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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240026-EI

Petition for rate increase
by Tampa Electric Company.

_____/_____
DOCKET NO. 20230139-EI

Petition for approval of 2023
depreciation and dismantlement
study, by Tampa Electric Company.

_____/_____
DOCKET NO. 20230090-EI

In re: Petition to implement 2024
generation base rate adjustment
provisions in paragraph 4 of the
2021 stipulation and settlement
agreement, by Tampa Electric Company.

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: COMMISSIONER GARY F. CLARK

DATE: Thursday, August 8, 2024

TIME: Commenced: 1:00 p.m.
Concluded: 2:15 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
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 J. JEFFREY WAHLEN and MALCOLM N. MEANS,
3 ESQUIRES, Tampa Electric Company, 123 South Calhoun
4 Street, Tallahassee, Florida 32301; appearing on behalf
5 of Tampa Electric Company (TECO).

6 WALT TRIERWEILER, PUBLIC COUNSEL; CHARLES
7 REHWINKEL, DEPUTY PUBLIC COUNSEL; PATRICIA CHRISTENSEN,
8 OCTAVIO PONCE and AUSTIN WATROUS, ESQUIRES, OFFICE OF
9 PUBLIC COUNSEL, c/o The Florida Legislature, 111 West
10 Madison Street, Room 812, Tallahassee, Florida
11 32399-1400, appearing on behalf of the Citizens of the
12 State of Florida (OPC.).

13 ROBERT SCHEFFEL WRIGHT, ESQUIRE, 1300
14 Thomaswood Drive, Tallahassee, Florida 32308; appearing
15 on behalf of Florida Retail Federation (FRF).

16 JON C. MOYLE, ESQUIRE, Moyle Law Firm, 118
17 North Gadsden Street, Tallahassee, Florida 32301;
18 appearing on behalf of Florida Industrial Power Users
19 Group (FIPUG).

20 WILLIAM C. GARNER, ESQUIRE, Law Office of
21 William C. Garner, PLLC, 3425 Bannerman Road, Unit 105,
22 No. 414, Tallahassee, Florida 32312; appearing on behalf
23 of Southern Alliance for Clean Energy (SACE).

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1 APPEARANCES CONTINUED:

2 BRADLEY MARSHALL and JORDAN LUEBKEMANN,
3 ESQUIRES, Earthjustice, 111 S. Martin Luther King Jr.
4 Boulevard, Tallahassee, Florida 32301; and HEMA LOCHAN,
5 ESQUIRE, Earthjustice, 48 Wall Street, 15th Floor, New
6 York, New York 10005; appearing on behalf of Florida
7 Rising (Florida Rising) and League of United Latin
8 American Citizens of Florida (LULAC).

9 CAPTAIN ASHLEY GEORGE and CAPTAIN MICHAEL
10 RIVERA, ESQUIRES, 139 Barnes Drive, Suite 1, Tyndall
11 AFB, Florida 32403; appearing on behalf of the Federal
12 Executive Agencies (FEA).

13 FLOYD SELF, ESQUIRE, Berger Singerman Law
14 Firm, 313 North Monroe Street, Suite 301, Tallahassee,
15 Florida 32301; on behalf of Americans for Affordable
16 Clean Energy, Circle K, RaceTrac and Wawa, (FUEL
17 RETAILERS).

18 STEPHANIE U. EATON, ESQUIRE, Spilman Thomas &
19 Battle, PLLC, 110 Oakwood Drive, Suite 500,
20 Winston-Salem, North Carolina 27103; STEVEN W. LEE,
21 ESQUIRE, Spilman, Thomas & Battle, PLLC, 1100 Bent Creek
22 Boulevard, Suite 101, Mechanicsburg, Pennsylvania 17050;
23 appearing on behalf of Walmart, Inc. (Walmart).

24

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1 APPEARANCES CONTINUED:

2 TIMOTHY SPARKS, CARLOS MARQUEZ and ADRIA
3 HARPER, ESQUIRES, FPSC General Counsel's Office, 2540
4 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
5 appearing on behalf of the Florida Public Service
6 Commission (Staff).

7 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
8 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
9 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
10 Florida 32399-0850, Advisor to the Florida Public
11 Service Commission.

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

2 COMMISSIONER CLARK: Good afternoon, everyone.
3 I would like to call this Prehearing Conference to
4 order.

5 It's August 8th, one o'clock p.m. I am going
6 to ask staff, if they would, to please read the
7 notice.

8 MR. SPARKS: By notice published on July 26th,
9 2024, August 5th, 2024, at 9:30 a.m., was set for a
10 Prehearing Conference in Docket Nos. 20240026-EI,
11 20230139-EI and 20230090-EI.

12 On August 4th, 2024, emergency postponement of
13 the Prehearing Conference occurred in accordance
14 with Florida Executive Order Nos. 24-156 and 24-157
15 due to Hurricane Debby. The parties were notified
16 directly on that date that the Prehearing
17 Conference would be postponed to August 28th, 2024.

18 The purpose of this hearing is set forth more
19 fully in the notice.

20 COMMISSIONER CLARK: All right. We will take
21 appearances.

22 Mr. Sparks.

23 MR. SPARKS: There are three dockets to
24 address today in this consolidated proceeding.

25 Staff suggests that all appearances be taken at

1 ones. After the parties make their appearances,
2 staff will need opaque their appearances.

3 COMMISSIONER CLARK: Thank you, sir.

4 We will begin with TECO.

5 MR. WAHLEN: Thank you. Good afternoon. I am
6 Jeff Wahlen of the Ausley McMullen Law Firm
7 appearing with Malcolm Means and Virginia Ponder on
8 behalf of Tampa Electric Company.

9 Thank you.

10 COMMISSIONER CLARK: OPC.

11 MS. CHRISTENSEN: Patty Christensen on behalf
12 of the Office of Public Counsel. I would also like
13 to put in an appearance for Walt Trierweiler, the
14 Public Counsel, Charles Rehwinkel, Octavio Ponce
15 Ali Wessling and Austin Watrous.

16 COMMISSIONER CLARK: All right. FIPUG.

17 MR. MOYLE: Thank you, Mr. Chair. Jon Moyle
18 on behalf of the Florida Industrial Power Users
19 Group, FIPUG. And I would like to enter an
20 appearance for Karen Putnal with our firm as well.

21 COMMISSIONER CLARK: All right. Thank you.
22 Florida Rising and LULAC.

23 MR. MARSHALL: Good afternoon, Mr. Chairman.
24 Bradley Marshall, Jordan Luebkekmann and Hema Lochan
25 on behalf of Florida Rising and the League of

1 United Latin American Citizens of Florida, better
2 known as LULAC.

3 MR. GARNER: William Garner on behalf of the
4 Sierra Club.

5 COMMISSIONER CLARK: Thank you, sir.

6 FRF.

7 MR. WRIGHT: Thank you, Commissioner. Robert
8 Scheffel Wright of the Gardner Bist Law Firm
9 appearing on behalf of the Florida Retail
10 Federation. And I would also like to enter an
11 appearance for my law partner, John T. Lavia, III.

12 COMMISSIONER CLARK: Thank you, sir.

13 I believe FEA is on the line with us. FEA.
14 All right. They didn't make it.

15 Moving right along, AACE.

16 MR. SELF: Thank you, Mr. Chairman --
17 Commissioner --

18 CAPTAIN GEORGE: I am sorry.

19 COMMISSIONER CLARK: All right. We will back
20 up and give you two seconds. FEA.

21 CAPTAIN GEORGE: Sorry about that. I realized
22 I what is still on mute.

23 This is Captain Ashley George -- I would also
24 like to enter an appearance for my colleagues -- of
25 and.

1 COMMISSIONER CLARK: All right. We are not
2 getting hardly anything you are saying. Try it one
3 more time.

4 CAPTAIN GEORGE: Is this better?

5 COMMISSIONER CLARK: That's better.

6 CAPTAIN GEORGE: This is Captain Ashley George
7 on behalf of the Federal Executive Agencies. And I
8 would also like to enter the appearances of my
9 colleague Captain Michael Rivera.

10 COMMISSIONER CLARK: All right. Thank you
11 very much.

12 All right. Mr. Self.

13 MR. SELF: Thank you, Commissioner. Floyd
14 Self of the Berger Singerman Law Firm on behalf of
15 Americans for Affordable Clean Energy, Circle K,
16 RaceTrac and Wawa, collectively known as the fuel
17 retailers.

18 COMMISSIONER CLARK: All right. Thank you,
19 sir.

20 Staff.

21 MR. SPARKS: Before we enter staff, is there a
22 representative for Walmart?

23 COMMISSIONER CLARK: I am sorry. You are not
24 on the list. Walmart.

25 MS. EATON: Sure. No problem.

1 Walmart has recently filed a petition to
2 intervene, and to the extent that petition is
3 granted, Stephanie Eaton here on behalf of Walmart,
4 and I would enter an appearance for Steven Lee also
5 of Spilman, Thomas & Battle on behalf of Walmart.

