

1 **APPEARANCES:**

2 **KENNETH A. HOFFMAN**, Rutledge, Ecenia,
3 Underwood, Purnell and Hoffman, P. O. Box 511, 215
4 South Monroe Street, Suite 420, Tallahassee, Florida
5 32302-0551, appearing on behalf of **Florida Public**
6 **Utilities Company (FPUC)**.

7 **JAMES A. MCGEE**, Post Office Box 14042, 3201
8 34th Street South, St. Petersburg, Florida 33733,
9 appearing on behalf of **Florida Power Corporation**.

10 **JEFFREY A. STONE** and **RUSSELL A. BADDERS**,
11 Beggs & Lane, 700 Blount Building, 3 West Garden
12 Street, Post Office Box 12950, Pensacola, Florida
13 32576-2950, appearing on behalf of **Gulf Power Company**.

14 **LEE L. WILLIS**, **JAMES D. BEASLEY** and
15 **HARRY W. LONG**, Ausley & McMullen, Post Office Box 391,
16 Tallahassee, Florida 32302, appearing on behalf of
17 **Tampa Electric Company (TECO)**.

18 **VICKI GORDON KAUFMAN**, McWhirter, Reeves,
19 McGlothlin, Davidson, Rief and Bakas, appearing on
20 behalf of **Florida Industrial Power Users Group (FPIG)**.

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1 **APPEARANCES CONTINUED:**

2 **MATTHEW M. CHILDS** and **CHARLES A. GUYTON**,
3 **Steel, Hector & Davis**, 215 South Monroe Street, Suite
4 601, Tallahassee, Florida 32301, appearing on behalf
5 of **Florida Power & Light Company (FPL)**.

6 **JOHN ROGER HOWE**, Deputy Public Counsel,
7 Office of Public Counsel, 111 West Madison Street,
8 Room 812, Tallahassee, Florida 32399-1400, appearing
9 on behalf of the **Citizens of the State of Florida**.

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

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1 Box 14042, St. Petersburg, 33733, appearing on behalf
2 of Florida Power Corporation in the 01 and 02 dockets.

3 **MR. STONE:** I'm Jeffrey A. Stone, and with
4 me is Russell Badders. We're of the law firm Beggs &
5 Lane. We're representing Gulf Power Company in the
6 01, 02 and 07 dockets.

7 **MR. CHILDS:** Commissioner, my name is
8 Matthew Childs of the firm of Steel Hector & Davis.
9 I'm appearing on behalf of Florida Power & Light
10 Company in the 01 and the 07 docket. I believe
11 Mr. Guyton will be here shortly in the 02 docket.

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

16 **MR. HOFFMAN:** Commissioner, my name is
17 Kenneth A. Hoffman. My address is Post Office
18 Box 551, Tallahassee, Florida 32302, and I'm appearing
19 on behalf of Florida Public Utilities Company in the
20 01 and 03 dockets.

21 **MR. SHIEFELBEIN:** Wayne Schiefelbein, Ruden
22 McClosky Smith Schuster & Russell. I'm appearing on
23 behalf of Chesapeake Utilities Corporation in the 03
24 docket.

25 **MR. NICHOLSON:** David Nicholson, Post Office

1 Box 1531, appearing on behalf of People's Gas System
2 in the 03 docket.

3 **MR. HOWE:** Commissioner Clark, I'm Roger
4 Howe with the Public Counsel's Office. The address is
5 as shown in the prehearing orders. I'm appearing on
6 behalf of the citizens of the state of Florida in the
7 01, 02, 03 and 07 dockets.

8 **MS. KAUFMAN:** Vicki Gordon Kaufman of the
9 McWhirter Reeves Law Firm, 117 South Gadsden,
10 Tallahassee, Florida 32301. I'm appearing on behalf
11 of the Florida Industrial Power Users Group in the 01,
12 02 and 07 dockets.

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

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

17 **COMMISSIONER CLARK:** Anyone else?
18 Mr. Guyton, Mr. Childs has entered your appearance.
19 We're glad you're here.

