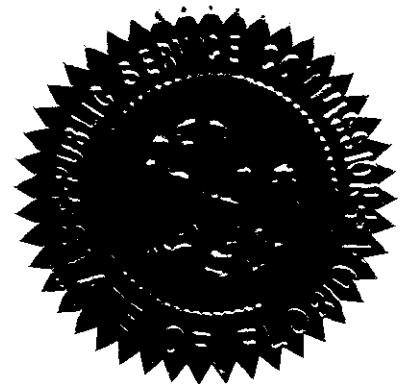


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080503-EI

In the Matter of
RENEWABLE PORTFOLIO STANDARD
FOR UTILITIES.



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VOLUME 1

Pages 1 through 138A

PROCEEDINGS: STAFF WORKSHOP
DATE: Wednesday, August 20, 2008
TIME: Commenced at 9:30 a.m.
PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

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PARTICIPATING:

Cindy Miller, Esquire, Mark Futrell, Tom Ballinger,
Judy Harlow, and Bob Trapp, FPSC Staff
Tom Sutton
Alan Taylor
George Cavros
Bob Krasowski
Rich Zambo
Frank Ferraro
Del Jones
John Burnett
Jerry Karnas
Peter DeNapoli
John Burgess
Marni Zollinger
Suzanne Brownless
Mike Twomey
Leon Jacobs
Eric Draper
Michael Dobson
Joe Treshler
Sean Stafford
Jon Moyle
Clay Bethea
Wayne Wallace
Riley Rudd
Christy Herig
Roy Ratner (phonetic)

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P R O C E E D I N G S

1
2 **MS. MILLER:** We welcome you to this workshop on
3 developing the renewable portfolio standard. Pursuant to
4 notice issued August 1, this date, time, and place were set for
5 a workshop in Docket 080503-EI to implement some of the
6 provisions in House Bill 7135.

7 I'm Cindy Miller, and I'm an attorney in the
8 Commission's General Counsel Office. And with me are Mark
9 Futrell, Tom Ballinger, Judy Harlow, and Bob Trapp. We also
10 have Chairman Carter here with us and other Commissioners may
11 be attending during the day.

12 We have set out 100 copies of the strawman rule and
13 the summary and rationale of the draft rule, and also of the
14 legislation. And we are going to just really welcome your
15 comments today. Get started on that very quickly.

16 Just a few housekeeping measures. We have a court
17 reporter here, Jane Faurot, so we would like you to state your
18 name and who you represent. Also as we proceed today, we may
19 keep it a little more formal. If we get into a lot of
20 questions, we want those to be directed through me. We do plan
21 to take a lunch break around noon. And after the workshop, we
22 are going to be asking for you to give us type and strike
23 alternative language, and we want that to be submitted by
24 September 2nd.

25 Mark, would you like to discuss the call-ins?

1 **MR. FUTRELL:** Sure. Thank you, Cindy.

2 I'm Mark Futrell with the staff. Again, also a
3 reminder, we have sign-up sheets in the back of the room so if
4 you would please sign that so we have a record of your
5 attendance.

6 Cindy mentioned that due to the tropical storm, the
7 Commission has made an effort to try to accommodate those folks
8 that could not attend today's workshop. First, as you
9 hopefully have stated clear to everyone, we are going to --
10 following the conclusion of this workshop we will reconvene
11 next Tuesday and continue the workshop then. We have also made
12 arrangements for parties that are interested to call in and
13 provide comments to the rule this morning on the phone.

14 At this time I would like to recognize those that
15 have called in and give them an opportunity to make some
16 comments on the rule. At the conclusion we would encourage
17 those folks that have called in to go to the Commission's
18 website, www.floridapsc.com, and listen and monitor the
19 workshop through that avenue. Folks can certainly call in at
20 any time if they want to express themselves and contribute to
21 the discussion, but we would really strongly encourage you, if
22 you want to just listen, to use the website, the audio links
23 there.

24 At this time I think we would like to try to get a
25 roster of those folks that have called in and give us your name

1 and your affiliation, that you would like to speak at this
2 time, and then as we go through this, before you begin
3 speaking, please identify yourself and the party you are
4 representing.

5 So if we could like to get folks that have called in
6 to identify themselves, please, so we can have a list of those
7 that want to speak now. I think I heard Frank Ferraro.

8 **MR. FERRARO:** Yes. This is Frank Ferraro with
9 Wheelabrator Technologies. I'm on the line to provide
10 comments. I believe Jon Moyle is there representing us who, I
11 think will provide most of our comments, but I will be
12 available to answer questions and provide more specifics.

13 **MR. FUTRELL:** Who else is on the line that would like
14 to comment?

15 **MR. SUTTON:** Mark, this is Thomas Sutton with
16 Sunshine State Solar Power. I would like to provide comments,
17 but I was expecting that as we went through particular sections
18 the comments would come then as opposed to all up front at
19 once, you know, in order to make sure that I didn't use up more
20 time than what was allotted. I expect to comment periodically
21 throughout the session.

22 **MR. FUTRELL:** Okay.

23 **MR. JONES:** Mark, this is Dell Jones. The same thing
24 Tom said. We expect to provide comments throughout the
25 session.

1 **MR. FUTRELL:** Okay. So I've got Frank, Dell, and Tom
2 Sutton. Anybody else that is calling in?

3 **MR. ZAMBO:** You also have Rich Zambo representing the
4 City of Tampa, Palm Beach County Solid Waste Authority, and the
5 Florida Industrial Cogeneration Association. And I may have
6 comments. I understood that the process was going to be that
7 staff would explain the rule, and that was my primary interest
8 today, and then I may have comments section-by-section as you
9 go through it.

10 **MR. FUTRELL:** Thank you. Who else?

11 **MR. CAVROS:** Hey, Mark. This is George Cavros with
12 the Natural Resources Defense Council. I also wanted to offer
13 some initial thoughts and, if possible, comment as you go
14 through the day.

15 **MR. FUTRELL:** Thank you, George.

16 **MR. KRASOWSKI:** Hello, Mark. This is Bob Krasowski
17 with the Florida Alliance for a Clean Environment interested
18 public. And I probably won't speak today, but would like to
19 reserve the right just in case something extraordinary comes
20 up, but I will probably just listen in.

21 **MR. FUTRELL:** Okay.

22 **MR. TAYLOR:** And this is Alan Taylor with PCS
23 Phosphate. We may have a few specific comments, but, you know,
24 I have a general introductory comment.

25 **MR. FUTRELL:** Anybody else?

1 **MR. BURNETT:** Mark, this is John Burnett with
2 Progress Energy Florida. I just wanted to let you know, we
3 plan to attend in person on the 26th and make our comments
4 then. We will just be listening in on the website. So, I just
5 wanted to tell you that, and we will be signing off now.

6 **MR. FUTRELL:** Thank you.

7 **MR. KARNAS:** Hi, Mark. This is Jerry Karnas,
8 Environmental Defense Fund. I'm in a similar position as
9 Progress Energy where we will be attending in person next week
10 on the 26th, so I will get off the line now. And I might jump
11 back on if I feel the need to make comments, but at this point
12 I am going to get off the line and get on the Internet.

13 **MR. FUTRELL:** Thanks.

14 I have heard from nine people. Is there anyone else
15 on the line that has called in?

16 Okay. At this time we will give those have called in
17 at least an opportunity, if they wish, to provide some opening
18 brief comments on the rule (phone interference) and we will
19 start with Frank Ferraro.

20 **MR. FERRARO:** I think I will wait until we get to
21 specific sections.

22 **MR. FUTRELL:** Okay. Dell Jones.

23 **MR. JONES:** I'm sorry, Mark, I was on mute.

24 Likewise, I will wait until we get to specific sections. Thank
25 you.

1 **MR. FUTRELL:** Okay. Tom Sutton.

2 **MR. SUTTON:** I have similar comments, Mark, but I
3 think as one gentleman mentioned a couple of persons back, he
4 was hoping for a discussion from you guys as to how (phone
5 interference), so I was hoping that that would occur. But I
6 will say, you know, I appreciate the opportunity to be part of
7 this. And I think you guys have done a great job to this point
8 in having a starting point for everybody to talk from, so I
9 look forward to working on this.

10 **MR. FUTRELL:** Thanks, Tom.

11 Rich Zambo. Rich, do you want to make any opening
12 remarks?

13 **MR. ZAMBO:** Well, I said I wasn't going to, but I
14 will raise an issue that I raised during our conference call
15 last Friday. And that is on Page 3 of the -- I'm not sure, I
16 guess it is the summary of the draft rule that you sent out in
17 the packet last week. There is a reference to existing or
18 current production of renewable energy of 3,759 gigawatt hours.
19 And based on my rough analysis of what was filed with the
20 Commission, that number is about half of what appears to be out
21 there from the phosphate industry, the municipal solid waste
22 industry, and Florida Crystals. And I think I was told on
23 Friday that that would be discussed today, so I'll just raise
24 that issue again.

25 I think it is important, because I presume that that

1 is one of the pieces of information that you based the
2 beginning RPS number on. If my numbers are correct, it would
3 be very easy for the utilities to reach that goal, and maybe
4 double that goal with just existing generating capacity.

5 **MR. BALLINGER:** Rich, this is Tom Ballinger. I can
6 address that, if you want, now.

7 **MR. ZAMBO:** Sure.

8 **MR. BALLINGER:** That number is an estimate, but it
9 was based on a couple of factors that came up. One being from
10 the FRCC, the reporting there shows that about less than 1
11 percent of the energy last year was from renewable generation.
12 Now, that does not account for self-service generation. That
13 is only what is firm sold to the grid.

14 I also looked at data that was provided earlier on in
15 this process, some earlier workshops we had where we looked at
16 existing facilities and also looked at self-service generation,
17 and I think we came up with a total of about 253 million
18 gigawatt hours of total sales. I'm sorry, 253,000 gigawatt
19 hours, which is about 1.9 percent. So the 2 percent is really
20 a rounded number based on what I have seen so far.

21 As you know, we are still collecting the potential
22 data from our past calls and also looking at existing data. We
23 are using that to verify that number again of the 2 percent, so
24 that is where it came up from. I would be glad if you have
25 other data shows where you got it from to share it with us.

1 **MR. ZAMBO:** Well, my data -- I guess my question is,
2 you have asked the industry, the people who are actually doing
3 this to provide their data. And they have provided it to you
4 and it's significantly higher than the numbers you have gotten
5 from FRCC or the utilities. My industrial self-service people
6 alone are more than half of this number. They are at
7 2.6 thousand gigawatt hours just from waste heat in the
8 phosphate industry, and I believe that Florida Crystals is
9 another 600. So if you add those two together you are up to
10 3,200, and that does not include waste-to-energy, which I think
11 is more than double that amount.

12 **MR. BALLINGER:** Where were those numbers provided,
13 Rich?

14 **MR. ZAMBO:** Mine were provided in the filings that we
15 made, the data requests that were submitted to you.

16 **MR. BALLINGER:** Those recent ones that we are
17 compiling now?

18 **MR. ZAMBO:** Yes.

19 **MR. BALLINGER:** Okay. Well, we need to look at that
20 to see if there is an overlap or a mismatch. I based this on
21 data that we had prior to that when we were developing this
22 rule. That data is still coming in and being examined for
23 validity and stuff like that.

24 **MR. ZAMBO:** Okay. Well, I guess that is my point.
25 My point is that from what I can tell just from those three

1 industries we have got more than double this, or about double
2 this amount, and there is probably more out there that hasn't
3 been accounted for because parties aren't involved in this
4 process.

5 I know there is a lot of generation in the sugar
6 industry from biomass that doesn't appear to have been reported
7 anywhere. But, that's it, so I will just -- we will just
8 address that as the process goes on.

9 **MR. FERRARO:** This is Frank Ferraro. And I was going
10 to address this later in our comments, but can the staff share
11 with the public all of their figures so we can look at it while
12 you are also gathering this data, because that was a question I
13 had. You have data you're looking at, and apparently we may
14 disagree with your conclusions. It would be very useful for us
15 to see your totals and your list of renewables so that we can
16 check that off against what we believe should be on there.

17 **MR. BALLINGER:** Well, like I said, the data that we
18 have been collecting recently that we just had a meeting last
19 Friday on is still being reviewed. Some people have included
20 existing and potential data as one number. That goes out to
21 the year 2020. We are really trying to figure out, to sort it,
22 what is truly existing in the ground today and what is
23 potential.

24 **MR. FERRARO:** I understand, but you gave two sets of
25 figures that you have developed, one of less than 1 percent,

1 and one of almost 2 percent. You had to have had retail
2 electric sales and a list of renewables that made up those two
3 numbers. At least can you provide those?

4 **MR. BALLINGER:** Certainly. The retail sales, the
5 list of renewables, and the amount of energy is available in
6 the FRCC 2008 aggregate plan. That's the number that was less
7 than the 1 percent. The other number came from earlier data
8 submittals by parties in previous workshops that we had that
9 showed existing megawatt hours from renewables totalling 3,526
10 gigawatt hours.

11 **MR. FERRARO:** Could you just put that all as a
12 spreadsheet on the web or somehow so that we could pull it off,
13 rather than than -- you know, because it just would make it
14 easier for the public to review it if it was in one spot that
15 we could all take a look at.

16 **MR. ZAMBO:** This is Rich Zambo again. I don't want
17 to belabor the point, but in my view it seems to me like this
18 is an absolutely critical piece of information. That if this
19 number is not accurate, then the starting point for the whole
20 RPS would be questionable.

21 **MR. BALLINGER:** And, again, this is a strawman with a
22 number put out there for discussion. We would welcome -- if
23 the respondents have data that contradicts that, we would
24 welcome to see that, but we can put this out there for the
25 public to view, too.

1 **MR. ZAMBO:** Well, we will file it, Tom. We filed
2 our data.

3 **MR. FERRARO:** But we don't have the aggregate of all
4 the data, so we can't make the same conclusions, or any
5 conclusions as to whether 2 percent is the right number or
6 whether we should be proposing 20 percent, for example.

7 We need to see what you were looking at so that we
8 can then say, aha, 2 percent is the right number, or, well, you
9 know, you left out this, this, and this, so really the right
10 number is 3.5. Without that list, the public cannot comment.

11 **MR. BALLINGER:** I said the list of the existing firm
12 is in the FRCC load and resource plan which is on our website.
13 The other number for self-generation that we got early on in
14 process was provided by the respondents, by the renewable
15 industry for the self-service portion.

16 **MR. FERRARO:** It wasn't provided by Wheelabrator
17 Technologies. We don't have a figure. All I'm asking is can
18 you just put that somewhere where we can look at it. You have
19 it; we don't know how to get to it.

20 **MR. BALLINGER:** Certainly.

21 **MR. FUTRELL:** This is Mark Futrell. We will put a
22 little spreadsheet together and post it on the workshop web
23 page documenting where these numbers came from so that you can
24 track it.

25 **MR. ZAMBO:** This is Rich Zambo, again. I think we

1 need to have some kind of process to reconcile that. I just
2 did a quick calculation, and this is a conservative number, I
3 believe it is low, but the existing waste-to-energy facilities
4 in Florida alone are about equal to that number. I calculated
5 3,623. That's assuming an 80 percent capacity factor, and I
6 believe most of them operate at 90 percent. So I think we just
7 need to reconcile the numbers. We have that data available,
8 and I presume you will want that to be verified somehow, but
9 whatever numbers we use would need to be verified, and I think
10 there will need to be a meeting of the minds between all
11 parties.

12 **MR. FUTRELL:** And, Rich, that's what we are aiming to
13 do through our data process is to bring the parties together
14 and resolve some of the data differences, and also get Navigant
15 involved in the process, as well.

16 **MR. ZAMBO:** Sure.

17 **MR. FUTRELL:** Before we continue on, Rich, I don't
18 want to interrupt you too long, but I also would like to
19 recognize that Commissioner Skop has joined us at the workshop
20 today.

21 Rich, if you have any remaining comments, you can
22 certainly go ahead at this time if you would like.

23 **MR. ZAMBO:** I don't at this point. There is some
24 questions I have about the rule, but I think as you go through
25 it they will probably be clarified.

1 **MR. FUTRELL:** Okay, thanks. Next, George Cavros with
2 NRDC. George, would you like to make any opening remarks?

3 **MR. CAVROS:** Thanks, I would. I would just like to
4 take a couple of minutes to sort of give a general opinion of
5 the rule, and then offer some more specific comments next week.
6 Thanks for the opportunity to address you.

7 Generally, the rule as proposed we believe is too
8 heavily weighted toward cost containment in a way that will
9 squelch any meaningful investment in renewable technology and
10 clean energy jobs in Florida. The proposal doesn't accurately
11 represent the intent of the Governor and Legislature as we see
12 it. And what I mean by this is that in House Bill 7135, the
13 Legislature highlighted a list of priorities that they wanted
14 realized in an RPS, such as the promotion of the development of
15 renewable energy, protection of the economic viability of
16 Florida's existing renewable energy facilities, diversification
17 of the types of fuel used to generate electricity in Florida.

18 They also wanted to lessen Florida's dependence on
19 natural gas and fuel oil. They wanted to encourage investment
20 within the state, and also improve environmental conditions.
21 And, lastly, they also wanted to minimize the cost of power
22 supply to electric utilities and their customers. And the rule
23 seems to be heavily weighted on the very last priority,
24 minimization of cost to the detriment of other priorities in
25 the RPS, such as diversification of fuel used to generate

1 electricity, or promotion of renewable energy, or encouraging
2 investment within the state, and also improving environmental
3 conditions.

4 And no one disagrees that there is a need for a
5 reasonable safeguard system to assure that the implementation
6 of the RPS is not cost prohibitive as set forth in
7 Section 366.92(3)(b)(2), but the defining issue then is what is
8 cost prohibitive. And the rule contemplates a 1 percent cost
9 cap, and we believe the cost cap is too restrictive, and
10 suggesting that anything above the cap is sort of an undue rate
11 increase as staff has done in the summary of the rule is to
12 ignore the types of costs the Commission has passed on to
13 consumers in the last year.

14 I will give you an example. My utility bill alone is
15 going to increase this year by approximately 16 percent due to
16 fuel charges and approximately another 9 percent due to early
17 cost-recovery from new nuclear plant construction. And other
18 parties have also commented that residential electricity rates
19 have increased about 25 percent since 2005 in Florida. So,
20 then, I was just wondering what methodology was used to
21 determine that anything above the 1 percent cap is somehow cost
22 prohibitive. And I'm sure we will get into that issue later on
23 in the day, and I just believe that such cost containment caps
24 can't be selected in a void and should be judged against other
25 forms of rate impacts.

1 And in my personal opinion, this is just emblematic
2 of the unfair regulatory playing field between conventional
3 generation and clean energy initiatives, and whether, you know,
4 the renewable energy initiatives or energy efficiency
5 initiatives, the playing field somehow there doesn't always
6 seem to be level.

7 And while some other state RPSs may utilize a similar
8 cost cap, like Colorado, these states currently have access to
9 abundant lower cost wind resources and we don't have that
10 luxury yet in Florida. So, you know, rather than ramble on and
11 let you get on with the rule, I just want to mention, also,
12 that I think the targets are very weak and won't incent the
13 type of renewable investment and job creation found in the
14 legislative intent of HB 7135. It pretty much preserves the
15 status quo in Florida. As I understand it already generates
16 approximately 2 percent of renewable energy from sources
17 defined by Florida Statute, and I'm sure that it appears that
18 there is some disagreement on that and that may be fleshed out
19 later on in the day, too.

20 And, lastly, I was also struck by the fact that there
21 was no enforcement tool in the proposed rule. If you want to
22 engender compliance, you may want to have some sort of
23 enforcement tool in the rule, and I understand that the
24 Legislature asked for project compliance measures in
25 366.91(b)(2), so I would think that that would give the agency

1 the discretion to include some sort of enforcement tool in the
2 RPS policy design.

3 And I will leave it at that, and try to contribute
4 where I can during the day.

5 **MR. FUTRELL:** Thank you, George.

6 Next on my list, Bob Krasowski. Bob, would you like
7 to make any opening remarks?

8 **MR. KRASOWSKI:** No, Mark, I won't. And what I am
9 going to do is switch over to the website and keep the phone
10 available for possibly later. I just would like to say,
11 though, I thought George Cavros made a lot of very good
12 comments.

13 **MR. FUTRELL:** Thanks, Bob.

14 Next on my list is Al Taylor. Al, would you like to
15 make any comments?

16 **MR. TAYLOR:** No.

17 **MR. FUTRELL:** Okay. I think I may have heard a few
18 other folks call in. Are there others that have called on the
19 line that would like to make some opening remarks (phone
20 interference).

