

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090539-GU

PETITION FOR APPROVAL OF SPECIAL  
GAS TRANSPORTATION SERVICE  
AGREEMENT WITH FLORIDA CITY GAS  
BY MIAMI-DADE COUNTY THROUGH  
MIAMI-DADE WATER AND SEWER  
DEPARTMENT.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 13

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

DATE: Tuesday, March 13, 2012

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

REPORTED BY: LINDA BOLES, RPR, CRR  
Official FPSC Reporter  
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## P R O C E E D I N G S

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3           **CHAIRMAN BRISÉ:** All right. Item 13 is  
4 Docket No. 090539-GU.

5           Ms. Kummer.

6           **MS. KUMMER:** Commissioners, I'm Connie  
7 Kummer with staff.

8           Item 13 addresses the proposed settlement  
9 to the parties' dispute over a special  
10 transportation agreement. The primary  
11 recommendation to deny the settlement will be  
12 supported by Bill McNulty and Sue Ollila. The  
13 alternate recommendation to approve the settlement  
14 will be supported by Elisabeth Draper and Martha  
15 Brown.

16           The parties are also here to speak.  
17 Mr. Floyd Self represents City Gas, and Mr. Henry  
18 Gillman and Mr. David Hope represent Miami-Dade  
19 Water and Sewer Department.

20           Staff is available for questions.

21           **CHAIRMAN BRISÉ:** Thank you. I understand  
22 that the parties are interested in five minutes each  
23 to address us.

24           **MS. KUMMER:** That was my understanding.  
25 Yes, Mr. Chair.

1                   **CHAIRMAN BRISÉ:** Okay. So at this time  
2 we'll ask Florida City Gas to go first. Mr. Self.

3                   **MR. SELF:** Thank you, Mr. Chairman.

4                   Commissioners, good morning. I'm Floyd  
5 Self of the Messer, Caparello & Self law firm,  
6 appearing on behalf of Florida City Gas today. With  
7 me is my in-house counsel for Florida City Gas from  
8 the parent company AGL Resources, Shannon Pierce.  
9 And also with me today from the management team of  
10 Florida City Gas that have worked on this case are  
11 Melvin Williams, Jesse Killings, Carolyn Bermudez,  
12 David Weaver and Brian Sulmonetti.

13                   Florida City Gas and the Miami-Dade County  
14 Water and Sewer Department are here today to  
15 demonstrate to you why their settlement should be  
16 approved on the basis of the comments that I'm going  
17 to make to you, or, in the alternative, on the basis  
18 of the alternative recommendation.

19                   As I'll discuss with you in a moment more  
20 fully, the primary staff recommendation made two  
21 fundamental errors in their analysis which we  
22 believe led to their incorrect recommendation to  
23 you.

24                   The settlement package overall is a double  
25 win-win. It's a win for Florida City Gas and

1 Miami-Dade, and, more importantly, it's a win for  
2 the ratepayers of the respective utilities  
3 represented by these two entities.

4 To help you understand why the settlement  
5 package should be approved, I'm going to briefly  
6 provide you with a little bit of perspective on how  
7 we came to the settlement; where the parties and the  
8 staff actually agree, and for the most part we agree  
9 on many things; and finally, our specific response  
10 to the two issues that we believe were incorrectly  
11 reached by the staff.

12 But regardless of my explanation today,  
13 under the unique and special facts and circumstances  
14 of this case, the proposed settlement is, in the  
15 words of the alternative recommendation, legally  
16 supportable and certainly consistent with the  
17 Commission's past practices in approving  
18 settlements.

19 This dispute started with a very simple  
20 question: How do the rates in the 2008 contract  
21 between the parties recover their costs? And  
22 despite the intense litigation that resulted, the  
23 parties were ultimately able to develop a settlement  
24 that we believe addressed the rate question, as well  
25 as the numerous other issues that were raised, while

1 still keeping Miami-Dade County on the system and  
2 making a contribution to the benefit of Florida City  
3 Gas's general body of ratepayers.

