BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110138-EI

PETITION FOR INCREASE IN RATES BY GULF POWER COMPANY.
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PROCEEDINGS: SPECIAL AGENDA

COMMISSIONERS PARTICIPATING: CHAIRMAN RONALD A. BRISÉ
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Monday, February 27, 2012

TIME: Commenced at 9:32 a.m.
Concluded at 11:30 a.m.

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

REPORTED BY: LINDA BOLES, RPR, CRR
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P R O C E E D I N G S

CHAIRMAN BRISÉ: Good morning. We're going to go ahead and call this Special Agenda Conference to order, Docket No. 110138, 138-EI.

All right. Staff, are there things that we need to go through before we get started?

MR. MAUREY: Good morning, Chairman, Commissioners. Andrew Maurey, Commission staff.

We do have a few oral modifications to the recommendation, if the time is right.

CHAIRMAN BRISÉ: You may proceed now.

MR. MAUREY: Okay. On Issue 12, page 27 of the recommendation, there's a scrivener's error in the recommendation statement, second line. The amount 1.1 million and 1.2 million system should be replaced by the word "zero." That's also going to be, that same change is also going to occur at the top of page 29.

Then beginning on, with Issue 71, page 167, this language has changed. Each of the offices was provided with, with the new language. Rather than read it out, we'll assume it in the record. This issue does touch on 12 other issues. There's fallouts in the tables in a number of schedules. Those corrections have also been provided to every office.

With that, staff is prepared to go issue by issue.

CHAIRMAN BRISÉ: Thank you. And I think what we're going to do is, excuse me, go issue by issue. On the issues that there may not be a lot of discussion, we will be prepared to entertain the motion to just go ahead and move staff on that particular issue as we flow through.

So with that, we'll go ahead and go to Issue 1. And we are open for discussion on Issue 1.

Commissioner Graham.

COMMISSIONER GRAHAM: Thank you, Mr. Chair. If we could, if it's the will of the Chair, do Issue 1 and Issue 24 together because they're pretty much the same issue. And, staff, can I get you to walk us through the recommendation for Issue No. 1?

MS. KLANCKE: Absolutely. You were correct that Issue 1 and Issue 24 are functionally related and both pertain to the North Escambia site, which was purchased by Gulf Power on August 26th, 2008. In this proceeding with respect to Issue 1, we're looking at the carrying charges associated with that site. In particular, Gulf asserts that it is authorized to accrue a carrying charge on the cost of acquiring the North Escambia site. Staff, in its recommendation, believes that the plain language of both the statute and the rule, which is subject to interpretation, explicitly require a final order granting a need determination or determination of need prior to a company being able to avail itself of the alternative cost recovery mechanisms contained within the nuclear cost recovery statute.

In the instant case, both at the hearing and in testimony, the company has acknowledged that it has not come in for a need determination and, as such, no final, no final order granting a need determination exists in this case. As such, staff believes that until that threshold criteria has been satisfied, it is not appropriate at this time.

COMMISSIONER GRAHAM: Mr. Chair?

CHAIRMAN BRISÉ: Sure.

COMMISSIONER GRAHAM: Commissioners, I have to tell you, this was a, this was a big issue for me. I -- in a prior life I used to be an engineer, and I spent a lot of time in paper mills, one specific up in Brunswick, where you have so much residential intrusion that moves in around that paper mill that it got to the point where so many of the neighbors complained that you can't move -- they weren't allowed to move their trains after 10:00 at night and before 8:00 in the morning. So in essence you shut down the warehouse for ten hours a day, which was huge for these guys because of all the paper they produce, trying to get that stuff out of there was very important to them.

And so, you know, I understand where Gulf is coming from, trying to acquire this land because you don't want for the houses that are built around in the area, you don't want to, after the need determination, trying to shoehorn a nuclear plant into somebody's neighborhood. Because I can tell you right now, nobody wants, not only a power plant in their neighborhood, but they don't want a nuclear plant in their neighborhood. And so it's a very difficult thing.

And I was prepared to push my issue on this, this subject, but Caroline Klancke did a great job of illustrating the fact that if you want to be part of this, it all comes down to the statute, and the statute says you have to go through the need determination.

And I guess my question would be is if that, if that box was checked and they did go through the need determination, then we allow them to go forward with whatever they want do with this Escambia site; is that correct?

MS. KLANCKE: Well, with respect to the carrying charges, those would be prudent then at that time for them to start accruing it.

But with respect to Issue 24 --

COMMISSIONER GRAHAM: Okay.

MS. KLANCKE: -- it's two parts. The threshold criteria is failed to be satisfied. However, in addition, staff's recommendation has a second part where we do not believe at the present time that this is appropriate to be placed in base rates, in particular in Plant Held for Future Use, because we do not believe it is a prudent acquisition based on Gulf's needs at the moment.

However, if a need determination was made, we would analyze -- we would reanalyze this proposition. And if we believed it was prudent at that time and the need existed, yes, then that would substantially change our recommendations with respect to this.

COMMISSIONER GRAHAM: Mr. Chairman?

CHAIRMAN BRISÉ: Sure.

COMMISSIONER GRAHAM: Well, I just wanted to make sure that that was clear and that was on the record. I don't know what their plans are in the future, but I encourage what they're doing. I just think if they want it, according to the statute, you've either got to get the statute changed or either get the need determination done.

Now that being said, I'd like to move staff recommendation on Issue No. 1 and No. 24.

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: Okay. It's been moved and properly seconded. I think -- is there any further discussion?

Okay. I have some discussion, some questions that I have on, on both of those issues, particularly Issue No. 24, since we've combined the two issues.

One of the concerns that I have with Issue 24, when looking at the idea of not taking a look at that acquisition and putting it in land for future use, what happens to the consumer if the company -- what happens to the consumer 15 years out and they wanted to put that land into use then? Is the consumer protected at the rate where the land was purchased now or is the consumer protected -- or what happens when they want to put it in and the assessed value of that property is different later on?

MS. GARDNER: Commissioner, this is Betty Gardner of staff. At that time, it's ten or 15 years out into the future, it would still come in at original cost, which is the cost it is now.

CHAIRMAN BRISÉ: Okay. For me that raises a fairness issue, to be honest with you, and this is maybe a discussion that we can have with the Commissioners.

The notion that if a company decides to

purchase at a price that they think makes sense because of the condition of the market and they make the purchase at a particular time because it makes sense for them to do it then, considering where -- what -- how the market could play out in the future, and for them to potentially, because of whatever decisions we have made, would want to put that in later on, do they not have an opportunity to reap the benefit then in the future for the decision that they made in the past?

MR. WILLIS: Commissioner, if I could, if I could take a shot at that. The company will have an opportunity in the future to come forward and argue any, any possible argument to increase the value of it over time. The Commission has not done that. That has not been the practice to do that. Once they purchase it, it's at original cost. This is an original cost state. It might be kind of a difficult burden to prove in the future to come forward with a higher price for the land, but nothing is impossible, I suppose.

The problem we have here with the record is that we have a record to deal with, and it's staff's opinion that the company did not meet its burden in proving up the need for this property at this point in time, especially with the property they already have in Plant Held for Future Use.

