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6 BRIAN ARMSTRONG, ESQUIRE, Law Office of Brian
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10 J.R. KELLY, PUBLIC COUNSEL; ERIK L. SAYLER;
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25

P R O C E E D I N G S

1
2 **COMMISSIONER BRISÉ:** Good morning. We're
3 going to go ahead and call this prehearing conference to
4 order. Today is April 20th, Docket No. 160101-WS. And,
5 staff, would you read the notice?

6 **MR. TRIERWEILER:** By notice issued April 10,
7 2017, this time and place was set for this hearing in
8 Docket No. 160101-WS. The purpose of this prehearing is
9 as set out in the notice.

10 **COMMISSIONER BRISÉ:** Thank you. At this time,
11 let's take appearances.

12 **MR. FRIEDMAN:** Martin Friedman on behalf of
13 Utilities, Inc. of Florida.

14 **MR. ARMSTRONG:** Brian Armstrong with the Law
15 Office of Brian Armstrong on behalf of the Summertree
16 Water Alliance. Commissioner, we just filed a motion to
17 intervene yesterday.

18 **COMMISSIONER BRISÉ:** Okay. Thank you.

19 **MS. CHRISTENSEN:** Patricia Christensen; Erik
20 Sayler; Charles Rehwinkel; Virginia Ponder; and J.R.
21 Kelly, Public Counsel, on behalf of the Office of Public
22 Counsel.

23 **COMMISSIONER BRISÉ:** Okay. Thank you.

24 **MR. TRIERWEILER:** Walt Trierweiler, Kyasha
25 Mapp, Danijela Janjic, Wesley Taylor, and Jennifer

1 Crawford for Commission staff.

2 **MS. CIBULA:** Samantha Cibula, advisor to the
3 Commission. I would also like to make an appearance for
4 Keith Hetrick, the Commission's General Counsel.

5 **COMMISSIONER BRISÉ:** Thank you.

6 Staff, are there any preliminary matters?

7 **MR. FRIEDMAN:** This is Marty Friedman. I
8 would object to Mr. Armstrong participating. His client
9 is not a party to this action yet, and I think it's
10 premature to have him participate in a prehearing
11 conference.

12 **COMMISSIONER BRISÉ:** Okay. Thank you.

13 **MR. TRIERWEILER:** We're prepared to discuss
14 this issue. Staff notes that late yesterday the
15 Summertree Water Alliance filed a request for
16 intervention in this docket. The rule affords
17 seven days, if time allows, for parties to respond to
18 the request. It is my understanding that the utility
19 would like time to respond. It's your pleasure, of
20 course, but, however, staff would recommend that the
21 parties be allowed time to respond. If -- until such
22 time as you have ruled on the intervention, however, we
23 recommend that Mr. Armstrong be allowed to participate
24 to preserve the Alliance's due process rights.

25 **COMMISSIONER BRISÉ:** Okay. To me, it sounds

1 reasonable to allow the Alliance to participate in this
2 process until a final decision is rendered, and the
3 parties have seven days to respond. And so, therefore,
4 if you want that ruling quicker, then you respond
5 quicker. And so we will function in that fashion.

6 **MR. ARMSTRONG:** Thank you, Commissioner.

7 **MR. TRIERWEILER:** Commissioner, there are
8 other preliminary matters to attend to.

9 **COMMISSIONER BRISÉ:** Sure.

10 **MR. TRIERWEILER:** It is our understanding that
11 OPC has just filed a motion to strike portions of
12 Witness Hoy's rebuttal testimony and has requested oral
13 argument. If it is your pleasure, we could certainly
14 take this up today; however, neither party nor staff
15 have had a meaningful opportunity to review OPC's
16 request. We would, therefore, recommend that the
17 parties be afforded seven days to respond in writing and
18 that you then issue an order.

19 **COMMISSIONER BRISÉ:** Okay. I think we'll
20 allow the parties an opportunity to respond in writing,
21 and then we'll rule accordingly.

22 **MR. TRIERWEILER:** As the Prehearing Officer
23 proceeds through the issues list, he will notice that
24 staff has highlighted eight contested issues for
25 discussion in this proceeding. Staff recommends that if

1 the Prehearing Officer wishes to hear oral argument on
2 any particular issue, that the argument should be taken
3 up during the issues and positions section of the
4 prehearing conference.

5 **COMMISSIONER BRISÉ:** Okay.

6 **MR. TRIERWEILER:** Staff recommends that all
7 parties bring at least 20 copies of all exhibits they
8 wish to introduce into evidence at the hearing. The
9 appropriate cover sheet to be placed on each exhibit
10 will be distributed by staff through email following
11 this prehearing.

12 Expert testimony and voir dire. No party has
13 indicated in its prehearing statement that it desired to
14 voir dire witnesses.

15 Use of depositions. No party has requested to
16 use deposition testimony at the hearing; however,
17 depositions continue until the end of next week. Staff
18 recommends that any party requesting to offer deposition
19 testimony should file a notice of intent to use
20 depositions, as stated within Section 6G of the OEP,
21 that is the Order Establishing Procedure, by the close
22 of business May 2nd, 2017.

23 **COMMISSIONER BRISÉ:** All right. Thank you.

24 I just want to remind all the parties that the
25 20 copies of exhibits be available and prepared so that

1 they can be made available to all the parties and the
2 Commissioners. That makes the hearing process a whole
3 lot more efficient.

4 And I don't know if at this time you want to
5 talk about the -- if there are confidential exhibits as
6 well so that -- for the purposes of how to make that
7 more efficient within the hearing as well.

8 **MS. CRAWFORD:** Certainly. It's staff's
9 practice that to the extent there are confidential
10 exhibits filed with the prefiled testimony, we will have
11 those red folders available for use at the hearing for
12 Commissioners and parties. However, to the extent
13 parties intend to sponsor cross exhibits -- additional
14 exhibits that are also confidential, they will be
15 responsible for making sure to have the adequate number
16 of copies, making sure they're in red folders, and
17 ensuring that the confidentiality process is preserved
18 throughout the hearing process. If you have any
19 questions, just ask staff after the prehearing.

20 **COMMISSIONER BRISÉ:** Thank you.

21 **MS. CHRISTENSEN:** Commissioner?

22 **COMMISSIONER BRISÉ:** Yes.

23 **MS. CHRISTENSEN:** Can I ask one clarifying
24 question on the use of depositions --

25 **COMMISSIONER BRISÉ:** Sure.

1 **MS. CHRISTENSEN:** -- and the May 2nd deadline?

2 I'm assuming that that is not use of
3 depositions for impeachment purposes at the hearing,
4 that we don't have to provide a notice. It was just if
5 it was in lieu of testimony. And I just need --

6 **MS. CRAWFORD:** I can comment on that. That's
7 correct. That's absolutely correct. This is simply --
8 use for impeachment purposes is fine. If you're
9 intending to sponsor it for some other reason, we would
10 ask to have that notice in advance.

11 **MS. CHRISTENSEN:** Okay.

12 **COMMISSIONER BRISÉ:** Okay. All right. Are we
13 clear on those matters?

14 Okay. So we can continue?

15 **MR. TRIERWEILER:** Please.

16 **COMMISSIONER BRISÉ:** Okay. Proceeding through
17 the draft Prehearing Order.

18 **MR. TRIERWEILER:** Staff would note that we
19 might not have been able to incorporate one of the
20 party's edits into the draft Prehearing Order, so we
21 would ask that if any party's changes were not
22 incorporated, please restate it for the record at the
23 appropriate time or note that an edit has been provided
24 to staff.

25 **COMMISSIONER BRISÉ:** Okay. So let's go

1 through the draft Prehearing Order now. I'll go through
2 section by section, and I want the parties to let me
3 know if there are any corrections or changes that need
4 to be made.

5 We may go through some of the sections
6 quickly, so please speak up if you have any change -- or
7 any changes or corrections that you want to make.

8 Section I, case background.

9 Okay. Section II, conduct of proceedings.

10 Section III, jurisdiction.

11 Section IV, procedure for handling
12 confidential information.

13 **MR. TRIERWEILER:** I believe we just covered
14 that.

15 **COMMISSIONER BRISÉ:** Yeah. Okay. So everyone
16 is clear on that.

17 Section V, prefiled testimony and exhibits,
18 witnesses.

19 Okay. Order of witnesses. Are parties
20 willing to stipulate to any other witnesses, any
21 witnesses at this point? Okay. Seeing none, hopefully
22 we'll be able to do that at some point.

23 And on the issue of direct and rebuttal
24 testimony, do we intend to take any of them together, or
25 do we intend on doing it separately?

1 **MR. FRIEDMAN:** We intend to do it in the
2 normal course.

3 **COMMISSIONER BRISÉ:** Okay. Staff, anything
4 else that you would like to add at this point in terms
5 of order of witnesses?

6 **MR. TRIERWEILER:** All witnesses must appear
7 according to the order of witnesses stated in the
8 Prehearing Order. Staff requests and the parties do not
9 object to taking the testimony of the DEP witness no
10 later than May 10, 2017, due to a scheduling conflict
11 for that witness. Parties should raise other witness
12 scheduling matters as early as possible to the
13 Prehearing Officer.

14 **MS. CRAWFORD:** And if I may, just a point of
15 clarification, our notes were written prior to the
16 intervention of the Summertree Water Alliance. If we
17 could get a statement perhaps from Mr. Armstrong whether
18 he has any objection to accommodating taking the DEP
19 witness out of turn, if necessary.

20 **MR. ARMSTRONG:** No, I have no objection.
21 Thank you.

22 **MS. CRAWFORD:** Thank you.

23 **MR. TRIERWEILER:** Staff would also note that
24 we recommend that the witnesses' summaries be limited to
25 no more than five minutes per witness. If a witness has

1 filed both direct and rebuttal testimony, staff
2 recommends that the witnesses receive five minutes for
3 direct and five minutes for the rebuttal. At this time,
4 UIF has communicated to us that they do not intend to
5 combine their direct and rebuttal testimonies.

6 **COMMISSIONER BRISÉ:** Okay. Thank you.

7 Just I want to -- as a reminder, that the five
8 minutes is the maximum. No one is required to use the
9 five minutes per witness -- I mean, per testimony.

