BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080503-EI

In the Matter of

RENEWABLE PORTFOLIO STANDARD FOR UTILITIES.
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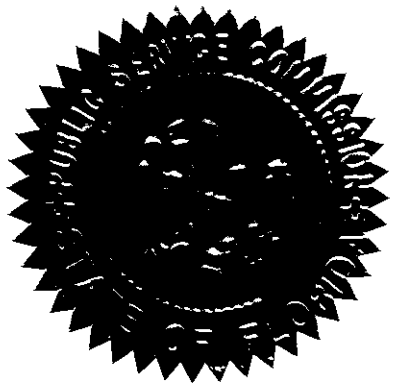

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PROCEEDINGS:	STAFF WORKSHOP
DATE:	Wednesday, August 26, 2008
TIME:	Commenced at 9:30 a.m. Concluded at 3:33 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LINDA BOLES, RPR, CRR JANE FAUROT, RPR Official FPSC Reporters (850) 413-6734/(850) 413-6732
APPEARANCES:	(As heretofore stated.)

PARTICIPATING:

Chairman Matthew Carter
Commissioner Nathan Skop
Cindy Miller, Esquire, Mark Futrell, Tom Ballinger, Judy Harlow, and Bob Trapp, FPSC Staff
J. R. Kelly
John McWhirter
Steve Griffin
Carla Pettus
Eric Silagy
Rich Zambo
Clay Bethea
John Burnett
Bill Ashburn
Michelle Hershel
Jon Moyle
Suzanne Brownless
Bob McGee
George Cavros
Gus Cepero
Michael Dobson
John Burges
Wayne Wallace

P R O C E E D I N G S

MS. MILLER: We welcome you to the continuation of the RPS workshop. This is to develop the renewable portfolio standard in Docket 080503-EI. And pursuant to notice the workshop convened on August 20th, and we are continuing the workshop today in order to accommodate participants who were unable to attend due to Storm Fay.

We are here regarding rules to implement the renewable portfolio standard provisions in House Bill 7135. I'm Cindy Miller and I'm an attorney in the Commission's General Counsel's Office. With me are Mark Futrell and Tom Ballinger, Judy Harlow and Bob Trapp with the Division of Economic Regulation. And Chairman Carter is here today.

CHAIRMAN CARTER: Good morning.

MS. MILLER: And we have a few reminders today. We have a court reporter here, and ask that whenever you speak, you state your name and who you represent. It's hard to remember each time, but please try.

Also, we'll be somewhat formal and ask that you direct your questions to speak to me. We do plan to take a lunch break around noon, and depending on our progress we may allot more than an hour. We'll see how we go.

We do have a -- we don't have a call-in number today, but people may monitor the workshop on the FPSC website at FloridaPSC.com under schedule of events and click on today's

date.

We're asking that you submit any suggestions in type and strike to the Clerk's Office that would be alternatives to what the strawman proposal offers. September 3 is the new date for turning those in. And please accompany any type and strike with the rationale for the revision.

If you participated in the first day of the workshop, please know that we have heard your comments and they are in the transcript, so those points are already in the record. However, we will allow additional comments from those participants in response to points made by the new participants. We will allow those responses at the conclusion of the speaker's points on that part of the rule being addressed rather than through interruptions within the speaker's comments.

Today we are going to start with the Rule 17.410 on the Florida Renewable Energy Credit Market, but first we will allow brief opening comments. And J.R. Kelly, the Public Counsel, has stated he would like to address us.

MR. KELLY: Thank you. Good morning. Thank you for allowing me to just make a few brief comments as we get started this morning. Sorry. I have to get my classes on these days. I didn't wear glasses when I first met you, did I, Mr. Chairman?

First off, we believe that, you know, that the goals

as you go forward in setting a renewable portfolio standard are four main points. One is increasing fuel efficiency, maintaining fuel diversity, eliminating carbon and other dangerous emissions, as well as reducing our dependence on foreign fuel. With that said, there's two points that we would like for you to, to consider as you go through your deliberations today and throughout this process.

First, we're not convinced that there should be any carve out for a particular renewable source. We have an ever-changing energy environment, we have emerging and changing technologies that are, that are occurring every day, and it seems like every day there's a new development coming out with a new technology for a new way to, to do the same job we may be doing today under an old technology. With that said, we believe that the marketplace should drive itself and the cream will rise to the top as to the most feasible, affordable and efficient renewable source that the utilities may pursue to use.

And finally we believe that whatever you decide, it is paramount that you remember who is going to pay for this. How much can the ratepayer take? We have the rising cost of fuel that we don't need to go into and everybody knows about, we have the cost of nuclear development and construction that are on the horizon and they're occurring as we speak. In addition, we have rate increase cases. We have one that's been

filed. We've got several that are going to be coming on the horizon. And the bottom line is how much can the backs of the ratepayers take?

Therefore, we know you will be and must be diligent in setting a renewable portfolio standard that is affordable and feasible for the ratepayer. Thank you very much.

MS. MILLER: Thank you. Any other opening statements?

John McWhirter.

MR. McWHIRTER: Thank you, Ms. Miller.

Like J.R. Kelly, I represent a consumers group. Most of the people that have made presentations to date in these workshops have been people who supply electricity or people who supply fuel to electric companies, and so most of the presentations have focused on the supply of electricity.

For the last year we've learned a lot through two parallel workshops that you had. One of the workshops dealt with energy efficiency, and that is the people who are striving to conserve electricity or use the electricity that they use more efficiently, and the other is this workshop upon which you're developing rules and it's the renewable energy workshop. Unfortunately, it has become apparent that both approaches are going to raise customers' bills. Both approaches are going to raise customers' bills.

In the meantime, a new phrase has recently entered

into the energy lexicon which Mr. Kelly referred to, and that is a group called the energy poor. And Florida consumers are right at the top of the people who have the highest monthly energy bills in the United States of America, succeeded, exceeded only primarily by people in Texas who bought from marketers who had the rug pulled out from under them.

Both approaches increase rates because neither address the basic flaw in the energy model. What is the basic flaw in the energy model? The basic flaw is the fact that utilities prosper on growth and earnings. Secondly, earnings growth comes from selling more electricity, not less. So the model suggests that investor-owned utilities and municipal utilities, if they want to improve their earnings, must sell more electricity.

Earnings growth also comes from preserving obsolete technology. And what we found an EPRI study has shown, that utilities in the last ten years have devoted only about less than 1 percent of their gross revenue to research and development of new technology. When you distinguish that from what's happening in telecommunications, in the computer world and other companies like Google, you find that they are devoting 20 to 30 percent of their gross revenue to new technology. So what we have is an older model designed to profit on the growth and sales and we have an older model that is not exploring innovative technology. This recently came

vividly to light in the fact when Florida Power & Light came in with its new proposed combined cycle gas units at Riviera and Cape Canaveral, they had 40-year-old units, gas burning units that they're replacing, and they say that will save consumers something like $400 million. And why is the savings coming about? It's because these 40-year-old plants have continued to run without new energy efficiency until now, and the only reason it happened now is because the Glades coal operation was shut down. Now they're going back to combined cycle.

And do we have a problem with natural gas and the availability of natural gas? That's a question. It's the same question we had in 1974 when National Geographic reported that we only had 12 years of natural gas reserves left. Well, ironically when the price of natural gas went up in the late 1970s, new reserves suddenly appeared and the price went down substantially. I became interested in natural gas in 1972 when the price went from 17 cents per MCF to 40 cents per MCF. It got to be highly critical in the late 1970s when it went to $6 an MCF, and that's when they deregulated natural gas and suddenly the price went down because they found new sources. This hope for finding new sources of natural gas and new sources of oil is somewhat questionable.

Proposed rules address only the existing model and that's one of the problems with the proposed rule. And why does your proposed rule do that? Mr. Futrell told us last

Friday, he said, The reason that we focus on the regulated utilities is that's the only thing that we really have power over. You can regulate utilities but you can't regulate consumers and what consumers do. So naturally you have focused on that.

But the problem with the new rule is that your proposed rate rules place the control over innovation in the hands of those whose future success discourages innovation. So what we have is a directive to utilities, and by the rule we're going to take up this morning utilities are going to set up the market for buying fuel and resources from other people rather than producing it themselves, which is counterintuitive. The good news for utilities is that in spite of what we have seen, sales will continue to increase. They're going to increase because innovation in electrical appliances has come to the forth coming -- forefront. You have computers, you have HDTVs, and soon we're going to have plug-in automobiles. Plug-in automobiles will be good because they will conserve the fuel that is burned by electric companies, take it away from automobiles and then put it into the electric plant. It may serve in the short-run to depress the cost of that fuel, but I'm not sure it is in the long-run.

In any event, what we have seen is on July 1st the utilities came in and suggested that their sales were going to fall off and they required a midcourse correction. This

week the reports for fuel consumption during the month of July have been filed. The only ones online are from Florida Power & Light and Gulf Power, and we find that the fuel cost has gone down for both of those utilities and the consumption has gone down.

Now Florida Power & Light suggested its consumption will drop by 5 million megawatt hours this year. And because that consumption is going down, they said we have to increase our rates by $329 million, which is kind of an interesting scenario because consumption goes down, the rates are going up. Well, what we found in the reports that were filed late last Friday is that consumption is not going down by that amount. So far this year the consumption is only seven-tenths of 1 percent less than it was estimated to be last November.

MS. MILLER: Mr. McWhirter, is it --

MR. McWHIRTER: Would you like me to speed it up? Okay.

MS. MILLER: And to the extent we can keep it --

MR. McWHIRTER: I'm near the bottom of my second page.

MS. MILLER: Wonderful.

MR. McWHIRTER: I found it so interesting --

MS. MILLER: Keep the focus on our rules.

MR. McWHIRTER: -- it's hard to turn loose of this fascinating subject.

So what we've got is a problem that you're dealing with the existing model and the current rules. And what we need to do is to encourage innovation, and the way you encourage innovation is to empower consumers. And what you want to empower consumers to do is to employ innovation on their side and let consumers move toward distributed generation and move toward the economy of efficiency. The rule we're going to talk about today talks about RECs and the opportunities for consumers to profit from that.

I will -- I had this wonderful phrase I wanted to tell you about. The reason that we went to the central power plant was because of the concept of economies of scale. But the princes of power have now sullied the virtue of the economies of scale. Isn't that a magnificent phrase?

What we need to do is rather than give the utilities control over the market for RECs, preserve that control either in the Public Service Commission yourself or another body. And instead of having utilities enter into contracts with people for RECs, have people be able to offer RECs in a competitive manner. If you remember Mr. Twomey last week, he talked on behalf of consumers and he suggested, as Mr. J.R. Kelly has suggested today, that if you want real innovation, you've got to empower consumers and the consumers have to have the opportunity to give you that information by reducing their own consumption. And I'll shut up now, Virginia, and thank you for

giving me that opportunity.

MS. MILLER: Thank you. And we look forward to seeing your alternative type and strike language. Thank you.

Additional opening statements. Yes.

MR. GRIFFIN: Good morning. Steve Griffin on behalf of Gulf Power Company. Let me begin by saying Gulf is generally supportive of the draft rules. Specifically we support the use of instate RECs as a compliance mechanism, we support the 1 percent revenue cap to limit customer bills, we support reasonable goals based on a statewide assessment and we support the use of multipliers to encourage wind and solar development. We intend to submit a draft red line version as you suggested after the workshop. At this point I'd like to briefly touch upon two of the major components of our comments. I won't go into the details of the rule right now.

But essentially first Gulf proposes broadening the cost recovery portion of Rule 17.400 to allow reasonable recovery of costs associated with the construction of utility-owned renewable generation. In its current form the rule would require a utility seeking costs associated with the building of very small generating projects on the order of up to 3 megawatts to file for a rate case, and Gulf views this as a significant disincentive to utilities and a barrier to the further development of renewable energy generation in the State of Florida.

Another component of the comments focuses on the, basically attempting to align the types of renewable resources which qualify under the rules with the definition of renewable energy in 366.92 and 366.91. And in discussing the parameters of the RPS, Section 366.92 relies exclusively on the definition of renewable energy in 366.91. This definition is limited to electrical energy and does not include solar thermal energy.

The draft rules go further than that and they talk about incorporating a definition for Florida renewable energy resources, which is defined to include solar thermal energy as qualifying resources under the rule. The rule also adds solar thermal energy to the statutory definition of renewable energy credits. Other than its inclusion in the definition section of 366.92, the term "Florida renewable energy resources" does not appear elsewhere in the statute. Gulf proposes striking references to Florida renewable energy resources from the proposed rules and limiting qualifying resources under the statute to those defined in 366.92 and 366.91, which would be limited to the electrical energy. This is consistent with the RPS statute. This is also consistent with FEECA.

If you look to 366.82(1)(b), the term "Florida renewable energy resources" is used to help define demand-side renewable energy. Gulf believes that Florida renewable energy resources should be included in the FEECA docket and the goal setting docket but not here in the RPS.

We have additional comments, but we'll refrain from those at this point in time. Thank you.

MS. MILLER: Thank you. And I should note Commissioner Skop has joined us. Who would like an opening statement next?

Yes. Carla Pettus.

MS. PETTUS: Good morning. Carla Pettus and Eric Silagy on behalf of Florida Power & Light.

First, FPL would like to thank the Commission for this opportunity to participate in the workshop. Second, we appreciate the Commission for rescheduling this workshop in light of our inability to attend the August 20th workshop due to Fay Tropical Storm.

Today we would like to share with you some of the guiding principles that FPL believes needs to be considered in drafting and creating an RPS. Florida Power & Light strongly supports the development of an RPS in Florida. The primary objective of a Florida RPS should be to reduce emissions of greenhouse gases from the production of electricity with a focus on solar and wind while increasing energy security, maintaining reliable electric service and reasonable electricity prices for consumers.

A Florida RPS should foremost value clean renewable energy sources that have the greatest effect on the objective of reducing greenhouse gas emissions. Therefore, clean, clean

energy sources such as nuclear, wind and solar as well as carbon reductions due to energy efficiency should be recognized and play prominent roles in meeting the Florida RPS.

To encourage the development of and investment in clean renewable energy resources, up-front and expedited prudence determinations and cost recovery approvals with administrative finality are essential. Electric customers should be fully informed of their contribution to meeting a Florida RPS.

The Florida Public Service Commission should set and periodically review the RPS targets to ensure they can be met without imposing unacceptable costs or adverse reliability effects on customers. In order to prevent Florida from becoming economically disadvantaged by higher electricity costs, a Florida RPS should be adjusted or harmonized with a federal standard should one become law.

The methods and incentives for complying with a Florida RPS need to be consistent with the objective to reduce emissions of greenhouse gases from the production of electricity with a focus on solar and wind while increasing energy security, maintaining reliable electric service and reasonable electricity prices for customers.

Staff's current targets and long-term standards are not aggressive enough to promote renewables in Florida. Certain dates are much too late, the target levels are too slow

and the mechanisms are flawed. FPL supports RPS percentage targets above those indicated in the staff draft rules but with a reasonable period of time to allow each IOU to develop an efficient strategy for developing renewable assets in Florida.

FPL supports a framework which will allow the development of a robust set of RPS targets beginning in 2017 together with an appropriate annual expenditure cap. Although the targets will ultimately depend in part on what resources will be included, we support a 5 percent target in 2017. FPL believes the Governor's 20 percent target can be met by the year 2030.

Now Eric Silagy, Vice President and Chief Development Officer, will provide more details.

MR. SILAGY: Good morning. Thank you again for the opportunity to make some opening comments. I'd like to again reiterate that our goals are aggressive and we believe the targets should be increased and the timing also should be increased.

With respect to the REC market, we believe that the only REC market that makes good environmental, economic and public policy sense is a national REC market. An RPS cannot realistically and practically look to RECs for RPS compliance if there's not going to be a national REC platform as a mechanism to promote renewables.

Carbon knows no state boundaries. Global warming is

not a local issue, it's a global issue. The Florida REC market, if it's just an instate market, we believe would be too small to be efficient. There would be far -- there would be too few players. There would not be enough liquidity to promote the kind of price transparency necessary for an efficient market to operate. And we believe that the only market that really makes sense is a national one.

It would be much more expensive for our customers to have an instate REC market based on an RPS than one that is national in scope. Much in the same manner that Florida purchases its natural gas from Louisiana and from Texas and Maine purchases its oranges from Florida and we import here in Florida most of our wine from California rather than grow the grapes here in Florida, it just makes good economic sense for us to have a national REC market that uses the domestic renewable resources from all states wherever they come from.

We do agree that it's appropriate to have, as the staff has suggested, and expenditure cap. However, we believe that in light of our aggressive targets, 1 percent is too low and a more reasonable expenditure cap of 3 to 5 percent of annual retail revenues increasing over time is warranted.

Additionally, in light of the dynamic nature of the market and the associated cost uncertainties, we believe periodic review of the RPS is appropriate. However, an open-ended constant review as currently proposed is untenable

and we believe will result in creating such market uncertainty that new projects will not be pursued.

Generation qualifying under the RPS should not be limited strictly to solar and wind. The primary objective of a Florida RPS should be to reduce greenhouse gas emissions, provide price stability and provide for energy security. Accordingly, we believe it is essential to include all clean resources such as new nuclear power, fossil plant modernizations and energy efficiency type of measures.

In order to encourage the fastest, most efficient and cost-effective development of an investment in clean and renewable energy sources, up-front and expedited prudency determinations and cost recovery approvals with administrative finality are absolutely essential. Florida's RPS policy should be built on rules and policies that robustly promote the development of renewable assets here in Florida and provide for annual cost recovery subject to an expenditure cap that provides a layer of protection for the customers and the investor-owned utilities.

FPL proposes a waiver of the Bid Rule for utilities that develop renewable assets and provisions for annual cost recovery through the Environmental Cost Recovery Clause similar to the way in which the Legislature has currently authorized recovery for the initial 110 megawatts of solar that is now moving forward here in Florida, as well as an ROE incentive

adder to encourage these type of investments. In addition, a process for expedited cost recovery should be developed by the Commission rule for solar and wind projects.

In summary, an RPS focused on the development and delivery of renewable energy and clean resource projects as opposed to the purchase of instate RECs will result in the real development of renewable resources here in Florida and will best achieve the objectives of HB7135, which include the development of renewable energy, diversity of fuel, lessening our dependence on natural gas and fuel oil for the production of electricity, encouraging investment within the state and improving environmental conditions and minimizing the cost to the electric utilities and to the customers. Thank you very much.

MS. MILLER: Bob Trapp.

MR. TRAPP: I just would like to ask some clarifying questions, if I could. I'm not sure we're at the right rulemaking proceeding.

Could you point me to the specific statutory authority to include nuclear power in this RPS?

MS. PETTUS: House Bill 7135, as Eric just described, laid forth general objectives that the Legislature intended. One was diversity of fuel types, lessening dependence, minimizing volatility of fuel costs, encouraging investment and environmental conditions. If the objective is to reduce carbon

gas emissions to improve the environmental conditions, we believe that measures that will accomplish that, including not just restricted to renewable, will accomplish those goals and the targets that we're trying to accomplish.

MR. TRAPP: Like I said, I'm not sure we're at the same rulemaking.

MS. PETTUS: Well, it does allow --

MR. TRAPP: Could you tell me, could you tell me in the definition of renewable energy in the statute where nuclear appears?

MS. PETTUS: There is no -- you're absolutely right, there is no definition of renewable resources in the House Bill. But if you look at the preamble, there are a number of objectives that the Legislature intended as instate. One was improving the conditions of the environment, balancing the costs to the customers. To the extent measures can be used and employed to accomplish that instate goal, that is the recommendation wherein clean renewable sources, energy efficiencies will contribute to reduction of greenhouse gases.

MR. TRAPP: Where is this Commission's expressed statutory authority to do that?

MS. PETTUS: And what I'm saying is there is --

MR. TRAPP: Expressed statutory authority.

MS. PETTUS: As I mentioned before, there is no definition of renewable energy in House Bill 7135. But looking

at the bill in totality, if the goal is to reduce emissions to improve the conditions of the environment and to find a cost-effective and affordable means of obtaining those objectives, that the Commission may consider these measures in accomplishing that instate goal.

MR. TRAPP: Thank you. Could you also point me to the expressed statutory authority for including energy efficiencies associated with the generation, conventional generation and transmission system in this, in this rulemaking?

MS. PETTUS: The same logic that I just mentioned before for nuclear would be applicable for that as well.

MR. TRAPP: So it's broad authority, not specific.

MS. PETTUS: Correct.

MR. TRAPP: You mentioned the waiver of the Bid Rule. First of all, I don't think the Bid Rule is mentioned in this specific rulemaking. Perhaps it should be. I assume you're talking about a self-build option where the utility builds the renewable resource and you wish to be waived from the Bid Rule. What assurances do the consumers have that the company has built the most efficient, most effective and cost-effective resource?

MR. SILAGY: Well, again, the Commission would continue to have the authority to review the projects whenever brought forth for recovery under the ECRC if that were to continue just as it works now under the current legislation in

7135 for the first 110 megawatts.

So what, what this would allow us to do is be as efficient as possible by being able to go out and work with a wide variety of providers of either technology or equipment and providing the best mechanisms for putting forth the renewables as quickly as possible into Florida. So the Commission's ability to review the projects would not be undermined at all. It currently has that and would continue to have that.

MR. TRAPP: And so you're saying that in the cost recovery review the Commission would have the discretion to ensure that the company has selected the most efficient, most cost-effective renewable resource available to meet the standards.

MR. SILAGY: Well, again, the standard right now under HB7135 is very clear that we're to use commercially reasonable and industry practices. And under that --

MR. TRAPP: Excuse me. Where is that?

MR. SILAGY: That's in HB7135.

MR. TRAPP: Could you point that out to me? I think you're looking at Page 99 of 237 of the House Bill, Line 2741. Is that your reference?

MR. SILAGY: That's correct. "Such costs shall be deemed reasonable and prudent for purposes of cost recovery so long as the provider has used reasonable and customary industry practices in the design, procurement, and construction of the

project in a cost-effective manner appropriate to the location of the facility."

