BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110090-EQ

PETITION FOR APPROVAL OF NEGOTIATED POWER PURCHASE AGREEMENT WITH U.S. ECOGEN POLK, LLC BY PROGRESS ENERGY FLORIDA, INC.
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PROCEEDINGS: COMMISSION CONFERENCE AGENDA ITEM NO. 4

COMMISSIONERS PARTICIPATING:
CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, September 20, 2011

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

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P R O C E E D I N G S

COMMISSIONER EDGAR: Commissioners, that will bring us to Item 4. And we will give just a moment for our staff to come forward.

MR. ELLIS: Good morning, Commissioners.

COMMISSIONER EDGAR: Good morning.

MR. ELLIS: Item 4 is Progress Energy Florida's request for approval of a negotiated purchase power agreement with U.S. EcoGen Polk, LLC. EcoGen intends to construct and operate a 60-megawatt biomass facility. The negotiated contract features fixed prices for energy and capacity.

In reviewing the contract, as with the past, staff evaluated both the information in the petition and the company's most recent estimate of avoided cost. Based on this review, staff finds that the contract is marginally cost-effective. When evaluating against the most recent estimate of avoided cost, it appears that in certain circumstance there is a potential, if EcoGen defaulted after the in-service state, that there may be insufficient funds to repay early capacity payments.

Rather than recommend denial of the

contract, staff recommends that Progress' shareholders make customers whole if the contract's termination fee and other collateral are insufficient. Staff recommends approval of the negotiated contract. Staff is also available for any questions you may have, and representatives from Progress are also available and would like to speak.

COMMISSIONER EDGAR: Thank you. And we'll look to Progress.

MS. TRIPLETT: Good morning. My name is Dianne Triplett; I'm with Progress Energy; I'm in the legal department. And with me is Mr. David Gammons. He has a long title, Lead Power Account Management Specialist. He is here because he was the lead person with Progress negotiating this contract.

Progress basically has four concerns with the staff recommendation. The first concern is that the staff recommendation indicates that there are fixed energy payments, and it indicates that this passes the risk of the price changes to our customers. And we wanted to note that it is required in the rule, it's Rule 25-17.250, that we offer a fixed energy payment scenario to the counter-parties, so we are required to offer that by the Commission rules. So I just wanted to clarify that point.

Our second concern is that the recommendation on Page 5 seems to suggest that if the Commission were to approve the contract today, at some later point in the fuel clause when we come in and ask for recovery of those payments that the Commission could then review those payments again. And we would agree that in terms of making sure that the payments are accurate, that we actually paid what we were supposed to under the contract, and the calculations are done correctly, that that is appropriate for the Commission in the fuel clause. But to the extent this recommendation implies that you would have the opportunity to come back later and essentially second-guess the contracts that you were approving today, we believe that's inappropriate and that's not contemplated by the Commission rules. Again, we may be overly cautious, that may not be what the staff intended, but we wanted to point that out to the Commission.

Our third concern is the issue of which fuel forecast to use. So you'll see a lot of discussion in the recommendation as far as the 2010 standard offer contract, and the 2011 standard offer contract, and the updated fuel forecast. So this contract is a 30-year contract for 60 megawatts. It's complicated. We started negotiations on this back in 2010. We used the 2010 standard offer contract because that was what was available to us at the time. And we commenced negotiations, and there was a lot of back and forth and a lot of things that both sides need to do to get to the point of signing the contract.

So in this instance, we signed the contract in March of 2011, and then subsequent to that we filed the 2011 standard offer contract. And it seems to us that the staff recommendation is using this later information and using updated fuel forecasts to assess whether the contract is cost-effective, and we think that this is problematic for a number of reasons.

The first reason is that it creates uncertainty as far as what we are to do when we negotiate these contracts. The practice has been that we use the current standard offer contract. So in this case, when we started negotiations it was based on the 2010 standard offer contract. And then the negotiations takes a series of months, and then you get to the final signed contract.

Based on what the staff recommendation has done with using these later fuel forecasts, there is now uncertainty about what we are to do. We have to negotiate in good faith under your PSC rules, and we are concerned that it may not be good faith for us to start negotiations based on 2010 numbers, for example, and then later, you know, six months in say, wait a minute, we have an updated fuel forecast. We are now going to insert that and we are going to change things.

We are also concerned because it's not -- you can't just negotiate one term of the contract in isolation. You start with a price, the fixed energy payment, and that gives you the projected savings. And then there are lots of other conditions and terms that are negotiated, and each side is cognizant of where the starting point is. So if you change that starting point later in the process, it's kind of like you are starting back at ground zero. So it really puts a lot of uncertainty into the process.

The last concern is that the change in the fuel forecast can go both ways. So historically we have used the current standard offer contract, and the later fuel forecast, it makes the savings look better for our customers. In this case, unfortunately, it went the other way. So it goes both ways. And the fear is that the counter-parties, if they know that you are going to look at a later fuel forecast, they have leverage to say in the middle of a negotiation, well, Progress, you just had a new fuel forecast come out and it's better for me. So now I want more money, I want more payments, so now we are going to restart the negotiation process.

So, you know, basically, we feel that the staff recommendation encourages us to chase forecasts rather than setting a point in time, negotiating based on that, and evaluating it based on what we knew when we started negotiations. And so there's just a lot of uncertainty.

And just a couple of weeks ago Mr. Gammon gave a presentation describing how Florida PEF has the most firm renewable contracts in the State of Florida. We have folks that are knocking on our door right now wanting to start a negotiation process, and we are uncertain as to what to do. Do we start with our 2011? Do we wait until we have the 2012 numbers? You know, is there going to be a point in time where we start negotiations and we have to be finished before the next fuel forecasts come out. So, you know, Progress feels that you need to make a policy decision so that everyone knows, you know, going forward what is to be expected of us.

The last point, and it's probably the most concerning, is the issue of the termination security portion of the staff recommendation. You just heard the Commission staff indicate that shareholders would be asked to make up the difference if there is any shortfall given -- if the contract were to default. So this is very concerning to Progress. And I can tell you that this will be a deal breaker for us if you approve the staff recommendation as worded. In other words, we would have no choice but to terminate the contract, and here's why. As I indicated before, we base this contract on the 2010 standard offer contract. The termination security provision was calculated based on the 2010 standard offer contract. The difference that staff is recognizing and acknowledging, and it is a difference, that's based on the 2011 standard contract which came out after the contract was negotiated and signed.