6 COMMISSIONER CLARK: Thank you. And my
7 apologies, Ms. Eaton.

8 All right. Staff.

9 MR. SPARKS: Timothy Sparks, and I would also
10 like to enter an appearance for Carlos Marquez and
11 Adria Harper.

12 We also have with us Mary Anne Helton, Advisor
13 to the Commission, and the General Counsel, Keith
14 Hetrick.

15 COMMISSIONER CLARK: All right. Thank you
16 much.

17 Did we get everybody?

18 All right. Let's move on to preliminary
19 matters. Any preliminary matters before we go
20 through the draft order?

21 MR. SPARKS: Staff does not have any
22 preliminary matters, but I believe OPC has one.

23 COMMISSIONER CLARK: Ms. Christensen.

24 MS. CHRISTENSEN: Yes, Commissioner.

25 OPC would like to renew our objections raised

1 in prior OPC motions, and specifically we would
2 like to renew our objections to the arbitrary
3 administrative constraints imposed by intervening
4 party -- intervening parties by the OEP
5 specifically to file and cross-examination Exhibit
6 12 days before the hearing. This requirement
7 impermissibly provides a backdoor discovery of our
8 litigation strategy and work product by requiring
9 us to produce which documents we have strategized
10 and compiled that will be crucial to our case
11 before the hearing, and impermissibly removes a
12 week or more of critical hearing preparation days
13 without just cause.

14 With that renewal on the record, we would also
15 request, given that we have had a hurricane this
16 week, which has -- where we have lost three
17 critical days to prepare to comply with this
18 requirement, and the fact in a recent case, in
19 Sunshine Utilities, the requirement was not 12 days
20 but seven days. And the fact that the closer to
21 the hearing we are, and the further we can get
22 along in preparing our cross-examination and our
23 questions, the more focused we can become and the
24 less extraneous documents we may need to provide to
25 the Commission, we are asking for additional time

1 from Wednesday, August 14th, which is just merely
2 less than a week away, to Monday, August 19th.

3 COMMISSIONER CLARK: Effectively cutting it
4 from the 12 days down to seven?

5 MS. CHRISTENSEN: Yes, Commissioner.

6 COMMISSIONER CLARK: Okay. Staff?

7 MS. HELTON: Thank you, Mr. Chairman.

8 I would like to first just note for the record
9 that no party has sought reconsideration of your
10 Order Establishing Procedure, which set out the
11 requirements for the exhibits which Ms. Christensen
12 is taking issue with now.

13 OPC has in several filings before the
14 Commission -- and I can't remember now if they were
15 all in this docket or in other dockets -- taken
16 issue with the process.

17 This is a process that the staff does not take
18 lightly. The staff has looked at requirements for
19 all tribunals in the state of Florida, the Division
20 of Administrative Hearings, in circuit court,
21 criminal court, federal court. To the best of my
22 ability, I think we are the only tribunal in the
23 state that does not require an exchange of
24 exhibits, and that is because there is no such
25 thing, or trial by surprise is not allowed in the

1 state of Florida. We feel very strongly that this
2 requirement is appropriate.

3 As far as the timing goes and the difference
4 between the timing in the Sunshine order, I would
5 like to address that.

6 We have looked at each case, the type of case,
7 the number of issues, the number of parties, and
8 based on all of that information, we recommended a
9 due date for these exhibits. And each due date
10 will be different in each order because of the --
11 because each case is different.

12 We also have discovered in putting in the DSM
13 goals exhibits that requiring these to be provided
14 to the staff so quickly -- or not so quickly, in a
15 manner that we have required is to allow our staff
16 to vet the exhibits, to make sure there are no
17 problems with the exhibits once they are loaded up
18 into Case Center. And we did see some problems
19 with some of the exhibits, so that was time that
20 was needed to make that process work. But this is
21 not just about Case Center. This is about being
22 consistent with what we believe are the
23 requirements of Florida law.

24 COMMISSIONER CLARK: All right. Thank you,
25 Ms. Helton.

1 MS. CHRISTENSEN: Can I briefly rebut that --

2 COMMISSIONER CLARK: For one minute.

3 MS. CHRISTENSEN: -- because I --

4 OPC filed a motion explicitly requesting
5 reconsideration of that provision on April 22nd,
6 2024.

7 MS. HELTON: I am sorry, I misspoke on that.

8 MS. CHRISTENSEN: And, you know, requiring us
9 to reveal our litigation strategy is improper,
10 highly improper, and that's what we are being asked
11 to do by exchanging our cross-examination exhibits.

12 We already provide a list of our witnesses and
13 their exhibits for trial in our prehearing
14 statement, which I think is what all other courts
15 do, and we have complied with in this case.

16 The additional time is because we've had an
17 unexpected hurricane delay, along with the fact
18 that the more time you give us, the more
19 streamlined we can make our exhibits that have to
20 be uploaded.

21 I mean, our preference would be uploading
22 these ourselves to case system, and then we could
23 do it like we did last year in PGS, and upload them
24 ourselves the day before hearing.

25 This is an administrative convenience for the

1 Commission staff, and that's why we have objected
2 to it. But we think at the very least, because we
3 are doing it for administrative convenience, we
4 should be given additional time.

5 COMMISSIONER CLARK: Well, I am going to just
6 -- I will make the final determination in the
7 Prehearing Order, but I will go on record in saying
8 this. This is one of my priorities when I was
9 elected Chairman five years ago, that we were
10 unable to accomplish during that term, but the
11 amount of exhibits that are being dumped on the
12 Commission here during a hearing and the ability to
13 track and keep up with all of that information was
14 very, very difficult; and not only the management
15 task, but the sorting and the numbering, and our
16 ability to follow the information that you guys are
17 trying to provide at that time became very
18 difficult. And it's one of the things that I was
19 most adamant about seeing done, was some sort of
20 electronic system. So I am very proud that we are
21 able to have and offer this system. And it's going
22 to -- there is going to be some growing pains. We
23 are going to have to get used to how the thing
24 works and get, I think, these numbers down.

25 Ms. Christensen, I understand, you know, the

1 12, 14 days, and I will take a look at that and see
2 if we can make some compromises there. But this is
3 one of those that I think we are going to see --
4 going to eventually help make this a process a lot
5 smoother and a lot easier.

6 I will give you a final second.

7 MS. CHRISTENSEN: And I was going to suggest
8 that we are happy to work through a workshop with
9 Commission staff to discuss our position and work
10 through some of these growing pains. The problem
11 with what we have been presented here is, you know,
12 we are having to create almost double the exhibits
13 than we normally would because of the separation of
14 the attachments versus the individual
15 interrogatories. That's necessarily doubling the
16 amount of electronic filings.

17 I think because this was done unilaterally and
18 we didn't workshop it ahead of time, there are
19 problems that we are going to see in trying to
20 comply with this, and there is inconsistencies
21 within the language in the Prehearing Order itself.

22 Aside from the fact, you know, our objections
23 just in general to providing that, I think there is
24 logistical issues. And we just bring it to your
25 attention now that I think if we had a workshop,

1 even if we -- you know, since we are not going to
2 be able to do it before this hearing, we should at
3 least have one after this so all parties can
4 participate and have that discussion and work out
5 the logistics of this.

6 COMMISSIONER CLARK: Thank you very much.

7 All right. Any other preliminary matters?

8 Mr. Marshall.

9 MR. MARSHALL: This is sort of a sub-issue
10 related to what OPC was discussing regarding the
11 Case Center and the exhibits, and that's regarding
12 deposition transcripts used solely to the purpose
13 of impeachment, you know, not being intended to
14 offer into evidence as exhibits. The Prehearing
15 Order had some ambiguity as to whether those need
16 to be submitted or not as part of that Wednesday
17 deadline.

18 And also we had a, you know, a question that,
19 you know, deposition transcripts are kind of pricy,
20 and so by putting in the Case Center, we would be
21 making them available free to everyone. So I just
22 was hoping for some clarification on that issue.

23 COMMISSIONER CLARK: Sure. Part of that
24 question is an ethics question. If you're going to
25 use Ms. Debbie's transcripts free of charge, I

1 think that's between you and her, but I am sure she
2 would object to that. That comes to an ethical
3 issue.

4 It's my understanding that if you are planning
5 to use a deposition, that deposition should be
6 entered as an exhibit, is that correct?