MR. TRAPP: Could you read Line 2746, please?

MR. SILAGY: "At the point of generation, up to a total of 110 megawatts."

MR. TRAPP: 110 megawatts is 110 megawatts. I think we're talking about a lot more than that in this RPS goals.

MR. SILAGY: Well, again, this is the construct that we're suggesting in this draft rule be adopted. This type of test would be able to provide you the same type of, provide the Commission with the same ability to review the projects.

MR. TRAPP: But my understanding of Section 4 of the statute is it's limited to 110 megawatts to demonstrate the feasibility and viability of clean energy systems and it's a very specific carve out within the statute that doesn't have general applicability to the rest of the statute. Am I wrong in my interpretation?

MR. SILAGY: I believe your interpretation that the 110 megawatts is carved out is correct. My suggestion is that what we've seen is in a very short period of time we've taken Florida from being not even on the map from the standpoint of having any installations on a solar basis to rapidly becoming the second largest producer of solar in the United States. This is a construct that works. And what we're suggesting is rather than going in and inventing something new, taking a page

out of what's already been very, very clearly stipulated by the Legislature and it works and adopting that.

MR. TRAPP: You also speak about putting ROE incentive adders into the rulemaking process. If a utility is allowed to build rate base and include it for cost recovery that is greater than the conventional cost of building technology, is that not in and of itself because of the additional return earned on the monies above conventional costs an incentive for the utilities to build capital projects?

MR. SILAGY: Again, the intent of the ROE adder would be to promote certain types of technologies such as wind and solar. As an example, those two technologies produce zero greenhouse gas emissions where other forms of renewables could not say that, and they also use, as an example, no incremental water. So there are certain advantages to certain technologies that we believe the Commission should consider having ROE adders to incent certain type of technologies be utilized versus others.

MR. TRAPP: Do you believe that methane reduction has a greater impact on greenhouse gases than simple zero emissions?

MR. SILAGY: I believe that methane gas waste-to-energy, if that's what you're speaking about, that reduces or utilizes methane gas does have a material impact, a positive impact on reducing greenhouse gases. Yes.

MR. TRAPP: Well, you mentioned isolating this incentive adder to select technologies. I'm trying to probe what select technologies are we talking about?

MR. SILAGY: I think there's a variety of ones that we could work, would be happy to work with the staff on and identifying which ones would be the best to utilize.

MR. TRAPP: So you're saying that within the list of defined renewables in the statute we should entertain to select and prioritize those that we feel have the greatest impact on greenhouse gas reduction.

MR. SILAGY: I think the goal again is to, and the intent is to have the most material impact on reducing greenhouse gas emissions, while also promoting price stability and reduction of our dependence on imported oil and natural gas. So for those renewables that promote those objectives, I do believe that there should be incentives versus other renewables that do not promote them in the same manner.

MR. TRAPP: Would you provide us a prioritized list?

MR. SILAGY: I'd be happy to work with the staff on creating a list.

MR. TRAPP: I'm asking you as part of your post-workshop filings would you give us your thoughts with respect to how the technology should be prioritized with respect to an incentive adder?

MR. SILAGY: We'd be happy to provide you a list.

MR. TRAPP: Thank you.

MR. SILAGY: You're welcome.

MR. TRAPP: In addition to incentive adders, there's nothing in the current proposed strawman that addresses incentive penalties for noncompliance with the proposed standards. There was quite a bit of discussion at the last workshop as to the need to perhaps beef up these rules to include a meatier form of compliance enforcement. What's your opinion with respect to some type of adjustment perhaps tied to an ROE adjustment for noncompliance with the standards?

MR. SILAGY: I think some form of mechanism on compliance will clearly be important, but it has to also tie in then with the ability to be able to meet the goals. So as an example, having an expenditure cap that's currently at 1 percent would deem it impossible to meet the necessary goals. And, therefore, having a compliance measure, a strict compliance measure in place when not afforded the opportunity to meet those compliances would not be just.

MR. TRAPP: So there needs to be a reasonable balance between the standards that are set, the rate caps that are placed, but given, given achieving that balance, should utilities be penalized if they don't conform to the standards?

MR. SILAGY: Sure. If utilities don't conform to the standards, then they should be held accountable as well, as long as they're given the opportunity, a reasonable opportunity

to meet those standards.

MR. TRAPP: Thank you. That's all I have, Cindy.

MS. MILLER: Tom Ballinger.

MR. BALLINGER: Good morning. I had a couple of questions.

If I understand, you were talking about the percentages, 5 percent in 2017 and 20 percent by 2030, I think I heard you say. Is that correct?

MR. SILAGY: That's correct.

MR. BALLINGER: Okay. Would that apply to all utilities, those same percentages, or do you see it specific to FPL?

MR. SILAGY: No. We would expect it to be a statewide.

MR. BALLINGER: Okay. So, and those percentages include nuclear and energy efficiency as part of --

MR. SILAGY: That's correct. We believe that those areas should be counted in the calculation.

MR. BALLINGER: Okay. In part of your comments, is there any way you could tell us what those percentages would be if energy efficiency and nuclear were not included, what you expect reasonable percentages would be?

And the second part of our request too is how does this mesh if it's a statewide to utilities who don't have the wherewithal or the ability to construct nuclear units? Do they

have to enter into joint ownership or purchase RECs from FPL? How would that work to make it a uniform market?

MR. SILAGY: Well, on your first question with respect to the numbers, I don't have those with me, but we're happy to get those for you.

But, again, I think it does require an over, an overview of how you're going to approach this from the standpoint of if, if nuclear or modernizations or energy efficiency or all the above are not counted, then the question is is there a corresponding annual expenditure cap that is raised so the utilities can then meet the standards by utilizing other resources such as solar or wind or other forms of renewable energy by building those. So there are, there are various ways to approach it whether you count something or not. It's not that you can't necessarily hit a particular percentage, it's simply a function of what is going to be the level of expenditure that the Commission believes is appropriate and what is the cost to the customer that will be attributed to that. You know, on new nuclear as an example, the customer is paying for the new nuclear plants. And by counting new nuclear, this would be an opportunity for the customers to realize the benefit from a greenhouse gas emissions as well as the fact that they are promoting a very stable form of electricity production and the most cost-effective. So from a -- I'm sorry. Do you have a

question?

MR. BALLINGER: That's okay.

MR. SILAGY: And then from a -- can you repeat the second part of your question?

MR. BALLINGER: How would -- if, if we are going to look at a statewide market, let's say 20 percent by 2030, which accounts for nuclear and includes that in the percentage, how does that mesh with other utilities who don't have the wherewithal or the land or the capital or have not started the construction of nuclear, how are they going to meet a 20 percent number by 2030? I think I heard you say that really what matters more important is a revenue cap, that if we put that out there and establish that, whatever the target comes to, that is more important.

MR. SILAGY: Well, they're tied. I wouldn't say that they're, it's more important, but it has a direct correlation. So another utility could meet its requirements by building other forms of renewable generation. And, of course, a smaller utility comparatively speaking to FPL as an example will have a smaller requirement because it's a percentage of its annual revenues. So its requirements would be less than, than what FPL customers would be responsible for.

MR. BALLINGER: But that's why I asked that first question, if you can give me the values without nuclear energy efficiency, pure renewable as we're talking it today to show

the relative impact of adding nuclear to the mix. Does it -- you know, it obviously increases it significantly what you can achieve from greenhouse gas reduction and calling it renewable.

MR. SILAGY: Sure.

MR. BALLINGER: And if it's not available to other utilities, should they still be held to the same percentage-wise? That's what I'm trying to gauge.

MR. SILAGY: I'd be happy to work with you on that.

MR. BALLINGER: Thank you.

MR. SILAGY: You're welcome.

MS. MILLER: Commissioner Skop.

COMMISSIONER SKOP: Thank you. I just wanted to briefly follow up on some of the line of questions that Mr. Trapp asked. I'll begin with the ROE incentives.

Why in FPL's opinion should it feel entitled to ROE incentives on top of full cost recovery that it's advocating for?

MR. SILAGY: Again, Commissioner, the intent here is to try to promote certain resources where you have renewable energy that produces zero greenhouse gas emissions, and also there may be other attributes that the Commission or the Legislature also feels are important to recognize. And one of those that I had mentioned earlier was an example of a renewable energy source that would also utilize no incremental water, which is becoming a precious resource as well, even,

even after Tropical Storm Fay. I know it's not as much of an issue today.

But there are -- price signals are what incentivize markets to gravitate towards certain types of actions and/or technologies, and this is an opportunity to send the kind of price signals that would encourage people to undertake certain types of behavior in implementing different types of technologies. There are a lot of different renewable energy sources from biomass to waste-to-energy to wind to solar to hydrogen, and as was said earlier, and correctly so, technologies are changing rapidly. And the question is what, how will we put forth incentives that keep Florida focused on those renewable resources that meet all of the stated goals? So it's reducing greenhouse gas emissions but also creating more stability in price and also reducing our dependence on fossil fuels, and some renewables do that better than others.

COMMISSIONER SKOP: And I respect that point of view. I guess I've always viewed ROE is tied to risk premia. And to the extent that you have full cost recovery, that basically mitigates the risk.

Would it not be more appropriate to look at incentives in the manner of meeting the goals for those utilities that clearly came out and were proactive in adopting and achieving ahead of our implementation schedule what the Commission and the Legislature may ultimately ratify, should

that be the basis for incentive in terms of perhaps like a carrot stick approach? If you comply, you get rewarded. If you don't comply, you know, there may be something as an alternate compliance payment.

MR. SILAGY: I think there are clearly a variety of mechanisms that can be looked at for incentivizing good behavior and punishing bad behavior. So that was simply our suggestion, but I think that we'd be open to looking at other mechanisms.

COMMISSIONER SKOP: Okay. And, secondly, to a point I believe that Mr. Trapp touched upon in passing, pursuant to Florida Statute 366.92(2)(d), RECs, renewable energy credits are required to be sourced from renewable energy located in Florida. And I guess you had mentioned advocating a national REC market, and I guess my question would be how would a national REC market, viewed in light of the legislative direction that's been provided to this Commission, achieve the goal of promoting the installation of renewables in Florida, supporting economic development in Florida and protecting our environment in Florida?

MR. SILAGY: Well, ultimately that would depend on the structure and the mechanisms embedded in the national REC market, so it's hard to answer your question directly. But theoretically Florida does have some natural resources, sunshine being one of them as an example, that would provide

for the ability for Florida-based companies such as FPL to build the solar projects and meet the goals of building instate and providing the energy to its customers from those renewable resources, but in a national market have the ability to also then sell those renewable energy credits in a national market where another state, Maine as an example, may not have that natural resource and therefore pay more than a Florida customer would, therefore reducing the cost to the Florida customer ultimately because that money would flow back into Florida.

So effectively you'd be detaching the environmental attribute from the energy. And the energy would stay here in Florida, it would serve the Florida customers, the investment would be here in Florida, and the goals and the objectives, the other goals and objectives of price stability and reducing our dependence on outside sources of fuel would be met. At the same time we'd be creating a product here in Florida that we could effectively export to other states, generating another revenue stream.

COMMISSIONER SKOP: Okay. And to clarify that point, and I hate to belabor this in the opening comments section, but, you know, I would like to commend FPL for its initiatives in terms of the solar projects that it seeks to build in the State of Florida. I think that's exactly what the Governor and exactly what the Legislature is seeking to encourage in the state. Again, it has the benefit of renewables, economic

development, jobs and supporting our environment here.

If I heard you correctly, and I want to make sure I heard this correctly, is that those projects, you're advocating that those RECs from those projects instate could be used to meet an instate RPS or transported to, or exported out of state to meet other states' RPSs, not necessarily imported back in the state to meet our RPS. Is that correct?

MR. SILAGY: Again, I was speaking just hypothetically of kind of how a very robust, liquid type of trading mechanism would work. But our goal here, we just don't believe that an instate market, given the limited number of players and the fact that it will end up being effectively bilateral transactions, will provide our customers with the most efficient manner of meeting the goals. We believe it will end up being an inefficient market, and inefficient markets have a tendency to be expensive markets.

COMMISSIONER SKOP: Well, in that same regard, how would buying thin air out of state support our customers in Florida in terms of all the tangible benefits of renewables instate, economic development and so forth and so on, and who stands to benefit from a national market?

MR. SILAGY: Well, I think everybody. If you have a robust national market that is truly national in scope rather than individual states, then you end up with a very efficient market. And I believe that climate change and greenhouse gases

and carbon dioxide emissions don't stop at state boundaries. And so if the entire country participates and other states are held to those type of standards, such as those in the midwest in the coal producing states, then I think all of us do benefit because greenhouse gases migrate across state boundaries. And if you incentivize the right behavior for all utilities, then I think everybody benefits, including Floridians.

COMMISSIONER SKOP: And, again, I respect that point of view, but I'm equally concerned about again that if you create a supply situation, demand has to be filled by someone, and I think that we could anticipate who would fill, step forward and fill that demand. So thank you.

MS. MILLER: Thank you. Tom Ballinger says just one more question.

MR. BALLINGER: It might be two because it might be clarifying.

If I understand, FPL's proposal is to create a national REC market, that's one part of your proposal is to have a national REC market. And my question is do you foresee nuclear units generating RECs that can be sold nationwide? And if so, how have they been done in the past or what needs to be done to make them a renewable resource to be recognized in the REC market?

MR. SILAGY: We do support a national REC market. But what I can't tell you because I'm not an expert on what

exactly, what's being proposed in the various aspects is what exactly in the nuclear industry would be counted. What we're proposing here in Florida is new nuclear generation, so incremental would be counted. And that would incentivize, again, the type of behavior where you are, you're providing the incentive to build generation that produces zero greenhouse gases. So our, our -- I believe we would support on a national basis for incremental generation to be included, if that answers your question.

MR. BALLINGER: Okay. Uh-huh. And your percentages, is that a REC-only percentage or is it energy and renewable energy credits to come up with the 5 and the 20 percent number?

MR. SILAGY: That's, that's an energy delivered. That's based on delivered energy, not RECs. Because, again, we're not looking at a REC market here. So that is for delivered energy.

MR. BALLINGER: Okay. So your proposal is an energy-only as opposed to the strawman, which is a REC market?

MR. SILAGY: Correct.

MR. BALLINGER: Okay. Thank you.

MR. SILAGY: You're welcome.

MS. MILLER: As we discuss these matters, I do want to remind people that Chapter 120 in Florida law is very rigorous in what it allows you to do and the parameters that it places on you. And in particular, Section 120.52 has some

language in there about what authority you need in order to have rules, and it, and it uses some language that is, is quite demanding and it says it's not enough if it's only reasonably related to the purpose of the enabling legislation. It has to be specific law. So as we discuss these rules, I do ask that people look at that 120.52(8).

And now I believe Bob Trapp has a question and Judy Harlow. Judy Harlow first and then Bob Trapp.

MS. HARLOW: I just have a quick question. You've talked a good deal about self-build projects, renewable projects, including the 110 megawatts of solar in the state. What is Power & Light's proposal for treatment of revenues from any RECs that you would sell from your own projects?

MR. SILAGY: Well, again, at this point we're not promoting an instate REC program, so there would be no revenues from a REC program.

MS. MILLER: Bob.

MR. TRAPP: Well, I have some of the same confusion. And let me ask Cindy at this point in time, I'm not sure we're through with the opening statements. Maybe -- I think we're very quickly getting into the REC market section of the discussion, and I have a lot of questions particularly to Power & Light on that. But maybe we should see if there are any more opening statements before we --

MS. MILLER: I think that's a really good plan.

MR. TRAPP: Okay.

MS. MILLER: Are there any more opening statements? Rich Zambo.

MR. ZAMBO: Thank you, Cindy. Rich Zambo representing the Florida Industrial Cogenerators, the City of Tampa and Palm Beach County Solid Waste Authority.

I want to thank you for getting us back on track, Cindy, because I was wondering whether I was in the wrong workshop also.

You know, we're under a fairly short time schedule here and the Legislature has told us what they want us to do. And I think, first of all, we don't have authority to establish a national REC program under this legislation. I think we need to work with what the Legislature has given us. And I hear a lot of comments, it's like coming from the glass half full side of the table, everybody is worried about what this is going to cost. But I'm representing the people who actually generate this renewable energy and I like to look at it from the other, the glass half full perspective and what is, what's going to be saved by renewable energy.

And I think when we -- if you go into this with a mind-set that these payments that are going to be made to renewable generators are going to be a net out of pocket, you may be shortchanged in the industry and you may be shortchanged in the Legislature and what their intent was. I don't believe

the legislative intent was just to increase the cost to the customers. I think the Legislature understands that by incenting the development of renewables that there's going to be some, some value added back to the customers. There's going to be a reduction in the price of gas and oil. There's going to be reduced volatility. We may see fuel adjustment midcourse corrections of much lower magnitude than we've seen recently. And I think we need to get a different perspective on how we look at this.

So if it's a 1 percent, I don't know what the cap should be, we'll talk about that in our comments, 1 percent, 2 percent, 3 percent, but I think that cap should also be offset with benefits. So if you've got a 1 percent cap and you spend 1 percent but you get 2 percent back because now you've reduced the use of natural gas, I think that ought to go back into the cap and be like reinvested, if you will, like reinvesting your earnings on a, on a stock that you might purchase.

There's also been a lot of discussion about, you know, the environmental impacts. And I don't -- they seem to be focusing on carbon emissions, and I'm not sure that carbon emissions is all we should be focusing on. I'm, I think there's some benefit to avoiding nuclear disposal costs. I mean, we've got some serious environmental issues associated with nuclear power plants.

But having said that, I think I'm convinced that if nuclear power is the choice of generation in Florida, that should be the basis for payments to renewable energy facilities because they can give you the same, they can give you the same benefits. In some cases they give you negative greenhouse gas emissions. There are some of those technologies like waste heat and waste-to-energy that either use no water at all or they use recycled water, they use water that's been treated in the sewage treatment plants, so they have no emissions. In some cases they have negative emissions because they offset the production of methane from the natural decomposition of organics, and we don't have a nuclear waste problems to worry about.

So I think, I think there's a lot of good ideas here. I think your rule is a great starting point. But there are some things that we need to adjust, and I would, I would address those as we go through the rule section by section.

MS. MILLER: Thank you. Any other opening?

Clay Bethea.

MR. BETHEA: Thank you, Ms. Miller. I apologize. I'm going to make a few more comments that maybe would apply later on, but since y'all changed this to Election Day, I've got to go back home and sit on the canvassing board and count votes this afternoon, so.

I'm representing the Florida Pulp and Paper

Association, and generally we're supportive of an RPS. And as I stated last time, you know, wood biomass is a raw material for our industry. And we support carve outs because if you don't have carve outs, then everybody goes to one area and then it becomes unsustainable.

And then you have the economic pictures people stated last time. And what I would share with you on an estimation, if you had a hundred, a million tons of biomass for a power plant brought in, you'd probably employ 50 people. The pulp and paper industry employs somewhere between 200 and 250 people for the same million tons of biomass. We add a lot more value to that and to the consumer. And so economics and unintended consequences here for small communities in North Florida, a facility shutting down and replacing 800 jobs with 100 jobs would not be an economic viable model.

The other thing that as we look at credits, we need to look at a tier system for biomass systems. And part of the reason is if you set an RPS today for biomass and you use conventional technologies today that's stated that some, that are coming, they're about 25 percent efficient. Well, if ethanol production is coming up to around 50 percent of efficiency, in other words, for a ton of biomass you can get 100 gallons of ethanol out, that's approaching 50 percent efficiency. And so what you're going to have is you're going to have an asset that's got to compete with something that can

sell energy at a higher price than electricity are currently having, and so that asset becomes stranded because the raw material is no longer viable to support that.

So as we look at a REC market, we need to incentivize efficiency so that we don't have stranded assets 15 years from now because these assets that we're putting in the ground are going to be 30-year assets.

And so also as we talk about carve outs and everything, you know, going to a closed loop agricultural biomass higher yield system, you know, we don't see an issue with that and we actually encourage it.

And I'll leave you with a little bit of data. This, the report that -- the Florida's Great Northwest Final Report on Renewable Energy. And one of the statements in here says, "Without access to timber understory the region might have around one million tons of timber biomass for use in bioenergy." And so if you take a look at the Great Northwest, that starts in Jefferson County and moves all the way to Pensacola.

And I would encourage you to read also a report presented by GRU, I think the City of Tallahassee and JEA and what they look at as far as biomass. They did a study for 40 megawatts down in Gainesville, which all the press releases I can understand is 100 megawatts now, one for JEA and one, the current plant for Tallahassee, and basically -- and they go

over into the Great Northwest and they're about 100 megawatts. And so -- and actually some of the things that they discuss we would probably take issue in our industry because we can't figure out how to harvest some of that.

So the point is some of this understory, there are studies, and I will send you a file on understory, that studies have been done and the economics of that. And so our organization is, is saying as far as waste material and what we see, we see for the north part where the timber is grown, there's about 1.3 million tons of waste biomass. We don't think it's really that much. But if you just do a quick calculation -- because the facilities like where I work at, we already take everything out of the forest and use it for energy. We've been doing that for 20 years. We figured out systems on how to do that. Now whenever I say that, we don't do the understory. We haven't figured out a system there, and there's actually been studies on that and I'll share that file with you.

So those are, those are the comments. There's carve outs really for different areas, because if you don't, we'll have resources that become unsustainable.

MS. MILLER: Thank you. Bob Trapp, one question.

MR. TRAPP: Just a technical point of clarification. You said 1.3 million tons of biomass available in Northwest Florida that's not currently being used, is that what I heard?

MR. BETHEA: Woody --

MR. TRAPP: Woody biomass.

MR. BETHEA: Woody biomass. Now whenever you come to look at closed loop agricultural systems -- but the system that we have currently, the sustainable systems that we're operating today, slash pine, loblolly pine, those systems are only going to produce you about 1.3 million more tons if you gather up all the residue after the logging. What I'm telling you is like the facility I work for, we already do that, so.

MR. TRAPP: Well, that's the point I was trying to get at. Is this tonnage that is currently not being collected?

