

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

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060038-EI

In the Matter of:

PETITION FOR ISSUANCE OF A STORM
RECOVERY FINANCING ORDER, BY FLORIDA
POWER & LIGHT COMPANY.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: PREHEARING

BEFORE: COMMISSIONER J. TERRY DEASON
 PREHEARING OFFICER

DATE: Thursday, April 13, 2006

TIME: Commenced at 9:30 a.m.
 Concluded at 11:36 a.m.

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

REPORTED BY: JANE FAUROT, RPR
 Official Commission Reporter
 (850) 413-6732

DOCUMENT NUMBER-DATE

03369 APR 17 06

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 MIKE B. TWOMEY, ESQUIRE, P. O. Box 5256, Tallahassee,
3 Florida 32314-5256, appearing on behalf of AARP.

4 JOHN W. MCWHIRTER, JR., ESQUIRE, and TIMOTHY J.
5 PERRY, ESQUIRE, c/o McWhirter Law Firm, 400 North Tampa Street,
6 Suite 2450, Tampa, Florida 33602, appearing on behalf of
7 Florida Industrial Power Users Group.

8 WADE LITCHFIELD, ESQUIRE, NATALIE SMITH, ESQUIRE, and
9 BRYAN ANDERSON, ESQUIRE, 700 Universe Boulevard, Juno Beach,
10 Florida 33408-0420, and JOHN T. BUTLER, ESQUIRE, 9250 West
11 Flagler Street, Miami, Florida 33102, appearing on behalf of
12 Florida Power & Light Company.

13 CHARLES BECK, ESQUIRE, JOSEPH MCGLOTHLIN, ESQUIRE,
14 AND PATTI CHRISTENSEN, ESQUIRE, Office of Public Counsel, c/o
15 The Florida Legislature, 111 W. Madison Street, Room 812,
16 Tallahassee, Florida 32399-1400, appearing on behalf of the
17 Citizens of the State of Florida.

18 ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T. LAVIA,
19 III, ESQUIRE, Young Law Firm, 225 South Adams Street, Suite
20 200, Tallahassee, Florida, appearing on behalf of Florida
21 Retail Federation.

22 CHRISTOPHER M. KISE, SOLICITOR GENERAL, and JACK
23 SHREVE, SENIOR GENERAL COUNSEL, Office of the Attorney General,
24 The Capital, Tallahassee, Florida, appearing on behalf of the
25 Attorney General Charlie Christ.

1 PARTICIPATING CONTINUED:

2 COCHRAN KEATING, ESQUIRE, JENNIFER BRUBAKER, ESQUIRE,
3 ROSANNE GERVASI, ESQUIRE, FPSC General Counsel's Office, 2540
4 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
5 appearing on behalf of the Florida Public Service Commission
6 Staff.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2 COMMISSIONER DEASON: Call the prehearing conference
3 to order. Could I have the notice read, please.

4 MR. KEATING: Pursuant to notice issued January 26th
5 and April 3rd, 2006, this time and place have been set for a
6 prehearing conference in Docket Number 060038-EI, petition for
7 issuance of a storm recovery financing order by Florida Power
8 and Light Company.

9 COMMISSIONER DEASON: Take appearances.

10 MS. SMITH: Natalie F. Smith and R. Wade Litchfield
11 for Florida Power and Light Company at the address reflected in
12 the prehearing order.

13 MR. KISE: Christopher Kise, Solicitor General, on
14 behalf of Attorney General Charlie Crist.

15 MR. WRIGHT: Robert Scheffel Wright and John T.
16 LaVia, III, on behalf of the Florida Retail Federation.

17 MR. TWOMEY: Mike Twomey on behalf of AARP.

18 MR. PERRY: Timothy J. Perry and
19 John W. McWhirter, Jr., on behalf of the Florida Industrial
20 Power Users Group.

21 MR. BECK: Charlie Beck, Joe McGlothlin, and Patty
22 Christensen appearing on behalf of the Citizens of Florida.

23 MR. KEATING: Cochran Keating, Jennifer Brubaker, and
24 Rosanne Gervasi appearing on behalf of the Florida Public
25 Service Commission.

1 MS. SMITH: Commissioner, I need to enter an
2 appearance for two other attorneys, or three others actually
3 for Florida Power and Light. Just two. John T. Butler, and
4 his address is 9250 West Flagler Street, Miami 33102, and that
5 is Florida Power and Light Company, as well. And also Bryan,
6 B-R-Y-A-N, S. Anderson, and that is at the Juno Beach address.
7 And Patrick Bryan will not be appearing.

8 MR. KISE: And, Commissioner, can I enter an
9 appearance also for Jack Shreve on behalf of the Attorney
10 General.

11 COMMISSIONER DEASON: Yes. Okay. Mr. Keating, do we
12 have any preliminary matters we need to address?

13 MR. KEATING: I don't believe we have any preliminary
14 matters. There are no pending motions at the time. There are,
15 I believe, six or seven pending confidentiality requests from
16 FPL. Most of those are fairly recent and staff would intend to
17 prepare a separate order to address those requests.

18 COMMISSIONER DEASON: Very well. Any objection to
19 the handling of the confidential requests? Hearing none, we
20 will proceed in that manner. Any of the parties have any
21 preliminary matters?

22 MS. SMITH: I don't believe so.

23 COMMISSIONER DEASON: Okay. Very well. I want to
24 address one thing on a preliminary basis. Having reviewed all
25 of the issues, I note that there are not an overly number,

1 overly burdensome number, but there are quite a few issues
2 which some parties have taken no position at this time. And I
3 can certainly understand the need for that, but I would also
4 anticipate that now is the time to take a position if at all
5 possible.

6 And I'm going to put the burden on those parties who
7 have indicated no position at this time that if they wish to
8 maintain that, that they affirmatively demonstrate to me why
9 they cannot take a position today and why they need to maintain
10 no position at this time. And absent that, the taking of a no
11 position at this time will just be interpreted as no position,
12 absent a showing that for whatever reason no position can be
13 taken.

14 If there are any questions about that, now is the
15 time to entertain those. Mr. Beck, is there a problem?

16 MR. BECK: No, sir.

17 COMMISSIONER DEASON: Very well. I would propose
18 that, as is customary for the prehearing conferences that I
19 conduct, that we simply proceed through the draft prehearing
20 order section-by-section. We will do so in fairly rapid
21 fashion. Obviously if there is a question or correction or
22 clarification that needs to be made, we'll spend whatever time
23 is necessary to get that adequately addressed. And I have a
24 number of questions myself, and obviously when we get to those
25 I will make those known at that time, as well.

1 And having said that, we will then proceed
2 section-by-section beginning with Section I, Case Background.
3 Section II, Conduct of Proceedings. Section III, Jurisdiction.
4 IV, Confidential Information.

5 MS. SMITH: Commissioner, FPL has entered into
6 protective agreements with all of the parties to this docket
7 with the exception of the federal executive agencies and the
8 Attorney General's Office. And in order to facilitate the use
9 of confidential information at hearing and the ability of those
10 parties to review confidential information at hearing, we are
11 going to need to enter into protective agreements with those
12 parties, as well. And additionally, the protective agreements
13 that we have entered into with the other parties facilitate the
14 exchange of confidential information in discovery. And so we
15 foresee that an addendum to that protective agreement may be
16 needed in order to accomplish the exchange of confidential
17 information or use of confidential information as contemplated
18 in Number 1 under Section IV.

19 COMMISSIONER DEASON: Okay. You indicated that you
20 currently do not have a protective agreement with the federal
21 executive agencies?

22 MS. SMITH: No, sir, nor with the Attorney General's
23 Office.

24 COMMISSIONER DEASON: Nor with the Attorney General's
25 Office. Have you attempted to obtain those agreements?

1 MS. SMITH: They have not asked for it yet, I think
2 partly because they are recent joiners to this docket and have
3 not participated as fully in discovery as the other parties.

4 COMMISSIONER DEASON: Mr. Kise.

5 MR. KISE: Yes, Commissioner. We would be happy to
6 be subject to the same order that the Public Counsel is subject
7 to with respect to confidentiality, but we cannot, just as a
8 matter of procedure in our office, stipulate to or enter into a
9 protective order voluntarily. But we would be happy to be
10 subject to the same procedure that I understand is being
11 applied to Public Counsel.

12 MS. SMITH: With respect to the Office of Public
13 Counsel, the Commission's rules specifically address the
14 exchange of confidential information during discovery with the
15 Office of Public Counsel, so we may need to work out something
16 separately with the Attorney General's office in light of the
17 specific rules related to the Office of Public Counsel, none of
18 which exist for the Attorney General's Office.

19 MR. KISE: We will work it out.

20 COMMISSIONER DEASON: I am in agreement that it is
21 something that can be worked out, and I would encourage the
22 parties to do so certainly before the hearing begins.

23 MS. SMITH: Yes, sir.

24 COMMISSIONER DEASON: The federal executive agencies
25 are an intervenor, but they did not make an appearance this

1 morning, is that correct?

2 MR. KEATING: That's correct.

3 COMMISSIONER DEASON: Were they excused?

4 MR. KEATING: They did not ask to be excused. It's
5 my understanding they had not intended to be here, though, and
6 had not intended necessarily to participate in the hearing. I
7 think they were interested in participating in any discussions
8 between the parties prior to the hearing.

9 COMMISSIONER DEASON: So if the federal executive
10 agencies do not intend to participate in the hearing it may not
11 be unnecessary to have a protective agreement, is that correct?

12 MS. SMITH: If they do not intend to participate,
13 then, yes.

14 COMMISSIONER DEASON: Mr. Keating, I would encourage
15 you to confirm that with the federal executive agencies, and if
16 our assumption is not correct and they do intend to participate
17 in the hearing and do wish to avail themselves of the use of
18 confidential information, I would anticipate you would explain
19 to them the procedure that the Commission follows and it would
20 be necessary to enter into some type of a protective agreement.

21 MR. KEATING: I will.

22 COMMISSIONER DEASON: Very well. We can move along,
23 then, I believe, to Section V, Prefiled Testimony and Exhibits.
24 Section VI, Order of Witnesses. The only question I have
25 concerning the order of witnesses doesn't really pertain to the

1 order of them as it does to the issues which the rebuttal
2 witnesses will be addressing. Is that information that we can
3 ascertain by the time the prehearing order is to be issued?

4 MS. SMITH: We can supply that information to
5 Mr. Keating.

6 COMMISSIONER DEASON: Very well. I would encourage
7 you to do so. Are there any other questions concerning the
8 order of witnesses? Do we anticipate to -- I'm sorry, some
9 witnesses will be offering direct and rebuttal testimony,
10 correct?

11 MS. SMITH: Yes, sir.

12 COMMISSIONER DEASON: Will they be offering direct
13 followed by rebuttal at the end of the hearing, or will they be
14 providing direct and rebuttal simultaneously?

15 MS. SMITH: Commissioner, we have identified several
16 witnesses who we believe could make combined appearances for
17 their direct and rebuttal testimony. Would you like to know
18 those witnesses?

19 COMMISSIONER DEASON: Yes, please.

20 MS. SMITH: Mark Warner, Steven P. Harris, and Doctor
21 Leonardo Green.

22 COMMISSIONER DEASON: Is there any objection to
23 taking these witnesses' direct and rebuttal together?

24 MR. WRIGHT: No objection.

25 COMMISSIONER DEASON: Very well. Hearing no

1 objection, then, Mr. Keating, I would request that you indicate
2 in the prehearing order that those witnesses' testimonies,
3 direct and rebuttal, will be taken together at one appearance.

4 MR. KEATING: We will do that. And while we are on
5 the witness list, I have by e-mail to the parties yesterday
6 asked them to start considering giving serious thought to
7 whether any of the witnesses can be stipulated. And that is
8 something that I don't think anybody is yet prepared to address
9 today, but to the extent that between now and the issuance of
10 the prehearing order we do get agreement on witnesses that can
11 be stipulated into the record, I would propose that we could
12 reflect that in the hearing order. Again, subject to the
13 typical procedure where no party has questions for the witness
14 and none of the Commissioners on the panel assigned would have
15 any questions for the witness.

16 COMMISSIONER DEASON: Very well. When do you
17 anticipate having that information from the parties or have you
18 discussed that?

19 MR. KEATING: I would hope to have that -- I think we
20 are close upon the hearing, so I would assume most of the
21 parties have a good feel for what they feel they need to do in
22 the hearing, so hopefully by the end of this week.

23 MS. SMITH: We may be --

24 COMMISSIONER DEASON: Tomorrow is the end of the
25 week. For some it is considered a semi-holiday, so --

1 MS. SMITH: We may be able to address this now,
2 Commissioner. There is one witness who we think that we have
3 no questions for. That is Witness Rebecca Klein.