20 First of all, let me thank everyone for
21 allowing us to move the prehearing conference to this
22 afternoon. I really appreciated it. I'm sorry if it
23 inconvenienced you. I had to take my mother for some
24 tests, and she really appreciated having me there, so
25 thank you all, and she thanks you.

1 Any preliminary matters?

2 MS. PAUGH: No preliminary matters, but we
3 do have a recommendation in terms of expeditiousness
4 for the proceeding, what dockets we may wish to
5 consider first; and that would be the 03 docket and
6 then the 02 docket, and the gas folks can then leave
7 if they so desire.

8 COMMISSIONER CLARK: 03, 02, then what?

9 MS. PAUGH: 01 and 07.

10 COMMISSIONER CLARK: Any objection to
11 following that order? (No response.)

12 Seeing none, we'll follow that order. And I
13 need to tell you all that I apologize; I have not had
14 an opportunity to read the prehearing orders and the
15 motions that are pending. It may take us a little
16 longer, but I'm sure we'll get through it.

17 Starting with the 03.

18 (Whereupon other dockets were discussed.)

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20 COMMISSIONER CLARK: We'll take up 01.

21 MS. PAUGH: Commissioner, I would recommend
22 that we take 01 issue by issue.

23 COMMISSIONER CLARK: Okay. Let me just ask
24 this: Are there any changes through Page 6?

25 MR. WILLIS: Tampa Electric does not have a

1 change, but we would like to inform you that Tampa
2 Electric has filed a motion for leave to file
3 supplemental testimony.

4 We understand that both Public Counsel and
5 FIPUG have no objection to this, and it's with respect
6 to -- nor Staff has an objection. It is with respect
7 to issues 10A through 10C. And there's one page of
8 one exhibit which has confidential information in it,
9 and we're required to inform you of that according to
10 Page 3 of the prehearing order, and we can point that
11 out when we get to the exhibits.

12 COMMISSIONER CLARK: Okay.

13 MR. STONE: Commissioner, you were asking of
14 changes to the first six pages.

15 COMMISSIONER CLARK: Correct.

16 MR. STONE: I would note that on this
17 prehearing order my name is misspelled again. I will
18 notify Staff about the corrections.

19 COMMISSIONER CLARK: How is it misspelled?

20 MR. STONE: The same way my father-in-law
21 did several years ago. It's supposed to be
22 J-E-F-F-R-E-Y.

23 COMMISSIONER CLARK: Okay. Mr. McGee, any
24 changes?

25 MR. MCGEE: No, ma'am.

1 **COMMISSIONER CLARK:** Mr. Stone, other than
2 that, any changes?

3 **MR. STONE:** Not in the first three pages.

4 **COMMISSIONER CLARK:** Mr. Childs?

5 **MR. CHILDS:** We have no changes.

6 **COMMISSIONER CLARK:** Mr. Hoffman?

7 **MR. HOFFMAN:** No changes.

8 **COMMISSIONER CLARK:** Mr. Howe?

9 **MR. HOWE:** No changes.

10 **COMMISSIONER CLARK:** Ms. Kaufman?

11 **MS. KAUFMAN:** No changes.

12 **MR. WILLIS:** Commissioner Clark, On Page 5
13 we would like to add the names of Mark J. Hornick,
14 H-O-R-N-I-C-K.

15 **COMMISSIONER CLARK:** Mr. Willis, I'm having
16 trouble hearing you. Can you give me that information
17 again?

18 **MR. WILLIS:** It's Mark J. Hornick appearing
19 for TECO on Issues 10A, 10B, and 10C.

20 **MS. PAUGH:** Would you spell that last name,
21 please, Mr. Willis?

22 **MR. WILLIS:** H-O-R-N-I-C-K.

23 **MS. PAUGH:** Thank you.

24 **MR. WILLIS:** And Dierdra Brown,
25 D-I-E-R-D-R-A, A. Brown; TECO issues 10A, 10B, and

1 10C. Mr. Hornick's middle initial is "J".

2 **COMMISSIONER CLARK:** This is not the
3 supplemental testimony, is it?

4 **MR. WILLIS:** Yes, it is the supplemental
5 testimony.

