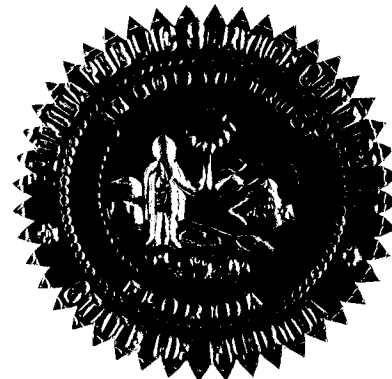


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060001-EI

In the Matter of

FUEL AND PURCHASED POWER
COST RECOVERY CLAUSE WITH
GENERATING PERFORMANCE INCENTIVE
FACTOR.



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PROCEEDINGS: PREHEARING

BEFORE: MATTHEW M. CARTER, II
Prehearing Officer

DATE: Monday, October 23, 2006

TIME: Commenced at 9:30 a.m.
Concluded at 12:40 p.m.

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

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

1 APPEARANCES:

2 JOHN BUTLER, ESQUIRE, and R. WADE LITCHFIELD,
3 ESQUIRE, Florida Power & Light Company, 700 Universe Boulevard,
4 Juno Beach, Florida 33408-0420, appearing on behalf of Florida
5 Power & Light Company.

6 NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello &
7 Self, P.A., Post Office Box 1876, Tallahassee, Florida
8 32302-1876, appearing on behalf of Florida Public Utilities
9 Company.

10 JAMES D. BEASLEY, ESQUIRE, and LEE L. WILLIS,
11 ESQUIRE, ESQUIRE, Ausley & McMullen, Post Office Box 391,
12 Tallahassee, 32302, appearing on behalf of Tampa Electric
13 Company.

14 JEFFREY A. STONE, ESQUIRE; RUSSELL BADDERS, ESQUIRE;
15 and STEVEN R. GRIFFIN, ESQUIRE, Beggs & Lane Law Firm, Post
16 Office Box 12950, Pensacola, Florida 32591-2950, appearing on
17 behalf of Gulf Power Company.

18 JOHN T. BURNETT, ESQUIRE, Progress Energy Service
19 Co., LLC, Post Office Box 14042, St. Petersburg, Florida
20 33733-4042, appearing on behalf of Progress Energy Service Co.,
21 LLC.

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23

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1 APPEARANCES CONTINUED:

2 CHARLES J. BECK, ESQUIRE; JOSEPH A. MCGLOTHLIN,
3 ESQUIRE; and PATRICIA CHRISTENSEN, ESQUIRE, Office of Public
4 Counsel, c/o The Florida Legislature, 111 W. Madison Street,
5 Room 812, Tallahassee, Florida 32399-1400, appearing on behalf
6 of the Citizens of the State of Florida.

7 CAPTAIN DAMUND WILLIAMS, c/o AFLSA/JACL-ULT, 139
8 Barnes Drive, Suite 1, Tyndall AFB, Florida 32403-5319,
9 appearing on behalf of the Federal Executive Agencies.

10 ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T. LAVIA,
11 III, ESQUIRE, Young van Assenderp Law Firm, 225 South Adams
12 Street, Suite 200, Tallahassee, 32301, appearing on behalf of
13 Florida Retail Federation.

14 JOHN W. MCWHIRTER, JR., ESQUIRE, c/o McWhirter Reeves
15 Law Firm, 400 North Tampa Street, Suite 2450, Tampa, Florida
16 33602, appearing on behalf of Florida Industrial Power Users
17 Group.

18 MICHAEL B. TWOMEY, ESQUIRE, Post Office Box 5256,
19 Tallahassee, Florida 32314-5256, appearing on behalf of AARP.

20 JAMES W. BREW, ESQUIRE, Brickfield, Burchette, Ritts
21 & Stone, P.C., 1025 Thomas Jefferson Street, NW, Eighth Floor,
22 West Tower, Washington D.C., appearing on behalf of PCS
23 Phosphate - White Springs.

24

25

1 APPEARANCES CONTINUED:

2 LISA BENNETT, ESQUIRE, and COCHRAN KEATING, ESQUIRE,
3 FPSC General Counsel's Office, 2540 Shumard Oak Boulevard,
4 Tallahassee, Florida 32399-0850, appearing on behalf of the
5 Commission Staff.

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P R O C E E D I N G S

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2 COMMISSIONER CARTER: Next we shall proceed with
3 Docket Number 060001-CI.

4 Ms. Bennett, any preliminary matters?

5 MS. BENNETT: Yes, Commissioner Carter, there are.
6 First we have an appearance by Captain Damund Williams for the
7 Federal Executive Agency. I just want to note that for the
8 record.

9 CAPTAIN WILLIAMS: I'd like my appearance entered
10 into the record.

11 COMMISSIONER CARTER: Okay. Make it so in the
12 record.

13 MS. BENNETT: Secondly, I want to mention that the
14 draft prehearing order that you have before you today,
15 Commissioner Carter, was revised as of yesterday. And I did by
16 email send copies to every party, and there were additionally
17 copies here. That's the order that we'll be working from
18 today.

19 COMMISSIONER CARTER: Okay.

20 MS. BENNETT: And based on that, we'll probably have
21 to go item by item to make sure that we've incorporated any
22 changes that need to be to that order.

23 The third item I want to mention is that there was a
24 motion previously to include in the fuel docket for evidentiary
25 hearing the natural gas storage petition of Florida Power &

1 Light. That has already been taken care of by a motion or an
2 order consolidating the two cases for evidentiary hearing.

3 Finally, there was a motion made by the Office of
4 Public Counsel that their petition to recover \$143 million from
5 Progress Energy be spun out of the November fuel docket. That
6 was done administratively and is currently scheduled in Docket
7 Number 060658.

8 At this point I have no other preliminary matters,
9 but there might be items that the parties have.

10 COMMISSIONER CARTER: Any parties that have
11 preliminary matters in this case?

12 MR. BECK: Commissioner, I have a few, but I --

13 COMMISSIONER CARTER: You want to wait as we go
14 through them?

15 MR. BECK: Yes, please.

16 COMMISSIONER CARTER: Would everyone want to do that,
17 just as we go through the issues?

18 Okay. Well, let us proceed. Section I.

19 MS. BENNETT: Section I is the case background. Any
20 changes? It appears that there are none.

21 Section II, conduct of proceedings. Are there any
22 requests for changes? It appears that there are none. Let's
23 continue.

24 Section III, jurisdiction. Any changes?

25 We are ready to go to procedure for handling --

1 COMMISSIONER CARTER: Y'all didn't know I was a
2 ventriloquist, did you? See how I was doing that. My lips
3 weren't even moving.

4 MS. BENNETT: I've been advised I need to be quiet.

5 (Laughter.)

6 COMMISSIONER CARTER: That's all right. You sounded
7 as good as I do on it.

8 So Section I was conduct of the proceedings. Any
9 comment?

10 Section II is case background.

11 Section III, jurisdiction.

12 Section IV.

13 Section V.

14 MR. BECK: Commissioner?

15 COMMISSIONER CARTER: Yes, sir.

16 MR. BECK: On Section V -- I have a number of items,
17 and the first one is V relating to the GPIF issues. The Office
18 of Public Counsel filed testimony related to GPIF and the way
19 the Commission -- we have a number of proposals on how the
20 Commission should handle that both currently and in the future.
21 There's a couple of things I'd like to add with respect to
22 that.

23 First of all, it's a separate area of inquiry from
24 the other areas, and we were wondering if that could be
25 segregated so that we have a witness, Jim Ross, who testifies

1 on the direct case on GPIF, and I believe there's four
2 witnesses by the companies who filed rebuttal to that, so we
3 wondered if that could be segregated. And the reason I raise
4 that also now is on the summary of testimony in Section V it
5 has limited to five minutes. Because this is a big issue, you
6 know, big policy questions, it would change what the Commission
7 has been doing for 20 years, we'd like to ask for ten minutes
8 for Mr. Ross to provide a summary of his testimony.

9 So to summarize, I'd like to ask for ten minutes
10 summary for Mr. Ross, and then also to segregate his testimony
11 and the rebuttal testimony to that separately perhaps at the
12 end of this proceeding.

13 MR. BUTLER: Stating it separately actually seems
14 like a good idea. I don't see why Mr. Ross needs ten minutes
15 though. We've been operating in dockets for the last several
16 years where our witnesses have extremely voluminous,
17 complicated matters that they have to deal with and are pretty
18 routinely limited to five minutes.

