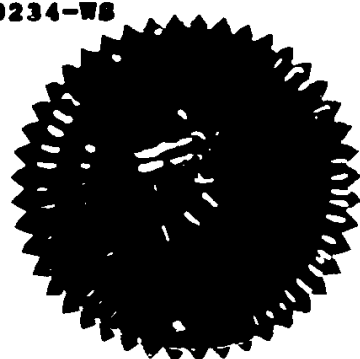


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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 In the Matter of : DOCKET NO. 960229-WS
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 :
 Application for increase :
 in rates and service :
 availability charges in :
 Lee County by Gulf :
 Utility Company :

 Investigation of rates : DOCKET NO. 960234-WS
 of Gulf Utility Company :
 in Lee County for :
 possible overearnings :



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER J. TERRY DEASON
Prehearing Officer

DATE: Monday, February 17, 1997

TIME: Commenced at 1:30 p.m.
Concluded at 3:50 p.m.

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

REPORTED BY: ROWENA NASH
Official Commission Reporter

DOCUMENT NUMBER DATE
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1 **APPEARANCES:**

2 **B. KENNETH GATLIN**, Gatlin, Schiefelbein and
3 Cowdery, The Mahan Station, 1709-D Mahan Drive,
4 Tallahassee, Florida 32308, appearing on behalf of
5 Gulf Utility Company.

6 **STEVEN C. REILLY**, Office of Public Counsel,
7 c/o The Florida Legislature, 111 West Madison Street,
8 Room 812, Tallahassee, Florida 32399-1400, appearing
9 on behalf of the Citizens of the State of Florida.

10 **MAGGI O'SULLIVAN**, Florida Public Service
11 Commission, Division of Legal Services, 2540 Shumard
12 Oak Boulevard, Tallahassee, Florida 32399-0870,
13 appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

(Hearing convened at 1:30 p.m.)

COMMISSIONER DEASON: Call the prehearing conference to order. Can we have the notice read, please?

MS. O'SULLIVAN: Yes, Commissioner. Pursuant to notice, this time and place has been set for a prehearing in Docket 960329-WS and Docket 960234-WS regarding Gulf Utility Company.

COMMISSIONER DEASON: Take appearances.

MR. GATLIN: My name is B. Kenneth Gatlin from the law firm of Gatlin, Schiefelbein and Cowdery. I represent the applicant.

MS. O'SULLIVAN: I'm not sure if Public Counsel is here yet. Margaret O'Sullivan on behalf of Public Service Commission Staff.

COMMISSIONER DEASON: Ms. O'Sullivan, have you heard from Public Counsel's office?

MS. O'SULLIVAN: I spoke to them this morning. They should be here presently.

COMMISSIONER DEASON: Well, should we proceed, or should we try to give them a few minutes to -- if they are intending to attend.

MS. O'SULLIVAN: I'm not quite sure what the delay is. I talked to Mr. Reilly this morning, and he

1 knew it was at 1:30. We could perhaps address the
2 pending motion regarding the testimony.

3 COMMISSIONER DEASON: Okay. Let's go ahead
4 then.

5 MS. O'SULLIVAN: Okay. On February 12th,
6 Staff filed a Motion to File Additional Testimony of a
7 fire department witness named Bernie Kleinschmidt.
8 Staff is requesting that his testimony be admitted or
9 be permitted to be filed after the filing deadline,
10 he's got information regarding an additional fire
11 district. Staff believes that the information is
12 relavant and would help complete the record.

13 We recognize that it's being filed --
14 proposed to be filed after the rebuttal's been filed
15 by the Utility. We would propose that they be allowed
16 to file rebuttal testimony to him, if they desire, at
17 a later time.

18 COMMISSIONER DEASON: Mr. Gatlin.

19 MR. GATLIN: I have no objection. We could
20 file the testimony by Tuesday the 25th.

21 COMMISSIONER DEASON: Ms. O'Sullivan.

22 MS. O'SULLIVAN: That would be acceptable
23 for Staff.

24 COMMISSIONER DEASON: So there's no
25 objection to filing the additional testimony as

1 requested by Staff, as long as the applicant has
2 opportunity to file rebuttal testimony by the 25th?

3 MS. O'SULLIVAN: Right. And that would be
4 rebuttal just to that particular witness' testimony.

5 COMMISSIONER DEASON: Yes.

6 That's your understanding, Mr. Gatlin?

7 MR. GATLIN: I'm sorry?

8 COMMISSIONER DEASON: That's your
9 understanding, it would be rebuttal testimony?

10 MR. GATLIN: That's my understanding. I'll
11 have it filed by the 25th, yes.

12 COMMISSIONER DEASON: Okay. That would be
13 the ruling then. And just have that reflected in the
14 Prehearing Order.

15 MS. O'SULLIVAN: I will.

16 COMMISSIONER DEASON: Any other preliminary
17 matters?

18 MS. O'SULLIVAN: None that Staff is aware
19 of.

20 COMMISSIONER DEASON: Mr. Gatlin.

21 MR. GATLIN: I don't mind waiting until OPC
22 gets here.

23 MS. O'SULLIVAN: I could try to give their
24 office a call and see if he's on his way. I'll be
25 happy to do that.

1 COMMISSIONER DEASON: We'll just take a
2 10-minute recess.

3 MS. O'SULLIVAN: Okay.
4 (Brief recess.)

5 - - - - -

6 COMMISSIONER DEASON: We're going to go back
7 on the record just simply to announce we are going to
8 be in recess until 2:00.

9 (Brief recess.)

10 - - - - -

11 COMMISSIONER DEASON: Call the prehearing
12 conference back to order. Further appearances.

13 MR. REILLY: Steve Reilly with the Office of
14 Public Counsel.

15 COMMISSIONER DEASON: Mr. Reilly, you may
16 already know this, but we did take care of one
17 preliminary matter.

18 MR. REILLY: Okay.

19 COMMISSIONER DEASON: Staff's request to
20 file additional testimony.

21 MR. REILLY: And the date for rebuttal on
22 that is?

23 COMMISSIONER DEASON: 25th of February.

24 MR. REILLY: Okay. And I do formally
25 apologise for my tardy attendance to the prehearing

1 conference and any inconvenience it may have caused
2 any parties or the Chair.

