

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 120001-EI

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

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PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER
PARTICIPATING: COMMISSIONER EDUARDO E. BALBIS
PREHEARING OFFICER

DATE: Wednesday, October 17, 2012

TIME: Commenced at 9:30 a.m.
Concluded at 11:48 a.m.

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

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

1 APPEARANCES:

2 JAMES D. BEASLEY, ESQUIRE and J. JEFFRY WAHLEN,
3 ESQUIRE, Ausley Law Firm, Post Office Box 391,
4 Tallahassee, Florida 32302, appearing on behalf of
5 Tampa Electric Company.

6 JEFFREY STONE, ESQUIRE, RUSSELL BADDERS, ESQUIRE
7 STEVEN GRIFFIN, ESQUIRE, Beggs & Lane, Post Office Box
8 12950, Pensacola, Florida 32591-2950, appearing on
9 behalf of Gulf Power Company.

10 JAMES W. BREW, ESQUIRE and F. ALVIN TAYLOR,
11 ESQUIRE, c/o Brickfield Law Firm, 1025 Thomas Jefferson
12 Street, NW, Eighth Floor, West Tower, Washington D.C.,
13 20007, appearing on behalf of White Springs
14 Agricultural Chemicals, Inc.

15 KAREN WHITE, ESQUIRE, CAPTAIN SAMUEL MILLER,
16 STAFF ATTORNEY, AND MAJOR CHRISTOPHER THOMPSON,
17 ESQUIRE, Federal Executive Agencies, c/o
18 USAF/AFLOA/JACL/ULFSC, 139 Barnes Drive, Suite 1,
19 Tyndall AFB, Florida 32403-5319, appearing on behalf of
20 Federal Executive Agencies.

21 JON C. MOYLE, JR., ESQUIRE, Moyle Law Firm, 118
22 North Gadsden Street, Tallahassee, Florida 32301,
23 appearing on behalf of Florida Industrial Power Users
24 Group.

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1 APPEARANCES (Continued):

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

6 ROBERT SCHEFFEL WRIGHT, ESQUIRE and JOHN T.
7 LAVIA, III, ESQUIRE, c/o Gardner Law Firm, 1300
8 Thomaswood Drive, Tallahassee, Florida 32308, appearing
9 on behalf of Florida Retail Federation.

10 BETH KEATING, ESQUIRE, Gunster Law Firm, 215
11 South Monroe Street, Suite 601, Tallahassee, Florida
12 32301-1804, appearing on behalf of Florida Public
13 Utilities Company.

14 CHARLES REHWINKEL, ESQUIRE and JOSEPH MCGLOTHLIN,
15 ESQUIRE, and PATTY CHRISTENSEN, ESQUIRE, Office of
16 Public Counsel, c/o The Florida Legislature, 111 W.
17 Madison St., Room 812, Tallahassee, Florida 32399-1400,
18 appearing on behalf of the Citizens of Florida.

19 JOHN T. BURNETT, ESQUIRE and DIANNE M. TRIPLETT,
20 ESQUIRE, Progress Energy Service Company, LLC, Post
21 Office Box 14042, St. Petersburg, Florida 33733-4042,
22 appearing on behalf of Progress Energy Florida, Inc.

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1 APPEARANCES (continued):

2 MARTHA BARRERA, ESQUIRE, LISA BENNETT,
3 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard
4 Oak Boulevard, Tallahassee, Florida 32399-0850,
5 appearing on behalf of the Florida Public Service
6 Commission Staff.

7 MARY ANNE HELTON, Deputy General Counsel,
8 Florida Public Service Commission, 2540 Shumard Oak
9 Boulevard, Tallahassee, Florida 32399-0850, Advisor to
10 the Florida Public Service Commission.

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P R O C E E D I N G S

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2 **COMMISSIONER BALBIS:** Good morning. I'd like
3 to call this clause prehearing conference to order.

4 Staff, could you please read the notice.

5 **MS. BROWN:** By notice issued September 18th,
6 2012, this time and place is set for a prehearing
7 conference in the following dockets: 120001-EI,
8 120002-EG, 120003-GU, 120004-GU, 120007-EI. The
9 purpose of the prehearing conference is set out in the
10 notice.

11 **COMMISSIONER BALBIS:** Okay. Thank you.

12 We can now take appearances. We have,
13 obviously, five dockets to address today, and I assume
14 staff recommends that we take appearances at once, and
15 all parties should enter their appearances and declare
16 the dockets that they are entering an appearance for.

17 So we'll start with Florida Power and Light.

18 **MR. BUTLER:** Thank you.

19 Good morning, Commissioner. John Butler and
20 Ken Rubin appearing on behalf of FPL in the 01, the 02,
21 and the 07 dockets.

22 **MS. TRIPLETT:** Good morning. Dianne Triplett
23 on behalf of Progress Energy Florida, and also I would
24 like to make an appearance for John Burnett also on
25 behalf of Progress Energy Florida in the 01, 02, and 07

1 docket. And then also in the 07 docket, Gary Perko.

2 **MR. BEASLEY:** Good morning, Commissioner.
3 James D. Beasley and J. Jeffry Wahlen for Tampa
4 Electric Company in the 01, 02, and 07 dockets.

5 **MR. GRIFFIN:** Good morning, Commissioner.
6 Steven Griffin with the law firm of Beggs and Lane on
7 behalf of Gulf Power. Also appearing in the dockets
8 with me are Jeffrey Stone and Russell Badders in 01,
9 02, and 07.

10 **MS. KEATING:** Good morning, Commissioner.
11 Beth Keating with the Gunster Law Firm. I'm here today
12 on behalf of FPUC in the 01 and 02 dockets; for FPUC in
13 the 03 docket, as well as Florida City Gas; and in the
14 04 docket, FPU, FPU Indiantown, Chesapeake, and Florida
15 City Gas.

16 **MS. WHITE:** Good morning, Commissioner. I'm
17 Karen White on behalf of Federal Executive Agencies.
18 I'm also entering an appearance for Major Christopher
19 Thompson and Captain Samuel Miller in the 01, 02, and
20 07 dockets.

21 **MR. BREW:** Good morning, Commissioner. I'm
22 James Brew of the firm of Brickfield, Burchette, Ritts,
23 and Stone. I'm here for White Springs Agricultural
24 Chemicals, PSC Phosphate. I'd like to also make an
25 appearance for F. Alvin Taylor, and we're here in the

1 01, 02, and 07 dockets.

2 **MR. REHWINKEL:** Good morning, Commissioner.
3 Charles Rehwinkel with the Office of Public Counsel.
4 I'd like to enter an appearance in 01, 02, and 07. And
5 I would also like to enter an appearance for Mr.
6 McGlothlin, Joe McGlothlin in 01, 02, and 07, and I'll
7 let Ms. Christensen tell you hers.

8 **MS. CHRISTENSEN:** And Patty Christensen also
9 on behalf of the Office of Public Counsel in the 01,
10 02, 03, 04, and 07 dockets.

11 **MR. WRIGHT:** Good morning, Commissioner.
12 Robert Scheffel Wright, and I'd also like to enter an
13 appearance for my partner John T. LaVia, III, on behalf
14 of the Florida Retail Federation in the fuel
15 cost-recovery docket, 0001. Thank you.

16 **MR. MOYLE:** Good morning. Jon Moyle with the
17 Moyle Law Firm representing the Florida Industrial
18 Power Users Group. I'd like to enter an appearance in
19 the 01, 02, 07, and 09 dockets.

20 **MR. CAVROS:** Good morning, Commissioner.
21 George Cavros appearing on behalf of Southern Alliance
22 for Clean Energy in the 02 docket.

23 **MR. HORTON:** Norman H. Horton, Jr., appearing
24 on behalf of Sebring Gas System, Inc. in the 04 docket.

25 **COMMISSIONER BALBIS:** Okay. Any other

1 parties before I move to staff?

2 **MS. BROWN:** Martha Carter Brown and Michael
3 Lawson in the 02 docket -- 03 docket, I'm sorry.

4 **MR. MURPHY:** Charles Murphy in the 07 docket.

5 **MS. ROBINSON:** Pauline Robinson in the 04
6 docket.

