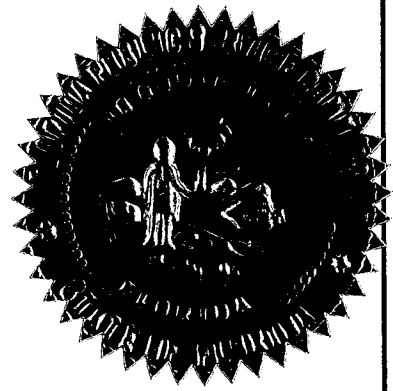


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060635-TL

In the Matter of:

PETITION FOR DETERMINATION OF NEED FOR
ELECTRICAL POWER PLANT IN TAYLOR COUNTY
BY FLORIDA MUNICIPAL POWER AGENCY, JEA,
REEDY CREEK IMPROVEMENT DISTRICT, AND
CITY OF TALLAHASSEE.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 3

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER J. TERRY DEASON
COMMISSIONER ISILIO ARRIAGA
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. TEW

DATE: Tuesday, November 21, 2006

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

REPORTED BY: LINDA BOLES, CRR, RPR
Official Commission Reporter
(850) 413-6734

1 PARTICIPATING:

2 SUZANNE BROWNLESS, ESQUIRE, representing the Natural
3 Resources Defense Council.

4 BRIAN P. ARMSTRONG, ESQUIRE, representing Rebecca
5 Armstrong and Anthony Viegbesie.

6 GARY PERKO, ESQUIRE, representing Florida Municipal
7 Power Agency, JEA, Reedy Creek Improvement District, and the
8 City of Tallahassee.

9 E. LEON JACOBS, JR., ESQUIRE, representing the Sierra
10 Club, John Hedrick and Brian Lupiani.

11 MICHAEL COOKE, GENERAL COUNSEL; JENNIFER BRUBAKER,
12 ESQUIRE; and KATHERINE FLEMING, ESQUIRE, FPSC General Counsel's
13 Office, representing the Florida Public Service Commission
14 Staff.

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P R O C E E D I N G S

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2 CHAIRMAN EDGAR: And we will begin discussions with
3 Item 3.

4 MS. FLEMING: Katherine Fleming appearing on behalf
5 of Commission staff, legal staff.

6 Commissioners, Item 3 is staff's recommendation to
7 deny the motion for reconsideration filed on behalf of the
8 Sierra Club, Mr. Hedrick and Mr. Lupiani. The parties are
9 present to address the Commission. Oral argument was not
10 requested. Participation is at the Commission's discretion.

11 CHAIRMAN EDGAR: I see that we do have some parties
12 that would like to, I think would like to speak. Are you
13 requesting oral argument or would you like brief, just brief
14 comments?

15 MR. JACOBS: Good morning, Madam Chairman.

16 CHAIRMAN EDGAR: Good morning.

17 MR. JACOBS: We would like to have oral argument.

18 CHAIRMAN EDGAR: Okay. Commissioners, that is at our
19 discretion. If so, we'll use our usual ten minutes guideline.
20 Mr. Jacobs, is that oral argument for three of you or as a
21 group, and Mr. Armstrong and Ms. Brownless?

22 MR. JACOBS: I'd like for each party to have their
23 own opportunity, and I'll try and restrict my comments in time
24 so they won't be unduly imposing on your time.

25 CHAIRMAN EDGAR: Commissioners, oral argument?

1 COMMISSIONER ARRIAGA: I have a question.

2 CHAIRMAN EDGAR: Commissioner Arriaga.

3 COMMISSIONER ARRIAGA: And it is a procedural
4 question, Madam Chairman.

5 CHAIRMAN EDGAR: Yes, sir.

6 COMMISSIONER ARRIAGA: This just came up; right?

7 CHAIRMAN EDGAR: This is the first that I'm aware of
8 the request for oral argument; however, the possibility has
9 been there.

