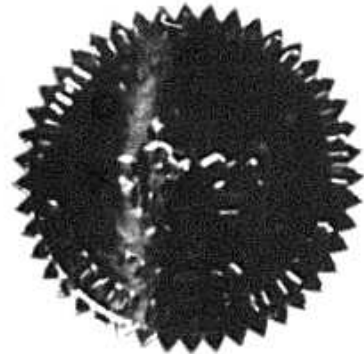


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of	:	DOCKET NO. 970096-EQ
	:	
Petition for expedited approval:	:	
of agreement with Tiger Bay	:	
Limited Partnership to purchase:	:	
Tiger Bay Cogeneration facility:	:	
and terminate related	:	
purchased power contracts by	:	
Florida Power Corporation.	:	



PROCEEDINGS:	PREHEARING CONFERENCE
BEFORE:	COMMISSIONER DIANE K. KIESLING Prehearing Officer
DATE:	Monday, March 31, 1997
TIME:	Commenced at 1:30 p.m. Concluded at 2:30 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	H. RUTHE POTAMI, CSR, RPR Official Commission Reporter

DOCUMENT NUMBER - DATE

03371 APR-25

FPSB-RECORDS/REPORTING

1 APPEARANCES:

2 JEFF FROESCHLE, Post Office Box 14042,
3 St. Petersburg, Florida 33733-4042 and CHRIS
4 COUTROULIS, Carlton Fields Ward Emmanuel Smith &
5 Cutler, P.O. Box 3239, Tampa, Florida, appearing on
6 behalf of Florida Power Corporation.

7 PATRICK K. WIGGINS, Wiggins & Villacorta,
8 P. A., Post Office Drawer 1657, Tallahassee, Florida
9 32302, appearing on behalf of Tiger Bay Limited
10 Partnership.

11 VICKI GORDON KAUFMAN, McWhirter Reeves
12 McGlothlin Davidson Rief & Bakas, P.A., 117 South
13 Gadsden Street, Tallahassee, Florida 32301, appearing
14 on behalf of Florida Industrial Power Users Group.

15 HAROLD McLEAN, Associate Public Counsel,
16 Office of Public Counsel, 111 West Madison Street,
17 Room 812, Tallahassee, Florida 32399-1400, appearing
18 on behalf of the Citizens of the State of Florida.

19 LORNA WAGNER, Florida Public Service
20 Commission, Division of Legal Services, 2540 Shumard
21 Oak Boulevard, Tallahassee, Florida 32399-0870,
22 appearing on behalf of the Commission Staff.

23

24 ALSO PRESENT:

25 BRUCE MAY, Holland & Knight

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

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

3 COMMISSIONER KIESLING: I'll call the
4 prehearing conference to order and ask Staff to please
5 read the notice.

6 MS. WAGNER: Pursuant to notice dated
7 February 10th, 1997, this time and place has been set
8 for prehearing in Docket 970096-EQ, petition for
9 expedited approval of agreement with Tiger Bay Limited
10 Partnership to purchase Tiger Bay cogeneration
11 facility and terminate related purchased power
12 contracts by Florida Power Corporation.

13 COMMISSIONER KIESLING: And I'll take
14 appearances.

15 MR. COUPTROULIS: Chris Couptroulis, Carlton
16 Fields, on behalf of Florida Power Corporation.

17 COMMISSIONER KIESLING: Okay. I found your
18 name on the list. Thank you.

19 MR. WIGGINS: Patrick A. Wiggins and Donna
20 L. Canzano, Wiggins, Villacorta, Post Office Drawer
21 1657, Tallahassee, 32302, on behalf of Tiger Bay
22 Limited Partnership.

23 MR. MAY: Bruce May with the law firm of
24 Holland & Knight representing Vastar Gas Marketing.

25 COMMISSIONER KIESLING: Are you aware that I

1 denied your petition to intervene?

2 MR. MAY: Yes, I am, Commissioner. I just
3 wanted to make the appearance.

4 COMMISSIONER KIESLING: Okay. You're here.

5 MS. KAUFMAN: Vicki Gordon Kaufman, the law
6 firm of McWhirter Reeves McGlothlin Davidson Rief &
7 Bakas, 117 South Gadsden Street, Tallahassee, 32301.
8 I'm appearing on behalf of the Florida Industrial
9 Power Users Group.

10 MR. McLEAN: And I'm Harold McLean, Office
11 of the Public Counsel, 111 West Madison Street,
12 Tallahassee, Florida 32399, appearing on behalf of the
13 citizens of the state of Florida.

14 MS. WAGNER: Lorna Wagner and Cochran
15 Keating on behalf of Commission Staff.

16 COMMISSIONER KIESLING: All right. Are
17 there any preliminary matters that we need to discuss?

18 MS. WAGNER: Yes, there is.

19 COMMISSIONER KIESLING: Go ahead.

20 MS. WAGNER: Florida Power Corporation filed
21 a motion for a preliminary prehearing conference to
22 establish issues to be determined in this docket.

23 COMMISSIONER KIESLING: Well, I guess since
24 we're here and this is not the preliminary, that
25 that's kind of gone by the wayside now, so I guess

1 it's moot.

2 MR. COUTROULIS: That's fine, your Honor. I
3 assume we'll deal with the issues today.

4 COMMISSIONER KIESLING: Anything else
5 preliminary?

6 MS. WAGNER: No; that is all. Thank you.

7 COMMISSIONER KIESLING: Anyone else have any
8 preliminary matters?

9 MR. FROESCHLE: Commissioner, I would also
10 like to enter my appearance. Jeff Froeschle on behalf
11 of Florida Power.

12 COMMISSIONER KIESLING: You're not on my
13 list.

14 MR. FROESCHLE: I have not entered any
15 written appearances. I'm appearing on behalf of the
16 Company because Mr. Fama couldn't be here today.

17 COMMISSIONER KIESLING: Because he was down
18 in circuit court?

19 MR. FROESCHLE: Pardon?

20 COMMISSIONER KIESLING: I said, because he
21 was down in circuit court.

22 MR. FROESCHLE: I believe that's correct.

23 COMMISSIONER KIESLING: Would you spell your
24 name for me then, please?

25 MR. FROESCHLE: F-R-O-E-S-C-H-L-E, and my

1 first name is Jeff.

2 COMMISSIONER KIESLING: And are you going to
3 be appearing for other purposes in this proceeding, at
4 the hearing or anything?

5 MR. FROESCHLE: At the present time I
6 believe my appearance will be limited to today, but
7 it's possible it could be on other occasions.