7 **MS. TAN:** Lee Eng Tan for the 02 docket.

8 **MS. BARRERA:** Martha Barrera in the 01
9 docket, and also I would like to enter an appearance
10 for Lisa Bennett.

11 **MS. HELTON:** And Mary Anne Helton, I'm here
12 to advise you in all the dockets.

13 * * * * *

14 **COMMISSIONER BALBIS:** Okay. We will go ahead
15 and reconvene. And we have moved on to Docket Number
16 120001-EI, the fuel and purchased power cost-recovery
17 clause prehearing conference. Let's move on to
18 preliminary matters. Are there any preliminary
19 matters?

20 **MS. BARRERA:** Yes, Commissioner, Staff has
21 two preliminary matters. We are proposing a new issue
22 which would be Issue 35, which would read, "Should the
23 Commission authorize its staff to investigate a change
24 in the annual fuel cost-recovery clause effective date
25 of the new factors to begin on or after the first

1 billing cycle in January." Staff's position would be,
2 "Yes, the Commission staff should be instructed to
3 commence an investigation in 2013."

4 Staff also proposes another new issue today
5 which has not been shared with the parties, and it
6 would be Issue 36 -- mainly because we just thought of
7 it -- but it should be Issue 36, "Should the Commission
8 authorize staff to initiate an investigation on the
9 GPIF mechanism in 2013?"

10 Staff recommends that if any party is not
11 available at this time to state a position on these
12 issues that the Commissioner give them until tomorrow
13 at 4:00 to look at it and submit positions.

14 **MR. WRIGHT:** Commissioner?

15 **COMMISSIONER BALBIS:** Yes. Hold on a second.

16 **MR. WRIGHT:** Certainly.

17 **COMMISSIONER BALBIS:** For this new Issue 36,
18 I would assume staff's position on that would be yes,
19 as well, or has staff --

20 **MS. BARRERA:** Oh, yes. I'm sorry, our
21 position is yes.

22 **COMMISSIONER BALBIS:** Okay. Thank you. Mr.
23 Wright.

24 **MR. WRIGHT:** Thank you. I just did not quite
25 understand exactly what the proposed issue is. Could

1 you ask Ms. Barrera to reread the issue as staff
2 proposes it?

3 **MS. BARRERA:** Okay. The issue is should the
4 Commission authorize staff to initiate an investigation
5 on the GPIF mechanism in 2013. There have been some
6 questions concerning the existing mechanisms, and so
7 rather than bring it up during these proceedings, staff
8 thought that there may be -- it would be best to do a
9 separate investigation and provide parties the
10 opportunity, timely opportunity to participate in that.

11 **MR. WRIGHT:** Thank you.

12 **COMMISSIONER BALBIS:** Okay. Are there any
13 other preliminary matters?

14 **MS. BARRERA:** No. This concludes our
15 preliminary matters.

16 **COMMISSIONER BALBIS:** Okay. Does the
17 deadline for the end of the day today work for all
18 parties for those two new issues?

19 **MS. CHRISTENSEN:** Office of Public Counsel, I
20 think, is prepared to take a position at this time and
21 has no objection to spin-off dockets to investigate
22 the -- I think one was the date that the factor should
23 be implemented, and the other spin-off docket would be
24 an investigation into the GPIF mechanism. So we can
25 just change our position. We can just say yes to both.

1 **MR. BREW:** Commissioner, as to both issues,
2 PCS would say yes.

3 **MS. WHITE:** Also FEA says yes to both issues.

4 **MR. WRIGHT:** Commissioner, we have already
5 communicated our position of yes as to Issue 35, and
6 we'll also take the position of yes as to Issue 36.
7 Thank you.

8 **MS. TRIPLETT:** Commissioner, Dianne Triplett
9 for Progress. Can I maybe get -- because I guess I
10 wasn't thinking it would be a spin-off docket, but can
11 I get clarification on what staff is meaning by the
12 word investigation?

13 **MS. BARRERA:** Looking into, exploring. You
14 know, not the idea of -- just sort of -- how do I
15 explain it? Rather than conducting a criminal
16 investigation, for example, it would be something that
17 would be like sharing information on the issue.

18 **COMMISSIONER BALBIS:** I believe the question
19 was more procedurally would we open up another spin-off
20 docket, or would it be a separate issue -- another
21 docket. I think her question was procedurally.

22 **MS. BARRERA:** Oh, okay. Sorry.

23 **COMMISSIONER BALBIS:** And I'm not sure we
24 ever conduct criminal investigations.

25 (Laughter.)

1 **MS. BARRERA:** Yes, I couldn't think. But,
2 anyway. No, it's not going to be a spin-off docket.
3 It would be part of the 01 for next year. Both of them
4 would be part of --

5 **MS. TRIPLETT:** Okay. Thank you.

6 **COMMISSIONER BALBIS:** Okay. And I just want
7 to confirm with technical staff, as well. Would that
8 be the best way to handle that or would a spin-off
9 docket --

10 **MR. WILLIS:** Commissioner, I believe that is
11 correct, it should be part of the 01 docket. That
12 would afford all the parties the ability to file
13 testimony and have it fully litigated.

14 **COMMISSIONER BALBIS:** Okay. Is everyone
15 clear on that? And I think we were establishing
16 positions from each party.

17 **MS. CHRISTENSEN:** Right. And whether or not
18 it's a spin-off or not, we are still in favor of
19 opening an investigation. So yes would still remain
20 our position.

21 **COMMISSIONER BALBIS:** Okay. PCS remains yes?

22 **MR. BREW:** Yes.

23 **COMMISSIONER BALBIS:** The Retail Federation?

24 **MR. WRIGHT:** Yes.

25 **COMMISSIONER BALBIS:** FEA?

1 **MS. WHITE:** Yes.

2 **MR. MOYLE:** FIPUG is fine with it.

3 **COMMISSIONER BALBIS:** So that would be a yes?

4 **MR. MOYLE:** Yes.

5 **COMMISSIONER BALBIS:** Okay.

6 **MR. BUTLER:** We'll get back to staff by the
7 end of the day for FPL.

8 **COMMISSIONER BALBIS:** Okay.

9 **MS. TRIPLETT:** The same for Progress.

10 **MR. BEASLEY:** As for Tampa Electric.

11 **MR. BADDERS:** The same for Gulf.

12 **COMMISSIONER BALBIS:** Okay. Are there any
13 other preliminary matters?

14 **MS. BARRERA:** No, sir.

15 **COMMISSIONER BALBIS:** Okay. Now we are going
16 to go through the same process with the other dockets
17 noting we'll probably spend a little more time on some
18 of these sections.

19 Section I, case background. Any questions or
20 comments on that?

21 Section II, conduct of proceedings.

22 Section III, jurisdiction.

23 Section IV, procedure for handling
24 confidential information.

25 Section V, prefiled testimony and exhibits.

1 Section VI, order of witnesses.

2 And with this, since -- well, let me ask, are
3 there any witnesses that will need to be taken out of
4 order or excused?

5 **MS. BARRERA:** Staff will note that it
6 believes that Staff witnesses Stephens, Brown, Welch,
7 Mavrides, and Ngo may be excused. Other witnesses may
8 also be suggested by the parties.

9 It would also be good if we asked the same
10 question after we go through the stipulated or not
11 stipulated issues to see if there are other witnesses
12 that are suggested to be excused, after we do the
13 issues.

14 **COMMISSIONER BALBIS:** Okay. Are there any
15 objections to the Staff witnesses that Staff proposed
16 to be excused?

17 **MS. CHRISTENSEN:** No. Office of Public
18 Counsel has no questions for the Staff witnesses.

19 **COMMISSIONER BALBIS:** Okay. Seeing no other
20 objections, let the record reflect that the parties
21 have not objected. And, of course, you will confirm
22 with the Commission offices.

23 **MS. BARRERA:** Okay. And staff will discuss
24 with the remaining Commissioners as to whether or not
25 Commissioners have questions for staff witnesses.

1 **COMMISSIONER BALBIS:** Okay. And I'll note
2 staff's recommendation as we go through the issues,
3 that if they are stipulated we can discuss any specific
4 witnesses at that time.