MR. BETHEA: We think that's probably the tonnage you would --

MR. TRAPP: And how many megawatts would that translate into kind of roughly?

MR. BETHEA: Well, if you use conventional technology, a boiler and a steam turbine, you're probably looking at 100 megawatts.

MR. TRAPP: 100 megawatts.

MR. BETHEA: The other point I would make is our pulp mills, currently we're cogenerating above, north of 40 percent efficiency. So as you -- if you don't incentivize efficiency, so we're going to take and go down to 25 percent efficiency for biomass. So we need to make sure the incentives incentivize higher efficiencies.

MR. TRAPP: Thank you.

MS. MILLER: John Burnett, Progress Energy.

MR. BURNETT: Thank you. John Burnett, Progress Energy Florida.

Progress Energy Florida supports the staff's proposed strawman. We'd like to give some brief comments on why. First of all, we think that your proposed rule acknowledges both availability and technical feasibility. The proposed rule, based on the information that we have, seems to acknowledge realistic percentages, and those percentages are subject to reevaluation or adjustment based on continuing information that you will continue to seek.

There's also an excusal provision in there that acknowledges that if a resource is not available or technically feasible, then the utility can avail themselves of that provision.

We also think that your proposed rule has adequately looked at affordability. You have embraced a reasoned methodology for determining the price cap and you've focused on the value of the renewable aspects of the projects. And also it seems that your proposed rule fairly balances the goals of the RPS along with those of the multiple stakeholders. And we would echo the comments that we've heard from the AARP and from Public Counsel on how important that balance is.

Also, your rule appears to be efficient and workable.

Your rule is well-reasoned and logical and meets the goals within the parameters of the enabling legislation. We would only propose minor tweaks and our suggestions in our red line will be few.

First of all, just to highlight what we will submit in red line, we would propose that if you do favor a technology, you go with your Option 3, the multipliers, over any carve outs. And we would also echo Public Counsel's comments this morning in that regard, that the cream will rise to the top. So if you're going to do anything, we would suggest multipliers.

And we will also suggest some minor provisions that acknowledge what would happen if federal law was enacted that would conflict with this rule in any way, and also the provision that the rule could be reevaluated if there were greenhouse gas limitations legislation put into place just so the rule can be looked at again in conjunction with any GHG limitations to see if the rule was still consistent and if it needed to be adjusted. But other than that, we support the rule and we're happy to participate in this proceeding today. Thank you.

MS. MILLER: Thank you. Other opening statements?

Bill Ashburn.

MR. ASHBURN: Bill Ashburn with Tampa Electric Company.

We, as was said before, we greatly appreciate that you opened up this other day for us to come. When compared with having to go do storm restoration, on the whole I'd rather be in Tallahassee in an RPS workshop.

I think I would echo some of the comments that John said and some of the others about the rule being pretty well reasoned, and we certainly will have some comments we'll provide with the red lines and during this today.

I would just say a couple of things maybe that, as John said, I think it's important to recognize we have a federal process that's going to go on and we may want to be aware that that might trump this or require us to reevaluate it when that's done. So we would, we would ask that the rule leave that available to be, to be done.

Another thing I think John mentioned as well is the, is the parallel process that's going on about figuring out how much can be done in Florida, at what cost, and how much is available, some of the questions Bob was asking about how much woody biomass is in Northwest Florida. I think it's important to finish that process before we all zero in on what the percentages are and how soon they can be reached. So we don't really have any proposals on what those numbers should be, but we would expect that we would finish that process before we would figure out what good numbers they would be.

I think the only issue there, I would say, is in the

staff recommendation on percentages. It seemed like there was a large leap at the end from the 6 percent to the 20, and I guess my only proposal there is that we look out for large leaps in the percentages. It might be better to have a little more smooth transition in those percentages.

The last thing I'd say before we get started, I guess, is -- and I guess we have started already. Maybe we'll need a break before we get started. There was some language in here about setting up the REC market and you had some language in there that said that, you know, within 90 days of the rule being established that we'd come to you with something. Having been through several wars, one being called GridFlorida and several others, where I'm assuming you expect us to bring you something that's part of a collaborative process, and for sure this is going to have a lot more players in it than even GridFlorida did, 90 days is not enough time to do that. To put together the kind of things you're talking about, some organization or hire an organization, establishing rules, recommendations, procedures, all that stuff, it's just not going to happen. We're going to need time to get groups together, talk about it, look for vendors for, or other people who could do the work. So I would, I would recommend you reconsider that 90 days. It's just not, not doable.

Thank you. I look forward to participating further. And we'll certainly have comments we'll add at the appropriate

time later.

MS. MILLER: Thank you.

We have a question from Tom Ballinger.

MR. BALLINGER: It's really not a question. It's more of a statement and a heads-up to all the team leaders. Bill brought up a good thing about the data we've been collecting, about getting a handle before we do these percentages. And as you're aware, we've been collecting data and trying to sort through it, and we've had team leaders on the various technologies. This is a heads-up that staff is going to be contacting the team leaders of these technologies and have you fill in some missing gaps that we've seen with the data we've collected. We've got it now, we've got it organized, we've kind of put it together. There's still some missing pieces and we're going to come back to the team leaders relatively soon to see can they fill in some gaps here and there as we go through collecting this data.

MR. ASHBURN: Is that a heads-up or a threat?

MR. BALLINGER: No, it's not a threat. It's a -- it will be coming.

MR. ASHBURN: Or a promise.

MR. BALLINGER: Yes. It's a promise.

MR. ASHBURN: Okay.

MS. MILLER: And Bob Trapp has one question.

MR. TRAPP: We haven't put the nails in the stick

yet, but we're kind of waving it around.

And, Bill, if you get tired of this and want to do some storm work, I have some leaky windows at home that need caulking and I'd be happy to go do that with you.

MR. ASHBURN: Absolutely.

MR. TRAPP: I just wanted clarification on your 90-day REC market comment about the time it takes to put together one of these collaboratives.

Would 90, would 90 days be sufficient time for the industry to put together a proposal, an outline of how you're going to go about it or --

MR. ASHBURN: Maybe. I don't know. When we've done some of these things -- GridFlorida is an example. You know, we, I think we can get together in a reasonable time period, maybe 90 days, maybe a little longer than that for us to come up with something as a, as a strawman.

MR. TRAPP: A framework or something?

MR. ASHBURN: A framework or something. Now filing it with you, it may be too soon. Usually the collaborative processes are you put it out there and then you solicit comments and then you set up meetings and all that kind of thing to get comments from the various players. Certainly the co-ops and munis are going to want to be party to that, and we have a lot of parties in here who are going to have input, particularly since this REC market is going to also assume, be

party to customers bringing in, you know, here's my REC, buy and sell it. So I think because of the vast numbers we need a lot more time to work it. But maybe 90 days or 180 days to put together our draft. Certainly we -- I don't think any of us -- maybe FP&L has had more experience. We don't have any experience in these markets. I know there's, I know there's consultants and companies out there that are running them in other places, but there's a lot of learning curve for us to do as well. But some, some reasonable period of time maybe to put a draft out for our collaborative processes. Okay? But to get you a final thing within 90 days, it just ain't going to happen.

MR. TRAPP: Thanks.

MR. ASHBURN: Okay.

MS. MILLER: Thank you. How many more opening statements do we have? Excellent. Okay. We'll take a ten-minute break and start back --

MR. ASHBURN: I think I, I think I killed it.

MS. MILLER: To start back at five till 11:00.

(Recess taken.)

We're ready to get started. And we are now on Rule 17, 17.410, the Florida Renewable Energy Credit Market. And we'll try going provision by provision, so we'll start with Section 1 of that rule. And who would like to start off?

Michelle Hershel.

MS. HERSHEL: Thank you, Cindy. Michelle Hershel with the Florida Electric Cooperatives Association. And my comments are really just to Paragraph B in Section 1, and we were really not that sure what the intent of that section was supposed to be. We think it was to direct the investor-owned utilities to allow the munis and co-ops to participate in the REC market, in the REC market development. And we have come up with some proposed language, and we have worked with the Florida Municipal Electric Cooperative, Municipal Electric Association also and they agree with those, with that proposed language. I don't know if you want me to read it. You have --

MS. MILLER: Could you go ahead and read it?

MS. HERSHEL: Okay. It would, it would pretty much strike that language. And it would say, "The investor-owned utilities shall allow participation by the municipal electric utilities and the rural electric cooperatives in the development of a Florida Renewable Credit Market to ensure fair and equitable access to all possible participants in both the development and administration of the REC market."

MR. TRAPP: Cindy, I have a question.

MS. MILLER: Bob Trapp.

MR. TRAPP: Hi, Michelle. Nice to see you.

MS. HERSHEL: Hey, Bob.

MR. TRAPP: It's always nice to have the co-ops here.

MS. HERSHEL: Yeah, I know.

MR. TRAPP: We did a separate rule for --

MS. HERSHEL: I know. I saw it. Thank you.

MR. TRAPP: Totally out of it. Separate.

With regard to this provision, however, you speak to ensure fair and equitable access, and I think certainly the large intent by the staff of drafting this language was to encourage participation by the co-ops and the municipals. We were also thinking about fair and equitable sharing of the costs too. Do you have a position on that?

MS. HERSHEL: We'll have to talk about that. I don't have a position on that right now, no.

MR. TRAPP: Well, to the extent that the munis and co-ops are going to benefit by the use of a REC market, isn't it, isn't it fair that they should also bear their proportionate share of cost of running such a market?

MS. HERSHEL: I guess that would be part of the discussions of the development of the market.

MR. TRAPP: Okay. Thank you.

MR. MOYLE: Cindy.

MS. MILLER: Jon Moyle.

MR. MOYLE: For the record, Jon Moyle. I'm appearing on behalf of Wheelabrator Technologies, a waste-to-energy company.

We have some comments on, on the Paragraph 1 of the Renewable Energy Credit Market portion of the proposed rule.

But let me pick up on the comments that Michelle made where she suggested that you have language that the IOU shall allow participation in a market.

You know, my understanding of markets, and the gentleman from FPL, I think, was quite well-spoken in his words about a market, a robust market, buyers and sellers and having more buyers than sellers leads to more of a robust market when he was talking about the desire for a national market. It seems to me that you don't want to have a market where the IOUs have to allow participation. So with all due respect, I'm not sure that the language suggesting that the IOUs allow participation is the way in which to go.

I think for the REC market to work well in Florida it needs to be a bona fide transparent market, and we would suggest that the best way to get there is for the Public Service Commission to be in charge of administering that market either themselves or through contract with a third party. Now I understand that a lot of other states have markets that are run by third parties and not run by an investor-owned utility who may be and likely will have a very much vested interest in that market.

So we think one change that we would recommend is in the first paragraph you simply say, "The Public Service Commission shall establish and administer an electronic Renewable Energy Credit Market," and remove the obligations

from the IOUs.

The gentleman from TECO said, well, we think it'll take 180 days before we can give you an outline. I mean, time is of the essence on this thing. The Governor put his executive order out not this summer, the previous summer. So I think we need to move forward quickly. I think the better way to do it is for you all to identify somebody who can come in and help you with it and either set it up yourselves or contract with a third party. But that would help with the transparency of the market.

The other comment, when you talk about records, all records and what not, we think those ought to be public records that would be transparent. That would, that would help with the market aspects of this. So those are the comments that we would provide. And we will also give you strike-through language when we submit our written comments.

MS. MILLER: Thank you. Bob Trapp.

MR. TRAPP: Jon, how would you propose the PSC fund that?

MR. MOYLE: Well, you know, you do, as I understand it, some of these guys are more expert in it than I am, but you have, have -- I mean, this rule is not going to become effective by itself. It has to go back, back to the Legislature for approval. So if you don't have the ability to fund it through some kind of an assessment on, on the market

participants, which might be one way, then I think you could, you could clearly identify that as an issue that would need to be considered by the Legislature as a funding source, whether it's done through general revenue or some other source. I think the Legislature would have the opportunity to look at it and address it and make a policy judgment: Is it important to have a vibrant, independent market that is not in effect controlled or run by market participants?

MR. TRAPP: Are you familiar --

MR. McWHIRTER: Can I respond to that as well, Bob? John McWhirter with FIPUG.

MR. TRAPP: Let me ask Jon a follow-up question and then I'll --

MR. McWHIRTER: Okay. Sure.

MR. TRAPP: Are you familiar with the, formerly the Florida Coordinating Group, currently the FRCC, the broker system that was run by them?

MR. MOYLE: The Florida Broker System, I have, I have some familiarity with it. I don't have a great deal. But most of my information is from anecdotal hearsay type things that people have talked about with respect to --

MR. TRAPP: I'd be interested in your opinions with respect to that as a model for the development of such a REC market.

MR. MOYLE: Yeah. Admittedly I haven't, I haven't,

you know, called up and tried to make a trade through that. But what I have been told over the years is that that's not the easiest market for someone who is not a, an incumbent investor-owned utility to access and facilitate a trade with. I mean, you know, going back to our, our days of independent power and things like that, that I have heard that that broker network did not work very well for the purposes of trying to make, make trades and sell energy that non-investor-owned utilities, nonregulated utilities would have.

And if that is accurate, what I'm relating to you, it seems that in a REC market that might even be more imperative to go ahead and create and have a transparent market so you don't have, you know, a high cost of admission to be able to get into that market and to trade. I mean, you know, I think, I think a vibrant market is better and, you know, I understand that Florida market was a lot of bilateral transactions, utilities buying and selling amongst themselves.

MS. MILLER: John McWhirter.

MR. McWHIRTER: Mr. Trapp, in response to your question on how to fund it, you may recall that when the fuel costs are established, you do the over- and underrecoveries from the previous year and then you mark up the fuel costs that the utilities pass along to the customers by 1.00072 percent or 1 point, not percent, 1.00072. And that 00072, I believe, is the regulatory trust fund that's used for the operation of this

Commission. And you might recommend that that go to 00073 when you go back with your recommendations to the Legislature, and that would provide a source of funding for the administration of an open market. I think that market ought to have things like a bulletin board on TV so people can see what the spot price is on RECs and it should really be open to the public.

And in Section 1 I think you ought to -- I agree with Michelle, the munis and the REAs ought to be allowed in, but you ought to allow other stakeholders to come in in the establishment of this market as you did with the cost-based brokerage system that is still aborning and over a long period of time.

MR. TRAPP: So I understand that you want state workers to run this REC market --

MR. McWHIRTER: Well, Mr. Moyle --

MR. TRAPP: And that's what I'm reacting to. I'm not sure that we're in a position to do micromanagement; whereas, the provisions in the rule do require the Commission to approve all aspects of the organization and operation in the regulatory oversight, which is a role I think we're more comfortable being in. But I, you know, to ask Bob Trapp to run a market, I can't even play the stocks very well.

MR. McWHIRTER: Well, there, there are other entities such as the Department of Environmental Protection could run it. What, what you have proposed in your rule is similar to

having the fox control the henhouse. If they're going to control the markets as to what they're going to buy, they might want to buy from themselves. And if the market isn't transparent, really transparent, you don't know what else is available for RECs. So --

MR. TRAPP: Would it be appropriate for, you know, the renewable, independent renewables, nonutility generating renewables to be members of that board or structure?

MR. McWHIRTER: I would recommend that, yes.

MR. TRAPP: Thanks.

MS. MILLER: Suzanne Brownless.

MS. BROWNLESS: Thank you. Suzanne Brownless here on behalf of the Florida Solar Coalition.

With regard to Rule 25-17.410, we would echo Mr. McWhirter's statement as well as Jon Moyle, although we have a slightly different twist on it. What we would suggest is that the Commission would issue a request for proposals, a national request for proposals for the development of the Renewable Energy Credit Market in Florida. And because there are firms out there who have expertise who have already done this for other state commissions and could get that up and running quickly, they could meet the 90-day deadline, you could have what they develop, come back and be approved by the Commission. That gets you out of the REC market business, Bob, and the Commission out of the REC market business.

Our suggestion also would be that the market administrator for that renewable REC market would be totally independent of the IOUs, it would be an independent, not-for-profit corporation, it would be subject to review by the Commission. The members in that corporation or people who -- the stakeholders in that corporation would be everybody. It would be the munis, the co-ops, the IOUs, the providers, everybody could play there. That would allow the rapid development of the structure of the market, allow everyone to play and, as Mr. McWhirter states, get the fox out of the henhouse.

I also think that the development of an RFP issued by the Commission would allow you to get moving on that prior to having funding, either a specific line item in the PSC budget delegating funds for that, for the purpose of this independent not-for-profit corporation to run it or, as Mr. McWhirter suggests, a modification of the factor through the fuel adjustment clause.

So there would be -- that would let you get up, get going, get this running, get the proposals here, get this idea developed before you get, before you have to get to the issue of how you're going to specifically fund it, because I understand and appreciate that that is an issue.

Another part -- are we past the first section or are we just on Section 1?

MS. MILLER: We're still on Section 1.

MS. BROWNLESS: Okay.

MS. MILLER: And, Bob, you have a question.

MR. TRAPP: I just wanted to follow up on Ms. Brownless's comments. And I really don't believe y'all appreciate state funding. I think what you're proposing is going to be almost impossible to accomplish with the, with the Legislature budgeting this entity either through regulatory assessment fees or what have you. And, again, I would, I would take you to other models such as GridFlorida and the broker where the Commission has exercised its authority over the investor-owned utilities and, in some instances, munis and co-ops to direct them to do exactly what you proposed, maybe, you know, conduct an RFP. But that is a funding source that can be recoverable through cost recovery clauses as a legitimate business expense and to me is a better model because it short circuits the haggling that one has to do in order to get the state budget to address issues like this. It also, assuming that the electric utility industry is going to be here another 100 years like they have been, is a more stable source of funding. And I think these issues of governance and participation and fairness and equity have proven to be workable under that structure. So I would just leave you with those models as something to look at.

MS. BROWNLESS: Well, if I can briefly respond. I

have been here for a long time in this industry, as you know, and I have been through the GridFlorida wars and I have been through the various reincarnations of FRCC in all of its splendor over the last 20 something years. And I think what is important here and what my folks are concerned about is that this market be independent, be truly an independent, not-for-profit corporation that's transparent and visible, answerable to the PSC.

I appreciate what you're saying in terms of the funding hassles that any state agency particularly in these times must face. However, I think it is extremely important and it can be done because the bottom line is if it's funded, as Mr. McWhirter suggests, through an addition to the fuel adjustment, it's being funded by the investor-owned utilities, who are the bulk of both the generation and electric consumption in the State of Florida. So the IOUs would, in fact, be paying for it through a mechanism that you already have in place.

And I think it's more expeditious because if I remember how GridFlorida worked, that was a two-year exercise, perhaps a three-year exercise. This latest broker system that's been established, which is by all accounts going to be an excellent means, that was established to replace GridFlorida, if you will, that's taken two years on its own in addition to GridFlorida. So it's a timing issue.

MR. TRAPP: Let us not, let us not forget the annual planning hearings that took 18 months to do.

MS. BROWNLESS: Well, I seem to remember when I was doing the annual planning hearings on the staff we had annual planning hearings continuously.

MS. MILLER: Well, thank you.

MR. TRAPP: Let me, let me just follow up and get right to the point. I mean, you know, I think you're, I think you're reacting to what I would call some timidity in staff drafting of this section where we have placed the burden on the investor-owned utilities to form the market, but then encourage them to use an independent third party.

You're a lawyer, I'm not. Does this Commission have express legislative authority to mandate an independent entity to run this market?

MS. BROWNLESS: Well, I think I would look at the language that you've been given in 366.92 that says that you're responsible for developing the structure of the REC market, and I would read that language to say yes.

MR. McWHIRTER: John McWhirter again. To supplement that, I think what the Legislature has done is that it shifted the burden to you to come up with a program, but it's going to sign off on it ultimately. So when you send it back, send it back with a recommendation. If they don't like it, they don't have to accept it.

MS. MILLER: Rich Zambo.

MR. ZAMBO: Thank you, Cindy.

I just wanted to make a couple of observations. One, with respect to GridFlorida, that was, that was a specific federal statutory mandate handed down by FERC that required the utilities to consider formation of those regional transmission organizations. I think there was -- you didn't have a jurisdiction or an authorization issue there. I really have some concerns that you don't have the authority to delegate your responsibility to the utilities both as a legal matter, and then as a practical matter they're going to be administering a program in which many of them in their, or all of them in their standard offer contracts gives them the right of first refusal to renewable energy credits. So you combine that with the fact that they're administering the market to buy and sell those credits, it gives me pause for concern. As Mr. McWhirter said, we've got the fox guarding the henhouse.

MR. TRAPP: I believe that provision was repealed. I'd just make that note for the record, the first option.

MR. ZAMBO: Okay. Oh, I haven't, I haven't seen that. I apologize. If that's the case, then that's, then I strike that last, that last comment.

And we're still on, just on Section 1 of the Renewable Energy Credit Market; is that right?

MR. TRAPP: Uh-huh.

MR. ZAMBO: Okay. So that was all I had.

MS. MILLER: Any -- thank you.

Any other comments on Section 1?

Jon Moyle.

MR. MOYLE: Just, just to conclude, because I kind of got the conversation going about the independents, my reading of it is that it seems that the Commission staff acknowledges the wisdom of having an independent entity administer the market because it is suggesting that the utilities go and contract for that. I would suggest, don't let the tail wag the dog on this if it's all hung up on a funding issue. I think that you guys can look at it and put forth the best policy recommendation. And whether it's an appropriation or an increase of an existing ability to recover some monies, the policy ought to be what you focus on, and we think the best policy is to have an independent entity running the market. Thanks.

MS. MILLER: Thank you.

Let's move to Section 2. It's quite lengthy.

MR. ZAMBO: Cindy, Cindy, if I may, I neglected an issue. Can I go back?

MS. MILLER: Oh, Rich Zambo.

MR. ZAMBO: Under, under Section 1(c), there's some reference to the administrative costs associated with renewable energy credits being assessed to the renewable energy credits.

So that would be a deduction from the credit that the renewable energy producer would otherwise receive, at least that's how I read one interpretation of this.