4 As the staff recommendation reflects, we  
5 provided a draft of the various documents to the  
6 staff after we had reached our initial settlement  
7 last June, and we met with the staff twice to go  
8 over the terms of the settlement with them.

9 To address some of the things that they  
10 had raised with us, the parties actually went back  
11 and renegotiated the rates a second time, while  
12 maintaining the necessary compromises that we had to  
13 reach in order to settle the matter in the first  
14 place.

15 We believe that the settlement agreement  
16 that we produced complies with all of the applicable  
17 statutes and rules: A special transportation  
18 agreement with rates that recover their costs plus  
19 some additional increment; a new tariff that  
20 specifically addresses the retention of large  
21 customers like Miami-Dade County; and an amended  
22 CRA, competitive rate adjustment tariff, with a  
23 nominal CRA recovery from ratepayers.

24 With that background, let's just look very  
25 briefly at where the parties and the staff agree.

1 First, from our read of the recommendation, it  
2 appears that we agree that the new LES, which is the  
3 load enhancement service, tariff is an appropriate  
4 tariff to support the contract rates such as we're  
5 proposing today.

6 Second, the amended CRA tariff should be  
7 approved.

8 Third, the approach, the approach proposed  
9 by Florida City Gas for the 2009 to 2011 CRA  
10 recovery is appropriate, and we would propose to  
11 implement that on April 1st, assuming you approve  
12 the settlement package today.

13 Miami-Dade County does have a viable  
14 bypass option which justifies a special  
15 transportation contract pursuant to the new LES  
16 tariff that we've proposed. The rates for Hialeah,  
17 except for 2012 and 2013, in Tier 2 recover their  
18 costs. And you can see this on page 15 of the staff  
19 recommendation.

20 The rates for Orr, the Orr plant recover  
21 their costs for 2013, even with the adjustments that  
22 the staff has proposed.

23 And finally, while the staff is proposing  
24 some additional adjustments to plant in service that  
25 we disagree with, we believe that with the exception

1 of Orr in 2012 that these are fairly nominal  
2 adjustments that alone do not result in the rates  
3 that are being proposed being below cost.

4 As for where we don't agree with the  
5 staff, when you cut through this lengthy  
6 recommendation, there are really only two issues  
7 that we have with the primary recommendation, and  
8 that's the negative net salvage value and the gas  
9 volumes that were used for the staff's analysis.

10 Looking first at the negative net salvage,  
11 first, the negative net salvage that was utilized  
12 for the Orr plant, we believe the staff used the  
13 wrong number. One of the ongoing issues right from  
14 the very beginning in this case has been to identify  
15 the specific assets and costs associated with those  
16 assets in order to perform the cost-effectiveness  
17 analysis.

18 Ultimately we were able to identify the  
19 specific assets and costs associated with the  
20 investment to serve the Orr plant, and the cost  
21 analysis we provided and the cost analysis utilized  
22 by the staff relies upon those actual or specific  
23 costs.

24 As you can see on page 25 of the staff  
25 recommendation, the Orr plant is more than fully

1 depreciated. However, the primary staff believes  
2 that Florida City Gas failed to include any negative  
3 net salvage, and so the staff adds an additional  
4 \$342,000 to plant in service, which for their 2012  
5 cost-effectiveness analysis leaves an additional  
6 \$33,460 to be recovered in 2012.

7           The problem with the \$342,000 is that this  
8 is not the actual net, negative net salvage value  
9 associated with the Orr plant. Rather, it's a  
10 number that's based upon the class of service for  
11 the entire asset group. In other words, if you were  
12 going to do a plant-specific asset analysis as we've  
13 done, then you should utilize only the negative net  
14 salvage associated with the Orr plant. That number,  
15 we believe, is about \$5,000. It's basically the  
16 cost to cut the gas line at the property line, since  
17 the gas line that serves Orr is being used to serve  
18 other Florida City Gas customers. And so you would  
19 not remove the entire line, as the staff appears to  
20 have included.

