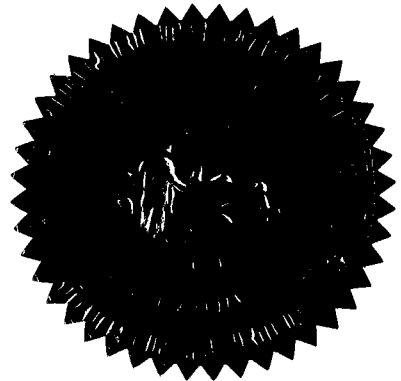


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010949-EI

In the Matter of
REQUEST FOR RATE INCREASE BY
GULF POWER COMPANY.

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11 PROCEEDINGS: PREHEARING CONFERENCE
12 BEFORE: CHAIRMAN LILA A. JABER
13 Prehearing Officer
14 DATE: Friday, February 15, 2002
15 TIME: Commenced at 9:41 a.m.
16 Concluded at 2:41 p.m.
17 PLACE: Betty Easley Conference Center
18 Room 152
19 4075 Esplanade Way
20 Tallahassee, Florida
21 REPORTED BY: LINDA BOLES, RPR
22 Official FPSC Reporter
23 (850) 413-6734

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8 VICKI GORDON KAUFMAN, DON McWHIRTER and TIMOTHY
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24

25

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3 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870,
4 appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN JABER: Good Morning. Let's go ahead and
3 get started on the, with the prehearing conference for this
4 case. We may, just to put all the parties on notice, we may
5 take a 15, 20-minute break. I understand that there is a
6 document that the parties and Staff have not seen yet, were
7 just handed this morning. So we'll get started, we'll do the
8 best we can. We'll probably take a break and allow everyone to
9 informally communicate. But with that, Counsel, read the
10 notice.

11 MS. STERN: By notice dated January 25th, 2002, this
12 time and place were set for a prehearing conference in Docket
13 010949-EI.

14 CHAIRMAN JABER: Let's take appearances. We'll start
15 with Mr. Stone and go into, go with the order that's at the
16 draft prehearing order.

17 MR. STONE: Thank you, Chairman Jaber. I'm Jeffery
18 A. Stone and with me is Russell A. Badders and Andrew Kent of
19 the law firm Beggs & Lane, and also Richard D. Melson of the
20 law firm Hopping, Green & Sams. And we're appearing on behalf
21 of Gulf Power Company.

22 MR. SHROPSHIRE: For the, for the FEA I'm Douglas
23 Shropshire and beside me --

24 MR. ERICKSON: Major Al Erickson. We're representing
25 the Federal Executive Agencies.

1 MR. GROSS: Michael Gross on behalf of the FCTA.

2 MS. KAUFMAN: Vicki Gordon Kaufman on behalf of the
3 Florida Industrial Power Users Group. And I want to enter an
4 appearance for Don McWhirter and for Timothy Perry.

5 MR. BURGESS: Steve Burgess for the Office of Public
6 Counsel representing the Citizens of the State of Florida.

7 MR. HARRIS: Lawrence Harris and Marlene Stern on
8 behalf of the Commission.

9 CHAIRMAN JABER: Thank you. Now, Ms. Stern, how
10 would you recommend we go forward? I know that there are some
11 preliminary matters.

12 MS. STERN: I think as preliminary matters we wanted
13 to discuss the stipulation that was just filed this morning by
14 the, I guess it was filed by Gulf, and there's also a question
15 about the depreciation study that might be best handled as a
16 preliminary matter.

17 I think it would be best if we took some time to read
18 the stipulation and took a brief, like a 15-minute recess and
19 then came back on the record.

20 CHAIRMAN JABER: All right. Mr. Stone, since you
21 just handed a copy of a stipulation for partial settlement, why
22 don't you go ahead and introduce the document, tell the parties
23 and Staff and, and me what it is you are requesting that the
24 parties consider.

25 MR. STONE: Okay. What you have before you is a, a

1 copy of the stipulation or partial settlement that was executed
2 by the Federal Executive Agencies, the Florida Industrial Power
3 Users Group and Gulf Power Company.

4 This document is different than a draft that was used
5 for discussion purposes at our meeting on Wednesday. The
6 purpose of this proposed stipulation for partial settlement is
7 that, if accepted by the Commission, it would result in a
8 stipulation as to all issues in the cost of service and rate
9 design area, leaving open, of course, the fact that the final
10 rates would be dependent on the Commission's decision with
11 regard to our request for an increase.

12 The -- as a consequence of that stipulation, both the
13 Federal Executive Agencies and the Florida Industrial Power
14 Users Group would withdraw from their participation on the
15 other issues in the case and would waive their
16 cross-examination rights of the witnesses and would not be
17 filing a post-hearing brief. And this has been submitted in an
18 effort to streamline the proceedings.

19 CHAIRMAN JABER: Ms. Stern, do you have any questions
20 of Mr. Stone that you want to cover now?

21 MS. STERN: No, not at this point.

22 CHAIRMAN JABER: Okay. Then we'll -- parties?
23 FIPUG? FEA?

24 All right. I am going to take a break until ten
25 after 10:00. Here's the direction to the parties. I want to

1 make sure that all the parties and Staff understand the terms
2 of the proposed stipulation. To the degree there's resolution
3 of some of the issues, be prepared to delineate where there's
4 agreement.

5 You need to know that my philosophy and the
6 philosophy of the Commissioners, as articulated in every order
7 we've issued in this case, is that resolution in an informal
8 fashion serves the public interest. So I hope that you will
9 take every opportunity to explore the feasibility of settlement
10 on some of these issues. All right? Good luck. Ten after
11 10:00.

12 (Recess taken.)

13 CHAIRMAN JABER: Let's go ahead and get back on the
14 record.

15 Ms. Stern, do you have an update?

16 MS. STERN: Yes. We've, we've looked over the
17 stipulation and we think -- there are a lot of cost of service
18 issues that Staff is willing to stipulate to. There are some
19 terms though of this proposed stipulation that are, are real
20 problems for Staff, and these were, we explained these at the
21 meeting on Wednesday but they're still in the proposed
22 stipulation.

23 First, we can't just at this point agree to the MDS
24 methodology. It's counter to prior Commission orders and we
25 think for Staff to just stipulate it away is a little bit

1 inappropriate.

2 We also think that the allocation that's proposed is
3 linked to the cost of service methodology. So we can't, we
4 can't just approve an allocation without approving a cost of
5 service methodology.

6 That being said, we're willing to continue to work
7 with the parties to see if we -- and if we can reach some sort
8 of stipulation of all of the cost of service issues in this
9 stipulation, Gulf asks that we go to the, bring this to the
10 agenda on Tuesday. I don't think that gives sufficient time to
11 try to work everything out. I think to handle it first thing
12 at, on Monday, the first day of the hearing, is a better
13 approach. It will allow for more deliberation and we'll do it
14 before we take any testimony.

15 CHAIRMAN JABER: Ms. Stern, is it easily, can you
16 easily separate the issues or the parts that you would
17 recommend settlement on?

18 MS. STERN: Well --

19 CHAIRMAN JABER: You know, clearly there are, clearly
20 there are areas that you would, you would agree with. I just
21 heard you say that.

22 MS. STERN: Yeah, there are. I can, I can tell you
23 the issues that we could agree to stipulate to right now.

24 CHAIRMAN JABER: Okay. That's what I need.

25 MS. STERN: And those are actually in the draft

1 prehearing order. Because we thought this came up at the
2 meeting we had Wednesday and in preparing the draft prehearing
3 order we went and looked and tried to see what could, you know,
4 how much further can we go.

5 And those issues -- let me turn to the page. All
6 right. They're 105, 106, 107, 109, 110, 111.

7 CHAIRMAN JABER: Hang on. I'm sorry. Those are
8 -- is that issue numbers or are those page numbers?

9 MS. STERN: No. Issue numbers.

10 CHAIRMAN JABER: Okay. Tell me again.

11 MS. STERN: All right.

12 CHAIRMAN JABER: 105 was the first one?

13 MS. STERN: Yeah. 105, 106, 107, 109, 110, 111, 112,
14 113, 117, 118, 122. And actually this morning we got some
15 discovery in and we can agree to a few more issues with Gulf;
16 Issue 96 and Issue 97.

17 Now the problem we have is that the parties have
18 taken a position that, at least at Wednesday's meeting, and I'm
19 not sure it's changed from reading the stipulation, that
20 they're not going to stipulate to anything if, if they don't,
21 if they can't stipulate away all the cost of service issues.

22 But it's Staff's position that there are a lot of
23 issues that we can stipulate to and are willing to stipulate
24 to.

25 CHAIRMAN JABER: That they're easily separable.

1 MS. STERN: Easily separable. It's really the MDS in
2 the allocation that are problematic.

3 CHAIRMAN JABER: Okay. Those are the ones --

4 MR. STONE: Commissioner Jaber --

5 CHAIRMAN JABER: I'm going, I'm going to ask you for
6 your comment in just one minute.

7 Now those are the ones that Staff would recommend
8 stipulating. What are the issues covered in the partial
9 settlement that you cannot settle?

10 MS. STERN: That would be -- let me -- it's 88 and 89
11 and 90.

12 CHAIRMAN JABER: Thank you, Ms. Stern.

13 Mr. Stone, and we'll work down this way.

14 MR. STONE: Commissioner, if I may, and I realize
15 that I'm speaking as Gulf's counsel, but I'm also trying to
16 represent the terms of the stipulation. And so if I misstate
17 something, I apologize, and I'd certainly ask that the other
18 parties to the stipulation correct me, if I'm wrong.

19 This stipulation was initially proposed to us by the
20 Federal Executive Agencies. We have worked with the Federal
21 Executive Agencies and FIPUG on -- we started from their
22 language. We did, made some technical corrections to the
23 stipulation and also added a very important part of the
24 stipulation which Staff has not conveyed to you yet today, and
25 that is not only is this proposed stipulation a stipulation of

1 all the issues from 85 through 122, but perhaps more
2 importantly as a consequence of that stipulation both the
3 Federal Executive Agencies and the Florida Industrial Power
4 Users Group would decline from further participation in the
5 docket. That would mean that we would eliminate their
6 opposition or their position is probably a more appropriate way
7 of stating it on all of the other issues and not just the cost
8 of service issues. And by eliminating their position on all of
9 those issues, it eliminates their need for cross-examination of
10 the witnesses on all the other issues. And that would be
11 taking two parties who have indicated to us that they are
12 supporting a position that's in opposition to Gulf Power
13 Company and so, therefore, it would mean more
14 cross-examination, more litigation on all those other issues.
15 It would extend the length of this hearing.

16 So by virtue of this stipulation we are streamlining
17 the proceeding because not only would all the cost of service
18 issues be resolved, the witnesses that are, and the witnesses
19 that are tied strictly to the cost of service and rate design
20 issues, they would clearly be stipulated, they would not need
21 to appear, but we would also eliminate substantial
22 cross-examination on the other, the revenue issues. And that
23 is, I think, the, the primary benefit of this stipulation is
24 that by resolving these issues, as, as FEA and FIPUG have asked
25 and that we have joined with them, we are able to streamline

1 the conduct of the rest of the hearing by eliminating two
2 parties from cross-examination and also able to eliminate some
3 witnesses from having to appear.

4 CHAIRMAN JABER: Mr. Burgess, Public Counsel is not
5 taking a position on this stipulation?

6 MR. BURGESS: That's correct, because it's a rate
7 design, cost of service, it's the type of issues that generally
8 set one customer group's interests against another and we have
9 chosen not to take a position. We don't object to the
10 stipulation, but we do not agree with it affirmatively. In
11 other words, we're simply removing ourselves from, from the
12 issue.

13 CHAIRMAN JABER: FIPUG, what Mr. Stone represented is
14 accurate?

15 MS. KAUFMAN: It is, Commissioner Jaber. Now I would
16 like to make one more comment, if I, if I might, in regard to
17 your dialogue with Ms. Stern and whether some of the issues
18 could be stipulated. I know that my clients have entered into
19 this stipulation as a package. At this point I have no
20 authority to stipulate to some issues and not others. And I
21 think, as Mr. Stone said, as we tried to work through this it
22 was our goal to essentially take care of the cost of service
23 part of the case so that we and the FEA could be excused and
24 then it would narrow the issues and, as Mr. Stone said,
25 eliminate a lot of cross-examination.

1 If we can't reach a stipulation, it would be our
2 intent to participate and take issue with, with, I was going to
3 say majority, that might not be accurate, but quite a few of
4 the revenue requests that the company has made. So it would be
5 our view we commend this to you, the parties have worked it
6 out, Staff has not offered a witness nor any testimony that
7 contradicts the proposal that Gulf has made and that the other
8 two parties support.

9 CHAIRMAN JABER: But it's not to say that you would
10 be unwilling to take back to your clients a partial settlement
11 on the issues that Staff would recommend that the Commission
12 accept the settlement.

13 MS. KAUFMAN: You mean on some of the -- I certainly
14 obviously would communicate that to them, Commissioner. But I,
15 I guess I'm trying to convey to you I'm not clear how motivated
16 they would be to settle just some of the issues and not the
17 issues that are, you know, a critical concern to them.

18 CHAIRMAN JABER: Okay. FEA?

19 MR. SHROPSHIRE: Yes, ma'am. I would, the FEA would
20 concur in the remarks by Mr. Stone and Ms. Kaufman. We, we
21 have worked very closely and very hard on this stipulation and
22 we, it would tremendously streamline the issues. And as
23 Mr. Stone indicated, we would be basically out of this case if
24 this stipulation is accepted.

25 And as Ms. Kaufman indicated, we're making some

1 internal trade-offs in this stipulation on, on many issues, and
2 I don't think -- it is a package to us, also. And I don't, I'm
3 not optimistic that we could do some other type of partial
4 settlement that didn't include the resolution on the key issues
5 to us.

6 CHAIRMAN JABER: Okay. Let me tell y'all where I am.
7 One of the concerns I had with respect to the
8 proposed settlement -- and I use the word "concern" loosely
9 because I don't want to leave anyone with the impression that
10 I've prejudged any of these issues because, in fact, I haven't.
11 The proposed settlement has the potential of creating an
12 allocation methodology that puts a burden on, that could put a
13 burden on the residential consumer versus the large industrial
14 users. That being said, I would like to give the
15 Commissioners -- is this a full Commissioner case, Marlene, or
16 a panel?

17 MS. STERN: Yes. Yes, it is.

18 CHAIRMAN JABER: I would like to give the
19 Commissioners an opportunity to look at the settlement, to look
20 at the testimony and decide on their own. Even if I wanted to
21 accept the settlement, I couldn't do that alone. It takes a
22 vote from the Commissioners.

23 So regardless of what Staff's opinion is, and I don't
24 want to underestimate Staff's opinion because it is important
25 to what we're doing here today, regardless of what Staff's

1 opinion is, my responsibility to the Commissioners is to make
2 sure that they have the information they need to make the best
3 decision that they can make.

4 And I don't want to undermine or take away from the
5 good work that you all have done to come together on these
6 issues. You are to be commended for it. And I don't want to
7 send you the wrong signal; this is the thing to do going
8 forward. We want the parties to communicate, we want the
9 parties to reach a resolution on their own.

10 But today I can't approve or not approve the proposed
11 settlement, so here's what we're going to do. We're going to
12 include the proposed settlement as part of the prehearing
13 order. We're going to ask the Commissioners to rule on it as
14 the first item for the hearing. And I know that doesn't
15 accomplish what you were trying to accomplish, which is to save
16 your witnesses the travel and, and the preparation for
17 cross-examination. I can't help that. It's a Friday before a
18 Tuesday agenda and we have to be realistic. We already have
19 Staff working the weekend on other issues. I don't want to add
20 to their workload with this stipulation. And, frankly, it
21 takes away from the preparation time that the Commissioners
22 have. Even if Staff could file something on a Monday
23 afternoon, the reality is the preparation time for the
24 Commissioners is just not there.

25 So we'll make it the first item for the hearing. It

1 sounds like Staff is not going to recommend that the
2 Commissioners accept the settlement, so you all are prepared,
3 and we'll leave it up to the Commissioners to decide.

4 Now what we can do to accommodate your witnesses
5 though, we'll make sure that the witnesses related to Issues 85
6 through 122 are shown at the very end of the order of witnesses
7 so that if you don't want them to travel the first day of the
8 hearing, maybe we can take them up the second or the third day.
9 We'll accommodate that way.

10 MR. STONE: Commissioner, the witnesses are, in the
11 order they're stated in the prehearing order is sufficient to
12 accomplish that purpose.

13 CHAIRMAN JABER: Great.

14 MR. STONE: I do want to point out, and perhaps
15 you're already aware of this, that although we had suggested
16 Tuesday's agenda conference as an opportunity, we also
17 suggested as soon as possible thereafter. And we understand
18 your ruling is that it will be at the beginning of the --

19 CHAIRMAN JABER: When is the hearing?

20 MR. STONE: The hearing is on the 25th. And so if,
21 if Monday the 25th is as soon as possible thereafter, that is
22 consistent with our stipulation.

23 CHAIRMAN JABER: Monday the 25th is the hearing. And
24 we don't have an agenda, other than next Tuesday's agenda, we
25 don't have an agenda before the 25th?

1 MS. STERN: That's right.

2 CHAIRMAN JABER: Do this for me. Talk to JoAnn about
3 whether the Commissioners are available for a morning special
4 agenda prior to the hearing.

5 MS. STERN: Okay.

6 CHAIRMAN JABER: We'll see if that will work. That's
7 not to say it will work.

8 MR. STONE: I understand.

9 CHAIRMAN JABER: All right.

10 MR. ERICKSON: Ma'am?

11 CHAIRMAN JABER: Yes.

12 MR. ERICKSON: One procedural comment. I was looking
13 through the latest iteration of the prehearing order,
14 particularly, of course, Issues 85 through 122.

15 I would request, we would request that the order now,
16 the guts of this thing reflect what's going on here, that there
17 is a stipulation between these parties, the Staff may not
18 agree, but this should reflect that.

19 In other words, in addition to attaching the
20 stipulations, each one of these issues should reflect that
21 these parties have stipulated, Staff doesn't agree or, if they
22 agree with that particular issue, they can show, so note. But
23 I think this needs to be accurate here because there's parts of
24 this that indicate stipulation, stipulation. I don't think
25 that's accurate.

1 CHAIRMAN JABER: Yeah. That --

2 MR. ERICKSON: This should be accurate, ma'am, we
3 would suggest.

4 CHAIRMAN JABER: I'm sorry to interrupt you. That's
5 exactly what the purpose of the prehearing conference is today.
6 So we are going to go through and make the appropriate
7 notations.

8 The Commissioners use this as a tool. So,
9 absolutely, those issues will be reflected as the parties have,
10 have tried to reach a settlement and that it's been left open
11 for the Commissioners to decide. Okay?

12 MR. ERICKSON: Thank you, ma'am.

13 CHAIRMAN JABER: There are -- you said something
14 about another preliminary matter, Ms. Stern.

15 MS. STERN: Yes. The, the, the depreciation study in
16 Docket 010789-EI is going to agenda on Tuesday, and that
17 depreciation study affects the rate case.

