

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power : DOCKET NO. 970001-EI
 cost recovery clause and :
 generating performance incentive :
 factor. :
 :

PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: CHAIRMAN JULIA L. JOHNSON
 Prehearing Officer

DATE: Monday, August 4, 1997

TIME: Commenced at 1:30 p.m.
 Concluded at 3:05 p.m.

PLACE: Betty Easley Conference Center
 Room 152
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: LISA GIROD JONES, RPR, RMR

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1 APPEARANCES:

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4 Florida 33733-4042; on behalf of Florida Power
5 Corporation (FPC).

6 MATTHEW M. CHILDS, Esquire, Steel, Hector &
7 Davis, LLP, 215 South Monroe Street, Suite 601,
8 Tallahassee, Florida 32301; on behalf of Florida Power &
9 Light Company (FPL).

10 JEFFERY A. STONE, Esquire, and RUSSEL A.
11 BADDERS, Esquire, Beggs & Lane, 700 Blount Building,
12 3 West Garden Street, P. O. Box 12950, Pensacola,
13 Florida 33733-4042; on behalf of Gulf Power Company.

14 JAMES D. BEASLEY, Esquire, Ausley & McMullen,
15 P. O. Box 391, Tallahassee, Florida 32302; on behalf of
16 Tampa Electric Company (TECO).

17 Also Present: Mark Laux, Senior Regulatory
18 Consultant (TECO).

19 JOHN W. McWHIRTER, JR., Esquire, McWhirter,
20 Reeves, McGlothlin, Davidson, Rief & Bakas, P.A.,
21 P.O. Box 3350, Tampa, Florida 33601-3350; appearing on
22 behalf of Florida Industrial Power Users Group.

23 WILLIAM B. WILLINGHAM, Esquire, Rutledge,
24 Ecenia, Underwood, Purnell & Hoffman, P.A., P. O. Box
25 551, Tallahassee, Florida 32302-0551; on behalf of
Florida Public Utilities Company (FPUC).

STEPHEN C. BURGESS, Esquire, Office of Public
Counsel, 111 West Madison Street, Room 812, Tallahassee,
Florida 32399; on behalf of the Citizens of the State of
Florida (OPC).

LESLIE J. PAUGH, Staff Counsel, Florida Public
Service Commission, 2540 Shumard Oaks Boulevard,
Tallahassee, Florida 32399-0850; on behalf of the
Commission Staff.

FPSC Staff Also Present: Roberta Bass
Todd Bohrmann
David Ging
Katrina Tew

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PROCEEDINGS

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CHAIRMAN JOHNSON: I'm going to call the prehearing conference to order. Counsel, could you read the notice?

MS. PAUGH: Pursuant to notice issued June 24th, 1997, this time and place have been set for the prehearing in Docket No. 970001-EI, Fuel and purchased power cost recovery clause and generating performance incentive factor, and Docket 970007-EI, Environmental Cost Recovery Clause.

CHAIRMAN JOHNSON: I'll take appearances.

MR. BEASLEY: Madam Chairman, I'm James D. Beasley with the law firm of Ausley & McMullen, P. O. Box 391, Tallahassee, Florida 32302, and I'm representing Tampa Electric Company in the 01 and 07 dockets. With me today is Mr. Mark Laux, Senior Regulatory Consultant with Tampa Electric.

MR. CHILDS: I'm Matthew Childs of the firm of Steel, Hector & Davis, appearing on behalf of the Florida Power & Light Company.

MR. MCGEE: James McGee, Post Office Box 14042, St. Petersburg, 33737 on behalf of Florida Power Corporation.

MR. McWHIRTER: John McWhirter, Jr., of the law firm of McWhirter, Reeves, McGlothlin, Davidson &

1 Bakas. My address is P. O. Box 3350, Tampa, Florida,
2 and the address stated in the prehearing statement is
3 also accurate for our firm. I'm appearing on behalf of
4 the Florida Industrial Power Users Group.

5 MR. BURGESS: I'm Steve Burgess for the Office
6 of Public Counsel, 111 West Madison Street, Tallahassee,
7 32399 on behalf of the Citizens of the State of
8 Florida.

9 MR. STONE: I'm Jeffrey A. Stone, and with me
10 is Russell A. Badders. We're with the law firm Beggs &
11 Lane, P. O. Box 12950, Pensacola, Florida 32576, and
12 we're appearing on behalf of the Gulf Power Company in
13 the 01 and 07 dockets.

14 MR. WILLINGHAM: I'm Bill Willingham, with the
15 law firm Rutledge, Ecenia, Underwood, Purnell & Hoffman,
16 here on behalf of Florida Public Utilities in the 01
17 docket.

18 MS. PAUGH: Leslie Paugh on behalf of
19 Commission Staff.

20 CHAIRMAN JOHNSON: Let us proceed with the
21 draft document for 970001-EI. Are there any preliminary
22 matters?

23 MS. PAUGH: None at this time.

24 CHAIRMAN JOHNSON: Okay. All of the parties
25 have copies of the draft order? Then I'll just proceed

1 by going page by page, or section by section. And if
2 there are any questions or comments, please just make
3 note of that and then we'll entertain it at that time.

4 Page 2. Page 3. Page 4 of Section 4, Order
5 of Witnesses, any changes or corrections there?

6 MR. STONE: Chairman Johnson, I apologize. We
7 just now got our copies. I'm assuming there are no
8 changes, but if I find something, I will let you know.
9 We haven't had a chance to fully review it yet as far as
10 the draft, but I just wanted to let you know that we
11 haven't had a chance to verify the issue numbers. If we
12 find something, we'll let you know.

13 CHAIRMAN JOHNSON: And to the extent that you
14 don't find them through this process -- and this applies
15 to everyone -- that if you get that information to
16 Staff, and as long as there's no objection to us
17 changing that, we'll just do that administratively. For
18 now, though, any questions or changes to the section
19 Order of Witnesses?

20 MR. CHILDS: I have one here, but I also have
21 four other changes. What we're going to do, if it's
22 acceptable, is we're going to pass it out or give it to
23 Staff -- they're typographical type matters -- and not
24 go over them one at a time.

25 CHAIRMAN JOHNSON: They all apply to this

1 section though?

2 MR. CHILDS: They are beginning here, and then
3 there are others throughout -- there are three others in
4 the order. And I just would propose not to even say
5 anything, but simply give them to Leslie and make the
6 typographical change.

7 CHAIRMAN JOHNSON: And they're all in the
8 nature of typographical?

9 MR. CHILDS: Well, there's one where an issue
10 appears, there's a position on an issue that I think is
11 a position for a different issue. It may not be an
12 typographical error, but I think this is the exception.

13 MS. PAUGH: That's acceptable to us.

14 CHAIRMAN JOHNSON: Okay, very well.

15 Section 5. Any changes to the basic
16 positions?

17 Seeing none, Section 6. We'll go issue by
18 issue. Or Staff, do you know if there are any issues in
19 particular that there may be some changes necessary to
20 make? If not, I'll just go issue by issue, and I can go
21 quickly if necessary.