21 **MR. DeNAPOLI:** Hi, Mark. This is Peter DeNapoli with
22 Solar World calling in. I would just like for you to know that
23 I am on the line here and would reserve the opportunity to make
24 comments during the course of the workshop here. Although I do
25 have some other engagements that I have to go to, but I will

1 stay on as I can. Thanks.

2 **MR. FUTRELL:** Okay. Thanks, Peter.

3 Anybody else that has dialed in that would like to
4 make some opening remarks? Okay.

5 Again, if you just would like to monitor the
6 workshop, you can go to our website, FloridaPSC.com. If you do
7 want to stay on the line to make some remarks throughout the
8 workshop (phone interference). And at this time I will turn it
9 over to Cindy.

10 **MS. MILLER:** Okay. As Mark mentioned, the second day
11 has been added to the workshop because of the tropical storm,
12 so it is Tuesday starting at 9:30.

13 What we thought we would do is allow opening
14 comments, very short, like three minutes if anyone wishes to
15 use that opportunity. And I know that we heard some of the
16 investor-owned utilities say they would actually be
17 participating next week, but if any want to speak today, that
18 is great.

19 And, also, if any from our sister state agencies, we
20 see J.R. Kelly, Joe McGlothlin from Public Counsel, and Jeremy
21 Susac from the Governor's Energy Office. So if you have any
22 opening comments we would welcome those.

23 Otherwise, are there any investor-owned utilities who
24 would like to make any comments, opening comments today? Are
25 there any renewable representatives, or consumer

1 representatives, or environmentalists who would like to make
2 opening comments?

3 **MR. JACOBS:** Good morning.

4 **MS. MILLER:** Leon Jacobs.

5 **MR. JACOBS:** Hi, good morning. My name is Leon
6 Jacobs. I'm here on behalf of the Southern Alliance for Clean
7 Energy. I also would like to thank you for the opportunity
8 today to address you, and thank you for the work that has
9 obviously been put forward already in developing what we
10 believe will be an important new initiative in Florida.

11 We obviously applaud the effort of the initial design
12 of an RPS, but we would also echo some of the comments that
13 were made by Mr. Cavros a few moments ago. And I would really
14 want to just emphasize the importance of this opportunity. The
15 Legislature has clearly enunciated its desire that renewables
16 must become a real and legitimate resource in the energy
17 planning of the state.

18 Your work thus far acknowledges that renewables are
19 behind the ball. They have not had the opportunity to come to
20 the market as they would like. But I believe that this
21 exercise is an opportunity to promote and prompt a new world
22 with regard to renewables. This is the opportunity to
23 understand how this state can encourage and promote and build a
24 renewable marketplace. I believe that if we take that approach
25 it must be that we would look to understand not only what is on

1 the ground now, we do need to understand that, but we have to
2 understand what are the real potentials that are there. I
3 think the studies that are underway are important, but unless
4 they determine what the real long-term life-cycle value of
5 renewable resources in the state are, I think we will miss an
6 important window of opportunity.

7 You did a renewable study. The Commission did a
8 renewable study several years back, and you acknowledged then
9 that there is more work to be done to bring renewables to the
10 marketplace. I suggest to you that this is a continuation of
11 that thought. We believe that there is much untapped potential
12 for renewables in the energy marketplace in Florida. We
13 believe that that untapped potential represents real economic
14 value lost to ratepayers in Florida. We believe that unless
15 there is a real window of opportunity to bring new renewables
16 to the marketplace -- there are some renewables that have
17 sustainability, they have the benefit of PURPA contracts over
18 long periods of time, and they should continue to go on. I
19 would suggest to you that an RPS ought to look beyond that
20 horizon.

21 You ought to understand what are the nascent
22 technologies that are there that have the opportunity now with
23 some prompting to become sustainable legitimate resources in
24 the long-term energy marketplace. I would suggest to you that
25 there are many. I would argue that if we simply take the

1 approach now of narrowing down to those that can demonstrate
2 their viability today at this point in time, we will lose on
3 many resources that we believe are clear.

4 You have seen the data and the research. You have
5 heard the experts that have come to you and told you that there
6 are important opportunities out there for other technologies.
7 So we encourage you to look at this process as that window of
8 opportunity to bring these new technologies to market and make
9 them a viable force in bringing Florida's energy resources and
10 bringing down the cost to consumers.

11 By the way, Florida is among the top in the nation in
12 average expenditures for household expenditures for energy.
13 There are reasons for that. The reasons for that, I believe,
14 is that we have relied almost exclusively on fossil fuel
15 resources to meet our demand. There's comfort in that.
16 There's reliability in that. We acknowledge that. But we
17 believe that there are opportunities to reduce those costs to
18 consumers by bringing in renewables. They are not, they are
19 not a cost-prohibitive option.

20 We thank you.

21 **MS. MILLER:** Thank you. Is there anyone else who
22 would like to opening statements?

23 **MR. DRAPER:** Thank you very much. My name is Eric
24 Draper. I am with Audubon of Florida.

25 I just have a very quick question for the staff

1 beginning, which is -- which will help provide context (phone
2 interference) which is, is the intent of the rule, as the
3 legislative intent is, is to promote the development of
4 renewable energy? Just a context question.

5 **MR. FUTRELL:** I'm sorry, Eric, would you repeat the
6 question?

7 **MR. DRAPER:** Yes. I was just looking at the -- which
8 will help inform some of the comments I make later on as we go
9 through the rule point-by-point. I was just looking at the
10 legislative intent about promoting the development of renewable
11 energy, and I was just wondering what part in staff's thinking
12 when it put the strawman proposal together was that part about
13 promoting renewable energy. Was that part of the intention
14 motivating -- it looks like the rule is organized around
15 forecasting available renewables and responding in terms of the
16 RPS to what is available, and I was just trying to understand
17 the difference between, say, forecasting and reaching for what
18 is available and promoting.

19 **MR. FUTRELL:** I think the Commission, the staff took
20 all of the intent the legislature has expressed into
21 consideration when developing the draft. And I think that is
22 reflected in areas such as the targets that we have thrown out
23 there for discussion purposes, the idea of a REC market that
24 provides an additional funding source for renewable generators.
25 That idea we have thrown out there for discussion. So I think

1 we have tried to balance and recognize the various intents the
2 legislature has expressed in this strawman as a starting point.
3 But, again, we appreciate specific rule language comments from
4 the parties on what you want to see changed, and specific
5 language --

6 **MS. MILLER:** Also I think Bob Trapp would like to
7 respond to those comments.

8 **MR. TRAPP:** Yes. I would simply like to refer you to
9 Page 1 of the draft rule, 25-17.400. The intent of the rule is
10 expressed in Section (1)(a) which states, "The Commission shall
11 establish numerical portfolio standards for each investor-owned
12 utility that will promote the development of renewable energy,
13 protect the economic viability of existing renewable energy
14 facilities, diversify the types of fuel used to generate
15 electricity in Florida, lessen Florida's dependence on fossil
16 fuels for the production of electricity, minimize the
17 volatility of fuel costs, encourage investment in the state,
18 improve environmental conditions, and minimize the cost of
19 power supply to the electric utilities and their customers."

20 I think you will find that is directly from the
21 statute and the guidelines that we were given by the
22 Legislature to frame this rule, and that is our intent.

23 **MR. DRAPER:** Thank you. I'm familiar with that
24 language, and while it is not exactly the same as the statute,
25 I appreciate the response.

1 **MS. MILLER:** Thank you. Are there any other opening
2 comments? What about from the cooperatives or municipals?
3 Okay.

4 **MR. MOYLE:** I have some briefly, Cindy.

5 **MS. MILLER:** Please. Jon Moyle.

6 **MR. MOYLE:** Jon Moyle. I am representing
7 Wheelabrator; Frank Ferraro, I think, had indicated he is
8 available by phone, and most of our comments, I think, will be
9 geared toward portions of the rule. In reading the agenda, it
10 talks about the staff intends to go through a
11 section-by-section discussion, so we have prepared most of our
12 comments to address section-by-section.

13 I did just want to make a brief comment, and I
14 promise I will limit it to the under three minutes you
15 suggested. In asking for comments, George indicated that he
16 would encourage you all, I think, to look at a compliance
17 mechanism, and said he thought based on his reading of the
18 statute that you all had the discretion to do that. I would
19 respectfully take exception to that, and suggest that it is
20 really not a discretionary provision. And I would refer you to
21 366.92(3)(b)(2). The Legislature said in developing the rule,
22 and I quote, "The Commission rule shall provide for appropriate
23 compliance mechanisms." So using the word shall, I think, is
24 pretty strong and direct that compliance mechanisms need to be
25 part of the rule.

1 The second portion says, "And the conditions under
2 which noncompliance shall be excused," and it goes on. And
3 your rule does address provisions by which an excuse for
4 noncompliance can be considered. We have some concerns with
5 that that we will address later on, but the first portion of
6 the statute clearly says, "Shall provide for appropriate
7 compliance measures." And we, in reviewing the strawman, do
8 not see much in that respect.

9 Now, in the staff write-up, I think there was an
10 indication on Page 4 that said staff doesn't believe that
11 Section 366.92 provides the PSC with the express authority to
12 establish an ACP or penalties to fund the development of
13 additional renewables. I tend to think maybe the provision
14 about funding additional renewables, there may be some lack of
15 are clarity in that respect, but I don't believe there is any
16 lack of clarity with respect to the ability to move forward and
17 look at alternative compliance payments and other types of
18 things given the language that says you can and you shall
19 consider appropriate compliance measures.

20 Finally, I would just make this point. This rule is
21 not like most of your rules where you adopt it and if it is not
22 challenged it is going to go into effect. The Legislature is
23 going to have another crack at this. It has to go back for
24 ratification. So it seems to me that staff and the Commission
25 as putting forth good public policy ought to figure out the

1 rule that would work the best to achieve the legislative goals
2 to protect existing, to encourage the development of new
3 renewables, to diversify fuel supply. Bob Trapp articulated
4 them, and I know they are in the record.

5 But to the extent that there was a question about
6 legislative authority, I think you could make that point to the
7 Legislature and they are the ones that are going to get the
8 final crack at it. So it seems to me that it is incumbent, and
9 to the extent other states, if you go into a survey and say,
10 you know, the RPSs in other states that have worked well have
11 had compliance mechanisms in place, that that is what you ought
12 to be shooting for, and I would encourage you to do that as we
13 go through this process.

14 All of the other comments, I think I will wait and
15 talk about it on a section-by-section basis.

16 **MR. TRAPP:** Cindy, if I might just inquire of Jon.

17 **MS. MILLER:** Bob.

18 **MR. TRAPP:** I know these are opening comments and
19 perhaps now is not the place to go into the detail, but I am
20 curious. When we get to that section of the rule, do you have
21 some specific proposals with regard to the compliance section?

22 **MR. MOYLE:** I think we will.

23 **MR. TRAPP:** Good. I look forward to the discussion.

24 **MR. MOYLE:** Also, Bob, this process we are getting
25 started here and whatnot, and I know you have got a short time

1 frame, but we also have the ability to provide written comments
2 and whatnot and, you know, it's a joint collaborative effort.
3 I mean, we can do it, but it is not -- you know, your role, the
4 way I see it, is not to wait around. If nobody showed up at
5 this hearing, I think you all would still have a responsibility
6 to go out and survey, and you are doing that, to say what is
7 the best type of policy we can put forward. So we can talk
8 about that, and I think we will have some specific comments on
9 that section of the rule.

10 **MR. TRAPP:** We certainly would like to hear your
11 comments in that area, because I agree it is an area that
12 probably needs some more work.

13 **MR. MOYLE:** Good. And we will either get them to
14 you -- I will make some general ones, and we have the
15 opportunity to file written comments as well that you may find
16 helpful and whatnot.

17 **MS. MILLER:** Thank you.

18 Any other opening statements?

19 **MR. STAFFORD:** Thank you, Cindy. Sean Stafford. I
20 represent Florida Crystals. And in Gus Cepero's absence, Gus
21 was going to be on the phone, apparently the hurricane has him
22 in.

23 But we provided yesterday some written comments that
24 were -- I think you would probably agree were rather direct on
25 probably eight key points that Florida Crystals feels strongly

1 about. In the overall, Florida Crystals' overall position on
2 this draft rule is that it just doesn't have the bold
3 initiatives that were outlined both by the Governor, both in
4 his original executive order in 2007, public statements both by
5 the Governor and by the Legislature during this past
6 legislative session. And, you know, we feel strongly that the
7 rule ought to be geared towards developing new renewable energy
8 and developing a much larger market.

9 We appreciate all the hard work that you all have put
10 into it, and would like to address these issues on a
11 piece-by-piece basis, but if you haven't had a chance to read
12 our comments, I have got a couple of extra copies of them for
13 you. And I don't want to go into all of them individually
14 here, obviously we are limited to three minutes. So with that,
15 we thank you for the opportunity to participate, and we would
16 like to just address some of these issues as we go along.

17 **MS. MILLER:** Thank you. Any other opening comments?
18 Okay. We are ready to start right into the rule, and we would
19 start on Rule 17.400, 25-17.400, on the section called
20 application and scope, and ask if there are any comments on
21 that initial application and scope.

22 Yes.

23 **MR. DRAPER:** Thank you. I have a suggestion.

24 **MS. MILLER:** And we do have to ask -- I know it is
25 always hard to remember to repeat your name and --

1 **MR. DRAPER:** Oh, yes. Sure. My name is Eric Draper.
2 I am with Audubon of Florida. I have some written suggestions
3 on how to -- on some additional language for that particular
4 section. Should I provide that to you?

5 **MR. FUTRELL:** Yes. If you want to pass that around,
6 that's fine. Eric, you can also include that in your
7 post-workshop comments.

8 **MR. DRAPER:** Okay.

9 **MS. MILLER:** We do ask when you file your
10 post-workshop comments, now that we have a docket open, if you
11 will file it in the docket through the Clerk's Office, and that
12 will make sure everything gets captured. And that is Docket
13 080503-EI.

14 **MR. DRAPER:** My initial recommendation doesn't modify
15 (1) (a), but actually suggests new language that would be
16 inserted in terms of application and scope, which would -- and
17 the basis for this, I think, is tracking what the Legislature
18 instructed the PSC to construct the rule, and I think it would
19 be helpful to be more direct in terms of the direction. So the
20 language that I was suggesting is each provider is required to
21 supply a minimum percentage of its total annual retail sales
22 through renewable energy provided to its customers directly by
23 procuring or through renewable energy credits. It simply
24 traction some of the language in the legislation. I think it
25 gives a more clear and direct statement of policy at the very

1 beginning of the rule.

2 **MS. MILLER:** Thank you. Jon.

3 **MR. MOYLE:** I have a question. If we are in the
4 application and scope section, do you want to go through each
5 paragraph, like (a) and just confine comments to (a), and then
6 move on to (b), or do you want to take them sort of by
7 paragraph? Because I have some comments on (b) I can hold.

8 **MS. MILLER:** We will say we are on (1)(a) right now.

9 **MR. MOYLE:** Okay. I will hold until we get to (b).

10 **MS. MILLER:** And, we are going to gauge it as we go
11 along and we will see how it goes. What about any comments on
12 (1)(b)?

13 **MR. DRAPER:** I have one additional comment on (1)(a).

14 **MS. MILLER:** And this is Eric Draper.

15 **MR. DRAPER:** I am working off the rule here on Page
16 1, Lines 10 through 11. I would suggest that you amend those
17 to take out the words minimize the cost of power supply, and
18 have it read so that the cost of securing renewable energy or
19 renewable energy credits is not cost prohibitive.

20 **MR. TRAPP:** Cindy, could I question that?

21 **MS. MILLER:** Bob.

22 **MR. TRAPP:** How does that comport with the statutory
23 direction that uses specifically the task of minimizing the
24 cost of power supply?

25 **MR. DRAPER:** I think that you pick up -- the cost

1 prohibitive language is also in the statute, and I think that
2 you just need to introduce that as a way to condition -- as a
3 way to suggest what -- I mean, basically I'm just making a
4 suggestion that you introduce that at that point, because at
5 some point the cost prohibitive become the standard, the bar by
6 which you evaluate whether or not a utility, I guess, can
7 choose not to comply with the RPS. That's just a suggestion.

8 **MR. TRAPP:** Where is that in the statute?

9 **MR. DRAPER:** In the law?

10 **MR. TRAPP:** In the law.

11 **MR. DRAPER:** It's on page -- it's on (b). We are on
12 (3) (b) (2) under the word cost prohibitive on the bottom of -- I
13 am looking at your laws of Florida, it is the fifth line, end
14 of the sentence.

15 **MR. ZAMBO:** I'm sorry, this is Rich Zambo. I'm not
16 sure I follow you. What page did you say you were on?

17 **MR. DRAPER:** I think that the request from Tom was to
18 go to the statute, or to the law where the words cost
19 prohibitive were introduced. And I went to -- I was pointing
20 out that those words are 366.92(3)(b)(2). On the laws of
21 Florida page, which I'm reading from, it is the fifth line.

22 **MR. ZAMBO:** Okay, thank you. I appreciate it.

23 **MR. TRAPP:** Thank you.

24 **MR. JACOBS:** If I may, just briefly.

25 **MS. MILLER:** And this is Leon Jacobs.

1 **MR. JACOBS:** I'm sorry, this is Leon Jacobs.

2 On that same language, first, and Paragraph (1)(a),
3 Lines 10 and 11. The concern that I would suggest to you is
4 that by category of saying minimize the cost of power supply to
5 electric utilities and the customers you made a very broad
6 statement. What I read the statute to say, and I am looking
7 now at 366.92 Sub 3, Sub A and B, Paragraphs A and B. There is
8 a more detailed analysis of cost that is anticipated in the
9 statute.

10 Rather than belabor it here in the opening paragraph,
11 I think what I would propose would be some qualification where
12 you would simply say minimize the cost of power supply to
13 electric utilities and their customers as prescribed in
14 Section 366.92 Sub 3. So it is a reference point rather than
15 leaving that broad and open-ended.

16 **MS. MILLER:** Let's see if we have a line number on
17 that.

18 Mark, do you know what line number that would be?

19 **MR. FUTRELL:** This is Mark Futrell with the staff.

20 Looking at the enrolled House Bill 7135, I believe we
21 are talking about line number -- roughly 2708, and we have got
22 on the screen here in the room. I hope you folks can see that.
23 And I think we have provided a handout of certain pages from
24 the bill here in the room. I believe that's the line you are
25 talking about, is that correct?

1 **MR. JACOBS:** Yes. And as I indicated -- this is Leon
2 Jacobs again -- I think the context of this language is more in
3 putting forward an idea of evaluating the costs rather than a
4 threshold idea of minimizing the cost particularly on filing.
5 There is definitely, I believe, in this language the idea that
6 the costs will be evaluated and managed, and I think that maybe
7 can be a different concept on filing minimizing the cost to the
8 utilities.

9 **MS. MILLER:** Thank you.

10 **MR. TRAPP:** I don't necessarily disagree, and I
11 appreciate the comments that you are making. Let me try to
12 seek better clarification, because I'm not a lawyer, I am not
13 used to statutory construct and everything, but it seems to me
14 that section of the statute is speaking to compliance measures,
15 and it speaks to cost prohibitive in the context of compliance
16 measures. I'm not sure that is -- I mean, can you construct
17 that as overall intent, overarching intent, when you have got
18 specific overarching intent in the opening statements of the
19 statute.

20 It seems to me that the context with which we look at
21 cost prohibitive as a standard, which to me is a very difficult
22 standard. What does that mean? What does cost prohibitive
23 mean? For someone making six dollars an hour, I think it means
24 a lot different than somebody making 20 or \$30 hour. So what
25 does that mean in the conventional context of the Commission's

1 role in looking at utility rates, we tend to look at, you know,
2 are the rates affordable to the consumers. Can the consumers
3 reasonably afford their utility services.

4 So I'm a little torn, quite frankly, with respect to
5 broadening the application of the terminology such that cost
6 prohibitive is contained in one section that pertains to
7 compliance measures, and I think perhaps we ought to focus at
8 least our discussion on how that term effects what we are
9 proposing in the compliance measure section of the rule as
10 opposed to tinkering with the overarching legislative intent
11 that was clearly expressed by the Legislature in the opening
12 paragraph. And I will just openly tell you that is my concern.

13 **MS. MILLER:** Also, I would like to note that
14 Commissioner Edgar has joined us here.

15 **MR. JACOBS:** Well, if I may respond, this is Leon
16 Jacobs.

17 **MS. MILLER:** Yes.