Is there some way we could put a cap on that? You know, in light of some recent experience that you've had with green power programs or renewable energy programs, the administrative fees became quite onerous and burdensome. And our position would be that there should be some limitation on how much that administrative fee could reduce the renewable energy credit.

MR. TRAPP: I don't know how to set that cap. And, again, I would offer that, you know, membership on the board would be the best means of, you know, representing all parties for cost containment. What kind of cap would you put?

MR. ZAMBO: Well, I don't know. But I know that if you're receiving a renewable energy credit, that that is then adjusted for administrative fees. It just raises a concern.

The alternative would be to just charge this to spread these costs among all the, all the customers as part of their renewable energy program. But I think we need to be careful that that number doesn't become significant enough that it dilutes the value of the renewable energy credit. We'll come up with some proposed --

MR. TRAPP: Well, again, if you're going to pass the costs on to the general body of ratepayers, which I think is

what I heard you say, that then would have to be accountable in the overall rate cap? So inherently there's a, there's a 1 percent revenue requirement proposal on the table that would encompass these fees as well as any other additional costs associated with the program.

MR. ZAMBO: I haven't thought it all, yeah, I haven't thought it all the way through, Bob, but I just wanted to raise the issue. I think --

MR. TRAPP: It's a good issue. I mean, cost containment is always a good issue.

MR. ZAMBO: That's all I have. Thank you.

MS. MILLER: Thank you.

All right. Section 2. Yes.

MR. GRIFFIN: Steve Griffin with Gulf. And this relates to 2(a)(1), and there are similar comments for 1 through 4. This goes back to aligning the definition of renewable energy in the rule with the definition in 366.92(2)(c). And in the interest of that, Gulf would propose striking the reference to Florida-owned renewable resources and replacing the language with "renewable resources producing renewable energy in Florida." And that's a similar change for (1) through (4). And that'll be borne out in the red line, but I just wanted to bring that to your attention at this point.

MR. TRAPP: I'm not following. What's the purpose of that amendment?

MR. GRIFFIN: The purpose of the amendment is to remove the reference to Florida-owned renewable resources in the rule. And there are similar changes throughout the rule that we proposed. Essentially this goes back to the opening comment, which essentially was that renewable, Florida renewable energy resources under the statute in 366.92 is not the appropriate definition to be used in this rule. It's renewable energy under 366.92(c).

MR. TRAPP: So the intent is to nationalize this REC market, is that what the --

MR. ASHBURN: Bob, at the last one we had a similar comment. I think the way the words and the rule were written, it says, "Florida-owned renewable energy sources." And arguably a Florida-owned resource could be in another part of the world. I mean, it --

MR. TRAPP: And I think, quite honestly, I think we phrased it that way to try to contemplate that Gulf Power might have something that they owned up in Alabama.

MR. ASHBURN: Right. So, so, well, that's the question.

MR. TRAPP: But as long as it was a Florida-owned resource it would be embraced as part of a Florida --

MR. ASHBURN: Right. So, well, if Gulf Power owned it in Zimbabwe, is that okay? I mean, it would be owned by somebody in Florida. But if it's in another part of the world,

does that mean it counts?

MR. TRAPP: In the REC market perhaps. The concern, the concern then becomes should we link, should we go back and relink energy with RECs when we get outside of the state?

MR. ASHBURN: Right.

MR. TRAPP: Because we were trying to be responsive to the desire of the Legislature to keep these as Florida economic development type of resources.

MR. ASHBURN: Right. And I guess our, our interpretation of that was that it was based, that the location was in Florida for the, for the resource.

MR. TRAPP: No. It said Florida-owned, not Florida-located.

MR. ASHBURN: Right.

MR. TRAPP: And, again, it was, I think, an attempt to embrace, you know, the fact that Florida-owned facilities in other states might still enhance the Florida economy.

MR. SILAGY: If I could ask for a clarification of that.

MR. ZAMBO: I'm sorry. I apologize.

MR. SILAGY: For, just for clarification then, would an FPL-owned asset, FPL Group-owned asset in Texas, a wind farm, then be considered a renewable resource for the State of Florida?

MR. TRAPP: Well, I guess under that definition it

might.

MR. MOYLE: I would say not according to what the Legislature said in the definition of renewable energy credit. They said that it's generated by a source of renewable energy located in Florida.

MR. ZAMBO: Yeah.

MR. MOYLE: So it seems, seems pretty on point with respect to the asset being located in Florida.

MR. TRAPP: So we would change the word owned to located?

MR. MOYLE: That's what the Legislature said. It seems that, it seems that if you get Texas facilities getting credits or credits for facilities owned overseas and it happens to be that the legal entity is incorporated in Florida, then it makes it a Florida REC, I don't think that's what the Legislature contemplated, you know. The use of the word "located" I think is specific to the asset being in Florida, particularly when you read that in conjunction with all of the attributes that they're looking to, to realize economic benefits, environmental benefits. You don't get those if your, if your asset is located overseas or in another state.

MS. MILLER: This is a good chance to also remind everyone this is a strawman proposal and it has not been approved by the agency, it's not been proposed. So we are -- and you're hearing from staff and what staff's views are.

So Rich Zambo.

MR. ZAMBO: Just to follow up on that, on that line of thought, I would then want to make it clear that this doesn't apply to utility affiliates. This would only apply to the actual regulated utility. So I want to think we want to make sure that those, these benefits don't flow through to nonregulated entities.

But my primary issue on this section of the rule is, first of all, I don't see anything in the statute that gives the Commission the authority to define these, these so-called eligible entities. And, in fact, it's limiting the legislative definition of what constitutes renewable energy. As I read the statute, a renewable energy credit or a REC means a product that represents the unbundled separable renewable attribute of renewable energy produced in Florida and is equivalent to 1 megawatt hour of electricity generated by a source of renewable energy located in Florida.

So to my way of thinking that means any, any electric charge that equals 1 megawatt hour in Florida, whether it's sold under contract, whether it's sold as available energy, whether it's used by the consumer, regardless of the size, or by the, by the producer regardless of its size, regardless of any other factor is entitled to a REC. And I don't, I don't think you have the authority to limit, to limit what is defined as a REC or what will be considered as a REC under the, under

this rule.

MR. TRAPP: Where is, where does the limitation occur?

MR. ZAMBO: Well, for example, you say the following entities are eligible to produce renewable energy credits. So the fact that they're eligible doesn't say they do produce. And it says they may be counted toward the renewable portfolio standard.

Well, if you look through the enumerated, enumerated factors, number three, for example, nonutility generators producing net capacity and energy under a purchased power agreement. Well, they may not all have a purchased power agreement. They may want to sell energy only, which doesn't normally --

MR. TRAPP: Well, that's not --

MR. ZAMBO: -- contemplate an agreement.

MR. TRAPP: Well, that's an error of omission. So you would add something like the words, or do as available energy tariffs or something like that?

MR. ZAMBO: Yeah. I would just strike the whole section. I don't think any of it is necessary. The only thing I might continue in here is the, is the provision in Paragraph 6 that, that limits people from double dipping. So if they've got a, if they've gotten a contribution for, say, a solar photovoltaic through a conservation program, they

wouldn't also be entitled to a REC.

And I would also put a limitation on investor-owned electric utility resources. If they've gotten some treatment like accelerated cost recovery or some special treatment that enhanced their ability to build a project, I don't think that should be entitled to RECs either.

MR. TRAPP: What about tax credits? If you get a tax credit, we should exclude you?

MR. ZAMBO: Not federal, federal tax credits, no. Just state --

MR. TRAPP: You mean just a regulatory treatment.

MR. ZAMBO: Regulatory treatment based on rules of the Commission. Yeah.

MR. TRAPP: I'm struggling with that because the rules of the Commission are the rules of the Commission and that defines cost recovery and what's normal and what's not. I mean, whatever the Commission orders is normal.

MR. ZAMBO: You've addressed it in fairly, in detail with respect to Item 6 on Page 8, "2 megawatts or less, that have not received incentives from Commission-approved demand-side conservation program." I'm just saying take that same concept where someone was given -- they're already, they've already benefited by some mechanism. And we're not, we're not talking about, we're not talking about federal tax credits or anything here.

MR. TRAPP: But this is an express provision in the statutes. Number 6 there is an express provision in the statutes was my -- is that not correct?

MR. FUTRELL: That's correct.

MR. TRAPP: And that's why we put it in there.

MR. ZAMBO: If it is, I apologize. I didn't realize that.

MR. TRAPP: And so to go beyond that -- again, we've reached this question of how far beyond the expressed intent of the statute can we go and, you know, what's, what's within the interpretive range of the Commission versus the -- we're just working within the four corners of the pages that the Legislature gave us. So that's our struggle throughout this process.

MR. ZAMBO: Can you, can you tell me -- I apologize, Bob. I know you're not a lawyer, so I don't want to insult you, but can you, can you point me to the, can you point me to the section of the statute that addresses the --

MR. TRAPP: I think Mark Futrell may be able to do it quicker than me.

MR. FUTRELL: You're talking about on Part 6, (6) of the rule?

MR. ZAMBO: Yes.

MR. FUTRELL: If you look here on Page, as far as the, the enrolled version of the bill, Page 96 (sic.), Line

2722, and it talks about that the rule include procedures to track and account for credit for RECs, including ownership of RECs derived from customer-owned facilities as a result of any action by a customer of an electric supplier that is independent of a program sponsored by the electric power supplier.

MR. ZAMBO: Where is that, Mark? I didn't, I didn't follow.

MR. FUTRELL: Okay. If you'll -- we've got it on --

MR. ZAMBO: Page 96?

MR. TRAPP: No. No. No.

MR. FUTRELL: 98.

MR. ZAMBO: Oh, Page 98. Okay.

MR. FUTRELL: Line 2722 it begins, if you have that. We've got it up on the screen.

So we took that to, we interpreted that to differentiate between those customers that have received an incentive through a conservation program approved by the Commission and those that have taken action on their own without an incentive.

MR. ZAMBO: Okay. I'll have to admit, I didn't, I didn't read it that way, but I think I can see where you're coming from.

MR. FUTRELL: Right.

MR. ZAMBO: Let me, let me reserve, I'll reserve

comment on that when we submit our red line.

MR. FUTRELL: Sure.

MR. ZAMBO: But, again, my overriding concern in this section is that you seem to be identifying entities that may limit the applicability of a REC. My clients who generate power and use it internally, they should be -- I'm not sure what the difference is between the 2 megawatts, also the break point there. I guess that had to do with your net metering rules or something that were adopted a while back. But my recommendation would be to delete everything except number six and number, number one add the, add the incentives to that section.

And I would also make it, clarify the language, and I'll submit you comments to this effect, in Paragraph 2 itself that makes it clear that this is not a choice that the utility would make. But that's, that's the impression I get here, that the utility can pick and choose which of these eligible entities it wants to use for, for meeting its renewable energy credit or RPS. And I want to make sure that that's not what this rule will allow them to do.

MR. TRAPP: I think it was our intent that the independent administrator of the REC program would be bound by these in awarding, you know, in certifying, if you would, who qualifies for a REC. I mean, our concept really is an independent administrator, and we've already kind of talked

about the struggle we've had with words, and maybe we can fix better in Section 1. But that was our intent.

MR. ZAMBO: So your intent was that these all would be entitled to RECs.

MR. TRAPP: Yes. And it was our understanding that this was a, it was at least our attempt to define what we understood the statute to say with respect to anyone that produces renewable energy in Florida can qualify for a REC with certain caveats that we've just discussed.

MR. ZAMBO: Okay. Well, as long as they're all given equal weight, then I have no, no problem with that.

MR. TRAPP: Yeah. It's just, it's just who -- it's the qualification phase, if you would, of, okay, yes, you can generate a REC. Now how do we go about accounting for it, generating it and getting you a certificate or whatever, whatever mechanism is going to be used in the trading market itself to trade?

MR. ZAMBO: Okay. Okay. So it's part of the administrative process basically.

MR. TRAPP: Yes. That was our intent.

MR. ZAMBO: Okay. Thanks, Bob.

MS. MILLER: Other comments on Section 2.

MR. McGEE: Thank you, Cindy. This is Bob McGee with Gulf Power.

I just want to be clear what our intent was with this

not to go outside the State of Florida. For instance, striking the Florida term through here is simply to reduce the, or eliminate the use of the terminology Florida renewable energy resources throughout the document, and this is one of the places that it shows up extensively. And we would suggest that the term be used "renewable energy sources producing renewable energy in Florida," which is very specific about where it comes from. It comports with the legislative language.

We would also suggest striking Paragraph 5, which specifically delineates solar thermal, which again does not agree with the renewable energy definition in 366.91.

MR. TRAPP: If I may, Cindy.

MS. MILLER: Bob.

MR. TRAPP: We were conflicted by the statute, quite frankly, because we think it has several definitions contained in it that are a little bit confusing. But it seemed to me that there was a definition embraced by the statute that -- let me put it this way. Our use of Florida renewable energy resource was consistent with our statutory understanding of including thermal, mechanical and electrical energy; whereas, the definition in the statute, as I recall, of a renewable resource is confined to electric. And so you've got that inherent conflict in there, and, quite frankly, we chose to embrace the larger definition that was contained within the statute.

I'm a little curious as to Gulf's position about excluding solar thermal because it seems to me that you were exploring some type of a solar thermal generating facility somewhat similar perhaps to the one that Florida Power & Light is currently looking at.

MR. McGEE: I appreciate you pointing that out. Actually the solar thermal that Gulf is looking at is a pilot inside the FEECA docket, and that's where we're proposing the solar thermal emphasis goes.

MR. TRAPP: Oh, I see.

MR. McGEE: Let me point out a couple of things about the Florida --

MR. TRAPP: So your position is you want solar thermal to be addressed on the FEECA side of the equation, not on the -- I understand you better now.

MR. McGEE: Yes. Yes. And for a couple of reasons. One is the Florida renewable energy resources terminology is not used anywhere in the RPS statute except in the definition of itself except for Paragraph 3, which was deleted in House Bill 7135 which used the term Florida renewable energy resources. So it seems that the definition of Florida renewable energy resources was orphaned in that particular passage.

The other thing that we'll point out is that Florida renewable energy resources relies on 377.80(3) for its

definition. If you go to 377.80(2), which gives the purpose for that section, it says the purpose is to incent renewables for citizens of the state, businesses, local governments, et cetera. It's more focused on customers. And, again, we would emphasize that the solar thermal aspect probably would be best treated in the FEECA docket, especially since it's something that's avoiding electrical consumption rather than the generation of electricity, which is the 366.91 definition. Thank you.

MR. TRAPP: By doing that though you're basically eliminating, unless we pick it up in FEECA, you're basically eliminating the opportunity for small solar thermal systems to generate RECs, which is an additional payment. Your position inherently then would be that if you address it in FEECA as FEECA currently exists, they wouldn't qualify for REC payments but they would qualify for some utility incentive that may or may not be equal to or greater than the REC. And therein lies an economic rub, it seems to me.

MR. McGEE: Right. And we would -- and I think you've done a good job of structuring this so you don't have overlap with the Paragraph 6, where you don't have overlap between the two, the renewable portfolio standard area and the FEECA docket. But we definitely feel that the solar thermal aspect, because it's a customer-sided thing that would be promoted through customer acceptance, fits more closely the

FEECA model than it does the RPS model.

MR. TRAPP: In your, in your opinion, does the Commission have the authority to adopt a REC program in FEECA?

MR. McGEE: I don't know the answer to that question. Understanding the definition of RECs, I believe, and this goes back to comments on Section 17.400, I believe that the Commission has expanded the legislative or the statutory definition of RECs to include solar thermal, and I'm not sure about the --

MR. TRAPP: Again, the reason there was because of the conflict in definitions and our embracing the broader definition.

MR. McGEE: Right. Right. I understand.

MR. TRAPP: Thank you.

MR. McGEE: Thank you.

MS. MILLER: Bob Futrell.

MR. FUTRELL: Yeah. Bob, following up, would you, would you contemplate that RECs created as part of a FEECA program, would they be the ownership of the utility or how would they be treated?

MR. McGEE: I agree with the way staff has constructed this language where you've got FEECA incentives going on under that docket and you've got RECs happening in the RPS market. So the two wouldn't conflict. So somebody who is given an incentive under FEECA to put a solar thermal water

heater in their house or to put a PV array on top of the house or however that might play out would not be eligible for RECs in the RPS market.

MR. FUTRELL: Do you, do you contemplate they would be, an option would be there for them to sell RECs into another market?

MR. McGEE: That would be, I guess, subject to the rules and laws of that other market, if the other state allowed that.

MR. FUTRELL: Right. Right. And would the customer have the ability to sell that REC, those RECs into that market or would they be -- when they signed up for an incentive program, would the utility be able, have the ability to claim any RECs generated, or are we too far down the --

MR. McGEE: I think -- well, we're getting a little bit further down in where, what will happen in the FEECA docket when it comes to this new term that was defined in 7135, the demand-side renewable energy sources.

My guess is that where that is headed is that the utilities will have goals associated with those, like we do with conservation, and will handle those in a like manner rather than having RECs associated with them.

MS. MILLER: Thank you. We will keep trying to stick with the rule in front of us. But I think we're ready to move to Section 3.

MR. CAVROS: Cindy, George Cavros.

MS. MILLER: Yes, George.

MR. CAVROS: On behalf of Southern Reliance for Clean Energy. Just a quick question in (6).

There seems to be an assumption that if a, let's say, for instance, a homeowner or a large business owner gets an incentive, a FEECA incentive, an energy efficiency incentive to install, for instance, a solar hot water heater, and the reason he's getting that incentive, of course, is to lower energy consumption and the benefits that lower energy consumption bring to the rate base in general, to defer power plant construction, et cetera, et cetera, why should then that incentive preclude that owner from peeling off the renewable attributes of, of displacing whatever energy they might have consumed and selling that, that attribute in a REC market? It seems like, it seems like an incentive for energy efficiency shouldn't be considered payment for a renewable energy attribute and that ought to be available to whoever owns the technology to sell that REC on the market.

MS. MILLER: Mark Futrell.

MR. FUTRELL: Yeah. George, I think we were just reacting to what was in the statute. And we felt like -- the way we read that is that the Legislature is making, trying to make a bright line between customer systems that are, that receive an incentive and those that the customers put in

without an incentive from a utility, and they seem to be setting up a structure where to differentiate those between FEECA and the RPS. And so that's our, that was our attempt to try to react to that direction in the statute.

Certainly I recognize that the system could, an energy efficiency solar water heating system could generate RECs, but this, this is how we're reacting to this statute.

MS. MILLER: Thank you. So Section 3, this is the cap at the equivalent of $16 per ton.

Suzanne Brownless.

MS. BROWNLESS: Our position is pretty simple. We want the $16 per ton to be simply stricken because we perceive that to be a double bite. We think that the cost-prohibitive language definition of whatever percentage the Commission ultimately comes up with should be the controlling rate impact factor, if you will, and that you shouldn't also have a double count. You shouldn't have the percentage of revenues plus this price cap tied to greenhouse gas emissions. So we believe it should just be simply deleted.

MS. MILLER: Judy Harlow.

MS. HARLOW: Suzanne, one of the staff's intents of this section was to provide some measure of looking at greenhouse gases of the renewable resources and the displacement of greenhouse gases from fossil fuels. If you struck Section 3, how would you account for that in the rule,

or do you believe the rule should account for that issue?

MS. BROWNLESS: Well, I think that with regard to, for example, solar and wind, you're not going to have any greenhouse gas emissions for those guys at all. So I think your rule in giving a preference, and the statute, by the way, in giving a preference to solar and wind, that is the legislative direction with regard to addressing the greenhouse gas issue and I don't think it needs to be addressed further.

MS. MILLER: Oh, yes.

MR. CEPERO: Yes. Good morning. My name is Gus Cepero. I'm with Florida Crystals. We are a biomass producer in Palm Beach County.

We submitted comments last week on the draft and those comments included recommendations on this $16 number. We think -- we agree essentially with Suzanne Brownless; we think it should be deleted. There should not be a cap based on the value of greenhouse gas emission credits because it is a, effectively a double cap when you read it in conjunction with the rate cap. We think that the cost prohibitive standard should be implemented through a rate cap, period. So we strongly believe that, that there should be no cap on greenhouse gas emissions.

Also in regards to Judy Harlow's comments and earlier comments, certainly greenhouse gas emissions is a very important objective in the statute but it's not an exclusive

objective. In addition to the reduction of greenhouse gas emissions, there are objectives to diversify the fuel supply to foster economic development. So when you pick out greenhouse gas emissions and don't say anything about the other two, you sort of, you're playing policymaker in preferring one objective over the other. So we, we think the cleanest thing to do is simply to remove this cap and not try to, not try to constrain the, the development of renewables any more than it's already constrained.

MS. MILLER: Yes. Michael Dobson.

MR. DOBSON: Yes. I just wanted to echo what Suzanne and Gus have said for the Florida Renewable Energy Producers Association. We also think that the language should come out for the reasons mentioned and for another reason. That reason is because we just think that the $16 a ton, that if it's kept in, that it's really not defensible because the market value of carbon emissions would vary over time anyway, you know. So we really think that language should come out and we should try to seek some, some other ways and not consider this an exclusive item.

MS. MILLER: Thank you.

Rich Zambo.

MR. ZAMBO: I just have, I had a general comment. I understand what Gus and Suzanne are saying, but my concern is there's really like three elements here. One is you've got the

rate cap, you have the carbon emission cap, but I think the missing element here yet is the penalty for failing to comply. If we have a reasonable penalty, then, then we can probably get by without that, the .6 to 1.6 dollars per kilowatt or cents per kilowatt hour for the REC. But until we know what that side of it is, I can't really take a position on this.

But I think I like the idea of having a number that says a REC shall be worth this, and I think it can be adjusted to some index if those numbers change over time. And I like the idea of having a rate, a rate cap, as long as that rate cap also recognizes offsets when there are benefits that can be applied against that rate cap. But we'll provide some comments, but I just want to let you know that those three, in my mind those three concepts kind of intertwine and we probably can get by with just two of them, but which two I don't know until we get further along in the process. Thank you.