10 Okay?

11 Section VII, basic positions.

12 Yes, Mr. Armstrong.

13 **MR. ARMSTRONG:** Commissioner, you know,
14 obviously, as we've reiterated today, we just intervened
15 yesterday. If we do get a Commission order allowing
16 that intervention, I would request seven days, and we
17 would file our positions with the other parties to the
18 docket.

19 **MS. CRAWFORD:** Commissioner, may I?

20 **COMMISSIONER BRISÉ:** Sure, please.

21 **MS. CRAWFORD:** In order to keep things moving,
22 what I would recommend is Mr. Armstrong be given the
23 same latitude other parties, I expect, will be given to
24 file positions as listed in the Prehearing Order.
25 Waiting until after intervention is granted plus an

1 additional seven days, I think, is not workable. We're
2 just too close to the hearing. So what I would
3 recommend is to the extent parties are given latitude to
4 provide additional revisions to their positions after
5 this prehearing conference, that Mr. Armstrong be given
6 that same latitude but also be held to that same time
7 frame.

8 **MR. ARMSTRONG:** Thank you. And that's
9 acceptable to us, Commissioner.

10 **COMMISSIONER BRISÉ:** Mr. Saylor?

11 **MR. SAYLER:** Yes, Commissioner. Good morning.

12 **COMMISSIONER BRISÉ:** Good morning.

13 **MR. SAYLER:** We have a few scrivener's errors
14 in the basic position. I can either read them now or
15 just provide them to staff after the conference today.
16 Some of them relate to updates in Ms. Ramas' Excel
17 schedules where we found a cell reference error,
18 calculation error, and some of those will flow
19 throughout other positions potentially.

20 **COMMISSIONER BRISÉ:** Okay.

21 **MS. CRAWFORD:** That's appreciated. Thank you
22 for the heads-up.

23 I wonder if it would be more efficient -- to
24 the extent you could provide that to us in writing after
25 the prehearing conference, that may help things move

1 along more quickly. If, however, you feel there is a
2 particular edit that is necessary to speak out on the
3 record, you certainly have the opportunity to do so.
4 But if you have it in writing and preferably in Word for
5 all late-filed, late-submitted positions, that would be
6 very helpful.

7 **MR. SAYLER:** Yes. We will provide that, and
8 we'll take the draft Prehearing Order that was emailed
9 out yesterday, use type and strike, and circulate it to
10 staff as well as all the parties so they're aware of our
11 change in positions.

12 **COMMISSIONER BRISÉ:** Okay. And these are
13 truly scrivener's --

14 **MR. SAYLER:** Yes, some calculation errors.
15 There was one place where we said it was 35 million.
16 It's actually 36 million. There was -- instead of being
17 2.5 million, it's 2.4. So it's just things like that.

18 **COMMISSIONER BRISÉ:** Sure. Okay. Thank you.
19 All right. Section VIII, issues and
20 positions.

21 **MR. TRIERWEILER:** Staff would also note that
22 the order of -- establishing procedure requires that a
23 party take a position at the prehearing conference
24 unless good cause is shown as to why that party cannot
25 take a position at that time, as we have just discussed

1 pertaining to Summertree.

2 Accordingly, if a party's position in the
3 draft Prehearing Order is currently no position at this
4 time, a statement simply specifying that a party bears
5 the burden of proof or any such similar statement, that
6 the party must change its position or show good cause
7 why it cannot take a position.

8 Staff will also suggest that the parties who
9 have heretofore not taken a position or who wish to
10 change their positions be allowed to submit their
11 position in writing no later than close of business
12 April 25th, and that was the deadline that we referred
13 to earlier.

14 **COMMISSIONER BRISÉ:** Sure.

15 **MR. TRIERWEILER:** Staff would also note that
16 if the parties cannot in good faith take a position in
17 writing by the April 25th deadline due to the fact that
18 the deposition of a key witness has not yet been taken,
19 and as we mentioned, there are depositions occurring
20 through the end of next week, we recommend that the
21 party make a specific request at this time to extend the
22 deadline until May 2nd, 2017.

23 If a party fails to take a position by that
24 time, the party shall have waived the entire issue and
25 the Prehearing Order will reflect no position for that

1 party for such issues, and the party waives the
2 opportunity to file post-hearing briefs on the issue or
3 to cross on that issue.

4 **COMMISSIONER BRISÉ:** All right. Thank you.

5 So are all parties in agreement and have full
6 understanding of what was just expressed?

7 **MR. ARMSTRONG:** Commissioner, yeah, obviously
8 we're the late entrant. We know we take it as we find
9 it. April 25th, we'll get you positions on the issues.

10 **COMMISSIONER BRISÉ:** Okay. So now we'll move
11 on to the issues. So I'll want to know whether there
12 are any changes to your position. If there are no
13 further changes to a position, we'll move on to the
14 issues in numerical order. And so what we're probably
15 going to do -- I know that there are several contested
16 issues that we've identified. We'll try to go through
17 some of them by blocks, and so we'll identify them. And
18 as you -- as we identify those and you'll address the
19 ones that are within the block, we'll take time to
20 address the ones that are contested. And if there are
21 some that are not marked as contested but you feel
22 are -- need to be contested, then we'll address those at
23 that time as well.

24 **MR. SAYLER:** Yes, sir. And there are a few
25 issues where we're going to be revising our position to

1 no position to make it available to a potential
2 Type 2 stipulation, assuming the Alliance also doesn't
3 take a position on that or depending upon the out -- the
4 change of their positions or what position they take on
5 it. So -- and we'll note those as you go through.

6 **COMMISSIONER BRISÉ:** All right. Thank you.

7 All right. So we'll start with Issue 1 --

8 **MR. TRIERWEILER:** Issue 1 is a contested
9 issue.

10 **COMMISSIONER BRISÉ:** -- is a contested issue.

11 **MR. TRIERWEILER:** This is really OPC's issue,
12 so I think it would be appropriate to hear from OPC.

13 **COMMISSIONER BRISÉ:** Yes.

14 **MR. SAYLER:** Would you like oral argument on
15 the contested issues as we reach them throughout the
16 Prehearing Order?

17 **COMMISSIONER BRISÉ:** Yeah.

18 **MR. SAYLER:** All right. Yes. Mr. Chairman,
19 this is a tax issue. As we all know, the President of
20 the United States has promised large tax cuts, assuming
21 he can get those through Congress, and as a result of
22 that, there is a potential where it will lower the
23 effective tax rate for utilities like Utilities, Inc.
24 And if that is the case and the position is -- or the
25 issue is if that happens between now and the end of

1 2017, that that should be reflected in whatever the
2 rates would be going forward. We're not seeking a
3 clawback or a subject to refund. It's only if a known
4 and measurable change to the tax code takes place before
5 the end of this calendar year, then that should be
6 something that the customers benefit from.

7 And we also take the risk that if the taxes go
8 up, that would also change the rates the other
9 direction. So we are hopeful that the taxes will stay
10 the same or, better yet, go down. And in addition to
11 this, we have provided testimony by Witness Ramas to tee
12 this issue up for resolution by this Commission. And it
13 may be a situation which is generic to all utilities
14 regulated by this Commission, and if that is the case,
15 then it still can be an issue in this case. And then
16 the Commission could say, "We would like to spin this
17 out to a generic docket to evaluate that for all the
18 investor-owneds." But we believe it's a valid issue,
19 there's testimony on point, and we would like it to
20 stand.

21 **COMMISSIONER BRISÉ:** Okay. And I recognize
22 that UIF doesn't have a position on this issue.

23 **MR. FRIEDMAN:** Sure we do.

24 **COMMISSIONER BRISÉ:** Position, "None." Well,
25 the impact, "None." All right.

1 **MR. FRIEDMAN:** Yeah, it should not be an
2 issue. And UIF believes that OPC's issue to seek for
3 basically a limited reopening of this proceeding, I
4 think that's premature and I don't think it's ripe for
5 consideration.

6 The OPC is assuming that the federal tax
7 litigation -- federal tax code will pass, the taxes will
8 be reduced, and it's going to apply to the 2017 tax
9 year, all of which are speculation at this point.

10 I think as a point of analogy, what was the
11 new administration's first priority? Repeal and replace
12 the Affordable Care Act. How did that go? And so I
13 think it is really speculative to think that if the, if
14 the new administration's number one priority couldn't
15 get passed, that this tax code change would be passed.
16 I think it's purely speculative.

17 If a change does occur, as Mr. Sayler
18 suggested, it affects every industry that's regulated
19 by this Commission. And if that occurs, it should be
20 dealt with generically among all IOUs that are regulated
21 by the Commission.

22 The Public Counsel tried to get this in the
23 Gulf Power case too, and it was ultimately not an issue
24 in the case. And I would suggest to you it doesn't
25 belong in this case either. There's no, there's no

1 proposed legislation to look at and say anything. It's
2 just what an incoming administration says they're going
3 to do. And as we know from the Affordable Care Act,
4 that doesn't mean anything. Thank you.

5 **MR. REHWINKEL:** Commissioner, Charles
6 Rehwinkel with the Office of Public Counsel. I just
7 want to correct for the record that in the Gulf Power
8 case there is a provision in the stipulation that would
9 provide for an adjustment for Gulf Power if there is a
10 change in the tax rate. So I just want to correct the
11 record on that.

12 **MR. FRIEDMAN:** Well, I don't think I said
13 anything to the contrary. I said it wasn't an issue in
14 the case. What a party agrees to -- and if you give us
15 a revenue requirement, if the Public Counsel agrees to a
16 revenue requirement that allows my client to earn a
17 reasonable return on its investment, then we might agree
18 to that as well. But what you agree to and what you can
19 force on a party are two different things.

20 **MR. REHWINKEL:** Commissioner, we cited in the
21 Gulf Power case situations where the Commission did take
22 jurisdiction over dollars. The *Florida Power Corp. v.*
23 *Cresse* case in 1982 says the burden is on the company to
24 demonstrate the costs that it seeks recovery for.

