

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 110007-EI

ENVIRONMENTAL COST RECOVERY
CLAUSE.

PROCEEDINGS: PREHEARING

COMMISSIONER
PARTICIPATING: COMMISSIONER RONALD A. BRISÉ
PREHEARING OFFICER

DATE: Thursday, October 20, 2011

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

REPORTED BY: JANE FAUROT, RPR
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4 391, Tallahassee, Florida 32302, appearing on behalf
5 of Tampa Electric Company.

6 JEFFREY A. STONE, ESQUIRE, RUSSELL A.
7 BADDERS, ESQUIRE and STEVEN R. GRIFFIN, ESQUIRE,
8 Beggs & Lane Law Firm, Post Office Box 12950,
9 Pensacola, Florida 32591-2950, appearing on behalf
10 Gulf Power Company.

11 KAREN S. WHITE, STAFF ATTORNEY, and
12 CAPTAIN SAMUEL MILLER, ESQUIRE, Federal Executive
13 Agencies, c/o AFCESA-ULFSC139 Barnes Drive, Suite 1,
14 Tyndall AFB, Florida 32403-5319, appearing on behalf
15 of Federal Executive Agencies.

16 VICKI GORDON KAUFMAN, ESQUIRE and JON C.
17 MOYLE, JR., ESQUIRE, Keefe, Anchors, Gordon & Moyle
18 Law Firm, 118 North Gadsden Street, Tallahassee,
19 Florida 32301, appearing on behalf of Florida
20 Industrial Power Users Group.

21 JOHN T. BUTLER, ESQUIRE, Florida Power &
22 Light Company, 700 Universe Boulevard, Juno Beach,
23 Florida 33408-0420, Florida Power & Light Company,
24 appearing on behalf of Florida Power & Light Co.

25

1 APPEARANCES (continued):

2 GARY V. PERKO, ESQUIRE, Hopping Law Firm,
3 Post Office Box 6526, Tallahassee, Florida 32314,
4 appearing on behalf of Progress Energy Florida, Inc.

5 PATRICIA A. CHRISTENSEN, ESQUIRE and
6 CHARLES REHWINKEL, ESQUIRE, Office of Public
7 Counsel, c/o The Florida Legislature, 111 W. Madison
8 St., Room 812, Tallahassee, Florida 32399-1400,
9 appearing on behalf of the Citizens of Florida.

10 R. ALEXANDER GLENN, ESQUIRE, and JOHN T.
11 BURNETT, Progress Energy Service Company, LLC, Post
12 Office Box 14042, Saint Petersburg, Florida
13 33733-4042, appearing on behalf of Progress Energy
14 Florida, Inc.

15 MARTHA BROWN, ESQUIRE and CHARLIE MURPHY,
16 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard
17 Oak Boulevard, Tallahassee, Florida 32399-0850,
18 appearing on behalf of the Florida Public Service
19 Commission Staff.

20 MARY ANNE HELTON, Deputy General Counsel,
21 Florida Public Service Commission, 2540 Shumard Oak
22 Boulevard, Tallahassee, Florida 32399-0850, Advisor
23 to the Florida Public Service Commission.

24

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P R O C E E D I N G S

1
2 **COMMISSIONER BRISÉ:** Good morning, once again.

3 Today we are going to deal with the prehearing
4 for the clause dockets. Today is October 20th, 2011,
5 and we are going to deal with Docket Numbers 110003-GU,
6 110004-GU, 110001-EI, 110007-EI, 110002-EG. And, I
7 guess, officially I must say that we called this
8 prehearing to order, so I will do that. And I will ask
9 staff to read the notice.

10 **MS. CRAWFORD:** Thank you, Commissioner.

11 Pursuant to notice, this time and place has
12 been set aside for the purpose of conducting a
13 prehearing conference in the following dockets:
14 110001-EI, 110002-EG, 110003-GU, 110004-GU, and
15 110007-EI. The purpose of the prehearing is set forth
16 more fully in the notice.

17 **COMMISSIONER BRISÉ:** Thank you.

18 At this time I will take appearances, and
19 since there are five dockets that we must address today,
20 we're going to take all of the appearances at this time.
21 We are going to from my left to right.

22 **MR. GLENN:** Alex Glenn on behalf of Progress
23 Energy Florida. Also, I will enter an appearance for
24 John Burnett, Dianne Triplett, and Gary Perko in the
25 ECRC docket, as well.

1 **MR. BADDERS:** Good morning, Commissioner.
2 Russell Badders on behalf of Gulf Power
3 Company. With me I have Jeffrey A. Stone and Steven
4 Griffin. We are all appearing on behalf of Gulf Power
5 in the 01, 02, and 07 dockets.

6 **MR. BEASLEY:** Good morning.
7 James D. Beasley and J. Jeffry Wahlen of the
8 law firm of Ausley and McMullen. We are representing
9 Tampa Electric Company in the 01, 02, and 07 dockets.

10 **MR. BUTLER:** Good morning, Commissioner.
11 John Butler, Florida Power and Light Company,
12 appearing in the 01, 02, and 07 dockets. Also appearing
13 for FPL in the 02 docket is Ken Rubin. Thank you.

14 **MS. KEATING:** Good morning, Commissioner.
15 Beth Keating with the Gunster law firm
16 appearing today on behalf of FPUC in the 01 docket, FPUC
17 in the 02 docket, FPUC and Florida City Gas in the 03
18 docket, and FPUC, FPUC Indiantown, Chesapeake, and
19 Florida City Gas in the 04 docket.

20 **MR. McGLOTHLIN:** Do you have a scorecard we
21 can use for that?

22 (Laughter.)

23 Good morning. Joe McGlothlin of the Office of
24 Public Counsel. Also appearing will be Patty
25 Christensen and Charles Rehwinkel.

1 **MS. BROWNLESS:** Good morning. Suzanne
2 Brownless. I am appearing on behalf of the Florida
3 Solar Industries Association in the 02 docket.

4 **MR. CAVROS:** Good morning. George Cavros on
5 behalf of the Southern Alliance for Clean Energy
6 appearing in the 02 docket.

7 **MR. MOYLE:** John Moyle, Keefe Anchors Gordan &
8 Moyle law firm, appearing on behalf of the Florida
9 Industrial Power Users Group, FIPUG. I'd like to also
10 enter an appearance for my colleague, Vicki Kaufman.

11 **CAPTAIN MILLER:** Good morning, Commissioner.
12 I'm Captain Sam Miller. I'm making an
13 appearance on behalf of the Federal Executive Agencies.
14 I am also making an appearance on behalf Karen White for
15 the 01, 02, and 07 dockets.

16 **MR. TAYLOR:** Al Taylor on behalf of PCS
17 Phosphate, I'm also entering an appearance for Jay Brew
18 in the 01 and 02 dockets.

