

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of :
Fuel and purchased power :
cost recovery clause and :
generating performance :
incentive factor :

DOCKET NO. 980001-EI



PROCEEDINGS: **PREHEARING CONFERENCE**

BEFORE: **COMMISSIONER SUSAN F. CLARK**
 Prehearing Officer

DATE: **Monday, February 16, 1998**

TIME: Commenced at 1:45 p.m.

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

REPORTED BY: **JOY KELLY, CSR, RPR**
 Chief, Bureau of Reporting
 (904) 413-6732

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1 **APPEARANCES:**

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

6 **MATTHEW M. CHILDS**, Steel, Hector and Davis,
7 215 South Monroe Street, Suite 601, Tallahassee,
8 Florida 32303-0551, appearing on behalf of **Florida**
9 **Power & Light Company.**

10 **KENNETH A. HOFFMAN**, Rutledge, Ecenia,
11 Underwood, Purnell and Hoffman, P. O. Box 511, 215
12 South Monroe Street, Suite 420, Tallahassee, Florida
13 32302-0551, appearing on behalf of **Florida Public**
14 **Utilities Company.**

15 **JEFFREY A. STONE** and **RUSSELL A. BADDERS**,
16 Beggs & Lane, 700 Blount Building, 3 West Garden
17 Street, Post Office Box 12950, Pensacola, Florida
18 32576-2950, appearing on behalf of **Gulf Power**
19 **Company.**

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

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1 APPEARANCES CONTINUED:

2 VICKI GORDON KAUFMAN, McWhirter, Grandoff &
3 Reeves, Post Office Box 3350, Tampa, Florida
4 32601-3350, appearing on behalf of Florida Industrial
5 Power Users Group.

6 JOHN ROGER HOWE, Deputy Public Counsel,
7 Office of Public Counsel, c/o The Florida Legislature,
8 111 West Madison Street, Room 812, Tallahassee,
9 Florida 32399-1400, on behalf of the Citizens of the
10 State of Florida.

11 LESLIE J. PAUGH, Florida Public Service
12 Commission, Legal Division, 2540 Shumard Oak
13 Boulevard, Tallahassee, Florida 32399-0870, on behalf
14 of Commission Staff.

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

2 (Hearing convened at 1:45 p.m.)

3 COMMISSIONER CLARK: Let's call the
4 prehearing to order. Counsel, would you please read
5 the notice.6 MR. KEATING: Pursuant to notice issued
7 January 13th, 1998, this time and place have been set
8 for a prehearing in Docket Nos. 980001-EI, fuel and
9 purchased power cost recovery clause and generating
10 performance incentive factor; Docket No. 980002-EG,
11 conservation cost recovery clause; Docket
12 No. 980003-GU, purchased gas adjustment PGA true-up
13 and Docket No. 980007-EI, environmental cost recovery
14 clause.15 COMMISSIONER CLARK: We'll take appearances,
16 starting with you, Mr. Palecki.17 MR. PALECKI: Michael Palecki, City Gas
18 Company of Florida, 955 East 25th Street, Hialeah,
19 Florida 33013.20 COMMISSIONER CLARK: Which docket are you
21 appearing in?

22 MR. PALECKI: Appearing in 002 and 003.

23 MR. BEASLEY: James D. Beasley, of the law
24 firm of Ausley & McMullen, P. O. Box 391, Tallahassee,
25 Florida 32301. I'm representing Tampa Electric

1 Company in the 980001, 2 and 7 dockets.

2 **MR. MCGEE:** James McGee, P. O. Box 14042
3 St. Petersburg 33733, and with me is Ronald M. Bright,
4 Class B Practitioner. Mr. Bright is appearing in the 01
5 docket, and I'm appearing in the 01 and 02 docket on
6 behalf of Florida Power Corporation.

7 **MR. CHILDS:** Commissioner, my name is
8 Matthew Childs of the law firm of Steel, Hector and
9 Davis. I'm appearing on behalf of Florida Power and
10 Light Company in the 01 and 07 dockets.

11 **MR. STONE:** Commissioner, I'm
12 Jeffrey A. Stone of the law firm of Beggs & Lane.
13 With me today is Russell A. Badders. We're appearing
14 on behalf of Gulf Power Company in the 01 and 02
15 dockets, and for the limited purpose of addressing the
16 issue with regard to the annual hearing in the 07
17 docket.

18 **MR. NICHOLSON:** Commissioner, I'm David
19 Nicholson of the law firm of Macfarlane Ferguson &
20 McMullen, appearing for Peoples Gas in the 02 and 03
21 docket, and also for the former West Florida Natural
22 Gas Company in the 02 docket.

23 **MR. SCHIEFELBEIN:** Wayne Schiefelbein
24 appearing on behalf of Chesapeake Utilities
25 Corporation in the 02 and 03 dockets.

1 **MS. KAUFMAN:** Vicki Gordon Kaufman of
2 McWhirter, Reeves, McGlothlin, Davidson, Rief & Bakas.
3 I'm appearing on behalf of the Florida Industrial
4 Power Users Group in the 01, 02 and 07 dockets.

5 **MR. HOWE:** Commissioner Clark, I'm
6 Roger Howe with the Office of Public Counsel appearing
7 on behalf of the citizens of the State of Florida in
8 the 01, 02, 03 and 07 dockets.

9 **MR. HOFFMAN:** Commissioner Clark, my name is
10 Kenneth A. Hoffman. I'm here this afternoon on behalf
11 of Florida Public Utilities Company in the 01, 02 and
12 03 dockets.

13 **MR. HORTON:** I'm Norman H. Horton of Messer,
14 Caparello & Self, appearing on behalf of Sebring Gas
15 System and South Florida Natural Gas in the 03 docket.

16 **MR. GUYTON:** Commissioner, my name is
17 Charles Guyton, with the law firm of Steel, Hector and
18 Davis, appearing on behalf of Florida Power and Light
19 Company in the 02 docket.

20 **MS. PAUGH:** Leslie Paugh on behalf of Staff
21 in the 01 and 07 dockets.

22 **MR. KEATING:** Cochran Keating on behalf of
23 Staff in the 02 and 03 dockets.

24 **COMMISSIONER CLARK:** Anyone else? Thank you
25 very much.

1 I want to indicate to the parties that I met
2 briefly with Staff as to how we should go through the
3 issues so that -- in the docket so we could expedite
4 this prehearing. Because as you know we have a
5 rulemaking hearing going on that I would like to get
6 to as soon as I can. I know I won't get there at the
7 beginning, but I do want to expedite it.

8 It's my intention to start with 01, which is
9 the fuel adjustment. I understand there is the issue
10 of going to annual hearings that is generic to all of
11 them?

12 **MS. PAUGH:** That is correct.

13 **COMMISSIONER CLARK:** So we'll take it up at
14 that time and hear from everyone on it. And I
15 understand the annual issue is Issue 22.

16 **MS. PAUGH:** That is correct.

17 **COMMISSIONER CLARK:** So I propose to start
18 with 01, go through the issues, and when we get to
19 annual we'll hear on the issue of going to annual
20 hearings. And then we should move quickly through --
21 07 would be next, then 02 and 03.

22 Are there comments from the parties?

23 **MR. CHILDS:** Annual for Florida Power and
24 Light is 10B, we filed a petition. I realize there's
25 22 but I want at least to have it identified. 10B and

1 10C, which is our proposal for transition into an
2 annual clause for fuel.

3 COMMISSIONER CLARK: All right. I still
4 propose to take up the issue of annual hearings,
5 including your proposal, at the end of considering the
6 issues in 01.

7 All right. Are there any changes through
8 Page 6? Or up to Page 6?

9 MS. PAUGH: No. Not from Staff.

10 COMMISSIONER CLARK: All right. Any changes
11 on Page 6? I understand Issues 1 through 4 are
12 fallout issues, so maybe we should skip them and go to
13 5. Okay. Hearing no objection on Issue 5 --

14 MS. PAUGH: Commissioner Clark, on Issue 5
15 Staff finds the positions of the parties reasonable if
16 the parties will agree to Staff's language for
17 Issue 5.

