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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20200151-EI

Petition for approval of a  
regulatory asset to record costs  
incurred due to COVID-19, by  
Gulf Power Company.

\_\_\_\_\_ /

DOCKET NO. 20200189-WS

Petition for approval of a  
regulatory asset to record costs  
incurred due to COVID-19, by  
Utilities, Inc. of Florida.

\_\_\_\_\_ /

DOCKET NO. 20200194-PU

Petition for approval of a  
regulatory asset to record costs  
incurred due to COVID-19, by  
Florida Public Utilities Company,  
Florida Public Utilities Company -  
Indiantown Division, Florida Public  
Utilities Company - Fort Meade, Florida  
Division of Chesapeake Utilities Corporation.

\_\_\_\_\_ /

PROCEEDINGS: PREHEARING CONFERENCE  
COMMISSIONERS  
PARTICIPATING: COMMISSIONER ANDREW GILES FAY  
PREHEARING OFFICER  
DATE: Wednesday, June 2, 2021

1     TIME:                   Commenced:  1:06 p.m.  
                                  Concluded:  2:10 p.m.

2

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

5     REPORTED BY:           DEBRA R. KRICK  
                                  Court Reporter and  
6                                Notary Public in and for  
                                  the State of Florida at Large

7

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

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1 APPEARANCES:

2 JOEL T. BAKER, KEN HOFFMAN and RUSSELL  
3 BADDERS, ESQUIRES, Gulf Power Company, One Energy Place,  
4 Pensacola, Florida, 32520-0100, appearing behalf of Gulf  
5 Power Company (GULF).

6 BETH KEATING, ESQUIRE, Gunster, Yoakley &  
7 Stewart P.A., 215 South Monroe Street, Suite 601,  
8 Tallahassee, Florida 32301, appearing behalf of Florida  
9 Public Utilities Companies (FPUC).

10 RICHARD GENTRY, PUBLIC COUNSEL; CHARLES  
11 REHWINKEL, DEPUTY PUBLIC COUNSEL; STEPHANIE MORSE,  
12 ANASTACIA PIRRELLO and PATRICIA A. CHRISTENSEN,  
13 ESQUIRES, Office of Public Counsel, c/o The Florida  
14 Legislature, 111 W. Madison Street, Room 812,  
15 Tallahassee, Florida 32399-1400, appearing on behalf of  
16 the Citizens of the State of Florida (OPC).

17 SHAW P. STILLER, WALTER TRIERWEILER and  
18 JENNIFER S. CRAWFORD, ESQUIRES, FPSC General Counsel's  
19 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
20 32399-0850, appearing on behalf of the Florida Public  
21 Service Commission (STAFF).

22 KEITH HETRICK GENERAL COUNSEL; MARY ANNE  
23 HELTON, SAMANTHA CIBULA, ESQUIRES, Florida Public  
24 Service Commission, 2540 Shumard Oak Boulevard,  
25 Tallahassee, Florida 32399-0850, Advisor to the Florida

1 Public Service Commission.

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

2 COMMISSIONER FAY: Good afternoon, this is  
3 June 2nd, one -- actually, it's 1:06 now. We will  
4 call this prehearing conference to order.

5 Just before I have staff read the notice, the  
6 Clerk's Office updated me that the video portion of  
7 the hearing will be on-line following the meeting.  
8 As appropriately noticed before, the telephonic  
9 communications are still intact for the hearing, so  
10 we will move forward as appropriate with those.

11 Staff, please read the notice.

12 MR. STILLER: By notice issued on May 21st,  
13 2021, this time and place has been set for a  
14 prehearing conference in Docket Nos. 20200151-EI,  
15 20200189-WS and 20200194-PU. The purpose of the  
16 prehearing is set out more fully in the notice.

17 COMMISSIONER FAY: Great. Thank you.

18 We will move to appearances. We will start  
19 with Gulf Power.

20 MR. BAKER: Good afternoon, Commissioner Fay,  
21 my name is Joel Baker, appearing on behalf of Gulf  
22 Power. I will also enter an appearance for Russell  
23 Badders and Will Cox.

24 Thank you.

25 COMMISSIONER FAY: Great. Thank you.

1 FPUC.

2 MS. KEATING: Good afternoon, Commissioner.  
3 Beth Keating with the Gunster Law Firm here today  
4 for Florida Public Utilities Company, all  
5 divisions, and the Florida Division of Chesapeake  
6 Utilities.

7 COMMISSIONER FAY: Great. Thank you.

8 And I believe Mr. Friedman is not on the call  
9 but would just make sure.

10 MR. STILLER: That is correct.

11 COMMISSIONER FAY: Okay. Great. Thank you.  
12 Office of Public Counsel.

13 MS. CHRISTENSEN: Good afternoon. Patty  
14 Christensen with the Office of Public Counsel. I  
15 would like to put an appearance for Richard Gentry,  
16 the new Public Counsel, Charles Rehwinkel, and I  
17 believe Stephanie Morse and Anastacia Pirrello are  
18 both on the phone.

19 COMMISSIONER FAY: Okay. Great. Thank you.  
20 Commission Staff next.

21 MR. STILLER: Shaw Stiller and Walt  
22 Trierweiler and Jennifer Crawford for Commission  
23 Staff.

24 COMMISSIONER FAY: Great.

25 MS. HELTON: And Mary Anne Helton and Samantha

1 Cibula are here as your advisers today. I would  
2 also like to enter an appearance for your General  
3 Counsel, Keith Hetrick.

4 COMMISSIONER FAY: Great. Thank you.

5 We will move on to preliminary matters.

6 MR. STILLER: Yes, Commissioner.

7 Due to the ongoing effects of the COVID-19  
8 pandemic, parties and their representatives were  
9 afforded the option to participate in this  
10 prehearing in person or virtually. As noted by the  
11 above appearances, all parties participating in the  
12 prehearing conference have representatives in the  
13 hearing room. Several attorneys with the Office of  
14 Public Counsel are available via GoToMeeting today.

15 As the Commissioner noted at the beginning of  
16 the hearing, a live video broadcast of this hearing  
17 will be available upon completion as an archived  
18 video on the Commission's website.

19 Each person participating via GoToMeeting  
20 today needs to keep their phone or device muted  
21 when they are not speaking, and only unmute when  
22 they are called upon to speak. If they do not keep  
23 their phone muted, or put their phone on hold, they  
24 may be disconnected from the proceeding and will  
25 need to call back in. Also, telephonic

1 participants should speak directly into their phone  
2 and not use the speaker function.

3 Staff is aware of no other matters at this  
4 time.

5 COMMISSIONER FAY: Great. Thank you, Mr.  
6 Stiller.

7 Any parties have any preliminary matters they  
8 want to address?

9 MS. CHRISTENSEN: Yes, Commissioner. Patty  
10 Christensen with the Office of Public Counsel.

11 Our understanding is UIF has filed its notice  
12 of withdrawal of its petition. I am not sure  
13 whether or not that's been ruled on by the  
14 Prehearing Officer, but we would ask that it be  
15 stated on the record whether or not UIF's request  
16 to withdraw their petition has been granted so we  
17 can know whether or not we need to proceed with  
18 anything dealing with UIF.

