BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090172-EI

PETITION TO DETERMINE NEED FOR FLORIDA ENERGYSECURE PIPELINE BY FLORIDA POWER & LIGHT COMPANY.
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PROCEEDINGS:	AGENDA CONFERENCE ITEM NO. 7
COMMISSIONERS PARTICIPATING:	CHAIRMAN MATTHEW M. CARTER, II COMMISSIONER LISA POLAK EDGAR COMMISSIONER NANCY ARGENZIANO COMMISSIONER NATHAN A. SKOP
DATE:	Tuesday, October 6, 2009
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR Official FPSC Reporter (850) 413-6732

P R O C E E D I N G S

CHAIRMAN CARTER: Staff, you're recognized to introduce Item 7.

MR. GRAVES: Good morning, Commissioners. Robert Graves from the SGA Energy Resource Planning Section.

Item 7 is staff's recommendation concerning FPL's petition for a determination of need for the Florida EnergySecure pipeline. The proposed project would be a 280-mile long, 30-inch diameter natural gas pipeline built entirely within Florida.

FPL's intrastate portion of the line would receive natural gas from an interconnection with a separate interstate pipeline owned and operated by a third party referred to as Company E for confidentiality purposes. From its interconnection point in Bradford County, FPL would transport natural gas to a terminus at its Martin plant site. The projected in-service date of the pipeline is 2014. This coincides with the in-service dates of FPL's modernization projects at its Cape Canaveral and Riviera Beach sites.

The initial capacity of the pipeline would be 600 million cubic feet per day with potential for expansion up to 1.25 billion cubic feet per day as needed to meet FPL's future natural gas requirements.

In many respects, this need determination is unique. In addition to requesting a determination of need under the provisions of the Natural Gas Transmission Pipeline Siting Act, Section 403.9422, Florida Statutes, FPL has also asked to include the approximately $1.5 billion cost of the project in its electric rate base as electric plant and would seek cost-recovery for the project in a base rate proceeding when the pipeline is placed in service.

Because this is largely a case of first impression, staff has developed a number of alternative recommendations for the Commission's consideration. In order to navigate the issues, staff has suggested an order in which to address them. The suggested order is shown on Pages 3 and 4 of staff's recommendation. Staff has also prepared a flow chart that shows how the issues in this case interrelate to each other.

Essentially, the issues can be grouped into three main categories; planning assumptions, need and cost-effectiveness, and regulatory treatment. Basically, it comes down to this: If the Commission determines that the Florida EnergySecure pipeline is the most cost-effective alternative and is needed, then the Commission must decide whether the project should be included in FPL's rate base under Chapter 366, Florida Statutes, or whether the project should be a separate entity under Chapter 368, Florida Statutes.

If regulated under 366, costs would be reviewed at FPL's next base rate proceeding. If the project is regulated under 368, the costs would be reviewed through the fuel and purchased power cost-recovery clause.

Commissioners, that concludes staff's introduction. With your permission we would propose to address the issues in the order shown on the issue flow chart.

CHAIRMAN CARTER: Let me do this. I have misplaced my flow chart. Staff, do you have one that I could have? I've got all of this paper except the paper that I need. Thank you.

Commissioners, as we go through this process, I want us to -- and as staff goes through this, I want them to go through both the primary and the alternative so we can see how this flows out. I mean, I'm glad we do have a flow chart, but I want to see how that flows out so that when we do get to Issue 17 we will be where we need to be.

Commissioner Skop, you're recognized, sir.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just to legal staff, with respect to the proposed order on the issues flow chart, I guess would it have any -- would there be any impact, if any, if the Commission were to proceed as proposed by staff with considering the planning assumption issues only to adopt either a primary or alternate later in the process? I guess I am wondering is it -- certain alternatives or primaries in the issues below the planning assumptions may cause you to go back to the starting point for practical purposes. So for the planning assumptions is it appropriate to consider those or would they be superseded if the Commission did something later in the issue -- or further down on the issues flow chart? I'm not really kind of articulating that well, but --

MS. BROWN: If I understand your question, I don't think so. But I also wanted to turn to my staff to get their opinion on whether anything would be -- what you are asking is if you determine the need and you determine that it is cost-effective, does that preclude you from any other decisions.

COMMISSIONER SKOP: No, I don't think that's my question. I think my question -- I guess one of the concerns raised by staff is obviously the bidding process. So if the Commission were to determine that perhaps that, you know, rebidding would or possibly be required, but we have already decided some preliminary issues on this matter, what is the impact, if any, of those prior determinations.

MS. BROWN: Well, I don't think the prior determinations would adversely impact the Commission's decision to rebid.

COMMISSIONER SKOP: Okay. All right. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner. I think I followed you. I had a question about that, too. Does that mean that by adopting the planning assumptions we have to go to -- are the planning assumptions the overriding issue that we need to do before we go anyplace else, or can we look at the rest of this before we adopt the planning? I'm confused.

COMMISSIONER EDGAR: Mr. Chairman, as am I.

I would like, if it's possible, to have discussion and hear all of ya'll's questions -- I'm just reminded, my son told me I'm not supposed to say you all. I heard the little third grade voice saying, "Mommy, you're not supposed -- that's bad grammar."

But I would like to hear the questions and discussions, because as I said a moment ago, I'm wondering if -- and I'm glad that we have at least two kind of paths to work our way through this, but there may be a third, or a merger, or something. And so I guess I would ask for the discussion and the opportunity to hear from staff, and to hear the questions that each of you have to help educate me before we take some of those first votes would make -- I think it would help me, but I absolutely want to do whatever we can to work through it in an orderly manner.

CHAIRMAN CARTER: I agree with you, Commissioner. Before we take any votes, that's why I was saying we have got this grouping about the planning assumptions, and it seems like everything flows from that, but that kind of boxes us in, in my opinion, if we did that. I would like to --

MR. BALLINGER: Chairman Carter, if I could help.

CHAIRMAN CARTER: Mr. Ballinger.

MR. BALLINGER: Yes. The first grouping, we called them planning assumptions, they really -- I think there is consensus among staff there's no primary or alternate, it is one recommendation for all of those issues. And that basically says that something needs to be done to get transportation capacity by 2014, not which project it is or anything like that, but there is a need, if you will, for additional gas transportation capacity by 2014. So I think that's kind of the first step to say we need to do something. What it is, those are the later issues.

CHAIRMAN CARTER: Okay, thank you. Thank you. Commissioners, questions now? I feel fairly comfortable with what Mr. Ballinger just said. That answers my question. And it was really a procedural issue in terms of how we would go through the case itself.

Commissioner Edgar, you're recognized for questions.

COMMISSIONER EDGAR: And I would ask if staff could present to us Issues 1, 2, 4, 7, 8, and 9. And hopefully there will be some questions and discussion and see where that takes us.

CHAIRMAN CARTER: One second. Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Well, I agree with that. Can we have staff as you walk through -- even though you read it, and for me it is -- I don't know whether it's, whatever they call that, dyslexia, or whatever it could be, sometimes it's good to hear not only staff's opinion, but go through and give the sides.

You know, FPL thinks this is the reason we need it. This is how we are going to save. And FGT says no, we can build it, and we can do it. I think that would be good to have in the discussion as we go along.

CHAIRMAN CARTER: I think that makes good sense. And that would definitely help me, too, Commissioner. I don't think it's dyslexia, I think it's just there are so many moving parts we need --

COMMISSIONER ARGENZIANO: It may be ADD or whatever they call it.

CHAIRMAN CARTER: Now, I do have the ADHD. (Laughter.)

Mr. Ballinger, you're recognized.

MR. BALLINGER: The first issue where there is a primary and alternate is Issue 10, so I think the first six issues it will just be primary, and we will let staff who is responsible for those issues tee it up.

MR. HEWITT: Commissioners, Craig Hewitt, Commission staff.

CHAIRMAN CARTER: Hang on a second.

Mr. Ballinger, were you done?

MR. BALLINGER: Oh, yes.

CHAIRMAN CARTER: You may proceed.

MR. HEWITT: Issue 1, is FPL's forecast of future natural gas pipeline transmission capacity requirements reasonable for planning purposes?

Yes. Staff recommends that FPL's forecast and assumptions are reasonable and appropriate for use in this docket. And staff will answer questions.

COMMISSIONER EDGAR: Okay. And I guess in response to what I think Commissioner Argenziano was asking, and it's obviously here before us, but the position of the parties was opposite on that?

MR. HEWITT: Pardon?

COMMISSIONER EDGAR: That is a question.

The position of both parties that participated in this hearing, their positions were opposite on this.

MR. HEWITT: That's right. FPL says yes, their forecasts are reasonable. FGT says no, they are not. They disagree on the customer forecasts.

CHAIRMAN CARTER: You're recognized.

COMMISSIONER ARGENZIANO: Rather than a yes or no, could you tell us why? And I'm reading it in front of me, but just FPL's says that -- I mean, as far as capacity and the need, and FGT. And I think as we walk along, if you can verbalize those it helps, it really does. It helps me anyway. In other words, FGT feels this way, FPL feels this, why, because.

CHAIRMAN CARTER: Let's start over.

MR. HEWITT: Some background. The need for additional future natural gas pipeline transmission capacity is determined by the increased load demand which is driven by customer growth. So customer growth is the main driving variable here.

FPL's customer growth forecast is based on a Florida population forecast from the University of Florida's Bureau of Economic and Business Research done in October 2008. FPL substantially reduced its forecast to net energy for load in its MFRs for this case from its Ten-Year Site Plan filed in April of 2008. In March of 2009, BEBR updated its population forecast by revising downward the short-term projected population and then resuming the same long-term growth rate in 2012 contained in its October 2008 forecast.

FPL's projections still fall between BEBR's March 2009 low and high case projections bands. And, FGT basically disagrees with those assumptions that FPL made by assuming that growth would pick up after the recession ended and would eventually reach its long-term growth trend.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: FGT doesn't agree with that because they feel that the Cape Canaveral and Riviera Beach plants could meet the need?

MR. HEWITT: That's a technical question that other staff will have to answer.

COMMISSIONER ARGENZIANO: Well, see, what I'm trying to get at is here is one party's, here is the other party's, and then here is why staff in Alternative 1 and Alternative 2 agree or not. That's how I'm going to decipher, if you will -- I think that's a southern term, too.

CHAIRMAN CARTER: That makes sense.. I got you. I usually leave the D off and say cipher, but --

COMMISSIONER ARGENZIANO: Cipher, okay. But you can read it, and read it, and reread it, but when you hear it put together all at once, I mean then it just -- somehow it clicks better for me, or I would just rather it be presented that way than rather he says no, we say yes, and this is Alternative 1 and Alternative B. A brief description probably would go a long way.

CHAIRMAN CARTER: Okay. Commissioner Skop, you had a comment before we proceed?

COMMISSIONER SKOP: Yes, Mr. Chair. Just on that same question with respect to the comparison and contrast between the position of the respective parties, whether it be FGT or FPL, and in particular on this issue, I think, at least on FGT's position, I just want to get clarification. FGT is asserting that the capacity or the forecast is not appropriate because the additional incremental 400 million cubic feet per day is not needed until 2021. Is that essentially the difference between the two?

MR. STALLCUP: I think that is the bottom line. There are really two components inside Issue

1. The first component is the load forecast, the customer growth issue. Is Power and Light's projection of customer growth appropriate? If so, then you need so much capacity to satisfy that demand. And so Craig Hewitt and myself we handled the load forecast part and the engineers handled the capacity part.

COMMISSIONER SKOP: Thank you.

COMMISSIONER ARGENZIANO: Who handled the growth part?

MR. STALLCUP: We do.

COMMISSIONER ARGENZIANO: You do? Okay.

CHAIRMAN CARTER: Did that -- I think I missed something. Did you get the perspective that you needed, Commissioner, on that in terms of the whys for each one?

COMMISSIONER ARGENZIANO: I see the difference. FPL obviously is saying we have customer growth and we need to do this to meet that demand, and FGT is saying, well, that may not be exactly how it is, and we probably could meet it this way. So, of course, they have two differing opinions. But now I think what I'd like to know is the alternative opinions that we get from staff regarding the same issues. Regarding what -- you know, you agree with the University's population projection and the reasons why. That's what I would rather have than just, you know, yes, we agree that that is right. Why? And if you don't agree, or believe that there is growth and everybody believes that there is this growth coming in a certain way, then how do we get there, of course.

But going through the alternatives, I think, after we mentioned that -- we know the parties are going to differ, but explaining, of course, the reasons why as we just did, and then going into the two alternatives if we have two alternatives on that particular issue.

CHAIRMAN CARTER: Okay. Staff.

MR. HEWITT: I believe that the staff agrees on Issue 1, there is no alternative, and I believe for the rest of the planning assumptions, staff agrees.

COMMISSIONER ARGENZIANO: (Inaudible; microphone off.)

MR. STALLCUP: There are no alternatives, staff alternatives on those issues.

COMMISSIONER ARGENZIANO: No alternatives, but now what is the staff's -- I'm sorry, recommendation on -- okay. Hang on a second, let me see if I can do this the right way instead of having to read through it again. There is no alternative on that, which is good. That's what I want to know. Then what is the staff's recommendation, let's have that verbally.

MR. STALLCUP: Staff recommends that we adopt Power and Light's load forecast and planning assumptions as filed.

COMMISSIONER ARGENZIANO: So you do not -- sorry, Mr. Chair. So you do not agree that FGT says that it is unreasonable that the Cape Canaveral and Riviera plants have the combined certified need?

MR. STALLCUP: Just speaking for the load forecast portion, we agree that the forecast and the adjustments made by FPL Witness Morley were appropriate to reflect historical underestimation of population growth coming out of BEBR in Gainesville. We have observed that in the past. There was record evidence in the hearing demonstrating that BEBR does tend to under-forecast population growth. And so staff was comfortable with the adjustments Witness Morillo made.

FGT objected to those adjustments saying that perhaps they weren't necessary. However, the record evidence indicated that, yes, they probably are.

The other item that we looked at was whether or not the updated BEBR forecast cast a material doubt, the updated forecast that came out in March cast a material doubt on the original forecast produced back in October. We noted that by the time you carry that reduction in population growth forward ten years to when the relevant time period is here for the pipeline, that the difference made in customer growth was not a material difference. And by material difference, what I mean is that difference was not outside of the regular forecast bands that BEBR uses for their own projections. Therefore, we saw no overriding reason to recommend altering Power and Light's customer growth forecast.

COMMISSIONER ARGENZIANO: Okay.

CHAIRMAN CARTER: Okay. That was on Issue 1. Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just some quick follow-up questions on Issue 1 at Page 5 of the staff recommendation for the position of the parties. And the last sentence of FPL's position that states, "FPL's forecast demonstrates a need to add approximately

2.7 billion cubic feet per day of transportation capacity between 2013 and 2040." Do you see that?

MR. STALLCUP: I'm going to have to hand that one over to the engineer.

COMMISSIONER SKOP: Okay. Well, is that an appropriate planning horizon out to 2040, or additionally can they, I guess, articulate -- I guess my question is two-fold. One, is that an appropriate long-term planning horizon for the proposed pipeline, and then also, too, secondly with respect to FGT's argument of initially there's going to be some excess capacity in the proposed pipeline, can staff just briefly elaborate on those two points.

MR. GRAVES: I think the pipeline project was evaluated over a 40-year life, so you would need an expansion plan that goes out at least until 2054 in this case. So 2040 does seem reasonable.

The other question of the excess, I think really this issue is only looking at are their forecast assumptions appropriate and not whether or not the pipeline is exactly fitted for the immediate need of the Canaveral and Riviera Beach plants, which there really wasn't much argument over the need for 400 million cubic feet for those two plants. I think the greater argument was when is the next power plant going to come in and that is what they addressed.

COMMISSIONER SKOP: Okay. So essentially for long-term planning purposes you would want to have -- and I know the focus really of this is capacity requirements for planning purposes, and it's, I guess, premised upon growth forecasts. But for some reason the capacity issue keeps finding its way into the debate between the two parties' position here. But just generally speaking for long-term planning purposes if you were going to build a pipeline, and 2013 to 2040 was the appropriate planning horizon, you would want to have the excess capacity there to serve any plants that would come in service within that planning horizon, is that correct?

MR. GRAVES: I'm not sure I completely understand your question. I will say that from their expansion plan, the pipeline is fully expanded I believe in 2027, so if that answers your question. That excess gets used in that time --

COMMISSIONER SKOP: By 2027?

MR. GRAVES: I believe it's 2027, yes, sir.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Commissioners, anything further on Issue 1?

Staff, you're recognized for Issue 2.

MR. GRAVES: Thank you, Chairman.

Issue 2 is do the existing transmission pipelines in Florida have sufficient excess capacity to fulfill the forecasted need for transmission capacity.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: I think I did have one other question.

CHAIRMAN CARTER: Okay. One second. Staff, would you --

COMMISSIONER ARGENZIANO: Just on population, going back to population, because I think that's an important issue. FGT and some others in regards to the university study believed that it may be overstated, and I would like to know, I guess, what staff -- and obviously you thought it was correct, but aren't the numbers continuing to slow, and was the -- well, I don't know. I have some heartburn over the amount of growth that's projected in that study. It seems to me that from other areas, it seems that it is not -- it may be overstated some. And that's my concern. If it is and we are pushing for, you know, a growth that is not really coming that fast, the impact, of course, fiscal impact upon the ratepayer is my ultimate concern.

And if it's not happening -- you know, I just don't know that that growth is really happening. And maybe I want some more comfort on what you looked into and what numbers you felt were really comfortable, or what you really got out of that study, because there are, you know, arguments against it being realistic.

MR. STALLCUP: I can address that. As you probably know, for many years both this agency and the Legislature relied on BEBR for population growth estimates for the purpose of revenue projections and so forth. And as such, the University of Florida has developed a certain degree of expertise in being able to produce those projections.

However, as we know, they are still projections and subject to a certain margin of error. Power and Light, Progress Energy, as well as most of the other utilities in the state also rely on that same source, the University of Florida, for those projections. So as an independent third-party providing forecast assumptions, the University of Florida is the de facto standard by which we all go.

It is true that in the current recession, and the possibility of perhaps housing prices not coming back anywhere close to where they were, that people from the midwest and up north may not be able to sell their homes and move south as they have in the past. That's a hypothesis that may or may not come true, but it is a reasonable doubt about whether or not population growth will come back the way that it was.

The University of Florida looks at that kind of stuff certainly much more deeply than we do here, and we don't try and second guess the University of Florida. And that may -- that hypothesis may come true; however, embedded within the final numbers produced by the University of Florida -- I would suppose, I can't speak directly -- would be a blending of the notions that after this recession is over we're going to kind of come back to the way we were before along with the idea that you're mentioning that maybe population growth isn't going to be as robust as we have in the past. Maybe Florida is not going to be as attractive an alternative as it has been in the past simply because folks can't sell their house. So that's the University of Florida stuff.

The thing we had to wrestle with is whether or not the adjustments that Doctor Morley made to those, I'll call them baseline projections coming out of the University of Florida were appropriate. When she made those adjustments, what she did basically was say, okay, we are in a recession now, and she recognized that for the first couple of years going, I think, through 2012. Beyond 2012, she adjusted the growth rates coming out of the University of Florida for population to be more reflective of the kind of growth that you would expect to see historically, okay? It's kind of like the old long-term growth rate instead of buying into the assumption that we won't grow as quickly as we used to.

COMMISSIONER ARGENZIANO: And that is beyond 2012?

MR. STALLCUP: Beyond 2012, that's correct.

I have no information to say whether or not we are going to grow more slowly or grow more quickly. However, because of the adjustments that Doctor Morley made were of an over of magnitude which is smaller than the normal error that the University of Florida has in their projections going out ten years, we determined that those adjustments did not make a material difference in the expected accuracy of the population forecasts, because the University of Florida is about 6 percent inaccurate in population growth over a ten-year time horizon. Doctor Morley's adjustments were much less than that, about half that. So her adjustments were still inside the forecast band the Legislature accepts as being reasonable, I guess, and we have to accept, too, because nobody can really nail down those assumptions 100 percent.

COMMISSIONER ARGENZIANO: And I appreciate that. But you feel, you think that the forecasts were accommodating of the circumstances that we're seeing in housing, or economic development in the state of Florida, and what we already know about the slowdown in growth that has occurred in the last two years or so?

MR. STALLCUP: Yes. Especially in the short run, yes, through 2012.

COMMISSIONER ARGENZIANO: Okay. Thank you.

CHAIRMAN CARTER: Thank you,

Commissioners.

Anything further on 1? Issue 2.

MR. GRAVES: Thank you, Chairman.

Issue 2 is do existing transmission pipelines in Florida have sufficient excess capacity to fulfill the forecasted need for transmission capacity? Staff recommends that there is not existing -- there is not sufficient existing infrastructure to meet the transmission capacity needs.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Tell me why.

MR. GRAVES: Currently they are fully subscribed, and FGT doesn't explicitly say that there is not -- they acknowledge that they would need to add to their existing system to meet FPL's needs. Right now it appears that there is potentially 214 million cubic feet of excess capacity available. The necessary amount for the conversions would be 400 million cubic feet. So even taking that into consideration, you have roughly 200 million cubic feet that can't be fulfilled by the current system.

CHAIRMAN CARTER: You're recognized.

COMMISSIONER ARGENZIANO: But could be built on whether a new system was built by FPL or FGT.

MR. GRAVES: That's is correct.

COMMISSIONER ARGENZIANO: And then, of course, we are going to get to the point of which one is more economical to do.

MR. GRAVES: Yes, ma'am.

COMMISSIONER ARGENZIANO: So when we are at that point, then I have some questions about that. So basically you need another 200 -- let's see, you said 214 currently now excess?

MR. GRAVES: That's potentially available by 2014.

COMMISSIONER ARGENZIANO: Potentially available.

MR. GRAVES: Yes, ma'am.

COMMISSIONER ARGENZIANO: And by what date have you mentioned that we needed the additional?

MR. GRAVES: It would be in 2013, June 2013.

COMMISSIONER ARGENZIANO: 2013, okay. And either company could fulfill that need by either, one, FPL building or FGT adding to their existing pipeline.

MR. GRAVES: Yes, ma'am.

COMMISSIONER ARGENZIANO: And one other question that may be more appropriate to do later, but would FPL -- and forgive me, because I've read through this and some of it was a little while ago and some of it I'm trying to go through again in the last few days. Would there be any -- in costs, when we talk about costs to fulfill the need for the future, whether FGT does it or FPL does it. Is there any eminent domain that's going to be required, and I remember reading something there, and I don't remember what it indicated, if you could fill me in on that, too, if FPL would need to buy additional lands to build -- to get the additional capacity needed. And the same for FGT, but I guess it would be a different scenario.

MR. GRAVES: I know a large amount of the EnergySecure Pipeline is being placed in existing right-of-ways. Right now the eminent domain is a bit --

MS. BANKS: Cheryl Banks on behalf of Commission staff. About 90 percent of the EnergySecure line would be as was just stated, that would be in existing right-of-ways. There would be 10 percent that would have to be obtained. And typically most utilities do work with each other to use those right-of-ways, even if FGT would typically see when they build the pipeline or any other pipeline, they typically work with utilities in the area to be able to use the right-of-way.

COMMISSIONER ARGENZIANO: So either company would need the additional 10 percent?

MS. BANKS: That's correct.

COMMISSIONER ARGENZIANO: To get to where it needs to go.

MS. BANKS: That's correct.

COMMISSIONER ARGENZIANO: But then what I would like to know is how each company -- and I think you just told me how each company would go about doing that and what the cost differences would be for each company to do that. Because after all, really what it comes down to me is who can do this the cheapest to the ratepayer. If you have an existing line that FGT has and it is cheaper to add arms to it, well, then I want to know that. If it is cheaper for FPL to go ahead and run a whole new pipe and then get it to where it needs to go, also, how do they acquire it, do they have to purchase more land? Is it going to cost more for either company, that is what I'm trying to get at, because that is what it is going to come down to me with nuts and bolts. Everything else we talk about is very important, but who can do it the cheapest and get it to where we need to go.

MR. BALLINGER: And that's Issue 10.

COMMISSIONER ARGENZIANO: Okay. So just be prepared.

MR. BALLINGER: No problem.

CHAIRMAN CARTER: Ms. Brown.

MS. BROWN: Commissioner Argenziano, if I might also add, Jason just whispered in my ear that FPL projects $100 million to acquire additional land, and the record doesn't reflect what FGT's expenses would be for that.

CHAIRMAN CARTER: Well, their's were -- excuse me, Commissioner, FGT's was in the context of their current line. They were just expanding the current line, is that correct?

MS. BROWN: Yes, their Phase 8 expansion.

COMMISSIONER ARGENZIANO: Right. And then it brings on questions, is it cheaper for FGT, since they have a current line, to just add arms to it. And if they don't have costs and so on, how do we make that determination? And to me that's what it comes down to, what is it ultimately going to cost the ratepayer to get what we need.

MR. BALLINGER: The cost of the FGT expansion was evaluated against the EnergySecure Line. That's discussed in Issue 10.

COMMISSIONER ARGENZIANO: Okay.

CHAIRMAN CARTER: Okay. Also, when you get to that, I'm sure, Commissioner, I'm not speaking for you, but I think that the other thing you would want to know is the timing.

COMMISSIONER ARGENZIANO: Right, exactly.

CHAIRMAN CARTER: In terms of the timing to bring that on-line. So when we do get to Issue 10, let's do that. Commissioner Edgar and then Commissioner Skop.

Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: And this is probably an exaggerated oversimplification, but as I am thinking and as we're working our way through these many items, is it true that especially with the planning assumptions, but that a piece of this case is is there a need for an additional line. And then if, indeed, there is a finding of need based on these types of planning assumptions and other record information, then what is the most cost-effective way of meeting that need?

MR. BALLINGER: Yes, ma'am, that's it exactly. And I think Issue 2 says that. I think both parties agreed something has to get built to satisfy a future need of gas.

COMMISSIONER ARGENZIANO: And that was part of what I was going to say, and when would be the appropriate time to do that.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair.

I'm hearing some things that I guess maybe I feel to be inconsistent, so I'm going to try and go back and clarify a few points. To Mr. Ballinger's last comment, with respect to FPL's proposal, obviously they would build a new transmission pipeline. With respect to FGT's current inability, because they only have 214 million cubic feet per day of excess capacity, in order to serve the 400 that was required by the two conversion projects, or two modernization projects, would they actually have to build a new line or could they do that through looping or additional compression?

MR. BALLINGER: There's a couple parts to that question. The first one is the 214 is the potential. That's also driven by an option that Progress Energy has on, I think it's

75 million cubic feet, and that's discussed later in the recommendation, that they may release. So it may only be as little as 170-some Mcf that's available on the FGT system. It's really dependent on what Progress does with their option.

The second part, I believe that the expansion on the FGT was through compression and looping.

COMMISSIONER SKOP: So that would not be an additional line.

MR. BALLINGER: Correct. And I don't think there would be rights-of-way, and -- there might be a minor amount of it, but I'll defer down here on that one. I don't know that detail.

COMMISSIONER SKOP: And to the point, I think Ms. Banks clarified that with respect to the proposed pipeline there would be some minor portion of land acquisition, which I think is $100 million as previously stated, is that correct?

MS. BANKS: Yes, that's correct. There also would be some lateral lines that FGT would have to construct.

COMMISSIONER SKOP: Okay.

MS. BANKS: Those are smaller segments.

COMMISSIONER SKOP: Okay. And then just going to the capacity which somehow seems to find its way into this, although it doesn't seem to be really kind of suited to Issue 1, which is the growth forecast. But just to understand that the proposed pipeline is for -- initially to be constructed is for 600 Mcf, is that correct?

MR. BALLINGER: Yes.