25 One of the costs that they seek recovery for

1 in this case is income tax expense at the statutory tax
2 rate. It is their burden to demonstrate that that will
3 be the tax -- the cost going forward. So we are
4 entitled to raise this rate, this issue on the tax rate,
5 and that's all we're asking for. We're not speculating
6 as to whether Congress will ultimately adopt and the
7 President sign tax reform. We're saying if they do,
8 it's prudent for this Commission to take jurisdiction
9 over those dollars so that the benefit to the customers
10 are not lost, and that's all we're asking.

11 **COMMISSIONER BRISÉ:** Thank you.

12 Summertree, did you --

13 **MR. ARMSTRONG:** Summertree will be taking the
14 position of OPC on this issue. Thank you.

15 **COMMISSIONER BRISÉ:** Okay. Thank you.

16 Staff?

17 **MR. TRIERWEILER:** Forgive me one moment, but,
18 UIF, did you have another response that you wanted to
19 make? It looked like you had something else to say.

20 **MR. FRIEDMAN:** Well, he started to cite to
21 cases that they've done in the past, and, of course,
22 those cases that he cited, my understanding, they cited
23 the same cases in the Gulf Power -- in their argument,
24 oral argument on Gulf Power. And most of those cases
25 that they cited, there was specific pending legislation

1 before Congress; whereas, here we don't have anything
2 pending. It's purely speculative. And so that's why
3 the citations, I think, that counsel pointed out are not
4 appropriate in this particular situation.

5 **MR. TRIERWEILER:** Staff doesn't have anything
6 to add to the arguments of the parties.

7 **COMMISSIONER BRISÉ:** Okay. Thank you.

8 So is the expectation that I rule on this
9 right now, or can we deal with it in --

10 **MS. CRAWFORD:** It's your pleasure, sir. If
11 you wish to take it under advisement, you certainly can.
12 I think, frankly, staff supports striking of the issue.
13 I agree that it's speculative. We don't have any
14 proposed legislation before us, let alone any time frame
15 in which it's expected to be adopted. Even if it were,
16 we do try to have the most recent information possible
17 when setting rates. But ratemaking is a, you know,
18 process. At some point you've got to make a call of the
19 information that's before you and set those rates. It
20 doesn't mean a subsequent adjustment of rates can't be
21 made as appropriate, but I wouldn't recommend holding
22 this docket open. I'm not even sure what process by
23 which we would secure funds sufficient to address this
24 issue. So I do recommend it be stricken. But if you
25 want to take action now, that's fine. If you prefer to

1 take it under advisement, you certainly can do that as
2 well.

3 **MR. REHWINKEL:** Commissioner, may I respond to
4 that? We cited cases in the Gulf Power case that show
5 where the Commission specifically went back into dockets
6 that had been closed and held dollars subject to refund
7 for the benefit of the company.

8 We're asking that the Commission do the same
9 thing for the customers' benefit. There was no
10 legislation pending. It was a proposed rule by the
11 Treasury Department that the Treasury Department
12 withdrew. So there was no legislation pending in that
13 case either.

14 If -- we would urge you to take this under
15 advisement and consider it in conjunction with a motion
16 to strike because there -- we are raising a fundamental
17 question about this case and the half-baked way that it
18 is brought forward and speculative costs are put forward
19 in terms of placeholder testimony that allow the company
20 to come in and belatedly amend their filing time and
21 time again. So we would ask that the tax issue be
22 considered alongside with our motion to strike because
23 there is a germ of consistency in those two issues.

24 Thank you.

25 **MR. FRIEDMAN:** I respectfully disagree with

1 Mr. Rehwinkel. I don't think there's any consistency.
2 I think they're two separate issues, and we'll address
3 certainly the motion to strike whenever I see it. I
4 haven't seen it yet.

5 But this is, this is a particular issue. And
6 like you said, there is a mechanism for the Commission
7 to open a docket to deal with this if it should occur in
8 the future, and you should do it throughout all
9 industries.

10 **COMMISSIONER BRISÉ:** All right. Thank you.
11 So I'll take this issue under advisement and render a
12 ruling at the appropriate time.

13 So the next one -- so now we're going to go on
14 to -- let me make sure I have my list of issues in front
15 of me here. If I understand, Issue 2 was dropped.
16 Right?

17 Okay. Issue 3.

18 So from that, we're going to take the block of
19 Issues 4 through 9.

20 **MS. CRAWFORD:** If I may, sir.

21 **COMMISSIONER BRISÉ:** Sure.

22 **MS. CRAWFORD:** Staff just has some
23 clarification they'd like to get on some of the parties'
24 positions on Issues 5 and 6.

25 **COMMISSIONER BRISÉ:** Sure.

1 **MS. CRAWFORD:** For Issue 5 for Utilities,
2 Inc., it states that adjustments should be made for
3 Audit Findings 1, 2, 4, 5, 9, 10. Am I to understand
4 correctly that means the adjustments that are
5 recommended in the audit should be made?

6 **MR. FRIEDMAN:** That is correct.

7 **MS. CRAWFORD:** Okay. Thank you.

8 And -- I'm sorry. Go ahead.

9 **MR. SAYLER:** For Public Counsel, we can agree
10 to a partial stipulation related to Audit Finding 1 and
11 2.

12 **MS. CRAWFORD:** Just for the sake of
13 disclosure, there are a number of places in the draft
14 positions -- of course, this is also subject to
15 Summertree filing its positions -- where it appears that
16 we may have a stipulation or partial stipulation. I
17 encourage staff and the parties to flag where those
18 occur.

19 **COMMISSIONER BRISÉ:** Right.

20 **MS. CRAWFORD:** We don't have to make a
21 determination at this time whether there are
22 stipulations but, of course, always encourage parties to
23 stipulate appropriately where possible. So just to kind
24 of put that flag out there.

25 **MR. FRIEDMAN:** I mean, it looks like that we

1 agree on 1 and 2, though; is that correct?

2 **MR. SAYLER:** Yes.

3 **COMMISSIONER BRISÉ:** That's what it sounded
4 like.

5 **MR. FRIEDMAN:** Maybe we can stipulate,
6 stipulate on those, go ahead and do them as we go along?

7 **COMMISSIONER BRISÉ:** Yes, please. And you
8 were seeking on 6 as well?

9 **MS. CRAWFORD:** Also on Issue 6 for OPC's
10 position, the utility has the burden to demonstrate that
11 it has appropriately included costs associated with the
12 utility's Phoenix Project Financial/Customer Care
13 billing system. At this point, it is OPC's position
14 that UIF has not met its burden on this issue. And what
15 I'm missing is "therefore." So what action are -- what
16 is your position? What action should the Commission
17 take, therefore, on this issue if the utility has not
18 met its burden?

19 **MR. FRIEDMAN:** What issue is this? I'm sorry.

20 **MS. CRAWFORD:** Issue 6.

21 **COMMISSIONER BRISÉ:** Issue 6.

22 **MR. SAYLER:** We will provide a revised
23 position on this.

24 **COMMISSIONER BRISÉ:** All right. Thank you.

25 **MR. REHWINKEL:** Mr. Chairman, Commissioner

1 Brisé --

2 **COMMISSIONER BRISÉ:** Yes, sir.

3 **MR. REHWINKEL:** -- just, just so we're clear
4 on this, it's the Public Counsel's position, I believe
5 it's the case law that is settled in the state that the
6 burden of proof is on the company to justify recovery of
7 the costs that they seek. So when a company -- if it's
8 our position they have failed to meet their burden of
9 proof, it's implied in that that the costs that they
10 seek recovery for should not be allowed. If we need to
11 add that specific phrase, we will. But it's not our
12 burden to suggest alternative treatment for the
13 company's request of their case. But I think that
14 that's implied, but we can make it explicit, if that
15 need be. But -- thank you.

16 **COMMISSIONER BRISÉ:** Thank you. Duly noted.

17 **MS. CRAWFORD:** If I may, I couldn't agree more
18 that the ultimate burden of proof is on the utility.
19 But I think if you could add that additional sentence so
20 it's clear what your position is on -- what action the
21 Commission could be taking, I'd greatly appreciate it.

22 **COMMISSIONER BRISÉ:** All right. So we've
23 dealt with 6.

24 So with that, are there any other issues with
25 7, 8, and 9?

1 Okay. Hearing none, moving on to 10.

2 Okay. Hearing none, I know that 10A is a
3 contested issue.

4 **MR. TRIERWEILER:** Yes, Commissioner. Issue
5 10A: "How should retirements associated with plant
6 additions be recorded on the books?" It is -- I believe
7 that the parties have positions that are contested on
8 this issue.

9 **COMMISSIONER BRISÉ:** OPC.

10 **MR. SAYLER:** 10A and 10B, I'll wrap my
11 arguments together because they're similar. We have
12 provided specific testimony on this issue to tee it up
13 for something that this Commission, we believe, ought to
14 resolve. If it can be resolved under a broader issue
15 such as -- I believe it's Commission staff's position,
16 Issue 10 -- we are potentially able to do that as long
17 as -- excuse me, 10A under 10, that is something we can
18 agree with on the caveat that the issue that we teed up
19 in testimony is actually analyzed and the Commission
20 actually makes a decision on it.

21 We don't want an issue subsumed, we spend a
22 lengthy amount of time writing an excellent post-hearing
23 brief, and then it be inadvertently overlooked in
24 staff's final recommendation when we have specifically
25 teed up testimony on it. So that is why we would prefer

1 to keep Issue 10A and 10B separate because we have
2 specific testimony on these issues.

3 But when it comes to Issue 10A, if the
4 Commission is wanting to address the issue that we
5 raised in our testimony and address our position under
6 10A in Issue 10, we're willing to do that to allow that
7 one to be subsumed. I hope that is clear.

8 **COMMISSIONER BRISÉ:** Sure, sure.

9 **MR. SAYLER:** And then when it gets to 10B, I
10 have other arguments to make.

11 **COMMISSIONER BRISÉ:** Sure. Summertree?

12 **MR. ARMSTRONG:** Commissioner, just for your
13 benefit and the benefit of the parties, I just want to
14 be clear that if I remain silent on an issue, it's
15 likely we'll take a position.

16 **COMMISSIONER BRISÉ:** Sure.