18 **MR. JACOBS:** At the risk of some discourse, I'm not
19 specifically joining in the recommendation on that language on
20 cost prohibitive. My real focus is that this opening intent of
21 the rule be put in context of what I believe to be a more
22 robust and detailed idea of cost determination. I believe that
23 the statute anticipates more so than an overarching intent to
24 minimize the cost to utilities. The overarching intent I
25 believe of the statute is to engage these resources, evaluate

1 their costs, and manage those costs effectively to the
2 utilities. And I think those can be distinguished in terms of
3 the overall concepts.

4 **MR. MOYLE:** Can I jump in briefly on that point?

5 **MS. MILLER:** Yes. And this is Jon Moyle.

6 **MR. MOYLE:** I'm sorry, Jon Moyle.

7 Raising a point, the statutory reference, and I think
8 the point that's being made is that the cost prohibitive
9 language is in a section that talks about compliance and an
10 excuse for noncompliance. Cost prohibitive is an excuse for
11 noncompliance in that statutory section. I think the point, if
12 I understood Mr. Jacobs was making was to say, well, that may
13 be something to consider in the compliance excuse for
14 noncompliance section, but it probably should not be front and
15 center in the unwarranted presence in the application and scope
16 section of the rule. I think that is sort of the point as I
17 understood it.

18 **MS. MILLER:** Thank you.

19 **MR. STAFFORD:** Sean Stafford, again. I would like to
20 introduce two items that were in House Bill 7135 that appear in
21 the legislative intent language on Page 103 where there are --
22 that is a rather lengthy intent language and it amends Chapter
23 377, and I like Bob am not a lawyer.

24 **MS. MILLER:** So we can be clear, you are moving into
25 Section 377 --

1 **MR. STAFFORD:** 377.601.

2 **MS. MILLER:** 377.601. And you said it's on page --

3 **MR. STAFFORD:** It's on Page 103 of the House bill.

4 It's on Page 103 of the House bill, and it is legislative
5 intent language that has a number of other legislative
6 priorities that the Legislature spoke to.

7 **MR. TRAPP:** Let me just stop you, because I don't
8 have that in front of me, but my understanding is 377 is not a
9 Public Service Commission statute.

10 **MR. STAFFORD:** Well, it's not a PSC statute, but it
11 is speaking to the intent of the Legislature as they passed the
12 overarching goals of the bill. And there are two provisions in
13 there that we think are very consistent with the themes that
14 were discussed in the bill, both in the legislature --

15 **MR. TRAPP:** But just for clarity sake --

16 **MR. STAFFORD:** Sure.

17 **MR. TRAPP:** -- the expressed direction that I think
18 this Commission takes is specified in Chapter 366, and I
19 certainly would like to hear what 377 said and how you think it
20 applies in 366, but if you can link it better I would sure
21 appreciate it.

22 **MR. STAFFORD:** Okay. There are two issues, one is
23 the issue of energy security, which is an issue that we believe
24 the Legislature intended this to apply to, this entire bill as
25 it applied in 7135, energy security is, we believe, a priority

1 of the Legislature.

2 And the second is a similar theme that you have in
3 the opening statements where -- or in the opening application
4 and scope and the discussion of encouraging investment in the
5 state, which is the theme of economic development. In economic
6 development it discusses implementing new technologies that can
7 be a source of new jobs and employment opportunities for many
8 Floridians. In as much as there is a possibility and there is
9 a way to take items from 377, just the legislative intent side
10 on 377 and apply them, we think those two issues, energy
11 security and economic development, are consistent with the
12 theme, but aren't in there.

13 So, again, I will leave the statutory linking to the
14 lawyers, but, you know, we read that, we read this bill as a
15 comprehensive energy policy of the state. Not just, you know,
16 a fragmented piece, but the Legislature's intent on changing
17 the direction of energy policy in Florida. And there are a
18 number of themes throughout the bill that we believe are very
19 consistent with developing renewable energy and we would
20 suggest that energy security and economic development are two
21 more.

22 **MR. TRAPP:** Cindy, if I may.

23 **MS. MILLER:** Bob.

24 **MR. TRAPP:** Could I direct you to Page 4 of our
25 written comments that I think you have prefiled with the staff.

1 In Section B of that you state that -- you make your case for
2 additional consideration of economic development. But what
3 caught my eye, because I do have an engineering background, is
4 the statement that there are mathematical models which quantify
5 the value of different levels of volatility. And the argument
6 seemed to imply that there are also mathematical models
7 associated with quantifying the effects of economic
8 development. Could you share those mathematical models with
9 the staff?

10 **MR. STAFFORD:** We can do that, and I believe we
11 provided staff early on with an economic development study that
12 Florida Crystals commissioned by Tony Villamil with the
13 Washington Economics Group a few months ago. And in that, and
14 I don't have the study with me, but in that study there was --
15 and this study was done in 2003 obviously when fuel costs were
16 far less, and it was a study specifically geared towards
17 biomass and what the economic case is for biomass renewable
18 energy development.

19 Obviously this study was done before any of these
20 renewable energy policies had come into play, but there was an
21 economic multiplier applied that the basic premise of it is
22 about 85 percent of the money spent on biomass power
23 generation, 85 percent stays within the state. It creates jobs
24 for the people who truck the fuel, jobs for people who grow the
25 fuel, it creates jobs for people who are in this process, the

1 beginning to end process of planting, fertilizing,
2 transporting, cutting, harvesting, and ultimately producing
3 power.

4 And I can find that probably and provide it by the
5 end of the week. I can provide that study, but 85 percent of
6 the dollars that are spent on this particular technology stay
7 right here. And what the study also concluded was around
8 15 percent of the dollars that are spent in traditional power
9 generation sources, 15 percent stay within the state, and most
10 are shipped out for fuel costs that go to other states, or even
11 other countries.

12 **MR. TRAPP:** Is that a Florida-specific study?

13 **MR. STAFFORD:** It is; it is.

14 **MR. TRAPP:** I would like to see that.

15 **MR. STAFFORD:** Okay.

16 **MS. HARLOW:** Ms. Stafford, I have a copy of the study
17 and I will provide that to the appropriate staff.

18 **MR. STAFFORD:** Okay. Thank you.

19 **MR. TRAPP:** I would rather it be filed in the rec.

20 **MS. HARLOW:** Could you please file it in the docket
21 for us, as well. Thank you.

22 **MR. STAFFORD:** Yes, ma'am.

23 **MS. MILLER:** I would like to note Commissioner
24 McMurrian has joined us. And are we having any more comments
25 on (1)(a)? How about (1)(b)?

1 Suzanne.

2 **MR. SUTTON:** Cindy, this is Thomas Sutton, Sunshine
3 State Solar Power.

4 **MS. MILLER:** Okay, go ahead.

5 **MR. SUTTON:** We did file some written comments
6 yesterday, but we had addressed (1)(b), as well, and we would
7 offer or suggest that five years is too long of a time period
8 for the review. Certainly in the early stages of this as we
9 make sure that all the hard work everybody put in is working as
10 we expected, and we suggested reducing it to a three-year
11 period.

12 And then also, kind of on a related issue, we would
13 suggest also that that time period coincide or dovetail with
14 the standard time period, as well, so that, you know, if we had
15 a three-year review, then the percentages that we are looking
16 at in terms of compliance would be on a three-year basis, as
17 well, so it does match up.

18 **MS. HARLOW:** This is Judy Harlow with staff. Our
19 concern with shortening the time period for review is just
20 based on administrative issues, the timing of making sure that
21 everyone gets their point of view heard and noticing
22 requirements. And we were concerned with a shortened time
23 period, and we wondered if you had any solutions for just the
24 administrative issues of a full review of an RPS on a
25 three-year schedule.

1 **MR. SUTTON:** You know, at this time I don't have a
2 solution to that, but I guess we would be amenable. I do think
3 in the early years five just seems too long to me. This will
4 be very dynamic, and even though all of us think we have put a
5 good product out there, it may not work the way we intended,
6 and I would say that in the early years if you really do need
7 to make corrections, you are just going to have to bite the
8 bullet and go through the administrative, you know,
9 perspiration and inspiration to make changes if they are
10 necessary.

11 As we get further on and it works like everybody
12 intended, then maybe when we are seven, ten years out we don't
13 need to be looking at this as frequently and we could minimize
14 that administrative burden.

15 **MS. HARLOW:** This is Judy Harlow, again. I would
16 note that as our strawman, we based that five-year schedule on
17 the scheduling that the Commission uses now in setting
18 conservation-related goals, and it has worked very well for the
19 Commission in those proceedings. And also I would note that
20 the rule allows the Commission the flexibility to look at the
21 RPS at any point in time that the Commission believes that that
22 is warranted by either costs that we are seeing, or
23 availability of renewables, or for any other reason, as well as
24 a petition by anyone that is an interested party.

25 **MR. SUTTON:** Okay. I mean, I understand your

1 concerns.

2 **MS. MILLER:** Suzanne Brownless.

3 **MS. BROWNLESS:** Hi, I'm Suzanne Brownless, and I'm
4 here today representing the Florida Solar Coalition, and we
5 have that very same concern. Our idea, actually, is for the
6 Commission to conduct a goal hearing every two years for the
7 first eight years. That is our idea. Because we share
8 Mr. Sutton's concern, we want to make sure the Commission is
9 coming back to look at this. As a former staffer, I do
10 appreciate the effort that goes into what essentially becomes
11 an ongoing continuous docket. But I do think because this is
12 such a new concept, and I'm sure there will be so many things
13 that have to be worked out that can only be worked out really
14 in proceedings like this one where all the stakeholders are at
15 the table. So the language we would propose would be two years
16 for the first eight years after the approval of the initial
17 renewable standards, and we will provide that in writing to
18 you.

19 And I would also say that there was -- if you look at
20 the previous reincarnation, or carnation, I guess, of 366.92,
21 which was amended, there was in Paragraph 3 of that the same
22 language that said the Commission may review and reestablish
23 the goals at least every five years. That paragraph was
24 deleted in the amendments to 366.92, so we took that as an
25 indication that the Legislature wanted you to say, to look at

1 these goals more frequently.

2 And if I could just put out another clarifying
3 question here. My understanding from the language that you
4 have proposed was that you would be trying to track your FEECA
5 docket in which goals are set every five years. Is it your
6 intention, if you stick with that five year or any shorter
7 period process, to have annual goals each year for each
8 utility, or are you seeking to have goals -- because I couldn't
9 that out from the proposed rule, and I know we are not there
10 yet, just have goals for larger blocks of time, 2011, 2015,
11 2020, et cetera.

12 **MR. FUTRELL:** Suzanne -- this is Mark Futrell with
13 staff -- I think if you look at Page 3 of the draft strawman.

14 **MS. BROWNLESS:** Uh-huh.

15 **MR. FUTRELL:** And about Line 18, where it talks about
16 that the utility will submit proposed annual renewable
17 portfolio standards, so we are envisioning annual percentages.

18 **MS. BROWNLESS:** Okay.

19 **MR. FUTRELL:** To answer your question.

20 **MS. BROWNLESS:** But only compliance proceedings or
21 only proceedings to deal with whether they met or didn't meet
22 those annual standards every five years.

23 **MR. FUTRELL:** Again, as Judy mentioned, as was
24 contemplated, we may need to have a formal proceeding in an
25 earlier period. And, again, their annual reporting will allow

1 us to monitor compliance. But, again, that's something we
2 would like to talk more about when we get to that section, this
3 idea of compliance.

4 Another thing I would like to ask you about on your
5 point about having a proceeding every two years for the first
6 eight, and I know I understand the need to, you know, make sure
7 we are reacting properly, we are seeing what is out in the
8 market, how things are developing and stay current. How do
9 you -- your thought on balancing that with the need to give
10 some stability to the market, that they can count on that this
11 is a policy, and that the policy is not in almost a constant
12 state of flux where it can go any way, you know, one direction
13 or the other? What is your thought on that, of sending some
14 kind of a consistent message to the market so that they can
15 have some assurance of where the Commission is going.

16 **MS. BROWNLESS:** Well, obviously it is very important
17 to the folks in my group, many of whom are developers, to have
18 stability in the market and to have a market that's reliable,
19 because it discourages investment in these types of facilities,
20 many of which are highly capital intensive, unless it's a
21 stable market. So I think that if you have your RPS trading
22 market parameters set, and we have that worked out and what you
23 are doing is basically tweaking, fine-tuning what's in the
24 middle, that the concerns that you will scare people because
25 there's nothing set in stone will be mitigated to a large

1 extent.

2 From our point of view, having more Commission
3 involvement at the beginning is a critical issue, and we think
4 that will more than make up for whatever appearance of
5 instability is there if the REC market is clearly established.

6 **MS. MILLER:** Thank you.

7 Jon.

8 **MR. MOYLE:** I have a question I would like to pose,
9 and I think I understand what is being done, but I just want to
10 make sure. You are suggesting that each utility must meet the
11 same percentage of renewable energy, correct? So say that it
12 is 3 percent. That FPL would have to meet 3 percent by a
13 certain year, TECO would have to meet 3 percent by a certain
14 year. I mean, it would be a common number percentage-wise for
15 each utility even though the megawatts needed to get to that
16 percentage obviously would be different based on the size of
17 the utility. Is that correct, in terms of my reading of what
18 you are trying to do here?

19 **MR. FUTRELL:** I think these initial targets that we
20 have thrown out would be applicable to each utility, certainly,
21 it is in the rule that it be applied. Going forward, that
22 potentially could change based upon, for example, availability
23 of what is in the service area, what the potential is, but
24 certainly initially these targets would be across the board.

25 **MR. MOYLE:** And I saw -- not to jump ahead, but I saw

1 that you did, when you do list the 2 percent and the
2 3.75 percent --

3 **MR. FUTRELL:** I'm sorry?

4 **MR. MOYLE:** That's all right, if you need to confer
5 or something. But it does use the word initially. So then is
6 it contemplated that you are going to have a disparate and
7 diverse RPS numbers at some point down the road where, you
8 know, one utility who has been very aggressive in following the
9 legislative intent, let's say it is at 10 percent, but maybe
10 another utility has not been such aggressive that they, you
11 know, you would have one utility having a 10 percent number and
12 another utility having a 6 percent number? Is that what you
13 are thinking about and intending? And if that is the case, are
14 you aware of that being done in any other state with any other
15 RPS?

16 **MR. FUTRELL:** No, I'm not. I'm not aware of
17 different percentages that are applied to different utilities.
18 That is something that we would like to hear your thoughts on
19 going forward.

20 Bob.

21 **MR. TRAPP:** I would just like to comment that at
22 least from my perspective I think what we have established here
23 is a procedure, and I think that is the most important thing.
24 This is a process and a procedure.

25 We felt that because of the legislative intent that

1 it was important to kick off the procedure with some numbers,
2 and so we have proposed the initial numerical -- what I call
3 long-range standards that we are asking the utilities to file a
4 compliance filing and to fill in the gaps to show how they
5 would implement the fill-in to those dates.

6 But, quite frankly, we don't know if this is, you
7 know, rigid statewide standards that rely on putting the burden
8 on utilities uniformly to meet a percentage and then use a rec
9 market to buy and sell to get there or build yourself. We
10 don't know where that is going to go. I think in the five-year
11 cycle we would like to have the flexibility within that
12 procedure for this Commission to make decisions based on the
13 historic record that has been established and based on the
14 record of fact that comes before us when we reevaluate the
15 standards to make those decisions.

16 Do we stick with standard percentage across the board
17 for the state? Do we allow regional variances because of
18 locational factors associated with renewables to be taken into
19 consideration? I don't know the answers today. Hopefully we
20 will know them better in the future, and the Commission through
21 this procedure will have the flexibility to do what is in the
22 best interest of the ratepayers and consumers of Florida.

23 **MR. MOYLE:** I'm not sure I understand clearly the
24 intent as to whether it's a common bar for all utilities, at
25 least at the start, in terms of a percentage.

1 **MR. TRAPP:** Clearly it is.

2 **MR. MOYLE:** It is at the start, but you are saying
3 maybe there is some flexibility, at some point that the bar
4 will be different for different utilities.

5 **MR. TRAPP:** Clearly, the Commission might change
6 policy at any time.

7 **MR. MOYLE:** Right. I guess the point that I would
8 make on that is given the fact that, you know, if you are going
9 have RECs and you are going to have a market, I think markets
10 work better when there is not vulcanization, and you have
11 different kind of submarkets in some respects. And what I
12 suspect is that, and I haven't done the research on this, that
13 is something that we can do as we go forward, but that I'm not
14 aware of any states in the 20-something that have done RPSs
15 where you have different numbers for different utilities. That
16 at least going in that you clearly establish, hey, all
17 utilities need to meet -- (phone interference) -- and not allow
18 for different utilities to have different levels.

19 I mean, we are trying to get everybody to stretch
20 here, that at least you have a common bar going in. Now, if
21 further down the road that doesn't make sense, then maybe that
22 is the point in time that you come back and change the rule and
23 modify the rule. But surely going in I wouldn't think, given
24 the idea that you want to encourage renewable energy, that you
25 are going allow for disparate RPS numbers for different

1 utilities. I think that would not be good policy.

2 **MR. TRAPP:** Then is it your recommendation that we go
3 to a ten-year process as opposed to a five-year process, or a
4 two-year process? I mean, you have to give --

5 **MR. MOYLE:** Bob, I think you have got to have
6 flexibility. I think having more review to deal with it, you
7 know, you can open up the rule and look at it, but I don't
8 think you should say, you know, based on the reading of this to
9 say everybody kind of do your best and then if Power and Light
10 gets 3 percent and TECO gets 1 percent and Gulf gets, you know,
11 10 percent, oh, that is okay because of different things.

12 **MR. TRAPP:** But that is what we proposed. We have
13 proposed a fixed percentage for all utilities to meet across
14 the board in the initial process. We have also set up a
15 procedure where the Commission can react when it needs to
16 react. And I think you have to give some trust that the
17 Commission will act wisely in changing those standards or the
18 methods or procedures in which the standards are established in
19 the future.

20 So, again, I think staff thought it was more
21 important to have a process out there where we can all get
22 together and decide whether we are on the right track, the
23 right path, whether we need to tweak it or whether we just
24 totally need to revamp it. The process to me is what is most
25 important.

1 **MR. MOYLE:** Well, I would argue it sends the wrong
2 message to say, okay, different utilities can have different
3 numbers. It doesn't send a strong uniform message.

4 **MR. TRAPP:** It doesn't say that.

5 **MR. MOYLE:** Well, that's what I'm trying to
6 understand what it does say.

7 **MR. TRAPP:** It does not say that. It says that there
8 is a fixed percentage standard out there. It says that in five
9 years this Commission will review the standards to see if
10 they're on the right track. That's all it says.

11 **MR. MOYLE:** So long as the standard is the same for
12 all utilities, then I think we are --

13 **MR. TRAPP:** Unless the Commission changes the rules
14 or the standards in those proceedings. The Commission has the
15 discretion to do that -- should have, in our opinion should
16 have the discretion to do that.

17 **MS. MILLER:** I would like to kind of pull us back
18 just a little bit here. One of the things I would like to
19 mention is it is not at this stage now a proposed rule. It is
20 merely --

21 **MR. ZAMBO:** Cindy, this is Rich Zambo. Can I make a
22 comment?

23 Somebody on the phone must be on another conversation
24 or they are monitoring this on-line. I'm having a hard time
25 hearing what is going on.

1 **MR. FUTRELL:** This is Mark Futrell with the staff.
2 Everyone that has dialed in should have their phone on mute
3 unless they want to speak. We can't have conversation going on
4 in the background. And if folks will not put their phone on
5 mute, we are going to have to drop the line and have those that
6 want to to call back in. So we are going to give you about one
7 strike and you are out policy on this one. Everyone that has
8 is called in, please mute your line at this time.

9 **UNIDENTIFIED SPEAKER:** Mark, there's somebody who
10 just dialed in about a minute ago, and they are not hearing
11 what you just said because they are still bleeding through and
12 we can't hear anything people are saying in the room.

13 **MR. FUTRELL:** Well, here is what we will do. We will
14 take about a ten-minute break, give our court reporter a chance
15 to catch her breath. We're going to drop the line, and then
16 everyone that wants to can call back in.

17 So we will reconvene at 11:00 a.m.

18 **MR. ZAMBO:** Great. Thank you, Mark.

19 **MR. FUTRELL:** Thank you.

20 (Recess.)

21 **MS. MILLER:** Let's get back started. And we're going
22 to see if our call-in folks have it right now.

23 Are they on? Okay. It sounds like we have that
24 covered now. We would like to ask for those who are on call-in
25 to go ahead and announce again who they are.

1 **MR. ZAMBO:** This is Rich Zambo. Do you need our
2 affiliation, too, Cindy? (Pause.) Hello?

