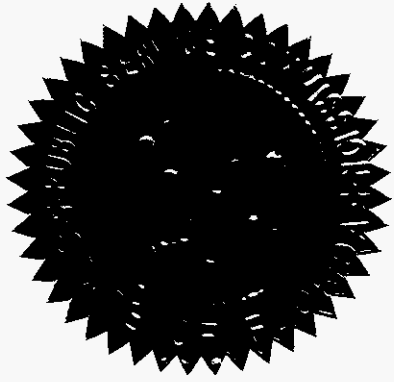


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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 100009-EI

In the Matter of:
NUCLEAR COST RECOVERY CLAUSE.



PROCEEDINGS:	PREHEARING
COMMISSIONER PARTICIPATING:	COMMISSIONER NATHAN A. SKOP PREHEARING OFFICER
DATE:	Wednesday, August 11, 2010
TIME:	Commenced at 1:30 p.m. Concluded at 4:06 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	JANE FAUROT, RPR Official FPSC Reporter (850) 413-6732

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25 the Commission.

P R O C E E D I N G S

1
2 **COMMISSIONER SKOP:** Good afternoon. I'd like
3 to call this prehearing to order. Commissioner Skop
4 presiding. If staff could please read the notice.

5 **MR. YOUNG:** Thank you. By notice issued on
6 July 27th, 2010, this time and place has been set for a
7 prehearing in Docket Number 100009-EI.

8 **COMMISSIONER SKOP:** Thank you.

9 **MR. YOUNG:** The purpose of the prehearing is
10 set out in the notice.

11 **COMMISSIONER SKOP:** All right. Thank you, Mr.
12 Young.

13 If we can now take appearances, please.

14 **MR. ANDERSON:** Good afternoon, Commissioner
15 Skop. Wade Litchfield, Bryan Anderson, Mitchell Ross,
16 and Jessica Cano appearing on behalf of Florida Power
17 and Light Company.

18 **COMMISSIONER SKOP:** Thank you.

19 **MR. WALLS:** Mike Walls with Carlton Field on
20 behalf of Progress Energy Florida.

21 **MS. HUHTA:** Blaise Huhta with Carlton Fields,
22 also on behalf of Progress Energy Florida.

23 **COMMISSIONER SKOP:** Thank you.

24 **MR. BREW:** Good afternoon, Commissioner Skop.
25 I'm James Brew of the firm of Brickfield,

1 Burchette, Ritts & Stone, appearing on behalf of White
2 Springs Agricultural Chemicals, PCS Phosphate.

3 **COMMISSIONER SKOP:** Thank you.

4 **MR. McGLOTHLIN:** Good afternoon.

5 Joe McGlothlin with the Office of Public
6 Counsel. Charles Rehwinkel will also appear at the
7 hearing.

8 **COMMISSIONER SKOP:** Thank you.

9 **MS. KAUFMAN:** Good afternoon, Commissioner
10 Skop.

11 Vicki Gordon Kaufman and Jon Moyle of the law
12 firm Keefe, Anchors, Gordan & Moyle on behalf of the
13 Florida Industrial Power Users Group.

14 **COMMISSIONER SKOP:** Thank you.

15 **MR. JACOBS:** Good afternoon, Commissioner
16 Skop.

17 I'm Leon Jacobs here for the firm of Williams
18 & Jacobs representing the Southern Alliance of Clean
19 Energy, and also joining me as counsel will be James
20 Whitlock and Gary Davis.

21 **COMMISSIONER SKOP:** Thank you.

22 And before we go to Commission staff, Mr.
23 Walls, do you also want to enter an appearance for Mr.
24 Glenn and Mr. Burnett?

25 **MR. WALLS:** Yes, I do.

1 **COMMISSIONER SKOP:** All right. Thank you. So
2 noted. Staff.

3 **MR. YOUNG:** Keino Young, Anna Williams, and
4 Lisa Bennett on behalf of Legal Staff, Commission Staff.

5 **MS. HELTON:** And Mary Anne Helton, advisor to
6 the Commission.

7 **COMMISSIONER SKOP:** Thank you.

8 Mr. Young, are there any preliminary matters
9 that staff needs to address before we move through the
10 draft prehearing order?

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

12 Staff would suggest that each matter be taken
13 up in turn. The first one, staff would note that the
14 Federal Executive Agency has filed a request to be
15 excused from the prehearing. Counsel for FEA stated in
16 their request that she was going -- she'll be working
17 out of the continental USA and unavailable to call in at
18 the prehearing conference.

19 Since FEA had no extended issues to be raised
20 at the prehearing conference, staff recommends that the
21 Prehearing Officer grant said request.

22 **COMMISSIONER SKOP:** Very well. Show that the
23 Federal Executive Agency, Captain McNeill, will be
24 excused from the prehearing for the reasons stated by
25 staff.

1 The next preliminary matter.

2 **MR. YOUNG:** Yes, sir.

3 Staff would note that the parties have agreed
4 upon an order of witnesses, and staff recommends that
5 the prehearing order approve said order. The order is
6 as follows: PEF's case will be presented in its
7 entirety prior to FPL's case being considered.

8 **COMMISSIONER SKOP:** Any concerns from the
9 parties on the preliminary matter proposed by Staff?

10 Hearing none, show that done.

11 Next preliminary matter, Mr. Young.

12 **MR. YOUNG:** Yes, sir.

13 Third, FIPUG has requested that FPL's hearing
14 start no earlier than Thursday, August 26th, 2010. And
15 FIPUG is here -- Ms. Kaufman is here to address that.

16 **COMMISSIONER SKOP:** Okay. Ms. Kaufman, you're
17 recognized.

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

19 Our thought was that given the almost
20 bifurcated nature of the hearing, as Mr. Young just
21 described, and for convenience, we have so many
22 witnesses and so much ground to cover, that we thought
23 it might be helpful if we were to agree, or the
24 Commission was to allow the fact that FPL's case would
25 not start until the third day, or it would start no

1 earlier than the third day of the hearing.

2 Now that may not be a problem, but I thought I
3 would raise it so maybe we could have a little more
4 certainty in terms of planning for the witnesses, and
5 also for cross-examination. I did put that in an e-mail
6 around to the parties when we were working on the draft
7 prehearing order, but I have not heard back from them,
8 so I can't represent to you what their positions might
9 be. But we think it would just perhaps be a little more
10 efficient if we could plan with that goal.

11 **COMMISSIONER SKOP:** Very well. Staff, to the
12 request of FIPUG, and I'll hear from the parties.

13 **MR. YOUNG:** Mr. Chairman, given the fact that
14 this hearing has been scheduled, and this is a
15 continuous docket in terms of a clause docket, if we
16 were to bifurcate that might be harmful to the timing of
17 the -- in terms of FPL presenting its case in chief.
18 The question arises what happens if the Progress Energy
19 case is dispelled within the first day? Do we take a
20 break for a whole day and then move forward with Ms.
21 Kaufman's request?

22 I think because of the scheduling matters have
23 been -- everyone knows the schedule. I think to
24 bifurcate this hearing and start no earlier than
25 Thursday, August 26th, lends staff's some heartache, to

1 say the least.

2 **COMMISSIONER SKOP:** Very well.

3 Mr. Anderson, to FIPUG's proposal.

4 **MR. ANDERSON:** FPL will have all of its
5 witnesses here beginning from the very beginning of the
6 hearing on the 24th. We're here at the pleasure of the
7 Commission, and we want to be ready to proceed whenever
8 you're ready for us.

9 **COMMISSIONER SKOP:** Thank you.

10 Ms. Kaufman, my inclination is to deny the
11 request. I think some of those reasons will come up a
12 little bit later. I may entertain doing some different
13 things, depending upon what issues emerge here, but for
14 now I'm going to deny the request and expect the
15 witnesses to be available to appear upon the conclusion
16 of Progress Energy Florida's case.

17 **MS. KAUFMAN:** Very well.

18 **COMMISSIONER SKOP:** Thank you.

19 Mr. Young, next issue.

20 **MR. YOUNG:** Yes. Before we move to the next
21 issue, Mr. Presiding Officer, Mr. Chairman, two things
22 to note: One, parties -- some representatives are
23 listening via telephone. Although they won't be able to
24 speak, they are hearing us, just to note for the record.

25 Second is that SACE had filed a notice, a

1 request for official recognition, and they have since
2 withdrawn that request, so we can move forward with
3 the -- and just for the record, if Mr. Jacobs can
4 confirm that for me.

5 **COMMISSIONER SKOP:** Mr. Jacobs, you're
6 recognized.

7 **MR. JACOBS:** Yes, sir. We can confirm that
8 that motion has been withdrawn.

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

10 Mr. Young, the next preliminary matter.

11 **MR. YOUNG:** Yes, sir. And the final
12 preliminary matter that staff is aware of is staff has
13 an objection to the errata sheet filed by Florida Power
14 and Light Company for Witnesses Scroggs, Jones, Powers,
15 and Reed. Also, staff has an objection to the revised
16 Appendices I, II, and III for FPL's March 1st, 2010,
17 filing, and the Appendices for I, II, and III for FPL's
18 May 3rd, 2010, filing, the nuclear filing requirements
19 reflecting computational/formulistic corrections.

20 **COMMISSIONER SKOP:** Okay. The objection is so
21 noted.

22 Does staff have any proposed method for
23 addressing that, Ms. Bennett?

24 **MS. BENNETT:** Commissioner Skop, yes, Staff
25 does have -- first of all, we have a concern with the

1 presentation of the information as errata. It appears
2 that it may be more substantive than just errors, but we
3 only received it yesterday, and we're still delving into
4 and trying to learn how those numbers came about and how
5 they will affect the docket.

6 So what we're suggesting to cure the problem
7 is to require FPL to file this as a revised testimony,
8 and to include with that revised testimony a petition
9 requesting that they be allowed to present this
10 information as revised testimony. That way that will
11 give staff and parties a jumping off point to understand
12 what these numbers mean, what the methodology means, is
13 it truly an error or is it a computational or a change
14 in methodology.

15 Realizing that this will, in essence, open up
16 the direct testimony again to allow the revised
17 testimony to come in, intervenors and staff should be
18 allowed to have an opportunity to present testimony and
19 to continue discovery. Staff would suggest that the
20 discovery deadline be extended to August 23rd. That's
21 the day before the Nuclear Cost-Recovery Clause hearing,
22 and also because it's less than a -- or it's just about
23 a week and a half away, I don't believe that staff or
24 intervenors could file any direct testimony written, so
25 we would suggest that we be allowed to provide live

1 testimony at the hearing on the revised subjects,
2 revised testimony that's filed by FPL.

3 Finally, staff would like to add an additional
4 issue, Issue 3B to this docket. The Issue 3B should
5 state, "Should any FPL rate case type expense associated
6 with the 2010 Nuclear Cost-Recovery Clause hearing for
7 FPL be removed from cost-recovery?"

8 **COMMISSIONER SKOP:** Okay. Any other concerns
9 before I go to FPL and the other intervenors?

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

11 **COMMISSIONER SKOP:** Okay. Do they have a copy
12 of the proposed issue for Issue 3B, so the parties can
13 take a look at it?

14 **MS. BENNETT:** I only have it handwritten
15 still. I can provide it at --

16 **COMMISSIONER SKOP:** All right. If there is a
17 need for the parties, I think we can pass that out or
18 have staff repeat it. I want to go to Mr. Anderson for
19 a brief statement. Actually, let me pose this question
20 to you in terms of trying to address what seems to be
21 the problem, as I understand it, and if I'm getting this
22 wrong, please feel free to correct me on behalf of your
23 company.

24 But it seems as if in March of this year, FPL
25 filed the 2009 true-up cost data for the Nuclear

1 Cost-Recovery Clause. In May of this year, FPL filed
2 the 2010 estimated/actual and 2011 projected cost data
3 for nuclear cost-recovery. Then on or about August 3rd
4 of this month, FPL filed its prehearing statement which
5 had different numbers or contained different numbers
6 than the two prior filings. And, most recently, on
7 August 9th, of this month, FPL filed its errata sheet
8 which seemed to be used to correct the witness testimony
9 to reflect the prehearing statement and cost data as
10 opposed to the two prior filings.

11 So we need to get FPL's position as to that.
12 You know, certainly this data was known or should have
13 been known to FPL prior to the 9th, yet we're getting it
14 at the last minute. And that concerns, I think, staff
15 on a couple of issues, you know, as to which data set is
16 correct. And, secondly, you know, the credibility of
17 the data and the company's representations to the
18 Commission as a whole.

19 So, Mr. Anderson, you're recognized to
20 respond.

21 **MR. ANDERSON:** Thank you, Commissioner Skop.

22 Very plainly, the process that the company is
23 taking in this case is similar to that which we do in
24 many, many cases. We always want to ensure that at the
25 time the testimony is entered into the record that it is

1 true and correct, and so we have our witnesses in
2 advance of the hearing re-review their testimony and
3 provide errata. One way to do this would be live where
4 the witness would take the stand and call out the
5 specific words or number changes, and that is one
6 permitted approach under Commission practice. We
7 thought that it be much more straightforward to provide
8 that in writing to people in advance for these
9 witnesses, and so that's the reason we filed this.

10 I want to address very specifically the
11 concerns raised about the timing of the computations in
12 the NFR spreadsheets. As the Commissioner is aware and
13 staff is aware, our nuclear filing requirement
14 spreadsheets are many, many, many pages with thousands
15 of cells and computations and things in them. This
16 year, as we were finalizing our hearing preparations, we
17 had our computations re-reviewed by our regulatory --
18 actually, our new nuclear accounting people. They
19 discovered an error, and that error was that -- these
20 are the words used by our accounting people -- a double
21 average was taken on EPU base rate revenue requirements
22 in one of the formulas within the spreadsheets.