21           If you look at the Attachment 2, page 25  
22 of the recommendation, Florida City Gas has actually  
23 recorded for Orr some \$260,000 more than the plant  
24 in service cost. So any negative net salvage value  
25 has more than already been addressed. So our bottom

1 line is you should not include this adjustment that  
2 the staff is proposing to make.

3 The second fundamental issue we have with  
4 the primary recommendation pertains to the gas  
5 volumes that were utilized in their analysis for the  
6 different rate tiers. It's fundamentally important  
7 to understand that the purpose of the parties' rate  
8 structure is to encourage the transportation of  
9 natural gas such that the volumes would ultimately  
10 reach the levels that are in the third rate tier,  
11 which is the lowest rate.

12 Now your normal inclination may be to want  
13 to see less gas consumption, but Miami-Dade uses the  
14 natural gas to fire kilns that recycle calcium  
15 carbonate into lime. It's cheaper for them to  
16 produce lime this way than it is for them to buy the  
17 lime. So by transporting and using more natural  
18 gas, it's overall more cost-effective for their  
19 utility operations.

20 We agree that the rates for each tier  
21 should recover their costs. However, consistent  
22 with the intent of the parties, we believe the real  
23 concern you should have is whether the Tier 3 rates  
24 recover their cost, since this is the target rate  
25 tier that hopefully the volumes will reach so they

1 can get that rate.

2           Regarding the Tier 3 rates, both the staff  
3 and parties agree that the cost-effectiveness test  
4 should utilize the minimum volume for that tier, and  
5 that's exactly what we've done. So that's an issue  
6 that we completely agree on.

7           As for Tiers 1 and 2, reasonable minds may  
8 differ about which set of gas volumes should be used  
9 in the cost-effectiveness analysis. The staff has  
10 taken a more principled approach to this question;  
11 whereas, we believe that in this case you should  
12 base your decision upon the real-world experience of  
13 the parties. The volumes we used are based upon  
14 historic consumption levels that we believe  
15 demonstrate the reasonableness of the rates for both  
16 Tier 1 and 2.

17           But given our reliance on the historic  
18 data and the fact that these rates will be effective  
19 only through 2013, we ultimately believe that,  
20 therefore, we have demonstrated to you that the  
21 rates are appropriate.

22           That's it. That's our major problems with  
23 the staff recommendation. When you remove these  
24 changes, the remaining differences between the  
25 primary staff and the parties are nominal, and we

1 believe do not justify a rejection of the tariffs,  
2 the transportation contract, or the overall  
3 settlement.

4 To conclude, we greatly appreciate your  
5 courtesy in allowing us to work out the details of  
6 the settlement and to work with the staff to make  
7 this settlement possible. While it may seem that we  
8 do not appreciate the staff's work, they had to work  
9 just as hard as we did on this case, and we greatly  
10 appreciate their diligence in helping us move this  
11 forward and, quite frankly, enabling us to reach a  
12 settlement.

13 While a level of contribution by these  
14 rates may be at the lower end of the spectrum, these  
15 rates nevertheless retain Miami-Dade County as a  
16 customer, while providing some contribution to the  
17 benefit of Florida City Gas's customers, thus  
18 avoiding a larger and more adverse consequence to  
19 our ratepayers if we lost Miami-Dade as a customer.

20 If you were starting with a blank slate  
21 today, would you be looking at the package that you  
22 have before you? Well, maybe yes, maybe no. This  
23 settlement is based upon 15 years of experience  
24 between the parties. It's a history that you simply  
25 cannot ignore, that you cannot start with a blank

1 slate on. If you correct for the two issues that  
2 I've addressed, the rates recover costs at all  
3 levels, meriting approval of the staff -- of the  
4 settlement. Alternatively, you should approve the  
5 settlement on the basis of the alternative staff  
6 recommendation because the rates are effective only  
7 through the end of 2013, and this settlement  
8 otherwise resolves an extremely unique, very  
9 specific, and exceptionally complex problem that is  
10 legally supportable.

