

1 APPEARANCES:

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

5 JAMES D. BEASLEY, J. JEFFRY WAHLEN and ASHLEY
6 M. DANIELS, ESQUIRES, Ausley Law Firm, Post Office Box
7 391, Tallahassee, Florida 32302, appearing on behalf of
8 Tampa Electric Company.

9 JEFFREY A. STONE, RUSSELL A. BADDERS and
10 STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office
11 Box 12950, Pensacola, Florida 32591-2950, appearing on
12 behalf of Gulf Power Company.

13 JOHN T. BURNETT, DIANE M. TRIPLETT, and
14 MATTHEW BERNIER, ESQUIRES, 106 East College Avenue,
15 Suite 800, Tallahassee, Florida 32301-7740, appearing
16 on behalf of Duke Energy Florida, Inc.

17 JON C. MOYLE, JR., VICKI GORDON KAUFMAN, and
18 KAREN PUTNAL, ESQUIRES, c/o Moyle Law Firm, P.A., 118
19 North Gadsden Street, Tallahassee, Florida 32301,
20 appearing on behalf of the Florida Industrial Power
21 Users Group.

22 BETH KEATING, ESQUIRE, Gunster Law Firm, 215
23 South Monroe Street, Suite 601, Tallahassee, Florida
24 32301-1839, appearing on behalf of Florida Public
25 Utilities Company.

1 APPEARANCES (Continued):

2 JAMES W. BREW and OWEN J. KOPON, ESQUIRES, PCS
3 Phosphate - White Springs, c/o Brickfield Law Firm, 1025
4 Thomas Jefferson St., NW, Eighth Floor, West Tower,
5 Washington, DC 20007, appearing on behalf of PCS
6 Phosphate - White Springs.

7 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
8 ESQUIRES, Florida Retail Federation, c/o Gardner Law
9 Firm, 1300 Thomaswood Drive, Tallahassee, Florida 32308,
10 appearing on behalf of Wal-Mart Stores East, LP and
11 Sam's East, Inc.

12 GEORGE CAVROS, ESQUIRE, Southern Alliance for
13 Clean Energy, 120 E. Oakland Park Boulevard, Suite 105,
14 Fort Lauderdale, Florida 33334, appearing on behalf of
15 Southern Alliance for Clean Energy.

16 J.R. KELLY, PUBLIC COUNSEL, PATRICIA A.
17 CHRISTENSEN, and CHARLES REHWINKEL, ESQUIRES, Office of
18 Public Counsel, c/o The Florida Legislature, 111 West
19 Madison Street, Room 812, Tallahassee, Florida
20 32399-1400, appearing on behalf of the Citizens of
21 Florida.

22 LEE ENG TAN, ESQUIRE, FPSC General Counsel's
23 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
24 32399-0850, appearing on behalf of the Florida Public
25 Service Commission Staff.

1 APPEARANCES (Continued):

2 MARY ANNE HELTON, DEPUTY GENERAL COUNSEL,
3 Florida Public Service Commission, 2540 Shumard Oak
4 Boulevard, Tallahassee, Florida 32399-0850, Advisor to
5 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 BROWN:** Good afternoon. Thank
3 you all for being so patient. And today is October 8th,
4 2014, roughly around 1:30. This is the 2014 clause
5 prehearing conferences for the following dockets:
6 140002-EG, 140003-GU, 140004-GU, 140007-EI, and
7 140001-EI. I would like to call this prehearing to
8 order.

9 Staff, can you please read the notice for this
10 proceeding.

11 **MS. TAN:** By notice issued September 17th,
12 2014, this time and place is set for a prehearing
13 conference in the following dockets: 140001-EI,
14 140002-EG, 140003-GU, 140004-GU, and 140007-EI. The
15 purpose of the prehearing conference is set out in the
16 notice.

17 **COMMISSIONER BROWN:** Thank you so much.

18 There are five dockets to address today.
19 Staff suggests that appearances be taken up all at once,
20 so all parties should enter their appearances and
21 declare the dockets that they are entering an appearance
22 for, although I do recognize that several parties will
23 be making appearances for more than one docket.