19 MR. BECK: Again, we think it would be helpful to the
20 Commission to allow our witness to present his testimony --
21 because this is not a routine issue, this is a big policy issue
22 asking for big changes by the Commission, we think it would be
23 helpful.

24 COMMISSIONER CARTER: Staff?

25 MR. KEATING: I mean, I think Mr. Butler is correct,

1 that we typically have limited the summaries to five minutes.
2 Just for your background, the purpose of that has primarily
3 been to speed up the hearing process, particularly in a hearing
4 like this where we've got several dockets over a few days. But
5 it's a matter that's entirely within your discretion as to the
6 time to allow for the witness summary. And if you would like
7 to take that under advisement, you could do that as well and
8 reflect your ruling in the prehearing order.

9 COMMISSIONER CARTER: So the only heartburn is the
10 ten minutes versus five minutes? Out of what Mr. Beck had just
11 mentioned, is that the only heartburn that we have here?

12 MR. BECK: Commissioner, I do have one other issue
13 related to that. It'll come up later on the opening
14 statements.

15 COMMISSIONER CARTER: Okay.

16 MR. BECK: You have limiting opening statements to
17 ten minutes per party. We would like to separate our ten
18 minutes into the portion that deals with GPIF so that we have
19 five minutes opening statement there and then five minutes in
20 the other portion of the hearing for the other matters. So
21 we're agreeing to the ten minutes. We would just like to
22 separate it so that there's a separate opening statement
23 related to the GPIF issues.

24 COMMISSIONER CARTER: Mr. Butler?

25 MR. BUTLER: We wouldn't have an objection to that.

1 COMMISSIONER CARTER: Staff?

2 MS. BENNETT: We don't have an objection to it being
3 heard separately. It's certainly within the Commission's
4 discretion.

5 COMMISSIONER CARTER: I'll think about it.

6 Anything else on Section V, I believe we were on, or
7 was it Section IV? Section IV, is that where we were?

8 MS. BENNETT: We were on Section V, prefiled
9 testimony and exhibits.

10 COMMISSIONER CARTER: Section V, posthearing
11 procedures. Any questions on Section V?

12 MS. BENNETT: I apologize, Commissioner. Section V,
13 posthearing procedures, is now in the order Section XIII.

14 COMMISSIONER CARTER: Oh, so you got the -- so that's
15 what you meant when you had another list done.

16 Okay. Let's take a two-minute break.

17 (Recess taken.)

18 COMMISSIONER CARTER: Come back to order. Let us
19 come to order in this prehearing. I hope everybody is okay.
20 We just had little, slight technical difficulties. Sometimes I
21 can be technologically challenged here.

22 But what I would like to do is just kind of -- let me
23 just read the order first and then we'll go from there. That
24 way if you guys want to make notes on your sheets, we'll all be
25 on the same page. Is that okay with you guys?

1 So -- and we're not going to go through them -- we'll
2 come back and go through them individually. But I want you to
3 have them in your notes so that in Docket Number 060001-EI,
4 Section I would be the case background; Section II, conduct of
5 proceedings. Let me know if I'm going too slow and I'll speed
6 it up. Section III will remain jurisdiction. Section IV would
7 be procedure for handling confidential information. Section V
8 will be prefiled testimony and exhibits. Section VI would be
9 order of witnesses. Section VII, basic positions. Section
10 VIII, issues and positions. I don't see you guys writing.
11 Maybe y'all had the right sheet all the time, huh? Section IX
12 is exhibit list. Section X, proposed stipulations. Section XI
13 will be pending motions. Section XII will be pending
14 confidentiality matters. And Section XIII will be posthearing
15 procedures. And finally Section XIV would be rulings. Does
16 everyone's documents reflect that? Okay. Very good.

17 Let us continue. We were on Section V dealing with
18 prefiled testimony and exhibits on Section V.

19 MR. BADDERS: Good morning, Commissioner.

20 COMMISSIONER CARTER: Yes, sir.

21 MR. BADDERS: Russell Badders on behalf of Gulf
22 Power. This relates to Section V and VI. As in the 07 docket,
23 in 01 Witness R. J. Martin will be adopting the testimony,
24 prefiled direct testimony of Terry A. Davis filed on March 1 of
25 2006. So we will do that at the hearing, but we also need that

1 to be reflected in the order of witnesses in the next section.

2 COMMISSIONER CARTER: Okay. Any objections? Hearing
3 none, make it so.

4 MR. BURNETT: Commissioner?

5 COMMISSIONER CARTER: Yes, sir.

6 MR. BURNETT: Same as to PEF witness Joseph
7 McCallister. Mr. McCallister will be adopting the March 1st
8 testimony of Pamela Murphy and all her exhibits as well, sir.

9 COMMISSIONER CARTER: Okay. Any objections? Make it
10 so.

11 Anymore on Section V dealing with prefiled testimony
12 and exhibits?

13 Okay. Section VI, order of witnesses.

14 MR. HORTON: Commissioner?

15 COMMISSIONER CARTER: Yes, sir.

16 MR. HORTON: Doc Horton for Florida Public Utilities.
17 Just -- no objection to the order of witnesses. One of my
18 witnesses may have a conflict on a date, and I will work with
19 staff to take care of that. But we're trying to arrange that
20 conflict out, just to let you know though.

21 COMMISSIONER CARTER: Okay. Duly noted. Any others
22 with any problems with potential witnesses?

23 MR. BEASLEY: Commissioner Carter, Tampa Electric
24 rebuttal witness William A. Smotherman needs to be added at the
25 bottom of the list of witnesses.

1 COMMISSIONER CARTER: Okay. Any objections? Show it
2 done.

3 MR. BEASLEY: And also if I could request a change in
4 the order of our witnesses. We had submitted this earlier.
5 Apparently it didn't get picked up in the draft. But on the
6 Tampa Electric witnesses on the second page of the list of
7 witnesses, if we could request that Ms. Wehle go first,
8 followed by Benjamin Smith, followed by Carlos Aldazabal, and
9 finishing up with William A. Smotherman.

10 COMMISSIONER CARTER: Okay. Show it done.

11 MR. BEASLEY: Thank you.

12 COMMISSIONER CARTER: Any other on Section V,
13 prefiled testimony and exhibits?

14 Hearing none, Section VI -- or was -- were we on
15 Section VI, order of witnesses? We were on Section V. I'm
16 still looking at my old sheet. Sorry, guys.

17 MR. BECK: And Commissioner Carter, again, the
18 comments I made earlier would apply here. I would ask that the
19 GPIF witnesses be all put together.

20 COMMISSIONER CARTER: Okay. That would be fine, Mr.
21 Beck.

22 Staff, did you get that?

23 MS. BENNETT: Yes. We have that all of the GPIF
24 witnesses for OPC are placed together. But are we going to
25 have all of the GPIF witnesses together for the --

1 MR. BECK: That's what I would request, that you'd
2 have Mr. Ross up, file direct testimony, and then the people
3 who filed rebuttal to him then follow that.

4 COMMISSIONER CARTER: Did you gentlemen and ladies
5 hear what Mr. Beck has said? Is there any objection to what
6 Mr. Beck has said?

7 MR. BUTLER: The only thing just in terms of the
8 order, how it goes, I think that since OPC is the proponent of
9 this issue, Mr. Ross goes first. I don't know what you'd call
10 us, whether we're intervenors or just company witnesses. And
11 then there's actually rebuttal that Mr. Ross filed; right?

12 MR. BECK: Right.

13 MR. BUTLER: Okay. So I guess that's the order it
14 would end up showing is Ross, the company's witnesses, and then
15 Ross again.

16 MR. BECK: Right. I'd agree with that.

17 COMMISSIONER CARTER: Any objection? Staff?

18 MS. BENNETT: We can include that in the prehearing
19 order.

20 COMMISSIONER CARTER: Okay. Show it done.

21 Section VII, basic positions.

22 MS. BENNETT: It doesn't appear that anyone has
23 changes to the basic positions.

24 COMMISSIONER CARTER: Okay. Show it done.

25 Section VIII, issues and positions. Okay. Give me

1 one moment here to flip my notes around.

2 First would be the issues relating to the generic
3 fuel adjustment issues, Issue 1.

4 MS. BENNETT: This is a fallout issue and staff is of
5 the position that until other issues are resolved, this issue
6 cannot be decided, so it would not be stipulated.