COMMISSIONER SKOP: Okay. And I guess in response to a previous question, when would that be needed? I heard 2013, but that the -- let me go back. Six-hundred is going to be built, 400 is initially needed for the two modernization projects, correct?

MR. BALLINGER: Correct.

COMMISSIONER SKOP: Okay. One of the modernization projects is coming into service in 2013, correct?

MR. BALLINGER: Yes.

COMMISSIONER SKOP: Okay. So part of that 400 is going to be used for that. For practical purposes let's call it half, right, 200?

MR. BALLINGER: My understanding is I think the first modernization will be served through FGT through some portable compression stations. That's discussed, again, I think in Issue 5, perhaps. But then the second, the full 400 would be needed by 2014 for both modernizations.

The incremental 200, as discussed in Issues 10 and probably 11, is available to FPL to allow releases on existing FGT gas transportation capacity to use for their own system for a period of about three to seven years. Three years would be if the nuclear units got delayed and additional gas units were needed sooner, seven years if the nuclear units are built as they are and natural growth occurs. So you have a window of about three to seven years of this 200 Mcf.

Also, we're jumping ahead, but it helps, because I like telling just one story. The incremental 200 Mcf comes at a cost of about $15 million for some compression stations, which is less than one percent of the total project. So you have to weigh that, the cost of the excess, the use of it, and obviously the cost of the total project doesn't make sense to build it slightly larger.

COMMISSIONER SKOP: Okay. Well, I guess with respect to the incremental 200 Mcf, we'll get into that because I understand that is tied into release, and I know you mentioned that there is a cost of bringing the initial capacity in, but there is also opportunity cost of the fact that there is contracted gas that's going to have to be released. So I'm wondering whether that is actually a true cost, but we'll get to that later.

But I guess the discrepancy I heard is in response to a previous question that was given by another staff member, is that the 400 Mcf was needed by June of 2013, and you're telling me that's not the case, it's needed by 2014.

MR. BALLINGER: No, they need 400 Mcf by 2013. The initial -- since the pipe won't be on-line until 2014, that six-month window can be done through some portable compression stations is my understanding.

COMMISSIONER SKOP: Okay. But both modernization plants won't be in service by 2013, is that correct?

MR. BALLINGER: Correct. So the little 200 Mcf that you need, let's say, for the first one, let's say they both use 200, for sake of simplicity. So the first modernization requires an incremental 200. I believe that can be satisfied with some portable compression for a year or so until the pipeline is on, and then all 400 is used out of the pipeline.

COMMISSIONER SKOP: All right. That was just a clarification that I wanted to get.

Thank you, Mr. Chair.

COMMISSIONER SKOP: Thank you.

Commissioners, anything further on Issue 2? Issue 3.

MR. BALLINGER: No, actually I think actually Issue 4.

CHAIRMAN CARTER: I'm sorry, Issue 4. Yes, we are dealing with the planning assumptions. Thank you, Mr. Ballinger.

Issue 4.

MR. MILLS: Issue 4, does the planned construction/operation of the proposed EnergySecure pipeline meet industry and governmental standards for safety? Staff's recommendation is yes. In FPL's position they assert they will be designed, constructed, tested, operated, and maintained in accordance with pipeline safety regulations. FGT's position is there is insufficient detail in the record, and that the company lacks experience. Staff finds that FPL has experience in building large, complex, technical projects and believes this is in their realm of competency.

CHAIRMAN CARTER: Okay. Questions,

Commissioners? Okay. Issue 7.

MR. GRAVES: Issue 7 is are FPL's construction cost estimates reasonable for planning purposes? FPL relied on a third-party engineering consultant to produce their values that they used for their cost estimate. Staff believes that this is an appropriate avenue to derive these numbers.

FGT disagreed and indicated that FPL failed to provide detailed -- enough detail in its gross cost information.

CHAIRMAN CARTER: Okay. Commissioner Argenziano.

COMMISSIONER ARGENZIANO: What detailed information would you think that FGT was referring to? I don't build pipelines, so I don't know the details, so that's why I'm going to pick your brain.

MR. GRAVES: In their briefs they looked back at the Sunshine pipeline determination in '93 which they note that that one -- in their application they had 569 pages of detailed cost data, and their argument was that FPL's filing didn't rival that level of detail, that that former --

COMMISSIONER ARGENZIANO: Well, wouldn't that be a consideration? Is there real detail? Are there a lot of things that -- what I would hate to see is later on that the detail wasn't addressed now and we wind up with it costing a lot more than anticipated.

MR. GRAVES: And that's where staff found some comfort is that we would be able to go back through a base rate proceeding and look at the costs.

COMMISSIONER ARGENZIANO: But what good does that do once you say that's the best way to go? I would like comfort is -- I know there's going to be costs that come up, but I'd like to know that it was thought out with enough detail to get pretty close to give me an idea so that -- because really, like I said before, what it comes down to me is who can do it cheaper. If there is a need and we don't want to leave the state -- you know, we don't want a California situation where we are -- whether it's electric, or gas, or whatever it is, we want to be able to meet the needs, obviously, of our citizens, but to try to get to the best cost.

And to me the details are very important, and that's an issue that concerns me when I don't know that there is a lot of details. And sometimes, you know, you can't know everything, and I'm not asking for that, but I really want to know that, you know, they have given us the best they can, and we have a good idea. Because if that's fuzzy in the end, then that's a bad thing for me.

MR. BALLINGER: Commissioner Argenziano, I'm sorry, we face this all the time with power plants, transmission lines, and a need determination is a snapshot in time. Unfortunately, the Legislature asks you to make a decision based on the information to make the decision in about 45 days typically with these kind of things, which is a little troublesome. But we take the best information we can. As Mr. Graves said, they had a third-party consultant develop their cost estimates. As we go through time we expect utilities to prudently manage their construction estimates and costs, and if things start getting out of the whack to delay a project, to look at other ways to minimize costs, and that is all the things that go into a rate case review.

One of the first things we will look at is what did you tell us the cost was in the need determination and how much did it vary from that. And start explaining some differences. That is kind of a first brush that we look at. So you are forced to make a decision, but it is not the be all and end all. It does get reviewed, and we expect utilities to prudently manage their resources.

COMMISSIONER ARGENZIANO: But how often in those reviews can you really -- it gets very difficult later on to be able to recover or to -- in other words, from the very beginning I think you want the best information you can get. You are not going to have it so precise that you know to the T. I understand that. But I think if there is a lack of detail or a lack -- we could wind up at the end, you know, having the ratepayer pay for far too much, you know, just because we didn't have those details. So I understand there is a mechanism down the road, but it may not -- it doesn't always work out that easy to get to do it at that point.

MR. BALLINGER: I agree, and you are left with assumptions and there's a myriad of things that go in here.

COMMISSIONER ARGENZIANO: I think what I'm asking, though, is for staff's opinion on do you think that there is enough detailed information? What would FGT, you know, what type of detailed information is there missing? Has it been identified?

MR. BALLINGER: I don't think so.

COMMISSIONER ARGENZIANO: They are in the business --

MR. BALLINGER: I don't think so. I'm going to refer to Mr. Graves, but I don't think they have identified specific areas.

COMMISSIONER ARGENZIANO: And because with FPL this is a new thing, and FGT has been in that business, so if they have done something and they have showed that this is what you really need to look at, I want to know that FPL is really looking at that also so that I have a clearer picture of what, you know, we could expect.

MR. GRAVES: Right. And FGT in the brief noted that it was the estimates of the main line, the meters, laterals, and transformers, and they say so forth, so I think --

COMMISSIONER ARGENZIANO: They felt that those estimates were not accurate?

MR. GRAVES: Well, they argued that it lacked detail.

COMMISSIONER ARGENZIANO: Or low-balled, I don't know how else to say.

MR. GRAVES: I think they just argued that it lacked detail.

COMMISSIONER ARGENZIANO: Okay. Lack of detail.

MR. GRAVES: Right.

COMMISSIONER ARGENZIANO: Well, that's a problem. Can somebody tell me why there is a lack of detail, and should there be -- shouldn't there be more detail? I'd like to know if FGT was proposing the expansions, what detail would they have included. Now, not to -- you know, they could make it so elaborate that it's ridiculous. I'm talking about what we would expect, you know. What have we expected before from companies who build pipelines?

MR. BALLINGER: In other -- well, this is the first one for me for a pipeline. I have been here 24 years, this is the first natural gas pipeline I have been involved with. But transmission lines and power plants we have seen before. Typically, you will get this third-party consulting firm, Black & Veatch, Stone & Webster to put together an estimate of cost. And there's a lot of contingencies in there; there's a lot of changes that go through time. And you take your best snapshot as you go through.

What I could say is, you know, FGT did not give us specific details of what a transformer should cost, or a meter station, something like that.

COMMISSIONER ARGENZIANO: But shouldn't we know?

MR. BALLINGER: No.

COMMISSIONER ARGENZIANO: Because if we are just taking word from A, word from B, if I want to build a pipeline, and I'm coming before the Public Service Commission, it's in my best -- the best for me is to try to keep the cost as low as possible. And for me as a Commissioner sitting here, I'm going to try to figure out who is either overblowing it or underestimating it and trying to get -- I thought that we would have some kind of an estimate to what these things cost and to see who is -- well, A, is saying it's going to cost this much; B is saying this, and we find it is really going to be right here.

MR. BALLINGER: I don't know how to say this. I don't have the knowledge either to tell you what a pipeline actually costs. I'm not in that business. But --

COMMISSIONER ARGENZIANO: Okay.

MR. BALLINGER: -- I can tell you that the process, I think, works of holding the utility's feet to the fire to prudently manage their investments. I have seen one power plant in my career here that has been two or three times greater than what they said at a need determination. Most of the times they are pretty close to what they told us back then. They do a pretty good job of getting the estimates -- the consulting firms, the engineering firms have a stake in this to give us their best estimates when they are asked by their client to develop a cost estimate.

So I haven't seen great fluctuations. And I think it's that threat of future disallowance, if you will, come time for a rate case that keeps the utilities honest of managing their costs.

COMMISSIONER ARGENZIANO: How easy has it been in the history here at the PSC to recover or to make the argument that, you know, this cost too much? Or, I mean, when you get down to it, are they going to say it's legitimate costs. And were they prudent? Yes, they were. You said we should build a pipeline and the costs went up a lot more than they are being presented at this point.

So how could somebody then down the road say, well, you know, you didn't prudently spend the money, it just cost you more than you anticipated?

And I understand that it may, within a certain realm, but there should be some kind of a -- I don't know. Let me put it to you this way. I'm having a difficult time if I don't have some kind of a measure, and I think that there is a lack of specificity and detail, how do I, as a Commissioner, say, well, okay, how do I -- I don't know how you do that, you know.

MR. BALLINGER: It's not an easy decision. Perhaps you can take some comfort in that if costs were increasing they would increase for both alternatives. For example, if labor costs increase, they would increase equally. So your relative difference between the two projects is what stays --

COMMISSIONER ARGENZIANO: Right, but here is the key. If the one project says I'm going to build -- it may cost me a little more. I have this here now, and I can build arms, and it may cost me -- and I don't know, I'm not saying one company is doing this, but if one says this is what it is going to cost me, and then the other one says, well, this is what it's going to cost me, but they kind of low-balled it, you know, I don't know how you -- as you just said now, they are both going to have the same costs. Not if one anticipated or put more detail in and you got more of an anticipated probability. This is what it's probably going to cost me.

Now, if you didn't put too much detail in it, and you couldn't anticipate what it is going cost you, it is going to be presented to me as, well, this is going to be the lower alternative. This could be cheaper. Because part of my job now is which one is going to cost the least amount. Can we get to where we need the lowest amount. And if one is presented as lower because it has lack of details, and I'm not saying that's what it is, that is only what one side is saying about the other side. That's what I'm asking you guys, is there a lack of detail? How do I, as a Commissioner, make a decision on which is going to cost the ratepayer less if I don't have an understanding from the beginning which is really less?

One accusation is saying you don't have enough detail here. You are not giving the costs. You are not -- you know, it's not maybe you don't have enough experience to give it, or you don't know, or maybe they are right on target. But how do I get that today? Is it just going to be what I feel?

MR. BALLINGER: As I said earlier, unfortunate we are in a little bit of a bind, the time involved to do it. We do rely on third-party. I think in this case FPL has relied on the third-party consultant to develop the costs.

COMMISSIONER ARGENZIANO: But then, again, you have a company who has built pipelines, who has experience in it versus a company who hasn't. And I understand the need of the third party, and maybe it's through the third-party's experience, or their -- so then basically what you're saying is the third party is lacking in detail. Okay.

MR. BALLINGER: I could make the argument if FGT thought there was lacking detail in a specific area, they had the right to present additional evidence that meters cost $300, not $200 like FPL said. We did not have that in this case.

COMMISSIONER ARGENZIANO: Okay.

MR. BALLINGER: So I'm faced with the record I have in front of me to give you a recommendation.

COMMISSIONER ARGENZIANO: Okay.

MR. BALLINGER: I do believe in the regulatory oversight that we would have over FPL, not over a gas transmission line, because that is an unregulated entity. So the whole crux of the thing of the utility asking for, you have this process it does use some checks and balances. Unfortunately, you are asked to make an uncomfortable decision and a large decision in a short amount of time.

COMMISSIONER ARGENZIANO: I'm used to those, that's not it.

MR. BALLINGER: Okay.

COMMISSIONER ARGENZIANO: But I'm just going to ask the question to make it more comforting to me.

MR. BALLINGER: There is comfort, I think, in the regulatory process to keep a check on that that gives you some tools in your tool box.

COMMISSIONER ARGENZIANO: And, you know, I know that and I hear that, but when we get to that process sometimes it never quite works out that way. Sometimes it does, but it doesn't always, because at that point it is very hard to say it wasn't prudent. It may have been prudently spent, but it may have just cost a heck of a lot more because it wasn't thought from the very beginning.

MR. BALLINGER: Yes.

COMMISSIONER ARGENZIANO: And then you can't deny. You say, well, it wasn't prudently spent, but we could have done it the other way and it might have been a lot cheaper. That is what I don't want to wind up doing down the road.

MR. BALLINGER: I understand.

COMMISSIONER ARGENZIANO: So what I'm getting today, and I understand you can't have them, I'm blaming staff for not having it, but I would like it on record and anybody who is watching, we don't have that information to know. We really don't. So we're being asked to make a decision on -- some of it is guessing, and that makes me a little bit uncomfortable, but maybe as we go through more, maybe more discussion will help, I hope. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just a couple of follow-up questions on Page 28 of the staff recommendation, please. And with respect to the projected total cost of the project, it's estimated at $1.531 billion, is that correct?

MR. GRAVES: Yes, sir.

COMMISSIONER SKOP: Okay. What's the

confidence in that cost estimate, and what is the potential for cost overruns? And if there were cost overruns, how would those be addressed by the Commission?

MR. GRAVES: I think somewhere what Mr. Ballinger said was the biggest driver here is the steel, the cost of steel. So if that goes up or down, that would also affect FGT's proposal, as well. So it wouldn't -- you know, you wouldn't want to hold one static while FPL's pipeline, you know, flies off the charts.

COMMISSIONER SKOP: Okay. Moving on to 29 of the staff recommendation.

CHAIRMAN CARTER: Commissioner, before you go, just for the sake of consistency in terms of how we have been going this morning, staff mentioned the 1.53 billion for FPL. What is the cost for FGT if they were to supply that? Remember how we have been doing this morning, looking at both sides.

COMMISSIONER ARGENZIANO: Right.

CHAIRMAN CARTER: I think Commissioner Argenziano would like to know that information.

COMMISSIONER SKOP: Mr. Chair, a point of information. I think some of that might be also in Late-filed Exhibit 97, but I will let staff respond.

COMMISSIONER ARGENZIANO: Well, and just so you know, I've read it, I know; but sometimes you read things a week ago, or even if you read it this morning, and reading through it you still want it side-by-side when you're discussing it, because it just seems to work better for me that way. So as we know, we are hearing this, and then if we could hear the amounts side-by-side and then maybe questions come from that.

CHAIRMAN CARTER: Staff.

MR. GRAVES: I believe it's one billion, but I can double-check. But I think once we get to Issue 10, when you look at the revenue requirements, I think that would be the most appropriate way to look at the costs versus each other, not the upfront costs.

COMMISSIONER ARGENZIANO: Okay.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Going back to the total projected project cost. On Page 29 of the staff recommendation there is a comment there, William Wilbros' projected cost estimate for the Florida EnergySecure pipeline was nearly 2.5 billion. Project specific changes were made to Wilbros' estimate. FPL's changes resulted in approximately -- or an approximate one billion dollar -- I mean, excuse me, resulted in an approximate one billion reduction to the initial cost estimate. Can they elaborate on that specific point, why was Wilbros' estimate a billion dollars higher than the current projected cost, and what was taken out, and what may factor into that, why the initial estimate was much higher.

MR. GRAVES: I think that probably the biggest factor was that Wilbros' estimated assuming a 36-inch diameter pipe, and the EnergySecure line is actually going to be a 30-inch pipe. And also, I believe, Wilbros didn't assume that or it didn't take into account FPL's use of an existing lateral.

COMMISSIONER SKOP: Okay. And then just one question. Mr. Ballinger, in response to a question that was presented, I think you mentioned something about they were in a bind, there was not time to do it. Could you elaborate on that? I think it might have been pertaining to a cost estimate.

MR. BALLINGER: I'm drawing a blank on that one.

COMMISSIONER SKOP: I think it was in response to Commissioner Argenziano's question, but there was a comment made. Something about being in a bind and there was not time to do it.

MR. BALLINGER: Oh, that has to do with the statutory requirements of processing a need determination case. I believe for a gas transmission pipeline it is 45 days, or 75 days to process a whole case. So you're being asked to make a large decision in a short amount of time, but that's not uncommon for power plants and transmission lines.

COMMISSIONER SKOP: Okay. Very well. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioners, anything further on Issue 7?

Okay. Commissioners, let's do this. Jane has been working for over two hours now, let me give her a break and let's take a stretch break. And we will come back at 40. At least the long hand will be on the eight.

(Recess.)

CHAIRMAN CARTER: We are back on the record. And when we last left, we had completed Issue 7. Staff, you're recognized for Issue 8.

MR. SPRINGER: Good morning, Commissioners.

I'm Michael Springer on behalf of Commission staff. Issue 8 addresses the reasonableness of FPL's economic assumptions for planning purposes. Staff does not believe FPL's updated long-term financial assumptions are reasonable for planning purposes. However, the original assumptions filed in this case are reasonable for planning purposes and consistent with financial assumptions that were filed in eight previous Commission-approved FPL need determinations over the past seven years. I was going to go ahead and just give you a brief summation of each of the parties' sides.

FPL, when they updated their financial assumptions, they were based it on the rate case, so they were making their financial assumptions consistent with the rate case. And some of the other assumptions were consistent, like the capital structure was consistent with other need determinations. But we felt like since the Commission has not made a determination on those financial assumptions, it wasn't reasonable for planning purposes to use a 12.5 ROE in this.

FGT's areas of concern on this issue, which are subsumed in other Issues 1, 2, 9, and 10. If you look on the bottom of Page 30, we have sort of an outline of some of the areas that they have concerns with. The escalation rate was really an economic assumption that we addressed in this issue, but we are really focused on the long-term financial assumptions that were updated and we don't believe are consistent with other need determinations that we have done, that the Commission has ruled on previously. And staff is here to answer any questions you may have on this.

CHAIRMAN CARTER: Commissioners, questions on Issue 8?

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: The first one that comes to mind is that, of course, FGT basically says that the FPL proposal offers no cumulative benefits for at least the -- what is it, 27 years. Can you address that?

MR. SPRINGER: That issue is really addressed in Issue 10, the cumulative net present value.

COMMISSIONER ARGENZIANO: Okay. So we are going to have a lot to talk to when we get to 10.

CHAIRMAN CARTER: Everything is in 10. We should just go to 10, right?

Commissioner Skop, you're recognized for a question.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just a quick question to Mr. Springer. Notwithstanding the concerns that -- the specific alleged errors that FGT identifies, with respect to the original filing and, I guess, the revised filing, I guess staff wanted to go back to the original filing, what was the difference between the ROEs in the two respective filings?

MR. SPRINGER: Okay. The ROE in the original filing was 11.75 and that's consistent with the stipulation agreement. We have about -- on the footnote on Page 31, we have several need determinations that used that 11.75. In the rate case they are advocating a 12.5 percent ROE, so that's the difference between the two.

COMMISSIONER SKOP: Okay. So in their updated forecast they used the rate case ROE.

MR. SPRINGER: Yes, sir.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: And in regards to FGT's argument, I guess it's Number 3 on the depreciation associated with the company, your FGT rate proposals, could you elaborate a little bit on that for me. You know, the 40 year.

MR. SPRINGER: The 40 year? That is another one that is actually assumed in both Issue 10 and Issue 2, I'm sorry. (Laughter.)

COMMISSIONER ARGENZIANO: That's all right. That's okay. We'll get there. Thank you.

MR. SPRINGER: Thank you.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you.

Just to Mr. Springer, on Page 30 of the staff recommendation for Issue 8, are the economic assumptions reasonable for planning purposes, do those economic assumptions embody just the intrastate portion of the pipeline or do they also include the costs that consumers will pay for the upstream portion of the pipeline?

MR. GRAVES: I stepped aside for a second, but I believe you are just asking if the upstream pipeline costs are included?

COMMISSIONER SKOP: Within Issue 8 as framed, are FPL's economic assumptions reasonable for planning purposes, do those economic assumptions embodied within Issue 8, are they strictly limited to the intrastate portion of the pipeline, or do they also include the costs that consumers will be asked to pay for the upstream portion of the pipeline that will not be built by FPL?

MR. GRAVES: I believe the economic assumptions cover everything that they address. In the revenue analysis on Issue 10, they do include the costs for the upstream pipeline.

COMMISSIONER SKOP: Okay. So it all points to Issue 10. Thank you.

CHAIRMAN CARTER: All roads point to Issue 10.

Okay. Anything further on Issue 8, Commissioners?

Okay. Issue 9. Give Peter an opportunity to get settled in there.

You're recognized.

MR. LESTER: Pete Lester with staff. And Issue 9 is are the fuel supply and transport costs used by FPL reasonable for planning purposes. And staff believes those assumptions for fuel supply and transport costs are reasonable for planning purposes. FPL's position is that their costs and assumptions are reasonable and FGT disagrees.

There are two areas here, one is natural gas prices and the other is the pipeline rates or the transport costs. And regarding natural gas prices, those -- inherently the forecast is going to be uncertain, and certainly a long-term forecast is going to have a lot of uncertainty. So what staff has focused on is we have looked at the methodology that FPL has used. I think the main argument that FGT raises is that beyond a certain point fairly early on, like after 2020 or so, FPL just escalates the gas prices in a level fashion. Constant level escalation. That's really the whole disagreement regarding natural gas price forecasts.

Staff is focused on the methodology. What FPL has done is they have used an independent forecasting consultant, PIRA Energy, and they have provided the forecast up to about 2020 or so. Beyond that, the prices are escalated at a certain constant rate and it is based on a forecast that the Energy Information Administration provides. So that methodology has been used in previous cases by FPL for the West County need determination and the Canaveral and Riviera modernizations. So on that basis, staff believes FPL's assumptions are reasonable.

Regarding the transport price, the other part of this, FPL has used negotiated rates for Company E and for FGT, and then they have used declining rates based on the capital investment in the Florida EnergySecure Pipeline. FGT objects to that.

I guess the counterpoint there is that FPL has provided a levelized rate for the Florida EnergySecure Pipeline, and it still comes out with the greatest savings that way. So I guess either way, whether you use a declining rate or a level rate for the EnergySecure Pipeline in the analysis, the EnergySecure Pipeline is still the best option.

That's really it. That's the sensitivity analysis which they have done, and that is why staff is recommending what we are recommending.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: What about the issue of FPL in regards to supply and transportation costs failing to account for the supply risks as FGT is claiming? And I guess they are also saying that they failed to account for the full range of gas supply and pricing risks. And I know you just somewhat addressed that, but is there a point that they have in not looking at the supply risks, or does that need to be addressed?

MR. LESTER: Their consultant looked at, you know, what's available in terms of a long-term gas price forecast. Now that is going to be things like future pipeline construction, future sources of natural gas, it almost gets into the geology of it, something that is pretty well beyond me.

COMMISSIONER ARGENZIANO: You're talking about the shale?

MR. LESTER: Yes, ma'am. And the potential for those basins to produce and at what prices they would be economical and things like that. But they don't carry -- you can only carry those things so far. I mean, you carry it out -- in a strange way there's credibility in what they don't tell you. I mean, they tell you what they can tell you, but then they don't take it beyond that. I mean, they can take it out to 2020 or so and say here is what's reasonable. Beyond that they just escalate, and to me I find that a reasonable methodology.

COMMISSIONER ARGENZIANO: But can you look at it the other way and say that there are real risks in supply?

MR. LESTER: There are always going to be risks and then everything shifts, you know, in energy regarding --

COMMISSIONER ARGENZIANO: I guess what I'm looking at, there is supposed to be a mother lode in shale in several different areas, and yet I'm not sure how easy it is to extract, how much it is going to cost, and if it is really going to be a mother lode when they finally get there. And I think they have had success in some areas, but --

MR. LESTER: They are already producing shale gas in significant quantities.

COMMISSIONER ARGENZIANO: But, I mean, what they say -- I guess from what I have read that they project an incredible amount to be mined.

MR. LESTER: That's correct.

COMMISSIONER ARGENZIANO: So I guess what you are saying is you really can only go to a certain point and say this is about as far as I can go and who knows after that.

MR. LESTER: That's true, yes, ma'am.

COMMISSIONER ARGENZIANO: Okay. Thank you.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair.

Just several questions on Page 35 of the staff recommendation. The first paragraph under the section header transportation costs, it states declining revenue requirements -- or FPL used declining revenue requirements for the pipeline because FPL intends to recover the costs in electric rate base. And it further reads a declining depreciation schedule would cause a decrease in revenue requirements over the life of the project. Are those two related, or can staff explain that, or is there a typo in there. Because we are talking about declining revenue requirements, and we talk about a declining depreciation schedule.

MR. LESTER: They have assumed declining pipeline rates for the EnergySecure Pipeline.

COMMISSIONER SKOP: Okay. So both the revenue requirement -- the revenue requirement itself is a declining revenue requirement and also the declining depreciation -- they also use a declining depreciation schedule?

MR. GRAVES: It's just that they depreciate the cost of the Florida EnergySecure line, and that's why you see the declining revenue requirements each year.

COMMISSIONER SKOP: I'm not getting a whole lot of comfort level in the answers here, guys.

I mean --

MR. LESTER: I think the rate base is declining.

COMMISSIONER SKOP: Let me talk to somebody from the ERC real quick on the accounting points. Thank you.

Mr. Devlin.

MR. DEVLIN: I am going to speculate a little bit. I think you have a good point, Commissioner Skop. I've got a feeling it might be semantics, because depreciation does create a declining rate base, if you will, over time, and I think that is the point here. The term declining depreciation schedule is to me a little misleading.

COMMISSIONER SKOP: Okay.

MR. DEVLIN: I think the point is trying to be made that depreciation over time will bring down the rate base.

COMMISSIONER SKOP: Okay. But I was just trying to understand, you know, in this prior sentence we are talking about declining revenue requirement and then we flip to declining depreciation, and I was looking for the connection point between those two assertions. So I guess we can move on from there.

With respect to the -- okay. I guess that answers my question there. Let's move to the same page, 35, with the premise that higher gas prices make the FPL proposed pipeline project more cost-effective. Can somebody briefly elaborate on that, and is that just simply due to the enhanced economics of the transport or does it have anything to do with the underlying commodity of natural gas from, say, the Henry Hub?

