

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN RATES BY PROGRESS ENERGY FLORIDA, INC. DOCKET NO. 090079-EI

PETITION FOR LIMITED PROCEEDING TO INCLUDE BARTOW REPOWERING PROJECT IN BASE RATES, BY PROGRESS ENERGY FLORIDA, INC. DOCKET NO. 090144-EI

PETITION FOR EXPEDITED APPROVAL OF THE DEFERRAL OF PENSION EXPENSES, AUTHORIZATION TO CHARGE STORM HARDENING EXPENSES TO THE STORM DAMAGE RESERVE, AND VARIANCE FROM OR WAIVER OF RULE 25-6.0143(1)(C), (D), AND (F), F. A. C., BY PROGRESS ENERGY FLORIDA, INC. DOCKET NO. 090145-EU



PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER PARTICIPATING: COMMISSIONER NATHAN A. SKOP
PREHEARING OFFICER

DATE: Monday, September 14, 2009

TIME: Commenced at 9:36 a.m.
Concluded at 11:21 a.m.

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

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

DOCUMENT NUMBER-DATE

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1 APPEARANCES:

2 RICHARD D. MELSON, ESQUIRE, 705 Piedmont
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4 ESQUIRE, and JOHN T. BURNETT, ESQUIRE, Progress
5 Energy Service Company, LLC, Post Office Box 14042,
6 St. Petersburg, Florida 33733-4042; JAMES MICHAEL WALLS,
7 ESQUIRE, DIANNE M. TRIPLETT, ESQUIRE, and MATTHEW
8 BERNIER, ESQUIRE, Carlton Fields Law Firm, Post Office
9 Box 3239, Tampa, Florida 33601-3239, appearing on behalf
10 of Progress Energy Florida, Inc.

11 CECILIA BRADLEY, ESQUIRE, Office of the
12 Attorney General, The Capitol PL-01, Tallahassee,
13 Florida 32399-1050, appearing on behalf of the Citizens
14 of the State of Florida.

15 ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T.
16 LAVIA, III, ESQUIRE, c/o Young Law Firm, 225 South Adams
17 Street, Suite 200, Tallahassee, Florida 32301, appearing
18 on behalf of the Florida Retail Federation.

19 CHARLES REHWINKEL, ESQUIRE, Office of Public
20 Counsel, c/o The Florida Legislature, 111 West Madison
21 Street, Room 812, Tallahassee, Florida 32399-1400,
22 appearing on behalf of the Citizens of the State of
23 Florida.

24

25

1 APPEARANCES (Continued):

2 AUDREY VAN DYKE, Naval Facilities Engineering
3 Command, Litigation Headquarters, 720 Kennon Street,
4 S.E., Building 36, Room 136, Washington Navy Yard, DC
5 20374.

6 JAMES W. BREW, ESQUIRE, and F. ALVIN TAYLOR,
7 ESQUIRE, c/o Brickfield Law Firm, 1025 Thomas Jefferson
8 Street, NW, 8th Floor West Tower, Washington, DC 20007,
9 appearing on behalf of PCS Phosphate - White Springs.

10 VICKI G. KAUFMAN, ESQUIRE, and JON C. MOYLE,
11 JR., ESQUIRE, c/o Keefe Law Firm, The Perkins House, 118
12 North Gadsden Street, Tallahassee, Florida 32301, and
13 JOHN W. McWHIRTER, JR, ESQUIRE, Post Office Box 3350,
14 Tampa, Florida, appearing on behalf of Florida
15 Industrial Power Users Group.

16 STEPHANIE ALEXANDER, ESQUIRE, 200 West College
17 Avenue, Suite 216, Tallahassee, Florida 32301, appearing
18 on behalf of the Florida Association for Fairness in
19 Rate Making.

20 KATHERINE FLEMING, ESQUIRE, CAROLINE KLANCKE,
21 ESQUIRE, ERIC SAYLER, ESQUIRE and KEINO YOUNG, ESQUIRE,
22 FPSC, General Counsel's Office, 2540 Shumard Oak
23 Boulevard, Tallahassee, Florida 32399-0850,
24 appearing on behalf of the Commission Staff.

25

1 APPEARANCES (Continued):

2 SAMANTHA CIBULA, ESQUIRE, Florida Public
3 Service Commission, 2540 Shumard Oak Boulevard,
4 Tallahassee, Florida 32399-0850, appearing as Advisor to
5 the Commission.

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P R O C E E D I N G S

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2 **COMMISSIONER SKOP:** Good morning. I'd like to
3 call this prehearing to order. Commissioner Skop
4 presiding. If staff could please read the notice.

5 **MS. FLEMING:** Pursuant to notice issued by the
6 Commission Clerk, this time and place has been set for a
7 prehearing conference in Docket Number 090079-EI.

8 **COMMISSIONER SKOP:** Thank you.

9 If we could please take appearances of the
10 parties, please.

11 **MR. MELSON:** Richard Melson on behalf of
12 Progress Energy Florida. I'd also like to enter
13 appearances for the other Progress lawyers and Carlton
14 Fields lawyers who are identified in the Prehearing
15 Order. And with me today is Lori Cross, Manager of
16 Regulatory Accounting at Progress.

17 **MS. BRADLEY:** Cecilia Bradley, Office of the
18 Attorney General, on behalf of the citizens of Florida.

19 **MR. WRIGHT:** Robert Scheffel Wright, and I'd
20 also like to enter an appearance for John T. Lavia, III,
21 on behalf of the Florida Retail Federation.

22 **MR. REHWINKEL:** Charles Rehwinkel on behalf of
23 the Office of Public Counsel. And also enter an
24 appearance for the attorneys listed in the Prehearing
25 Order from the office.

1 **MS. VAN DIKE:** Audrey Van Dike for the Navy.

2 **MR. TAYLOR:** Al Taylor for PCS. And if I
3 could enter an appearance for J. Brew also.

4 **MS. KAUFMAN:** Good morning, Commissioner.
5 Vicki Gordon Kaufman of the Keefe, Anchors, Gordon &
6 Moyle Law Firm on behalf of the Florida Industrial Power
7 Users Group. And I'd like to enter an appearance for
8 Jon Moyle of the same firm, and John McWhirter. Thank
9 you.

10 **MS. ALEXANDER:** Stephanie Alexander for the
11 Association for Fairness in Rate Making.

12 **COMMISSIONER SKOP:** And Commission staff.

13 **MS. FLEMING:** Katherine Fleming, Caroline
14 Klancke, Erik Sayler and Keino Young on behalf of the
15 Commission.

16 **MS. CIBULA:** Samantha Cibula, advisor to the
17 Commission.

18 **COMMISSIONER SKOP:** Thank you. I'm going to
19 move to the preliminary matters. Staff, are there any
20 preliminary matters that we need to address before we
21 get to the Draft Prehearing Order?

22 **MS. FLEMING:** I'm not aware of any preliminary
23 matters, Commissioner.

24 **COMMISSIONER SKOP:** All right. Thank you.
25 Just to the parties, my staff has advised me

1 that the parties have been very cooperative to date with
2 respect to not only the issue identification
3 conferences, but also providing the discovery as well as
4 looking at issues that could be stipulated and witnesses
5 that may be stipulated. So I'd encourage the parties to
6 continue that, and I thank the, the parties for their
7 progress that's been made to date. That's very helpful.

8 At this time I'd like to proceed through the
9 Draft Prehearing Order. And I'm going to identify the
10 sections individually. And if the parties have any
11 corrections or changes that need to be made, if they
12 could bring those to my attention, I'd appreciate it.
13 We'll go through this judicially but as expeditious as
14 possible. So please feel free to speak up if you do
15 have a change or correction that needs to be made.

16 Okay. Proceeding with the Draft Prehearing
17 Order, Section I, case background. Hearing none from
18 the parties, staff?

19 **MS. FLEMING:** No changes.

20 **COMMISSIONER SKOP:** Okay. Thank you. So
21 Section I of the Prehearing Order will be adopted as
22 written.

23 Section II, conduct of proceedings. Hearing
24 none from the parties, staff?

25 **MS. FLEMING:** No changes.

1 **COMMISSIONER SKOP:** Section II will be adopted
2 as written.

3 Section III, jurisdiction. None from the
4 parties. Staff?

5 **MS. FLEMING:** No changes.

6 **COMMISSIONER SKOP:** Okay. Section III will be
7 adopted as written.

8 Section IV, procedure for handling
9 confidential information. Hearing none from the
10 parties, staff?

11 **MS. FLEMING:** No changes.

12 **COMMISSIONER SKOP:** All right. Section IV
13 will be adopted as written.

14 Section V, prefiled testimony, exhibits,
15 witnesses. From the parties?

16 **MS. KAUFMAN:** Commissioner Skop, Vicki
17 Kaufman. I have just talked with Mr. Melson prior to
18 the prehearing, and I think we're all going to be
19 getting together afterwards to talk about the witnesses.

20 But one thing that I had thought might be
21 helpful would be to combine some of the direct and
22 rebuttal as we have done actually in the Florida Power &
23 Light case to see if we could move along more quickly.
24 But I believe the parties will discuss that at the
25 adjournment.

1 **COMMISSIONER SKOP:** Thank you. And I would
2 encourage that. If the parties are able to, to work
3 together in good faith, to identify areas that
4 compromise is present, then that's a good thing. And
5 I'll look to the parties to get with our staff. And
6 with respect to Section V, does staff have any
7 additional comments?

8 **MS. FLEMING:** We would just note that witness
9 summaries shall be limited to five minutes.

10 **COMMISSIONER SKOP:** Okay. Thank you. And,
11 again, I would ask the parties if there is the ability
12 to shorten or dispense with witness summaries or to keep
13 them within the five minutes, that the parties consider
14 that and work with our staff in good faith to try and
15 shorten the length of proceedings, if possible.

16 Okay. Moving on to Section VI, order of
17 witnesses. I'd just like to hear from the parties as to
18 whether the parties may be willing to stipulate any
19 witnesses at this point.

20 **MR. MELSON:** Commissioner Skop, on behalf of
21 Progress, we're willing to stipulate to the two staff
22 witnesses Rhonda Hicks and Jocelyn Stephens listed on,
23 toward the bottom of Page 6. And we are also willing to
24 stipulate to the Navy witness James Selecky and the
25 AFFIRM witness Russell Klepper.

1 **COMMISSIONER SKOP:** Okay. Thank you. Any
2 comments from the other parties as to the proposed
3 stipulations by Progress?

4 **MR. WRIGHT:** We don't have any objection to
5 those, stipulating those witnesses, Commissioner.

6 **MR. REHWINKEL:** Public Counsel has no
7 objection.

8 **MS. VAN DYKE:** Navy has no objections.

9 **MR. TAYLOR:** No objection for PCS.

10 **THE COURT REPORTER:** You need to turn your
11 microphones on.

12 **COMMISSIONER SKOP:** Yes. If you could please
13 turn on the microphones and help our court reporter.

14 **MS. VAN DYKE:** The Navy has no objections.

15 **MR. TAYLOR:** Nor does PCS.

16 **MS. KAUFMAN:** FIPUG does not object.

17 **MS. ALEXANDER:** I believe that AFFIRM would
18 like its witness Klepper to testify.

19 **COMMISSIONER SKOP:** Could you please speak --
20 I could not hear you.

21 **MS. ALEXANDER:** I would like -- I believe that
22 AFFIRM would like its witness Klepper to testify. I'll
23 confirm that.

24 **COMMISSIONER SKOP:** Okay. If you could and
25 get with our staff.

1 Ms. Bradley, did you have any comments?

2 **MS. BRADLEY:** I have no objection, but would
3 support AFFIRM if they wish to have their witness
4 testify.

5 **COMMISSIONER SKOP:** Okay. For those witnesses
6 that Progress has been willing to stipulate, if there
7 are no objections, show those witnesses stipulated. And
8 as to the AFFIRM witness, if compromise can be reached,
9 I'll look to the parties to work with our staff on that
10 particular witness.

11 **MR. MELSON:** And, Commissioner Skop, we've not
12 identified at this point any Progress witnesses. I
13 think the parties intend to meet after the prehearing
14 conference on issues. And depending on what issues we
15 stipulate, there's a possibility that we might also be
16 able to stipulate to some of the Progress witnesses.

