

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20170235-EI

PETITION BY FLORIDA POWER  
& LIGHT COMPANY (FPL) FOR  
AUTHORITY TO CHARGE FPL  
RATES TO FORMER CITY OF  
VERO BEACH CUSTOMERS AND  
FOR APPROVAL OF FPL'S  
ACCOUNTING TREATMENT FOR  
CITY OF VERO BEACH  
TRANSACTION.

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DOCKET NO. 20170236-EU

JOINT PETITION TO  
TERMINATE TERRITORIAL  
AGREEMENT, BY FLORIDA  
POWER & LIGHT AND THE CITY  
OF VERO BEACH.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 5

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER GARY F. CLARK  
COMMISSIONER ANDREW G. FAY

DATE: Tuesday, June 5, 2018

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

REPORTED BY: ANDREA KOMARIDIS  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large



1 efficiency and clarity, staff is addressing both  
2 dockets under one consolidated recommendation.

3 Staff is recommending you take the following  
4 action on four issues before you today: In  
5 Issue 1, staff recommends that the Commission  
6 approve FPL's request to charge the City of Vero  
7 Beach customers FPL's rates, as they would become  
8 FPL ratepayers upon the closing of the purchase-  
9 and-sale agreement;

10 In Issue 2, staff recommends the Commission  
11 approve FPL's requests to terminate the territorial  
12 agreement between FPL and the City of Vero Beach,  
13 pending the close of the purchase-and-sale  
14 agreement;

15 In Issue 3, staff recommends the Commission  
16 approve a positive acquisition adjustment of \$21.3  
17 million, to be recorded on the books of FPL, and to  
18 amortize this amount over the requested 30-year  
19 period;

20 In Issue 4, staff recommends that, consistent  
21 with staff's recommendation in Issue 3, recovery of  
22 payments to the Orlando Utilities Commission should  
23 be limited to actual annual savings and should be  
24 recovered through the appropriate clauses.

25 Representatives from FPL, the Office of Public

1 Counsel, City of Vero Beach, and other parties are  
2 present to address the Commission. And staff is  
3 available for any questions you may have.

4 Thank you.

5 CHAIRMAN GRAHAM: Thank you, staff.

6 All right. I know everybody wants to talk and  
7 everybody wants to argue. And let's just -- let's  
8 treat this as kind of your opening statements.  
9 You'll have plenty of opportunity to get down into  
10 the details later, but let's just kind of hit the  
11 mountain peaks as we go through.

12 And after the parties speak, I'll allow for  
13 anybody from the public that wants to speak --  
14 they'll come to the podium and have three minutes  
15 to speak. And then we'll come back to normality.

16 Florida Power & Light.

17 MR. LITCHFIELD: Thank you, Mr. Chairman,  
18 Commissioners. Wade Litchfield and Bryan Anderson  
19 for Florida Power & Light. It's nice to be here.  
20 I haven't actually appeared before you, I think,  
21 since the 2016 rate case. I don't get up here very  
22 often.

23 This is a really important issue, we think,  
24 for the company, for the other folks who are here  
25 representing their own interests, and even the

1 state of Florida today.

2 You know, I sat through the earlier part of  
3 the agenda, and it was interesting to hear one of  
4 the earlier items discussing a territorial dispute  
5 between some competing gas utilities. And there  
6 was a suggestion made once or twice that perhaps  
7 there might be reached a commercial solution.

8 Well, Commissioners, we're here today with a  
9 commercial solution that represents the culmination  
10 of probably ten years or more of -- of -- of issues  
11 in search of resolution; a lot of effort, goodwill,  
12 patience, and commitment on the part of the  
13 multiple parties, many of whom I'm sure will  
14 address you here today.

15 So, when the staff recommendation initially  
16 came out, I know that there was a little bit of  
17 disappointment that perhaps the ship was going down  
18 once and for all, to the chagrin of a great many,  
19 particularly commercial customers and residential  
20 customers in the state of Florida.

21 But I think -- and I'm going to walk you  
22 through, very briefly, the issues. I actually  
23 think there's a path for approval here. There is a  
24 lot with which we absolutely are in lockstep with  
25 staff on. A couple of misconceptions or

1 misapplications that we think, with clarification,  
2 do provide a path for approval here today,  
3 Commissioners.

4 So, I would like, to -- I would like to start  
5 with Issue 1, briefly. Staff, as you heard,  
6 recommends that FPL rates are the rates that should  
7 be charged to the City of Vero Beach customers.  
8 It -- that is very significant. We completely  
9 agree. And it is the right result. The problem is  
10 that, in order for that to occur, the cost recovery  
11 and the accounting treatments that go with it also  
12 have to be approved.

13 Issue 2, also very, very significant. Staff  
14 concludes that it is in the public interest for  
15 Florida Power & Light to assume the obligation to  
16 serve the current City of Vero Beach customers.  
17 Again, we absolutely concur with that  
18 recommendation. It's the right standard, the  
19 public-interest standard.

20 And in fact, if you flip to the staff  
21 recommendation on Page 10, you will see, in the  
22 beginning of their analysis, they actually list  
23 four Florida Supreme Court decisions, each of which  
24 provides some articulated version of the public-  
25 interest standard: Results in no harm or detriment

1 to the public interest; public interest is the  
2 ultimate measuring stick; utility rate-making is  
3 viewed as a matter of fairness; and the Commission  
4 should base its decision on the effect the  
5 termination of a territorial agreement will have on  
6 all affected customers.

7 We think that the proposal that we have before  
8 you, Commissioners, absolutely checks all of those  
9 boxes. And in fact, in reviewing FPL's and Vero  
10 Beach's submissions in this docket, staff  
11 concludes -- they do so, I quote, "... that  
12 termination of the territorial agreement results in  
13 no harm or detriment to the public interest." We  
14 are in complete alignment with staff on that issue.

15 We, frankly, think that is the overarching or  
16 primary issue for the Commission to determine here  
17 today. And if you agree with that and if you agree  
18 with staff's conclusion that it's in the public  
19 interest and that public interest is the ultimate  
20 measuring stick, then we think Issues 3 and 4  
21 should flow from there and should, likewise, be  
22 approved because they are simply the mechanics by  
23 which this transaction that is in the public  
24 interest is actually effectuated and the benefits  
25 flow.

1           Issue 3, specifically focusing on the  
2           acquisition adjustment -- again, we agree with  
3           staff, once again, that there are extraordinary  
4           circumstances here. And you'll see their  
5           conclusion there at the bottom of Page 16. They  
6           conclude that the circumstances are sufficient to  
7           support a finding of public interest that FPL  
8           assume the obligation to serve Vero customers.

9           But where we diverge from staff is with regard  
10          to their conclusion that the circumstances, though  
11          extraordinary, are somehow not extraordinary enough  
12          to support -- or only support -- excuse me -- are  
13          only extraordinary enough to support a fraction of  
14          what is necessary to support the entire  
15          transaction.

16          So, we believe staff is correct in finding  
17          extraordinary circumstances, but, we think,  
18          incorrect in arbitrarily limiting the effect of  
19          that finding. If extraordinary circumstances are  
20          present, and particularly where there's a  
21          determination that it's in the public interest, we  
22          think that the necessary acquisition adjustment and  
23          other rate-making treatment, likewise, should be  
24          approved.

25          Staff talks a little bit about the Sebring



1 case. And that's where I'd like to offer a little  
2 bit of a -- a clarification there. We think that  
3 they -- they do not properly reply -- rely upon  
4 that case. Sebring is really not very factually-  
5 similar to ours.

6 Moreover, the Commission, itself -- and staff  
7 notes this in their recommendation, on Page 15 --  
8 they -- the Commission was very clear, 25 years ago  
9 in reaching this decision, that the decision was to  
10 have, I quote, "... no precedential value and is  
11 limited to the unique set of facts in this case."

12 Well, what are the unique set of facts in that  
13 case? It's the biggest single factual difference  
14 between their case and our case. In that case,  
15 Florida Power Corp, right -- predecessor of what is  
16 now Duke Florida -- only requested a portion of the  
17 acquisition adjustment because that's only what  
18 their rates would support. In other words, had  
19 they requested more, it would have put upward  
20 pressure on the rates of their existing customers.

21 And Duke properly said -- or FPC, at the time,  
22 properly said, that's not a result that -- that,  
23 you know, we can really count and that the  
24 Commission would support. We're only proposing a  
25 limited number for -- for acquisition-adjustment

1 treatment. And -- and the Commission agreed. We  
2 agree with that principle.

3 That is not our situation. Vero Beach is such  
4 a small set of customers, relative to FPL as a  
5 whole, that we are literally -- we are able to  
6 write the check. We are able to pay the purchase  
7 price that allows them to -- to turn their assets  
8 over to us -- and also resolve all of the purchase  
9 power agreements that any utility that is doing  
10 business would have in place naturally -- but  
11 anyway, to buy those down, not unlike the power  
12 purchase agreements that we bought down with Cedar  
13 Bay, St. Johns, and ICL that this Commission  
14 approved, because it ultimately was in the  
15 customers' best interest.

16 So, we were able to provide the check that  
17 does all of this and not just not do harm to FPL's  
18 customers, but to actually bring about \$105 million  
19 in CPVRR benefits to FPL customers. So, absolutely  
20 completely different in terms of situation.

21 We agree that the unique circumstances there  
22 lent to the right result. These are unique  
23 circumstances. And each one of these cases, we  
24 think, should be viewed by this Commission on its  
25 own merits and without reference to a standard

1           that -- that was applied or produced in a  
2           completely different and in-anal- -- analogous  
3           situation.

4           So, Issue 4, I would say, the second of two  
5           mechanisms -- it's the cost recovery of the -- of  
6           the PPA arrangement that FPL negotiated with OUC in  
7           order to obtain OUC's release of the purchase power  
8           obligations that Vero was subject to. Again,  
9           without that, there is no deal and everything falls  
10          apart very quickly.

11          So, Commissioners, in conclusion, we really do  
12          see this as a classic win-win outcome; one that  
13          will resolve a lot of long-standing concerns,  
14          issues, frustrations; significant benefit to FPL  
15          existing customers as well as new customers; and a  
16          voice to a large number of customers who, to date,  
17          have absolutely been disenfranchised in terms of  
18          having any ability to participate in rate-setting  
19          at all.

20          So, if this is not a clear-cut case of public  
21          interest, Commissioners, we're not sure when we  
22          might see one, and that, too, we would be  
23          concerned, would send a very direct and sobering  
24          message throughout the state of Florida to the  
25          future ability of constituents and customers and

1 even of other municipals who, of their own  
2 volition, look to work out a mutually-beneficial  
3 transfer of service providers.

4 If -- if those types of commercial solutions  
5 are to occur, this body, this Commission has to be  
6 able to find a way, within its existing  
7 jurisdiction and policy, to do that.

8 It cannot be that the only time that -- that  
9 those situations occur is when you have a Sebring  
10 or another financially-distressed utility in the  
11 nature of a bailout situation, where the only form  
12 of rescue that is going to be extended to those  
13 customers is a surcharge. Thank you very much.

14 So, we think that there has to be available  
15 relief for this Commission for this market-driven  
16 transaction that resolves these issues. Not only,  
17 again, does it not do -- it not only does no harm,  
18 it actually brings significant benefits to our  
19 existing customers.

20 And we, accordingly, would request that the  
21 petitions and relief sought in this docket be  
22 granted.

23 CHAIRMAN GRAHAM: Thank you, sir.

24 Vero Beach?

25 MR. WALLS: Good morning, Commissioners. Mike

1 Walls with Carlton Fields, on behalf of the City of  
2 Vero Beach.

3 Commissioners, I personally have been involved  
4 in this deal between the City of Vero Beach and FPL  
5 for over a year. The City of FPL and others have  
6 been involved far longer than that. And my  
7 involvement has shown me what a monumental task it  
8 was to put this deal together.

9 It is a good deal; one that the City, FPL, the  
10 County, Indian River Shores, FMIPA and its members,  
11 favor to resolve what staff rightly calls  
12 extraordinary circumstances. The City hopes that  
13 you will agree and approve FPL's petition in full.

14 I'm available for any questions you may have.  
15 Thank you.

16 CHAIRMAN GRAHAM: Thank you.

17 OPC?

18 MS. MORSE: Good morning, again. Stephanie  
19 Morse for OPC.

20 OPC does not, in principle, oppose the  
21 acquisition of the City of Vero Beach's electric  
22 utility by FPL. We recognize that the customers  
23 outside of Vero Beach have been without  
24 representation as to setting of their rates.

25 The accounting treatment proposed by FPL for

1           some aspects of the transition raises issues which  
2           require objective examination in order to protect  
3           the interest of both FPL's current customers and to  
4           make sure the transaction is consistent with  
5           Florida law and Commission precedent.

6           This is the largest positive acquisition  
7           adjustment ever proposed for rate recovery. And it  
8           should be scrutinized accordingly, especially given  
9           that it could impact future larger potential  
10          acquisitions by utilities in Florida.

11          We believe a remedy is in reach in this case.  
12          In order to go forward, OPC is now -- we would like  
13          to provide for your consideration, in developing  
14          your PAA order, the observations of our expert,  
15          Lane Kollen, who is here with me now, based on the  
16          data available and FPL's responses to OPC's  
17          discovery and staff's data request.