8 COMMISSIONER KIESLING: Okay. Then anything
9 preliminary from Florida Power?

10 MR. COUTROULIS: Commissioner, we would like
11 to at some appropriate point during the hearing today
12 take up the matters raised in our motion for
13 preliminary conference that related to whether or not
14 certain issues that have been proposed by FIPUG are
15 appropriate issues in the context of this proceeding.

16 I know that Staff counsel has put together a
17 draft prehearing statement and Staff is taking the
18 position on some of those as well. Whatever you would
19 prefer in terms of taking those up.

20 COMMISSIONER KIESLING: We'll be going
21 through this issue by issue, so when we get to the
22 issues you want to talk about, you'll have an
23 opportunity.

24 MR. COUTROULIS: Thank you.

25 COMMISSIONER KIESLING: Mr. Wiggins, any

1 preliminary matters?

2 MR. WIGGINS: No, ma'am.

3 MS. KAUFMAN: No, Commissioner.

4 COMMISSIONER KIESLING: Mr. McLean?

5 MR. McLEAN: None, Commissioner. Thank you.

6 COMMISSIONER KIESLING: Then let's go ahead
7 and take up the draft prehearing order, and I'm
8 working from the draft dated March 31, '97. I hope
9 everyone else is, too.

10 In terms of the case background, is there
11 anything anyone feels the need to add, change or deal
12 with?

13 MS. WAGNER: Yes, there is. Commissioner
14 Kiesling, in the prehearing case background, the last
15 sentence that says "Vastar Gas Marketing, Inc.'s VGM
16 petition for leave to intervene is pending --

17 COMMISSIONER KIESLING: Okay. Well, that
18 order went out earlier today, so --

19 MS. WAGNER: I'll make that note.

20 COMMISSIONER KIESLING: -- you can make that
21 correction.

22 MS. WAGNER: Thank you.

23 COMMISSIONER KIESLING: Were copies of the
24 order distributed to the parties here today so that
25 they don't have to wait until it comes in the mail?

1 MS. WAGNER: No. I had a copy faxed to
2 Vastar Gas Marketing, and I believe Pat Wiggins on
3 behalf of Tiger Bay also has a copy of it. I'm not
4 aware if other parties do at this point.

5 COMMISSIONER KIESLING: Well, if they want
6 to see a copy of it, it's only a page long. So I'm
7 sure that you could get a hold of one today before you
8 leave. Anyone else have anything to change in the
9 case background? (No response)

10 If not, Order of Witnesses; FPC, you have
11 two witnesses?

12 MR. COUTROULIS: That's correct.

13 COMMISSIONER KIESLING: And the issue
14 numbers do correspond to the issues that we're going
15 to be dealing with in here?

16 MR. COUTROULIS: Yes, Commissioner.

17 COMMISSIONER KIESLING: All right. Then if
18 we strike any issues or whatever, it will be up to you
19 to just make sure that the numbers get updated.

20 MR. COUTROULIS: Yes.

21 COMMISSIONER KIESLING: All right. Tiger
22 Bay, any change to your witness?

23 MR. WIGGINS: No, ma'am.

24 COMMISSIONER KIESLING: And FIPUG, anything
25 from you?

1 MS. KAUFMAN: No, Commissioner.

2 COMMISSIONER KIESLING: Mr. McLean, you're
3 not going to call any witnesses?

4 MR. McLEAN: That's correct, Commissioner.

5 COMMISSIONER KIESLING: And then you're
6 calling the same witnesses on rebuttal as you do on
7 direct. Are we going to take rebuttal and direct at
8 the same time, or do we want to split them in the
9 usual way?

10 I mean, the only people I would think that
11 would be definitely affected would be FIPUG and Tiger
12 Bay. Do you have a problem with us taking direct and
13 rebuttal at the same time?

14 MR. WIGGINS: I certain have no problem with
15 that. Our witness submitted only direct, so I'm
16 indifferent.

17 MS. KAUFMAN: We have no objection to taking
18 the direct and rebuttal together. It might expedite
19 the hearing.

20 MR. COUTROULIS: Commissioner, I think our
21 preference would be to reserve the right to have
22 separate rebuttal. The issues do overlap, but we have
23 submitted specific rebuttal testimony going very
24 specifically to points raised in the intervenor's
25 testimony, and I think we would like to reserve that

1 right, if we could, to do it in that fashion.

2 COMMISSIONER KIESLING: All right.

3 MR. COUTROULIS: Thank you.

4 COMMISSIONER KIESLING: We can do it that
5 way. Under the basic position, I would like to thank
6 Florida Power for shortening your basic position to
7 something that was basic, and so I assume that there
8 are no further changes or corrections to yours as set
9 forth?

10 MR. COUTROULIS: No.

11 COMMISSIONER KIESLING: Tiger Bay, any
12 changes or corrections to your basic position?

13 MR. WIGGINS: No, Commissioner.

14 COMMISSIONER KIESLING: FIPUG?

15 MS. KAUFMAN: No, Commissioner.

16 MR. McLEAN: None. Thank you.

17 COMMISSIONER KIESLING: And, Staff, you have
18 your usual preliminary position, so I assume there's
19 no change to that.

20 MS. WAGNER: There's no change. Thanks.

21 COMMISSIONER KIESLING: Then we'll go ahead
22 and start on the issues. What I'll do is I'll just
23 call out the issue number, and then if anyone has a
24 change or correction, an objection to the issue as
25 it's worded or anything, we'll take them up starting

1 with Florida Power and moving across the table, and
2 that way I don't have to call on you each time.

3 On Issue 1, any change to the wording of the
4 issue? Any argument that we need to hear on that?
5 (No response.) Any changes to the parties' positions
6 as set forth? (No response.)

7 All right. Then Issue 2, any problems? (No
8 response.) Hearing none, 3? This is going to be
9 easy.

10 MS. WAGNER: Commissioner Kiesling, on Issue
11 3 it appears that all the parties are in agreement.

12 COMMISSIONER KIESLING: Okay. Either that
13 or have no position.

14 MS. WAGNER: Yes.

15 COMMISSIONER KIESLING: Is this an issue
16 that we can reach any kind of a stipulation on, then,
17 since there's no difference in the parties' positions?
18 FIPUG since you have no position, I guess you don't
19 care.

20 MS. KAUFMAN: We have no position, so
21 however you want to it. We're not agreeing or
22 disagreeing with the statement that's there.

23 MR. McLEAN: And the same is true for us;
24 yes, ma'am.

25 COMMISSIONER KIESLING: Yes. I was going to

1 ask if OPC was going to take the usual no position on
2 its no position.