24 After the parties have made their appearances,
25 staff will make their appearance as a whole. Starting

1 with my left, Mr. Butler.

2 **MR. BUTLER:** Thank you, Commissioner. For
3 FPL -- excuse me -- John Butler, Wade Litchfield, and
4 Maria Moncada in the 01 docket. Appearance for John
5 Butler, Ken Rubin in the 02 docket, and John Butler,
6 Wade Litchfield, and Maria Moncada in the 07 docket.
7 Thank you.

8 **COMMISSIONER BROWN:** Okay.

9 **MR. BEASLEY:** Good afternoon, Commissioner.
10 James D. Beasley appearing with J. Jeffry Wahlen, Ashley
11 M. Daniels, all of the law firm of Ausley & McMullen, on
12 behalf of Tampa Electric Company in the 01, the 02, and
13 the 07 dockets.

14 **MR. BADDERS:** Good afternoon. Russell Badders
15 appearing on behalf of Gulf Power. I'd like to enter an
16 appearance for myself, Jeffrey A. Stone, and Steven R.
17 Griffin in the 01, 02, and 07 dockets.

18 **MR. BERNIER:** Good afternoon, Commissioner.
19 Matt Bernier with Duke Energy. I'd like to enter an
20 appearance for myself, John Burnett, and Dianne Triplett
21 in the 01, 02, and 07 dockets, as well as Gary Perko in
22 the 07 docket.

23 **MR. REHWINKEL:** Good morning, Commissioner.

24 **COMMISSIONER BROWN:** Afternoon.

25 **MR. REHWINKEL:** Good afternoon, Commissioner.

1 Charles Rehwinkel and Patty Christensen with
2 the Office of Public Counsel. We would like to have our
3 appearances reflected in all the clause dockets, and
4 also like to make an appearance in all the dockets for
5 J. R. Kelly, Public Counsel. Thank you.

6 **MR. MOYLE:** Good afternoon. Jon Moyle with
7 the Moyle Law Firm representing the Florida Industrial
8 Power Users Group. The Florida Industrial Power Users
9 Group, commonly referred to as FIPUG, is in the 01, the
10 02, and the 07 docket. In addition to me, Karen Putnal
11 and Vicki Gordon Kaufman should also be noted as making
12 appearances. Thank you.

13 **MR. BREW:** Good afternoon, Commissioner.

14 For White Springs Agricultural Chemicals/PCS
15 Phosphate, I'm James Brew with the firm of Brickfield,
16 Burchette & Ritts. And I'd like to make an appearance
17 for Owen Kopon, and we're appearing in the dockets 01,
18 02, and 07.

19 **COMMISSIONER BROWN:** Thank you.

20 **MS. KEATING:** Good afternoon, Commissioner.

21 Beth Keating with the Gunster Law Firm. I'm
22 here this afternoon in the 01 and 02 dockets for Florida
23 Public Utilities, in the 03 docket I'm here for FPU and
24 Florida City Gas, and in the 04 docket I'm here for FPU,
25 Florida City Gas, Chesapeake, Indiantown, and Fort

1 Meade.

2 **COMMISSIONER BROWN:** Very popular.

3 **MR. WRIGHT:** Good afternoon, Commissioner.

4 Robert Scheffel Wright of the Gardner, Bist,
5 Wiener Law Firm appearing in the 140001 fuel cost
6 recovery docket on behalf of the Florida Retail
7 Federation, along with my partner John T. LaVia, III.
8 Also I am appearing, Mr. LaVia and I are appearing in
9 the energy conservation cost recovery docket on behalf
10 of Wal-Mart Stores East and Sam's East. Thank you.

11 **COMMISSIONER BROWN:** Thank you.

12 **MR. CAVROS:** Good afternoon, Commissioner.

13 George Cavros on behalf of the Southern
14 Alliance for Clean Energy, and I will be representing
15 the organization in the 02 and the 07 docket. Thank
16 you.

17 **COMMISSIONER BROWN:** Thank you. Nice to have
18 you here.

19 Staff.

20 **MR. HORTON:** Commissioner?