MR. LESTER: I think it has to do with the Florida EnergySecure pipeline requiring less gas for compressor stations and, therefore, being more efficient, so the higher prices would remain that FGT pipeline is going to be more costly.

COMMISSIONER SKOP: Okay. I need to understand that a little bit better, too, because to me that is -- you know, I try and understand things, but that one is not clicking with me, so if somebody could explain that.

MR. GRAVES: I think to transport gas on FGT's system you would require more compression which would require more of the fuel to be used to operate their own pipeline. So in that you would be consuming more gas, therefore, the higher the cost of gas, the more gas being used on their system would have a greater impact.

COMMISSIONER SKOP: Okay. So is it correct to understand that they use natural gas itself as a fuel for compression?

MR. GRAVES: Yes, sir.

COMMISSIONER SKOP: Okay. Thank you.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: And how much more are we talking, and is there anywhere else a savings that compensates to even it out? Is there somewhere else -- how much more would it cost FGT, as you say, to use because they are using natural gas for the compression? But is that then leveled out somewhere else when it comes to either land acquisition or -- you know, we are going to get to that, because really what I want to get down to is which is going to be the cheapest mechanism, way to go, or the best way to go. And if it's FPL, well, that's great, but getting it altogether at some point. When we get to Issue 10, which we are getting to, and how much more to use FGT versus FPL, and then we'll get to where savings somewhere else may level it out or may keep it up higher.

MR. GRAVES: We did ask for a sensitivity that assumed that the gas prices would be increased 10 percent and one that would assume a decrease of 10 percent.

COMMISSIONER ARGENZIANO: We're assuming?

MR. GRAVES: Well, it's basically a sensitivity, I guess, to kind of give a band, and that way we are not so reliant on one specific forecast. And it looks like roughly a $23 million difference over the 40-year life of the pipeline.

COMMISSIONER ARGENZIANO: Over 40 years. Okay. Anything else?

MR. GRAVES: No, ma'am.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair. Just following up on that point. So is it correct to understand based on the sensitivity analysis that assuming a 10 percent increase in the forecasted gas prices, the resultant savings over, I guess, did he say 23 years or 40 years would be $23 million?

MR. GRAVES: Forty years. It would be 10 million over their base case, but the difference between the plus 10 and negative 10 is 23 million.

COMMISSIONER SKOP: Okay. What would that translate to? I mean, because that is a bold assertion that higher gas prices make the project, or the proposed project more cost-effective. Can you quantify that in terms of revenue requirement or revenue requirement reduction?

MR. GRAVES: Yes, sir. We asked for that. The plus 10 resulted in 10 million over their base case assumption that they provided in their original filing.

COMMISSIONER SKOP: So that would be $10 million in additional cost?

MR. GRAVES: Additional savings.

COMMISSIONER SKOP: Okay. Thank you.

CHAIRMAN CARTER: Commissioners, anything further for Issue 9? I'm really ready to go to Issue 10.

Staff, let's move to Issue 10.

MR. BALLINGER: And this is the first issue that you have a primary and alternate, so I will have the primary staff give their summation of their recommendation and then the alternate.

CHAIRMAN CARTER: Okay. Let's do it. Primary staff first and then we will have alternate staff doing their recommendation. And then, Commissioners, we will go with our questions.

You're recognized, staff.

MR. GRAVES: Thank you, Chairman.

Issue 10 is will the proposed Florida EnergySecure Pipeline, including its connection with the upstream pipeline, provide the most cost-effective and reliable source of natural gas supply, transport, and delivery.

Primary staff believes that FPL's economic analysis, which is based on the assumptions previously discussed, shows that the Florida EnergySecure Pipeline is the most cost-effective alternative to meet FPL's future gas transportation needs. The results of FPL's analysis as well as additional analysis requested by staff are summarized on Page 40 of staff's recommendation.

CHAIRMAN CARTER: And since we're there --

MR. GRAVES: Did you want Ms. Chase to --

MS. CHASE: Commissioners, I'm Joanne Chase with ECR staff.

CHAIRMAN CARTER: You are going to do the opposite?

MS. CHASE: I will speak to the alternative staff recommendation.

Alternative staff is concluding that the economic analyses performed in this case by FPL are at best only marginally cost-effective and they are greatly dependent on a number of variables in their analyses, some of which have been in dispute by FGT, and a lot of the discussion that we have heard this morning goes to that as you have pointed out. Due to the sensitivity of these analyses, and because it is only marginally cost-effective, that did concern alternative staff because FPL is proposing that the total cost of the line be put in rate base, recovered from the ratepayers, that the stockholders are completely insulated from the risk that any of these projections and assumptions made by FPL will come to fruition.

And so alternative staff does conclude that the idea is a good one, a third major pipeline into Florida would be a good thing for the state of Florida. However, we are not sure that this FPL proposal is the best way to go. So we are recommending that the Commission exercise caution in this issue and ask FPL to go back and rebid the project and see what kind of other alternatives might come out and to just explore all the alternatives that might surface.

CHAIRMAN CARTER: Thank you. Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

With respect to the alternate staff recommendation, I think at hearing certain concerns were raised about the openness and perhaps the transparency of the bidding process in terms of what the actual scope of work might be. So if staff could comment briefly upon how that may have factored, if at all, into the alternate staff recommendation. And then also in staff's opinion would rebidding the project improve the economics of the proposed project for the ratepayers to the extent that it might put downward pressure on the project cost estimates.

MS. BANKS: Cheryl Banks on behalf of Commission alternative staff. The letter that FPL sent out to some selected entities seeking their interest in constructing a pipeline was worded such that it was the conclusion that FPL was going to evaluate the construction of a new intrastate pipeline. The evaluation as stated in the letter says it is going to be -- they invited the parties to work with FPL for pricing gas deliveries into this new intrastate pipeline via a new or existing pipeline.

Alternate staff is concerned because by limiting that scope to the intrastate -- connecting to the intrastate piece, you eliminated the possibility of an entity coming from the shale that it wanted to use all the way to serve the plants at the very end. They didn't prohibit you from providing that example, but the wording is, "Of course, parties may propose alternatives that would deliver gas only to these plants using new or existing gas pipeline facilities, but any perceived economic advantages would be weighed against their more limited role in meeting FPL's long-term needs." That gave alternative staff pause, because to me it led me to conclude that even if it proved to be more cost-effective, I may have some intangible weighting that threw those alternatives off the table, even though they could be more cost-effective, which could have actually led to entities not providing bids in this arena that we may have been able to get some lowers bids in if we broadened the scope of the proposal.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you. And as some follow-up to that, I think, on Page 46, and then I have questions regarding the primary staff recommendation also in the interest of fairness. But on Page 46 they talk about the timeline in terms of perhaps conducting a new solicitation. Would there be adequate time to do that, should that be the decision of the Commission?

MS. CHASE: Yes, Commissioner. JoAnn Chase, again, with ECR staff.

We looked at the original solicitation that was done by FPL, and it took approximately four to five months from issuing the solicitation letter to the selection of the bid, of their self-build. And so staff believes that in that amount of time they could just do the solicitation process again with some clarification, and along the lines of what Ms. Banks was talking about, and that there would be time to do this. And especially since Company E, which is going to FERC for approval of its pipeline, will not be filing its application until the fall of 2011. So we believe there is sufficient time to do a rebidding and for FPL to explore all of their options in that process.

COMMISSIONER SKOP: Okay. And then just as a follow-up to that, if a new solicitation were conducted, also on Page 46, I believe the comment is made that staff believes or alternate staff believes the solicitation should be provided to staff for approval prior to issuance to ensure it is clear and complete, is that correct?

MS. CHASE: Yes, Commissioner. That is what we have in here. That would be an option if you would like for staff to review it before it goes out.

COMMISSIONER SKOP: Okay. And I guess on Page 45, I'm also trying to understand or gain better appreciation of alternate staff's concerns with respect to the fact that the proposed pipeline would just basically have three connection points to the three large FPL plants and how that, I guess, alternate staff or perhaps FGT feels that that might make the proposed pipeline less reliable.

MS. CHASE: Well, Commissioner, yes, I believe that is an issue coming up. Issue 3 is the reliability issue.

COMMISSIONER SKOP: Yes. That's the problem with all of these issues, everything gets dumped into one. It is hard to figure out which one. And then also, too, with respect to the -- you know, there has been a lot of -- in the hearing, the economic benefit to the state, but I think also in one of the issues there is some discussion about the use of an outside contractor and temporary jobs. Can somebody refresh my memory as to where that would be? That's another question that I have.

MR. BALLINGER: I believe it is Issue 5.

COMMISSIONER SKOP: Issue 5.

MR. BALLINGER: And I think both primary and alternate agree that either project would bring economic benefits and development to the state, whether it be FGT or FPL.

COMMISSIONER SKOP: But wasn't, I think, that also -- not to skip to issues, but wasn't there some concern there that the proposed contractor would be an out-of-state contractor that would only merely bring temporary jobs to the state from using out-of-state labor?

MS. BANKS: Yes, that is addressed in Issue 5.

COMMISSIONER SKOP: All right. I guess we will get to that in due time.

Mr. Chair, if I may, just to the primary.

CHAIRMAN CARTER: Hang on a second, Commissioner. Since we are on the alternative, let's just see if there is further questions from the bench on the alternative.

Commissioner Argenziano, you're

recognized.

COMMISSIONER ARGENZIANO: Thank you. With the alternative, let me get back to my page here. Basically, going into the rebidding process -- well, I guess, for the assurances, FPL states that this will have a benefit for the entire state, and I think the way it is written, or the letter, the solicitation letter really doesn't accommodate the benefit that could fully be realized in having a new pipeline into the state, which we could use, I think I agree with that, it's just if we went into the rebidding process, you say there is enough time, and if the letter were rewritten to accommodate the looping and the -- is that where we are going in the expansion of the solicitation letter to accommodate so that it really does provide a benefit for the entire state in events that may take place?

MS. BANKS: The idea of rebidding would allow the opportunity for entities to build for a major interstate line, so it would come from outside the state all the way into the state and serve the plants. The benefit of that is that if you are an interstate pipeline you will have to be an open access pipeline per FERC rules, which means you will serve anybody who wants gas off that line.

COMMISSIONER ARGENZIANO: So not just going to FPL's plants, but it would have to have the connections that it would go to other plants, also.

MS. BANKS: Anyone who required -- who requested that, they would have to have the obligation to provide service to those.

COMMISSIONER ARGENZIANO: Where the major difference right now from the letter of solicitation would be the FPL pipeline would not enable us to do that, and thus maybe their claim to being a real benefit to the state may be somewhat limited without having those capabilities, while FGT has that capability if they expand.

MS. BANKS: That is alternative staff's opinion.

COMMISSIONER ARGENZIANO: Okay. Thank you. And I'm not sure what other questions I asked about 10 before, if somebody else remembers.

CHAIRMAN CARTER: They will come back to us.

COMMISSIONER ARGENZIANO: But some of them may have been answered, too.

CHAIRMAN CARTER: We will come back to you in a minute, Commissioner.

Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman. Similarly to I think some of what I'm hearing, I am fairly well convinced of the need and the benefits to the state as a whole and to ratepayers of having additional supply in the future, and redundancy, and the cost/benefits of that for all kinds of reasons. What I'm struggling with then is the how. And I realize we have got two alternatives in front of us, one to move forward as FPL had proposed.

I do have some concern about the way the cost-effectiveness is or is not, realizing the long time line in order to become cost-effective from the sensitivities and the other information that we have. But yet I also have some concern about, I guess, whether the best route would be to kind of micromanage through a rebid process. So I guess my question I'm posing, which is kind of what I did at hearing is is there a third way to get from here to there?

MS. CHASE: Well, Commissioner, if you didn't want to be specific about the rebidding, if you did not want the micromanaging or the staff involvement, you could -- I'll probably need some help from Legal here, but I think you could actually find that there is a need for it, but simply that the FPL project as filed you're not comfortable with, and simply telling FPL to go out there and to explore all other alternatives and to come back with something else. And that way it sort of leaves it out for them to figure out how to do that.

COMMISSIONER EDGAR: I guess that is something that I would like to just, as we are discussing, maybe explore or think through. And, Ms. Brown, please feel free in a second to jump right in.

As we have said, many issues, many legal issues, many technical issues, many financially impactive issues. Kind of untwining the need from a specific proposal is something I've been grappling with since the issue first came before us. So, Ms. Brown, did you have an additional comment?

MS. BROWN: I think I do. My mind is turning while I'm trying to answer. It has been done before, the Commission has precedent for determining that there was a need for a particular gas or additional electric capacity, but not being comfortable with the particular project that was before them. And actually that has happened a couple of times. In your experience, the Glades project was close to that. In an earlier Commission's experience, the Cypress plant was also similar where the Commission thought there was a need, but the project was not the best -- they didn't feel comfortable approving that project to fill the need.

And in both of those cases the need determination was denied. Here if you wanted to signal to FPL to proceed with a new bid, you could say we are just not comfortable with this project. We think it would be a good idea for you to explore rebidding of it and additional possibilities for filling the need. That would be a way you could go.

Another way you could go, I suppose, but I don't feel as comfortable with this way, would be to approve the need determination and condition it on going back and rebidding it and then coming back and reopening the record to take care of the new information, and I think that gets kind of messy.

COMMISSIONER EDGAR: That sounds, that sounds messy to me too.

CHAIRMAN CARTER: That does sound messy.

COMMISSIONER EDGAR: But I appreciate you trying to help me think, think through potential ways of moving forward.

CHAIRMAN CARTER: Commissioner Argenziano, then Commissioner Skop.

COMMISSIONER ARGENZIANO: Thank you. I'm still not certain -- I mean, I'm not -- I know -- I feel like there's a need from what I'm learning and I think there's a need and we want to make sure that we have capacity for the future. I want to make sure it's the correct time. It appears to be. But I'm still not certain who should do the project to begin with. I don't know if FPL should be the person, the entity doing it or the, or FGT or someone else in the rebidding process.

I think my heartburn in several places is that I don't think that I have a secure feeling that it's the most cost-effective approach. I have a lot of lacking data, a lot of missing information, and it's left to guess. So I feel like that's my concern, along with is FPL the proper entity to do this? And if they are, then to me it would be they're going to have to rebid and they're going to have to come in, I'm going to have to have more information. I need to know what is the most cost-effective way because that's really what it comes down to to me. We have the need. Now let's figure out how we do it. And given the time frame, what I probably need to look at again and maybe ask some more questions on is with our economic situation the way it is, is this the time? Is it -- can it -- does it have to be right now? Do we have any room to wait to see if maybe at the end of the year things start changing and moving in an upward manner where the ratepayer is not so impacted? So those are the considerations.

And I think, as I said, I think when I go back to look at it, I think I just feel that I can't in my mind decide what is the most cost-effective approach. And I think FPL is lacking in that area because I don't have specificity or details. And not to the minutia because I understand that's impossible to do, but I think that's where I feel a little heartburn. So if, if FPL is still a contender, then the way to do it in my opinion would be, or staff can help me here, if they went out to rebid and had a different, expanded the scope to make it a more state viable project that benefits the entire state as well as FPL and their, and their customers, it would be then to come back with a, with an additional bid that has maybe more specificity and detail. But does that preclude anyone else then from, from building the pipeline?

I mean, are we making a decision that it's just, today that it's just FPL? Is this the decision, we ask them to go back? Or is there someone else or can FGT be the one to build it more cost -- it will still be compared; right?

MS. BROWN: Yes, I think compared. But it, it -- you don't really have to choose between -- if you don't like the FP&L project, you don't have to choose FGT's proposal.

COMMISSIONER ARGENZIANO: Right. Right. No. I mean in asking FPL if they were to go back and rebid and expand that solicitation letter a little bit.

MS. BROWN: Well, Cheryl might want to -- she does.

COMMISSIONER ARGENZIANO: Okay.

MS. BANKS: I sure hope what I go into right now doesn't really confuse everybody, but I think that maybe some background information to how pipelines work might really be helpful here.

Pipelines typically -- and when you look at it, I'm going to give you an interstate picture. When an entity wants to build a pipeline, it typically, it has no choice. What it, what it -- it's responsive to a need. Typically you have an anchor load, which is a power plant. That's how power plants are built pretty much nationwide. You have an anchor load. The pipeline goes out, sees that there's a need for this to serve a plant, and they put out proposals.

What they do is they say here's what I think I'm going to build. Does anybody have any interest in it? People put in what are called precedent agreements, I want 20 a day, I want 50 a day. They see if they have enough to build the line.

They go to, in this case, in this instance, FERC, and they say, okay, I want to build this line. Here's the capacity that people have asked for. I want to size it bigger. They said, that's fine, you can size it whatever you want, but I'm going to base your rates on what it looks like your need is. If you sell all that extra capacity, that's great. If you don't, your stockholders eat it.

It's a totally different process than an electric power plant because the pipeline industry is competitive. You have, you can have multiple lines in an area. It may not be environmentally the best idea, but you're not precluded from that.

It's very difficult for, for, for me as a staff member ingrained in that philosophy to look at a need determination, and I'm looking at Entity A building a line, and my alternatives are based on the cost of that entity building that line that I'm comparing to. What I'm used to comparing is here's the rate I'm going to charge you, here's Pipeline B's rate, here's Pipeline C's rate. It's a real clear-cut picture. I'm either going to pay, you know, X amount per MMBtu or I'm going to pay something lower. It's easier to pick the winner, you know.

This is like -- I take the analogy we're taking a square peg and a round hole. We're trying to take a process used for electric power plant needs determination and kind of forcing it into a competitive industry that really has some difficulties working. Because what happens is if FGT's proposal -- it doesn't matter to FP&L typically what it costs FGT. FERC is going to determine the rates and they're going to negotiate a rate for the, for the capacity. It's not really based on -- FP&L or any other entity doesn't make its decision about how much it costs. It wants to know how much it's going to pay.

So this is why this situation is much more -- it just doesn't fit. And so that's why when you're -- you're not really choosing FP&L or FGT or anybody else. You're really, what you want to come down to is how much is FP&L going to have to pay for that capacity? My concept was even if this is how much you're going, how much it costs you to build, I don't care. How much am I going to pay? What's my negotiated rate? What's the best deal you can give me? And FP&L would be the same way.

If by chance we, the Commission was to say, okay, well, the need is there, FP&L, that's fine, you can build it but you put it in a separate entity, you get to the same end result. That separate entity would negotiate a rate with FP&L and that's the rate it would pay. It wouldn't have those -- the stockholders wouldn't be at risk for any cost overruns, for excess capacity, for anything that the projections didn't hold. It would be the entity that's risking that. And if it's a cost-effective project, that will be the best thing for them to do. And I hope I didn't make things more difficult.

MS. BROWN: But if, if I could bring that back around to your initial question. If FP&L rebid the project, you would perhaps hopefully have a better understanding of the costs involved and perhaps a better cost basis for whatever pipeline is built, however it's structured.

But I think to -- the other thing I did want to mention before Cheryl spoke was that your concern on cost-effectiveness of course in the Glades case was the reason to deny that need, that there was a, you felt there was a need, but the project was, you weren't convinced that it was cost-effective. That's it.

COMMISSIONER ARGENZIANO: And I appreciate that very much, and I really do. It makes me think though cost-effective, of course, is very important, but the cost to, of capacity is, is extremely important too. It really comes down to the end result, what is the best thing for the state and the ratepayer? So you have to combine that. It can't just be cost-effectiveness. It needs to be cost, you know, that capacity cost also.

So I guess it's a, it's a bundle of things together that, that have to fit at the end, and that's what I'm hoping to get to. And I'm not sure, and this may sound ignorant, but because it's new for the company to also have the transmission line, I guess, if you want to call it the pipeline, is it, is it appropriate then that it entirely be in rate base? Is there any cost that the shareholders should have in that, in that building of the pipeline?

MR. BALLINGER: I think we discuss some options in Issue 11 and 13 of ratemaking options that the Commission can do with excess capacity, if you will, temporary excess, and past regulatory treatments you can do with rate base treatment.

MS. BROWN: Well, also in Issue 11 there is the staff analysis that it's not appropriate to include those costs in electric rate base. We'll get to that.

COMMISSIONER ARGENZIANO: Okay. We're going to move on to it, but one other question in regards to that. Is it beneficial -- or how is it beneficial for FPL to have its own pipeline, to build its own pipeline, which the ratepayer will pay for, in regards to capacity cost? Maybe that's a different way of asking it.

MS. BANKS: I think either Tom or I can probably answer that. In FP&L's opinion that gives them a competitive edge because they control it, so therefore they can control the costs better than if they're relying on a separate entity.

COMMISSIONER ARGENZIANO: But that's only if it doesn't, if the cost to build it doesn't defeat the purpose. And how long down the line will it be 'til it flattens out and evens out or becomes a benefit?

MR. BALLINGER: There's a few other reasons I'll go into. It goes to, like Cheryl described, the need process for pipelines. I describe them as kind of just in time building of capacity. Like she said, the pipeline companies go out for an open solicitation: Who wants gas? They build pipelines to serve that need. And the power plants and stuff subscribe to a need that they have to buy. Okay? They're not the same as an electric utility that has to plan ahead for future growth. So the pipeline industry has grown along as a just in time kind of a thing. So this is a new entity.

But what you've got here that I see with FPL owning it, an advantage of FPL owning it -- and, quite frankly, I don't care where it goes through, if it goes through the fuel clause or rate base. I mean, that, from this aspect it's immaterial.

COMMISSIONER ARGENZIANO: Either way, the ratepayers will pay.

MR. BALLINGER: The ratepayers will pay for the cost of it, but it gives FPL an assurance of future needs and a planning of their own destiny. We're looking at a time now where natural gas is our only fuel of choice. We have a few nuclear plants under construction trying to get built, but there's only so many sites that can support a nuclear plant. Coal has essentially been taken off the table from past decisions and environmental concerns, whatever. It may resurrect, but it's -- so we're stuck with gas.

And I think FPL was looking to the future to see how can they secure that for a longer term planning, which is different than the gas industry. I agree. It's a totally different industry. But I think it's still appropriate for an electric utility to be in that industry. To me it's no different than an electric transmission line importing power or importing fuel.

COMMISSIONER ARGENZIANO: But -- and if I can, Mr. Chairman. And I understand that. But what it comes down to is that may be beneficial. Where do you get the, you know, the best for the whole state? Because there's some -- FPL is even saying this will benefit the whole state. But there's some limitations to how it's really going to benefit the whole state if it's only, only going to go to their own facilities versus somebody else who has a pipeline who can add to it or build another one that is going to have, you know, the capacity or the ability for everyone to use it.

And I guess with regard to how is it -- I'm not going to say it right. You described that, you know, you think it is a benefit and a good thing to do -- and I lost my train of thought. For some reason it just went.

Obviously what I just said about the capacity, the availability for everyone to be able to tap into that would be beneficial for the state. But it also comes down to, I think, is it cost for capacity as well as the cost efficiencies of building it, does it come down -- it may, it may help FPL, but is it, is it for the ratepayer to FPL in the long run really going to be beneficial? And that's what I'm still --

MR. BALLINGER: I think the analyses show that, that there's benefits between two to $500 million over the life of the project.

COMMISSIONER ARGENZIANO: But that's with lack of specificity.

MR. BALLINGER: It's based on assumptions that we know today. Yes, ma'am.

COMMISSIONER ARGENZIANO: But that's part of the -- I guess the alternative recommendation says we don't feel that with a preponderance of evidence has that been established, and that's where I'm coming from I guess.

MR. BALLINGER: I agree. I agree. And that's, that's fine. You can, you can come to the conclusion that it's a little too uncertain, that the --

COMMISSIONER ARGENZIANO: But it could be. It could be a really, a really good benefit in the future for FPL and their ratepayers.

MR. BALLINGER: And I think the benefit is even if it were a third party built it, they don't build excess capacity that somebody could then tap into. So it only gets built as needed. So even if a third entity built this, it would still only be the 400 or 600 MCF until new customers came along and they would ask who can build the capacity and then it would be a solicitation.

MS. BANKS: If I could just interject one point to that, Mr. Ballinger. They do build excess capacity and they do build these pipelines at risk for the excess capacity that's not being taken. They do their studies, they determine what, and their stockholders determine how much they're willing to risk and how much bigger and based on what they see as projected growth. And pipelines can be built very fast. It's -- they, typically it's a very smooth process, and they don't need five to ten years in advance to know that it's coming.

In this particular case it is difficult because it does not become a break-even cost-effectiveness for the ratepayers until the year 2031. You've got a long way to go that all those up-front years -- you know, and it, you know, for some, for some things that you're building that makes sense. If you're going to build a nuclear plant, you're not going to get a return in a -- but for gas pipelines it's a little bit, for me it causes me some concern because that's a real long lag.

COMMISSIONER ARGENZIANO: You mean as far as building prematurely?

MS. BANKS: It's, it's not prematurely so much as because it's being in rate base and being recovered by the ratepayers, that's what shoves it out to 2031.

COMMISSIONER ARGENZIANO: Right.

MS. BANKS: You know, if a separate entity, they're not going to have to. They're going to see the benefits much quicker than that.

COMMISSIONER ARGENZIANO: Okay. Okay. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I just want to go back to a previous point I think that Commissioner Argenziano alluded to.

I guess with respect to the determination of need, that also gives me some pause. I think that need for the proposed pipeline might be justified on the basis of additional capacity requirements, reliability of supply and increased competition. But how to best meet the need is a more difficult question, because I think as has been properly alluded to, FGT has stated that they may have some excess capacity. You know, certainly they could do some other additional compression, looping or what have you, to avoid the need to build a new pipeline and still be able to serve the Canaveral and Riviera plants. But, again, the devil in the details is, is who has the more accurate cost estimate and what is the cost that the ratepayers will incur for getting this gas to the two plants that need it?

And I think, you know, just in retrospect I would have from my perspective felt a little bit more comfortable -- I know as staff alluded to in the need determination proceeding for the conversion plants that there was still a need to have an adequate supply of gas. But if we're going to go down this whole pipeline route, it might have been more appropriate to have stated that idea up-front instead of late in the game where you're, you're branding it like EnergySecure, like we're going to run out of gas if we don't approve this.

So, again, I think it's important to look at all possible alternatives. So to Commissioner Argenziano's point, you know, I don't think that this should be at this point a determination of need with respect to the pipeline because, again, there may be an alternate more cost-effective alternative that, you know, a competitor could provide. And it doesn't have to be FGT; it might be someone else.

So it seems to me that, you know, in order to, to -- and I think as Ms. Banks pointed out, the proposed project is not cost-effective for the ratepayers until at least 2031, and that assumes no cost overruns. And so there's somewhat of an intergenerational inequity argument to be made, and I think that also was discussed substantially at hearing, to the extent you're asking current ratepayers to bear the cost of something that they're not going to see any real tangible benefit because the break-even point is so far in the future, you know, in 2031.

So at least from my perspective -- again, I want to have a comfort level. This is a big investment. It's, you know, $1.5 billion plus. It's on the same magnitude as, you know, some of the other cases we're considering before the Commission. And, you know, I think it deserves adequate scrutiny to best protect the ratepayers. And I'm not saying that at the end of the day the pipeline may not be the best proposal for Florida, but obviously there's some limitations that have been addressed in alternate staff's recommendation to the extent that, you know, this is just a pipeline to serve FPL's plant. There's not real open access that would normally happen in a, in a normal pipeline. Certainly we need the supply. FPL needs to have a reliable supply of gas, and I don't dispute that at all. It's just how to best serve that need in the most cost-effective way for consumers.

And at least from my perspective having a level playing field and making sure the solicitation is appropriate for the scope of the project is important to ascertaining the best possible cost.

For instance, you know, when we built nuclear submarines, we just didn't walk over to the Navy and say we're going to build a nuclear submarine. We had a whole detailed specification as to, you know, it's going to be, you know, this long and this fast and all that good stuff. But in the same analogy, you'd want to know where the, the, you know, the interconnect points would be and the end points and what the sizing of the pipeline would be and all the other things that go into that.