22 MS. PAUGH: Some of the issues can be
23 stipulated; in other words, Staff agrees that the
24 parties' position is appropriate, and I have that
25 information at this time if you would like it.

1 CHAIRMAN JOHNSON: Then we'll go issue by
2 issue, just to get it on the record.

3 Issue 1.

4 MS. PAUGH: Staff -- I'm sorry.

5 MR. BEASLEY: Just a minor cleanup on Tampa
6 Electric's position. The period should be a comma in
7 that number there.

8 CHAIRMAN JOHNSON: We'll note that for the
9 record and reflect that change in the final prehearing
10 order. Any other changes for Issue 1? Staff, did you
11 have --

12 MS. PAUGH: Staff agrees with the positions
13 stated by FPL, FPUC, Gulf and TECO. With FPC that
14 position is still outstanding, or that agreement, I
15 should say, is still outstanding.

16 CHAIRMAN JOHNSON: Okay.

17 MS. PAUGH: To the extent that FIPUG and OPC
18 would agree with Staff's position, the four referenced
19 utilities can be moved to the stipulated section of the
20 order that comes out of this. So we probably should
21 hear from OPC and FIPUG.

22 CHAIRMAN JOHNSON: OPC?

23 MR. BURGESS: We aren't taking any affirmative
24 positions on anything. So if there's not any issues
25 that any of the other parties have noted here, we don't

1 take any position.

2 MR. McWHIRTER: We agree with Leslie that the
3 ruling you do on the Tampa Electric case tomorrow will
4 have an impact on this and put it into play at the
5 appropriate time.

6 MS. PAUGH: I'm afraid I don't understand.
7 With respect to the possibility of stipulating to FPL,
8 FPUC, Gulf and TECO, would FIPUG agree with that
9 position?

10 MR. McWHIRTER: Which issue are you looking
11 at?

12 MS. PAUGH: This is Issue 1.

13 MR. McWHIRTER: The overrecovery, we agree
14 with that.

15 MS. PAUGH: Thank you. It will be in the
16 stipulated section of the order.

17 CHAIRMAN JOHNSON: But it's still outstanding
18 for Florida Power Corp.?

19 MS. PAUGH: That's correct.

20 CHAIRMAN JOHNSON: Okay. Issue 2.

21 MS. PAUGH: Staff agrees with the positions
22 taken by FPL, FPUC, Gulf and TECO. FPC is still
23 outstanding. If OPC and FIPUG agree, that too can be
24 moved to the stipulated section.

25 They're both nodding yes for the record.

1 CHAIRMAN JOHNSON: OPC and FIPUG are in
2 agreement?

3 MR. BURGESS: Yes.

4 MR. McWHIRTER: Yes.

5 CHAIRMAN JOHNSON: Issue 3?

6 MS. PAUGH: With respect to FPL, FPUC, Gulf
7 and TECO, Staff agrees with the positions taken by those
8 utilities. The issue with respect to FPC is still
9 outstanding.

10 If OPC and FIPUG agree, that too can be moved
11 to the stipulated section.

12 MR. BURGESS: Agree.

13 MS. PAUGH: Thank you.

14 CHAIRMAN JOHNSON: OPC has stated agreement.
15 FIPUG?

16 MR. McWHIRTER: FIPUG is still pondering,
17 Madam Chairman. (Pause)

18 We agree.

19 CHAIRMAN JOHNSON: Thank you. Issue 4.

20 MS. PAUGH: With respect to FPL, FPUC, Gulf
21 and TECO, Staff agrees with the positions taken by those
22 utilities. With respect to FPC, that issue is still
23 outstanding.

24 MR. McGEE: We stipulate that too.

25 MR. McWHIRTER: Let me inquire. With respect

1 to the ruling the Commission will make on the wholesale
2 case, would that not have an impact on this recovery?

3 MS. PAUGH: I don't believe it will, but
4 that's second guessing the Commission, and I really
5 hesitate to do that in this proceeding.

6 MR. McWHIRTER: But, we'd be doing that in
7 this proceeding if we agreed that these numbers were
8 right and they turned out to be not right after
9 tomorrow's ruling.

10 MR. CHILDS: Well, if the discussion relates
11 to an issue that doesn't affect Florida Power & Light,
12 maybe I shouldn't say anything. But it seems to me that
13 if you have a decision to make -- and I don't think it
14 does affect the factor, but it seems to me that if you
15 did have a decision to make that did affect the factor,
16 that that's something which would fall within the
17 category of what you do when you're addressing your
18 forecasts anyway.

19 CHAIRMAN JOHNSON: Uh-huh.

20 MR. McWHIRTER: I think, yes, I will accept it
21 subject to the qualification that you still have the
22 full authority to rule as you deem appropriate at
23 tomorrow's session and that may impact this result.
24 It's only with respect to TECO that we have a concern.
25 With the other utilities we're satisfied.

1 MS. PAUGH: Chairman Johnson, if I may
2 interject. At a meeting with TECO last week they
3 represented -- and I'm sure they'll correct me if I'm
4 wrong -- they represented that because of the timing of
5 these two dockets that a mid-course correction would be
6 made, if necessary. I don't know if that addresses your
7 concern or not.

8 MR. LAUX: There was a discussion as to how --
9 depending on the vote, the Commission vote tomorrow, on
10 what effects it may have, that there may be a need to go
11 in and recalculate these numbers after the vote. There
12 may be an opportunity to go in and do a mid-course
13 correction, and there may be an opportunity to just fix
14 it as a trueup in the next fuel adjustment period. It
15 all depends.

16 MR. McWHIRTER: This is going to take effect
17 in October, so I would imagine between early August and
18 October you could do your calculations.

19 MR. LAUX: And it generally all depends on
20 what the Commission votes. We can't guess at this point
21 what that would be.

22 CHAIRMAN JOHNSON: Okay, Mr. McWhirter?

23 MR. McWHIRTER: Well, we've expressed it. You
24 have ultimate flexibility and that's our only concern.

25 CHAIRMAN JOHNSON: Issue 5.

1 MS. PAUGH: Staff agrees with the position of
2 all of the utilities on Issue 5, with the condition that
3 Staff's language be used. We probably should get the
4 assent of the utilities to that.

5 MR. STONE: With regard to Gulf Power Company,
6 I don't believe Staff's language reflects the fact that
7 the capacity cost recovery clause is an annual clause.
8 Maybe it's in a later position in the prehearing order,
9 but as far as Issue 5 is concerned, it does not
10 incorporate the fact that we set annual factors for
11 capacity and semi-annual factors for fuel.

12 MS. PAUGH: I believe that's addressed in a
13 later issue. (Pause)

14 I've just been corrected. I apologize. It is
15 not in a later issue, and we will amend our issue to
16 reflect the effective date as Gulf Power has mentioned.

17 CHAIRMAN JOHNSON: Are there any other
18 questions or concerns with the language drafted by
19 Staff?

20 MR. CHILDS: I don't know at this point
21 whether we can agree with that or not. We'll have to
22 take a look at it and come back.