17 **MR. ARMSTRONG:** If we agree with OPC and would
18 support OPC, I will state that. If I have, if I have no
19 position on behalf of my client, I will state that.
20 Okay? So my silence typically will let you know that we
21 will take a position -- likely take a position on the
22 matter. Okay?

23 **MS. CRAWFORD:** I would just note that just
24 because there is testimony on any particular position or
25 number of positions or issues, it doesn't necessarily

1 equate that there needs to be a separate broken-out
2 issue that corresponds to that testimony. Certainly I
3 think OPC can take whatever position it wishes with
4 regard to this issue. It does have testimony forward on
5 it. I do believe that the issue would be ably captured
6 in Issue 10, however.

7 **COMMISSIONER BRISÉ:** Sure. And just
8 recognition that I think OPC's concern or interest --
9 not concern, their interest is in seeing that the issue
10 that is broken out, the way they put it, in Issue 10A
11 would be addressed and not forgotten through the
12 process.

13 **MS. CRAWFORD:** Staff would certainly respond
14 to any arguments raised by the parties.

15 **COMMISSIONER BRISÉ:** Okay.

16 **MR. SAYLER:** With that understanding that
17 Issue 10A, our position under 10A will be addressed
18 under 10B in the final --

19 **COMMISSIONER BRISÉ:** Ten.

20 **MR. SAYLER:** -- or, excuse me, 10 under the
21 final recommendation, I think we can -- unless
22 Mr. Rehwinkel has something else to say, I think we can
23 do that.

24 **MR. REHWINKEL:** Yes. Commissioner, for the
25 record, I just want to make sure that it is abundantly

1 clear that even if this is considered to be subsumed and
2 our position is considered to be an argument, that there
3 is no, that there is no contention by this Commission,
4 as I have seen in the past in court, that we did not
5 adequately frame the issue and put the utility on notice
6 as to an issue for this Commission's determination. So
7 if we're going to do -- go the subsumed route, we want
8 to make sure that there is no contention that we did not
9 put them on notice.

10 **MR. FRIEDMAN:** We're on notice.

11 **COMMISSIONER BRISÉ:** Okay. All right. Moving
12 on to Issue 10B. So that issue will be subsumed -- 10A
13 will be subsumed in 10.

14 Issue 10B.

15 **MR. SAYLER:** All right. 10B is a little more
16 unique. Staff's position as it is is that it should be
17 addressed under Issues 5 and 18.

18 **COMMISSIONER BRISÉ:** Yeah.

19 **MR. SAYLER:** However, Issue 5 is about audit
20 adjustments and does not apply to retirements, so that's
21 why it's inapplicable under Issue 5. And Issue 18 is
22 about test year accumulated depreciation. And part of
23 10B can apply to the pro forma, but this is a larger
24 unique issue than 10A is worded. So, in effect, 10B is
25 more broad than Issue 18. That's why we think it needs

1 to be separately broken out and addressed by this
2 Commission as it relates to these retirements and the
3 effect on negative accumulative -- accumulated
4 depreciation, and we would not be able to agree to have
5 them subsumed under Issue 5 or 18. Thank you.

6 **COMMISSIONER BRISÉ:** Okay. Staff?

7 **MR. TRIERWEILER:** It is staff's position that
8 the concerns of this issue can be completely addressed
9 within Issues 5 and 18. Issue 5 does contain audit
10 adjustments, one of which deals with the issue in 10B.
11 And Issue 18, the test year adjustments, likewise, this
12 matter would fit squarely within Issue 18.

13 **COMMISSIONER BRISÉ:** Okay.

14 **MR. FRIEDMAN:** We agree with staff's position.

15 **COMMISSIONER BRISÉ:** All right. I will take
16 that one under advisement.

17 Okay. So we'll go through Issues 11 through
18 20. So if there are changes that you would like to make
19 to the positions on Issues 11 through 20, please speak
20 up. If not, then we will understand that you're fine
21 with the position.

22 Mr. Sayler.

23 **MR. SAYLER:** Yes, sir, Erik Sayler with Public
24 Counsel.

25 On Issue 13 where it's related to used and

1 useful, we're going to take no position for Issues 13,
2 14, and 15, and, yes, also Issue 17.

3 **COMMISSIONER BRISÉ:** Okay. So that's 13, 14,
4 and 17?

5 **MR. SAYLER:** 13, 14, 15, and 17. And when I
6 email this, our changes back to staff with our other
7 changes, I will clearly indicate that.

8 **COMMISSIONER BRISÉ:** Sure.

9 **MR. FRIEDMAN:** Then can we -- is that an issue
10 we can then stipulate?

11 **MR. SAYLER:** It might be ripe for a Type 2, if
12 staff is agreeable to the utility's position.

13 **MS. CRAWFORD:** Right. We can, we can --

14 **MR. SAYLER:** Also we have Summertree to
15 consider in this matter.

16 **COMMISSIONER BRISÉ:** Right.

17 **MS. CRAWFORD:** Of course. We can certainly
18 have that discussion. I recommend it would be more
19 efficient to do it after the prehearing.

20 I would also flag Issue 11 might have a
21 partial stipulation possible, so I would just have the
22 parties put that on their radar as well.

23 **COMMISSIONER BRISÉ:** Okay.

24 **MS. CRAWFORD:** And then is part of your
25 block -- my apologies -- also Issue 19?

1 **COMMISSIONER BRISÉ:** Yes, ma'am.

2 **MS. CRAWFORD:** It would be just the same
3 comment for OPC. If we could just have that final
4 statement just for clarity that, therefore, no
5 adjustment should be made, that would be much
6 appreciated, or whatever language is appropriate for
7 you.

8 **MR. FRIEDMAN:** Yeah. I think going back to
9 what Ms. Crawford said on Issue 11, it looks like to me
10 that except for the UIF Seminole/Ravenna Park system
11 that we agree on the other unaccounted for water
12 adjustments.

13 **COMMISSIONER BRISÉ:** Okay. And I think for
14 the efficient use of our time this morning, if we can go
15 back to those, work that with staff and clean up the
16 potential stipulations that we have, we'd just flag them
17 to make sure that the conversation moves forward. Okay?

18 On Issue 19, I think we were looking at if
19 there's some clarification of language that needed to
20 occur there.

21 **MR. SAYLER:** Yes. We can add the additional
22 language on 19.

23 **COMMISSIONER BRISÉ:** Okay. Thank you.

24 Okay. Any other changes on positions on
25 Issue 20?

1 Okay. Hearing none or seeing none, we're
2 going to go to 21 through 30.

3 **MR. SAYLER:** Public Counsel has a few changes
4 on 21 and throughout this section.

5 **COMMISSIONER BRISÉ:** Sure.

6 **MR. SAYLER:** It may be more efficient for us
7 to email those changes, but for some of them it's --
8 we're just revising our language that staff had pointed
9 out to us to consider revising as it relates to the
10 burden.

11 **COMMISSIONER BRISÉ:** Okay. No problem. So
12 you're not --

13 **MR. SAYLER:** Excuse me. I apologize. This
14 is -- we had said, "Pending further review of evidence
15 adduced at the hearing, we're revising that." So we'll
16 submit a revised position for those.

17 **COMMISSIONER BRISÉ:** For -- and those are
18 21 through --

19 **MR. SAYLER:** Well, 21, 22. No change for 23.
20 On 24, the appropriate amount of accumulated deferred
21 taxes, some discovery came in a couple of days ago that
22 we're still reviewing. So I believe there was a bit of
23 an extension to the 25th to take or revise a position,
24 so we'll look at that.

25 Now 25, what is the appropriate amount of

1 customer deposits? We're going to take no position on
2 that.

3 **COMMISSIONER BRISÉ:** Okay.

4 **MR. SAYLER:** Which makes it ripe for -- well,
5 we're going to take no position. We don't know what
6 Summertree or the staff's position is on that issue.

7 **COMMISSIONER BRISÉ:** Sure.

8 **MR. SAYLER:** For Issue 26, we would like to
9 add to our position, "The rate for customer deposit
10 should be set using Rule 25-30.311, *Florida*
11 *Administrative Code*," and we'll provide that in writing.

12 **COMMISSIONER BRISÉ:** Okay.

13 **MR. FRIEDMAN:** I don't think there's a
14 disagreement on 26, is there?

15 **MS. CRAWFORD:** I would flag that for possible
16 discussion for stipulation as well as 27, 28, and 30.

17 **MR. FRIEDMAN:** And we will be -- we may be
18 tweaking some of our 21, 22, 23 stuff too.

19 **COMMISSIONER BRISÉ:** Okay.

20 **MR. TRIERWEILER:** Staff does have a question
21 for -- regarding OPC's comment under 25, and that
22 question is: Does, does OPC, just for clarification, do
23 they not agree with the total in -- that UIF presented
24 through their Witness Swain?

25 **MR. SAYLER:** We're taking no position on the

1 total.

2 **MR. TRIERWEILER:** No position.

3 **MR. FRIEDMAN:** On which one?

4 **MS. CRAWFORD:** 25.

5 **COMMISSIONER BRISÉ:** 25.

6 Okay. So with that, are we good through 30?

7 Okay. With that, I will take that we're good
8 through 30, and so we'll start at 31 through 35.

9 **MS. CRAWFORD:** Could staff ask for some
10 clarification for OPC's position on Issue 33? It
11 currently states, "No position at this time, pending
12 further discovery and evidence adduced at the hearing."
13 Is -- I would suggest that would need to be revised.

14 **MR. SAYLER:** We'll revise that position.

15 **MS. CRAWFORD:** Thank you.

16 **COMMISSIONER BRISÉ:** Okay.

17 **MR. TRIERWEILER:** We have a similar question
18 for UIF in Issue 33.

19 **COMMISSIONER BRISÉ:** In 33, UIF has
20 depreciation expense 79,400.

21 **MS. CRAWFORD:** No, we have a revised position
22 for the utility. It's sufficient.

23 **COMMISSIONER BRISÉ:** Okay. Thank you.

24 Okay. Any other changes for 31 through 35?

25 Okay. If not, we're ready to move on to 36,

1 which is a contested issue.

2 **MR. FRIEDMAN:** 36?

3 **MR. SAYLER:** It doesn't show contested here.

4 **MS. CRAWFORD:** This is staff's issue. Our
5 argument is that the issue may be subsumed in Issue 4.