19 COMMISSIONER FAY: Yeah, I will confirm with  
20 Mr. Stiller, but I believe we have withdrawn UIF.

21 MR. STILLER: UIF has filed their notice. The  
22 order is scheduled for consideration by the full  
23 Commission on June 15th.

24 Since this matter proceeded to a PAA, it's  
25 beyond the jurisdiction, in staff's determination,



1 of the Hearing Officer to enter the order of  
2 dismissal and it needed to go back before the full  
3 Commission.

4 COMMISSIONER FAY: Is that clarity for you? I  
5 know Mr. Friedman is not on the call. I don't know  
6 if that's sufficient to presume that they are not  
7 engaged.

8 MS. CHRISTENSEN: Yes. And I think that does  
9 provide us with some clarity and gives us direction  
10 as to how to prepare for the hearing on that now.  
11 Thank you.

12 COMMISSIONER FAY: I'm presuming you are not  
13 suggesting we find Mr. Friedman and get him on the  
14 phone?

15 MS. CHRISTENSEN: No, I am not.

16 COMMISSIONER FAY: Okay. Thank you.

17 Okay, so we will move into the -- if there are  
18 no other preliminary matters, we will move into the  
19 prehearing order.

20 I know this is a little bit old and new. We  
21 have some folks in the hearing room, we have some  
22 on the phone. As we go through them, I will try to  
23 pause just to allow anyone to speak up if they need  
24 to. If you could just ask to be recognized, we  
25 will make sure for the court reporter that we have

1 recognition of who's speaking, and then you are  
2 welcome to provide your comments at that time.

3 MR. REHWINKEL: Commissioner Fay.

4 COMMISSIONER FAY: Yes, Mr. Rehwinkel.

5 MR. REHWINKEL: Yes, hi.

6 COMMISSIONER FAY: Go ahead.

7 MR. REHWINKEL: I just would like to ask that  
8 all the participants who are new to the hearing  
9 room post-COVID to be reminded that I think the  
10 Commission installed a new microphone system, and  
11 they have to stay engaged with the microphone for  
12 those watching, they fade in and out.

13 COMMISSIONER FAY: Great. Yeah, thank you for  
14 that. We did a slide orientation for folks that  
15 came in for the first time, and if for any reason  
16 folks on the phone have trouble hearing one of the  
17 parties or the attorneys, please just speak up and  
18 let us know, and I know the Clerk will do the same  
19 if she has trouble hearing anybody. I appreciate  
20 the comment. I know sometimes we fade out just by  
21 turning away from these new mics and we want to  
22 make sure we get it on the record.

23 Anything else, Mr. Rehwinkel?

24 MR. REHWINKEL: Thank you very much. No.

25 Thank you.

1           COMMISSIONER FAY: Great. We will start with  
2 Sections I, II and III of the draft prehearing  
3 order.

4           Section IV, procedure for handling  
5 confidential information.

6           Section V, prefiled testimony and exhibits,  
7 witnesses.

8           MS. MORSE: OPC, has a question, Commissioner?

9           COMMISSIONER FAY: I am sorry, is this Ms.  
10 Morse?

11          MS. MORSE: Yes, I apologize. Good afternoon,  
12 this is Stephanie Morse for OPC.

13          I just wanted to confirm in terms of the  
14 testimony summaries, even though we have the one  
15 witness who will be addressing two different  
16 dockets, and that he will get three minutes for  
17 each of those dockets.

18          COMMISSIONER FAY: Yeah, Ms. Morse. So  
19 assuming that there are specifics related to each  
20 of those parties, that additional time could be  
21 provided to clarify what you would want to entail  
22 for that party. I don't -- I don't think it's  
23 beneficial to the Commission to hear the same  
24 argument three times for each docket, but assuming  
25 you have something you want to add for each party,

1 I think that's appropriate.

2 MS. MORSE: Yes, you know, I do believe the  
3 summary will have different information that's  
4 specific to Gulf and specific to FPUC. I do  
5 believe that's the case, so thank you very much.

6 COMMISSIONER FAY: Okay. And presuming they  
7 are done, I am presuming Commissioner Graham might  
8 speak up on that, so we will just -- we will play  
9 it by ear assuming there is new information to  
10 include.

11 Anything else, Ms. Morse?

12 MS. MORSE: Thank you Commissioner. Oh, no,  
13 thank you.

14 COMMISSIONER FAY: Okay. Great.

15 Any other comments for that?

16 Staff, cross-examination exhibits?

17 MR. STILLER: All cross-examination and  
18 impeachment exhibits, confidential and  
19 nonconfidential, that a party intends to use at the  
20 hearing must be provided to the Commission Clerk by  
21 the close of exist June 9th, 2021, in order to be  
22 processed and placed on the Commission's website.  
23 Parties are aware of the cross-examination  
24 requirements that were provided in Attachment A to  
25 the prehearing order.

1           COMMISSIONER FAY: All right. Thank you, Mr.  
2           Stiller.

3           Parties, any comments on this? Nope. Great.  
4           We will move on.

5           Section VI order of witnesses. I am presuming  
6           at this time, there is no witnesses stipulated.

7           MR. STILLER: None at this time, Commissioner.

8           COMMISSIONER FAY: Okay.

9           MS. KEATING: Commissioner.

10          MR. WILLIAMS: Yes, Ms. Keating, go ahead.

11          MS. KEATING: I apologize. Just one item  
12          here.

13                 I just wanted to note in the order of  
14          witnesses that Terry Deason is listed as being  
15          proffered by Gulf and it FPUC on direct, and he is  
16          only being sponsored by FPUC, jointly with Gulf on  
17          rebuttal.

18          COMMISSIONER FAY: So you are cutting out a  
19          little bit, Ms. Keating. Can you just repeat your  
20          comment?

21          MS. KEATING: Yeah, sorry. I'm getting used  
22          to these mics.

23          COMMISSIONER FAY: That's okay. No problem.  
24          We will get there.

25          MS. KEATING: Terry Deason is listed on direct

1 is being sponsored by Gulf and FPUC. He is only  
2 sponsored by FPUC jointly with Gulf on rebuttal.

3 COMMISSIONER FAY: Okay. Great, we will make  
4 of that correction.

5 MS. CHRISTENSEN: Commissioner.

6 COMMISSIONER FAY: Yes.

7 MS. CHRISTENSEN: This is Patty Christensen,  
8 yes.

9 Going back to the section on prefiled  
10 testimony and exhibits, since this is going to be a  
11 hybrid hearing, and I know our witness for OPC is  
12 going to be present. With cross-examination  
13 exhibits, generally speaking when we've had live  
14 hearings, we produced those at the hearings. I am  
15 not sure who is appearing via Zoom, who is  
16 appearing live, or who intends to appear live. It  
17 might be helpful to know how to deal with  
18 cross-examination exhibits for those particular  
19 witnesses since this is going to be kind of a  
20 hybrid procedure.

21 COMMISSIONER FAY: Yeah, I know we are -- we  
22 are transitioning back into this hybrid model, so  
23 maybe legal can provide some clarity to make sure  
24 you have what you need for those witnesses.

25 MS. HELTON: Mr. Chairman, it's staff's

1 intention to continue the process of the electronic  
2 version of all cross-examination exhibits on a  
3 going-forward basis under the hybrid method, as  
4 well as when we are all back in the hearing room.