11 Mr. David Hope is here from the County,  
12 and he can provide you with the County's perspective  
13 on this settlement. Thank you for your time.

14 **CHAIRMAN BRISÉ:** Thank you, Mr. Self.  
15 Just to let you know, that we have been very  
16 gracious with that time. Twelve minutes, to be  
17 exact, 13 minutes.

18 **MR. SELF:** You're very generous,  
19 Commissioners. I appreciate that. Take it off the  
20 next agenda for me. Mr. Hope promises me he won't  
21 be that long.

22 **CHAIRMAN BRISÉ:** All right. So Mr. Hope  
23 from Miami-Dade.

24 **MR. HOPE:** Thank you, Mr. Chair. Good  
25 morning, Commissioners. David Stephen Hope,

1 Assistant County Attorney on behalf of Miami-Dade  
2 County and its Water and Sewer Department. And with  
3 me is Joseph Ruiz, Jr., our Deputy Director of Water  
4 and Sewer. I will take less time than Mr. Self.

5           Commissioners, this Commission should move  
6 and approve the alternative staff recommendation.  
7 The settlement is in the best interest of Florida  
8 City Gas's ratepayers, the county's 420,000  
9 ratepayers. The settlement is in the public  
10 interest. And, most importantly, the settlement is  
11 consistent with this Commission's encouragement and  
12 approval of settlement between the parties.

13           Now primary staff's analysis, which  
14 Mr. Self has gone into in detail, raised several  
15 issues, and Floyd focused on the two major ones, the  
16 negative net salvage value and the gas volumes. The  
17 alternative staff recommendation and also Mr. Self's  
18 explanation today more than shows that primary  
19 staff's concerns have been addressed. But in  
20 addition, primary staff seems to focus ultimately on  
21 a denial of the settlement package in the pursuit of  
22 further negotiations between the parties. And  
23 Mr. Self has gone through some of the time frame for  
24 the negotiations, but let me just clearly explain to  
25 this Commission what has gone on since we were last

1 in front of you.

2 When we were last in front of you, we had  
3 reached preliminary settlement. From that June 1st  
4 date until August, the parties got together and  
5 worked over the numbers and came down with draft  
6 settlement documents to present to staff. From  
7 August to November the parties worked with staff to  
8 address its concerns. And in November, the parties  
9 finally said we need to put this on an agenda  
10 because there seems to still be a split between  
11 staff as to some certain issues. So there is no  
12 further negotiations to go on here. The parties  
13 have negotiated and negotiated and negotiated. And  
14 just so you know, that two parties that were so  
15 diametric to one another for almost four years, were  
16 at each other's throats, would not even talk to one  
17 another, are now amicable, are happy, and both  
18 present to you jointly a settlement package that  
19 they both believe are fair and in the interest of  
20 both of the parties is something that's Herculean,  
21 and something, as alternative staff has recommended  
22 and seen, needs to be approved and has recommended  
23 approval by this Commission.

24 Also, let me address the volumes. Primary  
25 staff's analysis focuses on the volumes and the

1 concerns of the estimates that were used by Florida  
2 City Gas or the parties versus using actuals. Well,  
3 the nine-year actual volumes for Orr is 3.5 million  
4 therms a year, and for Hialeah it's 2.34 million  
5 therms for -- excuse me. For Orr, 3.5 million.  
6 2.34 million for Hialeah. That shows that as far as  
7 the tiering goes, there is no issue. We're well  
8 into the Tier 3 realm, over that for Hialeah, and  
9 we're at the upper end of the Tier 2, the Tier  
10 3 range for Orr. So it shows that the volumes and  
11 the rates therefore that came from the volumes that  
12 were used in Florida City Gas's analysis are more  
13 than supported by the nine-year actual averages for  
14 the usage.

15 Along those lines, Mr. Self talked about  
16 the model here is for Miami-Dade to actually use  
17 more gas instead of less gas, and let me try and  
18 explain that a little bit more artfully.