6 **COMMISSIONER BRISÉ:** Okay. Oh, that's right.

7 **MR. TRIERWEILER:** And in other fallout
8 adjustments.

9 **COMMISSIONER BRISÉ:** Okay. OPC?

10 **MR. SAYLER:** I'm sorry. Is this a contested
11 issue or not a contested issue?

12 **COMMISSIONER BRISÉ:** Well, staff is suggesting
13 that it's subsumed in Issue 4.

14 **MR. FRIEDMAN:** We're okay with putting it in
15 4, if they want to put it in 4.

16 **MR. SAYLER:** We have specific adjustments for
17 this in Donna's testimony; therefore, we believe it's
18 better practice to keep it separately broken out so that
19 it's clearly identifiable so we can -- to know that.
20 And I believe this is an issue important to Summertree
21 as well.

22 **MR. ARMSTRONG:** Speaking on behalf of
23 Summertree, it is a contested issue from our
24 perspective. You know, Issue 4 talks about the ERC
25 allocation, which I think is very different than the

1 cost, whether the costs are reasonable.

2 **MS. CRAWFORD:** We can withdraw our objection
3 to it.

4 **COMMISSIONER BRISÉ:** Okay. Thank you. So 36
5 will remain as a separate issue.

6 Okay. All right. With that in mind, we'll
7 look at Issues 37 to 47. So if you have adjustments
8 that you would like to your positions between Issues 37
9 to 47, please let me know. Mr. Sayler?

10 **MR. SAYLER:** 44, we don't have a change to our
11 position, but we believe this is potentially ripe for
12 stipulation if the utility is willing to accede to our
13 position on the matter.

14 **COMMISSIONER BRISÉ:** Okay.

15 **MS. CRAWFORD:** And then I believe also
16 Issue 46 may be a possible stipulation.

17 **MR. SAYLER:** Similarly, yes.

18 **COMMISSIONER BRISÉ:** Okay.

19 **MR. SAYLER:** And we prefer our position.

20 **COMMISSIONER BRISÉ:** Okay. Mr. Friedman?

21 **MR. FRIEDMAN:** It looks like -- I'm sorry. It
22 does look like there's agreement on Issue 44.

23 **COMMISSIONER BRISÉ:** Okay. All right. So
24 then that one is ripe for stipulation.

25 **MR. SAYLER:** With the same caveats about staff

1 and Summertree.

2 **COMMISSIONER BRISÉ:** Sure. And Mr. Sayler
3 also mentioned 46.

4 **MR. SAYLER:** Yes.

5 **COMMISSIONER BRISÉ:** Mr. Friedman?

6 **MR. FRIEDMAN:** Well, if the stipulation is
7 that that particular analysis should be deferred and
8 amortized, then, yes.

9 **MS. CRAWFORD:** We can discuss offline.

10 **COMMISSIONER BRISÉ:** Okay. So that one too is
11 ripe for stipulation, okay, providing that all the
12 parties end up in agreement.

13 So have we adequately addressed Issues 37
14 through 47?

15 **MR. SAYLER:** Yes, sir.

16 **COMMISSIONER BRISÉ:** Okay. Thank you.

17 Mr. Friedman, we're good?

18 **MR. FRIEDMAN:** I'm good.

19 **COMMISSIONER BRISÉ:** Okay. All right. Moving
20 on, 48 through 51.

21 **MR. SAYLER:** For 48, this is one that's
22 potentially ripe for stipulation. Our overall dollar
23 amount is the same as the utility's, but we have much
24 more defined as it relates to the individual expenses to
25 the various systems. So if the utility is willing to

1 agree with our position, then it's a potential
2 stipulation.

3 **COMMISSIONER BRISÉ:** Mr. Friedman.

4 **MR. FRIEDMAN:** So we agree on the amount.
5 You're just saying we need to agree on the allocation,
6 that the allocations you put here are correct? Is that
7 what you're saying?

8 **MR. SAYLER:** Yes.

9 **MR. FRIEDMAN:** I'll double-check.

10 **COMMISSIONER BRISÉ:** Okay. Perfect. So that
11 one is ripe for stipulation as well.

12 All right. Any changes to 49, 50, or 51?

13 **MR. SAYLER:** OPC is going to revise our
14 position here.

15 **COMMISSIONER BRISÉ:** On which one?

16 **MR. SAYLER:** Excuse me. On No. 49.

17 **COMMISSIONER BRISÉ:** Okay.

18 **MR. SAYLER:** And we will circulate that.

19 **COMMISSIONER BRISÉ:** Okay. Perfect.

20 **MR. SAYLER:** No changes for 50 or 51, and that
21 brings us to contested Issue 52.

22 **COMMISSIONER BRISÉ:** Okay. So now we have 52,
23 which is a contested issue.

24 Okay. OPC.

25 **MR. SAYLER:** All right. Earlier in the

1 prehearing conference, there was some discussion about
2 if there's a deposition upcoming that could influence
3 the issue. This is one of those issues as it relates to
4 cost savings, if any, resulting from the proposed
5 consolidation of tariffs and accounting records.

6 Public Counsel served discovery on this
7 matter, and the discovery is due today. We have
8 scheduled depositions with Mr. Flynn, Mr. Deason, and
9 also Ms. Swain of the utility which we will explore
10 these matters with one or all of them. And based upon
11 the responses to our discovery that the utility provides
12 and that discovery that we conduct in those depositions,
13 we may either be able to come to a more defined position
14 or even be willing to drop the issue.

15 **COMMISSIONER BRISÉ:** Okay.

16 **MR. SAYLER:** But that is Public Counsel's
17 position. Summertree may have a different position on
18 that, but that's the explanation for why we would like
19 to keep it in.

20 **COMMISSIONER BRISÉ:** Okay.

21 **MR. SAYLER:** And similarly I know in the past
22 some parties have said that if there's not specific
23 testimony on an issue, then it should be automatically
24 booted out. But your order establishing procedure says,
25 "A statement of each question of fact," this is Section

1 6A4, "Each question, a statement of each question of
2 fact, question of law or policy that the party considers
3 an issue, along with the party's position on the issue."
4 That allows parties to be able to tee up an issue, and
5 we believe we can tee this up through discovery, through
6 cross-examination of witnesses at the hearing, through
7 discovery we attempt to introduce into the record
8 through exhibits. And if there's enough information
9 there for the Commission to make a determination, then
10 we'd like the Commission to make a determination. If
11 the Commission says there's nothing there, then they
12 don't need to make a determination. Or they might say
13 this is an issue that should be considered in a separate
14 docket because there seems to be some customer savings
15 there that could be captured for the customers. Thank
16 you.

17 **COMMISSIONER BRISÉ:** Thank you.

18 Mr. Friedman?

19 **MR. FRIEDMAN:** I disagree. I don't see how
20 you can put an issue out that has no testimony on it and
21 then say that you can prove your case some other way.
22 Certainly you can't do it through cross-examination
23 because your cross-examination can't be beyond the scope
24 of the direct examination. So if there's no direct
25 examination on this particular issue, how can there be

1 cross-examination on the issue? And I don't -- just
2 because the order on procedure allows parties to
3 identify issues doesn't mean you can put an issue out
4 there without having any proof or supporting proof of
5 that issue, and I think it's, I think it's an
6 inappropriate issue.

7 They already took Mr. Hoy's deposition and
8 should have asked him and received a response from the
9 guy who knows that. So I think that's disingenuous to
10 say we'll go through all our discovery, then we'll
11 decide later whether to drop it. It's not an
12 appropriate issue because there's no testimony in the
13 record on that issue.

14 **MR. SAYLER:** Commissioner Brisé, there's a lot
15 of issues in this case where no one has provided
16 testimony such as the close the docket issue and other
17 matters that the Commission routinely decides without
18 express testimony on it, so -- and Mr. Armstrong has
19 something to say.

20 **COMMISSIONER BRISÉ:** Mr. Armstrong.

21 **MR. ARMSTRONG:** Yeah. Commissioner,
22 obviously, I mean, if an issue -- there are standard
23 issues and many of them are identified here. Utilities,
24 Inc. -- I mean, taking that argument to its logical
25 extreme, they put in no testimony and you can't attest

1 any issue and you have to just give them their rate
2 increase unless you can afford to pay for a special --
3 for a witness or a special expert to come in, which my
4 client can't.

5 So I agree that we have issues identified, but
6 we get to cross-examine. We get to -- this is a hearing
7 where we have every right to cross-examine witnesses and
8 issues like O&M expenses and rate base and prudence of
9 investments. Those are all things they said they did
10 great, and we have a right to explore that and
11 cross-examine and put on the record that it wasn't so
12 great. And by doing so, the revenue requirement goes
13 down and this Commission has lower rates that they
14 order.

15 I mean, that argument, to say that we have to
16 put in evidence before we get to a hearing, just totally
17 flies, flies in the face of due process, Commissioner.

18 **COMMISSIONER BRISÉ:** Okay.

19 **MR. FRIEDMAN:** This is a different issue than
20 what he's talking about. I mean, this issue is an issue
21 that somebody just brought out and said, you know, they
22 consolidated all the companies. Is there cost savings?
23 There's nothing in the minimum requirement -- filing
24 requirements that requires you to put that kind of
25 information together, which is what counsel was talking

1 about, that he's -- everything in the MFRs is fair game,
2 and he's correct. But this is not an issue that's in
3 the MFRs. This is an issue that Public Counsel is
4 seeking to raise afterwards without having any testimony
5 to support it, and you can't cross-examination people --
6 cross-examine people on issues that aren't a part of the
7 direct examination. I mean, that's, that's Pleading
8 101 or Trial Work 101.

9 **MR. ARMSTRONG:** Commissioner, may I address
10 that?

11 **COMMISSIONER BRISÉ:** Sure, please.

12 **MR. ARMSTRONG:** Commissioner, they came into
13 this case and said, "We're consolidating rates. We're
14 consolidating our county records. We're consolidating,
15 we're consolidating." Good utility management, prudent
16 utility management makes those consolidations that there
17 are savings to be achieved. It's their burden to show
18 that it was a prudent decision to do this consolidation.
19 And if so, we have the right to explore what are the
20 savings and what are those savings that should be
21 reflected in lower reduced rates to customers? I think
22 ipso -- I mean, just by the fact they've done this, they
23 have to establish to the Commission that it was prudent
24 to do so and prudent utility management to do so.

