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## 1 PROCEEDINGS

2 CHAIRMAN GRAHAM: Good morning, everyone. I  
3 tell you what, I, I slept like a dead dog last night for  
4 about a good, solid seven and a half hours. It felt  
5 great. I got up and went to the gym this morning. I  
6 feel pretty fantastic. And maybe what it is, because  
7 this is the last day that I have to hold this thing in  
8 my hand. This is it.

9 (Laughter.)

10 So that all being said, we teed up a lot of  
11 things before we left, a lot of options and a lot of  
12 what-ifs.

13 Mr. Stone, since you seem to be at the helm of  
14 a lot of this, let's hear what your thoughts are, and  
15 then I'll see where I need to leap off from there.

16 MR. STONE: Mr. Chairman, I would hesitate to  
17 guess at which questions I should lead off with. I did  
18 such a bad job answering one question yesterday that I  
19 would, I would rather be reminded which question you  
20 would like me to try and answer.

21 CHAIRMAN GRAHAM: All right. Let's see if one  
22 of the Commissioners want to start off. I mean, I don't  
23 have a problem starting. But, you know, let's, let's  
24 see what some of the thought processes were, because,  
25 you know, we dumped a lot of stuff on people and told

1 them to go home to think about it.

2 Commissioner Brown.

3 **COMMISSIONER BROWN:** I'd be happy to start off  
4 some questions, really for Staff. So I don't know which  
5 one of you want to answer this, but we heard a lot of  
6 discussion yesterday about Staff's opinion on using the  
7 MDS methodology. Do you categorically oppose use of the  
8 methodology?

9 **MS. KUMMER:** No, ma'am, we do not. MDS by its  
10 nature -- it's a model. It requires you to allocate  
11 some costs that you can't separate out through  
12 accounting. Staff has some concerns or some questions,  
13 I guess, about some of the assumptions that are used in  
14 that model. But this is not to say that we would never  
15 approve an MDS. It's going to depend on the individual  
16 situation.

17 **COMMISSIONER BROWN:** And a more thorough  
18 detailed analysis of the pros and cons?

19 **MS. KUMMER:** We, we believe that the  
20 Commission -- well, I view Staff's role as providing you  
21 with information so that you can make a thoroughly  
22 reasoned, sound, factually sound decision.

23 I think that is better accomplished in this  
24 case, because it is a complex issue, by allowing Staff  
25 to present a written recommendation that will present

1 pros and cons. It will draw from the information that  
2 has been included in the record. It will provide a road  
3 map, if you will, connecting the discovery that has been  
4 presented. It's sometimes a little hard to wade through  
5 all that stuff if you're not knee deep into it like  
6 technical staff is. And I think it will make you more  
7 comfortable with whatever decision you make.

8           **COMMISSIONER BROWN:** Thank you. And about the  
9 evidence in the record, in addition to the prefiled  
10 testimony and the exhibits, what other evidence is in  
11 the record for us to evaluate using the MDS methodology?

12           **MS. KLANCKE:** Staff has conducted extensive  
13 depositions in this case, including the depositions of  
14 FIPUG's Witness Pollock, who is stipulated and not  
15 present at the hearing, whose deposition transcript and  
16 interrogatory responses were included in the record.  
17 Staff is putting together a list, but it's voluminous,  
18 of everything that deals with this issue that has been  
19 moved into the record in this case.

20           In addition, Witness Stowe were deposed, and  
21 Witness O'Sheasy was deposed. We think that those  
22 deposition transcripts are very beneficial, in addition  
23 to their prefiled testimony, which in and of itself  
24 contains an entire MDS study associated with the  
25 testimony of Witness O'Sheasy that needs careful

1 deliberation. And that's, and we believe that the  
2 process that we have in place with respect to that is  
3 the recommendation.

4 **COMMISSIONER BROWN:** Thank you.

5 **MR. WILLIS:** To go a little further,  
6 Commissioner Brown, there's also about 80 production of  
7 document requests and interrogatory requests that you'd  
8 have to wade through. If you were to stack it up,  
9 there's about close to six inches or better of material.

10 **COMMISSIONER BROWN:** Thank you.

11 **MR. WILLIS:** To give you an idea.

12 **COMMISSIONER BROWN:** Thank you. Just a  
13 question for Mr. Stone and Mr. Moyle regarding economic  
14 development. We talked a lot about that, and obviously  
15 everyone in this room is a proponent for spurring on  
16 economic development.

17 My question for both of you, since you both  
18 addressed that issue, can you quantify the number of  
19 jobs created by using this methodology?

20 **MR. STONE:** That would require speculation on  
21 our part. We do know by comparison that the, the types  
22 of jobs that our sister company in Mississippi has been  
23 able to attract by having the cost causative principles  
24 of MDS reflected in their rate design, we believe that  
25 that will materialize on our system as well. It's a

1 question of when. And this, this would prove to be a  
2 tool that we would use, because by what we believe  
3 fairly allocating costs to all our customers, we believe  
4 that will put us in a posture where industrial customers  
5 could locate in our area, even in the midst of the  
6 troubling economic times that we're in, and that's what  
7 we're about.

8 I want to be clear. The company, the  
9 company's stake in this issue is to get the costs right.  
10 There are, there are no revenues to the company  
11 associated with the change in methodology, unless new  
12 economic activity occurs. And we believe it's in the  
13 best interest of all our customers, and that's what  
14 we're here for is to advocate on behalf of our  
15 customers.

16 **COMMISSIONER BROWN:** But you do have some of  
17 that information from your sister -- from Gulf's sister  
18 companies?

19 **MR. STONE:** We would -- we could try to  
20 assemble that to show -- I can't remember how long ago  
21 it was that they changed from a different cost of  
22 service methodology to one that incorporated MDS. We  
23 could try to go back and see if there's any historical  
24 evidence of that. I just don't know what -- I don't  
25 know what would be available, but we could certainly try

1 to do that.

2           **COMMISSIONER BROWN:** Do all of the Southern  
3 Company's utility companies, do they all use the MDS  
4 methodology?

5           **MR. STONE:** I know that Mississippi does.  
6 Quite frankly, I'm not familiar with Alabama's cost of  
7 service study or Georgia's cost of service study.

8           **COMMISSIONER BROWN:** Mr. Moyle?

9           **MR. MOYLE:** I'll -- let me try to answer your  
10 question this way. I recently was at an event where the  
11 Governor's new chief of business development economics,  
12 I don't have the title right, but I think it's Gray  
13 Swoope, and I may not have the name right, but he came  
14 from Mississippi. And a very articulate gentleman, and  
15 he talked about the things that Florida was trying to do  
16 to lure business here.

17           And he got a question from somebody that said  
18 what, what are the things that are problematic? You  
19 know, you used to be doing this job for Mississippi, and  
20 you've kind of changed jerseys and are doing it for  
21 Florida now. What are the arguments that are used when  
22 you're competing or when you were competing against  
23 Florida?

24           And he talked about economic uncertainty in  
25 regulatory uncertainty. Economic uncertainty runs, you



1 know, not state lines, but permits and things like that.

2 I would venture to say that to the extent that  
3 you have such a wide disparity in energy rates,  
4 currently, as we sit here today, and I don't think  
5 that's disputed, I mean, the industrial rates are  
6 amongst the highest in the southeast, that if I or  
7 someone else were representing Alabama or particularly  
8 Mississippi, trying to lure a prospective new big  
9 business to the area, I would hammer really hard on, on  
10 the, you know, on the industrial rate segment and say,  
11 look, energy costs are a big part of your car factory.  
12 Here's the rates that you can be expecting to pay in  
13 Mississippi, and look what you'd be paying in Florida.

14 And, you know, everybody, there's an  
15 intangible about beaches and things like that, but big  
16 car companies, they got to report to shareholders and  
17 board members, and they will not lose focus of the  
18 bottom line. So from my view, to the extent that  
19 there's a wide disparity in a key cost component such as  
20 energy, it makes Florida less able to compete.

21 In terms of the number of jobs, I mean, you  
22 know, I think that will be realized at some future  
23 point. They're hard to quantify. But, you know, to the  
24 extent expansion takes off and people are pitched about  
25 energy rates that are less disparate than they are now,

1 I think that's a positive and I think it would attract  
2 jobs.

3 **CHAIRMAN GRAHAM:** Quick question. Major  
4 Thompson, I need to understand or try to understand,  
5 when electricity is delivered to the various different  
6 bases, do you guys own it once it comes to the -- do you  
7 handle all the distribution of electricity, or does Gulf  
8 have to come on base if there is a transformer that  
9 blows or something else that happens?

