

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20170009-EI

NUCLEAR COST RECOVERY CLAUSE.  
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PROCEEDINGS: SPECIAL COMMISSION CONFERENCE AGENDA

COMMISSIONERS  
PARTICIPATING:

CHAIRMAN JULIE I. BROWN  
COMMISSIONER ART GRAHAM  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER GARY F. CLARK

DATE: Tuesday, October 17, 2017

TIME: Commenced at 9:30 a.m.  
Concluded at 10:41 a.m.

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

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

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**CHAIRMAN BROWN:** All right. Good morning.

I'd like to call this meeting to order in Docket No. 20170009-EI, the Nuclear Cost Recovery Clause. Today is Tuesday, October 17th, and the time is 9:30.

And we're going to move right to the item, but before we do that, I do want to note that Commissioner Clark has a comment to make.

**COMMISSIONER CLARK:** Thank you, Madam Chairman. Before we begin, I think it's important that I put on the record that I was not here during the docket itself, but for the record I have reviewed the entire testimony, the prefiled testimony, the hearing transcripts, watched the video recordings, the exhibits, and the post-hearing briefs. And I've discussed this with General Counsel, and I've been advised that it is okay for me to participate in this exercise.

**CHAIRMAN BROWN:** Thank you, Commissioner Clark.

**COMMISSIONER CLARK:** Thank you.

**CHAIRMAN BROWN:** And we're glad to have you participate, too.

With that, if staff could give us a brief overview of the staff recommendation. I believe Ms. Whitfield will be doing that.

1 Good morning.

2 **MS. WHITFIELD:** Good morning, Commissioners.

3 Shelby Whitfield here with Commission staff. We are  
4 here today to present staff's recommendation in Docket  
5 No. 20170009-EI, the Nuclear Cost Recovery Clause.

6 Staff's recommendation addresses 11 issues  
7 concerning the ongoing development of FPL's Turkey Point  
8 Units 6 and 7 project. In summary, Issues 1, 2, and  
9 8 concern reasonableness and prudence determinations and  
10 a true-up of the recovery of project activities and  
11 costs incurred in 2015 and 2016.

12 Issues 3, 4, 5A, 6B, and 7 focus on policy or  
13 legal issues. The primary controversy in these issues  
14 involves what a company is required to file under  
15 Section 366.93, *Florida Statutes*, and Rule 25-6.0423,  
16 *Florida Administrative Code*. Staff is available to  
17 present each issue or be available to answer any  
18 questions you may have. Thank you.

19 **CHAIRMAN BROWN:** Thank you. And you said  
20 1, 2, and 8 are recovery?

21 **MS. WHITFIELD:** Those are -- sorry. Those  
22 involve reasonableness and prudence determinations, so  
23 they're more dollar answer questions. And then the rest  
24 of them are going to be more policy and legal.

25 **CHAIRMAN BROWN:** Okay. Thank you. And I

1 would like to go over -- I'd like to break this up into  
2 Issues 1 and 2, which since they relate to 2015 and 2016  
3 and I think are pretty straightforward, if you could  
4 just do a quick overview for us.

5 **MS. WHITFIELD:** Okay. We're going to have  
6 Jim --

7 **MR. BREMAN:** Issues 1 and 2 deal with the  
8 prudence of the company's management of the projects in  
9 2015 and '16. Issue 2 deals with the fallout, which is  
10 what are the prudently incurred costs resulting from  
11 your decision in Issue 1?

12 FPL's 2015 and '16 activities focused on  
13 efforts to secure the permits and license necessary for  
14 the project. The primary one is obviously the license  
15 before the Nuclear Regulatory Commission and the state's  
16 site certification.

17 The witnesses were FPL Witness Scroggs and  
18 then staff audit witnesses. Their testimony indicated  
19 that there were no findings of imprudence or  
20 unreasonableness in the management of the projects or in  
21 the accounting of the costs. No other independent  
22 reviews or testimony was presented. OPC, FRF took no  
23 position. SACE's position was no but provided no  
24 argument supporting its decision.

25 FIPUG's position was no, and its arguments in

1 support of its position centered on the absence of the  
2 feasibility analysis. Staff disagrees with FIPUG's  
3 arguments because a feasibility analysis is prospective  
4 and a prudence review addresses what is reasonably known  
5 or knowable at the time a decision is made.

6 Issue 2 is basically a fallout of this where  
7 the parties reargued their views of the consequence of  
8 not filing a feasibility analysis. That's staff's  
9 recommendation in Issues 1 and 2.

10 **CHAIRMAN BROWN:** Thank you, Mr. Breman.

11 Commissioners, I think the way that we should  
12 do this is take up and vote on Issues 1 and 2, and  
13 then -- since they relate to 2015 and 2016, and then  
14 we'll go to the other issues which relate to 2017 and  
15 beyond. So if Commissioners have any questions on  
16 1 and 2, now is the time to make them.

17 Commissioner Brisé.

18 **COMMISSIONER BRISÉ:** Well, I don't have any  
19 questions on Issues 1 and 2. I think that they're  
20 pretty straightforward, and so I don't know if there are  
21 any questions. But if not, I'm prepared to make a  
22 motion on Issues 1 and 2 to approve staff recommendation  
23 on Issues 1 and 2.

24 **CHAIRMAN BROWN:** Thank you. Any further  
25 discussion? Seeing none, all those in favor on Issue --

1 the staff recommendation on Issues 1 and 2, signify by  
2 saying aye.

3 (Vote taken.)

4 Opposed?

5 Thank you. 1 and 2 passed.

6 Now on to the big issues. Not that those  
7 weren't big, but Issue 3 and beyond deal with 2016,  
8 2017, anything after December 31st, 2016, which was the  
9 bulk of the discussion during the hearing.

10 Staff, I think it would be helpful to have a  
11 overview of Issue 3, please.

12 **MR. BREMAN:** Yes, ma'am. Issue 3 asks whether  
13 the Commission should approve FPL's request to defer  
14 recovery of ongoing Turkey Point Unit 6 and 7 project  
15 efforts. Additionally, Issue 3 asks what type of --

16 **CHAIRMAN BROWN:** Could you speak up, please?  
17 I'm sorry.

18 **MR. BREMAN:** Yes, ma'am. Okay. Additionally,  
19 Issue 3 -- is that better? -- asks what type of  
20 information FPL should report during such deferral  
21 period, if approved.

22 FPL argued that the Commission has a history  
23 of approving deferral recovery and deferred reviews.  
24 FPL asserted that the Commission and the parties will  
25 have the opportunity to review and challenge cost

1 recovery in the future when recovery is actually sought.  
2 Until then, FPL will continue to file information  
3 required by Section 366.93(5) and Rule 25-6.0423(9)(f).

4 The Intervenors oppose FPL's request because  
5 of arguments stemming from the fact that FPL did not  
6 file a feasibility analysis. Staff's analysis explains  
7 that a feasibility analysis is information to use when  
8 considering prospective matters.