7 COMMISSIONER CARTER: Okay.

8 MR. HORTON: Commissioner Carter?

9 COMMISSIONER CARTER: Yes, sir.

10 MR. HORTON: It would appear that, it would appear
11 that Florida Public Utilities and the staff are of the same
12 view though. It would seem that for Issue 1 that that could be
13 a stipulation for Florida Public Utilities.

14 COMMISSIONER CARTER: I'm sorry. I didn't hear it.

15 MR. HORTON: It would appear that that could be a
16 stipulation as to Florida Public Utilities in that particular
17 issue.

18 COMMISSIONER CARTER: Staff?

19 MS. BENNETT: Staff is still reviewing those numbers
20 and they're not ready to stipulate. We may be by the end of
21 the week.

22 MR. HORTON: That's fine.

23 COMMISSIONER CARTER: Okay. Any other comments on
24 Issue 1? We'll reserve that one for later.

25 Issue 2.

1 MS. BENNETT: Again, Commissioner, this is a fallout
2 issue and cannot be determined until other issues in the docket
3 have been decided. We are still reviewing FPUC's number.
4 We're not ready to stipulate to that one yet, but maybe by the
5 end of the week.

6 COMMISSIONER CARTER: Okay. Issue 3.

7 MS. BENNETT: Again, Commissioner, this is a fallout
8 issue and will not be determined until all of the other issues,
9 or several of the other issues are determined. Again, we will
10 be working with FPUC to stipulate to their numbers.

11 COMMISSIONER CARTER: Okay. Issue 4.

12 MS. BENNETT: This issue has been stipulated. It is
13 included in Section X.

14 COMMISSIONER CARTER: Okay. Any, anybody, any
15 parties commenting any differently? Okay. Show it done.

16 Issue 5.

17 MS. BENNETT: Staff does not currently have a
18 stipulation for any of the parties on this matter.

19 COMMISSIONER CARTER: Okay. We'll just hold on for
20 that one for a minute.

21 Issue 6.

22 MS. BENNETT: Again, this is a fallout issue. Issues
23 1 through 5 need to be determined prior to this one being
24 determined.

25 COMMISSIONER CARTER: Okay. Issue 7.

1 MS. BENNETT: Issue 7 is stipulated. We will address
2 that in Section X.

3 COMMISSIONER CARTER: Okay. Any parties? Show it
4 done.

5 Issue 8.

6 MS. BENNETT: Issue 8, staff has not -- is not
7 prepared to take a -- is not prepared to stipulate to this one
8 yet.

9 COMMISSIONER CARTER: Okay.

10 MS. BENNETT: Each party has taken a position.

11 COMMISSIONER CARTER: Okay. Just give me one second
12 here. Issue 9.

13 MS. BENNETT: Issue 9 is stipulated. We will discuss
14 that in Section X.

15 COMMISSIONER CARTER: Any parties comment on Issue 9?
16 Any parties? Show it done.

17 Issue 10.

18 MS. BENNETT: Issue 10 is stipulated to all parties
19 except TECO, and I believe we are now ready to stipulate with
20 TECO. I need to state a number and make certain that they're
21 in agreement with that number, and also that the other parties,
22 AARP, FIPUG, are in agreement with their stipulation.

23 The number that TECO and staff have agreed to for
24 their benchmark is \$1,051,869.

25 MR. BEASLEY: And Tampa Electric is in agreement with

1 that number.

2 COMMISSIONER CARTER: Okay. Other parties? Mr.
3 Beck?

4 MR. BECK: We don't take a position on that.

5 COMMISSIONER CARTER: Show it done.
6 Issue 11.

7 MS. BENNETT: Issue 11 is also stipulated by all --
8 to all parties except TECO, and, again, we have a number that I
9 believe if TECO is in agreement with we can stipulate to. The
10 number is \$1,165,220.

11 MR. BEASLEY: And Tampa Electric agrees with that
12 number.

13 COMMISSIONER CARTER: Any other parties?

14 MR. TWOMEY: No position.

15 COMMISSIONER CARTER: Mr. Beck?

16 MR. BECK: No position.

17 COMMISSIONER CARTER: Okay. Show it done.

18 Issue 13. Wait a minute. Hold it. Sorry. My pages
19 are out of order here. I believe I'm supposed to be on Issue
20 12; is that correct?

21 MR. TWOMEY: 12.

22 COMMISSIONER CARTER: 12, Issue 12. Thank you,
23 Mr. Twomey. I appreciate that.

24 MS. BENNETT: Currently staff does not have a
25 position on Issue 12.

1 COMMISSIONER CARTER: Okay. Issue 13.

2 MS. BENNETT: Again, staff does not have a position
3 on Issue 13. I believe all of the parties have stated
4 positions.

5 COMMISSIONER CARTER: Okay. Go ahead. Who was --

6 MR. BECK: I'm sorry.

7 COMMISSIONER CARTER: Mr. Beck.

8 MR. BECK: We just have a typo on the second line of
9 our position where it says, "Experiencing and over or under."
10 It should be "an" instead of "and." I think that was our, our
11 typo.

12 COMMISSIONER CARTER: Did you guys get that language
13 change?

14 MS. BENNETT: Yes, Commissioner.

15 COMMISSIONER CARTER: Okay. So we're on Issue 14.

16 MS. BENNETT: Staff has taken no position at this
17 time.

18 COMMISSIONER CARTER: Okay. Now under the generic
19 fuel adjustment issues, Issues 1 through 14, did we overlook
20 any issue, staff, parties? Ordinarily I wouldn't do that, but
21 we had a little -- you know, I wouldn't want a typographical
22 error to cause somebody to get hurt there. Okay.

23 MR. McWHIRTER: Commissioner Carter, on 13 FIPUG
24 would like to change its position to agree with OPC.

25 COMMISSIONER CARTER: On Issue 13?

1 MR. McWHIRTER: Yes, sir.

2 COMMISSIONER CARTER: Staff, would you make that
3 change, please.

4 MS. BENNETT: Yes, Commissioner.

5 COMMISSIONER CARTER: Okay. Give me a moment here.
6 We'll go into the company-specific issues. It looks like
7 Progress Energy Florida, Issue 15A.

8 MS. BENNETT: Staff has no position at this time.

9 COMMISSIONER CARTER: Okay. 15B.

10 MS. BENNETT: This issue is part of the spinoff
11 docket 060658 and, by stipulation, has been dropped from this
12 docket.

13 COMMISSIONER CARTER: Show it done.

14 16A. On Florida Power & Light, 16A.

15 MS. BENNETT: Staff has no position at this time.

16 COMMISSIONER CARTER: 16B.

17 MR. BUTLER: 16B, Commissioner Carter --

18 COMMISSIONER CARTER: Mr. Butler.

19 MR. BUTLER: -- FPL would ask, and I will dispense
20 with the long-winded explanation, but that we need the same
21 determination about whether this issue is going to be in or out
22 of this docket that we had the discussion about the CAMR
23 project in the 07 docket.

24 The position of OPC on this issue is again premature.
25 They think that it should be spun off. We disagree. We think

1 that it's properly here, that there's been adequate opportunity
2 for discovery on the project, and, of course, the
3 project-specific costs will continue to be subject to review
4 and scrutiny in the future. But we would like it to be decided
5 here. We would like one way or the other for there to be a
6 ruling on whether it is going to be heard and decided in this
7 docket or not rather than carried forward as something where
8 there's potential for it to get, excuse me, deferred even after
9 the hearing had begun.

10 COMMISSIONER CARTER: Staff?

11 MS. BENNETT: Staff does not have a position on this
12 yet. We will be ready for the hearing on November the 6th, if
13 it is the Commission's desire to hear this issue.

14 Consistent with your ruling in the ECRC, you might
15 wish to take this under advisement as to whether we will
16 continue it or hear it on November the 6th.

17 COMMISSIONER CARTER: Okay. Let's do that. And if
18 there are other -- and I know we're going to go through all the
19 issues, but if there are other company-specific issues related
20 to this, let's do it all at one time so we can have some
21 clarity to this issue.