3 COMMISSIONER DEASON: That's fine. Just
4 glad to have you with us now. Okay, Ms. O'Sullivan.

5 Let me ask Mr. Reilly. Do you have any
6 preliminary matters, Mr. Reilly?

7 MR. REILLY: No preliminary matters.

8 COMMISSIONER DEASON: Very well. We have a
9 draft Prehearing Order, and I understand that there
10 have been some updates that have been provided from
11 Mr. Gatlin and Staff has also provided some updates
12 with that draft.

13 Ms. O'Sullivan, I suppose we just need to go
14 through that Prehearing Order at this point?

15 MS. O'SULLIVAN: Yes, Commissioner.

16 MR. REILLY: One quick question. I do have
17 this one page. Is that an update or statement from
18 Mr. Gatlin? Do I have a similar one -- I don't have a
19 similar one from Staff here. (Document tendered.)

20 Thank you.

21 COMMISSIONER DEASON: We will proceed then
22 through the draft Prehearing Order. Section 1 is the
23 case background. Any changes or corrections?

24 MR. REILLY: No.

25 COMMISSIONER DEASON: Section 2 addresses

1 confidential information which is standard. Let me
2 inquire. Do any of the parties at this point plan to
3 utilize confidential information at the hearing?

4 MR. REILLY: Not that we are aware.

5 MR. GATLIN: We do not.

6 MS. O'SULLIVAN: No.

7 COMMISSIONER DEASON: Very well. Section 3
8 addresses posthearing procedures. This, again, is
9 pretty standard.

10 Section 4 addresses prefiled testimony and
11 exhibits.

12 And then Section 5 addresses the order of
13 witnesses. Any changes or corrections or questions
14 concerning the order of witnesses?

15 MS. O'SULLIVAN: Commissioner, as to the
16 Staff witnesses that are from other agencies, we would
17 like to propose to take them starting on March 6th, as
18 opposed to having them have to be there on March 5th,
19 which is the first day. I doubt we'll get to them on
20 the first day because it is a short day.

21 COMMISSIONER DEASON: Any objection to
22 taking Staff witnesses from other agencies at the
23 beginning of the hearing on March the 6th?

24 MS. O'SULLIVAN: Or at least sometime during
25 that day.

1 **MR. GATLIN:** No problem from me, Mr.
2 Chairman. In fact, there are a couple that I can
3 stipulate that they go into the record if I could have
4 just another day or two. I could inform the parties.

5 **MS. O'SULLIVAN:** Would that be the DEP
6 witnesses?

7 **MR. GATLIN:** Yes.

8 **MS. O'SULLIVAN:** That would be great. That
9 would be Mr. Allen and Mr. Barienbrock.

10 **MR. REILLY:** No objections to the request.

11 **COMMISSIONER DEASON:** Mr. Reilly, are you
12 indicating that you can agree to stipulate those
13 witnesses?

14 **MR. REILLY:** I don't know -- that I agree to
15 have them be on that day, and likewise we might be
16 able to stipulate. And we'll get that information to
17 Staff.

18 **COMMISSIONER DEASON:** Very well. Let me
19 ask. Is it the intention to provide to Staff the
20 issues numbers which will be addressed by the various
21 witnesses? I see that it's missing from this draft.

22 **MS. O'SULLIVAN:** Yes. Lately, we've been,
23 previous prehearing conferences, having parties supply
24 that once we -- I hope we'll be able to stipulate some
25 of the issues today and drop the issue numbers. We'll

1 have to renumber them and then have them supply it to
2 us afterwards.

3 **COMMISSIONER DEASON:** Very well. Section 6
4 addresses basic positions. Any changes or
5 corrections?

6 Section 7, issues and positions, we'll begin
7 with Issue 1, changes? Corrections? 2. Issue 3.

8 **MS. O'SULLIVAN:** Staff has a new position to
9 Issue 3 which has been provided on the handout. I can
10 read it into the record, if you'd like.

11 **COMMISSIONER DEASON:** No. If you have that
12 and provided it, I think that would be sufficient just
13 to know that it has been made and been distributed.

14 **MS. O'SULLIVAN:** Thank you.

15 **MR. GATLIN:** Mr. Chairman, we have provided
16 the Staff, and I think they have provided you, with a
17 copy of a letter today with certain corrections. I
18 don't necessarily need to read them all out here,
19 but --

20 **COMMISSIONER DEASON:** I agree, Mr. Gatlin.
21 I've gone over that. I may have a question or two
22 with some of those; but when we get to those, I'll ask
23 a question. But since you've provided that, there's
24 no need to go through that again at this point.

25 **MR. GATLIN:** There's a couple that I got the

1 pages and the issues mixed up.

2 COMMISSIONER DEASON: Yeah, okay. But if
3 what you have provided is correct, there's no need to
4 go through again at this stage of the prehearing.

5 Mr. Reilly, you have a copy of that as well?

6 MR. REILLY: Yeah, I have a copy of this one
7 page.

8 MR. GATLIN: No, it's a letter.

9 MR. REILLY: Oh, I'm not sure then.

10 MS. O'SULLIVAN: I have an extra copy if you
11 need --

12 MR. REILLY: Okay. Thanks.

13 COMMISSIONER DEASON: Issue 4. Issue 5.

14 MS. O'SULLIVAN: Staff has a new position
15 which is indicated on the handout sheet.

16 COMMISSIONER DEASON: Okay. Issue 6. We
17 have two wordings for this issue, and Mr. Gatlin
18 you've provided language in your letter to -- is it to
19 address the issue as worded by Staff? I just need
20 some guidance as to the question concerning the
21 wording.

22 MR. GATLIN: It could be either way, I don't
23 care.

24 COMMISSIONER DEASON: Okay.

25 MS. O'SULLIVAN: Commissioner, there is one

1 typographical error. The last line of the proposed
2 ruling by Gulf, the rule number is wrong. It should
3 be Rule 25-30.4415.