So to put this risk on Progress'

shareholders is, with all due respect, unfair. We have to -- under your rules, under the federal legislation, and Florida legislation we have to negotiate in good faith and enter into contracts with qualifying facilities. And it doesn't matter if we don't need the power or we don't want the power, we are obligated to enter into these contracts, and we don't get any reward for doing so. We do get our costs. We get them recovered through the fuel clause, but there is no profit margin. There is no additional reward. So it's unfair for us to look to our shareholders to bear only the risk for these contracts when there is no corresponding reward.

So those are our four main points, and I believe that there is a representative from U.S. EcoGen here, as well, if you'd like to hear.

COMMISSIONER EDGAR: Would you like to make a comment at this time?

MR. QUINN: Yes, I'd love to do that. And thank you for the opportunity to speak, Mr. Chairman, and fellow Commissioners. My name is William Quinn, I'm the president and CEO of U.S. EcoGen. Our firm is an independent power company with plans to develop, finance, own, and operate a portfolio of these 60-megawatt renewable fueled power generation facilities in the State of Florida and in the greater southeast. We are actively developing a series of these projects not only in Florida, but in the Carolinas and up through into Maryland.

This is sort of a rare opportunity where you have a convergence of opinion from counter-parties that oftentimes are -- let's just say that there's a healthy tension across a negotiating table. And we view Progress Energy much like any of our utility customers as if they are truly our customers. We recognize the importance of a process that constantly has to manage the needs and the risks associated with these type of projects, and we recognize your interest in maintaining a balance of risks associated with protecting consumers, the companies, both retail and wholesale customers.

The process that's taking place in Florida right now is -- unfortunately, it's uncertain, and it's opaque. And what companies like U.S. EcoGen need is a transparent, predictable, and a fair process. And for many of the reasons that were just stated, we are in very much agreement that the process needs to be guided, and we are here to ask for your guidance.

We have seen precedence, or at least positions being taken in some of the recent staff recommendations. There hasn't been an awful lot of discussion at the Commission level, and these projects are approved. But for us to be able to move forward and invest 200 to $250 million in each project, we really need some guidance on the process. We entered into good faith negotiations in early 2010 based upon that particular contract, the standard offer contract. It was eventually approved. And so ultimately we negotiated, as was just mentioned, a security provision in the contract that covered ratepayers or customers of the utility for a particular exposure.

The one thing that I think we can all agree on is that over a 30-year term of a contract like this, particularly with fixed payments, that there is going to be disconnects where energy markets and prices will move around for natural gas and what have you, and so we can all agree that the forecast will not predict the future. That's the one thing we can agree on. But we make a fair and educated decision to go forward, and we have invested time and capital in acquiring a site in Fort Meade and moving forward with the reliance upon a process that we can count on.

So we are very interested in getting some guidance. If, for instance, it's constantly going to be a shifting sand until the big bang theory, until an event like this occurs where the Commission takes a vote on a matter, then we have to have an agreement that's flexible that we don't actually sign the agreement up front. We need to be, you know, sort of you to first before an agreement is executed, because otherwise it just needlessly is tying our hands.

So that's, I guess, what we're asking is if we move forward with a process that involves a 2010 site plan, we negotiate based upon that, we would hope that the contract would be approved in that prism, that light, and not be evaluated along the way.

Those are my comments. Thank you for your time.

COMMISSIONER EDGAR: Commissioners, we'll ask our staff to speak to the four general areas of concern that Ms. Triplett raised. Before we do that, are there any questions for Mr. Quinn at this time?

Commissioner Brown.

COMMISSIONER BROWN: And just general questions. This is your first project in Florida, is that right?

MR. QUINN: Yes, it is.

COMMISSIONER BROWN: You said that you developed similar projects in the Carolinas?

MR. QUINN: Yes, we're in the process of developing similar projects in the Carolinas. Our team, our core of our team came out of Pacific Gas and Electric, so we have a very experienced utility team that have developed not only in Florida but in other are parts of the country very significant-sized power generation facilities, both gas -- and my first biomass facility that I developed in 1983 is still in operation, and it frankly outlived the utility that we had a contract with. So we have a good group of people that understand the industry, understand how to execute these types of projects, and understand how to finance them.

COMMISSIONER BROWN: Thank you. And what does EcoGen plan on burning; solid waste, wood?

MR. QUINN: Yes. That is interesting part for us is that our business model entails actually a convergence between the power space and the agricultural space, meaning that we are intending to grow our own material, our own biomass. We are at the same time optioning sites for the power plants, we are also out engaging in negotiations for leasing property to grow eucalyptus primarily as a woody biomass that would be used as fuel for the project. This way there is an intimate balance between the fuel being grown, carbon sequestration of that fuel, and the combustion. And so you've got essentially what the Department of Energy and the EPA all refer to as a closed loop system as opposed to an open loop system.

COMMISSIONER EDGAR: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Madam Chair. And thank you, Mr. Quinn, for appearing. You know, I have made several comments in the past on trying to encourage companies such as yourself to develop renewable energy projects, and more specifically to discuss terms of the standard offer contract that can be negotiated where we do have flexibility in order to do that. So I appreciate you coming here, and Progress, as well, to discuss these items, because I think, again, for myself personally I want to hear that. I want to see what we can do as a Commission to encourage these projects, that, again, if they are at or below avoided cost will be nothing but a benefit to the ratepayers. So I appreciate that.

So just to clarify, you, I believe, Progress, you mentioned that the contract was executed, the one that was negotiated based on the 2010 standard offer contract?

MS. TRIPLETT: Yes, sir. It was executed March 28th. I think March 28th; in March of 2011, yes.

COMMISSIONER BALBIS: Okay. And I don't know if now is the appropriate time to ask staff, or if we should have them respond to the four concerns, but the question I have from a precedential standpoint, how do we deal with when we have an executed contract and then we approve it at an in-between gap? Has this happened in the past, and if so, what has the Commission done in those cases?

MR. ELLIS: In terms of a negotiated purchased power agreement, they are signed by the company and then brought before the Commission for approval. So typically in the contract they'll have provisions requiring approval by the Commission of cost-recovery and other factors. Do you want me to address the other fours concerns?

COMMISSIONER BALBIS: No, I want to clarify that point a little more. So in the past, has there been a situation where the fuel forecasts were different, and, if so, I understand the provision that we must approve it, but how did we handle the fuel forecast and the avoided costs?

MR. ELLIS: Traditionally, we look at the most recent estimate of avoided costs. And in several previous dockets, we have analyzed a more recent standard offer when it became available. And typically in those instances, though, the standard offer showed an increase in savings, so it was not an issue the way it is in this case.