6 **COMMISSIONER CLARK:** Staff, have you agreed
7 to the supplemental testimony?

8 **MS. PAUGH:** We have, Commissioner.

9 **COMMISSIONER CLARK:** Okay.

10 **MS. PAUGH:** We also have a question of
11 Mr. Willis. Will Mr. Burkhardt also continue to
12 testify on Issues 10A, 10B? I assume he will testify
13 on 10B and 10E regardless.

14 Are the new witnesses supplanting
15 Mr. Burkhardt, or are they in addition to?

16 **MR. WILLIS:** They are in addition to.
17 Mr. Burkhardt's testimony can be supplanted with
18 respect to 10A and 10B, and I don't think there's an
19 issue with respect to 10 -- (inaudible) --

20 (Reporter requested clarification.)

21 There is not an issue in controversy with
22 respect to 10D and E.

23 **COMMISSIONER CLARK:** Let me ask this: Do we
24 need to make that change? I mean, is it necessary to
25 not allow that testimony into the record?

1 **MS. PAUGH:** No, it's not necessary. We
2 can -- are you talking about the supplemental
3 testimony?

4 **COMMISSIONER CLARK:** No. I'm talking about
5 Mr. Burkhardt.

6 **MS. PAUGH:** We can leave it in the record as
7 is. That's no problem.

8 **COMMISSIONER CLARK:** Okay. Staff, do you
9 want us to go issue by issue?

10 **MS. PAUGH:** Yes, please.

11 **COMMISSIONER CLARK:** All right. Issue 1;
12 are there any changes to Issue 1?

13 **MS. PAUGH:** I have a question of Florida
14 Power & Light. If they would agree to Staff's
15 number --

16 **UNIDENTIFIED SPEAKER:** Yes.

17 **MS. PAUGH:** -- Issue 1 can therefore be
18 stipulated.

19 **COMMISSIONER CLARK:** Issue 2.

20 **MS. PAUGH:** Addressed to Florida Power
21 Corporation; if they can agree to Staff's number, this
22 issue can be stipulated.

23 **MR. MCGEE:** Yes, we concur with the number
24 of Staff shown on Page 8.

25 **MS. PAUGH:** With respect to Issue 3 --

1 **COMMISSIONER CLARK:** Issue 2 can be
2 stipulated; is that right?

3 **MS. PAUGH:** Yes, Commissioner.

4 **COMMISSIONER CLARK:** Okay. Issue 3.

5 **MR. MCGEE:** Same stipulation I think applies
6 to FPC.

7 **MS. PAUGH:** Thank you, Mr. McGee. This
8 issue can be stipulated except with respect to Tampa
9 Electric Company. The Tampa Electric Company amount
10 is dependent on the answers to Issues 10B and 10C, and
11 it appears that those issues will be going to hearing
12 on the 23rd.

13 **COMMISSIONER CLARK:** Okay.

14 **MR. WILLIS:** What I would suggest -- maybe I
15 want to come back to this issue after we've gone all
16 the way through, and then perhaps we can work out a
17 stipulation with respect to that, if it simplifies
18 things.

19 **COMMISSIONER CLARK:** Sounds okay to me.
20 Issue 4.

21 **MS. PAUGH:** The same is true with respect to
22 Issue 4. All of it can be --

23 **COMMISSIONER CLARK:** Can you identify where
24 that's coming from?

25 (Technical difficulties.)

1 **COMMISSIONER CLARK:** Issue 4.

2 **MS. PAUGH:** With respect to Issue 4,
3 everything can be stipulated except Tampa Electric
4 Company for the same reason the resolution of issues
5 10B and 10C may affect it, so we may wish to TP 4.

6 **COMMISSIONER CLARK:** Issue 5.

7 **MR. WILLIS:** Tampa Electric can agree with
8 Staff's position on Issue 5.

9 **MS. PAUGH:** This issue can be stipulated.

10 **COMMISSIONER CLARK:** Issue 6.

11 **MS. PAUGH:** This issue can be stipulated.

12 **COMMISSIONER CLARK:** Issue 7.