5 MS. CHRISTENSEN: We -- the Office of Public  
6 Counsel may wish to discuss that with staff on a  
7 going-forward basis once we actually fully  
8 transition back into live hearings. While we  
9 understand that the process is necessary when you  
10 are doing Zoom type of hearings. When you are in a  
11 live hearing, I don't know that it's necessary to  
12 provide cross-examination hearing exhibits prior to  
13 the witnesses coming in live and taking the stand,  
14 but I will defer that discussion to another day.

15 COMMISSIONER FAY: No, I appreciate it. It's  
16 a valid point. The transition of the hybrid does  
17 make it somewhat confusing as to which one we are  
18 in person or not as those deadlines.  
19 Unfortunately, just out of respect to the safety of  
20 those who aren't in the room and who will attend by  
21 phone, we want to keep in mind that that's our top  
22 priority. So we will probably continue that  
23 electronic version, but if you would continue to  
24 speak with staff, and if there is something we can  
25 do to resolve it for you, we will.

1 Thank you.

2 MS. CHRISTENSEN: Certainly, but I guess --

3 MR. REHWINKEL: Sir.

4 MS. CHRISTENSEN: Can I -- just --

5 COMMISSIONER FAY: Yeah, Mr. Rehwinkel, you  
6 are interrupting Ms. Christensen. It's up to you  
7 if you want to go.

8 MS. CHRISTENSEN: If I can finish this one  
9 point before Mr. Rehwinkel responds, just a  
10 practical matter.

11 If we can identify what witnesses are going to  
12 be present in the hearing room and what witnesses  
13 are going to be available Zoom. Unless the  
14 exhibits are going to be projected, I just want to  
15 know how we are going to handle giving them to the  
16 witnesses during the actual hearing, so we know  
17 whether or not we need to bring them with us to the  
18 hearing, or should we bring copies of all the  
19 cross-examination exhibits? That's also a part of  
20 what I was trying to get guidance with.

21 COMMISSIONER FAY: Sure, we will do. We will  
22 get you that guidance. Thank you.

23 Mr. Rehwinkel, go ahead.

24 MR. REHWINKEL: Yes. Along the same lines, I  
25 believe we should probably have some kind of a



1 technical call with staff even for this hybrid  
2 hearing, because we have never tried to do this  
3 exhibit routine in the hearing room. I just don't  
4 know the robustness of -- the robustness of the  
5 WiFi and the availability of laptops. It's just --  
6 it's just a conversation we haven't had to have  
7 because we've never had live witnesses in the  
8 hearing room.

9 So I -- it's not only for this hybrid, but if  
10 we go on a going-forward basis, we just need to  
11 understand what the technical capabilities are;  
12 because in the past, we just been relying on  
13 everyone's individual WiFi capabilities. I just  
14 don't know what it's like in the hearing room.  
15 Does that make sense?

16 COMMISSIONER FAY: Okay. Yeah, point taken.  
17 Just encourage you to keep working with our staff,  
18 and then if it's something that our Chair or the  
19 Commission needs to address going down the road, I  
20 am sure we will do that. So thank you for your  
21 comment.

22 Any other comments before we move on to the  
23 positions? Great.

24 We will start with the basic positions. Any  
25 changes? Great.

1           And then we have Issues 1 through 5. I can  
2 walk through each issue, but I thought it just  
3 might be more expedient if we just raise if there  
4 is any changes to Issues 1 through 5 by any of the  
5 parties? Okay. If not, we will move on to the  
6 contested issues.

7           Because we are in this hybrid model, I want to  
8 make sure the proper recognition and time is given  
9 to the parties to address these. My goal is to  
10 take them up like we would pretty much any other  
11 issue, and that the party raising the issue will  
12 start by providing the comments that they want to  
13 provide, followed by the other utility and/or OPC,  
14 depending on who is presenting the argument. So  
15 for the first issue, which is Issue 6, it would be  
16 Gulf presenting first, and then we would go down  
17 the line. And then for Issue 7, OPC would present  
18 first, and down the line.

19           And I will -- I will allow for some brief  
20 rebuttal on both of those issues at the end, but I  
21 emphasize brief in that nature, because I think you  
22 will still have plenty of time to raise these  
23 issues.

24           So with that, I would start on Issue 6,  
25 Gulf -- and if you could, you know, arrange your

1           comments to three to five minutes, that would be  
2           appropriate.

3           MR. BAKER: Thank you, Commissioner Fay, I  
4           look to move fairly quickly here.

5           COMMISSIONER FAY: Thank you.

6           MR. BAKER: So Gulf Power views this issue as  
7           being appropriate for resolution in this proceeding  
8           for a few reasons. First is that the issue has  
9           clearly been put at issue by OPC and Gulf Power.

10           By way of a little bit of background, Gulf's  
11           petition was filed over a year ago, on May 22nd of  
12           2020. And it indicated how it would track and  
13           record its COVID costs. Later, in a November 17th  
14           protest petition, OPC then set the total cost issue  
15           directly in dispute. I will describe that more  
16           later.

17           Months after the protest petition, and in  
18           light of the issues that were raised in the protest  
19           petition, Gulf Power's total COVID costs were  
20           updated and presented in Gulf's testimony, which  
21           were filed on direct on April 2nd of 2021. And  
22           OPC's May 7th, 2021, testimony continues to reflect  
23           the total costs are at issue.

24           Now, staff didn't take any position on this  
25           issue in its prehearing statement. And just

1           yesterday, we saw in the draft prehearing order  
2           that staff had changed its position to objection,  
3           so that caught us somewhat off guard. But I think  
4           that it's worth noting that OPC is not objecting to  
5           the inclusion of this issue to date, and it's  
6           provided even a substantive position on the issue  
7           in its prehearing statement. I also think it's  
8           worth note that neither staff nor OPC has filed a  
9           motion to strike Gulf's testimony which was filed  
10          on this issue.

11                 The second issue -- the second reason that the  
12          issue is appropriate for inclusion is that the  
13          issue should be included to comply with Section  
14          120.80 with the Florida Statutes, which governs  
15          these commission proceedings. Specifically  
16          120.80(13)(b) states in pertinent part that hearing  
17          on an objection to proposed action of the Florida  
18          Public Service Commission may only address issues  
19          in dispute.

20                 So what are the issues in dispute? We look to  
21          the protest petition filed by OPC, and we see the  
22          following: Paragraph 12(c)(3) of the OPC petition,  
23          we can see that OPC asks the PSC to determine the  
24          specific types of costs that are permitted to be  
25          included in the regulatory asset. And this issue

1 is encapsulated in prehearing order Issue 3, which  
2 is what type of costs should be eligible for  
3 inclusion in the regulatory assets?

4 But when we look to the proceeding paragraph,  
5 we are looking at paragraph 12(c)(2) of the protest  
6 petition now, and we can see there that OPC asks  
7 the PSC to determine the appropriate, if any,  
8 expenses that are permitted to be considered for  
9 inclusion in the regulatory -- regulatory asset  
10 treatment due to the effects of COVID-19.

