

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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

In the Matter of : DOCKET NO. 000108-GU
:
REQUEST FOR RATE INCREASE :
BY FLORIDA DIVISION OF :
CHESAPEAKE UTILITIES :
CORPORATION. :

* ELECTRONIC VERSIONS OF THIS TRANSCRIPT *
* ARE A CONVENIENCE COPY ONLY AND ARE NOT *
* THE OFFICIAL TRANSCRIPT OF THE HEARING *
* AND DO NOT INCLUDE PREFILED TESTIMONY. *
* *

PROCEEDINGS: PREHEARING CONFERENCE

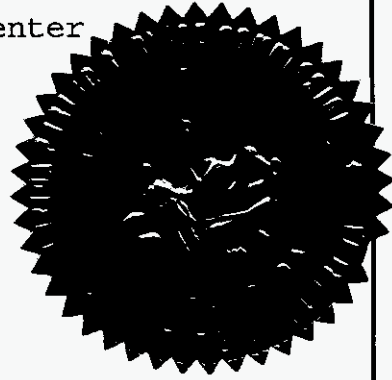
BEFORE: COMMISSIONER E. LEON JACOBS, JR.
Prehearing Officer

DATE: Thursday, September 28, 2000

TIME: Commenced at 1:40 p.m.
Concluded at 2:45 p.m.

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

REPORTED BY: TRICIA DeMARTE
Official FPSC Reporter
(850) 413-6736



1 APPEARANCES:

2 WAYNE L. SCHIEFELBEIN, P. O. Box 15856,
3 Tallahassee, Florida 32317-5856, appearing on behalf
4 of Florida Division of Chesapeake Utilities
5 Corporation.

6 WM. COCHRAN KEATING, IV, and BOB ELIAS, Florida Public
7 Service Commission, Division of Legal Services, 2540
8 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870,
9 appearing on behalf of the Commission Staff.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2 COMMISSIONER JACOBS: Call the prehearing to
3 order. Counsel, read the notice.

4 MR. KEATING: Pursuant to notice issued
5 August 23rd, 2000, this time and place have been set for a
6 prehearing conference in Docket Number 000108-GU, request
7 for rate increase by Florida Division of Chesapeake
8 Utilities Corporation.

9 COMMISSIONER JACOBS: Take appearances.

10 MR. SCHIEFELBEIN: Wayne Schiefelbein, appearing
11 on behalf of Chesapeake Utilities Corporation, Florida
12 Division.

13 MR. KEATING: Cochran Keating, appearing on
14 behalf of Commission Staff.

15 COMMISSIONER JACOBS: Are there any preliminary
16 matters?

17 MR. SCHIEFELBEIN: Commissioner, would it be
18 your pleasure to consider the pending motions for
19 supplemental testimony at this point or later in the
20 prehearing?

21 COMMISSIONER JACOBS: Discuss those with Staff
22 and as an understanding that there will be some orders
23 that will be drafted on those, so we'll deal with those
24 subsequent to -- I assume they will come out before the
25 hearing, though.

1 MR. KEATING: Oh, yes.

2 COMMISSIONER JACOBS: They should be prepared
3 before the hearing, but I won't rule on them today.

4 If you have no other preliminary matters, what
5 I'd like to do then is, is basically -- it's my
6 understanding that the issues that have been identified
7 are fairly preliminary in a first pass through and much
8 hinges on the completion of discovery; is that correct?

9 MR. KEATING: That's correct.

10 COMMISSIONER JACOBS: Okay. In view of that, it
11 does not sound like it will be of any great -- I'll leave
12 this up to you, however, if it would be of any great use
13 to go through the issues line by line to consider whether
14 or not there is any available for stipulation. It doesn't
15 sound like Staff is prepared to do that at this point. We
16 can just go through and make sure that they are stated as
17 you would prefer.

18 MR. SCHIEFELBEIN: We do have some relatively
19 minor updates and changes to some of our positions.

20 COMMISSIONER JACOBS: Okay. Good.

21 MR. KEATING: And Commissioner Jacobs, the Staff
22 also has some updated positions even since we met this
23 morning, and we may have more issues that could be shown
24 as stipulated, I believe.

25 COMMISSIONER JACOBS: Very well. We'll then go

1 section by section through the prehearing order.

2 Beginning with section -- appearances are complete.

3 Beginning with Section 1, that's boilerplate. I don't
4 think there would be any changes to that.

5 How about Section 2, the case background? No
6 modifications? Section 3, procedure for handling
7 confidential information, again pretty standard language.

8 MR. SCHIEFELBEIN: Pardon me, just -- we were
9 just handed prior to the prehearing a revised draft
10 prehearing order that we have not had an opportunity to
11 look at. I'm working off of the draft prehearing order
12 that we received yesterday afternoon.

13 MR. KEATING: I think the -- you will see just
14 some fairly minor changes. I think some of the issues
15 will be shown as -- if they aren't in the previous draft,
16 they will be shown as stipulated.

17 COMMISSIONER JACOBS: Would you like a few
18 moments to go through it? I don't have a problem with
19 doing that.

20 MR. SCHIEFELBEIN: Is it -- another way to
21 approach it would be, and I don't know how practical this
22 is or not, for Staff to indicate when we get to it, how
23 this differs from the prior draft.

24 MR. KEATING: Sure. And to let you know what
25 we've gone through so far, I don't believe a case

1 background was in the previous draft. That's Section 2 on
2 the first page. And I don't believe there are any other
3 changes until we get into the issues and positions. The
4 language under Section 10 on Page 28 of the new draft --

5 MR. SCHIEFELBEIN: Maybe we could -- as we get
6 to the sections --

7 MR. KEATING: Okay.

8 MR. SCHIEFELBEIN: Pardon me.

9 COMMISSIONER JACOBS: I'm sorry.

10 MR. KEATING: That would be fine. Besides the
11 change by adding the case background, there are no changes
12 until we get to the issues and positions.

13 COMMISSIONER JACOBS: Are you okay with then
14 proceeding?

15 MR. SCHIEFELBEIN: Yes. And if possible, if
16 it's acceptable, when we get to the pertinent section, if
17 Mr. Keating could let us know what the changes are from
18 the prior draft, that might be the most expedited way to
19 approach this.

20 COMMISSIONER JACOBS: Sounds reasonable. Okay.

21 MR. SCHIEFELBEIN: My first comment would be on
22 Section 6. I don't --

23 COMMISSIONER JACOBS: Okay. If there are no
24 other comments, we'll move to Section 6, order of
25 witnesses. It's my understanding that the company is

1 going to provide designation of issues for the witnesses.

