

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080001-EI

In the Matter of:

FUEL AND PURCHASED POWER COST
RECOVERY CLAUSE WITH GENERATING
PERFORMANCE INCENTIVE FACTOR.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 6

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, April 22, 2008

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

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1 PARTICIPATING:

2 JOHN T. BUTLER, ESQUIRE, representing Florida Power &
3 Light Company.

4 BILL McNULTY, representing the Florida Public Service
5 Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN CARTER: Commissioners, we are now on Item
3 Number 6. Item Number 6. Let's give staff a moment to get
4 adjusted here.

5 Commissioners, as staff is getting ready, this is, on
6 this matter, Item 6, it's interested, interested persons may
7 participate, so we can ask the parties. But before we do
8 any -- but I just wanted to kind of let you know that we can do
9 that as we, as we go on this matter here.

10 First of all, let's have staff introduce the issue
11 and then we'll get into our question phase. Staff, you're
12 recognized.

13 MR. McNULTY: Yes. Commissioners, Item 6 pertains to
14 FPL's petition for the Commission's approval of FPL's proposed
15 volatility mitigation mechanism or VMM.

16 Issue 1 addresses whether the Commission should
17 clarify the hedging order with regard to the timing of prudence
18 reviews of current year hedging results.

19 Issue 2 addresses FPL's request for approval of the
20 VMM, a rate smoothing mechanism which FPL proposes as a method
21 for managing fuel factor volatility in lieu of hedging.

22 Issue 3 addresses FPL's request for an alternative to
23 the VMM in the event the Commission declines to approve the
24 VMM. In this alternative, FPL proposes the Commission approve
25 the company's hedging guidelines appearing in Exhibit 3 of its

1 petition as well as the revised procedures for reviewing FPL's
2 hedging results set forth in Paragraph 19 of its petition.

3 On April 17th, 2008, FPL presented a letter to Tim
4 Devlin, Director of the Division of Economic Regulation,
5 requesting that the Commission grant FPL's deferrals on
6 Issues 2 and 3 until the hedging audits currently underway are
7 complete. The hedging audits include one conducted by the
8 Division of Regulatory Compliance and Consumer Assistance and
9 another conducted by the Division of Competitive Markets.

10 FPL sent another letter to Mr. Devlin on April 21,
11 2008, further clarifying that if the Commission approves its
12 request for a deferral of Issues 2 and 3, the company intends
13 to begin hedging for 2009 fuel purchases on or around May 1,
14 2008, consistent with FPL's risk management plan and generally
15 in accordance with the guidelines proposed in Exhibit 3 to
16 FPL's VMM petition. Also in its April 21 letter FPL also
17 proposes that staff schedule an informal workshop as soon as
18 practical in order to -- and it further states that it is
19 hopeful that a proposed stipulation regarding improvements to
20 the existing hedging process could be taken to the Commission
21 at the July 15th, 2008, Agenda Conference.

22 Staff notes that fuel docket parties who participated
23 in the March 11th, 2008, workshop held on these matters are
24 present here today and they may be available for any questions
25 you may have. Staff is also prepared to address questions, so

1 at this time staff suggests that the Commission proceed with
2 the disposition of FPL's requested deferral of Issues 2 and 3.
3 Thank you.

4 CHAIRMAN CARTER: Commissioners, before we get into
5 questions or answers, I think it would be appropriate if we
6 heard from FPL before we make a decision on that. So we'd give
7 an opportunity for FPL to be heard on this matter. Mr. Butler,
8 good morning. You're recognized, sir.

9 MR. BUTLER: Thank you, Mr. Chairman.

10 FPL, as Mr. McNulty just pointed out, we think under
11 the circumstances we're -- you know, one of the big sources of
12 concern that the Commission staff expressed over our two
13 substantive proposals, the VMM and the approval of specific
14 hedging guidelines, was that they may be premature at this
15 point, that we've got these audits going on, that information
16 from that could inform decisions. I know staff has concerns
17 about the proposals. We are hopeful that also as suggested in
18 the letter yesterday we can have an informal workshop, have
19 discussions with the other utilities and the other
20 stakeholders, parties to this docket, and come up with
21 something regarding hedging guidelines that may make sense to
22 bring back to the Commission. But in any event we're really
23 all better off by having the substantive Issues 2 and 3
24 deferred rather than decided at this point. And I'm certainly
25 available to answer any questions that you have on that or

1 other subjects about our proposal.

