

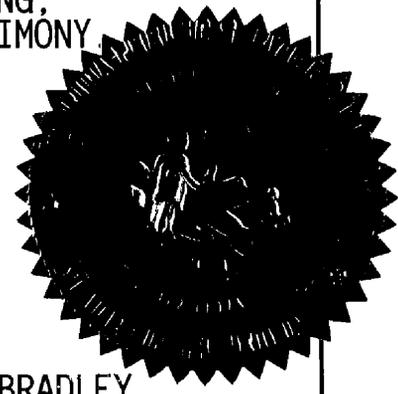
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020384-GU

In the Matter of

PETITION FOR RATE INCREASE
BY PEOPLES GAS SYSTEM.

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PROCEEDINGS: HEARING

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

DATE: Friday, December 13, 2002

TIME: Commenced at 9:30 a.m.
Concluded at 2:47 p.m.

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

REPORTED BY: JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

1 APPEARANCES:

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3 P.O. Box 1531, Tampa, Florida 33601; and MATTHEW R. COSTA, TECO
4 Energy, Inc., P. O. Box 111, Tampa, Florida 33601-1531,
5 appearing on behalf of Peoples Gas System.

6 VICKI GORDON KAUFMAN, McWhirter, Reeves, McGlothlin,
7 Davidson, Decker, Kaufman & Arnold, P.A., 117 South Gadsden
8 Street, Tallahassee, Florida 32301, appearing on behalf of
9 Florida Industrial Gas Users.

10 ROBERT SCHEFFEL WRIGHT, Landers & Parsons, P.A., 310 West
11 College Avenue, Tallahassee, Florida 32302, appearing on
12 behalf of Auburndale Power Partners.

13 JACK SHREVE and H. F. RICK MANN, Associate Public
14 Counsel, Office of Public Counsel, c/o The Florida Legislature,
15 111 West Madison Street, Room 812, Tallahassee, Florida
16 32399-1400, appearing on behalf of the Citizens of the State of
17 Florida.

18 ADRIENNE VINING, Florida Public Service Commission,
19 Office of the General Counsel, 2540 Shumard Oak Boulevard,
20 Tallahassee, Florida 32399-0870, appearing on behalf of the
21 Commission Staff.

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P R O C E E D I N G S

1
2 CHAIRMAN JABER: Let's go ahead and call this hearing
3 to order.

4 Counsel, read the notice.

5 MS. VINING: Pursuant to notice issued November 8th,
6 2002, the Florida Public Service Commission has set this time
7 and place for a hearing in Docket Number 020384-GU, petition
8 for rate increase by Peoples Gas System. The purpose of the
9 hearing is more fully set out in the notice.

10 CHAIRMAN JABER: Thank you. Let's take appearances.
11 Start with Peoples.

12 MR. WATSON: I'm Ansley Watson, Jr., of the law firm
13 of McFarlane, Ferguson and McMullen, PO Box 1531, Tampa,
14 Florida 33601, appearing for Peoples Gas System.

15 CHAIRMAN JABER: Public Counsel.

16 MR. SHREVE: Jack Shreve and Rick Mann, Office of the
17 Public Counsel, on behalf of the citizens of the State of
18 Florida.

19 CHAIRMAN JABER: FIGU.

20 MS. KAUFMAN: Vicki Gordon Kaufman of the McWhirter,
21 Reeves law firm on behalf of the Florida Industrial Gas Users.

22 CHAIRMAN JABER: Auburndale.

23 MR. WRIGHT: Robert Scheffel Wright of the law firm
24 of Landers and Parsons, 310 West College Avenue, Tallahassee,
25 appearing on behalf of Auburndale Power Partners, L.P.

1 CHAIRMAN JABER: Are there any other parties that
2 need to make appearances? Okay.

3 Staff.

4 MS. VINING: Adrienne Vining appearing on behalf of
5 the Florida Public Service Commission.

6 CHAIRMAN JABER: Thank you.

7 Ms. Vining, are there preliminary matters we need to
8 address before we move into the testimony?

9 MS. VINING: Yes. It came to my attention this
10 morning that we might have a possible settlement, at least the
11 company and staff have come to an agreement. I don't know what
12 OPC's position would be on this agreement as of this time.

13 CHAIRMAN JABER: Mr. Shreve or Mr. Watson, do one of
14 you want to brief the Commission on that development, or is
15 there a development?

16 MR. WATSON: I can't brief as to any development
17 insofar as the Office of Public Counsel is concerned. I know
18 the terms on which Peoples would be willing to accept the Staff
19 position that we were advised of this morning. I don't know
20 OPC's position on that.

21 CHAIRMAN JABER: Mr. Shreve, we haven't been advised
22 of anything, so if that gives you something to work with, I
23 need someone to brief the Commissioners on what it is you all
24 are discussing.

25 MR. SHREVE: Evidently settlement negotiations

1 started this morning. I think all we know is one figure that
2 was given. We have had no discussions this morning with the
3 Staff on this. I don't know how you want to proceed. I'm glad
4 to talk to anyone.

5 It's a little late to start talking about settlement
6 negotiations. I think we have some issues that need to be
7 taken up in the case. If you want to break for the settlement
8 negotiations, that's fine, but I think there are some other
9 issues that have to be taken up that are very meaningful in
10 this case.

11 CHAIRMAN JABER: Staff, we are ready to go to
12 hearing, and we have one day for this hearing, so if you see
13 confusion on my face it is because I am confused.

14 So, Ms. Vining, why don't you tell me what is going
15 on, otherwise we are ready to go.

16 MS. VINING: At this time why doesn't Mr. Mailhot
17 give you a small summary of what he has proposed to the
18 company.

19 CHAIRMAN JABER: Well, but if is the subject of
20 ongoing settlement negotiations, I don't know that I need you
21 to tell me what that proposal is. Let me ask a different
22 question. If you all think a 20 to 30-minute break for the
23 parties and staff would be helpful for resolution of the entire
24 case, I am willing to entertain that. If you don't believe it
25 helpful, I'm ready to get started because we have a one-day

1 hearing.

2 MS. VINING: Right now at this point it would be up
3 to the other parties to say whether or not they think it would
4 be helpful. Because staff has their position and we have
5 relayed that to the company and OPC and the other parties.

6 MR. WATSON: Madam Chairman, I think a twenty-minute
7 break would be in order. Peoples conveyed its position to
8 Public Counsel just this morning, because we just this morning
9 found where Staff would be at this particular point in time. I
10 have not had an opportunity to discuss this with Mr. Shreve. I
11 have conveyed the position to Mr. Mann, but I don't know Public
12 Counsel's position on what we have proffered.

13 CHAIRMAN JABER: Mr. Shreve, do you have any
14 objection to breaking until 10:00 o'clock?

15 MR. SHREVE: Not at all.

16 CHAIRMAN JABER: Okay. We're going to do that. We
17 are going to break until 10:00 o'clock. Be prepared to start
18 promptly at 10:00. Thanks.

19 (Off the record.)

20 MR. SHREVE: I apologize for the delay. This is a
21 little bit unusual in that settlement negotiations -- we just
22 didn't get started until this morning. Nobody is at fault on
23 it. But if you want us to pursue it, we can take a break for
24 little bit more. I will tell you, so that you will be aware,
25 we have some real problems with them not having information and

1 being able to settle a case, and that's the problem I'm having.
2 We are trying to rectify that.

3 It may be one that should settle because I see it
4 going a long ways. I don't see it stopping any time soon. So
5 if we could have a few minutes more to talk, I would be glad to
6 pursue that if you want to.

7 CHAIRMAN JABER: Take a few more minutes, that's
8 fine. But in the meantime, I do want Staff to tell me what
9 kind of statutory timeframe I'm on with this proceeding.

10 MS. VINING: The eight-month deadline would be up on
11 February 27th of 2003.

12 CHAIRMAN JABER: I'm sorry, that's an eight-month
13 clock?

14 MS. VINING: Right. The eight-month clock is up on
15 February 27th of 2003.

16 CHAIRMAN JABER: The utility has not waived that time
17 frame, has it?

18 MS. VINING: That is correct.

19 MR. WATSON: No.

20 CHAIRMAN JABER: Mr. Shreve, I want to give you
21 enough time because I see the benefit of a negotiated
22 agreement, obviously; but I also keep in the back of my mind
23 that we have one day scheduled for this. So, recognizing all
24 of that, tell me how much time you think you need. And I
25 certainly will be flexible, so don't misunderstand the

1 question.

2 MR. SHREVE: I understand. And I think maybe until a
3 quarter till. I guess that is probably the best thing to do.
4 I don't really know if it is going to do us any good or not.

5 CHAIRMAN JABER: We will regroup at 10:45. Parties
6 are put on notice, though, that we are taking a one-hour break
7 at noon.

8 Commissioners, I think that there is -- I don't mean
9 to leave you out of this discussion. If you have any issues
10 with breaking again, please let me know.

11 COMMISSIONER DEASON: Madam Chairman, I have no
12 problem with another break.

13 CHAIRMAN JABER: 10:45. Thank you.

14 (Recess.)

15 CHAIRMAN JABER: Let's get back on the record.

16 Mr. Shreve, Mr. Watson, do you want to give us a
17 quick briefing?

18 MR. WATSON: I think we are prepared to go to
19 hearing, Madam Chairman.

20 CHAIRMAN JABER: Say that again.

21 MR. WATSON: We are prepared to go to hearing.

22 CHAIRMAN JABER: Okay. Preliminary matters. I
23 understand there is a motion to strike portions of testimony
24 filed by OPC witnesses?

25 MS. VINING: That is correct, Chairman.

1 CHAIRMAN JABER: And that motion was filed by
2 Peoples, and it was just filed yesterday.

3 MS. VINING: That is correct.

4 CHAIRMAN JABER: So, Public Counsel, you have not had
5 an opportunity to respond?

6 MR. MANN: That is correct, Commissioner.

7 CHAIRMAN JABER: Mr. Watson, I am prepared to give
8 you five minutes. Don't feel that you have to take up that
9 five minutes to describe your motion.

10 Mr. Mann, I am going to give you an opportunity to
11 respond.

12 MR. MANN: On the fly, yes, ma'am.

13 CHAIRMAN JABER: Mr. Watson.

14 MR. WATSON: Madam Chairman, the motion basically
15 deals with three areas. The first is in Ms. DeRonne's
16 testimony. There is four portions of that testimony that refer
17 to first year cost reductions as a result of Peoples
18 outsourcing its sales and marketing department, a first-year
19 savings at 10 percent.

20 This testimony is clearly hearsay. Ms. DeRonne's
21 testimony indicates on its face that she was told this by
22 someone at the company while she was there examining documents.
23 The person she says told her that has indicated in his rebuttal
24 testimony that he never told her that. But beyond that, the
25 testimony is hearsay. And that is the basis for striking those

1 portions of her testimony.

2 There is no testimony or documentary evidence in this
3 record, nor will there be, other than the portions of Ms.
4 DeRonne's direct testimony that says she was told this by
5 someone who said they were told it by something else that even
6 suggests the first-year savings of 10 percent to which she
7 testifies.

8 The second portion of this deals with testimony of
9 Mr. Schultz, one of the OPC witnesses, and it deals with
10 testimony on Page 25 at Line 1, and continuing through Page 26
11 on Line 1, where we have moved to strike both the question and
12 the answer of the witness. The question itself assumes a fact
13 not in evidence, that the information sought has been withheld
14 from the citizens.