5 Mr. Butler.

6 **MR. BUTLER:** Commissioner, yes. A couple of
7 points on the order of witnesses. First, this is
8 something I should have noticed before, but have not,
9 is that for some reason FPL's Witnesses Yupp and Keith
10 appear multiple sometimes in the list. It looks like
11 it was split up by different segments of issues they
12 were addressing. Just to be clear, it's not our
13 intention if they have to testify, that they would
14 appear separately multiple times. So I think it
15 probably just could collapse into the first time each
16 of them appears in the list, and have all of the issues
17 appear behind their name at that point in the order of
18 witnesses.

19 And I would also observe that depending on
20 where we go with this, I think some, if not all of our
21 witnesses may be in a position of being stipulated, but
22 I agree with staff that it is probably best to return
23 to that after we have gone through the individual
24 issues.

25 **COMMISSIONER BALBIS:** Okay. And the final

1 prehearing order will reflect the combination of the
2 issues for the specific witnesses.

3 **MR. BUTLER:** Thank you.

4 **COMMISSIONER BALBIS:** Any other comments on
5 order of witnesses?

6 Okay. Let's move on to Section VII, basic
7 positions. And I want to start off with a comment. At
8 least the draft that I have for FPL's basic positions
9 for 24E, the text for that issue doesn't match what is
10 listed under the specific issues. It looks like that
11 should be 24C, unless my copy is wrong. So 24E in the
12 basic positions on Page 7 are associated -- that is
13 associated with West County Energy Center 3, and then
14 if you go to my Page 39, Issue 24C has to do -- that's
15 24C in the specific issues.

16 **MR. BUTLER:** You are correct, Commissioner.
17 I think that is just probably a typographical error on
18 our part. The italicized language in the statement of
19 basic position, I think that should be Issue 24C
20 instead of E. Is that what you're referring to?

21 **COMMISSIONER BALBIS:** Yes. I just want to
22 make sure that it wasn't just my copy, and we'll have
23 that corrected, and it was FPL's intent --

24 **MR. BUTLER:** Yes, that is the statement of
25 the position on -- FPL's position on how to handle the

1 West County 3 costs, which is 24C as in Charlie, not E
2 as in Edward.

3 **COMMISSIONER BALBIS:** Okay. Are there any
4 other comments or questions on the basic positions?

5 **MR. REHWINKEL:** Yes, Commissioner Balbis.
6 Public Counsel would like to state its basic position.
7 I'll read this, and then I can provide it by e-mail to
8 the staff.

9 OPC's basic position for PEF is the same as
10 the first paragraph of PCS Phosphate's basic position.
11 For FPL, I'm going to read this statement, and this
12 will also be our position on Issues 30 through 33.

13 Capacity cost-recovery amounts and related
14 factors must be based on a lawful final order in Docket
15 Number 120015-EI prior to FPL implementing changes in
16 rates as a result of this docket. And I'll provide
17 that to staff by e-mail.

18 **COMMISSIONER BALBIS:** Okay.

19 **MR. MOYLE:** Commissioner Balbis, FIPUG also
20 with respect to its basic position would like to add
21 one sentence to it, I think, that tracks what OPC said
22 with regard to Progress Energy. And if I could just
23 read it into the record and I can follow up with an
24 e-mail.

25 **COMMISSIONER BALBIS:** Sure.

1 **MR. MOYLE:** This would be the additional
2 portion of the basic position. FIPUG adopts the
3 position of PCS regarding capacity factor adjustments
4 associated with the Crystal River 3 extended uprate
5 project.

6 **COMMISSIONER BALBIS:** Okay. Any other
7 modifications to basic positions?

8 **MR. BUTLER:** Commissioner Balbis, it has been
9 pointed out to me that on this 24C and E it is not a
10 mere typographical error, but a transposition. If you
11 turn over to Page 8, what appears there as 24C,
12 Charlie, should be 24E, Edward. So if you could
13 correct that, as well.

14 **COMMISSIONER BALBIS:** Yes.

15 **MR. BUTLER:** Thank you.

16 **MS. BARRERA:** We did. Commissioner, I have a
17 question. Does FIPUG's position adopt the entire PCS
18 position? I know OPC said it would be the first
19 sentence.

20 **MR. REHWINKEL:** Paragraph.

21 **MS. BARRERA:** Pardon?

22 **MR. REHWINKEL:** Paragraph.

23 **MR. MOYLE:** Yes, we will adopt their position
24 with respect to the Crystal River 3 matter. Thank you.

25 **MS. BARRERA:** Thank you.

1 **COMMISSIONER BALBIS:** Okay. Last chance on
2 modifying basic positions.

3 Okay. Let's move on to Section VIII, issues
4 and positions.

5 **MS. BARRERA:** Issue 1A, should the Commission
6 approve as prudent PEF's actions to mitigate the
7 volatility of natural gas, residual oil, and purchased
8 power prices as reported in PEF's April 2012 and
9 August 2012 hedging reports.

10 **COMMISSIONER BALBIS:** I think probably the
11 best way to handle this is instead of reading the text
12 of each issue, I will just read the issue number and
13 then we will stop on any one that is required. So
14 Issue 1A for Progress Energy Florida, any questions,
15 comments, or revisions to positions at this time?

16 **MS. BARRERA:** Okay. And, Commissioner, staff
17 will note that as the order establishing procedure
18 requires that a party take a position at the prehearing
19 conference unless good cause is shown as to why that
20 party can't take a position. So if a party's position
21 is currently no position at this time, then the party
22 must change it at today's prehearing conference or show
23 good cause. Otherwise, the prehearing order will
24 reflect that that party has no position.

25 **MR. REHWINKEL:** Public Counsel's position

1 will be no position on 1A.

2 **MR. MOYLE:** And FIPUG is fine with what staff
3 read out, and we don't feel the need on each issue to
4 say, you know, we're taking no position. It just
5 happens automatically, it goes to no position. So
6 unless we affirmatively state a new position, we are
7 fine with it.

8 **COMMISSIONER BALBIS:** Okay. That's my
9 understanding, as well.

10 **MS. TRIPLETT:** Commissioner, Diane Triplett
11 with Progress. It was my understanding that this issue
12 was perhaps ripe for a Type B Stipulation, and so right
13 now Progress's position on this is as reflected in this
14 prehearing order, but we would be amenable to the
15 proposed staff language, which I don't have to read. I
16 don't know if you have this, but I didn't want to lose
17 that for the record.

18 **MS. BARRERA:** That is correct. Basically, I
19 was waiting until everybody, you know, said whether or
20 not they had a position on it. And staff does have a
21 position. The position is yes, PEF's actions to
22 mitigate the price volatility of natural gas, residual
23 oil, and purchased power prices were reasonable and
24 prudent. And we believe that would be a Type B
25 Stipulation.

1 **COMMISSIONER BALBIS:** Any objections to that?

2 Okay. Hearing none, move on to Issue 1B.

3 Any questions, comments, or revisions to positions?

4 Issue 1C.

5 **MS. BARRERA:** On 1B, Staff has a stipulation;
6 it's, yes, PEF's 2013 risk management plan is
7 consistent with the hedging guidelines.

8 **MS. TRIPLETT:** And Progress would agree to
9 that position.

10 **MR. REHWINKEL:** Commissioner, I was prepared
11 to just state when our position changes. And then in
12 the context of these Type 2 Stipulations, I'd prefer to
13 state for the record where we are so there is no
14 confusion about whether we are affirmatively agreeing
15 with the stipulation. So on 1B we would be no position
16 to facilitate the Type 2 Stipulation.

17 **COMMISSIONER BALBIS:** Okay. Then maybe I'll,
18 at the next issue, just ask if there are any
19 stipulations, and that way we can just do this once.

20 **MR. REHWINKEL:** All right.

21 **MR. WRIGHT:** Commissioner?

22 **COMMISSIONER BALBIS:** Yes.

23 **MR. WRIGHT:** We're in the same position as
24 Public Counsel on these issues so far. Our
25 understanding is that no position at this time will

1 change to no position, which will leave us not opposing
2 a Type 2 or Type B Stipulation. And if it's okay with
3 you, unless I say otherwise we will just assume that is
4 correct as we go on.

5 **COMMISSIONER BALBIS:** Okay.