2 CHAIRMAN CARTER: Thank you. And stay with us for a
3 moment.

4 Commissioners, questions. Commissioner Skop, you're
5 recognized.

6 COMMISSIONER SKOP: Thank you, Mr. Chairman.

7 I have a few questions for staff and maybe some for
8 FPL. I guess the first question to staff, I guess the staff
9 recommendation indicated that the audits are supposed to be
10 complete in early May and at the end of June respectively. And
11 to the point made in, by FPL about -- or staff noted that it's
12 the desire to bring this back on the July 18th agenda.

13 Exactly, if the audits aren't going to be complete until the
14 end of June, how is that procedurally possible? Because you
15 guys would have to file a revised recommendation or whatever,
16 and how can that be accomplished by the June 18th time frame?

17 MR. McNULTY: Commissioner, the requested date was
18 the July 15th agenda. That would mean that ostensibly we would
19 be filing a recommendation in early July. We would just be
20 getting our audit results on June 30th if the current schedule
21 is met by the Division of Competitive Markets for their audit.
22 So I think that would be extremely challenging and, you know,
23 it would be very difficult to do. I'm not saying, I'm not
24 going to say it's impossible. I'll just say that, you know,
25 that that's a very aggressive deadline.

1 COMMISSIONER SKOP: And, Mr. Chair, and just a
2 follow-up to staff and then on to FPL.

3 I mean, I guess I have two concerns. One, first and
4 foremost is to avoid a repeat of what happened in November by
5 putting in the appropriate framework to make sure that never
6 happens again, and also, two, to protect consumers from fuel
7 price volatility risk. And so, like I say, I think that -- you
8 know, I have a few more things to say about that when we get
9 into debating the merits of the petition.

10 But a question to staff and FPL at least in relation
11 to Issue 1, which I think is very important not only to FPL but
12 to each of the investor-owned utilities governed by the hedging
13 order, is, is would it be more appropriate to defer the whole
14 issue before us to the extent that those, that procedural
15 framework, if you will, in terms of deliverables to the
16 Commission in exchange for we will render a decision on such
17 and such date? Is that more appropriately advanced by the
18 company individually? Or I noticed, I noted that you guys
19 spoke to wanting to get some input from some of the other
20 stakeholders or utilities perhaps in the process. And I guess
21 where I'm getting to is, is I'm ready to move forward on this
22 today. But, you know, would a deferral of the entire issue be
23 more appropriate or would, would we want to move forward just
24 on an individual basis?

25 Because I guess what I'm actually kind of -- I'll get

1 to my question in a second. I'm actually kind of surprised by
2 the fact that we only have one petition because I thought we
3 might have four in front of us today. But I guess I'm just
4 raising the general question. Because, again, as I see it is
5 that Issue 1 is a global issue. It affects FPL as well as the
6 other utilities governed by the hedging order; whereas, Issues
7 2 and/or 3 are essentially specific to the individual utilities
8 because each of them will mitigate their risk as, as they deem
9 appropriate by their own guidelines. So I just wanted to get
10 some input. And I'm not being critical because, again, I'm
11 ready to decide this. But --

12 MR. BUTLER: I think -- and certainly I can't speak
13 definitively for the other utilities or other stakeholders.
14 It's not my impression that there is an objection to Issue 1,
15 which is the one about accelerating the review mechanism. And
16 I -- speaking specifically for FPL, the problem about the
17 timing of the review of results once they are actual is a very
18 big concern to FPL. It is one of the things that really
19 motivated us to start thinking about different directions and
20 led to our filing the VMM petition in January. And as a
21 practical matter of timing, you know, it can't be deferred much
22 and have it work this year. We are interested in having it
23 work this year, if at all possible. So from that practical
24 perspective we would very much support moving forward with, you
25 know, a positive decision on Issue 1. But that's probably

1 about as far as I can go.