18          So, I'll defer the bulk of OPC's comments to  
19          Mr. Kollen.

20          MR. KOLLEN: Morning, Commissioners. My name  
21          is Lane Kollen -- start that over, again. My name  
22          is Lane Kollen. I'm a vice president and principal  
23          of J. Kennedy and Associates, Inc., an economic  
24          consulting firm that specializes in utilities  
25          strategic planning and rate-making issues. I've

1 testified before you on a number of occasions,  
2 including all of the FP&L rate cases over the last  
3 20 years.

4 I was retained by OPC to review FPL's plan to  
5 acquire the Vero Beach municipal electric system  
6 for \$185 million, and its request to record a  
7 regulatory asset for \$116 million, which is the  
8 acquisition premium in excess of the \$69 million  
9 depreciated cost of the Vero Beach system.

10 The company proposes to recover the entirety  
11 of the \$185-million purchase price, including the  
12 \$116-million acquisition premium and a return on  
13 the premium, primarily from existing FPL customers.

14 The company also proposes to defer and recover  
15 additional amounts that it will pay to buy out and  
16 reform certain purchase power contracts presently  
17 used by Vero Beach to serve its customers. FPL  
18 proposes to recover those costs primarily from  
19 existing FPL customers.

20 In support of its request, the company claims  
21 that the acquisition will save existing FPL  
22 customers \$105 million on a net present value  
23 basis. The company bases its claim on an economic  
24 analysis that it performed. The analysis relies on  
25 forecast revenues, expenses, and capitalized plan

1 investment, projected for 30 years, starting in  
2 late 2018.

3 The company's analysis starts with a base-case  
4 financial forecast that does not include Vero Beach  
5 and then superimposes the Vero Beach acquisition on  
6 to this base case in order to determine whether  
7 there are net savings or net costs.

8 I carefully reviewed the FPL economic  
9 analysis. There are numerous significant flaws in  
10 it. These flaws overstate the savings claimed by  
11 FPL and make its analysis unreliable.

12 The staff also identified and described  
13 several of these flaws in its filed  
14 recommendations. I will briefly describe the flaws  
15 it identified. First, the FPL analysis is more  
16 than one year old and includes assumptions that are  
17 no longer value- -- valid.

18 It has not been updated for changes that have  
19 occurred since then, including the effects of the  
20 federal Tax Cuts and Jobs Act and other changes  
21 that FPL, now, has incorporated into its official  
22 multi-year budgets and long-term forecasts.

23 Second, in general, the FPL analysis  
24 overstates the revenues which it characterizes as  
25 savings from the Vero Beach customers and from



1 existing FPL customers. In general, it also  
2 understates or delays the capital expenditures and  
3 operating expenses that it will incur when it  
4 acquires Vero Beach.

5 More specifically, FPL incorrectly assumes  
6 that base rates per kilowatt hour are not adjusted  
7 to incorporate the Vero Beach load. This  
8 overstates the base revenues received from the Vero  
9 Beach load and the savings that FPL claims.

10 FPL also incorrectly assumes that capacity,  
11 conservation, and environmental clause rates per  
12 kilowatt hour are not adjusted to incorporate the  
13 Vero Beach load. This, too, overstates these  
14 clause revenues received from the Vero Beach load,  
15 which FPL characterizes as savings.

16 FPL incorrectly assumes that there will be no  
17 additional capacity, conservation, or environmental  
18 cost incurred to serve the Vero Beach load. And  
19 this understates the costs of the Vero Beach  
20 acquisition.

21 Fourth, FPL incorrectly assumes that base  
22 rates will increase in 2001 -- or 2021; however,  
23 FPL has a proposal pending before the Commission to  
24 delay any base-rate increase until 2023, due to the  
25 facts of the Tax Cuts and Jobs Act.

1           Fourth, FPL incorrectly assumes that base  
2 rates are never reduced to re- -- to reflect the  
3 effects of the Tax Cuts and Jobs Act.

4           Fifth, FPL incorrectly assumes that it can  
5 serve the Vero Beach load from 2018 through 2032, a  
6 slightly-more-than-14-year period at no capacity  
7 cost and with no loss in revenues from sales of  
8 capacity to third parties.

9           FPL presently sells its excess peaking  
10 capacity into the market. If it uses the excess  
11 capacity to serve Vero Beach, instead of selling it  
12 to other purchasers, then it loses the revenue from  
13 those sales. These lost revenues should be  
14 included in the analysis as a cost; not simply  
15 ignored, which is what FPL did.

16           We estimate that the effect of this error in  
17 the company's analysis is to increase the net  
18 present value savings by \$55 million; could be even  
19 more if FPL actually builds capacity to serve Vero  
20 Beach rather than just buying it or not selling its  
21 excess capacity on the market.

22           Sixth, FPL assumes that it will not harden the  
23 Vero Beach distribution system until 2023, which  
24 delays the capital expenditures and the operating  
25 expenses and reduces the cost of the Vero Beach

1 acquisition, all else equal.

2 Seventh, FPL assumes that it will not incur  
3 incremental O & M expense for the Vero Beach load  
4 after 2018 for customer-service planning, demand-  
5 side management, marketing and communications, or  
6 information technology. Obviously, this  
7 understates the cost to serve the Vero Beach load.

8 Eighth, FPL used a weighted average cost of  
9 capital as a discount rate that it applies to the  
10 net savings or cost over the 30-year period, rather  
11 than the grossed up rate of return used to calculate  
12 the revenue requirement. These two rates should be  
13 identical. We estimate that the effect of this  
14 error in the company's analysis overstates the  
15 savings by \$41 million.

16 Ninth, FPL uses accumulated deferred income  
17 taxes, or ADIT, at zero cost in its calculation of  
18 the weighted average cost of capital; however, all  
19 of this ADIT belongs to the existing FP&L  
20 customers. It can't be used, really, to finance  
21 the Vero Beach acquisition. Instead, there should  
22 be a higher cost to finance the Vero Beach  
23 acquisition that doesn't include ADIT.

24 In short, the FPL analysis does not  
25 demonstrate benefits for the existing FPL

1 customers. In fact, if the analysis is corrected  
2 it appears that the acquisition will harm existing  
3 FPL customers.

4 Finally, if the Commission is inclined to  
5 approve an acquisition adjustment, whether the  
6 amount sought by FPL or the amount in the staff  
7 recommendation, then there are alternatives other  
8 than imposing the cost on existing FPL customers.

9 One alternative -- although, I have been told  
10 by OPC that it is not a recommendation that is on  
11 its behalf -- is to assign all or a portion of the  
12 acquisition premium, if any, directly to the Vero  
13 Beach customers and recover it from those customers  
14 over a five-to-ten-year transition period. After  
15 that, the Vero Beach customers would pay the same  
16 rates as the existing FPL customers.

17 Thank you, Commissioners. That completes my  
18 comments.

19 CHAIRMAN GRAHAM: Thank you.

20 Staff, do you want to respond to those  
21 comments now or after we hear from the public?

22 MR. SMITH: After, Commissioner. Thank you.

23 CHAIRMAN GRAHAM: Okay. All right. So, I  
24 will call people from the public up one at a time.  
25 You'll see that there is a light box, just like

1           this, at the podium. I put this up there just so,  
2           if you're not looking down at the podium, you can  
3           see it here.

4           You'll be given three minutes to speak. The  
5           light will turn yellow when you've got two minutes  
6           left. The light will start flashing when you've  
7           got 30 seconds left. When the light turns solid  
8           red, that means you should be done. Don't get your  
9           feelings hurt if I cut you off because we have  
10          several people that want to speak.

11          If you can, just hit the mountain peaks. Tell  
12          us something that we haven't seen, something we  
13          haven't heard. Tell us something different. No  
14          sense being repetitive and saying the same thing  
15          over and over again. As I said earlier, we have a  
16          long, full day here today.

17          And our first person is Senator Mayfield.  
18          Welcome.

19                 SENATOR MAYFIELD: Are you ready?

20                 CHAIRMAN GRAHAM: Yeah.

21                 SENATOR MAYFIELD: Okay. Well, good morning.  
22          And thank you for allowing us to get up and speak  
23          today. And Chairman Graham and Commissioner Clark  
24          and Commissioner Brown and Commissioner Polmann and  
25          Commissioner Fay, I really appreciate you taking

1 the time to really study this issue. And I know  
2 you guys have studied this issue.

3 But you know, this is not the first time I've  
4 been before the Commission dealing with the City of  
5 Vero Beach issue. We have been fighting this for  
6 12 years. 12 years we have been fighting to get  
7 representation for the people of the City of Vero  
8 Beach ratepayers.

9 The -- this is a unique situation and it  
10 should stand on its own. And it should not be  
11 compared to past acquisitions, nor should it be  
12 compared to future acquisitions.

13 When you're dealing with municipalities, it is  
14 not like dealing with an IOU purchasing another  
15 IOU. These are municipalities that are not  
16 regulated by the Public Service Commission. These  
17 are municipalities who have ratepayers that live in  
18 the unincorporated area that is not represented by  
19 Public Counsel. And that is what this fight has  
20 been about, is trying to make that happen.

21 You know, and I am disappointed in the staff's  
22 recommendation because I don't think they looked at  
23 the total picture in this issue. I also want you  
24 to think for a moment how many people it took to  
25 get us to this point right now. We are talking

1 about Florida Power & Light. We're talking about  
2 the City of Vero Beach, the Florida Municipal Power  
3 Agency, the Orlando Utility Commission, and 20  
4 other individual municipalities that all signed off  
5 on this agreement because it is something that they  
6 felt was important to make -- to make happen.

7 This will provide utility rates to all my  
8 constituents, to all the constituents at a fair  
9 rate, and it will also provide representation to  
10 all the constituents and all the ratepayers in  
11 Indian River County.

12 Again, 60 percent of the residents that are  
13 ratepayers for the City of Vero Beach Utilities  
14 live in the unincorporated area and they have no  
15 representation. And as I remind the Office of  
16 Public Counsel, this hearing is intended for you to  
17 represent all of the ratepayers, all of the  
18 ratepayers.

19 You are statutorily -- you cannot go represent  
20 them in a hearing when it comes to the rates to the  
21 City of Vero Beach, but in a hearing like this  
22 where a decision has to be made in the best  
23 interest of all ratepayers, it is your  
24 responsibility -- and statutorily, it is your  
25 responsibility -- to take that into account

1           whenever you're making that decision.

2           So, with that, thank you. I'll rep- --  
3           I'll -- I'll stop. And I look forward to any  
4           questions that you guys may have.

5           CHAIRMAN GRAHAM: Thank you, Senator.

6           Representative Grall -- I apologize if I  
7           butchered your last name.

8           REPRESENTATIVE GRALL: Thank you,  
9           Mr. Chairman. And it's "Gr-all."

10          And with your indulgence, I would like to ask  
11          for slightly more than three minutes. I spoke with  
12          staff the other day, and they said that I may have  
13          a little more time --

14          CHAIRMAN GRAHAM: Three minutes, ma'am.

15          REPRESENTATIVE GRALL: Okay. Well, I  
16          appreciate the opportunity to be here. And I won't  
17          reiterate what Senator Mayfield did about how  
18          important it is to -- that so many people came  
19          together to make this happen.

20          It's been suggested current FPL customers  
21          could experience a negative impact due to the  
22          acquisition presented in the petition. I represent  
23          constituents who are City of Vero Beach customers  
24          and FPL customers.

25          And obviously, fairness of the acquisition is



1 essential; fairness to the existing customers of  
2 FPL and fairness in treatment of the City of Vero  
3 Beach customers with regard to their value to  
4 existing customers in this acquisition.

5 Common sense suggests FPL's infrastructure  
6 will not experience significant expense with the  
7 addition of less than 1 percent of its existing  
8 customers, especially when you consider the  
9 proximity of this acquisition to existing customers  
10 and the load capacity for the location.

11 Projected incremental revenues from the City  
12 of Vero Beach customers will be wholly experienced  
13 by FPL, meaning 100 percent of the customer's  
14 monthly bill will be paid to FPL.

15 The testimony states these revenues will be  
16 more than the incremental fixed costs to serve  
17 those customers, which makes sense when you  
18 consider FPL will not have to change its business  
19 model or operating systems to bring approximately  
20 35,000 customers online.

21 Fairness would also suggest that the FPC  
22 Sebring order be given the weight the Commission  
23 enumerated in the order; no precedential value. I  
24 understand it can be helpful to seek similar fact  
25 patterns, but they were clear.

1           In -- if the totality of the facts were  
2           considered in this matter, it is my opinion the  
3           Commission would find extraordinary circumstances  
4           warranting a positive acquisition adjustment.  
5           Limiting the allowance for an extraordinary-  
6           circumstance designation to the ongoing litigation  
7           and territorial disputes in the area does not take  
8           into account many other relevant factors.  
9           Providing a narrow reason for approving this  
10          positive acquisition adjustment leads to a narrow  
11          calculation of same.

12           The going-concern value has also been  
13          addressed in the FPC Sebring order. In what was  
14          assumed to be an appropriate estimate of acquired  
15          electric customer in 1992 cannot be -- merely be  
16          superimposed on the current transaction. And this  
17          flawed methodology should raise questions about the  
18          credibility of the calculations.