CHAIRMAN BRISÉ: And following that, that path, let's talk about the Caryville, because I think the Caryville sort of sets up Issue 24, and that is Issue 23. What can be can built on the Caryville site? And then we can talk about what can be built on the North Escambia site, and maybe that'll help us walk through this a little bit.

MS. GARDNER: Commissioner, for the Caryville site, they can put any type of generation facilities. The company said that the Caryville site was not suitable as a nuclear option. So that's the only thing that they probably would take off the table.

Currently it has been a -- it's a certified site. It's certified for a capacity of 3,000 megawatts. So basically that kind of tells you that whatever they want to put on that site, solar, renewable, any type of generation, they can go there.

CHAIRMAN BRISÉ: Okay. But the Caryville site would not be suitable for a nuclear --

MS. GARDNER: Based on the company, yes.

CHAIRMAN BRISÉ: -- based upon the company's, information provided by the company.

Is there any other site that would accommodate a nuclear plant within the service area that Gulf is in other than this piece of land that they have acquired?

MR. WILLIS: Other than this piece of land? I know of no other land that they own that would accommodate a nuclear power plant. But in this case, I'm not sure the company actually has proven that this site is eligible for a nuclear power plant either. They haven't gone through the process to have that done.

CHAIRMAN BRISÉ: I have one final question about the nuclear component.

Does the record reflect -- or let me not say the record. But based upon our experience at the Commission, Gulf, in its current position, would it be able to support the building of a nuclear plant in the short-term horizon with this particular site as an independent entity?

MR. WILLIS: Well, I think you're correct, Chairman. If you look at the number of customers that Gulf has in its service area, I believe for Gulf to build a nuclear power plant on that site, they'd have to have multiple partners, which Gulf probably would not be a primary partner in that generating scheme. I imagine it would be with the southern power pool. But that's how one would envision it at this point, because I don't see how Gulf's customers itself could support a nuclear power plant on its own.

CHAIRMAN BRISÉ: And so if we were to follow that particular logic, in the future they could probably come in for an allocation in terms of if they were to seek to build a nuclear power plant that would benefit not only themselves but maybe their sister entities and they could come in and seek an allocation of -- basically if it costs $27 million, then the Florida customers would be responsible for X amount because they would have X benefit and so forth. Was that something that we have done in the past and is that something that we could potentially contemplate?

MR. WILLIS: Well, with the, the nuclear statute that we have before us today, if Gulf were to come in for a need determination and get that need approved, at that point if they had no partners, the entire amount of that plant, excluding the wholesale portion, would probably appear as a recoverable -- not the amount of land, but the actual carrying charges on that land would be recoverable for the, whatever property they had, excluding the wholesale portion.

CHAIRMAN BRISÉ: Okay. And final question, then I think I'll pass it over to Commissioner Graham.

In terms of precedent in dealing with Plant Held for Future Use or land held for future use, are we well within the practice of this Commission by denying this request?

MR. WILLIS: I believe you are, Chairman.

CHAIRMAN BRISÉ: Thank you.

Commissioner Graham.

COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

Let's go back to the Chairman's original question that if they were to come forward in 15 years for the need determination, we would be -- basically it will be the amount of that land as it was when they bought it and not 15 years down the road. Now do they also, even though -- from the time that they bought it, do they also get 15 years of carrying costs?

MR. WILLIS: No, they do not, Commissioner, not unless you allow it. And to do that -- let me, let me back up a minute.

What would, what would normally occur, a company goes out and buys a piece of property. If the Commission believes that it is proper to go out and buy that property, they have the need for that property in the foreseeable future, that plant would go into rate base as Plant Held for Future Use. If the Commission determined that there was not a need proven up, it would go in Plant Held for Future Use, but would not go into rate base. It would just be an account separated out from the normal rate base. It would not incur any kind of carrying costs, which in that case, if it was put in rate base, it would be a rate of return.

That's the -- if you look at the Caryville site, which is Issue 23, that's the way Caryville has been in rate base since the '70s. It was purchased in the '60s, it's been in there since the '70s, and the site has not been used at this point in time. But when it was put into rate base in the '70s, the company had indicated and proven up to the Commission at that time that there was a need in the foreseeable future for that property. I hope that answers your question.

COMMISSIONER GRAHAM: So sticking with the same scenario, in the 15-year period, would it be, would it be up to us, or whoever is on the Commission, to, to decide if they're going to give them that carrying cost plus original costs, or any other scenario thereof?

MR. WILLIS: Unless you give them the ability to put that in rate base today, they cannot start accruing a carrying charge until some point in time they come to the Commission and prove a need and have that plant transferred from Plant Held for Future Use outside of rate base into rate base. At that point it would start accruing a return, which the customers would pay for in their rates. And that can happen at any time, Commissioner. I mean, they can file a petition at any point between now and sometime in the future to have that plant transferred to rate base and earn a return on it.

COMMISSIONER GRAHAM: I mean, I can tell you, and I've already decided where I was going to go on this thing, but I understand where they're coming from. I understand what the Chairman is saying about a fairness issue.

If not, if not for the Caryville site that had been sitting there forever, it may be a different story. But, you know, the fact that I think they purchased it back in '72, and then it went 80% into rate base in 1980, I mean, so for the past 32 years it's been in rate base. And I get the fact that that can, that can handle all their other needs they could possibly want except for the nuclear site. So that kind of puts them in a -- it doesn't give them a whole lot of ground to stand on. And so I don't have anything else to add to this.

CHAIRMAN BRISÉ: All right. Any further comments? Ready for the vote? All in favor of supporting staff recommendation on Issue 1 and 24, say aye.

(Affirmative response.)

Any opposed?

(No response.)

All right. Seeing none, motions on those two issues are carried.

All right. Moving on to Issue No. 8.

MS. WU: Good morning, Mr. Chairman and Commissioners. Jenny Wu on behalf of the Commission staff.

Issue 8 addresses should the capitalized item currently approved for recovery through the Environmental Cost Recovery Clause be included in rate base. Staff recommends no, except for the Plant Crist Units 6 and 7 turbine upgrades addressed in Issue 9.

Staff is available for the questions you may have.

CHAIRMAN BRISÉ: Okay. Any questions?

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman. And I'd like to -- if we can discuss Issues 8 and 9 since they're related.

CHAIRMAN BRISÉ: Sure.

COMMISSIONER BALBIS: But I just want to confirm with staff that with the removal of the turbine upgrade projects from the environmental clause to rate base, that there will not be any double recovery by the company for those projects.

MS. WU: That's correct.

COMMISSIONER BALBIS: Okay. With that, I move staff approval on Issues 8 and 9.

CHAIRMAN BRISÉ: All right. Is there, is there a second on that?

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: We have a second.

Okay. Further discussion?

Commissioner Brown and then Commissioner Edgar.

COMMISSIONER BROWN: Thank you, Mr. Chairman.

And, staff, I have a question. On page 18, Gulf indicated, at least Gulf's Witness McMillan indicated that they -- it preferred the primary proposal because it provides base rate stability by avoiding a second rate increase. I just want confirmation here. Is there base rate stability with a step increase as proposed by staff's recommendation in Issue 9?

MS. WU: Staff believes the step increase method would also guarantee the stability of the rates for the customer.

COMMISSIONER BROWN: Thank you. I just wanted that on the record too. Thanks.