2 MR. SCHIEFELBEIN: Yes, sir. We have provided
3 that to Staff.

4 COMMISSIONER JACOBS: Okay. Unless you want to
5 do that now, I don't need to go through each witness. You
6 can just allow Staff to record what you've given them;
7 that will be fine. You may want to just give them a
8 copy --

9 MR. KEATING: I think there may be some
10 misunderstanding. I think what we were provided in the
11 prehearing statement is the -- I guess a short description
12 of the areas that each witness was covering. And I think
13 there's nothing in the draft prehearing order underneath
14 issues I think typically because we would put issue
15 numbers in there rather than a description.

16 COMMISSIONER JACOBS: So you don't have issue
17 numbers identified for each witness is what I'm hearing
18 you say?

19 MR. KEATING: I don't think we do unless I have
20 missed something.

21 MR. SCHIEFELBEIN: And I don't mean to belabor
22 the matter. In our company's position unstated on Staff's
23 issues, we have identified witnesses for each issue, but
24 I'd be glad to work with Staff after the prehearing to --

25 COMMISSIONER JACOBS: Okay.

1 MR. KEATING: I see what Mr. Schiefelbein is
2 referring to. We can insert the issues next to each
3 witness based on this document that he's referring to.

4 COMMISSIONER JACOBS: Great.

5 MR. KEATING: Thank you.

6 COMMISSIONER JACOBS: Very well.

7 MR. SCHIEFELBEIN: If I may?

8 COMMISSIONER JACOBS: Go ahead.

9 MR. SCHIEFELBEIN: On Section 6, first of all,
10 we would like to ask for leave to approach this in a
11 certain way. We would like to have some of the witnesses
12 testify at hearing as a panel. We think that that's the
13 most efficient use of the Commission's time. There are --
14 the panels that we would propose would be the same panels
15 that we have proposed and Staff has accepted for purposes
16 of deposition. The two panels would be Mr. Geoffroy and
17 Mr. Williams as a panel.

18 COMMISSIONER JACOBS: Okay.

19 MR. SCHIEFELBEIN: And then followed by
20 Mr. Geoffroy and Mr. Householder as a panel. So
21 Tom Geoffroy will never get to step down. That would be
22 the extent of it. The other witnesses would not be
23 appropriate for a panel.

24 COMMISSIONER JACOBS: Okay.

25 MR. KEATING: Commissioner Jacobs, we have set

1 up the depositions in panels. We had not talked with
2 Mr. Schiefelbein previously about using a panel format at
3 the hearing as well for the witnesses. I think we would
4 like perhaps a little bit additional time to think about
5 that prior to providing a recommendation to you on how we
6 should proceed.

7 MR. SCHIEFELBEIN: If I may?

8 COMMISSIONER JACOBS: Go ahead.

9 MR. SCHIEFELBEIN: There are large areas of
10 common topics between Mr. Geoffroy and Mr. Williams on the
11 one hand, and Mr. Geoffroy and Mr. Householder on the
12 other, and we certainly would not dig in our heels on
13 doing it as a panel. We offer it as an expedient way to
14 approach it, because otherwise you will have revolving
15 witnesses where I would predict that we would have --
16 Mr. Householder will say, well, you will have to ask
17 Mr. Geoffroy about that; a question would be explored with
18 Mr. Geoffroy and he would say, well, you will need to talk
19 to Mr. Householder about that where appropriate. And we
20 can do it that way, but it would not be optimal.

21 COMMISSIONER JACOBS: It occurs to me, Staff,
22 that that would be a reasonable way of approaching it. If
23 you're not prepared to say one way or the other now, let
24 me do this: My preference would be to have the panels.
25 What I will do is allow you the opportunity to discuss

1 that with the company and get back with me, and we will
2 decide by the time the final prehearing order comes out.
3 That will be concluded at that point. Okay?

4 MR. KEATING: That sounds good.

5 COMMISSIONER JACOBS: But if you choose not to
6 do the panels, I can understand why. Okay.

7 MR. SCHIEFELBEIN: Remaining in the same
8 section, if I may?

9 COMMISSIONER JACOBS: Okay.

10 MR. SCHIEFELBEIN: First of all, regarding
11 Mr. Pence, I may be a little bit premature on this, and if
12 so, I apologize, but I believe that the issues that
13 Mr. Pence addresses, which is the cleanup of the
14 manufactured gas plant site, that this is an issue not in
15 controversy in the case.

16 And if, in fact, that is an accurate perception
17 on my part, I would like to ask that every effort be made,
18 perhaps if this is appropriate, to poll the other
19 Commissioners on the panel and to let us know if we might
20 excuse Mr. Pence from attending the hearing. He is not a
21 company employee. He is an attorney and a consultant in
22 this case, an expert witness.

23 COMMISSIONER JACOBS: Okay.

24 MR. SCHIEFELBEIN: And it would -- if we did get
25 some advance word, reasonable advance word, that would

1 save a few dollars for rate case expense.

2 COMMISSIONER JACOBS: Is it agreed that the
3 issue he's testifying to has been stipulated?

4 MR. KEATING: Yes.

5 COMMISSIONER JACOBS: Okay. We can excuse him
6 today, can't we?

7 MR. KEATING: I think in the past we have
8 allowed the other Commissioners on the panel the
9 opportunity to decide whether they wanted to have that
10 witness there to ask questions of or not.

11 COMMISSIONER JACOBS: Okay. Very well. Let's
12 do that.

13 MR. KEATING: And we can reflect that in the
14 prehearing order.

15 COMMISSIONER JACOBS: We will reflect that in
16 the final prehearing order.

17 MR. SCHIEFELBEIN: Thank you. Also, in Section
18 6, I believe that Staff Witness Sweeney, I think that
19 there is a procedural stipulation on that, Mr. Keating?

20 MR. KEATING: Yes. And thanks for bringing that
21 up. I wanted to mention that I believe the company and
22 Staff have agreed previously that Ms. Sweeney's testimony
23 could be stipulated into the record, and wanted to see if
24 we could get that on the record here today and reflect
25 that in the prehearing order.

1 COMMISSIONER JACOBS: Sounds like all parties
2 agree then?

3 MR. SCHIEFELBEIN: No objection.

4 COMMISSIONER JACOBS: Okay.

5 MR. KEATING: And, again, we would make that
6 subject to other Commissioners on the panel having any
7 questions for Ms. Sweeney.

8 COMMISSIONER JACOBS: Very well. That takes
9 care of yours, Mr. Schiefelbein?

10 MR. SCHIEFELBEIN: Yes. Thank you,
11 Commissioner.

12 COMMISSIONER JACOBS: Anything else from Staff?

13 MR. KEATING: Not on Section 6, no.

14 COMMISSIONER JACOBS: Okay. So then we will
15 designate in the final prehearing order whether or not
16 Messrs. Geoffroy and Williams will appear as a panel, and
17 then Messrs. Geoffroy and Householder will appear as a
18 panel, and will indicate to what extent Mr. Pence will be
19 excused from hearing.

