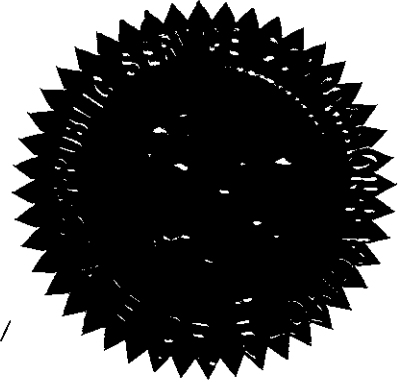


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080121-WS

In the Matter of:

APPLICATION FOR INCREASE IN WATER AND
WASTEWATER RATES IN ALACHUA, BREVARD,
DESOTO, HIGHLANDS, LAKE, LEE, MARION,
ORANGE, PALM BEACH, PASCO, POLK, PUTNAM,
SEMINOLE, SUMTER, VOLUSIA, AND WASHINGTON
COUNTIES BY AQUA UTILITIES FLORIDA, INC.



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER LISA POLAK EDGAR
PREHEARING OFFICER

DATE: Monday, December 1, 2008

TIME: Commenced at 1:30 p.m.
Concluded at 2:01 p.m.

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

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

DOCUMENT NUMBER-DATE

11091 DEC-28

FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 BRUCE MAY, ESQUIRE, and GIGI ROLLINI, ESQUIRE,
3 Holland & Knight Law Firm, Post Office Drawer 810, Tallahassee,
4 Florida 32302-0810, representing Aqua Utilities, Inc.

5 CECILIA BRADLEY, ESQUIRE, The Capitol - PL01,
6 Tallahassee, Florida 32399-1050, representing the Office of the
7 Attorney General.

8 CHARLES J. BECK, ESQUIRE, and STEPHEN C. REILLY,
9 ESQUIRE, Office of Public Counsel, c/o The Florida Legislature,
10 111 West Madison Street, Room 812, Tallahassee, Florida
11 32399-1400, representing the Citizens of the State of Florida.

12 RALPH JAEGER, ESQUIRE, KATHERINE E. FLEMING, ESQUIRE,
13 CAROLINE KLANCKE, ESQUIRE, and ERIK SAYLER, ESQUIRE, FPSC
14 General Counsel's Office, 2540 Shumard Oak Boulevard,
15 Tallahassee, Florida 32399-0850, representing the Florida
16 Public Service Commission staff.

17 MARY ANNE HELTON, ESQUIRE, 2540 Shumard Oak
18 Boulevard, Tallahassee, Florida 32399-0850, advisor to the
19 Commission.

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P R O C E E D I N G S

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2 COMMISSIONER EDGAR: Good afternoon. I call this
3 prehearing to order. I'll begin by asking our staff to read
4 the notice, please.

5 MS. FLEMING: Pursuant to notice issued by the
6 Commission Clerk, this time and place has been set for a
7 prehearing in Docket Number 080121-WS.

8 COMMISSIONER EDGAR: Thank you. And let's take
9 appearances.

10 MR. MAY: Bruce May with the Holland & Knight Law
11 Firm representing Aqua Utilities of Florida. With me today is
12 Gigi Rollini also with our law firm representing Aqua.

13 COMMISSIONER EDGAR: Thank you.

14 MR. BECK: Good afternoon, Commissioner. Charlie
15 Beck and Steve Reilly, Office of the Public Counsel, appearing
16 on behalf of the customers of Aqua Utilities Florida.

17 COMMISSIONER EDGAR: Thank you.

18 MS. BRADLEY: Cecilia Bradley, Office of the Attorney
19 General.

20 COMMISSIONER EDGAR: Thank you. And staff?

21 MS. FLEMING: Katherine Fleming, Ralph Jaeger, Erik
22 Saylor and Caroline Klancke on behalf of the Commission.

23 MS. HELTON: And Mary Anne Helton, advisor to the
24 Commission.

25 COMMISSIONER EDGAR: Thank you. Ms. Fleming,

1 preliminary matters.

2 MS. FLEMING: We would just like to note for the
3 record that on November 25th Aqua Utilities Florida filed a
4 request for official recognition of the State of Florida
5 Commission on Ethics Advisory Opinion. Such requests are
6 generally addressed at the, at the hearing as a preliminary
7 matter and we would suggest that we do so.