19 **MR. WRIGHT:** Good morning, Commissioner.
20 Schef Wright appearing on behalf of the
21 Florida Retail Federation in the 0001 docket. I would
22 also like to enter an appearance for my partner, John T.
23 Lavia, III, in the fuel docket on behalf of the
24 Federation. Thank you.

25 **MR. HORTON:** Commissioner, Norman H. Horton,

1 Jr. appearing in the 04 docket on behalf of Sebring Gas
2 System, Inc.

3 **MS. BENNETT:** Commissioner Brisé -- oh, I'm
4 sorry.

5 **COMMISSIONER BRISÉ:** I believe we have one
6 other appearance.

7 **MS. CHRISTENSEN:** I believe Mr. McGlothlin
8 also announced me, but Patty Christensen on behalf of
9 Office of Public Counsel.

10 **COMMISSIONER BRISÉ:** Thank you.
11 Staff.

12 **MS. BENNETT:** Lisa Bennett and Martha Barrera
13 on behalf of the Public Service Commission in the 01
14 docket.

15 **MS. BROWN:** Martha Carter Brown and Charles
16 Murphy on behalf of the Commission in the 07 docket.

17 **MS. TAN:** Lee Eng Tan on behalf of the
18 Commission in the 02 docket.

19 **MS. CRAWFORD:** Jennifer Crawford on behalf of
20 the 03 and 04 docket. And, perhaps, Commissioner -- oh,
21 go ahead.

22 **MS. HELTON:** Mary Anne Helton, Advisor to the
23 Commission, in all the dockets.

24 **MS. CRAWFORD:** Sorry about that.

25 It would, perhaps, be appropriate to note for

1 the record that St. Joe Natural Gas Company and Peoples
2 Gas System have requested and received permission to be
3 excused from the prehearing conference.

4 **COMMISSIONER BRISÉ:** Thank you.

5 * * * * *

6 **COMMISSIONER BRISÉ:** All right. We will
7 reconvene at this time, and we will move to Docket
8 Number 110007-EI.

9 And, Ms. Brown, are there any preliminary
10 matters?

11 **MS. BROWN:** Commissioner, I'm not aware of any
12 preliminary matters. I don't know if the parties have
13 any or not.

14 **MS. CHRISTENSEN:** One minor preliminary
15 matter. Patty Christensen with the Office of Public
16 Counsel. If, for appearances, we could reflect Mr.
17 McGlothlin.

18 **COMMISSIONER BRISÉ:** Thank you.

19 **MS. BROWN:** Yes, we will. And also,
20 Commissioner, I think I lost track of Gary Perko's
21 address, and I have him at his old office, so he can
22 provide me with the new information.

23 **MR. PERKO:** Sure. Thank you.

24 **COMMISSIONER BRISÉ:** Does that take care of
25 all the preliminary matters at this time?

1 All right. At this time let's go through the
2 draft prehearing order. I will identify the sections
3 and I want the parties to let me know if there are any
4 corrections or changes that need to be made. We may go
5 quickly through a lot of this, so don't hesitate to
6 speak up if you have a change or correction that needs
7 to be made.

8 Section I, conduct of proceedings. Any
9 changes or corrections? This is sort of backwards. So
10 it should be case background, right?

11 **MS. BROWN:** Yes, I think so. Excuse me.

12 **COMMISSIONER BRISÉ:** Section I, case
13 background. Section II, conduct of proceedings.
14 Section III, jurisdiction. Section IV, procedure for
15 handling confidential information. Section V, prefiled
16 testimony and exhibits, witnesses. Section VI, order of
17 witnesses.

18 Staff.

19 **MS. BROWN:** Commissioners, we expect that most
20 witnesses' testimony and exhibits will be stipulated
21 into the record with the exception of PEF's Witness
22 Foster and Gulf's Witness Vick. The parties will be
23 notified as soon as possible, depending on how the
24 issues flesh out here in the prehearing conference,
25 whether the Commissioners will have any questions for

1 any of those other witnesses, and we will let them know
2 as soon as we can.

3 **COMMISSIONER BRISÉ:** Okay.

4 **MS. BROWN:** The testimony of the excused
5 witnesses will be inserted into the record as though
6 read, and all exhibits submitted with those witnesses'
7 testimony will be identified as shown in Section X of
8 the prehearing order.

9 **COMMISSIONER BRISÉ:** Okay. Thank you.

10 Section VII, basic positions. Section VIII,
11 issues and positions.

12 Staff.

13 **MS. BROWN:** Yes. Commissioner, if I just
14 might by way of information explain that the way these
15 issues are laid out, the generic issues come first.
16 These are the issues that appear every year in the ECRC
17 docket, and the company-specific issues appear last.
18 That's the reverse of what Ms. Bennett does. I just
19 wanted to let you know.

20 With respect to Issue 1, I guess now would be
21 the time to ask OPC and FIPUG if they are going to take
22 any positions on these issues going forward. They
23 haven't -- I've attempted to ask them and not heard from
24 them.

25 **COMMISSIONER BRISÉ:** Okay.

1 **MS. CHRISTENSEN:** Only to the extent that they
2 are impacted by positions that we have taken on a
3 company-specific. And I think if my recollection is
4 correct, there is the CR-3 issue for Progress and there
5 is the turbine issue for Gulf. And otherwise I think
6 for TECO and FPL we would have no position on the
7 remaining issues. But as far as the generic issues are
8 impacted as a fallout of removing dollars from those two
9 projects, then we would take that position, and we can
10 follow up in writing with some sort of written statement
11 to that effect.

12 **MS. BROWN:** That would be very helpful,
13 Commissioner. Issue 10G is the Progress issue, and
14 Issue 11C is the Gulf issue.

15 **MR. PERKO:** Commissioner Brisé, it's my
16 understanding that Issue 1 would not be affected by the
17 resolution of 10G, so I think we might be able to
18 indicate whether they took a position at that time, at
19 this time.

20 **COMMISSIONER BRISÉ:** Okay. It would be
21 helpful as we go through the issues if Progress could
22 state whether CR-3 affects that particular issue. It
23 might help expedite the process.

24 FIPUG.

25 **MR. MOYLE:** Yes, we would agree with OPC that

1 the Crystal River 3 issue that we have talked about in
2 the previous proceeding permeates -- to the extent it
3 permeates some of these issues, our position would be
4 the same that no dollars associated with the Crystal
5 River 3 should be recovered, even though it's now in the
6 environmental clause as compared to the fuel clause.
7 And we also have an issue with recovery of the Gulf
8 turbine through this clause.

9 **COMMISSIONER BRISÉ:** Okay.

10 **MS. BROWN:** If we go through the individual
11 issues, I think we can identify which ones FIPUG and OPC
12 take no position on. But Issue 1, it's my understanding
13 for all four utilities, the outstanding issues in the
14 docket don't affect the numbers for the true-ups for
15 2010.

16 **MR. PERKO:** That is my understanding as well
17 with respect to Progress Energy.

