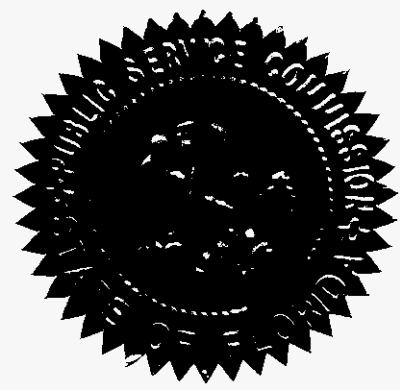


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 090009-EI

In the Matter of:
NUCLEAR COST RECOVERY CLAUSE.



PROCEEDINGS: PREHEARING

COMMISSIONER PARTICIPATING: COMMISSIONER KATRINA J. McMURRIAN
PREHEARING OFFICER

DATE: Thursday August 20, 2009

TIME: Commenced at 9:30 a.m.
Concluded at 11:00 a.m.

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

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
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DOCUMENT NUMBER-DATE

08783 AUG24

FPSC-COMMISSION CLERK

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P R O C E E D I N G S

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2 **COMMISSIONER McMURRIAN:** Okay. Let's call
3 this prehearing to order.

4 And, Mr. Young, will you please read the
5 notice.

6 **MR. YOUNG:** Good morning, Commissioner. By
7 notice issued August 7, 2009, this time and place has
8 been set for a prehearing conference in Docket Number
9 090009-EI. The purpose of the prehearing is set out in
10 the notice.

11 **COMMISSIONER McMURRIAN:** Thank you, Mr. Young.
12 And good morning, everyone. We'll take appearances. I
13 guess we'll start with you, Mr. Anderson.

14 **MR. ANDERSON:** Good morning, Commissioner.

15 **COMMISSIONER McMURRIAN:** Thank you.

16 **MR. ANDERSON:** Bryan Anderson appearing for
17 Florida Power and Light Company.

18 **MS. TRIPLETT:** Good morning. Dianne Triplett
19 appearing for Progress Energy Florida.

20 **MR. REHWINKEL:** Good morning. Charles
21 Rehwinkel on behalf of the Office of Public Counsel.

22 **MR. BREW:** Good morning. James Brew for PCS
23 Phosphate, White Springs.

24 **COMMISSIONER McMURRIAN:** Good morning.

25 **MR. MOYLE:** Good morning. Jon Moyle on behalf

1 of FIPUG.

2 **COMMISSIONER McMURRIAN:** Good morning.

3 **MR. JACOBS:** Good morning. Leon Jacobs on
4 behalf of the Southern Alliance for Clean Energy.

5 **COMMISSIONER McMURRIAN:** Okay. And I
6 understand we have some folks with us on the phone. If
7 they could identify themselves.

8 **MR. WHITLOCK:** Good morning. This is Jamie
9 Whitlock also appearing on behalf of the Southern
10 Alliance for Clean Energy.

11 **COMMISSIONER McMURRIAN:** Thank you,
12 Mr. Whitlock.

13 And, Mr. Young.

14 **MR. YOUNG:** Madam Commissioner, there are
15 several preliminary matters.

16 **COMMISSIONER McMURRIAN:** I was at appearances,
17 sorry.

18 **MR. YOUNG:** I'm sorry, appearances. Keino
19 Young and Anna R. Williams, Commission Staff.

20 **COMMISSIONER McMURRIAN:** Thank you.

21 **MS. HELTON:** Mary Anne Helton, Advisor to the
22 Commission.

23 **COMMISSIONER McMURRIAN:** Okay. Thank you.
24 And now on to preliminary matters, Mr. Young.

25 **MR. YOUNG:** Now we're there. Madam

1 Commissioner, there are several preliminary matters.
2 Staff suggests taking each matter in turn. First, it is
3 staff's understanding that we have an agreement on
4 SACE's motion to leave to file supplemental testimony of
5 Arnold Gundersen. We'll let SACE talk about it.

6 Mr. Jacobs.

7 **MR. JACOBS:** Good morning, Madam Chairman.

8 **COMMISSIONER McMURRIAN:** Good morning.

9 **MR. JACOBS:** Due to discussions, I think we
10 have reached an agreement whereby the exhibit, which
11 really was the essence of the supplemental testimony,
12 was an additional exhibit would be admitted into the
13 record, and there will be an opportunity for
14 Mr. Gundersen to address that exhibit in his opening
15 statement.

16 **COMMISSIONER McMURRIAN:** Okay. In his witness
17 summary?

18 **MR. JACOBS:** Yes, ma'am.

19 **COMMISSIONER McMURRIAN:** Okay. I just want to
20 make sure I understand.

21 So, I guess, Ms. Triplett.

22 **MS. TRIPLETT:** And then the other part of the
23 stipulation -- I agree with that part, and the other
24 part is that Progress' witnesses would be able to
25 address that exhibit in their summaries for their

1 rebuttal testimony.

2 **COMMISSIONER McMURRIAN:** Would it be --
3 Ms. Triplett, would it be one witness?

4 **MS. TRIPLETT:** I believe it would be Mr. Gary
5 Miller and Mr. Hugh Thompson.

6 **COMMISSIONER McMURRIAN:** And, Mr. Jacobs, is
7 that your understanding, as well?

8 **MR. JACOBS:** That's consistent -- that's
9 consistent with my understanding.

10 **COMMISSIONER McMURRIAN:** Okay. And,
11 Mr. Anderson?

12 **MR. ANDERSON:** Just with the clarification,
13 it's understood that that it not being offered into the
14 record as to Florida Power and Light Company, is that
15 correct?

16 **MR. JACOBS:** No, it is being sponsored by
17 SACE.

18 **COMMISSIONER McMURRIAN:** Well, the letter is
19 with respect to Progress Energy, I think is what Mr.
20 Anderson is thinking of.

21 **MR. JACOBS:** I see. As to its impact on
22 Progress Energy, I believe the discussions were only
23 regarding Witness Tibitts (phonetic).

24 **MR. ANDERSON:** Yes. The only point being, it
25 is not being offered or relied upon with respect to any

1 FPL issue, which means we are on the sideline, and we
2 have no problem with what was just described.

3 **MR. JACOBS:** That is our understanding, as
4 well.

5 **MR. ANDERSON:** Then we are fine with that.
6 Thank you.

7 **COMMISSIONER McMURRIAN:** Any other parties
8 want to speak to this?

9 Okay. Mr. Young, what do I need to do with
10 respect to that? Do I need to actually approve that or
11 we just note the agreement of the parties?

12 **MS. HELTON:** It sounds like that we have an
13 agreement, so I think it would be appropriate for you to
14 just note the agreement of the parties.

15 **COMMISSIONER McMURRIAN:** Okay. So noted.

16 **MR. JACOBS:** I'm sorry. I wonder should we
17 file an amended exhibit number on that, or how would you
18 like to do that?

19 **MR. YOUNG:** You can file an amended exhibit
20 and it will be reflected in the prehearing order.

21 **MR. JACOBS:** Very well.

22 **COMMISSIONER McMURRIAN:** It works for me if
23 that works for everyone else. Okay. Thank you.

24 Go ahead, Mr. Young.

25 **MR. YOUNG:** Just for clarification, I want to

1 know if Mr. Jacobs is officially withdrawing his motion
2 for the leave to file supplemental testimony based on
3 the agreement.

4 **MR. JACOBS:** Ore tenus I can communicate that
5 we are withdrawing that. We will file official
6 paperwork to do that.

7 **MR. YOUNG:** Thank you.

8 **COMMISSIONER McMURRIAN:** Thank you.

9 **MR. YOUNG:** Next, Madam Commissioner, just for
10 the record, both FPL and Progress have filed a joint
11 motion -- a joint petition for variance from or partial
12 waiver of Rule 25-6.0432, Subsection (i)(c)(4). Staff
13 recommends that this matter be taken up as a preliminary
14 matter at the hearing.

15 **COMMISSIONER McMURRIAN:** Okay. Everyone's
16 understanding? It looks like it. Okay. Thank you.

17 **MR. YOUNG:** Also, Madam Commissioner, staff
18 would note that the parties -- the parties want to
19 discuss the order of witnesses. The parties have agreed
20 upon an order of witnesses, and staff recommends that
21 the Prehearing Officer approve said order.

22 The order is as follows: FPL's case will be
23 presented in its entirety prior to Progress Energy
24 Florida's case, before Progress Energy Florida's case is
25 being considered.

1 **COMMISSIONER McMURRIAN:** Okay. And I think
2 you said we have agreement with that, but I will just
3 give anyone a chance to speak to that now.

4 Mr. Moyle.

5 **MR. MOYLE:** I was not a party to the
6 discussion, but just a point of clarification, is that
7 going to include direct and rebuttal going in at the
8 same time?

9 **MR. YOUNG:** No, it will not be direct and
10 rebuttal. I think Ms. Kaufman was a part of the
11 discussion. It would not be direct. The order is FPL
12 presents its direct followed by the intervenors, and
13 then FPL would present rebuttal, and the same will be --
14 the order will be the same for Progress Energy Florida,
15 excuse me.

16 **MR. MOYLE:** Okay. That helps. Direct,
17 intervenor, then rebuttal, and then the next company.

18 **MR. YOUNG:** Yes, sir.

19 **COMMISSIONER McMURRIAN:** Okay. It sounds like
20 everyone is on the same page. So I guess we will -- are
21 there any other preliminary matters at this time?

22 Mr. Jacobs.

23 **MR. JACOBS:** We may want to review that.
24 Dr. Cooper will be coming in on Tuesday afternoon, so we
25 may want to take a look at and see if his schedule

1 doesn't permit him to be here in order for the first
2 round of rebuttal, we may want to have his testimony be
3 all-inclusive when he takes the stand in the second
4 round. I'm sorry, rebuttal, I meant intervenor's
5 testimony.