20 Section 7, basic positions.

21 MR. SCHIEFELBEIN: If I could point out a
22 typographical error. Four lines from the bottom of the
23 first paragraph of our basic positions, there's a dollar
24 number there which should be --

25 COMMISSIONER JACOBS: Oh, I see it there.

1 MR. SCHIEFELBEIN: -- there should be a comma
2 after the 321.

3 COMMISSIONER JACOBS: Okay.

4 MR. SCHIEFELBEIN: Also, very briefly, in the
5 second paragraph of our basic positions, seven lines down,
6 it begins "In Florida," I'd like to strike the word
7 "including" and replace it with "such as." And with that,
8 our basic position is as stated.

9 COMMISSIONER JACOBS: Very well. Staff.

10 MR. KEATING: Staff has no changes on Section 7.

11 COMMISSIONER JACOBS: Okay. Section 8 then,
12 issues and positions. And, again, we'll go issue by issue
13 to see if there are any modifications to what's stated
14 already. Issue 1.

15 MR. SCHIEFELBEIN: As stated.

16 MR. KEATING: Staff can modify its position on
17 Issue 1. I believe we could show that as stipulated.
18 Staff's position would be, "Yes. Chesapeake's quality of
19 service is satisfactory."

20 COMMISSIONER JACOBS: Very well. Issue 2.

21 MR. KEATING: No change from Staff.

22 MR. SCHIEFELBEIN: As stated.

23 COMMISSIONER JACOBS: Okay. We're close on that
24 one, it looks like. Issue 3.

25 MR. SCHIEFELBEIN: There's a small error in the

1 second line of the company's position. It should read,
2 "Company's supplemental testimony filed" with a "D."

3 COMMISSIONER JACOBS: Issue 4. Do you have
4 something on that one?

5 MR. KEATING: I just wanted to point out, at
6 this point, this may be another difference between the
7 draft prehearing order that was provided today and what
8 was provided to you yesterday, Mr. Schiefelbein, we had
9 previously, in working with the company, set out some
10 subheadings in the issue list. There's some headings in
11 the issue list to identify, you know, sort of the general
12 area that the issues fell under, and I've attempted to put
13 those back in place in this latest draft. I think they
14 were left out of the previous draft.

15 So, if I could, go back to the beginning of the
16 issues and positions. We would just have a heading before
17 Issue 1 that says, "A. Quality Of Service," a heading
18 before Issue 2 that says, "B. Test Year And Forecasting,"
19 and then a heading before Issue 4 that says, "C. Rate
20 Base."

21 And there are some additional headings that
22 would be added in there, and when we get to them in the
23 issue list, I will mention it at that point.

24 COMMISSIONER JACOBS: Okay. We were on -- you
25 didn't have any modifications to Issue 3, position?

1 MR. KEATING: No.

2 COMMISSIONER JACOBS: Okay. Issue 4.

3 MR. SCHIEFELBEIN: As stated.

4 MR. KEATING: No change.

5 COMMISSIONER JACOBS: Issue 5.

6 MR. SCHIEFELBEIN: As stated.

7 MR. KEATING: No change.

8 COMMISSIONER JACOBS: Issue 6.

9 MR. SCHIEFELBEIN: As stated.

10 MR. KEATING: And no change from Staff.

11 COMMISSIONER JACOBS: Issue 7. Stipulated?

12 MR. SCHIEFELBEIN: We do have -- we have
13 discussed this previously with Staff. We would like to
14 modify the phraseology of the issue to indicate, "Were
15 certain invoices included in," and then continuing with
16 the Staff language.

17 MR. KEATING: And Staff can agree to that change
18 in the wording of the issue.

19 COMMISSIONER JACOBS: Okay. So the issue will
20 now be restated to say, "Were certain invoices included in
21 accounts," and read as stated from thereon.

22 MR. SCHIEFELBEIN: Yes, sir.

23 COMMISSIONER JACOBS: Issue 8.

24 MR. SCHIEFELBEIN: As stated.

25 MR. KEATING: I would like to point out, and

1 this may be a difference between what was provided to
2 Mr. Schiefelbein yesterday and today, as we have
3 indicated, that Issue 7 is a stipulated issue.

4 COMMISSIONER JACOBS: Okay. Very well.
5 Issue 8, and you said no changes on Issue 8; right?

6 MR. SCHIEFELBEIN: Well, I misspoke. Our
7 position is certainly as stated. Again, we had requested
8 that the phrasing of this issue be changed or clarified so
9 that it would read, "Should a portion of the second story
10 of the Winter Haven office building," the insertion of the
11 words "Winter Haven."

12 MR. KEATING: Staff agrees with that change.

13 COMMISSIONER JACOBS: Very well.

14 MR. KEATING: If I could go back briefly to
15 Issue 7?

16 COMMISSIONER JACOBS: Okay.

17 MR. KEATING: We have it listed as a stipulated
18 issue with one position, and Staff, just for clarity,
19 would like to revise the wording of the position, and I'd
20 like to see if we can get the company's agreement on this.
21 It would read, "Yes. Accounts 376, Mains, and 381,
22 Meters, should be reduced by \$2,324 and \$575
23 respectively."

24 MR. SCHIEFELBEIN: We would agree with that.

25 COMMISSIONER JACOBS: Very well. Okay.

1 MR. KEATING: Staff also -- and back to Issue 8,
2 Staff would change its position to read, "Yes. 36 percent
3 of the second story of the Winter Haven office building
4 should be allowed in rate base."

5 MR. SCHIEFELBEIN: May I have -- I beg your
6 pardon.

7 MR. KEATING: And to continue, "Adjustments
8 should be made to reduce plant depreciation reserve and
9 depreciation expense by \$82,805, \$22,166, and \$2,450 for
10 the nonutility portion of the second story."

11 MR. SCHIEFELBEIN: May I have a moment?

12 COMMISSIONER JACOBS: Sure.

13 MR. SCHIEFELBEIN: Thank you. I'm back.

14 COMMISSIONER JACOBS: You can share that with --
15 well, we'll get a revised draft out, and you can -- and
16 that language will be in there, I'm sure. Any other
17 changes to Issue 8? Issue 9.

18 MR. SCHIEFELBEIN: As stated.

19 MR. KEATING: Staff has a change to its position
20 in Issue 9. Position would read, "Yes. Plant should be
21 reduced \$202,851, accumulated depreciation should be
22 reduced" --

23 COMMISSIONER JACOBS: Plant reduced 202,851?

24 MR. KEATING: Yes.

25 COMMISSIONER JACOBS: Okay.

1 MR. KEATING: "Accumulated depreciation should
2 be reduced \$98,203, and depreciation expense should be
3 reduced \$3,916 to reflect nonutility operations."