2 COMMISSIONER SKOP: Okay. And then, Mr. Chair, a
3 follow-up to Mr. Butler and then to staff.

4 CHAIRMAN CARTER: Before you go with Mr. Butler on --
5 I noticed that you said you wanted to hear from staff on that
6 same Issue 1. Staff, you're recognized.

7 MR. McNULTY: Yes, Chairman. Essentially we look at
8 the letter that was received yesterday to be asking for clarity
9 on the review process specific to FPL, and so we would look at
10 that workshop for that purpose of looking at the process that
11 we will be conducting for them. They brought forth in the
12 March 11th workshop some concerns about how they structure
13 their, their hedges, that they would be looking for a, a
14 complete risk management plan which is normally scheduled in
15 September for filing at an even earlier point in time so that
16 they could affect their hedges for the coming year and be
17 prudent in doing so.

18 So I perceive that letter to be addressing something
19 specific to FPL and not to all the companies. I think that
20 that would be a more aggressive goal and more difficult yet to
21 come anywhere close to the time frames that have been requested
22 in the April 21 letter by FPL.

23 CHAIRMAN CARTER: Commissioner Skop's question
24 specifically related to whether or not -- the deferral on Issue
25 1.

1 MR. McNULTY: Yes. And I would say that the deferral
2 of Issue 1 would be something that we don't see a reason for
3 delaying for that purpose.

4 CHAIRMAN CARTER: Okay. All right. Good. Now I
5 heard your answer. Thank you.

6 MR. McNULTY: Okay.

7 CHAIRMAN CARTER: Commissioner Skop, you're
8 recognized for a follow-up.

9 COMMISSIONER SKOP: Thank you, Mr. Chairman.

10 And, again, I agree with that. I think that time is
11 of the essence and we need to move forward. And, again, you
12 know, I'll get into it when we get in the discussion of
13 Issues 2 and 3. But, you know, as a policymaker, as one of
14 five policymakers I stand ready to make a decision on the issue
15 for all of the right reasons.

16 But back to Mr. Butler's point, with respect to FPL's
17 request for the deferral, I know in the pleadings, and I have
18 those highlighted, they specifically requested guidance prior
19 to May 1st for 2009. And in this regard and subsequent letters
20 that have been sent to Mr. Devlin, I guess it's my
21 understanding that for 2009 based on the deferral that they
22 would just conduct business as usual. So I guess what I'm
23 getting to is is the deferral fatal to revised guidance for
24 2009 in your opinion?

25 MR. BUTLER: I'm not sure I understand your question.

1 Let me ask, let me answer two pieces of it. First of all, we
2 do intend to move forward with hedging, as stated in
3 yesterday's letter, start doing it on or around May 1. We'll
4 be doing it consistent with our existing hedging, you know,
5 risk management plan that the Commission has reviewed, and
6 generally consistent, albeit, you know, somewhat less rigidly,
7 with the specific hedging guidelines that we had filed as
8 Exhibit 3 to the petition. So that's going to happen. We're
9 not waiting for further guidance from you on that. Just the
10 realities of the timing and what we need to do to do the right
11 thing for customers means we're going to be moving forward with
12 our hedging program starting around May 1.

13 If you were asking, Commissioner Skop, about what,
14 what we are either looking for or what we, what we would do in
15 response to guidance that might come thereafter in the middle
16 of our period of implementing hedges for 2009, I think really
17 all we can say at this point is that we're flexible. If
18 something comes along that makes sense, we will certainly be
19 taking that into account. If it's direction from you, we'll
20 definitely be taking it into account. But our plan is just to
21 move forward for however long, and we're in a position to do so
22 based on the guidance that, you know, we described in our
23 letter yesterday until that point is reached.