So it seems to me, at least to ensure that there's a level playing field and, you know, with further definitization of solicitation, maybe even opening it up to have more interconnection points so it could serve the state as a whole as a state asset, not just an FPL type asset, that perhaps rebidding the project might improve the economics of the proposed project, if any, whether it be looping on FGT and not building a pipeline, or FPL's pipeline itself, you know, rebidding that in an open, competitive process might improve the economics for the proposed project, whatever it may be, for ratepayers to the extent that it could potentially put downward pressure on the project cost estimates.

I mean, we're seeing something from FGT, and I think that the primary recommendation says, well, they can only, they only have this much excess capacity, and they really didn't get into the details of how they might be able to serve the capacity requirements for the two conversion plants. That's an important question for me because if you can do it and adequately meet FPL's capacity requirements at a lower possible cost, then that's something that the Commission needs to consider. It may not be the best alternative even if it is the lower possible cost, because, again, you want to lend credence to the proposed additional capacity that you might need on a forward-going basis.

But I guess in these difficult economic times we need to have all possible information to, to make the best possible decisions. And these, the decision we're going to make in this, in this particular need determination is going to affect ratepayers for quite a long time, and there, there are some substantial rate impacts based upon the decision that we will make. And I can fully understand and appreciate FPL's position in wanting to have a, as staff has characterized it, a gas driveway to their plants, and that may be at the end of the day the best choice. But I don't know that now because, again, I'd like to see perhaps a more transparent and open bidding process to assure that the Commission has the best possible options for meeting the need and ensuring that the overall cost to consumers is, is mitigated as, as far as possible.

So that's just my thoughts, Mr. Chairman. I mean, like I say, I think we do need, definitely need additional capacity for natural gas in the state. I mean, that's basic planning 101. So I understand that part. I understand the, the necessity of reliability of supply, but there's some concerns there. If you have an exclusive pipeline and something happens to that pipeline, those plants are dead in the water. There's no additional interconnect or looping or some of the things that are mentioned expressly in the staff recommendation.

But also just merely having competition is a healthy thing for the State of Florida. You have two natural gas pipeline providers now and they have a virtual monopoly. So I can understand FPL's desire wholeheartedly to try and do something to bring a cost benefit to the ratepayers. The problem is when you make a capital investment of that magnitude, the payback is not until far in the future, and they're wanting to put it in rate base and, and, as opposed to, I guess when we get to Issue 11, putting it in a separate subsidiary or having shareholders bear the risk.

So, again, this is a complicated issue of first impression that we're, we're facing here, and it's an important one. But I don't -- you know, I want to make sure that I have the best possible information such that I can make the best possible choices as to what costs consumers will have to bear and when they can expect to see benefit on the basis of the decision we're going to be called upon to make to ensure adequate and reliable gas supply for baseload generation that needs to be built to serve a customer load in the State of Florida. So I just wanted to kind of put that out there.

And one additional point. With respect to release of excess capacity on FGT, and if I could get some clarification of this, that's just releasing the capacity. But in effect isn't FPL already paying for that firm fixed transport? So aren't we essentially paying for two things at once to some degree on that incremental capacity?

MS. BANKS: They will -- I mean, they are paying for that capacity. And if they release that capacity, that amount would be credited through the fuel as they proposed. However, they did admit it is unlikely that they will get the full cost back of what they paid for it.

Primary staff on -- and I'm not sure if they were primary or alternative, on what issue it was, but their SGA staff has suggested that one thing that you could do was have them justify why they didn't get the full value. You could do that in a process through fuel and have them say that.

Unfortunately when you release capacity, it is temporary. FP&L will need the capacity in the future, so it's not a permanent release. I'm going to temporary release that to you. And typically when releases are done, everyone is releasing, so your chances of getting very much money recouped from that is fairly low.

COMMISSIONER SKOP: Okay. So going back to pipeline 101, which was -- again, you seem to have a wealth of knowledge on interstate pipelines and such like that. But when you build, make a decision to build a pipeline, you actually are contracting in advance for firm capacity; is that correct?

MS. BANKS: The shipper that's going to use the capacity?

COMMISSIONER SKOP: Yes.

MS. BANKS: Yes, you will. But a precedent agreement, at some point when it becomes more firm you actually have to lock into some money up-front.

COMMISSIONER SKOP: Okay.

MS. BANKS: So that, you know, they have some security or actually they're building it for a need. And then, yes, you'll be contracted for that capacity over a long period of time typically, usually 20, it can be 15, 20 or 30 years.

COMMISSIONER SKOP: Okay. So in FPL's case with respect to its capacity on the FGT pipeline that's in question here, previously they've contracted to have the bulk of that capacity for their own given use; is that correct?

MS. BANKS: Yes. And they probably have several different contracts for different phases as FGT has expanded over time. But, yes, they have contracts.

COMMISSIONER SKOP: Okay. Okay. Okay. So that's, that's a sunk cost and bought and paid for. And anything that they would release, if I understand you correctly, they might not be able to get full market value or the full cost that customers truly --

MS. BANKS: That's actually FGT -- I mean, FP&L actually has that. It is quoted in here. It is a statement they made; it would be unlikely to get the full value back.

COMMISSIONER SKOP: So but customers or consumers have already beared --

MS. BROWN: Yes, sir, they have.

COMMISSIONER SKOP: -- beared that cost, or have already borne that cost.

MS. BANKS: It's going through the fuel cost recovery.

COMMISSIONER SKOP: Okay. All right. Thank you.

CHAIRMAN CARTER: Thank you. Cheryl, you reminded me of something when you answered a question earlier.

I know that during the hearing I asked, and I think it's probably going to come out in 11, but I asked several of the witnesses to walk me through the, the process of a separate entity. I don't know if you guys remember that or not. But during the, when the witnesses were testifying, I asked them, I said, well, tell me about how this would work. And what triggered my thought is when you talked about whether this should be in rate base or not.

If you have a separate entity, either owned by FPL or whoever, that separate entity would have to compete in the marketplace as a pipeline company; correct?

MS. BANKS: That is correct.

CHAIRMAN CARTER: And the other thing is that that separate entity, instead of having the costs, construction costs borne by the ratepayers, that entity itself would have to pay that. We'd just -- the ratepayers would be merely paying for the fuels; correct?

MS. BANKS: That's correct. It's, it's interesting, this proposal has gone through, they have proposed it as they're using the Henshaw exemption, which is a statute that says, okay, if you build an intrastate line and you, and there is statute and there's regulations that the Commission will actually actively regulate you in the state, you can have, be regulated by the Florida Public Service Commission rather than the FERC.

What's important about that is that in that statute it gives you the provisions of how rates will be set. For Florida there are provisions that the rates are negotiated. And as long as they're not unduly discriminatory and they're arm's length, those rates are considered to be acceptable. That's a little -- that's one of the provisions in Chapter 368. And maybe Martha wants to expand on that just a little more. She's more familiar with 368.

MS. BROWN: Well, a little bit more.

But I think we're sort of getting off your question a little bit. Your question was -- or your statement was at the hearing you asked the witnesses what it would mean to be a separate entity and, and who would bear the risk. And I think the testimony was that the stockholders, the shareholders in the separate entity would bear the risk, and the ratepayers' exposure would be for the purchase of the transmission capacity that would then go through the fuel and purchased power cost recovery clause, just like it does on FGT.

CHAIRMAN CARTER: Right. So the one --

MS. BROWN: That would be the extent of the ratepayers.

CHAIRMAN CARTER: Right. So the 1.531 billion for the pipeline would be borne by that separate entity.

MS. BROWN: Yes.

CHAIRMAN CARTER: As opposed to being borne in the rate base.

MS. BROWN: Yes. Of course that cost is incorporated in the rates that the other entity would charge, but they wouldn't specifically be borne by the ratepayer and the ratepayer wouldn't be paying a guaranteed rate of return on those investments.

CHAIRMAN CARTER: Now here's, here's where we loop back to Commissioner Argenziano's question when we asked a question before about the 1.53 billion versus what FGT's bid was. We're at Issue 10 now, so where is that number so we can compare apples to apples? Because with FGT you'll be buying the fuel.

MR. BALLINGER: You're buying both fuel and capacity even from an affiliate.

MS. BANKS: Yes.

MS. BROWN: I think that's --

MR. BALLINGER: Cheryl --

MS. BANKS: I needed to clarify that. I was trying to clarify. My mind goes 100 miles an hour and I know what I'm thinking, but I didn't say it clearly.

CHAIRMAN CARTER: Mine only goes two miles an hour, so.

MS. BANKS: When you had asked me if it's only the fuel costs, in my mind when I hear fuel costs, it's a combination of the capacity and the actual molecules. But because they don't buy the molecules of gas, the actual gas, the capacity is what they buy from the pipeline entity. The molecules they buy from a producer. But both those components both go through the fuel clause. So it's not just the molecules, it's the amount they're renting or the capacity they're renting on that, on that pipeline. I wanted to make sure it's not -- when you said fuel, I needed to make sure it's both pieces.

MR. BALLINGER: I think it'd be fair to say that the transportation rate charged by an affiliate reflects the capital cost of the line to recover --

MS. BANKS: That, that is correct.

CHAIRMAN CARTER: I still don't have, I still don't have the answer to the question in the, in the context of 1.53 billion for FPL's pipe, if they built the pipeline themself, and that 1.53 billion would go into rate base versus the cost of buying as they normally do through a, through a pipeline for the fuel which would go through the fuel clause.

MR. GRAVES: I think the bottom line is shown on Page 40. That's over the 40-year life.

CHAIRMAN CARTER: I'm looking. What is the bottom line?

MR. BALLINGER: Remember, this is the difference in cost between the FPL EnergySecure line and the FGT proposal.

CHAIRMAN CARTER: Right. Right.

MR. BALLINGER: So it includes the capital costs of both projects compared against one another and the operation costs of both projects compared against each other.

CHAIRMAN CARTER: Right. We want to

compare apples to apples, so that's, that's the basis of my question. So what is the answer?

MR. BALLINGER: You're looking for the actual cost of the FGT, the capital cost that went into these numbers?

CHAIRMAN CARTER: Yeah.

MR. BALLINGER: Okay. I just want to make sure I understand the question.

CHAIRMAN CARTER: I'm saying here's the, here's the thing is that, and, Commissioner, like you said, by the time we got to Issue 10 we missed it. But when we were down on several issues before, the question was asked about the 1.53 billion that it would cost for the EnergySecure pipeline that would go into rate base.

The question is what is the cost for the company purchasing, I'm saying fuel, but you know what I mean when I say fuel, the transportation and all like that, what is that cost to juxtapose that? Because that won't be going in rate base, that'll be coming out of the fuel clause.

MR. BALLINGER: I understand. And I think the transportation rate from FGT was confidential. Am I correct, Robert, or not? I mean it was included in this analysis. But I think the -- I understand your question, what would be the capital costs that would be recovered through the fuel clause for the transportation rate if it were to be the FGT or an affiliate line?

MS. BROWN: Well, but, Commissioner, I'm not sure you, we have the information on a separate entity that would be built, that pipeline. We don't know what those costs would be. So the comparison that's here in this recommendation is between what FGT proposed --

CHAIRMAN CARTER: Which is you have a recommendation on one hand where FPL says we'll build this 380-mile pipeline that will provide fuel to our plants, and there may be 200, capacity for 200 more over, for future use. Then you have FGT saying we can provide fuel to your plants based upon our current iteration of the pipeline service with just a matter of expanding what we have. So I'm saying that the cost versus the cost. Going back to Commissioner Argenziano's question initially when we, before we got to Item 10, Issue 10 is that to try to say how do we come up with a cost basis? What is the best cost alternative? Do you remember that? Do y'all remember that?

MR. BALLINGER: Yes.

CHAIRMAN CARTER: Okay.

MR. BALLINGER: I do. We may have a specific exhibit, but I think what you're looking for is the individual revenue requirements required for each project each year that gets you to this end result of a net present value. This is the summation of the end result. But you're looking for the, the cost of the project in terms of revenue requirements that they provided. I think I understand it.

CHAIRMAN CARTER: Okay.

MR. BALLINGER: Perhaps if we took a few minutes break, we might be able to round this up.

CHAIRMAN CARTER: Okay. Let's do this, Commissioners, let's take -- we'll come back at ten after.

(Recess taken.)

We are back on the record. And in order to give staff an opportunity to research the issues and come back to us, Commissioners, we're going to go ahead on and take our lunch break and we'll come back at 2:30.

(Recess taken.)

CHAIRMAN CARTER: We are back on the record. And when we last left staff was putting together some information for us, Commissioner.

Robert, I think you're up.

MR. GRAVES: Thank you, Chairman.

What we have handed out is a packet to show how we came down to the numbers on the Table 1 on Page 40. And it's the annual revenue requirements for FPL's system with the EnergySecure pipeline, that's on your first page. On the second page is the revenue requirements for FPL's system with the company -- excuse me, with FGT's proposal. And the last page is a graphical representation of those numbers.

And the way the graph reads is in the early years where the graph is negative, that shows that FGT's proposal is more cost-effective in those years. As you go out -- and I'll use, I guess, the base case as an example. Once it crosses zero in roughly 2040, that's when the customers will see the savings on a cumulative basis for the EnergySecure pipeline. And this is --

CHAIRMAN CARTER: Are you done, Robert?

MR. GRAVES: Well, I was just going to say and this is the summation of all the costs that would go into either project, the FGT -- accepting FGT's proposal or the FPL EnergySecure pipeline.

CHAIRMAN CARTER: Okay. Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Just one follow-up question, or actually two follow-up questions on that. And I appreciate you putting it in the graphical format. I think that might have been what we were looking at during the hearing.

On Page 40, the second to last paragraph at the bottom of the page, looking at this chart and comparing that to the paragraph, is it correct to understand that under the base case scenario that there will be no net present value savings to the consumers until approximately 2040, and then assuming the cost estimate, the expected savings through 2053 is only $200 million, is that correct?

MR. GRAVES: Yes, sir. And that's on a cumulative basis. They would actually see annual savings when the graph, I guess --

COMMISSIONER SKOP: Okay. And with respect to the base case, that's just based upon the projected cost estimate of approximately $1.53 billion. That would not include any cost overruns or anything like that, is that correct?

MR. GRAVES: No, sir.

COMMISSIONER SKOP: So if there were cost overruns, how would this graph change? Would the economics deteriorate in terms of the present value requirements or would it be a longer period before you would see payback?

MR. GRAVES: That's correct. If there were cost overruns, you would see the break-even date of 2040 pushed out.

MR. BALLINGER: I think I disagree with Mr. Graves. I think if you had a cost overrun because of material costs it would be the same for either project, so your relative difference would stay about the same. Remember, these are relative cost differences between two projects, not a cost.

COMMISSIONER SKOP: But you say either project, and with respect to the EnergySecure project that is a physical brand new pipeline; but with respect to meeting need for the modernization plants that may not -- may or may not require construction of a physical pipeline, is that correct?

MR. BALLINGER: But I think the out years require some additional infrastructure. FPL's gas needs increase. It wasn't just the FGT proposal for the first 400 Mcf.

COMMISSIONER SKOP: Okay.

MR. BALLINGER: So there would be additional infrastructure down the road. So I can't say definitively that if there were cost overruns for the one project they would not also happen for other projects.

COMMISSIONER SKOP: Okay. But it's not an apples-to-apples comparison until you need that incremental capacity. For serving the 400 Bcf that's necessary for the modernization plants within the near term, that could be reasonably accomplished by one or more options, and one of the options certainly would be building the proposed EnergySecure pipeline.

MR. BALLINGER: Correct.

COMMISSIONER SKOP: The other option might be having FGT do some sort of looping or additional compression that would not require a pipeline, is that correct?

MR. BALLINGER: Correct. But this analysis goes well beyond that and includes additions. It doesn't give you the analysis of stopping at 2014 and holding the gas needs flat.

COMMISSIONER SKOP: Okay. But there is some benefit to having additional capacity within the forecast period for additional base load generation that will come on-line at some predetermined date. I think 2021 is the forecast within the staff recommendation, is that correct?

MR. BALLINGER: Yes. I think part of the benefit of this is having that capacity available as you grow into it.

COMMISSIONER SKOP: Thank you.

CHAIRMAN CARTER: Thank you.

MR. TRAPP: Chairman, could I also interject?

CHAIRMAN CARTER: Bob Trapp.

MR. TRAPP: You know, I'm not sure that we are giving full examination to the chart that is on Page 40. We have talked a lot today about the risk associated with cost overruns and forecasts not materializing and things of that nature, but I think you also need to pay attention to the right hand column in this chart, and this has to do with the nuclear delay case.

It's a scenario that says what happens if something happens to the -- you know, we're probably first in the nation to test the new era of nuclear. There's a lot of risk associated with whether or not those nuclear power plants are going to be able to come on-line in the time that was estimated at the time of the need determinations. So in their analysis, Florida Power and Light has also done cases that looks at a nuclear delay that would necessitate advancing gas plants into their plan. That's a legitimate scenario analysis as far as staff is concerned, and that shows considerable more savings to the consumer should a contingency like that occur.

Again, seven out of these eight -- excuse me, yes, seven out of eight cases show that this particular project is more cost-effective over its lifetime than the alternative of FGT's comparable orange-to-orange comparison.

Only in the case of the decreased load growth, which basically assumes that we're going to stay in a recessional state for some period of time is there a negative, and that negative, quite frankly, is so small as to be insignificant.

CHAIRMAN CARTER: Okay.

Commissioner Argenziano, did you have a question? Should I go to Commissioner Skop and come back to you?

COMMISSIONER ARGENZIANO: Yes.

CHAIRMAN CARTER: Commissioner Skop,

you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chair.

To Mr. Trapp's point, which is well taken, in terms of the scenario that was used, was the base case the primary scenario that was run, or refresh my memory in terms -- the hearing has been quite a long time ago.

MR. BALLINGER: Yes. Your base case is the, I guess, I want to say most likely to occur, and then we ran sensitivities off of that.

COMMISSIONER SKOP: Okay. So looking at the nuclear delay scenario, and, again, I think the projected in-service dates were 2020, 2021, 2019, something like that for the Turkey Point 6 and 7 units that were previously approved by the Commission for a need determination. But following the curve showing the present value revenue requirements for the nuclear delay scenario, I guess the present value revenue requirement would not become positive or reach that inflection point until approximately 2032, is that correct?

MR. BALLINGER: That's correct. You would start seeing annual savings about 2017 when the gas plant got advanced because of the nuclear delay, and those annual savings then would accumulate over time and have a net cumulative effect about 2031 it looks like.

COMMISSIONER SKOP: Okay. So between the current period, 2012 or 2013, you know, during the construction period that has AFUDC and then construction of the pipeline, customers would essentially pay for the construction of the pipeline and then the break-even point would shift to the left by approximately ten years, is that correct?

MR. BALLINGER: Correct.

COMMISSIONER SKOP: Okay. And in terms of the recognized savings in the nuclear delay scenario, the cumulative present value revenue requirement, if I look at this chart correctly, would approximately be $500 million in 2009 dollars as opposed to the 200 million savings under the base case scenario, is that correct?

MR. BALLINGER: Correct. That's on Page 40.

COMMISSIONER SKOP: All right. Thank you.

CHAIRMAN CARTER: Thank you, Commissioner.

Do you have any questions? I am looking at both of these charts. It's never a good idea to think out loud for me, but, hey, I'm in it right now.

Looking at both of these charts, is there a bottom line to each that I can find from -- and I know they both go to 2053. Is there a bottom line that I can juxtapose between Scenario A and Scenario B, the base scenario for Company B?

MR. BALLINGER: I think we can sum it up as you have got -- anytime we look at a need determination you want to look at sensitivities to get an idea, because we don't know precisely what the costs are going to be. So we have to test ranges. We look at ranges of fuel forecasts and load forecasts, so this is not foreign to us. We tend to look at how much can things change in the future and it still looks like it's going to be a good deal. And as Bob said earlier, it looks like seven out of the eight scenarios we studied it looks like it shows a positive benefit.

If I could, I'd like to explain the other sensitivities and give you a feel for what we are looking at. I am on Page 40 in that table. The FGT March proposal under the base case scenario, which means all the base load forecasts and all of that and the only thing that changed was FGT submitted an unsolicited proposal in March right before FPL filed. It wasn't part of the RFP or the solicitation process.

As discussed in the recommendation, FPL had some concerns with that request or that proposal, but they evaluated it anyway straight up, and it showed that the EnergySecure Line was still $26 million more cost-effective. Now, that's getting marginal in the out years, but there were some concerns. One of it being that the cost of material in the FGT proposal was a big portion of that. That same decrease in cost of material was not applied to the EnergySecure line. So in my mind, like we talked earlier, if materials drop they are going to drop for all, and I think the relative difference would be about the same.

That same proposal was compared to the nuclear delay scenario, and, again, you see significant savings with the nuclear delay. And as you will see throughout this, what this really tells you is that this pipeline is a good hedge for the nuclear delay scenario, if that happens. If the NRC decides to drag its heels or for whatever the permitting takes a year or two longer, FPL with the EnergySecure line has got -- the benefits come that much sooner to it.

The cost of capital sensitivity, staff

asked the utility as discussed earlier I think by Mr. Springer, their original economic analysis had an ROE of 11.75, and staff is aware they had a rate case in here asking for 12.5 ROE, and we wanted to see what the effect of cost of capital would do since this is a capital intensive project. As you can see, going to a higher ROE of 12.5 percent lowers the cost-effectiveness of the project significantly, by almost $150 million on a present value basis. Okay. Still under the nuclear delay scenario, there is $344 million of savings even with the 12.5 ROE. That's what that sensitivity line is for.

And then the final line of the decreased load growth was taking the University of Florida's low load growth that was projected out there, you heard earlier discussions on Issue 1 about the load growth or load forecast, which one do we use. Staff has come to the conclusion that the adjustments FPL made were okay. However, we looked at the sensitivity. What if you did use the lower end of the University of Florida's growth. That shows under your other base case assumptions, everything else held constant, just the load growth change, it's a net cost of the EnergySecure pipeline compared to FGT of almost $7 million. So it's about a break even, even under that low load forecast that we don't need the gas until way out in the future.

Again, under the nuclear delay scenario you still have $100 million of projected benefits. So that is just a quick walk-through of that table of what we look at. So in staff's mind in the primary is there is a lot of flexibility in this thing. A lot of what-ifs can happen and still show that this project looks like the best deal. And, again, we are charged with making a decision today based on the facts we know today for something that is going to happen in the future, so we try to test the reasonableness of what's going to happen.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I know on Page 40 it shows, I guess, a sensitivity matrix, but I guess I'd like to refer back to the present value revenue requirement chart because, again, that to me shows three sensitivity analyses that have been run, one for the base case, one for the assumption of a nuclear delay, and one based on reduced UF-based load growth.

MR. BALLINGER: Correct. This would give you the numbers -- back on Table 40, the base case of 208, the nuclear delay of 513, and the decreased load growth of negative seven.

COMMISSIONER SKOP: Okay.

MR. BALLINGER: We have charts that do all these other sensitivities. I didn't want to freak you out with a bunch of graphs.

COMMISSIONER SKOP: I guess to me what is somewhat instructive and clearer than the table on Page 40 is seeing the graphical representation before us with the three lines and showing the effect of what scenario may be more predominant than another. But with respect to the base case, I think as you previously mentioned, the inflection point for showing positive present value to consumers would not occur until 2040, is that correct?

MR. BALLINGER: Correct, on a cumulative basis.

COMMISSIONER SKOP: Okay. And with the nuclear delay, the curve shifts to the left and so consumers will not see present value benefit until approximately 2031, is that correct?

MR. BALLINGER: Correct. And as discussed this is not uncommon for capital intensive projects.

COMMISSIONER SKOP: Okay. And with respect which is the UF-based load growth, which is the pink line, I believe, does that cross the line in 2053 or even show positive?

MR. BALLINGER: No, it would be a negative seven as in the table here. And all the other scenarios that are on this table would fall between the green line and the pink line to give you a feel.

COMMISSIONER SKOP: Okay. Let's take the green line, which based on these lines is the most -- the green line appears to be the most favorable for consumers to the extent that the payback begins to materialize in 2031, and then it shows approximately $500 million of cumulative present value revenue requirement, if I'm reading this correctly.

Assuming we take that particular scenario, which, again, is not the base case, but just for the sake of discussion, if we took the nuclear delay scenario, how would the primary staff recommendation address the concerns raised by alternate staff as to open access on the pipeline as well as the intergenerational inequity argument to the extent that consumers would be paying from 2012 until approximately -- or actually paying more from 2012 to approximately 2031 before they started to see some benefit?

MR. BALLINGER: Okay. I'll take it in two parts. First, the open access. Part of FPL's filing is that they would -- this pipeline would allow them to do two things, capacity releases of existing FGT capacity which they are doing today, which are short term interruptible releases of gas transportation capacity, and they also requested that they be allowed to make third-party sales, direct sales out of this line, ala open access. That's the contention we have in Issues 14, 11, and 13, would those sales result in regulation under 368 or 366. That's a little nuance.

What I would like to point out is all of these analyses do not include those additional revenues that would be gained from those sales.

COMMISSIONER SKOP: Okay.

MR. BALLINGER: They were probably going to be minor in nature, they weren't included in the cost-effectiveness, so in my mind they are the gravy on the mashed potatoes.

COMMISSIONER SKOP: That's the point I want to flesh out a little bit more with respect to the off-system sales with the capacity release. If I understand, and alternate staff jump in if I'm wrong on this, but with respect to the proposed pipeline, the one that FPL would build, there is no open access on that pipeline, per se, it's, you know, interconnected only to the FPL plants for the most practical purposes, whereas the only open access would be the release of firm capacity that FPL ratepayers have already paid for on FGT of which any additional revenue might be negligible based upon the fact that -- some of the things that we have heard here this morning.

MR. TRAPP: Let me jump in at this point and at least give you my perspective with respect to your question. I think your question goes right to does Florida Power and Light need an open access transmission pipeline? No, they don't. They need gas transportation to their power plants. That is the petition before you, to build a gas pipeline to their power plants that they will own and operate. It happens that in the projections for the sizing and the planning for the sizing of the pipeline, they are sizing it at 600 million Btu per day capacity for the initial construction of a 30-inch pipeline.

What will that get us? That will, according to the testimony, supply the Cape Canaveral and Riviera needs in the 2013/14 time frame. It will provide, depending on what happens with the nuclear power plants, potentially based on the estimates in the record, a three to seven-year temporary surplus of pipeline capacity for which the company has stated in the record they will use that capacity. It won't be idle, it won't be just sitting there.

They are going to utilize that capacity for three things. One is to provide contingency backup should something happen with a hurricane, or weather, or whatever. They have that capacity to weather that. Two, they will use it to economically dispatch their electrical system. That's what this gas release is all about, it's basically picking the most economical gas transportation to the existing system out there beyond Canaveral and Riviera. And, third, to the extent that they can, and, quite frankly, in my opinion, the record is a little doubtful as to whether or not there is a market for nonfirm temporary gas transportation in that three to seven-year time period. After that time period, however, the current forecasts indicate that Power and Light is going to be a gas-run electric utility and they are going to need to build more gas power plants. That pipeline will be 100 percent fully utilized to supply electric power plant generation in Power and Light's system. They don't need an open access.

Open access means you are going to compete with other utilities in Florida for the supply of gas. Power and Light needs this gas. Power and Light wants to build a pipeline to get that gas, and that's my take on this whole project.

CHAIRMAN CARTER: Commissioner, yield for a moment, please, so I can get Commissioner Argenziano. I will come back to you, Commissioner.

Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Just to that point, and I understand Florida Power and Light needing that to fulfill their own needs, but I think they also are indicating that it would be a benefit to the whole state for open access to -- but very limited. So in one hand -- I hear what you're saying, but I hear them lauding the capability of this pipeline to be used for open access to a certain degree, isn't that true?

MR. TRAPP: There's no doubt that the state has relied on open access transmission pipelines to date to provide its gas. The current FGT system provides 63 percent of Florida Power and

Light's current gas. If FGT were to build this project to supply the next increment of Power and Light's gas, it takes it up to 80-something percent dependency on FGT. That to me indicates there are certain competitive advantages for Florida Power and Light to basically compete with FGT for market share.

That to me has a benefit to the state because it signals other utilities of the state that, hey, maybe we don't have to rely on these FERC-regulated open access build it if-and-when-we-come type of lines. So I think to me it is kind of six of one and half a dozen of the other whether you put dependency upon open access being beneficial to the state relative to building a locked down, I control it, kind of rent versus own pipeline to Power and Light.

COMMISSIONER ARGENZIANO: And I --

MS. BROWN: Commissioner, if I might just break in here for a minute. We are going to discuss this more in another issue.

COMMISSIONER ARGENZIANO: Okay. And I'll look forward to that. And I understand that, and I'm really trying to grasp that because the company is saying, look, I could do this. We don't have to be reliant upon anybody. We could do it. We could do it a better price and better for the consumer. Great.

There are, of course, some concerns with some lack of specificity and whether there really is the cost-effectiveness that we are banking on in the FPL scenario as Alternative 1. The primary alternative is saying -- the secondary alternative, or whatever we call it, Alternative 2 is saying maybe that's not so. So that brings a question. And I understand that, I understand that the company may want to do that.

But let me ask another question, and it may not fit in here but somewhere down the line before I forget it, and it's simple as probably can be when we get to the end of all of this to decide which is the best way to go.

Under the scenario of the company having the pipeline, you know, going into rate base rather than a separate subsidiary. If the pipeline is not in rate base and it is under a separate entity, or it goes more to the shareholder, or to the fuel clause where I guess there is no profit then made on that part of the building of the pipeline --

MR. TRAPP: No, ma'am. It's rent versus own. You're going to pay. It is either going to flow through the fuel adjustment clause or the customer. But the cost of a pipeline is the cost of a pipeline and whether you, you know, rent that capacity, you're going pay the landowner for his total cost of the property plus taxes, insurance profit, and everything else. That's going to be in the rate you pay.

COMMISSIONER ARGENZIANO: But now if the shareholder -- if it moves to the -- the pipeline is a separate subsidiary -- let me see if I have got this right -- and the shareholder shares responsibility and risk in that, does that then create -- I don't know if it would create -- what word am I looking for? Would it create more of a scrutiny because the shareholder now is, you know, I'm going to lose bucks rather than it all being on the ratepayer where maybe there is -- and I know that is iffy, but it is a question that comes to mind.

MR. BALLINGER: I think what you get is what has developed in the gas pipeline is building the capacity that is needed in steps and not having this infrastructure in place for a temporary window of three to seven years of excess and controlling.

You will get to where the companies will build just what is requested by the buyers, the utilities out there, and not really building excess to then market competitively. They gauge their risk of the capital that they expend. They look at I'm going to build just enough pipe that I need to meet the needs out there of the customers who have signed agreements. Unlike an electric utility who has to project load and has to serve everybody who shows up regardless, the gas industry is looking at contracts, and FPL is saying, okay, I need 20 years worth of gas at this much and they know how much it is. They have a fixed load that they know they can build for, so it's slightly different.

MS. BANKS: Cheryl Banks --

MR. TRAPP: And addressed in another issue, staff has offered what we think the regulatory protections are that the Commission has used in the past and is available in the future with regard to making sure that Florida Power and Light prudently recovers only that cost that they should recover from the ratepayers.

If the line is used, they should recover the cost. If there is excess in the line, they should do everything humanly possible to sell or use that -- find some other way to use that capacity and get revenues to offset to the ratepayers. And it's this Commission's responsibility to scrutinize that and make sure that they justify any difference between the fully allocated cost of that line and whatever they get in terms of revenues from off-system sales. But, again, that's another issue.

MS. BROWN: And, Commissioner Argenziano, the alternate staff will have the opportunity to present their position on that matter going forward.

COMMISSIONER ARGENZIANO: Okay. When we get to that I would appreciate that, to hear both sides okay. I will just wait until that time, and I'll write some questions down.

CHAIRMAN CARTER: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair.

Just some follow-up questions with respect to capacity release. I guess isn't the notion of capacity release effectively asking consumers to pay for redundant capacity for the three to seven years that there would be excess capacity?

MR. BALLINGER: But that is happening today. There is excess gas transportation capacity today that FPL does and sometimes they temporarily release capacity when it is economic.

COMMISSIONER SKOP: But they need that to meet their needs. You're talking about future additions to meet some needs that are not fully subscribed at this point.

MR. BALLINGER: When they secured the gas requirements they look at running their plants full load. They have to have enough gas to be able to run them full out. If the electric load is not there, they don't run the plants full out, they have some transportation capacity to release.

COMMISSIONER SKOP: I understand that. But, again, I'm trying to stay apples-to-apples so I can have a better perspective and understanding about this, and we seem to be diverting to apples and oranges.

With the existing capacity that has been subscribed to, which is firm capacity, that's to enable FPL to operate all of its plants based on its gas requirements at full load, and then obviously you have to size to maximum requirement.

MR. BALLINGER: Uh-huh.

COMMISSIONER SKOP: Okay. And that has been done. I have no problem with that. That's the prudent thing to do. But in the proposed project, the initial requirement is 400 Mcf for the Riviera Beach and the Canaveral conversion plans, and that will be through 2014, and I don't think we have another gas plant coming on until 2021. So you have 200 Mcf of additional incremental capacity. That's firm capacity that the ratepayers are paying for, but on the same side you also have additional capacity that they are going to directly free up when they are able to do so, but you are essentially -- it's redundant capacity at that point because you have excess capacity and it's not fully subscribed or needed.

MR. TRAPP: But, Commissioner, look at the deal. How much did it cost to get that 400 to 600 move in terms of capital? $15 million. The record in this case shows, and I think it was this past year, Power and Light recouped $3 million in annual revenue associated with existing capacity release. So it's a great deal.

COMMISSIONER SKOP: I am not trying to engage in an argument. I'm trying to better understand the position of primary staff and alternate staff on the issues, okay? Because, again, there has been some concern about capacity release as a potential revenue benefit to make the economics better. But, again, I'm hearing two different sides.

You know, primary staff is saying it's a benefit. Alternate staff is saying, well, there is no real revenue that is going to result from that because when capacity is released everyone is releasing capacity. So, again, I'm trying to discern or separate the wheat from the chaff.

MR. BALLINGER: Exactly. And what I want to point out is what Bob said, the 200 additional Mcf of transportation capacity comes at a cost of about $15 million for some compression facilities. In later issues we talk about a ratemaking procedure you can do to remove that 15 million from base rates if you want to cover the incremental cost. There is a variety of things you can do to lessen the amount in rate base.

Aside from that, the 200 excess can be used for reliability purposes at Martin if there is a problem on the FGT line or whatever. And I forgot the last thing I was going to say.

COMMISSIONER SKOP: To that 15 million --

MR. BALLINGER: Oh, I'm sorry, I know what it was. That the revenues for these releases were not included in this cost-effectiveness analysis.

COMMISSIONER SKOP: Okay. And that's the base case.

MR. BALLINGER: In all these scenarios we included no revenues for any off-system sales or capacity releases. So those would be extra revenues that would enhance the cost-effectiveness. If it's a dollar --

COMMISSIONER SKOP: With respect to the cost of the incremental capacity of building a pipeline of, I guess, 600 Mcf versus the 400 that is needed, is that incremental cost, because I thought I heard two numbers, and I haven't been able to track it down. But I thought I heard 15 million and then later in the hearing I thought I heard 150 million, so I'm wondering which is the correct number there?

MR. BALLINGER: The 15 million.

COMMISSIONER SKOP: Okay. And what page is that on?

MR. BALLINGER: Robert, help me out here. Maybe the $150 million comes from the nuclear delay reduction. I could have sworn it was in Issue 10, and I'm scanning through here to find it.

MR. GRAVES: Page 13.

CHAIRMAN CARTER: Say again?

MR. GRAVES: Page 13, the second to last paragraph.

MR. BALLINGER: Yes. It's on Page 56, Commissioner, I'm sorry.

COMMISSIONER SKOP: And just so you know, I mean, I thought during the hearing that's the first number I heard, but then subsequently I thought that I might have heard 150. So, again, I was trying to get some --

MR. BALLINGER: And that's where we talked about the alternative ratemaking treatments, that is where we brought it up.

COMMISSIONER SKOP: All right. Let me move on to my other questions. I think this has already been touched upon by a question that Commissioner Argenziano presented about, you know, why the need to put this in rate base, which I believe is Issue 11. But is it correct to understand that FPL has stated in the record that if this is not put in rate base it would not build the pipeline?

MR. BALLINGER: I believe so. I believe that was their contention.

COMMISSIONER SKOP: Okay. All right. And one other technical question with respect to the proposed pipeline, which is not open access, but merely serves the three FPL plants, how does that enhance reliability if that's not interconnected with any other pipeline? For instance, if there were a pipe failure, all three of those plants are effectively kind of forced to use alternate fuel, right?

MS. BANKS: That's actually Issue 3 that we can go into. We can address it now.

COMMISSIONER SKOP: No, we'll go back to Issue 3 if we need to.

CHAIRMAN CARTER: That's the next one. We are on 10 now, we will go back to 3.

COMMISSIONER SKOP: That's fine. Just two more questions, Mr. Chair. On Page 6 of the staff recommendation in relation to the incremental capacity, how would primary staff rebut the FGT contention that FPL is asking for the 600 Mcf initial capacity because the capacity is basically benchmarked to the upstream pipeline provider, and that was the smallest that the upstream pipeline was willing to build?

MR. BALLINGER: I don't know that that was determined during the hearing. FPL's solicitation asked for 400, 600, and 800 Mcf, I believe, per day bids from a variety of people. They got a pure interstate proposal that came all the way from out of state down to the plants, they got the Company E proposal, which was just an interstate portion down to the commencement point of this line, and the total interstate one was the FGT proposal.

COMMISSIONER SKOP: Okay. So now that we know for all practical purposes that the FPL proposed pipeline, the intrastate pipeline is sized for 600 Mcf, why would it not be appropriate to further definitize the solicitation and seek the best price on that particular option?

MR. BALLINGER: I would suggest they did because they asked for 400, 600, and 800 Mcf bids.

COMMISSIONER SKOP: But, I mean, that's kind of open-ended. That's not very, you know, specific and concise to what you want to build. You know, I can say go build a luxury cruise ship or build me a boat that will take me fishing and back or something, you know, or whatever.

MR. BALLINGER: I take the other view that it's more open-ended in letting the responders put together their best project that they think can serve your needs.

COMMISSIONER SKOP: Okay. All right.

Fair enough.

And then also one other question with respect to, I think, a comment that you made that if FPL ratepayers would be asked to pay for the proposed pipeline, then certainly it would be built to the 600 Mcf. And I think that you stated that that was consistent with what has been requested. But I think also in a response to a question you stated that if the proposed project would not be allowed to be recovered through base rates, that effectively that would change FPL's behavior to the extent that the shareholders would be subject to risk and they would size the pipeline based upon necessary and current requirements as opposed to excess capacity. Can you distinguish those?

MR. BALLINGER: I don't think that was FPL's contention that they would resize the project. I think they contended that they would walk away from this project.

COMMISSIONER SKOP: Okay. But in terms of the financial choices of who bears the risk, if FPL were not allowed to recover this in rates and had to do it on its own development, I think that you mentioned that that would change the behavior to the extent that it would be sized more appropriately to what would be fully subscribed at this time with room for later expansion.

MR. BALLINGER: I don't know that it would be resized. I think FPL, as they stated, would walk away from this particular project. Whether they would go forth and build a 400 Mcf line on their own, I don't know.

MS. BANKS: I think that was in response when Mr. Ballinger was talking generically about how pipelines are built and how they are structured, and I do beg to differ. In my view he said basically that you will only build what you need, and I think that is where the Commissioner was coming from, that you only build what you need because you don't want to be at risk.

But I will tell you that the Sunshine Pipeline, that while it was not built, the Commission did here the need determination. That pipeline was sized much larger than it had precedent agreements for, and the Commission when it did that put a contingency upon it that it would be at risk for the difference between what it had as precedent agreements, confirmed capacity commitments, and how big it sized the pipe. So, pipelines do, in fact, do build pipelines bigger than what they actually have commitments for.

COMMISSIONER ARGENZIANO: Mr. Chair.

CHAIRMAN CARTER: Commissioner Argenziano and then I'll come back to you, Commissioner Skop.

Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Thank you.

It's apparent there are still definite differences in staff, and let me ask this question for better clarification for me. And it may be repeating it, but give me really -- I guess, cut to the chase answer as to why would FPL walk away if it wasn't -- from building the pipeline, it wasn't in bate race -- rate base. See, there's dyslexia. (Laughter). Backward. I knew it would come out sooner or later. Why would they walk away from a pipeline for something they need if it wasn't in rate base? And I want answers from maybe both alternatives that we have.

MR. DEVLIN: I guess I'm on the alternative team on this one.

COMMISSIONER ARGENZIANO: Which alternative?

MR. DEVLIN: Cheryl's team. It's sort of a supposition on my part why FPL would take that position other than putting these dollars in rate base means, at least in my mind, that 100 percent of the risk of this investment is now placed on ratepayers' shoulders. Whereas if it's with a separate subsidiary there is at least some risk that is going to be borne by the shareholders in the event the contracts aren't such where they get complete cost-recovery through the clause. There is some uncertainty when it's a separate subsidiary versus putting it in rate base where there is very little risk to FPL.

COMMISSIONER SKOP: If it were a separate subsidiary and some risk was on the shareholder, wouldn't that translate into, I guess, more scrutiny for the best effectiveness and least risk that you can get?

MR. DEVLIN: I would say yes.

COMMISSIONER ARGENZIANO: And the other side?

MR. BALLINGER: We suggested some ratemaking alternatives that do the same thing, if you will, remove some of the assets from rate base to incentivize the company to get these additional revenues. There's other ratemaking treatments you can do to have the shareholders bear some risk. So you have those tools available for you even under rate base treatment.

COMMISSIONER ARGENZIANO: What are the other -- what better way -- let me ask this the only way I know. What better way than sharing some of the risk with the shareholder to ensure that there is the best scrutiny? If all the risk is on the ratepayer, I mean, who cares if you build it bigger or it's not as cost-efficient? It's going to be paid for by the ratepayer. But if the shareholder takes some risk, there is a little bit more scrutiny or scrutinizing on the effectiveness and what you really need.

MR. BALLINGER: I agree, and I think that you have two risks. Even though you may certify a need today, that is not a guarantee of cost-recovery in the future. The utility still has to justify it prudently incurred those expenses, what they were, how they spent them. That's one risk that are borne by shareholders.

The second risk is at the juncture when it comes on-line we may look at load forecasts. There may not be the gas needs at that time, and we may question the utility, why did you go ahead and build this line when you saw the load dropping off, things of that nature. We're removing half of the assets out of rate base, and that puts it right back on the stockholders. So there is mechanisms that you can do on the back end, I guess, is what I'm suggesting.

COMMISSIONER ARGENZIANO: But it is little bit more difficult in retrospect, isn't it?

MR. BALLINGER: It may be. I think you can get the same results and, yes, it may be a little bit more tenuous.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: Commissioner Edgar and then Commissioner Skop.

COMMISSIONER EDGAR: I didn't hear the last thing that you said. It may be a little more what?

MR. BALLINGER: It might be a bit more tenuous. It's hard after it's spent, I agree, to try to figure that, but that is regulation. We look back at actions that have occurred and judge.

COMMISSIONER ARGENZIANO: Saying that, that's why we are here discussing both alternatives.

MR. BALLINGER: I absolutely agree.

COMMISSIONER ARGENZIANO: Regulation works both ways.

MR. BALLINGER: I absolutely agree.

COMMISSIONER EDGAR: I do have some

comments and maybe questions, but I think Commissioner Skop was ahead of me, so I will gladly wait.

CHAIRMAN CARTER: Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

I guess if I could -- I guess Mr. Devlin would probably be a good person to answer this one, but could I ask you to look at Late-filed Exhibit 97, please.

MR. BALLINGER: Is that the rate comparison?

COMMISSIONER SKOP: Yes.

MR. BALLINGER: Okay.

CHAIRMAN CARTER: Have you guys got an extra copy of that?

(Inaudible. Microphone off.)

COMMISSIONER EDGAR: I don't know, because I don't know what 97 is.

COMMISSIONER ARGENZIANO: (Inaudible. Microphone off.) -- can I please ask a question?

CHAIRMAN CARTER: Yes. While they are doing that, Commissioner Argenziano, you're recognized.

COMMISSIONER SKOP: Can I ask a question a second time? I guess I still need a better understanding of why the company would say they would walk away from something they need, especially if they think they could do it more cost efficiently.

MS. BROWN: Commissioner Argenziano, if I might try to -- the explanation that FPL gave in the hearing and in its post-hearing filings was that it didn't want to be in the natural gas transmission pipeline business. There would be administrative expenses to setting up a separate subsidiary, and its primary intention was to serve the needs of its power plants, and that's why it said it would not do it.

COMMISSIONER ARGENZIANO: And I remember that, but I don't know the amounts. I don't know if it's substantial enough to walk away from something you need, and that's what I'm trying figure out. Would you really walk away from something you need that is not that substantial, you know, and not that difficult to do? And it is more competitive, but I understand --

MS. BROWN: It's my understanding that there is some record evidence, and I may need some time to find it, but that the administrative costs of setting up a separate subsidiary would not be significant. Isn't that right?

COMMISSIONER ARGENZIANO: That is kind of the difficulty I'm having with it. I don't understand if the company has other reasons that I didn't see, and if they are just -- I understand they may not want to be in the business, you know, of the pipeline. Well, then maybe that's a decision they need to rethink.

MS. BANKS: I would agree with that. I think that I personally questioned that, because if you have a cost-effective project that you believe in that will work, I am at a quandary as to why you wouldn't do it anyway. And I could not find any kind of backup reasoning to support that premise of why you want it, other than the facts that Martha just alluded to.

MR. TRAPP: Staff 100 percent agrees on that. We're in agreement. I further hold that if you find a need for gas in this case, Power and Light better come up with a solution. So --

COMMISSIONER ARGENZIANO: I was trying to see if I missed something.

MS. BROWN: It is our feeling that they probably would come up with a solution.

COMMISSIONER ARGENZIANO: Okay.

CHAIRMAN CARTER: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you.

While we are waiting for 97, which gets me, I think, back to where I was earlier today to follow up on that. Which is I think that I have been convinced as to the need and the benefit to the state of a third pipeline for all the reasons that have been discussed and were discussed at hearing for supply, and redundancy, and those types of concerns.

But I am just wondering if the two proposals that we have before us, which is go forward, as FPL had requested, or rebid, if there isn't a third approach, which may be whatever is the best way -- if this full Commission agrees to make a determination of need and then direct the utility to come back to us at some point in time with how they will -- how they will propose under those circumstances to meet that need.

And, again, that may be overly simplistic, but it just seems to me that we are getting wound around lots and lots and lots of technical details, all of which are important, some of which are more interesting than others, but it still, in my mind, comes down to is there a need, and if indeed there is, how do we cost-effectively meet that need for the best interest of the state cost-effectively. And I'm just wondering if at some point once we answer whatever more specific questions there are, if there may be a way to think that through at perhaps a little more general or higher level.

COMMISSIONER SKOP: Mr. Chair.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chair.

Just to comment on that possible third option. I will not be supporting that option.

CHAIRMAN CARTER: Say that again, Commissioner? I didn't --

COMMISSIONER SKOP: With respect to the third possible option proposed by Commissioner Edgar, I will not be supporting that option. My concern there would be it's putting the cart ahead of the horse. There's multiple ways to address providing the required capacity for the two modernization plants in the near term, which is 2014. FGT has proposed a way that would avoid building a pipeline and putting it in rate base and perhaps might be more cost-effective. The other alternative, obviously as presented in this need determination, would be to build the proposed pipeline with additional capacity. But I don't want to certify a need on the basis of not feeling like I have complete information as to what the most cost-effective option is.

I mean, it kind of centers around Issue 10. I think alternate staff has identified some concerns with respect to the transparency and openness of the bidding process, proposing that perhaps additional solicitation might be in order, which would further definitize the scope of the proposed project and allow interested parties to openly compete and bid on what would be the best proposed option to meet any additional capacity needs. And, frankly, I would like to see that before setting forth committing ratepayers to a $1.53 billion investment that won't show payback until 2041, or 2040.

So it seems to me that moving forward and just granting a need -- do I think there's obviously a need for some sort of additional capacity? Yes, but I don't know what project is positioned to best serve that need, whether it be an extension of the existing FGT facility, whether it would be an independent third-party pipeline provider, not FGT, to open up competition and open access with additional competition in the state, or whether it would be the proposed FPL pipeline project.

So to me, trying to get into a situation where we are blessing a need, I think is premature. I think that the -- as the flow chart that staff has articulated kind of looks at is that, you know, basically it boils down to Issue 10. If you support the alternate staff recommendation, you require a rebid or solicitation. You move down and there's nothing else further to possibly discuss, other than if you want to step out on the limb, maybe you can talk about whether the Commission would be inclined to put it in rate base or not. But I think that is shaky ground. I think that should the Commission decide to want to get better cost proposals that, you know, perhaps, you know, rebidding the project along something that is now obviously better defined than it was in the initial bid process that has been subject to some scrutiny might improve the economics of the proposed project for ratepayers to the extent that it would put downward pressure on the project cost estimates, whether it be to add additional -- meet the additional capacity through looping or additional compression of existing pipelines. And maybe FGT, you know, looks at that as an opportunity versus FPL looking at what they could do to lower their prices versus a third party coming in and doing it better, faster, cheaper than the other two options.

I don't know right now. There seems to be some -- a lot of uncertainty. You know, do I think making investments are a good thing? Perhaps. But, again, this is a $1.53 billion project that really kind of just came out of, you know, the fact that we previously approved the modernization for Canaveral and Riviera Beach and we knew we would need some additional gas supplies, but no one said we are going to go build a $1.53 billion pipeline. That kind of came up kind of late in the game.

So I don't want to be put in a position where I feel like I'm having a gun to my head and being held hostage to do something that, you know, under a branding of energy secure if we don't do this the sky is going to fall and we're not going to be energy secure. That's clearly not the case. We have options. We have the luxury of time. Time is not of the essence. We could go through perhaps a rebid process if the alternate staff recommendation was adopted. If not, we can accept the primary staff recommendation.

But to get into a third option of, you know, identifying need and kind of decreeing that we have to do something of this magnitude without looking at all possible alternatives, I think is fraught with peril. And I'm personally not comfortable doing that just on the, you know, financial and technical basis and the impact to the ratepayers. I want to make sure that we are getting the best deal for the ratepayers.

Being fair to FPL, if their project at the end of the day turns out to be what's in the best interest of the ratepayers and the best interest of the state, then by all means I will be the first person to endorse it and approve it. But I'm not comfortable there yet. I'm really not there in light of some of the concerns that have been raised in light of the fact that the proposal seeking quotations was pretty much a laundry list of it could be this, it could be that, it could be that.

You know, now we are more definitized. We know we are looking at a 600 Mcf pipeline from Point A to Point B with the interconnect on the -- I forget what it's called, the lateral that FPL owns.

So we know about more what the project is going to look like than possibly we did previously. And my question would be would that impact or improve the economics if all the parties knew and were bidding on common information. And if so, then the consumer clearly wins because they get the best deal.

So, again, that would be my concern. Not to, you know, kibosh otherwise good ideas, but technically I have got issues with that, and I don't think that I would support it. But I did want to get back to Issue 97, if I could. I mean, Late Exhibit 97, if I could. And if we have that before us, I just wanted to kind of take a brief look at that and ask Mr. Devlin some questions.

COMMISSIONER ARGENZIANO: 97?

CHAIRMAN CARTER: It's the one that was handed out.

MR. GRAVES: Commissioners, and only the first page is Exhibit 97.

CHAIRMAN CARTER: Only the first page?

MR. GRAVES: Yes, sir.

CHAIRMAN CARTER: Okay.

COMMISSIONER SKOP: Mr. Devlin, do you have Late-filed Exhibit 97 in front of you?

MR. DEVLIN: Yes, sir.

COMMISSIONER SKOP: Okay. I guess on that, you know, it shows the impact of not only what customers will be expected to pay with respect to the modernization projects of Riviera Beach and the Canaveral plants that -- you know, about $3-1/2 billion total coming into service at that same time, plus the proposed addition of the EnergySecure Pipeline. And I think that if you look at the first, Table 1 on that sheet, it shows what the customer bill impact might be for dollars per 1,000 kilowatts, and then it shows an alternative going with the FGT proposal to meet the gas requirements for those two modernization plants, is that correct?

MR. DEVLIN: That's what it appears.

COMMISSIONER SKOP: Okay. So looking at the 2015 number right after all of these plants would come in service, and assuming that the cost of the proposed pipeline would come into rates if the Commission chose to allow it, the difference between the FPL proposed option and doing it with the FGT alternative, the difference between those for 2015 is approximately $2.08 per 1,000 kilowatts more expensive for the FPL option, is that correct? The 5.84 versus the 3.76?

MR. DEVLIN: That's what it appears. It looks like in Table 3 it says $1.88.

COMMISSIONER SKOP: I'm looking at Table 1 and Table 2 right now.

MR. DEVLIN: Comparing Tables 1 and 2?

COMMISSIONER SKOP: Yes, for 2015.

MR. DEVLIN: Okay.

COMMISSIONER ARGENZIANO: (Inaudible.)

COMMISSIONER SKOP: Yes. These glasses and the print on here --

COMMISSIONER ARGENZIANO: It may be mine, I don't know.

COMMISSIONER SKOP: Yes, I see it pretty well. The type on this, I'm seeing like a 5.84 versus a 3.76, or 3.78, whichever it is. I mean --

MR. BALLINGER: The differential is shown in Table 3.

MR. DEVLIN: Yes. Table 3, I think, Commissioner, is the differential that you are speaking to, which is $1.88, I believe. I can hardly read those numbers. $1.86.

COMMISSIONER SKOP: Okay. Unless my math is wrong, but subject to check, I'll look at that for the -- okay. So let's stick with Table 3, then, and just assume the math is correct. So, basically, looking at the -- for 2015 rates, the proposed increase that consumers would see going with the pipeline option on top of the two new plants would result in a bill impact of $1.86 per 1,000 kilowatts more expensive assuming that that data is correct.

MR. DEVLIN: That's what it says, and I guess there is an assumption there that there would be a base rate increase in 2014.

COMMISSIONER SKOP: Okay. And that's why I picked 2015 to show when all this would perhaps hit rates, noting that, you know, other things may come into play, that some of the plant may come into rates sooner rather than later depending on things the Commission has not yet decided. But I'm just trying to assess holistically right now absent any resolicitation or whatever trying to get the best rates for consumers. Obviously there is a cost impact with moving forward with the pipeline. I think that is kind of shown on the present value revenue requirement graph, also. But, I'm just trying to understand and quantify what that impact is.

MR. DEVLIN: It appears to be more expensive to go the energy pipeline in the early years, maybe all the way through 2021 if I'm reading this graph correctly.

COMMISSIONER SKOP: Okay. And then after 2021 there would be some initial benefit. That's when it crosses that inflection point, is that correct?

MR. DEVLIN: That is what it appears to tell us.

COMMISSIONER SKOP: Okay. And but you won't see complete, going back to the present value revenue requirement, you won't see complete payback and benefit until 2040 apparently; right?

