

1 APPEARANCES:

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3 Gunster Law Firm, 215 South Monroe Street, Suite 601,
4 Tallahassee, Florida 32301; appearing on behalf of
5 Florida Public Utilities Company (FPUC).

6 RICHARD GENTRY, PUBLIC COUNSEL; PATRICIA A.
7 CHRISTENSEN, ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The
8 Florida Legislature, 111 West Madison Street, Room 812,
9 Tallahassee, Florida 32399-1400, appearing on behalf of
10 the Citizens of the State of Florida (OPC.).

11 JON C. MOYLE and KAREN A. PUTNAL, ESQUIRES,
12 Moyle Law Firm, 118 North Gadsden Street, Tallahassee,
13 Florida 32301; appearing on behalf of Florida Industrial
14 Power Users Group (FIPUG).

15 RYAN SANDY and JENNIFER CRAWFORD, ESQUIRES,
16 FPSC General Counsel's Office, 2540 Shumard Oak
17 Boulevard, Tallahassee, Florida 32399-0850, appearing on
18 behalf of the Florida Public Service Commission (Staff).

19 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
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23 Service Commission.

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

2 COMMISSIONER PASSIDOMO: All right. Is
3 everybody good?

4 All right. Good afternoon, everyone. Today
5 is October 13th, 2022. This prehearing is now
6 called to order.

7 Staff, can you please read the notice?

8 MR. SANDY: Pursuant to notice, this place and
9 time has been set for a prehearing conference in
10 Docket No. 20220067, regarding a petition for rate
11 increase by Florida Public Utilities Company,
12 Florida Division of Chesapeake Utilities
13 Corporation, Florida Public Utilities Company Fort
14 Meade, and Florida Public Utilities Company
15 Indiantown. The purpose of this prehearing is set
16 out more fully in the notice that was published.

17 COMMISSIONER PASSIDOMO: Thank you, Mr. Sandy.

18 Let's move on to take appearances at this
19 time. We'll start with FPUC.

20 MS. KEATING: Good afternoon, Commissioner.
21 Beth Keating with the Gunster Law Firm, here for
22 Florida Public Utilities and the Florida Public
23 Utilities Companies. I would also like to enter an
24 appearance for my colleague Greg Munson, also with
25 the Gunster firm.

1 COMMISSIONER PASSIDOMO: OPC.

2 MS. CHRISTENSEN: Good afternoon,
3 Commissioner. Patty Christensen with the Office of
4 Public Counsel. I would also like to put in an
5 appearance for Richard Gentry, the Public Counsel.

6 MR. MOYLE: Good afternoon. Jon Moyle with
7 the Moyle Law Firm on behalf of the Florida
8 Industrial Power Users Group, FIPUG. I would also
9 like to enter an appearance for Karen Putnal with
10 our firm.

11 COMMISSIONER PASSIDOMO: Staff.

12 MR. SANDY: On behalf of the Commission staff,
13 I, Ryan Sandy, am here this afternoon, along with
14 Jennifer Crawford. I would note we also have
15 Advisor for the Commission, Mary Anne Helton here
16 as well. And I would ask to put in an appearance
17 for Keith Hetrick, the General Counsel of the PSC.

18 COMMISSIONER PASSIDOMO: Let's move on to
19 preliminary matters. Mr. Sandy, are there any
20 preliminary matters that we need to address before
21 we get to the draft prehearing order?

22 MR. SANDY: Madam Commissioner, I am not aware
23 of any at this time.

24 COMMISSIONER PASSIDOMO: Do any of the parties
25 have any preliminary matters?

1 MS. KEATING: None for FPU.

2 MS. CHRISTENSEN: Commissioner -- oh, sorry,
3 Patty Christensen.

4 MR. MOYLE: None for FIPUG.

5 MS. CHRISTENSEN: Sorry.

6 COMMISSIONER PASSIDOMO: Go ahead.

7 MS. CHRISTENSEN: I have some issues related
8 to travel for my witnesses. And if you want me to
9 bring them up now, we can, or we can do it when we
10 get to order of witnesses or another section.

11 COMMISSIONER PASSIDOMO: Yeah, let's move --
12 let's just go through, and when we dent get to,
13 when we get to witnesses, we can address it at that
14 point, if that's okay.

15 All right. So, now, let's move on, going
16 through the draft prehearing order. So I am going
17 to identify the sections, and then the parties can
18 let me know in there are any corrections or changes
19 that we need to make. And if we are moving too
20 quickly, just flag me down and we will make those
21 corrections.

22 So I am going to start Section I, Case
23 Background.

24 Section II, Conduct of Proceedings.

25 Section III, Jurisdiction.

1 Section IV, Procedure for Handling
2 Confidential Information. And as I understand it,
3 there is -- no parties will be relying on
4 confidential information in the course of this
5 hearing, is that correct?

6 MS. CHRISTENSEN: Commissioner, this is Patty
7 Christensen with OPC.

8 At this point, I don't know is that we will
9 be, but we still are in the process of drafting
10 cross-examination questions. I don't anticipate
11 it, but I think we can, you know, provide the
12 company and everyone, if need be, let them know if
13 we will use confidential information, but we are
14 prepared to follow the procedures as outlined in
15 the draft prehearing order if we do use
16 confidential information.

17 COMMISSIONER PASSIDOMO: Okay. Are the
18 parties okay with that?

19 MS. KEATING: That's fine.

20 COMMISSIONER PASSIDOMO: Let's see. All
21 right. So moving to Section V, Prefiled Testimony,
22 Exhibits and Witnesses.