13 **MS. PAUGH:** This issue can be stipulated,
14 except with respect to Tampa Electric Company. The
15 10B and 10C issues will inform the resolution of this
16 issue.

17 **MR. WILLIS:** We would like to come back to
18 that one as well. That would be 3, 4 and 7.

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

20 **COMMISSIONER CLARK:** Issue 8.

21 **MS. PAUGH:** This issue can be stipulated.

22 **COMMISSIONER CLARK:** Issue 9A.

23 **MS. PAUGH:** I'm sorry, Commissioner. We
24 need to go back to Issue 8.

25 **MR. WILLIS:** Tampa Electric will agree with

1 Staff's number with respect to Issue 8, which is -- as
2 I understand, it is -- could you tell me what -- state
3 the number and I'll --

4 MR. BOHRMANN: I believe the right number
5 would be 1.00072.

6 MR. WILLIS: Tampa Electric agrees.

7 COMMISSIONER CLARK: Issue 9A.

8 MS. PAUGH: With respect to Issue 8, Staff
9 has advised all of the parties in this docket
10 affected, and I believe that's Tampa Electric Company,
11 Florida Power Corporation, FPC -- is that right --
12 Florida Power & Light -- that the regulatory tax
13 factor will be changing, and that will change these
14 numbers.

15 We don't have those figures now, but we'll
16 get in touch with the parties to make sure that they
17 understand what we're doing in advance of issuing the
18 order.

19 COMMISSIONER CLARK: Okay. Issue 9A.

20 MS. PAUGH: Issues 9A through 9D, as in dog,
21 can be stipulated if Florida Power Corporation will
22 accept Staff's wording.

23 COMMISSIONER CLARK: On what? All of them?

24 MS. PAUGH: On all of them.

25 MR. MCGEE: Yes; that is acceptable to

1 Florida Power.

2 **COMMISSIONER CLARK:** Show 9A through D
3 stipulated. Issue 10A.

4 **MR. WILLIS:** It would appear that Issue 10A,
5 although it is in a series of issues with respect to
6 Tampa Electric, that Issue 10A is not in controversy.

7 **MS. PAUGH:** That's correct, Commissioner.
8 10A can be stipulated.

9 **COMMISSIONER CLARK:** Okay. 10B.

10 **MS. PAUGH:** On Issue 10B Staff has requests
11 for discovery still outstanding with Tampa Electric
12 Company on the Btu issue. In addition, Staff needs to
13 review the supplemental testimony that Tampa Electric
14 Company has motioned to file.

15 **COMMISSIONER CLARK:** This is on 10B?

16 **MS. PAUGH:** That's correct. So this issue
17 cannot be stipulated. It is anticipated that it will
18 go to hearing.

19 **MR. WILLIS:** We are filing the responses to
20 that discovery. We hope that during the course of
21 this week that in review of our testimony and so
22 forth, that some progress can be made on that; but we
23 understand the posture of those issues at this moment.

24 **COMMISSIONER CLARK:** Okay.

25 **MS. PAUGH:** Mr. Willis, when do you

1 anticipate filing the discovery?

2 MR. WILLIS: We plan to do it today.

3 MS. PAUGH: Okay. Thank you.

4 COMMISSIONER CLARK: So we should just skip
5 over Issues B, C and D?

6 MR. WILLIS: Issue 10D I think can be
7 stipulated.

8 MS. PAUGH: That's correct, Commissioner.

9 COMMISSIONER CLARK: Okay.

10 MR. WILLIS: As well as 10E.

11 MS. PAUGH: That's correct, Commissioner.

12 COMMISSIONER CLARK: 10F?

13 MS. KAUFMAN: Commissioner Clark, on 10C
14 FIPUG would like to change its position to "yes".

15 COMMISSIONER CLARK: Okay. I assume Staff
16 will get with OPC and FIPUG if they are stipulating
17 this issue.

18 MS. PAUGH: Certainly.

19 MR. WILLIS: With respect to Issue F, Tampa
20 Electric can agree with Staff, and that should
21 stipulate that issue.

22 MS. PAUGH: Does Tampa Electric Company
23 accept Staff's wording?

24 MR. WILLIS: Yes.

25 MS. PAUGH: Okay. Thank you.

1 COMMISSIONER CLARK: Issue 11A.

2 MS. PAUGH: 11A can be stipulated.

3 COMMISSIONER CLARK: 11B.

4 MS. PAUGH: This issue can be stipulated.

5 COMMISSIONER CLARK: 12A.

6 MS. PAUGH: Apparently three attachments did
7 not become incorporated into the draft prehearing
8 order. Those attachments have been made available
9 today and will be part of the prehearing order. They
10 are for FPC, TECO and Staff's attachment.

