

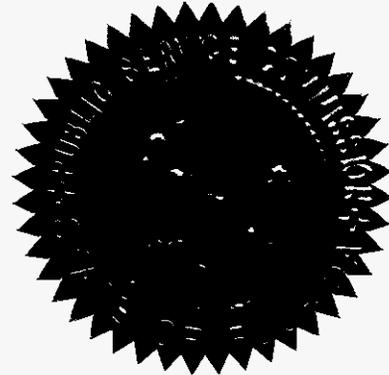
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 090001-EI

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

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PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER
PARTICIPATING: COMMISSIONER NATHAN A. SKOP
PREHEARING OFFICER

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

TIME: Commenced at 9:30 a.m.

DATE: Tuesday, October 20, 2009

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

DOCUMENT NUMBER - DATE

10835 OCT 26 09

FPSC - COMMISSION CLERK

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P R O C E E D I N G S

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2 **COMMISSIONER SKOP:** Okay. We are going to go
3 back on record and pick back up with the 01 docket. And
4 we have already read the notice for this docket and
5 taken appearances, so we will proceed with preliminary
6 matters. Staff, are there any preliminary matters that
7 we need to address before we get to the draft prehearing
8 order?

9 **MS. BENNETT:** Yes, Commissioner Skop, we have
10 several. First, staff would like to make certain that
11 the risk management plans and the hedging reports that
12 were filed by the utilities in the 01 docket are
13 included in the record. We had a little bit of concern
14 about whether or not they were parts of the exhibits and
15 included in the exhibit list. So, at the time we go
16 through the exhibit list, if each utility could identify
17 where the exhibit containing the risk management plan
18 and hedging reports is in the exhibit list. And if it
19 is not there, to go ahead and add it to the exhibit
20 list, staff would appreciate that.

21 The next item is that TECO has a motion for
22 leave to file supplemental direct testimony that has not
23 yet been ruled on. It was filed October 12th. There
24 has been no objection to the motion, and staff
25 recommends that the motion be granted.

1 **COMMISSIONER SKOP:** Show that motion granted.

2 **MS. BENNETT:** Staff would note that there are
3 many issues in the -- for fuel GPIF and the capacity
4 clause that might be stipulated at the prehearing
5 conference. We have provided to all of the parties our
6 revised staff positions on the issues, and so we would
7 suggest going -- when we get into the issue section
8 going issue-by-issue. The reason we are stating that is
9 because all of the intervening parties have taken no
10 position at this time, so they will either need to, of
11 course, take a position, or if it remains no position,
12 then the issue could be subject to -- will be subject to
13 stipulation.

14 And, finally, staff would note that there is
15 an additional issue for FPU that came up after some
16 discovery, and this appears in the draft prehearing
17 order, but it was not part of the preliminary list of
18 issues. So, therefore, we would need to get parties'
19 positions on Issue 3C.

20 **COMMISSIONER SKOP:** Very well. We will cover
21 that when we get to that respective issue. Are there
22 any additional preliminary matters that the parties wish
23 to address? Okay. Hearing none, we are going to move
24 on to the draft prehearing order. And just as with the
25 other dockets, I am going to move through this rather

1 quickly. If there are changes or concerns that need to
2 be made, just please bring those to my attention. And
3 we are going to start with Section I, Case Background.

4 **MS. BENNETT:** No change.

5 **COMMISSIONER SKOP:** All right. Section II,
6 Conduct of Proceedings.

7 **MS. BENNETT:** No change.

8 **COMMISSIONER SKOP:** Section III, Jurisdiction.

9 **MS. BENNETT:** No change.

10 **COMMISSIONER SKOP:** Section IV, Procedure for
11 Handling Confidential Information.

12 **MS. BENNETT:** No change.

13 **COMMISSIONER SKOP:** Section V, Prefiled
14 Testimony, Exhibits, and Witnesses.

15 **MS. BENNETT:** No change.

16 **MS. CHRISTENSEN:** Commissioner, I would just
17 renew my objection to the last paragraph of that
18 section.

19 **COMMISSIONER SKOP:** All right. Thank you,
20 Ms. Christensen. The previous objection is noted for
21 the 01 docket with the extent as it pertains to friendly
22 cross, and I have adopted the Commission's position to
23 exclude friendly cross-examination. So, just let the
24 record reflect Ms. Christensen's same objection.

25 Any other comments or concerns as it pertains

1 to Section V?

2 **MS. BENNETT:** No, Commissioner.

3 **COMMISSIONER SKOP:** All right. Very well.
4 Section VI, Order of Witnesses.

5 **MS. BENNETT:** Staff suggests that we take up
6 this section after we finish issues and positions,
7 because there will likely be a number of witnesses that
8 can be excused if we reach stipulations on several of
9 the issues.

10 **COMMISSIONER SKOP:** Okay.

11 **MR. HORTON:** Commissioner, I'm sorry. In the
12 meantime, there is just one correction. On the top of
13 Page 6 for FPUC witnesses, the issues addressed should
14 be 3A, 3B, and 3C. That recognizes the additional issue
15 that we've added.

16 **COMMISSIONER SKOP:** Very well. Show it done.

17 And we will come back to Section VI, order of
18 witnesses, after we finish the issues and positions in
19 the hopes that some of the witnesses may be able to be
20 excused based on stipulations of the parties.

21 Section VII, Basic Positions.

22 **MR. BEASLEY:** Commissioner, I had one
23 correction on Tampa Electric's position. The factor
24 there on Line 3, 4.517 needs to be corrected to 4.509.
25 We corrected that number in Issue 13, but failed to do

1 so in the statement of basic positions.

2 **COMMISSIONER SKOP:** All right. Very well.
3 Show that done.

4 **MR. BEASLEY:** Thank you.

5 **COMMISSIONER SKOP:** Any other corrections or
6 concerns as to basic positions? Hearing none, staff.

7 **MS. BENNETT:** There are no other changes on
8 basic positions, so we could move into Section VIII,
9 Issues and Positions. And as I stated earlier, we will
10 take them issue-by-issue.

11 **COMMISSIONER SKOP:** Very well. We are going
12 to move into Section VIII, Issues and Positions, and
13 does staff have any additional concerns before we go
14 issue-by-issue?

15 **MS. BENNETT:** As stated by Ms. Fleming
16 earlier, the parties need to -- currently they have no
17 positions at this time. The parties need to either take
18 a position or it will be reflected in the prehearing
19 order that there is no position unless they can show
20 good cause why to take a later position.

21 **COMMISSIONER SKOP:** All right. Very well. Is
22 there a time certain as to when they need to make that
23 amendment?

24 **MS. BENNETT:** Well, when we get to the nuclear
25 cost-recovery clause issues, which are I think 23A and

1 24A, I would suggest October 28th be the date that we
2 get new positions, if parties want to take new
3 positions.

4 **COMMISSIONER SKOP:** All right. What was that
5 date again, please?

6 **MS. BENNETT:** October 28th.

7 **COMMISSIONER SKOP:** Okay. All right. Any
8 other critical dates?

9 **MS. BENNETT:** No, sir.

10 **COMMISSIONER SKOP:** Thank you. All right. We
11 are going to move issue-by-issue, and we will start
12 with --

13 **MS. BENNETT:** 1A.

14 **COMMISSIONER SKOP:** -- Issue 1A. Any concerns
15 from the parties? Okay. Hearing none, staff.

16 **MS. BENNETT:** Staff has taken a position in
17 our revised positions on issues, and if no party takes a
18 position, this can be stipulated.