23 MR. SANDY: If I may, Madam Commissioner, I
24 would suggest that witness summaries of the
25 testimony submitted at the hearing are no longer

1 than three minutes per witness.

2 COMMISSIONER PASSIDOMO: Are parties in
3 agreement to these time limits?

4 MS. CHRISTENSEN: Commissioner, can I ask for
5 some leeway?

6 We have some witnesses with much longer
7 testimony than others. I would ask if we could
8 have some leeway from three to five minutes. That
9 way, we could have a little bit of cushion
10 depending on the length of the testimony.

11 COMMISSIONER PASSIDOMO: I mean, I am okay
12 with that, but I do want to check how the parties,
13 are they okay with having OPC's witnesses have a
14 five-minute summary?

15 MS. KEATING: That's fine with us.

16 COMMISSIONER PASSIDOMO: Okay. Okay. All
17 right. So we are going to change that to five.

18 And just in fairness, you know, all of the
19 parties, all their witness summaries can move to
20 five minutes, but I would encourage, if possible,
21 to keep it at three.

22 Okay. Pursuant to the order establishing
23 procedure, if a party wishes to use a demonstrative
24 exhibit or other demonstrative tools at hearing,
25 such materials must be identified by the time of

1 the prehearing conference.

2 Does any party wish to use a demonstrative
3 exhibit or other demonstrative tool at the hearing?

4 MS. KEATING: None for FPU.

5 COMMISSIONER PASSIDOMO: OPC?

6 MS. CHRISTENSEN: No, not at this time.

7 COMMISSIONER PASSIDOMO: Mr. Moyle, none for
8 you?

9 MR. MOYLE: No.

10 COMMISSIONER PASSIDOMO: So do the parties
11 have any further issues regarding prefiled
12 testimony or exhibits?

13 For the record, I might need you guys to just
14 say it verbally.

15 MR. MOYLE: None in FIPUG.

16 COMMISSIONER PASSIDOMO: Okay. Thank you.

17 MS. KEATING: None for FPU.

18 MS. CHRISTENSEN: None for OPC.

19 COMMISSIONER PASSIDOMO: Okay. Thank you.

20 All right. So moving on to Section VI, Order
21 of Witnesses.

22 MR. SANDY: Madam Commissioner, the draft
23 prehearing order that has been circulated reflects
24 a change to FPUC's order of witnesses that we
25 received earlier this week. Otherwise, we are not

1 aware of any other changes at this time.

2 COMMISSIONER PASSIDOMO: Okay. Are there any
3 witnesses which the parties are willing to
4 stipulate at this time?

5 MS. CHRISTENSEN: None for OPC at this time,
6 but we will certainly look at the witnesses as we
7 are going through and preparing our
8 cross-examination to identify that.

9 And then if you could let me know,
10 Commissioner -- when travel would be a good time to
11 bring up the travel.

12 COMMISSIONER PASSIDOMO: Yeah, maybe -- yeah,
13 I think this is actually an appropriate time to do
14 so.

15 Staff, do you want to -- let's see, do you
16 want to go ahead and say -- all right, so, yeah,
17 let's -- Ms. Christensen, what is -- what's the --
18 what are you proposing for your witnesses?

19 MS. CHRISTENSEN: Well, my witnesses are
20 scheduled in the middle of the list of witnesses,
21 and I anticipate FPUC's witnesses will take a bit
22 of time on Tuesday. I have witnesses right now
23 that are scheduled to fly in at 2:00 p.m., and they
24 think that they can get to the hearing by 3:00 p.m.
25 That's Mr. Garrett.

1 I think Mr. Smith is also planning on flying
2 in on Tuesday morning, and will be hopefully
3 available in the afternoon.

4 And we just wanted to put that on to the
5 record before we start the hearing and see if
6 that's acceptable to the Commission. If not, we
7 have to make other arrangements to try and have
8 them fly in the night before, but we are trying to
9 limit the amount of time they have to be in
10 Tallahassee to testify.

11 COMMISSIONER PASSIDOMO: Okay. Yeah, I
12 understand that.

13 I think -- I mean, I would try to encourage
14 them -- we've kind of discussed this, I think
15 having, you know, the -- having them come as soon as
16 possible because we just don't know. I know that
17 there is going to be a number of the company's
18 witnesses that we need to get through, but, you
19 know, it's hard to predict how long that's going to
20 take.

21 Understanding that, I think we are following
22 IA, so I think if they can get here as soon as
23 possible, we are going to try to accommodate
24 that. That's going to be up to, you know, the
25 presiding officer at that time to make those sort

1 of accommodations.

2 I do want to check with the company and the
3 other parties, you know, if we can make that work.
4 Our goal, really, is to keep this moving as quick
5 -- you know, in a very fluid process. So if that's
6 -- you know, do we think that that will be okay
7 with everyone, we just --

8 MS. KEATING: From FPU's perspective, I don't
9 foresee any issues with that, but I think probably
10 we can deal with it as it arises.

11 COMMISSIONER PASSIDOMO: Okay.

12 MR. MOYLE: Yeah, FIPUG has the same view. I
13 mean, historically and traditionally, we've all
14 worked well with each other about witnesses on and
15 off, and making accommodations as necessary. So I
16 don't -- I don't think it would be an issue.

17 COMMISSIONER PASSIDOMO: Staff, do you have
18 any comments on that?

19 MR. SANDY: No, Madam Commissioner, other
20 than, historically, I believe parties have moved to
21 have their witnesses present once the hearing gets
22 underway, but sounds as if everyone is flexible
23 otherwise.