6 **COMMISSIONER McMURRIAN:** Okay.

7 **MR. JACOBS:** It may be irrelevant because the
8 time may work out perfectly. But in that event, we will
9 have discussion with the parties to address that.

10 **COMMISSIONER McMURRIAN:** So when you say
11 Tuesday afternoon, do you mean that he will actually be
12 at the hearing Tuesday afternoon, or his flight -- he
13 wouldn't plan on being here until the next day?

14 **MR. JACOBS:** He will probably be arriving
15 mid-afternoon, so he probably could be here that
16 afternoon late.

17 **COMMISSIONER McMURRIAN:** Okay.

18 Mr. Anderson, do you have any idea whether
19 that will be a problem? I really don't know how long to
20 expect.

21 **MR. ANDERSON:** We definitely have
22 cross-examination of Mr. Copper. We would like to
23 definitely do that in the ordinary order rather than
24 have a portion of the FPL case during the Progress case.
25 That's not where we want to be. I think it will all

1 depend on how much examination people have for direct
2 witnesses Tuesday morning. If we are done with the
3 direct, I think we could probably just take -- you know,
4 whenever Dr. Cooper gets here on Tuesday, we can examine
5 him and be done as to FPL.

6 **COMMISSIONER McMURRIAN:** Mr. Young, any
7 thoughts?

8 **MR. YOUNG:** I think the order -- I think the
9 notice -- all the parties were aware of the date of this
10 hearing. We have a lot of witnesses, and for one
11 witness to be taken out of turn might be problematic in
12 terms of our order of witnesses, and it might be
13 prejudicial to the company in terms of them being given
14 the opportunity to cross-examine Dr. Cooper.

15 So at this time, I'm a little hesitant to
16 recommend that you grant leave to SACE to have Dr.
17 Cooper be taken out of turn, but possibly we can work
18 this out and bring it forward to you at a later time and
19 have it be reflected in the hearing order before it is
20 issued, the final prehearing order.

21 **COMMISSIONER McMURRIAN:** Okay. It sounds
22 like, Mr. Jacobs, that Dr. Cooper will be here Tuesday
23 afternoon, and I would probably be surprised -- I'm
24 optimistic, but I would probably be surprised if we were
25 already at the stage of FPL's rebuttal before Dr. Cooper

1 could get here anyway. So I think --

2 **MR. JACOBS:** I suspect so.

3 **COMMISSIONER McMURRIAN:** -- that will work.

4 But if plans haven't been made -- and this is something
5 I was going to talk about at the end. I mean, you know
6 what our calendar is, and we do have these days
7 scheduled and we really don't have other days. So we
8 need to have the witnesses here and ready to be on board
9 when they are called to the extent we can. We realize
10 sometimes emergencies and all take place, so we will do
11 the best we can, but it sounds like it probably won't be
12 a problem.

13 **MR. JACOBS:** I suspect you're correct.

14 **COMMISSIONER McMURRIAN:** But thank you for
15 letting us know ahead of time.

16 **MR. JACOBS:** Thank you.

17 **COMMISSIONER McMURRIAN:** Okay. Any other
18 preliminary matters before we go through the prehearing
19 order?

20 **MR. ANDERSON:** If I could just clarify. Just
21 exactly as you stated, FPL is happy to work with SACE
22 provided the witness appears during the time of the FPL
23 case. We would strongly object to him being taken up in
24 the context of the Progress as to FPL.

25 **MR. JACOBS:** I understand.

1 **COMMISSIONER McMURRIAN:** Thank you. Any other
2 preliminary matters?

3 Ms. Triplett.

4 **MS. TRIPLETT:** It just occurred to me, can I
5 just confirm that Dr. Cooper is going to stay and also
6 present his testimony with respect to Progress later in
7 the week?

8 **MR. JACOBS:** That is correct.

9 **COMMISSIONER McMURRIAN:** Thank you.

10 **MS. TRIPLETT:** Thank you.

11 **COMMISSIONER McMURRIAN:** Okay. I guess we
12 will proceed through the draft prehearing order. And
13 with respect to these first few sections, we may go
14 through them quickly, so if you have any changes to
15 those sections.

16 Sections I through IV, Case Background,
17 Conduct of Proceedings, Jurisdiction, and Procedure for
18 Handling Confidential Information. Any changes with
19 respect to those? Okay.

20 Hearing none, moving on to Section V, Prefiled
21 Testimony, Exhibits, and Witnesses.

22 **MR. YOUNG:** Madam Commissioner, it is my
23 understanding that PCS Phosphate has a correction under
24 the prefiled testimony and exhibits.

25 **MR. BREW:** Yes, Commissioner. With respect to

1 the issues for Peter Bradford, it should be limited to
2 Issues 21, 21A, 23, 23A, 23B, 30, and 31.

3 **COMMISSIONER McMURRIAN:** Staff, did you get
4 those?

5 **MR. YOUNG:** Yes, ma'am.

6 **COMMISSIONER McMURRIAN:** Okay. All right.
7 And that's actually in Section VI, but we can go ahead
8 and take that up, as well. With respect to Section V,
9 though, Staff, what is your recommendation for the
10 witness summaries?

11 **MR. YOUNG:** Staff recommends that witness
12 summaries be limited to five minutes.

13 **COMMISSIONER McMURRIAN:** Okay. Is everyone --

14 **MR. YOUNG:** Per witness.

15 **COMMISSIONER McMURRIAN:** That's the standard.
16 I see nodding of heads. Okay. And, also, I would like
17 to remind parties that that is the section of the
18 prehearing order that refers to duplicative,
19 repetitious, and friendly cross not being allowed. So I
20 just have that reminder there.

21 Any other changes with Section VI, the order
22 of witnesses or the issues with respect to those
23 witnesses' testimony?

24 **MR. JACOBS:** Madam Chair.

25 **COMMISSIONER McMURRIAN:** Mr. Jacobs.

1 **MR. JACOBS:** If I may go back to Section V for
2 just a moment.

3 **COMMISSIONER McMURRIAN:** Okay.

4 **MR. JACOBS:** This issue continues to raise
5 itself, the duplicative and friendly cross. I would,
6 subject to the discretion of the Chair, wonder if we can
7 get some clarity as to exactly what that is.

8 **COMMISSIONER McMURRIAN:** Ms. Helton, would you
9 like to help us out with that? I could try, but then
10 she will have to correct me.

11 **MS. HELTON:** I was really hoping I wasn't
12 going to have to bring out my treatises today, and I'm
13 not going to bore you all with reading them, but I am
14 going to point you to two sections. One is Professor
15 Ehrhardt's Florida Evidence, I'm looking at the 2009
16 edition in section -- hold on just a second.

17 **COMMISSIONER McMURRIAN:** Okay.

18 **MS. HELTON:** Section 612.1 on Direct
19 Examination, start with paragraph on Page 623, he gives
20 his interpretation concerning what direct or
21 cross-examination should be allowed in cases, complex
22 cases such as this one, where there are multiple parties
23 and multiple sides. Judge Padovano ckkk from the First
24 DCA, in his Florida Civil Practice, and I'm looking at
25 the 2009 Edition, in Section 19.6, the third paragraph

1 gives his thoughts on how we should conduct ourselves in
2 multi-party very complex proceedings where there are
3 multiple sides, and both of them contemplate that when
4 you have parties that are aligned, that there should
5 not -- that the parties who are aligned should not be
6 allowed to cross-examine each others' witnesses.

7 We haven't gone that far here I believe in our
8 language. We have incorporated what is appropriate from
9 the Florida Administrative Procedures Act concerning
10 that repetitious and duplicative cross-examination is
11 not appropriate and shall not be allowed. And we have
12 also contemplated that one party who is aligned should
13 not be able to bolster the testimony of an aligned
14 party's witness when that witness could have testified
15 to that him or herself or the party could have prefiled
16 testimony.

17 This is a means -- as you have noted already
18 today, we have an incredibly full calendar. We have had
19 a lot of complex hearings this year, and this is a means
20 that I think is afforded to you under the APA, the
21 Florida Administrative Code, and the Uniform Rules to
22 expeditiously get through these proceedings and give
23 everyone the rights that are due to them.

24 So we aren't saying that two aligned parties
25 can't cross-examine each other if there's questions or

1 confusion on the record, but if the attempt is to
2 bolster the testimony that has already been filed or
3 something that could have been filed by that party, then
4 I don't think that's appropriate. And I hope that
5 helped.

6 **MR. JACOBS:** Thank you. That helps.

7 **COMMISSIONER McMURRIAN:** Thank you,
8 Mr. Jacobs.

9 Okay. Any other changes to Section VI on the
10 issues identified by the witnesses or the order? And
11 anyone else that has concerns about witnesses being
12 available, if you would let the other parties know that
13 now we would probably be better off. Okay.

14 Hearing none, I guess that takes us to basic
15 positions. Any changes to basic positions?

16 Mr. Rehwinkel.

17 **MR. REHWINKEL:** Yes, Commissioner. Public
18 Counsel needs to add a sentence to our basic position.
19 I can read that now or supply it to counsel for staff.

20 **MR. YOUNG:** Madam Commissioner, before Public
21 Counsel gets to Section VII, staff would like to
22 encourage the parties to work on possibly stipulating
23 the witnesses. It's my understanding that FPL can
24 possibly stipulate staff's witnesses in reference to Mr.
25 Fisher.

1 **MR. ANDERSON:** Yes.

2 **COMMISSIONER McMURRIAN:** Thank you, Mr. Young.
3 I did skip right over that part. So Mr. Fisher. Are
4 there any objections?