18 COMMISSIONER CLARK: Which is what you have
19 under your position?

20 MS. PAUGH: That's correct.

21 MR. MCGEE: Florida Power will concur with
22 Staff's language.

23 MR. CHILDS: We agree.

24 MR. STONE: So does Gulf.

25 MS. KAUFMAN: FIPUG agrees.

1 **MR. BEASLEY:** So does Tampa Electric.

2 **COMMISSIONER CLARK:** I guess what I'd like
3 to do is instead of everyone agreeing, I'll hear from
4 those who have an objection. Okay.

5 Then with respect to Issue 5, we'll show the
6 language changed to that suggested by the Staff, and
7 we will show it as Issue 4 that has a proposed
8 stipulation.

9 **MS. PAUGH:** That's correct.

10 **COMMISSIONER CLARK:** Okay. Issue 6.

11 **MS. PAUGH:** Staff finds the positions of all
12 of the parties in Issue 6 to be reasonable and agrees
13 thereto.

14 **COMMISSIONER CLARK:** Is there any objection?

15 **MR. HOWE:** Public Counsel will take no
16 position on this issue.

17 **MS. KAUFMAN:** The same for FIPUG.

18 **COMMISSIONER CLARK:** We'll show Issue 6 as
19 one for a proposed stipulation. Issue 7.

20 **MS. PAUGH:** Staff finds the position taken
21 by FPUC to be reasonable and can agree to that. Staff
22 has no position with respect to the remaining issues
23 pending outcome of further discovery.

24 **COMMISSIONER CLARK:** All right. We'll leave
25 that as an issue then. Mr. Childs.

1 **MR. CHILDS:** Yes, I would inquire -- I think
2 this may be a fallout, Issue 7, the basic factor, a
3 fallout issue. I'm not sure I understand what is
4 remaining for Issue 7. I realize we have the issue of
5 the annual and we have filed on the basis of nine
6 months.

7 **COMMISSIONER CLARK:** I think they are
8 waiting from a response from Staff.

9 **MS. PAUGH:** It's a fallout issue from 4 and
10 6 --

11 **MS. BASS:** I believe that this issue,
12 although it's a fallout, it would be affected by the
13 Commission's decisions in Issues 10A, 10B and 10C in
14 the calculation of the transmission revenues.

15 **MS. CHILDS:** There's no pending discovery on
16 transmission revenues, which is what is stated as a
17 reason for no position on that.

18 **MS. BASS:** There's no pending discovery but
19 we're -- there's no outstanding discovery. We have
20 gotten discovery in. We have not had a chance to
21 review it in order to take a final position on 10A,
22 10B on -- or 10A, excuse me. And then 7 would be
23 impacted by the Commission's decision on your request
24 for an annual treatment on fuel adjustment.

25 **COMMISSIONER CLARK:** Do I understand from

1 Staff then that there is a potential we could identify
2 Issue 7 as one for proposed stipulation at some later
3 point by Staff.

4 MS. PAUGH: That's correct.

5 COMMISSIONER CLARK: I'm sorry, what did you
6 say?

7 MS. PAUGH: That's correct.

8 COMMISSIONER CLARK: And when will we know?

9 MS. PAUGH: Well, to the extent we've
10 recommended deferral of Issue 10A, which is the
11 treatment of transmission, because of the motions for
12 reconsideration that could be some time.

13 COMMISSIONER CLARK: All right. We'll just
14 leave it as a pending issue, and to the extent we can
15 have it as a proposed stipulation we'll take it up at
16 the hearing.

17 MS. PAUGH: That would be appropriate.

18 COMMISSIONER CLARK: Let me just check.
19 FIPUG and OPC. No position, Ms. Kaufman?

20 MS. KAUFMAN: Yes, that would be right,
21 Commissioner Clark.

22 MR. HOWE: That would be correct for Public
23 Counsel also.

24 COMMISSIONER CLARK: Mr. Childs.

25 MR. CHILDS: I would hope we didn't have to

1 go to hearing on a basic issue here.

2 My understanding of the question about the
3 forecasting of the revenues is that first of all,
4 we're talking about a forecast. Secondly, everyone
5 forecasts economy energy sales in the normal course of
6 events. Thirdly, the Commission is used to forecasts
7 potentially being changed or wrong. So I'm not sure
8 that I understand the issue or why, when we're talking
9 about the potential for transmission revenues, this
10 isn't an issue that the Commission ought to address,
11 realizing that if there's some unresolved dispute,
12 that they'll come back and change that in the future,
13 but not hold up the forecast.

14 MS. PAUGH: Mr. Childs, it's not clear to me
15 we're looking at holding up the forecast right now.
16 It's just a matter of interrelated issues and
17 resolving what falls out. We'll know at hearing
18 whether or not it has to be deferred longer than the
19 hearing. So if you'd agree to take it up at that
20 time, in all likelihood we can resolve it prior to
21 hearing or at the hearing.

22 COMMISSIONER CLARK: I guess what you're
23 suggesting, Mr. Childs, is that we would have a
24 proposal assuming one outcome on the transmission, and
25 the proposal assuming another. But it wouldn't -- the

1 notion would be we would still forecast.

2 **MR. CHILDS:** Yes. And with all due respect
3 I would suggest that the amount that we're talking
4 about seems to me to probably in all cases be in the
5 category of approaching de minimis. Because it's a
6 forecast, the amount; we always forecast economy sales
7 anyway. This only relates to have you forecasted
8 transmission component correctly. If there's some
9 future dispute, jurisdiction will have attached and
10 certainly that could be corrected at some time.

11 **MS. PAUGH:** Commissioner, I think this
12 argument is premature, frankly. In all likelihood it
13 will be resolved at or prior to the hearing.

14 **COMMISSIONER CLARK:** All right. We'll
15 continue to show it as a proposed stipulation.

16 Issue No. 8.

17 **MS. PAUGH:** Staff finds the positions of all
18 of the parties to be reasonable and appropriate in
19 Issue 8.

20 **COMMISSIONER CLARK:** FIPUG and OPC, no
21 position?

22 **MS. KAUFMAN:** That's correct for FIPUG.

23 **MR. BEASLEY:** We've one change on Tampa
24 Electric on Issue 8 and that number has a zero
25 missing. It should be 1.00083.

1 MS. PAUGH: That change has been noted.

2 MR. MCGEE: Under Florida Power I think we
3 have too many zeros after the decimal.

4 COMMISSIONER CLARK: Okay.

5 MS. PAUGH: That change has also been noted.

6 COMMISSIONER CLARK: Issue 9A.

7 MS. PAUGH: Staff finds the position of the
8 company appropriate and reasonable if Florida Power
9 will agree to our language which we believe is more
10 complete.

11 COMMISSIONER CLARK: Mr. McGee.

12 MR. MCGEE: Where is your language?

13 COMMISSIONER CLARK: I think it's under
14 Staff position.

15 MR. MCGEE: Yes. Florida Power concurs with
16 Staff's version of the language.

17 COMMISSIONER CLARK: Okay. We'll show 9A as
18 a proposed stipulation.

19 MS. KAUFMAN: We haven't reviewed the
20 language. If we could just have a minute.

21 COMMISSIONER CLARK: Sure.

22 MS. KAUFMAN: FIPUG will take no issue on
23 9A.

24 MR. HOWE: Same for Public Counsel.

25 COMMISSIONER CLARK: Okay. We'll show it as

1 a proposed stipulation. 9B.

2 **MS. PAUGH:** I'm sorry, on 9B I have just
3 been advised we should hear from OPC and FIPUG before
4 we indicate Staff's position.

5 **MR. HOWE:** On Issue 9B, the only concern I
6 had was a little bit from the way the issue itself is
7 worded. Whether Florida Power has properly calculated
8 the replacement fuel cost.

9 It's my understanding that Florida Power
10 Corporation has completely eliminated the fuel cost
11 associated with the CR-3 outage. And with that
12 understanding, we have no objection to Florida Corp's
13 position.

14 **COMMISSIONER CLARK:** Yeah. I guess Florida
15 Power Corporation says they've excluded them.

16 **MR. MCGEE:** Yes.

17 **COMMISSIONER CLARK:** I guess the issue maybe
18 should be Florida Power Corporation excluded the
19 replacement fuel cost rather than properly calculated.

20 **MS. PAUGH:** We can make that change.