10 COMMISSIONER ARRIAGA: And the representatives of the
11 company were aware or prepared for this?

12 CHAIRMAN EDGAR: I'll look to the company
13 representative.

14 MR. PERKO: Good morning, Madam Chairman.

15 CHAIRMAN EDGAR: Good morning.

16 MR. PERKO: This is Gary Perko on behalf of the
17 applicants: Florida Municipal Power Agency, JEA, Reedy Creek
18 Improvement District and the City of Tallahassee. And if it's
19 the Commission's pleasure to take oral argument, even though it
20 was not requested, we are prepared to address that.

21 COMMISSIONER ARRIAGA: Good. Thank you.

22 CHAIRMAN EDGAR: Okay. All right. Thank you.

23 Mr. Jacobs, are you first?

24 MR. JACOBS: Yes.

25 CHAIRMAN EDGAR: You're recognized.

1 MR. JACOBS: Thank you, Madam Chairman. My name is
2 Leon Jacobs. I am here today on behalf of the Sierra Club,
3 Mr. John Hedrick and Mr. Brian Lupiani. And the purpose of our
4 comments today are to address the, the Commission's order which
5 denies our request for extension on the scheduling,
6 particularly in discovery in Docket Number 060635.

7 The essence of my comments are these: We believe
8 that the order would deny my clients and also the other
9 intervenors fundamental due process in this docket. The
10 Commission has looked essentially in the past at due process as
11 being satisfied when parties have notice and a reasonable
12 opportunity to participate in those proceedings. We believe
13 that in this particular instance, while you have shown latitude
14 in allowing parties to come into the docket, it is still
15 fundamentally important that there be a reasonable and a full
16 opportunity to participate. And the schedule as it exists
17 today, in the context of the dynamics of both this proceeding
18 and the industry as a whole, would, would deny the parties an
19 opportunity to fully participate.

20 I'll elaborate just briefly and the other parties,
21 I'm sure, will add to those comments. Already in this docket
22 you've had, as is the case around the country in these filings,
23 substantial variation in the projected costs. Those costs are
24 not -- there's no indication that the variation has come to an
25 end. Therefore, there's absolutely an incredible important

1 need for this Commission to understand what's happening with
2 the costs of building plants both in this state and around the
3 country. We believe only by a full participation of the
4 parties in this case will you come to some kind of handle on
5 that.

6 We believe that in addition to that there are
7 external -- there are additional costs related to this docket
8 that are, that are fairly unclear and have not been really made
9 clear by the filings. Those costs have to do with
10 infrastructure and other associated costs, directly O&M costs
11 with this plant.

12 Again, same set of dynamics are in play where around
13 the country and in the state as a whole, and particularly
14 because of the location of this plant, there are issues that
15 need to be ferreted out.

16 And then finally there is an incredible need to
17 explore external costs in this case. We believe that there are
18 real and expressed costs that are to be borne by this plant
19 before it goes into operation; they will be imposed on this
20 plant. And if you do not explore -- and we believe that the
21 filing as it exists today does not adequately address or assess
22 those costs. So if you approve this plant and let it go into
23 play with these particular owners, there's a very strong chance
24 that you won't have a chance to look at these costs in terms of
25 cost-effectiveness of this as a plant addition. And you -- and

1 in the past when you've looked at circumstances such as this,
2 you've exercised very broad discretion both in need
3 determinations and other matters. And particularly when it
4 came down to due process, you've said, well, we can, we can
5 make sure that we cover these issues by giving parties ample
6 and additional time to make their case. GridFlorida is a
7 classic example of that, and there are others as well.

8 So we believe this is -- because of the nature and
9 the time in which you find yourselves in in engaging so many
10 new plants, the dynamics that are in place in the industry and
11 other factors, that it is imperative that you, you allow full
12 opportunity for the parties to participate in this docket, and
13 the schedule as it presently exists does not allow that. And
14 with that, Madam Chairman, I'll end my comments.