18 At our meeting on Wednesday we had some discussion
19 about taking that up as a preliminary matter and it might be
20 the easiest thing to do. I don't know what the parties think.

21 MR. BURGESS: Commissioner, I, I was one of the
22 people that participated in it and perhaps the one that brought
23 it up.

24 I had talked about considering options of trying to
25 incorporate an agreement as to how that might mesh into the

1 rate case. And I have subsequently determined that our
2 position is going to be that whatever the Commission's
3 depreciation order is at the time of the hearing is, is what
4 should govern along with what other specific issues are raised
5 in the case and, and presented with evidence in the case.

6 But with regard to trying to anticipate a result from
7 that and the timing of any result from that and how that might
8 be built in, that's not something that we're interested in
9 trying to pursue any further.

10 CHAIRMAN JABER: You're not? So you are standing by
11 whatever testimony is included in this rate case and whatever
12 the ultimate result is.

13 MR. BURGESS: That's correct. And whatever existing
14 depreciation rate is, has been determined in the depreciation
15 docket at that time.

16 CHAIRMAN JABER: Okay. I think I just lost you
17 there. There will be a decision that comes out of next
18 Tuesday's agenda on a depreciation rate.

19 MR. BURGESS: Uh-huh.

20 CHAIRMAN JABER: Is that the rate you think should
21 apply in this rate case?

22 MR. BURGESS: If that decision is not challenged and,
23 and becomes final. If it is not final, then I would suggest
24 whatever most recent final order has been rendered by the
25 decision on depreciation rates would be that which would

1 control.

2 CHAIRMAN JABER: Okay. So similar to the way we
3 handled rate of return on equity and water.

4 MR. BURGESS: Exactly the analogy I used earlier.

5 CHAIRMAN JABER: Have you drafted that sort of, that
6 kind of stipulation?

7 MR. BURGESS: I don't know that we've got a
8 stipulation on that.

9 MR. STONE: We would not -- it is our concern that
10 that is not administratively efficient. We have an opportunity
11 to, a very, perhaps it's a rare opportunity, but here we have a
12 rate case going on at the same time that we're approving new
13 depreciation rates. And Staff has handed out a, a proposed
14 language that would, would make sure that we are
15 administratively efficient and we would support Staff's
16 recommend, Staff's language. And essentially what it says is
17 --

18 CHAIRMAN JABER: Wait a second. Mr. Stone, where is
19 that? Staff's proposed language to what issue?

20 MR. STONE: I don't know if it's in the draft
21 prehearing order. It was something that was handed to me prior
22 to the beginning of the prehearing conference.

23 CHAIRMAN JABER: Okay. Let me make sure I have a
24 copy.

25 (Pause.)

1 Mr. Burgess, what, what is the, what is the law on,
2 on matters that become final to be included in, in cases going
3 forward? Said better, aren't we required to include decisions
4 that are final and effective?

5 MR. BURGESS: I've got some reluctance to, to advise
6 you on the law. I'll give you what my understanding is. But
7 if there's any disagreement, then it would be something that,
8 and if it's relevant to one of the issues, then it would be
9 something I assume would be briefed in the case.

10 But my understanding is, is that, yes, if the
11 Commission has decided a generic, made a generic decision that,
12 and that is the subject of a final order, then at that point
13 that is res judicata on the subject matter over which the
14 decision has been made.

15 And I think perhaps what we have that is the variable
16 that we have here that we may be disagreeing on is the effect
17 of a Commission's proposed agency action, which I don't think
18 fits that same category. That's, that's simply a proposal from
19 the Commission to any interested party.

20 CHAIRMAN JABER: Mr. Stone, the testimony you all
21 have filed on this issue, is that consistent or not consistent
22 with Staff's recommendation going to Tuesday's agenda?

23 MR. STONE: Well, clearly the Staff's recommendation
24 came out after we filed our testimony. We filed our testimony
25 and we, we have included what we proposed as depreciation rates

1 and dismantlement provision. Our proposal was made last May.
2 We incorporated that proposal in our filing in this rate case
3 in September.

4 Staff, in the course of that docket, has come up with
5 some recommended changes to our depreciation study. I believe
6 the net effect of those changes is an increase in depreciation
7 expense and dismantlement accrual. I may be misstating that,
8 and I apologize if I have. But, and so we have recommended
9 some adjustments, subsequent to our rate case filing we have
10 recommended some adjustments in our rebuttal testimony to
11 conform to the Staff recommendation. So in essence, yes, our
12 testimony is consistent, but I just wanted to give you the
13 history of how it got to be consistent.

14 CHAIRMAN JABER: I appreciate that. You know, I
15 think, Mr. Burgess, this isn't an issue we have to decide
16 today. I think that Staff has taken a preliminary position. I
17 understand that you don't agree with it.

18 MR. BURGESS: Right.

19 CHAIRMAN JABER: And, Gulf Power, you've represented
20 you do agree with it, so I'm guessing that you'll incorporate
21 this as your position in the draft prehearing order.

22 Mr. Burgess, I'm going to guess that you will
23 disagree with this in the draft prehearing order.

24 MR. BURGESS: Correct.

25 CHAIRMAN JABER: A lot depends on what happens

1 Tuesday and, frankly, what happens out of the 21-day protest
2 period, you know.

3 MR. BURGESS: I agree 100 percent. I agree that,
4 that it is -- what had happened was it is an issue in this case
5 and, and based on the discussion Wednesday and even some of the
6 comments that I made, Staff was simply optimistic or hopeful
7 that an agreement could be reached and they drafted language.
8 And subsequent to that I've said, no, we do not, we will not
9 agree with that and, and apparently though Gulf and Staff still
10 agree on that language.

11 CHAIRMAN JABER: Okay.

12 MR. BURGESS: So it's simply, as I understand it,
13 simply an issue in the case to be determined.

14 CHAIRMAN JABER: Right. Right. And to the degree
15 there are some legal ramifications or, or something that
16 warrants a little bit more of an elaborate discussion in the
17 briefs, just remind me.

18 MR. STONE: Commissioner, if I may, it may warrant a
19 little bit more elaborate discussion on Tuesday at the agenda.

20 One thing I would point out is if I understand
21 Mr. Burgess's position, you could never have depreciation rates
22 on a new plant in a rate case unless you had a final order on
23 the depreciation study prior to the rate case. That clearly is
24 not, is not -- it can't be the law, I mean, because that would
25 force you to be underrecovered for a new plant. It's clearly

1 not administratively efficient.

2 In this particular case we have a new plant going
3 on-line. When we filed the depreciation study last May, the
4 plant was not part of the depreciation study because it was
5 talking about depreciation rates going into effect January 1 of
6 2002. And so since the plant is not on-line, the plant was not
7 part of that study.

8 Now Staff has asked for information in the context of
9 that docket about the plant and I believe that their final
10 recommendation does come up with depreciation rates on that
11 plant. But the fact of the matter is even in that context of
12 that decision, if you accept Mr. Burgess's position, we don't
13 have a final decision on that, on the plant's depreciation
14 rates. And if we were to go back to the last final order we
15 have on depreciation rates, then you could never recover
16 depreciation for a new plant in the context of a rate case.
17 And I just don't, I don't believe that's what the Commission
18 would countenance in this case and I don't believe that's what
19 the law would be. It clearly would not be administratively
20 efficient.

21 CHAIRMAN JABER: You're certainly welcome to bring up
22 at agenda whatever issue you want to bring up. But I have to
23 tell you, even at next Tuesday's agenda I don't anticipate
24 resolving this issue for the case. So keep that in the back of
25 your mind for this case. I really see it as an ongoing issue

1 for the rate case because we don't know what will happen out of
2 the 21-day protest period. It might be that Public Counsel
3 decides not to protest.

4 MR. STONE: Well, I do know that in some occasions
5 the, even in a protest situation especially when you have, in
6 this context their depreciation rates that will be retroactive
7 back to the first of the year, it may be that the Commission
8 would want to consider making those rates effective subject to
9 refund pending the outcome of a protest. In that, in that
10 situation then it may be something that would be handled in
11 that docket that would have an impact on this docket.

12 CHAIRMAN JABER: Let's assume the Commission does
13 that, holds rates subject to refund on an interim basis, and
14 the Commission finds ultimately a lower depreciation rate, are
15 you, are you suggesting there would be a reduced rate and/or a
16 refund later?

17 MR. STONE: What I'm suggesting is that when -- the
18 Commission's action on Tuesday is to set depreciation rates and
19 they're effective January 1, 2002. So we would have to go back
20 and, and put those into effect. To the extent that that is an
21 increase in depreciation rates that may be reversed when the,
22 when the final order is entered, then obviously we would
23 recharacterize those depreciation rates based on the final
24 order.

25 What I'm suggesting is that we may be showing those

1 new rates in effect, and subject to refund was probably an
2 inartful term because you don't refund depreciation rates, but
3 to the extent that you would recharacterize those rates as a
4 result of the final action, we would go back and do that. But
5 they would, the new proposed rates would be in effect up until
6 that point. And we would, we would be segregating that amount
7 so that we could, if we had to undo it, we could undo it. To
8 the extent that revenue requirements are then affected by that,
9 the actual revenue requirements could be held subject to refund
10 and that, of course, would be a decision in this case.

11 CHAIRMAN JABER: Mr. Burgess?

12 MR. BURGESS: I don't -- I mean, it seems to me
13 Mr. Stone is arguing the substance of his position in the rate
14 case, and I don't know of any decision that can be made in that
15 docket that could affect the rate case. In other words, the
16 decision as to what depreciation rates are for this rate case
17 is something that needs to be made based on this rate case and
18 the testimony that's provided.

19 Mr. Stone has characterized my position, and I don't,
20 I don't think he intentionally did it, but it's not an accurate
21 one. I, I think new plant all the time can be depreciated in a
22 rate case based on a depreciation rate that was established
23 some time before.

24 If the average depreciation life is 30 years and the
25 new plant is actually a 60-year life, then the company gets an

1 advantage from that. If the new plant is a 15-year life, then
2 they're disadvantaged. It's just the nature of a weighted
3 average depreciation rate. And so I don't, I don't understand
4 how Mr. Stone can say that no new plant can ever be depreciated
5 in a rate case.

6 In addition to that, we have testimony in the case,
7 the Commission will hear testimony. So there's being evidence
8 presented on this specific plant, the new plant Smith 3. So
9 the Commission will have plenty of opportunity to deal with
10 that specific issue. And so I, I just think that what
11 Mr. Stone is arguing right now is, is the substance of his case
12 and he'll have plenty of opportunity to do that.

13 CHAIRMAN JABER: Yeah. I would agree with you that
14 you're both getting into the substance of the case, and that's
15 all right because you're responding to questions that I've
16 asked.

17 But, Staff, this is not an issue that we are going to
18 decide today, but we need to make sure that the Commissioners
19 are prepared adequately for Tuesday's agenda. So what we will
20 do, Ms. Stern, is give the Commissioners a copy of all of the
21 parties' positions on this issue and yours so that if the
22 discussion occurs Tuesday, everyone understands. All right?

23 MS. STERN: Yes.

24 CHAIRMAN JABER: What's next, Ms. Stern?

25 MS. STERN: Well, I think that's all the preliminary

1 matters. We can start going through the draft prehearing order
2 and incorporate any changes that the parties want to make at
3 this point.

4 CHAIRMAN JABER: All right. And I do have some
5 questions on some of the issues. But let me start with FEA. I
6 know you don't normally participate in the, in PSC matters, so
7 feel free to interrupt and let me know if you have changes and
8 corrections to the prehearing order and we'll accommodate.
9 And, of course, that extends to all parties. But I'm going to
10 move forward not necessarily page by page, so stop me if I'm
11 going too fast.

12 But on Page 4, the post-hearing procedure section,
13 realistically 50 pages for post-hearing briefs, is that
14 adequate?

15 MR. STONE: No, ma'am.

16 CHAIRMAN JABER: And how many pages might be
17 adequate?

18 MR. STONE: May I suggest that we may want to leave
19 that decision to the conclusion of the hearing, then we would
20 have had an opportunity to evaluate how the conduct of the
21 hearing was and we may be able to give you a more reasonable
22 number. If I were to give you a number now, it may sound
23 outrageous because I'm having to state it based on what I -- I
24 don't know how the course of cross-examination is going to go,
25 and so I would prefer, if you're comfortable with it, is to

1 defer the decision on how many pages of the brief until we've
2 had an opportunity to evaluate the evidence as it has come in,
3 and that might be a final matter we do before we adjourn the
4 hearing.

5 CHAIRMAN JABER: Somehow I don't think the parties
6 have any objection to that.

7 MR. BURGESS: No. I think Mr. Stone has shown great
8 wisdom in his recommendation.

9 CHAIRMAN JABER: You've got that now in black and
10 white. Mr. Burgess just said --

11 MR. STONE: I'm looking forward to this transcript.

12 I would like to ask for one thing I do think we can
13 decide now is I think the summary of 50 words may be inadequate
14 given the nature of some of these issues, and I would like to
15 propose that we increase the summary to 75 words.

16 CHAIRMAN JABER: All right. Let's go ahead and do
17 that. We'll say 75 words. And, Ms. Stern, remind me at the
18 conclusion of the hearing to revisit the issue of how many
19 pages are needed for the post-hearing filings.

20 All right. On the order of witnesses you've
21 represented to me, Mr. Stone, that the witnesses related to
22 Issues 85 through 122 are at the end of the order of witnesses?

23 MR. STONE: They're at the end of our direct case,
24 yes.

25 CHAIRMAN JABER: Okay. So are there any changes to

1 the order of witnesses?

2 MR. BURGESS: Commissioner, I have a request. I have
3 spoken with Gulf about this, I believe I spoke to Mr. Badders
4 about this, and I have a witness, Mr. Majoros, who has some
5 considerable difficulty, and I would ask, if it's at all
6 possible, that he be allowed to testify on the first day. I
7 would submit that, if anything, that disadvantages us in that
8 we would precede all of the company witnesses and any responses
9 could, could be made to his testimony. So I don't -- I would
10 offer that it doesn't disadvantage anybody except us and we are
11 trying to accommodate a scheduling problem he has.

12 CHAIRMAN JABER: So you would propose that he be the
13 first witness that testifies?

14 MR. BURGESS: Well, or the first day. Yes, the first
15 witness would be fine in the first day.

16 CHAIRMAN JABER: Mr. Stone?

17 MR. STONE: I was going to offer another concession
18 that may satisfy the same need. And that is given
19 Mr. Majoros's situation, we are prepared to stipulate him into
20 the record without cross-examination and if, and relieve him of
21 the need to personally appear at the hearing.

22 CHAIRMAN JABER: Mr. Burgess, that's an offer you
23 cannot refuse.

24 MR. BURGESS: I think, once again, Mr. Stone is --

25 CHAIRMAN JABER: Wisdom twice.

1 MR. BURGESS: -- is to be, is to be commended.

2 CHAIRMAN JABER: One more and he's out, I think.

3 MR. BURGESS: One more and he'll need to find another
4 client.

5 CHAIRMAN JABER: All right. Ms. Stern, you may
6 indicate on the draft prehearing order that Mr. Majoros's
7 testimony can be stipulated into the record without
8 cross-examination.

9 MR. STONE: And that is, I meant to say that is with
10 his deposition transcript also being part of the record.

11 MS. STERN: Yeah. We've asked for that to be an
12 exhibit. Uh-huh. That's fine.

13 CHAIRMAN JABER: Great. It sounds like it's a
14 stipulated exhibit now, Ms. Stern.

15 All right. Any other changes to the order of
16 witnesses? Any other witnesses that may be stipulated?

17 MR. STONE: I don't have a change to the order of
18 witnesses, but I do have some additional issue numbers that go
19 with some of the witnesses, if you want those at this time.

20 CHAIRMAN JABER: You know, do this for me, Mr. Stone.
21 Why don't you give those numbers to -- what did I -- did I call
22 you Mr. Stern? Mr. Stone, give that to Marlene at the end of
23 the --

24 MR. STONE: I'll be happy to do that. I just did not
25 know if you wanted it on the record here what they are.

1 CHAIRMAN JABER: Parties, do you need to have that
2 stated on the record? I don't.

3 MR. ERICKSON: No, ma'am.

4 MR. BURGESS: In fact, Commissioner, if you look at
5 our witnesses, we have none. And I was going to propose that I
6 simply provide them by E-mail to Ms. Stern as well.

7 CHAIRMAN JABER: Sounds good. That goes for all the
8 parties. If you have changes in the numbers, want to add
9 numbers, just get the information to Ms. Stern later on today.

10 MR. STONE: Very well.

11 CHAIRMAN JABER: Any changes to the basic positions?
12 Any changes to positions or issues through Issue 5?

13 MS. KAUFMAN: Yes, Commissioner. On Issue 1 on Page
14 11 we would like to change our position to agree with OPC.
15 Issue 1, yes, ma'am.

16 CHAIRMAN JABER: Thank you, Ms. Kaufman.

17 MR. BURGESS: Commissioner, on Issue 5, unless
18 there's issues before that, Staff has indicated they are still
19 evaluating some information to determine whether they intend to
20 raise anything in this. We would --

21 CHAIRMAN JABER: On Issue 5? On Issue 5,
22 Mr. Burgess? I have a "yes" under Staff's position.

23 MR. BURGESS: Oh, okay. Okay. I had thought this
24 was one on Wednesday night that Staff had indicated they were
25 still examining information.

1 MS. STERN: No. Okay. We changed that --

2 MR. BURGESS: Okay.

3 MS. STERN: -- to yes. Did you get a copy of the
4 draft we handed out this morning?

5 MR. BURGESS: I, I have a copy. I'm just, I'm using
6 the one I have my notes on, so I'm going to have to --

7 MS. STERN: Okay.

8 MR. BURGESS: Okay. That's fine. It was simply I
9 was going to ask -- well, let me as a general proposition,
10 there are some wherein Staff indicated that, that they had some
11 further examination to, to undertake. And what I would ask on
12 those, consistent with prehearing requirements, is that we be
13 allowed to maintain an open position on those, too, in the
14 sense that if Staff does determine that there is an issue that
15 they want to raise, we would like to, based upon whatever
16 information it is they determine, we would like to participate
17 or have the opportunity to participate in, in brief or in
18 cross-examination. And there are a few wherein Staff has
19 indicated that, and I would ask that as our rationale for
20 keeping an open position on, on those. And we'll identify them
21 as they come up.

22 CHAIRMAN JABER: You know, Mr. Burgess, that's a good
23 opportunity for me to talk to the parties about the general way
24 we handle these prehearing orders. I use these as a tool for
25 the hearing. It gives me guidance when I'm trying to follow

1 your cross-examination. I read the preliminary positions and
2 it sort of, if you've done what you're supposed to do, it gives
3 me an inkling of where your questioning is going.