MS. MILLER: Tom Ballinger.

MR. BALLINGER: So if I can ask a question, if I understand, you want to get rid of the rate cap but keep the revenue cap. Would that in essence then take those dollars and spread them only the, whatever percentage we come up with RPS standard to get an equivalent cents per kilowatt hour that would be added to avoided cost? That's what I'm trying to get a handle on is if we go to a revenue only cap, what increment am I adding to avoided cost, and I'm trying to get a cents per

kilowatt hour?

MR. CEPERO: Well, I have a proposal on that if you want to talk about that, Tom, if it's appropriate to talk about that now.

MS. MILLER: Please go ahead.

MR. CEPERO: Okay.

MS. MILLER: Gus Cepero.

MR. CEPERO: We're talking about the rate cap and the mechanism to implement that rate cap. First of all, I don't think that your baseline should be avoided cost. We submitted comments last week concerning avoided cost, and essentially trying to use avoided cost as a methodology to measure renewables or to approve renewables to us is fitting a square peg in a round hole. It simply is not going to fit, is not appropriate. And I think the statute specifically has language that, that says that if there's a conflict between a methodology to approve renewables and avoided costs, that the new methodology to approve renewables will supersede avoided costs.

So I'll start out by saying the base should not be avoided costs. We would propose that the rate be retail rates, and, and then you would measure the rate which is being paid for renewables probably on an aggregate basis, utility-by-utility basis.

So Utility A would calculate the rate that they're

paying for their renewable, compliance with their renewable portfolio standard and compare that to their retail rate. And if there is a delta, then that delta would be used as the differential and that delta would be multiplied times the volume of energy that was delivered or bought to comply with the RPS, and then that will be the number that will be compared to the 1 percent or the 3 percent or the 5 percent. So, and I have that in writing. I'll submit it to you guys, everybody when we submit comments.

But fundamentally you look at retail rates as the baseline, not avoided cost, you compute the differential between retail rates and whatever is being paid for renewable energy and that's how you calculate the rate cap.

MR. TRAPP: Could I ask, Gus, what is the basis for that proposal other than --

MR. CEPERO: It's the, it's the impact on, it's to calculate the impact on the customers. If I'm paying a --

MR. TRAPP: So you're going to include generation and transmission costs that are not even part of this equation to the rate cap? That, that simply doesn't make any sense to me. We're talking about generation here.

MR. CEPERO: Well, I think generation, I think transmission could sometimes be a part of the equation and -- it makes as much sense as avoided cost. Avoided cost doesn't make any sense at all either. So what we're, what we're trying

to do is to come up with a methodology which is based on, on the rate that the customer is going to pay and, and measure the impact on the customer. I think in some cases, depending on the location of your facility, transmission facilities could be affected. I would agree that generally distribution would not be affected, and perhaps that's a, you know, that is a refinement that we could exclude certain components of retail rates.

MS. MILLER: Thank you.

Jon Moyle.

MR. MOYLE: Yeah. I just wanted, wanted -- I mean, if we're going to get into that discussion, that's fine. I have one more comment on (3), so at the right time I'd like to make that comment.

MS. MILLER: Rich Zambo, were you wanting to speak on this?

MR. ZAMBO: If it's appropriate to follow up on the, on that issue.

MS. MILLER: And if you could briefly, that'd be great.

MR. ZAMBO: Well, one of the thoughts that occurred to me is, you know, tying the renewable energy credits under this current statute, tying those to avoided cost has the effect of delaying the implementation of renewable energy projects until the next utility-perceived need for generating

capacity. In some cases the utility may not have a need for generating capacity in the next, next ten years.

The Commission has recently approved, as I understand it, two nuclear plants that the utilities have justified as the most cost-effective alternatives reasonably available. We've heard a lot of discussion this morning about how great nuclear power is, and I would suggest that you use a nuclear power plant as the avoided cost with an in-service date being on the date that the renewable energy facility proposes to begin delivering capacity and energy. And if that's not enough to -- maybe that's enough to incent the development of renewable energy. And if it's not, then you leave it to the utilities as to how much additional on top of that needs to be added to reach their goals.

MS. MILLER: Thank you. Yes. You may need to approach a microphone some way.

MR. BURGES: John Burges, the Alliance for Renewable Energy. We submitted comments --

UNIDENTIFIED SPEAKER: Turn your mike on.

MS. MILLER: It is on, isn't it?

MR. BURGES: It is on. I just wanted to echo some of the comments of Florida Sugar regarding avoided costs.

Again, renewables, a lot of it is generated, particularly solar, at peak, peak times. So I think the rule should at least refer back to the benefits of peaking power as

well rather than just trying and tie it back to avoided costs.

I would also, I think, point out that if you are concerned about -- this is referring back to this course three here and having the $16 cap, which I agree with my colleagues that should be stricken, if you're concerned about the cost issue, we should be addressing a couple of issues, one of which is you need to have long-term contracts as part of RECs and the structure of RECs.

As anyone knows who's invested and built renewable power projects, you know, if you're trying to raise capital, i.e. debt financing, you need to have long-term contracts to provide predictable cash flows to enable you to raise debt at a cheap price. Without debt your cost of capital is probably double the cost of equity. So without a long-term contract I don't see how you're going to drive down the costs which will deliver ratepayer value.

The issue of short-term RECs and floating price RECs frankly goes against the grain of delivering low-cost value to ratepayers. So I think that's another issue we need to address in here.

MS. MILLER: Thank you.

Now, Jon Moyle, we're ready for you.

MR. MOYLE: Yes. Just there have been a number of comments and I'm not going to be repetitive. I think, you know, the cap is probably not, not the best idea, as has been

articulated.

I would just point out that I don't believe that the Legislature in this portion of the energy bill talked about greenhouse gases. They talk about improve environmental conditions, but I think there are a lot of other things and all of the sudden there's a lot of focus on greenhouse gases that may not candidly be appropriate.

Another portion of the energy bill, as I recall it, directs DEP to look into establishing a cap and trade program that would deal with greenhouse gases. So it may be that the more appropriate place to have the, have the greenhouse gas discussion is over at DEP and the proposed rule that I think they've been directed to develop and bring back to the Legislature. I believe it's 2010, so they have additional time to work on it.

But in the event that any kind of a cap was, was going to be maintained and put in this rule, I understand that there are already some good tools out there that could be useful in determining the appropriate way to calculate these things. A life cycle analysis is, is one. There's something called the USEPA decisional support tool, which is used for calculating avoided greenhouse gases. So if you are going to keep that, you may want to reference some widely recognized, as I understand it, tools that have already been reviewed, studied and implemented.

MS. MILLER: Commissioner Skop.

COMMISSIONER SKOP: Thank you. I just wanted to listen intently to the discussion. I just wanted to make an observation at least on Paragraph 3.

The cap, I guess the subject of the discussion is capped at the equivalent of $16 per ton of greenhouse gases. I think it's admirable that there was a tie-in to the greenhouse gas issue. At least from my point looking at the consistency and looking at the definition of renewable energy credit, that definition is tied to a REC being equivalent to 1 megawatt hour of production. So it seems to me that the proper mechanism would be to express that in dollars per megawatt hour.

And, for instance, I guess from listening to some of the views of the various participants, it seems that if you were in a, in a situation where you had renewables and you were generating RECs in Florida, that you'd have a certain number of RECs and you'd know the cost of those RECs theoretically or what the market would bear. And if there were not enough RECs to go around, then I think that would tie into the alternate compliance payment of what you would need to meet the standard, and that would probably be slightly above the cost of the REC to the extent that it would stimulate additional investment for renewables in Florida, thereby increasing the supply of Florida-based RECs to meet the standard. But just as a point of consideration I wanted to raise that. Thank you.

MS. MILLER: Thank you.

How many speakers plan to speak on this Section 4? This is on the IOU's filing regarding structure and approval, so forth for the credit market? Two speakers. Okay. Let's, let's plow ahead just a little bit more then.

Suzanne Brownless.

MS. BROWNLESS: Thank you. We just have a very brief comment with regard to that section. What we would like to do is add a Paragraph F, which would indicate that there could be a standard offer contract for RECs and that RECs can exceed an IOU's avoided cost. And that contract would be of at least ten years terms and it would give preferences to Class 1 renewable energy resources.

And I just want to make one comment because I'm always confused when people talk about the price of RECs being tied to avoided cost. Because my understanding, based upon what's been proposed in this rule, is that the price of RECs would have absolutely nothing to do with avoided costs but would be set by the market. So if I'm incorrect about that, I would hope someone would, from the staff would, would help me understand that.

MS. MILLER: Tom Ballinger.

MR. BALLINGER: I think you're correct, Ms. Brownless. They are, RECs are entirely separate and in addition to avoided cost. So they can be contracted

separately, together, however.

MS. BROWNLESS: Thank you.

MR. CEPERO: Could I ask a follow-up question to get clarification? Under the proposed draft I understand RECs would be priced separately, but RECs would be capped at a price equivalent to $16 a ton. So, for example, for your typical Florida utility, that would translate into about $8 or $10 a megawatt hour based on the carbon intensity of the Florida system. So, Suzanne, what you would have would be a base price determined by avoided cost, traditional method. So if the utility doesn't need power until 2020, you don't get any capacity payments until 2020. You would have to meet performance standards established by the avoided cost, all of the good stuff that comes with avoided cost. And in addition to that, you would get a maximum of $8 to $10 a megawatt hour under the proposed draft.

MS. BROWNLESS: And, Gus, if I can follow up on that. As I understand it, we already have renewable energy standard offer contracts out there and that those contracts obviously have a capacity portion and an energy portion based upon avoided cost.

MR. CEPERO: Correct.

MS. BROWNLESS: And that this REC would be an adder, an addition to that contract. I appreciate what you're saying. And I guess my point would be this, that the reason that I want

to remove the $16 a ton GHS --

MR. CEPERO: Right.

MS. BROWNLESS: -- derived cap is to avoid exactly the issue that you're, you're identifying there. I want to get avoided cost out of the REC market and let the market set the REC, the REC being the unbundled aspect of renewable energy that's being added onto the contract.

MR. CEPERO: I think, Suzanne, if I can, it would kind of --

MS. MILLER: Yeah. If we could just, and then you could take it offline and file additional comments.

MS. BROWNLESS: Sure.

MS. MILLER: But go ahead.

MR. CEPERO: Well, what I was going to say, if you remove the cap, the $16, just no cap, I think that is an improvement and that goes sort of halfway. You're still left with this rate cap which is proposed at 1 percent and will be calculated on the basis of avoided cost. So you still have a very significant restrain on the amount of dollars that can be used towards this renewable energy market.

So our proposal was delete this cap, move away from avoided cost, do not use avoided cost either to calculate the rate cap or to approve or disapprove projects or contracts. You should use the more comprehensive criteria and essentially determine whether a particular contract or project is fair and

reasonable based on the cost of that contract relative to comparable renewables, impact on greenhouse gas emissions, economic development and fuel diversity, which is exactly what the statute says. Move away from avoided cost.

MS. MILLER: Thank you. Thank you.

MR. TRAPP: Cindy, can I engage here a little bit?

MS. MILLER: Bob Trapp, then Tom Ballinger and then Steve Griffin.

MR. TRAPP: Ms. Brownless, as I understand it based on your earlier comments at the last workshop and based on what you just said, you're basically seeing that the $16 per ton cap is prohibiting somehow the market establishment of long-term contracts for RECs? I mean, you're reading into this that the REC is, is an energy only, if you would, adder to whatever else your client gets in a market?

MS. BROWNLESS: No, sir. My idea is that you have a cap that I would disagree with Gus a little bit. I believe the percentage cap you've proposed is based upon a percent of revenues, so it's not tied to avoided cost.

MR. TRAPP: That's correct. And then to -- yes.

MS. BROWNLESS: And so my thought process here is you already have a mechanism to protect the rate impact on the ratepayer.

MR. TRAPP: And that is a retail rate impact. I do agree with that aspect of the analysis.

MS. BROWNLESS: And that's a retail rate impact. And so, and so I think, as has been expressed before, that this is a second bite at the apple, this $16 per ton greenhouse gas additional cap, and that, as Gus points out, that ties it to avoided cost, which I don't think it ought to be tied to avoided cost at all, so that's why I want to get out of that.

And also as Jon Moyle has expressed, the greenhouse gas emissions issue is being addressed in I think proposals to 377 in this House Bill by DEP, and they have been tasked with setting up a greenhouse gas allocation trading market themselves. So I think for all of those reasons we should just simply delete this provision and rock and roll from there.

MR. TRAPP: Well, again, I want to make sure I understand because I think, I think you're saying exactly what staff is saying in this proposed strawman. Whatever you sell power at is the value of that power. If it has a peak contribution, you'll get paid a capacity component. If it has an energy contribution, you'll get an energy component. And that will be governed by the purchased power, you know, reviews of the Commission's standard offers, avoided cost, whatever you want to call it. That's totally separate.

What the Legislature has done here is create a separate attribute associated with renewable generation that really is divorced from what contribution to reliability and energy is out there, which there are already programs to

address. Now if you want to address those programs, let's go to another rulemaking. But what we're talking about here is the conventional value of power plus the value of a REC.

MS. BROWNLESS: Right.

MR. TRAPP: Your suggestion is, well, take it -- we're here to talk about the REC, how to do the REC market and caps.

MS. BROWNLESS: Exactly.

MR. TRAPP: We have a total revenue requirement cap that is kind of tied to overall effect on retail rates of paying for this attribute associated with the REC.

MS. BROWNLESS: Right. Right.

MR. TRAPP: And it's a mixed attribute according to the purposes of the statute. Staff did propose $16 a ton as looking at carbon control as being the primary attribute. As I understand it, you want that removed because you think there's more, more to it.

MS. BROWNLESS: I don't think it is the primary attribute, to be honest with you. And I think there's several other significant attributes, as everybody up and down this table has talked about before, and I won't reiterate those. And I think if you're going to worry about greenhouse gases, DEP is tasked with doing that. Let them do that.

MS. MILLER: Thank you.

Tom Ballinger.

MR. BALLINGER: I wanted to also point out that the staff's strawman also contemplated that these RECs would be paid to existing facilities that have already been built and constructed under our traditional avoided cost parameter, which is the bulk of where we're at today. We're not starting incremental. We're not proposing this is incremental. So even that 2 percent number that we had in 2010, that's existing. So everybody out there that has a facility up and running now would automatically get this adder, this plus as we go forward. And that's another reason with the $16 a ton, it's trying to, to balance that, if you will, of not only ensuring the feasibility of existing facilities but as we move forward. So that's another rationalization why that second cap was put in there.

MS. MILLER: Steve Griffin.

MR. GRIFFIN: Just a, just a minor point. The rule does not appear to speak to who bears responsibility for metering and verification of the RECs, and we would simply propose a provision somewhere in this portion of the rule indicating that the producer of the REC bears responsibility for metering and verification.

MS. MILLER: John McWhirter and then John Burges.

MR. McWHIRTER: I hate to portray my ignorance, but if your cap is a revenue cap, how do you choose which RPS programs you choose? In other words, are you going to have an

auction, are you going to have some kind of marketing deal so that people come in, as Suzanne suggested, and submit an RFP that they will give you so many megawatt hours of electricity, and when you reach the cap, people can't submit renewable programs anymore?

MS. MILLER: Mark Futrell.

MR. FUTRELL: Typically a REC market can operate in a multitude of ways. There can be bilateral contracts, there can be a spot market, if you will, to buy and sell RECs as you need them. And it would be incumbent on the utilities to seek the least cost method of meeting their percentages based on what's available in the REC market.

So, for example, there could be small providers, small customers, small commercial installations where there may be aggregation of RECs where you look at out over a long period of time and try to make some estimate on the RECs that could be produced and the customers reimbursed for that and those are available in the market. So there's a multitude of ways that RECs could be provided and utilities should seek the least cost way of compliance.

MR. McWHIRTER: Well, that's my concern from the customer's viewpoint, the retail customer's viewpoint, how do we know that we're getting the biggest bang for the buck?

MR. FUTRELL: Right. And that would be part of the Commission's oversight of the REC market administrator as well

as the utility's annual reporting to monitor the market, to look at the cost the utilities are requesting recovery for to ensure that they're complying in the least cost method.

MR. McWHIRTER: Some proposals would entail very large capital investments in order to provide that. And in order to get the money to do that with either from equity capital or borrowed capital you'd have to have a long-term contract. And once -- I would think that if you enter into a long-term contract, you've preempted that segment of your availability. Is that not the case?

MR. FUTRELL: As far as selling RECs into the market?

MR. McWHIRTER: Yeah. Your REC would be, say, for ten years in order to enable you to recover the capital cost involved in developing that technology.

MR. FUTRELL: That would certainly be an option for the developer to decide whether they want to go ahead and sign over their RECs as a way to generate immediate capital or to withhold some portion of them that they estimate they can produce and potentially sell them in the spot market or through some other contractual, contractual means. So it's up to the developer to try to figure out the best way to, to market their RECs.

MR. McWHIRTER: Well, the developer is going to have to borrow money and he's not going to be able to borrow money unless he has a revenue stream that he can rely on. And so are

you going to have RFPs that people will come in at a point in time and bid for these RECs?

MR. FUTRELL: I think Ms. Brownless has suggested that be provided, that maybe provisions of that in the rule having some sort of an RFP. That would certainly get into the governance and rules of the market administrator and how that market is going to operate. That's something you may want to provide us some comments on.

MR. McWHIRTER: Yeah. That to me makes a lot of sense.

MS. MILLER: John Burges.

MR. WALLACE: My name is Wayne Wallace. We're a solar contractor distribution firm out of Largo, Florida. And I'm very concerned for the development of the solar industry as us being -- you know, we're probably 40 employees. So for Florida we're probably a large solar contractor, distributor, integrator here, but we're small when you look at companies out of California or some up in New Jersey. And as we're talking about caps on renewable energy credits, I would like to offer and make a suggestion that maybe we have some entity caps so those renewable credits are driven by Florida companies and those are jobs created by Florida companies. And the development of the solar industry in Florida is certainly my concern and create jobs for people within our company and, you know, all the other industry folks here in Florida to see their

industry grow or their companies grow. So I know that's one of the big objectives of the Governor is to develop a lot of jobs, the economic impact. So I would, you know, have you take a look at those entity caps, that those RECs stay traded here in Florida with Florida companies. Thank you.

MS. MILLER: Thank you.

Commissioner Skop.

COMMISSIONER SKOP: Thank you. I just wanted to speak to one point that was raised or offer an observation. The concept I think that has, that staff has mentioned as well as Ms. Brownless and I think Florida Crystals also with respect to the cost-plus model that staff has adopted, I think the model is a good one because I think it comports well with the existing body of avoided cost, that precedent the Commission has held. And the plus factor to that just merely is the REC market, as staff has properly alluded to, and that provides the additional incentive and the means to bring renewables to the State of Florida. So I think to me it's, it's very straightforward, it's very simplistic. You always have the energy and capacity payments available on unavoided cost, but the additional REC market provides that additional contribution over and above what avoided cost would traditionally be to bring renewables to fruition in the State of Florida.

MS. MILLER: Thank you. Yes.

MR. BURGES: John Burges. Just to reiterate the

point that Wayne Wallace just made, the design and implementation of a REC policy is easily gained, and we've seen that take place in New Jersey and Maryland. In Maryland, one solar, large solar company has 60 percent of the solar RECs, and they entered into a bilateral contract perfectly legally with the largest utility, which effectively gave them, you know, effectively a monopoly or certainly an oligopoly of that market.

So what designs will you, the staff, be proposing to limit the ability of individual companies to effectively get control of the market? And we have a number of exhibits we can show you of how far this has gone in those markets.

And to Wayne's point, most small, small and mid-sized companies, whether in the biomass industry, wind or solar industry, don't have teams of lawyers and regulators that can go around, Mark, to your, to your comment about sort of aggregating RECs. Have you actually seen that taking place in practice with small companies? Do you think the Florida companies really have the staff to go out and do that?

So the design of this REC structure should, in my view, have entity caps that are very, very stringent, that reduce the ability of out-of-state companies to come in at the expense of Florida ratepayers and effectively end up with 60 percent of the market.

MS. MILLER: Thank you.

I think we're ready for our lunch break. Is there anyone that needs to make just a final point on this section?

MR. MOYLE: I was just going to stir it up and ask when we get into the commerce clause debate, but I'll hold on.

MS. MILLER: Thank you all. And we're just going to take an hour. We kind of lost our, our time. So we will come back at 1:25. Thank you.

(Recess taken.)

MS. MILLER: Thank you. We are ready to go back on the record. And we are now at Rule 25-17.420, Municipal Electric Utility and Rural Electric Cooperative Renewable Energy Reporting. This is a pretty short rule, so do we have any comments on this rule?

Michelle Hershel.

MS. HERSHEL: I was to waiting to see if there was anyone else who wanted to speak. Michelle Hershel with Florida Electric Cooperatives Association. I'd like to say that we do appreciate what staff was trying to do with this proposed rule, but we do feel like the rule is unnecessary.

FEECA's members will voluntarily give you this information through a data request process. If this proposed rule were to be finalized, we would actually have three different rules that require some kind of renewable information. It's probably not the way to go. We may want to consolidate this type of information into one rule if you

really need it.

You know, if you need this information at the end of it all, if you need to fill in any kind of gaps that you may have to give to the Legislature, all we ask is that you request it from us. We don't need a new rule.

We also think there are some jurisdictional questions about the rule. I'm not sure if you want to get into that or not. And if you feel a rule is absolutely necessary, we did submit a proposal, too, that we think is appropriate.

MS. MILLER: Do you have copies of that proposal?

MS. HERSHEL: I've got a few that I can put out there. I e-mailed it to you.

MS. MILLER: Yes, we received it here. I didn't know if the others --

MS. HERSHEL: I have probably about ten copies I can put out.

MS. MILLER: You might put those for people to pick them up. Michelle, one question I have is about ensuring that the information we receive is consistent, especially within the cooperative and municipal utility filing, but also maybe to be consistent with what others are filing, or others are using in the other rule. So is there any point that you want to make on how we can avoid apples and oranges?