19 What happens in our process is we use lime  
20 to soften the water. By using the lime and treating  
21 it, it creates a by-product, a waste sludge. By  
22 using more gas, we can actually recycle that sludge,  
23 which creates more lime that can be used again.  
24 That actually reduces the lime purchase cost by 25%,  
25 which is extremely expensive. So our intent here,

1 and as alternative staff has shown, over a certain  
2 number of years we've actually used over 6 million  
3 therms over the two plants because our intent here  
4 is the more gas we use, the more lime we can create  
5 in-house, the less lime we have to purchase.  
6 Overall there's a less overall cost, which means  
7 less that the ratepayers have to pay.

8 Let me talk about the tariff rate. If  
9 indeed the primary staff's recommendation is  
10 approved and therefore either this Commission says  
11 that Florida City Gas has to continue to charge the  
12 GS-1250K tariff rate to Miami-Dade County instead of  
13 the rates that have been negotiated, the County  
14 would have to directly pass on to its customers  
15 between a 9.9 cent to 11.5 cent increase to its  
16 customers, plus additional tariff charges. In this  
17 time and day and economy, that cannot happen.

18 Last, bypass. In 1998, the County  
19 received FERC approval to bypass both the Florida  
20 City Gas transmission facilities at Orr and Hialeah.  
21 The primary staff, in its analysis, shows repeatedly  
22 that the County has viable and verifiable bypass  
23 capabilities. If we did it in 1998, we'll do it  
24 again in 2012, if we're forced to. The rates that  
25 have been negotiated between the parties, given the

1 bypass rates in the analysis are there, these  
2 current settlement rates are justified and therefore  
3 viable for us to enter into this settlement, given  
4 what we would have to do to bypass. But paying the  
5 tariff rate or anything between these settlement  
6 rates and the tariff rates, given what it would cost  
7 to bypass and our ability to do same, and as staff  
8 has noticed, how much lower those rates would be,  
9 it's not in our economic interest.

10           Commissioners, to bring finality and an  
11 end to this continued litigation and the uncertain  
12 costs of litigation, as alternative staff has  
13 recommended, we respectfully request that you move  
14 and approve the alternative staff recommendation and  
15 approve this settlement package.

16           **CHAIRMAN BRISÉ:** Thank you very much.

17           Commissioner Balbis.

18           **COMMISSIONER BALBIS:** Thank you, Mr.  
19 Chairman. And I'm going to try and simplify this  
20 issue that I believe is before us today.

21           We have Miami-Dade Water and Sewer  
22 Department with these two plants, Hialeah-Preston  
23 and Alexander Orr, that since prior to 1998 have  
24 been receiving gas service for, I believe, the 1  
25 cent and 3 cent per therm. And this stipulation,

1 what it provides is for the company to collect in  
2 excess of that starting in 2012. So we're going to  
3 have additional revenue going towards the gas  
4 company, which is going to be a benefit to the  
5 ratepayers.

6 So I see this as a win for all of the  
7 parties. It clears up, you know, years of, of  
8 contentious litigation. And at the end of the day,  
9 this stipulation expires next year, the end of 2013.

10 So I think we have an opportunity to clear this up.  
11 I know that the, the lime slaking process that  
12 Miami-Dade uses is the most cost-effective process  
13 for the volumes that they use. In a previous life I  
14 have been to the Alexander Orr plant and I've been  
15 inside these slakers, and it's a very uncomfortable  
16 environment to work in. So I applaud your workers  
17 that work in that environment every day. But I do  
18 think we have an opportunity here to have a win-win  
19 situation that clears up years of litigation,  
20 provides additional revenue to the gas company, and  
21 offsets those costs to the customers. And I would  
22 approve alternate staff's recommendation on this  
23 item.

24 **CHAIRMAN BRISÉ:** Is that a motion?

25 **COMMISSIONER BALBIS:** I move alternate

1 staff's recommendation on this item.

2 **CHAIRMAN BRISÉ:** Commissioner Graham.

3 **COMMISSIONER GRAHAM:** Thank you,  
4 Mr. Chair. I just want to hear staff's feedback to  
5 the opening comments.

