

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20160251-EI

PETITION FOR LIMITED
PROCEEDING FOR RECOVERY OF
INCREMENTAL STORM
RESTORATION COSTS RELATED
TO HURRICANE MATTHEW BY
FLORIDA POWER & LIGHT
COMPANY.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: JULIE I. BROWN
PREHEARING OFFICER

DATE: Monday, May 7, 2018

TIME: Commenced: 1:30 p.m.
Concluded: 2:23 p.m.

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

REPORTED BY: ANDREA KOMARIDIS
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 KEN RUBIN, JOHN T. BUTLER, KEVIN I.C.
3 DONALDSON, ESQUIRES, 700 Universe Boulevard, Juno Beach,
4 Florida 33408-0420, on behalf of Florida Power & Light
5 Company;

6 J.R. KELLY, PUBLIC COUNSEL; and PATRICIA A.
7 CHRISTENSEN, ESQUIRE, Office of Public Counsel, c/o the
8 Florida Legislature, 111 W. Madison Street, Room 812,
9 Tallahassee, Florida 32399-1400, appearing on behalf of
10 the Citizens of the State of Florida;

11 JON C. MOYLE, and KAREN A. PUTNEL, ESQUIRES,
12 Moyle Law Firm, P.A., 118 North Gadsden Street,
13 Tallahassee, Florida 32301, appearing on behalf of
14 Florida Industrial Power Users Group;

15 ROBERT SCHEFFEL WRIGHT and JOHN T. LaVIA, III,
16 ESQUIRES, Gardner Law Firm, 1300 Thomaswood Drive,
17 Tallahassee, Florida 32308, appearing on behalf of the
18 Florida Retail Federation;

19 SUZANNE BROWNLESS, ESQUIRE, FPSC General
20 Counsel's Office, 2540 Shumard Oak Boulevard,
21 Tallahassee, Florida 32399-0850, appearing on behalf of
22 the Florida Public Service Commission Staff;

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24

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1 APPEARANCES (Continued):

2 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
3 HELTON, DEPUTY GENERAL COUNSEL; Florida Public Service
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
5 Florida 32399-0850, Advisor to the Florida Public
6 Service Commission.

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

2 COMMISSIONER BROWN: Good afternoon, everyone.

3 AUDIENCE: Good afternoon.

4 COMMISSIONER BROWN: Thank you.

5 Today, we are covering the Hurricane Matthew
6 pre-hearing. And at this time, I would like to
7 call the pre-hearing to order. Staff, will you
8 please read the notice.

9 MS. BROWNLESS: Thank you. By notice issued
10 on April 23, 2018, this time and place has been set
11 for a pre-hearing conference in Docket
12 No. 20160251-EI. The purpose of the pre-hearing is
13 set out more fully in the notice.

14 COMMISSIONER BROWN: Thank you, Ms. Brownless.
15 And we will take appearances now, starting
16 with Florida Power & Light.

17 MR. RUBIN: Thank you, Commissioner Brown.
18 Ken Rubin and Kevin Donaldson for FPL. And I would
19 like to note that John Butler will also be
20 appearing at the hearing for FPL.

21 COMMISSIONER BROWN: Thank you.

22 And FIPUG.

23 MR. MOYLE: Thank you, Madam Chairman. Jon
24 Moyle with the Moyle Law Firm on behalf of the
25 Florida Industrial Power Users Group. And I would

1 also like to enter an appearance for Karen Putnal
2 with the firm.

3 COMMISSIONER BROWN: Thank you.
4 Florida Retail Federation.

5 MR. WRIGHT: Robert Scheffel Wright on behalf
6 of the Florida Retail Federation. And I would also
7 like to enter an appearance for my law partner,
8 John T. Lavia, III.

9 COMMISSIONER BROWN: Thank you.
10 Office of Public Counsel.

11 MS. CHRISTENSEN: Good afternoon. Patti
12 Christensen with the Office of Public Counsel. And
13 I would also like to put in an appearance for J.R.
14 Kelly, the Public Counsel. Thank you.

15 COMMISSIONER BROWN: Thank you.
16 Commission staff.

17 MS. BROWNLESS: Suzanne Brownless on behalf of
18 Commission staff.

19 MS. HELTON: Mary Anne Helton, here as your
20 advisor. I would also like to make an appearance
21 for Keith Hetrick, your general counsel.

22 COMMISSIONER BROWN: Thank you.

23 Now, moving along, are there any preliminary
24 matters, staff, that we need to address?

25 MS. BROWNLESS: None at this time.

1 COMMISSIONER BROWN: Do any of the parties
2 have any preliminary matters?

3 MR. WRIGHT: No, ma'am.

4 MR. RUEBEN: No.

5 COMMISSIONER BROWN: Public Counsel?

6 MS. CHRISTENSEN: No.

7 COMMISSIONER BROWN: No? All right. Thank
8 you.

9 Well, we're going to go ahead and go through
10 the draft pre-hearing order. And I'll identify
11 sections. And if the parties could let me know if
12 there are any corrections or changes that need to
13 be made, please speak up.

14 And we'll start with Section 1, the case
15 background. Any changes or corrections?

16 Seeing none, we'll go to Section 2, the
17 conduct of proceedings. Any changes, corrections?

18 Moving on to Section 3, the jurisdiction. Any
19 changes?

20 Seeing none, we're going to Section 4, the
21 procedure for handling confidential information.

22 MS. BROWNLESS: Yes, ma'am, at this time, we
23 would like to remind everyone that if you intend to
24 use confidential material at the hearing, please
25 have copies for Commissioners, necessary staff, and

1 the court reporter, in red envelopes clearly marked
2 with the nature of the contents.

3 Any party wishing to examine the confidential
4 material that is not subject to an order granting
5 confidentiality shall be provided copy in the same
6 fashion as provided to the Commissioners, subject
7 to execution of any appropriate protective
8 agreement with the owner of the material.

9 COMMISSIONER BROWN: Thank you.

10 All right. We'll move to Section 5, now,
11 prefiled testimony and exhibits and witnesses.

12 Staff.

13 MS. BROWNLESS: We would like to call your
14 attention to the fact that the draft pre-hearing
15 order states that witness summaries are limited to
16 five minutes.

17 COMMISSIONER BROWN: Okay. And moving on to
18 Section 6, the order of witnesses. Are there any
19 witnesses that can be stipulated? Florida Power &
20 Light.

21 MR. RUEBEN: Commissioner Brown, I have
22 suggested to all Counsel, two witnesses, from FPL's
23 perspective, Mr. DeVarona and Ms. Cohen, that we
24 feel they could likely be stipulated. I've spoken
25 to Public Counsel, who has indicated that they will

1 take a look at that. I haven't heard back yet from
2 other counsel.

3 COMMISSIONER BROWN: Okay. Public Counsel,
4 have you had an opportunity?

5 MS. CHRISTENSEN: What I indicated, Madam
6 Commissioner, is that we would endeavor to get a
7 response to FPL whether or not we had any questions
8 for these witnesses, not by -- well, by the Friday
9 before the hearing started, so that, if they were
10 to be excused or could be excused by the
11 Commission, that they would have time to cancel
12 travel plans.

13 COMMISSIONER BROWN: Okay, by Friday the 18th.

14 MS. CHRISTENSEN: I believe that's the day,
15 but since I don't have a calendar in front of me, I
16 think -- I think that sounds correct.

17 MS. BROWNLESS: I don't have a calendar
18 either.

19 COMMISSIONER BROWN: I've got one. I think
20 that's the date, but we'll -- we'll make sure --

21 MS. BROWNLESS: You believe it's the 18th,
22 Your Honor?

23 COMMISSIONER BROWN: Thank you.

24 Okay. Now, staff, are there any other
25 witnesses that can be stipulated?

1 MS. BROWNLESS: We would also like to make
2 inquiry as to whether our audit witness, Donna
3 Brown, may be excused and her testimony and
4 exhibits admitted into the record.

