

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20180049-EI

EVALUATION OF STORM
RESTORATION COSTS FOR
FLORIDA POWER & LIGHT
COMPANY RELATED TO
HURRICANE IRMA.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: JULIE I. BROWN
PREHEARING OFFICER

DATE: Monday, May 20, 2019

TIME: Commenced: 1:30 p.m.
Concluded: 2:57 p.m.

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

REPORTED BY: DEBRA R. KRICK
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 KENNETH RUBIN, KEVIN I.C. DONALDSON, WADE
3 LITCHFIELD and CHRISTOPHER T. WRIGHT, ESQUIRES, 700
4 Universe Boulevard, Juno Beach, Florida 33408-0420,
5 appearing on behalf of Florida Power & Light Company.

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

12 JON C. MOYLE, JR., ESQUIRE, KAREN A. PUTNAL,
13 and IAN E. WALDICK, ESQUIRES, Moyle Law Firm, P.A., 118
14 North Gadsden Street, Tallahassee, Florida 32301,
15 appearing on behalf of Florida Industrial Power Users
16 Group.

17 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
18 ESQUIRES, Gardner, Bist, Wiener, Wadsworth, Bowden,
19 Bush, Dee, LaVia & Wright, P.A., 1300 Thomaswood Drive,
20 Tallahassee, Florida 32308, appearing on behalf of the
21 Florida Retail Federation.

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

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, adviser to the Florida Public
6 Service Commission.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2 COMMISSIONER BROWN: Good afternoon, everyone.

3 MR. WRIGHT: Good afternoon.

4 MR. RUBIN: Good afternoon.

5 COMMISSIONER BROWN: Thank you. Today is
6 May 20th. The time is 1:30, and we are here in the
7 prehearing of FPL storm docket, Docket No.
8 2018049-EI.

9 Staff, could you please read the notice?

10 MS. BROWNLESS: Yes, ma'am.

11 By notice issued on May 6th, 2019, this time
12 and place has been set for a prehearing conference
13 in Docket No. 20180049-EI. The purpose of the
14 prehearing is set forth full any the notice.

15 COMMISSIONER BROWN: Thank you.

16 We will take appearances, starting with
17 Florida Power & Light.

18 MR. RUBIN: Thank you. Good afternoon,
19 Commissioner Brown.

20 Ken Rubin and Chris Wright for FPL. I would
21 also ask that appearances be noted for Kevin
22 Donaldson and Wade Litchfield.

23 COMMISSIONER BROWN: Thank you.

24 FIPUG.

25 MR. MOYLE: Good afternoon. On behalf of the

1 Florida Industrial Power Users Group, Jon Moyle
2 with the Moyle law firm, and I also would like to
3 enter an appearance for Karen Putnal and Ian
4 Waldick with the firm.

5 COMMISSIONER BROWN: Thank you.
6 Retail Federation.

7 MR. WRIGHT: Thank you, Commissioner. Good
8 afternoon.

9 Robert Scheffel Wright, enter John T. Lavia,
10 III, for Gardner Law Firm on behalf of the Florida
11 Retail Federation.

12 COMMISSIONER BROWN: Thanks.
13 Office of Public Counsel.

14 MS. MORSE: Good afternoon. This is Stephanie
15 Morse with the Office of Public Counsel. I would
16 also like to enter appearances for Charles
17 Rehwinkel, Tad David, Patty Christensen and the
18 Public Counsel, J.R. Kelly.

19 COMMISSIONER BROWN: Thank you.
20 And our staff.

21 MS. BROWNLESS: Suzanne Brownless here on
22 behalf of Commission staff.

23 MS. HELTON: And Mary Anne Helton, here as
24 your advisor, along with your General Counsel,
25 Keith Hetrick.

1 COMMISSIONER BROWN: Thank you.

2 Getting into preliminary matters, Ms.

3 Brownless are there any preliminary matters before
4 we begin?

5 MS. BROWNLESS: Yes, ma'am.

6 We have just received, at 12:03 today, a
7 motion from OPC to strike portions of the rebuttal
8 testimony of witness Ronald Reagan. I would ask
9 that we take that up when we get to the testimony.

10 COMMISSIONER BROWN: Thank you. And I am in
11 receipt of that motion as well. I haven't had a
12 chance to really review it before this prehearing
13 since we just got it, but are there any other
14 matters to address other than the motion to strike?

15 Seeing none from the parties, we are going to
16 go through the draft prehearing order right now,
17 and I will go ahead and identify the sections.

18 If there are any corrections that the parties
19 would like to make, please chime in, jump up when I
20 get to that section and we will start with Section
21 I, the case background. Any changes? Seeing none.

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

24 Section III, jurisdiction.

25 All right. Section IV, procedure for handling

1 confidential information, Ms. Brownless.

2 MS. BROWNLESS: Yes, ma'am. We just want to
3 note again for everyone that if you intend to use
4 confidential material at the hearing, please have
5 copies for the Commissioners, the necessary staff
6 and the court reporter placed in red envelopes
7 clearly marked with the nature of the contents.

8 Any party wishing to examine the confidential
9 material that is not subject to an order granting
10 confidentiality shall be provided a copy in the
11 same fashion as provided to the Commissioners
12 subject to execution of any appropriate protective
13 agreement with the owner of the material.

14 COMMISSIONER BROWN: Thank you. Any questions
15 regarding that?

16 Seeing none, we will move to Section V, the
17 prefiled testimony and exhibits and witnesses.

18 Ms. Brownless.

19 MS. BROWNLESS: At this time, we would call
20 attention to the fact that the draft prehearing
21 order states that witness summaries are limited to
22 three minutes.

23 COMMISSIONER BROWN: Okay. Is that acceptable
24 to everyone?

25 MR. RUBIN: It is. Commissioner Brown, may I

1 be heard on this?

2 COMMISSIONER BROWN: Yes, certainly.

3 MR. RUBIN: The prefiled testimony of the OPC
4 witness Helmuth Schultz includes as an exhibit
5 approximately 1,600 pages, which consists of a
6 two-day deposition and exhibits. I can raise this
7 at a later point in the prehearing conference this
8 morning, but I just want to put on the record that
9 we object to that exhibit at this point, and I can
10 make the legal argument a little bit later on.

11 COMMISSIONER BROWN: Would OPC like to
12 respond?

13 MR. REHWINKEL: Well, for the first -- this is
14 the first we've heard of this, and we are not
15 prepared to respond at this point in time.

16 COMMISSIONER BROWN: Okay. Staff, any
17 comments on it, or we will just take this up during
18 the hearing?

19 MS. BROWNLESS: I think we can take this up
20 during the hearing.

21 I just want to ask if anyone has a problem
22 with their witness summaries being limited to three
23 minutes? Does the length of the testimony or
24 anything change your mind with regard to that?

25 MR. RUBIN: That's fine with FPL.

1 COMMISSIONER BROWN: Mr. --

2 MR. REHWINKEL: The Public Counsel, as we have
3 one witness, so we would prefer the traditional
4 five minutes, given the fact that his testimony is
5 just short of 100 pages in length.

6 COMMISSIONER BROWN: I personally don't have a
7 problem with five minutes. However, I know it's
8 the Chairman's preference, who will be the
9 presiding officer, of having witness summaries to
10 three minutes.

11 FPL, do you have a problem with your witness
12 summaries being five minutes?

13 MR. RUBIN: We prefer three minutes.

14 COMMISSIONER BROWN: So I am going to allow
15 five minutes or less, given that OPC only has one
16 witness, and you have four -- actually, pardon me,
17 a few more than that, taking into consideration the
18 rebuttal, but I would stress to the parties and the
19 witnesses that you do not need to use the entire
20 five minutes, as I know that's the Chairman's
21 preference, okay?

22 MR. REHWINKEL: Thank you.

23 COMMISSIONER BROWN: All right. Let's get
24 in -- are there any other matters to discuss
25 under -- with regard to the three minutes, five

1 minutes is the ruling on that.

2 So we are going to go to the Section VI, which
3 is the order of witnesses. Ms. Brownless.

4 MS. BROWNLESS: And here I just want to make
5 sure we've got the direct testimony of Mr. Miranda,
6 Mr. Ferguson, Mr. DeVarona and Mr. Schultz, and
7 then the rebuttal testimony of Mr. Miranda and Mr.
8 Gwaltney?

9 MR. RUBIN: Gwaltney.

10 MS. BROWNLESS: Gwaltney, I'm going to
11 practice that. Mr. Reagan, Mr. Manz and Mr.
12 Ferguson.

13 Do you want to take the direct testimony first
14 and then the rebuttal testimony, or do you want to
15 combine any of it, or what's your preference?

16 COMMISSIONER BROWN: FPL.

17 MR. RUBIN: FPL's reference is to take the
18 direct first, then have Mr. Schultz offer his
19 testimony and then have our rebuttal.

20 COMMISSIONER BROWN: That's acceptable.

21 All right, Ms. Brownless.

22 MS. BROWNLESS: Yes, ma'am.

23 At this time, is there any hope that any of
24 these witnesses could be stipulated?

25 COMMISSIONER BROWN: I'm going to go to Office

1 of Public Counsel first.