21 **COMMISSIONER CLARK:** FIPUG.

22 **MS. KAUFMAN:** Fine with FIPUG.

23 **COMMISSIONER CLARK:** Okay. We'll show that
24 as proposed stipulation 9C.

25 **MR. HOWE:** Are we going to have both a 9C

1 and 9F? Are both of those issues necessary?

2 MS. PAUGH: Staff's position is that 9C can
3 be deleted because it is subsumed by 9F.

4 MR. HOWE: We would agree with that.

5 COMMISSIONER CLARK: Delete 9C and move D up
6 to C and make the proposed relettering. All right.
7 9D.

8 MR. HOWE: This deals with the Lake Cogen
9 settlement, and we take no position.

10 MS. KAUFMAN: Same for FIPUG.

11 COMMISSIONER CLARK: Staff.

12 MS. PAUGH: Staff agrees that FPC's position
13 is reasonable.

14 COMMISSIONER CLARK: We'll show that as
15 proposed stipulation. 9E.

16 MR. HOWE: With respect to Issue 9E, here
17 we're speaking of the transmission revenues. Is it
18 assumed that the companies are going to follow the
19 Commission's order until there's some resolution of
20 the motions for reconsideration, or are we assuming
21 that there is no order because of the pending motions
22 for reconsideration?

23 MS. PAUGH: They will be calculating
24 transmission in accordance with the Commission's
25 order.

1 **MR. HOWE:** I'll take no position on that
2 issue.

3 **MS. KAUFMAN:** I just question whether -- I
4 think Ms. Paugh mentioned earlier these transmission
5 issues were simply going to be deferred until the
6 motions for reconsideration are resolved.

7 **COMMISSIONER CLARK:** I think the issue
8 should probably stay the way it is, with a note that
9 it's on reconsideration, and the expectation that if
10 it is changed in any way, it would be changed
11 consistent with what was decided on reconsideration.
12 Okay.

13 **MR. STONE:** Commissioner, would that be the
14 same on similar company-specific issues for other
15 companies?

16 **COMMISSIONER CLARK:** I would presume so.
17 9F.

18 **MR. HOWE:** Commissioner Clark, Public
19 Counsel would agree with Staff with the understanding
20 we have discussed this with Florida Power Corporation,
21 and Florida Power Corporation will be providing our
22 office with a mutually agreed upon form of
23 verification that the unit has complied with the terms
24 of the stipulation; which is that the unit achieved 14
25 days of continuous full power operation. And that

1 Florida Power will provide that information as soon as
2 those conditions are met.

3 MR. MCGEE: Mr. Howe and I talked about this
4 before the conference began, and we can work out an
5 acceptable arrangement and we will do that.

6 COMMISSIONER CLARK: I'm just wondering how
7 to word 9F then. Should it be shown as a proposed
8 stipulation? Mr. McGee, is Crystal River 3 running
9 now?

10 MR. MCGEE: Yes.

11 COMMISSIONER CLARK: Is it up to full power?

12 MR. MCGEE: Up to full power. It has not
13 been on line for 14 consecutive days.

14 COMMISSIONER CLARK: How many days has it
15 been on line now?

16 MR. MCGEE: It came back up last Friday
17 afternoon, I believe.

18 MS. PAUGH: I may be speaking out of turn
19 for Staff here but our position on 9F is that we
20 believe the company's position is reasonable if they
21 will accept our language. We could modify our
22 language to include the 14 consecutive days in our
23 position if that would be acceptable to Power Corp and
24 OPC.

25 MR. MCGEE: We can accept Staff's language.

1 **COMMISSIONER CLARK:** We'll make that change
2 and show it as a proposed stipulation.

3 **MR. HOWE:** We don't have any trouble with
4 the language, even with the inclusion of the 14 days.
5 We understand the Company's interest in having this
6 provision. We were just concerned that the way it's
7 worded it apparently gave the Company the latitude to,
8 basically, on the first day of the billing cycle,
9 inform everybody that the unit was up and running, and
10 had satisfied the contingencies in the stipulation.
11 And it was for that reason -- we understand why the
12 March 27th date is in there. The Company, I believe,
13 fully expects that the unit will satisfy the 14-day
14 contingency well before that time. And they will be
15 informing us when that happens.

16 **COMMISSIONER CLARK:** Okay. So what do I
17 need to do?

18 **MR. HOWE:** I don't think you need to do
19 anything. I guess my point is adding the 14 days to
20 the Staff's position won't really change anything.

21 **COMMISSIONER CLARK:** All right.

22 **MS. KAUFMAN:** FIPUG could agree with that as
23 long as it receives the same information that's going
24 to be provided to Mr. Howe. Okay.

25 **COMMISSIONER CLARK:** Then I would propose

1 the issue be changed as Staff has indicated. There's
2 no necessity of mentioning the 14 days. But it's with
3 the understanding that that is the criteria to be
4 used. Okay. And you will agree on appropriate
5 verification of that.

6 MR. HOWE: Yes, ma'am.

7 COMMISSIONER CLARK: Okay. 10A. Is 10A
8 dependent on 10B and C?

9 MR. CHILDS: No.

10 COMMISSIONER CLARK: Okay.

11 MR. HOWE: Public Counsel would take no
12 position on Issue 10A.

13 COMMISSIONER CLARK: FIPUG. No position.

14 MS. KAUFMAN: Yeah. I think this is the
15 same as the one we discussed earlier about the pending
16 motions.

17 MS. BASS: Commissioner Clark, if I could
18 say something. I think there's a little bit of
19 confusion on these transmission revenue issues.

20 What we intended with these issues is the
21 companies have calculated the transmission revenues in
22 accordance with the Order that the Commission issued.
23 Our concern was after the Commission vote, if the
24 Commission approves reconsideration and reconsiders
25 their order, the method of calculation will be

1 different. So what we were trying to do is say
2 through your position that once the Commission rules
3 on the motions for reconsideration, whichever way they
4 go, if there's an adjustment that's needed, the issue
5 isn't deferred in whole from this hearing, but the
6 adjustments, as a result of the Commission's decision
7 on reconsideration, will be included in the next fuel
8 filings, if necessary. If the Commission does not
9 approve reconsideration, then there will be no
10 adjustment and it will be over with, unless it's
11 appealed. If the Commission does reconsider their
12 order and approve a different method for calculating
13 the transmission revenues, then any adjustment
14 necessary to be included to the next fuel filing.

15 **COMMISSIONER CLARK:** The next fuel filing,
16 you mean the one in August?

17 **MS. BASS:** Exactly. Exactly.

18 **COMMISSIONER CLARK:** Mr. Childs, it sounds
19 like you're correct. We're going to use what we
20 project now, and that will be the forecast. And
21 changes will take place in the next fuel filing.
22 Okay?

23 Then it appears to me the issue should not
24 read "or as revised by reconsideration." It should
25 just stay the way it is. What I'm suggesting, it

1 doesn't seem to me necessary to change the language of
2 these issues because for purposes of this docket and
3 the forecast, we're going to use the order, and it
4 isn't until the next fuel adjustment process that
5 we'll use the outcome from the reconsideration, if
6 it's a change.

7 MS. PAUGH: That's correct.

8 COMMISSIONER CLARK: Is that everyone's
9 understanding? All right.

10 COMMISSIONER CLARK: It seems to me you
11 don't have to change the issue then to take that into
12 account. All right.

13 MS. PAUGH: No.

14 MR. HOWE: Commissioner Clark, I'm afraid
15 I'm going to need some clarification on that.

16 Is it Staff's position that some of the
17 companies may not have calculated transmission
18 revenues consistent with the Commission's order?

19 MS. PAUGH: In the case of FPL, Staff's
20 position is that we're still reviewing discovery to
21 determine if they have properly calculated. So
22 regardless of what happens with the reconsideration
23 for now, we have not resolved calculation under the
24 prior order in transmission that just came out in
25 January. Does that make sense?

1 **MR. HOWE:** I believe so. My understanding
2 is that the order requires the companies to calculate
3 in a certain manner. I kind of assumed they have so
4 I'll take no position on this issue.

5 **COMMISSIONER CLARK:** But at the beginning of
6 the hearing you may be in a position to identify this
7 as a proposed stipulation.