8 COMMISSIONER EDGAR: We will do so.

9 MS. FLEMING: I'm not aware of any other preliminary
10 matters at this time.

11 COMMISSIONER EDGAR: Any of the parties, anything
12 that we would need to address or that you'd like to take up
13 before we go through section by section? Seeing none. Okay.
14 We'll move along and see where that takes us. So we'll go
15 through the Draft Prehearing Order, and let me know if you have
16 any changes, corrections or concerns.

17 Anything to Section I, Section II or Section III?
18 Seeing none, Section IV? Section V? Section VI?

19 Ms. Fleming.

20 MS. FLEMING: Staff would note that each witness
21 whose name is proceeded by an asterisk in the Draft Prehearing
22 Order on Pages 4 through 6 has been stipulated by all parties.
23 Staff has confirmed with the Commissioners and at this point we
24 can note for the record which witnesses have been excused.

25 Those witnesses are Aqua witness Prettyman, and then

1 the following staff witnesses, Kleinmann, Charneski, Hambor,
2 Taghiof, Penton, and I'll try, Carrico, Carrico.

3 MR. JAEGER: Carrico.

4 MS. FLEMING: Carrico, Gerard, Davis, Greenwell,
5 Lott, Hicks, Winston, Terkawi and Yingling, as well as
6 Prettyman for rebuttal. Those are the witnesses that have been
7 excused at this time.

8 COMMISSIONER EDGAR: And, Ms. Fleming, what about
9 Witness Merchant?

10 MS. FLEMING: We have not received confirmation from
11 all offices. She has been stipulated to by all parties but we
12 have not received confirmation.

13 COMMISSIONER EDGAR: Okay. Any questions, comments
14 about the witnesses that have been stipulated at this time?
15 No? Any additional witnesses to be proposed for potential
16 stipulation? No? Are you sure?

17 Okay. Go ahead, Ms. Fleming.

18 MS. FLEMING: Commissioner, it's my understanding at
19 least that Aqua has a proposal for an order of witnesses.

20 COMMISSIONER EDGAR: That was going to be my next,
21 next question.

22 MR. REILLY: One quick second.

23 COMMISSIONER EDGAR: Hold on just a moment, Mr. May.
24 Yes, Mr. Reilly.

25 MR. REILLY: Just to make real clear on some staff

1 witnesses, I had some little asterisks by some of the staff
2 witnesses that are stipulated to in my various drafts, you
3 know, that have come, but Lott was not, did not have an
4 asterisk but you did list him as being stipulated to today.

5 MS. FLEMING: That's correct.

6 MR. REILLY: What additional ones have been added to
7 stipulated staff witnesses that were not on the latest and
8 greatest?

9 MS. FLEMING: The additional witnesses that were just
10 currently added to the list that I'm aware of is Miller,
11 Morrison and Walker.

12 MR. REILLY: Very good.

13 MS. FLEMING: We're still waiting on confirmation
14 from the Commissioners as to those witnesses.

15 MR. REILLY: Okay. Thank you.

16 COMMISSIONER EDGAR: Okay. Any other questions? No?
17 Okay. Mr. May, you have proposed an order of
18 witnesses?

19 MR. MAY: Yes, ma'am, we have. And if, if I could
20 beg your indulgence for a minute to explain our rationale for
21 this order of witnesses. We were, initially had proposed to
22 use the Commission's leverage graph for cost of capital -- for
23 return on equity and the Public Counsel had, had opposed that
24 and has put on its own cost of capital witness Mr. Rothschild.
25 We have, as a result had retained an outside consultant Paul

1 Moul. In addition, we have retained a used and useful
2 consultant who is outside consultant Mr. John Guastella. Both
3 of those gentlemen are out-of-town outside consultants. In an
4 effort to structure the rate case in a way to accommodate the
5 needs of several of our witnesses and also to minimize rate
6 case expense, we'd propose to, to take Monday and focus Monday
7 on our cost of capital issues and our used and useful issues so
8 that the parties, Aqua and OPC, can minimize rate case expense
9 and that we could get our, our out-of-town outside consultants
10 in and out as soon as possible so that they don't have to wait.
11 I know that may be a little bit different than what's been done
12 in the past, but I've also been involved in some proceedings
13 where you all have done that and that's what we're trying to
14 accomplish here.