3 **MS. MILLER:** Thank you. Anyone else who has called
4 in?

5 **MR. CAVROS:** George Cavros is back on the line with
6 NRGCC.

7 **MR. KARNAS:** Jerry Karnas of the Environmental
8 Defense Fund.

9 **MR. TAYLOR:** Alan Taylor of PCS Phosphate.

10 **MR. RATNER:** Roy Ratner (phonetic), Atlas Solar
11 Innovations.

12 **MR. SUTTON:** Thomas Sutton, Sunshine State Solar
13 Power.

14 **MS. MILLER:** Anyone else? And we want to remind you
15 to keep your phone muted, and it sounds like we have taken care
16 of the problem. Again, I'm Cindy Miller, and we are here
17 discussing the draft strawman rule. And, let's see, I know
18 that we have been on (1), and I want to see if Bob Trapp would
19 like to make some statements.

20 **MR. TWOMEY:** Mike Twomey with AARP.

21 **MR. TRAPP:** I wanted to go back briefly with Jon to
22 see if I couldn't -- I'm not sure we were communicating. Jon,
23 you understand we are under a real tight time frame with this
24 process in order to get to ratification by the Legislature.
25 And there has been some discussion this morning about the

1 percentages that we are starting out with in the strawman,
2 which are certainly subject to discussion and change. But I
3 want you to understand that we read the statute to also say
4 that we are to evaluate -- (phone interference).

5 In parallel with this strawman effort that we are
6 kicking off here today, which will go on for several months
7 toward the end of the year toward a final rule proposal to send
8 to the Legislature of ratification, we have retained a
9 consultant, Navigant, to assist us with an economic and
10 technical potential that will hopefully help us to verify the
11 numbers -- (phone interference). In any event, we are
12 attempting in a parallel effort with a nationally known
13 consultant that has expertise in this area to try to do
14 everything we can to ensure that the numbers we are using going
15 into this process are good numbers.

16 Having said that, again, we are fixing or we are
17 proposing to fix a number that has application across the
18 state. And we hope to have that ratified by the rule, the rule
19 ratified by the Legislature and put in place by 2010. We have
20 proposed in the rule, though, a process by which the Commission
21 can probably around 2014, in order to prepare for a 2015
22 implementation five-year cycle, take a look at that and make
23 sure that we are still on the right track with respect to the
24 standards we have established. And I hope that helps explain
25 what we have proposed. (Phone interference.)

1 **MR. FUTRELL:** This is Mark Futrell. There is someone
2 on the line that has not muted their line. Everyone that has
3 called in needs to mute their line.

4 (Off the record discussion.)

5 **MR. FUTRELL:** Okay. I think we are hearing silence.
6 Let's move on. Thanks.

7 **MS. MILLER:** Jon Moyle.

8 **MR. MOYLE:** I'm sorry, if I could just briefly
9 respond to that point. And I will move on. I mean, we will
10 have, I think, some other opportunities to discuss it. The
11 point I was just trying to understand is whether it's
12 contemplated that there will be different levels for different
13 utilities to meet in terms of the RPS. I think that's a bit of
14 a tortured reading of it, but arguably it is permitted because
15 each utility is having to file information about what is
16 attainable, and what is cost-effective, and things like that.

17 From, I think, my perspective, that we have been
18 encouraged and told and directed by the Legislature move
19 forward with an RPS, that it ought to be established in a way
20 that moves you toward more renewable energy and doesn't send
21 sort of what I would argue would be the wrong message, or a
22 mixed message about you are not having to meet it in a common
23 way.

24 I think, you know, the utilities need to go forward,
25 and some of them are doing a good job of developing their own

1 and getting out and contracting with others to move it forward
2 on a uniform basis. So what I would hope, and I can suggest
3 Eric Draper has some discussions, but that you modify this to
4 say that you shall set a uniform renewable portfolio standard
5 to be met by each utility. Then you have resolved that
6 ambiguity, and everyone has a clear message that they need to
7 go out and get whatever the number is. I agree with your
8 point, you need to have a realistic number and you can go
9 through and gather that, but it should be a Florida-based
10 market that gets you to those numbers.

11 There was one other point I was going to make on
12 that, Bob, but it just slipped my mind, so I will defer and we
13 can address it later. If I could, I had one other just brief
14 comment on this section of the rule, and then maybe we can move
15 on. But somewhat related, you know, there's a section about
16 compliance later on, and I think Leon Jacobs made the point
17 about, you know, affordable. We all know that that is a
18 component that needs to be considered, but as you are crafting
19 this rule, I think it might be better if on Line 22, you talk
20 about each investor-owned utility -- this starts up on Line 18,
21 each investor-owned utility shall propose numerical renewable
22 portfolio standards based on an analysis of the technical and
23 economic potential for Florida renewable energy resources to
24 provide renewable energy, period. You know, reasonably
25 achieved and affordable annual energy kilowatt savings. I

1 think that is superfluous. I think it is something that is
2 contemplated in your compliance section and is not needed here.

3 **MS. BROWNLESS:** Excuse me, Jon.

4 **MR. KARNAS:** This is Jerry Karnas. Is there an
5 opportunity to jump in here?

6 **MS. MILLER:** Yes. Please say your name again.

7 **MR. KARNAS:** Jerry Karnas, Environmental Defense
8 Fund. I have a question on (c), as well. It seems to me that
9 any analysis of the potential is really contingent upon which
10 policy is being used to implement the RPS. You know, for
11 instance, just take Germany who has gone from 2 percent
12 renewable in 1997 to 14.6 percent in a matter of ten years.
13 They are going to hit 18 percent in another year. And so I
14 wonder how they are going to be able to do that absent looking
15 at multiple policy options for the implementation.

16 And then the same question I have is about the
17 Navigant study. Are they going to be looking at the potential
18 for attracting investment in, for instance, solar manufacturing
19 or jobs, and then are they also going to be looking at cost
20 containment through the lens of different implementing
21 policies?

22 I know that when New Jersey's PSC went through this
23 they had Summit Blue (phonetic), a very similar consulting
24 firm, and they looked at seven different policies to implement
25 an RPS, and they actually came to the conclusion that the

1 REC-only policy was the highest cost option. So I am wondering
2 if we are also going to be able to have an opportunity to see
3 different implementing policies lined up against each other in
4 terms of costs, their ability to create jobs, their ability to
5 attract manufacturing, and to increase -- all the things that
6 are in the legislative intent, the investment in the state,
7 improve environmental conditions, minimize costs.

8 **MS. MILLER:** I think Mark Futrell is going to respond
9 here.

10 **MR. FUTRELL:** Jerry, Mark Futrell.

11 It is my understanding that Navigant will be looking
12 at some different scenario analyses and addressing some of the
13 concerns that you have raised as far as looking at the
14 potential for future renewable development. And we can talk
15 about that as we go through our conference calls, in the data
16 collection area, and in our updates with Navigant as that
17 contract is finalized.

18 **MS. MILLER:** And I want to keep reminding people that
19 you are invited to send us alternative rule language by
20 September 2nd.

21 Suzanne.

22 **MR. BURGESS:** Can I jump in? This is John Burgess.

23 **MS. BROWNLESS:** No.

24 **MS. MILLER:** Go ahead.

25 **MR. BURGESS:** I run the energy business for Knight

1 (phonetic), which is the largest market maker in the state. I
2 am also a member of the Alliance for Renewable Energy.

3 When I looked at this draft rulemaking, it appeared
4 to me that this is focused very much on a REC structure with a
5 market-based REC trading REC. And it seems to me, again, based
6 on my thoroughly extensive experience in the energy space that
7 this model works reasonably well in a wind renewable market
8 such as Texas, but is not going to work at all well in Florida.
9 And the experience of New Jersey and Maryland would seem to
10 bear that out, where tradable REC structures have been largely
11 a disaster for a number of the renewable industries,
12 particularly the solar industry.

13 And I would further go on to ask to what extent has
14 the PSC in its analysis around the world of the most successful
15 renewable policy instruments actually looked to feed-in tariffs
16 and renewable energy payments as Jerry Karnas from EDF just
17 mentioned, you know, clearly the most successful policy
18 mechanism in the world for delivering renewables. The
19 House and the -- well, the energy bill language would seem to
20 allow a study and a PSC policy directive to look at the
21 procurement of renewable energy, procurement by utilities of
22 renewable energy, which is exactly what a feed-in tariff and a
23 renewable energy payment policy mechanism does. So to what
24 extent has that analysis been done, and can we see it, please.

25 **MS. MILLER:** Well, this is Cindy Miller, again. We

1 will see what other comments there are, but today we are trying
2 to focus on the rule language, and we are on (1) only of
3 17.400. So to the extent that we can really focus on the draft
4 strawman proposal, that will really help.

5 But, let me see if there are any other comments that
6 we have from our staff. Okay. Suzanne Brownless has been
7 trying to speak. Let me turn to her.

8 **MS. BROWNLESS:** Thank you. And my comments are going
9 to be directed at Jon with regard to -- because I don't quite
10 understand how his comments impact what we are talking about,
11 which is (1)(b). We started talking about how many years there
12 would be a Commission review, and then I think Jon started
13 talking about whether the percentages would be applied, and I
14 guess I think that is more appropriately discussed when we get
15 where I hope we will eventually, down to (3)(a).

16 So, Jon, are your comments in any way related to
17 (1)(b), or are they kind of a preview of what you are going to
18 talk about for (3)(a)?

19 **MS. MILLER:** Jon Moyle.

20 **MR. MOYLE:** I'm sorry if I wasn't clear on that.
21 They were picked up on the (b) provision, because it requires
22 utilities to go out and look at technical and economic
23 potential --

24 **MS. BROWNLESS:** No, no, no.

25 **MR. MOYLE:** -- for renewable resources, so I was

1 trying to understand whether it was contemplated that each IOU
2 would have its own RPS with its own RPS number. So you would
3 have TECO with 3 percent, Power and Light with 6 percent, Gulf
4 with 4.2 percent. That you would have an RPS that contemplated
5 that. And I think the answer was that could be a possibility
6 further down the road, which I'm not agreeing with.

7 **MS. BROWNLESS:** Well, Jon, I don't see what you are
8 talking about with regard to (1)(b). The language of (1)(b)
9 talks about initial renewable portfolio standards and talks
10 about how often we are going to come back. So where is it in
11 (1)(b), that is what I don't get.

12 **MR. MOYLE:** Well, it says the Commission shall review
13 and set renewable portfolio standards, plural, for each
14 investor-owned utility.

15 **MS. BROWNLESS:** So you were trying to clarify whether
16 that would be different standards for different utilities or
17 the same standard initially for each.

18 **MR. MOYLE:** That's right.

19 **MS. BROWNLESS:** Got it. Thank you.

20 **MS. MILLER:** Okay. Do we have any more comments on
21 this Section 1? And we've got a long day ahead.

22 **MR. ZAMBO:** Cindy, this is Rich Zambo. I just had a
23 brief comment about the Navigant study.

24 Based on the workshop we had, or I guess it was a
25 meeting we had last Friday, the Navigant folks indicated their

1 study wasn't going to be completed until early December. And I
2 know we have got a rulemaking hearing scheduled for
3 December 3rd, and I was just curious as to how the Navigant
4 study was going to mesh with everything. Because presumably we
5 would have a draft rule, you would have taken comments from
6 everybody by that time, and then you are going to get a new set
7 of information from Navigant. I just wondered what your
8 process was or what your thinking was as to how that would be
9 integrated into what we accomplish up to that point.

10 **MS. MILLER:** And Mark Futrell is going to respond on
11 that one.

12 **MR. FUTRELL:** Rich, Mark Futrell.

13 Again, the contract with Navigant and Lawrence
14 Berkeley Lab has not been finalized. But in the scope of work
15 where we are now it contemplates some interim deliverables that
16 we think can be informative to the parties, the Commission, the
17 staff. And presently there is a tentative date of the end of
18 October to get a deliverable of a draft product that may be
19 useful; and then from then on it will be a process of
20 finalizing that document and bringing it into final form.

21 **MR. ZAMBO:** Okay. That clarifies it. So you will be
22 getting something considerably prior to the next -- to the
23 rulemaking hearing.

24 **MR. FUTRELL:** Yes. And we also contemplate that the
25 report will be finished by the end of November. We also will

1 be having, you know, status report conference calls with the
2 parties and with Navigant once the contract is finalized so
3 that we can begin interacting and working through the data that
4 we are developing.

5 **MR. ZAMBO:** Thank you.

6 **MS. MILLER:** Eric Draper.

7 **MR. DRAPER:** Eric Draper, Audubon of Florida.

8 I do have another comment on (1), particularly on
9 (1)(c). When I read particularly the last two lines, Lines
10 20 and 21 of (1)(c), it appeared to me that including the words
11 technical and economic in terms of the potential would be
12 exclusive, would exclude some other potential benefits of
13 renewable energy sources. So if we are going to ask them to do
14 an analysis of potential, it shouldn't be limited to technical
15 and potential. And, by the way, I've provided some alternative
16 language here, I'm just trying to explain why I was looking at
17 that.

18 The second thing is when I looked at the last line it
19 said provide reasonably achievable and affordable annual energy
20 savings. I thought actually -- I know Jon suggested taking
21 this out, but I actually think that that clause is good, but
22 I'm not sure about the use of the word affordable, because I'm
23 not sure where I find the statutory basis for limiting those,
24 the savings to affordable savings. So I have provided
25 alternative language in the comments that I distributed

1 previously. And, again, I would like to try to describe what
2 those are on the page that I handed out.

3 On Page 1, Line 20 to 21, that is the section on my
4 comments, if you would refer to that. It's suggested that
5 instead of -- that you amend this to read, start with the word
6 analysis, so analysis of the benefits and obstacles for all
7 potential Florida renewable energy sources to provide
8 reasonably achievable annual savings that are -- and I inserted
9 the words that are not cost prohibitive of energy produced from
10 fossil fuels.

11 And I think that particularly relating that savings
12 concept to the energy produced from fossil fuels are savings --
13 energy savings from energy produced from fossil fuels relates
14 very much to the legislative intent, and also relates to the
15 intent of the way that you -- I mean, your currently described
16 application and scope of the rule.

17 And so that is just kind of an alternative way of
18 coming at the same thing, but I think it is a little more
19 direct. It takes out the limitations of technical and
20 economic. It takes out affordable, which I don't think has a
21 basis in the statutes. Thank you.

22 **MS. MILLER:** Sean Stafford.

23 **MR. STAFFORD:** Thank you, Cindy.

24 On Line, I believe it is 20, the potential for
25 Florida renewable energy resources. We think that is a very,

1 very important part of this rule, but we find it very difficult
2 to believe that there is any way that in six weeks a study can
3 actually give you a number of what Florida's potential for
4 renewable energy resources are. I mean, just in the biomass
5 field alone, I mean, there are almost -- I mean, progress is
6 being made on a variety of crops and farming mechanisms. The
7 improvements are happening almost exponentially. And we are
8 hopeful that that will be a realistic and achievable number,
9 but it has also got to take into account that today's resources
10 aren't going to be the resources we have four or five years
11 from now, especially if new crops are introduced as feedstock
12 in biomass.

13 So following up on Jerry Karnas' point I think he
14 mentioned on the phone, your rule and what you do will impact
15 this potential because it will be an economic driver and
16 incentivizer for people and for growers in Florida and for
17 energy producers in Florida to produce more feedstock using
18 better practices and to really ramp up the development of that
19 segment of the market.

20 I certainly can't speak for the other technologies,
21 but at least on the biomass side one of the things we learned
22 both at the climate action submit that the Governor put on and
23 even in the trade missions we participated in the U.K. were
24 that there are things being done around the world, there are
25 things being done today, research that is being put into these

1 issues that it is already starting to give us some pretty
2 tangible results. And we would like to -- you know, again, I
3 think we mentioned this on the workshop call, that we would
4 like to help Navigant with this and be able to steer them to
5 the right folks, both at the University of Florida and overseas
6 on this issue.

7 **MS. MILLER:** Thank you.

8 **MR. KARNAS:** I'm sorry, this is Jerry Karnas again.
9 I think Sean hit it right on. I mean, for instance, not to
10 belabor the point again, but Germany has 10 gigawatts of
11 biomass in that country. If we are the number one biomass
12 potential state in the country, you know, Florida has, you
13 know, the potential there is huge, and so it is really policy
14 dependent on what the potential is. So that is where I'm
15 having problems with this section, so it really depends upon
16 which policies we put in place to see what the potential is.

17 **MR. BURGESS:** This is John Burgess adding a comment
18 on the solar side.

19 Jerry, you are absolutely right. The solar
20 insolation in Florida is double that of Germany's, yet Germany
21 installed 1,100 megawatts of solar in 2007 and has
22 3,800 megawatts installed today.

23 Now, that is policy driven. So, again, I think I
24 would echo both Sean's comments and Jerry's comments here. The
25 policy is absolutely critical here in terms of evaluating the

1 economic potential.

2 **MS. MILLER:** Thank you.

3 And we have Leon Jacobs and then Michael Dobson.

4 **MR. JACOBS:** Hi, this is Leon Jacobs for the Southern
5 Alliance. My question goes to Paragraph (c) in Subsection 1,
6 and I want to -- actually, this is a matter of clarification.
7 It appears that the process here anticipates that when review
8 of the RPS is undertaken that the initiating factor will be the
9 utilities filing what they propose to be the new goals, ala the
10 FEECA process, and that the threshold for those measures will
11 be that they produce kWh savings. Is that the correct
12 interpretation of that paragraph?

13 **MR. FUTRELL:** I believe that's what it says, yes.

14 **MR. JACOBS:** Then we would suggest that probably it
15 would be too narrow a perspective when you are looking at how
16 you want to move the RPS forward. We would suggest to you that
17 you would want to make sure that you are -- much in the context
18 of what I think was earlier language, you are exploring whether
19 or not you have done a good job in bringing to the market
20 reasonable renewable resources in the past, and I think you
21 want to look at what we can do in the future.

22 The very nature of this market is that it is
23 evolving, and these technologies will be evolving as this
24 process evolves. I think at each turn when you come back to
25 look at this you probably ought to want to make sure you are

1 not leaving anything out. So I will be concerned if when you
2 come to look at -- review this, that you are only looking at
3 what is, again, on the ground now, and what seems to be viable.
4 I think you want to have a forward-looking process. And I
5 would be concerned if the threshold is that it must produce kWh
6 savings. That's not what you look at when you look at other
7 resources, supply-side resources.

8 I would suggest to you that you may want to have a
9 more liberal perspective in what is that threshold. I'm not
10 prepared today with language as to what that will be, but I
11 will give consideration to that and try to give you something
12 in our comments.

13 **MS. MILLER:** Thank you.

14 **MR. FERRARO:** This is Frank Ferraro, if I may talk
15 about (c).

16 **MS. MILLER:** Michael Dobson is next, and then we will
17 turn to you.

18 **MR. FERRARO:** Okay.

19 **MR. DOBSON:** Yes. Michael Dobson with the Florida
20 Renewable Energy Producers Association. And I have really a
21 question, and I guess this would -- I'm thinking it would be
22 Mark. Again, with respect to Section (c), and that issue
23 regarding Florida renewable energy resources, will Navigant be
24 considered a sole driver with respect to how are we going to
25 determine the percentage of those resources and how that's

1 going to interplay with the time frames, et cetera, with the
2 renewable energy portfolio standards? And, also, will Navigant
3 work with IFUS (phonetic) and other organizations to help them
4 extrapolate beyond what they are able to do in that six-week
5 period of time?

6 **MR. FUTRELL:** This is Mark Futrell.

7 We tried to express at the meeting last Friday that
8 we have started this collaborative process of interested
9 parties here at the Commission to develop data. Now that
10 Navigant is coming into the picture through this contract that
11 is pending, we expect Navigant to work with the parties, we
12 expect the parties to work with Navigant, as well as the staff,
13 and the Governor's Energy Office to pull together a
14 collaborative process. And the information from that process
15 will be helpful in helping inform the Commissioners in their
16 decision-making.

17 Ultimately, in Navigant's study they have to decide
18 what is the appropriate data to utilize to do their analysis.
19 We hope the information is developed from Florida sources. It
20 will be useful to them and they will find it reliable, viable
21 data. We have directed them as they begin the process to look
22 at sources of data in Florida outside of our PSC process, like
23 state universities, the Florida Solar Energy Center, other
24 sources of information. So we will continue to work with them
25 and we would encourage you to participate in that process.

1 **MR. DOBSON:** Thank you.

2 **MS. MILLER:** Thank you.

3 And then the call in, I believe it is Frank Ferraro.

4 **MR. FERRARO:** Yes, thank you. Frank Ferraro,
5 Wheelabrator.