23 This was about a \$2.5 million error, and that
24 makes up the bulk of the \$2.6 million change in the
25 figures we have. I would note that Commission staff has

1 noticed the deposition of our accounting witness, Ms.
2 Powers, and, of course, that can be explored, including
3 the timing of the discovery of that error. And so, you
4 know, we feel that we're in compliance with the
5 Commission's practice and our own ordinary practice of
6 doing our best to be accurate.

7 I think an alternative approach for handling
8 this would be as follows: Rather than refile testimony
9 and the like, and providing for litigation of what I
10 believe the evidence will clearly show is a true error
11 in the spreadsheets, a computational error, proceed with
12 the deposition that staff wishes to take and see if that
13 answers their questions. Reserve their thoughts about
14 other remedies or ideas. Our witness will appear at the
15 time of testimony and can, of course, explain in detail.

16 But truly and fundamentally this is correction
17 of an error, and it is our job, when we find that, to
18 fix it. And that's what we did and are proposing to do
19 here. And I really, really regret that, you know, the
20 company did not have this correct in its spreadsheets
21 going back to March or May and the like. You know, we
22 work hard. We are far from perfect. We make mistakes,
23 too. This is a mistake we found, and we're just calling
24 it out at this time in advance of the hearing. And we
25 really regret any bad feeling or feeling of unfairness

1 that that has brought about, because that is not our
2 intention. Our effort is to be correct and accurate,
3 and that's all we have to say.

4 Thank you.

5 **COMMISSIONER SKOP:** All right. Thank you, Mr.
6 Anderson. And just to that point before I go on to the
7 other parties, I see the pages of numeric corrections
8 which obviously to do those on the fly would be time
9 consuming at best. There appear to be two and a half
10 full pages of changes to numeric data. But, also, on
11 some of the testimony data, it seems to change words of
12 the existing testimony that deal with the substantive
13 nature of the testimony this late in the process, so I
14 just wanted to get your thoughts on that. I can give a
15 specific example, if it would be helpful, if you have
16 the errata sheet in front of you.

17 **MR. ANDERSON:** I do. Thank you.

18 **COMMISSIONER SKOP:** Okay. It's the testimony
19 of Mr. Reed. I'll just go with the first one on
20 March 1st, 2010, and FPL is seeking to change the term
21 budget to cost estimate at this point.

22 **MR. ANDERSON:** That's what Mr. Reed requested,
23 yes, that's right.

24 **COMMISSIONER SKOP:** Okay. All right. And I
25 think you mentioned a deposition that's going to be

1 held, and I guess I can look to staff for further
2 definition on that, but if my understanding is correct,
3 that that deposition is going to be held on the 16th to
4 further explore some of these issues. Is that your
5 understanding?

6 **MR. ANDERSON:** Yes, sir, that is.

7 **MS. BENNETT:** That deposition is for Winnie
8 Powers. That is not for any of the other witnesses who
9 filed errata sheets.

10 **COMMISSIONER SKOP:** Very well. All right.
11 Well, like I say, I think some of the concern is the
12 fact that the errata sheet seems to be used to, you
13 know, address the previously filed testimony to match
14 that in the recently filed prehearing statement, yet we
15 are just getting the errata sheet on the 9th. Yet on
16 August 3rd, the prehearing statement was filed, and
17 there seems to be a little bit of a gap there that, you
18 know, last minute it would have been nice to have the
19 errata sheet sooner rather than later.

20 So I'll look to staff to see how they want to
21 address that, but at this time I'd like to look to the
22 other intervenor parties to see if they have concerns or
23 position as to not only FPL's response, but staff's
24 proposal. And first I'll go to Public Counsel. So, Mr.
25 McGlothlin, you're recognized.

1 **MR. MCGLOTHLIN:** When staff counsel outlines
2 staff's suggestion, that struck me as a reasonable way
3 to handle it under the circumstances.

4 **COMMISSIONER SKOP:** Very well.

5 Ms. Kaufman, you're recognized.

6 **MS. KAUFMAN:** Thank you, Mr. Chairman.

7 We, also, would support the staff's
8 suggestion, and I don't know if I might add one to it.
9 I think it would be helpful, given all the errata to the
10 testimony, to see perhaps a type-and-strike so we can
11 tell --

12 **COMMISSIONER SKOP:** I think you read my mind.

13 **MS. KAUFMAN:** I have not received this yet
14 from FPL at all until today, but I did look on the web
15 when it was posted, and I'll be candid with you, it was
16 very difficult to tell exactly what had changed and what
17 the impact was, so that might be helpful.

18 **COMMISSIONER SKOP:** Very well.

19 Mr. Brew.

20 **MR. BREW:** Mr. Chairman, PCS doesn't take any
21 positions on FPL issues.

22 **COMMISSIONER SKOP:** Very well. Thank you. I
23 should have known that, but thank you for the
24 correction.

25 Mr. Jacobs.

1 **MR. JACOBS:** I will concur with Mr. McGlothlin
2 and Ms. Kaufman as to the process, and particularly as
3 to the type-and-strike.

4 **COMMISSIONER SKOP:** Very well.

5 Ms. Bennett, can you repeat, again, for my
6 recollection, what staff is specifically proposing.
7 What I wrote down was that at this point probably FPL
8 should request leave to amend its prefiled testimony,
9 refile its testimony using a type-and-strike format.
10 The discovery cut-off will be shifted to August 23rd on
11 this issue. That staff will be able to provide live
12 testimony at hearing as to what specific issue, I didn't
13 get that part, and that staff is proposing to add an
14 Issue 3B, which I did not get the full gist of that.

15 **MS. BENNETT:** Okay. Staff, and I would
16 imagine intervenors, would be permitted to provide
17 additional testimony live. I would suggest that it be
18 limited to those revisions that FPL files, assuming that
19 those are approved. And then the additional issue that
20 staff suggests be added as Issue 3B, "Should any FPL
21 rate case type expense associated with the 2010 Nuclear
22 Cost-Recovery Clause hearing for FPL be removed."

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

24 Mr. Anderson, any final comments before I make
25 my ruling on this?

1 **MR. ANDERSON:** I would just observe that I
2 think we will be, unfortunately, killing a lot of trees,
3 for example, changing the word second to third, from and
4 to a draft, from hearings where we misspelled two h's to
5 hearings with one h; from change mid to late; there's a
6 lot of that, Prehearing Officer Skop.

7 I was just thinking out loud, if there are
8 particular witnesses where we can literally just save
9 some trees, you know, I think Reed, I think the total
10 number of words that are suggested changing are maybe a
11 dozen or so, I haven't counted them.

12 I think what I have heard mostly is concern
13 with respect to the accounting testimony, and I think
14 that that logically we could provide a complete new
15 type-and-strike. That might make sense because we
16 provided updated MFRs, already, as you know. But just
17 in the interest of not duplicating a lot of paper, we
18 are talking probably a foot high stack to change what
19 are really, in most cases, very small words. And I
20 think it could really be well reviewed with the witness
21 if there are questions about such things.

22 And just to be practical, I know you have the
23 errata sheet in front of you, but as to Reed, you can
24 see that the words are very few. Jones there is some
25 substantive change in terms of more words down at the

1 bottom of Page 1 of his, but, you know, I'm trying to
2 avoid refileing essentially the entire submittal when,
3 with the exception of Witness Powers, I don't think it
4 materially changes most of the pages of the filings.

5 **COMMISSIONER SKOP:** Ms. Bennett, to Mr.
6 Anderson's point, again, there are many changes to the
7 financial data. What would staff's recommendation be in
8 response to Mr. Anderson's concerns, and would it be
9 possible on the typographical errors or change in the
10 substantive nature of the prefiled testimony just to
11 submit those pages which are affected in lieu of the
12 entire testimony?

13 **MS. BENNETT:** Although I love trees, I'm
14 really concerned about agreeing to that just because we
15 have not had the opportunity to sit down and compare
16 what the revisions are. And, you know, I understand
17 that two h's versus one h might not be a problem, but
18 what is a nonsubstantive versus a substantive change? I
19 just -- I'm real hesitant to agree, because there are
20 just so many, and so I would suggest that we go ahead
21 and do the whole thing.

22 **COMMISSIONER SKOP:** Okay. So staff's
23 position, if I understand correctly, is to adopt the
24 position that we've heard from some of the intervenors
25 as to the type-and-strike and refile the testimony?

1 **MS. BENNETT:** That seems to be sensible. We
2 are so close to the hearing, it's very difficult to
3 focus a lot of time to plug in the information
4 ourselves, and it would be much more helpful to have FPL
5 do it as a type-and-strike.

6 **COMMISSIONER SKOP:** And, Mr. Anderson, given
7 the nature of the change and the voluminous changes that
8 need to be made, I tend to agree with staff. My ruling
9 on this matter is to adopt the staff recommendation that
10 FPL will request leave to amend its prefiled testimony,
11 will refile the affected testimony in a type-and-strike
12 manner, that the discovery cut-off date will be shifted
13 until August 23rd, that staff and intervenors may
14 provide live testimony at the hearing limited to the
15 revisions from the errata sheet that FPL provided as
16 incorporated into the revised testimony that FPL will
17 file, and that Issue 3B as articulated by Staff will be
18 added as an issue.

19 **MS. BENNETT:** We will probably need a time
20 certain for when this revised testimony -- and then one
21 other thing I needed to note was currently we have an
22 Issue 3, so that would become 3A.

23 **COMMISSIONER SKOP:** Okay. All right.

24 Before we get to the Issue 3A and 3B
25 numbering, what proposed date would staff have in mind

1 for FPL to refile its testimony by?

2 **MS. BENNETT:** I would propose Friday.

3 **COMMISSIONER SKOP:** This Friday, the 13th?

4 **MS. BENNETT:** Yes.

5 **COMMISSIONER SKOP:** Any concerns from the
6 parties as to the 13th?

7 Hearing none --

8 **MR. ANDERSON:** Mr. Skop.

9 **COMMISSIONER SKOP:** Mr. Anderson, you're
10 recognized.

11 **MR. ANDERSON:** Thank you very much.

12 I've checked with our colleagues. With the
13 volume of work involved to do, I'm told it will take at
14 least a week to do this. So with respect to Friday,
15 it's just not feasible.

16 **COMMISSIONER SKOP:** Mr. Anderson, from my
17 position as Prehearing Officer, to be perfectly candid,
18 obviously this data was known to FPL on or before
19 August 3rd when they filed their prefiled hearing -- I
20 mean, their prehearing statement. So it seems to me
21 that, you know, as to an errata sheet being filed on
22 August 9th, there was at least six business days or six
23 days consumed in that. So obviously I want to be
24 sensitive to the company's position. I know you have a
25 lot of work to do, but, you know, waiting until the last

1 minute seems to be a problem, and I have seen it during
2 my tenure as a Commissioner.

3 So in that regard, I'll leave it to you to
4 propose an alternate date, perhaps the 16th, maybe you
5 can work over the weekend, but I just want to look to
6 staff before I change staff's recommended date, because
7 they have got a lot of work to do, also.

8 Ms. Bennett.

9 **MS. BENNETT:** Perhaps the 16th. I might
10 also -- can I speak with staff for just a minute?

11 **COMMISSIONER SKOP:** You may.

12 (Off the record.)

13 **MR. ANDERSON:** Commissioner Skop, if we put on
14 a shift of people copying things over the weekend, we
15 can ship on Monday, the 16th, and have it in people's
16 hands the 17th, if that's acceptable.

17 **COMMISSIONER SKOP:** I will look to staff when
18 they are done conferring.

19 (Pause.)

20 **MR. ANDERSON:** If I might, Commissioner Skop,
21 just, again, in the interest of trying to help things
22 along, the suggestion would be to do what I just said,
23 and, in addition, what we could do by Friday, I am told,
24 is for the specific pages where these changes appear, I
25 will give a type-and-strike of the individual pages to

1 everybody, so we could get that out by Friday, and --

2 **COMMISSIONER SKOP:** I think, you know, again,
3 that seems to be duplicative of -- I'll look to staff
4 when we get done.

5 Ms. Bennett, have you been following along to
6 what Mr. Anderson has proposed? If not, I can bring you
7 up to speed.

8 **MS. BENNETT:** I'm sorry, I didn't. But let me
9 talk for just a minute about the appendices, because
10 staff was reminding me that type-and-strike on an
11 appendix would not make sense. So what they suggest is
12 highlighting instead of typing and striking, but
13 highlighting those changes.

14 **COMMISSIONER SKOP:** Okay. Are we talking
15 about Excel sheets or something like that?

16 **MS. BENNETT:** I believe so.

17 **COMMISSIONER SKOP:** You can put a comment in
18 the cell to show what the prior number was, and revise
19 the number and highlight it.

20 **MS. BENNETT:** But --

21 **COMMISSIONER SKOP:** Here is what Mr. Anderson
22 is proposing. Obviously, staff wanted the filing in by
23 close of business on the 13th. FPL is having some
24 concerns about the level of effort necessary to do that.
25 I have addressed my concerns. FPL has proposed that if

1 they work over the weekend they can ship by close of
2 business on the 16th, and I believe it would arrive by
3 9:30 a.m., or 10:30 a.m. on the 17th.

4 Alternatively, on top of that, I believe Mr.
5 Anderson proposed that the individual pages of the
6 testimony that are affected could be shipped in advance
7 of the full refiled testimony, and I think he committed
8 that that would be done by the 13th. So based on that,
9 I'd like to hear staff's position and concerns, again,
10 trying to work in good faith between trying to get the
11 correct data set and testimony before the Commission
12 given the time limitations that we are currently facing.