6 **MS. OLLILA:** Commissioners, Sue Ollila for  
7 staff, and I'm going to address the comments about  
8 the negative net salvage adjustment.

9 When we look at depreciation, we look at  
10 it in percentages. Net salvage can be positive or  
11 negative.

12 In 2009, new depreciation rates were  
13 approved by the Commission for Florida City Gas, and  
14 input to those rates is the net salvage. Overall  
15 for the Orr plant, the negative net salvage is minus  
16 30.6%, minus 31%.

17 In looking at determining the depreciation  
18 for this specific purpose, we looked at what  
19 actually had been ordered, what was implicit in the  
20 orders. In order for Florida City Gas to receive  
21 full recovery of its investment, it must receive the  
22 investment plus the negative 31%. So that is, that  
23 is where the, the negative net salvage adjustment  
24 comes from.

25 Mr. Self talked about \$5,000 in cost of

1 removal to cut and cap. Well, looking at as a --  
2 looking at cost to removal as a percentage means we  
3 need to know the investment level. I mean, 30% --  
4 the Orr plant is roughly \$1.1 million worth of  
5 investment. It's not clear to me what the  
6 denominator is in that calculation for the \$5,000.  
7 But if FCG is seeing less cost of removal, and  
8 that's certainly possible, that's something that we  
9 would address in their next depreciation study,  
10 which is scheduled to be filed next year.

11 So just to summarize very briefly, we  
12 looked at the inputs to the Commission ordered rates  
13 to determine what was needed for full recovery in  
14 order to calculate the depreciation expense for Orr  
15 and Hialeah. Did I -- do you have any other --

16 **COMMISSIONER GRAHAM:** No. Is that the  
17 only part of the opening statement you guys want to  
18 comment on?

19 **MS. OLLILA:** Well, that's my part of it.  
20 The rest is Bill's.

21 **MR. McNULTY:** Good morning, Commissioner.  
22 The other comment that was made and characterized as  
23 an error was that the gas volumes were perhaps not  
24 what they should have been in terms of staff's  
25 analysis. And I think the comment was raised by

1 both parties that it's more likely that you should  
2 be focusing on the Tier 3 rate for 2012 and 2013  
3 with the argument supplemented with the idea that  
4 there will be more demand for natural gas by these  
5 two plants in the years of 2012 and 2013. And that  
6 may well be the case. We don't have any information  
7 specific to that. When staff did its analysis, we  
8 looked at what the actual therms were, and we saw  
9 that since 2003, for both Alexander Orr and Hialeah,  
10 we saw periods where therms went up and therms went  
11 down. And so it's kind of a bumpy ride if you were  
12 to look at a graph of this of therms being up and  
13 down.

14 And Mr. Self was correct in stating that  
15 staff did take a more principled approach to say  
16 that if we do this analysis at each tier, we wanted  
17 to make sure that it was cost-effective at each  
18 tier. And we found some problems there with, not so  
19 much with Tier 3 because it was -- they did use the  
20 lowest volume of therms for Tier 3. Our problems  
21 were with Tiers 1 and 2 where they did not use the  
22 lowest volume of therms that could have or should  
23 have been used in our, in our view. And when we did  
24 that, we found instances where it would not be a  
25 cost compensatory result. If therms are what has

1 been represented this morning, those issues about  
2 therms go away. There isn't a problem there.

3 But we have seen, if we start, if we go  
4 back to 2003, we see that the composite between the  
5 two meters, Alexander Orr, they had volumes of  
6 4.2 million and in calendar year 2011 they had 2.4  
7 million. And if you look at Hialeah, they had  
8 2.8 million in 2003, and last year they had 2.3  
9 million. So we see a general -- what I've seen is  
10 just a general decline for both plants in volumes.  
11 Again, we don't have information going forward as to  
12 what those volumes would be for 2012, 2013. It  
13 wasn't really part of our discussions in the  
14 settlement negotiations and so forth, or the  
15 meetings that we had with the parties in September.  
16 It really wasn't part of that discussion.