6 **MR. REHWINKEL:** That's a good way to do it.

7 **COMMISSIONER BALBIS:** Okay. I agree.

8 Issue 1C. Are there any stipulations for
9 this issue?

10 **MR. REHWINKEL:** Commissioner, the Public
11 Counsel's position will be no on that one, so we would
12 not be in a position to facilitate a stipulation.

13 **MS. BARRERA:** Staff takes no position on
14 Issue 1C.

15 **MR. MOYLE:** FIPUG would change to just no,
16 consistent with Public Counsel's change.

17 **MS. WHITE:** FEA, as well, changes to no.

18 **MR. WRIGHT:** Commissioner, as will the Retail
19 Federation.

20 **COMMISSIONER BALBIS:** And I assume PCS will
21 just match?

22 **MR. BREW:** Still agreeing with OPC.

23 **COMMISSIONER BALBIS:** Okay. Issue 2A.
24 Florida Power and Light.

25 **MR. MOYLE:** There's a 1D.

1 **COMMISSIONER BALBIS:** I don't have that on my
2 list.

3 **MS. BARRERA:** It should be in the prehearing
4 order.

5 **COMMISSIONER BALBIS:** The previous draft I
6 had did not, but the new one that's here --

7 **MR. MOYLE:** If it's okay, Mr. Prehearing
8 Chairman, I'll take the lead on this, because FIPUG at
9 the staff informal meeting had indicated that it may
10 have an issue that it was intending to raise. It had
11 to have some further discussion. It had some further
12 discussions, and yesterday I put an issue out that
13 relates to the NEIL coverage and whether there was one
14 event versus two events, and whether the insurance gets
15 reloaded and what assumptions are made.

16 We shared this with all the parties.
17 Progress came back with some proposed alternative
18 language that states what amount, if any, should PEF
19 include in its 2013 projections to account for
20 potential insurance recoveries for Crystal River Unit 3
21 from Nuclear Electric Insurance Limited. So that was
22 the agreed to rephrasing of the FIPUG issue as it
23 relates to insurance matters, and there was e-mail
24 traffic that basically said yes, you know, it was
25 understood that subsumed within that were questions

1 about whether it was one event at Crystal River or two
2 events, and what the appropriate insurance proceeds are
3 as it relates to replacement fuel. So that's the
4 issue, and FIPUG had previously circulated a position
5 yesterday, an e-mail. But just so we have a clean
6 record, if I could read FIPUG's position to that issue.

7 Given that the first two delamination events
8 are separated by more than one year in time and
9 occurred at different portions of the containment
10 building, these two events, and possibly others should
11 be considered separate events for the purposes of NEIL
12 replacement fuel insurance coverage. Consequently,
13 additional replacement fuel insurance dollars beyond
14 coverage for only one event should be assumed when
15 establishing the fuel factor.

16 Thank you for the opportunity to clarify
17 that.

18 **MS. BARRERA:** Excuse me. And staff would
19 propose that any new wording on any issue or position
20 be submitted in writing so we can incorporate it.

21 **MR. MOYLE:** And this was sent around
22 yesterday. It was in the e-mail that I sent yesterday,
23 I think, to all the parties.

24 **MS. TRIPLETT:** Commissioner, if I may, I just
25 wanted to clarify something. Our understanding is that

1 this issue would allow Mr. Moyle and anyone else to
2 test the assumption upon which our projections are
3 based with respect to NEIL recovery. Not what NEIL is
4 going to do ultimately and whether -- the coverage
5 determination issue. So I think that is what Mr. Moyle
6 is reflecting in his position, and that's what he
7 intends to question about. I think that was some of
8 the e-mail traffic.

9 But what I heard was just a little bit
10 different, so I just wanted to make sure that was clear
11 what our position is. And then for the record, and I
12 can send it again by e-mail, I think we already did,
13 but just our position on this issue would be the amount
14 described by Ms. Olivier in her projection testimony.

15 **MR. MOYLE:** Yes. I don't think we're going
16 to be able to have -- there is no NEIL witness, so to
17 the extent we could at this hearing figure out what
18 NEIL is going to do, I don't think that's going to
19 happen. But I do think it's, as you articulated, fair
20 game to have questions about for the purposes of
21 setting a factor, you know, should one event or two
22 events be the assumed situation.

23 **COMMISSIONER BALBIS:** Okay. Any other
24 positions on this issue from the other parties?

25 **MS. WHITE:** Yes. FEA agrees with FIPUG on

1 Issue 1D.

2 **MR. BREW:** Commissioner, I'd ask that we be
3 allowed to e-mail the staff specific positions by the
4 end of day or by tomorrow at lunch time.

5 **COMMISSIONER BALBIS:** I think the end of the
6 day today would be fine, unless that's very
7 problematic.

8 **MR. BREW:** Okay.

9 **MR. REHWINKEL:** Public Counsel would be in
10 the same position, but we will take no position at this
11 time, pending amending that by the end of the day.

12 **COMMISSIONER BALBIS:** Okay.

13 **MR. WRIGHT:** We also would like to have until
14 the end of the day to give a position. We will take no
15 position at this time for the next few hours. Thank
16 you.

17 **COMMISSIONER BALBIS:** Okay. And I assume the
18 next issue is Issue 2A for Florida Power and Light.

19 **MS. BARRERA:** At this time staff would take
20 the position that, yes, FPL's actions to mitigate the
21 price volatility of natural gas, residual oil, and
22 purchased power prices were reasonable and prudent.

23 **MR. BUTLER:** FPL is prepared to adopt staff's
24 language on this issue.

25 **MS. CHRISTENSEN:** And Office of Public

1 Counsel is taking to position on 2A, 2B, and 2C.

2 **COMMISSIONER BALBIS:** Okay. Any other
3 revisions for 2A?

4 Okay. Issue 2B.

5 **MS. BARRERA:** Staff has a position on this
6 issue. It would be, yes, FPL's 2013 risk management
7 plan is consistent with the hedging guidelines.

8 **MR. BUTLER:** Again, FPL is prepared to adopt
9 staff's position on this in order to facilitate a Type
10 B Stipulation.

11 **COMMISSIONER BALBIS:** Okay. Office of Public
12 Counsel?

13 **MS. CHRISTENSEN:** We'll take no position.

14 **MR. WRIGHT:** As I said earlier, I'm assuming
15 our no position at this time has become a no position.
16 Thank you.

17 **COMMISSIONER BALBIS:** Okay. Any other
18 changes? Seeing none, we will move on to Issue 2C.

19 **MS. BARRERA:** Staff has taken a position in
20 its rate case Docket Number 120015-EI. FPL proposed a
21 new optional residential time-of-use rider, RTR-1. If
22 the Commission approves the RTR-1 rider in the rate
23 case, the proposed fuel factors for the RTR-1 rider
24 should be approved. If the Commission denies the RTR-1
25 rider in the rate case, this issue would be moot in

1 this docket.

2 **COMMISSIONER BALBIS:** I do have a question
3 for staff on this, and I'm glad you brought that up,
4 and it's probably something I should have asked during
5 the briefing, but if in the 120015 docket, based on the
6 cost of service study and other evidence in the record,
7 make other modifications to any of the rate design, are
8 there adjustments that would need to be made in this
9 docket, and do you have the flexibility to do so, or
10 how would that work?

11 **MS. BARRERA:** There is the opportunity to
12 make adjustments after the Commission rules on several
13 of the issues, depending on how the Commission rules in
14 the 015 docket in the rate case. What the staff is
15 trying to do at this time is that the issues that
16 relate to the settlement agreement or any decision by
17 the Commission on the rate case not be dealt with in
18 this docket so that there would be no danger of the
19 appearance of prejudgment as to this docket. And in
20 several we will be -- whether or not there is
21 agreement, we will be recommending that the matter be
22 dealt with after the Commission rules in the 015
23 docket.

24 **COMMISSIONER BALBIS:** Okay.

25 **MS. CHRISTENSEN:** Patty Christensen with the

1 Office of Public Counsel. I have no objection to
2 staff's explanation that some of these issues related
3 to issues that have been raised as part of the FPL rate
4 case be addressed once those decisions have been made
5 final. I'm not clear that the language that staff was
6 proposing gets us there, but we have stated our
7 position, our basic position in Issues 30 through 33,
8 and probably that would be applicable here that any
9 rate changes must be based on a lawful final order in
10 Docket 120015 prior to FPL implementing the changed
11 rate as a result in this docket.