COMMISSIONER BALBIS: Regardless of the fuel forecast, is this still a cost-effective project, just this would be less cost-effective if you used a recent fuel forecast?

MR. ELLIS: That is correct.

COMMISSIONER BALBIS: Okay. Thank you.

COMMISSIONER EDGAR: Mr. Ellis, can you speak to, again, the four general areas of concern? And if you can from the beginning on down, and we'll see where that takes us.

MR. ELLIS: Yes, Commissioner.

Starting with the second item, the annual review concern raised by Page 5, I believe the sentence in question is the last sentence of the second paragraph. Regardless, PEF would remain obligated to pay the contracted rate and may seek to recover the costs from the ratepayers through the fuel cost-recovery clause subject to Commission review.

Staff is referring to, in this instance, if the contract is approved now, that recovery would be going through the fuel clause, and the review in that instance we are referring to is not an annual prudence review of the fuel forecasts, but rather whether the contract was followed. So I believe that hopefully should address that concern.

COMMISSIONER EDGAR: I did ask you to move through, but I apologize for interrupting, but seeing Ms. Triplett going for the mike, does that answer the question that you raised to us about some uncertainty on behalf of your client as to what the meaning of the language was?

MS. TRIPLETT: Yes, ma'am. Thank you. We wanted that on the record so everyone was clear. So I'm fine with that.

COMMISSIONER EDGAR: Okay.

Commissioners, any comments or questions on that point? Okay.

Mr. Ellis.

MR. ELLIS: My apologies on going out of order.

COMMISSIONER EDGAR: Hold on.

Commissioner Brown.

COMMISSIONER BROWN: Thank you.

If I may, just a follow-up, so if the fuel adjusts above the contracted rate, though, that would come back under a prudency review?

MR. ELLIS: In this instance, if the contract is agreed to --

COMMISSIONER BROWN: If they seek recovery. My apologies.

MR. ELLIS: Yes, ma'am. If the contract is approved in this docket, the amount that they would be paid in this case is a fixed confidential value and it would be based on that amount and the amount of energy produced by the company. That would be the payment. And the check in this instance in the fuel clause would be whether or not the amount paid was equivalent to what was contained in the contract. It would not be a review of how the fuel forecast had changed at that time.

COMMISSIONER BROWN: Thank you for that clarification.

COMMISSIONER EDGAR: Okay.

Next point. Thank you.

MR. ELLIS: Back to the first point, the fixed values. We agree, staff agrees that the rule does allow for fixed values. Specifically it states a portion of the base energy costs associated with the avoided unit mutually agreed upon by the utility and renewable energy generator shall be fixed and amortized on a present value basis over the term of the contract starting at the election of the renewable generating facility as early as the in-service date of the renewable generating facility. That would be Rule 25-17.250, Section (6)(b). My apologies for not stating the rule before. So we do agree that fixed options are available to the renewable generator, we just raised concerns that in this instance the total savings has decreased significantly from the original petition.

That kind of segues into Issues 3 and 4, which both result from using the most recent avoided cost analysis. And it is the position of staff, and that in previous dockets we have always considered the most recent information available to us, especially with fuel. So we believe that by using the most recent estimate of avoided cost, which in this case is the 2011 standard offer contract, is the most reasonable and prudent method for analyzing whether or not the contract is cost-effective and whether or not the terms will protect the ratepayers.

COMMISSIONER EDGAR: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you. And thank you for clarifying that. And back to my previous question and where you confirmed that regardless of the fuel forecast that this project is cost-effective. Which I agree, I think we should look at the most recent information to determine if it is cost-effective as to whether or not we approve it. And, again, I'm in a position where I agree with everyone here, so it's difficult, but I can understand the developer's concern is you are negotiating with certain terms, you are moving forward, you're spending a lot of time and energy doing that, and I'm sure all of your decisions are based on the terms of that agreement.

So, again, I think I'd like to hear more discussion as to what our options are, what we have done in the past, knowing that using the most recent fuel forecasts alleviates my concern that the project is still cost-effective. But how do we deal with the issues that Progress and Mr. Quinn brought forward? I'd like to open it up to the board as to really discuss that further, and what we have done in the past from staff.

COMMISSIONER EDGAR: Thank you.

Commissioner Graham.

CHAIRMAN GRAHAM: I guess I have a question to staff. Let me back up a little bit. I agree with Commissioner Balbis and with staff that you need to use the most current data. You know, if I'm buying a house, and I'm moving forward with the contract, and before I signed the deal I realize things have changed and it's not as good of a deal as I thought it was, you know, as far as I am concerned, it's not a deal until I sign it. It's not a deal until it's a deal, so, you know, I think the most current data you can use as possible.

I do understand from the industry side, Mr. Quinn, you know, as I heard him say, and you didn't use these words, whatever you guys want to do is fine, just be consistent, let us know, and we can negotiate this stuff moving forward, but just make sure that we know going into this what the deal is. And, you know, I understand that, as well.

I guess my question to staff is if not for the contingencies that you put in here, if not for saying that if it does not meet the objectives that Progress would have to pay the difference, if not for that, would this marginal approval be enough for you guys to say you would approve it?

MR. ELLIS: If that component was taken out that it would remain the 2010 termination -- the termination security based on the 2010 standard offer, I think the Commission has the option of approving that, yes.

MR. BALLINGER: I'll give you a short answer. Yes, I think we would recommend approval of that. This is the first time we have come up with the collateral issue. I would suggest to you staff has been consistent in its evaluation looking at the most recent standard contracts that are available out there. We have done this even prior to this continuous offer of standard offers that came about in 2008.

I would note for you, too, that this contract was signed on March 28th, 2011. On April 1st, 2011, is when Progress filed its new standard offer. So by January or February they knew what their next avoided unit was going to be. That could have come into negotiations, and that is a little troubling.

I understand it is a moving target and negotiations take awhile. That is a fact we have to deal with. So I think the consistency is there that we are looking at both units. The part with the collateral that staff brought up is what we have been seeing lately in the recent trend is that rule that Mr. Ellis gave you earlier says -- and it is a very critical part, it says a portion of the base energy payment may be fixed. Not 100 percent, a portion. Now, I understand 100 percent is a portion, but we have seen it pushing it where it pushes all the risk of fuel prices to the ratepayers, and that's why I think it is very critical.