7 MS. HELTON: It should be listed. Yes, sir.

8 COMMISSIONER CLARK: And, you know, to address
9 the concern, if you want to put every deposition
10 that you have into the -- into the exhibit list,
11 that's totally your discretion as well. You can
12 upload all of that, and then it's your choice as to
13 what you call on and what you, you know, what
14 particular exhibits that you call for during your
15 cross-examination, that's entirely up to you. But
16 you can put all the depositions in. But, yes, they
17 would have to be, if you are planning to use them
18 for cross-examination or impeachment purposes.

19 MR. REHWINKEL: Mr. Chairman.

20 COMMISSIONER CLARK: Mr. Rehwinkel, welcome to
21 the stand.

22 MR. REHWINKEL: Thank you.

23 COMMISSIONER CLARK: I got you.

24 MR. REHWINKEL: Is -- is the Commission going
25 to return these or delete these from the system

1 after we upload them?

2 COMMISSIONER CLARK: Not unless it crashes.

3 Ms. Helton, I will turn that one to you.

4 MS. HELTON: If your question is, do we plan
5 to keep this information in Case Center
6 indefinitely? No.

7 We plan to keep the information that is at
8 least entered into the record so that we can use
9 it. Hopefully -- we are hoping that it's going to
10 make it easier for the parties to file their --
11 write there briefs and for staff to write the
12 recommendation. But after the appeal time has run,
13 then we will --

14 MR. REHWINKEL: I am only asking about
15 depositions. And I will say it for this reason.
16 In the Peoples Gas case, which we used Case Center
17 but it ran into a hiccup, we made, I don't know how
18 many, red binders of the depositions that and we
19 brought them, but we never intend or expect to use
20 a deposition, because it's only when you ask a
21 witness a question and they give an inconsistent
22 answer, and then you use that for impeachment.

23 And the experience of the Commission is
24 impeachment by deposition is extremely rare. The
25 practitioners here have set a standard where you

1 don't need to do that. So we spend tens of
2 thousands of dollars on depositions. The court
3 reporters, not only Ms. Krick, but others that we
4 had to use in this case, they -- this is their
5 livelihood.

6 So the Commission ordered very few of the
7 depositions. When we upload them, if we don't use
8 them, they should -- they should be immediately
9 deleted and not used. They should not be inserted
10 into the record. We got rid of that nine or so
11 years ago.

12 So it's a serious issue for us, because this
13 is not something -- if they are never used, they
14 are not part of the record, and they should not
15 live in the boughs of the Commission. I don't even
16 know the public records issues about that.

17 COMMISSIONER CLARK: Yeah. I don't know. I
18 think it's a public record -- I think this is, you
19 know, back to Ms. Christensen's point. This is a
20 great -- great set of topics for a workshop. And
21 you have my commitment we will proceed with putting
22 a workshop together to work on some additional
23 nuances of the case management system.

24 MR. REHWINKEL: But, you know, once these are
25 uploaded -- and we are ordered to give property to

1 the Commission. And if we had these depositions
2 and we never had a impeachment opportunity, which
3 we never expect to have, there is no use -- we
4 would have no reason to even bring them here.

5 So, you know, I am not -- I am not sure. When
6 you put stuff on Case Center, I understand it
7 automatically numbers them. We had Mr. Thomson
8 here saying they were going to use AI that they
9 spent \$100 million on to synthesize and provide
10 summaries of things. That would be improper,
11 especially if depositions were in there.

12 So it's a -- it's a concern. And maybe the
13 thing to do is to have an exception for
14 depositions, we use them if we need them, and then
15 we figure this out before we go forward.

16 This should not be a lab when we have five
17 days for hearing, and we can't afford a big hiccup.

18 COMMISSIONER CLARK: I think there is valid --
19 there is valid concern for documents that are going
20 to be used for impeachment. I think that, for
21 instance, in other tribunals allows for that being
22 the exception, and that's something that certainly
23 needs to be discussed. I don't think that's out of
24 the question at all. I don't think it's out of the
25 question.

1 Again, let's move that to the workshop phase
2 and deal with that in the final nuances of this,
3 and I will make a decision in the final order.

4 Any other preliminary matters?

5 MR. WAHLEN: I have one, sir.

6 COMMISSIONER CLARK: Who ask that? Malcolm --
7 I am sorry, Mr. Wahlen.

8 MR. WAHLEN: I may not have had my ears open,
9 but I didn't hear an appearance from Nahil or Sari
10 for the Sierra Club in this case.

11 COMMISSIONER CLARK: I think they swapped
12 attorneys at some point in time. They were on my
13 original list too.

14 Mr. Garner.

15 MR. GARNER: Yeah. They asked me to appear on
16 their behalf because of travel issues from
17 out-of-state, and I am only appearing on their
18 behalf in this Prehearing Conference. They will be
19 the attorneys of record going forward, just like
20 they have been all along.

21 MR. WAHLEN: I just didn't see a notice of
22 appearance in the file and was kind of wondering
23 why he was here so I know.

24 COMMISSIONER CLARK: Understood.

25 MR. GARNER: My apologies.

1 COMMISSIONER CLARK: All right. Anyone else?
2 Any other preliminary matters?

3 All right. Let's proceed through the draft
4 Prehearing Order.

5 I am going to go through the sections. If
6 there are any corrections or changes to be made,
7 please speak up. Speak up quickly. Speak up
8 loudly. Pay attention. We are going to move this
9 through -- this thing pretty quick.

10 We will begin with Section 1, Case Background,
11 any issues?

12 Ms. Christensen, right off the bat. My.

13 MS. CHRISTENSEN: Yes, I do.

14 I would actually like to change the order of
15 the witnesses as they appear in OPC's prehearing
16 amended prehearing statement. Currently, we have
17 Lane Kollen going second. I would ask to move him
18 to the end of OPC's witnesses.

19 And just for the record, our witness, Mr.
20 Dismukes, needs to have a date certain for his
21 testimony, because he has got some issues that
22 require him to limit his time out of town. He is
23 good for, I think Thursday. And I know some of the
24 other attorneys may have issues with their
25 witnesses, but we would request that he at least be

1 given a date certain of going on Thursday so that
2 he -- he can make his travel plans, because he's
3 got some family issues that need to be taken care
4 of.

5 COMMISSIONER CLARK: All right. First issue,
6 Mr. Kollen, we got that one moved, Mr. Sparks?
7 Okay.

8 Second issue, moving the witness -- hold on
9 one second, Mr. Moyle -- second issue, moving the
10 witness.

11 MS. HELTON: The only thing that gives me
12 pause for concern, Mr. Chairman, is that what if we
13 are finished before Thursday?

14 COMMISSIONER CLARK: Well, yeah, that's --

15 MS. CHRISTENSEN: I think that's greatly
16 optimistic.

17 COMMISSIONER CLARK: Ms. Christensen promises
18 to drag it out to Thursday, she's saying?

19 MS. CHRISTENSEN: Pretty much. Yeah, I think
20 that would be very optimistic, you know, but --

21 COMMISSIONER CLARK: Just with the
22 understanding, if we are done, we are done.

23 MS. CHRISTENSEN: Understood. We will have to
24 make accommodations if that comes to fruition, but
25 we expect that, you know, we would like to at least

1 be able to give him a date certain on Thursday
2 because of his home care arrangements.

3 COMMISSIONER CLARK: Okay. Any objec--
4 Mr. Means.

5 MR. WAHLEN: I don't have any objection, but
6 just this seems like an opportune time to tell the
7 Commission and the Prehearing Officer that Tampa
8 Electric doesn't intend to cross-examine any of the
9 intervenor or staff witnesses unless they are
10 cross-examined by another intervenor, and --

11 COMMISSIONER CLARK: Okay.

12 MR. WAHLEN: -- we are in a funny --

13 COMMISSIONER CLARK: I understand.

14 MR. WAHLEN: -- first case like this for me,
15 where we have intervenor parties who may have a
16 disagreement on a particular issue.

17 COMMISSIONER CLARK: Yes.

18 MR. WAHLEN: We are prepared to waive
19 cross-examination and appearance of all of the
20 witnesses unless one of the consumer parties says
21 they want to cross-examine. So hopefully that will
22 help with the schedule.

23 COMMISSIONER CLARK: Okay.

24 MR. WAHLEN: In addition, we would propose
25 that all of Tampa Electric's witnesses be -- have

1 their direct and rebuttal taken together, as long
2 as Mr. Chronister and Mr. Williams can be last. We
3 would like them to kind of be available after
4 whatever else goes on to be the cleanup hitters --

5 COMMISSIONER CLARK: Okay.

6 MR. WAHLEN: -- at the end.

7 COMMISSIONER CLARK: All right. Let's try to
8 nail these down -- let's get these nailed one at a
9 time. Let's go back to Ms. Christensen's original
10 request.

11 Are there any objections, if time works out,
12 to this witness being -- given a time certain for
13 Thursday? No one has a serious problem with that?
14 Okay. Assuming we are not done with -- by
15 Thursday, we will give him a time certain on
16 Thursday and make that work.