9 Staff's recommendation is that -- excuse me, I  
10 got lost -- the Commission find that there is  
11 sufficient record evidence in this proceeding to make an  
12 informed decision concerning prospective matters  
13 pertaining to FPL's Turkey Point project, and this is  
14 consistent with staff's recommendation in other issues.  
15 And we also recommend that FPL should go ahead and file  
16 the information required by the statute and supplement  
17 that with a summary presentation of what is causing  
18 expected costs to change in the future.

19 **CHAIRMAN BROWN:** Thank you, Mr. Breman.

20 All right. Commissioners, I know I've had  
21 briefings with staff. I know -- I'm sure all of you  
22 have as well. If there are questions that you have on  
23 this issue, now is the time to raise them, or comments.

24 Commissioner Brisé. Oh, you don't want -- no.  
25 Commissioner Clark.

1                   **COMMISSIONER CLARK:** Thank you, Madam  
2 Chairman. There's a couple of things that I'm kind of  
3 curious about in terms of the deferral. The request to  
4 approve a deferral, suppose they are not planning to  
5 come back and ask for recovery through the NRC (sic)  
6 clause but instead looked at recovery through capacity  
7 and in the future in base rate. Does that change --  
8 would that change staff's recommendation?

9                   **MR. BREMAN:** It's an interesting question.  
10 Staff's recommendation is framed based on the NCRC  
11 statute and the rule. If the company had petitioned  
12 under a different statutory framework, then we would be  
13 presenting a recommendation consistent with that  
14 framework. So all we're doing here is trying to remain  
15 consistent with the statute and the rule. We did not  
16 explore methods that were not petitioned.

17                   **COMMISSIONER CLARK:** Some follow-up, Madam  
18 Chairman. So if the, if the Commission approved the  
19 deferral, we could stipulate in that deferral that that  
20 could only come back as a capacity recovery or base rate  
21 recovery; is that correct? Is that a fair assessment?

22                   **MR. BREMAN:** I don't know because the  
23 recommendation I'm trying to be consistent with is the  
24 record presented to you.

25                   **COMMISSIONER CLARK:** Understood.



1           **MR. BREMAN:** I don't have a whole lot of  
2 foundation to present an analysis regarding alternatives  
3 to the presentation that FPL provided.

4           **CHAIRMAN BROWN:** Commissioner Clark, if I may,  
5 just to jump in and follow up on his question, so if the  
6 company came in under traditional ratemaking, like a  
7 base rate clause, base rate case, would they need to  
8 file a feasibility study?

9           **MR. BREMAN:** I don't think so.

10          **CHAIRMAN BROWN:** I don't either.

11          **MR. BREMAN:** Because there is no requirement  
12 under those parameters for a feasibility analysis.

13          **CHAIRMAN BROWN:** So the only recovery  
14 available for Turkey Point 6 and 7 would be through a  
15 base rate or through the clause.

16          **MR. BREMAN:** At this juncture, yes, ma'am.

17          **CHAIRMAN BROWN:** Okay. Sorry. Commissioner  
18 Clark, are you good?

19                Okay. Commissioner Brisé.

20          **COMMISSIONER BRISÉ:** Thank you. And so  
21 following up, following that logic, because I was  
22 thinking about that too, so if the Commission decided to  
23 approve the request to defer and segregate the recovery  
24 portion of it -- right? -- what would that look like?

25          **MR. BREMAN:** If I understand the question -- I

1 might reframe it a little bit.

2 **COMMISSIONER BRISÉ:** Sure.

3 **MR. BREMAN:** Within the context of the NCRC,  
4 the question is can we approve, FPL, you have a timeout  
5 of the NCRC, come back in five, within the five-year  
6 period as laid out, but cost recovery will be addressed  
7 outside of the NCRC. Is that the question?

8 **COMMISSIONER BRISÉ:** Yeah, sort of.

9 **MR. BREMAN:** Okay. That is staff's  
10 recommendation.

11 **COMMISSIONER BRISÉ:** Okay.

12 **MR. BREMAN:** In Issue 4 --

13 **COMMISSIONER BRISÉ:** Because I'm looking at  
14 Issue 3 and 4 as a coupled issue.

15 **MR. BREMAN:** They are coupled, and that's sort  
16 of the caveat that we have in Issue 3 is we have to make  
17 allowance for what the utility may decide to do in the  
18 near future.

19 In the near future, the utility could  
20 re-petition and file additional information that  
21 satisfies the feasibility requirement, and in such an  
22 instance from that time forward, it would be availing  
23 itself of the NCRC and everything would be fine.

24 So in Issue 4 what we're saying is in the  
25 absence of a feasibility analysis, there is no NCRC

1 consideration. It's just the traditional ratemaking  
2 unless FPL has another interesting idea.

3 **COMMISSIONER BRISÉ:** Sure.

4 **MR. BREMAN:** But, so that is consistent with  
5 staff's recommendations in Issues 3 and 4. You have to  
6 combine the two to get there. So I hope that clarifies  
7 your question.

8 **COMMISSIONER BRISÉ:** A little bit. We'll --  
9 I'm sure we'll circle back in a few.

10 **CHAIRMAN BROWN:** Commissioner Polmann.

11 **COMMISSIONER POLMANN:** Thank you, Madam  
12 Chairman.

13 I see in the issue two questions, and I think  
14 we'll deal with the second part after we resolve the  
15 first part.

16 The first question: "Should the Commission  
17 approve the request to defer?" And there is specific  
18 reference to statute and rule. There are citations  
19 within the question, and there's a date thereafter,  
20 December 31, 2016. I think the issue embedded within  
21 this is, whether stated explicitly or not, is the need  
22 for the feasibility analysis, and we discussed this in  
23 briefing.

24 Could you please clarify the importance of the  
25 submittal by the utility of the feasibility analysis or

1 the lack of that post-December 31, 2016, and how that  
2 comes into play with the cost recovery under NCRC?  
3 There currently is not in our hands a feasibility  
4 analysis for 2017. And could you confirm that and then  
5 explain to the Commission how that comes into play on  
6 this cost recovery under, under this clause?

7 **MR. BREMAN:** I'll try. There is no  
8 feasibility analysis indicating that completing the  
9 project is reasonable. And we think if you -- staff is  
10 recommending that pursuant to our rule and everything  
11 else, we believe a feasibility analysis is needed to  
12 inform any prospective decision that the Commission  
13 makes.

14 So what we have is, is an incomplete picture  
15 of the project and a regulatory decision. It is not  
16 fully informed. So until FPL does file an analysis that  
17 demonstrates going forward the project is a reasonable  
18 effort, the NCRC recovery is not available. So that's  
19 sort of getting into Issue 4, and, Commissioner, they  
20 are coupled. So we're trying to make allowances in  
21 Issue 3 for the answer to Issue 4.

22 So that's the situation, is that the  
23 Commission needs to be informed on a prospective basis  
24 with respect to granting a decision to recover costs  
25 that the company intends to recover.

1                   **COMMISSIONER POLMANN:** Follow-up, Madam  
2 Chairman.

3                   **CHAIRMAN BROWN:** Uh-huh.

4                   **COMMISSIONER POLMANN:** Given your explanation  
5 here, in the context of Issue 3, can you please give us  
6 a little bit more insight into the recommendation where  
7 it says, "Not at this time," given what you've just said  
8 about the, the distinction between the recovery under  
9 NCRC and then the alternative or the more traditional  
10 recovery vis-a-vis the feasibility analysis? Because  
11 the feasibility analysis, in response to Commissioner  
12 Brisé or other discussion here, the feasibility analysis  
13 only pertains to this clause; is that correct?