22 MR. BUTLER: Commissioner Carter?

23 COMMISSIONER CARTER: Yes, sir, Mr. Butler.

24 MR. BUTLER: One thing I neglected to add, I should
25 just to be sure everybody is understanding where we are on

1 this, it is, as with the CAMR project, important to us to get a
2 decision now, that this is heard, in fact, in this docket.
3 Perhaps in some ways it's -- I wouldn't say it's more important
4 but it's important for a different reason. This is a project
5 where, like the gas storage projects you'll be hearing about
6 later, you know, FPL is sort of at a threshold of making a
7 decision whether to proceed with the project. And if we don't
8 get a decision in this docket, if it gets spun off and, you
9 know, several months pass before we get a decision, most likely
10 that will have the effect of deferring the commencement of the
11 project. We're a major player in the project in question, this
12 Southeast Supply Header Project. And right now the project is
13 scheduled where it would be in service and available to benefit
14 FPL through the summer, both the sort of summer peak season and
15 also the potential to help avoid Gulf of Mexico supply
16 disruptions in the hurricane season of 2008. If there were a
17 several-month deferral of a decision on this, the project might
18 very well not be available in time to assist in that year. So
19 it's -- obviously you need to take what time you need to make
20 an appropriate decision, but that is a consideration about the
21 timing of the project that we would ask you to keep in mind.

22 COMMISSIONER CARTER: Thank you.

23 Mr. Beck?

24 MR. BECK: Yes, if I could briefly respond.

25 Commissioner, I want to first of all adopt all the comments

1 that Ms. Christensen made previously in the other docket, but
2 would add that we think that this case is even stronger for not
3 having it in here.

4 I think FPL first filed anything about this
5 September 1st. So this was filed later than the CAMR and the
6 CAIR expenses. Also there's no projected expenses during any
7 period here for this project. You'll see in the issue itself
8 it says beginning 2008. So there's no, there's no reason for
9 this to be in here because there's no cost associated with the
10 period the Commission is looking at. It's our position that
11 the only reason this is here is because FPL wants it to be here
12 and has made it a part of their agreement. But there's no need
13 for having this in the fuel docket, which is an expedited
14 process with expedited decision-making, so.

15 COMMISSIONER CARTER: Mr. Twomey?

16 MR. TWOMEY: Commissioner Carter, I want to adopt
17 what Public Counsel just said and go one step further and
18 suggest that the, all these companies, including Florida Power
19 & Light, have managements. This Commission isn't here to
20 manage the operation of these utilities. The management are
21 there to run their companies in the furtherance of the public
22 good, do what they find and determine are in the best interest
23 of their customers and their stockholders and do those things
24 that are reasonable and prudent. And the, the tactic of coming
25 in and saying to the Commission, we're at the cusp of making a

1 decision here, and if you don't make a decision now and give us
2 a yes or no, we may have to defer it at the expense of our
3 customers and doing something good is, I think, just wrong.

4 If the decision of this company, if they believe
5 entering in this project is the proper thing to do, that it's
6 cost-effective and would benefit their customers, they should
7 do it and then bring their proofs in when they have the, the
8 data, the numbers, the projections and so forth.

9 COMMISSIONER CARTER: Okay. Anyone else? Staff?

10 MS. BENNETT: Again, Commissioner, it is, it is the
11 pleasure of the Commission as to whether they would like to
12 hear and make a decision on November 6th or to continue it to a
13 time later in the year. And consistent with the ECRC, I
14 would -- you could take it under advisement and issue your
15 opinion with the prehearing order.

16 COMMISSIONER CARTER: I'll do that. I want to see, I
17 want to see staff's position also on this matter.

18 Let us move further to 16C.

19 MS. BENNETT: 16C. Staff has not taken a position on
20 this.

21 COMMISSIONER CARTER: 16D.

22 MS. BENNETT: 16D. Due to a numbering error, there
23 is no 16D.

24 COMMISSIONER CARTER: Aha. 16E.

25 MR. TWOMEY: I'm sorry.

1 COMMISSIONER CARTER: Yes, sir, Mr. Twomey.

2 MR. TWOMEY: Yes, sir. Thank you. AARP's position
3 would be agree with Florida Power & Light.

4 COMMISSIONER CARTER: On 16E?

5 MR. TWOMEY: On 16 echo, E.

6 COMMISSIONER CARTER: Yes, sir.
7 Staff?

8 MS. BENNETT: Just a minute, Commissioner.

9 COMMISSIONER CARTER: Okay.

10 MS. BENNETT: Staff is not ready to agree with
11 Florida Power & Light's position. We're still checking the
12 number, the \$96 million number. Once that number has been
13 verified, then we may be ready to agree with FPL.

14 COMMISSIONER CARTER: Would you make the changes
15 recommended by Mr. Twomey on this 16E?

16 MS. BENNETT: Yes. My understanding is he will agree
17 with FPL.

18 COMMISSIONER CARTER: Okay. 16F.

19 MS. BENNETT: Staff has not taken a position on this
20 issue.

21 MR. BUTLER: Commissioner Carter? I'm sorry. Before
22 we leave that --

23 COMMISSIONER CARTER: Yes, sir. Mr. Butler.

24 MR. BUTLER: -- I would like to note a change in
25 FPL's position. And actually I had thought from our

1 pre-prehearing conference call that maybe there was the
2 possibility of stipulation on this. We had discussed with
3 Public Counsel that we would agree to the figure that appeared
4 in our discovery responses for the calculation of the
5 replacement power cost, which is \$6.163 million. I believe
6 Public Counsel is prepared to accept that figure. And I don't
7 know if staff has had an opportunity to confirm yet or not that
8 it agrees that's the appropriate number, but I'm raising it as
9 a possibility for a stipulation.

10 COMMISSIONER CARTER: Mr. Beck?

11 MR. BECK: Yes. We agree and think that the number
12 ought to be stipulated.

13 COMMISSIONER CARTER: Staff?

14 MS. BENNETT: Staff is in agreement with the
15 \$6.163 million, so we can show this issue as stipulated as to
16 Florida Power & Light and OPC and staff. I'm not certain what
17 the other parties' positions will be.

18 COMMISSIONER CARTER: Any other parties want to be
19 heard on this?

20 MR. TWOMEY: Yes, sir. We agree with Public Counsel.
21 So if they're in agreement with the company, then we're good
22 with that.

23 COMMISSIONER CARTER: Okay. Mr. Wright?

24 MR. WRIGHT: Same here, Commissioner Carter. Thank
25 you.

1 COMMISSIONER CARTER: Let's see. Mr. McWhirter?

2 MR. McWHIRTER: I'm happy, Commissioner Carter.

3 COMMISSIONER CARTER: Is everybody else happy?

4 Okay. Show it done.

5 16G.

6 MR. BUTLER: Commissioner Carter?

7 COMMISSIONER CARTER: Yes, sir, Mr. Butler.

8 MR. BUTLER: I need to speak to Issue 16G. This
9 issue is one that has kind of evolved through the fall and we
10 are concerned about kind of where it stands at this point.

11 The issue is whether or not there is anything
12 imprudent or otherwise that I guess for some other reason FPL
13 should be not allowed to recover the replacement power costs
14 associated with a hole that -- the outage that resulted from a
15 hole being drilled in pressurizer piping at Turkey Point
16 Unit 3.

17 We filed some testimony, covered this at sort of a
18 high level in testimony that was filed in September by
19 Mr. Gwinn. No one, including the Office of Public Counsel, has
20 filed any testimony in opposition to, you know, what was stated
21 by Mr. Gwinn and, therefore, there's no opportunity, no
22 occasion for Mr. Gwinn to file rebuttal testimony that would go
23 into any more detail on the subject. So we have a fairly
24 complicated issue with basically a couple of pages of overview
25 testimony and then whatever may come of cross-examination at

1 the hearing. That by itself would be somewhat troubling.

2 What makes it particularly troubling here is the fact
3 that this is by all indications the result of someone, you
4 know, malicious mischief, sabotage, whatever you want to call
5 it, you know, deliberately drilling this hole. FPL, excuse me,
6 is conducting an investigation, the FBI is conducting an
7 investigation, NRC has. The FBI's investigation continues, and
8 FPL is under very strict instructions not to disclose
9 practically anything about what is going on in the
10 investigation to the extent we know. To a large extent we
11 don't even have the information. But the bottom line is that
12 at this point in time and, you know, most likely at the time of
13 the hearing we've got this existing thin record and a situation
14 where a lot of the questions that might be put to Mr. Gwinn,
15 he's not going to be in a position to answer publicly even if
16 he knows the answers, and in most instances he doesn't because
17 the FBI is keeping its investigation close to their vests.