13 **MS. BENNETT:** It sounds like a good
14 compromise. I do need to -- well, let me repeat what I
15 understand. The pages that are specifically changed,
16 there's going to be a type-and-strike e-mailed to the
17 parties on the 13th, on close of business the 13th.

18 **MR. ANDERSON:** Of the testimony,
19 recognizing --

20 **MS. BENNETT:** Of the testimony?

21 **MR. ANDERSON:** Yes, that's right.

22 **MS. BENNETT:** And then on the 16th by 5:00
23 p.m., FPL will give us complete revisions,
24 type-and-strike or highlighted, of the appendix and
25 testimony, and that we will receive a hard copy on

1 Tuesday morning.

2 What staff originally requested, I don't know
3 that I heard whether or not you ruled on that, but we
4 need a petition where it explains the reasons why there
5 were corrections. That will help staff understand and
6 recrunch the numbers and understand what's going on.

7 **COMMISSIONER SKOP:** And I believe that with
8 that petition will that be styled as a request for leave
9 to amend the previously prefiled testimony?

10 **MS. BENNETT:** Request to revise the testimony,
11 yes.

12 **COMMISSIONER SKOP:** Okay. All right. So we
13 can restyle it as that, and when we get down to sorting
14 this all out and getting the dates, I'll restyle it and
15 instead of requesting leave to amend, it will be a
16 request to revise the testimony.

17 **MS. BENNETT:** Correct.

18 **COMMISSIONER SKOP:** Okay. All right. So
19 staff is okay with receiving the full refiled testimony
20 by no later than 10:30 a.m. on the 17th?

21 **MS. BENNETT:** That's correct.

22 **COMMISSIONER SKOP:** Okay. And that in advance
23 of that, FPL will send the type-and-strike specific
24 sheets in advance of filing the revised testimony, and
25 that will be sent on the 13th by close of business. I

1 see nodding.

2 **MR. ANDERSON:** Yes, sir; that's right.

3 **COMMISSIONER SKOP:** I want agreement on that.
4 Okay. All right. And, Mr. Anderson, you have no
5 problem again, because getting this data to the
6 Commission in a timely manner, it needs to be here by
7 10:30, so FedEx, corporate jet, whatever you need to do,
8 but I expect to see the testimony here by 10:30 on the
9 17th.

10 **MR. ANDERSON:** We understand our commitment.
11 Thank you very much, Your Honor.

12 **COMMISSIONER SKOP:** All right. So with that
13 in mind, what we're going to do is that I'm going to
14 adopt the staff recommendation to resolve this issue.
15 That FPL will be required to file a petition requesting
16 to amend its testimony. Is that correct, Ms. Bennett?

17 **MS. BENNETT:** I called it revised, but,
18 I mean --

19 **COMMISSIONER SKOP:** All right. So FPL is
20 going to file a petition to revise its testimony. That
21 will be granted based upon review. Upon the granting of
22 that, FPL will refile its testimony in a type-and-strike
23 format on the prefiled testimony, and on the
24 attachments, or what are they --

25 **MS. BENNETT:** Appendix.

1 **COMMISSIONER SKOP:** -- appendices. On the
2 appendices, where it's not possible to type-and-strike,
3 the numerical value will be changed and highlighted and
4 a comment added if it is appropriate to do so, and
5 basically the refiled testimony will be submitted to the
6 Commission no later than 10:30 a.m. on the 17th. And
7 that would, I guess, require FPL to complete it and ship
8 it on the 16th.

9 Prior to that, on the 13th, by close of
10 business at 5:00 p.m., FPL shall provide the Commission
11 and the intervenors electronically with copies of the
12 affected type-and-strike changes -- pages, I'm sorry,
13 and I don't believe that would include the appendices at
14 that point, is that correct? Is everyone comfortable
15 with that? It would just be the testimony.

16 **MS. BENNETT:** Staff is comfortable with that.

17 **COMMISSIONER SKOP:** Okay. All right. Staff
18 is comfortable with that, so that's what we will go
19 with. The type-and-strike on the prefiled testimony
20 will be provided electronically on the 13th by close of
21 business.

22 Additionally, discovery cutoff will be shifted
23 to August the 23rd, and that staff and the intervenors
24 may provide live testimony at hearing limited to
25 addressing revisions from the errata sheet as

1 incorporated into the revised testimony, and we will
2 also be adding Issue 3B, so Issue 3 will become Issue
3 3A, and Issue 3B will read, "Should any FPL rate case
4 type expense associated with the 2010 Nuclear
5 Cost-Recovery Clause hearing for FPL be removed?"

6 And, staff, do I have that correct?

7 **MS. BENNETT:** Yes. I think I added one too
8 many FPL's in there, but --

9 **COMMISSIONER SKOP:** Okay. All right. Am I
10 missing anything?

11 **MR. ANDERSON:** And just to clarify on the list
12 there, we're to provide a motion for leave to revise the
13 testimony with this also, right?

14 **COMMISSIONER SKOP:** Yes. FPL will file a
15 petition to revise its testimony.

16 **MR. YOUNG:** Is that with explanation on terms
17 of the -- with the explanation of the changes?

18 **COMMISSIONER SKOP:** That was my understanding
19 of what staff's position would be.

20 Mr. Anderson, are you comfortable with that?
21 Do you understand?

22 **MR. ANDERSON:** I do.

23 **COMMISSIONER SKOP:** Okay. Very well. All
24 right. Any other things that I left out of that?
25 That's a long list.

1 **MS. BENNETT:** No, I think we have covered it
2 all.

3 **COMMISSIONER SKOP:** Okay. All right. So I
4 will try and recap that before we end, but I think
5 everyone has got the gist of it, and I don't want to
6 spend too much time. And I apologize to the other
7 parties that we are having to take time to resolve this,
8 but it's something that is required to be done.

9 All right. Mr. Young, any other preliminary
10 matters before we move on to the draft prehearing order?

11 **MR. YOUNG:** Not that staff is aware of. Maybe
12 the parties, you can inquire from the parties if they
13 have any additional preliminary matters.

14 **COMMISSIONER SKOP:** Any other preliminary
15 matters from the companies or intervenors? Hearing
16 none, we're going to proceed now through the draft
17 prehearing order. And I'll identify the various
18 sections, and I want the parties to let me know if there
19 are any corrections or changes that need to be made.

20 We are going to go quickly through this, or as
21 quickly as possible, so if you do have any concerns,
22 please speak up if you wish to have a change or
23 correction made.

24 Let's start with Section I, case background.
25 Any concerns? Hearing none, show it adopted.

1 Section II, conduct of proceedings. Any
2 concerns? Hearing none, show it adopted.

3 Section III, jurisdiction. Any concerns?
4 Hearing none, show it adopted.

5 Section IV, procedure for handling
6 confidential information. Any concerns? Hearing none,
7 show it adopted.

8 That brings us to Section V, prefiled
9 testimony and exhibits; witnesses. And, Staff, do you
10 have any recommendations with respect to Section V?

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

12 Staff recommends, because of the number of
13 witnesses that each witness be given five minutes to
14 summarize his or her testimony. Staff would note that
15 SACE has two witnesses that filed joint testimony in
16 both cases, that's both PEF and FPL, and staff
17 recommends that when they come up they be given five
18 minutes for each case.

19 **COMMISSIONER SKOP:** Five minutes for each
20 case, each witness for each case?

21 **MR. YOUNG:** Yes, sir.

22 **COMMISSIONER SKOP:** Okay. Very well. All
23 right. Any concerns with respect to staff's proposal to
24 limit opening statements to -- or summary -- excuse me,
25 not opening statements, summary of witness testimony to

1 five minutes?

2 Hearing none, show that done, that witness
3 testimony will be limited to five minutes per witness.
4 And, also to that point, I would like to remind the
5 parties that duplicative, repetitious, and friendly
6 cross are not allowed. I mean, we try and restrain
7 that. So, to the parties, I would just ask that they
8 would adhere to what the Commission usually requires.
9 Any other concerns on Section V before we move forward?

10 Hearing none, that takes us to Section VI,
11 order of witnesses. And the prehearing order shall
12 reflect my ruling that Progress Energy Florida's
13 petition will be taken up first followed by Florida
14 Power and Light's petition. And at this point, staff or
15 the parties, are there any witnesses that could be
16 stipulated in this proceeding?

17 **MR. YOUNG:** Mr. Chairman, at this time there
18 are no witnesses that can be stipulated. However, staff
19 would like to remind the parties that upon agreement to
20 stipulate a particular witness, please let us know, thus
21 we can begin the process of confirming with each
22 Commissioner whether they have questions for said
23 witnesses.

24 Also, staff would note that Florida Power and
25 Light would like to speak as it relates to qualification

1 of witnesses.

2 **COMMISSIONER SKOP:** Okay. Mr. Anderson,
3 you're recognized.

4 **MR. ANDERSON:** Thank you. As you know, the
5 order establishing procedure requires that parties
6 wishing to strike testimony, for example, on the basis
7 of absence of qualifications would need to be filed in
8 writing no later than the prehearing conference today,
9 and FPL is not doing that at all. But what we did wish
10 to remark is that we do intend to cross-examine with
11 respect to the credentials and background of witnesses,
12 because that always goes to the weight of their
13 testimony, not admissibility.

14 There was discussion last year that at the
15 time of the prehearing conference there would need be to
16 some type of mark in the sand along those lines.
17 Respecting that, we just want to make it very clear that
18 we haven't decided yet exactly what our
19 cross-examinations will be in the course of the hearing,
20 but that we do reserve the right to, you know, for
21 example, go into the background and qualifications of
22 witnesses as part of cross-examination as is standard
23 trial practice under Florida law.

24 **COMMISSIONER SKOP:** All right. Very well.
25 Thank you, Mr. Anderson.

1 Any concerns from the parties before I look to
2 staff?

3 Mr. Jacobs.

4 **MR. JACOBS:** Thank you, Commissioner Skop.

5 I concur with Mr. Anderson that the normal
6 cross-examination practice allows that, and I hope that
7 the provisions of the evidentiary rules are also the
8 boundaries of that cross-examination, particularly
9 90.702 which goes to how expert witness testimony is to
10 be accepted in evidence.

11 **COMMISSIONER SKOP:** Thank you. Any other
12 concerns before I look to staff?

13 Ms. Helton.

14 **MS. HELTON:** Mr. Chairman, last year was a
15 very long year, and I'm trying to remember the situation
16 that Mr. Anderson is referring to, and I honestly right
17 now can't. I agree with -- I think everything that he
18 said, the purpose for the statement in the order
19 establishing procedure is that typical Commission
20 practice is when you prefile testimony for a witness,
21 unless it's clearly a fact witness, the expectation on
22 the part of everyone is that the witness will be an
23 expert witness and his or her testimony will be accepted
24 as such.

25 I don't disagree with Florida Power and

1 Light's or anybody's ability to go and delve into the
2 background a little bit. My concern is if it approaches
3 what, I guess, you would call voir dire to the point
4 where it looks like you are trying to attack or take
5 issue with whether the witness is an expert.

6 **COMMISSIONER SKOP:** And, Mr. Anderson, if I
7 understand correctly, you are not challenging whether a
8 particular witness is qualified as an expert, but you do
9 wish to be able to conduct limited cross-examination as
10 to their background, is that correct?

11 **MR. ANDERSON:** That's right.

12 **COMMISSIONER SKOP:** Okay. All right. Very
13 well. We'll allow that, and that will be at the
14 discretion of the presiding officer whether it's
15 excessive or not at that point in time.

16 Any other issues that need to be addressed on
17 that section?

18 **MR. MCGLOTHLIN:** Commissioner.

19 **COMMISSIONER SKOP:** Mr. McGlothlin.

20 **MR. MCGLOTHLIN:** I just noticed that in the
21 order of witnesses, and with respect to the FPL portion,
22 OPC's Witness Doctor Jacobs is not listed and should be
23 added.

24 **COMMISSIONER SKOP:** Okay. Staff, can you take
25 a look at that, please, for me, and I will get to the

1 draft prehearing order.

2 **MR. YOUNG:** No problem. He is listed,
3 Williams R. Jacobs, OPC.

4 **COMMISSIONER SKOP:** Page 6.

5 **MR. YOUNG:** I think he was a late addition to
6 the revision to the draft prehearing order.

7 **MR. MCGLOTHLIN:** I must have a prior draft,
8 I'm sorry.

9 **COMMISSIONER SKOP:** Mr. McGlothlin, I'm seeing
10 Mr. Jacobs as an OPC witness, both under Progress Energy
11 on Page 5 of the draft prehearing order as well as Page
12 6 for Florida Power and Light. So does that address
13 your concern?

14 **MR. MCGLOTHLIN:** Yes; very well.

15 **COMMISSIONER SKOP:** All right. Any other
16 concerns on Section VI before we move forward?

17 Hearing none, that takes us to Section VII,
18 basic positions. And, Mr. Young.

19 **MR. YOUNG:** I'm sorry, sir. If we can go back
20 to Section VI for a second. As it relates to the
21 Progress Energy case, I think White Springs had a
22 question as relates to staff's Witnesses Coston and
23 Carpenter, as relates to the issue whether they would
24 possibly take a position on Issue 7, if their testimony
25 is related to Issue 7. Staff would look at that and any

1 additional issues that these two witnesses' testimony
2 relate and will make the change.

3 **COMMISSIONER SKOP:** Very well.

4 Mr. Brew, do you wish to be heard on that or
5 add anything further?

6 **MR. BREW:** Nothing further. I was just -- I
7 wanted to make sure that I accurately understood what
8 topics the staff was covering.