3 MR. McLEAN: Yes, ma'am.

4 COMMISSIONER KIESLING: Then that comes down
5 to FPC, Tiger Bay. Any --

6 MR. WIGGINS: I think we should stipulate.
7 It would allow at least my witness on his summary to
8 eliminate a portion of the text.

9 COMMISSIONER KIESLING: That's what I'm
10 aiming for. Florida Power?

11 MR. COUTROULIS: We're fine.

12 COMMISSIONER KIESLING: That means you'll
13 stipulate that Florida Power Corp has provided
14 adequate assurances regarding the financial viability
15 of the Tiger Bay generating facility?

16 MR. COUTROULIS: Yes.

17 COMMISSIONER KIESLING: That's the
18 stipulation?

19 MR. COUTROULIS: Yes.

20 COMMISSIONER KIESLING: And do you want all
21 the additional information that you have in your
22 position as part of that stipulation, or simply a
23 stipulation as to the overall ultimate issue?

24 MR. COUTROULIS: I think a simple
25 stipulation would be fine, Commissioner.

1 MS. WAGNER: Commissioner Kiesling, Staff
2 would like to have the stipulation read as Tiger Bay
3 sets forth in its position.

4 COMMISSIONER KIESLING: All right. That's
5 acceptable, too, if it is to --

6 MR. COUTROULIS: That's acceptable.

7 COMMISSIONER KIESLING: All right. Then
8 Issue No. 3 will be "as stipulated". Issue No. 4?

9 MS. WAGNER: Commissioner Kiesling, Issue
10 No. 4 could also be stipulated to. All the parties
11 are in agreement. Staff would propose that we use
12 Staff's wording on this issue.

13 COMMISSIONER KIESLING: Well, let me see if
14 I understand. There is no disagreement that Florida
15 Power Corp's fuel price forecast in this case is
16 reasonable, but you want the additional sentence in
17 there that suggests that Staff is not precluded from
18 analyzing other fuel price forecasts?

19 MS. WAGNER: That is correct.

20 COMMISSIONER KIESLING: Well, I guess I'm --
21 why do you need that?

22 MS. WAGNER: I'm sorry?

23 COMMISSIONER KIESLING: Why do you need that
24 other sentence? I mean, this case is this case --

25 MS. WAGNER: Because there's other fuel

1 price forecasts that are reasonable that Staff uses
2 that have bands or widths, whereas the one that
3 Florida Power Corp proposes is just a -- I believe, a
4 single point in time. Is that -- is a base case, and
5 for that reason Staff does not want to be precluded
6 when it does its sensitive studies to just that one
7 forecast.

8 COMMISSIONER KIESLING: When it does its
9 sensitivity studies in this case?

10 MS. WAGNER: That's correct.

11 COMMISSIONER KIESLING: Okay. I thought you
12 were trying to reserve -- somehow have it not be
13 precedent for some other case, and that's what I
14 couldn't understand.

15 Okay. Well, now that I understand that, is
16 that position and stipulation acceptable to Florida
17 Power and Tiger Bay?

18 MR. COUTROULIS: One second please. (Pause)
19 It's acceptable.

20 COMMISSIONER KIESLING: All right.
21 Mr. Wiggins?

22 MR. WIGGINS: It's acceptable.

23 COMMISSIONER KIESLING: We have a
24 stipulation, then, on Issue 4.

25 Issue 5, anything on that one that we need

1 to talk about? I would only suggest that on Issue 5
2 that we insert between the word "expenses" and the
3 word "reasonable" the words "for the Tiger Bay
4 facility," just because I thought that it tied it to
5 this case. Any problem with that?

6 MR. COUTROULIS: No.

7 COMMISSIONER KIESLING: Then assuming
8 there's no changes to anyone's position, Issue 6?

9 MS. WAGNER: Commissioner Kiesling, I'm
10 sorry. Could we go back one moment to Issue 5?

11 COMMISSIONER KIESLING: Sure.

12 MS. WAGNER: Where you have inserted "the
13 Tiger Bay facility," Staff feels that it should read
14 "the Tiger Bay generating facility."

15 COMMISSIONER KIESLING: Okay. That's fine,
16 too.

17 MS. WAGNER: Thank you.

18 COMMISSIONER KIESLING: How about on Issue
19 6, then?

20 MR. COUTROULIS: Commissioner Kiesling, I'm
21 sorry to interrupt, but I was a little confused. On
22 Issue 2, do we have any stipulation on Issue 2, or was
23 the stipulation simply on Issue 3?

24 COMMISSIONER KIESLING: Stipulation was
25 simply on Issue 3, although it does appear that

1 Issue 2 is one that could potentially have a
2 stipulation as well, depending upon where Staff is
3 with its discovery.

4 MS. WAGNER: Staff just received some
5 interrogatories and requests for production of
6 documents that we're in the process of reviewing.
7 Staff feels that they may have some additional
8 questions, so at this point in time we cannot
9 stipulate to this issue. Thank you.

10 COMMISSIONER KIESLING: In that case, if
11 prior to the hearing you are able to stipulate, just
12 contact the parties and make sure that we make that
13 clear for the hearing.

14 MR. WIGGINS: Commissioner, on Issue 5,
15 Staff has no pending further discovery. So there are
16 two issues where they have pending further discovery.
17 When discovery is complete and Staff has decided
18 whether their answer is yes or no, will you let the
19 parties know?

20 MS. WAGNER: Yes, we will.

21 COMMISSIONER KIESLING: But on Issue 5,
22 we've already stipulated that one, so you've already
23 looked at the discovery and are happy with it; is that
24 right?

25 MS. WAGNER: No. We did not stipulate to

1 Issue 5.

2 COMMISSIONER KIESLING: Oh, you're right.
3 I'm sorry. I was looking at 4. My apologies. All
4 right. Then Issue 6, is this one that can be
5 stipulated? No?

6 MS. WAGNER: No, Commissioner Kiesling. A
7 lot of the problem with these issues where we have
8 pending the further discovery is that we have just now
9 received some of the documents that we requested.

10 COMMISSIONER KIESLING: Okay. 7, any change
11 to the issue or to the positions?

12 MR. WIGGINS: Commissioner, it might be
13 useful if we inserted for Tiger Bay "no," before
14 "adopt position of FPC," simply make it --

15 COMMISSIONER KIESLING: I'm sorry. In Issue
16 ??

17 MR. WIGGINS: Yes, ma'am. We simply adopt
18 FPC's position, but it occurs to me it might be more
19 readable if I just put "no," period, "adopt the
20 position of FPC."

21 COMMISSIONER KIESLING: Okay.

22 MS. WAGNER: Commissioner Kiesling, we could
23 reach a stipulation on Issue 7 provided that the
24 parties agree with Staff's proposed position.