5 COMMISSIONER BROWN: All right. Public
6 Counsel?

7 MS. CHRISTENSEN: I can definitively say that
8 would be a no. In fact, I've inquired as to dates
9 and availability for deposition, so -- I will put
10 that on -- firmly on the record at this time.

11 COMMISSIONER BROWN: Okay. Staff?

12 MS. BROWNLESS: Thank you. And can we go back
13 to Mr. DeVarona and Ms. Cohen? Other than Office
14 of Public Counsel, do any of the other parties have
15 any objection to stipulating them?

16 COMMISSIONER BROWN: Retail Federation?

17 MR. WRIGHT: I haven't completed reviewing
18 their testimony to be able to say whether I want to
19 cross them or not.

20 COMMISSIONER BROWN: Okay.

21 MR. WRIGHT: I will -- no -- no later than
22 OPC's response, probably sooner.

23 COMMISSIONER BROWN: All right.

24 FIPUG?

25 MR. MOYLE: We -- we would similarly just be

1 asked to have the same latitude that OPC -- the
2 Friday before the hearing, we'll -- we'll let --
3 let Counsel know.

4 COMMISSIONER BROWN: Okay.

5 MS. BROWNLESS: Thank you. And I think that
6 squares us up for --

7 COMMISSIONER BROWN: The order --

8 MS. BROWNLESS: -- potential witnesses.

9 COMMISSIONER BROWN: Okay. All right. We're
10 moving on, then, to Section 7, the basic positions.
11 Do any of the parties have any changes to their
12 basic positions?

13 OPC?

14 MS. CHRISTENSEN: Yes, the Office of Public
15 Counsel has a change to the basic position in the
16 first paragraph, which we can submit to Counsel. I
17 mean, I can read what our change will likely be, or
18 I can just submit that in writing.

19 COMMISSIONER BROWN: You could do it in
20 writing by close of business on May 9th.

21 MS. CHRISTENSEN: Okay. I will do that.
22 Thank you.

23 COMMISSIONER BROWN: All right. And applies
24 to all of the parties, here. If there are changes
25 to basic positions, they must be due by the close

1 of business May 9th.

2 Okay. So, we're going to move on to
3 Section 8, the issues and positions. Do the
4 parties have any changes to any of the positions,
5 going through Issues 1 through 11?

6 MR. RUBIN: Commissioner Brown, Ken Rubin for
7 FPL. I have -- I have something to point out on
8 Issue 6. It's actually -- in an effort to make
9 sure that, under the OEP, that we don't -- we're
10 not considered to have waived this argument -- in
11 Issue 6, OPC has introduced an entirely new
12 position that does not conform to the evidence and,
13 in fact, is -- is not based on any prefiled
14 testimony.

15 It, in fact, is directly contradicted by the
16 evidence of their sole witness and introduces a new
17 proposed disallowance, which never appeared before
18 we received their pre-hearing statement.

19 Issue 6 -- and if I can go to that issue --

20 COMMISSIONER BROWN: Uh-huh.

21 MR. RUBIN: Issue 6 asks whether the standby
22 and mobilization or demobilization costs that are
23 included in FPL's storm recovery are appropriate;
24 if not, what adjustments, if any, should be made.

25 And for the very first time, we are seeing

1 that the OPC says that the Commission should make
2 an adjustment to disallow 10 percent of the OPC's
3 recommended retail costs, which adds another
4 \$13.704 million to the recommended disallowance.

5 The testimony that was filed -- the only
6 testimony that was filed by OPC, by Witness
7 Schultz, in fact, asks the very specific question:
8 Are you recommending a disallowance of cost for
9 excessive standby and/or mobilization/
10 demobilization. And his answer is: I am not
11 making a specific recommendation at this time.

12 He goes on to say that the Commission has
13 authority to make an adjustment, but this
14 recommended disallowance of 10 percent or -- is the
15 first time that we're seeing it. We didn't have
16 any opportunity in rebuttal to address it. It --
17 it negatively impacts our due-process rights to
18 address that.

19 COMMISSIONER BROWN: So, it sounds to me that
20 this is a contested issue.

21 MR. RUBIN: It --

22 COMMISSIONER BROWN: Although it looks like
23 you took a position on the issue, is Florida
24 Power & Light contesting this issue?

25 MR. RUBIN: It's not that we're contesting the

1 issue; we're contesting the fact that, after all of
2 the testimony was filed, including our rebuttal
3 testimony, OPC has introduced, without any -- any
4 prefiled testimony or exhibits to support it, a
5 recommended disallowance of ten -- of 10 percent.

6 Where it comes from, we have no idea. There
7 is nothing to support it in the evidence that's
8 been submitted to this point. So, we would ask
9 that the -- that the Commission require that the
10 position of OPC be restated to conform to the
11 evidence.

12 Again, I just want to make sure that it's not
13 waived, pursuant to the OEP. We would respectfully
14 ask that that particular statement be stricken;
15 absent that, that we have the right to contest it
16 as we move forward in the hearing.

17 COMMISSIONER BROWN: OPC.

18 MS. CHRISTENSEN: Yes, and I think he
19 correctly stated, we did recommend that a
20 disallowance be -- or could be made by the
21 Commission. And in an effort to provide a position
22 on what that disallowance could be, we are taking,
23 as the Office of Public Counsel, a 10-percent
24 disallowance.

25 I don't know that there's anything in the

1 rules that says that has to be specifically stated
2 in prefiled testimony. In fact, until that is
3 admitted into evidence, once the hearing is open,
4 all of this is prefiled and preliminary. And
5 certainly, once it's admitted into evidence, the
6 company has the right to question the witness about
7 that 10-percent adjustment at the hearing. And we
8 certainly believe that would be a fair line of
9 inquiry.

10 But I think it is inappropriate to request
11 that a position of one of the parties be stricken.
12 And also, I think it's incorrect to say that
13 there's no factual basis in the prefiled testimony
14 to support that an adjustment should be made.

15 I think their issue is that they were not
16 informed of what the amount of the adjustment would
17 be, which would certainly be the case if the
18 Commission were to make an adjustment on its own.
19 They wouldn't have any preknowledge of that.

20 So, I -- I think it's inappropriate at this
21 time to strike any portion of OPC's position
22 because it's a position.

23 COMMISSIONER BROWN: So, did Mr. Schultz, in
24 the prefiled testimony, recommend to make an
25 adjustment?

1 MS. CHRISTENSEN: He -- what he said is he,
2 personally, as a -- as the witness, was not going
3 to recommend a dollar amount at that time, but he
4 did say that if the Commission had sufficient
5 information to provide a disallowance or to do
6 it -- make a disallowance on its own accord and, in
7 the spirit of making a -- or taking a position on
8 what the Commission's disallowance should be, the
9 Office of Public Counsel has adopted a 10-percent
10 disallowance.

11 It's a position. And I think there was
12 testimony to set up an adjustment that was provided
13 in prefiled testimony. And if the company has a
14 position that no disallowance should be made, they
15 can bring that up and we can have that discussion
16 or those questions at the hearing, which I think is
17 the appropriate time to ferret out whether or not
18 the 10-percent adjustment is warranted or not.

19 COMMISSIONER BROWN: Thank you,
20 Ms. Christensen.

21 Do any of the parties --

22 MR. MOYLE: (Indicating.)

23 COMMISSIONER BROWN: FIPUG.

24 MR. MOYLE: We would support the position
25 of -- of the Office of Public Counsel. You know,

1 no evidence has been adduced. There is cross-
2 examination that will be coming, where evidence
3 will come in through cross-examination. And it
4 seems that -- that, in these pre-hearing statements
5 and pre-hearing orders is when the parties are able
6 to say, here is what we think.

7 And while that is something that probably gets
8 ferreted out at the hearing, based on the evidence,
9 whether the Commission says, we think a 10-percent
10 or a 20-percent or a 5-percent adjustment is
11 warranted, it will be based on -- on forthcoming
12 evidence.

