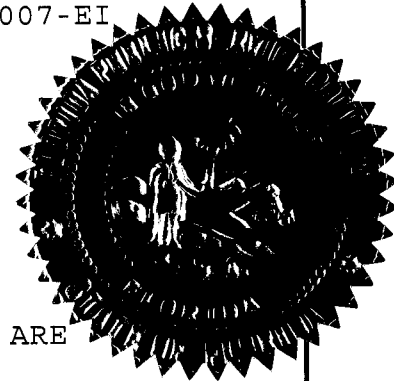


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050007-EI

In the Matter of  
ENVIRONMENTAL COST RECOVERY  
CLAUSE.



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PROCEEDINGS:           PREHEARING

BEFORE:                 RUDOLPH "RUDY" BRADLEY  
                          Prehearing Officer

DATE:                   Monday, October 24, 2005

TIME:                   Commenced at 9:30 a.m.  
                          Concluded at 12:55 p.m.

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

REPORTED BY:           LINDA BOLES, RPR, CRR  
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4 Tallahassee, 32302, appearing on behalf of Tampa Electric  
5 Company.

6 JEFFREY A. STONE, ESQUIRE, RUSSELL BADDERS, ESQUIRE,  
7 and STEVEN R. GRIFFIN, ESQUIRE, Beggs & Lane Law Firm, Post  
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9 behalf of Gulf Power Company.

10 JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves &  
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13 Reeves & Davidson, P.A., 117 South Gadsden Street, Tallahassee,  
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15 Users Group.

16 JOHN BUTLER, ESQUIRE, Squires, Sanders & Dempsey,  
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19 R. WADE LITCHFIELD, ESQUIRE, Florida Power & Light Company, 700  
20 Universe Boulevard, Juno Beach, Florida 33408-0420,  
21 appearing on behalf of Florida Power & Light Company.

22 GARY V. PERKO, ESQUIRE, Hopping Law Firm, P.O. Box  
23 6526, Tallahassee, Florida 32314, appearing on behalf of  
24 Progress Energy Florida, Inc.

25

1 APPEARANCES CONTINUED:

2                   ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T. LAVIA,  
3 ESQUIRE, Landers & Parsons, P.A., 310 West College Avenue,  
4 Tallahassee, Florida 32301, appearing on behalf of the Florida  
5 Retail Federation.

6                   CHARLES J. BECK, ESQUIRE, JOSEPH A. MCGLOTHLIN,  
7 ESQUIRE, and PATRICIA CHRISTENSEN, ESQUIRE, Office of Public  
8 Counsel, c/o The Florida Legislature, 111 W. Madison St., Room  
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10 the Citizens of the State of Florida.

11                   MARLENE K. STERN, ESQUIRE, FPSC General Counsel's  
12 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
13 32399-0850, appearing on behalf of the Commission Staff.

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## P R O C E E D I N G S

1  
2 COMMISSIONER BRADLEY: We're now going to Docket 07;  
3 is that correct?

4 MS. STERN: Yes. That's correct.

5 COMMISSIONER BRADLEY: Okay. We're now on Docket 07,  
6 environmental cost recovery.

7 MS. STERN: Yes. All the parties are here for that.  
8 This is Marlene Stern appearing on behalf of the Commission,  
9 and I suggest we just go through the sections one at a time to  
10 see if there are any changes.

11 COMMISSIONER BRADLEY: Okay. Are there any  
12 preliminary matters? If not --

13 MS. STERN: None that I'm aware of at this time.

14 COMMISSIONER BRADLEY: If not, we'll proceed through  
15 the draft prehearing order section by section.

16 Let's start with Section I, conduct of proceedings.

17 Section II, case background.

18 Section III, jurisdiction. Am I going too fast?

19 Okay. Section IV, procedure for handling  
20 confidential information.

21 MR. BUTLER: Commissioner Bradley.

22 COMMISSIONER BRADLEY: Yes.

23 MR. BUTLER: A very minor point here, but if you look  
24 on Page 3 of the draft prehearing order, in I guess it's  
25 Section 2(b) of, or subsection 2(b) of Section IV, there's a

1 reference to complying with (1) above, and I think that  
2 probably should be to (a) above.