4 MR. GATLIN: We are talking about Issue 6,
5 correct?

6 MS. O'SULLIVAN: Right.

7 COMMISSIONER DEASON: Well, Staff let me ask
8 you this. Which version of the wording do you intend
9 to incorporate in the Prehearing Order?

10 MS. O'SULLIVAN: Staff's position really is
11 that this issue is not -- I don't quite see the
12 necessity of it. It's more of a position as to which
13 project should be included in rate base. I'm not
14 quite sure. I hoped we'd be able to discuss perhaps
15 the purpose of the issue.

16 My question would be: Whatever the answer
17 is to this issue, how does it impact the proceeding?

18 COMMISSIONER DEASON: Mr. Gatlin.

19 MR. GATLIN: Mr. Chairman, my position -- as
20 stated in my letter, the specific piece of property
21 that we are talking about that Gulf had to spend money
22 on as a result of a DEP requirement is the holding
23 tank and associated facilities. And we think that
24 should be included in rate base because it is required
25 by a governmental agency in addition to being used and

1 useful.

2 **MS. O'SULLIVAN:** Our concern is that that's
3 covered by Issue 3.

4 **MR. BILLY:** Could I add something to this
5 discussion?

6 **COMMISSIONER DEASON:** Yes.

7 **MR. BILLY:** Generally, I think we are
8 better served if we can have the issues neutrally
9 worded and then let people take their positions in the
10 position part. This is so broad and all encompassing
11 that it really doesn't put us on notice as to what
12 specific asset or what plant is being questioned as to
13 whether it is or is not required by some rule or
14 regulation order. It puts us at a little
15 disadvantage.

16 I just feel that if it could be worded more
17 neutrally and be directed to a particular point in
18 controversy rather than just a broad sweeping
19 statement. I don't know in reading this proposed
20 wording for Issue 6 it includes every conceivable
21 investment that Gulf's made whether it is required by
22 any number of these things spoken of in this issue.
23 So I would urge that this be reworded or dropped in
24 lieu of a more tightly defined and neutrally worded
25 issue.

1 **COMMISSIONER DEASON:** Mr. Gatlin.

2 **MR. GATLIN:** Well, if it's the first -- how
3 about the first issue there, Issue 6. That will
4 bring -- satisfactory to us now if we can give the
5 answer that we want to give.

6 **COMMISSIONER DEASON:** Mr. Gatlin, is the
7 investment in question, is that pertaining to the one
8 million gallon reject holding tank?

9 **MR. GATLIN:** Yes, it is.

10 **COMMISSIONER DEASON:** And let me ask you
11 then, why is it then that that's not adequately
12 covered in the current language or current version of
13 Issue 3?

14 **MR. GATLIN:** I think it is.

15 **COMMISSIONER DEASON:** Then you can
16 adequately explore the necessity of having that built
17 within your position on Issue 3.

18 **MR. GATLIN:** That's fine.

19 **COMMISSIONER DEASON:** Very well. We can
20 show then that Issue 6 can be dropped.

21 Issue 7. Issue 8. It's my understanding
22 that Issue 8 can be dropped; is that correct?

23 **MS. O'SULLIVAN:** That is correct. Staff
24 believes that no adjustments are necessary.

25 **MR. REILLY:** And we are not making an issue

1 of it. So we have conceded to drop this issue.

2 COMMISSIONER DEASON: Very well. Issue 8
3 can be dropped. And likewise, Issue 9; is that right?

4 MR. REILLY: Same with inflow and
5 infiltration.

6 MS. O'SULLIVAN: That's correct.

7 COMMISSIONER DEASON: Very well. Issue 9
8 can also be dropped.

9 MR. REILLY: In our view, that would
10 likewise create -- I think it's appropriate to drop 10
11 as well, but I yield to Mr. Gatlin.

12 MR. GATLIN: Well, no, that's a separate
13 issue. Mr. Biddy has raised the issue that
14 municipalities and private-owned utilities have
15 different standards to raise. We don't think that's
16 accurate, and we've got testimony to contradict that.

17 MR. REILLY: And I do understand that point.
18 And it's my understanding -- I've talked to Mr. Biddy
19 since our pre-hearing conference. And since that
20 is not at issue, any gratuitous comments about this
21 subject is not going to aid the Commission's
22 deliberation in resolving this particular case. And
23 we have no objection to identifying those lines and
24 excising them from his testimony because it's leading
25 us nowhere, basically.

1 **COMMISSIONER DEASON:** Mr. Gatlin, if that
2 testimony is stricken, you have no objection to
3 dropping Issue 10?

4 **MR. GATLIN:** No. No, it will be all right.

5 **COMMISSIONER DEASON:** Very well.

6 Mr. Reilly, I'll rely on you to --

7 **MR. REILLY:** Identify those lines.

8 **COMMISSIONER DEASON:** -- identify that. And
9 when Mr. Bidy takes the stand, ask that that
10 testimony be removed.

11 **MR. REILLY:** That's how we intend to handle
12 it.

13 **COMMISSIONER DEASON:** And with that
14 understanding, Issue 10 then can be dropped.

15 **Issue 11.**

16 **MS. O'SULLIVAN:** Commissioner, Staff has a
17 new position on this issue which has not been
18 supplied. I will read it into the record.

19 "Margin reserve should be one year for all
20 distribution and collection systems, one and a half
21 years for water treatment plants and three years for
22 wastewater treatment plants in agreement with recent
23 Commission decisions."

24 **COMMISSIONER DEASON:** Okay. Any other
25 changes to positions for Issue 11? Very well.

1 **Issue 12.**

2 **MS. O'SULLIVAN:** Staff has a new position on
3 this issue which has been included in the handout.

4 **COMMISSIONER DEASON:** Very well. Issue 13.

5 **Issue 14.**

6 **MR. BILLY:** Do we have a little typo in 13?
7 Is it "Should economy of scale be considered by the
8 Commission in determining"?

9 **MS. O'SULLIVAN:** Yes, yes. If we can go
10 back to Issue 13 just to throw out -- Staff is kind of
11 questioning again why this issue would be relevant, or
12 whether it could be addressed in other issues. We've
13 taken a position on it, but again our position is that
14 it's on a case-by-case basis.

