

P R O C E E D I N G S

1
2 **CHAIRMAN GRAHAM:** Item No. 4.

3 **COMMISSIONER EDGAR:** Mr. Chairman, would it be
4 possible to take a five- to ten-minute break as we kind
5 of switch gears?

6 **CHAIRMAN GRAHAM:** Okay. We will take a -- by
7 my clock back there it's 10:42. We'll come back at
8 10:50.

9 **COMMISSIONER EDGAR:** Thank you very much.

10 **CHAIRMAN GRAHAM:** So eight minutes.

11 (Recess taken.)

12 Okay. Before we reconvene, I think I want to
13 hear from my General Counsel briefly.

14 **MR. BECK:** Commissioner, I believe there's
15 been a request to speak to the Commission on this item.
16 And as you know, the record has closed. You received
17 the evidence, and the witnesses for the parties have
18 been here, they've been subject to cross-examination.
19 If you allow testimony or comments at this point,
20 Section 120.57(1)(b) says that that party has -- if you
21 were to consider such material, that that person is
22 subject to cross-examination by the parties. And
23 other -- and the parties would have to be given an
24 opportunity to respond to those comments as well. So
25 that's the issue that's facing the Commission at this

1 point.

2 **CHAIRMAN GRAHAM:** So you're saying that I'd
3 literally have to reopen the hearing?

4 **MR. BECK:** In effect, yes.

5 **CHAIRMAN GRAHAM:** Okay. Thank you. Always
6 out of courtesy to our elected officials, legislators,
7 we always enjoy when they want to come here and to --
8 because I know they all have their constituencies that
9 they have to fight for, speak for, and I do understand
10 the desire.

11 Representative Dudley is here. Representative
12 Dudley, I will invite you to the microphone. Now you
13 heard what our General Counsel had said. We can't take
14 any comments specifically on the item because we've
15 already had a hearing, but if you would like to address
16 this for anything else that you're here, you're more
17 than welcome to do that, or just wish me a Merry
18 Christmas or congratulate me on being chairman.

19 **REPESENTATIVE DUDLEY:** I guess I don't need a
20 microphone to tell you that -- to remind you that
21 previously when I've lobbied to make remarks, that there
22 has not been this barrier, this bar, that somehow you
23 found a way previously to allow me to speak. I clearly
24 am here in opposition of allowing continuing hedging.
25 That's why I'm here. I think that's been well

1 communicated to you. And there's, I'm sure, abundant
2 evidence from some of the other people who will testify
3 today. But if you're barring me from doing that, you
4 know, that's what you're doing. I mean, I know you've
5 exercised discretion in the past to allow me to speak,
6 but you're refusing today. So I'm not going to, you
7 know. Okay. That's how it is.

8 **CHAIRMAN GRAHAM:** Representative Dudley, once
9 again, I appreciate you coming down here and being here.
10 There's new sets of rules that come before us, the
11 Public Service Commission now since the last time you
12 were here and also a new General Counsel. And so not
13 being the attorney I am -- and see, now, if it was an
14 engineering law, there's only one way to do it and it's
15 the same way every time. You know, when you're talking
16 about attorneys, everything is different. And once
17 again, there's different sets of rules that are in place
18 right now, so I do appreciate your understanding. Thank
19 you very much.

20 Okay. We will reconvene the Agenda
21 Conference, and we are on Item No. 4. Staff.

22 **MR. BARRETT:** Good morning, Commissioners.
23 I'm Michael Barrett from staff.

24 Item 4 is a post-hearing recommendation for
25 the fuel cost recovery clause docket. Participation on

1 this item is limited to Commissioners and staff.
2 Technical and legal staff are available for your
3 questions.

4 **CHAIRMAN GRAHAM:** Commissioners? Commissioner
5 Brown.

6 **COMMISSIONER BROWN:** Mr. Chairman, I would
7 appreciate staff walking us through 1D and 1E together
8 as I have questions more in line with 1E. So if you
9 could go ahead and just walk us through an overview of
10 your analysis and how you got there, not just for our
11 benefit, we've all had briefings with staff, but really
12 for the folks that are watching this, that would be
13 helpful.

14 Andrew, would you like to do it?

15 **MR. MAUREY:** Thank you. Chairman,
16 Commissioners, Issue 1D asks if it's in the consumers'
17 best interest for utilities to continue natural gas
18 financial hedging activities, and 1E asks if so, what
19 changes to those hedging practices should be considered?

20 1D is a straight up and down answer. Should
21 it continue or should it be ended? And the
22 investor-owned utilities have proposed continuation of
23 the hedging programs, the status quo, and the
24 Intervenors have unanimously recommended that hedging be
25 discontinued.

1 When we looked through this information, while
2 market prices for natural gas are historically low,
3 volatility in market prices continues to exist, as
4 evidenced as recently as 2014, one of the highest
5 registers of market volatility in natural gas prices in
6 the last 20 years. So market prices have dropped and
7 they seem to remain low for an extended period, but
8 volatility month to month, day to day, that continues to
9 exist, and it's staff's recommendation that fuel price
10 hedging activities continue.

11 And Issue 1D -- I'm sorry -- 1E, what changes,
12 if any, should be made in the manner in which electric
13 utilities conduct their natural gas hedging activities?
14 And in this proceeding, many of the witnesses -- the
15 company witnesses all testified to continuing hedging
16 activities as they exist. There was no suggestion of
17 alternatives made on the record, and the Intervenor
18 witnesses all testified that hedging should be
19 discontinued. They did not offer other alternatives to
20 conduct natural gas hedging. Some exploration of those
21 possible alternatives was conducted through
22 cross-examination. That's difficult to elicit at times.
23 We discuss in the staff analysis some of these possible
24 alternatives. One was a sharing mechanism that was
25 universally rejected by the utility. Another was

1 considering the limits on the range of hedging, range of
2 hedging volumes.