15 CHAIRMAN EDGAR: Thank you, Mr. Jacobs.

16 Mr. Armstrong.

17 MR. ARMSTRONG: Thank you, Madam Chair,
18 Commissioners. My name is Brian Armstrong. I'm here on behalf
19 of Anthony Viegbesie, as well as my lovely wife Rebecca
20 Armstrong. I appreciate your giving us an opportunity to
21 address you this morning. Obviously we have asked for more
22 time, and we, the intervenors, believe that without additional
23 time our due process rights will be violated. And let me give
24 you an example of why.

25 Your staff obviously has dealt with a number of these

1 proceedings and obviously has the experience doing the
2 discovery and reviewing the documents and all the reams and
3 reams of data that have been provided. Let me start by saying
4 too, we're not talking about one utility here. We're talking
5 about four utilities, one of which is a partnership of
6 utilities that has 19 utilities behind it. So this is a very,
7 very complicated docket that you're dealing with here, not
8 run-of-the-mill.

9 Your staff knows how to deal with these dockets and
10 conduct discovery. Your staff acted expeditiously, I would
11 suggest, and got interrogatories and document requests out.
12 Commissioners, we received the responses yesterday. Yesterday
13 was nearly a month after we, as intervenors, were required to
14 file our case in chief in this docket. Our testimony was due a
15 month ago. Your staff worked as diligently as possible; got
16 interrogatory responses yesterday. We haven't had a chance to
17 look at that discovery. And let me tell you a few of the
18 things that are disclosed by that, why it's so important in the
19 best interest of all of us to delay this thing a bit and give
20 us a better chance to deal with the record.

21 Yesterday -- the cost of this plant now is projected
22 to be above \$2 billion, more than 50 percent higher than what
23 was projected a year ago and, again, 20 percent higher than the
24 last projection that these TEC partners made. No commitments
25 whatsoever from any railroad to provide rail transportation for

1 coal. As a matter of fact, their testimony says they might
2 need to build railroads. Two railroads might have to go out
3 there and build whole new lines for this thing. No commitment
4 from any port to take the coal in that's going to be necessary
5 to provide the coal to this plant. No commitment. As a matter
6 of fact, they might even have to build a port they suggest in
7 their response to interrogatories.

8 Can you think no commitment, no commitment, no
9 commitment, higher costs? I'm sure this Commission is aware of
10 what happened in North Carolina recently when the North
11 Carolina commission went to a hearing with respect to the Duke
12 Energy request for a coal plant. They concluded the hearings
13 with one set of information before them, and within six months
14 Duke Energy, knowing they were going to continue to be
15 regulated by that Commission and have to go before them for
16 rates, said, Commission, we think we might have to open that
17 docket because we just got updated projected costs.
18 Commissioners, the updated projected costs went up by
19 50 percent, from \$2 billion to \$3 billion. That's the status
20 of the energy industry right now. That's the status of these
21 coal plants right now. This new information alone needs --
22 think of all the discovery that we need to do to make sure that
23 they have done the correct comparisons now to the alternatives
24 available, the alternative sources of supply and the cost of
25 those supply.

1 What we've been able to do so far, we've recognized
2 that there is significant questions about why they're not
3 looking at demand-side management and conservation techniques.
4 One of the partners, the City of Tallahassee, at the urging of
5 many, many people has done, has hired outside objective
6 analysts and experts, and now they have determined in and of
7 themselves to go with a biomass plant. It's cost-effective and
8 it'll provide energy, it's reliable. And they've also
9 implemented demand-side management and conservation energy
10 programs which are being used all over the state, the country.
11 But yet now so far we've been able to determine in discovery is
12 that Tallahassee is using all these methods and all these
13 different experts and actually doing an analysis of programs
14 available and what's being done elsewhere. None of that is
15 available, none of that is in the testimony here that we have.
16 All we have is statistical and methodical and computer runs to
17 suggest that demand-side management and these other biomass and
18 these other things that the City of Tallahassee has now already
19 implemented are cost-effective.