17 **COMMISSIONER SKOP:** Okay. And like I say,
18 I'll look to the parties. Again, my staff has advised
19 that the parties have been very cooperative on this
20 proceeding, and I hope that would continue in good
21 faith. So any inroads that the parties could make to
22 reach compromise on stipulation of witnesses or
23 stipulation of issues, you know, our staff is more than
24 willing to speak to the parties with respect to those
25 issues that may arise. So, again, thank you for trying

1 to work forward in a collegial manner on this.

2 Okay. Let's move to basic positions.

3 **MR. MELSON:** Commissioner, I -- excuse me.

4 **COMMISSIONER SKOP:** Mr. Melson.

5 **MR. MELSON:** I've got one additional change on
6 the witnesses. We're going to need to add Issue 85 to
7 Witness Slusser on the top of Page 6 and then again
8 toward the bottom of Page 7.

9 **COMMISSIONER SKOP:** Okay. Staff --

10 **MS. FLEMING:** We'll coordinate with the
11 parties. If there are any additional changes to the
12 Prehearing Order, we can get with the parties and make
13 those changes in the final Prehearing Order.

14 **COMMISSIONER SKOP:** All right. Thank you.
15 Any other concerns as to Section VI, order of witnesses?

16 **MR. REHWINKEL:** We have some changes, but
17 I'll, I'll do that afterwards with staff.

18 **COMMISSIONER SKOP:** Okay. All right. Thank
19 you. Any other concerns of the parties?

20 Okay. Hearing none, we're going to move to
21 Section VII, basic positions. Hearing no comment from
22 the parties, staff?

23 **MS. FLEMING:** No changes.

24 **COMMISSIONER SKOP:** Thank you. Show Section
25 VII, basic positions, adopted as written in the

1 Prehearing Order.

2 Let's move on to Section VIII, issues and
3 positions. Staff, are there any comments before we
4 proceed issue by issue?

5 **MS. FLEMING:** Staff would just like to note
6 for the record that several parties have taken no
7 position at this time in, during -- on some of these
8 issues. We just want to make the parties aware that
9 based on the Order Establishing Procedure, each party
10 shall take a position on each issue at the time of the
11 prehearing conference or by such later time as may be
12 permitted by the Prehearing Officer. If a party fails
13 to take a position, the party shall have waived the
14 entire issue and the party's position shall be shown as
15 no position in the Prehearing Order.

16 **COMMISSIONER SKOP:** Very well. If the parties
17 could briefly comment as to the progress being made on
18 stating their respective positions.

19 **MR. MELSON:** Progress has a position on every
20 issue.

21 **COMMISSIONER SKOP:** Ms. Bradley.

22 **MS. BRADLEY:** I'm sorry. Nothing. Appreciate
23 it.

24 **COMMISSIONER SKOP:** Mr. Wright.

25 **MR. WRIGHT:** We understand the order. Thank

1 you, Commissioner.

2 **COMMISSIONER SKOP:** Okay. The rest of the
3 parties? Okay.

4 Does staff have any recommendations as to what
5 the appropriate time frame would be for getting those
6 positions in?

7 **MS. FLEMING:** We would suggest by tomorrow,
8 Tuesday, the close of business. This order needs to be
9 issued by Wednesday. So to the extent that the
10 parties -- I know that the FPL hearing reconvenes on
11 Wednesday, so we really would like all the parties'
12 positions and updates by the close of business tomorrow.

13 **COMMISSIONER SKOP:** Okay. Show it done. So
14 the parties will provide their initial positions by
15 5:00 p.m. tomorrow.

16 Okay. We will proceed through the issues on
17 an issue-by-issue basis. If there are issues, we will
18 address those by the proponent of the issue that seeks
19 to have those introduced into the Prehearing Order.

20 And we'll start with Issue 1. I believe,
21 Ms. Bradley, you're recognized.

22 **MS. BRADLEY:** You want me to go ahead and
23 address the motion in limine?

24 **COMMISSIONER SKOP:** Yes. Wait. I'm sorry.
25 Wait a second. The issue -- I believe that with respect

1 to a motion in limine, I think we'll get to that as a
2 pending motion later.

3 **MS. FLEMING:** We'll get to that further in the
4 proceeding.

5 **COMMISSIONER SKOP:** Yes. But with respect to
6 Issue 1 that is proposed, "Is the rate increase
7 requested by Progress Energy Florida, Inc., a just and
8 reasonable rate increase for its customers and is it in
9 the public interest," I believe that you're a proponent
10 of that, inclusion of that issue.

11 **MS. BRADLEY:** Yes, sir. We feel that's
12 appropriate and I'll address it further at the
13 appropriate time.

14 **COMMISSIONER SKOP:** Okay.

15 **MR. MELSON:** And --

16 **COMMISSIONER SKOP:** I'd like to hear from the
17 other Intervenors and I'll come back to Progress.

18 **MR. WRIGHT:** We agree that it's an appropriate
19 issue, Commissioner. It really is the ultimate issue in
20 the case.

21 **COMMISSIONER SKOP:** Okay.

22 **MR. REHWINKEL:** Public Counsel supports the
23 Attorney General's inclusion of this issue as it is the
24 ultimate issue in Chapter 366 for rate setting. Thank
25 you.

1 **COMMISSIONER SKOP:** Thank you.

2 **MS. VAN DYKE:** The Navy concurs with that. We
3 agree with the issue.

4 **MR. TAYLOR:** PCS agrees with the issue.

5 **COMMISSIONER SKOP:** Use the microphone,
6 please.

7 **MR. TAYLOR:** PCS agrees that it should be an
8 issue.

9 **MS. KAUFMAN:** As does FIPUG.

10 **COMMISSIONER SKOP:** Okay.

11 **MS. ALEXANDER:** AFFIRM also agrees.

12 **COMMISSIONER SKOP:** All right. Thank you.
13 Staff, if you could provide a recommendation as to the
14 proposed issue, please.

15 **MS. FLEMING:** If we could just hear from
16 Progress.

17 **COMMISSIONER SKOP:** Oh, I'm sorry. Excuse me,
18 yes. Mr. Melson, I forgot.

19 **MR. MELSON:** Commissioner, we object to the
20 inclusion of the issue basically for two reasons.
21 First, we don't believe it appropriately reflects the
22 legal standard applicable to the rate case. Chapter 366
23 talks in terms of fair, just and reasonable rates. It
24 does not include a public interest component per se in
25 the rate establishment.

1 Second, the Attorney General said this really
2 is the ultimate issue in the case. Well, we believe the
3 ultimate issue is Issue 87, which is the, the total
4 revenue increase, and that anything the Attorney General
5 has to say can be taken as a position on Issue 87 rather
6 than having this separate issue.

7 **COMMISSIONER SKOP:** Thank you. Staff, if
8 you'd please provide a recommendation based on the
9 discussion.

10 I'm sorry. Ms. Bradley.

11 **MS. BRADLEY:** May I be heard briefly on that?

12 **COMMISSIONER SKOP:** Yes. You need the
13 microphone on, please. Ms. Bradley, you're recognized.

14 **MS. BRADLEY:** I'll get it on eventually.

15 Thank you. We feel like this is an
16 appropriate issue because it's the customers' issue.
17 It's an issue that by law the Commission is mandated to
18 consider in their decisions regarding the rate cases.
19 And while there may be bits and pieces of the complaints
20 and concerns that were voiced at the public hearings,
21 they are not completely consumed within these other
22 issues. And regardless of the way this turns out, you
23 know, we feel like the people have the right to know
24 that their issue is specifically addressed and that it
25 was considered, not just consumed within other issues.

1 So we would respectfully request that it be made an
2 issue in this case.

3 **COMMISSIONER SKOP:** All right. Thank you.

4 Mr. Wright, you're recognized.

5 **MR. WRIGHT:** Thank you, Commissioner Skop.

6 Just very briefly. I would just like to add that the
7 public interest criterion, while not per se including,
8 included in the ratemaking sections of 366, is the
9 fundamental Commission directive from the Legislature in
10 366.01. That Chapter 366 is to be broadly construed to
11 regulate public utilities subject to the jurisdiction of
12 the Commission in the public interest. Rate regulation
13 is part of that.

14 **COMMISSIONER SKOP:** Thank you. Rebuttal,
15 Mr. Melson.

16 **MR. MELSON:** Nothing further, Commissioner.

17 **COMMISSIONER SKOP:** Thank you.

18 Staff, do you have a recommendation?

19 **MS. FLEMING:** Commissioner, I agree with
20 Ms. Bradley and Mr. Wright that this is -- the
21 Commission is charged with looking at whether the rates
22 set in this proceeding will be fair, just and reasonable
23 rates. That authority is granted to the Commission
24 under 366.06(1).

25 That being said, the Commission, in looking at

1 all the issues in this proceeding, will be doing so
2 under 366.06(1) and Chapter 366 in totality. I don't
3 think it's necessary to have a separate issue to address
4 something that the Commissioners will already be looking
5 at through the pendency of this hearing.

6 In addition, if this issue is truly needing a
7 place to address quality of service or customer
8 comments, I think we do have an Issue 6 which addresses
9 the quality of service. If it's a fundamental issue
10 with respect to the revenue requirements, we do have
11 Issue 87 to address the revenue requirements. Thus,
12 staff does not believe that this issue is necessary in
13 this proceeding.

14 **COMMISSIONER SKOP:** Okay. Just in the
15 interest of fairness, I'm going to go briefly back to
16 the parties to respond to the staff recommendation.

17 Ms. Bradley.

18 **MS. BRADLEY:** I would just note that we had a
19 lot of concerns that were voiced at public hearings
20 around the state, people talking about they simply
21 cannot afford a rate increase, and I think some of those
22 concerns are not addressed within the other issues. And
23 the people -- you know, if there's a rate increase
24 that's granted after they've testified they simply
25 cannot afford one, I think they need to know that the

1 PSC did specifically consider their concerns.

2 **COMMISSIONER SKOP:** Thank you.

3 Mr. Melson.

4 **MR. MELSON:** Nothing further.

5 **COMMISSIONER SKOP:** All right. Thank you.

6 I'm going to defer ruling on this issue until the end of
7 the prehearing. We're going to move forward, and I'll
8 take the comments of the parties and the staff
9 recommendation under advisement.

10 Let's move on to Issue 2. Any comments from
11 the parties? Hearing none, any comments from staff?

12 **MS. FLEMING:** No, no comments.

13 **COMMISSIONER SKOP:** Okay. Show Issue 2
14 included as written.

15 Issue 3. Hearing no comments from the
16 parties, staff?

17 **MS. FLEMING:** No comments.

18 **COMMISSIONER SKOP:** Show Issue 3 included as
19 written.

20 **MR. REHWINKEL:** Commissioner Skop.

21 **COMMISSIONER SKOP:** Mr. Rehwinkel.

22 **MR. REHWINKEL:** I can do this one of two ways.
23 If we have -- we have taken no position at this time and
24 it is our intent to revert to no position on this issue.
25 I am perfectly okay with not taking time to say that

1 every time if that's all we want to do, if that would be
2 okay.

3 **COMMISSIONER SKOP:** That's fine. I guess you
4 have until 5:00 p.m. tomorrow to put your initial
5 position in as previously ruled upon.

6 Ms. Bradley.

7 **MS. BRADLEY:** The Attorney General's Office
8 may wish to revise their position on this, and I'll get
9 that to staff as quickly as possible.

10 **COMMISSIONER SKOP:** Very well. Thank you.

11 **MS. BRADLEY:** Thank you.

12 **COMMISSIONER SKOP:** Okay. Issue 3 I believe
13 was the issue that we were on. Hearing no comments from
14 the parties, staff?

15 **MS. FLEMING:** No comments.

16 **COMMISSIONER SKOP:** Okay. Show Issue 3
17 adopted as written.

18 Issue 4.

19 **MR. REHWINKEL:** Commissioner, the Public
20 Counsel has a substantial revision to Issues 4 and 5,
21 our positions. And if it would suit you, I'd like to
22 read our new position into the record.

23 **COMMISSIONER SKOP:** Very well.

24 **MR. REHWINKEL:** For Issue 4 and the same
25 issue, position would be on Issue 5: "No. To the

1 extent the revised forecast is a material revision to
2 the MFRs filed on March 20, 2009, PEF's eight-month
3 clock may need to be restarted from the date of filing
4 of the rebuttal testimony." And I can provide that in
5 written form to staff.

6 **COMMISSIONER SKOP:** Very well. Any other
7 comments as to Issue 4, Ms. Bradley?

