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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240012-EG

Commission review of numeric
conservation goals (Florida
Power & Light Company).

DOCKET NO. 20240013-EG

Commission review of numeric
conservation goals (Duke
Energy Florida, LLC).

DOCKET NO. 20240014-EG

Commission review of numeric
conservation goals (Tampa
Electric Company).

DOCKET NO. 20240015-EG

Commission review of numeric
conservation goals (Florida
Public Utilities Company).

DOCKET NO. 20240016-EG

Commission review of numeric
conservation goals (JEA).

DOCKET NO. 20240017-EG

Commission review of numeric
conservation goals (Orlando
Utilities Commission).

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: ART GRAHAM
PREHEARING OFFICER

DATE: July ²³ 12, 2024

8/2/24

1 TIME: Commenced: 12:58 p.m.
2 Concluded 1:40 p.m.

3 PLACE: Betty Easley Conference Center
4 Room 105
5 2524 Shumard Oak Boulevard
6 Gerald L. Gunter Building
7 Tallahassee, Florida

8 REPORTED BY: DEBRA R. KRICK
9 Court Reporter

10 PREMIER REPORTING
11 TALLAHASSEE, FLORIDA
12 (850) 894-0828
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1 APPEARANCES:

2 WILLIAM P. COX and CHRISTOPHER T. WRIGHT,
3 ESQUIRES, Florida Power & Light Company, 700 Universe
4 Boulevard, Juno Beach, Florida 33408; appearing behalf
5 of Florida Power & Light Company (FPL).

6 MATTHEW R. BERNIER and STEPHANIE A. CUELLO,
7 ESQUIRES, 299 First Avenue North, St. Petersburg,
8 Florida 33701; appearing on behalf of Duke Energy
9 Florida, LLC (DEF).

10 J. JEFFRY WAHLEN, MALCOLM N. MEANS, and
11 VIRGINIA PONDER, ESQUIRES, Ausley & McMullen, Post
12 Office Box 391, Tallahassee, Florida 32302; appearing on
13 behalf of Tampa Electric Company (TECO).

14 BETH KEATING, ESQUIRE, Gunster, Yoakley &
15 Stewart, P.A., 215 South Monroe Street, Suite 601,
16 Tallahassee, Florida 32301; appearing on behalf of
17 Florida Public Utilities (FPUC).

18 GARY V. PERKO, ESQUIRE, Holtzman, Vogel,
19 Baran, Torchinsky & Josefiak, PLLC, 119 South Monroe
20 Street, Suite 500, Tallahassee, Florida 32301; appearing
21 on behalf of JEA (JEA).

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1 APPEARANCES CONTINUED:

2 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
3 ESQUIRES, Gardner, Bist, Bowden, Bush, Dee, LaVia &
4 Wright, P.A., 1300 Thomaswood Drive, Tallahassee,
5 Florida 32308; appearing on behalf of Orlando Utilities
6 Commission (OUC).

7 SEAN T. GARNER, ERIK SAYLER and KELLY WRIGHT,
8 ESQUIRES, Florida Department of Agriculture & Consumer
9 Service, Office of General Counsel, The Mayo Building,
10 407 S. Calhoun Street, Suite 520, Tallahassee, Florida
11 32399-0800; appearing on behalf of Florida Department of
12 Agriculture & Consumer Services (FDACS).

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

17 BRADLEY MARSHALL and JORDAN LUEBKEMANN,
18 ESQUIRES, Earthjustice, 111 S. Martin Luther King Jr.
19 Boulevard, Tallahassee, FL 32301; appearing on behalf of
20 Florida Rising (FL Rising) and League of United Latin
21 Citizens of Florida (LULAC).

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1 APPEARANCES CONTINUED:

2 MICHAEL K. LAVANGA and JOSEPH R. BRISCAR,
3 ESQUIRES, Stone, Mattheis, Xenopoulos & Brew, PC, 1025
4 Thomas Jefferson Street, NW, Eighth Floor, West Tower,
5 Washington, DC 20007; appearing on behalf of Nucor Steel
6 Florida, Inc. (Nucor).

7 JAMES W. BREW, LAURA WYNN BAKER and SARAH B.
8 NEWMAN, ESQUIRES, Stone, Mattheis, Xenopoulos & Brew,
9 PC, 1025 Thomas Jefferson Street, NW, Eighth Floor, West
10 Tower, Washington, DC 20007; appearing on behalf of
11 White Springs Agricultural Chemicals, Inc. d/b/a PCS
12 Phosphate - White Springs (PCS Phosphate).

13 WILLIAM C. GARNER, ESQUIRE, Law Office of
14 William C. Garner, PLLC, 3425 Bannerman Road, Unit 105,
15 No. 414, Tallahassee, Florida 32312; appearing on behalf
16 of Southern Alliance for Clean Energy (SACE).

17 STEPHANIE U. EATON, ESQUIRE, Spilman Thomas &
18 Battle, PLLC, 110 Oakwood Drive, Suite 500,
19 Winston-Salem, North Carolina 27103; STEVEN W. LEE,
20 ESQUIRE, Spilman, Thomas & Battle, PLLC, 1100 Bent Creek
21 Boulevard, Suite 101, Mechanicsburg, Pennsylvania 17050;
22 appearing on behalf of Walmart, Inc. (Walmart).