19 **COMMISSIONER SKOP:** Okay.

20 **MS. BENNETT:** And I should say if Progress
21 Energy agrees with staff's position.

22 **MR. BURNETT:** We do, sir.

23 **COMMISSIONER SKOP:** Very well. Show Issue 1A
24 stipulated. That takes us to Issue 1B. Staff.

25 **MS. BENNETT:** Staff has taken a position on

1 Issue 1B. It is reflected in our revised position. All
2 other parties have taken no position. If Progress
3 Energy agrees, then this could be shown as stipulated,
4 also.

5 **COMMISSIONER SKOP:** Very well. Mr. Burnett.

6 **MR. BURNETT:** Yes. sir, we do agree. Thank
7 you.

8 **COMMISSIONER SKOP:** All right. Show Issue 1B
9 stipulated. And that takes us to Issue -- bear with me
10 for one second -- 2A. Staff.

11 **MS. BENNETT:** On Issue 2A staff has taken a
12 position. All other parties have taken no position at
13 this time except for FPL. If FPL agrees with staff's
14 position it can be stipulated.

15 **COMMISSIONER SKOP:** Mr. Butler.

16 **MR. BUTLER:** FPL agrees with the staff
17 position.

18 **COMMISSIONER SKOP:** All right. Very well.
19 Show Issue 2A stipulated.

20 That takes us to Issue 2B.

21 **MS. BENNETT:** Again, staff has taken a
22 position on Issue 2B. All of the intervening parties
23 have taken no position. If FPL agrees, this can be
24 stipulated.

25 **COMMISSIONER SKOP:** Mr. Butler.

1 **MR. BUTLER:** FPL agrees.

2 **COMMISSIONER SKOP:** Very well. Show Issue 2B
3 stipulated.

4 That brings us to Issue 2C. Staff.

5 **MS. BENNETT:** Issue 2C has a stipulation
6 between OPC and FPL to postpone this into the 2010
7 proceedings. Staff has taken a position on this, and
8 that is where we are.

9 **COMMISSIONER SKOP:** Okay. Actually, I have
10 some questions and concerns as to Issue 2C as it
11 pertains to the docket before us. I recently inherited
12 this docket as prehearing officer, but I guess I am
13 going to direct my first question to Mr. Butler. Mr.
14 Butler, is it FPL's intent to litigate this issue?

15 **MR. BUTLER:** I'm sorry. In this proceeding to
16 dispute the positions of other parties?

17 **COMMISSIONER SKOP:** No, to actually litigate
18 the issue itself. Because, again, there is an agreement
19 between FPL and OPC, and I guess I'm looking at the
20 ultimate resolution, because I'm not inclined to wait
21 until 2011 to bring resolution to this issue. So I
22 guess what I'm trying to get a better understanding of
23 is the agreement was that entered into between OPC and
24 FPL basically bound the hands of the Commission to move
25 forward on this, and my understanding is there is has

1 been some preliminary discovery that is done, but there
2 is not full discovery on this issue. So it would, at
3 best, be difficult to address it in this proceeding,
4 which is unfortunate in itself. So I'm trying to get a
5 better appreciation for whether FPL intends to litigate
6 this issue, because I am inclined to spin it off into a
7 docket that would come before the Commission in a more
8 timely manner than waiting until 2011.

9 **MR. BUTLER:** At this point, FPL and OPC do not
10 have any agreement on a position that we could agree to
11 stipulate the substance of it, as I think you alluded
12 to, Commissioner Skop. We have just -- we have been,
13 FPL, in negotiations with the Federal Energy Regulatory
14 Commission on resolution of the underlying FERC
15 investigation. That has recently concluded, but where
16 we are is that there has been only limited discovery.

17 Based on the understanding with OPC, we didn't
18 file testimony supporting our position. OPC didn't file
19 testimony supporting their position. And our view was
20 that it would be appropriate and probably about the
21 right time frame to allow the next cycle of the
22 adjustment clause proceedings so that you could have
23 full discovery.

24 Staff, I know, has some additional discovery
25 they want to pursue. And then the parties could either,

1 one, possibly reach a stipulation that would avoid the
2 need to bring it to the Commission for resolution, or if
3 not, then have a timetable for having filed discovery --
4 I mean, filed testimony in the proceeding.

5 It could probably be done on a shorter time
6 frame than next November if that was the Commissioner's
7 pleasure or the Commission's pleasure, but at this point
8 there is not an agreement on the underlying substance of
9 the issue.

10 **COMMISSIONER SKOP:** Okay. So I can interpret
11 that is that it would be probably docketed and scheduled
12 for hearing absent stipulation by the parties, is that
13 correct?

14 **MR. BUTLER:** I think that absent any further
15 stipulation it will just proceed as a matter of course
16 to be something that will be -- have discovery conducted
17 on it, and that there will be testimony filed, and it
18 will be resolved in the November 2010 fuel adjustment
19 hearing. That is the current path.

20 **COMMISSIONER SKOP:** Okay. Well, again, my
21 concern is by virtue of the agreement -- the underlying
22 agreement basically slid the time frame for bringing
23 resolution to this issue far in the future. I'm not
24 comfortable with that. So, again, I'm not inclined to
25 wait until 2011 to have resolution of this issue. So I

1 feel the need that we should probably, you know, spin it
2 off into a separate docket and to schedule it for either
3 a PAA or hearing and allow staff and the parties to do
4 additional discovery. But 2011 is far off in the
5 horizon to bring resolution to that issue. So if OPC is
6 able to comment. Mr. Beck.

7 **MR. BECK:** Certainly, Commissioner. Let me
8 give you the reasons, I guess, to begin with for the
9 agreement. As we were conducting discovery in 2008, we
10 became aware of FERC's investigation into the
11 reliability standards violations. We thought it would
12 make more sense, both economically as well as the case
13 we would be able to bring to defer proceeding in this
14 case until FERC had completed its investigation. Now
15 they have. We have sent discovery to FP&L. I intend to
16 send a Freedom of Information Act to FERC to get their
17 investigation. So we are ready to start proceeding, and
18 we have started the discovery process. If it is the
19 Commission's desire to spin this off into another
20 docket, that's fine with us.

21 **COMMISSIONER SKOP:** Okay. So OPC would have
22 no objection in addressing that moving forward now?

23 **MR. BECK:** Yes. We have already begun.

24 **COMMISSIONER SKOP:** Okay. I guess just from
25 my own perspective, again, the sooner we bring

1 resolution to that issue the better off that we will be,
2 and I see no need to wait until 2011 to bring resolution
3 to it. So what I would like to do is spin that issue
4 off. And if staff could find the appropriate hearing
5 dates to move forward with conducting discovery, that
6 would be my choice to do that.

7 **MS. BENNETT:** Okay. Your ruling will reflect
8 that, and we will begin looking for dates.

9 **COMMISSIONER SKOP:** All right. Very well.
10 Thank you.

11 Issue 3A.

12 **MS. BENNETT:** For Issue 3A, staff takes no
13 position at this time.

14 **COMMISSIONER SKOP:** Okay. Any other comments
15 by the parties? Okay. Hearing none, Issue 3A will be
16 adopted as written.

17 Issue 3B.

18 **MS. BENNETT:** Staff takes no position at this
19 time.

20 **COMMISSIONER SKOP:** All right. Very well.
21 Show Issue 3B adopted as written.

22 Issue 3C.

23 **MS. BENNETT:** Issue 3C, staff has taken a
24 position. 3C is the new issue which the parties have
25 not had an opportunity to provide position statements

1 for. I don't know if they are prepared today to take
2 one or if they need some additional time.