11 COMMISSIONER CLARK: And what?

12 MS. PAUGH: Staff's attachment.

13 COMMISSIONER CLARK: Okay.

14 MR. WILLIS: That issue can be stipulated.

15 MS. PAUGH: That's correct. I'm sorry.

16 COMMISSIONER CLARK: 12B.

17 MS. PAUGH: This issue can be stipulated.

18 The attachments relate to this issue as well.

19 COMMISSIONER CLARK: Issue 13.

20 MS. PAUGH: If Florida Power & Light Company
21 accepts Staff's wording, this issue can be stipulated.

22 MR. CHILDS: We do.

23 COMMISSIONER CLARK: Issue 14.

24 MR. WILLIS: Tampa Electric will accept
25 Staff's position with respect to Issue 14.

1 MS. PAUGH: With that, it can be stipulated.

2 COMMISSIONER CLARK: Issue 15.

3 MS. PAUGH: This issue can be stipulated,
4 but Staff recommends that Florida Power & Light's
5 language be used.

6 COMMISSIONER CLARK: Issue 16.

7 MS. PAUGH: This issue can be stipulated.

8 COMMISSIONER CLARK: Issue 17.

9 MR. WILLIS: It would appear this issue
10 could be stipulated.

11 MS. PAUGH: I believe there was some
12 question about Florida Power Corporation's numbers.
13 Do they accept Staff's figures?

14 MR. GUYTON: Yes, that's correct.

15 MS. PAUGH: In that case, this issue can be
16 stipulated.

17 MR. HOWE: Excuse me, Commissioner Clark.
18 On Issue 17, what is the reason for the disagreement?
19 The reason I'm concerned is Staff is apparently giving
20 the company a bigger overrecovery -- underrecovery than
21 the company is asking for.

22 MS. PAUGH: I believe it was just a -- like
23 a clerical error.

24 MR. HOWE: Is that the nature of it?

25 MS. PAUGH: That was my understanding, yes.

1 **MR. HOWE:** Mr. McGee, is that correct?

2 **MR. MCGEE:** Roger, my understanding is that
3 the difference in the numbers had to do with how the
4 true-up figures were calculated for the two periods
5 that were involved, and that the overall number was
6 never in disagreement, but it was just a matter of how
7 those numbers were expressed.

8 **MR. HOWE:** All right. Thank you. I will
9 not oppose any stipulation.

10 **COMMISSIONER CLARK:** Issue 18.

11 **MS. PAUGH:** This issue can be stipulated.

12 **COMMISSIONER CLARK:** Issue 19.

13 **MS. PAUGH:** This issue can be stipulated.

14 **COMMISSIONER CLARK:** Issue 20.

15 **MS. PAUGH:** This issue can be stipulated.

16 **COMMISSIONER CLARK:** That's it; right?

17 **MR. WILLIS:** Yes; although on the exhibit
18 list on Page 45 I need to list Witness Hornick.

19 **COMMISSIONER CLARK:** I'm sorry?

20 **MR. WILLIS:** I need to list an exhibit for
21 Witness Hornick, H-O-R-N-I-C-K, TECO; and we've
22 designated it MJH-1.

23 **COMMISSIONER CLARK:** Do you have a short
24 title?

25 **MR. WILLIS:** Let me give it to Staff.

1 **COMMISSIONER CLARK:** That will be fine.

2 **MR. WILLIS:** And the other one is Witness
3 Brown, TECO, DAB-1, and I'll also give the title to
4 Staff.

5 **COMMISSIONER CLARK:** Okay. Now, Staff, do I
6 have to grant the motion to file the supplemental
7 testimony?