3 MS. STERN: Let me just look at this quickly.

4 COMMISSIONER BRADLEY: That's on Page -- on which  
5 page?

6 MS. STERN: Page 3.

7 MR. BUTLER: Page 3.

8 COMMISSIONER BRADLEY: Page 3, (b)?

9 MR. BUTLER: Yes. 2(b). I'm thinking that the  
10 reference there, the cross-reference to "comply with (1) above"  
11 ought to be "comply with (a) above."

12 MS. STERN: Yes. I think that's correct. I'll just  
13 make that change in the final.

14 COMMISSIONER BRADLEY: Okay. Let it be noted that  
15 the change will be made.

16 Section IV, procedure for handling confidential  
17 information.

18 Section V, posthearing procedures.

19 Section VI, prefiled testimony and exhibits,  
20 witnesses.

21 Section VII, order of witnesses.

22 MR. PERKO: Excuse me, Commissioner.

23 COMMISSIONER BRADLEY: Yes.

24 MR. PERKO: I may be suggesting when we get to  
25 Section IX that Issues 10G and 10A should be dropped. However,

1 if that's not the case, we'll need to add 10H under Witness  
2 P. Q. West, Issue 10H.

3 COMMISSIONER BRADLEY: Okay. Section VIII, basic  
4 positions.

5 Section IX, issues and positions.

6 MR. STONE: Commissioner, if I may. Given the  
7 complexity of this docket, it may be appropriate to go issue by  
8 issue.

9 COMMISSIONER BRADLEY: Okay.

10 MS. STERN: Yes, I would agree.

11 COMMISSIONER BRADLEY: Issue 1, Section IX.

12 Issue 2, Section IX.

13 MR. BEASLEY: Commissioner, for Tampa Electric  
14 Company, I assume, but would like to confirm, that that's a  
15 stipulated issue as to Tampa Electric Company.

16 MS. STERN: Yes. Yes, it is. Staff and, staff and  
17 TECO are in agreement on that issue.

18 COMMISSIONER BRADLEY: Just TECO?

19 MR. STONE: I would also ask, make the same inquiry  
20 about Issue 2 for Gulf. Once again, it appears that we're in  
21 stipulation on that one.

22 MS. STERN: Yes.

23 COMMISSIONER BRADLEY: Okay.

24 MS. STERN: Yes.

25 COMMISSIONER BRADLEY: Any other stipulated parties

1 as it relates to Issue 2?

2 Okay. Issue 3 of Section IX.

3 MR. BEASLEY: Same request for confirmation by Tampa  
4 Electric as to that being a stipulated issue.

5 MS. STERN: That is a stipulated issue.

6 COMMISSIONER BRADLEY: Anyone else?

7 Issue 4, Section IX.

8 MR. BEASLEY: Same request for Tampa Electric.

9 MS. STERN: Yes, it is stipulated.

10 COMMISSIONER BRADLEY: Anyone else?

11 MR. STONE: And may I assume there's no change in  
12 staff's position on Issues 3 and 4 at this point?

13 MS. STERN: That's correct. There's no change.

14 COMMISSIONER BRADLEY: Okay. Issue 5, Section IX.

15 Issue 6, Section IX.

16 Issue 7, Section IX.

17 MR. BEASLEY: Same request for Tampa Electric as to  
18 the stipulated nature of that issue.

19 MS. STERN: Yes. Staff and TECO are in agreement.

20 COMMISSIONER BRADLEY: On Issue 7?

21 MS. STERN: On Issue 7.

22 COMMISSIONER BRADLEY: Anyone else?

23 Issue 8, Section IX.

24 Okay. We're now going to Issue 9A, Section IX.

25 Issue 9B. Issue 9C. Issue 9D. Issue 9E. Issue 9F.

1           MR. BUTLER: Commissioner Bradley, I have something  
2 to raise about 9F. 9E and 9F are sort of a pair. 9E is  
3 whether costs, FPL's legal costs to challenge the Clean Air  
4 Interstate Rule should be approved. And then 9F, although it  
5 doesn't literally -- it's not listed as conditional, I  
6 understand it to be if it were approved for recovery, how  
7 should it be allocated to the classes? And there doesn't seem  
8 to be any disagreement among the parties on how to allocate it  
9 except that two of the parties take the position, two or three  
10 of them, that it shouldn't be recoverable. And that seems like  
11 that's the subject of Issue 9E. If there's not a disagreement  
12 about the allocation, assuming that there were recovery for it,  
13 then I see it as a potential stipulation. If it's not, if  
14 other parties have a disagreement with our proposed allocation,  
15 I'd like to get that clarified on the prehearing order so we  
16 know what we, what we're facing.