18 **MS. BROWN:** And in that instance, staff has
19 not taken a position, but will now. And staff's
20 position is the same as the numbers reflected by the
21 utilities. So for FPL, for example, I won't go and read
22 them all, \$5,036,426 overrecovery. And we agree, staff
23 agrees with those numbers, and I think then that we can
24 have a stipulated issue for Issue 1.

25 **COMMISSIONER BRISÉ:** Okay. Gulf wanted to --

1 **MR. BADDERS:** Yes. For Gulf, I'm not sure if
2 anyone has taken issue with the 2010 true-up amount.

3 **MS. BROWN:** I don't think so.

4 **MR. BADDERS:** So I believe that one might be
5 possible.

6 **MS. CHRISTENSEN:** I think -- for 2010, I think
7 we can take no position. I think that's correct.

8 **COMMISSIONER BRISÉ:** Okay.

9 **MR. MOYLE:** And to the extent there are no
10 dollars sought for those turbines in 2010, we would
11 agree.

12 **MS. BROWN:** Then it's my understanding that is
13 a stipulated issue.

14 **COMMISSIONER BRISÉ:** All right.

15 **MR. PERKO:** Just for clarification, with
16 respect to Progress, as well?

17 **MR. MOYLE:** I'm not comfortable on Issue 1
18 stipulating to it with respect to the Crystal River 3
19 dollars.

20 **COMMISSIONER BRISÉ:** Okay.

21 **MR. MOYLE:** So we would maintain our position
22 as any dollars associated with the Crystal River 3
23 outage which are included herein should not be
24 recovered.

25 **COMMISSIONER BRISÉ:** Okay. Staff, do we need

1 them to articulate that position in writing to us?

2 **MS. BROWN:** Yes, that would be great, as soon
3 as they can.

4 **MS. CHRISTENSEN:** We will do that.

5 **COMMISSIONER BRISÉ:** Okay.

6 **MS. BROWN:** As to FPL, TECO, and Gulf,
7 however, that issue can be stipulated.

8 **MR. MOYLE:** That's correct.

9 **COMMISSIONER BRISÉ:** Okay. So we have a Type
10 B Stipulation as we would call it.

11 **MS. BROWN:** Yes.

12 **COMMISSIONER BRISÉ:** Like in the last one, for
13 FPL, TECO, and Gulf.

14 **MS. BROWN:** Yes, Commissioner.

15 **COMMISSIONER BRISÉ:** Okay. Moving on to Issue
16 2.

17 **MS. BROWN:** With respect to Issue 2, I need to
18 hear from the parties regarding Gulf and Progress. I
19 don't think that there's any objection to the numbers
20 for Issue 2 for FPL and TECO.

21 **MS. CHRISTENSEN:** OPC would take no position
22 on FPL and TECO. With regards to PEF and Gulf, to the
23 extent that the turbine for Gulf or the CR-3 for PEF,
24 then we would have a position, and we will provide it in
25 writing by Friday.

1 **MR. PERKO:** Just for the record, it's my
2 understanding that the numbers in Issue Number 2 would
3 not be affected by the resolution of Issue 10G.

4 **COMMISSIONER BRISÉ:** Okay. Gulf.

5 **MR. BADDERS:** That may not be the case on
6 Issue 2. I'll have to confirm that.

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

8 **MS. BROWN:** Well, for now, then, let's leave
9 it where there is a Type B Stipulation for FPL and TECO,
10 and then the parties can get back to me with their
11 positions for Gulf and Progress.

12 **COMMISSIONER BRISÉ:** Okay. Are we comfortable
13 with Issue 2?

14 **MS. CHRISTENSEN:** Yes.

15 **COMMISSIONER BRISÉ:** Okay. Moving on to Issue
16 3.

17 **MS. BROWN:** Commissioner, with respect to
18 Issue 3, the staff has requested that Progress and Gulf,
19 the companies that have the outstanding company-specific
20 issues, provide us with two sets of numbers reflecting
21 whichever way the Commission goes on the
22 company-specific issues. And we will in staff's
23 position for this issue reflect that alternative, so it
24 is clear to the Commissioners when we get to the hearing
25 what the numbers will look like. We have received this

1 information from Gulf, and we expect to receive it from
2 Progress shortly. With respect to FPL and TECO, staff's
3 numbers agree with theirs, and we can propose a
4 stipulation for them.

5 **COMMISSIONER BRISÉ:** Okay.

6 **MS. CHRISTENSEN:** We can take no position on
7 FPL and TECO, and to the extent that the numbers reflect
8 the removal of the turbines and the CR-3 costs, we can
9 take no position as to that. And then the other ones we
10 would provide a written position, or however you want to
11 accommodate that.

12 **MS. BROWN:** Right. But, Commissioner, when I
13 prepare the final prehearing order for you, I will
14 clarify that in this issue, and the parties can give me
15 the information.

16 **MS. CHRISTENSEN:** Right. We would certainly
17 take no position with those dollars removed, but with
18 them in there, I will provide the written position.

19 **MS. BROWN:** Right.

20 **COMMISSIONER BRISÉ:** Okay.

21 **MR. MOYLE:** FIPUG would take the same position
22 as OPC.

23 **COMMISSIONER BRISÉ:** Okay. FEA, same position
24 as FIPUG?

25 **CAPTAIN MILLER:** Yes, Commissioner.

1 **COMMISSIONER BRISÉ:** Okay. Gulf, anything?
2 Progress? Okay. So we are comfortable with Issue 3.
3 Moving on to Issue 4.

4 **MS. BROWN:** Commissioner, Issue 4, we have
5 also requested two sets of numbers from Progress and
6 Gulf reflecting the alternatives that the Commission may
7 choose between for those contested issues. The numbers
8 for FPL and TECO staff agrees with, and we will reflect
9 those numbers for Gulf. And if the intervenors would
10 like, we can make the same notation of their position as
11 for Issue 3.

12 **MS. CHRISTENSEN:** That would be correct. No
13 position for FPL and TECO, and no petition with the
14 dollars removed for Progress and Gulf relating to the
15 CR-3 and the turbines. And then we'll provide you a
16 written position for the others.

17 **MR. MOYLE:** The same.

18 **COMMISSIONER BRISÉ:** Okay. That seems to be a
19 consistent position.

20 **MS. BROWN:** Yes, Commissioner.

21 **COMMISSIONER BRISÉ:** All right. Moving on to
22 Issue 5.

23 **MS. BROWN:** Commissioner, this is a standard
24 issue that we have every year. I believe it's a
25 possible stipulated issue, and can reflect in the final

1 prehearing order that it is a stipulation, a proposed
2 stipulation for the Commission to decide on. And if I'm
3 not correct, I would appreciate the parties letting me
4 know.

5 **COMMISSIONER BRISÉ:** Okay. So we will go with
6 the parties one-by-one just letting us know where you
7 are on the possible stipulated issue on Issue 5.