8 **MS. PAUGH:** That's correct.

9 **COMMISSIONER CLARK:** By then you may have
10 concluded that they have.

11 **MS. PAUGH:** That is correct.

12 **MR. CHILDS:** Could I ask, Commissioner, that
13 if there's a way for this to be resolved prior to
14 hearing, that the parties could share that view and
15 perhaps stipulate and avoid having someone make the
16 trip to Tallahassee?

17 **COMMISSIONER CLARK:** How soon can we get
18 that done?

19 **MS. PAUGH:** We were going to request to meet
20 with the parties, all of the parties in the 01 docket
21 after the prehearing to discuss this very issue, and
22 it's possible after that short meeting that we'll have
23 an answer by Thursday or Friday of this week.

24 **COMMISSIONER CLARK:** I would ask Staff if
25 you can't get it resolved to let me know. You

1 probably have to let Billy Stiles know.

2 MS. PAUGH: Certainly.

3 COMMISSIONER CLARK: All right. 10A is
4 taken care of. 10B and C are the -- changing it to
5 annual; is that correct?

6 MS. PAUGH: That's correct.

7 COMMISSIONER CLARK: Why don't we skip that
8 for now and when we get to 22 we'll take it up. 11A.

9 MS. PAUGH: If I may interject, Staff
10 recommends that 11A be deleted because it is subsumed
11 under Issue 4.

12 COMMISSIONER CLARK: Mr. Hoffman.

13 MR. HOFFMAN: We agree with that.

14 COMMISSIONER CLARK: Okay. 12A.

15 MR. HOWE: Public Counsel would take no
16 position with 12A.

17 MS. KAUFMAN: FIPUG has no position also.

18 COMMISSIONER CLARK: So this would be a
19 proposed stipulation?

20 MS. PAUGH: No. Staff is reviewing
21 discovery as 12A.

22 COMMISSIONER CLARK: Why are we listing it
23 as 12A? Why isn't it just 12?

24 MS. PAUGH: Because the company-specific
25 issues are broken out in A, B, Cs; that's just format

1 that we've used for some time.

2 COMMISSIONER CLARK: Yeah, but my question
3 is why is it "A" and not just "12" I guess.

4 MS. PAUGH: I don't know.

5 COMMISSIONER CLARK: It's just a
6 throwback -- you know, I was taught you can't go from
7 an "A" unless you have a "B".

8 MS. PAUGH: And you're right.

9 MR. CHILDS: Because there might be one.

10 (Laughter)

11 COMMISSIONER CLARK: 13A.

12 MR. HOWE: Public Counsel takes no position.

13 MS. KAUFMAN: Same for FIPUG.

14 COMMISSIONER CLARK: Okay. And that's one
15 that we will endeavor to settle by Friday.

16 MS. PAUGH: That's correct.

17 COMMISSIONER CLARK: 13B.

18 MR. HOWE: 13B. Public Counsel would agree
19 with Staff.

20 MS. KAUFMAN: FIPUG agrees with Staff.

21 MS. PAUGH: Staff agrees with the position
22 of the Company -- I'm sorry, did I cut someone off?

23 MR. BEASLEY: We agree with you.

24 MS. PAUGH: Staff agrees with the position
25 of the Company if the Company will accept our

1 language.

2 **MR. BEASLEY:** Looks like pretty much the
3 same language.

4 **COMMISSIONER CLARK:** All right. We'll show
5 that language change and show it as a proposed
6 stipulation. 13C.

7 **MR. HOWE:** Public Counsel takes no position
8 on this issue.

9 **MS. KAUFMAN:** We'd like to know what Staff's
10 position is.

11 **MS. PAUGH:** Staff is still reviewing the
12 discovery. Staff has no position at this time.

13 **MS. KAUFMAN:** We'd like to maintain no
14 position at this time as well.

15 **COMMISSIONER CLARK:** This will be another
16 issue we'll endeavor to resolve by Friday.

17 **MS. KAUFMAN:** Yes.

18 **COMMISSIONER CLARK:** If possible show it as
19 a proposed stipulation. Issue 14.

20 **MS. KAUFMAN:** FIPUG has no position.

21 **MR. HOWE:** Same for Public Counsel.

22 **COMMISSIONER CLARK:** Okay. Staff, is this
23 one you need further discovery or further review of
24 discovery and we may --

25 **MS. PAUGH:** No. Staff has found the

1 positions of all of the parties in Issue 14 to be
2 reasonable and can agree to them.

3 **COMMISSIONER CLARK:** Show that as a proposed
4 stipulation. Issue 15.

5 **MS. KAUFMAN:** FIPUG has no position.

6 **MR. HOWE:** Public Counsel has no position
7 for this and the remaining GPIF issues.

8 **MS. PAUGH:** Staff has found the positions of
9 Florida Power Corporation and Tampa Electric to be
10 reasonable and can agree to those positions taken by
11 the companies. With respect to Gulf, Staff is still
12 reviewing the Gulf figures.

13 **MR. STONE:** It's my understanding prior to
14 the commencement of this prehearing proceeding that
15 Staff and the Company have gotten together and
16 resolved their difference; just rounding or choices of
17 schedules but that we are in agreement. I hate to
18 speak for Staff but that's my understanding.

19 **MS. PAUGH:** You obviously are more informed
20 than I am, Jeff. Staff has indicated that's a correct
21 statement.

22 **COMMISSIONER CLARK:** We'll show that as a
23 proposed stipulation.

24 **MR. CHILDS:** Does this mean that Mr.
25 Ballinger will be withdrawn on Issue 15?

1 **MS. PAUGH:** Our suggestion at hearing would
2 be to insert his testimony, but it's not anticipated
3 that he would need to testify.

4 **MR. CHILDS:** Well, it's important to us
5 because we have rebuttal for Mr. Adjemian. And I
6 don't know how Mr. Ballinger's testimony addressed
7 Issue 15. He proposes a method for GPIF that's
8 somewhat generic, I think, and we had tried to address
9 that issue. But if you're going to settle the issue
10 I'm not sure what you want to do.

11 **MS. PAUGH:** Mr. Ballinger's testimony was
12 put forth in a exploratory mode, if you will, to
13 elicit the kind of response we got. We were able to
14 agree with all of the positions of all of the parties
15 that came out in his testimony. Again, we'd like to
16 have it in the record, but we don't anticipate needing
17 to explore the matter further, because Staff is
18 satisfied by the positions taken by the parties. Does
19 that address your concern?

20 **MR. CHILDS:** Well, he doesn't talk about --
21 he talks about incorporating some other forecasting
22 information sort of as for all future GPIF filings,
23 not just for factors this time around. That's what I
24 thought his testimony went to.

25 So if you're going to propose it for

1 consideration by the Commission as a matter to change
2 the GPIF methodology, I don't think it fits Issue 15.
3 But if you're going to present it we want Mr. Adjemian
4 in there. I simply thought, Commissioner, that if the
5 issue was resolved, that that meant that we're
6 withdrawing his testimony.

7 **COMMISSIONER CLARK:** As I recall, though, in
8 fuel adjustment we stipulate the testimony in. It's
9 not that the testimony is resolved. We just put it
10 all in and the issues are resolved. I think what
11 you're asking is are we going to change it in this
12 proceeding? And I would -- it appears for me there's
13 no issue suggesting it, and with that clarification,
14 are you comfortable leaving it in? And leaving
15 Mr. Adjemian in?

16 **MR. CHILDS:** Do the same thing.

17 **COMMISSIONER CLARK:** There's no intention on
18 the part of Staff to include in the order any
19 prospective change --

20 **MS. PAUGH:** No.

21 **COMMISSIONER CLARK:** -- in how that is done.

22 **MR. CHILDS:** All right.

23 **COMMISSIONER CLARK:** 16.

24 **MS. KAUFMAN:** FIPUG has no position on Issue
25 16 through 20.

1 COMMISSIONER CLARK: 16 through --

2 MR. HOWE: Same is true for Public Counsel.

3 COMMISSIONER CLARK: Okay.

4 MS. PAUGH: With respect to Issue 16, Staff
5 finds the positions of the parties to be reasonable
6 and, therefore, accepts them.