4 MR. SCHIEFELBEIN: May I have a moment?

5 COMMISSIONER JACOBS: Sure.

6 MR. SCHIEFELBEIN: Thank you. I'm back.

7 COMMISSIONER JACOBS: No other changes to

8 Issue 9?

9 MR. SCHIEFELBEIN: As stated.

10 COMMISSIONER JACOBS: Issue 10.

11 MR. SCHIEFELBEIN: As stated.

12 MR. KEATING: No change.

13 COMMISSIONER JACOBS: Issue 11.

14 MR. SCHIEFELBEIN: As stated.

15 MR. KEATING: No change.

16 COMMISSIONER JACOBS: Issue 12.

17 MR. SCHIEFELBEIN: As stated.

18 MR. KEATING: Staff has no change.

19 COMMISSIONER JACOBS: 13.

20 MR. SCHIEFELBEIN: As stated.

21 MR. KEATING: Staff has no change.

22 COMMISSIONER JACOBS: 14.

23 MR. SCHIEFELBEIN: As stated.

24 MR. KEATING: Staff has no change.

25 COMMISSIONER JACOBS: Why don't we do this,

1 where is the next change?

2 MR. SCHIEFELBEIN: The next issue.

3 MR. KEATING: The next issue, yes.

4 COMMISSIONER JACOBS: All right.

5 MR. SCHIEFELBEIN: Sorry, Commissioner.

6 COMMISSIONER JACOBS: 15. I was hoping.

7 MR. SCHIEFELBEIN: We have a dollar figure where
8 are now indicated Xs. The dollar amount is \$58,688.

9 MR. KEATING: And Staff agrees with that number.
10 I believe we could show that as a stipulated issue. The
11 language we proposed for the position is, "Yes. Working
12 capital should be reduced by \$58,688 to reflect nonutility
13 materials and supplies."

14 MR. SCHIEFELBEIN: No objection.

15 COMMISSIONER JACOBS: Okay. Issue 16.

16 MR. SCHIEFELBEIN: As stated.

17 MR. KEATING: And Staff would change its
18 position to, "Yes. No adjustment is necessary." So I
19 believe that issue could also be shown as stipulated.

20 COMMISSIONER JACOBS: Okay. 17.

21 MR. SCHIEFELBEIN: As stated.

22 MR. KEATING: No change.

23 COMMISSIONER JACOBS: 18.

24 MR. SCHIEFELBEIN: As stated.

25 MR. KEATING: No change.

1 COMMISSIONER JACOBS: 19.

2 MR. SCHIEFELBEIN: As stated.

3 MR. KEATING: This may be another change -- or
4 another difference between the two draft prehearing orders
5 that Mr. Schiefelbein has. I don't -- I'm not sure if the
6 first draft identifies that as a stipulated issue.

7 MR. SCHIEFELBEIN: Correct.

8 MR. KEATING: The most recent draft identifies
9 it as a stipulated issue, and the position reads, "No.
10 Chesapeake is currently recording conservation as a
11 miscellaneous deferred debit. The company should record
12 conservation as revenues and expenses."

13 And I believe this perhaps is something that
14 Staff can talk with the company to -- after the prehearing
15 conference. I believe there is an additional -- some
16 additional language that Staff would like to include in
17 that position, and we'd like to speak to the company to
18 make sure we can stipulate to that. I believe it doesn't
19 change the effect of the position, but we haven't talked
20 about it yet.

21 COMMISSIONER JACOBS: Well, if -- I'll leave it
22 now as not stipulated until you guys agree to that. If
23 you do agree to it, then we probably should have that
24 revised language included in here if it's going to be
25 stipulated.

1 MR. KEATING: Okay. I've been provided the
2 additional language that Staff would like to add, so I can
3 read that now and --

4 COMMISSIONER JACOBS: Go ahead.

5 MR. KEATING: We'd pick up with a new sentence
6 after the position I already stated. "In addition, over
7 and underrecovery should be netted so that there is only a
8 balance on one account at any particular time. Net
9 overrecovery should be recorded in Account 253, other
10 deferred credits, and that underrecovery should be
11 recorded in Account 186, miscellaneous deferred debits."

12 MR. SCHIEFELBEIN: We'd need time to see that
13 language.

14 COMMISSIONER JACOBS: Okay. Now, why don't we
15 do this, I'll go back to my prior process. We'll find the
16 next issue where you have a revision. Well, it probably
17 would be better for Staff since they have the version that
18 shows all the changes and they can just tell us. Where's
19 the next one that you have?

20 MR. SCHIEFELBEIN: Our next change would be
21 Issue 28.

22 COMMISSIONER JACOBS: Okay.

23 MR. KEATING: Our next change would be Issue 31.

24 COMMISSIONER JACOBS: Okay. Let's go to
25 Issue 28.

1 MR. SCHIEFELBEIN: We would like to add to our
2 position after the 12 percent, "plus or minus 100 basis
3 points."

4 COMMISSIONER JACOBS: Okay. Any other changes?
5 Next is item -- I'm sorry, Issue 31.

6 MR. SCHIEFELBEIN: If I may, I can wait, but we
7 also have a change on our position on Issue 29.

8 COMMISSIONER JACOBS: Okay. Let's do that.

9 MR. SCHIEFELBEIN: All right. The new language
10 would read, "The appropriate flex rate liability amount is
11 \$57,184, and the cost rate is 5.16 percent."

12 COMMISSIONER JACOBS: Very well. Okay. Next is
13 Issue 31.

14 MR. KEATING: Staff's position should be changed
15 to read, "The appropriate amount of unamortized investment
16 tax credits to include in the capital structure is to be
17 determined based on the pending responses to Staff
18 discovery and evidence adduced at this hearing. The
19 appropriate cost rate of the unamortized investment tax
20 credits is zero."

21 COMMISSIONER JACOBS: Very well. Any other
22 changes? Okay. Where's the next change for you,
23 Mr. Schiefelbein?

24 MR. SCHIEFELBEIN: Our next change would be in
25 Issue 38.

1 COMMISSIONER JACOBS: Staff.

2 MR. KEATING: Ours would also be in Issue 38.

3 And I would like to --

4 COMMISSIONER JACOBS: Well, Issue 36, do we need
5 to discuss that?

6 MR. SCHIEFELBEIN: No, sir.

7 COMMISSIONER JACOBS: Well, Staff -- on the
8 newest version it shows stipulated. Is that something
9 that you agree to?

10 MR. KEATING: And I would like to caution as we
11 go past this point that issues we discussed with
12 Chesapeake at a meeting earlier this week, there was some
13 agreement on two issues that could be removed, and the
14 numbering is going to be off by one from here on. So I
15 apologize for the discrepancy.

16 What is shown as stipulated Issue 36 in the new
17 version was Issue 37 in the previous version. And the
18 issue, just to be clear, is, "Has Chesapeake properly
19 removed PGA revenues, expenses, and taxes-other from the
20 projected test year?"

21 COMMISSIONER JACOBS: Okay. It sounds like we
22 may want to make sure we have everything in order from
23 this point forward. So Issue 36, you understand and it's
24 stipulated; is that correct?