3 At this point, effective with the 2008 order,
4 the Commission didn't specify that range. That range --
5 they specified guidelines that the individual utilities
6 would present, ranges that they would hedge in their
7 risk management plans, and the Commission would consider
8 those risk management plans. An alternative could be to
9 consider different ranges than what have consistently
10 been used by the utilities the last several years.

11 In our recommendation there was concern about
12 the evidentiary record on what that range should be, and
13 we did not -- this Commission did not prescribe ranges
14 in the '08 order. They left that to management
15 discretion, but it considered those ranges when they
16 approved the management plans. So we've proposed that,
17 staff, that we take this issue, we meet with the
18 parties, and try to develop, flesh out more alternatives
19 for dealing with this.

20 The issue of volatility, price volatility, the
21 issue -- why hedging came about to begin with still
22 exists, but maybe there is a way to address that price
23 volatility, and we'd like to explore those potential
24 ideas.

25 **COMMISSIONER BROWN:** Mr. Chairman.

1 **CHAIRMAN GRAHAM:** Sure.

2 **COMMISSIONER BROWN:** Thank you so much,
3 Mr. Maurey. And I have a couple of follow-up questions
4 on that exact point, but I did just want to make a few
5 comments before. I think in a state like Florida, with
6 such a huge percentage of our fuel mix being natural
7 gas, knowing it's only going to increase, our state is
8 unique because of a variety of factors, financial
9 hedging is a beneficial tool for reducing that fuel
10 price volatility, although I will say we saw from the
11 hearing and from the various Intervenors' witnesses and
12 testimony that factors have changed since the 2002
13 hedging order. For example, we have an abundant
14 domestic gas supply in the country that's available to
15 the market and the continuing low fuel prices. But
16 although you -- you mentioned, though, that low price
17 volatility still exists. Although natural gas prices
18 are low and continue to be low, the volatility does
19 exist, and a variety of witnesses testified to the
20 effect that nobody can predict the market. And this
21 tool was given to the customers to provide price
22 stability and it was a tool designed for the benefit of
23 the customers. So although the Intervenors argue to
24 suspend hedging, they didn't provide us with a lot of
25 different alternatives. I'd like to explore some of

1 those alternative suggestions so that, you know, we can
2 find the best alternative here, acknowledging the fact
3 that hedging does appear to be an effective tool in the
4 State of Florida.

5 So, Mr. Maurey, let's talk about that. On 1E
6 let's talk about your cap suggestion, imposing limits on
7 the upper range of hedging fuels -- volumes. From my
8 understanding, listening to the hearing, looking at the
9 prefiled testimony and the evidence in the record, there
10 wasn't a lot of information with regard to range that's
11 not confidential or that's confidential. How would you
12 go about even exploring an idea of that magnitude at
13 this juncture prospectively?

14 **MR. MAUREY:** And that's a very good point.
15 Any changes that we would make would have to be done
16 prospectively. Hedging is a future-looking proposition.
17 There are a number of hedges that are already in place.
18 The management plan that is before you for 2016
19 contemplates hedges going out 12, 24 months in the
20 future. So even if changes are made, it would have to
21 be understood that they could be only implemented in
22 future years as more hedges -- as -- if they reduce
23 their absolute amount of hedging, if that were the
24 decision, to lower the limit of hedging volumes, such a
25 program would have to be introduced gradually over time

1 as the existing hedges roll off.

2 The utilities -- and this is a confidential
3 number, the range. Although one witness inadvertently
4 spoke a little bit about it, we're going to treat it
5 confidentially today. And we can talk with those
6 parties in proceedings about why that range is important
7 to them, the utilities, all the stakeholders, the
8 Intervenors, the utilities, why that range is important,
9 what different ranges, what lower ranges could still
10 achieve some of the goals of reduced volatility.

11 **COMMISSIONER BROWN:** And if the Commissioners
12 are willing to explore that, that particular alternative
13 that was suggested in the recommendation, I'd like to
14 kind of flesh that out here and see how we go about
15 doing that today. Not tomorrow, not in next year's fuel
16 docket, but today. That's a question.

17 **MR. MAUREY:** All right.

18 **COMMISSIONER BROWN:** All right.

19 **CHAIRMAN GRAHAM:** All right. Commissioner
20 Brisé.

21 **COMMISSIONER BRISÉ:** I think I share
22 Commissioner Brown's enthusiasm towards attempting to
23 find an alternative today. My question for staff is how
24 do we get there today in terms of having the appropriate
25 amount of information in order to get there? And so if

1 you can walk me through getting there, then, you know,
2 I'm there. Right?

3 **MR. MAUREY:** The hesitation that I have is
4 that in the '08 order, as I mentioned earlier, the
5 Commission didn't prescribe those ranges to them. So
6 we're talking about being more prescriptive going
7 forward than the Commission has been in the past with
8 respect to hedging programs. It just so happens that
9 the utilities have very similar ranges, but that -- they
10 developed those ranges and the Commission evaluated them
11 and approved them over the years.