24 COMMISSIONER SKOP: And, Mr. Chair. To that point I
25 appreciate that, because I guess that was what my, I guess my

1 question. And probably I should have framed it a little bit
2 differently. I'm thinking about ten different things up here.
3 But I'm just wondering to that point for whether, and I'm
4 having trouble articulating my thoughts, but just whether we
5 would be looking at 2010 as the proposed change point. But I
6 think that you guys are open to, to whatever the Commission --

7 MR. BUTLER: We're open to whatever happens.

8 COMMISSIONER SKOP: Okay.

9 MR. BUTLER: I mean, but you raise a good point,
10 which is that to do this in the normal course of hearings where
11 things come back to you in November, decisions are made and
12 then they can be acted on, it's actually not all that long from
13 when we'll be needing to make some decisions of what to do for
14 2010. This isn't only about 2009, you know. Years will
15 continue thereafter. But I think for this year it's just stay
16 the course that we have described unless and until something
17 came along that, you know, had us required to change it.

18 COMMISSIONER SKOP: Okay. Mr. Chair, and just to
19 move us along. Like I say, I do think that FPL's petition
20 raises some important policy considerations, which, you know,
21 I'd like to decide. I mean, I was ready to decide them before
22 staff previously deferred them, but I do respect, you know, the
23 FPL petition to defer them with respect to the staff suggestion
24 in Item 2 that it would be premature to, to decide anything
25 prior to the financial audits. I guess to me the audits, while

1 they may be informative and provide some, some findings and
2 some additional best practices, at least from my perspective
3 they would not be dispositive to the central issue on how to
4 best protect \$4.5 million, I mean 4.5 million customers and
5 consumers from fuel price volatility risk. So, like I said, I
6 would be ready to move forward, but I would equally respect,
7 you know, granting FPL's deferral, if that's the will of the
8 Commission.

9 CHAIRMAN CARTER: Thank you. Commissioners, we're in
10 the court.

11 Commissioner McMurrin, you're recognized.

12 COMMISSIONER McMURRIAN: Thank you. And I'll just
13 first say that I appreciate Commissioner Skop's comments. I
14 have some of the same concerns. I, too, if it were the will of
15 the Commission to move forward today, I'm ready to do that.
16 But I think we probably would all benefit from the parties
17 getting together and working on their proposal and perhaps
18 bringing something back.

19 I noticed in the letter that it said perhaps a
20 proposed stipulation by July 15th. I, too, was concerned that
21 maybe we were -- I think the audits are important and
22 informative, but perhaps that doesn't keep us from making a
23 decision that might, that might benefit the customers. And I
24 think that that discussion is worth having, but I don't think
25 it necessarily has to occur today. So I think I'm definitely

1 in agreement with deferring Issues 2 and 3.

2 But I did want to ask Mr. -- I'm sorry. I'm having
3 a --

4 CHAIRMAN CARTER: Butler?

5 COMMISSIONER McMURRIAN: Mr. Butler. Thank you.
6 Mr. Butler, you know that I remember your name. I apologize
7 for that.

8 I did want to ask you about the July 15th that
9 Commissioner Skop was asking about earlier. And I noticed in
10 the letter it said you hopped to bring a proposed stipulation
11 back to that Agenda Conference. I think if it were a
12 stipulation, perhaps it might be easier to bring to the
13 July 15th. But if we're going to be taking up the petition
14 again, if we still have some of the same issues we have or
15 we're going to be, you know, in-depth looking at the details of
16 the hedging process, then that may be somewhat ambitious. Does
17 the July 15th have some certain significance for you or other
18 parties or is it just that you want to move ahead as quickly as
19 possible?

20 MR. BUTLER: I think the latter. Eternal optimism.
21 It's about as early as I think it could plausibly be brought
22 back. We recognize that it may well end up needing to be a
23 later agenda. You know, certainly the next one, I'm not sure
24 exactly when it is, but the end of July or beginning of August.
25 As you say, if it's not a stipulation, that may be kind of as

1 early as it would be feasible to do something.

2 We're just interested, obviously because of the time
3 sensitivity of this, to getting a decision as soon as everybody
4 is in a good position to make it, but wouldn't, wouldn't see
5 anything definitive about that particular date.