2 MR. REHWINKEL: Madam Chairman, at this time,
3 we are actively considering whether to agree to
4 certain witnesses but we have not completed that.
5 I feel fairly confident that we would be willing to
6 excuse certain witnesses, but we have not made a
7 final decision on that, so in the context of hope,
8 I think hope is fairly strong.

9 COMMISSIONER BROWN: Especially, you have got
10 a two more weeks before this hearing so --

11 MR. REHWINKEL: That's correct.

12 COMMISSIONER BROWN: -- that's promising.

13 MR. MOYLE: Can I just ask a question, a
14 clarification?

15 I assume that all the parties would be okay
16 with their witnesses being stipulated in if the
17 parties could agree?

18 COMMISSIONER BROWN: Who are you asking the
19 question to?

20 MR. MOYLE: Well, all the other parties.

21 COMMISSIONER BROWN: I am sure you all can
22 discuss that.

23 MR. MOYLE: Probably my friends from Juno I am
24 asking that question, if, you know, if we would --

25 COMMISSIONER BROWN: FPL.

1 MR. RUBIN: Well, we are certainly willing to
2 listen to any kind of proposal. None have been
3 made at this point.

4 COMMISSIONER BROWN: Okay. You hear that?
5 All right. Thank you.

6 All right, staff.

7 MS. BROWNLESS: Okay. To the extent that you
8 are able to stipulate to any witnesses and the
9 insertion of their testimony into the record as
10 though read, if that happens, we will confirm with
11 each Commissioner that any of these identified
12 witnesses can be excused. And if the Commissioners
13 don't have any questions of these witnesses, the
14 witness may be excused from the hearing, and his or
15 her testimony and exhibits entered into the record
16 at the hearing as though read.

17 COMMISSIONER BROWN: Okay. Thank you.

18 Any questions up until this point?

19 We are going to move into the expertise of the
20 witness, which is an issue here.

21 Ms. Brownless.

22 MS. BROWNLESS: Okay. I am going to take up
23 OPC's motion in just a few minutes, but I am going
24 to start with the fact that the Office of Public
25 Counsel and FIPUG have stated that they object to

1 the qualifications of FPL's witnesses as experts,
2 quote, "to the extent that any expert witness has
3 not identified his or her area of expertise." That
4 is what was stated in the prehearing orders.

5 Neither FIPUG nor FRF has complied with the
6 requirements of the OEP, Order Number
7 PSC-2018-0290, Section VA(8), that they identify
8 each witness to whom they object, and state with
9 specificity the portions of their testimony by page
10 and line number to which the party objects.

11 COMMISSIONER BROWN: Thank you, Ms. Brownless.
12 If you could hold on -- if you could hold on for a
13 sec before you make your recommendation on that.

14 I have a question of Retail Federation and
15 FIPUG. Your -- I am looking at your prehearing
16 statements, and the language in the OEP, Section
17 VA(8), is very specific. It says, if you need to
18 object -- if you would like to object to a witness,
19 you must do so with specificity.

20 These blanket general statements doesn't
21 comply at all. It certainly doesn't identify who
22 you are objecting to, nor which sections of the
23 testimony you object to.

24 Can you elaborate why you preserved that
25 general language? I have seen that before that you

1 have used, whichever one.

2 MR. WRIGHT: Sure. We are not going to object
3 to any witness' qualifications to testify.

4 COMMISSIONER BROWN: Okay.

5 MR. WRIGHT: We may inquire of the witness as
6 to the basis, foundation for the witness' testimony
7 as a means of informing the Commission as to the
8 breadth of knowledge, depth of knowledge of the
9 witness that goes to the weight to be accorded to
10 his or her testimony.

11 COMMISSIONER BROWN: I have no problem with
12 that.

13 MR. WRIGHT: Thank you.

14 COMMISSIONER BROWN: FIPUG?

15 MR. MOYLE: Yeah, I think we may have had this
16 conversation before --

17 COMMISSIONER BROWN: I think so.

18 MR. MOYLE: -- because we have put in out
19 there before.

20 COMMISSIONER BROWN: It's a repeat.

21 MR. MOYLE: See above -- no.

22 Experts are designated as ones who are
23 offering opinions to try to help a trier of fact.
24 And typically, an expert is designated as having
25 expertise in certain topics. And then, you know,

1 once the expert, it is clear the expert is
2 designated in certain topics, you know, people who
3 have issues or objections can question them, or
4 take issue with their expertise.

5 Here, when the prefiled testimony is put
6 forth, there is a lack of a designation of
7 expertise of the witness, so the party is left kind
8 of surmising as to what the proffered areas of
9 expertise are, because it's not set forth, so and
10 so is offered as an expertise -- as an expert in
11 electrical engineering. You know, if that was
12 electrical engineering, you would look at the
13 resume, you would have the understanding, but it's
14 kind of a broad blanket --

15 COMMISSIONER BROWN: So we have had this
16 conversation before, but -- and we've refined the
17 language in the OEP, though, that gives you the
18 direction to provide that objection specifically in
19 your prehearing statement.

20 So I just wanted to be clear, if you do intend
21 to object to a specific witness, I would comply
22 with the OEP, and I think there will be more
23 latitude given. But here, your general statement
24 is very, very broad.

25 MR. MOYLE: Okay. I just wanted to -- we have

1 had this conversation before. I don't expect it
2 will be an issue, but we put it in as just almost a
3 preservation of rights with respect to how we
4 believe due process should work with respect to
5 experts.

6 And, you know, with the change in language, I
7 think still as a condition precedent, someone needs
8 to go forth and say, so and so so and so, and so
9 and so so and so are designated as experts in
10 hurricane cost, you know, recovery accounting, or
11 whatever it is, so at least you are on notice.

12 And that's how it's done, you know, in a lot
13 of other places in the state of Florida, at DOAH
14 and some other places, you got to tell them, hey,
15 here's the expert, and here's what the expert is
16 in. But I appreciate your comments, and hopefully
17 it won't be an issue.

18 MR. RUBIN: May I be heard on that?

19 COMMISSIONER BROWN: Yes, absolutely.

20 MR. RUBIN: There is a clear difference
21 between what FIPUG and OPC has done and what FRF
22 has done. And as Mr. Wright correctly pointed out,
23 he's reserved his rights, not as to admissibility
24 of the evidence, but from a credibility
25 perspective, and I have no quarrel with the way Mr.

1 Wright has done that.

2 Despite what Mr. Moyle says, you know, things
3 may be done differently elsewhere. We have a very
4 specific OEP here. We -- FPL followed the
5 requirements of the OEP. We designated
6 specifically, as required, the page and line of Mr.
7 Schultz's testimony that we believe they intend to
8 use as expert testimony where we don't believe he
9 is competent to testify as an expert. They could
10 have done the same thing. They could have looked
11 at our testimony.

12 And there is no -- there is no obligation in
13 the OEP to designate somebody as an expert. And of
14 course, expert testimony is simply testimony that
15 would help the trier of fact to better understand
16 the facts because of the person's knowledge.

17 So we -- you know, they've had every
18 opportunity to comply with it. We did comply with
19 it, and we don't think it's appropriate for them to
20 be able to voir dire our witnesses at the hearing.

21 COMMISSIONER BROWN: Well, I agree with regard
22 to the distinction between Retail Federation's and
23 FIPUG and OPC's general blanket statement.

24 And thank you, Mr. Wright, though, for saying
25 that you are not going to voir dire any of the

1 witnesses, and I respect that. But FIPUG and FRF,
2 because you didn't comply, particularly FIPUG -- we
3 will get to OPC in a second -- but FIPUG will
4 not -- will be denied the ability to object to the
5 expertise of the witness at the hearing.

6 And that is -- is that your recommendation as
7 well, Ms. Brownless?

8 MS. BROWNLESS: Yes, ma'am. And that ruling
9 is consistent with your previous rulings.

10 COMMISSIONER BROWN: Okay. Thank you. So
11 that has been addressed.

12 Ms. Brownless, would you like to go on to --

13 MS. BROWNLESS: Yes, ma'am.

14 Now, we do have FPL's objection to the
15 expertise of Helmuth Schultz in the area of, quote,
16 "utility storm restoration activities," close
17 quote, and they have identified the portions of Mr.
18 Schultz's direct testimony with which they take
19 issue. These areas concern storm restoration
20 activities, management, contracting and costs. And
21 they have the specific pages outlined on page 19 of
22 their prehearing statement the exact sections of
23 the testimony.

24 So they have complied with the requirements of
25 Section V A(8) of the OEP with regard to

1 challenging the expertise. So at this time --

2 COMMISSIONER BROWN: And I do want to say,
3 that is the way do it. Just for reference, the way
4 that Florida Power & Light laid out for the
5 objection in future dockets, I think that is going
6 to be more receptive for the presiding officer.

7 Go ahead.

8 MS. BROWNLESS: So at this time, we need to
9 find out what FPL would like to do. Obviously,
10 there is one of two ways. One can say that they
11 wish to voir dire at the hearing because they've
12 reserved the right to do that. And then the other
13 thing would be to have them make their arguments
14 now and request that the prehearing officer make a
15 ruling on excluding the testimony based on lack of
16 expertise.

17 This is complicated a bit by the fact that the
18 Office of Public Counsel today around noon, did
19 file their motion to strike. And if I could just
20 chat about that a minute.