24 COMMISSIONER PASSIDOMO: Right. Right. So I
25 will just note for the record, we always encourage

1 to have the parties -- all the witnesses here when
2 the -- but understanding that we need to make
3 accommodations as necessary, and I think if
4 everyone is amenable to it, we can -- we can move
5 forward.

6 So on that note, as far as witnesses go, and
7 stipulation of witnesses, I think -- yeah.

8 MR. SANDY: May I raise a -- may I raise a
9 matter, Madam Commissioner?

10 COMMISSIONER PASSIDOMO: That's a lot of the
11 love alliterations.

12 MR. SANDY: It is.

13 COMMISSIONER PASSIDOMO: Go ahead.

14 MR. SANDY: I would ask whether the parties
15 are willing to stipulate to the admission of the
16 prefiled testimony of Angie Calhoun and Todd Brown
17 at the hearing at this time?

18 MS. KEATING: FPUC is fine with that.

19 MR. MOYLE: FIPUG is probably going to be fine
20 with that, but not in a position today to
21 stipulate.

22 As counsel for OPC said, I don't think any
23 witnesses are being stipulated to today, but I
24 anticipate, as we get closer to hearing, that there
25 will be witnesses that will be stipulated and will

1 move that along, and I think that those witnesses
2 would fall within that same scope.

3 MS. CHRISTENSEN: And I think the similar
4 position or posture for OPC, that we are not in a
5 position to stipulate today, but we will certainly
6 take a look at the testimony. I anticipate
7 hopefully some point next week we will be able to
8 get at least a response back to staff to let them
9 know if we can stipulate those witnesses.

10 I just wanted to circle back to the timing of
11 my witnesses flying in. I think based on the
12 conversation here, I won't have them reschedule
13 flights. Just so that everybody is aware, you
14 know, Mr. Smith should be here in the morning, and
15 then the -- Mr. Garrett, I think, will get here by
16 no later than 3:00. And hopefully that will be
17 with sufficient time, given IA, opening and then
18 the direct the testimony, we should -- we shouldn't
19 even probably have a problem or noticeable but --

20 COMMISSIONER PASSIDOMO: Right. Yeah.

21 MS. CHRISTENSEN: -- I just wanted to mention
22 it. Thank you.

23 COMMISSIONER PASSIDOMO: Sure. Yeah, it
24 sounds like we can -- we can make that work.

25 All right. So as far as stipulations, I

1 understand that we don't have any at this time, but
2 I would encourage parties to speak to one another.
3 And as soon as you can, if you do -- are able to
4 stipulate any witnesses, to please notify Mr.
5 Sandy, who will follow up with the appropriate
6 Commission offices that are part of this panel.

7 All right. I think we can move on to the next
8 section, Basic Positions. So do the parties have
9 any changes to their basic positions? And if not,
10 we can move on to the issues.

11 MS. KEATING: No changes.

12 MR. MOYLE: No changes at this time.

13 MS. CHRISTENSEN: No changes. It looks like
14 the changes we sent yesterday have been
15 incorporated. If I see anything else, I can let
16 Mr. Sandy know via email if I see any edits, or
17 something that I didn't notice before, I will
18 certainly let him know as soon as possible.

19 MR. SANDY: If I may, Madam Commissioner. In
20 the event, hypothetically, that there are any edits
21 that are made, if the parties can let me know no
22 later than the close of business tomorrow, it would
23 be very helpful insofar as moving things forward
24 for the hearing.

25 COMMISSIONER PASSIDOMO: All right. So any

1 changes, please get them to Mr. Chairmans by close
2 of business Friday, October 14th.

3 All right. Let's move to issues and
4 positions. I am going to take these up by section.
5 So I will go through the issues. If any party has
6 a change to any of their positions, speak up --
7 please speak up at the appropriate time.

8 Staff, are there any additional comments
9 before we get started with the issues?

10 MR. SANDY: I would note, Madam Commissioner,
11 that the OEP require that each of the parties takes
12 a position here at the prehearing conference unless
13 there is a good showing of why they cannot. Absent
14 either taking a position or showing good cause why
15 they cannot, the prehearing order would ultimately
16 reflect a no position for the party in question.
17 The consequence of which is that they would -- they
18 would be prohibited from cross-examining witnesses
19 on that particular issue. They would lose their
20 position, and ultimately would lose the opportunity
21 for argument.

22 It appears as if there may be some issues as
23 listed right now in the prehearing order wherein
24 parties did not have affirmative, flatfooted issue
25 positions, which may be an issue for them going

1 forward.

2 COMMISSIONER PASSIDOMO: Yeah. I am going to
3 agree with that. I think I saw some of OPC's
4 positions on these issues as not really meeting the
5 requirements that are set out in the OEP. So, you
6 know, I would just encourage you, Ms. Christensen,
7 if you can, by -- you know, to take -- just to --
8 or just elaborate a little bit more on the certain
9 position before the close of business tomorrow if
10 that's possible.

11 MR. SANDY: Madam Commissioner, if it's
12 helpful, at least a preliminary review of the party
13 positions, I would note Issues 12, 13, 14 -- I am
14 sorry, Issue 19, potentially Issues 32 and 34,
15 Issue 36, 38, 39 --

16 MS. CHRISTENSEN: Wait. Wait. Wait. Hold
17 on. 36, 38, I am sorry.

18 MR. SANDY: Here, I will restart more slowly.
19 My apologies.

20 Issue 12, Issue 13, Issue 14, 19, Issues 32
21 and 34, Issue 36, Issue 38, Issue 39, Issue 42,
22 Issue 45, Issue 46, Issue 47, Issue 50 and Issue 54
23 are issues wherein, candidly, either one or both of
24 the parties had a position that could be construed
25 as no position. So we would encourage you, or at

1 least I guess I would encourage you to evaluate
2 your positions on those issues.