23 CHAIRMAN JOHNSON: After the revised
24 language?

25 MR. CHILDS: Right. And I'm a little confused.

1 because we had specific mention of cycle days and they
2 don't, and I don't know how that fits, you know, whether
3 their wording of the issue would permit us to do it. So
4 I'll just have to see.

5 MS. PAUGH: Well, we'll get with the utilities
6 on that.

7 CHAIRMAN JOHNSON: Okay. Issue 6.

8 MS. PAUGH: We have reviewed the positions of
9 all the utilities and find all of them to be appropriate
10 and can stipulate to them.

11 CHAIRMAN JOHNSON: Okay.

12 MS. PAUGH: With the assent of FIPUG and OPC,
13 that can be a stipulated section -- issue.

14 MR. BURGESS: Yes.

15 MR. McWHIRTER: I don't want to stipulate.
16 I'm a little confused as to why the line loss multiplier
17 for Florida Power would be a lower factor for the
18 transmission level than for the distribution primary,
19 but I'm sure that Mr. McGee or somebody can straighten
20 me out. So subject to some understanding, some
21 clarification of that, we will stipulate to the line
22 loss factors.

23 CHAIRMAN JOHNSON: Okay. And I'm assuming
24 that --

25 MR. McWHIRTER: No, wait a minute. I'm --

1 no. Yeah, I'm happy.

2 CHAIRMAN JOHNSON: You're happy with 6?

3 MR. McWHIRTER: I'm happy.

4 CHAIRMAN JOHNSON: But you have questions on
5 ??

6 MR. McWHIRTER: No, I'll stipulate it, Madam
7 Chairman.

8 CHAIRMAN JOHNSON: Issue 7.

9 And for the record, note that on Issue 6 OPC
10 was in agreement.

11 Issue 7.

12 MS. PAUGH: Staff has reviewed the positions
13 of all of the parties except -- well, they've reviewed
14 FPC, but Staff can stipulate to the all the parties'
15 positions with the exception of FPC in Issue 7. In
16 other words, they can stipulate to FPL, FPUC, Gulf and
17 TECO.

18 CHAIRMAN JOHNSON: I'm sorry, you said every
19 one except for --

20 MS. PAUGH: FPC, Florida Power Corporation.
21 With the assent of FIPUG and OPC, those two could be
22 moved to the stipulated portion.

23 MR. BURGESS: We assent.

24 MR. McWHIRTER: FIPUG is satisfied.

25 CHAIRMAN JOHNSON: Issue 8.

1 MS. PAUGH: Staff agrees with the positions of
2 all of the parties in Issue 8 and can stipulate there,
3 too. With the assent of FIPUG and FPC, that can be
4 moved to the stipulation section.

5 MR. BURGESS: We agree.

6 MR. McWHIRTER: Check for FIPUG.

7 CHAIRMAN JOHNSON: Issue 9.

8 MS. PAUGH: There are no stipulations relative
9 to Issue 9.

10 CHAIRMAN JOHNSON: Any changes as it relates
11 to the positions or the wording?

12 MR. McGEE: Yes, Madam Chairman. On Florida
13 Power's position -- and actually, this will apply on
14 Issues 9, 10, 11 and 12 -- it's listed as no position.
15 I've handed to Staff earlier today a supplemental list
16 of issues and positions for those particular issues and
17 would ask that they be incorporated into the final
18 prehearing order. I have extra copies if anybody needs
19 them.

20 CHAIRMAN JOHNSON: A supplemental list of?

21 MR. McGEE: Of positions for each of those
22 four issues, 9 through 12.

23 MS. PAUGH: That's acceptable, Chairman
24 Johnson.

25 CHAIRMAN JOHNSON: Issue 10.

1 MR. STONE: Mr. McGee, you said you had extra
2 copies of those?

3 MR. CHILDS: Are there going to be any
4 positions taken by Staff, OPC and FIPUG?

5 MS. PAUGH: At this prehearing?

6 MR. CHILDS: Right.

7 MS. PAUGH: No.

8 MR. CHILDS: Well, I would ask that OPC and
9 FIPUG at least be asked to state a position. I think
10 that's --

11 CHAIRMAN JOHNSON: OPC?

12 MR. BURGESS: Yes. Our position on the
13 treatment of transmission costs would be that
14 transmission costs should be added to the seller's
15 incremental cost and that be used to average with
16 buyer's incremental cost to result in the transaction
17 price.

18 CHAIRMAN JOHNSON: Could you codify that and
19 provide it to Staff?

20 MR. BURGESS: I would like to do that if I
21 could, provide something in writing to the Commission
22 Staff and all parties.

23 CHAIRMAN JOHNSON: Okay. FIPUG?

24 MR. McWHIRTER: I'm pondering, Madam
25 Chairman. Just a second.

1 MR. CHILDS: I'm not suggesting that we need a
2 position at this moment. I'm suggesting that before the
3 prehearing order comes out that we ought to have one.

4 CHAIRMAN JOHNSON: When we're going to have
5 one.

6 MR. McWHIRTER: I'm trying to think of
7 different iterations. I'm a latecomer. If I don't have
8 to make a determination right now, I'd prefer to wait.

9 CHAIRMAN JOHNSON: Why don't we do that. We
10 will allow you, if you're not prepared to tell us a
11 position now, that's fine. At the end of this we'll get
12 a date certain for those so you can have them and have
13 our final order finalized.

14 MS. PAUGH: As a suggestion, possibly a week
15 from today? Is that sufficient time, Mr. Childs?

16 MR. CHILDS: Yes.

17 MS. PAUGH: Is that adequate time for you,
18 Mr. McWhirter?

19 MR. McWHIRTER: That will be fine.

20 CHAIRMAN JOHNSON: Issue 11.

21 MS. PAUGH: Did we address Issue 10?

22 CHAIRMAN JOHNSON: We've been provided with
23 the -- I thought we did. Did I skip one?

24 MS. PAUGH: I believe so.

25 CHAIRMAN JOHNSON: Issue 10, we've been

1 provided with the written position by FPC.

2 MS. PAUGH: That's correct. There are no
3 stipulations for Issue 10.

4 CHAIRMAN JOHNSON: We will -- we still have
5 outstanding issues or positions from OPC and FIPUG.

6 MR. BURGESS: Yes. Madam Chairman, if I could
7 do the same thing, and just as a general proposition,
8 state philosophically that we think the -- that the cost
9 of this should be reflected in the fuel adjustment
10 factor for both the buying and selling utility, the cost
11 of the transmission for both the buying and selling
12 utilities.

13 If, however, the Commission determines that
14 it's more appropriate a base rate for the selling
15 utility, then it should be a base rate item for the
16 buying utility. In other words there should be some
17 consistency. But if I could provide that in perhaps
18 more artful form later in writing, I would appreciate
19 it.

20 CHAIRMAN JOHNSON: Okay. Thank you. And
21 FIPUG, I see you're still pondering.

22 MR. McWHIRTER: Yes.

23 CHAIRMAN JOHNSON: Does anyone object to the
24 same time periods for the written responses from FIPUG
25 and OPC? Seeing none, we'll have those in -- what did

1 we say, Leslie, a week from today?