8 **MS. PAUGH:** That will be fine.

9 **COMMISSIONER CLARK:** I'll grant the motion
10 by Tampa Electric Company to file -- there being no
11 objection to the motion to file supplemental
12 testimony, the motion is granted.

13 **MS. PAUGH:** (inaudible)

14 **COMMISSIONER CLARK:** Is your mike on? Get
15 right in front of it.

16 **MS. PAUGH:** We have temporarily passed on
17 Issues 3, 4, and 7. Do we wish to readdress those at
18 this time?

19 **MR. WILLIS:** Yes. I would like to readdress
20 those. It would appear that the only issue that's
21 left with respect to Tampa Electric is the Gatliff Btu
22 adjustment issue. And it would -- I think it would be
23 expedient to approve the particular factors and
24 proposals that Tampa Electric has proposed, but to do
25 so with a proviso that any adjustment that may be

1 required as a result of Tampa Electric specific Issues
2 10B and C, with respect to Tampa Electric's purchase
3 of coal from Gatliff Coal Company will be made in a
4 true-up component at the next fuel recovery hearing,
5 and that way we can simplify the hearing further with
6 respect to the presentation.

7 I have a proposed wording that I could
8 provide to the parties. (Handing out documents.)
9 (Pause)

10 **MS. PAUGH:** Commissioners, Staff, has had an
11 opportunity to review the proposed stipulation of
12 Tampa Electric Company and cannot agree with it.

13 The reason we cannot agree with it is that
14 if, because of these issues, there's a disallowance of
15 Tampa Electric Company, we feel that the ratepayers
16 should not have to wait a full year to receive those
17 dollars.

18 **MR. HOWE:** Commissioner Clark, I would
19 concur with Ms. Paugh's statements, and I would add,
20 the reason we're having the hearing in November is so
21 that we can get the factor right for January through
22 December. I can see no valid reason to wait until
23 next year.

24 **MR. WILLIS:** Well, what I would suggest that
25 we do is that perhaps we could still accomplish the

1 same goal, and what I'd like to do is excuse -- we've
2 got Witness Keselowsky would be excused. I'd like to
3 excuse Karen Zwolak, Rod Burkhardt, and go -- present
4 witnesses of Mark Hornick and Dierdra Brown, and then
5 if necessary, we could -- I mean, if after hearing
6 there's an adjustment, we can then just provide that
7 calculation.

8 **COMMISSIONER CLARK:** It strikes me that once
9 you decide the issue, that it's a mathematical
10 calculation, so we could just hear the issue -- the
11 witnesses we need to and then make the calculation.
12 There should be no disagreement.

13 **MR. WILLIS:** Right.

14 **MS. PAUGH:** There's no problem with that.

15 **MR. WILLIS:** Okay. That's fine.

16 **MS. KAUFMAN:** Can Mr. Willis clarify which
17 witnesses those will be?

18 **COMMISSIONER CLARK:** I think Mr. Hornick and
19 Ms. -- is it Mr. Hornick?

20 **MR. WILLIS:** Mr. Hornick and Ms. Brown will
21 be the witnesses that would testify.

22 **MS. KAUFMAN:** What about Mr. Burkhardt?

23 **MR. WILLIS:** Well, as I understand, we would
24 not present Mr. Burkhardt. We would understand that
25 with respect to the Gatliff issues, it's not with any

1 prejudice with respect to either one of those issues,
2 but we would not present him; just those two.

3 It's really subsumed in Witness Hornick's
4 testimony with respect to Gatliff, and we hope that --
5 you know, by the review of this material during this
6 week, that we can perhaps make some progress between
7 us with respect to these issues.

8 **COMMISSIONER CLARK:** Ms. Kaufman, would you
9 have questions for Mr. Burkhardt?

10 **MS. KAUFMAN:** At this point, Commissioner
11 Clark, I don't know, because I only noted that he is
12 listed here for Issue 10B, but I can't tell you that I
13 recall his testimony with enough detail to let you
14 know that, but I will commit to review it and let
15 Mr. Willis know.