3 MS. KEATING: If I may, Commissioner. Can I
4 just clarify? When you say both parties, do you
5 mean the intervenors?

6 MR. SANDY: So I would note in Issues 32 and
7 34, each of the parties -- and I say each of the
8 parties. Mr. Moyle, I am not forgetting about you.
9 I am just mindful of your position on this matter.
10 It looks as if OPC and FPUC, on those particular
11 issues, took either a yes or no position that
12 arguably should, or at least could be fleshed out
13 more. And if the issue is whether an adjustment
14 should be made in lieu of saying yes or no, it
15 would behoove the parties to state what the
16 adjustments ought to be made. The remaining
17 issues, it appears as if OPC hasn't really provided
18 a solid issue statement.

19 MS. CHRISTENSEN: Can I address this? Because
20 this is getting, I think, far afield of putting in
21 just a position from no position to now we have to
22 satisfy a hoop that the Commission staff has
23 determined is not a sufficient position. Which
24 really they shouldn't even be judging, because they
25 are really just -- you know, they are -- it seems

1 to be putting the cart before the horse.

2 I think if we put, yes, no, and an
3 explanation, that should be sufficient for putting
4 forth a position of a -- either we agree with the
5 issue or we disagree with the issue. And I think
6 that really is the heart of taking a position.

7 Prejudging whether or not our position is
8 sufficient, I think, takes staff beyond the role
9 that they should be playing in this. And
10 truthfully, I think, you know, at some point, you
11 know, the -- no position at this time used to be
12 satisfactory. No position at this time used to
13 satisfy that. And it wasn't just staff that was
14 allowed to take that position. Other parties were
15 allowed to take that position. Because sometimes
16 evidence gets adduced at hearing, or another party
17 has evidence on an issue that you hadn't developed
18 yourself that you want to be able to address in the
19 brief; or something comes up in your preparation
20 for cross that makes you think, oh, no, I have got
21 to address an issue that I hadn't affirmatively put
22 on testimony for.

23 And I think this is getting into too much of
24 pre-trying the case before we ever actually get to
25 the hearing.

1 MS. CRAWFORD: Ms. Chairman, may I address
2 this? Thank you.

3 I actually do understand Public Counsel's
4 argument for these. While I think it would be
5 helpful to understand what kind of adjustment we
6 are talking about, we do allow the parties some
7 flexibility in modifying their prehearing positions
8 to their post-hearing positions based on the
9 evidence of record. And I think for Issues 32 and
10 34, we -- that kind of latitude can be afforded.

11 I do have to disagree with counsel, however,
12 that parties have historically been allowed to take
13 no position at this time. Again, while some
14 latitude is afforded to allow parties to adjust the
15 amount, or what kind of adjustment, or whatever
16 have you, we do have, and have acquired pretty
17 consistently, that an affirmative position of some
18 sort be provided even if it is a simple yes or no.

19 And in fact, to my knowledge, the OEPs have
20 had, as a pretty standard requirement, that you
21 take an affirmative position. Historically it's
22 been by the time of the prehearing. Although,
23 again, we do allow some latitude after the
24 prehearing for parties to massage their prehearing
25 positions, but that absent that, it does become no

1 position.

2 So I would like to kind of qualify. I don't
3 think that has been, absent good cause shown,
4 something parties have been allowed to do. But I
5 understand her arguments on 32 and 34. And if they
6 wish to maintain yes or no, I see that argument.
7 We can drop those from the list of issues we've
8 identified.

9 MS. CHRISTENSEN: And I am certainly happy to
10 modify the issues, because 12, 13, 14, I can put a
11 yes or a no before it with an explanation. I just
12 think we've historically said, yes, no, is
13 sufficient for that.

14 And my respects to the argument about no
15 position at the time, I am talking historically
16 back in '99, 2000, 2000 -- probably through 2005,
17 '06, '07, all parties were allowed to take no
18 position at this time. It's changed over the
19 years, but I think we kind of rested with an
20 affirmative position, either a yes or a no was
21 sufficient to meet the you have taken a position.
22 And I am concerned when we are starting to get
23 beyond that.

24 And I will certainly add a yes or no to those
25 positions that you have identified where

1 appropriate, because I think it's easy enough to
2 just do that real quick. And I will send that back
3 to Mr. Sandy hopefully by the end of today.

4 COMMISSIONER PASSIDOMO: Okay, thank you.
5 That's -- I think we kind of got a little bit
6 turned around, but that's really -- if I am
7 understanding, that's really what I think staff was
8 sort of was saying, I think just to have those ones
9 that just didn't have a clear yes or no, but only
10 stated had that FPUC has the burden of proof.

11 But, you know, I think assume -- you know, if
12 you are able to make those amendments and send them
13 back to Mr. Sandy just so that there is a clear,
14 you know, yes or no, that's -- I think that's
15 sufficient.

16 Any questions or comments from the parties on
17 this?

18 MS. KEATING: So, just to be clear for FPUC's
19 part. On 32, 33 and 34, is there an expectation
20 that we amend our position? Because, candidly, any
21 addition that we would make would basically be a
22 restatement and rephrasing of the issue statement
23 itself.

24 COMMISSIONER PASSIDOMO: Right.

25 MR. SANDY: Madam Commissioner, I -- in light

1 of nine arguments that have been made, I don't
2 believe that would be necessary.