MR. DEVLIN: I believe that's true.

COMMISSIONER SKOP: Okay. All right. I just wanted to review that because I know that we had talked about that in the hearing, and I think that that kind of adds to the chart that we have before us in terms of looking at in totality what some of the ramifications of the decisions that the Commission makes has upon rates and revenue requirements. So thank you.

MR. BALLINGER: Commissioners, if I may add to --

COMMISSIONER EDGAR: Mr. Ballinger.

MR. BALLINGER: I'm sorry. There has been talk about requiring a rebid as an option that you discussed. I just want you to be aware that I, and

I think staff agrees, that if it's required by the Commission for the company to go out and rebid, you're basically authorizing a cost to go out under that. And FPL I think would be, have the right to ask recovery of the cost of doing that rebid.

You ran into a similar situation, if you will, with the Glades project that came in for a need determination and it was denied, and the company sought recovery of a lot of the development costs and things of that nature. So I just want you to be aware of that, that if you are directing the company to go do other things, you're basically directing them to spend additional monies.

MR. DEVLIN: Mr. Chairman, could I have a statement on that point, please? Comparing the Glades case to this case, I would think there may be some additional costs with the rebid, but they should be insignificant.

In the Glades case there were significant costs because there were contracts that were entered into by FPL and termination charges at stake. And that's why there was a lot of money at stake in the Glades case.

We really don't expect, and I could be supplemented with my comments, but we really don't expect the costs to be significant if there's a rebid.

MR. BALLINGER: I agree. I don't, I don't think it would be huge numbers, but just to make you aware of it, that if you are directing it, you're basically authorizing those costs.

MS. BROWN: Well, there's some disagreement on whether you are authorizing their, their costs and whether they would be entitled to recover them. I'm not sure we're completely in agreement with that.

COMMISSIONER ARGENZIANO: Mr. Chair.

CHAIRMAN CARTER: It's like you said, Commissioner.

COMMISSIONER ARGENZIANO: We're not 100 percent sure that's true and how much it would cost. But then again is it wise to sanction something that may not be specifically designed, as Commissioner Skop said, that now we know, really know what we're better dealing with now, and is it wise to go ahead with something just in fear of the possibility of extra costs to rebid? So I'm not sure if that's the way to go or not.

COMMISSIONER SKOP: Mr. Chair.

CHAIRMAN CARTER: And let me just, before

I forget it, Commissioners, excuse me for a second. Is if it is -- I think -- I forgot which one of us asked the question, which one of you guys asked the question, but if FPL will not build the, will not build the pipeline unless it goes into rate base, they'll walk away from it, then I mean how do you make the argument for cost-effectiveness? I mean, they're going, they're going to need gas anyway. That's a given. We know that. They're going to need gas; right? But the question becomes what's the least cost alternative? So in the context of the least cost alternative, it doesn't -- if it really is the least cost alternative, then it doesn't make sense to walk away from it. But if you don't get it in race bait, in bait rate -- in base rates, you won't do it at all. Did I read that right? Okay. I just wanted to make sure I was on the same plane as everyone else.

That does give me concern, Commissioners. That gives me a lot of concern. I know we're not there yet, but when you get to that point, I want to voice my concerns on that.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I just wanted to, and I think Mr. Devlin, I couldn't have said it any better myself in response to Mr. Ballinger's concern that, you know, that we're going to go down a slippery slope and incur a whole bunch of costs should we choose to require FPL to conduct a more definitized solicitation of the proposed project. Again, the costs are going to be negligible. I mean, we're talking about negligible costs on top of, you know, it's a percentage of the $1.53 billion, chump change, you know, and that's probably not a good word to use. But, again, it's, it's -- comparing that to Glades is like apples and oranges.

In Glades, FPL was very far along with the project, they had compended to long-lead materials, they had acquired the property, a host of whole other things. I think the total cost there was $32 million, whatever we awarded them, $40 million, whatever it was. And even that in relation to $1.53 billion is almost getting to be nonmaterial.

So, again, I'm not concerned about any incremental costs associated with trying to get the most accurate answers that would clearly benefit this Commission in making a decision that affects consumers over the next 30 something years. So, again, if it takes a little bit more time and a little bit more incremental cost to get better, better quality information that allows us to make a decision based on the merits, I'm certainly in favor of doing that. So I don't find that to be persuasive whatsoever, and I think I would agree wholeheartedly with Mr. Devlin's characterization of the situation.

MR. TRAPP: And if, if the Commission --

CHAIRMAN CARTER: Mr., Mr. Trapp.

MR. TRAPP: If the Commission wishes to go down the rebid path, I think we kind of agree on a recommendation to do that that would entail jumping from Issue 10 down to the bottom of the page on the flow chart regarding how to close this docket. Is that correct, Martha?

MS. BROWN: We could do it that way, if you all want to. You could vote on Issue 10. And if you decided to rebid, you would deny the need determination with direction to go and rebid it, perhaps, if you want, bring it back to staff to look at before it was issued. And then you would not have to address any of the other issues in the case. You wouldn't have to decide them at this point.

And it would be my recommendation that maybe you wouldn't want to decide them if you were going to do the other because you would want the fresher information and the, and the facts before you.

COMMISSIONER SKOP: Mr. Chair.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. And that's kind of along the thoughts that I was thinking. I mean, you know, we've had an evidentiary hearing. But the question is if there is a new rebid or a solicitation as advanced in the alternate staff recommendation, then certainly, you know, we'd move forward with that. It seems to me that it would be premature to pre-decide issues. It would just basically get the, the newest and updated, more definitized bids and go back into what was a one and a half day hearing posture, create a new evidentiary record as the basis for decision perhaps after the first of the year and move forward from there.

CHAIRMAN CARTER: And that just -- I'm trying to think aloud before I lose it, have one of my over 50 moments. Then, staff, then what happens is, based upon the way I read the, the chart here, is that no on Issue 10 takes us down that line, down that line to rebid and then determine whether or not it was cost-effective. Is that -- am I re-reading -- am I reading it right or reading it wrong?

MR. BALLINGER: On the flow chart, if you, if you want to vote no on Issue 10, the alternative, or vote for the alternative recommendation, I should say, no, it's not the most cost-effective alternative, that would take you right to -- you can direct the company to rebid or not, you can be silent, but I think all of us are agreeing that you could take it down to close the docket, that you don't have to answer these other issues of reliability, integrity, the 368 versus 366, all those other issues.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Well, at some point I'd like to address some of those other issues. Would they still be addressed later on?

MS. BROWN: You would just be deferring decision on them at this time.

COMMISSIONER ARGENZIANO: Yeah. Okay. I just wanted to make that clear.

MR. BALLINGER: If a self-build option came back with whatever, then, yes, they would be on the table again.

COMMISSIONER ARGENZIANO: Right. And it could come back, you know, with, with more specified information about the cost-effectiveness maybe and more specific to the information we now know.

CHAIRMAN CARTER: Okay. Commissioner Edgar, you're recognized.

COMMISSIONER EDGAR: To staff, if we were to direct a rebid, isn't that another way of finding a need? I mean, why would we direct a rebid if we don't think there's a need?

MR. TRAPP: If I can speak first, Martha.

MS. BROWN: Sure.

MR. TRAPP: I'm, I'm a little uncomfortable, quite frankly, ordering the company to rebid. I think that approach is micromanagement of the company. I think the company is responsible for, for doing the best interest of their customers by bringing a solution back to the Commission, but I'm not sure I want to totally tie their hands.

My only experience with this, quite frankly, I go back to the *Cypress* case where the Commission basically said, we recognize there's a need for power here, and in this case it would be a need for gas, but you haven't convinced us that you've selected the most cost-effective alternative;

therefore, your need is denied. And then there was instructions, I think, in the order, Martha, that said come back with a better, better idea. But I think --

MS. BROWN: And also in the Glades case you pretty much ended up at that same place, but your rationale was just things are too uncertain, we're too unclear about the cost-effectiveness of the project, so we're going to deny the need. You could do that as well. But, you know --

MR. TRAPP: And the reason I go back to the, to the older case is because that was a situation where we -- the Commission found that the limited solicitation process used by the company to pick a power plant was not good.

COMMISSIONER EDGAR: If I may. I'm sorry, Mr. Trapp, but it was my question.

MR. TRAPP: Yes, ma'am.

COMMISSIONER EDGAR: The Glades I remember very, very, very, very well. Cypress I'm not familiar with. I just simply was not here.

MR. TRAPP: Okay.

COMMISSIONER EDGAR: And I do find it helpful to be reminded of or educated about past decisions to a point.

MR. TRAPP: Sure.

COMMISSIONER EDGAR: But today with what we have before us, realizing that my understanding is that much of this case is a first impression, then I'm going to come back to my very again probably simplistic question, which is if we were, and I'm not completely there, so know that, but if we were to vote no on Issue 10 and as either part of that or next step direct a rebid, which does give me some pause, why would we direct a rebid if we don't think there is a need? And I don't want to hear about Cypress or Glades. I want to hear why would we direct a rebid if we aren't convinced there's a need?

MS. BROWN: Well, I think, I think you're, you're uncertain of whether there's a need or not, certainly uncertain about whether there's a need for this project. I think there's some understanding that there is a need for additional gas on FP&L's system going forward, but it's unclear whether that need, general need should be fulfilled by this project. I guess that's where I come from. I don't know why you couldn't say we think there's a need for more gas, we just don't like this project, we want you to rebid it. That seems reasonable to me on a general perspective, but Commissioner Skop might feel differently.

CHAIRMAN CARTER: Hang on one second, Commissioner.

COMMISSIONER EDGAR: Well, then --

CHAIRMAN CARTER: I'll let Commissioner Edgar finish her question, and I'll come back to you, and then Commissioner Argenziano.

COMMISSIONER EDGAR: I'm sorry. I lost my train of thought with that interruption. I completely lost my train of thought. But I may ask you to come back to me.

CHAIRMAN CARTER: I'll do that. I'll do that.

COMMISSIONER EDGAR: Thank you.

CHAIRMAN CARTER: Commissioner Argenziano, are you ready, or should I go to Commissioner Skop?

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman. I just want to add to Ms. Brown's comment. You know, I think that it's an issue of semantics. I think Ms. Brown was correct in, with respect to the determination of need, it's specific to this particular pipeline project. Previously the Commission approved need determinations for the

Riviera Beach plant and the Canaveral modernization projects. Inherent within those need determinations was an affirmative statement by FPL that they were still working on gas supply for those two projects. So obviously there is a need to have fuel for those two plants. That itself is an issue that even, you know, FPL recognized as far back as when it made its previous filings.

To me I view this as separate and distinct, and it's, you know, is this project per se the best way to meet the need? And I'm not so sure without additional, you know, rebid or solicitation that I can answer that question in the affirmative. You know, it would be nice if we didn't have statutory time frames and we could perhaps dismiss without prejudice and then go direction to go do this and then come back, but I don't think that's a clean option.

But it seems to me that, you know, having a more definitized solicitation gives you an apples to apples comparison, a level playing field on putting forth the best possible cost estimate to meet the projected need and you go from there.

But, you know, we, as a Commission, have already previously recognized inherent with the need determinations for Canaveral and Riviera that you have to -- you know, plants don't run without gas. That's the bottom line. So we know that. But I'm not so sure that this $1.53 billion investment is the best way for consumers to make sure those plants have gas. And at least for me, again, I'm going to reiterate this, it would have been nice knowing that if we were going to go down the pipeline route to have had this as a parallel docket to the two need determinations back then such that, you know, it's not late in the game and we're being forced to make a decision which frankly is a tough one. It's a tough judgment call, so.

MS. BROWN: If I might just add something. I don't know if this will give you any comfort.

COMMISSIONER EDGAR: Are you going to tell me it's 1.53?

MS. BROWN: No.

COMMISSIONER EDGAR: Okay.

MS. BROWN: I'm going to tell you that there really, in the record there is no disagreement between the parties that there is a need for 400 MMCF per day for the fuel in that, in those plants. So what I'm suggesting is that the order could say the parties are in agreement that there is a need for this much, we just don't see that this project fits that need, if that gives you some comfort.

COMMISSIONER EDGAR: Or fits it in the best possible, most cost-effective.

MS. BROWN: Yes.

CHAIRMAN CARTER: Least cost alternative.

MS. BROWN: The best possible way. Yeah. Right.

CHAIRMAN CARTER: Commissioner Argenziano, and then I'll come back to you, Commissioner Skop.

Commissioner Argenziano.

COMMISSIONER ARGENZIANO: Well, that's -- thank you. That's my take. I don't know that this is the best way to meet that need, so that's where we go. And I don't know whether you want to call it micromanaging. I don't know that we'd have to tell the company to go and rebid. I think it would be wise for them to do because if you come back again and you don't have the specifics and I can't determine which is the most cost-effective because I don't have those specifics or feel like we have more information as to maybe a definitive solicitation and what you get back from that, I'd probably feel the same way. So I don't know that we have to tell them to go and rebid. It may be that, you know, we discover today that we know there's that need right now for 400, but I don't know that this specific project is the way.

So and then, then if we don't tell them to go back and rebid and just say, no, you know, we know there's a need, this is not the way, I guess they would have to figure out another way to come back with us, to us with additional information.

MS. BROWN: Well, another possibility might be to say there's no contest really that there's a need for gas. This project we don't think satisfactorily fits that need. Go back and find -- so we deny the need determination, and go back and find other options to supply, and perhaps they would find other options that wouldn't need to be rebid. But they would certainly have the option to do that, if they wanted to.

COMMISSIONER ARGENZIANO: Uh-huh.

CHAIRMAN CARTER: Okay. Commissioner Skop.

COMMISSIONER SKOP: Thank you. I agree kind of what, or with what Ms. Brown just stated with one exception. I mean, that kind of went a little bit far on the limb. I think that, you know, strictly speaking that the issue as framed in Issue

10, is it the most cost-effective alternative to meet the need, and I'm comfortable with just limiting it to that.

You know, if -- I think that obviously there's an inherent need for capacity. But, again, this is project specific. Is this project the most cost-effective alternative at this moment before the Commission? And I can't answer that in the affirmative. I'm not casting doubt that if the solicitation comes in and, you know, the economics are better, might I change my opinion? I might. I'm not precluding anything. I'm just saying in order to, to, you know, have a level playing field and get the best possible data in terms of what the actual true costs would be, it would be, you know, it would behoove everyone to sharpen the pencil and go out there and ask the specific question, you know, here's a proposed project, Point A to Point B, you know, 30 inches or 36 inches in diameter, whatever it is, I think it's 30 inches, you know, we need 600 MCF, you know, here's the lateral that FPL will allow you to use, go bid the project, and the economics are what they are.

I mean, it all comes down to me making a case on the merits, what's the best option for the consumer. And I'm open-minded and fair about considering that. So if FPL were to choose to rebid and the economics resulted in a favorable benefit to the consumer and out of all possible alternatives, then certainly it would get due consideration. Even if it was not the most cost-effective but there were some policy reasons for moving forward with one project over another because of intangibles, that's also open for consideration.

So, again, I don't want to preclude or shut the door on, on the pipeline option per se. But, again, I think that right now in terms of cost-effectiveness, I don't have all the options before me or definitization of the cost with all the options before me. There may be in the interim a more cost-effective way to meet the need for the 400 MCF for the 2014 time frame, only to build a pipeline later when, you know, maybe there's a better economy or what have you.

So, again, I don't want to preclude anything, but it just comes down to making the judgment call is this the most cost-effective alternative at the present time? I can't answer that for this project.

MS. BROWN: Well, how about this as

another option? You vote on those initial planning assumption issues, the ones that we've already addressed, and then I -- if you vote no on the most cost-effective alternative, then FP&L would have the opportunity to rebid it if they want to bring it back to us.

COMMISSIONER SKOP: I'm really actually not comfortable with getting into deciding issues that we otherwise wouldn't need to decide. In terms of the planning assumptions, again, I would say I still have the same --

MS. BROWN: I was just trying to address the concern about the understanding that there was a need for certain gas.

COMMISSIONER SKOP: I don't want to bind the Commission if I don't have to needlessly on deciding issues that otherwise don't need to be decided and disposed upon. If it's simply a matter of going to Issue 10, is this the most cost-effective alternative following the flow chart, or the alternative, if the answer is no, you require a rebid. End of story. We come back and repeat the process if that's what FPL chooses to do without making any additional findings. Or if you adopt the primary staff recommendation, which it is, then we have to obviously move down through all the issues. So I do have some uncomfort with the planning assumptions.

Jumping ahead, if we could decide this decisively on more limited grounds, basically a determination on Issue 10, I think that's a cleaner way to go about it.

CHAIRMAN CARTER: Let me, let me just say this, Commissioners, is that I think that as we address Issue 10, you know, I mean, from what I'm hearing, unless I'm putting words in your mouths, is that we're not convinced that it's the most cost-effective alternative. I don't think we have to take the next step and tell the company what they need to do in terms of how to get it done. They need to come tell us this is how we're going to get it done. Because from what we're saying, what we've heard here is they're saying if we don't get the pipeline in the rate base, we're not going to build it. We'll walk away from the deal. But if they need gas, they're going to get gas from someplace. And I don't want to say let's require them to rebuild. Let them go out and find the best possible price for the gas, best delivery price and all. I think that if we're going to deal with the high level issue, Issue 10, I don't think we need to get into the weeds on the rest of them. That's just my thinking, Commissioners.

Commissioner Skop.

COMMISSIONER SKOP: Thank you. I wholeheartedly agree with that. I think that's a reasonable approach. The only minor caveat would be -- again, it gives FPL flexibility. The only caveat would be would they just not seek the most cost-effective option at that point, just go with whatever is offered and just say here it is, here's our, here's our alternative for meeting -- okay. I'm sorry.

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: I was going to ask how do we then know what the most cost-effective option is?

CHAIRMAN CARTER: Ms. Brown.

MS. BROWN: Well, they would have to come back to us.

COMMISSIONER ARGENZIANO: Yeah. But they could come back with, with their own, with options of their own choice and maybe not -- I mean, it seems to me that, you know, it seems to me that in one respect bidding is a fair process and you get, you get an idea then of several different entities and what their costs are. And to me otherwise you come back and say, well, okay, we'll come back and here's, here's what we want. And how do we know then which is the most cost-effective if it's not really bid? So I don't want to be down the line and then have to ask again, well, how do I know this is the best way to go?

MS. BANKS: If, however, they just contracted for supply with a pipeline --

COMMISSIONER ARGENZIANO: Uh-huh.

MS. BANKS: -- they would not come back to the Commission. Those costs would be recovered through fuel and fuel staff reviews.

COMMISSIONER ARGENZIANO: Right.

MS. BANKS: Fuel would be going through that. You wouldn't see -- they wouldn't come back and ask for a need determination or anything like that.

COMMISSIONER ARGENZIANO: Okay. Okay.

MR. TRAPP: No. But if I may interject, the question still would be posed to the company at the time they request cost recovery, did you do the most cost-effective thing? Whether it's in the fuel adjustment clause or base rates, this Commission has a responsibility to the consumers of Florida to make sure that every penny charged to them is prudently incurred. And so Power & Light just going out and buying some power from somebody is not an automatic cost recovery in my opinion. You'll still have to ask them was this the best deal or not, and they're going to have to prove it.

COMMISSIONER ARGENZIANO: Let me ask you this, and this may sound really --

CHAIRMAN CARTER: Turn your, get your microphone on.

COMMISSIONER ARGENZIANO: Is that the best tool we have? Is there nothing that we can come up with when a company comes in and say this is what we want to do and gives us one alternative maybe, is there nothing we can compare that to and say, well, if you went over here, we probably could do this, we could get this, this capacity that you need a lot cheaper over here? It seems to me that we always revert back to, well, we can always go to did you most prudently do that? And of course that's very important. I'm not undermining that. But it seems to me that at the time it comes up, you know, you want to almost go, oh, oh, oh, but I think you could do it cheaper over here. And it seems that we never, we never do that unless another company comes in and says, hey, we can do it cheaper. How would we know up-front? We really wouldn't unless there was a bid.

MR. TRAPP: It's -- right. And as Mary has reminded me, in need determinations we do require them to show all alternatives. And that's what they've done in this case except we're finding fault with it.

I guess my response, Commissioner --

COMMISSIONER ARGENZIANO: But can't, can't you shop for the alternatives you want?

MR. TRAPP: I guess my response, Commissioner, is how do you know anything? You have to scrutinize the record that's before you. And, quite frankly, my experience with the Commission, I think you just told the company what you think is the right thing to do. I think they're out there listening. I think if they don't rebid, they're going to have to answer some questions about, well, why didn't you rebid? I don't think you need to put it in the order. I think they're smart enough to know that they're under a microscope with respect to this issue. So hopefully they will come back with the best alternative.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you, Mr. Chairman. Like I say, I agree with Mr. Trapp to some degree. But, you know, it's kind of hit or miss whether that message ever actually makes it through to the powers to be.

But I guess my concern again in the interest of promoting enhanced competition, if you will, it would be nice to see some comparative cost estimates as opposed to what the most cost-effective option is. And at the end of the day if FPL is the best option on the merits, then the pipeline should logically be approved. So, again, I see no detriment in asking them within an order to seek solicitation of bids, you know, on a level playing field basis, which again I think the level playing field is ensured by some of the protective measures that alternate staff has suggested. I don't view that as micromanaging. I view that as, as an apples to apples comparison between the various options and then picking the most, to facilitate choosing the most cost-effective option for consumers on a long-term basis. I mean, this is a project -- the proposed project is one with long payback, 2040, that's 30 years from now, so that's a big issue.

COMMISSIONER ARGENZIANO: Well, I think --

CHAIRMAN CARTER: Commissioner Argenziano.

COMMISSIONER ARGENZIANO: -- I think I tend to agree with the bidding. Because after all, we're, we are in charge of, you know -- ratepayers are ultimately going to be paying. So I don't think it's too much to ask for to go out -- to bring us back competitive bids or to provide more specifics. And I don't think that's micromanaging. I think that's being a regulatory body. I think it's part of the job that we have.

MS. BROWN: Commissioners, if I might add, we have a bidding rule to create a market proxy when we're evaluating need determinations for electric plants and electric facilities.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: And just adding, and I didn't really get to finish my thought, but that's in essence what, what I was trying to say is what Commissioner Argenziano just articulated. I see no harm in having that competitive bidding process to get the best deal for consumers.

CHAIRMAN CARTER: I think we should have started with Issue 10. I do, Commissioners, because

I'm saying, and I was going back to where we started it seems like forever ago, Commissioner Argenziano asking the questions related to what's the most cost-effective alternative. And based upon what we have in front of us, we have to say no to Issue 10. I mean that's, that's the way I read it, unless y'all read it different. Right.

COMMISSIONER SKOP: Mr. Chair.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you. And that's where I didn't want to be misconstrued. But, you know, that's what I was kind of trying to hint at under a perfect remedy for 6A. I mean, I didn't mean that to overlap or spill into the, the need determination. But, you know, perhaps the lengthy discussion might have been avoided if we -- but, again, it's kind of hard to get that without the constructive discussion that we've had. And I think it has been beneficial to see the views of each of my respective colleagues and the views of not only primary staff and alternate staff on the various issues, because that's how you ensure you're getting to the optimal decision by thoroughly vetting the issues. And there's nothing wrong with however long it takes to vet an issue that constitutes expenditure of $1.53 billion. I mean however long it takes, it's the right thing to do, and I'm glad that we had a very thorough, vetted discussion on this.

CHAIRMAN CARTER: And, Commissioners, before I ask for, for a disposition of this matter, I'm going to, when I do that, I'm going to be asking for a disposition of this matter pursuant to Item, Issue 10. But I do want to say, before we go forward I do want to say to our staff, both the one that had the primary recommendation and the alternative recommendation, we sincerely appreciate it. It really does help us when we have different opportunities and different options and all like that. And I think it's good for staff to have different ideas. You know, if everybody had an idea, we wouldn't need a staff. We'd just use some robots. And I see the passion that you have for the perspective that you presented before us, and I think that's good. I think in that process we come up with the best answer and the best possible decision. I think that's healthy, and you guys keep on. You don't really have to agree with everyone, you know.

But I think that based upon my reading of the case, I, I think that the quality of the product, both from the primary recommendation and the alternative recommendation, are equal. I don't think there's any problem with the quality of the work or anything like that. So I just wanted to say that, Commissioners. Because I do think it gives us the best possible opportunity when we, you know, when we have staff going at it and saying, you know, I disagree and then put it in paper, put it on paper and say this is why we disagree.

COMMISSIONER ARGENZIANO: It's very thought provoking.

CHAIRMAN CARTER: Absolutely.

Okay. Now let's go to Issue 10, Commissioners. Because I think from there we could probably decide on where we're going next on this, this case. You want to take a stab at it, Commissioner Edgar?

COMMISSIONER EDGAR: Mr. Chairman, I would like to do that. And if I may before I do that say that I also, as I said earlier today, that I was looking forward and hoping that we would have long discussion and many questions about this item. And so I'm glad as well that we have had the opportunity to do so.

I will say that, as I've commented maybe a few times today, that I still think there would maybe be some value in issuing some type of finding of need. But I understand, I do listen, and I understand that there is some discomfort with that. But I also recognize that we've had a full discussion on that point and have, have, in my opinion have recognized if not this need but a need for additional gas supply. So with that -- and I think that's an important statement.

So with that, I will make an effort, Mr. Chairman and Commissioners, to propose in the form of a motion that we adopt the alternative recommendation to Issue 10, and in keeping with that would bring us then to Issue 17 to close the docket. And I would put both of those into my motion.

COMMISSIONER SKOP: Second.

CHAIRMAN CARTER: Okay, Commissioners. Now let's have some discussion. Thank you, Commissioner Edgar, for the, for the framing of that. I think it encapsulated what we were talking about.

Before we vote on it, Commissioners, any further -- Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Is that with the, including the request for bidding? Is that the -- is that what the motion is that Commissioner Edgar --

COMMISSIONER EDGAR: I am looking directly at, on Page 37, the alternative recommendation, which says, "Staff recommends that FPL be required to rebid the project." And so the answer to that is yes.

COMMISSIONER ARGENZIANO: Okay. Got you. Okay. Thank you.

CHAIRMAN CARTER: Okay. Good deal.

Commissioner Skop, you're recognized in debate.

COMMISSIONER SKOP: I think that the, the adoption of the alternate staff recommendation including the rebid and the, I guess the statement in there that staff, as written in the recommendation, that was the subject of the motion and the second would include the ability for staff to review the solicitation prior to issuance. I think that solves all the concerns, and I'm comfortable moving forward with that.

CHAIRMAN CARTER: Okay. Any further debate? Any further debate? Hearing none, we have a motion and a second on Issue 10, take an alternative staff recommendation.

COMMISSIONER EDGAR: If I may make just one final comment.

CHAIRMAN CARTER: Okay.

COMMISSIONER EDGAR: I am looking forward to discussing in the future, hopefully not too far in the future, the ways to address this need. So now I'm ready.

CHAIRMAN CARTER: Okay. Okay. Y'all don't need me to restate the motion, do you?

COMMISSIONER EDGAR: No.

CHAIRMAN CARTER: Any further debate?

COMMISSIONER SKOP: Just, Mr. Chair, I think the motion also encompasses closing the docket on Issue 17.

COMMISSIONER EDGAR: Yes.

CHAIRMAN CARTER: And it also encloses -- it also includes Issue 17, which is closing the docket.

We have a motion and a second. All in favor, let it be known by the sign of aye.

(Affirmative vote.)

All those opposed, like sign. Show it done.

Staff, I hope you took good notes.

COMMISSIONER EDGAR: Always.

CHAIRMAN CARTER: With that, Commissioners, we are adjourned.

(Agenda adjourned at 4:06 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 19th day of October, 2009.