17           COMMISSIONER BRADLEY: Okay. Staff.

18           MS. STERN: Well, I was going to say FPL isn't  
19 disagreeing that the issue should be there. So we're all in  
20 agreement that we need Issue 9F. And if the parties don't --  
21 the parties have stated their positions and, as stated, those  
22 positions are not in agreement, so I don't think we can --  
23 while we can make a ruling that an issue be included or  
24 excluded, I don't believe we can make a ruling that a position  
25 be changed.



1 MR. BUTLER: I think what I'd like --

2 MS. STERN: And so if the parties want to clarify,  
3 then that's fine. But if they, if they don't, then I would  
4 just leave it as is.

5 MR. BECK: This is Charlie Beck for the Public  
6 Counsel. I don't disagree with what Mr. Butler said. As long  
7 as 9F is implied that it's conditioned on recovery in 9E, then  
8 we'll take no position on the allocation.

9 MR. PERRY: And FIPUG will do the same.

10 MR. BUTLER: It seems like the solution is to make  
11 Issue 9E clearly conditional. You know, if recovery were  
12 approved, then how should it be allocated? And then we can end  
13 up not having disagreement on that issue.

14 MR. PERRY: I would like to clarify. We would take  
15 no position on the allocation, not -- we wouldn't agree with  
16 FPL. We would take no position.

17 COMMISSIONER BRADLEY: Staff.

18 MS. STERN: That's -- so, and Florida Retail  
19 Federation is still tentative "Agree with OPC"?

20 MR. WRIGHT: We would take no position.

21 MS. STERN: Okay. Then we can have a stipulation  
22 there. And I would propose using staff's language for that  
23 stipulation.

24 COMMISSIONER BRADLEY: Okay.

25 MS. STERN: If -- well, I guess that's if FPL doesn't

1 object.

2 MR. BUTLER: That would be fine with FPL.

3 COMMISSIONER BRADLEY: Okay.

4 MS. STERN: Okay.

5 COMMISSIONER BRADLEY: Okay. Why don't you verbalize  
6 staff's language so that everyone clearly knows what it is,  
7 clearly understands what it is.

8 MS. STERN: Okay. Okay. So the -- what will be the  
9 stipulated position on Issue 9F is as follows: "If approved  
10 for recovery, the proposed operating and maintenance costs  
11 should be allocated to the rate classes on an energy basis."

12 COMMISSIONER BRADLEY: Is that, is that agreeable to  
13 everyone?

14 MR. BUTLER: Yes.

15 COMMISSIONER BRADLEY: So we can stipulate Issues 9E  
16 and 9F.

17 MS. STERN: No. Just 9F.

18 MR. BUTLER: Just 9F.

19 COMMISSIONER BRADLEY: 9F. Okay. So Issue 9F is  
20 stipulated upon agreement by the parties. Any other -- am I  
21 correct?

22 MR. PERRY: Yeah. It's -- we're taking no position,  
23 but we're allowing staff and FPL to stipulate on the issue.

24 MR. BECK: And the same would be true for us too.

25 MR. WRIGHT: And for us.

1 COMMISSIONER BRADLEY: Okay. Issue 9G.

2 MR. PERRY: FIPUG would like to change its position  
3 on this issue to "No position."

4 MR. BECK: And OPC will do the same.

5 COMMISSIONER BRADLEY: So was this also, was this a  
6 stipulated issue?

7 MS. STERN: No, it's not.

8 COMMISSIONER BRADLEY: Okay. Okay. Let the record  
9 reflect that there have been some changes in position.

10 Issue 9H.

11 MR. BUTLER: Commissioner Bradley, 9H has the same  
12 relation to 9G that 9F did to 9E. It's the allocation issue  
13 that corresponds to 9G. And I would make the same request or  
14 proposal that it be made clear that it's conditional on  
15 approval for recovery. And then if that's the case, I don't  
16 think there's any disagreement on the allocation, but I'd  
17 obviously need to confirm with the other parties.