3 COMMISSIONER PASSIDOMO: Yeah. I agree.

4 Yeah, so, no, I think -- I think the company
5 is fine with its, you know, affirmative position
6 that it's already taken, so --

7 MS. KEATING: Thank you, Commissioner.

8 MR. MOYLE: I have just one question.

9 When you were going through the issues, is it
10 40 and 42? I wrote them down. I didn't --

11 COMMISSIONER PASSIDOMO: Just 42, I believe.

12 MR. SANDY: It was only 42.

13 MR. MOYLE: Okay. Thank you.

14 MR. SANDY: And if it's helpful, if you would
15 like to follow up with me afterwards, I would be
16 happy to email that out.

17 MR. MOYLE: Okay. And just on the other
18 conversation, I mean, it sounds like the result of
19 that conversation is a yes or no is sufficient.

20 COMMISSIONER PASSIDOMO: Right.

21 MR. MOYLE: We don't need to go beyond that.

22 COMMISSIONER PASSIDOMO: Yep.

23 MR. MOYLE: Okay.

24 COMMISSIONER PASSIDOMO: Okay. So next, I
25 think it's -- I am going to address whether new

1 issues should be included. I am going to kind of
2 go through the issues as, you know, under their,
3 kind of, topic areas, and then we will get to
4 whether new issues should be -- the proposed new
5 issue should be included when we get -- when we get
6 there down the list. So I will just, you know,
7 note to be prepared to make your arguments
8 regarding those proposed issues at that time.

9 So now -- so Issues 1 through 3 would be test
10 period and forecasting.

11 Quality of service is Issue 4.

12 Depreciation study Issues 5 through 8.

13 Rate base, Issues 9 through 24.

14 Cost of capital Issues 25 through 31.

15 Net operating income Issues 32 through 35.

16 MS. CHRISTENSEN: Commissioner, did you want
17 to address OPC's additional issues now?

18 COMMISSIONER PASSIDOMO: Yes, that was the
19 plan. I think that this is the most appropriate
20 time. So I am -- I think we will let staff go
21 through that, and then we will move on to party
22 argument.

23 MR. SANDY: Yes, ma'am.

24 Ultimately, OPC has proposed three additional
25 issues. They are currently labeled in the draft

1 prehearing order as Issues 35A through C. This
2 concerns, ultimately, the utility compensation
3 package.

4 I would note for the record that the language
5 is of Issue 35 is: What is the appropriate amount
6 of salaries and benefits to include in the
7 projected test year.

8 I am happy to expound upon staff's position on
9 this issue, or if you would rather hear OPC first,
10 whatever your preference is.

11 COMMISSIONER PASSIDOMO: Yeah, I think it
12 would be best if Ms. Christensen could start off as
13 to why OPC believes it needs to have these
14 separated out.

15 MS. CHRISTENSEN: Well, I think the most
16 straightforward reason is we have testimony on each
17 of these adjustments, and we would ask that the
18 Commission make an individual vote on each of the
19 adjustments. Since they are separate adjustments,
20 rolling them up into one issue can be a little bit
21 untidy, because the Commission could vote to accept
22 one or two of our recommended adjustments, but not
23 three. And now you don't have, necessarily, a
24 clean vote when you roll it up into a single issue.
25 And that's probably about the most straightforward

1 reason.

2 And I know, in the past, we've done this where
3 we've had sub-issues under a particular issue, and
4 the Commission moved away from that practice. So I
5 identified them as separate issues so that the
6 Commission can make a vote, and a clear vote on
7 each of the specific adjustments that we are asking
8 for.

9 COMMISSIONER PASSIDOMO: Okay. Mr. Moyle, do
10 you have any -- do you have any comments on this?

11 MR. MOYLE: This issue has been discussed many
12 times with respect to the idea of subsuming and not
13 subsuming. But it seems to me that, you know, we
14 are in a rate case. These are individually set out
15 issues. They have detail about -- about each one
16 and they are dollar value issues. And I think -- I
17 think it makes sense to have them separately set
18 forth.

19 And I think Ms. Christensen raises a good
20 point. I mean, some of them are going to get lost
21 in the wash if they are all subsumed, and there is
22 an issue OPC has evidence on and doesn't get
23 addressed one way or the other. I think the
24 cleaner way to do it, to make sure everything gets
25 addressed, is to have them set forth separately.

1 COMMISSIONER PASSIDOMO: Ms. Keating?

2 MS. KEATING: Probably not surprisingly, I
3 have a slightly different perspective.

4 I think if you follow Ms. Christensen and Mr.
5 Moyle's logic, you could end up having a thousand
6 issues, because there are a number of items and
7 adjustments that are included in testimony that do
8 not have separate stand-alone issues. So I think
9 the Commission's practice of addressing all of
10 these adjustments under the auspices of Issue 35
11 works just fine.

12 That being said, the other issue that I have
13 with these issues is think were added in the
14 prehearing statement of OPC, so we didn't really
15 get a chance to discuss the wording of them. And
16 they are not neutrally worded.

17 So to the extent, Commissioner, if you decide
18 you want to keep these as separate issues, FPU
19 would ask that we have the opportunity to propose
20 alternative wording.

21 COMMISSIONER PASSIDOMO: All right. Staff,
22 what is your opinion on this?

23 MR. SANDY: Commissioner, historically, the
24 Commission has handled the issue of compensation in
25 a comprehensive manner, and that's because there

1 are so many moving parts when it comes to
2 compensation.

3 One of the primarily concerns staff has is
4 that in breaking up these subparts of compensation
5 into subissues into their own issues, the arguments
6 involving these specific issues become circular
7 insofar as there would be cross-referencing to
8 other issues, previous issues, things of that
9 nature. Wherein, if it were contained in one
10 single issue, the analysis of the argument would --
11 is likely easier.