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1 APPEARANCES CONTINUED:

2 JACOB IMIG, JON RUBOTTOM and ADRIA HARPER,
3 ESQUIRES, FPSC General Counsel's Office, 2540 Shumard
4 Oak Boulevard, Tallahassee, Florida 32399-0850,
5 appearing on behalf of the Florida Public Service
6 Commission (Staff).

7 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
8 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
9 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
10 Florida 32399-0850, Advisor to the Florida Public
11 Service Commission.

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

2 COMMISSIONER GRAHAM: Well, good afternoon,
3 everybody. Let the record show, on my iPhone 12,
4 that it is Tuesday, July 23rd, it is 12:58 p.m.,
5 and we will call this meeting to order. I know
6 it's two minutes early, but I see everybody is
7 ready to go, so let's just move on.

8 Staff, read the notice, please.

9 MR. IMIG: By notice issued July 12th, 2024,
10 this time and place has been set for a prehearing
11 conference in Docket Nos. 20240012, 20240013,
12 20240014, 20240015, 20240016 and 20240017-EG. The
13 purpose of the prehearing conference is more fully
14 set out in the notice.

15 COMMISSIONER GRAHAM: Staff, any suggestions
16 on how to take notices -- appearances, rather?

17 MR. IMIG: There are six dockets to address
18 today in this consolidated proceeding. Staff
19 suggests that all appearances be taken at once.
20 All parties should enter their appearances and
21 declare the dockets that they are entering an
22 appearance for. After the parties make their
23 appearances, staff will need to make theirs.

24 COMMISSIONER GRAHAM: All right. So let's
25 start here on the left and make our way

1 parenthetical cross -- on my left.

2 MR. COX: Thank you. Good afternoon,
3 Commissioner Graham. William Cox and Christopher
4 Wright appearing on behalf of Florida Power & Light
5 Company in the 20240012 docket.

6 MS. CUELLO: Good afternoon. Stephanie Cuello
7 and Matt Bernier for Duke Energy Florida in the
8 20240013 docket.

9 MR. MEANS: Good afternoon. Malcolm Means
10 with the Ausley firm. I am also entering
11 appearances for Jeff Wahlen and Virginia Ponder for
12 Tampa Electric in the 20240014 docket.

13 Thank you.

14 MR. PERKO: Afternoon, Commissioner Graham.
15 Gary Perko of the Holtzman, Vogel Law Firm on
16 behalf of JEA in Docket No. 20240016.

17 MR. S. WRIGHT: Good afternoon, Commissioner
18 Graham. Robert Scheffel Wright and John T. Lavia,
19 III. We are appearing on behalf of OUC in docket
20 20240017.

21 By agreement with all parties and as stated in
22 a separate notice of appearance that we filed, we
23 are also representing all of the other utilities in
24 the 12, 13, 14, 15 and 16 dockets for the purpose
25 of presenting and defending the testimony of our

1 common witness, Mr. Jim Herndon.

2 Thank you.

3 MR. MOYLE: Good afternoon. Jon Moyle with
4 the Moyle Law Firm on behalf of the Florida
5 Industrial Power Users Group. I would also like to
6 enter an appearance for Karen Putnal with our firm,
7 and that would be in the FPL docket, the 12 docket;
8 the Duke docket, the 13 docket; and the Tampa
9 Electric docket, the 14 docket.

10 MS. EATON: Good afternoon. Stephanie Eaton
11 with the law firm Spilman, Thomas & Battle,
12 entering an appearance for Walmart, Inc.; and also
13 would like to enter an appearance for Steven Lee.
14 We are entering appearances in all six docket.

15 Thank you.

16 MR. LAVANGA: Good afternoon, Commissioner
17 Graham. My name is Michael Lavanga with the law
18 firm of Stone, Matheis, Xenopoulos & Brew. I would
19 also like to enter an appearance for Joseph
20 Briscar. We are in the Duke docket, 20240013.

21 MR. BREW: Good afternoon, Commissioner. For
22 White Springs Agricultural Chemicals, PCS
23 Phosphate, I am James Brew. I would like to also
24 note an appearance do Laura Wynn Baker and Susan
25 Newman. And we are intervening in the 0013, Duke

1 Energy Florida docket.

2 MR. MARSHALL: Good afternoon, Commissioner.
3 Bradley Marshall and Jordan Luebkekmann on behalf of
4 Florida Rising, the League of United Latin American
5 Citizens of Florida, better known as LULAC, and the
6 Environmental Confederation of Southwest Florida,
7 better known as ECOSWF, in the 20240012 docket; and
8 on behalf Florida Rising and LULAC in the 20240013
9 docket and the 20240014 docket; and on behalf of
10 Florida Rising in the 20240016 docket and the
11 20240017 docket.

12 Thank you.

13 MS. WRIGHT: Good afternoon, Commissioner.
14 Kelly Wright for the Department of Agriculture &
15 Consumer Services, Office of Energy, appearing in
16 all dockets. I would also like to enter an
17 appearance in all dockets for Sean Garner and Erik
18 Sayler.