6 I'm confused by (c). The answer given to Jon Moyle
7 about (b) where it talked about each investor-owned utility.
8 It was, I think, stated that the intention was that there was a
9 set percentage and all the utilities had to meet that
10 percentage. And down here, again, in (c) it's now saying each
11 investor-owned utility shall propose numerical standards. I
12 don't know why it's the -- first of all, I don't know why it is
13 the -- and I assume this is going back to this once every five
14 years or whatever time period review, but I don't know why it
15 specifically calls out the investor-owned utilities to propose
16 standards. It seems like it's just that the Commission is
17 going to have a proceeding much like this one where all parties
18 will come in and comment.

19 And so to say that the utilities will come in and
20 propose a standard seems to -- I'm sure it's not the case, but
21 it is certainly implying that it is between the Commission and
22 the utilities and everybody else is out of it. So I don't know
23 why it is singling out to say each investor-owned utility shall
24 propose standards. If the standards apply across the state,
25 and it's a proceeding in five years or whatever time period to

1 review the numerical standard, then why isn't it just that
2 there is going be a proceeding?

3 **MR. FUTRELL:** Frank, this is Mark Futrell. This
4 Commission has authority over the investor-owned utilities in
5 this matter. We do not have authority over, for example, your
6 firm, so we cannot require you to provide us information or to
7 direct you to take action. So this is where we are coming from
8 is from what our statutory authority is.

9 Now, when processes like this begin, interested
10 parties as they are here today and as you have called in may
11 participate, and there will be ample opportunity for you to
12 participate. And I think this Commission has a tradition of
13 open processes, but that's the starting point. That is how
14 this starts is that we have an opportunity --

15 (Simultaneous conversation.)

16 **MR. FERRARO:** -- the investor-owned utility can just
17 say the Commission will hold a proceeding, but that is all
18 right, it's semantics, and I will pass on it.

19 **MS. MILLER:** Thank you.

20 Are we ready to start with Section 2, definitions, or
21 is there anyone else on Section 1?

22 **MR. CAVROS:** This is George Cavros.

23 **MS. MILLER:** And I do hope Section 1 was one of the
24 toughest. Was there someone calling in that had a point to
25 make?

1 **MR. CAVROS:** Yes, please. This is George Cavros.

2 I am also requesting a clarification on the
3 construction of the last item starting on 21 and ending on Line
4 22 where it says the analysis of technical and economic
5 potential for Florida renewable energy sources to provide
6 reasonably achievable and affordable energy kilowatt savings.
7 My question is this, it contemplates each investor-owned
8 utility proposing a numerical standard based on technical and
9 economic -- (phone interference) -- for the purpose of
10 providing reasonably achievable, et cetera, et cetera.

11 I imagine that is the right way to read the sentence,
12 or does it mean that as part of the technical and economic
13 potential for Florida renewable energy resources the utilities
14 will provide their best estimate of what is achievable and
15 affordable? Because at that point, you know, achievable is a
16 term of art, and at that point you insert a lot of
17 investor-owned utility discretion.

18 **MR. FUTRELL:** George, I think that's a good point,
19 and I would suggest that you provide some clarifying language
20 there. Again, I think we contemplate a process where there is
21 a look at all the potential renewables out there. If you have
22 got some better language you would like to see to clarify this,
23 please provide that in your post-workshop comments.

24 **MS. MILLER:** Okay. Let's move to definitions,
25 Section (2). Eric Draper.

1 **MR. DRAPER:** Yes. I just have a recommendation that
2 insert a definition for environmental conditions, which is one
3 of the concepts within the legislative intent, and also within
4 the proposed intent language in the draft rule. I provided you
5 proposed definition language for that, and I would propose that
6 you insert that alphabetically before Line 17. And the reason
7 I think it's important to have environmental conditions as a
8 consideration is I think as this rule evolves and as you
9 receive more information on a renewable portfolio standard,
10 that environmental conditions will, of course, be part of the
11 consideration and analysis that you are going to want to
12 require of the effect of the RPS and the information that is
13 provided.

14 So if you look at the bottom of the page that I
15 handed out earlier, Page 2, Line 17, insert environmental
16 conditions means amounts of carbon dioxide equivalent
17 emissions, amounts of regulated pollutants, amounts of waste,
18 amounts of water used, and impacts on native fish and wildlife
19 from the production of energy.

20 **MR. FUTRELL:** Eric, this is Mark Futrell. To
21 understand that, how do you foresee using that term in the
22 rule?

23 **MR. DRAPER:** Well, if you remember my previous
24 comments in (1)(c) in terms of what the analysis will be done
25 by the investor-owned utilities, that we would anticipate that

1 there will be some analysis of the environmental conditions
2 also. That will be one example. You know, as I have examined
3 the rule, or I have saw some other places where that would
4 probably be taken into consideration. I don't want to
5 complicate this process or discussion by trying to insert a lot
6 of that at this time point into the discussion, but it is
7 really a placeholder. Thank you.

8 **MS. MILLER:** Thank you. And is this definition from
9 the statute or --

10 **MR. DRAPER:** You know, I did a quick review to see if
11 there was something that I could relate to, but I didn't find
12 something that was appropriate just to borrow from. So some of
13 the specific language in there, I think the carbon dioxide
14 equivalent emissions is found in other language. The native
15 fish and wildlife is, in fact, statutory language that would be
16 borrowed from both 403 and 373.

17 **MS. MILLER:** Thank you. Other comments on
18 definitions?

19 Jon Moyle.

20 **MR. MOYLE:** I had one. On the first page. It looks
21 like Line 17. You used the term associated compliance plans.
22 It talks about all modifications of the approved renewable
23 portfolio standards and the associated compliance plans.

24 **MS. BROWNLESS:** Jon, where are you on the bill
25 itself?

1 **MR. MOYLE:** This is up in Section (1)(b).

2 **MS. BROWNLESS:** Oh, back in (1)(b).

3 **MR. MOYLE:** Line 17. I'm sorry. The term is used
4 associated compliance plans in Section (1)(b), and I think it
5 would be helpful to define associated compliance plans so that
6 it's clearly indicated what you expect in those plans from the
7 investor-owned utility.

8 **MS. MILLER:** Thank you.

9 **MR. TRAPP:** I need to ask Mark. Mark, is it not my
10 understanding that that is covered under Section (3) of the
11 rule on Page 3 where we say what the utilities are supposed to
12 file? Is that not the compliance plan?

13 **MR. FUTRELL:** That is what we are contemplating, yes.

14 **MR. TRAPP:** I thought that was the intent, Jon. That
15 is covered in Section (3) on Page 3.

16 **MS. MILLER:** And we could note as set forth in.
17 Commissioner Skop.

18 **COMMISSIONER SKOP:** I will reserve my comment.

19 **MS. MILLER:** Thank you.

20 **MR. JACOBS:** This is Leon Jacobs for SACE.

21 In Paragraph (f) in Subsection (2) where you define
22 renewable energy credit, I note that you have undertaken this
23 whole bundled versus unbundled REC idea, and essentially come
24 down on the side of making these unbundled.

25 We just want to raise that there are a lot of policy

1 issues that are wrapped up in that choice. Many of them are
2 applicable further down the line to other areas of this rule.
3 And we probably want to take some time to look at this, because
4 my first response is that there may be some need for
5 flexibility.

6 Putting together an unbundled RECs market to my
7 understanding is a fairly more difficult proposition. It
8 introduces a lot more policy decisions that you have to make.
9 Whether or not you allow out of state versus in state, all of
10 those issues that may not be clearly tied down to this rule.
11 And so we feel like if you go with an unbundled RECs market,
12 those are some issues that we probably want to have some
13 discussion about how they are going to play into all of this.

14 **MR. FUTRELL:** This is Mark Futrell. I think the
15 statute is fairly clear that we are talking about a
16 Florida-only REC market. It seems to preclude out-of-state
17 RECs.

18 **MR. JACOBS:** Okay.

19 **MR. FUTRELL:** It seems to make that fairly clear. If
20 anyone has a different understanding, I would like to hear
21 that.

22 **MS. MILLER:** Bob.

23 **MR. TRAPP:** I would like to what Mark said. If you
24 will refer to Page 96 of the proposed bill, Line 2663 is the
25 definition of a renewable energy credit, and our definition is

1 exactly from the statute or from the law. So it appears to me
2 that, you know, an unbundled REC is unbundled.

3 **MR. JACOBS:** I accept that. I won't belabor that
4 point. I accept that. As to that issue, the statute is fairly
5 clear; and I was really referencing that as an example of
6 several issues that I believe are important to address. But
7 you bring out a good point is that those subtleties are going
8 to be really important as you go through the rest of the rule,
9 and that is really my point. The subtleties of making that
10 choice are important and we want to recognize those as we go
11 through the rest of the rule. I won't belabor that point, but
12 I agree.

13 **MS. MILLER:** Sean Stafford.

14 **MR. STAFFORD:** Thank you, Cindy.

15 On that issue, we believe there are two different
16 issues. One issue is what the actual definition of a REC is,
17 and we believe the definition of a REC is very clearly
18 prescribed in the statute as an unbundled product. But your
19 decision to go to an unbundled -- your decision to require two
20 separate transactions, which is the power purchase agreement
21 and the sale of the rec within a rec market is a different
22 policy option, and we don't believe that is necessarily in the
23 bill. That the bill doesn't speak to whether or not you have
24 to sell an unbundled REC. We believe the option should be
25 there, and I know we are getting into a little further down in

1 the rule to also bundle these products together, but not
2 compromising the definition of the REC. The REC can be
3 unbundled, but the REC is an unbundled product that will have a
4 cost associated with it, it will have a very specific attribute
5 associated with it. But combining the power purchase agreement
6 -- (phone interference) -- we think is a whole different issue.

7 **MR. TRAPP:** I want to discuss that further and hope
8 we get there, but it's not clear in my mind that we have
9 strictly done what you are implying we are doing. Because as
10 part of this rule it was my recollection that we required
11 utilities to refile those purchased power agreements to reflect
12 the new policies that are reflected in this proposed rule, one
13 of which would be how to treat RECs in terms of standard offer
14 contracts and negotiated contracts.

15 I don't think that the REC market, I'm not sure that
16 it says anywhere in there it is an hourly REC market that you
17 can only buy on an hourly basis or anything like that. I don't
18 think the staff's intent was to constrain you from entering
19 into long-term contracts with respect to annual evaluations of
20 RECs. What we did put in there was a valuation cap, if you
21 would, with respect to the amount of money we are willing to
22 spend on carbon sequestration, and that number was debatable,
23 as well. So I look forward to that discussion in particular,
24 because I'm not sure that our intent was as restrictive as
25 you're reading it.

1 **MS. MILLER:** Thank you.

2 **MR. ZAMBO:** This is Rich Zambo. I just wanted to
3 follow up on that. Are we still talking about the unbundled
4 issue there?

5 I just wanted to say as someone who has had some
6 experience over the years in selling energy in Florida, I think
7 the unbundling of the REC is a definite positive. Because if
8 you have to sell that energy, you know, off system and go
9 through a process of transmitting it and paying for line losses
10 and transmission charges, you know, you are going to lose a lot
11 of the value. I think you are better off to have the
12 flexibility to sell the energy and the REC separately. That
13 would just be my observation. I support that part of the rule.

14 **MS. MILLER:** Thank you. So we are proceeding through
15 the definitions. We've, I believe, gone through a few of
16 these, but let me see if there are any other comments on the
17 definitions or whether I need to go through them and identify
18 them one-by-one. I'm not seeing anyone offering any comments,
19 other comments on definitions.

20 **MR. KARNAS:** I'm sorry, this is Jerry Karnas,
21 Environmental Defense Fund. I just have a question. It
22 relates to the definition section, but it is a lack of
23 definition for some words that I thought might need definition.
24 In the statute when it says the Commission shall adopt rules
25 for a renewable portfolio standard requiring each provider to

1 supply renewable energy to its customers, it says directly, by
2 procuring or through reliable energy credits. And so I guess
3 the question I have is it seems that the legislative intent of
4 creating a rule where energy can be, you know, provided
5 directly to customers or through procurement, that is being
6 left off the table in this rule, and I was just wondering if
7 there was a reason for that and why renewable energy credits
8 are the only method that is being contemplated.

9 **MR. FUTRELL:** I think even if a utility procures its
10 own -- builds its own capacity, there would be renewable energy
11 credits associated with that project. And those RECs from that
12 project could be used to meet their own RPS standard, or they
13 could be used and sold on the market to a utility that needed
14 them. So I think we addressed that --

15 **MR. KARNAS:** But just if the Legislature throughout
16 the entire bill it is or through renewable energy credits, so
17 it is not -- you know, and so I am just wondering. You know,
18 there are other policies that could be geared towards the
19 procurement of renewable energy like long-term contracts and
20 pricing schemes to widen the market.

21 **MR. TRAPP:** This is Bob Trapp. My understanding, as
22 the staff discussed that language in the statute, we found it
23 impossible to account for, to tell you the truth, mixing
24 kilowatt hours with RECs. They are two separate things that
25 are identified by the statute as being separate attributes. So

1 in my viewpoint, in making the RECs the thing that you count in
2 order to comply with the RPS, it's a way to simplify the
3 accounting of did you meet the RPS or not. The RECs are
4 associated with utility constructed facilities. That's the
5 build option, the self-build option. The RECs are associated
6 with purchased power contracts. That is the procurement
7 option. And the RECs are associated with renewable facilities,
8 that's the renewable option.

9 So, again, in my mind, if you can think of a better
10 way of accounting for these attributes that are going to be
11 counted toward the RPS, fine, let us know about it. But that
12 was our means of simplifying the accounting of did you meet the
13 REC or not, or did you meet the RPS or not.

14 **MR. BURGESS:** This is John Burgess. Just in direct
15 response to that point. Again, in Europe and in Germany they
16 have a REC transfer, an accounting transfer under a feed-in
17 tariff policy mechanism. So you absolutely can have a REC
18 transfer in conjunction with a different policy mechanism along
19 the lines that Jerry just outlined.

20 So, again, I would reiterate Jerry's point. I
21 believe that the current rule drafting has ignored the other
22 policy mechanisms that are working successfully throughout the
23 rest of the world and has focused purely on a very narrowly
24 defined concept of a REC, which is a market REC, and I think
25 frankly that analysis needs to be done. I mean, why was it not

1 looked at? Can I just throw that out.

2 **MR. ZAMBO:** This is Rich Zambo. Can I make a
3 comment? I maybe can shed some light on this. I'm assuming
4 that as a base for all of this that the energy that gets sold
5 from a renewable energy facility would be sold at avoided cost,
6 right? So we do have a separate pricing protocol under
7 existing Public Service Commission rules for the energy, and
8 this is just an additional attribute that would add additional
9 revenues on top of the energy revenues.

10 **MR. TRAPP:** That's my interpretation. This is Bob
11 Trapp, again.

12 And with respect to this concept of feed-in tariffs,
13 I think if you would look at the concept of feed-in tariffs,
14 they parallel very closely Florida's existing policies with
15 respect to standard offer contracts for renewables and
16 cogeneration facilities. What we have done is taken the
17 existing avoided cost constrained feed-in tariff and expanded
18 it pursuant to the legislation to embrace these other
19 attributes associated with -- they go beyond just the energy to
20 basically put together a feed-in tariff that has, what do you
21 want to call it, value plus, if you would. And that's the
22 concept. So I think we have analyzed the Germany methodology,
23 so to speak, in the context of how it works in Florida.

24 **MR. ZAMBO:** Yes, I think you have, Bob. This is Rich
25 Zambo, again. I just want to say that is why it is crucial or

1 critical, in my view, that the RECs be separate from the
2 energy. Because depending on where the renewable energy
3 facility is located, its particular utility may not have a need
4 for energy, but it may have a need for a REC or vice versa. So
5 I think it is important to keep these two separated, otherwise
6 you are going to limit your market to sell these and extract
7 any value from them.

8 **MS. MILLER:** Thank you.

9 Suzanne Brownless.

10 **MR. BURGESS:** This is John Burgess.

11 **MS. MILLER:** Could you wait --

12 **MR. BURGESS:** Following on that comment, I think that
13 is actually a little misunderstanding of the way a feed-in
14 tariff system works. You don't need a separation. It's one
15 bundled payment. You can have a separation, certain markets
16 do, but the majority of the markets have one bundled payment.

17 **MR. TRAPP:** And that is certainly a potential under
18 this rule.

19 **MR. ZAMBO:** The Florida markets have separate energy
20 payments based on utility needs and utility service areas, and
21 that is a matter of federal and state law. I don't think we
22 could change that in this rulemaking.

23 **MS. MILLER:** Thank you.

24 Suzanne Brownless.

25 **MS. BROWNLESS:** And I just want to make sure, Bob,

1 that I understand the basic concept here for this REC market.
2 As I understand it, each qualifying facility, whether it is
3 being constructed by the utility itself, whether the utility is
4 purchasing RECs from it, or energy from it, or whether it is
5 being built by a third-party will generate a certified number
6 of RECs, is that correct?

7 **MR. TRAPP:** Yes.

8 **MS. BROWNLESS:** Okay. And then there will be a price
9 associated with those RECs. I mean, the market will set a
10 price.

11 **MR. TRAPP:** There will be a market associated with
12 those RECs. It may be a contract market, it may be an hourly
13 broker market. Hopefully it is both.

14 **MS. BROWNLESS:** Exactly. That's what I'm trying to
15 get at.

16 **MR. TRAPP:** We want to establish a working market --
17 (phone interference) -- so that we can maximize the value of
18 the attribute to the renewable to foster development while at
19 the same time minimizing the cost to the ratepayer of paying
20 for that attribute.

21 **MS. BROWNLESS:** And that for a third-party developed
22 renewable resource that had a bundle of RECs associated with
23 it, they would be able in this larger market to negotiate a
24 separate contract with whomever needed the RECs, and that that
25 value could be however they negotiate it.

1 **MR. TRAPP:** They could bundle the contract, they can
2 separate the contract, they can do it as they want to as
3 available, and they can -- as Rich Zambo has suggested, there
4 is no transmission line losses associated with RECs.

5 **MS. BROWNLESS:** Exactly.

6 **MR. TRAPP:** It's a fungible piece of commodity, a
7 piece of paper.

8 **MS. BROWNLESS:** Exactly. So that you could have a
9 long-term contract of a minimum of, let's say, ten years that
10 would generate a stream of revenue for the sale of RECs.

11 **MR. TRAPP:** Sure.

12 **MS. BROWNLESS:** Giving stability to the market, and
13 also giving a developer basically a bankable stream of revenue
14 that he could then use to project finance his project.

15 **MR. TRAPP:** Sure.

16 **MS. BROWNLESS:** Thank you.

17 **MS. MILLER:** Okay. We are on definitions, and you
18 are hearing staff's views on what is in the strawman proposal.
19 Sean Stafford.

20 **MR. STAFFORD:** I just wanted to follow up on that.
21 You know, in our written comments, Florida Crystals has taken
22 the position that the statute specifically notwithstanding
23 avoided costs, and on Line 2694 of House Bill 7135 we are
24 trying to figure out how we come to an avoided -- how we go
25 back to avoided cost plus the REC. And why is there -- and

1 guess I don't know if this is the right time to discuss this or
2 not. I guess we are going to discuss this in a few minutes if
3 we ever get to these other sections, but avoided cost is
4 obviously a very -- it is just not anything we support as being
5 part of this process, because we believe the Legislature spoke
6 fairly clearly and said, you know, for purposes of complying
7 with this, we are now throwing avoided cost out the window and
8 we are now going to allow for maybe more of a voluntary --
9 maybe more of a negotiation between two parties. And, I guess
10 our question is why are we back to avoided cost again on this
11 unbundling?

12 **MR. TRAPP:** Cindy, may I?

13 **MS. MILLER:** Bob.

14 **MR. TRAPP:** Let me answer you in the form of a
15 question. What is affordable? What is cost prohibitive? And,
16 basically we are not here to talk about avoided cost, we are
17 here to talk about what is the value of the attribute known as
18 a REC, and we are using that to define going beyond avoided
19 cost pursuant to the provisions of the statute.

20 But remember, the statute also says we don't want to
21 overburden the ratepayers of Florida. Why should the electric
22 consumers of Florida bear the full burden of global warming? I
23 mean, is it all here? Are there tax incentives, tax breaks and
24 other incentive mechanisms in play that encourage reduction in
25 greenhouse gases? We are but a part, and our part has to be

1 balanced.

2 Our reading of the statute is the balance is between
3 environmental economic development and all of those other
4 attributes and cost to the consumer. This is our proposal to
5 balance those parameters. If you have a better idea, let us
6 know.