21 COMMISSIONER BROWN: Sure.

22 MS. BROWNLESS: It appears to me that the
23 motion to strike is based upon a challenge to the
24 expertise of Mr. Reagan. And to the extent that,
25 in order to challenge expertise, the OEP has

1 specific criteria one must follow. It is clear
2 that the Office of Public Counsel did not follow
3 that.

4 Now, having said that, motions to strike can
5 be made up to the prehearing conference, so --

6 COMMISSIONER BROWN: But isn't -- from my
7 cursory reading of this motion to strike, it kind
8 of appears to be a challenge to the expertise of
9 Witness Reagan, which should have been done in the
10 prehearing statement.

11 MS. BROWNLESS: Yes, ma'am. As I say, it's a
12 bit muddy.

13 So I guess at this time, I would like to hear
14 from everybody to find out what they would like to
15 do, how they would like to proceed.

16 COMMISSIONER BROWN: Okay. We'll start with
17 FPL since they did comply with the OEP with regard
18 to objecting to the expertise of Witness Schultz.

19 Would it be acceptable to voir dire at the
20 hearing and make objections to the testimony at
21 that time?

22 MR. RUBIN: That's what we would prefer to do
23 with the full commission present.

24 COMMISSIONER BROWN: That was my preference as
25 well.

1 Everyone else in agreement with that?

2 MR. REHWINKEL: That's what we were counting
3 on based on the way they represented their
4 objections were going to be discharged.

5 COMMISSIONER BROWN: That is my preference, so
6 that is what we will do with regard to Witness
7 Schultz.

8 MS. BROWNLESS: Now, with regard to the motion
9 to strike.

10 Since everybody literally just got this
11 minutes before we came here, we would recommend
12 that FPL be given an opportunity to respond in
13 writing.

14 COMMISSIONER BROWN: Absolutely.

15 So traditionally, seven days, we are coming up
16 on a holiday weekends. Would it be possible to
17 get -- if you do plan on responding in writing,
18 would Friday be possible?

19 MR. RUBIN: That would be fine.

20 And sort of to echo your sentiment. If -- I
21 don't even a copy of it. I did see it come in my
22 computer, but to the extent that the motion
23 attempts to challenge the expertise of Mr. Reagan,
24 we will rely, at least in part, upon the OEP, but
25 we certainly can file a response by Friday this

1 week.

2 COMMISSIONER BROWN: Okay. That's great.

3 And I was going to give you an opportunity,
4 both parties, all the parties, on the motion to
5 strike if you want to make at least oral comments
6 right now on it, and of course, written comments
7 are going to be accepted as well.

8 So anyone, now's the time to make an argument.

9 MR. REHWINKEL: Commissioner, we were making
10 sure we filed it before the prehearing conference.
11 We did not expect anyone, especially FPL, to be put
12 on the spot to have to comment on it in any way.
13 And we do not wish to advocate it at this point
14 because it would not be fair until they have had an
15 opportunity to review it.

16 COMMISSIONER BROWN: Okay. I agree, but
17 wanted to give FPL an opportunity to comment if
18 they had read it.

19 All right. So with that, we will -- Ms.
20 Brownless.

21 MS. BROWNLESS: So then we will expect a
22 response, if one is coming from FPL, to be filed
23 Friday.

24 MR. RUBIN: That's correct.

25 COMMISSIONER BROWN: And we will take it under

1 advisement.

2 MS. BROWNLESS: We'll take --

3 MR. RUBIN: Thank you.

4 COMMISSIONER BROWN: Okay. Any other matters
5 under the expertise of witnesses, Ms. Brownless, or
6 any of the parties?

7 Seeing none, we are going to continue moving
8 forward.

9 Section VII, basic positions. Do the parties
10 have any changes to their basic positions at this
11 time?

12 Yes, Retail Federation.

13 MR. WRIGHT: Thank you, Commissioner. I am
14 going to need to add one sentence to our statement
15 of basic position if I can furnish that later
16 today, or by noon tomorrow, whatever you say.

17 COMMISSIONER BROWN: Yes. You don't want to
18 read it out loud?

19 MR. WRIGHT: Oh, sure. I am trying to save
20 time.

21 FPL was, and is, required to use the storm
22 cost recovery in this mechanism, SCRM, described in
23 Order PSC-2016-0560-AS-EI, for the recovery of
24 reasonable and prudent hurricane restoration costs.

25 COMMISSIONER BROWN: Thank you.

1 All right. We have that on the record now.

2 Any of the other parties have any changes to
3 make? Seeing none.

4 MR. RUBIN: Commissioner Brown, I don't have
5 any changes to make to FPL's positions, but I do
6 have a point I would like to make regarding OPC's
7 positions as stated, and then of course because
8 FIPUG and FRF simply adopted those positions, it
9 applies to them as well.

10 When we look at the positions -- well, first
11 of all, the OEP does require a party to state its
12 position on each issue, and on Issues 2 through --
13 bear with me for just one minute -- 2 through 10,
14 what Public Counsel has done is simply referred FPL
15 to a series of documents that are exhibits to Mr.
16 Schultz's testimony.

17 COMMISSIONER BROWN: Is that the 1,600 pages
18 that you --

19 MR. RUBIN: That's not the 1,600 pages. I do
20 want to come back to that, but it's -- it's -- I
21 don't know if it's 50 pages, or 100 -- I don't know
22 exactly. I haven't counted the pages. But
23 basically all they have done is, instead of stating
24 a position, they've pointed out -- they've
25 basically said take a look at our case, that's what

1 our position is. It just -- you know one of the
2 documents they refer us to is 32 pages of
3 spreadsheets, and that's their position on a
4 particular issue.

5 So with all due respect, you know, we
6 shouldn't have to guess what line, what page they
7 are pointing to or relying upon in trying to state
8 their position.

9 COMMISSIONER BROWN: Does the Office of Public
10 Counsel, would like to respond?

11 MR. REHWINKEL: Yes, Commissioner.

12 In the past, when parties have stated that the
13 utility must meet its burden of proof, your General
14 Counsel has said that there needs to at least be an
15 affirmative statement, like you could just say no,
16 and oftentimes the answer no meets the test.

17 Mr. Schultz's adjustments are identified in
18 his exhibits, and FPL is well aware of what our
19 position is on the issues, as reflected in the
20 schedules. They've filed rebuttal testimony, in
21 fact, to it.

22 I don't think there is a requirement in the
23 OEP that the issue be fleshed out to the
24 satisfaction of the other party.

25 COMMISSIONER BROWN: That's true.

1 MR. REHWINKEL: And I don't think that's the
2 standard. And we've talked today about some
3 decisions that are going to be made based on
4 reliance on what the OEP says. If the Commission
5 wishes in the future, in future cases, to refine
6 the OEP, I think that would be appropriate if they
7 want to have more specificity. But at this point
8 in time, we are confident that we've complied with
9 the OEP and the Commission's practice in this
10 regard.

11 COMMISSIONER BROWN: Ms. Brownless?

12 MS. BROWNLESS: Well, I must say I agree with
13 FPL on this, because -- I am going to use Issue No.
14 2 as an exhibit.

15 Issue No. 2 says: What is the reasonable and
16 prudent amount of regular payroll expense to be
17 included in the Hurricane Irma restoration costs?
18 Now, FPL's position starts out with a number and
19 says, here's the reasonable and prudent expense.

20 I do not think it would be an inordinate
21 burden on OPC to state what they think that number
22 is pursuant to Mr. Schultz's testimony. Just as it
23 is not -- FPL doesn't have to agree with what OPC
24 says.

25 By the same token, the purpose of a prehearing

1 statement is to succinctly state what your position
2 is in response to the issues. That's why we are
3 drafting the statement. That's why we are putting
4 it together. That's the whole point. And that's
5 the whole point, with all due respect the of the
6 OEP.

7 So I don't think it is a tremendous burden on
8 OPC to come up with a one sentence -- one sentence
9 that states what their number is.

10 COMMISSIONER BROWN: Mr. Rehwinkel?

11 MR. REHWINKEL: Well, I mean, I have stated my
12 position on this, and I -- if the Commission -- if
13 the Commissioner would like for the Public Counsel
14 to put a number down for the ease of reference of
15 the commissioners, and so people can kind of gauge
16 the gulf between the two parties.

17 COMMISSIONER BROWN: That would be -- well,
18 for me personally, I would say I would have to
19 reference back -- I would have to search for your
20 position. So, I mean, it would help, I am sure,
21 the other commissioners to have it clearer in your
22 position.

23 MR. REHWINKEL: We -- we would be able to do
24 that. I don't know if we can have it done by noon
25 tomorrow.

1 COMMISSIONER BROWN: Could you do it by
2 Friday?

3 MR. REHWINKEL: We certainly could do that,
4 yes.

5 COMMISSIONER BROWN: Thank you. I think that
6 will be helpful.

7 So I think we were going through the -- we are
8 on the issue, basic positions at the time.

9 Seeing no other changes other than what was
10 just noted, we are going to move to Section VIII,
11 the issues and positions.

12 Do the parties have any changes that they
13 would like to make on the positions going through
14 Issues 1 through 12?

15 MS. BROWNLESS: Commissioner.

16 COMMISSIONER BROWN: Yes.

17 MS. BROWNLESS: With regard to the ruling that
18 you just made on Public Counsel fleshing out the
19 positions, if FPL could just tell us the positions
20 that they believe need to be fleshed out, Issue No.
21 2 and what else?

