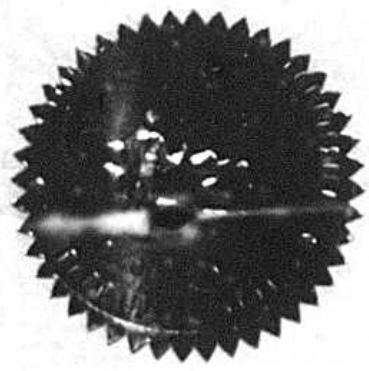


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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : DOCKET NO. 970001-EU

Fuel and purchased :
power cost recovery :
clause and generating :
performance incentive :
factor. :



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER J. TERRY DEASON
Prehearing Officer

DATE: Wednesday, February 5, 1997

TIME: Commenced at 11:00 a.m.
Concluded at 12:15 p.m.

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

REPORTED BY: H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter

DOCUMENT NUMBER - DATE
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1 **APPEARANCES:**

2 **JAMES A. MCGEE**, Post Office Box 14042, 3201
3 34th Street South, St. Petersburg, Florida 33733-4042,
4 appearing on behalf of Florida Power Corporation.

5 **MATTHEW M. CHILDS**, Steel, Hector & Davis,
6 215 South Monroe Street, Suite 601, Tallahassee,
7 Florida 32301, appearing on behalf of Florida Power &
8 Light Company.

9 **WILLIAM WILLINGHAM**, Rutledge, Ecenia,
10 Underwood, Purnell and Hoffman, P.A, Post Office Box
11 551, 215 South Monroe Street, Suite 420, Tallahassee,
12 Florida 32302-0551, appearing on behalf of Florida
13 Public Utilities Company.

14 **JEFFREY A. STONE**, Beggs & Lane, 700 Blount
15 Building, 3 West Garden Street, Post Office Box 12950,
16 Pensacola, Florida 32576-2950, appearing on behalf of
17 Gulf Power Company.

18 **JAMES D. BEASLEY**, Ausley & McMullen, Post
19 Office Box 391, Tallahassee, Florida 32302, appearing
20 on behalf of Tampa Electric Company.

21 **VICKI GORDON KAUFMAN**, McWhirter, Reeves,
22 McGlothlin, Davidson, Rief and Bakas, 315 South
23 Gadsden Street, Tallahassee, Florida 32301, appearing
24 on behalf of Florida Industrial Power Users Group.

25

1 **APPEARANCES CONTINUED:**

2 **JOHN ROGER HOWE, Deputy Public Counsel,**
3 **Office of Public Counsel, c/o The Florida Legislature,**
4 **111 West Madison Street, Room 812, Tallahassee,**
5 **Florida 32399-1400, appearing on behalf of the**
6 **citizens of the State of Florida.**

7 **VICKI D. JOHNSON, Florida Public Service**
8 **Commission, Division of Legal Services, 2540 Shumard**
9 **Oak Boulevard, Tallahassee, Florida 32399-0870,**
10 **appearing on behalf of the Commission Staff.**

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1 **COMMISSIONER DEASON:** Thank you. We'll go
2 ahead and take appearances for all of the docket
3 today.

4 **MR. CHILDS:** Commissioner, my name is
5 Matthew Childs with the firm of Steel, Hector and
6 Davis, appearing on behalf of Florida Power & Light
7 Company.

8 **MR. BEASLEY:** Commissioner, I'm James D.
9 Beasley appearing with Lee L. Willis, both of the firm
10 of Ausley & McMullen appearing on behalf of Tampa
11 Electric Company in the 01, 02 and 07 dockets.

12 **MR. PALECKI:** Michael Palecki, City Gas
13 Company of Florida, appearing on the 02 and 03
14 dockets.

15 **MS. KAUFMAN:** Vicki Gordon Kaufman,
16 McWhirter, Reeves, McGlothlin, Davidson, Rief, Bakas,
17 on behalf of the Florida Industrial Power Users Group
18 in the 01, 02 and 07 dockets.

19 **MR. HORTON:** Norman H. Horton, Jr. of the
20 law firm of Messer, Caparello & Self, on behalf of
21 West Florida Natural Gas in the 02 docket, Sebring Gas
22 System, Inc., South Florida Natural Gas, and West
23 Florida Natural Gas in the 03 docket.

24 **MR. MCGEE:** James McGee on behalf of Florida
25 Power Corporation in both the 02 and the 01 dockets.

1 **MR. STONE:** Jeffrey A. Stone, and with me is
2 Russell A. Badders of the law firm Beggs & Lane
3 representing Gulf Power Company in the 01 and 02.

4 **MR. WILLINGHAM:** Bill Willingham of the law
5 firm Rutledge, Econia, Underwood, Purnell & Hoffman on
6 behalf of Florida Public Utilities Company in the 01,
7 02 and 03 dockets.

8 **MR. LAVIA:** Jay LaVia with the law firm of
9 Landers & Parsons for People's Gas in the 02 docket.

10 **MR. NICHOLSON:** David Nicholson, law firm of
11 Macfarlane, Ferguson & McMullen, on behalf of People's
12 Gas in the 03 docket.

13 **MR. SHIEFELBEIN:** Wayne Shiefelbein, Gatlin,
14 Schiefelbein & Cowdery appearing on behalf of
15 Chesapeake Utilities Corporation in the 02 and 03
16 dockets.

17 **MR. HOWE:** I'm Roger Howe with the Office of
18 Public Counsel appearing on behalf of the Citizens of
19 the State of Florida in the 01, 02, 03 and 07 dockets.

20 **MS. JOHNSON:** Vicki Johnson on behalf of the
21 Commission Staff in the 01 and 07 dockets.

22 **MR. KEATING:** Cochran Keating on behalf of
23 the Commission Staff in the 03 docket.

24 **MS. WAGNER:** Lorna Wagner on behalf of
25 Commission Staff for the 02 docket.

1 **COMMISSIONER DEASON:** Mr. Howe?

2 **MR. HOWE:** Well, it's our belief that the
3 Company has an obligation to establish on a
4 preliminary basis its entitlement to fuel cost
5 recovery both for the final true-up period, the
6 partial true-up period and the projected period. And
7 we don't believe the Company has offered any direct
8 testimony in its prefilings that would support
9 recovery of such costs as it relates to the extended
10 ongoing outage at the Crystal River 3 nuclear unit.

11 So we believe that from an evidentiary
12 standpoint if the Company is going to concede that
13 they haven't filed any testimony addressing this
14 outage or a justification why customers should be
15 burdened with the replacement fuel costs, we will
16 certainly be satisfied with that record going forward.

17 **COMMISSIONER DEASON:** If it is Power Corp's
18 intent not to file any supplemental testimony, do you
19 agree, then, that your motion is moot? I'm just
20 trying to ascertain if there's any action I need to
21 take as a prehearing officer at this time or prior to
22 the hearing so that the other Commissioners will be
23 totally informed as to the status of this docket.

24 **MR. HOWE:** I understand. The reason I can't
25 really respond directly is because I don't know what

1 the Company plans to do, for example, when it puts its
2 witnesses on the stand; if they intend to try to at
3 that time address this issue. And that was the reason
4 why we stated in the motion that it looks to us like
5 the stage is being set for the Company at some future
6 date, either at the prehearing conference or at the
7 hearing itself, to address the extended outage, and we
8 don't think that would be appropriate. We've had no
9 chance to address it.

10 COMMISSIONER DEASON: Very well. Well, I
11 would note, then, that for purposes of the prehearing
12 conference today, that the motion has been filed. The
13 time for a formal response has not yet run. Power
14 Corp may file a response if they are so inclined.