6 CHAIRMAN CARTER: Commissioner Argenziano.

7 COMMISSIONER ARGENZIANO: Yes. I need additional
8 help on this right now because what I'm hearing and I'm
9 concerned with also is for the consumer, but couldn't it work
10 the other way without getting more information? I mean, do
11 you -- and forgive me if I'm off track here, somebody put me
12 back on track, but couldn't our waiting for the audits
13 eliminate uncertainty as staff has outlined it here that could
14 be associated with recovery of prudently incurred gains and
15 losses? Can it work the other way also --

16 CHAIRMAN CARTER: Staff, you're recognized.

17 COMMISSIONER ARGENZIANO: -- to work against the
18 consumer?

19 MR. McNULTY: We're not -- we can't prejudge exactly
20 what the outcome of the audits would be. They could either be
21 very positive in favor of continued hedging and that the
22 hedging has worked as expected, that the costs of hedging are
23 reasonable, or it could work the other way. So we're very much
24 looking forward to those results, and it could go either way.

25 COMMISSIONER ARGENZIANO: Well, my concern was -- and

1 I think they've done a great job, you know, they're pretty much
2 on the mark, and I have to commend the company for that. But I
3 just in listening to the conversations, I'm not sure that, you
4 know, not waiting for the audits -- I'm not certain. And
5 maybe, maybe the Commissioners, Commissioner Skop and
6 Commissioner McMurrian could go over that again in non-legalese
7 and maybe, maybe I'll have a better understanding.

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

10 COMMISSIONER SKOP: Thank you, Mr. Chairman. And to
11 Commissioner Argenziano's points and Commissioner McMurrian
12 also because, again, I was lost in train of thought before, so
13 I will try and slow down.

14 CHAIRMAN CARTER: Break it down.

15 COMMISSIONER ARGENZIANO: Wait a minute. You don't
16 have to go that slow. I've been around a while.

17 COMMISSIONER SKOP: At least for me, again, I think
18 FPL has raised some very relevant policy questions that are
19 ripe to be addressed. And at least for me it's hard to discuss
20 this issue in an isolated manner in terms of deferring 2 and 3.
21 It's just difficult because you almost, like, get real close to
22 the merits.

23 But to my point in terms of what the audit would
24 show, it might show findings, it might show, you know, various
25 things. But to me that would not play a large factor in trying

1 to do what's right to protect FPL's 4.5 million customers from
2 fuel price volatility risk. And to that point I would just
3 point out that, you know, again, FPL came in and they asked for
4 one or the other different assurances, which, again, those are
5 subject to deferral, so I won't get into the merits of those.
6 But it raises good points and I'm ready to go there.

7 But to the point of the need to protect the consumer
8 from fuel price volatility risk, I would note that natural gas
9 on a year-to-date basis is increased by 41 percent year to
10 date. Natural gas last week closed above \$10.50 per MMBtu.
11 The reports I've seen from the Natural Gas Council that
12 basically take a look at some of the pending cap-and-trade
13 legislation seem to indicate that prices for demand and natural
14 gas will move forward. There will be upward price pressures on
15 natural gas.

16 So, again, and I'm tiptoeing because it's hard to get
17 in, to talk about this intelligently without getting into the
18 merits of 2 and 3. But I think that the bottom line is, is
19 that, you know -- and I'll put it in a different context that
20 maybe I've thought of. One only has to look to the airlines to
21 figure out what happens when you fail to mitigate against fuel
22 price volatility, because we've seen a lot of bankruptcies and
23 consolidations, and they're subject to using and consuming a
24 lot of fuel. And FPL by its own admission has basically
25 indicated that it is the largest consumer of natural gas for

1 utilities in the United States. So, again, they're different
2 than some of our other investor-owned utilities in that sense.