15 The other thing is Mr. Guastella's wife is very ill,
16 she's receiving treatment in California. I spoke with him over
17 the weekend, and it would be an accommodation to him if we
18 could take him up on, on Monday so that he can come in Sunday
19 from California and leave Monday night or Tuesday morning. In
20 addition, Mr. Chris Franklin, who is our witness regarding
21 quality of service, he is not available on Monday. So to
22 accommodate all of those issues what we had proposed is to take
23 the cost of capital and the used and useful witnesses' issues
24 up on Monday. And then if we have additional time, we could go
25 ahead and begin with our, our case in chief, with our rate base

1 and our, our operating expense witnesses at that time. But
2 that's the, that's the rationale. And I think Ms. Fleming has
3 distributed the proposed order of witnesses to the parties.

4 The only other thing I would mention, I think staff
5 had wanted to try to take as many of the staff witnesses, the
6 DEP, the DOH and the Water Management District witnesses that
7 had not been stipulated to on Wednesday, and so we had tried to
8 accommodate that too.

9 COMMISSIONER EDGAR: And to the Attorney General's
10 Office and to OPC, you have the proposed list of witnesses laid
11 out Monday through Thursday. And my additional comment, and I
12 think this is the understanding of all of the parties, but to
13 go ahead and state it is that if we were to, if indeed we
14 decide to go this route, that if we were to finish early one
15 day, it would obviously be up to the Chair during the hearing
16 to decide whether to go on to the next list or to wait
17 depending on where we are. So I would ask, for instance, that
18 the witnesses on Thursday, that are proposed for Thursday be
19 available on Wednesday, being ever, ever optimistic that we
20 might be able to move along.

21 MR. MAY: I have confirmed with my client that
22 Mr. Szczygiel and Mr. Griffin would be available on Wednesday
23 if, if the hearing were to move forward at that pace.

24 COMMISSIONER EDGAR: Okay. Thank you.

25 Mr. Beck.

1 MR. BECK: Thank you, Commissioner. I do have a few
2 concerns about this. In a much more typical case the order is
3 that the company puts on its case, then the Intervenors put on
4 theirs, then the company puts on its rebuttal. I find it
5 particularly unusual that the company is not going to put on
6 the chief executive to begin the case. I mean, I think just
7 about every case that I've been involved in the company will
8 put on its chief executive to give the overview of the case and
9 kind of set the framework for it. So to not have Mr. Franklin
10 and then Mr. Lihvarcik on first to begin the case I think is
11 highly unusual. I appreciate their rationale and can
12 understand what they're saying as far the grouping, but I think
13 they ought to come on first.

14 The other thing is, of course, I'm often very wrong
15 on this, I think the case may not last even three days. My
16 guess, this is going to be a two-day case. That could be way
17 off but that's at least my evaluation of it. So it seems to me
18 there's no real, it's not a big deal for the company to put on
19 its direct and then us to put on our case and theirs. You
20 know, having said that, we'll work with whatever you want to
21 do. I mean, we could accommodate the schedule that's put forth
22 here, but we're not in favor of it.

23 COMMISSIONER EDGAR: Okay. Ms. Bradley, do you have
24 thoughts to share at this point?

25 MS. BRADLEY: Well, I, I certainly appreciate

1 accommodating somebody like Mr. Guastella. At the same time,
2 it's just kind of confusing to put on breakout issues before
3 you get to the main case and the overview of the case and that
4 seems rather strange. I've never seen that before. I'm easily
5 confused, I guess. But other than that, I guess I would defer
6 to Public Counsel on that.

7 COMMISSIONER EDGAR: Mr. May.

8 MR. MAY: Again, these are somewhat unusual
9 circumstances where the bottom line is we're trying to minimize
10 rate case expense and also accommodate the schedules of Mr.
11 Franklin and Mr. Guastella. With those factors, we do believe
12 this is a reasonable approach. And beginning on Tuesday with
13 the two, with the two specialized issues kind of out of the
14 way, I think this, the case as we've laid it out would proceed
15 pretty normally where Mr. Franklin would be there to give the
16 overview, Mr. Lihvarcik would be there Tuesday morning, then,
17 you know, to put their direct on, followed by Ms. Dismukes or
18 Mr. Poucher and then followed then by rebuttal. That was, I
19 guess, the thought in doing it that way with, with the rate
20 structure portion of the case coming at the end and that was
21 our thought is that there are some, some, we think some
22 categories of issues in this case that can be separated out and
23 still have a flow and continuity to the proceeding.