7 **MS. MILLER:** Jon Moyle.

8 **MR. MOYLE:** I'm sorry, I think the point simply was
9 if I understood it, you had said in response to a question from
10 Rich that you interpreted avoided cost to be still a polestar,
11 and if I understood what Sean was saying, he was saying, yes,
12 but remember the Legislature expressly addressed that when it
13 said notwithstanding 366.913 and 4 upon ratification of the
14 rule, the Commission may approve projects and power sales
15 agreements to comply with the REC.

16 So I think there is latitude that the Legislature
17 provided to you not to necessarily hamstring you with an
18 avoided cost analysis. But you asked the question, well, what
19 is affordable. I would say that's probably something that
20 could be determined, but it is what a reasonable buyer would
21 pay a reasonable seller. You know, a willing seller and a
22 willing buyer would pay for the REC.

23 **MR. TRAPP:** No, no. Show me your formula, Jon.
24 Willing buyer, willing seller. Where is the ratepayer in that
25 equation? Where does the ratepayer get to say, no, I don't

1 want to pay that much for that? That's what the role of the
2 PSC as I understand it is, to act on behalf of the ratepayers,
3 the utilities, and the renewables to strike a balance in this
4 arena governed by the guidance that we have been given in the
5 statute.

6 Again, we are not here to discuss or rehash of
7 avoided cost. That is an existing policy that is on the
8 Commission's books that may or may not get changed. I don't
9 know, it could be subject to rulemaking, too. What we have
10 done here is looked at what the legislative guidance was in
11 going beyond avoided cost, and that is to try to put some kind
12 of boundaries on this concept of attributes, separate
13 attributes away from energy.

14 Now, you have got the energy. It is still over
15 there. It is an existing policy, and if you want to change it,
16 we can open some more rulemakings. That's over there. We are
17 dealing here, which is a separate attribute that we are trying
18 to put boundaries on with respect to what should we pay to
19 attract while at the same time protecting our ratepayers and
20 their ability to afford the electricity that is generated from
21 that process.

22 **MS. MILLER:** We are at the noon hour, and we had
23 planned to break for lunch at noon. And, you know, I think the
24 dialogue is useful, but we are really trying to just keep
25 moving through on the rules.

1 Let me ask you this, does anyone have any other
2 specific comment on the definition rules or changes? And if
3 not, when we come back at 1:00, we are going to start on
4 Section (3), which is the renewable portfolio standard.

5 So are there any final comments on definitions before
6 we break for lunch?

7 **MR. ZAMBO:** Yes. This is Rich Zambo. I had one
8 comment on the definition of classes. You have only got two.
9 You have got two classes there, and I would suggest to you that
10 you may want to have a third class. I realize Class I is by
11 legislative directive, but there are other types of renewables
12 out there, primarily the waste heat industry, who has zero
13 emissions, just like wind and solar do. And I would suggest
14 that there should be a possibility of another class between
15 Class I and II. That is the only comment I've got, and I will
16 get you written comments to that effect at the appropriate
17 time.

18 **MS. MILLER:** Thank you. We will break for lunch
19 until 1:00 o'clock.

20 **MR. FUTRELL:** And those that are on the line, we are
21 going to drop the line, and you can call back in at 1:00 p.m.

22 **MR. ZAMBO:** Thank you.

23 (Lunch recess.)

24 **MS. MILLER:** Okay, we are back after lunch. We
25 extended a little bit, because we heard some of you were stuck

1 in line at the cafeteria. So we are on (3) on renewable
2 portfolio standard.

3 I want to mention a couple of things. We have had a
4 few concerns about on the call-in people, and we do have them
5 on again, to please ask to speak. To just ask me, Cindy
6 Miller, that you want to speak, because there has been some
7 concern that it's getting too casual, and we do have some
8 serious stuff to work through. And all the discourse I have
9 heard has actually helped people, but if you could go through
10 and ask me first so we are not just having a dialogue, we'll
11 have it more formal.

12 We are on the renewable portfolio standard, and I
13 want to ask if anyone has some opening comments on the
14 renewable portfolio standard, generally. And then I'm going to
15 ask Tom Ballinger to talk about the numbers that we have in
16 here.

17 Do we have any opening comments from anyone?

18 **MS. BROWNLESS:** I don't have any opening comments,
19 but I couldn't hear what was just said on the telephone.

20 **MS. MILLER:** Was there a speaker from the call-in?
21 Oh, it was just backfeed.

22 **MS. BROWNLESS:** I'm sorry, I have no question.

23 **MS. MILLER:** Mike Twomey.

24 **MR. TWOMEY:** Cindy, I think if I may, I will just
25 incorporate what might be kind of a short opening and comments

1 on specific parts of (3).

2 **MS. MILLER:** Okay. And let's go down the line. Does
3 anybody want to make opening comments on the renewable
4 portfolio standard? Okay. Well, I'm going to turn it over to
5 Tom Ballinger to head this up.

6 **MR. BALLINGER:** Thank you, Cindy.

7 Chris, if we could put up some slides here. Let's go
8 to, I think -- let's go to the third slide first, Chris. That
9 might be easier.

10 These are numbers -- I know we had a discussion today
11 about the 2 percent starting number in 2010, if that is
12 existing resources, or whatever like that. Let's leave that
13 discussion for another day and we will make sure those numbers
14 get verified, but all I wanted to do is present, based on the
15 percentages shown in Part 3, what the effect would be on
16 gigawatt hours in Florida.

17 Okay. Gigawatt hours and RECs, it's the same thing.
18 And what you see is what I did is I took the percentages, I
19 also looked at the utilities' 2008 ten-year site plans, which
20 go out to the year 2017 of projected sales. All you have to do
21 is take those sales, so for the years 2010 and 2017, I took the
22 four generating investor-owned IOUs, which is FPL, Progress,
23 TECO, and Gulf, added them together, multiplied it by the
24 percentages you see here to get the equivalent gigawatt hours.
25 And you see it is over a doubling between 2010 and 2017, going

1 from a 2 percent RPS to 3.75 percent.

2 We then extrapolated the growth of utility sales by
3 the same growth rate that they had historically to get years
4 2025 and 2050, and you see we have approximately another
5 doubling by the year 2025, and then a huge increase by the year
6 2050. Again, by the same percentages. So the math fell out
7 that way. I'll be happy to -- later on, I guess, as we go we
8 can provide actual tables that show these numbers down the
9 road, but just from a graphical representation, I wanted you to
10 be able to see this.

11 Then what we also had to try to do was look at what
12 does this mean in terms of dollars. And, Chris, if you would
13 go to the first slide, I think. What I did here is since we
14 have escalating sales and we are trying to look at an estimate
15 1 percent of total retail revenues into the future, I needed to
16 develop an equivalent rate to use going forward. And what I
17 did is I went to the utilities' actual 2007 retail revenues,
18 multiplied it by 1 percent, got a total dollar number, divided
19 it by those gigawatt hours sales in that year, and came up with
20 an equivalent rate. And that is what you see up here. So it
21 is roughly about 1/10th of a cent for each IOU on their
22 revenues. These will change as fuel prices change and all of
23 that, but we had to have a starting point to give some estimate
24 of the financial impact of the 1 percent cap as we go forward.

25 The next cap that we did -- Chris, the next slide,

1 please -- is what I'll call the REC equivalent rate. And this
2 goes back to that other cap that is in the other portion of the
3 rule of the \$16 a ton. Now, this one gets a little
4 complicated. I was charged with putting this in cents per
5 kilowatt hour, so bear with me. It is a little confusing, but
6 it is not too bad.

7 I first started out with going back to try to find
8 total tonnage that the four generating utilities emitted. And
9 the latest data we could find was in the year 2004 off a DOE
10 site I think it is, or an EPA site, E-GRID (phonetic), and it
11 gave total tons emitted by the four generating utilities,
12 again.

13 I simply took that number times \$16 a ton to get a
14 total cost at \$16 a ton to sequester all of that carbon. I
15 then took that number, divided it by the gigawatt hour sales in
16 the year 2004, to get an equivalent rate. And, again, these
17 are estimates to give us a ballpark figure of what we are
18 trying to do, because we are trying to balance the 1 percent
19 revenue cap versus the RPS cost, as well.

20 And as you see here, in my mind it shows something
21 quite telling. FPL had the lowest rate on a per carbon, and
22 that is to be expected given FPL is primarily natural gas. So
23 their amount of carbon per kilowatt hour is probably going to
24 be less than the other utilities. So the rate results to me
25 made some intuitive sense.

1 As you see, this really would be the plus, if you
2 will, to our avoided cost plus concept that we are proposing
3 here. This would be the adder to the traditional, if you will,
4 avoided cost contracts that generators would get. What I don't
5 have and what I would ask of the IOUs maybe for the next
6 workshop that we have, if John Burnett is still watching on the
7 web, is to get a levelized cost for the utilities' existing
8 standard offer contracts so we can have a comparison of what
9 the adder would be in terms of percentage. Is it increasing
10 the total revenues, if you will, to the renewable generator by
11 5 percent, 10 percent. That is the piece we are missing yet,
12 and I would ask the IOUs help in providing that.

13 When you take this rate -- go back to the other one.
14 I can give you the 1 percent increase. It is not a chart here,
15 but using those dollars, or those rates I should say, the
16 impact roughly of meeting the 1 percent cap, if you will, for
17 FPL in the year 2009 it would be about \$120 million. In 2016
18 it would escalate to 149 million. In 2024 it would be
19 189 million, and on. And I've got similar numbers for Progress
20 and TECO and all of that.

21 That led to staff's discussion there in the summary
22 that most utilities would be below the 1 percent cap given
23 these RPS numbers. Obviously if you start changing these
24 numbers, you start coming up closer to the cap and, we are
25 trying to balance between bumping up against that cap and

1 getting development, as well, and not burdening ratepayers too
2 much.

3 As an aside, we got some written comments by the
4 Solar Sunshine -- what was it, by Thomas Sutton who proposed
5 different percentages, and they were different rates, and I did
6 a quick calculation this morning to do that. And, Chris, if we
7 could go back to the third slide. I'm sorry, you don't have
8 it, but that number in 2010 he proposed also a 2 percent
9 number, so that number would stay the same as far as the
10 gigawatt hours from renewable energy in 2010 would be the same
11 under the solar proposal and the staff's strawman rule.

12 In 2017, the number jumped up, I think, to 8 percent,
13 and that number would jump up to 18,294 gigawatt hours. So you
14 would see almost a doubling, over a doubling of what staff has
15 proposed. And in the year 2025, the solar proposal would jump
16 up to 57,337 gigawatt hours as opposed to 17,000. So it is a
17 much more aggressive RPS.

18 I have not done the following calculations to see
19 what the cost of that would be given the equivalent rate. And
20 I think what we are at today is this is where staff tried to
21 balance things between the 1 percent cap and the costs that we
22 are adding to avoided costs to balance this. And we would ask,
23 you know, the participants and anybody if you have other ideas,
24 and also a similar type analysis to what you are proposal would
25 do. And I think from there we can go into some questions.

1 **MS. MILLER:** Do we have any questions or comments?

2 **MR. MOYLE:** I just wanted to --

3 **MR. KRASOWSKI:** Cindy, this is Bob Krasowski. Are
4 any of those charts that Tom was referring to on the website at
5 all?

6 **MR. FUTRELL:** Bob, this is Mark Futrell. They are
7 not on the web now. We will post those at the conclusion of
8 today's workshop.

9 **MR. KRASOWSKI:** Okay, thank you.

10 **MR. FUTRELL:** Sure.

11 **MS. MILLER:** Suzanne Brownless.

12 **MS. BROWNLESS:** We have, the Florida Solar Coalition
13 has looked at these numbers, and we'll present detailed
14 comments, but I will just tell you kind of where we came from.
15 We agreed with starting at 2 percent as the prior year's retail
16 electric sales for 2010, so we agree with that starting place.
17 We would say that by January of 2011 it should be 3 percent;
18 January of 2013, 10 percent; January of 2015, 12 percent;
19 January of 2018, 16 percent; and January of 2020, 20 percent.

20 Our idea being that we read the Executive Order
21 07127 to be 20 percent renewables by 2020. And we appreciate
22 that the executive order states that the Commission has
23 requested to initiate rulemaking to, "Require that utilities
24 produce at least 20 percent of their electricity from renewable
25 resources, a renewable portfolio standard with strong focus on

1 solar and wind energy," but doesn't give a year.

2 But we also know that the Governor's Office has
3 issued numerous press releases, the first one being July 13th
4 of 2007, and this is also found in the Florida Department of
5 Environmental Protection's -- I don't know what you call this
6 thing. The name of it is The Post, so I think that is their
7 internal newsletter, which also clearly states that the
8 Governor's directive is that it is 20 percent by 2020. So the
9 goals that we've set out achieve 20 percent by 2020, and in our
10 comments we will try to provide the analysis that talks about
11 revenue and dollars and rate impact.

12 **MS. MILLER:** Mark.

13 **MR. FUTRELL:** Is Mr. Sutton on the line?

14 **MR. TRAPP:** Could I ask before you leave Suzanne's
15 comments, could I just ask her a clarifying question?

16 **MS. MILLER:** Bob.

17 **MR. TRAPP:** Thank you.

18 Ms. Brownless, in proposing those RPS standard
19 levels, have you done any analysis on the potential rate
20 impact, or the potential relationship with the staff's proposed
21 revenue cap, or RPS, or REC cap levels, have you done any
22 correlation of how they fit?

23 **MS. BROWNLESS:** We are in the process of doing that,
24 and we'll have a chart with our comments that do that. We
25 actually started out thinking that the better comparison

1 instead of to revenues would be to fuel expense on the theory
2 that renewable energy saves fuel. And we did look at those
3 numbers. And, frankly, the fuel expense numbers are so
4 staggering in terms of the billions of dollars that are spent
5 on that that when we were doing that analysis we thought, well,
6 if the staff wants to do annual revenues, we will go with
7 annual revenues.

8 **MR. TRAPP:** But isn't it true that to the extent -- I
9 mean, we are talking here primarily about the RECs and the
10 attributes and everything, but aren't you compensated for
11 energy when you sell energy at avoided fuel rates? Isn't that
12 a wash?

13 **MS. BROWNLESS:** I think there is some idea that,
14 particularly for small solar thermal folks, folks who have hot
15 water heaters, they are not actually selling energy to the
16 grid, they are avoiding demand. And so for people who are
17 actually selling energy, Bob, you are absolutely correct. But
18 for folks who are not actually selling energy to the grid, but
19 are avoiding fuel expenditures because they are removing
20 demand, they're in a different category.

21 **MR. TRAPP:** Have you looked at the retail rate
22 impacts associated with that, though? Because the equivalent
23 economic value they are receiving is a full retail rate as
24 opposed to a energy or capacity rate.

25 **MS. BROWNLESS:** And, Bob, we will. I mean, we are

1 trying to do that.

2 **MS. MILLER:** Additional comments going down the line
3 here.

4 Leon Jacobs.

5 **MR. JACOBS:** We have not formulated specific
6 proposals or alternative proposals to the standards here, but
7 as a general comment, the idea we hope in developing this
8 structure is to incent -- is a balancing of the incentive for
9 bringing renewables to the market and providing signals to that
10 marketplace, and management, again, not minimization, but the
11 management of the costs to the utilities. We would agree that
12 the structure that is proposed is slanted too far towards
13 minimizing costs for utilities and does not, we believe,
14 provide sufficient incentive to attract investment to the
15 renewables marketplace.

16 We believe that a more aggressive structure is called
17 for to do that. We are not prepared at this moment to agree
18 with the alternative proposal of Mr. Sutton, but we will
19 provide that in our written comments.

20 **MR. FUTRELL:** This is Mark Futrell. I would just
21 like to follow up with that. What is a sufficient incentive to
22 give us a sense on our thinking on this? You know, we have
23 thrown the idea out of this 1 percent revenue cap and you are
24 saying it is not sufficient. What would be a sufficient
25 incentive?

1 **MR. JACOBS:** In my reading and understanding of the
2 literature, both length of contracts and amount of compensation
3 of both issues as to adequate incentives, I don't have a
4 threshold for those, but what I have seen are three to five
5 year length of contract, and looking at -- and I would agree
6 with the comments, I'm not sure that I am at the point of
7 agreeing that we look at the revenue.

8 I see that as a beginning point. I don't know that I
9 think that it's terribly off base to look at it as a beginning
10 point, but I believe it is just that, a beginning point. If
11 you want to incent this marketplace, I think you have to begin
12 to look at ways of providing growing revenues to the renewable
13 providers as this market grows. And remember this, what we are
14 seeing in most of these industries is that their costs are
15 coming down, and so it's not necessarily indicative that you
16 will have to increase costs to the utilities in order to expose
17 this market to more renewables.

18 If their costs continue to decline, you can expand
19 their market access without imposing pro rata costs to the
20 utilities. And I think that's the apple on the tree that you
21 really want to be shooting for in this structure. And that is
22 what -- I don't know that we have dug that deep yet and we
23 would like to propose something that would do that, and we will
24 do so in our comments.

25 **MS. MILLER:** Mike Twomey.

1 **MR. SUTTON:** Cindy, this is Thomas Sutton. Could I
2 add something?

3 **MS. MILLER:** Yes. I just recognized Mike Twomey, so
4 let's go with him next and then we will go right to you.

5 **MR. TWOMEY:** I wanted to make a quick observation on
6 what Leon said, and that is I would ask everybody in the
7 process to recognize and remember that utilities aren't going
8 to be paying incentives. Their customers will. The utilities
9 are going to pass these costs through, every cent if they are
10 prudent, on to their customers. So whether they are viewed as
11 incentives, payments for the RECs or whatever, these are
12 dollars and cents that are going to be paid by real people that
13 are out there footing the monthly bills. It is not like a big
14 corporation is going to pay it by and large, the bulk of these
15 customers are residential customers. They are going to foot
16 the bill at the end of the day. Thank you.

17 **MS. MILLER:** We will go next to Bob Sutton and then
18 Eric Draper.

19 **MR. SUTTON:** Thank you. I think our company was
20 mentioned as we did submit comments yesterday, and our
21 percentages were more aggressive than the strawman, but not as
22 aggressive as what Suzanne spoke about from the Solar
23 Coalition. But we got to this -- I think our assumptions and
24 reasons for being more aggressive were exactly the same as what
25 she laid out, and, you know, to me these need to be stretch

1 targets on we won't hit them. And we don't have any doubt that
2 with the right incentives, the industry will get there and they
3 will meet these targets.

4 Now, what is the right target? And we put some
5 numbers out there with respect to just say solar PV, but one of
6 the concerns we had is if we understood the calculation that
7 Tom went through, we were translating the REC value at 1.6
8 cents per kWh or \$16 per megawatt hour, and using that number,
9 one of the IOUs, I think it was Gulf, would hit the 1 percent
10 cap. So we worked backwards and we said, boy, if I go and sell
11 my power at avoided cost, let's say \$90 a megawatt hour, and
12 then I get only, if you will, 16 for the REC, there aren't very
13 many -- hold aside solar PV -- there aren't a lot of other
14 renewable technologies that are going to expand at those
15 prices. So, you know, either the 1 percent is not a sufficient
16 cap, or there is, you know, some other calculation and metric,
17 and I don't know if it is fuel costs like Susan (sic) said, but
18 maybe we need to look at some other metric. Because I just
19 don't see us advancing if those are the prices that we would be
20 talking about.

21 **MS. MILLER:** Thank you.

22 Eric Draper.

23 **MR. DRAPER:** Yes. Just in reference to previous
24 comments, I just think that we need to recognize that, you
25 know, with concerns about short-term pocketbook issues that we

1 are here because of -- primarily with what drove the passage of
2 the legislation, the reason we are having this discussion today
3 has to do with climate change and fossil fuel scarcity. Just a
4 preamble comment.

5 But without getting into the numbers itself, I did --
6 and maybe I misunderstood your direction, but I did have a
7 couple of changes that I was going to recommend in terms of the
8 language. I think in Number 3 is that the analysis that is
9 asked for there, I think that the words technical economic
10 potential unnecessarily limits the analysis that would be done
11 to allow the utilities to propose their standard is too narrow
12 and doesn't consider all the things that probably ought to be
13 considered such as the avoidance of environmental impacts and
14 particularly climate change.

15 So I'm going to suggest, I have given you language on
16 this in the handout that I have provided this morning, that
17 everything after the word standards is stricken from Line 15
18 through 17. And that is just one recommended change. And then
19 I have another one that I would like to address, which is in
20 (3)(a). It seems to me that when -- I'm just not sure about
21 this, and maybe you can answer the question or make an
22 assertion, I am recommending that you left something out in
23 terms of production of purchase of renewable energy credits,
24 that the question of the procurement of renewable was the third
25 option that the legislation talked about.