13 I mean, it seems -- strikes me a little bit,
14 listening to what FPL is trying to do, is it's
15 almost akin, in an administrative contest, to like
16 a -- in civil, it would be a partial motion for
17 summary judgment. It's -- I think it's called
18 partial summary order in the administrative
19 process.

20 But to say, based on all these depositions and
21 things and -- it's not there, but it sounds like
22 OPC has a witness, as a matter of policy, who's
23 suggesting that there might be an appropriate
24 adjustment.

25 While the witness may not have said

1 10 percent, I think it's fairly put in play and FPL
2 is on notice of it and it should be an issue that's
3 live for determination for the Commission.

4 It also seems to tie a little bit -- and I
5 don't want to get ahead of ourselves -- but into
6 the disputed issue, with respect to costs for --
7 for mobilization and things like that. So, I
8 would -- I would encourage the -- you, as the
9 pre-hearing officer, to allow it to remain in as a
10 live issue -- or a live position.

11 COMMISSIONER BROWN: Okay. Retail Federation,
12 any --

13 MR. WRIGHT: Thank -- thank you, Commissioner.
14 Very briefly: One, this is not a contested issue;
15 two, Mr. Schultz identifies and describes
16 deficiencies in the company's efforts to justify
17 its costs. He stops short of recommending a
18 specific dollar adjustment, but he suggested an
19 adjustment should be made.

20 All that OPC has done is say, we think this is
21 an appropriate amount for this adjustment. The
22 motion to strike or the suggestion to strike a
23 party's position statement, I think, is just not --
24 not appropriate at all. And this is something that
25 can be briefed.

1 FPL can say, no, no adjustment is needed; we
2 justified everything. OPC and the intervenor
3 parties can argue in their briefs that -- that they
4 didn't justify anything and that an adjustment is
5 appropriate. I think it's that simple.

6 Thank you.

7 COMMISSIONER BROWN: Mr. Rubin?

8 MR. RUBIN: Just three quick points. First,
9 we should have had the opportunity to respond to
10 this 10-percent recommended disallowance in our
11 rebuttal. We -- we were denied that opportunity;
12 two, the witness has specifically said he is not
13 recommending a specific adjustment. And on the
14 issue, itself, Public Counsel indicates that
15 Mr. Schultz is the one who will support that.

16 And third, at the conclusion of Mr. Schultz's
17 testimony, he asked -- he was asked the question to
18 summarize his recommended adjustments, and he went
19 through the very specific recommended adjustments
20 that he has concluded are appropriate, from his
21 perspective. Nowhere to be found is the 10 percent
22 or \$13.704 million.

23 So, with that, that's all I have.

24 COMMISSIONER BROWN: Thank you.

25 All right. Ms. Brownless and/or Ms. Helton.

1 MS. BROWNLESS: May I go?

2 MS. HELTON: Uh-huh.

3 MS. BROWNLESS: Well, a couple of thoughts.
4 First of all, with regard to prefiled testimony,
5 the point of prefiled testimony is to stand in lieu
6 of what one would normally do where you put a
7 witness on the stand and they're cross-examined.

8 And the way the Commission has always treated
9 prefiled testimony is we've been very careful to
10 limit people, when we get to the actual hearing, to
11 the testimony presented and to the scope of
12 testimony presented in their prefiled testimony,
13 for the reasons which Mr. Rubin points out, which
14 is, the idea is to prefile testimony so everybody
15 has the benefit of knowing what's happening ahead
16 of time.

17 It's obviously very clear that Mr. Schultz did
18 say that he thought an adjustment should be made,
19 but it's also clear that he did not make any
20 particular suggestion of what that adjustment
21 should be.

22 So, I guess, while I understand OPC's argument
23 that an adjustment -- that recommendation of an
24 adjustment is not a surprise, I also appreciate
25 FP&L's position that there is quite a lot of

1 difference in testimony that says an adjustment
2 should be made and testimony that says "X"
3 adjustment should be made in terms of testing the
4 validity of that assumption.

5 So, I guess I would tend to think that having
6 a specific dollar amount at this time is
7 inappropriate because, what I'm concerned about is,
8 if you allow Mr. Schultz to get on the stand and
9 to, for the first time, talk about, here's the
10 10 percent and here is how I got it, this is what
11 happened, then FP&L, of course, has the opportunity
12 to cross-examine.

13 And I think, maybe even it would be
14 appropriate to have late-filed exhibits. And those
15 are the kinds of things that we have tried very
16 diligently not to do here lately.

17 So, my inclination is to disallow the specific
18 dollar amount.

19 COMMISSIONER BROWN: All right. Mary Anne,
20 anything you would like to add to that?

21 MS. HELTON: May I have -- sorry. May I have
22 three minutes to confer with my boss?

23 COMMISSIONER BROWN: Let's take a five-minute
24 recess. We will re- -- get back on the record at
25 1:55. Thank you.

1 (Brief recess.)

2 COMMISSIONER BROWN: So, we're a little early,
3 but everybody is here. So, we'll reconvene the
4 hearing.

5 I've had time to reflect on the arguments that
6 were presented before us. If staff -- does --
7 legal, do you have anything else to add before I
8 render my ruling?

9 MS. HELTON: Only if you want to hear from me,
10 but if you're ready to render your ruling, then --

11 MS. CHRISTENSEN: Can I -- can I briefly
12 address the Commission? I may have a compromise.

13 COMMISSIONER BROWN: Okay.

14 MS. CHRISTENSEN: If -- if the issue is that
15 the company feels that identifying a specific
16 dollar-amount adjustment is the problem and we need
17 to wait until the evidence is adduced at hearing,
18 then, we would move to modify our position that the
19 Commission should make an adjustment to disallow a
20 portion of the mobilization, demobilization, and
21 standby time. And that would be consistent with
22 Mr. Schultz's testimony.

23 And we will just, then, have to put a
24 dollar -- an amount based on whatever we get
25 through cross-examination.

1 COMMISSIONER BROWN: Mr. Rubin?

2 MR. RUBIN: Makes perfect sense. Thank you.

3 MS. BROWNLESS: Could you re- --

4 COMMISSIONER BROWN: And I was going to say
5 that is the party's position, after all. So, I --
6 I was going to allow it, since it is your position,
7 and Florida Power & Light will be given an
8 opportunity to cross-examine the witness during the
9 live hearing, but if you would like to modify it,
10 then you are more than able to do so. It's up to
11 you, Public Counsel.

12 MS. CHRISTENSEN: Well, I think, in the
13 interest of fairness, it would be fair to let them
14 know what the dollar amount is we're looking to
15 adjust, and we would keep our original position,
16 but --

17 COMMISSIONER BROWN: That -- all right. Well,
18 then, we're going to ahead and do that. And
19 Florida Power & Light --

20 MS. CHRISTENSEN: All right.

21 COMMISSIONER BROWN: -- will be given an
22 opportunity to cross-examine the witness, Schultz,
23 to flesh out the record during the live hearing.

24 MR. RUBIN: I just want to make it -- make --
25 make it clear that this really shouldn't be a

1 subterfuge to get new testimony in. We may choose
2 not to cross-examine on that point. I just want to
3 make -- make that clear.

4 COMMISSIONER BROWN: Public Counsel.

5 MS. CHRISTENSEN: I think, in -- in this case,
6 we will probably be conducting cross-examination of
7 their witnesses.

8 COMMISSIONER BROWN: Right.

9 MS. CHRISTENSEN: So, you know, we -- we
10 realize that we will need to also put in the
11 information as well.

12 COMMISSIONER BROWN: Okay. Again, just want
13 to reflect that this is the party's position here
14 and we're going to go ahead and allow it as is.

15 I do want to point out on another issue,
16 Issue 9, on which OPC takes no position -- is that
17 going -- are you -- are you taking a position,
18 first of all?