CHAIRMAN BRISÉ: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman. And to our staff, for -- and I realize Issue 8 and Issue 9 are, you know, linked and really go together. But for

Issue 9 in particular, is it accurate to say that the staff recommendation from a numbers aspect would come down to somewhat less than the company had requested and perhaps a little bit more than the Intervenors had recommended?

MR. SLEMKEWICZ: Yes, it would. On page 250 of the recommendation, which is the very last page, Schedule 6, it shows what the staff's calculation of the step increase would be versus the company's calculation, and it's slightly less. It's about $300,000 less.

COMMISSIONER EDGAR: And is it also accurate to say that the treatment that is recommended here before us in the staff rec puts into base rates the functionality at the time that the customers reap the benefits?

MR. SLEMKEWICZ: That's correct.

COMMISSIONER EDGAR: And my understanding is that that is consistent with past decisions we have made in prior rate cases.

MR. SLEMKEWICZ: Yes, it is.

COMMISSIONER EDGAR: All right. Thank you.

CHAIRMAN BRISÉ: Any further comments or questions on Issues 8 and 9? We do have a motion and it's been seconded.

All in favor of staff recommendations on

Issues 8 and 9, say aye.

(Affirmative response.)

Any opposed?

(No response.)

Seeing none, motion carried.

Moving on to Issue 10.

MS. GARDNER: Commissioners, Issue 10 addresses whether Gulf has made the appropriate adjustments to remove all non-utility activities from plant-in-service, accumulated depreciation, and working capital. Staff recommends that the company has made the appropriate adjustments, and, therefore, no additional adjustment is necessary to working capital.

CHAIRMAN BRISÉ: Any comments or questions or a motion?

COMMISSIONER GRAHAM: Move staff.

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: All right. Moved and seconded.

All in favor, say aye.

(Affirmative response.)

All right. It's carried.

Issue 12.

MR. SLEMKEWICZ: Issue 12 involves the question of whether Gulf's incentive compensation expenses should be included as a capitalized item in rate base. Staff is recommending that it is not appropriate to include any of it in rate base, and has made an adjustment to reduce the capitalized interest by $1,191,000.

CHAIRMAN BRISÉ: All right. Any questions or discussion on Issue 12?

COMMISSIONER GRAHAM: Move staff.

CHAIRMAN BRISÉ: Okay. There's a motion.

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: All right. It's been moved and seconded. All in favor, say aye.

(Affirmative response.)

All right. Moving on to Issue 14.

MR. MA: Good morning, Commissioners. Victor Ma of Commission staff.

Issue 14 is a determination of the appropriate amount for Transmission Infrastructure Replacement Projects that should be included into Transmission Plant In Service.

After reviewing the, after reviewing the parties' arguments and the evidence in the record, staff's recommendation is that an adjustment to Gulf's request is not necessary.

I'm prepared to answer any questions you may have.

CHAIRMAN BRISÉ: Any questions, comments? All right. Ready for a motion?

COMMISSIONER EDGAR: Move staff.

CHAIRMAN BRISÉ: All right. It's been moved.

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: And seconded.

All in favor, say aye.

(Affirmative response.)

All right. It's been properly moved and voted.

So moving on to Issue 16.

MS. GARDNER: Commissioners, Issue 16 asks whether Gulf's wireless system, which is the subject of Southern Company Services work orders, should be included in rate base.

Based on the review of the information in the record, staff recommends that the wireless system that is the subject of the SCS work order should remain in rate base.

Staff is available for any questions.

CHAIRMAN BRISÉ: Commissioner Graham.

COMMISSIONER GRAHAM: I'd like to move staff recommendation on Issues 16, 17, 18, 21, and 22.

COMMISSIONER BROWN: Second.

CHAIRMAN BRISÉ: All right. There's a second on that. Is there any objection to that?

All right. Seeing none, are there any further comments on those issues or questions on those issues? All right. So we're looking at Issues 16, 17, 18, 21, and 22. All in favor, say aye.

(Affirmative response.)

Any opposed?

(No response.)

Seeing none. So let the record show that 16 through 22 were voted favorably.

Moving on to Issue 23.

MS. GARDNER: Commissioners, Issue 23 addresses whether an adjustment should be made to Plant Held for Future Use for the Caryville plant site. Staff recommends that no adjustment should be made to Plant Held for Future Use for the Caryville plant site.

Staff is available for any questions.

CHAIRMAN BRISÉ: All right. Any questions or comments?

Commissioner Brown.

COMMISSIONER BROWN: Thank you. And I wanted to compliment staff on this particular, on drafting this particular recommendation. I think there's a key distinction between the Caryville plant site and the

Escambia site. Both of them do not have plans for future generation within the next ten years, although I do think that the record evidence on this particular site is clear that no adjustment should be made at this time.

I will point out the key distinction that staff addressed, that Ms. Klancke addressed, notably is that Caryville is certified under the Power Plant Siting Act and is available for the future generation needs; not only coal, but also other options. So for that, I move staff.

COMMISSIONER BALBIS: Second.

CHAIRMAN BRISÉ: All right. It's been moved and seconded. All in -- any further discussion?

All right. All in favor, say aye.

(Affirmative response.)

All right. Let the record reflect that Issue 23 was voted favorably.

We've already dealt with Issue 24.

Issue 25, which is a fallout issue, we're ready to entertain a motion on that.

COMMISSIONER GRAHAM: Move staff.

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: All right. It's been moved and properly seconded.

All in favor, say aye.

(Affirmative response.)

All right. Let the record reflect Issue 25 has been voted favorably.

Moving on to Issue 27.

MS. L'AMOREAUX: Good morning, Commissioners. Melissa L'Amoreaux with staff.

Issue 27 has two components. First is Gulf's requested storm damage annual accrual, and the second is Gulf's target level range for its storm damage reserve.

Staff recommends an annual storm damage accrual to continue at the current annual level of $3.5 million, and a new target range of $48 to $55 million.

Staff is available to answer any questions.

CHAIRMAN BRISÉ: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

And to our staff, is it accurate to describe the staff recommendation as continuing the current practice and policy with no increase in revenue requirement or rate impact?

MS. L'AMOREAUX: That is correct.

COMMISSIONER EDGAR: All right. Then I'm comfortable with the staff recommendation.

CHAIRMAN BRISÉ: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

I have several concerns about staff's recommendation on this issue and would like some discussion with the Commission on this.

CHAIRMAN BRISÉ: Sure.

COMMISSIONER BALBIS: We have several experts that testified during the hearing, different storm annual accrual amounts ranging from $600,000 from OPC all the way up to $6.8 million as requested by Gulf. In looking at Witness Schultz's exhibits, however, it listed the different balances and accrual amounts over the past ten years, not on, in planned or modeled storms, but actual data for the past ten years. And looking at that where you had accruals ranging from $3.5 million all the way up to $18.5 million, you still had the company needing to resort to a surcharge when you had those unprecedented major storms in '04 and '05.

So in looking at that -- so, therefore, from the $600,000 that OPC recommends all the way up to the $6.8 million that Gulf recommends, you're still going to need to result in a storm surcharge.