19           In this case, an independent, third-party  
20          valuation in the petition has been presented. It  
21          represents the consideration paid for the City of  
22          Vero Beach Utility after an arms-length, multi-  
23          party negotiation. This should be viewed as more  
24          significant than the number used in a different  
25          transaction 25 years ago. I am concerned that, if

1           that number is used, it will surely set a precedent  
2           of the Commission.

3           Finally, Florida Statute 350.0611 states, "It  
4           shall be the duty of Public Counsel to provide  
5           legal representation for the people of this state  
6           in these proceedings." And I believe they have not  
7           represented the City of Vero Beach customers in the  
8           testimony that was presented here today.

9           Thank you very much for your consideration.

10          CHAIRMAN GRAHAM: Thank you, Representative.  
11          We have a question for you.

12          COMMISSIONER BROWN: It's not really a  
13          question. I was remiss when Senator Mayfield  
14          walked away, but really thank you and Senator  
15          Mayfield for taking the time to come up to  
16          Tallahassee to address this very important issue.

17          And I do understand that the acquisition  
18          adjustment is a critical component of the overall  
19          deal. So, thank you both for taking the time and  
20          writing letters and -- and we're -- we're listening  
21          to you. Thank you.

22          REPRESENTATIVE GRALL: Thank you very much.

23          CHAIRMAN GRAHAM: Bob Auwaerter?

24          MR. AUWAERTER: Good morning, Mr. Chairman  
25          and, good morning, members of the Commission. I'm

1 a town councilman on the County of Indian River  
2 Shores Council. I also serve as the town's  
3 representative on the City of Vero Beach Utilities  
4 Commission. I'm the Chairman. I have 40 years of  
5 experience in analyzing both municipal and  
6 electric -- municipal, electric, and corporate  
7 investor-owned utilities.

8 I'll just get to the right to the heart of the  
9 matter, Issue No. 3. And I understand the -- the  
10 gentleman -- the consultant raised the issue that,  
11 in particular, the -- that the Florida Power &  
12 Light is going to have to build incremental  
13 electrical generation capacity to serve the City of  
14 Vero Beach customers.

15 I, respectfully, very strongly disagree with  
16 that. Alls I would point to is what has happened  
17 very recently in that there was a contract that was  
18 executed between Florida Municipal Power Agency and  
19 OUC and the City of Vero -- City of Bartow where  
20 the City of Bartow did a RP to get incremental  
21 wholesale power generation.

22 As a result of that contract, because there  
23 was so much surplus electrical-power-generation  
24 capacity in this state, the City of Bartow, whose  
25 rates ranked No. 23 out of 33 municipal electric

1 utilities in the state and had rates substantially  
2 hard -- higher than Florida Power & Light -- as of  
3 last month, they have the lowest rates. The lowest  
4 rates in the state are -- whether it's an investor-  
5 owned utility or a municipal electric utility --  
6 because they were able to buy power so cheap.

7 So, the contention that there's a lot of this  
8 excess power to sell, that Florida Power & Light  
9 can sell it at very attractive rates -- I would ask  
10 you to take -- take a look at that.

11 Also, consider the fact that, in terms of the  
12 surplus power, it's coming on the state -- all  
13 these solar power farms that are coming. And  
14 the -- the con- -- contractual rates, I've heard,  
15 are less than \$35 a megawatt hour, substantially  
16 lower than you can do in a gas or nuclear plant.

17 I think that gets to the point, once again,  
18 that the Florida Power & Light will be able to  
19 easily service these customers at a very-cheap  
20 rate.

21 So, I thank you for your time.

22 CHAIRMAN GRAHAM: Thank you, sir.

23 I want to get all the elected officials up  
24 first before I go to the general public. Is there  
25 any other current elected officials that are here

1 to speak?

2 Sir, if I could just get your name and address  
3 for the record, please.

4 MAYOR HOWLE: Yes, sir. Harry Howle, mayor of  
5 Vero Beach. Good morning.

6 CHAIRMAN GRAHAM: Thank you, Mayor.

7 MAYOR HOWLE: Thank you for having me. I'll  
8 try not to be repetitive.

9 I want to say I appreciate the hard work and  
10 the thorough process that you and your staff used  
11 to carry out your responsibilities, and I want to  
12 thank you for the valuable service you provide to  
13 our state.

14 I also appreciate this opportunity to share my  
15 perspective on the sale of Vero Beach Electric  
16 system to FPL and to voice some of my concerns  
17 regarding the staff analysis on the sale. I'm  
18 confident that the points the PSC staff raised in  
19 the report were well-intended, but I believe the  
20 report is ultimately punitive. And I disagree with  
21 the message it sends to y'all.

22 It's not the details of the sale on Issues 1  
23 and 2 that I'm calling into question, but rather  
24 subsequent staff recommendation in Issues 3 and 4  
25 that I haven't -- would have a negative impact on

1           this sale.

2           I'm very concerned that this sale will be in  
3           jeopardy if Vero Beach Electric customers, alone,  
4           have to bear the burden of the cost FPL plans to  
5           spread across the entire customer base, hopefully  
6           including Vero Beach. Any surcharge to our  
7           customers only is a non-starter and it's  
8           unacceptable.

9           Still, as a result of years -- nearly a  
10          decade -- of collaboration and negotiation with  
11          multiple stakeholders, including Florida Municipal  
12          Power Agency and 20 of its member cities that will  
13          also feel positive effects from the sale, there  
14          have been obstacles and setbacks along the way, but  
15          Vero Beach, along with our patient partner, FPL,  
16          have persevered in working together to arrive at a  
17          sale package that truly benefits everyone involved.

18          The principal benefit is lower electric rates  
19          for Vero Beach City customers. Electric customers  
20          who would save \$23 million a year, with the typical  
21          customer projected to save between 10 and \$25 each  
22          month. That makes a real difference in the lives  
23          of our many citizens.

24          Commercial customers as well as schools and  
25          hospitals, can also expect lower power bills, which

1 means more dollars directed toward educating our  
2 children and caring people for with medical issues.

3 Additionally, FPL's reliable service and  
4 storm-recovery capabilities provide the benefit of  
5 peace of mind to protect our local economy, which  
6 would be crippled in the aftermath of a strong  
7 storm.

8 Folks, these are the reasons I, myself, a  
9 ratepayer, ran for office; to represent my  
10 neighbors who had had -- had enough. The  
11 carefully-negotiated elements of this deal are like  
12 dominoes; taken apart, they destabilize the deal.  
13 And I fear that if these issues are not resolved,  
14 the time and hard work that's been invested in  
15 improving the quality of life of Vero Beach may be  
16 for nought.

17 Previous deals for decades -- from decades  
18 ago, such as Sebring, can't possibly be relevant in  
19 today's marketplace and should not serve as a  
20 precedent for the Vero Beach Electric sale.

21 I humbly ask that you consider and evaluate  
22 the sale as it was originally presented to you by  
23 Vero Beach and FPL. Again, I'm grateful for your  
24 time and consideration. And I urge you to not let  
25 the trees distract you from the net-beneficial



1 forest.

2 After decades of not being protected by a  
3 regulatory body like the PSC, Vero customers are  
4 looking optimistically forward to the benefits you  
5 provide utility customers across the state of  
6 Florida. It's a good deal that will deliver  
7 tangible benefits to all parties involved. And I  
8 respectfully ask that you have -- I -- have your  
9 unconditional approval.

10 Thank you.

11 CHAIRMAN GRAHAM: Mr. Mayor, I want to  
12 apologize. I actually had you as being here, but I  
13 thought you were going to be at the table. I  
14 apologize for missing your name.

15 MAYOR HOWLE: Quite all right.

16 CHAIRMAN GRAHAM: All right.

17 MAYOR HOWLE: That's quite all right. I  
18 appreciate you letting me speak.

19 CHAIRMAN GRAHAM: Thank you.

20 All right. From the public, Brian Barefoot.

21 COMMISSIONER O'BRYAN: One more elected  
22 official.

23 CHAIRMAN GRAHAM: Oh, sorry. Come on up, sir.

24 COMMISSIONER O'BRYAN: That's quite all right.

25 Thank you.

1 Chairman Graham and the Commissioners, thank  
2 you for your time. My name is Peter O'Bryan. I'm  
3 currently Chairman of the Board of County  
4 Commissioners with Indian River County.

5 First, the Board would like to show our  
6 appreciation to staff for the recommendations on  
7 Issues 1 and 2. We fully support that; however, we  
8 respectfully disagree with their decisions and  
9 recommendations on Items 3 and 4.

10 To put this in human terms -- because I think  
11 later on, you're going to hear testimony that it's  
12 a positive number, it's a negative number. But let  
13 me put this in human terms, what it means to the  
14 folks of Vero Beach.

15 Staff is recommending \$94.9 million in  
16 contractual costs to be added as a rider to the  
17 customers of City of Vero Beach, in addition, the  
18 16.6 million of the cost recovery from the PPA  
19 agreement. It's a total of \$111.5 million.

20 Staff report says there there's a \$27-monthly  
21 savings from the current rate to the FPL rate. If  
22 those customers take zero rate reduction, it will  
23 take 9.8 years to pay off that 115 -- \$111 million.

24 Now, staff says they should be able to get a  
25 rate decrease. So, let's say they take half, they

1 take 13.50. At 13.50, it will take 19.7 years to  
2 pay off those costs. 10 to 20 years -- that's not  
3 a rider; that's a prison term. And I think you  
4 have to realize how this is going to affect the  
5 folks in Vero Beach.

6 The late, great Yogi Berra once said: It  
7 looks like déjà vu all over again. We were here  
8 three years ago to try to find relief for our --  
9 our residents and get them representation. We were  
10 unsuccessful.

11 A lot of people have worked very hard to get  
12 to this point. The planets have aligned and this  
13 is a one-shot chance to make this happen. So, I  
14 urge you, please, to approve the sale as presented,  
15 as negotiated, as approved by FMPPA, the City, FPL,  
16 all parties involved.

17 And I represent 60,000 current FPL customers.  
18 And I would not be here advocating for this sale if  
19 I had any concern that would negatively --  
20 negatively impact those current customers. So, I  
21 ask you, please, approve the sale as structured.  
22 And thank you very much for your time and  
23 attention.

24 CHAIRMAN GRAHAM: Thank you, sir.

25 Yes, sir.

1           COMMISSIONER ZORC: Hi. Good morning. Tim  
2           Zorc, County Commissioner representing District 3.  
3           Thank you, Mr. Chairman and members of the Public  
4           Service Commission.

5           Since 2012, I have attended every board  
6           meeting of the FMPA -- since 2012 -- as well as  
7           conferences -- any opportunity where I can be  
8           proactive in a room with support of their members  
9           of how could we make a deal with Vero Beach  
10          Electric go through.

11          District 3 also covers 50 percent of the City  
12          of Vero Beach and about 50 percent of the outside  
13          customers. So, I have concerns for both sides.  
14          And I would not be here if I felt I would be  
15          harming the existing 50-percent customers of -- of  
16          Florida Power & Light.

17          This is not the first time that Vero Beach has  
18          been -- Vero Beach Electric has been offered for  
19          sale. Here is an article from 1974: Vero Beach  
20          Accepts Florida Power & Light's Offer. I was 14.  
21          I still have hair, but not -- not as much.

22          Since 1974, 63 percent of the customers are  
23          now not in the city limits of Vero Beach. Wouldn't  
24          it be best for all customers to be -- have a voice  
25          and be protected by the rates that are under the

1 scrutiny of the Florida Public Service Commission.

2 Over the past 12 months, the 20 sister cities  
3 of the members of Florida Power & -- excuse me --  
4 of FMPA have all voted in favor of allowing the  
5 Vero Beach sale to go forward. When do you ever  
6 get 100 percent of anything you would like?  
7 100 percent is clearly a stunning, successful vote.  
8 And they see the benefit and why is it good for our  
9 ratepayers in our area.

10 When we talk in terms of the -- the pain that  
11 the customers have been paying -- going over the  
12 last three decades, they've paid an excess of  
13 higher rates of over a half of a billion dollars.  
14 That's with a "B." It's \$20 million a year;  
15 \$54,000 a day; \$2,400 an hour in higher rates these  
16 customers have had to endure for the last -- last  
17 number of decades.

18 Today, I ask you, the members of the Florida  
19 Public Service Commission, to vote in favor of the  
20 sale as currently structured. We were here before.  
21 You, in essence, told us that -- some of you were  
22 not present at the time -- go back, figure out a  
23 way to come up with a win-win situation for  
24 everyone. Everyone took that to heart. We worked  
25 diligently, all the cities, the counties, Florida

1 Power & Light.

2 We wish to thank all those that have helped  
3 bring us to -- here today. And I thank you in  
4 consideration of support of approving the deal  
5 as -- as it is currently structured. Thank you.

6 CHAIRMAN GRAHAM: Thank you, sir.

7 And by the way, hair is overrated.

8 (Laughter.)