5 **MR. YOUNG:** I'm sorry. It's Fisher and Rich.
6 It's joint prefiled testimony.

7 **COMMISSIONER McMURRIAN:** I'm sorry, Mr. Young.
8 Can you repeat that?

9 **MR. YOUNG:** It's Fisher -- It's Lynn Fisher
10 and David Rich, the joint -- staff's joint prefiled
11 testimony.

12 **COMMISSIONER McMURRIAN:** Okay.

13 **MR. YOUNG:** Which addresses Issues 7 and 7A.

14 **COMMISSIONER McMURRIAN:** Okay. So with
15 respect to FPL.

16 **MR. ANDERSON:** We agree, yes.

17 **COMMISSIONER McMURRIAN:** You agree. Any other
18 concerns of any of the other parties about stipulating
19 the testimony? Okay. Hearing none.

20 **MR. REHWINKEL:** Are you asking whether the
21 parties stipulate to the witnesses?

22 **COMMISSIONER McMURRIAN:** I believe so. I
23 think that's what I'm asking.

24 **MR. REHWINKEL:** I didn't realize that was a
25 request, and I --

1 **COMMISSIONER McMURRIAN:** Mr. Young, can you
2 repeat what it is?

3 **MR. REHWINKEL:** No, I understood that. I did
4 not -- I had not had a chance to contemplate that. I
5 did not know that they were going to be seeking that
6 until just now. If I was inattentive, I apologize. And
7 I'm not saying I don't agree, I just need an opportunity
8 to review that issue.

9 **COMMISSIONER McMURRIAN:** We'll give you a
10 chance to look at it. Then we will --

11 **MR. YOUNG:** Not a problem.

12 **COMMISSIONER McMURRIAN:** We don't have to
13 decide that now, right?

14 **MR. YOUNG:** No, ma'am. We just encourage the
15 parties to work on possibly stipulating the witnesses.

16 **COMMISSIONER McMURRIAN:** So if you can just
17 let Mr. Young or Ms. Williams know later, that will be
18 fine.

19 **MR. REHWINKEL:** Okay.

20 **COMMISSIONER McMURRIAN:** And are there any
21 other witnesses proposed for possible stipulation? And,
22 of course, as always, the staff -- after witnesses such
23 as these are identified, staff always checks with the
24 Commissioners to see if they have any questions or
25 concerns about stipulating those witnesses. And if

1 Commissioners have questions, they would not be excused.

2 **MS. TRIPLETT:** Commissioner, I just wanted to
3 know -- we are working on a couple of stipulations, but
4 I don't have agreement from everyone yet. But we will
5 definitely, you know, keep in contact with Mr. Young
6 and, hopefully, get some of them stipulated.

7 **COMMISSIONER McMURRIAN:** Okay. Thank you.

8 Okay. Mr. Rehwinkel, if it's just one
9 sentence, I think you can go ahead and read it into the
10 record. I think that would be good.

11 **MR. REHWINKEL:** Okay. At the end of our
12 position, this would need to be added.

13 **COMMISSIONER McMURRIAN:** So with respect to
14 FPL.

15 **MR. REHWINKEL:** With respect to -- I'm sorry,
16 PEF, I apologize.

17 **COMMISSIONER McMURRIAN:** Okay.

18 **MR. REHWINKEL:** "Additionally, the Commission
19 should place PEF on notice that costs expended prior to
20 the issuance of any license amendment request approval
21 could be subject to further prudence review if the
22 related LAR(s) are denied."

23 **MR. YOUNG:** Can you read that one more time?

24 **COMMISSIONER McMURRIAN:** You could also submit
25 it, as well, but we definitely wanted to get it on the

1 record. But go ahead and read it one more time, Mr.
2 Rehwinkel.

3 **MR. REHWINKEL:** Okay. We changed a word or
4 two from what I had written, so --

5 **COMMISSIONER McMURRIAN:** Well, actually, let's
6 just have you -- if you will just submit it to Mr. Young
7 later, I think that will work then.

8 **MR. YOUNG:** That would definitely work.

9 **COMMISSIONER McMURRIAN:** Thank you. Okay.
10 Any other changes to basic positions? Hearing none.

11 We'll proceed to Issue 1, and I realize that
12 staff has distributed a document with its new positions
13 on several issues. So as we go through these issues
14 one-by-one, we possibly can identify any possible
15 stipulations and whether there might be others. And if
16 there are changes to parties' positions on individual
17 issues, if we --

18 Go ahead, Mr. Rehwinkel.

19 **MR. REHWINKEL:** Commissioner, I would -- I
20 just wanted to ask if the ground rules are going to be
21 the same for hearings, in general, where we have what
22 are called Category I and Category II stipulations. And
23 I think I are where everyone agrees affirmatively, and
24 Category II are where two or more parties agree and the
25 remaining parties might take a no position, indicating

1 they do not object to the stipulation going forward
2 being approved by the Commissioner.

3 **COMMISSIONER McMURRIAN:** To be shown as
4 agreement. Absolutely.

5 **MR. REHWINKEL:** And I am prepared today to
6 make those kind of commitments on especially Category
7 II. And so, if I can do that -- we can do that if that
8 is useful or helpful to the process.

9 **MR. YOUNG:** Yes, it is. I'm not familiar with
10 Category I and Category II. I'm familiar with a partial
11 stipulation, a full stipulation, but I can -- I think I
12 can decipher between both.

13 **COMMISSIONER McMURRIAN:** I have to admit, I
14 never can remember which category is which, but we
15 usually do identify them in the orders when we have a
16 number of parties like this, and we have stipulations
17 among some parties, but the parties don't necessarily
18 want to be noted as being in agreement with the other
19 parties' proposed stipulations.

20 So perhaps we may not want to use Category I
21 and Category II, but to the extent a party wants to
22 retain no position, then I think that that wouldn't
23 signify that you were in agreement with any stipulation
24 that was proposed.

25 **MR. YOUNG:** Not a problem. And all agreements

1 will reflect the parties who are in agreement and the
2 parties who took no position or the parties who opposed
3 the stipulation.

4 **COMMISSIONER McMURRIAN:** Okay. And we can
5 make sure in the prehearing order that's issued that
6 it's clear who agrees to what.

7 **MR. YOUNG:** Yes, ma'am.

8 **COMMISSIONER McMURRIAN:** Okay. And,
9 Mr. Young, is there anything else before we proceed
10 issue-by-issue?

11 **MR. YOUNG:** Yes, ma'am. Staff would note that
12 each party -- each party must take a position by the end
13 of the prehearing conference if they aim to have a
14 position, otherwise the party's position becomes no
15 position. Having said that, there are a few parties
16 that have taken no position at this time on a number of
17 issues. Staff requests that the parties be given leave
18 to take -- if the parties cannot -- if the party's
19 position changes, staff requests that the parties be
20 given leave to take positions at the close of business
21 on Wednesday, August 26th, 2009.

22 It is my understanding that Mr. Rehwinkel has,
23 on Issues 25 through 27, taken no position pending
24 information adduced at hearing, and Ms. Triplett is in
25 agreement to possibly grant leave for a week to work it

1 out and see if Mr. Rehwinkel and Ms. Triplett can reach
2 a compromise on the positions.

3 **COMMISSIONER McMURRIAN:** Okay. That was my
4 understanding, as well, but I will also say that with
5 respect to issues that aren't pending some kind of
6 change in the numbers or something that has just arisen,
7 I'm hoping that people have positions today. So I guess
8 what I'm saying is I don't want to suggest that we are
9 waiting on changes in all positions for Wednesday,
10 August 26th. Is that your understanding, Mr. Young?

11 **MR. YOUNG:** Yes, ma'am. I think I misspoke on
12 that one.

13 **COMMISSIONER McMURRIAN:** Okay. No, I don't
14 think you misspoke. I am just trying to make sure that
15 I am clear.

16 **MR. REHWINKEL:** Just to be clear,
17 Commissioner, there was a late factual change that
18 through no fault of Progress it was brought to attention
19 through a response to staff's discovery and the company
20 has agreed to provide an informal opportunity for us to
21 explore the ramifications of that so that we can be
22 comfortable enough to take a position or no position,
23 and we will do that by a week from today, if not today.

24 **COMMISSIONER McMURRIAN:** Okay. Thank you.

25 **MS. TRIPLETT:** That's right, Commissioner.

1 **MR. YOUNG:** And just for a point of
2 clarification, Madam Commissioner, that is on Issues 25,
3 26, and 27, correct?

4 **MS. TRIPLETT:** Correct.

5 **MR. REHWINKEL:** Those three.

6 **COMMISSIONER McMURRIAN:** Thank you both.
7 Okay. So go ahead and proceed through
8 issue-by-issue?

9 **MR. YOUNG:** Yes, ma'am.

10 **COMMISSIONER McMURRIAN:** Okay. With respect
11 to Issue 1, and I note that that's one of the issues
12 that staff has proposed -- or added its position. Are
13 there any changes to the positions on Issue 1?

14 Mr. Jacobs.

15 **MR. JACOBS:** I'm understanding that staff is
16 proposing their language as a stipulation to this, is
17 that correct?

18 **COMMISSIONER McMURRIAN:** Well, they are
19 proposing their position, and I think whether or not
20 Mr. Anderson is prepared to stipulate to staff's
21 position is up to him. So, I guess --

22 **MR. JACOBS:** I see.

23 **COMMISSIONER McMURRIAN:** -- it's proposed,
24 this is their position, and Mr. Anderson, I guess I will
25 be looking to him to see if they are in agreement with

1 the staff's position.

2 **MR. JACOBS:** Thank you.