19 MR. W. GARNER: Good afternoon, Commissioner
20 Graham. William Garner on behalf of the Southern
21 Alliance for Clean Energy. We are appearing in all
22 of the dockets except for 20240015.

23 MS. KEATING: Good afternoon, Commissioner.
24 Beth Keating with the Gunster Law Firm here this
25 afternoon on behalf of Florida Public Utilities

1 Company in docket 20240015.

2 MR. IMIG: Jacob Imig, Commission staff. I
3 would also like to enter an appearance for Jon
4 Rubottom and aid Adria Harper.

5 MS. HELTON: And Mary Anne Helton is here as
6 your Advisor, along with your General Counsel,
7 Keith Hetrick.

8 COMMISSIONER GRAHAM: I tell you what, there
9 is a lot of you guys out here in front of me.

10 All right. So for the record, when I ask if
11 everybody is okay or in agreement with something, I
12 am not going to poll the entire crowd. The burden
13 is upon you to speak up, raise your hand, get my
14 attention saying that you are not in agreement. So
15 just as long as you know the rules, I will probably
16 click through this stuff pretty quickly.

17 Staff, preliminary matters?

18 MR. IMIG: Yes. Staff has three preliminary
19 matters it would like to address.

20 First, the witness testimony and exhibits of
21 FPUC witnesses Craig and Clark have been fully
22 stipulated. As such, witnesses Craig and Clark
23 have been excused, and at the appropriate time,
24 their prefiled testimony and exhibits will be
25 entered into the record as though read.

1 Also, the parties in the Duke docket have
2 proposed a stipulation that would add a sub-issue
3 to Issue 8. This will be discussed when we reach
4 the issues. The parties have proposed stipulations
5 to proposed Issue 8b and Issue 12.

6 Additionally, last night, Duke filed an
7 updated petition for approval of conservation goals
8 that includes updated direct testimony. Have the
9 parties had a chance to see this filing? If so, do
10 the parties wish to comment on this filing today?

11 COMMISSIONER GRAHAM: Any of the parties wish
12 to comment on Duke's filing from last night?

13 MR. MOYLE: I haven't seen it, so --

14 COMMISSIONER GRAHAM: All right. So let's --
15 any other pre -- excuse me, any other preliminary
16 matters that was not covered by staff?

17 Okay. Let's proceed through the Prehearing
18 Order. We are going to go through one section at a
19 time. Again, we will probably click through pretty
20 quickly.

21 When I call the section, if you have anything
22 you want to speak to, please get my attention so we
23 can make those changes.

24 Section I.

25 Section II.

1 Section III.

2 Section IV, staff.

3 MR. IMIG: When confidential information is
4 used in the hearing, parties must have copies for
5 the Commissioners, necessary staff and the court
6 reporter in red envelopes clearly marked with the
7 nature of the contents.

8 Any party wishing to examine the
9 confidentiality material that is not subject to
10 acknowledge order granting confidentiality shall be
11 provided a copy in the same fashion as provided to
12 the Commissioners, subject to execution of any
13 appropriate protective agreement with the owner of
14 the material.

15 COMMISSIONER GRAHAM: Does anybody have any
16 comments or questions about handling confidential
17 information?

18 Okay. Move on to Section V, staff.

19 MR. IMIG: Staff suggests that the witness
20 summary testimony be no longer than three minutes.
21 If a witness has filed both direct and rebuttal
22 testimonies, staff recommends that he or she
23 receives three minutes for direct and three minutes
24 for rebuttal. If both direct and rebuttal
25 testimonies are taken together, staff recommends

1 that the witness be given six minutes total.

2 COMMISSIONER GRAHAM: Is everybody okay with
3 that?

4 Okay. Move on to Section VI, staff.

5 MR. IMIG: As previously mentioned, there are
6 stipulated witnesses in the FPUC case. Additional
7 stipulated witnesses may be suggested by the
8 parties at this time. If there are stipulated
9 witnesses the parties would like to suggest, staff
10 will confirm with each Commissioner that the
11 witness can be excused. If Commissioners do not
12 have questions of these witnesses, the witnesses
13 may be excused from the hearing, and his or her
14 testimony and exhibits entered into the record at
15 the hearing as though read.

16 COMMISSIONER GRAHAM: So, parties, are there
17 any witnesses that you wish to be stipulated, or
18 are there any witnesses you wish to combine their
19 direct and rebuttal testimony?

20 MS. EATON: Good afternoon, again. Stephanie
21 Eaton for Walmart.

22 If it's possible, we would like to stipulate
23 Mr. Chriss' testimony in the dockets for FPUC, JEA
24 and OUC.

25 COMMISSIONER GRAHAM: Is that the only one?

1 MS. EATON: And potentially all of the
2 dockets, but those in particular we would
3 definitely like to stipulate.

4 COMMISSIONER GRAHAM: Anybody have any
5 problems or concerns with that?

6 Staff, you are noting this?

7 MR. IMIG: I am sorry, can you repeat that?

8 COMMISSIONER GRAHAM: I just want to make sure
9 you are noting this.

10 MR. MARSHALL: I just want to make sure I
11 understand the stipulations. That would only being
12 certain dockets that Chriss would be --

13 MS. EATON: We would like him to be stipulated
14 for all six of them, but there are additional
15 parties, and you may have cross, and we haven't
16 talked to you about those. But as to the three in
17 particular, FPUC, JEA and OUC, we would like
18 stipulation on those.