4 COMMISSIONER DEASON: Staff, do you have questions
5 for -- oh, that is your witness. Do any of the other parties
6 have questions for Witness Klein?

7 MR. BECK: We are not sure at this point.

8 COMMISSIONER DEASON: Okay. At least we know then
9 that there are no questions from FPL for that witness. Other
10 witnesses? Is that the only one? Any other witnesses that you
11 can identify today?

12 MS. SMITH: No, sir. I will say if Witness Klein
13 does make an appearance, we may have questions then.

14 COMMISSIONER DEASON: Very well. Can any of the
15 other parties identify witnesses as of today that there will be
16 no questions, no cross examination? Don't know at this point?
17 Okay. Well, I will just encourage the parties to notify Mr.
18 Keating if that possibility exists and for which witnesses.
19 And obviously if that is the case, it would certainly alleviate
20 the possible time and expense of witnesses traveling to
21 Tallahassee and appearing and then not be subject to
22 questioning.

23 Okay. Section VII, basic positions. Mr. Perry, I
24 have in front of me a red-lined version of FIPUG's revised
25 prehearing statement. And I take it that there are a number of

1 changes there. You just wish to have this incorporated?

2 MR. PERRY: Yes, please. The changes, the revised
3 prehearing statement reflects the changes that I would like to
4 be made to our issues and positions. The rest of the issues
5 that aren't addressed in the revised prehearing statement
6 remain unchanged.

7 COMMISSIONER DEASON: Staff, you have this obviously?

8 MR. KEATING: Yes, Mr. Perry provided that to us
9 yesterday afternoon, I believe.

10 COMMISSIONER DEASON: Mr. Perry, you provided this to
11 the other parties, as well?

12 MR. PERRY: That's correct. And I passed out copies,
13 as well, this morning.

14 COMMISSIONER DEASON: Very well. Are there any other
15 changes or clarifications to basic positions by any of the
16 parties?

17 MR. PERRY: Commissioner Deason, would you like me to
18 note when there is a change as we go through the prehearing
19 order, the draft prehearing order, or is that unnecessary?

20 COMMISSIONER DEASON: I notice that a number of your
21 changes are simply changing your statement that you had been in
22 agreement with staff to changing it to stating you are in
23 agreement with OPC, I see that. Is that a recurring trend that
24 that is the case?

25 MR. PERRY: Yes, for the most part that is where most

1 of the changes come.

2 COMMISSIONER DEASON: I don't think it is going to be
3 necessary to go over each and every one of those. If there is
4 something that, in your view, is substantive that you believe
5 needs to be brought to our attention, I will just leave that to
6 your discretion.

7 MR. PERRY: Okay. Thank you.

8 COMMISSIONER DEASON: Okay. I would propose that we
9 proceed to Section VIII and just go issue-by-issue. Here
10 again, I would propose that we proceed in fairly rapid fashion
11 and if anyone has any concerns, questions, changes, just please
12 let me know and we will address them. Issue 1.

13 MS. SMITH: Commissioner Deason, FPL e-mailed to the
14 parties and Mr. Keating last night revised positions on four
15 issues. We have handed it out this morning. That's a copy of
16 the four issues, revised statements.

17 COMMISSIONER DEASON: Okay. Let's just address these
18 when we get to those issues.

19 MS. SMITH: Thank you.

20 COMMISSIONER DEASON: I notice that the first is
21 Issue 33. Okay.

22 Issue 1. Issue 2. Issue 3.

23 Issue 4. And I guess this is the first example of
24 where I have noted that there are parties taking no position at
25 this time with some explanation. I don't mean to be overly

1 demanding, but it seems that if a position can be taken, I
2 would certainly request that it be done either today or
3 certainly expression today of what the party's intent is. And
4 if the exact wording needs to be given to staff at a later time
5 for incorporation into the prehearing order, I'm not opposed to
6 that.

7 Mr. Beck, for example, your position on this issue is
8 basically it begins with no position at this time, but then you
9 qualify that with a statement of a principle. Do you wish to
10 just delete no position at this time and just maintain the
11 statement of the principle involved, or -- do you understand
12 what I'm trying to -- I'm trying to accomplish, is for persons
13 reviewing this prehearing order and preparing for hearing that
14 they have a clear and concise understanding of the various
15 parties positions.

16 MR. BECK: Yes, Commissioner. Many of the issues, of
17 course, were raised by staff, and we have endeavored to take
18 positions on everything that we could. We have no position,
19 and you could put us down for no position on that.

20 COMMISSIONER DEASON: So you are not opposed to
21 simply taking no position, is that correct?

22 MR. BECK: On Issue 4 we could.

23 COMMISSIONER DEASON: Okay.

24 MR. PERRY: We need to amend our position, I think,
25 just for time being. It's possible that we could change our

1 position to no position, but for right now we will do what you
2 had suggested for OPC, which is just to remove the no position
3 at this time, other than to state, and then it could just be
4 interest should be reduced to reflect the reduction to the 2004
5 storm costs included in the reserve as recommended by OPC
6 Witness DeRonne.

7 COMMISSIONER DEASON: Very well.

8 MR. WRIGHT: Commissioner, on Issue 4, here's my
9 problem. As I understand it, it is a staff issue, frankly,
10 that there are a lot of issues here and we have been working on
11 a lot of stuff. I haven't gotten into the accuracy of the
12 accounting, and that is why our position is stated as it is.

13 Just in case something comes up at the hearing, I'm
14 reluctant to say we take no position as to the accounting in
15 case there is something that comes up at hearing that we want
16 to address in our post-hearing brief. So that's why I've got
17 it stated as no position at this time as to the accounting and
18 then agreeing with the Public Counsel's position relative to
19 the interest treatment.

20 COMMISSIONER DEASON: Well, as I indicated, Mr.
21 Wright, early on is that I just want -- if there is a
22 legitimate reason why no position can be taken at this time, it
23 needs to be brought to my attention, and you basically need to
24 be allowed to take no position at this time. It seems to me
25 that lots of times parties state "no position at this time"

1 when they really don't have a position and don't intend to take
2 a position. I think that is misleading for those persons who
3 are reviewing the prehearing order.

4 MR. WRIGHT: Yes, sir. And to be completely candid,
5 of course, at this point I don't anticipate taking a position.
6 But if it turns out this is a significant issue and the
7 accounting evidence warrants taking a position, I don't want to
8 be foreclosed from taking a position in the post-hearing
9 statement by saying no position in the prehearing order.
10 That's my problem.

11 COMMISSIONER DEASON: And why is it that you are
12 unable to take a position at this time?

13 MR. WRIGHT: Well, frankly, it's an issue raised by
14 Staff, and I have been devoting most of my attention to 75 of
15 the other issues.

16 COMMISSIONER DEASON: Mr. Keating -- well, let me say
17 this. We are all working under some very tight time frames
18 here, and I think we are all understand that. And it's a
19 requirement basically of the statutes under which we are
20 operating. And I feel very confident that all parties have
21 endeavored to pursue this case and have given the necessary
22 attention to it. So it's not a suggestion that you have not
23 been adequately engaged in discovery and analyzing issues,
24 that's certainly not -- but at the same time, there is
25 incumbent on all parties an obligation, if they wish to take a

1 position, to let everyone know to the extent that they
2 reasonably can what that position is. It's just a question of
3 preparing for hearing, and it certainly is an aid to the
4 Commissioners themselves as they review the testimony and
5 prepare for hearing, as well. Do you understand the dilemma
6 that I am in?

7 MR. WRIGHT: Yes, sir, I do. And I'm sure you
8 understand the one that I'm in and the position as I have
9 stated it is what I can do in good faith as of today.

10 COMMISSIONER DEASON: Okay. I will take you -- I
11 will allow you to maintain your no position at this time, but
12 certainly I would anticipate that it is -- I don't wish parties
13 to just always take no position at this time just because there
14 is some unknown out there with some minute possibility that
15 something may be raised that they wish to address in their
16 brief. I think that is not really serving the purpose of this
17 prehearing conference and this prehearing order, and it's
18 probably not fair to other parties as they prepare for hearing,
19 as well.

20 MR. WRIGHT: Yes, sir, I understand. And there are a
21 couple of others where I will want to maintain that. There are
22 some others where I will be able to change my current no
23 position at this time to no position.

24 COMMISSIONER DEASON: And that is all I request.
25 When it is not burdensome or unreasonable to simply acknowledge

1 that a certain issue does not rise to the level such that you
2 can just simply state you have no position, I would request
3 that you do that.

4 MR. WRIGHT: Yes, sir.

5 COMMISSIONER DEASON: Mr. Twomey.

6 MR. TWOMEY: Commissioner Deason, with respect to
7 Issue 4, AARP will change its position to the same as FIPUG.
8 And if I may, to save time here perhaps, with respect to any
9 other issue we have stated no position at this time, if it's
10 agreeable with you, I will commit by noon tomorrow, or whatever
11 time would be good with staff, to e-mail them a position on
12 those issues or a statement of no position, to completely
13 remove any no position at this time.

14 COMMISSIONER DEASON: I appreciate that. That is
15 very helpful and that is exactly what I'm trying to accomplish
16 here and I appreciate your willingness to do so.

17 MR. TWOMEY: Thank you.

18 MR. KISE: Commissioner, with respect to the Attorney
19 General, I would just ask the Commission's indulgence, at least
20 in some small part. I anticipate that our positions -- as you
21 can see, we have, for ease of reference, adopted OPC's
22 positions, and I anticipate we will continue to do so.
23 However, given our recent arrival and given the nature and
24 complexity of the issues, I would ask that we not face complete
25 issue preclusion.

1 If there are one or two items that come up down the
2 road where we have perhaps agreed with OPC as to a no position,
3 and then realize after subsequent review, and hopefully that
4 can be accomplished by tomorrow evening if not by Monday, that
5 there may, in fact, be some issue. I doubt very seriously that
6 there will be many, if any, instances of that, but I would just
7 ask the Commission's indulgence. And I appreciate the position
8 you are in, too, trying to streamline this process and make it
9 fair for all the parties.

10 COMMISSIONER DEASON: Thank you. And I appreciate
11 your willingness to try to come to an accommodation and try to
12 work with Public Counsel and the other parties.

13 Okay. Moving along. Issue 5. Issue 6. Issue 7.
14 Issue 8.

15 MR. KEATING: Commissioner, staff would like to
16 propose with Issue 8 that it be combined with Issue 9. If
17 there is an objection, we don't feel that strongly about it.
18 We just haven't been able to make the distinction between the
19 nonmanagement and management labor expense that having two
20 separate issues makes. We would propose one issue that simply
21 says, "Has FPL quantified the appropriate amount of employee
22 payroll expense that should be charged to the storm reserve for
23 2005? If not, what adjustment should be made."

24 COMMISSIONER DEASON: A proposal to consolidate
25 Issues 8 and 9. Responses from the parties?

1 MS. SMITH: FPL is fine.

2 COMMISSIONER DEASON: Any objection, Mr. Beck?

3 MR. BECK: Just as long as you take both of our
4 positions in the combined one, because I think they are
5 separate. We have listed separate matters in there.

6 MR. KEATING: Again, if there is a distinction that
7 can be made by one of the other parties that we just haven't
8 made yet, then we don't have a problem with keeping the two
9 separate issues.

10 MR. WRIGHT: Commissioner.

11 COMMISSIONER DEASON: Just a second. I want to
12 understand Public Counsel's position and for their position to
13 be adequately stated if it is necessary to have two separate
14 issues or if it can combined such that you are --

15 MR. BECK: I think they could be combined if staff
16 wished to do that, however, our position is you would have to
17 take both of our positions in the combined statement, not just
18 one of them. I mean, you would take our position on Issue 8
19 and Issue 9, and continue both of those positions on a
20 rewritten 8 if you wish to. I don't object to that, I just
21 don't want any of our positions being dropped.

22 COMMISSIONER DEASON: Mr. Beck, I understand that on
23 Issue 9 you have a proposed adjustment of some \$768,000, then
24 you have a proposed adjustment on Issue 8 of 24,575,000, and
25 those are not duplicative numbers. To have your position

1 adequately stated, those numbers would need to be combined?

2 MR. BECK: Yes, that's my understanding. Those are
3 separate numbers. It seems to me easier to leave it as two
4 issues, but we will try to accommodate staff if they want to.

5 COMMISSIONER DEASON: In fact, I have a number of
6 questions for some of these issues later on that seem to be
7 duplicative, and I would certainly wish to streamline the
8 prehearing order to the extent that we can. But for this one,
9 staff, I'm going to maintain two separate issues. I do note
10 that Public Counsel has taken -- they have identified separate
11 numbers. And that while it could be combined, at this point I
12 think the effort may be not worth the benefit of trying to
13 combine, and we will just leave them separate.