JANE FAUROT, RPR	LINDA BOLES, CRR, RPR
FPSC Official Commission Reporter	FPSC Official Commission Reporter
(850) 413-6732	(850) 413-6734

24. Please complete the table below describing the CPVRR for the EnergySecure pipeline. Please italicize and bold years in which expansion is projected. Please provide values for all Three scenarios discussed in witness Enjamio's testimony. Please present in $2009.

Base Scenario - EnergySecure Pipeline

	Gas Transportation	Fuel	Variable O&M	Environmental	Other	Total
2009	$0	$4,518	$122	-$92		$4,548
2010	$0	$9,078	$242	-$177		$9,144
2011	$0	$13,232	$360	-$287		$13,305
2012	$0	$17,179	$477	-$408		$17,248
2013	$0	$20,752	$589	-$53		$21,288
2014	$353	$24,310	$703	$321		$25,687
2015	$673	$27,921	$816	$728		$30,137
2016	$962	$31,658	$926	$1,118		$34,663
2017	$1,222	$35,429	$1,035	$1,519		$39,206
2018	$1,458	$39,103	$1,143	$1,912		$43,615
2019	$1,672	$42,811	$1,246	$2,307		$48,037
2020	$1,866	$46,312	$1,348	$2,686		$52,211
2021	$2,041	$49,688	$1,447	$3,067		$56,243
2022	$2,199	$52,956	$1,545	$3,479		$60,179
2023	***$2,375***	***$56,095***	***$1,640***	***$3,891***		***$64,000***
2024	***$2,552***	***$59,147***	***$1,732***	***$4,332***		***$67,764***
2025	***$2,754***	***$62,122***	***$1,822***	***$4,774***		***$71,472***
2026	***$2,961***	***$65,012***	***$1,910***	***$5,204***		***$75,087***
2027	$3,170	$67,801	$1,993	$5,671		$78,634
2028	$3,380	$70,467	$2,073	$6,166		$82,086
2029	$3,607	$73,016	$2,150	$6,702		$85,475
2030	$3,833	$75,477	$2,224	$7,264		$88,798
2031	$4,056	$77,838	$2,296	$7,848		$92,039
2032	$4,308	$80,123	$2,365	$8,462		$95,258
2033	$4,568	$82,401	$2,431	$9,134		$98,534
2034	$4,807	$84,493	$2,491	$9,792		$101,583
2035	$5,027	$86,524	$2,550	$10,474		$104,575
2036	$5,254	$88,529	$2,609	$11,195		$107,586
2037	$5,474	$90,443	$2,665	$11,926		$110,508
2038	$5,687	$92,273	$2,719	$12,659		$113,339
2039	$5,894	$94,019	$2,771	$13,403		$116,087
2040	$6,105	$95,687	$2,820	$14,151		$118,763
2041	$6,298	$97,266	$2,867	$14,858		$121,289
2042	$6,477	$98,759	$2,911	$15,527		$123,674
2043	$6,641	$100,171	$2,953	$16,161		$125,926
2044	$6,793	$101,508	$2,992	$16,760		$128,052
2045	$6,932	$102,772	$3,030	$17,326		$130,060
2046	$7,060	$103,968	$3,065	$17,862		$131,955
2047	$7,178	$105,099	$3,099	$18,369		$133,746
2048	$7,288	$106,170	$3,130	$18,849		$135,437
2049	$7,388	$107,182	$3,160	$19,303		$137,033
2050	$7,481	$108,140	$3,189	$19,732		$138,541
2051	$7,566	$109,047	$3,215	$20,138		$139,966
2052	$7,644	$109,904	$3,241	$20,522		$141,311
2053	$7,717	$110,715	$3,265	$20,886		$142,582

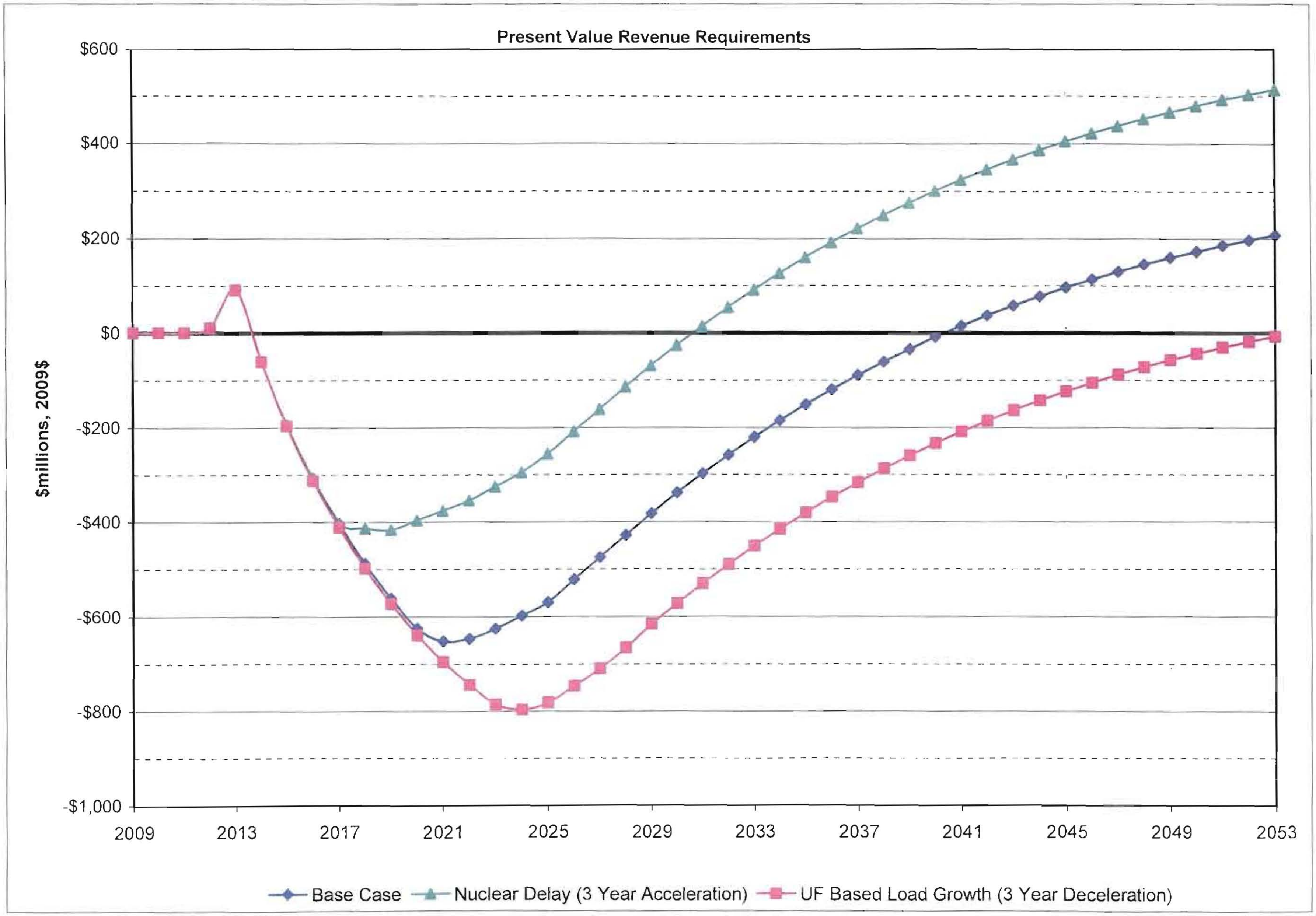
Note: The EnergySecure pipeline was expanded from 600,000 MMBTU/day to 1,187,500 MMBTU/day

25. Please complete the table below describing the CPVRR for the Company B pipeline. Please italicize and bold years in which expansion is projected. Please provide values for all Three scenarios discussed in witness Enjamio's testimony. Please present in $2009.

Base Scenario - Company B

	Gas Transportation	Fuel	Variable O&M	Environmental	Other	Total
2009	$0	$4,518	$122	-$92		$4,548
2010	$0	$9,078	$242	-$177		$9,144
2011	$0	$13,232	$360	-$287		$13,305
2012	$9	$17,177	$481	-$407		$17,260
2013	$95	$20,743	$594	-$53		$21,379
2014	$286	$24,312	$707	$321		$25,626
2015	$462	$27,934	$818	$728		$29,943
2016	$625	$31,685	$928	$1,118		$34,356
2017	$775	$35,470	$1,037	$1,519		$38,801
2018	$913	$39,156	$1,145	$1,912		$43,126
2019	$1,041	$42,878	$1,248	$2,308		$47,475
2020	$1,159	$46,391	$1,350	$2,686		$51,586
2021	***$1,296***	***$49,778***	***$1,450***	***$3,067***		***$55,591***
2022	***$1,449***	***$53,057***	***$1,547***	***$3,479***		***$59,533***
2023	***$1,641***	***$56,202***	***$1,641***	***$3,890***		***$63,375***
2024	***$1,843***	***$59,258***	***$1,733***	***$4,332***		***$67,166***
2025	***$2,074***	***$62,231***	***$1,823***	***$4,774***		***$70,902***
2026	***$2,330***	***$65,120***	***$1,910***	***$5,204***		***$74,564***
2027	***$2,587***	***$67,909***	***$1,993***	***$5,670***		***$78,159***
2028	***$2,844***	***$70,575***	***$2,073***	***$6,166***		***$81,657***
2029	***$3,116***	***$73,125***	***$2,150***	***$6,702***		***$85,092***
2030	***$3,385***	***$75,587***	***$2,224***	***$7,264***		***$88,460***
2031	***$3,649***	***$77,948***	***$2,296***	***$7,848***		***$91,741***
2032	***$3,940***	***$80,234***	***$2,364***	***$8,462***		***$95,000***
2033	***$4,237***	***$82,513***	***$2,430***	***$9,133***		***$98,313***
2034	$4,511	$84,604	$2,491	$9,792		$101,397
2035	$4,763	$86,636	$2,550	$10,474		$104,423
2036	***$5,022***	***$88,641***	***$2,608***	***$11,194***		***$107,466***
2037	***$5,272***	***$90,556***	***$2,665***	***$11,925***		***$110,418***
2038	***$5,513***	***$92,387***	***$2,718***	***$12,658***		***$113,277***
2039	***$5,746***	***$94,133***	***$2,770***	***$13,402***		***$116,052***
2040	***$5,982***	***$95,802***	***$2,819***	***$14,150***		***$118,753***
2041	$6,199	$97,381	$2,866	$14,857		$121,303
2042	$6,399	$98,875	$2,910	$15,526		$123,711
2043	$6,584	$100,288	$2,952	$16,159		$125,983
2044	$6,755	$101,625	$2,992	$16,758		$128,130
2045	$6,912	$102,890	$3,029	$17,325		$130,156
2046	$7,057	$104,086	$3,064	$17,861		$132,069
2047	$7,191	$105,218	$3,098	$18,368		$133,875
2048	$7,316	$106,289	$3,130	$18,848		$135,582
2049	$7,430	$107,302	$3,160	$19,301		$137,192
2050	$7,535	$108,260	$3,188	$19,731		$138,714
2051	$7,632	$109,167	$3,215	$20,137		$140,151
2052	$7,722	$110,024	$3,240	$20,521		$141,508
2053	$7,805	$110,836	$3,264	$20,884		$142,789

Note: The Company B pipeline is expanded in every year a new gas fired unit is added to the FPL system.



Present Value Revenue Requirements
$600
$400
$200
$0
-$200
-$400
-$600
-$800
-$1,000
$millions, 2009$
2009
2013
2017
2021
2025
2029
2033
2037
2041
2045
2049
2053
Base Case
Nuclear Delay (3 Year Acceleration)
UF Based Load Growth (3 Year Deceleration)

Parties/Staff Handout
Internal Affairs/Agenda
on 10/06/09
Item No. 7
090172-EI

Late Filed Exhibit No 97

Docket No. 090172-EI
Economic Analysis: Results Projections of Appropriate Bill Impacts Including the Modernization Projects
FPL Late Filed Exhibit 97, Page 1 of 1

Rate Impact: EnergySecure/Company E Alternative and CCEC & RBEC modernizations

Table 1

	CCEC and RBEC Rate Impact (1) *cents/kWh*	EnergySecure Rate Impact (2) *cents/kWh*	Total Rate Impact *cents/kWh*	Customer Bill Impact *$ per 1000 kWh*
2013	0.0277	0.0092	0.0369	0.37
2014	0.0984	0.4503	0.5487	5.49
2015	0.1345	0.4294	0.5638	5.64

Rate Impact: FGT Alternative and CCEC and RBEC modernizations

Table 2

	CCEC and RBEC Rate Impact (1) *cents/kWh*	FGT Rate Impact (3) *cents/kWh*	Total Rate Impact *cents/kWh*	Customer Bill Impact *$ per 1000 kWh*
2013	0.0277	0.1092	0.1369	1.37
2014	0.0984	0.2508	0.3492	3.49
2015	0.1345	0.2436	0.3781	3.78

Differential Rate Impact: EnergySecure vs. FGT
Includes impact of CCEC and RBEC modernizations

Table 3

(Negative indicates lower bill impact for the EnergySecure Line)

	Total Rate Impact *cents/kWh*	Customer Bill Impact (4) *$ per 1000 kWh*	
2013	-0.1000	-1.00	
2014	0.1995	2.00	
2015	0.1857	1.86	(Declines annually through 2021)
2022	-0.0100	-0.10	
2032	-0.1560	-1.56	
2042	-0.1933	-1.93	

Other Economic & Non-Economic Benefits: Florida EnergySecure Line
(Customer Values Not Reflected In Bill Impacts above)

Table 4

Compared to FGT alternative, Florida EnergySecure Line adds the following benefits:
-- Improved reliability of gas deliveries into Florida
-- Inexpensive expandability up to 1.25 billion cubic feet per day providing significant long-term customer benefits
-- Reduced vulnerability to disruptions on the existing pipeline systems
-- Increased deliverability of natural gas into the state
-- Reduction to customers bill from 3rd party sales and capacity releases (estimated NPV of $89 million - $663 million on Exhibit TCS-7)
-- Reduced payments to existing pipelines for interruptible capacity
-- Enhanced competition for both gas transportation and gas supply into the state
-- Access to additional sources of unconventional shale gas at Transco 85, diversifying FPL's gas supply
-- Insurance against the risk of significant load growth and/or delay in nuclear units
-- Significant investment and economic benefits at the local, county and state levels

Table 1 shows the combined incremental rate impact of the modernization projects and the EnergySecure/ Company E project
Table 2 shows the combined incremental rate impact of the modernization projects and the FGT proposal.
Table 3 shows the differential incremental rate impact between the two gas alternatives by year.
The rate impact of the Cape Canaveral Energy Center (CCEC) and the Riviera Beach Energy Center (RBEC) includes the capital and O&M costs of the two modernizations partially offset by their fuel and emission cost savings.
NOTES:
(1) The rate impact of the Cape Canaveral Energy Center (CCEC) and the Riviera Beach Energy Center (RBEC) includes the of the two modernizations partially offset by their fuel and emission cost savings.
(2) The rate impact of the Florida Energy Secure / Company E project includes the capital and O&M costs of the intrastate line Company E charges.
(3) The rate impact of the FGT proposal includes the FGT transportation costs.
(4) The differential rate impact is the same as shown in Exhibit JEE-8.

DOCUMENT NUMBER-DATE
08179 AUG-7 8
FPSC-COMMISSION CLERK

FPL Late Filed Exhibit 100: Nine Plant Combo Info

Base Scenario

	Unit Additions	Incremental MW Added
2011	WCEC 3 CC added, Cape Canaveral & Riviera Removed	-138
2012	Nuclear Uprates	295
2013	Cape Canaveral Conversion and Nuclear Uprates	1323
2014	Riviera Conversion	1207
2015	-	0
2016	-	0
2017	-	0
2018	Turkey Point 6	1100
2019	-	0
2020	Turkey Point 7	1100
2021	-	0
2022	-	0
2023	-	0
2024	(1) - 2x1 F CC	553
2025	(1) - 2x1 F CC	553
2026	(2) - 2x1 F CC	1106
2027	(1) - 2x1 F CC	553
2028	(1) - 2x1 F CC	553
2029	(2) - 2x1 F CC	1106
2030	(1) - 2x1 F CC	553
2031	(1) - 2x1 F CC	553
2032	(2) - 2x1 F CC	1106
2033	(2) - 2x1 F CC	1106
2034	-	0
2035	-	0
2036	(2) - 2x1 F CC	1106
2037	(1) - 2x1 F CC	553
2038	(1) - 2x1 F CC	553
2039	(2) - 2x1 F CC	1106
2040	(1) - 2x1 F CC	553

Note:
The load forecast sensitivity used in this late file exhibit was prepared at the request of Staff and is not endorsed by FPL. FPL believes that its long term load forecast, described in the testimony of FPL witness Morley and being used in this docket as well as the DSM Goals docket, is the appropriate forecast for use in the comparative economic analyses of the two gas transportation options.

FPL Late Filed Exhibit 100:
Nine Plant Combo Info

RPS Scenario

	Unit Additions	Incremental MW Added
2011	WCEC 3 CC added, Cape Canaveral, Riviera Removed & Renewables	-120
2012	Nuclear Uprates and Renewables	330
2013	Cape Canaveral Conversion and Nuclear Uprates	1368
2014	Riviera Conversion and Renewables	1237
2015	Renewables	75
2016	Renewables	35
2017	Renewables	35
2018	Turkey Point 6 and Renewables	1155
2019	Renewables	85
2020	Turkey Point 7 and Renewables	1200
2021	Renewables	48
2022	Renewables	48
2023	Renewables	114
2024	Renewables	122
2025	Renewables and (2) 2x1 F CC	1163
2026	Renewables and (2) 2x1 F CC	1165
2027	Renewables and (1) 2x1 F CC	700
2028	Renewables and (1) 2x1 F CC	708
2029	Renewables and (2) 2x1 F CC	1174
2030	Renewables and (1) 2x1 F CC	623
2031	Renewables and (1) 2x1 F CC	732
2032	Renewables and (2) 2x1 F CC	1293
2033	Renewables and (2) 2x1 F CC	1186
2034	Renewables	82
2035	Renewables	211
2036	Renewables and (2) 2x1 F CC	1326
2037	Renewables and (1) 2x1 F CC	843
2038	Renewables and (1) 2x1 F CC	646
2039	Renewables and (1) 2x1 F CC	797
2040	Renewables and (2) 2x1 F CC	1357

Note:
The load forecast sensitivity used in this late file exhibit was prepared at the request of Staff and is not endorsed by FPL. FPL believes that its long term load forecast, described in the testimony of FPL witness Morley and being used in this docket as well as the DSM Goals docket, is the appropriate forecast for use in the comparative economic analyses of the two gas transportation options.

FPL Late Filed Exhibit 100:
Nine Plant Combo Info

Nuclear Delay Scenario

	Unit Additions	Incremental MW Added
2011	WCEC 3 CC added, Cape Canaveral & Riviera Removed	-138
2012	Nuclear Uprates	295
2013	Cape Canaveral Conversion and Nuclear Uprates	1323
2014	Riviera Conversion	1207
2015	-	0
2016	-	0
2017	-	0
2018	-	0
2019	-	0
2020	-	0
2021	(1) - 2x1 F CC	553
2022	Turkey Point 6	1100
2023	(1) - 2x1 F CC	553
2024	Turkey Point 7	1100
2025	-	0
2026	(2) - 2x1 F CC	1106
2027	(1) - 2x1 F CC	553
2028	(1) - 2x1 F CC	553
2029	(2) - 2x1 F CC	553
2030	(1) - 2x1 F CC	1106
2031	(1) - 2x1 F CC	553
2032	(2) - 2x1 F CC	1106
2033	(2) - 2x1 F CC	1106
2034	-	0
2035	-	0
2036	(2) - 2x1 F CC	1106
2037	(1) - 2x1 F CC	553
2038	(1) - 2x1 F CC	553
2039	(2) - 2x1 F CC	1106
2040	(1) - 2x1 F CC	553

Note:
The load forecast sensitivity used in this late file exhibit was prepared at the request of Staff and is not endorsed by FPL. FPL believes that its long term load forecast, described in the testimony of FPL witness Morley and being used in this docket as well as the DSM Goals docket, is the appropriate forecast for use in the comparative economic analyses of the two gas transportation options.

Exhibit A

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COMMISSION
CLERK

RESIDENTIAL SERVICE
Rate Schedule RS

Availability:

Throughout the service areas of the Company.

Applicability:

Issue I — Gas Service for residential purposes in individually metered residences and separately metered apartments. Also, for Gas used in commonly owned facilities of condominium associations, cooperative apartments, and homeowners associations, (excluding any premise at which the only Gas-consuming appliance or equipment is a standby electric generator), subject to the following criteria: (Emphasis added)

Issue III — 1. 100% of the Gas is used exclusively for the co-owner's benefit. (Emphasis added)

Issue II — 2. None of the Gas is used in any endeavor which sells or rents a commodity or provides service for a fee. (Emphasis added)

3. Each Point of Delivery will be separately metered and billed.

4. A responsible legal entity is established as the Customer to whom the Company can render its bills for said services.

Monthly Rate:

Customer Charge:	$10.00 per month
Distribution Charge:	$0.37667 per Therm

Note 1 – Company's BudgetPay plan is available to eligible Customers receiving Gas Service pursuant to this rate schedule (See Sheet No. 5.401-3).

The bill for the Therms billed at the above rates shall be increased in accordance with the provisions of the Company's Purchased Gas Adjustment Clause set forth on Sheet No. 7.101-1.

Minimum Bill: The Customer charge.

Special Conditions:

1. The rates set forth above shall be subject to the operation of the Energy Conservation Cost Recovery Adjustment Clause set forth on Sheet No. 7.101-2.

2. The rates set forth in this schedule shall be subject to the operation of the Company's Competitive Rate Adjustment Clause set forth on Sheet No. 7.101-5.

Parties/Staff Handout
Internal Affairs/Agenda
on 9/15/09
Item No. 4
090083-GU

Exhibit A

Exhibit B

The Hearing Officer found that the condominium/cooperative form of ownership of common facilities on the one hand, and homeowners' ownership of common facilities on the other hand, are both residential in character. We concur in this finding noting that the various forms of real property ownership at issue all involve residents sharing in the control and upkeep of common elements and facilities appurtenant to their residences. We concur also with the finding that the petitioning homeowners should receive the RS rate for these commonly used facilities.

Irrespective of the form of ownership, the obligations of the residents for upkeep of the common facilities of condominiums, cooperatives and homeowner associations are legally enforceable as liens against the owners' units. The recreational facilities owned or leased by the residents of the three types of residential communities are restricted solely to use by residents and their guests. These restrictions are strictly enforced through security systems which are uniformly implemented.

We agree that petitioner homeowners should be required to meet the seven criteria set forth in the Hearing Officer's order:

(1) 100% of the energy is used exclusively for the co-owner's benefit.

(2) None of the energy is used in any endeavor which sells or rents a commodity or provides a service for a fee.

(3) Each point of delivery is separately metered and billed.

(4) A responsible legal entity is established as the customer to whom the company can render its bills for said service.

(5) Membership in the Homeowners association, which controls and operates the common facilities, is required as a condition of property ownership in the subdivision; such requirement arises from restrictions of record which are set out or incorporated by reference on each property owner's deed.

(6) Such restrictions require each property owner to pay his proportionate share of the costs of operating and maintaining the common facilities. The obligation to pay may be enforced by placement of a lien and foreclosure.

(7) The homeowners associations are comprised of persons owning contiguous lots in a planned development, and the commonly owned facilities are located within the development.

We conclude that there are no administrative obstacles to the implementation of Petitioner's proposal. Sufficient documentation exists, including convenants and restrictions publicly filed in the land records offices, to implement the change in rate treatment for homeowner associations.

We concur with the Hearing Officer's conclusion that the different treatment presently afforded commonly used facilities of homeowners' associations and condominiums/cooperatives is factually unjustified and constitutes unjust and unreasonable discrimination, in violation of Section 366.03 and 366.06(3), Florida Statutes.

Recognizing our statutory duty to eliminate discriminatory practices in the application of rates, we further concur that a finding of discrimination may properly be made in a complaint proceeding.

After the Hearing Officer's recommendation was filed, FP&L excepted thereto contending that the Commission's ruling should be the result of a policy consideration and not on a conclusion of discrimination in violation of Chapter 366, Florida Statutes. The finding of

Articles of Incorporation

AMENDED
ARTICLES OF INCORPORATION OF
SUN CITY CENTER COMMUNITY ASSOCIATION, INC.

ARTICLE I

The name of this corporation is **SUN CITY CENTER COMMUNITY ASSOCIATION, INC.**

ARTICLE II

a) The general nature, objects and purposes for which this corporation is exclusively organized and operated are charitable, scientific or educational.

This corporation is to serve the residents of the retirement community located in Hillsborough County, Florida, known as Sun City Center, by providing relief for the elderly, providing assistance and essential services to tax-exempt entities, and operating in lieu of a municipal government by supplementing, but not duplicating, many costs of government, for the benefit of the residents, by maximum use of volunteer, uncompensated services from the residents.

In furtherance of these purposes, Sun City Center Community Association, Inc. shall manage recreational facilities owned for the benefit of all residents, shall enforce that private zoning known as "restrictive convenants running with the land" on behalf of the residents and for the benefit of the community as a whole (as opposed to private interests), and shall represent the retirement community known as Sun City Center before all organizations and persons.

This corporation shall receive and maintain funds of real and/or personal property, and subject to the restrictions and limitations hereinabove and herinafter set forth, shall use the whole or any part of the income therefrom and the principle thereof exclusively for its charitable, scientific or educational purposes.

b) No part of the net earnings or assets of the corporation shall inure to the benefit of or be distributable to any member, director or officer of the corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the corporation effecting one or more of its purposes), and no member, director or officer of the corporation, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. (No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.)

c) Notwithstanding any other provisions of these Articles of Incorporation, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501 (c) (3) of the Internal Revenue Code or the regulations issued thereunder, or by an organization, contributions to which are deductible under Section 170 (c) (2) of such Code and regulations issued thereunder.

d) In the event of dissolution or final liquidation of the corporation, the residual assets of the organization will be turned over to one or more organizations that themselves are exempt as organizations described in Sections 501 (c) (3) and 170 (c) (2) of the Internal Revenue Code of 1954 or corresponding sections of any prior or future Internal Revenue Code, or to the Federal, State or local government for exclusive public purpose.

ARTICLE III

This corporation shall have and exercise all powers provided by the laws of the State of Florida pertaining to corporations not for profit including, but not limited to, Chapter 617 Florida Statutes and future amendments thereto, or succeeding statutes pertaining to corporations not for profit in the State of Florida, necessary or convenient to effect any and all of the charitable, scientific and educational purposes for which the corporation is organized, subject, however, to the following:

a) This corporation shall be operated exclusively for, and shall only have the power to perform activities exclusively within the meaning, requirements and effect of Section 501 (c) (3) of the Internal Revenue Code of 1954, as amended heretofore or hereafter.

b) This corporation shall not engage in any act of self-dealing as defined in Section 4941 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax law.

c) This corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

d) This corporation shall not retain any excess business holdings as defined in Section 4943 (c) of the Internal Revenue Code 1954, or corresponding provisions of any subsequent Federal tax laws.

e) This corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

f) This corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

g) This corporation shall not engage in any prohibited transaction as defined in section 503 (b) of the Internal Revenue Cod of 1954, or corresponding provisions of any subsequent Federal tax laws.