12 **COMMISSIONER BALBIS:** Okay.

13 **MR. WRIGHT:** We agree with Public Counsel.
14 Thank you.

15 **MR. BUTLER:** Commissioner Balbis?

16 **COMMISSIONER BALBIS:** Yes.

17 **MR. BUTLER:** For FPL, we're not completely
18 sure, and it may be just a matter of getting
19 clarification from staff, as to how this staff position
20 would play out in the event that there were a decision
21 in the FPL rate case docket that is not effective at
22 the beginning of January 2013, and then there was
23 initially a period without the RTR-1 rider, and then if
24 the Commission approved it in the rate case docket
25 subsequent to that, the RTR-1 rider base rates would be

1 applicable, how that would work under the staff
2 proposed position on this issue. And if they could
3 clarify that I would appreciate it.

4 **MS. BARRERA:** My staff has advised that since
5 the rider is not in existence at this time, that
6 wouldn't be implemented until after the Commission
7 ruled in the 015 case.

8 **COMMISSIONER BALBIS:** Well, would there be an
9 ability to true-up, since there would be a month or a
10 few weeks without that rider being in place?

11 **MS. BARRERA:** Excuse me, sir. (Pause.)

12 Since there has been discussion, my idea
13 would be that we have this discussion later and come
14 back with a final decision on the issue whether or not
15 we have a stipulation or not.

16 **COMMISSIONER BALBIS:** But my question was on
17 the 015 docket, whether or not a decision is made there
18 that approves the rider, and was the true-up and any
19 other adjustments that could be made in the 015 docket.
20 So, I mean, if staff needs time to discuss what the
21 options are, but I think it's a legitimate question.

22 **MR. BUTLER:** Commissioner Balbis?

23 **COMMISSIONER BALBIS:** Yes.

24 **MR. BUTLER:** Just a brief comment on that.
25 Trueing-up at sort of an overall revenue collection

1 level is something that may very well be workable for
2 dealing with some of these changes of outcomes based on
3 the rate case decision. This one seems like it raises
4 a little bit different question because it would be not
5 only class-specific, but specific to people who are
6 actually on this RTR-1 rider. I mean, presumably one
7 wouldn't true-up in the normal sense of truing-up just
8 to flow the money back to the general body of customers
9 based on some difference in the charges to the people
10 who are on the RTR-1 rider.

11 I think I can state fairly confidently that
12 it would be very difficult for FPL to go back and try
13 to true-up for individual customers who are on the
14 RTR-1 rider for some period where there is a
15 transition. So it's a little bit of a concern there.
16 I mean, our thought would be that the best thing here
17 would be that, you know, if there isn't the RTR-1
18 underlying base rider in effect for however long that's
19 the case that we wouldn't be applying factors using the
20 RTR-1 basis in the clause. And then if the Commission
21 approved the RTR-1 base rider, then at whatever point
22 that became game effective these clause factors would
23 change to sort of correspond to it. I just throw that
24 out there as an idea, but it's a little bit of a
25 complication, because it is something that just effects

1 a relatively small number of customers rather than
2 something that applies to the general body of
3 customers.

4 **COMMISSIONER BALBIS:** Okay. I think that's a
5 workable solution. I mean, I don't know if anyone
6 would object to it, or if staff's language in their
7 position would have to change, but --

8 **MS. BARRERA:** And we have no problem with
9 that. We will discuss it and see if we can arrive at
10 good language. The rider is prospective if it's
11 approved, so any fuel rates accompanying it would start
12 at the time that the rider is approved. There wouldn't
13 be any back fees.

14 **COMMISSIONER BALBIS:** Okay. I think we can
15 move on to Issue 3A.

16 **MR. BUTLER:** Commissioner, before you move on
17 to 3, we had on Issues 1A and 1B, I think, stated on
18 the record that there were Class B or Type B
19 Stipulations for those. I think that would apply for
20 FPL's Issues 2A and 2B, as well. And if that's the
21 case, I would just like to make that clear on the
22 record.

23 **COMMISSIONER BALBIS:** That was my
24 understanding. I just want staff to confirm that would
25 be a Type B Stipulation.

1 **MS. BARRERA:** 2A and 2B?

2 **MR. BUTLER:** That's right.

3 **COMMISSIONER BALBIS:** Yes.

4 **MS. BARRERA:** Yes. I thought we read it.

5 FPL's 2013 risk management plan is consistent with the
6 hedging guidelines. And then 2A was, yes.

7 **MR. BUTLER:** You had read it. I had not
8 heard -- if I missed it, I apologize. I had not heard
9 saying that there was a Type B Stipulation.

10 **COMMISSIONER BALBIS:** No, that wasn't
11 mentioned, but it was the same where staff adopted the
12 position and FPL adopted staff's position. So that
13 would be a Type B. So thank you for clarifying that.

14 **MS. BARRERA:** Yes.

15 **COMMISSIONER BALBIS:** Issue 3A, Florida
16 Public Utilities. Does staff have a position on that?

17 **MS. BARRERA:** Staff's position is no position
18 at this time.

19 **COMMISSIONER BALBIS:** Okay. Any changes or
20 modifications to other parties' positions on this
21 issue?

22 **MS. CHRISTENSEN:** Office of Public Counsel
23 would take no position on 3A.

24 **COMMISSIONER BALBIS:** Okay. Issue 3B.

25 **MS. BARRERA:** On Issue 3B, staff has no

1 position at this time.

2 **COMMISSIONER BALBIS:** Okay. Any other
3 changes to other parties' positions?

4 Issue 4A, Gulf Power Company.

5 **MS. BARRERA:** On Issue 4A, staff has a
6 position and it is, yes, Gulf's actions to mitigate the
7 price volatility of natural gas and purchased power
8 prices were reasonable and prudent.

9 **MR. BADDERS:** Gulf can agree with staff's
10 language.

11 **COMMISSIONER BALBIS:** Okay. Any objections?

12 **MS. CHRISTENSEN:** Office of Public Counsel
13 takes no position on 4A or 4B for Gulf Company.

14 **COMMISSIONER BALBIS:** Okay. And I believe
15 that would be a Type B Stipulation?

16 **MS. BARRERA:** Yes, sir.

17 **COMMISSIONER BALBIS:** Okay. Moving on to 4B.

18 **MS. BARRERA:** On 4B staff has a position,
19 which is, yes, Gulf's 2013 risk management plan is
20 consistent with the hedging guidelines.

21 **MR. BADDERS:** And in that case Gulf also
22 adopts staff's language.

23 **COMMISSIONER BALBIS:** Okay. Seeing no
24 objections, that would, again, be a Type B Stipulation,
25 so we can move on to Issue 5A.

1 Staff, do you have a position?

2 **MS. BARRERA:** Yes. 5A, staff has a position.
3 Yes, TECO's actions to mitigate the price volatility of
4 natural gas and purchased power prices were reasonable
5 and prudent.

6 **MR. BEASLEY:** Tampa Electric adopts staff's
7 position.

8 **COMMISSIONER BALBIS:** Okay.

9 **MS. CHRISTENSEN:** And the Office of Public
10 Counsel has no position on 5A or 5B for Tampa Electric
11 Company.

12 **COMMISSIONER BALBIS:** Okay. So that would be
13 a Type B Stipulation for 5A. On 5B, does staff have a
14 position?

15 **MS. BARRERA:** Yes. On 5B the position is
16 TECO's 2013 risk management plan is consistent with the
17 hedging guidelines.

18 **MR. BEASLEY:** Tampa Electric adopts staff's
19 position.

20 **COMMISSIONER BALBIS:** Okay. That would be a
21 Type B Stipulation.

22 Now we will move on to Issue 6.

23 **MS. BARRERA:** Staff has a position on Issue
24 6. The appropriate actual benchmark levels for
25 calendar year 2012 for gains on nonseparated wholesale

1 energy sales eligible for a shareholder incentive are
2 for FPL, 6,680,369; for PEF, 896,041; for FPUC, no
3 position; for Gulf, 749,310; for TECO, 2,461,613.