14 Issue 10. Issue 11. Issue 12.

15 MS. SMITH: Commissioner, going back to Issue 10, we
16 have identified that as a potential stipulated issue.

17 COMMISSIONER DEASON: Well, I had a question mark by
18 it, as well. And in just reading the positions it seemed to me
19 that it potentially could be stipulated, so why don't we
20 discuss that at this point. Do the parties believe that there
21 are legitimate matters at issue such that we need to maintain
22 Issue 10, or is there a possible stipulation here?

23 MR. BECK: I agree, I don't think there is any
24 dispute. I don't know why it is even an issue. Perhaps the
25 easiest thing would be just to drop it.

1 COMMISSIONER DEASON: Mr. Wright.

2 MR. WRIGHT: I agree with what Mr. Beck said. We
3 could stipulate to it or the issue could be dropped as far as
4 we are concerned.

5 COMMISSIONER DEASON: Staff, is this your issue?

6 MR. KEATING: This looks like an issue that was
7 raised in last year's storm cost-recovery docket, and I think
8 that is why it was initially put on the issue list. I think we
9 did raise this initially.

10 COMMISSIONER DEASON: Okay. Do you have any
11 objection to eliminating this as an issue?

12 MR. KEATING: No, we don't.

13 COMMISSIONER DEASON: Well, then we will just
14 eliminate Issue 10. Staff, let me ask this question. If we
15 eliminate an issue, are we just going to continue the same
16 numbering? There is not going to be an attempt to renumber,
17 correct?

18 MR. KEATING: I think so. I think we will just
19 indicate in the prehearing order that it has been withdrawn.

20 COMMISSIONER DEASON: I think that is certainly
21 preferable to do. It would probably create more confusion than
22 it would assistance if we tried to renumber.

23 Okay. Issue 11. Issue 12. Issue 13. Issue 14.
24 Issue 15. Issue 16. Issue 17.

25 MR. PERRY: Commissioner Deason, for Issue 17,

1 apparently we had inadvertently failed to give a position for
2 Subsections H through I, so for those I would like the record
3 to reflect that we agree with OPC on those subissues, I guess
4 you would call them.

5 COMMISSIONER DEASON: Okay. We will incorporate that
6 change.

7 MR. BECK: Commissioner, let me say it's not Mr.
8 Perry's fault. We raised issues in the prehearing statement to
9 Subparts H and I, that is why they appear there.

10 COMMISSIONER DEASON: I'm sorry, could you repeat
11 that?

12 MR. BECK: Subparts H and I to Issue 17 are ones we
13 raised in our prehearing statement, that's why other parties
14 may not have positions on them.

15 COMMISSIONER DEASON: Okay. Well, the federal
16 executive agencies have no response, but they are not here, so
17 I guess we will just need to maintain that there was no
18 response given for those.

19 MR. KEATING: Commissioner Deason, we have received
20 word from the federal executive agencies this morning, and this
21 is probably a good opportunity for me to let you know that I
22 think they were somewhat confused. The notice provides a
23 number to call for -- let me find that quickly -- the hearing
24 or speech impaired line for the prehearing. I think they have
25 been listening in and heard our discussion earlier, and from a

1 separate phone call we received from them, they apologize
2 profusely for the confusion. They had thought they would be
3 able to participate by that phone line and apologize for the
4 confusion. They have indicated that they intend to take the
5 same positions as FIPUG on all the issues.

6 COMMISSIONER DEASON: Okay. I will just depend upon
7 you then to incorporate that into the prehearing order.

8 MR. KEATING: I will.

9 COMMISSIONER DEASON: Very well.

10 MS. SMITH: Commissioner Deason, FPL is also going to
11 need to add positions on the new Issues H and I that were just
12 added by OPC, and we will e-mail those to Mr. Keating and copy
13 all the parties.

14 COMMISSIONER DEASON: That will be satisfactory.
15 When do you anticipate that will be done?

16 MS. SMITH: We can do it later today or tomorrow.

17 COMMISSIONER DEASON: Very well. Other concerns with
18 Issue 17?

19 Hearing none, Issue 18.

20 MS. SMITH: Commissioner Deason, we have also
21 identified this as an issue that could be potentially
22 stipulated or dropped.

23 COMMISSIONER DEASON: Do any of the parties have an
24 objection to dropping Issue 18?

25 MR. BECK: Commissioner, I believe this issue is

1 raised in the staff audit, and there is testimony by the staff
2 auditor on 18.

3 COMMISSIONER DEASON: Mr. Keating, this is an issue
4 that needs to be maintained, is that correct?

5 MR. KEATING: I will need just a second to verify
6 that. I know it is raised in the staff audit, I'm not sure
7 that the staff auditor goes as far as making a recommendation.
8 I think she identifies the cost associated with this item, and
9 I do not have a position yet from staff on whether they intend
10 to pursue that item.

11 COMMISSIONER DEASON: Let's continue through the
12 issues and allow staff adequate time to confer concerning
13 whether there needs to be a position taken on Issue 18.

14 MR. KEATING: Commissioner, I have just received word
15 that we do want to keep that issue in, at least for the time
16 being. The staff auditor, I'm informed, does recommend, I
17 think, some small disallowance that would need to be
18 considered.

19 MR. BECK: Right. We would agree, Commissioner. We
20 would like to keep that, as well.

21 COMMISSIONER DEASON: Very well. We will maintain
22 Issue 18 as stated.

23 Issue 19. Issue 20, 21, 22.

24 MR. WRIGHT: Mr. Chairman, on 22, there is a writeo
25 by me. Our position should say yes, not no, and then continue

1 with agree with OPC.

2 COMMISSIONER DEASON: Very well. We can make that
3 correction.

4 MR. WRIGHT: Thank you.

5 COMMISSIONER DEASON: Issue 23.

6 MS. SMITH: Commissioner, this is another issue that
7 we have identified as potentially stipulated or dropped. The
8 supplemental audit indicated that FPL had made the necessary
9 adjustments and the parties appear to be in agreement.

10 COMMISSIONER DEASON: I had a question mark by this
11 issue, as well. It appeared, just reading the positions, that
12 there was the potential that it could be dropped or stipulated.
13 Is there any objection to dropping Issue 23?

14 MR. BECK: Not by us.

15 MR. WRIGHT: No objection.

16 COMMISSIONER DEASON: Hearing no objection -- staff,
17 do you have an objection?

18 MR. KEATING: No objection. I believe this is an
19 issue staff initially raised as a result of the original audit,
20 but we can drop it.

21 COMMISSIONER DEASON: Very well. Show then that
22 Issue 23 is dropped.

23 Issue 24, 25. Issue 26.

24 Issue 27. And this is, I guess, the first of some
25 issues that I have identified, and it may be just because I'm

1 not as familiar with the details of the issues and how they are
2 worded. It just seems to me that reviewing the draft
3 prehearing order that Issue 27 is very similar to Issue 29.
4 And the question that I have is do we need a separate Issue 27
5 and 29? And if we do, I'm not opposed to that, I just need to
6 understand why they need to be separately stated.

7 MS. SMITH: FPL agrees that they should be
8 consolidated.

9 COMMISSIONER DEASON: Mr. Beck.

10 MR. BECK: We agree there is some overlap and we
11 could consolidate them, if that's the Commission's desire.

12 COMMISSIONER DEASON: Mr. Keating, you would probably
13 be the one that would have to consolidate. Does staff see a
14 distinction why there needs to be two separate issues, 27 and
15 29?

16 MR. KEATING: I think 29 is just a broader issue.
17 Issue 27 and 28, as well, both ask about specific maintenance
18 practices, whereas 29 is broad. I think it covers generally
19 all types of maintenance.

20 COMMISSIONER DEASON: Well, which issue, as worded,
21 do you think is more broad, more comprehensive?

22 MR. KEATING: I believe 29 is the broader issue.

23 COMMISSIONER DEASON: So if we were to drop 27 and
24 maintain 29, that would meet your needs?

25 MR. KEATING: It would.

1 COMMISSIONER DEASON: Is there any objection to
2 dropping 27 and keeping Issue 29?

3 MR. BECK: We would have to rewrite our position.

4 MR. McGLOTHLIN: One thing to bear in mind is that
5 our witnesses propose separate and specific adjustments for the
6 deterioration aspect of maintenance and the vegetation practice
7 aspect, that is why we think there should be two issues. But I
8 think, for that reason, if anything needs to go, it's 29.

9 COMMISSIONER DEASON: Okay. Let's take a moment and
10 look at Issue 29. You agree then that Issue 29 is more broadly
11 stated such that all of your positions can be incorporated
12 within a response to Issue 29?

13 MR. McGLOTHLIN: As a matter of fact, if you will
14 read our position, we refer to other issues as covering the
15 subject.

16 COMMISSIONER DEASON: I'm not trying to create
17 confusion or extra work, I'm merely trying to streamline, and
18 I'm trying to get input from the parties.

19 Do you think it would be helpful to just simply
20 maintain Issue 29 and give you the ability to word your
21 position such that it incorporates all of your position and all
22 of your adjustments?

23 MR. McGLOTHLIN: My preference, Commissioner, would
24 be to continue to have a separate issue for deterioration and
25 pole inspection and a separate issue for vegetation control.

1 COMMISSIONER DEASON: Well, I believe that we do have
2 separate issues later on that address that. If I'm not
3 mistaken, I saw separate issues concerning maintenance as well
4 as vegetation control.

5 MR. MCGLOTHLIN: 27 is specific to deterioration, 28
6 is specific to vegetation control, and those are the more
7 specific aspects of the broader 29. That's why initial
8 reaction was that 29 could go because it is covered elsewhere,
9 29 being the broader statement.

10 COMMISSIONER DEASON: Well, let me ask you this, what
11 is your preference?

12 MR. MCGLOTHLIN: Keep 27 and 28, and dispense with
13 29.

14 MR. KEATING: And, Commissioner, staff would have no
15 objection to keeping 27 and 28 and dropping 29.

16 COMMISSIONER DEASON: Is there any objection to
17 keeping 27 and 28 and dropping Issue 29?

18 MR. LITCHFIELD: Commissioner Deason, we had this
19 discussion previously and suggested that they could be
20 consolidated, but we were then met with resistance, and
21 apparently the parties still believe the two issues need to be
22 maintained. Our preference would be to consolidate in the
23 interest of efficiency, but they feel very strongly about this.

24 COMMISSIONER DEASON: Can you at least agree to drop
25 Issue 29 and maintain 27 and 28? Is that a problem?

1 MR. LITCHFIELD: I think from our perspective we are
2 accommodating on these issues, so they can stay or they can go.
3 Our preference would be to streamline, but --

4 COMMISSIONER DEASON: Okay.

5 MR. WRIGHT: Commissioner, we would be okay on
6 dropping 29. We agree with Public Counsel that keeping a
7 specific issue as to deterioration is better, and we would be
8 comfortable that Issue 33 would address the other issues that
9 we would otherwise have mentioned under Issue 29. So we would
10 be okay with dropping 29, but we would not support
11 consolidating the specific deterioration issue under 29.

12 COMMISSIONER DEASON: I'm hearing then we have
13 consensus that we can drop Issue 29, as long as we maintain
14 Issues 27 and 28.

15 MR. WRIGHT: And 33.

16 COMMISSIONER DEASON: I'm sorry, can you describe how
17 Issue 33 pertains to the question of 27, 28, and 29?

18 MR. WRIGHT: Mr. Chairman, 29 is kind of a broad
19 issue. And accordingly we mentioned in our position statement
20 as previously submitted on 29, we mentioned the transmission
21 towers issues. Issue 33 addresses the transmission towers
22 issue, and that is why it is important to keep 33. And also
23 the fact that 33 is there makes it acceptable to us to drop 29.

24 COMMISSIONER DEASON: Very well. I guess I was
25 confused because I thought it was being suggested that we could

1 also drop 33, and it seemed to me like it needed to be a
2 stand-alone issue.

3 MR. WRIGHT: Yes, sir.

4 COMMISSIONER DEASON: All right. We're going to drop
5 Issue 29, and moving along we can address Issue 30. And I just
6 have a question. In reviewing this, it seemed that Issue 30
7 was very similar to Issue 32. And perhaps there is a
8 distinction that I'm not understanding or have an appreciation
9 of, so I need some clarification as to why we need Issue 30 as
10 well as Issue 32.