We get a one time shot at this. A snapshot looking at these contracts to approve them. As Ms. Triplett said, we don't go back in the fuel clause and look at prudency and evaluate them again on changing fuel forecasts and have a second bite of the apple. So I think it's very imperative that staff has the most recent information we can get and look at it especially when we are seeing contracts moving as to where everything is fixed and all the risk of the fuel price fluctuations is placed on the ratepayers. That's why we felt it was important to at least look at this. This is the first time that we have seen the collateral issue come up. Usually there is enough collateral in these contracts to cover them.

CHAIRMAN GRAHAM: Maybe I asked the wrong question. Maybe I should ask the broad question. Would you take this deal the way it's currently written?

MR. BALLINGER: I think that's what staff is recommending, to do that. We're giving -- originally I wanted to have mays in there, that Progress may be subject to making the ratepayers whole if and when these events happened down the road. The lawyers didn't like that; they like certainty; they like to say it shall be done. It's more of a notice to Progress that here is something that may be a shortage if these events occur. You may be on the hook for this. And we would explore it. They would have the opportunity to present a case that there is no shortage, that things happen, things of that nature.

So, yes, I would take it. I mean, the bottom line looking at the evaluation, the revenue requirements of the two contracts, it is cost-effective by a slim margin, but it does meet the criteria in our rule.

CHAIRMAN GRAHAM: And the reason why I asked that question is because I believe what Progress had said was a determining factor for me is this is not a profit-making thing for them. This is something that they are doing moving forward, if for nothing else, in a goodwill sort of thing. So then why are they are on the hook if this goodwill turns south.

Now, I do understand why would the ratepayers be on the hook if this goodwill turns south, and that's what I'm trying to figure out. Is it best to go back and renegotiate this contract, or is it best to move forward where we currently are?

MR. BALLINGER: I would suggest to move forward, but send a clear signal that moving to 100 percent of fixed energy and capacity on the whole thing is something we need to take a careful look at.

CHAIRMAN GRAHAM: Thank you.

COMMISSIONER EDGAR: Ms. Triplett.

MS. TRIPLETT: I'm sorry. On the rule about 100 percent of fixed energy, and maybe Mr. Quinn could respond to this, as well, because I know he's certainly in the position of getting financing. But the rule does say that we shall offer a portion. And he's correct that a portion is 100 percent. And the way that the recommendation and the way the statements are coming out it's like we are the bad guys for offering what's permitted and really obligated in your rules, to a certain extent, fixed energy payments. And it is -- frankly, I understand that it takes that to even get financing for these sort of projects. We're talking about -- they are risky endeavors. They are 30 years. There's a lot of different pieces that could -- you know, pieces of the puzzle that need to come together.

And so in order to provide the certainty to the financing that the developers are getting, you have to have -- and that's why the rule includes this obligation to have the fixed energy payments. But I guess it's just concerning that it's like we're trying to follow the rules and the legislative mandates, and then it sounds like we're the ones that are -- and trust me, I'm certainly aware that our customers, you know, are going to have to pay this. And we work very hard to protect our customers, but it's certainly a balancing act.

So one of the things I would say is about the standard offer contracts being filed in April. We did not know what the standard you offer contract would be until March 2011, and so rather than -- you know, January or February. And these negotiations are so complex, and it's our management and it's EcoGen's management, and it's a lot of moving factors that have to be considered. So to say that we could have just incorporated that at the last minute into our negotiations, I'm not sure that's fair. I think it would have delayed further the signing of the contract.

COMMISSIONER EDGAR: Commissioner Brisé.

COMMISSIONER BRISÉ: Thank you.

I think you partially answered my question. I was going to really ask in terms of if the contract, the initial contract was signed in 2010, and then we moved into 2011 to sort of finalize this thing, to get the real numbers. That gap in time there, and beginning with the possibility of having more accurate numbers in January and February, I am concerned as well as the others.

I don't have a problem with having the fixed price and whatever it is. Once the contract is signed, that's what it is. But my concern is that if there is a forecast that says that the numbers are going to be different and, therefore, the customers are going to be on the hook for a significantly higher number, that's where my concern is.

So if we can have the most accurate numbers, and I know that can create a problem in terms of the stage of where you are in the negotiation, but I don't know how we address that issue so that we can plug in the numbers so that our consumers aren't put in a tough situation. So if you can help me answer that question, then you put me in a much better position.

And I don't know if Mr. Quinn or --

MR. QUINN: Yes, thank you. I have a couple of comments.

One thing that I think is important to realize here, and I think staff just alluded to this, this point, is that we are in an almost unprecedented time period where natural gas prices, and I refer to natural gas because the avoided unit that we are measuring this contract against is a simple cycle natural gas combustion turbine. And those prices are at an all time low. And for the first time in my professional career of 30-plus years, we have seen this kind of a fall off. And it's a combination of not only supply, but economics.

But it's also important to note that when we sign a contract, no matter what time we sign it, even if we signed it April 1st, or May, there is still -- we experienced a five-month timeline associated with the approval process through staff. So there's going to be new information that comes along in that five-month window that will inform all of us as to what prices are at this point.

But I think it's also important to note that these are forecasts for long-term behavior pricing for 30 years. And I can assure you that over the 30-year period I hope to have an opportunity to come back in front of this Commission and have a conversation about how far in the money this contract is for the customers of Progress, because of, you know, a rebound in natural gas prices as our economy picks back up.

So I think that's kind of an important feature. If the Commission or staff wants to advise us that 100 percent fixed contracts or price contracts are not acceptable, that's great. Once again, just let us know what is the bogey, and we will move in that direction.

We actually did have conversations about gas prices and a gas index using the energy component to gas. Even though you can appreciate that my energy component is growing in a field and has nothing to do with natural gas. But I was willing to entertain that, and you'll see, hopefully, if we move negotiations forward on three other contracts in front of you, contracts that will be gas based. So we will have a more intimate relationship between the avoided unit escalation of prices and our contract prices.

You know, we are where we are. We are in this now. I still believe this contract is cost-effective. I still believe it's in the interest of the customers, and I think I'm just asking for your support in approving the contract.

COMMISSIONER EDGAR: Ms. Triplett, anything additional to respond to Commissioner Brisé?

MS. TRIPLETT: Yes. Thank you, Commissioner.

Commissioner Brisé, I hear where you are coming from, and it's a struggle. And just to clarify something that you said, when we began negotiations in 2010, we did not have -- we hadn't signed anything. It wasn't a letter of intent. What we were doing, though, is basing our prices, our starting point on the 2010 standard offer contract, which we have to file each year. And that's where the negotiations started, and then we brought it up to the point -- you know, we come to the point of March 2011 with the new information.