8 **MR. PERKO:** For Progress Energy, we can
9 stipulate that issue.

10 **MR. BADDERS:** As can Gulf.

11 **MR. BEASLEY:** As can Tampa Electric.

12 **MR. BUTLER:** The same for FPL.

13 **MS. CHRISTENSEN:** No position for OPC.

14 **MR. MOYLE:** No position.

15 **CAPTAIN MILLER:** No position.

16 **COMMISSIONER BRISÉ:** All right. Thank you.
17 Issue 6.

18 **MS. BROWN:** Commissioners, staff is okay with
19 the jurisdictional separation factors for all the
20 parties. I believe -- I would like to hear from OPC and
21 FIPUG and FEA, but I believe this can be a stipulated
22 issue.

23 **MS. CHRISTENSEN:** Yes. We would take no
24 position.

25 **MR. MOYLE:** No position.

1 **CAPTAIN MILLER:** No position.

2 **COMMISSIONER BRISÉ:** Okay. And the parties?

3 Okay. We're fine with 6.

4 Issue Number 7.

5 **MS. BROWN:** With respect to Issue Number 7,
6 there are two sets of numbers for Progress, again, that
7 we are going to be receiving, and Gulf, to reflect the
8 issues that are in dispute. With respect to FPL and
9 TECO, staff agrees with the numbers represented here,
10 and we can have stipulations for FPL and TECO, I
11 believe.

12 **MS. CHRISTENSEN:** Correct. OPC would take no
13 motion as to FPL and TECO. And as to Progress and Gulf,
14 we would have no position on the amount that reflects
15 the removal of the turbine and the CR-3 amounts, and the
16 other one we will provide a written response.

17 **MR. MOYLE:** The same position.

18 **COMMISSIONER BRISÉ:** Okay.

19 **CAPTAIN MILLER:** Same position.

20 **COMMISSIONER BRISÉ:** All right. Very good.

21 Moving on to Issue 8.

22 **MS. BROWN:** Commissioner, this is an issue
23 that is in the prehearing every year, and I believe this
24 is a possible stipulated issue unless the parties say
25 otherwise.

1 **COMMISSIONER BRISÉ:** Okay. We'll go down
2 one-by-one, once again, on Issue 8.

3 **MR. BUTLER:** Excuse me, Commissioner Brisé.

4 **COMMISSIONER BRISÉ:** Yes, sir.

5 **MR. BUTLER:** Let me interject. I may be a
6 little bit out of line here, but FPL would like to
7 propose that we stipulate to the language in this docket
8 that we approved as the stipulated language for the
9 corresponding issue in the 01 docket. I will just read
10 that into the record and see if that would be
11 acceptable.

12 The language that was approved for the 01
13 docket reads, "The new factors should be effective
14 beginning with the first billing cycle for January 2012.
15 The first billing cycle may start before January 1,
16 2012, but thereafter the cost-recovery factors should
17 remain in effect until modified by the Commission."

18 **MR. MOYLE:** Could I just ask a question,
19 because I may be able to agree. The removal of the
20 language that I think as originally proposed removes the
21 language that says it would be in effect through
22 December 2012. And I'm curious as to whether there is
23 contemplation that what's approved would go beyond
24 December 2012. Is that the reason for the removal of
25 what appears to be an end date?

1 **MR. BUTLER:** I think the idea is, and
2 certainly the expectation is that they would end on
3 December 31, 2012, or the end of the cycle 2012. I
4 think the idea of the wording in the 01 docket was to
5 cover the remote possibility that for some reason, you
6 know, that a decision got delayed on the new factors,
7 that the factors approved here would stay in effect
8 until modified.

9 **MR. MOYLE:** That sounds like a yes, then. I
10 guess it would flow in through the next year according
11 to the language.

12 **MR. BUTLER:** Yes. In that circumstance, if
13 for some reason there was a delay in the decision on the
14 new factors. I mean, obviously if things happen as
15 expected you would have the modification, whatever was
16 in the new factors would take the place of the ones that
17 had been approved this year.

18 **MR. MOYLE:** Thank you, Mr. Chairman, for
19 allowing that clarification.

20 **COMMISSIONER BRISÉ:** How does that work for
21 you?

22 **MR. MOYLE:** I think it's safer for me to take
23 no position on that rather than to agree to it. Because
24 if I understand what Mr. Butler said, to the extent that
25 there is not action, it may be that there is no recovery

1 of monies, but we'll take no position.

2 COMMISSIONER BRISÉ: Okay. OPC.

3 MS. CHRISTENSEN: OPC would take no position,
4 as well.

5 MS. BROWN: And, Commissioner, my apologies.
6 Mr. Butler and I talked to about this and I missed it.
7 Staff doesn't have any problem with the language since
8 it is already part of the 01 and it probably ought to be
9 consistent.

10 COMMISSIONER BRISÉ: Okay. So, therefore,
11 this would not necessarily be stipulated.

12 MS. BROWN: I think it is stipulated. It
13 would be your Type B Stipulation, and the stipulation
14 would be to the new language that FPL read into the
15 record.

16 COMMISSIONER BRISÉ: Progress, are you
17 comfortable with that language?

18 MR. PERKO: Progress can accept that language,
19 yes.

20 COMMISSIONER BRISÉ: Gulf?

21 MR. BADDERS: Gulf can accept the language.

22 COMMISSIONER BRISÉ: TECO?

23 MR. BEASLEY: Yes, sir.

24 COMMISSIONER BRISÉ: Thank you. So that will
25 be a Type B Stipulation.

1 Issue 9. We are moving into the
2 company-specific issues, so beginning with FPL, Issue 9.

3 **MS. BROWN:** Yes, this is Issue 9A,
4 Commissioner, and I believe this is a stipulated issue
5 if FPL, OPC -- I mean, if OPC, FIPUG, and FEA take no
6 position.

7 **MS. CHRISTENSEN:** OPC takes no position.

8 **MS. BROWN:** If I might, perhaps, speed this up
9 a little bit. My understanding is that all of the
10 issues -- well, no, there are going to be some changes.
11 We better go through --

12 **COMMISSIONER BRISÉ:** One-by-one.

13 **MS. BROWN:** -- one-by-one, yes. But we will
14 reflect Issue 9A as a stipulated issue.

15 **COMMISSIONER BRISÉ:** All right. OPC, no
16 position. FIPUG, no position. FEA, no position. Okay.
17 9B.

18 **MS. BROWN:** I think we have a stipulation on
19 Issue 9B, if OPC, FIPUG, and FEA take no position.

20 **MS. CHRISTENSEN:** No position.

21 **COMMISSIONER BRISÉ:** Okay. No position? All
22 right. 9C.