11 MR. KEATING: Commissioner, I may be able to provide
12 some clarification. Issues 27 through 29 are sort of a series
13 of questions that are almost duplicated by 30 and 32. The only
14 difference is the date. Issues 27 through 29 asks about
15 inspection and maintenance prior to June 1st, 2005; 30 through
16 32 asks about inspection and maintenance prior to October 23rd,
17 2005.

18 I believe this was an issue that the Retail
19 Federation had asked to add. For purposes of putting together
20 this issue list, we simply mirrored the set of Issues 27 to 29
21 with the new 30 through 32. I think you will probably have the
22 same questions come up with respect to 30 through 32. It may
23 be -- I would want to hear from the parties on it, but it may
24 be that 32 can be dropped in the same way that we dropped 29.

25 COMMISSIONER DEASON: Well, I do note that Issue 30

1 and 32 pertain to the October 23rd date, which I believe is the
2 date that Hurricane Wilma struck. And then I assume that the
3 other issues which utilize the June 1st date, that date is
4 chosen because that is the first day of hurricane season. So I
5 can understand that there are different dates, and perhaps they
6 need to be maintained for whatever reason, but I would note
7 that Issue 30 and 32 both addressed October 23rd as the date.
8 And so the question still remains is there a need to maintain a
9 separate Issue 30 and a separate Issue 32?

10 MR. WRIGHT: Commissioner, since 32 is our issue, I
11 think I can hopefully help you out. I think it would be okay
12 to drop 32. Yes, I can agree to drop 32 and address anything I
13 want to address on transmission under 33.

14 COMMISSIONER DEASON: Very well. It has been
15 suggested that perhaps we can drop Issue 32. Mr. Wright has
16 indicated he has no objection. Are there any objections from
17 any other parties to drop Issue 32?

18 Hearing no objection, Staff, then we will just simply
19 drop Issue 32, and certainly afford Mr. Wright the ability to
20 address his concerns within the remaining issues.

21 MR. WRIGHT: Thank you.

22 COMMISSIONER DEASON: Issue 31. I think we have
23 already addressed Issue 31 to some extent. We just addressed
24 Issue 32.

25 Issue 33.

1 MS. SMITH: This is the first issue on which FPL
2 submitted an expanded position.

3 COMMISSIONER DEASON: That is correct. Have you
4 shared this with the other parties?

5 MS. SMITH: Yes, sir.

6 COMMISSIONER DEASON: Okay. Staff, unless there is
7 an objection for some reason, we can simply just incorporate
8 the revised language?

9 MR. KEATING: Yes.

10 COMMISSIONER DEASON: Okay. Issue 34, 35.

11 MR. WRIGHT: Mr. Chairman, we will either take a
12 position clearly stated or no position by noon tomorrow, if
13 that is satisfactory.

14 COMMISSIONER DEASON: That is satisfactory.

15 MR. WRIGHT: Thank you.

16 COMMISSIONER DEASON: And, Mr. Twomey, you have
17 already indicated you have given a blanket -- that you are
18 going to endeavor to provide positions where you can?

19 MR. TWOMEY: Yes, sir, that's correct.

20 MR. KEATING: And, Commissioner, just on behalf of
21 staff, I would ask the earlier that the parties can provide
22 information on changed positions the better, because the
23 prehearing order in this docket is -- because the hearing is
24 quickly approaching, we will need time to incorporate those
25 changes and get that out as soon as we can.

1 COMMISSIONER DEASON: What is the deadline that you
2 would prefer, Mr. Keating?

3 MR. KEATING: I would prefer noon tomorrow. That
4 would allow us the afternoon to complete the order.

5 COMMISSIONER DEASON: Is that possible, Mr. Wright?

6 MR. WRIGHT: Well, I committed to noon tomorrow, so
7 that is completely fine with me.

8 MR. KEATING: I thought I heard the end of the day,
9 I'm sorry.

10 COMMISSIONER DEASON: Mr. Twomey, can you accommodate
11 staff's request?

12 MR. TWOMEY: Yes, sir.

13 MR. KISE: Commissioner, with respect to that issue,
14 given the Attorney General's travel schedule and given that I
15 need to consult with him directly on that issue, I doubt that I
16 could get an answer realistically before Tuesday on this one
17 issue.

18 COMMISSIONER DEASON: On this one issue?

19 MR. KISE: On Issue 35. I'm going to need to consult
20 with him directly. We haven't even finished our review
21 internally before consulting with him. And on that Issue 35,
22 I'm going to need to consult with him directly.

23 COMMISSIONER DEASON: I will allow you the ability to
24 simply maintain no position at this time and give you the
25 opportunity to consult with the General.

1 MR. KISE: Thank you.

2 MS. SMITH: Commissioner Deason, FPL would point out
3 that it does not believe that the Attorney General's Office nor
4 any of the other parties who negotiated and signed the
5 stipulation and settlement in the rate case can take a position
6 on this issue, as it would violate the stipulation and
7 settlement.

8 COMMISSIONER DEASON: Well, perhaps that should be a
9 separate issue. But I'm not in a position to interpret that
10 sitting as prehearing officer, to make a substantive decision
11 as to whether a party can or cannot take a position, that's up
12 to them, and they just operate at their own risk as to whether
13 they violate that agreement.

14 So I appreciate you stating your position, and it
15 helps clarify things, but I'm certainly in no position to
16 prevent a party from taking a position.

17 MR. TWOMEY: Commissioner Deason, just to offer a
18 small measure of comfort to FPL. AARP will take the position
19 of -- the revised position, recently revised position of FIPUG.

20 COMMISSIONER DEASON: And what was that revised
21 position, Mr. Perry?

22 MR. PERRY: Would you like me to read it into the
23 record?

24 COMMISSIONER DEASON: Yes, that would be helpful.

25 MR. PERRY: The revised position is striking the old

1 position completely. "In general, FIPUG supports reasonable
2 risk/reward sharing between utilities and their customers. In
3 the as of yet undocketed storm damage rule review, FIPUG argued
4 the Commission should adopt the approach discussed in the
5 testimony of Staff Witness Joseph D. Jenkins. Nevertheless, in
6 the settlement agreement in FPL's last base rate case, Docket
7 050045-EI, the parties agreed that for the period of the
8 agreement, FPL 'will be permitted to recover prudently incurred
9 costs associated with events covered by Account Number 228.1
10 (the storm damage account).' FIPUG is bound by that agreement
11 in this case to the extent that storm costs are prudent and do
12 not constitute a double recovery."

13 COMMISSIONER DEASON: And, Mr. Twomey, you are going
14 to accept that position as yours, as well?

15 MR. TWOMEY: Yes, sir, that's correct.

16 COMMISSIONER DEASON: Okay. Any other concerns with
17 Issue 35?

18 Issue 36. Issue 37. Issue 38.

19 Issue 39. In regard to Issue 39, Mr. Beck, in
20 reading your position it is helpful, but it is kind of like we
21 hear the attorneys say during hearing that when a question is
22 asked and it can be answered yes or no, please answer yes or no
23 and then explain your answer. I really don't see where you
24 have answered the question yes or no. Is it possible to give
25 such an answer?

1 MR. BECK: I'm sure it is possible, Commissioner. We
2 will try. Our reference is to the testimony provided by the
3 staff witness, so let us look at it. I will try to put a yes
4 or no in front of that.

5 COMMISSIONER DEASON: If you can, it would be helpful
6 for persons reviewing the prehearing order to have a better
7 understanding of your position. And if you could provide that
8 to staff by noon tomorrow, that would be helpful.

9 MR. BECK: We will.

10 MR. PERRY: I would just note in advance some of our
11 revised positions are, you know, that we support the testimony
12 of staff's witnesses, and we state the specific witness. So to
13 the extent you would like us to, we will be happy to provide a
14 more specific position by noon tomorrow, if that is your
15 pleasure.

16 COMMISSIONER DEASON: Well, it just seems to me that
17 some of these questions -- the issues are complex, we all agree
18 with that. And for individuals reviewing the prehearing order
19 preparing for hearing, just like during cross-examination at
20 hearing, a simple yes or no with explanation is helpful. If
21 you find that you think it would be more helpful to have a
22 better understanding of your position, if you wish to clarify a
23 yes or no, I would just leave that up to you, and the
24 discretion to provide that to staff by noon tomorrow.

25 MR. PERRY: Okay. Thank you, Commissioner.

1 MS. CHRISTENSEN: Commissioner, in response to your
2 earlier comments regarding whether or not we can take a no or
3 yes in front of Issue 39, I think if we just revised the
4 position to say no, and then period, and then to ensure with
5 the explanation of what we think needs to be done to ensure
6 lowest costs. I'm sorry?

7 MR. BECK: If you could, Commissioner, let us do that
8 by noon tomorrow.

9 COMMISSIONER DEASON: Very well. Noon tomorrow would
10 be fine.

11 Mr. Wright.

12 MR. WRIGHT: Thank you, Mr. Chairman. We can change
13 our position by striking the first sentence of our response
14 there and substituting the word no, and then continue with
15 agree that if, et cetera.

16 COMMISSIONER DEASON: Mr. Keating, do you understand
17 that change?

18 MR. WRIGHT: I will furnish it electronically in any
19 event, Mr. Chairman.

20 COMMISSIONER DEASON: Very well. And, Mr. Twomey, to
21 the degree that you agree with the Office of Public Counsel, I
22 would just suggest that you may need to confer with them as to
23 whether, if they do provide a yes or no, whether you can agree
24 with that. And if you need to distinguish your position, you
25 may wish to provide that to staff, as well.

1 MR. TWOMEY: Yes, sir, I will.

2 COMMISSIONER DEASON: Mr. Kise, is the same -- Mr.
3 Shreve, you snuck up here. I didn't see you. I apologize.

4 I notice that the Attorney General has adopted Public
5 Counsel's position, and to the extent Public Counsel is -- to
6 the extent that they are able to take either a yes or no, I
7 would request that you confer with them. And then if you need
8 to change or modify your position, to please do so by noon
9 tomorrow.

10 MR. SHREVE: I'll be glad to, Mr. Chairman.

11 COMMISSIONER DEASON: Thank you, Mr. Shreve.

12 Issue 40.

13 MS. SMITH: Commissioner Deason, we believe that
14 Issue 40 can be dropped. There is no testimony on this, it's a
15 securitization-specific issue that hasn't been raised in Gulf's
16 docket, and no one is taking positions on this issue.

17 MR. KEATING: This was an issue that staff raised,
18 and we agree that it can be dropped.

19 COMMISSIONER DEASON: Any objection to dropping Issue
20 40?

21 MS. CHRISTENSEN: No objection.

22 COMMISSIONER DEASON: Hearing no objection, then we
23 will drop Issue 40.

24 Issue 41. Mr. Wright, this is another one of those
25 that you are going to work with staff to -- if it is necessary,

1 to modify your position? I notice you have a tentative
2 position on Issue 41.

3 MR. WRIGHT: Yes, sir.

4 COMMISSIONER DEASON: Very well.

5 Issue 42. Issue 43.

6 Issue 44. Mr. Wright, I notice that there is a
7 number of these, and I won't be going over them again and
8 again.

9 MR. WRIGHT: Thank you.

10 COMMISSIONER DEASON: But, Issue 44. Issue 45.

11 MS. SMITH: Commissioner Deason, we also think that
12 Issue 45 can be dropped.

13 MR. KEATING: Again, this was an issue, I believe,
14 that staff raised and we agree that this can be dropped.

15 COMMISSIONER DEASON: Any objection to dropping Issue
16 45? Mr. Perry.

17 MR. PERRY: I would prefer that if we could get back
18 by noon tomorrow on, you know, whether or not we agree or
19 disagree as to dropping it, I would prefer that, if I can be
20 given that indulgence.

21 COMMISSIONER DEASON: The problem I have, and maybe
22 it's something we can work around, is that if you review this
23 and then you indicate to staff that you wish to maintain it as
24 an issue, I just need to know that other parties are
25 comfortable with maintaining their current positions. And

1 then, likewise, if you review it and you can agree that it can
2 be dropped, I just need confirmation now from all the other
3 parties that it is agreeable with them that it can be dropped.
4 So, do we have an understanding or not, I guess, is what I'm
5 asking?

6 MR. PERRY: I understand what you're saying.

7 COMMISSIONER DEASON: Let me ask the parties.

8 Mr. Perry apparently needs additional time to review
9 this. I'm willing to give him that additional time. It may be
10 possible to drop Issue 45. If Mr. Perry agrees by noon
11 tomorrow, is there any objection to dropping Issue 45?

12 MS. CHRISTENSEN: Commissioner, I would also like
13 some additional time. It appears we have taken a position on
14 this. I understand that there may not be direct testimony in
15 the record, but that, of course, wouldn't preclude a question
16 or two in cross-examination to explore this issue.