9 **COMMISSIONER SKOP:** Okay. Very well. So I
10 will leave that to White Springs and staff to resolve
11 that concern. And there is nothing further I need to
12 rule upon on that, is that correct?

13 **MR. YOUNG:** No, sir.

14 **COMMISSIONER SKOP:** All right. Very well.
15 Okay. So -- Mr. Walls?

16 **MR. WALLS:** Just a second. I believe we have
17 the same copy Joe does, because I didn't have Mr. Jacobs
18 listed in FPL's either, and I was wondering if someone
19 could just let us know if something else comes up that
20 wasn't in the --

21 **COMMISSIONER SKOP:** We can do this. If staff
22 can send an electronic copy of the draft -- I mean,
23 would that be appropriate to give them the latest and
24 greatest?

25 **MR. YOUNG:** Not a problem. We can do that

1 right now. And we do have extra copies.

2 **COMMISSIONER SKOP:** You need to speak in the
3 microphone.

4 **MR. YOUNG:** We have sent the second draft to
5 the parties. I think that was today or late yesterday,
6 so the parties might not have had a chance to review
7 that, but we do have extra copies if the parties need a
8 copy, who do not have an updated version.

9 **COMMISSIONER SKOP:** Why don't we do this. If
10 copies have been passed to Mr. McGlothlin and Mr. Walls,
11 if you want to take a brief moment to peruse through
12 that, and otherwise I think staff has indicated that the
13 revised copy is probably in the in-box of everyone's
14 e-mail.

15 (Pause.)

16 **MR. MCGLOTHLIN:** There he is.

17 **COMMISSIONER SKOP:** Mr. Walls, are you fine
18 with that?

19 **MR. WALLS:** Yes.

20 **COMMISSIONER SKOP:** All right. Thank you.
21 Any other concerns on Section VI before I move
22 forward?

23 Okay. Hearing none, that takes us to
24 Section VII, basic positions. Any concerns? Hearing
25 none, show it adopted.

1 Section VIII, issues and positions. And are
2 there any changes or corrections to the issues or party
3 positions? And, Mr. Young, do you have something to
4 add?

5 **MR. YOUNG:** It's my understanding that we do
6 have some corrections and changes to -- some corrections
7 to the parties' positions. We ask that -- we recommend
8 that you take each issue in turn. Also I noticed that
9 there are some parties that have taken no position or no
10 position at this time, and I will point those issue
11 numbers out to you as we go through.

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

13 So staff's recommendation is that based on the
14 initial positions of the parties, just go through the
15 issue list one-by-one for the various issues and see if
16 there are any changes to be made, is that correct,
17 Mr. Young?

18 **MR. YOUNG:** Yes, sir.

19 **COMMISSIONER SKOP:** Okay. All right.

20 We'll start with Issue 1. Any changes with
21 respect to the issue or party positions? Okay.

22 Hearing none, Issue 2. All right. Hearing
23 none --

24 **MR. YOUNG:** Mr. Chairman.

25 **COMMISSIONER SKOP:** Mr. Young.

1 **MR. YOUNG:** Just for the record, again, SACE
2 has confirmed that they are taking -- their position
3 will remain no position. Based on the prehearing order,
4 they -- excuse me, I'm getting tongue twisted. They
5 have effectively waived to talk about that position.

6 **COMMISSIONER SKOP:** Okay. Is that --

7 **MR. JACOBS:** Which issue are we speaking of?

8 **MR. YOUNG:** This is for -- not SACE, I'm
9 sorry. FEA, not SACE.

10 **COMMISSIONER SKOP:** Okay. And that's because
11 they've taken no position. That's the Federal Executive
12 Agency, correct?

13 **MR. YOUNG:** Yes, sir.

14 **COMMISSIONER SKOP:** All right.

15 **MR. McGLOTHLIN:** Commissioner, with respect to
16 Issue 2 and OPC's position statement, I have a small
17 typographical type of change to make.

18 **COMMISSIONER SKOP:** All right. Very well. If
19 you could articulate that, or what I would plan to do is
20 in the interest of having staff compile this is just
21 briefly state the change, and then send a brief e-mail
22 to staff by a time certain date. That way we can make
23 sure it is updated and issue the prehearing order.

24 **MR. McGLOTHLIN:** All right. If staff wants to
25 make a note of this, in the fourth line of OPC's

1 statement, the words "in that" appear, and they should
2 be reversed to say "that in," so that it reads, "that in
3 contrast to its assertions."

4 **COMMISSIONER SKOP:** Okay. Are there any other
5 changes on statements for Issue 2? Okay.

6 Hearing none, that takes us to Issue 3. Any
7 concerns or changes?

8 **MR. YOUNG:** Again, based on your ruling in
9 terms of the errata sheet, discussions on the errata
10 sheet, what is now labeled as 3 in the draft prehearing
11 order will become 3A, and the additional issue of 3B
12 will be inserted.

13 **COMMISSIONER SKOP:** Very well. And thank you
14 for reminding of me of that, Mr. Young. With respect to
15 3A, that will be the existing positions, if I understand
16 it, that is now numbered as Issue 3. And, again, that
17 will becomes 3A; 3B will be the new issue. And at what
18 point will we need initial positions from the parties on
19 that?

20 **MR. YOUNG:** If they can take it today, that
21 will be great. If not, staff would recommend that all
22 parties take a position by August 12th, 2010, that's
23 tomorrow. That's our recommendation.

24 **COMMISSIONER SKOP:** By close of business
25 tomorrow, will that be sufficient for staff?

1 **MR. YOUNG:** Yes, sir.

2 **COMMISSIONER SKOP:** Okay. All right. Based
3 on that, unless there is any hardship concerns, any
4 changes to positions or additions to the positions that
5 we have discussed here are going to be due to staff
6 electronically by 5:00 p.m. tomorrow.

7 **MR. ANDERSON:** Just out of an abundance -- I'm
8 sorry.

9 **COMMISSIONER SKOP:** Mr. Anderson.

10 **MR. ANDERSON:** Thank you very much. Out of an
11 abundance of caution, on a preliminary basis, please
12 state FPL's position on 3A as no, and we will provide an
13 update, if necessary, tomorrow per your time line.

14 **COMMISSIONER SKOP:** Very well. Thank you.
15 Mr. Brew.

16 **MR. BREW:** White Springs will have no position
17 on 3B.

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

19 Any other concerns on Issues 3A or 3B as
20 renumbered?

21 Hearing none, that takes us to Issue 4, and
22 this begins the Progress company-specific issues.

23 **MR. YOUNG:** Yes, sir. Based on my copy of the
24 draft prehearing order, I have the following parties who
25 need to take a position on Issue 4. SACE needs to take

1 a position on Issue 4. Their position is currently
2 listed as no position at this time.

3 **COMMISSIONER SKOP:** Mr. Jacobs.

4 **MR. JACOBS:** We would take the position of
5 supporting the position of OPC.

6 **COMMISSIONER SKOP:** Very well. Any other
7 concerns on Issue 4? Hearing none, that takes us to
8 Issue 5. Any concerns?

9 **MR. YOUNG:** Again, SACE has no position.

10 **COMMISSIONER SKOP:** Okay. Mr. Jacobs.

11 **MR. JACOBS:** Just one moment. Again, we would
12 agree with the position of OPC.

13 **COMMISSIONER SKOP:** Very well. Any other
14 concerns on Issue 5?

15 Hearing none, that takes us to Issue 6.

16 Mr. Young, do we have the same concern on
17 Issue 6 for SACE?

18 **MR. YOUNG:** No, sir. All parties have taken a
19 position.

20 **COMMISSIONER SKOP:** Okay. Any concerns on
21 Issue 6 before we move forward? Okay.

22 Hearing none, that takes us to Issue 7.

23 **MR. BREW:** Commissioner, with respect to the
24 PCS Phosphate response, just a typographical. On the
25 third line where it says "in all other respect" you

1 should add an "s."

2 **COMMISSIONER SKOP:** Very well. Any other
3 concerns on Issue 7?

4 Okay. That takes us to Issue 8. Any concerns
5 on Issue 8?

6 **MR. YOUNG:** Yes, sir. Again, SACE needs to
7 takes a position on Issue 8.

8 **COMMISSIONER SKOP:** Mr. Jacobs.

9 **MR. JACOBS:** SACE would take the position of
10 no.

11 **COMMISSIONER SKOP:** All right. Very well.
12 Any other concerns on Issue 8?

13 All right. Hearing none, that takes us to
14 Issue 9. Any concerns?

15 **MR. YOUNG:** Again, SACE needs to take a
16 position on Issue 9.

17 **COMMISSIONER SKOP:** Mr. Jacobs.

18 **MR. JACOBS:** We would also take the position
19 of no on Issue 9.

20 **COMMISSIONER SKOP:** Very well. Any other
21 concerns?

22 Hearing none, that takes us to Issue 10.

23 **MR. YOUNG:** Issue 10, we have the following
24 parties that need to take a position. I think OPC's
25 position currently reads, "No position pending

1 resolution of other issues." I know last year and the
2 year before we have had some issues with that as whether
3 that is a position or not.

4 Also, SACE needs to take a position. The same
5 thing with PCS Phosphate, because PCS Phosphate and OPC
6 have the same position. And FIPUG.

7 **COMMISSIONER SKOP:** Okay. And is SACE
8 involved in this one or not?

9 **MR. YOUNG:** Yes, SACE is involved in this one.

10 **COMMISSIONER SKOP:** Okay. All right. So
11 let's go down the list of characters here.

12 Mr. McGlothlin.

13 **MR. MCGLOTHLIN:** My co-counsel is handling
14 that part of the case. I would like an opportunity to
15 confer before I get back to staff.

16 **CHAIRMAN ARGENZIANO:** Okay. All right. Mr.
17 Young, noting that we are going to have a deadline of
18 5:00 p.m. tomorrow, I would assume that Public Counsel
19 understands the concerns and Mr. McGlothlin will work
20 with Mr. Rehwinkel to sort that out with staff. Is that
21 sufficient to address your concerns?

22 **MR. YOUNG:** Yes, sir. That's for OPC, and I
23 would like to hear from the rest of the parties.

24 **COMMISSIONER SKOP:** Okay. Well, I'm getting
25 there.

1 **MR. YOUNG:** Sorry.

2 **COMMISSIONER SKOP:** PCS, Mr. Brew.

3 **MR. BREW:** I would ask the same indulgence, so
4 we can talk to OPC about it.

5 **COMMISSIONER SKOP:** All right. Very well.
6 And FIPUG, Ms. Kaufman.

7 **MS. KAUFMAN:** I would ask the same. However,
8 I would note that these issues where we're asking for
9 dollar amounts do depend on what happens on some of the
10 prior issues, so I do think that that is an appropriate
11 position to take. And if the Chair permits it, we would
12 maintain that position.

13 **COMMISSIONER SKOP:** All right. Mr. Young, in
14 response to that, noting that some of the number values,
15 can they hedge appropriately by amending their statement
16 to encompass staff's concerns?

17 **MR. YOUNG:** If I can have one second to
18 confer.

19 **COMMISSIONER SKOP:** You may.

20 (Pause.)

21 **MR. YOUNG:** Mr. Chairman, given what Ms.
22 Kaufman -- my technical staff has informed me that
23 Ms. Kaufman is correct as relates to given the fact that
24 this issue relates to other issues. So with that being
25 said, the only person that would need to be taking a

1 position at this time is SACE.

2 **COMMISSIONER SKOP:** Okay. Mr. Jacobs.

3 **MR. JACOBS:** I'll ask for the indulgence of
4 providing a final position by tomorrow, if that's okay.

5 **COMMISSIONER SKOP:** All right. By 5:00 p.m.
6 tomorrow.

7 **MR. JACOBS:** Thank you.

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

9 And so for Public Counsel, PCS, and FIPUG, basically the
10 position that they have adopted now is sufficient in
11 light of the changing nature of the testimony.

12 **MR. YOUNG:** Yes, sir.

13 **COMMISSIONER SKOP:** Okay. Very well. All
14 right. Any other concerns on Issue 10?

15 Hearing none, that takes us to Issue 11.

16 **MR. YOUNG:** Again, we have the same issue on
17 Issue 11. I think this is also a fallout issue. With
18 that being said, I think SACE needs to take a position
19 because they have no position at this time.

20 **COMMISSIONER SKOP:** Mr. Jacobs.

21 **MR. JACOBS:** It would be my thought that I
22 would want to ask for the same indulgence on this issue
23 as well. We can provide it by tomorrow.

24 **COMMISSIONER SKOP:** All right. Very well.
25 SACE will provide the update on Issue 11 by 5:00 p.m.

1 tomorrow. Any other concerns?

2 Hearing none, that takes us to Issue 12.

3 Mr. Young, any concerns there?

4 **MR. YOUNG:** Yes. Again, SACE needs to take a
5 position with this issue, on this issue.

6 **MR. JACOBS:** And we'll adopt the same response
7 there.

8 **COMMISSIONER SKOP:** All right. Very well. On
9 these issues, just -- we'll go through them quickly. If
10 SACE needs to provide a response, I think Mr. Jacobs has
11 entered a textbook placeholder that he'll amend it by
12 5:00 o'clock tomorrow.

13 All right. Any other concerns on Issue 12?
14 That takes us to Issue 13. And, Mr. Young, if we do run
15 into one of those issue numbers, please bring it to my
16 attention.

17 **MR. MCGLOTHLIN:** Excuse me, sir, I do have a
18 small change on OPC's statement on 12.

19 **COMMISSIONER SKOP:** On 12?

20 **MR. MCGLOTHLIN:** Yes.