So now I focused on what's in the best interest of Gulf Power. And when I asked the Gulf witness as to a storm accrual on an annual basis versus a storm surcharge after the fact what would be a greater benefit to Gulf, and the witness, and I'll quote from the transcript, "In terms of when we collect the revenue and when we put the reserve away, there's really no benefit from that perspective. It's a wash, so to speak."

So now we have, again, a situation where we have ranging amounts, we're still going to need to resort to a surcharge if we have those unprecedented storms again. So what happens if we take those storms out, which leads us to OPC's position of 575,000 rounded up to 600,000.

And this does not take into account any of the measures and improvements that Gulf has made to, for storm hardening. It's my understanding that they spend between $25 and $31 million a year in meeting the new wind loading criteria, undergrounding utilities, and I would have to assume there's going to be some benefit if in the unlikely, hopefully, event that a hurricane does hit of that caliber.

So we're not taking into account any storm, storm hardening costs. We have received, during the customer hearings, dozens and dozens of sworn testimony that customers cannot, cannot have any increase, they're on fixed income. And so my thought is now is not the time to put away money for a rainy day. Now is the time to look at what is the average annual amount that Gulf needs to handle these storms. And if there is a major storm, they have the surcharge system in place, which, again, does not impact Gulf Power.

So with that, I'm leaning towards OPC's position of reducing the annual accrual to $600,000.

CHAIRMAN BRISÉ: Commissioner Brown.

COMMISSIONER BROWN: Thank you. I have a few questions regarding this issue.

Did staff take into account any storm hardening initiatives when making its recommendation to continue the annual accrual?

MS. L'AMOREAUX: No. The only reason why was because we -- what was in the record we had to go by, and that was the storm study that was provided by EQECAT and the analysis done by Witness Erickson. There was no storm hardening taken into account, but there's also no evidence that storm hardening has had any major role in their infrastructure since no storms have occurred.

COMMISSIONER BROWN: Okay. Thank you.

Is Gulf's existing storm damage reserve comparable to other similarly situated IOUs in Florida?

MS. L'AMOREAUX: I believe so, yes.

COMMISSIONER BROWN: Can, can you elaborate a little bit more for us?

MS. L'AMOREAUX: Well, all the, all the IOUs in the State of Florida are different in size, and whether it's a funded or unfunded reserve. Gulf currently has a funded reserve where TECO does not. However, comparable somewhat in size and location, they have a storm reserve about, at $50 million, their target range, so.

COMMISSIONER BROWN: Their target range. And do you know what their, their actual reserve is?

MS. L'AMOREAUX: At this point I do not know off the top of my head.

MR. MAUREY: TECO's reserve is currently approximately 43 million.

COMMISSIONER BROWN: We're looking here, right now the reserve is 31 million. So I just want kind of a barometer of where we are.

If circumstances were to change warranting a need for this Commission to adjust the reserve level, what type of actions can we take to revisit that?

MS. L'AMOREAUX: Well, currently that's why we're focusing on the target range is because they are in the range of what was currently approved. So whenever they can come back for -- they can come back once they get into that target range again, and the Commission can look and decide what they want to do then.

As far as storm hardening, they come in every three years and we monitor their plans. With that, next year is going to be their second updated plans. So we can see how that's affecting their infrastructure as well.

COMMISSIONER BROWN: Uh-huh. What options are there for the utility if the reserve is otherwise depleted and a catastrophic storm like, that occurred in 2004 and 2005 in this area, what, other than a surcharge, what other options are there?

MS. L'AMOREAUX: That's pretty much been the Commission's practice is to apply a storm, storm surcharge if the reserve is depleted. The reserve is intended to cover all storms. It's just not -- it just depends on whether, how much is in the, in the pot pretty much. And if there's not enough, then the higher the storm charge the customers are going to receive after a hurricane.

COMMISSIONER BROWN: Commissioners, I'm a, I'm a proponent of prudent planning and I support staff's recommendation. This is the pay now or pay later theory. Right now the effect would have no impact right now on the customers' wallets. They're continuing what's already in place. And I think this is the most prudent course of action for us to take, so I would support the staff recommendation. Move staff.

CHAIRMAN BRISÉ: Commissioner Edgar.

COMMISSIONER EDGAR: Thank you. I will second the motion, and then would like to make some comments, if I may.

CHAIRMAN BRISÉ: Sure.

COMMISSIONER EDGAR: Thank you.

I absolutely appreciate the comments and questions that Commissioner Balbis has raised, and I have made comments on similar issues in the past years related to preplanning and long-term planning and storm reserve accrual amounts and target ranges, and I have recognized in the past, and votes at this bench have certainly reflected that this is an issue that generally otherwise like-minded people may have a slight disagreement or come down in a slightly different place, and I respect that.

I am somewhat differently situated here from the four of you in that I did have the experience of sitting at this bench back in 2005 and 2006 when this Commission had numerous case dockets before us requesting rate increases post storm, and we had numerous customer meetings across the state, two different years all across the state, and I was very touched at the time and it made a great, great, great impression on me that lasts through today and I'm sure beyond.

And during those customer meetings we heard from many hundreds, if not thousands, of customers, customers, small business owners, and local government officials in particular, who beseeched the Commission to not impose a rate increase after a storm when they had so many other costs related to the impacts of the storms and they were trying to get their families, their lives, their communities, and their businesses up and running prior to, and not receiving insurance payments, damage to structures, damage to transportation, loss of food, loss of property, all kinds of impacts that were very, very far reaching and had substantial financial impacts, in particular on individual customers and on small business owners.

And we -- one of the messages that I heard very loudly and very clearly at that time was "Why didn't you plan ahead more? This is not the time that we can take any additional cost." And I admit it made a very big impression on me, and as a Commission we have tried to take steps over the years certainly to help our utilities and our communities be better prepared with storm hardening and other aspects. And I am certainly hopeful that in the future our customers will reap the benefits of those decisions.

Commissioner Balbis made the comment about the unlikely event of another major storm, and that is certainly a possibility. It is, however, not my belief. I don't believe that it is unlikely, especially with the panhandle and coastal constituency that Gulf serves. I do believe it is only a matter time; it could be a short time, it could be a long time. But recognizing that the staff recommendation has no increase in revenue requirement and no increase in rates, I believe that the more prudent course is to continue with the accrual as it is, as is described by our staff, although I certainly, again, recognize that this is an issue that is perhaps -- you know, is certainly a small one in the larger case of this entire rate case before us, and is one that people can come down on different numbers. So thank you for the opportunity to make the comments. I support the motion and second it.

CHAIRMAN BRISÉ: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman. And thank you, Commissioners Brown and Edgar.

Commissioner Edgar, I agree with you completely in that if there is a way that we can avoid the implementation of a surcharge post-storm when customers are struggling, when they're at a point where they, they have other issues, and tacking on top of that a surcharge is something that would not be wanted.

However, we do not have a single bit of sworn testimony that puts forth to us an option where an annual accrual will avoid a surcharge. So I appreciate your comments and I wish we had a way to, okay, we're going to identify the next storm that's going to happen, the costs associated with that, and plan for it appropriately so that we can avoid a surcharge. However, just maintaining what's, what's currently being paid, you're still going to have a storm surcharge.

And I want to point out another thing. I mean, surcharges, there's a lot of negatives associated with surcharges that you pointed out, but there's also some benefits to a storm surcharge.