14                   **MR. BREMAN:** That's correct.

15                   **COMMISSIONER POLMANN:** And the "Not at this  
16 time," can you please explain that as opposed to the  
17 answer being "No"?

18                   **MR. BREMAN:** Yes. If there were no Issue 4,  
19 then Issue 3 would have to address the timing issue  
20 because what we have is an incomplete record. And with  
21 an incomplete record, we can't actually say it's wrong,  
22 it's bad, it's a good idea, not a good idea. What staff  
23 is recommending is we're not making a finding that  
24 deferral is a good idea or bad idea. FPL wants to do  
25 it, but we're not making a decision on whether it's a

1 good idea or a bad idea because we don't think that  
2 there's ample evidence in the record for the Commission  
3 to buy into continuing forward with the project for five  
4 years or so.

5 So that's, that's -- "At this time" allows the  
6 utility then to reformulate its presentation to the  
7 Commission, if it chooses to, in the near future, if it  
8 wants to.

9 **CHAIRMAN BROWN:** Commissioner Polmann.

10 **COMMISSIONER POLMANN:** Thank you, Madam  
11 Chairman.

12 If I understand this, the issue is stated in  
13 the context specifically of the Nuclear Cost Recovery  
14 Clause because of the reference here to the, to the  
15 rule, to the statute and rule. And FPL is asking to --  
16 for approval to defer recovery for costs after a date  
17 certain, but, in fact, they have not submitted the  
18 feasibility analysis that would be required pursuant to  
19 the statute -- well, not the statute, but pursuant to  
20 the rule.

21 So in that context, I don't see an opportunity  
22 for the Commission to approve what, what they've  
23 requested in that first sentence under the issues  
24 statement. And I understand the staff recommendation  
25 being that we should not approve that until such time --

1 well, we can't, given the current circumstances, because  
2 we don't have the information.

3 At some point in the future if they, if the  
4 utility chooses to submit a feasibility analysis, that  
5 from that day forward, because it is prospective, then  
6 there is an opportunity for it to be considered. But  
7 until such time, then, then this clause is not available  
8 to them.

9 **CHAIRMAN BROWN:** So if the utility submits a  
10 feasibility study for 2018, they would be entitled or we  
11 would be allowed to consider cost recovery from 2018  
12 forward. But for 2017, since they did not submit a  
13 feasibility study for that year, that would be off the  
14 table.

15 **COMMISSIONER POLMANN:** That is my  
16 understanding, Madam Chairman, that until such time as  
17 they submit the feasibility analysis within the  
18 context -- or pursuant to the rule, then the rule is not  
19 available to them as a cost recovery mechanism, although  
20 cost recovery by traditional means in ratemaking is a  
21 method available to them at a point in the future where  
22 traditional ratemaking -- as we understand it. Now  
23 that's a totally different procedure. It has nothing to  
24 do with this clause.

25 **CHAIRMAN BROWN:** I think you got it.

1           **COMMISSIONER POLMANN:** I think I do, but I'm,  
2 I'm looking to my colleagues.

3           **CHAIRMAN BROWN:** Uh-huh.

4           **COMMISSIONER POLMANN:** So I'll, I'll give up  
5 the mike.

6           **CHAIRMAN BROWN:** Okay. All right.

7           Commissioners, any further questions or  
8 discussion on Issues 3 and 4? And I think just,  
9 Mr. Breman, to Commissioner Polmann's point, so if the  
10 utility for Issue 4, for example, does come in after  
11 the -- if the Commission finds the staff recommendation  
12 favorable and the utility submits a feasibility study  
13 immediately thereafter, then how would that affect the  
14 recommendation in the order timing wise?

15           **MR. BREMAN:** FPL's future actions? We'll  
16 address those when they're ripe. Right now we're only  
17 addressing the record of the proceeding. So FPL did not  
18 commit to -- or say that it was going to file a  
19 feasibility analysis. I'm struggling with trying to  
20 answer the scope of your question about the future.

21           **CHAIRMAN BROWN:** So I'll rephrase it. I'll  
22 rephrase. So, say, the order is issued in favor -- in a  
23 finding of the staff recommendation. FPL thereafter  
24 files a feasibility study, whether -- let's say it just  
25 applies for, prospectively for 2018. How would the



1 staff and the Commission address that?

2 **MR. BREMAN:** On a prospective basis.

3 **CHAIRMAN BROWN:** I'm aware of that, but --

4 **MR. BREMAN:** We would, we would address the  
5 recovery of costs 2018 and forward as available through  
6 the NCRC.

7 **CHAIRMAN BROWN:** For the following year.

8 **MR. BREMAN:** Correct. 2018, '19, and '20 and  
9 so forth.

10 **CHAIRMAN BROWN:** Okay.

11 **MR. HINTON:** Chairman, if I might clarify a  
12 little bit. This recommendation, this docket addresses  
13 the petitions that were filed by the utility this year.  
14 If they were to come in with another feasibility  
15 analysis shortly thereafter, I would assume that it  
16 would be accompanied with a petition for the Commission  
17 to take some kind of action. And so we would address it  
18 as a new petition that was accompanied with a  
19 feasibility analysis.

20 **CHAIRMAN BROWN:** Thank you, Mr. Hinton.

21 And I think, staff, you know, I think you  
22 struggled, it looks like, with this recommendation  
23 trying to grasp based on the facts that were produced  
24 during the hearing and coming to, to provide us with  
25 something. And I know you spent a lot of time on this

1 docket, so thank you for that.

2           You know, it's a hard -- this is a hard issue.  
3 I think the whole country is watching the new fleet of  
4 nuclear deployments being constructed or to be  
5 constructed around the country. This particular issue  
6 is a big one for us, and I think that when the Florida  
7 Legislature created 366.93 back in 2006, it was the  
8 intent to encourage nuclear investment in our state. It  
9 was a policy decision that they made. They amended it  
10 thereafter several times. But it was, it was their  
11 judgment and it was -- and this Commission has complied  
12 with the law through our Nuclear Cost Recovery Clause  
13 proceedings annually. Whether the statute has worked  
14 out for customers is a question that everyone has. And  
15 whether Turkey Point 6 and 7 are going to come online  
16 and are feasible, are practical, are realistic is a  
17 question that we, as regulators, have.

18           And like it or not, nuclear power has been  
19 very important to our fleet over decades for many, many  
20 Floridians. It's provided clean energy, reasonable --  
21 it's been reliable, and I believe Turkey Points 3 and  
22 4 will continue to do so.

23           I'd like to think 6 and 7 would come online,  
24 but based on the fact that we did not have a feasibility  
25 study for this year's proceeding, it's hard to say that.

1 So I support the staff recommendation on Issue 3.

2 Commissioner Brisé.

3 **COMMISSIONER BRISÉ:** Thank you. So I'm going  
4 back to the, the issue with respect to the amount of  
5 time. So independent of the amount of time, whether  
6 it's next year that a feasibility study comes in or four  
7 years down the line that a feasibility study comes in,  
8 that then resets the relationship with the NCRC --  
9 right? -- for prospective recovery? That gap of time is  
10 still recoverable through traditional means of recovery;  
11 right?