4 So I would encourage all the parties to remember that
5 these are preliminary positions. It's not to say you can't
6 change your position at the conclusion of the hearing. As a
7 matter of fact, the post-hearing process allows you to do that.
8 So I know what you're saying. I'm saying the same thing to
9 Staff. It's a constant direction I've had of Staff. If you
10 know that you've got a preliminary position to take, for the
11 benefit of the Commissioners, take it. It's not a license or,
12 or something that you're going to get quoted on later because
13 very clearly in the prehearing order we say these positions are
14 preliminary.

15 So, yes, Mr. Burgess, where you want to change your
16 position, let me know, but with the, just the reminder that
17 it's so helpful to us when you take a preliminary position.

18 And, Staff, I would encourage you to do the same. If
19 you've had some discovery and you sort of have an inkling of
20 where the issue, where the cross-examination might go, take a
21 preliminary position. And, and, parties, be on guard, Staff's
22 positions are definitely preliminary. They don't bind the
23 Staff, nor do they bind the Commissioners, nor do they bind
24 you. All right.

25 MR. STONE: Commissioner, if I may on Issue 5, and

1 this may, I don't think this runs counter to what you just
2 said. It does appear that there is now agreement between all
3 parties that wish to take a position in this, it would appear
4 to me it could be shown as a stipulated issue.

5 MS. STERN: We can stipulate with the, just to the
6 position "yes," Staff can.

7 MR. STONE: And if it's a stipulated issue, Gulf is
8 prepared to stipulate to just the word "yes." If it's not a
9 stipulated issue, obviously we would want our position stated.
10 But if, if it is shown as a stipulated issue, then we would
11 also agree that it be shown simply as "yes."

12 CHAIRMAN JABER: All right. So the proposed
13 stipulation for Issue 5 would be that the quality of electric
14 service provided by Gulf is adequate. Is there a stipulation
15 on that?

16 MR. BURGESS: We would not object. And place that in
17 the Category 2, is that --

18 CHAIRMAN JABER: Where you take no position?

19 MR. BURGESS: Yes. Yes.

20 MS. KAUFMAN: Commissioner Jaber, I want to raise an
21 issue now that we've talked about the first stipulated issue,
22 and I may be making a mountain out of a molehill here. But the
23 way the stipulated issues are reflected and putting aside ones
24 that need to be moved, it's reflected for FIPUG that we do not
25 oppose the stipulation, and I'd prefer that our, we be

1 reflected as having no position.

2 CHAIRMAN JABER: That FIPUG has not taken a position?

3 MS. KAUFMAN: I wouldn't want later on there to be
4 some inference.

5 CHAIRMAN JABER: Yeah. That's a good point.

6 MR. ERICKSON: We continue with our position here as
7 not having one at this time on this particular issue.

8 CHAIRMAN JABER: So, so would you agree then with
9 FIPUG that this issue can be reflected as a proposed
10 stipulation with a, a notation that FEA has not taken a
11 position?

12 MR. ERICKSON: Yes, ma'am.

13 CHAIRMAN JABER: Okay. Ms. Stern --

14 MS. STERN: I -- I'm sorry.

15 CHAIRMAN JABER: -- I want the proposed stipulations
16 to be reworded to reflect the stipulation. Don't just list the
17 issue with the answer. This proposed stipulation needs to be
18 the quality of electric service provided by Gulf is adequate.

19 MS. STERN: Okay.

20 CHAIRMAN JABER: And you need to make a notation that
21 FEA, FIPUG and Public -- no, Public Counsel agrees.

22 MR. BURGESS: No. We're not, we're not on the issue.

23 CHAIRMAN JABER: All right. That FEA, FIPUG and OPC
24 have not taken a position on this issue. Now --

25 MR. GROSS: Chairman Jaber, the FCTA also prefers the

1 language "no position" to the "no opposition."

2 CHAIRMAN JABER: Okay. Do the same thing for
3 Mr. Gross.

4 MS. STERN: All right. Can we just -- for example,
5 looking in the stipulation section in the back of the order
6 where all the parties but Staff and Gulf have no position,
7 instead of saying, "Do not oppose the stipulation," we would
8 just strike that and say, "Have no position."

9 CHAIRMAN JABER: No. No. We -- you need to see Ms.
10 Gervasi or Mary Anne Helton for some guidance on how this is
11 done in the water area.

12 MS. STERN: Okay.

13 CHAIRMAN JABER: You put the proposed stipulations in
14 the back of the prehearing order.

15 MS. STERN: Right.

16 CHAIRMAN JABER: And there's a distinction between
17 the stipulations where all parties have reached agreement and
18 those stipulations where some parties have stayed out of the
19 agreement. And we've come, traditionally been characterized as
20 a Category A stipulation and a Category B stipulation.

21 Category A, for example, would be the stipulations
22 where you can represent that all parties have agreed. For
23 Category B you're going to say FEA, FCTA, FIPUG, OPC have not
24 taken a position.

25 MR. ERICKSON: If I may just for a second.

1 CHAIRMAN JABER: Yes.

2 MR. ERICKSON: As we were saying at the meeting we
3 had the other day, in this case everything is going to be
4 Category B at this point because FCTA is not taking a position
5 on any issue, just to help you out here.

6 MS. STERN: Right.

7 MR. ERICKSON: Everything is going to be Cat B.

8 CHAIRMAN JABER: Thank you.

9 MR. STONE: And, Commissioner, I believe this has
10 been the Commission practice. I just want to make sure I
11 understand. When they've taken no position, that does not mean
12 that they can in their post-hearing brief resurrect the issue
13 and take a position adverse to the stipulation.

14 CHAIRMAN JABER: Mr. Stone, when the Commissioners
15 vote on the stipulations at the beginning of the hearing,
16 those, those stipulations have been accepted by the
17 Commissioners and all parties are aware of that.

18 FEA, I realize you're new to this process, but that's
19 the way this works. The Commissioners will vote on the
20 stipulations as a preliminary matter at the beginning of the
21 hearing.

22 MR. ERICKSON: Yes, ma'am. That's our understanding.
23 That was made clear the other day, too.

24 CHAIRMAN JABER: Okay. Okay. All right. Ms. Stern,
25 that's for Issue 5.

1 Now any other changes through Issue 10?

2 MS. STERN: Yes. Staff has a change to Issue 6.
3 Right now it says, "No position at this time." We want to
4 change that to, "No." And we agree with the first sentence
5 from Gulf's Issue 6. So our position is, "No. The production
6 related additions included in Plant in Service for Gulf's May
7 2003 projected test year are reasonable, prudent, and necessary
8 and should be allowed."

9 MR. STONE: And with that notation of Staff's change,
10 Gulf is prepared to enter into a stipulation on that issue with
11 Staff's language.

12 MR. BURGESS: I think, I think we, we have disagreed
13 with that.

14 CHAIRMAN JABER: Right. OPC has a contrary position,
15 Mr. Stone.

16 MR. STONE: Then we would keep our position as
17 stated.

18 CHAIRMAN JABER: FIPUG?

19 MS. KAUFMAN: Commissioner Jaber, we want to change
20 our position to agree with OPC.

21 CHAIRMAN JABER: Thank you, Ms. Kaufman. FEA?

22 MR. ERICKSON: We concur with OPC on this issue,
23 ma'am.

24 CHAIRMAN JABER: Okay. We'll change your position
25 then. And, Mr. Gross, I'm going to, so that you don't keep

1 coming back and forth, I'm going to assume that if you don't
2 stand up, we go with your position as is.

3 MR. GROSS: That's correct.

4 CHAIRMAN JABER: Okay. Any other changes through
5 Issue 10?

6 MR. STONE: If I may have a moment.

7 CHAIRMAN JABER: Well, okay.

8 MR. BURGESS: Commissioner, Issue 9, we either need
9 to change our position or there needs to be an additional
10 issue, I think. And so I'm looking for Staff or any of the
11 parties' guidance on this.

12 There's two basic issues with regard to the third
13 floor: One is the deferred earnings in the past and the
14 accumulated bundle that that has as an asset at this point, and
15 the other is the third floor on a going forward basis. And
16 both are subject to the argument of used and useful or
17 something similar to that.

18 And this specifically deals with the historical
19 earnings or the historical depreciation that Gulf has not been
20 given current earnings on and the other piece of it is that
21 which is going forward. And so either I have missed it and
22 it's somewhere in the prehearing that I, that I didn't pick up
23 or there needs to be an Issue 9A as to whether the third floor
24 should be allowed recovery on a going forward basis.

25 CHAIRMAN JABER: Mr. Stone, in your position you, in

1 fact, answer both questions.

2 MR. STONE: We do.

3 CHAIRMAN JABER: So, Mr. Burgess, we could handle it
4 in a couple of ways. We could allow you to modify your
5 position to answer both questions.

6 MR. BURGESS: My suggestion is, is two issues.
7 Although it doesn't -- I mean, I'm fine with doing it, but they
8 are very distinct as far as what might underlie a Commission
9 decision on this.

10 CHAIRMAN JABER: I understand your point, and it
11 certainly allows parties to be on notice of where the different
12 positions are.

13 Staff, I'm amenable to doing it either way. You can
14 do a 9A, a 9B and, and separate the issues. Gulf can provide a
15 revised position on each issue. But, Mr. Burgess, would you
16 start the process by crafting --

17 MR. BURGESS: Yes.

18 CHAIRMAN JABER: -- the two new issues and allow the
19 parties and Staff to look at it?

20 MR. BURGESS: Yes. May I ask one other general
21 question now? There are some where I'm not changing my, the
22 substance of my answer, but in line with your advice, this
23 being a tool for the Commission to better understand where the
24 parties are coming from, there are some answers that I would
25 like to provide more expansive rationale for, and I was, I have

1 most of it here. I was going to ask if I could simply E-mail
2 it to the parties rather than bog down each time I've got a
3 sentence or two I want to add to our prehearing position.

4 CHAIRMAN JABER: The only problem with E-mailing it
5 to the parties later as it relates to a changed position is
6 that it might generate a change from their positions, and I
7 would be benefited to hear that.

8 But what we can do, not now but closer to lunch time
9 perhaps we'll take a break, allow you all to work out some
10 language and we'll get back on the record and then hear that
11 new language.

12 MR. BURGESS: Okay. Thank you.

13 CHAIRMAN JABER: There are issues we're going to come
14 back to anyway. We'll come back to Issue 9 at the conclusion
15 of the prehearing.

16 MS. STERN: I just wanted to say Staff has another
17 change to one of its positions between Issue 6 and 10, and
18 that's Issue 8. Staff wants to change its position to, "No.
19 The general plant additions included in Plant in Service for
20 Gulf's May 2003 projected test year are reasonable, prudent,
21 and necessary and should be allowed."

22 CHAIRMAN JABER: Any other changes through Issue 10?

23 MS. KAUFMAN: Yes, Commissioner. I think we did
24 Issue 6.

25 On Issue 7 FIPUG would like to change its position to

1 agree with OPC.

2 And on Issue 10 I guess we need to change our
3 language there as this is one of those open issues to, I guess
4 we could just change it to, "We have no position at this time."

5 CHAIRMAN JABER: So just delete after the comma?

6 MS. KAUFMAN: Yes, ma'am.

7 CHAIRMAN JABER: Is that what you're saying?

8 MR. BURGESS: Commissioner, we also would like --
9 well, we'll just stay with, "No position at this time." And
10 this, again, gets into the same thing of there's additional
11 study being undertaken. We'd just like to participate.

12 CHAIRMAN JABER: Okay.

13 MR. STONE: Commissioner, I, my notes from the
14 meeting on Wednesday indicated that we had a Category B
15 stipulation on Issue 10 on Wednesday. Apparently something has
16 changed I was not aware of.

17 CHAIRMAN JABER: Looks like Staff's preliminary
18 position is that they're waiting on some discovery, outstanding
19 discovery prior to taking a preliminary position.

20 MR. STONE: On Wednesday they had announced a changed
21 position that essentially would have been the same as the
22 first.

23 CHAIRMAN JABER: To yours, to your position?

24 MS. STERN: Let me check my notes. It might be that
25 I just misnoted something. Let me -- Issue 10. Okay. We did

1 have, I did have some confusion about that issue. And I --
2 just if you'll give me a second.

3 CHAIRMAN JABER: Take your time.

4 (Pause.)

5 MS. STERN: Yeah. Actually we do agree with Gulf.
6 I'm sorry about that confusion. And we agree with Gulf's
7 position as stated.

8 CHAIRMAN JABER: Okay. Mr. Stone, Staff does agree
9 with your proposed position. Now let me hear from FIPUG,
10 Public Counsel.

11 MR. BURGESS: We, we have no position then. I mean,
12 we were, we were waiting to see what Staff was looking at.

13 CHAIRMAN JABER: FEA?

14 MR. ERICKSON: No position at this time.

15 CHAIRMAN JABER: Okay.

16 MR. ERICKSON: I will say -- I'm sorry, ma'am.

17 CHAIRMAN JABER: Go ahead.

18 MR. ERICKSON: I was going to say on Issues 7 and 8
19 we do adopt OPC's position.

20 CHAIRMAN JABER: Okay. We'll go back to 7 and 8 in
21 just a minute. But, Ms. Stern, it sounds like you can indicate
22 that Issue 10 is one of those stipulations where Staff and the
23 company have reached a proposed stipulation and the other
24 parties take no position.

25 MS. STERN: Okay.

1 CHAIRMAN JABER: Okay. And on Issue 7 and 8 you can
2 change FEA's position to agree with OPC. FEA, is that what you
3 just stated on Issues 7 and 8, you want it changed to agree
4 with OPC?

5 MR. ERICKSON: Yes, ma'am.

6 CHAIRMAN JABER: Okay. All right. Issues 11 through
7 15. But I want to, on Issue 11, Staff, I had -- who proposed
8 this issue? Was it an issue that you all identified in your
9 prehearing statement, Staff?

10 MS. STERN: Yes. Staff proposed this issue.

11 CHAIRMAN JABER: Tell me a little bit more. Can
12 it -- it was an issue, frankly, that I found myself wondering
13 what it was we were going to do with and how, where it would go
14 at the end of the day.

15 MS. STERN: Yeah. There --

16 CHAIRMAN JABER: I want to drop it --

17 (Simultaneous conversation.)

18 MS. STERN: Staff has no objection to dropping it.

19 CHAIRMAN JABER: Okay. I want to make sure that I'm
20 not missing anything though. Public Counsel?

21 MR. BURGESS: No. We, that, we weren't sure -- we
22 understood what the issue says, but we weren't sure what the
23 impact of it would be depending, what a decision would do one
24 way or another on it.

25 CHAIRMAN JABER: Parties, Gulf, FEA, any -- I'm going

1 to go ahead and have this issue stricken, but I want to make
2 sure that there isn't some value to leaving it in.

3 MR. STONE: No. We urge that it be dropped.

4 CHAIRMAN JABER: Okay.

5 MR. ERICKSON: This is Issue 11?

6 CHAIRMAN JABER: 11.

7 MR. ERICKSON: We, we agree.

8 MR. SHROPSHIRE: No objection on dropping it.

9 CHAIRMAN JABER: Okay. Ms. Stern, go ahead and
10 reflect that that issue has been dropped.

11 CHAIRMAN JABER: Issues 12 through 15.

12 MR. BURGESS: Commissioner, with regard to Issue 12,
13 this is the matter of security measures. Just preliminarily
14 our position is in concept agreeing with recovery. It is
15 information that came in subsequent to the initial filing and
16 subject to confidentiality. We would ask to be able to keep
17 the position "No position at this time," and keep it open at
18 this point for the opportunity to examine it a little bit
19 further.

20 CHAIRMAN JABER: Thank you, Mr. Burgess.

21 MS. KAUFMAN: FIPUG would agree with that, would want
22 to take no position at this time.

23 CHAIRMAN JABER: All right.

24 MR. SHROPSHIRE: FEA likewise.

25 CHAIRMAN JABER: Great. Any other changes? Issues

1 16 through 21.

2 MR. BURGESS: I'm sorry.

3 MS. KAUFMAN: Yeah.

4 MR. BURGESS: I apologize. I'm a little bit slow on
5 this. I would change our position on Issue 13 to basically,
6 for the record I would state that, "Consistent with Section
7 366.8255(5) capitalized items are more appropriately
8 incorporated into base rates." And, again, this is one that
9 I'll E-mail the parties with the language.

10 MS. STERN: And Staff has a change on that issue as
11 well.

12 CHAIRMAN JABER: Okay. Hang on one second, Marlene.
13 All right. FIPUG?

14 MS. KAUFMAN: We agree with Public Counsel on this
15 issue, Commissioner Jaber.

16 CHAIRMAN JABER: FEA?

17 MR. ERICKSON: We also adopt OPC's position in this
18 issue, ma'am.

19 CHAIRMAN JABER: Staff?

20 MS. STERN: Our position on this issue is, "No."

21 CHAIRMAN JABER: No. All right. 16 through 21?

22 MR. STONE: Commissioner, on Issue 15 I thought we
23 could have a stipulation.

24 CHAIRMAN JABER: Hang on, Mr. Stone. I'm sorry. Did
25 you have other changes that we didn't --

1 MS. KAUFMAN: I'm sorry, Commissioner Jaber. We're
2 all working from a number of different drafts and we were just
3 trying to figure out if, if we did. I think, I think --

4 CHAIRMAN JABER: That's okay. Take your time. I
5 realized that you were working from the draft from a meeting
6 you had yesterday.

7 MS. KAUFMAN: Wednesday.

8 CHAIRMAN JABER: Okay.

9 MS. KAUFMAN: I think Issue 15 is one of those no
10 position issues, that Staff and Gulf are now in agreement.

11 MR. STONE: That's what I was about to say.

12 MS. KAUFMAN: I was just falling behind.

13 CHAIRMAN JABER: That's all right. So we're back on
14 Issue 15.

15 MR. STONE: It appears to me that it could be a
16 stipulation, a Category B stipulation that no one has taken a
17 position other than Staff and Gulf and that we're in agreement.

18 CHAIRMAN JABER: Okay.

19 MS. STERN: I am -- well -- I'm sorry. Did OPC take
20 a position on this?

21 MR. BURGESS: We don't as long as it's understood
22 that, you know, this is not a finding on the third floor issue.
23 But otherwise we, we have no objection to the stipulation or
24 whatever the language is you're looking for.

25 MS. STERN: We would stipulate using Gulf's language.

1 CHAIRMAN JABER: You can move Issue 15 to the
2 stipulation section, Ms. Stern, with those caveats.

3 I'm going to Issues 16 through 21.

4 MS. KAUFMAN: Issue 17, Issue 17 is one of the
5 depreciation issues, so we would change our position to, "No
6 position at this time." And on Issue 18 we would agree with
7 OPC.

8 MR. ERICKSON: On Issue 18 we adopt OPC's position as
9 well.

10 CHAIRMAN JABER: Issue 19 through 21. Well, it looks
11 like those are stipulated already.

12 MR. ERICKSON: Yeah.

13 CHAIRMAN JABER: Issues 22 --

14 MR. STONE: Commissioner, back on 17, I apologize.

15 CHAIRMAN JABER: No problem.

16 MR. STONE: Based on Staff's handout on Issues 17,
17 73, 74, we, we would change our position, I believe we would
18 change our position to what Staff has on the handout. We'd
19 make one minor change to make a reference to the docket number.
20 When it's referring to the final order in this docket, I think
21 the docket number that's referred, the docket that's referred
22 to there is the depreciation docket.

