



## 1 APPEARANCES:

2 JOHN T. BUTLER, WADE LITCHFIELD, and MARIA J.  
3 MONCADA, ESQUIRES, 700 Universe Boulevard, Juno Beach,  
4 Florida 33408-0420, appearing on behalf of Florida Power  
5 & Light Company.

6 JOHN T. BURNETT, DIANE M. TRIPLETT, and  
7 MATTHEW BERNIER, ESQUIRES, 106 East College Avenue,  
8 Suite 800, Tallahassee, Florida 32301-7740, and GARY V.  
9 PERKO, ESQUIRE, Hopping, Green & Sams, P.A, 119 South  
10 Monroe Street, Suite 300, Tallahassee, Florida 32301,  
11 appearing on behalf of Duke Energy Florida, Inc.

12 JAMES D. BEASLEY, J. JEFFRY WAHLEN, and ASHLEY  
13 DANIELS, ESQUIRES, Ausley Law Firm, Post Office Box 391,  
14 Tallahassee, Florida 32302, appearing on behalf of Tampa  
15 Electric Company.

16 JEFFREY A. STONE, RUSSELL A. BADDERS and  
17 STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office  
18 Box 12950, Pensacola, Florida 32591, appearing on behalf  
19 of Gulf Power Company.

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

25

1 APPEARANCES (Continued):

2 J.R. KELLY, PUBLIC COUNSEL, PATRICIA A.  
3 CHRISTENSEN, and CHARLES REHWINKEL, ESQUIRES, Office of  
4 Public Counsel, c/o The Florida Legislature, 111 West  
5 Madison Street, Room 812, Tallahassee, Florida  
6 32399-1400, appearing on behalf of the Citizens of  
7 Florida.

8 JAMES W. BREW and OWEN J. KOPON, ESQUIRES, PCS  
9 Phosphate - White Springs, c/o Brickfield Law Firm, 1025  
10 Thomas Jefferson St., NW, Eighth Floor, West Tower,  
11 Washington, DC 20007, appearing on behalf of PCS  
12 Phosphate - White Springs.

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

17 CHARLES MURPHY, ESQUIRE, FPSC General  
18 Counsel's Office, 2540 Shumard Oak Boulevard,  
19 Tallahassee, Florida 32399-0850, appearing on behalf of  
20 the Florida Public Service Commission Staff.

21 MARY ANNE HELTON, DEPUTY GENERAL COUNSEL,  
22 Florida Public Service Commission, 2540 Shumard Oak  
23 Boulevard, Tallahassee, Florida 32399-0850, Advisor to  
24 the Florida Public Service Commission.

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## P R O C E E D I N G S

1  
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. Jeffrey 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                           \* \* \* \* \*

13          **COMMISSIONER BROWN:** And we are going to  
14          convene now the 07 docket, Docket 140007-EI.  
15          Mr. Charlie Murphy.

16          **MR. MURPHY:** Yes, ma'am. Staff would note for  
17          the record that DeSoto Generating has withdrawn.

18          **COMMISSIONER BROWN:** Can you speak closer?  
19          Thank you.

20          **MR. MURPHY:** Okay. Staff would note for the  
21          record that DeSoto County Generating has withdrawn.  
22          Except for Issues 9 and 10 and potential resulting  
23          true-ups of other issues, the parties have reached a  
24          Type 2 stipulation for all other issues. The Prehearing  
25          Order will need to be modified at various points to



1 reflect the agreement. Staff will circulate an amended  
2 draft before an order is issued.

3 **COMMISSIONER BROWN:** Thank you so much. Does  
4 any other party have any preliminary matters?

5 Mr. Butler.

6 **MR. BUTLER:** Yes. Thank you, Commissioner. I  
7 would note that with the possible exception of FIPUG,  
8 who I think may be still looking to get back with their  
9 consultant, I think we can stipulate Issue 10 and really  
10 have only open for consideration Issue 9.

11 10 is the one about how, if the costs are  
12 approved, they ought to be spread among the rate  
13 classes, and I don't believe there is a dispute over  
14 that topic.

15 And one of the significances of that is that  
16 we have a witness who would otherwise not have to  
17 testify if Issue 10 is stipulated but would be here just  
18 for Issue 10. So put that out there as something that  
19 we're hopeful to get stipulated.

20 **COMMISSIONER BROWN:** He put it out there.  
21 Anybody want to --

22 **MR. MOYLE:** Can I comment on that?

23 **COMMISSIONER BROWN:** You can comment.