25 MR. KEATING: Yes.

1 COMMISSIONER JACOBS: Okay. Issue 37 as well?

2 MR. KEATING: Correct. And that issue is, "Has
3 Chesapeake properly removed conservation revenues,
4 expenses, and taxes-other from the projected test year?"

5 COMMISSIONER JACOBS: And then Issue 38.

6 MR. SCHIEFELBEIN: Was there a change in the
7 Staff position to 38?

8 MR. KEATING: There's no change to the Staff's
9 position in 38.

10 MR. SCHIEFELBEIN: Okay. The company is
11 prepared to take a position. On Issue 38, we would agree
12 with Staff.

13 COMMISSIONER JACOBS: So we stipulate that.

14 MR. KEATING: We can show that as a stipulated
15 issue.

16 MR. SCHIEFELBEIN: Yes.

17 COMMISSIONER JACOBS: Very well. Okay.

18 MR. SCHIEFELBEIN: My next change, if I may, is
19 Issue 40.

20 COMMISSIONER JACOBS: All right. Let's move to
21 that one.

22 MR. SCHIEFELBEIN: First of all, we'd like to
23 change the wording of the issue. We would like to suggest
24 removing the word "remove" from that, which will make more
25 sense when I give our new position. I don't have any

1 perfect language worked out on this, but the sense of what
2 we would like to add to our position in Issue 40 is, "In
3 addition, 95 percent of Chamber of Commerce dues should be
4 added to such expenses." And that's rough language.

5 MR. KEATING: And just to be clear, since we may
6 be running into some inconsistent numbering here, that is
7 the issue regarding removing expenses for certain
8 memberships and dues?

9 MR. SCHIEFELBEIN: Yes, sir. We can certainly
10 come up with a dollar amount for Staff at a later time.

11 COMMISSIONER JACOBS: Okay. Mr. Schiefelbein.

12 MR. SCHIEFELBEIN: The next matter I'd like to
13 talk about is Issue 42.

14 COMMISSIONER JACOBS: Before we do that, Staff
15 did you have anything else on Issue 40?

16 MR. KEATING: I don't believe so, but I would
17 like to make sure. I think there was some confusion. Is
18 that a change to the -- a proposed change to the wording
19 of the issue or a change to your position?

20 COMMISSIONER JACOBS: That was your position;
21 correct?

22 MR. SCHIEFELBEIN: What we were requesting was
23 to delete the word "remove" from the issue so that it
24 would read, "Should an adjustment be made to expenses for
25 certain memberships and dues?" Our position would be as

1 stated in the draft with the addition of the language that
2 we'd like to add 95 percent of Chamber of Commerce dues.

3 MR. KEATING: Okay. Thank you.

4 MR. SCHIEFELBEIN: May I, Commissioner?

5 COMMISSIONER JACOBS: Yes. Well, are you
6 cleared up, Staff?

7 MR. KEATING: Yes.

8 COMMISSIONER JACOBS: A minor grammatical issue.
9 Instead of saying in your position, "in addition," perhaps
10 it may be better to say, "however." I'll just toss that
11 out.

12 MR. SCHIEFELBEIN: Yes. I think that would be
13 an improvement. Thank you.

14 COMMISSIONER JACOBS: Okay. Next is 41, I'm
15 sorry, 42.

16 MR. SCHIEFELBEIN: 42. And,
17 Commissioner Jacobs, maybe this isn't the appropriate
18 moment, but we would like to explore either now or later
19 in the prehearing what would be the opportunity the
20 company would have to update its projections of rate case
21 expense as of a date certain, both its actuals and its
22 projected rate case expense. We'd like that opportunity.

23 We're filing an answer to an interrogatory
24 tomorrow that asks approximately if this case is
25 stipulated, what would be the savings in rate case

1 expense, and we're going to be prepared to answer that.
2 But in the event that this case is not stipulated, we
3 would like an opportunity to submit the most current rate
4 case expense, which also, on the other hand, leaves time
5 for Staff to look at it and react to it and prepare for
6 hearing.

7 I don't know what the outside date that Staff
8 would be comfortable on that. We would like just to throw
9 something out. It would be Monday the 9th, and we would
10 have actuals through some reasonable period and updated
11 projections. And I might add also that our -- although I
12 haven't seen completely up-to-date figures, I know that
13 some amounts are under what was projected in the MFRs,
14 some are over, but we'd like to have at least an
15 opportunity to have that considered by the Commission.

16 COMMISSIONER JACOBS: Staff.

17 MR. KEATING: We are agreeable to discuss this
18 with the company at a later time.

19 COMMISSIONER JACOBS: Is there an agreement at
20 least on the idea that there will be a filing, and that
21 what's up for discussion is the timing of that filing?

22 MR. SCHIEFELBEIN: Yes, sir, exactly.

23 COMMISSIONER JACOBS: And you will resolve that
24 date after today?

25 MR. KEATING: Yes.

1 COMMISSIONER JACOBS: Very well. That takes
2 care of Issue 42.

3 MR. KEATING: If I could go back just one issue
4 to Issue 41. Staff has a change to its position.

5 COMMISSIONER JACOBS: Okay.

6 MR. KEATING: The position would read, "No. No
7 adjustment is necessary." So I believe that issue could
8 be shown as stipulated.

9 COMMISSIONER JACOBS: Very well. Okay. We're
10 done with Issue 42. Who has the next -- what's your next
11 change, Mr. Schiefelbein?

12 MR. SCHIEFELBEIN: Bear with me, please.

13 MR. KEATING: Staff's next change is to
14 Issue 44.

15 COMMISSIONER JACOBS: Okay. So that settles
16 that. Let's go to Issue 44.

17 MR. KEATING: Staff would change its position
18 to, "No adjustment is necessary." Therefore, I believe we
19 can show Issue 44 as a stipulated issue.

20 We can take the same position with regard to
21 Issue 45, and I believe that issue could be shown as
22 stipulated as well.

23 Our next change would be to Issue 49.

24 COMMISSIONER JACOBS: Anything before that,
25 Mr. Schiefelbein?

1 MR. SCHIEFELBEIN: No, sir. Thank you.

2 COMMISSIONER JACOBS: Okay. 49.

3 MR. KEATING: Staff's position on Issue 49
4 should be changed to read, "Yes. The trend rates used by
5 Chesapeake to calculate projected O&M expenses are
6 appropriate." Therefore, I believe we could show Issue 49
7 as stipulated.

8 COMMISSIONER JACOBS: Okay. Next change.

9 MR. KEATING: Our next change is on Issue 55.

10 COMMISSIONER JACOBS: "Has Chesapeake justified
11 its benchmark variances?"

12 MR. KEATING: Correct. And our position should
13 be changed to read, "Yes. Chesapeake has justified its
14 benchmark variances." So I believe that issue can be
15 shown as stipulated.