3 **MS. CHRISTENSEN:** Patty Christensen for Office
4 of Public Counsel. I would change -- or take the
5 position of agree with staff.

6 **COMMISSIONER SKOP:** All right. Very well.
7 Any other comments on Issue 3C? Okay. Show Issue 3C
8 adopted as written, with the changes noted.

9 Issue 4A. Hearing no comments from the
10 parties, staff.

11 **MS. BENNETT:** Staff has taken a position on
12 4A. All other parties have taken no position at this
13 time. If they continue with that, then this -- and if
14 Gulf agrees with staff's position, then it can be
15 stipulated.

16 **COMMISSIONER SKOP:** All right. Very well.
17 Show Issue 4A adopted as written, with the changes to
18 the staff position as noted. And, again, if we are able
19 to attain stipulation on that issue, that would be the
20 appropriate thing to do.

21 Issue 4B.

22 **MS. BENNETT:** Was Gulf in agreement with
23 staff's position?

24 **MR. BADDERS:** Yes, Gulf is in agreement on 4A
25 and 4B.

1 **COMMISSIONER SKOP:** All right. So let's do 4A
2 first. Show that Gulf is in agreement with staff's
3 position, so the issue appears to be stipulated.

4 Moving on to Issue 4B, staff.

5 **MS. BENNETT:** Staff has taken a position on
6 4B. No other parties have taken a position, so we could
7 stipulate that, also.

8 **COMMISSIONER SKOP:** Okay. Is that the
9 understanding of Gulf?

10 **MR. BADDERS:** It is.

11 **COMMISSIONER SKOP:** Very well. Show Issue 4B
12 adopted as written and stipulated.

13 Issue 4C.

14 **MS. BENNETT:** Staff takes no position at this
15 time.

16 **COMMISSIONER SKOP:** All right. Any other
17 comments from the parties?

18 Ms. Christensen, you're recognized.

19 **MS. CHRISTENSEN:** Yes. OPC's position
20 originally was no position at this time pending review
21 of outstanding discovery. We have received discovery
22 back and would change our position to no generation
23 plant should be permitted through the fuel clause.

24 **COMMISSIONER SKOP:** Very well. Show OPC's
25 position on Issue 4C to be what was just stated. Any

1 other comments or concerns by staff on Issue 4C?

2 **MR. McWHIRTER:** FIPUG joins in that OPC
3 position.

4 **COMMISSIONER SKOP:** Very well. Show
5 Mr. McWhirter's revised position on behalf of FIPUG
6 adopted. Any other comments on 4C? Show Issue 4C
7 adopted as written with the changes to the respective
8 positions of the parties.

9 That takes us to Issue 5A.

10 **MS. BENNETT:** Staff has taken a position on
11 Issue 5A. All other parties have taken no position. If
12 TECO agrees with staff's position, then it can be
13 stipulated.

14 **MR. BEASLEY:** We agree with staff.

15 **COMMISSIONER SKOP:** Very well. Thank you,
16 Mr. Beasley. Show Issue 5B stipulated by TECO, so that
17 issue will be adopted as written and stipulated.

18 **MS. BENNETT:** I believe that was 5A.

19 **COMMISSIONER SKOP:** 5A, sorry. I'm getting --
20 I've got four different sheets on here, so I'm going
21 back and forth. So, show Issue 5A adopted as written
22 and stipulated by TECO.

23 That brings us to Issue 5B. Staff.

24 **MS. BENNETT:** The same thing applies to 5B.

25 **COMMISSIONER SKOP:** Very well.

1 **MR. BEASLEY:** And we agree with that, as well.

2 **COMMISSIONER SKOP:** All right. Show Issue 5B
3 adopted as written and stipulated by TECO.

4 That takes us to Issue 6.

5 **MS. BENNETT:** This is the beginning of the
6 generic fuel issues. Staff agrees with FPL, Gulf, PEF,
7 and TECO. All other parties have taken no position, so
8 this could be stipulated.

9 **COMMISSIONER SKOP:** Okay. I ask the parties
10 what their various positions would be in hopes that we
11 might able to stipulate this issue?

12 **MR. BUTLER:** FPL certainly agrees to
13 stipulating.

14 **MR. BEASLEY:** As does Tampa Electric.

15 **MR. BADDERS:** As does Gulf.

16 **MR. BURNETT:** And PEF.

17 **COMMISSIONER SKOP:** All right. Any other
18 parties that we need to hear from?

19 Ms. Bennett.

20 **MS. BENNETT:** As long as they continue with no
21 position at this time, it will reflect as no position.

22 **MS. CHRISTENSEN:** That is correct, we would
23 maintain a no position.

24 **COMMISSIONER SKOP:** All right. Very well.
25 Mr. McWhirter. Mr. McWhirter.

1 **MR. McWHIRTER:** We are on 7 still?

2 **COMMISSIONER SKOP:** We are on 6.

3 **MR. McWHIRTER:** No position.

4 **COMMISSIONER SKOP:** Okay. Mr. Taylor?

5 **MR. TAYLOR:** No position.

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

7 **MR. WRIGHT:** Commissioner?

8 **COMMISSIONER SKOP:** Yes. Mr. Wright, you hide
9 over there. We need to --

10 **MR. WRIGHT:** There were not enough chairs when
11 I arrived at the hearing.

12 **COMMISSIONER SKOP:** You have got to pull
13 seniority on them.

14 **MR. WRIGHT:** I don't do that, but thank you.

15 We will be changing our position to no
16 position on these. And I just want to make sure I
17 understand, if we don't do anything by the end of the
18 day, is it correct that our no positions at this time
19 will change to no position and such issues will become
20 the subject of what we call Category II stipulations, is
21 that accurate?

22 **COMMISSIONER SKOP:** I will defer to
23 Ms. Bennett.

24 **MS. BENNETT:** That is correct.

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

1 you, Ms. Bennett.

2 **COMMISSIONER SKOP:** Okay. Very well. All
3 right. Hear from the parties to show Issue 6 adopted as
4 written with the stipulations by the parties as noted
5 and no comment or no position from the other parties
6 that is so indicated.

7 That takes us to Issue 7.

8 **MS. BENNETT:** Commissioner, Issue 7, staff has
9 taken a position. We agree with the estimated benchmark
10 levels of FPL, Gulf, Progress, and TECO. All of the
11 parties -- all of the intervening parties have taken no
12 position at this time, which will change to no position
13 unless they specifically change it. So this could be
14 stipulated.

15 **COMMISSIONER SKOP:** All right. Very well.
16 Any comments from the parties as it pertains to Issue 7?
17 Very well. Show Issue 7 adopted as written with the
18 positions of the parties. That takes us to Issue 8.

19 Staff.

20 **MS. BENNETT:** For Issue 8, staff has taken a
21 position that they agree with FPL, Gulf, Progress, and
22 TECO, provided that the amount at Issue in 2C for FPL
23 shall be held subject to refund. Staff has no position
24 at this time with respect to FPU.

25 All of the parties -- all of the intervening

1 parties take no position at this time unless they change
2 that subject to stipulation for FPL, Gulf, Progress, and
3 TECO.

4 **COMMISSIONER SKOP:** All right. Very well.
5 Any comments from the parties?

6 **MR. McWHIRTER:** Mr. Skop, FIPUG wants to take
7 a position on Issue 8 with respect to Gulf Power. And
8 as I understand it, we can file that by October 28th or
9 would you like me to do it today?