7 COMMISSIONER CLARK: We'll show it as a
8 proposed stipulation. How about 17?

9 MS. PAUGH: Staff finds the positions of the
10 parties to be reasonable and, therefore, accepts them.

11 COMMISSIONER CLARK: We'll show 17 as a
12 proposed stipulation. 18.

13 MS. PAUGH: Staff finds the positions of the
14 parties to be reasonable and, therefore, accepts them.

15 MR. BEASLEY: We have one minor change.
16 It's a drastic change; we're changing the word
17 "overrecovery" to "underrecovery" on our issue. But
18 the number is correct. That was just a misstatement.

19 MS. PAUGH: Is that Issue 18?

20 MR. BEASLEY: 18.

21 COMMISSIONER CLARK: Does that change
22 Staff's position?

23 MR. BEASLEY: No. I think they are in
24 agreement. They have "underrecovery." We're agreeing
25 with the Staff.

1 **COMMISSIONER CLARK:** Issue 19.

2 **MS. PAUGH:** On Issue 19, Staff finds the
3 position of Tampa Electric Company to be reasonable
4 and, therefore, accepts it. With respect to Public
5 Counsel, if they would agree to change their number to
6 141,034,828, Staff would find that figure to be
7 reasonable.

8 **COMMISSIONER CLARK:** You mean Power Corp? I
9 thought that's what there is?

10 **MS. PAUGH:** 827 is what they reflected on
11 prehearing statement.

12 **COMMISSIONER CLARK:** What I have on the
13 order is 828.

14 **MS. PAUGH:** I'm confused. I apologize.
15 We're changing our position with respect to Florida
16 Power.

17 **COMMISSIONER CLARK:** So we'll show Issue 12
18 as a proposed stipulation.

19 **MS. PAUGH:** That's correct. Issue 20.

20 **MS. PAUGH:** Staff finds the positions of the
21 parties to be reasonable in Issue 20.

22 **COMMISSIONER CLARK:** Show 20 as a proposed
23 stipulation. 21A.

24 **MS. PAUGH:** Are OPC and FIPUG --

25 **MR. HOWE:** Public Counsel's position would

1 be yes.

2 MS. KAUFMAN: FIPUG has no position.

3 MS. PAUGH: Staff finds the position of the
4 party to be reasonable in Issue 21A.

5 COMMISSIONER CLARK: Show it as a proposed
6 stipulation. 21B.

7 MR. HOWE: Public Counsel's position would
8 be yes.

9 MS. PAUGH: Staff finds the position of
10 Florida Power Corporation to be reasonable and,
11 therefore, accepts it.

12 COMMISSIONER CLARK: Just to be clear, it's
13 Florida Power and Light on 21B.

14 MS. PAUGH: I'm sorry.

15 COMMISSIONER CLARK: Okay. Show it as
16 proposed stipulation. 21C.

17 MS. KAUFMAN: FIPUG has no position.

18 MR. HOWE: Same for Public Counsel.

19 MS. PAUGH: Staff finds the position of
20 Florida Power and Light to be reasonable in Issue 21C
21 and, therefore, accepts it.

22 COMMISSIONER CLARK: It will be shown as
23 proposed stipulation. 21D.

24 MR. HOWE: 21D. Public Counsel would take
25 no position.

1 **COMMISSIONER CLARK:** Is that "no position"
2 or "no" from FIPUG.

3 **MS. KAUFMAN:** It's no.

4 **COMMISSIONER CLARK:** Oh, I'm sorry. I
5 thought it was 22 that this was the issue.

6 **MS. PAUGH:** 21D is capacity cost recovery
7 period being changed to 12 calendar months, so it's a
8 fallout of 22, only it's the company-specific portion
9 of it.

10 **MS. CHILDS:** We are already on 12 months.
11 We're proposing to move it to a calendar 12 months.

12 **COMMISSIONER CLARK:** Got you. Okay.

13 **MS. PAUGH:** Staff disagrees with the
14 Company's position on this.

15 **COMMISSIONER CLARK:** That's just fine.
16 Okay. 21E is related.

17 **MS. KAUFMAN:** FIPUG's position on that issue
18 is no.

19 **MR. HOWE:** Public Counsel's would be no
20 position.

21 **COMMISSIONER CLARK:** You have no position on
22 which one was that?

23 **MR. HOWE:** This is, I think, 21E. Our
24 position generally with the question of whether we go
25 to an annual and go through the steps to reach an

1 annual, we think it can work at six months; it can
2 work at a year. But we don't have a position one way
3 or the other.

4 COMMISSIONER CLARK: This is just on the
5 capacity or everything?

6 MR. HOWE: This will be true for all of
7 them.

8 MS. PAUGH: Staff's position is no to 21E.

9 COMMISSIONER CLARK: Okay.

10 MS. PAUGH: Commissioner, would you like to
11 go back to issues 1 through 4 at this time?

12 COMMISSIONER CLARK: Yeah. All right. What
13 about Issue 1?

14 MS. KAUFMAN: I have no position on the
15 numbers. Those are just fallout issues.

16 MR. HOWE: Same is true for Public Counsel.

17 MS. PAUGH: Staff finds the numbers
18 submitted by FPUC to be reasonable and, therefore,
19 accepts them. With respect to the remaining numbers.
20 We're working on it pending resolution of other
21 company-specific issues.

22 COMMISSIONER CLARK: Let me ask a question:
23 1 through 4 they are all follow-up issues. Do you
24 have any positions?

25 MR. HOWE: No, ma'am.

1 **COMMISSIONER CLARK:** No positions. Can we
2 just show them for those items that you agree with and
3 know about. We'll show them as proposed stipulation.
4 Let me take that back.

5 Can we decide by Friday if we can show them
6 all as proposed stipulations?

7 **MS. PAUGH:** I'm not sure if it can be by
8 Friday but in all likelihood it will be by the
9 hearing; we'll attempt by the end of this week.

10 **COMMISSIONER CLARK:** But that gets to
11 Mr. Child's point about not having the witnesses here.

12 All right. Let's go back to one. Which was
13 the one you found acceptable?

14 **MS. PAUGH:** With respect to Issues 1 through
15 4, the position taken by FPUC has been accepted by
16 Staff. The remaining issues are still being resolved.

17 **COMMISSIONER CLARK:** And they are dependent
18 on the other issues, right?

19 **MS. PAUGH:** That's correct.

20 **COMMISSIONER CLARK:** From what I understood,
21 you anticipate resolving them by Friday so these
22 should be able to be resolved by Friday.

23 **MS. PAUGH:** That's our hope, yes.

24 Mr. Childs? Mr. McGee?

25 **MR. CHILDS:** I don't think there's any

1 discovery on final true-ups for Florida Power and
2 Light. I don't understand -- I mean I'd be perfectly
3 happy to meet and try to work it out with Staff. I
4 simply am at a loss to understand what remains to be
5 resolved on these issues.

6 We're talking about the final fuel true-up,
7 Issue 1; the estimated fuel true-up from October
8 through March, Issue 2. I didn't think that we had
9 anything remaining to be addressed there.

10 **MS. PAUGH:** Staff has advised me that
11 transmission revenues should have been credited
12 through the fuel clause all the way back for January
13 of 1997 and that's why it affects these other issues.
14 And that those matters will be resolved as we resolve
15 all of this at one time.

16 **MR. CHILDS:** I also thought Staff said they
17 didn't have any question about the accuracy of the
18 correction for the current period, but there was an
19 issue if the methodology is changed as a result of
20 request for reconsideration, that you could reach back
21 through the start of this period. You said yes.

22 **MS. PAUGH:** I don't think we're there yet.
23 With respect to have the numbers been properly
24 presented at this time, notwithstanding any effects
25 reconsideration might have, we're still resolving

1 that. And my guess is that after we meet after the
2 prehearing and then go back through what we have we
3 will be able to resolve these issues. We're not
4 suggesting that we have outstanding --

5 **COMMISSIONER CLARK:** Ms. Paugh, I had
6 understood what came from Ms. Bass is that we're okay
7 with the transmission figures being in accordance with
8 that order. And if that's the case, I think what Mr.
9 Childs said is correct; that we should be okay with
10 Issues 1 through 4.