12 The -- I think everyone in the room realizes
13 that some consideration, serious consideration has to be
14 given to how do we modify this program to better perform
15 going forward? And from a technical standpoint, and I
16 will allow legal to speak to it from a legal perspective
17 momentarily, but from a technical perspective you have
18 zero, if you suspend hedging altogether, to whatever the
19 top of the range is, let's call it X for now, but
20 there's a range between zero and X, and if it's the
21 Commission's desire to be more prescriptive, to say
22 we're not going to leave it to you to pick between zero
23 and X, we're going to want you to be more prescriptive.
24 Now with that comes -- instead of it being the
25 management prerogative, would be more directed. We

1 would have more involvement in that business decision
2 that you should hedge X amount. We could, though, and
3 the Commission does from time to time set limits on what
4 the IOUs, in not just this industry, other industries,
5 can do in terms of limiting financial exposure for
6 customers.

7 And so without talking specifics, we're
8 available to -- well, I don't know what I'm available to
9 do here with this. I can't use numbers, I can't -- I
10 can say that there is a range between zero and X. And
11 if did you less than X, you could limit the exposure to
12 undesirable results, but you'd also limit the ability to
13 depress volatility because less volumes are hedged.
14 It's a tradeoff.

15 **COMMISSIONER BRISÉ:** So -- and that's where I
16 want to follow up. I think in general conceptually
17 that's doable today, but the question is do we have
18 enough information today to determine if we move that
19 range, what those impacts are going to be based upon the
20 record that we have before us today?

21 **MR. MAUREY:** Not in the record before us
22 today, no.

23 **CHAIRMAN GRAHAM:** Commissioner Edgar.

24 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
25 And, Commissioner Brown and Commissioner Brisé, I'm very

1 much on the same page with what I'm hearing and what I
2 understand to be the sentiment.

3 Just to take it half a step back, if I may.
4 We have evidence in the record and we also have had
5 discussions in other forums on this issue in the past,
6 in past recent years and, of course, the Commission even
7 predating my time here looking at this issue, and
8 recognize that hedging is intended to be a tool in the
9 best interest of ratepayers to limit the impact on rates
10 due to the volatility in the market over years, that
11 natural gas prices have over many years been very
12 volatile, and we've had evidence and testimony and
13 discussion even recently that, you know, the market is
14 not a sure thing. And so with that, I would say I have
15 very strong concern, as I have heard both of you say,
16 about the rate impacts to customers in the recent years
17 that have been partially due to this program, but I also
18 recognize that in years prior to that there were
19 benefits to customers, and I don't think we want to
20 throw all that out necessarily.

21 I also recognize that, you know, the hearing
22 that we had and the record by which we are bound is on
23 basically should hedging continue, should the rate
24 mitigation plans be approved, and the accounting issues
25 also for the true-up and the fuel clause, and we will

1 still need to deal with that. We did not have a hearing
2 on basically what changes could be made to the program,
3 what the impacts of potential changes might be, how that
4 would be implemented. So I guess what I would put out
5 there for further, I hope, discussion amongst us is, you
6 know, circumstances have changed. The market has
7 changed, supply has changed. There are going to be
8 additional impacts on natural gas prices and supply by
9 new technology, by impacts from the Clean Power Plan,
10 which has -- which includes further dependence on
11 natural gas as a cleaner energy source than some, and
12 many other things that I won't bother to list right now.

13 So I guess, Commissioners, my concern would be
14 that I'm not sure that we have the information now or
15 that we are equipped or that our staff is equipped with
16 the information to determine the exact process or for us
17 to make a decision, to make very technical and
18 potentially very financially impactful changes, but I
19 would offer up, as I think I've heard from two of my
20 colleagues, that we do have a concern that due to
21 changed circumstances this program should be looked at
22 more closely. And I would ask our staff if we reach
23 consensus on that after today and we deal with the
24 docket and the specific issues that are before us,
25 because it is an evidentiary proceeding and the rules

1 that bind us are longstanding, that we direct our staff
2 to take a closer look, not that they haven't, and really
3 think through potential options and the best way to
4 bring it back for further discussion.

5 I think this is a policy issue. I think it is
6 probably a judgment call. More than an accounting
7 issue, more than a legal issue, it's probably a judgment
8 call. But the record that we have before us I don't
9 think equips us to take that next step, but perhaps we
10 are equipped to ask our staff to take a closer look and
11 then consider the best way for us to have more
12 information and consider what options might be
13 beneficial.

14 **CHAIRMAN GRAHAM:** Commissioner Patronis.

15 **COMMISSIONER PATRONIS:** Thank you, Chairman.

16 In my family's business growing up, we buy
17 lots of groceries, and hedging was part of the way we
18 had predictability and how to understand the demands,
19 what was going to be facing us. Canker would drive up
20 the cost of orange juice, challenges with feed lots
21 would drive up the cost of beef, E. coli would drive up
22 the cost of boxed lettuce, outbreaks would drive up the
23 cost of potatoes. So if it wasn't for being able to
24 hedge in our business and go ahead and prepare, the
25 stability of our 250 families that we affect in our

1 business would suffer.

2 So I think it's a necessary tool to help
3 create predictability. Can you play -- can you gamble
4 with it and not take hedging in place? You can, but
5 then you -- it's a two-edged sword. And the damage that
6 we could have done to our business if we hadn't been
7 able to very prudently and cautiously incorporate
8 hedging as part of our business model, I don't think
9 we'd have the success we've had in our business today.
10 So I think it really -- it's a valuable tool, but I
11 concur. Y'all are hitting the nail on the head, a very
12 thorough look on what that percentage might be in order
13 to help balance where we need to be with our state's
14 ratepayers' money.