10 **MAJOR THOMPSON:** I'm not sure about the Navy  
11 bases, but for some of the Air Force bases, they do have  
12 their own distribution system. That whenever it hits  
13 the gate, it becomes Air Force's. And I think Gulf may  
14 be able to speak to this a little bit better than me.  
15 But in some cases that is the, the case.

16 **CHAIRMAN GRAHAM:** So you know on the Air Force  
17 base it is, but the Navy bases you're not sure?

18 **MAJOR THOMPSON:** I'm not sure about the Navy  
19 bases.

20 Can I speak to one thing about the economic  
21 development as well?

22 **CHAIRMAN GRAHAM:** Sure.

23 **MAJOR THOMPSON:** Because the FEA represents  
24 probably the largest employer in this, in this region,  
25 and the more money that the wing commanders and base

1 commanders have for a mission, that means there's a  
2 bigger mission. The bigger mission you have, the more  
3 troops you need. The more troops you have, the more  
4 economic growth in this region. So I just wanted to  
5 throw that out as also a possibility for you to consider  
6 when choosing which method you want to go with.

7 **CHAIRMAN GRAHAM:** When's the next BRAC process  
8 coming up?

9 **MAJOR THOMPSON:** I'm not aware of one  
10 scheduled to come up, but I didn't want to throw out  
11 there that that's, that could be a possibility, but --

12 **CHAIRMAN GRAHAM:** I thought I heard somebody  
13 say something in the next four to six years, but --

14 **MAJOR THOMPSON:** Well, with these large cuts,  
15 I would imagine that there's going to be some pressure  
16 on to do, to do another one.

17 **CHAIRMAN GRAHAM:** Okay. So as far as we know,  
18 there isn't anything scheduled?

19 **MAJOR THOMPSON:** I am not aware of one  
20 scheduled.

21 **CHAIRMAN GRAHAM:** Okay. Thanks.  
22 Commissioner Balbis.

23 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.  
24 Just a few comments.

25 You know, obviously what's before us today, a

1 portion of this stipulation is a major shift in cost  
2 allocation procedures and policies. And this  
3 Commission, I think as recently as the fuel clause  
4 proceedings, when I believe it was Florida Public  
5 Utilities proposed a cost allocation methodology shift,  
6 we voted to deny that request because the information  
7 they provided was lacking, and it was after a thorough  
8 review, if I recall that decision.

9           So one thing that, that, again, this  
10 Commission has done is taken a careful look at any major  
11 changes in cost allocation methodology. And we're  
12 presented today with a stipulation which would require  
13 us to make that change without full information from  
14 Staff to analyze it.

15           And I personally like stipulations. I know  
16 this Commission has made comments encouraging  
17 stipulations because, you know, with a stipulation we  
18 get certain things. We get, number one, the expediting  
19 of the process, whether the hearing time is reduced or  
20 any of the Agenda Conference is reduced. So some sort  
21 of efficiency with the stipulation.

22           Then we also get concessions that we may not  
23 have been able to get from any party. In this case  
24 we're offered a stipulation at the end of the hearing  
25 process. We have a -- what's included in this

1 stipulation is a change in cost allocation methodology  
2 that I for one am not against what's proposed and I'm  
3 not for it. And if, after a thorough review of the  
4 record, we determine that that is the appropriate cost  
5 allocation methodology, I am convinced that this  
6 Commission will make that decision.

7           The other thing we're getting that's included  
8 in this stipulation are adjustments to their O&M costs.  
9 Again, this Commission has the ability, if we find O&M  
10 costs need to be adjusted based on the information  
11 that's in the record, we can make those adjustments,  
12 along with all of the other issues associated with this  
13 stipulation.

14           So I see what's before us is something that  
15 does not gain us any time. It does not necessarily gain  
16 us any concession that we could not get if we deem it  
17 appropriate. And I'm not comfortable with making a  
18 major shift without the full information on cost  
19 allocation methodology at this time.

20           **MR. STONE:** Mr. Chairman, I have been given  
21 the information that you asked about with regard to the  
22 other states.

23           Georgia Power Company also employs the MDS  
24 methodology in its cost of service and rate design. So  
25 Georgia and Mississippi, two of our sister companies.

1 So that would leave us and Alabama. Some of the other  
2 utilities that employ it include Kentucky Utilities,  
3 LG&E, TDA, Wisconsin Public Service, and Virginia  
4 Electric Power, and this is in Mr. O'Sheasy's testimony.

5 **CHAIRMAN GRAHAM:** Thanks.

6 Commissioner Brisé.

7 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

8 And I appreciate Commissioner Balbis's comments and  
9 Commissioner Brown's questions.

10 I think I'm in a similar posture with respect  
11 to having to make this decision today. I am neither  
12 opposed or supportive of the MDS methodology at this  
13 point, and part of that is that I don't know that we  
14 quantify, we can quantify the benefits on the economic  
15 development side as a by-product. And looking at the  
16 impact, the baseline impact on residential customers of  
17 \$1.74 per month, and then the mom and pop shops of \$3  
18 and change per month. That is not to say that after  
19 further review of all of the information in the record  
20 that I cannot get to a position where I think it makes  
21 sense and I could stand and support my decision to  
22 pursue the track or to support the track of the MDS in  
23 terms of the allocation.

24 And I certainly hope that if we, if the  
25 Commission decides not to pursue the stipulation, that

1 this forecloses the idea that we support the ideas of  
2 stipulations. I would hope that as the process moves  
3 along that the parties would continue to work to  
4 fine-tune the concepts put in this stipulation so that  
5 when we come to the point of making a decision, if, if  
6 the body decides not to go down that path today, that we  
7 can make a decision and affirmatively have all the facts  
8 that we need to stand on to say, we have decided X, and,  
9 yes, there may be an impact on consumers, the  
10 residential customers, and, yes, there may be an impact  
11 on, on the mom and pop shops, but these are the broader  
12 benefits that we, that we think will be provided to, to  
13 the general service area.

14           So that is, that is my sense at this moment.  
15 But I certainly hope that the parties will not take the  
16 concept off the table. I know that practically you may  
17 take where we are mechanically in the process, take it  
18 off the table. But I certainly hope that at the  
19 appropriate time that the issue as it's packaged could  
20 come forward again after we have ample time to, to  
21 review the record.

22           **CHAIRMAN GRAHAM:** Commissioner Edgar.

23           **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

24           I am, not for the first time, but in the first  
25 time in a little while in the somewhat uncomfortable

1 position of not completely agreeing with everything that  
2 I've heard from my colleagues. Although I respect every  
3 comment that, that you've made, I just don't completely  
4 concur.

5 I think we need to be very careful when we  
6 label things major shifts. What we are considering, my  
7 understanding of what is before us is, right now for  
8 consideration, is six issues -- five issues?

9 MR. STONE: I believe it's seven.

10 COMMISSIONER EDGAR: Seven, seven issues out  
11 of over a hundred.

12 Basically what it hinges on is a change in  
13 application of a methodology. A methodology is a  
14 technical construct. I am not aware of any methodology  
15 in ratemaking that is absolutely perfect in every  
16 application, in every case, in every year, in every  
17 region to every customer group.

18 I am -- and I'm also a little frustrated at  
19 the timing with some of this. Having reviewed all of  
20 the issues prior to the beginning of the hearing, as I'm  
21 sure pretty much everybody did, but because I did have  
22 the opportunity to serve as Prehearing Officer, I had  
23 additional time perhaps to spend with all of the issues,  
24 and of course we were all at the customer hearings, and  
25 it seemed to me that there were many issues that were



1 potentially available for stipulation. And I had hoped  
2 prior to the hearing that there would be more  
3 discussions and perhaps more compromises of the parties.

4 But yet it came to us as it, as it did, and  
5 I'll say, having, having been here some years, we don't  
6 always get to pick how things are presented to us and  
7 how things are packaged. We are a decision-making body,  
8 and as such are reactive often to the information that  
9 is presented to us.

10 But I do believe that Gulf is in many ways  
11 differently situated than the other electric IOUs  
12 certainly that come before us. They're different by  
13 geography, they're different by their numbers, they're  
14 different by the type of industry that is there.

15 I do believe that northwest Florida is  
16 competing more for quality of life issues and job  
17 development, business, tourism, et cetera, with other  
18 states in the southeast region, in many ways more so  
19 than with central or south Florida.