25 COMMISSIONER KIESLING: Okay. Let's poll

1 then and see. Florida Power, stipulation on 7 as to
2 Staff's position?

3 MR. COUTROULIS: One second. (Pause) It's
4 fine.

5 COMMISSIONER KIESLING: And Mr. Wiggins?

6 MR. WIGGINS: Fine.

7 COMMISSIONER KIESLING: Ms. Kaufman?

8 MS. KAUFMAN: Commissioner Kiesling, we
9 would have to have the caveat in there, obviously,
10 "assuming that the transaction is approved as
11 proposed." If it is, we don't have a problem with it
12 being recorded to that account.

13 COMMISSIONER KIESLING: Okay.

14 MR. McLEAN: The same as Ms. Kaufman.

15 COMMISSIONER KIESLING: Can you add that,
16 then, into the stipulation and make it a stipulation
17 on the whole thing then with Staff's position plus
18 that caveat?

19 MS. WAGNER: Yes, we can. Thank you.

20 COMMISSIONER KIESLING: And do you need any
21 clarification on what that caveat was again?

22 MS. WAGNER: I believe the Staff position
23 should now read, "No. If approved, the termination
24 payment should be recorded in Account 182.3, Other
25 Regulatory Assets."

1 COMMISSIONER KIESLING: Is that acceptable?

2 MS. KAUFMAN: That's fine, Commissioner.

3 COMMISSIONER KIESLING: Great. Issue 8.

4 Everybody says no but Staff, so I guess we're going to
5 litigate that one.

6 Issue 9, any changes? (No response.) Issue
7 10, any changes? (No response.) Any argument, any
8 discussion?

9 MR. COUTROULIS: Commissioner, I'm sorry.
10 Could 9 be stipulated?

11 MS. WAGNER: Commissioner Kiesling, Issue 9
12 cannot be stipulated for the same reasons; we're
13 pending further discovery and development of the
14 record.

15 COMMISSIONER KIESLING: And for all of those
16 that we're saying that to, as soon as you are able to
17 analyze the discovery, if we are in a position to
18 stipulate, we can make that modification before the
19 hearing?

20 MS. WAGNER: Yes. Staff will do that.
21 Thank you.

22 COMMISSIONER KIESLING: 10? (No response.)
23 11, changes, stipulations? (No response.) 12? (No
24 response.)

25 MR. COUTROULIS: On 12, Commissioner,

1 Florida Power agrees with the position of Staff, that
2 this is not an issue that should be approved and that
3 the issue is subsumed within Issue 13.

4 COMMISSIONER KIESLING: And I guess by that
5 you're indicating that if the Commission approves it,
6 then it is prudent. I mean, because we won't approve
7 one that is not prudent?

8 MR. COUTROULIS: I understand, Commissioner.
9 No, but our position would further be when one
10 considers what the nature of this petition is, that
11 the nature of the petition is to approve the
12 termination of these power purchase agreements, the
13 purchase of the facility and the recovery of the costs
14 associated with that purchase.

15 It's not a prudency determination in the
16 same sense as one would have if this were new capacity
17 and new energy that was being proposed for
18 construction. These PPAs have already been approved
19 by the Commission for cost recovery purposes.

20 This capacity and energy is already part of
21 FP&L's system in the sense that these are long-term
22 power purchase agreements, and so our position would
23 be, in the first place, this Issue 12 really doesn't
24 add anything that 13 doesn't; and in the second place,
25 that Issue 13 better states what the issue is in the

1 context of this specific petition.

2 COMMISSIONER KIESLING: Whose issue is this?

3 MS. KAUFMAN: It's FIPUG's issue,
4 Commissioner; and I think we'd have to respectfully
5 disagree with Florida Power Corp's counsel. I think
6 that any action that the Utility takes that requires
7 it to collect funds from the ratepayers is measured by
8 a standard of prudence. I think that it's very
9 important that this be a separate issue and that the
10 Commission be guided by that standard when it takes a
11 look at this transaction.

12 The following issue I do not think subsumes
13 the question of whether the action the Company wants
14 to take is prudent. And then we would like to see
15 Issues 12 and 13 remain as separate issues.

16 COMMISSIONER KIESLING: Anyone else have
17 anything to add on that?

18 MR. McLEAN: Yes, ma'am. Citizens agree
19 with FIPUG.

20 MR. WIGGINS: Tiger Bay. Just to balance
21 out the disagreement here, it seems to me that the
22 issue is redundant. I do not know how you answer
23 "Should the Commission approve the purchase agreement"
24 as essentially being in the public interest without
25 exploring the issue of prudence.

1 For me the issue -- for me, it's a
2 traditional kind of war we have as to how many issues
3 we're going to have, how precise they're going to be
4 or how general they're going to be. If I look at the
5 set of things that Issue 13 takes into account and I
6 look at the set of things that Issue 12 takes in
7 account, I don't see much difference. So it seems to
8 me to be redundant, and that FIPUG and the OPC will
9 have adequate opportunity to present their arguments
10 before the Commission with Issue 13.

11 COMMISSIONER KIESLING: When you say you
12 don't see much difference, what difference do you see?

13 MR. WIGGINS: It's possible that Issue 13
14 could -- and I'm not sure -- it's like trying to say
15 there's nothing in that set that wouldn't be in Issue
16 12. There might be something else, but Issue 12 would
17 certainly be lesser included in that set; and so
18 therefore FIPUG and OPC would have ample ability to
19 make their argument.

20 I think what drives due process here is the
21 ability of a party to fairly and squarely put before
22 the agency head the point it wants to have resolved;
23 and if FIPUG or OPC could not do that through Issue
24 13, I would be saying leave the issue on prudence in
25 even though I may not like it; but I think that they

1 can under Issue 13, so I would opt for eliminating the
2 redundancy.

3 COMMISSIONER KIESLING: Staff, what do you
4 have on it?

5 MS. WAGNER: Staff would adopt Mr. Wiggins'
6 position for Tiger Bay regarding this issue, and Staff
7 would also like to add that because FPC is the one
8 seeking affirmative relief here, that they must
9 demonstrate that this transaction is in the public
10 interest -- is in the best interest of the general
11 body, and Staff feels that Issue 12 is subsumed within
12 Issue 13.

13 COMMISSIONER KIESLING: And what is it you
14 think you will not be able to litigate under Issue 13
15 if 12 is not here?

16 MS. KAUFMAN: Commissioner Kiesling, I
17 disagree with Mr. Wiggins. I think that the way the
18 issues are framed set the stage for the Commission as
19 they listen to testimony, and I think -- I was
20 discussing this with somebody earlier -- we could just
21 have one issue and get rid of all of these and say,
22 should the transaction be approved.