15 **CHAIRMAN GRAHAM:** I have a valuable tool, too.
16 I call him the Executive Director. Mr. Baez.

17 **MR. BAEZ:** Oh, boy, and me without my glove.
18 It sounds like -- well, first a concern. I
19 think, if I understood what Andrew was trying to get to,
20 there's a cost to fixing a number, and I think you --
21 and this is something that you all would have to weigh
22 at the appropriate time, whether it's -- whether it
23 winds up being now or at some other time, how much you
24 want to own that number.

25 The Commission has traditionally shied away

1 from -- we all hear the term micromanaging and so forth,
2 and that's really an art, how you affix one number and
3 not another and the reasons why you do it is because you
4 want to let the utilities be in a position to manage
5 their business and the service that they provide by that
6 business as prudently as possible. And the Commission
7 retains the right to review, to be able to look and say,
8 you know what, you really didn't do a good job on this
9 and you really didn't do a good job here or you did a
10 good job here or there. You lose a little bit of that
11 when you delve in the number fixing.

12 Now I will admit to you and I will agree that
13 there are times where that's required, and this may well
14 be one of them. I think you've heard the staff's
15 concerns right now that we really don't have enough
16 information in the record. The right questions weren't
17 asked, and whose -- you know, I'll take responsibility
18 for that, if necessary, but we really don't have enough
19 information along those lines that we would feel
20 comfortable recommending to you all anything right at
21 this moment.

22 But there is an opportunity to really look at
23 the issue. And I think that the parties are out there
24 listening to the comments that you're making and I think
25 that they've taken note of your concerns going forward.

1 This is not something that we take lightly, but neither
2 do we want to be hasty in the solutions that we try to
3 come up with.

4 I don't know how you all feel about letting us
5 look at, you know, a number of alternatives and figuring
6 out how we can address the concerns that you all have in
7 the best way possible. Today might not be it because we
8 have a level of discomfort or apprehension about doing
9 that with any kind of finality today. It's something
10 for you to discuss, and these are my two cents. I
11 certainly would feel a little bit more comfortable
12 getting a chance to look at it and figure out what the
13 best process to go about it is. Not with live mikes
14 obviously.

15 **CHAIRMAN GRAHAM:** First question, and I've got
16 all kind of lights out in front of me, how time
17 sensitive?

18 **MR. BAEZ:** I'm probably not the best person to
19 answer that question. Maybe Suzanne has a better idea.
20 I think it really depends on when we're looking to make
21 the changes effective, if there were any.

22 **MS. BROWNLESS:** Yes, sir. You have issues in
23 this case that call for the adoption of the 2016 risk
24 management plans, and I believe those are Issues 2B, 3B,
25 5B, and 6B. So what I'm concerned about is that the

1 utilities have followed our previous orders from 2002,
2 2008, 2011 in preparation of these plans, which have, as
3 Braulio has said, has delegated the -- we gave -- in
4 those 2002, 2008 orders we gave the company broad
5 guidelines with regard to figuring out a prudent hedging
6 plan, and we allowed each company, due to their unique
7 circumstances, to develop a risk management plan and a
8 percentage appropriate for them. They have done that
9 and submitted those plans, and we'll be voting on those
10 today.

11 So I think at this juncture, based upon the
12 record that we have, which truly was eliminate it
13 completely or let us continue doing what we've
14 previously done, we really -- we had some
15 cross-examination discussion of the alternatives that
16 were discussed in the staff rec but not very much,
17 frankly, because the positions presented by the parties,
18 both the Intervenors and the companies, the company said
19 keep the status quo and Intervenor said eliminate it
20 completely. So I think for today the only constraint
21 you have is they need a -- they need to have their plans
22 voted up or down for 2016 because we put those factors
23 in effect January 1st.

24 With regard to further fleshing out this
25 issue, obviously the Commission has many options. You

1 know, one could direct the utilities to address this
2 issue in the next fuel docket, file testimony
3 specifically on this issue. One could have a separate
4 proceeding of some type, the timing of which you would
5 have complete discretion to set. And those are the
6 procedural processes by which I think it would be
7 appropriate under Chapter 120 to flesh out the record
8 for alternatives to what we're doing now.

9 **CHAIRMAN GRAHAM:** Mr. Baez.

10 **MR. BAEZ:** And I think that trying to fill the
11 space in between, and I may not have the most detailed
12 understanding of the fact -- of the process of the
13 setting of factors from year to year, but there may be
14 some room, I think Suzanne alluded to it, to begin a
15 discussion with the utilities now that kind of rejigger
16 the expectations of what their management plans are
17 supposed to look like. And based on this conversation,
18 if enough light and enough concern has been shed here
19 perhaps on the particular aspect of those plans, they
20 can incorporate them going forward without a whole lot
21 of -- without a whole lot of process, if you will. It
22 can kind of happen organically if anybody is listening.
23 That might be a way to go.

24 I think that kind of falls into what I was
25 saying before is an opportunity to figure out what the

1 right way to have those concerns addressed is, and it
2 may not be with an, what I'll call an independent or a
3 separate process. Maybe this is something that we can
4 actually fix in the edit on a going-forward basis based
5 on your conversation, whatever consensus you all can
6 come up with.

7 **CHAIRMAN GRAHAM:** Commissioner Brisé.

8 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.
9 Going back to what Commissioner Edgar stated, and I
10 think we all know this, that what we have to vote on
11 today is pretty simple. It's cut -- I mean, it's -- you
12 have a few very distinct options.