2 MS. PAUGH: Yes, Madam Chairman, if that's
3 acceptable to the parties.

4 If we could go back to Issue 9, we have FPUC
5 listed. Is FPUC going to respond to Issue 9?

6 MR. WILLINGHAM: FPUC is not a generating
7 utility. They will not respond to 9 through 23.

8 MS. PAUGH: I believe that was an error of a
9 new attorney on this docket. I apologize.

10 MR. McWHIRTER: Let me see if I understand 8
11 and 9. Are you saying, is the issue whether it be
12 treated as a base revenue, or an expense paid through
13 base revenues, or flowed through the fuel charts? Is
14 that the issue, or is it which utility gets the -- well,
15 obviously the one paying the money will pay the money
16 and the other one will get the credit, but is that the
17 issue, whether it flows through the base rates or not?

18 MS. PAUGH: Is this with respect to Issue 9,
19 Mr. McWhirter?

20 MR. McWHIRTER: Eight and 10.

21 MS. PAUGH: Eight and 9?

22 MR. McWHIRTER: Nine and 10, I'm sorry.

23 MS. PAUGH: I'm going to defer to Staff for
24 that clarification.

25 MR. BALLINGER: Tom Ballinger with the

1 Commission Staff.

2 Issue 9, I believe, goes to how it should be
3 treated in determining the transaction price in a broker
4 sale. And Issue 10 is how it should be collected if it
5 is part of the transaction price.

6 MR. McWHIRTER: When you say by how it's
7 reflected, that means whether it's reflected in the base
8 rates or the fuel charges?

9 MR. BALLINGER: Correct.

10 CHAIRMAN JOHNSON: Any other questions on 9 or
11 10?

12 Seeing none. Issue 11?

13 MR. BURGESS: Madam Chair, this is very
14 similar to Issue 9. Our position is very similar to
15 what it would be on Issue 9, and we would like to
16 provide it in writing.

17 CHAIRMAN JOHNSON: Yes, sir. FIPUG?

18 MR. McWHIRTER: Same position.

19 MS. PAUGH: And I presume FPUC is to be
20 removed from this issue as well?

21 MR. WILLINGHAM: That's correct. If you
22 could, remove us from the rest of the issues, 9 through
23 23.

24 CHAIRMAN JOHNSON: Issue 12. Any corrections
25 or changes to the stated positions? Seeing none --

1 MR. BEASLEY: Chairman, if I could just
2 inquire generally as to the Staff's position on 10 and
3 12, how that timing would be impacted from their
4 perspective, maybe seek just generally a clarification
5 of the Staff's position on the Issues 10 and 12.

6 MS. PAUGH: It's my understanding that what
7 we've stated, that our position is pending further
8 discovery and evidence adduced at hearing, is truly our
9 position. We need to adduce evidence at hearing.

10 MR. LAUX: Ten and 12.

11 MS. PAUGH: Ten through 12?

12 MR. BEASLEY: Issues 10 and 12.

13 MS. PAUGH: Well, that is our position on
14 Issue 12. That is also our position on Issue 10.

15 MR. LAUX: Is the position if the Commission
16 makes a bench decision on these, then the companies will
17 then refile their factors after that decision, but to be
18 used in this fuel adjustment period, or to be used --
19 reflected in the next filing?

20 MR. BEASLEY: Or trueup, or some other way?

21 (Pause)

22 MR. CHILDS: How would it affect the factors?

23 MR. BOHRMANN: Todd Bohrmann from Commission
24 Staff. It is our understanding that if the Commission
25 was to make a ruling that would cause the numbers to

1 change, then there would be a trueup in the February '98
2 hearing.

3 MR. BEASLEY: That helps us, thank you.

4 CHAIRMAN JOHNSON: Positions for Issue 12.
5 OPC will be filing --

6 MR. BURGESS: Yes. Yes, ma'am.

7 CHAIRMAN JOHNSON: -- in a week on that. And
8 FIPUG will also provide it?

9 MR. McWHIRTER: Yes, ma'am.

10 CHAIRMAN JOHNSON: Okay, Issue 13.

11 MS. PAUGH: There are no stipulations to Issue
12 13, Madam Chairman.

13 CHAIRMAN JOHNSON: Okay. Issue -- Issue 13.
14 We have a couple "no positions at this time." How do we
15 intend to address those?

16 MR. MCGEE: Madam Chairman, FPC's position is
17 also on our supplemental list, and we have also
18 restated, for convenience, the Florida Power specific
19 issues that will be following in Issue 14A through E as
20 well.

21 CHAIRMAN JOHNSON: Florida Power & Light?

22 MR. CHILDS: I think our position will be yes;
23 and we believe the issue is inappropriate. And I mean
24 that to be two separate positions.

25 CHAIRMAN JOHNSON: You believe that this issue

1 should not be addressed?

2 MR. CHILDS: Yes.

3 CHAIRMAN JOHNSON: Would you like for us to
4 entertain that at the hearing beforehand, or how would
5 you --

6 MR. CHILDS: Well, I'm not sure. I thought
7 that the Commission had just addressed this very point
8 in the last hearing, as to nonseparated sales and what
9 it decided would be done. And I do not understand the
10 basis for -- I understand the testimony. I do not
11 understand the basis for raising the issue again.

12 CHAIRMAN JOHNSON: Okay. Be prepared then at
13 the start of our particular proceeding to raise that,
14 and I'll allow some oral presentation on that point.

15 MR. CHILDS: Okay. I do not -- I mean, it is
16 with some reluctance that I raise it, because I'm trying
17 to figure out what the status is of the issue. I think
18 it was perhaps thought about by Staff later on in the
19 process. But I thought that the Commission had
20 addressed the very issue in it's order on March 11, 1997
21 in this docket, and that it was either the issue or
22 analogous enough that I thought we should not be
23 revisiting it here.

24 CHAIRMAN JOHNSON: Staff?

25 MS. PAUGH: Unfortunately, I was not in

1 attendance at that hearing, nor have I read the
2 transcripts. But it is my understanding that this
3 specific issue has not been raised since the time that
4 this treatment was brought into play as a policy some
5 years ago. I would also add, parenthetically, that this
6 20 percent stockholder sharing was an issue that was
7 decided upon by a fuel panel. So to the extent that the
8 fuel panel created the policy, I would think that it
9 would be as appropriate for the fuel panel to consider
10 it or reconsider the treatment.

11 MR. CHILDS: I think that may be so with every
12 policy of the Commission, is that it's appropriate, and
13 I simply am observing that before you raise an issue or
14 anyone raises an issue that addresses the policy, that
15 there ought to be some basis for suggesting why it's
16 being raised, particularly if it has been considered
17 recently.