15 **MR. BILLY:** I would make the same argument,
16 too; that it's almost like argument. And again, if we
17 could get that put in a position it would help us, but
18 we'll do the best we can to take a position on it.

19 **MR. GATLIN:** Mr. Chairman, it looks pretty
20 neutral to me now.

21 **MR. BILLY:** Well, in what way? It says
22 should it be considered.

23 **MR. GATLIN:** Yeah. I guess you would say
24 should not and we'd say should.

25 **MS. O'SULLIVAN:** We're not proposing to

1 strike it, we just wanted to perhaps have a little
2 discussion about it. We felt that it might be a
3 nonissue.

4 COMMISSIONER DEASON: Well, I will allow the
5 issue to stand as it is. Any other questions on
6 Issue 13?

7 Issue 14.

8 MS. O'SULLIVAN: Staff has a new position
9 which is set forth on the handout.

10 COMMISSIONER DEASON: Does Public Counsel
11 have a position?

12 MR. REILLY: This is just one that was
13 added; is that correct? I'll have to supply a
14 position on that.

15 COMMISSIONER DEASON: Okay. Ms. O'Sullivan,
16 remind me at the conclusion that we set a time period
17 for additional oppositions to be provided so that you
18 will have adequate time to incorporate those.

19 MS. O'SULLIVAN: Thank you.

20 COMMISSIONER DEASON: Issue 15.

21 Issue 16. I assume that that, under Gulf's
22 position, that's well and treatment plant --

23 MR. GATLIN: Yes.

24 COMMISSIONER DEASON: -- plan. Issue 17.
25 Issue 18. Issue 19.

1 MS. O'SULLIVAN: OPC has proposed another
2 wording to that issue, it begins on Page 15. And I
3 believe the utility believes this might be a
4 stipulation. Staff agrees that the lines are 100%
5 used and useful and that this can be stipulated.

6 COMMISSIONER DEASON: Do all parties agree
7 that this issue can be stipulated?

8 MR. GATLIN: Yes, I can.

9 MR. BILLY: I guess that I think there were
10 no adjustments made in this because the amount of
11 CIAC -- as I understand it, the amount of CIAC was
12 greater than the total investment in the transmission
13 system; so, therefore, there isn't a used and useful
14 question, and it is 100% used and useful.

15 I guess it was that -- it's kind of like the
16 other case, there was language in testimony that said
17 because it was 100% used and useful in the last case,
18 it should be again. And I think there was some
19 concern on our consultant leaving that unchallenged.
20 So if we can get -- it's almost the same principle.
21 If it's not at issue and that verbiage is taken out,
22 then maybe we wouldn't worry about that being left
23 unchallenged by the utility. So that's why I'm a
24 little reluctant to just get rid of the issue.

25 It's true that there is no adjustment being

1 proposed by Public Counsel to reduce the used and
2 useful on this component, but we don't want an order
3 to come out that might come back to haunt the
4 customers in the next rate case in light of the
5 testimony that it could be entered into the record and
6 could form the basis of some language in the order.
7 So that's the only thing that's hanging out there.

8 **COMMISSIONER DEASON:** Well, if the issue is
9 stipulated, the only thing the order will reflect is
10 that there was a stipulation that there was no used
11 and useful adjustment necessary.

12 **MR. REILLY:** Right. I think that's right.
13 If there's not any further verbiage in the order than
14 that, then the customers are not in any way damaged.

15 **COMMISSIONER DEASON:** Ms. O'Sullivan, how do
16 you anticipate -- if this is a stipulation and it is
17 approved by the Commission, how do you anticipate it
18 being handled in the final order?

19 **MS. O'SULLIVAN:** I would think we would word
20 it along the lines of the water transmission system
21 should be considered 100% used and useful. I think
22 you need to have the number in there. Let me check
23 with Staff, but I think they'd want to have the number
24 in there for other calculation purposes.

25 **MR. REILLY:** Could it be that it would just

1 reflect, the record, that the amount of CIAC exceeds
2 the investment?

3 MR. GATLIN: I don't think we need to go
4 that far. 100% is enough, I think, to take care of
5 this issue.

6 COMMISSIONER DEASON: I understand,
7 Mr. Reilly. You don't want to find yourself in a
8 future case with an argument that simply because it
9 was determined to be 100% used and useful in a prior
10 case, it has to be 100% used and useful in a future
11 case. Is that your concern?

12 MR. REILLY: It is. That was one of the
13 primary concerns, and there may have been some other
14 language in there justifying the 100% that we took
15 exception to. But since it all ended nowhere in terms
16 of any adjustment, there was some -- I think there may
17 be even some verbiage in Mr. Biddy's testimony that
18 deals with this.

19 So in a sense it gives you something to hang
20 your hat on as an issue even though there's no
21 adjustment being made. You have these two somewhat
22 conflicting ways of viewing this component even though
23 the order is going to come out 100% used and useful.
24 So it's really up to you, how you feel you want to
25 handle it.

1 **COMMISSIONER DEASON:** Is there any objection
2 with using the Public Counsel proposed wording and
3 having that wording stipulated to?

4 **MR. REILLY:** That would be fine. That's
5 basically --

6 **MR. GATLIN:** I can do that.

7 **MR. REILLY:** -- stipulating to that issue.
8 I think that would address it.

9 **COMMISSIONER DEASON:** All right. We will
10 use that wording for Issue 19 and then we will show
11 that as a proposed stipulation.

12 **MS. O'SULLIVAN:** All right.

13 **COMMISSIONER DEASON:** Issue 20. Issue 21.
14 Is this -- this is also a possible stipulation, is it
15 not?

16 **MS. O'SULLIVAN:** Are we on Issue 21?

17 **COMMISSIONER DEASON:** Yes.

18 **MS. O'SULLIVAN:** Staff agrees that it is
19 100% used and useful. It's a similar situation that
20 we just discussed if you want to the use that same
21 language.

22 **MR. REILLY:** I think that's the same
23 problem, the same language. I think that's correct.
24 If we could handle it in the same way, I think that
25 would --

1 **COMMISSIONER DEASON:** Well, we will do the
2 same thing, unless there is an objection.