13 The record, from my perspective, that is
14 before us doesn't provide sufficient space for us to
15 delve into the areas of interest that we have at this
16 very moment. And though I agree that we can send a
17 signal and within the signal, you know, people can
18 respond or entities can respond to the signal, but I
19 think if we want to provide clarity and to get to where
20 we need to be, we need to think about how we get there
21 and get the appropriate level of input of all the
22 parties and so forth so that we can get to the right
23 measure of what is appropriate.

24 I support hedging. I will say that. I think
25 it makes a lot of sense. Whether the levels where we

1 are right now are the right levels, whether we need to
2 do a combination of a cap and other alternatives are
3 things that we ought to be able to flesh out, and I
4 think for us to do that through signal sending I think
5 is not the best way to do it. And so from my
6 perspective, I think whatever we do is going to be
7 forward-looking. We have something before us today, we
8 make a decision on what is before us today, and then we
9 provide direction as to how we want to move forward with
10 addressing the issues that we found that were lacking to
11 make the other decisions that we can make today.

12 **CHAIRMAN GRAHAM:** Commissioner Brown.

13 **COMMISSIONER BROWN:** Thank you. And to kind
14 of clean up the conversation that's occurred here with
15 Commissioners and with staff and with Mr. Baez, I guess
16 all of that would fall under Issue 1E. And as Mr. Baez
17 said, we don't really have -- you would prefer to have
18 staff explore ways, have time to explore ways to address
19 the issue we talked about with regard to imposing limits
20 on the upper range of the hedging volumes prospectively,
21 not -- which would apply to the 2017 risk management
22 plans. So I guess how, Mary Anne, would we go about
23 doing that for Item 2E here?

24 **COMMISSIONER EDGAR:** Mr. Chairman, I think
25 that is 1E. And I'm so sorry, but --

1 **COMMISSIONER BROWN:** Thank you. 1E.

2 **COMMISSIONER EDGAR:** Before we go there, would
3 it be okay if I jump in?

4 **COMMISSIONER BROWN:** You're always helpful.

5 **COMMISSIONER EDGAR:** Thank you. I,
6 Ms. Brownless, I appreciate your comments and the
7 suggestion to a question that was asked of you. I also
8 agree that one option would be that we intend to have
9 these issues with more specificity in the next fuel
10 docket that would basically be, you know, that we would
11 be gathered together to discuss the record approximately
12 a year from now but that that process would, of course,
13 begin much sooner. And it may be that with the timing
14 and the procedural and legal requirements that that is
15 the best way or maybe even the only way. I'm not sure
16 that I'm ready to make that decision, though, right now
17 today. I would be more comfortable, you know, basically
18 as we have discussed, asking staff to, as I know they
19 are, hear the comments, hear the discussion, hear the
20 concerns, and then after further deliberation with
21 whatever it is you guys do out there on the other side
22 of the door, bring back to us some procedural options
23 and/or substantive options depending how those steps
24 would go.

25 My preference would be that we continue this

1 discussion with more information, whatever is
2 realistically available, sometime in the spring, and I'm
3 purposely leaving that vague, but in the spring as
4 opposed to the fall or winter. So I'm going to close
5 that thought right there and move on to my next, which
6 is, as we all know, I have been here for a few years and
7 have had the opportunity to have this issue before us
8 and in public discussion and in hearings, and I have
9 supported continuing hedging because, as my colleagues
10 have said, it is a tool that in many years has proven to
11 benefit the customers as it was intended to do. I am of
12 the opinion that what goes down will go up just as much
13 as what goes up will at some time go down. I don't have
14 that crystal ball; I don't know what it is. But as
15 Commissioner Patronis said, some form of hedging most
16 businesses do. We would probably be critical of the
17 companies if they were not at least considering it. And
18 so, again, recognizing that as of now there are changed
19 circumstances, without being overly prescriptive as to
20 timing or process, I would suggest that we basically
21 just ask our staff to look at it and come back to us at
22 what is a realistic time with all due diligence but yet
23 all due haste, and I think they know what that means.

24 **CHAIRMAN GRAHAM:** I'm not sure I know what
25 that means.

1 **COMMISSIONER EDGAR:** You're not the one who's
2 going to be doing it.

3 **CHAIRMAN GRAHAM:** Commissioner Brown.

4 **COMMISSIONER BROWN:** She said what I was
5 getting to, how do we do that under 1E, because we have
6 to address Issue 1E?

7 **MS. HELTON:** My head has been spinning while
8 y'all have been talking and I have some thoughts. But
9 if we could have five minutes so that I could talk about
10 my thoughts with people who understand the way this fuel
11 clause works better, much better than I ever will
12 understand, that would be greatly appreciated.

13 **CHAIRMAN GRAHAM:** Okay. I got 11:35. We'll
14 be back here at 11:40.

15 (Recess taken.)

16 Okay. My five minutes kind of stretched out
17 to 15 minutes. I think as we left it was what do we
18 need to do today and what do we need to do moving
19 forward so we're not back in the same situation next
20 year at this time? And is that Mary Anne or Braulio
21 want to handle that?

22 **MR. BAEZ:** Mary Anne and I will arm wrestle
23 now for it.

24 I think what you don't need to do today, I'll
25 start with that, as we've all discussed, there are

1 certain -- there are decisions or facts that we need to
2 kind of mull over in order to be able to tell you what
3 the best way to address the concerns that you've
4 expressed today is going to be. That, as I understand
5 it, and, you know, Mary Anne can tackle me if I'm
6 getting too wide, but to me that's a different question
7 than the issues that are before you today.