20 So think about the discovery we need to do. I mean,
21 why should computer models -- how does that match up to what
22 the City of Tallahassee has done when they've hired real
23 experts and come up with real programs and done real analysis?
24 That takes time. And I've got to suggest that we need that
25 time, it's in the best interest of everybody sitting here to

1 give us more time so that we can make sure that this Commission
2 receives a complete analysis.

3 The costs have already skyrocketed. They're at the
4 top of their sensitivity analysis, the top right now. That
5 should become their base case for cost estimates. And then
6 they should do another sensitivity analysis that goes up at
7 least 20 percent above that. That's prudent. We're not going
8 to be building this plant and using it until at least 2012, and
9 I would suggest it's going to be far beyond that.

10 So, Commissioners, we are asking for due process. We
11 are asking for some additional time so that we can make sure
12 the record is complete for you all, because it sure isn't
13 complete now. No railroad transportation, no ports, costs
14 going up by the minute.

15 And by the way, one thing this Commission should know
16 as well, Wall Street, the coal mining businesses, the railroad
17 providers, their stocks are the darling of Wall Street right
18 now because the costs are going to go up. Everybody is
19 predicting it, everybody is suggesting it. If we have some
20 more time, Commissioners, we can have a better assessment of
21 where those costs might be. Time will give us better, more
22 accurate information. And I really do appreciate your time.

23 CHAIRMAN EDGAR: Thank you, Mr. Armstrong.

24 Ms. Brownless.

25 MS. BROWNLESS: Yes, ma'am. Suzanne Brownless here

1 appearing on behalf of the Natural Resources Defense Council.

2 I just wanted to mention that although our motion is
3 not up today, it is an identical motion to the motions that are
4 being considered. It was filed on November 2nd, subsequent to
5 that filed by the Sierra Club and by Mr. Armstrong on behalf of
6 his clients. And it is the same identical motion. I'm not
7 going to take a lot of your time this morning. Obviously I
8 agree with what my fellow intervenors have said.

9 I would only point out that these cases are extremely
10 technical. They are extremely dependent upon very complex
11 integrated resource planning computer models. But any kind of
12 integrated resource planning computer model, as any other
13 computer model, is only as good as the data you put in it.
14 It's only as good as the sensitivity studies you run.

15 The electric industry when I first got in the
16 business 26 years ago was a very staid industry and truly
17 nothing much changed. And in the last five years it has become
18 an extremely volatile industry recognized by everybody as
19 certainly not a widows and orphans stock anymore. And I'm
20 suggesting to you that the Public Service Commission needs to
21 recognize that change, needs to recognize the volatility and
22 needs to take into account that processes should change here to
23 get the most accurate information available. Thank you very
24 much.

25 CHAIRMAN EDGAR: Thank you.

1 Mr. Perko.

2 MR. PERKO: Thank you, Madam Chairman. On behalf of
3 the applicants I'm Gary Perko.

4 First of all, I would like to respond to a number of
5 the assertions that were made by primarily Mr. Armstrong and
6 others that really relate to the merits of this case, and I
7 would suggest that those issues are not before you at this
8 time.

9 What's before you is a motion to reconsider the
10 prehearing officer's order to deny, at least in part, a request
11 to extend some of the schedules in this proceeding. Now that
12 order did provide additional time for the intervenors to file
13 their testimony in this case, and, in fact, the intervenors
14 have filed testimony of six witnesses by that deadline. And
15 have you -- as you've heard today, the intervenors have clearly
16 gone through our testimony and applications and have identified
17 issues that they think need to be explored. That application
18 was filed two months ago, and yet we have yet to receive a
19 single discovery request from any of the intervenors.