19 COMMISSIONER GRAHAM: So right now, you are
20 just asking for the stipulation on those?

21 MS. EATON: Correct, I am.

22 COMMISSIONER GRAHAM: Not for all of them.

23 MR. MARSHALL: I am just wondering what the
24 effect would be of a partial stipulation for those
25 dockets if the witness still has to take the stand.

1 I mean, I think we are willing to stipulate to the
2 witness in its entirety. I am just a little unsure
3 about stipulation to the witness for particular
4 dockets.

5 COMMISSIONER GRAHAM: Is there anybody against
6 stipulating to the witness in entirety?

7 Mr. Brew, which part of his testimony are you
8 not willing to stipulate?

9 MR. BREW: Oh, I am sorry. I misunderstood
10 you. We are willing to stipulate him entirely.

11 COMMISSIONER GRAHAM: So you are willing to
12 stipulate all?

13 MR. BREW: Yes.

14 COMMISSIONER GRAHAM: So everybody is willing
15 to stipulate all of them?

16 MR. MOYLE: All the witnesses or --

17 MS. EATON: Just the Walmart witness.

18 MR. S. WRIGHT: Yeah, we have no objection to
19 stipulating Mr. Chriss' testimony.

20 Thank you.

21 COMMISSIONER GRAHAM: Okay. So that makes it
22 simple.

23 MS. EATON: Okay. Thank you.

24 COMMISSIONER GRAHAM: No worries.

25 Anybody else stipulating witnesses? Yes, sir.

1 MR. COX: I would just add, we would be
2 willing to stipulate the witness Marcelin. And if
3 he is stipulated, we would be willing to combine
4 direct and rebuttal. If he is not stipulated, then
5 we would want to maintain the separate direct and
6 rebuttal for the FPL witnesses.

7 COMMISSIONER GRAHAM: So the first question
8 is, is anybody against stipulating that witness?

9 Okay. Now you don't have to worry about that.
10 So you are going to combine the direct and
11 rebuttal?

12 MR. COX: If he is excused from the hearing.

13 COMMISSIONER GRAHAM: Staff, do you have any
14 problems with that stipulation?

15 MS. HELTON: I think Mr. Brew wanted to say
16 something. I don't --

17 MR. BREW: Yes, Commissioner. We really
18 haven't discussed that yet. We may well be willing
19 to stipulate Mr. Marcelin, but we haven't discussed
20 it with FPL yet.

21 COMMISSIONER GRAHAM: Okay. Can we just
22 temporarily stipulate and you will get with them
23 before the end of the day and let staff know?

24 MR. BREW: Yes.

25 COMMISSIONER GRAHAM: Does that work, Mary

1 Anne?

2 MS. HELTON: If they can talk about it at the
3 end of the day. And as you know, Mr. Chairman, but
4 I just feel like I have to say, especially we have
5 a couple of people that aren't familiar with our
6 process, we still have to confirm with all the
7 Commissioners that they are okay with stipulating
8 as well.

9 COMMISSIONER GRAHAM: Yes. Okay. Any other
10 witnesses, Mr. Moyle?

11 MR. MOYLE: I was just going to say, I think
12 we are having some conversations after the
13 prehearing that will involve stipulations, so if we
14 could have until, you know, close of business
15 tomorrow is typically what we do for things like
16 that, that might help facilitate some of those
17 conversations.

18 COMMISSIONER GRAHAM: Staff?

19 MR. IMIG: Yeah, that works for us.

20 COMMISSIONER GRAHAM: Okay.

21 MR. MOYLE: Thank you.

22 COMMISSIONER GRAHAM: So anything else we can
23 stipulate here and now?

24 Okay. Let's move on. We are going on to
25 Section VII, staff.

1 MR. IMIG: Before we move through this
2 section, I would like to make it clear for the
3 record that not all positions apply to every
4 docket, because some intervenor parties only
5 requested to intervene in certain dockets instead
6 of all dockets.

7 Changes to basic positions should be submitted
8 in writing by close of business tomorrow, July
9 24th.

10 COMMISSIONER GRAHAM: Are there any changes in
11 anybody's basic position?

12 MS. CUELLO: Good afternoon. I will say Duke
13 Energy has changes, but it's just updating the
14 numbers included in that basic position, and we
15 filed those yesterday in our updated prehearing
16 statement.

17 COMMISSIONER GRAHAM: Okay.

18 MR. MOYLE: We --

19 MS. EATON: Good afternoon -- oh, I am sorry.

20 MR. MOYLE: Go ahead.

21 MS. EATON: Good afternoon, again. Stephanie
22 Eaton for Walmart.

23 We didn't have a change in our basic position,
24 but if there was going to be edits to that Section
25 VI on order of witnesses, I did want to note that

1 -- and we sent this to Mr. Imig this morning --
2 that Mr. Chriss was also, his testimony did also
3 address Issue 12, and that was omitted from the
4 document here that I see. Just to make that
5 clarification.