3 **MR. GATLIN:** No objection.

4 **COMMISSIONER DEASON:** Very well.

5 **MS. O'SULLIVAN:** I just realized we have got
6 two No. 21s. That's why I was thrown off there.

7 **COMMISSIONER DEASON:** This is the first
8 Issue 21.

9 **MR. REILLY:** 21A.

10 **MS. O'SULLIVAN:** Okay. English major.

11 **COMMISSIONER DEASON:** We are now on the
12 second Issue 21.

13 **MS. O'SULLIVAN:** And Staff has a new
14 position which is set forth in the handout.

15 **COMMISSIONER DEASON:** Very well. Issue 22.
16 Issue 23. Issue 24. Issue 25.

17 Mr. Gatlin, I had a question on your letter
18 concerning Issue 25.

19 **MR. GATLIN:** Sure.

20 **COMMISSIONER DEASON:** I really didn't
21 understand what the change was.

22 **MR. GATLIN:** Well, it's not there. I didn't
23 finish the sentence. I just found out a while ago.
24 I'll supply that.

25 **COMMISSIONER DEASON:** Oh, okay. If you

1 could go ahead and provide that to us then. Or if
2 it's long, if you can just provide that to Staff in
3 writing, that will be sufficient.

4 MR. GATLIN: Okay. That's no problem.

5 MS. O'SULLIVAN: Actually, Staff and I were
6 discussing this issue before the prehearing, and we've
7 looked at the positions and think we might be able to
8 stipulate to this issue. I think all parties are
9 saying that if the plant is included in rate base,
10 that it should be recorded as CIAC.

11 MR. GATLIN: Well, I think that's probably
12 okay, but I need to recheck. I think that's correct.
13 I didn't get my note into my letter, I'll check on it.

14 COMMISSIONER DEASON: Well, I'll ask the
15 parties to take a look at that, and if it can be
16 stipulated, provide that to Staff. And if that is the
17 case, Staff will show it as a proposed stipulation.

18 Okay. Issue 26. Issue 27. Mr. Gatlin, I
19 also had a question on Issue 27 as to where exactly
20 the reference to unamortized debt discount and
21 issuance expense needs to be incorporated.

22 MR. GATLIN: I missed the last part of what
23 you said, I'm sorry.

24 COMMISSIONER DEASON: In your letter, you
25 make reference to unamortized debt discount and

1 issuance expense?

2 MR. GATLIN: Yes.

3 COMMISSIONER DEASON: And that needs to be
4 added to Line 5, is that correct, in your position?

5 MR. GATLIN: Yes. After the word
6 "Payables," that should be a comma there, "in
7 unamortized debts discount and issuance expense."
8 That ends that sentence. And the next sentence starts
9 with "Materials."

10 COMMISSIONER DEASON: Okay. Staff has that,
11 correct?

12 MS. O'SULLIVAN: Yes.

13 COMMISSIONER DEASON: Issue 28.

14 MS. O'SULLIVAN: Staff believes the
15 positions are the same on this issue, and it can be
16 stipulated.

17 COMMISSIONER DEASON: Do the parties agree
18 that this issue may be stipulated?

19 MR. GATLIN: Just a moment. (Pause)

20 We can.

21 MR. RHILLY: I would like to check with Kim
22 on that, if I could. I know that the dollar amounts
23 seem to be a little bit different between Staff --

24 MS. O'SULLIVAN: Yeah. And I think there
25 was a typo, too, in the position. There's a missing

1 number, but that was the one concern we have that we
2 think the treatment is pretty much the same.

3 MR. REILLY: If we could just put that on
4 the same date, and I could check with Kim. And that
5 could be a possible stipulation.

6 COMMISSIONER DEASON: Very well. Issue 29.
7 Issue 30. Issue 31.

8 MS. O'SULLIVAN: Could we go back to Issue
9 30, Commissioner? I'm sorry.

10 COMMISSIONER DEASON: Yes.

11 MS. O'SULLIVAN: Again, I think it appears
12 at first blush that the positions on Issue 30 are
13 similar. They are all no.

14 MR. GATLIN: 30 and what are similar?

15 MS. O'SULLIVAN: Issue 30. I think parties
16 and Staff are taking similar positions.

17 COMMISSIONER DEASON: Do the parties agree
18 that Issue 30 may be stipulated?

19 MR. GATLIN: I think so.

20 COMMISSIONER DEASON: Mr. Reilly.

21 MR. REILLY: And I'll do the same, if you
22 don't mind, on an issue like this, just run it past
23 Kim.

24 COMMISSIONER DEASON: Issue 31. Issue 32.
25 Mr. Gatlin, your change in your letter, Item No. 15,

1 that does pertain to Issue 32, does it not?

2 MR. GATLIN: Yes, it does. 32, Page 21,
3 typo there.

4 COMMISSIONER DEASON: Issue 33, is this a
5 stipulation?

6 MS. O'SULLIVAN: I think the parties can
7 stipulate to and the Staff stipulate -- agree with the
8 stipulation for using the leverage formula.

9 MR. BILLY: Is that one of those Class B
10 stipulations or something that we've done before where
11 we don't stand in the way of a stipulation?

12 MS. O'SULLIVAN: I think we worded that,
13 yeah, Public Counsel does not wish to raise it as an
14 issue, but will not object to a stipulation.

15 MR. BILLY: I think that's how we have done
16 it in the past.

17 COMMISSIONER DEASON: Any objection to that.
18 Mr. Gatlin?

19 MR. GATLIN: I'm not sure I know what the
20 stipulation is now. Is it a change from this?

21 MS. O'SULLIVAN: It would be that parties
22 agree that the current leverage formula will be used
23 in order to --

24 MR. GATLIN: I agree.

25 MS. O'SULLIVAN: Okay. -- at the time that

1 the Commission makes its vote.

2 COMMISSIONER DEASON: Very well. Issue 34.

3 MS. O'SULLIVAN: Staff has a new position
4 that's not in the attachment. I'll read it into the
5 record.

6 "The amount of accumulated deferred income
7 taxes is dependent upon the resolution of other
8 issues, except that accumulated deferred income taxes
9 should be increased for the deferred taxes related to
10 the Commission approved rate case expense."