12 **MR. BREMAN:** Correct.

13 **COMMISSIONER BRISÉ:** Okay. Now can you walk  
14 through the nexus between 3 and 4 and the language in  
15 5 with respect to finding it reasonable or not?

16 **MR. BREMAN:** The question on 5A is the  
17 reasonableness of going forward with the COL. Okay.  
18 I'm in the middle of the two issues, so I'll try and  
19 we'll see where it goes.

20 Issue 4 addresses the legal arguments and the  
21 procedural arguments, and Issue 3 is the practicality of  
22 it. Where we're -- where staff is viewing everything is  
23 within the context of the NCRC and, and the rule. So  
24 that's how we answered all these issues.

25 So in the absence of any forward analysis

1 demonstrating the project -- that completing the project  
2 is feasible and reasonable or testing that question,  
3 we're recommending you don't take an action on Issue 5A.  
4 I think that's what your question is.

5 **COMMISSIONER BRISÉ:** Not quite. I'm trying  
6 to -- because if it -- Issue 5 is prospective; right? I  
7 mean, we're -- the way it's framed, it's -- so we're  
8 looking at reasonability within the context of the NCRC.  
9 But if we have, in essence, or are going to potentially,  
10 the way it looks the votes might be, that 3 and 4 is  
11 segmenting that period out; right? Whatever that period  
12 is, whether it's one year, three years, the concept of  
13 reasonableness and prudent, then sort of those words  
14 take on a different meaning with respect to the project.  
15 Because at that point you're -- the question that we're  
16 being posed is more of a general policy question --

17 **CHAIRMAN BROWN:** Yes, that's what I think.

18 **COMMISSIONER BRISÉ:** -- from my perspective  
19 than a specific question relative to what we have before  
20 us.

21 **MR. BREMAN:** Correct. I think there is a  
22 distinction that you might be looking for. Issues 3  
23 and 4 focus primarily on the process of cost recovery,  
24 while Issue 5 is a little bit more distinct, and it  
25 might be asking a question having to do with a decision

1 in the project.

2 **CHAIRMAN BROWN:** And, Commissioners, if I may  
3 just cut you off right there, I'd like to deal with  
4 Issue 5 separately from Issues 3 and 4. I know they're  
5 all kind of married together, but I think -- yeah, I'd  
6 like to -- let's just stick on Issues 3 and 4 right now.

7 Okay. So with that, are there anymore  
8 questions on Issues 3 or 4?

9 Yes, Commissioner Clark.

10 **COMMISSIONER CLARK:** Thank you. I just want  
11 to go back to the staff's recommendation because I think  
12 I'm a little bit confused. It seemed like what you were  
13 saying a second ago was that the staff's recommendation  
14 was basically granting that deferral, allowing them to  
15 recover, but that's not -- allowing them to defer, but  
16 that's not what it's doing. Did I misunderstand that?

17 **CHAIRMAN BROWN:** Staff.

18 **MR. BREMAN:** Not through the NCRC.

19 **COMMISSIONER CLARK:** Correct.

20 **MR. BREMAN:** So what we're, what we're saying  
21 is that the utility needs to do what it needs to do,  
22 make its own decisions. But for purposes of the NCRC,  
23 staff is recommending that it doesn't qualify for NCRC  
24 recovery.

25 **CHAIRMAN BROWN:** Unless it files a feasibility

1 study.

2 **MR. BREMAN:** Correct. That's Issue 4.

3 **COMMISSIONER CLARK:** That does not in way  
4 preclude the utility from recovering their costs through  
5 conventional cost recovery.

6 **MR. BREMAN:** That is correct.

7 **COMMISSIONER CLARK:** Okay.

8 **CHAIRMAN BROWN:** Any further questions,  
9 Commissioner Clark, or do you want me to go back to you?

10 **COMMISSIONER CLARK:** No, I'm good.

11 **CHAIRMAN BROWN:** Okay. Commissioner Graham.

12 **COMMISSIONER GRAHAM:** Madam Chair, it feels  
13 like we're going in a circle. So if we're ready for a  
14 motion --

15 **CHAIRMAN BROWN:** Thank you. We have one more  
16 question. I'm coming back to you for that motion.  
17 Commissioner Polmann.

18 **COMMISSIONER POLMANN:** Thank you, Madam  
19 Chairman. I see the issue, and I'll come back to this,  
20 as I referenced earlier, there are two, two questions in  
21 the issue, and I think we've addressed the first. And I  
22 understand "Not at this time," and Commissioner Clark  
23 just referenced that.

24 So the second part is "if so," which presumes  
25 if we answer the first one in the affirmative, then the

1 second one applies. So if the board agrees with -- if  
2 the Commission agrees with the staff recommendation for  
3 the first question, then in effect the second question  
4 is moot, to my read.

5 However, I think there's important information  
6 in the staff recommendation as to some additional action  
7 or, or material that we perhaps would like to see in the  
8 final order, and I'm wondering if we should have some  
9 discussion on that before we take action on the issue.  
10 I'll just put that out there.

11 **CHAIRMAN BROWN:** Let's do that. Well, just to  
12 rephrase kind of your question for staff dealing -- if  
13 the Commission were to approve the staff recommendation  
14 on Issues 3 and 4, we are not bound by the  
15 recommendation that you have provided in Issue 5; is  
16 that correct?

17 **MR. BREMAN:** That's correct.

18 **CHAIRMAN BROWN:** Okay. So they're not tied  
19 together.

20 **MR. BREMAN:** No.

21 **CHAIRMAN BROWN:** Thank you.

22 All right. Commissioner Polmann, if you'd  
23 like to raise some additional information you'd like to  
24 see, please, now is the time to do so.

25 **COMMISSIONER POLMANN:** Well, thank you.

1 Reading the recommendation, I have no issue with, with  
2 the staff recommendation in the first two sentences. I  
3 think we now have clarified "Not at this time" because  
4 that refers specifically to NCRC, and we've discussed  
5 the feasibility analysis and the timing.

6 But the second part, staff also recommends,  
7 recommends certain documents be provided, certain  
8 material be provided: one pursuant to statute and then  
9 there's a summary of material. And you put this in the  
10 context of if FPL intends to pause participation in the  
11 NCRC. Frankly, I have issue and great concern about the  
12 whole concept of a "pause" and the use of that term, but  
13 we can discuss that now or later.

14 **CHAIRMAN BROWN:** Let's discuss it now.

15 **COMMISSIONER POLMANN:** This might take a  
16 while.

17 **CHAIRMAN BROWN:** We've got all day, except  
18 until 1:00.

19 **COMMISSIONER POLMANN:** So we have three hours.

20 **CHAIRMAN BROWN:** Yeah. I know you like to eat  
21 lunch, too.

22 **COMMISSIONER POLMANN:** I do.

23 **CHAIRMAN BROWN:** I know. So two.

24 **COMMISSIONER POLMANN:** Commissioner Graham,  
25 are you prepared for this?



1           **COMMISSIONER GRAHAM:** You've got the mike,  
2           sir.