11 **MS. BASS:** If that was your understanding
12 what I said I misspoke. We understand that the
13 transmission revenues have been calculated in
14 accordance with the Commission order. We're still
15 reviewing the discovery to determine whether or not
16 they were, actually to satisfy ourselves they were
17 calculated in accordance with the order. As soon as
18 we resolve that, that they were calculated in
19 accordance with the order, then we could go forward
20 from there.

21 **COMMISSIONER CLARK:** And that is the only
22 issue holding up Issues 1 through 4?

23 **MS. BASS:** I believe so.

24 **COMMISSIONER CLARK:** Okay, Mr. Childs. So
25 my expectation is that 1 through 4 can likewise be

1 identified as a proposed stipulation by Friday.

2 **MS. PAUGH:** That's correct.

3 **COMMISSIONER CLARK:** All right. Without
4 dealing -- having to go with specific issues on the
5 annualization, I understand Issue 22 to be generic as
6 to whether or not we should go to annualize
7 proceedings. Let me just make sure. OPC has no
8 position. But FIPUG does; is that correct?

9 **MS. KAUFMAN:** That's correct.

10 **COMMISSIONER CLARK:** You don't think we
11 should do that.

12 **MS. KAUFMAN:** That's correct.

13 **COMMISSIONER CLARK:** And I take it all of
14 the other companies, with the exception of FPL, is it
15 your position we should go to annual, or you don't
16 care?

17 **MR. MCGEE:** Florida Power's position is that
18 yes, we should go to annual. Florida Power favors a
19 calendar year annual proceeding. However, we don't
20 have a objection to a transition period, if that's
21 necessary, to efficiently accommodate the change.

22 **COMMISSIONER CLARK:** And Florida Power and
23 Light, you want to go to an annual, you want it
24 calendar and you want to go to that regardless of what
25 everybody else does.

1 **MR. CHILDS:** That is correct. And we have
2 proposed a transition amount, or methodology, to get
3 to the annual by next year.

4 **COMMISSIONER CLARK:** Okay. Let me just
5 indicate, in an effort to sort of understand the
6 issue, and perhaps expedite this proceeding, I'm
7 initially inclined to have the whole Commission decide
8 the issue. Now, I appreciate the fact that somebody
9 has identified that we have gone to annual for GPIF
10 for FP&L, and for capacity for FP&L and Gulf, and
11 environmental or FP&L and Gulf. But it's my
12 understanding they are still done in conjunction with
13 either the August or the February hearing. That it
14 doesn't -- there isn't a recommendation for yet
15 another date.

16 And to me it's more appropriate to have the
17 panel decide it because -- I mean the full
18 Commission -- if the panel decides it we're in
19 effect -- at least for FP&L -- coming up with one more
20 hearing. I at least think the Chairman ought to have
21 a say in that as the person who has to handle our
22 calendar. And the issue of whether it is appropriate
23 to be on a calendar basis or a fiscal year basis or
24 whatever.

25 I guess, Mr. Childs, what I'm suggesting is

1 it seems to me -- and as I understand it, the revenues
2 with respect to fuel judgment are considerably more
3 than GPIF capacity or environmental. And I think
4 those are -- now the notion of increasing potential
5 hearings; the notion of the numbers involved
6 indicates -- and the fact it's a matter of
7 administration -- indicates to me that it should
8 involve a decision by the full panel. And I'll
9 welcome hearing from anyone who disagrees with that.

10 **MS. CHILDS:** If it's appropriate to speak, I
11 will address that.

12 We don't disagree with that at all.

13 **COMMISSIONER CLARK:** Okay.

14 **MS. CHILDS:** What our position was, we
15 broached this subject before, was that we thought it
16 was important to go to annual but we thought we needed
17 to go to annual 1999, not the year 2000, and that,
18 therefore, the way to address that was now so that
19 there could be a transition for the year 1999; that is
20 next year.

21 **COMMISSIONER CLARK:** Mr. Childs, let me
22 interrupt you. What's the magic about 1999 as opposed
23 to 2000?

24 **MR. CHILDS:** Because we thought there were
25 benefits of going to the annual hearing, and that

1 because of those benefits that it was important to do
2 it sooner rather than later. That if there was a way
3 to achieve that by 1999, we ought to try to, and as it
4 relates to the Commissioners, that also full
5 Commission.

6 We were aware that the Staff and certain
7 Commissioners, maybe all of them, would want to
8 participate on this issue. On the other hand, we felt
9 we wanted to get it before you, and if we filed it as
10 a generic issue, which was one of the things
11 suggested, that there was probably no way to get it
12 resolved by the year 1999. And, therefore, we went
13 ahead and filed it in order to get the request before
14 you. And if there was a way for the full Commission
15 to participate in this docket, that seemed to be an
16 acceptable way to proceed.

17 **COMMISSIONER CLARK:** Well, what I talked to
18 Staff about was possibly doing a PAA. And let me ask
19 Ms. Kaufman. I understand it to be probably your
20 client that's the only one objecting.

21 **MS. KAUFMAN:** Well, I guess that's the case.
22 But we do object to moving to the one-year period for
23 some of the reasons you mentioned, most notably the
24 amount of dollars involved; that you're going to be
25 projecting for a 12-month period now instead of 6

1 month. So even though, yes, we're swimming upstream,
2 we do object.

3 **COMMISSIONER CLARK:** But we would still have
4 midcourse correction. I'm embarrassed to say, I can't
5 remember if -- that issue about how much different
6 does it have to be before you notify us; what did we
7 decide to do? 10%. Does that give you any comfort?

8 **MS. KAUFMAN:** It gives me some comfort but
9 my client still prefers the shorter projection period
10 because we think that to the extent projections can be
11 accurate, they will be more accurate over a shorter
12 period than a 12-month period, especially given the
13 magnitude of the dollars. We agree with you, also,
14 that this is an issue that the full Commission should
15 take up.

16 **COMMISSIONER CLARK:** Mr. Childs, how fast
17 would you need a decision in order to do it by 1999?
18 What would we have to do?

19 **MS. CHILDS:** This is our thought process.
20 We filed a transition proposal where we would use --
21 instead of six months we would use a nine-month factor
22 which would carry us through the end of the year.
23 Incidentally, if we don't do that, then our factor goes
24 up significantly on the six-month period. So we'd
25 like to stay with that.

1 In terms of having to know, it seems to me
2 we have to know so that in some way there can be a
3 hearing in time to set a new factor for calendar year
4 1999. And I guess what we had had in mind was that if
5 you decided this issue now, that you were going to go
6 foward with a calendar year, that we would come back
7 for the hearing in August, subject to somebody saying
8 well, maybe we ought to come back at a different time;
9 we could come back later since you've set the factor
10 through the end of the year. But we could come back
11 either with everybody else in August or --

12 **COMMISSIONER CLARK:** But you're the only one
13 who has done the transition?

14 **MR. CHILDS:** We're the only one that has
15 filed it. And I'm not sure how much difficulty there
16 is for the other companies to file it.

17 **COMMISSIONER CLARK:** Let me ask a question:
18 Is there an objection to it being a calendar year? If
19 we do that -- to me everybody has to be on the same --
20 for it to be beneficial to reducing administration,
21 everybody needs to be on the same basis.

22 **MR. BEASLEY:** Commissioner, we had proposed
23 retaining the current April through March recovery
24 period. That's what we're in now with the
25 conservation cost recovery, and it's what we were

1 geared up to file for in this proceeding. And it
2 would be of significant involvement in putting
3 together a new filing.

4 **COMMISSIONER CLARK:** I'm not sure that
5 answers the question.

6 **MS. PAUGH:** Commissioner, if I could
7 interject, I believe TECO's position is a fiscal year
8 is their preference at least for now; is that correct,
9 Mr. Beasley?

10 **MR. BEASLEY:** That's correct.

11 **MS. PAUGH:** So there's not agreement among
12 the parties whether the time frame would be a calendar
13 year or fiscal year.

14 **COMMISSIONER CLARK:** What is your fiscal
15 year?

16 **MR. BEASLEY:** It's the current period we're
17 using, the April through March cost recovery period.