23 **MS. BROWN:** The same with 9C, although I have
24 a typo in staff's position I would point out. The
25 second line of staff's position, Environmental

1 Protection Agency should be two words. Put a space in
2 there. But other than that, I think this is a
3 stipulated issue.

4 COMMISSIONER BRISÉ: Okay. OPC?

5 MS. CHRISTENSEN: No position.

6 COMMISSIONER BRISÉ: FIPUG?

7 MR. MOYLE: No position.

8 COMMISSIONER BRISÉ: FEA?

9 CAPTAIN MILLER: No position.

10 COMMISSIONER BRISÉ: All right. Moving to 9D.

11 MS. BROWN: Commissioner, I think this is a
12 stipulated issue, also.

13 MS. CHRISTENSEN: No position.

14 MR. MOYLE: No position.

15 CAPTAIN MILLER: No position.

16 COMMISSIONER BRISÉ: Okay.

17 9E.

18 MS. BROWN: Commissioner, if I might just
19 clarify. FIPUG now takes no position on this issue.
20 They did agree with staff.

21 COMMISSIONER BRISÉ: On 9B?

22 MR. MOYLE: I'm sorry, we'll maintain the
23 agree with staff.

24 COMMISSIONER BRISÉ: Okay, perfect. Thank
25 you. 9E.

1 **MS. BROWN:** All right. 9E. We have, I
2 believe, a stipulation on 9E, as well, depending on
3 whether OPC, FIPUG, and FEA take a position.

4 **MS. CHRISTENSEN:** No position.

5 **COMMISSIONER BRISÉ:** Okay.

6 **MR. MOYLE:** No position.

7 **COMMISSIONER BRISÉ:** All right. 9F.

8 **MS. BROWN:** Commissioner, there are two little
9 periods after FIPUG's position agree with staff. Take
10 one of those out.

11 **COMMISSIONER BRISÉ:** Okay.

12 **MS. BROWN:** And other than that, I think we
13 have a stipulated issue.

14 **MS. CHRISTENSEN:** OPC would take no position.

15 **COMMISSIONER BRISÉ:** Okay. FIPUG maintains
16 its agree with staff?

17 **MR. MOYLE:** We agree with staff, right.

18 **COMMISSIONER BRISÉ:** FEA, no position.

19 **CAPTAIN MILLER:** Agree with staff.

20 **COMMISSIONER BRISÉ:** Agree with staff, okay.

21 9G.

22 **MS. BROWN:** Commissioner, I think we have a
23 proposed stipulation on 9G. There is one change to be
24 made to staff's position. That position now reads, "FPL
25 has agreed to remove." We would like to change that to

1 cross out agreed to and leave FPL has removed the
2 projected ESP project costs. We have received new
3 filings from FPL to reflect that they took those costs
4 out.

5 **COMMISSIONER BRISÉ:** Okay.

6 **MS. BROWN:** And my understanding for FIPUG's
7 position is that FIPUG does not object to the
8 stipulation, but doesn't join in it. And I don't know
9 whether FIPUG wants to keep that language in the front
10 portion of its position or not, since the costs have now
11 been removed from the factor.

12 **MR. MOYLE:** No. Our motion was it should be
13 removed. It sounds like FPL is removing it, so, you
14 know, we can take no position.

15 **MS. BROWN:** No position?

16 **COMMISSIONER BRISÉ:** No position.

17 **MS. BROWN:** All right. Well, then we have a
18 stipulated issue.

19 **MS. CHRISTENSEN:** And Office of Public Counsel
20 would take no position.

21 **COMMISSIONER BRISÉ:** Okay. FEA you have agree
22 with staff. And, FPL, would you take no position or
23 maintain that position?

24 **CAPTAIN MILLER:** We will take no position.

25 **COMMISSIONER BRISÉ:** Okay. 9H.

1 **MS. BROWN:** 9H is another possible stipulation
2 if the intervenors take no position.

3 **MS. CHRISTENSEN:** No position.

4 **MR. MOYLE:** No position.

5 **COMMISSIONER BRISÉ:** Okay. So it's
6 stipulated. 9I.

7 **MS. BROWN:** 9I is another possible stipulation
8 if the intervenors take no position.

9 **MS. CHRISTENSEN:** No position for OPC.

10 **MR. MOYLE:** No position.

11 **CAPTAIN MILLER:** No position.

12 **COMMISSIONER BRISÉ:** Okay. Moving on to
13 Progress Energy.

14 Issue 10A.

15 **MS. BROWN:** Commissioner, I believe Issue
16 10 is also a stipulated issue if the intervenors take no
17 position.

18 **MS. CHRISTENSEN:** No position.

19 **MR. MOYLE:** No position.

20 **CAPTAIN MILLER:** No position.

21 **COMMISSIONER BRISÉ:** Okay. 10B.

22 **MS. BROWN:** 10B also is a stipulation if the
23 intervenors take no position.

24 **MS. CHRISTENSEN:** No position.

25 **MR. MOYLE:** No position.

1 **CAPTAIN MILLER:** No position.

2 **COMMISSIONER BRISÉ:** Okay. 10C.

3 **MS. BROWN:** 10C also is a stipulation if the
4 intervenors take no position.

5 **MS. CHRISTENSEN:** No position.

6 **MR. MOYLE:** No position.

7 **CAPTAIN MILLER:** No position.

8 **COMMISSIONER BRISÉ:** Thank you. We just did
9 10C, right?

10 **MS. BROWN:** Yes.

11 **COMMISSIONER BRISÉ:** Moving on to 10D.

12 **MS. BROWN:** This is also a stipulated issue if
13 the intervenors take no position.

14 **MS. CHRISTENSEN:** No position.

15 **MR. MOYLE:** No position.

16 **CAPTAIN MILLER:** No position.

17 **COMMISSIONER BRISÉ:** Thank you. 10E.

18 **MS. BROWN:** Commissioners, on 10E there are a
19 couple of changes to be made. The issue itself should
20 be take out the word annual. It says CAIR-related
21 annual NOx allowances. It should say CAIR-related NOx
22 allowances.

23 **COMMISSIONER BRISÉ:** Okay.

24 **MS. BROWN:** And then if we flip to staff's
25 position, there are some changes to be made there to

1 take out the word annual in the second paragraph, third
2 line down. And the third paragraph on Page 24, the last
3 sentence in that paragraph, take out annual before NOx
4 allowance. The last paragraph, take out the word annual
5 in the first line and in the next to the last line, and
6 then we have an addition to the issue at the end to say
7 after it says NOx allowances through the ECRC, put a
8 comma there and include, "and expense the amount into
9 the ECRC based on actual usage consistent with current
10 practice." And I think if we make these changes -- go
11 ahead.

12 **MR. PERKO:** I wasn't sure if we cut all the
13 annuals. On the last paragraph, on Page 24, Line 4.

14 **MS. BROWN:** Oops, we missed an annual.

15 **MR. PERKO:** With that clarification, I believe
16 we can accept the language and this would be a
17 stipulated issue.

