

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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VOLUME 1

Pages 1 through 49



PROCEEDINGS: HEARING

BEFORE: CHAIRMAN LILA A. JABER
COMMISSIONER J. TERRY DEASON
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI
COMMISSIONER RUDOLPH "RUDY" BRADLEY

DATE: Monday, February 25, 2002

TIME: Commenced at 9:30 a.m.

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

REPORTED BY: LINDA BOLES, RPR
Official FPSC Reporter
(850) 413-6734

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1 APPEARANCES:

2 JEFFREY A. STONE, RUSSELL BADDERS and ANDREW KENT,
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5 D. MELSON, Hopping, Green & Sams, 123 South Calhoun Street,
6 Tallahassee, Florida 32301, appearing on behalf of Gulf Power
7 Company.

8 JOHN W. McWHIRTER, JR, McWhirter, Reeves,
9 McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.A,
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11 and VICKI GORDON KAUFMAN and TIMOTHY PERRY, McWhirter, Reeves,
12 McGlothlin, Davidson, Dekker, Kaufman, Arnold & Steen, 117
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14 behalf of Florida Industrial Power Users Group.

15 ALLEN ERICKSON, Major, and DOUGLAS A. SHROPSHIRE,
16 Lieutenant Colonel, USAFR, c/o USAF Utility Litigation Team
17 AFCESA/ULT, 139 Barnes Drive, Tyndall AFB, Florida 32403,
18 appearing on behalf of Federal Executive Agencies.

19 MICHAEL A. GROSS, Regulatory Affairs & Regulatory
20 Counsel, 246 East 6th Avenue, Tallahassee, Florida 32303,
21 appearing on behalf of Florida Cable Telecommunications
22 Association.

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1 APPEARANCES CONTINUED:

2 STEPHEN C. BURGESS, Deputy Public Counsel, Office of
3 Public Counsel, 111 West Madison Street, Room 812, Tallahassee,
4 Florida 32399-1400, appearing on behalf of the Citizens of the
5 State of Florida.

6 MARLENE K. STERN, LAWRENCE D. HARRIS, ROBERT V. ELIAS
7 and LORENA ESPINOZA, Florida Public Service Commission,
8 Division of Legal Services, 2540 Shumard Oak Boulevard,
9 Tallahassee, Florida 32399-0870, appearing on behalf of the
10 Commission Staff.

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EXHIBITS

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	NUMBER:		ID.	ADMTD.
	1	(Staff Composite Exhibit 1)	24	31
	2	(Staff Composite Exhibit 2)	25	31
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	14	(Staff's Rothschild Depo and Exhibits)	28	31
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1 EXHIBITS CONTINUED:

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3	22	(Gulf's Response to OPC's Request For Production Number 12)	31	31
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4	23	(NARUC Electric Utility Cost Allocation Manual)	36	36
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5	24	(Gulf's Composite Exhibit 1)	39	39
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P R O C E E D I N G S

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CHAIRMAN JABER: Good morning. Okay. We have a lot to do today. Before we read the notice and do anything else, let me throw out a challenge. Let's -- the challenge is, Commissioners, that we finish this hearing in three days. It's noticed for five, but, you know, three days are a wonderful thing.

Staff, read the notice.

MS. STERN: By notice published on February 8th, 2002, in the Florida Administrative Weekly, this time and place were set for a hearing in Docket Number 010949-EI. The purpose of the hearing was as set forth in the notice.

CHAIRMAN JABER: Thank you, Ms. Stern. Let's take appearances.

MR. SHROPSHIRE: For the Federal Executive Agencies, ma'am, my name is Douglas Shropshire.

MR. ERICKSON: For FEA, Major Al Erickson.

MS. KAUFMAN: Vicki Gordon Kaufman, John McWhirter and Tim Perry of the McWhirter, Reeves Law Firm for the Florida Industrial Power Users Group.

MR. BURGESS: Steve Burgess on behalf of the Office of Public Counsel representing the Citizens of the State of Florida.

MR. STONE: Jeffrey A. Stone, Russell A. Badders, R. Andrew Kent of the Beggs & Lane Law Firm and Richard D. Melson

1 of the Hopping, Green & Sams Law Firm representing Gulf Power
2 Company.

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

4 MS. STERN: Marlene Stern on behalf of the
5 Commission. In addition, appearing are also Bob Elias,
6 Lawrence Harris and Lorena Espinoza.

7 CHAIRMAN JABER: Thank you. Ms. Stern, we have a
8 number of preliminary matters. You want to walk us through
9 them and include at the end stipulations, and we'll try to get
10 some of those out of the way as well.

11 MS. STERN: Okay. The -- you just want an overview
12 of all the preliminary matters that we have; right?

13 CHAIRMAN JABER: Let's take them one at a time.

14 MS. STERN: Okay.

15 CHAIRMAN JABER: But conclude with stipulations so
16 that we can perhaps take care of it with one motion.

17 MS. STERN: Okay. We passed out an order amending
18 the prehearing order and at this, at this point I wanted to
19 make, we want to make sure that there are no other changes that
20 the parties have to make.

21 CHAIRMAN JABER: Okay. Commissioners, do you have a
22 copy of an amendatory order that was issued just this morning?

23 COMMISSIONER BRADLEY: Yes.

24 CHAIRMAN JABER: Okay. All right. Are there changes
25 to amendatory order 02-0219A? Parties, I know you got this

1 this morning, so if you need some time to take a look at the
2 revised positions, let me know.

3 Okay. Silence means there are no other changes to
4 the prehearing order.

5 MR. BURGESS: Commissioner, if I might say, there
6 appear to be none. Perhaps, I mean, some might appear as we
7 proceed, but I've looked through it and there appear to be none
8 as far as this party is concerned.

9 CHAIRMAN JABER: Okay. Thank you. And we do
10 apologize for the confusion apparently with the number of
11 changes. We were having some computer problems Thursday and
12 Friday. So if this has caused anyone an inconvenience, we do
13 apologize for that.

14 Okay. Ms. Stern, next.

15 MR. STONE: Commissioner Jaber, if I may.

16 CHAIRMAN JABER: Yes.

17 MR. STONE: There's one item that's not listed in the
18 amendatory order and there may be, there may be a more
19 appropriate time to take it up but I would just mention it now.
20 At the prehearing conference, and I'm referring to transcript
21 Page 81 starting at Line 22 through Page 82 at Line 25, there
22 was a discussion about showing Issue 78 as a, what I believe is
23 now categorized as a Category 2 stipulation. And in order to
24 facilitate adding that Issue 78 to the proposed list of
25 stipulations, Gulf would agree with Staff, and if you wanted to

1 take that up at, at, with the other stipulations.

2 CHAIRMAN JABER: Yeah. Let's do that with all the
3 stipulations. Just remind us, please.

4 MS. STERN: I'm sorry?

5 CHAIRMAN JABER: That was Issue 78, Ms. Stern. Gulf
6 is representing that they agree with Staff's position on Issue
7 78 and it looks like a Category 2 stipulation.