21 **COMMISSIONER SKOP:** All right. Mr.
22 McGlothlin, you're recognized on behalf of OPC.

23 **MR. MCGLOTHLIN:** On the fourth line of our
24 statement the reference to Central Florida Substation
25 should read Central Florida South Substation, with a

1 capital S.

2 **COMMISSIONER SKOP:** All right. Very well.
3 Any other changes on Issue 12? Okay. Hearing none, now
4 we are back on Issue 13. And any changes?

5 **MR. YOUNG:** I think we're fine on Issue 13.

6 **COMMISSIONER SKOP:** All right. Very well.
7 That takes us to Issue 14. Any changes or concerns?

8 Hearing none, that takes us to Issue 15. Any
9 concerns?

10 **MR. YOUNG:** I think if SACE wants to enter a
11 standard objection to A12 -- to provide information to
12 A12, because they took no position at this time.

13 **COMMISSIONER SKOP:** Is that on Issue 15?

14 **MR. YOUNG:** Yes, sir.

15 **COMMISSIONER SKOP:** Okay. Mr. Jacobs, can you
16 speak to that, please.

17 **MR. JACOBS:** I'm going to include that in the
18 list that I will provide by tomorrow, as well.

19 **COMMISSIONER SKOP:** Okay. All right. So for
20 the SACE issues that SACE has taken no position, again,
21 Mr. Jacobs has committed that he will provide staff with
22 the appropriate amendments by 5:00 p.m. tomorrow such
23 that they can be incorporated into the prehearing order.

24 All right. Any other concerns on 15?

25 **MR. McGLOTHLIN:** Yes. On 15, OPC's statement

1 should be revised to say no position pending resolution
2 of Issues 2 and 7.

3 **COMMISSIONER SKOP:** Okay. Very well. Any
4 other concerns on 15?

5 Hearing none, that takes us to Issue 16, which
6 is the beginning of Florida Power and Light's
7 company-specific issues. So we are currently on Issue
8 16. Any concerns?

9 **MR. YOUNG:** Again, SACE needs to take a
10 position.

11 **COMMISSIONER SKOP:** All right. Mr. Jacobs,
12 are you aware of that?

13 **MR. JACOBS:** Yes, sir.

14 **COMMISSIONER SKOP:** Okay. Any change in
15 position at this time, or will you submit it by 5:00
16 p.m. tomorrow?

17 **MR. JACOBS:** I want to add that to the list.

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

19 **MR. JACOBS:** I can say this, I do know that
20 for the uprate issues that we were a little bit less
21 involved in those issues, but I just want to be clear
22 before I make a statement.

23 **COMMISSIONER SKOP:** Okay. All right. So I
24 will leave it to SACE and you to amend that, any change
25 in position by 5:00 p.m. tomorrow on Issue 16. Any

1 other concerns on Issue 16?

2 Hearing none, that takes us to Issue 17. Any
3 concerns?

4 **MR. YOUNG:** SACE.

5 **COMMISSIONER SKOP:** Okay. Mr. Jacobs.

6 **MR. JACOBS:** We'll add 17, as well.

7 **COMMISSIONER SKOP:** Very well. Any other
8 concerns on Issue 17? Hearing none, that takes us to
9 Issue 18.

10 **MR. YOUNG:** On Issue 18, I have the following
11 parties that need to take a position. OPC needs to take
12 a position, and that's it.

13 **COMMISSIONER SKOP:** Okay. Mr. McGlothlin.

14 **MR. MCGLOTHLIN:** I can meet the same deadline
15 of 5:00 tomorrow.

16 **COMMISSIONER SKOP:** All right. Very well.
17 Show it done.

18 Any other concerns on Issue 18?

19 Hearing none, that takes us to Issue 19.

20 **MR. YOUNG:** Again, OPC needs to take a
21 position. FIPUG needs to take a position.

22 **COMMISSIONER SKOP:** Mr. McGlothlin, I assume
23 that you'll amend your position by 5:00 p.m. tomorrow on
24 Issue 18. And Ms. Kaufman?

25 **MS. KAUFMAN:** Yes, sir.

1 **COMMISSIONER SKOP:** All right. Very well.
2 Any other concerns on Issue 19 before I move forward?
3 All right.

4 Hearing none, that takes us to Issue 20.

5 **MR. YOUNG:** Issue 20, SACE needs to take a
6 position.

7 **COMMISSIONER SKOP:** Mr. Jacobs.

8 **MR. JACOBS:** That is an uprate, but I'll add
9 it to our issues, as well, that I'll provide tomorrow.

10 **COMMISSIONER SKOP:** All right. And that's on
11 Issue 20?

12 **MR. JACOBS:** Yes, sir.

13 **COMMISSIONER SKOP:** Very well. Any other
14 concerns on Issue 20?

15 Hearing none, that takes us to Issue 21. Any
16 other concerns on Issue 21?

17 **MR. YOUNG:** SACE needs to take a position.

18 **MR. JACOBS:** We'll include that in the list
19 that we'll provide tomorrow, as well.

20 **COMMISSIONER SKOP:** All right. Any other
21 concerns on Issue 21? Hearing none, we'll now move to
22 Issue 22.

23 **MR. YOUNG:** If I can have one second to confer
24 in terms of Issue 21.

25 **COMMISSIONER SKOP:** You may. We'll go back to

1 a holding pattern on Issue 21. And while we are in the
2 holding pattern, Mr. Walls, I think I was remiss when I
3 asked if -- when we were taking appearances, I mentioned
4 Mr. Glenn and Mr. -- hold on, one second, let me find my
5 sheet -- Mr. Glenn and Mr. Burnett, but I think I missed
6 Ms. Triplett, and I don't believe Ms. Triplett is
7 sitting before me, so I just wanted to mention that,
8 whether you wanted to enter an appearance on her behalf,
9 also.

10 **MR. WALLS:** I don't believe Ms. Triplett is
11 going to join us this year.

12 **COMMISSIONER SKOP:** Okay. All right. Well, I
13 guess she gets to sit out. She's the lucky one. Thank
14 you.

15 **MR. YOUNG:** We're back. We're ready.

16 **COMMISSIONER SKOP:** Mr. Young, you're
17 recognized.

18 **MR. YOUNG:** I think 21 is -- we are fine with
19 21. 21 is resolved, so we can move on to 22.

20 **COMMISSIONER SKOP:** All right. Very well. We
21 are on Issue 22. Any concerns on Issue 22?

22 **MR. YOUNG:** SACE needs to take a position.

23 **COMMISSIONER SKOP:** Mr. Jacobs.

24 **MR. JACOBS:** We'll provide a response to that.

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

1 Any other concerns on 22?

2 All right. That takes us to Issue 23.

3 **MR. YOUNG:** On 23, OPC needs to take a
4 position. SACE needs to take a position.

5 **COMMISSIONER SKOP:** All right.

6 Mr. McGlothlin.

7 **MR. MCGLOTHLIN:** As with the others, we'll
8 file something by 5:00 o'clock tomorrow.

9 This might be the appropriate point to just
10 mention one thing that we may get into in greater detail
11 later today, and that is you'll see that in our position
12 statement we have agreed with the proposal from the
13 staff witness to consider certain uprate costs in a
14 separate proceeding, either a spin-off or in the next
15 hearing cycle. And we have had some conversations with
16 FPL about the possibility of a stipulation to that
17 effect. I just wanted to give you that alert, so that
18 when we get to it you will see these position statements
19 in the context of a possible stipulation.

20 **COMMISSIONER SKOP:** Okay. I understand that
21 position, and certainly you're free to amend it. I'm
22 not so sure what's going to happen with -- what may be
23 spun off, or bifurcated, or not bifurcated at this point
24 in time. So irrespective of the issue, I think that
25 there are -- I certainly have some questions when we get

1 to hearing that I wish to ask.

2 **MR. MCGLOTHLIN:** I see.

3 **COMMISSIONER SKOP:** And I wish to ask those
4 while I'm here in my remaining time. So, again, I think
5 that we'll certainly entertain any proposed stipulation,
6 but, again, looking at some of the testimony that has
7 come in, without getting into it here, I certainly have
8 some questions that I would rather ask during my time on
9 the bench.

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

11 **COMMISSIONER SKOP:** All right. Any other
12 concerns on Issue 23?

13 **MS. KAUFMAN:** Yes, Commissioner. FIPUG's
14 position on Page 43, we have the wrong utility in there,
15 so we should change PEF to FPL.

16 **COMMISSIONER SKOP:** Okay. Very well. Any
17 other concerns on Issue 23?

18 All right. Hearing none, that takes us to
19 Issue 24.

20 **MR. YOUNG:** Again, OPC needs to take a
21 position and SACE needs to take a position.

22 **COMMISSIONER SKOP:** Okay. Mr. McGlothlin.

23 **MR. MCGLOTHLIN:** As with the others, we'll
24 follow through by 5:00 tomorrow.

25 **COMMISSIONER SKOP:** Very well. Mr. Jacobs.

1 **MR. JACOBS:** We'll provide those responses. I
2 suspect they will be consistent with the responses for
3 PEF on these same relative issues, but we will provide
4 that final response tomorrow.

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

6 **MR. McGLOTHLIN:** For clarification, our
7 position may be no position once we get to that point.

8 **COMMISSIONER SKOP:** All right. Very well.
9 Any other concerns on Issue 24? All right. Hearing
10 none, that takes us to Issue 25.

11 **MR. YOUNG:** On 25, again, OPC needs to take a
12 position, and I think FIPUG wants to change the
13 company's name from PEF to FPL.

14 **COMMISSIONER SKOP:** Okay. Mr. McGlothlin.

15 **MR. McGLOTHLIN:** The same response, sir.

16 **COMMISSIONER SKOP:** Okay. And, Ms. Kaufman.

17 **MS. KAUFMAN:** Mr. Young is correct. Thank
18 you.

19 **COMMISSIONER SKOP:** Very well. And do we need
20 to get SACE involved in this one?

21 **MR. YOUNG:** No, sir.

22 **MR. JACOBS:** We have one there.

23 **COMMISSIONER SKOP:** All right. And I believe
24 that is all for Issue 25; is that correct, Mr. Young?

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

1 **COMMISSIONER SKOP:** Okay. So that takes us to
2 Issue 26.

3 **MR. YOUNG:** On 26, OPC needs to take a
4 position.

5 **COMMISSIONER SKOP:** Mr. McGlothlin.

6 **MR. MCGLOTHLIN:** Same response, sir.

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

8 Any other concerns on Issue 26?

9 **MS. KAUFMAN:** Yes.

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

11 **MS. KAUFMAN:** We have the same change, to
12 change PEF to FPL.

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

14 And we have a position from SACE -- Mr. Young, is that
15 correct?

16 **MR. YOUNG:** Yes, sir.

17 **COMMISSIONER SKOP:** All right. Any other
18 concerns on Issue 26? Hearing none, that takes us to
19 Issue 27.

20 **MR. YOUNG:** In Issue 27, SACE has to take a
21 position. It currently says no position at this time.

22 **COMMISSIONER SKOP:** All right. Mr. Jacobs.

23 **MR. JACOBS:** And we'll add that to the list
24 that we will provide by tomorrow.

25 **COMMISSIONER SKOP:** Very well. Any other

1 concerns on Issue 27? Okay. I think that covers going
2 through the issues issue-by-issue. Are there any other
3 changes or corrections that we missed that we need to
4 take up under Section VII of the draft prehearing order?

5 **MR. YOUNG:** Mr. Chairman, based on our
6 discussion here, staff requests that, again, if the
7 parties who have been given leave to take a petition do
8 so by the close of business on Thursday, August 12th,
9 2010.

10 **COMMISSIONER SKOP:** All right. Very well.
11 Any revisions that need to be made as have been
12 discussed during the discussion need to be filed with
13 Commission staff no later than the close of business,
14 5:00 p.m. on Thursday, August 12th, 2010.

15 All right. Any other concerns before we move
16 forward, Mr. Young?

17 **MR. YOUNG:** No other concerns as relates to
18 that section.

19 **COMMISSIONER SKOP:** All right. Very well.
20 That takes us to Section IX, the exhibit list. Are
21 there any changes, corrections to the list that need to
22 be made?

23 **MS. HUHTA:** May I be recognized?

24 **COMMISSIONER SKOP:** You may.

25 **MS. HUHTA:** Under Thomas G. Foster, TGF-6,

1 that schedule should not be listed as confidential.

2 **COMMISSIONER SKOP:** All right. And, staff,
3 you will incorporate that revision?

4 **MR. YOUNG:** If she could point us to what page
5 she is on?

6 **MS. HUHTA:** Page Number 48.

7 **MR. WALLS:** It's 49 in the order you gave me.

8 **MR. YOUNG:** Okay. What schedule, Thomas G.
9 Foster?

10 **MR. WALLS:** Yes. Thomas G. Foster, TGF-6.

11 **MR. YOUNG:** Okay.

12 **MR. WALLS:** This might be a good time to
13 mention another issue with respect to our exhibits. We
14 have identified as JE-11 on Page 57 the EPC agreement
15 and the amendments. These were identified in the direct
16 and rebuttal testimony of Mr. Elnitsky, but because of
17 the nature of the contracts we are dealing with, they
18 were not filed. They have been made available to the
19 Commission staff and to parties under nondisclosure
20 agreements, and we would make them available for use at
21 the hearing under the confidentiality rules of the
22 Commission.

23 **COMMISSIONER SKOP:** Very well. Staff, do we
24 need to address that now, or does that address your
25 concern, or Mr. Walls' concern, and can we move forward

1 at this point, or do we need to address that further in
2 the pending confidentiality motion?