10 **COMMISSIONER SKOP:** I believe it was -- Ms.
11 Bennett, can you speak to that, please?

12 **MS. BENNETT:** It should be taken today if
13 possible.

14 **MR. McWHIRTER:** Right. I don't have the
15 phraseology precise, but at this juncture we would
16 demand that Gulf provide proof of the justification for
17 charging the Southern Company less for power it
18 purchases than the cost of fuel to produce that power.
19 It has happened in 2008, 2009, and is proposed for 2010.

20 **COMMISSIONER SKOP:** Very well. Show for Issue
21 8 FIPUG's comments or position changed as stated by Mr.
22 McWhirter.

23 Mr. Taylor, do you have any comments or --
24 Ms. Christensen, you're recognized.

25 **MS. CHRISTENSEN:** Just briefly. Due to our

1 position for, I believe, it is Gulf on Issue 4C, we
2 would have to make our no position -- it would be
3 subject to the resolution of 4C, because I think it
4 would inherently be a fallout issue. It might change
5 some of the numbers if whether or not the generation
6 plant is included. Or, if not, I can maintain a no
7 position. I believe that -- oh, go ahead, I'm sorry.

8 **MR. BADDERS:** If I may. I don't believe that
9 the final true-up numbers will be affected at all by 4C.

10 **MS. CHRISTENSEN:** Oh, I'm sorry. Then it will
11 be the subsequent issues.

12 **COMMISSIONER SKOP:** Okay. Very well. So we
13 are on Issue 8. Ms. Christensen, then, am I correct to
14 understand that you have no change in position on Issue
15 8?

16 **MS. CHRISTENSEN:** No. I'm sorry, I was
17 looking at Issues 9 and 10, which may be impacted.

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

20 **MS. BENNETT:** If I might ask Mr. McWhirter to
21 provide us in writing the statement by the end of today,
22 his position.

23 **COMMISSIONER SKOP:** Very well.

24 **MR. McWHIRTER:** It will be in handwriting,
25 however.

1 **MS. BENNETT:** By the end of tomorrow?

2 **MR. McWHIRTER:** Tomorrow will be fine.

3 **COMMISSIONER SKOP:** Okay. Based on the
4 comments from the parties, show Issue 8 adopted as
5 written with the change in position from FIPUG to that
6 expressed by Mr. McWhirter, who will provide those
7 written position by 5:00 p.m. tomorrow.

8 **MS. BENNETT:** So I think that means we can
9 stipulate FPL, Progress, and TECO, but not Gulf and FPU
10 for Issue 8.

11 **COMMISSIONER SKOP:** Okay. Is that the
12 understanding of the parties? All right. Show it done.

13 Okay. That takes us to Issue 9.

14 **MS. BENNETT:** Staff has taken a position on
15 Issue 9 that we agree with FPL, Progress, and TECO,
16 provided that the amount at Issue in 2C for FPL shall be
17 held subject to refund. Staff has no position at this
18 time with respect to FPU and Gulf. All the intervening
19 parties have taken no position. I know that OPC will
20 want to change its position on this.

21 **COMMISSIONER SKOP:** Okay. Ms. Christensen,
22 you're recognized.

23 **MR. McWHIRTER:** FIPUG would like to change its
24 position with respect to 9 in the same fashion that we
25 did with respect to Issue 8.

1 **COMMISSIONER SKOP:** Okay. Let me start with
2 Ms. Christensen first, because I think she has a comment
3 on Issue 9.

4 **MS. CHRISTENSEN:** If I can get clarification
5 from Gulf that they are not seeking recovery of the
6 generation plant for the Perdido Bay Gas Landfill until
7 2010, then my comments would only be for 2010. And I
8 would maintain no position for 2009 period.

9 **MR. BADDERS:** It is my understanding that
10 there are no amounts in this period. The only period
11 would be for a projected 2010.

12 **MS. CHRISTENSEN:** So I would maintain no
13 position for Issue 9.

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

15 Mr. McWhirter, do you wish on Issue 9 to adopt
16 your previous comments as it pertained to Issue 8?

17 **MR. McWHIRTER:** Yes, sir.

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

19 Staff, any additional comments?

20 **MS. BENNETT:** Can I have just a minute to
21 check with staff?

22 **COMMISSIONER SKOP:** You may.

23 (Pause.)

24 **MS. BENNETT:** Thank you. No other comments on
25 Issue 9. I think we can stipulate then to FPL, PEF, and

1 TECO, but not to FPU and Gulf.

2 **COMMISSIONER SKOP:** Is that the understanding
3 of the parties as it pertains to FPL, Progress, and
4 TECO? All right. Show Issue 9 adopted as written with
5 the change of position by FIPUG as expressed by
6 Mr. McWhirter, who will provide written comment by 5:00
7 p.m. tomorrow.

8 That takes us to Issue 10.

9 **MS. BENNETT:** Staff has taken a position on
10 Issue 10 with respect to FPL, Progress -- I'm sorry, FPL
11 and TECO. For FPU and Gulf and Progress -- let me back
12 up. Staff agrees with FPL, Progress, and TECO provided
13 that the amount at issue in 2C for FPL shall be held
14 subject to refund. Staff has no position at this time
15 with respect to FPU and Gulf.

16 **COMMISSIONER SKOP:** Okay. Very well.
17 Ms. Christensen, I think you had a comment or a change
18 of position on Issue 10.

19 **MS. CHRISTENSEN:** Yes. I think we have no
20 position as to FPL, Progress, TECO, and then regarding
21 Gulf, it would be subject to whatever impact the
22 resolution of 4C has. And I don't know if the new issue
23 for FPUC, 3C, has any impact on any of these, but I
24 guess we would change any of our positions to be subject
25 to the resolution of 3C for FPUC, if there is any

1 impact.

2 **COMMISSIONER SKOP:** Okay. Any other --
3 Ms. Bennett, do you want to briefly respond to that or
4 does it require a response?

5 **MS. BENNETT:** We are going to reflect that OPC
6 is taking no position on TECO and FPL and Progress.
7 Gulf is subject to the resolution of 4C. FPUC is
8 subject to the resolution of 3C. I think with that, we
9 can stipulate Gulf, Progress -- I mean, sorry, FPL,
10 TECO, and Progress on Issue 10.

11 **COMMISSIONER SKOP:** All right. Very well. Is
12 that the understanding of the parties? I am seeing nods
13 in the affirmative.

14 **MR. McWHIRTER:** FIPUG will have to state a
15 position on 10, as well, because it is a fallout from 9
16 and 8 with respect to Gulf Power.

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

18 **MR. McWHIRTER:** We will file it tomorrow
19 before 5:00.

20 **COMMISSIONER SKOP:** Okay. Ms. Christensen,
21 with respect to your change in position, is that going
22 to be requiring a written submittal?

23 **MS. CHRISTENSEN:** I think the language is -- I
24 think Ms. Bennett stated it correctly, so unless she
25 wants me to file something in writing, I think we will

1 probably feel comfortable with her just including what
2 we have discussed here today in the order.

3 **MS. BENNETT:** I do have that.

4 **COMMISSIONER SKOP:** Very well. Show Issue 10
5 adopted as written with stipulations from FPL, Progress,
6 and TECO, with the changes noted for OPC's position as
7 well as the change in position noted by FIPUG, and
8 Mr. McWhirter will be submitting that by 5:00 p.m.
9 tomorrow.

10 That takes us to Issue 11.

11 **MS. BENNETT:** Staff takes a position --

12 **MR. BADDERS:** Briefly, Commissioner.