15 I am not going to address the motion today.
16 If it is not addressed prior to the hearing, Mr. Howe,
17 you may certainly renew your motion at the time if
18 there is an attempt to, in your opinion, to improperly
19 supplement testimony, which is the subject matter of
20 this motion; but I'm not going to make any ruling
21 today. Very well.

22 Are there any other preliminary matters in
23 the 01 docket? Very well. We will proceed, then,
24 through the draft prehearing order.

25 Section 1, Case Background; Section 2,

1 Confidential Information; Section 3, Prefiled
2 Testimony and Exhibits; Section 4, Order of Witnesses.

3 MR. CHILDS: Commissioner, I believe in the
4 order of witnesses, Florida Power & Light has a change
5 here. We also have a change later on having to do
6 with our exhibits that was inadvertently omitted.

7 What we have done is typed up these changes
8 and given them to Staff. Rather than going through
9 and reading them to you, I prefer to do it that way,
10 if it's acceptable.

11 COMMISSIONER DEASON: Very well. Does Staff
12 have that information?

13 MS. JOHNSON: Yes.

14 COMMISSIONER DEASON: If any other parties
15 wish that information, I'm sure that Mr. Childs will
16 provide that to you. Any other questions or concerns
17 to the order of witnesses?

18 Section 5, Basic Positions; changes or
19 corrections? Section 6, Issues and positions; Issue
20 1, changes or corrections?

21 MR. HOWE: Commissioner Deason, Public
22 Counsel would take the position with respect to
23 Florida Power Corporation as follows: "Replacement
24 fuel costs associated with the ongoing extended outage
25 at the Crystal River No. 3 nuclear unit should be

1 excluded for fuel cost recovery purposes during the
2 April through September 1997 projection period."

3 That will be our position with respect to
4 Issues 1 through 4, and Issue 7.

5 COMMISSIONER DEASON: Are you taking a
6 position in reference to any of the other utility
7 companies for those issues?

8 MR. HOWE: No, sir.

9 COMMISSIONER DEASON: Ms. Kaufman?

10 MS. FAUFMAN: Commissioner Deason, FIPUG
11 agrees with Public Counsel on the issues that he
12 mentioned, and we are taking no position on the other
13 generic fuel issues.

14 COMMISSIONER DEASON: Very well. Any
15 changes or corrections to Staff positions or company
16 positions within Issue 1?

17 MS. JOHNSON: No, none for Staff.

18 COMMISSIONER DEASON: Issue 2? Issue 3?

19 MR. BEASLEY: Commissioner, Tampa Electric
20 Company's position on Issue 3, as shown in the middle
21 of Page 8 of the prehearing order, has a typo in it.
22 The 1,580,623 should be \$1,590,623. We've discussed
23 that with the Staff.

24 COMMISSIONER DEASON: And you are now in
25 agreement with Staff; is that correct?

1 **MR. BEASLEY:** Yes, sir.

2 **COMMISSIONER DEASON:** Any other changes to
3 positions for Issue 3? Issue 4?

4 **MS. JOHNSON:** Staff has a change with
5 respect to Florida Power Corp. Our position should
6 state: "2.385 cents per Kwh adjusted for
7 jurisdictional losses."

8 **COMMISSIONER DEASON:** So you are now in
9 agreement with Power Corp?

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

11 **COMMISSIONER DEASON:** Any other changes for
12 Issue 4?

13 **MR. CHILDS:** Commissioner, I thought that
14 for Florida Power & Light, and maybe some of the other
15 companies, that there was no disagreement with the
16 position Staff and FPL have taken by FIPUG and Office
17 of Public Counsel, but I think their position has been
18 left as "No position at this time" on Issues 2, 3 and
19 now 4.

20 **COMMISSIONER DEASON:** I believe that they're
21 taking no position except for, as Mr. Howe just
22 explained, as it pertains to Florida Power
23 Corporation.

24 **MR. HOWE:** That's correct, Commissioner
25 Deason. I believe the position I stated for Florida

1 Power Corporation would apply to Issues 1 through 4
2 and Issue 7 for the generic issues and, otherwise, our
3 position would be "No position."

4 COMMISSIONER DEASON: And that is the same
5 for FIPUG?

6 MS. KAUFMAN: Yes, sir.

7 MR. CHILDS: Thank you.

8 COMMISSIONER DEASON: So for those issues
9 where the Company and Staff are in agreement, it
10 appears that there is a stipulation?

11 MS. JOHNSON: That's correct, and it will be
12 reflected in the prehearing order.

13 COMMISSIONER DEASON: Very well. Issue 5?

14 MS. JOHNSON: Issue 5, it appears it can be
15 shown as a stipulation if FIPUG is in agreement with
16 the positions that are shown.

17 MS. KAUFMAN: We'll take no position on that
18 issue.

19 COMMISSIONER DEASON: With that, then, I
20 believe Issue 5 can be shown as a stipulation. Issue
21 6?

22 MS. JOHNSON: Staff has a -- has
23 modifications to that issue. Our position currently
24 states for all the companies that we take no position
25 at this time. Staff's position is the same as the

1 numbers that are reflected for the companies.

2 COMMISSIONER DEASON: Therefore Issue 6 can
3 be shown as a stipulation?

4 MS. JOHNSON: Yes.

5 COMMISSIONER DEASON: Very well. Issue 7?

6 MS. JOHNSON: On Issue 7, Staff would like
7 to modify our position with respect to Florida Power
8 Corp. Again, we are in agreement -- Staff and the
9 Company's numbers are in agreement as reflected for
10 Florida Power Corp.

11 COMMISSIONER DEASON: Is there agreement
12 also for the other companies?

13 MS. JOHNSON: That's correct.

14 COMMISSIONER DEASON: Very well. That can
15 be shown as a stipulation.

16 Issue 8 there's agreement here also, is
17 there not?

18 MS. JOHNSON: Just so that the record is
19 clear, the stipulation on Issue 7 is with respect to
20 all companies except Florida Power Corp.

21 COMMISSIONER DEASON: Yes. I'm glad you
22 made that clarification, but that is the situation.
23 Okay.

24 Issue 8, it appears there is agreement; is
25 that correct?

1 MS. JOHNSON: Yes, that is.

2 COMMISSIONER DEASON: Very well. Issue 9?

3 MS. JOHNSON: Issue 9, Staff has two minor
4 corrections to our position. On Page 19, paragraph --
5 the paragraph that's No. 2, the last word should be
6 changed from "bulletin" to "order". And in Paragraph
7 4, the third line down the word "that" should be
8 changed to "than".

9 MR. BEASLEY: What was that second one?

10 MS. JOHNSON: The second change?

11 MR. BEASLEY: Yes.

12 MS. JOHNSON: Third line in Paragraph 4,
13 first word "that" should be changed to "than,"
14 T-H-A-N.

15 COMMISSIONER DEASON: Mr. McGee, you've
16 issued a supplemental position sheet, and you show
17 that you're in agreement with Staff; is that correct?

18 MR. MCGEE: That's correct with respect to
19 Issue 9, yes.

20 COMMISSIONER DEASON: Are there any other
21 positions taken by other companies?

22 MR. BEASLEY: Tampa Electric is in agreement
23 with the Staff's position on this issue.

24 MR. CHILDS: Florida Power & light will
25 accept that position.

1 **MR. STONE:** Commissioner Deason, we've had
2 some discussions with Staff, and we can agree with
3 Staff's position. Our concerns were that in the event
4 that there may be problems in actually accomplishing
5 the booking of adjustments in the same calendar month
6 due to the scheduling of the fly-over, we needed some
7 assurance that we would be able to ask for some leeway
8 there.