11 Now, we know that this latter paragraph  
12 doesn't relate to the what types of costs issue  
13 that was separately pled. I think a fair reading  
14 of this paragraph is that it raises an issue as to  
15 what COVID-19 expenses, if any, are permitted to be  
16 considered for regulatory asset treatment, or, as  
17 we state in our proposed issue here, what are the  
18 total costs eligible for recovery?

19 So the long and the short, both OPC and Gulf  
20 have put this issue in dispute in this proceeding,  
21 and the Commission should render a substantive  
22 decision on it through the Chapter 120  
23 administrative hearing process.

24 And third, my last point I would like to point  
25 out, if I may, is that there should be no concern

1 with the Commission's ability to address cost  
2 recovery approval for the regulatory asset at the  
3 appropriate time in a base rate proceeding. I  
4 think at a fundamental level, this comes down to  
5 the difference between a determination of what  
6 costs are eligible for the regulatory asset versus  
7 approval of cost recovery for those costs. So the  
8 question as to, you know, what would be left to do?

9 And we look to the PAA order, and we can see  
10 in there a direct quote from page two, it states:  
11 That this approval to establish a regulatory asset  
12 for accounting purposes does not limit our -- being  
13 the Commission's -- ability to review the amounts,  
14 recovery method, recovery period and other related  
15 matters for reasonableness in a future proceeding  
16 in which the regulatory asset is included.

17 Now, the Commission has taken a similar  
18 approach and used similar language a few different  
19 times previously, you know, specifically I am  
20 talking about Gulf's Plant Smith and Plant Crist  
21 petitions, as well as the FPL Lauderdale Martin  
22 petition.

23 In those cases, the utility provided  
24 projected, or estimated costs and information for  
25 the amount of the regulatory asset in their

1 petitions that were ultimately approved by the  
2 Commission. And those approvals were subject to  
3 subsequent cost recovery approval based on the  
4 actual costs for amortization and cost recovery.

5 And it's for those reasons, Commissioner Fay,  
6 that we feel that this issue is well within the  
7 bounds of inclusion within this case.

8 COMMISSIONER FAY: Great. Thank you. Within  
9 the time. I appreciate it.

10 Ms. Keating.

11 MS. KEATING: Thank you, Commissioner.

12 Commissioner, the FPUC companies which include  
13 Chesapeake, don't object to the inclusion of this  
14 issue as it pertains to Gulf Power. However, we  
15 would ask that if you do decide that this issue  
16 should be retained, we would ask that it not --  
17 that it be a Gulf specific issue, and not apply to  
18 FPUC.

19 FPUC is not in the same posture as Gulf is.  
20 The company does not have final projected numbers  
21 for the total COVID costs. Those numbers continue  
22 to be updated and continue to change, and that  
23 issue has not been put into -- made an issue for  
24 the FPUC companies in this proceeding. The company  
25 has no testimony in that regard, and we would

1            simply ask that if you allow the issue, that you  
2            make it a Gulf specific issue.

3            COMMISSIONER FAY:    Okay.    Thank you.

4            Ms. Christensen.

5            MS. CHRISTENSEN:    Good afternoon.

6            OPC would support the inclusion of the issue  
7            regarding the costs that's being requested for  
8            recovery as part of any regulatory asset.    We think  
9            that given the Governor's declaration, I think, I  
10           believe it's July 1st where everything is going to  
11           be opened up, that sets a definitive end date for  
12           additional COVID costs, whereas, when the PAA was  
13           first issued, that was unknown.    We now have a  
14           specific end date.

15           And while, you know, the companies may claim  
16           that costs are continuing, and continuing to be  
17           updated.    We will be having the hearing on  
18           June 16th, and we can know the majority, if not all  
19           of those costs.    And we do understand that there  
20           may be a few types of costs, if the Commission  
21           determines that it's even appropriate to grant a  
22           COVID-19 regulatory asset, that it should be able  
23           to be determined what those costs are, and to get  
24           projected costs for those types of cost categories  
25           given that we are almost at the July 1st date, and



1           it's not unreasonable or un-- unable to be able to  
2           be project those costs for a month, or possibly  
3           three months, depending on how you project the bad  
4           debt type of cost.

5           So we would support that issue remaining in  
6           the docket. I think it gives clarity to this type  
7           of request as to how much money is actually at  
8           issue, and I don't think it needs to be punted down  
9           the road for further discussion in a future base  
10          rate case.

11          COMMISSIONER FAY: Great. Thank you, Ms.  
12          Christensen.

13          I guess before I go back to Gulf, if there is  
14          anything to add, I would defer to our staff, just  
15          to see if there are any questions or comments on  
16          what's been said for the item.

17          MR. STILLER: Thank you, Commissioner.

18          Just with your indulgence, if we could ask a  
19          few questions for clarity, that would be helpful.

20          COMMISSIONER FAY: Yes, please do. Thank you.

21          MR. STILLER: And first off, staff did, in the  
22          prehearing statement, represent that there was no  
23          position. Rebuttal testimony was due that same  
24          day. Staff elected to wait and read that rebuttal  
25          testimony before taking a firm position. I just

1 want to clarify why that was done, admittedly late  
2 in the game.

3 Staff's reason, basic reason for the objection  
4 is just perhaps best put as a disagreement with  
5 Gulf about what was put at issue in the PAA and the  
6 protest. But aside from that, the real questions  
7 are what is the importance of this number as the  
8 maximum eligible, what importance does Gulf put on  
9 that? And then secondly, if a number is fixed in  
10 this proceeding and then imported into the base  
11 rate proceeding, where there are a number of other  
12 parties, what review would Gulf be requiring of  
13 that number in the base rate docket?

14 MR. BAKER: Sure. So I will take those one at  
15 a time.

16 So the first thing is the number. The reason  
17 that we are pushing to add that total cost issue  
18 within this docket is that we have evidence  
19 presented here within this proceeding as to those  
20 total costs. That evidence doesn't exist in the  
21 rate case. And we felt that, since it seems to be  
22 the most appropriate venue to have those costs  
23 addressed was in this proceeding, we submitted  
24 evidence, and we provided support, and we served  
25 related discovery on that issue and the total

1 costs. So I think that's the why here. And, you  
2 know, as I spoke -- as I said earlier, I don't mean  
3 to go back into it, but we believe it's been  
4 made -- put at issue via OPC's protest petition.

5 So that's the reason why we are seeking the  
6 total number here, and we think that that's  
7 sensible, and, you know, we don't envision an  
8 opportunity other than within the context of this  
9 proceeding to put on evidence for that final  
10 number. It's about having an opportunity to have  
11 that evidence and that record reviewed for the  
12 purpose of decision.

13 And as to your second question, I believe it  
14 was related to, you know, what happens once the  
15 number would be carried into the rate case.

16 At that point, it's largely, of course, to the  
17 Commission's discretion. But at that point, we  
18 have a number that's backed by evidence, and that's  
19 been ruled upon by the Commission.

20 We do have testimony in the rate case that  
21 pertains to the outcome of this proceeding. It  
22 relates to amortization period, and how we would  
23 handle an eventual ruling in this case, but there  
24 is nothing more definitive or, you know,  
25 explanatory with regard to what the total costs are

1 in a way that's backed by the sort of support and  
2 evidence that you are seeing within this docket.