18 MR. BECK: OPC agrees.

19 MS. STERN: So do you want to change your position?

20 MR. BECK: Yes, to "No position."

21 MS. STERN: Okay.

22 MR. WRIGHT: The Retail Federation likewise.

23 MR. PERRY: And same for FIPUG, "No position."

24 COMMISSIONER BRADLEY: This is another nonstipulated  
25 issue.

1 MS. STERN: So this issue now will be stipulated  
2 between FPL and staff, with the Florida Retail Federation,  
3 FIPUG and OPC taking no position. And if there's no objection  
4 from FPL, the stipulated language will be as follows: "If  
5 approved for recovery, the proposed operating and maintenance  
6 costs should be allocated to the rate classes on an energy  
7 basis."

8 MR. BUTLER: That's fine with FPL.

9 COMMISSIONER BRADLEY: Any other proposals as it  
10 relates to this issue? Any other comments? Are you ready?

11 MS. STERN: I'm sorry?

12 COMMISSIONER BRADLEY: Are you ready?

13 MS. STERN: Yes.

14 COMMISSIONER BRADLEY: Okay. Issue 10A, 10B, 10C,  
15 10D.

16 MR. WRIGHT: Commissioner --

17 COMMISSIONER BRADLEY: Yes. Are you back on 10C or  
18 10D?

19 MR. WRIGHT: 10D.

20 COMMISSIONER BRADLEY: Okay. 10D?

21 MR. WRIGHT: Yeah. The staff have added to their  
22 position since the last draft that we saw at the end of last  
23 week. I'll be making some housekeeping changes to this and a  
24 couple of other similar issues that I'll furnish to the staff  
25 later today.

1           On this one in particular, we will agree with staff  
2 as to the recovery. We have no position at this time regarding  
3 the nonfirm credits issue which is disputed as between FIPUG,  
4 staff and the company.

5           Staff added the nonfirm credits position between the  
6 last draft we saw last week and the version that was  
7 distributed this morning.

8           COMMISSIONER BRADLEY: So basically you're having a  
9 change of position.

10          MR. WRIGHT: I'd like to change my position to, to  
11 accommodate what staff changed.

12          COMMISSIONER BRADLEY: Okay.

13          MR. WRIGHT: Thank you.

14          COMMISSIONER BRADLEY: Staff.

15          MS. STERN: That's fine. Okay. We have that noted  
16 and we'll make that change in the final --

17          MR. WRIGHT: Again, Commissioner, I will email all  
18 the appropriate changes to the staff later today.

19          COMMISSIONER BRADLEY: Okay. Anyone else?

20          MR. PERKO: Yes, Commissioner. Just one minor change  
21 on Issue 10D. The last sentence for Progress Energy's  
22 position, I think there are a couple of words missing. It  
23 should read, "No additional nonfirm credits are appropriate,"  
24 and that's essentially what staff says in the last sentence of  
25 their position.

1 MS. STERN: Okay. Yes. I understand that. We'll  
2 make that change.

3 COMMISSIONER BRADLEY: Let it be noted that the  
4 change will be made as suggested.

5 Issue 10E, 10F.

6 MR. PERKO: Commissioner, we'd ask for the same  
7 change regarding the nonfirm credit issue.

8 MS. STERN: Okay. We'll incorporate that change.

9 COMMISSIONER BRADLEY: Anyone else?

10 MR. WRIGHT: Again, we'll be making, taking the  
11 position that -- agreeing with staff that if they're approved  
12 for recovery, we agree with the allocation methodology. No  
13 position at this time as to the nonfirm credits issue which  
14 remains in dispute.

15 COMMISSIONER BRADLEY: Okay. Are you ready?

16 MS. STERN: Okay.

17 COMMISSIONER BRADLEY: Okay. 10G.

18 MR. PERKO: Commissioner.

19 COMMISSIONER BRADLEY: Yes.

20 MR. PERKO: Mr. Perko on behalf of Progress Energy  
21 Florida. We would propose that Issue 10G and 10H, both of  
22 which relate to compliance strategies for the Clean Air  
23 Interstate Rule and the Clean Air Mercury Rule, be dropped at  
24 this time. I think Issue 10G was originally proposed by Office  
25 of Public Counsel, and one of the suggestions that they have is