22 COMMISSIONER BROWN: I think he listed them,
23 but if you could list them again just so that
24 Office of Public Counsel is clear which ones.

25 MR. RUBIN: Sure.

1 It's Issues 2 through 10.

2 MS. BROWNLESS: Thank you.

3 And that response is going to be filed by this
4 Friday --

5 COMMISSIONER BROWN: Yes.

6 MS. BROWNLESS: -- noon? Can you do that, Mr.
7 Rehwinkel?

8 COMMISSIONER BROWN: Yeah. He said yeah.
9 Yes.

10 MR. MOYLE: And for the Retail Federation and
11 FIPUG, if we are adopting the position of OPC, I
12 assume that will include the revised answer that is
13 being provided, right?

14 COMMISSIONER BROWN: Yes. And you are saying
15 it on the record, correct, Retail Federation?

16 MR. WRIGHT: We will comply with whatever you
17 say, Commissioner. My intent right now is to put
18 in the numbers that OPC puts in so there is no
19 ambiguity.

20 Thank you.

21 COMMISSIONER BROWN: Even better. Thank you.

22 All right. So going through -- other than as
23 stated going through Issues 1 through 10, no other
24 changes. So we will get to the contested issues.

25 Staff.

1 MS. BROWNLESS: Yes, ma'am.

2 We will start with Issue No. 1A, and let
3 everybody address that.

4 COMMISSIONER BROWN: Okay. Would you -- do
5 you still want to address it after the ruling last
6 week?

7 MR. WRIGHT: Yes, Commissioner, respectfully,
8 I do.

9 COMMISSIONER BROWN: Okay.

10 MR. WRIGHT: And I don't want to be labor the
11 underlying arguments, but I want a ruling in this
12 case on this issue. You can have it say the same
13 thing that your order is going to say from the
14 decision you made last week. That will be fine.

15 What I am trying to do is to protect my
16 client's interest and my client's appellate rights,
17 and avoid the case where I get up before the
18 Supreme Court, or I am briefing this before the
19 Supreme Court and somebody says, that was a storm
20 cost issue. You needed to raise that and have that
21 decided in the storm docket. And I have seen
22 things like that happen from both sides in my
23 career.

24 Thank you.

25 COMMISSIONER BROWN: Okay. Public Counsel?

1 MR. REHWINKEL: The Public Counsel concurs
2 with FRF. We do not view -- first of all, there is
3 not even an order out in the tax docket, so we
4 don't consider, with all due respect, the fact that
5 the Commissioners voted appropriately on the issue,
6 it is not final for our purposes. So we need to
7 make sure our rights are protected in both, or the
8 surviving docket, whatever that may be.

9 MR. MOYLE: It might be reconsidered. You
10 never know.

11 I would just adopt the same position with
12 respect to my aligned colleagues at OPC and Retail
13 Federation.

14 COMMISSIONER BROWN: Florida Power & Light?

15 MR. RUBIN: Thank you, Commissioner Brown.

16 FPL objects to the inclusion of contested
17 Issue 1A for really the one that you have already
18 stated, that Issue 18 in docket 20180046 was
19 decided last week, on May 14th at the Agenda
20 Conference, and language included within that staff
21 recommendation, which was approved, reads as
22 follows:

23 Quote: When all of these terms, that
24 referring to the contract, the settlement agreement
25 are read together, it is clear that FPL's use of

1 the SCRM is completely discretionary, and that the
2 SCRM is not intended to be the only means for
3 recovery of storm restoration costs.

4 And the reason we object to the inclusion of
5 this issue, obviously it's been decided, but then
6 the question arises if it becomes a life issue in
7 this case, is there going to be testimony taken on
8 this issue? There really should not be because it
9 is something that's already been decided in the
10 other case. It's the precise issue. It's barred
11 by both res judicata and collateral estoppel, and
12 it should not be a live issue in this case.

13 I think from the perspective of the appellate
14 points that have been raised, counsel has attempted
15 to introduce it into this case. And I can't speak
16 to what an appellate court would do, but they've
17 made an effort to bring it into this case. We
18 respectfully suggest that it should not be an issue
19 in this case. We should not have to put on proof
20 or testimony on that issue.

21 COMMISSIONER BROWN: Any other comments before
22 I turn to my legal staff?

23 MR. WRIGHT: I am perfectly happy to deal with
24 it on the pleadings. And if -- and even in advance
25 of the case -- of the hearing.

1 I don't want to drag this out. I understand
2 what you voted. As Mr. Rehwinkel pointed out, we
3 don't have a final order, therefore, there is no
4 order to which anyone could point and say, this has
5 been decided.

6 And I -- one, I believe this is a completely
7 appropriate issue for this case. Two, there is not
8 any testimony on it. We will deal with it as a
9 matter of law. And I think it's a completely
10 appropriate issue for the case, and I respectfully
11 ask that it be included so as to protect my
12 client's rights. I am not trying to drag this out
13 or relitigate anything, Commissioner.

14 Thank you.

15 COMMISSIONER BROWN: Okay. One more time.

16 MR. REHWINKEL: Well, I am tempted to
17 acknowledge that it's purely a legal issue, but
18 there are testimony, and there are exhibits that
19 the staff would proffer in discovery that deal with
20 the effect of the way FPL accounted for the costs
21 of Irma, and the way it was recovered. And in that
22 regard, Mr. Ferguson provides testimony that we
23 will cross-examine him on with respect to the
24 accounting and the impact of the accounting that
25 FPL proposals in lieu of the use of the SCRM.

1 So there are mixed issues of fact and law. If
2 the Commission decides to strike the issue, we
3 will -- we will, A, maintain that we have the right
4 to brief a legal issue, and then it's not
5 appropriate to strike a legal issue; but B, we will
6 ask the Commission -- I am putting you on notice
7 today -- we will ask the Commission to receive
8 evidence as a proffer for appellate purposes in
9 this regard if the effort is made to limit
10 cross-examination because this issue is not
11 considered appropriate.

12 So we stand on our argument that there is no
13 res judicata because there is no order that's been
14 adjudicated. That's our position on whether it can
15 be a purely legal issue.

16 COMMISSIONER BROWN: I want to confer with our
17 staff. Let's take a five-minute break. We will
18 reconvene at 2:10. Thanks.

19 (Brief recess.)

20 COMMISSIONER BROWN: Okay. We are back on the
21 record. Thank you for that brief break.

22 I am going to turn to our Deputy General
23 Counsel for some guidance on this issue.

24 MS. HELTON: Thank you, Madam Chairman.

25 As I understand FRF Issue 1A, it is the same

1 issue on which the Commission voted last week, and
2 I do not believe that it would be appropriate to
3 keep the same issue here today for an issue that
4 the Commission voted on last week.

5 Any order that will come out will be just
6 memorize -- I can't say that word right now, but
7 codifying the order -- or the decision made by the
8 Commission.

9 I believe that the parties sitting here at the
10 table today, if they take issue with that decision
11 already made by the Commission, then it will be
12 within their purview to appeal the final order once
13 it is rendered.

14 COMMISSIONER BROWN: Thank you. So ample due
15 process will be afforded?

16 MS. HELTON: Yes, ma'am.

17 COMMISSIONER BROWN: Okay. So your
18 recommendation, Ms. Brownless, based on --

19 MS. BROWNLESS: Based upon the Deputy General
20 Counsel's advice, my recommendation is that this
21 issue be excluded.

22 COMMISSIONER BROWN: Okay. We will go ahead
23 and exclude that issue from this docket.

24 There are a few other contested issues, is
25 that correct, Ms. Brownless?

1 MS. BROWNLESS: Three other ones.

2 COMMISSIONER BROWN: Okay. Do you want to --
3 let's take them up individually starting with --

4 MS. BROWNLESS: Okay. The next contested
5 issue is 4A. What is the reasonable and prudent
6 amount of contractor costs associated with standby
7 time, mobilization time and demobilization time to
8 be included in the Hurricane Irma restoration
9 costs?

10 COMMISSIONER BROWN: Okay. Would the parties
11 like to speak on that right now?

12 MR. REHWINKEL: Madam Chairman, this issue is
13 an age old issue. It goes to the reasonable
14 balance between an issue that says, what's the
15 right amount of money to give them versus
16 granularity in the issues. A significant issue
17 that we have raised is, are these elements of cost
18 recovery that we would ask the Commission to
19 provide a more focused determination on.

20 We do not waive or accede to the objections to
21 this issue, but in the interest of time, I am not
22 going to rehash this issue that we -- this
23 objection that we have in almost every --

24 COMMISSIONER BROWN: Docket.

25 MR. REHWINKEL: -- contended case. But we --

1 we strongly urge you to keep this issue in. It
2 does not hurt FPL to have to address this
3 separately; but at the same time, we understand the
4 objections and the Commission's philosophy on this.

5 COMMISSIONER BROWN: Okay. Yes.

6 MR. WRIGHT: Commissioner, just before we move
7 on, I want to put on the record we ask that you
8 retain Issue 1A as a proffered issue. We will
9 probably file additional paper asking that that be
10 done. Again, I am not trying to gum this up, or
11 slow things down, you about I do think it's
12 appropriate to preserve appellate rights.