11 COMMISSIONER DEASON: Any other --

12 MR. GATLIN: Mr. Chairman, on Issue 34 --

13 COMMISSIONER DEASON: Yes.

14 MR. GATLIN: The word "credit" in that
15 issue, is that properly there? We can't make it --

16 MS. O'SULLIVAN: I believe when we discussed
17 this during the pre-pre that we had, I think that was
18 the word we intended to use as opposed to the debit.

19 MR. GATLIN: My accounting people just don't
20 understand why it's there.

21 MS. O'SULLIVAN: I think that is correctly
22 worded, at least from our pre-prehearing discussion
23 that I guess there's a credit account and a debit
24 account and this is relating to the credit account of
25 that particular item, accumulated deferred income tax.

1 **MR. GATLIN:** The only answer we can give you
2 is as stated in Issue 34.

3 **MS. O'SULLIVAN:** Okay.

4 **MR. GATLIN:** If that answers the question.

5 **COMMISSIONER DEASON:** Does Public Counsel
6 have a position?

7 **MR. REILLY:** That's all I have right now.
8 And if you'll let me consult with Kimberly, we'll
9 update that, if possible.

10 **COMMISSIONER DEASON:** Very well. Issue 35.
11 Issue 36. 37. 38. 39. Issue 40. 41. Issue 42.
12 Does Staff have a position yet for Issue 42?

13 **MS. O'SULLIVAN:** Yes, Commissioner. The
14 position is, "Some adjustment may be necessary pending
15 further development of the record."

16 **COMMISSIONER DEASON:** Issue 43.

17 **MS. O'SULLIVAN:** As noted there when we --
18 at the last pre-pre, we reworded the issue. I think
19 OPC's position might want to be reworded to say no,
20 instead of yes, since we changed the wording.

21 **MR. REILLY:** And I'll have that, too, by the
22 deadline that you give us.

23 **MS. O'SULLIVAN:** Okay.

24 **COMMISSIONER DEASON:** Issue 44. Mr. Gatlin,
25 I think Item 21 in your letter pertains to Issue 44?

1 MR. GATLIN: Yes. 44 it should be.

2 COMMISSIONER DEASON: Okay. Issue 45.
3 Issue 46. Issue 47.

4 MS. O'SULLIVAN: I think on Issue 47 the
5 utility -- there's two different expenses here, and
6 the utility's proposed to stipulate to one of those, I
7 believe, being removed.

8 MR. GATLIN: Yes, I agree with that.

9 MS. O'SULLIVAN: Okay.

10 COMMISSIONER DEASON: So as to the pond
11 cleaning, that portion of the issue can be stipulated?

12 MS. O'SULLIVAN: Yes. And I propose that we
13 just reword the issue to say, "Should an adjustment be
14 made for the lift station coding."

15 COMMISSIONER DEASON: Any objection to
16 rewording Issue 47?

17 MR. GATLIN: I have no objection.

18 MR. REILLY: With the understanding that
19 that is stipulated to.

20 COMMISSIONER DEASON: The pond cleaning will
21 be shown as a proposed stipulation.

22 MR. REILLY: Okay. No objection.

23 COMMISSIONER DEASON: Issue 48. 49. 50.
24 51. 52. Issue 53.

25 MS. O'SULLIVAN: I think everybody agrees

1 with Staff.

2 COMMISSIONER DEASON: Is there a stipulation
3 for Issue 53?

4 MR. GATLIN: We agree with Staff.

5 MR. REILLY: Just give me one minute,
6 please.

7 COMMISSIONER DEASON: Sure.

8 MR. REILLY: The wording of Staff could be
9 stipulated to.

10 COMMISSIONER DEASON: Okay. Issue 53 can be
11 shown as a proposed stipulation. Issue 54. 55.
12 Issue 56, can that be stipulated?

13 MS. O'SULLIVAN: It appears the parties are
14 all agreeing with Staff.

15 MR. GATLIN: That's fine.

16 COMMISSIONER DEASON: Very well.

17 MR. REILLY: That's fine.

18 COMMISSIONER DEASON: Issue 56 as a proposed
19 stipulation. Issue 57.

20 MS. O'SULLIVAN: Again, I think Staff is
21 recommending -- or the position is to correct an
22 error. And I think all parties agree with that
23 correction.

24 MR. REILLY: I think that's right.

25 COMMISSIONER DEASON: Mr. Gatlin, do you

1 agree?

2 MR. GATLIN: Yes.

3 COMMISSIONER DEASON: Very well. Issue 57
4 can be shown as a proposed stipulation. Issue 58.

5 MS. O'SULLIVAN: Staff has a new position
6 for this issue that's not included in the handout, so
7 I'll read it into the record.

8 "The amount is dependent upon the resolution
9 of other issues, except that income tax expense should
10 be reduced for the amortization of the deferred taxes
11 related to the CIAC gross-up provision."

12 MR. REILLY: Since I can't write quite that
13 fast, can I get that wording before we leave today?

14 MS. O'SULLIVAN: Sure, I'll make a copy for
15 you.

16 MR. REILLY: Okay, thanks.

17 COMMISSIONER DEASON: Issue 59. Issue 60.
18 Issue 61.

19 MS. O'SULLIVAN: Commissioner, I think this
20 can be stipulated to, at least to the extent that the
21 rates should be calculated in accordance with the
22 current Commission rule. I believe that the
23 utility -- I believe during a deposition the witness
24 stated that it had been miscalculated using the old
25 formula. I'm not sure.

1 **MR. GATLIN:** That's true. And our only
2 addition is that we don't lose that revenue by not
3 charging the fire flow people, that the revenue is
4 made up from the other customers.

5 **COMMISSIONER DEASON:** Staff, it's your
6 intention that the revenue requirement will -- the
7 Company will be given the opportunity to collect this
8 full revenue requirement. Obviously, if it's not
9 collected through these rates, it has to be collected
10 through other rates?

11 **MS. O'SULLIVAN:** That's correct.