21 **COMMISSIONER BROWN:** Oh, there you are.

22 **MR. HORTON:** I snuck in on you. Norman H.
23 Horton, Jr., on behalf of Sebring Gas Company in the
24 04 docket. And I'd also like to enter an appearance for
25 Robert J. Telfer, III, of the same firm.

1 **COMMISSIONER BROWN:** Thank you for being here.
2 And now staff.

3 **MS. TAN:** Lee Eng Tan on behalf of the
4 02 docket, Kyesha Mapp and Keino Young on the 03 docket,
5 Kelley Corbari on the 04 docket, Charles Murphy on the
6 07 docket, and Martha Barrera on the 01 docket. Thank
7 you.

8 **COMMISSIONER BROWN:** Thank you so much.
9 Mary Anne.

10 **MS. HELTON:** And Mary Anne Helton, I'm here as
11 your advisor in all the dockets.

12 **COMMISSIONER BROWN:** Great. I'm going to
13 surprise you all of the order of the dockets. We're
14 going to start with the 02, 03, 04, 07, and end with the
15 01.

16 This will convene the docket in 140002-EG
17 docket. Ms. Tan, do we need to address any preliminary
18 matters before we get to the draft Prehearing Order that
19 we'll go through?

20 **MS. TAN:** At this time there are no
21 preliminary matters.

22 **COMMISSIONER BROWN:** All right. Let's go
23 through, as you all know, I like to go through these
24 kind of swiftly, but please feel free to stop me at any
25 given point. Please just speak up. Remember that the

1 mikes are not live, so you have to push the button when
2 you want to speak up. I'm going to identify the
3 sections for you. Again, like I say, if you would like
4 a change or correction, please chime in and we'll go
5 starting with Section I, the case background. Any
6 comments or changes? Seeing none.

7 Section II, conduct of proceedings. Seeing no
8 changes or comments, moving through.

9 Section III, jurisdiction. Seeing no changes
10 or comments, moving through.

11 Section IV, procedure for handling
12 confidential information. Moving through.

13 Section V, prefiled testimony. And that's
14 exhibits and witnesses, Ms. Tan.

15 **MS. TAN:** Commissioner, staff just notes that
16 on page 4 of the draft Prehearing Order, witnesses may
17 be excuse if no Commissioner seeks cross-examination.

18 **COMMISSIONER BROWN:** That's great. Thank you
19 for pointing that out to all the parties. Thank you.

20 Section VI, order -- oh, you already said
21 that, order of witnesses. You jumped ahead.

22 Section VII, basic positions.

23 **MR. RUBIN:** I'm sorry, Commissioner. For
24 Section VI, I didn't know that we were done with that.
25 FPL rebuttal witnesses Thomas Koch and Renae Deaton, the

1 last two witnesses identified there, should be
2 identified for Issues 4A, 4B, and 4C only.

3 **COMMISSIONER BROWN:** Okay.

4 **MR. MOYLE:** And on behalf of FIPUG, for
5 Witness Pollock, likewise he should be identified as
6 Issues 4A, 4B, and 4C.

7 **COMMISSIONER BROWN:** My apologies. That
8 should have been indicated in the draft.

9 Okay. Thank you. We have acknowledged --

10 **MR. BEASLEY:** Commissioner, that would be the
11 same for Tampa Electric witnesses Roche and Deason.

12 **COMMISSIONER BROWN:** Okay. Any other?

13 All right. Ms. Tan, you got that.

14 **MS. TAN:** Yes.

15 **COMMISSIONER BROWN:** All right. Section VII,
16 basic positions. Staff.

17 **MS. TAN:** We have nothing for basic positions.

18 **COMMISSIONER BROWN:** Okay. Any general
19 comments under this section, that you would like to take
20 under Section VII? Nothing? All right. Any other
21 changes or comments?