13 COMMISSIONER BROWN: And you heard my ruling
14 already?

15 MR. WRIGHT: I did.

16 COMMISSIONER BROWN: And it's still denied.

17 MR. WRIGHT: I understand that. Thank you.

18 COMMISSIONER BROWN: Okay. We are still on
19 4A, though.

20 Any other comments on it? FPL, would you like
21 to be heard on it -- FIPUG first.

22 MR. MOYLE: No. We would just join in the
23 point in arguments of OPC. It's a question of
24 should the issue be considered separately or
25 subsumed. That has been something that's been

1 considered.

2 I would argue that the better practice,
3 because these are not, you know, a series of
4 Florida infinite not -- not terribly significant
5 issues. I mean, all of these issues are
6 significant. And I think in the last FPL hurricane
7 case, staff had looked at mobilization, and
8 demobilization, and standby, and, you know, those
9 are three big buckets of costs, and we think it
10 would be appropriate for those to be considered
11 separately as proposed by OPC.

12 COMMISSIONER BROWN: And sometimes I think it
13 is necessary to be -- to have an issue more
14 specific, but I don't see how you can't argue all
15 of these points that you are making within Issue 4,
16 which is a broader issue, but it clearly falls
17 within that purview that -- I just don't see the
18 importance and additional work that it would take
19 to separate out that issue.

20 MR. REHWINKEL: Well, the only thing I would
21 add to that, Commissioner, is that there are
22 literally hundreds of millions of dollars bound up
23 just in this element of this issue. If not
24 hundreds, certainly many, many, many tens. And so
25 it's not an insignificant issue in that regard, and

1 I think it deserves some separation because it
2 addresses an element of the oversight that we
3 advocate. But again, I don't wish to belabor this.

4 COMMISSIONER BROWN: Thank you.

5 MR. REHWINKEL: We think it needs to stay in,
6 and it should, and it helps clarify and sharpen the
7 decision-making, but it is ultimately the
8 Commission's call on this.

9 COMMISSIONER BROWN: Okay. Would FPL like to
10 be heard on it?

11 MR. RUBIN: Just briefly, Commissioner Brown.

12 We agree that it's subsumed within Issue 4,
13 you know, it's part and parcel of Issue 4. And as
14 stated, it appears that the proposed issue is
15 attempting to place a new obligation on FPL to
16 break these costs down. It's not required by any
17 rule or commission precedent. But most
18 importantly, it is subsumed within 4. Parties have
19 the right to challenge, question, do whatever they
20 want on mobilization, demobilization, standby under
21 Issue 4.

22 COMMISSIONER BROWN: Okay. Thank you.

23 Ms. Brownless.

24 MS. BROWNLESS: I agree that it is subsumed
25 and Issue 4, and I think that's where it's better

1 addressed.

2 COMMISSIONER BROWN: Thank you. And that's
3 consistent with previous decisions, so I will go
4 ahead and just alert the parties. You can argue --
5 you are not hampered in any way. You can argue
6 these arguments under Issue 4.

7 And there are additional contested issues, Ms.
8 Brownless?

9 MS. BROWNLESS: Yes, ma'am.

10 Issue 4B is next. Should the incremental cost
11 recovery and capitalization approach, ICCA, be
12 applied to determine the reasonable and prudent
13 amount of contractor costs associated with embedded
14 crew expense, crews working year-round for FPL, to
15 be included in the Hurricane Irma restoration
16 costs.

17 COMMISSIONER BROWN: Now, this one I would
18 like to hear a little bit more detail.

19 MR. REHWINKEL: Yes, Commissioner.

20 Let me just state, your rule came out in 2007,
21 I think it was, and it was a fallout of the 2004,
22 2005, those terrible hurricane seasons that the
23 Commission experienced.

24 You took those litigated cases and you went
25 into great detail in evaluating what's the right

1 policy to under take in evaluating whether storm
2 costs create the risk of double recovery, i.e.,
3 costs that are embedded in base rates versus
4 incremental costs that would be spent on just the
5 activities restoring service for a specific event.
6 Then there were no storms for a long time.

7 In 2010, Duke and FPL entered into the first
8 of the SCRM provisions that were intended to give
9 more upfront recovery to the utilities and put the
10 hearing at the back end versus the traditional way
11 of having a tariff suspended, have a hearing months
12 later and then start recovering a significant
13 dollar amount. So we put that in. It's become
14 rather standard in utility rate settlements since
15 that timeframe.

16 There were no material storms until Matthew in
17 2016. And Matthew was contested but then settled,
18 and the settlement was basically pretty much black
19 box on the issue of capitalization.

20 The first case to go to hearing under the new
21 rule interpretation was the FPUC case that is
22 currently -- well, it's just gone through the
23 reconsideration process and it's not final yet. It
24 dealt with a company that basically had internal
25 company labor, or labor that they acquired in the

1 aftermath of a storm but nothing in between.

2 What we've learned since -- in this past year
3 or two, where we've looked at FPL, FPUC, Duke and
4 TECO, is that, aside from FPUC, most utilities have
5 year-round contractor crews that do a lot of
6 contract work for them, very similar to what their
7 own internal crews use.

8 The FPUC case made a determination about
9 capitalizing costs using the labor rate only of
10 internal company labor. And the rule seems to
11 speak about incremental labor, or incremental
12 payroll, that is incremental only to what the
13 company uses. And we believe that it's not clear,
14 that there is, at least for the companies that have
15 crews that are outside contractors but that work as
16 if they are FPL contractors on garden variety work
17 year round, are included or excluded as part of the
18 incremental cost analysis.

19 And so all we are trying to have the
20 Commission address is at least are the labor rates
21 and costs that go into what's capitalized, do they
22 include not only internal company labor, but
23 embedded screw labor?

24 And so whether artfully or not, that's the --
25 that is what we are trying to make sure we get at.

1 Because if a company budgets or has rates
2 established that include a certain assumption
3 amount of contractor, embedded contractor costs in
4 their O&M expense that's baked into base rates, and
5 then those contractors work in an storm
6 environment. And let's say -- I am going to use
7 absurd rates so we don't get into rates people
8 charge. But let's say on a year-round basis they
9 charge \$2,000 an hour, but in a storm, they charge
10 \$2,500 an hour. Only the work they do at the \$500
11 increment should be recovered as incremental, but
12 that \$2,000 would be baked into rates, and that
13 should be excluded from the calculation of storm
14 costs.

15 That's an extreme hypothetical so we don't get
16 into what people charge.

17 COMMISSIONER BROWN: Yes.

18 MR. REHWINKEL: But that --

19 COMMISSIONER BROWN: And I appreciate -- I
20 completely -- I understand a little bit more
21 clearer now why you are arguing for inclusion of
22 that issue.

23 Do any of the parties, before I get to FPL,
24 have anything else to add?

25 All right. FPL.

1 MR. RUBIN: Thank you, Commissioner Brown.

2 First of all, the description that Mr.
3 Rehwinkel just gave is really not what this issue
4 asks for the Commission to decide.

5 The issue says: Should the incremental cost
6 recovery and capitalization approach, ICCA, be
7 applied to determine the reasonable and prudent
8 amount of contractor costs associated with embedded
9 crew expenses, crews working year-round for FPL, to
10 be included in the Hurricane Irma restoration
11 costs?

12 It's not a -- the issue as phrased is not a
13 capitalization issue. And in terms of the example
14 given, you know, we made it very clear, we are not
15 seeking any incremental recovery in this case. We
16 have expensed all of the dollars. But let me just
17 go back to the rule itself.

18 The rule is already applicable to contractor
19 costs. It's part 1(e) of the rule. And it says:
20 Additional contract labor hired for storm
21 restoration activities are permitted to be charged
22 the reserve under the ICCA methodology.

23 Now, the rule doesn't distinguish between
24 embedded contractor costs and non-embedded
25 contractor costs. And just so we are clear on the

1 record, embedded contractors are contractors that
2 work on FPL system. They may do hardening work.
3 They are assigned certain projects, and they are
4 doing this on a blue sky day throughout the year.
5 When FPL moves into storm mode, those contracts are
6 suspended, and these embedded crews, just like the
7 non-embedded crews, work under a separate contract
8 and bill their time to a separate IO, which is the
9 storm IO.

10 So the embedded contractor -- just so it's
11 clear, the embedded contractor is essentially
12 working under two separate contracts, one for the
13 blue sky days and then one for the storm days.

14 The proposal that is being made by OPC is
15 essentially seeking to impose a new rule on FPL,
16 and only on FPL, and to do so retroactively. It's
17 one of those issues.

18 And I think Mr. Rehwinkel pointed out, you
19 know, the rule-making procedure, that if this is
20 something that's going to change in the future, it
21 probably needs to be done through a workshop and
22 rule-making procedure. But to retroactively apply
23 it to FPL, and FPL alone, is inappropriate and
24 is -- it would, frankly, deny FPL due process,
25 because we would be judged after-the-fact on

1 something they are claiming we should have done
2 before the fact.

3 COMMISSIONER BROWN: Okay. Staff.

4 MS. BROWNLESS: Yes, ma'am.

5 Issue No. 4 states as follows: What is the
6 reasonable and prudent amount of contractor costs
7 to be included in the Hurricane Irma restoration
8 costs? And we believe that the issue and the level
9 of detail that OPC wishes to get into about
10 embedded crews, non-embedded crews, can be covered
11 fully in Issue No. 4. So we would recommend that
12 this specific issue be stricken.