20 I also recognize that Gulf, I believe, was the  
21 first to bring an economic development tariff to the  
22 Commission several years ago, something that many of the  
23 utilities before us have, have followed through, but I  
24 believe that they were the first.

25 And I want to point out some language

1 specifically from the '02 Gulf order that was adopted by  
2 this Commission, and also make the point that that again  
3 predates me, so I did not participate in this decision  
4 at all. But there is specific language, and it's on  
5 page 77, and it says, when dealing specifically with the  
6 issue of cost of service and rate design, language from  
7 the order says that, "Our prior orders show that it was  
8 the theoretical construct with which we disagreed, not  
9 the end result." And it goes on to say, "This  
10 Commission is not bound by any prior decision in this  
11 matter if it deems that circumstances warrant a change."

12           And I know that we are all aware of this, but  
13 in light of the discussion that we had late last evening  
14 about precedent setting in any decision that we make  
15 versus a stipulation or a final order, it is very clear  
16 to me that no Commission is bound by previous decisions  
17 of a Commission, and, likewise, that we are all  
18 duty-bound to look at the individual circumstances that  
19 are before us. Every case is unique, every stipulation  
20 is unique.

21           What has been presented to us, I believe, is  
22 very, very carefully constructed to the circumstances of  
23 this particular utility in this particular case at this  
24 particular time with this particular customer base. And  
25 a change consideration of, of one methodology versus

1 another methodology I think makes that point more than  
2 almost, almost anything.

3           So I would just ask that before we, if indeed  
4 we're considering it, before we say, you know, it's  
5 just, after three days of hearing, this is not the time  
6 to consider a stipulation, that we think very carefully  
7 about what the actual issue is that is before us. And I  
8 would not want to do anything that would chill the  
9 opportunity or the consideration of any party, all  
10 parties in any future case to continue to work together  
11 during the hearing process.

12           So with that, I believe that if this is  
13 something that we want to consider, it is timely now.  
14 And I also believe very strongly that we are not binding  
15 ourselves in any way in any future case. And I do  
16 believe that any impact on any individual customer or  
17 any other customer group cannot be quantified at this  
18 moment in time because there are many other factors in  
19 this case to be considered, many of which have the  
20 impact of mitigating any impact over any of the numbers  
21 that are presented to us.

22           So I would just ask that we take maybe a  
23 little bit more time this morning to think about what's  
24 before us.

25           **CHAIRMAN GRAHAM:** Well --

1 MAJOR THOMPSON: Mr. Chairman?

2 CHAIRMAN GRAHAM: Hold on.

3 MAJOR THOMPSON: Oh, I'm sorry.

4 CHAIRMAN GRAHAM: It's my turn.

5 (Laughter.)

6 MAJOR THOMPSON: Okay.

7 CHAIRMAN GRAHAM: I, I appreciate the comments  
8 from all the Commissioners. I a hundred percent agree  
9 with comments that Commissioner Balbis said about  
10 stipulations. I can tell you I, I encourage them all  
11 the time to no end. I think you guys understand your  
12 business and you understand what a win is and where the  
13 win, where the win point is, and so you guys can  
14 stipulate things that come out to win-win situations.

15 I believe that this is -- as I said yesterday,  
16 I'm excited about the thought. This is something that  
17 I've dealt with before I even came on this Commission in  
18 a former life. So I hate to see us, as Commissioner  
19 Edgar said, hastily run from the potential, run from the  
20 opportunity.

21 I'm not sure that this board is willing to  
22 make the decision today to do what you're looking to do,  
23 but I want to -- I would like to preserve the, the  
24 ability to do it.

25 I think people need more hard numbers. I

1 think the Staff needs more time to massage the numbers.  
2 It's difficult for me when I'm not looking at things  
3 side by side to decide what the impact is going to be.  
4 What is it going to feel like? How is it going to hurt?  
5 And so I guess what I'm looking for are suggestions on  
6 how we can keep this fragile egg on life support, but  
7 continue moving us forward.

8 **MR. STONE:** Commissioner Graham?

9 **CHAIRMAN GRAHAM:** Yes, sir.

10 **MR. STONE:** One of the suggestions that I'd  
11 heard last night that I did think about last night was  
12 that a decision, if the Commission was not comfortable  
13 making a decision today, that a decision on the  
14 stipulation could be made before the briefs are filed.

15 Timing wise that would be difficult, because  
16 the timing, the brief is scheduled to be filed on the  
17 9th, and the next time I know that you have an  
18 opportunity to come together without making some special  
19 accommodations would be on the 10th.

20 But it occurred to me that to preserve the  
21 status quo, we could, with your permission, have two  
22 briefs. We could brief all of the issues that are not  
23 covered by the stipulation by the deadline of the 9th.  
24 We could hold our brief on the seven issues that are in  
25 the stipulation until you have an opportunity to

1 consider the stipulation. And depending on if the  
2 stipulation is approved, then of course there would be  
3 no need for further brief.

4 If the stipulation is denied, then of course  
5 we would then have the opportunity to file our brief on  
6 the remaining seven issues.

7 That is an option that preserves the  
8 opportunity for the Commission to take a little bit more  
9 time and maintain the status quo that is, that the  
10 stipulation is trying to enable, and that is to relieve  
11 the parties of the, of the need to file briefs. Because  
12 once we file briefs, we have taken firm positions on the  
13 issues that are trying to be stipulated, and that is  
14 what will crack the egg.

15 **CHAIRMAN GRAHAM:** Staff, comments on  
16 Mr. Stone's suggestion?

17 **MS. KLANCKE:** We -- Staff has some angst with  
18 respect to this. Our analysis, by necessity, includes  
19 the positions of the parties. We feel that their input  
20 is essential with respect to advising you in a  
21 comprehensive way on both sides.

22 I know that Marshall similarly has expressed  
23 last night and continues to, so I'll defer to him, with  
24 respect to this idea which we kicked around on our side  
25 and truly tried to give some real thought to.

1           **MR. WILLIS:** Commissioners, I understand where  
2 the company is coming from on the two-brief idea. I  
3 understand that once they brief the four expense issues,  
4 it's kind of all for naught at that point.

5           If the Commission were to want to preserve  
6 their right and move forward, it would probably be  
7 beneficial for everyone involved, since everyone is  
8 going to be briefing, if we could possibly continue a  
9 hearing to a date before the 9th to make that decision.  
10 I think it would be beneficial to the parties and then  
11 they know exactly what they had to brief.

12           If it comes after that point in time and we  
13 have two briefs, it, we can deal with it. It makes it  
14 difficult for us because we will be writing a  
15 recommendation in the meantime, we'll be drafting this  
16 issue, but we won't be drafting it with the parties'  
17 briefs at that point.

18           So it puts us sort of behind the eightball in  
19 our recommendation. That's purely a selfish motive  
20 behind my part there, to have it before the briefs,  
21 because it does put us behind the eightball, but I  
22 wanted you to be aware of that.

23           **CHAIRMAN GRAHAM:** Let me back up a little bit  
24 so I can understand. The briefs currently are due on  
25 the 9th?

1           **MR. WILLIS:** The 9th of January.

2           **CHAIRMAN GRAHAM:** And you'd want for us to  
3 meet on the 8th to decide if we're going to go with the  
4 stipulation or not go with the stipulation; is that what  
5 I'm hearing you say?

6           **MR. WILLIS:** Yes. That's what I would prefer,  
7 Chairman. The 8th or before.

8           **CHAIRMAN GRAHAM:** Now I guess my question is,  
9 what happens between now and the 8th to give us the  
10 information that we need make that decision?

11           **MR. WILLIS:** I think that's going to be based  
12 on each individual office and what you desire or need to  
13 make that decision. I don't, I don't envision that  
14 we're going to write a recommendation on this issue  
15 without all the information in the record, which we  
16 would in a normal recommendation, but we certainly can  
17 supply each individual office with whatever discussions  
18 or material you desire on the subject, and each  
19 individual office may have a different desire to that  
20 point.

21           **CHAIRMAN GRAHAM:** Like, for instance, like a  
22 bullet points, pros and cons sort of thing, and then  
23 just dollar amounts, potential dollar amounts --

24           **MR. WILLIS:** If you desire something like  
25 that, we can do that. If someone wants to go really



1 deep into the issues, we, we can supply that information  
2 also. We can, we can have someone who can dig right  
3 into the exhibits and the issues.