15 The answer is argumentative, and in our position or
16 opinion irrelevant because it provides no facts that bear on
17 any of the issues in this case. More importantly, however, the
18 answer, in essence, reargues the Citizen's motion to compel
19 discovery from Peoples of Tampa Electric or TECO Energy
20 documents. And that motion has heretofore been denied by the
21 prehearing officer in Order Number PSC-021613-PCO-GU issued on
22 November 21. I don't believe that arguments regarding
23 discovery have any place in the testimony of this witness and
24 they add nothing to the Commission's understanding of the
25 issues in this case.

1 The second portion of -- the next portion of the
2 motion goes to Page 26, Lines 3 through 13, both the question
3 and the answer for the same reasons I have just given. It
4 basically reargues the Citizen's motion to compel discovery.

5 Then on Page 28 from Lines 3, 11, and 21, and on Page
6 29 from Line 2 we would move to strike the word excessive on
7 the ground that there is no predicate for the witness'
8 comparative characterization of the costs that are referenced
9 as being excessive.

10 Finally, on Page 29 from Line 12, we would move to
11 strike the word extra on the same basis, that is, there is no
12 predicate for the witness' comparative characterization of the
13 costs to which he has referred as extra.

14 CHAIRMAN JABER: Thank you, Mr. Watson. Mr. Mann.

15 MR. MANN: Thank you, Commissioner.

16 CHAIRMAN JABER: Sure. Commissioner Bradley.

17 COMMISSIONER BRADLEY: Mr. Watson, what did you
18 suggest for Number 2, I missed that? What was your motion for
19 Number 2?

20 MR. WATSON: The second one?

21 COMMISSIONER BRADLEY: Yes. Is that also irrelevant
22 or --

23 MR. WATSON: The first part of the motion which is
24 covered in Paragraphs 1 and 2 goes to Ms. DeRonne's testimony
25 and her reference to her being told the cost reductions would

1 be 10 percent in the first year and 3 percent thereafter. This
2 record contains evidence only of the 3 percent savings on an
3 annual basis.

4 COMMISSIONER BRADLEY: Okay. I see.

5 MR. WATSON: The 10 percent to which Ms. DeRonne
6 testifies is clearly hearsay, and I'm not aware of any
7 exception to the hearsay rule that would permit its admission
8 in this case.

9 COMMISSIONER BRADLEY: Okay. Thank you.

10 CHAIRMAN JABER: Mr. Mann, I have had the motion
11 since yesterday, so I have read it. Recognizing you have not
12 had an opportunity to file a written response, I would like you
13 to take ten minutes and respond to the motion.

14 MR. MANN: Thank you, Commissioner. I did last night
15 kind of piece together something from which I will read and
16 elaborate as I go.

17 Let me start, though, with the motion to strike Mr.
18 Schultz' testimony, and that has to do with an order out of the
19 prehearing officer regarding our motion to compel. We
20 naturally disagree with that order in that it denies documents
21 to which we do feel that we are entitled. Nevertheless we had
22 accepted that order by the prehearing officer as valid and
23 binding until such time as it is overturned.

24 I take offense at the insinuation by counsel that I
25 am rearguing that motion to compel through my witnesses. We

1 have no intention of rearguing the motion to compel. Our time
2 for doing so has run. Although we still, of course, had the
3 opportunity to file with the Supreme Court.

4 The company is the party who is raising the matter of
5 that motion to compel before this Commission this morning, and
6 now the Citizens are forced to defend our right for our experts
7 to testify concerning the basic issue in this hearing of
8 reasonableness of costs.

9 The Citizens attempted to bring information before
10 this Commission regarding \$24.7 million in costs from
11 affiliated parties. We believe that the Commission needed that
12 information and still does need that information in order to
13 assess any reasonableness of those costs. The company fought
14 that production of documents and moved to prevent the Citizens
15 from obtaining it. We moved to compel those documents and the
16 prehearing order was issued by the prehearing officer.

17 The prehearing officer ruled -- or denied, rather,
18 our right to obtain those documents. What the prehearing
19 officer did not do, however, was to rule that that \$24.7
20 million in costs charged to Peoples by its parents, its
21 ultimate parent, and its sister affiliates was reasonable. The
22 reasonableness of those costs remain very much at issue in this
23 case.

24 Nevertheless, what the company is now attempting to
25 do with that order from the prehearing officer is to prevent

1 the Commission from seeing information or hearing information
2 from my witnesses regarding the assessment of the
3 reasonableness of those costs.

4 Mr. Schultz in his testimony presents his expert
5 opinion about what he believes to be the level of
6 reasonableness of certain expenses incurred by Peoples. That
7 is his function, Commissioners, in this proceeding. Peoples
8 argues in Paragraph 3 that Mr. Schultz assumes a fact not in
9 evidence, that the information sought has been withheld. Does
10 Peoples deny that that information was withheld? I don't think
11 so.

12 Mr. Schultz in his testimony explains the context of
13 the absence of that necessary information from those
14 affiliates. He explains that in his expert opinion the
15 one-line description of various costs that have been provided
16 by the company is insufficient justification. That the
17 reasonableness of the costs charged can only be determined
18 after the composition of those costs is known.

19 Counsel argues that the testimony of Mr. Schultz is
20 irrelevant and that he brings no facts to bear on the issues of
21 this case. Of course his testimony is relevant. What he
22 brings to bear is an addressing of the reasonableness of
23 Peoples' asserted expenses, the information necessary to check
24 the reasonableness of those expenses, and the fact that
25 citizens have been unable to obtain that information. What he

1 asserts in his testimony is that in his opinion he did not --
2 he finds that he cannot make that assessment because of a
3 situation not of his choosing. He did not choose to review
4 that information.

5 In Paragraph 4, Peoples argues that Mr. Schultz'
6 concerns about the company's statements that its parents'
7 documents that are related to the charges it has made or
8 allocated to the company will provide nothing that the Citizens
9 have not already obtained, and consequently they are
10 irrelevant. Well, Mr. Schultz places his lack of needed
11 information into its proper context in his testimony, and
12 asserts that if the Citizens truly have already obtained the
13 same information that is contained in the company's parents'
14 documents, then in his expert opinion the charges from Tampa
15 Electric are not supported and consequently should be
16 disallowed.

17 Peoples argues that Mr. Schultz reargues citizen's
18 motion to compel. He explicitly states that in Paragraph 5.
19 And, again, Mr. Schultz simply places his investigation and
20 analysis into the proper context of being unable to, not
21 through his choosing, weigh documents that aren't before him.

22 Finally, Peoples argues that Mr. Schultz' use of the
23 words excessive and extra have no predicate for this
24 comparative characterization. Well, virtually all expert
25 witnesses, Commissioners, Mr. Schultz included present their

1 comparative assessment of the subject matter on which they are
2 testifying. Indeed, Mr. Schultz' function is to gather all he
3 can learn about a particular case, apply all he has learned
4 through his various years or many years of experience, and make
5 a comparative assessment. A comparative assessment is
6 necessarily made of today's circumstances with the utility's
7 history and with the industry's current practice and history.

8 The utility argues that Ms. DeRonne's testimony on
9 four pages constitutes hearsay. That is troubling. What Ms.
10 DeRonne testifies to is that an employee of the utility, a
11 representative of the utility informed her that there would be
12 a 10 percent first-year savings. What she relates to this
13 Commission in her testimony is that she learned from that
14 employee that the company believed that there would be a 10
15 percent reduction that first year. She was not testifying to
16 the truth of whether there would be a 10 percent reduction.

17 CHAIRMAN JABER: Mr. Mann, let me interrupt you for
18 just one quick question.

19 MR. MANN: Yes, Commissioner.

20 CHAIRMAN JABER: The motion to compel, by my reading
21 of the order, indicates that was filed on October 7th, 2002?

22 MR. MANN: Correct, Commissioner.

23 CHAIRMAN JABER: When was your testimony filed for
24 Ms. DeRonne and Mr. Schultz.

25 MR. MANN: October 12. I'm sorry, Commissioner.

1 CHAIRMAN JABER: Is it October 12?

2 MR. MANN: I am anticipating your question. Yes,
3 October 12. I'm sorry, October 21. I'm dyslexic.

4 CHAIRMAN JABER: Go ahead.

5 MR. MANN: What troubles me about that, Commissioner,
6 the hearsay by an employee, an official representative of the
7 company being hearsay is that the company would have this
8 Commission disregard oral statements made to staff or to
9 parties by utilities as it would all be hearsay.

10 The information that Ms. DeRonne obtained from the
11 utility orally was relied on in some parts, I don't know to
12 what degree, but it was relied on by Ms. DeRonne in formulating
13 her expert testimony concerning the reasonableness of expenses
14 that were charged to Peoples Gas by its sister affiliate, TECO
15 Partners. And I will finally mention what I consider to be an
16 exception to the hearsay rule that applies in this instance,
17 and that is Section 90.803(18)(a) and (18)(d), that is
18 admissions in personnel or representative capacity or
19 admissions made by an employee of a party. And we would move
20 that the motion to strike that testimony be denied.

21 Thank you, Commissioner.

22 CHAIRMAN JABER: Thank you, Mr. Mann. Let me tell
23 you both that I am prepared to make a ruling on this motion,
24 and my ruling is this: Peoples motion to strike portions of
25 the citizens direct testimony is denied. I think that Chapter

1 120 allows this agency the flexibility to consider hearsay
2 evidence, but I recognize that hearsay evidence is used for the
3 purpose of supplementing or explaining other evidence, and
4 there should be corroborative evidence that this Commission
5 relies on.

6 Saying that, Mr. Watson, obviously on
7 cross-examination I am going to allow you the flexibility to
8 understand the witness' testimony and whether there is other
9 evidence that the witness has relied on. With respect to
10 hearsay evidence, as an informal process of this agency we
11 recognize that hearsay evidence is given the weight that it
12 deserves.

13 With respect to the argument that the testimony is
14 another shot at rearguing the motion to compel, I don't accept
15 that, and I don't accept that because of the timing of the
16 motion to compel and when the testimony was filed. So my
17 ruling is that Peoples' motion to strike is denied.

18 Now, Staff, there is another motion that addresses
19 confidential information?

20 MS. VINING: Yes, there was, but an order was issued
21 yesterday resolving that request.

22 CHAIRMAN JABER: Thank you. And there are
23 stipulations that are identified in the prehearing order,
24 Staff?

25 MS. VINING: That is correct. They are on Pages 55

1 through 64 of the prehearing order.

2 CHAIRMAN JABER: Pages 55 through 64. Commissioners,
3 you will note that there are different categories of
4 stipulations. I think that relates to which party participated
5 in formulating and accepting the proposed stipulation. Is that
6 correct, Staff?

7 MS. VINING: That is correct.

8 CHAIRMAN JABER: So, Commissioners, if I can have a
9 motion with respect to the stipulations found on Pages 55
10 through 64 of the prehearing order.

11 COMMISSIONER DEASON: Madam Chairman, I have some
12 problems with some of these, but if we take them by category
13 perhaps we can move along. I can move the approval of the
14 proposed stipulations contained in Category 1.

15 CHAIRMAN JABER: We have a motion to accept the
16 proposed stipulations in Category 1.

17 COMMISSIONER BAEZ: Second.

18 CHAIRMAN JABER: And a second. All those in favor of
19 accepting Category 1 stipulations say aye.

20 (Unanimous affirmative vote.)