9 Staff has assured us that we can ask for
10 leeway, that the fact that this is an order was not
11 intended to preclude us from coming and discussing
12 individual problems as they may arise. And with that
13 understanding, we can agree with Staff.

14 **COMMISSIONER DEASON:** Mr. Willingham, I
15 don't think you have any coal piles.

16 **MR. WILLINGHAM:** No, that's not relevant to
17 Florida Public Utilities.

18 **COMMISSIONER DEASON:** Does Public Counsel or
19 FIPUG have a position?

20 **MS. KAUFMAN:** We'll take no position on this
21 issue.

22 **MR. HOWE:** No position.

23 **COMMISSIONER DEASON:** With that, then, I
24 think that Issue 9 can be shown as a stipulation.

25 **MS. JOHNSON:** That's correct.

1 **COMMISSIONER DEASON:** With the understanding
2 as expressed by Mr. Stone.

3 **Issue 10?**

4 **MR. MCGEE:** Florida Power will agree with
5 Staff.

6 **COMMISSIONER DEASON:** To defer the issue?

7 **MR. MCGEE:** Yes; and that would be the same
8 on Issues 10, 11, 12 and 13.

9 **MR. BEASLEY:** Tampa Electric agrees with the
10 Staff that this matter should be deferred.

11 **MR. STONE:** Gulf Power, likewise, agrees all
12 the issues that Mr. McGee enumerated, that they should
13 be deferred.

14 **MR. WILLINGHAM:** And Florida Public
15 Utilities also supports Mr. McGee's.

16 **MR. CHILDS:** Florida Power & Light agrees to
17 defer Issues 10 through 13.

18 **COMMISSIONER DEASON:** Mr. Howe?

19 **MR. HOWE:** We agree to a deferral.

20 **COMMISSIONER DEASON:** Ms. Kaufman?

21 **MS. KAUFMAN:** FIPUG agrees, as well.

22 **COMMISSIONER DEASON:** And obviously Staff
23 agrees.

24 **MR. JOHNSON:** Yes.

25 **COMMISSIONER DEASON:** Very well. Those

1 issues will be deferred. We will move then to company
2 specific issues, and we will begin with Issue 14a.

3 MS. KAUFMAN: FIPUG has no position on 14a.

4 MR. HOWE: Public Counsel will take no
5 position on 14a.

6 COMMISSIONER DEASON: Any other changes to
7 positions on 14a?

8 MS. JOHNSON: The Company and the Staff are
9 in agreement it can be shown as a stipulation.

10 COMMISSIONER DEASON: Mr. McGee, you're in
11 agreement with that?

12 MR. MCGEE: Yes.

13 COMMISSIONER DEASON: Very well. Show that
14 as a stipulation. Issue 14b?

15 MS. JOHNSON: Staff has a position on 14b.
16 It was handed out earlier. If there are no parties
17 that have copies of it, we have additional copies.

18 COMMISSIONER DEASON: Staff has distributed
19 their position on 14b. Mr. McGee, you, likewise, have
20 distributed a position; is that correct?

21 MR. MCGEE: That's correct. It was on the
22 handout. I attempted to get it to all the parties.
23 If I missed anyone, I have some extras.

24 COMMISSIONER DEASON: Ms. Kaufman?

25 MS. KAUFMAN: Commissioner Deason, I've

1 discussed issues 14b and c and the related capacity
2 issues with Staff and with Power Corp.

3 FIPUG has some concerns with these issues,
4 because these transactions have not yet been approved
5 by the Commission. They're pending in another docket.
6 I will provide FIPUG's position to Staff, but let me
7 state my understanding on the record. And that is
8 that these costs are allowed to be passed through.
9 They will be subject to being revisited in August,
10 whether or not the transaction is approved as well as
11 to what type of allocation is appropriate; and if that
12 understanding is agreeable, then we can provide our
13 position to that effect.

14 COMMISSIONER DEASON: Is that Staff's
15 understanding?

16 MS. JOHNSON: Yes.

17 COMMISSIONER DEASON: Mr. McGee, that is
18 your understanding?

19 MR. MCGEE: That is acceptable, yes.

20 COMMISSIONER DEASON: Mr. Howe?

21 MR. HOWE: Commissioner Deason, for both
22 issues 14b and 14c our position will be "no".

23 COMMISSIONER DEASON: Is it anticipated that
24 these issues will be addressed during the hearing?

25 MR. MCGEE: Yes.

1 **COMMISSIONER DEASON:** All right. I think
2 that then addresses 14b and 14c. 14d?

3 **MR. MCGEE:** Commissioner, on Florida Power's
4 position, the draft prehearing order picked up our
5 position on a generic -- I mean, on a company specific
6 GPIF issue. The correct Florida Power position is
7 reflected on the handout for 14d.

8 **COMMISSIONER DEASON:** Okay. And you have
9 distributed that. Public Counsel's position is "no,"
10 and FIPUG is in agreement with that position. Staff's
11 position is, the issue should be deferred; is that
12 correct?

13 **MS. JOHNSON:** That's correct.

14 **MR. MCGEE:** And Florida Power concurs with
15 that position of Staff, as well.

16 **COMMISSIONER DEASON:** Mr. Howe, I take it
17 that you are not in agreement that the issue should be
18 deferred; is that correct?

19 **MR. HOWE:** That's correct; and if I might
20 state my reasons. We feel that if a deferral is
21 appropriate, it's incumbent upon the utility to make
22 the appropriate showing.

23 As things now stand, as we understand it,
24 the Company is asking to recover replacement fuel
25 costs for the month of September, 1996 as well as

1 replacement fuel costs for the period October 1st,
2 1996 through March 1st, 1997 in their current filing;
3 and we think it's -- if a deferral is appropriate, the
4 Company should make some showing that they need a
5 deferral, that they are not prepared to put on their
6 case.

7 But as things now stand, we see no
8 evidentiary presentation being offered to justify
9 those costs, and we believe a deferral would be
10 inappropriate since it would burden the customers with
11 replacement fuel costs for those two periods.

12 **COMMISSIONER DEASON:** It's your position
13 that Florida Power Corporation has not offered
14 evidence in the form of prefiled testimony addressing
15 this issue; is that correct?

16 **MR. HOWE:** That's correct.

17 **MR. MCGEE:** May I respond?

18 **COMMISSIONER DEASON:** Yes.

19 **MR. MCGEE:** The question of
20 Crystal River 3's outage was put at issue by Public
21 Counsel in its preliminary statement of issues and
22 positions filed well after the prefiled testimony was
23 in.

24 Florida Power believes that the procedure
25 that ought to be followed is the practice that's been

1 used in dealing with past outages at nuclear units,
2 and that would be to allow the opportunity for that
3 outage to be completed so as not to duplicate the
4 efforts necessary to conduct a hearing now and then
5 ongoing hearings in the future as the outage
6 concludes; and that the appropriate procedure would be
7 to set a date for this to be -- or a schedule, I
8 should say, for this to be conducted on its own
9 separate track, and that while that is pending, that
10 fuel costs continue to be recovered with the
11 understanding that they're subject to refund based on
12 the outcome of that separate decision.

13 **COMMISSIONER DEASON:** Mr. Howe, you have no
14 witness addressing this issue; is that correct?

15 **MR. HOWE:** No, sir. And our position is
16 that we have no evidence offered by the Company to
17 address.

18 On the point Mr. McGee made about us raising
19 the issue, we raised it in both our preliminary list
20 of issues and positions and in our prehearing
21 statement. However, the Company filed, for example,
22 final true-up testimony, I believe it was on November
23 19th of 1996, addressing the final true-up for the
24 period April through September 1996.

25 The unit, as we understand it, came off line

1 on September 2nd of 1996, and that true-up filing
2 doesn't even mention the outage, the cause of the
3 outage, or attempt to establish that the
4 responsibility of the outage does not rest with the
5 Company and its stockholders.