16 COMMISSIONER JACOBS: Very well. Next change.

17 MR. KEATING: Our next change is at Issue 66.

18 MR. SCHIEFELBEIN: If I may, was Staff
19 continuing to take no position on Issue 58?

20 MR. KEATING: That's the issue, "What is the
21 appropriate accounting treatment and annual amortization
22 to recover estimated clean-up costs of Chesapeake's
23 manufactured gas plant site?"

24 MR. SCHIEFELBEIN: Yes, sir.

25 MR. KEATING: It's my understanding that we

1 still have no position on this, and we don't have a
2 difference with the annual accrual. I think it's just a
3 matter of getting some accounts squared away --

4 COMMISSIONER JACOBS: If you want to take the
5 time --

6 MR. KEATING: -- but it's something that we can
7 work towards stipulation with.

8 COMMISSIONER JACOBS: Yeah. If you want to take
9 the time to formulate a position, that's fine. Okay.

10 MR. SCHIEFELBEIN: If I may then, in the absence
11 of a stipulation on that issue, it would be our intention
12 to bring Mr. Pence to the hearing. We had talked about
13 excusing him earlier, but that's fine.

14 COMMISSIONER JACOBS: Well, you were going to
15 resolve that at any rate after the hearing?

16 MR. SCHIEFELBEIN: Yes.

17 COMMISSIONER JACOBS: I assume then -- why don't
18 you have discussions about this issue? And I guess
19 attached to that will be the idea of whether or not
20 Mr. Pence needs to appear. And I'll leave that pending,
21 and we can resolve that on my review after your
22 discussions.

23 MR. KEATING: Once we have had a chance to
24 discuss this with Chesapeake, depending on the resolution,
25 I will let you know if they would still like Mr. Pence to

1 be excused.

2 COMMISSIONER JACOBS: Very well. For now he
3 stays on. That takes care of Issue 58. Next change.

4 MR. KEATING: Staff's next change is to its
5 position on Issue 66.

6 MR. SCHIEFELBEIN: If I might then?

7 COMMISSIONER JACOBS: Mr. Schiefelbein.

8 MR. SCHIEFELBEIN: We continue to have a problem
9 with the phrasing of Issue 62, and we have substitute
10 language that we'd like to propose. We would propose that
11 that read -- the first line would stay exactly as it is,
12 "What is the appropriate income tax expense, including."
13 We would like to change the second line of that issue to
14 read, "Current and deferred income tax, ITC amortization,
15 and interest synchronization."

16 MR. KEATING: We can agree to that change in the
17 issue.

18 MR. SCHIEFELBEIN: Okay. And our position would
19 remain as stated.

20 COMMISSIONER JACOBS: So let's restate it to be
21 clear. "What is the appropriate income tax expense,
22 including current and deferred income taxes expense, ITC
23 and interest synchronization, and interest
24 reconciliation?"

25 MR. SCHIEFELBEIN: Close, but no, sir.

1 COMMISSIONER JACOBS: Okay.

2 MR. SCHIEFELBEIN: Starting after "income tax
3 expense," it should read, "ITC amortization, and interest
4 synchronization."

5 COMMISSIONER JACOBS: Okay. Agreed?

6 MR. KEATING: Uh-huh.

7 COMMISSIONER JACOBS: Okay. That's Issue 62.
8 Your change was at 66?

9 MR. KEATING: Yes.

10 COMMISSIONER JACOBS: Anything before that,
11 Mr. Schiefelbein, anything before 66?

12 MR. SCHIEFELBEIN: No, sir. Thank you.

13 COMMISSIONER JACOBS: Okay.

14 MR. KEATING: Staff's position on Issue
15 66 should be changed to read, "No position pending
16 responses to Staff discovery and evidence adduced at
17 hearing. However, there should be no gross receipts tax
18 factor, and the federal tax rate should be 34 percent
19 rather than 35 percent."

20 MR. SCHIEFELBEIN: May have a moment?

21 COMMISSIONER JACOBS: Yes. It's kind of
22 ambiguous, "No position, however." Do you want to put
23 that as a position, and say, it will be supplemented
24 pending completion of discovery?

25 MR. KEATING: Yes.

1 COMMISSIONER JACOBS: Okay.

2 MR. SCHIEFELBEIN: May have a moment on that
3 issue?

4 COMMISSIONER JACOBS: Okay.

5 MR. SCHIEFELBEIN: Thank you. Okay.
6 Commissioner?

7 COMMISSIONER JACOBS: Yes.

8 MR. SCHIEFELBEIN: We would like to both change
9 the wording of our position and also send a signal to
10 Staff, although it might not be reflected in the statement
11 a position. The first two lines of our position on
12 66 would remain unchanged. The third line should read,
13 "Is as," strike the rest of that position and add in its
14 place, "adopted by the Commission in the interim rate
15 order." That would complete the amended position. As far
16 as the signal, if I may?

17 COMMISSIONER JACOBS: Sure.

18 MR. SCHIEFELBEIN: I don't think we have any
19 dispute on this as far as the income tax rate or the
20 inclusion of gross receipts tax, but that's something
21 perhaps we can work on after the prehearing as far as a
22 more comprehensive stipulation.

23 MR. KEATING: That's something that I believe we
24 can work towards stipulation on after the prehearing as
25 well.

1 COMMISSIONER JACOBS: Great. If you would,
2 Staff, instead of "interim rate order," I'd like to get an
3 official cite, a PSC order that came -- that did interim
4 rates. Very well. That's Issue 66.

5 MR. KEATING: I believe Staff's next change is
6 to its position on Issue 69. This is something we
7 discussed with the company at a meeting earlier this week.
8 Actually, this is a change to the language of the issue
9 itself, and we would request that it be changed to read,
10 "Should Chesapeake be required to submit, within 75 days
11 after the date of the final order in this docket, a
12 description of all entries or adjustments to its future
13 annual reports to the Commission, rate of return reports,
14 published financial statements, and books and records that
15 will be required as a result of the Commission's findings
16 in this rate case?" I believe that reflects language that
17 we had previously agreed on.

18 MR. SCHIEFELBEIN: That's correct.

19 COMMISSIONER JACOBS: And so that's stipulated?

20 MR. KEATING: That's probably how its worded, as
21 I just realized, in the latest and the most recent version
22 of the draft prehearing order. I just wanted to make sure
23 it was clear if Mr. Schiefelbein was working from the
24 other draft.

25 COMMISSIONER JACOBS: Okay. Still in agreement?

1 MR. SCHIEFELBEIN: Yes, sir.

2 COMMISSIONER JACOBS: Okay. And that issue is
3 stipulated. Very well. That takes care of Issue 69.
4 Your next change, Mr. Schiefelbein.