3 So those are the primary reasons. But of  
4 course, you know, the Commission always has  
5 discretion to review in a manner that's  
6 appropriate, you know, the costs, whether they are  
7 in this proceeding or the rate case, of course.

8 MS. CRAWFORD: If I may, Commissioner.

9 COMMISSIONER FAY: Yes. Sure. Ms. Crawford,  
10 go ahead.

11 MS. CRAWFORD: For the benefit of those who  
12 can't see me, it's Jennifer Crawford.

13 I am still not sure I am entirely clear. So  
14 when that number, which is going to be final  
15 decision of some sort by the Commission, goes to  
16 the rate case, the intervenors in this rate case,  
17 is that number booked with a prudence  
18 determination?

19 MR. BAKER: Well, I think at that point we go  
20 to the PAA order, which, you know, as it was  
21 issued, it was very explicit that the Commission  
22 would continue to have review authority over the  
23 amount.

24 What I would point out is -- I mean, our issue  
25 should be taken for what it is, and what we are

1 looking for is a determination as to what are the  
2 total costs eligible for recovery. Of course that  
3 recovery couldn't be initiated or fully approved  
4 until done so in a rate case setting.

5 MS. CRAWFORD: And so I guess part of where I  
6 am struggling is I kind of see this particular  
7 hearing as more about the policy, about what is  
8 appropriate should a regulatory asset be approved,  
9 and if so, what kinds of COVID-related costs are  
10 eligible for recovery. And when I look at the PAA,  
11 I don't see anything that talks about a number.

12 So let's say I am an intervenor in the FPL  
13 rate case, the Commission does what you are asking  
14 them to do in this case, and that number comes over  
15 to the rate case, am I able to challenge the costs  
16 and the appropriateness of those costs, and whether  
17 FPL/Gulf got the number right? Will I have that  
18 ability to do that in the rate case?

19 MR. BAKER: I would suspect that the  
20 Commission would offer that discretion, reason  
21 being is it's been in the Commission's authority to  
22 continue to review and review those from those  
23 costs that they have claimed.

24 MS. CRAWFORD: So the number that would be  
25 approved here does not come, quote, with any

1           prudence determination consistent with the PAA  
2           order?

3           MR. BAKER:   Certainly not in finality, not  
4           until it's been approved for recovery in a rate  
5           case proceeding.

6           MS. CRAWFORD:   Now, you talked about the  
7           evidence being in this docket and not in the rate  
8           case.   So how is an intervenor meant to do  
9           discovery on what those -- what's backing up those  
10          numbers?

11          MR. BAKER:   Well, certainly OPC has had that  
12          opportunity here, but in terms of, you know, what  
13          would be made available in the rate case docket,  
14          you know, it's something that would perhaps be up  
15          to the Commission's discretion in terms of how that  
16          particular issue or consideration would want to be  
17          considered within the base rate proceeding.

18          MS. CRAWFORD:   So OPC is the only party in  
19          common between the two dockets, so what if I am not  
20          OPC but I am in the rate case, am I able to conduct  
21          the discovery to -- I'm probably not being very  
22          elegant, but basically trying to test the  
23          appropriateness, the validity of how those costs  
24          were determined, accounted for, that sort of thing,  
25          how you got to those numbers, in other words?

1           MR. BAKER: Yeah, and I think that the best  
2           that I can say is it would be, like I said -- and I  
3           apologize that I can't give any better, I think it  
4           would be in the Commission's discretion to  
5           determine how that process would play out.

6           But you are right, I mean, the only party  
7           sitting here before us today that's had the  
8           opportunity to engage in that sort of discovery,  
9           you know, aside from staff, is OPC. So you are  
10          certainly correct on that point. And the number  
11          that got pulled over, to the extent that there, you  
12          know, wasn't any sort of evidentiary support that  
13          came along with it, then you are right. I mean, it  
14          would depend on the context of what was happening  
15          procedurally at the time in the rate case  
16          proceeding.

17          It's -- it's -- you know, sitting here today,  
18          I have a difficult time explaining full thrust what  
19          the review process would be that would be  
20          authorized by the Commission. But you are  
21          absolutely correct, I mean, in terms of other  
22          parties, certainly OPC has had the opportunity, but  
23          the other entities and intervenors would not have  
24          had similar, now you are right about that.

25          COMMISSIONER FAY: Ms. Helton, let me just

1           make sure -- Mr. Hoffman, did you want to add  
2           something?

3           MR. HOFFMAN: Commissioner Fay, if you don't  
4           mind. Could I just supplement what Mr. Baker had  
5           to say in response to staff's questions?

6           COMMISSIONER FAY: Sure. And this is to Ms.  
7           Crawford's, the last question?

8           MR. HOFFMAN: Yes.

9           COMMISSIONER FAY: Yeah, go ahead.

10          MR. HOFFMAN: So I think that a snapshot of  
11          what Mr. Baker is saying is that the issue that we  
12          raised, that FPL raised in this proceeding was  
13          limited to an issue of the eligibility of these  
14          costs for potential future cost recovery, and it  
15          was never intended to be, and doesn't reflect  
16          anything more than that.

17          Getting to Ms. Crawford's question, I agree  
18          that -- that I think you -- you work -- one works  
19          off of the language in the PAA order, where the  
20          Commission said, and it's been protested by OPC,  
21          that this approval of a regulatory asset does not  
22          limit our ability to review the amounts, recovery  
23          method, recovery period and other related matters  
24          for reasonableness in a future proceeding in which  
25          their regulatory asset is included.



1           And so I think that a fair interpretation of  
2           the Commission's language is, yes, that in a base  
3           rate proceeding, that could include the  
4           reasonableness of the costs, the prudence of the  
5           costs, because those interest terms that the  
6           Commission has traditionally applied when it comes  
7           to the issue of cost recovery.

8           COMMISSIONER FAY: Great. Thank you.

9           Ms. Helton, did you want to go ahead and --

10          MS. HELTON: I just want to make sure I  
11          understand, because I think we need to make sure we  
12          are walking away from this proceeding with some  
13          clarity.

14          So are you saying that you -- that Florida  
15          Power & Light will not object to the other parties  
16          to the rate case conducting discovery on these  
17          amounts, and you will not object to the Commission  
18          making adjustments to any number if they decide to  
19          set a number in this proceeding?

20          MR. HOFFMAN: Mary Anne, I --

21          COMMISSIONER FAY: Yes, Mr. Hoffman, go ahead.

22          MR. HOFFMAN: I think that that's a fair  
23          statement, because I think that all that Florida --  
24          Gulf, I am sorry -- has asked for from the getgo in  
25          this case is for the Commission to determine what

1 costs may make their way through cost recovery.  
2 And so the idea that an intervenor in the rate  
3 case, let's -- we will just use for purposes of  
4 discussion here the number that is reflected  
5 through our testimony, the 20 million, the 20.7  
6 million number.

7 If an intervenor in the rate case during the  
8 hearing wishes to cross-examine and take issue with  
9 some of those costs, I think that that is fair game  
10 for an intervenor to do in the rate case  
11 proceeding, and to serve discovery.