24 COMMISSIONER EDGAR: Mr. Beck, you said -- thank you,
25 Mr. May -- that you were not in favor, I think I heard you say

1 you're not in favor of what they have laid out and you have
2 pointed out that generally the broader corporate officials and
3 the kind of broader background of the case come first, and I
4 recognize that that's true. On the other hand, I'm not sure as
5 just one Commissioner, but to the Commission or to our staff
6 why that would present a hardship or a confusion to do, to take
7 some of the breakout issues first, if indeed that does work
8 better for travel expense. But I want to make sure that you
9 have the opportunity to put on the case that you need to and
10 have the opportunity to ask the questions in the way that you
11 need to to the best of our ability, as we want to make sure
12 that Mr. May has the opportunity to put on his case.

13 MR. BECK: You know, and like I said, we can
14 accommodate the schedule and would certainly agree to give
15 Mr. Guastella a firm date for Monday. I mean, certainly given
16 the special circumstances that he's in I have no problem with
17 that. Other than that I think the case is going to go more
18 quickly than set forth in the proposal and don't see how it's
19 going to really be that big a deal doing it the normal way of
20 the company putting on its case and then our case and then
21 their rebuttal case. But we can work -- I mean, as I said, we
22 can accommodate that schedule, if that's, if that's your
23 preference.

24 COMMISSIONER EDGAR: Mr. May, did you say that
25 Mr. Franklin and Mr., is it Lihvarcik are not available on

1 Monday?

2 MR. MAY: Mr. Lihvarcik can be here on Monday,
3 Mr. Franklin cannot, so.

4 COMMISSIONER EDGAR: And it is your preference that
5 those two appear one after the other?

6 MR. MAY: I mean, I think that there would be
7 continuity to that. It would -- Mr. Lihvarcik is the Florida
8 president. Mr. Franklin would be talking more of an overview
9 of the quality of service issues, and to have them together I
10 think would probably be better from our perspective and I think
11 it would be better for all parties' perspective to have those
12 two together so that they could -- because Ms. Dismukes
13 addresses both of their testimonies in hers.

14 COMMISSIONER EDGAR: Mr. Beck, anything further?

15 MR. BECK: No. I actually agree with what Mr. May
16 said regarding the order of Mr. Franklin and Lihvarcik.

17 COMMISSIONER EDGAR: Okay.

18 MR. BECK: But I do think just if you take his order
19 we're going to be done early on Monday would be my guess.

20 COMMISSIONER EDGAR: And I always guess wrong as to
21 how long these things are going to last.

22 MR. BECK: I do too.

23 COMMISSIONER EDGAR: So I always think it's going to
24 be shorter than, than it is no matter how many of these I've
25 seen.

1 MR. BECK: And I have an awful record on that.

2 COMMISSIONER EDGAR: So with that in mind then,
3 Mr. May, am I correct to understand that you are proposing the
4 list of witnesses in order for Monday, but that, as I said a
5 few moments ago, I would like to have the Chair have the
6 ability to keep the case moving as we proceed, that the first
7 two witnesses that you propose for Tuesday would not be
8 available Monday afternoon if indeed we were able to finish the
9 list that you have proposed for Monday and still have time
10 remaining in the business day?

11 MR. MAY: I don't think -- well, I know Mr.,
12 Mr. Franklin cannot be here Monday afternoon. As I indicated
13 earlier, Mr. Lihvarcik can.

14 COMMISSIONER EDGAR: Would there be the possibility
15 of switching the order of those two gentlemen? Does that cause
16 a difficulty in the flow of the case?

17 MR. MAY: I don't think it would, unless Charlie
18 would object. I mean, I think we could take Mr. Lihvarcik
19 first.