12 **MR. REILLY:** But the stipulation, if we are
13 going to make that today, is yes, right? Without all
14 that.

15 **MS. O'SULLIVAN:** Right, the stipulation
16 would just be the issue, the issue statement.

17 **MR. GATLIN:** And the stipulation was limited
18 as Ms. O'Sullivan pointed out.

19 **COMMISSIONER DEASON:** Issue 62. Mr. Reilly,
20 when you say "no position," does that mean you are not
21 taking issue, or you still may develop a position?

22 **MR. REILLY:** If I could get back with you on
23 that. I don't know that I can answer that right now.
24 So would that be possible, to give you the position at
25 that same date?

1 **COMMISSIONER DEASON:** Absolutely. Yes. We
2 are going determine a time certain for that to be
3 provided.

4 **MR. RBILLY:** Right.

5 **COMMISSIONER DEASON:** Issue 63. Issue 64.
6 65. 66. 67. Issue 68. Mr. Gatlin, does the Company
7 have a position on Issue 68?

8 **MR. GATLIN:** No.

9 **COMMISSIONER DEASON:** The position is no?

10 **MR. GATLIN:** Right. No adjustment is
11 necessary. No --

12 **MS. O'SULLIVAN:** The issue is asking for a
13 calculation and the amount of refund.

14 **MR. GATLIN:** We agree with the calculations
15 set out on Mr. Rendell's testimony.

16 **MS. O'SULLIVAN:** So you would agree with
17 Staff? Or I'm not quite sure how you want to word the
18 position.

19 **MR. GATLIN:** I assume this Staff position
20 reflects the position testified to by Mr. Rendell?

21 **MS. O'SULLIVAN:** Yes.

22 **MR. GATLIN:** And if that's true, we agree
23 with it.

24 **COMMISSIONER DEASON:** Very well.

25 **MS. O'SULLIVAN:** Would that be a stipulation

1 then?

2 **COMMISSIONER DEASON:** And Public Counsel
3 also agrees with Staff's position, so Issue 68 may be
4 shown as a proposed stipulation. Issue 69.

5 **MS. O'SULLIVAN:** Commissioner, can we go
6 back to 68? I'm sorry.

7 **COMMISSIONER DEASON:** Sure.

8 **MS. O'SULLIVAN:** Staff has informed me that
9 we need to keep some sort of fallout issue regarding
10 Issue 68. We may stipulate to the treatment of it,
11 but we should have a fallout issue as to what are the
12 appropriate refunds.

13 **COMMISSIONER DEASON:** Very well. So you can
14 have a proposed stipulation concerning methodology,
15 and then you can have a fallout issue identifying
16 dollars if they need to be identified.

17 **MS. O'SULLIVAN:** Yes. And I will propose
18 some wording and go over it with the parties before we
19 make it final.

20 **COMMISSIONER DEASON:** Very well. Issue 69,
21 Issue 70. May this issue be stipulated?

22 **MS. O'SULLIVAN:** I think we can. Again, the
23 same situation. We need to have an issue remaining in
24 terms of fallout as to what the amount should be, what
25 the rates should be, but we can stipulate that the

1 rule should be used.

2 COMMISSIONER DEASON: Any objection?

3 MR. GATLIN: No objection.

4 MR. BILLY: No objection.

5 COMMISSIONER DEASON: Very well. Issue 71.

6 MR. GATLIN: We have a question on that,
7 Mr. Chairman. We didn't know this was an issue in the
8 rate case, and we didn't know it until it showed up in
9 the draft of the Prehearing Order.

10 MS. O'SULLIVAN: I can address that if you'd
11 like. Typically, when there's an agreement, special
12 agreement, between a utility and a developer, or in
13 this situation a university, it must be approved by
14 the Commission. That's in the Commission's rules.
15 Staff included it as an issue here simply because we
16 have an ongoing case, and in this case I think we are
17 going to discuss issues relating to the lines being
18 donated and the usage related to this agreement.

19 I think it makes sense for informational
20 purposes, too, to have it in the record since it is
21 going to be at issue in other areas of the case.

22 MR. GATLIN: Commissioner, we submitted no
23 testimony or exhibits specifically to this.

24 COMMISSIONER DEASON: You are indicating
25 that if this remains an issue you need an opportunity

1 to file testimony?

2 MR. GATLIN: Yes.

3 COMMISSIONER DEASON: Can you do that by the
4 25th?

5 MR. GATLIN: I think so, yes.

6 COMMISSIONER DEASON: Any objection to
7 having testimony filed by the 25th?

8 MS. O'SULLIVAN: No.

9 MR. REILLY: None.

10 COMMISSIONER DEASON: Issue 71 then will
11 remain, and Mr. Gatlin will be given the opportunity
12 to file testimony as long as it is filed by the 25th.

13 MR. GATLIN: Thank you.

14 COMMISSIONER DEASON: Any other issues?

15 MR. GATLIN: There's a stipulation on

16 Page 40.

17 COMMISSIONER DEASON: Okay. Before we get
18 there, the next section is the exhibit list.

19 Mr. Gatlin, I understand you've made some
20 changes, or updates, concerning rebuttal testimony?

21 MR. GATLIN: Yeah, we have.

22 COMMISSIONER DEASON: Any other changes to
23 the exhibit list?

24 MS. O'SULLIVAN: Could I verify with
25 Mr. Gatlin that the list you provided in your letter

1 of today, this supplants all other rebuttal exhibits?

2 MR. GATLIN: Yeah, it was the same --
3 intentionally, the same rebuttal exhibits; they just
4 got the numbers mixed up a bit.

5 MS. O'SULLIVAN: Okay.

6 MR. GATLIN: We don't intend to introduce
7 any other exhibits except the documents you've
8 requested relating to reuse.

9 MS. O'SULLIVAN: That's correct.

10 Commissioner, there are two sets of exhibits
11 that we've discussed during depositions and a
12 pre-preconference we think should be presented to the
13 Commission. One is the set of reuse agreements, and I
14 believe Mr. Gatlin is proposing to file to have
15 Mr. Moore amend his testimony at the hearing to
16 include those exhibits.