3 So to me, notwithstanding, you know, staff's
4 independent judgment, you know, I look at it like is there an
5 underlying threshold question that needs to be answered in the
6 wake of what happened in November? Because, again, at least
7 from my personal perspective, I want to put in a protocol and
8 conceptual framework to assure that, you know, we get the
9 deliverables we need and then we're ready to act on a certain
10 date to give, you know, do our part of the job. But
11 notwithstanding that, which can be addressed in Issue 1, there
12 still is the underlying issue of what do we do to protect
13 consumers from fuel price volatility risk? And I think that
14 I'm ready to go on that question based on the merits of the
15 petition before me.

16 But apparently, you know, through staff and being
17 equally deferential to FPL's desire to defer, you know, if
18 there's consensus of the Commission and FPL is willing to
19 rescind its deferral request, like I say, I'm ready to decide
20 the case before me today and give some clarity and guidance.
21 But other than that, I would respectfully, if it's the will of
22 the Commission, just wait. But I worry about getting it back
23 on the agenda. I worry about having decided. I worry about
24 the protest period. I mean, essentially we're not providing
25 guidance if we wait until the fourth quarter of 2007, I mean,

1 2008. So that's a little late to be doing things revised, in a
2 revised manner for 2009, and that was my only concern.

3 So to me, you know, I think that the petition does
4 raise many valid policy questions, and at least from my
5 perspective I'm ready to move forward on it.. But like I say, I
6 don't want to influence the Commission. That's just my
7 perspective. And I think my colleague Commissioner McMurrian
8 maybe expressed some of the same concerns but is equally -- I
9 don't want to put words in her mouth, but -- so.

10 CHAIRMAN CARTER: I think, Commissioners, that in the
11 abstract that may make sense. But we do have a mechanism to
12 deal with this that we deal with every year. So I think that
13 the, the dealing with Issue 1 and the deferral of Issues 2 and
14 3 allowing for these audits and things of that nature does not
15 put us in a, nor does it put the consumers in a disadvantageous
16 position. We have a situation, we have a system, we have a
17 protocol, we have a procedure to deal with that. We deal with
18 it every year.

19 So I think that it is, is that we probably -- I mean,
20 based upon what's before us, based upon the company, and the
21 company has gone out to try to as much as possible based upon
22 what we're dealing with here in their hedging situation,
23 they've gone out, and that's what we've asked companies to do,
24 go out and deal with things like price volatility and all. And
25 I think it's -- when we, when we have a situation like this is

1 that -- and based upon the facts and evidence presented before
2 us, I mean, I don't have a problem with the deferral of
3 Issues 2 and 3 because I don't think it's fatal to the
4 consumers. I don't think it hurts them. We, every year we do
5 this process. So if it was something totally new, I'd have
6 concerns. But I don't think it's there, Commissioners. So I
7 think that, I think that whereas we all have concerns about
8 things, but I think that we should, our concerns should be
9 based upon the facts in the situations that are before us.

10 Commissioner Edgar, you're recognized.

11 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

12 I note that on Issue 1 basically what is laid out
13 before us is to give some additional clarity to a term that has
14 been used by this Commission and was presented in past orders,
15 and I think that giving that additional clarity to all parties
16 as to the appropriate time has some value. And so I'm
17 comfortable with Issue 1 and moving forward on that.

18 As regards Issues 2 and 3, staff, I thought, raised
19 some good points in the discussion before us, and one of them
20 which resonates with me is the concerns expressed about
21 potentially being overly prescriptive. I do believe that there
22 needs to be some flexibility. And so I would think that the
23 request to have an informal workshop, all parties can
24 participate and I certainly would hope that all interested
25 parties would, the other utilities and the consumer advocates,

1 realizing that, as my colleagues have pointed out, what this
2 all kind of revolves around is trying to reduce price
3 volatility or the risks therein involved.

4 And so with that, the concerns about potentially
5 being overly prescriptive, as I said, do resonate with me.
6 Having a workshop I think would be a great idea, and I would
7 look forward then to further discussion that would come later
8 this year. Thank you.