20 MR. BECK: I'm sorry. We were talking. I missed
21 that last comment.

22 COMMISSIONER EDGAR: That's okay. You were saying
23 that you thought that there was a good chance that we would
24 finish earlier on Monday. Mr. Franklin cannot be available,
25 I'm told, Monday afternoon. Realizing that Mr. Franklin and

1 Mr. Lihvarcik are, you know, both executives with the company,
2 I was wondering at the possibility of Mr. Lihvarcik appearing
3 Monday afternoon, if indeed we were at the point, and then
4 taking Mr. Franklin after that first Tuesday morning. Would
5 that pose a hardship to you or do you see a problem with the
6 flow of the case?

7 MR. BECK: No, that would be fine.

8 COMMISSIONER EDGAR: Okay. Okay. Then I think what
9 I'm going to put out there is that we will follow the order as
10 it is here with the possible one deviation at this point in
11 time of taking Mr. Lihvarcik on Monday afternoon, if indeed we
12 get to that point, and with the understanding that then
13 Mr. Franklin would be the first witness on Tuesday and then
14 proceed with the rest of the order.

15 MR. MAY: Madam Chair, if I may mention one thing.

16 COMMISSIONER EDGAR: Yes, sir.

17 MR. MAY: And, again, this is just to accommodate
18 staff. I had put Ms. Dobiac as a witness on Tuesday and that
19 was a mistake on my part because I understood that staff would
20 prefer to have all of their witnesses on Wednesday. I'm
21 perfectly comfortable in moving Ms. Dobiac to Wednesday if that
22 would be okay with staff or if that's something that staff
23 would prefer.

24 COMMISSIONER EDGAR: Ms. Fleming.

25 MS. FLEMING: With respect to the witnesses, the ones

1 that we were concerned with having on Wednesday are the
2 witnesses that have to travel from DEP and the Water Management
3 Districts. Ms. Dobiac is an auditor that's here on staff, so
4 she will be available on Tuesday if she's needed on Tuesday.

5 MR. JAEGER: And the same with Paul Stallcup
6 obviously. So there's only about three or four witnesses left
7 that would be on Wednesday for DEP or DOH.

8 COMMISSIONER EDGAR: Okay. So with that then,
9 Ms. Fleming, any other changes to, or requests to your
10 knowledge on the order of witnesses that's on the sheet that we
11 have been discussing?

12 MS. FLEMING: The only thing that we would suggest,
13 keep Dobiac, Witness Dobiac in the list as she's identified,
14 and just note that with respect to the DEP, Department of
15 Health or Water Management Districts, if we do get finished
16 early on Tuesday, I would suggest that we proceed with the
17 rates and rate structure on Tuesday afternoon so that the Water
18 Management District and DEP witnesses can appear on Wednesday.

19 COMMISSIONER EDGAR: That works for me. Does that
20 work for the parties? Okay.

21 Okay. So we will go with the proposed order of
22 witnesses as it is before us with the potential changes of
23 Mr. Lihvarcik Monday afternoon, if indeed we get to him,
24 Mr. Franklin then to kick us off on Tuesday, and depending on
25 how the flow of the case goes potentially the witnesses under

1 rates and rate structure before the section on environmental
2 protection, health and Water Management District witnesses.
3 And we will, of course, also then during the hearing defer to
4 the Chair to work it out with the parties and the witnesses as
5 well. Okay?

6 Okay. Anything else on the order of witnesses?

7 MS. FLEMING: I'm not aware of anything else.

8 COMMISSIONER EDGAR: Okay. Then we will move on,
9 Section VII, basic positions. Mr. Beck, did you have a change
10 to a position?

11 MR. BECK: Yes, I do, Madam Chairman. Madam
12 Chairman, are you taking all, all the issues and positions or
13 just basic positions?

14 COMMISSIONER EDGAR: Just basic positions at this
15 point.

16 MR. BECK: No. No change.

17 COMMISSIONER EDGAR: Not there yet?

18 MR. BECK: No. No change.

19 COMMISSIONER EDGAR: Okay. All right. And that
20 would bring us to Section VIII, issues and positions. Any
21 changes?

22 MS. FLEMING: Staff would note that there are no
23 disputes with respect to the issues. And we did receive an
24 email from OPC regarding a revised position to Issue 59, which
25 will be reflected in the final Prehearing Order.

1 MR. BECK: Thank you. I'm -- there may be an
2 associated one with Issue 58. I just don't have the number at
3 this moment and just wondered if I could get that to you by
4 tomorrow morning.