13 **COMMISSIONER SKOP:** Yes. You're recognized.

14 **MR. BADDERS:** On Issue 10, I have looked at
15 this, this is the total fuel adjustment true-up amounts.
16 I don't believe that 4C impacts Issue 10. This relates
17 back to the true-up amounts from, I guess, it is Issue
18 8.

19 **COMMISSIONER SKOP:** Ms. Christensen, do you
20 want to speak to that? You're recognized.

21 **MS. CHRISTENSEN:** Yes. I think all I want to
22 do is reflect somewhere where appropriate in the issues
23 that would be impacted by the fallout of 4C. So, rather
24 than take up additional time here today to try and
25 figure out which is the appropriate issue, I would leave

1 it to staff to figure out what the fallout issue might
2 be impacted by the Perdido Bay -- or the landfill
3 decision, the generation decision.

4 **MR. BADDERS:** To simplify, I believe it is
5 Issues 12, 13, 14, and 15.

6 **MS. CHRISTENSEN:** Okay. And I would just ask
7 that it be reflected in there as appropriate. And if we
8 can do that, then I think I would try to save some time.

9 **COMMISSIONER SKOP:** Okay. So is it correct,
10 based upon the point of information raised by Gulf, that
11 your change in position would not apply to Issue 10?

12 **MS. CHRISTENSEN:** As far as I understand, if
13 it is regarding past true-ups, then, no, it would not,
14 but any of the 2010 -- where any 2010 costs would be --
15 those issues would be impacted, and I think --

16 **MS. BENNETT:** Might I interrupt and suggest
17 that we give OPC until tomorrow at 5:00 to take a
18 position on 10 through 15.

19 **COMMISSIONER SKOP:** That would be appropriate.

20 **MS. BENNETT:** And that way she can verify
21 and --

22 **COMMISSIONER SKOP:** That is probably a better
23 way to handle it. That's why I was suggesting whether
24 you would be providing written comments, that way we can
25 accurately embody any changes in position that OPC has

1 within the issues list.

2 **MS. CHRISTENSEN:** That's fine.

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

4 **MS. BENNETT:** And that was just subject to --
5 for Gulf, correct, you have taken no position for FPL,
6 Progress, TECO?

7 **MS. CHRISTENSEN:** Correct.

8 **COMMISSIONER SKOP:** Okay. All right. So
9 based on what we have heard, show Issue 10 adopted as
10 written. There will be a change in position from Mr.
11 McWhirter on behalf of FIPUG that will be provided by
12 5:00 p.m. tomorrow, and possibly a change in position
13 from OPC that will be provided by the same time frame.

14 Let's move on to Issue 11. Staff.

15 **MS. BENNETT:** In Issue 11, staff agrees with
16 the utilities. All other parties have taken no
17 position. If they maintain that no position it is
18 subject to stipulation.

19 **COMMISSIONER SKOP:** Very well. Any comments
20 from the parties? Okay. Hearing none, show Issue 11
21 adopted as written, and the position of staff adopted as
22 noted.

23 That takes us to Issue 12.

24 **MS. BENNETT:** On Issue 12, staff agrees with
25 FPL and TECO provided that the amount at issue in 2C for

1 FPL will be held subject to refund. Staff has no
2 position at this time with regard to FPU and Gulf and
3 PEF.

4 **COMMISSIONER SKOP:** Okay. Do we need to amend
5 that on the basis of the staff position that 2C is now
6 being spun out?

7 **MS. BENNETT:** No, because it is still subject
8 to refund and subject to the Commission's vote.

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

10 **MR. HORTON:** Commissioner.

11 **COMMISSIONER SKOP:** Yes.

12 **MR. HORTON:** FPUC has a revision to its
13 numbers in 12. First of all, the Northwest Division
14 number is not confidential, and it should be 26,064,444.
15 And for the Northeast Division the number should be
16 22,114,719.

17 **COMMISSIONER SKOP:** Very well. Show the
18 changes made for FPUC to the respective years. Any
19 other comments or concerns?

20 And, Ms. Christensen, it is my understanding
21 that they may have a revised position from OPC on Issue
22 12 as it pertains to Gulf, is that correct?

23 **MS. CHRISTENSEN:** As far as FPL, PEF, and TECO
24 go we would just maintain no position, and then we will
25 provide written followup for 12 through 15 on the

1 other -- the other utilities if there needs to be any
2 fallout issues. And I will get together with staff
3 afterwards and make sure I understand which ones they
4 consider fallouts of those issues.

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

6 Mr. McWhirter, any comments?

7 **MR. McWHIRTER:** No, I have no objection to 12.

8 **COMMISSIONER SKOP:** Very well. Show Issue 12
9 adopted as written with any potential changes in
10 position to be made by 5:00 p.m. tomorrow.

11 That moves us to Issue 3 -- I mean 13.

12 **MS. BENNETT:** I believe we have stipulated for
13 FPL and TECO for Issue 12. In Issue 13, staff agrees
14 with FPL and TECO's revised position, provided that the
15 amount at issue in 2C for FPL shall be held subject to
16 revenue. Staff has no position at this time with
17 respect to FPU and Gulf and Progress Energy. I do note
18 that I believe this is the one, Mr. Beasley, that you
19 changed your numbers on. Is that reflected in the
20 prehearing order?

21 **MR. BEASLEY:** Yes, it is on the prehearing
22 order. Yes, it is shown.

23 **MS. BENNETT:** All parties -- all intervening
24 parties have taken no position at this time. If they
25 continue that, then FPL and TECO may be stipulated.

1 **COMMISSIONER SKOP:** Okay. Very well. Any
2 additional comments on Issue 12?

3 **MR. HORTON:** Yes. Commissioner, there is a
4 typo for Florida Public Utilities. The Northwest
5 Division number should be 8.197.

6 **COMMISSIONER SKOP:** Okay. Show it done.
7 Mr. Taylor.

8 **MR. TAYLOR:** Just to clarify, on the revised
9 positions circulated this morning it says staff agrees
10 with Progress, and I just wanted to be clear if they are
11 included or not.

12 **COMMISSIONER SKOP:** I'm having difficulty
13 hearing you. If you would speak into the microphone.

14 **MR. TAYLOR:** In the revised position
15 circulated this morning by staff, it says staff does
16 agree with Progress also, and not just FPL and TECO.
17 And I just wanted to be clear if they are included in
18 the stipulation or not.

19 **MS. BENNETT:** They are not included in the
20 stipulation at this time. Staff is working on the
21 numbers, and we may end up with a stipulation later this
22 week or early next week on Progress, but there was
23 something we needed to verify before we could enter into
24 the stipulation.

25 **COMMISSIONER SKOP:** Very well. Show issue --

1 any other concerns on Issue 12? Okay. Show Issue 12
2 adopted as written, with the changes noted by the
3 parties and any subsequent changes in position would
4 need to be submitted to staff by 5:00 p.m. tomorrow.

5 That takes us to Issue 13. Staff.

6 **MS. BENNETT:** I'm sorry, I thought we just did
7 13. Was I wrong?

8 **COMMISSIONER SKOP:** No, I thought we were on
9 12.

10 **MS. BENNETT:** Okay. All right. Issue 13,
11 staff agrees with FPL and TECO's revised position
12 provided that the amount in Issue 2C for FPL shall be
13 held subject to refund. Staff has no position at this
14 time with respect to FPU and Gulf and Progress. If the
15 parties main no position, then we can stipulate to FPL
16 and TECO at this time.

17 **COMMISSIONER SKOP:** Okay. Comments from the
18 parties?