25 This is something that me and my client,

1 Summertree Water Alliance, you know, intend to explore
2 on a number of these issues. And to suggest that we
3 cannot pursue those issues through cross-examination, I
4 think, like I said, that would be a horrible violation
5 of our due process rights.

6 **COMMISSIONER BRISÉ:** Thank you.

7 Mr. Rehwinkel?

8 **MR. REHWINKEL:** Yes, Commissioner. I would
9 urge the Commission to proceed very cautiously on this
10 issue. It has some seductive logic that there's no
11 testimony in on it.

12 But I think Mr. Armstrong has put his finger
13 on something that's very important to this Commission.
14 Again, and we'll say it again and again, the burden is
15 on the company to justify the rate increase, the costs
16 that they seek recovery for. Often times there might be
17 mergers that have savings, and if the company is
18 completely silent on those savings and they don't file
19 anything in the MFRs and the MFRs don't specifically ask
20 for them, they can't skate by and not have to stand for
21 discovery on are these costs that you're submitting in
22 your historical-plus pro forma or your projected test
23 year, are those reasonable and should those be the basis
24 for which rates are to be set? And if there's no
25 testimony by the company and the parties cannot

1 cross-examine on that, they are basically insulated and
2 bulletproof and don't have to meet that burden that the
3 Florida Supreme Court says that they have.

4 So we will be judicious in asking questions.
5 If we're not allowed to ask -- if this issue is
6 stricken, we will, we will take under consideration
7 whether we can proffer questions for purposes of
8 judicial review. But I think the Commission should
9 proceed very cautiously on this issue because it's not
10 as clear-cut as there's no testimony in the record or
11 not.

12 **MR. FRIEDMAN:** I would point out that, you
13 know, we're not asking to approve the consolidation.
14 That was done a long time ago. The only consolidation
15 we have here is that there is a -- we're asking for a
16 consolidation of the rates. We're not asking for
17 approval of consolidation. That was approved years ago.

18 The second point is, is that if this were an
19 issue, the Public Counsel could have issued -- they
20 issued discovery as soon as the case was filed. If
21 they -- they knew that, they knew that the utility had
22 been consolidated. They could have asked that discovery
23 early on in the process. They could have had their
24 answers. That would have given them an opportunity to
25 have a witness on the point. But they chose not to do

1 so, and they've got to live with that choice. And this
2 is not an appropriate issue when there's no testimony on
3 it. I don't know -- I don't -- you just can't prove it
4 through cross-examination.

5 **COMMISSIONER BRISÉ:** Thank you.

6 **MS. CRAWFORD:** If I might suggest, perhaps it
7 would be helpful, since Mr. Armstrong has spoken with
8 interest on this issue, for us to receive his position.
9 We'll have the transcript of the parties' arguments, and
10 perhaps you might want to take this one under
11 advisement.

12 **COMMISSIONER BRISÉ:** Yeah, that's what I was
13 about to say. So we will -- I will take this one under
14 advisement.

15 Okay. Moving on to 53, that's another
16 contested issue.

17 **MR. SAYLER:** We're revising our position to
18 say, yes, period, and keep the rest of the position
19 there.

20 **COMMISSIONER BRISÉ:** Okay.

21 **MR. SAYLER:** This is essentially a catch-all
22 issue for the specific O&M adjustments we have teed up
23 earlier. And this is one of those situations where
24 through, either through these depositions that will help
25 us streamline cross at hearing or even through the

1 hearing and the evidence that comes into hearing, there
2 may be some additional O&M adjustments that ought to be
3 made, and that's why we believe it's good to keep in
4 here. And it may end up at the end of the day being a
5 very short issue that the staff analyzes and says
6 there's none, but we don't want to foreclose having that
7 issue because there's a possibility that some O&M
8 adjustments may be made after -- as a result of evidence
9 that comes out at the hearing.

10 **COMMISSIONER BRISÉ:** Okay.

11 **MR. FRIEDMAN:** I don't see why that's not
12 subsumed in the regular O&M expense issue, whichever one
13 that is.

14 **COMMISSIONER BRISÉ:** Okay. We'll go --

15 **MR. TRIERWEILER:** Staff does not oppose --
16 excuse me, Commissioner. Staff does not oppose the
17 inclusion of this issue as a catchall for any matters
18 not encapsulated in the breakout issues for test year or
19 pro forma.

20 **COMMISSIONER BRISÉ:** Sure. So we'll go ahead
21 and keep this issue, keep it live.

22 So now we're going to look at Issues
23 54 through 59.

24 **MR. SAYLER:** Commissioner Brisé, Erik Sayler
25 with Public Counsel.

1 Issue 57, we can change our -- we are looking
2 at changing our position on this issue. And what I will
3 do is confer with my colleagues and get back to you on
4 that as it relates to some new discovery that came in
5 just recently.

6 **COMMISSIONER BRISÉ:** Okay. All right. Any
7 other changes?

8 **MR. SAYLER:** We're going through 59; is that
9 correct?

10 **COMMISSIONER BRISÉ:** Yeah, through 59.

11 **MR. SAYLER:** No other changes for Public
12 Counsel.

13 **COMMISSIONER BRISÉ:** Okay. Thank you.

14 Mr. Friedman, any changes 54 through 59?

15 **MR. FRIEDMAN:** I think I'm good. Thank you.

16 **COMMISSIONER BRISÉ:** Okay. Thank you.

17 All right. 60 is a contested issue.

18 **MR. FRIEDMAN:** I think the issue is
19 encompassed in the, in the rate issue itself. I don't
20 think it needs to, to be a particular issue. I'm -- you
21 know, less is more, and I don't think that -- I think if
22 somebody wants -- if a party wants to argue this issue,
23 that they can do so within the confines of the rate
24 structure issue, which would be 61.

25 **COMMISSIONER BRISÉ:** Okay. I think we'll go

1 ahead and keep this issue.

2 **MS. CRAWFORD:** Commissioner Brisé, if I may.

3 **COMMISSIONER BRISÉ:** Yes.

4 **MS. CRAWFORD:** In that case, I would like to
5 ask maybe for some clarity on OPC's position. You
6 reference that it's an important policy issue and that
7 OPC takes no position on the specific design of the
8 rates and charges; however, they should be designed to
9 allow the utility an opportunity to recover no more than
10 the revenue requirement established by the Commission at
11 the time rates go into effect. That sounds almost like
12 legal truism, so I'm struggling to understand do you
13 have a position? Do you not have a position? Can you
14 give me some help there?

15 **MR. SAYLER:** In light of this issue staying in
16 and it will be addressed by the Commission, we will look
17 at revising our position.

18 **COMMISSIONER BRISÉ:** Well, in that case,
19 you're making me rethink my decision, so --

20 **MR. SAYLER:** I mean, this is a position. This
21 Commission, going back to 2002 when this Commission made
22 a decision regarding Utilities, Inc. as it relates to
23 consolidating their rates intra-county for Pasco,
24 Seminole, Orange, Pinellas, Marion, this Commission put
25 on testimony by Jennie Lingo, who had a lot of testimony

1 as it relates to the subsidy values, as it relates to
2 what is appropriate, what is not. This was also an
3 issue in Aqua about subsidy values. This is an issue
4 that the staff witness in this case, Ms. Daniels, has
5 talked about the subsidy values. And when it comes to
6 knowing about what subsidies a, either a ratepayer will
7 be paying or will be the beneficiary of, I think it is
8 critical that this Commission weigh in and make a
9 decision on it.

10 And I believe -- so when it comes to what that
11 level is, we take no position because we represent the
12 customers who are beneficiaries of the subsidy and those
13 who are going to be non-beneficiaries of that subsidy.
14 So that's why we can't take a more defined position
15 other than to state the obvious in our position as we
16 originally framed it.

17 **MS. CHRISTENSEN:** Yeah. And succinctly
18 stated, we can take a position on a legal argument that
19 this should be done and how it should be done, but we
20 can't take a position on the ultimate numbers.

21 **COMMISSIONER BRISÉ:** Understood.

22 **MR. ARMSTRONG:** Commissioner, if I may, and
23 this is what -- and I appreciate the fact that I do have
24 until the 25th to talk more with my client. You know,
25 this is a very seminal issue obviously. You know, I

1 have some experience with this issue dating back to
2 Florida Water Services back in 1995, I guess it was,
3 when there were some significant issues about
4 consolidating 167 utilities' rates.

5 Like I said, I appreciate the additional time
6 to speak with my client. But I can understand OPC's
7 position. We might have a very thorough position on
8 this one. And the question about subsuming issues
9 within the rate structure issue, I don't see anything
10 here that says past service availability charges and
11 differences in service availability charges that were
12 charged to different systems. And by that, I mean, you
13 know, over time the utility is collecting different
14 amounts of collection charges from all the customers,
15 and that's accumulated in some places to a very
16 significant amount.

17 Now if you consolidate all those rates,
18 somebody who paid \$5,000 to connect is going to get the
19 same rate as somebody who paid 1,000. That's something,
20 again, I need time to develop with my client as to the
21 position because they would temporarily at least benefit
22 from a uniform rate at Summertree. However, over time
23 they would be bound to whatever investments the utility
24 makes elsewhere and pay higher rates based upon those,
25 and they would have no impact since my clients are

1 directly connected to Pasco County for water and
2 wastewater service.

3 So significant issues, I appreciate the time,
4 but I do want to know that -- you know, subsuming this
5 within the rate structure, to me, is okay because then
6 it gives us the latitude to explore all these other
7 issues like service availability charge differences. I
8 don't see that specifically stated, but certainly it's a
9 huge issue when it comes to whether it's prudent to
10 consolidate rate structures for all these systems.

11 **COMMISSIONER BRISÉ:** Okay. So we'll keep
12 60 live.

13 Okay. Let's move to 61 through 70.

14 **MS. CRAWFORD:** If there's no comment from the
15 parties --

16 **MR. FRIEDMAN:** I'm looking at 66. It's
17 miscellaneous service charges. OPC takes no position.
18 Is that something we can stipulate?