16 **COMMISSIONER CLARK:** Well, I suppose the
17 alternative is to strike his testimony that relates to
18 that because it's not necessary.

19 **MR. WILLIS:** Or we can have Witness Hornick
20 adopt his testimony with respect to Gatliff.

21 **COMMISSIONER CLARK:** I think the objective
22 is not to have Mr. Burkhardt here, because he doesn't
23 necessarily add to the resolution of the two issues.

24 **MS. KAUFMAN:** Well, I think that if there's
25 another witness that can address any issues that he

1 has addressed in his prefiled testimony, I wouldn't
2 object.

3 **COMMISSIONER CLARK:** Okay.

4 **MR. HOWE:** Commissioner Clark, on this point
5 can it be understood among the parties that
6 Mr. Burkhardt's prefiled direct testimony, if entered
7 into the record as though read, will not form any part
8 of the evidentiary basis for a Commission decision on
9 the two issues that remain?

10 **MR. WILLIS:** We would have no objection to
11 that. What -- Roger, with respect to just adopting
12 it, however, it would become a part of the testimony
13 of Witness Hornick; is that --

14 **MR. HOWE:** Well, I understand -- the problem
15 with adopting it, I'm concerned that we'll be faced
16 with a witness who's adopting testimony he's not that
17 familiar with. So my point is just if you want to put
18 Mr. Burkhardt in the record as though read, I don't
19 object as long as it's understood that it won't form
20 any basis for the Commission's decision on the two
21 issues which remain.

22 **COMMISSIONER CLARK:** Do you have
23 cross-examination for him, Mr. Howe?

24 **MR. HOWE:** I don't plan on any, but I don't
25 want to find that -- cross-examination for Mr. Hornick

1 and Ms. Brown, that anybody is relying on somebody
2 else's evidence. I just want the record to be clear.

3 **MR. WILLIS:** Well, Mr. Hornick can answer
4 any questions with respect to that.

5 **MR. HOWE:** So where are we on the status of
6 Mr. Burkhardt's testimony on Issue 10D?

7 **MR. WILLIS:** What I would propose is that
8 Mr. Hornick adopt that portion of his testimony and
9 that Mr. Burkhardt be excused.

10 **MR. HOWE:** So that part of Mr. Burkhardt's
11 testimony would not be introduced, then, through
12 Mr. Burkhardt; is that correct?

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

14 **MR. HOWE:** I'll agree to that.

15 **COMMISSIONER CLARK:** Are we going to work
16 the language out in the prehearing order that makes
17 all that clear?

18 **MR. WILLIS:** Yes, we are.

19 **COMMISSIONER CLARK:** Okay. I presume you'll
20 have pages and lines to indicate which will be adopted
21 by Mr. Hornick.

22 **MR. WILLIS:** Okay.

23 **MS. PAUGH:** Commissioner, Staff has a
24 concern about excusing TECO's witnesses, and that is
25 that witnesses who have sponsored the A schedules

1 which are directly impacted by this proceeding will
2 need to be able to testify to their contents, and I
3 believe that is particularly Witness Zwolak; and Staff
4 does have cross-examination questions.

5 **COMMISSIONER CLARK:** I thought you said it
6 was just a mathematical calculation.

7 **MS. PAUGH:** But to get to there we have to
8 lay the foundation.

9 **MR. WILLIS:** What I would suggest is that
10 Ms. Zwolak be excused and that those questions be
11 directed to Ms. Brown.

12 **MS. PAUGH:** As long as she can answer the
13 questions and is intimately familiar with the
14 A schedules, we'll be fine; but that's where the
15 recovery is sought, so we need to get into the details
16 of the A schedules.

17 **MR. WILLIS:** I understand.

18 **MS. PAUGH:** All right. That's acceptable to
19 Staff.

20 **COMMISSIONER CLARK:** And I presume you'll
21 add language to the prehearing order that clarifies
22 that, and you'll agree to it. If you can't agree to
23 it, let me know.

24 Anything else we need to take up with
25 respect to 01?

1 **MS. PAUGH:** I presume that we leave the TP'd
2 Issues 3, 4 and 7 unstipulated at this time.