12 I would also note, for what it is worth, that
13 certainly, in regards to opening questions, direct
14 examination, cross-examination, any briefs
15 after-the-fact, that all of the parties are welcome
16 to address any of the subcomponents of compensation
17 as they see fit. And their arguments, ultimately,
18 as long as they are on the record, I don't foresee
19 the situation where they would be lost, or anything
20 like that.

21 MS. CHRISTENSEN: May I address it just real
22 briefly on that?

23 COMMISSIONER PASSIDOMO: Sure.

24 MS. CHRISTENSEN: I think the ultimate issue
25 is not whether or not I can address them under one

1 issue. I certainly can, and I put in a position
2 that does that. The issue is, when you come to do
3 a vote on the adjustments, you don't have separate
4 votes for each of the separate adjustments.

5 And as far as breaking out individual issues.
6 We certainly have a number of issues that we have
7 put forth specific adjustments for, and the reason
8 we didn't propose separate issues is because there
9 already were separate issues that sufficiently
10 covered that. But in this particular setting,
11 these are the issues that we did not feel were
12 sufficiently identified in the roll-up issue of
13 salaries and benefits. That's a really broad
14 issue, and our issues are specific components of
15 the benefits package. And I think we have in the
16 past had separate issues on whether or not there
17 should be an adjustment to the incentive
18 compensation program, and these are also separate
19 programs that the Commission -- that the company is
20 putting forth.

21 I have no objection to looking at the wording
22 of the specific issues if we can come to a more
23 neutral wording. I think that can be done
24 relatively easily.

25 MS. HELTON: Madam Chairman, may I address a

1 couple of things that have been mentioned this
2 afternoon?

3 COMMISSIONER PASSIDOMO: Yes.

4 MS. HELTON: First of all, I just want to make
5 it clear that I do not believe, nor have I seen the
6 Commission create an issue specifically because a
7 party decides to bring forth certain testimony in
8 its prefiled testimony. So I dis -- I disagree
9 with Ms. Christensen's premise that because they
10 put testimony out on specific issues that fall
11 under Issue 35, that she should have a separate
12 issue listed there.

13 I also disagree with Ms. Christensen that the
14 Commission is not capable of making specific
15 adjustments that OPC or any other party may request
16 on specific issues, or not capable of making that
17 decision known when you ultimately reach that point
18 in the proceeding. I think the Commission is
19 capable of doing that.

20 And I do believe that it is our longstanding
21 history here at the Commission that the global,
22 larger issue is the way that the Commission looked
23 at the case, and the parties, then, are free to
24 bring out any specific issues that they might have
25 that fall under or are subsumed under that larger

1 issue.

2 COMMISSIONER PASSIDOMO: Yeah, go ahead and
3 respond.

4 MS. CHRISTENSEN: Real quick.

5 I think under 120.50 -- under 120 in a 120.57
6 proceeding, it's the parties that raise the issues.
7 And the way we do that in the Commission
8 proceedings, of course, is through prefiled
9 testimony. And normally we don't raise individual
10 issues that are already covered on a generic staff
11 issue list, but every rate case that I have been a
12 party to has individual issues that are unique to
13 that case.

14 I know in past TECO cases, we had specific
15 issues about whether or not the five CTs should
16 have been approved, you know. And that's a
17 specific issue that's raised by a party in their
18 testimony that requires an individual issue. Yeah,
19 it could be subsumed and should the -- you know, is
20 it appropriate to include them in rate base? But
21 we do rate individual issues based on the
22 individual adjustments that parties raise as part
23 of their testimony, particularly if they are unique
24 to that case and not part of staff's usual generic
25 list.

1 So I just wanted to make sure that I had that
2 clear for the record. And I am not disputing that
3 the Commission could, if it so choose, address our
4 individual adjustments as part of a larger subsumed
5 issue. I am suggesting to the Commissioner that
6 it's cleaner and easier for the vote if they are
7 separate issues.

8 COMMISSIONER PASSIDOMO: Right. Okay. I --
9 so really what I am getting out of this is that it
10 seems like if you guys are, you know, amenable to
11 some more neutral language, then we can -- we can
12 go from that. I agree, I don't think -- I think
13 the Commission does have the ability to separate
14 those out even under a broader, but I want to just,
15 you know, just be flexible with the parties. And
16 if that is something that you are -- that you are
17 all able to come to an agreement.

18 So I am going to suggest right now, 5-,
19 10-minute break, and if you guys can just talk it
20 over, and if you can come you with something and
21 then we can reconvene then, if that works for you
22 guys.

23 MS. CHRISTENSEN: I think we can do that.

24 COMMISSIONER PASSIDOMO: Okay. All right.

25 Let's -- all right. So let's come back at 1:45.

1 Thank you.

2 (Brief recess.)

3 COMMISSIONER PASSIDOMO: Okay. I am sorry.

4 That was a minute over what I said I would be back.

5 Okay. So I appreciate -- thank you for giving
6 me the opportunity to just review through this. I
7 am just going to go ahead. I -- upon reflecting
8 and going through, I think -- I just -- Ms.
9 Christensen, I think that OPC is going to be able
10 to highlight the specific adjustments within the
11 broader Issue 35. And I appreciate, I know your
12 witnesses made those individual adjustments, but I
13 do have confidence that the Commission can and
14 historically has made adjustments to individual
15 components like these as it deems appropriate. So
16 I think -- I think we are just going to keep it as
17 is as the broader Issue 35, and you are, you know,
18 going -- you can go into those individual
19 adjustments in your brief.