4 **MS. KUMMER:** I would just hesitate. We talk  
5 about dollar impacts. As Commissioner Edgar pointed  
6 out, all that is going to be dependent on the final  
7 revenue requirement. So all we can give you is a  
8 preliminary number, because that, in all likelihood,  
9 would change. I have never been in a rate case that  
10 didn't change something. So what we would give you will  
11 be simply what is based on what was filed.

12 **CHAIRMAN GRAHAM:** Well, it's unfortunate that  
13 most of this is going on during the holidays, and we  
14 have that three-week gap that's sitting there right now.  
15 These dates that we have, are these all statutory,  
16 statutorial dates? I mean, is there a way of pushing  
17 all this back 30 days, or does this basically push back  
18 their rate earning by 30 days?

19 **MR. WILLIS:** Everything that we have set up  
20 post-hearing is based on an eight-month statutory  
21 deadline. And those items have to occur within that  
22 time frame for Staff to be able to get that  
23 recommendation filed by the deadline we're required to  
24 file it on, the Commission to meet at that Special  
25 Agenda, for us to be able to meet the statutory

1 requirement of completing this case and getting an order  
2 issued in eight months.

3 MR. MOYLE: Mr. Chairman?

4 CHAIRMAN GRAHAM: Yes, sir.

5 MR. MOYLE: If I could just be heard briefly  
6 on a couple of things.

7 CHAIRMAN GRAHAM: Please.

8 MR. MOYLE: My recollection, I may not have  
9 this exactly right, but I thought in the Power & Light  
10 last rate case that there was some slippage with respect  
11 to some of the issues, and I'm not a hundred percent  
12 sure, but if there's a statutory deadline, it may be  
13 subject to waiver by the, by the company. So, you know,  
14 I'm not, I'm not so sure that's an obstacle that can't  
15 be addressed.

16 The other point, and I tend to agree, I think  
17 keeping the hearing open and coming back for a  
18 discussion is helpful from a, from a process standpoint,  
19 in that I think, you know, you have some questions that,  
20 you know, we hopefully could air the issue out.

21 And there's been some questions that have been  
22 asked just from the bench that, you know, I think the  
23 answers are, are sound, they're coming from lawyers, but  
24 they may not have come from, from witnesses.

25 And to the extent that, you know, you needed

1 questions, I mean, I think Staff asked some questions or  
2 made some points last night about a model not  
3 functioning correctly or some of those things, and, you  
4 know, if those could be asked live, I think it would be  
5 informative. I don't think those questions were asked  
6 during the hearing process, and that kind of, you know,  
7 gets to our deposition objection.

8           If -- you know, I think the interchange  
9 between you all where you understand, here's the  
10 issue -- and it's clear, Staff is opposed. I mean,  
11 Marshall said last night they're opposed to this and  
12 will be writing a rec in opposition, I think. I mean, I  
13 don't want to misquote him, but there are concerns here.

14           And to Commissioner Edgar's point about the  
15 frustration over, over the timing, I mean, you know,  
16 we've been working with the parties, but we've had  
17 another -- you know, respectfully, they've had some  
18 views, they took no position, but as things moved on  
19 it's clear that the long historical precedent has been  
20 not to, not to approve this.

21           But I think from my perspective keeping the  
22 record open gives you greater flexibility, as Mary Anne  
23 suggested, because to the extent that there's an  
24 evidentiary point, you know, where something is said. I  
25 mean, my colleague here just whispered in my ear that

1 said that the Navy also has their own distribution, that  
2 they don't rely on Gulf. Isn't that right?

3 **MAJOR THOMPSON:** That's correct. All the Navy  
4 bases and Air Force bases have their own distribution  
5 system once the energy hits the fence.

6 And January 8th is a Sunday. I'm the only one  
7 out of the town, I think. So it's selfish for me to  
8 ask -- I just wanted to point that out.

9 **MR. MOYLE:** And no one is going to question  
10 his word. But just from a purely evidentiary  
11 standpoint, I'm not sure that that, you know, gets you  
12 there. So keeping the record open I think is, is the  
13 better, better way to proceed.

14 And I, the only other comment, if I have a  
15 second, I was just going say, Commissioner Edgar  
16 mentioned last night about the English degree and the  
17 law degree, and I'm similarly handicapped with a history  
18 degree and a law degree, and it's a spot where it sounds  
19 like there are two long-standing historical traditions  
20 that may be bumping up against each other, one being the  
21 substantive MDS issue that historically it has not been  
22 viewed favorably, and the other being the historical  
23 preference and encouragement of the Commission to the  
24 parties to get together and work on stipulations, which,  
25 which we've done and are presenting for you.

1           So it's a little bit of, you know, I thought  
2 history is poised to change in at least some respect,  
3 and I think you know, know the view of history that  
4 FIPUG would like to see.

5           So thank you for letting me make a couple of  
6 comments.

7           **CHAIRMAN GRAHAM:** Thank you, sir.

8           Commissioner Edgar.

9           **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.  
10 I have often been the one to, over the years, to ask for  
11 more time, to ask for things to be deferred, and I have,  
12 I think always, and if not always, almost always have  
13 tried to honor that when those requests have been made  
14 by others, whether it be one or more Commissioners or  
15 the Staff or parties. And I will continue to do so, and  
16 if that is the will of the majority that more  
17 information is needed, I absolutely can understand that.

18           However, I'm not sure what more is, is needed.  
19 And so I guess I would ask, it feels to me, I know  
20 everybody is trying to be respectful, and no one values  
21 that more than I do, I assure you, but it also feels to  
22 me that we are almost, you know, overprocessing,  
23 proceduralizing, levying this to a degree that may not  
24 be necessary.

25           I mean, a stipulation or a requested

1 stipulation is before us. It isn't all that  
2 complicated. And so if we are going to add additional  
3 information to the record or additional witnesses or ask  
4 Staff to do something, then I guess I would just ask, so  
5 that I can be prepared, what information it is that we  
6 need or that we are looking for so that, that I can be  
7 prepared on that as well.

8 **MR. STONE:** Mr. Chairman, if I may be heard in  
9 response.

10 **CHAIRMAN GRAHAM:** Hold on a second.  
11 Commissioner Brown.

12 **COMMISSIONER BROWN:** Thank you. And as a  
13 follow-up to Commissioner Edgar, I personally want to  
14 have the opportunity to evaluate the pros and cons of  
15 adopting this methodology from all the parties that are  
16 supporting the stipulation.

17 And that being said, have we seen a copy --  
18 has Staff seen a copy of the stipulation as proposed and  
19 how that affects Issues 106, 107, and 108 with regard to  
20 yesterday we talked about deleting -- striking some of  
21 the positions? Is that the full adoption of the  
22 stipulation?

23 **MR. STONE:** The stipulation is not in writing.  
24 It was, it was read -- it was read -- read -- it was  
25 spoken into the record. And I, I can, can once again go

1 through the changes to the wording.

2           **COMMISSIONER BROWN:** That's okay.

3           **CHAIRMAN GRAHAM:** That's quite all right.

4           **MR. STONE:** I'm glad you said no.

5           I need to respond to Mr. Moyle, and I need to  
6 be clear. Gulf, as I stated, has no revenue interest in  
7 the MDS and, in fact, as part of the stipulation, is  
8 giving up part of its request for revenue to get the  
9 MDS. We cannot and will not waive the statutory clock  
10 on the remainder of the case. That will kill the  
11 stipulation if that is a condition of moving forward  
12 from today.

13           We have suggested that we could accommodate a  
14 Commission decision on the stipulation on the 10th by  
15 briefing all of the remaining issues on the 9th and  
16 having our brief ready to file as early as the 10th, or  
17 perhaps the 11th would be more practical, on the  
18 remaining seven issues, depending on the outcome of the  
19 vote on the stipulation.

20           That would cause the Staff to lose at most two  
21 days, and they would only be losing those two days on  
22 seven issues.

23           But we cannot -- if a condition of, of  
24 extending the opportunity to decide on the stipulation  
25 is a, is Gulf would have to waive its statutory clock,

1 that, that is something we simply can't do. We are  
2 suffering a severe revenue shortfall. We have postponed  
3 this case as long as we possibly could. We have taken  
4 substandard returns for an extended period of time, and  
5 the statutory clock is the only thing that protects us  
6 in this instance.

7 And so that is part of the fragile egg that is  
8 before you, and I know everyone is getting tired of  
9 breakfast.

10 **COMMISSIONER BROWN:** Thank you, Mr. Stone.