I point out to a decision made by this Commission in '05 in the 050093 docket that I believe, Commissioner Edgar, you did participate in. And although I don't know how difficult it was to come to this stipulation, because it was a stipulation agreed to by the parties, but there were concessions made by Gulf Power. And I just want to read from the order where -- "By making this $14 million additional accrual, Gulf, in effect, is sharing in the recovery of the storm restoration costs, along with its ratepayers." So there's something that because of the surcharge, because of the stipulation, closer scrutiny was paid to those costs incurred, and there was some leeway given and an ability for everyone to share in those costs.

So, again, I can count to three, so I know I'm probably on the losing side of this. But, again, it's one of these things, are you, are you just -- if you're not eliminating a surcharge, so you still have to deal with the issues associated with one, then although it's not any additional impact, but what we're facing here with staff's recommendation is a rate impact. So reducing the amount of storm accrual will reduce the magnitude of the overall rate impact associated with this case. So I just wanted to make those comments, and I appreciate this open discussion.

CHAIRMAN BRISÉ: Question to staff. Does the storm damage reserve potentially mitigate the impact to consumers in terms of the, after the storm if there needs to be a surcharge?

MR. WILLIS: That's correct. The higher, the higher the reserve, the less of a need for a surcharge. And if there is a surcharge, the surcharge would be smaller at that point.

CHAIRMAN BRISÉ: And if, if the Commissioners who are making comments about the current level of $3.5 million right now, if we keep that the same, there is no additional impact to consumers at this point.

MR. WILLIS: That's correct. It's already built into the rates currently.

CHAIRMAN BRISÉ: So then there would be an achieved benefit to the consumer if we had a storm because it sort of helps protect the impact, protect them from the bigger impact of a larger surcharge in case of, of a storm.

MR. WILLIS: That's correct. That's the argument for a, having an actual reserve in place.

CHAIRMAN BRISÉ: Okay. With that, I'm comfortable in supporting the staff recommendation. And the motion has been moved and seconded.

All in favor, say aye.

COMMISSIONER EDGAR: Aye.

COMMISSIONER BROWN: Aye.

COMMISSIONER GRAHAM: Aye.

All right. Any opposed?

COMMISSIONER BALBIS: Aye.

CHAIRMAN BRISÉ: All right. Let the record reflect that.

Moving on to Issue No. 28.

MR. SLEMKEWICZ: Issue 28 concerns the unamortized rate case expense that's been included in working capital. Staff is recommending that the unamortized rate case expense not be included in working capital, and that comports with the Commission's general practice to exclude the unamortized rate case expense from working capital.

CHAIRMAN BRISÉ: All right. Any questions, comments, or a motion?

COMMISSIONER EDGAR: Move staff.

CHAIRMAN BRISÉ: All right. Is there a second?

COMMISSIONER BALBIS: Second.

CHAIRMAN BRISÉ: Second.

All in favor, say aye.

(Affirmative response.)

All right. Moving on to Issue No. 30 and 31, if we want to take those two together since they're fallouts.

MR. WILLIS: Yeah. They're fallout issues.

CHAIRMAN BRISÉ: All right. Is there a motion?

COMMISSIONER EDGAR: Mr. Chairman, I would move -- I'm sorry. I would move Issues 30 and 31, recognizing that they are fallout from the decisions that we have made.

CHAIRMAN BRISÉ: And, Commissioner Graham, I will take that as a second.

COMMISSIONER GRAHAM: Yes, sir.

CHAIRMAN BRISÉ: All in favor, say aye.

(Affirmative response.)

All right. Moving on to Issue 32.

MR. MAUREY: Commissioners, Issue 32 deals with accumulated deferred taxes to include in the capital structure. This is basically a fallout calculation.

CHAIRMAN BRISÉ: All right. Any questions or comments on Issue 32?

COMMISSIONER EDGAR: Move staff.

CHAIRMAN BRISÉ: All right. Is there a second?

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: All right. All in favor, say aye.

(Affirmative response.)

All right. It's been moved, properly seconded, and voted, and approved.

So moving on to Issue 33.

MR. MAUREY: Issue 33 addresses the appropriate amount and cost rate of unamortized investment tax credits. This also at this point is a fallout issue.

COMMISSIONER EDGAR: Move staff.

CHAIRMAN BRISÉ: All right. Is there a second?

(Seconded by Commissioner.)

Moved and properly seconded. All in favor, say aye.

(Affirmative response.)

All right. Any opposed?

(No response.)

Seeing none, moving on to Issue 37.

MR. BUYS: Good morning, Commissioners. Dale Buys with Commission staff.

Issue 37 addresses the appropriate return on equity to use in setting Gulf's revenue requirement. Based on a literal reading of the record and the parties' positions, staff believes the record loosely supports a return on equity for Gulf within the range of 9.25% to 11.7%.

However, review of the testimony and record evidence suggests the appropriate investor required return on equity is within the range of 9.75% to 10.75%.

As such, staff believes the appropriate return on equity for the 2012 test year is 10.25%, with a range of plus or minus 100 basis points.

With that said, staff is available for the Commissioners' questions on this issue.

CHAIRMAN BRISÉ: Commissioners?

Commissioner Brown.

COMMISSIONER BROWN: I had a couple of questions on this issue because of the somewhat subjective nature of the ROE and the fact that it's not really an exact science per se.

On page 76, at the top of the page staff references Gulf Witness Vander Weide's testimony regarding making an upward adjustment of 90 basis points to the 10.8% ROE of his proxy group to account for greater financial risk.

Mr. Maurey, how does Gulf's financial risk compare with the financial risk of the other IOUs -- oh, I'm sorry, the other utilities in his proxy group?

MR. MAUREY: Gulf's level of financial risk as measured on a book value basis compared with the book value basis for the proxy groups is comparable, within a point of, or two of each other.

The witness's testimony in this regard was that a leverage adjustment was necessary because Gulf was exposed to greater financial risk than the proxy group that was the basis for estimating return on equity in this case. However, when you compare book value to book value of Gulf to the proxy group or market value of Southern Company to the market value of the proxy group, the threshold that a difference in financial risk exists is not met. In fact, it's contradicted by the evidence in the record.

COMMISSIONER BROWN: Okay. Thank you. How does staff's recommendation compare with the current ROEs for the other IOUs in Florida?

MR. MAUREY: The recommendation in this case is based on the record in this case. How that compares with currently authorized ROEs, it's right in the middle of the two most recently authorized ROEs in the state. It's above the 10.0 for Florida Power & Light and just below the 10.5 for Progress Energy Florida.

COMMISSIONER BROWN: Okay. Thanks.

CHAIRMAN BRISÉ: Any further questions or comments on this issue?

Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

I would just ask our staff to elaborate a little more, and we had this discussion in our briefing, but if you could discuss how you believe the staff recommendation here is consistent with other decisions that we have made recently for other utilities in this state, recognizing also the current time versus a prior or potentially future time.

MR. MAUREY: Yes. Gulf Power has a single A rating. And generally companies of similar business and financial risk will generally have similar investor required returns. So FP&L also has a single A rating, so an argument could be made that the 10%, the 10.25 are reasonable.