24 **MR. MOYLE:** So we don't want to bring anybody  
25 to town unnecessarily.

1           **COMMISSIONER BROWN:** No, we don't.

2           **MR. MOYLE:** However, it presumes, it presumes  
3 an action that FIPUG would suggest the Commission not  
4 take. So we're trying to work through that. The two  
5 issues that remain alive, 9 and 10, if -- I didn't know  
6 if you were going to ask should positions be modified.  
7 But if this is the time, I'd like to modify the  
8 positions slightly.

9           **COMMISSIONER BROWN:** This would be the actual  
10 time since it is the prehearing conference.

11           **MR. MOYLE:** Okay. All right. Well, I'll take  
12 advantage of that opportunity and note for the record on  
13 Issues 9 and 10 the current FIPUG position is, quote,  
14 no, these costs should not be recovered through the  
15 Environmental Cost Recovery Clause. The additional  
16 sentence, which is as follows, should be included.  
17 Quote, lobbying fees and expenses should not be  
18 recovered from ratepayers. And that would go on both  
19 9 and 10.

20           **COMMISSIONER BROWN:** Uh-huh. Got it. You got  
21 it?

22           **MR. MURPHY:** Got it. And maybe you'll email  
23 it to me later so I don't have to read my own writing.

24           **MR. MOYLE:** Sure.

25           **MR. MURPHY:** Thank you.

1           **COMMISSIONER BROWN:** All right. Parties, any  
2 other comments?

3           **MR. CAVROS:** Commissioner, since we're taking  
4 changes on position, it seems like at this time our  
5 position on 9 was originally no position. Our current  
6 position is simply no.

7           **COMMISSIONER BROWN:** Okay. Your position on  
8 9 says no position at this time, but you're saying --  
9 are you -- no?

10          **MR. CAVROS:** Right. We want to contest this  
11 issue.

12          **COMMISSIONER BROWN:** Change it. Okay.

13          **MR. CAVROS:** Correct.

14          **COMMISSIONER BROWN:** For both 9 and 10?

15          **MR. CAVROS:** For 9.

16          **COMMISSIONER BROWN:** Okay. All right. I see  
17 you, Mr. Rehwinkel.

18          **MR. REHWINKEL:** Well, in light of FIPUG's  
19 statement on 9, the OPC would request leave to provide a  
20 --

21          **COMMISSIONER BROWN:** By tomorrow.

22          **MR. REHWINKEL:** For an opportunity to provide  
23 a --

24          **COMMISSIONER BROWN:** By tomorrow at 5:00.

25          **MR. REHWINKEL:** Yes.

1           **COMMISSIONER BROWN:** All parties will be  
2 apprised that you can revise your statement for Issues  
3 9 and 10 by 5:00 p.m.

4           **MR. REHWINKEL:** Otherwise, for all issues  
5 other than 9 our no position means that we will not  
6 stand in the way of a Type 2 stipulation that otherwise  
7 is agreed to among the parties.

8           **COMMISSIONER BROWN:** Thank you, Mr. Rehwinkel.

9           **MR. BERNIER:** And Commissioner, we have an  
10 amendment for our position on Issue 6. I've spoken with  
11 Mr. Murphy. I'll --

12           **COMMISSIONER BROWN:** Can you just hold for one  
13 moment?

14           **MR. BERNIER:** Yes.

15           **COMMISSIONER BROWN:** Are there any others that  
16 would like to change their position on Issue 9 or 10 at  
17 this juncture? Okay. Please proceed.

18           **MR. BERNIER:** Okay. Thank you very much. We  
19 would just add the following sentence after our  
20 position. That is the remaining separation factors are  
21 below consistent with the revised and restated  
22 stipulation and settlement agreement approved in Order  
23 Number PSC-13-0598-FOF-EI at page 54. And I will  
24 circulate that language.

25           **COMMISSIONER BROWN:** That would be great.

1 That was fast, like me.

2 All right. Any other changes? Okay. I don't  
3 know where we are, Mr. Murphy. Are we -- we haven't  
4 even gone through the draft Prehearing Order; right? Am  
5 I right?

6 **MR. MURPHY:** Yeah. We kind of jumped ahead  
7 there.

8 **COMMISSIONER BROWN:** Okay.

9 **MR. MURPHY:** How far had you gotten?

10 **COMMISSIONER BROWN:** I'm just going to pretend  
11 like we're starting this over.

12 **MR. MURPHY:** Okay.