8 MS. STERN: Yes. Okay.

9 CHAIRMAN JABER: So in the discussion of
10 stipulations, remind us to take that up.

11 MS. STERN: Yes.

12 CHAIRMAN JABER: All right. What's next, Ms. Stern?

13 MS. STERN: The, there was a stipulation filed
14 proposing to resolve all the cost-of-service issues. That
15 stipulation has been withdrawn and at this point there are a
16 number of cost-of-service issues that Staff and Gulf agree to
17 that can be, could be stipulated into the record if the other
18 parties agree.

19 CHAIRMAN JABER: Okay. Let's acknowledge that the
20 original proposed stipulation of the cost-of-service issues has
21 been withdrawn. And that leaves a number of issues that look
22 like Staff and the utility were in agreement on.

23 And let's see. Ms. Kaufman, you'd represented to me
24 at the prehearing conference that you would not at that point
25 be willing to agree to stipulating those issues. Can you

1 update us?

2 MS. KAUFMAN: Yes, ma'am, I can. And at this point
3 in time I think we have narrowed in on the cost-of-service
4 issues that are in dispute and that we would be willing to
5 stipulate these other issues, and I think they are
6 appropriately represented on the handout.

7 CHAIRMAN JABER: Tell me what those issue numbers
8 are, Ms. Kaufman.

9 MS. KAUFMAN: I believe 85 through 87, 94, 95, 96,
10 100, and I believe it's 102 through 122.

11 CHAIRMAN JABER: FEA, do you agree that those
12 issues -- you can agree to stipulating those issues?

13 MR. ERICKSON: Yes, ma'am.

14 CHAIRMAN JABER: Okay. OPC?

15 MR. BURGESS: Commissioner, we take no position on
16 those issues.

17 CHAIRMAN JABER: Okay.

18 MR. STONE: Commissioner, if I may, a late-breaking
19 effort between Gulf and Staff, I believe we can also add Issue
20 101 to that list.

21 CHAIRMAN JABER: Ms. Kaufman, you want to take a look
22 at 101, please?

23 MS. KAUFMAN: Yes. And, Chairman Jaber, FIPUG's
24 position would be no position on those issues, not that we
25 agree with the position.

1 CHAIRMAN JABER: On the issue numbers that you read
2 out to me?

3 MS. KAUFMAN: Yes, ma'am.

4 CHAIRMAN JABER: Okay. So it's FIPUG, FEA, OPC take
5 no position on the issues you read out?

6 MS. KAUFMAN: That would be correct.

7 CHAIRMAN JABER: Okay. And that includes 101?

8 MS. KAUFMAN: Yes, ma'am.

9 MR. GROSS: FCTA takes no position.

10 CHAIRMAN JABER: Thank you, Mr. Gross.

11 Okay. Staff, that would make it a category what
12 stipulation?

13 MS. STERN: A Category 5.

14 CHAIRMAN JABER: Thank you. Okay. Ms. Stern, what
15 else?

16 MS. STERN: All right. We next have a proposed
17 stipulation to resolve the depreciation issues in the docket.

18 CHAIRMAN JABER: Okay. Mr. Stone, you filed that
19 stipulation, didn't you?

20 MR. STONE: I did on behalf of the Office of Public
21 Counsel, the Federal Executive Agencies, the Florida Industrial
22 Power Users Group and Gulf Power Company.

23 CHAIRMAN JABER: Okay. Let's take that one up by
24 itself, and could you brief all of the Commissioners in the
25 event any Commissioner has a question of you?

1 MR. STONE: Certainly. The stipulation which was
2 filed on Friday afternoon takes care of Issues 17, 18, 73, 74
3 and 75. These are the five issues that have been identified in
4 this proceeding as depreciation-related issues.

5 The, as you recall last Tuesday, the Commission gave
6 unanimous approval to a PAA order to be issued in our
7 depreciation docket and the parties have agreed that it is more
8 appropriate to deal with the depreciation issues in this docket
9 and have reached agreement on how those issues should be
10 resolved. That agreement is to stipulate to a 25-year life on
11 Smith Unit 3, and we have redone the calculation based on that
12 25-year life. And as is stated in the stipulation document, it
13 results in an adjustment to depreciation expense for the test
14 year of \$2,041,000, that's \$2,117,000 on system basis. And the
15 level of accumulated depreciation for the test year should be
16 reduced by \$1,019,000, and that would be \$1,057,000 system.
17 And as a result of those changes we were able to stipulate all
18 five of the issues, recognizing, of course, that depending on
19 the outcome of some other issues in the case there may be
20 fallout changes to accumulated depreciation and depreciation
21 expense that would affect Issue 18 and Issue 75. But as far as
22 the depreciation rates themselves, they would be taken care of
23 by this stipulation.

24 As a consequence of this stipulation, the issue, the
25 PAA order that was approved last Tuesday in the depreciation

1 docket will not be entered and that docket will be closed
2 immediately upon a vote to accept this stipulation. And that's
3 a summary of the stipulation. There may be further details, if
4 you have any questions.

5 CHAIRMAN JABER: Commissioners, do you have any
6 questions? And if you don't, I'll need a motion on that
7 proposed stipulation.

8 COMMISSIONER DEASON: Well, I think I have one quick
9 question I think Mr. Stone has addressed.

10 First of all, I want to thank the parties for
11 addressing this on such a short timeframe. I guess it was just
12 the necessity of the, the timing of the PAA order and the
13 timing of this rate case, and I, I appreciate and congratulate
14 the parties on being able to address this on, on such a short
15 timeframe.

16 The status of the PAA order, it will just, that order
17 will never be issued and the, the effect of the stipulation is
18 not only will it establish the rates which would apply in this
19 rate proceeding, it will be the depreciation rates which will
20 be in effect for the next four years and will be the
21 Commission-approved depreciation rates for that period of time.

22 MR. STONE: That is correct.

23 COMMISSIONER DEASON: Okay.

24 CHAIRMAN JABER: But legally -- I'm fine with not
25 issuing the PAA orders, Legal Staff, but isn't it cleaner to

1 actually vacate our decision from the last agenda or --

2 MS. STERN: What we're, what we would propose is that
3 Staff would bring down a recommendation saying a vote, the vote
4 to accept the stipulation renders the vote in Docket 789,
5 010789 moot, that the, that the depreciation study, Docket 789
6 should be closed administratively. I don't believe the
7 language of this stipulation precludes that closing
8 administratively.

9 CHAIRMAN JABER: Can't we do that for you today and
10 spare you writing a recommendation to take to the next agenda?
11 Can't we include that in the motion today?

12 MS. STERN: I think so, yes.

13 COMMISSIONER DEASON: Well, I guess -- I'm sorry.
14 How should we handle it, Madam Chairman, legally in your
15 opinion?

16 CHAIRMAN JABER: My, my thought, and Legal Staff is
17 going to have to correct me if I'm wrong, but if we approve the
18 stipulation today, the Commissioner that makes the motion could
19 also add to his motion that the vote we made at the last
20 Tuesday agenda, I've forgotten the date, is rendered moot by
21 our acceptance of the stipulation today.

22 COMMISSIONER DEASON: Okay.

23 MS. STERN: And that Docket 789 should be closed
24 administratively so that an order will not be issued, you know,
25 closing the docket.

1 COMMISSIONER DEASON: So by a previous stipulation we
2 would be in essence finding that that, that PAA, a pending PAA
3 order would become moot and that would allow Staff to close the
4 depreciation docket administratively; is that correct?