20 So with that, I think we need to go back to --
21 I guess I should, if I can give you an opportunity
22 if you want to say anything for the record, but
23 keep moving on.

24 It's not intentional. We want you to be able
25 to talk.

1 MS. CHRISTENSEN: Oh, there we go. Okay.

2 COMMISSIONER PASSIDOMO: Okay.

3 MS. CHRISTENSEN: Just for the record, I think
4 I have already made the arguments that I think that
5 it would be cleaner to do individual issues for
6 individual adjustments, but of course, I will
7 address it as the Commissioner has instructed under
8 Issue 35.

9 COMMISSIONER PASSIDOMO: Okay. Thank you.

10 So -- all right, so we have now hit that --
11 back to net operating. That's going to be Issues
12 32 through 53.

13 Moving on, revenue requirements will be Issues
14 54 through 55. And again, just chime in if you
15 have any -- any problems or anything.

16 Cost of service and rate design, Issues 56
17 through 65.

18 And other issues, Issues 66 through 70.

19 MR. MOYLE: We are still looking at those, but
20 we will have, if I understood it, we have until
21 five o'clock tomorrow to make any changes to that,
22 is that right?

23 COMMISSIONER PASSIDOMO: Yes, sir.

24 MR. MOYLE: Okay. Thank you.

25 COMMISSIONER PASSIDOMO: Okay. If everybody

1 is okay now, we can move to the Section IX is
2 Exhibit List.

3 MR. SANDY: Madam Commissioner, we have
4 prepared a comprehensive exhibit list. That
5 comprehensive exhibit list has been circulated.
6 The parties are actively reviewing it. I have
7 gotten some initial feedback. I anticipate
8 receiving more feedback. I would merely ask the
9 parties to provide me complete edits and feedback
10 no later than tomorrow at the close of business at
11 five o'clock.

12 And once all the feedback, all the edits have
13 been made, I anticipate requesting whether they are
14 comfortable stipulating to all of the staff
15 exhibits that are contained within the CEL.

16 COMMISSIONER PASSIDOMO: So I was -- I was
17 going to see if any of the parties are willing to
18 stipulate at this time to staff exhibits. But
19 again, you have until -- so Ms. Christensen, go
20 ahead.

21 MS. CHRISTENSEN: Oh, I was just going to
22 mention again. Similar to what we said about
23 stipulating witnesses, you know, as we get closer
24 to hearing and we've done cross, we will know
25 better whether or not we have any objections to any

1 of the exhibits. We will take a look at that over
2 the next week as we are preparing for hearing and
3 get back with staff if there are any that we either
4 can agree to, stipulate into the record, or any
5 that we think we may have an issue with.

6 COMMISSIONER PASSIDOMO: Next week is
7 reasonable, I think, for the parties.

8 MS. KEATING: Same for FPU, yes. Thank you.

9 COMMISSIONER PASSIDOMO: Okay. Section X,
10 Proposed Stipulations. So it's my understanding
11 that there is currently no proposed stipulations at
12 this time, I think we've gone over that. Is that
13 correct?

14 MR. SANDY: There are none that I am aware of
15 at this time, Madam Commissioner.

16 COMMISSIONER PASSIDOMO: Okay. Section XI,
17 Pending Motions. Currently no motions pending at
18 this time?

19 MR. SANDY: There are none at this time.

20 COMMISSIONER PASSIDOMO: Section XII, Pending
21 Confidentiality Matters. So my understanding,
22 there are no pending motions for confidentiality,
23 is that correct?

24 MR. SANDY: There are not, Madam Commissioner.

25 I would note for the record that there was one

1 remaining request for confidentiality which will be
2 withdrawn now that the utility has received the
3 information in question.

4 COMMISSIONER PASSIDOMO: Okay. All right. So
5 Section XIII, Post-Hearing Procedures.

6 MR. SANDY: Madam Commissioner, if I may. In
7 regards to post-hearing procedures, I would
8 recommend that post-hearing briefs are no longer
9 than 50 pages. And I would recommend the briefs
10 are due on November 28th of this year, as currently
11 set out in the OEP.

12 COMMISSIONER PASSIDOMO: All right. Parties,
13 are we in agreement about 50-page limit on briefs?

14 MS. CHRISTENSEN: OPC is fine with 50 pages.

15 COMMISSIONER PASSIDOMO: Okay. FPUC?

16 MS. KEATING: FPU is as well. Thank you.

17 COMMISSIONER PASSIDOMO: Okay. Mr. Moyle?

18 MR. MOYLE: That's fine.

19 COMMISSIONER PASSIDOMO: Okay. So Section
20 XIV, Rulings.

21 Opening statements shall be limited to five
22 minutes per party. And -- oh, wait, yes -- yeah,
23 we said -- we said five minutes per party. I am
24 sorry, now I need to go back in.

25 MS. CRAWFORD: I think it was witness

1 summaries are five, with the hope that they can be
2 efficient, and less is more.

3 COMMISSIONER PASSIDOMO: Okay.

4 MS. CRAWFORD: And then we still need to make
5 -- get a ruling on opening statements for parties.

6 COMMISSIONER PASSIDOMO: Oh, I see. Okay.

7 All right. So are all parties in agreement
8 about five minutes for opening statements?

9 MS. CHRISTENSEN: That should be fine for OPC,
10 Your Honor -- or Commissioner. I did want to
11 circle back to the question when the briefs are
12 due.