3 **MR. ANDERSON:** For Issue 1, FPL has reviewed
4 this. We believe it is accurate and we would accept
5 this.

6 **MR. YOUNG:** Also, Progress Energy Florida is a
7 party to Issue 1, too.

8 **COMMISSIONER McMURRIAN:** Okay.

9 **MS. TRIPLETT:** Yes, it is a legal issue, and
10 we, too, have reviewed it and the staff's proposed
11 stipulated change is acceptable to Progress.

12 **COMMISSIONER McMURRIAN:** Okay. Thank you
13 both. Are there any other changes on positions on Issue
14 1, because I think we would be noting that as a
15 potential stipulation. But to the extent that other
16 parties want to add or change positions at this time.

17 Mr. Rehwinkel.

18 **MR. REHWINKEL:** We will go to no position,
19 period.

20 **COMMISSIONER McMURRIAN:** Okay.

21 **MR. BREW:** PCS will also go to no position.

22 **COMMISSIONER McMURRIAN:** Okay. Thank you,
23 Mr. Brew.

24 **MR. REHWINKEL:** Madam Chairman, let me state
25 for the record that our taking of no position is for the

1 purposes of this hearing and this hearing alone. We
2 don't fully understand the ramifications of this with
3 respect to appropriate AFUDC rates down the road, and
4 there are some legal issues there that we are not fully
5 in understanding of, but for purposes of this hearing
6 our position is no position.

7 **COMMISSIONER McMURRIAN:** Okay.

8 **MR. YOUNG:** And, Madam Commissioner, that will
9 be reflected as a Category II stipulation between
10 Progress Energy Florida, Florida Power and Light, and
11 staff, with the intervenors taking no position.

12 **COMMISSIONER McMURRIAN:** Okay. Mr. Moyle, no
13 position?

14 **MR. MOYLE:** No, I think that works so long as
15 we are all on the same page with respect to the
16 ramifications of the Level II agreement, or Level II
17 issue. I mean, the concern we have expressed both here
18 or other dockets and I have expressed again here is, you
19 know, the word stipulation -- when it says stipulation
20 leads one to think, okay, everybody agreed to this, and
21 that is not necessarily the case.

22 We don't dispute it, don't have an issue with
23 it, we will change it to no position, but I don't want
24 it to be perceived as an agreement or a sign-off to the
25 extent that there later developed an issue and we came

1 back and someone said, wait a minute, you stipulated to
2 it. That is not the case.

3 **COMMISSIONER McMURRIAN:** And the Commissioners
4 will be aware of that. It will be presented by the
5 staff in such a way that the Commissioners will be clear
6 that it is just a proposed stipulation or agreement
7 between those identified parties and that other parties
8 just took no position.

9 Mr. Jacobs, do you want no position?

10 **MR. JACOBS:** No position, period.

11 **MR. YOUNG:** And, Madam Commissioner, it will
12 clearly be reflected in the prehearing order of who
13 agreed to the position -- to the stipulation and who
14 took no position.

15 **COMMISSIONER McMURRIAN:** Okay. Given that, I
16 guess we will show that as a Category II proposed
17 stipulation.

18 Okay. Moving on to Issue 2. Any changes?
19 And to the extent we don't discuss any changes, again,
20 all no positions at this time will become no position.

21 **MR. REHWINKEL:** No position.

22 **COMMISSIONER McMURRIAN:** Okay.

23 **MR. BREW:** No position.

24 **COMMISSIONER McMURRIAN:** Okay.

25 **MR. JACOBS:** No position.

1 **MR. REHWINKEL:** Commissioner, perhaps this
2 will speed things along. Some of us are trying to get
3 back to an Issue ID in a Progress rate case. Silence as
4 far as I am concerned means I revert to no position.

5 **COMMISSIONER McMURRIAN:** Yes, that's what I
6 was -- so if you are shown as no position at this time,
7 it will be changed to no position unless you tell me
8 otherwise, and that will speed this along, I think.

9 With respect to Issue 4, I see that staff has
10 proposed a position on Issue 4.

11 **MR. YOUNG:** Issue 3.

12 **COMMISSIONER McMURRIAN:** Oh, I'm sorry, I did
13 skip 3, didn't I? I apologize.

14 Issue 3. Any changes?

15 **MR. REHWINKEL:** This is one where Public
16 Counsel is not sure about whether this should be an
17 issue in this case or not. And, really, we're -- I
18 think this is more a legal issue, and I don't know that
19 we have formulated our legal position on this one. This
20 is one that I just have to say that we're not prepared
21 to take a position on, because it was -- I think there
22 is some confusion about whether this should be in the
23 rate case docket or in this docket. I don't know where
24 the staff is on that. I just don't know. I think we
25 tend to -- I don't know.

1 **COMMISSIONER McMURRIAN:** I don't either.

2 Mr. Young.

3 **MR. YOUNG:** Madam Commissioner, it does --
4 Issue 3 does affect some of the dollars FPL is
5 requesting to recover through the clause, so thus we --
6 that is the reason why staff has this issue in there.
7 And I think it's relevant -- I mean, I think it is a
8 relevant issue to be teed up, excuse me, for lack of a
9 better word, at this juncture, at this hearing.

10 **COMMISSIONER McMURRIAN:** Mr. Young, is it a
11 legal issue alone?

12 **MR. YOUNG:** It is a legal issue with some
13 policy implications, so I won't say it's a legal issue
14 alone.

15 **COMMISSIONER McMURRIAN:** So is it the type of
16 issue that could just be briefed at the -- I'm not
17 trying to put everyone on the spot. I'm just trying to
18 make sure I understand as well if it is a legal issue or
19 a policy issue. Let me ask it this way. Are FPL and
20 Progress putting on testimony with respect to Issue 3?

21 **MR. ANDERSON:** Yes, we have. We believe it is
22 primarily a legal issue, but we also explain kind of the
23 ins and outs of the significance of the issue.

24 **COMMISSIONER McMURRIAN:** Okay.

25 Ms. Triplett.

1 **MS. TRIPLETT:** Progress would agree, yes.

2 **MR. REHWINKEL:** It seems to me from the Public
3 Counsel's standpoint that I don't know that it is
4 necessary for the administration of justice in this
5 hearing that the parties fully formulate their legal
6 position on an issue. I think we ought to be entitled
7 to brief it. And, you know, after what we've heard at
8 the hearing this is -- I think this is mostly a legal
9 issue, and I think that their testimony is for
10 explication rather than to kind of, you know, say what
11 the issue ought to be. So we would prefer to have the
12 leave to brief this issue in post-hearing if
13 appropriate, and I don't think that would prejudice
14 anybody's rights.

15 **COMMISSIONER McMURRIAN:** Well, I think to the
16 extent it remains an issue it would be available to be
17 briefed. I guess what I'm struggling with is whether or
18 not -- it seems to me that you should have a position
19 going forward. That if you leave no position, that that
20 is not --

21 **MS. HELTON:** I'm not trying to put words in
22 Mr. Rehwinkel's mouth, but what if his position is that
23 he doesn't think this issue is appropriate for this
24 proceeding, which is what it sounds like, and then the
25 parties can brief whether it is and what the outcome

1 should be.

2 **MR. REHWINKEL:** I just don't want to be
3 foreclosed because I haven't formulated, or our office
4 hasn't taken a legal position on this. I don't think we
5 should waive our right to participate in this issue in
6 post-hearing matters.

7 **COMMISSIONER McMURRIAN:** Right. That's what I
8 was suggesting. I am just saying that I don't think you
9 would want to leave your position shown here as no
10 position. You might want to somehow articulate what you
11 have just told us. I don't know. I'm just worried
12 that --

13 **MR. YOUNG:** I think if I can -- if we can give
14 a little background on how this issue came about,
15 because it was initially, and it was going to be
16 proposed in the rate case, and all the parties agreed to
17 move it to this docket. And I'll let Mr. Hinton further
18 elaborate on that.

19 **MR. HINTON:** I'd be happy to. Yes, this is an
20 issue that, like Mr. Young said, was in the rate cases.
21 It addresses whether the statute provides for a
22 particular AFUDC rate to be applied to these -- in this
23 docket. And the issue comes about as to what do you do
24 if that AFUDC rate is different from the company's
25 approved AFUDC rate, whether it should be recorded and

1 accounted for later when the project rolls into rate
2 base or whether there is just a single AFUDC rate to be
3 applied across the board to these projects.

4 Initially, when it was brought up in the rate
5 cases, we thought that that is where it belonged,
6 because it really didn't have an impact on recovery
7 through this clause, because it was dealing with a
8 difference between, you know, what we are dealing with
9 in the clause and what would be handled in rate base
10 later on. But then looking more closely, we realized
11 that actually there is some impact this year for FPL
12 because of some items being put into rate base this
13 year. So we did feel -- we changed our thinking on that
14 and decided that, yes, it actually is appropriate for
15 this docket because it does impact some transition into
16 rate base for FPL this year.

17 **COMMISSIONER McMURRIAN:** And just to be clear,
18 what I was trying to say was I just want it to be clear
19 to the Commissioners when they get the prehearing order
20 that OPC and perhaps other parties don't take no
21 position. They perhaps have a position about whether or
22 not this should be here or whatever position you want to
23 take. I'm not trying to put words in your mouth, I'm
24 just trying to make it where everyone will understand
25 where you all are with respect to this.

1 **MR. BREW:** I would note there may have been
2 discussions with parties in the FPL rate case, but it
3 was never brought up and discussed with parties just to
4 this docket.

5 **COMMISSIONER McMURRIAN:** In this docket.

6 **MR. BREW:** Until it appeared.