21 CHAIRMAN JABER: Category 1 stipulations are
22 approved.

23 Questions on Category 2, Commissioner?

24 COMMISSIONER DEASON: Yes, Madam Chairman. I have a
25 question on Item 7. I was needing some explanation as for the

1 differentiating costs or charges for initial connection and
2 reconnection, particularly as it pertains to residential. I
3 see there is a \$35 initial connection, and there is a \$60
4 charge for reconnection. We can either not vote on this
5 stipulation and have it addressed at staff's recommendation, or
6 if there is a simple explanation we can take it up now. I'm
7 flexible either way.

8 CHAIRMAN JABER: I think we should try to take it up
9 now. Staff, who would be the best person to address an
10 explanation of Stipulation 7 in Category 2?

11 MS. VINING: That would be Mr. Wheeler.

12 CHAIRMAN JABER: Mr. Wheeler, identify yourself for
13 the record.

14 MR. WHEELER: My name is David Wheeler. I am with
15 the Commission Staff. It is my understanding that the initial
16 connection charge is for a new customer. The reconnection
17 charge is higher because it reflects the cost of the company
18 doing the initial disconnect for nonpayment and then making
19 another trip to reconnect the customer. And that is the reason
20 why the charge is higher for the reconnection.

21 COMMISSIONER DEASON: So you are saying the
22 reconnection charge actually comprises two things. The
23 connection as well as a -- to recover the cost of the original
24 disconnection?

25 MR. WHEELER: Right. The reconnection is the fee

1 that is charged when they come out to reconnect for nonpayment.

2 COMMISSIONER DEASON: Did you review the -- is there
3 a cost study supporting these numbers?

4 MR. WHEELER: Yes, there is. Part of the MFRs
5 require them to support the costs, and we did review them.

6 COMMISSIONER DEASON: And you reviewed them and
7 found that the costs associated are reasonable?

8 MR. WHEELER: Yes.

9 COMMISSIONER DEASON: Madam Chairman, with that I can
10 move approval of the Category 2 stipulations.

11 COMMISSIONER BAEZ: Second.

12 CHAIRMAN JABER: There has been a motion and a second
13 to accept Category 2 stipulations. All those in favor say aye.

14 (Unanimous affirmative vote.)

15 CHAIRMAN JABER: Category 2 stipulations are
16 approved. Category 3 stipulations are found on Pages 58 and
17 59. Do you have a question?

18 COMMISSIONER DEASON: Well, I guess a comment. I am
19 not prepared to vote on Item 7 of Category 3 until I see a
20 comparison of the rates, and we won't know the rates until we
21 vote the rates out.

22 CHAIRMAN JABER: Is Number 7 the only one?

23 COMMISSIONER DEASON: That is the only one, Madam
24 Chairman.

25 CHAIRMAN JABER: Staff, I know that you are

1 anticipating splitting out the recommendations. The first
2 recommendation will address revenue requirement.

3 MS. VINING: That is correct.

4 CHAIRMAN JABER: And the second one will address the
5 calculation of the rates.

6 MS. VINING: Correct.

7 CHAIRMAN JABER: Can't you bring this one back to us
8 in those recommendations?

9 MS. VINING: We can do that, yes.

10 CHAIRMAN JABER: Now, there was testimony filed with
11 respect to this issue?

12 MS. VINING: Yes.

13 CHAIRMAN JABER: Issue 73. Commissioner Deason, I
14 certainly don't have any problem with bringing this stipulation
15 back. We would want to give the parties flexibility, though,
16 to cross-examine on this issue.

17 COMMISSIONER DEASON: I have no problem with that,
18 either, Madam Chairman.

19 CHAIRMAN JABER: That is Issue 73.

20 COMMISSIONER DEASON: If we are going to eliminate
21 that one item, I can move the remainder of Category 3
22 stipulations.

23 CHAIRMAN JABER: I see activity at the Staff table.
24 Is there any problem with --

25 MS. VINING: I was just given a clarification.

1 Apparently 7 of that category, which was previously Issue 73,
2 was proposed by OPC, and the Staff was telling me that they
3 didn't see any testimony on that issue. But if 6 is approved,
4 6 would technically approve 7. If 6 is approved, it would be
5 the same thing, because 6 institutes uniform rates with no
6 phase-in.

7 COMMISSIONER DEASON: Well, then we need to eliminate
8 6 from that, as well, if the two are directly interconnected.
9 Or independent, rather.

10 CHAIRMAN JABER: Are there any other ones, Staff? I
11 want to make sure. Is it just 6 and 7?

12 MS. VINING: As far as I can tell, yes.

13 CHAIRMAN JABER: Okay. And, again, that would leave
14 the ability to cross-examine on Issues 72 and 73 available to
15 the parties. Okay.

16 Commissioner Deason.

17 COMMISSIONER DEASON: Then I would modify my motion
18 to move the Category 3 stipulations with the exception of 6
19 and 7.

20 COMMISSIONER BAEZ: Second.

21 CHAIRMAN JABER: All those in favor say aye.
22 (Unanimous affirmative vote.)

23 CHAIRMAN JABER: That addresses Category 3
24 stipulations except for 6 and 7.

25 COMMISSIONER DEASON: I can move all of the Category

1 4 stipulations.

2 COMMISSIONER BAEZ: Second.

3 CHAIRMAN JABER: There has been a motion and a second
4 to accept the Category 4 stipulations. All those in favor say
5 aye.

6 (Unanimous affirmative vote.)

7 CHAIRMAN JABER: Category 4 stipulations are
8 approved.

9 Category 5.

10 COMMISSIONER DEASON: I can move the Category 5
11 stipulations.

12 COMMISSIONER BAEZ: Second.

13 CHAIRMAN JABER: And a second. All those in favor
14 say aye.

15 (Unanimous affirmative vote.)

16 CHAIRMAN JABER: Category 5 stipulations are
17 approved.

18 Category 6.

19 COMMISSIONER DEASON: Madam Chairman, I believe Item
20 2 of Category 6 is directly related to previous issues which I
21 indicated I need further explanation. I believe it is
22 interdependent. And based upon that belief, then I would move
23 all of Category 6 stipulations with the exception of
24 Stipulation 2.

25 CHAIRMAN JABER: Staff, let me make sure, is Number 2

1 the only one of Category 6 that we should separate consistent
2 with the other changes we made?

3 MS. VINING: That is correct.

4 CHAIRMAN JABER: There has been a motion to approve
5 Category 6 stipulations without proposed Stipulation 2. And a
6 second?

7 COMMISSIONER BAEZ: Second.

8 CHAIRMAN JABER: And a second. All those in favor
9 say aye.

10 (Unanimous affirmative vote.)

11 CHAIRMAN JABER: Category 6 stipulations are approved
12 without Number 2.

13 Are there other stipulations we should address at
14 this time, Ms. Vining?

15 MS. VINING: Yes. There are three additional
16 stipulations that were entered into this week since the
17 prehearing order was issued. We have one on Issue 1. And on
18 this particular stipulation, this is one that Peoples, Staff,
19 and FIGU agreed upon, and the two other parties took no
20 position. And I will go ahead and read that.

21 CHAIRMAN JABER: And, Ms. Vining, I don't know why
22 I'm having trouble hearing you. Get close to the microphone.

23 MS. VINING: Okay. What was the last thing you
24 heard?

25 CHAIRMAN JABER: That.

1 MS. VINING: Okay.

2 CHAIRMAN JABER: Read the proposed stipulation.

3 MS. VINING: It is a total of only four members of
4 the public appeared to testify at service hearings held in this
5 docket in Hollywood, Tampa, Orlando, Jacksonville, and Panama
6 City. Of those four, none testified regarding any complaints
7 about Peoples' quality of service. The company's more than
8 adequate quality of service based on consumer complaints is
9 apparent in the Commission's consumer assistance and protection
10 report for its fiscal year 1999 to 2000, which reflects 0.004
11 apparent company infractions per 1,000 customers. The same
12 Commission publication for its fiscal year 2000 to 2001
13 reflects 0.011 apparent infractions per 1,000 customers. And,
14 again, that is related to Issue 1, if you didn't hear that
15 before.

16 CHAIRMAN JABER: And that is a Category 1
17 stipulation?

18 MS. VINING: That is correct. Peoples, Staff, and
19 FIGU agreed upon that position. And the other parties, meaning
20 Auburndale and OPC, took no position.

21 CHAIRMAN JABER: Commissioners, that stipulation
22 would resolve Issue 1 for purposes of the hearing. Is there a
23 motion to accept that stipulation?

24 COMMISSIONER DEASON: I move we approve the
25 stipulation.

1 COMMISSIONER BAEZ: Second.

2 CHAIRMAN JABER: There has been a motion and a
3 second. All those in favor say aye.

4 (Unanimous affirmative vote.)

5 CHAIRMAN JABER: That proposed stipulation is
6 approved.

7 Staff, there is a second one?

8 MS. VINING: Yes, Issue 29. The proposed stipulation
9 is no adjustment to revenues to recognize the new credit card
10 usage charge is required if revenues derived from the proposed
11 credit charge usage charge included in the company's rate
12 design as other operating revenues are increased from \$207,839
13 to \$240,004 to match the expenses included in the 2003
14 projected test year.

15 CHAIRMAN JABER: I have a question to staff on this
16 one. The treatment of the revenue allocation here, is this
17 consistent with treatment for the other companies that are
18 using credit cards?

19 MR. WHEELER: To my knowledge this is the first case
20 in which we have actually approved a tariffed charge for credit
21 cards. Some of the others, for example, some of the electric
22 utilities do offer a credit card option, but it involves a fee
23 that is paid to a third party. I believe this is the first
24 time we approved a charge which recovers the costs of the
25 company actually processing the payments and paying the credit

1 card company.

2 CHAIRMAN JABER: All right. You are not aware of any
3 electric company that is using in-house personnel to process
4 credit card billing?

5 MR. WHEELER: I believe -- I'm trying to recall. I
6 think they all use an outside vendor which imposes a fixed or a
7 percentage fee that is paid to a third party. I don't believe
8 any of them -- I know at one time Florida Power Corporation
9 did, but I don't believe they do that anymore. I think they go
10 with a third-party vendor.

11 CHAIRMAN JABER: All right.

12 COMMISSIONER DEASON: Let me ask, is the purpose of
13 this stipulation to recognize the incremental costs associated
14 and to basically even it out or negate it with the imposition
15 of the charge so that it would have no effect upon the revenue
16 requirements for this proceeding?

17 MR. WHEELER: Right. I think this issue was just
18 there was some confusion over how the revenues would be
19 credited. They were credited through the cost study as opposed
20 to through the accounting, and there was just some confusion
21 over how that exactly --

22 COMMISSIONER DEASON: Well, I would direct you to the
23 last sentence of OPC's position in which they indicate that
24 under their recommendation this approach would zero out the
25 impact on revenue requirement. And it is your position that

1 your stipulation would achieve the same result?

2 MR. WHEELER: Yes.

3 COMMISSIONER DEASON: Is Public Counsel taking a
4 position on this stipulation?

5 MS. VINING: No, they have no position on this now.

6 CHAIRMAN JABER: Category 3 stipulations are between
7 who?

8 MS. VINING: They are between Peoples and staff only,
9 and the other parties take no position.

10 COMMISSIONER DEASON: Madam Chairman, I can move
11 approval of the stipulation.

12 COMMISSIONER BAEZ: Second.

13 CHAIRMAN JABER: And a second. All those in favor of
14 accepting the stipulation resolving Issue 29 say aye.

15 (Unanimous affirmative vote.)