19 MS. CHRISTENSEN: We -- we are taking no
20 position as to the amount that was collected
21 through the surcharge. We believe that should be
22 probably some sort of a mathematical calculation
23 and really, hopefully, not subject to dispute as to
24 how much they collected.

25 COMMISSIONER BROWN: Okay.

1 MS. BROWNLESS: So -- and I'm a bit confused
2 about that, Patti. So, are you --

3 COMMISSIONER BROWN: Could you speak up,
4 Suzanne, please, just for the record?

5 MS. BROWNLESS: I'm a bit confused about what
6 you're saying with regard to Issue 9. Are you
7 going to take no position today?

8 MS. CHRISTENSEN: Yes, we're taking no
9 position because we don't believe it really should
10 be a disputed issue as to how much they collected.
11 It should be just a calculation of how much they
12 collected and how -- over that year period. So, we
13 have taken no position.

14 MS. BROWNLESS: Okay. And with the
15 Commissioner's indulgence, with regard to Issue
16 No. 6, you're going to keep your position as it's
17 stated; is that correct?

18 COMMISSIONER BROWN: She -- Ms. Christensen,
19 she's going back to Issue 6.

20 MS. CHRISTENSEN: Oh, I'm sorry. Yes? I'm
21 sorry.

22 MS. BROWNLESS: Okay. With regard to Issue
23 No. 6, you're going to keep your issue as stated;
24 is that correct?

25 MS. CHRISTENSEN: That is correct.

1 MS. BROWNLESS: Okay. And I -- and this is
2 for my benefit, Ms. Christensen. So, at trial,
3 Mr. Schultz will not be offering testimony as to
4 the calculation of the 10-percent on direct; is
5 that correct?

6 MS. CHRISTENSEN: He will be testifying to
7 what is in his testimony regarding that the
8 Commission should allow some disallowance. And
9 development of the amount will be through cross-
10 examination.

11 MS. BROWNLESS: Thank you.

12 COMMISSIONER BROWN: All right. Now, we just
13 jumped around a little bit. We were on Issue 9.
14 And I saw, Mr. Wright, you were getting ready to --

15 MR. WRIGHT: (Shaking head negatively.)

16 COMMISSIONER BROWN: All right.

17 Do any of the parties have any changes that
18 they would like to make to their issues, 1 through
19 11, before we get to the contested issue?

20 MR. MOYLE: Do we have until May 9th to
21 make -- to make changes, is that right, on --

22 COMMISSIONER BROWN: Yes, close of business on
23 May 9th.

24 MR. MOYLE: So, to the extent we want to
25 change an issue, we can until close of business.

1 COMMISSIONER BROWN: Absolutely. I plan on
2 having the pre-hearing order issued by the end of
3 the week.

4 MR. MOYLE: Okay.

5 COMMISSIONER BROWN: All right. So, seeing no
6 other changes right now from Issues 1 through 11,
7 let's get to the contested issue.

8 Staff, you want to tee that off for us?

9 MS. BROWNLESS: Yes, ma'am. OPC has proposed
10 Issue No. A, to which Florida Power & Light
11 objects. And the issue is should FPL be required
12 to separately track and account for costs
13 associated with standby time, mobilization, and
14 demobilization work.

15 So, we need to hear from the parties.

16 COMMISSIONER BROWN: All right. Let's hear
17 from Office of Public Counsel.

18 MS. CHRISTENSEN: We obviously have presented
19 testimony on this issue. We believe that the
20 information on what is mobilization,
21 demobilization, and standby time is actually
22 available to FPL through the invoices and the
23 information that they already collect from their
24 vendors. And what we're asking for is that that be
25 put into some sort of a usable summary that we can

1 look at when we're looking at hurricane costs.

2 So, we're not asking them necessarily to
3 collect information that would not be available or
4 should not be readily available, and we do think
5 that it is an important issue because, one of the
6 things that -- from our understanding is that,
7 under contract, the vendors are allowed certain
8 amount of mobilization/demobilization time, and
9 unless you track it and know how much they are
10 actually spending, you can't identify whether or
11 not they're complying with the contract.

12 So, there is that issue that we think is not
13 being able to be addressed if you don't follow
14 the -- if you don't actually present that
15 information in a time -- in a format that's usable
16 for the Commission and for parties.

17 We do think it is possible that, with some
18 slight rewording, you could probably subsume it
19 into --

20 COMMISSIONER BROWN: Issue 6.

21 MS. CHRISTENSEN: -- Issue 6. You know, we
22 would have to adjust the wording to not only what
23 adjustments, but we would have to say something
24 akin to what adjustments and other measures, if
25 any, should be made, but you --

1 COMMISSIONER BROWN: Under -- under Issue 6,
2 you're saying.

3 MS. CHRISTENSEN: Under six, correct.

4 COMMISSIONER BROWN: You would write, if not,
5 what adjustments, if any, should be made and --
6 what would you include in there?

7 MS. CHRISTENSEN: Well, I would suggest, then,
8 if we were going to combine the issues, that it
9 would be: If not, what adjustments and other
10 measures should be taken, if any.

11 COMMISSIONER BROWN: All right. FPL.

12 MS. CHRISTENSEN: And --

13 COMMISSIONER BROWN: Are -- I'm sorry,
14 Ms. Christensen, are you -- are you done?

15 MS. CHRISTENSEN: Yes, and I'm -- it doesn't
16 have to necessarily be that wording, but I think we
17 could combine the issues to address the additional
18 requirements that OPC is asking for.

19 COMMISSIONER BROWN: FPL?

20 MR. DONALDSON: Yes, thank you, Madam Chair.
21 FPL believes that this subsuming or even having
22 this issue is inappropriate for this particular
23 docket and the reasons are, for one, they are
24 asking for a prospective requirement, right?

25 So, it's not a prudence review of the costs

1 that were incurred or the reasonableness of the
2 costs that were incurred in the Hurricane Matthew
3 docket. They're asking this Commission to now set
4 forth guidelines for how you go about tracking
5 mobilization, demobilization, and standby costs.

6 The question is going to be: What are
7 mobilization, demobilization, and standby costs.
8 That is something that's going to apply to every
9 utility that is around. And every utility may
10 track those things differently.

11 For one, they are also asking, if you look at
12 their Issue 6, to track the hours; not only the
13 costs, but also the hours. So, you're -- you're
14 looking at things that you're going to be asking
15 FPL -- specifically only FPL -- to be doing in the
16 future. And we think that that's, you know,
17 effectively a rulemaking or, you know, general type
18 of workshop type of requirement that you're
19 imposing solely on FPL. So, we feel it's very
20 inappropriate. It's not even something that you
21 should be doing or subsumed within the Issue No. 6
22 that OPC is recommending.

23 Secondly, you know, we're not able to comment
24 on -- on this particular type of requirement. So,
25 you're asking -- they're going to be asking us --

1 there's no testimony that FPL has put in on the
2 case and there's no testimony specifically that
3 OPC's witness has specifically said on how you go
4 about doing this; what are the requirements that
5 are going to be entailed; what is the accounting
6 that you're going to have to do for it; what's the
7 cost to the cust- -- to the FPL customers or any
8 utility's customers that it's going to incur in
9 trying to track all these different types of costs.
10 So, there's a host of other reasons why this is
11 just inappropriate for this docket.

12 Certainly, if they want to bring it up in the
13 generic docket -- and I know that, for instance --
14 and you were here earlier, last -- last week that
15 FIPUG was mentioning tracking of tree-trimming
16 costs or -- or things of that nature, and they were
17 recommending doing some type of workshop or
18 rulemaking to specifically get the utilities to
19 track those types of things.

20 That's something that you do in a generic
21 docket. That's not something that you do in a
22 cost-recovery prudence review for the costs that
23 have already been incurred.

24 So, we feel that it's very inappropriate to
25 try and bootstrap a requirement for all the

1 utilities to do. There's nothing in the orders
2 that require that, the 04 orders, and there's
3 nothing in the rule that requires us to
4 specifically identify and break out these
5 contractor mob-, demob-, and standby costs.