1 And I don't know if I am just misreading that or not,
2 but it seems like there is supposed to be three options for
3 being able to get renewables and that you have two listed. So
4 I've got recommended language of putting in the words
5 procurement of renewable power, which comes directly from the
6 statute. That would go on Line 18 through Line 20.

7 **MR. FUTRELL:** Staff's assumption on that one was that
8 where we used the word production of credits, they would be
9 produced from a utility-owned facility. And so that is just to
10 fill that in a little bit more. But we appreciate your
11 suggested language. But just so you will know, produced -- we
12 have through the production or purchase production we
13 contemplated that would include utility-owned renewable
14 generation.

15 **MR. DRAPER:** Just a follow-up question, and you are
16 helping me learn here. Then you only anticipate that the
17 nonutility, the purchase of power that is nonutility produced
18 then would only be purchased through RECs, it wouldn't be
19 purchased through direct contracts?

20 **MR. BALLINGER:** If I may, Cindy? Tom Ballinger.
21 I think what Bob said earlier is, yes, this is a
22 REC-only proposal process. That the purchase of energy is
23 still under our current cogeneration statutes at avoided cost.
24 The REC market is in addition to that. So it is RECs only, and
25 it was more for accounting for keeping track of these things,

1 and that is the intent of that.

2 **MR. DRAPER:** I guess I missed that. I think that
3 that is probably just not consistent with what the statute
4 seemed to recommend, but maybe I'm wrong about that.

5 **MS. BROWNLESS:** Cindy.

6 **MR. KARNAS:** This is Jerry Karnas.

7 **MS. MILLER:** Okay. Go ahead, Jerry.

8 **MR. KARNAS:** Yes. We will be providing some detailed
9 language on this, but just broadly, if I may, I just think that
10 these targets don't reflect the seriousness of the problem.
11 You know, both our energy dependence issues, in Florida
12 98 percent importing for energy needs to Florida, and also with
13 climate change. So I have some very strong opinions about the
14 targets, and we'll be providing some alternative options on
15 that.

16 And then in terms of the costs, we have to remember,
17 as well, that every dollar spent on renewable energy production
18 in Florida is a dollar that stays in Florida. So regardless of
19 what Mr. Twomey has said, yes, your ratepayers will be bearing
20 this, but the money is going to be staying in Florida creating
21 jobs in Florida. So one of the lenses that I would recommend
22 these targets be looked at through are are these targets going
23 to create jobs. Are these targets going to increase venture
24 capital investment in Florida. How are the markets
25 internationally and nationally going to respond. I mean,

1 California has \$400 million flowing into the green energy
2 sector every single quarter. These targets, are they going to
3 change that dynamic for Florida?

4 You know, we have to act in a bold fashion in order
5 to get a corner on this global market, and I think that that is
6 something we really need to look at here. Because, you know,
7 with the state of Florida's economy, we are crying out for
8 diversification right now, and this is largely, you know, even
9 T. Boon Pickens has identified this as the new growth area for
10 our country, and we have got to send a clear signal to the
11 markets that Florida is in play and I don't think these targets
12 do that.

13 The other lens I would ask this be looked at is is
14 this going to bring solar manufacturers to the state of Florida
15 or other renewable manufacturers to the state of Florida. That
16 is another key component of what the Governor's vision for
17 renewable energy in Florida is that, you know, we start
18 creating jobs through manufacturing and development of new
19 technologies. And I don't think these targets would meet that
20 standard, as well.

21 **MS. MILLER:** Okay, thank you.

22 **MS. HERIG:** This is Christy Herig. May I?

23 **MS. MILLER:** Yes, go ahead.

24 **MS. HERIG:** I just want -- I did do some calculations
25 as to what it would take to get it by 2020, and it is certainly

1 way more than 1 percent. But, back at your first workshop, you
2 asked someone to supply to you what the system benefit charges
3 or rate impacts were in other states, and I'm wondering did you
4 ever get that information?

5 **MR. FUTRELL:** Christy, this is Mark Futrell. In our
6 RPS summary docket we did a survey of other states. We do not
7 have -- we didn't follow up or don't have that current
8 information, but we do have some information in our summary
9 report on public benefit funds.

10 **MS. HERIG:** Okay. Well, I was just asking because,
11 you know, typically in other states it is more like, you know,
12 3 to even 5 percent. So the 1 percent cap is going to be
13 difficult to get some of the, you know, the diverse
14 technologies that bring in the benefits that the previous
15 speaker just spoke about.

16 **MR. CAVROS:** Cindy, this is George Cavros. Could I
17 have a word?

18 **MS. MILLER:** Go ahead.

19 **MR. CAVROS:** Thanks. I didn't realize when I was
20 looking at the targets that they were driven by this cost cap.
21 This cost cap seems to be driving the goals. It seems to be
22 driving the excusal of performance, and it seems to be driving
23 the REC value. And, you know, maybe this might be a good
24 opportunity to address that cost cap.

25 You know, at first blush, the RPS targets are very

1 weak, and we don't believe that they will incent the type of
2 renewable investment and job creation found in the legislative
3 intent of House Bill 7135. In the early years it preserves the
4 status quo. You know, I would agree that 2 percent is a
5 starting place, and then we are held stagnant there until ten
6 years later. You know, it seems like we are on a slow train to
7 nowhere in terms of incenting renewable energy investment,
8 robust renewable energy investment in the state.

9 The targets in the Florida RPS will be the lowest of
10 the 28 states that have an RPS. You can look from Arizona to
11 Wisconsin, the Florida targets don't come close. That said, it
12 is an oversimplification to say that the targets alone decide
13 the success of an RPS. You know, coupled with the cost
14 containment constraint which maybe I can discuss now, I have
15 concerns that the RPS rule as proposed will not drive
16 investment in renewable energy technology and jobs, which that
17 is a part of the legislative intent and that of Governor Crist.

18 You know, I am concerned that it is just going to
19 support the status quo. And I think we all can agree that
20 business as usual just isn't an option in Florida anymore.
21 Florida wants to position itself as a leader in a clean energy
22 economy.

23 You know, Bob asked earlier a very good question. He
24 goes where is the ratepayer in all of this? Well, let me
25 answer that as a ratepayer. My bill early next year is going

1 to increase by over 20 percent from early cost-recovery for new
2 nuclear plant construction, and also fuel charge pass-throughs,
3 and all of those costs are related to conventional generation.
4 Okay. That is 20 percent from decisions that this Commission
5 has adopted. And I would like to ask the previous speaker, Mr.
6 Twomey, where his outrage is over that? And that is to 3-1/2
7 million ratepayers in FPL's territory and the ratepayers in
8 Progress's territory and we hear similar stories of massive
9 rate increases.

10 I mean, we finally have the opportunity to wean
11 ourselves from conventional energy, to avail ourselves of
12 renewable energy, the energy dollars in the state, you know,
13 and the proposed rule limits the rate impact to 1 percent, even
14 though I am going to be paying 20 percent next year because of
15 our reliance on conventional generation.

16 And I would like to, you know, and maybe I would like
17 to throw a question out to the staff and have the staff answer
18 this. You know, where is the fairness in the regulatory
19 framework? If conventional generation was subject to the same
20 cost cap, I wonder if we would have any conventional generation
21 today. You know, you need to level the regulatory playing
22 field. It is obviously discriminatory, and the proposed cap is
23 a reflection of that. And I would like to throw it back to the
24 staff and get their comments on that. Thank you.

25 **MS. MILLER:** Okay, thank you. Let's see if we have

1 any responses on that.

2 **MR. BALLINGER:** Cindy, if I may.

3 **MS. MILLER:** Tom Ballinger.

4 **MR. BALLINGER:** You mentioned your bill going up
5 20 percent, that may be true with fuel, but what we are talking
6 about today is a REC market which would even add to that, and
7 that is why we are very considerate of the impact to the
8 ratepayers. We are talking about continuing to pay renewable
9 generators the utilities' avoided cost and then adding an adder
10 to that for this REC market to recognize the additional
11 attributes that they have. So we are trying to be considerate
12 of the ratepayer and balance that.

13 **MS. MILLER:** Okay. Let's proceed down the line here.

14 **MR. CAVROS:** Could I respond to that? This is George
15 Cavros, again.

16 **MS. MILLER:** If you want to make a quick comment in
17 response and then we will move on to the next speakers.

18 **MR. CAVROS:** Sure, thank you. I just wanted to
19 recognize that we appreciate what staff is doing in trying to
20 keep costs low. I just want to just for the record state that
21 there is -- I bet there are a lot of ratepayers out there that
22 would want to avail themselves of renewable energy options at
23 even more than the 1 percent cost cap. Thank you.

24 **MS. MILLER:** Thank you.

25 **MR. JACOBS:** If I may?

1 **MS. MILLER:** Leon Jacobs.

2 **MR. JACOBS:** Hi, this is Leon Jacobs. I would
3 suggest, and I hope we are looking at this in somewhat of a
4 broader context. I thought what I understood the analysis to
5 be is we understand that the utilities are going to have to
6 incur costs to deal with carbon reduction. And I thought one
7 of the elements here was assessing a value to the options and
8 resources that they have available to them to do that.

9 I think it's a correct observation to say if we
10 continue to rely heavily and if not exclusively on fossil fuel
11 resources, those costs are going to continue to increase, and
12 the consumer's risk, as Mr. Twomey correctly noted, for those
13 costs will continue to increase. And so I hope we would look
14 at this as, okay, here is an opportunity, here is a resource
15 where not only can we diversify the fuel mix, but we can help
16 the utilities to better manage that cost risk. That has to be
17 a part of this analysis, not just the idea that there will be
18 some rate impact.

19 And, by the way, what is the time frame of that rate
20 impact? Will the life-cycle costs of these resources really
21 wind up being an onerous rate impact to these consumers when
22 the costs that Mr. Cavros referred to are definitely going to
23 have a long life-cycle. Are we looking at -- how are we
24 looking at the life-cycle costs for these resources and how
25 they measure into that equation?

1 So those are some of the subtle points that dig deep
2 into the analysis here. And, again, I think it's going to
3 require -- and I don't think we can do this overnight. We
4 probably can't do it immediately in the first design, but it
5 has to be a part of the process as we talked about earlier in
6 putting this facility in place.

7 **MS. MILLER:** Thank you. So we are continuing to look
8 at these percentages in (3) in the rule, and I know that some
9 of you have nicely already sent some written materials with
10 some suggested revisions but, again, those who haven't,
11 September 2nd is the date.

12 Sean Stafford.

13 **MR. STAFFORD:** Thank you.

14 On behalf of Florida Crystals, we strongly support
15 the Governor's executive order issued in 2007, and we believe
16 that is a goal that should be set. We think there is an
17 enormous jump start value to the renewable energy market when
18 you set a strong goal, send a strong message, and then have
19 that tension of the safety valves which you are trying to build
20 into this, which is either some sort of price cap that does
21 protect consumers from rate increases, but we believe the
22 goal -- and we will just stick to the goal and not get into the
23 price cap. We believe the goal ought to be more aggressive. I
24 mean, we very respectfully, you know, we respect the work that
25 you all have done in assembling this and putting it together,

1 but those numbers just aren't the kind of numbers that are
2 going to bring renewable energy developers into Florida, that
3 are going allow existing renewable energy developers to expand,
4 and incentivize existing renewable energy developers to be more
5 aggressive.

6 Right now, Florida Crystals has, you know, I think we
7 mentioned in it the written statement, there are plans to
8 expand currently in Florida, but those plans are going to be
9 very contingent upon this rule, and these goals that are set,
10 and the structure of this and how it works. And as, you know,
11 really the nation's -- we believe it is the nation's largest
12 biomass electric plant located right in Florida, Crystals has a
13 lot of experience doing this and doing it in a cost-effective
14 way.

15 We don't have some of the other problems that might
16 exist on the cost side that may be there with other
17 technologies. But from Florida Crystals' perspective, the goal
18 ought to be far more aggressive, but ought to contain those
19 safety valves that do have those protections. Will we meet the
20 goal? You know, we don't know. But should we try for 20 by
21 '20, we believe we should, and that's our position.

22 **MS. MILLER:** Are you suggesting that the Governor's
23 executive order had a 2020 requirement in it?

24 **MR. STAFFORD:** We will echo what Suzanne said, which
25 is the Governor's executive order was very clear about setting

1 the state on a new path on energy. And in all of the
2 statements as it was released, and I think the Governor was
3 very clear that 20 percent was the number. He made it in, I
4 believe, his State of the State Address to the Legislature in
5 discussing renewable energy and greenhouse gas reductions, and,
6 you know, that is the number that we support.

7 **MS. MILLER:** Thank you. And I believe we have a few
8 people up here who would like to speak.

9 Mark.

10 **MR. FUTRELL:** Sean, if you could, you mentioned that
11 you do believe that some sort of a cost containment is
12 appropriate. Can you give us a sense of what you feel an
13 appropriate number would be, or some sense of what that level
14 is that you think is appropriate to accomplish what you think
15 ought to be accomplished?

16 **MR. STAFFORD:** Well, you know, we have studied it and
17 we haven't submitted numbers yet, and we are waiting -- we are
18 trying to assemble that, as well. And we don't know what the
19 exact number should be, but given the context that the previous
20 speakers have talked about, about the cost of where we are now
21 because of traditional generation, we feel that 1 percent is
22 really, really undershooting it. You know, maybe it is 3,
23 maybe it is 5, I don't know. We haven't landed on a specific
24 number that we think should be the number moving forward, but
25 we strongly believe one in the context of all the other rate

1 increases that have been passed on to consumers the last few
2 years, one is just a -- it's an unfair comparison for a market
3 that needs -- a market of renewable energy producers that need
4 to be sent a message along with their partners that are going
5 to be financing these projects, which is Florida is serious
6 about it. We are going to set the requirement out there. We
7 are going to do everything in our power to make sure this
8 happens given all of the regulatory tools that the Commission
9 has. All of the -- I guess people talk about incentives, but
10 also the hammer.

11 That message has to be sent. And if it is not sent
12 you just aren't going to see a whole lot more generation. So,
13 as to a specific number, we haven't lit on it yet, I guess you
14 could say, but we do strongly feel one is too low.

15 **MR. FUTRELL:** Well, it would be very helpful to
16 provide that information to staff. I mean, Ms. Brownless has
17 committed to suggesting higher targets than is in the strawman
18 and to provide supporting information and analysis on the
19 impacts of that. And it would be helpful for those that are
20 going to file the comments to attempt that similar type of
21 effort. That would inform staff very effectively. Thank you.

22 **MS. MILLER:** Bob Trapp and then Tom Ballinger.

23 **MR. TRAPP:** I just wanted to clarify one thing. You
24 stated you mentioned goals. Are you advocating goals or are
25 you advocating standards? I think the rule calls for

1 standards.

2 **MR. STAFFORD:** Standards. I was just interchangeably
3 using that term.

4 **MR. TRAPP:** We try not to do that.

5 **MR. STAFFORD:** I apologize.

6 **MR. TRAPP:** Thank you.

7 **MS. MILLER:** Tom.

8 **MR. BALLINGER:** Well, Bob asked my first question. I
9 caught that, too. I didn't know if it was -- because you said
10 if we meet 20 percent, fine, so was it a goal or a standard.
11 But it is a standard. You think it is number we should shoot
12 for. Okay. That sort of answered my question, because I was
13 going to ask you to comment on Mr. Moyle's provision that we
14 should have compliance payments if we don't meet it. So what
15 if we don't meet these things? We need to have the teeth in
16 it. And I think you are saying the same thing now.

17 **MR. STAFFORD:** We are. And Florida Crystals provided
18 some options on what we thought were some possibilities on the
19 compliance side. You know, the bill didn't exclude an ACP, the
20 bill didn't specifically address an ACP. You know, it is our
21 opinion that the wide latitude in that language that I believe
22 said -- let me read directly from the bill. The language that
23 said appropriate compliance measures gives you all the
24 flexibility you would need to put together a serious and
25 meaningful set of rules and penalties for noncompliance.

1 **MR. BALLINGER:** I would echo what Mark said that any
2 submissions you have with proposals of different percentages,
3 give us the economic impact of it. If it is going to be
4 20 percent by 2020, what do you estimate the impact to the
5 ratepayers to be?

6 **MR. STAFFORD:** We will be more than happy to do that.
7 And, you know, obviously our economic impact is a little
8 different than some of the other renewable technologies'
9 economic impact. So as we discuss economic impacts moving
10 forward, we have to take into consideration that technologies
11 have wide varieties of costs. You know, generally speaking, we
12 believe that -- and in our data submission we believe that
13 moving forward a new renewable energy plant that we built would
14 have probably a levelized cost of plus or minus 12 cents a
15 kilowatt hour. That is a very different cost structure than
16 are out there with some of the other technologies.

17 Now, the other technologies have their benefits and
18 we have our benefits. And we can, you know, probably argue
19 that, I guess, in the tiering section, but we feel that we can
20 provide economic data as to how it would impact the ratepayers
21 from a biomass production point of view, but I don't know if we
22 are the best qualified to discuss, you know, some of these
23 other -- there were a couple of submissions that had rate
24 impacts or electric generation at 60 cents and above. That is
25 just not an area of expertise that I think Florida Crystals

1 believes we have, but we can provide complicate data on our
2 technology.

3 **MS. MILLER:** We are going to go to Bob Trapp.

4 **MR. TRAPP:** I had one more follow-up. You are
5 touching on some things I really want to talk about if we can
6 today, and Tom goes back to some of those comments Jon Moyle
7 was talking about earlier. Let me address the alternative
8 compliance payment, and I think we explained it a little bit or
9 tried to explain it a little bit in our summary of the rule.

10 In our view, the Legislature did give the Commission
11 discretion to look at compliance strategies. But what they
12 didn't give us was the name of the agency to send the money to.
13 And we noted that in most jurisdictions during the RPS
14 workshops that employed an alternative compliance payment in
15 lieu of meeting the goal or standard, they sent it to some
16 place that used the money to develop renewables. We weren't
17 given that. I don't think -- the staff didn't believe the
18 Commission had the authority to either establish such an entity
19 or to pick such an entity, so we kind of thought that that
20 conventional thinking of an ACP was off the table.

21 What does that leave you with? Basically, in our
22 experience it only leaves you with the conventional regulatory
23 compliance strategies. So what do I do? Fine them \$5,000 a
24 day for not complying with the rule? I don't think we would
25 get far with that. Do I attack their return on equity? If so,

1 Jon, how many basis points should I assign to it?

2 **MS. MILLER:** Bob, if I could, I know that's a topic,
3 but --

4 **MR. TRAPP:** You are going to pull me in?

5 **MS. MILLER:** -- but Joe Treshler and Clay Bethea have
6 been wait a long time to speak, so if I could let them speak
7 and then we go to the alternative compliance that would be
8 good.

9 **MR. TRESHLER:** Thank you. Yes. I am Joe Treshler
10 with Covanta Energy. We build facilities that fall within the
11 biomass definition, like Florida Crystals and Wheelabrator, and
12 we are supportive of their comments that have been made to date
13 here. And one of the things in just an overview of looking at
14 this is it seems like one of the major things that we are all
15 trying to work with is minimizing the cost of power to the
16 ratepayer. And it seems like this whole thing is sort of
17 minimizing the cost of renewable power, and those are not the
18 same things.

19 And I'm disappointed that staff's position is
20 continued reliance on the avoided cost model here. This
21 approach has stifled renewable energy development, indigenous
22 diverse renewable energy in this state for 15 years, and fuel
23 supplies are less sensitive to the fuel impacts that we are
24 talking about here just in the last few minutes where we have
25 seen huge rate increases that fall outside of how you do an

1 avoided cost structure. So, I guess, you know, that is just my
2 general feeling that we are kind of missing the point by
3 relying on an old model. And we are working with these guys to
4 try to come up with language to try to help you with that to
5 put the Public Service Commission in the driver's seat to set
6 standards that the utilities then have to come back to and that
7 there are some real penalties for not meeting so that we can
8 actually drive this marketplace. So we will all work on this,
9 and so thank you for your efforts, and we are here to try to
10 support those.

11 **MS. MILLER:** Thank you.

12 **MR. BETHEA:** Thank you, Cindy.

13 Clay Bethea, and today I'm representing the Florida
14 Pulp and Paper Association. And to make some comments around
15 the percentages of retail electricity, the numbers look
16 palatable to our organization from one respect that you don't
17 have unintended consequences. But one of the things that we
18 wanted to present would be you have got a lot of competing
19 interests. And as my company has presented in the past, if you
20 just put 100 megawatt facility up, well, that's
21 1.3 million tons if you do it conventional technology. And if
22 you are only harvesting 15 million tons a year, so pretty quick
23 you can see that you deplete the resource of woody biomass in
24 North Florida.