19 **MR. McWHIRTER:** FIPUG wishes to change its
20 position with respect to Gulf.

21 **COMMISSIONER SKOP:** Very well. Any other
22 comments as to Issue 13?

23 **MR. HORTON:** Commissioner, I had identified
24 the change, the typo for FPUC.

25 **COMMISSIONER SKOP:** Okay. So that applies to

1 13, not 12?

2 **MR. HORTON:** I'm sorry. Yes, I was speaking
3 to 13.

4 **COMMISSIONER SKOP:** Okay. And that may be my
5 mistake, because these things are bunched in like an
6 accordion here, and I can't -- I'm looking down, and
7 they are not really spaced, so I apologize. I'm just
8 trying to get us back on the right track. But any other
9 comments as it pertains to Issue 13?

10 Staff.

11 **MS. BENNETT:** I think that takes us to Issue
12 14. And for Issue 14, staff agrees with the utilities.
13 However, for Florida Power and Light in their chart
14 there is -- on Group D, HLFT-3, the off-peak, it should
15 reflect .99449 as the line loss multiplier. And we have
16 included the corrected chart for FPL. If the parties
17 agree with staff's position, and all other parties
18 maintain their no position at this time, this issue can
19 be stipulated.

20 **COMMISSIONER SKOP:** Any comments from the
21 parties as it pertains to Issue 14?

22 Mr. Butler.

23 **MR. BUTLER:** Thank you, Commissioner Skop.
24 The correction that staff is making, which I think is in
25 this -- what appears as Group D, as in dog, we have

1 different numbers of the rate schedules that appear
2 there for us. We think it should be their GSLDT-2
3 instead of 3. Excuse me. The CST-2 instead of 3.

4 **MS. BENNETT:** Why don't we remove FPL from the
5 stipulation right now, and we will continue to discuss
6 this and hammer it out.

7 **COMMISSIONER SKOP:** Very well.

8 **MR. BUTLER:** That's fine.

9 **COMMISSIONER SKOP:** Any other comments as it
10 pertains to Issue 14? Hearing none, show Issue 14
11 adopted as written with the stipulation by the parties
12 that have stipulated, and staff is still going to work
13 with FPL to resolve the concerns in Group D.

14 Issue 15.

15 **MS. BENNETT:** Staff agrees with TECO. Staff
16 also agrees with FPL, although FPL's fuel cost-recovery
17 factors are subject to change based on the Commission
18 vote on certain issues in the FPL rate case, Docket
19 Number 080677. And we also state that it is provided
20 that the amount at Issue in 2C for FPL should be held
21 subject to refund. Staff takes no position at this time
22 with regard to Gulf, FPU, and Progress Energy.

23 **COMMISSIONER SKOP:** Very well. Any comments
24 or concerns as it pertains to Issue 15? Hearing none,
25 Issue 15 is adopted as written.

1 **MS. BENNETT:** And I believe that shows -- that
2 means that TECO and FPL can be stipulated.

3 **COMMISSIONER SKOP:** Yes.

4 And is staff on Issue 15 still working with
5 Progress on a stipulation as it pertains to Issue 15?

6 **MS. BENNETT:** That is correct.

7 **COMMISSIONER SKOP:** Okay. Very well. Issue
8 16.

9 **MS. BENNETT:** Staff has taken the position
10 that the effective date should be -- the new fuel and
11 capacity factor should be effective beginning with the
12 first billing cycle for January 2010 and thereafter
13 through the last billing cycle for December 2010. The
14 first billing cycle may start before January 1, 2010 and
15 the last cycle may be read after December 31st, 2010, so
16 that each customer is billed for 12 months regardless of
17 when the adjustment factor became effective. If all
18 parties agree to staff's position, this may be
19 stipulated.

20 **COMMISSIONER SKOP:** Parties.

21 **MR. BADDERS:** Gulf agrees with staff's
22 position.

23 **COMMISSIONER SKOP:** Mr. Butler.

24 **MR. BUTLER:** As does FPL.

25 **COMMISSIONER SKOP:** Mr. Burnett.

1 **MR. BURNETT:** As does PEF.

2 **COMMISSIONER SKOP:** FPUC and TECO?

3 **MR. HORTON:** FPUC does.

4 **COMMISSIONER SKOP:** TECO, also?

5 **MR. BEASLEY:** (Indicating yes.)

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

7 Show that stipulation from the respective parties. And

8 I think that addresses Issue 16.

9 And I believe we are at Issue 21, is that
10 correct, staff?

11 **MS. BENNETT:** That's correct, because there
12 are no company specific GPIF issues of 17 through 20, so
13 we are at the generic Issues 21 and 22.

14 **COMMISSIONER SKOP:** Okay. Very well. Let's
15 move to Issue 21.

16 **MS. BENNETT:** Staff has taken a position that
17 it agrees with the utilities for Issue 21. All other
18 intervening parties take no position at this time. If
19 they maintain that position, this could be stipulated.

20 **COMMISSIONER SKOP:** Okay. Any comments from
21 the parties or agreement to the stipulation?

22 **MR. BADDERS:** We agree with staff's position.

23 **MR. BUTLER:** As does FPL.

24 **MR. BEASLEY:** As does Tampa Electric.

25 **MR. BURNETT:** As does PEF.

1 **COMMISSIONER SKOP:** Okay. All right. Show
2 the stipulations as to Issue 21 by Gulf, Progress, TECO,
3 and FPL.

4 And I believe that takes us to Issue 22.

5 **MS. BENNETT:** For Issue 22, staff agrees with
6 the utilities. The intervening parties take no position
7 at this time. If they maintain it, this issue may be
8 stipulated.

9 **COMMISSIONER SKOP:** Okay. Any issues or
10 comments as it pertains to Issue 22? Okay. Any
11 stipulations on Issue 22?

12 **MR. BADDERS:** We agree with staff.

13 **COMMISSIONER SKOP:** Gulf?

14 **MR. BADDERS:** We agree.

15 **MR. BUTLER:** We agree, FPL does.

16 **COMMISSIONER SKOP:** TECO?

17 **MR. BEASLEY:** We agree.

18 **COMMISSIONER SKOP:** Mr. Burnett?

19 **MR. BURNETT:** PEF agrees.

20 **COMMISSIONER SKOP:** All right. Show the
21 stipulations for Issue 22 by Gulf, TECO, FPL, and
22 Progress. Any other concerns on 22? I think that takes
23 us to 23A.

24 **MS. BENNETT:** Commissioner Skop, for both 23A
25 and 24A, Florida Power and Light and Progress Energy

1 will not be filing testimony until at least -- until no
2 later than October 23rd. The parties could maintain
3 their no position at this time, but if they wish to take
4 a position after reading the testimony, you could extend
5 that until October 28th. Staff does take no position at
6 this time on both 23A and 24A.

7 **COMMISSIONER SKOP:** Okay. Very well. Any
8 comments on 23A?

9 **MR. BADDERS:** No comments from Gulf.

10 **COMMISSIONER SKOP:** Okay. Mr. Butler?

11 Mr. Burnett.

12 **MR. BURNETT:** Yes, sir. Commissioner, our
13 numbers in 23A -- and just to tell you so I don't have
14 to keep chiming in, as well as 28, 30, 31, and 33 all
15 need to be adjusted, based on the Commission's ruling in
16 the NCRC. So if it is acceptable, sir, no later than
17 close of business tomorrow we will resubmit those
18 numbers.