12 COMMISSIONER FAY: Okay. Thank you.

13 And did any other -- I don't want to leave OPC  
14 out. Does staff have any questions for OPC as a  
15 party? I know most of these were directed toward  
16 Issue 6, you might with Issue 7, but with Issue 6,  
17 before we move on, I just want to make sure you are  
18 given an opportunity to ask them also. No, okay.

19 MR. STILLER: No more questions.

20 COMMISSIONER FAY: Okay. Great.

21 Mr. Baker, if you would like, and/or Mr.  
22 Hoffman, I would give you an opportunity to provide  
23 really brief rebuttal. You answered a bunch of  
24 questions, so you might not be interested in doing  
25 that, but I did want to give you that opportunity.

1           MR. BAKER: I don't believe that I have any  
2           rebuttal, Commissioner Fay.

3           COMMISSIONER FAY: Okay. So what I would like  
4           to do on this issue, there is a lot of input here  
5           that I think is relevant, some of it specific to  
6           other filings, including the PAA, the objection to  
7           the PAA, and some of the other forms of  
8           documentation that we have in front of us. So I  
9           will take the issue under advisement and then state  
10          the ruling in the prehearing order as to if this  
11          issue should be included or not.

12          With that, I plan to move on it Issue 7.

13          Ms. Christensen.

14          MS. CHRISTENSEN: Yes. Good afternoon,  
15          Commissioner Fay.

16          We have requested that this issue be included  
17          discussing what criteria the Commission is applying  
18          in determining whether to establish the COVID-19  
19          regulatory asset, because we believe that it is  
20          important to identify the criteria that the  
21          Commission is using to determine whether or not the  
22          cost and the cost categories that have been  
23          requested in here are appropriate for regulatory  
24          recovery.

25          And it's also been OPC's position that when a

1 regulatory asset is established, that by the action  
2 of establishing that regulatory asset, and  
3 approving cost and cost types to be included in  
4 that regulatory asset, essentially, under  
5 accounting standards, the Commission is essentially  
6 agreeing that those costs and the majority of those  
7 costs are going to be recoverable in a future rate  
8 case.

9 And so for those reasons, we believe that it's  
10 appropriate to identify what accounting standards  
11 the Commission is going to be looking at, what past  
12 precedent the Commission has established in looking  
13 to establish and then permit regulatory assets need  
14 to be identified and discussed as part of the case.

15 While we recognize that the Commission, if  
16 they have a policy, can change the policy going  
17 forward, they have to specifically identify why  
18 they are enacting that policy change going forward.  
19 So we need to understand what the established  
20 policy of the Commission has been in past cases in  
21 establishing regulatory assets. And if there is  
22 going to be a deviation from that policy, that  
23 needs to be clearly identified as well. And we  
24 think the best way to do that is to have a separate  
25 identifiable issue, essentially stating what is the

1 legal standard that the Commission, and specific  
2 criteria that the Commission is utilizing to make  
3 that determination. And to subsume it into Issue  
4 1, I think, would allude the necessary and required  
5 issue. And, you know, Issue 1 also presumes the  
6 idea that the Commission should, under these  
7 circumstances, go ahead and establish a regulatory  
8 asset and defer and track and record those costs.  
9 We think it's appropriate to take a look at, you  
10 know, what those criteria should be going forward.

11 And I don't know if my colleague Ms. Morse has  
12 any additional argument to make, but I think that's  
13 where I will end it. Thank you.

14 COMMISSIONER FAY: Okay. Great. That was  
15 only two minutes.

16 MS. MORSE: I do.

17 COMMISSIONER FAY: Ms. Morse, if you would  
18 like to supplement Ms. Christensen's comments,  
19 please go ahead.

20 MS. MORSE: I would. Thank you, Commissioner  
21 Fay.

22 Just to follow up what Patty indicated, you  
23 know, the Commission's -- the grant of -- the broad  
24 grant of discretion and authority to the Commission  
25 is tempered by the statutory requirements, and

1 particularly those outlined in Florida Statute  
2 120.687, which requires a review in court to remand  
3 the case if the agency's exercise of discretion is  
4 inconsistent with the agency policy or their prior  
5 agency practice, you know, if that -- if any  
6 deviation from there is not explained by the  
7 agency.

8 So again, we feel like the inclusion of  
9 criteria, it's a necessary element for review in  
10 court to be able to determine, you know, what the  
11 policy is, how it was applied, or how any deviation  
12 might be explained.

13 So, you know, the refusal to even acknowledge  
14 that some criteria should apply or be followed or  
15 enumerated just opens up, you know, in our view,  
16 you know, a number of issues, and, you know, the  
17 precedent dictates that the Commission has an  
18 obligation to avoid arbitrary action or decisions.  
19 The refusal to apply any particular standard or  
20 criteria for a proceeding of this import, you know,  
21 we think would be an error.

22 So just to close, you know, we just think  
23 basically the statutes require it. Thank you,  
24 Commissioner.

25 COMMISSIONER FAY: Okay. Great. Thank you.

1           I will start with Gulf, if you would like to  
2           respond, and then FPUC.

3           MR. BAKER: Sure. Thank you. Thank you,  
4           Commissioner Fay.

5           I will start off by noting a typographical  
6           error on Gulf's response to Issue 7. It's  
7           referencing in the second line, Issue 2. That  
8           should be in Issue 1. And with that, we continue  
9           to believe that the issue would be subsumed within  
10          Issue No. 1. Just looking at language of Issue 1,  
11          we have an indication at the outset that says,  
12          should the Commission approve. You know, within  
13          that language, there is enough room or bandwidth  
14          for OPC to make the arguments that it's seeing go  
15          to raise here, we think.

16          And OPC separate issue, Issue 7, in the  
17          prehearing order seems to indicate that there is a  
18          single or established or previously unstated  
19          standard that needs to be made applicable to this  
20          case. You know, I note that the Commission has  
21          broad authority under statute and we continue to  
22          think that, you know, a ruling in the manner that  
23          the Commission feels is appropriate, based on the  
24          circumstances of the case and all that's happened,  
25          you know, given the unexpected and unanticipated

1 nature of the pandemic, that the Commission is  
2 within its realm and within its right to make the  
3 ruling that it feels is appropriate here.

4 COMMISSIONER FAY: Great. Thank you.

5 Ms. Keating.

6 MS. KEATING: Thank you, Commissioner.

7 Commissioner, the FPUC companies agree with  
8 Gulf Power with regard to this issue. This issue  
9 is largely redundant of Issue 1. Just from a  
10 practical perspective, thinking through how we  
11 would brief this issue as compared to Issue 1, I  
12 mean, it would be largely the same arguments.  
13 There is really just no need for this issue.

14 But the other thing I wanted to add was  
15 listening to Ms. Christensen and Public Counsel and  
16 talk about the need for the criteria, and just  
17 looking at the way this issue is worded, it gives  
18 me pause to think that this really sounds like it  
19 should be something considered more in the context  
20 of a rule-making, because this could potentially  
21 apply beyond the scope of the two parties that are  
22 in this consolidated proceeding. What they are  
23 about is establishing specific criteria for the  
24 Commission, on a going-forward basis, to consider  
25 the establishment of regulatory assets. So I think



1           those are our reasons for objecting to the  
2           inclusion of this issue.