5 MS. STERN: That's correct.

6 COMMISSIONER DEASON: Is there any objection to that
7 by any of the parties?

8 MR. STONE: That is exactly what was contemplated by
9 our stipulation.

10 COMMISSIONER DEASON: Well, Madam Chairman, I would
11 move that we approve the stipulation and that we would
12 recognize that the pending PAA order in the depreciation docket
13 is now moot and would allow Staff to close the depreciation
14 docket administratively.

15 CHAIRMAN JABER: Okay. I have a motion. Is there a
16 second?

17 COMMISSIONER PALECKI: Second.

18 CHAIRMAN JABER: Okay. There's been a motion and a
19 second. All those in favor, say aye. Opposed, nay.

20 (Simultaneous affirmative vote.)

21 CHAIRMAN JABER: Okay. Show the depreciation
22 stipulation accepted. And I, too, want to commend the parties.
23 I know that you worked on this diligently over the weekend
24 because I was getting Staff E-mails on Sunday. So I really
25 appreciate your hard work on that.

1 Commissioners, let's go to the proposed stipulations
2 in the prehearing orders. And, Staff, don't let us forget
3 anything, but I'm thinking we can take up Category 1 through 4
4 because it seems like the amendments and the modifications come
5 to Category 5; is that correct?

6 MR. STONE: I think so.

7 CHAIRMAN JABER: Okay. Commissioners, do I have a
8 motion to accept Category 1 through 4 stipulations?

9 COMMISSIONER DEASON: So --

10 COMMISSIONER PALECKI: Madam Chairman --

11 COMMISSIONER DEASON: Go ahead.

12 COMMISSIONER PALECKI: Madam Chairman, I would so
13 move.

14 COMMISSIONER DEASON: Second.

15 CHAIRMAN JABER: Okay. There's been a motion and a
16 second to accept Category 1 through 4 stipulations. All those
17 in favor, say aye. Opposed, nay.

18 (Simultaneous affirmative vote.)

19 CHAIRMAN JABER: Okay. Those are accepted
20 unanimously.

21 And, Ms. Stern, that brings us to Category 5. And
22 I've got that we have to add Issues 85 through 87, 94 through
23 96, 100 through 122.

24 Now Issue 78, Mr. Stone, what were you saying about
25 that?

1 MR. STONE: Since we have changed our position to
2 agree with Staff, we believe it can also be shown as a Category
3 5 stipulation.

4 CHAIRMAN JABER: Parties, any objection to including
5 Issue 78?

6 MR. HARRIS: If I could have a little verification
7 from Mr. Stone. Your position on 78 is going to be agree with
8 Staff?

9 MR. STONE: That is our position on 78. And as I
10 understand it then, that would allow the stipulation to read,
11 "Gross receipts tax should be removed from base rates and
12 shown on customer bills as a separate line item."

13 MR. HARRIS: That's appropriate.

14 CHAIRMAN JABER: FEA, you were about to say
15 something?

16 MR. ERICKSON: No objection.

17 CHAIRMAN JABER: Okay. FIPUG, OPC?

18 MR. BURGESS: We have no position. I don't, I think
19 that's Category 5, consistent with Category 5.

20 CHAIRMAN JABER: Okay. All right. Commissioners, a
21 motion on Category 5 stipulations with the modifications made
22 this morning?

23 COMMISSIONER PALECKI: Madam Chairman, I would move
24 that we accept the Category 5 stipulations as amended this
25 morning.

1 COMMISSIONER BAEZ: Second.

2 CHAIRMAN JABER: All those in favor, say aye.

3 (Simultaneous affirmative vote.)

4 CHAIRMAN JABER: Okay. Category 5 stipulations are
5 accepted, Ms. Stern.

6 Now the amendatory order, I think we just included
7 all of those stipulations in the motions that were made this
8 morning, right, Marlene?

9 MS. STERN: Yes. Okay. We do have still all the
10 exhibits in the prehearing order that we have to address.

11 CHAIRMAN JABER: Right. All right. Parties, have we
12 forgotten any other stipulations before we move on?

13 MR. BURGESS: Commissioner, we have a couple of more
14 proposed stipulations, but they are not included in, in what's
15 been written. I don't know if you want to move on through the
16 other matters first or if you want to go ahead and take them
17 up.

18 CHAIRMAN JABER: Let's, let's do the stipulations.
19 What do you have, Mr. Burgess?

20 MR. BURGESS: We had arrived at an agreement on
21 procedure with regard to the cost of capital issues, and I look
22 for Jeff or the Staff to, to fill in or to correct me if they
23 perceive any error, but basically what we have agreed to is
24 that none of us have, none of us as parties have any
25 cross-examination for the other parties' witnesses in the area

1 of cost of capital, that the testimony of Mr. Benore would take
2 place in the order as presented in the prehearing order, and he
3 would be followed immediately by Mr. Rothschild and, following
4 that, Mr. Benore would be on the stand for his rebuttal
5 testimony. However, since it's agreed that there is no cross
6 by the parties, they would, each witness in turn would simply
7 give their summary and they would not stand for
8 cross-examination except to the extent that the Commissioners
9 have any questions or parties that are not subject to the
10 stipulation choose to question, although my understanding is
11 that there are no questions.

12 CHAIRMAN JABER: And, Mr. Burgess, just to clarify,
13 you would actually suggest that we take up Mr. Benore before
14 the very first witness shown on the prehearing order,
15 Mr. Bowden? I guess it's Bowden; right?

16 MR. BURGESS: It was not my understanding that that's
17 what we were, what we were contemplating. However, I would
18 have no objection to that, if Gulf has no objection, Staff nor
19 other parties have no objection.

20 MR. STONE: We had contemplated that we would take
21 Mr. Benore in the order that he appears the first time, but
22 that we would take Mr. Rothschild and Mr. Benore's rebuttal out
23 of turn at that point so that Mr. Bowden would still be the
24 first witness.

25 CHAIRMAN JABER: Okay. Commissioners --

1 MR. ELIAS: Madam Chairman, there's one other aspect
2 to that stipulation. There are certain exhibits including the
3 prefiled, the deposition transcripts of Misters Benore and
4 Rothschild that Staff would offer into evidence without
5 objection of the parties, and that would be the basis for our
6 ability to waive cross-examination.

7 MR. BURGESS: That was an integral part of the
8 stipulation.

9 MR. STONE: Yes, it was.

10 CHAIRMAN JABER: Okay. Great. Commissioners, I was
11 going to allow that change in the procedure, assuming you all
12 do not have any objections to it.

13 COMMISSIONER PALECKI: No.

14 COMMISSIONER DEASON: No objection.

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

16 MR. BURGESS: Commissioner, we have one more. Again,
17 it's -- well, one substance and one procedure rolled into one.

18 Issue 42 is an issue that the Citizens would be
19 willing to agree with Gulf Power on at this point. It is an
20 issue that our witness Kim, Kimberly Dismukes was going to
21 testify to. She has two other issues that she was testifying
22 to as well. The agreement that we reached with Gulf Power and
23 with the Staff is that they have no cross-examination for
24 Ms. Dismukes outside of that issue. And given that we've
25 removed that issue, there is no cross-examination. I would ask

1 if she might be excused from appearing in light of the
2 agreements of the parties.