18 What we would propose here is that the issue be
19 deferred and that we would agree that, you know, any amount
20 that is associated with replacement power costs, if there were
21 later a determination that all or a portion of that was
22 imprudent, then we would refund it to customers with interest
23 running from the time when the money was collected. And that
24 we could do that, you know, the deferral in either one of two
25 ways. One would be simply to defer it to next year where, you

1 know, one, there would be sort of a natural occasion, it would
2 be the final true-up for the costs that are in question here
3 and we could pick it up at that point. Or if there was a
4 preference to do so, we would be willing to have it spun off
5 and heard at some earlier time whenever the investigation by
6 the FBI is concluded. And we would take responsibility for
7 notifying the Commission and the parties when that
8 investigation was concluded. Either of those approaches would
9 be acceptable to FPL. And we think either of them would be
10 preferable to going forward to what will end up being
11 presumably a final determination on this issue where we've got
12 the limitations that I just described on the record that you
13 would be deciding it on.

14 COMMISSIONER CARTER: Mr. Beck?

15 MR. BECK: Yes. Thank you, Commissioner.

16 Commissioner, OPC cannot agree with Mr. Butler on his proposal.
17 We can think of no factual circumstance where the customers
18 would be responsible in this case. FPL has complete control
19 over access to its nuclear facility. You know, anybody that's
20 been to one of these knows that you can't just walk in.
21 There's an incredible amount of control over who enters and who
22 doesn't. And as Mr. Butler said, this is a case of malicious
23 mischief or sabotage, and it can only be either an FPL employee
24 or a contractor of FPL who engaged in this. I don't know what
25 waiting for the final FBI report would do because given those

1 circumstances where you have \$6 million of extra fuel costs
2 that are caused by an act of sabotage or mischief by either a
3 contractor or employee of FPL, we don't see any, any
4 circumstance where customers would be responsible for that.
5 You have the deliberate drilling of a 3/16th-inch hole in their
6 pressurized pipe.

7 FPL has the burden of proof at all times. And the
8 notion that they should be allowed to charge these extra --
9 over \$6 million to customers, you know, pending another year
10 for an FBI investigation we don't think is correct.

11 Now if FPL wants to delay this for another year, it
12 seems to me that what that says is they're not prepared to meet
13 their burden of proof at this point, you know, as far as
14 justifying the extra fuel charges. If FPL would agree to take
15 those monies out pending another time, if they want to wait
16 until the FBI report, then, fine, we would go with that. We
17 don't see what facts are going to come in that would change
18 anything, but if they want to. But we cannot agree to have
19 them recover these costs now from customers when they can't
20 prove their entitlement to it. So to extent Mr. Butler would
21 agree that FPL would not charge those \$6 million now but wants
22 to come in in another year and prove its case up, we wouldn't
23 oppose that. But we very much oppose them collecting the money
24 now.

25 COMMISSIONER CARTER: Mr. Wright?

1 MR. WRIGHT: We agree strongly with the Public
2 Counsel on this issue, Commissioner Carter.

3 COMMISSIONER CARTER: Mr. McWhirter?

4 MR. McWHIRTER: FIPUG is in accord with Public
5 Counsel.

6 COMMISSIONER CARTER: Mr. Twomey?

7 MR. TWOMEY: Yes, Commissioner Carter. AARP very
8 strongly supports the Public Counsel on this. If -- there
9 should not be -- we don't believe there is an automatic default
10 in every situation where the company takes the money from the
11 customers and then says, if we can't prove it later, we'll give
12 it back to them. We think especially under these circumstances
13 where they have some of the most tightly guarded facilities in
14 the country, we agree with Public Counsel, we can't conceive of
15 any factual situation that will shift the responsibility for
16 this delay and the costs associated with it to the customers,
17 that the company should take its time in making a case, trying
18 to make a case that the customers, not the stockholders, should
19 pay for this tampering, whatever it was. And if they're
20 successful in that, whether it's in a spinoff or next year's
21 fuel proceeding, then the customers should have to pay the
22 money and interest as is traditional. But the default
23 shouldn't always be in each and every case no matter how
24 extreme that the customers should have to pay upfront.

25 COMMISSIONER CARTER: Mr. Butler?

1 MR. BUTLER: I have two responses. First of all, as
2 to the, sort of the default for recovering the money, I think
3 that, first of all, FPL actually incurred these replacement
4 power costs. I think there's very little debate over that
5 subject.

6 The Commission's practice has been consistently in
7 these circumstances to allow actual fuel costs to be recovered
8 pending a decision that those costs are imprudently incurred.
9 And at that point then they would have to be refunded with
10 interest, which is the proposal that I made, you know.

11 One example that particularly comes to mind to me, I
12 worked on it, was in 1984 FPL had the thermal shield on its
13 St. Lucie Unit 1 nuclear unit fail; incurred considerable
14 replacement fuel costs on the order of \$180 million, if I
15 remember correctly. That money was recovered as a matter of
16 course through the fuel adjustment proceedings at the time, and
17 there was a proceeding that carefully investigated the prudence
18 of FPL's action with respect to the handling of initially
19 installing, maintaining, et cetera, the thermal shield.
20 Ultimately it resulted in no disallowance. But the procedure
21 was set up so that if FPL had been found to be imprudent in
22 some respect, then the money would be given back to customers
23 with interest. And I see nothing different between that and
24 the situation we're talking about here. I know there was an
25 instance in 1986 very similarly handled with respect to outages

1 at the Crystal River unit of Florida Progress at the time, or
2 Florida, Florida Power at the time, and I think that is the
3 appropriate procedure here.

4 The other thing I would note is that it seems to be
5 that the folks at that end of the bench are describing this as
6 being a matter of strictly a legal dispute; that, you know, if
7 a utility is handling things or if an incident occurs because
8 of the actions of its employees, then the utility ought to be
9 responsible for that kind of irrespective of how well it did in
10 trying to avoid that situation from occurring. You know, I
11 suppose if there was an interest in stipulating that FPL was
12 prudent in all respects with respect to hiring the personnel,
13 supervising the personnel, controlling their access to the
14 plants and nonetheless, you know, somebody was able to slip
15 through the cracks and drill this hole that we're talking
16 about, and so the only issue is, accepting that stipulation of
17 prudence in all respects, is FPL nonetheless responsible for
18 the costs, that maybe we could just brief that as a legal
19 issue. I'm not sure whether the Public Counsel and others
20 would be willing to make that stipulation.

21 COMMISSIONER CARTER: Staff?

22 MR. KEATING: Commissioner, this, this may be one
23 that you want to give some additional consideration to, take it
24 under advisement. I mean, it seems that regardless of what we
25 do with this specific Issue 16G which asks who's responsible

1 for the additional fuel cost, if we defer it or address it in
2 this hearing, there's still the question if you don't -- if you
3 defer it, there's still the question of whether that additional
4 fuel cost gets included in the fuel charges for next year or,
5 or not, pending the results of whatever decision you make down
6 the road.

7 I believe that that second question could possibly be
8 addressed in one of the earlier generic issues on the total
9 amount to be recovered. But this is one -- it may be helpful
10 to take this one under advisement.

11 COMMISSIONER CARTER: Okay. We'll do that. We'll
12 take it under advisement.

13 MR. BUTLER: Commissioner Carter?

14 COMMISSIONER CARTER: Yes, sir.

15 MR. BUTLER: I'm sorry. If you're going to take it
16 under advisement, one other thing that I would like to ask then
17 is that if you decide that it's going to proceed in this
18 docket, we would like the opportunity, FPL would like the
19 opportunity to file brief additional written testimony
20 addressing the issue in greater detail. Because, as I say, the
21 way it has evolved, there's been a very thin record on the
22 subject.

23 COMMISSIONER CARTER: I would presume that whatever
24 ruling I make, everybody would want to file something in this
25 matter. Am I correct?

1 MR. BECK: I don't know. I don't know what
2 Mr. Butler has in mind for his testimony.

3 Commissioner Carter, what I had planned to do, and I
4 gave Mr. Butler notice of this early last week, is that we plan
5 to use a few documents that FPL provided and claims to be
6 confidential. And we don't contest the confidentiality, but we
7 plan to put into evidence a licensee event report and a final
8 disposition report that FPL, you know, provided in discovery
9 responses.