7 **MS. HELTON:** Madam Chairman, the order
8 establishing procedure contemplates that you don't have
9 to take a position for good case shown. The discussion
10 I have heard today, it sounds like that the parties
11 truly have not had an opportunity to flesh out where
12 they stand here, so I think this may be one of those
13 times when they are not required to take a position.

14 **COMMISSIONER McMURRIAN:** Okay. Well, let me
15 ask this, though, should they take a position by the
16 August 26th deadline we're talking about, or leave it no
17 position throughout the hearing? I guess that's my
18 confusion. I don't have any problem with them waiting,
19 and I'm not sure if I have any problem with them taking
20 no position throughout. I just want to be clear.

21 **MR. YOUNG:** Madam Chairman -- I mean, Madam
22 Commissioner, excuse me, this issue was in the issue ID
23 meeting. This issue was brought up, raised, the parties
24 discussed it at the Issue ID meeting. Staff has sent
25 out a proposed list of issues, I think going on three

1 weeks now. So I would recommend that the parties take a
2 position by Wednesday, August 26th, because of the
3 length of time that the parties have had to contemplate
4 this issue. We have testimony on this issue. It
5 affects FPL's rate -- the possible dollars FPL can
6 possibly recover through the clause this year. So staff
7 will recommend that you make a ruling that the parties
8 have a position by the 26th of August, 2009.

9 **COMMISSIONER McMURRIAN:** Mr. Brew.

10 **MR. BREW:** Given that at least with respect to
11 Progress they framed it as a statutory matter, I would
12 support OPC's notion that the parties be allowed to
13 brief it.

14 **MR. MOYLE:** On behalf of FIPUG, we would also
15 want the ability to address it in post-hearing briefs.
16 I mean, it's interesting in some respects in that
17 Florida Power and Light says yes and PEF says no. So
18 there is going to be testimony on it from an
19 intervenor's perspective. Having witnesses up would
20 provide the opportunity to explore it a little bit
21 further, and just by taking no position today to be
22 foreclosed from subsequently addressing it, I kind of
23 agree with Mr. Rehwinkel. But, I guess, however you
24 want to do it, I mean, you know, FIPUG would take a
25 position that the AFUDC rate, which has the lowest

1 impact on consumers should be adopted. If that position
2 needs to be stated to preserve the ability to brief it,
3 we would take that, but I would think the better way to
4 do it would just be to allow parties the opportunity to
5 brief it since it does appear largely to be a legal
6 issue. That will be shaped by some testimony, but
7 ultimately it will be a legal issue.

8 **MR. YOUNG:** Just for point of clarification,
9 Madam Commissioner, staff was not suggesting the parties
10 if they take a position today that they wouldn't be able
11 to brief it in post-hearing briefs, just to clarify
12 that. Staff is just saying by August 26th staff
13 recommends that you take a position. That's simple.
14 That's it.

15 **COMMISSIONER McMURRIAN:** I wasn't suggesting
16 that, either, but it does feel like we are all talking
17 past each other, but maybe I'm just confused.

18 Mr. Rehwinkel, if you can help me. Because
19 when you were talking about briefing it, I assumed you
20 meant at the end of the case.

21 **MR. REHWINKEL:** Yes, Commissioner. I think
22 Mr. Keino's suggestion is a fair one. I will say that I
23 do recall this being discussed at the Issue ID, and I
24 know Mr. Hinton expressed an opinion about it. We were
25 not sure where this had landed. It appears to have

1 handed here, and we can provide a position by next week
2 that, you know, will be tentative, and it will also
3 preserve for us the ability to brief this. I think the
4 contrast is rather stark between the two companies here,
5 so there is a dispute as to how to interpret the
6 statute. And it probably would be helpful to the
7 Commission to have the input of the companies and the
8 intervenors as to how this ought to be interpreted,
9 because it's an issue that will live on for years.

10 **MR. HINTON:** Commissioner, if I could clarify
11 something in my dialogue on how this issue came to be.
12 I did leave out something that I realized after I had
13 pushed away from the microphone. Originally, there was
14 discussion about moving this out of the rate cases into
15 this docket. And we initially didn't agree with that,
16 because we didn't feel like it affected recovery in this
17 docket. But we did suggest that parties raise this
18 issue in a motion for declaratory statement. That we
19 agreed that, yes, it didn't actually need to be in the
20 rate case, but it didn't affect things in this clause,
21 so let's deal with it as a declaratory statement.

22 But subsequent to that, shortly thereafter, we
23 realized this -- we caught where it does impact this
24 clause, and then we said, yes, this is the appropriate
25 thing. So while it was discussed, yes, it wasn't

1 necessarily as clear-cut. I just realized that.

2 **COMMISSIONER McMURRIAN:** Okay. And I think --
3 given that, I think parties should have some time to
4 decide how they want to reflect their positions similar
5 to what we were talking about before. I do think it
6 would be helpful instead of retaining no position to
7 have some kind of indication. Again, I'm not trying to
8 tell you what it needs to say or how tentative it can
9 be, I think it just needs to be something beyond no
10 position if you contemplate having one.

11 **MR. JACOBS:** If I may, Madam Chair.

12 **COMMISSIONER McMURRIAN:** Yes, Mr. Jacobs,
13 sorry.

14 **MR. JACOBS:** I think it's instructive to hear
15 staff's background on this because this issue probably
16 doesn't lend itself to just an easy yes or no answer.
17 So, I think while I receive -- and I think it's a good
18 objective to get a position on this statement, on this
19 issue, I think what intervenors are telling you is that
20 we -- there is probably some latitude necessary where a
21 yes or a no, up or down on this needs a deeper answer
22 than that, and so we would want to reflect that in our
23 positions.

24 **COMMISSIONER McMURRIAN:** Well, let me ask a
25 procedural question of the attorney. A party is

1 entitled to, after evidence has been gained at the
2 hearing, to change their position in their briefs
3 regardless, right? I mean, that's already a fundamental
4 right in a sense.

5 **MR. YOUNG:** Yes, ma'am.

6 **COMMISSIONER McMURRIAN:** So to the extent they
7 take a somewhat tentative position by August 26th and
8 they have a firm position after the hearing, they can so
9 note that position in their briefs.

10 **MR. YOUNG:** Yes, ma'am.

11 **COMMISSIONER McMURRIAN:** Okay. I think we're
12 all on the same page, then. Thank you. So everyone
13 will get language to Mr. Young or Ms. Williams by
14 August 26th. Does that work for everyone? Thank you.
15 I think that did help, so I appreciate everyone's
16 cooperation. Okay.

17 Issue 4. We're starting into the FPL specific
18 issues. And, again, I note that the staff has passed
19 out a position on Issue 4. Mr. Anderson.

20 **MR. ANDERSON:** It is agreeable to FPL.

21 **COMMISSIONER McMURRIAN:** Okay. Do other
22 parties want to change their positions on Issue 4, other
23 than the normal? Okay. Hearing none, I suppose we
24 could show that as a Category II stipulation between
25 staff and FPL.

1 **MR. YOUNG:** Yes, ma'am.

2 **COMMISSIONER McMURRIAN:** Okay. And moving on
3 to Issue 5. And I see that staff has proposed a
4 position here, as well.

5 Mr. Anderson.

6 **MR. ANDERSON:** FPL is agreeable to this one,
7 as well.

8 **COMMISSIONER McMURRIAN:** Okay. Are there
9 changes to any of the other parties' positions with
10 respect to Issue 5? Okay.

11 **MR. JACOBS:** I am going to need to reserve our
12 position until the deadline that has been stated because
13 there are some ramifications, I believe, of this to some
14 other issues that we are dealing with. So if you would,
15 we will keep our no position at this point, but I want
16 leave to modify that by the 8/26 deadline.

17 **COMMISSIONER McMURRIAN:** Okay. And your
18 reasoning for that is because you want to be able to
19 contemplate the staff's proposed position? Is that what
20 you are saying, Mr. Jacobs?

21 **MR. JACOBS:** Yes, ma'am.

22 **COMMISSIONER McMURRIAN:** Okay. So by
23 August 26th you will get your position on Issue 5 to the
24 staff?

25 **MR. JACOBS:** Yes.

1 **COMMISSIONER McMURRIAN:** Okay.

2 **MR. YOUNG:** And just for point of -- that is
3 only Mr. Jacobs. FIPUG and OPC takes no position.

4 **COMMISSIONER McMURRIAN:** I understand.

5 Okay. Issue 6. Again, we have a proposed --
6 we have a position proposed by the staff. Mr. Anderson.

7 **MR. ANDERSON:** FPL agrees with staff's
8 position.

9 **COMMISSIONER McMURRIAN:** Okay. Any other
10 changes to parties' positions on Issue 6 other than the
11 no position? Hearing none, I suppose we could show that
12 as a Category II stipulation.

13 **MR. YOUNG:** Yes, ma'am.

14 **COMMISSIONER McMURRIAN:** Okay. Issue 7. Any
15 changes?

16 **MR. MOYLE:** FIPUG would concur with OPC.

17 **COMMISSIONER McMURRIAN:** Okay. Any others?
18 Okay. Issue 7A.

19 **MR. YOUNG:** Just for clarification, sorry for
20 the holdup, Commissioner, but SACE takes no position?

21 **MR. JACOBS:** This is on Issue 7?

22 **MR. YOUNG:** Yes, sir.

23 **MR. JACOBS:** We would say no position.

24 **COMMISSIONER McMURRIAN:** Mr. Young, what we
25 talked about earlier was if no one speaks up, and they

1 have no position at this time, we will just show it as
2 no position.

3 **MR. YOUNG:** Thank you. Sorry about that.

4 **COMMISSIONER McMURRIAN:** That's all right.