3 CHAIRMAN JABER: And we would just move her testimony
4 in the record without cross-examination?

5 MR. BURGESS: Correct. There are --

6 CHAIRMAN JABER: Gulf, any --

7 MR. BURGESS: Excuse me. I'm sorry.

8 CHAIRMAN JABER: That's okay.

9 MR. BURGESS: I have not spoken with all of the
10 parties on this. simply Staff and Gulf.

11 CHAIRMAN JABER: Okay. All right. Let's start with
12 Gulf. You have no objection to that?

13 MR. STONE: Mr. Burgess has stated our agreement
14 correctly. We would also add that we would hope to be able to
15 move Issue 42 as an addition to the Category 5 stipulations.

16 MR. BURGESS: That, that would be acceptable to us.

17 CHAIRMAN JABER: Okay. And FIPUG, FEA?

18 MS. KAUFMAN: We have no objection.

19 CHAIRMAN JABER: Okay.

20 MR. ERICKSON: No objection.

21 CHAIRMAN JABER: Thank you.

22 COMMISSIONER DEASON: I have a question. What is the
23 status of the -- what is the stipulation? What are you
24 stipulating to, Mr. Burgess?

25 MR. BURGESS: We are agreeing to the amounts. There

1 was an amount that Ms. Dismukes identified as expenses
2 associated, attributable to wholesale sales that she thought
3 should be removed. And upon reexamination we believe that
4 while they are associated with wholesale sales, they are
5 properly attributable as expenses to the retail ratepayer.

6 COMMISSIONER DEASON: Very good. Thank you for that
7 clarification.

8 MR. STONE: I misspoke briefly about which category
9 stipulation it is in because, since OPC agrees with us, it's
10 actually in a different category. And I'm having to look to
11 see which definition it fits under.

12 CHAIRMAN JABER: So which category would that be?

13 MR. STONE: I believe it would be Category 6, which
14 does not exist yet.

15 CHAIRMAN JABER: You don't get to create new
16 categories.

17 COMMISSIONER DEASON: I believe we could just
18 address, address it on its own as a stipulation for Issue 42.

19 CHAIRMAN JABER: Thank you, Commissioner Deason.

20 COMMISSIONER DEASON: And with the understanding as
21 has been described here, I would move adoption of that
22 stipulation.

23 COMMISSIONER PALECKI: Second.

24 CHAIRMAN JABER: Okay. There's a motion and a second
25 to accept the stipulation on Issue 42. All those in favor, say

1 aye. Opposed, nay.

2 (Simultaneous affirmative vote.)

3 CHAIRMAN JABER: Okay. That resolves Issue 42. And,
4 Mr. Burgess, when it's time to move in the testimony for
5 Ms. Dismukes, just remind me.

6 MR. BURGESS: Thank you.

7 CHAIRMAN JABER: Anything else?

8 Okay. Ms. Stern, what's left?

9 MS. STERN: Well, there are a number of exhibits,
10 deposition transcripts in the prehearing order that we'd like
11 to see if, if existing stipulations could be approved by the
12 Commission and we'd like to see if the parties would agree to
13 some additional stipulations. Then there is also an
14 outstanding motion for judicial notice.

15 So at this point it might be easiest just to deal
16 with all the exhibits and depositions from the prehearing order
17 and then take the motion up at the end of all that.

18 CHAIRMAN JABER: Sounds good. You want to go through
19 the list and we'll identify them and admit them into the
20 record.

21 MS. STERN: Okay. We have Staff Composite Exhibits 1
22 through 7, which the parties have agreed to stipulate,
23 stipulate into the record. And so at this point we need a
24 Commission decision on, on those composite exhibits.

25 CHAIRMAN JABER: Okay. So Staff Composite Exhibit 1

1 through 7. Where are those outlined, Marlene?

2 MR. ELIAS: Beginning of Page 112.

3 CHAIRMAN JABER: Thank you. Okay. Staff Composite
4 Exhibit 1 through Exhibit 7 identified as Exhibit 1 for the
5 hearing.

6 What's your next exhibit?

7 MS. STERN: Staff Composite Exhibit 2.

8 I'm sorry. Next we have the deposition transcripts.

9 MR. STONE: May I speak up quickly before we get too
10 far?

11 CHAIRMAN JABER: Yes. Yes.

12 MR. STONE: It may be helpful in citing these in the
13 briefs if the composite exhibits had separate issue numbers, I
14 mean, exhibit numbers.

15 CHAIRMAN JABER: They're pretty comprehensive?

16 MR. STONE: Yes, they are. And they are broken down
17 somewhat in the way they're set up as composite exhibits. So
18 if they were numbered 1 through, Exhibits 1 through 7, that
19 might facilitate helping people when we cite them in the
20 briefs.

21 CHAIRMAN JABER: Okay. Thank you, Mr. Stone.

22 Staff Exhibit 1 is identified as Exhibit 1 for the
23 hearing.

24 (Exhibit Number 1 marked for identification.)

25 CHAIRMAN JABER: Staff Exhibit 2 will be --

1 MS. STERN: Excuse me. Could you identify these as
2 composite exhibits, Staff Composite Exhibit 1?

3 CHAIRMAN JABER: Sure.

4 MS. STERN: Because later there is just a Staff
5 Exhibit 1.

6 COMMISSIONER JABER: Sure.

7 MS. STERN: Okay.

8 CHAIRMAN JABER: Staff Composite Exhibit 2 will be
9 Composite Exhibit 2 for the hearing. Staff Composite Exhibit 3
10 will be a Composite Exhibit 3 for the hearing. Staff's
11 Composite Exhibit 4 will be Composite Exhibit 4 for the
12 hearing. Staff Composite 5 will be Exhibit 5 for the hearing.
13 Staff Composite 6 will be Exhibit 6 for the hearing. Staff
14 Composite 7 will be Composite Exhibit 7 for the hearing.

15 (Exhibits 2, 3, 4, 5, 6 and 7 marked for
16 identification.)

17 MS. STERN: Now we have three newly composed
18 composite exhibits, 8, 9 and 10, which we've made the parties
19 aware that we would like these to be stipulated into the
20 record. And I, I guess at this point we need to find out if
21 the parties have any objection to that.

22 CHAIRMAN JABER: What are they, Ms. Stern?

23 MS. STERN: Staff Composite Exhibit 8 addresses the
24 storm reserve and it includes interrog, Gulf's response to
25 Staff's Interrogatories 51 and 120. Staff Composite Exhibit 9

1 addresses relocation expense and includes Gulf's responses to
2 Staff's Interrogatories 190 and 224. And Staff's Composite
3 Exhibit 10 addresses the return on the third floor and it
4 includes Gulf's responses to Staff's Interrogatories 48, 65 and
5 66.

6 CHAIRMAN JABER: What was the first thing you said,
7 Ms. Stern? It's the return on the third floor?

8 MS. STERN: Return on the third floor of the
9 corporate office.

10 CHAIRMAN JABER: Okay. Is there any objection to
11 Staff Composite Exhibit 8, 9 and 10?

12 MR. STONE: None from the company.

13 (Exhibits 8, 9 and 10 marked for identification.)