17 MS. CHRISTENSEN: Thank you.

18 COMMISSIONER CLARK: Mr. Means, back to your
19 -- I am sorry, Mr. Wahlen. I am looking at both of
20 you side-by-side.

21 Mr. Wahlen, back to your issue. You would
22 request your two witnesses be taken rebuttal and
23 direct, as long as they can go last.

24 MR. WAHLEN: Yeah.

25 COMMISSIONER CLARK: Any objections to that?

1 I am going to ask if we can do rebuttal and cross
2 on all of those together. That's up to you guys.

3 MR. WRIGHT: I just want to understand. Does
4 Tampa Electric propose that Mr. Chronister and Mr.
5 whomever, I am sorry --

6 MR. WAHLEN: Williams.

7 MR. WRIGHT: Williams -- present both their
8 direct and rebuttal after everybody else?

9 COMMISSIONER CLARK: No, sir. Just together,
10 but they be allowed to testify last in his order.

11 MR. WRIGHT: Well, I understand -- I
12 understand last, and that's -- that -- last of
13 Tampa Electric's witnesses.

14 COMMISSIONER CLARK: Yes, sir.

15 MR. WAHLEN: No.

16 COMMISSIONER CLARK: I'm sorry.

17 MR. WRIGHT: That's what I -- that's not what
18 I thought I heard.

19 MR. WAHLEN: I am sorry if I was unclear.

20 We think everybody ought to all -- of our
21 witnesses should present their direct and rebuttal
22 together as long as Jordan Williams and Jeff
23 Chronister can be the last two witnesses in the
24 case.

25 COMMISSIONER CLARK: Oh, okay. My apologies.

1 I assumed in your witnesses.

2 MR. WAHLEN: If -- if -- if people object to
3 Tampa Electric's witnesses Williams and Chronister
4 being the last witnesses in the case, then we would
5 propose that all of our witnesses, except Williams
6 and Chronister, present their direct and rebuttal
7 together.

8 COMMISSIONER CLARK: You automatically get
9 last in rebuttal with those two witnesses anyway --

10 MR. WAHLEN: Right.

11 COMMISSIONER CLARK: -- but their direct would
12 be separated.

13 MR. WAHLEN: Well, it's whatever you -- the
14 Commission prefers. We can -- we can have them --

15 COMMISSIONER CLARK: Unless they are together.

16 MR. WAHLEN: Yeah. We don't think it's
17 unreasonable for two of ours witnesses to bring up
18 the end of the witness list, because if we were
19 doing separate direct, intervenor, rebuttal, we --
20 all of our witnesses would be at the end. We just
21 want two at the end. And in exchange for that, we
22 are prepared to have all -- everybody's direct and
23 rebuttal together.

24 COMMISSIONER CLARK: Okay.

25 MR. WRIGHT: I have -- you know, I don't want

1 to make a big deal about it today, but as of this
2 minute, I would object to their presenting their
3 direct testimony after all the intervenor witnesses
4 have testified. They absolutely, positively, get
5 to go last. That's the way it works. Case in
6 chief, intervenors, rebuttal. They would get to
7 present their rebuttal testimony last, but I object
8 to their presenting their direct testimony after
9 the intervenors testimony.

10 MR. MARSHALL: We join the objection.

11 COMMISSIONER CLARK: Everybody is.

12 Mr. Moyle.

13 MR. MOYLE: FIPUG has a slightly different
14 view. I think we would -- we would be okay with
15 their proposal as long as they go on Thursday,
16 because we have two witnesses that are going to
17 need the Thursday special time, which that may --
18 that may help us in that respect.

19 COMMISSIONER CLARK: Well, we already have
20 objections, so you will --

21 MR. WAHLEN: We can solve this pretty easy --

22 COMMISSIONER CLARK: Yes, sir.

23 MR. WAHLEN: -- you know. I understand Mr.
24 Wright and Mr. Marshall. We would have all of our
25 witnesses except Chronister and Williams present

1 direct and rebuttal together. Then we will have
2 whatever intervenor witnesses actually need to
3 appear present theirs, and then we will have the
4 rebuttal testimony of Chronister and Williams, and
5 we will take up the direct of those two witnesses
6 -- I mean, it's fine with us. We were trying to be
7 efficient.

8 COMMISSIONER CLARK: Direct would normally be
9 all combined except those two. That's what you are
10 proposing?

11 MR. WAHLEN: Right.

12 MS. CHRISTENSEN: And OPC is fine if we
13 understand the proposal correctly, which is we are
14 taking up everybody's direct and rebuttal together
15 in the case in chief --

16 COMMISSIONER CLARK: Except for those two.

17 MS. CHRISTENSEN: -- except for Williams and
18 Chronister, and they will do the direct during
19 their direct case, and then they will come back on
20 rebuttal and just address the rebuttal case
21 after --

22 COMMISSIONER CLARK: That's correct.

23 MS. CHRISTENSEN: -- our witnesses are
24 presented?

25 COMMISSIONER CLARK: Yes. Can we all agree to

1 that?

2 MR. MARSHALL: We are fine with that.

3 COMMISSIONER CLARK: All right. Somebody
4 write that down.

5 MR. WAHLEN: Thank you very much.

6 COMMISSIONER CLARK: All right. Okay. On an
7 item we had nothing noted on, anything else in Case
8 Background?

9 Mr. Moyle, I missed you a minute ago. My
10 apologies.

11 MR. MOYLE: No, I -- I am waiting for you to
12 get to witnesses.

13 COMMISSIONER CLARK: Okay. I think they come
14 up somewhere in here.

15 Section II, Conduct of Proceedings.

16 Section III, Jurisdiction.

17 Section IV, Confidential Information. Mr.
18 Sparks.

19 MR. SPARKS: When confidential information is
20 used in the hearing, parties must have copies for
21 the Commissioners, necessary staff and the court
22 reporter in red envelopes clearly marked with the
23 nature of the contents. Any party wishing to
24 examine the confidential material that is not
25 subject to an order granting confidentiality shall

1 be provided a copy in the same fashion as provided
2 to the Commissioners, subject to execution of any
3 appropriate protective agreement with the owner of
4 the material.

5 MS. HELTON: Commissioner --

6 COMMISSIONER CLARK: How does this work in
7 regard to Case Center? Does this --

8 MS. HELTON: We will still have paper copies
9 of the confidential information in red folders.
10 We've asked that the redacted information be
11 provided electronically so that that can be in Case
12 Center.

13 MS. CHRISTENSEN: We -- Commissioner, we have
14 an issue with providing the redacted versions of
15 confidential exhibits. It's because the
16 confidential exhibits have been provided to us in
17 discovery prior to the issuance of this provision
18 in the OEP, and not all of that confidential
19 information that's been provided to us has been
20 redacted by the company, and there hasn't been a
21 requirement that they provide us a confidential and
22 a redacted version.

23 So we are either going to have to provide a
24 whole blacked out exhibit, which of course does not
25 help the process, or we have to -- we would have to

1 give it to the company ahead of time to tell us
2 what portions of the exhibit may be confidential.

3 Traditionally what has happened is we don't
4 require -- we -- it hasn't been required of the
5 company to provide a redacted copy until that
6 confidential version is used at the hearing and
7 admitted into the record, and then they go through
8 and do their whole confidential line-by-line
9 justification, because it -- it cuts down on the
10 amount of time that the company has to produce and
11 do those justifications.

12 So I think this is one of those issues where
13 it would be best if we could just provide the
14 confidential exhibits -- they are probably not
15 going to be that numerous -- in a paper copy at
16 hearing, and then do the normal procedure where the
17 justification, if it's admitted in the record, be
18 done after the hearing is closed and those exhibits
19 have been admitted into the record, and not have to
20 deal with providing a redacted copy, which we don't
21 have, and which we are not in a position to
22 identify prior to the hearing.

23 COMMISSIONER CLARK: Ms. Helton.

24 MS. HELTON: Could I ask this question? So is
25 -- do you not know what is confidential and what is

1 not confidential? Is the confidential information
2 not highlighted? Because I am sitting here
3 wondering how we are going to conduct the
4 proceeding if we don't know what's confidential and
5 what's not confidential.

6 MS. CHRISTENSEN: In individual discover
7 responses, no they are not necessarily highlighted.

8 MR. WAHLEN: I'm not sure that's right. We
9 have filed 50 requests for confidential
10 classification in this case, and somebody has been
11 doing a remarkable job pushing them through the
12 system. And to my knowledge, any document that
13 contains confidential information that's in the
14 possession of Office of Public Counsel at this time
15 has been accompanied by a request for confidential
16 classification that has a redacted version, and a
17 confidential version, and a specific identification
18 of the confidential information and justifications.
19 If there is a piece missing, it's an oversight.