16 CHAIRMAN JABER: That's approved. There is a third
17 additional stipulation?

18 MS. VINING: Right. It's the other half of the
19 credit card usage charge. It would be Issue 81. The proposed
20 new credit card usage charge is appropriate. The charge of 3.5
21 percent of the billed amount is cost-based and appropriately
22 recovers the additional cost of credit card transactions from
23 those customers who opt to pay by credit card.

24 CHAIRMAN JABER: And this is a Category 2
25 stipulation?

1 MS. VINING: Correct. Peoples, Staff and Auburndale
2 agree.

3 CHAIRMAN JABER: All right. Public Counsel has not
4 taken a position on this one?

5 MS. VINING: Correct.

6 COMMISSIONER DEASON: I can move approval.

7 COMMISSIONER BAEZ: Second.

8 CHAIRMAN JABER: There has been a motion and a second
9 to accept a stipulation resolving Issue 81. All those in favor
10 say aye.

11 (Unanimous affirmative vote.)

12 CHAIRMAN JABER: That stipulation is approved. Are
13 there more stipulations, Ms. Vining?

14 MS. VINING: None that I am aware of at this time
15 unless perhaps OPC will change their position on additional
16 issues or take no position. I'm not aware if they are going
17 to do that today.

18 CHAIRMAN JABER: Mr. Watson, let me start with you.
19 Are there proposed stipulations that you are aware of that
20 we --

21 MR. WATSON: There are no proposed stipulations, and
22 I would call this to Ms. Vining's attention, I think she just
23 overlooked it. In the prehearing order back on the Category 2
24 stipulations, in Number 7, the one Commissioner Deason inquired
25 about, the ITS administration charge of \$44 per meter is a

1 typographical error.

2 CHAIRMAN JABER: I wish you would have spoken up.

3 MR. WATSON: And should be \$144 per meter rather than
4 44.

5 CHAIRMAN JABER: Mr. Watson, I know you probably
6 didn't want to interrupt us when we were voting on the motions,
7 but I wish you would have spoken up because we did vote on that
8 stipulation. So ITS administration charge should be \$144 per
9 meter?

10 MR. WATSON: That is correct, Madam Chairman.

11 CHAIRMAN JABER: Staff. Commissioner Deason, I think
12 that was your motion.

13 COMMISSIONER DEASON: I would just inquire of Staff
14 if that is the correct amount.

15 MS. VINING: That is indeed the correct amount. I
16 just overlooked, that should be changed to \$144.

17 COMMISSIONER DEASON: Madam Chairman, I would move
18 that we would reconsider our vote.

19 COMMISSIONER BAEZ: Second.

20 CHAIRMAN JABER: Motion and a second to reconsider.

21 All those in favor say aye.

22 (Unanimous affirmative vote.)

23 CHAIRMAN JABER: Now we are back on Stipulation 7 and
24 Category 2.

25 COMMISSIONER DEASON: Madam Chairman, I would move

1 that we would approve the stipulation as corrected.

2 COMMISSIONER BAEZ: Second.

3 CHAIRMAN JABER: All those in favor say aye.

4 (Unanimous affirmative vote.)

5 CHAIRMAN JABER: That addresses the proposed
6 Stipulation Number 7 in Category 2. Mr. Watson, anything else?

7 MR. WATSON: No, ma'am.

8 CHAIRMAN JABER: Public Counsel.

9 MR. MANN: No, Commissioner, I have no issues on
10 which we are ready to stipulate at this time.

11 CHAIRMAN JABER: Thank you. Now, Staff, that brings
12 us to exhibits. And from the service hearing there was Exhibit
13 Number 1. There was an exhibit that was identified and
14 admitted into the record. I have asked Staff about the
15 customer notice from the service hearings and that is typically
16 the second exhibit, Mr. Watson. It is my understanding from
17 Staff that there wasn't an exhibit identified and admitted
18 relating to customer notice.

19 MR. WATSON: That is correct.

20 (Exhibit 1 marked for identification and admitted
21 into the record.)

22 CHAIRMAN JABER: It is my understanding we need to do
23 that.

24 MR. WATSON: I don't believe it is required by your
25 rules. I will say that Peoples has typically done it in past

1 rate proceedings, and it is something we could put together and
2 make a late-filed exhibit for this proceeding.

3 CHAIRMAN JABER: I think we should.

4 MR. WATSON: And that would consist of all the bill
5 stuffer notices that were sent to the company (sic) together
6 with an indication of the times that they were sent to
7 customers which would indicate compliance with the rule as well
8 as proofs of publication of the newspaper advertisements.

9 CHAIRMAN JABER: Legal, I'm not -- am I correct on
10 that, we typically do identify the customer hearing notices,
11 don't we, as an exhibit?

12 MS. VINING: It is typically done, but I think Mr.
13 Watson is correct that it is not a legal requirement. But I
14 think it is Commission practice that it is done.

15 CHAIRMAN JABER: Late-filed Exhibit Number 2, Mr.
16 Watson, will be identified for the bill stuffer notices and the
17 proofs of publications from the service hearings. And we will
18 establish a date for when all the late-filed exhibits will be
19 due. That takes us to -- Staff, you have a stipulated exhibit?

20 (Late-filed Exhibit 2 marked for identification.)

21 MS. VINING: Right. We prepared a list of stipulated
22 exhibits that we would ask that they be marked and moved into
23 the record.

24 CHAIRMAN JABER: What does that consist of?

25 MS. VINING: The first one which is identified

1 currently as Staff 1 is the deposition transcript and
2 late-filed exhibits of Doctor Roger A. Morin. We ask that that
3 be marked for identification.

4 CHAIRMAN JABER: Do you want them marked separately
5 or as a composite?

6 MS. VINING: Composite, please.

7 CHAIRMAN JABER: As a composite. Okay. So that is
8 in the composite exhibit. What else?

9 MS. VINING: Staff 2 currently is deposition
10 transcript of Mark A. Cicchetti. That is identified currently
11 as Staff 2. We would ask that that be marked for
12 identification.

13 CHAIRMAN JABER: I want you to read the list of
14 everything you intend to include in the composite exhibit.

15 MS. VINING: Okay. Staff 3 currently is the
16 deposition transcript and exhibits and late-filed exhibits of
17 Wraye J. Grimard. We have the deposition transcript and
18 exhibits and late-filed exhibits of Bruce Narzissenfeld and J.
19 Paul Higgins. The deposition transcript of Donna DeRonne, and
20 then we have a composite entitled cost of service and rate
21 design.

22 CHAIRMAN JABER: Okay. Let's stop there. Let's
23 identify Staff 1 through Staff 5 as Composite Exhibit 3. And,
24 Staff, the parties have copies of all of this, right?

25 MS. VINING: That is correct.

1 CHAIRMAN JABER: Go ahead, your next composite
2 exhibit.

3 MS. VINING: The first part of that is the composite
4 now labeled cost of service and rate design; the second is the
5 composite cost of capital, the third is composite rate base,
6 and fourth is a composite net operating income. And we ask
7 that those be marked for identification.

8 CHAIRMAN JABER: Staff Composite 1 through Staff
9 Composite 4 will be identified as Hearing Composite Exhibit 4.

10 MS. VINING: Now we ask that those be moved into the
11 record.

12 MR. WATSON: No objection.

13 CHAIRMAN JABER: Composite Exhibits 3 and 4 are
14 admitted into the record.

15 (Exhibits 3 and 4 marked for identification and
16 admitted into the record.)

17 What else, Staff?

18 MS. VINING: Those are all the stipulated exhibits
19 that we have at this time.

20 CHAIRMAN JABER: Thank you. If there are no other
21 preliminary matters, we are at the stage where we can take
22 opening statements. It is my understanding that the parties
23 have agreed to ten minutes per side, is that correct?

24 MR. WATSON: I think that is what we were told in
25 either the prehearing order or the order on procedure.

1 CHAIRMAN JABER: Well, you can waive opening
2 statements, so don't get me wrong.

3 MR. WATSON: We don't intend to waive.

4 CHAIRMAN JABER: Then let's go ahead and get started.

5 Mr. Watson, you can begin your opening statement.

6 MR. WATSON: Peoples Gas filed its last rate case in
7 January 1992 using a September 30, 1993 projected test year.
8 It sought to recover a requested revenue deficiency of about
9 \$15.4 million and was authorized an increase of roughly 11.9
10 million. As filed, the company's rate base was \$222.3 million,
11 and after adjustments just under 221 million. The additional
12 revenues authorized were based on a midpoint for return on
13 equity of 12 percent. However, before the end of the 1993
14 projected test year, Peoples and the Commission reached an
15 agreement to reduce the company's ROE from the previously
16 authorized midpoint of 12 percent to a midpoint of 11.25
17 percent.

18 Many things have changed in the ten years since
19 Peoples' last rate increase. The company has added about
20 100,000 customers, and almost doubled to 9,000 the miles of
21 pipe comprising its distribution system. As a result of its
22 growth, its rate base of about \$221 million in 1993 has grown
23 to over \$500 million.

24 In June 1997, Peoples was acquired by and merged into
25 Tampa Electric Company. Since that time it has been operated

1 as a separate division of Tampa Electric. Much of the growth
2 in the company's system has occurred since the merger which
3 resulted in a number of economies, primarily in the area of
4 general and administrative expenses such as those associated
5 with information technology and liability insurance. These
6 economies have helped Peoples avoid filing for rate relief
7 until earlier this year.

8 At the time of its last rate case, Peoples sold,
9 installed, and serviced appliances, but exited that function
10 with the resulting decrease in employees in 1998. It also had
11 an affiliate in the propane business which was sold in 2000,
12 some of whose employees allocated their time between regulated
13 and nonregulated operations. Those employees are now employed
14 by the buyer of the propane business.

15 Also in 2000, Peoples decided to outsource the sales
16 and marketing function of the utility to a new affiliate, TECO
17 Partners, in order to save in this area of expense. This issue
18 has been beaten to death in this case. The Office of Public
19 Counsel even wants the Commission to conduct a further
20 investigation.

21 While Peoples has no objection to whatever further
22 investigation the Commission may decide is necessary, it feels
23 strongly there is nothing to be gained in view of the intense
24 scrutiny the issue has already received in this case. That
25 outsourcing shifted 70 personnel who had previously been

1 employed by Peoples on December 31, 2000 to employment by TECO
2 Partners on January 1, 2001.

3 Under Issue 49 in the prehearing order, OPC proposes
4 a roughly \$802,000 reduction in the company's sales and
5 marketing expense based solely on a mistake of fact that the
6 first-year savings from the outsourcing would be 10 percent,
7 with 3 percent annual decreases thereafter. No 10 percent
8 first-year savings were ever contemplated. Only 3 percent
9 annually reductions were considered by Peoples in deciding to
10 outsource to its affiliate, which appeared to be the only
11 company capable of handling the job. TECO Partners performs
12 sales and marketing for 17 other companies besides Peoples, and
13 has apparently been able to take advantage of the economies of
14 scale and synergies in doing so, resulting in a decrease in
15 this area of expense for Peoples' ratepayers.

16 There are other unstipulated issues in the prehearing
17 order which the evidence you will hear will help you decide.
18 If you look at the stipulated issues you will note that most of
19 the adjustments reduce the additional revenues the company
20 sought by its petition. Some of those adjustments are based on
21 more current information than was available at the time the
22 company's MFRs were prepared or on changes that have occurred
23 since their preparation.