18 **MS. BROWN:** Unless the parties -- if the
19 intervenors take no position.

20 **MS. CHRISTENSEN:** Office of Public Counsel
21 takes no position.

22 **MR. MOYLE:** No position.

23 **CAPTAIN MILLER:** No position.

24 **COMMISSIONER BRISÉ:** Okay. So with that this
25 will be a stipulated issue for 10E. Moving forward with

1 10F.

2 MS. BROWN: Commissioner, I believe this is a
3 stipulated issue, as well, if the intervenors take no
4 position.

5 MS. CHRISTENSEN: No position.

6 MR. MOYLE: No position.

7 CAPTAIN MILLER: No position.

8 COMMISSIONER BRISÉ: Thank you. Okay. 10G.

9 MS. BROWN: Commissioner, this is the issue
10 that is contested, so we won't be able to reach a
11 stipulation today. But staff is prepared to take a
12 position on this issue, and it is this issue should be
13 resolved consistent with the decision the Commission
14 will make on Issue 1C in Docket Number 110001-EI,
15 because, Commissioner, when you get to the hearing, we
16 will go first on that and have the evidence presented in
17 that docket, and we want to be consistent.

18 COMMISSIONER BRISÉ: Okay.

19 MR. PERKO: Commissioner Brisé.

20 COMMISSIONER BRISÉ: Yes.

21 MR. PERKO: Gary Perko on behalf of Progress
22 Energy. I just had a question. In light of OPC and
23 FIPUG taking no position on the revised numbers, if the
24 Commission decides to back out the CR-3 costs, I'm not
25 sure why testimony from Mr. Foster would be necessary.

1 I was wondering if we could stipulate his testimony in.

2 **MS. CHRISTENSEN:** As I suggested with Mr.
3 Glenn, we are certainly happy to look at the witnesses.
4 It is Mr. Rehwinkel's issue, and if he feels
5 comfortable, I'm sure he can agree to excuse any witness
6 that's not necessary. And if that witness was only
7 going to be proffered for the dollar amounts associated
8 with it and they are produced ahead of time and he can
9 take a look at it and we take no position, we may be in
10 a position to agree prior to the hearing and try to
11 avoid some of the travel costs for Progress' witnesses.
12 But at this time, I would not feel comfortable with
13 agreeing to the excusal of any of Progress' witnesses in
14 this docket. But we can get together with them, or Mr.
15 Rehwinkel can and discuss that prior to the hearing.

16 **COMMISSIONER BRISÉ:** FIPUG.

17 **MR. MOYLE:** We will do the same. We are not
18 able to do that this morning, but we will work with
19 counsel, and to the extent we don't feel we need them
20 for anything, we will work in good faith to let them go.

21 I guess to the extent that staff was marrying
22 this issue to the 1C issue that was in the fuel docket,
23 we had put forward another issue that tied to 1C which
24 raised the constitutional issues of due process and
25 taking, and so that we are lined up properly and, you

1 know, whatever is decided on those issues match
2 throughout, we would also suggest that that issue be
3 included in this docket, as well. And if you want, I
4 can read it for the record, or we can refer back to the
5 transcript.

6 **MS. BROWN:** Commissioner, you can take that
7 under advisement, if you would like.

8 **COMMISSIONER BRISÉ:** As I did for the last
9 one.

10 **MR. PERKO:** But it was my understanding that
11 was not accepted as an issue but as a position from
12 FIPUG, is that correct?

13 **MS. BROWN:** I think the Commissioner took it
14 under advisement.

15 **COMMISSIONER BRISÉ:** I said I would take it
16 under advisement.

17 **MR. PERKO:** Thank you.

18 **MR. MOYLE:** And I guess the same thing here.
19 I mean, our issue is, you know, if yes, does this
20 recovery constitute an unconstitutional taking of
21 customer property or violate constitutional due process
22 provisions. We think that is an issue. It should be a
23 live issue. It should be decided and briefed and we
24 would ask that it be included just as we asked that it
25 be included in the 01 docket. And I understand that

1 issue as to whether to include it or not is under
2 advisement.

3 **COMMISSIONER BRISÉ:** Right. And I will take
4 that under advisement in this case, as well.

5 **MS. CHRISTENSEN:** And before we leave this
6 issue, Commissioner, I would just ask that OPC's
7 position on this be expanded to read similar to FIPUG's,
8 which is no, and then PEF should not be permitted to
9 recover any further costs related to the CR-3 extended
10 outage until the issues in Docket Number 100437-EI are
11 resolved.

12 **CAPTAIN MILLER:** And, Mr. Commissioner, FEA
13 would adopt that position also.

14 **COMMISSIONER BRISÉ:** Okay. Thank you.

15 **MS. BROWN:** We will have that reflected in the
16 final prehearing order.

17 **COMMISSIONER BRISÉ:** Okay. Thank you. Does
18 that take care of everything that we need to take care
19 of with Issue 10G at this time?

20 **MS. BROWN:** Yes.

21 **COMMISSIONER BRISÉ:** Okay. That takes care of
22 all of the Progress-specific issues for this section.
23 So moving to Gulf Power-specific issues.

24 Issue 11.

25 **MS. BROWN:** Commissioner, Issue 11A, I

1 believe, is a stipulated issue if the intervenors take
2 no position.

3 MS. CHRISTENSEN: OPC takes no position.

4 MR. MOYLE: No position.

5 CAPTAIN MILLER: No position.

6 COMMISSIONER BRISÉ: Okay.

7 11B.

8 MS. BROWN: This also is a stipulated issue if
9 the intervenors take no position or agree with staff,
10 whichever.

11 COMMISSIONER BRISÉ: Okay.

12 MS. CHRISTENSEN: We take no position.

13 MR. MOYLE: No position.

14 CAPTAIN MILLER: No position.

15 COMMISSIONER BRISÉ: Okay.

16 MR. MOYLE: Actually, you know what, on 11B we
17 agreed with staff, so we'll maintain that position.

18 COMMISSIONER BRISÉ: Okay, perfect. You will
19 maintain that to be consistent.

20 MS. BROWN: And, I'm sorry, I didn't hear
21 FEA's position.

22 CAPTAIN MILLER: We'll actually agree with
23 staff on that.

24 MS. BROWN: Okay.

25 COMMISSIONER BRISÉ: Issue 11C.

1 **MS. BROWN:** Commissioner, this is the
2 contested issue. Staff's position is here. We don't
3 have a position from FEA yet. The position from OPC and
4 FIPUG we have. We have nothing from FEA.

5 **CAPTAIN MILLER:** FEA would agree with staff on
6 this.

7 **COMMISSIONER BRISÉ:** Okay.

8 **MS. BROWN:** So this will be reflected as a
9 contested issue for the hearing.

10 **COMMISSIONER BRISÉ:** Thank you.

11 11D.