20 Staff has issued two sets of discovery,
21 Commissioners, and have been very diligent in doing so. And as
22 Mr. Armstrong said, we responded to one set of discovery
23 yesterday. We more than -- I believe it was two weeks ago we
24 responded to the first set. So there has been information
25 being provided by the applicants at staff's request going to

1 some of the issues that have been raised here. And the
2 applicant -- or the motion simply does not provide any
3 additional basis beyond what the prehearing officer considered
4 to amend the order under consideration today.

5 As the staff laid out in its recommendation, the
6 standard of review for a motion for reconsideration is whether
7 the motion identifies a point of law or fact that the
8 prehearing officer overlooked or failed to consider. I would
9 submit to you that none of the information you provided here is
10 new. The issue of cost and other issues regarding the complex
11 modeling was, was provided in their motion. And, furthermore,
12 a motion for reconsideration should not be granted based on an
13 arbitrary feeling that a mistake may have been made. There
14 must be something clearly in the record that the prehearing
15 officer failed to consider or a fact of law that she failed to
16 consider. And I would suggest to you that the motion does not
17 meet that standard, so we would request that you deny it.

18 Thank you.

19 CHAIRMAN EDGAR: Thank you.

20 Commissioners, any questions?

21 COMMISSIONER ARRIAGA: May I?

22 CHAIRMAN EDGAR: Commissioner Arriaga.

23 COMMISSIONER ARRIAGA: With staff, what is it
24 specifically we're considering here? We're considering a
25 motion for reconsideration. We're not at the point of need

1 determination or anything like that; correct?

2 MS. FLEMING: That's correct, Commissioner. What
3 we're considering here today, as you heard the intervenors
4 state, they filed a petition to extend the discovery or the
5 time line for them to file intervenor testimony. Intervenor
6 testimony was originally set on October 24th. The petitioners
7 requested an extension of that deadline. The prehearing
8 officer considered these facts and extended the testimony
9 deadline to November 2nd.

10 COMMISSIONER ARRIAGA: Is it fair to assume that from
11 now until the time that we're going to consider need
12 determination there is enough time to review all this
13 documentation that we're alleging hasn't been reviewed yet?

14 MS. FLEMING: Commissioner, I believe it's fair to
15 assume that. As Mr. Perko has stated, staff has sent out three
16 sets of discovery during, since the time that this application
17 has been filed, and the discovery cutoff is not until
18 January 3rd. So the intervenors still have an opportunity to
19 avail themselves of discovery and of depositions of the
20 witnesses.

21 COMMISSIONER ARRIAGA: One more question. When are
22 we expecting to come to the need determination agenda?

23 MS. FLEMING: The need determination hearing is set
24 for January 10th.

25 COMMISSIONER ARRIAGA: So we have time from now to

1 January 10th to review whatever the movants are saying that
2 hasn't been reviewed?

3 MS. FLEMING: Yes. That's correct.

4 COMMISSIONER ARRIAGA: Okay. Thank you.

5 MS. FLEMING: Oh, excuse me. The agenda -- well, the
6 hearing for the need determination is January 10th, and staff
7 will follow up with a recommendation, and the agenda will be
8 February 13th.

9 COMMISSIONER ARRIAGA: More time yet.

10 MS. FLEMING: Yes.

11 COMMISSIONER ARRIAGA: Okay. Thank you.

12 MR. JACOBS: Madam Chairman.

13 CHAIRMAN EDGAR: Mr. Jacobs.

14 MR. JACOBS: If I may just respond briefly.

15 CHAIRMAN EDGAR: You may.

16 MR. JACOBS: Commissioner Arriaga, I think your
17 inquiry is correct. But if I can, if I can suggest to you that
18 with that time that still, in my mind, doesn't address the
19 principal issue here. What essentially the intervenors are
20 faced with now is we have a set of testimony that was filed
21 very, very -- essentially to show compliance with the existing
22 orders. But that testimony was rushed, it was without the
23 benefit of what we now know is an extensive body of information
24 as to the shifting landscape of this docket. Yes, while we
25 will have an opportunity to do, to do discovery and to do