3           COMMISSIONER FAY:   Okay.   Great.   Thank you.

4           I will give staff an opportunity to ask  
5           questions of either Ms. Christensen or other  
6           parties.

7           MR. STILLER:   Excuse me, Commissioner, I don't  
8           think we have any questions of the parties.   I  
9           would just point out a couple of things real quick.

10          Staff agrees that this issue is subsumed in  
11          Issue 1 and Issue 3 about the types of costs.  
12          Keeping in mind that establishing hard criteria by  
13          which the Commission would approve or disapprove  
14          regulatory assets would, itself, be a shift.   There  
15          are no such hard and fast criteria in past  
16          Commission orders.   Staff believes that arises from  
17          the fact that regulatory assets are typically in  
18          response to extraordinary situations, 9/11, a  
19          pandemic.   Such things do not lend themselves to  
20          uniform treatment through rules which may have to  
21          be amended the next time an extraordinary event  
22          comes around.

23          There are -- there is one circumstance that  
24          did lend itself to rule-making on this issue, and  
25          the Commission adopted a rule for post retirement

1 pension benefits in regulatory assets, but when  
2 talking about these extraordinary events, staff  
3 does not believe that, by rule or by decision, it  
4 would be advisable for the Commission to establish  
5 those, and to the -- every argument -- in closing,  
6 every argument presented by OPC here this morning  
7 would be subsumed -- or this afternoon would be  
8 subsumed in Issue 1.

9 Thank you, Commissioner Fay.

10 COMMISSIONER FAY: Okay. Great.

11 Anything, Ms. Crawford or Ms. Helton?

12 OPC, I will give you the opportunity to close  
13 on this.

14 I did want to ask both Gulf and FPUC, I know  
15 the discussion of consistency in rule-making comes  
16 up when the Commission makes these types of  
17 decisions, but outside of that, when I look at the  
18 language that's presented in Issue 7, it speaks to  
19 the COVID-19 regulatory assets. Is there some  
20 benefit of having some criteria knowing what might  
21 potentially come forward in the future?

22 Sure, Ms. Keating, go ahead.

23 MS. KEATING: I teed it up, so I figured I  
24 might as well respond.

25 So I still think that staff's assessment of

1           this is correct. I mean, the way the Commission  
2           has traditionally looked at regulatory assets has  
3           been extraordinary circumstances, and on a  
4           case-by-case basis.

5           And, yes, the issue is worded specific to a  
6           COVID-19 asset, but I think, you know, going  
7           forward, that this would be looked at as precedent  
8           for other cases involving any regulatory asset,  
9           particularly, God forbid, any situation that  
10          involved, you know, future pandemic.

11          So I think, you know, I would agree  
12          wholeheartedly with staff's assessment that, you  
13          know, there is really not a value in setting  
14          specific standards even for these specific types of  
15          assets.

16          COMMISSIONER FAY: Okay. Thank you.

17          Mr. Baker, if you want to add anything, you  
18          are welcome to.

19          MR. BAKER: No, nothing to add from Gulf. We  
20          agree with the assessment from Ms. Keating, as well  
21          as from staff.

22          COMMISSIONER FAY: Okay. Great.

23          Ms. Christensen, go ahead.

24          MS. CHRISTENSEN: Yeah. First I would point  
25          out, Commissioner Fay, you were correct. This

1 issue, as worded, is significantly reduced just to  
2 the COVID-19 regulatory asset, which is this unique  
3 circumstances.

4 As to the issue of whether or not this is  
5 essentially rule-making under another design, I  
6 think that that's incorrect, an incorrect  
7 assessment of what this issue is. I think the  
8 Commission has had past Commission practice and  
9 policy developed over years of approving regulatory  
10 assets under various case specific circumstances  
11 that can be utilized to color what the Commission's  
12 decision is in this case.

13 So that, shall we say, horse is already out of  
14 the barn. Those have already been established in  
15 prior commission orders. We are just asking the  
16 Commission to identify what prior Commission orders  
17 they are going to rely on in making its decision in  
18 this case. As Ms. Morse correctly pointed out, the  
19 Commission needs to identify what its past practice  
20 and policies have been, and identify how they are  
21 utilizing them in this case, and if not, how they  
22 are deviating from that past practice or policy,  
23 and the rationale for why that policy is being  
24 deviated from.

25 Regarding the subsuming of this in Issue 1;

1           one, the issue itself distinctly is a legal issue,  
2           but as we had proposed to the other parties, we had  
3           also suggested adding on to the language of Issue  
4           1, in what legal -- or I am sorry, in what criteria  
5           should the Commission apply in establishing the  
6           COVID-19 regulatory asset as part of Issue 1, so it  
7           was clear to the Commission, as they are ruling and  
8           deciding on Issue 1, that they are not only looking  
9           whether or not a regulatory asset should be  
10          applied, but what legal standard they should be  
11          looking at to make that determination.

12                 So we have no objection in combining the Issue  
13          7 with Issue 1, if that's what the parties'  
14          preference is; but we do believe, one way or the  
15          other, either as a separate legal issue, or as  
16          distinctly stated as part of Issue 1, the criteria,  
17          and the Commission needs to be made aware in an  
18          issue that the criteria that it's going to be used  
19          to establish the COVID-19 regulatory asset needs to  
20          be identified.

21                 COMMISSIONER FAY:   Okay.   Great.   Thank you,  
22          Ms. Christensen.

23                 With this issue, too, I really do appreciate  
24          legal counsel from both sides being here to  
25          articulate some of this.   I think it's an important

1 decision.

2 I am going to take this issue under advisement  
3 also, spend a little bit of time making sure I have  
4 digested everything that's presented to us here  
5 today, but that decision would be included in the  
6 prehearing order when it is published.

7 With that, I think that addresses the issues.  
8 Me move on, Mr. Stiller, I think we move on to the  
9 comprehensive exhibit list next correct, is that  
10 correct?

11 MR. STILLER: That is correct.

12 Staff has prepared a comprehensive exhibit  
13 list which lists all prefiled exhibits and those  
14 exhibits staff wishes to include in the record.  
15 The draft list was provided to the parties to see  
16 if there were any changes or objections to the CEL,  
17 or to the introduction of any of staff's exhibits  
18 being entered into the record.

19 At this time, I would like to see if there are  
20 any known changes that need to be made to the  
21 parties' prefiled exhibits, and if there are any  
22 known objections to the entry of any of staff's  
23 proposed exhibits into the record.

24 Staff will continue to working with the  
25 parties toward stipulating to the exhibit list

1 prior to hearing.

2 COMMISSIONER FAY: Great. Thank you, Mr.  
3 Stiller.

4 Any changes to the prefiled exhibits from any  
5 parties?

6 And then I don't know if we have  
7 cross-examination exhibits at this time, but any  
8 stipulations to that if we have those?

9 MR. STILLER: I am sorry, there are no  
10 cross-examination exhibits on the CEL.

11 COMMISSIONER FAY: Okay. Great. Thank you.

12 We will move on to Section X, stipulations --  
13 proposed stipulations. Any comments on those?

14 Section XI, pending motions.

15 MR. STILLER: There are no pending motions.

16 COMMISSIONER FAY: That you.

17 Section XII.

18 MR. STILLER: There are no pending  
19 confidentiality motions at this time.

20 COMMISSIONER FAY: And Section XIII,  
21 post-hearing procedures.

22 MR. STILLER: Staff recommends that  
23 post-hearing briefs be limited to 40 pages, should  
24 briefs be necessary. Staff recommends that a  
25 summary of each position of 50 words, set off with

1 asterisks, to should be included in each  
2 post-hearing statement.