18 **COMMISSIONER CLARK:** Okay. Staff, do you
19 have a recommendation? I'm still inclined to kick it
20 to the full Commission. And I guess what I thought
21 would be the appropriate way to handle it is for the
22 Staff to do a PAA after meeting with all of the
23 parties to at least identify what there is agreement
24 on, perhaps how to do a transition, and then outlining
25 any differences there are, and outline the concerns

1 with respect to the magnitude of the dollars and any
2 other concern FIPUG has.

3 **MS. PAUGH:** Commissioner Clark, you have
4 well stated Staff's position with respect to this. We
5 believe PAA would be the most expeditious and most
6 thorough analysis of this. We will do everything in
7 our power to expedite these proceedings, but I think
8 that it needs the full Commission review. I think
9 that's very important. This is a policy issue with
10 large dollar implications.

11 **MR. CHILDS:** Could I ask -- I don't mean to
12 belabor it, but is it possible that the full
13 Commission could address this issue in this docket?
14 The reason I ask that --

15 **COMMISSIONER CLARK:** They are not available
16 for hearing next week.

17 **MR. CHILDS:** We have filed testimony and
18 it's been on file for some time. If we start PAA, in
19 some respects we start over again in terms of the
20 clock, you know, in terms of filing going to hearing.
21 I guess I hold out some hope that we can convince the
22 Commission that it's appropriate to go forward and
23 implement it. And I feel like if we do it the other
24 way we just cannot do it by 1999.

25 **COMMISSIONER CLARK:** I'm not sure I share

1 your pessimism on that. I'm, frankly, looking for the
2 parties to resolve -- what does it take to get to
3 annual and how would we resolve it? And then the
4 issue will only be is it appropriate to or not?

5 It's my inclination to instruct Staff to
6 deal with this as a separate item to go for the full
7 Commission and do it as PAA. I realize I don't have
8 the authority to do that, but if Staff would take that
9 up with the Chair, I guess it would be my ruling to
10 take it out of these dockets.

11 **MS. PAUGH:** We'll be happy to do that
12 immediately.

13 **COMMISSIONER CLARK:** All right. But with
14 the understanding that it would be my desire to have
15 that resolved as quickly as possible so it could be
16 implemented if the Commission decides to by 1999.

17 **MS. PAUGH:** We'll make every effort to do
18 that.

19 We don't have to have the hearing in August.
20 It could be at a later month in 1998, so to that
21 extent it's still quite possible this could happen in
22 1998. I don't share Mr. Childs' pessimism either.

23 **COMMISSIONER CLARK:** 1999.

24 **MS. PAUGH:** To have a hearing to resolve it
25 now.

1 **COMMISSIONER CLARK:** Let me explore that.
2 When did you expect to have a hearing if you went to a
3 calendar basis?

4 **MR. CHILDS:** For the calendar year?

5 **COMMISSIONER CLARK:** If you did it on a
6 calendar basis, when would we have the hearing?

7 **MR. CHILDS:** I don't remember when we were
8 proposing it. Sometime in the fall of the year.

9 **MS. PAUGH:** Staff proposed mid-November.

10 **MR. CHILDS:** I don't know if you said we
11 could do it later if the other companies are on a
12 six-month factor. I think you're going to have a
13 transition here somehow, because otherwise their
14 factor ends.

15 **MS. PAUGH:** That's correct.

16 **MR. CHILDS:** That's why I was concerned
17 about whether we could do it on time. Could we leave
18 for the time being, Commissioner, the issue of the
19 transition for Florida Power and Light open? I think
20 Staff said they would check and see whether they could
21 do that.

22 **COMMISSIONER CLARK:** We'll leave the issue
23 of the transition open and take all of the
24 information. And that if the Commission decided to go
25 to an annual, then we could also make a decision

1 whether to use that information provided in the
2 docket. Is that your intent?

3 MR. CHILDS: Our proposal in this docket is
4 that you use the transition amount for the nine months
5 as if you will be making the decision to go to an
6 annual. And that if you don't make that decision,
7 that we would revise it later. But that we use the
8 current nine-month filing we have made in this docket.

9 COMMISSIONER CLARK: Well, that's
10 interesting.

11 MS. PAUGH: If I could inquire of counsel
12 what issues he's referring to specifically?

13 MR. CHILDS: 7, I think, is one.

14 MS. PAUGH: Staff has advised they do not
15 feel it's appropriate to put in a nine-month factor
16 when we know it's only going to be for six months. So
17 they disagree with that request.

18 MR. CHILDS: That's what I'm suggesting, is
19 that we don't know that it will only be for six
20 months. We know that it's going to be addressed
21 independently with the Commission following the
22 Staff's recommendation, and that if the Commission
23 ultimately votes to go to an annual, and votes to do
24 that for 1990, we're prepared, at least for us, to do
25 that with the transition. If not, if the vote

1 against it, then we will be as everyone else, filing
2 for the new factor later this year.

3 **MS. PAUGH:** I don't believe it's
4 appropriate. I'm sorry.

5 **MR. CHILDS:** Well, okay. I nevertheless ask
6 that you at least tentatively leave that as an issue.
7 I think you were going to check and see what the next
8 step was going to be.

9 **COMMISSIONER CLARK:** Mr. Childs, it seems to
10 me what you're suggesting, is you're willing to bet
11 you're going to get the annual and you're willing to
12 go to the nine months; and then if we decide not to,
13 we'll go back and adjust if we need to.

14 **MR. CHILDS:** We can because we will have the
15 hearing in August. We're setting a factor at this
16 time to go nine months through the end of this year
17 starting in April. So we have a nine-month factor
18 that carries us through 1998. I'm saying we've
19 already prepared that, and if the Commission, in fact,
20 decides it's appropriate to go to an annual hearing,
21 then we would be able to continue to use our
22 nine-month factor. If they decide not to, then we can
23 come back in August and change the factor, if that's
24 the what Commission wants to say.

25 **COMMISSIONER CLARK:** You have supplied for

1 this proceeding both information on the six-month and
2 nine-month.

3 **MR. CHILDS:** We have. We have both.

4 **COMMISSIONER CLARK:** What you would like us
5 to do is to -- would be your request that we approve
6 the nine-month, regardless of what is done -- even
7 kicking out the annual full Commission.

8 **MR. CHILDS:** Right.

9 **COMMISSIONER CLARK:** If it is decided that
10 we not go to the annual, then an adjustment will be
11 made in August.

12 **MR. CHILDS:** Right.

13 **MS. PAUGH:** I believe that's premature,
14 Commissioner Clark.

15 **COMMISSIONER CLARK:** It has some appeal in
16 the sense that what that means, however, is that it
17 still remains an issue; not a proposed stipulation.
18 And it would be something we would have to take up at
19 the hearing. I don't think I can decide that.

20 **MR. CHILDS:** I thought that Staff was going
21 to check as to the way the generic issue would be
22 handled. So I am assuming -- I'm assuming that the
23 issue is preserved, either as an issue in this docket
24 or as an issue and generic issue with a proposed
25 agency action procedure, that it is preserved.

1 **COMMISSIONER CLARK:** But we're going to set
2 the factors prior to a decision on that.

3 **MR. CHILDS:** I understand. I understand.

4 And I'm just saying that we would ask that
5 you go ahead and set our factor on the basis of the
6 transition.

7 We do have the information for it to be a
8 six-month basis; it's been filed, can be quantified
9 and ready to go there. It will be a higher factor and
10 we would prefer not to do that. That's one of the
11 benefits we thought we had with the annual anyway, is
12 that there's a little bit more change in the level of
13 the factor.

14 **COMMISSIONER CLARK:** Mr. Howe.

15 **MR. HOWE:** I was just going to ask
16 Mr. Childs to clarify which factor is higher and he's
17 done so.

18 **COMMISSIONER CLARK:** I guess I'm inclined to
19 let the panel decide, you know, even given the fact
20 that we would allow the decision on the annual to go
21 to the Commission, for the purposes of this proceeding
22 should we approve either the six months or the nine
23 months?

24 **MS. PAUGH:** We can certainly handle it that
25 way. I think there are some procedural due process

1 problems with this, and I'd like to take a look at
2 that between now and the hearing.

3 **COMMISSIONER CLARK:** I suspect there would
4 because FIPUG is opposed to the annual; is that
5 correct? So you would be opposed to a transition.

6 **MS. PAUGH:** It would be ineffective
7 preemptive ruling to that extent.