19 **MS. CRAWFORD:** We could certainly explore
20 that.

21 **COMMISSIONER BRISÉ:** OPC, 66?

22 **MS. CRAWFORD:** And it would also depend, of
23 course, on Summertree's position.

24 **MR. FRIEDMAN:** Assuming they're a party.

25 **MS. CRAWFORD:** Correct.

1 **COMMISSIONER BRISÉ:** So if I'm understanding
2 properly, 66, OPC takes no position.

3 **MR. SAYLER:** That was our position in the
4 prehearing statement.

5 **COMMISSIONER BRISÉ:** Right.

6 **MR. ARMSTRONG:** And Summertree could
7 stipulate.

8 **COMMISSIONER BRISÉ:** You could stipulate?
9 Okay.

10 **MS. CRAWFORD:** Then if I may just quickly on
11 Issue 67 and 68 regarding the OPC position, it
12 essentially states that the appropriate charge that are
13 discussed in these should be supported with cost
14 justification and should be based on the -- in the
15 second issue, what the Commission determines in the
16 proceeding.

17 **MR. SAYLER:** If I may address.

18 **MS. CRAWFORD:** Thank you.

19 **MR. SAYLER:** For 67, new discovery came in on
20 this issue Tuesday, Wednesday. We are deposing
21 Mr. Deason next Tuesday on this matter, and we can
22 certainly, based upon that information basically from
23 the discovery, try to come up with a different position.
24 Now as far as 68, 69, we would change that to no
25 position on those two issues.

1 **COMMISSIONER BRISÉ:** Okay.

2 **MS. CRAWFORD:** And so for 67, we'll hope to
3 hear from you on the 2nd subsequent to the discovery you
4 might have, the deposition. You might have an
5 opportunity to revise that position.

6 **MR. SAYLER:** Yes.

7 **MS. CRAWFORD:** Thank you.

8 **MR. SAYLER:** And that deadline is May 2nd; is
9 that correct?

10 **MS. CRAWFORD:** That's correct.

11 **COMMISSIONER BRISÉ:** So for 68 and 69, no
12 position?

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

14 **COMMISSIONER BRISÉ:** Okay.

15 **MR. FRIEDMAN:** Does that mean we can
16 potentially stipulate on 69, that the deposits would be
17 established pursuant to the rule, which I think is two
18 times average bill, I think is what it is?

19 **COMMISSIONER BRISÉ:** OPC?

20 **MR. SAYLER:** We're no position, so that's
21 between the staff and the utility.

22 **MR. FRIEDMAN:** Okay. We'd just ask staff to
23 consider that.

24 **COMMISSIONER BRISÉ:** Sure. So that one may be
25 ripe for stipulation, so we'll --

1 **MS. CRAWFORD:** Correct.

2 **COMMISSIONER BRISÉ:** Okay. Okay. Issue 70.
3 Okay. So we're going to go from 71 till 76.

4 **MR. SAYLER:** Mr. Chairman, for 72 and 73,
5 Public Counsel will change to no position.

6 **COMMISSIONER BRISÉ:** You're going to change?

7 **MR. SAYLER:** Yes, sir.

8 **COMMISSIONER BRISÉ:** Okay.

9 **MR. FRIEDMAN:** So, again, we'd ask maybe that
10 the staff consider whether we should -- can stipulate on
11 those. We didn't ask to change any of our service
12 availability charges.

13 **COMMISSIONER BRISÉ:** Okay. So those would be
14 ripe for a stipulation.

15 **MS. CRAWFORD:** Subject to Summertree's
16 position.

17 **COMMISSIONER BRISÉ:** Sure.

18 **MS. CRAWFORD:** If they're allowed to
19 intervene, Mr. Friedman.

20 **MR. FRIEDMAN:** What now?

21 **MS. CRAWFORD:** If they're allowed to
22 intervene.

23 **MR. FRIEDMAN:** Thank you.

24 **COMMISSIONER BRISÉ:** All right. 73, 74, 75,
25 76.

1 **MS. CRAWFORD:** I would just note quickly on
2 Issue 75 there might be a possible stipulation there,
3 just to flag it for the parties.

4 **COMMISSIONER BRISÉ:** Okay. Okay. We're ready
5 to move on?

6 Okay. It seems like we're ready to move on,
7 so moving on to 77, which -- 77. Staff?

8 **MR. TRIERWEILER:** On this one, it looks like
9 OPC and UIF agree that this issue should be moved to the
10 front of the list as a policy issue. Staff's position
11 is that this issue has appeared in prior multisystem
12 dockets to treat future index and pass-through filings.
13 It should remain in the other issues section.

14 **COMMISSIONER BRISÉ:** Okay. Let me hear from
15 the parties.

16 **MR. FRIEDMAN:** I don't care where it is. I
17 mean, I think -- to me, I think it's hard for me to
18 tell, but it looks like to me that we agree with the
19 Public Counsel on how future indexings and pass-throughs
20 should be done.

21 **COMMISSIONER BRISÉ:** Okay. OPC?

22 **MR. SAYLER:** We're ambivalent to where the
23 location is.

24 **COMMISSIONER BRISÉ:** Okay. So if we're all
25 ambivalent, I guess we'll keep it in other issues.

1 **MR. FRIEDMAN:** My question is, the second
2 question is whether -- I don't understand the OPC's
3 position, but it seems to me it could be similar to our
4 position.

5 **MR. SAYLER:** We'll talk with Utilities, Inc.
6 offline.

7 **COMMISSIONER BRISÉ:** Okay.

8 **MR. SAYLER:** And Summertree, if they're
9 allowed to intervene.

10 **COMMISSIONER BRISÉ:** Sure.

11 All right. Let's look at 78 through 82.

12 **MR. TRIERWEILER:** Staff seeks clarification on
13 80 from OPC.

14 **MR. SAYLER:** Can you let us know what
15 clarification you need? This original issue was two
16 separate issues that we agreed to mash into one issue,
17 combining transportation as well as payroll stuff,
18 payroll schedules, and that's why we have a long
19 response. But our position is that, no, they did not
20 properly provide the support to the staff auditors.

21 **MR. TRIERWEILER:** Staff appreciates that. I'd
22 like to direct your attention to the second to last
23 sentence beginning with "If the utility fails."

24 "If the utility fails to provide any requested
25 information, then at a minimum the requested rate relief

1 should be denied." We just seek clarification, you
2 know, for what action you would recommend.

3 **MR. SAYLER:** Well, if they don't meet their
4 burden of proof, isn't it axiomatic that you don't get
5 the requested rate increase, and then the Commission
6 says you didn't meet your burden of proof and it's
7 denied?

8 **MR. TRIERWEILER:** Are you talking about the
9 total or specific to those expenses?

10 **MR. SAYLER:** Related to these expenses. And
11 we can clarify that, if necessary, or if you just
12 understand that's the context of our position. We're
13 not saying because you didn't give the staff auditor
14 some information in this issue towards the back of the
15 issue list that you have to deny the entirety of the
16 rate increase. That is not our intent or even a --
17 yeah, so we will clarify.

18 **MR. FRIEDMAN:** I think, I think there's two
19 different issues that are being confused. One is did we
20 provide information that the auditors wanted, and the
21 second one is have we -- even if we didn't provide that
22 information to the auditors, have we separately proved
23 the pool vehicle and new vehicle equipment expense?
24 Those are two different issues. We could, we could not
25 have given the information to the staff auditors but

1 given it and presented it in this case and we've met our
2 burden of proof.

3 Now if they want to say, "Oh, but you should
4 have given it to the auditors too, and, therefore, you
5 know, some response should be because you didn't give it
6 to the auditors," that's -- I think those are two
7 separate questions.

8 You know, one is whether we complied with the
9 auditor's request, and number two is have we supported
10 that expense through competent, substantial evidence.
11 And just because we didn't give it to the auditors
12 doesn't mean all the sudden you don't get it.

13 **COMMISSIONER BRISÉ:** Okay.

14 **MR. REHWINKEL:** Commissioner, we'll provide
15 our amended position on this. Thank you.

16 **COMMISSIONER BRISÉ:** All right. Thank you.

17 Okay. So I think that takes us through all of
18 the issues. Okay. So with that, we'll move to Section
19 IX, exhibit list.

20 **MR. TRIERWEILER:** Staff would note that it has
21 prepared a Comprehensive Exhibit List which includes all
22 prefiled exhibits and also includes those exhibits staff
23 wishes to include in the record. A copy of the draft
24 Comprehensive Exhibit (sic) was provided to the parties
25 by email Friday, Tuesday, and I forwarded a copy to the

1 Alliance last night and they were provided with an
2 updated hard copy today. Did that make it to you, the
3 updated hard copy?

4 **MR. ARMSTRONG:** Yes. And I really want to
5 thank staff for being so diligent. I think I filed it
6 and within an hour or two I heard from Mr. Trierweiler.
7 So I really do appreciate that.

8 **MR. TRIERWEILER:** You're welcome. Thank you.

9 **COMMISSIONER BRISÉ:** All right. With that --
10 no, go ahead.

11 **MR. TRIERWEILER:** Staff will check with the
12 parties prior to the hearing to determine if there are
13 any objections to the Comprehensive Exhibit List or any
14 of staff's exhibits being entered into the record.
15 Staff requests that the parties review the draft list
16 and be prepared to state whether they can stipulate to
17 our list or will object to the specific exhibits by
18 close of business Tuesday, May 2nd, 2017.

19 **COMMISSIONER BRISÉ:** Okay. Moving on to
20 Section X, approved or proposed stipulations, stipulated
21 issues. I think we'll continue to work on those.

22 **MS. CRAWFORD:** Yes. As we've had some
23 discussion, a number of issues have been flagged for
24 possible stipulation. We'll continue to work on those
25 with the parties.

1 **COMMISSIONER BRISÉ:** Okay. Perfect.

2 Section XI, pending motions.

3 **MR. SAYLER:** Yes, Commissioner. We have our
4 motion here to strike the testimony. I brought a few
5 hard copies I can distribute and also a request for oral
6 argument. So we have two motions, a motion to strike
7 and a motion for oral argument, to append to this
8 section.