6 So we think this is a very important issue.
7 I mean, this is the must-run unit, as we characterize
8 it, on Florida Power Corporation's system. It's been
9 off line now for what, six months, and they have
10 offered nothing. They just said, let us have the
11 replacement fuel costs that we've incurred since
12 September 2nd to April 1st. And absent some showing
13 on the Company's part, we cannot agree to a deferral
14 at this time if it requires the customers to pay those
15 replacement fuel costs.

16 **COMMISSIONER DEASON:** Well, I'm trying to
17 ascertain the best procedural way to address this
18 issue if it is not going to be deferred. Since there
19 are no witnesses addressing this particular matter, it
20 seems to me that if the issue itself is going to be
21 addressed, perhaps can be addressed in the form of an
22 oral argument before the panel at the time of the
23 hearing. Is there any objection to that procedure?

24 **MR. HOWE:** I have no objection.

25 **COMMISSIONER DEASON:** Staff?

1 MS. JOHNSON: We have no objection.

2 COMMISSIONER DEASON: What would be an
3 appropriate time limit for that? It appears that it
4 may be a little more complex than five minutes would
5 cover. Would ten minutes be sufficient?

6 MR. HOWE: Ten or fifteen, I think, would be
7 adequate.

8 MR. MCGEE: Ten would be fine.

9 COMMISSIONER DEASON: Staff? Ten or fifteen
10 minutes?

11 MS. JOHNSON: Yes; ten minutes I think is
12 sufficient.

13 COMMISSIONER DEASON: I'm going to put a
14 fifteen-minute limitation just in an abundance of
15 caution, but I would certainly encourage parties if
16 they can conclude their argument in enough detail in
17 less than fifteen minutes, it certainly would be
18 appreciated by the panel.

19 Issue 14e?

20 MR. HOWE: Commissioner Deason, Public
21 Counsel would take the same position we took with
22 respect to Issues 1 through 4 and Issue 7.

23 MS. FAUFMAN: FIPUG would agree with that,
24 agree with Public Counsel.

25 COMMISSIONER DEASON: Does this issue relate

1 to the oral argument we're going to be anticipating
2 for Issue 14d?

3 MR. MCGEE: Yes, it does.

4 COMMISSIONER DEASON: I thought that it
5 would. So Mr. Howe, do you agree with that?

6 MR. HOWE: In a sense it does. As I
7 understand it, I believe the Company's position --and
8 correct me if I'm mischaracterizing it -- would be
9 that whether there's a deferral or not for hearings on
10 the issue of the Crystal River 3 outage, the Company
11 would want to recover the true-up costs over a
12 12-month period.

13 COMMISSIONER DEASON: Well, to the extent
14 parties want to address this within their oral
15 argument, they will be certainly free to do so.

16 Okay. Are there any other company specific
17 issues for Florida Power Corporation?

18 Very well. We will proceed then to Issue
19 15a.

20 MS. JOHNSON: Staff and the Company are in
21 agreement in our positions on Issue 15a.

22 COMMISSIONER DEASON: Ms. Kaufman?

23 MS. KAUFMAN: FIPUG has no position on that
24 issue.

25 MR. HOWE: The same for Public Counsel, "No

1 position."

2 COMMISSIONER DEASON: Show then 15a as a
3 stipulation. Issue 15b?

4 MS. JOHNSON: Staff and the Company again
5 are in agreement.

6 MS. KAUFMAN: FIPUG has no position.

7 COMMISSIONER DEASON: Mr. Howe?

8 MR. HOWE: No position.

9 COMMISSIONER DEASON: Very well. Show issue
10 15b as a stipulation. Issue 16?

11 MS. JOHNSON: Commissioner Deason, it's our
12 intent to raise an additional issue for Tampa Electric
13 Company, so Issue 16 would become Issue 16a.

14 COMMISSIONER DEASON: Are you suggesting,
15 then, that Issue 16, as it is presently presented, is
16 not necessary?

17 MS. JOHNSON: No. It's my position that
18 what's currently shown as Issue 16, in the final
19 prehearing order will be labeled 16a. I just wanted
20 to make that note.

21 COMMISSIONER DEASON: Very well. Okay. So
22 Issue 16 will become Issue 16a. The text of the issue
23 remains the same. I noticed that TECO and Staff are
24 in agreement. Ms. Kaufman?

25 MS. KAUFMAN: We have no position.

1 COMMISSIONER DEASON: Mr. Howe?

2 MR. HOWE: We will agree with Staff.

3 COMMISSIONER DEASON: Very well. Show,
4 then, that Issue 16a can be shown as a stipulation.
5 New Issue 16b has been distributed; is that correct?

6 MS. JOHNSON: That's correct. The wording
7 of the issue is "How should Tampa Electric Company
8 reflect wholesale fuel revenues for the fuel cost
9 recovery purposes."

10 COMMISSIONER DEASON: And, Staff, you have
11 distributed your position as well.

12 MS. JOHNSON: That's correct.

13 COMMISSIONER DEASON: Does TECO have a
14 position at this time?

15 MR. BEASLEY: Commissioner, we just received
16 this, of course, and I would like to have an
17 opportunity to formulate a position on it. Just
18 preliminarily, it appears it may be unnecessary,
19 because the first portion of the Staff's position on
20 this issue simply acknowledges the fact that the
21 Commission will be voting a pending issue at its
22 February 18th agenda conference, but we will submit a
23 formal position on this issue.

24 COMMISSIONER DEASON: Very well.

25 Ms. Kaufman, I guess you want the time to take a

1 position, as well, as you see fit?

2 MS. KAUFMAN: That's correct. Thank you,
3 Commissioner.

4 COMMISSIONER DEASON: Mr. Howe?

5 MR. HOWE: The same is true for our office.

6 COMMISSIONER DEASON: Very well. Staff,
7 when do you need these positions formulated and
8 presented to you?

9 MS. JOHNSON: The hearing is, I believe,
10 scheduled for the 19th; so one week prior to the
11 hearing, which would make it the 12th.

12 COMMISSIONER DEASON: Any objection to doing
13 that? Very well. Issue 17?

14 MS. JOHNSON: I'd just like to note that our
15 position refers to a Staff Attachment 1. It was
16 omitted from the copies that were made today. I think
17 that we've handed out copies of our attachment to all
18 of the parties. We have additional copies, if needed.

19 COMMISSIONER DEASON: There is agreement as
20 to Issue 17, is there not?

21 MS. JOHNSON: There is with respect to Staff
22 and Florida Power Corp, Gulf and TECO. FIPUG and OPC
23 have not taken positions at this time.

24 MS. KAUFMAN: FIPUG has no position on Issue
25 17 and 18.

1 **COMMISSIONER DEASON:** Very well. Mr. Howe?

2 **MR. HOWE:** We have no position on Issue 17.
3 Should I address 18 at this time?

4 **COMMISSIONER DEASON:** Yes, please.

5 **MR. HOWE:** On Issue 18 we believe the GPIF
6 targets and ranges for Florida Power Corporation for
7 the upcoming projection period should be those as
8 reflected in the originally filed testimony the
9 Company submitted on January 13th, 1997, not as
10 revised on January 31st, 1997.

11 **COMMISSIONER DEASON:** And you take no
12 position in regards to the other three companies?

13 **MR. HOWE:** That's correct.

14 **COMMISSIONER DEASON:** So with that, Issue 17
15 can be shown as a stipulation; is that correct?

16 **MS. JOHNSON:** Yes.

17 **COMMISSIONER DEASON:** And Issue 18?