11 Marshall, can you respond to some of his  
12 concerns regarding the time frame again, so that we can  
13 better understand? It's --

14 **MR. McGLOTHLIN:** Commissioner Brown, Joe  
15 McGlothlin with OPC. Before you pose that question, I  
16 would like to respond to something that Mr. Stone said  
17 for clarification.

18 **COMMISSIONER BROWN:** Okay.

19 **MR. McGLOTHLIN:** And this involves our  
20 somewhat specialized and unique situation in all of  
21 this. I stressed yesterday that we take no position on  
22 the rate design and cost of service issues, and for us  
23 the matter is simply one of revenues.

24 What Mr. Stone said a moment ago was that Gulf  
25 Power was giving up revenues in order to get the MDS.



1 That is not our view of what's happening from our  
2 perspective.

3 For us it's less complicated than anybody else  
4 here. We've taken positions on Issues 62 and 80. In  
5 return for concessions of revenues, we're willing to  
6 drop those issues. That is the sum total of our  
7 involvement in this situation. We take no position on  
8 the MDS or the other rate design issues.

9 I've heard Gulf say, and I understand that  
10 from their perspective all this hangs together, and if  
11 they don't get the MDS, then they don't give up the  
12 money.

13 From our perspective, if the money is  
14 provided, we will drop those issues. If the money is  
15 not provided, if the stipulation as has been described  
16 is not approved, then we will continue to litigate  
17 Issues 62 and 80 and the other revenue issues, which add  
18 up to something more than \$80 million of revenues that  
19 we are pursuing on behalf of all customers. So I just  
20 want to make that distinction very clear.

21 **COMMISSIONER BROWN:** Mr. Willis, can you help  
22 us out?

23 **MR. WILLIS:** Getting back to Mr. Stone's  
24 comments, I fully agree with him. It's really up to the  
25 company. The statute was put in place for the company's

1 protection. The company is the only one that can waive  
2 the eight-month time frame for the Commission to  
3 consider the case.

4 In this case Mr. Stone is, is correct. There  
5 is about a two-day difference, if you were to consider  
6 it on the 10th. If they were to file their briefs that  
7 afternoon or the next day, we could probably deal with  
8 that with no problem. It's a matter of us plugging in  
9 the briefs at that point.

10 We actually start our recommendation prior to  
11 that. We'll be doing it during Christmas holidays,  
12 pulling all this stuff together. It's a matter of, to  
13 make our recommendation complete, we have to plug in the  
14 arguments of all the parties into there and take those  
15 into consideration, and that takes some time to do that.

16 It, it puts us back by two days at that point,  
17 but it's only on those seven issues that it does it on,  
18 and it's a matter of us plugging that in in our portion  
19 of responding to the briefs.

20 COMMISSIONER BROWN: Okay.

21 CHAIRMAN GRAHAM: Commissioner Balbis.

22 COMMISSIONER BALBIS: Thank you, Mr. Chairman.

23 I just want to follow up with some comments.

24 And I agree with at least one thing  
25 Commissioner Edgar said, and that was this Commission's

1 position on precedent is something we take into account,  
2 but by no means does it tie our hands on the decision we  
3 make. So I agree with you on that issue.

4 And, again, I restate the fact that at the end  
5 of this process this Commission may find the MDS  
6 methodology is the appropriate methodology to use.

7 We're now entering into discussions where  
8 we're adding two days of additional work for Staff,  
9 possibly extending the schedule, which again is against  
10 the purpose of a stipulation. A stipulation is supposed  
11 to eliminate work and reduce time, not increase it.

12 So, and as far as the information that I would  
13 need from Staff, which is against the stipulation that  
14 has questions, I would require the information that is  
15 included in a well-prepared and thought out  
16 recommendation.

17 So it seems to me the quickest process, the  
18 process with the least amount of work that keeps our  
19 options open, is proceeding with the scheduled process  
20 where briefs are due, the parties state their positions,  
21 Staff prepares recommendations, it comes to us. Again,  
22 our hands aren't tied by precedent, we find MDS is  
23 appropriate, we'll move forward in that direction.

24 We also have the risk of arguing the merits of  
25 issues while the record is open. I don't know if that's

1 a concern with Staff or not. So, you know, we have a  
2 lot of risk, we have time being extended, we have  
3 additional work being created for what I see as very  
4 little benefit.

5           **CHAIRMAN GRAHAM:** I guess I have a problem --  
6 or I'm trying to understand what it is you just said.  
7 If they're going to brief, they have to understand or  
8 have to know if they're briefing with or without the  
9 stipulation, because that's the only way that all these  
10 parties come together is with the understanding that the  
11 new process within the brief and the added dollars are  
12 all on the table. And if that stipulation is not there,  
13 the briefs are completely different.

14           **COMMISSIONER BALBIS:** I agree that if the  
15 stipulation is approved, those issues would be removed  
16 from the briefs.

17           But my point is if we proceed without the  
18 stipulation being approved, each party has the  
19 opportunity to state their position on each issue. So  
20 we know that Gulf is in favor of the MDS technology. We  
21 know that FIPUG is in favor of the MDS methodology.  
22 Going through all of these issues, we know where each  
23 party states. So nothing is going to change. And we  
24 will have the ability to decide on each of those issues  
25 individually. It may work out that it ends up where we

1 were with the stipulation in place or not.

2           **CHAIRMAN GRAHAM:** Well, as you just heard  
3 Public Counsel say, their position on two of the revenue  
4 issues change, depending on Gulf's ability to give up  
5 those funds.

6           **COMMISSIONER BALBIS:** So if their -- okay. So  
7 let's play that out. So if their position changes now,  
8 they're not in favor of Issue 62, which is around  
9 \$130,000 issue, that I assume they would be against  
10 including the operational expenses for aircraft in  
11 revenue requirements. We can take that into account.  
12 It's not as if now we have to add that revenue  
13 requirement in because OPC -- I'm not being clear on  
14 this. Let me try one more time.

15           And let me start at the beginning here. The  
16 purpose of the stipulation would be to make the process  
17 more efficient or get concessions that we normally would  
18 not be able to get, or parties would not be able to get.  
19 We've already agreed that we're not saving any time. If  
20 anything, we're extending time. And the concessions  
21 that are being made, if this Commission finds that those  
22 changes to those issues are appropriate, we can make  
23 those changes. So, again, I don't see what we're  
24 gaining from this stipulation.

25           **CHAIRMAN GRAHAM:** Commissioner Edgar.

1           **COMMISSIONER EDGAR:** You may have moved past  
2 this, but I was just going to point out, if -- and I'm  
3 saying if -- we decide to not take any official vote  
4 action today but to request full briefs by all parties  
5 and a full detail and thorough issue-by-issue  
6 recommendation by our Staff that would then come before  
7 us, that it's not just the cost of service and rate  
8 design, that it does include, and I think you just  
9 touched on that, but Issues 11, 62, 63, and 80, which,  
10 per the stipulation, would be removed from  
11 consideration, in keeping with the \$675,000 adjustment.

12           So I just want to keep in the forefront of all  
13 of our minds that we are not just talking about the cost  
14 of service issues but also the four other revenue  
15 related issues.

16           **CHAIRMAN GRAHAM:** All right. I think we need  
17 to do something to move forward. I -- my suggestion  
18 initially was how do we preserve this stipulation and  
19 try to get the information that some people are  
20 requiring to move forward. I like the suggestion that  
21 Mr. Stone put out there. Staff, Marshall agreed that  
22 they can work within those parameters.

23           I guess I'm just going to do a poll to see if  
24 the board is, if the board is okay with moving forward  
25 that way. And if I get two other votes, then we'll do

1 it that way. If not, then we'll figure out what we're  
2 going to do from this point going forward.

3 And I'll start down on my left.

4 **COMMISSIONER BROWN:** Thank you. And I do want  
5 to preserve the possibility of the stipulation. I don't  
6 want to take that off the table, but at the same time I  
7 do want to evaluate some of the other evidence in the  
8 record.

9 That being said, I think the only option is --

10 **CHAIRMAN GRAHAM:** Thumbs up?

11 **COMMISSIONER BROWN:** Up.

12 **CHAIRMAN GRAHAM:** Thank you.

13 Commissioner Brisé.

14 **COMMISSIONER BRISÉ:** Yeah. I think that that  
15 is a viable option.

16 **CHAIRMAN GRAHAM:** Well, I already counted to  
17 three.

18 Commissioner Edgar.

19 **COMMISSIONER EDGAR:** I sincerely apologize,  
20 but I'm not even sure what it is you just asked us to  
21 thumbs up or thumbs down on. I mean, procedurally.