17 And since we haven't taken a position, I would like
18 at least the opportunity till noon tomorrow as well to check
19 and see whether or not we are comfortable with dropping the
20 issue, or whether or not we would like to maintain our
21 position. And that is something that we could certainly
22 contact all the other parties with.

23 COMMISSIONER DEASON: I certainly understand, and
24 will give you that latitude, and would request that you confer
25 with Mr. Perry, as well. And if both Public Counsel and FIPUG

1 agrees it can be dropped, I assume there is no objection from
2 any of the parties to simply dropping the issue.

3 MR. KEATING: And just to let FIPUG and Public
4 Counsel know what staff's thinking is on why we could drop this
5 issue, we felt it was an issue that was more appropriate in
6 relation to the possibility that the Commission approve some
7 traditional surcharge. This issue is under the section of
8 issues related to terms and conditions of the financing order
9 for securitized amounts rather than amounts recovered through
10 additional surcharge. We have raised the issue in the next
11 section which covers terms and conditions of the traditional
12 surcharge. I just wanted to let the parties know our thinking
13 when they think about it.

14 COMMISSIONER DEASON: I'm sure that will be helpful
15 to the parties when they consider this.

16 MS. CHRISTENSEN: If I can get a clarification from
17 staff exactly which issue they believe it is covered under the
18 tradition, that might also help me to be able to respond.

19 COMMISSIONER DEASON: I know that Issue 77 is the
20 first issue under a section entitled terms for traditional
21 recovery. Is that where it would be found, under that section?

22 MR. KEATING: I think Ms. Christensen is right. We
23 misspoke. It is not listed as a separate issue, but I think,
24 and this is something that we probably ought to consider and
25 move on with the other issues, but it may be worth considering

1 moving that issue into that section, given the reasoning we
2 offered earlier.

3 COMMISSIONER DEASON: Well, staff, I take it that you
4 are unsure now as to whether this issue should be dropped or
5 kept, and if it is to be kept, as to where it should be
6 located?

7 MR. KEATING: I think that we feel that it could be
8 dropped from where it is in the order of issues in the section
9 concerning securitized amounts and perhaps should be moved into
10 the section concerning nonsecuritized amounts.

11 COMMISSIONER DEASON: You say perhaps. When can you
12 determine -- can you determine that by noon tomorrow?

13 MR. KEATING: Someone suggested noon tomorrow. I
14 think we could -- perhaps as the prehearing moves on we can
15 think about that a little further and maybe come back to it.

16 COMMISSIONER DEASON: Okay. We will move along and
17 then we will come back and address that, and that was Issue 45.
18 Issue 46. Issue 47.

19 MS. SMITH: Commissioner, this is another one that we
20 think could be dropped.

21 COMMISSIONER DEASON: Staff, do you have a position
22 on the question of dropping Issue 47?

23 MR. KEATING: Staff agrees that that issue can be
24 dropped.

25 MR. PERRY: We're going to request the same treatment

1 as for Issue 45. It could be that we could drop the issue, but
2 at this time I do need a little bit more time to make a
3 decision.

4 MS. SMITH: Commissioner, we would ask that if Mr.
5 Perry feels the issue needs to stay, that the position that
6 FIPUG has taken be revised. Because really right now the
7 position is very generic and gives us no guidance as to what
8 issue they perceive.

9 COMMISSIONER DEASON: Mr. Perry, I have made the same
10 notation here that it seemed that your position was not
11 responsive to the issue as stated. So I'm going to request
12 that if you believe it's necessary to maintain the existence of
13 Issue 47, that you endeavor to provide a responsive position.

14 MR. PERRY: I will. Thank you, Commissioner.

15 COMMISSIONER DEASON: And so we are going to -- I
16 will pose the question, I take it that no other party has an
17 objection to dropping Issue 47 assuming Mr. Perry's review
18 indicates that he believes it can be dropped, is that correct?

19 MS. CHRISTENSEN: Commissioner, I would also ask for
20 the same time frame, until noon tomorrow, and I can get
21 together with Mr. Perry and see if we would like to take a more
22 specific position on this issue.

23 COMMISSIONER DEASON: Very well. Noon tomorrow, and
24 I would ask other parties if you have an interest in the issue,
25 you have until noon tomorrow, and if you don't indicate we can

1 assume that you believe it can be dropped. Okay.

2 MR. KEATING: Commissioner, could I take us back just
3 quickly to Issue 46. There are a few parties that have no
4 position at this time. I just wanted to clarify. I know the
5 Retail Federation, Mr. Wright has indicated he is going to get
6 back with us. I don't know if Public Counsel or AARP intended
7 to maintain that.

8 COMMISSIONER DEASON: I think all the parties are in
9 agreement that they are going to endeavor, to the extent they
10 can, to provide to you in a timely manner a position, or they
11 will indicate that they have no position.

12 MR. KEATING: Thank you.

13 MS. SMITH: Commissioner Deason, we think that 46
14 could be dropped, as well.

15 COMMISSIONER DEASON: Staff, do you have a position
16 on dropping Issue 46? I would note that it appears that FIPUG
17 has taken a position on the issue, so maybe I should begin with
18 FIPUG.

19 MR. PERRY: I think that, you know, we're going to
20 request the same treatment as 46 and 47. I mean, I think we
21 have a specific concern related to these issues, but it could
22 be that we can comfort ourselves by then and we can maybe drop
23 all the issues. Or, you know, take a position.

24 MS. SMITH: Commissioner Deason, we would ask that
25 FIPUG, again, articulate the specific issue that they have

1 because the position as stated right now is very generic in
2 nature and doesn't give us any guidance as to what their
3 specific concern is.

4 COMMISSIONER DEASON: Mr. Perry, likewise as we
5 discussed in Issue 47, I request that if you conduct your
6 review and believe that Issue 46 should be maintained, that you
7 endeavor to provide a responsive position to the wording of
8 Issue 46.

9 MR. PERRY: Thank you.

10 COMMISSIONER DEASON: And, Public Counsel, I would
11 assume that you wish to maintain the ability to look at Issue
12 46 and provide staff with your indication as to whether we need
13 to maintain Issue 46 by noon tomorrow.

14 MS. CHRISTENSEN: That is correct.

15 COMMISSIONER DEASON: And I believe my direction to
16 Mr. Perry would apply equally, that is if you wish the issue to
17 be maintained that it would be incumbent upon you to provide a
18 responsive position, to the extent possible.

19 Okay. Issue 48. And the question I have on 48 is
20 how it relates to Issue 49. It appears that there is some
21 overlap if not outright duplication, and I just need some
22 guidance as to whether we need a separate Issue 48 and a
23 separate Issue 49.

24 Staff.

25 MR. KEATING: Staff sees the same duplication there.

1 I can't remember which one of these staff initially raised, but
2 I think we would want to keep Issue 48. That was the specific
3 issue that staff had raised.

4 COMMISSIONER DEASON: Staff suggests that there is
5 some duplication and that they would prefer to maintain Issue
6 48 as opposed to 49. So I guess I need to ask the question, is
7 there an objection to dropping Issue 49 with the understanding
8 that Issue 48 would be maintained?

9 MS. CHRISTENSEN: No objection from OPC.

10 MR. WRIGHT: No objection.

11 MS. SMITH: No objection.

12 COMMISSIONER DEASON: Very well. Show then that
13 Issue 49 is dropped.

14 And then moving along to Issue 50. Here again, the
15 same question, I need to understand the relationship between
16 Issue 50 and 51. It appears there is some overlap, if not
17 outright duplication, so I would ask staff to explain that,
18 please.

19 MR. KEATING: I think there is a distinction in those
20 two. Issue 50 really addresses what the fee for the servicer,
21 what the appropriate fee for the servicer should be set forth
22 in the servicing agreement between FPL and the special purpose
23 entity in the transaction.

24 Issue 51 asks regardless of what that servicing fee
25 may be, should FPL only be permitted to recover from

1 ratepayers. Essentially what that is getting at is should they
2 only be able to recover from ratepayers something short of the
3 fee they are paying to the --

4 COMMISSIONER DEASON: So regardless of the term
5 appropriate in Issue 50, you see a distinction between the
6 appropriate amount of the fees and then still the amount that
7 should be recovered, is that correct?

8 MR. KEATING: I think Issue 50, the term appropriate
9 is used with respect to an appropriate amount for a servicing
10 agreement between the utility and the special purpose entity in
11 this type of transaction.

12 COMMISSIONER DEASON: I believe I understand the
13 distinction, and so I can then live with having Issue 50 and
14 51, unless there is an objection by any of the parties?
15 Okay. Issue 50. Issue 51.
16 Issue 52. And, staff, I assume that there is the
17 same distinction for Issues 52 and 53 that we just discussed
18 for 50 and 51?

19 MR. KEATING: That's correct.

20 COMMISSIONER DEASON: Then Issues 52 and 53.
21 Issue 54.

22 MR. KEATING: Issue four may be one that could be
23 stipulated.

24 COMMISSIONER DEASON: There is the question of daily
25 remittance. That is what is proposed by FPL, I believe also by

1 OPC.

2 First of all, is there a stipulation that it should
3 be remitted daily? Is there an agreement?

4 MS. CHRISTENSEN: I think we can agree to daily
5 remittance.

6 COMMISSIONER DEASON: Okay. Show this as a
7 stipulation, then?

8 MS. SMITH: Yes, sir, FPL agrees.

9 COMMISSIONER DEASON: We can show Issue 54, then, as
10 a stipulation.

11 MR. KEATING: And I think we will just have to get
12 some agreement from the parties on the specific language that
13 is used, but I don't see that as a big problem. I would
14 propose that whatever language is agreed on we would put in the
15 final prehearing order.

16 COMMISSIONER DEASON: Very well. Mr. Keating, are
17 you going to endeavor to put that language together and share
18 it with the parties, or who has the responsibility? Someone
19 needs to take the initiative.

20 MR. KEATING: I will take that initiative.

21 COMMISSIONER DEASON: Very well.

22 MS. CHRISTENSEN: I would note, Commissioner, that
23 OPC's position has some additional language regarding any
24 interest rate float that FPL would chose should also be
25 transferred to the SPE to be used as an offset for future

1 amounts owed to the SPE. So that is some additional language.
2 I'm not sure if anybody has an objection to that additional
3 language, but I would certainly like to see if that could be
4 included in the stipulation.

5 COMMISSIONER DEASON: Does Florida Power and Light
6 have an objection to that additional language?

7 MS. SMITH: We may have an issue, but we can work
8 that out with the Office of Public Counsel. I believe there is
9 another issue that addresses the interest float, so I don't
10 know that it needs to be addressed here.

11 COMMISSIONER DEASON: Well, I'm going to leave it to
12 the parties. If this can be stipulated, obviously it is
13 incumbent upon the parties to reach an accommodation and have
14 precise language which sets forth the stipulation. And, Mr.
15 Keating, I will ask you to kind of coordinate that between the
16 parties.

17 MR. KEATING: I will.

18 COMMISSIONER DEASON: Issue 55. Issue 56.

19 MR. KEATING: Before we leave 55, that may be another
20 one that could be stipulated. And, again, I think I would need
21 to propose some language and work on that with the parties.
22 Based on FPL's rebuttal testimony, I'm not sure that that is an
23 issue anymore.

24 COMMISSIONER DEASON: Well, I believe that Power and
25 Light's position is it's in the alternative, and one of their

1 alternatives I believe is consistent with Public Counsel's
2 position. So I assume there is the potential for a
3 stipulation. Do the parties agree this is something that the
4 parties can work together to see if it could be stipulated?

5 MS. CHRISTENSEN: Certainly, if staff counsel can
6 send us proposed language, we could take a look at that and see
7 if we can agree on some stipulated language.

8 COMMISSIONER DEASON: Very well.

9 MR. WRIGHT: Mr. Chairman, we would stipulate to the
10 position advocated by the Public Counsel. We would not
11 stipulate to adding the money to the reserve.

12 COMMISSIONER DEASON: All right. Well, I think it's
13 going to be clear as to either there is or is not a
14 stipulation. I think that may rest with Power and Light's
15 position, ultimate position.

16 Okay. Issue 56. And the question that I had in 56
17 was it seems to be very similar to Issue 58. I know Issue 58
18 refers to a specific statutory section, whereas Issue 56 does
19 not. But Florida Power and Light's position in response to 56
20 refers to the same specific statutory provision. So are these
21 issues duplicative or do they need to be maintained separately?

22 Staff.

23 MR. KEATING: Staff believes they are a good bit
24 duplicative. We would propose the parties consider dropping
25 Issue 58 and retaining Issue 56.

