear them loud and clear and we're moving forward on
11 that, then we need to move forward. And I think
12 this is a great opportunity for us to do that. I
13 mean, it's a good project. It doesn't have -- like
14 I said before, staff did a great job. This is a
15 great recommendation. I don't have any problem with
16 the recommendation. I do have a problem with the
17 concept, what the Legislature and the Governor has
18 given us the vision to move forward to say, well,
19 you know what, maybe they didn't really, they didn't
20 really mean that when they said it. But I think
21 that if we don't start doing solar in Florida now,
22 it'll be cost prohibitive later.

23 Here we are, December -- what's the
24 date -- the 15th, 2009. I'd hate to come back and
25 visit with you guys December 9th, 2012, and y'all

1 are still thinking about the same thing. So I'm
2 ready to move forward, Commissioners. I'm ready to
3 move forward.

4 Commissioner Klement, you're recognized.

5 **COMMISSIONER KLEMENT:** Thank you, Mr.
6 Chairman. I think I share Commissioner Skop's
7 concerns about costs, but I, and I also have
8 concerns about the next case, even though you say
9 it's going to be a case-by-case basis and the
10 precedent. But all things being equal, and all of
11 your very persuasive arguments, I think that I will
12 go back to the position that I took back when this
13 first came up. And I use the -- since we're so fond
14 of acronyms here -- INNW INUW: If not now, when?
15 If not us, who? Thank you.

16 **CHAIRMAN CARTER:** Commissioner Edgar,
17 you're recognized.

18 **COMMISSIONER EDGAR:** Thank you, Mr.
19 Chairman. It has truly been an interesting
20 discussion today and also I guess about two weeks
21 ago when we talked about this project. I mentioned
22 earlier that I, I've learned a lot through it, and I
23 always appreciate that. And I always appreciate
24 persistence as well. And I generally -- genuinely,
25 excuse me, genuinely prefer it when we are able to

1 come to a unanimous decision. There have been
2 issues in the past where I have agreed to maybe some
3 concessions, for lack of a better word, to help us
4 get there, and usually in hindsight I think that has
5 been a better decision. Once in a while I've
6 regretted that when I've learned more down the road.
7 But in this instance that may not be possible, and
8 sometimes it is, it is not possible. And there, as
9 we have all learned in the past, there can be great
10 benefit to a four-to-one vote or a three-to-two vote
11 or sometimes putting a motion out there for
12 discussion that does not carry the day and value is
13 often the result of all of those discussions.

14 So I will make this comment, and, Mr.
15 Chairman, if we are at that point, I'll offer a
16 motion and just see where you would like to take it
17 from there.

18 **CHAIRMAN CARTER:** Okay. We'll see after
19 you make your comment about the motion.

20 **COMMISSIONER EDGAR:** Okay. Okay. My
21 comment is this, and it is my last comment. I think
22 that the staff recommendation on this matter is, in
23 my opinion only, the right recommendation for the
24 staff to make with all of the information that they
25 had prior and since in the past two weeks when we

1 asked you to go back and look into some issues and
2 bring it forward to us again. I think it is the
3 right recommendation for staff. I also note that I
4 have been criticized sometimes in the past quite
5 publicly for not always agreeing with the staff
6 recommendation.

7 In this instance, I do believe it is one
8 of those that comes down to, as I said earlier,
9 where the costs reside and what is our policy on
10 that and what is the precedent. I do not think that
11 it is clear-cut. I think it is gray. And I look
12 forward to many, many, many more discussions on all
13 of these issues. And I mean that, I look forward to
14 them. That's one of the reasons why I was
15 interested in doing this job, for these sorts of
16 policy discussions and decisions.

17 So, Mr. Chairman, I would offer the motion
18 at this time that as to Issues 1 and 2 we do not
19 adopt the staff recommendation, but instead approve
20 the petition for approval of the solar energy power
21 purchase agreement between Tampa Electric Company
22 and Energy 5.0. And that if we are able to reach a
23 decision on that, that then we would include closing
24 the docket per Issue 3.

25 **CHAIRMAN CARTER:** There's a motion. Is

1 there a second?

2 **COMMISSIONER KLEMENT:** Second.

3 **CHAIRMAN CARTER:** Motion and a second,
4 Commissioners. And the motion is reflective that we
5 would deny staff's recommendation but approve the
6 company's petition in this matter. Is that right?

7 **COMMISSIONER EDGAR:** Yes, sir.

8 **CHAIRMAN CARTER:** We're in debate. In
9 debate. Commissioner Skop, you're recognized in
10 debate, sir.