4 **COMMISSIONER BALBIS:** Okay. Do any of the
5 parties change their position based on staff's
6 agreement with the utilities?

7 **MS. CHRISTENSEN:** Office of Public Counsel
8 has a question or request for clarification regarding
9 the outstanding purported settlement. It has some
10 language in it regarding gain on sale and change in
11 asset optimization. It did not appear to us that those
12 proposed changes were being flowed through Issues 6, 7,
13 and other issues, but we wanted clarification if there
14 were -- if those dollar amounts or anything was
15 changing related to that asset optimization.

16 **MR. BUTLER:** Speaking for FPL, these numbers
17 reflect the existing mechanism, the existing three-year
18 rolling average calculation. It's not reflecting the
19 results of the proposed stipulation.

20 **MS. CHRISTENSEN:** Given that clarification,
21 then the Office of Public Counsel can take no position.

22 **COMMISSIONER BALBIS:** Okay. Moving on to
23 Issue 7. And I assume that would be a Type B
24 Stipulation, as well?

25 **MS. BARRERA:** Yes.

1 **COMMISSIONER BALBIS:** So we can move on to
2 Issue 7. Is staff in agreement with the amounts listed
3 by each utility?

4 **MS. BARRERA:** Yes, sir, except for FPUC's no
5 position.

6 **COMMISSIONER BALBIS:** Okay. I'm not hearing
7 any objections, so I would assume that would be a Type
8 B Stipulation.

9 **MS. CHRISTENSEN:** Right. Although I don't
10 see OPC listed, we would take no position on Issue A.

11 **COMMISSIONER BALBIS:** Okay. We will add that
12 to the prehearing order for Issue 7.

13 Let's move on to Issue 8. Does staff agree
14 with the over and underrecovery amounts listed from
15 each utility?

16 **MS. BARRERA:** Yes, except for -- well, on PEF
17 staff takes no position. On FPUC's Northwest Division,
18 Marianna, staff takes no position at this time. And
19 under the Northeast Division, Fernandina Beach, staff
20 takes the position that the amount is 360,592
21 overrecovery.

22 **COMMISSIONER BALBIS:** Okay. Any objections?

23 **MR. BEASLEY:** May I inquire, Commissioner, if
24 that would be a Type B Stipulation other than the
25 exceptions that were just stated?

1 **MS. BARRERA:** Yes.

2 **COMMISSIONER BALBIS:** Okay. Issue 9.

3 **MS. BARRERA:** On Issue 9, staff has a
4 stipulation. The appropriate fuel adjustment
5 actual/estimated true-up amounts for the period
6 January 2012 through December 2012 are for the
7 Northwest Division in FPUC, Marianna, there is no
8 position at this time. For Progress there is no
9 position at this time. FPL, it's 99,206,321
10 overrecovery. For FIPUG's Northeast Division --
11 FPUC's, I'm sorry, Northeast Division, Fernandina
12 Beach, it's 104,982 underrecovery. For Gulf it's
13 26,425,418 overrecovery. And for TECO it's 57,434,679
14 overrecovery.

15 **COMMISSIONER BALBIS:** Okay. With staff's
16 position, do any of the parties wish to change
17 position? And that would be a Type B Stipulation with
18 the exception of the no position.

19 **MS. KEATING:** And, Commissioner, I should
20 note with regard to FPUC, yesterday staff brought to
21 our attention a possible error in our calculations that
22 the company is still investigating at this time. If,
23 in fact, there is an error, it would possibly have an
24 impact on our numbers for Issues 9, 10, 11, 18, 20, and
25 22. We are conducting that review as expeditiously as

1 possible, and are going to be working with staff to get
2 any changes that may be required completed well in
3 advance of the hearing.

4 **COMMISSIONER BALBIS:** Okay. Moving on to
5 Issue 10. Does staff agree with the amounts so that
6 you don't have to read each number?

7 **MS. BARRERA:** Thank you. Staff takes no
8 position for FPUC's Marianna Northwest Division, and no
9 position at this time for Progress, and the rest of the
10 numbers are as stated.

11 **COMMISSIONER BALBIS:** Okay. Moving on to
12 Issue 11.

13 **MS. BARRERA:** Issue 11. The numbers are --
14 staff takes the position that the numbers are as stated
15 with the exception of FPUC's Marianna and PEF.

16 **COMMISSIONER BALBIS:** Which would be no
17 position?

18 **MS. BARRERA:** Which would be no position at
19 this time.

20 **COMMISSIONER BALBIS:** Okay. Let's move on to
21 Issue 16, GPIF issues. Does staff have a position?

22 **MR. BUTLER:** I'm sorry, Commissioner, on
23 10 and 11, those were the same, the B Stipulation with
24 the exceptions for Progress and FPUC?

25 **COMMISSIONER BALBIS:** Yes.

1 **MR. BUTLER:** Thank you.

2 **MS. BARRERA:** On Issue 16, I have been
3 advised that we agree with the parties' positions on
4 this issue.

5 **COMMISSIONER BALBIS:** Okay. So hearing no
6 objections, that would be a Type B Stipulation.

7 Issue 17.

8 **MS. BARRERA:** On Issue 17 -- let's see.
9 Staff agrees with the target numbers as stated by the
10 parties.

11 **COMMISSIONER BALBIS:** Okay. So hearing no
12 objections, I assume that would be a Type B
13 Stipulation.

14 Issue 18.

15 **MS. BARRERA:** Issue 18, the staff agrees with
16 the parties except for -- and the numbers stated by the
17 parties except for FPUC's Marianna and PEF.

18 **COMMISSIONER BALBIS:** Okay. Hearing no
19 objections, with those exceptions, it would be a Type B
20 Stipulation.

21 Let's move on to Issue 19.

22 **MS. BARRERA:** Issues 19. The stipulation we
23 believe may be a Type A Stipulation. The appropriate
24 revenue tax factors to be applied in calculating each
25 investor-owned electric utilities' levelized fuel

1 factor for the projection period of January 2013
2 through December 2013 is 1.00072.

3 **COMMISSIONER BALBIS:** Okay. Hearing no
4 objections --

5 **MS. CHRISTENSEN:** The Office of Public
6 Counsel takes no position on this issue.

7 **MS. BARRERA:** Okay. We move that to a Type
8 B.

9 **COMMISSIONER BALBIS:** Okay. So let the
10 record reflect that would be a Type B Stipulation.
11 Issue 20.

12 **MS. BARRERA:** Issue 20 would be a Type B
13 Stipulation for all companies except FPUC Marianna and
14 Progress. And we adopt the utilities' position on the
15 rest.

16 **COMMISSIONER BALBIS:** Okay. Hearing no
17 objections, let the record reflect it's a Type B
18 Stipulation with those exceptions.

19 Issue 21.

20 **MS. BARRERA:** On Issue 21 staff has a
21 stipulation. The appropriate fuel recovery line loss
22 multipliers are as the utilities -- yes, are as the
23 utilities stated, and this stipulation includes PEF and
24 FPUC, so all the utilities.

25 **COMMISSIONER BALBIS:** Okay. Let me record

1 reflect that.

2 Issue 22.

3 **MS. BARRERA:** On Issue 22 staff has no
4 position on Northwest Division, Marianna, and on
5 Progress, and agrees that the position is the same as
6 the positions for FPL, Gulf, TECO, and FPUC Northeast.

7 **COMMISSIONER BALBIS:** Okay. So hearing no
8 objections, that would be a Type B Stipulation with
9 those exceptions.

10 Issue 23A.

11 **MR. REHWINKEL:** Commissioner, Public
12 Counsel's position should state, "Agree with PCS."

13 **MS. BARRERA:** Excuse me one second, there
14 seems to be an issue.

15 (Pause.)

16 **MS. BARRERA:** On Issue 22, we'd like to make
17 a correction. On FPUC, the staff takes no position
18 with both divisions, Northwest and Northeast.

19 **COMMISSIONER BALBIS:** Okay.