9 CHAIRMAN CARTER: Commissioner Skop.

10 COMMISSIONER SKOP: Thank you, Mr. Chairman. And I
11 appreciate those, those comments, and your comments, also.

12 I think what I was just trying to articulate is that,
13 and FPL's letter I think dated April 21st gives substantial
14 clarity to this, that it will be business as usual for 2009
15 under the existing hedging order. I guess my concern was if we
16 were to defer the issue and then decide it and then by the time
17 that order is final in the fourth quarter of, on or about the
18 fourth quarter of 2008, it would be a little late to be
19 changing things and trying to put in hedges. And I could
20 envision where the consumer might not get the best price point
21 because, I mean, gas typically trends upward in the months
22 preceding the winter. So that was my only concern. But I
23 think that that's adequately addressed.

24 To Commissioner Edgar's point about having a workshop
25 about hedging practices and so forth, I think that there's

1 various mechanisms that you can use. And, again, I'm trying
2 not to get into the merits and it makes it difficult trying
3 to talk about issues in isolation. But there's, on a general
4 basis there's many different methodologies that can be employed
5 for hedging. Some are aggressive and analogous to an actively
6 traded managed portfolio and some are more passive where
7 they're just designed to be a blanket insurance policy. So,
8 you know, whether prescriptive is better than, than actively
9 traded, you'll never know. I mean, that could vary on a
10 year-to-year basis. I mean, this is basically, it should be
11 viewed as an insurance policy to mitigate against fuel price
12 volatility risk. Not that you're going to get it right every
13 time, but over long periods of time hopefully it'll, it'll net
14 out to where, you know, there's no net cost increase other than
15 the underlying bias against hedging to the consumers, as FPL
16 has pointed out.

17 But just along the lines of the other workshop which
18 I think would be beneficial, one of the other issues that I've
19 been thinking of that might want to be encompassed within that
20 workshop is we have -- this deals with fuel price volatility
21 risk, but there's never been any discussion on how to mitigate
22 the supply interruption risk. And in accordance with that
23 workshop or maybe a future workshop it might be perhaps
24 appropriate to take a look at some, some land-based storage
25 options in Florida or other things that could be used to, to

1 see if they make financial sense. Because, again, if we were
2 to, as we continue to build out our natural gas, you know, we
3 have something interrupt that supply, we're at the mercy and,
4 you know, power plants shut down. So, again, I think it's a,
5 it's a comprehensive issue that needs to be addressed not only
6 to protect consumers but also to protect the economy for
7 unforeseen circumstances. So, again, I would ask staff to kind
8 of take a look at that in the future either in the course of
9 the current proceeding or moving forward into other
10 proceedings.

11 But, again, I'm ready to move forward. But I respect
12 the deferral as requested by FPL, and hopefully we'll get some
13 substantial guidance provided at the appropriate time.

14 CHAIRMAN CARTER: Thank you. Okay. All right.

15 Okay. Commissioners, having discussion, we're in
16 debate. Are we ready for a motion?

17 COMMISSIONER SKOP: Mr. Chair -- I'm sorry.

18 CHAIRMAN CARTER: Commissioner Edgar.

19 COMMISSIONER EDGAR: Mr. Chairman, if it's the
20 appropriate time, I would make a motion in favor of the staff
21 recommendation for Issue 1. Include in that that we defer
22 decision today on Issues 2 and 3, with the understanding that
23 there will be further discussion at a later Agenda Conference,
24 that we leave the docket open, and we further direct staff to
25 have an informal staff workshop on these issues.

1 COMMISSIONER McMURRIAN: Second.

2 CHAIRMAN CARTER: Moved and seconded.

3 Commissioner Skop.

4 COMMISSIONER SKOP: Mr. Chair, with respect to
5 Issue 1, which I think would properly be bifurcated out, I
6 still have some additional questions or concerns on Issue 1 to
7 staff. But I'm happy with the motion. I just would in the
8 course of debate, if I could just ask one quick question of
9 staff.