1 COMMISSIONER DEASON: Is there an objection to
2 dropping Issue 58 and maintaining Issue 56?

3 MS. SMITH: Commissioner Deason, the language of 58
4 asks whether the process satisfies the statutory standard. We
5 think that is important. Perhaps Issue 58 could be slightly
6 reworded. FPL has proposed a process that we believe satisfies
7 the statutory standard. Perhaps if 58 read the same way, but
8 we added on the end, "If not, how should the Commission
9 determine that the upfront bond issuance costs are
10 appropriate," and that would enable parties to take the same
11 positions.

12 COMMISSIONER DEASON: Well, I guess it just goes back
13 to my previous question. I mean, if there is a legitimate
14 reason to keep these issues separate, I'm not opposed to that.
15 My general review just indicated that there was a lot of
16 duplication, or potential duplication, and perhaps some
17 confusion in the mind of folks that are reading these issues
18 and just trying to determine what's the distinction.

19 So can you, for me, describe again what you see the
20 distinction is?

21 MS. SMITH: Issue 58 is specifically addressing what
22 the Commission should do with respect to the statutory standard
23 for determining whether the upfront bond issuance costs are
24 reasonable. And Issue 56 doesn't reference the statutory
25 standard, which I think is important to do.

1 COMMISSIONER DEASON: Well, I guess, if there is a
2 statutory standard which defines whether the upfront bond
3 issuance costs are reasonable, do you think the Commission is
4 going to do anything else than use the standard in the statute
5 to determine if they are reasonable?

6 MS. SMITH: We think it identifies the guidepost of
7 what we are looking at. Maybe if Issue 56 was reworded to
8 instead of saying are appropriate, could it say satisfies the
9 statutory standard of Section 366.8260(2)(b)5?

10 COMMISSIONER DEASON: So you see that Issue 56 is one
11 of procedure and that how the Commission should go about
12 determining it?

13 MS. SMITH: Yes, sir.

14 COMMISSIONER DEASON: Okay. Here again, I'm not
15 opposed to maintaining separate issues. It may be simpler to
16 maintain separate issues.

17 MS. CHRISTENSEN: I think there may be a good reason
18 to maintain separate issues, Commissioner. I see one is
19 allowing the Commission discretion to determine how it would
20 like to determine the outcome of upfront costs are appropriate.
21 And even if the Commission were to find that FPL's proposal
22 meets the minimum statutory criteria, the Commission could
23 choose to do it another way that also meets the statutory
24 criteria, and I think that is maybe something that you get with
25 having two separate issues. At least that is the way that OPC

1 has looked at addressing it.

2 COMMISSIONER DEASON: Okay. I can see where there is
3 the potential for a nuance there of difference, so we will
4 proceed with that. We will maintain Issues 56 and 58.

5 And with that we can proceed to Issue 57. And, here
6 again, I had the same question as to whether 57 and 59 were
7 duplicative, but I think that perhaps we need to maintain
8 separate issues for 57 and 59 just as we have done for 56 and
9 58.

10 Issue 60. I have a question concerning Issue 60.
11 And, of course, Issue 60 addresses the issuance of bonds, and
12 whether the bonds should be sold through a negotiated or
13 competitive sale. And, Power and Light, your position, you
14 indicate that we can't really know until we get greater
15 certainty at or near the time of issuance. But if this is an
16 issue that the Commission has to decide, how do you propose
17 then that we decide it?

18 Your position is you can't know how to answer this
19 question until you get closer to the time of issuance, but we
20 have to make a decision before the time of issuance. So,
21 please, how do you perceive that the Commission should
22 determine this issue?

23 MS. SMITH: Commissioner Deason, FPL would like to
24 submit a revised position on Issue 60.

25 COMMISSIONER DEASON: Okay. I hope it is going to be

1 more helpful to the Commission, then. Do you see the dilemma
2 that I am in as to --

3 MS. SMITH: Yes, sir.

4 COMMISSIONER DEASON: You're saying with your current
5 position that even you cannot take a position until you get
6 closer to the time of issuance. But the Commission is going to
7 need some help. If we are obligated to answer this question
8 sometime before the issuance, we need guidance.

9 And the same for the other parties, as well. If you
10 feel you are in a position to give some guidance, I think it
11 would be helpful to the Commission.

12 MS. CHRISTENSEN: Commissioner, Patty Christensen for
13 OPC. I think at least on our position we can modify it
14 slightly and just note that whether sold through competition or
15 negotiated sales, the methodology employed should produce the
16 lowest overall cost based on realtime market conditions. From
17 our understanding of the testimony, the real issue is which
18 type of sale will produce the lowest overall cost, and that may
19 not be known until the time of the sale, and that is why I
20 would ask to modify our position that way.

21 COMMISSIONER DEASON: Okay. Let me ask you this,
22 then, and I don't mean to be discussing substantive matters or
23 the merits of things, I'm just trying to understand from a
24 procedural standpoint. You believe that it is possible then
25 that to answer this question the Commission may make a decision

1 that just gives discretion to whoever is making that decision
2 at that time based upon market conditions as to whether it is
3 going to be a negotiated or a competitive sale?

4 MS. CHRISTENSEN: I think the way the question is
5 worded you can answer the question with either negotiated,
6 competitive, or both, and depending on what the evidence is you
7 hear at hearing, so I think there is that discretion. I don't
8 think it is an either/or, I think you can have one, the other,
9 or both, a combination, based on the evidence.

10 COMMISSIONER DEASON: All right. I'm just asking the
11 parties to be as helpful as they can when the time comes for
12 the Commission to address this issue, and you can be very
13 helpful by making your positions as clear as possible.

14 Okay. Issue 61.

15 MS. SMITH: Commissioner Deason, FPL submitted a
16 rewrite of its position on Issue 61, and we did give that to
17 all the parties. I e-mailed it to them last night and handed
18 it out today.

19 COMMISSIONER DEASON: And Mr. Keating will
20 incorporate the changed language for Issue 61.

21 MR. KEATING: Yes.

22 COMMISSIONER DEASON: Issue 62.

23 MS. CHRISTENSEN: Commissioner, can I go back to 61
24 just for a moment?

25 COMMISSIONER DEASON: Yes.

1 MS. CHRISTENSEN: I know this is one of those issues
2 that we have taken no position at this time, and I think at
3 this point we are still in that position. I don't know that we
4 have enough information to make specific recommendations to the
5 financing order. And I would just request permission to
6 continue to be allowed to maintain that position, because I
7 think that is one that may change based on what testimony comes
8 out at the hearing.

9 COMMISSIONER DEASON: Very well, Ms. Christensen. As
10 I indicated earlier, my attempt was to the extent possible to
11 encourage parties to take positions. And I understand that due
12 to the nature of this case that this is an issue that you think
13 you need to maintain no position at this time, is that correct?

14 MS. CHRISTENSEN: That is correct.

15 COMMISSIONER DEASON: If that is your belief, I will
16 give you that latitude. Likewise, that same latitude is
17 afforded to the other parties. But to the extent that you can
18 take a position, I would certainly encourage you to do so. It
19 would be very helpful to the Commission.

20 MS. SMITH: Commissioner Deason, FPL may submit a
21 rewrite on Issue 62. If we do, we will do so later today or
22 before noon tomorrow.

23 COMMISSIONER DEASON: On Issue 62?

24 MS. SMITH: Yes, sir.

25 COMMISSIONER DEASON: Okay. Issue 62 is probably a

1 good time for me to ask this question. I know that the federal
2 executive agencies are not here, perhaps they are still
3 listening. I know that on a number of their positions that
4 they say that they agree with staff, and staff is taking no
5 position. I know that FIPUG has made that correction in your
6 revised prehearing statement where you are indicating that you
7 are no longer agreeing with staff, but you may be either taking
8 your own position or agreeing with another party that has taken
9 a position.

10 Mr. Keating, I think you need probably to communicate
11 with the federal executive agencies and see if they still wish
12 to maintain their agreement with your position even though you
13 are taking no position at this time or whether they wish to
14 modify that.

15 MR. KEATING: Well, they had indicated on the phone
16 this morning that they intend to adopt all of FIPUG's
17 positions. But on Issue 62, I don't think that helps, unless
18 FIPUG has provided a rewrite on that one.

19 MR. PERRY: On 62 we are agreeing with OPC in our
20 rewrite.

21 COMMISSIONER DEASON: So maybe we don't have a
22 problem there. Okay.

23 Issue 63. Issue 64.

24 MS. SMITH: Commissioner Deason, FPL also may submit
25 a rewrite on Issue 64 just to be more helpful to the

1 Commission.

2 COMMISSIONER DEASON: Very well. That would be
3 appreciated. And that will be provided by noon tomorrow,
4 correct?

5 MS. SMITH: Yes, sir.

6 COMMISSIONER DEASON: Very well. Issue 65. Issue
7 66. Issue 67.

8 MS. SMITH: Commissioner Deason, FPL submitted a
9 rewrite of Issue 67 and provided it to all the parties.

10 COMMISSIONER DEASON: Very well. And that will be
11 incorporated. Here again, I need to ask the question as to the
12 relationship between Issue 67 and Issue 68 as to why there
13 needs to be separate issues? Issue 67 goes to how the
14 Commission should ensure, and then 68 is worded in terms of is
15 the proposed structure such that I think it mitigates rate
16 impacts. And I guess there is a distinction there, but it's
17 really not apparent as to what it is. So perhaps you can help
18 me with the distinction.

19 MS. SMITH: Commissioner Deason, Issue 68, that
20 reflects the statutory standard, one of the statutory
21 requirements for what must be included in a financing order, so
22 we feel that issue needs to be there.

23 COMMISSIONER DEASON: And it is to meet that specific
24 statutory requirement as to what is required?

25 MS. SMITH: Yes, sir. And we could put quotes

1 probably around the statutory language.

2 COMMISSIONER DEASON: Okay. That may be helpful. It
3 would kind of indicate that it is pertaining specifically to a
4 statutory requirement. Staff, we can just modify -- is there
5 any objection to making that modification to the wording of
6 Issue 68?

7 Hearing no objection, staff, I would just ask you to
8 incorporate that then into the wording of the issue.

9 MS. SMITH: Do we need 67, then?

10 MR. KEATING: Staff believes that we still need 67.
11 I think that is one of the large issues that its witnesses
12 address in the docket.

13 COMMISSIONER DEASON: Okay. We will maintain Issues
14 67 and 68 with the modification to the wording of Issue 68.
15 Issue 69.

16 MR. KEATING: Commissioners, staff, looking at 69,
17 70, and 71 would propose that in Issue 71 we can strike the
18 word additional, which is the second word in that issue, so
19 that it reads, "What flexibility should FPL be afforded in
20 establishing the terms and conditions of the storm-recovery
21 bonds, including, but not limited to, repayment schedules,
22 interest rates, and other financing costs?"

23 And with striking the word additional, we believe
24 that Issues 69 and 70 can be addressed under Issue 71.

25 COMMISSIONER DEASON: Okay. It has been suggested

1 that with the change in wording on Issue 71 that there is no
2 need to maintain Issues 69 and 70. Is there an objection to
3 dropping Issues 69 and 70?

4 Mr. Wright.

5 MR. WRIGHT: Mr. Chairman, I wouldn't have any
6 objection to dropping 69 and 70. I would suggest or offer for
7 consideration that the including, but not limited to language
8 in Issue 71 have added to it floating rate securities, swaps,
9 and, call provisions. So it would say, "Including, but not
10 limited to repayment schedules, interest rates, floating rate
11 securities, swaps, call provisions, and other financing costs,"
12 and that would make it clear that we can cover everything we
13 might want to cover under 71.

14 COMMISSIONER DEASON: Staff, you heard that. Do you
15 have an objection to that language?

16 MR. KEATING: No.

17 COMMISSIONER DEASON: Anyone have an objection to the
18 language as proposed by Mr. Wright for Issue 71?

19 MS. SMITH: FPL is fine with that language. And we
20 believe that we are going to need to submit a revised position
21 on the newly combined issue to reflect our position on all
22 three issues.

23 COMMISSIONER DEASON: Very well. You will be given
24 that latitude. Hopefully you can do that by noon tomorrow.

25 MS. SMITH: Yes, sir.

1 COMMISSIONER DEASON: And with that understanding, we
2 can drop Issues 69 and 70.

3 Issue 72, I have a notation and a question mark as to
4 whether this is an issue that can be stipulated. Just
5 reviewing the positions, it seems that perhaps it's possible.

6 Staff, do you believe this is an issue that could be
7 stipulated?

8 MR. KEATING: I do not know at this time. I don't
9 know.

10 COMMISSIONER DEASON: And I have the same question as
11 it pertains to Issue 73, as to whether that could be
12 stipulated, as well. And there seems to be some overlap
13 between 72 and 73, as well.