Similarly, in addition to bond ratings, some will look at the level of equity ratio at a utility. If you looked at Gulf's equity ratio, compared it to Progress Energy's equity ratio, they're more comparable. It would make a case that maybe they should be closer to 10.5 than 10.25. So there's -- it's competing. There's indications it could be 10 or 10.5.

And as we recommended 10.25, you, if you turn to page 93 of the recommendation, there's a discussion about authorized returns across the country. Again, I want to stress the point that staff's recommendation is based on the record developed in this case, the evidence, the testimony. This is simply a comparison made after the recommendation was framed. It shows that authorized returns on equity around the country are in the 9.8 to 11.35, averaging in the low 10s. That supports the reasonableness of staff's recommendation in this case, and also the reasonableness of the authorized returns in those previous cases.

CHAIRMAN BRISÉ: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

And I have one question for staff. You know, one of the challenges that we face on the Commission is establishing an appropriate ROE. And I think it's somewhat of an arcane art, at least to the public, as to, you know, how we establish and what is the appropriate range or appropriate amount. They frequently consider that, you know, being the profit for, for the company. You know, my concern is that if we set an ROE that's too low, then the cost of capital for the company will be greater, which will ultimately result in higher rates for the customer.

So my question for staff is with the staff recommended ROE, do you believe that the cost of capital and other factors associated with Gulf's ability to conduct business will not be negatively impacted, as such to result in higher rates long-term for the customer?

MR. MAUREY: We don't believe the -- we believe the 10.25 will support their financial integrity. We believe the resulting overall cost of capital is comparable to previously approved costs of capital for other companies before the -- in this jurisdiction. We don't believe it will be -- undermine their ability to raise capital under reasonable terms going forward.

COMMISSIONER BALBIS: Okay. Thank you.

CHAIRMAN BRISÉ: Commissioner Brown.

COMMISSIONER BROWN: And just a follow-up question about the range that is supported by the record. You stated earlier, Mr. Buys, that the range that is supported by the record is between 9.75 and 10.75%?

MR. BUYS: Yes. That -- after a review of all the testimony and evidence, you can tighten up that range from the parties' positions that the actual range that is more tightly supported by the record would be the 9.75 to 10.75%.

COMMISSIONER BROWN: Okay. Thank you.

CHAIRMAN BRISÉ: I'm pressing a button to speak.

(Laughter.)

My question is about the range. What supports the, the higher end of the range, the 10.75?

MR. BUYS: The 10.75?

CHAIRMAN BRISÉ: Uh-huh.

MR. BUYS: If you were to believe the Gulf witness's testimony has more validity, their result from their models is in the upper range, to the 10.7 to 10.8%.

Conversely, if you believe that the record supports the lower end of the range and has more validity in that testimony, then, then the lower end of the range is supported also.

CHAIRMAN BRISÉ: We had a little bit of this discussion during my briefing. We talked about Gulf as an independent entity versus Gulf being part of a sisterhood of companies, a part of the Southern Company.

If they were a standalone group, would we still be supporting a 10.25 return on equity?

MR. CICCHETTI: Commissioners, I believe we would. The witnesses looked at a comparison group of companies, and I think the record supports the fact that these companies are similar in risk to Gulf Power. And so the staff's recommendation reflects that.

CHAIRMAN BRISÉ: Okay. Commissioner Graham.

COMMISSIONER GRAHAM: I guess to fill the silence, I move staff recommendation on this issue.

CHAIRMAN BRISÉ: Is there a second on that?

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: All right. There's a second. Any discussion?

Okay. I'll start off the discussion, I

suppose. You know, this is one of those things that's challenging to determine. There, there is obviously a range present there, and I think that we have used this in a, in the past and very recently to -- I don't want to say reward or dis, or disincentivize an entity for the quality of work that they provide and so forth. But I always want to make sure that when we look at this particular issue, that we don't handicap the company in any shape or form moving forward.

And though I see where we are with the staff recommendation, I think I would be personally a little more comfortable if we were in the 10.50 or 10.75 range personally. That's my personal perspective.

There is a motion and it's been seconded, so we're going to see how that falls or how that goes through. But I think considering the geography of the company and some of the challenges that are particular to that company, I think the more leeway that we provide for that company, I think it in the end benefits their consumers as time progresses. So that's -- those are my thoughts on this particular issue.

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman. And I, too, struggled with this issue. I think it's, it's very challenging. And one of the factors that I took into account was the fact that all of the expert witnesses used the same discounted cash flow model or DCF model. And staff reviewed the results of the model and determined that -- and I believe that's why you came up with a range in that you found -- and I don't want to put words in your mouth, but I guess confirmed that you didn't find any inconsistencies or any inappropriateness in the use of the model, the inputs into the model, et cetera, with any of the witnesses.

MR. MAUREY: Resulting in the range of 9.75 to 10.75, that's correct. And when you say -- they all used a very similar proxy group. They used similar models, slightly different versions of the DCF, but a very similar model. The true differences came from the inputs used in the model, the growth rates for expected cash flows. So, no, no witness did anything incorrect in their application of the models.

COMMISSIONER BALBIS: Okay. And, you know, again, like Commissioner Graham, who relies on his engineering background, I mean, one of the things that whenever you have, you know, professionals performing a model to analyze an expected outcome, you know, that you can have discrepancies in the end results. And none of those are incorrect based on staff's answer and staff's recommendation in the, in the overall recommendation that the results were appropriate between that range.

So, you know, in this case, I think splitting the difference and going to the midpoint is appropriate. I do agree with, with Chairman Brisé in that, you know, a higher ROE, you know, at some point is appropriate. I think there's long-term benefit to the customers in some cases. But in this case, with the modeling results show a range that we can go between, I think splitting the difference is probably the best course of action at this point.

CHAIRMAN BRISÉ: Commissioner Graham.

COMMISSIONER GRAHAM: Mr. Chairman, I was going to volunteer to withdraw my motion, if you want to pass the gavel and make a motion of your own.

CHAIRMAN BRISÉ: Well, I think we have one comment before we may have to do that.

Commissioner Edgar.

COMMISSIONER EDGAR: Thank you, Mr. Chairman.

And I do have a question and maybe a comment, and I did second the motion, recognizing, as Commissioner Graham pointed out, that we did have a few moments of silence and hoping that that would put us in the posture to have a little more discussion, and I'm glad that -- I don't know that that did it, but I'm glad that that's what occurred and that that's where we are.

ROE is again in my experience, and I think almost even, there's people who are much more expert than I am would agree that, once again, generally like-minded people can maybe come down at a slightly different number. And I agree completely with Commissioner Balbis's description of the arcaneness of some of the models and the inputs and outputs and how they absolutely interrelate or do not interrelate.

So with that sort of as background, I am open to more discussion and, and add, to restate the obvious, that I think the staff, as always, has done a good job with the 10.25 and being able to justify and point to items in the record. But they also, from my understanding, have said that there is a range between 9.75 and 10.75 that is justifiable due to the specifics of the record, the models, and my understanding of policy and decisions that would be consistent with decisions that this Commission has made in the past, which I think is an important part of how we review and analyze every record that is before us.

I can't help but notice, as Commissioner Balbis pointed out, that the 10.25 is, gosh darn, right in the middle of that recognized or reputable authorized, based on the record, range. And so I guess I would throw it out there back to our staff, if we were to look at the 10.25 and/or a 10.5, would both of those numbers, in your expert opinion, be appropriate based on the record information that is before us is the first question?