6 So, those are the reasons why we feel that
7 it's clearly inappropriate for -- for it to be
8 included as an issue.

9 COMMISSIONER BROWN: Okay.

10 Yes, FIPUG.

11 MR. MOYLE: So -- so, we, took the position --
12 of yes, with respect to the -- to the question as
13 to whether FPL should be required to track and
14 account for costs associated with standby time,
15 mobilization, and demobilization work.

16 And -- and respectfully, to my -- my
17 colleague, we think it is appropriate to -- to have
18 an issue like this considered because you all are
19 taking a look at these hurricane costs. Thankfully
20 hurricanes don't come around like a clause hearing
21 every year. And so, we don't know how often they
22 do arrive.

23 And to the extent issues like this bubble up,
24 you know, there's good case law supporting the
25 notion that -- that you have the ability to make

1 incipient policy. The old McDonald case from law
2 school that -- that agencies deal with facts at
3 hand and, when they become sufficiently developed,
4 then they can opt to go to rulemaking, but they
5 don't have to.

6 And all of the arguments that -- that my -- my
7 colleague from FPL just made saying, oh, this is
8 not something that should be done, we have to go to
9 rulemaking, we have to do a workshop on this -- I
10 didn't hear those arguments being made a couple of
11 years ago when we were -- we were discussing
12 whether -- whether recovery for gas should be
13 taking place for product -- for gas wells in
14 Oklahoma and other places. I mean, that was the
15 Woodford case.

16 And if you remember, they had --

17 COMMISSIONER BROWN: I do remember that --

18 MR. MOYLE: They had --

19 COMMISSIONER BROWN: -- but that's not what
20 this docket is.

21 MR. MOYLE: I know. But the point is: They
22 had guidelines. They had guidelines. They had all
23 this stuff that they were asking you, in a very
24 similar way, in a docketed issue with disputed
25 facts, to say, please, make this policy.

1 And so, it doesn't seem that they can, in
2 the -- in that case, say, please make this policy,
3 but here, today, say, no, this is not appropriate
4 for policy-making.

5 I mean, it has to -- it should be consistent
6 with respect to the role that the Commission plays,
7 irrespective of the substantive issue, whether
8 it's -- whether it's gas, whether it's tracking of
9 these -- of these costs. And respectfully, we
10 think that it's -- it's something that was in the
11 purview of the Commission to look at and make a
12 call on.

13 COMMISSIONER BROWN: Thank you.

14 Mr. Wright.

15 MR. WRIGHT: Very briefly. And thank you,
16 Commissioner.

17 This is -- an interesting question, but I
18 think, in this case, you're well within the
19 jurisprudence of incipient rulemaking to deal with
20 it in this case. And there is evidence in this
21 case that our side, the intervenors' side, contests
22 FPL's documentation of standby and mobilization
23 costs.

24 This is an important issue in this case and,
25 accordingly, I think that the relief sought by OPC

1 here would be appropriate; again, within the
2 jurisprudence of incipient rulemaking.

3 Thanks.

4 COMMISSIONER BROWN: And Public Counsel.

5 MS. CHRISTENSEN: And just briefly, adopting
6 the comments of the other intervenors that, you
7 know, it is appropriate for the Commission, when
8 the issue is ripe, to address this policy issue --
9 you know, it is appropriate in this case
10 specifically because we, obviously, have raised an
11 issue that these mobilization, demobilization, and
12 standby costs have not been sufficiently
13 documented, such that we can make a specific
14 adjustment in Mr. Schultz's testimony. We're going
15 to have to do it through cross-examination. That's
16 one of the criticisms.

17 And therefore, to allow that -- what we think
18 is a defect in the justification of cost, going
19 forward, to allow that to continue, would be
20 problematic by saying, no, we have to wait until
21 you force us to do it through rulemaking.

22 This is a -- this is certainly an FPL-specific
23 problem. I don't know whether any of the other
24 companies have this same issue. They may track
25 these costs already in a sufficient level of detail

1 that we can get that information, identify it, and
2 take a look at it. Until we know whether or not
3 it's an industry-wide problem, it would be a little
4 bit premature to go to a generic proceeding or
5 rulemaking to change that.

6 What we do know is, based on our witness'
7 testimony, this is a problem with the way FPL is
8 keeping its records such that we can't get that
9 level of granular detail. So, that's why we're
10 having to make some -- a broader adjustment than
11 maybe we would like to have made if that
12 information had been available.

13 So, I think it's company-specific. It's
14 timely. And this is an appropriate policy decision
15 for the Commission to make in this docket and to go
16 forward in FPL cases. And it may be appropriate
17 for other companies, but we won't know that until
18 we get through their hurricane dockets.

19 COMMISSIONER BROWN: Okay. Mr. Donaldson,
20 anything to add?

21 MR. DONALDSON: Yes, Chapter 120.52(16)
22 defines a rule as: An agency statement or general
23 applicability that implements and interprets or
24 proscribes law or policy. That's what they're
25 seeking to do here.

1 120.54, which I'm sure Mr. Moyle knows, has
2 long reacted to the McDonald decision, which was
3 dated back in the 1970s. And it was adopted and --
4 and clarified, those arguments that he was making
5 with respect to McDonald.

6 Second of all, this is not FPL-specific, as --
7 as OPC Counsel would like you to believe. Every
8 utility has mob-/demob-. They're asking now to
9 determine whether or not one specific utility
10 should be required to break out what has already
11 been provided in contractor costs and break out
12 certain costs, specifically for mob-, demob- and
13 standby, and identify what those -- essentially,
14 how you go ahead and track those particular costs.

15 Like I said, hours, costs themselves, a host
16 of other different requirements, whether or not it
17 only applies to contractors, does it apply to
18 mutual aid companies, does it apply to FPL's own
19 employees on -- on mob-/demob-.

20 There's a reason why you don't take an issue
21 up like this in a cost-recovery prudence review and
22 reasonableness review. It is -- it is something
23 that is applicable to every other utility. And
24 it's the proper format to, first of all, wait and
25 see if others have this same issue and deal with it

1 in a workshop; see if -- you know, you have the
2 generic workshop on what's working, what's not
3 working, what does the rule require, what does the
4 rule not require as far as listing out and breaking
5 out and identifying specific costs.

6 That is not what they're asking for you to do
7 here. They are asking you to make it utility-
8 specific, solely to FPL, and it's an inappropriate
9 issue.

10 COMMISSIONER BROWN: Thank you.

11 All right. I appreciate the arguments of all
12 of the parties that have presented here today. And
13 we'll take it under advisement and issue my ruling
14 on this contested issue when the pre-hearing order
15 comes out by the end of the week.

16 Thank you. All right. Let's move on to
17 Section 9, which is the exhibit list.

18 MS. BROWNLESS: Yes, ma'am. Staff has
19 prepared a comprehensive exhibit list, which lists
20 all the prefiled exhibits and those exhibits staff,
21 which is -- to have included in the record. The
22 draft list was given to the parties and we gave an
23 updated one this morning -- and I hope -- which I
24 hope everybody got.

25 COMMISSIONER BROWN: Everybody have it? Yes?

1 I'm seeing yes.

2 MS. BROWNLESS: Okay -- to see if there were
3 any changes or objections to the comprehensive
4 exhibit list or to the introduction of any of the
5 staff's exhibits being entered into the record.

6 So, at this time, we would like to see if
7 there are any changes that need to be made to the
8 parties' exhibits and if there are any objections
9 to the entry of staff's proposed exhibits into the
10 record.

11 And I'd also like to say that I have spoken
12 with Florida Power & Light. There are some
13 portions of the discovery responses listed in the
14 exhibit list, for which confidentiality requests
15 were not previously made, but because they are part
16 of staff's exhibits, there will need to be
17 confidentiality requests made.

18 Florida Power & Light and I have worked that
19 out and they will be filing those requests for
20 confidentiality. And we will be addressing those
21 this week.