23 We think that the standard of prudence is
24 one that the Commission needs to take a hard look at
25 in the magnitude -- in a transaction that is the

1 magnitude of this one; and, therefore, we think that
2 it's very important that that standard be a separate
3 issue so that the Commissioners and all the parties
4 are aware that that's the guideline that we're
5 following in this case.

6 COMMISSIONER KIESLING: Ordinarily, I'm one
7 that tries to narrow issues whenever possible, but I
8 agree with what Ms. Kaufman just said that, I mean, we
9 could do away with all the issues and just have one
10 issue of should it be approved and say everything is
11 subsumed within that.

12 And so to the extent that prudence is one
13 particular area of determining whether something is in
14 the good of the general body of -- in the best
15 interests of the general body of ratepayers, I'm going
16 to let them leave that one in, since that's one they
17 want to particularly focus on, not because I think
18 that it's not -- isn't one of those things we would
19 consider in Issue 13, but because I'm going to allow
20 them to place some emphasis on that particular aspect
21 of what's in Issue 13. So I'm going to leave it as it
22 is.

23 And then does Staff have any change that it
24 would wish to make to its position based on -- because
25 your position up to now was just a recommendation that

1 we not keep this issue in, but since we are, do you
2 have a position?

3 MS. WAGNER: Staff would then like the
4 position to read as following: "No position at this
5 time pending further discovery."

6 COMMISSIONER KIESLING: And does anyone else
7 have anything that they want to make any change in
8 their positions then? (No response.) Okay.

9 Issue 13, any change, any agreement? (No
10 response.) Okay. 147

11 MR. COUTROULIS: Commissioner, we had a
12 question. There's some language between Issues 13 and
13 14, kind of a segue into the next set of issues that's
14 proposed, I think by Staff, that says "Pending
15 approval of the purchase agreement of the Tiger Bay
16 facility, the following issues will be considered."
17 And I guess we had a question of Staff why that was
18 inserted in there.

19 As we understand it, it's not a bifurcated
20 proceeding as such. Is it just the logical flow that
21 the initial issue is whether or not the purchase is in
22 the public interest, and assuming it is in the public
23 interest, whether the recovery is also in the public
24 interest?

25 The only point I would like to register for

1 Florida Power is, we've proposed this as an integrated
2 arrangement, as an integrated buyout that has, as an
3 integral part, the recovery of the purchase costs in
4 the manner that we've explained in our prefiled
5 testimony; and I had a question about why this
6 sentence was in there.

7 COMMISSIONER KIESLING: Well, if I read it
8 correctly -- and Staff you can help me to make sure I
9 understand -- essentially what you're saying is more
10 in the nature of assuming approval of the purchase
11 agreement, then we would also need to take evidence
12 and be able to resolve the method of recovery, so that
13 is an integral part of this case, but that the issues
14 are just being broken out for those that go to the
15 approval and those that go to cost recovery -- or
16 method of recovery. Is that essentially it?

17 MS. WAGNER: That is correct.

18 MR. COUTROULIS: Commissioner, we have no
19 dispute whatsoever with the categorizing of the issues
20 as Staff has done into approval of purchase agreement,
21 and then I think this next set is method of recovery.
22 That doesn't present any problem.

23 This, though, is kind of a lead-in sentence
24 into the next set of issues. I don't think it appears
25 anyplace else in the stipulation. I don't mean to

1 belabor this point, but I was a little -- we were a
2 little unclear as to why that's here.

3 The testimony that we've proffered is
4 testimony in an integrated fashion. The termination
5 of the PPAs, the purchase of the facility, and the
6 recovery of the purchase price as proposed in the
7 transaction are all part of a unified piece, and we
8 had a question whether this was suggesting that they
9 were bifurcated in some fashion other than the logical
10 delineation of the different categories that already
11 exists in the document. For example, where it says
12 Method of Recovery, we have no problem with that.

13 COMMISSIONER KIESLING: Well, let me see if
14 I can clarify this. While you view it as one body, it
15 is also within the Commission's discretion to approve
16 the purchase agreement but designate some other method
17 for recovery. I mean, that is still an area that we
18 have to make some decisions on, and so these issues
19 are set forth in here to make sure that the parties
20 recognize they must put on evidence to support their
21 respective positions on those matters, because it's --
22 it all is part of one application by Florida Power to
23 have the purchase agreement approved and have your
24 proposed method for recovery approved as part of that;
25 but in fact we can approve the agreement and not

1 approve your method of cost recovery, in which case
2 you would need to decide if you want to go forward
3 with the purchase then. So that's, I think, more in
4 the nature of what we're trying to delineate there,
5 and --

6 MR. COUTROULIS: Commissioner if it is going
7 to stay in -- and I understand what you've
8 explained -- it seems to pick up on Issue 13, and I
9 would suggest that it would perhaps be better if it
10 read, "Pending approval of the purchase agreement of
11 the Tiger Bay facility," and then add the words "and
12 the termination of the related purchased power
13 agreements," because those are the two issues that
14 Issue 13 picks up, and it would seem that those issues
15 would be first resolved before we got into method of
16 recovery. I don't know if Staff has any problem with
17 that.

18 MS. WAGNER: Staff feels that it would be
19 appropriate to add "and the termination of the PPAs,"
20 so the whole sentence would read as follows: "Pending
21 approval of the purchase agreement of the Tiger Bay
22 facility -- excuse me -- Tiger Bay generating facility
23 and the termination of the PPAs, the following issues
24 will be considered."

25 COMMISSIONER KIESLING: Okay. So we're

1 going to insert after the word "Bay," the word
2 "generating," and then after the word "facility," the
3 phrase "and the termination of the PPAs."

4 MS. WAGNER: That is correct.

5 COMMISSIONER KIESLING: And is that --
6 anyone else have a problem with that?

7 MS. KAUFMAN: We have no objection.

8 COMMISSIONER KIESLING: Then moving into
9 Issue 14, does this need to be reworded in any way, or
10 has it been, to clarify that distinction?

11 MS. WAGNER: Staff needs to change their
12 position on Issue 14. We have a correction. Staff's
13 position, the second sentence of it should be
14 stricken -- is it the third -- excuse me. The third
15 sentence should be removed, and the position should
16 read as follows: "No, pending further discovery,
17 Florida Power Corporation has not shown how it will
18 calculate the fuel cost after termination of the PPAs.
19 Moreover, the post-acquisition costs of the Vastar
20 contract are higher than natural gas supply prices and
21 Florida Power Corporation's most recent natural gas
22 price forecast."