23 CHAIRMAN JABER: Uh-huh.

24 MR. STONE: And so we would think you would need to
25 insert the docket number there. I believe we'd be able to use

1 that language as our position on the issue. We may need to
2 take some of our specific language and put it in along with
3 that language, and so I would ask for an opportunity to be able
4 to review that and supply that to Ms. Stern after we conclude
5 this proceeding.

6 CHAIRMAN JABER: Yes. And to all the parties.

7 MR. STONE: And to all the parties clearly.

8 CHAIRMAN JABER: Okay. FEA, any changes to Issue 17?
9 No.

10 MR. ERICKSON: No, ma'am.

11 CHAIRMAN JABER: Okay. All right. Issues 22 through
12 28.

13 MS. KAUFMAN: On Issue 28, Commissioner Jaber, we
14 want to change our position to agree with OPC.

15 MS. STERN: On Issue 28?

16 MS. KAUFMAN: Am I ahead of us now? Let me see.
17 Sorry.

18 MS. STERN: We just show that issue as deleted.

19 MS. KAUFMAN: Hold on. Okay.

20 CHAIRMAN JABER: Go ahead, Ms. Kaufman. Take your
21 time. The copy I have, Ms. Kaufman --

22 MS. KAUFMAN: I'm sorry.

23 CHAIRMAN JABER: It's okay. It shows that Issue 28
24 is deleted. Were you looking at Issue 27?

25 MS. KAUFMAN: I was looking at Issue 25.

1 CHAIRMAN JABER: And you want to change that to agree
2 with OPC?

3 MS. KAUFMAN: Yes, ma'am.

4 CHAIRMAN JABER: And, FEA, you want to change your
5 position to agree with OPC.

6 MR. ERICKSON: Is this on Issue --

7 CHAIRMAN JABER: 24, 25.

8 MR. ERICKSON: Actually on Issues 24 and 25 we would
9 change our position to adopt that of OPC. That's Issues 24 and
10 25.

11 MS. STERN: And Staff will change its position to,
12 "No."

13 CHAIRMAN JABER: On which issue, Ms. Stern?

14 MS. STERN: I'm sorry. What?

15 CHAIRMAN JABER: On which issue?

16 MS. STERN: 25. I also think on, on 22 we may be
17 able to have one of those Category B stipulations.

18 MR. STONE: It appears, appears that we could on 22
19 and also on 23.

20 CHAIRMAN JABER: Okay. Let's start with Issue 22.
21 Parties agree that that looks like a Category B stipulation?

22 MR. ERICKSON: The FEA does.

23 COMMISSIONER JABER: Okay. Ms. Stern, you can
24 reflect Issue 22 as a proposed stipulation.

25 What about Issue 23?

1 MS. STERN: Yes. I think we -- as long as the other
2 parties take no position, I think we have a Category 2.

3 CHAIRMAN JABER: Mr. Burgess, that's the OPEB
4 liability issue.

5 MR. BURGESS: We don't have a, we don't have a
6 position on that.

7 CHAIRMAN JABER: Okay. It looks like you can reflect
8 that Issue 23 is a proposed stipulation, Ms. Stern.

9 There is not a stipulation on Issue 24. Mr. Burgess,
10 that's correct?

11 MR. BURGESS: That is correct.

12 CHAIRMAN JABER: Okay. Issue 25.

13 MR. BURGESS: Commissioner, that's an issue where I
14 would like the leave to add a little bit of verbiage to that to
15 specify the adjustments that we're making just for the greater
16 clarity of the Commission.

17 CHAIRMAN JABER: Okay. Thank you, Mr. Burgess.

18 MR. BURGESS: Uh-huh. Thank you.

19 CHAIRMAN JABER: Issue 26 deleted. Issue 27. I'm
20 sorry.

21 MS. STERN: Gulf has a, Staff has a change to Issue
22 25. I'm not sure if I've said this already or not.

23 CHAIRMAN JABER: No. You said the change is that
24 it's, "No."

25 MS. STERN: Yes. That's correct.

1 MR. STONE: I'm sorry. I had that down as your
2 position on 24. Was that intended for 25 or did you intend
3 both to be that?

4 MS. STERN: No. Our position on 25 is, "No." Our
5 position on 24 is, "No position at this time."

6 MR. STONE: Okay.

7 CHAIRMAN JABER: Issue 27, any changes to that?

8 MR. BURGESS: Yes. This is one where we, I had a bit
9 of a systemic problem here and didn't add zero, enough zeros to
10 a number of these numbers. This is one of them. This needs to
11 be \$1,187,320,000.

12 MS. STERN: On 27?

13 MR. BURGESS: Yes.

14 MS. STERN: And the system value has to be changed,
15 too.

16 MR. BURGESS: Yes. Correct.

17 CHAIRMAN JABER: Any other changes to 27? Issue 28,
18 deleted. Changes to 29?

19 MR. BURGESS: Commissioner, this is one where we
20 would add language to our position that the, something to the
21 effect, "The citizens do not take issue with Gulf's accumulated
22 deferred taxes as a proportionate amount of their capital
23 structure. The actual dollar amount, however, is dependent on
24 the Commission's adjustments to rate base."

25 These are the types of things that I'm, I can read

1 them each time or I can just indicate that we're going to
2 change a little bit of verbiage.

3 CHAIRMAN JABER: I think if you just put the parties
4 on notice that you're going to change the verbiage, and that
5 way if they have questions, I would expect that the parties
6 raise the question.

7 MR. BURGESS: Thank you, Commissioner.

8 CHAIRMAN JABER: Thank you. Issue 30?

9 MS. KAUFMAN: Commissioner, if we could go back, I'm
10 sorry, to 29. FIPUG will take no position on that issue.

11 CHAIRMAN JABER: Staff, do you have a change to Issue
12 29?

13 MS. STERN: No.

14 CHAIRMAN JABER: Okay. Issues 30 through 34.

15 MS. KAUFMAN: We, we have a change on 34. I don't
16 want to be presumptuous. Commissioner Jaber, I think it would
17 be helpful if we did sort of try to go issue by issue.

18 CHAIRMAN JABER: That's fine.

19 MS. KAUFMAN: It's, at least I'm having a hard time
20 keeping up. But when we get to 34 I do have a change.

21 CHAIRMAN JABER: Okay. Any changes to 30? Any
22 changes to 31?

23 MS. KAUFMAN: I would just like to change my
24 position. Where I've got that long verbiage I just want to
25 change it to, "No position at this time," just to make it more

1 clear.

2 CHAIRMAN JABER: Ms. Kaufman, let me ask you a
3 question. And, again, this is just in my effort always to try
4 to do things better.

5 What -- you all went to a pre-pre, I assume, and you
6 got a copy that you are working from and that's the copy you
7 brought with you today. And you received a new copy when?

8 MS. KAUFMAN: Right. I think it came about 7:00 last
9 night.

10 CHAIRMAN JABER: Okay. You might -- the parties that
11 regularly practice in front of the Commission, you may want to
12 keep thinking of ways to help us make that better. I mean,
13 maybe we establish a draft time for changes so that, you know,
14 when we come to the prehearing conference we're all looking at
15 the same document. So, Mr. Melson, I'm going to put pressure
16 on you to come up with the most efficient way. Rumor has it --

17 MS. KAUFMAN: I think that's --

18 MR. MELSON: Well, it's hard to do because even when
19 you get an electronic copy, the odds of it printing the same
20 page numbers are slim and none.

21 COMMISSIONER JABER: Well, there is that, too. Yeah,
22 you're right. But so the burden is on you to try to help me
23 figure out the most efficient way to handle it.

24 All right. Ms. Kaufman, are you ready?

25 MS. KAUFMAN: I'm ready, Commissioner Jaber.

1 CHAIRMAN JABER: What issue are you on?

2 MS. KAUFMAN: I'm on 31 now and I want to change to,
3 "No position at this time."

4 CHAIRMAN JABER: Okay. Okay.

5 MS. KAUFMAN: And I'm ready to tell you my position
6 on 34.

7 CHAIRMAN JABER: Okay. Well, that would be good
8 because 32 and 33 are stipulated.

9 MS. KAUFMAN: Okay. There you go. See, I kind of
10 got a head start.

11 My position on Issue 34 is, "No. As part of its
12 regulatory bargain, Gulf is expected to provide high quality
13 service at cost-effective rates. It should not be rewarded for
14 what it is required to do."

15 CHAIRMAN JABER: Okay. Any other changes to 34?

16 MR. BURGESS: Commissioner, we would adopt FIPUG's
17 position on that.

18 MS. KAUFMAN: That's fair.

19 MR. BURGESS: Well done.

20 MS. STERN: Could you please repeat your position?

21 MS. KAUFMAN: I'm sorry. I'll try to. "No. As part
22 of its regulatory bargain, Gulf is expected to provide high
23 quality service at cost-effective rates. It should not be
24 rewarded for what it is required to do."

25 CHAIRMAN JABER: Any other changes to Issue 34?

1 Issue 35?

2 MS. KAUFMAN: I have a change to 35, also,
3 Commissioner Jaber. And FIPUG's position would be to agree
4 with OPC and, and further note that there should be, "No," and
5 I put this in quotes, "performance reward."

6 MR. BURGESS: And, Commissioner, I was intending to
7 add, again, a little bit more to our position, I mean, just as
8 far as explanation of the term.

9 CHAIRMAN JABER: Okay. Thank you, Mr. Burgess.

10 MR. BURGESS: On this as well as all the issues of
11 reconciliation into the capital structure that we don't have a
12 disagreement with Gulf but the final amount is going to be
13 different, so.

14 CHAIRMAN JABER: Okay. FEA, changes to Issue 35?

15 MR. ERICKSON: We continue with our current position,
16 essentially support the position of OPC. We do have some
17 explanation there as to our position as well. We would not
18 change that position one word.

19 CHAIRMAN JABER: Staff?

20 MS. STERN: We just got a position on Issue 34, a
21 late-breaking position we're trying to decipher.

22 MS. KAUFMAN: I've had that trouble myself.

23 (Pause.)

24 MS. STERN: Our position is, "No. Staff witness
25 Breman's testimony provides a model for an incentive mechanism

1 that is designed to improve efficiency and performance. Gulf
2 was not, Gulf has not provided sufficient evidence to support
3 its proposed adjustments."

4 CHAIRMAN JABER: That's the revised Staff position
5 for Issue 34?

6 MS. STERN: Yes. Yes, it is.

7 CHAIRMAN JABER: Ms. Kaufman, did I hear you say you
8 had additional changes to Issue 34?

9 MS. KAUFMAN: Not in addition to the ones I already
10 read.

11 CHAIRMAN JABER: Any changes to Issue 35?

12 MS. KAUFMAN: Well, we've already, I've already read
13 that, I believe.

14 CHAIRMAN JABER: Okay. So nothing else?

15 MS. KAUFMAN: I have one on 36.

16 CHAIRMAN JABER: Staff, are we ready to move on to
17 Issue 36?

18 MS. STERN: Yes.

19 CHAIRMAN JABER: Changes to Issue 36.

20 MS. KAUFMAN: FIPUG agrees with Public Counsel on
21 Issue 36.

22 CHAIRMAN JABER: Then, Mr. Burgess, you want to
23 elaborate on your position on Issue 36?

24 MR. BURGESS: I would like to, yes. Yes,
25 Commissioner.

1 CHAIRMAN JABER: Staff, any changes to Issue 36?

2 MS. STERN: No.

3 CHAIRMAN JABER: Okay. Issue 37?

4 MR. ERICKSON: The FEA would like to adopt OPC's
5 position on Issue 37.

6 CHAIRMAN JABER: Any other changes to that issue?

7 All right. On Issue 38 I found myself wondering if
8 there was a stipulation. That's my question to the parties.
9 It looks like, OPC, you're, you're accepting the projected
10 operating revenues. Do you have any changes to that?

11 MR. BURGESS: No.

12 CHAIRMAN JABER: So this is a, a Category A
13 stipulation? No? Is this a fallout issue?

14 MS. STERN: I'm sorry?

15 CHAIRMAN JABER: What's your position on Issue 38?
16 Is it not ready to stipulate?

17 MS. STERN: No. We can't stipulate to that right
18 now.

19 CHAIRMAN JABER: Are you waiting for some outstanding
20 discovery?

21 MS. STERN: No. There may be adjustment if we take
22 gross receipts out of base rates, and we have to work that out.

23 CHAIRMAN JABER: Okay. If anything changes between
24 now and when the prehearing order is issued, go ahead and
25 reflect those changes. And if it results in a stipulation,

1 you've got my permission to go ahead and move it as a
2 stipulation.

3 Okay. Any changes to that issue?

4 MR. BURGESS: Just to clarify. Now ours was, was
5 with the filing, and it looks like Gulf is recommending, you
6 know, subsequent changes. And I'm not, I'm not saying we
7 disagree with those, that we won't examine to see if we can
8 agree with that as well, but --

9 MS. KAUFMAN: We just want to maintain no position at
10 this time until we see what the final result is.

11 CHAIRMAN JABER: Then, Mr. Burgess, you probably need
12 to modify your position. Because when I read it, it sounded
13 like you were accepting the Gulf position.

14 MR. BURGESS: Well, see, their, their position is
15 that Gulf's, if you look at their position, it's Gulf's
16 projected level of total operating revenues should be reduced
17 to reflect, and it was that projection, the initial projection
18 that I was in agreement with. So now I need to examine the
19 change that they want from their own initial projection to see
20 whether we --

21 CHAIRMAN JABER: Right. And modify your position
22 accordingly.

23 MR. BURGESS: Yes.

24 CHAIRMAN JABER: Okay. Issue 39, I had the same
25 question. Is that a stipulation or --

1 MS. STERN: Not at this time. But we may be able to
2 work one out between now and the prehearing, I mean, between
3 the hearing.

4 CHAIRMAN JABER: All right. Any changes to Issue 39?

5 MS. KAUFMAN: We would take no position at this time
6 pending working on that issue.

7 CHAIRMAN JABER: Any other changes? Issue 40?

8 MS. KAUFMAN: FIPUG would like to change its position
9 to, "No."

10 CHAIRMAN JABER: Any other changes? Issue 41?

11 MR. STONE: Commissioner, we handed out this morning
12 some, a handout that had some, the result of some E-mails we
13 sent yesterday, we changed positions, some of which were
14 received in time to put in the draft before you, some were not.

15 Issue 41 is one that we have a changed position on.
16 It's on Page 3 of the handout that we gave this morning.

17 CHAIRMAN JABER: Did you give this to the court
18 reporter, Mr. Stone?

19 MR. STONE: I may not have, but we certainly will.

20 CHAIRMAN JABER: Okay. Then let the record reflect
21 that Gulf's position to Issue 41 has been revised to be
22 consistent with the handout presented by Mr. Stone today.

23 Any changes from the parties as a result of the
24 revised position from Gulf?

25 MR. BURGESS: No.

1 MS. KAUFMAN: We would agree with OPC. That's not
2 related to Gulf's change, however.

3 CHAIRMAN JABER: FEA?

4 MR. ERICKSON: We continue, we continue to support
5 OPC's position.

6 CHAIRMAN JABER: Okay. Staff, any changes there?

7 MS. STERN: No. No, there aren't.

8 CHAIRMAN JABER: Okay. Issue 42.

9 MR. BURGESS: Commissioner, this is going to require
10 a little bit of explanation. In Issue 54 we talk about an
11 allocation issue.

12 We raised an allocation issue in which we recommended
13 two adjustments. One of the adjustments was because we
14 disagreed in the allocation factor, the percentage allocation
15 factor. The other disagreement was because we believe in the
16 allocation it included an expense for wholesale sales.

17 CHAIRMAN JABER: Uh-huh.

18 MR. BURGESS: I didn't know when this came out
19 whether that, whether 42 was seeking to address that second
20 part. We think that the two issues that we've raised in
21 allocation are distinct enough that the Commission would
22 probably want to address each on its own merits.

23 And so what I would suggest is that this be the one
24 where, maybe 42 be the one where we kind of separate out or
25 else have a 50 -- 54 is the other issue, by the way, wherein

1 we've addressed both issues at once.

2 CHAIRMAN JABER: You know, Staff, actually 42 -- the
3 note I made to myself, Mr. Burgess, was I didn't know what
4 OPC's and FEA's position was. Then I looked at the issue and I
5 realized the issue wasn't specific enough.

6 Should wholesale energy costs to Gulf Power be
7 adjusted where? Should an adjustment be made to net operating
8 income?

9 MS. STERN: Yes. That's --

10 CHAIRMAN JABER: Because -- right. So we probably
11 need to clarify that issue a little bit more.

12 MR. BURGESS: I'd be happy to try to draft what I
13 would think to be the issue that captures our concerns. I
14 trust that the parties, particularly Gulf, are certainly aware
15 of that adjustment we're recommending and so it wouldn't be, it
16 won't come as a new or a surprise to them.

17 CHAIRMAN JABER: And, Ms. Stern, don't let me
18 mischaracterize the issue, but I think what you're trying to
19 say is an adjustment to net operating income perhaps needs to
20 be made.

21 MS. STERN: As a result -- yes. As a result of the
22 wholesale energy costs.

23 CHAIRMAN JABER: Right. So work with Mr. Burgess on
24 the language and make sure that that doesn't duplicate or is
25 consistent with Issue 54.

1 MR. BURGESS: Thank you.

2 CHAIRMAN JABER: And the parties would agree with
3 that, I'm assuming.

4 MR. STONE: Commissioner, my only concern is we've
5 been struggling to understand what the issue was. We do
6 understand what Mr. Burgess's position is. We thought it was
7 all in Issue 54. We didn't see it being part of 42. But if
8 the reworded issue comes out, we may need to change our
9 position.

10 CHAIRMAN JABER: Now if you're all struggling with an
11 issue, you need to tell somebody before we get to the
12 prehearing conference. Because I have to tell you, I struggled
13 with the wording of the issue, too.

14 MR. STONE: We, we thought we had a stipulation on
15 the issue Wednesday. And it was only when Mr. Burgess raised
16 the fact that there may be a part of his position in Issue 54,
17 that's -- we thought we were going to be able to stipulate 42.

18 CHAIRMAN JABER: Okay. Let's do this. We're going
19 to take a break anyway pretty soon. So if there is a way to
20 reword 42 and/or 54 and, and leave it with one issue, then do
21 that. If there's a need to distinguish between the two issues,
22 Ms. Stern, then by all means do that.

23 MS. STERN: Yes.

24 CHAIRMAN JABER: But I know 42 the way it was, I was
25 confused by it.

1 MS. STERN: Okay.

2 CHAIRMAN JABER: Mr. Burgess, does that satisfy your
3 concern?

4 MR. BURGESS: That sounds good, Commissioner.

5 CHAIRMAN JABER: Okay. And I recognize, of course,
6 that there will be revised positions.

7 All right. Issue 43?

8 MR. STONE: We, we thought we had a stipulation on
9 Issue 43, and I believe it's the concern out of Issue 42 that
10 has impeded the ability to have a stipulation on Issue 43.