22 COMMISSIONER BROWN: Yes. Thank you.

23 All right. Are there any changes to the
24 comprehensive exhibit list? Public Counsel?

25 MS. CHRISTENSEN: No object- -- no changes to

1 the comprehensive exhibit list.

2 As to the second issue about whether or not
3 OPC is in a position to agree to the admission of
4 staff's listed exhibits as part of the
5 comprehensive exhibit list -- we're not ready to
6 stipulate to the -- the agreement of any of the
7 exhibits that staff would like to use and -- and
8 have stipulated in lieu of cross-examination into
9 the record. I know there are probably a few that
10 we may even object to at -- at some future point.

11 We will endeavor, if possible, to look through
12 them to see if there's any that we can agree we
13 don't have an objection to, but we -- just as a
14 matter of course, we do believe that the staff --
15 the Commission staff, if they want to introduce
16 documents, should do that through cross-examination
17 as a testing of the veracity of the witnesses' case
18 and we -- that is our preferred method for
19 admitting documents into the hearing.

20 COMMISSIONER BROWN: All right. Retail
21 Federation, any changes to the comprehensive
22 exhibit list?

23 MR. WRIGHT: We don't have any changes, but
24 we're in the same position as OPC. Thank you.

25 COMMISSIONER BROWN: FIPUG as well.

1 MR. MOYLE: We don't have any changes, but --
2 but to the point about exhibits going in -- I mean,
3 my sense of that is, usually exhibits go in and
4 they're provided, everybody looks at them, they
5 understand them. And if you're in trial, then you
6 can say, I have an objection or I don't have an
7 objection. You know, we're -- we're still a couple
8 of weeks away from a hearing and --

9 COMMISSIONER BROWN: Two.

10 MR. MOYLE: Two. And being asked, you know,
11 are you good on these or not, not to say that we
12 may not be good and say, yes, yes, we don't, but it
13 would be very useful -- because there's a big net
14 thrown for discovery, and now staff has gone
15 through and culled and said, here is our exhibit
16 list -- to -- to be able to get copies of what it
17 is staff wants to introduce so that we can look at
18 it and make judgments about that -- that would be
19 particularly helpful, if we're being asked to
20 stipulate, you know, to the agreements.

21 They're asking to us to stipulate. And we're
22 simply saying, if you could help us and provide us
23 the documents that you want us to stipulate to,
24 that would be appreciated.

25 COMMISSIONER BROWN: Suzanne, want to respond?

1 MS. BROWNLESS: We usually do put together
2 documents. I -- honestly, Commissioner, I don't
3 know what they do with regard to the confidential
4 material. I know that the Office of Public Counsel
5 has possession of those documents, I believe. And
6 I don't know about the other parties because, as I
7 say, they were not the subject of the
8 confidentiality request. So, we don't have those
9 documents at this time.

10 However, I assume they will be submitted to
11 us, along with the confidentiality requests.

12 COMMISSIONER BROWN: Okay. And --

13 MS. BROWNLESS: So, we'll try to do that.

14 COMMISSIONER BROWN: Florida Power & Light?

15 MR. DONALDSON: Yes, FPL has no objection to
16 the comprehensive exhibit list. I've provided
17 whatever minor edits that we need to do to staff.

18 I would like to note that, pursuant to the
19 OEP, we had to at least provide the parties whether
20 or not we're going to be using demonstrative
21 exhibits. And we do have some here. And I figured
22 this was the right --

23 COMMISSIONER BROWN: This is the right time,
24 yes.

25 MR. DONALDSON: -- time to do that.

1 COMMISSIONER BROWN: Yes.

2 MR. DONALDSON: Okay. So -- and I don't know
3 if I --

4 COMMISSIONER BROWN: We'll have somebody
5 from -- staff, could you --

6 MR. MOYLE: (Indicating.)

7 COMMISSIONER BROWN: You can't object just
8 yet.

9 MR. MOYLE: No, this is great. We're going to
10 get -- actually get to see exhibits today, so --
11 but just back to the point on the confidentiality.
12 I think my malpractice insurance rates would go up
13 if I were agreeing to documents that have never
14 been produced or seen, you know, to go in. So,
15 I'm -- I'm happy to sign -- you know, non-
16 disclosure. We've never had an issue --

17 COMMISSIONER BROWN: I have two.

18 MR. MOYLE: -- with non-disclosure, so --

19 MR. DONALDSON: They -- they've been produced
20 to all those who have signed an NDA, which would be
21 FRF and that -- we have done to OPC as well. So,
22 OPC has a copy of them. I'm certainly willing give
23 Mr. Moyle that.

24 COMMISSIONER BROWN: All right. Mr. Moyle.

25 MR. MOYLE: That would be great.

1 MR. DONALDSON: Begrudgingly.

2 MR. MOYLE: I --

3 COMMISSIONER BROWN: Begrudgingly.

4 (Laughter.)

5 COMMISSIONER BROWN: You can guys can handle
6 that after the hearing.

7 MR. MOYLE: We can -- we can handle that. And
8 anything staff can do to provide us copies of
9 exhibits would be great, too.

10 COMMISSIONER BROWN: Mr. Donaldson, thank you,
11 by the way, for providing these in advance. This
12 is excellent. I have two. I heard that there's
13 three? Are there three?

14 MR. DONALDSON: There are --

15 COMMISSIONER BROWN: -- three -- oh, you
16 have one. Okay.

17 MR. DONALDSON: -- three.

18 COMMISSIONER BROWN: Okay.

19 MR. DONALDSON: And I don't actually have my
20 own copy, but I will.

21 COMMISSIONER BROWN: Thank you.

22 MR. DONALDSON: I know what they are, yeah.

23 COMMISSIONER BROWN: I think these are great.

24 All right. Everybody has a copy of the three
25 exhibits that will be at -- used for demonstrative

1 purposes at the hearing? I don't have an objection
2 to those.

3 MR. DONALDSON: Okay. Thank you.

4 COMMISSIONER BROWN: Yeah. All right.

5 MR. MOYLE: Can I just ask a question?

6 COMMISSIONER BROWN: Yeah.

7 MR. MOYLE: Are these -- I mean, because
8 these are -- like, these photos, I assume, are
9 coming in from somewhere, right? I mean,
10 demonstrative is -- my understanding is it's --

11 COMMISSIONER BROWN: Do you want to know where
12 these --

13 MR. MOYLE: -- making a larger point. Yeah, I
14 mean, if this is going to be part of an exhibit
15 going in --

16 MR. DONALDSON: It's --

17 MR. MOYLE: -- I think I'm good.

18 MR. DONALDSON: It's demon- -- we're not
19 planning on introducing them into evidence.

20 COMMISSIONER BROWN: You're just using them
21 for demonstration.

22 MR. DONALDSON: For demonstration. That's the
23 reason for the word "demonstrative."

24 MR. MOYLE: And can I ask what they're
25 demonstrating?

1 MR. DONALDSON: Well, they're demonstrating
2 the severity of the storm, along with --

3 COMMISSIONER BROWN: I --

4 MR. DONALDSON: -- the amount of work that
5 we've had to do.

6 COMMISSIONER BROWN: Mr. Moyle, I've already
7 said I don't have a problem with using these. So,
8 unless a party has a very compelling reason why
9 they shouldn't be used for demonstration purposes,
10 we're going to allow them during the hearing.

11 Mr. --

12 MR. DONALDSON: Thank you, Madam Chair.

13 COMMISSIONER BROWN: You're welcome.

14 MS. CHRISTENSEN: They do have --

15 MR. WRIGHT: This -- this seems simplistic,
16 but I think, even if they are going to show them to
17 the tryers of fact, to you, then, they have to at
18 least verify what they are. These are obviously
19 pictures of storm and storm damage, but there's --
20 there's no documentation that they're --

21 COMMISSIONER BROWN: Do you want it on the
22 actual pho- -- on the photos here of what they are?
23 Is that what you're saying?