1 depositions, we're now faced with having to prosecute this case
2 on cross-examination without the advantage of our experts
3 inquiring and diligently putting forth positions that we
4 believe would counter, engage these issues for your
5 deliberations, put forth positions that would, that would bring
6 out, elucidate these positions so that you have a fuller basis
7 and background upon which to make your decision. If we do that
8 on cross, I think you get a much more diminished discussion and
9 deliberation of these issues.

10 CHAIRMAN EDGAR: Mr. Perko.

11 MR. PERKO: Madam Chair, if I may just briefly. I
12 would simply point out that our application was filed
13 September 19th. The intervenors had 45 days to review that
14 filing, conduct discovery, had a 20-day turnaround, and, in
15 fact, filed testimony within that time frame. So it's not as
16 if they are solely relying on cross-examination for their case.
17 And as intervenors they take the case as they find it. Thank
18 you.

19 MR. ARMSTRONG: Madam Chair.

20 CHAIRMAN EDGAR: Mr. Armstrong.

21 MR. ARMSTRONG: If I might, this will be very brief,
22 but, Madam Chair, they took over a year to put this application
23 together, over a year to get 18 witnesses, 17 or 18 witnesses.
24 They spent probably \$1 million putting this application
25 together. We were provided 35 days to respond and then given

1 an extra week, so 42 days to respond to all of that
2 information.

3 If you could see the volumes and volumes and volumes
4 of information that's out there -- Madam Chair, we, the case in
5 chief, to be able to do prefiled, and you know this as an
6 attorney, to be able to put your case in chief in prefiled
7 testimony, work with your witnesses, say exactly what is your
8 position, what is your critique of this case is invaluable.
9 It's invaluable.

10 And Mr. Jacobs is absolutely right. We now have to
11 try and do through cross-examination, particularly of their
12 witnesses -- and the discovery, yeah, the answers are there but
13 you've got dig. I mean, there's enough obfuscation in a number
14 of these answers that you have to dig. And we don't want to
15 spend all our time digging and doing that with you all, but we
16 will at the hearing, when we could do it through discovery, we
17 could do it -- really what I request is give us some more time
18 so we can give it to you right with correct witnesses and all
19 the witnesses that are necessary to give you the best, most
20 complete case in a way that's very easy to understand.

21 I know you guys appreciate reading prefiled written
22 testimony a lot better than trying to go through the "ums" and
23 the "uhs" and the whatevers on the stand, of witnesses on the
24 stand. And certainly nobody can compare the ability to do
25 prefiled written testimony to the ability to try and get the

1 necessary information and data on the record through
2 cross-examination. Nobody can possibly compare that.

3 And, you know, Gary is doing what he needs to do for
4 his client, but I'll tell you, I'm going to do what I need to
5 for mine too. And I'll tell you, it is not enough time,
6 42 days, to put together witnesses. We scratched and clawed to
7 get our testimony in. And certainly staff, these guys know
8 what they're doing, they've dealt with these things before and
9 they did do some discovery. Just think what we've got already.
10 But think of the reams of information now we need to do to go
11 behind this discovery? We're just asking for some more time
12 for due process. Thank you.

13 CHAIRMAN EDGAR: Commissioner Arriaga.

14 COMMISSIONER ARRIAGA: Question to legal staff. I
15 heard Mr. Armstrong say during his intervention that if we do
16 not approve -- if we approve your recommendation, staff
17 members, that we would be violating their due process rights.
18 Could you explain, please?

19 MS. BRUBAKER: I believe it was Mr. Jacobs who
20 earlier made the comment that due process typically
21 contemplates, first of all, notice to affected persons and also
22 the opportunity to participate, and that is indeed what we have
23 in these types of cases.