22 All right. Moving to Section VIII, issues and
23 positions.

24 **MS. TAN:** Commissioner, the Order Establishing
25 Procedure requires that a party take a position at the

1 prehearing conference unless good cause is shown as to
2 why that party can't take a position at this time.
3 Accordingly, if the party's position in the draft
4 Prehearing Order is currently no position at this time,
5 the party must change it today at the prehearing
6 conference or show good cause why it can't take a
7 position. Otherwise, the Prehearing Order will reflect
8 no position for that party on that issue.

9 **COMMISSIONER BROWN:** Okay. Thank you.

10 OPC.

11 **MR. REHWINKEL:** Yes. Our positions on all
12 issues except for 4A, B, and C will revert to no
13 position.

14 **COMMISSIONER BROWN:** Okay. Any other parties?

15 **MR. WRIGHT:** Commissioner, likewise for
16 Wal-Mart. Our positions on all issues except 4A, 4B,
17 and 4C will go to no position. Thank you.

18 **COMMISSIONER BROWN:** Okay. Any others?

19 **MS. KEATING:** Commissioner, with regard to
20 FPUC, we had sought clarity from the Intervenors with
21 regard to whether 4A, B, and C were intended to apply to
22 FPUC. We've been unable to obtain that clarity, so we
23 would like to amend our positions as well.

24 For 4A, B, and C, we'd like to indicate that
25 FPUC agrees with Gulf. We also have some additional

1 language with regard to 4B that we'll be happy to
2 provide to staff for inclusion, if that's your
3 preference.

4 **COMMISSIONER BROWN:** Okay. I will give you by
5 close of business tomorrow to provide that to staff.

6 **MS. KEATING:** Thank you.

7 **COMMISSIONER BROWN:** Lee Eng, you've got that?

8 **MS. TAN:** Yes.

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

10 **COMMISSIONER BROWN:** You're welcome.

11 Mr. Cavros.

12 **MR. CAVROS:** Yes. Thank you, Commissioner.

13 Likewise, our position, we've taken, we took no position
14 at this time in our prehearing statement. We're going
15 to revert to no position on all issues with the
16 exception of Issues 4A, 4B, and 4C.

17 **COMMISSIONER BROWN:** Okay. Thank you.

18 Any other parties? Okay. Seeing none.

19 Ms. Tan, is there anything else I must handle at this
20 time with regard to 4A, B, and C?

21 **MS. TAN:** Yes. Commissioner, due to the
22 complexity of Issues 4A, B, and C and the potential
23 impact of the Commission's upcoming final decision in
24 the DSM goals docket, staff recommends that's Issues
25 A -- 4A -- excuse me -- 4A, 4B, and 4C should be spun

1 out and addressed in a separate docket.

2 **COMMISSIONER BROWN:** Would Wal-Mart or FIPUG
3 like to address this at this time, or are they amenable
4 to that recommendation? Mr. Moyle.

5 **MR. MOYLE:** Just a couple of comments. I
6 think, I think the answer to both questions is probably
7 yes, but I do want to make the point that these issues
8 related to the opt out are issues that, you know, FIPUG
9 has first identified in the energy efficiency proceeding
10 back in the spring and have brought it forward. We are
11 looking forward to having the chance to have this
12 conversation and discussion about an opt out and feel
13 that it's a conversation worthy of the Commission's
14 consideration. By moving it out of this proceeding, my
15 understanding is that in effect, assuming the Commission
16 would have gone along with our arguments, we would miss
17 it for this year. But in deference to staff's desire to
18 have a full and robust record and spin it out, we're
19 okay with that approach.

20 **COMMISSIONER BROWN:** Before I answer that
21 question, I'm going to go to Wal-Mart to address their
22 concerns or comments.

23 **MR. WRIGHT:** Thank you, Commissioner. We are
24 in essentially the same position articulated by
25 Mr. Moyle. We -- these are our issues, FIPUG's and

1 Wal-Mart's, that is, and we are amenable to the staff's
2 suggestion to spin these out into a separate docket.

3 This is probably a real discussion for a later
4 date, but I want to say now that these are our issues,
5 and it's pretty clear to us, and I think I can include
6 FIPUG in this, that we're going to have the burden of
7 proof. And accordingly, when the time is right, it's
8 our position that we should have the opportunity to
9 present direct testimony and rebuttal testimony
10 responding to any testimony opposing our direct
11 testimony.