25 And obviously there is organizations here, and as you

1 comment to protect renewable energy as well as sites today, is
2 should you carve out, because as Sean stated awhile ago, there
3 is a lot of potential in agricultural type crops, whether it's
4 sugar cane, or energy cane, or maybe a eucalyptus. But woody
5 biomass, what is the potential there, and there is not the
6 potential that most people perceive.

7 There is a 20-year growing cycle. Our industry has
8 made that a renewable industry, you know, for what we have
9 worked on. We developed those planting technologies, but I
10 don't think you want to take and deforest North Florida and
11 plant all agricultural crops. I don't think that is our goal
12 here. And so as we look through this, do you have carve-outs
13 for just as you would solar and thermal, solar thermal, should
14 you be looking at woody biomass and then closed loop systems
15 within your percentages that you put there so that just as the
16 standard says, it's renewable, and if we start planting 100
17 megawatt facilities and they are all using woody biomass, we
18 are going to overcut that resource quickly, which we think
19 there is planting data that shows that within five years what
20 we are using today is going to be overcut.

21 **MS. MILLER:** Judy Harlow.

22 **MS. HARLOW:** Mr. Bethea, you mentioned the set aside
23 in the rule for solar, and I just want clarification from you.
24 Are you looking at some type of rule language that would limit
25 the amount of woody biomass that was used as fuel within the

1 RPS that would limit the amount of credits from those
2 facilities that would count towards utilities' compliance?

3 **MR. BETHEA:** I think there is data out there that
4 says we talk about waste wood that is not being used today, I
5 think we can quantify that pretty easily. And after you get
6 past that, and I would refer you to the study that was done by
7 GRU down in Gainesville. Biomass, and basically for the
8 40-megawatt -- and here it is talking about a 40-megawatt
9 plant, but I think it is a 100-megawatt plant now. But a
10 40-megawatt plant in GRU, Jacksonville, and Tallahassee, and if
11 you will look at what they are talking about there, they are
12 getting into pulpwood. They are going to use all the waste
13 wood and then they are getting into the pulpwood. And so what
14 you are going to do is you are going to drive cost up quickly
15 on pulpwood, and I would refer you to Europe where wood now is
16 priced -- and I think wood will be priced here before long --
17 on a Btu basis. It will not be priced on the way it is priced
18 today on a ton basis, it will be looked at as Btu.

19 And so a lot of people see this as a cheap resource
20 today, and I don't believe that is going to be the case
21 especially after the RPS. But the point is in Europe they have
22 got organizations that control cutting. You can't cut your own
23 land. I don't think that is going to go over in the United
24 States. I own my own property and I don't want somebody coming
25 and telling me when I can cut it.

1 So the point is how do we make this palatable to
2 where we don't overcut the forest. We know what those
3 resources are today. Now, some of those resources will
4 disappear and I think energy crops will be put in. But right
5 here at the beginning I think we need to be very careful what
6 we put because we can overcut those resources.

7 So what I'm saying is we don't want to hurt the folks
8 that want to do a closed loop system. If they want to go get
9 30,000 acres and plant an energy crop, you know, I think we
10 encourage, you know, replacement of fossil fuels.

11 **MR. FERRARO:** This is Frank Ferraro. Can I speak?

12 **MS. MILLER:** Yes, go ahead.

13 **MR. FERRARO:** Thank you. First, with just a general
14 comment. The last speaker, it is kind of scary to a developer
15 that there might be a thought that the state is trying to
16 regulate what the free market will regulate. That is if the
17 price for fuel gets to be so high, biomass or any other kind,
18 developers will not build and that's the regulation. I would
19 hate to see the RPS become a tool to decide what technologies
20 get built because of some theoretical model. But that is just
21 a general comment on that last comment.

22 But as to the percents, as I said earlier,
23 Wheelabrator will comment on it, but we will reserve that until
24 we see the data that the staff has said they are going to post,
25 because we feel we need to see that before we make any informed

1 recommendation. As to the Governor's 20 percent goal, I
2 certainly think that that is a good and achievable goal, and I
3 would think that he would have wanted to see it happen before
4 he reaches his 94th birthday. So I think that perhaps putting
5 it out to 2050 is somewhat of a stretch.

6 And just before you go on to talking about the ACP, I
7 want to stick with this Number (3) here, and I think we are
8 still in Number (3) and Number (3)(a). And this may sound like
9 I am talking semantics again, but here it is much for specific,
10 where the strawman rule instructs the investor-owned utilities
11 to propose annual global portfolio standards. And I am, again,
12 struck by the -- confused by the use of the word proposed,
13 because here in this context, as opposed to (1)(c), it's
14 requiring a proposal from the utilities within 90 days of the
15 effective date. So we are not talking about a future
16 rulemaking, we are talking about now.

17 There is nothing to be proposed. If there is a fixed
18 percentage established in the RPS, there's no proposal. It is
19 this is what the number will be. The utility has a certain
20 amount of retail electric sales it has, there is a fixed
21 percentage set in the rule, and so it's a simple calculation.
22 So, again, I think the word proposed needs to be stricken from
23 Section (3), because it is not a proposal, it is a requirement
24 to submit the amount of RECs that they are going to have to
25 produce.

1 **MS. MILLER:** Okay, thank you. Let me follow up on a
2 few things here and we will also hear from staff on that.

3 Commissioner Skop.

4 **COMMISSIONER SKOP:** Thank you.

5 Before we went on to the ACP discussion, I guess,
6 that Mr. Trapp was going to speak to, and if we could possibly
7 put Mr. Ballinger's slides back up. I would like to speak to
8 provision (3)(a) with respect to the implementation schedule.
9 And I'm equally concerned about the cost to the ratepayers, but
10 I do say that I share many of the concerns that have been
11 expressed here today by some of the participants to the extent
12 that the proposed strawman rule implementation schedule, I
13 think, needs to be more aggressive in terms of implementing
14 even if it becomes a stretch goal, assuming that there is an
15 appropriate cap or a safety valve to constrain costs.

16 And I think that, you know, I fully support both the
17 Governor and the legislative initiatives, and they have tasked
18 us to develop the best possible analytical framework in support
19 of legislative ratification. And I guess one of the concerns I
20 see it has been suggested that Florida currently has a 2
21 percent existing renewable generation within the state, and I
22 see that the proposed rule in Item 1 suggests that the baseline
23 should be adopted by January 1st, 2010.

24 And I think that perhaps a more appropriate
25 baseline -- and, again, that's subject to determination, I

1 guess staff has taken that action item to ascertain exactly
2 what our existing renewable resource would be, but perhaps the
3 baseline should be implemented by January 1, 2009, and then we
4 would be subject to legislative ratification, and then you
5 would move on from there with maybe some additional increases
6 in renewables.

7 It would jump-start, as some of the other
8 stakeholders have suggested, moving forward with complying with
9 the RPS. But certainly 2050, again, I'm not so sure the
10 Governor would be happy with waiting that long in terms of
11 trying to do what both he and the Legislature has directed our
12 Commission to do. So certainly I think a more aggressive
13 approach, and I will speak to that in one second.

14 But going to Tom's slide real quick about the cap,
15 and I guess I have a greater underlying question. One of Mr.
16 Ballinger's slides showed the existing retail sales by utility.
17 And assuming we know that number, and that would be 1 percent
18 of the retail sales, that translates into a dollar value figure
19 by utility. It would be interesting at least for me and
20 also for some insight into what goals are achievable in terms
21 of setting percentages to know how much renewable capacity in
22 terms of actually building various renewable resources could be
23 actually installed on a per year basis using a 1 percent cap.

24 For instance, you know, if you know you have a
25 certain dollar amount, and assuming that wind is about

1 2.3 million per megawatt installed, PV solar is about 10,000
2 per kilowatt installed, I don't have a good number for solar
3 thermal or biomass, but it would be, at least to me,
4 instructive to see some sort of correlation between if the cap
5 were at 1 percent, what does that translate into how much
6 nameplate capacity that you could put in for each year based on
7 the individual types of renewables.

8 I guess the other part of that, I guess, that
9 translates into once you know what types of renewables that you
10 can put in on a year-to-year basis you know a capacity factor
11 for each of those renewables. For instance, wind, solar,
12 biomass is nearly a baseload, solar thermal, et cetera, you can
13 calculate how many actual kilowatt hours would be expected to
14 be produced by each of those respective renewables. And then I
15 think assessing that, that translates into what is achievable
16 in terms of each year of what you could do.

17 And if there is no direct correlation between the 1
18 percent and these numbers, and I think Tom has placed them,
19 these numbers are driven by the 1 percent cap, then obviously
20 to reach a more aggressive goal the cap needs to increase or
21 some other mechanism needs to be addressed to find that happy
22 trade-off between cost and implementing prudent policy.

23 So, again, I would ask staff, or perhaps even more
24 appropriately the stakeholders to do some sort of instructive
25 analysis that could ascertain exactly what ability and how many

1 kilowatt hours or megawatt hours could be attained by each of
2 the various renewables to help us, you know, further define
3 what this schedule would be. But to me I do share the concern
4 that the schedule seems to be highly biased to cost. Which,
5 again, cost is a big consideration to me. But also, too, we
6 have been tasked by the Legislature and the Governor to
7 implement an aggressive RPS, I think, and although it is not
8 expressly stated, I do remember hearing 2020. 2030 maybe I
9 could live with, but, again, I think it is important to be
10 cognizant of that and balance those tradeoffs between cost and
11 implementing renewables for the sake of reducing our dependence
12 on foreign oil and stimulating our economy in Florida.

13 And I think one of the best things that was contained
14 in the legislation that was enacted is that the Legislature
15 duly recognized the importance of generating in Florida, which
16 provides jobs in Florida, supports our economy, and does
17 something for our state instead of buying thin air out of
18 state. And I think those are some very important
19 considerations. Actually, I've been approached by a large
20 solar company that had an interest in setting up shop in
21 Florida that actually manufactures solar, and I think that is a
22 good thing. That is part of what could come to Florida as a
23 result of this.

24 But just one additional point that I wanted to make
25 with respect to, I think, on Page 3 -- excuse me. I have lost

1 myself -- Page 5 of the summary of the rule, it speaks to a REC
2 price cap. And I think if I understood Mr. Ballinger's
3 calculations that are presented on the slides correctly, that
4 the \$16 per ton originated in part from looking at the
5 generation portfolio of each of the respective utilities, and,
6 you know, some utilities are heavily dependent upon natural gas
7 and others have coal-fired generation, and then somehow meshing
8 that to the extent that you would not exceed a 1 percent price
9 cap. I guess that's a good analogy.

10 I guess what kind of throws me a little bit, and I
11 wanted to get a little bit more discussion on is that the REC
12 is expressed in dollars per ton, and I think that that was to
13 kind of drive in or back door into the 1 percent cap. It is
14 not really a 1 percent revenue cap. But to me, again, noting
15 that each utility has its own different generation, for
16 instance, that, you know, coal would have more emissions per
17 ton than natural gas, but also, too, like for instance,
18 biomass, you know, they emit some carbon, so how do you equally
19 balance using that type of methodology.

20 I mean, I am more used to seeing it in a dollar per
21 megawatt hour. One REC is 1,000 kilowatt hours, which equals
22 one megawatt hour. So I just wanted to get a little bit more
23 clarification and discussion. But I also do share the concern
24 that if we are going to incentivize renewables noting that the
25 avoided cost at current, you know, fuel prices is probably

1 somewhere between 80 and \$90 per megawatt hour, \$16 per ton,
2 and I don't know what that would convert to, to megawatt hour,
3 I just kind of question how you can get there because
4 renewables are a little bit more than that. So if Tom could
5 provide just a little brief discussion or clarification, I
6 would appreciate it.

7 **MR. BALLINGER:** Sure, I will try. Picking a REC
8 price cap of \$16 a ton, first, I think it is kind of a
9 conservative estimate. It came from some discovery and data we
10 saw in the nuclear need cases for FPL. It is on, quite
11 frankly, the low side of cost of carbon in the future
12 projected. But we thought it would be appropriate to use a
13 dollar per ton basis to kind of quantify the differences in
14 renewable generators. Some have no emissions, like solar and
15 wind; some have some emissions, like biomass. So to try to
16 equate or not prioritize, but recognize the differences in
17 renewables as far as their impact on the environment, and
18 taking a dollar per ton value is the way to do it.

19 Now, that doesn't equate easily to cents per kilowatt
20 hour. So until we get a utility with a portfolio of renewable
21 generators and model its economic dispatch on its system, you
22 are not going to get the impact of carbon emissions on the
23 utility system. So until we have that data, we really can't
24 get a firm grip on what it will do to the utilities' costs.
25 What we did in the interim was try to develop an equivalent

1 cents per kilowatt hour rate, and that is why I went back to
2 historic data and tried to show the linkage between carbon
3 emissions and kilowatt hour production for each utility given
4 their existing structure and their existing rates. And I think
5 that is why this table, in my mind, shows some logic and some
6 sensibility.

7 The way the rates shook out with FPL being primarily
8 natural gas, they are the lowest emitter on a per kilowatt hour
9 basis of carbon than the other utilities that have more coal
10 and oil. This was purely done to try to get a feel for if RECs
11 were priced at this much, which would be the adder to avoided
12 cost, what would the total dollars be then of the price of the
13 RPS standard compared to the 1 percent revenue cap.

14 So there is really the two caps going on here. One
15 is setting if the market cap was this, this is how much you
16 would spend to meet your RPS goal versus your 1 percent cap.
17 Obviously, if you spend more for RECs, you are going to meet
18 the 1 percent that much quicker. So it was trying to show a
19 balance. And it is a number that is for discussion. It is
20 nothing, you know, wed in science. It is a way to try to get
21 something to start the discussion going of what is the right
22 number.

23 **COMMISSIONER SKOP:** And just as a follow up, and I do
24 appreciate that, I think that is a good way to quantify based
25 on the 1 percent cap analogy and trying to develop a fiscal

1 framework for what implementation will cost. I just wonder if
2 it might be more straight forward. I mean, we have got a good
3 handle, I think, as a Commission on what avoided costs are for
4 each type of generating unit. You know, if the REC were tied
5 directly to, you know, perhaps a generation which seems to kind
6 of correlate well to the legislative directive that it's based
7 on prior years retail sales, which are dollars per kilowatt
8 hour, it would seem maybe that it would be more simplistic to
9 avoided cost plus the price of the REC equals, you know -- but
10 I will leave that as the basis for further discussion.

11 But just touching upon my point, again, I think that
12 the proposed schedule, some consideration probably should be
13 given as some of the stakeholders have mentioned, to probably
14 taking a little bit of a more aggressive approach, or stretch
15 goals being equally cognizant of cost consideration and having
16 those appropriate safety valves. But, again, I think that -- I
17 think more would be expected from a draft rule than perhaps the
18 basis for discussion presented.

19 I think that both the Legislature and the Governor
20 probably expect a little bit more aggressive implementation.
21 And I don't know what that is. I mean, it could be -- I will
22 just go hypothetical, and, again, this is not my thinking, but
23 in 2009 if you have the existing baseline then by maybe
24 2010 you could add something to it. Like we have 2 percent
25 now, maybe 4 percent in 2010, and then kind of ramping up

1 slowly. But then when you hit 2015, where you have some time
2 for adoption and construction, maybe going up by 2 percent per
3 year. I don't know how that would drive costs. That would be
4 an important consideration. And to me 2030 would be an
5 alternate fallback, but, you know, the last time I checked it
6 was try and do this in a cost-effective manner, but stretch
7 goals, I think, are important. And if we don't achieve them,
8 then maybe there is that safety valve that provides for
9 protecting the ratepayer. Which, again, is equally important.
10 But just if consideration could be given as staff continues to
11 develop the proposed rule, I think I would greatly appreciate
12 that.

13 Thank you.

14 **MS. MILLER:** Bob.

15 **MR. TRAPP:** I would just like to also mention, you
16 know, this is a strawman throwing it out for discussion and
17 everything. We have put some numbers in there, but, again, we
18 have retained a national consultant to try to help us better
19 get a handle on those numbers. And hopefully we will have
20 results from that study that are Florida-specific and that we
21 can get a better grasp of both the RPS percent numbers and the
22 economic effects of a 1 percent cap and other types of things,
23 and the economic potential as well as technical potential
24 phases of that study.

25 So I would absolutely amplify on your comments,

1 though, that input from the parties is highly desirable and
2 highly welcomed in that regard, too, because we would like to
3 get as much information as we can from consultants, you all,
4 us, independent analysis as we can.

5 **COMMISSIONER SKOP:** One more follow-up.

6 **MS. MILLER:** Commissioner Skop.

7 **COMMISSIONER SKOP:** Thank you.

8 Just one more quick follow-up, too, just to Mr.
9 Ballinger.

10 In relation to developing the 1 percent cap and the
11 equivalent rates and the REC price cap, did that just encompass
12 the utilities' existing generation and excluded any PPAs that
13 they might have for renewables, or did that just look at their
14 existing base load generation in developing that number?

15 **MR. BALLINGER:** I don't think it plays in because I
16 look at retail sales, so that comes from a mix of generation
17 and purchases.

18 **COMMISSIONER SKOP:** Thank you.

19 **MS. MILLER:** Okay. If we could go -- yes, Michael
20 Dobson.

21 **MR. DOBSON:** I just wanted to make a very brief
22 comment. I know you are trying to move on, and you do have my
23 written comments, but we wanted to go on record, the Florida
24 Renewable Energy Producers Association, to let you guys know
25 that we, too, certainly support the Governor's position. It is

1 our position that we wouldn't be sitting here today, frankly,
2 without the Governor's executive order. So when I look at the
3 strawman proposal, I would have to admit that we have somewhat
4 obliterated anything that the Governor had in mind with respect
5 to the percentages and the time frame.

6 And with respect to the 1 percent cap, what I would
7 tell you is that you have a tough job. Because the problem
8 with Florida, when I talk to developers who have tried to do
9 business in Florida, the word is that you will spend a lot of
10 money in Florida and you will die young trying to get a deal
11 done. So as a consequence, we really don't have a lot of
12 historical data that would give you some idea as to the costs,
13 how the costs will be spread out, how it will ultimately
14 effect, you know, the ratepayer. But what I can tell you is
15 that a lot of that depends on the deal. It depends on that
16 renewable project. Each project is different. Those projects,
17 the cost is really going to depend on a variety of things,
18 depending on the technology, depending on the experience of the
19 developer, depending on the financing models, and, you know, it
20 could be a host of things. So I am saying that to say that we
21 are going to have to have some latitude to go beyond the 1
22 percent. I think that is going to be crucial. Thank you.

23 **MS. MILLER:** Thank you.

24 **MR. KARNAS:** Hi, Cindy. This is Jerry Karnas, a
25 couple more comments.

1 **MS. MILLER:** Okay, go ahead.

2 **MR. KARNAS:** Thank you. Yes. One of the key
3 elements to cost control for renewables is maturing the market
4 quickly. Creating the economies of scale quickly. You know,
5 so that is one of the issues with the standards is that you are
6 actually going to end up having, you know, not driving the cost
7 reductions down quickly, because of the unambitious goals. For
8 instance, Germany has averaged 5 percent cost reductions per
9 year on solar PV. They have 4,000 megawatts of PV installed in
10 Germany, 22,000 megawatts of wind, and they have done it
11 through the price of a loaf of bread, which is the equivalent
12 ever three to four Euros, which is \$7 American, which is
13 exactly what -- or a little less than what Progress Energy
14 customers are paying per month in 2009. It's less than what
15 they will be paying in 2010, which is \$10.71 per month.

16 Going all the way up to 2015, your analysis states
17 \$36 per month on every customers' bill for a nuke plant that is
18 ten years away. A 40-megawatt solar plant can be built in one
19 year. A 10-megawatt solar plant can be built in about
20 six months. So focusing on creating economies of scale quickly
21 as an important cost containment device is critically important
22 to be evaluated in this rule.

23 **MS. MILLER:** Thank you.

24 We do need to change court reporters, and I know we
25 have some follow up on a couple other questions that came up,

1 but we are going to take a fifteen-minute break. It's 2:25
2 now, so we will come back at twenty of 3:00.

3 (Recess.)

4 (Transcript continues in sequence with Volume 2.)

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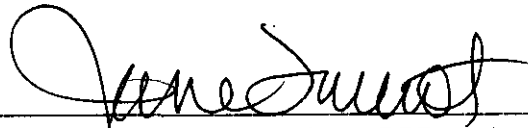
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 25th day of August, 2008.



JANE FAUROT, RPR
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