13 **COMMISSIONER BROWN:** No. We -- okay. So  
14 we've gone through -- you've gone through the  
15 preliminary matters, and now we're going to go to the  
16 draft Prehearing Order.

17 **MR. MURPHY:** Yes.

18 **COMMISSIONER BROWN:** Seeing none, going to  
19 move swiftly.

20 Section I, case background. Any changes?

21 None.

22 Section II, conduct of proceedings. Any  
23 changes? Seeing none.

24 Section III, jurisdiction. Seeing no changes.

25 Section IV, procedure for handling

1 confidential information. Seeing no changes.

2 Section V. Mr. Murphy, prefiled testimony.

3 **MR. MURPHY:** Commissioner, staff has prepared  
4 a comprehensive exhibit list which includes all prefiled  
5 exhibits, and also includes those exhibits staff wishes  
6 to include in the record. The parties have agreed,  
7 subject to a Commissioner having no question, that all  
8 witnesses except FPL witnesses Keith and LaBauve be  
9 excused and their testimony inserted into the record as  
10 though read. Additionally, all exhibits, including  
11 staff exhibits, will be included in the record.  
12 Certainly we will work with you if you work out  
13 something with FIPUG on one of those witnesses.

14 **COMMISSIONER BROWN:** Thank you for pointing  
15 that out, Mr. Murphy. Parties heard them.

16 Section VI, order of witnesses.

17 **MR. MURPHY:** Again, parties have agreed that  
18 all witnesses except FPL witness Keith and LaBauve may  
19 be excused if no Commissioner has questions. Staff will  
20 confirm with each Commissioner that the witnesses can be  
21 excused. If no Commissioner has questions of these  
22 witnesses, they may be excused from the hearing and  
23 testimony and exhibits entered into the record as though  
24 read.

25 **COMMISSIONER BROWN:** Thank you. Section VII,

1 basic positions. Any changes or amendments?

2 Okay. Moving to Section VIII. I know some of  
3 you have made some changes. Go ahead.

4 **MR. MOYLE:** So the point that we just made,  
5 we'd probably like to include that in our basic  
6 position. Can I do that by 5:00 tomorrow with an email  
7 with staff?

8 **COMMISSIONER BROWN:** I'm amenable to that.

9 **MR. MOYLE:** Okay. Thank you.

10 **COMMISSIONER BROWN:** Issues and positions.  
11 None?

12 Okay. Section VIII -- IX, exhibit list.  
13 Charlie.

14 **MR. MURPHY:** Staff will prepare an exhibit  
15 list for the purpose of numbering and identifying  
16 exhibits. We'll provide the exhibit list to the parties  
17 as soon as possible.

18 **COMMISSIONER BROWN:** Thanks.

19 Section X, stipulations.

20 **MR. MURPHY:** Proposed stipulations are set  
21 forth here. The Prehearing Order will reflect that each  
22 of these is a Type 2 stipulation and that the utility  
23 agrees with staff position and all other parties take no  
24 position.

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

1 stipulations?

2 Section XI, pending motions.

3 **MR. MURPHY:** There are no pending motions.

4 **COMMISSIONER BROWN:** XII, pending  
5 confidentiality.

6 **MR. MURPHY:** None pending.

7 **COMMISSIONER BROWN:** Good job.

8 XIII, post-hearing procedures.

9 **MR. MURPHY:** Staff recommends that a bench  
10 decision is possible for all issues except 9 and 10.  
11 Depending on the outcome of those issues, Issues 2, 3,  
12 4, and 7 may need to be tried up. Parties taking no  
13 position on 9 and 10 may wish to file -- taking a  
14 position on Issues 9 and 10 may wish to file a  
15 post-hearing brief. Staff recommends that such briefs  
16 be no longer than 20 pages, and briefs will be due  
17 November 5th.

18 **COMMISSIONER BROWN:** Thank you, Mr. Murphy for  
19 laying all that out. That's great. Thank you.

20 Section XIV, rulings.

21 **MR. MURPHY:** Staff recommends that opening  
22 statements, if any, be limited to five minutes and  
23 briefs limited to 20 pages.

24 **COMMISSIONER BROWN:** Okay. Are there any  
25 other matters in this docket?



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**MR. MURPHY:** Not that I'm aware of.

**COMMISSIONER BROWN:** Thank you. We will  
adjourn this and move to the 07 docket at this juncture.  
Wait -- 01. My apologies.

(Proceeding adjourned at 2:13 p.m.)

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  
 15 

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