22 **CHAIRMAN GRAHAM:** Mr. Stone, please restate  
23 what it was that you suggested.

24 **MR. STONE:** If the Commission was not  
25 comfortable voting today on the stipulation up or down,

1 there is a way to maintain the status quo of the stip --  
2 of the stipulation a little bit longer, and that would  
3 be to go ahead and close the evidentiary record today.  
4 The parties would then be able to start briefing, and  
5 their briefs would be ready on the 9th. They would  
6 submit briefs on all issues other than the seven issues  
7 that are covered by the stipulation as it's currently  
8 scheduled on the 9th. And with the Commission direction  
9 to keep the status quo of the stipulation open, they  
10 would withhold their briefs on the seven remaining  
11 issues until after the Commission votes the stipulation  
12 up or down.

13           If the stipulation is approved, there is no  
14 further brief needed. If the stipulation is denied,  
15 then the briefs would be filed. And as I indicated,  
16 although it does mean that we're going to actually  
17 expend the same effort that was trying to be avoided by  
18 having the stipulation voted today, we at least would  
19 not have changed our position vis-a-vis the public  
20 record until after the vote on the stipulation.

21           And we could submit those briefs on those  
22 seven issues as early as the 11th.

23           **CHAIRMAN GRAHAM:** Before you decide, do you  
24 have a question?

25           **COMMISSIONER BRISÉ:** Yeah. I have -- I think



1 the stipulation would have been a whole lot easier if we  
2 had it in writing before us so that we can look at it  
3 and evaluate. And honestly, I think we would have been  
4 in a much better posture today had that been made  
5 available. And I would hope that, as we go through this  
6 process, at least there's going to be a stipulation in  
7 writing so that we can evaluate and develop our  
8 questions and issues as we're dealing with Staff with  
9 these things.

10 So, for me, and, you know, I may not be that  
11 smart, but I think on paper things are a lot easier to  
12 manage for me. So I would hope that that is something  
13 that the parties can accommodate.

14 **CHAIRMAN GRAHAM:** Commissioner Edgar.

15 **MR. STONE:** Commissioner Brisé, I will say  
16 that the transcript of yesterday's proceeding will be  
17 available, and it will document the agreement of the  
18 parties.

19 **MR. MOYLE:** We have a written stipulation. I  
20 think we can address the concerns.

21 **COMMISSIONER BRISÉ:** Mr. Chairman, can I  
22 please?

23 **CHAIRMAN GRAHAM:** Let -- I know you're  
24 itching.

25 **COMMISSIONER BRISÉ:** No. No.

1                   **CHAIRMAN GRAHAM:** I'm sorry. I'm sorry.

2 Commissioner -- Chairman-Elect, please.

3                   (Laughter.)

4                   **COMMISSIONER BRISÉ:** I mean, with all due  
5 respect to Mr. Stone, I understand the transcripts are  
6 there. But in the -- I've been here only for a year and  
7 a few months, but every stipulation that has come before  
8 us has been presented to us in a formal manner and  
9 presented to us. That's all I'm asking. I don't think  
10 I'm asking too much.

11                   **MR. STONE:** No, sir.

12                   **CHAIRMAN GRAHAM:** Commissioner Edgar.

13                   **COMMISSIONER EDGAR:** I'm still a little  
14 confused on what information is coming in and who's  
15 briefing what and when and when we're voting.

16                   I think I understand the issues that are  
17 before us. But if, as I asked, if Commissioners need  
18 more time and need, then I certainly -- I always try to  
19 support that and I will continue to always try to  
20 support that.

21                   I can't give you a thumbs up or thumbs down  
22 because I don't understand it. We're saying we'll have  
23 briefs on some issues and then we'll take a vote on the  
24 stipulation and then brief other issues. Is that, is  
25 that what --

1           **CHAIRMAN GRAHAM:** Yes, that's correct. The  
2 briefs are due on, the briefs are due on the 9th or  
3 10th, whatever that day is. They're going to brief  
4 everything except for the seven issues that are tied  
5 into the stipulation. And that's going to give us three  
6 weeks, and during that three weeks you can meet with  
7 Staff, you can talk to Staff, you can ask the questions  
8 you need or don't need to make you comfortable with the  
9 stipulation. And then you make the decision if you --  
10 then you make the decision they want us to make today  
11 three weeks from now, and you decide if you want the  
12 stipulation to apply or not.

13           They will already have the other set of briefs  
14 for those other seven issues ready to go. But if we  
15 decide on the stipulation, they just won't turn them in.  
16 If we decide we don't want the stipulations, then  
17 they'll turn them in.

18           **COMMISSIONER EDGAR:** Okay. So we're  
19 requesting a written stipulation signed by all of the  
20 parties who are participating to be submitted to us, and  
21 then we will vote on that when?

22           **CHAIRMAN GRAHAM:** We'll vote on that, I  
23 believe, on the 9th, whatever day that we're back here.

24           **COMMISSIONER EDGAR:** The 10th.

25           **CHAIRMAN GRAHAM:** The 10th.

1           **COMMISSIONER EDGAR:** So that will be, the  
2 stipulation will be added as an agenda item for the  
3 January 10th Agenda Conference, with a written  
4 recommendation and analysis by Staff?

5           **MR. WILLIS:** Commissioners, I don't think we  
6 intended to bring it back with a written recommendation.  
7 We would just put the stipulation on the agenda for the  
8 Commission's consideration again, like we did today.  
9 It's --

10           **COMMISSIONER EDGAR:** Okay. Like I said, I  
11 just wanted to be clear on what it is we're asking and  
12 directing.

13           **CHAIRMAN GRAHAM:** Okay. So now --

14           **COMMISSIONER EDGAR:** Mr. Chairman, I think it  
15 seems needlessly complex and complicated. But if it is  
16 the will of the majority, then I will support it.

17           **CHAIRMAN GRAHAM:** Commissioner Balbis.

18           **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.  
19 And I just want to follow up on what Mr. Stone indicated  
20 that the record would be closed. And I have a question  
21 for Staff.

22           Does that alleviate any of the concerns of  
23 possibly arguing the merits of an issue during the  
24 hearing?

25           **MS. KLANCKE:** The closure of the record was

1 definitely of primary import with regard to our angst  
2 with respect to attenuating the process. I think that  
3 so long as -- as you know from last night, we've gone  
4 through all of the witnesses that were scheduled to  
5 appear. Currently we have all the presentation of  
6 evidence that's necessary. I, I continue to believe  
7 that the briefs are necessary for the purposes of  
8 inclusion, for the purposes of ensuring that you have  
9 all the information as presented by all the parties.

10           However, we are prepared to go forward however  
11 you'd like. I think that the closure of the record  
12 definitely alleviates a lot of the concerns.

13           **COMMISSIONER BALBIS:** Okay. Thank you. And  
14 then just a quick question. I mean, I know that  
15 Mr. Wright and Mr. McGlothlin, you are conflicted out.  
16 And there's been discussion that we will have  
17 information from -- or we have information from all of  
18 the parties and the stipulation will be signed by all  
19 the parties.

20           But you're maintaining that the parties that  
21 represent all the residential customers and the parties  
22 that represent all of the rate class GS, which is the  
23 small businesses, they will not be represented during  
24 this stipulation, or when considering the stipulation?

25           **MR. MCGLOTHLIN:** I would have to answer your

1 question slightly differently. Because of the dynamics  
2 of the rate design, cost of service issues, and the  
3 manner in which there's an interplay among customer  
4 classes that affects them in the sense that some rates  
5 go up and some go down, as a representative of the  
6 citizens that include all customer classes, we take no  
7 position with respect to those issues that bear, that  
8 have that kind of effect.

9           And so with respect to the package that's been  
10 considered, our involvement is limited to the revenue  
11 issues, and we take no position on the others. That's  
12 about the best I can do, Commissioner. I hope that's  
13 helpful.

14           **COMMISSIONER BALBIS:** Okay.

15           Mr. Wright.

16           **MR. WRIGHT:** Thank you. Thank you, Mr.  
17 Chairman, Commissioner Balbis. We're in essentially the  
18 same position as the Public Counsel are -- is.

19           Our membership includes very large, high  
20 consumption, high load factor customers. Our membership  
21 also includes thousands of small general service  
22 customers. We don't have residential members of the  
23 Retail Federation, but we've got the full range, and  
24 that's why we take no position on the cost of service  
25 allocation methodology.