20 COMMISSIONER CLARK: And we've already signed
21 a bunch of them. I know that for a fact. So
22 explain where they are missing at. Where -- how do
23 we not have those?

24 MS. CHRISTENSEN: I think the -- some of them
25 do have confidential classifications, and if we

1 have them available, we are certainly happy to I
2 provide them, subject to our other objections, but
3 I think we also have some late-filed discovery
4 deposition exhibits that may or may not have those
5 done, and that's what we are concerned about, and
6 we are still awaiting some of those exhibits.

7 COMMISSIONER CLARK: That's a different issue.
8 Let's clarify the first one.

9 You have provided the confidential document
10 and a redacted version already. And you are saying
11 you don't have a redacted version.

12 MS. CHRISTENSEN: I do not believe we do, but
13 if we do, I stand correct and we will provide it to
14 the staff if there is one available.

15 COMMISSIONER CLARK: Okay. All right. Let's
16 go back to your second issue.

17 MS. CHRISTENSEN: Our second issue is we've
18 asked for some late-filed deposition exhibits which
19 have some confidential information. I don't know
20 that those have even been submitted yet. And I am
21 concerned, because we've just gotten those within
22 the last week or so, and we are still getting some
23 trickling in, so those may or may not have.

24 COMMISSIONER CLARK: Mr. Rehwinkel. Mr.
25 Rehwinkel.

1 MR. REHWINKEL: Yeah. I think I would have to
2 concur with Mr. Wahlen, that I think even the
3 late-filed deposition exhibits, and some we got in
4 the last couple of days, so I understand Ms.
5 Christensen's concern. I think the issue there is
6 more going to be the redacted version, we are going
7 to file of some of these, it's just going to be six
8 pages of completely black paper. So we may -- we
9 may go to the company and say, can we have a more
10 refined redaction. But I think, looking at the
11 SharePoint, that they have accompanied even the
12 late-fileds with a redacted and a confidential, or
13 yellow version.

14 So I think we can work with the company to,
15 and your staff, to make sure that we get to the
16 right point on that.

17 COMMISSIONER CLARK: Okay. All right. Sounds
18 great.

19 Staff, good here?

20 MS. HELTON: Thank you. I think we are good
21 now.

22 COMMISSIONER CLARK: All right. Any -- let me
23 go back. Where were we?

24 Confidential information. Anything else on
25 confidential information?

1 All right. Moving on to Section VII, Basic
2 Positions.

3 MR. MOYLE: Yeah, I think you skipped
4 witnesses and prefiled testimony.

5 COMMISSIONER CLARK: I tried.

6 MR. MOYLE: V.

7 COMMISSIONER CLARK: The efficiency of using
8 back of pages gets me.

9 All right. Section V, Prefiled Testimony and
10 Exhibit, Witnesses, staff.

11 MR. SPARKS: Staff suggests that the witness
12 summary testimony be no longer than three minutes.
13 If a witness has filed both direct and rebuttal
14 testimonies, staff recommends that he or she
15 receives three minutes for direct and three minutes
16 for rebuttal. If both direct and rebuttal
17 testimonies are taken together, staff recommends
18 that the witnesses be given six minutes total.

19 COMMISSIONER CLARK: All right. Any problems?
20 Arguments?

21 MS. CHRISTENSEN: Yes.

22 COMMISSIONER CLARK: As many witnesses there
23 are, this needs to be a really good argument.

24 MS. CHRISTENSEN: Well, first of all, we think
25 three minutes for the testimony that's been filed

1 by our witnesses is just too little time to
2 summarize, you know, 50, 60, 100 pages worth of
3 testimony, and provide that to the Commissioners.

4 We would ask at least for five to six minutes.
5 And if you want to give six -- you know, equal time
6 to the company, that would be fine too. But, I
7 mean, these are extensive, large, complicated
8 testimonies that we would like to have at least
9 sufficient time for our witnesses to summarize
10 them. And we've been able to do that in five
11 minutes, and it has not dragged the proceedings
12 down.

13 And particularly, in light of the fact that
14 the company has said basically they are not going
15 to cross-examine our witnesses, and, therefore, we
16 can pretty much assume that they are also not going
17 to be providing any cross-examination exhibits to
18 the Commission, we don't think it's un -- you know,
19 shouldn't be problematic that we are given at least
20 five to six minutes for our witnesses to adequately
21 summarize their testimony.

22 COMMISSIONER CLARK: Duly noted.

23 Any other comments? Mr. Moyle.

24 MR. MOYLE: I would just like to echo that
25 point. I mean, it's a rate case. There is

1 hundreds of millions of dollars involved. We have
2 two witnesses, one that probably doesn't need more
3 than three, but one who's going to be involved in a
4 very complex issue that I think, you know, we need
5 at least five for him, probably not much more than
6 that, but I think just giving us a chance to
7 explain his issue, and why he believes a certain
8 thing is appropriate given the context.

9 I mean, you know, a lot of times in tribunals,
10 they say, you know, use your best judgment. Don't
11 put somebody up there for 20 minutes, but three
12 minutes is kind of a rush for someone who has a lot
13 to cover, and has covered a technical issue
14 in-depth.

15 COMMISSIONER CLARK: Duly noted.

16 Mr. Wright.

17 MR. WRIGHT: Thank you, Commissioner.

18 I am a numbers nerd. There are 12 intervenor
19 witnesses. If you give everybody five minutes,
20 that's an extra 24 minutes total in a \$300 million
21 rate case. I think that's a very reasonable
22 request by the intervenors.

23 COMMISSIONER CLARK: Duly noted.

24 MR. MARSHALL: We join the request for the
25 reasons stated.

1 MR. WAHLEN: Our only -- I mean, if they want
2 five minutes, that's fine. But if they are not
3 going to be cross-examined, or questioned by the
4 Commissioners or the staff, we don't think they
5 even need to appear and make a summary.

6 COMMISSIONER CLARK: Noted.

7 Ms. Christensen.

8 MS. CHRISTENSEN: Just in rebuttal to that.
9 We do have the right to put on the case and to have
10 our witnesses come --

11 COMMISSIONER CLARK: No one is questioning
12 that.

13 MS. CHRISTENSEN: -- and be heard. So I would
14 just like to note that for the record, that it
15 would be highly problematic if our witnesses were
16 not allowed to come in person and present their
17 testimony and give an adequate summary.

18 COMMISSIONER CLARK: Understood.

19 MR. WAHLEN: I will just point out, I did a
20 little math. There is 36 witnesses, and we have 40
21 hours scheduled for hearing. That's about an hour
22 each. And if we don't find some ways to streamline
23 this case, it's going to be a long week.

24 COMMISSIONER CLARK: I appreciate all the
25 lawyers turn mathematicians today.

1 Anybody else?

2 MR. GARNER: I think the Sierra Club would
3 like to help with the problem of too many witnesses
4 and not enough time. They have one witness, Devi
5 Glick. TECO has indicated that they won't
6 cross-examine the witness. If no other parties
7 want to cross-examine Ms. Glick, then Sierra Club
8 would ask that she be not required to appear, and
9 her -- her exhibits be entered into the record
10 notwithstanding that.

11 COMMISSIONER CLARK: We are going to take this
12 up under witnesses, or can we take it up now? Take
13 it up under witnesses, when we have an opportunity
14 to stipulate witnesses in just a minute.

15 MR. SPARKS: Yeah. Let's do it under
16 witnesses.

17 COMMISSIONER CLARK: Hold on, Mr. Garner, we
18 will hopefully take you up on that offer.

19 MR. GARNER: Sure thing.

20 COMMISSIONER CLARK: All right. Okay.

21 Anybody else, any other comments?

22 All right. Where were we, Mr. Sparks?

23 MR. SPARKS: We will move on to the Order of
24 Witnesses if we are ready to do that.

25 COMMISSIONER CLARK: We are ready to do that.

1 Well, let's go back.

2 You -- there is a note here on if there is any
3 changes to the basic positions. We are still on
4 base -- we are still on witnesses. I am sorry.

5 Order of Witnesses. I am with you.

6 All right. Mr. Garner, I am going to call you
7 first.

8 MR. GARNER: All right. I would just like to
9 reiterate what I just said, that if no parties,
10 which to cross-examine Ms. Glick, then we would
11 request -- Sierra Club would request that she be
12 excused from appearing, and her exhibits --
13 sponsored exhibits be entered as though she had
14 summarized them.

15 COMMISSIONER CLARK: You got it.

16 Parties? Mr. Wahlen?

17 MR. WAHLEN: We are fine.

18 COMMISSIONER CLARK: All right. Everybody
19 else good?

20 MS. CHRISTENSEN: No objection from OPC.

21 COMMISSIONER CLARK: One down. All right.
22 Anyone else, any other witnesses?

23 MS. CHRISTENSEN: I think, Commissioner, we
24 already addressed our change of order of witnesses,
25 so we would just renew that here.