24 One example of such a change is the plant additions
25 covered by Issue 4 in the order. The OPC through Ms. DeRonne

1 proposes two adjustments to the company's plant-in-service
2 balance included in the MFRs, one for 2002 and one for the 2003
3 test year. The net impact of her proposed adjustments would
4 reduce the company's 13-month average plant-in-service balance
5 for the projected test year by about \$11.1 million. Staff
6 Witness Fletcher had proposed a smaller adjustment.

7 While the company disagreed with these adjustments
8 for various reasons, the company is under budget for 2002. And
9 its plant additions for 2003 will also be less than projected
10 at the time it prepared its MFRs due largely to reduced
11 spending resulting from the well reported difficulties faced by
12 TECO Energy as a result of events surrounding its independent
13 power subsidiary.

14 Under the circumstances, the company has proposed
15 that the projected test year plant-in-service be reduced
16 \$15.377 million, considerably more than proposed by either the
17 OPC or the staff with corresponding adjustments to accumulated
18 depreciation and depreciation expense. The OPC wants an even
19 larger reduction to plant-in-service for reasons that are not
20 readily apparent.

21 Changes in circumstances have also resulted in known
22 substantial increases in certain O&M expenses above the levels
23 reflected in the MFRs as initially filed. In particular, the
24 pension and benefits expense covered by Issue 56 will be about
25 \$1.6 million higher in the projected test year than originally

1 projected. This increase is primarily the result of increased
2 costs of health care insurance and documented changes in
3 actuarial data that will increase the company's pension
4 expense. If adjustments to Peoples' filing are to be made to
5 correct for good faith overprojections, then it is only fair
6 that adjustments be made to increase this significant category
7 of expense which was in good faith underprojected.

8 While Peoples' system and numbers of customers have
9 grown substantially since its last rate case, the company has
10 made substantial efforts to control expense levels to avoid
11 such a case. It restructured its field operations from a
12 divisional structure to a regional structure enabling reduction
13 in work force by about 15 percent.

14 I have already mentioned its outsourcing of the sales
15 and marketing function. It entered into strategic alliances
16 with vendors and implemented upgraded computer systems, all
17 aimed at reducing costs. It has also achieved savings and
18 expense resulting from the synergies associated with the merger
19 with Tampa Electric. All of this is evidenced by the fact that
20 the company's total O&M expense is more than \$26 million below
21 the traditional O&M benchmark and by its success in avoiding a
22 rate case for more than ten years.

23 The OPC's witnesses would like you to believe that
24 these types of cost saving measures can continue indefinitely
25 into the future, but anyone who has ever managed a company

1 knows that is just not rational. If Peoples could go another
2 ten years without a rate increase, it would have done so even
3 if only because of the intense competition it faces from other
4 energy sources. The simple fact is that costs continue to
5 increase. The company simply isn't able to keep pulling
6 rabbits out of its hat. All good things must eventually come
7 to an end.

8 The comments I made go to some of the unstipulated
9 adjustments proposed by the OPC's witnesses, which if all of
10 them were made would reduce O&M expenses for the 2003 projected
11 test year to a level significantly below that which existed in
12 2001. Particularly because there are known material increases
13 in the 2001 expense level, these adjustments make no sense.

14 A large portion of the adjustments proposed stem from
15 Witness Schultz' recommendation that the Commission reject any
16 use by Peoples of trend factors in projecting its 2003
17 expenses. Based on the results of Peoples' efforts to control
18 these expenses over the past five years, Mr. Schultz says the
19 company has not demonstrated that trending for inflation plus
20 customer growth is appropriate. If taken to its logical
21 conclusion, his theory would mean that as the company continues
22 to grow, its O&M expense would eventually approach zero.
23 Should the Commission adopt his reasoning, it would truly
24 illustrate the maxim that no good deed goes unpunished; that
25 is, it would punish Peoples for its past cost reduction efforts

1 which cannot continue indefinitely.

2 As an example of the appropriateness of the trending
3 methodology used in numerous cases before this Commission, the
4 company analyzed its O&M expenses from 1991, the year it filed
5 its last rate case, through 1996, the year prior to the Tampa
6 Electric merger. Actual O&M expense for those years was
7 compared with the trended O&M expense using customer growth and
8 inflation as the trend factor. The trended expense for 1996 of
9 was 52.4 million, the actual \$52.2 million. A variance of less
10 than half a percent. The trending methodology would have been
11 highly predictive of the company's actual cost of operations.

12 Both OPC witnesses propose adjustments to incentive
13 compensation which they characterize as extra. The facts will
14 show it is only one component of total compensation and that
15 total compensation is well within the job market values for
16 comparable positions. There is nothing extra or added about
17 it.

18 Another unstipulated issue charges to Peoples from
19 Tampa Electric and allocated charges from TECO Energy,
20 virtually all of which involve the expense in Account 921 is
21 covered by Issues 38 and 54. Witness Schultz proposes two
22 adjustments that would reduce the 2003 expense in Account 921
23 to a level less than that in 2001. Peoples' evidence will show
24 why those adjustments are not appropriate.

25 And the same is true of Mr. Schultz' proposed

1 adjustments to reduce Account 921 expense attributable to
2 allocated charges from TECO Energy. One of those adjustments
3 in the amount of \$175,000 is actually a charge to a
4 below-the-line account not included in the company's O&M
5 expenses in this case, and some of the other TECO Energy
6 allocation adjustments addressed by OPC under that issue have
7 already been agreed to by the company under other issues which
8 have been stipulated.

9 Mr. Schultz at one point in his testimony before he
10 suggests substantial adjustments actually concludes that the
11 company's general and administrative expenses, which include
12 the Tampa Electric charges, are reasonable. And rightly so. I
13 have already mentioned that Peoples beat the total O&M
14 benchmark test by over \$26 million, and the administrative and
15 general expense O&M category contributed \$8.6 million to this
16 total.

17 Finally, Issue 31 is whether the projected test year
18 revenues should be increased to account for off-system sales.
19 Peoples included none in its filing for reasons not considered
20 by Ms. DeRonne, and which Witness Wraye Grimard will explain.
21 Ms. DeRonne would include \$3.7 million in such sales which
22 would be the highest level ever achieved by the company. In an
23 unsuccessful effort to get a stipulation on this issue, Peoples
24 has agreed with Staff to include \$500,000 in revenues and
25 change the current sharing mechanism between the company's PGA

1 and the company from 50/50 to 75/25.

2 As this hearing proceeds, we would ask that you keep
3 in mind my statement, particularly in this case, that no good
4 deed goes unpunished. Please don't penalize Peoples for the
5 efforts it has made to avoid being here today. Thank you.

6 CHAIRMAN JABER: Thank you, Mr. Watson. Mr. Mann.
7 No.

8 Do you have an agreed-upon order of parties? Mr.
9 Wright, did you want to go ahead and go now?

10 MR. WRIGHT: Your pleasure, Madam Chairman. There is
11 no agreed-upon order.

12 CHAIRMAN JABER: Then let's just follow the order of
13 chairs.

14 MR. WRIGHT: That's fine.

15 CHAIRMAN JABER: And weren't you going to leave?

16 MR. WRIGHT: Madam Chairman, I have a brief opening
17 statement. I do -- let me make my opening statement, and then
18 I will address that, if that is okay.

19 CHAIRMAN JABER: Sounds good.

20 MR. WRIGHT: Thanks. Thank you for the opportunity
21 to present an opening statement on behalf of Auburndale Power
22 Partners, a large industrial transportation customer of Peoples
23 Gas.

24 Commissioners, all parties have stipulated to the
25 appropriate cost of service study in this case, that was Issue

1 70. The stipulation is Category 6, Number 6. As you are well
2 aware, the purpose of cost of service studies is to attempt by
3 a combination of art and science to allocate and calculate the
4 costs of serving each class by the utility. Accordingly, the
5 Commission should use the cost of service study as stipulated
6 to by the parties as its primary guide in setting rates to
7 ensure that all customers of Peoples Gas System fairly pay
8 their cost of service calculated using the cost of service
9 methodology as agreed to by the parties in the stipulation on
10 Issue 70. Thank you.

11 That concludes my statement.

12 As I think the parties are all aware, and as I
13 conveyed to you, Madam Chairman, Auburndale's interest in this
14 case is which respect to the cost of service and rate design
15 issues. Accordingly, I have very little cross-examination, if
16 any, for the witnesses. And with the Commission's leave, I
17 would propose to just leave the counsel table and sit in the
18 back of the room for most of the hearing and come up, if
19 necessary, to conduct any cross on the service issues.

20 CHAIRMAN JABER: Thank you, Mr. Wright. That's fine.

21 MR. WRIGHT: Thank you.

22 CHAIRMAN JABER: Ms. Kaufman.

23 MS. KAUFMAN: Thank you, Madam Chairman and
24 Commissioners. As you know, I am here on behalf of the Florida
25 Industrial Gas Users, which is a group of large users of gas,

1 and I support and adopt the comments that Mr. Wright has made.

2 As you can see by our basic position, we did not take
3 a position on the revenue and return issues. We know that
4 since there has been no agreement among the parties, you will
5 hear evidence and you will weigh it and you will make the
6 appropriate decision as to what the appropriate amount of a
7 revenue increase or decrease should be.

8 We are concerned and looked at and reviewed the cost
9 of service study that the company submitted. We employed
10 outside consultants to do that. And as you have heard Mr.
11 Wright say, there has been agreement and a stipulation as to
12 that. And we commend that to you. We commend to you as well
13 the allocation of any increase that may come out of this case.

14 And our primary role today is somewhat similar to Mr.
15 Wright. We will not be cross-examining on any of the revenue
16 or rate design issues, but will participate to the extent
17 necessary that any cost of service or allocation issues arise.
18 Thank you.

19 CHAIRMAN JABER: Thank you, Ms. Kaufman. Let me tell
20 you both, as I said earlier we are taking a break at noon for
21 an hour, so I would encourage you both to stay close because I
22 do expect the parties to continue to discuss this case during
23 that hour.

24 Mr. Mann.

25 MR. MANN: Thank you, Commissioner. Citizens believe

1 that Peoples Gas Company has overstated rate base. They have
2 understated their net operating income, and because of that
3 have come before this Commission with, we believe, an imprudent
4 request for a revenue increase of \$22 million based on a
5 projected 2003 test year. Part of that request assumes plant
6 additions of \$60,764,000 in 2002 and included \$60,321,000 in
7 the test year 2003. It assumed that specific costs would
8 increase based upon selected presumptions, and that remaining
9 costs would increase based upon trend percentages.

10 We have already seen that those statements of overly
11 optimistic budgeted plant additions have fallen with a decrease
12 in those budgeted plant additions. Their plant additions in
13 2002 are below the projected level of that \$60.7 million, and
14 in the company's rebuttal testimony you will hear that it has
15 been acknowledged that in 2003 plant additions will be greater
16 than \$11.9 million less than projected.

17 The company seeks an excessive ROE of 11.75 percent
18 in this case, and that adds to that \$22 million of over
19 request. In fact, our witnesses will demonstrate to you that
20 there should be a rate reduction in this case. Counsel has
21 stated that all good things must come to an end. And what that
22 leaves us with is a situation that seems to be repeating itself
23 before this Commission, and that is the trending costs that are
24 handled so well through years, if not a decade, of service to
25 its customers.