8 **MS. BRADLEY:** Yes, Mr. Commissioner. The
9 Attorney General's Office would also change their
10 position on 4 and 5 to say: "No. And support the
11 position of the Office of Public Counsel." And we'll
12 get that to staff.

13 **COMMISSIONER SKOP:** Okay. Okay.

14 **MS. KAUFMAN:** Commissioner Skop.

15 **COMMISSIONER SKOP:** Yes, Ms. Kaufman.

16 **MS. KAUFMAN:** FIPUG is also going to be
17 provided, providing revised positions on Issues 4 and 5
18 along the lines of Mr. Rehwinkel's comments.

19 **COMMISSIONER SKOP:** All right. Thank you.
20 Any other comments as to Issue 4? Staff?

21 **MS. FLEMING:** No comments.

22 **COMMISSIONER SKOP:** Okay. Show Issue 4
23 adopted as written reflecting the changes in the
24 position expressed by the parties. And --

25 **MR. WRIGHT:** Commissioner?

1 **COMMISSIONER SKOP:** Yes, Mr. Wright, you're
2 recognized.

3 **MR. WRIGHT:** Thanks. I'll be, I'll be at
4 least striking the tentative from our previous position.
5 It's my understanding that, that we still have until
6 5:00 tomorrow to change positions. And if that's
7 consistent, then I'm not going to jump in every time I
8 might otherwise.

9 **COMMISSIONER SKOP:** All right. That's fine.
10 My understanding is if, my understanding is that based
11 upon the staff recommendation I've affirmatively ruled
12 on the fact that the parties will provide their initial
13 positions by close of business tomorrow, which would be
14 Tuesday at 5:00 p.m. And any changes to those positions
15 will be accommodated and incorporated through the
16 submittal time deadline.

17 **MR. WRIGHT:** Thank you, Commissioner.

18 **COMMISSIONER SKOP:** Thank you. Moving on to
19 Issue 5, I know that there were previous comments by the
20 parties in terms of changing their positions, which will
21 be subsumed. But any additional comments as to Issue 5?
22 Hearing none from the parties, staff?

23 **MS. FLEMING:** No comments.

24 **COMMISSIONER SKOP:** Okay. Show Issue 5
25 adopted as written, reflecting the changes in position

1 expressed by the parties.

2 Issue 6. Hearing none from the parties --

3 **MR. REHWINKEL:** Commissioner.

4 **COMMISSIONER SKOP:** Mr. Rehwinkel.

5 **MR. REHWINKEL:** This is the last time I think
6 I'm going to have to step in in this regard, but this
7 issue presents us a bit of a difficulty in taking a
8 position by tomorrow because there is one additional
9 customer testimony hearing opportunity on the morning of
10 the hearing on the 21st. It is a noticed public
11 testimony position -- opportunity. So the Office of
12 Public Counsel would ask for leave for good cause to
13 maintain our position as shown here through the hearing
14 or at least through the beginning of the hearing pending
15 receipt of additional customer testimony.

16 **COMMISSIONER SKOP:** All right. Thank you.

17 Ms. Bradley.

18 **MS. BRADLEY:** Yes. Based upon the customer
19 testimony that we've had so far, while there was some
20 compliments about the service, there were some other
21 people that indicated they were having problems with
22 reliability of service. And so we would change our
23 position to: "No." As reflected by the customer
24 testimony.

25 **COMMISSIONER SKOP:** Okay. Staff

1 recommendation.

2 **MS. FLEMING:** The order establishing
3 procedures does state that if a party is unable through
4 diligence or good faith efforts to take a position at
5 this time, which I think Mr. Rehwinkel has shown because
6 we do still have a service hearing, the parties can
7 maintain those positions until a further date.

8 **COMMISSIONER SKOP:** Thank you. My ruling as
9 to the request by OPC and the AG's office is essentially
10 that they've not taken a position at this time based
11 upon the incomplete record as to the customer comment,
12 and they will be granted leave to amend their positions
13 accordingly.

14 **MR. REHWINKEL:** Thank you.

15 **COMMISSIONER SKOP:** Okay. Any additional
16 comments on Issue 6? Staff?

17 **MS. FLEMING:** No comments.

18 **COMMISSIONER SKOP:** Okay. Show Issue 6
19 adopted, with the understanding that both Public Counsel
20 and the AG's Office will be granted leave to amend their
21 position based upon the customer comment provided at the
22 beginning of the rate case hearing.

23 Issue 7. Hearing no comment from the parties,
24 staff?

25 **MS. FLEMING:** No comments.

1 **COMMISSIONER SKOP:** All right. Show Issue 7
2 adopted as written.

3 Issue 8. Hearing no comments from the
4 parties, staff?

5 **MS. FLEMING:** No comment.

6 **COMMISSIONER SKOP:** Okay. Show Issue 8
7 adopted as written.

8 Issue 9. Hearing no comments from staff -- I
9 mean from the parties, staff?

10 **MS. FLEMING:** No comment.

11 **COMMISSIONER SKOP:** Show Issue 9 adopted as
12 written.

13 Issue 10. Hearing no comments from the
14 parties, staff?

15 **MS. FLEMING:** No comment.

16 **COMMISSIONER SKOP:** Okay. Show Issue 10
17 adopted as written.

18 That brings us to Issue 11. Mr. Rehwinkel,
19 this is an OPC issue, proposed issue, so do you have
20 some, some comments as to this?

21 **MR. REHWINKEL:** No, Commissioner.

22 **COMMISSIONER SKOP:** Okay. Any other comments
23 on Issue 11? Staff?

24 **MS. FLEMING:** Yes. Thank you. Staff has
25 concerns with Issue 11, and this will also segue into

1 Issue 12. We believe that the positions that have been
2 taken by OPC under Issue 11 really can be subsumed under
3 Issue 10. Looking at Issues 11 and 12, they're very
4 similar to Issue 10, and we feel that the issues are
5 duplicative and there's really, it's not necessary to
6 have Issues 11 and 12 when those positions can be
7 subsumed under Issue 10.

8 **COMMISSIONER SKOP:** Okay. Thank you.

9 Mr. Rehwinkel, could you briefly respond to
10 staff's concern. And also to the extent that if those
11 lifespans are respectfully included in Issue 10, could
12 you also speak to the additional staff effort that would
13 be needed to address those issues separately as opposed
14 to trying to consolidate them within an issue to which
15 they would be subsumed?

16 **MR. REHWINKEL:** Yes, Commissioner. Public
17 Counsel's position is that these issues are issues that
18 have been identified by our office and by our expert for
19 special attention in the sense of highlighting issues
20 for the Commissioners.

21 We believe that the, the way issues can be
22 presented before the Commission for ratemaking
23 determinations is, is a matter of judgment and it should
24 be looked at on an continuum. You could have an issue
25 that says what should be the change, if any, to

1 customers' bills or you could have an issue that goes
2 through each and every account and asks for approval of
3 them.

4 We think the appropriate standard is what is,
5 what is the best way to present the issues for the
6 Commission's decision-making? These, these issues that
7 we have raised with respect to the, to the lifespans for
8 these plants we feel should be given special attention.
9 I, I have no way of knowing about the workload issue
10 with respect to staff. We think the appropriate
11 standard is what's the best way for the Commissioners to
12 understand the issues and to break them out
13 appropriately. So we, we would urge that these issues
14 be left in as, as discrete issues.

15 **COMMISSIONER SKOP:** Okay.

16 **MS. KAUFMAN:** Commissioner Skop, might I be
17 heard on that?

18 **COMMISSIONER SKOP:** Yes, Ms. Kaufman. You
19 may.

20 **MS. KAUFMAN:** I would just echo
21 Mr. Rehwinkel's views of these issues, and I would note
22 that for FIPUG's part we have filed specific testimony
23 that directly goes to this lifespan issue. It's a very
24 important component of the depreciation issue. And we
25 also agree that these two issues should remain broken

1 out for separate consideration. Thank you.

2 **COMMISSIONER SKOP:** Thank you.

3 Mr. Melson.

4 **MR. MELSON:** Commissioner, we agree with staff
5 that they could be subsumed within Issue 10. However,
6 we previously told Public Counsel that we would not
7 oppose their inclusion of separate issues, so we're
8 essentially taking no position.

9 **COMMISSIONER SKOP:** Okay. Thank you. Based
10 upon the discussion that I've heard, what I would like
11 to do, and based upon no objection from the company, I'm
12 going to allow both issues. I'm going to allow Issue
13 11 and also Issue 12, which we've not gotten to, because
14 I think that the subject matter is the same. But I
15 think what we need to do is reorder the issues because
16 essentially Issue 10 is the follow-on issue to Issues
17 11 and 12, which would be the predicate issue. So we'll
18 show Issue 11 as Issue 10, Issue 12 as Issue 11 and
19 Issue 10 as Issue 12. Does that sound correct, staff?

20 **MS. FLEMING:** That is correct.

21 **COMMISSIONER SKOP:** Okay. Are the parties
22 comfortable with that? Any additional comments?

23 Okay. So just to reiterate, Issue 11 will be
24 included, but it will be renumbered as Issue 10. Issue
25 12 will be included, but it will be renumbered as Issue

1 11. And Issue 10, which I've already ruled upon, will
2 be renumbered to be Issue 12. And that should
3 accommodate all the parties and the concerns that I've
4 heard before me.

5 Okay. Moving on to Issue 13, any comments
6 from the parties? Hearing none, staff?

7 **MS. FLEMING:** No comments.

8 **COMMISSIONER SKOP:** Okay. Show Issue 13
9 incorporated as written.

10 Issue 14. Hearing no comments from the
11 parties, staff?

12 **MS. FLEMING:** No comments.

13 **COMMISSIONER SKOP:** Show Issue 14 incorporated
14 as written.

15 Issue 15. Hearing no comments from the
16 parties, staff?

17 **MS. FLEMING:** No comments.

18 **COMMISSIONER SKOP:** Issue 15, show
19 incorporated as written.

20 Issue 16. Hearing no comments from the
21 parties, staff?

22 **MS. FLEMING:** No comment.

23 **COMMISSIONER SKOP:** All right. Show Issue 16
24 incorporated as written.

25 Issue 17. Hearing no comments from the

1 parties, staff?

2 **MS. FLEMING:** No comment.

3 **COMMISSIONER SKOP:** Show Issue 17 incorporated
4 as written.

5 Issue 18.

6 **MR. MELSON:** Commissioner, if I might.

7 **COMMISSIONER SKOP:** Mr. Melson, you're
8 recognized.

9 **MR. MELSON:** I actually have a question for
10 OPC and the Retail Federation. It seemed to me that
11 their position on this issue was more appropriate under
12 Issue 19. And if not, I could use an explanation of the
13 position.

14 **COMMISSIONER SKOP:** Very well. We'll start
15 with Mr. Rehwinkel.

16 **MR. REHWINKEL:** Commissioner, I believe that
17 Mr. Melson is correct. I think this is something that
18 we are going to talk about as a possible stipulation
19 area.

20 **MR. MELSON:** Okay.

21 **MR. REHWINKEL:** And I, I can double-check, but
22 I believe that he is correct that that's where our
23 position should go.

24 **COMMISSIONER SKOP:** All right. Ms. Bradley.

25 **MS. BRADLEY:** We would support OPC.

1 **COMMISSIONER SKOP:** All right. Very well.
2 Show it done. Any other comments as to Issue 18?
3 Staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** Okay. Show Issue 18
6 adopted as written with the changes in position as is
7 noted by the parties.

8 Issue 19. Hearing no comments from the
9 parties, staff?

10 **MS. FLEMING:** No comment.

11 **COMMISSIONER SKOP:** Show Issue 19 adopted as
12 written.

13 Issue 20. Hearing no comments from the
14 parties, staff?

15 **MS. FLEMING:** No comment.

16 **COMMISSIONER SKOP:** Show Issue 20 adopted as
17 written.

18 Issue 21.

19 **MR. MELSON:** Commissioner.

20 **COMMISSIONER SKOP:** Mr. Melson, you're
21 recognized.

22 **MR. MELSON:** Issue -- Progress objects to the
23 inclusion of Issue 21. First, this relates to the
24 procedure for future dismantlement studies. That would
25 have no impact on the rates requested in this

1 proceeding.

2 And, second, it's Progress's belief that if
3 the direction of future dismantlement studies is going
4 to change, that would require an amendment to Rule
5 25-6.04364, and that the appropriate vehicle, if, if the
6 OPC wants to suggest a change, is to initiate a
7 rulemaking to address that rule.