And the only thing I can think potentially that would work is setting some sort of -- you have to, you know, you have to start. If you start any time in the first part of the year, you have to start with this standard offer, and you have to be done with negotiations by this point or risk that -- or you have to update your numbers.

I don't know if that's -- and that's just off the top of my head, but it would certainly, I would think, impede negotiations. But I think as long as we knew that was kind of our, okay, guys, we have got to be wrapped up here by this date or else we're going to have to consider the next standard offer contract, I mean, maybe that something like that will get us to the same place.

Our problem is that that has never been the Commission's practice. Yes, you all have taken a look at later forecasts, but it has always just been, yes, we took a look at it. It's more in the money. Let's move on and let's approve it. And there has never been -- I mean, the next time, who knows? Maybe the next time it changes so much that now it's not, and then maybe that would be easy for y'all just to say, no, we are not approving it. But then you have what effect does that have on everybody in the future as far as entering negotiations. I don't know if that helps.

COMMISSIONER BRISÉ: It does. Thank you.

CHAIRMAN GRAHAM: Commissioner Brown.

COMMISSIONER BROWN: Thank you. I think Mr. Ballinger wanted to comment on something that was stated.

MR. BALLINGER: I was hoping you didn't notice.

COMMISSIONER BROWN: I did.

MR. BALLINGER: A little history might help. I think actually the process we have in place today is a bit more consistent and a bit more predictable for the renewable developers. Several years ago standard offer contracts were only put on the streets as needed. The utility had a unit, let's say, in 2014. It went out and it changed every three years, five years, whatever it was. And a lot of complaints we are heard from developers of municipal solid waste, biomass facilities, they would be negotiating with the utility and then the utility would say, aha, my avoided costs changed. We've got to start over again. And they would be back to square one and things like that, because it was unpredictable. You never knew when the avoided cost was going to change.

Our process today from the legislation in 2008 requires a continuous offer to purchase. So there is a new standard offer or just a verification of the current standard offer is valid every April 1st, so the developers know each year what the avoided cost is going to be. And to me that is a much shorter time window than negotiating for a year and a half perhaps and then things change. So it's out there knowing that this stuff is coming down the pike and should be taken into account. That's my opinion.

I think that the process we have got today works fairly well to try to balance the needs of both sides, because I have heard the other arguments, too, of utilities changing the avoided cost and then developers being upset because they are not negotiating in good faith, this kind of thing.

COMMISSIONER BROWN: Thank you, Mr. Ballinger, because that actually goes right in line with my question.

Ms. Triplett, I do empathize wholeheartedly. I think you said that staff's recommendation chases the forecasts which cast uncertainty with negotiations, and I personally can attest that nobody like uncertainty with negotiations. As a transactional lawyer, I have experience, I really can empathize with you.

However, that being said, obviously you are going to get financing after the Commission approves the contract. And that being said, I'm assuming there is a contingency clause for approval by the Commission, is that correct?

MS. TRIPLETT: Yes.

COMMISSIONER BROWN: That being said, it works both ways. There is uncertainty, but then it does shelter the customers and the company from risk once it is approved. So I would agree with Mr.

Ballinger that we do need to focus on the most recent costs and the most recent information that we have, and I would support the staff's recommendation.

COMMISSIONER EDGAR: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Madam Chair.

And, again, I agree that we need to look at the most recent fuel forecasts as a final check. And I think it's more of a final check, because, I mean, empathize with the renewable energy developers that they have to have assurance as to what the main component of the contract will be, which is the price. And I think that having an annual update of that gives a frequent enough change in terms so that the Commission is comfortable with that, the ratepayers are protected, and at the end of the day we have a check or a time, as we do now, to assess whether or not it is cost-effective. And even if we have a fuel forecast that just came out yesterday, you know, we should take that into account.

But I'm a little uncomfortable with the fact that they have been negotiating with certain terms with a Commission approved standard offer contract and that it has been executed with all the parties understanding what those terms are, and then because of a delay in it coming to the Commission that those terms can change. And so that is one thing that I am uncomfortable with, again, knowing that we have a check as to the latest fuel forecast to make sure it is cost effective. Because as Chairman Graham indicated, until we sign the contract you haven't bought the house.

So I think I may be differing with some of the members of the Commission as to where we are on this, but I just want to have a little bit of discussion on what the true risks are and how those risks are alleviated. And one question for staff, there are no capacity payments that are being paid to the developer until the facility is in operation, correct?

MR. ELLIS: That would be correct.

COMMISSIONER BALBIS: Okay. So really the main risk we have with these fixed energy costs is if fuel costs go down, is that one of the main risks that we have?

MR. ELLIS: For the total cost-effectiveness of the contract, it depends upon whether or not fuel escalates at a lower rate than anticipated in the contract. The fuel has a certain escalation, and if fuel goes below that value, then the cost-effectiveness would decrease, yes.

COMMISSIONER BALBIS: Okay. And what would happen or how would the ratepayers and Progress be protected if five years after the facility is in operation they have issues with fuel source and they just default on the contract and walk away?

MR. ELLIS: The contract contains several terms to try and protect the ratepayers in the event of a default. The specific requirement staff was suggesting that Progress should take over the surplus is only if those existing contract provisions are insufficient. The first step they have is a termination fee which is based on the difference of the early capacity payments the company has received and what an avoided unit would have received. And they have to have collateral in the form of letter of credit for that amount.

In addition to that, in the event of a default Progress would be eligible to receive the collateral related to the contract, which is an amount that varies both by what year of the contract it is and also the creditworthiness of the biomass facility. In certain creditworthiness levels there is no risk. The risk only varies based upon what level of credit rating there is and how far out into the contract it is in the event of a default. So it's a multi-stage -- several things have to go in order for there to be exposure to the ratepayers. It's kind of a worst-case scenario.

COMMISSIONER BALBIS: Okay. Thank you.

And, again, that makes me more comfortable with the protections that are in place. But I guess just to summarize, you know, this Commission has, at least since I've been here, approved these projects that are cost-effective in order to encourage renewable projects that are, again, below avoided cost and a benefit to the ratepayers. And my concern is that if we start adding uncertainty to the process that we are not going to be encouraging these types of projects that are cost-effective, that are a benefit to the ratepayers. And so I am comfortable with the terms that were in place when the contract was executed with the check of the recent fuel forecast that it's still cost-effective. But I think it may impact the ability for these renewable energy developers in negotiating and getting financing, et cetera, if there is more of a moving target.