5 So, Issue 7A, any changes?

6 Okay. Issue 8, any changes?

7 Issue 8A, any changes?

8 Issue 9. I see the staff has passed out a
9 position on Issue 9. Mr. Anderson.

10 **MR. ANDERSON:** FPL agrees with staff's
11 position on Issue 9.

12 **COMMISSIONER McMURRIAN:** Okay. Any other
13 changes on Issue 9? Okay. I suppose we will show that
14 as a Category II stipulation, as well.

15 Issue 10. I see staff has passed out a
16 position on Issue 10.

17 **MR. JACOBS:** I'm sorry.

18 **COMMISSIONER McMURRIAN:** Mr. Jacobs.

19 **MR. JACOBS:** Issue 9.

20 **COMMISSIONER McMURRIAN:** Okay.

21 **MR. JACOBS:** As I'm looking at that now, we
22 probably want to -- I want to reserve that one, as well,
23 and we will keep it at no position at this time, but by
24 the 26th we will have a final position on that.

25 **MR. YOUNG:** Just for point of clarification,

1 is that because of staff's proposed language?

2 **MR. JACOBS:** Primarily, and my principals
3 haven't had a chance to review that language.

4 **MR. YOUNG:** Okay.

5 **COMMISSIONER McMURRIAN:** Okay. Mr. Jacobs, I
6 suppose -- I guess my only confusion is, is staff's
7 statement is a one sentence position on Issue 9. It
8 just seems to me that parties should be prepared today
9 to take an issue whether or not they have seen -- I
10 guess I see some difference in when staff has taken sort
11 of more detailed positions, especially with respect to
12 these policy issues, but it seems to me that today you
13 should be prepared to take an issue on how you see
14 Issue 9.

15 **MR. JACOBS:** If I did today, Madam Chair,
16 sitting here today, I would probably take a no position.
17 And here is why: This position seems to be a fairly
18 broad and inclusive approval of the matters included
19 there. And because of the breadth of that approval, I'm
20 very concerned about deeper ramifications. So if I were
21 to take a position today, I would probably take a no
22 position.

23 **COMMISSIONER McMURRIAN:** Well, I will go ahead
24 and give you the chance to look at it and consult your
25 client and provide that on August 26th. I guess that

1 was more of an editorial comment.

2 **MR. JACOBS:** No, I understand. I understand.

3 **COMMISSIONER McMURRIAN:** But thank you,
4 Mr. Jacobs. We'll look forward to getting that from you
5 on August 26th.

6 Issue 10. And I see staff has proposed a
7 position on that, as well. So, Mr. Anderson, are you
8 changing your position or not?

9 **MR. ANDERSON:** Let me provide just a little
10 information and see how we go.

11 **COMMISSIONER McMURRIAN:** Okay.

12 **MR. ANDERSON:** Looking at Issue 10, the first
13 paragraph, the numbers check absolutely fine. The
14 second paragraph, we haven't presented the numbers in
15 quite that way in our positions, so we would need to
16 check the numbers. And we don't have any reason to
17 doubt that they are accurate, but we would like to --
18 what I would suggest is that we agree with staff's
19 position, subject to check, and calling back to staff
20 and others if there are any differences in the figures.

21 And then, you know, of course, staff or
22 anybody else would be free to change their mind. But
23 because these are the dollar and cent points, without
24 having a chance to look at the particular, for example,
25 capacity cost-recovery clause over and under and things,

1 I am just not in a position to have done that math here
2 today.

3 **COMMISSIONER McMURRIAN:** That's fine. So for
4 now we will just show staff's position as reflected on
5 the handout, and your position can stay as is and you
6 all can work to see if you can get there or not. But,
7 no, I'm not trying to encourage anyone that they have to
8 make up their mind today about all of this. It is just
9 trying to see if we can identify proposed stipulations,
10 then we will. And if we can't, we can't.

11 **MR. ANDERSON:** Right. And just from a process
12 perspective, Mr. Young, we just want to have people
13 check the numbers. I will get back to staff in this
14 circumstance. And, you know, I expect our position will
15 be that this is fine, but I just wanted to make sure we
16 check it.

17 **MR. YOUNG:** Not a problem.

18 **COMMISSIONER McMURRIAN:** Do any of the other
19 parties have changes to their positions on Issue 10, or
20 want to get language to us on August 26th?

21 Okay. Issue 11. Any changes?

22 Hearing none, Issue 12. Any changes?

23 Hearing none, Issue 13.

24 Hearing nothing, Issue 14. Let's see, the
25 staff has proposed a position on Issue 14.

1 Mr. Anderson.

2 **MR. ANDERSON:** I would like to do the same
3 thing, just check the numbers and get back to staff.

4 **COMMISSIONER McMURRIAN:** Okay. Any other
5 changes at this time?

6 Okay. Issue 15. Here again, staff has
7 proposed a position.

8 Mr. Anderson.

9 **MR. ANDERSON:** I would suggest the same
10 approach, just calling out any --

11 **COMMISSIONER McMURRIAN:** Okay. Any other
12 changes from the parties?

13 Issue 16.

14 Hearing none, Issue 17. And the staff has
15 proposed a position here, as well. Mr. Anderson.

16 **MR. ANDERSON:** That one we do have the
17 information to check it. It is accurate, and we agree
18 with that.

19 **COMMISSIONER McMURRIAN:** So you want to show
20 agrees with staff?

21 **MR. ANDERSON:** Yes, please.

22 **COMMISSIONER McMURRIAN:** Okay. All right.
23 Any other parties?

24 Mr. Jacobs, do you want to maintain your
25 position as noted?

1 **MR. JACOBS:** This is on Issue 16?

2 **COMMISSIONER McMURRIAN:** 17.

3 **MR. JACOBS:** 17, I'm sorry.

4 **COMMISSIONER McMURRIAN:** That's all right.

5 **MR. JACOBS:** Yes.

6 **COMMISSIONER McMURRIAN:** Okay. Anyone else?

7 **MR. JACOBS:** If there is any changes, I will
8 make sure I get it to the staff ASAP.

9 **COMMISSIONER McMURRIAN:** Okay. All right. So
10 we will not show that as a stipulation. We have a
11 disagreement definitely on that issue between SACE and
12 the staff position, at least at this time, I think.

13 **MR. YOUNG:** Just for point of clarification,
14 given the fact that SACE has a position, do you still
15 want to adopt staff's language or do you want to keep
16 your language?

17 **MR. ANDERSON:** Let me see. You know what, let
18 me reconsider that and get back to you along that line,
19 also, if that's okay.

20 **COMMISSIONER McMURRIAN:** Okay. Just take a
21 look, and we will either show it as agrees with staff's
22 or leave the language that's there, just let us know
23 which.

24 **MR. ANDERSON:** Thank you.

25 **COMMISSIONER McMURRIAN:** Issue 18.

1 **MR. ANDERSON:** With a small change in the
2 first line of FPL position.

3 **COMMISSIONER McMURRIAN:** Okay.

4 **MR. ANDERSON:** The figure which says
5 62,792,990 should be 62,789,984. And that's just a
6 brand new corrected number.

7 **COMMISSIONER McMURRIAN:** Okay. 62,789,984?

8 **MR. ANDERSON:** Yes, that's right.

9 **COMMISSIONER McMURRIAN:** Thank you. Any other
10 changes?

11 Okay. Moving on to Progress Energy specific
12 issues. Issue 19. And I see that staff has proposed a
13 position here. So Ms. Triplett.

14 **MS. TRIPLETT:** Staff's proposed language is
15 acceptable to PEF.

16 **COMMISSIONER McMURRIAN:** Okay. So agrees with
17 staff. Any other parties to modify their positions at
18 this time?

19 **MR. BREW:** PCS would have no position.

20 **COMMISSIONER McMURRIAN:** Thank you, Mr. Brew.
21 So I guess we can show that as a Category II
22 stipulation.

23 **MR. YOUNG:** Yes, ma'am.

24 **COMMISSIONER McMURRIAN:** Thank you.
25 Issue 20. Ms. Triplett.

1 **MS. TRIPLETT:** We also agree with staff on
2 Issue 20.

3 **COMMISSIONER McMURRIAN:** Okay. Any other
4 parties?

5 Mr. Brew, to the extent you have these that
6 agree with the position of OPC, do you want --

7 **MR. BREW:** No, it would still move to no
8 position.

9 **COMMISSIONER McMURRIAN:** Okay. No position.

10 **MR. BREW:** Just as OPC's silence moves to no
11 position.

12 **COMMISSIONER McMURRIAN:** Okay. All right.
13 Understood. Thank you.

14 **MR. MOYLE:** And FIPUG is on that same page.
15 Just because we are not verbally saying something, and
16 we take no position at this time, it would, I guess, be
17 treated the same way.

18 **COMMISSIONER McMURRIAN:** Right. I understood
19 that. I guess my confusion was with respect to
20 Mr. Brew's, because you will note, Mr. Moyle, that many
21 of his positions agree with and adopt the position of
22 OPC, which is no position at this time. I just wanted
23 to be clear.

24 Thank you, Mr. Brew.

25 Okay. So that would be identified as well as

1 a Category II stipulation?

2 **MR. YOUNG:** Yes, ma'am.

3 **COMMISSIONER McMURRIAN:** Issue 21.

4 **MR. REHWINKEL:** Commissioner.

5 **COMMISSIONER McMURRIAN:** Go ahead, Mr.

6 Rehwinkel.

7 **MR. REHWINKEL:** The Public Counsel on August
8 18th submitted a revised position on this issue, and I
9 just would ask that it be incorporated. It's a lengthy
10 paragraph.

11 **COMMISSIONER McMURRIAN:** Issue 20 or 21?

12 **MR. REHWINKEL:** I'm sorry, 21. I thought we
13 were on 21.