8 **COMMISSIONER SKOP:** Thank you. I guess this
9 is an OPC proposed issue, so I'd like to hear from
10 Mr. Rehwinkel.

11 **MR. REHWINKEL:** Yes. Commissioner, we have
12 included this as an issue because -- well, first of all,
13 I've -- the company proposed, filed a dismantlement
14 study that was based on a dismantlement study that was
15 addressed in a stipulation based on a prior
16 dismantlement study, I think, from, from an earlier
17 period in the 2000s. We feel like that the Commission
18 might want to hear testimony on, on how that process had
19 occurred and whether Progress was, was doing this in an
20 appropriate manner.

21 We have no problem with this issue being put
22 into a generic proceeding. I think there may be some
23 tendency toward that starting from the FPL case. We
24 think the issue is teed up if the Commissioners want to
25 hear evidence about this and want to give some direction

1 as to how they would like things done. We don't
2 disagree with Mr. Melson as far as this being done in a
3 separate proceeding. However, we believe that, that
4 because the company has filed a, a study in this docket,
5 that they have raised the issue. We addressed the issue
6 by suggesting that they're doing it in improperly. And
7 it's just there for the Commission if they want to
8 consider it.

9 **COMMISSIONER SKOP:** Thank you. From the other
10 Intervenors?

11 **MR. WRIGHT:** Commissioner, however you want to
12 handle this is fine. I think it's an appropriate issue
13 in the case.

14 And with regard to the rulemaking, a
15 suggestion that may or may not be appropriate. I don't
16 understand OPC's position to be recommending a uniform
17 procedure for fossil dismantlement for all future cases,
18 which is what would, which is what would trigger the
19 requirement that rulemaking be initiated.

20 **COMMISSIONER SKOP:** Thank you. Any other
21 comments from the parties?

22 **MR. MELSON:** Commissioner, may I respond
23 briefly?

24 **COMMISSIONER SKOP:** You may, Mr. Melson.

25 **MR. MELSON:** To the extent there is a

1 criticism of the demolition approach that the company
2 has used in this case, I believe Mr. Rehwinkel and the
3 Intervenors can address that under Issue 20, are the
4 assumptions reasonable. Issue 21 seems to me to be
5 solely forward-looking and that's the reason we object
6 to it.

7 **COMMISSIONER SKOP:** All right. Very well.
8 Mr. Rehwinkel, how would you respond to the concern
9 about the forward-looking and prospective ratemaking
10 comments that have arisen with respect to inclusion of
11 this issue?

12 **MR. REHWINKEL:** Commissioner Skop, it's my
13 experience before the Commission that often guidance is
14 given to the company about things that the Commission
15 would like to see before another rate case is filed.
16 And it -- there is testimony in the record today from
17 the company and the parties about the appropriate
18 assumptions about, for instance, restoration
19 methodologies and the standard to which restoration
20 should be done. So, again, we've, we do agree that it
21 is a forward-looking issue. But to the extent that the
22 Commission wants the opportunity to give guidance to the
23 company about future filings, this case is an
24 appropriate vehicle for that to be done. It's really in
25 the Commission's discretion as to whether they want to

1 hear this. We're, we're prepared to offer an opinion
2 about it and we're prepared to address it in another
3 way, if that's, if that's your pleasure.

4 **COMMISSIONER SKOP:** Thank you. I'd like to
5 turn to staff for a staff recommendation on the issue.

6 **MS. FLEMING:** And I'm thinking these through.
7 I mean, I understand where OPC is coming from and I
8 understand where the utility is coming from. I do agree
9 that with respect to how the utility has addressed
10 demolition approaches, I think that could be addressed
11 under Issue 20 as far as whether the utility has done
12 something improperly or correctly or incorrectly.

13 With respect to this, the issue is worded "in
14 future dismantlement studies," so it is looking to the
15 future. Staff believes that this is not really specific
16 to Progress, it's more appropriate for maybe a generic
17 proceeding, and we don't feel that it's appropriate in
18 this ratemaking proceeding.

19 **COMMISSIONER SKOP:** Okay. Very well. Having
20 heard from the parties, my holding is to exclude this
21 issue from the -- excuse me. Having heard from the
22 parties, my holding is to exclude this issue from the
23 list of issues in this proceeding. Should the parties
24 feel strongly, again, I think I've heard OPC mention
25 there's an additional separate docket that could be used

1 to address this concern, but also to not preclude a
2 motion for reconsideration as a preliminary matter,
3 should OPC feel that's necessary. But I just think in
4 the interest of fairness to the parties, listening to
5 the concerns that have been expressed, that the issue
6 can be appropriately addressed in Issue 20 as well as a
7 separate docket, if necessary.

8 **MR. REHWINKEL:** Commissioner Skop, we're
9 satisfied with your ruling.

10 **COMMISSIONER SKOP:** Very well. Thank you.
11 Issue -- so show Issue 21 excluded.

12 Let's move to Issue 22. Hearing no comments
13 from the parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** All right. Show Issue
16 22 adopted as written and renumbered accordingly.

17 Issue 23. Hearing no comments from the
18 parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** Show Issue 23 adopted as
21 written and renumbered as appropriate.

22 Issue 24. No comment from the parties. So,
23 staff?

24 **MS. FLEMING:** No comment.

25 **COMMISSIONER SKOP:** All right. Show Issue 24

1 adopted as written and renumbered accordingly.

2 Issue 25. Hearing no comment from the
3 parties, staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** All right. Show Issue 25
6 adopted as written and renumbered accordingly.

7 Issue 26. No comment from the parties.
8 Staff?

9 **MS. FLEMING:** No comment.

10 **COMMISSIONER SKOP:** Okay. Show Issue 26
11 adopted as written and renumbered accordingly.

12 Issue 27. Hearing no comment from the
13 parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** All right. Show Issue 27
16 adopted as written and renumbered accordingly.

17 Issue 28. Hearing no comment from the
18 parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** All right. Show Issue 28
21 adopted as written and renumbered accordingly.

22 Issue 29. Hearing no comment from the
23 parties, staff?

24 **MS. FLEMING:** No comment.

25 **COMMISSIONER SKOP:** All right. Show Issue 29

1 adopted as written and renumbered accordingly.

2 Issue 30. Hearing no comment from the
3 parties, staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** All right. Show Issue 30
6 adopted as written and renumbered accordingly.

7 Issue 31. Hearing no comment from the
8 parties, staff?

9 **MS. FLEMING:** No comment.

10 **COMMISSIONER SKOP:** All right. Show Issue
11 31 adopted as written and renumbered accordingly.

12 Issue 32. Hearing no comment from the
13 parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** All right. Show Issue
16 32 adopted as written and renumbered accordingly.

17 Issue 33. Hearing no comment from the
18 parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** Show Issue 33 adopted as
21 written and renumbered accordingly.

22 Issue 34. Hearing no comment from the
23 parties, staff?

24 **MS. FLEMING:** No comment.

25 **COMMISSIONER SKOP:** Show Issue 34 adopted as

1 written and renumbered accordingly.

2 Issue 35. Hearing no comment from the
3 parties, staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** Show Issue 35 adopted as
6 written and renumbered accordingly.

7 Issue 36. Hearing no comment from the
8 parties, staff?

9 **MS. FLEMING:** No comment.

10 **COMMISSIONER SKOP:** Show Issue 36 adopted as
11 written and renumbered accordingly.

12 Issue 37. Hearing no comment from the
13 parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** Show Issue 37 adopted as
16 written and renumbered accordingly.

17 Issue 38.

18 **MR. MELSON:** Commissioner.

19 **COMMISSIONER SKOP:** Mr. Melson.

20 **MR. MELSON:** I would just inquire of OPC.
21 They appear to have omitted three zeros after the number
22 in their position, I hope.

23 **MR. REHWINKEL:** Why do you say that?

24 **COMMISSIONER SKOP:** Scrivener's error.

25 (Laughter.)

1 **MR. REHWINKEL:** We've revised our position on
2 87. Yes, that's correct. We will, we will correct this
3 error.

4 **COMMISSIONER SKOP:** Very well. Any other
5 comments as to Issue 38? Hearing none, staff?

6 **MS. FLEMING:** No comment.

7 **COMMISSIONER SKOP:** Okay. Show Issue 38
8 adopted as written, renumbered accordingly, with the
9 understanding that OPC will correct the scrivener's
10 error in their position.

11 Issue 39. Hearing no comments from the
12 parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** Show Issue 39 adopted as
15 written and renumbered accordingly.

16 Issue 40. Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 40
20 adopted as written and renumbered accordingly.

21 That brings us to Issue 41. Hearing no
22 comments from the parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue
25 41 adopted as written and renumbered accordingly.

1 Issue 42. Hearing no comments from the
2 parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue
5 42 adopted as written and renumbered accordingly.

6 Issue 43. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 43
10 adopted as written and renumbered accordingly.

11 That brings us to Issue 44. Hearing no
12 comments from the parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 44
15 adopted as written and renumbered accordingly.

16 Issue 45. Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 45
20 adopted as written and renumbered accordingly.

21 Issue 46. Hearing no comments from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue 46
25 adopted as written and renumbered accordingly.

1 That brings us to Issue 47. Hearing no
2 comments from the parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue 47
5 adopted as written and renumbered accordingly.

6 Issue 48. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 48
10 adopted as written and renumbered accordingly.

11 Issue 49. Hearing no comments from the
12 parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 49
15 adopted as written and renumbered accordingly.

16 Issue 50. Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 50
20 adopted as written and renumbered accordingly.

21 That brings us to Issue 51. Hearing no
22 comments from the parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue
25 51 adopted as written and renumbered accordingly.

1 Issue 52. Hearing no comments from the
2 parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue
5 52 adopted as written and renumbered accordingly.

6 Issue 53. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 53
10 adopted as written and renumbered accordingly.

11 Issue 54. Hearing no comments from the
12 parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 54
15 adopted as written and renumbered accordingly.

16 Issue 55? Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 55
20 adopted as written and renumbered accordingly.

21 Issue 56. Hearing no comments from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue 56
25 adopted as written and renumbered accordingly.

1 Issue 57. Hearing no comments from the
2 parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue 57
5 adopted as written and renumbered accordingly.

6 Issue 58. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 58
10 adopted as written and renumbered accordingly.

11 That brings us to Issue 59. Hearing no
12 comments from the parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 59
15 adopted as written and renumbered accordingly.

16 Issue 60. Hearing no comment from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue
20 60 adopted as written and renumbered accordingly.

21 Issue 61. Hearing no comment from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue
25 61 adopted as written and renumbered accordingly.

1 Issue 62. Hearing no comment from the
2 parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue
5 62 adopted as written and renumbered accordingly.

6 Issue 63. Hearing no comment from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 63
10 adopted as written and renumbered accordingly.

11 That brings us to Issue 64. Hearing no
12 comment from the parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 64
15 adopted as written and renumbered accordingly.

16 Issue 65. Hearing no comment from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 65
20 adopted as written and renumbered accordingly.

21 Issue 66. Hearing no comments from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue 66
25 adopted as written and renumbered accordingly.

1 Issue 67. Hearing no comments from the
2 parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue 67
5 adopted as written and renumbered accordingly.

6 Issue 68. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 68
10 adopted as written and renumbered accordingly.

11 Issue 69. Hearing no comments from the
12 parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 69
15 adopted as written and renumbered accordingly.

16 Issue 70. Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue
20 70 adopted as written and renumbered accordingly.

21 Issue 71. Hearing no comment from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue
25 71 adopted as written and renumbered accordingly.

1 Issue 72 has been dropped. Is that the
2 understanding of the parties and staff? Okay.

3 **MS. FLEMING:** That's correct.

4 **COMMISSIONER SKOP:** All right. Thank you.

5 **MR. WRIGHT:** Commissioner?

6 **COMMISSIONER SKOP:** Mr. Wright.

7 **MR. WRIGHT:** Does that mean that what is now
8 73 will become 71?

9 **COMMISSIONER SKOP:** It will. I'll have it
10 renumbered accordingly. That's the catch phrase I've
11 been using, so.

12 **MR. WRIGHT:** Yes, sir. I just wanted to make
13 sure I was keeping up with the renumbering.

14 **COMMISSIONER SKOP:** Okay. And, like I say,
15 I'll look to our dedicated staff to take care of those
16 renumbering issues.