13 COMMISSIONER BROWN: I am going to look at
14 this issue a little more closely and give it some
15 time, and we will issue the ruling on inclusion or
16 exclusion in the final prehearing order.

17 MS. BROWNLESS: Thank you.

18 MR. REHWINKEL: Thank you.

19 COMMISSIONER BROWN: Are there any other
20 contested issues, Ms. Brownless?

21 MS. BROWNLESS: Yes, ma'am. Issue No. 4C.

22 As a result of the evidence in this case, what
23 actions should the Florida Public Service
24 Commission take to ensure contractor rates charged
25 to utilities are reasonable and prudent?

1 COMMISSIONER BROWN: Now, we talked about this
2 even just last week.

3 Yes, Mr. Rehwinkel.

4 MR. REHWINKEL: This issue is one -- I made a
5 mistake when I submitted this issue, because there
6 should have been a phrase "if any" put in there
7 after "action". As a result of the evidence in
8 this case, comma, what action, comma, if any,
9 comma, should the Florida Public Service
10 Commission, et cetera, so that "if any" clause.

11 We had argued this with the "if any" language
12 before you in the FPUC case, and that issue was
13 denied as for inclusion there. And we intended to
14 include the same issue with the "if any" clause,
15 and I messed up on that.

16 So beyond that, that's -- I just -- I feel bad
17 because I realize that's not in here, and it was
18 our intent that it be purely within the
19 Commission's discretion if they saw something they
20 wanted to be -- to be after action, that it could
21 be -- could be done as result of what the
22 Commission heard in this case.

23 And that's -- the very last FPL case, there
24 was an issue on something called FPL Energy
25 Services. It was an affiliate transaction issue,

1 and the Commission heard the evidence, and they
2 said that because of what we heard, we are going to
3 establish a separate docket to consider the actions
4 of FPL Energy Services. And so it's not uncommon
5 for the Commission to take action after.

6 COMMISSIONER BROWN: Mr. Rehwinkel, and I
7 did -- I made it on the record, and I think you
8 filed a motion for reconsideration, which the
9 Commission denied, but on this specific issue in
10 that docket, I made a statement in the last Agenda
11 Conference about this issue. And I did ask staff
12 at the last Agenda Conference, on May 14th, whether
13 OPC has gotten together with you to discuss this
14 issue and see what is the right avenue to address
15 this policy -- broader policy issue, and you said
16 at that Agenda Conference that you had not.

17 And I would reiterate my comments. I think
18 it's definitely an important discussion that we
19 need to be having, and I would direct our staff
20 again to get all interested parties together to
21 figure out the proper avenue to take to address
22 this policy issue. I think it is very important --
23 yes.

24 MR. REHWINKEL: And I just want to make one
25 statement for the record, just to be crystal clear

1 on this.

2 We are not asking the Florida Public Service
3 Commission to establish, or set, or even put caps
4 on rates that contractors charge. We want to look
5 at factors and structural issues that the
6 Commission does have jurisdiction over that may
7 influence how rates are contracted for.

8 But as FPL, as FPUC, as you will hear from
9 Tampa Electric and Duke tomorrow, we stand behind
10 them, fully support the utilities' efforts in this
11 state, which we think lead the nation in disaster
12 recovery, that the speed of recovery is of
13 paramount importance, and we do not want to impinge
14 that at all. We are looking to have a rational
15 conversation about factors that can be influenced
16 legitimately, that move the ball forward for
17 everybody.

18 And we will be happy -- we wanted to raise
19 this issue so that when we get done with all the
20 Irma cases, and we should be done with those in
21 June, we will be in a position to take stock and
22 say, what do we do now? And that's why we haven't
23 sat down with your staff. We will do that when we
24 are done, and we will have that conversation,
25 but --

1 COMMISSIONER BROWN: So it's appropriate at
2 this time to drop that issue.

3 And again, I am going to direct our staff to
4 get together with all interested parties to address
5 this issue and see what our purview, what the
6 appropriate course of action is; whether it's
7 establishing a workshop --

8 MR. REHWINKEL: Sure.

9 COMMISSIONER BROWN: -- whatnot. We will --
10 we will -- I trust that you will do that after your
11 busy schedule.

12 MS. BROWNLESS: Yes, ma'am.

13 MR. REHWINKEL: And I think it's not -- I
14 mean, if we say, let this issue go today, I would
15 ask that the Commission take stock when we are
16 finished with the FPL hearing, because you will
17 kind of have all these Irma cases under your belt.
18 It's a situation where the Commission has had
19 unfortunate but unique insight into a storm that
20 managed to cover most of the state, and only spared
21 Gulf Power, but then Gulf Power is dealing with a
22 whole --

23 COMMISSIONER BROWN: Yeah, we are getting into
24 a new storm season here shortly.

25 MR. REHWINKEL: Correct. Is if there are

1 things that are of concern that the Commission be
2 open to the idea of what can we do next. And if we
3 can -- if we can get that kind of understanding, we
4 will be more than happy to let an issue like this
5 go; because all that matters in the end is doing
6 the right thing for the future, and that's what we
7 want.

8 COMMISSIONER BROWN: And so we are doing that,
9 and we will absolutely have that type of direction
10 and guidance. But in this particular -- this is a
11 broader issue than just FPL. It's an issue that
12 impacts the entire state. So we are going to have
13 a broader discussion on this policy issue, okay?

14 MS. BROWNLESS: Yes, ma'am.

15 COMMISSIONER BROWN: Are there any other
16 contested issues?

17 MR. WRIGHT: Madam -- Commissioner, five
18 seconds.

19 I just want the record to reflect that we
20 object to your ruling on denying 1A.

21 Thank you.

22 COMMISSIONER BROWN: Back to 1A? Not this
23 one?

24 MR. WRIGHT: Yes, ma'am.

25 COMMISSIONER BROWN: Are you going back again

1 1A?

2 MR. WRIGHT: Just to say the magic word, we
3 object.

4 Thank you.

5 COMMISSIONER BROWN: I hope the record is very
6 clear on Retail Federation's position.

7 All right. Any other contested issues?

8 MS. BROWNLESS: No, ma'am. But I do have one
9 statement that I would like to make with regard to
10 Issue No. 4C.

11 COMMISSIONER BROWN: 4C.

12 MS. BROWNLESS: In the prehearing statement,
13 FPL inadvertently did not provide a position for
14 that, but they have subsequently provided all
15 parties with their position, and I will make sure
16 that that gets placed in the prehearing order.

17 MR. RUBIN: And could I be heard on that for
18 just a moment, Commissioner Brown?

19 COMMISSIONER BROWN: Wait, 4C, what I just
20 ruled on?

21 MS. BROWNLESS: Yes, ma'am. We just want the
22 prehearing order to be complete and to include
23 their response.

24 COMMISSIONER BROWN: Absolutely. Okay.

25 MR. RUBIN: Could I be heard very briefly on

1 that?

2 COMMISSIONER BROWN: Sure.

3 MR. RUBIN: The reason that there was no
4 position placed in the prehearing statement was
5 because there was an issue that was circulated by
6 staff that did not include that issue. That issue
7 was submitted by OPC afterwards, apparently given
8 to FRF and to FIPUG, but we were never in receipt
9 of it. So until it was pointed out by your staff
10 that we hadn't seen that, or responded to that
11 issue, that's why ours was late filed. So I just
12 wanted the record to be clear on that.

13 COMMISSIONER BROWN: Does it even need to be
14 in there if the issue was dropped at this time?

15 MS. BROWNLESS: That's that what I have been
16 advised. I will --

17 COMMISSIONER BROWN: Thank you.

18 MS. BROWNLESS: -- stand corrected on that
19 point.

20 COMMISSIONER BROWN: That's what I thought.
21 Thank you.

22 It does not need to be included because the
23 issue is dropped.

24 So are there I any other issues -- contested
25 issues?

1 MS. BROWNLESS: No, ma'am.

2 COMMISSIONER BROWN: Okay. Any of the parties
3 have anything else under issues?

4 We are going to move to exhibit list.

5 Okay. Staff, Section IX.

6 MS. BROWNLESS: Yes, ma'am. That's the
7 exhibit list.

8 Staff has prepared a comprehensive exhibit
9 list which lists all prefiled exhibits and those
10 exhibits staff wishes to include in the record.

11 The draft list given to the parties to see if
12 there were any changes or objections to the CEL, or
13 to the introduction of any of staff's exhibits
14 being entered into the record.

15 At this time, we would he like to see if there
16 are any changes that need to be made to the
17 parties' exhibits, and if there are any objections
18 to the entry of staff's proposed exhibits into the
19 record.

20 COMMISSIONER BROWN: Seeing none, except for
21 FIPUG.

22 MR. MOYLE: FIPUG has not had a chance to look
23 at all these exhibits, so we would like to reserve
24 with respect to the list if we could.

25 COMMISSIONER BROWN: No. No. You can have

1 until Friday. If you have any objections, you will
2 have to let staff know.