14 CHAIRMAN JABER: Thank you. All right. What's next,
15 Ms. Stern?

16 MR. STONE: Commissioner Jaber, one thing I need to
17 comment upon. Staff Composite Exhibit 7, which is identified
18 as Exhibit 7 in the hearing, is actually confidential. And
19 that was noted as such in the prehearing order and I just
20 wanted to make sure that we called that to your attention.

21 CHAIRMAN JABER: Thank you. Staff Composite Exhibit
22 7 is a confidential exhibit. Staff Composite Exhibit 8, Staff
23 composite Exhibit 9 and Staff Composite Exhibit 10 will be
24 identified for purposes of the hearing as Composite Exhibits 8,
25 9 and 10 respectively.

1 Okay, Ms. Stern.

2 MS. STERN: Next we have, we would like to move into
3 the record Staff Exhibit 1, which is the deposition transcript
4 and exhibits of Mr. Labrato.

5 CHAIRMAN JABER: Marlene, I'm having trouble hearing
6 you.

7 MS. STERN: I'm sorry. The deposition transcript and
8 exhibits of Gulf witness Labrato. We'd like, at this point
9 we'd like to see if there are any objections from the parties
10 to stipulating that in.

11 MR. STONE: No objection.

12 MR. ERICKSON: No objection.

13 CHAIRMAN JABER: Okay. Staff depo transcript from
14 Mr. Labrato's deposition will be identified as Exhibit 11.

15 (Exhibit 11 marked for identification.)

16 MS. STERN: The next deposition is the deposition
17 transcript and exhibits of Mr. Fisher.

18 CHAIRMAN JABER: The deposition transcript of
19 Mr. Fisher will be identified as Exhibit 12.

20 (Exhibit 12 marked for identification.)

21 MS. STERN: Now we've already, the Commission has
22 already accepted into the record as a stipulation the
23 transcript, the deposition transcript and exhibit of
24 Mr. Benore, but it still needs to have a number assigned to it.

25 CHAIRMAN JABER: Okay. The depo transcript of

1 Mr. Benore is identified as Exhibit 13.

2 (Exhibit 13 marked for identification.)

3 MS. STERN: And the same with the deposition
4 transcript and exhibits of Mr. Rothschild, that's been
5 stipulated in but needs an exhibit number.

6 CHAIRMAN JABER: Okay. That will be Exhibit 14.

7 (Exhibit 14 marked for identification.)

8 MS. STERN: We have next the deposition transcript
9 and exhibits of Mr. Majoros, which was actually stipulated in
10 the prehearing, well, prehearing order, but the Commission
11 needs to vote on that and --

12 CHAIRMAN JABER: Okay. The deposition transcript of
13 Mr. Majoros will be identified as Exhibit 15.

14 (Exhibit 15 marked for identification.)

15 MS. STERN: Deposition transcript and exhibits of
16 Mr. Zaetz was also stipulated in as part of the depreciation
17 stipulation.

18 CHAIRMAN JABER: The deposition transcript of
19 Mr. Zaetz is Exhibit 16.

20 (Exhibit 16 marked for identification.)

21 MS. STERN: And the deposition transcript and
22 exhibits of Mr. Roff, which are also part of the depreciation
23 stipulation.

24 MR. STONE: Commissioner Jaber, this morning we
25 handed out an errata sheet for Mr. Roff's deposition, and it is

1 my understanding that the Staff is offering that errata sheet
2 as part of its composite, as part of Staff 8, I'm sorry, Staff
3 7.

4 MS. STERN: 7, yes.

5 MR. BURGESS: Commissioner, this is not an issue that
6 matters to us much but I'm questioning, since we have
7 stipulated to the substance of all issues associated with these
8 various testimonies and depositions, whether they're needed to
9 encumber the record in this case.

10 CHAIRMAN JABER: Staff, that's a good question. The
11 parties have reached agreement on these issues. Do we have to
12 have --

13 MS. STERN: Well, the, the issues have been agreed
14 to. There are still two fallout depreciation issues and, in an
15 abundance of caution, we would like to see them in the record.

16 MR. BURGESS: Commissioner, I have no objection to
17 that. It just struck me as something to question.

18 CHAIRMAN JABER: Right. Yeah. You raise a good
19 point for the future. If there are fallout issues, they're
20 fallout calculation issues. But we will identify the
21 deposition transcripts and it's just something to keep in mind
22 for the future.

23 The deposition transcript of Mr. Roff plus the errata
24 sheet are identified as Exhibit 17.

25 (Exhibit 17 marked for identification.)

1 MS. STERN: The deposition transcript and exhibits of
2 Mr. O'Sheasy.

3 CHAIRMAN JABER: Exhibit 18.
4 (Exhibit 18 marked for identification.)

5 MS. STERN: Deposition transcript and exhibits of
6 Mr. Thompson.

7 CHAIRMAN JABER: Exhibit 19.
8 (Exhibit 19 marked for identification.)

9 MS. STERN: Deposition transcript and exhibits of
10 Mr. McGee.

11 CHAIRMAN JABER: Exhibit 20.
12 (Exhibit 20 marked for identification.)

13 MS. STERN: We are also proposing to move the
14 deposition transcript and exhibits of Mr. Saxon.

15 CHAIRMAN JABER: Exhibit 21.
16 (Exhibit 21 marked for identification.)

17 MS. STERN: And I believe that's all the deposition
18 transcripts.

19 CHAIRMAN JABER: And those are the -- does that
20 conclude Staff's stipulated exhibits?

21 MS. STERN: Actually we have one more exhibit that's
22 not a composite exhibit and it's not a, it's not a deposition
23 transcript. It is Gulf Power Company's response to OPC's
24 Request For Production Number 12.

25 CHAIRMAN JABER: Okay. Is there any objection to

1 that?

2 MR. STONE: No objection.

3 CHAIRMAN JABER: Okay. That will be Composite
4 Exhibit 22.

5 (Exhibit 22 marked for identification.)

6 MS. STERN: Now are we done with all of the Staff
7 composite exhibits? Because I want to admit them in
8 altogether.

9 MS. STERN: It would just be Exhibit 22.

10 CHAIRMAN JABER: Composite Exhibit -- oh.

11 MS. STERN: It's not a composite exhibit.

12 CHAIRMAN JABER: Fine. Exhibit 22.

13 Any other ones from Staff?

14 MS. STERN: That's all.

15 CHAIRMAN JABER: Okay. Exhibits 1 through 22 are
16 admitted into the record without objection.

17 (Exhibits 1 through 22 admitted into the record.)

18 Okay. Ms. Stern, what else do we have?

19 MS. STERN: We have a motion for judicial notice
20 which was filed by the Federal Executive Agencies.

21 CHAIRMAN JABER: Okay. Major, do you want to
22 describe your motion, or Mr. Shropshire?

23 MR. SHROPSHIRE: Madam Chairman, yes. We filed this
24 motion on Friday. Gulf's filing, as you know, refers to the
25 use of the MDS methodology and uses the MDS methodology. The

1 question of the appropriateness of the use of the MDS
2 methodology for classification and allocation of plant, of
3 distribution equipment will be an issue before the Commission
4 in this proceeding.