17 So we'd move to Issue 73. Hearing no comments
18 from the parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** All right. Show Issue 73
21 adopted as written and renumbered accordingly.

22 Issue 74. Hearing no comments from the
23 parties, staff?

24 **MS. FLEMING:** No comment.

25 **COMMISSIONER SKOP:** All right. Show Issue 74

1 adopted as written and renumbered accordingly.

2 Issue 75. Hearing no comments from the
3 parties, staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** All right. Show Issue 75
6 adopted as written and renumbered accordingly.

7 Issue 76. Hearing no comments from the
8 parties, staff?

9 **MS. FLEMING:** No comment.

10 **COMMISSIONER SKOP:** All right. Show Issue 76
11 adopted as written and renumbered accordingly.

12 Issue 77. Hearing no comments from the
13 parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** All right. Show Issue 77
16 adopted as written and renumbered accordingly.

17 Issue 78. Hearing no comment from the
18 parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** All right. Show Issue 78
21 adopted as written and renumbered accordingly.

22 That brings us to Issue 79. Hearing no
23 comment from the parties, staff?

24 **MS. FLEMING:** No comment.

25 **COMMISSIONER SKOP:** Very well. Show Issue 79

1 adopted as written and renumbered accordingly.

2 Issue 80. Hearing no comment from the
3 parties, staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** All right. Show Issue
6 80 adopted as written and renumbered accordingly.

7 Issue 81. Hearing no comment from the
8 parties, staff?

9 **MS. FLEMING:** No comment.

10 **COMMISSIONER SKOP:** All right. Show Issue
11 81 adopted as written and renumbered accordingly.

12 Issue 82. Hearing no comment from the
13 parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** All right. Show Issue
16 82 adopted as written and renumbered accordingly.

17 Issue 83. Hearing no comment from the
18 parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** All right. Show Issue 83
21 adopted as written and renumbered accordingly.

22 Issue 84. Hearing no comment from the
23 parties, staff?

24 **MS. FLEMING:** No comment.

25 **COMMISSIONER SKOP:** All right. Show Issue 84

1 adopted as written and renumbered accordingly.

2 That brings us to Issue 85.

3 **MR. MELSON:** Commissioner, we'd like to add
4 Witness Slusser in the parenthetical after our position
5 on this issue.

6 **COMMISSIONER SKOP:** Very well. Any other
7 comments as to Issue 85? Staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 85
10 adopted as written, renumbered accordingly, with the
11 correction to the witness as indicated by PEF.

12 That brings us to Issue 86. Hearing no
13 comments from the parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** All right. Issue 86 is
16 adopted as written, renumbered accordingly.

17 Issue 87. Hearing no comments from the
18 parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** Very well. Show Issue 87
21 adopted as written and renumbered accordingly.

22 Issue 88. Hearing no comments from the
23 parties, staff?

24 **MS. FLEMING:** No comment.

25 **COMMISSIONER SKOP:** Very well. Show Issue 88

1 adopted as written and renumbered accordingly.

2 Issue 89. Hearing no comment from the
3 parties, staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** All right. Hearing no
6 comment from the parties, staff?

7 **MS. FLEMING:** No comment.

8 **MR. REHWINKEL:** Commissioner?

9 **COMMISSIONER SKOP:** Who, who is speaking?

10 **MR. REHWINKEL:** Mr. Rehwinkel.

11 **COMMISSIONER SKOP:** Mr. Rehwinkel.

12 **MR. REHWINKEL:** The Public Counsel's Office
13 traditionally does not take positions on the cost of
14 service and rate design issues. When we talk to staff
15 after and the parties afterwards, I may have some sort
16 of a generic issue to address the separations issue
17 that's back in 4 and 5 that we discussed very early.
18 Although we don't have, we don't generally get involved
19 for conflict reasons in that, for consistency's sake we
20 may take a position just solely related to the filing of
21 the updated forecast.

22 **COMMISSIONER SKOP:** Okay. Very well. Are you
23 speaking to this as to Issue 89?

24 **MR. REHWINKEL:** Well, all of these. If you
25 look at 88, they refer to the May 2009 sales forecast.

1 Any, any issues -- and there were some even in the rate
2 base section that deal with updates to the separations
3 factors. And so what we may need to do is to take some
4 sort of a placeholder umbrella issue that flows through
5 everything rather than cluttering up the order with the
6 same old thing.

7 **COMMISSIONER SKOP:** Okay. Very well. Any
8 other comments as to Issue 89?

9 **MS. KAUFMAN:** Commissioner, FIPUG will be
10 changing its position on Issue 89 as well.

11 **COMMISSIONER SKOP:** Very well. Any other
12 comments on Issue 89 from the parties? Staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right.

15 **MR. MELSON:** Commissioner, could we have an
16 idea of how FIPUG is going to change their position, if
17 they know?

18 **COMMISSIONER SKOP:** Ms. Kaufman.

19 **MS. KAUFMAN:** I haven't -- I don't -- I can't
20 give you the formulation, but it's, it's going to relate
21 to the revised separation study.

22 **MR. MELSON:** Okay.

23 **COMMISSIONER SKOP:** Okay. And that will be
24 submitted by 5:00 p.m. tomorrow; correct? Okay. You'll
25 know by 5:00 p.m. tomorrow.

1 **MR. MELSON:** Thank you, Commissioner.

2 **COMMISSIONER SKOP:** Okay. Any other comments
3 on Issue 89? Staff, no, no comments?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** Okay. Show Issue 89
6 adopted as written and renumbered accordingly, with the,
7 noting the comments made by OPC and the revision to the
8 position statement by FIPUG.

9 That brings us to Issue 90.

10 **MS. VAN DYKE:** The Navy would just like to add
11 for our issue position at the end of it the
12 parenthetical with Mr. Selecky's name.

13 **COMMISSIONER SKOP:** Okay. And that's to Issue
14 90; correct?

15 **MS. VAN DYKE:** Correct.

16 **COMMISSIONER SKOP:** Okay. Any other comments
17 as to Issue 90? Hearing none, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** Okay. Show Issue
20 90 adopted as written, renumbered accordingly, with the
21 change in position to add the witness at the end of the
22 Navy's position statement.

23 Issue 91.

24 **MS. VAN DYKE:** Same thing for the Navy,
25 please, add Mr. Selecky's name.

1 **COMMISSIONER SKOP:** Okay. Very well. Any
2 other comments as to Issue 91? Staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue
5 91 adopted as written, renumbered accordingly, with the
6 noted correction to the Navy's position statement.

7 Issue 92.

8 **MS. VAN DYKE:** The same correction for the
9 Navy here, please.

10 **COMMISSIONER SKOP:** Very well. Any other
11 comments as to Issue 92? Staff?

12 **MS. FLEMING:** No comment.

13 **COMMISSIONER SKOP:** Okay. Show Issue
14 92 adopted as written, renumbered accordingly, with the
15 noted correction to the Navy's position statement.

16 Issue 93. Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 93
20 adopted as written and renumbered accordingly.

21 Issue 94. Hearing no comments from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue 94
25 adopted as written and renumbered accordingly.

1 That brings us to Issue 95. Hearing no
2 comments from the parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue 95
5 adopted as written and renumbered accordingly.

6 Issue 96. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 96
10 adopted as written and renumbered accordingly.

11 Issue 97. Hearing no comment from the
12 parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 97
15 adopted as written and renumbered accordingly.

16 Issue 98. Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 98
20 adopted as written and renumbered accordingly.

21 Issue 99. Hearing no comments from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue 99
25 adopted as written and renumbered accordingly.

1 That brings us to Issue 100. Hearing no
2 comments from the parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue
5 100 adopted as written and renumbered accordingly.

6 Issue 101. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue
10 101 adopted as written and renumbered accordingly.

11 It's my understanding that Issue 102 has been
12 dropped. Is that the understanding of the parties?

13 **MS. FLEMING:** That's correct.

14 **COMMISSIONER SKOP:** All right. Thank you.
15 Let's move to Issue 103. Hearing no comments from the
16 parties, staff?

17 **MS. FLEMING:** No comment.

18 **COMMISSIONER SKOP:** All right. Show Issue 103
19 adopted as written and renumbered accordingly.

20 That brings us to Issue 104. Hearing no
21 comments from the parties, staff?

22 **MS. FLEMING:** No comment.

23 **COMMISSIONER SKOP:** All right. Show Issue 104
24 adopted as written and renumbered accordingly.

25 Issue 105. Okay. Hearing no comments from

1 the parties, staff?

2 **MS. FLEMING:** No comment.

3 **COMMISSIONER SKOP:** All right. Show Issue 105
4 adopted as written and renumbered accordingly.

5 Issue 106. Hearing no comments from the
6 parties, staff?

7 **MS. FLEMING:** No comment.

8 **COMMISSIONER SKOP:** All right. Show Issue 106
9 adopted as written and renumbered accordingly.

10 Issue 107. Hearing no comments from the
11 parties, staff?

12 **MS. FLEMING:** No comment.

13 **COMMISSIONER SKOP:** All right. Show Issue 107
14 adopted as written and renumbered accordingly.

15 Issue 108. Hearing no comments from the
16 parties, staff?

17 **MS. FLEMING:** No comment.

18 **COMMISSIONER SKOP:** All right. Show 108,
19 Issue 108 adopted as written and renumbered accordingly.

20 Issue 109.

21 **MR. MELSON:** Commissioner?

22 **COMMISSIONER SKOP:** Mr. Melson.

23 **MR. MELSON:** Issue 109 and 110 are two
24 objections that Progress objects to their inclusion.
25 They relate to the interruptible credit and whether the

1 interruptible credit should be load factor adjusted.
2 The interruptible credit has been treated as a
3 demand-side management program, and that, the amount of
4 that credit is ordinarily addressed either in a goals
5 docket or in the conservation docket. We don't believe
6 it's an appropriate item to be dealt with in the rate
7 case and should be set in one of those two other
8 dockets.

9 **COMMISSIONER SKOP:** Very well. And, Ms.
10 Kaufman, I guess FIPUG is the proponent of this issue,
11 so if you could please speak to it.

12 **MS. KAUFMAN:** We are. Thank you,
13 Commissioner.

14 Several points on this. Number one, we're in
15 a general rate case here in which all the costs,
16 expenses of the rate case are reviewed. It's perfectly
17 appropriate to review the level of the interruptible
18 credit here and how the company proposes to adjust it.

19 A similar issue to this was included in the
20 Tampa Electric rate case and was included in the
21 Florida, Florida Power & Light case. We have extensive
22 testimony on this issue, and we think it's something
23 that the Commission should hear and consider in this
24 case.

25 **COMMISSIONER SKOP:** Okay. Thank you. Any

1 other comments from the intervening parties?

2 **MR. TAYLOR:** For PCS, we would agree with
3 FIPUG. This is a key issue in the overall rate
4 proceeding and does belong -- or should be addressed
5 here.

6 **COMMISSIONER SKOP:** Thank you. Mr. Melson,
7 rebuttal.

8 **MR. MELSON:** Ms. Kaufman said that, if I
9 understood her, the company was attempting to change the
10 credit. In this case that's not the case. We are
11 proposing to leave the credit as is.

12 The, the way it works for the conservation
13 cost recovery docket is the amount of the credit is
14 recovered essentially from other customers through the
15 clause, and that requires a showing that the
16 demand-side, the DSM program, of which the interruptible
17 credit is a part, is cost-effective. That's not
18 something that the company has addressed in this
19 proceeding, it does not affect the base rates, and we
20 believe, as I said, it's more appropriate to handle
21 either in the goals docket or the DSM, the conservation
22 docket.

23 **COMMISSIONER SKOP:** All right. Thank you.
24 I'd like to hear from Ms. Kaufman briefly.

25 **MS. KAUFMAN:** I was just going to say --

1 **COMMISSIONER SKOP:** Briefly.

2 **MS. KAUFMAN:** Yes. I'm sorry. I was just
3 going to say that I didn't mean to imply that the
4 company was suggesting a change. I don't recall saying
5 that. If I did, that's not what I meant.

6 What I meant to say and what I hope I did say
7 is that this is a component of the company's rates and
8 that it's something that the Commission should look at
9 and review in this case, just as it's looking at it in
10 the, looked at it in TECO and it's looking at it in
11 Florida Power & Light.