24 Need determinations are a fast track case. They are
25 time intensive, they are labor intensive. I know the parties

1 have had to work very hard to prepare their case in chief in
2 the time that's allotted. And staff also has to work very hard
3 as well as the applicants to put the case forward in a
4 professional workmanlike manner.

5 Are the due process rights violated under the current
6 time frames? No, I do not believe they are. They are very
7 tight. There are other types of dockets we fast track at the
8 Commission. I personally would love to have more time on the
9 docket, but we have the time frames we have. And in my
10 experience, and I think in staff's experience, we are able to
11 get through these cases and come to a professional and complete
12 result that does meet the due process standards.

13 CHAIRMAN EDGAR: Commissioner Carter.

14 COMMISSIONER CARTER: Thank you, Madam Chair.

15 For legal, just kind distill it down to the
16 perspective on why we're here. What's the nature of the issue?
17 I mean, what are we really -- I mean, we're talking about a lot
18 of things that may go to the merits, a lot of things about
19 schedule. What really -- I mean, as I read it, what you're
20 asking is to overrule the prehearing officer's order. Is that
21 correct?

22 MR. COOKE: That's correct, Commissioner. There has
23 been a ruling on a motion for extending time frames for
24 discovery, et cetera. And the prehearing officer determined
25 and has adjusted the schedule for this proceeding in connection

1 with some of the motions to intervene.

2 There is a rule that we have, 25-22.080, that
3 literally sets deadlines for these proceedings once the
4 petition has been filed. So there's a need to balance giving
5 as much fairness as we can versus meeting the deadlines within
6 that rule. So I agree with Ms. Brubaker that from a due
7 process standpoint all due consideration has been given. I
8 think we have some case law that we can rely on in that regard.
9 And I think the question here is, as Mr. Perko pointed out, has
10 there really been new information or are there facts that have
11 been overlooked in terms of the decision that was made by the
12 prehearing officer? Is there any new information here from a
13 procedural standpoint that needs to be addressed?

14 COMMISSIONER CARTER: Follow-up?

15 CHAIRMAN EDGAR: Commissioner Carter.

16 COMMISSIONER CARTER: I haven't heard any. Have
17 you -- I mean, maybe staff has heard some --

18 MR. COOKE: I'm comfortable with the staff
19 recommendation, Commissioners.

20 COMMISSIONER CARTER: Madam Chairman, at the
21 appropriate time I would move staff.

22 CHAIRMAN EDGAR: Commissioners, are there further
23 questions?

24 COMMISSIONER DEASON: Madam Chairman, I'm prepared to
25 make a second of the motion. I just want to clarify one thing.

1 CHAIRMAN EDGAR: Commissioner Deason.

2 COMMISSIONER DEASON: Ms. Brubaker, when you used the
3 term "fast track," that, I think, is an adequate or accurate
4 characterization. But that's not the Commission's choice.
5 That's driven by statute; correct?

6 MS. BRUBAKER: That's absolutely correct, sir.

7 COMMISSIONER DEASON: Yes. Second the motion.

8 CHAIRMAN EDGAR: Thank you.

9 Just a comment. I always try whenever we can to, to
10 give additional time when the requests are made. Often I'm the
11 one who's requesting additional time as well, and I find it
12 very difficult to ever say no to a request for additional time
13 and time to prepare a good and thorough argument. But I also
14 feel very strongly that it is our requirement to apply the law
15 and the case law that is before us and to meet the statutory
16 time lines that we've been given.

17 Commissioners, we do have a motion and a second. Is
18 there further discussion? Okay. Seeing none, all in favor of
19 the motion, say aye.

20 (Unanimous affirmative vote.)

21 Opposed? Show the motion carried. Thank you.

22 (Agenda Item 3 concluded.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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I, LINDA BOLES, CRR, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 27th DAY OF NOVEMBER, 2006.

Linda Boles
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