3           **COMMISSIONER POLMANN:** Okay. Thank you.

4           **CHAIRMAN BROWN:** Let's talk about it, "pause."

5           **COMMISSIONER POLMANN:** Should we take a pause  
6           first? No.

7                   I'll look at staff and just ask a question  
8           and, anyone, please feel free. Is the concept of a  
9           "pause" in the literal -- or does the use of that term  
10          or concept appear anywhere in statute or rule, or was it  
11          even contemplated that such a thing could happen, occur?  
12          Because I didn't see it.

13           **MS. MAPP:** No. That -- a pause was not  
14          contemplated based on staff's reading and interpretation  
15          of 366.93 and Rule 25-6.0423.

16           **COMMISSIONER POLMANN:** Thank you. And to my  
17          reading, unless I missed it, the utility's use of the  
18          term "pause," it appears essentially at every case in  
19          quotes. So I'll just assert that.

20                   And given that fact, my concern is that the  
21          utility is creating something unilaterally, and I think  
22          that it may be that if the Commission accepts that  
23          notion, that the utility can bring to us the concept of  
24          pausing in the context of our own rule, that it would do  
25          great injury to our ability to apply and interpret our

1 own rule.

2 So I would offer that we should not accept and  
3 certainly not celebrate the concept of a pause in the  
4 concept of the NCRC and, in fact, affirm otherwise. And  
5 the notion of a pause, that they, that they would, in a  
6 colloquial context, choose to pause in a simple sense  
7 some aspect of work because that may be appropriate from  
8 a project management context is their decision. But to  
9 pause within the context of our rule and how we process  
10 and proceed I think is wholly inappropriate. That's my  
11 opinion.

12 So whatever it is that they intend to do from  
13 project management and, and timing and so forth,  
14 provided that they are working within the context of our  
15 rule and we, and we have control of the application,  
16 interpretation, and proceedings such as this, I have no  
17 issue. But --

18 **CHAIRMAN BROWN:** Commissioner Polmann, if I  
19 may. Staff, can you elaborate on the pause? It was  
20 contemplated back in 2016. My understanding is that the  
21 pause is primarily for -- to seek cost recovery  
22 purposes. The utility, based on the hearing, was  
23 pausing based on the new wave of nuclear projects, going  
24 to continue pursuing its, obtaining its COL, which is  
25 expected over the next month or two, and that -- and

1 then just general associated activities with that.

2 **MR. BREMAN:** Pause is used in two contexts,  
3 and I think that's a little frustrating. Pausing  
4 project development beyond getting the COL is how I  
5 would characterize FPL's testimony regarding its project  
6 management decision, and as you indicated, that decision  
7 was made some time ago. We're here today addressing  
8 suspending NCRC review. That's --

9 **CHAIRMAN BROWN:** Also caused the pause.

10 **MR. BREMAN:** Pause. So that's the  
11 terminology, unfortunate use of the same words to  
12 describe two very different events. One is a regulatory  
13 event and the other is project management.

14 **CHAIRMAN BROWN:** Thank you for that  
15 clarification.

16 Commissioner Polmann, anything further?

17 **COMMISSIONER POLMANN:** No, I appreciate the  
18 distinction. In fact, we discussed that in briefing.  
19 So I have no issue provided that the use of that term is  
20 clearly distinguished, and provided that the utility is  
21 within the four corners of the rule and that all of the  
22 procedures, whether it's a request for a waiver or an  
23 exception or whatever it is, and the feasibility  
24 analysis and all of our assessments are in place, then  
25 I'm fine with it. But if they're outside of those four

1 corners, then I think we, we should take a position on  
2 that and make it absolutely clear to this utility and  
3 every other utility that we expect them to operate  
4 inside the rules. And, frankly, that should be obvious  
5 to everyone, but if we need to affirm that and make a  
6 statement to that effect, then I think we should.

7 **CHAIRMAN BROWN:** Thank you.

8 Commissioner Brisé.

9 **COMMISSIONER BRISÉ:** Thank you, Madam  
10 Chairman. I think the recommendations on Issues  
11 3 and 4 make that clear in terms of what the rule is,  
12 what the requirement is. And if the Commission moves  
13 forward with supporting the staff recommendation, the  
14 affirmative statement is there. And, you know, it's up  
15 to the company to decide how it wants to manage its  
16 project. And so if the company decides that they don't  
17 want to employ or go through the clause for the purposes  
18 of pursuing this segment of the project by making a  
19 decision, the Commission then acts within its rules and  
20 within the statute to, to either support or deny that  
21 decision. So I think the recommendation is pretty  
22 affirmative with respect to that.

23 **CHAIRMAN BROWN:** Thank you, Commissioner  
24 Brisé. I agree with you on that.

25 Commissioner Clark, do you have anything to

1 add?

2 **COMMISSIONER CLARK:** No, I think he did a good  
3 job.

4 **CHAIRMAN BROWN:** Okay. I think we are in a  
5 posture now to address Issues 3 and 4. Commissioner  
6 Graham.

7 **COMMISSIONER GRAHAM:** Move staff  
8 recommendation on Issues 3 and 4.

9 **CHAIRMAN BROWN:** Is there a second?

10 **COMMISSIONER BRISÉ:** Second.

11 **CHAIRMAN BROWN:** Is there further discussion?  
12 Seeing none, all those in favor, signify by  
13 saying aye.

14 **COMMISSIONER GRAHAM:** Aye.

15 **COMMISSIONER BRISÉ:** Aye.

16 **COMMISSIONER POLMANN:** Aye.

17 **CHAIRMAN BROWN:** Aye.

18 Opposed?

19 **COMMISSIONER CLARK:** No.

20 **CHAIRMAN BROWN:** All right. We will be moving  
21 on to Issue 4 (sic). Please let -- Issue 5, but let the  
22 record reflect that Commissioner Clark voted no on  
23 Issues 3 and 4.

24 Issue 5, staff, can you provide an overview of  
25 this? I got tell to you, I don't like the way the

1 question is phrased. I know a fellow colleague was  
2 alluding to a similar thought, but it is pretty general  
3 in nature. Can you do an overview of how you got to the  
4 decision?

5 **MR. ELLIS:** Issue 5A addresses whether FPL's  
6 decision to continue pursuing a combined operating  
7 license, or a COL, for Turkey Point Units 6 and 7 is  
8 reasonable. And staff's recommendation is that it is  
9 premature at this time to make that decision, as  
10 previously discussed in Issues 3 and 4, without a  
11 feasibility analysis.

12 Staff recommends there's insufficient  
13 information to address prospective matters such as this  
14 one. So that's kind of the genesis of staff's  
15 recommendation, is this is an example of a prospective  
16 matter that a feasibility study could have addressed.

17 **CHAIRMAN BROWN:** Okay. Commissioners, Issue  
18 5A.