9 CHAIRMAN GRAHAM: Any other elected officials?

10 Okay. Former Mayor Barefoot. Welcome.

11 MAYOR BAREFOOT: Good morning, at least for  
12 another 15 minutes. Good morning, Mr. Chairman and  
13 Commissioners. I'm Brian Barefoot. And the last  
14 time I was before you, it was almost three years  
15 ago. I was the mayor of Indian River Shores, a  
16 position that I held until I resigned six weeks  
17 ago. And I resigned, after five years, because I  
18 believed my primary work was done when all parties  
19 agreed to this transaction.

20 When here previously, I told you about the  
21 unique el- -- electric-utility problems that had  
22 plagued our community for years. I told you about  
23 our residents having to pay some higher elec- --  
24 some of the highest electric utility rates in the  
25 state, while having no vote on how the -- the

1 utility set its rates. I told you about an  
2 unregulated monopoly that my constituents had to  
3 put up with.

4 As Mr. Kelly would remember -- he's in the  
5 back of the room -- I told you about our residents  
6 pleading with the Office of Public Counsel for  
7 protection, but being told that the Public Counsel  
8 didn't have the authority to help. The Public  
9 Counsel now has the ability to help by supporting  
10 this transaction.

11 I commissioned -- Commissioners, I told you  
12 all those things, and then I asked you for all your  
13 help. You did listen quite politely. You  
14 indicated you were empathetic to our problems, but  
15 then you said you weren't in a position to help at  
16 the time.

17 Commissioner Brown, you were the chairperson  
18 at this time, and you encouraged us to go back and  
19 work on a comprehensive solution that would be  
20 beneficial to all stakeholders. We carefully  
21 considered what you said.

22 We suspended our lawsuit. We rolled up our  
23 sleeves. We worked with our neighbors in the City  
24 of Vero Beach, the county. We worked with FPL. We  
25 worked with our legislators, many of whom are here

1           today, and you've heard from. We've worked with  
2           the OUC, with the FMPA, and with general  
3           manager/CEO, Jacob Williams. In fact, Mr. Williams  
4           traversed this state, meeting with his members,  
5           explaining the benefits to them and their  
6           constituents.

7           Everyone involved should be commended. Some  
8           said this could never get done, but they were  
9           wrong. By working together, I'm proud to say we  
10          came up with a carefully-structured solution that  
11          provides long-term benefits to everyone.

12          Let me give you a real-world example of just  
13          one of those benefits. I'm vice chairman of the  
14          foundation board of a not-for-profit hospital that  
15          serves the Indian county -- Indian River County  
16          region.

17          If you approve FPL's petition, that hospital  
18          would save more than \$700,000 per year in  
19          electricity costs. Just imagine what additional  
20          healthcare services can be provided the neediest of  
21          those among us if this not-for-profit hospital had  
22          an additional \$700,000.

23          Talk about the public interest. To me -- and  
24          I'm sure you will agree --

25                   CHAIRMAN GRAHAM: Mayor Barefoot --



1                   MAYOR BAREFOOT:  -- that's a tremendous  
2                   benefit.

3                   CHAIRMAN GRAHAM:  -- your time is up.  Thank  
4                   you, sir.

5                   Bruce May.

6                   MR. MAY:  Good morning, Mr. Chairman, members  
7                   of the Commission.  I'm Bruce May with the law firm  
8                   of Holland & Knight.  I represent the Town of  
9                   Indian River Shores, but I'm wearing another hat  
10                  today.

11                  I formerly represented the Sebring Utilities  
12                  Commission in an earlier proceeding discussed in  
13                  the staff recommendation.  When you've been around  
14                  for a while, things have a way of coming around  
15                  full circle.

16                  So, that's where I find myself today.  I'm  
17                  here today to -- to hopefully briefly explain why  
18                  the Sebring case should not restrain you from  
19                  approving this transaction, this very good  
20                  transaction.

21                  The Florida Public Service Commission approved  
22                  the Florida Power Corporation acquisition of  
23                  Sebring on December 6th, 1992.  Now, why do I  
24                  remember that date?  Because my youngest daughter  
25                  was born at 4:30 a.m. at the Tallahassee Memorial

1 Hospital. I welcomed her into the world, held her  
2 for about an hour, took a shower, put a tie on, and  
3 came to this Commission room for the Sebring  
4 hearing.

5 So, suffice to say, my wife was not very  
6 pleased about Sebring then, and she has not  
7 forgotten. And now I'm often reminded about that.  
8 It's one of those sore spots in our marriage.

9 (Laughter.)

10 MR. MAY: So, I'm very familiar with the  
11 Sebring case. It's also a case that's completely  
12 different from FPL's acquisition of Vero. On a  
13 number of different levels -- I'm going to give you  
14 three basic distinctions: First, Florida Power  
15 Corporation, itself, projected that the acquisition  
16 of Sebring would only benefit Sebring customers.  
17 It would provide no benefit to the other customers  
18 of Florida Power Corporation.

19 In fact, the evidence in that proceeding -- at  
20 the very front end of the process, Florida Power  
21 Corporation projected that its other customers  
22 would be harmed; second, Florida Power  
23 Corporation -- that its other customers would be  
24 significantly harmed unless Sebring customers paid  
25 a surcharge. Here, it's just the opposite. Expert

1 testimony shows that FPL's other customers would  
2 receive substantial benefits.

3 And finally, both Florida Power Corporation  
4 and Sebring agreed at the very front end of the  
5 process. Michael Walls' partner, Nat Doliner, was  
6 representing Florida Power Corporation at the time.  
7 I was representing Sebring. So, we lived and  
8 breathed that case.

9 At the very front end of the process, the  
10 parties agreed that the Sebring customers should  
11 pay a surcharge. That is not the case here. A  
12 surcharge was never part of the negotiations and it  
13 was -- never needed to be part of the negotiation  
14 because this deal provides 105 benefit -- million  
15 dollars in benefits to FPL's other customers.

16 And I -- with all due respect, I beg to differ  
17 with the Office of Public Counsel's expert. I --  
18 I'm continuing to scratch my head how the Office of  
19 Public Counsel can oppose a transaction like this  
20 that's taken decades, decades to solve. So many  
21 stars had to align.

22 So, Commissioners --

23 CHAIRMAN GRAHAM: Mr. May --

24 MR. MAY: -- I'm just going to wrap it up.

25 CHAIRMAN GRAHAM: Your time is up, but I

1 believe Commissioner Brown has got a question for  
2 you.

3 MR. MAY: Okay.

4 COMMISSIONER BROWN: Can you wrap it up?

5 MR. MAY: I -- I -- I can.

6 (Laughter.)

7 MR. MAY: As Mr. Litchfield pointed out, the  
8 Sebring decision, itself, stated, quote, "It has no  
9 precedential value." But the Sebring decision also  
10 says, on that same page, Page 11 of the order -- it  
11 says, quote, "Unique problems require unique  
12 solutions." And that's precisely the point here.  
13 You have an opportunity today to approve a unique  
14 solution and resolve, once and for all, this unique  
15 problem that's plagued this state for decades.

16 My client and I respectfully ask that you do  
17 just that.

18 Thank you.

19 CHAIRMAN GRAHAM: Thank you, sir.

20 Jon Moyle. Not used to seeing you there.

21 MR. MOYLE: No. No. I'm not used to being  
22 here.

23 It's a -- anyway, but per your request, I --  
24 I'm speaking on behalf of the Florida Industrial  
25 Power Users Group. And this is a big issue. It's

1 a PAA, so we have been monitoring this issue. And  
2 I thought I would just make a few comments, really,  
3 about the policy issue with respect to the  
4 acquisition adjustment.

5 And your staff has done an analysis of that.  
6 They've talked about the policy in Sebring. And  
7 you all, in a whole bunch of other areas, have  
8 policies to say, you don't do things that hurt the  
9 general body of ratepayers, that are a disadvantage  
10 to the general body ratepayers.

11 And it seems that there are some people saying  
12 this is not helping the general body of ratepayers.  
13 The OPC expert says the number is off by 41  
14 million. Now, there's not been any evidence to  
15 date. No one has been sworn. So, you know, it's  
16 argument at this point.

17 But -- but I think that, with respect to this  
18 business model -- it's a not a secret. JEA is also  
19 looking at possibly selling their assets. The way  
20 this business model is set up, according to my  
21 notes is the net book value is 69 million and FPL  
22 is paying 185. So, that's a premium of 116.

23 And what's being asked is not that ratepayers  
24 and shareholders split that 116. It's being asked  
25 that all that 116 million is going to be provided

1 by the general body of ratepayers, FIPUG members,  
2 other general ratepayers. That's going to be part  
3 of what makes this deal get done. And then it's  
4 like, well, what's the benefit to those ratepayers.

5 And I -- I'm not sure that there is a benefit.  
6 I know that -- that there's an analysis that FPL  
7 has put together that says it's going to save  
8 money, but in your own staff analysis, they  
9 question the assumptions. And they say, you know,  
10 if you just switch those around, based on the  
11 timing of them, it's a \$22-million loss.

12 So, I think, to today say, oh, yes, we're  
13 going to -- we're going to say that the general  
14 body of ratepayers are going to -- are going to put  
15 in 116 -- it sets a bad precedent, in my opinion,  
16 with respect to going forward. What's the JEA  
17 premium going to be?

18 And then you've got to remember what happens  
19 with this. This is a regulatory asset. So -- so,  
20 there's not much risk associated with a regulatory  
21 asset. It's an accounting mechanism. And the  
22 staff analysis says that this is going to cost  
23 ratepayers another \$92 million because FPL will  
24 earn on the regulatory asset. So, it's another  
25 92 million, net-present-valued around 50. That's a

1 lot to ask the general body of ratepayers to  
2 stomach.

3 I respect a lot of the people on -- on this  
4 issue. I know it's been a tough issue, but your  
5 policy is not to saddle the general body of  
6 ratepayers with these kind of costs, absent  
7 extraordinary circumstance.

8 And this has gone on a long time, but you  
9 know, absent any witnesses being sworn --  
10 litigation, you have a lot of litigation. A lot of  
11 cases involve a lot of litigation, but I -- I think  
12 it's a cautionary tale with respect to what  
13 potentially may be coming down the road with JEA.  
14 You just had Gulf Power be acquired.

15 I don't know if that --

16 CHAIRMAN GRAHAM: Mr. Moyle.

17 MR. MOYLE: That is a serious issue that you  
18 have today. And I think staff is on to something  
19 with respect to recommending that the ratepayers  
20 don't eat all of this money.

21 CHAIRMAN GRAHAM: Thank you, sir.

22 MR. MOYLE: Happy to answer any questions if  
23 you -- if you need me to.

24 CHAIRMAN GRAHAM: Is there anybody else that  
25 wishes to speak before we -- yes, sir. Name and

1 address for the record and you have three minutes.

2 MR. HERAN: Good morning, my name is Glenn  
3 Heran. I live at 1095 Amethyst Drive in Vero  
4 Beach.

5 I am an outside customer of Vero Beach. One  
6 of the prime benefits of this deal is to provide  
7 representation from the Office of Public Counsel  
8 and the PSC to outside customers, like myself, who  
9 have been denied those protections for decades.  
10 And here, the Office of Public Counsel is fighting  
11 against me.

12 Allow me to begin by saying this surcharge, as  
13 proposed by staff, will kill this carefully-  
14 structured deal. And that would be a tragedy for  
15 Vero Beach and the state of Florida as a whole.

16 Allow me to explain. Vero Beach's rates are  
17 currently 28 percent higher than FP&L. That means  
18 we pay more than \$20 million a year more in higher  
19 rates each and every year, merely to transfer  
20 \$6 million in so-called profit to the general fund.

21 But 60 percent of that amount has been paid by  
22 outside customers through unregulated rates. In  
23 fact, the City has been economically incentivized  
24 to raise utility rates and transfer that money  
25 to its -- instead of raising taxes on its own



1 constituents. That -- and they've been doing it on  
2 the backs of customers. That is the modern-day  
3 example of taxation without representation.

4 This isn't just a problem in Vero Beach. It  
5 happens all over the state of Florida. There are  
6 approximately one million Floridians who are  
7 outside customers of government-run utilities who  
8 have no protection from unregulated rates.

9 33 municipalities in the state of Florida have  
10 rates that are, on average, 20-percent higher than  
11 those of FP&L. That means the municipal electric  
12 customers lose half a billion dollars each and  
13 every year, merely to transfer \$270 million to  
14 their general funds.

15 If this deal is denied today, you will set a  
16 terrible precedent. Outside customers will be  
17 denied future protections, and municipal customers  
18 throughout the state of Florida will be denied the  
19 opportunity to choose. They will be forever held  
20 prisoner to less-efficient government-run  
21 utilities.

22 I have personally fought for this deal for  
23 over ten years. And Vero Beach has been fighting  
24 to sell to FPL since the 1970s. In fact, the  
25 president of the taxpayer's association in Indian

1 River County -- his dad fought, in 1976, to sell  
2 and was thwarted by a government bureaucracy. His  
3 son continues that battle today. Two generations  
4 have fought for this in Vero Beach, and Vero has  
5 fought and paid long enough.

6 Please approve this deal as structured, for I  
7 do not wish to condemn my children to fight this in  
8 a third generation. Thank you.