19 **COMMISSIONER SKOP:** Show that done. And
20 you're granted leave to update those numbers by close of
21 business tomorrow.

22 **MR. BURNETT:** Thank you, sir.

23 **COMMISSIONER SKOP:** All right. Very well.
24 Any other comments on 23A? Show 23A adopted as written,
25 with Progress to file revised comments.

1 Issue 24A.

2 **MS. BENNETT:** Commissioner Skop, might I ask
3 from the intervening parties if they intend to take a
4 different -- to take positions and provide them by
5 October 28th?

6 **MR. BADDERS:** You may. Again, that would be
7 the deadline, October 28th, for any revised comments or
8 positions as it pertains to nuclear cost recovery. So
9 with respect to Progress and FPL, do they need that
10 additional time or will they be making those changes, if
11 any, sooner rather than later?

12 **MR. BUTLER:** As to FPL, we will be filing on
13 or before the October 23 deadline supplemental
14 testimony. What we have got, there is a small, very
15 small, \$116,624 reduction in the amount to be recovered,
16 and then that, of course, flows through the various
17 capacity factor -- I'm sorry, capacity cost-recovery
18 issues, but we will be filing testimony that addresses
19 each of those changes.

20 **COMMISSIONER SKOP:** Very well. Mr. Burnett,
21 any additional changes?

22 **MR. BURNETT:** No, sir.

23 **COMMISSIONER SKOP:** Okay. So, I guess that
24 moves us to Issue 27.

25 **MS. BENNETT:** That is correct. There are no

1 company-specific issues for Gulf or TECO. So on Issue
2 27, staff agrees with Progress, TECO, FPL, and Gulf.
3 All parties take no position. All intervening parties
4 take no position at this time, and so if they maintain
5 that we can stipulate this issue.

6 **COMMISSIONER SKOP:** Very well. Is that the
7 understanding of the utilities?

8 **MR. BADDERS:** It is.

9 **MR. BEASLEY:** Yes, sir.

10 **MR. BURNETT:** Yes, sir.

11 **MR. BUTLER:** Yes, sir.

12 **COMMISSIONER SKOP:** Very well. Show
13 stipulations on Issue 27 from Progress, TECO, FPL, and
14 Gulf. And I think that takes us to Issue 28.

15 **MS. BENNETT:** Issue 28, staff agrees with Gulf
16 and TECO. Staff has no position at this time with
17 respect to FPL and Progress. All intervening parties
18 take no position at this time. If they maintain that,
19 then this issue can be stipulated for Gulf and TECO, and
20 may be stipulated for FPL and Progress once testimony
21 has been filed.

22 **COMMISSIONER SKOP:** Okay. Very well. Any
23 additional comments as it pertains to Issue 28? Hearing
24 none, let's move to -- I guess 29 is intentionally
25 blank, so Issue 30.

1 **MS. BENNETT:** Staff agrees with Gulf and TECO.
2 Staff has no position at this time with respect to FPL
3 and Progress. Again, all parties take no position at
4 this time. If they maintain that, Gulf and TECO can be
5 stipulated.

6 **COMMISSIONER SKOP:** Very well. Any additional
7 comments as to Issue 30? Okay. Hearing none, we will
8 move on to Issue 31.

9 **MS. BENNETT:** Likewise, staff agrees with Gulf
10 and TECO and has no position for FPL and Progress.
11 Again, all parties take no position at this time. This
12 can be stipulated for Gulf and TECO if they maintain
13 that.

14 **COMMISSIONER SKOP:** Very well. Any additional
15 comments as it pertains to Issue 31? Hearing none,
16 let's move to Issue 32.

17 **MS. BENNETT:** Staff agrees with Gulf and TECO,
18 and has no position for FPL and Progress.

19 **COMMISSIONER SKOP:** Okay. Any additional
20 comments as it pertains to Issue 32? Okay. Hearing
21 none, let's move to Issue 33.

22 **MS. BENNETT:** Issue 33, staff takes the
23 position that it agrees with the capacity cost-recovery
24 factors provided by Gulf and TECO. For Progress Energy,
25 the factors are subject to change based on the

1 Commission vote on certain costs of service issues in
2 the PEF rate case, Docket Number 090079. For this
3 docket, the cost-recovery factor should be based on the
4 currently approved 12 CP and 1/13th average demand cost
5 allocation methodology. For FPL, the factors are
6 subject to change based on the Commission vote on
7 certain issues in the FPL rate case, Docket Number
8 080677. For this docket, the cost-recovery factors
9 should be based on the currently approved 12 CP and
10 1/13th average demand cost allocation. If Progress and
11 FPL agree with staff's position, and all parties
12 continue to take no position, all four of the
13 investor-owned utilities' positions -- sorry, this is
14 the end of the day -- this could be stipulated.

15 **COMMISSIONER SKOP:** Okay. Very well. Any
16 other additional comments on Issue 33? Okay. Hearing
17 none, I think that concludes the issue-by-issue. Is
18 that correct, Ms. Bennett?

19 **MS. BENNETT:** Yes.

20 **COMMISSIONER SKOP:** So now we need to go back
21 to Section VI, Order of Witnesses, and see based upon
22 stipulations of the parties, which witnesses, if any,
23 may be able to be excused. And I will let you take the
24 lead on that one.

25 **MS. BENNETT:** Can I start? Staff would ask

1 that its two witnesses -- let me turn the page so I
2 pronounce his name correctly. I know it's Mr. Mavrides
3 and Mr. Kopelovich. If there are no questions of those
4 two witnesses, which address the hedging for FPL and --
5 I mean, for Progress and TECO, can they be excused?

6 **MR. BEASLEY:** Yes.

7 **COMMISSIONER SKOP:** Any comments from the
8 parties as to the proposed excusal of the two staff
9 witnesses?

10 **MR. BURNETT:** No objection.

11 **COMMISSIONER SKOP:** Okay.

12 **MR. BADDERS:** No objection.

13 **COMMISSIONER SKOP:** All right. Any comments
14 from the intervenors, OPC, FIPUG? None? Okay. Very
15 well. Show it done.

16 **MS. BENNETT:** Staff will check with the
17 remaining Commissioners, and if they have no questions,
18 we will indicate that these witnesses can be excused. I
19 don't know if the parties have any additional witnesses
20 who might be excused and want to let us know about them
21 now or later.

22 **COMMISSIONER SKOP:** It is up to the parties.

23 **MR. BADDERS:** Yes, Commissioner. I believe,
24 based on what we have heard today on possible
25 stipulations pending Commissioners' review, that Witness

1 M. A. Young for Gulf would be subject to being excused.

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

3 Any comments or concerns as to excusing the witness?

4 Hearing none, show Mr. Young excused, or M. A. Young, I
5 believe.

6 **MR. BADDERS:** Thank you.

7 **MR. BUTLER:** For FPL, I think we have, I
8 believe, three witnesses that may be potentially
9 excused. Mr. Yupp, the first witness listed, is
10 appearing only with respect to 2A and 2B, and since
11 those were stipulated, I believe he could be excused.

12 **COMMISSIONER SKOP:** Okay. Any concerns with
13 respect to the excusal of Mr. Yupp?

14 **MR. SAYLER:** Excuse me. Erik Sayler,
15 Commission legal staff. Is Mr. Yupp also appearing for
16 8 through 10 and 12, as well?

17 **MR. BUTLER:** I'm sorry. You are correct, he
18 is. Are there questions on any of those? I thought we
19 had worked through those where there weren't any live
20 issues for 8 through 12.