5 COMMISSIONER EDGAR: That would be fine.

6 Mr. May?

7 MR. MAY: I think we likewise sent an email out
8 regarding an inadvertent error on our part. We deleted three
9 words to Issue 34, and it's my understanding that Ms. Fleming
10 is going to make that change in the final Prehearing Order as
11 well.

12 MS. FLEMING: That's correct.

13 COMMISSIONER EDGAR: Okay. Then if, and if there
14 were to be, you know, anything else from any of the parties
15 that you see, please work with our staff and get any changes to
16 them as soon as you possibly can. We will try, try to get the
17 Prehearing Order finalized and signed and out on Thursday. So
18 the sooner that you can get all of those to our legal staff,
19 the sooner we can turn that around.

20 Okay. That brings us to Section IX, the exhibit
21 list. Ms. Fleming.

22 MS. FLEMING: Staff will prepare a Comprehensive
23 Exhibit List which will consist of all prefiled exhibits as
24 well as staff's composite exhibit. We have provided a list of
25 what staff would like stipulated as staff's composite exhibit

1 to all parties. We will prepare this and provide copies of
2 all -- the staff composite exhibits to all parties at the
3 hearing. And this Comprehensive Exhibit List will serve as
4 ease so that all the exhibits will be prenumbered and it'll be
5 easier to reference to during the course of the hearing.

6 COMMISSIONER EDGAR: Any comments? All good? Okay.
7 Thank you, Ms. Fleming.

8 And then we will move on to Section X, proposed
9 stipulations.

10 MS. FLEMING: In this section we would note that
11 there are proposed stipulations on six issues. They are Issues
12 15, 26, 33, 35, 37 and 56. There are also proposed
13 stipulations based on the staff audit findings. Staff would
14 note that we believe that there may be a proposed stipulation
15 with respect to Issue 8, which is the used and useful
16 percentages for water storage, and we believe there may be a
17 stipulation with respect to Issue 5, excessive unaccounted for
18 water, and we will continue to work with the parties on those
19 issues.

20 COMMISSIONER EDGAR: Thank you. There again I would
21 just encourage us to all work together so that we can have it
22 all as clear as possible before Monday.

23 Anything else on that point?

24 Okay. Section XI, pending motions.

25 MS. FLEMING: There are no pending motions.

1 COMMISSIONER EDGAR: Okay. Section XII, pending
2 confidentiality.

3 MS. FLEMING: There is one pending confidentiality
4 request and it's with respect to Aqua's response to OPC's
5 second request for production of documents number 70 and it was
6 filed on November 26th, 2008. Staff would suggest that we
7 would address this and address this confidentiality matter by a
8 separate order.

9 COMMISSIONER EDGAR: Which is customary.

10 Mr. May.

11 MR. MAY: Madam Chair, may I just make one
12 clarification?

13 COMMISSIONER EDGAR: Uh-huh.

14 MR. MAY: In the course of discovery OPC served two
15 production of document requests, what we call POD 69 and POD
16 70. We had requested a temporary protective order which was
17 granted regarding 69 and 70. In an effort to streamline this
18 case, we've gone back and revisited that and we no longer are
19 going to assert confidentiality of POD 69, and I just wanted to
20 let OPC know that. We still are asserting confidentiality with
21 respect to POD 70. And we've served Mr. Beck and Ms. Bradley
22 and staff and the parties with, with that formal request.

23 The other thing I would -- just to clarify, initially
24 in Mr. Szczygiel's rebuttal testimony, his Exhibit SS-14 was
25 designated confidential. Last Friday we filed a notice of

1 withdrawing that request for confidentiality and that exhibit
2 is no longer confidential. And I think I've talked with
3 Ms. Fleming about that, but I did want to bring it to your
4 attention.

5 COMMISSIONER EDGAR: Thank you.

6 Okay. Section XIII, post-hearing procedures.

7 Mr. Beck?

8 MR. BECK: I'm sorry, Commissioner. We were talking
9 again. I missed the question. I'm sorry.

10 COMMISSIONER EDGAR: We have just covered Section XII
11 dealing with pending confidentiality motions and now we are on
12 Section XIII with post-hearing procedures. Any comments,
13 concerns?