18 MS. PAUGH: My response would be that this
19 specific issue has not been considered by the Commission
20 or a panel.

21 MR. CHILDS: Okay.

22 MS. PAUGH: And that as to the
23 appropriateness, I would argue that it is.

24 CHAIRMAN JOHNSON: Any other comments?

25 MR. MCGEE: Madam Chairman, that's -- the

1 concerns expressed by Mr. Childs are somewhat similar to
2 the ones that Florida Power has. From the standpoint of
3 timing, this issue seemed to come in almost through the
4 back door with the recognized issues having to deal with
5 the treatment of transmission costs in broker sales, and
6 yet from our point of view it really has nothing to do
7 with that treatment. It raises some significant
8 questions about the use of incentives in the regulatory
9 scheme in a general sense, and we think it's kind of
10 inappropriate to bring it up in apparent connection with
11 some unrelated issues when it deserves a broader forum.

12 CHAIRMAN JOHNSON: Okay. Any other comments?

13 MR. McWHIRTER: Madam Chairman, I'm inclined
14 to agree with Mr. McGee. This issue was raised by the
15 Staff. We think it's a significant issue that deserves
16 serious consideration. Mr. Wieland suggested that
17 because of the timing it might be inappropriate to
18 consider it at the fuel hearing. And I think I share
19 that view, because we really haven't had a chance to
20 digest it. I notice that a number of utilities
21 requested additional time to respond. And we --
22 everybody acknowledges we're in a changing time, that
23 maybe you need to look at some of these things. And I
24 would suggest perhaps it be spun off into a separate
25 docket and looked at independently.

1 CHAIRMAN JOHNSON: Staff, did you have
2 anything else?

3 MS. PAUGH: I have nothing to add to that.
4 Thank you.

5 CHAIRMAN JOHNSON: Let's -- to put the parties
6 on notice, I did have an opportunity to talk briefly
7 with Staff with respect to this issue and whether or not
8 it should be handled as a part of this docket or spun
9 off into another docket, because there could be put
10 multiple issues and ramifications as it relates to this
11 particular issue. But if you could be prepared, I
12 wanted the other panelists to have the benefit of your
13 thoughts and your arguments. So if you could codify
14 those first, but we will, at the -- probably the start
15 of the hearing, or at the end, wherever it's most
16 appropriate, discuss whether or not we want to rule on
17 this particular issue.

18 MR. BURGESS: Do I understand correctly, then,
19 at this point this is a fair issue to be addressed, but
20 what you're doing is putting us on notice that you may
21 well determine that it's proper to spin it off into
22 another docket?

23 CHAIRMAN JOHNSON: That's correct.

24 MR. BURGESS: Thank you.

25 CHAIRMAN JOHNSON: Any other questions? 14A?

1 MS. PAUGH: This issue can be stipulated,
2 Madam Chairman. With the assent of FIPUG and OPC it can
3 be put in the stipulated portion of the order.

4 MR. McWHIRTER: Say that again, Leslie.

5 MR. BURGESS: That's all right with us.

6 MS. PAUGH: This can be a stipulated issue
7 with the assent of FIPUG and OPC.

8 CHAIRMAN JOHNSON: 14A.

9 MR. McWHIRTER: Yes, I'll stipulate to it.

10 CHAIRMAN JOHNSON: Okay, 14B.

11 MS. PAUGH: I'm sorry, I'm not sure we're
12 finished. Has Florida Power Corporation agreed with
13 Staff on this issue? I'm reflecting no position at this
14 time, but I understood that it had been stipulated.

15 MR. McWHIRTER: Yes, it's stipulated in our
16 case, in the nuclear fuel case, where they said that the
17 capital structure would remain the same, if that's the
18 issue that I understand you're raising here. Is that
19 the issue?

20 MR. McGEE: No, it's related to that. But
21 this is an issue that comes up annually. It has to do
22 with, I think, a 1986 ruling by the Commission dealing
23 with electric fuels capital structure.

24 But Leslie, if you would look at the handout
25 that I gave you earlier on our supplemental positions, I

1 think you'll see that we are in agreement.

2 MS. PAUGH: I thought so. Thank you. I know
3 we discussed a portion of this in the meeting. All
4 right.

5 CHAIRMAN JOHNSON: 14B?

6 MS. PAUGH: This issue can also be stipulated
7 between Staff and Florida Power Corporation. With the
8 assent of FIPUG and OPC it can be removed to the
9 stipulation portion of the order.

10 MR. McWHIRTER: We're not going to take a
11 position on it.

12 CHAIRMAN JOHNSON: 14C.

13 MS. PAUGH: FPC's position is listed as no
14 position at this time. However, 14C, the utility and
15 Staff have agreed on a position and it may be
16 stipulated. With the assent of OPC and FIPUG, it may be
17 removed to the stipulation portion of the order.

18 MR. BURGESS: Madam Chairman, I agree to do
19 that. I guess something Mr. McWhirter just said struck
20 me, and I would like to clarify. When I'm agreeing to
21 this, basically, we are not taking an affirmative
22 position on these issues, and therefore, as I understand
23 the process at this point, then we forgo the right to
24 later. So we're just basically not resisting them going
25 into stipulation rather than affirmatively taking an

1 agreeable position.

2 MS. PAUGH: That's correct.

3 MR. McWHIRTER: And one of the problems we
4 face in this is that we don't have the information on
5 what their return on equity is in electric fuels. I
6 don't believe it's made available on all the parties.
7 It's available to the Staff, so really, I don't see how
8 we can speak intelligently to it.

9 MR. BURGESS: They've been wondering the same
10 thing about us for years.

11 MR. McWHIRTER: Even if we had the
12 information. There's something to be said for that.

13 MS. PAUGH: Staff would like to clarify that
14 that information is available to OPC and FIPUG, and when
15 we have meetings and the like, we do notice you as
16 parties, interested parties to those proceedings. So if
17 you ever want the information, you're certainly welcome
18 to it.

19 In addition, on Issue 14D, Staff has an
20 additional sentence that it will add to the Staff
21 position. Todd Bohrmann is handing out that language.
22 And with the parties' assent, that will be incorporated
23 into the order as revised.

24 CHAIRMAN JOHNSON: Staff, the revision on 14D
25 is the bold, the sentence that's provided in bold?

1 MS. PAUGH: That's correct, Madam Chairman.

2 CHAIRMAN JOHNSON: That's the only revision?

3 MS. PAUGH: That's correct.

4 CHAIRMAN JOHNSON: Any comments?

5 MR. McWHIRTER: FIPUG is not going to take
6 issue with 14D in this case, but because we're not
7 taking a position at this time, I wouldn't want to
8 suggest that that would be a precedent for all future
9 times, because it seems to us that in a situation when
10 a -- if a utility were in an excess earning position,
11 it would be inappropriate to flow through a conversion
12 cost to the fuel cost clause, rather than base rates.
13 So I think the issue ought to be addressed by each
14 utility when those issues come up.

15 However, in this case because of the unusual
16 circumstances presently facing Florida Power
17 Corporation, FIPUG doesn't have any objection to Florida
18 Power Corporation's request.