14 **COMMISSIONER McMURRIAN:** We were. I just
15 wanted to make sure. 21. So August 18th you provided
16 that?

17 **MR. REHWINKEL:** Yes.

18 **MR. YOUNG:** August 26th.

19 **COMMISSIONER McMURRIAN:** No, he was saying
20 that he has already provided something on August 18th
21 that is not incorporated under Issue 21.

22 **MR. YOUNG:** Oh, okay.

23 **MR. REHWINKEL:** Yes, and Dr. Jacobs is the
24 witness.

25 **COMMISSIONER McMURRIAN:** Okay.

1 **MR. MOYLE:** We would agree with OPC.

2 **COMMISSIONER McMURRIAN:** Okay. Thank you,
3 Mr. Moyle.

4 And, Mr. Brew, in this case do you want to
5 maintain agreement with OPC?

6 **MR. BREW:** Yes, Commissioner.

7 **COMMISSIONER McMURRIAN:** Okay. Any other
8 changes to Issue 21?

9 Okay. Issue 21A. Any changes?

10 Hearing none, Issue 22. Ms. Triplett.

11 **MS. TRIPLETT:** We agree with staff's language
12 on Issue 22.

13 **COMMISSIONER McMURRIAN:** Okay. Any other
14 changes besides the normal? Hearing none, I guess we
15 can identify that as a Category II stipulation.

16 Issue 23. Any changes?

17 Hearing none, Issue 23A.

18 Hearing none, Issue 23B.

19 Hearing none, Issue 24. We have a staff
20 proposed position.

21 Ms. Triplett.

22 **MS. TRIPLETT:** We agree with the staff's
23 language on Issue 24.

24 **COMMISSIONER McMURRIAN:** Any other changes?
25 Issue 25. Oh, I didn't identify 24 as a Category II

1 stipulation, did I?

2 **MR. YOUNG:** Yes, ma'am.

3 **COMMISSIONER McMURRIAN:** Okay. We will do
4 that.

5 Okay. Issue 25. Any changes?

6 **MR. YOUNG:** Just for clarification, Madam
7 Commissioner, this is one of the issues that
8 Mr. Rehwinkel is going to e-mail me a position by the
9 26th.

10 **COMMISSIONER McMURRIAN:** Okay.

11 **MR. REHWINKEL:** Correct.

12 **COMMISSIONER McMURRIAN:** And do the other
13 parties want to maintain no position or --

14 **MR. BREW:** PCS has not taken a position on the
15 uprate issues.

16 **COMMISSIONER McMURRIAN:** Okay.

17 **MR. BREW:** So it remains no position.

18 **COMMISSIONER McMURRIAN:** Okay. Mr. Moyle.

19 **MR. MOYLE:** We'd like to reserve the right to
20 see the position that OPC takes, and if in agreement
21 with OPC, take that position when OPC digests those
22 numbers and submits additional information.

23 **COMMISSIONER McMURRIAN:** Okay. Well, do you
24 think you can also let us know by that August 26th
25 deadline, or will you need time beyond when OPC submits

1 theirs?

2 **MR. REHWINKEL:** I will share with Mr. Moyle in
3 advance. I can do that.

4 **COMMISSIONER McMURRIAN:** Okay. Thank you.

5 **MR. JACOBS:** I think we'll take the same
6 position on that. No position at this moment, but we
7 reserve the right to modify by the 26th and consistent
8 with OPC's position.

9 **MR. REHWINKEL:** Same offer.

10 **COMMISSIONER McMURRIAN:** Thank you.

11 Okay. Issue 26, I guess will be the same
12 discussion. We expect to get a revised position on
13 Issues 25, 26, and 27 from the Office of Public Counsel,
14 and perhaps the other parties by August 26th.

15 Okay. So I think that takes us to Issue 28.

16 **MS. TRIPLETT:** Yes, ma'am. And with respect
17 to staff's proposed stipulated language, we are in a
18 similar position to FPL. We can verify some of the
19 numbers, but we just need some more time to check the
20 other numbers. So perhaps we can have by the 26th,
21 although we might be able to get you, you know,
22 clarification on that earlier.

23 **COMMISSIONER McMURRIAN:** Okay. Thank you.

24 **MS. TRIPLETT:** And the same thing for 29, as
25 well.

1 **COMMISSIONER McMURRIAN:** Okay. Any other
2 changes to 28 and 29?

3 **MR. JACOBS:** On 29, just one moment.

4 **COMMISSIONER McMURRIAN:** Okay.

5 **MR. JACOBS:** That's one I think I want to
6 reserve, too. We will keep it at this time no position
7 with the right to comment by the 26th.

8 **COMMISSIONER McMURRIAN:** Okay, Mr. Jacobs.

9 Issue 30. Any changes?

10 Hearing none, Issue 31.

11 Hearing none, Issue 32. Ms. Triplett.

12 **MS. TRIPLETT:** With respect to staff's
13 proposed stipulated language, we think we may be able
14 to, but we want to just give it some more thought, just
15 because there are some moving parts there. So if we
16 could just, perhaps, have until the 26th to let staff
17 know.

18 **COMMISSIONER McMURRIAN:** Okay.

19 **MR. YOUNG:** Madam Commissioner, I see Mr. Brew
20 has taken a position on this Issue 32, too.

21 **MR. BREW:** Commissioner, the PCS position
22 should be to adopt OPC's position, so that should be
23 revised.

24 **COMMISSIONER McMURRIAN:** Okay. Adopt OPC's
25 position for PCS Phosphate.

1 **MR. BREW:** That's correct.

2 **COMMISSIONER McMURRIAN:** Any other changes on
3 32? Mr. Young.

4 **MR. YOUNG:** Just a point of clarification.
5 Does Mr. Brew want it to be adopt OPC's position, or no
6 position, because OPC's position is we do not have a
7 position on determination of carrying costs associated
8 with the voluntary deferral of the cost recovery
9 approved.

10 **MR. BREW:** No. It should be adopt OPC's
11 position for exactly the reasons that is stated by the
12 OPC.

13 **MR. YOUNG:** Okay. Not a problem.

14 **MS. TRIPLETT:** Commissioner, another point of
15 clarification. If we agree to staff's proposed
16 stipulated language, would that make this a Category II
17 stipulation, or maybe a Category III?

18 **COMMISSIONER McMURRIAN:** I think that was why
19 Mr. Young was asking the question of Mr. Brew, just to
20 try to make sure. Because it looks as if OPC has no
21 position, but not quite simply no position. So I guess
22 we need to -- Mr. Rehwinkel.

23 **MR. REHWINKEL:** Yes. I don't think that our
24 position would interfere with the Commission's ability
25 to treat this as a Category II for purposes of granting

1 the alternative relief that Progress seeks.

2 **COMMISSIONER McMURRIAN:** Okay. So we will
3 just wait and see what we get from the parties on the
4 26th.

5 **MR. YOUNG:** Yes, ma'am.

6 **COMMISSIONER McMURRIAN:** Issue 32A. Any
7 changes?

8 Hearing none, Issue 32B. Any changes?

9 And I think that completes our list of issues.

10 **MR. MOYLE:** If FIPUG on 23B could be noted --
11 rather than no position, if we could be noted as
12 concurring with OPC that would be appreciated.

13 **MR. YOUNG:** On --

14 **MR. MOYLE:** 23B.

15 **MR. YOUNG:** 23B.

16 **COMMISSIONER McMURRIAN:** On Page 33,
17 Mr. Moyle?

18 **MR. MOYLE:** Yes.

19 **COMMISSIONER McMURRIAN:** Concur with OPC on
20 23B. Thank you.

21 Any other changes to any of the issues at this
22 time? Okay. I think that moves us to the exhibit list.

23 **MR. YOUNG:** Madam Commissioner, staff would
24 note for the record that we will prepare a Comprehensive
25 Exhibit List consistent with all prefiled exhibits for

1 the purpose of numbering and identifying the exhibits at
2 the hearing. Staff will provide an exhibit list to the
3 party as soon as possible.

4 Staff also intends to prepare a proposed
5 Stipulated Exhibit List, which will be provided to the
6 parties in advance of the hearing. And additional
7 stipulated exhibits containing discovery responses may
8 be added during the hearing, if the parties agree.

9 **COMMISSIONER McMURRIAN:** Okay. Nothing? Move
10 on to Section X, Proposed Stipulations.

11 **MR. JACOBS:** One addition. We would go ahead
12 and note now that we would identify Mr. Gundersen's
13 exhibit as AG-9, pursuant to the stipulation.

14 **COMMISSIONER McMURRIAN:** Which exhibit -- oh,
15 you are talking about the stipulated additional exhibit?

16 **MR. JACOBS:** Yes.

17 **COMMISSIONER McMURRIAN:** Are there any
18 concerns with that? Mr. Jacobs, are you proposing that
19 it's essentially -- you are not proposing that it is
20 essentially added to Mr. Gundersen's testimony, as an
21 exhibit to his testimony, are you? I want to make sure
22 I understand.

23 **MR. JACOBS:** I thought that was the context of
24 the agreement.

25 **COMMISSIONER McMURRIAN:** Is that it, that it's

1 added?

2 **MS. TRIPLETT:** Correct. If that is possible
3 procedurally. If we could just reflect it as, you know,
4 AG-9, and treat it as though he had filed it originally,
5 but there is no additional testimony, there is only the
6 verbal and the summary.

7 **MR. JACOBS:** There is no text added in the
8 testimony, just this exhibit.

9 **COMMISSIONER McMURRIAN:** I understood that. I
10 just wasn't clear on it being identified as one party's
11 exhibit or the others. Okay. So that was where I was
12 confused. Okay. So we will show it as AG-9. It will
13 be added to the list.