19 Commissioner Graham.

20 **COMMISSIONER GRAHAM:** Thank you, Madam Chair.  
21 I, I think 5A is a pretty narrow question. It doesn't  
22 ask if Florida Power & Light wants -- is going to seek  
23 recovery through the NCRC without a feasibility  
24 analysis. It basically just asks if it makes sense at  
25 the point we are right now to move forward and get the

1 COL or not, and that's the way I read 5A as being.

2 I didn't know -- you were saying or it was  
3 said that it wasn't clear. I thought it was pretty  
4 clear that, you know, it's not about the recovery here.  
5 It's about you have come this far, you know. You've  
6 got -- you're on the 2-yard line. Do you push it in and  
7 get it or do you not?

8 **CHAIRMAN BROWN:** And, Commissioner Graham, I  
9 agree with you on that part. You know, we've been  
10 working together, at least three of us, for a long time,  
11 and sometimes we think a lot alike. But as an engineer  
12 and as a lawyer, I think that the question is vague.  
13 Although I feel the same way, I feel that the question  
14 is very broad. And I'm going back to the statute,  
15 366.93, and marrying the statute with the intent to  
16 promote nuclear generation and asking if the actions of  
17 the utility are reasonable, and it doesn't actually say  
18 in the context of the nuclear cost recovery proceedings.  
19 It's just a general statement: Are they reasonable?

20 We're at the -- as the -- I think it was,  
21 Witness Scroggs said, at the -- what was it? -- at the  
22 10-yard line or something to that effect? I forget the  
23 analogy he used.

24 **COMMISSIONER BRISÉ:** 2-yard line.

25 **CHAIRMAN BROWN:** 2-yard. And so -- and they

1 indicated -- he indicated on the stand that the license  
2 is to be obtained next month, November or December. So  
3 whether the actions to pursue new nuclear investment are  
4 reasonable in getting that license, I mean, it's hard to  
5 say the answer is no. We're not talking cost recovery  
6 here. We're talking actions; is that correct?

7 **MR. ELLIS:** That is correct. I would just  
8 like to caveat that staff's recommendation is neutral  
9 with regards to it. We're not saying yes. We're not  
10 saying no. We're just saying it was premature in the --  
11 in this context.

12 **CHAIRMAN BROWN:** Okay. Commissioner Brisé.

13 **COMMISSIONER BRISÉ:** Thank you, Madam Chair.

14 So I, I view this as a policy question. And  
15 from my perspective, is FPL's decision to continue  
16 pursuing a combined operating license from the NRC for  
17 Turkey Point 6 and 7 reasonable, from my perspective,  
18 it's asking me as a Commissioner to determine whether I  
19 think it's reasonable for them to move forward.

20 I think we can decouple that and that every  
21 Commissioner makes that decision whether you couple that  
22 with recovery or not, whether you look at it  
23 specifically within the context of the NCRC, or whether  
24 you take that into consideration with Issues 3 and 4,  
25 that they can come back and seek recovery through



1 another clause, sort of making that project complete.

2 So for this Commissioner, I think it's  
3 reasonable for them to move forward. I think it's in  
4 the public interest of our state to move forward with  
5 respect to adding nuclear generation, more nuclear  
6 generation. There's a lot of public benefit to that.  
7 And the -- we'll have a process or you all will have a  
8 process at some point to determine whether the dollars  
9 make sense with that. And so that's, that's this  
10 Commissioner's position.

11 **CHAIRMAN BROWN:** Thank you, Commissioner  
12 Brisé.

13 Commissioner Polmann, followed by Commissioner  
14 Graham.

15 **COMMISSIONER POLMANN:** Thank you, Madam  
16 Chairman.

17 Madam Chairman, I, I believe that I see your  
18 point and I agree with you. I don't like the question  
19 either. I pursued this question or the issue at  
20 hearing, and I don't think I got a -- I didn't get an  
21 answer that satisfied me.

22 **CHAIRMAN BROWN:** I didn't either.

23 **COMMISSIONER POLMANN:** And I think I  
24 understand the staff recommendation, and I believe staff  
25 answered it in the context of the NCRC. And I think

1 this question necessarily, the Issue 5A is presented in  
2 this hearing in this clause because we're in this clause  
3 hearing. I don't think there's any other way to address  
4 this question.

5 The utility can ask us this question in any  
6 conversation they want to and we can have a policy  
7 discussion, but this is not a policy hearing. This is a  
8 clause hearing. And I don't know how else to address  
9 this question other than in the context of NCRC. And I  
10 think it's wholly inappropriate, quite frankly, for them  
11 to ask this question.

12 This is a management policy discussion with  
13 FPL. This is not a regulatory question. There's no  
14 place in our regulation that I can find that this  
15 question is appropriate. So I don't think this question  
16 should be asked. And given that, there's no yes answer  
17 to this question. It's ill posed.

18 So the staff recommendation is the only  
19 recommendation that I can see makes any sense, which is  
20 we don't have the information to answer this question in  
21 the context of this clause. Because what they're asking  
22 us is did we make a good decision from a management, a  
23 project management perspective? And, quite frankly, I  
24 don't know. That's your project and your decision. It  
25 has nothing -- this question has nothing to do with cost

1 recovery at all.

2 **CHAIRMAN BROWN:** I agree with that part.

3 **COMMISSIONER POLMANN:** So unless you submit  
4 the information necessary for us to make a determination  
5 within the four corners of this, I can't answer it. So  
6 not at this time.

7 **CHAIRMAN BROWN:** Thank you, Commissioner  
8 Polmann.

9 Commissioner Graham.

10 **COMMISSIONER GRAHAM:** Thank you, Madam Chair.

11 Well, this is just one of those, one of those  
12 times where we agree to disagree. I think you can ask  
13 this question whenever and wherever you want to ask this  
14 question.

15 I think the COL is basically a 20-year option,  
16 you know. Are we going to do it in the foreseeable  
17 future? Are we looking to have that option on the  
18 table? And I think we've come this far. You need to  
19 have that option on the table.

20 Once again, I thought you were pretty  
21 elaborate when you talked about what the -- where the  
22 legislators were when they passed all this. It's before  
23 my time on this Commission. You know, I can't speak to  
24 where their head was at the time. But I agree with you  
25 that it was to encourage nuclear, to encourage going

1 forward. And this was all before Fukushima happened,  
2 and a lot of things have changed after that happened. A  
3 lot of things have changed at the -- on the federal  
4 level after that.

5 But, once again, I think we are at this point,  
6 and it makes sense to me to, to have that 20-year  
7 option. And, you know, I guess I'm ready to move  
8 forward with a motion. I don't know if anything else is  
9 going on here, but --

10 **CHAIRMAN BROWN:** Yeah, I will get -- there is  
11 stuff going on here.

12 **COMMISSIONER GRAHAM:** Okay.

13 **CHAIRMAN BROWN:** I will get back to you.  
14 Thank you. I appreciate your comments, Commissioner  
15 Graham.

16 And I just want to add to, to add to your  
17 comments. You know, we are in a state that is  
18 65 percent dependent on natural gas. To have diversity  
19 is so important to our state. We have a lot of  
20 developments on the solar front and distributed  
21 generation and renewables. Baseload generation is still  
22 a very important part of our generation fleet. So to  
23 add to that, I think that nuclear is important in our  
24 state.

25 Commissioner Clark.

1           **COMMISSIONER CLARK:** Well, I'm going to have  
2 to rebound, quick, Madam Chairman, because you said what  
3 I wanted to say.