18 **MR. HOWE:** And on Issue 18 I might ask for a
19 clarification. I realize I've already stated my
20 position, but it's my understanding that the Company
21 has revised its testimony and it seeks to change its
22 GPIF targets and ranges for the upcoming projection
23 period over what was originally submitted.

24 **MR. MCGEE:** That's correct. In our
25 prehearing statement we had included a company

1 specific GPIF issue which read "How should FPC's
2 Crystal River 3 nuclear unit be treated in the GPIF
3 for the April-September 1997 period in view of the
4 unit's extended outage?" And then our position on
5 that was inadvertently picked up and shown as our
6 position for, I think, Issue 14d.

7 And, yes, we have revised the GPIF to
8 exclude CR-3 from the GPIF in its entirety for that
9 six-month period. This was done as a result of some
10 discussions with the Staff to determine how past
11 nuclear outages were treated for GPIF purposes.

12 COMMISSIONER DEASON: Staff? Mr. McGee was
13 just explaining that he had presented a company
14 specific issue as it relates to GPIF and the CR-3
15 outage, and he presented a position on that. Is it
16 Staff's intent to add that as an issue, or is it
17 Staff's intent to address that within Issue 18?

18 MS. JOHNSON: May we have a moment to
19 confer?

20 COMMISSIONER DEASON: Sure.

21 MS. JOHNSON: (Pause) It was our
22 understanding that that company specific issue could
23 be subsumed in Issue 18. However, if the Company
24 wishes to raise it as a specific issue, then we're
25 prepared to take a position.

1 **COMMISSIONER DEASON:** I think for clarity,
2 it may be better to have it as a specific issue. And
3 you're willing to have that language, as you presented
4 it, incorporated, Mr. McGee?

5 **MR. MCGEE:** Yes.

6 **COMMISSIONER DEASON:** Staff, you're going to
7 incorporate that and you'll be formulating a position
8 to that specific issue?

9 **MS. JOHNSON:** No. We can take the position
10 that we're in agreement that Crystal River 3 should be
11 removed from Florida Power Corp's calculation for the
12 upcoming period.

13 **COMMISSIONER DEASON:** And, Mr. Howe, you
14 disagree with that position?

15 **MR. HOWE:** That's correct. I believe the
16 Company should be bound by its originally filed GPIF
17 target and ranges testimony from, I believe, it was
18 January 13th 1997.

19 And I would state further, I think we're
20 developing somewhat of an inconsistency because, as I
21 understand the Company's position on the fuel cost
22 recovery in general -- I was looking at the handout
23 that Mr. McGee gave us -- FPC has not revised its
24 projections for the April-September, '97 period, which
25 currently shows CR-3 in service throughout the summer

1 period.

2 So you're going to have the Company on the
3 one hand filing fuel cost recovery factors showing the
4 units on line throughout the summer period and GPIF
5 targets saying that it's not.

6 **COMMISSIONER DEASON:** Very well. I
7 understand. Can you just formulate a concise
8 statement of position and give that to Staff? Staff
9 will incorporate the issue.

10 **MR. HOWE:** Do I understand that that would
11 be a company specific GPIF issue, then?

12 **COMMISSIONER DEASON:** That's my
13 understanding.

14 **MR. MCGEE:** The wording for that was shown
15 in our prehearing statement as Issue No. 13.

16 **MR. HOWE:** And what will the issue number
17 be? I can provide a position. Would that be 18a,
18 17a?

19 **COMMISSIONER DEASON:** Staff?

20 **MS. JOHNSON:** No. It probably will become
21 Issue 19, and issues that are currently labeled 19
22 through 26 would be changed.

23 **COMMISSIONER DEASON:** Let's don't do that.
24 Let's leave these numbered as they are. Let's give it
25 a designation within either 17 -- either Issue 17 as

1 "a" and then add this as 17b, or Issue 18 as 18a and
2 add this as 18b, whichever would be more appropriate.

3 MS. JOHNSON: We'll then call it 18b, and
4 Issue 18 will be Issue 18a.

5 COMMISSIONER DEASON: Very well. I take it
6 that this particular issue probably is amenable to
7 having it addressed within the oral argument we
8 contemplate for the other like issues?

9 MR. McGEE: Yes, that would be our position.

10 MR. HOWE: Yes, sir.

11 COMMISSIONER DEASON: Likewise, this should
12 be done within the 15-minute allowance. Any other
13 questions or concerns with the generic GPIF issues?
14 Any other concerns with the Florida Power Corporation
15 specific GPIF issue?

16 We'll proceed then to Issue 19. Does Public
17 Counsel have a position?

18 MR. HOWE: We'll take no position.

19 COMMISSIONER DEASON: Ms. Kaufman?

20 MS. KAUFMAN: No position.

21 COMMISSIONER DEASON: Issue 19, then, can be
22 stipulated; is that correct?

23 MS. JOHNSON: Yes.

24 COMMISSIONER DEASON: Very well. Issue 20?

25 MS. JOHNSON: Staff has a position for

1 Florida Power Corp. Our position is "8,476,789
2 underrecovery."

3 COMMISSIONER DEASON: Did you say under?

4 MS. JOHNSON: Yes.

5 COMMISSIONER DEASON: Very well. So there
6 is agreement?

7 MS. JOHNSON: That's correct.

8 COMMISSIONER DEASON: Mr. Howe?

9 MR. HOWE: No position.

10 COMMISSIONER DEASON: Ms. Kaufman?

11 MS. KAUFMAN: No position.

12 COMMISSIONER DEASON: Very well. Issue 20
13 can be shown as a stipulation. Issue 21?

14 MS. JOHNSON: For Issue 21, Staff is
15 prepared to take a position. Our position is the same
16 as that shown for Florida Power Corp.

17 COMMISSIONER DEASON: Very well. Mr. Howe?

18 MR. HOWE: No position.

19 COMMISSIONER DEASON: Ms. Kaufman?

20 MS. KAUFMAN: No position.

21 COMMISSIONER DEASON: Very well. Issue 21
22 can be shown as a stipulation. Issue 22?

23 MS. JOHNSON: The same is true on Issue 22
24 with respect to Florida Power Corp, and that is Issue
25 22 and 23. Staff's position can be reflected to be

1 the same as Florida Power Corp.

2 COMMISSIONER DEASON: And there is agreement
3 for TECO as well. Public Counsel position on issues
4 22 and 23?

5 MR. HOWE: No position.

6 MS. KAUFMAN: No position.

7 COMMISSIONER DEASON: Very well, Issues 22
8 and 23 will be shown as stipulations. Issue 24a?

9 MS. JOHNSON: Staff has a position for Issue
10 24a. 24a and b, I'll note that our position is very
11 similar to the wording that we've handed out for Issue
12 14b and c. It's just the replacement of the words
13 "energy" with "capacity" and "fuel and purchased power
14 costs" with "capacity costs."

15 If you prefer, I can read it into the
16 record.

17 COMMISSIONER DEASON: No, that's not
18 necessary. That is for Issue 24a and b?

19 MS. JOHNSON: That's correct.

20 COMMISSIONER DEASON: Does Florida Power
21 Corporation have a position?

22 MR. MCGEE: Yes. Would ask that our
23 positions under 14b and c be inserted in for 24a and
24 b, respectively.

25 COMMISSIONER DEASON: Very well.

1 Ms. Kaufman?

2 MS. KAUFMAN: We have a similar concern with
3 these two issues that we expressed earlier on 14b and
4 c, and we will be providing that language to Staff.