1 Peoples prides itself on having kept down O&M costs
2 throughout the '90s and into 2000, and yet when the rate case
3 is filed, a test year is established, those costs inevitably
4 seem to increase. The trend has changed, the O&M increase is
5 at a greater rate than the average growth for the last decade,
6 and the difference that exists at that time is that we are
7 looking at a test year. And we are back to the conventional
8 regulatory model where a utility comes before this Commission
9 and says it will need to do various things, it will need the
10 money to cover all of those things. And when we look at each
11 of those things individually, it is difficult to tear each of
12 those individual items down. But when you look at that in the
13 aggregate, I think it makes a fairly descriptive picture of
14 those increases dovetailing with a test year being established
15 for a rate case.

16 We would ask you to hold the utility to the
17 efficiencies that they have proven they are capable of, and
18 that they have prided themselves on accomplishing.

19 Thank you, Commissioner.

20 CHAIRMAN JABER: Thank you, Mr. Mann. Are we at the
21 stage now, Staff, where witnesses can be sworn?

22 MS. VINING: Yes, Chairman.

23 CHAIRMAN JABER: Mr. Mann, are all of your witness in
24 the room?

25 MR. MANN: Yes, Commissioner.

1 CHAIRMAN JABER: Mr. Watson, are all of your
2 witnesses in the room?

3 MR. WATSON: Yes, ma'am.

4 CHAIRMAN JABER: I will ask the witness to please
5 stand and raise your right hand.

6 (Witnesses sworn.)

7 CHAIRMAN JABER: I think it is more efficient,
8 Commissioners, rather than putting the witnesses on the stand
9 now that we go ahead and break for that hour. We will come
10 back ten to 1:00. Here are the instructions for this hour.
11 And, Staff, I want you to facilitate and be as helpful as
12 possible in this regard.

13 I would hope that the discussions continue in the
14 hour. I hope that folks are cooperative in providing
15 information, and that folks are cooperative in receiving
16 information. And I hope that we can be creative in finding
17 resolutions if not for the entire case, but as it relates to
18 witnesses and additional issues. Creativity inures to
19 everyone's benefit. So I encourage you all to take advantage
20 of that hour. We will be back in an hour and we will be ready
21 to move forward. Thanks.

22 (Lunch recess.)

23 CHAIRMAN JABER: Parties, Staff, are we ready to get
24 back on the record? Not all at once. Ms. Vining.

25 MS. VINING: I believe the parties have worked out an

1 agreement, and I'm going to rely on Mr. Watson to give a small
2 summary of the agreement the parties have reached.

3 MR. WATSON: Madam Chairman, Commissioners, during
4 the break we had some further discussions with Mr. Shreve and
5 Mr. Mann, and we settled on a number for the revenue deficiency
6 in this case of \$12.05 million. Peoples' willingness to agree
7 to that number was conditioned on obviously approval by the
8 Commission of that number and, furthermore, on the Commission's
9 final vote on the allocation of the revenue increase to the
10 affected rate classes and the final rates either today or at
11 the outside at next Tuesday's agenda conference.

12 The idea being that -- well, the company's only
13 motivation to settle at this number was the opportunity to put
14 the new rates into effect approximately 2-1/2 months earlier
15 than they would have otherwise gone into effect. So that is
16 basically the bare bones of the agreement we reached with Mr.
17 Shreve and Mr. Mann, whom we would like to thank for their
18 willingness to consider further discussions.

19 CHAIRMAN JABER: Thank you, Mr. Watson. Mr. Mann or
20 Mr. Shreve, would you add -- I will come back to you, Ms.
21 Kaufman. Is there anything you would like to add to that
22 briefing?

23 MR. MANN: Commissioner, only that I would like to
24 congratulate all the parties involved. Mr. Ansley and the
25 staff at Peoples for the ease of working with them for the most

1 part, and certainly the cooperation of staff in achieving this
2 settlement today. And we thank you, Commissioners.

3 CHAIRMAN JABER: Thank you, Mr. Mann.

4 Ms. Kaufman, you wanted to say something; and then,
5 Mr. Wright, you can feel free, too.

6 MS. KAUFMAN: Yes. It is also our understanding that
7 as a part of this global settlement that the decrease that is
8 shown in Peoples' proposal as filed for the large volume
9 customers will be maintained. In other words, the rates they
10 proposed for those classes will be the rates that are put into
11 effect.

12 CHAIRMAN JABER: Mr. Watson, you can confirm that?

13 MR. WATSON: Yes, that is my understanding, Madam
14 Chairman.

15 COMMISSIONER BRADLEY: Thank you, Ms. Kaufman.
16 Mr. Wright.

17 MR. WRIGHT: Thank you, Madam Chairman.

18 COMMISSIONER DEASON: I'm sorry, let me ask a
19 question on that last question and answer. Ms. Kaufman, you
20 are seeking that the rates as proposed by Peoples for your
21 clients would remain in effect? I'm trying to understand.
22 That's what I understood you to say, I'm just trying to get it
23 clarified.

24 MS. KAUFMAN: If you look at Staff Composite Exhibit
25 1, the cost of service and rate design schedule, the very last

1 page, the proposed rates are the rates that we understand to be
2 part of the settlement for the large volume customers.

3 COMMISSIONER DEASON: So these are the rates that
4 Staff determined? Where do these rates come from that you want
5 to see implemented?

6 MS. KAUFMAN: They come from Peoples' filing,
7 original filing.

8 COMMISSIONER DEASON: Their original filing?

9 MS. KAUFMAN: Yes, sir.

10 COMMISSIONER DEASON: Okay. So I guess my question
11 is their original filing was based upon a revenue request of
12 some \$22 million, and we are establishing rates at 12 million.

13 MS. KAUFMAN: Right. But if you look at their cost
14 of service, these rates, these classes will receive a decrease
15 even under the original filing.

16 COMMISSIONER DEASON: And you want to maintain that
17 same decrease or you are looking for a greater decrease?

18 MS. KAUFMAN: Well, I think we would love to have a
19 greater decrease, but I think that we have agreed that these
20 would be the rates that we would accept.

21 COMMISSIONER DEASON: Even recognizing that there is
22 a smaller revenue requirement as a result of the stipulation,
23 you are still satisfied with the original decrease as proposed?

24 MS. KAUFMAN: Yes, sir.

25 COMMISSIONER DEASON: That's what I thought you said

1 and I was just confirming that.

2 MS. KAUFMAN: I'm sorry if I wasn't clear about that.

3 MR. WRIGHT: Madam Chairman.

4 CHAIRMAN JABER: Mr. Wright.

5 MR. WRIGHT: Thank you. We agree with and support
6 the settlement and likewise thank all the parties and Staff and
7 the Commissioners for encouraging us to stick with it.

8 Our understanding is exactly that articulated by
9 Commissioner Deason, and we are quite clear that we are taking
10 the rates as proposed by the company based on a \$22.6 million
11 revenue increase and foregoing any opportunity to try to get
12 more based on the fact that the revenue increase is going to be
13 about half that. But we support the settlement. Thank you
14 very much.

15 CHAIRMAN JABER: Thank you. Ms. Vining, how do you
16 propose we -- I understand the general intent of the proposed
17 stipulation. I also have in front of me a list of issues and
18 Staff recommendations that I'm guessing get us to that
19 stipulated revenue deficit. Is that correct, Mr. Mailhot?

20 MS. VINING: That is correct.

21 CHAIRMAN JABER: So are you proposing we go
22 issue-by-issue and vote on Staff's recommendation?

23 MS. VINING: You can certainly do that if that is
24 your preference, but we would propose that you could
25 potentially vote on this document as it exists now in one vote.

1 CHAIRMAN JABER: Let me ask the parties. Have you
2 had an opportunity to review this document? Mr. Watson?

3 MR. WATSON: Yes, we have.

4 CHAIRMAN JABER: Mr. Wright.

5 MR. WRIGHT: Not quite, Madam Chairman, but I just
6 got this three minutes ago, five minutes ago. I will look at
7 our issues very quickly.

8 CHAIRMAN JABER: Mr. Shreve, you were about to say
9 something.

10 MR. SHREVE: I think we are okay. Mr. Mailhot might
11 want to explain where we are. And I don't think you need to go
12 issue-by-issue on it.

13 MR. MAILHOT: Right. Just to make it clear,
14 Commissioners, when I handed you out a document a few minutes
15 ago, it goes up through Issue 67, which is really the last
16 revenue requirements issue that you need to address. The
17 parties probably have a document with a couple of extra pages
18 on it which incorporate rate issues. So I just wanted to make
19 it clear that the document -- if you vote for the document that
20 you have in your hand, it is only the revenue requirements
21 issues up through Issue 67.

22 CHAIRMAN JABER: Okay. You know, it may be tedious,
23 but just for purposes of making sure the record is complete, I
24 think I would rather vote out the issues that need resolution
25 today. I think it makes sure that we have covered everything.

1 So, by my calculation Issue 4 is the first one?

2 MS. VINING: That is correct.

3 CHAIRMAN JABER: And your recommendation would be as
4 stated on Page 1?

5 MS. VINING: Correct, again.

6 CHAIRMAN JABER: Commissioners, do I have a motion to
7 accept staff's recommendation on Issue 4?

8 COMMISSIONER DEASON: Move Staff.

9 COMMISSIONER BAEZ: Second.

10 CHAIRMAN JABER: There has been a motion and a second
11 to accept Staff's recommendation on Issue 4. All those in
12 favor say aye.

13 (Unanimous affirmative vote.)

14 CHAIRMAN JABER: Issue 4 is approved. The next issue
15 is Issue 11, Mr. Mailhot?

16 MR. MAILHOT: That is correct.

17 CHAIRMAN JABER: Issue 11, Commissioners.

18 COMMISSIONER DEASON: Was there any change here from
19 what was originally contemplated in Staff's position?

20 MR. MAILHOT: No. This is as the company originally
21 filed, I believe, and it is what Staff had as our position.

22 COMMISSIONER DEASON: Move Staff.

23 COMMISSIONER BAEZ: Second.

24 CHAIRMAN JABER: All those in favor say aye.

25 (Unanimous affirmative vote.)

1 CHAIRMAN JABER: Issue 11 is approved. Issue 12.

2 MR. MAILHOT: 12 is a fallout of prior issues.

3 COMMISSIONER DEASON: Move Staff.

4 COMMISSIONER BAEZ: Second.

5 CHAIRMAN JABER: 12 is a fallout? You have got a
6 number here.

7 MR. MAILHOT: Right, but it's a total. That dollar
8 amount is the sum of prior issues.

9 CHAIRMAN JABER: Great. And there has been a motion
10 and a second. All those in favor say aye.

11 (Unanimous affirmative vote.)

12 CHAIRMAN JABER: Issue 12 is approved. Issue 13.

13 COMMISSIONER DEASON: Move Staff.

14 COMMISSIONER BAEZ: Second.

15 CHAIRMAN JABER: All those in favor say aye.

16 (Unanimous affirmative vote.)

17 CHAIRMAN JABER: Issue 13 is resolved. Is the next
18 one Issue 17?

19 MR. MAILHOT: Correct.

20 COMMISSIONER DEASON: Move Staff on 17.

21 COMMISSIONER BAEZ: Second.

22 CHAIRMAN JABER: All those in favor say aye.

23 (Unanimous affirmative vote.)

24 CHAIRMAN JABER: Issue 17 is approved. Issue 18.

25 COMMISSIONER DEASON: Move Staff.

1 COMMISSIONER BAEZ: Second.

2 CHAIRMAN JABER: All those in favor say aye.

3 (Unanimous affirmative vote.)

4 CHAIRMAN JABER: Issue 18 is approved. Cost of
5 capital is Issue 19.

6 COMMISSIONER DEASON: I have a question. Staff, you
7 did not take a position on this in the prehearing order,
8 correct?