21 **COMMISSIONER SKOP:** Why don't we do this, if
22 staff still needs to research that, why don't we just
23 hold off on that. And if he can be excused, we will
24 allow that. Any other witnesses, Mr. Butler?

25 **MR. BUTLER:** Yes. Two others, Mr. Stall, he

1 is identified -- and it may require staff to look into
2 this -- he is identified for Issues 8 through 10 and 12,
3 but his only testimony concerns FPL's nuclear plant
4 costs, and it doesn't appear that there are any
5 positions taken, any concerns about any of those costs,
6 so we would ask that he be considered for excusal.

7 And, finally, Ms. Kennedy, R. R. Kennedy, is
8 our GPIF witness, and there are stipulations on the GPIF
9 issues, so we believe that she could be excused, as
10 well.

11 **COMMISSIONER SKOP:** Ms. Bennett, with respect
12 to Mr. Stall and Ms. Kennedy.

13 **MS. BENNETT:** We will confirm that Mr.
14 Stall -- that staff has no questions for Mr. Stall. We
15 know that we have no questions for Ms. Kennedy.

16 **COMMISSIONER SKOP:** Okay. Very well. So we
17 will allow staff to look into the possible excusal of
18 those two witnesses. Any other -- yes, you're
19 recognized.

20 **MR. BEASLEY:** Commissioner, subject to
21 Commissioners not having any questions, we would ask to
22 excuse Witnesses Aldazabal, Buckley, Smith, and Wehle.

23 **COMMISSIONER SKOP:** Okay. Very well. If
24 staff could review and coordinate that request, and if
25 there are no additional questions, we will excuse those

1 witnesses.

2 **MR. BEASLEY:** Thank you.

3 **COMMISSIONER SKOP:** Okay. Who is next?

4 Mr. Bennett. Sorry, Mr. Burnett.

5 **MR. BURNETT:** No problem, sir. I believe
6 Mr. Garrett and Mr. McCallister, both in his direct and
7 rebuttal capacity, and Mr. Oliver would be subject to
8 stipulation.

9 **COMMISSIONER SKOP:** Okay. Very well. Staff
10 will look into those two witnesses, and if there are no
11 additional questions or concerns, show those witnesses
12 to be excused.

13 Any other questions or concerns with respect
14 to order of witnesses? Okay.

15 **MR. BUTLER:** Sorry. Commissioner Skop, one
16 other minor matter. Just a sort of clerical issue is
17 that we will provide staff with a listing of all of the
18 issues for each of our witnesses separately. Right now
19 they are kind of broken out into several appearances and
20 want to get them in order correctly.

21 **COMMISSIONER SKOP:** Okay. Very well. If you
22 could just do that as quickly as possible to give staff
23 the ability to look it over.

24 Okay. Assuming there is no additional
25 questions, we will move forward to Section --

1 **MS. BENNETT:** Before we move forward --

2 **COMMISSIONER SKOP:** Where is that voice coming
3 from?

4 **MS. BENNETT:** Over here.

5 **COMMISSIONER SKOP:** Ms. Bennett.

6 **MS. BENNETT:** Before we move forward, I need
7 to go back to Issue 33 where we agreed on the factors
8 for all of the utilities. We need to back off for
9 Progress and FPL until we get the new testimony in. So
10 those two should not show up as stipulated, but for the
11 other parties they can.

12 **COMMISSIONER SKOP:** Very well. Show that
13 done.

14 Okay. I believe that takes us now to
15 Section IX for the exhibits list.

16 **MS. BENNETT:** Yes.

17 **COMMISSIONER SKOP:** Well, actually, no, it's
18 Section -- I'm not sure I have this correct. I'm
19 flip-flopping. Yes, Section IX for the exhibits list.

20 **MS. BENNETT:** Yes. Staff has prepared a
21 comprehensive exhibit list, and we have also provided a
22 staff exhibit list to the parties. We are continuing to
23 work with the parties. I think we are almost to the
24 point of stipulating both the comprehensive exhibit list
25 and the composite exhibit list into the record. We will

1 confirm that prior to the hearing.

2 **COMMISSIONER SKOP:** Okay. Very well. Any
3 other comments or concerns on Section IX for the exhibit
4 list? Hearing none, let's move to Section X, Proposed
5 Stipulations, and I guess staff is still working with
6 the parties to obtain stipulations?

7 **MS. BENNETT:** Right. The ones that we have
8 reached today will appear in the prehearing order, and
9 we will continue to work up to the hearing.

10 **COMMISSIONER SKOP:** All right. Very well.
11 Any other concerns on Section X? Hearing none, Section
12 X1, Pending Motions.

13 **MS. BENNETT:** We have some remaining motions
14 for temporary protective order. You did you address the
15 one motion for permission to supplement the direct
16 testimony. The temporary protective order will be
17 addressed by separate order.

18 **COMMISSIONER SKOP:** Okay. Very well. Any
19 other pending motions? Okay.

20 Let's move to Section XII, Pending
21 Confidentiality Motions.

22 **MS. BENNETT:** There are several pending
23 confidentiality requests that will be addressed by
24 separate order.

25 **COMMISSIONER SKOP:** Okay.

1 **MR. HORTON:** Commissioner.

2 **COMMISSIONER SKOP:** Yes.

3 **MR. HORTON:** On Page 48 for Florida Public
4 Utilities, there was a request for confidential
5 treatment of the number in the prehearing order, and
6 that would be withdrawn.

7 **COMMISSIONER SKOP:** Okay. Very well. Show
8 that done. Any other concerns with respect to
9 Section XII? Okay. Hearing none. Let's move to
10 Section XIII, Post-Hearing Procedures.

11 **MS. BENNETT:** Generally, Commissioner Skop,
12 there is a bench decision in this docket, and
13 post-hearing briefs are not necessary. But there are
14 one or two issues that the Commission may like to have
15 briefed. If they are to be briefed, staff recommends
16 position statements of no longer than 50 words and
17 post-hearing statements and briefs no longer than 40
18 pages.

19 **COMMISSIONER SKOP:** All right. Very well.
20 That would also be my ruling, and are the parties all in
21 agreement with that? Okay. Show it done. Any other
22 questions on Section XIII, Post-hearing Procedures?
23 Okay.

24 Let's move to Section XIV, Rulings.

25 Ms. Bennett.

1 **MS. BENNETT:** Staff suggests five minutes per
2 party for opening statements.

3 **COMMISSIONER SKOP:** Very well. If opening
4 statements are required, they will be set at five
5 minutes per party. And that brings us to other matters.
6 Are there any other matters that we need to consider at
7 the prehearing conference?

8 **MS. BENNETT:** Yes. For Issue 2C, the FPL
9 outage, we would like to ask that FPL respond to all
10 outstanding discovery, ours and OPC's, within 30 days of
11 today's date.

12 **COMMISSIONER SKOP:** Mr. Butler.

13 **MR. BUTLER:** That's fair. That's fine.

14 **COMMISSIONER SKOP:** All right. Very well.
15 Show that done. Any other matters that we need to
16 address with this prehearing conference for the 01
17 docket?

18 **MS. BENNETT:** Not from staff.

19 **COMMISSIONER SKOP:** Very well. Hearing that,
20 we stand adjourned.

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, Hearing Reporter
6 Services Section, FPSC Division of Commission Clerk, do
hereby certify that the foregoing proceeding was heard
at the time and place herein stated.

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

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

18 DATED THIS 26TH DAY OF OCTOBER, 2009.

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JANE FAUROT, RPR
Official FPSC Hearings Reporter
FPSC Division of Commission Clerk
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