20 **MS. BARRERA:** Okay. Proceeding to 23A, staff
21 believes that there is a Type B Stipulation, and the
22 wording of the stipulation is for the Crystal River 3
23 uprate project the amount to be included is that which
24 is approved, if any, by the Commission in its
25 November 26th, 2012, Agenda Conference. For the Levy

1 nuclear project, the amount will be a function of the
2 rates approved for collection in PEF's settlement
3 agreement consistent with Page 147 of Order Number
4 PSC-12-0104-FOF-EI. And after the Commission votes on
5 November 26th, 2012, PEF will submit to the Commission,
6 with copies to all parties, its revised schedule
7 showing the calculation of the 2013 capacity
8 cost-recovery factors. Commission staff is granted
9 administrative authority to verify that the schedules
10 are consistent with the Commission's vote on
11 November 26th, 2012, in Order Number PSC-12-0101-FOF-EI
12 as described above.

13 **COMMISSIONER BALBIS:** So as specified in the
14 draft prehearing order, then?

15 **MS. BARRERA:** Yes.

16 **MR. MOYLE:** I was not 100 percent clear on
17 that because, you know, I think that the position of
18 FIPUG would be to agree with PCS, and I think the
19 position of PCS relates to monies flowing from the
20 uprate project tied to the Crystal River 3. And if I
21 understood the staff position, it would be to -- you
22 know, I didn't understand it to address that specific
23 point with respect to monies to be recovered or not
24 recovered for the uprate project tied to the Crystal
25 River 3. I understood staff saying there is a

1 settlement agreement and the settlement dollars flow
2 through, but I don't want to, you know, stipulate in
3 some way to anything related to the uprate project.

4 **COMMISSIONER BALBIS:** Well, I thought the
5 language that staff just read from the stipulation is
6 consistent with staff's position in the draft
7 prehearing order, and I thought the first sentence
8 deals with the CR-3 uprate project, and then the Levy
9 is where it ties into the settlement agreement.

10 **MR. MOYLE:** Yeah. I mean, so long as we are
11 all on the same page and crystal clear on that, you
12 know, that that issue remains live and whatever is
13 decided in that, you know, then I'm good.

14 **COMMISSIONER BALBIS:** Okay. Is that
15 everyone's understanding, including staff?

16 **MS. BENNETT:** May I address -- I'm a little
17 confused about -- I keep hearing that there might be
18 some litigation in the fuel docket on what has actually
19 already been discussed in the nuclear. And this is
20 just an administrative action, because the Commission
21 won't make a decision in the nuclear until after the
22 decision in the fuel docket. So this is just an effort
23 by staff to say, okay, when all the other numbers get
24 figured out by the Commission, that's Number A, we'll
25 add Number B to it on November the 26th and get your

1 final capacity factor. And I'm concerned that I'm
2 hearing people say we're going to relitigate nuclear
3 cost-recovery in the fuel docket, which is not
4 appropriate.

5 **MR. MOYLE:** And that's not the intent; I'm
6 sorry if that was conveyed. You know, Mr. Brew has
7 raised the issue and we have adopted the position. I
8 think the Prehearing Officer has clarified, to my mind,
9 that there is no litigation, but that other issue in
10 the nuclear docket remains open, live, and to be
11 decided, and whatever is decided there will flow
12 through this provision.

13 **COMMISSIONER BALBIS:** That's my
14 understanding, as well, so I think we are all on the
15 same page.

16 **MR. BREW:** Commissioner, I think, yes, PCS's
17 position was restating the position we had taken in the
18 09 nuclear cost-recovery docket. What I understood
19 from staff is that they'll reflect in the fuel what the
20 ultimate disposition is of that case, and I'm fine with
21 that.

22 **COMMISSIONER BALBIS:** Okay.

23 **MR. MOYLE:** So I guess the question is, with
24 that understanding then it could be a Type B
25 Stipulation?

1 **MS. BARRERA:** Sounds good.

2 **COMMISSIONER BALBIS:** That is my
3 understanding as well, so the record will reflect that.
4 Okay. Moving on to Issue 24A.

5 **MS. BARRERA:** On Issue 24A, which applies to
6 FPL, the stipulation is -- staff's position is
7 essentially almost the same as Issue 23A, the amount to
8 be included is that which is approved by the Commission
9 at its November 26th --

10 **COMMISSIONER BALBIS:** I'm sorry, does it
11 match staff's position in the Prehearing Order?

12 **MS. BARRERA:** Yes, I'm sorry.

13 **COMMISSIONER BALBIS:** Okay. I don't think we
14 need to read it again.

15 **MS. BARRERA:** Okay. I'm sorry. I have three
16 papers to read from, so excuse me. Sometimes I get
17 confused.

18 **COMMISSIONER BALBIS:** Okay.

19 **MS. BARRERA:** Okay. Yes, that's it. That's
20 our position.

21 **COMMISSIONER BALBIS:** And I believe that
22 would be a Type B Stipulation, then.

23 **MS. CHRISTENSEN:** Office of Public Counsel
24 can take no position on that issue.

25 **MR. WRIGHT:** We will also take no position.

1 Our position as stated is not no position at this time.
2 That's because there was an earlier draft and it didn't
3 get picked up in the new one. So we will go to no
4 position. Thank you.

5 **MS. BARRERA:** Okay.

6 **COMMISSIONER BALBIS:** Okay. Issue 24B.

7 **MS. BARRERA:** On Issue 24B staff has no
8 position at this time.

9 **COMMISSIONER BALBIS:** Okay. Any other
10 changes to other parties' positions?

11 **MS. BARRERA:** Excuse me one second,
12 Commissioner. I'm sorry, I was looking at C. We do
13 have -- hold on. Excuse me.

14 All right. For 24B, C, and E, staff is still
15 consulting with parties, and so we will take no
16 position at this time.

17 **COMMISSIONER BALBIS:** Okay. So I think with
18 that we can skip those issues since you are still
19 working with the parties on that, if everyone is okay.

20 **MS. BARRERA:** Yes. I would just like to add
21 that on Issue 24C, staff proposes new wording which
22 would eliminate the first sentence, and the issue would
23 start with, "What amounts should be included in the
24 capacity cost-recovery clause," and taking out the
25 wording regarding the rate case settlement agreement.

1 **COMMISSIONER BALBIS:** Okay. You're
2 continuing to work with the parties on that and keep
3 everyone involved. That brings us to Issue 27. Does
4 staff agree those amounts or have taken a position at
5 this time?

6 **MS. BARRERA:** Yes, except as to Progress.

7 **COMMISSIONER BALBIS:** Okay. And what is
8 staff's position for Progress?

9 **MS. BARRERA:** We take no position at this
10 time.

11 **COMMISSIONER BALBIS:** Okay. Any other
12 changes? So that would be a Type B Stipulation with
13 exception to the Progress?

14 **MS. BARRERA:** Yes, sir.

15 **COMMISSIONER BALBIS:** Issue 28.

16 **MS. BARRERA:** On 28, that would be the same
17 thing. Staff takes no position at this time as to PEF,
18 and the other numbers staff takes the position of the
19 utilities.

20 **COMMISSIONER BALBIS:** Issue 29.

21 **MS. BARRERA:** Issue 29, on Progress staff
22 takes no position, but staff agrees with the
23 utilities -- the rest of the utilities.

24 **COMMISSIONER BALBIS:** Okay. With the
25 exception of Progress, let the record show that's a

1 Type B Stipulation.

2 Moving on to Issue 30.

3 **MS. BARRERA:** Issue 30. Staff takes no
4 position on Florida Power and Light and on Progress.
5 On the position of Gulf and TECO, staff agrees.

6 **MS. CHRISTENSEN:** Commissioner, Office of
7 Public Counsel takes no position regarding Gulf and
8 TECO, however we have -- and PEF. However, we have
9 taken a position on Issues 30, 31, 32, and 33 regarding
10 FPL, and we have previously read that position into the
11 record. And we can also e-mail that to staff to
12 include into the draft prehearing order. And I guess
13 just for clarity, on Issues 31, 32, and 33, as to the
14 remaining companies, PEF, Gulf, and TECO, Office of
15 Public Counsel will take no position.

16 **MR. WRIGHT:** Commissioner?

17 **COMMISSIONER BALBIS:** Yes.