5 There has been reference to the NARUC position in all
6 of the, in several of the preliminary proceedings in this
7 matter. The material attached to this motion in which the FEA
8 asked the Commission to take judicial notice is merely an
9 extract of the official NARUC manual showing NARUC's use of the
10 MDS methodology in allocating cost distribution plant, and we
11 thought it would be helpful to the Commission to have the
12 actual NARUC, the extract from the actual NARUC manual before
13 the Commission for its review. And for that reason we have
14 moved it in, we have moved that the Commission admit it into
15 the record through this motion.

16 CHAIRMAN JABER: Let me ask you a clarifying question
17 before we take it up for discussion.

18 What, what law should we be looking at in considering
19 your motion? Is it 120 or 90 or --

20 MR. SHROPSHIRE: Well, I suppose it would be the
21 model rules, Madam Chairman.

22 CHAIRMAN JABER: Go ahead, Marlene.

23 MS. STERN: I believe it would be, official
24 recognition is addressed in both those chapters, Chapter
25 120.569 and 90.202 are the, are the statutes that I would

1 consider relevant.

2 CHAIRMAN JABER: Okay. Let me ask if there are
3 objections to the motion.

4 MS. STERN: Staff objects to the motion.

5 CHAIRMAN JABER: Okay. Parties?

6 MR. BURGESS: We don't object.

7 MS. KAUFMAN: We support the motion, Commissioner
8 Jaber.

9 CHAIRMAN JABER: I can never tell who's talking.
10 Ms. Stern, what are your concerns?

11 MS. STERN: We don't think that it's appropriate to
12 notice -- when you notice, when you give judicial notice to a
13 document or, or facts, those facts are considered, you know,
14 not in dispute, they're, they're facts that are typically
15 considered common knowledge. And in this, in this docket I
16 think noticing, giving judicial notice to this chapter of the
17 NARUC manual could, since we are disputing the cost-of-service
18 methodology, I think giving judicial notice to this chapter on
19 the MDS methodology could just lead to a lot of confusion down
20 the road. I don't think it's appropriate because it's, it is
21 in dispute which is the appropriate methodology. I think that
22 when it comes to writing post-hearing briefs, it could, it
23 could lead to, you know, people picking out sentences from
24 this, this Chapter 6 and citing it as fact in their brief where
25 we really wouldn't consider it appropriate as fact because it

1 hasn't been tested.

2 I think that Mr. O'Sheasy's testimony describes the
3 methodology he used in his cost-of-service study in detail. He
4 states that, he makes reference to the NARUC manual. I don't
5 see how this is really -- the appropriate way to have gotten it
6 in would have been to, for Mr. O'Sheasy to attach it to his
7 testimony. This is basically like filing supplemental
8 testimony at the very last minute and testimony that can't be
9 tested if it's judicially noticed.

10 CHAIRMAN JABER: Ms. Stern, tell me what 90.202 and
11 125.69 allow us to do. I mean, is, is your concern that this
12 motion doesn't fit within the purview of what we are allowed to
13 take judicial notice of?

14 MS. STERN: Well, 90.202 is the place where,
15 90.202(11) is arguably the section that would allow this in.
16 And that says that, "We may take judicial notice of facts not
17 subject to dispute because they are generally known within the
18 territorial jurisdiction of the court."

19 I think it's a stretch to say that these are facts
20 generally known within the territorial jurisdiction of this
21 Commission, and I think to enter them as fact, indisputable
22 fact into the record is just, is inappropriate. I don't think
23 the motion addressed -- the motion didn't address this statute.

24 MR. SHROPSHIRE: Madam Chairman, may I respond
25 briefly?

1 CHAIRMAN JABER: Yes.

2 MR. SHROPSHIRE: If Staff were asserting that the
3 attachment is not an accurate copy of the NARUC manual, that
4 would be one thing. But I don't hear them asserting that the
5 extract is not an accurate extract of the NARUC manual. And
6 that is the only fact that we are seeking to establish, that
7 that extract is the NARUC manual, not whether, not that as a
8 fact it is appropriate for use in this case but merely that the
9 NARUC manual says what it says. And rather than have the
10 Commission guess at what it says, we thought it would be best
11 to have the information, the actual extract before the
12 Commission.

13 MS. STERN: Can I say something? If you're entering
14 it just to show that, to verify that that's what the NARUC
15 manual says and you're not, in fact, entering it for the facts
16 within Chapter 6 to be considered true, we could, we could
17 stipulate it in as an exhibit, if you wanted to do something
18 like that.

19 COMMISSIONER DEASON: Madam Chairman, if I might. If
20 you would look to the preface at the bottom of the page there,
21 the last bullet point, it indicates, it says, "The writing
22 style should be nonjudgmental, not advocating any one
23 particular method but trying to include all currently used
24 methods with pros and cons."

25 You know, if this is the purpose of this manual is to

1 basically be a resource document to indicate what methodologies
2 are out there and what are the pros and cons of each and not
3 really, and not, it's not being judgmental, I don't really see
4 the harm.

5 CHAIRMAN JABER: I think, Commissioner Deason, I
6 wouldn't necessarily disagree with you. I think the harm would
7 be the, the doors you start opening by just taking judicial
8 notice of, of something that may not be permissible by Chapters
9 90 and 120. But Marlene, I think, hit on the solution to this.
10 Why can't we stipulate this as an exhibit? Because all you
11 really want us to know is that NARUC has a manual on this issue
12 and, and to consider that in our decision making.

13 MR. SHROPSHIRE: Yes, ma'am. That would be
14 acceptable to us.

15 CHAIRMAN JABER: Do you have any objection to
16 identifying this as a stipulated exhibit?

17 MR. STONE: No objection.

18 CHAIRMAN JABER: Staff?

19 MS. STERN: No objection.

20 CHAIRMAN JABER: Commissioners, that's okay; right?
21 All right. Let's, let's call that -- that's Exhibit 23, and it
22 would be the NARUC Electric Utility Cost Allocation Manual, and
23 show that admitted into the record without objection.

24 (Exhibit 23 marked for identification.)

25 (Exhibit 23 admitted into the record.)

1 Okay. Ms. Stern?

2 MS. STERN: I believe that's all the preliminary,
3 that's all the preliminary, preliminary matters that I'm aware
4 of. I don't know if the parties have additional.

5 CHAIRMAN JABER: Thank you, Ms. Stern. Good job.

6 MS. STERN: There's one last thing, also, that we
7 will need to decide at the end of the hearing, and that is the
8 length of the post-hearing briefs. I just wanted to bring that
9 up now so that the parties were aware that we would be
10 considering that at the end.

11 CHAIRMAN JABER: Marlene is reminding you that you're
12 going to have to remind me. FEA, any other preliminary matters
13 before we start the evidentiary part?

14 MR. ERICKSON: No, ma'am.

15 CHAIRMAN JABER: FIPUG?

16 MS. KAUFMAN: No, ma'am.

17 CHAIRMAN JABER: OPC?

18 MR. BURGESS: No, ma'am.

19 CHAIRMAN JABER: Gulf Power?

20 MR. STONE: Yes. At Page 109 of the prehearing
21 order, at the bottom of that page there is a witness listed as
22 "various" and it's our Composite Exhibit Number 1, which are
23 the MFRs that were actually filed in this case back on
24 September 10th. And we would ask that that be identified as an
25 exhibit and entered into the record. It is supported by

1 various witnesses. Each of the witnesses that support a
2 portion of the MFRs have a schedule attached to their exhibit
3 showing the MFRs for which they are responsible.