5 MR. SCHIEFELBEIN: My next comment would be on
6 Issue 72.

7 COMMISSIONER JACOBS: Staff.

8 MR. KEATING: Ours is 72 as well, and it's
9 probably the same change to the wording of the issue.

10 MR. SCHIEFELBEIN: That's correct. Would you
11 like to do the honors?

12 MR. KEATING: Certainly. I believe we can
13 change the issue to read, "Is Chesapeake's proposal to
14 eliminate certain existing rate classes and replace them
15 with the company's proposed new rate classes appropriate?"

16 COMMISSIONER JACOBS: So the new issue would
17 read, "Is Chesapeake's proposal to eliminate certain
18 existing rate classes and replace them with the
19 company's" --

20 MR. SCHIEFELBEIN: Proposed, the company's
21 proposed new rate classes appropriate.

22 COMMISSIONER JACOBS: Okay. I have it.

23 MR. SCHIEFELBEIN: We're in agreement.

24 COMMISSIONER JACOBS: Very well. Any revision
25 to the positions?

1 MR. KEATING: No change to the position for
2 Staff.

3 COMMISSIONER JACOBS: Very well. Next change.

4 MR. SCHIEFELBEIN: We have nothing until
5 Issue 83.

6 MR. KEATING: Staff has no other changes to its
7 positions or suggested changes to the issues.

8 COMMISSIONER JACOBS: How about Issue 75? Had
9 that been agreed to before?

10 MR. KEATING: Yes. I believe that's one that
11 we've shown in the most recent version as a stipulated
12 issue.

13 COMMISSIONER JACOBS: Okay. Very well. That
14 takes us over to Issue 83.

15 MR. SCHIEFELBEIN: Commissioner, may I ask --
16 direct a question to Staff on Issue 83?

17 COMMISSIONER JACOBS: Yes.

18 MR. SCHIEFELBEIN: Would Staff's statement of
19 position be consistent with the idea that the rates would
20 be effective for meter readings on or after 30 days after
21 the order?

22 MR. KEATING: Yes, that's correct.

23 MR. SCHIEFELBEIN: Then we would be in agreement
24 with Staff.

25 COMMISSIONER JACOBS: Okay. Show

1 Issue 83 stipulated.

2 MR. SCHIEFELBEIN: I have no other comments on
3 the issues and positions.

4 COMMISSIONER JACOBS: Very well.

5 MR. SCHIEFELBEIN: My next comment would be on
6 the exhibit list.

7 COMMISSIONER JACOBS: And I show Issue 86 as
8 being agreed to as well. Any other changes from Staff?

9 MR. KEATING: None on the issues and positions.

10 COMMISSIONER JACOBS: Okay. Let's move to
11 Section 9, exhibit list.

12 MR. SCHIEFELBEIN: Commissioner, if I may, on
13 Page 26 of the latest draft prehearing order at the bottom
14 under Witness Moul, there's -- one of his exhibits is not
15 listed. And that would be Exhibit PRM-2, which is a
16 composite exhibit and is entitled, "Appendices."

17 COMMISSIONER JACOBS: Do you want to say just
18 "Appendices" and nothing else?

19 MR. SCHIEFELBEIN: Correct, yes, sir.

20 COMMISSIONER JACOBS: Okay.

21 MR. KEATING: We'll note that change.

22 COMMISSIONER JACOBS: Okay. Any other changes?

23 MR. SCHIEFELBEIN: I may have a change -- an
24 additional change, and I would need your indulgence for at
25 tops 60 seconds, if I could have a moment?

1 COMMISSIONER JACOBS: Sure, go ahead.

2 MR. SCHIEFELBEIN: Thank you.

3 COMMISSIONER JACOBS: We'll go off the record.

4 (Brief recess.)

5 MR. SCHIEFELBEIN: Thank you for that. My next
6 comment would be on issue -- on Section 10.

7 COMMISSIONER JACOBS: Okay. Any other comments
8 on the exhibit list from Staff?

9 MR. KEATING: No.

10 COMMISSIONER JACOBS: Okay. Then that takes us
11 to Issue 10, proposed stipulations.

12 MR. SCHIEFELBEIN: A pretty minor point, perhaps
13 a good one to close on, but I wonder if under proposed
14 stipulations, it should indicate that Chesapeake and Staff
15 have agreed?

16 COMMISSIONER JACOBS: Sounds reasonable. Staff.
17 It's okay?

18 MR. KEATING: I think we can do that. You know,
19 one thing I have done in this draft prehearing order --
20 technically Staff doesn't stipulate as not being a party
21 in interest. And this is just -- again, this is just
22 something picky. We refer to it as stipulations and
23 stipulated issues. I think what we've done in the past in
24 some other dockets where it's just been one party, no
25 Intervenors, and Staff, we have indicated that the

1 positions that the company has taken, Staff could -- Staff
2 would recommend approval of. And again, that's just a
3 picky point.

4 MR. SCHIEFELBEIN: I won't belabor it. I think
5 it takes --

6 COMMISSIONER JACOBS: It sounds reasonable.

7 MR. SCHIEFELBEIN: -- two to stipulate, I think.

8 MR. KEATING: It's six of one; half dozen of the
9 other.

10 COMMISSIONER JACOBS: So you will revise the
11 language in this section to reflect that, or does it
12 already say that? It doesn't say that exactly.

13 MR. KEATING: We can revise the language to more
14 accurately reflect --

15 COMMISSIONER JACOBS: I'm satisfied with what
16 you just gave. I think that would be fine. It sounds
17 like it would be fine to meet Mr. Schiefelbein's proposal
18 as well.

19 MR. KEATING: Okay.

20 COMMISSIONER JACOBS: Is that okay?

21 MR. KEATING: Yes.

22 COMMISSIONER JACOBS: Good.

23 MR. SCHIEFELBEIN: Commissioner, the only other
24 thing that -- I don't mean to belabor this either, but I
25 must confess that it's an item of great concern to the

1 company and I. Our pending motions for leave to file
2 supplemental testimony, I'm wondering if there is any good
3 that can come for all of our benefits to discuss either on
4 or off the record, whatever your pleasure, anything that
5 needs to be added to those or discussed about those
6 motions.

7 COMMISSIONER JACOBS: I don't think there's much
8 in the way of substance. There were some legal issues
9 that were being refined and researched, and I think
10 pending the completion of that research, we can come
11 forward with a ruling.

12 MR. SCHIEFELBEIN: May I be granted 90 seconds
13 or less to make a couple of statements regarding those two
14 motions?

15 COMMISSIONER JACOBS: Since you stated it that
16 way, technically that could be viewed as argument, but if
17 it's okay with Staff, and I'll give you time to rebut,
18 we'll go ahead and give you a short moment.