3 Ms. Brownless, is that okay?

4 MS. BROWNLESS: Yes, ma'am. Thank you.

5 MR. RUBIN: Commissioner Brown, is this good
6 time for me to address the deposition issue?

7 COMMISSIONER BROWN: Yes.

8 MR. RUBIN: HWS, the exhibits that are
9 attached to Mr. Schultz's prefiled direct testimony
10 comprise approximately 1,600 pages. The OEP is
11 very clear that no later than the date -- the last
12 day for discovery, which is today, that a party
13 that wants to use a deposition has to file a notice
14 that they intend to use that deposition outlined by
15 page and line the parts they seek to introduce, and
16 then opposing parties, in this case FPL, would have
17 three days to respond.

18 This deposition, just the testimonial part of
19 it is more than 500 pages. It was a two-day panel
20 deposition of three FPL witnesses, two of whom will
21 be here live at the hearing and subject to
22 cross-examination. The third, his Vice-President
23 actually, will be here and subject to
24 cross-examination.

25 The -- something that's really important is

1 that by simply attaching the deposition as an
2 exhibit is essentially circumventing this provision
3 of the OEP, and I think, perhaps most importantly,
4 at the start of, the parties expressly agreed to
5 reserve all objections except for form. And there
6 were lots of questions asked during two full days
7 that we would find objectionable that if they were
8 asked here in the hearing, we would object to. All
9 parties agreed, all parties stipulated that all of
10 those objections would be reserved.

11 So I understood the comments before about the
12 deposition. But essentially by allowing it in as
13 an exhibit, the Commission would be de facto
14 accepting all of that testimony over all of the
15 objections that FPL could have made over two full
16 days without giving us an opportunity to do so.

17 So it's for that reason that we object to that
18 exhibit being in. And if the Commission would like
19 us to -- or if the prehearing officer would like us
20 to address it further in a written form, I just
21 wanted to bring it up --

22 COMMISSIONER BROWN: Well, there wasn't even a
23 Notice of Intent to use deposition was not filed in
24 this case --

25 MR. RUBIN: That's correct.

1 COMMISSIONER BROWN: -- for the hearing. It
2 was just attached as an exhibit, rather than -- so
3 could you elaborate?

4 MR. REHWINKEL: Well, in our view, first of
5 all, the -- well, with respect to that provision
6 about the use of the deposition, to the extent we
7 filed this deposition however many weeks ago, that,
8 in and of itself, would meet notice, because we put
9 the whole deposition in. But we were not trying to
10 introduce the deposition to -- as affirmative
11 evidence. The deposition was attached to Mr.
12 Schultz's testimony as a basis for his -- some of
13 the opinions that he expressed in his testimony.
14 So it was only offered for that purpose.

15 I would be happy to sit down with Mr. Rubin
16 and seek to understand his concerns a little bit
17 more, but also to craft some kind of a stipulation
18 about what the Commission could use in the
19 deposition for reliance as competent, substantial
20 evidence.

21 We certainly did not offer this -- and I know
22 he did not mean that we were somewhat
23 surreptitiously trying to evade a Commission order.
24 We had no thought whatsoever in this provision when
25 we filed his testimony with this exhibit attached

1 to it. And so it's not offered for the purpose
2 that, I think, ordinarily people would offer
3 depositions as a supplement, or supplanting of
4 testimony.

5 COMMISSIONER BROWN: Any of the other parties
6 have anything to add or FPL?

7 FIPUG first.

8 MR. MOYLE: Yeah, your staff probably can give
9 you chapter, line and verse, but my recollection is
10 there is a provision in the Rules of Civil
11 Procedure which says a deposition of a party can be
12 used for any purpose at hearing. So, I mean, for
13 the good of the order, I put that out there. You
14 know, it's a deposition. Obviously, it sounds like
15 it's of a limited purpose for which they are
16 putting it forward, but I think when you combine
17 that with the Rule of Civil Procedure.

18 COMMISSIONER BROWN: Okay. Anything else to
19 add, Mr. Wright?

20 MR. WRIGHT: I just want to note that we
21 concur with Mr. Rehwinkel's analysis. The
22 deposition was offered as a basis for Mr. Schultz's
23 opinions, not for the direct testimony of Ms.
24 Manz -- Ms. Manz or Mr. Gwaltney, or anything like
25 that. I think Mr. Rehwinkel's analysis is correct.

1 Thank you.

2 COMMISSIONER BROWN: Okay.

3 MR. RUBIN: The -- first of all, Mr.
4 Rehwinkel's comments are correct. We didn't intend
5 to imply that there was some effort here to
6 circumvent the rules. We simply looked at this --
7 and, you know, in terms of the comments just made,
8 certainly Mr. Schultz can rely upon those
9 depositions in offering his opinions, which he has
10 done. That doesn't mean the depositions come into
11 the record.

12 The concern is, under the OEP, if there were
13 page and lines that were identified for us, we
14 could have looked at it and said, yes, we don't
15 have any objection to that, or here's why we object
16 to that. But we haven't had that opportunity.
17 With 500 pages of testimony, it would be, frankly,
18 very time-consuming and difficult to do that now;
19 and under the OEP, the deadline for filing that
20 Notice of Intent is today.

21 So we just don't think it should be part of
22 the record because then anyone could brief from it,
23 anyone can ask questions from any portion of that.
24 Impeachment rules go out the window. So we do
25 object to the deposition transcript and all of the

1 exhibits, 1,600 pages, being part of the record.

2 COMMISSIONER BROWN: Okay. So it doesn't
3 sound like there would be any type of stipulation
4 to a limited purpose of the deposition, or a
5 limited use of the deposition as an exhibit, as Mr.
6 Rehwinkel offered up?

7 MR. RUBIN: If Mr. Rehwinkel would provide us
8 with pages and lines, we would be happy to look at
9 them. We obviously have to do that pretty quickly.
10 And certainly, a deposition can be used for
11 impeachment. It always can be. But we just
12 haven't seen anything yet.

13 COMMISSIONER BROWN: Mr. Rehwinkel.

14 MR. REHWINKEL: Well, Madam Chairman, if there
15 is -- again, I was explaining what we did here.
16 And I -- I have -- I have not waived my right to
17 file a written objection to this.

18 This is a pretty significant piece of Mr.
19 Schultz's testimony. His testimony refers to
20 circumstances that are contained in the deposition
21 and some of the exhibits. Some of the rebuttal
22 testimony references instances in the deposition by
23 page and line.

24 So this is a more complicated issue. And I
25 think that it -- it -- I -- I -- our argument is it

1 doesn't have anything to do with the intent and
2 purpose of the OEP with respect to page and line
3 references.

4 Certainly, when we filed this deposition over
5 two months ago, I guess it was, it was -- it was
6 not objected to then. Rebuttal testimony came in.
7 And now, at the last second, we hear this
8 objection, which is raised today for the first
9 time.

10 So I would object to a decision being made
11 based on these oral -- oral objections that are
12 raised, and would reserve our right to argue this
13 to the full Commission if -- or -- and/or file
14 written pleadings in response to this objection.

15 COMMISSIONER BROWN: Yeah. And this is
16 more -- staff, you would like to comment?

17 MS. BROWNLESS: If I may just --

18 MS. HELTON: I would like to say something.

19 COMMISSIONER BROWN: Yes.

20 MS. HELTON: Quite frankly, I am a little bit
21 confused. I hear what Mr. Rehwinkel says, that the
22 deposition was attached to Mr. Schultz's testimony
23 for any other reason than to perform a basis for
24 Mr. Schultz's testimony.

25 But the reason why Section G is in the order

1 establishing procedure is because Mr. Rehwinkel,
2 and some of the other intervenors to our process,
3 took issue to the fact that, at one point in time
4 in our process, we allowed deposition transcripts
5 to go into the record on a pretty regular basis
6 under the rule that Mr. Moyle referred to.

7 So here now, we have an instance where there
8 is a deposition transcript that's being added, not
9 following this provision in the rule -- and I
10 haven't looked at Mr. Schultz's testimony to
11 understand completely how or why that deposition
12 transcript is there.

13 But I am -- I am -- I -- when we put this
14 provision in the order establishing procedure, we
15 did so trying to work with the parties to come up
16 with a process that everyone could be comfortable
17 with, everyone would come to the table with firm
18 footing, and I am, quite frankly, a little bit
19 confused now about how we go forward.

20 MR. REHWINKEL: Madam Chairman, could I
21 address that, because this is --

22 COMMISSIONER BROWN: Just one second, please.
23 I do want to hear from Ms. Brownless before I hear
24 from the parties.

25 MS. BROWNLESS: Thank you.

1 I did listen to these depositions, and there
2 was a panel. They were long-ranging. They were
3 technical detailed. But at the very beginning, it
4 was very clear that the types of objections that
5 one would make if the deposition were going to be
6 used for testimony in lieu of discovery would have
7 been entirely different, and so I think that is an
8 important distinction.

9 Now, I understand that the Administrative
10 Procedures Act, which we follow, does not impose
11 the Rules of Evidence strictly upon us. We have a
12 lovely Supreme Court decision here lately which
13 illuminates that thanks to Mr. Moyle.

14 But I do think that it is important to follow
15 the rules of the road. Had people known that those
16 depositions would have been used in this way, I
17 think the response to the objections that would
18 have been made at the time would have been
19 different.