MS. HERSHEL: I think historically, Cindy, you can look at what we have done. We have followed the investor-owned

utility rules. A lot of our cooperatives adopt them in whole. You know, we are going to see what you want from the investor-owned utilities, and I can almost assure you you are going to get the information that you need. And any information that you don't have, like I said, we will voluntarily submit to you.

MS. MILLER: Mark Futrell.

MR. FUTRELL: Michelle, again, the staff was trying to come in from the point of view of trying to go along with the Governor's plain language initiative of just stating exactly what information we think would be helpful to the staff, to the Commission, and to other parties as far as monitoring what's going on in renewable energy in the state. And, certainly, the utilities you represent have a significant part of that. Munis and co-ops have up to roughly 20 percent of the market. It is a significant part that we feel like the information is important to have that, to know what is going on in renewable energy to be able to -- for the Legislature and other policymakers to have that information.

And also we felt like it was important that your utilities knew what was expected, that we weren't coming at you with different information requests. And I know you are saying submit data requests on an annual basis or whenever we need them, but we felt like if there is a consistent set of expectations, you knew to what expect, you knew what to

provide, and that you weren't having to react. Do you think there is some value in that kind of approach?

MS. HERSHEL: There may be some value in that. But, like I said, we closely follow what is going on with the other utilities. If we see that you are asking for that kind of information from them, you are going to get that type of information from us, also. You know, I just -- and also there are two other -- not just proposed, on the book rules that ask for renewable energy information that we are already filing that you can get requests from us, also.

MS. MILLER: Do we have any other comments on this rule? Thank you. We'll move now back to Rule 25-17.410, Florida Renewable Energy Credit Market. And we will start with -- we will go section-by-section. Section (1).

I apologize. I apologize. It is, yes, 25-17.400, the Florida Renewable Portfolio Standard.

Section (1), Application and Scope.

MR. CAVROS: Cindy?

MS. MILLER: Yes.

MR. CAVROS: George Cavros on behalf of the Southern Alliance for Clean Energy. I was wondering if we can get a clarification on, actually, all the sections within (1). And this may have been discussed briefly at the first workshop, but I see the word standards used, the plural, throughout. And are you contemplating having some kind of state standard by using a

weighted average depending on the type of renewable resources in each service territory? For instance, assigning Florida Power and Light, you know, a 4 percent standard, Progress a 2 percent, you know, Gulf, .5, TECO, .5, and coming up with a 2 or 3 percent statewide standard? I was wondering if I could get a clarification.

MS. MILLER: Tom Ballinger.

MR. BALLINGER: I don't think so. I think it is a single standard for each utility. We had this discussion the last workshop, I think, with Mr. Moyle. I think it is staff's intention to have a single number for utilities. Now, the annual filings will be how each utility intends to meet those standards.

MS. MILLER: Bob McGee.

MR. McGEE: Thank you, Cindy. Bob McGee with Gulf Power. Gulf would suggest in Paragraph (1)(b) after the term "if appropriate modify renewable portfolio standards" adding the language "and multipliers". If multipliers are contemplated in Option III, if those are selected by the Commission, Gulf would recommend reviewing those on an annual basis when the renewable portfolio standards are reviewed, and that would be a good place to insert them there as a suggestion.

MS. MILLER: Thank you.

We are still on Application and Scope in Rule

25-17.400.

Yes, Bill Ashburn.

MR. ASHBURN: The same (1)(b) on the line above that where it talks about the Commission on its own motion or upon petition by a substantially affected person or utility shall initiate a proceeding. I was going to recommend changing that to may initiate a proceeding. Give them a little more discretion to act on their own rather than mandate that the Commission has to act whenever somebody comes to them.

An example could be we have just resolved some docket and then somebody who doesn't like it requests a new proceeding to start and the Commission doesn't want to. So that was just a suggestion on some language.

MR. FUTRELL: And, Bill, we have had that discussion internally in staff, and our lawyers have told us that in rule language you have to be specific and not have permissive type language like that in the rulemaking.

MR. ASHBURN: Okay. Well, you are sort of tying the Commission's hands here. You know, they may have aggrieved parties asking for it and they must open a new proceeding every time someone doesn't like the answer to it, and I'm not sure that is an answer you are going to like.

MS. MILLER: The standard that we are told is if you use may you have to put what the criteria are as to when you will and when you won't hold a proceeding. So if there is some

suggested language that you have on standards as to when we would and wouldn't, we would welcome to see those.

MR. ASHBURN: We'll think about it.

MS. MILLER: Thank you. Other comments on application and scope?

MS. PETTUS: Cindy, this is Carla Pettus on behalf of FPL. We have a similar concern with the substantially affected person, and we thought that perhaps a better modification would be to establish the standard that is currently incorporated in FEECA, that the Commission may change upon reasonable cause.

MS. MILLER: Thank you. If there are no other points on application and scope, we will move to Definitions, Subsection (2).

MR. CAVROS: Cindy, I apologize. Section (c)?

MS. MILLER: Yes.

MR. CAVROS: It states that --

MS. MILLER: And this is George Cavros.

MR. CAVROS: I'm sorry, George Cavros, Southern Alliance for Clean Energy.

In a proceeding to establish or modify their renewable portfolio standards, each investor-owned utility shall propose numerical renewable portfolio standards based on an analysis of technical and economic potential for Florida renewable energy resources. And the last part of that section is to provide reasonably achievable and affordable annual

energy kilowatt savings.

I was wondering what the purpose was of that, the very last part of that section, and what the statutory authority was for affordable and reasonably achievable.

MR. TRAPP: I think that it goes to the section of the statute that speaks to the forgiveness relative to the RPS. And it occurred to us that those were the overarching criteria that were established in the statute that you had to have enough renewables out there to actually meet your RPS standards and that they had to be reasonably affordable, thus all the discussion about the rate caps and everything else. They appeared to be overarching limitations, if you would, placed on the RPS and the statute.

MR. CAVROS: This is George Cavros, again. I am just wondering those limitations aren't already explicit in the rate cap later on in the rule and thereby don't need interpretation by the Commission.

MR. TRAPP: That very well may be. I would just simply note that this is in the application and scope section of the rule, which to us is comparable to an intent section of a statute.

MR. CAVROS: Thank you.

MS. MILLER: Thank you. Other comments on application and scope? Bill Ashburn.

MR. ASHBURN: Yes. On the same point, I have the

same question about the word savings at the end. It seems like the renewable energy is renewable resources are providing production of energy, not savings of energy. So I wasn't understanding why the word savings was there.

MR. TRAPP: I thought it came from another document. I thought the statute, but --

MR. ASHBURN: Yes, the word savings didn't seem to match what the rest of the paragraph was saying.

MR. TRAPP: It was some phraseology that was picked up from somewhere. I will have to go find where it was picked up from.

MR. ASHBURN: Thank you.

MS. MILLER: Okay. Section (2), Definitions.

MR. GRIFFIN: Steve Griffin, Gulf Power. For the reasons we discussed earlier in conjunction with the other rule, Gulf would propose deleting Subsection (a) from the rule and just relying on the definition for renewable energy found in Subsection (b).

MS. MILLER: Thank you. Other points on definitions? Bill Ashburn.

MR. ASHBURN: Yes. On Subsection (b) and (c), and I think (f) and maybe (g), I don't know, but several of these are repeating definitions that are already in the statute somewhere. Is there some reason you don't just say something like for renewable energy as defined in Section 366.91 or

whatever the pertinent statute is?

MR. TRAPP: I will take that. That is my fault. I took the Governor to heart when he said rules should be self-contained and readable, and too many references to other places makes the reader have to go find those other places, and it's just simply that's the reason. It lends to the readability and flow of the rule.

MR. ASHBURN: It certainly improves the readability, I'm just worried about if the statute changes for some reason then we have to go back and have a rulemaking to change the ruling.

MR. TRAPP: I think that's the case anyway.

MS. MILLER: Other comments on definitions.

MR. BALLINGER: Cindy, I guess then for Gulf you would also then take out definition J, I guess the solar thermal system if we go with removing the Florida renewable resource?

MR. McGEE: Correct. Gulf would suggest deleting Subparagraph (j, (k), and (h), all related to solar thermal, as well as modifying Subparagraph (f), the definition of renewable energy credit to have it align with the statutory definition of renewable energy credit and removing the language of Florida equivalent solar thermal.

MR. BALLINGER: And that will be in your type and strike that you give us?

MR. McGEE: Yes.

MR. BALLINGER: Okay.

MR. TRAPP: Cindy, if I may.

MS. MILLER: Bob Trapp.

MR. TRAPP: I'm still a little troubled by doing that, because I don't have a good feel for the relative economics that would be afforded to the small solar industry in the RPS versus in FEECA. And since we haven't even gotten to FEECA yet, has Gulf done any kind of estimations as to what the relative impacts of addressing these programs with utility incentives through FEECA would be as opposed to letting them be market participants in an RPS market?

MR. McGEE: No studies or analyses of any particular hard type. But just anecdotally it seems more the solar thermal at a residence or a small commercial business seems much more applicable to the FEECA docket where we are already worried about things like measurement and verification, worried about load research, estimates of how much energy savings, for instance, a geothermal heat pump would attain, as well as customer acceptance rates, which in the RPS where the utility is required to comply with a certain percentage we can either purchase RECs, we can purchase energy and RECs from another supplier, and hopefully we can build and operate our own plants. There is no customer involved in that process.

Now, in small PV you may have customers that are

aggregated together, but with the solar thermal there is the added two issues, one is you are displacing electric consumption rather than generating electricity, so how do you measure that? Do you put a Btu meter on it? Do you have confidence in the Btu meter?

So there are some issues it, I think, that fit better with FEECA than in the RPS. So that is more anecdotal than it is analytical and quantitative.

MR. TRAPP: I guess I would encourage you to look at it more analytically, because it occurs to me that when we get on the FEECA side of things, that statute has its own self-contained definitions with respect to cost-effectiveness. And when we get on the RPS side there is a definite departure. I mean, my recollection is this RPS statute is the only one that says you can vary from the conventions of avoided cost, which we are doing by creating this extra REC market.

On the FEECA side, however, my recollection is you are contained more to a TRC type of analysis. My recollection is that in FEECA they took away the ability to -- well, they didn't take it away entirely, they just suggested that we look at things without looking at lost revenues on that side.

So, again, I'm hesitant to make a decision without information with respect to the relative economic impact on both sides of the equation. I know, for one, you know, staff had suggested that FEECA and RPS really shouldn't be looked at

separately, that we ought to integrate the systems and look at them together. But, you know, I don't vote in the Legislature, I just vote for the legislators, or a group of them. And so we wound up with two statutes that may be little bit in opposition with each other.

MR. McGEE: Again, I'm not clear either on how things will play out in the FEECA docket, because we have this new thing called demand-side renewable energy systems that will have to be dealt with there. And I'm not sure how any of that will pass the cost-effectiveness test, so I think we are plowing new ground there. But I do firmly believe that the solar thermal very much fits more like the other customer sited --

MR. TRAPP: I agree. It looks like a demand-side reduction measure as opposed to a supply-side provision measure. And, again, I think staff believes that the RPS statute in large measure does try to aim itself at grid side supply resources, but there are those tricky little caveats they put in there starting with apparently conflicting definitions and then going through to the if you don't get an incentive then you get to be counted over here. And it has created some trouble for us trying to sort it out. If you can help us, we would appreciate it.

MR. McGEE: Gulf believes that the definitions don't necessarily conflict with the interpretation, that that

definition of Florida renewable energy resources has been orphaned there. There is not a conflict in them.

I would point out two other things that might crop up if Florida renewable energy resources is included and left there as it is written in the strawman. One thing would be how do you treat, for instance, geothermal heat pumps? Is that considered a thermal source which is really more a pure play kilowatt hour avoidance measure than even solar thermal. Solar thermal, at least you can measure Btu output with some form of meter, not an electric meter. In geothermal you can't measure an output. You are avoiding kilowatt hours, so there is a little bit of a mix there.

Another just brainstorming type of thing. Let's say a farmer has got a water wheel in his backyard in a creek and he is running a fan for his chicken house out there. Can he sell RECs from that? Or if he puts something in place, would that be more likely a FEECA program if you had enough of those to lay out that you would do, or give an incentive in that arena rather than being in the REC market. So those are a couple of other things to think about.

MS. MILLER: Anything else on definitions? Then we are ready for Section (3), Renewable Portfolio Standard.

MR. TRAPP: I would just like to comment on that.

MS. MILLER: Bob Trapp.

MR. TRAPP: We had a lot of comment at the last

workshop about the numbers that we put in here, particularly the starting number of 2 percent, and I want to just reinforce what Mr. Ballinger said this morning. We need your data. We need good verifiable data. We were really struggling to try to lock this thing down about what we have even got now. So, you know, I challenge the data group that we have put together and the team leaders that are established for that that the burden really is on you to lock that down. And now Tom will be leading that effort through his group to issue -- you know, get more encouragement through data requests and refining, and we really do want to have an inventory starting in here.

We also have retained a consultant that we hope will help us in this area to define not only what we have got now, but what we can look forward to in the future. So we will strive to go forward throughout this rulemaking process to firm up these numbers so that we can have a realistic starting point so that we can then set realistic goals from it.

But I tell you right now, staff is not comfortable with these numbers, either, and we look to you to help us get them firmed down, because there has to be a reasonable balance between these standards and their economic impact. It just filters through this whole system. Thank you very much for the soapbox.

MS. MILLER: Thank you.

Rich Zambo.

MR. ZAMBO: Yes. I just wanted to follow up on an administrative type of question or issue, I guess. There is a lot of -- I say a lot -- there is a number of facilities out there that are renewable that I know haven't been participating in these proceedings. I know that almost all of the sugar processors run some sort of renewable generation using the by-product of sugarcane. I have no idea how much that totals. I know a lot of the pulp and paper industry generates using renewables, and we haven't got a whole lot of input from them.

I don't know how to get that information unless you have assigned that to one of the other team leaders to go out and dig that information out, and that's just an observation I wanted to make. Thank you.

MR. FUTRELL: Mark Futrell. We have identified those folks that handle biomass to handle, which covers the folks in the sugar industry to estimate gas and other waste products that can be used to generate electricity, and so we have tried to cover as many of the -- through our meetings we have had to discuss the renewable data, identifying renewable sources and trying to task folks to pull the data together.

MR. TRAPP: And I want to continue to reinforce this. It is in your best interest to get these numbers right going in. Because I will observe the relationship that I see in these numbers is if we wind up because of nonparticipation -- I mean, the staff can only do so such. The industry has got to

report. We don't regulate anybody but the investor-owned utilities. You have to report. If you do not report and that number becomes too low, you are going to have a low standard and you are going to wind up having a whole lot of RECs out there. What happens? The REC price goes down. It is in your financial interest to get these numbers right, because there has got to be a match.

MR. ZAMBO: Can I will follow up on that? I believe that every one of those facilities out there would have an interconnection with a Florida utility. So could we impose on the utility industry to give us a list of all their entities that they are interconnected with and that would give us a means by which to double-check.

MR. TRAPP: Yes, absolutely. But with the caveat that that is where Tom started with the ten-year site plans. The problem I think is that we don't have an accurate accounting for the behind-the-meter stuff.

MR. ZAMBO: But my point is if you know who is interconnected we can then go to those entities and get information from them.

MR. TRAPP: And I accept that challenge and extend it to the IOUs.

MS. MILLER: Eric Silagy.

MR. SILAGY: Thank you, Cindy. Eric Silagy with FPL. As I said in our opening remarks, FPL does propose to

raise the bar and shorten the timeline by increasing the target to 5 percent. That's what we would recommend by 2017, and 10 percent by 2025, and 20 percent by 2030.

Now, with that in mind, I take Bob's comments to heart and getting the information back so we can do the analysis. There are a few areas which I think would help us if we could get some clarification so we can make sure we get the data back.

Assuming utilizing the 1 percent example on the expenditure cap, that that is annual retail revenues. And my question is then what is the denominator on that calculation? Is it that number against the cost to install on a kilowatt basis? Is it the differentiation between avoided costs and the renewable costs, or is it using CPVRR calculation? Those make big differences in determining how many megawatts would be able to be installed on an annual basis and whether or not then the expenditure cap is achievable, or makes these targets, I should say, achievable.

MR. TRAPP: Correct me if I'm wrong, Tom, but I think our going-in position was that it was basically those costs above avoided cost.

MR. BALLINGER: That's correct.

MR. SILAGY: So it is the differential between avoided cost and the installed cost of whatever the renewable is?

MR. TRAPP: Let me put it this way. It would be the difference above what the utility would otherwise pay for the power.

MR. SILAGY: Okay. And what then would be the definition of the avoided cost, in what year? Is it the next plant that we would be looking to build, and what is the avoided cost that we should be using as the standard?

MR. BALLINGER: I think it goes a little different than that, because this would start day one before any avoided cost is out there to existing facilities. So it's an automatic adder to existing facilities that sell a REC.

Staff's intention here this first year of 2010 of 2 percent, we tried to capture what is in the ground today. What are basically there, and saying we are going to pay an adder to existing facilities in this REC market to get it started. By 2017 that should increase a little bit to 3.75 percent. So it's an annual figure, a pot of dollars that you have to pay above what you normally pay for the power in each year.

MR. CEPERO: Could I ask Tom, or Bob Trapp, or whoever just to expand on that so we have a precise understanding of how this rate cap will mechanically operate? I mean, I'm assuming avoided cost next year will be energy only, 2010 energy only, 2011 energy only. Probably energy only for the next several years, I don't know exactly when, but it could be as long as five, six, ten years.

Do you disagree with that?

MS. MILLER: And Bob Trapp is going to respond. And that was Gus Cepero talking.

MR. TRAPP: And I will let Tom respond, too, but my vision is just exactly the way we are used to doing it. I mean, we just recently got a position from Florida Power and Light enacting an aspect of this statute that proposed to install 110 megawatts of solar projects. When they made their filing, they did a revenue requirement projection, calculation of the impacts of that facility contrasted to what they would have otherwise have done, and that resulted in a net, I believe, of fuel. About a half-a-billion dollar increase in cost spread over the life of that facility. So you would annualize that number and that would be the annual rate impact.

MR. SILAGY: That's helpful. Thank you.

MS. MILLER: Judy Harlow.

MS. HARLOW: And this may have been covered this morning, but I would like to go back to Mr. Silagy of Power and Light. In your question to staff a few minutes ago you mentioned that Power and Light have proposed that we raise the bar on the numbers that are in the RPS, but you have also expanded the resources that you are counting toward that bar. So my question to you is if we did not expand those resources and we kept the resources that are required in staff's draft rule, and we believe in the statute, where would your bar be.

MR. SILAGY: We would have these same numbers. If you are alluding to whether or not nuclear power modernization and energy efficiency is counter or not, we would say you would still have these same targets, but the expenditure cap would have to be adjusted accordingly to make sure that the amount of installed capacity could meet the requirements.

MS. HARLOW: So just to clarify, your bar would be raised, but also you think that you need additional dollars to achieve those goals?

MR. SILAGY: You would have to have the capacity from somewhere.

MR. BALLINGER: And earlier this morning I asked you to give us those numbers absent those resources of nuclear and energy efficiency. So if I understand, you would say the percentage numbers would stay the same, but the revenue cap would have be adjusted upward.

MR. SILAGY: What we will do is now having the clarification about how the calculation is done, we will make the calculation for you on what would be required for FPL's based on our annual sales, what would be the required capacity or it would have to be added with or without nuclear power, or the modernizations, or the energy efficiency.

MR. BALLINGER: Will you give us an estimate of the cost of that added capacity?

MR. SILAGY: Sure. Recognizing that we would fully

expect those costs to be very dynamitic, and it is going to be very dependent on whether or not the expenditure cap allows us to go in and build these at scale, or if they are very tiny projects. You will have a great differentiation in pricing.

MR. BALLINGER: So I understand, I think, what you are going to give us is your original proposal is 5 percent by what year, I'm sorry, 2017?

MR. SILAGY: Correct, 2017.

MR. BALLINGER: But include energy efficiency, fossil optimization, and nuclear. That is what you would like to do. But you are also going to give us -- if you didn't those resources, it would still be 5 percent, but it would cost X more, perhaps.

MR. SILAGY: We will provide you the number so you can look at what the compare and contrast would be. We believe that nuclear power should be counted, new nuclear power should be counted. The customers are paying for that and it is zero greenhouse gas emitting. But if the Commission chooses not to include that as an example, then in order to hit the same targets so you are comparing apples-to-apples effectively, we will provide you with what it would take in installed capacity.

MR. BALLINGER: Okay. Thank you.

MR. SILAGY: You're welcome.

MS. MILLER: We are on still on Section (3).

MR. BALLINGER: I'm sorry, one more clarifying that.

Is there a way you could break that down by type of capacity? Like if it was all solar that has a low capacity factor versus all biomass that has a higher capacity factor? Obviously it is going to change the amount of capacity depending on the kilowatt hours it produces. You don't have to commit now. Can you at least think about that?

MR. SILAGY: We will definitely work with you on trying to give you as much visibility on the different technologies, recognizing that there are so many variables on the technologies and so many assumptions. And, of course, we have a tremendous amount of expertise on solar and wind, and we have visibility realtime as to what those markets currently are. While we do purchase electricity from waste-to-energy and biomass, and we are looking at those, we have some visibility, but the scale, the location, all of those are variables which have a great impact.

Moreover, I would say that particularly if certain exclusions are applied and the amounts of installed capacity go up, then the needs are going to be exponentially greater possibly, and the ability to meet those requirements by one, two, and three-megawatt type of projects and smaller projects, or even 10 or 20 megawatts is going to be more difficult. And the economies that you receive also by building larger projects even within certain technologies. A five megawatt solar project versus a 50 or 100 megawatt solar project is a

different price point.

MR. BALLINGER: I understand.

MR. SILAGY: We can work with you on those, and we will give you some assumptions based on what we would consider to be utility scale projects but for here in Florida. Wind is an example. While we would typically at FPL Energy be building a 100 megawatt wind farm, that's not realistic in Florida. But, you know, a 10 to 15 megawatt wind farm is realistic in Florida and we have the prices for that.