ARTICLE IV

This corporation shall not issue any type of stock. Member of this corporation shall be all residents of Sun City Center and those individuals who would subsequently qualify if Sun City Center Civic Association had not consolidated into Sun City Center Community Association, Inc. shall be members. Each member shall have only one (1) vote. "Sun City Center", as tha phrase is used in these Articles, indicates that residential land shown as the North/South Sector in Exhibit E to the settlement the 1984 litigation between Sun City Center Civic Association and W-G Development Corp., including the "d-strips" if, when, and to the extent committed to the Sun City Center Civic Association agreement by the developer. Previous members o the Sun City Center Civic Association or Sun City Center Homeowners Association residing in Lake Towers may be admitted by the Board of Directors.

Changes in the area herein defined as "Sun City Center" ar the definition of "members" may be approved by the members voting in a referendum.

ARTICLE V

The initial registered agent of this corporation is Carol R. Donner, and the address of the initial registered office is 1009 Pebble Beach Blvd., Sun City Center, Florida 33573.

6.05 GUESTS

A. Definitions:

Developer Guest: An invitee of the Developer who does not have a proprietary interest in Real property in Sun City Center and is issued a Guest Card as required by Article XIII of the 1984 Agreement between the CA and the Developer.

"Article XIII - Current Developer shall be entitled to guest cards issued by the CA to allow its invitees to use CA facilities, and Current Developer shall pay $20.00 for each guest card issued at the request of current Developer. Such guest cards shall be effective for only one week from issuance and at no time shall the number of effective cards issued exceed 200 in number. CA shall allow W-G to conduct tours of CA's recreation facilities for prospective purchasers at no cost to Current Developer."

Note: W-G is now WCI Communities, Inc.

House Guest: A visitor who is currently staying overnight at the residence of the member without any form of payment.

Renter Guest: Any person who pays (regardless of the form of payment) for the right to occupy any portion of a member's Real property.

Guest: A Visitor not meeting the criteria for House Guest, Renter Guest or Developer Guest.

B. Guest Cards: All Guest Cards must be purchased at the CA office by an owner or renter guest.

1. A separate Guest Card is required for each person 18 years of age and older. Children under 18 years of age must be accompanied by a CA card-carrying adult. Guest cards issued to a Developer Guest will be identifiably different from other Guest Cards. *(Amended 1/12/05)*

2. An owner can receive a Guest Card permitting a House Guest to use the facilities unaccompanied by a member, subject to approved club rules or up to 30 days annually at no charge.

   a. During the second, third and fourth month of his/her visit, a weekly fee of $10.00 per guest card will be charged for a Houseguest to use CA facilities. *(Amended 5/9/07)*

   b. After four (4) consecutive months, a Houseguest will be considered a resident, and will be charged the normal pro rata share of membership dues effective on the date of first prior payment of the $10.00 weekly fee. The fees paid will be credited to the pro rata share due. Pro rata reimbursement of the membership dues will be based on the date the individual ceases to be a resident. *(Amended 5/9/07)*

Exhibit D

PGS' Internal Guidelines

Exhibit E

Type of Property	Classification	Rationale
Condo association - For Profit (Note 1) **(includes timeshares and vacation rentals)**		
Separately metered units, central boiler, pool	Residential	Tariff (individually metered residences)
Master metered for all uses	Residential	Tariff and Order No. 4074 re electric service ("The ownership held by people residing in these types of apartments is residential in character.")
Same as above, but with coin laundry	Residential, but coin laundry must be separately metered on commercial rate	Same as above for units. Coin laundry is service for a fee.
Condo association - Not for Profit (Note 1)		
Separately metered units, central boiler, pool	Residential	Tariff (individually metered residences)
Master metered for all uses	Residential	Tariff and Order No. 4074 re electric service ("The ownership held by people residing in these types of apartments is residential in character.")
Condo association - office building/park	Commercial	No residents, so commercial rate applies
		Note 1 -- Although listed separately, the condominium statutes permit a condo association to be either a for profit or not for profit corporation. PGS tariff does not distinguish, simply requiring a "responsible legal entity."
Cooperative apartments		
Separately metered apts., central boiler, pool	Residential	Tariff (individually metered residences); Order No. 4074 re electric service ("The ownership held by people residing in these types of apartments is residential in character.")
Separately metered apts., central boiler, pool, coin-operated laundry	Residential, but coin laundry must be separately metered on commercial rate	Same as above for units. Coin laundry is service for a fee.
Master metered for all uses	Residential	Tariff and Order No. 4074 re electric service ("The ownership held by people residing in these types of apartments is residential in character.")

Exhibit E

Revised 6/13/2005

TECO
TAMPA ELECTRIC

RESIDENTIAL SERVICE

SCHEDULE: RS

RATE CODE: 110, 111, 120, 121, 130, 131, 170, 171, 180, 181.

AVAILABLE: Entire service area.

APPLICABLE: To residential consumers in individually metered private residences, apartment units, and duplex units. All energy must be for domestic purposes and should not be shared with or sold to others. In addition, energy used in commonly-owned facilities in condominium and cooperative apartment buildings will qualify for this rate schedule, subject to the following criteria:

1. 100% of the energy is used exclusively for the co-owners' benefit.
2. None of the energy is used in any endeavor which sells or rents a commodity or provides service for a fee.
3. Each point of delivery will be separately metered and billed.
4. A responsible legal entity is established as the customer to whom the Company can render its bills for said service.

Resale not permitted.

LIMITATION OF SERVICE: This schedule includes service to single phase motors rated up to 7.5 HP. Three phase service may be provided where available for motors rated 7.5 HP and over.

MONTHLY RATE:

Customer Facilities Charge:
$10.50

Energy and Demand Charge:

First 1,000 kWh	4.346¢ per kWh
All additional kWh	5.346¢ per kWh

MINIMUM CHARGE: The Customer Facilities Charge.

FUEL CHARGE: See Sheet Nos. 6.020 and 6.021.

Continued to Sheet No. 6.031

Exhibit F

Docket No. 090083-GU
Sun City Center Community Association, Inc. vs. TECO Peoples Gas
Discussion Items Before the Commission

(Prepared & presented by Brian G. Davidson before the Commission on September 15, 2009)

Introduction

Throughout this discussion, please note that the Sun City Center Community Association may be referred to as the "Customer", the "Sun City Center," or simply the "SCC." I may also refer to Peoples Gas as "PGS" or "Peoples", and PSC Staff as "Staff". Furthermore, I may also refer to condominium, co-operative apartments, and homeowners associations as "condo's and/or HOA's."

Note that much of this discussion is based on information presented to PGS and Staff during our informal conference held last year on July 30, 2008, and that set forth in a letter to Ms. Rhonda Hicks dated January 22, 2009. Copies of these were included with the Formal Complaint filed February 16, 2009. Unfortunately, staff has failed to address or consider many critical facts presented to them previously.

Before proceeding, I believe it is important that the Commission have a clear understanding of the specific language set forth in the PGS residential rate schedule which was established based on PSC Order 19365 issued in 1988. As such, a copy of this is provided to the Commissioners and submitted as ***Exhibit A***. Additional documents have also been provided and are referenced as this discussion proceeds.

The "Applicability" section of the PGS residential rate schedule reads as follows:

"Gas Service for residential purposes in individually metered residences and separately metered apartments. Also for Gas used in **commonly owned** facilities of **condominium associations, cooperative apartments, and homeowners associations**, (...), **subject to the following criteria**:

1. **100%** of the gas is used **exclusively** for the **co-owners** benefit.

2. **None** of the gas is used in **any endeavor** which sells or rents a commodity or **provides service for a fee**.

Criterion 3 and 4 are not at issue...

Summary of Issues

The crux of the issue at hand is **first** to determine whether or not the Sun City Center meets the **basic application** set forth in PGS's rate schedule. In other words... **Are they the same as a condo or HOA with commonly owned facilities?** **Secondly**, it must be decided that, **even if they were a condo or HOA, does the SCC meet the 2nd and/or 1st criteria set forth in the PGS rate schedule?**

Facts and Discussion Items

Issue I:

Is Customer the Same as a Condo or HOA and do they meet the basic application set forth in the PGS residential rate schedule?

Customer maintains they are <u>not a condo or HOA</u> and <u>do not meet the basic application</u> of the residential rate schedule for the following reasons:

1. Customer is a community association ("CA") legally organized and operated as a separate and distinct legal entity than that of a condo or HOA. Although they may have similar functions, they are fundamentally different. [i.e., Customer is organized under Title XXXVI as a "Business Organization", and Ch. 617 of the Florida Statutes. However, condos and HOA's are organized under Title XL pertaining to Real and Personal Property with Ch. 718 governing condos and Ch. 720 governing HOAs]. *Furthermore…*

2. CA's are <u>not</u> specifically included in the language of the PGS residential rate schedule, nor that of any other electric or gas utility's rate schedules. In addition, none of the applicable Commission orders include CA's in their language. They specifically address condos, cooperatives, and HOA's… not CA's.

In their analysis, however, Staff asserts that the omission of "community associations" from the specific language of the applicable Orders and Tariff "is not conclusive." In addition, Staff repeatedly claims that because the SCC performs functions "<u>similar</u>" to that of a condo or HOA, they should be classified the same for ratemaking purposes. Staff goes on further to assert that "the gist of the orders issued by the Commission is that service provided to common areas such as a community pool, is residential in nature…" Staff also claims that all the applicable orders find that service to "common areas", whether electric or gas, is more residential in nature.

Customer believes the underlying facts in this case demonstrate otherwise…

3. In particular, Staff fails to recognize or note that the applicable orders all pertain to "<u>commonly owned</u>" areas specifically associated with condos, cooperatives, and HOA's. <u>**None**</u> of these orders reference, imply, or infer that organizations with "similar" type operations should be considered. The orders refer to specific types of residential entities – condos, cooperatives, and HOA's… nothing more - nothing less.

4. In addition, Staff overlooks and fails to consider a key principle set forth in the applicable orders and the rate schedules. That being that there is "<u>common ownership</u>" of the facilities. However, the facts in this case show that the <u>members of the SCC have no common ownership interest</u> in the property. All of the property is owned by the SCC. There simply is <u>no co-ownership</u>. This is a <u>key</u> distinction between that of a condo or HOA, and that of a community association.

5. Furthermore, had the Commission intended to classify CA's along with condos and HOA's, they would have included them in their orders and advised the utilities to revise their tariffs accordingly. This point is clearly supported by prior Commission actions.

6. Specifically, original Order 4150 (issued 1967) instructed electric utilities to revise their residential tariffs to include common areas of <u>condominiums</u> *and* <u>cooperative apartments</u> …that met certain criteria. However, HOA's were not included in this Order. It wasn't until eleven years later in 1978 that Order 8539 was issued to expand the ruling to include HOA's. The point here is that these Orders apply to specific legal entities - condos, cooperative apartments, and later to HOA's… NOT CA's - nor any other entities with "similar" operations.

7. If the Commission now wants to expand the ruling to include CA's, or any "similar" type of legal entities, as they did for HOA's in 1978, Customer believes that a new order is required directing the utilities to revise their tariffs and redefine such customers as residential. Until such time, however, CA's simply do not fall within the scope of the orders or PGS's residential rate schedule.

8. Again, no where in the existing orders or rate schedules is it stated or implied that the language of these can be expanded to include customers with operations "similar" to condo's or HOA's... *as Staff asserts.* State agencies must adhere to the law established by the legislature in the Florida Statutes. Agencies are not permitted to enlarge, modify, or contravene statutory provisions. Therefore, neither PGS or Staff are empowered to create additional varieties of condos or HOA's and they have no authority to expand the language specifically set forth in the existing Commission orders and rate schedules.

In my opinion, this should be the end of the argument for this issue. These facts alone clearly reflect that the applicable order and PGS' rate schedule do not include CA's in their language. But because PGS and Staff are attempting to expand the language of the laws and treat CA's the same as condos and HOA's, I am compelled to also address their other assertions.

Specifically, Staff also claims the following: *"...it is the nature of the service provided, and not the entity to which service is provided, that controls its determination as residential service."* In reality, however, the underlying facts show that it first must be determined **"who"** the gas is sold to (i.e., what type of legal entity), and then look at how the gas is being used in determining if the gas service is residential or commercial.

9. Take for example, a community pool owned and operated by the City of Tampa for the residents of that community. Under Staff's reasoning, the City of Tampa could be classified as residential for operating a community pool because the gas used to heat the pool is for the benefit of the resident's of a community. Likewise, an Assisted Living Facility ("ALF"), where gas is used to heat water for the benefit of the "residents" of that facility, could also be classified as residential.

10. However, it is obvious that the City of Tampa and an ALF are not residential customers. WHY? Because they simply are not organized and operated the same as a condo, or an HOA. Even though gas use is for the benefit of the residents of these facilities, they do not fall within the scope of the specific guidelines set forth in the PSC Orders and PGS residential rate schedule.

11. An even better analogy to emphasize this point is a typical apartment complex with a gas heated pool provided for the benefit of the residents. According to Staff's reasoning, such use is residential in nature and, therefore, the apartment's gas account should be classified as residential. However, the fact is that gas service to apartments is classified as commercial. Regardless of the fact that the "nature" of the gas use benefits the residents, an apartment does not fall within the scope of the explicit language and guidelines set forth in the Order and PGS' rate schedule. Simply put, an apartment, nor a community association, is the same as a condo or HOA.. neither

12. As such, Staff's contention that *"it is the nature of the service provided, and not the entity to which service is provided, that controls its determination as residential service"...* is simply wrong. The type of entity (i.e., the "Who") must first be considered before taking into account the nature of the gas use when determining whether or not a customer should be classified as residential.

Staff has also referenced Order No. 10104 (issued in 1981) in which the Commission found that condo/cooperative form of ownership of common facilities on the one hand, and HOA's ownership of common facilities, *"are both residential in nature"*. However, Staff fails to consider that this order also sets forth certain criteria limiting HOA's from automatically being classified as residential.

13. In particular, criterion #5 which states that *"Membership in the HOA, which controls and operates the common facilities, is required as a condition of property ownership... and such requirement arises from restrictions of record..."* Furthermore, Criterion #6 states that "*The obligation to pay may be enforced by placement of a lien and foreclosure*." Criterion #7 states that "*The HOA's are comprised of persons owning contiguous lots in a planned development, and the commonly owned facilities are located within the development.*" *For reference purposes, a copy of the applicable page of Order No. 10104 has been submitted as* ***Exhibit B***.

14. Although similar restrictions may apply to members of the SCC, not all members are property owners in the community. Membership is also offered to non-owners (e.g., certain former residents now residing in non-affiliated assisted living facilities). There is no obligation for these individuals to pay or continue their membership. In addition, Customer cannot enforce payment by placement of a lien or foreclosure since these members no longer own property there.

15. More importantly, as previously mentioned, the SCC owns all the recreational facilities. Members have no ownership or co-ownership interest. Therefore, there is no condo/cooperative or HOA form of ownership of common facilities... As such, Staff's attempt to equate Customer's operations with that of condos and HOA's referenced in Order No. 10104... is simply without merit.

Continuing on with this issue [if necessary], much of Staff's analysis included selective restatements of certain sections of the SCC's Articles of Incorporation . Although some of this language may be similar to that of condos or HOA's, Staff left out some critical sections which further differentiate the SCC's organizational and operational structure. *For reference purposes, a copy of the applicable page of the SCC's Articles of Incorporation has been submitted as* ***Exhibit C***.

16. Specifically, the very first paragraph (a) of Article II states: "The general nature, objects and purposes for which this corporation is exclusively organized and operated are charitable, scientific, or educational." The second paragraph goes on to state: "This corporation is to serve the residents of the retirement community..., known as the Sun City Center, by providing relief for the elderly, providing assistance and essential services to tax-exempt entities, and operating in lieu of a municipal government by supplementing, not duplicating, many costs of government,..." Does this sound like a resident owned condo or HOA?

17. Furthermore, paragraph (b) of Article II states: "No part of the net earnings or assets of the corporation shall inure to the benefit of, or be distributable to any member..., and no member...shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation." In addition, paragraph (d) of Article II states: "In the event of dissolution or final liquidation of the corporation, the residual assets of the organization will be turned over to one or more organizations that themselves are exempt as described in Sections 501(c) (3) and 170(c) (2) of the Internal Revenue Code..."

18. As such, the SCC's Articles of Incorporation actually support Customers position by further distinguishing their legal organization and operations from that of condos and HOA's.

To summarize Issue I, there are significant differences in the organization and operation of the SCC from that of a condo or HOA. Customer believes that Staff and PGS have failed to consider and misconstrued many of these differences. Given the underlying facts supporting Customer's position, it is hereby requested that the Commission rule against Staff's analysis and find that the SCC does <u>not</u> meet the <u>basic application</u> to be classified under PGS' Residential Rate Schedule and their rate should have remained on the commercial GS-2 rate.

<u>Issue II</u>

Even if Customer was a condo or HOA, do they meet the 2nd criterion in the PGS residential rate schedule?

Customer maintains that even if they were organized and operated as a condo or HOA, they do not meet the 2nd criterion in the PGS residential rate schedule. In referencing the PGS residential rate schedule again ***<u>[Exhibit A]</u>***, the 2nd criterion states the following: "**<u>None</u>** of the Gas is used in **<u>any endeavor</u>** which sells or rents a commodity or provides **<u>service for a fee</u>**." Note that the language here is clear and specific and there are no exceptions to this criterion. As such, if it can be established that <u>ANY</u> portion of gas, (regardless of how small) is used in <u>ANY endeavor</u> (e.g., whether it be for profit, not-for profit, private clubs or other restricted establishments) in which services are provided **<u>for a fee</u>** (regardless of how immaterial), then the 2nd criterion is simply not met.

1. Customer has documented they have organized clubs offering exercise and dance classes in the gas heated pool. Club members are required to pay a separate club fee giving them exclusive use of the pool during specific days and times. These additional fees provide club members with an extra service they otherwise would not be entitled to. Although PGS and Staff assert that these additional charges are more like a management fee than a fee for a service, the simple fact is they are not management, maintenance, or annual membership dues. These are not mandatory dues. They are simply extra fees for extra services.

2. Customer has documented they have organized clubs offering exercise and dance classes in the gas heated pool. Club members are required to pay a separate club fee giving them exclusive use of the pool during specific days and times. These additional fees provide club members with an extra service they otherwise would not be entitled to. Although PGS and Staff assert that these additional charges are more like annual membership dues than a fee for a service, the simple fact is they are NOT. These are not mandatory dues. They are simply extra fees, spent voluntarily, for extra services received.

3. Furthermore, it has been documented that certain <u>house guests</u> of members are required to purchase weekly **"<u>guest cards</u>"** to utilize Customer's recreational facilities (including the gas heated pool). *For reference purposes, a copy of the SCC's Bylaws pertaining to Guest Cards has been submitted as* ***<u>Exhibit D</u>***. The fee paid for these guest cards is the equivalent of an entrance fee. As such, the guest card fee is a separate fee for services regardless of the fact it may only be a nominal charge. *It is noted here that neither Staff nor PGS has acknowledged or addressed this point even though evidence documenting this fee has been provided to both parties.*

4. Even though Staff did not address the weekly guest card fees, they claim that the other fees described here *"don't give rise to fees for service because the facilities are not available to the general public."* However, the language of the 2nd criterion simply states that "None of the gas can be used in any endeavor which sells or rents a commodity or provides service for a fee." This restriction does not state, imply, or presume that "service for a fee" means being made available to the general public. Nor does it require that *"use be based solely on the additional fees paid for certain services"... as Staff has claimed.* Nor, is it stated or implied that this criterion is intended to *"prevent obviously commercial enterprises from taking service under the residential rate"... as previously asserted by Staff.*

5. It is irrelevant that Customer may restrict use of its facilities to members and certain former property owners. The 2nd criterion simply states that <u>NONE</u> of the gas can be used in <u>ANY</u> endeavor which provides service for a fee.

6. The following example supports this reasoning: Say there is a customer operated as a private non-profit club located within a community development not open to the general public... Membership is restricted to residents of that community... Annual dues are required from everyone and these dues entitle everyone to membership in the club... Club includes a restaurant with gas used for cooking and separate fees are charged for food items served here...

   Although access to the club restaurant is restricted to members who are residents of the community, separate fees are charged for the food items. As such, it is obvious in this example that the 2nd criterion is not met because a portion of the gas is being used in an endeavor which sells a commodity for a fee.

7. The point here is that the fees charged in this example are no different than the separate fees being charged to the members and guests of the SCC. Although services (and/or food items) are restricted to members and not made available to the general public, the simple fact is that separate fees are charged for these extra services.

8. Another key fact supporting this point is PGS' common policy in the past whereby they treated common areas of condos as commercial if any portion of their gas use was associated with fees being charged (e.g., coin laundry, pool entrance fees, etc.). Regardless of the fact that services were limited to co-owners, such condos were classified as commercial by PGS. This fact is further supported by PGS internal guidelines advising that common areas of condos and cooperatives with coin laundries are to be classified as commercial. These guidelines actually state that "coin laundry is service for a fee." *For reference purposes, a copy of the applicable page of this PGS guideline has been submitted as* ***<u>Exhibit E.</u>*** *Again, these points were presented to both Staff and PGS previously, but both parties have failed to address, acknowledge, or dispute them.*

9. Although the separate fees pertaining to Customer's gas use are not for coin laundries, the same principle applies here. That is, it makes no difference that services being provided may be restricted to residents, club members, or guests. If **ANY** fees are charged in connection with gas used in providing such services, the 2nd criterion is simply not met.

To summarize issue II, specific examples of fees being charged in connection with gas servicing Customer's facility have been provided. Furthermore, it has been shown that these fees are distinct and different than annual maintenance-type dues and that they are extra fees for extra services. It has also been shown that it makes no difference that the services provided may be restricted to residents and not made available to the general public. Therefore, it is again requested that the Commission rule against Staff's analysis on this issue and find that, even if the SCC was a condo or HOA, they would not meet the 2nd criterion set forth in PGS' Residential Rate Schedule.

Issue III

Even if they were a condo or HOA, does customer meet the 1st criterion set forth in the PGS residential rate schedule?

Customer maintains that they would also do not meet this 1st criterion which states as follows: "**100%** of the Gas is used **exclusively** for the **co-owner's benefit**" ***[Exhibit A]***. Again, the language here is clear and specific and there are no exceptions. 100%, (i.e., not "99.9%" or "most"...100% of the gas), is used exclusively (i.e., without exception) for the co-owner's benefit (i.e., must be a co-owner) . As such, if it can be established that any portion of the gas benefits anyone other than a co-owner, then 1st criterion is also not met.

1. The underlying fact here, which Staff failed to recognize or address, is that **there are no co-owners**. Nor is there any commonly owned property. This is evidenced by the fact that members of the SCC have no co-ownership rights or interest in the CA's property. The SCC owns and manages all property. Again..., if the SCC is ever liquidated, members get nothing. They are simply "members" of the CA... NOT co-owners. Therefore, 100% of the gas is not used exclusively for the co-owners benefit simply because... THERE ARE NO CO-OWNERS!!.

2. Nevertheless, even if the SCC was a condo or HOA with common ownership of the property, it has been established that certain non-owners can also benefit from gas use (i.e., the former residents now residing in the non-affiliated assisted living facilities). By electing to continue paying membership fees, these non-owners benefit from the gas used to heat the pools. Again, this fact demonstrates that 100% of the gas is not used exclusively (without exception) for the co-owner's benefit.

Unfortunately, Staff did not recognize or address this issue. As such, it is requested that the Commission find that, even if the SCC was a condo or HOA, they would also fail to meet the 1st criterion set forth in PGS' residential rate schedule based on these facts.

Issue IV

A fourth issue is that there should be consistency between gas and electric utilities in classifying customers as residential or commercial. This reasoning is based on the same language and 4 restrictions that apply to both utilities in their respective residential rate schedules...as well as applicable orders. *For reference purposes, a copy of Tampa Electric's residential rate schedule has been submitted as* ***Exhibit F***.

The points supporting this position are as follows:

1. Customer provided Staff with documentation (e.g., copies of bills) showing that all 11 of their electric accounts are classified under commercial rates...including that serving the pool.

2. Tampa Electric Company..., who is the brother/sister company to PGS..., previously established that the electricity serving the SCC should be classified under commercial rates. These electric accounts have consistently been classified as commercial since they were originally established.

3. Customer maintains that Tampa electric properly classified their accounts as commercial because..., (1) as a CA..., they do not meet the basic application set forth in the residential rate schedule, or (2), they do not meet the 1st and/or 2nd criterion.

4. Keep in mind that PGS had established and consistently classified Customer as commercial until reclassifying them to residential four years ago. However, nothing changed or occurred in the order or tariff that prompted this reclassification by PGS. There really is no logical reason for changing their gas rates when the electricity servicing the same facility had been established as commercial... especially given the fact that the rules and criteria for doing so are the same for both utilities.

Unfortunately, Staff shy away from addressing this issue. They simply claim that the issue to address is what the correct gas tariff should be, and does not concern how the electric company classifies this customer. Staff has also previously stated that *"what utilities do in similar circumstances has no bearing on this complaint."*

5. However, this entire case is the direct result of Order 19365 which was implemented to equalize the gas utility's classification of commonly owned areas of condos and HOA's with that previously ordered for the electric utilities.

6. In fact, in a related informal complaint filed on behalf of another client company, the same Staff person directly involved in this case actually stated in her recommendation that *"gas service should be commercial based on a similar ruling regarding electricity use at that facility."* [ref. Staff letter dated May 29, 2007 regarding informal complaint No. 701069G].

7. As such, it seems Staff's statements concerning this issue are not consistently being applied and their reluctance to consider facts pertaining to this point is puzzling.

Now for some reason in their analysis of this issue, Staff has restated a couple of assertions that were previously mentioned in the first issue. However, these have no relevance to this fourth issue. Furthermore, they were previously addressed in Issue I. As such, I feel there is no need to revisit them here.

The discussion in the box below may or may not have been presented before the Commission because of time limitations:

Staff further states that *"the Commission has consistently determined that common areas such as pools should be provided service based on the residential service rate."* However, Staff fails to consider that the Commission..., in the applicable orders..., was specifically addressing the common areas of condos, cooperatives, and HOAs...NOT community associations... nor any other type of customers.

Although also unrelated to this issue, Staff further claims that *'the Commission has stated that it is not the corporate makeup of the entity, but the use that is determinative of the appropriate tariff."* However, the logic and reasoning previously discussed demonstrates that the type of entity (the "Who") should first be considered before taking into account the nature of the gas use when determining whether or not a customer should be classified as residential *(i.e., the example of the City of Tampa - Community Pool, an ALF, and an apartment pool).*

To summarize the 4th issue, Customer maintains that PGS's actions are inconsistent and contradictory to that applied by their brother/sister company Tampa Electric. There simply is no logical reason for classifying the rates differently. Again, essentially the same language and restrictions are set forth in the rate schedules of both utilities. As such, it seems there should be consistency between the two in classifying customers as commercial or residential. Therefore, we are not actually requesting the Commission rule on this issue per se. It is simply requested that the Commission also consider this point when ruling on the other three issues.

Overall Summary

To summarize all the issues, Customer maintains that their rates were changed in error from commercial to residential because: First - they do not meet the basic application set forth in the PGS residential rate schedule and applicable order; Second - even if they met the basic application and were a condo or HOA, they don't meet the 2nd criterion because separate fees are charged for extra services provided; Third - even if they met the basic application and were a condo or HOA, they also don't meet the 1st criterion because non-owner members can also benefit from gas use; and Finally - that there should be consistency between the electric and gas utilities in classifying Customer's accounts as commercial or residential given the fact that the same rules and criteria apply to both utilities.

Several distinctions were noted with Staff's analysis concerning each of these issues. Given these facts, it is requested that the Commission rule against Staff's analysis in the first three issues and find that the SCC's gas rate was changed in error. In doing so, it is also requested that the Commission rule that Customer is entitled to a retroactive refund with interest for the difference in rates billed in error beginning August 2005 through the recent change back to the appropriate commercial GS-2 rate.