11 CHAIRMAN JABER: So maybe we can revisit that at the
12 conclusion of rewriting Issue 42.

13 MR. BURGESS: Yes. I think if Issue 42 gives us
14 enough to raise the issue we're concerned about, then, yes, I
15 mean, we don't have any other fuel issues that --

16 CHAIRMAN JABER: Remind me to come back to it. All
17 right. Issue 44, stipulated. Issue 45, stipulated.

18 Ms. Kaufman, we're on Issue 46.

19 MS. KAUFMAN: Thank you, Commissioner.

20 CHAIRMAN JABER: Those opportunities are so rare.

21 MR. BURGESS: Okay. Again, Commissioner, for this,
22 we have covered the issue that we spoke of back in, I think,
23 Issue 9 or something about the removal. Other than that we
24 don't have any issues in this general area, so.

25 CHAIRMAN JABER: Are you suggesting 46 is not needed?

1 MR. BURGESS: Not for any issues that, that we're
2 seeking to raise.

3 CHAIRMAN JABER: Staff, is this an issue that you
4 identified?

5 MS. STERN: We -- let me -- I mean, we agree with
6 Gulf on this issue. And I'm -- what were you saying? I'm
7 sorry, Mr. Burgess.

8 MR. BURGESS: Oh, yeah. That, that we had raised
9 earlier, we had spoken earlier of the desire to move some of
10 the capacity costs associated with environmental projects into
11 base rates from the, from the clause.

12 And so technically that would mean that we would say
13 no here. But other than issue, if it's understood that that
14 issue is in controversy, then we don't need this issue here.

15 My understanding, Commissioner, is this is one of a
16 series that, that Staff raises typically to just present to the
17 Commission to let them know we've examined this, looked at it,
18 and these have been taken care of. But I might be wrong on
19 that.

20 MR. ERICKSON: If that's the case, I would suggest we
21 just, if all the parties, if nobody opposes it, we just
22 stipulate to it rather than deleting it and creating confusion,
23 stipulating.

24 MS. STERN: Yeah. I think we can stipulate to it.
25 I'd prefer that.

1 CHAIRMAN JABER: Let me hear from Gulf on that.

2 MR. STONE: We would prefer to have it stipulated as
3 opposed to being dropped. We think it would -- if you're going
4 to show the other cost recovery clauses in the order as being
5 stipulated, to leave this one out, the omission would, would
6 create further confusion. So we think it does need to be
7 shown.

8 MR. ERICKSON: That's our position.

9 CHAIRMAN JABER: So, Mr. Burgess, in the context of
10 the stipulation do you want it to be reflected that you just
11 have no position? It'll be a Category B position.

12 MR. BURGESS: Yes. Thank you, Commissioner. That's
13 fine.

14 CHAIRMAN JABER: Ms. Stern, move this to the Category
15 B stips.

16 Changes to Issue 47?

17 MR. STONE: Commissioner Jaber, if I may go back just
18 slightly.

19 I understand that Mr. Burgess had some concern about
20 Issue 38 and he has stipulated to Issue 45. And as a
21 consequence, it seems to me that that would resolve his concern
22 about whether he is agreeing with our position on, on 38.

23 CHAIRMAN JABER: Mr. Burgess, take a few minutes to
24 look at Issue 38 and the position you've taken there. That
25 comes back to that question I was asking you about.

1 MR. BURGESS: Uh-huh.

2 CHAIRMAN JABER: And look at the stipulation
3 resulting from Issue 45 and see if you still have a concern on
4 Issue 38.

5 MR. BURGESS: We'll talk to Mr. Stone when we --

6 CHAIRMAN JABER: Okay. Fine. Between the two of
7 you, you can remind us to come back to it.

8 Any changes to Issue 47?

9 MR. BURGESS: Commissioner, 47, again, gets back to
10 the same, the expense side of what we discussed earlier on the
11 security measures, and I would ask that we have leave to keep a
12 no position at this time open for purposes of continuing to
13 look at the numbers.

14 CHAIRMAN JABER: FIPUG, you agree with that and so
15 does FEA.

16 MS. KAUFMAN: Yes, ma'am.

17 MR. ERICKSON: Yes, ma'am.

18 CHAIRMAN JABER: Issue 48? Issue 49?

19 MS. STERN: Stipulated.

20 CHAIRMAN JABER: Stipulated. Issue 50.

21 MR. ERICKSON: On Issue 50 we would change our
22 position to adopting that of OPC.

23 CHAIRMAN JABER: Staff, do you have a revised
24 position on Issue 50?

25 MS. STERN: No, we don't.

1 CHAIRMAN JABER: Issue 50A.

2 MR. STONE: Before we move on 50, I need to check my
3 notes on something, please.

4 CHAIRMAN JABER: Uh-huh.

5 MR. STONE: I need to add some witnesses to our
6 position on Issue 50; Mr. Saxon and Mr. McMillan.

7 CHAIRMAN JABER: Any other changes, Mr. Stone?

8 MR. STONE: That's it.

9 CHAIRMAN JABER: 50A?

10 MR. BURGESS: 50A, Commissioner, if Staff is still
11 keeping this in controversy, we would agree with Staff.

12 CHAIRMAN JABER: Staff, you don't have any
13 corrections or changes to your position on 50A; correct?

14 MS. STERN: No, we don't.

15 MS. KAUFMAN: FIPUG would agree with Staff, also.

16 CHAIRMAN JABER: Okay. And, Staff, if something
17 changes, you need to notify FIPUG and OPC.

18 And, FEA, do you agree --

19 MR. ERICKSON: No change on that one.

20 CHAIRMAN JABER: Okay. So it's, "No position at this
21 time?"

22 MR. ERICKSON: That's correct, ma'am.

23 CHAIRMAN JABER: Okay. Issue 51? Changes to Issue
24 51?

25 MR. STONE: I need to add Mr. Saxon as a witness on

1 51.

2 CHAIRMAN JABER: Issue 52?

3 MS. STERN: I think we have a, a Category 2
4 stipulation on 52. Staff's position on that is, "No." And
5 we're in agreement with Gulf. I don't know if the parties have
6 a position or plan to --

7 (Simultaneous conversation.)

8 MS. STERN: Okay. So we could use Gulf's language.

9 CHAIRMAN JABER: Right. Category B stipulation on
10 Issue 52.

11 Issue 53? Staff, if you agreed on Issue 52, do you
12 have a revised position for Issue 53?

13 MS. STERN: No, because there's still some
14 information that's under review right now.

15 CHAIRMAN JABER: All right. So it's a possible
16 Category B stipulation?

17 MS. STERN: It's possible, yes.

18 CHAIRMAN JABER: Okay. If you do reach some sort of
19 tentative agreement, go ahead and contact the parties, make
20 sure there's agreement to move it into the Category B
21 stipulation and do that.

22 MS. STERN: Okay.

23 CHAIRMAN JABER: Issue 54?

24 MR. BURGESS: Commissioner, 54 is the related one to
25 42, which we discussed. I have additional language for this

1 and it would change to reflect -- if this issue is broken down
2 to be only that which is the allocation ratio, then the number
3 changes because this one subsumed both adjustments and the
4 language would change. So I'll provide that later, if I may.

5 CHAIRMAN JABER: Okay. Thank you. We'll stay
6 flexible on Issue 54 and Issue 42.

7 MR. BURGESS: Thank you, Commissioner.

8 MR. ERICKSON: Commissioner, on Issue 53 we haven't
9 changed our position by the way from the "Yes," so that would
10 seem to preclude a stipulation there.

11 CHAIRMAN JABER: Right. Thank you for pointing that
12 out. Are you --

13 MR. ERICKSON: We'll try to elaborate on that.

14 CHAIRMAN JABER: All right. All right. Issue 54?
15 Issue 55?

16 MR. BURGESS: Commissioner, Issue 55, we would
17 change -- our position on Issue 55 is actually stated on, under
18 Issue 56. And so we would like for our position on Issue 56 to
19 be moved in response to Issue 55. And then Issue 56, we don't
20 have any, we don't take any issue with that.

21 CHAIRMAN JABER: Okay. So under Issue 55 OPC's
22 preliminary position is that, is, "Yes. The accrual should be
23 reduced by \$1,680,000," and in parenthesis, "system"?

24 MR. BURGESS: Yes. That was a system number and I
25 did not calculate a jurisdictional number. And if I could

1 again also have leave just to add the language that reflects
2 that witness's rationale for the removal.

3 CHAIRMAN JABER: Yes. That's fine. And then your
4 position on Issue 56 --

5 MR. BURGESS: We don't.

6 CHAIRMAN JABER: -- is, "No position at this time"?

7 MR. BURGESS: Or no position -- I mean, we don't
8 have a --

9 CHAIRMAN JABER: Okay. We'll reflect that your
10 position on Issue 56 is, "No position."

11 MR. BURGESS: Correct.

12 CHAIRMAN JABER: Any other changes to 55 or 56?

13 MS. KAUFMAN: On 55 we want to agree with Public
14 Counsel, and I guess we have a stipulation on 56.

15 CHAIRMAN JABER: Okay.

16 MS. STERN: No.

17 MS. KAUFMAN: No?

18 MS. STERN: On 56 I believe we can change our
19 position to, "No."

20 CHAIRMAN JABER: Okay.

21 MS. KAUFMAN: Okay.

22 MS. STERN: And --

23 MR. ERICKSON: Well, then you would have a stip on 56
24 because OPC is now saying, "No position."

25 CHAIRMAN JABER: All right. Let's talk about

1 stipulations after we get all the changes to those issues. It
2 just helps me follow it. So let's -- are we done with the
3 changes to Issues 55 and 56?

4 MR. ERICKSON: We have one change to 55. We would
5 also adopt OPC's position on 55.

6 CHAIRMAN JABER: Any other changes? All right.

7 Now let's go back and reevaluate whether we have a
8 proposed stipulation on Issue 55.

9 MS. KAUFMAN: No.

10 CHAIRMAN JABER: Staff? No. Because OPC, you
11 actually, you have an adjustment.

12 MR. BURGESS: Correct. Correct.

13 CHAIRMAN JABER: Okay. Issue 56.

14 MS. STERN: I think we have -- okay. OPC is taking
15 no position on 56. I don't -- is everybody else going to take
16 no position?

17 MR. ERICKSON: That's correct. Yeah.

18 MS. KAUFMAN: Uh-huh.

19 MS. STERN: I think we have a Category 2 stipulation.

20 MR. BURGESS: Is it B or 2?

21 CHAIRMAN JABER: Who cares?

22 MS. STERN: It's either. And I think we'd just
23 like --

24 CHAIRMAN JABER: You're going to move Issue 56 to the
25 proposed stipulation section.

1 MS. STERN: Yeah.

2 CHAIRMAN JABER: Issue 57 is stipulated.

3 Issue 58? Any changes to Issue 58?

4 MS. KAUFMAN: We will change our position to, "Yes."

5 CHAIRMAN JABER: Ms. Stern, are you ready to move

6 from Issue 58 or were you --

7 MS. STERN: Yes. I'm ready to move from 58.

8 CHAIRMAN JABER: Okay. Issue 59. Issues 60, 61 are

9 deleted.

10 MR. BURGESS: Commissioner, yeah, that's fine. I
11 just, we made adjustments to them but we incorporated them in

12 an aggregate adjustment to production O&M expense. So, you

13 know --

14 CHAIRMAN JABER: On Issue --

15 MR. BURGESS: -- I can't stipulate to them. But if
16 they're simply deleted, that's, that's fine.

17 CHAIRMAN JABER: Are you talking about Issues 60 and
18 61, Mr. Burgess?

19 MR. BURGESS: Yes, Commissioner.

20 CHAIRMAN JABER: You had made adjustments to your
21 position?

22 MR. BURGESS: The, the special projects and planned
23 outage are all a subset of a, of a larger count production O&M
24 that we made an adjustment to the entire account on and didn't
25 break it down into the separate, the separate entities.

1 CHAIRMAN JABER: See, I don't have, I don't know what
2 Issue 60 and Issue 61 are. My copy just shows that it's been
3 deleted.

4 MR. BURGESS: Oh, okay. Okay. I apologize.

5 CHAIRMAN JABER: So, but if the issue has been --

6 MR. BURGESS: That's fine.

7 CHAIRMAN JABER: -- prematurely deleted and you want
8 to revisit it, you just need to let me know.

9 MR. BURGESS: It has not been prematurely. That's
10 fine with us.

11 CHAIRMAN JABER: Any changes to Issue 62? Issue 63.

12 MR. BURGESS: Commissioner, I would ask with regard
13 to Issue 62 to be able to expand my language to reflect the
14 three adjustments that aggregate to the \$10 million.

15 CHAIRMAN JABER: That's fine. Now, Mr. Burgess, on
16 Issue 63 --

17 MR. BURGESS: We don't --

18 CHAIRMAN JABER: -- FEA says that they agree with
19 your witness's testimony, but you've got no position at this
20 time. So is that one that will be modified?

21 MR. BURGESS: No. We, we made adjustments, several
22 adjustments under distribution expenses and apparently they
23 perhaps thought it was a transmission distribution, aggregation
24 or something like that. But, no, Mr. Schultz made no specific
25 transmission adjustment. So ours is no position.

1 MR. ERICKSON: We're willing to change that to, "No
2 position at this time."

3 MR. STONE: My notes reflect that Staff had changed
4 their position to agree with Gulf on Wednesday.

5 CHAIRMAN JABER: Staff, do you have changes to Issue
6 63?

7 MS. STERN: Issue 63?

8 CHAIRMAN JABER: Yeah. FIPUG, that's going to be a
9 no position at this time?

10 MS. KAUFMAN: Yes, ma'am.

11 MS. STERN: Okay. This is 63. We can agree with
12 Gulf.

13 CHAIRMAN JABER: You can?

14 MS. STERN: Yes. Yes.

15 CHAIRMAN JABER: All right. Without hearing
16 objection, it sounds like Issue 63 can be moved into the
17 stipulation section. Issue 64? Issue 65? Issue 66? Issue
18 67?

19 Yeah. And I know, Mr. Burgess, you're going to
20 elaborate on Issue 66.

21 MR. BURGESS: Yes. Correct. Yes. Thank you,
22 Commissioner. For that series of them under distribution
23 expenses. Thank you.

24 CHAIRMAN JABER: Issue 67? Issue 68? Any changes to
25 Issue 69?

1 Okay. Staff, on Issue 69 your position is that this
2 issue can be deleted?

3 MS. STERN: Yes. If nobody else -- well, yes. It's
4 our position.

5 CHAIRMAN JABER: Okay. Now let's see. Mr. Burgess
6 --

7 MR. BURGESS: We've raised our issues of the specific
8 subaccounts under it, and so this is, doesn't need to be here
9 for our purposes.

10 CHAIRMAN JABER: Okay. So you agree that Issue 69
11 can be deleted.

12 MR. BURGESS: Correct.

13 CHAIRMAN JABER: FIPUG?

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

15 CHAIRMAN JABER: FEA?

16 MR. ERICKSON: That's fine with us as well, ma'am.

17 CHAIRMAN JABER: Okay. Now, Gulf, you acknowledge
18 that this issue has been included already in Issues 64 and 68,
19 through 68?

20 MR. STONE: Yes.

21 CHAIRMAN JABER: Okay. You can show 69 as deleted.
22 Issue 70 is stipulated. Any changes to Issue 71?

23 MR. BURGESS: Commissioner, we would like to expand
24 our answer and as well I would like to explain that this
25 actually subsumes two adjustments, one that, that are under the

1 customer accounts expense, one for postage and, and one for
2 customer records. And it probably would be better for the
3 Commission to see them as two. I don't mind just explaining it
4 in my answer. But if you think the Commission would be better
5 served to have two issues, I can write a 71A.

6 CHAIRMAN JABER: And a 71B?

7 MR. BURGESS: Yes. And a 71B.

8 CHAIRMAN JABER: That sounds good.

9 Mr. Stone, I recognize that'll involve your
10 separating out your position. But, Mr. Burgess, go ahead and
11 take a stab at identifying what the issue should say and,
12 Ms. Stern, make sure that Staff agrees with the
13 characterization.

14 MS. STERN: Yes.

15 MR. BURGESS: Thank you, Commissioner.

16 CHAIRMAN JABER: Issue 72?

17 MR. BURGESS: Commissioner, we have some expanded
18 language that basically indicates that we, we believe that it
19 should not be allowed in rate base and, and further though that
20 should the Commission allow it in rate base, that it should be
21 amortized over the remaining life of the building.

22 CHAIRMAN JABER: Hang on one second. If you identify
23 an Issue 9A and a 9B, is that going to result in any changes to
24 Issue 72?

25 MR. STONE: I wouldn't think so.

1 MR. BURGESS: No. I think 72 says if you, you know,
2 if the Commission finds a certain way in 9A and 9B, what, what
3 should be the, the remaining years.

4 CHAIRMAN JABER: All right. And you're going to
5 expand your position. Staff, do you have a revised position on
6 Issue 72?

7 MS. STERN: No, we don't.

8 CHAIRMAN JABER: FEA, FIPUG?

9 MS. KAUFMAN: We agree with OPC.

10 MR. ERICKSON: We also agree with OPC.

11 CHAIRMAN JABER: Issue 73.

12 MR. STONE: Commissioner, this is another one that we
13 believe that we can change our position to be consistent with
14 Staff's handout. It may need to be elaborated upon to get the
15 specific numbers in there, but we would like leave to provide a
16 new position consistent along those lines.

17 CHAIRMAN JABER: That's fine. And, Mr. Burgess, I'm
18 assuming you'll have some revisions here, too?

19 MR. BURGESS: Yes, Commissioner. I would like to
20 provide revised or actually a position and some language that's
21 consistent with what we discussed at the outset of this
22 prehearing.

23 CHAIRMAN JABER: And, FEA, your position would be
24 agrees with OPC?

25 MR. ERICKSON: Yes, ma'am. Yeah. We would continue

1 to support the position of that particular witness, essentially
2 adopt their position.

3 CHAIRMAN JABER: All right. And FIPUG?

4 MS. KAUFMAN: Same, Commissioner Jaber.

5 CHAIRMAN JABER: Issue 74.

6 MR. STONE: Similarly, we would, we would like the
7 opportunity to revise our position to incorporate Staff's
8 language.

9 MS. KAUFMAN: Commissioner, FIPUG's position on that
10 issue is that the appropriate depreciation term is 30 years.

11 MR. BURGESS: And, Commissioner, I would ask to be
12 able to add a little bit of explanatory language to our
13 position.

14 CHAIRMAN JABER: Okay. Now FIPUG, that agrees with
15 OPC basically or do you want to -- OPC, in their position
16 today, they've got the proper depreciation basis is 30 years.
17 Is that what you just said?

18 MS. KAUFMAN: Yes.

19 CHAIRMAN JABER: And, yes, Mr. Burgess, you can
20 elaborate a little bit more.

21 MR. BURGESS: Thank you, Commissioner.

22 MR. STONE: I do understand that Staff's position on
23 this issue is as handed out rather than as in the draft
24 prehearing order.