24 MS. CHRISTENSEN: Well --

25 MR. WRIGHT: I -- I want to know that they

1 have backstopped what the evidence --
2 notwithstanding that it won't be in the record,
3 that they're going to show you, as the tryers of
4 fact with a -- with an explanation of what exactly
5 it is.

6 COMMISSIONER BROWN: Mr. Donaldson?

7 MR. WRIGHT: Which I think is --

8 MR. DONALDSON: Yeah, and we're going to do
9 that through a witness. That's how it's typically
10 done.

11 COMMISSIONER BROWN: That's what I would
12 assume.

13 MS. CHRISTENSEN: Yeah, as long as they're
14 going to lay a foundation for these documents, I
15 think, probably the one that has "Hurricane
16 Matthew" on it is probably at least a little bit
17 self-explanatory what hurricane it's relating to.

18 Unfortunately, the other two -- the other one
19 has the date on it, but it doesn't have the name of
20 the hurricane, and the pictures don't. So, unless
21 there's a foundation laid by a witness at some
22 point -- and I don't necessarily have an objection
23 to them using them if they're going to lay a
24 foundation through a witness at some point in the
25 future in their case because, to be a demonstrative

1 piece of evidence, you actually have to lay a
2 foundation for it being evidence.

3 COMMISSIONER BROWN: And again, the Chairman
4 that presides over the hearing will be apprized
5 that -- that the pre-hearing officer allowed them
6 to be used, but of course, you have to set that
7 foundation.

8 MR. DONALDSON: Yes, ma'am.

9 COMMISSIONER BROWN: All right. Any other
10 matters on the demon- -- the exhibits?

11 MR. DONALDSON: FPL has none.

12 COMMISSIONER BROWN: No other matters --

13 MR. DONALDSON: And we're going to get let
14 them keep a copy of it.

15 COMMISSIONER BROWN: All right. Any other --
16 (Simultaneous speakers.)

17 (Laughter.)

18 COMMISSIONER BROWN: Okay. We are now on to
19 approved proposed stipulation, Section 10. Doesn't
20 sound like there's any here. I'm not hearing any.

21 MR. DONALDSON: Not yet.

22 MS. BROWNLESS: No, ma'am, I don't think there
23 are any at this time.

24 COMMISSIONER BROWN: All right. Section 11,
25 pending motions.

1 MS. BROWNLESS: The only motions that are
2 pending are FP&L's two motions for protective
3 order, which they filed on May 1st. Because FP&L
4 and I have gone through the request for
5 confidentiality, many of these protective orders
6 will be superseded by those requests for
7 confidentiality. So, I think what we will do is
8 make sure that that is, in fact, correct --

9 COMMISSIONER BROWN: Okay.

10 MS. BROWNLESS: -- and only do a protective
11 order where the confidentiality order does not
12 otherwise resolve the issue.

13 COMMISSIONER BROWN: Okay.

14 MS. BROWNLESS: But we will be doing --

15 MR. DONALDSON: Agreed.

16 MS. BROWNLESS: -- that this week.

17 MR. DONALDSON: Yes.

18 COMMISSIONER BROWN: All right. Thank you.

19 And we'll do it this week.

20 MS. BROWNLESS: Yes, ma'am.

21 COMMISSIONER BROWN: Let's get it all done
22 before the hearing, please.

23 And Section 12, pending confidentiality
24 motions?

25 MS. BROWNLESS: Not pending at this time, no,

1 ma'am.

2 COMMISSIONER BROWN: No. Okay.

3 Now, post-hearing procedures, Section 13.

4 MS. BROWNLESS: There would -- if there are
5 post-hearing briefs that are filed in this case,
6 they will be limited to 40 pages.

7 COMMISSIONER BROWN: Ms. Christensen, I hear
8 your -- your click.

9 MS. CHRISTENSEN: No, I'm very exited. I
10 didn't see a word limit on the positions. I just
11 want to make sure we're good with that because
12 I'm --

13 COMMISSIONER BROWN: I am more than fine with
14 that.

15 MS. CHRISTENSEN: Then we're very pleased to
16 see that we're --

17 COMMISSIONER BROWN: Against staff's
18 recommendation -- all I care about are the page
19 numbers. So, as staff recommended, the post-
20 hearing briefs are limited to 40 pages.

21 MR. RUBIN: Commissioner Brown, may we be
22 heard on that?

23 COMMISSIONER BROWN: Sure.

24 MR. RUBIN: FPL would respectfully request to
25 use up to 50 pages.

1 COMMISSIONER BROWN: Any of the parties have
2 an objection?

3 MR. WRIGHT: No objection. Thank you.

4 MS. CHRISTENSEN: Assume it would be 50 pages
5 for all, not that we're planning on using them.

6 COMMISSIONER BROWN: Reciprocal for all the
7 parties.

8 Staff, I know you want to read ten more, each
9 party.

10 MS. BROWNLESS: Sounds great.

11 COMMISSIONER BROWN: We read it, too, so -- I
12 have no problem with it. We will go ahead and --
13 post-hearing briefs will be limited to 50 pages.
14 And you do not need to specific -- a specific
15 amount for the summary.

16 Staff, any other matters under post-hearing
17 procedures?

18 MS. BROWNLESS: Yes, ma'am. I think you spoke
19 about the -- no word limit on the summaries, as
20 long as whatever you do you is set off with
21 asterisks. And the briefs, if any, will be due on
22 June 15th, 2018.

23 COMMISSIONER BROWN: All right. Any other --
24 any questions on that? All right.

25 We're going to move Section 14, the rulings.

1 MS. BROWNLESS: Okay. The pre-hearing --
2 draft pre-hearing order indicates that pre-hearing
3 statements, opening statements will be limited to
4 seven minutes per party.

5 COMMISSIONER BROWN: Unless, of course, a
6 party chooses to waive its opening statements.
7 Seven minutes okay?

8 MS. CHRISTENSEN: I think -- I think we'll be
9 fine with seven minutes. Thank you.

10 MR. WRIGHT: That will be fine.

11 COMMISSIONER BROWN: You, too, Mr. Moyle.

12 MR. MOYLE: We're good.

13 MR. RUBIN: As are we.

14 COMMISSIONER BROWN: Yes. All right. Any
15 other rulings?

16 MS. BROWNLESS: No, ma'am, not at this time,
17 of which I'm aware.

18 COMMISSIONER BROWN: Okay. Are there any
19 other matters, staff, that needs to be addressed?

20 MS. BROWNLESS: I'm not aware of any.
21 Parties? Florida Power & Light.

22 MR. RUBIN: Not for FPL.

23 COMMISSIONER BROWN: FIPUG.

24 MR. MOYLE: No, thank you.

25 COMMISSIONER BROWN: Retail Federation.

1 MR. WRIGHT: No, thank you.

2 COMMISSIONER BROWN: OPC.

3 MS. CHRISTENSEN: No, we are fine, thank you.

4 COMMISSIONER BROWN: Seeing no other matters,
5 this pre-hearing conference is adjourned. See you
6 in two weeks.

7 (Whereupon, the proceedings were concluded at
8 2:23 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 1 through 52, are a true and correct record of the aforesaid proceedings.

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

DATED this 16th day of May, 2018.