8 I understand that 1E has asked the general
9 question of, you know, what changes, if any, should be
10 made? And I think that the discussion around the answer
11 to that question beyond what's already recommended is
12 that you really don't have a very strong basis for
13 making any changes, which is why the recommendation said
14 no changes are warranted. It was, in essence, the only
15 answer that could have been made given the record.

16 What I am asking, what I'm suggesting is an
17 opportunity to figure out how we get that record, how we
18 get those facts, how we get that basis. And I use the
19 term "record" loosely. It may not be -- it may not rise
20 to that. I don't know. I can't tell you that it does
21 or it doesn't sitting here today. We're asking for a
22 little bit of time to sort out what the path to get what
23 we need in order that the answer to 1E today could have
24 been something different.

25 **CHAIRMAN GRAHAM:** Okay.

1 **MR. BAEZ:** That we can actually have, you
2 know -- and I think that's going to take a conversation
3 with the parties using a certain platform which I cannot
4 define right now.

5 **CHAIRMAN GRAHAM:** Okay. So you just turned my
6 ship in a circle and I don't see -- I do not see the
7 direction.

8 **MR. BAEZ:** We'll see -- okay.

9 **CHAIRMAN GRAHAM:** I guess my question is I
10 realize where we are today. Today we have to say yes or
11 no because we have a closed record and a decision needs
12 to be made, and the question is did the utilities, with
13 the information that was before them, put together plans
14 that were in line with the information that was before
15 them?

16 **MR. BAEZ:** Right.

17 **CHAIRMAN GRAHAM:** That's that situation.
18 Moving forward -- because before too long they're going
19 to be coming back with the 2017 plans.

20 **MR. BAEZ:** Exactly.

21 **CHAIRMAN GRAHAM:** And we need to make sure
22 that they have sufficient marching orders, and I don't
23 know if that needs to be codified or if it just needs to
24 be suggested or how, whatever the legal term is for
25 that. How do we go about going thumbs up or down with

1 this current plan in front of us and give that specific
2 direction so they know what they need to do going
3 forward?

4 **MR. BAEZ:** Exactly. Right.

5 **CHAIRMAN GRAHAM:** Now that's the question I'm
6 asking you, all of you.

7 **MR. BAEZ:** Okay. So you've got the issue of
8 1D, which is the management, the risk management plans
9 that you have before you that have been, and I think in
10 the staff's assessment of them, our recommendation is
11 that they've been -- that they were compiled or they
12 were constructed within the bounds of the existing
13 orders. And then you have -- so you take that how you
14 will. You vote that up or down, however you feel.

15 And then 1E, and this is my opinion, I don't
16 think, based on what staff has, what you all have
17 discussed with the staff today, I don't think that the
18 answer to 1E can be anything other than what's
19 recommended now. The reason being we don't have the
20 information at hearing that would have been necessary to
21 have a different answer.

22 **CHAIRMAN GRAHAM:** Okay.

23 **MR. BAEZ:** So my recommendation would be you
24 would pass that as recommended with any additional
25 direction to the staff. I would ask that that direction

1 be -- you know, give us enough leeway to consider all
2 possible avenues and all possible platforms in order to
3 get the information that we need in order that when you
4 address what kind of changes need making, however you
5 address it, you actually have a meaty answer, you
6 actually have things to work with rather than what we
7 have today.

8 **CHAIRMAN GRAHAM:** So how do we go about -- go
9 ahead, Mary Anne.

10 **MR. BAEZ:** Edit away.

11 **MS. HELTON:** First, let me say I do agree with
12 what your Executive Director has said. I do think that,
13 as I understand it from talking to the staff who
14 understand more about this docket than I do, that you do
15 have to vote out 1D and 1E today. I think everybody is
16 in agreement there.

17 So the question is what do we do -- what do
18 you suggest that we do next? I think everybody has
19 heard what you've said today on the bench. I think
20 everybody sitting in the room and listening to you knows
21 that you want to see some changes to the way that the
22 utilities conduct their hedging programs. I think that
23 to have the best process going forward to do that, I
24 think what Braulio is asking for and what I agree with
25 is the opportunity for staff to work with the

1 stakeholders, to work with the utilities, to work with
2 OPC, to work with the large customers, and see if we can
3 work through a process or decide what is the best
4 process after collaborating together on how to get
5 there.

6 I think everybody understands or should
7 understand from listening to your discussion today that
8 you want to see a change for next year. I think to come
9 up with the process today on the fly without the
10 opportunity to -- I'm not suggesting you would do that,
11 but to come up with a process to work with everyone to
12 see if we can, through positive discussions, get there,
13 I've been doing this long enough to know that I think
14 that's the better way to go about it than to try to come
15 up with something right now.

16 **CHAIRMAN GRAHAM:** So do we have a gut feeling
17 on how long the collaboration is going to be and before
18 you have a decent direction so the utilities know what
19 they need to start planning for 2017?

20 **MS. HELTON:** I think we could, you know, we
21 could schedule a meeting before Christmas to get it
22 rolling.

23 **CHAIRMAN GRAHAM:** I don't know if we need --
24 you know, I don't know how -- I'm not trying to hold you
25 back from anything. I'm just trying to make sure -- I

1 don't want to be here next year.

2 **MS. HELTON:** I think that, Mr. Chairman, I
3 think that is perfectly clear or should be perfectly
4 clear to everybody sitting in this room.

5 **CHAIRMAN GRAHAM:** Okay.