3 **MR. WALLS:** Ms. Huhta, is reminding me, we did
4 file it under a request for confidential classification,
5 but I just wanted to reflect that we haven't filed it as
6 an exhibit, but we have made it available to all the
7 parties, and we have requested confidential treatment,
8 and it would be available for use at the hearing if
9 parties did want to ask questions about it.

10 **COMMISSIONER SKOP:** Does Progress intend to
11 use that exhibit during any of its direct questioning of
12 this witness, or redirect?

13 **MR. WALLS:** It may be used on redirect, if
14 need be. And I believe that there probably will be some
15 cross-examination at least about the amendments to that
16 agreement, or may be.

17 **COMMISSIONER SKOP:** And, I think, Mr. Walls,
18 would the -- the plan of attack may be, if I understand
19 it, is we are going to try and succinctly summarize
20 which documents that are confidential may be used at
21 hearing such that we can aggregate those and make
22 confidentiality determinations. And I think we'll get
23 into that a little bit later in the prehearing today.
24 Hopefully, we might get some cooperation from some of
25 the parties as to what needs to be confidential and what

1 doesn't to address some of the concerns that appear to
2 have arisen.

3 All right. Ms. Bennett and Mr. Young, to Mr.
4 Walls' concern.

5 **MR. YOUNG:** I think staff are fine with
6 Mr. Walls' concern. We understand Mr. Walls' concern.
7 I think Progress Energy Florida has filed that EPU
8 contract with the Clerk under the cloak of
9 confidentiality, and I think we're fine. Staff is fine.

10 **COMMISSIONER SKOP:** All right. Very well.
11 And, Mr. Walls, that takes care of any concerns you had.
12 Any further concerns?

13 **MR. WALLS:** No.

14 **COMMISSIONER SKOP:** Any other concerns from
15 the parties? Okay. And, staff, anything to add under
16 Section IX, or are we ready to move forward?

17 **MR. YOUNG:** Yes, sir. Staff will note for the
18 record that we will prepare a Comprehensive Exhibit List
19 consisting of all the prefiled exhibits for the purpose
20 of numbering and identifying the exhibits at the
21 hearing. Included in the Comprehensive Exhibit List,
22 which all the parties should have a draft copy of, there
23 are several exhibits staff will be requesting to enter
24 into the record.

25 This Comprehensive Exhibit List is in advance

1 of the hearing. We'll use this is for the parties in
2 advance of the hearing. Any additional stipulation
3 contained in the discovery responses may be added during
4 the course of the hearing if the parties agree.

5 **COMMISSIONER SKOP:** All right. Very well.
6 Any other additional concerns on Section IX before we
7 move forward? Hearing none, that takes us to Section X,
8 proposed stipulations.

9 Staff.

10 **MR. YOUNG:** There are no proposed stipulations
11 at this time in terms of staff looking right before the
12 beginning of this hearing, but I think Mr. McGlothlin
13 spoke of potential stipulations and this would be the
14 time to address those.

15 **COMMISSIONER SKOP:** Mr. McGlothlin, you're
16 recognized.

17 **MR. MCGLOTHLIN:** Mr. Anderson and I had some
18 preliminary discussions about the possibility of a
19 stipulation that would defer the issues that relate to
20 uprate related costs to a separate proceeding or to the
21 next hearing cycle, and we had indicated our willingness
22 at least on a conceptual basis to work on that, and that
23 is where things stand.

24 **COMMISSIONER SKOP:** All right. I'll let the
25 parties continue to discuss that. Again, I have seen

1 some of the data, and some of the confidential
2 documents, and some of the recommendations. I think my
3 concern, again, not withstanding trying to accommodate
4 stipulations where they can be reached by the parties,
5 is to have the opportunity to ask a relevant line of
6 questions during the hearing process. And depending
7 upon if you bifurcate that issue out, then it depends on
8 when the hearing would be, or if you spin it off into
9 the next cycle, obviously, you know, I won't be able to
10 ask or entertain the questions that I have at this
11 point.

12 I think my inclination, and, again, it may
13 come down to the will of the Commission, but it would be
14 to tee those issues up, see where we go, and then, you
15 know, if the Commission, as a whole, ultimately decides
16 to move forward then, you know, maybe we can do so in a
17 different manner. I haven't formed an opinion on that,
18 but I do know that I have some questions.

19 One of the things that, you know, may have
20 arisen is in light of -- the nature of that discussion
21 is whether we might bifurcate, possibly bifurcate the
22 existing hearing dates to shift that issue back a couple
23 of weeks such that, you know, if staff had some
24 additional questions, the parties, or what have you, we
25 might be able to accommodate trying to resolve any

1 outstanding issues related to those items to the extent
2 that, you know, it brings some certainty to the utility
3 pursuant to statute with the cost-recovery where we are
4 able to address those issues.

5 But I don't want to get into the merits of it,
6 I'm just trying to, you know, project my thought process
7 as it pertains to issues being spun off or stipulated
8 to. I don't want to prevent a stipulation, but I also
9 don't want to be constrained from reasonably asking
10 questions, noting that any point the Commission can
11 choose to spin something out at the appropriate time at
12 hearing.

13 **MR. MCGLOTHLIN:** Yes, sir.

14 **COMMISSIONER SKOP:** Okay. Anything to add,
15 Mr. Anderson, on that?

16 **MR. ANDERSON:** Nothing on that. I was just
17 looking at the time for opening statements, and at the
18 right time wanted to talk about that.

19 **COMMISSIONER SKOP:** All right. Any other
20 concerns on Section X, proposed stipulations? Okay.

21 **MR. YOUNG:** Mr. Chairman, to the extent that
22 parties have reached stipulations on certain issues, we
23 would ask that they let staff know so we can get those
24 stipulations in a written format to present at the
25 beginning of the hearing.

1 **COMMISSIONER SKOP:** Okay. Very well. And
2 Section X, I believe, addresses that. Hearing no other
3 concerns, that takes us to Section XI, pending motions.

4 **MR. YOUNG:** Beside the pending motions -- the
5 pending confidentiality motions and the motion for
6 temporary protective order which will be addressed in
7 the next section, there are no pending motions that
8 staff is aware of.

9 **COMMISSIONER SKOP:** Okay. At this time, but
10 noting that FPL will be submitting a petition to amend
11 its testimony.

12 **MR. YOUNG:** Yes.

13 **COMMISSIONER SKOP:** Okay. All right. Any
14 other concerns on Section XI? Okay. Hearing none, that
15 takes us to Section XII, pending confidentiality
16 motions.

17 Staff.

18 **MS. BENNETT:** Staff will note that there are
19 several confidentiality requests, and that staff and the
20 parties have filed a list of confidential documents over
21 which there are issues for the August 20th
22 confidentiality hearing. Understanding that those list
23 of issues were filed today, it might be advisable to ask
24 each party and the staff to identify those documents at
25 this time that are of issue for the confidentiality

1 hearing on August 20th.

2 **COMMISSIONER SKOP:** Thank you, Ms. Bennett.

3 I think that is the attempt of staff to have
4 the parties identify what documents are at issue, what
5 documents do we need to aggregate such that when we get
6 to the evidentiary hearing on the 20th we can go through
7 those documents and render a determination pursuant to
8 what we need to do on those issues. So, Ms. Bennett,
9 it's your preference just go company-by-company,
10 intervenor-by-intervenor?

11 **MS. BENNETT:** Yes. And staff is also prepared
12 to discuss the documents it has issues with.

13 **COMMISSIONER SKOP:** Okay. And I guess it
14 would be by document name and document number on any
15 documents they wish to -- that are of concern?

16 **MS. BENNETT:** Yes.

17 **COMMISSIONER SKOP:** Okay. All right. Why
18 don't we do this. Why don't we start with Florida Power
19 and Light, and Mr. Anderson, you're recognized.

20 **MR. ANDERSON:** Are we discussing now
21 particular documents for next week's hearing, do I
22 understand correctly?

23 **COMMISSIONER SKOP:** I believe we are. Ms.
24 Bennett?

25 **MS. BENNETT:** Yes. These are the documents

1 that either staff, an intervenor, or a utility might
2 have question about for the August 20th hearing.

3 **COMMISSIONER SKOP:** All right. Very well.
4 Mr. Anderson.

5 **MR. ANDERSON:** Great. As to FPL, we filed
6 today and served on the parties a copy of our prehearing
7 statement and list of issues as to things which FPL has
8 which it expects will be subject to further
9 confidentiality discussions, and we'll have -- we'll
10 reach out to people in advance of next week's hearing to
11 just ensure and see if they are contested or not.

12 At this time, the two issues which we are
13 aware of that are at issue, staff -- or, I'm sorry, OPC
14 filed an objection to one of our confidentiality
15 requests as to two particular things, and we filed a
16 response to their objection the other day. So in the
17 ordinary course, I think we would be at issue on that
18 next week.

19 In addition, we have reviewed the staff list
20 of exhibits and testimony for which they wish to contest
21 potentially confidentiality. What our process will be
22 for that, staff gave us today a good detailed document
23 with line-by-line specification. We will review that
24 and on that type of line-by-line suggestion that staff
25 has, and we will search in particular for areas of

1 agreement to rule out as many areas for potential
2 contention as we can, and, again, try to just narrow
3 issues. In that way also bring, you know, the fewest
4 number of people that are necessary to deal with
5 contested issues.

6 And I just wanted to make sure, is that how
7 staff kind of saw this playing out in terms of how to
8 conduct that hearing and just make sure we are at issue?

9 **MS. BENNETT:** I think so, yes. We are hoping
10 that the parties could look at staff's concerns, and if
11 there were any other concerns of intervenors, and
12 perhaps there would be some agreement on some of the
13 items, and we can narrow down to the fundamental legal
14 issues of the different documents that need to be
15 addressed through the evidentiary hearing.

16 **MR. ANDERSON:** I think that's a good process.
17 And as I read the Prehearing Officer's order and the
18 parties' pleadings, that is kind of how I saw this
19 unfolding, also. So the objective would be hopefully by
20 the 20th we are down to whatever the balance of
21 contested issues are, and we bring in witnesses on
22 those, right?

23 **MS. BENNETT:** That would be appropriate.

24 **MR. ANDERSON:** Okay. Then that is how we
25 understand it. We will review staff's list in that way,

1 and, of course, be considering OPC's objections also and
2 be prepared to proceed on the 20th as directed.

3 **COMMISSIONER SKOP:** Okay. To Mr. Anderson's
4 point, following along with the voluminous documents
5 that have been filed, I'm aware of Public Counsel's
6 objection. I'm aware of Florida Power and Light's
7 response to OPC's objection, in part, and looked at some
8 other things that were filed. I think that my
9 understanding of Public Counsel's objections pertain to
10 the staff audit report -- and, Mr. McGlothlin, feel free
11 to chime in, the testimony of Doctor Jacobs as it
12 pertains to both FPL and Progress, and I have reviewed
13 those documents prior to hearing today, as well as I
14 believe there is a list in Attachment B of confidential
15 documents that OPC's filing on the 6th that OPC wants to
16 take a look at.

17 But, Mr. Anderson, I think that, you know,
18 your concerns -- I just want to make sure from FPL's
19 perspective, the documents that you claim to be
20 confidential that you plan to use as either exhibit, or
21 rebuttal, or cross, that we know what those are such
22 that we can address those on the 20th.

23 **MR. ANDERSON:** Yes, sir. That's the
24 understanding with which we reviewed your order and
25 followed along and how we are prepared to proceed on the

1 20th.

2 **COMMISSIONER SKOP:** Okay. And I think in
3 Public Counsel's objection they listed some specific
4 pages. I've looked at that. I have issued a temporary
5 protective order taking no position as to FPL's request,
6 but certainly we need to, on the 20th, look specifically
7 at those pages as well as some other pages that may
8 warrant some attention either from my part or other --

9 Okay. So moving forward, I think we will next
10 go to Progress Energy. And, Mr. Walls, I just received
11 a copy of an August 11th filing, which I think withdraws
12 Progress' request for confidentiality of numerous
13 documents. So I commend Progress for trying to resolve
14 differences where Progress is able to do so. So if
15 you'd like to speak to this document, as well as any
16 other concerns Progress has.

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

18 Yes, after the August 6th filing both by
19 Progress and OPC, we worked with OPC on the documents
20 that OPC had questions about. In a meeting with them,
21 we were able to identify those with passage of time we
22 felt like we could withdraw the confidential
23 classification, given the circumstances today versus
24 when the documents were originally marked confidential.
25 And so those have been identified in this document with

1 the agreement of OPC's counsel.

2 And as a result of this, as well, OPC has
3 agreed to withdraw some of its requests or concerns
4 about confidential documents in its attachment which we
5 have reflected in this filing, as well. And we believe
6 that this now addresses all the concerns that OPC had
7 identified on August 6th with respect to the
8 confidential classifications for this hearing for
9 Progress Energy Florida.

10 We have just received staff's, and we will
11 certainly go through that, as well, and work with them
12 to resolve any issues that we can. And if we can
13 withdraw the confidential classification for the same
14 reasons we will do so in an effort to avoid a hearing on
15 that.

16 **COMMISSIONER SKOP:** Okay. Very well. And I
17 do appreciate the cooperation of Progress to address
18 Public Counsel's concerns. Briefly looking at their
19 August 6th filing, Attachment B, and looking at your
20 August 11th filing, I looked at some of those documents
21 before the prehearing today, or at least attempted to,
22 but going off on a quick checklist, it seems the
23 majority of the documents on Attachment B have been or
24 are crossed out because you have waived confidentiality
25 of those documents, and it seems like the only document

1 that is not affected, I think, is the 12 document, the
2 05 document, and the 15 document. And I didn't really
3 kind of get in -- I think you addressed those here where
4 OPC agreed to withdraw the request on the 05 document,
5 so I think that takes care of that one. And on the 15
6 document there are some issues there, and I'm not sure
7 what Public Counsel has with that, but we are probably
8 going to take a break in a little to give the parties
9 some time to kind of confer on this issue. But it seems
10 like the majority of the concerns from Public Counsel's
11 perspective have been addressed by this filing. Is that
12 correct?