1           So the answer is, our members' interests will  
2 be represented in the stipulation only as to the revenue  
3 requirements issues. They will not be represented,  
4 because we have consciously made the decision to take no  
5 position. We just don't advocate for small GS or large  
6 GSLD high load factor customers, because that would pit  
7 our advocacy, advocating for one part of our membership  
8 versus another, and we just can't do that.

9           **COMMISSIONER BALBIS:** Okay. And I hope that  
10 Staff will provide the information on the impacts for  
11 those two customer classes prior to whichever of the two  
12 briefs is appropriate.

13           **MR. WILLIS:** And, Commissioner, we'll do our  
14 best. We provide the impact based on customer class,  
15 but it would have to be based upon what the company  
16 requested, since no other issues will be decided that  
17 are at play at this point. The only way we can deal  
18 with it is to look at it as a broad perspective on what  
19 the company asked for.

20           **COMMISSIONER BALBIS:** Okay. Well, provided  
21 that the record will be closed and that alleviates  
22 Staff's concerns on the legal issues, then I would  
23 support, and I'm not even sure what the process is, but  
24 the two due dates for briefs, if that's appropriate.

25           **CHAIRMAN GRAHAM:** Was that a thumbs up or

1 thumbs down?

2           **COMMISSIONER BALBIS:** It's a thumbs up as to  
3 what I think we're voting on, which --

4           **CHAIRMAN GRAHAM:** Okay.

5           Commissioner Brown.

6           **COMMISSIONER BROWN:** Mr. Chairman, Mr. Moyle  
7 indicated that there is a written stipulation. And if  
8 that is the case, before we close the record I think we  
9 need to mark it as an exhibit.

10           **CHAIRMAN GRAHAM:** Well, I think -- and you  
11 jumped ahead of me, but one of the things we're going to  
12 do is we're just going to ask for a written stipulation  
13 that's signed off by all parties and make sure that  
14 that's an exhibit and part of the record, and that Staff  
15 gets that by the end of the day tomorrow.

16           **MR. MOYLE:** Yeah. Just a point of  
17 clarification. I think, I think actually it will be a  
18 motion that FIPUG and the -- Gulf and the Executive  
19 Agencies file a motion for approval of a stipulation.  
20 And then the document will say, here's what the  
21 stipulation is, representing, as you've heard a number  
22 of times, that neither the Retail Federation or OPC  
23 takes a position. But it will lay out what we've been  
24 talking about and what Mr. Stone in effect read into the  
25 record last night.



1 I don't know that we need to file the  
2 stipulation before the record closes. You know, I think  
3 we can file it as a motion.

4 **CHAIRMAN GRAHAM:** That's all, that's all legal  
5 mumbo jumbo. Thumbs up or thumbs down?

6 **MR. MOYLE:** Thumbs up.

7 (Laughter.)

8 **CHAIRMAN GRAHAM:** Thank you.

9 Commissioner Edgar.

10 **COMMISSIONER EDGAR:** And I am still confused  
11 on the process that we're directing. But so, for that  
12 technical question, if we close the record here shortly,  
13 we receive a written stipulation, that would be  
14 post-hearing. So when we come back on January 10th, we  
15 would, the parties would not have the opportunity to  
16 make any comments or respond to questions; is that  
17 correct?

18 **MS. KLANCKE:** That is correct.

19 **CHAIRMAN GRAHAM:** I see our General Counsel  
20 over there getting ready to jump out of his chair, so  
21 Mr. Kiser.

22 **MR. KISER:** What I wanted to add, and I hope I  
23 don't cause additional confusion over it, is that the  
24 elements that go into making up the, quote, stipulation,  
25 I don't think it goes away, no matter what you do. It

1 is in the record, those issues are out there. And if at  
2 a later point, when you get down to discussing the final  
3 case, and assume for the moment you don't have an  
4 agreed-upon stipulation, if the Commission one by one  
5 takes up the elements that were in the old stipulation  
6 and don't style it as a stipulation, that's just simply  
7 what you want to see as part of the final order, I think  
8 you can resurrect it. So I don't think that it ever  
9 really goes away.

10 And I think some people are worried, or that  
11 was the impression I was getting, is that if we don't  
12 reach some vote now that affirmatively says we're for  
13 that, that it's forever gone and out the door and we  
14 can't ever go back and resurrect it, and I don't think I  
15 agree with that.

16 **CHAIRMAN GRAHAM:** Well, I think the concern  
17 is, from our Chairman-Elect, I think the concern is,  
18 rightfully so, that he wants to make sure that what  
19 everybody sitting here in a row nodding their head  
20 agreeing on, somebody is not going to say two weeks from  
21 now that that's not quite the way I understood it.

22 And so I think what he's looking for is  
23 somebody to write it out and somebody to, everybody to  
24 put their name on the line, saying this is where I am  
25 with the stipulation. If the stipulation goes through,

1 this is what we all agreed to. If that -- am I putting  
2 words in your mouth?

3 And I think that's what he's looking for. I  
4 don't know how legally you have to do it. I don't know  
5 if it's motions or if it's this or that. I just think  
6 that he wants to make sure what Mr. Stone said yesterday  
7 and repeated today, that we're not getting anybody  
8 backpedaling because maybe J. R. whispered in their ear,  
9 oh, but you can't be neutral, or somebody else whispers  
10 in your ear, I'm not quite sure we want to be there, and  
11 then all of a sudden there's backpedaling.

12 I think if everybody is agreeing on the  
13 stipulation, he wants to make sure that it's ironclad,  
14 so if it's agreed upon, it's agreed upon as stated.

15 Does that make sense?

16 And I guess somebody over there with a law  
17 degree has got to tell me how to best make my  
18 Chairman-Elect happy.

19 **MS. HELTON:** I think it's always better to  
20 have the document formalized in a written format so that  
21 everybody is looking at the same words on the same piece  
22 of paper.

23 **CHAIRMAN GRAHAM:** Okay. So now I'm going to  
24 go down this thing over here, looking for thumbs up or  
25 thumbs down, that we can't put those words on paper and

1 get everybody to sign them by end of the day tomorrow.

2 MR. STONE: You will have the complete  
3 cooperation of Gulf Power Company.

4 MR. WRIGHT: Thumbs up.

5 MR. MCGLOTHLIN: With the caveat we have to  
6 see the language, we'll work with the other parties to  
7 see what happens.

8 MR. MOYLE: (Motioned thumbs up.)

9 MAJOR THOMPSON: (Motioned thumbs up.)

10 CHAIRMAN GRAHAM: Thank you. Now --

11 MS. HELTON: Mr. Chairman, may I answer  
12 Commissioner Edgar's question with respect to --

13 CHAIRMAN GRAHAM: Sure. Sure.

14 MS. HELTON: I think I disagree with some of  
15 the lawyers sitting down this end of the table with  
16 respect to whether the parties could talk or not.

17 We have a long-standing tradition, and I think  
18 it's actually codified in our rule, that for  
19 post-hearing decisions made by you after the record is  
20 closed, that parties are not allowed to participate.  
21 That's a deliberation process between you and the Staff,  
22 if you choose to include the Staff in that, in that  
23 process.

24 We're in a little bit different posture,  
25 though, with what has been talked about here so far

1 today, and that is, while the record may be closed, you  
2 don't have a -- you aren't really in a post, a true  
3 Commission post-hearing process with respect to the  
4 issues that are still live under the stipulation.

5           So I think that I would be comfortable with,  
6 if it was within your desire, I think you have the  
7 discretion to hear from the parties with respect to the  
8 issues that are live under the stipulation at that  
9 Agenda Conference if you, if the discussion is limited  
10 to just that stipulation and just those issues.

11           **CHAIRMAN GRAHAM:** Commissioner Edgar, she was  
12 answering your question. I didn't know if you had a  
13 follow-up.

14           **COMMISSIONER EDGAR:** What I hear is we have a  
15 difference of opinion amongst attorneys. And I will say  
16 for ridiculous redundancy, for the fifth time probably,  
17 I still am not clear on what it is we're asking our  
18 Staff to do or what information it is that, that is  
19 needed.

20           And, therefore, you know, not everything, Mr.  
21 Chairman, is a yes or a no. I don't understand what  
22 we're requesting or proposing. However, between the  
23 Chairman's office, the Chairman to be's office, the  
24 General Counsel's office, Executive Director's office, I  
25 assume somebody will figure it out and tell me what it

1 is that is coming before us.

2           **CHAIRMAN GRAHAM:** Okay. Staff, the document  
3 that we're requesting for the stipulation, do we need to  
4 give this an exhibit number and make it a late-filed  
5 exhibit? Is that how you put this?