10 CHAIRMAN CARTER: Well, go for it now.

11 COMMISSIONER SKOP: Okay. Thank you.

12 CHAIRMAN CARTER: You're recognized.

13 COMMISSIONER SKOP: Again, with respect to Issue 1, I
14 fully support the staff recommendation. Again, I think it's
15 very important based upon what happened in November for us to
16 have a comprehensive framework or protocol under which the
17 utilities will provide deliverables to this Commission of
18 sufficient specificity and data such that the Commission will
19 be in a position to do its job.

20 And the only concern that I had on Issue 1 during my
21 briefing with staff was that when I raised the question of, you
22 know, in the instance of trying to avoid what happened in
23 November, whether if we had data through July 31st, whether we
24 would be ready to go in November. And I got a little bit of
25 hesitancy from staff to the extent that there may be -- you

1 know, I can understand if the utilities fail to do their part
2 in terms of submitting the deliverables. But if we have all
3 the information we need, there seemed to be, at least from my
4 perspective, a little bit of hesitancy to the extent that there
5 may be the need for additional audits or something like that.
6 And I just want to make sure -- I'm fine with the July 31st.
7 But if staff has any inklings that they're not going to be able
8 to do what we commit to doing on a forward-going basis, I'm
9 wondering whether that maybe needs to be a June 30th date. I
10 want to give as much certainty as I can to the utilities, but I
11 don't want to repeat what happened in November.

12 MR. McNULTY: Commissioner, I think the history of
13 the fuel clause has been that from time to time a contentious
14 matter is brought to hearing at the, at the fuel hearing. And
15 as we know, there is a myriad of issues that are being
16 addressed on that, in that one hearing. And from time to time
17 it's the Commission's decision to spin off, if you will, a
18 particularly contentious item to the following year to be
19 further resolved.

20 At the same time very often the Commission wrestles
21 with difficult issues that are, that are at, that are, that
22 there is contention over, and, and addresses it at the time of
23 the hearing. So the Commission has sort of had a history of
24 going both ways on this.

25 This is, this is -- staff's intention would be to be

1 able to resolve the issue at the November hearing, with the
2 understanding that if there was a lot of contention between
3 parties, between staff and a utility, so forth, that there
4 could potentially be the Commission's decision to spin it off.
5 But we would do what we could to make the, the issue ripe for
6 decision.

7 COMMISSIONER SKOP: And thank you. And that's all
8 I'm looking for. I respect the best effort basis on staff.
9 But, again, I think that, again, getting back to what happened
10 unexpectedly in November, I mean, there was a lot of
11 uncertainty I think that resulted from that. And I think that
12 hopefully Issue 1 will address that by putting in that protocol
13 on how we're going to proceed on a forward-going basis to avoid
14 or lend some clarity to what's expected from the utilities and
15 what's expected from us in terms of when we're ready to move
16 forward and render a prudency determination.

17 MR. McNULTY: If I could elaborate just one, one bit
18 more on that, is if it is something that requires staff
19 testimony and parties want the opportunity for rebuttal
20 testimony and so forth and all that needs to be built in, I'm
21 not going to say that that's impossible to do. It's possible
22 we could get through all that procedure, but it would be very
23 aggressive. And if we were to back it up to an earlier date,
24 say June 30th or something like that, that would ease the
25 schedule a bit. I'm just -- I guess what I'm saying is that we

1 were looking at this in terms of trying to allow for as much of
2 a period of time for a prudence review as possible. So it was
3 somewhat aggressive, but we felt it was appropriate to do so.
4 That's why we made our recommendation. We would attempt to
5 reach that point of being able to make a, a, a recommendation
6 to you in the November hearing.

7 COMMISSIONER SKOP: Okay. Thank you, Mr. Chair.

8 CHAIRMAN CARTER: Thank you. Commissioners, we have
9 a motion and a second. We're in debate. Any, any further
10 questions, any further debate on the motion?

11 All in favor, let it be known by the sign of aye.

12 (Unanimous affirmative vote.)

13 All those opposed, like sign. Show it done.

14 (Agenda Item 6 concluded.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

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

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

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

DATED THIS 28th day of April, 2008.

Linda Boles
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FPSC Official Commission Reporter
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