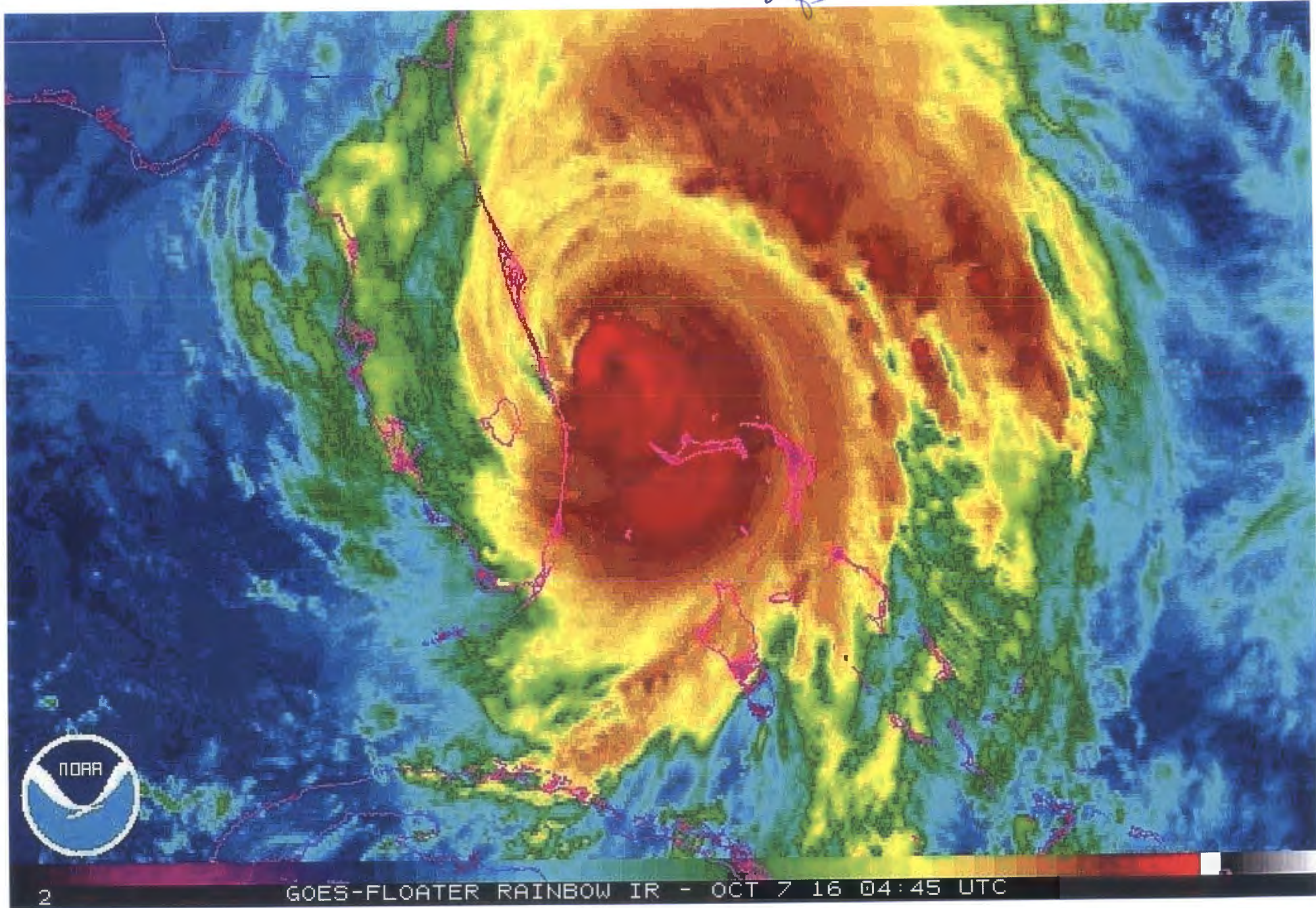
ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #GG060963
EXPIRES February 9, 2021

FPL
Parties/Staff Handout
event date 5/17/18
Docket No. 20160251-ET

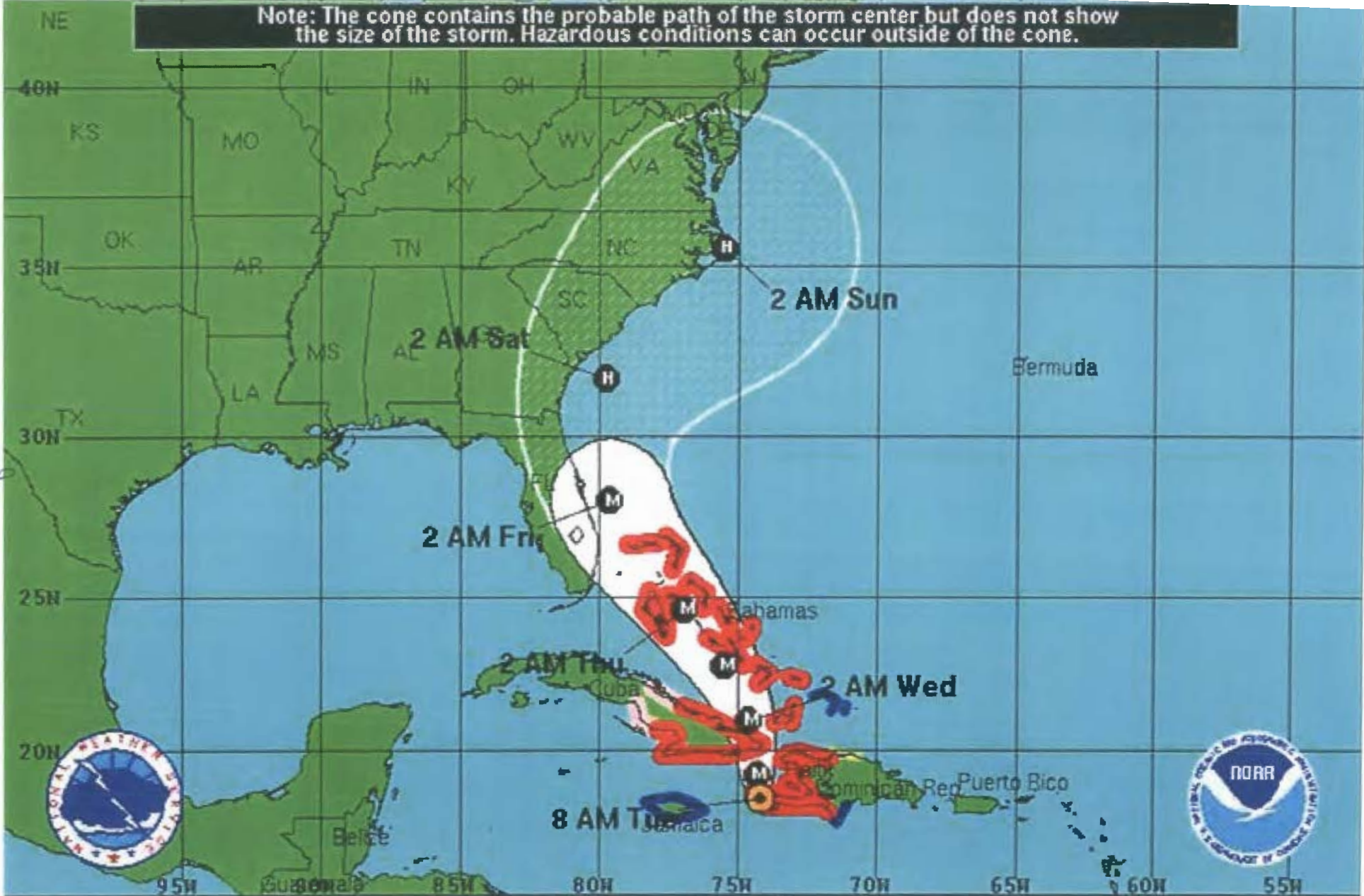
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Note: The cone contains the probable path of the storm center but does not show the size of the storm. Hazardous conditions can occur outside of the cone.



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Hurricane Matthew
 Tuesday October 4, 2016
 8 AM EDT Intermediate Advisory 25A
 NWS National Hurricane Center

Current Information: ●
 Center Location 18.4 N 74.2 W
 Max Sustained Wind 145 mph
 Movement N at 9 mph

Forecast Positions:
 ● Tropical Cyclone ○ Post-Tropical
 Sustained Winds: D < 39 mph
 S 39-73 mph H 74-110 mph M > 110mph

Potential Track Area:
 ▽ Day 1-3 ◻ Day 4-5

Watches:
 ■ Hurricane ■ Trop.Storm

Warnings:
 ■ Hurricane ■ Trop.Storm