9 MR. MAILHOT: That's correct.

10 COMMISSIONER DEASON: What was the Staff witness? We
11 had a Staff witness, correct?

12 MS. VINING: Not on this issue.

13 COMMISSIONER DEASON: No, we did not. We had Doctor
14 Morin and then Mr. Cicchetti. And as I recall, Doctor Morin
15 was recommending a range. Refresh my memory, what was that
16 range again?

17 MS. VINING: His range in the prehearing order was
18 10.75 percent to 12.75 percent with a midpoint of 11.75
19 percent.

20 COMMISSIONER DEASON: And this number is within his
21 range, it's just kind of at the lower end. Not at the lower
22 end, but towards the lower part of that range, correct?

23 MR. MAILHOT: Right. And this is their current
24 authorized midpoint.

25 COMMISSIONER DEASON: And as in Mr. Watson's summary,

1 he indicated that that was adjusted. Their last rate case they
2 were awarded a return on equity that was subsequently adjusted
3 downward through agreement, and we are just maintaining that
4 same return on equity, is that the case?

5 MR. MAILHOT: That is correct, that is what this
6 does.

7 COMMISSIONER DEASON: Move Staff.

8 COMMISSIONER BAEZ: Second.

9 CHAIRMAN JABER: All those in favor of approving
10 Staff on Issue 19 indicate by saying aye.

11 (Unanimous affirmative vote.)

12 CHAIRMAN JABER: Issue 19 is approved. Issue 21.
13 Staff's recommendation is consistent with the prehearing order?

14 MS. VINING: Correct.

15 COMMISSIONER DEASON: Move Staff.

16 COMMISSIONER BAEZ: Second.

17 CHAIRMAN JABER: All those in favor say aye.

18 (Unanimous affirmative vote.)

19 CHAIRMAN JABER: Issue 21 is approved. Issue 22.

20 COMMISSIONER DEASON: Does this take into account the
21 so-called bonus depreciation, an adjustment is made for that?

22 MR. MAILHOT: That is correct.

23 COMMISSIONER DEASON: Move Staff.

24 COMMISSIONER BRADLEY: Second.

25 CHAIRMAN JABER: All those in favor say aye.

1 (Unanimous affirmative vote.)

2 CHAIRMAN JABER: Issue 22 is approved. Issue 23. It
3 is staff's position in the prehearing order.

4 COMMISSIONER DEASON: Move Staff.

5 COMMISSIONER BRADLEY: Second.

6 CHAIRMAN JABER: All those in favor say aye.

7 (Unanimous affirmative vote.)

8 CHAIRMAN JABER: Issue 23 is approved. Issue 25.

9 COMMISSIONER DEASON: Move Staff.

10 COMMISSIONER BAEZ: Second.

11 CHAIRMAN JABER: All those in favor say aye.

12 (Unanimous affirmative vote.)

13 CHAIRMAN JABER: Issue 25 is approved. Issue 26.

14 COMMISSIONER DEASON: Move Staff.

15 COMMISSIONER BAEZ: Second.

16 CHAIRMAN JABER: All those in favor say aye.

17 (Unanimous affirmative vote.)

18 CHAIRMAN JABER: Issue 26 is approved. Revenues.

19 The first issue looks like Issue 31.

20 COMMISSIONER DEASON: Madam Chairman, I have a
21 question. Is this the first time that we are going to
22 officially recognize the sharing of off-system sales for
23 Peoples? How has it been done prior to this? Has it been done
24 through the fuel adjustment docket? How has that happened?

25 MR. WATSON: Commissioner Deason, Peoples' off-system

1 sales schedule was approved back -- I want to say sometime
2 during the year 2000, and it provides for a 50/50 sharing
3 between the PGA and the company of any margin that is made on
4 the sales of gas and capacity.

5 This proposal would include a half million dollars
6 worth of the company's portion of the revenues in the revenues
7 for the projected test year, but would change the sharing
8 mechanism so that 75 percent of any margin made on a off-system
9 sale is credited to the purchased gas adjustment, which would
10 reduce the cost of gas primarily for residential and small
11 commercial customer customers and the company would get to keep
12 only 25 percent of it.

13 COMMISSIONER DEASON: So this stipulation includes a
14 \$500,000 adjustment to increase revenues associated with
15 off-system sales, correct?

16 MR. WATSON: That is correct.

17 COMMISSIONER DEASON: Was there any amount included
18 in the case to begin with? This is the total amount we are
19 going to be recognizing?

20 MR. WATSON: This will be the total amount. We had
21 included none in the projected test year for a lot of reasons
22 that are gone into in Ms. Grimard's direct and rebuttal
23 testimony.

24 COMMISSIONER DEASON: Now, is this stipulation going
25 to have any effect in the way that we calculate amounts for

1 fuel adjustment purposes, or is this all going to be
2 self-contained within this rate base case?

3 MR. WATSON: Seventy-five percent of any revenues
4 derived, or of the margin on off-system sales will go into the
5 purchased gas adjustment calculation.

6 COMMISSIONER DEASON: So that would be an ongoing
7 amount, correct?

8 MR. WATSON: Right. It will be whatever the amount
9 is; 75 percent of the margin, if there is any. If there are
10 sales, if there is a margin, will be credited as a reduction to
11 the cost of gas and capacity in the purchased gas adjustment
12 clause.

13 COMMISSIONER DEASON: Okay. Now, is that on amounts
14 in excess of \$500,000, or is it for all?

15 MR. WATSON: The 500,000 assumes that there would
16 be -- let me see if I do my math right -- \$2 million worth of
17 margin total; 500,000 of it would be a credit to the company,
18 the other million and a half would go into the PGA to reduce
19 the cost of gas and capacity.

20 COMMISSIONER DEASON: Okay. I follow you.

21 CHAIRMAN JABER: But does the stipulation reflect --
22 the words of the stipulation don't reflect that, do they? It
23 says the 75 percent customer share would flow back to the
24 customers as a credit to the cost of gas in the PGA clause.

25 MR. WATSON: And of course this -- I guess you would

1 have to look at the rate schedule that spells all of this out,
2 which would take only a minor change. And I think they talk
3 about the customer share being that portion which goes as a
4 credit to the PGA as opposed to that which is included in the
5 company's revenues as an offset to cost of service that is not
6 covered by one of the adjustment clauses.

7 COMMISSIONER DEASON: In other words, you are
8 recognizing 25 percent of these off-system sales
9 above-the-line. And for the purpose of this rate case, the
10 projected amount for 2003 is going to be \$500,000.

11 MR. WATSON: That is correct.

12 CHAIRMAN JABER: Are you comfortable with the
13 language of the stipulation, Commissioner Deason, in terms of
14 not having confusion later?

15 COMMISSIONER DEASON: I think it could be clarified.
16 Because to me it was not clear, and maybe it is just my own
17 fault, but the \$500,000 actually is the 25 percent share that
18 is going to be treated above-the-line for purposes of this rate
19 proceeding.

20 COMMISSIONER BRADLEY: Would it be helpful to include
21 the customer's share?

22 COMMISSIONER DEASON: Well, the customer's share is
23 going to be -- the 75 percent is going to be recognized in
24 future fuel adjustment proceedings. The 25 percent share for
25 the company is actually going to be recognized above-the-line,

1 and it has the effect of reducing revenue requirements in this
2 rate proceeding, is that correct, Staff?

3 MR. MAILHOT: Yes. We are reducing revenue
4 requirements effectively by \$500,000 through this.

5 COMMISSIONER DEASON: So in one sense of looking at
6 it, the customers are getting benefits on both sides of it,
7 both the fuel adjustment side and the base rate proceeding
8 side.

9 MR. WATSON: That is correct.

10 COMMISSIONER BRADLEY: That's why I asked if it would
11 be helpful just to explain, put a numerical figure on it.

12 COMMISSIONER DEASON: I think it would be good if we
13 could explain. There is going to be an order recognizing the
14 outcome of this. If that could be explained in the order,
15 Commissioner, I think that would be helpful if we could explain
16 that in the order.

17 CHAIRMAN JABER: We could do that, too. But in terms
18 of the actual stipulation that we will be accepting today, how
19 about we save this one until the very end and just give Staff
20 time. Let Mr. Mailhot look at this stipulation and the
21 wording.

22 COMMISSIONER DEASON: And just look at the wording?

23 CHAIRMAN JABER: Right.

24 COMMISSIONER DEASON: I have no problem with that. I
25 certainly am in agreement with it in concept. I think maybe

1 the language just could be clarified a little bit.

2 CHAIRMAN JABER: Mr. Mailhot, we are going to pass on
3 Issue 31. Look at the very first sentence. If we could
4 clarify that for this proceeding and future purchased gas
5 adjustment clause proceedings off-system sale revenues would be
6 shared. That would be the first clarification, isn't it, Mr.
7 Watson?

8 MR. WATSON: Madam Chairman, I think the
9 clarification is fairly easy, if I had a copy of the company's
10 rate Schedule OSS, because I think if you simply had two
11 sentences in this position that would start down -- the first
12 would be starting at about the sixth line of what is before
13 you, or the fifth line. It would say for purposes of setting
14 rates in this docket, operating revenues should be increased
15 \$500,000 in the projected 2002 test year.

16 CHAIRMAN JABER: 2003 test year?

17 MR. WATSON: That would be the first sentence. The
18 second sentence, I really can't craft for you right this second
19 because I don't have the rate schedule there, but I think it
20 would say something to the effect that the 50 percent that is
21 now credited to the PGA in rate Schedule OSS would be increased
22 from 50 percent to 75 percent, and the 50 percent referred to
23 in that schedule that is included in the company's revenue
24 above-the-line would be decreased from 50 percent to 25
25 percent.

1 CHAIRMAN JABER: Well, I'm going to give you time to
2 work on that language. We are going to come back to Issue 31,
3 if someone wants to hand you the schedule. We will come back
4 to it. Does that affect our vote on Issue 32, Staff? It
5 shouldn't.

6 COMMISSIONER DEASON: I think we can approve this
7 number, because we're not changing the numbers, it's just the
8 explanation. So I can move Staff on 32.

9 COMMISSIONER BRADLEY: And I don't disagree with
10 that, but I was just wondering if it might further clarify if
11 we put in the dollar amount, the customers' dollar amount or
12 share.

13 CHAIRMAN JABER: I don't think we can, Commissioner
14 Bradley. It is going to depend on what the calculation of
15 off-system sales will be. Whatever that amount will be, there
16 is going to be a 75/25 percent sharing methodology. Does that
17 make sense? Whatever their off-system sales will be.

18 COMMISSIONER BRADLEY: Okay. And I guess where my
19 confusion is is we do have a dollar amount for the company.

20 CHAIRMAN JABER: Right. But that is just for this
21 proceeding. Because we know what -- for purposes of this
22 proceeding we know what the amount is.

23 COMMISSIONER BRADLEY: Okay. I see it.

24 CHAIRMAN JABER: But absolutely I have reached the
25 conclusion that the stipulation needs to be clarified, so it

1 will help when we see the new language. Issue 32. There was a
2 motion.

3 COMMISSIONER BAEZ: Second.

4 CHAIRMAN JABER: And a second. All those in favor
5 say aye.

6 (Unanimous affirmative vote.)

7 CHAIRMAN JABER: Issue 32 is approved. Expenses,
8 Issue 35.

9 COMMISSIONER DEASON: Move Staff.

10 CHAIRMAN JABER: There has been a motion.

11 COMMISSIONER BAEZ: Second.

12 CHAIRMAN JABER: And a second. All those in favor
13 say aye.

14 (Unanimous affirmative vote.)