1 that this issue is premature and the Commission should either  
2 defer a decision on PEF's request or establishing a docket. We  
3 would not support establishment of a new docket, but we would  
4 not be opposed to deferring this issue until the '06 docket  
5 when we can present the results of an ongoing study of our CAIR  
6 and CAMR compliance strategy. I think the same thing would go  
7 for Issue 10H where staff takes the position that it's really  
8 premature at this time, and if a decision on recovery is  
9 deferred, PEF begins construction, PEF can seek recovery of  
10 costs later, assuming the work is adequately justified. So we  
11 think these issues are premature at this time and can be  
12 addressed more appropriately in the '06 docket.

13 MS. STERN: I think maybe some of the parties have a  
14 comment.

15 MR. McGLOTHLIN: Commissioner, I'm Joe McGlothlin  
16 with the Office of Public Counsel. Mr. Perko is correct. OPC  
17 did flag this issue initially, as did staff. We, we agreed to  
18 use staff language for the wording of the issue, but it was our  
19 concern with staff that led this to be in the prehearing order.  
20 Mr. Perko and I had a conversation last Thursday which  
21 suggested to me that we had the, we may have the makings of a  
22 stipulation here. However, OPC is unwilling to simply drop  
23 these issues. I don't think that's adequate for the  
24 circumstances.

25 If you will look at, for instance, at 10G as worded,

1 it says "Should the Commission approve recovery of costs  
2 associated with planning and construction of SCR and FGD on  
3 four Crystal River coal fired units?" PEF's stated position  
4 is, "Yes." Yes, you, Commission, should approve recovery. So  
5 simply dropping the issues is not sufficient to deal with the  
6 fact that PEF apparently believes it teed up a request for an  
7 affirmative treatment here, which, if unchallenged by issues,  
8 would go forward. And that's simply too ambiguous a situation  
9 for us to agree to.

10 I'm willing to work on the possibility of deferral to  
11 2006 if the consideration of this very significant issue can be  
12 structured and framed in terms of milestones and the type of  
13 presentation that PEF Florida will make in that case, and I've  
14 given PEF some suggested language to that extent. Failing  
15 that, it's our intent to file a motion for the establishment of  
16 a new, new docket within which to consider that. But simply  
17 dropping the issue will not do.

18 MR. PERKO: Commissioner, if I may just respond  
19 briefly. We will be -- these issues were changed somewhat in a  
20 conference call late Thursday. We will be filing a new  
21 position statement on those two issues. Unfortunately, I  
22 haven't had sufficient time to work with my client on that  
23 specific issue, but I'll try to get it to counsel later today,  
24 at the latest early tomorrow.

25 MS. STERN: At this point I think since the,



1 Progress's proposal has been made just, just this morning and  
2 we don't have it, we don't have anything in writing -- I have  
3 some questions about the details of the proposal like does  
4 Progress start to, propose to start construction activities on  
5 any of these projects in the meantime? I don't think -- I  
6 think it's best to leave the issues in for now. And if the  
7 parties reach a stipulation and an agreement, they can always  
8 be withdrawn at the hearing. But we really, staff has not  
9 really had sufficient time to consider the proposal and just  
10 address some questions to Progress. And I don't think that  
11 Progress is significantly prejudiced by having the issue in.  
12 And having the issue in will give everyone time to discuss the  
13 process and maybe reach an agreement. So I would recommend  
14 leaving the issue in.

15 COMMISSIONER BRADLEY: Progress.

16 MR. PERKO: Well, Commissioner, again, I think that  
17 the issues, positions stated by both, by both staff and OPC on  
18 Issue 10G and then 10H essentially requests deferral of the  
19 issue, so I don't see what prejudice it would be to drop the  
20 issues.

21 Again, however, that being said, we will discuss this  
22 further with staff to see if we can come up with -- and OPC to  
23 see if we can come up with an agreement.

24 COMMISSIONER BRADLEY: Okay. I'll tell you what I'm  
25 going to do then. I'm going to allow you all to have some

1 further discussion. And I think I heard Progress make the  
2 statement that you're going to have a change in position or  
3 you're going to present some additional information that might  
4 modify the language.