10 As far as FPL filing additional testimony, you know,
11 it's getting awfully late. I would be glad to talk to
12 Mr. Butler, see what he has in mind, and perhaps we could reach
13 an agreement. I suspect we could. Time is running out. And
14 particularly how do we do discovery on a witness filing
15 testimony at this point in time?

16 COMMISSIONER CARTER: Okay. I'll still take it under
17 advisement, staff.

18 Issue 16H.

19 MS. BENNETT: Issues 16H, 16I and 16J have all been
20 stipulated. They are moved to Docket 060362.

21 COMMISSIONER CARTER: For the record, Issues 16H,
22 16I, 16J have been moved from Docket Number 060001-EI to
23 Docket Number 060362.

24 Issue 17A.

25 MS. BENNETT: Staff has taken no position at this

1 time.

2 COMMISSIONER CARTER: Issue 18A.

3 MS. BENNETT: Commissioner, this issue has been
4 dropped per stipulation by the parties. However, we will also
5 by stipulation use the witness's testimony, exhibits and
6 discovery by both the parties and the Commission to support
7 positions or decisions in Docket 060362.

8 COMMISSIONER CARTER: So then for the record, Issue
9 18A from Docket Number 060001-EI has been moved to Docket
10 Number 060362.

11 Issue 18B.

12 MS. BENNETT: And, Commissioner, Issue 18A is company
13 specific, Gulf Power. It actually has not been moved. It's
14 just been dropped. But there is specific testimony that the
15 parties will use to support their positions in 362.

16 COMMISSIONER CARTER: Correction. Issue 18A in
17 Docket Number 060001-EI has been dropped from this docket but
18 will be used in Docket 060362. Is that the correct language
19 that we needed for the record?

20 MS. BENNETT: Yes, Commissioner.

21 COMMISSIONER CARTER: Okay. Show it done.

22 Issue 18B.

23 MS. BENNETT: Staff has taken no position at this
24 time.

25 COMMISSIONER CARTER: Issue 18C.

1 MS. BENNETT: This issue has been dropped.

2 COMMISSIONER CARTER: Issue 18C in Docket Number
3 060001-EI has been dropped.

4 Issue 19A.

5 MS. BENNETT: Commissioner, this issue has also been
6 dropped. The witness testimony, exhibits and discovery will
7 also be used by the parties and Commission to support their
8 positions or decisions in Docket 060362.

9 COMMISSIONER CARTER: Issue 19A in Docket Number
10 060001-EI has been dropped. It will be used in Docket Number
11 060362.

12 Issue 19B.

13 MS. BENNETT: Staff has taken no position at this
14 time.

15 COMMISSIONER CARTER: Issue 19C.

16 MR. BEASLEY: Under 19B, Commissioner, could I
17 request -- I don't know that any of the other parties have
18 anything adverse to us on this issue. If they could state "no
19 position," that would be helpful.

20 COMMISSIONER CARTER: So we're back on Issue 19B.

21 MR. BEASLEY: 19B.

22 COMMISSIONER CARTER: You're recognized.

23 MR. BEASLEY: 19B.

24 COMMISSIONER CARTER: 19B, parties?

25 MR. TWOMEY: No position.

1 MR. BECK: No position, Commissioner.

2 COMMISSIONER CARTER: Staff, Issue 19B?

3 MS. BENNETT: Issue 19B, we have not taken a position
4 yet. Staff has not taken a position.

5 MR. BEASLEY: I was just asking about the other
6 parties. And I understand nobody else has taken a position on
7 this issue.

8 COMMISSIONER CARTER: Okay. Great.

9 MR. KEATING: And, Commissioner, I believe through
10 the order establishing procedure that there probably -- and I
11 can't recall if this provision is in the order establishing
12 procedure in this particular docket or not. I know most of our
13 new orders establishing procedure do make it almost default
14 that if you haven't taken a position by the prehearing, your,
15 any position that's listed as "no position at this time" will
16 probably be shown as "no position" in the prehearing order.

17 MR. BEASLEY: Okay. Thank you. And I recognize that
18 does not apply to the staff, so.

19 COMMISSIONER CARTER: Mr. Keating? Okay. Okay.

20 19C.

21 MS. BENNETT: Staff has not taken a position on 19C
22 yet.

23 COMMISSIONER CARTER: Issue 20.

24 MS. BENNETT: We may have a stipulation on Issue 20.
25 Staff is in agreement with each of the investor-owned

1 utilities. It's my understanding that OPC does not object or
2 does not oppose these numbers.

3 MR. BECK: That's correct. We don't oppose the
4 numbers.

5 COMMISSIONER CARTER: Any other parties?

6 MR. TWOMEY: Same.

7 COMMISSIONER CARTER: Okay.

8 MS. BENNETT: So we can show Issue 20 as stipulated.

9 COMMISSIONER CARTER: Show it done.

10 Issue 21.

11 MS. BENNETT: Staff has not taken a position. Each
12 of the other parties have taken a position with the exception
13 of the Federal -- of the FEA.

14 CAPTAIN WILLIAMS: FEA has no position, sir.

15 COMMISSIONER CARTER: Thank you. We'll continue.

16 Issue 22.

17 MS. BENNETT: Again, staff has no position at this
18 time.

19 COMMISSIONER CARTER: Issue 23.

20 MS. BENNETT: This issue has been dropped. It's
21 duplicative of Issues 21 and 22.

22 COMMISSIONER CARTER: Show it done.

23 Issue 24.

24 MS. BENNETT: Staff is not taking a position. This
25 is pending resolution of Issues 21 and 22.

1 COMMISSIONER CARTER: Okay. Let us move now to --

2 MR. BUTLER: I'm sorry. Commissioner Carter?

3 COMMISSIONER CARTER: Yes, sir.

4 MR. BUTLER: May I ask staff a question about Issue
5 24, please?

6 COMMISSIONER CARTER: Issue which one?

7 MR. BUTLER: 24.

8 COMMISSIONER CARTER: Yes, sir, you're recognized.

9 MR. BUTLER: Is the, is the question over what the
10 ranges should be? What I'm looking at here is that, you know,
11 this has to do with the targets. And when I look at certainly
12 for FPL what the targets are stated as, I'm not sure how
13 anything that OPC is proposing in Issues 22 or 23, or I guess
14 it's 21 or 22 would affect that. I guess it's also maybe a
15 question for Public Counsel. If there's a possibility for
16 stipulation here, I'm just wanting to not let it slip through
17 the cracks.

18 COMMISSIONER CARTER: Mr. Beck?

19 MR. BECK: I think we continue -- I don't see where
20 24 affects 21 and 22. And we've take no position on 24, so I
21 think the question is really of staff more than the parties
22 though.

23 COMMISSIONER CARTER: Give them a moment here.

24 Staff, you're recognized.

25 MS. BENNETT: Thank you. We're not ready to take a

1 position. We will continue to work with the parties on this
2 issue. But at the current time we're not ready to apply the
3 deadband or look to see how that applies to the numbers.

4 COMMISSIONER CARTER: Okay. Now we have
5 company-specific GPIF issues. We have Progress Energy Florida.

6 MS. BENNETT: There are no company-specific GPIF
7 issues as far as staff is concerned. You might wish to check
8 with the other parties to see if they've raised any.

9 MR. BECK: None by OPC.

10 COMMISSIONER CARTER: Okay. FPL?

11 MR. BUTLER: None.

12 COMMISSIONER CARTER: Any issues on the
13 company-specific GPIF issues? I'm going down the list of the
14 companies. I'm sorry.

15 MR. BECK: Oh, no. All the companies, none by OPC.

16 COMMISSIONER CARTER: None on all the companies?
17 None by OPC.

18 MR. BECK: Right.

19 MR. TWOMEY: Same.

20 MR. WRIGHT: Same.

21 COMMISSIONER CARTER: Thank you so kindly.

22 Let us turn now to Issue 29. I wasn't overlooking
23 you guys, I was just -- Issue 29.

24 MS. BENNETT: Issue 29, we -- staff is not ready to
25 take a position on this particular issue.

1 COMMISSIONER CARTER: Issue 30.

2 MS. BENNETT: Again, staff is not prepared to take a
3 position at this time.

4 COMMISSIONER CARTER: Issue 31.

5 MR. BUTLER: I'm sorry. Commissioner Carter?

6 COMMISSIONER CARTER: Yes, sir, Mr. Butler.

7 MR. BUTLER: Back quickly to Issue 29.

8 COMMISSIONER CARTER: Issue 29.

9 MR. BUTLER: A question of staff. It looks like for
10 some of the utilities, including FPL, you have taken a position
11 on Issue 29. I was just wondering if it's possible for there
12 to be a stipulation with respect to FPL.