4 CHAIRMAN JABER: Okay. This, I would note that Gulf
5 Power identified it this way at my request. You remember, we
6 wanted to identify the MFRs as a composite exhibit. I think it
7 would be appropriate to identify it as Composite Exhibit 24.
8 And we wouldn't admit it into the record until the conclusion
9 of the hearing, Mr. Stone; correct? Or did you reach an
10 agreement with the parties?

11 MR. STONE: It can be done either way. And that's
12 fine, we can wait. But if the parties are willing, we could
13 all go ahead and move it now.

14 MR. BURGESS: Commissioner, I'm sorry. I'm just
15 having trouble with page numbers as to where that's identified.
16 I don't, I'm not objecting to it.

17 CHAIRMAN JABER: It's Page 109 of the prehearing
18 order. Your 109 is different?

19 MR. BURGESS: Yes.

20 CHAIRMAN JABER: Mr. Stone, do you mind walking over
21 and showing him? Now you've got more help than you wanted.

22 MR. BURGESS: Thank you, Commissioner.

23 CHAIRMAN JABER: Okay. Gulf Power Composite Exhibit
24 Number 1 is identified as Exhibit 24 for purposes of the
25 hearing.

1 (Exhibit 24 marked for identification.)

2 CHAIRMAN JABER: Now I'm inclined to go ahead and
3 admit it into the record, if there are no objections. Okay.
4 Composite Exhibit 24 is admitted into the record without
5 objection.

6 (Exhibit 24 admitted into the record.)

7 CHAIRMAN JABER: Anything else, Mr. Stone?

8 MR. STONE: In light of the stipulations, we believe
9 there's some witnesses that can be excused from further
10 attendance.

11 Starting on Page 5 at the bottom of that page, at
12 least I hope it is on Mr. Burgess's copy, R. L. McGee, each of
13 his, each of his issues have been stipulated.

14 MS. STERN: Actually can I interrupt for a second?
15 We do have a few questions for Mr. McGee that are in the vein
16 of simple clarifications.

17 CHAIRMAN JABER: The issues identified next to him
18 are all stipulated.

19 MS. STERN: Okay. Then --

20 CHAIRMAN JABER: Clarifications on these issues?

21 MS. STERN: Yes. They're clarifications on those
22 issues.

23 CHAIRMAN JABER: Clarifications that would help you
24 in writing the Staff recommendation?

25 MS. STERN: I think they're clarifications that

1 would make the Staff feel a little more comfortable writing --
2 they're not absolutely necessary.

3 CHAIRMAN JABER: Okay. Let's do this, Marlene.
4 We'll leave that open until the conclusion of the first break.
5 And I want you to sit down with Mr. Stone and explain those
6 clarifications.

7 MS. STERN: Okay.

8 CHAIRMAN JABER: And if you absolutely need to ask
9 the questions when, when he's up, I'll reconsider that. We'll
10 leave it open for now.

11 MR. STONE: Chairman Jaber, I have one -- the
12 question you asked raised a concern on my part. It's my
13 understanding these issues are stipulated as a result -- and
14 the stipulations have been accepted. It is my understanding
15 there would be no need for a Staff recommendation and that, in
16 fact, there will be no need for a brief on these issues.

17 CHAIRMAN JABER: Mr. Stone, I think this will take
18 care of itself during the break. And rather than waste time
19 now, just meet with Ms. Stern and find out what their concern
20 is. But, yes, I agree. We've accepted the stipulations. I
21 agree.

22 MR. STONE: We also believe that witness, that
23 Staff's witness Mr. Durbin, his issue has been stipulated, and
24 so that he could be excused from attendance.

25 CHAIRMAN JABER: Staff, that's your witness. You

1 would agree?

2 MS. STERN: Yes.

3 CHAIRMAN JABER: Okay. Mr. Durbin is excused from
4 the hearing.

5 MR. STONE: And similarly Mr. Kilgore in our rebuttal
6 case.

7 CHAIRMAN JABER: Okay. Mr. Kilgore is excused from
8 the hearing.

9 MS. STERN: That's, that's fine.

10 MR. STONE: And that concludes my preliminary
11 matters.

12 CHAIRMAN JABER: Okay.

13 MR. STONE: I would assume that we're still going to
14 insert those testimonies into the record and we can do that
15 when they come up in turn.

16 CHAIRMAN JABER: Exactly. And then we'll take a
17 break pretty soon and you and Ms. Stern can talk about Mr.
18 McGee and remind me when we get back on the record.

19 MR. STONE: Also as a consequence of the stipulation
20 on depreciation issues Mr. Zaetz on Page 7 -- I'm sorry.
21 Mr. Majoros was already taken care of on the bottom of Page 6.
22 And then finally Mr. Roff, R-O-F-F, also on Page 7.

23 CHAIRMAN JABER: Okay. Mr. Majoros is excused from
24 the hearing. I think that was already done. Mr. Zaetz --
25 Mr. Burgess you agree with that; right?

1 MR. BURGESS: Yes, ma'am.

2 CHAIRMAN JABER: Excused from the hearing.

3 MR. BURGESS: Yes, I do.

4 CHAIRMAN JABER: And Mr. Roff excused from the
5 hearing. That's it.

6 MR. STONE: That's it.

7 CHAIRMAN JABER: Okay. Are there -- I'm sure there
8 are witnesses in the audience, so if they will please stand now
9 and raise their right hand.

10 (Witnesses collectively sworn.)

11 CHAIRMAN JABER: Thank you. All right, Mr. Stone,
12 let's call your first witness.

13 MR. STONE: Mr. Travis Bowden would please come to
14 the stand.

15 MR. BURGESS: Commissioner, I'm sorry. I did not
16 know when to enter -- are you anticipating allowing parties
17 opening statement?

18 CHAIRMAN JABER: Thank you. What did we say at the
19 prehearing? You want to do ten minutes per side or are you
20 waiving opening statements?

21 MR. BURGESS: I would like -- the prehearing order
22 contemplates allowing parties ten minutes. I would like to
23 give what I hope is a shorter statement than that just to give
24 you, the Commission an overview of our perspective of the case.

25 CHAIRMAN JABER: Thank you, Mr. Burgess.

1 MR. BURGESS: But my under -- I was waiting because
2 my understanding would be that, that Gulf would have the first
3 opportunity at opening statement.

4 CHAIRMAN JABER: Thank you for reminding me.
5 Mr. Stone?

6 MR. STONE: Commissioner Jaber, Mr. Bowden's
7 testimony is in the nature of an overview of the case and so,
8 therefore, we would, we would not give a separate opening
9 statement from the summary that Mr. Bowden would deliver on
10 behalf of the company.

11 MR. BURGESS: Then if I'm next, Commissioner, I would
12 just like to take a couple of minutes to give you our
13 perspective on the case in its aggregate.