13 **MR. WALLS:** Yes. On the 15 document and the
14 22 document, we have tried to narrow down the
15 confidentiality to specific numbers which are referenced
16 there.

17 **COMMISSIONER SKOP:** All right. Very well.
18 And, again, it's my understanding that staff, based on
19 Mr. Walls' concerns, may still have some additional
20 concerns that either will be worked out or be addressed
21 at the August 20th evidentiary hearing. Is that
22 correct?

23 **MS. BENNETT:** That's correct. My
24 understanding is most of staff's concerns with both
25 audit reports might well be resolved because a lot of

1 the information was disclosed in the rebuttal testimony,
2 and so --

3 **COMMISSIONER SKOP:** Okay. So if it's
4 previously disclosed, then obviously it precludes a need
5 for it to receive confidential treatment. And I have
6 looked at, I think, both audit reports, and, again, I
7 need to get with staff to see how the concerns are being
8 addressed, but I think this is a good positive step
9 forward in, you know, transparency and allowing us to
10 talk freely at hearing on things that the parties,
11 Public Counsel or others, or staff may want to speak to.
12 So I thank Progress for its cooperation on that.

13 Any other documents that we need to address?
14 I think the audit report is still in play, obviously,
15 and I think staff just spoke to that. But I think I may
16 have one document that I may wish to add, but I'll defer
17 that until later on Progress.

18 **MS. BENNETT:** Commissioner Skop, there are
19 several documents that staff has also listed in addition
20 to what's in Attachment A and B, and they don't have
21 document numbers. They have not been filed yet. We are
22 anticipating that they will -- they're in reference to
23 interrogatory responses that we have sent to FPL and we
24 anticipate that they will request confidential treatment
25 of those.

1 **COMMISSIONER SKOP:** Okay. All right. Well, I
2 think the purpose of this, again, is to kind of tee up
3 the issue in advance of the 20th to try and identify
4 what documents are at issue and aggregate those
5 documents such that we have a scope of review at the
6 August 20th evidentiary hearing. So hopefully this will
7 be helpful at either identifying additional documents or
8 crossing documents off that tentative list of areas that
9 we may need to address, or concerns we have. Okay. So
10 I think that takes care of Progress.

11 Go to Public Counsel, Mr. McGlothlin.

12 **MR. MCGLOTHLIN:** First of all, I can confirm
13 that Mr. Walls accurately described the situation with
14 respect to the documents that we had flagged and that
15 the workout is complete from our perspective with
16 respect to Progress Energy.

17 With respect to FPL, as you are aware, FPL
18 sought confidential classification of a large portion of
19 staff's audit report. We objected to that on the basis
20 that the claim of confidentiality was overbroad and in
21 our objection we identified examples of two subjects
22 that we contend should not be confidential. And that's
23 where that matter stands. I did not bring with me a
24 line-by-line type of workup. For that purpose I would
25 simply adopt our objection as our issue list and our

1 position statement on that matter.

2 **COMMISSIONER SKOP:** All right. Very well.
3 Thank you for that, and we need to take a quick time out
4 for one second, so everyone hold in place.

5 (Off the record.)

6 **COMMISSIONER SKOP:** Thank you, Mr. McGlothlin.
7 And now we will go to PCS and Mr. Brew.

8 **MR. BREW:** We don't have any issues on the
9 confidential documents.

10 **COMMISSIONER SKOP:** All right. Very well.
11 Ms. Kaufman.

12 **MS. KAUFMAN:** Thank you, Mr. Chairman.
13 We filed a request after the issuance of your
14 procedural order on the confidentiality hearing in which
15 we said that we don't have any witnesses sponsoring any
16 confidential documents. We take no position on the
17 confidentiality requests. We will, of course, abide by
18 any ruling that is issued and proceed accordingly. And
19 we ask to be excused from the confidentiality hearing
20 and from any further requirements that relate to that.

21 **COMMISSIONER SKOP:** Okay. And I have reviewed
22 that filing, and if there is no objection from staff, I
23 don't see why that request should not be honored.

24 **MR. YOUNG:** No objection.

25 **COMMISSIONER SKOP:** All right. Show it done.

1 And that takes us to Mr. Jacobs.

2 **MR. BREW:** Commissioner Skop.

3 **COMMISSIONER SKOP:** I'm sorry, Mr. Brew.

4 **MR. BREW:** I would note that PCS made a
5 similar filing.

6 **COMMISSIONER SKOP:** Yes, and I saw that filing
7 also, and that same relief will be granted to PCS.

8 **MR. YOUNG:** No objection.

9 **MR. JACOBS:** SACE has followed suit with a
10 similar filing, I believe. We would ask that that
11 request be considered.

12 **COMMISSIONER SKOP:** I'm sorry, can you --

13 **MR. JACOBS:** I believe SACE followed suit with
14 a similar filing, and we would ask that that request be
15 considered, as well.

16 **COMMISSIONER SKOP:** That request is granted.
17 I have seen that filing, also, where basically it takes
18 no position or requests to be excused from hearing.
19 Very well.

20 All right. So for PCS, FIPUG, and SACE, they
21 filed requests that they take no position and request to
22 be excused from the evidentiary hearing, and that
23 request is granted for those three parties.

24 Okay. All right. Commission staff, as to
25 confidentiality issues.

1 **MS. BENNETT:** Commission staff filed its list
2 of confidentiality evidentiary hearing documents that we
3 have issues with. In addition to -- for Progress Energy
4 Florida Document Number 05701-10, which is the staff's
5 audit report, and FPL's 05783-10, which is, again,
6 staff's audit report for the management audit, we have
7 staff's fourth request for production of documents, the
8 request itself is confidential; staff's seventh set of
9 interrogatories, and, again, the request is
10 confidential. And we anticipate that FPL's responses to
11 those PODs and interrogatories will also be filed
12 confidential.

13 In an abundance of caution, we are going to
14 include that in our list -- for the evidentiary hearing,
15 we may be able to narrow it down depending on what FPL
16 files. And also the report referenced on Pages 40
17 through 43 of the review of Florida Power and Light
18 Company's project management internal controls for
19 nuclear plant uprate and construction projects, that
20 document staff would like or anticipates using it at the
21 hearing and would like that as part of the August 20th
22 hearing.

23 **COMMISSIONER SKOP:** Very well. Any other
24 documents from staff's perspective?

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

1 **COMMISSIONER SKOP:** All right. With respect
2 to my capacity as Prehearing Officer, I've had the
3 opportunity to look at the majority, but not all of the
4 documents. Again, I think what's important is to
5 understand what may be at issue at hearing such that the
6 parties have transparency and are able to speak freely
7 and the appropriate determinations are made based on a
8 evidentiary hearing.

9 I do have some specific concerns in relation
10 to both of the internal audits reports with respect
11 to -- and I think that those are going to be covered.
12 At least from Progress' perspective, staff expects that
13 staff will address its concerns during the August 20th
14 hearing, or is staff expecting those concerns to be
15 resolved?

16 **MS. BENNETT:** I anticipate discussing this
17 with Mr. Walls afterwards, and also Mr. Anderson, kind
18 of pointing out some areas we think they'll be able to
19 withdraw their request, so we might narrow that down
20 quite a bit. I'm not sure that it will be completely
21 gone.

22 **COMMISSIONER SKOP:** Okay. Well, with respect
23 to -- and it's hard for me to articulate what my
24 concerns are here, because this is not the evidentiary
25 hearing, but I'll rely on staff. I do have some

1 specific concerns as they pertain, and I don't to be
2 limited to this, but on Page -- I'll get back to that in
3 a second, but I do have some concerns on the Progress
4 staff audit report. There are concerns that I think
5 could be reasonably worked out, but I'll have to find
6 the specific page in a second. I'm doing that on the
7 fly, and my intent here is probably to take a brief
8 recess to give the parties some time to work out issues,
9 at which point I can address my concerns.

10 Also, with respect to the staff audit report
11 for FPL, I do have concerns that probably are going to
12 require or will come up during the evidentiary hearing
13 based on the objections that I have heard as well as
14 staff concerns, but I have some specific concerns that
15 would need to be addressed, and I think those generally
16 begin -- they are throughout the document in places, so
17 I don't want to limit discussion, but I expect that
18 we'll discuss this document at a minimum at evidentiary
19 hearing on the 20th.

20 And also with respect to Progress, there was
21 one document, and I think the document is 03542-10, and
22 it's a portion of Direct Testimony in Exhibit JE-1. And
23 I need to find the exact thing, but there is a document
24 there that has been fully redacted, and I don't really
25 have an issue with that other than blanket redactions,

1 and I have seen those in the past, and, you know,
2 honestly, I think that, you know, things that are
3 confidential should remain confidential, but those
4 things on a piece of paper that obviously aren't
5 confidential probably shouldn't be redacted.

6 So I would just ask Progress to take try and
7 take a brief look at that document that is completely
8 redacted. And I understand the reasons why it would
9 need to be redacted, but in its entirety maybe -- that
10 may be a little bit overreaching. But not a big
11 concern, a concern in passing that I'm sure will be
12 worked out.

13 Any other concerns from staff before we take a
14 brief --

15 **MS. BENNETT:** No. We've listed our documents,
16 and I will note that I was optimistic and thought I
17 would be able to compile a list and give it to everybody
18 today, but I think it's going to be tomorrow before I
19 get that list completely compiled.

20 **COMMISSIONER SKOP:** Okay. Just to staff, I
21 guess my preference noting that there is always room for
22 compromise to avoid having to do things, would it be
23 beneficial at this point to take a brief recess to allow
24 staff to confer with the parties and Public Counsel such
25 that some of these issues may be resolved?

1 **MS. BENNETT:** I think it would be helpful.

2 **COMMISSIONER SKOP:** Okay. All right. Very
3 well. Why don't we do this. Let me see briefly if we
4 can hold in place for one second on this other document,
5 and maybe I can provide some guidance during the break
6 of areas of concerns that I had. And if not, we'll just
7 recess for a fixed period of time and allow the parties
8 to try and work out any differences in the spirit of
9 compromise that could be achieved during that time. And
10 if not, those remaining issues we'll deal with during
11 the evidentiary hearing on August 20th. But give me one
12 second and see if I can find the specific page I had an
13 issue on.

14 (Pause.)

15 **COMMISSIONER SKOP:** Okay. Just briefly,
16 during the recess on the staff audit report for
17 Progress, I did have some concerns on Page 47. And, I'm
18 sorry, wow, the numbers changed here. That's kind of
19 interesting. It looks like Page 47 and 48, but the page
20 number on Page 48 seems to be wrong. And that's at the
21 top right of the document. But I had some concerns
22 there. If they needed to be addressed at the
23 evidentiary hearing, I'm sure it would be a quick
24 discussion.

25 As well as Page 67, and that would be in

1 relation to some of the discussion on Page -- now my
2 numbers are messed up, so let me do this. Let me give
3 you the numbers at the bottom of the page, because the
4 numbers here are all over the place at the top right,
5 and I apologize for that. I just noticed it myself.

6 It looks like Page 39 at the bottom. That's
7 the page number at the bottom, continuing on to Page 40.
8 Looking at Page 59 and relating that back to some
9 discussion on 22. But, again, I don't want to be
10 limited to that, but, again, that's some areas of
11 concerns without getting into the details of what's on
12 those pages. But just some things I think need to be
13 discussed there, and I'll leave it to staff to try and
14 address their concerns, and I'll address mine separately
15 if staff's concerns don't address mine, whatever you all
16 work out.

17 **MS. BENNETT:** Your second page number that you
18 were -- it was 39 to 40 and --

19 **COMMISSIONER SKOP:** 39, 40, 59, and relating
20 that back to the title description on Page 22. Which, I
21 mean, Page 22 is not confidential at all. So if they
22 could look at -- on Page 22, Section 2.2.2, and look at
23 the title there. I think it will become apparent what
24 my concern would be in relation to Page 39, at the top
25 of Page 39.

1 And I can elaborate that with staff if I need
2 to. But, like I said, I don't want to waste a lot of
3 time on issues. I just want to make sure that the
4 concerns that staff has and the parties have are
5 adequately addressed by both companies. And, you know,
6 if I have some follow on concerns, I'll address those at
7 the appropriate time during the evidentiary hearing.

8 **MS. KAUFMAN:** Commissioner Skop.

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

10 **MS. KAUFMAN:** I note that we only have two
11 more sections to go in the prehearing order, and I
12 wondering if it would be your pleasure if we could take
13 those up before the break so that the parties that
14 aren't involved in the confidentiality issues might be
15 excused.

16 **COMMISSIONER SKOP:** And that's a good point,
17 Ms. Kaufman, noting that I approved that three parties
18 of this proceeding would be excused from the evidentiary
19 proceeding. It seems to reason that unless staff has
20 any objection that that request could be accommodated.

21 Staff, do you see any reason why it could not
22 be, and we just break later towards the end before we
23 adjourn?

24 **MR. YOUNG:** I don't see any reason why Ms.
25 Kaufman's request cannot be accommodated, and then after

1 that we can -- we just won't adjourn, and that's it.

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

4 **MR. YOUNG:** And we can take a break after we
5 address these two sections.