13 MS. BENNETT: These numbers are subject to being
14 confirmed by discovery, so we're not quite prepared to take a
15 position on this.

16 MR. BUTLER: Okay. Thank you.

17 COMMISSIONER CARTER: So be it.

18 MS. BENNETT: And the same would hold true for Issue
19 30. There are numbers for FPL and Progress.

20 COMMISSIONER CARTER: Okay. Issue 31.

21 MS. BENNETT: And, again, staff is not prepared to
22 take a position. We're -- the numbers are still pending
23 subject to discovery.

24 COMMISSIONER CARTER: Issue 32.

25 MS. BENNETT: Staff is not prepared to take a

1 position on Issue 32.

2 COMMISSIONER CARTER: Issue 33.

3 MS. BENNETT: Staff is not ready to take a position
4 on Issue 33.

5 COMMISSIONER CARTER: Issue 34.

6 MS. BENNETT: Issue 34 has been stipulated and is in
7 Section X at this time.

8 COMMISSIONER CARTER: All parties in agreement with
9 that? Show it done.

10 Issue 35.

11 MS. BENNETT: Staff has not taken a position on Issue
12 35 at this time.

13 COMMISSIONER CARTER: Okay. Issue 36A.

14 MS. BENNETT: Staff has not taken a position on Issue
15 36A.

16 COMMISSIONER CARTER: Would that include TECO and
17 FPL?

18 MS. BENNETT: This is a company-specific to Progress
19 Energy, so, no, it does not include TECO or FPL.

20 COMMISSIONER CARTER: Okay. So there's no position
21 on Issue 36A as it relates to Progress Energy, TECO or FPL?

22 MS. BENNETT: On Issue 36A the issue is whether
23 Progress Energy incremental security costs as projected for
24 2007 are reasonable for capacity cost recovery purposes. And
25 staff's position is that we're awaiting review of discovery.

1 There -- the company-specific issue for TECO is Issue 37, and
2 there are no company-specific issues for TECO. There are
3 several under Florida Power & Light.

4 COMMISSIONER CARTER: Hold on a second here. Hold
5 on. I don't have an Issue 37. I just have the companies
6 listed. So let's go to -- since we're not ready on that, let's
7 just go to Issue 38A then, I mean, excuse me, 30 -- wait a
8 minute. Yeah, 38A.

9 MS. BENNETT: 38A?

10 COMMISSIONER CARTER: Because you don't have a
11 position on the prior, right, on 36A?

12 MS. BENNETT: 36A we do not have a position.

13 COMMISSIONER CARTER: Okay. And no company-specific
14 issues for TECO. And is there none for FP&L on 36A?

15 MS. BENNETT: FPL is Issue 38A.

16 COMMISSIONER CARTER: That's a no; right? Is that
17 what you're saying?

18 MR. BUTLER: No. That's right. No. We don't have
19 any position on 36A.

20 COMMISSIONER CARTER: Okay. That's all I need to
21 know.

22 MS. BENNETT: I'm sorry.

23 COMMISSIONER CARTER: Thank you. Okay. Let's go.
24 Issue 38A.

25 MR. BUTLER: We had discussed this one at the

1 prehearing conference call, and there was, I think, the
2 possibility of the parties reaching a stipulation on it. I
3 don't see it reflected here, but I just raise it for
4 consideration, whether there is any disagreement on 38A.

5 COMMISSIONER CARTER: Parties, was there a meeting of
6 the minds on Issue 38A? Mr. Beck?

7 MR. BECK: We have no position on that, Commissioner.

8 MR. McWHIRTER: No position.

9 MR. TWOMEY: No position.

10 MR. WRIGHT: No position.

11 COMMISSIONER CARTER: Okay. Staff?

12 MS. BENNETT: Staff is not ready to take a position
13 on 38A either. We're still confirming numbers. This is the
14 generation-based rate adjustment for the Turkey Point Unit 5.
15 We're still reviewing the numbers.

16 COMMISSIONER CARTER: Okay. Issue 38B.

17 MS. BENNETT: 38B has been dropped.

18 COMMISSIONER CARTER: Issue -- from Docket Number
19 060001-EI Issue Number 38B has been dropped.

20 Issue 38C.

21 MS. BENNETT: Staff has no position pending receipt
22 and review of discovery.

23 COMMISSIONER CARTER: Okay. Issue 38D.

24 MS. BENNETT: Issue 38D, staff has no position at
25 this time.

1 COMMISSIONER CARTER: Issue 38E.

2 MS. BENNETT: And, again, staff has no position for
3 Issue 38E. I will note that we don't have positions for
4 several of the parties on 38E.

5 COMMISSIONER CARTER: Okay. Section IX. Section IX
6 of the prehearing order. We're back on -- yes, sir.

7 MR. BADDERS: We have one change. Russell Badders
8 for Gulf Power. Under the exhibit listed for Rusty or H. R.
9 Ball, it's HRB-2, it should read, "Projected versus Actual Fuel
10 Cost of Generated Power, March 1997 through December 2007."
11 Basically that 2007, the first 2007 needs to be changed to
12 1997.

13 COMMISSIONER CARTER: Staff, did you get that?

14 MS. BENNETT: Yes, Commissioner.

15 COMMISSIONER CARTER: Okay. We are on Section IX,
16 exhibit list, is where we are. Any other parties?

17 Mr. Beck?

18 MR. BECK: Commissioner, sometimes the order on
19 prehearing procedure requires parties to notify others when
20 they intend to use confidential documents.

21 COMMISSIONER CARTER: Yes, sir.

22 MR. BECK: I didn't see it on this one, but I wanted
23 to at least put on the record that I have notified FPL that we
24 intend to use certain confidential documents they've provided
25 and I've given them the Bate stamp numbers of the pages. And

1 I'll be glad to provide that to anybody else, if they'd like.

2 COMMISSIONER CARTER: Any other parties under
3 Section IX, exhibit list?

4 MS. BENNETT: Commissioner --

5 COMMISSIONER CARTER: Yes, ma'am.

6 MS. BENNETT: -- staff will prepare a comprehensive
7 exhibit list consisting of all the prefiled exhibits to enter
8 into the record at the hearing.

9 COMMISSIONER CARTER: And also any -- based upon what
10 we've covered today, if there are any changes, we'll add that
11 as well. So I'm sure you guys are taking good notes; right?
12 We want to give you an opportunity for a full disclosure.
13 Okay?

14 Section X, proposed stipulations. We had a number of
15 references early on in this docket where a lot of things were
16 referred to Section X. So now that we're on Section X --

17 MS. BENNETT: Commissioner?

18 COMMISSIONER CARTER: Yes, ma'am.

19 MS. BENNETT: The first set of stipulations pursuant
20 to the meeting that the parties had, the first set of issues
21 that are stipulated reflect that staff and the investor-owned
22 utility agree. The other parties have taken the position "Do
23 not oppose." So the first issue -- would you like me to go
24 through each issue?

25 COMMISSIONER CARTER: Absolutely.

1 MS. BENNETT: The first issue, Issue 4, staff has
2 taken the position 1.00072 for each investor-owned electric
3 utility is the appropriate revenue tax factor.

4 COMMISSIONER CARTER: Any objections? Hearing none,
5 make it so.

6 MS. BENNETT: The next issue that staff agrees with
7 investor-owned utilities, all other parties take the position
8 "Do not oppose," is Issue 7: "What are the appropriate fuel
9 recovery line loss multipliers to be used in calculating the
10 fuel cost recovery factors charged to each rate class/delivery
11 voltage level class?" And we have adopted and agree with each
12 of the parties for their rate classes.

13 COMMISSIONER CARTER: Okay. Any objections? Show it
14 done.

15 MS. BENNETT: The next issue that is stipulated is
16 Issue 9, "What should be the effective date of the fuel
17 adjustment charge and capacity cost recovery charge for billing
18 purposes?" We have adopted all the positions of the parties
19 with the exception that -- we have adopted all the positions of
20 the parties.