6 COMMISSIONER GRAHAM: Okay.

7 MS. EATON: Thank you.

8 COMMISSIONER GRAHAM: Mr. Moyle.

9 MR. MOYLE: And FIPUG may have some changes,
10 but we will get them to staff by 5:00 tomorrow,
11 per your order.

12 COMMISSIONER GRAHAM: Okay.

13 MR. MARSHALL: I was going to say, we might
14 have changes as well to reflect that there are new
15 stipulations in the Duke docket that we stipulated
16 to that were not present at the time we made our
17 prehearing statement, so it might just need a
18 little adjustment to reflect that.

19 COMMISSIONER GRAHAM: Okay.

20 MR. IMIG: Thank you. And we have received
21 several parties' edits, and we will make sure that
22 that gets reflected in the Prehearing Order.

23 COMMISSIONER GRAHAM: Okay. We are done with
24 basic positions. Moving on to Section VIII, Issues
25 and Positions.

1 Staff already made it clear for the record
2 that not all positions apply to every docket. Some
3 intervenors only requested to intervene in certain
4 dockets instead of all dockets.

5 So that being said, we are going to go through
6 these issues one at a time. Same thing applies.
7 If you have any changes, let me know as we click
8 through them.

9 With Issue 1.

10 Issue 2.

11 Issue 3.

12 Issue 4.

13 Issue 5.

14 Issue 6.

15 Issue 7.

16 Okay. Staff, Issue 8.

17 MR. IMIG: Staff notes that Duke filed a joint
18 notice of necessary stipulations on July 15th,
19 2024, in which the parties requested that Issue 8
20 be bifurcated into two parts to read as follows:

21 Issue 8a: Should demand credit rates for
22 interruptible service, curtailable, stand-by
23 generation, or similar potential demand response
24 programs be addressed in this proceeding or in the
25 base rate proceedings for rate regulated FEECA

1 utilities?

2 And Issue 8b: If this proceeding, what demand
3 credit rates are appropriate for the purposes of
4 establishing the utilities goals?

5 COMMISSIONER GRAHAM: Is everybody okay with
6 splitting Issue 8 the way stated by staff?

7 Mr. Brew?

8 MR. BREW: I was just going to say that PCS
9 supports that.

10 COMMISSIONER GRAHAM: Okay. Anybody against
11 it? Okay. I thought I heard somebody's click.

12 All right. So let's move on to Issue 9.

13 MR. MARSHALL: Just a question on that. Is --
14 if that's okay.

15 COMMISSIONER GRAHAM: On Issue 8?

16 MR. MARSHALL: On Issue 8.

17 COMMISSIONER GRAHAM: Yes.

18 MR. MARSHALL: Should we submit revised
19 statements to reflect the bifurcation so that it's
20 clear which part of our current statement is going
21 towards 8a and which part is going towards 8b?

22 COMMISSIONER GRAHAM: Staff, do you need that
23 clarification? Yes.

24 MS. HARPER: Yes, thank you.

25 COMMISSIONER GRAHAM: Okay. Issue 9.

1 Issue 10.

2 Issue 11.

3 Issue 12.

4 MR. PERKO: Commissioner Graham, we submitted
5 one typographical correction to staff already.

6 COMMISSIONER GRAHAM: For Issue 12?

7 MR. PERKO: Yes.

8 COMMISSIONER GRAHAM: Issue 13.

9 Okay. Let's go to Section IX, staff.

10 MR. IMIG: Staff notes that it has prepared a
11 Comprehensive Exhibit List, which includes all
12 prefiled exhibits, and also includes those exhibits
13 staff wishes to include in the record.

14 Staff will recirculate the draft list and
15 check with the parties prior to the hearing to
16 determine if there are any objections to the
17 Comprehensive Exhibit List, or any of staff's
18 exhibits being entered into the record.

19 COMMISSIONER GRAHAM: Mr. Brew.

20 MR. BREW: Thank you, Commissioner.

21 We received the draft comprehensive exhibit
22 list around about the close of business yesterday
23 when we were actually trying to travel to get down
24 here, so I would ask if we can have at least two
25 days to review and comment back to staff on the

1 proposed exhibit list?

2 COMMISSIONER GRAHAM: Can we stick with close
3 of business tomorrow?

4 MR. BREW: Yes. I can.

5 COMMISSIONER GRAHAM: I just want to make
6 sure, because we have been drawing that line, so it
7 seems like it works best for everybody to know
8 that's what the line is.

9 MR. MOYLE: On the exhibit list, I think we
10 have historically had that be on a separate track,
11 because there is, you know, a whole up bunch of
12 exhibits, and people are looking at them. Usually
13 we get there at hearing and we agree to stipulate,
14 but I don't recall that we've done it like, you
15 know, close of business tomorrow previously. Is
16 that what --

17 COMMISSIONER GRAHAM: So you are saying you
18 have got better things to do?

19 MR. MOYLE: That's the statement for the
20 summer for me. You have kept that -- you have kept
21 me in town quite a lot, so -- anyway, I just -- I
22 just want to make that point. I think we will get
23 there, but more time would be appreciated.