25 MR. HARRIS: That's correct.

1 MR. STONE: Okay.

2 CHAIRMAN JABER: Staff, you want that same
3 preliminary position used? For purposes of the record do you
4 want that same preliminary issue used for Issues 17, 73, 74 and
5 75?

6 MR. HARRIS: Not for --

7 MS. STERN: Yeah. We don't need it for 75.

8 CHAIRMAN JABER: Thank you. Okay. We're on Issue
9 75. Gulf, you've handed out a revised position on 75?

10 MR. STONE: We did, but I think it was actually
11 incorporated in the draft.

12 CHAIRMAN JABER: It looks like it. All right. Any
13 changes to Issue 75? All right. Issue 76?

14 MS. STERN: I believe we can drop that issue. We
15 don't --

16 CHAIRMAN JABER: Any disagreement?

17 MR. STONE: None from Gulf.

18 CHAIRMAN JABER: Issue 76 is dropped. Issue 77.

19 MS. STERN: I believe we can drop that issue as well.

20 MR. STONE: No objection.

21 MR. BURGESS: No objection.

22 CHAIRMAN JABER: Issue 77 is dropped. 78?

23 MR. STONE: We have supplied a revised -- no, we have
24 not. I apologize. We believe that we are in agreement in
25 principle and should be able to show this as a stipulation, I

1 think.

2 CHAIRMAN JABER: Would Staff -- Staff has actually
3 taken a position, Mr. Stone. You would agree with Staff's
4 articulated position there?

5 MR. STONE: We agree with their statement of
6 position. The additional elaboration, our position is showing
7 how we accomplished that.

8 MS. STERN: And our Staff hasn't had the chance to
9 compare the Schedule C and E, C and E schedules to make sure
10 that the Gulf schedules listed are correct. So --

11 CHAIRMAN JABER: All right.

12 MS. STERN: I mean, if we --

13 MR. STONE: We agree that it -- I mean, Staff's
14 statement as it is we agree with. And so our elaboration was
15 just simply showing them how we had, so, I mean, I think, I
16 think the issue is stipulated. We agree it should be removed
17 and it should be shown as a separate line item on the bill.

18 CHAIRMAN JABER: All right. Let them work on the
19 language. Ms. Stern, between now and when the order is issued
20 --

21 MS. STERN: Okay.

22 CHAIRMAN JABER: -- if you want to agree on specific
23 language and show that as a Category B stipulation, that's
24 fine. I'm assuming the parties don't have an objection to
25 that.

1 Issue 79? Issue 80 is stipulated. Issue 81? Issue
2 82?

3 MR. STONE: Okay. This is another one where our new
4 position didn't quite make it to this draft, and it appears on
5 Page 4 of our handout that has been previously provided.

6 MS. KAUFMAN: We can agree with OPC. This is a
7 calculation issue.

8 CHAIRMAN JABER: Okay. All right. Gulf, your
9 revised position that you handed out today on Issue 82 will be
10 incorporated into the draft prehearing order. And, FIPUG, your
11 change is that you agree with OPC?

12 MS. KAUFMAN: Yes, ma'am.

13 CHAIRMAN JABER: Basically that this is a fallout
14 issue.

15 MS. KAUFMAN: Right.

16 CHAIRMAN JABER: Staff, isn't that your position?
17 You've got, "No position at this time." But isn't this just a
18 fallout issue?

19 MS. STERN: Yes, it is a fallout issue and that's why
20 we have no position.

21 CHAIRMAN JABER: Okay. Your position is that the
22 conclusion of that issue or the resolution of that issue is
23 determinant upon the --

24 MS. STERN: After, after --

25 CHAIRMAN JABER: -- resolution?

1 MS. STERN: After all the NOI resolutions have been
2 resolved and we know all the adjustments to NOI.

3 CHAIRMAN JABER: Issue 83?

4 MS. STERN: Staff can -- Gulf has a new 83, which
5 actually did make it in, and we can agree with, with Gulf's
6 position.

7 CHAIRMAN JABER: Public Counsel?

8 MR. BURGESS: We have no position.

9 CHAIRMAN JABER: FEA and FIPUG, no position?

10 MS. KAUFMAN: Correct.

11 MR. ERICKSON: That's correct.

12 CHAIRMAN JABER: Without objection, Issue 83 will be
13 shown as a Category B stipulation.

14 Issue 84? Issue 84. Gulf, is that a new position?

15 MR. STONE: If you'll give me just a moment.

16 That is, that is the position we've -- I, I think, I
17 think the underlining in bold has been left off, but I think
18 that's a position as it was on the previous draft.

19 CHAIRMAN JABER: Okay.

20 MR. STONE: And in our prehearing statement.

21 CHAIRMAN JABER: All right. OPC, FIPUG, any changes
22 to your position? FEA?

23 MS. KAUFMAN: No.

24 MR. BURGESS: No.

25 MR. ERICKSON: No, ma'am.

1 CHAIRMAN JABER: All right. Okay. That brings us to
2 the cost of service and rate design issues. Here's what I
3 intend to do here. I want the prehearing order to reflect
4 under pending matters, Ms. Stern, I think that's the best way
5 of handling it, just show it as a pending matter that the
6 parties have reached a settlement on Issues 85 through 122.
7 And then you may want to go ahead and put an asterisk by every
8 issue and just explain what the asterisk is, which is, refer
9 the Commissioners to the proposed stipulation.

10 MS. STERN: Okay.

11 CHAIRMAN JABER: I think that's the shortcut way of
12 handling it so you're not typing that in every time there's an
13 issue related to cost of service.

14 MR. STONE: Commissioner, I just want to make sure
15 you understand that the proposed stipulation also affects
16 Issues 1 through 84 as well in that it would take out both the
17 Federal Executive Agencies and FIPUG from all of those issues.

18 CHAIRMAN JABER: Thank you. That's a good point.

19 Under the pending matters indicate that acceptance of
20 that resolution, acceptance of the stipulation will result in
21 FEA and FIPUG's agreement to -- would you officially withdraw
22 from the case or just agreement to not participate in the
23 hearing and waive cross-examination?

24 MS. KAUFMAN: I think it would probably be the
25 latter.

1 MR. ERICKSON: That's our understanding as well.

2 Yes, ma'am.

3 CHAIRMAN JABER: Okay. You can explain that,
4 Marlene, in the pending matters section.

5 MS. STERN: Yes.

6 MR. ERICKSON: Commissioner, if I may, I just want to
7 make sure I understand how we're going to do this because it is
8 important to marry up these two documents.

9 For example, in Issue 85 everybody has their position
10 set out. What you're going to do, what you're proposing is to
11 delete all that language and then put asterisks at 85 which
12 refers you back to the attached stipulation?

13 CHAIRMAN JABER: No. I think you should assume for
14 purposes of going forward today that the Commissioners will not
15 accept your stipulation.

16 MR. ERICKSON: I understand.

17 CHAIRMAN JABER: So to make this a document that is a
18 useful tool to the Commissioners, we're going to go through
19 every issue going forward and make sure that we have your
20 positions as they would be through the hearing if the
21 Commissioners don't accept the stipulation. But right next to
22 the issue number I've directed Ms. Stern to put an asterisk by
23 the issue number that refers the Commissioners back to the
24 proposed stipulation section. That's the way we usually do it.

25 MR. ERICKSON: So the language as we have right now

1 proposed would remain in?

2 CHAIRMAN JABER: That's right.

3 MR. ERICKSON: See, I, I have a concern with that. I
4 think that's going to create some confusion because in some of
5 these issues, for example, everybody does agree, I mean, there
6 are some issues that the Staff does agree on, and I think it
7 would be more clear, for example, for FEA to say in 85, for
8 example, we adopt Gulf's position rather than saying no
9 position at this time. I would rather marry up these two
10 documents issue by issue.

11 CHAIRMAN JABER: Well, I'll tell you what. I'll tell
12 you what, if you would like to revise your position and get
13 that language to Staff by the end of the day Monday, you're
14 free to do that.

15 You're concerned that your position would result in
16 confusion on behalf of the Commissioners, so revise your
17 position and include it.

18 MR. ERICKSON: Well, I think everybody's position
19 should be accurately reflected in the prehearing order and we
20 should go to the stipulation and go issue by issue and reflect
21 where everybody agrees or where they don't agree. I think
22 that's the better way of doing it.

23 CHAIRMAN JABER: Yeah. And I think that's a given.
24 Parties do revise their positions up to today. I'm going to be
25 flexible and allow you all to revise your positions up through

1 the close of business on Monday. But it's not, I'm not going
2 to direct them to do that. You know, you're free, that's an
3 invitation for you to revise your positions and make sure that
4 the Commissioners have a good representation of what your
5 positions are, which might include what you have in the
6 proposed stipulation. But I would be remiss in removing your
7 positions assuming that that stipulation would be accepted. I
8 would rather err on the side that it's not accepted. It's
9 better to over prepare than it is to under prepare.

10 MR. ERICKSON: Well, our goal here is just to make
11 this as useful a tool as possible.

12 CHAIRMAN JABER: That's my goal, so we have that goal
13 in common.

14 Issue 85, any changes to the positions? Recognizing
15 that you'll provide revisions by the close of business on
16 Monday to reflect the stipulation.

17 MS. KAUFMAN: Commissioner, I think it would be
18 FIPUG's intent other than the issues where we've taken a
19 position to retain no position at this time.

20 CHAIRMAN JABER: All right.

21 MS. KAUFMAN: And, you know, depending on what
22 happens, if we need to go back and take a position on some of
23 these other issues, then we will. So in lieu of providing that
24 repetitive language, I mean, that's what I would suggest.
25 Certain issues we have stated a position. But for those we

1 have not, we would just maintain no position at this time.

2 CHAIRMAN JABER: Okay. That's exactly my point,
3 Ms. Kaufman. I'm going to give you all the flexibility to
4 revise your positions as you wish for the benefit of the
5 Commissioners.

6 Issue --

7 MS. STERN: Excuse me?

8 CHAIRMAN JABER: Yes.

9 MS. STERN: Issue 85, Staff has a change to its
10 position and Staff now agrees with Gulf, so we could have a, a
11 stipulation there.

12 CHAIRMAN JABER: Right. And as I understood from --

13 MS. STERN: I mean, aside from the, if the
14 stipulation, if the big stipulation isn't accepted, we could
15 have a -- we're not going to show that. Okay. We won't show
16 that. We'll just show Staff agrees with Gulf.

17 CHAIRMAN JABER: Ms. Stern, let me interrupt here.
18 What you're representing is that Staff could agree to move this
19 into the Category B stipulation. We're not going to do that
20 today because the parties have represented to me that it's sort
21 of a, the stipulation has been presented as a complete package.
22 So we'll go forward and reflect everyone's position on these
23 issues and leave them in the prehearing order that way.

24 MS. STERN: Okay.

25 CHAIRMAN JABER: Okay.

1 MR. STONE: Commissioner, if I may, at the risk of
2 confusing matters further, as I understand Staff's position on
3 85, and I don't want to speak for FIPUG or FEA -- if the, if
4 the stipulation that we've filed today is not approved by the
5 Commission, as I understand it, that's going to be the first
6 order of business on the hearing, if it's not dealt with prior
7 to that time.

8 CHAIRMAN JABER: Exactly.

9 MR. STONE: The second order of business at the
10 hearing would be to approve the list of Category B
11 stipulations.

12 CHAIRMAN JABER: All stipulations.

13 MR. STONE: And if -- I foresee a scenario possible
14 that the omnibus stipulation is not approved and certain of
15 these issues would be Category B stipulations. And I don't
16 know procedurally how we would handle that, but I would like an
17 opportunity, if, if we have not approved the master
18 stipulation, to see which of these stipulations would be
19 Category B stipulations at that time. And it just so happens
20 that Issue 85 appears to be in that, that category.

21 CHAIRMAN JABER: Yeah. No. I think that that
22 scenario could happen, that that's a likely scenario. So,
23 which goes back to what I was asking Ms. Kaufman earlier. Have
24 a Plan B and take back to your clients the possibility of
25 including some of these issues in the Category B stipulation.

1 And just at the hearing bring that up in front of the
2 Commissioners and, to the degree that there is not an objection
3 to handling some of these issues under the Category B
4 stipulations, ask us to vote.

5 MS. KAUFMAN: I understand totally, Commissioner
6 Jaber, where we could end up and where you're going. And, as
7 you said, we presented this as a package and I will discuss it
8 with the clients.

9 CHAIRMAN JABER: Okay. Mr. Stone, I think that
10 satisfies your concern.

11 MR. STONE: It does.

12 CHAIRMAN JABER: All right. Changes to Issue 86.

13 MS. KAUFMAN: Just so I don't have to interrupt each
14 time, I just want to be clear that my position is no position
15 at this time on 85 and on 86 and on any other cost of service
16 issue where I have not stated a substantive position.

17 COMMISSIONER JABER: And, FEA, again, so that you
18 don't have to keep saying this, I understand that you're going
19 to revise your positions and get them to Staff by the close of
20 business on Monday. And I'll leave it up to you to decide
21 which issues. All right?

22 MR. ERICKSON: Okay.

23 CHAIRMAN JABER: Issue 89? Issue 90?

24 MS. KAUFMAN: I'm sorry. Commissioner, I have to go
25 back to 88 and change my position to agree with FEA.

1 CHAIRMAN JABER: That's which, which issue,
2 Ms. Kaufman?

3 MS. KAUFMAN: 88 and 89 as well. I just wanted to
4 show you I could jump ahead.

5 CHAIRMAN JABER: It can't last all that long.

6 MS. KAUFMAN: Oh, wait. I'm going to do that on 90,
7 also, because I feel like I'm on a roll now.

8 CHAIRMAN JABER: On Issue 90, agree with FEA.

9 MS. KAUFMAN: Actually agree with Gulf.

10 CHAIRMAN JABER: Oh.

11 MR. ERICKSON: That's wording it more accurately.

12 CHAIRMAN JABER: Staff, you have a position on Issue
13 90.

14 MS. STERN: Yes.

15 CHAIRMAN JABER: Okay. And it's the source of the
16 disagreement, isn't it? It's the, it's the allocation among
17 the customer classes?

18 MS. STERN: Yes. We're not willing to set an
19 allocation at this point.

20 MR. STONE: Commissioner --

21 MS. STERN: And I believe --

22 MR. STONE: I understood that there was a slight
23 change in Staff's position on Issue 90, although I don't
24 believe it results in a stipulation. I do think it's important
25 if there is that change, and we did discuss this on Wednesday

1 and I believe there was a concurrence. And the way I
2 understand the change is on the fifth line down from Staff's
3 position at the end of the line, if you put the word
4 "percentage" after "average," and on the next line if you
5 struck the word "revenues," that that is, in fact, what Staff's
6 position is.

7 CHAIRMAN JABER: Ms. Stone -- Mr., Mr. Stone, that's
8 your suggested change to Staff's position that you could agree
9 with?

10 MR. STONE: Well, no. And I probably jumped out of
11 turn here. That was what I had understood that Staff had told
12 us they were changing their position to.

13 CHAIRMAN JABER: All right.

14 MR. ERICKSON: That was our understanding as well
15 from the meeting on Wednesday.

16 CHAIRMAN JABER: Okay. Ms. Stern, do you have
17 changes to your --

18 MS. STERN: That's correct. That was my
19 misunderstanding and we did --

20 CHAIRMAN JABER: Okay. Let's talk one at a time.
21 Do you have a change to your position on Issue 90?

22 MS. STERN: Yes.

23 CHAIRMAN JABER: Okay. Do you want to give me what
24 that change is?

25 MS. STERN: No -- okay. We're looking at (1) on

1 Issue 90. "No class should receive an increase greater than
2 1.5 percent times a system average" -- oh, okay -- "percent
3 increase in total revenues."

4 CHAIRMAN JABER: So basically you agree with
5 Mr. Stone that the word "percent" can be added after the word
6 "average" and that "revenues" can be deleted, the word
7 "revenues" can be deleted?

8 MS. STERN: Yes.

9 CHAIRMAN JABER: Okay. Now with that revised
10 position, Staff, is there any agreement at all on this issue?

11 MS. STERN: No. Staff does not agree on this issue.

12 CHAIRMAN JABER: Okay. Mr. Stone, I may have
13 misunderstood what you said early on, but I thought you said
14 that there were some changes that Staff could make to the
15 position that you actually agreed with.

16 MR. STONE: As I now understand Staff's position, it
17 is -- we would agree with Staff's position on Issue 90 in terms
18 of a methodology. Where we, where our disagreement comes is in
19 the, which, which cost allocation methodology is used, and
20 that's, of course, covered by a previous issue.

21 CHAIRMAN JABER: All right. So --

22 MR. STONE: But I think it's probably best leaving
23 our position the way it is at this point.

24 CHAIRMAN JABER: All right. Okay. Issue 91. Any
25 changes to Issue 91?

1 MS. KAUFMAN: FIPUG has a change to their position,
2 and our position is that demand charges should be based on the
3 cost of service methodology proposed by Gulf.

4 CHAIRMAN JABER: Okay. And, Staff, that looks
5 similar to your position. Is it?

6 MS. KAUFMAN: No. No. I'm sorry.

7 MS. STERN: No, because we don't agree with the cost
8 of service, we don't agree with the MDS cost of service
9 methodology.

10 CHAIRMAN JABER: Okay. You're --

11 MS. STERN: When we --

12 CHAIRMAN JABER: You would acknowledge that it should
13 be based on the cost of service study as shown in an
14 interrogatory, but you would remove the MDS method.

15 MS. STERN: That's correct.

16 CHAIRMAN JABER: Okay. All right. Any changes to
17 Issue 92?

18 MS. KAUFMAN: Maybe I should clarify my position on
19 91, which would be including use of the MDS methodology. And
20 that's really the dispute here.

21 CHAIRMAN JABER: Thank you, Ms. Kaufman.

22 Any changes to Issue 92? Any changes to Issue 93?
23 Changes to 94?

24 MR. STONE: Commissioner, it is not reflected -- I
25 mean, it is reflected in our position here. We have changed

1 our position on these service charges from what it appears in
2 our testimony on two, the top two lines to, to agree with
3 Staff. But obviously there are other reasons why we can't show
4 this as stipulated at this point. But we had made a change in,
5 in an effort to reach a resolution on this issue.

6 CHAIRMAN JABER: Okay. I think at some point, even
7 if there are some agreements, it would be more efficient to
8 just leave it the way it is and allow you not to ask
9 cross-examination questions than to reflect it as a
10 stipulation, so.

11 Issue 96? Issue 97?

12 MS. STERN: I'm sorry. On Issue 96 --

13 CHAIRMAN JABER: Uh-huh.

14 MS. STERN: -- we can agree with Gulf's position with
15 the following change, if Gulf can agree to the following
16 change.

17 In the second line of the position after "Time-of-Use
18 Modification (ETM) method," we would like to insert, "as
19 described in response to Staff Interrogatory Number 21."