19 MR. BURGESS: I agree with removing the issue
20 into the stipulated section.

21 CHAIRMAN JOHNSON: 14E.

22 MS. PAUGH: At the present time Staff is
23 working with Power Corp. and may be able to stipulate on
24 this issue. If we do, we will contact the parties and
25 advise them and it will be included in the order that's

1 issued.

2 MR. MCGEE: Just so that we're clear, my
3 understanding is that this issue also is the only issue
4 that is preventing a stipulation with Staff on the other
5 fallout issues, Issues 1 through 4 primarily.

6 MS. PAUGH: That's correct. So they may all
7 come together as stipulated issues.

8 CHAIRMAN JOHNSON: Any other comments? OPC or
9 FIPUG?

10 MR. McWHIRTER: No comment.

11 MS. PAUGH: I have a question. Power
12 Corporation wishes the 14E language that's in the
13 handout to be listed as its position. Is this different
14 from what you had previously submitted?

15 MR. MCGEE: The issue listed in the
16 prehearing -- in the draft prehearing order is
17 correct -- excuse me, the position listed under that
18 issue is correct.

19 MS. PAUGH: What do I do with the position
20 stated in your supplemental? Nothing?

21 MR. MCGEE: It's identical.

22 MS. PAUGH: Thank you. There's no change.

23 CHAIRMAN JOHNSON: 15A.

24 MS. PAUGH: Staff has agreed with the position
25 of Tampa Electric Company, and this may be stipulated.

1 With the assent of OPC and FIPUG it may be removed to
2 the stipulated portion of the order.

3 MR. WILLINGHAM: We assent to that.

4 MR. McWHIRTER: Was this information supplied
5 to us, or was it part of the confidentiality request?

6 MS. PAUGH: I'll defer to Staff for that
7 response.

8 MR. BOHRMANN: Todd Bohrmann from the
9 Commission Staff again. The \$42.48 cents a ton was
10 included in an exhibit on Mr. Black's testimony, and
11 that number was not confidential.

12 MR. McWHIRTER: We have no independent
13 knowledge that that's not a fair market price, and so
14 we're not in a position to object to it.

15 CHAIRMAN JOHNSON: 15B.

16 MS. PAUGH: This issue may be stipulated.
17 Again, with FIPUG and OPC's assent it can be removed to
18 the stipulated portion of the order.

19 MR. BURGESS: We take the same position we
20 have on the other proposed stipulations.

21 CHAIRMAN JOHNSON: FIPUG?

22 MR. McWHIRTER: Was the coal price of Gatliff
23 publicly stated or confidential?

24 MR. BOHRMANN: That was filed in our
25 confidential treatment.

1 MR. McWHIRTER: FIPUG has a continuing
2 objection to the confidentiality of that. And without
3 the information, we're not in a position to
4 intelligently address the issue. So we'll stand moot on
5 it at this juncture.

6 CHAIRMAN JOHNSON: Take no position?

7 MR. McWHIRTER: We'll take no position.

8 CHAIRMAN JOHNSON: Okay. 15C.

9 MR. BEASLEY: On 15C, Commissioner, we accept
10 the Staff's calculation, which was based on information
11 not available to Tampa Electric when it originally
12 submitted its calculation.

13 MS. PAUGH: That's acceptable to Staff,
14 certainly.

15 CHAIRMAN JOHNSON: OPC and FIPUG?

16 MR. McWHIRTER: Once again, I'm sure that this
17 is confidential information that's not available to us,
18 so we can't intelligently attack it, and we may press
19 the confidentiality issue. And hopefully at some point
20 in time the Commission will see the wisdom in allowing
21 interested parties the benefit of information upon which
22 they must make their determination whether or not to
23 contest the issue.

24 CHAIRMAN JOHNSON: 15 --

25 MR. BEASLEY: I believe this, like the earlier

1 benchmark calculation, was not submitted as a
2 confidential calculation.

3 MS. BASS: Excuse me. I need to say something
4 at this point. The transportation benchmark is
5 calculated based on totally public information that's
6 available to anybody, and the benchmark was
7 originally -- I mean it was created that way so that it
8 would be based on public information, so it is available
9 to everyone.

10 MR. McWHIRTER: Good.

11 MS. PAUGH: Thank you, Roberta.

12 MR. McWHIRTER: And I'll withdraw my strenuous
13 objection on that basis.

14 CHAIRMAN JOHNSON: Okay, 15, what are we on,
15 D?

16 MS. PAUGH: D, as it dog. This issue may be
17 stipulated with the assent of FIPUG and OPC and may be
18 removed to the stipulated portion of the order.

19 MR. BURGESS: We are in the same position we
20 are in on the others, if you desire to stipulate to it.

21 MR. McWHIRTER: Are we on D or E?

22 MS. PAUGH: D as in dog.

23 MR. McWHIRTER: We rely upon the Staff to do
24 good audit on those issues and will not object.

25 MS. PAUGH: Thank you for your vote of

1 confidence, Mr. McWhirter.

2 CHAIRMAN JOHNSON: 15E.

3 MR. McWHIRTER: We have to rely heavily on
4 your skills, and we do.

5 MS. PAUGH: This issue can be stipulated.

6 MR. McWHIRTER: Yes.

7 MR. BURGESS: Yes.

8 CHAIRMAN JOHNSON: 15F.

9 MS. PAUGH: This issue can also be
10 stipulated.

11 MR. McWHIRTER: Yes.

12 MR. BURGESS: Yes.

13 CHAIRMAN JOHNSON: 16?

14 MS. PAUGH: I believe FPUC should be removed
15 from Issue 16.

16 MR. WILLINGHAM: That's correct.

17 MS. PAUGH: With respect to stipulations,
18 Staff can -- I'm sorry, I'm on the wrong issue. I
19 apologize. There are no stipulations on Issue 16.

20 CHAIRMAN JOHNSON: Any --

21 MR. STONE: I'm confused.

22 MS. PAUGH: So am I.

23 MR. STONE: It appeared to me that, at least
24 as far as Gulf Power is concerned, Staff was in
25 agreement with the company.

1 MS. PAUGH: I'll retract that. Staff is
2 advising me that we can stipulate with all of the
3 utilities in Issue 16.

4 CHAIRMAN JOHNSON: Stipulations on Issue 16
5 for all parties?

6 MS. PAUGH: That's correct.

7 MR. BURGESS: That's all right with us.

8 MR. McWHIRTER: No objection from FIPUG.

9 CHAIRMAN JOHNSON: 16A.

10 MS. PAUGH: This issue can be stipulated with
11 Florida Power & Light. With the assent of OPC and FIPUG
12 it can be removed to the stipulated portion of the
13 order.

14 MR. McWHIRTER: FIPUG takes no position and is
15 not in a position to contest the stipulation.

16 MR. BURGESS: We have no objection to moving
17 it to the stipulated section.

18 CHAIRMAN JOHNSON: 17?

19 MS. PAUGH: All of the GPIF issues can be
20 stipulated. That is with respect to all of the
21 utilities.

22 MR. BURGESS: We have no objection to that.

23 MR. McWHIRTER: FIPUG has no objection.

24 CHAIRMAN JOHNSON: 17A.

25 MS. PAUGH: With respect to Issue 17A, the

1 Staff position will be revised to reference Attachment
2 1. With that change, Staff can stipulate on this issue
3 with FPL.