24 COMMISSIONER GRAHAM: If we hit a wall, we
25 will talk about it.

1 MR. MOYLE: Okay.

2 MR. S. WRIGHT: Commissioner.

3 COMMISSIONER GRAHAM: Mr. Wright.

4 MR. S. WRIGHT: Just do clarity, what's the
5 relationship between the exhibit list in the
6 prehearing order and the comprehensive exhibit
7 list, which is a lot longer than the list here in
8 the prehearing order? You know, as I always say, I
9 am going to do what you say, I just want to make
10 sure that we are on the same page.

11 One of my exhibits was left out of the CEL,
12 but I have communicated that to staff, and I know
13 we will get that squared away. Just what do we
14 need to do here?

15 COMMISSIONER GRAHAM: I don't think --

16 MS. HELTON: Mr. Chairman.

17 COMMISSIONER GRAHAM: Yes.

18 MS. HELTON: I do think it's okay for staff,
19 if they do not -- aren't able to completely look at
20 the comprehensive exhibit list by the close of
21 business tomorrow, I think we have a little bit of
22 wiggle room, but the sooner the better. And Mr.
23 Imig or Ms. Harper could address better when a
24 better date might be, if that's -- the parties are
25 having issues looking at everything by tomorrow

1 afternoon.

2 COMMISSIONER GRAHAM: Well, then staff needs
3 to give me a better time.

4 MR. IMIG: I think we will be fine with the
5 two days. So close of business Thursday, the 25th.

6 MR. S. WRIGHT: Commissioner, I am completely
7 fine. I already sent in my edits to the CEL. I
8 just want to note what we are doing with this
9 exhibit list and the CEL. That's all.

10 Thank you.

11 COMMISSIONER GRAHAM: Okay. All right. So we
12 are still Section IX. Is everybody fine with the
13 comprehensive exhibit list knowing that you got two
14 days to make changes, or make --

15 MR. COX: FPL has some minor corrections, but
16 we will submit those to staff.

17 COMMISSIONER GRAHAM: Okay.

18 MR. COX: We are fine with it otherwise.

19 MR. MEANS: And Tampa Electric has a few minor
20 corrections, but we already sent those to staff.

21 MS. CUELLO: And Duke Energy as well, but it's
22 just based on our updated petition and exhibits
23 that were filed yesterday.

24 COMMISSIONER GRAHAM: Okay. So everybody is
25 with me. We are getting ready to go to Section X.

1 All right, staff.

2 MR. IMIG: The parties in the Duke docket have
3 agreed to stipulate to Issues 8b and 12.

4 Staff would suggest that all parties consider
5 offering additional stipulations at this time.

6 COMMISSIONER GRAHAM: I don't see that
7 happening.

8 Section XI, Pending Motions.

9 MR. IMIG: Before we move on, I just want to
10 address that the FPUC, all issues have been
11 stipulated to, unless -- I think we haven't heard
12 back from Walmart on that issue.

13 MS. EATON: On FPUC? Yes, the issues were
14 stipulated --

15 MR. IMIG: Okay.

16 MS. EATON: -- and the testimony was
17 stipulated for FPUC.

18 Thank you.

19 MR. IMIG: Okay. For Section XI, there are no
20 pending motions.

21 COMMISSIONER GRAHAM: Section XII.

22 MR. IMIG: The pending confidentiality
23 requests are listed in the draft prehearing order.

24 COMMISSIONER GRAHAM: Section XIII.

25 MR. IMIG: If certain issues are stipulated

1 and the parties agree to waive briefs, the
2 Commission may take a bench decision for those
3 portions of the proceeding.

4 If there are any issues to be briefed, staff
5 recommends post-hearing briefs be no longer than 50
6 pages, including attachments.

7 COMMISSIONER GRAHAM: Is everybody in
8 agreement with that?

9 Okay. I like it.

10 MR. IMIG: Staff notes that any briefs will be
11 due on September 12th, 2024.

12 COMMISSIONER GRAHAM: Okay. Section XIV,
13 staff.

14 MR. IMIG: Staff recommends that the
15 Prehearing Officer make a ruling that opening
16 statements, if any, should not exceed five minutes
17 per party unless any party chooses to waive its
18 opening statement. Because Florida Rising, LULAC
19 and ECOSWF share the same representative and are
20 submitting joint filings, staff recommends that
21 they be given five minutes to share.

22 COMMISSIONER GRAHAM: I can't believe I am
23 actually giving somebody five minutes to do an
24 opening statement. I guess I didn't catch that in
25 the prehearing order.

1 Okay, I will stick with the five minutes.

2 Anybody have any problems with that? Know that you
3 do not have to use the entire five minutes.

4 Okay. Other matters?

5 MR. IMIG: Staff is unaware of any other
6 matters at this time.

7 COMMISSIONER GRAHAM: Are there any other
8 matters that we have not spoke of so far, any
9 confusion that I threw out there in the last 25
10 minutes?

11 Seeing none, I thank you all for your time and
12 your patience. Mr. Moyle --

13 MR. S. WRIGHT: Commissioner, since I have got
14 everybody's attention, I have a witness scheduling
15 issue. My witness, Mr. Kushner, cannot get here
16 until Tuesday night, so he would need to go on
17 Wednesday. I just wanted everybody to be aware of
18 that for scheduling purposes.