19 MR. SCHIEFELBEIN: And I will adhere to that
20 time frame, so feel free to pull the mic. Very quickly,
21 the -- I hope it's abundantly clear and I want to
22 emphasize that neither one of those motions and the
23 testimony that accompanies them seeks to increase the
24 requested revenue requirement, and I think that's very
25 key. We are mindful of prior decisions by the Commission

1 that has looked unfavorably at attempts late in the
2 proceeding to change the ultimate revenue requirement
3 requested. And for that reason, we have absolutely -- and
4 I'd like to reaffirm today, we do not intend to increase
5 that revenue requirement by penny one.

6 Secondly, I'd like to say that certainly in
7 other natural gas rate cases certainly that I've been
8 counsel on, for example, Florida Public Utilities,
9 940620 is the docket number, there certainly was
10 supplemental direct testimony in that case correcting
11 errors, bringing things up to date to where we stood.

12 Beyond that, if I have any additional time, I'll
13 waive it, but thank you for the opportunity.

14 COMMISSIONER JACOBS: Okay. Very well, very
15 well. Anything else to come before us today?

16 MR. KEATING: I believe as we went through the
17 issues and positions I indicated that I would provide some
18 subheadings or headings, however you want to refer to it,
19 as we went along through the issues, and I did not do
20 that.

21 What I'd propose to do is just add those in the
22 prehearing order that we prepare for your signature. I'm
23 pretty sure that the company and Staff have agreed to that
24 organization previously. It doesn't affect the wording of
25 any of the issues. It just gives them a category to fall

1 under for purposes of making it a little easier to look at
2 the prehearing order and figure out what the issues are
3 all about.

4 COMMISSIONER JACOBS: Now, we didn't discuss the
5 issue of opening statements. Is that going to be
6 requested?

7 MR. SCHIEFELBEIN: Thank you, Commissioner, for
8 that. We would like to preserve the opportunity to offer
9 no more than a ten-minute opening statement.

10 COMMISSIONER JACOBS: Okay. Staff.

11 MR. KEATING: Well, I don't think -- Staff won't
12 have an opening statement. We wouldn't be opposed to an
13 opening statement from Chesapeake. I guess it would be
14 appropriate to add at this point, just to let you know and
15 for the record, that we are and will continue to be
16 working towards agreement on the remaining issues in this
17 docket that haven't been agreed to yet.

18 Within the next week, Staff will have completed
19 its discovery, and will be able to take positions on some
20 of these remaining issues and meet with the company again
21 to attempt to get some agreement on that.

22 That being said, to the extent that we reach
23 agreement on any additional issues, you know, beyond what
24 we've indicated we're in agreement on today, I would
25 recommend that we show those additional issues as being

1 stipulated if they are stipulated prior to the prehearing
2 order being issued.

3 COMMISSIONER JACOBS: I'd recommend this: I'd
4 recommend that there be something filed that be considered
5 as a preliminary matter at the hearing more so than just
6 revising the prehearing order beyond what we discussed on
7 the record today, and then we can adopt that at hearing.
8 That would be my suggestion, and I don't think there's a
9 problem with that.

10 MR. ELIAS: The only concern that I would have
11 with doing that is that if there are no issues -- or if
12 most of the issues are stipulated and we have a prehearing
13 order that says one thing and then agreements apart from
14 that, it might not be the most expeditious use of the
15 other panel members' time in terms of preparing for the
16 hearing.

17 COMMISSIONER JACOBS: If it turns out that all
18 the substantial issues in the case are indeed stipulated,
19 I would absolutely encourage that you survey the members
20 to determine whether or not we should hold a hearing. But
21 what I'm suggesting to you is exactly in line with that,
22 to have a prehearing order that does not -- I mean, a
23 prehearing order which reflects issues, resolutions that
24 were not discussed before us today. We can assume that
25 that happened, but I'd like something formally in writing

1 from the parties to indicate that that is indeed the case.

2 MR. ELIAS: Okay. So then it would be your
3 intent that we would incorporate that into the prehearing
4 order that would be issued for the panel?

5 COMMISSIONER JACOBS: No, no. What I'm
6 suggesting is that as to those issues that we did not
7 formally label as stipulated today, should you reach
8 agreement on them subsequently, that you simply draft
9 something that appears before the Presiding Officer to
10 indicate, and if at that time it appears that the case can
11 go away, then that would also accompany some motion to
12 either continue or resolve the hearing.

13 That seems like a simple enough process to me,
14 and then we come to agenda, I assume, later with
15 recommendations that formally gives resolutions of the
16 issues. The resolution of the issues comes by our vote.
17 It doesn't come necessarily -- correct?

18 MR. ELIAS: I understand that. It may be
19 possible, like -- you know, let's assume that in the next
20 week we come to agreement on all issues, it may be that we
21 can file something for your consideration that you can
22 incorporate into a draft prehearing order --

23 COMMISSIONER JACOBS: I don't have a problem
24 doing that.

25 MR. ELIAS: -- so that the panel can make a

1 decision on that at the hearing --

2 COMMISSIONER JACOBS: That's not a problem.

3 MR. ELIAS: -- rather than --

4 COMMISSIONER JACOBS: Let me state, if it
5 appears that there is not a need for a hearing, by all
6 means, let's pursue not having a hearing.

7 MR. ELIAS: Well, and I think typically the way
8 we have handled these things in the past would be to
9 accept -- if all the issues are stipulated or even if most
10 of the hearing -- most of the issues are stipulated, would
11 be to proceed with the hearing so that the panel could
12 vote to accept the stipulations rather than filing a
13 subsequent recommendation.

14 COMMISSIONER JACOBS: Okay.

15 MR. SCHIEFELBEIN: We would strongly support
16 that suggestion by Mr. Elias.

17 COMMISSIONER JACOBS: Very well. That sounds
18 sufficient to me.

19 MR. KEATING: And, finally, along those same
20 lines, I would suggest that if we do reach agreement on
21 all the issues that the prehearing order indicate that
22 Staff is prepared to provide its recommendation at the
23 hearing and to preserve the option of a bench vote.

24 COMMISSIONER JACOBS: Very well. Anything else?

25 MR. SCHIEFELBEIN: No, sir. Thank you.

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

COMMISSIONER JACOBS: Very well. Thank you all.

Prehearing adjourned.

(Prehearing concluded at 2:45 p.m.)

- - - - -

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, TRICIA DeMARTE, Official FPSC Commission Reporter,
6 do hereby certify that the Prehearing Conference in Docket
7 No. 000108-GU was heard by the Florida Public Service
8 Commission at the time and place herein stated.

9 It is further certified that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 46 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 I FURTHER CERTIFY that I am not a relative, employee,
15 attorney or counsel of any of the parties, nor am I a
16 relative or employee of any of the parties' attorney or
17 counsel connected with the action, nor am I financially
18 interested in the action.

19 DATED this 29th day of September, 2000.

20

21

Tricia DeMarte

TRICIA DeMARTE

22

FPSC Official Commission Reporter

23

(850) 413-6736

24

25