6           **MS. KLANCKE:** We could do it either way. I  
7 believe the parties have proposed providing it to us in  
8 a motion, which would not be required to -- which can be  
9 filed after the closure of the evidentiary record. But  
10 we're open to suggestions.

11           **CHAIRMAN GRAHAM:** I need for you to make a  
12 decision.

13           **MS. HELTON:** My suggestion would be for them  
14 to file a motion asking the full Commission to approve  
15 the stipulation as has been set forth on the record.  
16 That way you do not have to make it an exhibit, and then  
17 it will be primed up and ready for you to decide on the  
18 first Agenda Conference in January.

19           **CHAIRMAN GRAHAM:** Now that motion comes in a  
20 written form; is that correct?

21           **MS. HELTON:** Yes, sir.

22           **CHAIRMAN GRAHAM:** Okay. And as I stated  
23 earlier, by the end of the day tomorrow. They've  
24 already put their thumbs up.

25           **MS. KLANCKE:** They've acquiesced.

1           **CHAIRMAN GRAHAM:** I just want to make sure  
2 that you are -- that we are legally sound on what we're  
3 looking for.

4           Okay. All right. Then it sounds like we have  
5 a direction. Last-minute thoughts is not going to take  
6 this train off the track.

7           **MR. STONE:** Nothing to do with the  
8 stipulation. I want to move on from there.

9           **CHAIRMAN GRAHAM:** Okay.

10          **MR. STONE:** Mr. Badders has some exhibits that  
11 we need to enter into the record that were requested  
12 during the course of the hearing.

13          **CHAIRMAN GRAHAM:** Okay.

14          **MR. BADDERS:** Thank you, Chairman. Over the  
15 course of the last few days there were three late-filed  
16 exhibits requested of the company, either by a  
17 Commissioner, through one of our witnesses, or through  
18 one of the other parties, and at this time I'd like to  
19 enter those into the record.

20                 In front of you you have Exhibit 188. This  
21 exhibit, late-filed exhibit, was requested by  
22 Commissioner Brown. I do not believe any of the parties  
23 have an objection to this being moved in at this time.

24           **CHAIRMAN GRAHAM:** Is that the total dollars,  
25 total labor dollars?

1           **MR. BADDERS:** Yes, Chairman.

2           **CHAIRMAN GRAHAM:** Okay.

3           If there's -- Mr. Sayler.

4           **MR. SAYLER:** I was going to say no objection.

5           **CHAIRMAN GRAHAM:** If there is an objection,  
6 tell me there's an objection. If not, I'm assuming  
7 there's no objection.

8           So we will enter 188 into the record.

9           (Late-Filed Exhibit 188 admitted into the  
10 record.)

11           **MR. BADDERS:** Thank you. The next one is  
12 Exhibit 190. This is Gulf Power's 2011 Ten-Year Site  
13 Plan. I also believe no party has an objection to this  
14 being admitted.

15           **CHAIRMAN GRAHAM:** We've already entered that  
16 into the record.

17           **MR. BADDERS:** Okay. This is the full copy.

18           **CHAIRMAN GRAHAM:** Okay.

19           **MR. BADDERS:** Then finally, there's a  
20 confidential exhibit. It's 187. I do have copies for  
21 everyone beside me. This is Gulf Power's 2010  
22 Transmission Planning Study.

23           **CHAIRMAN GRAHAM:** Transmission Planning Study?

24           **MR. BADDERS:** Yes.

25           **CHAIRMAN GRAHAM:** Okay. We will, if there's



1 no objections, we will enter 187. That's the request  
2 that Mr. Balbis had, Commissioner Balbis had. Enter  
3 187 into the record.

4 (Exhibit 187 admitted into the record.)

5 **MR. BADDERS:** Thank you. And I have copies of  
6 that and I will provide that with the, to the court  
7 reporter.

8 **MR. MOYLE:** FIPUG had registered an objection  
9 and we withdraw that objection.

10 **CHAIRMAN GRAHAM:** Okay. Okay. So I'm past  
11 Gulf.

12 Mr. Wright?

13 Public Counsel?

14 FIPUG?

15 **MR. MOYLE:** The only just lawyerly point of  
16 clarification is, is that Mr. Kiser made some comments  
17 that sort of said, well, you can take the stipulation  
18 regardless. It was, it was presented with everything  
19 being dependent, so I don't want there to be any  
20 misconception of that. It's a package deal, so I'm  
21 not --

22 **CHAIRMAN GRAHAM:** It's all or nothing.

23 **MR. MOYLE:** Right.

24 **CHAIRMAN GRAHAM:** Okay.

25 **MR. McGLOTHLIN:** I -- with the clarification

1 that I put on the record earlier with respect to our  
2 role.

3 **CHAIRMAN GRAHAM:** Duly noted. Good.

4 **MR. BADDERS:** Chairman, one thing just for  
5 housekeeping. I know that this was confidential. It  
6 was provided pursuant to a notice of intent already, so  
7 it's under a notice of intent, and we will file the  
8 request for confidentiality within 21 days.

9 **CHAIRMAN GRAHAM:** Staff, is there anything  
10 that we need to know, understand, put on the record?

11 **MS. KLANCKE:** We are not aware of any.

12 **CHAIRMAN GRAHAM:** So now when I, I guess I am  
13 recessing the meeting until December -- give me -- I'm  
14 sorry, 'til January, what date?

15 **MS. HELTON:** I think that we are closing out  
16 the hearing, we are closing the record, and that when  
17 you come back for the Agenda Conference on, I think it's  
18 January the 10th, you will be -- or January 11th,  
19 whatever the date is -- you will be voting on the  
20 stipulation. And based on that vote, then the parties  
21 will know whether to file additional briefs the next  
22 day, and then Staff will then know what issues to draft  
23 analysis on for you with respect to your vote in the  
24 schedule that's set out in the Order Establishing  
25 Procedure and on the CASR, so that we can meet the

1 eight-month clock.

2           **CHAIRMAN GRAHAM:** So I'm just flat adjourning  
3 the meeting and closing the record?

4           **MS. HELTON:** Correct. .

5           **CHAIRMAN GRAHAM:** Okay.

6           Commissioners, any last-minute thoughts,  
7 conversations?

8           Commissioner Brisé.

9           **COMMISSIONER BRISÉ:** I just want to thank the  
10 parties for accommodating our needs today and working  
11 with us. Thank you.

12           **CHAIRMAN GRAHAM:** I want to thank everybody  
13 for, actually this fun 18 hours that you gave me.

14           (Laughter.)

15           No. I, once again, I'm probably going to  
16 sound like a broken record. I encourage the whole  
17 stipulation process. I like it when you guys come  
18 together with a solution that by no other means may not  
19 have come forward. I mean, I encourage that kind of  
20 stuff. And I think what we've done today is preserve  
21 that, because I don't think we, I don't think we  
22 collectively, maybe one or two of us may have been  
23 ready, but collectively I don't think we were ready to  
24 make that decision today. And so I think this goes from  
25 a no to a maybe. So it pushes things back, because I

1 couldn't count to three today.

2 I do want to thank you guys all for playing  
3 nice. And I think this is a good note for me to end my  
4 chairmanship. Of course, I hope that you all have --  
5 well, Commissioner Balbis.

6 Hold on before I give you parting thoughts.

7 Commissioner Balbis.

8 **COMMISSIONER BALBIS:** Well, you were just  
9 touching on it. I was going to point out that this is  
10 the last proceeding where you will be Chairman, and I  
11 just wanted to point out that it has been a pleasure  
12 serving with you as the administrator of these  
13 proceedings. And as frustrating as things got, it's one  
14 thing that you did do throughout this hearing and  
15 through all the proceedings is to keep things moving  
16 smoothly and respectfully, and I've been impressed with  
17 how you've managed these, and I want to thank you for  
18 your chairmanship.

19 **CHAIRMAN GRAHAM:** Thank you very much.

20 I wish you all a merry Christmas and happy  
21 holidays. I hope you all travel safe, and I look  
22 forward to seeing all of you after the new year. Thank  
23 you very much. We are closing the record and we are  
24 adjourned.

25 (Proceeding adjourned at 11:50 a.m.)

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STATE OF FLORIDA )  
:  
COUNTY OF LEON )

CERTIFICATE OF REPORTER

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

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

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

DATED THIS 20<sup>th</sup> day of December, 2011.

Linda Boles  
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