4           **CHAIRMAN BROWN:** Sorry.

5           **COMMISSIONER CLARK:** That's the point I think  
6 I wanted to make is that I think that the continued  
7 pursuit of this license is critical from an  
8 infrastructure standpoint, from a base capacity  
9 standpoint. Our current dependence on natural gas is  
10 extremely alarming to me. I had this debate with staff,  
11 I think, in the last two meetings that we've had. It's  
12 probably one of my greatest concerns, one of the first  
13 things that I looked at when beginning to serve on this  
14 Commission was where do we stand from a generating  
15 capacity standpoint?

16           And it's -- we're extremely vulnerable, in my  
17 opinion. And I think that without this option, we're  
18 taking a lot of things off the table. We're taking a  
19 lot of options off the table. And I understand -- and  
20 please bear with me as the new guy here in terms of  
21 understanding what some words mean and what the future  
22 tendency of those words may -- how they may come back to  
23 haunt us.

24           But in terms of allocating these costs, if we  
25 do not determine -- they spent \$270 million. We're 20

1 or 30 million dollars from the two-yard line, I think as  
2 you put it a minute ago, or was in Mr. Scroggs'  
3 testimony. But spend this last little bit of money or  
4 we have not -- or we've wasted that entire \$270 million  
5 to not pursue this.

6 So I don't know if we can make a reasonable  
7 determination, but it certainly is not unreasonable to  
8 think that this company would want to pursue this  
9 license. They're also -- one of the interesting things  
10 that I -- I assume I can discuss the testimony. One of  
11 the interesting things that I saw in the testimony was  
12 how you determine and value what that license is worth.  
13 And it was interesting to me to see that as it goes on  
14 the books strictly as an asset, I don't think anybody  
15 considered what there might be considered goodwill  
16 toward the value of that in the future. And I think  
17 it's an extremely good asset for FPL to have on the  
18 books whether it's ever built or not. You've got a  
19 20-year license there. That's going to be of value to  
20 someone.

21 So I don't think the consumers are going to be  
22 hurt in any stretch of the imagination by pursuing this  
23 and getting this license, combined operating license  
24 closed out. My two cents.

25 **CHAIRMAN BROWN:** Thank you, Commissioner

1 Clark. And you did read the record. We spent a lot of  
2 time on that. We spent a lot of time on the value. I  
3 know Commissioner Brisé asked a lot of questions during  
4 the hearing on that, too.

5 Commissioner Polmann.

6 **COMMISSIONER POLMANN:** Thank you, Madam  
7 Chairman.

8 My comments earlier should not be taken as any  
9 reflection whatsoever as a comment on nuclear power  
10 electric generation. I am absolutely in support of  
11 nuclear power. I have been for 40 years, prior to the  
12 Three Mile Island incident. I continue to be and will  
13 be. I'm very concerned about the diversity, as  
14 Commissioner Clark addressed. I have no issue  
15 whatsoever with that. And I, in fact, do support in  
16 concept the notion of completing the COL and so forth.  
17 That's not what I'm speaking about here.

18 I'm speaking about this question in particular  
19 and whether it's appropriate in the context of the NCRC.  
20 That is the only issue I'm addressing. So everything  
21 else about the project has nothing to do with my  
22 remarks. Thank you.

23 **CHAIRMAN BROWN:** Thank you. And it looks like  
24 we are ripe for a motion right now.

25 Commissioner Graham.

1           **COMMISSIONER GRAHAM:** I'm not sure I know a --  
2 should I state this -- they're not asking, they're not  
3 asking to seek recovery through the NCRC without a  
4 feasibility analysis. They're asking if it makes sense  
5 to complete the CO -- the COL license.

6           **CHAIRMAN BROWN:** Uh-huh.

7           **COMMISSIONER GRAHAM:** So, Mary Anne, help me.

8           **CHAIRMAN BROWN:** Commissioner Brisé, do you  
9 have a comment?

10          **COMMISSIONER BRISÉ:** I mean, I think, I think  
11 the question is straightforward: Is it reasonable? And  
12 I think the motion could simply be, yes, you find it  
13 reasonable.

14          **COMMISSIONER GRAHAM:** Second.

15          **CHAIRMAN BROWN:** Okay. So there's a motion --  
16 Commissioner Brisé made a motion that 5A is reasonable,  
17 seconded by Commissioner Graham. Is there any further  
18 discussion?

19          **COMMISSIONER POLMANN:** Yes.

20          **CHAIRMAN BROWN:** Yes, Commissioner Polmann.

21          **COMMISSIONER POLMANN:** Thank you, Madam  
22 Chairman. I would offer a friendly amendment, which --  
23 for discussion and hopefully for acceptance.

24                 Could you restate the motion, please?

25          **CHAIRMAN BROWN:** Commissioner Brisé.



1                   **COMMISSIONER BRISÉ:** The motion is simply that  
2 I find that on Issue 5A that continuing to pursue the  
3 COL is reasonable.

4                   **CHAIRMAN BROWN:** Commissioner Polmann.

5                   **COMMISSIONER POLMANN:** Without regard to cost  
6 recovery under NCRC or by traditional methods.

7                   **CHAIRMAN BROWN:** Is that your friendly  
8 amendment?

9                   **COMMISSIONER POLMANN:** Yes, that phrase would  
10 be added to Commissioner Brisé's --

11                   **CHAIRMAN BROWN:** Commissioner Brisé.

12                   **COMMISSIONER BRISÉ:** I don't think my motion  
13 needs an amendment.

14                   **CHAIRMAN BROWN:** That would be a no.

15                   So we have a motion on the floor. Any further  
16 discussion?

17                   Commissioner Polmann, would you like to  
18 proffer another friendly amendment?

19                   **COMMISSIONER POLMANN:** No, thank you.

20                   **CHAIRMAN BROWN:** Okay. So no further  
21 discussion. All those in favor of Commissioner Brisé's  
22 motion, signify by saying aye.

23                   (Vote taken.)

24                   Opposed? All right. It passes unanimously.

25                   The remaining issues, I guess we can group

1 those together, which are 6B through 16.

2 Staff, if you can do kind of a general  
3 overview of the highlights of the major issues in those  
4 numbers that I just stated.

5 **MR. BREMAN:** Yes. Issue 6B is probably the --  
6 an important one. It asks whether or not a feasibility  
7 analysis is required by our rule. We recommend that it  
8 is.

9 **CHAIRMAN BROWN:** Go to Issue 7.

10 **MR. BREMAN:** Issue 7 has to do with whether or  
11 not FPL complied with Order PCS-16-0266-PCO, and staff  
12 recommends that they did.

13 **CHAIRMAN BROWN:** Issues 8, 9.

14 **MR. BREMAN:** Issue 8 is a fallout of Issues  
15 1 and 2 and consistent with staff's recommendation.

16 Issues 9 and 10 are fact issues addressing the  
17 estimated cost and the estimated in-service dates of  
18 Turkey Point 6 and 7.

19 And Issue 16 is whether or not the docket  
20 should be closed. Staff recommends it shouldn't be  
21 closed. It's a typical rollover docket.