COMMISSIONER EDGAR: I'm going to pose this to Ms. Triplett to begin anyway. This Commission has been clear for many years that we support the standard offer contract process, and that we want those contracts to be utilized when, indeed, that makes sense. And also that the standard offer contracts are a tool to be used as they are, but also are a tool to begin negotiations and that adjustments can be made through that process.

I support, and I believe I hear support from my colleagues for this project and for this type of project when cost-effective, and all of the other factors that go into that. But yet I also think I'm hearing, and I agree that we want, to the best of our ability and to the best that we can, realizing there are always uncertainties in the future, protect the ratepayers from potentially unknown additional costs.

So, Ms. Triplett, with all of that to kind of sum up, support for the standard offer contract process, support generally for the type of project when cost-effective that you have brought forward, but yet wanting, as our staff has tried to do, to protect ratepayers through this process, what would you propose at this point?

MS. TRIPLETT: You mean in terms of what the Commission should do with respect to this project and this recommendation?

COMMISSIONER EDGAR: Yes, in what is before us, because when we first began this discussion I thought I heard you say that on this one point of the termination security that that was a deal breaker. Yet through the discussion that we have had, I think some assurances have been given and some greater understanding of some of the terms that are before us and the understanding that I'm hearing from the Commissioners about using the updated forecasts. So with all of that discussion, where are we from the perspective of your client?

MS. TRIPLETT: I believe that Progress would, first of all, support the removal -- the order cannot contain the language on Page 7 about the shareholders. It's right before Section B about the shareholders making up the difference between the security -- you know, if there was a default, there is a risk there that the shareholders would have to make up the difference because the amount contained in the contract is based on 2010 information, and the calculation that staff has done based on 2011 is -- there's a delta.

And so if an order is issued that puts that risk on our shareholders, then we will exercise our rights in the contract which allow us to terminate this contract if the Commission approval is not something that we agree with.

And I'm not saying that to, you know, say, aha, I just think it's important for you to know that's how serious this is. Because we don't have any reward with this contract, and so it's not fair for our shareholders to take the risk.

I understand that your job is to protect the risks -- limit the risks to our customers, but, you know, that's where I'm at on that. So I would say that if that language is removed, and if there is clarification perhaps along the line of what Commissioner Balbis was saying about how the updated fuel forecasts and the updated contracts are to be used when evaluating contracts to give some certainty in the negotiation process as far as what are you going to be looking to us to do. I think an order that contains something like that we would be in favor of.

COMMISSIONER EDGAR: And I'm going to look back to our staff.

MR. BALLINGER: Same question?

COMMISSIONER EDGAR: Same question.

MR. BALLINGER: Okay. Again, staff is recommending approval of this contract with the caveat, if you will, of a notice, if you will, to Progress that if the Commission is uncomfortable with that part and the deal breaker with Progress, if you will, I think, as I said to Chairman Graham, staff would still support approval of this contract. It is cost-effective versus the 2010 or the 2011 standard offer contract. I would recommend to you that you continue to do that, to look at the most recent avoided cost, both on a fuel forecast and a capacity need, i.e., the newest standard offer contract, to give you the full information available.

The collateral caveat that we put in there is an unlikely event. Again, this would require a default midway through the contract for some other reason, and there are not being enough collateral on these lines of credit. There is a portion of the contract that allows Progress to go back for additional supplemental collateral, if need be. So there may be remedies there, but I don't think we need to argue that now.

Staff wanted to bring it to your attention because of the fact this is a 100 percent fixed contract and all the risk of any fuel prices have been shifted to the ratepayers. And I think the message that I would like to see is that utilities need to look very carefully at 100 percent fixed both capacity and energy contracts for this long term.

CHAIRMAN GRAHAM: Thank you.

MR. BALLINGER: Did that help?

COMMISSIONER EDGAR: Maybe, maybe not.

MR. BALLINGER: Did I answer your question?

COMMISSIONER EDGAR: Yes, you did answer the question, and I appreciate that. Thank you.

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you.

And thank you, Mr. Ballinger. And I think you hit on an important point on this being an unlikely event. Knowing that the contract, a good portion of that is confidential, what would either the percentage be -- the difference between the security and collateral and the early capacity payments, has that been established yet?

MR. BALLINGER: We can't because it's a moving number. It depends on EcoGen's creditworthiness when they do their financing as to how much collateral they have to put up. So it's a moving target there.

COMMISSIONER BALBIS: And I did see a table that showed the different credit ratings and the associated collateral. And, again, not delving too much into confidential information, I guess I just want to get a sense of how much -- how much are we actually risking in the unlikely event of a default.

MR. BALLINGER: I don't think it's that much. I'll get to Mr. Ellis for the number, but the odd thing of it is, and it's kind of counterintuitive, the worse EcoGen's credit rating is the more collateral they have to put up, so we don't have this problem, but they may not get the project completed. So it kind of works both against itself. But I don't think it's that much dollar-wise. Phillip, do you have that number?

MR. ELLIS: I believe the collateral amount is confidential.

MR. BALLINGER: I seem to recall some numbers between 3 and $11 million.

MR. ELLIS: (Indicating yes.)

MR. BALLINGER: Okay. I got a nod. And that would be -- just to be clear, I think that would be the estimated shortage between what collateral would be and the early capacity payment. So that would be the risk to the ratepayers, if you will.

COMMISSIONER BALBIS: Okay. Thank you.

COMMISSIONER EDGAR: Commissioner Brown.

COMMISSIONER BROWN: Thank you. I want to say that is a great project. It's a very exciting project. I certainly do not want to be the one that undoes the deal by including a provision that would undo the negotiations of a project that has such community-wide support, encourages fuel diversity, and with the comfort that if we remove this unlikely event, this collateral in the unlikely event that it's still cost-effective, it still complies with the rules, our rules, and it encourages cogeneration. With staff's assurances, I am amenable to removing that provision, that requirement.

COMMISSIONER EDGAR: Commissioner Graham.

CHAIRMAN GRAHAM: Tom, what do we do moving forward as far as not allowing this to be 100 percent fixed? Not this contract, but future contracts.

MR. BALLINGER: I understand. Is it 70 percent, 80 percent, I don't know the magic number. That's why we had language in the recommendation about Progress should be diligent in its negotiations to try to recognize that risk. I can't tell. Quite honestly that portion was in there more for solar developers who don't have a capacity payment stream, and they need an energy payment, and they may need a fixed energy payment to get their financing, unlike other renewables that have a capacity payment and an energy payment. So it is a mix, and I don't know the right number. I think just the suggestion to keep it in line, that it is shifting risk to ratepayers, and utilities need to keep the ratepayers in mind, too, when negotiating this.