12 **MS. BROWN:** I believe this is a stipulated
13 issue if the intervenors take no position.

14 **MS. CHRISTENSEN:** No position.

15 **MR. MOYLE:** No position.

16 **CAPTAIN MILLER:** No position.

17 **COMMISSIONER BRISÉ:** Thank you.

18 11E.

19 **MS. BROWN:** Commissioner, I'm not sure we are
20 at a stipulation on this issue because OPC has added
21 some language that we haven't really reviewed. So what
22 I would suggest is that we hear from FIPUG and FEA and
23 then discuss with OPC language that we can agree to.
24 And if we can, we'll reflect this as stipulated issue in
25 the final prehearing order.

1 **COMMISSIONER BRISÉ:** Okay. FIPUG?

2 **MR. MOYLE:** Yes. It looks to me like OPC is
3 trying to preserve the ability to recapture any dollars
4 associated with the turbines that are in dispute, so I
5 guess there will be a conversation to that extent. But
6 if that's the intent, then we would adopt the position
7 of OPC.

8 **CAPTAIN MILLER:** FEA would also adopt the
9 position of OPC.

10 **COMMISSIONER BRISÉ:** Okay. So that will
11 remain a contested issue?

12 **MS. BROWN:** For now, but I don't think there
13 is really that much disagreement, so we may be able to
14 reach an agreement.

15 **COMMISSIONER BRISÉ:** Okay. Does that take
16 care of all the company-specific issues?

17 **MS. BROWN:** Yes, it does, Commissioner. This
18 might be the time to go back to the witnesses and see
19 which witnesses might be excused, stipulate the
20 testimony into the record. That would be on Page 4,
21 order of witnesses.

22 If the intervenors agree and the parties
23 agree, it looks as if FPL's Witness Keith and LaBauve
24 could be excused if the other Commissioners don't have
25 any questions for them.

1 **MS. CHRISTENSEN:** Office of Public Counsel has
2 no objection to the excusal of FPL and TECO's
3 witnesses. And regarding Progress' witnesses, as I
4 suggested earlier, we would have to get back with the
5 parties on that issue, and I would like to have Mr.
6 Rehwinkel review that and determine for himself which
7 witnesses he thinks he would need to have available.
8 And as far as Gulf goes, I think there was only two
9 issues, and it looks like they both may be addressing
10 that issue, but we could also look at that a little bit
11 closer if there appears that one of them could be
12 excused. And we can have that discussion with Mr.
13 Badders prior to the hearing.

14 **MS. BROWN:** It would be good if you could
15 have -- if you would keep staff in that loop, so that I
16 can go around to the Commissioners to see if they have
17 any questions.

18 **MS. CHRISTENSEN:** Oh, clearly. It is just --

19 **MS. BROWN:** And we have ten days until the
20 hearing.

21 **MS. CHRISTENSEN:** Understandable, and I will
22 try and resolve this as quickly as possible. But just
23 from the appearance of right now, I can't tell which --
24 if there is one of the Gulf witnesses that doesn't need
25 to be there. One of them will obviously need to be

1 present to testify on the issue, and I'm just not sure
2 which one is the best issue -- or the best witness and
3 which one may just be a numbers fallout person. And to
4 the extent we are going to get the fallout numbers, we
5 can look at those and feel comfortable enough with
6 those, I think we have taken no position on it. I think
7 we might be in a position to excuse the numbers person.

8 **COMMISSIONER BRISÉ:** Gulf.

9 **MR. BADDERS:** We'll work with the Office of
10 Public Counsel on that, and I believe we will be able to
11 reach an accommodation on at least one of the witnesses.

12 **COMMISSIONER BRISÉ:** Okay.

13 **MR. MOYLE:** And FIPUG essentially would take
14 the same position as OPC, and not excuse Progress Energy
15 or Gulf witnesses at this point, but with the
16 expectation that there will be excusals as we have
17 discussions with counsel for the respective parties, and
18 we don't have a need to talk to any FPL or TECO
19 witnesses.

20 **COMMISSIONER BRISÉ:** Okay. FEA.

21 **CAPTAIN MILLER:** Same position as OPC.

22 **COMMISSIONER BRISÉ:** Thank you. Staff.

23 **MS. BROWN:** We will reflect that and expect to
24 hear from the parties as soon as possible on that. I
25 would just add that if the position that we are taking

1 in this issue regarding Progress is piggybacking on the
2 issue that is going to be decided in 01, that evidence
3 and testimony really would pretty much already be in the
4 record in 01. I'm not sure we would need all of these
5 witnesses, but they can look and see what they want to
6 do.

7 **MR. PERKO:** I would tend to agree with Ms.
8 Brown, but we look forward to further discussions with
9 the parties.

10 **COMMISSIONER BRISÉ:** Thank you.

11 Okay. Moving to Section IX, which is the
12 exhibit list.

13 **MS. BROWN:** Yes, Commissioner. We will
14 prepare a comprehensive exhibit list for the hearing and
15 that will include all prefiled exhibits reflected in
16 Section IX of the prehearing order, as well as a
17 stipulated composite exhibit of all staff's discovery
18 exhibits that it wishes to put in the record, and we
19 will run that by the parties. It is almost ready, and
20 to get their input into whether we can stipulate to
21 those issues. And we will -- we'll have that at the
22 hearing.

23 **COMMISSIONER BRISÉ:** Okay.

24 **MR. BUTLER:** Commissioner Brisé, one small
25 point on Section IX. Mr. Keith's Exhibit TJK-3, we need

1 to add the word revised in there. We filed a revision
2 of that. That is actually what Ms. Brown was referring
3 to earlier where we removed the costs associated with
4 the ESP project.

5 **COMMISSIONER BRISÉ:** Okay.

6 **MS. BROWN:** Excuse me, that is Keith TJK-3
7 should read revised appendix one?

8 **MR. BUTLER:** No, just revised. Like the TJK-2
9 above it, just add the word revised.

10 **MS. BROWN:** Okay. I've got it.

11 **MR. PERKO:** Commissioner, I think the same
12 would be true for Mr. Foster's Exhibit TGF-3 as revised.
13 We filed a revised -- some revisions to that exhibit to
14 reflect the agreement with staff on Issue 10E.

15 **MS. BROWN:** All right. We'll reflect that in
16 the prehearing order.

17 **COMMISSIONER BRISÉ:** Thank you. Any other
18 issues or concerns with respect to the exhibit list?

19 Okay. Section X, proposed stipulations.

20 **MS. BROWN:** Commissioner, in the final
21 prehearing order I will reflect the stipulations that we
22 have met, we have reached today, and that will show up
23 in Section X. And I would point out it does appear we
24 have Issue 10G and 11C and maybe one other that are
25 contested.

1 **COMMISSIONER BRISÉ:** Okay. Pending motions.

2 **MS. BROWN:** I'm not aware of any,
3 Commissioner.