12 **COMMISSIONER SKOP:** Okay. Thank you. I'd
13 like to hear briefly from our staff as to their
14 recommendation based upon the discussion, specifically
15 in light of the reference to other cases and how that
16 may impact those if they were common issues.

17 **MS. FLEMING:** If I can have a moment to confer
18 with staff with respect to the other dockets.

19 **COMMISSIONER SKOP:** You may.

20 (Pause.)

21 Ms. Fleming.

22 **MS. FLEMING:** Commissioner, it's my
23 understanding that with respect to these issues in the
24 FPL and TECO cases, there really is no distinction in
25 this proceeding. However, staff still maintains the

1 position here as it does in the FPL rate case that this
2 is a load management program. The credits are usually
3 addressed during a DSM proceeding, and those credits are
4 recovered through an ECCR factor. It's not appropriate
5 to modify the credit for one load management program in
6 isolation without adequate review of the
7 cost-effectiveness of those programs.

8 Staff doesn't believe it has the necessary
9 information in this proceeding. However, those were
10 issues that remained in the FPL and the TECO rate case
11 proceeding, but staff's position will still remain that
12 it's not an appropriate issue in this docket.

13 **COMMISSIONER SKOP:** All right. So staff's
14 recommendation should be that this issue should not be
15 included?

16 **MS. FLEMING:** That's correct.

17 **MS. KAUFMAN:** Commissioner, Commissioner Skop,
18 could I just be heard for one moment before you rule?

19 **COMMISSIONER SKOP:** Ms. Kaufman, you're
20 recognized.

21 **MS. KAUFMAN:** And I would simply say that I
22 believe that Ms. Fleming has appropriately stated the
23 way the issues are framed in the other proceedings. And
24 what she has provided to you I think is her position on
25 it, as Mr. Melson has provided you with his position.

1 And I think it would be appropriate to leave the issue
2 in and the parties will take whatever position they deem
3 appropriate. That's how it was handled in the other two
4 rate cases.

5 **COMMISSIONER SKOP:** All right. Ms. Fleming
6 to, to that point specifically.

7 **MS. FLEMING:** I think Ms. Kaufman is correct.
8 We still believe that this, these two issues are not
9 appropriate for this proceeding. However, if the issues
10 were to remain, staff's position would be that it is not
11 appropriate to determine a load management or
12 interruptible credit within this proceeding.

13 **COMMISSIONER SKOP:** Okay. And with respect to
14 Ms. Kaufman's assertion that the issues are included in
15 the other proceedings, are they, are they in fact
16 included?

17 **MS. FLEMING:** It is my understanding that
18 these issues are included in the FPL rate case
19 proceeding.

20 **COMMISSIONER SKOP:** Okay. All right. Very
21 well. I think I'm going to defer ruling on Issue 109
22 until the end of the proceeding.

23 That brings us to Issue 110. And, Ms.
24 Kaufman, you're the proponent of that issue. Could you
25 briefly speak to it? I'm sure it'll be probably the

1 same argument.

2 **MS. KAUFMAN:** It is, Commissioner. You know,
3 it's part and parcel of how the interruptible credit is
4 dealt with and it is essentially the same argument. We
5 have testimony filed on it and it's being considered in
6 the other rate cases, specifically the load adjustment
7 proposal.

8 **COMMISSIONER SKOP:** All right. Very well.
9 Mr. Melson.

10 **MR. MELSON:** Same response on 109 and 110.

11 **COMMISSIONER SKOP:** All right. To staff, same
12 recommendation?

13 **MS. FLEMING:** Same recommendation, yes.

14 **COMMISSIONER SKOP:** Okay. Based on the
15 discussion I'm going to take that issue under advisement
16 also. I'll rule at the end of this proceeding.

17 That takes us to Issue 111.

18 **MS. VAN DYKE:** The Navy would just like to add
19 Mr. Selecky's name to our issue response.

20 **COMMISSIONER SKOP:** Very well. Any other
21 comments as to Issue 111? Hearing none, staff?

22 **MS. FLEMING:** No comments.

23 **COMMISSIONER SKOP:** All right. Show Issue
24 111 adopted as written and renumbered accordingly.

25 That brings us to Issue 112.

1 **MS. VAN DYKE:** Once again if we could add
2 Mr. Selecky's name.

3 **COMMISSIONER SKOP:** Very well. Any other
4 comments as to Issue 112?

5 Hearing none from the parties, staff?

6 **MS. FLEMING:** No comment.

7 **COMMISSIONER SKOP:** All right. Show Issue 112
8 adopted as written and renumbered accordingly, with the
9 correction not only to Issue 111 but 112 as to the
10 Navy's comment.

11 Issue 113. Hearing no comments from the
12 parties, staff?

13 **MS. FLEMING:** No comment.

14 **COMMISSIONER SKOP:** All right. Show Issue 113
15 adopted as written and renumbered accordingly.

16 Issue 114. Hearing no comments from the
17 parties, staff?

18 **MS. FLEMING:** No comment.

19 **COMMISSIONER SKOP:** All right. Show Issue 114
20 adopted as written and renumbered accordingly.

21 Issue 115. Hearing no comments from the
22 parties, staff?

23 **MS. FLEMING:** No comment.

24 **COMMISSIONER SKOP:** All right. Show Issue 115
25 adopted as written and renumbered accordingly.

1 That brings us to Issue 116. Hearing no
2 comments from the parties, staff?

3 **MS. FLEMING:** No comment.

4 **COMMISSIONER SKOP:** All right. Show Issue 116
5 adopted as written and renumbered accordingly.

6 Issue 117. Hearing no comments from the
7 parties, staff?

8 **MS. FLEMING:** No comment.

9 **COMMISSIONER SKOP:** All right. Show Issue 117
10 adopted as written and renumbered accordingly.

11 That brings us to Issue 118.

12 **MR. MELSON:** Commissioner Skop.

13 **COMMISSIONER SKOP:** Mr. Melson, you're
14 recognized.

15 **MR. MELSON:** Issue 118 is another issue that
16 Progress objects to. You may remember Progress filed a
17 separate petition to deal with the creation of a pension
18 fund regulatory asset. The Commission issued a proposed
19 agency action order allowing the creation of that asset
20 and setting out the guidelines for how the asset was to
21 be treated.

22 There was a protest to that order, but the
23 protest raised essentially the three issues that follow,
24 119, 120 and 121, which were issues as to whether it
25 constituted retroactive ratemaking, whether it was

1 inconsistent with the stipulation and so forth. There
2 was no protest to the portion of the order that
3 established the guidelines for the treatment of the
4 regulatory asset if it's allowed. Under Section
5 120.80(13), *Florida Statutes*, and your Rule
6 25-22.029(3), *Florida Administrative Code*, when an order
7 is protested, issues that are not raised in the protest
8 are waived and deemed stipulated. So we don't believe
9 at this point there is any appropriate live issue
10 regarding the, the guidelines for the handling of that
11 asset.

12 **COMMISSIONER SKOP:** Okay. Very well.

13 Ms. Kaufman, this is a FIPUG issue. If you --

14 **MS. KAUFMAN:** It is, Commissioner. Thank you.

15 As Mr. Melson pointed out, there were three issues that
16 were raised in the protest, and those issues are all
17 tied up with the pension asset and how it's going to be
18 treated on a going-forward basis. We think that the
19 treatment of that asset, if it is ultimately approved,
20 is part and parcel of the protest and that this is an
21 appropriate issue for the Commission to look at once it
22 makes a final determination one way or the other. Of
23 course if it doesn't allow it, you wouldn't need to
24 reach that issue. But if you do, it's part and parcel
25 of what the Intervenors have protested in their, in

1 their protest that we filed in this matter.

2 **COMMISSIONER SKOP:** Very well. I'd like to
3 hear from staff.

4 **MS. FLEMING:** Commissioner, Mr. Melson is
5 correct, there was a PAA order that was issued with
6 respect to this pension issue. But that order was
7 protested but only three specific issues were raised
8 with respect to that protest.

9 And pursuant to the statute that Mr., Progress
10 had raised, 120.80(13), it states that it may only
11 address -- excuse me. I'll read it. And it's (b), it
12 says, "A hearing and an objection to a proposed agency
13 action of the Florida Public Service Commission may only
14 address the issues in dispute. Issues in the proposed
15 agency action which are not in dispute are deemed
16 stipulated."

17 So I'm having trouble understanding -- in that
18 same order the Commission set forth conditions if there
19 was, if the utility was allowed to set forth a
20 regulatory asset with respect to this pension. What --
21 if Ms. Kaufman is stating that those are still going to
22 be at issue, that portion of the order, the conditions,
23 were not protested as part of the protest. Thus, staff
24 believes that the only issues in dispute are the three
25 issues raised in the protest. Those conditions would

1 still remain. And whatever the Commission ultimately
2 decides in Issues 119, 120 and 121, the conditions would
3 still remain in place.

4 **COMMISSIONER SKOP:** Thank you.

5 Ms. Kaufman, a brief response as to the issue
6 preclusion associated with not identifying the issues
7 that are previously in dispute, whereas the guidelines
8 were not specifically disputed.

9 **MS. KAUFMAN:** Thank you, Commissioner.

10 My position is that each one of these issues
11 talks about creating regulatory asset and deferring that
12 asset. Part and parcel of that is how is the asset
13 treated? We think that our issue in regard to what
14 should be done with the asset is clearly encompassed by
15 the three issues that were protested.

16 **COMMISSIONER SKOP:** Okay. Very well. After
17 hearing from the parties and staff recommendation, my
18 holding is to exclude this issue from the list of issues
19 in the proceeding. Should, Ms. Kaufman, you have
20 reservation with that, certainly you can bring a motion
21 for reconsideration as a preliminary matter at the
22 proceeding.

23 But, again, at least looking at what's been
24 alleged, that the specific issue was not previously
25 identified as being in dispute in the protest to the

1 prior order, and is deemed stipulated.

2 Let's move to Issue 119. Hearing no comment
3 from the parties, staff?

4 **MS. FLEMING:** No comment.

5 **COMMISSIONER SKOP:** All right. Show Issue 119
6 adopted as written and renumbered accordingly.

7 Issue 120. Hearing no comment from the
8 parties, staff?

9 **MS. FLEMING:** No comment.

10 **COMMISSIONER SKOP:** All right. Show Issue 120
11 adopted as written and renumbered accordingly.

12 That brings us to Issue 121. Hearing no
13 comment from the parties, staff?

14 **MS. FLEMING:** No comment.

15 **COMMISSIONER SKOP:** All right. Show Issue
16 121 adopted as written and renumbered accordingly.

17 That brings us to Issue 122. Hearing no
18 comment from the parties, staff?

19 **MS. FLEMING:** No comment.

20 **COMMISSIONER SKOP:** All right. Show Issue 122
21 adopted as written, renumbered accordingly.

22 And at this point I'd like to take a brief
23 recess to confer with staff as to the remaining issues
24 that I've not yet ruled upon, and we'll move on from
25 there upon that ruling. So I'd like to take a brief

1 ten-minute recess. Thank you.

2 (Recess taken.)

3 Okay. We're going to go back on the record.

4 I want to address one issue. It seems I may have
5 misspoke. I guess it's the engineer in me that tends to
6 want to reorder things in a logical fashion. But I
7 recognize that renumbering issues may cause the parties
8 angst, as well as my staff. So, again, I don't want to
9 lead the horse off the cliff. So I think perhaps the
10 more prudent course of action would be to leave the
11 issues numbered as they exist today. If the issues were
12 deleted or dropped, they will be so noted. The only
13 issues that will be renumbered will be the order of
14 Issues 110, 111 and 112 respectively. They'll be
15 inverted as we discussed without getting into the whole
16 narrative. And I think that'll make things a lot easier
17 for the parties, a lot easier for my staff.

18 **MS. FLEMING:** And just to clarify,
19 Commissioner. They're Issues 10, 11 and 12.

20 **COMMISSIONER SKOP:** Sorry. Issues 10, 11 and
21 12. So just for the record Issue 11 will be 10, Issue
22 12 will be 11 and Issue 10 will become 12, and that'll
23 be the only change in renumbering. That should make it
24 orderly for the parties when they're preparing their
25 statements so they don't have to change the world and as

1 well as my staff. And I guess it's just the engineer in
2 me that likes order in the universe to make things flow.
3 But in retrospect, that probably wasn't the best way to
4 go about it. So even I make mistakes.