9 **COMMISSIONER BRISÉ:** Okay.

10 **MR. SAYLER:** And I have copies -- a few copies
11 that I can distribute to the parties and staff.

12 **COMMISSIONER BRISÉ:** Okay. So if we can have
13 those distributed. Somebody help out.

14 **MS. CRAWFORD:** We can -- if you like, we can
15 distribute them after the prehearing conference. Is it
16 your intention, however, counsel, to have the oral
17 argument today?

18 **MR. SAYLER:** (Indicating negatively.)

19 **MS. CRAWFORD:** Okay. Then we can do that
20 after.

21 **COMMISSIONER BRISÉ:** Okay. Perfect.

22 **MS. CHRISTENSEN:** And just for clarification,
23 Patty Christensen with OPC, on the Comprehensive Exhibit
24 List, I know staff made a request to have our objections
25 by May 2nd, and we will certainly endeavor to do that.

1 But to the extent that this an is ever-changing and
2 growing list, you know, we may need obviously up until
3 the hearing to make some final adjustments. But to the
4 ones we can agree to or such, we will do our best to get
5 it done by May 2nd. Because, as with everything, we'd
6 like to know what's in the record or potentially in the
7 record before we get that far, so we will do our best.

8 **COMMISSIONER BRISÉ:** Okay. Thank you.

9 Okay. I think we were -- are we done with
10 pending motions?

11 **MS. CRAWFORD:** Yeah.

12 **COMMISSIONER BRISÉ:** Yeah?

13 **MR. TRIERWEILER:** Yes.

14 **COMMISSIONER BRISÉ:** All right. So Section
15 XII, pending confidentiality motions.

16 **MR. TRIERWEILER:** There are a number of
17 confidentiality motions that are pending that staff will
18 work to get the orders out prior to the hearing.

19 **COMMISSIONER BRISÉ:** Okay. Mr. Sayler.

20 **MR. SAYLER:** On the third one down on your
21 list, document request No. 00277-17, there was -- in POD
22 No. 5 we requested the general ledgers of the utility,
23 which the utility at the time held to be confidential.
24 I believe they provided those again to staff in
25 discovery the other day without a request for

1 confidential treatment, so it may be a little less work.
2 But we didn't challenge the confidentiality of it. We
3 worked with the utility on the general entries at that
4 time, but we don't think that the general ledgers are
5 necessarily confidential.

6 And then also in part of our request, and this
7 was a potential issue that we could have raised, we
8 asked for a lot of discovery related to 2016 information
9 for updated costs and things of that nature, which the
10 utility refused to give us because they claimed it was
11 outside of the test year, even though the Commission
12 will sometimes base information -- base decisions on the
13 most recent information. We declined to make it an
14 issue to litigate it, paper up this docket.

15 I mean, this is a large docket, very
16 complicated, and we didn't want to press the issue, but
17 just there were a number of discovery responses that
18 related to 2016 information that weren't provided. But
19 we decided to not make it an issue and just wanted to
20 bring that to your attention.

21 **COMMISSIONER BRISÉ:** Thank you.

22 **MR. FRIEDMAN:** And Mr. Sayler is correct, we
23 did withdraw our request for confidentiality on the
24 general ledgers.

25 **COMMISSIONER BRISÉ:** All right. Thank you.

1 **MR. FRIEDMAN:** And I won't address this other
2 issue.

3 **COMMISSIONER BRISÉ:** All right. Okay.
4 Post-hearing procedures.

5 **MR. TRIERWEILER:** Staff suggests post-hearing
6 procedure positions be limited to 75 words offset with
7 asterisks and that the post-hearing briefs be limited to
8 100 pages.

9 **COMMISSIONER BRISÉ:** Okay.

10 **MR. SAYLER:** Yes, we can live with 100 pages.

11 **COMMISSIONER BRISÉ:** All right.

12 **MS. CHRISTENSEN:** We'll make it a really small
13 font.

14 (Laughter.)

15 **COMMISSIONER BRISÉ:** All right. Everyone is
16 comfortable with that? It looks like it. Thank you.

17 All right. Moving on to XIV, rulings.

18 **MR. TRIERWEILER:** To recapture the rulings in
19 this prehearing, we note that staff's DEP witness will
20 be taken no longer than May 10th. Parties who have not
21 taken a position or who wish to change their positions
22 must do so by close of business April 25th.

23 Witness summaries. Witnesses receive five
24 minutes for direct and five minutes for rebuttal.

25 Post-hearing positions and briefs.

1 Post-hearing positions are limited to 75 words and
2 100 words (sic) for post-hearing briefs.

3 **COMMISSIONER BRISÉ:** 100 pages?

4 **MR. TRIERWEILER:** 100 pages. What did I just
5 say?

6 **MR. FRIEDMAN:** You said, "Words."

7 **MR. TRIERWEILER:** Oh, I saw that summer
8 vacation coming. Okay. 100 pages it is. Thank you for
9 the correction.

10 Hearings exhibits. Parties must bring at
11 least 20 copies of all exhibits they wish to introduce
12 at hearing. Parties will review and state with
13 specificity the issues on which they can stipulate to on
14 the Comprehensive Exhibit List by the close of business
15 Tuesday, May 2nd, 2017, with good faith exceptions and
16 extraordinary situation deadline is close of business
17 2nd of May. I'm sorry. Actually this issue was
18 addressed by OPC, and we welcome further stipulations up
19 to and leading to the hearing for these. Any exhibits
20 on the Comprehensive Exhibit List stipulations are
21 always welcome.

22 Any party with a request to offer or use
23 deposition testimony should file a notice of intent to
24 use depositions by close of business May 2nd, 2017. And
25 we note that the intervention of the Alliance will be

1 addressed by separate order.

2 **MS. CRAWFORD:** As well as the motion to
3 strike. In addition, we discussed that opening
4 statements will be five minutes per witness, although
5 don't feel obliged to use the full five minutes, if you
6 don't have to. And then if you cannot take a position
7 because your position is dependent on one of the pending
8 depositions, please be sure to provide your position by
9 May 2nd.

10 **COMMISSIONER BRISÉ:** Okay.

11 **MR. FRIEDMAN:** What was, what was -- this says
12 opening statements shall not exceed how many minutes?

13 **MS. CRAWFORD:** I'm sorry. I may have just
14 been confused. Witness summaries are five minutes. We
15 need to address opening statements by the parties.

16 **COMMISSIONER BRISÉ:** Opening statements.

17 **MR. FRIEDMAN:** I think an hour and a half,
18 I'll be done.

19 (Laughter.)

20 **COMMISSIONER BRISÉ:** What are we doing,
21 between seven to ten minutes?

22 **MR. ARMSTRONG:** Commissioner, if I may.

23 **MR. FRIEDMAN:** I'm not sure I'll even have
24 one.

25 **MR. ARMSTRONG:** If I may, we will have one.

1 And given the -- I mean, this is a huge policy decision
2 about rate structure and uniform rates, and I think it
3 really needs to be explored. And my client coming in
4 late, I understand we take the case as we find it, but I
5 really would request 15 minutes for an opening statement
6 so that we can adequately address an issue that is going
7 to have significant impacts on customers, both positive
8 and negative. So, I mean, it's a huge issue raised by
9 the utility in this docket, and I really think this is
10 the opportunity for us to have that conversation and put
11 our case before the Commission.

12 **MS. CRAWFORD:** Commissioner Brisé, may I?
13 Fifteen minutes is larger than the amount normally
14 allotted. I'd also caution counsel that the opportunity
15 to put a direct chief in case -- or case in chief has
16 already passed, so opening statements would be the
17 summary of the position and not meant as substantive
18 testimony. So with that caution.

19 **MR. ARMSTRONG:** Absolutely, I understand.
20 Thank you. Thank you. I understand that. And our case
21 will be based upon the record as it stands and the
22 Commission prior orders, prior letters. We know how to
23 do that, and that's what will be reflected in opening.
24 But I do ask that latitude. There's only, I guess,
25 three parties -- right? -- ourselves and OPC and the

1 Commission -- I mean, the utility. So I would ask that
2 latitude, Commissioner.

3 **COMMISSIONER BRISÉ:** All right. So we'll meet
4 you halfway. We'll do ten minutes.

5 **MR. ARMSTRONG:** You said seven to ten.
6 Halfway is 12.

7 **COMMISSIONER BRISÉ:** Seven to ten. You asked
8 for 15, so --

9 **MR. ARMSTRONG:** Halfway is 12.

10 **COMMISSIONER BRISÉ:** All right. So we'll do
11 ten.

12 Okay. Other matters.

13 **MR. TRIERWEILER:** Staff would remind all
14 parties that to the extent parties' positions change or
15 are added due to discussion at the prehearing
16 conference, that they provide any such changes to staff
17 by the close of business, which is 5:00 p.m. April 25th,
18 2017, with no exceptions or extensions. This is
19 necessary so that the Prehearing Order can be issued
20 timely.

21 **MS. CRAWFORD:** And for the benefit of our
22 support staff, if we'd be sure to get it in a Word
23 format, that would be most appreciated.

24 **MS. CHRISTENSEN:** Can I ask for some
25 clarification? I know you're requesting our changed

1 position by April 25th, and I know we've left some
2 issues open till the 2nd due to pending depositions. Do
3 you want us to indicate in the April 25th submission to
4 staff whether or not we need additional time to the 2nd,
5 and that way we all know which issues are still
6 remaining open?

7 **MS. CRAWFORD:** That would be exactly right.
8 Thank you.

9 **COMMISSIONER BRISÉ:** Okay. All right. Are
10 there any other matters that need to be addressed at
11 this time? If there are none, we hope that the parties
12 continue to work with each other, that we've addressed
13 some areas that we have some common ground on, and
14 hopefully between now and the hearing we'll find more
15 areas of common ground and continue to serve the people
16 that we all serve together.

17 So with that, thank you, and we stand
18 adjourned.

19 (Proceeding adjourned at 10:59 a.m.)
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23
24
25

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

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

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

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

18 DATED THIS 24th day of April, 2017.

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23
24
25


LINDA BOLES, CRR, RPR
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Office of Commission Clerk
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