4 MR. BURGESS: We don't object to that
5 stipulation.

6 MR. McWHIRTER: We have no objection.

7 CHAIRMAN JOHNSON: 18.

8 MS. PAUGH: Staff can stipulate with FPC and
9 TECO on Issue 18.

10 CHAIRMAN JOHNSON: OPC and FIPUG?

11 MR. BURGESS: No objection.

12 CHAIRMAN JOHNSON: FIPUG said no objection?

13 MR. McWHIRTER: We have no objection.

14 CHAIRMAN JOHNSON: 18A?

15 MS. PAUGH: Staff can stipulate with FPL and
16 Gulf on Issue 18A.

17 MR. BURGESS: No objection.

18 MR. McWHIRTER: No objection.

19 CHAIRMAN JOHNSON: 19?

20 MS. PAUGH: Staff can stipulate with FPC and
21 TECO on Issue 19.

22 MR. BURGESS: No objection Public Counsel.

23 MR. McWHIRTER: No objection FIPUG.

24 CHAIRMAN JOHNSON: 19A.

25 MS. PAUGH: Staff can stipulate with FPL and

1 Gulf on Issue 19A.

2 MR. BURGESS: No objection.

3 MR. McWHIRTER: Did Staff calculate the
4 capacity cost and FPL is agreeing with it?

5 MS. PAUGH: I'll defer to Staff to respond to
6 that.

7 MR. BOHRMANN: FPL calculated the capacity
8 cost and Staff reviewed the numbers and found them to be
9 appropriate.

10 MR. McWHIRTER: FIPUG will check off on it.

11 CHAIRMAN JOHNSON: Issue 20?

12 MS. PAUGH: We can stipulate with FPC and TECO
13 on Issue 20.

14 MR. BURGESS: No objection.

15 MR. McWHIRTER: No objection.

16 CHAIRMAN JOHNSON: 20A.

17 MS. PAUGH: Staff can stipulate with FPL and
18 Gulf on Issue 20A.

19 MR. BURGESS: No objection.

20 MR. McWHIRTER: No objection.

21 CHAIRMAN JOHNSON: 21?

22 MS. PAUGH: Staff will stipulate with FPC and
23 TECO on Issue 21.

24 MR. BURGESS: No objection.

25 MR. McWHIRTER: Why do you separate them like

1 that?

2 MS. PAUGH: I'll defer to Staff for that one
3 too. Todd, why do we separate them like that?

4 MR. BOHRMANN: I'll going defer to David Ging
5 of the Commission Staff.

6 MR. GING: It's because there's different cost
7 recovery periods for the different utilities, six months
8 and a year. That's why we separate them.

9 CHAIRMAN JOHNSON: No objection, FIPUG?

10 MR. McWHIRTER: I got you.

11 MR. BURGESS: We have no objection, Madam
12 Chairman.

13 CHAIRMAN JOHNSON: Thank you. 21A?

14 MS. PAUGH: Staff can stipulate with FPL and
15 Gulf on Issue 21A.

16 MR. BURGESS: No objection.

17 CHAIRMAN JOHNSON: FIPUG?

18 MR. McWHIRTER: No objection.

19 CHAIRMAN JOHNSON: 22?

20 MR. McGEE: Madam Chairman, there are -- in
21 the long list of factors under Florida Power, there are,
22 I'm advised, five entries that are mistaken because of
23 rounding. And rather than identify and correct each
24 one, I would like to simply say that we'll accept
25 Staff's position.

1 MS. PAUGH: That's certainly acceptable to
2 Staff.

3 CHAIRMAN JOHNSON: You're saying that Staff
4 made some rounding errors?

5 MR. MCGEE: No. The list of factors under
6 Florida Power's position in five respects is different
7 than Staff's and we'll accept Staff's.

8 CHAIRMAN JOHNSON: Okay. Any questions or
9 objections?

10 MS. PAUGH: With that change, Staff can
11 stipulate with FPC and TECO on Issue 22.

12 MR. BURGESS: No objection.

13 MR. McWHIRTER: No objection.

14 CHAIRMAN JOHNSON: 22A.

15 MS. PAUGH: There are some formatting changes
16 that need to be made, and when those changes are
17 completed, we believe we can stipulate this issue with
18 FPL. We will notify the parties if that is the case, so
19 everyone is aware of the status.

20 CHAIRMAN JOHNSON: Any comments? Seeing
21 none. Okay.

22 MR. CHILDS: But does that leave then the
23 position of OPC and FIPUG?

24 MR. BURGESS: You're saying when that gets
25 worked out, if there's -- I'm not taking any issues

1 under this -- any position under this issue. So it's
2 consistent with the others wherein you agreed to
3 stipulation with Staff, we would not oppose it.

4 MR. McWHIRTER: If OPC is happy, I'm certainly
5 happy.

6 MS. PAUGH: And if you're happy we're happy,
7 Mr. McWhirter.

8 MR. STONE: May I inquire? The statement was
9 made with regard to FPL. May I assume that we have a
10 stipulation as to Gulf?

11 MS. PAUGH: That's correct. I apologize for
12 that omission.

13 MR. STONE: Thank you.

14 CHAIRMAN JOHNSON: Okay, Issue 23 restated
15 Staff position. I guess the parties are getting copies
16 of the statement of position? Any comments on 23?

17 MS. PAUGH: I do, Madam Chairman. Staff
18 agrees with the appropriateness of the position taken by
19 FPL. However, it does not appear that this issue can be
20 stipulated, as it has been -- Staff's position has been
21 handed out to the parties, unless there is agreement
22 from FIPUG since their position was no.

23 MR. McWHIRTER: FIPUG is going to take no
24 position on this. We previously had taken the position
25 that when the utilities were in an overearnings position

1 on base rates, we shouldn't look at recovering capital
2 investments through the fuel clause. This one, I
3 believe, was approved a number of years ago based upon
4 the peculiar benefits of the St. Johns River Power Park
5 and the savings that could be derived by that. The
6 impact on us is so de minimus that we're not going to
7 take a position on it, other than state the philosophy
8 for the record.

9 CHAIRMAN JOHNSON: Okay. And OPC is taking no
10 position?

11 MR. BURGESS: Correct.

12 CHAIRMAN JOHNSON: That concludes the formal
13 issues.

14 There are some suggested FPC issues. Are
15 those still outstanding?

16 MR. MCGEE: We'll withdraw that issue. I
17 think that subject matter is properly covered in the
18 breakdown that Staff suggested on 9 through 12.

19 CHAIRMAN JOHNSON: Very well. We'll show that
20 withdrawn. There is an OPC suggested issue?

21 MR. BURGESS: Yes, this was an inherited issue
22 and my understanding is that this has been resolved
23 pursuant to Commission decision. So I don't -- I don't
24 need to have that included as an issue.