14 MR. BECK: Yes.

15 COMMISSIONER EDGAR: I thought there might be,
16 Mr. Beck. That's why I was looking at you.

17 MR. BECK: We certainly hope to file no more than 30
18 pages of the brief at the end, but I think a bit more would be,
19 at least if it were allowed, would be helpful. I'd suggest 60.

20 COMMISSIONER EDGAR: Mr. May, any concern with that?

21 MR. MAY: No, ma'am.

22 COMMISSIONER EDGAR: And when you are saying, I'm
23 sorry, Mr. Beck, 60, you're asking for pages, 60 pages?

24 MR. BECK: Yes.

25 COMMISSIONER EDGAR: Okay. Any concern from staff?

1 MS. FLEMING: No, Commissioner.

2 COMMISSIONER EDGAR: Okay.

3 MS. FLEMING: We'll make sure we can, we'll reflect
4 that in the final Prehearing Order.

5 COMMISSIONER EDGAR: We will make that change,
6 realizing that brevity is always appreciated, but have the
7 extra cushion, if needed.

8 MR. BECK: Since the brief is due December 30th, we
9 will certainly do our best.

10 COMMISSIONER EDGAR: I understand. Okay. Staff will
11 make that change in the Prehearing Order.

12 Okay. That brings us to Section XIV. Is there an
13 interest in opening statements by the parties?

14 MR. BECK: Yes.

15 COMMISSIONER EDGAR: Ten minutes? Five minutes?

16 MR. BECK: Ten minutes.

17 COMMISSIONER EDGAR: Ten minutes. Okay. We will
18 leave it at ten minutes.

19 MR. MAY: If we go shorter, is that permissible?

20 COMMISSIONER EDGAR: That is permissible.

21 Ms. Fleming, any other matters?

22 MS. FLEMING: Staff would just request that to the
23 extent parties need to provide revised positions or any
24 proposed, additional proposed stipulations, that they can do so
25 as soon as possible but no later than the close of business on

1 December 3rd, but preferably tomorrow would be better.

2 COMMISSIONER EDGAR: Sure. If you can work with our
3 staff, as I said earlier. We do want to try to get the
4 Prehearing Order out.

5 Any other comments, issues, items while we're all
6 gathered together? Mr. May.

7 MR. MAY: Just one, just to again in the interest of
8 trying to avoid objections or minimize the objections at the
9 hearing, Ms., Ms. Bradley and I have had a series of
10 conversations regarding I guess cross-examination of aligned
11 witnesses. And I know in the past the Commission has given
12 some guidance in that area at the front end. I don't want to
13 unnecessarily belabor the point and make unnecessary
14 objections, but I do think it might be helpful for the
15 Prehearing Officer to give guidance to the parties as to, you
16 know, what's permissible and what's not with respect to
17 cross-examination of aligned witnesses.

18 COMMISSIONER EDGAR: Ms. Bradley, do you have a
19 comment?

20 MS. BRADLEY: I don't think there's any confusion and
21 I -- you know, obviously there's going to be what one party is
22 going to perceive as friendly and the other adversary from
23 everybody, including staff and Commissioners. So I really
24 don't understand the concern about that. You know, we have
25 some concerns and some questions about some issues coming up

1 and plan to ask cross of whatever witness it is. And I don't
2 think -- I hope they're not objectionable. They shouldn't be.

3 COMMISSIONER EDGAR: Well, I would say this. In the
4 interest -- as always when we have multiple parties on a side,
5 the Commission discourages friendly cross. Certainly have --
6 give the opportunity for each party to ask questions of the
7 witnesses with that understanding that, that we do not look
8 favorably upon friendly cross and fully recognize the ability
9 for any party to make any objection and for the Chairman to
10 rule on it at that time. Thank you.

11 MR. MAY: Thank you.

12 COMMISSIONER EDGAR: Thank you. Any other points?

13 Ms. Fleming.

14 MS. FLEMING: I'm not aware of anything else.

15 COMMISSIONER EDGAR: All right. Well, then thank you
16 all. We will work to get the Prehearing Order out and we will
17 see you at the hearing next week. We are adjourned.

18 (Prehearing Conference adjourned at 2:01 p.m.)

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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 2nd day of December

2008.

Linda Boles
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
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