MR. BALLINGER: I'm looking in a more broader scale. Obviously if you have an RPS goal of a million gigawatt hours, let's just say a number, it's going to take much more capacity on a solar or wind scale than it will on a biomass scale just because of the capacity factors that those facilities operate at. And that is the kind of differentiation I'm looking for. Just kind of a general megawatts would I need if it was all solar or wind, megawatts I would need if it was all a biomass or a high capacity factor type of renewable, and just ballpark.

MR. SILAGY: Well, our biggest challenge is going to be the assumption of realistically how much biomass can we do in Florida. And I don't know that, and I'm sure others can help us provide that. How much waste-to-energy is really feasible. How much wind is feasible. We have a view on that. And, of course, we will also capacity factor adjust when we think about nuclear, because that is, again, on a base load

around the clock.

MR. BALLINGER: Right. Okay.

MS. MILLER: Thank you. We are on Section (3). Commissioner Skop.

COMMISSIONER SKOP: Thank you. And just to Mr. Ballinger's point, and also it's a point I think I had mentioned last time. I do think it would be very helpful not only for staff, and in support of staff for the various participants to be able to facilitate that type of analysis, the one Mr. Ballinger just spoke to. It would seem to me that irrespective of what the ultimate price cap may be, or the percentages, whatever, what it boils down to is what resources are available to commit to developing renewables. If you have a dollar amount that would be provided, what could you facilitate and develop with that dollar amount in terms of the various forms of renewables that are currently defined pursuant to the legislative direction.

You would have wind, solar PV, and biomass as well as the other renewables. And I would think that it would be a good idea that you would have some understanding as to what the installed capacity price would be for each of those renewables along the lines of what Mr. Ballinger just spoke to. We should have a good idea of net capacity factor for each of those renewable resources, and I think that by being able to look at what you could install and what the net capacity factor would

be you could estimate what your annual production for each those renewables would be and tie that into whether it was realistic to be able to meet certain renewable targets by certain dates. And I think that it is an interrelated analysis, and I would encourage each of the respective participants to try and participate in that so we can get the best possible data and make those decisions. Thank you.

MS. MILLER: Thank you. Michael Dobson.

MR. DOBSON: Yes, thank you. Regarding the percentage, and I just wanted to kind of comment on something I think Bob said earlier, you know, regarding the responsibility of the various participants to provide the data. My question is how do we get past the fact that Florida has never really had a vibrant or renewable energy market. So as a consequence, we don't really have a lot of data to go on with respect to current renewable development projects or activity in Florida. So what we'll have to do is to look at whatever those potentials are and those resources are and et cetera.

So that gets me to how is Navigant going to analyze the data that will be available to make sure that we actually get to whatever that realistic potential is for Florida? Because, you know, we really don't want to punish the renewable energy. We don't want to punish them for what we haven't been able to accomplish thus far because we haven't had the market to do so. So has there already been any type of parameters as

to how the data will be analyzed?

MR. TRAPP: Before you answer, I'm going to let Mark answer that because he has been dealing more directly with Navigant than I have, but I want to make it clear that my comments were more focused to establishing the starting point. We should know -- people know what they have got, and we just simply ask that it be reported and be reported accurately so that we have a good starting point.

As to the development of what is the potential, I will turn to over to Mark.

MR. FUTRELL: Yes. The contract between Navigant and Lawrence Berkeley Lab was just recently finalized, and so we are actually going to have a conference call, a kickoff conference call with them tomorrow just to see where we stand and start talking to them about the data information that has been collected through our process here and is going to be further refined and start working with them about some of their assumptions. And we will be having status conference calls where parties that are interested could participate and allow Navigant -- once they get their group and their team up and running, we'll have a status conference call where folks can listen in and ask questions of that. But certainly they will be developing scenarios to estimate what future policies may impact the development of renewables as far as government policies, tax policies, and so we will be getting into that as

we go through this process.

MR. TRAPP: Mark, if I could add, if I might, to that. It is my understanding that Navigant has done this type of work in other states, so they already have a pretty good feel for what's out there in terms of technology that can be applied. I think what we have offered to them is to share the date, the specific Florida data that we have been trying to collect through our collaborative with them so that they can contrast and compare that to their national database, if you would. And then it will be up to Navigant, quite frankly, to make a judgment as to what data they are going to use in their study. I mean, they are going to have the final call on what data.

So, again, I think the quality of the Florida data will depend on whether or not Navigant can use it or not. They may have better data they think than some of the areas that we are looking at. So it's going to be -- we anticipate Navigant working with our collaborative group, and our collaborative group working also with Navigant to come to an understanding about what data is used for their study. But, ultimately, Navigant has been contracted to do this study as an independent study, and we are not going to --

MR. DOBSON: Thank you. Because I just come from the perspective that if you build it they will come. In other words, if we build the right infrastructure regarding this rule

and regarding our policies that we will see a spike in renewable production in Florida.

MS. MILLER: Thank you.

Gus Cepero.

MR. CEPERO: Yes, thank you. Gus Cepero.

Following up on Commissioner Skop's comments, and FPL's, it would appear to me that we want to make sure that we coordinate or synchronize the RPS targets, whatever they may be. Five percent, 10 percent, et cetera, with the cost impact calculation. I don't know whether you guys have done that or attempted to do that or not, but we want to make sure that making reasonable assumptions as to the market share that solar will get, the market share that wind about get, the market share that biomass would get and the cost for each of those technologies. I know we have submitted and a lot of people have submitted data on the cost of those technologies.

You should be able to make at least orders of magnitude type calculations of what the rate cap impact would be for different RPS target levels. And I would hope that as a matter of just philosophy and policy that we should establish a rate cap which allows those targets, the RPS targets to be achieved and that do not -- so that the rate cap is not an artificial ceiling or constraint on the RPS target.

And if you are proposing to use the avoided cost methodology to calculate the rate impact, then use the avoided

cost methodology to calculate the impact. But my point is let's make sure that whatever target we set is not artificially constrained by the rate cap. And I'm afraid that a one percent rate cap may, in fact, be doing that.

MR. TRAPP: Let me just try to respond to some of your concerns. Number one, Navigant is not just doing a technical potential study, they are also going to do some scenario analysis to look at economical and realistic potential, so that will be input into this process.

I have to admit the timing of this process is just awful, but we are hoping to get results from Navigant before the Commission has to make a final decision on this rule so that we can tweak and fine tune it at the last minute, if need be.

Second of all, as you have heard from Tom already this morning, we are trying to probe the participants, particularly the investor-owned utilities that have the data and the capabilities to do some of this type of analysis. And if we don't see what we need in terms of the response to this workshop, I guarantee you staff is going to be issuing data requests to try to probe some of these areas.

And then, thirdly, this confusion about avoided cost. Avoided cost is not on the table here. Avoided cost is a separate program aside. What we are talking about is an incremental REC market and an attempt to value that market.

Now, in order -- as you have rightfully noted, in order to put some boundaries on the rate impact of that market price exercise, we have to go into impact on the utility's system. When you say avoided cost to me, it means our process of looking at a standard offer contract on a per unit basis, matching units to units and that type of thing. I don't think that is what is being proposed here. As I said earlier, what we anticipate doing are scenario runs. Revenue requirement runs of the effect with and without, more or less, that look at revenue requirements over time and not confine themselves to an arbitrary assignment of a unit-to-unit matching.

Now, I will admit that the Legislature did task us in the statutory language to give them information on levelized unit cost. I don't know how useful that information is going to be, but we are going to deliver that to them. But in terms of testing the revenue cap relative to the standards, I think it is more along the lines of the system analysis that we are used to doing where you do long-run costing and try to get decision-making from that.

MR. CEPERO: Bob, I appreciate that. My point, I guess, in its simplest form is let's make sure that when we set a target and we set a rate cap, you know, that we understand, subject to the limitations of the calculations and the assumptions and so on, what the impact of those targets will be on the rate cap. So that, you know, if you set a 20 percent

RPS target in the next five years, and then come in two paragraphs later and set -- but everything is subject to a one percent rate cap, well, then the one percent rate cap will dominate and will trump the RPS target. We need to have coordinated, synchronized RPS targets and rate caps, however we calculate those.

MR. TRAPP: I absolutely agree. We are trying to be realistic in Florida. We are not going down the path -- at least with this strawman we are not going down the path of other states of setting these grandiose targets and then capping them with all kind of out clauses and everything. We wish to have standards. Not goals, not targets, but absolute mandatory standards. And in order to do that, they have to be closely matched to what is the acceptable rate impact. And if that is one percent, or five percent, or 10 percent, or 20 percent, whatever the customer will bear to go down this path, that is what I think we have got to figure out. And then once we figure out how much we are willing to spend, that drives the targets. The targets don't drive the costs, the costs drive the targets, in my opinion. But that's just my opinion.

MS. MILLER: Thank you. Eric Silagy.

MR. SILAGY: The only thing I would add to the conversation, I think Gus hit on it and so did Commissioner Skop, but it is going to be important for us to make sure we

are comparing apples to apples on the technologies, as well. Installed cost is but more measure. It is an important one obviously, but the cost over the long-run for operations and maintenance is very different on many different technologies. The degradation curves is very different on different technologies. Even their locations within the state can be very different. The cost for transmission and distribution for these technologies can be and are very, very different. And it's a long list. Warranty is an example, whether it is self-build or using a vendor, whether or not there is performance guarantees and whether or not there is a company that is going to stand behind those performance guarantees versus just an IOU doing it.

Those are all very important issues which don't really or aren't very well reflected in just that headline "Installed Cost Number On Day One," because most of these plants are going to be at their best on day one from an output perspective, and it is very important to look at the technologies from a long-run. Because as an IOU, we are going to be operating these for decades. And it is important to look at it that way. And the operational experience that we have tells us that you have to really manage it with that in mind.

MS. MILLER: Judy Harlow.

MS. HARLOW: I wanted to ask you a clarifying question, again. I seem to need that a lot today. But earlier

you talked about your revenue cap would perhaps range from 3 to 5 percent, and you would address that further in your comments. But I think I understood you to say that that revenue cap may need to increase over time as the goals increase, is that correct?

MR. SILAGY: That's a possibility. We'll have to do the analysis on that to understand exactly what will be the requirement to reach the goals.

MS. HARLOW: And if you could address that in your comments, we would appreciate it.

MS. MILLER: Tom Ballinger.

MR. BALLINGER: Let me ask a question of FPL and, I guess, the other IOUs. We have heard several commenters before, I guess we have drifted to the other part of the rule and I didn't get a chance before lunch about the rate cap, the $16 a ton, and I would like your perspective on that. Do you think it is a good idea, a bad idea?

MR. SILAGY: Again, I would go back to overall from a REC standpoint. We don't think an in-state REC market works period. So an artificial cap within a system that doesn't work we just doesn't think would be feasible.

It's a good example of the many, many challenges of trying to establish a market. The administrative, the cost, the pricing, the management. It is very complex. And when you have an illiquid market with only a few players, even if you do

include others, it is still very small comparably speaking. Then it becomes a very difficult mechanism to put in place that actually works and functions properly. And, unfortunately, when you look at examples from other markets that are effectively gerrymandered into having certain, you know, attributes, whether it be caps or floors, and you don't let the market work, then the customer ends up bearing the price for that insofar as an inefficient market. So we just don't think an in-state REC market works period.

MR. BALLINGER: Thank you. Any other IOUs wish to comment?

MR. ASHBURN: This is Bill Ashburn of Tampa Electric. With regard to that issue, we sort of -- we heard a lot of the comments here today, as well, but they sort of mirror a lot of ours, too. It seems to us that if you are creating a market, creating rate caps in a market is probably not a good idea, and it may serve to constrain the ability of people to develop projects and so forth. So we generally didn't think it was a great idea.

You are limiting -- but that is caveated by the fact that, as Bob was saying, the energy is priced at avoided cost. So we think that having the RECs should track market need and market desire for RECs, particularly within the state of Florida REC market, it makes sense to not have a cap on the price.

Also, it was tied to a fixed number for $16 a ton in the rule, which the number could be all over the place and change over time. It just seemed unworkable and we are not sure it was exactly -- it should be tied, as someone else said, tied exactly to the price of carbon in the marketplace. There are other needs for renewables, and if suddenly the need for renewable was tied to reliability or the need for a fuel in Florida, why are you tying it to carbon only and that kind of thing.

MS. MILLER: Yes.

MR. BURNETT: Thanks. John Burnett for Progress Energy Florida.

Tom, to your question, I think we are largely neutral on it. I mean, to the extent a cap made sense for another reason, I think you had even mentioned beforehand there may be some existing units and that was some of your thoughts on having an initial cap. To the extent that made sense, we would agree with that. We also can see the benefits of not having one if it made the REC market price more competitive. We do take the point that Commissioner Skop made earlier, I think, and embrace that, that it may sense to make it more on a megawatt hour basis rather than the tons of greenhouse gas, but largely we are neutral.

MS. MILLER: Thank you. Oh, Bob McGee.

MR. McGEE: Bob McGee from Gulf. Gulf is also

neutral on that, and would support removing that as long as the total revenue cap were still in place. That is the primary safety net.

MS. MILLER: Thank you. So we have been on Section (3). I noticed there hasn't been any discussion on the Option I, II, and III on Page 4, options for wind and solar preference. I didn't know if anyone wanted to make any comment on that.

Bob McGee.

MR. McGEE: Bob McGee from Gulf. Just on Option III, I will comment that the way the strawman is written, if the 25 percent goal is met, let's say, with a Class 1 renewable energy source in the first year, then it appears the way the strawman is written the multipliers would then be canceled or end, and there would be an end to that. And it would essentially be useless thereafter, or the multiplier incentive.

So Gulf would suggest a change to the language that would say Class 1 renewable energy sources up to a maximum of 25 percent of the annual renewable portfolio standard, keeping in mind the change that we had suggested earlier for 17.400, Section (1)(b), where the Commission would review the level of the multipliers on a regular basis. And it would be straightforward enough for the Commission at some point to set the multiplier at 1, and say, okay, there is no longer a need for them for incenting these renewable sources because their

costs have come down competitively, and they would then become moot.

MS. MILLER: Thank you. Any other comments on that?

MR. CEPERO: Cindy.

MS. MILLER: Gus Cepero.

MR. CEPERO: Yes, thank you.

We would like to offer a concept that if there is going to be a Tier 1 and a Tier 2 and a set aside for solar and wind as Tier 1, that, again, going back to the rate cap, to be mindful of the impact that Tier 1 technologies would have on the rate cap. And perhaps have a separate rate cap for Tier 1 technologies and a separate one for Tier 2, or to take the rate cap and allocate a certain comparable percentage so that if Tier 1 technologies receive a 25 percent set aside of the RPS target, then Tier 1 technologies should be subject to a 25 percent of the rate cap. So that the impact of Tier 1 technologies on the rate cap is -- so Tier 1 doesn't eat up the entire rate cap I guess is what I'm trying to say. So we would propose allocating the rate cap between Tier 1 and Tier 2.

MR. TRAPP: What factor would you use, straight proration or --

MR. CEPERO: I would say straight proration. I would be open to looking at what the analysis and the numbers show. We certainly agree with the concept of incentivizing Tier 1 technologies, so perhaps a little bit disproportionate

allocation may be appropriate. But my concern is that the Tier 1 technologies could eat up a very disproportionate amount of a cap.

MR. TRAPP: And I guess that's what I want to know. How much money do you really want, because it comes down to that?

MR. CEPERO: You are a very utilitarian guy, Bob, do you know that?

MR. TRAPP: If you are trying to develop a solar technology that you already know is very highly costly, but you are counting on bringing that cost down over time by incenting it up front, it seems to me you would give like 75 percent of the rate cap to the solar guys, because you only need 25 percent to incent the existing stuff that has already been built and out there and just needs to continue to go. And the more cost-effective, you know, bio and municipal solid waste that, you know, could probably get along with avoided cost to begin with.

So help me with the numbers. Where do we put the breaks at?

MR. CEPERO: Let me make a couple of comments. First of all, I don't -- you have said you approached this from the first question you ask is what is the cost impact, and then depending on that answer, you sort of then produce an RPS. I do think that the Legislature said we want an RPS. We want to

create a market. We think there is a lot of benefits that come from this market, and we recognize that there will be a rate impact, but we also recognize that there is other offsetting benefits. And so I would think in terms, first, of what is a realistic, aggressive but achievable RPS target, and then calculate a cost impact rather than start with, I think, customers will only tolerate 3 percent and, therefore, back into an RPS. So I wanted to make that point.

The second point on how much to allocate between Tier 1 and Tier 2. Let's do some analysis. Let's do some numbers and let's see what a 25 percent allocation to Tier 1 will mean in terms of dollars and rate cap, and let's do the same thing with Tier 2, biomass and landfill gas, et cetera. And let's look at numbers and let's make some judgments.

But my concern is that right now there is a real risk that Tier 1 technologies would eat up a very, very large percentage of the rate cap, and perhaps limiting them to one-for-one may be a little too strict. Maybe it's something more than one-for-one, but not three-to-one.

MR. SILAGY: Cindy.

MS. MILLER: Eric.

MR. SILAGY: I'm sorry, I don't mean to take up so much time. Eric Silagy with FPL.

My only comment is I think we need to be very careful on any type of carve-outs when it comes down to technologies.

In our opinion we should be driving for the most effective technology that meets all the goals and objectives that the Legislature has put forth for the least cost. And there will be challenges within any of these classes, but there can be inefficiencies that are driven in the pricing in the market when carve-outs occur, and we should let the market determine what is the best, in our opinion, for whether it is solar or wind or biomass or waste to energy. But those technologies that meet the goals and objectives both in greenhouse gas and also, again, in energy security and price volatility, and do so on the most efficient basis.

MS. MILLER: Thank you. George Cavros.

MR. CAVROS: Thank you.

I just wanted to express our support for one of the two preferential treatments, either Option I or Option II. You know, there is some value in recognizing the benefits of these types of technologies, and the best way to incent them is through a set-aside. Multiplier Option III does give the industry more options, but what they have found in other states, and we will include these in our comments, is that they, in fact, have not incented the type of growth in the resources that they deem preferential. So we would support Option I or Option II, and we will refine our comments further.

MS. MILLER: Thank you. Any other comments? We do have some more. Bill Ashburn.

MR. ASHBURN: Thank you. One of our comments about -- we also support Option III, but one question we had was about the fixing of the number five in it. We thought it might be better for the Commission to set that number, say, periodically, or maybe every time a portfolio was being filed every five years, so it gives them some ability to manage it over time. If there is changes in what is favored, or how it is favored, or the economic conditions and so forth, and based on the status during the time.

Another element of that is once you set the number, the number sort of has an effect over the life of the contract that you have entered into. So if you set a multiplier for a particular time period and you have entered into a contract of that type you would like that multiplier to apply for the rest of the term of that contract.

I would also like to talk about Section C for a second. We haven't touched on that, and that is kind of our stuff you are asking from us.

MS. MILLER: Thank you. And let me see if Rich Zambo is going back to -- no, that's good.

MR. ZAMBO: Bill asked the same question.

MS. MILLER: Okay, great. Let's move to C.

MR. ASHBURN: I was wondering about the information request. It is a little unclear, and I wanted to clarify it with you guys. When it says, for example, (c)(1), where it

says you want to know current and ten-year forecasts of capacity for each resource. Do you mean each resource in all of Florida, each resource in our plan that we are going to file? Is it each resource that we are going to own? Does it include the resources that we are going to be purchasing power from or RECs? It is just not very clear from the language about what is being asked for when we file our portfolio standard filing. Or whatever we give you is okay.

MS. MILLER: Tom Ballinger is going to respond.

MR. BALLINGER: And this is good that we have this dialogue, because we are having to remember why we came up with this language. I believe we are looking for each utility in a service territory, what it owns, what it purchases, what is out there self-service. We are trying to basically every time get an update of your inventory and forecast.

MR. ASHBURN: That is what I was assuming, but the language wasn't very clear, and I wanted to make sure that is what you meant.

MR. BALLINGER: I'm pretty sure that's what we meant. We will talk among ourselves and make sure, but that is my understanding.

MR. ASHBURN: I assume that would apply also to 3 and 4, for example, about the effect on Florida of the stuff in our standard. In other words, what are the greenhouse gas emissions of the units that are in our standard that we are

buying power from or that we are producing power from.

MR. BALLINGER: Yes. I think it is each individual utility specific.

MR. ASHBURN: Okay, thank you. That helps.

MS. MILLER: I believe we are ready for a break. Is there anything else on Section (3)? Then we will -- oh, Commissioner Skop.

COMMISSIONER SKOP: Thank you. Just briefly.

I just wanted to comment with respect to a point that Mr. Silagy made that I thought was extremely well taken. I guess he had mentioned that it is important to look at the overall life cycle costs of various renewables in terms of O&M costs, the degradation curve of performance guarantees, and such, and I think those are important.

I think just to clarify my point, I thought that it was important to look at installed capacity just as a rough order of quantitative analysis that would show or give the Commission some sort of idea of what is feasible in terms of being able to achieve the implementation targets that not only the Governor but the legislative body has directed us to do, but also at what cost it would take to do those. So, again, that was just meant to be a rough screening analysis as opposed to any actual decree on what we should do or not do.

And I think that part of the struggle is we are trying to collect data as quickly as possible. And, again,

anything that the participants could do to facilitate providing that data would facilitate, I think, our analysis and allow the Commission to make, at least in my eyes, the best decisions. Thank you.

MS. MILLER: Thank you. We are ready for a break, and we will come back at five till 3:00.

(Recess.)

MS. MILLER: We are now at (4), Compliance. So we're ready for any comments on that section.

MR. ZAMBO: Cindy, I will talk if no one else wants to.

MS. MILLER: Rich Zambo.

MR. ZAMBO: What I would like to do is just echo Jon Moyle's comments from last Wednesday I think it was. I think we definitely need some compliance, and we'll give you some language on that.

MS. MILLER: Thank you.