21 COMMISSIONER CARTER: Any objections? Hearing none,
22 show it done.

23 MS. BENNETT: Issue 10, "What are the appropriate
24 actual benchmark levels for calendar year 2006?" Staff agrees
25 with the positions of each of the parties.

1 COMMISSIONER CARTER: Any objections? Hearing none,
2 show it done.

3 MS. BENNETT: Issue 11, "What are the appropriate
4 estimated benchmark levels for calendar year 2007 for gains on
5 non-separated wholesale energy?"

6 I apologize. On Issue 10 and Issue 11 staff had
7 taken no position pending review of discovery. We do have a
8 number for both 10 and 11 now.

9 COMMISSIONER CARTER: So let us in Docket Number
10 060001-EI under the Section X, proposed stipulations, we will
11 revisit Issue number -- was it 9 and 10 or just 10?

12 MS. BENNETT: It's Issue 10.

13 COMMISSIONER CARTER: Issue 10. Restatement, please.

14 MS. BENNETT: The issue -- the number on Issue 10 is
15 \$1,051,869.

16 MR. BEASLEY: That's for Tampa Electric. Right.

17 MS. BENNETT: I'm sorry. For TECO.

18 MR. BEASLEY: And we're in agreement with that
19 number.

20 COMMISSIONER CARTER: Any objection by any of the
21 parties? Show it done.

22 MS. BENNETT: For Issue 11 staff has reached an
23 agreement with all of the parties, including TECO. The TECO
24 number is not reflected in this prehearing draft. It will be
25 in the final order, if everybody agrees. The number,

1 \$1,165,220 is for TECO, if TECO agrees and the other parties do
2 not oppose.

3 MR. BEASLEY: Tampa Electric is in agreement with
4 that number.

5 COMMISSIONER CARTER: Any objections? Show it done.

6 MS. BENNETT: That concludes the set of issues that
7 staff agrees and the other parties take no opposition.

8 We do have a group of issues in which all parties
9 agree, it's my understanding, so we'll make sure that I
10 understood correctly.

11 COMMISSIONER CARTER: Let's take it from the top.

12 MS. BENNETT: Issue 15B. This was a spinoff docket
13 to 060658 and was dropped.

14 Issue 16H --

15 COMMISSIONER CARTER: Hold it. Wait a minute.

16 15B. Any objections? Show it done.

17 MS. BENNETT: 16H.

18 COMMISSIONER CARTER: Issue 16H. Any objections?
19 Show it done.

20 Issue 16I. Any objections? Show it done.

21 Issue 16J. Any objections? Show it done.

22 Issue 18A, 18A, as in apple. Any objections? Show
23 it done.

24 Issue 19A. Any objections? Show it done.

25 I believe now we're on Issue 34. Is that correct,

1 staff?

2 MS. BENNETT: That is correct.

3 COMMISSIONER CARTER: Issue 34. Issue 34. Are there
4 any objections? Show it done.

5 MS. BENNETT: And, Commissioner, with your
6 permission, staff will continue to work with the parties to
7 obtain stipulations for some of the other issues.

8 COMMISSIONER CARTER: Please do so with all
9 deliberate speed, please. And we want to have an open dialogue
10 and we want everybody to, you know, have an opportunity to have
11 their opinions made and the positions of their respective
12 clients. And I think that when that happens, then the people
13 win, so long as the people have a voice in this.

14 Section XI, pending motions.

15 MS. BENNETT: Staff has several pending motions.
16 They will be -- the orders will be prepared prior to the
17 hearing.

18 COMMISSIONER CARTER: Okay. Section XII, pending
19 confidentiality matters.

20 MS. BENNETT: Staff has several pending
21 confidentiality matters. It is my understanding that we will
22 have orders for all of those prior to the hearing.

23 COMMISSIONER CARTER: Okay. Section XIII.

24 MR. BURNETT: Commissioner?

25 COMMISSIONER CARTER: Yes, sir.

1 MR. BURNETT: I'm sorry. Section XII, Progress
2 Energy Florida's first request, it's just noted as 2005. I
3 believe that's a typo. It should be 2006.

4 COMMISSIONER CARTER: Staff, would you make the
5 necessary corrections? Scrivener's error. Bartleby, "I prefer
6 not." Remember that? They don't teach English Lit in school
7 anymore, huh?

8 Section XIV, rulings. Staff?

9 MS. BENNETT: We also have Section XIII, posthearing
10 procedures, Commissioner Carter.

11 COMMISSIONER CARTER: There are no comments on that.
12 Any comments on Section XIII, posthearing procedures?

13 MS. BENNETT: I would point out that the turnaround
14 time on the posthearing, if there's, if we have a nonbench
15 decision, is very short. It's in the order establishing -- or
16 in the CASRs. But we will have -- everything is scheduled to
17 be heard, if it's a nonbench decision, by December 19th.

18 COMMISSIONER CARTER: Oh, okay. I think that what we
19 can do -- it is my goal to all of you that are here today and
20 out of respect of your time and the appreciation of the
21 professionalism that you've conducted yourself as well as how
22 thorough you are, it's my goal to make those pending matters
23 that I said I'd hold under advisement as soon as possible and
24 as soon as practical and give you a written notice on my
25 decisions. So I want to do that as expeditiously as possible,

1 so that way it will give you the maximum amount of time to, you
2 know, file whatever you need to file and take whatever position
3 you need to take. So I can make you that assurance that I will
4 do my utmost to get it done as soon as possible.

5 One moment, please.

6 (Pause.)

7 Thank you very kindly. Section -- any other comments
8 on Section XIII, posthearing procedures, staff?

9 MS. BENNETT: No other comments.

10 COMMISSIONER CARTER: Okay. Section XIV, rulings.

11 MS. BENNETT: Staff suggests that you make a ruling
12 that opening statements, if any, not exceed ten minutes.

13 COMMISSIONER CARTER: Okay. Any other rulings?

14 MS. BENNETT: That is the only one I'm aware of.

15 COMMISSIONER CARTER: Good. Any other matters?

16 MS. BENNETT: It has been brought to my attention
17 that in the witness list for rebuttal witnesses Mr. Ross is not
18 listed, and I would like to include him if OPC would like to
19 include him in the witness list.

20 MR. BECK: Yes. I thought we would -- Mr. Butler and
21 I had discussed that earlier. It would be Ross and then the
22 rebuttal witnesses to him and then Ross's rebuttal.

23 MS. BENNETT: We'll make that change.

24 COMMISSIONER CARTER: Okay. Any other, any other
25 parties that need to have a witness or anything? I mean, I

1 want to give everybody an ample opportunity.

2 MR. STONE: Commissioner Carter?

3 COMMISSIONER CARTER: Yes, sir.

4 MR. STONE: Will we be taking the dockets up at the
5 hearing in the same order that we took them up in the
6 prehearing conference?

7 COMMISSIONER CARTER: Yes.

8 MR. STONE: And so the witnesses for the 07 docket
9 will be testifying before the witnesses in the 01 docket? I
10 just wanted to make sure that was --

11 COMMISSIONER CARTER: It's my goal to proceed -- I
12 mean, you know, if it ain't broke, don't fix it in my opinion,
13 the way I'm going.

14 MR. STONE: Thank you very much.

15 COMMISSIONER CARTER: Okay. Staff, are there any
16 other matters -- well, let me ask the parties, do you guys have
17 any other matters before we -- staff, any other matters?

18 MS. BENNETT: I don't believe so.

19 COMMISSIONER CARTER: Okay. So seeing no other
20 matters, Docket Number 060001-EI is concluded.

21 Now let's proceed -- you guys, y'all can go for a
22 little longer, right?

23 Good. Good. Good. All right. Yeah. We got a
24 streak going now. Let me get my notes together.

25 MR. STONE: Commissioner Carter, if we're not

1 involved in the 362 docket, may we be excused?

2 COMMISSIONER CARTER: I thought you guys were having
3 fun. How do you like these guys?

4 MR. BADDERS: Just trying to streamline it for you.

5 COMMISSIONER CARTER: Okay. Thank you. Thank you so
6 kindly. Yes. Let's prepare for Docket Number 060362-EI.

7 Let's take a two-minute break so the parties can get themselves
8 together and staff can too.

9 (Recess taken.)

10 (Prehearing Conference in Docket Number 060001-EI
11 concluded.)

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1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
2 COUNTY OF LEON)


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

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

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

DATED THIS 30TH DAY OF OCTOBER, 2006.



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