14 **MR. YOUNG:** Yes, ma'am. And just for a point
15 of clarification, do you want the title to be NRC
16 Letter? That works for us, a description.

17 **COMMISSIONER McMURRIAN:** I think the Chairman
18 would like that.

19 **MS. TRIPLETT:** If I could, in the proposed
20 supplemental testimony they labeled it NRC Scheduling
21 Letter, 7-28-09, and we are okay with that.

22 **MR. JACOBS:** We can be consistent with that.

23 **COMMISSIONER McMURRIAN:** We tend to like short
24 titles during the hearing, which I will talk about in a
25 minute. But NRC Letter and perhaps the date, I think,

1 would work, the date of the letter.

2 **MR. YOUNG:** So it will be NRC Letter,
3 July 28th, 2009.

4 **COMMISSIONER McMURRIAN:** Does that work for
5 everybody? Thank you.

6 **MR. JACOBS:** That sounds good.

7 **COMMISSIONER McMURRIAN:** Okay. Section X,
8 Proposed Stipulations. I suppose this will reflect the
9 Category II stipulations we have talked about earlier.

10 **MR. YOUNG:** Yes, ma'am.

11 **COMMISSIONER McMURRIAN:** And Section XI,
12 Pending Motions.

13 **MR. YOUNG:** Staff would note the remaining
14 motions are our motions for temporary protective order
15 and each will be addressed by separate written order.

16 **COMMISSIONER McMURRIAN:** That means I have
17 work to do. Thank you, Mr. Young.

18 And, Section XII, Pending Confidentiality
19 Motions. There again, we have several pending
20 confidentiality requests.

21 **MR. YOUNG:** Yes, ma'am. And each will be
22 addressed by separate written order.

23 **COMMISSIONER McMURRIAN:** Okay. Section XIII,
24 Post-hearing Procedures.

25 **MR. YOUNG:** Staff suggests post-hearing

1 positions be limited to 50 words, and post-hearing
2 briefs be limited to 50 pages.

3 **COMMISSIONER McMURRIAN:** Okay. Does that meet
4 with everyone's approval? I see nodding of heads.

5 **MR. JACOBS:** Yes.

6 **COMMISSIONER McMURRIAN:** Great. Thank you.

7 And Rulings section, I guess we need to talk
8 about the opening statements. Staff, do you have a
9 recommendation there?

10 **MR. YOUNG:** Yes, ma'am. Staff suggests that
11 you make a ruling that opening statements, if any,
12 should not exceed five minutes per party.

13 **COMMISSIONER McMURRIAN:** Mr. Brew.

14 **MR. BREW:** Commissioner, I would suggest that
15 given the nature of the issues and the fact that many of
16 them are coming up for the first time, that the opening
17 statements be ten minutes.

18 **COMMISSIONER McMURRIAN:** Okay. Anyone else?
19 Mr. Rehwinkel.

20 **MR. REHWINKEL:** A slight variation on what
21 Mr. Brew has suggested. I would offer our -- we have
22 one witness, and he may have to come down here twice,
23 depending on the length of the hearing and the timing of
24 things. I would prefer that I at least be given five
25 minutes per company, because it is as if we are going to

1 have two different cases all smashed into one hearing.

2 So either ten minutes up front, or five and
3 five, because it is going to be treated as a new -- and
4 I'm not asking that somehow there be an accommodation
5 that, you know, we take him out of order and unravel
6 that sweater, if you will. But I would prefer that we
7 give an -- since we are treating them separately, that
8 we be given an opportunity to address the Commission
9 separately rather than mix them all up at the front.

10 **COMMISSIONER McMURRIAN:** I was contemplating
11 we do opening statements for the FPL case and then
12 before we got into the witnesses on the Progress side
13 that we would do opening statements for the Progress
14 case.

15 **MR. YOUNG:** Yes, ma'am.

16 **COMMISSIONER McMURRIAN:** And that each
17 party -- and you are suggesting each party would have
18 five minutes each time.

19 **MR. YOUNG:** Each time, yes, ma'am. Because it
20 is -- although it's one docket, it's two separate cases.

21 **COMMISSIONER McMURRIAN:** Right. Anyone else
22 on the length of opening statements? Mr. Brew, you
23 believe you need ten minutes for opening statements?

24 **MR. BREW:** Actually, yes. I think in past
25 cases I have rarely used the time allotted.

1 **COMMISSIONER McMURRIAN:** That's true.

2 **MR. BREW:** But in the context here, I think a
3 little bit more than five minutes is appropriate. You
4 have prudence issues that have been deferred, you have
5 the first time talking about the extended scope of the
6 feasibility analysis. I think a little bit more time in
7 the opening statements is warranted.

8 **COMMISSIONER McMURRIAN:** Ms. Triplett.

9 **MS. TRIPLETT:** We were okay with five minutes,
10 but, of course, if Mr. Brew is afforded ten minutes, we
11 would ask --

12 **COMMISSIONER McMURRIAN:** You want ten minutes,
13 as well.

14 **MS. TRIPLETT:** Absolutely.

15 **COMMISSIONER McMURRIAN:** I understand.

16 **MR. MOYLE:** We could probably do it in five
17 minutes, but to support Mr. Brew, it's probably a better
18 start to the proceeding to have them come in under the
19 time frame than run over a five-minute time frame. If
20 you give ten and you come in at seven, it's probably a
21 better tenor than five and it comes in at seven, and you
22 ran two minutes over. But we don't have strong feelings
23 on it.

24 **COMMISSIONER McMURRIAN:** It is probably a good
25 time for me to mention that the -- you see the box here

1 at the Chairman's seat, that we are using that for the
2 hearings now. So to the extent we have ruled on
3 five-minute witness summaries or ten-minute opening
4 statements, he uses that box to indicate whoever is
5 making the statements at the time how much time they
6 have left.

7 Generally with the witness summaries, when you
8 get to the middle light, you have two minutes left.
9 When you get to the red light, time is 30 seconds. And
10 then it blinks when you are done. And then Chris will
11 turn it off, turn the mikes off at five. So if you
12 could, and I didn't mention that earlier, but if you
13 could instruct your witnesses to make sure they stay
14 within the five minutes allotted, that would be helpful
15 and necessary, I would say.

16 I suppose we could do -- let me Mr. Anderson.
17 Mr. Anderson, are you interested in having ten minutes
18 as well on your side, or do you -- or if everyone is
19 fine with respect to FPL on five minutes, we can stay at
20 five minutes with FPL and we could do ten minutes for
21 Progress.

22 **MR. ANDERSON:** If everybody is good for five
23 for FPL, we're good for five.

24 **COMMISSIONER McMURRIAN:** Okay. We will do
25 five minute opening statements per party with FPL, and

1 for Progress we will do ten minutes per party.

2 **MR. BREW:** That's good.

3 **MR. JACOBS:** Thank you, Madam Chair.

4 **COMMISSIONER McMURRIAN:** You're welcome.

5 **MS. TRIPLETT:** Commissioner, can I just ask
6 for -- going back to the possible witness stipulations,
7 could I just ask, perhaps, that everyone could look at
8 that and maybe let others know by next Wednesday, so
9 that we could potentially move that forward and clear up
10 witnesses' calendars?

11 **COMMISSIONER McMURRIAN:** I see nodding of
12 heads. So, thank you, Ms. Triplett.

13 **MS. TRIPLETT:** Thank you.

14 **COMMISSIONER McMURRIAN:** And let's see, I
15 think the only other things -- we had a couple of --
16 staff, could you pass out the sample exhibit cover
17 sheet?

18 **MR. YOUNG:** Yes, ma'am.

19 **COMMISSIONER McMURRIAN:** And at some recent
20 hearings I have noticed that maybe perhaps one way to
21 move things along, and most -- and many of you use
22 these, but because we take a lot of time in identifying
23 the exhibits, marking the exhibits, getting them passed
24 out, I thought that if staff could share a draft of what
25 they often use, if you would use something like this and

1 go ahead and come up with a short title. The Chairman
2 is usually going to ask you for a short title, so please
3 try to think about that ahead of time.

4 I realize that you might identify some
5 exhibits late, that you don't have time to do all of
6 this with, but to the extent that you can, and that
7 helps move us along. We are going to be running short
8 on time. And to the extent that you don't need ten
9 minutes for opening statements, or five minutes for
10 witness summaries, I think that that would help move us
11 along, as well. So I appreciate everyone's cooperation
12 on that.

13 We have already talked about availability of
14 witnesses. With respect to confidential data, if there
15 are going to be any issues with using that at the
16 hearing, of course, let everyone know as soon as
17 possible. And if there are just any procedural issues
18 that come up, please call the staff attorneys, and they
19 will be glad to help with any issues that arise. But I
20 know most of you have practiced here before us many
21 times and are ready to go and make this as efficient as
22 possible. So I appreciate everyone's cooperation today.
23 Do we have anything else before we adjourn?

24 **MR. YOUNG:** Just one item, Madam Commissioner.
25 Staff would request that to the extent the parties'

1 positions change or are added due to the discussion here
2 at the prehearing conference, that they provide any such
3 changes to the staff by the close of business on the
4 26th, August 26th, which is Wednesday, next Wednesday.
5 This is necessary so that the prehearing order can be
6 completed before the hearing.

7 **COMMISSIONER McMURRIAN:** Thank you. And
8 thanks to everyone again for your agreement with respect
9 to the exhibit and the other things that we have noted
10 today. It was a very smooth prehearing.

11 Thank you very much. And this is adjourned.
12 Thank you.

13 (Prehearing adjourned at 11:00 o'clock.)
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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER


COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 24th day of August, 2009.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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