1 COMMISSIONER CLARK: Yes. Yes. Absolutely, I
2 believe that was Mr. Kollen going last, right?

3 MS. CHRISTENSEN: Yes, for OPC witnesses.

4 COMMISSIONER CLARK: Okay. Noted for the
5 record.

6 MR. MOYLE: FIPUG also has no objection to
7 excusing the Sierra Club witness.

8 COMMISSIONER CLARK: Okay.

9 MR. MOYLE: We do have two witnesses that have
10 a similar issue with respect to unavailability. I
11 don't know if they are having an expert convention
12 earlier in the week, but Mr. Pollock and Mr. Ly are
13 also going to be needed -- needing a time certain
14 on Thursday, 8/29, which, given our conversations
15 today, we may go to that Thursday. But if we
16 don't, we would -- we would like to work with staff
17 to be to make sure that they are able to appear
18 electrically. You know, they do that in a lot of
19 proceedings, where you can have someone appear
20 electrically as compared to not having their
21 information go in the record. That's a pretty
22 tough result if they were not able to get here.

23 COMMISSIONER CLARK: We have typically not
24 allowed witnesses to testify electrically. There
25 is a caveat, and Mr. --

1 MS. HELTON: Well, I am not sure if I
2 understand what you mean, Mr. Moyle, by
3 participating electrically. Do you mean through
4 the -- what -- I can't remember what we have, the
5 GoToMeeting?

6 MR. MOYLE: Yeah. I mean, I have done it at
7 DOAH many times. If, you know, a witness can't
8 come in, they say, just pull them up on Zoom, and,
9 you know, they do it. They do cross-examinations.
10 A lot of circuit courts are having hearings now
11 electrically.

12 And I am saying -- I am not looking for an
13 electronic hearing. My folks will be here on that
14 Thursday, but if all of a sudden, Tuesday afternoon
15 we are, like, done with witnesses, you know, I need
16 their stuff in the record just to make the case.

17 COMMISSIONER CLARK: I will -- I will say that
18 traditionally we have not allowed witnesses to
19 testify electrically. I would say that under the
20 observation that there is a presumption there is
21 going to be a cross-examination, and that gets a
22 little more complicated. There is no way to read
23 that particular witness.

24 If there is an opportunity that that could
25 occur, and there is no -- there is going to be no

1 cross, there is no cross whatsoever, and that's
2 stipulated to, I would not have an objection to a
3 witness appearing electrically. But if there is
4 going to be an opportunity for cross-examination,
5 then that -- that option is out with me.

6 MR. MARSHALL: We do plan to cross those
7 witnesses, but --

8 COMMISSIONER CLARK: Mr. Moyle's witness?

9 MR. MARSHALL: Yeah, Mr. Moyle's witnesses.

10 COMMISSIONER CLARK: Okay.

11 MR. MARSHALL: But I think Thursday should be
12 fine, given the number of witnesses and the time
13 constraints.

14 And we would just like to add Mr. Rabago on to
15 the Thursday train. He can follow all of the other
16 Thursday witnesses, but, yeah, he is available on
17 that Thursday and Friday. And so even if we spill
18 over into Friday, that's fine, but we would like to
19 put him on that Thursday train after all the other
20 Thursday witnesses.

21 COMMISSIONER CLARK: Anybody else need a
22 witness on Thursday?

23 Okay. All right. We are going to do our best
24 to accommodate the witnesses that need to be done
25 on Thursday, with these exception if we finish

1 early, that's on you guys.

2 Mr. Wright.

3 MR. WRIGHT: Thank you, Commissioner.

4 I am working with my witness, who I understand
5 will be crossed by one of the other intervenor
6 parties. I don't know what his availability is. I
7 am working with him on that.

8 I just want to interject this observation.
9 The practice here is extremely collegial and
10 cordial. I have never experienced a problem
11 rescheduling a witness, scheduling a time certain,
12 a date certain, or anything else. And I am
13 confidential that my colleagues all around here are
14 going to make that work this time.

15 COMMISSIONER CLARK: Absolutely. Thank you
16 for those words.

17 MR. WAHLEN: Here. Here.

18 COMMISSIONER CLARK: Anybody else? Anything
19 else on order of witnesses? We are good with it?
20 All right. Let's go.

21 Next item, Basic Positions.

22 MR. SPARKS: Staff recommends changes to basic
23 positions should be submitted in writing by close
24 of exist tomorrow, August 9th.

25 COMMISSIONER CLARK: Any changes to positions?

1 Ms. Eaton.

2 MS. EATON: Certainly. Walmart submitted an
3 amended prehearing statement in all of its
4 positions, and we submitted that this morning. All
5 of the positions are listed in there. They are not
6 in this particular document I understand, given the
7 time, but if this is going to be finalized, those
8 positions could be included.

9 Thank you.

10 COMMISSIONER CLARK: Okay.

11 MS. CHRISTENSEN: And, Commissioner --

12 COMMISSIONER CLARK: Ms. Christensen.

13 MS. CHRISTENSEN: -- OPC also filed an amended
14 prehearing statement with changes to the basic
15 position in several of the issues. And my
16 understanding is that those will be incorporated
17 the final order draft. So I won't be raising them
18 as the issues come up, unless there is an issue
19 where we need to make a separate change that was
20 not addressed in the amended prehearing.

21 COMMISSIONER CLARK: Duly noted.

22 Do we have that, Mr. Sparks? Okay. Very
23 good.

24 MR. WRIGHT: Commissioner --

25 COMMISSIONER CLARK: Mr. Wright.

1 MR. WRIGHT: -- just for clarity, a question
2 to staff through you, please.

3 Do we have until the close of business
4 tomorrow to provide changes to any of our
5 individual positions?

6 COMMISSIONER CLARK: Any of your basic
7 positions. Yes, sir.

8 MR. WRIGHT: And basic positions?

9 COMMISSIONER CLARK: Yes, that's my
10 understanding --

11 MR. MOYLE: And issues.

12 MR. WRIGHT: -- and our issues, the position
13 statements on the issues, correct?

14 COMMISSIONER CLARK: Yes, sir. That's
15 correct.

16 MR. WRIGHT: Thank you.

17 We got -- we got three coming in, and I will
18 have them to y'all tomorrow.

19 Thank you.

20 COMMISSIONER CLARK: Okay. Perfect.

21 Anyone else?

22 All right. Now let's hit the one I thought
23 was going to take the longest. Issue VII -- VIII.
24 First, we are going to address the non-contested
25 issues.

1 Are there any changes to the test period and
2 forecasting issues which are Issues 1 through 3?

3 MS. EATON: Commissioner.

4 COMMISSIONER CLARK: Ms. Eaton.

5 MS. EATON: I would just say, again, Walmart's
6 issues are set forth in our amended prehearing
7 statement, and we have answered every issue, so it
8 would be included in the final order.

9 COMMISSIONER CLARK: All right. So we are
10 going to assume that answer is for each of the
11 issues --

12 MS. EATON: Yes, thank you.

13 COMMISSIONER CLARK: -- we are going through.
14 Staff, we are good with that? Okay.

15 MS. EATON: Thank you.

16 COMMISSIONER CLARK: Perfect. All right.

17 MR. WAHLEN: Commissioner.

18 COMMISSIONER CLARK: Mr. Wahlen.

19 MR. WAHLEN: We don't know of any changes that
20 we have to this, but if we could have until the
21 close of business tomorrow to just double check, it
22 would --

23 COMMISSIONER CLARK: Everyone has until close
24 of business tomorrow to get your challenges to us.
25 We are just trying to identify any that you know of

1 right now early so we can get working on it --

2 MR. WAHLEN: Perfect. Thank you.

3 COMMISSIONER CLARK: -- correct, Mr. Sparks?

4 MR. SPARKS: That's correct.

5 COMMISSIONER CLARK: All right. Issue No. 4,
6 quality of service.

7 Five through 12, depreciation dismantlement
8 study.

9 13 through 32, bait race section -- base --
10 rate base section. Wow.

11 MS. CHRISTENSEN: Commissioner, we will
12 probably have a change of position for Issues 15
13 through 17.

14 COMMISSIONER CLARK: Okay.

15 MS. CHRISTENSEN: And we will submit that by
16 close of business tomorrow.

17 COMMISSIONER CLARK: Thank you for that
18 heads-up. That's what we are looking for.

19 All right. Cost of capital, 33 through 40.

20 Net operating income, 41 through 67, Mr.
21 Sparks.

22 MR. SPARKS: TECO has proposed a change to the
23 wording on Issue 58. The issue, as originally
24 worded, was D&O insurance expense only. OPC has
25 proposed adjustments for D&O expense and Board of

1 Directors expenses, and addressed both in its
2 position on Issue 58, and so TECO proposes to
3 include Board of Directors expense in the wording
4 of the issue.