9 CHAIRMAN GRAHAM: Thank you, sir.

10 Anybody else that wishes to speak?

11 MR. LITCHFIELD: Mr. Chairman, at a point, we  
12 have Mr. Bores here, who is available to address a  
13 couple of the points that have been raised with  
14 respect to the estimate or respond to questions. I  
15 don't know when you have in mind that that might  
16 occur on the agenda, but I just wanted to ensure  
17 that --

18 CHAIRMAN GRAHAM: There's plenty of time for  
19 that.

20 Staff, we're back to you guys, if you wish to  
21 comment on anything from Florida Power & Light,  
22 Vero Beach, OPC, or any of the people from the  
23 public.

24 MS. COWDERY: Commissioners, I would first  
25 just like to address the precedential-value issue,

1           briefly, to put things in context. I believe what  
2           the Sebring case was talking about, stating that  
3           that case was not going to be precedential, is that  
4           the Commission was not signaling a change in their  
5           regulatory policy as to acquisition adjustments.

6           And if you would, I would just like to read  
7           the conclusion of that order because we've had bits  
8           and pieces of it taken out. And I think hearing it  
9           in context will give it a good picture --

10           CHAIRMAN GRAHAM: Okay.

11           MS. COWDERY: -- if that's okay. All right.

12           "We believe that it is in the public interest  
13           to grant the relief the petitioners have requested  
14           here. On the record before us, it is clear that  
15           FPC's acquisition of Sebring Electric System is the  
16           most-reasonable resolution to Sebring's financial  
17           problems" -- you remember bankruptcy.

18           "From our regulatory perspective, the case has  
19           been a difficult one. As a general rule, we do not  
20           preapprove the prudence of rate-base acquisitions  
21           outside of a rate case, nor do we usually permit  
22           acquisition adjustments, particularly outside of a  
23           rate case.

24           "As a general rule, we do not permit utilities  
25           to identify a pool of debt costs and apply those

1 costs to a particular set of customers.  
2 nevertheless, unique problems require unique  
3 solutions and, under this particular set of  
4 extraordinary circumstances, we believe our  
5 decision is in the best interest of all concerned.

6 "To those who would view our decision here as  
7 precedent, we unconditionally state that this  
8 decision has no precedential value. It is limited  
9 to the unique facts of the case" -- "in this case.  
10 It does not signal a change in our regulatory  
11 policies in any way."

12 And I just thought that would allow some  
13 clarity regarding staff's recommendation, the  
14 intent of which is to be consistent with our  
15 regulatory policies.

16 MR. MAUREY: Good afternoon.

17 CHAIRMAN GRAHAM: Good afternoon.

18 MR. MAUREY: Without the trees, there is no  
19 forest. And Dr. Seuss was right, someone has to  
20 speak for the trees. And where you -- this  
21 recommendation is about a principle.

22 The status quo is that any premium paid over  
23 net book value in acquisition of a utility by  
24 another utility should not impact the determination  
25 of rate base.

1           A positive acquisition adjustment is an  
2           exception. It's not a standard. It's not to be  
3           expected. Only in unique cases involving  
4           extraordinary circumstances should a regulator even  
5           entertain the suggestion of a positive acquisition  
6           adjustment.

7           And -- and there's a reason positive  
8           acquisition adjustments are so rare for electric  
9           utilities. A positive acquisition adjustment  
10          represents a departure from sound regulatory  
11          policy. They're -- they are not the standard.  
12          They are not the norm.

13          Positive acquisition adjustments have been  
14          modest in amount and infrequent in occurrence when  
15          they have been granted. Positive acquisition  
16          adjustments do not represent a contribution of  
17          capital to public interest.

18          And our chief concern with the -- with the  
19          proposal before you is that a cumulative-present-  
20          value-revenue-requirement analysis was somehow  
21          being suggested as a substitute for the  
22          Commission's informed adjust- -- informed judgment  
23          on whether to grant a positive acquisition  
24          adjustment or in what amount.

25          It's a two-prong process. The first prong is

1           should -- are extraordinary circumstances  
2           demonstrated. Should the Commission -- then and  
3           only then, should the Commission entertain what  
4           amount might be reasonably determined to directly  
5           benefit the customers that are being asked to pay  
6           the acquisition adjustment.

7                     And that's the perspective that we're coming  
8           from. We're -- and we're happy to answer any  
9           specific questions. Thank you.

10                    CHAIRMAN GRAHAM: Thank you, staff.

11                    We're going to take a quick five-minute break.  
12           We're going to come back to Mr. Litchfield so he  
13           can reply to what you've heard up here, and then  
14           we'll bring it back to the Commission.

15                    (Brief recess.)

16                    CHAIRMAN GRAHAM: Okay. There's three of us  
17           here. So, Mr. Litchfield, you're on.

18                    MR. LITCHFIELD: Thank you, Mr. Chairman and  
19           Commissioners.

20                    So, one comment from me, and then I'm going to  
21           get Mr. Bores here beside me. And it is this, with  
22           respect to the acquisition adjustment: So, we --  
23           we fully understand and appreciate the regulatory  
24           policy that goes with the careful scrutiny of  
25           acquisition adjustments.

1           I would say that, in the context of Utility A  
2           acquiring Utility B, where Utility B is already  
3           regulated, has a rate base, it is clearly, right,  
4           going to be an issue as to whether the regulator  
5           allows Utility B's rate base to be increased by the  
6           acquisition adjustment. That's sort of the classic  
7           case in which these acquisition adjustments are  
8           scrutinized and the extraordinary-circumstances  
9           discussion is appropriate.

10           Here, we're not acquiring another utility  
11           that's going to remain outstanding, operational,  
12           subject to jurisdiction with its own rates, and  
13           asking for an acquisition adjustment to be embedded  
14           in that utility's rate base for purpose of setting  
15           rates.

16           We're asking to acquire the system that  
17           currently serves the Vero Beach customers and wrap  
18           it or integrate it into the larger FPL system.  
19           Vero Beach, as I said is a very, very small system  
20           relative to FPL's. And it is because of this that  
21           the economics just work.

22           And we are not like a Sebring. We're not like  
23           an FPC, at that time, where we're projecting that  
24           the -- that the opposite would occur. Here, we're  
25           projecting benefits by a wide margin.

1           And to that point, Mr. Bores is the individual  
2           who prepared the estimate. He's done a lot of the  
3           estimates that have served as the basis for other  
4           transactions that have recently been approved by  
5           this Commission.

6           And he'll talk to you about the rigor of that  
7           analysis, the conventional way in which we approach  
8           it and probably take an issue or two with a couple  
9           of things that Mr. Kollen may have said.

10          Thank you.

11          MR. BORES: Good afternoon, Chairman --  
12          Mr. Chairman and Commissioners. Scott Bores with  
13          Florida Power & Light.

14          First off, I -- I want to reiterate a point  
15          that Mr. Litchfield just made. This analysis was  
16          prepared with the same rigor as all analyses we  
17          present before this Commission, which includes  
18          using our -- our company-approved assumptions with  
19          the five-year planning horizon as well as kind of  
20          what we view as realistic assumptions that we have  
21          to make for the longer term, given that these are  
22          30-year analyses.

23          As with all analyses presented before this  
24          Commission, we start off with developing what is  
25          the incremental cost and investment needed to serve



1 the City of Vero Beach. So, in our analysis, we  
2 included such things as hardening costs,  
3 reliability investments on the distribution side in  
4 order to be able to bring some of the technology  
5 that help us detect outages, as well as customer-  
6 service costs to bring them onto our smart-meter  
7 operations.

8 I did include distribution O & M and customer-  
9 service O & M. I think it's important to clarify  
10 what are some of the synergies we're going to get  
11 as a result of this transaction that provide the  
12 benefit to customers.

13 I can sit here and say there's going to be no  
14 additional back-office accounts. Working in  
15 finance there's no additional cost for us to take  
16 on 35,000 customers. Mr. Litchfield in legal --  
17 there's no additional legal costs or lawyers coming  
18 onto our payroll to be able to support this  
19 transaction. And that's true for all the  
20 back-office functions across Florida Power & Light.

21 One area where you are going to see tremendous  
22 savings deals with our ten-year site plan. And I  
23 think some of the confusion people had was no  
24 incremental generation until 2033.

25 These customers are going to be paying FPL

1 rates, which means they will be paying for both  
2 Okeechobee and Dania Beach. They'll be  
3 contributing revenues that our customers would have  
4 otherwise paid by themselves to support plants that  
5 you have approved, by this Commission, for need, as  
6 well as cost-effective solar that we plan to add  
7 during the ten-year site plan.

8 Vero Beach is going to be contributing revenue  
9 at our rates to help pay for these costs, which I  
10 think is an important point in this analysis and  
11 helps provide a lot of the CPVRR benefit in this  
12 transaction.

13 In addition, one point Mr. Kollen raised is  
14 with tax reform. Tax reform actually increases the  
15 benefit to customers; as we provided through  
16 discovery, increases the benefit to \$127 million.

17 There also seems to be some concern with  
18 our -- our revenue projections. We do have a base-  
19 rate increase, we assume, in both '21 and '22 when  
20 we thought the agreement was going to expire back  
21 in October, when we prepared this analysis.

22 If you remove those base-rate increases, as  
23 well as the 1-percent assumed base-rate increase we  
24 have each year heading out into the future, and  
25 account for tax reform, there is still a benefit to

1 customers as a result of this transaction.

2 So, hopefully that gives you some level of  
3 comfort that, even with our aggressive revenue  
4 projections that we have in the model, which we  
5 view as realistic, that there is a net benefit  
6 projected to our existing customers as a result of  
7 this transaction.

8 Thank you.

9 CHAIRMAN GRAHAM: So, what I heard you say --  
10 that Mr. Litchfield is working for free today.

11 MR. LITCHFIELD: That's almost always true,  
12 Mr. Chairman.

13 (Laughter.)

14 CHAIRMAN GRAHAM: He said there was no added  
15 cost to this.

16 Okay. Commissioners, who wants to go first?  
17 Or I'll entertain a motion.

18 Commissioner Clark.

19 COMMISSIONER CLARK: I'll ask a quick question  
20 related to cost of service.

21 In some of the previous hearings, we've  
22 discussed -- there's been suggested that you may  
23 have over- -- you may have over-projected your  
24 capacity -- you may have over-projected your  
25 capacity needs for the future.

1           Would adding these additional customers help  
2           to account for that additional capacity, the 25-  
3           30-percent reserves that you guys have? Are you  
4           going to be able to sell out of that margin?

5           MR. BORES: Yes. So, by adding some of the  
6           solar -- I think, in prior hearings, I have heard  
7           that we are above our 20-percent reserve margin.  
8           So, what you'll have here is these additional  
9           customers are going to help pay for that capacity,  
10          right, that would have been otherwise paid by FPL  
11          customers.

12          So, based on our current ten-year site plan,  
13          we are not projecting any incremental generation  
14          until 2033 to serve them. So, they will just be  
15          using the capacity that we're currently projecting,  
16          but help pay a portion of that.

17          COMMISSIONER CLARK: If you were -- if you  
18          began to run into -- run up against your capacity,  
19          your margins -- begin to eat out of your margins  
20          too much, what would be your plan to accommodate or  
21          add additional margins there?

22          MR. BORES: So, in that short term, we do hit  
23          that situation in 2027, where we assume we have an  
24          incremental PPA in order to be able to meet kind of  
25          the Vero load. And we have included that cost

1           within our analysis to kind of burden that as an  
2           incremental Vero cost.

3           COMMISSIONER CLARK:   The PPA that you're  
4           discussing with -- that you have in place with  
5           OUC -- what will you do with the energy that is  
6           produced off of that PPA in the short term?

7           MR. BORES:   I am probably not the best person  
8           to answer that.   I can have Mr. Forrest, right  
9           behind me, answer that, if you'd like.

10          COMMISSIONER CLARK:   I'll pick up one more  
11          question.   Could you tell me the -- I don't know if  
12          you've analyzed it or not -- the system load factor  
13          for FPL versus the system load factor for Vero?

14          MR. BORES:   I personally have not analyzed  
15          that, so I could not answer that question.   I know  
16          they're going to bring about 150 megawatts of  
17          additional load to our summer peak.

18          COMMISSIONER CLARK:   150 to summer?

19          MR. BORES:   Yes.

20          COMMISSIONER CLARK:   What -- what will they  
21          hit to winter?

22          MR. BORES:   I don't know that number off the  
23          top of my --

24          COMMISSIONER CLARK:   Are they a summer- -- I  
25          assume they're --

1 MR. BORES: They're a summer-peaking --

2 COMMISSIONER CLARK: They're summer-peaking.

3 MR. BORES: Yes.

4 COMMISSIONER CLARK: Your system aggregate is  
5 winter-peaking; is that correct?

6 MR. BORES: No, we are also a summer-peaking  
7 as well.

8 COMMISSIONER CLARK: You're also summer-  
9 peaking as well. Okay. Okay. Thank you.

10 MR. BORES: You're welcome.

11 CHAIRMAN GRAHAM: Anybody else?

12 Commissioner Brown.

13 COMMISSIONER BROWN: Thank you.

14 So -- and this is a question for staff. And  
15 it's clear to me there are fundamental threshold  
16 questions that need to be met first. And based on  
17 the discussions today, the information in the  
18 docket, the initial threshold of extraordinary  
19 circumstances have been met, correct?