19 Thank you for letting me get that out.

20 COMMISSIONER GRAHAM: What's that witness'
21 name?

22 MR. S. WRIGHT: Bradley Kushner.

23 COMMISSIONER GRAHAM: Okay.

24 MR. S. WRIGHT: Thank you, sir.

25 MR. PERKO: Mr. Chairman, Mr. Kushner is also

1 a witness for JEA, so we would ask for the same
2 accommodation.

3 COMMISSIONER GRAHAM: Okay. Everybody has
4 noted that.

5 Anything else?

6 MR. MOYLE: Can I ask just a process question?

7 COMMISSIONER GRAHAM: Sure.

8 MR. MOYLE: I said I wasn't going to stir
9 things up any, but I just need a little guidance on
10 this. It's been a while since we've -- since
11 FIPUG, I think, may have actively participated in a
12 docket. I am not real clear as to who, you know,
13 what the order of presentation is going to be. I
14 mean, we have all the utilities in here. Are we
15 going to take utility A, and they are going to put
16 on their case and then we are done, and then move
17 to utility B and C? And then if we are doing that,
18 is there a sub-breakdown? Like, you know, we are
19 in Duke and FPL and TECO, we don't feel compelled
20 necessarily to be out here for JEA and OUC and
21 others. I am just not clear how that's going to
22 work.

23 COMMISSIONER GRAHAM: Have we -- I haven't
24 talked to the Chairman for his determination. Are
25 we just going to do dockets in numerical order?

1 MS. HELTON: I am not sure, but I think there
2 are some shared witnesses amongst the utilities, so
3 obviously, then I don't think those will be split
4 up by utility. Those will be taken -- each witness
5 will be taken up one time on the stand, is my
6 understanding. Is that the way that you all
7 perceived planning to proceed?

8 MR. S. WRIGHT: In general, that is the plan
9 as we have discussed it -- the utilities, that is.
10 And I have discussed this much earlier on, like,
11 weeks and weeks ago, with staff.

12 As I mentioned earlier, I, or my partner Jay,
13 will be presenting and defending the primary direct
14 testimony of Mr. Herndon. He has no rebuttal. The
15 way the order of witnesses is set up, he would be
16 the second witness. My understanding is that
17 that's to accommodate a scheduling need for Duke
18 Energy's witness, Mr. Duff. And that's all fine.

19 But Mr. Herndon is -- our plan is that Mr.
20 Herndon will, as reflected in the order of
21 witnesses in the draft prehearing order, take the
22 stand one time, and that will be it. As we proceed
23 down through the order that staff has laid out
24 here, which is fine with us, we will get to Mr.
25 Kushner, he will be JEA's last witness and OUC's

1 first witness, so he can stay over at the witness
2 table for one time and then we will continue on.
3 When the utilities are done, the intervenors, if
4 they are presenting testimony, will have their
5 opportunity. And then if there is to be rebuttal,
6 then we would be presenting our rebuttal testimony.
7 That's an open issue right now that I need to talk
8 further with my colleagues and with my client.

9 Thank you. I think that's got it, Mary Anne.

10 MS. HELTON: So from I understand that the
11 order of witnesses, as laid out in the prehearing
12 order, is the order of witnesses that will be
13 called, with the exception of if there is some
14 travel issues that will need to be worked out at
15 the, you know, time of the hearing.

16 COMMISSIONER GRAHAM: So is your witness going
17 to be called when he arrives, or just at a fixed
18 time at the end of the day on Tuesday?

19 MR. S. WRIGHT: Not a fixed time, Mr.
20 Chairman. He just cannot get here until Tuesday
21 night, so he would not be available to testify
22 until Wednesday morning. That's our only
23 restraint. If it's three o'clock on Wednesday or
24 9:30 on Wednesday, that's fine.

25 Thank you.

1 COMMISSIONER GRAHAM: Okay. Anything else?

2 MR. MOYLE: The only other thing I saw is
3 staff sent out an email about the issue with
4 respect to the credits and how that's going to be
5 handled, and it's framed up, I think, in the Duke
6 case. But they said we are going to put that in
7 ever case, right? The same -- same issue.

8 So I assume that whatever evidence goes in
9 will -- I mean, will be able to -- we are not a
10 party in every issue, but we will be able to say,
11 see above, or, you know, see the position in Duke
12 with respect to all of those issues that are out
13 there in all the individual cases.

14 MS. HARPER: Issue 8a and Issue 8b are going
15 to be addressed in each of the dockets. So there
16 will be an opportunity for each utility to address
17 those issues.

18 MR. MOYLE: Right, but there is not a risk of
19 a finding on 8a, which is, where should this be
20 decided in the goals docket or the rate case. I
21 mean, that's going to be uniformed out, I would
22 think. There is not a risk because you didn't
23 participate in another case of it going one way in
24 one case and another way in another case?

25 MS. HARPER: Can you --

1 MR. MEANS: I was just going to say, I think
2 he is asking on a decision on 8a in, like, let's
3 say Duke's docket will have the same result in the
4 other dockets?

5 MS. HARPER: It will not. Everybody can put
6 on their arguments for Issue 8a as they relate to
7 each individual utility in their respective docket.
8 So whatever happens in, say, 8a in Duke may not be
9 the same in 8a in TECO.