4 **COMMISSIONER BRISÉ:** Are there any -- okay.
5 Issue 12. I mean, Section XII, rather, pending
6 confidentiality matters.

7 **MS. BROWN:** There are a few pending
8 confidentiality matters, and they will be addressed by
9 separate order.

10 **COMMISSIONER BRISÉ:** Thank you. Section XIII,
11 post-hearing procedures.

12 **MS. BROWN:** Commissioner, as Ms. Bennett
13 mentioned in 01, usually we do have a bench decision in
14 this case, and don't require post-hearing procedures.
15 But if Issue 10G and 11C are not stipulated, I'm not
16 sure what the parties' position will be on filing
17 post-hearing position and issues. If they want to -- I
18 have actually been having discussions with Gulf on
19 whether they believe we can do a bench decision, the
20 Commission could have a bench decision in that issue.

21 I don't think that's going to be the case for
22 Progress. And in that light, the briefing schedule
23 would be very short, probably the same as in 01, and the
24 positions should be no longer than 50 words, and the
25 briefs should be no longer than 40 pages.

1 **MS. CHRISTENSEN:** I think the Office of Public
2 Counsel would like the opportunity to brief the turbine
3 issue as well as the CR-3 issue. The CR-3 issue, I
4 think, can be kind of intertwined with the 01, to that
5 respect. And then the turbine issue, I don't know how
6 much that will take; I think it will be a relatively
7 short argument on that. But we would like the
8 opportunity, and if we can have daily transcripts, then
9 the November 8th date should be doable.

10 **MS. BROWN:** Commissioner, I will request daily
11 transcripts from the Clerk's Office, and I think we'll
12 have probably six days to file the briefs, because staff
13 will need time to prepare a written recommendation for
14 that 22nd agenda.

15 **COMMISSIONER BRISÉ:** Okay. Progress?

16 **MR. PERKO:** That's fine.

17 **COMMISSIONER BRISÉ:** Okay. Gulf?

18 **MR. GRIFFIN:** That's fine for Gulf.

19 **COMMISSIONER BRISÉ:** Okay. So, once again,
20 all briefs need to be in by the 8th.

21 **MS. BROWN:** I think so, Commissioner. I
22 haven't actually scheduled that yet, but I think it
23 would be the same, because there is just no time.

24 **COMMISSIONER BRISÉ:** Right. Section XIV,
25 rulings. Staff, do you have some suggestions?

1 **MS. BROWN:** Yes, Commissioner. We have
2 suggested that opening statements not exceed five
3 minutes. There was discussion on that in 01. If you
4 want to hold off on that ruling and think about how much
5 time you want the parties to have, that would be fine.

6 **COMMISSIONER BRISÉ:** Okay. I will hold off on
7 ruling on that, but I will give you my thought process
8 on how I will get there. Obviously there will be
9 parties that have different positions on these two -- I
10 mean, these issues, and I will probably provide parties
11 with the same amount of time on two separate sides. So
12 if there is an issue and there are multiple parties who
13 may be considering what I would consider one side of the
14 issue, then we will give the block of time to one and
15 the block of time to the other to have that divided.
16 And I will give that some more thought. If you have
17 some thoughts on that, this is the time for you to
18 express that. But I'm just giving you how I'm thinking
19 and where I'm thinking about that.

20 **MS. CHRISTENSEN:** Commissioner, it appears to
21 me that the 01 and 07 related to the CR-3 are just
22 integrally related, and that can probably be addressed
23 in one opening statement maybe with the 01 portion of
24 it. And to the extent that we do an opening statement
25 on the turbine issue, I think that five minutes should

1 be sufficient for that, I would think. Yes.

2 So, I mean, keeping that in mind, because I
3 don't -- since all the Commissioners won't be present
4 for all the dockets, I don't think they need to have a
5 rehashing of the issue in opening statements twice. And
6 I think it would probably be preferable for us to give
7 the bulk of the time in the 01 for the CR-3 issue, and
8 then just to the extent we do some shorter opening on
9 the turbine issue in the 07.

10 **COMMISSIONER BRISÉ:** Okay. FIPUG.

11 **MR. MOYLE:** I tend to think that it will work
12 out if there is additional time provided in 01, we won't
13 need it in this process. I will say I have a little
14 concern with respect to the notion of providing, you
15 know, the utility five minutes for openings and then
16 providing all of us on this side five minutes. Because
17 I did quick math; if you do the four parties divided by
18 five, you get a minute and fifteen seconds to, you know,
19 hit the turbine issue and the other issue. I don't
20 think that's enough time. I think -- I don't think
21 parties over the years have abused the opening process
22 that I can recall, so I would encourage that the
23 parties' five minutes is appropriate in this docket. I
24 think we can handle it, particularly if we are given ten
25 minutes in the other. But I would urge it be five

1 minutes per party, and we will work not to be redundant
2 or repetitive on that.

3 **COMMISSIONER BRISÉ:** Okay.

4 **MR. PERKO:** I would tend to agree with Ms.
5 Stevenson (sic) regarding the need for additional
6 opening statements or argument regarding the Progress
7 CR-3 issue, 10G. So I think if we do have opening
8 statements there, it can be limited to five minutes.

9 **MR. GRIFFIN:** On the Gulf Power turbine issue,
10 five minutes should be plenty for Gulf's portion of
11 that. And I'm not going to argue that they should only
12 get a 1:15, but, I mean, obviously I would not like to
13 hear six five minute openings.

14 **COMMISSIONER BRISÉ:** Okay.

15 **MS. CHRISTENSEN:** I think there is only three
16 of us that are even interested in that topic, so I think
17 it will be relatively short anyway.

18 **COMMISSIONER BRISÉ:** Okay. As I stated
19 earlier, I will render a ruling on that a little bit
20 later. I mean, as part of the prehearing order, and I
21 was just giving you a sense of what my thought process
22 was. Other matters.

23 **MS. BROWN:** There are no other matters,
24 Commissioner. But as you just pointed out, we will
25 reflect the rulings that you have made today, the

1 rulings that you will make in this Section XIV of the
2 prehearing order. There are no other matters that I'm
3 aware of.

4 **COMMISSIONER BRISÉ:** Thank you very much. So
5 at this point we will adjourn that particular docket.
6 We are going to move to 02, 110002-EI.

7 **MR. MOYLE:** And just on that point before we
8 left that, I will probably get a ruling on that effort
9 to have that issue asserted as well in the environmental
10 clause about the constitutional issue.

11 **COMMISSIONER BRISÉ:** Right.

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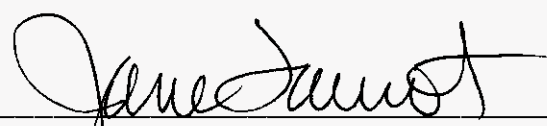
CERTIFICATE OF REPORTER

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 October, 2011.



JANE FAUROT, RPR
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