20 MR. SMITH: Yes, that's correct, in our -- in  
21 our recommendations, Commissioner.

22 COMMISSIONER BROWN: I think, if ever there  
23 was a case, in recent history, this is the pinnacle  
24 of extraordinary circumstances, but I just want to  
25 make sure staff is saying that.

1           And then the next threshold question that we  
2           need to get to is whether the transaction --  
3           terminating the territorial agreement is in the  
4           public interest, correct?

5           MR. SMITH: Correct.

6           COMMISSIONER BROWN: And you're saying that it  
7           is in the public interest?

8           MR. SMITH: Yes. That's staff recommendation,  
9           yes.

10          COMMISSIONER BROWN: So, then, really, in  
11          listening to Mr. Maurey's question -- or response  
12          earlier, it appears to me as if the issue really is  
13          just how the analysis was conducted, the CPVRR and  
14          the assumptions that were used.

15          Are there any other alternative method- --  
16          methodologies to analyze this transaction?

17          MR. MAUREY: Yes, there are alternatives to  
18          estimating what that -- that going-concern value  
19          might be. Our -- as I mentioned earlier, our chief  
20          concern was replacing the Commission's informed  
21          judgment with the CPVRR analysis. We -- we've  
22          passed that point.

23          Now, if you talk about what is a reasonable  
24          amount of a going-concern value or what would  
25          become the acquisition adjustment, yes, there are

1 alternatives.

2 COMMISSIONER BROWN: Okay. Let's walk -- walk  
3 us through some of those.

4 MR. SMITH: Sure. I can do that for you,  
5 Commissioner.

6 First I would like to kind of address why  
7 staff used the Sebring case at all, with some of  
8 the concerns raised.

9 COMMISSIONER BROWN: You don't have to.

10 MR. SMITH: I'm just going to get into -- into  
11 the valuation of -- of how we kind of derived --  
12 derived that. Staff doesn't -- staff believes  
13 that, in the Sebring case, the way that going-  
14 concern, which is really what staff is relying on  
15 that -- that case for -- is just how we derive a  
16 going-concern value in an accusation adjustment.  
17 And that's really all we're using that -- that case  
18 for is how we derived that going concern.

19 In the Sebring case, the going concern was  
20 derived by an FPC witness, Warren. It was derived  
21 by taking transmission -- sorry -- distribution  
22 costs for the -- the Sebring system and  
23 extrapolating them out per customers and then  
24 running present-value calculations.

25 The ultimate result is seen over the time of



1 building out a customer base. In the Sebring's  
2 case, it was 13,000; in Vero Beach, it will be  
3 approximately 35,000.

4 Over the time of building up that customer  
5 base, what is the present value of having those  
6 customers on day one versus having to build them  
7 out over a present-value calculation of a certain  
8 time period. Staff was able to approximately  
9 calculate some of those calculations for you in --  
10 in different time periods.

11 COMMISSIONER BROWN: So, I looked at -- there  
12 were three cases that were referenced on Page 14 of  
13 the recommendation in the footnote. I pulled them.  
14 I looked at it and it looked -- and now, they're  
15 not on point exactly, and staff did not rely on it,  
16 but you relied on Sebring, which I do not think is  
17 the applicable case to -- to rely on here.

18 It did use modified straight-line methodology  
19 in awarding the full apprec- -- requested amount  
20 because there were extraordinary circumstances in  
21 these cases.

22 MR. FLETCHER: In the -- if I may, Bart  
23 Fletcher. In the gas cases, they did use kind of  
24 like a methodology of real-time savings, if you  
25 will, to project -- projected savings. That

1 methodology in the gas -- in the gas case is -- is  
2 different than the methodology here in the voided  
3 cost that Mr. Smith just mentioned, and the fact of  
4 having an established customer base day one.

5 As far as the alternatives that you mentioned  
6 earlier, of course, staff, for the reasons set  
7 forth in its recommendation, believe in the number  
8 that we had of 608 in order to determine the  
9 21.3 million as avoided cost; however, there are  
10 other scenarios.

11 That was based on an eight-year, two-phase  
12 scenario, but sticking with the voided costs to  
13 come up with the going concern, you could look at,  
14 just like Witness Warren did in the case -- he  
15 looked at several different models.

16 COMMISSIONER BROWN: Right.

17 MR. FLETCHER: He looked at a five-year, a  
18 ten-year. And just to answer your question  
19 regarding what -- what that -- what that would look  
20 like --

21 COMMISSIONER BROWN: Yes.

22 MR. FLETCHER: -- is, a five-year straight  
23 line using the same principles of the avoided  
24 costs, you have --

25 COMMISSIONER BROWN: Because that's your

1 biggest concern.

2 MR. FLETCHER: Yes, to -- for the replacement  
3 costs or avoided costs, if you will.

4 For a five-year straight line, it's  
5 37 million; for a seven-year straight line, that  
6 would be 59.9 million; and for a ten-year straight  
7 line, that would be 74.6 million.

8 And those are some of the options that we can  
9 consider because of the size of the system. Ten  
10 years is kind of like -- in staff's judgment, is  
11 kind of like -- or opinion, I should say, is --  
12 that's kind of like the -- the threshold, as far as  
13 the ten-year, as far as the maximum number because  
14 you've got to consider the amount of time it would  
15 take to replace the system.

16 Any -- any amount up -- much above the ten-  
17 year --

18 COMMISSIONER BROWN: Which we did, though, in  
19 the case -- in the gas cases. We did 15 and we did  
20 30.

21 MR. FLETCHER: Yeah, those were based on real-  
22 time and projected savings at a different type of  
23 methodology, rather than avoided costs that we're  
24 dealing here with the going concern.

25 COMMISSIONER BROWN: I'll hold off. Thank

1           you.

2                   CHAIRMAN GRAHAM:   Commissioner Polmann.

3                   COMMISSIONER POLMANN:   Thank you,  
4           Mr. Chairman.

5                   Comments from staff was -- Mr. Maurey and then  
6           Smith and Fletcher -- Bart, you can stay there. In  
7           following on from Commissioner Brown's comments,  
8           I -- looking specifically at Issue 3, I'm  
9           understanding that what -- what is being discussed  
10          here is really -- it -- kind of a two-part  
11          question, even though the issue is stated quite  
12          narrowly -- and that is, the identification or  
13          the -- I'll call it a finding, a determination that  
14          we have an extraordinary circumstance -- first and  
15          foremost, to -- to come to that conclusion; and  
16          that, therefore, we have the opportunity and that  
17          it is appropriate to consider the positive  
18          acquisition adjustment, so that, I think everyone  
19          may be able to conclude that we've kind of passed  
20          that, what -- what you identified as a threshold.  
21          So, then, the -- what you've just been discussing  
22          is how do you determine an appropriate dollar  
23          amount, really.

24                   What I heard from Mr. -- Mr. Maurey -- and  
25          I -- I would like to reflect on that for just a

1 minute -- is that, our guidance, then, is -- is to  
2 make that determination based on our standard  
3 regulatory framework.

4 We have to have a regulatory standard by which  
5 to assign that so that we're within the four  
6 corners of -- of how we normally conduct our  
7 proceedings and -- and to maintain our -- our  
8 practice of using -- reflecting on a contribution  
9 of capital to the public service. Is -- is that  
10 a -- an appropriate way to look at that?

11 So, you -- you've looked at avoided cost. And  
12 then the question is: What is the appropriate  
13 mechanism by which we make a financial calculation.

14 MR. SMITH: Yes, sir, we believe --

15 COMMISSIONER POLMANN: Is that a fair  
16 statement, in my -- I'm just trying to  
17 understand --

18 MR. FLETCHER: You are correct, yes.

19 COMMISSIONER POLMANN: -- the various  
20 scenarios that you've looked at.

21 Is that really a financial analysis of how we  
22 look at the capital investment that would be  
23 necessary in order to -- in order to understand the  
24 dollar value of the distribution system for this  
25 customer base?

1           MR. SMITH: The calculation that -- that staff  
2           has offered in its recommendation and then the one  
3           we just offered is based off of what the going-  
4           concern value would be of an established customer  
5           base versus building that out.

6           So, therefore, that would -- would come into  
7           avoided cost. It -- if there's inherent value of  
8           having that 35,000 customers, what's the avoided  
9           cost of having them currently versus having to  
10          build that customer base out. And that's what  
11          staff is considering, the value, the dollar amount  
12          of that.

13          And again, the time period of building out  
14          that base would be kind of what would be the -- at  
15          issue, how long that should take. But that is the  
16          avoided cost, the value of having it in hand versus  
17          having to replace it or -- or build it out over a  
18          certain period of time.

19          COMMISSIONER POLMANN: So, to -- Commissioner  
20          Brown, I -- I think what you were asking is -- and  
21          where we have some latitude is to make that  
22          judgment. Given that the system already exists,  
23          we're -- we're looking now at kind of a  
24          hypothetical.

25          If it didn't exist today and it had to be

1           built, what -- how would we look at it, as if it  
2           were to be built and -- and the present value --  
3           maybe I'm using the wrong words, but I'm just  
4           trying to understand, other than the staff having  
5           presented a particular value, might -- what might  
6           be another value, for example, if I understand your  
7           question.

8                    COMMISSIONER BROWN:   Mr. Chairman?

9                    Yes, that was -- Commissioner Polmann, because  
10           I believe there are a lot of other ways to evaluate  
11           this, and I wanted to explore that path a little  
12           bit more with staff.  And I do think we have wide  
13           latitude.  So, thank you for that point.

14                   CHAIRMAN GRAHAM:  I think Mr. Litchfield may  
15           be able to answer your question, Commissioner  
16           Polmann.

17                   MR. LITCHFIELD:  Thank you, Mr. Chairman.  
18           I'll take a shot at it.

19                   We look at this, and we hope that you would  
20           look at it really no differently than any other  
21           investment that we're making.  In fact, we recently  
22           had approved by this Commission investments in the  
23           buyout of certain purchase power agreements that  
24           allowed us to retire some coal units.

25                   Those projects, those transactions, those

1           analyses, were all predicated on, essentially, the  
2           same approach that we have taken here today with  
3           respect to Vero Beach.

4           So, we view this as a investment of  
5           \$185 million. It's just recovered in different  
6           ways. And, to me, the ultimate question is does  
7           that investment produce benefits.

8           Now, the public-interest standard that staff  
9           quoted is does it do any harm. And they said, at  
10          least, change or assum- -- or reassignment of the  
11          obligation to serve does not harm. So, if that's  
12          the standard, we have far exceeded it in terms of  
13          does the actual investment do any harm. We say no.

14          We say, to the contrary, it adds north of a  
15          hundred million CPVRR benefits. If you add on the  
16          tax reform to it, it goes up to 127 million, by our  
17          calculations. And so -- so, that's the way we're  
18          looking at it.

19          And so, when we see that staff has tried to do  
20          an analysis extrapolating from the Sebring case,  
21          again, 25 years old, on a different set of facts  
22          and circumstances than we're looking at here today,  
23          we -- we are scratching our heads a little bit, not  
24          the least of which is because we -- we had a fair-  
25          market value established through an independent



1 expert that was submitted in -- in testimony that  
2 wasn't even mentioned in the staff recommendation.

3 And again, this individual, David Herr is his  
4 name, would be here for today, but for the fact  
5 that he's attending his daughter's high school  
6 graduation -- so, that's definitely passed. Bruce  
7 may have missed that signal 25 years ago.

8 (Laughter.)

9 MR. LITCHFIELD: But -- but he -- he's the  
10 same gentleman who performed the fair-market-value  
11 analyses that supported each of those three  
12 transactions I alluded to earlier, the Cedar Bay,  
13 the ICL, and the St. Johns River Power Park  
14 project.

15 So, that's -- Commissioner Polmann, that's  
16 sort of the way we're looking at this, and we -- we  
17 think, ultimately, is the way public-interest test  
18 ought to be measured: Are -- are we at least doing  
19 no harm to our general body of customers.

20 You heard a number of representatives here who  
21 have responsibility to carry interests of both the  
22 new customers and existing customers. We're in  
23 alignment with them.

24 We would not be proposing -- we would be  
25 where -- where FPC was in the Sebring case if the

1 math was different, saying we are not going to put  
2 costs on our customers. We're the last person who  
3 would be telling tell you to place costs on our  
4 customers in this context. So, that's the way  
5 we're looking at it.

6 CHAIRMAN GRAHAM: Thank you, sir.

7 Commissioner Polmann, you have the floor. Are  
8 you done?

9 COMMISSIONER POLMANN: I'll -- I'll defer.  
10 Thank you.

11 CHAIRMAN GRAHAM: Okay. Commissioner Clark?

12 COMMISSIONER CLARK: Thank you, Mr. Chairman.

13 I think this really comes down to us sitting  
14 down and evaluating a very-specific set of facts  
15 and circumstances. And this is more on an  
16 individual basis, to me, than looking back at  
17 previous cases.

18 We -- there haven't been a lot of these. I  
19 think this is the -- the first one since 1992 that  
20 has occurred. I think a lot of things have  
21 changed, not only in the regulatory environment,  
22 but in the utility environment, over the last 20  
23 years as well.