17 The second instance are the consumptive use
18 permits relating to the golf course which receive
19 effluent discharge, and Staff is proposing that Staff
20 Witness Burns provide those exhibits in his testimony.

21 COMMISSIONER DEASON: All parties agree to
22 that procedure?

23 MR. GATLIN: Well, what are the exhibits now
24 of Mr. Burns?

25 MS. O'SULLIVAN: Those are the consumptive

1 use permits. We've discussed those in the
2 pre-prehearing.

3 MR. REILLY: The golf courses.

4 MR. GATLIN: Right. And we have the reuse
5 contracts, is that it?

6 MS. O'SULLIVAN: Right.

7 MR. GATLIN: No objection.

8 COMMISSIONER DEASON: Okay.

9 MR. REILLY: No objection.

10 COMMISSIONER DEASON: Section 9 addresses
11 proposed stipulations. Mr. Gatlin.

12 MR. GATLIN: The fourth one, we're not sure
13 about that one.

14 MS. O'SULLIVAN: Okay.

15 MR. GATLIN: It says a reduction of --
16 reducing some money from the test year, but those
17 dollars were not in the test year we provided, we
18 filed under.

19 COMMISSIONER DEASON: Ms. O'Sullivan.

20 MS. O'SULLIVAN: Let me check with Staff.
21 Just a moment. (Pause)

22 Are you disagreeing with the wording of the
23 issue, or --

24 MR. GATLIN: No. Just that there's nothing
25 to deduct, those numbers aren't in the test year.

1 They're not there.

2 MS. O'SULLIVAN: We thought it had been
3 stipulated to. At this point we really can't tell
4 whether or not it's in the test year. It was part of
5 an audit. We can make it an issue again if need be.
6 We -- you know, the parties had stipulated to it at
7 the pre-pre.

8 MR. GATLIN: If the parties what?

9 MS. O'SULLIVAN: Had stipulated to this at
10 one of the pre-preconferences. I'm fairly certain.
11 But if you wish to make it an issue again, we have no
12 objection to that.

13 MR. GATLIN: Well, it could be an issue if
14 there was something to deduct the money from.

15 COMMISSIONER DEASON: Well, I think that we
16 can show it as a stipulation that charitable
17 contribution should not be part of operating and,
18 maintenance expenses. And then if we need to have a
19 factual issue as to whether there needs to actually be
20 an adjustment, we may need to incorporate that as a
21 factual issue. But we can stipulate to the policy
22 issue.

23 MR. GATLIN: We can, yes.

24 MS. O'SULLIVAN: So we will make it an issue
25 under O&N, but keep the stipulation as to whether or

1 not they are appropriate.

2 MR. REILLY: Okay.

3 COMMISSIONER DEASON: And, obviously, we've
4 discussed a number of proposed stipulations today, and
5 there may be some more to be added to that list.

6 Section 10 addresses pending motions. I
7 only know of one motion, and that has already been
8 addressed earlier today.

9 And Section 11 addresses rulings. And my
10 ruling can be reflected there. Any other matters to
11 be addressed at this time?

12 MS. O'SULLIVAN: If you'd like to discuss
13 the timetable now, it would be appropriate.

14 COMMISSIONER DEASON: Yes, thank for
15 reminding me.

16 MS. O'SULLIVAN: I wouldn't let you forget.
17 Could we just take one second?

18 COMMISSIONER DEASON: Surely.

19 MS. O'SULLIVAN: Thank you. Looking at the
20 CASR, the draft Prehearing Order must be issued next
21 Monday. So in order to get it to you -- I would
22 assume you would like to have a few days before, the
23 Friday, for you to review before you sign it. So
24 perhaps, counsel, we can have a telephone conference
25 call Tuesday afternoon or Wednesday morning and

1 discuss the changes then and have them to me by
2 Wednesday afternoon by 5:00.

3 MR. GATLIN: What day are you talking about?

4 MS. O'SULLIVAN: Let's see.

5 MR. GATLIN: The 12th or --

6 MS. O'SULLIVAN: I would propose having all
7 changes to me by Friday the 19th. I'm sorry,
8 Wednesday the 19th by 5:00.

9 COMMISSIONER DEASON: Any objection?

10 MS. O'SULLIVAN: And if we could arrange,
11 over the records, arrange a conference call, it might
12 be quicker to do that then Tuesday morning.

13 COMMISSIONER DEASON: All changes and
14 positions needs to be in by Wednesday the 19th.

15 MR. GATLIN: Mr. Chairman, may I ask Staff
16 if they intend to circulate another draft before that
17 date?

18 MS. O'SULLIVAN: Probably what I will do, I
19 will renumber the issues tonight, since we've dropped
20 several issues -- but we need to talk first, we have a
21 couple possible stipulations before I redo the
22 numbering. I think Tuesday afternoon I can renumber
23 it and circulate a renumbered draft.

24 MR. GATLIN: Okay.

25 MS. O'SULLIVAN: It's just a logistical

1 nightmare.

2 COMMISSIONER DEASON: Okay. Anything else?

3 MS. O'SULLIVAN: Staff has one quick change.

4 On Issue 59, what is the test year operating income
5 before any revenue increase, our position now reads no
6 position pending further development of the record.

7 That should be a fallout issue so we will instead
8 adopt OPC's position.

9 COMMISSIONER DEASON: Very well. Okay.
10 Anything else?

11 MS. O'SULLIVAN: Nothing further.

12 MR. GATLIN: Nothing further.

13 MR. REILLY: Nothing further.

14 COMMISSIONER DEASON: Thank you, all. This
15 prehearing conference is adjourned.

16 (Thereupon, the hearing concluded at
17 3:50 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, ROWENA NASH Official Commission Reporter,

4 DO HEREBY CERTIFY that the Prehearing
5 Conference in Docket No. 960329-WS was heard by the
6 Florida Public Service Commission at the time and
7 place herein stated; it is further

8 CERTIFIED that I stenographically reported
9 the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript, consisting of 43 pages, constitutes a true
12 transcription of my notes of said proceedings

13 DATED this 18th day of February, 1997.

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