5 COMMISSIONER DEASON: Mr. Howe?

6 MR. HOWE: Our position would be "no" for
7 both issues.

8 COMMISSIONER DEASON: Issue 25?

9 MS. JOHNSON: On Issue 25, Staff and Florida
10 Power & Light are in agreement.

11 COMMISSIONER DEASON: Ms. Kaufman?

12 MS. KAUFMAN: No position.

13 COMMISSIONER DEASON: Mr. Howe?

14 MR. HOWE: No position.

15 COMMISSIONER DEASON: Very well. Issue 25
16 can be shown as a stipulation. Issue 26, Staff,
17 you're recommending that this matter be deferred?

18 MS. JOHNSON: Yes, that's correct. It's my
19 understanding that the parties have entered into a
20 stipulation. We don't have any problem with a
21 stipulation. We've just indicated that we feel that
22 the issue should be heard as a separate -- in a
23 separate docket by the full Commission.

24 COMMISSIONER DEASON: Any objection to that
25 procedure?

1 **MR. HOWE:** No objection, Commissioner
2 Deason. I would point out that in discussions between
3 myself and Mr. Beasley, I believe it's acceptable to
4 all parties. We wanted to refer to the fact that what
5 the Commission ultimately does with nonfuel revenue at
6 a future date may affect how Tampa Electric reports
7 its earnings on its surveillance reports, and it has
8 agreed that -- and we have agreed that the
9 surveillance reports will be adjusted as necessary
10 going back to the time when Tampa Electric began
11 receiving revenues under the two wholesale contracts
12 in question, depending on how the Commission finally
13 resolves the issue.

14 **COMMISSIONER DEASON:** Mr. Beasley?

15 **MR. BEASLEY:** That's correct, Commissioner.

16 **COMMISSIONER DEASON:** Is this a stipulation
17 that you wish presented to the fuel panel for
18 consideration or just -- since the issue itself is
19 going to be deferred?

20 **MR. HOWE:** I just wanted to clarify that
21 it's our understanding that although it's being
22 deferred in the fuel docket, that the future decision
23 may have some effect on the way surveillance reports
24 are reported to the Commission.

25 **COMMISSIONER DEASON:** And, Mr. Beasley

1 you're on record as in agreement with that?

2 MR. BEASLEY: That's correct.

3 COMMISSIONER DEASON: But the issue itself
4 can be deferred for purposes of this proceeding?

5 MR. BEASLEY: That's correct.

6 COMMISSIONER DEASON: Very well.

7 MR. BEASLEY: Which in a way relates back to
8 the earlier issue, the new issue that Staff had
9 raised, 16b. 16b asks simply "How should Tampa
10 Electric reflect wholesale fuel revenues for fuel cost
11 recovery purposes?"

12 And the Staff's position on that new issue
13 is that, number one, the wholesale fuel revenue issue
14 that was deferred from yesterday's agenda will be
15 addressed on February 18th, or is scheduled to be;
16 and, secondly, that Issue 26 will be deferred to a
17 later hearing time to allow the parties an opportunity
18 to file testimony.

19 And I think both of those things are
20 truisms, have been agreed to, which would obviate, in
21 our view, the need for Issue 16b, the new issue that
22 was raised.

23 MS. JOHNSON: Well, it was our intent,
24 really, to flag that. They are currently -- the
25 Company included fuel revenues in its current filing,

1 and that we wanted to put the parties on notice that
2 we feel that the disposition or the allocation of
3 those should be consistent with the Commission's
4 decision at agenda in the decision that would be made
5 respect to Issue 26.

6 COMMISSIONER DEASON: So it's your desire to
7 keep the issue just so that there's a record of that?

8 MS. JOHNSON: Yes. I'll also note that with
9 respect to Issue 26, Staff has recommended that it be
10 heard as a separate docket, that we have reserved, or
11 at least we have on hold, two hearing dates, possible
12 hearing dates, for that issue to be heard, and that's
13 June 11th or June 12th.

14 COMMISSIONER DEASON: I assume you've done
15 that through the Chairman's office?

16 MS. JOHNSON: Well, we've just checked the
17 calendar. I just wanted to put the parties on notice.

18 COMMISSIONER DEASON: Okay. An official
19 hearing has not yet been set?

20 MS. JOHNSON: That's correct.

21 COMMISSIONER DEASON: You're just looking at
22 that general time frame?

23 MS. JOHNSON: Yes.

24 MR. HOWE: Commissioner, on this point I
25 believe the Commission is currently scheduled to vote

1 on the leftover issue from the last fuel docket the
2 wholesale sales -- wholesale fuel revenues should be
3 treated. The Commission is scheduled to vote on
4 February 18th, and we believe that the Commission can
5 take notice of its vote in the following fuel hearing
6 on the 19th.

7 COMMISSIONER DEASON: Staff?

8 MS. JOHNSON: We agree.

9 COMMISSIONER DEASON: Parties in agreement
10 with that? Very well. Any other issues?

11 MS. JOHNSON: There is one other concern
12 that we have, and that is that there is some relation
13 between Issue 16b and Issue 26, which would not be
14 considered until a later date, possibly on those dates
15 that I've mentioned, June 11th and 12th.

16 So that if the Commission's decision on
17 June 11th and 12th or a subsequent date would affect
18 how fuel revenues are treated, it's our intent that
19 the companies would make the necessary adjustments in
20 the next fuel filings.

21 COMMISSIONER DEASON: Company positions? Or
22 response, rather?

23 MR. BEASLEY: This would obviate the need
24 for any witness to appear at this upcoming hearing?

25 MS. JOHNSON: If you're agreeing to make the

1 adjustments based upon the resolution of the
2 recommendation on February 18th and the resolution of
3 the spin-off dockets on Issue 26; is that correct?

4 MR. BEASLEY: I think we've agreed to make
5 whatever was decided on Issue 26 applicable back to
6 when revenues commenced for the FMPA and City of
7 Lakeland contracts.

8 COMMISSIONER DEASON: With that agreement,
9 what does that do, then, to Issue 26, Ms. Johnson? Do
10 we keep it in this proceeding?

11 MS. JOHNSON: It will be shown as being not
12 deferred, but that a new docket would be established
13 to deal with it.

14 COMMISSIONER DEASON: While we're going to
15 keep it as an issue, and I guess document what we've
16 discussed here today --

17 MS. JOHNSON: That's correct.

18 COMMISSIONER DEASON: -- it's not actually
19 an issue that's going to need to be voted on --

20 MS. JOHNSON: Right.

21 COMMISSIONER DEASON: -- at the fuel
22 adjustment hearing itself?

23 MS. JOHNSON: That's correct.

24 COMMISSIONER DEASON: Ms. Kaufman, is that
25 acceptable?

1 MS. KAUFMAN: Yes, Chairman.

2 COMMISSIONER DEASON: Mr. Howe, is that
3 acceptable?

4 MR. HOWE: I'm trying to decide. Where will
5 16b be? Is 16b a live issue for the upcoming fuel
6 adjustment hearing, the ones we're supposed to take a
7 position on by February 12th?

8 MS. JOHNSON: With respect to Issue 16b,
9 there would not be any need for the Commission -- for
10 the panel to vote on that issue. It's just to
11 recognize that the resolution of it is dependent upon
12 the February 18th agenda and the hearing that would be
13 held on Issue 26.

14 MR. HOWE: Then I guess my next question
15 would be, what would be the effect of the Commission's
16 vote on February 18th on the Company's fuel adjustment
17 factors for the April through September, '97 period?

18 MS. JOHNSON: (Pause) It's my understanding
19 that the Commission -- what Staff has recommended in
20 its recommendation that will be heard on the 18th of
21 February is at variance with the way that Tampa
22 Electric Company has filed -- has prepared its filing,
23 and if the Commission votes to approve Staff's
24 recommendations, then the factors that would go into
25 effect would need to be -- there would be a need for

1 an adjustment.