23 COMMISSIONER KIESLING: You're going a whole
24 lot faster than I can write.

25 MS. WAGNER: Oh. Sorry.

1 **COMMISSIONER KIESLING:** Have you committed
2 any of these changes to writing so that everybody has
3 them?

4 **MS. WAGNER:** No, I just received it right as
5 we were walking in here, and I apologize for that.

6 **COMMISSIONER KIESLING:** That's fine. Just
7 go a little slower then, so we all can write it down.
8 "Moreover, comma --

9 **MS. WAGNER:** "Moreover," comma, "the
10 post-acquisition --

11 **COMMISSIONER KIESLING:** Oh, the
12 post-acquisition. Okay. I thought you said proposed
13 acquisition, and that's why I was really lost. Okay.
14 Go slower. "Moreover, the post acquisition costs --

15 **MS. WAGNER:** "Of the Vastar gas contract are
16 higher than natural gas supply prices in Florida Power
17 Corporation's most recent natural gas price forecast.

18 **COMMISSIONER KIESLING:** And I should delete
19 the word "much" before "higher"?

20 **MS. WAGNER:** That's correct.

21 **COMMISSIONER KIESLING:** And then remove the
22 words "the cost of the coal-fired energy on which the
23 PPAs are based."

24 **MS. WAGNER:** That is correct.

25 **COMMISSIONER KIESLING:** Okay. Everybody

1 clear on that change in position? I'm still looking
2 at the actual wording of Issue 14, and I had noted in
3 the margin that it might need rewording, because I had
4 trouble following it. So has it been reworded since
5 the first draft that I looked at?

6 MS. WAGNER: No, it has not.

7 COMMISSIONER KIESLING: Oh, okay. I think
8 probably inserting that language up above helped
9 clarify it, then. Okay.

10 Any change in anyone else's position on
11 Issue 14? (No response.) All right. How about Issue
12 15? (No response.) No changes? 16? 17? 18? (No
13 response.) 19?

14 MS. WAGNER: Staff has a change in its
15 position on Issue 19. I'm going to read the whole
16 position. I will stop you when I need to strike the
17 certain word and insert the other one.

18 COMMISSIONER KIESLING: Okay.

19 MS. WAGNER: The position shall read as:
20 "Yes. Revenues pursuant to the stream -- excuse me --
21 steam sales agreement with US Agri-Chemicals
22 Corporation should be -- we would like to strike
23 "recovered" and insert the word "credited".

24 COMMISSIONER KIESLING: And then continue
25 on?

1 MS. WAGNER: "Should be credited through the
2 fuel and purchase power cost recovery clause." Staff
3 was also going to say that on this position it appears
4 that all the parties are in agreement, and if the
5 parties would agree to use Staff's wording, this issue
6 could be stipulated.

7 MR. COUTROULIS: That's fine.

8 MS. KAUFMAN: Well, again, we'd need to have
9 our caveat language, "assuming the transaction is
10 approved" in some form. I think that's how we've
11 stated our position.

12 MR. WIGGINS: Of course that's up there
13 before you ever get to this.

14 COMMISSIONER KIESLING: What?

15 MR. WIGGINS: Isn't that the discussion we
16 just had a few minutes ago about --

17 COMMISSIONER KIESLING: Well, if we're going
18 to stipulate, the stipulation is going to be, "Yes.
19 Revenues pursuant to the steam sales agreement with US
20 Agri-Chemicals Corporation should be credited through
21 the fuel and purchase cost recovery clause. So any
22 problem with adding their caveat "if approved"?

23 MS. WAGNER: Staff has no problem. We will
24 add it, and so the position would read, "Yes. If
25 approved, revenues pursuant to the steam sales

1 agreement with US Agri-Chemicals Corporation should be
2 credited through the fuel and purchased power cost
3 recovery clause."

4 MS. KAUFMAN: That's fine. Thank you.

5 COMMISSIONER KIESLING: And, Mr. McLean, is
6 that okay with you?

7 MR. McLEAN: Yes, ma'am.

8 COMMISSIONER KIESLING: Issue 20 has been
9 withdrawn or something, hasn't it? Something has
10 happened to Issue 20, hasn't it?

11 MS. WAGNER: No, Commissioner Kiesling.
12 We've, I guess, structured the issues since the first
13 time that you viewed it and have put it under certain
14 headings.

15 COMMISSIONER KIESLING: Okay. So Issue 20
16 is still in, and are there any changes to either the
17 wording or anyone's position on 20? (No response.)
18 21, any changes? (No response.) All right. 22,
19 nothing from anyone?

20 MS. WAGNER: Staff would like to recommend
21 that this issue not be approved.

22 COMMISSIONER KIESLING: Okay.

23 MR. COUTROULIS: Commissioner, Florida Power
24 would disagree with that. We've submitted testimony
25 that speaks specifically to this issue. While Staff

1 may ultimately disagree with the substance of that, we
2 believe it's an appropriate issue here and one that
3 relates directly to what we've proposed and would ask
4 that it remain as an issue as stated.

5 MS. WAGNER: Commissioner Kiesling, Staff
6 would respond to Florida Power Corporation's comments
7 in that while we understand their concerns that they
8 have some latitude to manage the collection of the
9 purchase price or the amortization periods, Staff
10 believes this position within this issue could also be
11 subsumed within Issues 16, 17, 20 and 21 of this draft
12 prehearing order. In those issues, 16, 17, 20 and 21,
13 the amortization period is discussed.

14 If Florida Power Corporation feels the
15 necessity to argue that they have the latitude to
16 manage their amortization period over their collection
17 of the purchase price over the amortization period,
18 Staff believes that would be the appropriate place to
19 place their arguments.

20 COMMISSIONER KIESLING: All right. Then
21 I'll ask you the same questions that I asked FIPUG
22 earlier. What would you not be able to litigate under
23 Issues 16, 17, 20 and 21 that you will be able to
24 litigate if 22 is left in?

25 MR. COUTROULIS: Commissioner, 16, 17 and

1 the other ones that were referenced could be construed
2 as broad enough to pick this up, but this is a rather
3 specific point that is the subject of some very
4 specific testimony.

5 In the prefiled testimony we presented base
6 case assumptions. We presented some sensitivity
7 analyses. In Mr. Scardino's testimony, he presents a
8 spreadsheet that deals very specifically with
9 Issue 22. I think he presents a scenario where the
10 beginning of the commencement of recovery of the
11 purchase price is delayed for some period of time, and
12 then he shows that as by way of example as to one of
13 the things Florida Power may do to manage this thing.