24 And I think that it's up to us to determine  
25 whether extraordinary circumstances actually exist

1 and whether or not that warrants a -- a positive  
2 acquisition adjustment.

3 You know, everybody this morning, in -- in the  
4 territorial discussion, was quoting the Gulf Coast  
5 vs. Johnson case. And I was looking at  
6 specifically something in there earlier. And --  
7 and one of the things I read said the public  
8 interest is the ultimate measuring stick to guide  
9 this Commission's decisions.

10 And fellow Commissioners, I think that's what  
11 this comes down to. This is a fairness issue.  
12 This is a public-interest issue. This is something  
13 that, from my days, many years ago in the utility  
14 business, we were all very well aware of this  
15 battle that's been going on for the last 12 or 15  
16 years.

17 The last thing that I want us to do is for us  
18 to be a regulatory roadblock to a transaction that  
19 could benefit 35,000 customers. Not only does it  
20 benefit 35,000 customers, but, to me, I think it's  
21 been effectively demonstrated that there is no  
22 negative impact to the existing rate base. And I  
23 think that is the overarching issue that is driving  
24 my decision in this process.

25 And Mr. Chairman, I am prepared to make

1 motions whenever you're ready to call for them.

2 CHAIRMAN GRAHAM: I am prepared to hear it.

3 You want to do it issue by issue?

4 COMMISSIONER CLARK: Doesn't matter to me. We  
5 can do them all or we can do --

6 CHAIRMAN GRAHAM: Let's start with Issue 1.

7 COMMISSIONER CLARK: -- Issue -- Issue --

8 CHAIRMAN GRAHAM: I don't think anybody has  
9 any debates of --

10 COMMISSIONER CLARK: All right.

11 CHAIRMAN GRAHAM: -- Issues 1 or 2.

12 COMMISSIONER CLARK: Right. Move --

13 Mr. Chairman, I move staff on Issues No. 1 and  
14 No. 1.

15 COMMISSIONER BROWN: Second.

16 CHAIRMAN GRAHAM: It's been moved and second,  
17 staff recommendations on Issue 1 and 2.

18 Any further discussion? Seeing none, all in  
19 favor, say aye.

20 (Chorus of ayes.)

21 CHAIRMAN GRAHAM: Any opposed?

22 By your action, you have approved the staff  
23 recommendations on Issue No. 1 and 2.

24 Okay. Mr. Clark, you have the floor.

25 COMMISSIONER CLARK: Mr. Chairman, as it comes

1 to Issue No. 3 -- give me two seconds.

2 Mr. Chairman, I move we authorize a positive  
3 acquisition adjustment of \$116 million.

4 COMMISSIONER BROWN: Second, but Mr. Chairman,  
5 if I may, just for clarification, it's  
6 116.2 million.

7 COMMISSIONER CLARK: 116.2, thank you.

8 COMMISSIONER BROWN: Thank you. Second.

9 CHAIRMAN GRAHAM: It's been moved and seconded  
10 to authorize an acquisition adjustment of  
11 \$1.2 million.

12 COMMISSIONER BROWN: 116.2.

13 CHAIRMAN GRAHAM: One -- I'm sorry. 116. --  
14 (Laughter.)

15 MR. LITCHFIELD: I was going to object to  
16 that.

17 CHAIRMAN GRAHAM: \$116.2 million. Is there  
18 any further discussion on that?

19 COMMISSIONER POLMANN: Mr. Chairman?

20 CHAIRMAN GRAHAM: Yes, sir.

21 COMMISSIONER POLMANN: If it -- if the Board  
22 would consider, can we bifurcate the issues, the --  
23 the consideration within this issue of the  
24 extraordinary circumstance separate from the dollar  
25 amount of the acquisition adjustment? I -- I think

1           there may be value of considering the threshold  
2           issue as a separate item.

3           CHAIRMAN GRAHAM:   Would you like to withdraw  
4           your motion, briefly?

5           COMMISSIONER CLARK:   Yeah, I have no  
6           objection.

7           CHAIRMAN GRAHAM:   Okay.   Commissioner Polmann,  
8           would you like to make a motion about the  
9           extraordinary --

10          COMMISSIONER POLMANN:   With regard to Issue 3,  
11          in Item 5, I would make a motion to -- for the --  
12          for the Board to find that there are extraordinary  
13          circumstances.

14          And in fact, if we look at the issue --  
15          statement, should the Commission authorize FPL to  
16          recognize a positive acquisition adjustment on its  
17          books associated with the purchase of COVB Electric  
18          utility system, the first word in the  
19          recommendation is "yes," period.   That would be my  
20          motion.

21          CHAIRMAN GRAHAM:   Do you need to repeat it?  
22          Because I don't know if you have a second yet.

23          COMMISSIONER FAY:   Motion on extraordinary  
24          circumstances exist -- is that the motion?

25          COMMISSIONER POLMANN:   The actual wording:

1           Should the Commission authorize FPL a positive  
2           acquisition adjustment --

3           CHAIRMAN GRAHAM:   So, your motion --

4           COMMISSIONER POLMANN:   The recommendation is  
5           yes. My motion is that we should authorize  
6           positive acquisition adjustment in light of  
7           extraordinary circumstances.

8           COMMISSIONER FAY:   I'll second that motion.

9           CHAIRMAN GRAHAM:   It's been moved and  
10          seconded.

11          Any further discussion on that motion?

12          COMMISSIONER CLARK:   So, Mr. Chairman, what  
13          does that do in reference to adding an additional  
14          issue to -- to this -- this case? Can we come  
15          back, now -- is it appropriate to come back now and  
16          add an Issue 4, and decide what that adjustment is  
17          without --

18          COMMISSIONER POLMANN:   Well --

19          CHAIRMAN GRAHAM:   No, I believe what he's  
20          doing is just bifurcating the -- the issue.

21          COMMISSIONER POLMANN:   I'm just saying that --

22          CHAIRMAN GRAHAM:   So, first, you need to --  
23          almost like sometimes you need to decide if you  
24          want to have oral arguments.

25          COMMISSIONER CLARK:   Yeah, I --

1           CHAIRMAN GRAHAM:   And then --

2           COMMISSIONER CLARK:   I have no disagreement.  
3           I'm just wanting to make sure it does not prohibit  
4           us from coming back --

5           CHAIRMAN GRAHAM:   No -- well, we're -- we'll  
6           come back into the dollar amount, assuming -- but  
7           he's -- he wants to make sure he's drawing that  
8           threshold line.

9           COMMISSIONER CLARK:   Yes, sir.

10          CHAIRMAN GRAHAM:   You've got to get over that  
11          threshold --

12          COMMISSIONER POLMANN:   I want to do a Part A  
13          and Part B.

14          COMMISSIONER CLARK:   And my notes, I had that  
15          as the original motion anyway.   So, I'm good with  
16          it.   So, we're good.

17          CHAIRMAN GRAHAM:   Okay.   Any other discussion  
18          on is this an extraordinary circumstance?

19                 I actually have a comment.   I guess this is  
20          where, not all the time, we all agree up here.   And  
21          this is where, I guess, we agree to disagree.   I  
22          don't think this is an extraordinary circumstance.

23                 Staff, of our -- the Munis that we have in the  
24          state, how many of the Munis actually serve people  
25          outside of the city limit?



1           MR. FLETCHER: I don't know the exact number,  
2           but I do know there are several munic- --  
3           municipalities that serve outside their city  
4           limits.

5           CHAIRMAN GRAHAM: Would you say most of them?

6           MR. FLETCHER: I don't know the exact number.

7           MS. DRAPER: Commissioners, this is Elisabeth  
8           Draper. I briefly touched base with the FMPA this  
9           morning. And they informed me, based on the study  
10          they had done a few years ago, that the City of  
11          Vero Beach serves the most customers outside the  
12          city limits, but a few years ago, several other  
13          Munis were close to serving approximately  
14          50 percent of their customers outside of their city  
15          limits. And those were Jacksonville Beaches --

16          CHAIRMAN GRAHAM: You don't need to --

17          MS. DRAPER: -- Kissi- --

18          CHAIRMAN GRAHAM: You don't need to name them.

19          MS. DRAPER: Okay. There were, like, four  
20          other ones that were close to the City of Vero  
21          Beach.

22          CHAIRMAN GRAHAM: So, about half of them serve  
23          people outside the city limits.

24          MS. DRAPER: Not -- not half. About four  
25          more -- four in addition to the City of Vero Beach.

1           So, that's five out of -- I don't know what the  
2           total number is, to be honest -- 45 municipalities,  
3           I heard in the background.

4           MR. FUTRELL: Mr. Chairman, Mark Futrell.

5           Our experience and general knowledge is that  
6           many municipalities serve outside of their -- their  
7           boundaries, the municipal boundaries. We don't  
8           have an exact number and presume we have some --  
9           some information based upon a few.

10          We don't have a precise number, but our  
11          general understanding of growth patterns, over the  
12          history of the development of Florida, particularly  
13          over the last 25, 30 years, is there are many --  
14          many municipalities who are serving outside their  
15          boundaries.

16          CHAIRMAN GRAHAM: All right. So, many  
17          municipalities serve outside their boundaries. And  
18          that's just looking at the electric side of things.  
19          That's not -- that's not even talking about the  
20          water and wastewater side of things.

21          And so, No. 1, that fact is not unique. And  
22          there's -- there's more than just this one that  
23          serves -- 50 percent or more of their clients are  
24          outside of the city. So, once again, I don't think  
25          that that is a unique circumstance.

1           So, going to the extraordinary circumstance,  
2           I -- I don't agree with, but that's fine. I mean,  
3           there's five of us up here. And it's okay that we  
4           don't all agree, but that all being said, if  
5           there's no further discussion, all in favor of  
6           Commissioner Polmann's motion, say aye.

7           (Chorus of ayes.)

8           CHAIRMAN GRAHAM: Any opposed?

9           Aye.

10          By your action, the ayes have it.

11          Commissioner Clark.

12          COMMISSIONER CLARK: Mr. Chairman, I move that  
13          the Commission approve a positive acquisition  
14          adjustment of \$116.2 million.

15          COMMISSIONER BROWN: Second.

16          CHAIRMAN GRAHAM: It's been moved and second,  
17          the positive acquisition adjustment of  
18          \$116.2 million. Any further discussion?

19          Okay. I'll discuss. No. 1, because I don't  
20          think that there there's an extraordinary  
21          circumstance -- and I can go on -- I have a list of  
22          about 15 reasons why I don't think it is, but I  
23          just touched on one or two of them.

24          I -- I don't see -- just because the utility  
25          chose to spend three times the book value -- I

1 don't know if it's -- if it's the duty of us to  
2 make them whole on that issue.

3 I do understand -- once again, we do have  
4 other utilities that serve outside of the limits.  
5 I think we're opening up a -- we're opening up a  
6 can of worms on this one because what's to stop the  
7 next guy to come in -- there may be five people out  
8 there, there may be a thousand, there may be 30,000  
9 people. What's to stop them from coming in saying,  
10 where's my representation?

11 I think this is more of a political fix than a  
12 PSC fix. And they've tried many, many, many times  
13 to do it over in the Legislature. For some reason,  
14 they haven't been able to do it, but I still think  
15 that this fix is not -- necessarily should be done  
16 here.

17 So, that being said, I can't go any further  
18 than what the staff recommendation was, but once  
19 again, I defer to my colleagues.

20 Commissioner Polmann.

21 COMMISSIONER POLMANN: Thank you,  
22 Mr. Chairman.

23 I understand this is an issue that's been  
24 going on for a very long period of time, as we've  
25 heard today. And I -- I do sincerely appreciate

1 the difficulty of bringing this matter to where it  
2 is today and the involvement of the elected  
3 officials and the many parties.

4 I've -- I've raised some issues here of --  
5 here today that I thought were important with  
6 regard to the basis upon which a dollar value might  
7 be assigned. I know there's many different  
8 opinions on that. And the savings and so forth  
9 that -- that may be calculated can be done in so  
10 many different ways.

11 From my perspective, I think it is critically  
12 important to be able to make an assignment within  
13 the four corners of a -- how we treat regulatory  
14 assets and so forth.

15 And I -- I'm sitting here today -- this  
16 Commissioner, I -- I'm not able to support an  
17 amount for which I -- I don't find an appropriate  
18 original cost basis. So, on that basis, I -- I'm  
19 not able to support the full amount that -- that's  
20 being requested.

21 CHAIRMAN GRAHAM: Commissioner Fay.

22 COMMISSIONER FAY: Thank you, Mr. Chairman.  
23 Does -- it sounds like, although we may disagree on  
24 the outcome, I do -- I do -- I do want to touch on  
25 one point that the Chairman mentioned.

1           When I see -- when I initially saw this issue  
2           and thought, you know, there's a decade spent  
3           trying to resolve something like this, and all the  
4           people that were involved in it, and to see  
5           somebody who -- who I highly respect, Senator  
6           Mayfield -- to spend her time up here to articulate  
7           what her constituency thinks is important and to  
8           ensure that it gets done, I -- I think these are --  
9           these are all case-by-case scenarios.

10           I think there's assumptions that a decision  
11           made by the Commission creates some precedent,  
12           and -- and a lot of times, even in the stipulations  
13           or the things that are in front of us, we'll see  
14           language that it says it specifically does not do  
15           that.