10 MR. MOYLE: All right. Well, I will need to
11 think about that. Is it too late to intervene in
12 all those other dockets -- no.

13 MS. EATON: And just a follow-on question,
14 then. To the extent that there is a post-hearing
15 brief, the parties that participated in certain
16 dockets and not all, we have filed intervention in
17 all, but to the ones that filed only in some, they
18 would be addressing 8a and b for each docket, you
19 know, one by one by one?

20 MS. HARPER: It would be utility specific. I
21 mean, you don't have to -- it's up to you how you
22 want to address it, but we envision each -- there
23 would be a placeholder in Issue 8a for the parties
24 to be able to present legal argument on that.

25 MR. BREW: But Issue 8a is framed as a general

1 question, not as a utility specific question.

2 MS. HARPER: Okay. So if you are -- so are
3 you asking do you have to repeat the same thing in
4 each docket?

5 MR. BREW: Well, no, because you have said --

6 MS. HARPER: Because it's general?

7 MR. BREW: Well, because you have six dockets,
8 and some parties are intervenors in only -- not all
9 of them, but the question was framed as a matter of
10 general policy what should be done. I am having --
11 I am having trouble understanding how you could get
12 to different results on a general policy question.

13 MS. HARPER: We just envision that the policy
14 could be particular to each docket depending on how
15 the specific utilities are being -- handling that
16 issue in each docket, or presenting that issue, or
17 affected by that issue. So that's why there is an
18 opportunity to address it in each docket.

19 If, you know, there is an overarching policy
20 concern that you have, or question or position that
21 you have, you know, we want to make sure everybody
22 can present it in each place. And if there is
23 utility specific information that informs that
24 position, we want to be able to see it.

25 MR. MOYLE: But -- can I just jump in here?

1 But it sounds like what you are saying is, is that
2 it's a factual issue, that facts will inform it.
3 Because if you have a general policy issue, and you
4 are deciding it one way in the Duke case and
5 another way in the FPL case, then it's not really a
6 legal issue, I wouldn't think, it's more of a
7 factual issue. Is that right?

8 MS. HARPER: You could put that in your Issue
9 8a. We just want it -- I am not trying to be
10 snarky. We just want that discussion to be able to
11 occur.

12 MR. MOYLE: We do as well. I just want to
13 understand the parameters and where we are deciding
14 it. Like Mr. Brew, I was under the impression that
15 this is largely imbued with policy about where to
16 do this. But with the answer saying you could have
17 different responses to different utilities, that
18 is --

19 MS. HARPER: I agree that it's primarily a
20 policy issue.

21 COMMISSIONER GRAHAM: Mr. Wright.

22 MR. S. WRIGHT: Thank you, Commissioner.

23 Just for clarity, this Issue 8, or 8a, neither
24 8a nor 8b applies to OUC nor JEA. We are not rate
25 regulated utilities. It just doesn't apply to us.

1 Thus, we've taken the position it's not at issue to
2 us, and I hope staff agrees with that.

3 COMMISSIONER GRAHAM: They are all nodding
4 their head enthusiastically.

5 MR. S. WRIGHT: I am gratified to see that.
6 Thank you.

7 MS. EATON: In other clarification with
8 respect to what we are going to be filing
9 after-the-fact, with respect to Issue 8a as framed
10 by Duke, you would like us to, instead of providing
11 you with an entire revised prehearing statement,
12 just provide you with our revised prehearing
13 statement language for Issue 8 that tracks the Duke
14 division into a and b.

15 MS. HARPER: Yes, if you think that will be
16 more clear, we would prefer that.

17 MS. EATON: Yes. Thank you.

18 COMMISSIONER GRAHAM: Mr. Brew, you look like
19 you are still in a trance.

20 MR. BREW: Yeah. The Issue A is framed in
21 terms of where should this issue be addressed for
22 the FEECA utilities. It's asked as a general
23 statement of practice. So I am still having
24 trouble figuring out how it becomes a fact-based
25 determination for each utility.

1 MS. HARPER: It's just that we have proposed
2 -- we have proposed stipulations floating around
3 for some dockets and not the others. So I don't
4 want to preclude anybody from making any kind of
5 argument in the -- on that issue in all the various
6 dockets for the various utilities. Some have
7 stipulations floating around, and some do not.

8 MR. BREW: Oh, I understand that. I just
9 don't understand what we do with it if you get
10 difference answers.

11 MS. HARPER: If you feel like you are -- if
12 you feel like, perhaps, that the position was going
13 to be the same throughout, then I would just
14 recommend that you copy and paste it the same
15 throughout, but we do want Issue 8a to be available
16 in each of the dockets.

17 COMMISSIONER GRAHAM: Okay.

18 MS. HARPER: We are just trying to contemplate
19 flexibility amongst the dockets.

20 COMMISSIONER GRAHAM: Anything else?

21 So once again, I want to thank you guys all
22 for your time and for all your work to this point,
23 and hopefully during the hearing we will get
24 through this easily and quickly and not use five
25 minutes opening statements.

1 You guys have a good afternoon. Travel safe.

2 We are adjourned.

3 (Proceedings concluded.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
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IT IS FURTHER CERTIFIED that I
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DATED this 1st day of August, 2024.


DEBRA R. KRICK
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