6 **MR. BAEZ:** And, Mr. Chairman, I would assure
7 you that as a backstop when you're here next year,
8 you're going -- at worst you're going to have a whole
9 lot more to say about it and to be able to say about it,
10 and that's the worst-case scenario, I think.

11 You know, I agree with Mary Anne, we can get
12 started talking as soon as possible because we do
13 understand that there's -- timing is of the essence and
14 we want to get whatever your feelings on the matter are
15 in place for the next go-round. And we kind of
16 missed the train on this for various reasons, but I
17 think everybody is -- I dare speak for everybody now,
18 you know, I think we're all on board with getting it up
19 on time.

20 **CHAIRMAN GRAHAM:** Now, if necessary, I can get
21 Julie to say she needs to be somewhere different, so
22 that way you can say the chairman, because I don't want
23 for you guys next year to say, well, you're not chairman
24 anymore, so it doesn't matter what you said last year.
25 I'm kidding.

1 Commissioner Edgar.

2 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

3 I think we've had good discussion. I would --
4 and thank you to our staff for helping us work our way
5 through the specific issues and the process and the
6 procedures by which we are bound. I agree. I think the
7 message is clear. It sounds to me like we're very close
8 to consensus on these issues. I recognize that there
9 are other issues in this docket that we will address
10 here very shortly.

11 I would add one comment, which is I don't
12 think that our staff needs to be apologetic about the
13 situation that we are in. I appreciate it, but I don't
14 think it's required.

15 I was actually talking with my policy advisor
16 earlier this morning before we came in today and saying
17 that one thing I over the years have found frustrating
18 about the hearing process, some things work well, but
19 one thing that can sometimes be frustrating about the
20 hearing process is it's not until you've heard all the
21 testimony and the questions and then you've had a chance
22 to reread the record that then you -- then sometimes the
23 issues and the next steps become clearer from that, but
24 yet we're bound to the issues that were pre-identified,
25 and I think that is kind of the situation that we are

1 in.

2 So, Mr. Chairman, when you are ready, I am
3 prepared to make a motion.

4 **CHAIRMAN GRAHAM:** I am ready.

5 **COMMISSIONER EDGAR:** All right. Thank you
6 very much for the opportunity.

7 I move approval of the staff recommendation on
8 Issues 1D and 1E, with the addition to 1E that we ask
9 our staff to look at the -- you know, obviously consider
10 the discussion that we have had, hear the will of the
11 Commission to have options, process, procedure, whatever
12 is the best way to do that, such that we can consider
13 possibilities to changes in the future to the hedging
14 process to minimize potential losses to customers.

15 **CHAIRMAN GRAHAM:** That's been moved and
16 seconded. We will call that the Edgar motion. Any
17 further discussion on that motion? Commissioners?

18 No. No further discussion. All in favor, say
19 aye.

20 (Vote taken.)

21 Any opposed? By your action, you've approved
22 that motion.

23 Commissioner Edgar.

24 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
25 Then I think that with your guidance and leadership, of

1 course, but my looking at it, I think that then maybe
2 the next most appropriate step would be to consider the
3 mitigation plans and potentially take those issues up as
4 a group, which would be Issue 2B, 3B, 5B and 6B. And
5 before I make a motion on that, I would like to ask
6 our -- Mary Anne, if I may, Ms. Helton, my understanding
7 is that in keeping with the decision that this
8 Commission just made on the two previous issues, that in
9 order to follow through on that what needs to be done is
10 for those mitigation plans to be approved at this time.

11 **MS. HELTON:** That's my understanding as well.

12 **COMMISSIONER EDGAR:** Okay. Then I would move
13 approval of the rate mitigation plans in those items
14 that I've listed, Mr. Chairman.

15 **CHAIRMAN GRAHAM:** So we've approved the rate
16 mitigation plans for Issues --

17 **COMMISSIONER EDGAR:** Risk management plan,
18 excuse me, on this vote. Thank you.

19 **CHAIRMAN GRAHAM:** Risk management plans for
20 Issues 2B, 3B, 5B, and 6B. That's been moved and
21 seconded. Is there any further discussion? Seeing
22 none, all in favor, say aye.

23 (Vote taken.)

24 Any opposed? By your action, you've approved
25 that motion.

1 Commissioner Edgar.

2 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

3 Then again in keeping with your direction, I would
4 propose that we take up Issue 3K. My understanding from
5 the hearing, my reading, and my meeting with staff
6 previous is that this is basically an accounting issue
7 and not a policy issue, and, therefore, I would move
8 approval of the staff rec for Issue 3K.

9 **COMMISSIONER BROWN:** Second.

10 **CHAIRMAN GRAHAM:** It's been moved and
11 seconded, staff recommendation on 3K. Any further
12 discussion? Seeing none, all in favor, say aye.

13 (Vote taken.)

14 Any opposed? By your action, you've approved
15 that motion.

16 Commissioner Edgar.

17 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

18 Then I would suggest, if it is your pleasure, that we
19 move to consideration of Issues 4A and 4B, and I do have
20 some comments, perhaps questions, on that, if you're
21 ready.

22 **CHAIRMAN GRAHAM:** Okay. You have the floor.

23 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

24 Looking at 4A and 4B, both together and
25 separately, I find 4A in particular to be, once again,

1 maybe one of those issues where we're in a bit of a box
2 due to the hearing process. Not a complaint but just
3 kind of, you know, the process is what the process is
4 required to be.