5 MR. WAHLEN: I think it's -- I think it's 56.

6 MS. CHRISTENSEN: Commissioner, yeah, I was
7 going to say, I think it's 56. And in our amended
8 prehearing statement -- I was going to point this
9 out -- we had created a Issue 56a to break apart
10 the directors and officer liability insurance issue
11 from the Board of Directors expense issue, and
12 separated them into two separate issues as they are
13 two separate adjustments.

14 MR. WAHLEN: We -- Tampa Electric likes the
15 way the staff has presented it in the draft
16 Prehearing Order. We think both issues can be
17 handled under 56.

18 COMMISSIONER CLARK: Okay. You get the 56,
19 that change is made. You are saying that the two
20 expenses are calculated differently?

21 MS. CHRISTENSEN: They are two separate
22 adjustments, and that's why we separated them out
23 into two separate issues. We could -- you know, we
24 have, in the position that we have currently in the
25 Prehearing Order, addressed them under a single

1 additional issue, and we can leave that position if
2 that's the way the Commission is intending to go.

3 COMMISSIONER CLARK: Okay.

4 MS. CHRISTENSEN: But we do note that they are
5 two separate adjustments with two different
6 calculations.

7 COMMISSIONER CLARK: Two different expenses
8 but recorded in the same column. You are recording
9 them in the same column, is that what we are
10 saying?

11 MR. WAHLEN: Yeah, we've addressed both
12 issues -- both proposed adjustments under 56. We
13 think it's good the way it is.

14 COMMISSIONER CLARK: Okay. Staff, comment?

15 MR. SPARKS: Staff would prefer it the way we
16 have it written in the order.

17 COMMISSIONER CLARK: All right. Anything else
18 on 41 through 67?

19 All right, 68 through 69, revenue requirement.

20 70 through 93, cost of service.

21 94 through 110, subsequent year adjustments.

22 All right. Are there any changes to the other
23 section, which is 111 through 120. Start with you,
24 Mr. Sparks.

25 MR. SPARKS: Staff has now included what was

1 formerly listed as contested issues OPC-1 and OPC-2
2 as Issue No. 119 within the other section. And
3 this will -- this change will also require
4 renumbering what was previously Issues 119 and 120
5 as Issues 120 and 121, respectively.

6 The new Issue 119 will now read: What
7 considerations should the Commission give the
8 affordability of customer bills, and how does
9 TECO's rate increase impact ratepayers in this
10 proceeding?

11 COMMISSIONER CLARK: All right. Ms.
12 Christensen.

13 MS. CHRISTENSEN: And we are fine with the
14 combined issue. We proposed that. We would just
15 ask that, for clarity sake, the position that we
16 had under both issues be combined into one
17 position.

18 COMMISSIONER CLARK: Staff, understood? Mr.
19 Sparks, we got that?

20 MR. SPARKS: Yes.

21 COMMISSIONER CLARK: All right. Very good.

22 All right. Anything else on 111 through 120,
23 or the new 121, I guess?

24 MR. WRIGHT: Commissioner, I -- sorry, I just
25 want to make sure I understand.

1 Will staff send us exactly what the issues as
2 revised are and what the numbering is? It sounded
3 like there were two issues being combined and 119
4 is being reworded. I just want to make sure I get
5 it all right when I send in my stuff tomorrow.

6 COMMISSIONER CLARK: Yes, I am getting a
7 confirmation they will send that out.

8 MR. WRIGHT: Thank you, sir.

9 COMMISSIONER CLARK: Thank you.

10 All right. Next we are going to address the
11 contested issue, with those proposed by Sierra
12 Club, beginning with SC-2, Mr. Sparks.

13 MR. SPARKS: SC-2 reads: Should TECO recover
14 O&M expense associated with keeping integrated
15 gasification steam, turbine and/or heat recovery
16 steam generator components at Polk Unit 1 in
17 long-term standby, and what adjustments should be
18 made?

19 Staff believes that this issue can be
20 addressed within Issue No. 43.

21 COMMISSIONER CLARK: Mr. Garner.

22 MR. GARNER: I haven't been instructed on
23 these issues, and so --

24 COMMISSIONER CLARK: Okay. Very good.

25 Moving to SC No. 5.

1 MR. SPARKS: SC No. 5 reads: Should TECO
2 recover O&M expense associated with injecting
3 wastewater into deep wells at Polk Unit 1 and Big
4 Bend Unit 4, and what adjustments should be made?

5 Staff believes that this issue, along with
6 Issue SC-6 can be addressed within Issue 43 Polk
7 Unit 1 and 44 had for Big Bend Unit 4.

8 COMMISSIONER CLARK: Okay. SC-6.

9 MR. SPARKS: SC-6 reads: Should TECO recover
10 any O&M expense associated with coal or petcoke
11 combustion at Polk Unit 1 and/or Big Bend Unit 4,
12 and what adjustments should be made?

13 And staff believes that this issue can be
14 addressed within Issues 43 and 44.

15 COMMISSIONER CLARK: SC-12.

16 THE WITNESS: SC-12 reads: Should TECO be
17 required to apply for the U.S. Department of
18 Energy's energy infrastructure reinvestment program
19 for Polk Unit 1 and/or Big Bend Unit 4?

20 And staff believes that this issue can be
21 addressed within Issues 43 and 44.

22 COMMISSIONER CLARK: Okay. SC-13.

23 MR. SPARKS: SC-13 reads: Should TECO be
24 required to cease all coal combustion at Polk Unit
25 1 by 2024 and Big Bend Unit 4 by 2025?

1 And staff believes that this issue can be
2 addressed within Issues 43 and 44.

3 COMMISSIONER CLARK: All right. Finally we're
4 going to address OPC-3.

5 MR. SPARKS: OPC-3 reads: Should TECO
6 continue to operate as the de facto centralized
7 service provider, and if so, what additional
8 measures should be taken, if any, to facilitate its
9 operation as the centralized service provider?

10 Staff believes this issue can be addressed
11 within Issue 55.

12 COMMISSIONER CLARK: Okay. Ms. Christensen.

13 MS. CHRISTENSEN: Yes. Issue 55 right now, as
14 it reads, only addresses what cost allocation
15 methodologies, and what amount of cost -- or
16 allocated cost and charges with TECO's affiliated
17 companies should be approved for the 2025 projected
18 test year.

19 Our Issue 3 discusses other measures that need
20 to be taken. As long as they are going to be
21 acting as the central service provider, we would
22 suggest if the Commission is going to eliminate our
23 issue, OPC-3, that addition language on Issue 55 be
24 added to the end of the sentence, and what other
25 measures should be taken, question mark. That

1 would broaden the issue, and it would allow us to
2 address the central service provider measures that
3 currently are being addressed under Issue 3.

4 Otherwise, I think the way the current issue
5 is drafted, it is just limited to the allocation
6 methodologies and the allocated costs. And we have
7 testimony on the issue of what measures should be
8 taken if they are going to continue as a central
9 service provider.

10 COMMISSIONER CLARK: So you are contending
11 that outside of this issue, if this issue is not
12 modified, you can't address the issue in the
13 testimony as to whether or not they, in fact,
14 should be the central service provider?

15 MS. CHRISTENSEN: Well, and what other
16 measures should be taken if they continue to
17 operate as a central service provider. I mean, our
18 position is we don't think that they should be.
19 They should have a stand-alone company. But even
20 if that's not something the Commission feels they
21 can address or authorize, we feel that there has to
22 be measures put in place so long as they are going
23 to continue to operate as the central service
24 provider.

25 And I think as the way Issue 55 is currently

1 drafted, it's very narrowly drafted to talk about
2 allocation methodologies and affiliate cost. It
3 doesn't -- it's not currently worded broadly enough
4 to include their role as a central service
5 provider. And we would just ask to have additional
6 language so it's clear that it's not just those two
7 issues that are -- or those two factors that are
8 being addressed that makes them broader, so we can
9 address the issue that we have raised in testimony,
10 and that there is testimony on.

11 COMMISSIONER CLARK: Does not putting it in
12 there prohibit you from addressing those issues? I
13 am just cur -- I am asking for my benefit.

14 MS. CHRISTENSEN: I would -- I would think
15 that it could be argued that it goes beyond the
16 scope of the issue, and we don't want to have that
17 be a prohibition.

18 COMMISSIONER CLARK: That's why I want to make
19 sure today.

20 MS. CHRISTENSEN: Yeah, I think, as drafted,
21 it could be -- it could be interpreted as beyond
22 the scope of the issue, and we just don't want to
23 be prohibited from raising those issues. And I
24 think it either needs to be expressly stated in the
25 issue, which is the clearest way to do it, or it

1 needs to be expressly stated in the Prehearing
2 Order so there is no confusion later on if we
3 address it.