8 **COMMISSIONER CLARK:** Then we don't have a
9 proposed stipulation.

10 **MR. CHILDS:** I guess I understand that. But
11 I'm saying if it's an issue, and I understand that
12 FIPUG disagreed with it. I'm not suggesting that
13 that's stipulated. I'm suggesting if that issue
14 remains, that the panel may decide whether to permit
15 us to go forward with a fuel adjustment on that basis,
16 and they may not. We have the information to do it
17 both ways.

18 **MS. PAUGH:** We can just let the panel
19 decide.

20 **COMMISSIONER CLARK:** Yeah. But what issue
21 does it come under? How do we identify it so the
22 panel knows --

23 **MS. CHILDS:** It's 10C.

24 **MS. PAUGH:** Does this also relate to Issue 7
25 as you previously indicated?

1 MS. CHILDS: I think it's 4 and 7.

2 MS. PAUGH: So the full list is 4, 7 and
3 10C; is that correct?

4 MS. CHILDS: For what?

5 MS. PAUGH: For the nine-month factor that
6 we have been discussing. I'm trying to get clear what
7 it is we need to --

8 MR. CHILDS: We got to talking on something
9 else. I'm not sure I had done that review. I think
10 it's 4, 7 and 10C.

11 COMMISSIONER CLARK: 4, 7 and 10C would all
12 be influenced by going to an annual factor, the
13 transition?

14 MS. CHILDS: Yes. And the wording on five,
15 because of the way the wording about it terminating, I
16 think in the Staff's wording, that it would terminate
17 in September, which is not a big deal.

18 COMMISSIONER CLARK: 4, 5, 7 and 10C?

19 MR. CHILDS: Correct.

20 COMMISSIONER CLARK: Ms. Kaufman.

21 MS. KAUFMAN: Commissioner Clark, I guess
22 I'm just a little bit confused. And I'm not sure that
23 I have a problem with talking about whether or not the
24 transition factor should be in place for Florida Power
25 and Light for the next nine months. But I would be

1 concerned with the language of Issue 10C right now,
2 which would seem to suggest that there would be a
3 decision made in regard to whether the 12 months is
4 appropriate.

5 **COMMISSIONER CLARK:** I think at the very
6 least 10C has to be changed to reflect that a decision
7 on the annual has been deferred to the Fall
8 Commission, and that it should be -- with the
9 understanding that it's deferred, is it still
10 appropriate to establish FP&L's proposed fuel cost
11 recovery factors for a period of April through
12 December?

13 **MS. KAUFMAN:** Then I would wonder -- I would
14 hope that we would not be discussing, getting into all
15 of the policy ramifications we're going to talk to the
16 entire Commission about.

17 **COMMISSIONER CLARK:** No. But I would
18 presume your position on this would be no, that they
19 shouldn't do it.

20 **MS. KAUFMAN:** I think for consistency that
21 would probably be correct.

22 **COMMISSIONER CLARK:** Okay. I'm comfortable
23 with having the panel decide whether or not that's
24 appropriate to do and send a decision on annual.

25 **MS. PAUGH:** We'll defer to your judgment.

1 **COMMISSIONER CLARK:** But, Mr. Childs, I
2 suppose you'll have to make that argument at the
3 beginning of the --

4 **MR. CHILDS:** I understand.

5 **COMMISSIONER CLARK:** -- of the hearing.

6 **MR. CHILDS:** Okay.

7 The other Commissioners are Commissioner
8 Jacobs and Garcia, right? Perhaps what we should do
9 is a little memo to sort of give them a road map on
10 this one. Okay?

11 **MS. PAUGH:** We'll do that.

12 **COMMISSIONER CLARK:** Are we finished with
13 01?

14 **MS. PAUGH:** Have we fully addressed 10B to
15 your satisfaction?

16 **MS. CHILDS:** I think we have. The only
17 thing I want to ask is that it's understood that the
18 filing for the factors for Florida Power and Light
19 Company are based upon -- we have proposed them on
20 nine months, we have the data for six months, and that
21 they can be calculated for six months from that data
22 and there's no objection to that.

23 **COMMISSIONER CLARK:** I think we do need to
24 agree. We need to make sure that prior to the hearing
25 we do agree on what is appropriate if it is six

1 months.

2 **MS. PAUGH:** That we intend to do.

3 **MR. STONE:** You asked whether they were
4 through with 01. I would propose that we stipulate
5 the admission of the testimony of two of our witnesses
6 who are not involved in the transmission cost issue,
7 which, as I understand, is the only issue remaining
8 outstanding as to Gulf Power Company.

9 **COMMISSIONER CLARK:** This is a good time to
10 indicate. I would propose -- it's my recollection
11 what we do is stipulate all of testimony into the
12 record at the beginning of the hearing, either before
13 or after we do the stipulations, and we do not expect
14 them to show up.

15 **MR. STONE:** Certainly if there's no
16 contested issue. If the transmission issue remains
17 contested, we would probably have a witness here on
18 that, and we'd also be prepared to address the fallout
19 issues as a result of that. But we do have two
20 witnesses that are not impacted by that outstanding
21 issue one way or the other.

22 **COMMISSIONER CLARK:** Let's talk about the
23 transmission. I don't see why even they have to be
24 here if any change in the transmission on
25 reconsideration, it's Staff's position that would only

1 take place in the next proceeding.

2 **MS. PAUGH:** That's correct.

3 **MR. STONE:** Then I've heard some
4 inconsistent statements from Staff. I understood
5 Staff to say they were not prepared to accept the
6 company's numbers on transmission at this time. If
7 that's the case, then we need to have a witness here.
8 If they are prepared to accept our numbers as they
9 exist at this time, then I agree with your previous
10 statement.

11 **MS. PAUGH:** I think we have been down this
12 trail before. Staff has not finished its analysis of
13 the current numbers supplied by all of the parties
14 with respect to transmission based on the order that
15 has been issued. But we will have that resolved by
16 the end of this week. In all likelihood, yours will
17 be resolved along with everyone else's.

18 **MR. STONE:** And I agree. But I have two
19 witnesses that could be excused today based on what we
20 know today. That's all I'm saying.

21 **COMMISSIONER CLARK:** We're going to excuse
22 everyone if there are proposed stipulations on the
23 issue. So if they are on an issue for which we have
24 currently identified it as a proposed stipulation,
25 they don't need to show up.

1 **MR. STONE:** That's what I needed to have
2 clarification of.

3 **MS. PAUGH:** Assuming we can agree. I'm not
4 saying that we will.

5 **COMMISSIONER CLARK:** No. We're not talking
6 about that. If by Friday we also clear up the
7 transmission, the same -- if it becomes a proposed
8 stipulated issue, the same applies, the witnesses do
9 not have to be here.

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

11 **MR. STONE:** If it may be of benefit to the
12 process, I can identify two witnesses that can be
13 shown as stipulated because they will not be impacted
14 by the absence of an agreement on that issue.

15 **COMMISSIONER CLARK:** I guess I'm of the view
16 it will confuse it. But it's my anticipation that
17 every witness will be excused in 01. Would that be
18 correct?

19 **MS. PAUGH:** That's correct if with respect
20 to the outstanding issues we're able to reach
21 agreement with the parties.

22 **COMMISSIONER CLARK:** What are the
23 outstanding issues?

24 **MS. PAUGH:** All of the transmission issues,
25 and there are other issues throughout that we're still

1 resolving matters with the companies. It is
2 anticipated that we will resolve all of the matters
3 but we certainly can't guarantee that.

4 **COMMISSIONER CLARK:** Here's what I propose
5 to do. By Friday when we know what is proposed to be
6 stipulated, then we would also identify all of the
7 testimony that will be stipulated into the record and
8 identify those witnesses who do not have to be at the
9 hearing.

10 **MS. PAUGH:** We'll do that.

11 **COMMISSIONER CLARK:** Okay. We'll have a
12 complete list by Friday.

13 Does that conclude 01?

14 **MS. PAUGH:** As far as Staff is concerned,
15 yes.

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

3 I, JOY KELLY, CSR, RPR, Chief, Bureau of
4 Reporting, Official Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 98001-EI 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 59 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 18th day of February, 1998.

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JOY KELLY, CSR, RPR
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