20 And I just think that -- I agree with Ms.
21 Helton, that the whole point of putting in
22 Paragraph G was to try to appropriately balance the
23 desirability of putting depositions in the record
24 with folks' ability to appropriately respond to
25 them.

1 So to be honest, I thought everyone was
2 perfectly happy with putting these depositions in
3 there, but having raised this point, I think
4 Florida Power & Light raises a good point.

5 COMMISSIONER BROWN: Okay. Now, Mr.
6 Rehwinkel.

7 MR. REHWINKEL: Yeah. This -- there is a
8 severe conflation of two issues here by Ms. Helton,
9 and I just have to address it.

10 What we objected to time and time again over
11 the past years was depositions coming in on the eve
12 of hearing just being dumped into the record, and
13 then the staff making recommendations based on
14 evidence that was in those depositions.

15 We filed this exhibit to Mr. Schultz's
16 testimony in early March -- I don't know exactly
17 what the date, March 15th -- and it is very clear
18 from Mr. Schultz's testimony, his direct testimony,
19 about what his purpose was and attaching the
20 deposition and the reliance that he had made and
21 heard at the deposition.

22 We are not asking in any way, shape or form
23 that the testimony in the deposition be used for
24 competent, substantial evidence that, you know, Ms.
25 Manz said something happened. It's just that's not

1 our purpose whatsoever. Mr. Schultz attached it
2 just like FPL has attached discovery responses from
3 the Public Counsel's office to their testimony.

4 COMMISSIONER BROWN: But it can be briefed if
5 it's attached as an exhibit, correct?

6 MR. REHWINKEL: Well, anything can be briefed.
7 The question is what was --

8 COMMISSIONER BROWN: Relying --

9 MR. REHWINKEL: -- what would the Commission
10 do with what they see as the evidence in the
11 record. And we are not offering this as some sort
12 of independent testimony. And, you know, this is
13 not, in our view, anything like what we sat down
14 and worked out a process under the Rules of Civil
15 Procedure.

16 By the way, which the Rules of Civil Procedure
17 were not affected by the Evidence Code decision by
18 the Florida Supreme Court in the Cedar Bay case.
19 That -- the Rules of Civil Procedure apply as the
20 APA applies it.

21 COMMISSIONER BROWN: Okay, we are going down a
22 rabbit hole here. So let's focus on this for a
23 second.

24 MR. REHWINKEL: But I am saying the Rules of
25 Civil Procedure do --

1 COMMISSIONER BROWN: Mr. Rehwinkel, I would
2 like to focus on use of the deposition, and I would
3 like to see if the parties can work out an
4 agreement on that, so I am not going to make a
5 decision right now.

6 I would direct Office of Public Counsel to get
7 with the utility and be -- and converse and find a
8 remedy. And if you cannot come by close of
9 business on Friday --

10 MS. BROWNLESS: File a written response and
11 let us know what your positions are.

12 COMMISSIONER BROWN: Okay?

13 MR. REHWINKEL: That's fine. I -- I -- I
14 was -- you know, if we were going to have to sit
15 here and work -- work something out today.

16 COMMISSIONER BROWN: No. I would direct you
17 to file some type of response with the Commission
18 by Friday --

19 MR. REHWINKEL: Okay.

20 COMMISSIONER BROWN: -- and we will go from
21 there.

22 MR. REHWINKEL: Thank you.

23 COMMISSIONER BROWN: Okay.

24 MR. RUBIN: And we are happy to work with Mr.
25 Rehwinkel in the interim. If we can work something

1 out, we are happy to do that.

2 COMMISSIONER BROWN: Okay.

3 MR. MOYLE: Can I just ask a clarification?

4 This isn't really our fight necessarily, but there
5 is not a written motion. I mean, what we got is an
6 oral motion made today, and then there is going to
7 be a written response.

8 COMMISSIONER BROWN: It doesn't sound like
9 it's a motion. It sounds like it's an objection,
10 is that correct?

11 MR. RUBIN: It is, and it's specifically
12 pursuant to the order establishing procedure
13 regarding use of depositions.

14 MR. MOYLE: So it's an objection, and then you
15 will allow responses by a time certain.

16 COMMISSIONER BROWN: But right now, I am
17 directing the utility and the Public Counsel, since
18 it's their fight here, to get together and see if
19 there could be a remedy by close of business on
20 Friday to use of that deposition.

21 MR. MOYLE: Okay. Thanks.

22 COMMISSIONER BROWN: Okay. And in the
23 interest of time -- this is one long prehearing,
24 longer than our usual ones, so I apologize, but
25 there is a lot of stuff here that we have to

1 digest.

2 So where are we, Ms. Brownless?

3 MS. BROWNLESS: Section X, proposed
4 stipulations.

5 COMMISSIONER BROWN: I don't hear any proposed
6 stipulations yet.

7 MR. RUBIN: Not at this time.

8 COMMISSIONER BROWN: Okay.

9 MS. BROWNLESS: Okay. And pending motions,
10 there are none at this time, of which I am aware.

11 COMMISSIONER BROWN: Okay. Thank you.

12 Section XII, confidentiality.

13 MS. BROWNLESS: There are none at this time.

14 COMMISSIONER BROWN: Thank you.

15 Now, let's talk about Section XIII,
16 post-hearing procedures.

17 MS. BROWNLESS: We recommend that post-hearing
18 briefs be limited to 40 pages should briefs be
19 necessary.

20 COMMISSIONER BROWN: Okay. Everyone in
21 agreement -- I knew. I am not even going to look
22 over there. 40 pages is acceptable to all parties?

23 MR. REHWINKEL: I would ask if we could go to
24 50. This is a big case and we have a lot of
25 evidence in here. I mean, we could live with 40,

1 but I think 50 would be a little bit better.

2 COMMISSIONER BROWN: Would the other parties
3 like 50 as well?

4 MR. RUBIN: 50 would be fine with us.

5 COMMISSIONER BROWN: Okay. Everyone says,
6 yep --

7 MR. REHWINKEL: Thank you.

8 COMMISSIONER BROWN: Thank you. That sounds
9 good, 50 pages it is.

10 MS. BROWNLESS: Yes, ma'am.

11 We recommend that a summary of each position,
12 set off with asterisks, should be included in each
13 post-hearing statement. There is no word limit
14 with regard to those summaries, is our
15 recommendation.

16 COMMISSIONER BROWN: Thank you.

17 MS. BROWNLESS: And if a bench decision is not
18 made, briefs will be due on June 28th, 2019.

19 COMMISSIONER BROWN: Okay. Section XIV,
20 rulings.

21 MS. BROWNLESS: Okay. We recommend that
22 opening statements be limited to, we are going to
23 go five minutes, to five minutes per party.

24 COMMISSIONER BROWN: Are the parties amenable
25 to five minutes opening statements? Starting with

1 FPL.

2 MR. RUBIN: If -- does that mean that each of
3 the intervenors also has five minutes?

4 MS. BROWNLESS: Yes.

5 MR. RUBIN: So I would ask if we could have,
6 perhaps, 10 minutes if they are each going to have
7 five minutes?

8 MR. MOYLE: No objection.

9 COMMISSIONER BROWN: No objection.

10 MR. WRIGHT: We are fine with Mr. Rubin's
11 proposal.

12 COMMISSIONER BROWN: Okay. Five, five --
13 everyone gets five on intervenors, and FPL gets 10.

14 MR. RUBIN: And I will try and save some of
15 that time.

16 COMMISSIONER BROWN: Thank you. I am okay
17 with it.

18 All right, staff.

19 MS. BROWNLESS: And we are aware of no other
20 matters at this time.

21 COMMISSIONER BROWN: Okay.

22 MR. HETRICK: Madam -- Madam Chair, could we
23 take a two-minute break?

24 COMMISSIONER BROWN: Oh, before we conclude?

25 MR. HETRICK: Yes, ma'am.

1 COMMISSIONER BROWN: Yes, depositions?

2 All right. Before we take a two-minute break,
3 though, I would like to hear if there are any
4 other matters to address.

5 MR. WRIGHT: No other matters. I just want to
6 know if it's going to be a real two minutes or if
7 it's going to be more.

8 COMMISSIONER BROWN: It's not. I see my
9 advisor. It's five minutes, is that okay?

10 MR. WRIGHT: That's fine. I just wanted to
11 know if I had time to do something.

12 COMMISSIONER BROWN: Yeah, five minutes. All
13 right.

14 We will be back on the record at 2:57.
15 Thanks.

16 MR. WRIGHT: Thank you.

17 (Brief recess.)

18 COMMISSIONER BROWN: We are back on the record
19 now.

20 Are any of the parties -- do any of the
21 parties have any other matters to address before we
22 adjourn the prehearing?

23 Mr. Rehwinkel.

24 MR. REHWINKEL: I would just say that Mr.

25 Rubin and I had a promising conversation about --

1 COMMISSIONER BROWN: That's good.

2 MR. REHWINKEL: -- working to where you asked
3 us to get to. No promises, and certainly more
4 aspirational on my part, but I think we will try to
5 work something out.

6 COMMISSIONER BROWN: I appreciate these
7 efforts. Thank you.

8 Any of the other parties have anything to
9 mention before we conclude?

10 All right. We are adjourned. See you
11 tomorrow.

12 (Whereupon, the proceedings concluded at 2:57
13 p.m.)

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

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

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

DATED this 24th day of May, 2019.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020