16           I think both the threshold determination and  
17           the adjustment determination need to be on a case-  
18           by-case basis. And I think that those are key  
19           components of the analysis. And I -- I would agree  
20           with the Chair that as -- no matter what comes  
21           forward, that those have to be done thoughtfully  
22           and thoroughly.

23           I will also state that, when I looked at the  
24           petitions that were filed on this issue, both with  
25           the Commission and the Circuit Court for the past

1 decade, I thought of how much time people spent in  
2 this room determining what -- what makes sense.

3 And based on the discussions we've heard  
4 earlier, when resolutions are brought forward, I --  
5 I take those very seriously. I think they  
6 should -- should create strong weight and  
7 consideration for what the determination is.

8 And so, with that, Mr. Chairman, I think we  
9 just have left to vote and...

10 CHAIRMAN GRAHAM: I have no other lights on.  
11 So, if there's no further discussion, all in favor  
12 of the Clark motion, say aye.

13 (Chorus of ayes.)

14 CHAIRMAN GRAHAM: Those opposed?

15 Aye.

16 COMMISSIONER POLMANN: Aye.

17 CHAIRMAN GRAHAM: By your action, the Clark  
18 motion passes.

19 Commissioner Clark, you still have the floor  
20 for Issue No. 4.

21 COMMISSIONER CLARK: Thank you. Mr. Chairman,  
22 I move that the cost recovery on the purchase power  
23 agreement be approved as presented.

24 COMMISSIONER BROWN: Second.

25 CHAIRMAN GRAHAM: It's been moved and second,

1 staff recommendation on Item 4. Any further  
2 discussion? Seeing none, all in favor, say aye.

3 (Chorus of ayes.)

4 CHAIRMAN GRAHAM: Any opposed?

5 By your action, you have approved staff  
6 recommendation on Issue No. 4.

7 Staff.

8 COMMISSIONER CLARK: Move staff on No. 5.

9 CHAIRMAN GRAHAM: Commissioner Clark.

10 COMMISSIONER CLARK: Regarding Issue No. 5,  
11 move staff.

12 COMMISSIONER BROWN: Second.

13 CHAIRMAN GRAHAM: You're going to move staff  
14 recommendation on Issue No. 5.

15 Staff, is there anything else that you need  
16 for us to add to this before we close out Issue  
17 No. 5?

18 MR. FUTRELL: Pardon me, Mr. Chairman.

19 Just to clarify, Commissioner Clark, on your  
20 motion, was it to -- to move staff's recommendation  
21 or --

22 COMMISSIONER CLARK: No --

23 MR. FUTRELL: -- as presented in the fi- -- in  
24 the petition?

25 COMMISSIONER CLARK: To allow the cost



1 recovery of the PPA as it was presented.

2 CHAIRMAN GRAHAM: Microphone.

3 MR. FUTRELL: Very good.

4 COMMISSIONER CLARK: I'm sorry. It was to  
5 allow the cost recovery of the PPA for --

6 MR. FUTRELL: Very good.

7 COMMISSIONER CLARK: Was it 20.5? Was that  
8 the right -- okay.

9 MR. FUTRELL: Thank you very much.

10 COMMISSIONER CLARK: That's what I --

11 MR. FUTRELL: We just wanted to clarify.

12 Thank you.

13 CHAIRMAN GRAHAM: Okay.

14 MR. REHWINKEL: Mr. Chairman.

15 CHAIRMAN GRAHAM: Yes, sir.

16 MR. REHWINKEL: Charles Rehwinkel, Deputy  
17 Public Counsel. May I make just a brief remark  
18 before we close out today?

19 CHAIRMAN GRAHAM: Sure.

20 MR. REHWINKEL: I wanted to state, for the  
21 record, on behalf of Mr. Kelly and the Office of  
22 Public Counsel, our position in this proceeding  
23 today. We have been very clear in our opening  
24 remarks, we did not oppose a transaction.

25 Mr. Kollen was very clear in his closing remarks

1           that we were not proposing a surcharge.

2           This is a very emotional issue. Rightfully,  
3           we have not been involved in it over the past 10 to  
4           12 years, but the Public Counsel takes his job  
5           seriously. We've been around for over 40 years.  
6           And it is our obligation to speak up on behalf of  
7           those trees Mr. Maurey referred to.

8           We hired Mr. Kollen, who is a nationally-  
9           renowned expert. He's testified before this  
10          Commission. I've been with him and I've been  
11          against him. I admire and respect what he has to  
12          say.

13          We had an obligation to perform due diligence  
14          on behalf of all the customers. We engaged  
15          Mr. Kollen. We said, take a look at this. We --  
16          we didn't give him any direction. We said, give us  
17          your -- your results.

18          He -- we did two rounds of very-intense  
19          discovery with the company. They were very  
20          cooperative. We just finished his analysis almost  
21          at -- at the same time as we got the staff  
22          recommendation.

23          We feel that this Commission would not have  
24          appreciated it if we'd have just sat back, let you  
25          put the order out as at PAA and then, some 21 to 40

1 days later, we file a -- an -- a protest and then  
2 bring out our concerns and objections. That  
3 wouldn't have been the right thing to do.

4 The right thing to do, which is what we did,  
5 which was to have our expert put his observations  
6 and comments, his expert comments, on the record  
7 for you to consider. And that's what we did.

8 Having done that, we've discharged our duty.  
9 We will not ask for a hearing when the order comes  
10 out. We're satisfied that the Commission, the  
11 staff, and the parties have taken into  
12 consideration what we recommended or what we  
13 observed, and we're satisfied with the results  
14 today.

15 But I think it's important to state for the  
16 record we never opposed this transaction. And we  
17 will abide by the Commission's decision. Thank  
18 you.

19 CHAIRMAN GRAHAM: Thank you. I have to tell  
20 you that I -- for most of what you said, I agree  
21 with you. I -- I do not -- I do support the  
22 transaction. I don't support the acquisition  
23 adjustment.

24 I -- I sympathize for what now-Senator  
25 Mayfield has been going through for as long as she

1           has and -- and everybody in that area. I just  
2           don't agree with the solution that we came up with.  
3           And that's pretty much what my stance was. And it  
4           wasn't my job here to try to stop or kill this. I  
5           just did not agree on how we got there.

6           Commissioner Polmann.

7           COMMISSIONER POLMANN: Thank you,  
8           Mr. Chairman. I echo your comments. I absolutely  
9           support the transaction. I want to make that  
10          absolutely clear. I -- I have no issues with the  
11          City customers becoming FPL customers, as I  
12          indicated.

13          I have some concerns about how the dollar  
14          amount, under Issue 3, was determined. And I think  
15          my comments on the record reflected that, but I do  
16          support all the efforts that -- that went into  
17          bringing this item forward. And I appreciate all  
18          of the efforts of all the parties. So, thank you.

19          CHAIRMAN GRAHAM: Okay. So, we've got a  
20          motion on the floor to approve staff rec on -- on  
21          Issue No. 5. Do we need to add anything to that  
22          motion to close out Item No. 5?

23          MR. LITCHFIELD: Mr. Chair, before you close  
24          that item out, I just, for the sake of --

25          CHAIRMAN GRAHAM: Are you sure you want to add

1 anything?

2 (Laughter.)

3 MR. LITCHFIELD: No, I want to go -- I -- I  
4 want to go back to four, if I could, only because  
5 there were some different things that might have  
6 been heard. My understanding is that Commiss- --  
7 that Commissioner Clark proposed to approve cost  
8 recovery as reflected in the -- in the FPL  
9 petition. It just -- is that --

10 CHAIRMAN GRAHAM: I -- I --

11 MR. LITCHFIELD: That's what was approved.

12 CHAIRMAN GRAHAM: I thought it was reflecting  
13 the staff recommendation.

14 COMMISSIONER BROWN: No.

15 MR. LITCHFIELD: Okay. Then that -- I am  
16 right in drawing the --

17 CHAIRMAN GRAHAM: Well, then I need to change  
18 my motion to "nay" on that one.

19 COMMISSIONER BROWN: I was wondering that.

20 CHAIRMAN GRAHAM: I -- you need -- if you  
21 would, make that record, please.

22 COMMISSIONER POLMANN: I misunderstood that as  
23 well. I'm terribly sorry.

24 CHAIRMAN GRAHAM: Are you changing -- are you  
25 changing your --

1           COMMISSIONER CLARK: The number of 20.5 -- was  
2           that correct?

3           COMMISSIONER BROWN: No --

4           COMMISSIONER CLARK: Is that the --

5           COMMISSIONER BROWN: It --

6           COMMISSIONER POLMANN: His motion --

7           CHAIRMAN GRAHAM: Let's -- let's -- let's go  
8           back to the motion. Please make the motion again.  
9           Let's just be simple about that.

10          COMMISSIONER CLARK: 20.4? I'm trying to find  
11          my sheet.

12          CHAIRMAN GRAHAM: You can say, as presented in  
13          Florida Power & Light's petition -- original  
14          petition.

15          COMMISSIONER CLARK: Mr. Chairman, I move that  
16          we allow the cost recovery of the purchase power  
17          agreement, as requested by FPL.

18          COMMISSIONER BROWN: Second.

19          CHAIRMAN GRAHAM: It's been moved and second.  
20          Any further discussion? All in favor, say  
21          aye.

22          (Chorus us ayes.)

23          CHAIRMAN GRAHAM: Any opposed?

24          Aye.

25          COMMISSIONER POLMANN: Aye.

1           CHAIRMAN GRAHAM: By your action, the motion  
2 passes.

3           Now, we're still on the motion for Issue --  
4 Mr. Litchfield, did that answer your question?

5           MR. LITCHFIELD: Thank you.

6           CHAIRMAN GRAHAM: Okay. We're still on the  
7 motion for Issue No. 5 that's been moved and  
8 seconded.

9           Any further discussion on Issue No. 5? Seeing  
10 none, all in favor, say aye.

11           (Chorus of ayes.)

12           CHAIRMAN GRAHAM: Any opposed?

13           By your action, we are done with this.

14           Seeing that it's close enough to 1:00 --

15           SENATOR MAYFIELD: May I make one --

16           CHAIRMAN GRAHAM: Senator Mayfield, come on  
17 down. I -- I think everybody will give you that  
18 time.

19           COMMISSIONER BROWN: She's so happy.

20           SENATOR MAYFIELD: You know, the only thing --

21           CHAIRMAN GRAHAM: I think your microphone is  
22 off. I'm not sure. Can somebody help her with  
23 that?

24           (Discussion off the record.)

25           SENATOR MAYFIELD: Okay. I'll do it up here.

1 I want to thank you guys. And I know that this has  
2 been a hard process. We have tried to structure  
3 this for the last 12 years in a manner that we can  
4 bring fair rates to our constituents and  
5 representation to our constituents.

6 And to answer your question, there was --  
7 there is about 32 municipalities. And there's only  
8 about four that have the number of people outside  
9 the corporate area that are not represented. And  
10 this will do it.

11 And to Mr. Kelly -- I know his heart has  
12 always been with me, to get the representation that  
13 we needed. And -- and I want to say thank you for  
14 all the ways that we have tried to structure this  
15 and have not been able to get it through -- and we  
16 finally have been able to get it through.

17 This is -- this is just not me. We've had a  
18 lot of people work hard on this. Dr. Faherty, back  
19 home, has worked hard on this with me. Glenn  
20 Heran, who's up here, has worked hard on this. We  
21 have switched city councils, flipping back and  
22 forth until we finally got a city council that  
23 agreed with the city residents on what to do. You  
24 know, Representative Grall that came on board --  
25 she helped with getting the other municipalities to



1 understand why this was important to us.

2 So, you know, I want to thank everyone -- and  
3 FPL for sticking with us. We've had contracts back  
4 and forth for the last four years and finally got  
5 enough people -- and everyone -- everyone involved.

6 And that's what's so unique about this  
7 situation. We are unique in the standpoint that  
8 60 percent of our residents live outside the  
9 corporate area, but we're also very unique in this  
10 decision and this process is because of the number  
11 of people that had to come together and approve  
12 this process.

13 And I don't know that you will ever see  
14 another situation like this, but I truly, truly,  
15 from the bottom of my heart -- and I know Stan is  
16 up there because he started this his last two years  
17 in office -- is -- is thanking you for sticking  
18 with us and allowing this to take place.

19 And so, that's -- I just really want to thank  
20 you, from the bottom of my heart.

21 CHAIRMAN GRAHAM: Thank you, Senator. And  
22 thank you for your -- your efforts over all this  
23 time.

24 Okay. We're -- just want to let everybody  
25 know, we have a hearing that's supposed to start

1 right after this. Seeing that it's just about the  
2 time that I said we're going to start lunch, we'll  
3 start that hearing at 2:00.

4 So, we are currently adjourned.

5 (Whereupon, proceedings concluded at 12:55  
6 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, ANDREA KOMARIDIS, Court Reporter, do hereby  
certify that the foregoing proceeding was heard at the  
time and place herein stated.

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

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

DATED THIS 8th day of June, 2018.



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ANDREA KOMARIDIS  
NOTARY PUBLIC  
COMMISSION #GG060963  
EXPIRES February 9, 2021