MR. CAVROS: Cindy, George Cavros. I would also echo those comments. There is no enforcement in the compliance section, and, you know, I think it is definitely necessary in order to incent compliance, and we will refine our comments further, you know, when we submit them on September 2nd. But, you know, maybe that could take the form of an alternative compliance payment, and if that is not made, maybe a penalty in addition to that. But we will get that to you. Thank you.

MS. MILLER: Thank you. We did hear a lot of discussion on this last week, so do utilities have any comments they would like to make on compliance options? Any other comments on compliance? Well, we are ready to move to Section (5) on Cost Recovery.

Steve Griffin.

MR. GRIFFIN: Thank you.

Just to go back to our previous comments, Gulf does strongly support broadening the language of the rule to allow for cost recovery of utility-owned renewable generation. I think that is consistent with the intent of the statute and also certainly permissible under the terms of the statute, and for that reason we support it.

MS. MILLER: Thank you. Bob.

MR. TRAPP: I would just like to -- should there be any limitations placed on self-service or self-build options?

MR. McGEE: Gulf could envision limits that would be appropriate that would distinguish between typical self-build generation units of the size of 200, 500, 1,000 megawatts versus the renewable energy generation types which are generally 3 megawatts, 5 megawatts, 10 megawatts, 20, 100. Not much bigger than 100 megawatts. Not often bigger than 100 megawatts. So it would not be unreasonable, we don't think, to have some limits on that, but Gulf would like to see some recovery for those. Most specifically because those projects

are small, the barrier to utilities participating in this is that we would have to go to a rate case to do, let's say, for instance, a 3-megawatt landfill gas project in order to get recovery under the current strawman proposal given the comments that are made in the early part of it. In other words --

MR. TRAPP: Where do you see that in the strawman? I mean, the strawman just speaks of cost-recovery through the environmental cost-recovery clause, I thought.

MR. McGEE: Right. In the language, Subparagraph 5, cost recovery. Reasonable and prudent costs associated with the -- we would suggest the term production be used rather than provision -- production or purchase of renewable energy credits in order to be consistent with other language that is used throughout the statute and the rule. And I believe that would be adequate to allow for cost-recovery of capital investment by the utility through the environmental cost-recovery clause.

MR. TRAPP: Do you think the environmental cost-recovery clause is the proper place, or should we create a separate clause for this?

MR. McGEE: I haven't thought about it enough to have an opinion on that. I think it is adequate to do it through the environmental cost-recovery clause.

MR. TRAPP: We keep hearing about these other factors coming into play with regard to the value of the REC. You know, we put it in the environmental cost-recovery clause

because it kind of matched the concept of carbon reduction. But the more I'm hearing, I may be hearing a separate clause.

MR. McGEE: Well, a separate clause would allow, for instance, an additional incentive ROE, for instance, for utilities to invest in renewable energy generation. If it was done strictly under the environmental cost-recovery clause, it would be -- I would guess, I'm not terribly familiar with that clause. It would be a whole lot more difficult to do that type of thing, but that would certainly be adequate for Gulf's purposes to be able to recovery the cost of those projects.

MR. TRAPP: Should there be an RFP requirement before a utility is allowed to do a self-build option?

MR. McGEE: Are you asking would we have to have some exception to the bid rule?

MR. TRAPP: I guess what I'm asking, really my bottom line is what cost-effectiveness criteria should the Commission apply with respect to a self-build rule, and also with respect to purchase power options?

MR. McGEE: That's a very difficult question, and I think FPL addressed it in some way when they discussed the 110-megawatt language. I think there may be some additional criteria that the Commission would want to look at to make sure that the least-cost source was found and procured, but I don't know exactly what form that would take.

MR. TRAPP: Well, you are kind of touching on some of

the concerns I have about the provision that was put in the statute. I mean, to me that is a one-time-only provision that has special circumstances. I am quite troubled that, you know, the Commission never had an opportunity to look at the projects that were being proposed and determine whether they were the optimal projects, some ruling with respect to optimality. Some ruling with respect to are there other projects out there that are least costly, least impact on the ratepayer.

If we are going to be facing a revenue cap in this thing, what is to prevent the investor-owned utility to, you know, gobble up the cap?

MR. McGEE: I know in Gulf's case, and I believe the other IOUs have done RFPs in the last couple of years for renewable energy, and I think that is a good model to look at for what would be a benchmark cost for supplying renewable energy for such an RPS.

MR. TRAPP: Thank you, Cindy.

MS. MILLER: Mark Futrell.

MR. FUTRELL: Bob, do you have any thoughts on how the Commission should treat any revenues that may be associated with the sale of RECs from a utility-owned renewable generation resource, and should that be reflected in the rule?

MR. McGEE: It would make sense to treat them the same way as you would treat the costs associated with the RECs, so if you are flowing the costs of RECs through the

environmental cost-recovery clause, revenues associated with that probably ought to be treated in the same way.

MS. MILLER: Rich Zambo.

MR. ZAMBO: Thank you, Cindy.

Just following up on that, I am a little confused here. If the utility doesn't self-build, are they still going to be tied to the avoided cost? Is there costs and then anything above that will be considered renewable energy?

MR. TRAPP: That was my question, Rich, and I'm looking for an answer, too.

MR. ZAMBO: Well, I think it should be.

MR. TRAPP: I don't know what standard to hold them to if we are talking about, you know, these externality valuations that we are putting on things.

MR. ZAMBO: Well, it seems to me like if the nonutility sellers of RECs are limited to avoided cost, if the utilities want to have credit for their RECs they should be limited to avoided cost.

MR. TRAPP: And I agree, but you are not. Remember, this is cost plus. We are doing a REC add-on. How do I value that for the utility self-build option? When they are building they are kind of creating their own RECs outside of the -- they aren't having to spend money for the RECs outside of that market. That loop is confusing me, and I don't know what standard to hold them to on a self-build option.

MR. ZAMBO: Well, I think they would sign their own standard offer contract, and that would take care of their energy and capacity, and then they negotiate a REC on top of that, and then come to you. And if it is prudent, then you allow them to recover it. If it is not prudent --

MR. TRAPP: Should we have standard offer contracts for the REC market?

MR. ZAMBO: I would have to think about that. I heard that suggestion this morning. You know, I don't know that -- I don't know that the REC market is as needy of that as the energy and capacity market is, especially as the market is developing. I mean, I think the major provisions, just thinking about it off the top of my head is, first of all, does the REC qualify? There would have to be some sort of certification process. And how long do you want to sell it for, and then negotiate the price.

If you are saying should we have a standard offer price for a REC? Yes, that might be --

MR. TRAPP: And term. I mean, we have heard discussion here this morning about whether or not RECs should be principally aimed at, you know, a contract market, or an hourly market, or both. That kind of discussion. How do you define the terms for that market?

MR. ZAMBO: I was hoping that would be deferred until we are actually putting the market together.

MR. TRAPP: That could be the administrator's job.

MR. ZAMBO: Those could be some options that could be pursued at that point.

MR. CEPERO: Gus Cepero.

Bob, that is the question that I have been struggling with from the very outset. How do you determine cost reasonableness, or cost-effectiveness, or how do you decide this particular project or contract is reasonable, and just, and prudent, and should be approved and this other one should not. And that's why I got, perhaps, a little troubled when we started talking about avoided cost, because I don't think avoided cost by itself should be the standard. But I would offer that certainly there should be benchmarks for each of these technologies. You are collecting data. There is data out there available as to what are benchmark costs for the different technologies, and I would look at benchmarking as a -- not an absolute test, but as a sanity check, or as a comparison.

So, you know, if biomass -- the benchmark for biomass is 12 cents a kilowatt hour and somebody comes in with 15 cents a kilowatt hour, a red flag goes up. And you have to ask the question why 15. Or if somebody comes in at nine, then you have to look at your benchmark. So I think benchmarking is one.

And in the case of self-build options, I think that

the utility should have the burden to demonstrate that they made reasonable efforts to look at alternatives, to talk to independent producers, and they concluded that either there was no one that was willing to build the facility or that no one could build the facility for the price that they are offering.

So I think that -- I don't think we need to go to the point of a bid rule, or, you know, have a very complicated process, but I think that there should be some basic burdens of proof that need to be overcome by the utility/petitioner requesting cost-recovery. A, how does it look against benchmarks? B, did you do a reasonable canvas of the market to determine that self-build was a better alternative?

MR. TRAPP: I do keep hearing allusions to waiver of the bid rule, and I'm not sure I understand what all of that entails. I know one aspect of the current bid rule is that whatever is projected by the utility, we hold that as a benchmark in the rate case, and anything beyond that benchmark has to be, you know, rigidly justified by the utility. Is that type of protection reasonable?

MR. CEPERO: You know, I think at least initially --

MS. MILLER: Is the mike on?

MR. CEPERO: I don't think you have the amount of data, the experience base with renewables that you have for conventional technologies to apply very strict standards. You know, there's I don't know how many hundreds of combined cycle

units that have been built in the United States in the last ten years, so there is a wonderful database that tells you within pretty tight ranges what the cost should be. There is no such thing, certainly not for biomass.

A lot of these projects, again, in the case of biomass, tend to be very region specific. Depending on where you are, the cost of a biomass supply itself may be higher or lower. So I think it would be -- you know, I wouldn't advocate a very, again, tight no yield number. But I think benchmarking is appropriate, and I think expecting a burden for the utilities to show that they went through a process where they investigated alternatives, both self-build as well as procurement, is absolutely appropriate.

I don't think you are going to have to -- you're not going to have a numerical formula like you have perhaps on avoided cost and some stuff that you have been doing for 20 or 30 years. So I think you are going to have start some qualitative to begin with, but you should start with something, not just nothing.

MS. MILLER: Suzanne.

MS. BROWNLESS: Thank you. Perhaps my understanding of this is way too simplistic, but my idea when I looked both at the statute and at the draft rules is that a utility could build a renewable facility and it would generate RECs, and that renewable facility would be certified by the independent

administrator, or whoever runs the REC market, and it would be given so many RECs, and then those RECs could be used by the utility to meet its goal.

I mean, now, I didn't anticipate, foolishly perhaps, that these renewable facilities would not be rate based. These renewable facilities, like all other generating facilities built by a utility, would not follow the normal rate based process. Perhaps I was foolish in that.

I see the Paragraph 4 that allows recovery of FPL's 110 megawatts to be limited to 110 megawatts. That's what I think the statute says. That's a very specific pilot project that, God bless them, they got in the statute. Good for them. But I don't think that that is the basis to expand cost-recovery for utility built renewable facilities to always be through some type of clause, whether it is through the environmental cost-recovery clause, or some other renewable energy cost-recovery clause that is subsequently developed. That is point number one.

Point number two, as someone who worked very diligently back in the day to get the bidding rule in place, it distresses me that every time I come to the Commission some investor-owned utility is talking about not using the bidding rule. The whole idea of the bidding rule was that would be a means by which when an investor-owned utility came in for a need determination they would be able to say it's

cost-effective because I put this capacity out for bid, and people responded, and what they wanted to do was less cost-effective than what I want to do. Or, conversely, I put it out to bid and people came back with a more cost-effective unit, but because I'm trying to have fuel diversity, or I'm trying to meet some specific criteria, notwithstanding that, I want you to let me build whatever it is I am proposing to build.

So I don't think that renewable energy, self-build renewable energy ought to be a get-out-of-the-no-bid-rule-for-free card. I'm not in favor of that, because I think that the bid rule and an RFP process for renewable projects will do what Gus is talking about. In other words, it will give third parties an opportunity to participate in this market for larger facilities.

And I guess that it is also troublesome to me that every time you turn around investor-owned utilities are asking for another means of recovering their costs up front immediately rather than through what used to be the regulatory compact, what used to be rate based items that were reviewed through minimum filing requirements and full blown rate cases.

I have got a 22-year-old, and the year she was born was the last year FPL came in for a rate case. I don't think that's necessarily good. I think that the regulatory process has got to work, and the more exceptions you make to that for

either recovery of renewable plants by IOUs through a separate accelerated cost-recovery program or nonrate-base program from a total regulatory standpoint, I just don't think that is a good idea.

MS. MILLER: Thank you. Further comment?

Rich Zambo.

MR. ZAMBO: Yes. I have also got a concern. If you use a different standard for a nonutility facility, if they are tied to avoided cost, standard offer or whatever it is, and the utility is not, I think you have got a discrimination issue, and I think that is a serious -- that's pretty serious. I'm not sure you can overcome that. So I think you have got to have fair treatment either way. Either you let the renewable energy facility recover its reasonable cost of building that facility plus a renewable energy credit, or you require the utility to use avoided cost as its basis for cost-recovery if it's going to compete in the marketplace with the nonutility entities. Thank you.

MS. MILLER: Thank you.

Bob McGee.

MR. McGEE: Let me just follow up very briefly to Ms. Brownless's comment. I would not disagree with her if our renewable energy projects were 500 megawatts, 1,000 megawatt projects, but given a 3-megawatt landfill gas project, a 10-megawatt PV project, it doesn't make sense for the

Commission or for the utilities, I believe, to do a rate case for each one of those particular projects. That's really what we are asking for here.

MS. MILLER: Eric.

MR. SILAGY: Eric Silagy with FPL.

I would like to follow-up on that. With regards to the 110 megawatts which has been referenced several times in this, to me, yes, the legislative intent was very clear as to how to recover on 110 megawatts, and we believe that is a framework that has resulted in action going forward. To be clear, that 110 megawatts was not for projects within FPL's service territory, that was 110 megawatts anywhere in the state of Florida which would require a series of tests to be met. Which land, transmission, et cetera, if those tests were met, those projects were moved forward.

Now, I think it is clear that at least on that area the Legislature spoke clearly that speed to market was important. The ability to get renewables installed in Florida in a fast manner was important, as well, and they put some precedent on that by putting that language in. And I believe that that provides -- that is within the general framework then of the Commission to look at that for their authority in going forward.

And then there is also provisions already for the Commission that says on Page 97, the Commission shall have

rulemaking authority for providing annual cost recovery and incentive-based adjustments to authorized rates of return on common equity, et cetera. There are mechanisms in place that can be followed for this. And the system is working, we are moving forward very quickly on projects. That is not to say it should be open-ended, that it shouldn't have review. Nothing in our proposal would take away the Commission's ability to review the projects and hold them to a standard of being reasonable and using commercial regularly adopted practices.

And on the 110 megawatts that we put forward, we went out for a request for information to 43 companies worldwide, and there was a robust process that went through, and we continue to have those discussions with companies on an ongoing basis, and that provides us insights into the marketplace.

If you go into a ratemaking procedure, or a regular drawn out process, you are going to end up taking years to get individual projects done. And, frankly, particularly on the smaller projects to Gulf Power's point, I think it will chill the incentive to do so, and you won't see the projects going forward.

MS. MILLER: Michael Dobson.

MR. DOBSON: Yes. I just want to say our members are renewable energy developers and producers who are interested in actually doing projects on the grids of our Florida utilities. So in the spirit of the Governor's executive order and the

spirit of what the Legislature has asked us to do, I want to ask as we move forward that we look at various aspects of this rule, of this proposed rule, and I think earlier you stressed that it is just a proposal, it is a working document, but I want to ask that you really take a look at various aspects of it and ask yourself are we creating a document that allows for more renewable energy development by third-party or independent renewable energy developers in Florida, or are we simply creating a document that will allow for a utility to essentially to create its own renewable energy, or do its own projects, and not actually create those jobs that the Governor talks about and that all the politicians talk about creating this green industry in Florida by bringing a market into the state for renewable energy development.

MS. MILLER: Thank you.

Are we now on Section (6), the final section, reporting requirements? It looks like we are.

Are there any --

MR. McWHIRTER: Could I say something about (5)?

MS. MILLER: Sorry.

MR. McWHIRTER: In response to what Bob McGee said, he said that they have three and five-megawatt operations that he didn't think you ought to have a base rate case for those applications. Well, I would suggest to you that you shouldn't have a base rate case for those applications. It should be

just like the extension of a distribution system, or transmission system, or other capital upgrades into your system, your system that's already in the rate base. The only time you have a base rate case is when the earnings fall outside of the authorized limitations.

So, Bob, when your company goes in to build a small RPS program, you include it in base rates. Your base rates cover that and you shouldn't have guaranteed cost-recovery with respect to that kind of expenditure.

Now, that wouldn't apply to an independent supplier who is going to sell you something, and when you have an independent supplier that's going to sell you something, then Suzanne's idea of an auction or your idea of a specified capital cost if it comes with a price, it won't be any greater than that, we'll permit it, but if it is greater than that we won't permit it kind of thing would be appropriate.

Thank you, and I will shut up.

MS. MILLER: Thank you.

Bob McGee.

MR. McGEE: Thank you. Just one minor word to reply to that. One differentiation between a small renewable energy project and the expansion of transmission/distribution services to serve customers is that capital investment to serve customers is generally associated with growth of the company, growth in kilowatt hour sales, growth in revenue. In this

case, the investment in a renewable energy project is simply to comply with a mandate which doesn't have any revenue associated with it, and that is where we are looking for the additional or the recovery of the costs associated with that.

MS. MILLER: Thank you. Paren 6, reporting requirements.

It appears we have no comments on that one, and we have completed all three rules. I really appreciate the diligence that everyone has shown.

We probably need to have just a few follow-up comments that we are going to make, and I will start with Bob Trapp.

MR. TRAPP: Well, I assume that we are going to talk next about what is to come, which is post-workshop comments, and so I had taken down just a few notes. They are certainly not all-inclusive, but they are key questions in my mind that I need answers on, and I wish that you would take into consideration maybe dwelling on a little extra in your post-workshop comments.

And, again, we have discussed these throughout the day, but I still have confusion in my mind about the use of bilateral contracts in the REC market design, or the use of hourly trading in the REC market design, or some combination of the two. I still am torn with regard to the issue of rewards and penalties for compliance with the RPS. Cost-recovery,

whether there should be a separate clause for accountability, and reporting, and handling unique cost issues associated with renewables. Whether there should be an RFP type process for utility self-build options, and/or some type of cost-effectiveness criteria for self-build options. Standard offer contracts, should there be standard offer contracts in the REC market and then how is the revenue requirement cap to be calculated, the exact calculation. Those are some of the key points that I would like to think more about, and it would be helpful if I had your ideas in writing.

MS. MILLER: Judy Harlow.

MS. HARLOW: I think I have been listening a lot to expressions of concerns that there weren't enough teeth in the rule as far as penalties go, and I would like the parties that addressed that to come up with specific language. I think Bob referred to that, as well.

Another concern that I have heard expressed throughout the day is how do we get the biggest bang for the buck, for the set of dollars that we have that we want to use toward this. And any thoughts, specific thoughts you have within the structure of the rule, specific language on how to ensure that the best projects get built, how to ensure that the least cost RECs get purchased, I would appreciate that.

MS. MILLER: Mark.

MR. FUTRELL: We have heard from quite a few parties

commenting on the REC cap that staff proposed and suggesting that it be best not to have a REC cap. And I would like to challenge you to consider and maybe write some comments to the effect of if there is no REC cap, should the rule include any protections so that in the event there is any imperfections or any anomalies in the REC market that could lead to higher ratepayer costs, should the rule include any protections that are allowing the Commission to intervene.

MS. MILLER: Tom.

MR. BALLINGER: (Indicating no.)

MS. MILLER: No.

The deadline for the post-workshop comments is September 3rd, not the 2nd, and we do urge you to do the type and strike alternative language, and then a rationale with that so that we can follow it. These do need to be filed with the Clerk's Office. You know there is a docket now. So rather than through us, they will go through the Clerk's Office.

Also, I really want to thank all of you for coming. We know that some of you had a really tough time getting here and we really appreciate you making it here. And also the employees who are helping restore power, we really appreciate that.

MR. FUTRELL: And also on the transcript, the transcript from last week's workshop is available. It should be in the docket file. We also put it on the workshop page on

the website, as well. So be looking for that. And the transcript for this workshop will be available at some point on September 2nd. And our staff will be working diligently to try to meet that deadline, and we will get that out as soon as that is available.

MS. MILLER: Judy.

MS. HARLOW: And to facilitate the type and strike, we have e-mailed, and hopefully you got it, a Word version of the rule, the draft rule to you. And we are also putting that up on our website under renewable energy activities page.

MS. MILLER: Thank you so much.

MS. PETTUS: This is Carla Pettus with FPL. Given the additional questions that were just teed up from staff, we were wondering whether or not you could accommodate the schedule by slipping it an extra week for us to be able to provide comments?

MR. ZAMBO: I was going to ask a similar question, because I understand there is another little storm down there that may be heading into the Gulf over the weekend. So a few days, a week, whatever you can accommodate us with.

MR. FUTRELL: I think we could entertain the idea of maybe giving you to the end of next week, you know, Friday, close of business Friday, which would be the 5th. I think that would be accommodate -- but, again, the staff has got to almost immediately begin considering your comments that you have given

to us today as well as last week, and then begin working on considering revisions to the strawman, and then start preparing the recommendation. Because this has to be filed with the Commissioners for the Commission consideration on October 2nd. So I'm comfortable with September 5th, close of business.

MS. PETTUS: This is Carla Pettus. Just a clarifying point. The transcripts will not be available until the 2nd, is that correct?

MS. MILLER: That is correct.

We really appreciate your participation.

(The workshop concluded at 3:33 p.m.)

STATE OF FLORIDA)

: CERTIFICATE OF REPORTERS

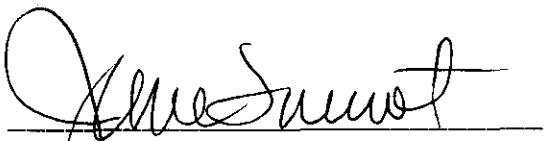
COUNTY OF LEON)

WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR, Official Commission Reporters, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 2nd day of September, 2008.



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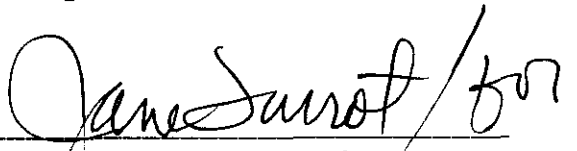

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