3 **COMMISSIONER CLARK:** Well, they'll be
4 stipulated with respect to everyone but TECO.

5 **MS. PAUGH:** Yes, yes. I'm sorry.

6 **COMMISSIONER CLARK:** And 10A -- no. I'm
7 sorry. 10D and E remain?

8 **MR. WILLIS:** No. 10E and F were -- 10D
9 and E were stipulated, and 10F was stipulated, so
10 we're really going to hearing on 10B and C.

11 **COMMISSIONER CLARK:** Okay.

12 **MS. PAUGH:** That's correct, Commissioner.
13 Before we leave the hearing matter, I'd like to make
14 Tampa Electric Company aware for the record of
15 documents for which we will seek official recognition.

16 They are as follows: Order No.
17 PSC-93-0443-FOF-EI, including the stipulation between
18 Tampa Electric Company and the Office of Public
19 Counsel in Docket No. 930001-EI; Order
20 No. PSC-94-1092-FOF-EI, in Docket No. 9400J1-EI; Order
21 No. PSC-95-1089-FOF-EI, in Docket No. 950001-EI; Order
22 No. PSC-96-1172-FOF-EI in Docket No. 960001; Order No.
23 PSC-97-1045-FOF-EI in Docket No. 970001.

24 Thank you.

25 **COMMISSIONER CLARK:** Anything else? (No

1 response.)

2 Okay. With that, we will stipulate the
3 evidence and testimony into the record on Monday with
4 the exception of Hornick and Brown, unless of course
5 between now and then we get an agreement on them and
6 can likewise stipulate their testimony and evidence in
7 the record, and indicate to the Commissioners unless
8 they have an objection to that, that we will stipulate
9 the evidence and testimony into the record on those
10 witnesses, and parties will be excused from the
11 hearing on Monday.

12 **MS. PAUGH:** Okay. Just for clarification,
13 Commissioners, Staff has asked me to reiterate that
14 the regulatory tax factor adjustment will affect FPL
15 FPUC and TECO. I believe they have all agreed to
16 discuss that further with Staff.

17 **MR. WILLIS:** Yes.

18 **COMMISSIONER CLARK:** Sounds good.

19 (Whereupon other dockets were discussed.)

20 - - - - -

21 **COMMISSIONER CLARK:** Okay. Anything else on
22 any of these dockets? (No response.)

23 Mr. Stone, you look like you want to say
24 something. Unless you hurry up, I'm going to adjourn
25 this.

1 **MR. STONE:** No, Commissioner. I was
2 thinking that if there was going to be an 01 hearing
3 with witnesses and there was going to be an 07
4 apparently with Gulf's witness, that we might be able
5 to get a time certain other than 9:30 Monday morning,
6 but I realize that's not practical.

7 So what you saw was a question that I
8 resolved in my own head.

9 **COMMISSIONER CLARK:** Okay. There being
10 nothing further to take up at this time, before I
11 adjourn it, I'll be available to resolve anything to
12 the end that we can shorten up this hearing on
13 Thanksgiving week.

14 And with that, this hearing is adjourned;
15 prehearing is adjourned. Thank you.

16 (Thereupon, the hearing concluded at
17 3:40 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 980001-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 29 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 18th day of November, 1998.

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H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter
(904) 413-6734

Page 1

1 BEFORE THE
2 FLORIDA PUBLIC SERVICE COMMISSION

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5 -----
6 In the Matter of : DOCKET NO. 980001-EI
7 Fuel and purchased :
8 power cost recovery :
9 clause and generating :
 performance incentive :
 factor. :

12 PROCEEDINGS: PREHEARING CONFERENCE

14 BEFORE: COMMISSIONER SUSAN F. CLARK
 Prehearing Officer

16 DATE: Monday, November 16, 1998

17 TIME: Commenced at 1:30 p.m.
18 Concluded at 3:40 p.m.19 PLACE: Betty Easley Conference Center
20 Room 148
21 4075 Esplanade Way
 Tallahassee, Florida22 REPORTED BY: N. RUTKE POTAMI, CSR, RPR
23 Official Commission Reporter24
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