5 MR. PERKO: Yes, Commissioner. If the issues stay  
6 in, we will be providing a revised position.

7 COMMISSIONER BRADLEY: Okay. And what I'm going to  
8 do is not make a ruling at this time, but leave this issue  
9 open. And I will make a ruling when I have some, have the  
10 additional information, any additional language and after I've  
11 had an opportunity to consult with staff after you all have had  
12 an opportunity also to do some additional consultation and then  
13 I will make a ruling.

14 MR. PERKO: Thank you, Commissioner.

15 COMMISSIONER BRADLEY: Okay. Issue 11A.

16 MR. McGLOTHLIN: Excuse me, Commissioner. Before you  
17 leave 10H, 10H is the second subpart of the overall Clean Air  
18 Interstate Rule, and 10H currently shows no position for OPC,  
19 but that, the position for OPC should be the same as appears  
20 for 10G, it should be repeated there.

21 COMMISSIONER BRADLEY: Okay. And I was dealing with  
22 them in block. But let Mr. McGlothlin's statement be noted.  
23 Any other comments before we leave 10G and 10H?

24 11A. 11B.

25 MR. STONE: Commissioner, while we're going through

1 these issues, if I may inquire of staff, I'm not sure what the  
2 schedule shows for when the prehearing order will be issued.  
3 Does staff anticipate being able to take a position prior to  
4 the actual issuance of the prehearing order?

5 COMMISSIONER BRADLEY: Okay. Is this on 11B?

6 MR. STONE: 11A.

7 COMMISSIONER BRADLEY: 11A. Okay. Let's move back  
8 to 11A then. Okay. I'm sorry.

9 MS. STERN: We don't want to commit to taking a  
10 position on this issue before the prehearing order is issued.

11 MR. STONE: Thank you.

12 MS. STERN: There's a possibility, but staff would  
13 like to leave its position as stated in the draft prehearing  
14 order.

15 COMMISSIONER BRADLEY: Any other concerns as it  
16 relates to Issue 11A?

17 Okay. Now down to Issue 11B, 11C, 11D, 11E, 11F.

18 MR. WRIGHT: Commissioner.

19 COMMISSIONER BRADLEY: Yes.

20 MR. WRIGHT: Just to be clear --

21 COMMISSIONER BRADLEY: 11F?

22 MR. WRIGHT: -- we do not oppose the stipulation.

23 You can put us as "No position" just as OPC has shown.

24 COMMISSIONER BRADLEY: That's as it relates to 11F?

25 MR. WRIGHT: A proposed stipulation on 11F, yes, sir.

1 COMMISSIONER BRADLEY: Staff.

2 MS. STERN: That's noted. We'll make that change.

3 COMMISSIONER BRADLEY: Okay. 11G.

4 MS. CHRISTENSEN: Commissioner, Patty Christensen on  
5 behalf of the Office of Public Counsel. I have provided to  
6 Commission staff counsel and to Gulf a copy of our updated  
7 position. This was an issue that we were clarifying in a  
8 conference call. And I've just been able to provide them with  
9 a copy of our position for that, for Issues 11G and also 11H,  
10 although on the piece of paper that was handed out it should be  
11 noted that the second issue is 11H regarding the baghouse  
12 position.

13 MS. STERN: Yes. We have those positions and will  
14 incorporate them into the final.

15 MR. PERRY: I'd also -- this is Tim Perry on behalf  
16 of FIPUG. I'd also like to note that we will take the position  
17 "Agree with OPC" on Issues 11G and 11H.

18 MR. WRIGHT: Commissioner, the Retail Federation will  
19 likewise agree with Public Counsel on those two issues.

20 COMMISSIONER BRADLEY: Anyone else? Okay. I think  
21 that's the last issue. Am I correct?

22 MS. STERN: That's correct.

23 COMMISSIONER BRADLEY: Okay. We're now on Section X,  
24 the exhibit list.

25 Section XI, proposed stipulations.

1 MS. STERN: We'll add the proposed stipulations with  
2 FPL to this list about the cost allocation of the CAIR project.

3 COMMISSIONER BRADLEY: Any comments from the parties  
4 as it relates to proposed stipulations?

5 Okay. Pending motions, Section XII.

6 MR. PERKO: Mr. Commissioner, we do not have any  
7 pending motions at this time, but either today or tomorrow we  
8 will be filing a motion for temporary protective order  
9 regarding a discovery request from the Office of Public Counsel  
10 just to advise.