25 CHAIRMAN JOHNSON: We'll show that withdrawn.

1 Very good.

2 The exhibit list, Section 7 on Page 47. Are
3 there any changes or additions to make to Page 47?

4 Seeing none, 48?

5 Seeing none, 49?

6 Seeing none, top part of Page 50?

7 MR. STONE: Chairman Johnson, T -- it's just
8 been pointed out there was an error on Page 49 with
9 regard to SDC-2. It needs to have added CCE-2 as part
10 of the exhibit.

11 CHAIRMAN JOHNSON: That will be noted and
12 reflected in the final order.

13 Section 8 on Page 50, Stipulations, proposed
14 stipulations will be provided. Are there any additional
15 ones to adhere?

16 MS. PAUGH: Not in addition to what we've
17 discussed issue by issue.

18 CHAIRMAN JOHNSON: Okay.

19 MR. CHILDS: Is now the time, though, to
20 address the sort of general request by Gulf on all
21 witnesses and exhibits that are not addressing issues
22 that will be heard?

23 CHAIRMAN JOHNSON: What is the general -- Gulf
24 has a general request --

25 MR. CHILDS: Well they do. The draft -- I

1 think it says that Gulf is willing to stipulate all
2 testimony be inserted into the record and identify all
3 exhibits for testimony of witnesses who are not going to
4 appear because they've been excused. I'm just saying,
5 is now the time to address that, because I think we
6 have --

7 CHAIRMAN JOHNSON: Certainly. Gulf?

8 MR. STONE: Chairman Johnson, we have
9 typically included that language in our prehearing
10 statement, and it now appears that at least -- and I
11 think it's probably true for other utilities, but with
12 regard to Gulf, our witnesses on Page 5 of the draft
13 prehearing order, with the exception of Mr. Howell,
14 could all be stipulated into the record.

15 Mr. Howell is testifying as to the Issues 9
16 through 13 that I understand there is no stipulation
17 on. And we would ask that all the other witnesses have
18 their testimony inserted into the record as though read
19 and be excused from attendance at the hearing.

20 CHAIRMAN JOHNSON: Florida Power & Light, did
21 you have a concern about that, or --

22 MR. CHILDS: No, I just wanted to make sure
23 that everyone who was in that position would be the same
24 and that we weren't going to bring it up one at a time.
25 Just a routine that anybody -- Florida Power & Light has

1 one issue that Staff is reviewing. I think that's 22A.
2 Other than that, it appears that everyone for FPL but
3 Mr. Villar may be not testifying.

4 CHAIRMAN JOHNSON: I see. And I understand,
5 because it was framed just in the context of Gulf?

6 MR. CHILDS: Yes.

7 CHAIRMAN JOHNSON: Okay, then that will be
8 noted as the traditional practice that we will allow the
9 stipulation and the witnesses to be excused.

10 MS. PAUGH: For all parties.

11 CHAIRMAN JOHNSON: For all parties.

12 MS. PAUGH: That's fine.

13 CHAIRMAN JOHNSON: And there are no pending
14 motions?

15 MS. PAUGH: No, Madam Chairman.

16 CHAIRMAN JOHNSON: Anything else as it relates
17 to the 970001?

18 MR. WILLINGHAM: Yes, Madam Chairman, it
19 appears there's only one outstanding issue for Florida
20 Public Utilities, and that's Issue 5, which I believe
21 that we're fairly close to agreeing on language anyway.
22 And I would ask that if we could stipulate to Issue 5
23 that FPUC could be excused from further attendance of
24 this docket.

25 CHAIRMAN JOHNSON: To the extent that there's

1 a stipulation?

2 MR. WILLINGHAM: Right. We have just one
3 issue outstanding and I think we're fairly close on
4 that.

5 CHAIRMAN JOHNSON: I don't see a problem with
6 that, but if that is, we'll discuss it and let you
7 know.

8 MR. BEASLEY: Madam Chairman, my record
9 keeping indicates that the only remaining issues we have
10 are for Witness Branick on Issues 10 through 13, and
11 then rebuttal testimony for Witnesses Branick and
12 Kordecki for Tampa Electric, with the others being
13 subject to the stipulations we've discussed today.

14 CHAIRMAN JOHNSON: Okay, very good. Staff,
15 make sure you coordinate with all the parties and we
16 have a clear understanding of the witnesses that must be
17 present and those -- for those issues that weren't
18 stipulated.

19 MS. PAUGH: Certainly.

20 * * *

21 CHAIRMAN JOHNSON: TECO had some questions on
22 the 01?

23 MR. BEASLEY: Commissioner, I just wanted to
24 address those transmission cost issues, Issues 9 through
25 12. This is a new area for the Commission in addressing

1 these issues, and we thought it might be appropriate for
2 the parties to have an opportunity to submit briefs on
3 those issues since all of the parties have different
4 approaches in their positions. I think it might be
5 helpful and useful for the benefit of the Commission for
6 the parties to submit briefs within a reasonable period
7 of time after the hearing, and to have an additional
8 week or ten days to submit reply briefs simultaneously
9 so we can sort out all of the various positions of the
10 parties and the Commission can know where we're all
11 coming from. So I would request that on behalf of Tampa
12 Electric Company and anyone else who wishes to submit
13 briefs.

14 CHAIRMAN JOHNSON: Mr. Stone?

15 MR. STONE: I concur that would be a good idea
16 given the nature of the issue and the positions of the
17 parties.

18 MR. McWHIRTER: FIPUG agrees.

19 CHAIRMAN JOHNSON: OPC?

20 MR. BURGESS: I don't have any problem.

21 CHAIRMAN JOHNSON: Mr. Childs?

22 MR. CHILDS: I don't have any thoughts one way
23 or the other.

24 CHAIRMAN JOHNSON: Staff?

25 MS. PAUGH: My only thought is that if briefs

1 are submitted on those issues, that negates the ability
2 for the Commission or the panel to make a bench
3 decision, and I don't believe the panel has had the
4 opportunity to make that decision one way or another.
5 So I'm not sure that a ruling at this time through this
6 order would be the best way to handle the panel's
7 activities. It's just sort of a -- that's a judgment
8 call.

9 CHAIRMAN JOHNSON: Uh-huh. I'm going to -- on
10 this issue I'm going to go ahead and allow the briefing,
11 and we'll just put the commissioners on notice that they
12 don't have to be prepared to make a bench decision on
13 this particular issue. Given the nature of the issues,
14 I think it would be better if we have some briefing
15 schedule. And there's no immediate need to rule on
16 those at that point in time anyway, is there?

17 Anything else? Anything else?

18 MS. PAUGH: Not from Staff. Thank you.

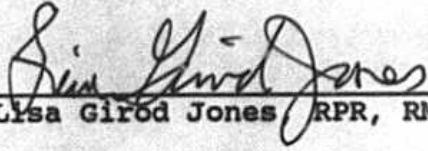
19 CHAIRMAN JOHNSON: Prehearing then is
20 adjourned. Thank you very much for your participation.

21 (Prehearing concluded at 3:05 p.m.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.



Lisa Girod Jones RPR, RMR

8/6/97
Date