COMMISSIONER EDGAR: Commissioners, it is about ten after 11:00, and from a sitting standpoint, I could use a stretch. So we are going to take a ten-minute break, and then we will be back and we will continue our discussion with this item. And we are on break.

(Recess.)

COMMISSIONER EDGAR: Okay. We are back on the record. Thank you all. It felt good to have a little bit of a stretch, and I appreciate the opportunity to take a few minutes on my own and reread some of the terms of the item that is before us.

I'd like to ask our staff a question, again. And I realize we have gone over this a few times, but it's going to help me again to think it through. This paragraph specifically on Page 7, the first full paragraph, and we have been focusing on that for the last little while. But the discussion kind of at the top of that paragraph that talks about the standard offer contract using the 2010 standard offer contract, and then also our staff doing the review using the 2011 standard offer contract. Now, from that additional review, with that updated information from 2011, is it correct that the project that is before us is still cost-effective to the ratepayers?

MR. ELLIS: That would be correct. This provision only refers to in the event of a default if their protections are sufficient. The overall cost-effectiveness isn't affected by this provision.

COMMISSIONER EDGAR: And we talked about it a little bit before the break, and I think

Commissioner Brown went through some of those in detail. But can you recap for us, again, all the protections that are in prior to the extreme result of a default?

MR. ELLIS: Yes, Commissioner. There are two major components of protection. The first is a termination fee, and this is a calculation contained in the contract that is the amount of early capacity payments received by the company minus what an avoided unit would have been paid based on the 2010 standard offer. And this is a fee that they have secured with a letter of credit that in the event of a default the company, Progress, would be able to draw upon.

In addition to that, there is also eligible collateral, which is the amount that varies. And under certain circumstances, if there is a high credit rating or during certain periods of the contract, based upon each credit rating, there could be instances if there is a default that is insufficient combined with the termination security.

And in addition to the eligible collateral, the company also has, under certain conditions, the ability to have supplemental eligible collateral which would increase that amount and, therefore, decrease the potential time periods or credit ratings at which the customers would be at risk. So there is a series of elements there that would try to minimize that, but in some instances there could be under certain times. So it's a multi-part, you know, multiple things have to lead up to the event where there would be a loss.

COMMISSIONER EDGAR: Thank you. I appreciate you walking me through that again. And I do think that point of the ability to require supplemental collateral is a key factor, as well.

Commissioners, further -- Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Madam Chair.

And I just want to summarize a few points and a question for staff. The negotiated contract that's included that this recommendation is addressing, is that based on the 2010 standard offer contract in terms or 2011?

MR. ELLIS: This is a negotiated -- the negotiated contract was negotiated using the 2010 standard offer, and that was the amounts included in the petition. It was a comparison to the 2010 standard offer. More recent information has come since that time, and staff analyzed it using the 2011 offer.

COMMISSIONER BALBIS: Okay. So staff analyzed the 2011 standard offer and the fuel costs to determine the cost-effectiveness and also the security provisions that you just discussed, correct?

MR. ELLIS: Yes, that would be correct.

COMMISSIONER BALBIS: So if we were to approve staff's recommendation with or without the changes to that sentence, or removal of the sentence in Page 7, it would be clear to renewable energy developers that when entering into negotiations with a utility that they can be comfortable that the current approved standard offer contract as the initial basis for negotiations is something that the Commission would support, provided that any additional updated information that it still passes the cost-effectiveness test?

MR. ELLIS: I think that would be accurate, yes. The most recent cost-effectiveness information does demonstrate a level of robustness of the contract, especially with the fixed rates. As things change is the contract robust enough to still show savings, and I think this one does.

COMMISSIONER BALBIS: Okay. And then one final comment and question for Mr. Ballinger. Having 100 percent of the energy payments being fixed, the only risk, or one of the risks to the ratepayers would be if fuel costs for the avoided unit, in this case a natural gas combustion turbine, would go down or lower than projected, correct?

MR. BALLINGER: That's the risk of the ratepayers of it not being cost-effective. And it's a little troubling when you see the net amount over 30 years being so close to break-even. That's always a risk in a fixed price contract, that if the fuel prices drop ratepayers see less savings. In other contracts we have seen, the negotiations of other terms and the fixed prices allowed enough headroom in there to allow for some movement.

COMMISSIONER BALBIS: But haven't we seen probably the lowest natural gas prices in recent history?

MR. BALLINGER: Yes. And, quite frankly, this contract when we finally got the updated information and where we were, there was some talk with staff about possibly recommending not approving this contract because of the riskiness of taking -- as you see on Page 4, only $800,000 of net present value savings -- taking 29 years to get there, that's a lot of risk that we are taking. And there was some discomfort with staff. But we did look at the fuel forecasts, realizing we are at probably historical lows of fuel forecasts. So the probability and the comfort of them increasing is probably greater at this time. But I agree with Mr. Quinn, we're going be wrong on the fuel forecasts, I just don't know which way.

COMMISSIONER BALBIS: Right. And I guess the point I'm trying to make is that if we are at historical all time lows for natural gas fuel prices, would this not be the time that we would want to fix these fuel costs?

MR. BALLINGER: Yes, sir. This is an opportune time, and you're hedging your bets, if you will, and locking in the fuel prices so that if and when they do rise, you have got a good deal.

COMMISSIONER BALBIS: Okay. I have no further questions.

COMMISSIONER EDGAR: Commissioner Graham.

CHAIRMAN GRAHAM: Maybe it's time for me to throw a monkey wrench in the middle of all this. I hear people talk about this being the all time low when it comes to natural gas prices, but in 2009 it was at an all time low, and then in 2010 it was even lower and at an all time low, and now in 2011 it is even lower and at an all time low. So if you would had looked five years ago, you would have never thought we would be at the point we are right now. Who knows where we are going to be next year. I mean, so every year you are saying we are at all time low and it can't do nothing but go up, and it continuing to go down.

You know, there's all kinds of what ifs out there when it comes to the shale gas, and what's going to happen with environmentalists, and all that kind of stuff. So at any time this could go the opposite way and abruptly, or it can continue to go lower.

My concern is that we are here, and it's a good deal, and we are all trying the best we can to try to make this thing happen. But what if we send it back to the negotiation table, and tell them to come back with it not being 100 percent fixed and let's see what we have. I mean, because we are still trying to bang that square peg into that round hole, and we don't have to do that. There is nothing lost by sending it back and taking care of the concerns that staff has.