11 MS. CHRISTENSEN: Thank you.

12 COMMISSIONER BRADLEY: So noted. Section XIII,  
13 pending confidentiality matters.

14 MR. STONE: Commissioner Bradley, on behalf of Gulf,  
15 we have, I believe, a pending request for confidential  
16 classification and we also have a pending request for temporary  
17 protective order. And I will get with Ms. Stern to make sure  
18 those are appropriately described in the prehearing order.

19 MS. STERN: Okay.

20 MR. PERKO: And, Commissioner, once again, Progress  
21 Energy will be filing a request for confidential classification  
22 with regard to some of staff's interrogatories, and that will  
23 be filed today.

24 MS. STERN: Okay.

25 COMMISSIONER BRADLEY: Anyone else?

1 MR. STONE: Commissioner Bradley, I apologize for  
2 asking to return back to the list of stipulated, proposed  
3 stipulations.

4 COMMISSIONER BRADLEY: That's Section XI?

5 MR. STONE: Yes, sir. It appears to me that Issues  
6 1 and 2 are stipulated between staff and Gulf, not just  
7 Issue 2.

8 MS. STERN: Let's see. Let me --

9 MR. BUTLER: I think one is picked up for all the  
10 utilities, isn't it?

11 MS. STERN: Yeah.

12 MR. STONE: Is that -- okay. That's the way it's  
13 described. Okay. Thank you.

14 MS. STERN: Yeah.

15 COMMISSIONER BRADLEY: Any other points of  
16 clarification or any other -- have you got another point?  
17 Anything else?

18 MR. BEASLEY: I can just confirm that Tampa Electric  
19 witnesses are excused from the hearing.

20 MS. STERN: Yes, they are excused as long as the rest  
21 of the Commissioners don't object. And I think in this order  
22 we say we'll notify you by November 4th if there are no other  
23 questions from the other Commissioners.

24 MR. BEASLEY: Thank you.

25 COMMISSIONER BRADLEY: Any other?

1 MS. STERN: There's some proposed -- no. That's, I  
2 think that's all for pending confidentiality matters. And  
3 there's just then the proposed rulings or the rulings section.

4 COMMISSIONER BRADLEY: Okay. Are there any rulings  
5 that need to be included in this section?

6 MS. STERN: Yes. We propose that Gulf be granted  
7 leave to amend its petition filed on September 16th, 2005, and  
8 that opening statements, if any, shall not exceed ten minutes  
9 per party.

10 COMMISSIONER BRADLEY: Any comments, Gulf?

11 MR. STONE: Commissioner, we filed the amended  
12 petition on Friday, and we certainly support the proposed  
13 ruling.

14 COMMISSIONER BRADLEY: My ruling would be to grant  
15 Gulf leave, and also that opening statements should not exceed  
16 ten minutes. Are there any other matters to come before the  
17 prehearing officer at this time?

18 MR. PERRY: I just have one small housekeeping  
19 matter. Tim Perry for FIPUG. There's a change that needs to  
20 be made to our appearances, and I will email staff counsel  
21 about that and we can get that taken care of before the  
22 prehearing order is issued.

23 MS. STERN: Thanks. I actually, I do have the email.  
24 I have an email on it, so I'll talk to you. That's -- we'll  
25 take care of that.

1           COMMISSIONER BRADLEY: Okay. Are there any other  
2 matters we need to take care of this morning? If not, this  
3 prehearing conference is adjourned. Thank you for your  
4 participation. I think that's the last -- no. Wait a minute.  
5 We have one -- is that it? Yeah. That's it. Wait a minute.  
6 Five -- we're not adjourned yet. I'm sorry.

7           MS. VINING: You can't forget the 01 docket.

8           (Prehearing Conference in Docket 050007-EI  
9 concluded.)

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1 STATE OF FLORIDA )  
2 COUNTY OF LEON )

CERTIFICATE OF REPORTER

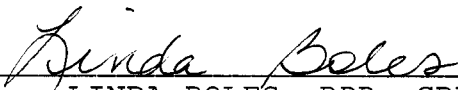
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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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 OCTOBER, 2005.

  
LINDA BOLES, RPR, CRR  
FPSC Official Commission Reporter  
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