14 It's not so much a question that it couldn't
15 be presented, but the issues that Ms. Wagner refers to
16 are general issues that go to the guts of the
17 transaction; and this is a rather specific issue about
18 the right to go ahead and make some modifications
19 within guidelines along the lines set forth in
20 testimony.

21 And our view is that if it's not set out as
22 a specific issue, it becomes a little unclear in the
23 context of those broader general issues what this
24 testimony would be offered for. It's not something
25 that's in the nature of the basic transaction itself,

1 but is instead something that specifically relates to
2 latitude and how that might play out and, as I said,
3 is the subject of some specific testimony.

4 We think, given its different nature from
5 the basic thrust of the other financial analyses that
6 are shown, that it makes sense to delineate it as a
7 separate issue.

8 COMMISSIONER KIESLING: I think I'm going to
9 grant you the same latitude that I did FIPUG on its
10 prudency issue. While I think that you could argue
11 that it is included within the others, since it's an
12 area that you wish to provide some specific emphasis
13 on, I'm going to permit it to stay in there, so that
14 the other Commissioners in preparing for this know to
15 focus on that. That having been concluded, does Staff
16 have a position?

17 MS. WAGNER: Yes, Staff does. Staff's
18 position should read "No, pending further discovery."

19 COMMISSIONER KIESLING: All right. Anyone
20 else have any changes then? (No response.) 23? This
21 is one I was kind of unclear about where it came from
22 and what it is we're getting at, so maybe someone -- I
23 don't know whose issue it is.

24 MS. KAUFMAN: This is FIPUG's issue,
25 Commissioner.

1 COMMISSIONER KIESLING: Could you help me?

2 MS. KAUFMAN: I'd be glad to try.

3 COMMISSIONER KIESLING: Because one of my
4 concerns is that I'm not even sure what rate shock is.
5 So when you start throwing in terms like that, I don't
6 know how we litigate it.

7 MS. KAUFMAN: Well, let me try and explain
8 what we were thinking of with this issue, and then
9 maybe we can work on the wording of it.

10 My client's concern, and the reason that
11 this issue was proposed, as I think I've already
12 mentioned, this is a very, very significant
13 transaction with a lot of dollars at stake and, at
14 least according to Mr. Falkenberg, the first
15 transaction of this type that he's ever seen in the
16 United States.

17 It's going to have a significant impact on
18 customers' rates if it's approved in the way that it's
19 been proposed. When you take that and you add that on
20 top of the significant increase that's already
21 occurred as a result of the fuel adjustment
22 proceedings we concluded related to the
23 Crystal River 3 outage, we are just very concerned
24 that this is an incredible increase to be seeking, and
25 we have testimony to that point. Mr. Falkenberg has

1 done an analysis of these requests compared with prior
2 rate base proceedings of Florida Power.

3 I understand some of the parties are
4 concerned, and people have said that the term "rate
5 shock" is pejorative and biased, et cetera. What we
6 were really thinking of or looking toward was
7 Section 366.061, which is a charge to the Commission
8 anytime they change rates there's a number of factors
9 they have to consider, and one of those is the public
10 acceptance of the rates.

11 So if it makes people more comfortable, we
12 would be glad to reword the issue to take out what
13 some people have called the pejorative term and to
14 include the statutory reference instead. That's where
15 we're going; is this increase beyond the bounds of
16 normalcy. And we think that that issue is very
17 pertinent and relevant to this case, something the
18 Commission needs to consider when they look at the
19 transaction and they view it in light of other
20 recoveries that they've recently approved for this
21 Company.

22 COMMISSIONER KIESLING: Anyone else have
23 anything they want to say on it?

24 MR. COUTROULIS: Yes, your Honor. On behalf
25 of Florida Power Corporation, we do not believe this

1 is a proper issue in this docket. In the first place,
2 if you look at FIPUG's proposed answer that relates to
3 the impact on rates of Crystal River 3, which doesn't
4 have anything to do with this docket, which is --
5 raises the question of whether this Tiger Bay
6 transaction ought to be approved, we did some research
7 on the term "rate shock," and I understand that FIPUG
8 is now saying that they would be willing to change
9 that term.

10 But rate shock as it appears to be used in a
11 number of cases -- and I can certainly cite some both
12 by this Commission and other commissions -- deals with
13 a sudden, very abrupt rate increase, and you've got to
14 look at each case to see what the magnitude is. I
15 can't represent that there is a definition as such,
16 but the cases appear to be talking about on the order
17 of 15, 20% very commonly. I saw one case involving
18 TECO here that involved 50%.

19 The testimony that has been presented here
20 and -- I don't believe this is contested -- is that if
21 this transaction were approved in the manner that
22 Florida Power says it ought to be approved, the impact
23 on rates would be in the range of 2 to 3%.

24 Now, without question, the issue of whether
25 the transaction is in the public interest is very much

1 an issue that's going to be litigated. Clearly FIPUG
2 is going to argue what the impact is on rates and will
3 make an argument that -- as they have, that they don't
4 believe that type of arrangement is in the public
5 interest. That's already all over these issues.

6 Stating as a separate issue whether this
7 constitutes rate shock in the face of testimony that
8 we're talking 2 to 3% when that term is not used to
9 cover such a situation, and specifically when they
10 talk about something that has nothing to do with this
11 proceeding, namely the Crystal River 3, we think is
12 inappropriate; and we think the elimination of this
13 issue will not in any way negatively impact on their
14 ability to argue that the proposal for the recovery of
15 the purchase costs in their view is not appropriate
16 and for Florida Power to argue that it is appropriate.

17 The only other thing I would note is for
18 Office of Public Counsel. The draft here that Staff
19 has prepared says that their answer is "yes," and at
20 least my service copy of their individual prehearing
21 statement said "no," and I'm not sure if they changed
22 their position.

23 MS. WAGNER: Could you please restate that?

24 MR. COUTROULIS: Yes. For Office of Public
25 Counsel, the draft that we're looking at has as their

1 position, "yes," and the individual prehearing
2 statement that they served on the various parties, I
3 believe, said "no". Now, maybe that was a
4 typographical error on their part, but I wanted to
5 clarify what their position is.

6 MS. WAGNER: I received from the Office of
7 Public Counsel a change in their preliminary
8 statement, and I made that correction, and then I
9 called the parties, and when I faxed it to them, they
10 all agreed that that was correct.

11 MR. COUTROULIS: Okay. I'm sorry. I wasn't
12 aware of that. Thank you.

13 So their position is "yes". Well, in any
14 event, Commissioner, we don't think this is a proper
15 issue for the reasons I've stated.