12 **COMMISSIONER BROWN:** I think you said it most
13 eloquently.

14 **MR. WRIGHT:** Thank you so much.

15 **COMMISSIONER BROWN:** Thank you. Are there any
16 other parties that wish to opine or comment on this?

17 **MR. BEASLEY:** Commissioner, I think the
18 utilities -- or at least Tampa Electric Company was
19 prepared to go forward at this hearing and get this
20 issue resolved, although we will defer to the will of
21 the Commission in that respect. The issues have been
22 framed and everyone has had their say, and we were just
23 hoping to get it resolved.

24 **COMMISSIONER BROWN:** Okay. Mr. Rubin.

25 **MR. RUBIN:** Thank you, Commissioner. FPL is

1 in the same position. We filed our testimony, all the
2 parties have filed their testimony. We were also ready
3 to proceed and would like the testimony to be what it is
4 at this point in time but certainly defer to the
5 Commission's decision on that.

6 **COMMISSIONER BROWN:** Any other of the IOUs?

7 **MR. GRIFFIN:** The same is true for Gulf Power.

8 **COMMISSIONER BROWN:** Okay.

9 **MR. BERNIER:** The same is true for Duke
10 Energy.

11 **COMMISSIONER BROWN:** Thank you. And that's
12 originally where I was. After conferring with staff
13 though, I do believe that the parties were given notice
14 in the DSM docket that the issue would be most -- more
15 appropriately raised in another docket. Whether that
16 docket would be this proceeding or another, I think the
17 time is not ripe. I think it is directly connected to
18 the DSM goals docket, and therefore the decision that we
19 make in that docket could ultimately impact the decision
20 ultimately made. I appreciate the IOUs preparing
21 testimony in preparation for this proceeding, but my --
22 I was advised that at this point we just didn't have
23 enough information. Testimony was filed very late.
24 It's a very complex issue. We didn't get the testimony
25 until the Intervenors' direct, and at this point it's

1 just insufficient to proceed under this proceeding. So
2 we're going to wait. It's more appropriate, the time is
3 not ripe, and we'll spin it off to a separate docket.
4 So if there are no other questions, I'd like to move
5 along.

6 Okay. We are on Section IX, the exhibit list.

7 **MS. TAN:** Staff has prepared a comprehensive
8 exhibit list which includes all prefiled exhibits and
9 also includes any exhibits staff wishes to include in
10 the record. Staff will check with the parties prior to
11 the hearing to determine if there's any objections to
12 the comprehensive exhibit list or to any of staff's
13 exhibits being entered into the record.

14 **COMMISSIONER BROWN:** Okay. Great.

15 Section X, proposed stipulations.

16 **MS. TAN:** There is currently one stipulation
17 in -- at this time in this docket. It is Issue A. Any
18 additional stipulations entered here at the prehearing
19 conference will be listed in the Prehearing Order. They
20 will either be listed as the parties all agree or the
21 utility agrees with staff's position and all other
22 parties take no position.

23 Staff further notes that it will continue to
24 work with the parties to obtain stipulations on the
25 other issues. And a list of stipulations entered into

1 after the Prehearing Order is issued will be provided to
2 the Commissioners prior to the hearing.

3 **COMMISSIONER BROWN:** Thank you. Okay. Any
4 other comments on proposed stipulations?

5 **MR. RUBIN:** For FPL, Commissioner Brown, with
6 the elimination or the spinning off of those three
7 issues -- 4A, B, and C -- I would suggest that FPL's
8 witnesses -- and it seems like the issues could be
9 stipulated as well.

10 **COMMISSIONER BROWN:** Great. Mr. Beasley?

11 **MR. BEASLEY:** We would say the same for Tampa
12 Electric, Commissioner.

13 **MR. GRIFFIN:** Same for Gulf Power.

14 **MR. BERNIER:** Same for Duke Energy.

15 **MS. KEATING:** Same for FPU.

16 **COMMISSIONER BROWN:** Uh-huh. Okay.