14 Staff, do you need additional time to look at this?

15 MR. KEATING: I think we would like a little bit of
16 additional time to look at that.

17 COMMISSIONER DEASON: Why don't we just come back
18 then to Issues 72 and 73. Okay.

19 Issue 74. Issue 75.

20 MS. SMITH: Commissioner Deason, we believe that
21 Issue 75 appears to be one that could be stipulated.

22 MR. PERRY: Issue 75 is one that we -- well, we took
23 a no position, I guess, in our revised prehearing statement.
24 If we could have until noon tomorrow, I think this is one that
25 we can probably end up just taking no position on. But I would

1 just definitely like to confirm that, if I could.

2 COMMISSIONER DEASON: Okay. But could you also
3 confirm as to whether the issue could just be dropped?

4 MR. PERRY: Yes, I will do that.

5 COMMISSIONER DEASON: And, likewise, the other
6 parties, I would ask you to -- if you wish to maintain Issue
7 75, you need to let staff know by noon tomorrow, otherwise
8 there is the possibility that Issue 75 may be dropped.

9 MS. SMITH: Commissioner Deason, we believe that
10 Issue 75 needs to be maintained.

11 COMMISSIONER DEASON: And can you explain why,
12 please.

13 MS. SMITH: Yes, sir. It is one of the things that
14 FPL includes in its draft financing order that was attached to
15 its petition, and it is something that would put parameters on
16 the actual bond issuance.

17 COMMISSIONER DEASON: So you are saying that you need
18 a definitive decision by the Commission on this issue as worded
19 to meet some type of bonding requirement?

20 MS. SMITH: No, sir, but we believe that this is a
21 separately identified issue both in testimony and our petition
22 and in the draft financing order that would give guidance or
23 parameters in the actual issuance.

24 MR. KEATING: Commissioner, this is something that
25 FPL has asked some affirmative request for relief on, and if it

1 is dropped then they don't get that relief. That's why they
2 want to keep it.

3 COMMISSIONER DEASON: Okay.

4 MR. PERRY: I will see if we can stipulate it.

5 COMMISSIONER DEASON: Okay. Well, let's just see if
6 it can be stipulated, then. We will maintain the issue. The
7 question remains as to whether it can be stipulated. And, Mr.
8 Keating, I would ask you to confer with the parties to see if
9 that possibility exists.

10 MR. KEATING: I will.

11 COMMISSIONER DEASON: Issue 76. I'm sorry, did we
12 address Issue 74? I believe we did. If not, now is your
13 opportunity. Anyone?

14 MS. SMITH: Commissioner Deason, FPL submitted a
15 revised statement of its position on Issue 74.

16 COMMISSIONER DEASON: Yes, you did, and that will be
17 incorporated.

18 MS. SMITH: And I'm not sure that we reflected on the
19 record that we also submitted a revised position on Issue 67.

20 COMMISSIONER DEASON: If we did not, I know that it
21 is included with what you had disseminated, and we will
22 incorporate the revised position on Issue 67, as well.

23 Issue 76. Issue 77. Issue 78. Issue 79.

24 MS. SMITH: Commissioner Deason, on Issue 75, I
25 apologize for going back, but to the extent it's not a

1 stipulated issue, we would like to submit a revised position on
2 that issue just to, again, help the Commission.

3 COMMISSIONER DEASON: Well, the difficulty I'm having
4 is if we are asking the parties to review Issue 75 to see if it
5 can be stipulated and you're going to be providing revised
6 language, it may be hard to determine if they are willing to
7 stipulate until they receive that language.

8 MS. SMITH: Yes, sir. We will e-mail to all the
9 parties revised language today.

10 COMMISSIONER DEASON: Very well. I believe we had
11 proceeded up to Issue 79, if I'm not mistaken.

12 MR. KEATING: I'm sorry, Commissioner, are we on 79,
13 did you say?

14 COMMISSIONER DEASON: Yes.

15 MR. KEATING: I think that's an issue that none of
16 the other parties have stated a position. Staff can agree with
17 FPL's position on that issue, and that is a potential
18 stipulated issue.

19 COMMISSIONER DEASON: It can perhaps be stipulated or
20 else other parties if they do not wish to enter a stipulation
21 may just wish to take no position.

22 MR. PERRY: I think we can just take no position.

23 MR. BECK: Same with us, Commissioner.

24 COMMISSIONER DEASON: Mr. Wright.

25 MR. WRIGHT: We would take no position. It can be

1 stipulated, but a Type 2 or Type 3 stipulation.

2 COMMISSIONER DEASON: Mr. Shreve.

3 MR. SHREVE: Same, no position. We would not oppose
4 a stipulation.

5 COMMISSIONER DEASON: Staff, I think you understand
6 where the parties are on this?

7 MR. KEATING: Yes.

8 COMMISSIONER DEASON: Issue 80.

9 MS. SMITH: Commissioner Deason, staff distributed a
10 position on Issue 80 prior to the prehearing conference. We
11 believe we are going to be able to stipulate on that language,
12 but we will be able to confirm that before noon tomorrow.

13 COMMISSIONER DEASON: Okay. You need time to review
14 staff's position with the idea that there is a possible
15 stipulation with staff's position. I will just ask the
16 question, maybe this is an issue to which other parties can
17 take no position, or perhaps there are some substantive issues
18 with the other parties. I would just ask you to review this
19 revised language with the idea of perhaps if not stipulating
20 it, at least perhaps indicating no position so that if staff
21 and the company can come to an agreement, perhaps it can be
22 presented to the Commission in terms of that type of
23 stipulation, Type 2, or whatever it is, Mr. Wright.

24 MR. WRIGHT: And we are fine with that. We have
25 already taken no position on that issue, so we are fine with no

1 position and would not oppose a stipulation between FPL and
2 other parties.

3 COMMISSIONER DEASON: I would ask the parties to
4 communicate with staff by noon tomorrow, if that's possible,
5 unless you can indicate now you have no position. That would
6 be fine.

7 MR. PERRY: Well, we have a position right now, and I
8 don't know that we will be able to stipulate, but we will look
9 at that.

10 MS. SMITH: Commissioner Deason, I would note that
11 the statute specifies how the allocation of the storm-related
12 costs should be -- or how they should be allocated to the rate
13 classes. Additionally, the cost of service study that was
14 approved as part of the stipulation and settlement signed by
15 FIPUG and FEA and the other parties to the last rate case also
16 dictates the cost of service methodology to be used. And so, I
17 don't know that there is any discretion here to deviate.

18 COMMISSIONER DEASON: And perhaps Mr. Perry thinks
19 there is, and that is certainly his right to take that
20 position. But, Mr. Perry, I would just ask you to look at
21 this, and to the extent that you can be comforted and take no
22 position to facilitate a stipulation between the staff and the
23 company, so be it. Otherwise, obviously it's within your right
24 to take a position as you believe is appropriate.

25 MR. PERRY: We will, thank you.

1 MR. TWOMEY: Commissioner Deason, I was just going to
2 say, for what it is worth, AARP agrees with FPL on that issue.

3 COMMISSIONER DEASON: Very well. Staff, if you could
4 indicate so.

5 MR. KEATING: We will.

6 COMMISSIONER DEASON: Issue 81.

7 MS. SMITH: Commissioner Deason, this appears to be
8 one that may be stipulated.

9 COMMISSIONER DEASON: Staff, in your viewpoint is
10 this a possible stipulation?

11 MR. KEATING: Not to my knowledge at this point. I
12 know staff has taken no position at this time. I don't think,
13 at least from staff's point of view, that we have a firm
14 position or are in a position to say that we can agree with
15 FPL's position yet.

16 COMMISSIONER DEASON: Very well. Other parties have
17 a strong feel one way or the other on this issue concerning --
18 I know staff has indicated they are not willing to stipulate,
19 but perhaps -- the parties can stipulate between themselves.

20 MR. PERRY: We have no position at this time, but I
21 think that we can probably by noon tomorrow stipulate to no
22 position, and I'll e-mail that around.

23 COMMISSIONER DEASON: Okay.

24 Mr. Beck.

25 MR. BECK: We are not opposed to FPL's position, but

1 I don't see that -- we would prefer to just leave it.

2 COMMISSIONER DEASON: Just leave it as an issue and
3 indicate that you have no position.

4 MR. BECK: Yes.

5 COMMISSIONER DEASON: Okay. I believe at this point
6 we are just going to leave this issue. Staff, you're taking no
7 position at this time, you wish to maintain that. Other
8 parties, Public Counsel has indicated they have no position.
9 Mr. Perry is not quite sure yet. We'll just leave the issue.
10 And to the extent the parties can take no position if they
11 think that is appropriate, if they would so indicate to staff
12 that would be appreciated.

13 Issue 82.

14 MS. SMITH: Commissioner, we identified this as
15 another issue that could be stipulated.

16 COMMISSIONER DEASON: Staff, is this a possible
17 stipulation in your view?

18 MR. KEATING: I think staff is in the same position
19 with 82 as we are with 81.

20 COMMISSIONER DEASON: We will treat it similarly
21 then. And, other parties, likewise, if you have no position,
22 if you could so indicate to staff, that would be helpful.

23 Issue 83. I had a question mark as to whether this
24 could be stipulated. Staff, do you have a view as to whether
25 83 could be stipulated?

1 MR. KEATING: Yes. We can agree with FPL's position
2 on Issue 83.

3 COMMISSIONER DEASON: Do any other parties have a
4 position on 83 contrary to the company's position? So it would
5 be fair to say no position, and it would be a stipulation
6 between staff and the company? Is that fair?

7 MR. BECK: That would be fine.

8 MR. PERRY: Yes.

9 MR. WRIGHT: That would be fine. Actually, I think
10 this is one of the type that we had agreed with OPC that a
11 true-up should be conducted every six months, and we would be
12 okay with that affirmative position on this specific issue.

13 COMMISSIONER DEASON: Well, if you wish to
14 affirmatively stipulate that six months is appropriate, I want
15 to facilitate that, as well.

16 MS. SMITH: Commissioner Deason, it needs to be as
17 reflected in the statute at least every six months, and that is
18 because rating agencies may require more frequent true-ups.

19 COMMISSIONER DEASON: So it's not necessarily -- it
20 is at least every six months.

21 MS. SMITH: Yes, sir.

22 COMMISSIONER DEASON: And that is clearly FPL's
23 position. And, staff, that is your position, as well, at least
24 every six months?

25 MR. KEATING: Yes.

1 MR. WRIGHT: And having said that, I would like to
2 make clear we will just take no position and not oppose any
3 stipulation.

4 COMMISSIONER DEASON: Is that a fair representation
5 for the other parties, as well?

6 MR. BECK: Yes, sir.

7 MR. PERRY: Yes for FIPUG.

8 MR. TWOMEY: Yes, sir.

9 MR. SHREVE: Yes.

10 COMMISSIONER DEASON: Staff, do you have all of that,
11 then?

12 MR. KEATING: Yes.

13 COMMISSIONER DEASON: Issue 84. Here again, the same
14 question as to whether there is a possible stipulation on this
15 issue. Staff.

16 MR. KEATING: Yes, I think we can stipulate to 84.

17 COMMISSIONER DEASON: And, other parties, is there an
18 affirmative position one way or the other concerning Issue 84?
19 No position from Public Counsel?

20 MR. PERRY: The same for FIPUG, no position.

21 MR. TWOMEY: Same.

22 MR. WRIGHT: No position, don't oppose.

23 COMMISSIONER DEASON: Mr. Shreve, is that acceptable?

24 MR. SHREVE: Yes.

25 COMMISSIONER DEASON: Staff, do you have that?

1 MR. KEATING: Yes.

2 COMMISSIONER DEASON: Issue 85.

3 MR. KEATING: On Issue 85, I will go ahead and answer
4 yes, staff could stipulate to that one.

5 COMMISSIONER DEASON: I will ask the parties if the
6 other parties are comfortable taking no position on this.

7 Mr. Beck.

8 MR. BECK: Yes, that would be correct.

9 COMMISSIONER DEASON: Mr. Perry.

10 MR. PERRY: No position, yes.

11 MR. TWOMEY: Yes, sir.

12 MR. WRIGHT: Yes, sir.

13 COMMISSIONER DEASON: And, Mr. Shreve?

14 MR. SHREVE: Yes.

15 COMMISSIONER DEASON: And, Staff, you have that?

16 MR. KEATING: Yes, and we will agree with FPL's
17 position on 85. Show that as the stipulated position.

18 COMMISSIONER DEASON: Issue 86. I know that, Power
19 and Light, you are saying basically it could be done either
20 way. I don't know if you are taking an affirmative position
21 supporting one versus the other.