16 COMMISSIONER KIESLING: And on this one I
17 agree with you and with Staff, and I'm going to delete
18 Issue 23. It doesn't preclude you from making your
19 argument under the other issues, but I don't think
20 that it's one that needs to be focused on or that it's
21 necessarily all that you have in here as part of this
22 case.

23 And I can tell you that I feel the same way
24 on Issue 24, so I'm not even going to take argument on
25 24. I'm going to delete it, and I'm going to also

1 delete Issue 25 if that's yours, also, FIPUG.

2 MS. KAUFMAN: Yes, ma'am.

3 MR. McLEAN: Commissioner, you deleted 24,
4 did I hear you say?

5 COMMISSIONER KIESLING: Yes.

6 MR. McLEAN: Thank you, ma'am.

7 COMMISSIONER KIESLING: I deleted 24, 25 --
8 23, 24, 25, and I'm looking at 26.

9 MR. COUTROULIS: Commissioner, I believe
10 Issue 26 was proposed by Vastar.

11 COMMISSIONER KIESLING: Okay.

12 MR. COUTROULIS: And we would submit that in
13 light of the order, it should be omitted.

14 COMMISSIONER KIESLING: Yes. I'm going to
15 delete 26, also. And then 27 is fine the way it is, I
16 would assume.

17 Exhibits; any changes, corrections,
18 deletions to Mr. Dolan's exhibits?

19 MR. COUTROULIS: No, ma'am.

20 COMMISSIONER KIESLING: Mr. Scardino's?

21 MR. COUTROULIS: No, ma'am.

22 COMMISSIONER KIESLING: Or Mr. Falkenberg's?

23 MS. KAUFMAN: No, Commissioner.

24 COMMISSIONER KIESLING: And I take it there
25 were no exhibits to the rebuttal testimony.

1 MR. COUTROULIS: That's correct.

2 COMMISSIONER KIESLING: And we do now have
3 stipulations on those issues that we just discussed
4 that we have stipulated, so we'll include those within
5 the stipulations? Yes?

6 MS. WAGNER: Yes.

7 COMMISSIONER KIESLING: Okay. And I denied
8 oral argument, and ruled on Vastar's petition for
9 leave to amend. We've dealt with the motion for
10 preliminary prehearing conference. Is there -- well,
11 I do have a couple of other things. I just want to
12 make sure. Do the parties have any doubts about the
13 amount of time that is set aside for this hearing in
14 terms of being adequate to complete it?

15 MR. WIGGINS: In fact, I was wondering
16 whether the parties thought it would be makeable to
17 complete it in one day.

18 COMMISSIONER KIESLING: That's always nice,
19 but I'm more concerned when we run out of time than I
20 am when we have too much time.

21 MR. WIGGINS: I'm an optimist.

22 MR. COUTROULIS: We think the time is
23 adequate. We may be able to do it more quickly, but
24 we think the two days is certainly sufficient.

25 MS. KAUFMAN: We agree.

1 **COMMISSIONER KIESLING:** Well, if it does
2 when we get closer, and if you are able to reach
3 stipulations on some of the other issues that Staff is
4 looking at now via the discovery, and it does appear
5 that we can do it in one day because if we do reach
6 those stipulations, just make sure that we all know
7 that so that we can plan our calendars accordingly.
8 There's quite a demand on our time right now and any
9 extras, we've got at least three things who want it.

10 Are there any other matters that need to be
11 taken up before we conclude this prehearing
12 conference?

13 **MR. COUTROULIS:** Commissioner, I just wanted
14 to indicate that we do have a couple of motions that
15 we filed seeking confidential treatment of certain
16 documents pursuant to the procedures that are
17 specified here. I don't know that there's objection
18 to those motions. One relates to the --

19 **COMMISSIONER KIESLING:** Let me just ask
20 Staff what the status of them is, since I'm not even
21 aware of them right now.

22 **MS. WAGNER:** I've received two motions for
23 requests for confidentiality. I've not yet received
24 the recommendation from Staff. As soon as we receive
25 that recommendation, I will present to you our

1 thoughts on it.

2 COMMISSIONER KIESLING: Okay. But are we
3 all making an effort to get this out kind of a little
4 bit expedited so that -- because the hearing is coming
5 up?

6 MS. WAGNER: Yes, we are.

7 COMMISSIONER KIESLING: And I think they
8 need to know what's going to be confidential and what
9 isn't.

10 MS. WAGNER: Commissioner Kiesling, I've
11 just been informed by Staff that we will have that
12 issue resolved before the hearing and very quickly.
13 We'll do it on an expedited basis.

14 COMMISSIONER KIESLING: Okay.

15 MR. GOUTROULIS: Commissioner, so there's no
16 misunderstanding, the motion, the latest motion we
17 filed for confidentiality, was in connection with some
18 requests for production by Staff; and in our responses
19 I believe we indicated as for requests 2, 3, 4, 7 and
20 8 we would seek confidential status of some documents.

21 In reviewing our motion we argue the basis
22 for that. I don't believe we delineated as clearly as
23 we might have that the motion related to 2, 3, 4, 7
24 and 8. It does, and I hope that was understood, and I
25 apologize if it wasn't. But I think if you look at

1 the responses to the requests, you will see that we
2 indicated that we would seek confidential status on
3 those numbers, and the motion itself does make the
4 argument for those numbers, but I don't believe it
5 specifies each and every one of those numbers.

6 MS. WAGNER: Staff was under the impression
7 that it only related to 7 and 8. But what we can do
8 so we don't take up any more of the time here is, we
9 can get together, and after we'll sit down and go over
10 it.

11 COMMISSIONER KIESLING: All right. You all
12 straighten that out. Is there anything else
13 preliminary from anyone? (No response.)

14 Okay. We'll get this prehearing order out
15 and go to hearing.

16 MR. McLEAN: Thank you, Commissioner.

17 COMMISSIONER KIESLING: Thank you.

18 (Thereupon, the hearing concluded at 2:30
19 p.m.)

20

21

22

23

24

25


1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4 I, H. RUTHE POTAMI, CSR, RPR Official
5 Commission Reporter,

6 DO HEREBY CERTIFY that the Prehearing
7 Conference in Docket No. 970096-EQ was heard by the
8 Prehearing Officer at the time and place herein
9 stated; it is further

10 CERTIFIED that I stenographically reported
11 the said proceedings; that the same has been
12 transcribed under my direct supervision; and that this
13 transcript, consisting of 47 pages, constitutes a true
14 transcription of my notes of said proceedings and the
15 insertion of the prescribed prefiled testimony of the
16 witness.

17 DATED this 2nd day of April, 1997.

18
19
20
21
22
23
24
25

H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter
(904) 413-6732