20 CHAIRMAN JABER: So can you read the whole thing, Ms.
21 Stern?

22 MS. STERN: Yes. "Gulf's time-of-use rates should be
23 designed using the Existing Time-of-Use Modification (ETM)
24 method as described in response to Staff Interrogatory Number
25 21 for revising incumbent, or existing, commercial/industrial

1 Time-of-Use Rates."

2 CHAIRMAN JABER: Mr. Stone, do you have any objection
3 to making that change to your position so that Staff would
4 agree with it?

5 MR. STONE: I need an opportunity to check with my
6 witness. I believe that we can, but I would need an
7 opportunity to check during a break.

8 CHAIRMAN JABER: Okay. We'll come back to Issue 96.

9 MR. STONE: I've been told quickly that we can agree
10 to that.

11 CHAIRMAN JABER: Okay. You can -- so we'll just
12 change your position to agree with Gulf here.

13 MS. STERN: Yes.

14 CHAIRMAN JABER: And you can modify Gulf's position
15 as you read into the record a minute ago.

16 Issue 97?

17 MS. STERN: Staff now agrees with Gulf.

18 CHAIRMAN JABER: Issue 98?

19 MS. STERN: I'm sorry. We, we want to go back to our
20 position of no position at this time.

21 CHAIRMAN JABER: For which issue, Marlene?

22 MS. STERN: 97.

23 CHAIRMAN JABER: No position at this time? Basically
24 what you had in the draft?

25 MS. STERN: Yes.

1 CHAIRMAN JABER: All right. Issue 98? Issue 99?
2 100?

3 MS. KAUFMAN: Our position is blank there for some
4 reason, but we would take no position at this time.

5 CHAIRMAN JABER: Okay. 101? 102? 103? 104?
6 105 through 107 were stipulated.

7 MS. KAUFMAN: I think this is where we're getting
8 into the issues that have been inappropriately characterized --

9 MR. ERICKSON: Right. Exactly.

10 MS. KAUFMAN: -- and they're no different.

11 CHAIRMAN JABER: You need to let one person speak at
12 a time for the purposes of the court reporter and, frankly, so
13 I can follow the discussion.

14 Okay. Ms. Kaufman, what you're saying is Issues 105
15 through 107 Staff reflected as a stipulation but perhaps
16 prematurely.

17 MS. KAUFMAN: Exactly.

18 CHAIRMAN JABER: All right.

19 MS. KAUFMAN: I think they're just like the prior
20 issues we've talked about. And --

21 CHAIRMAN JABER: Okay. Ms. Stern, for the final
22 version of the prehearing order, go back and put everyone's
23 positions into Issues 105, 106 and 107.

24 MS. STERN: Yes. I understand that.

25 MS. KAUFMAN: Commissioner -- excuse me.

1 COMMISSIONER JABER: Any other issues that we've
2 passed, Ms. Kaufman?

3 MS. KAUFMAN: No. But there's this same series
4 coming up, 109 through 113.

5 CHAIRMAN JABER: Right.

6 MS. STERN: Right. I'll do that for all the issues
7 that are shown as stipulated.

8 MS. KAUFMAN: Thank you.

9 CHAIRMAN JABER: But keep pointing them out,
10 Ms. Kaufman, so that we haven't forgotten, so that we don't
11 forget any.

12 All right. FEA, you would agree with all of that?

13 MR. ERICKSON: Yes, ma'am.

14 CHAIRMAN JABER: Okay. 108?

15 For Issues 109 through 112, Ms. Stern is going to go
16 back and put the preliminary positions in of the parties.

17 MS. STERN: That's through 113 actually.

18 CHAIRMAN JABER: Okay. Through 113. Now if there
19 are changes to those positions, I'll just count on the parties
20 to, to file the revised positions or make sure that Ms. Stern
21 has them rather than do that right here.

22 Issue 114?

23 MS. STERN: We have a change to our position on 114.
24 I'll just read the new language.

25 "The proposed methodology should be approved if, one,

1 it is incorporated into Gulf's tariff and, two, the fixed
2 charge rate used to determine the monthly charges" --

3 MR. STONE: I'm sorry. I apologize. I lost you.

4 CHAIRMAN JABER: Okay. Hang on.

5 MR. STONE: The fixed charged portion --

6 MS. STERN: "The fixed charge rate" --

7 CHAIRMAN JABER: Hang on a second. Ms. Stern, go
8 back to your position and, and start from the very beginning
9 with the revised position. Read that out.

10 MS. STERN: All right. "The proposed methodology
11 should be approved if it is incorporated into Gulf's tariff and
12 the fixed charge rate used to determine the monthly charges
13 incorporates the Commission-approved rate of return including
14 the rate setting point ROE."

15 CHAIRMAN JABER: Okay. I see Mr. Melson and
16 Mr. Stone were still writing, so why don't you read it out one
17 more time to see if there are any changes to their positions.

18 MS. STERN: All right. I'll just read part two, if
19 that's okay.

20 MR. STONE: Yes. That's the only place where I'm
21 still catching up.

22 MS. STERN: Okay. "The fixed charge rate used to
23 determine the monthly charges incorporates the
24 Commission-approved rate of return including the rate setting
25 point ROE."

1 MR. STONE: With that Gulf can agree with Staff's
2 position.

3 CHAIRMAN JABER: FIPUG, what do you want to do here?
4 Do you want to just -- FIPUG has no position at this time?

5 MS. KAUFMAN: Yes, ma'am.

6 CHAIRMAN JABER: FEA, you want to leave it the way it
7 is for now and if you have revisions, you file, you get them to
8 us by Monday?

9 MR. ERICKSON: Yes, ma'am. Yes. That's our plan.
10 Thank you.

11 CHAIRMAN JABER: 115?

12 MS. STERN: Staff has revised language on 115, which
13 David Wheeler will pass out.

14 (Pause.)

15 CHAIRMAN JABER: Okay. Ms. Stern, you have a revised
16 position for 115. Can you go ahead and read it into the
17 record, please.

18 MS. STERN: Yes. "Yes, provided that, one, the fuel
19 and other cost recovery clauses revenues associated with flat
20 bill customers are credited to the clauses at the then current
21 tariffed adjustment clause rates and based on the customer's
22 actual metered KWH usage; and, two, any shortfall in base rate
23 revenues between the customer's bill at standard rates and the
24 flat bill revenues will be absorbed by the company."

25 CHAIRMAN JABER: Any other changes to Issue 115?

1 MR. STONE: In light of Staff's new position, we
2 would like an opportunity to consider it. And if we end up
3 taking a break, we, we may be in a position to let you know
4 that we accept Staff's position.

5 CHAIRMAN JABER: Okay. Thank you, Mr. Stone. 116?
6 Now Ms. -- I'm sorry. Go ahead.

7 MS. STERN: I believe on 116 we agree with Gulf.
8 Yes. We do agree with Gulf.

9 CHAIRMAN JABER: All right. On Issues 117 and 118,
10 Ms. Kaufman, these need to be changed back to your preliminary
11 positions?

12 MS. KAUFMAN: Yes, ma'am.

13 CHAIRMAN JABER: All right. Ms. Stern, you'll go
14 back to the preliminary positions in a previous draft? Are you
15 clear, Ms. Stern, on which positions to put back in or do you
16 need that clarification?

17 MS. STERN: No. I understand what you're -- we're
18 going to put back in all the positions that say stipulated now.

19 CHAIRMAN JABER: Yeah, I know. But in terms of
20 positions that you're going to put back in this copy --

21 MS. STERN: Uh-huh.

22 CHAIRMAN JABER: -- do you need clarifications,
23 clarification from the parties on which positions to use?

24 MS. STERN: Well, I thought we were going to say, "No
25 position at this time." Is that what we're going to say?

1 CHAIRMAN JABER: Right.

2 MS. KAUFMAN: That's correct.

3 CHAIRMAN JABER: For example, Gulf, it has occurred
4 to me that you all have had multiple drafts of prehearing
5 orders. Are you clear on which draft you should use for
6 positions, let's say, from Gulf and FEA and OPC?

7 MS. STERN: I'm perfectly clear. I don't know what
8 everybody else thinks.

9 CHAIRMAN JABER: Well, we'll count on them to make
10 sure to tell you later on.

11 MS. STERN: Does everybody agree that for the
12 intervenors, aside from OPC, it's going to say, "No position at
13 this time?" I'm not -- OPC, you're going to say, "No
14 position," period.

15 MR. BURGESS: That's correct.

16 MS. STERN: And Gulf is going to have a position.

17 MR. STONE: And Gulf's position will reflect, was --
18 Gulf's positions were accurately reflected in the immediately
19 preceding draft. And if -- I happen to have a copy of that
20 draft, if you don't, and I can send it back to you.

21 CHAIRMAN JABER: Okay. I just don't want any
22 confusion. I really don't. And I don't want to make --

23 MR. STONE: I understand. And I agree, I --

24 CHAIRMAN JABER: I don't want to make these changes
25 at the beginning of the hearing.

1 MS. KAUFMAN: And just, I just want to be clear, too.
2 I'm sorry. But we would have no position at this time on
3 these, this series except where in the prior draft we have a
4 position or where I've articulated one today.

5 MS. STERN: Yes. I understand that.

6 MS. KAUFMAN: Okay.

7 MS. STERN: Thanks.

8 MR. ERICKSON: And the same --

9 MS. STERN: Now what I don't understand -- and the
10 same for FEA. We're going to get yours on Monday.

11 MR. ERICKSON: Yeah. We'll think about revising. If
12 we don't, it just is, "No position at this time." But I think
13 of this whole series, the only three I think we took positions
14 on was 88, 89 and 90. So other than those, it's "No position
15 at this time." If we revise, we'll let you know.

16 MS. STERN: Okay. For FCTA, maybe I'm not clear on
17 what you all would like to have. Do you want your position on
18 these issues to be, "No position at this time," or do you want
19 that language --

20 MR. GROSS: The language that we've already provided,
21 stick with that language.

22 MS. STERN: Okay. All right.

23 CHAIRMAN JABER: All right. Issue 119? Changes to
24 119? Changes to 120? Changes to 121?

25 Issue 122 needs to be revised.

1 MR. STONE: Commissioner, if I may go back to 121
2 briefly.

3 CHAIRMAN JABER: Sure.

4 MR. STONE: My notes from Wednesday's session
5 indicated that -- maybe I'm looking at the wrong one. I am
6 looking at the wrong one. Never mind.

7 CHAIRMAN JABER: Staff, do you have any changes to
8 your position on Issue 121?

9 MS. STERN: No, we don't.

10 CHAIRMAN JABER: Okay. On Issue 122 we're going to
11 go back to the preliminary positions that were previously taken
12 by the parties.

13 Issue 123.

14 MR. STONE: On, on 122, and that's the one I was --
15 on Wednesday, we had agreed to change our position to agree
16 with Staff's position on Wednesday. And so rather than going
17 back to our original language, we would agree with Staff. And
18 the Staff position we're agreeing with is, "Yes. The proposed
19 addition of the RSVP, GSTOU, PX, PXT and RTP rate schedules to
20 the Budget Billing optional writer is appropriate."

21 CHAIRMAN JABER: Ms. Stern, you could, in Gulf's
22 position on Issue 122 you can reflect that they agree with your
23 preliminary position.

24 MS. STERN: Yes. Thank you.

25 CHAIRMAN JABER: All right. Now Issue 123.

1 Ms. Stern, you're going to have to explain that issue to me.

2 MS. STERN: There's a stipulation that came out of
3 the last rate case that limits, that prevents Gulf from asking
4 for a rate increase. If I mischaracterize it, somebody can
5 correct me. It prevents Gulf from --

6 MR. STONE: Perhaps I can help.

7 CHAIRMAN JABER: Go ahead, Mr. Stone.

8 MR. STONE: There is a stipulation that was approved
9 by order of the Commission that has a revenue sharing plan that
10 the company is currently operating under. Under the terms of
11 that stipulation and consequently under the terms of that order
12 the plan expires on the commercial in-service date or it
13 actually expires the day prior to the commercial in-service
14 date of Smith Unit 3 or December 31st, 2002, whichever comes
15 first. And until the plant expires, we cannot have an increase
16 in base rates. And so what this issue was intended to identify
17 is when that, you know, that, that portion of the stipulation
18 and order that is operative here, and that's what we've tried
19 to convey in our position.

20 CHAIRMAN JABER: All right. Staff, Ms. Stern, did
21 you want to add anything to that?

22 MS. STERN: No. Huh-uh.

23 CHAIRMAN JABER: Do you have any changes to your
24 position?

25 MS. STERN: No, we don't.

1 CHAIRMAN JABER: All right. FIPUG, this takes us out
2 of the cost of service issues, doesn't it?

3 MS. KAUFMAN: Yes. I just -- I thought we had
4 agreement on this issue. Am I wrong about that?

5 MR. STONE: I thought we had as well.

6 MS. KAUFMAN: And it's also reflected in the
7 stipulated issues, so.

8 CHAIRMAN JABER: On Issue 123?

9 MS. KAUFMAN: Yes. On page -- well, mine, it's Page
10 138.

11 MS. STERN: Oh, I'm sorry. We did, we talked about
12 this issue and we had the understanding that Gulf was not --
13 that's right, we did talk about it, and Gulf was not going to
14 come in and ask for a rate increase if Smith, when Smith 3 went
15 on-line before an order in this docket was issued.

16 MR. STONE: Well, we did reach an agreement and the
17 order date is, the language that -- let me try it this way.

18 CHAIRMAN JABER: And for your benefit, for your
19 collective benefit, my copy of the prehearing order shows some
20 differences between Staff and the company, so walk me through
21 where you think there is agreement.

22 MR. STONE: My understanding is that on Wednesday,
23 once we clarified what I'm about to tell you, Staff said they
24 agreed with Gulf's language. And what I'm, what we agreed to
25 on Wednesday is that the effective date of the rates in this

1 case would be a result of the Commission vote. And the only
2 thing that might change that would be if for some reason Smith
3 Unit 3 is not on-line, is not in commercial operation by the
4 date the rates would otherwise be effective as a result of the
5 vote. The end result of that is that if Smith 3 comes on-line
6 before that date, we can't get rates any earlier than the date
7 it would result from the vote. And the only quarrel I have,
8 and it's not a quarrel, it's just that when Ms. Stern stated
9 that earlier, she said from the order. And it's my
10 understanding that we will have an effective date based on the
11 vote even if the order is not issued. And so that's, that's
12 where I wanted to make sure I had that clarification because we
13 wouldn't want a delay in the order to delay the effective date
14 of the rates.

15 CHAIRMAN JABER: Ms. Stern, correct me if I'm wrong,
16 but it was my understanding in our decision-making process that
17 the decision marks the effective date. We don't necessarily
18 have to wait for a written order.

19 MS. STERN: That's correct.

20 CHAIRMAN JABER: Okay. So you now, you now agree
21 with Mr. Stone?

22 MS. STERN: Yes.

23 CHAIRMAN JABER: All right. And do we need to reword
24 this into a more refined stipulation? Would that help you?

25 MS. STERN: No. I think as long as we all have that

1 understanding, then we can agree with Gulf's language.

2 CHAIRMAN JABER: Well, I don't want to ever revisit
3 this issue again. So I think in the abundance of caution you
4 really should get together and agree on specific language so
5 that a year or two from now we're not taking a look at the
6 language and trying to figure out what everybody intended to
7 do.

8 MS. STERN: Okay. We'll work on that.

9 MR. STONE: If we're looking at it a year from now,
10 something would have gone drastically wrong with the
11 construction process at Smith Unit 3.

12 CHAIRMAN JABER: Famous last words. I've heard that
13 before. So during the break why don't you -- and, Mr. Stone,
14 take, you take the first shot at some language.

15 MR. STONE: We will do that.

16 CHAIRMAN JABER: Okay. Ms. Kaufman, thank you for
17 pointing that out.

18 Issue 124 I have as a stipulation.

19 MS. STERN: Oh --

20 MR. STONE: Commissioner, there's one slight -- we
21 have a stipulation. There's no question about that. The issue
22 as stated in the, on Page 119 did not reflect the change we
23 agreed to on Wednesday which allowed us to reach a stipulation.
24 And the agreement -- on Wednesday we agreed to change "60" to
25 "90" in the statement of the issue and that allowed us to reach

1 a stipulation.

2 CHAIRMAN JABER: Okay. So what, what are you saying,
3 that we need to undo the proposed stipulation for Issue 124?

4 MR. STONE: No. We just need to change the "60" to
5 "90" on Page 120 and then everything will marry up with what we
6 agreed.

7 MS. STERN: It's a typo basically.

8 CHAIRMAN JABER: For the sake of consistency you want
9 to change "60" to "90."

10 MR. STONE: Right.

11 CHAIRMAN JABER: Okay. Ms. Stern, with that change
12 do you still have a stipulation?

13 MS. STERN: Yes, we do.

14 CHAIRMAN JABER: Okay. That brings us to the
15 exhibits. I think this a logical place to stop and take a
16 break. How about we come back at 2:00 and finish the
17 prehearing conference.

18 But let me tell you, I've been keeping a list of the
19 things we're going to come back to, and it includes some
20 language, Mr. Burgess, on Issues 9A and 9B, some new language
21 for Issues 42 and 54. I have that we're coming back to Issue
22 43. I have that we're coming back for Issues 38 and 45
23 together. Mr. Burgess, you were going to come up with some
24 language for a 71A and a 71B. And we will revisit Issue 96 and
25 Issue 123.

1 MS. STERN: We were also, I believe, going to come up
2 with some language for Issue 17, 73 and 74. Gulf wanted to
3 modify our proposed language. That's the depreciation study
4 issues.

5 MR. STONE: I think it was just we wanted to supply a
6 revised position, and we would ask if we'd have until the close
7 of business on Monday to do that.

8 CHAIRMAN JABER: Yeah. In terms of coming back, on
9 the prehearing conference, Marlene, let's give them until
10 Monday to revise their positions for 17, 73 and 74.

11 All right. We'll come back at 2:00.

12 (Lunch recess.)

13 CHAIRMAN JABER: Let's go ahead and get back on the
14 record. Ms. Stern, it's your preference to go back to the
15 issues that, that we identified needed further discussion?

16 MS. STERN: Yes. To start off with, we have
17 separated Issue 9 into two issues, 9A and 9B.

18 CHAIRMAN JABER: Do you have the new issues? Do you
19 have the new issues?

20 MS. STERN: Yes. 9A will remain -- 9A will be the
21 current Issue 9, "Should the deferral of the return on the
22 third floor of the corporate offices be allowed in rate base?"

23 9B will be, "Should the third floor of the corporate
24 offices be allowed in rate base?"

25 And the parties have, have either given their

1 positions to us during the break or will be E-mailing their
2 positions to us by Monday on these issues and will be
3 incorporated into the draft or the final prehearing order.

4 CHAIRMAN JABER: Okay. All right.

5 MS. STERN: We had Issues 42, 43 and 54 that there
6 was, had to be addressed. 42 has been reworded, issue, the
7 issue statement for 42. "Should an adjustment to NOI be made
8 to remove wholesale related costs allocated to Gulf?"