MR. BALLINGER: I think the parties may want to address this, but there might be, because I think part of this is looking at federal funding for renewable projects, and there may be some milestones and things of that nature. But I would prefer the parties address you on that.

CHAIRMAN GRAHAM: Okay.

COMMISSIONER EDGAR: Ms. Triplett, Mr. Quinn, can you respond to Commissioner Graham?

MS. TRIPLETT: Yes. I think that certainly we could go back and negotiate, but there are -- this is so complex, and there's so many moving parts that there really is no guarantee that we would have a deal and come back with this project. And I would defer to Mr. Quinn on where he thinks -- because I know he has already been working on things like zoning and financing, and it may not be feasible to renegotiate.

MR. QUINN: Yes. Just from our perspective, we have been, you know, at this for well over a year now. We didn't anticipate that we would be this delayed in the process. To tell us to go back after we negotiate and execute a contract, go back and start again would not only create a chilling effect in my company and my investors, my board of directors, but would also cast, I believe, a very significant chilling effect in the industry as a whole. Because we could, once again, never know whether this process would have an end until we get to a point like this.

The one thing that I would like to just mention is that this contract wouldn't start even to generate any kind of exposure until 2014, that's when these prices begin. So you have to almost take a view that the natural gas market that we are in now will continue to progress until then.

As Mr. Ballinger mentioned, we have hopes, and our schedule is extremely tight, of making a commercial operation before the end of 2013 to take advantage of production tax credits that are available through the current legislation. There is no certainty that production tax credits would be available or would be extended beyond that period. That's a significant issue for us.

So I just would like to, once again, say that I think this contract is a delicate balance that has taken us a long time to get to this point, and I don't believe that we probably would have a project in Polk County if we were pushed back a year.

CHAIRMAN GRAHAM: That being said, I feel comfortable enough moving forward. Staff says this is marginal, and it's still a good project. It's still above the line, just so long as we take some of these conditions out of here. And I guess I would look for Legal to tell me what I need to take out of this recommendation as far as in the form of a motion that we can move forward with the cautions that were put up there by the utilities.

MS. ROBINSON: Staff is recommending the very last -- on Page 3, the very last sentence in the recommendation on Issue 1. In the event of a default or a determination security and/or collateral from EcoGen is not adequate, that could be taken out. Also on Page 7, for purposes of the order we could eliminate the similar sentence. The first paragraph on Page 7, it says in the event of a default, this could result in termination security and/or collateral from EcoGen not being adequate to fully reimburse the ratepayers. Therefore, PEF's shareholders should be -- so any reference to PEF's shareholders or PEF's liability to be -- responsibility for reimbursing the general body of ratepayers could be eliminated from the order.

CHAIRMAN GRAHAM: So if I make that in the form of a motion, and I guess I'll wait for a second before I move forward to explain. No?

COMMISSIONER EDGAR: Commissioner Graham, let me ask this, if I may, to staff. What my understanding of the response that Legal gave to your question would be to remove the last sentence in the staff recommendation paragraph for Issue 1, and then to follow through, through the item so that all language would be consistent with that recommendation as it would then remain, or our alternative decision as it would then be.

And I would ask that if that's the direction that the Commission wants to go, that in the order we are clear as to all of those protections that we have discussed today that are built into the contract as is it before us. And I'm getting nods, so my question is is what I have just described what you described to us?

MS. ROBINSON: Yes.

COMMISSIONER EDGAR: Okay. That means, Commissioner Graham, you're up.

CHAIRMAN GRAHAM: Does that mean my quasi-motion got a second?

COMMISSIONER BALBIS: I'll second that.

COMMISSIONER EDGAR: I think we have got a couple of seconds.

CHAIRMAN GRAHAM: We need to move forward with this type stuff. We need to move forward with biomass, and renewables, and everything down that path. It's a tight time for everybody. This is still a deal that is a good deal. And the fact of the matter is that at a time when everybody is looking to move forward and everybody is looking to provide jobs, and everybody is looking to do other things, anybody that wants to bring in industry to the State of Florida is a good thing, and I think that we should be encouraging that.

I think we need to send a clear message about the fixed costs in the future, but I think we are where we are today, and I think any risk that is given to the ratepayers is an absolute bare minimum right now. So I feel comfortable moving forward.

COMMISSIONER EDGAR: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Madam Chair.

And thank you -- I don't know if it is Commissioner Graham or Chairman Graham, if we have two chairs, but thank you for the statements and the motion. And I, too, support the motion, obviously, by seconding it.

I think this is a good project. I think creating 350 construction jobs and 50 full-time jobs in this state of the economy is important. Along with providing firm generating capacity, which is something that is different from other renewable sources. This is truly going to contribute to the base load, and I think that is important.

And to further clarify your statement, Chairman Graham, about the clear signal on the fixed price. Again, to Progress, and I believe I speak for the Commission that as you are starting or continuing to negotiate, this was a specific case that I feel that we approved the 100 percent fixed charges. But, you know, in the future, you know, I'm personally not comfortable being in a position where it's a take it or leave it situation. And, you know, this is a good project. I'm comfortable with all the provisions of it. But I think in the future, having the further reduction of risk to the ratepayers would be encouraged. So I just want you to leave with that message. Again, hopefully I am speaking for the other Commissioners, but I just want to thank Progress for continuing to provide these projects to us, and I think it is a good project for the state and for Progress' customers.

So thank you.

COMMISSIONER EDGAR: Any further discussion?

Commissioner Brisé.

COMMISSIONER BRISÉ: Thank you, Madam Chair.

I, too, am supportive of this project and of the decision that I think we're going to make shortly with the changes to the staff recommendation. One of the things I want everyone to note is that when we look at the latest and best information that we should rely on that information. And if we are in negotiations moving forward, that when that information is available that we then take that into account. And we, as a Commission, need to sort of create the environment where that is something that we all can work through because that is a concern to me with this.

So a word for the wise, I guess, as we move forward. Keep that in mind as you begin your negotiations, that if we are coming into a new year that you take into account that as you consider your timelines and time frame. So with that, I am comfortable with the motion as it stands.

COMMISSIONER EDGAR: Thank you.

And, Commissioners, we have a motion before us to amend the staff recommendation on Issue 1 per our discussion that would include Issue 2 as it is before us. All in favor say aye.

(Vote taken.)

COMMISSIONER EDGAR: All opposed?

Show it adopted.

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

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

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

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

DATED THIS 23rd day of September, 2011.

Jane Faurot

JANE FAUROT, RPR
Official FPSC Hearings Reporter
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