17 **MR. REHWINKEL:** Commissioner, wherever the
18 Public Counsel states no position, we are also, as we
19 have done in the past, making -- taking ourselves out of
20 the equation as far as stipulations. So a Type -- when
21 we say no position, a Type 2 stipulation, which would be
22 between any remaining parties, staff, and the company,
23 is possible, just for the record.

24 **COMMISSIONER BROWN:** That's nice to hear.

25 **MR. WRIGHT:** Commissioner, the same is true

1 for Wal-Mart. We -- through exchanges of email we have
2 specifically previously agreed that we would be
3 bystanders to Type 2 stipulations with respect to FPL
4 and Gulf because they specifically asked, but we have no
5 problem and would expect to go to no position and
6 accordingly be bystanders to Type 2 stipulations with
7 respect to the other IOUs.

8 **COMMISSIONER BROWN:** Okay. Great. Thank you
9 for sharing.

10 **MR. WRIGHT:** Thank you.

11 **COMMISSIONER BROWN:** Okay.

12 **MR. MOYLE:** When we were making appearances, I
13 made one on behalf of Vicki Gordon Kaufman, and it's --
14 I assumed that by doing it at the very beginning it'll
15 get picked up in the orders. But I just wanted to make
16 clear that she should also be shown as counsel for FIPUG
17 on the Prehearing Order.

18 **COMMISSIONER BROWN:** Great. We haven't seen
19 her in a while. Thanks for sharing that.

20 Anyone else? Ms. Tan?

21 **MS. TAN:** That's it for proposed stipulations.

22 **COMMISSIONER BROWN:** All right. Moving to
23 Section XI, pending motions. We have none at this time.

24 **MS. TAN:** There are no pending motions.

25 **COMMISSIONER BROWN:** Okay. All right. Moving

1 to Section XII, confidentiality. Good job.

2 **MS. TAN:** We have no confidentiality orders.

3 **COMMISSIONER BROWN:** Thank you for doing that.

4 Section XIII, post-hearing procedures.

5 **MS. TAN:** Although, as we have now discussed,
6 this docket will probably have all stipulations, and
7 I'll confirm with the parties following the prehearing
8 conference, staff wanted to note just a few post-hearing
9 procedures.

10 If the parties agree to waive briefs, the
11 Commissioners may make a bench decision for the portion
12 of -- this portion of the docket. And if there are any
13 to be briefed, the staff would recommend post-hearing
14 briefs no longer than 20 pages, although I do not
15 believe that will be of issue right now. And if there
16 were to be briefs, they would be due on November 5th for
17 the December 16th, 2014, agenda conference.

18 **COMMISSIONER BROWN:** And thank you. I just
19 want to let the parties know that we plan on having the
20 Prehearing Order issued on the 15th, so just to give you
21 kind of an estimate there.

22 All right. So Section XIV, just to follow up
23 on rulings.

24 **MS. TAN:** Opening statements, if any are
25 necessary, which at this time I do not believe will be

1 necessary, shall be limited to five minutes per party,
2 unless the parties choose to waive opening statements.

3 **COMMISSIONER BROWN:** Thank you. And other
4 matters?

5 **MS. TAN:** There are no other matters to
6 address.

7 **COMMISSIONER BROWN:** Okay. This docket in
8 02 is adjourned.

9 (Proceeding adjourned at 1:54 p.m.)

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1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
 2 COUNTY OF LEON)

3
 4 I, LINDA BOLES, CRR, RPR, Official Commission
 Reporter, do hereby certify that the foregoing
 5 proceeding was heard at the time and place herein
 stated.

6
 7 IT IS FURTHER CERTIFIED that I stenographically
 reported the said proceedings; that the same has been
 transcribed under my direct supervision; and that this
 8 transcript constitutes a true transcription of my notes
 of said proceedings.

9
 10 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
 11 counsel connected with the action, nor am I financially
 interested in the action.

12 DATED THIS 9th day of October, 2014.

13
 14 *Linda Boles*

15
 16 LINDA BOLES, CRR, RPR
 FPSC Official Hearings Reporter
 17 (850) 413-6734