22 **CHAIRMAN BROWN:** Okay. So let's circle back  
23 to Issue 6B. And I think Commissioner Polmann made a  
24 very strong point of -- that the utility should be on  
25 notice that it must comply with Rule 25-6.0423.

1 Commissioner Polmann, would you like to make  
2 any further comments on that?

3 **COMMISSIONER POLMANN:** I have no further  
4 comments, Madam Chairman. I think the discussion that  
5 the Commission has had this morning on the record is  
6 quite clear, and I hope everyone is listening. Thank  
7 you.

8 **CHAIRMAN BROWN:** Are you prepared to make a  
9 motion on 6B?

10 **COMMISSIONER POLMANN:** The staff  
11 recommendation is very clear, and I would move staff  
12 recommendation at this time.

13 **CHAIRMAN BROWN:** Is there a second?

14 **COMMISSIONER GRAHAM:** Second.

15 **CHAIRMAN BROWN:** Any further -- Commissioner  
16 Clark.

17 **COMMISSIONER CLARK:** Yes, I do have a  
18 question. So, and this is a, I guess a technicality.  
19 While the rule does require that you file a feasibility  
20 study to request recovery under the NRC (sic) clause, if  
21 you're not requesting recovery under NRC (sic), are you  
22 still required to file the feasibility study? That is  
23 the question at heart here.

24 **CHAIRMAN BROWN:** Thank you. And that is a  
25 very good streamlined question.

1 Ms. Mapp.

2 **MS. MAPP:** Yes, Commissioner. It is not the  
3 timing of the request or the recovery of the cost that  
4 triggers the requirement for a feasibility analysis as  
5 pursuant to the rule. It's the actual intent to seek  
6 recovery through the NCRC clause, and both of FPL's  
7 witnesses, Scroggs and Grant-Keene, testified that it is  
8 the intention of FPL to in the future seek recovery of  
9 costs incurred through the NCRC clause, thereby  
10 triggering a requirement to file a feasibility analysis.

11 **COMMISSIONER CLARK:** Follow-up, Madam  
12 Chairman?

13 So if you deferred costs for 2017, recovered  
14 those costs through a capacity clause, came back in  
15 2018, did a feasibility analysis for 2018, and requested  
16 recovery only of your 2018 costs through the NRC (sic),  
17 would they be in compliance with the statute and the  
18 rule?

19 **MS. MAPP:** Pending they meet the other rule  
20 requirements for cost recovery, then, yes, once a  
21 feasibility analysis is filed, prospective costs to be  
22 incurred will be eligible pending a prudence review.

23 **COMMISSIONER CLARK:** I would question the, I  
24 would question the issue in the recommendation, Madam  
25 Chairman, as it's phrased here because it just -- I

1 think -- I agree with what you just said. I think  
2 you're absolutely correct. I don't think that's what  
3 the issue and the recommendation says.

4 **CHAIRMAN BROWN:** So we have a motion to  
5 approve the staff recommendation on the floor, followed  
6 by a second.

7 Do you have a suggestion to a potential  
8 friendly amendment? I mean, you did just start this  
9 past month. You're doing a great job.

10 **COMMISSIONER CLARK:** Thank you. Thank you.

11 **CHAIRMAN BROWN:** Would you like to take a  
12 five-minute break?

13 **COMMISSIONER CLARK:** Yes, please.

14 **CHAIRMAN BROWN:** All right. Let's take a  
15 five-minute break. We'll be back here at 10:35.  
16 Thanks.

17 (Recess taken.)

18 We're back. We are back on the record. And  
19 at the time we took a recess, Commissioner Clark had the  
20 floor. So with that, I will turn it over to  
21 Commissioner Clark.

22 **COMMISSIONER CLARK:** Thank you, Madam Chair,  
23 and thank you, Commissioners and staff, for indulging me  
24 in my "rookie-ness." I'm trying to learn as much as  
25 fast as I can, and I think sometimes I may get a little

1 bit ahead of myself.

2 As I discussed this with staff, I think it's a  
3 little clearer to me in terms of specifically in  
4 relation to recovery under the NRC (sic) clause. That's  
5 probably -- the staff recommendation is right there. I  
6 don't -- I can't argue that.

7 If they were not seeking under that but  
8 because staff -- because FPL's staff's testimony  
9 indicated that is the way they intend to seek it, then  
10 the recommendation is probably correct. Should -- I  
11 would argue that should FPL contend that they don't  
12 intend to recover under the NRC (sic), then --

13 **CHAIRMAN BROWN:** NCRC, sorry.

14 **COMMISSIONER CLARK:** Yes. Say it again.

15 **CHAIRMAN BROWN:** NCRC.

16 **COMMISSIONER CLARK:** NCRC, if they don't  
17 intend to recover under the NCRC, then they would be in  
18 compliance at that time.

19 **CHAIRMAN BROWN:** Thank you, Commissioner  
20 Clark. You're doing a great job.

21 Commissioner Brisé.

22 **COMMISSIONER BRISÉ:** Yeah, I think the same  
23 principle which applies for 3 and 4 applied for 6B as  
24 well. So that whatever is outside of the nuclear cost  
25 recovery process then is applicable here as well.

1           **CHAIRMAN BROWN:** Sounds good.

2           All right. We have a motion followed by a  
3 second. Any further discussion on 6B?

4           All those in favor, say aye.

5           (Vote taken.)

6           Opposed? Motion passes unanimously.

7           Moving on to Issue 7, which is whether the  
8 company complied with our previous order. Staff is  
9 saying yes, although I do tend to feel like the Retail  
10 Federation has a point in their, their brief regarding  
11 complying with the spirit of the order. I recall from  
12 last year's hearing that FPL's attorney provided that  
13 they would be filing a feasibility study next year, and  
14 we relied on that, although it wasn't in the final  
15 order. I just hope representations that are made are  
16 accurate and complied with because we relied on that  
17 representation during the, the hearing. Nonetheless, I  
18 would agree with the staff recommendation on it.

19           Any further questions or discussions? Seeing  
20 none, we're ripe for a motion.

21           **COMMISSIONER GRAHAM:** Move staff.

22           **COMMISSIONER BRISÉ:** Second.

23           **CHAIRMAN BROWN:** Any further discussion?

24           All those in favor, say aye.

25           (Vote taken.)

1 All right. Issues 8, 9, and 10, and 16 we can  
2 take up together. Commissioners, any questions on those  
3 issues?

4 **COMMISSIONER BRISÉ:** Move staff.

5 **COMMISSIONER GRAHAM:** Second.

6 **CHAIRMAN BROWN:** Is there any further  
7 discussion, Commissioners?

8 All right. All those in favor, say aye.

9 (Vote taken.)

10 Motion passes.

11 Again, I want to thank all of the parties for  
12 their participation during the hearing and throughout  
13 the year, and especially to staff for their hard work on  
14 this. It was very complex, and appreciate all the time  
15 that you've put into it. And with that, we are  
16 adjourned.

17 (Proceeding adjourned at 10:41 a.m.)  
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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  
6 proceeding was heard at the time and place herein  
7 stated.

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,  
14 employee, attorney or counsel of any of the parties, nor  
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 24th day of October, 2017.

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LINDA BOLES, CRR, RPR  
FPSC Official Hearings Reporter  
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