5 All right. Let's get back to the issues that
6 I've not yet ruled upon. Issue 1 with respect to the
7 AG's request, my holding on that issue is to exclude it
8 from the list of issues in this proceeding. I'll give a
9 brief explanation, a two-fold explanation.

10 First, the issue as currently written does not
11 cite the legal standard. It -- so that's, that's an
12 issue in itself. Secondly, the issue as it is framed in
13 terms of being at the beginning of the proceeding seems
14 to lend itself perhaps better towards being a conclusory
15 statement after all the issues have been identified. So
16 based on the above and the discussion that was held, I'm
17 going to exclude that issue. But I would hold open --
18 Ms. Bradley, if you wish, feel strongly about it and
19 wish it to be reconsidered, certainly that's your right
20 as a preliminary matter in the proceeding.

21 **MS. BRADLEY:** I would be happy to go back and
22 recheck the statute and reword it to appropriately
23 reflect that, if that would be an alternative to that.

24 **COMMISSIONER SKOP:** No. I appreciate that. I
25 just think that in terms of the proceeding itself, it's

1 almost drawing a conclusion before any of the issues
2 have been heard and answered in the affirmative or
3 negative. So that's, that's my concern.

4 **MS. BRADLEY:** We would have no objection to
5 moving it to the last one.

6 **COMMISSIONER SKOP:** Okay. Well, I guess based
7 on the above and based on the thing, I'm, you know, it's
8 a good argument. I'm going to exclude it from the list
9 of issue. I do think that the statute encompasses the
10 Commission to consider each of those with respect to
11 every issue. But if you feel strongly about it, again,
12 the proper procedural method would be I guess motion for
13 reconsideration as a preliminary matter, which, you
14 know, you have my full leave to do should you desire to
15 do so.

16 **MS. BRADLEY:** Thank you.

17 **COMMISSIONER SKOP:** All right. As to Issues
18 109 and 110, both of those issues will come in. So
19 Issue 109 will be incorporated as written and Issue
20 110 will be incorporated as written. And that's to
21 provide, not only based upon the discussion, but
22 consistency in similarly situated matters before the
23 Commission.

24 So that brings us --

25 **MR. MELSON:** Commissioner Skop.

1 **COMMISSIONER SKOP:** Mr. Melson, you're
2 recognized.

3 **MR. MELSON:** On Issue 109 and 110 then I would
4 ask that the objection that's in, shown in regular type
5 simply be taken out and the italics changed to our
6 regular type and that would be our position on the
7 issues.

8 **COMMISSIONER SKOP:** All right. Very well.
9 Show that done, staff, for Issue 109 and 110. Any other
10 matters on the, on the ruling or concerns?

11 Okay. All right. That takes care of all the
12 issues as proposed.

13 Let's move on to Section IX, exhibits list.

14 **MS. FLEMING:** Staff would note that in the
15 Draft Prehearing Order on Page 107 we did not include
16 the description for Peter Toomey's exhibits for the
17 Bartow proceeding. We intend to include those in the
18 final Prehearing Order.

19 **COMMISSIONER SKOP:** Okay.

20 **MS. FLEMING:** We would also note for the
21 record that staff is in the process of preparing a
22 Comprehensive Exhibit List consisting of the prefiled
23 exhibits for purposes of numbering and identifying the
24 exhibits at hearing, and we'll provide that exhibit list
25 to the parties as soon as possible.

1 In addition, based on discussions at the Issue
2 ID on August 20th, I believe, the Intervenors had
3 suggested that if staff could start providing those
4 exhibits that staff would like to include in its
5 stipulated composite exhibit, that they do so so that
6 they would have ample time to review those. Staff
7 provided a list of exhibits consisting of certain
8 discovery responses about three, three and a half weeks
9 ago to the parties in an effort to streamline the
10 hearing process. It's my understanding some of the
11 Intervenors have been able to look at some of the items,
12 but it's, it's time consuming. So we intend to meet
13 with the parties after this prehearing conference to
14 discuss what exhibits of staff's exhibits, if any, can
15 be stipulated.

16 **COMMISSIONER SKOP:** All right. Very well.
17 And with respect to that comment, I would encourage the
18 parties to work together in good faith to stipulate when
19 they're able to do so. And if we could expedite that
20 process, I think it would be tremendously helpful to our
21 staff that's been working hard on these issues. So I'd
22 continue to ask the parties to be fully cooperative and
23 see where there's common ground to be had.

24 **MR. MELSON:** Commissioner Skop, Progress has
25 got one addition to the witness list. I can either give

1 that to the staff offline or I can give it to you now.

2 **COMMISSIONER SKOP:** Okay. If you could state
3 it now for the record.

4 **MR. MELSON:** Okay. On Page 114 between Will
5 Garrett WG-6 and Thomas R. Sullivan, we should insert
6 Michael J. Vilbert proffered by PEF. The designation is
7 Appendix A, and the description is qualifications of
8 Michael J. Vilbert.

9 **COMMISSIONER SKOP:** Very well. Show that
10 done.

11 Okay. Any other concerns with respect to
12 Section IX on the exhibits list? Hearing none, we'd
13 move to Section X, proposed stipulations. And staff?

14 **MS. FLEMING:** Progress has circulated a list
15 of issues that may potentially be stipulated. We have
16 not heard from any of the parties regarding those
17 stipulations. But it's my understanding that the
18 parties, Progress and staff do plan to meet after this
19 prehearing conference to discuss the list of
20 stipulations.

21 **COMMISSIONER SKOP:** Okay. Very well. And to
22 my prior comment again, I'd encourage the parties to
23 find common ground where they're able to do so and
24 stipulate issues and/or witnesses where they're able to
25 reach that agreement and work with our staff to achieve

1 that endeavor.

2 Any other concerns as to Section X? Okay.
3 Hearing none, we're going to move to Section XI, pending
4 motions. Staff?

5 **MS. FLEMING:** I would like to note there is
6 one additional pending motion that's not identified
7 here. There is a petition to intervene filed by several
8 employees of Progress. That order will be forthcoming
9 and should be issued sometime prior to the hearing.

10 **COMMISSIONER SKOP:** Very well. And I
11 believe -- is there another -- I think Ms. Bradley
12 mentioned a pending motion in limine. If you'd like to
13 speak briefly to that.

14 **MS. BRADLEY:** Thank you. It's similar to the
15 one that we filed in the Florida Power & Light case,
16 which I know y'all are familiar with. But essentially
17 we're just asking that if there are any late-filed
18 exhibits, that a procedure be established that would
19 allow us an opportunity to review any late-filed
20 documents before they are admitted so that we can
21 object, if necessary, and so that we can cross-examine.
22 Hopefully that can be done before the end of the
23 hearing. If not, we would ask for some procedure to be
24 set up so that we are allowed to review it and, if
25 necessary, cross-examine the person preparing it so that

1 the record is clear and we have an opportunity to defend
2 those late-filed exhibits.

3 **COMMISSIONER SKOP:** Okay. Very well. And
4 with respect to that specific motion, probably I am
5 going to, in deference to the importance of that,
6 probably defer that to the entire Commission as a
7 preliminary matter for consideration at the beginning of
8 the hearing. And I think that that's the appropriate
9 thing to do. Should I change my mind, I'll let you
10 know.

11 **MS. BRADLEY:** Okay.

12 **COMMISSIONER SKOP:** But that's my gut feeling
13 as it stands now on that particular motion.

14 **MS. BRADLEY:** Thank you.

15 **COMMISSIONER SKOP:** Any other motions, staff?

16 **MR. MELSON:** Commissioner Skop, should you
17 change your mind, we'd like a brief opportunity to
18 respond.

19 **COMMISSIONER SKOP:** Yes. Okay. Will do. But
20 I think that my -- well, you can respond now, should you
21 wish to. But, again, my inclination is to defer that as
22 a preliminary matter for the entire Commission.

23 **MR. MELSON:** And, Commissioner, we basically
24 agree with that approach. We think it's premature and
25 in fact may even be premature at the outset of the

1 hearing. We believe it's something that's probably best
2 dealt with an on exhibit-by-exhibit basis if and when
3 there's a request and an objection.

4 **COMMISSIONER SKOP:** Okay. Very well.

5 Any other pending motions, staff?

6 **MS. FLEMING:** I'm not aware of any other
7 pending motions.

8 **COMMISSIONER SKOP:** All right. Very well.
9 Let's move to Section XII, pending confidentiality
10 motions.

11 **MR. MELSON:** Commissioner Skop, I can get
12 offline with staff. I believe there are three temporary
13 protective order motions that may not be listed.

14 **COMMISSIONER SKOP:** Okay. Very well. Any
15 other motions that staff is aware of as it pertains to
16 confidentiality?

17 **MS. FLEMING:** I would just note that there are
18 several requests for confidential classification. All
19 those will be addressed by separate order.

20 With respect to the three temporary protective
21 orders that Mr. Melson was referring to, we have
22 outstanding orders on those and those will be issued
23 probably this week.

24 **COMMISSIONER SKOP:** Very well. As soon as I
25 have an opportunity to rule on those matters, I will. I

1 suspect they'll be consistent with past rulings of the
2 Commission.

3 **MR. MELSON:** Commissioner Skop?

4 **COMMISSIONER SKOP:** Mr. Melson.

5 **MR. MELSON:** There is one of the new requests
6 for confidential classification, and I guess it's Item
7 10 on the list which deals with the updated compensation
8 information. We were hoping that among this list -- if
9 that one could be ruled on earlier rather than later. I
10 anticipate there's going to be seeking judicial review
11 of the full Commission order, and this is another order
12 that probably ought to travel with that one, if it were
13 possible to have it issued.

14 **COMMISSIONER SKOP:** Very well. As soon as I'm
15 able to take a look at it through staff providing it,
16 I'm happy to rule upon that motion.

17 Okay. Any other issues as it pertains to
18 Section XIII? Excuse me. Section XII. I'm getting
19 ahead of myself.

20 Okay. Hearing none, let's move to Section
21 XIII, posthearing procedures. And we need to probably
22 address the posthearing positions and posthearing
23 briefs. I'd like to hear from the parties as to what
24 they might like to see before I make a ruling, and also
25 hear from our staff.

1 Mr. Melson.

2 **MR. MELSON:** Commissioner, Progress would
3 suggest 75 words for position statements. And we would
4 request 150 pages for the brief, although we would
5 endeavor not to use that much.

6 **COMMISSIONER SKOP:** Very well.

7 Ms. Bradley.

8 **MS. BRADLEY:** I would appreciate it if we
9 could do something like we did in the other case that
10 would allow us the option of having a few more words on
11 a couple of issues because, since some of these have
12 been disallowed and we're going to have to try to
13 squeeze them into other issues, I would appreciate some
14 additional words on at least a couple.

15 **COMMISSIONER SKOP:** Okay. All right. very
16 well.

17 Mr. Wright.

18 **MR. WRIGHT:** Thank you, Commissioner. I agree
19 with, with both Mr. Melson and Ms. Bradley. I think 75
20 words as a general rule is appropriate. 150 pages for
21 briefing is appropriate. And I believe in the FPL case
22 we were granted up to ten issues on which we could have
23 position statements up to 150 words.

24 And the only other thing I wanted to mention,
25 I'm sorry I can't find the issue right now, but one of

1 the, the big depreciation issue has a whole lot of
2 subparts to it, I think -- or maybe not. Maybe that's
3 OPC's position. There -- well, I'm looking for some
4 extra, for some extra words on the depreciation issues.

5 **COMMISSIONER SKOP:** Okay. All right. I'll
6 take that under advisement.

7 **MR. WRIGHT:** Thank you.

8 **COMMISSIONER SKOP:** How would, just briefly,
9 would you respond to the fact that there are
10 significantly less number of issues in this proceeding
11 than in the one that you drew a comparison to?

12 **MR. WRIGHT:** My response might be that that
13 might affect the number of pages. But since Mr. Melson
14 has proposed 150 pages, I had been thinking 150 pages as
15 well.

16 **COMMISSIONER SKOP:** All right. Very well.

17 Mr. Rehwinkel.

18 **MR. REHWINKEL:** I probably don't have a whole
19 lot to add to this other than to hope that I don't need
20 150 pages. But I, I'm not briefing all the issues too
21 because there are a significant number that we're not
22 taking a position on.

23 I would concur with Mr. Wright that, and
24 Ms. Bradley that there may be a couple of issues in the
25 depreciation area where the positions may need to exceed

1 the limit. But I would be willing to accept a very
2 limited number of exceptions there, if that would be
3 your will. Thank you.