11 **COMMISSIONER SKOP:** Thank you, Mr.
12 Chairman. And, again, I wish this could have been a
13 unanimous decision, again, I think for the reasons
14 that I previously articulated, primarily due to the
15 fact that the contract cost as agreed to by the
16 parties, which is a confidential number, exceeds the
17 levelized cost of the project as estimated by staff.
18 Again, I feel that the ratepayer is overpaying and
19 that's my only disagreement why I cannot support
20 what appears to be a majority decision on this
21 issue. So I will be voting against the motion.
22 It's not because I do not support renewables. I
23 embrace them wholeheartedly. But what is prompted
24 by this is a lack of compromise to ensure that the
25 ratepayers are not paying approximately \$44 million

1 over the life of the project more than they should
2 for this renewable resource. And if you look at the
3 estimated capital cost of the project, that's
4 roughly one-third of the cost of the project is
5 going into profit.

6 So, again, I cannot reasonably support
7 this motion, but I do firmly support renewables.
8 And had the company taken the opportunity to try and
9 adjust the levelized, I mean the agreed to contract
10 rate down to a number below what it currently is, I
11 would have supported this motion and it would have
12 been unanimous. But I have to, you know, go with my
13 gut, and it's, sometimes it's tough to be on the
14 unprevailing side of a decision. But, again, it's
15 principled and a detailed financial analysis and
16 judgment. And so I respect my colleagues and their
17 desire to move forward on this and, but I must
18 respectfully dissent on this issue. Thank you.

19 **CHAIRMAN CARTER:** Thank you.

20 Commissioners, in debate.

21 Commissioner Argenziano.

22 **COMMISSIONER ARGENZIANO:** Just, just
23 briefly. I just -- when you're, when you're sitting
24 and looking at any industry, and solar and
25 renewables have been around for a while but not to

1 the same extent as the traditional energy that we
2 produce, and they are quite literally trying to get
3 their foot in the door, and when that happens with
4 any industry, whether we're talking solar or
5 anything, there are going to be unknowns, there are
6 going to be higher costs. They have to struggle to
7 get in there politically. There are, there are
8 political reasons for the struggle until they make
9 it to that point and get in can you have more
10 levelized numbers to understand. So to, to -- you
11 can't support renewables and not understand that
12 it's a newer entry into the, into the traditional
13 system and it's going to have some unknowns.

14 And just to make sure it's on the record,
15 I've looked and done research and I think it's
16 pretty much in line with what I've found in other
17 places and I feel comfortable with that. And I just
18 feel that at this point the state has said loud and
19 clear, as you have indicated, Mr. Chair, that the
20 Legislature, which I do agree they need to be more
21 specific on certain things so there's more of a
22 comfort level, has made it loud and clear which way
23 we need to go. And as an individual with a son and
24 hopefully grandchildren and many to come in the
25 future, that I think it's the right thing to do to

1 move through. That doesn't mean that you don't
2 question the costs, as Commissioner Skop has and
3 Commissioner Edgar, that is not what I'm saying.
4 That is definitely a plus and needs to be done with
5 anything we do, so not ignoring that.

6 But -- and as far as unanimous decisions,
7 I've never been one to strive that it has to be a
8 unanimous decision because I don't think any one of
9 us agree. While we want there to be unanimous
10 decisions, that's a nice thing to have, I don't
11 think any one of us is going to feel that we have to
12 vote one way or the other just to make a unanimous
13 decision. So I just wanted to make that clear.

14 But I appreciate the debate and the
15 discussion. It was, it was a good one and a healthy
16 one.

17 **CHAIRMAN CARTER:** Thank you. In debate.
18 In debate. Any further debate? Hearing none, all
19 in favor of the motion, let it be known by the sign
20 of aye.

21 Aye.

22 **COMMISSIONER EDGAR:** Aye.

23 **COMMISSIONER ARGENZIANO:** Aye.

24 **COMMISSIONER KLEMENT:** Aye.

25 **CHAIRMAN CARTER:** All those opposed, like

1 sign.

2 **COMMISSIONER SKOP:** Aye.

3 **CHAIRMAN CARTER:** Show it done. Thank

4 you, staff. Thank you, Commissioners.

5 (Agenda Item 3 concluded.)

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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 4th day of January, 2009.

Jane Faurot
JANE FAUROT, RPR
FPSC Official Commission
Reporter
(850) 413-6732

Linda Boles
LINDA BOLES, CRR, RPR
FPSC Official Commission
Reporter
(850) 413-6734