17 So if, if the Commission is in agreement  
18 with that, that's fine. However, if that's the  
19 case, there should be -- and if the parties agree  
20 that therms are going to be a higher level, then  
21 there shouldn't be any problem with getting those  
22 other tiers rated correctly. And that's sort of  
23 where staff is coming from today is that if it all  
24 turns out that way, then there's no issue with  
25 taking or making those Tier 1 and Tier 3 rates cost

1 compensatory and shouldn't be something that would  
2 be difficult for the parties to arrange, especially  
3 given their expectation that the therm use in 2012  
4 and 2013 would be higher.

5           The other comment I would make is when we  
6 looked at -- I think Miami-Dade's representative  
7 made mention of the 2009 to 2011 years and the fact  
8 that they used a nine-year average for therm use.  
9 Staff used the actual therms that were used in those  
10 years as our divisor. We took the costs that they  
11 gave us and with some adjustments by Ms. Ollila and  
12 we just divided by the number of therms that were  
13 actually used. And we made no adjustment to the O&M  
14 cost, none whatsoever as to what the parties  
15 provided us, and we ended up with, you know,  
16 under-recoveries for those, for that period that  
17 would transpire through the operation of the CRA.  
18 So I'm happy to answer any questions about that.

19           **CHAIRMAN BRISÉ:** Commissioner Brown.

20           **COMMISSIONER BROWN:** Thank you, Mr.  
21 Chairman. I don't have any questions. But I did  
22 want to thank staff. They put a great deal of time  
23 over the past few years and we appreciate that. We  
24 appreciate, I know, a very thorough recommendation  
25 providing us with a primary and an alternate

1 recommendation for our consideration. I'm sold on  
2 the settlement agreement, and I want to thank the  
3 parties for coming together after four years of  
4 probably costly litigation, I imagine. And, and I  
5 think this is indeed in the public interest. So  
6 thank you for coming together.

7 **CHAIRMAN BRISÉ:** Commissioner Edgar.

8 **COMMISSIONER EDGAR:** Thank you, Mr.  
9 Chairman. And I'm also appreciative of the  
10 opportunity extended to staff to expand upon some of  
11 the comments that we heard from the parties that are  
12 involved in the settlement agreement that has been  
13 brought before us. I don't know if we did actually  
14 have a formal second to the motion. If not, I will  
15 do that now, if you're amenable to that. You're  
16 welcome.

17 I also am supportive of the alternative  
18 staff recommendation in support of the settlement  
19 agreement and the other pieces of the package that  
20 are before us, recognizing in particular the long  
21 history to the issues that are before us, and I do  
22 believe that there are benefits to the ratepayers.  
23 And also, as I have said before, an adversarial  
24 evidentiary hearing is not always the best route to  
25 resolve issues, and in this instance I think that

1 we're on the correct path.

2           **CHAIRMAN BRISÉ:** All right. Seeing that  
3 approval of the alternative recommendation, which is  
4 the approval of the stipulation, was moved by  
5 Commissioner Balbis, it was seconded by Commissioner  
6 Edgar, at this time we are ready to entertain the  
7 vote.

8           I just want to, before we get there, just  
9 to say that I too am supportive of the stipulation.  
10 I think it addresses many of the issues that were  
11 long litigated and dealt with over a period of time.  
12 I just hope that in 2013 when, you know, this is  
13 coming to a close, that there will be ample  
14 conversation between now and then so that there  
15 won't be a long period of time of litigation to  
16 arrive at a point that makes sense for everyone. So  
17 word to the wise.

18           And with that, I entertain a vote. All in  
19 favor, say aye.

20           (Affirmative response.)

21           All right. Seeing that it has been approved,  
22 the stipulation is approved. And at this time if there  
23 are no other pending matters from any Commissioners, we  
24 stand adjourned.

25           (Agenda Conference adjourned.)

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STATE OF FLORIDA )  
 : CERTIFICATE OF REPORTER  
COUNTY OF LEON )

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 15<sup>th</sup> day of March, 2012.

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