13 COMMISSIONER PASSIDOMO: November 28th is what
14 we had said.

15 MS. CHRISTENSEN: Yeah, I have a question on
16 how quickly the transcripts will be provided. We
17 have had, obviously, some change in the schedule --

18 COMMISSIONER PASSIDOMO: Yeah.

19 MS. CHRISTENSEN: -- with regard to the fuel
20 docket, which got moved back two weeks, which means
21 any brief for those is getting back so now we have
22 a potential for a little bit of briefs -- dual
23 briefs going over Thanksgiving weekend, and I would
24 appreciate any additional, even a couple of days,
25 maybe November 30th or December 1st, on filing the

1 brief would be helpful, because we may end up
2 having to write two briefs at one time.

3 COMMISSIONER PASSIDOMO: Right. No, I
4 understand that. I just want to confer with Mr.
5 Sandy about, because, you know, our staff is going
6 to have the same issues as well. We are all in
7 this together.

8 MS. CRAWFORD: And it occurs to me also that
9 some of how much time parties have to brief will
10 depend also on how soon or not soon the hearing
11 wraps up.

12 COMMISSIONER PASSIDOMO: Right.

13 MS. CRAWFORD: And that's certainly something
14 that can be requested of the presiding officer at
15 that time, if that's what the parties would rather
16 do. I am just putting that out there.

17 MS. CHRISTENSEN: I think -- I mean, I
18 certainly can readdress this at the close of the
19 hearing. I do want to -- I just wanted to bring it
20 up now, because some of that will also have to do
21 with how quickly we will get the transcripts turned
22 around and -- because we don't, generally speaking,
23 start writing briefs until we get the transcripts,
24 because it's hard to do the transcript cites
25 without having that -- having those available.

1 So I am perfectly willing to shelf this until
2 the close of the hearing if that would give us a
3 little bit better vision of what it's going to look
4 like at that time. And maybe the staff could find
5 out -- you know, look at their schedule and see if
6 there is maybe a day or two leeway that can be
7 granted on the briefs by that time.

8 COMMISSIONER PASSIDOMO: Mr. Sandy.

9 MR. SANDY: If I may, Madam Commissioner. We
10 have been working with our Clerk's Office on this
11 particular issue. This is something we sort of
12 earmarked earlier on in the process as we were sort
13 of working through a lot of issues.

14 We anticipate having the transcripts of the
15 hearing expedited, so as to allow for as rapid a
16 turn around as can be managed, so that the parties
17 can meet the November 28th deadline with as much
18 room to spare. So I don't know how quickly --

19 COMMISSIONER PASSIDOMO: Well, let's -- yeah,
20 so let's go ahead and kind of shelf this for the
21 hearing and see when it wraps up, but, yeah, you
22 know, with all intentions to have them due November
23 28th, but we'll -- we'll go from -- from when the
24 close of hearing to just, and let the presiding
25 officer make that ruling at that time.

1 MS. CHRISTENSEN: Yeah, it would certainly be
2 helpful if we can have the transcripts, like, you
3 know, by November 2nd, because that would give us a
4 chance to write when the old fuel docket was.

5 COMMISSIONER PASSIDOMO: Absolutely. Yeah.
6 Our intentions to have them expedited as quickly as
7 possible. So that would be definitely be a
8 priority.

9 All right. So we've already established that
10 briefs will be limited to 50 pages. That OPC's
11 proposed issues of 35A, 35B and 35C will not be
12 included in the issues list.

13 Other matters. Any other matters to address
14 in this prehearing conference, Mr. Sandy?

15 MR. SANDY: Yes, ma'am. If I may. I have a
16 few items that I would like to address at the
17 hearing.

18 The parties, and the Commissioners, and the
19 staff already have access to the prefiled testimony
20 and exhibits, so therefore, you don't have to bring
21 those with you. However -- you would have to bring
22 copies for other people. My apologies. You should
23 have copies for yourselves. However, if all the
24 exhibits that you wish to use at the hearing, for
25 example, for purposes of cross-examination, for

1 impeachment, and so forth, must be provided in the
2 following manner:

3 For each exhibit you intend to sponsor, you
4 must bring 20 paper copies, with each copy having a
5 cover sheet that the staff will provide for you.

6 For each of those exhibits, you will need to
7 fill out everything on the cover sheet excepted for
8 the exhibit number. That will be provided at the
9 time that the exhibit is identified at the hearing.
10 And we certainly ask that you make each exhibit as
11 brief as you can when making a title of the
12 exhibit.

13 I would also add in regards for the
14 post-hearing briefs, that we write our post-hearing
15 recommendations on an issue-by-issue basis. We ask
16 that in your briefs that you make it clear what
17 issue your arguments are directed to. If, for
18 whatever reason, you are unclear in which portion
19 your argument is directed, we should not and will
20 not place ourselves in the position of trying to
21 figure that out. So we just ask that your
22 post-hearing briefs are as clear as possible lining
23 up the arguments with the issues that they go to.

24 COMMISSIONER PASSIDOMO: Parties, any other
25 matters?

1 MS. CHRISTENSEN: None for OPC.

2 COMMISSIONER PASSIDOMO: FPUC?

3 MS. KEATING: None for the company.

4 MR. MOYLE: None for FIPUG.

5 COMMISSIONER PASSIDOMO: Okay. All right.

6 Well, I just wanted to thank all of you for bearing
7 with me. This is my first prehearing, and so
8 hopefully am more to come, but I appreciate all of
9 your -- all of your work here. So this concludes
10 the prehearing conference and we are adjourned.

11 MS. KEATING: Thank you, Commissioner.

12 (Proceedings concluded.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court 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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 21st day of October, 2022.


DEBRA R. KRICK
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