5 From the record evidence what we have in 4A
6 before us is cost recovery for a project by FPUC that is
7 -- the testimony says will be an improvement to the
8 transmission for that small transmission and
9 distribution utility, that it will reduce the price of
10 wholesale purchased power, that it will save fuel costs,
11 and that it is in the public interest. That is my
12 understanding of the testimony. If anybody disagrees, I
13 certainly am open to discussing that. But yet it is
14 being recommended, and I understand the reasons why, for
15 not recovery for costs through the fuel clause even
16 though, again, the project is intended to have fuel
17 savings.

18 There is the complicating factor of the
19 settlement agreement in the last rate case that we
20 approved, and I do believe that the settlement agreement
21 was in the public interest as we voted at that time.
22 But, Commissioners, I would just ask if there are
23 thoughts or if there are discussions about the staff
24 recommendation on this item.

25 **CHAIRMAN GRAHAM:** That question was to staff?

1 **COMMISSIONER EDGAR:** No, it was to my
2 colleagues.

3 **CHAIRMAN GRAHAM:** Commissioner Brown.

4 **COMMISSIONER BROWN:** Well, I -- thank you,
5 Mr. Chairman. I looked at this issue. I actually
6 highlighted this one specifically because I remember the
7 testimony of the witness, and it was an important
8 project, an integral project. Unfortunately the utility
9 is hamstrung, hamstrung by the hamstring by the
10 settlement agreement, which I believe reads that
11 specifically this type of cost recovery is not allowed
12 under clauses and it cites investment and maintenance of
13 transmission assets.

14 Staff, that settlement agreement is part of
15 the record, and what is the expiration date of that
16 agreement?

17 **MS. BROWNLESS:** The minimum term of the
18 settlement agreement ends on December 31st, 2017.

19 **COMMISSIONER BROWN:** 2017.

20 **MS. BROWNLESS:** 2016. I'm sorry.

21 **COMMISSIONER BROWN:** 2016. So could the
22 utility file testimony in the next year's fuel docket to
23 recover costs associated with this?

24 **MS. BROWNLESS:** Yes, ma'am.

25 **COMMISSIONER BROWN:** Okay. And not be

1 prohibited under the settlement agreement.

2 **MS. BROWNLESS:** Yes.

3 **COMMISSIONER BROWN:** Okay. Those are really
4 my only thoughts.

5 **CHAIRMAN GRAHAM:** Okay. I would still
6 entertain a motion.

7 Commissioner Edgar.

8 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
9 Then I would move that we disagree with --
10 reject the staff recommendation on Item 4 and approve
11 recovery of the costs for the interconnection between
12 FPL's substation in FPUC's northeast division through
13 the fuel recovery clause. That's my motion. My
14 thinking on that is I do believe that it will have cost
15 savings in fuel for the customers moving forward.

16 **CHAIRMAN GRAHAM:** Okay. We have the
17 Edgar 2 motion moved and seconded. Is there any further
18 discussion on that motion? Seeing none, all in favor,
19 say aye. Any opposed? All say aye.

20 (Vote taken.)

21 Thank you. All opposed? Any opposed? Seeing
22 none, you have approved that motion.

23 Commissioner Edgar.

24 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
25 I would move approval of staff recommendation for Item

1 4B.

2 **CHAIRMAN GRAHAM:** It's been moved and
3 seconded, staff recommendation on 4B. Any further
4 discussion? Seeing none, all in favor, say aye.

5 (Vote taken.)

6 Any opposed? By your action, you've approved
7 that motion.

8 Okay. We are down to Issue No. 9. We have
9 9 through 37 left. Commissioner Edgar.

10 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
11 Issues 9, 10, 11, 12, 19, 21, 23 are all fallout issues.
12 They are accounting factors. I would move approval of
13 those issues in bulk, and also move approval of Issue
14 37, which is close the docket. Staff recommendation,
15 leave the docket open.

16 **CHAIRMAN GRAHAM:** We have what we will call
17 the Edgar 3 motion. It's been moved and seconded. Is
18 there any further discussion on that motion? Seeing
19 none, all in favor, say aye.

20 (Vote taken.)

21 Any opposed? By your action, you've approved
22 that motion.

23 All right. That means that we are done with
24 Item No. 4 and we can move to Item No. 5. Actually we
25 can do Item 5 and 6.

1 **MR. MAUREY:** Chairman, oh, here, thank you. I
2 ask that we go back to Item 4. There was -- the motion
3 made on FPUC's fuel factor with the approval of 4A, that
4 amount needs to be added to its fuel factor, and we
5 can't go move staff on -- let me find the issue
6 specifically.

7 **COMMISSIONER EDGAR:** That's okay. May I,
8 Mr. Chairman?

9 **CHAIRMAN GRAHAM:** That sounds like a friendly
10 amendment.

11 **COMMISSIONER EDGAR:** I consider that a
12 friendly amendment, and I thank you, Mr. Maurey, for
13 bringing it to my attention. And I apologize to my
14 colleagues for perhaps moving too fast. That was not my
15 intention. I understand that with the decision that the
16 Commission has made on that issue that there may need to
17 be adjustments to the other accounting issues, and I
18 would ask Commissioners that we give our staff the
19 direction to make those adjustments.

20 **CHAIRMAN GRAHAM:** We will consider that a
21 friendly amendment, I guess, just to make sure we dotted
22 the I's and crossed the T's. All in favor, say aye.

23 (Vote taken.)

24 Any opposed? By your action, we've made that
25 change.

(Agenda item concluded.)

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

3
4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
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8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

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

18 DATED THIS 10th day of December, 2015.

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