15 CHAIRMAN JABER: Issue 35 is approved. Issue 36.

16 COMMISSIONER DEASON: Move Staff.

17 COMMISSIONER BAEZ: Second.

18 CHAIRMAN JABER: There has been a motion and a second
19 on Issue 36. All those in favor say aye.

20 (Unanimous affirmative vote.)

21 CHAIRMAN JABER: Issue 38.

22 COMMISSIONER DEASON: Move Staff.

23 COMMISSIONER BAEZ: Second.

24 CHAIRMAN JABER: And a second. All those in favor
25 say aye.

1 (Unanimous affirmative vote.)

2 CHAIRMAN JABER: Issue 38 is approved. Issue 40.

3 COMMISSIONER DEASON: Move Staff.

4 COMMISSIONER BAEZ: Second.

5 CHAIRMAN JABER: And a second. All those in favor

6 say aye.

7 (Unanimous affirmative vote.)

8 CHAIRMAN JABER: Issue 40 is approved. Issue 47.

9 COMMISSIONER DEASON: Move Staff.

10 COMMISSIONER BAEZ: Second.

11 COMMISSIONER DEASON: And a second. All those in

12 favor say aye.

13 (Unanimous affirmative vote.)

14 CHAIRMAN JABER: Issue 47 is approved. Issue 49.

15 COMMISSIONER DEASON: Move Staff.

16 COMMISSIONER BAEZ: Second.

17 CHAIRMAN JABER: And a second. All those in favor

18 say aye.

19 (Unanimous affirmative vote.)

20 CHAIRMAN JABER: Issue 49 is approved. Issue 52.

21 COMMISSIONER DEASON: Move Staff.

22 COMMISSIONER BAEZ: Second.

23 CHAIRMAN JABER: Okay. There is a motion and a

24 second to approve Issue 52. All those in favor say aye.

25 (Unanimous affirmative vote.)

1 CHAIRMAN JABER: Issue 53.

2 COMMISSIONER DEASON: Move Staff.

3 COMMISSIONER BAEZ: Second.

4 CHAIRMAN JABER: There has been a motion and a
5 second. All those in favor say aye.

6 (Unanimous affirmative vote.)

7 CHAIRMAN JABER: Issue 53 is approved. Issue 57.

8 COMMISSIONER DEASON: I have a question on 57.

9 CHAIRMAN JABER: Go ahead, Commissioner.

10 COMMISSIONER DEASON: Is the purpose of this
11 stipulation to recognize that \$500,000 may be appropriate, but
12 that if less than that amount is actually contributed for this
13 purpose, that there will be a regulatory liability created, and
14 that if it exceeds that amount there will not be a regulatory
15 asset created?

16 MR. MAILHOT: That is correct. I mean, the primary
17 purpose here is there is a big difference of opinion on whether
18 or not the company may or may not contribute to this research,
19 and we believe it is reasonable to allow them the money to
20 contribute. But if for some reason they don't, we would like
21 it set aside. Now, that means if they set aside some in year
22 one, they potentially contribute more the following year.

23 COMMISSIONER DEASON: Just for the sake of argument,
24 assume that they actually make a payment of \$400,000 in year
25 one which creates a \$100,000 regulatory liability. If they

1 contribute 600,000 the next year, then that would basically
2 zero out the regulatory liability, is that correct?

3 MR. MAILHOT: That is correct.

4 COMMISSIONER DEASON: When will we review the amount
5 that exists in regulatory liability, and how would we dispose
6 of it? But that would be within our discretion to utilize it
7 in the way we deem appropriate at some future time?

8 MR. MAILHOT: I'm not sure. I mean, I guess we
9 could. You know, if there is money sitting there in a few
10 years, we can review it and we can make a recommendation on
11 what to do with that.

12 COMMISSIONER DEASON: Mr. Watson, do you agree with
13 that?

14 MR. WATSON: Yes, sir.

15 COMMISSIONER DEASON: Okay. I can move Staff.

16 COMMISSIONER BRADLEY: Second.

17 CHAIRMAN JABER: There is a motion and second on
18 Issue 57. All those in favor say aye.

19 (Unanimous affirmative vote.)

20 CHAIRMAN JABER: Issue 57 is approved. Issue 59 was
21 a fallout calculation.

22 COMMISSIONER DEASON: Move Staff.

23 COMMISSIONER BRADLEY: Second.

24 CHAIRMAN JABER: All those in favor say aye.

25 (Unanimous affirmative vote.)

1 CHAIRMAN JABER: Issue 60 was a fallout.

2 COMMISSIONER DEASON: I can move Staff.

3 COMMISSIONER BRADLEY: Second.

4 CHAIRMAN JABER: All these in favor say aye.

5 (Unanimous affirmative vote.)

6 CHAIRMAN JABER: Issue 61. Staff's position in the
7 prehearing order.

8 COMMISSIONER DEASON: Move Staff.

9 COMMISSIONER BAEZ: Second.

10 CHAIRMAN JABER: All those in favor say aye.

11 (Unanimous affirmative vote.)

12 CHAIRMAN JABER: Issue 61 is approved. Issue 62.

13 COMMISSIONER DEASON: Move Staff.

14 COMMISSIONER BRADLEY: Second.

15 CHAIRMAN JABER: All those in favor say aye.

16 (Unanimous affirmative vote.)

17 CHAIRMAN JABER: Issue 62 is approved. Issue 63.

18 COMMISSIONER DEASON: Move Staff.

19 COMMISSIONER BRADLEY: Second.

20 CHAIRMAN JABER: All those in favor say aye.

21 (Unanimous affirmative vote.)

22 CHAIRMAN JABER: Issue 63 is approved. Issue 64.

23 COMMISSIONER DEASON: Move Staff.

24 COMMISSIONER BRADLEY: Second.

25 CHAIRMAN JABER: All those in favor say aye.

1 (Unanimous affirmative vote.)

2 CHAIRMAN JABER: Issue 64 is approved. 66.

3 COMMISSIONER DEASON: Move Staff.

4 COMMISSIONER BRADLEY: Second.

5 CHAIRMAN JABER: All those in favor say aye.

6 (Unanimous affirmative vote.)

7 CHAIRMAN JABER: Issue 66 is approved. 67 is the
8 calculation of the interim rate.

9 COMMISSIONER DEASON: Move Staff.

10 COMMISSIONER BAEZ: Second.

11 CHAIRMAN JABER: All those in favor say aye.

12 (Unanimous affirmative vote.)

13 CHAIRMAN JABER: That resolves Issue 67.

14 Do you need just a couple of minutes to go back to
15 the language proposed in Issue 31? Okay. We will give you
16 just a few minutes.

17 CHAIRMAN JABER: In the meantime, Public Counsel, Ms.
18 Kaufman, Mr. Wright, and Staff, if I have forgotten any issues,
19 be kind to point them out to me, please.

20 (Off the record.)

21 CHAIRMAN JABER: Let's get back on the record. Mr.
22 Watson, I asked you to work on new language for the stipulation
23 related to Issue 31.

24 MR. WATSON: And I'm ready to proffer a new position
25 on that.

1 CHAIRMAN JABER: Go ahead.

2 MR. WATSON: That position would be for purposes of
3 setting rates in this docket, operating revenues should be
4 increased \$500,000 in the projected 2003 test year. The
5 company's off-system sales service rate schedule -- strike
6 that. The provisions of Special Condition 3 in company's
7 off-system sales service rate schedule shall be amended to read
8 as follows: Disposition of net revenues and transaction
9 charges. For purposes of this Paragraph 3, net revenues shall
10 mean the total nongas energy charges received by company for
11 service pursuant to this rate schedule. Twenty-five percent of
12 all net revenues shall be retained by company above-the-line as
13 regulated revenues, and the remaining 75 percent of such net
14 revenues and all transaction charges shall be used to reduce
15 company's cost of gas recovered through the purchased gas
16 adjustment clause.

17 CHAIRMAN JABER: Staff, you have had an opportunity
18 to think about that new proposed language?

19 MS. VINING: Yes. We are satisfied with that
20 language.

21 CHAIRMAN JABER: Okay. Ms. Kaufman, Mr. Wright, and
22 Public Counsel?

23 MS. KAUFMAN: We have no position on this.

24 MR. MANN: Commissioner, Public Counsel is satisfied
25 with that language.

1 CHAIRMAN JABER: Commissioners.

2 COMMISSIONER DEASON: I am satisfied with the
3 language, and I can move approval of the stipulation with that
4 language.

5 COMMISSIONER BAEZ: Second.

6 CHAIRMAN JABER: And a second. All those in favor of
7 approving the stipulated language on Issue 31 say aye.

8 (Unanimous affirmative vote.)

9 CHAIRMAN JABER: Issue 31 is approved.

10 Now, Staff, have I covered all the issues?

11 MR. MAILHOT: Commissioner, there is one question
12 that the company has raised. Concerning the issues where we
13 have indicated they have been dropped, they have been dropped
14 since, I guess, the time of the prehearing order, and I don't
15 know if you need to acknowledge that these issues have been
16 dropped, or vote on them, or what procedurally, but I think the
17 company would like that recognized that these issues are
18 dropped.

19 CHAIRMAN JABER: Sure. I don't know which ones were
20 dropped before today and which ones today, so what I will do is
21 just acknowledge for purposes of the record that there were
22 issues that have been dropped by agreement of the parties.

23 MR. MAILHOT: Okay.

24 CHAIRMAN JABER: Does that satisfy your concern, Mr.
25 Watson?

1 MR. WATSON: Yes, ma'am.

2 CHAIRMAN JABER: Now Mr. Watson proposed, Staff, that
3 Tuesday -- part of the stipulation was that we would be able to
4 vote on Tuesday with respect to the revenue increases and the
5 final rates. Staff, are you going to be prepared to bring a
6 recommendation for Tuesday's agenda?

7 MS. VINING: Yes, subject to Mr. Wheeler's additional
8 comments.

9 CHAIRMAN JABER: Mr. Wheeler.

10 MR. WHEELER: Yes, that should be no problem.

11 CHAIRMAN JABER: There are two days associated with
12 this weekend, I guess. Work with my office on the order of
13 recommendations for agenda. If you need it to be the last item
14 on agenda just let us know, but we will plan on a vote for
15 Tuesday's agenda. Is that December 17th?

16 MS. VINING: 17th.

17 MR. WHEELER: And in terms of filing the
18 recommendation, noon on Monday, would that be sufficient?

19 CHAIRMAN JABER: You're going to be able to do that
20 by noon Monday? Let's plan on noon Monday. And you can just
21 keep my office in the loop on whether you will meet that time
22 or not.

23 MR. WHEELER: Okay.

24 CHAIRMAN JABER: It's going to be a recommendation on
25 the calculation of final rates, right?

1 MR. WHEELER: Right.

2 CHAIRMAN JABER: Noon on Monday for a Staff
3 recommendation filing time. Okay.

4 Now, with that, parties, any other issue to come
5 before us before we conclude the hearing? This hearing will be
6 concluded.

7 I think I need to go ahead and suspend the
8 post-hearing filing dates for purposes of the record. We will
9 see you all Tuesday at the agenda. Thank you for your
10 cooperation and for working together on this proceeding. Very
11 well done. Good job. Thank you.

12 MR. WATSON: Thank you.

13 (The hearing concluded at 2:47 p.m.)
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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, 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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 17th day of December, 2001.



JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
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