2 However, there wouldn't be sufficient time
3 to make that adjustment during this time period. That
4 adjustment would have to be made in the next filing.

5 **COMMISSIONER DEASON:** And you contemplate
6 some type of a true-up as it relates to this
7 projection period?

8 **MS. JOHNSON:** It would only be through their
9 regular true-up filing in August.

10 **COMMISSIONER DEASON:** Does that answer your
11 question, Mr. Howe?

12 **MR. HOWE:** It does, Commissioner Deason, and
13 I could not stipulate that if the Commission were to
14 vote on February 18th, it would be okay with our
15 office if they voted -- as the Staff has recommended,
16 on February 18, it would be okay with our office for
17 the Company to collect higher fuel adjustment charges
18 from the retail jurisdiction for the following
19 six-month period after the Commission's vote.

20 **COMMISSIONER DEASON:** But it's Staff's
21 concern that there would not be sufficient time to
22 make the necessary -- oh, I'm sorry. Staff's position
23 is in agreement with the Company's position, so there
24 would not be a need for any type of refileing.

25 **MR. HOWE:** Well, no. I believe it's Staff's

1 position as they filed their recommendation and the
2 Commission is scheduled to vote on, would require a
3 change in the Company's filing.

4 COMMISSIONER DEASON: That would require the
5 change --

6 MR. HOWE: Yes.

7 COMMISSIONER DEASON: -- there is not
8 sufficient --

9 MR. HOWE: Yes.

10 COMMISSIONER DEASON: -- time for --

11 MR. HOWE: Right. But as far as there not
12 being sufficient time, it would seem to me that the
13 Company can generate those numbers right now and have
14 either/or situations and be prepared on the 19th to
15 tell the Commission what the appropriate factors are
16 based on the Commission's vote on the 18th.

17 COMMISSIONER DEASON: Mr. Beasley?

18 MR. BEASLEY: That presupposes how the
19 Commission disposes of that item, which we haven't
20 seen the result of yet.

21 MR. HOWE: I'm just saying that I think the
22 Company could have alternatives if the commotion -- if
23 the Commission --

24 COMMISSIONER DEASON: You probably --
25 Freudian; correct?

1 MR. HOWE: Was that Freudian? If the
2 Commission votes, for example, with the Company, there
3 will be no change. If the Commission orders changes
4 to certain of the wholesale sales, there will be a
5 change.

6 It's my understanding the Company could
7 probably generate those numbers in the alternative and
8 have those available the following day. I might be
9 wrong on that, but if the Company could have them
10 available, I see no reason, given that we're -- the
11 hearings are February 19th and 20th and the
12 implementation is not until April 1st, that the
13 Company could not have the appropriate factors to
14 implement on April 1st consistent with the
15 Commission's vote if it changes things.

16 MR. BRASLEY: I don't know the extent to
17 which it can be done, but I would suggest to you that
18 that was the reason that we deferred Issue 26, in
19 order to go ahead and have something set up ready to
20 go that can be adjusted later on, and I think that's
21 done quite often and would avoid a lot of commotion.

22 MR. HOWE: Jim, if I'm the cause of
23 confusion, I apologize, but I thought Issue 26 we were
24 just addressing the Florida Municipal Power Agency and
25 the City of Lakeland purchases.

1 **MS. JOHNSON:** Commissioner Deason, it's our
2 belief, Staff's belief, that the resolution of
3 Issue 26 may impact the matters that we're discussing
4 now, and that if any corrections that would be made,
5 for example, based upon the February 18th Commission
6 vote, if an adjustment was made in this filing, there
7 is a possibility that they would then have to make a
8 subsequent adjustment in the next August -- in their
9 August filing to reflect the Commission's decision in
10 June if a hearing is held at that time.

11 **MR. BEASLEY:** All of which suggests to me,
12 Commissioner, that it might be most appropriate to
13 keep everything the way it's being filed and then make
14 whatever adjustments may become necessary down the
15 way, understanding that there is interest on it to the
16 extent necessary to keep the customers --

17 **COMMISSIONER DEASON:** When you say
18 adjustment, did you mean just strictly on a going
19 forward basis, or some type of a true-up adjustment
20 depending on what the Commission's decision is?

21 **MR. BEASLEY:** I would include true-up
22 adjustments.

23 **COMMISSIONER DEASON:** Mr. Howe?

24 **MR. HOWE:** I guess I'm thinking,
25 Commissioner, that the Company could -- if the

1 Commission voted consistent with the Staff
2 recommendation or if the Commission voted just to make
3 any change, that the Company could modify its filing
4 for all contracts other than those two that are
5 subject to this future hearing, whatever those would
6 be, consistent with the Commission's vote.

7 As I understand it, it's just going to be
8 the treatment of those two new contracts and perhaps
9 future long-term wholesale sales Tampa Electric might
10 make, but that in no event will any future decision in
11 a separate docket affect their current existing
12 contracts.

13 COMMISSIONER DEASON: Well I think this
14 whole matter is rather confusing. We're going to take
15 a recess. I hate to do it at this late time, this
16 being the last issue, but I think the parties need to
17 sit down and talk about this; and I have another
18 matter I need to attend to rather briefly, so we're
19 going to take a 15-minute recess. We'll come back,
20 address Issue 26 and, to the extent necessary, Issue
21 16b. 15-minute recess.

22 (Brief recess.)

23

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24 COMMISSIONER DEASON: Call the prehearing
25 conference back to order. Ms. Johnson, where are we?

1 MS. JOHNSON: I think the parties have
2 agreed to disagree, and we're going to go back and
3 they're going to talk to their respective clients, and
4 it's their intention to file their positions before
5 the prehearing order is issued, which I would assume
6 would be by the 12th, February 12th.

7 COMMISSIONER DEASON: Now, this pertains to
8 Issue 16b and 26; is that correct?

9 MS. JOHNSON: It's my understanding it
10 pertains to Issue 26.

11 COMMISSIONER DEASON: We've already
12 addressed 16b, and there's no need to go back and
13 re-address that; is that correct?

14 MS. JOHNSON: That's correct.

15 COMMISSIONER DEASON: So as it pertains to
16 Issue 26, the parties will be taking positions and
17 will be providing that to Staff for incorporation into
18 the prehearing order?

19 MS. JOHNSON: Well, I'm being told that it's
20 not 26 that's the problem, it's 16b that's the
21 problem.

22 COMMISSIONER DEASON: Oh, that is the
23 problem. Well, we do need to address it, then. Let
24 me hear from the parties. Mr. Beasley, where are you
25 on this?

1 MR. BEASLEY: Commissioner, I just need to
2 have an opportunity to sit down and talk with my
3 client on this issue. This is one that was brought to
4 us this morning. And I just can't do it until I do
5 that.

6 COMMISSIONER DEASON: Mr. Howe, where are
7 you?

8 MR. HOWE: Commissioner Deason, we, of
9 course, don't know how the Commission is going to vote
10 on February 18th, but we believe that if the
11 Commission should vote in a manner that gave the
12 retail customers an immediate benefit in their fuel
13 cost recovery and that immediate benefit was not
14 related to the FMPA, F-M-P-A, and Lakeland sales and
15 future long-term sales, that we should get the
16 immediate benefit.

17 So we need an opportunity, I think, to talk
18 about it in the meantime. It might be one of those
19 things that after the Commission votes on February
20 18th, we'll know exactly where we stand and it will
21 sort itself out. It might come down to the fact that
22 on the 19th we'll have to state our position and the
23 Company will have to state theirs, and the Commission
24 will just have to make a decision.

25 COMMISSIONER DEASON: Staff, let me ask you

1 this: How do you plan to incorporate this into the
2 prehearing order? You're going to be getting
3 positions by a specified time, correct?