22 MS. SMITH: That's correct.

23 COMMISSIONER DEASON: And the other parties seem to
24 be in agreement that it should be separate. Staff, do you have
25 a position?

1 MR. KEATING: Yes. Staff would like to change its
2 position to yes.

3 COMMISSIONER DEASON: I believe this needs to be
4 presented as a stipulation to the Commission. The
5 Commissioners may have a different view, I don't know what the
6 preference would be, but it appears that all the parties are in
7 agreement that it could be stipulated. Is that correct? Mr.
8 Keating, you are in agreement?

9 MR. KEATING: I think so. At least all the
10 intervenors and staff have a very similar position, and FPL's
11 position does start with a no, although it doesn't state a
12 specific position.

13 MS. SMITH: We will confirm that we can stipulate
14 that issue.

15 COMMISSIONER DEASON: Very well. Issue 87. Here
16 again, a possible stipulation, Staff?

17 MR. KEATING: Yes.

18 COMMISSIONER DEASON: Okay. And I believe other
19 parties are in agreement, so I believe this is a stipulation.

20 MR. BECK: Yes.

21 COMMISSIONER DEASON: Very well. And Issue 88,
22 should the docket be closed. There seems to be a difference of
23 opinion on that, so I guess we will maintain the issue. Okay.
24 I notice that we probably at some point need to go back and
25 just make sure that we are clear. We had discussed Issues 72

1 and 73 as possible stipulations. It may be a situation where
2 parties need to review that and communicate with staff, but,
3 let's go back to them for just a moment just so we are clear
4 where we are.

5 72 and 73.

6 MR. KEATING: Commissioner, staff has gone back since
7 we first discussed those and can take a position and agree with
8 FPL there, so we believe that those have the potential to be
9 stipulated.

10 COMMISSIONER DEASON: Staff is indicating that they
11 have conducted further review and that they can, at this point,
12 stipulate to Florida Power and Light's position on Issues 72
13 and 73.

14 And I would ask the parties if, first of all, can
15 they stipulate? If they cannot stipulate, can they indicate no
16 objection or no position?

17 MR. BECK: We would prefer to have no position on
18 that. We don't object to the stipulation, though.

19 COMMISSIONER DEASON: Mr. Perry.

20 MR. PERRY: I think we can take no position.

21 MR. TWOMEY: Yes, sir.

22 MR. WRIGHT: No position. Don't oppose the
23 stipulation on either 72 or 73.

24 COMMISSIONER DEASON: Mr. Shreve.

25 MR. SHREVE: Yes.

1 COMMISSIONER DEASON: Staff, I think you have got
2 that then for 72 and 73. I believe we may have addressed all
3 of the issues, but there may be one or two that we thought we
4 may need to go back to.

5 Staff, do you have any other issues? I will just
6 open it up. We have gone through all the issues at least one
7 time. Are there unclear matters needing further clarification
8 on any of the issues that remain?

9 MR. KEATING: I don't think -- at least from my list,
10 and we have gone through a lot, so hopefully I've got a
11 complete list. It appears on Issue 45 we had considered
12 whether that should be moved to another section. I think
13 Public Counsel and FIPUG had wanted to look at that issue
14 further. I don't know if that is something we can decide
15 today. Other than that, most of the notes on my draft indicate
16 we would be finding out most of the answers by noon tomorrow.

17 COMMISSIONER DEASON: So, on Issue 45 I know that we
18 had had some preliminary discussion. There was a question as
19 to whether it may be more helpful to move that issue to a
20 separate section. It really doesn't matter to me. It may be
21 more helpful to have it in a separate section, but then again
22 you create the question as to why in the prehearing order you
23 skip Issue 45 and then you find it some ten pages later.

24 Mr. Keating, I will just leave that up to your
25 discretion to deal with that as you deem appropriate.

1 MR. KEATING: What we could do there is essentially
2 show Issue 45, if it is moved, as having been moved, identify
3 the new issue number, and probably identify the new issue
4 number with a letter following the issue that has been inserted
5 after, so maybe 75A, if it goes after 75, something of that
6 nature to keep the same numbering.

7 COMMISSIONER DEASON: I trust you to do it in an
8 appropriate manner.

9 MS. SMITH: We may need to revisit our position on
10 that issue depending on where it -- if it is moved.

11 COMMISSIONER DEASON: Okay. Mr. Keating, I would
12 encourage you to communicate with the parties, as soon as you
13 know, as to where Issue 45 is going to be located. And to the
14 extent there needs to be some revisions of positions, allow the
15 parties that latitude.

16 MR. KEATING: Okay.

17 COMMISSIONER DEASON: Section IX is the Exhibit List.
18 Any problems or corrections?

19 Section X is Proposed Stipulations. Listed there is
20 Issue 87. And, Staff, I believe that we have been able to
21 address a number of other issues which could be listed as
22 proposed stipulations of one form or another, and I'm sure you
23 will incorporate those.

24 MR. KEATING: Yes.

25 COMMISSIONER DEASON: Section XI, Pending Motions.

1 There are no pending motions at this time, at least to our
2 understanding. If any of the parties have any motions that you
3 know are pending that we are not aware of, please advise us
4 now.

5 Mr. Shreve.

6 MR. SHREVE: Mr. Chairman, I might have missed it
7 somewhere, and we are listed in here, but has our intervention
8 been granted?

9 MR. KEATING: It has not yet. The only reason I
10 don't think it has been addressed yet is because I don't
11 believe that the response time has expired. It may expire
12 within the next couple of days.

13 COMMISSIONER DEASON: Are there any parties who wish
14 to respond to the Attorney General's intervention?

15 MS. SMITH: FPL does not oppose it.

16 COMMISSIONER DEASON: Any of the other parties wish
17 to respond?

18 MR. TWOMEY: Do we have until noon tomorrow?
19 (Laughter.) Just kidding.

20 MR. SHREVE: Mr. Chairman, I would welcome Mr.
21 Twomey's opposition.

22 COMMISSIONER DEASON: It would help your case, huh,
23 Mr. Shreve? Okay. Does staff have a recommendation?

24 MR. KEATING: I have got a separate order prepared,
25 but we could make a ruling here today and reflect that in the

1 prehearing order just as well.

2 COMMISSIONER DEASON: Do you wish a separate order,
3 Mr. Shreve, or do you wish it just acknowledged within the
4 prehearing order?

5 MR. SHREVE: Either way is fine, as long as we have
6 the intervention.

7 COMMISSIONER DEASON: The intervention is granted.
8 And, Staff, I will leave it to your discretion to incorporate
9 it in whatever is the most appropriate manner.

10 MR. KEATING: Okay.

11 MR. SHREVE: Mr. Chairman, was your decision really
12 based on the fact that Mr. Twomey might object? (Laughter.)

13 COMMISSIONER DEASON: I won't answer that question.

14 Okay. I think we have already addressed some pending
15 confidentiality matters that are listed under Section XII.

16 Section XIII, Post-hearing Procedures.

17 MR. BECK: Commissioner Deason, with respect to the
18 50-word summary, we find it difficult sometimes to get it all
19 in there at 50. I was wondering if we could have a higher
20 limit, perhaps 80, 80 words for the summary?

21 COMMISSIONER DEASON: 80 going once. Any objection
22 to 80?

23 Staff, no objection?

24 MR. KEATING: No objection.

25 COMMISSIONER DEASON: We will incorporate 80.

1 MS. SMITH: Commissioner Deason, FPL would ask that
2 the brief limit be raised to 200 pages. We will make every
3 effort to fall well within that, but in light of the number and
4 complexity of issues in this case, and the fact that we are
5 going to be addressing all of them, we would ask that 200 be
6 the limit.

7 COMMISSIONER DEASON: There has been a request to
8 allow 200 pages for briefs. Any objections to that?

9 MR. WRIGHT: No objection.

10 MR. LITCHFIELD: They don't have to read it.

11 COMMISSIONER DEASON: Staff, any objection?

12 MR. KEATING: No. We do encourage a shorter brief
13 because we do have to read it.

14 COMMISSIONER DEASON: We can make the change then to
15 200.

16 Section XIV, Rulings. We have none listed, but I
17 have a question about opening statements. Are opening
18 statements contemplated; and if so, what length, and how is the
19 time going to be allocated? I am open to suggestions.

20 First of all, a question, are we going to have
21 opening statements?

22 MS. SMITH: Yes, sir. And FPL would propose what we
23 did in last year's storm docket where FPL had a certain length
24 of time, then all the other parties shared time. It worked out
25 reasonably.

1 COMMISSIONER DEASON: First of all, what do you
2 propose as your time limitation for this docket?

3 MS. SMITH: I think last year's docket was ten
4 minutes for FPL and 20 minutes combined for the other parties.

5 COMMISSIONER DEASON: Ten and 20 combined. Is there
6 an objection to that?

7 MR. PERRY: No objection.

8 MR. SHREVE: No objection.

9 MR. BECK: No objection.

10 COMMISSIONER DEASON: And just leave it to the
11 parties to work out the allocation of that time? Why is
12 everybody is so agreeable today? That's wonderful. I
13 appreciate that.

14 MR. KEATING: Commissioner, staff usually does not
15 make an opening statement. In this case we would like to
16 reserve the opportunity to make a brief opening statement.

17 COMMISSIONER DEASON: Of no more than how many
18 minutes?

19 MR. KEATING: Of no more than five minutes.

20 COMMISSIONER DEASON: But that would not count
21 against anybody else's allocation, though, correct?

22 MR. KEATING: Correct.

23 COMMISSIONER DEASON: So we have 10, 20 to be
24 allocated, and then Staff retains the ability to have a
25 briefing opening statement of no more than five minutes.

1 MR. KEATING: Correct.

2 COMMISSIONER DEASON: I guess you can incorporate
3 that into the prehearing order so it is understood by the
4 presiding officer.

5 And are there other rulings or matters that we need
6 to address? I have one further matter, but I will open it up
7 at this point. Hearing none.

8 The only concern that I have is that we have a long
9 list of complicated issues, very substantive issues, and we
10 have a long list of witnesses, and we only have three days to
11 process the case.

12 And I can't speak for the Chairman, I don't know how
13 she is going to accommodate matters and what the time schedule
14 is going to be, whether it is going to necessitate working late
15 or whatever. That is strictly her call, not mine. It just
16 appears to me that there is a lot to go over and we have a
17 relatively short period of time to do that. I would just
18 request the parties to be cognizant of that. We want all
19 parties to have ample opportunity to explore all of the issues
20 fully and to engage in full cross-examination, but at the same
21 time I think we need to be aware that we do have some strict
22 time limitations.

23 I know that sometimes some people use the term
24 friendly cross, I don't know if there is a specific definition
25 for that, perhaps it's kind of in the eyes of the beholder. I

1 would request, parties, that to the extent that one is inclined
2 to engage in that, that they think twice about it and try to be
3 cognizant of the time limitations we are engaged in.

4 And it also goes to cross-examination, as well. I
5 think I can speak for the Commission that we want all of the
6 issues thoroughly explored, it helps us in making our decision
7 to have a complete record, but a complete record does not
8 necessarily mean a duplicative record. And we can have a
9 complete record without going over issues numerous times by
10 exact or similar cross-examination. I would just request
11 parties to be cognizant of that, as well. And if the parties
12 have any suggestions as to how is the most efficient way to
13 proceed, I'm sure that those would be entertained and would be
14 welcomed.

15 Those are my thoughts, and if anyone has anything to
16 add to that at this point, I would certainly welcome that.
17 Hearing none; I don't know if that means everybody is in
18 agreement or not. And I appreciate all of the effort that has
19 gone forth in this docket thus far. That this is a very
20 complicated case, and I know that there has been great effort
21 expended by a number of parties. As prehearing officer, I have
22 been pleased with the conduct of this case thus far. I think
23 all of the parties have acted in a very professional manner and
24 that there have been a number of accommodations by all of the
25 parties to try to get this case processed and get it done

1 orderly and efficiently, and the prehearing officer is
2 appreciative of that.

3 So is there anything else to come before the
4 prehearing officer at this time?

5 MR. KEATING: Not that I'm aware of.

6 COMMISSIONER DEASON: All right. With that, the
7 prehearing conference is adjourned. Thank you all.

8 (Prehearing Conference concluded at 11:36 a.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

STATE OF FLORIDA)

COUNTY OF LEON)

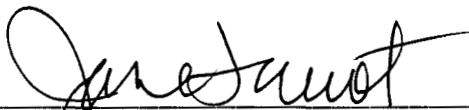
CERTIFICATE OF REPORTER

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 14th day of April, 2006.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732