14 From all the evidence we've gathered it looks to me
15 like Gulf is a, an efficient, well-run company. They haven't
16 had a rate case since 1990. By its own testimony during this
17 time Gulf has employed technology, innovations and efficiencies
18 to continue to provide service at a high quality without a rate
19 increase and for that they're to be congratulated. And this is
20 even with all the problems associated with Y2K, which everybody
21 knows about all around the country has caused difficulty. Even
22 with entering into -- they've been able during this period of
23 time to enter into revenue sharing agreements for the last
24 several years and that's how efficient they've been and that's
25 how capable they are.

1 As a matter of fact, this company has fewer employees
2 now than it did in 1990, and that's with the customer growth
3 rate of, I believe, what's 32 percent. So not only that, with
4 this customer growth rate, reduction in employees, the
5 company's testimony indicates that it ranks with the very
6 highest with customer service and satisfaction. So this is a
7 company that can do more with less. That's what they've been
8 able to do throughout the 1990s. That's when they haven't had
9 any rate cases when the stipulations have been based upon
10 revenue rather than NOI and expenses. That's during the period
11 of time that there's been deregulation and competition around
12 the country, and until very recently there's been rumors and
13 expectations that the same might be imminent in this state. As
14 long as these conditions prevailed, Gulf seemed to get more
15 efficient every year.

16 But then we look to the projected test year,
17 May 31st, 2003, and all this seems to begin to change. We see
18 a change in these trends that we've just talked about. The O&M
19 increase for the test year is at a greater rate than the
20 average growth rate over the last decade; even allowing for
21 Smith 3, it's a greater rate than the last decade. The number
22 of employees is going to increase, even allowing for Smith 3,
23 they're going to increase even though they've been decreasing
24 over the last decade. We're going to be breaking all these
25 trends.

1 What's the difference? Well, we're using this as a
2 test year. We're going back to the conventional regulatory
3 model; a model where a utility comes in and says we're going to
4 need to do this and this and this and this and we're going to
5 need the money to cover it. And you know what, when you go in
6 and you look at each of these items that they say that they
7 need or any expenses and you look at these programs on their
8 own terms, it's very hard to argue. It's very hard to look at
9 each one and say, no, that's not good or, no, you won't need
10 that or you shouldn't be doing this project. That's a
11 difficult burden to carry.

12 But you run a large agency and you know that people
13 can come to you and show you projects that of themselves and in
14 their own context might be laudable but sometimes in the
15 aggregate they can't be done. And with Gulf, with all of their
16 expertise and all of the experience they have trying to go in
17 and, and demonstrate with each program and, and each
18 advancement and each maintenance that it's incorrect or it's
19 imprudent, that's a difficult burden. But I think what you'll
20 see is that some of these things, some of these advancements,
21 some of these maintenance programs, some of these innovations
22 could have been done during the last five years or during the
23 past ten years. They could have been done during the period of
24 time at which deregulation looked like it might be imminent.
25 They could have been done during that period of time but they

1 weren't. And that's the perspective we ask you to keep in mind
2 as you look at each one of these, as you look at these
3 individual areas where we're trying to challenge Gulf's need
4 for a rate case. We ask you to hold them to the efficiencies
5 that they've proven that they can achieve by historic efforts.
6 Thank you.

7 CHAIRMAN JABER: Thank you, Mr. Burgess.

8 FIPUG?

9 MS. KAUFMAN: Thank you, Chairman Jaber. I'm going
10 to be even more brief than Mr. Burgess.

11 We support, as you can see by the prehearing
12 statement, most of the positions taken by the Public Counsel on
13 the revenue issues. And I just have one revenue issue to talk
14 about briefly. And then our main concern in this case is the
15 cost-of-service methodology that you've already heard some
16 discussion of.

17 One thing I understand Gulf to be seeking in this
18 case is a, what I call a reward for performance. And it has
19 been FIPUG's position in the past, it will be their position in
20 the future that due to the regulatory bargain via which the
21 company receives a guaranteed ROE, that they are supposed to
22 provide the most cost-effective, the most efficient service,
23 they are supposed to do everything they can to satisfy their
24 customers. And so we are strongly opposed to an additional
25 what I call bump in their ROE above whatever you find the

1 appropriate ROE to be after you review the cost-of-capital
2 testimony.

3 On the cost-of-service methodology issue, you've
4 already heard some discussion about the MDS methodology. This
5 is the methodology that the company supports, that FIPUG
6 supports. There has been testimony filed by company witness
7 Mr. O'Sheasy in that regard. There has been no other testimony
8 filed by any party that controverts Mr. O'Sheasy's testimony.
9 We recommend to you the MDS methodology. As you've heard, we
10 believe it is supported by NARUC. But more importantly than
11 that, what it does is what every cost-of-service methodology
12 should do, and that is that it allocates the cost to those
13 classes of customers that cause the costs.

14 We think this is an appropriate way to look at cost
15 of service and we commend that to you. We don't think that you
16 will hear anything in this case that would controvert that
17 view.

18 I do understand that in Gulf's last rate case this
19 methodology was proffered and rejected. However, I think
20 circumstances are different now and I recommend to you that you
21 review Mr. O'Sheasy's testimony carefully, as well as the NARUC
22 manual, and I think that you'll agree that that's the
23 appropriate methodology for this company. Thank you.

24 CHAIRMAN JABER: Thank you, Ms. Kaufman.

25 FEA?

1 MR. SHROPSHIRE: Yes, ma'am. The Federal Executive
2 Agencies are participating in this proceeding in their
3 proprietary capacity as customers of Gulf and, in fact, among
4 the largest customers of Gulf including Eglin Air Force Base,
5 Tyndall Air Force Base, the Navy facilities in the Pensacola
6 area and so forth.

7 We do have some issues on the revenue requirements.
8 As you'll note, we generally have aligned ourselves on the
9 Public Counsel's positions where we have issues rather than
10 introduce our own witnesses. But we are frankly here primarily
11 on the cost-of-service issues.

12 The FEA wants to make sure that it pays its fair
13 share, it's actual cost of service and no more, and does not
14 cross-subsidize any other class of customers. We believe that
15 the MDS methodology for distributing, for allocating
16 distribution costs, the only method proposed by the company,
17 which is not contradicted by any testimony filed in this
18 proceeding is the most appropriate method, the fairest method
19 to identify and prevent any cross-subsidization among customer
20 classes. Thank you, ma'am.

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22 (Transcript continues in sequence with Volume 2.)
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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4

5 I, LINDA BOLES, RPR, Official Commission
6 Reporter, do hereby certify that the foregoing proceeding was
heard at the time and place herein stated.

7 IT IS FURTHER CERTIFIED that I stenographically
8 reported the said proceedings; that the same has been
transcribed under my direct supervision; and that this
9 transcript constitutes a true transcription of my notes of said
proceedings.

10 I FURTHER CERTIFY that I am not a relative, employee,
11 attorney or counsel of any of the parties, nor am I a relative
or employee of any of the parties' attorneys or counsel
12 connected with the action, nor am I financially interested in
the action.

13 DATED THIS 26TH DAY OF FEBRUARY, 2002.

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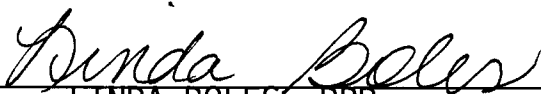
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