3 If a bench decision is not made, post-hearing  
4 briefs will be due on July 9, 2021.

5 COMMISSIONER FAY: Okay. Any objection from  
6 the parties?

7 Mr. Baker.

8 MS. MORSE: Commissioner Fay.

9 COMMISSIONER FAY: One second, Ms. Morse.  
10 Mr. Baker, go ahead.

11 MR. BAKER: Not an objection. I would propose  
12 potentially expediting briefing, not by a  
13 significant margin, but perhaps in the nature of  
14 Wednesday, June 30th. The reason for that being  
15 that we've gone off -- on at length about Gulf's  
16 proposed issue. Obviously, there is some base rate  
17 proceeding considerations that Gulf has, and what  
18 we would like to do, if we can, move the dates to  
19 June 30th, which would allow staff a bit more time  
20 to develop their recommendation and, you know, with  
21 the goal being that we can arrive at a August 3rd  
22 Agenda. So I wanted to make that proposal here to  
23 see if that could be done.

24 COMMISSIONER FAY: Okay. I will take that and  
25 get with staff on it to get their feedback. I know



1           it's a give-and-take as far as when those would be  
2           due from the parties, and then how much time they  
3           would have to get a recommendation out, so I  
4           appreciate the comment.

5           Ms. Christensen, and then I believe there is  
6           someone on the phone also.

7           MS. CHRISTENSEN: Correct. Ms. Morse, I think  
8           she wanted to speak to the briefing limit.

9           I just want to briefly respond to Gulf's  
10          proposal to shorten the briefing date. OPC would  
11          vociferously object to that. We have intervenor  
12          testimony that will be due to be filed in that rate  
13          case on the 21st of June, we have some comments due  
14          in the workshop on the 28th. There is no way OPC,  
15          with our limited personnel and resources, can make  
16          a June 30th deadline for briefing in this matter.  
17          Plus, we don't know how quickly the turnaround on  
18          the transcripts will be, so we would object to any  
19          limitation or shortening of the briefing time.

20          COMMISSIONER FAY: Okay. Objection noted.

21          And did Ms. Morse have something else to add,  
22          or were you speaking for --

23          MS. CHRISTENSEN: Ms. Morse did you want to --

24          MS. MORSE: I did have -- yes, I am sorry,  
25          Commissioner. I did have something to add --

1           COMMISSIONER FAY: Go ahead, Ms. Morse.

2           MS. MORSE: -- about the page limit and the  
3 words for the position, we have not decided whether  
4 to file a consolidated brief or two separate  
5 briefs, but, you know, to the extent we file a  
6 post-hearing, just the one post-hearing statement  
7 or brief, we would request respectfully a  
8 modification of the 50-word limit to say 100, and  
9 modification of the page limit if we are to address  
10 the two -- two different utilities in detail as to  
11 the specific issues in one brief.

12           COMMISSIONER FAY: Okay. Ms. Morse, I -- you  
13 know, I read the challenges to the PAAs, and I am  
14 not sure how many distinctions there really are in  
15 the different parties, but do you have a page limit  
16 in mind that you are requesting to extend beyond  
17 40?

18           MS. MORSE: Yes, we do. And frankly, we were  
19 thinking 80, but somewhere between, you know, 70 to  
20 80 if we are to address, again, issues distinct to  
21 each utility. If each utility gets 40 pages for  
22 itself, that's, you know, what we would  
23 respectfully request for each utility that our  
24 expert is going to address.

25           And, you know, as you can see from the

1 testimony, there are some specific issues, in fact,  
2 as to, and likely specific testimony as to each  
3 different utility. Their circumstances aren't  
4 exactly the same, so those briefs will not be  
5 identical.

6 COMMISSIONER FAY: Okay. We'll take that  
7 under advisement with some of the other issues and  
8 make sure we include clarity as to how many pages  
9 OPC would be asking for related to these dockets.

10 MS. MORSE: Thank you, Commissioner.

11 COMMISSIONER FAY: Okay. Moving on into  
12 rulings, Mr. Stiller.

13 MR. STILLER: Staff recommends that the  
14 Prehearing Officer make a ruling that all parties  
15 be provided five minutes for opening statements,  
16 and confidential and nonconfidential exhibits that  
17 a party intends to use at the hearing must be  
18 provided to the Commission Clerk by the close of  
19 business June 9th, 2021, in accordance with  
20 Attachment A to the Draft Prehearing Order.

21 COMMISSIONER FAY: Great. Thank you.

22 Section -- let's see, yeah, I guess our last  
23 section, any other matters to be addressed by the  
24 parties?

25 MR. STILLER: Staff is not aware of any other

1 matters.

2 COMMISSIONER FAY: Great. I think I heard Mr.  
3 Rehwinkel.

4 MR. REHWINKEL: Yeah, just briefly.

5 I would just ask that my -- the spelling on my  
6 name be -- be corrected. It's just something I  
7 have always struggled with. It's usually been  
8 pretty well handled, but it got offtrack this time.

9 COMMISSIONER FAY: Okay. We will --

10 MS. MORSE: I did have one matter.

11 COMMISSIONER FAY: Ms. Morse, is your name  
12 spelled okay too?

13 MS. MORSE: Yes, it is. Thank you.

14 I am sorry, I forgot to -- I thought you were  
15 going to call out Section XIV there, and I forgot  
16 to raise a point there that I wanted to ask about.

17 COMMISSIONER FAY: Okay. Under the rulings?

18 MS. MORSE: Yes. Yes.

19 COMMISSIONER FAY: Go ahead, Ms. Morse.

20 MS. MORSE: Our previous discussions about,  
21 you know, the time limits that each party receives,  
22 and again similar to the testimony summaries and  
23 the other issues. If each of the parties gets five  
24 minutes, like the utilities get five minutes, we  
25 would also appreciate an extension of our time in

1 terms of OPC not being required to fit all of its  
2 opening into five minutes.

3 COMMISSIONER FAY: Okay. I am guessing you  
4 are officially requesting 10 minutes?

5 MS. MORSE: Yes -- yes, Mr. Commissioner.

6 COMMISSIONER FAY: Okay. Anything else, Ms.  
7 Morse?

8 MS. MORSE: No thank you.

9 COMMISSIONER FAY: Okay. Great.  
10 Any other issues from the parties? Okay.  
11 Great.

12 I appreciate the parties being here today for  
13 the information. I know we are transitioning back  
14 to some in person hearings. I think this went  
15 fairly well. I know the parties also continue to  
16 have dialogue on all of these issues all the way up  
17 to the hearing, so as always, I encourage that.

18 Seeing no other matters from staff, this  
19 hearing is adjourned, thank you.

20 (Proceedings concluded.)

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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 15th day of June, 2021.



DEBRA R. KRICK  
NOTARY PUBLIC  
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EXPIRES AUGUST 13, 2024