And the second is how much of the fact that we have a range and the 10.25 is right in the middle, and that's often a good reason to make a decision, but how much of that is a factor to that number?

MR. MAUREY: The first question, the answer is yes. The second question --

COMMISSIONER EDGAR: Care to elaborate?

(Laughter.)

MR. MAUREY: 10.5 is perfectly reasonable within our range. And, in fact, in this particular instance, the overall resulting cost of capital at the 10.25 is 6.39. At 10.5 it's only going to be marginally higher. That's still a very strong cost of capital, low cost of capital for the consumers' benefit. 10.5 is not going to raise that to a level that's unreasonable. So from that perspective, the 10.5.

Now on your second question, we -- ROE is subjective. It exists -- we know there's an investor required return. But unlike the cost of debt which can be directly observed and measured due to its contractual terms, return on equity has to be estimated, and with that brings in the subjectivity.

However, we have a great deal of evidence on various factors that relate to investor required return. We believe we've defined this range that encompasses that return. Whether it's 10.25 or 10.50, we can't sit here and tell you exactly which one that is. So 10.5 is supported by the record. The overall cost of capital resulting from an 10.5 ROE is reasonable, and there's ample evidentiary support to go in that direction.

COMMISSIONER EDGAR: Thank you. And just to -- I'm sorry, Mr. Chairman. Just to kind of finish that out, I believe I've said it before but I'd like to say it again for the record, you know, on every issue, but in my experience over the past years, this ROE issue in particular that is so highly technical, I think our staff does an excellent, excellent job of reviewing all of the information and putting forward a recommendation to us that is solid and something that we can feel good about relying on.

I also, as Mr. Maurey knows, he and I have had a very friendly agree to disagree every once in a while, where I have, as one Commissioner, and sometimes in the majority, have made the decision to slightly vary from that recommendation. And I'm pleased to say, Mr. Maurey, in my opinion, but correct me if I'm wrong, has always told me that that was justifiable as well.

So I think that the, the 10.25, the 10.5 are, is the range that I am comfortable with. And I do believe, as our Chairman has pointed out, and I believe I have said before, that from our geography and the ratepayer customer base, Gulf is somewhat differently situated from the other IOUs that come before us for decisions and that we regulate, and I do believe that that is something that should be taken into account when we review issues that pertain to them. So I look forward to hearing the comments from my other colleagues.

CHAIRMAN BRISÉ: Thank you, Commissioner Edgar.

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

And a follow-up question for Mr. Maurey. You indicated cost of capital, excuse me, is 6.39 at the 10.25% ROE. What would it be at 10.5? You said it was --

MR. MAUREY: I don't have that exact calculation. I just know the relationship of those numbers, and it's going to move but not significantly, not by over -- equity is less than half of the capital structure, and you're only moving the cost rate 25 basis points, so it's going to be half of that incremental 25 at most.

COMMISSIONER BALBIS: And for each 100 basis points or 10th of a percentage of ROE, what is the revenue impact associated with that?

MR. MAUREY: For 100 basis points, it's 10.4 million. So at 25 basis points, that would be 2.6 million.

COMMISSIONER BALBIS: Okay. Thank you. That's all I had at this time.

CHAIRMAN BRISÉ: Commissioner Brown.

COMMISSIONER BROWN: Thank you. And I appreciate the very interesting discussion that we've had on this issue because, again, it is a very technical subject area. I feel more comfortable with the staff recommendation as is splitting, splitting the middle, so I would move the staff recommendation again.

(Laughter.)

Did we take it -- is it -- did Commissioner Graham withdraw?

CHAIRMAN BRISÉ: It's been moved and seconded. It hasn't been --

COMMISSIONER BROWN: Okay. I'm going to support it.

CHAIRMAN BRISÉ: Okay. All right. So we have a motion on, on, on the floor. It's to move staff recommendation. I think there is potentially some space for, for an amendment, but we'll see what Commissioner Balbis has to say.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

And I just want to just wrap up a few closing comments on this and where I am. And, you know, I started with we have a range that is supported by the evidence in the record and that staff recognizes that either the low or the high would be appropriate. And, you know, based on the fact that the cost of capital would not significantly change by increasing the ROE by 25 basis points, therefore, you know, there would be not that great of a benefit to the customers because the cost of capital would not change. And I know it's complicated and it has a lot of other moving parts to it. And the revenue impact associated with moving it up to the 10.5 gives me some concern. Having an additional $2.6 million per year revenue requirement with maybe not that great of a benefit leads me to continue to support the motion on staff's recommendation.

I do want to point out that, you know, although we did have a discussion on where the other utilities are, you know, I want to recognize that utilities are not the same geographically, the size, et cetera. So although it's good to kind of gauge it, but, you know, we take each case on its own and look at the evidence in the record to determine it. And just basing it on what another company's is, although it might be useful, I don't think it's too pertinent in this case. So with that, I would continue to support the motion.

CHAIRMAN BRISÉ: All right. I too can count to three, so, so we have a motion and it's been properly seconded. All in favor, say aye.

(Affirmative response.)

All right. Any opposed?

(No response.)

Seeing none. Moving on to the next issue, and that would be Issue 38.

MR. MAUREY: Commissioner, 38 is the overall cost of capital. This is a fallout calculation.

CHAIRMAN BRISÉ: Okay. Do we have a motion?

COMMISSIONER EDGAR: Move staff.

CHAIRMAN BRISÉ: All right. Is there a second?

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: All in favor, say aye.

(Affirmative response.)

Okay. Issue 39.

MR. TRUEBLOOD: Good morning, Commissioners.

I'm Frank Trueblood with Commission staff.

Issue 39 addresses whether Gulf is adequately compensated by the non-regulated affiliates for the benefits they receive through their association with Gulf. Staff believes that Gulf is adequately compensated and, thus, recommends no additional measures be undertaken by the Commission at this time.

CHAIRMAN BRISÉ: Okay. Any questions or comments?

Okay. Is there a motion?

COMMISSIONER EDGAR: Move staff.

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: All right. Moved and seconded. All in favor, say aye.

(Affirmative response.)

Okay. Item 39 has been approved.

Issue 40.

MR. TRUEBLOOD: Issue 40 is assumed in Issue 39, and it addresses whether Gulf operating revenues should be increased by $1.5 million for a 2% compensation payment from the non-regulated companies.

For the reasons stated in Issue 39, staff believes that Gulf has adequately -- is adequately compensated, and staff recommends no adjustment to increase Gulf's operating revenue as addressed in this issue.

CHAIRMAN BRISÉ: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

And I don't know if this will be helpful. At least from my perspective, the next issue where I have some questions for staff, or disagreements with staff really start on Issue 69. So I don't know if it would be helpful to go on down the line and see when the next issue -- and if not, I would move staff's recommendation on this issue all the way up to the next one that a Commissioner has a question or concern on.

CHAIRMAN BRISÉ: Okay. Let's deal with the issue of the process before we deal with the issue of the content.

So you are thinking from Issue 40 to 66, is that what you said?

COMMISSIONER BALBIS: 67.