6 **COMMISSIONER SKOP:** Okay. So, Section XII, I
7 think that addresses all the concerns, noting that three
8 parties will be excused from the evidentiary hearing.
9 So what we're going to do in the interest of time, per
10 Ms. Kaufman's request, is we are going to move on to
11 Section XIII, post-hearing procedures.

12 And, Staff, any recommendations as to that
13 section?

14 **MR. YOUNG:** Staff suggests that post-hearing
15 positions be limited to 50 words and post-hearing briefs
16 be limited to 50 pages.

17 **COMMISSIONER SKOP:** All right. Very well.
18 Any concerns from the parties? Mr. Anderson.

19 **MR. ANDERSON:** We just suggest that positions
20 be up to 80 words, but we're fine with the 50-page
21 limit. We try to stay with the 50, but sometimes the
22 sentences go a little longer, so that is not a problem.

23 **COMMISSIONER SKOP:** Okay. Any other concerns?

24 **MR. McGLOTHLIN:** I was going to suggest
25 100 words.

1 (Laughter.)

2 **MR. ANDERSON:** And we're fine with that.

3 **COMMISSIONER SKOP:** All right. Staff. If the
4 50-page limit is adequate --

5 **MR. YOUNG:** The 50-page limit is adequate. We
6 can increase it to 75 or 80, your choice. It doesn't
7 matter.

8 **COMMISSIONER SKOP:** Okay. All right. Well, I
9 try to be accommodating. Mr. McGlothlin asked for 100,
10 Mr. Anderson didn't object to that. I'd like to keep it
11 narrower. So, again, what we are going to do to try and
12 accommodate that one is that the post-hearing positions
13 are going to be limited to 80 words and, you know, if
14 you need to stretch over one or two, fine, but let's try
15 and keep it at 80 words. I think that's a fair
16 compromise between the 50 and the 100 that has been
17 requested, so we don't put a lot of burden on the staff.
18 And the post-hearing briefs will be limited to 50 pages.
19 I think that's a fair compromise.

20 Any other concerns on Section XIII?

21 Okay. Section XIV, rulings. Staff?

22 **MR. YOUNG:** Staff would suggest that the
23 Prehearing Officer make a ruling that opening
24 statements, if any, should not exceed five minutes per
25 party. And that's for each docket. If a party is

1 entered in -- excuse me, for each case. If a party is
2 in both cases, that means they have ten minutes; five
3 minutes for FPL, five minutes for Progress.

4 **COMMISSIONER SKOP:** Okay. Any concerns on
5 that? Mr. Walls.

6 **MR. WALLS:** We would like to request ten
7 minutes, if that's possible, since we have two projects.
8 Five minutes each, the uprate and the LNP.

9 **COMMISSIONER SKOP:** All right. Mr. Young, how
10 was staff looking at that to the extent that we have new
11 construction and we also have uprates? That's an
12 interesting twist on it.

13 **MR. YOUNG:** That's a very interesting twist.

14 Quite frankly, Mr. Chairman, I have not
15 considered that in terms of two projects. If we can
16 table that and hear from the rest of the parties and see
17 how they feel.

18 **COMMISSIONER SKOP:** All right. Let's start
19 with Mr. Brew and we'll go down the line.

20 **MR. BREW:** Thank you, Mr. Chairman.

21 Mr. Chairman, at least with respect to
22 Progress we'd suggest allowing ten minutes for the
23 opening statements. Among other things, we have a
24 fairly substantial change in project course and
25 direction and spending, as well as two new Commissioners

1 that haven't sat through this before. So I'd suggest,
2 at least for Progress, ten minutes per party.

3 **COMMISSIONER SKOP:** Mr. McGlothlin.

4 **MR. MCGLOTHLIN:** I will adopt that.

5 **COMMISSIONER SKOP:** Okay. Ms. Kaufman.

6 **MS. KAUFMAN:** That would be fine.

7 **COMMISSIONER SKOP:** Mr. Jacobs.

8 **MR. JACOBS:** I'll concur.

9 **COMMISSIONER SKOP:** Okay.

10 **MR. ANDERSON:** FPL would submit a request for
11 ten minutes.

12 **MR. YOUNG:** Mr. Chairman, from our experience
13 from the past, we have had more parties in this docket,
14 and given the fact that this year it is a lesser amount
15 of parties, we would recommend ten minutes per party.
16 Since Progress mentioned that they have two projects,
17 and that will be beneficial to all the parties, five
18 minutes for Progress for the uprates, five minutes for
19 the new construction. Staff is okay with that.

20 **COMMISSIONER SKOP:** Okay. And that would be,
21 if I understand this correctly, because, again, when you
22 get twists in there, I have to stop and think at my old
23 age. So basically the company would get 10 minutes
24 total for opening statements. Progress would get ten
25 minutes, FPL would get ten minutes, and then the

1 intervenors would get ten minutes per company.

2 **MR. YOUNG:** Yes.

3 **COMMISSIONER SKOP:** Okay. Or each intervenor
4 would be.

5 **MR. YOUNG:** Yes.

6 **COMMISSIONER SKOP:** All right. That seems to
7 be fair, so that's what my ruling will be that each
8 party in each case will get ten minutes for opening
9 statements. And any other matters we need concerning
10 Section XIV?

11 **MR. YOUNG:** Yes, sir. Also, staff would just
12 note that all rulings made during the prehearing
13 conference shall be reflected in this section of the
14 prehearing order.

15 **COMMISSIONER SKOP:** Okay. Very well. Any
16 other concerns on Section XIV? Okay.

17 Hearing none, other matters. Staff?

18 **MR. YOUNG:** Yes. Staff would request that to
19 the extent that parties' positions change or are added
20 due to the discussion here at the prehearing conference,
21 that they provide any such changes to staff by the close
22 of business Thursday, August 12th, 2010. This is
23 necessary so that the prehearing order can be completed
24 before the hearing.

25 **COMMISSIONER SKOP:** Okay. Very well. And,

1 also, too, just in the interest of administrative
2 efficiency, you know, noting what works well and what
3 doesn't work well, I have brought up a few things that I
4 wanted to mention to the parties, given the fact that,
5 you know, we do have some hearing dates. We may need to
6 spillover, depending upon what happens. Again, there's
7 a lot of things that are in the process of being
8 definitized, not only in testimony, but confidentiality.
9 So hopefully we can address those issues and stay on
10 track.

11 But to expedite the hearing process with
12 respect to cross exhibits on cross-examination, staff
13 may be passing out -- I've asked them to pass out an
14 example of what might be done to expedite the hearing
15 process, and that would be basically providing a list of
16 exhibits that would be used during cross-examination so
17 that we have them and we can incorporate those.

18 And so what I've done is I've asked staff to
19 hand out a cover sheet that might be used for exhibits
20 at hearings, and everyone could attempt to use the
21 process like this. It might make the process of marking
22 the exhibits go a little bit more smoothly and quickly.
23 And the Chairman typically asks, or the presiding
24 officer asks for a short title, so my suggestion would
25 be to put that on the cover page of the exhibit, the

1 shorter the better. Sometimes we get a little bit wordy
2 on that, but obviously, you know, the parties in good
3 faith -- typically it's in everyone's interest to make
4 it go as smoothly as possible.

5 Also, too, with respect that, if you can make
6 a good number of copies for your exhibits. One for the
7 witness, court reporter, five Commissioners, and at
8 least one for each party. So in an abundance of
9 caution, perhaps 20 copies of each exhibit would
10 probably be appropriate. And, you know, if you need
11 help in passing the exhibits out, obviously we put some
12 barriers to try and kind of make it more like a
13 courtroom. We can't have everyone rushing the bench,
14 but feel free to ask anyone of our staff or court
15 reporters to assist you in handing those out to the
16 bench, and we are more than happy to do so.

17 Also, too, the availability of witnesses. The
18 hearing is currently scheduled for four days. I know
19 that witnesses often have competing commitments, but
20 please do your best to make them available in the order
21 that we've determined. And if there is some avoidable
22 conflict, please let staff and the other parties know as
23 soon as possible in advance to try and work something
24 out prior to their appearance. Again, not getting
25 surprised the morning of. Certainly, if you know

1 something, it would be appropriate to disclose it at the
2 time you learn that the conflict exists, not wait until
3 the last minute.

4 And, you know, if you know that you have a
5 problem with the witness the next day and you know that
6 the afternoon prior, then typically when we recess the
7 parties meet with staff, and that's a good time to kind
8 of sort that out so that we don't get bogged down in the
9 beginning of the hearing each morning.

10 Also, too, if there are schedules, and
11 emergencies, or storms, you know, heaven forbid,
12 hopefully we don't have any of those, but, you know, we
13 have got a lot of ground to cover, and I do have -- ask
14 the parties to adhere to doing their best to try and
15 keeping us on schedule.

16 And then with respect to confidentiality,
17 obviously we're going to have an evidentiary to address
18 some of the outstanding issues on that, but, you know,
19 if you plan to use confidential data, the data that
20 subsequent to my ruling still remains confidential, then
21 everyone should be acutely aware of the need to preserve
22 the confidentiality of such information. And, you know,
23 if you have any questions about that, then please, you
24 know, feel free to speak to our legal staff. But,
25 typically, it's in the red folders, and then you have to

1 point them to, you know, line-by-line, page-by-page.
2 And it gets to be cumbersome at times, as we have
3 experienced during lengthy hearings, but we do our best
4 to try and address the outstanding confidentiality
5 issues on the merits and make a ruling in a fair and
6 impartial manner, and then we will deal with what we
7 have to deal with with that data that remains
8 confidential.

9 So, with that, staff, are there any other
10 aspects that we need to consider before I release the
11 three parties such that we can temporarily recess to
12 allow the parties to confer?

13 **MR. YOUNG:** No, sir, not that staff is aware
14 of.

15 **COMMISSIONER SKOP:** All right. So at this
16 point of the proceeding, unless there's any other
17 questions from the parties, I am going to dismiss PCS,
18 FIPUG, and SACE from the prehearing at this time. Feel
19 free to stay, if you want to; but what I am going to do,
20 since you have been released, we have the remaining
21 parties, and what I would like to do is recess for
22 approximately 30 minutes to give the parties time to
23 confer with each other and staff with respect to some of
24 the confidentiality issues. See where there may be some
25 common ground, and then we'll reconvene at 4:00 p.m. So

1 we are going to be on temporary recess until 4:00.

2 Thank you.

3 (Recess.)

4 **COMMISSIONER SKOP:** Okay. We're going to go
5 back on the record at this point. And having adjourned
6 to give the parties some time to confer. Staff, you're
7 recognized.

8 **MS. BENNETT:** Commissioner Skop, we spoke
9 briefly with both the utility -- well, both Progress
10 Energy and FPL. Both are going through my rather
11 detailed list regarding the staff's audit report to
12 determine what they can withdraw requests for
13 confidential treatment of. It's going to take awhile,
14 so I think what we will have to do is continue. I think
15 they may withdraw confidentiality requests for some of
16 it, and that would leave the remaining portions that
17 they continue to have a request for the hearing on
18 August 20th.

19 **COMMISSIONER SKOP:** All right. Very well.
20 And, like I said, I would encourage the parties to work
21 in good faith to try and resolve differences. I think
22 Public Counsel has some concerns, staff has some
23 concerns, so anything that we're able to resolve in
24 advance of the evidentiary hearing obviously makes the
25 process go smoother. And getting that good faith

1 cooperation is beneficial not only to the parties, but
2 also at hearing, because we don't have to stop and take
3 the time to enunciate things that otherwise could be
4 discussed openly and freely and transparently.

5 So I'd ask the parties to continue to work in
6 good faith in that regard. And I want to commend
7 Progress for, again, taking the proactive step of
8 addressing some of the concern in advance of that
9 hearing. And I think that staff has some other
10 concerns, but I'm sure that the parties will work that
11 out in advance of the 20th.

12 Any other concerns from staff before we
13 adjourn?

14 **MR. YOUNG:** No, sir.

15 **COMMISSIONER SKOP:** Okay. Just to repeat what
16 the agreement was just so we are clear. And, Mr.
17 Anderson, if I say something wrong, please correct me.
18 But, again, with respect to FPL's commitment, my ruling
19 was that FPL will file a petition to revise its
20 testimony. That the refiled testimony will be
21 type-and-strike as to the prefiled testimony of the
22 witnesses. The appendices will have the numerical data
23 corrected and highlighted in the cell with a comment, if
24 it's appropriate or possible to do so. That the
25 discovery cutoff is shifted to August 23rd. The staff

1 and the intervenors will provide live testimony at
2 hearing limited to revisions from the errata sheet as
3 incorporated in the revised testimony. And that Issue 3
4 has now been changed where Issue 3 originally now
5 becomes Issue 3A, and Issue 3B has been added. And
6 Issue 3B, "Should any FPL rate case type expense
7 associated with the 2010 NCRC hearing for FPL be
8 removed?" And I believe that covers my ruling on that.

9 And, Staff, any other concerns?

10 **MR. YOUNG:** There are no other concerns.

11 **COMMISSIONER SKOP:** Okay. And just to the
12 remaining parties, again, any revisions to position
13 statements are due by close of business 5:00 p.m.
14 tomorrow. And I do appreciate the parties taking the
15 time. It's a little bit of a lengthy hearing that got
16 bogged down in some places, but I'm happy that we are
17 able to make as much progress as we did. And with that,
18 if there's no further concerns, we stand adjourned.

19 Thank you.

20 (The prehearing concluded at 4:06 p.m.)
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STATE OF FLORIDA)
 :
 : CERTIFICATE OF REPORTER
COUNTY OF LEON)

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

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

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

DATED THIS 17th day of August, 2010.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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