18 **MR. WRIGHT:** We, too, will take no position
19 with respect to the utilities other than FPL. We will
20 agree with OPC with respect to FPL in Issues 30, 31,
21 32, and 33.

22 **COMMISSIONER BALBIS:** Okay.

23 **MS. BARRERA:** I'm sorry. So we have a Type B
24 Stipulation on Gulf and TECO, or no?

25 **MS. CHRISTENSEN:** Yes. We have taken no

1 position on Issue 30 regarding Gulf and TECO.

2 **COMMISSIONER BALBIS:** Okay. So I believe we
3 can move on to Issue 34, effective date.

4 **MS. BARRERA:** On 34, staff's position is that
5 it agrees with the parties' positions in light of the
6 fact that we have that new Issue 35.

7 **COMMISSIONER BALBIS:** Okay. And we have
8 already discussed 35 and 36.

9 **MS. BARRERA:** Yes, sir.

10 **COMMISSIONER BALBIS:** Okay. I think we can
11 move on to Section IX, which is the exhibit list.

12 **MS. BARRERA:** Commissioner, just one
13 clarifying matter. On Issue 24C, we suggested that the
14 language be tweaked. Can I have a ruling on the
15 change?

16 **COMMISSIONER BALBIS:** Yes. I agree with
17 staff's recommendation to eliminate the first sentence
18 of Issue 24C and start the issue with what amount, the
19 sentence that starts with what amount.

20 **MS. BARRERA:** Thank you, sir.

21 **MR. MOYLE:** And just a housekeeping matter.
22 On 24A, in that same section, I think FIPUG's was left
23 off. It's a Type B Stipulation, but if we could just
24 get FIPUG added on 24A.

25 **COMMISSIONER BALBIS:** Okay. And we will do

1 so.

2 **MR. MOYLE:** Thank you.

3 **MS. BARRERA:** I'm sorry.

4 **COMMISSIONER BALBIS:** Okay. Any questions or
5 comments on the exhibit list?

6 Section X, proposed stipulations. I think we
7 have beat that one to death.

8 Section XI, pending motions.

9 **MS. BARRERA:** No motions from staff.

10 **COMMISSIONER BALBIS:** Okay. Section XII,
11 pending confidentiality motions. I assume those will
12 be addressed in a separate order?

13 **MS. BARRERA:** Yes, sir. We have a variety
14 of -- we tried very diligently to get through them, but
15 they are still coming in, so we will take care of them.

16 **COMMISSIONER BALBIS:** Section XIII,
17 post-hearing procedures.

18 **MS. BARRERA:** Staff will note that there are
19 no other matters to address. Generally, there is a
20 bench decision in this docket and post-hearing briefs
21 are not necessary. Sometimes there will be one or two
22 issues that the Commission would like to have briefed.
23 In that event, staff suggests that the Commission may
24 want briefs on Issues 3A and 3B, and 24B through E,
25 taking out D.

1 If there are any to be briefed, staff
2 recommends position statements of no more than 50 words
3 and post-hearing statements and briefs no longer than
4 40 pages. Staff notes that the briefs would be due on
5 November 13 for the November 27 agenda conference.

6 **COMMISSIONER BALBIS:** Okay. Are all parties
7 in agreement with those limitations if briefs are
8 required?

9 **MR. MOYLE:** FIPUG would just reserve its
10 right to brief. I think some issues were mentioned, 3A
11 and 3B. The 1D issue that we had talked about related
12 to the NEIL coverage, we would like to have the
13 opportunity to brief that, depending on how the hearing
14 goes.

15 **COMMISSIONER BALBIS:** Okay. And obviously
16 there could be other issues that Commissioners would
17 want to be briefed on.

18 **MR. BREW:** Commissioner, just to follow-up.
19 I have attempted to e-mail PCS's position on Issue 1D
20 that FIPUG raised. I'm just not sure, given the
21 signals in here, whether it has made it around to
22 people yet, but I will follow up with staff and the
23 parties.

24 **COMMISSIONER BALBIS:** Okay.

25 **MR. REHWINKEL:** And Public Counsel is

1 generally in agreement with the position that Mr. Brew
2 has circulated, so I think we are going to be in a
3 position, if the other parties can agree, there is a
4 potential stipulation there, that Progress will see it,
5 as well. It will at least be our position if we don't
6 reach agreement.

7 **COMMISSIONER BALBIS:** Okay.

8 **MS. CHRISTENSEN:** And I believe staff
9 mentioned the potential of briefing Issue 3B, unless we
10 come to some other agreement beforehand, which is the
11 FPUC issue, correct?

12 **MS. BARRERA:** Yes.

13 **COMMISSIONER BALBIS:** She mentioned 3A, 3B,
14 25B, and 24E.

15 **MS. CHRISTENSEN:** Okay. I just wanted to
16 make sure we included that. Thank you.

17 **MS. BARRERA:** 24B, C, and E. And, you know,
18 I wrote this before I got the FIPUG issues, so -- all
19 right. I mean, they are not prevented from doing that,
20 of course.

21 Staff at this time would recommend,
22 Commissioner, that you ask the parties whether any
23 witnesses can be excused at this time, if possible.

24 **COMMISSIONER BALBIS:** Okay. And since we
25 went through quite a few Type B Stipulations, et

1 cetera, I mean, I'd offer the parties the opportunity
2 to just e-mail staff by the end of the day if there are
3 any witnesses that can be excused. That might make it
4 easier.

5 **MR. BUTLER:** May I make a proposal in that
6 regard, and parties can react to it if there is
7 anything that they feel they would need the witnesses
8 for?

9 **COMMISSIONER BALBIS:** Yes.

10 **MR. BUTLER:** As I was going through, it seems
11 like for FPL that Mr. Yupp, Mr. Freeman, and
12 Ms. Bullock are all witnesses who have no role in the
13 small number of remaining issues, and we would propose
14 that they be excused. At this point it's not clear
15 whether Mr. Keith or Ms. Deaton could be excused, but I
16 think those other three don't have any role in the
17 issues that were not stipulated. So if parties could
18 react to that, I would appreciate it.

19 **COMMISSIONER BALBIS:** Okay. Any objections
20 to those witnesses listed?

21 **MS. CHRISTENSEN:** Initially I don't think we
22 would have any objection to it, based on what our
23 previous agreements were. Just let us -- if you can
24 give us the opportunity, if they will propose who they
25 wish to have excused, and give us an opportunity to

1 make sure that we don't have any questions on the
2 remaining issues for those. I think that may be the
3 most efficient way to deal with that.

4 **MR. BUTLER:** And that was my intent. I just
5 wanted to put out there who the people were that we
6 think may be potentially excused.

7 **COMMISSIONER BALBIS:** Okay. And, again, I
8 would just offer everyone -- we have gone through a lot
9 today -- to send an e-mail out on the ones you are
10 proposing to excuse, and then parties can object.

11 **MS. BARRERA:** Yes, Commissioner, we will
12 engage in serial e-mailing.

13 **COMMISSIONER BALBIS:** Okay.

14 **MR. BEASLEY:** Commissioner, we can do it that
15 way. All of the issues for Tampa Electric have been
16 resolved by way of stipulation. I would just propose
17 that we stipulate to the testimony and exhibits of our
18 four witnesses, Mr. Aldazabal, Mr. Buckley, Mr. Smith,
19 and Mr. Caldwell.

20 **COMMISSIONER BALBIS:** Okay.

21 All right. We are going to move on to
22 rulings.

23 **MS. BARRERA:** At this time, Commissioner,
24 staff would suggest that you make a ruling that opening
25 statements, if any, should not exceed five minutes per

1 side.

2 **COMMISSIONER BALBIS:** Any objections to those
3 that wish to make an opening statements for five
4 minutes?

5 **MS. CHRISTENSEN:** Per party, I believe.

6 **COMMISSIONER BALBIS:** Per party.

7 **MS. CHRISTENSEN:** Then no objection.

8 **COMMISSIONER BALBIS:** Yes. Not per side; per
9 party. Okay. Are there any other matters?

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

11 **COMMISSIONER BALBIS:** Okay. This prehearing
12 conference is adjourned. Thank you.

13 (The prehearing concluded at 11:48 a.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 23rd day of October, 2012.



JANE FAUROT, RPR
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