4 **COMMISSIONER SKOP:** All right. very well.

5 Ms. Van Dike.

6 **MS. VAN DYKE:** We take no particular position.

7 **COMMISSIONER SKOP:** Very well.

8 Mr. Taylor.

9 **MR. TAYLOR:** I have nothing further.

10 **COMMISSIONER SKOP:** All right. Ms. Kaufman.

11 **MS. KAUFMAN:** Commissioner Skop, FIPUG can
12 generally support Mr. Melson's position. And we would
13 also support Ms. Bradley and the others who have spoken
14 that it may be appropriate on some issues to give us a
15 little more leeway.

16 **COMMISSIONER SKOP:** Well very.

17 Ms. Alexander.

18 **MS. ALEXANDER:** We'd be happy to just defer to
19 whatever the Commission decides is the best.

20 **COMMISSIONER SKOP:** Very well.

21 Staff, recommendations?

22 **MS. FLEMING:** I am aware that in the FPL rate
23 case there were, the parties were allowed up to ten
24 issues where their position statements could, I think,
25 be no more than 150 words. And it seems like that's

1 something that the parties are suggesting here, and it
2 may be appropriate in this proceeding as well. 75 words
3 is appropriate; however, I think 150 pages is a bit much
4 considering the number of issues. And hearing from the
5 parties, they don't seem to think that they'll need 150
6 pages, so I would suggest maybe a lower number.

7 **COMMISSIONER SKOP:** All right. Very well.
8 All right. Based upon what I've heard, and I'm in a
9 generous mood today, but I don't want to have people get
10 too wordy, so here's, here's what I propose.

11 With respect to the issues, the standard rule
12 is going to be 80 words. I'll give the parties leave on
13 ten respective issues, up to ten issues to go up to 150
14 words, but only those ten issues that they deem
15 appropriate. Total pages will be 140 pages. And show
16 that done. And any additional concerns with respect to
17 that ruling? Okay. Hearing none, I assume that the
18 parties feel it's fair, and staff could just please
19 incorporate that into the Prehearing Order.

20 Okay. Any other issues under Section XIII
21 for, for posthearing procedures?

22 Mr. Wright.

23 **MR. WRIGHT:** Commissioner, I have spoken with
24 Mr. Melson and with staff and at least with a couple of
25 the other parties. This is really in the nature of an

1 ore tenus motion for a modification of the procedural
2 order, and particularly the controlling date for the
3 filing of briefs. As all of us know all too well, this
4 is an extremely busy time for the Commission and for
5 pretty much all of us. I would ask for you to consider,
6 and I understand staff wants to consider it and that's
7 fine, but I would ask that you consider a motion to
8 extend the due date for briefs from Friday,
9 October 16th, to Monday, October 19th.

10 **COMMISSIONER SKOP:** Can you please repeat
11 that?

12 **MR. WRIGHT:** Certainly. The motion is to
13 extend the date for briefs from its present due date of
14 Friday, October 16, to Monday, October 19, close of
15 business, 5:00.

16 **COMMISSIONER SKOP:** All right. Very well.
17 Staff, with respect to the request, is that something
18 that can be reasonably accommodated by staff or would
19 that present a substantial hardship?

20 **MS. FLEMING:** Commissioner, I'm not prepared
21 to address that at this time. I have spoken to Mr.
22 Wright. I told him that I would confer with staff and
23 see how that extension would impact the posthearing
24 proceeding and the posthearing rec process. As soon as
25 I'm able to speak with the appropriate staff, then we

1 can convey that information to you and maybe take that
2 under advisement.

3 **COMMISSIONER SKOP:** Okay. Is that something
4 that needs to be decided in the proceeding before us
5 today or can that be just a ruling made after you
6 confer?

7 **MS. FLEMING:** It does not need to be decided
8 in the proceeding today. And, of course, these dates
9 that Mr. Wright has set forth is subject to change, and
10 this is just assuming that this hearing would actually
11 conclude on October 2nd.

12 **COMMISSIONER SKOP:** All right. Very well.
13 I'll take that under advisement as a reasonable request.
14 If it can be accommodated by our staff without undue
15 hardship, again we'll consider it to the best of our
16 ability.

17 **MR. WRIGHT:** Thank you, Commissioner. And my
18 thanks to the staff also. Thanks.

19 **COMMISSIONER SKOP:** All right. Any other
20 issues with respect to Section XIII?

21 **MR. MELSON:** Commissioner Skop, I've got --

22 **COMMISSIONER SKOP:** Mr. Melson.

23 **MR. MELSON:** I'm not sure that's where they
24 fit, but I've got two more issues. The order --

25 **COMMISSIONER SKOP:** We were doing good here.

1 Now --

2 **MR. MELSON:** The order that consolidated the
3 pension accounting docket into this one indicated that
4 the case was being consolidated for purposes of hearing.
5 I just wanted to clarify and make sure my understanding
6 is correct that that would include the briefing and so
7 forth. We're expected to brief those three pension
8 accounting issues in this case; is that correct?

9 **COMMISSIONER SKOP:** I'll look to staff.

10 **MS. FLEMING:** That is correct. The issues are
11 identified I think as 119, 120 and 121. So those would
12 be encompassed as part of the posthearing brief.

13 **MR. MELSON:** Okay. And, second, maybe I'm
14 getting ahead of myself, but did you want to address
15 time limits for opening statements?

16 **COMMISSIONER SKOP:** We're going to do that in
17 the next section.

18 **MR. MELSON:** Well, I will keep quiet.

19 **COMMISSIONER SKOP:** All right. Okay. So no
20 other questions, concerns as to Section XIII?

21 All right. Very well. We're going to move to
22 Section XIV, rulings. And one of the first orders of
23 business on that is we need to set the time limits for
24 opening statements. And so I'll look to the parties as
25 to what they might like to propose and we'll take it

1 from there.

2 **MR. MELSON:** Progress has not talked with the
3 other parties. What we would propose is a 20-minute
4 opening statement for Progress, 20 minutes for OPC, and
5 something like ten minutes apiece for the remaining
6 parties.

7 **COMMISSIONER SKOP:** Okay. Ms. Bradley.

8 **MS. BRADLEY:** I would certainly appreciate ten
9 minutes.

10 **COMMISSIONER SKOP:** All right. Mr. Wright.

11 **MR. WRIGHT:** Commissioner Skop, that's
12 agreeable to the Retail Federation. Thank you.

13 **COMMISSIONER SKOP:** All right. Thank you.
14 Mr. Rehwinkel.

15 **MR. REHWINKEL:** Commissioner, that's
16 appropriate. I believe we probably could do it in less
17 than 20, but I appreciate that time.

18 **COMMISSIONER SKOP:** All right. Very well.
19 Ms. Van Dyke.

20 **MS. VAN DYKE:** We do not need more than ten
21 minutes and most likely will take less.

22 **COMMISSIONER SKOP:** Okay. That's always a
23 positive.

24 Mr. Taylor.

25 **MR. TAYLOR:** Ten minutes is fine for PCS.

1 **COMMISSIONER SKOP:** All right. Ms. Kaufman.

2 **MS. KAUFMAN:** We're agreeable to that,
3 Mr. Commissioner.

4 **COMMISSIONER SKOP:** All right. Thank you.
5 Ms. Alexander.

6 **MS. ALEXANDER:** We'll also likely take less
7 than our ten minutes. Thank you.

8 **COMMISSIONER SKOP:** Okay. All right. Let me
9 do some quick math on this because you may have read my
10 mind, but I need to make sure that if I count properly,
11 absent OPC, we have one, two, three, four, five, six
12 intervenors. Is that correct? Okay. And, Mr. Melson,
13 you said that you needed 20 minutes?

14 **MR. MELSON:** Yes, sir. We'd like that,
15 please.

16 **COMMISSIONER SKOP:** Do you feel, based upon
17 the discussion that you've heard, that it would be
18 prejudicial to give you 20 minutes and give OPC 20
19 minutes and ten or less for each of the other
20 Intervenor?

21 **MR. MELSON:** I'm sorry. I didn't understand
22 the question.

23 **COMMISSIONER SKOP:** You've requested 20
24 minutes.

25 **MR. MELSON:** Yes, sir.

1 **COMMISSIONER SKOP:** And some of the other
2 Intervenors have proposed that in addition to you
3 getting 20 minutes, that OPC gets 20 minutes, and then
4 the rest of the Intervenors get ten minutes. Do you
5 feel that's appropriate.

6 **MR. MELSON:** Yes, sir. That's fine with us.

7 **COMMISSIONER SKOP:** Okay. All right. So show
8 that done. What we'll do is that opening statements
9 will be limited to Progress to 20 minutes, OPC will have
10 20 minutes, and the remaining Intervenors will have ten
11 minutes each. And I think if I do that correctly,
12 you'll have 20 minutes total for Progress and a total of
13 80 minutes for the other parties. But they will be not
14 shared, they'll be 20 minutes for OPC, ten minutes
15 individually for the remaining Intervenors. All right.
16 Show that done.

17 Any other -- and it would be appreciated, I
18 know my Chairman would love me for mentioning this, but
19 again if we can keep it brief and keep it short, that's
20 always a good thing to do because we do have a lengthy
21 proceeding to litigate on the merits and we don't want
22 to run behind schedule needlessly. So I'd call upon the
23 parties to keep it tight, make a compelling opening
24 statement and turn it over to the next person.

25 Okay. Any other comments on Section XIV?

1 Okay. All right. So that takes care of the
2 preliminary Prehearing Order. Are there any other
3 matters that need to be addressed at the prehearing
4 conference? I'll look to staff and then go to the
5 parties.

6 **MS. FLEMING:** Staff would just remind the
7 parties that any changes in positions, if they could
8 provide those to staff by close of business tomorrow.
9 And also just to remind the parties that we intend to
10 meet as soon as this prehearing conference concludes to
11 discuss any stipulations of witnesses, issues or
12 exhibits.

13 **COMMISSIONER SKOP:** Okay. Very well. Any
14 other matters that the parties need to bring to my
15 attention?

16 **MS. VAN DYKE:** I just wanted to make certain
17 that we don't need to be here on Monday; is that
18 correct? Tuesday will be the first day, as we had
19 discussed, or has that changed?

20 **MS. FLEMING:** Monday the 21st?

21 **MS. VAN DYKE:** Correct.

22 **MS. FLEMING:** No. The hearing starts on
23 Monday, September 21st. There is a service hearing
24 portion, if there are any customers here to address the
25 Commission, but the parties should be here Monday

1 morning on September 21st.

2 **MS. VAN DYKE:** Oh, okay. Because we had had a
3 phone conversation with all the parties earlier where I
4 had asked does that mean that we don't need to be here
5 until Tuesday, and I was told that, yes, that is the
6 case, that Monday is going to be all public comment and
7 the parties don't have to be here until Tuesday. But
8 that's changed?

9 **COMMISSIONER SKOP:** Let me, let me chime in
10 here just, Ms. Van Dyke, just so you know our process.
11 Typically when we do have a rate case or a major
12 proceeding and there is a customer hearing scheduled at
13 the, at the front end of the hearing, that that
14 basically is conducted. And should that not require a
15 full day, then we'll immediately go into the hearing
16 posture.

17 **MS. VAN DYKE:** Okay.

18 **COMMISSIONER SKOP:** So my understanding would
19 be that the parties would need to be here ready to try
20 the case as of that Monday.

21 **MS. VAN DYKE:** Okay.

22 **COMMISSIONER SKOP:** Again, if there are a lot
23 of customers, again, it may be very late in the day or
24 not at all that we get into the actual case for opening
25 statements. But, you know, depending upon turnout, that

1 could happen by noon time or earlier. So it just
2 depends. So you need to be ready to go on Monday with
3 your opening statement.

4 **MS. VAN DYKE:** Thank you.

5 **COMMISSIONER SKOP:** Okay. Staff, any other
6 concerns?

7 **MS. FLEMING:** We have no other issues.

8 **COMMISSIONER SKOP:** Okay. Any remaining
9 concerns from the parties? Okay. Hearing none, again,
10 I commend the parties on their, on their willingness to
11 work together. It seems like we've made a lot of good
12 progress. And with that, the meeting is adjourned.

13 (Prehearing Conference adjourned at 11:21
14 a.m.)

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STATE OF FLORIDA)
 :
COUNTY OF LEON)

CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, CRR, 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 15th day of September, 2009.

Linda Boles
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