9 And here again, the parties will either, have either
10 given us their positions or they will give us their position by
11 Monday.

12 CHAIRMAN JABER: And what does that do to Issue 43
13 and 54? They remain as is.

14 MS. STERN: Yes.

15 MR. STONE: I believe, I believe it means that Issue
16 43 can become a Category B stipulation.

17 CHAIRMAN JABER: Would you agree with that, Ms.
18 Stern?

19 MS. STERN: Yes. Okay. Yes.

20 CHAIRMAN JABER: Okay. Parties?

21 MS. STERN: Yes, I do agree with that.

22 CHAIRMAN JABER: Okay. So Issue 42 will be revised
23 as you stated, Ms. Stern.

24 Issue 43 will move to the Category B stipulations.

25 And Issue 54, Mr. Burgess, you had, if I'm not

1 mistaken, you had the concern about Issue 54.

2 MR. BURGESS: Issue 54 would remain the same and our
3 position would change to reflect only the adjustment associated
4 with the allocation factor.

5 CHAIRMAN JABER: Okay. So you'll modify it by
6 Monday?

7 MR. BURGESS: Yes, Commissioner.

8 CHAIRMAN JABER: All right. Ms. Stern?

9 MS. STERN: All right. We have, we've split Issue 71
10 into two issues, 71A and 71B. I'll read them.

11 71A, "Should an adjustment be made to Customer
12 Accounts-Postage expense for the May 2003 projected test year?"

13 71B, "Should an adjustment be made to Customer
14 Records expense for the May 2003 projected test year?"

15 And this just, the, the parties will get us their new
16 language by Monday, if they haven't already given it to us.

17 CHAIRMAN JABER: Could I take you back, Ms. Stern, to
18 Issues 38 and 45?

19 MS. STERN: Yes.

20 CHAIRMAN JABER: I'd made a note that -- Mr. Burgess,
21 was that you? Someone questioned whether there was a
22 stipulation on Issue 38 in light of the fact that there was a
23 stipulation on 45.

24 MR. BURGESS: Commissioner, yes, that was the one
25 where Jeff asked me to take a look at 45 and see if that

1 allayed concerns we had. And from that both 38 and 45 can be
2 stipulated as far as -- in other words, we'll take no position.

3 CHAIRMAN JABER: Okay. So Issue 38 can be moved into
4 a Category B stipulation is what you're saying?

5 MS. STERN: There will have to be some changes in
6 position.

7 MR. STONE: We also in the break, we've added to our
8 position and Ms. Stern has the only copy with that addition,
9 but it is my understanding that with that addition Staff is
10 prepared to stipulate to Gulf's position.

11 MS. STERN: Yes. Yes.

12 CHAIRMAN JABER: You do agree, Ms. Stern?

13 MS. STERN: Yes, I agree.

14 CHAIRMAN JABER: And we'll be moving Issue 38 to the
15 Category B stipulation.

16 MS. STERN: Yes.

17 CHAIRMAN JABER: Okay.

18 MS. STERN: And the only other -- okay. And then
19 that leaves us with 123, which was the effect of the
20 stipulation from the previous rate case. And there's, we've
21 worked out language for Issue 123 which will allow us to
22 stipulate to that issue, a Category B stipulation.

23 CHAIRMAN JABER: Go ahead and read -- I'm interested
24 in what your language is for Issue --

25 MS. STERN: All right. Well, the issue has also

1 changed, too. The new Issue 123 is, "What impact does the
2 stipulation approved in Order Number PSC-99-2131-S-EI have on
3 the effective date of the rates approved in this docket? The
4 rates approved in this docket will be effective for bills
5 rendered on or after, one, the commercial in-service date of
6 Smith Unit 3 or, two, 30 days after the date of the
7 Commission's vote on this docket, whichever is later."

8 CHAIRMAN JABER: All right. And that will be
9 reflected under a Category B stipulation.

10 I had on my list that we were going to come back to
11 Issue 96, Ms. Stern.

12 MS. STERN: Yes. I think we had resolved that
13 actually in the first, you know, before the break. There
14 was -- Staff revised its position or Staff made a modification
15 to Gulf's position and said if Gulf accepted the modification,
16 we'd agree with, you know, we'd agree with Gulf, we'd have a
17 Class B stipulation. That modification referenced an
18 interrogatory. Gulf needed to see, Gulf needed to check on
19 our, on that interrogatory, but actually during the proceeding
20 Gulf checked on it.

21 MR. STONE: We did check with the added language and
22 we agreed with it.

23 CHAIRMAN JABER: Great. All right. That brings us
24 to Page 121 of the draft prehearing order.

25 MS. STERN: Oh, one, one, one more stipulation.

1 CHAIRMAN JABER: Okay.

2 MS. STERN: This is, this just happened during lunch.
3 It's not, it wasn't something that we needed to work on.

4 Staff and Gulf have a Category B stipulation on Issue
5 39. And I can, I can read that, if you'd like.

6 CHAIRMAN JABER: Yes.

7 MS. STERN: All right. "The appropriate inflation
8 factors are those shown in Staff interrogatory to Gulf Number
9 192. This results in a \$100,000 reduction in O&M expenses."

10 MR. STONE: And based on that language, Gulf agrees
11 with Staff's position.

12 MS. STERN: Okay.

13 MR. STONE: So I believe that would be shown as a
14 Category B stipulation.

15 CHAIRMAN JABER: Mr. Burgess, is this one that you
16 can't join in? Is this a Category B stipulation? Issue 39 is
17 on inflation factors.

18 MR. BURGESS: Yeah. I would just as soon not. It's
19 not something that we found anything to challenge, but nor did
20 we examine it and reach the conclusion affirmatively that it
21 was accurate.

22 CHAIRMAN JABER: All right. Any other issues that we
23 need to come back to?

24 MR. STONE: Yes, Commissioner. On Issues 17, 73 and
25 74 we have had an opportunity to take a look at our position,

1 and what we would propose to do in our position on those issues
2 is that we would adopt Staff's current position as it's been
3 handed out to us today on those issues and add at the end of
4 that language a sentence that's taken from our, it's basically
5 the last sentence in our position on each of those issues or
6 the last two sentences in some cases, but it's referring to a
7 depreciation exhibit, I mean, a rebuttal exhibit to
8 Mr. Labrato's testimony. And we're allowing everyone to know
9 that we will revise that rebuttal exhibit to reflect the
10 outcome of the vote at the, in the depreciation docket on
11 Tuesday. So what we're referring to is we're showing where the
12 calculation is and it will be in his rebuttal exhibit and it
13 will be a revised calculation based on the outcome of Tuesday's
14 docket.

15 CHAIRMAN JABER: You're going to revise your rebuttal
16 exhibit to make it consistent with the vote that comes out of
17 Tuesday's agenda?

18 MR. STONE: You said it much better than I did.

19 CHAIRMAN JABER: Okay. All right.

20 MR. STONE: And then also on -- we -- Issue 115,
21 Staff had given us language and we have reviewed it and we can
22 accept Staff's language on 115.

23 CHAIRMAN JABER: Mr. Burgess, it sounds like you all
24 have plenty of notice on that exhibit. Gulf Power has just put
25 you on notice that they're going to attempt to revise the

1 rebuttal exhibit to make it consistent with the vote that comes
2 out of Tuesday's agenda. I don't know what the outcome will
3 be, but that was Mr. Stone's way of putting everyone on notice.

4 MR. BURGESS: I understand. Thank you.

5 CHAIRMAN JABER: And, Mr. Stone, on Issue 115, what
6 were you saying?

7 MR. STONE: Staff before the break had handed us a
8 revised Staff position, and we have looked at the position and
9 consulted with our folks back in Pensacola and we accept
10 Staff's position and would agree to it.

11 CHAIRMAN JABER: Okay. Can this be a Category B
12 stipulation? No, because it's part of the cost of service
13 issues. Okay.

14 MS. STERN: Before we move on to the exhibits, I'd
15 sort of, I'd like to propose a change to the formatting of this
16 cost of service section.

17 I'd like for -- at the, at the heading where it says
18 "Cost of Service" we'd like to put a footnote number that says,
19 that explains that there's a stipulation, an omnibus
20 stipulation, as Mr. Stone referred to it and, you know, explain
21 it's attached. And also in that footnote I'd like to list the
22 issues to which Staff and Gulf agree if the stipulation is not
23 accepted by the Commission. So it's, it's either -- so they
24 can see either/or: How many issues get stipulated with the
25 stipulation, how many get stipulated independently.

1 CHAIRMAN JABER: Reaction from the parties? I don't
2 think that's a bad idea.

3 MR. ERICKSON: We think it's a good idea. It's
4 somewhat what I was suggesting earlier on. It's just a --
5 marry up the two documents. So I would agree with that. I
6 think that makes sense.

7 CHAIRMAN JABER: Okay. Thank you, Ms. Stern. Go
8 ahead and do that. And for Issue 115, did you get that Gulf
9 was agreeing with your position and you're going to modify that
10 issue?

11 MS. STERN: Yes. Yes.

12 CHAIRMAN JABER: Okay. Any other changes to any
13 other issues?

14 All right. Exhibits. I'm on Page 121. Are there
15 any changes or corrections to the entire exhibit list? I
16 noticed that there are some Staff composite exhibits. Ms.
17 Stern, have you discussed with the parties the possibility of
18 just having a composite Staff exhibit that could be stipulated?

19 MS. STERN: No, I haven't discussed that with them
20 and I'd like to raise that at this point.

21 If the parties feel they can stipulate in Staff's
22 composite exhibits, they're comprised of, primarily of Gulf's
23 responses to Staff's discovery requests.

24 MR. STONE: Gulf is not opposed to stipulating in
25 Staff's composite exhibit. However, to the extent that we have

1 other responses that are not part of the composite exhibit that
2 we think need to be included, in order to complete the record,
3 we would ask for an opportunity to, to add additional
4 interrogatory responses in, in another composite exhibit. We
5 have not had a chance to complete that review at this time.

6 CHAIRMAN JABER: Will it be complete by Monday close
7 of business?

8 MR. STONE: Yes. I knew I did not dare agree on
9 behalf of the folks that are going to be working on that until
10 they told me yes.

11 CHAIRMAN JABER: Ms. Kaufman? Mr. Burgess?

12 MR. BURGESS: I would agree with Mr. Stone's
13 position, and by Monday we will know if there's anything that
14 we believe is necessary to add to complete the record with
15 regard to the issues raised in, in these composite exhibits.

16 CHAIRMAN JABER: Okay. Mr. Shropshire?

17 MR. ERICKSON: Major Erickson. Erickson.

18 CHAIRMAN JABER: Oh, you're Erickson.

19 MR. ERICKSON: Shropshire is gone.

20 CHAIRMAN JABER: You let Shropshire go.

21 MR. ERICKSON: Yes. We have no objection.

22 CHAIRMAN JABER: Ms. Stern?

23 MS. KAUFMAN: Excuse me, Commissioner Jaber. I'm not
24 prepared at this time to agree to stipulate in Staff's
25 Composite Exhibit 2 dealing with cost of service. I need to go

1 back and look and see what that's comprised of and I just want
2 to put Staff on notice that I may have an objection to certain
3 portions.

4 CHAIRMAN JABER: Okay. Ms. Stern, what you can do is
5 let me know Monday, end of the day, Tuesday morning whether
6 that can be a stipulated exhibit and whether you've expanded it
7 to include anything that the parties would identify.

8 MS. STERN: Yeah. Yes.

9 MS. KAUFMAN: I just want to be clear, my,
10 Commissioner, my objection doesn't go to including additional
11 materials. Okay.

12 CHAIRMAN JABER: I understand. There may be a couple
13 of Staff exhibits that you don't want to stipulate to. I
14 understand.

15 MS. KAUFMAN: That's right. Thank you.

16 CHAIRMAN JABER: Just make sure Ms. Stern knows what
17 they are as soon as possible.

18 MS. KAUFMAN: I will do that.

19 MR. STONE: Commissioner Jaber?

20 CHAIRMAN JABER: Yes.

21 MR. STONE: One exhibit that's not on the list that
22 we feel needs to be on there, and we would like to sponsor the
23 entire set of Minimum Filing Requirements as filed on
24 September 10th as an exhibit.

25 CHAIRMAN JABER: You all forgot to identify your MFRs

1 as a composite exhibit?

2 MR. STONE: You caught me on that one.

3 CHAIRMAN JABER: All right. And who's sponsoring it,
4 Mr. Stone?

5 MR. STONE: They're, each of the witnesses sponsors a
6 portion of them. And the ones they are sponsoring is, it's
7 identified in their, their exhibits. We, we identified what
8 part they were sponsoring, we just forgot to identify the MFRs
9 themselves.

10 CHAIRMAN JABER: What would be easier though, to
11 identify that as a composite exhibit and move it in,
12 Mr. Melson, up-front? How, how should we handle that, as a
13 stipulated --

14 MR. MELSON: If, if the parties will stipulate it in,
15 that would be the easiest. When we have had not stipulations,
16 I've had situations where we identify them, each witness as
17 they get on the stand attest to their portion of them and then
18 the composite is moved at the end of the hearing. But it
19 seemed to me for the MFRs a stipulation ought to work.

20 CHAIRMAN JABER: Yeah. Ms. Kaufman and Mr. Burgess,
21 I, the hearing seems to move quicker if we just take all the
22 MFRs and identify them as a composite exhibit, identify it
23 early on in the hearing and admit it into the record at the end
24 of the hearing.

25 MS. KAUFMAN: I have no objection to that,

1 Commissioner.

2 CHAIRMAN JABER: Okay. All right.

3 MR. BURGESS: That's fine with us.

4 CHAIRMAN JABER: Ms. Stern, go ahead and do that.

5 Identify it as a composite exhibit and add it to the prehearing
6 order. And, Mr. Stone, I'll leave it up to you at the
7 beginning of the hearing to remind us that we need to deal with
8 the MFRs first thing.

9 MR. STONE: Thank you.

10 CHAIRMAN JABER: All right. Obviously there are
11 changes to the proposed stipulations in accordance with the
12 discussion we had today, Ms. Stern, but do you --

13 MR. STONE: One more thing on the exhibit list.

14 CHAIRMAN JABER: Uh-huh.

15 MR. STONE: There is a misspelling on one of the
16 exhibits. It refers to "Susan Retainer" and it should be
17 "Susan Ritenour."

18 MS. STERN: Where is that?

19 CHAIRMAN JABER: What page, Mr. Stone?

20 MR. STONE: I apologize. I knew where it was on the
21 earlier draft. I'm told it's at 133. Yes. It's Staff 8.

22 CHAIRMAN JABER: Spell her last name for me.

23 MR. STONE: R-I-T-E-N-O-U-R.

24 CHAIRMAN JABER: All right. Any other changes? All
25 right.

1 I'm on proposed stipulations. Are there any changes
2 to what you had already identified as a proposed stipulation?

3 MS. STERN: There are none on Staff's part. There
4 was --

5 CHAIRMAN JABER: And, again, you're going to change
6 the format, Ms. Stern.

7 MS. STERN: Yes. And I just want to double check on
8 Issue 122. That language, Gulf has changed its language on
9 Issue 122. Well, we changed the language we all agreed to on
10 Issue 122, so.

11 MR. STONE: Right.

12 CHAIRMAN JABER: And you have that, Ms. Stern; right?

13 MS. STERN: Yes, we have it. So these, all these
14 stipulations, essentially this section is going to be
15 eliminated, and just in a footnote that describes, that
16 explains the omnibus stipulation we're going to list these.

17 MS. KAUFMAN: I don't think there is --

18 CHAIRMAN JABER: Not all the stipulations will be
19 eliminated; just the ones from the Cost of Service section.

20 MS. STERN: Yes. That's correct.

21 MS. KAUFMAN: I was just going to say, I think that
22 includes 122 that's in the cost of service.

23 MS. STERN: Yes. I understand.

24 MS. KAUFMAN: Okay.

25 CHAIRMAN JABER: All right. Pending motions?

1 Pending confidentiality matters?

2 MR. STONE: I believe that there will be one more
3 request for confidentiality and there may be a modification to
4 one that's already been filed.

5 CHAIRMAN JABER: Staff, do you intend to have an
6 order to address these prior to the hearing?

7 MS. STERN: We're, we're trying to. I think we
8 have -- I believe the, the Fisher request might take longer.
9 We're having a few problems with that.

10 CHAIRMAN JABER: Okay. Let's take them one at a
11 time. The request for confidential classification for the
12 portions of the rate case audit, that was the Staff audit
13 report?

14 MS. STERN: Yes.

15 CHAIRMAN JABER: So that request --

16 MS. STERN: Okay. The request under number one is
17 the one that's taking longer. I'm sorry. And we're not
18 expecting it to be done before the hearing.

19 CHAIRMAN JABER: All right. Let's do this. To the
20 degree you can get any of these in an order to me before the
21 hearing, my preference is to issue a ruling prior to the
22 hearing. If we are not able to do that, please be advised to
23 treat this information as confidential through the, through the
24 hearing and a ruling will be made subsequent to the hearing.

25 Staff, let me put you on notice. This stuff needs to

1 be acted on quickly. I mean, the audit report, those, we would
2 have --

3 MS. STERN: Yeah.

4 CHAIRMAN JABER: -- received this a long time ago, if
5 I'm not mistaken. So let's make sure we're acting on these
6 quickly.

7 MR. BURGESS: Commissioner, with regard to that, and
8 I don't know where this fits in on how you're going to rule,
9 but one of our witnesses, Mr. Schultz, raised an issue on the
10 incentive compensation program and that incorporated
11 information from confidential documents. So I suppose that
12 will need a ruling as well.

13 CHAIRMAN JABER: Is that part of an exhibit,
14 Mr. Burgess?

15 MR. BURGESS: I don't believe it's part of an
16 exhibit. I have to check. It is part of the testimony of
17 Mr. Schultz, and I don't know if -- okay. Oh, okay. Okay.
18 I'm sorry. Gulf has included it in their pending
19 confidentiality request matters, so it's covered. Thank you.

20 CHAIRMAN JABER: Okay. Good. And, you know, and
21 during the hearing make us aware, remind us what information
22 is, is to be afforded confidential treatment.

23 Mr. Erickson, in the event you do participate in the
24 hearing, please go back to the order on procedure and to the
25 terms in the prehearing order and read and make sure you

1 understand how the hearing is conducted when there is
2 confidential material. And that's just a caution to all the
3 parties. Make sure you're using the red folders, make sure
4 you're following our procedures in treating this information as
5 carefully as possible.

6 All right. Anything else to come before us before we
7 adjourn the prehearing conference?

8 Okay. I want to thank all the parties for their
9 patience, for their diligence in how this was handled. Ms.
10 Stern, great job. Thank you. This prehearing is adjourned.

11 (Proceeding adjourned at 2:41. p.m.)

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STATE OF FLORIDA)

COUNTY OF LEON)


CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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

DATED THIS 20th DAY OF FEBRUARY, 2002.


LINDA BOLES, RPR
FPSC Official Commissioner Reporter
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