4 COMMISSIONER CLARK: I am not questioning your
5 right to address it. I think that's accurate and
6 fair.

7 Mr. Wahlen, do you want to address this?

8 MR. WAHLEN: Sure. We really don't think this
9 is the appropriate proceeding to decide how the
10 Commission is going to regulate central service
11 providers in the future. We think there is an
12 affiliate transaction rule that's in effect. If
13 Public Counsel thinks that that rule is inadequate,
14 which it apparently does, they should propose a
15 rule change.

16 That being said, the Public Counsel is feeling
17 the urge in this case to talk about that. We would
18 be okay dropping OPC-3 as proposed by the staff,
19 and allowing the modification about what other
20 actions, that way they have a chance to brief it,
21 and we did can -- we can brief it as well.

22 COMMISSIONER CLARK: Mr. Sparks, can you live
23 with that?

24 MR. SPARKS: Yes, we can live with that.

25 Staff feels that the original wording is broad

1 enough, but if TECO is okay with it, staff is okay
2 with it.

3 COMMISSIONER CLARK: Ms. Christensen?

4 MS. CHRISTENSEN: That's fine. I will propose
5 language, the additional language in an email to
6 the parties tomorrow. But I will state for today
7 that we would just add, after the protected test
8 year, and what other measures should be taken,
9 question mark.

10 COMMISSIONER CLARK: Very good.

11 All right. Anything else on OPC-3?

12 All right. We will give final ruling on these
13 in the final Prehearing Order.

14 MS. CHRISTENSEN: And, Commissioner, just for
15 clarification, our position summary for Issue --
16 OPC-3, should be subsumed or moved over to Issue
17 55.

18 COMMISSIONER CLARK: Got it. 55. Yes.
19 Agreed?

20 All right. Exhibit --

21 MR. MARSHALL: That would be true for us as
22 well.

23 COMMISSIONER CLARK: Hello, Mr. Marshall.

24 MR. MARSHALL: And that would be true for us
25 as well, because we had a similar position as to

1 OPC on OPC-3, so our position on OPC-3 should be
2 moved over to now 55 as well.

3 COMMISSIONER CLARK: Everybody want their
4 positions moved? All right. Move them all.

5 Next up, Item IX, Exhibit List.

6 MR. SPARKS: Staff notes that it has prepared
7 a Comprehensive Exhibit List, which includes all
8 prefiled exhibits and also includes those exhibits
9 staff wishes to include in the record. Staff will
10 circulate the draft list and check with the parties
11 prior to the hearing to determine if there are any
12 objections to the Comprehensive Exhibit List or any
13 of staff's exhibits being entered into the records.

14 COMMISSIONER CLARK: Proposed Stipulations.

15 MR. WAHLEN: On the exhibit list -- I am sorry
16 -- briefly. I am sorry.

17 COMMISSIONER CLARK: Yes, sir.

18 MR. WAHLEN: On July 24th, Tampa Electric
19 filed an updated revenue requirement for this case.
20 And then on August 1st, we reconciled that new
21 revenue requirement number with some of the
22 information in Mr. Chronister's testimony. We
23 think it would help the process overall for those
24 two documents to be included as exhibits in the
25 hearing. Obviously, we didn't have time to prefile

1 them because the time for filing testimony had long
2 since passed. So we would propose that those two
3 items be added to the exhibit list.

4 We also are, today, filing the service hearing
5 report that the Office of Public Counsel requested
6 during the service hearings. We think that
7 probably ought to be included in the record for the
8 Commission's consideration. We can send that list
9 around of those three proposed additions to the
10 parties, and they can weigh in on them. But I just
11 wanted to alert people. We are thinking those
12 would be helpful for completeness.

13 COMMISSIONER CLARK: Okay. Any objections?
14 Okay. Very good.

15 Anything else under exhibit list.

16 Item X, Proposed Stipulations.

17 MR. SPARKS: Staff would suggest that all
18 parties consider offering any additional
19 stipulations at this time.

20 COMMISSIONER CLARK: Taking offers. None.

21 MR. WAHLEN: I think we've successfully agreed
22 to have a hearing in a couple of weeks, but I am
23 not sure if there is --

24 COMMISSIONER CLARK: Good job. Everybody gets
25 a participation trophy.

1 MR. WAHLEN: Yeah.

2 COMMISSIONER CLARK: Anything else? Anything
3 else on stipulations? Going once.

4 All right. No. XI, Pending Motions.

5 MR. SPARKS: Staff is unaware of any pending
6 motion is at this time.

7 COMMISSIONER CLARK: All right. No. XII,
8 Pending Confidentiality Motions.

9 MR. SPARKS: The pending confidentiality
10 requests are listed in the draft Prehearing Order.

11 COMMISSIONER CLARK: Post-Hearing Procedures.

12 MR. SPARKS: If certain issues are stipulated
13 and the parties agree do waive briefs, the
14 Commission may make a bench decision for those
15 portions of the proceeding.

16 If there are any issues to be briefed, staff
17 recommends post-hearing briefs be no longer than 75
18 pages, including attachments.

19 COMMISSIONER CLARK: All parties in agreement?

20 MS. CHRISTENSEN: We would ask for additional
21 words. Right now, they are limiting our position
22 statements to 50 words. We would ask for 75.

23 COMMISSIONER CLARK: Okay. Anything else?

24 MR. WAHLEN: I just -- in terms of the length
25 of the brief, we tend to think that less is more,

1 but not knowing how many, really, issues are going
2 to have to be decided, if we could at least leave
3 an asterisk next to the 75 pages and talk about it
4 at the end of the hearing. I don't want it to be
5 more, but if we can't clean this case up a little
6 bit, that may not be enough.

7 COMMISSIONER CLARK: Okay. Duly noted.

8 Anyone else? All your comments are on the
9 record.

10 All right. Rulings.

11 MR. SPARKS: Staff recommends that the
12 Prehearing Officer make a ruling that opening
13 statements, if any, should not exceed five minutes
14 per party unless any party chooses to waive its
15 opening statement. Because Florida Rising and
16 LULAC share the same representative and are
17 submitting joint filings, staff recommends that
18 they be given five minutes to share.

19 COMMISSIONER CLARK: Okay. All right. Other
20 matters?

21 MS. CHRISTENSEN: Commissioner, we would ask
22 -- I know we -- right now we have five minutes for
23 opening. We would ask to have five to 10 minutes.
24 We will try and err on the side of five minutes,
25 but if we go a little bit longer, we would ask for

1 the indulgence. This is a complicated rate case.
2 We have lots of issues and lots of witnesses to
3 address in our opening.

4 COMMISSIONER CLARK: Okay. Thank you.
5 Anyone else? All right.

6 MR. MARSHALL: We'll second that request.

7 COMMISSIONER CLARK: I assumed that was a
8 given all the way down the line.

9 MR. WAHLEN: Well, I don't know how many
10 lawyers we got lined up down there, but if
11 everybody gets 10 minutes, it's going to --

12 COMMISSIONER CLARK: It gets leanly.

13 MR. WAHLEN: -- it's going to take a while,
14 and Tampa Electric --

15 COMMISSIONER CLARK: We got to wait until
16 Thursday so we can get these witnesses in, Mr.
17 Wahlen.

18 MR. WAHLEN: Right. Well, we got to keep it
19 going, I know, but I --

20 COMMISSIONER CLARK: Understood. We are
21 taking it under advisement.

22 All right. Mr. Sparks, any other matters that
23 you have for the Prehearing Conference?

24 MR. SPARKS: Staff would just remind the
25 parties that currently the briefs are set to be due

1 on September 23rd, 2024. And that would be it.

2 COMMISSIONER CLARK: All right. Parties,
3 anything else? Any other items?

4 MR. WAHLEN: I just wanted to thank everybody
5 for being flexible about rescheduling the
6 Prehearing Conference and getting it done quickly.
7 That's a good show.

8 COMMISSIONER CLARK: And same here. I was
9 going to end on that exact same note, Mr. Wahlen,
10 but thank you all for your diligence. Thank you
11 all for working together. Mr. Wright said it very
12 well. This has been a very -- this is always a
13 very collegial organization, very collegial group
14 of people. It's an honor to work with all of you.
15 I appreciate the harmony and the spirit with which
16 each of you enter every one of the assignments that
17 you are given. It's really, really nice to work
18 with such a great group of people. Thank you for
19 your participation. Thank you for your indulgences
20 this week because of the storm, and I hope to see
21 you all in two weeks.

22 Thank you very much. Have a great day.

23 (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
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attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 23rd day of August, 2024.



DEBRA R. KRICK
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