4 MS. JOHNSON: Yes.

5 COMMISSIONER DEASON: And you're going to be
6 incorporating these positions, correct?

7 MS. JOHNSON: That's correct.

8 COMMISSIONER DEASON: And is your intention
9 to retain 16b and Issue 26; is that correct?

10 MS. JOHNSON: Yes.

11 COMMISSIONER DEASON: Okay. Well, I tend to
12 agree with Mr. Howe that this, hopefully, will become
13 more clear after the next agenda conference when this
14 matter is dealt with by the full Commission, and we'll
15 know perhaps with a little bit more precision as to
16 what are our options and what would be the most
17 expeditious way to address this.

18 And, Mr. Beasley, I understand that you need
19 to address this. This is a new issue raised today you
20 do need to address with other folks at the Company.

21 MR. BEASLEY: Commissioner, if I could add
22 one point. Were it not for this issue that was
23 brought here today, I think -- and perhaps even with
24 it, we're in the posture to dismiss our witness, our
25 witness in the fuel docket, but then that puts all of

1 that up in the air because we don't know whether there
2 will be some sort of change.

3 That's why we suggested earlier that for
4 purposes of administrative convenience, it might be
5 best to go forward with the fuel adjustment as filed
6 and then consider whatever adjustments may be needed
7 after the fact based on the Commission's ruling on the
8 18th of February. So that leaves us in sort of a
9 quandary about our witness and witness preparation and
10 that sort of thing for the upcoming hearing.

11 COMMISSIONER DEASON: I understand that, and
12 that is a difficult situation. However, I don't think
13 that Mr. Howe is willing to concede that if he gets a
14 favorable vote in the agenda conference, that he's
15 willing to concede anything as it pertains to this
16 upcoming proceeding, and that raises a logistical
17 question as to how the information is going to be
18 provided to make whatever appropriate adjustment would
19 be necessary to achieve what Mr. Howe wishes to
20 achieve.

21 I guess we're just going to have to muddle
22 through it at the time. The only thing I would
23 request is that when you discuss this with folks at
24 the Company, that perhaps they try to have some
25 alternatives in mind, and if any information that

1 would be relevant could be generated during the
2 interim period of time, it could be presented,
3 depending on what the Commission's vote is, that would
4 be helpful.

5 I understand that may be difficult to do,
6 but if you would explain the situation to them, and if
7 there's anything that can be done in the meantime that
8 would facilitate this proceeding, I would appreciate
9 it.

10 MS. KAUFMAN: Commissioner Deason, on behalf
11 of FIPUG, I may have agreed too quickly before we
12 started having this discussion, and for the moment
13 FIPUG is in agreement with Public Counsel's position
14 and we will participate in any discussions in an
15 attempt to resolve this before the hearing in the
16 middle of the month.

17 COMMISSIONER DEASON: Well, I think it's --
18 it's about as clear as we're going to get it at this
19 point, even though it remains quite muddled. Any
20 other issues in the 01 docket?

21 Section 7 addresses the exhibit list.
22 Mr. Childs, you said you needed a correction there; is
23 that correct?

24 MR. CHILDS: We have submitted that to the
25 Staff.

1 **COMMISSIONER DEASON:** Very well. Any other
2 changes or corrections to the exhibit list?

3 Section 8 addresses proposed stipulations.
4 There are going to be a number of issues stipulated,
5 and that will be reflected in the prehearing order; is
6 that correct?

7 **MS. JOHNSON:** Yes, that's correct.

8 **COMMISSIONER DEASON:** Are there any
9 companies who has all issues stipulated?

10 **MR. STONE:** Commissioner, I believe Gulf
11 Power Company has all its issues stipulated.

12 **MR. WILLINGHAM:** And I think Florida Public
13 Utilities is the same.

14 **MR. CHILDS:** Florida Power & Light does, as
15 well.

16 **COMMISSIONER DEASON:** Okay. For those three
17 companies, it will be not necessary for witnesses to
18 appear. That testimony will be inserted into the
19 record, cross examination will be waived, those
20 witnesses excused from participation at the hearing.

21 **MR. STONE:** And presumably counsel as well?

22 **COMMISSIONER DEASON:** Counsel as well;
23 that's correct.

24 We have addressed the pending motion. I
25 don't think that needs any further clarification at

1 this time.

2 Are there any other matters to come before
3 the prehearing officer on the 01 docket? Mr. Beasley?

4 MR. BEASLEY: Commissioner, until we've had
5 this discussion about Issue 16a, I think we were in
6 the posture of stipulating Tampa Electric's exhibits,
7 testimony, and excusing the witness.

8 Depending upon how that issue is resolved,
9 whether any calculation is made, I don't know that it
10 would preclude us from stipulating in the testimony
11 and exhibit and excusing the witness and then perhaps
12 making whatever calculation may be necessary, rather
13 than having the witness appear.

14 COMMISSIONER DEASON: If that accommodation
15 can be reached and all parties are in agreement with
16 that, I certainly would agree to that. I think at
17 this point, it may be premature to determine that is
18 the situation until subsequent discussions take place
19 and we get a little bit more clarification as to where
20 we are; but if that scenario works itself out, that
21 certainly will be satisfactory.

22 MR. BEASLEY: We'll proceed then.

23 MR. MCGEE: On behalf of Florida Power --
24 and this may have been covered to some extent
25 before -- our GPIF witness currently has two filings

1 that have been made; one that revises the former and
2 it excludes Crystal River 3. I believe --

3 COMMISSIONER DEASON: Excludes what? I'm
4 sorry.

5 MR. MCGEE: The revised filing excludes
6 Crystal River 3 from the GPIF for that period, and I
7 believe the issue as to whether Crystal River 3 should
8 be in or out for the upcoming period can be handled
9 during argument. I was wondering if that's the case,
10 could the witness be excused.

11 COMMISSIONER DEASON: There's adequate
12 information to make the determinations, regardless of
13 which scenario is decided by the Commission, that is
14 CR-3 in or out?

15 MR. MCGEE: Yes. Both filings are there,
16 and it's just a matter of deciding which way the unit
17 would be treated, and we have the filings sufficient
18 to support either scenario.

19 COMMISSIONER DEASON: Mr. Howe?

20 MR. HOWE: As I understand it, then, as a
21 result of the oral argument we're going to have in the
22 fuel hearing, the decision won't be what the witness
23 says, but basically which piece of testimony he's
24 introduced into the record, whether it is the original
25 filed on January 13th, or the revised filed on January

1 31st; is that correct?

2 MR. MCGEE: Yes, that was the way I see it.

3 MR. HOWE: I would have no objection. I
4 don't think we need to hear from the witness. We'll
5 just need to make a decision which piece of testimony
6 is in the record.

7 COMMISSIONER DEASON: Ms. Kaufman?

8 MS. KAUFMAN: That's fine, Commissioner.

9 COMMISSIONER DEASON: Staff?

10 MS. JOHNSON: That's fine with us.

11 COMMISSIONER DEASON: Very well. There will
12 be no need, then, for that individual to actually
13 appear at the hearing. The testimony will be inserted
14 in the record, consistent with the oral argument and
15 the decision relating thereto.

16 MR. MCGEE: Thank you.

17 COMMISSIONER DEASON: Anything else in the
18 01 docket? Anything else in any docket?

19 Thank you all. This prehearing conference
20 is adjourned.

21 (Thereupon, the hearing concluded at 12:15
22 p.m.)

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

3 I, RUTHE POTAMI, CSR, RPR Official
4 Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 970002-EG was heard by the
7 Prehearing Officer at the time and place herein
8 stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 57 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 11th day of February, 1997.

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H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter
(904) 413-6732