CHAIRMAN BRISÉ: 67? 40 to Issue 67, if the, if the Commissioners would be comfortable with taking that as a block. Okay. I'm seeing a nod of no. Okay.

COMMISSIONER BROWN: Mr. Chairman, I have questions on Issue 66, interest on deferred comp.

CHAIRMAN BRISÉ: Okay. So then would it be possible for us to take Issue 40 to 64 as a block?

COMMISSIONER BROWN: Uh-huh.

CHAIRMAN BRISÉ: Okay. With that, Commissioner Balbis, do you have a motion?

COMMISSIONER BALBIS: Yes, sir. I move approval of staff's recommendation on Issues 40 through 66.

CHAIRMAN BRISÉ: 64?

COMMISSIONER BALBIS: 64. I'm sorry.

(Seconded by Commissioner.)

CHAIRMAN BRISÉ: All right. It's been moved and seconded. To make sure that's clear, it's move staff on Issues 40 through 64. It's been moved and seconded.

All in favor, say aye.

(Affirmative response.)

Any opposed?

(No response.)

Seeing none, we are now on Issue 66, page 151.

MR. TRUEBLOOD: Good morning again, Commissioners.

Issue 66 addresses whether the interest on deferred compensation should be included in the operating expenses. Staff recommends that the deferred compensation interest should be included in the operating expenses at a rate sufficient to cover the opportunity cost of the balance. Gulf calculated the rate at 6.78%, which staff believes is somewhat high. Staff believes the interest should be calculated at a rate of 3.12 that we feel is supported by the record.

And I am available to answer any questions you may have.

CHAIRMAN BRISÉ: Okay. Commissioner Brown.

COMMISSIONER BROWN: Thank you.

Thank you, Mr. Trueblood. OPC Witness Ramas argued that the interest costs have not been justified and that they should not be passed on to the ratepayers. Why is staff recommending any interest at all on deferred comp be borne by the ratepayers?

MR. TRUEBLOOD: Again, staff has recommended that the interest be included to cover the opportunity of the cost because we feel that will allow the company to have more money that it can use for the benefit of the ratepayers.

COMMISSIONER BROWN: Did Gulf meet its burden in justifying the 3.12% interest that it derived from the U.S. Treasury rate for calculating deferred comp?

MR. TRUEBLOOD: Staff believes that Gulf did meet the burden to show that the interest should be calculated and included in operating expenses.

COMMISSIONER BROWN: Can you elaborate for me?

MR. TRUEBLOOD: Yes.

COMMISSIONER BROWN: Please.

MR. TRUEBLOOD: Gulf recommended, again, the rate of 6.78%. OPC, as well as the Intervenors, felt that was too high, and staff agrees it's too high. I don't necessarily think that they argued that, apart from the rate being too high, that it should not be included, unless the company failed to prove that it should be included. And staff believes that the company did prove it should be included.

The problem we had with the interest, again, it was too high we thought. And when we looked to the record and we looked at what Gulf had used to calculate that 6.78%, we noticed that the rates that they -- which was a prime rate for the time and for the mood analytics that they said that they used, was not supported by the record. And so we just looked to the record to see if there was a rate that we could use to calculate that. Because we feel that they have proven that by them deferring the compensation from those employees, they would have more money that would be available to use for the operations, and we felt that was justified.

COMMISSIONER BROWN: Thank you. I appreciate that.

Last question. Does Gulf currently receive interest on its deferred comp?

MR. TRUEBLOOD: I think that they are currently being allowed to include the interest on the deferred comp.

COMMISSIONER BROWN: What is that interest rate?

MR. TRUEBLOOD: Commissioner Brown, that I'm not sure.

COMMISSIONER BROWN: Anyone?

MR. SLEMKEWICZ: I don't believe that's in the record.

COMMISSIONER BROWN: Oh, that's a good answer. Thank you.

(Laughter.)

CHAIRMAN BRISÉ: All right. Any further questions or discussion on Issue 66?

COMMISSIONER GRAHAM: Move staff.

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: It's been moved and properly seconded. All in favor, say aye.

(Affirmative response.)

Okay. Moving on to Issue 67.

MR. WRIGHT: 67 is should SCS Early Retirement Costs be included in operating expenses, and staff is recommending that SCS Early Retirement Costs of

$49,338 not be included in operating expenses as these were former SCS employees who were terminated in the 1980s and 1990s, and Gulf did not provide any information on how the company benefited from these early retirements.

CHAIRMAN BRISÉ: Okay. Any questions or comments on 67? Okay. Motion?

COMMISSIONER GRAHAM: Move staff.

(Seconded by Commissioner.)

CHAIRMAN BRISÉ: All right. There's a motion that's been properly seconded.

All in favor, say aye.

(Affirmative response.)

All right. Issue 69.

MR. WRIGHT: Issue 69 is are Gulf's proposed increases to average salaries appropriate? And staff is recommending that the general increases for covered employees and the merit increases for non-covered employees should be considered reasonable.

Covered or union employees received a contractually required increase of 2.25% in 2011 and 2.35% in 2012, and non-covered employees received a 2.5% merit increase in 2011 and 2012, and staff believes these are reasonable.

CHAIRMAN BRISÉ: Thank you.

Commissioner Brown.

COMMISSIONER BROWN: Thank you. Mr. Wright, you know I have a question on this one here. Why are the base payroll increases for the non-union employees equal to 2.5%, but the union employees -- for both 2011 and 2012, but the union employees, who are contractually bound, their increases are less than that, and they're equal to 2.25% in 2011 and 2.35% in 2012? Why is it, why is it reasonable to assume that the non-union employees have a higher increase than the contractual, again, contractually bound union employees having less than that amount?

MR. WRIGHT: I guess it's kind of like a market. I guess it's kind of based on the type of employees that you're looking at and how they're, they're considered in the marketplace. But other than that, I don't think we have anything in the record that, that shows why those, those two vary.

COMMISSIONER BROWN: Commissioners, I just had a hard time understanding why the non-union employees are receiving greater increases that staff is recommending than the union employees, and I wanted some kind of clarity of that discrepancy. I still --

MR. WRIGHT: Right. And I don't think we have any other information on that.

CHAIRMAN BRISÉ: Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

And a follow-up question for Mr. Wright. And I just want you to expand a little bit on the, I guess, exit interview or whatever term you use. So you didn't really focus on the percentage increase. You just looked at what their overall compensation would end up at and how that compares to, on a market-based analysis, other similar positions; correct?

MR. WRIGHT: Yes. I think Witness Kil -- Witness Neyman had external market analysis of those salaries.

COMMISSIONER BALBIS: So it could be that the non-collective bargaining unit employees -- well, based on the record, that they were more underpaid than the union employees and, therefore, warranted a greater increase?

MR. WRIGHT: Correct.

COMMISSIONER BALBIS: Okay. And then the next question I have is in a couple of the follow-up issues, 70 and 71, staff makes recommendations as to the reduction of total employees. Do these adjustments -- they reflect the modified number of employees; correct?

MR. WRIGHT: Yes.

COMMISSIONER BALBIS: Okay. Thank you.

That's all I have.

CHAIRMAN BRISÉ: Okay. Any further questions, or is there a motion?

Commissioner Graham.

COMMISSIONER GRAHAM: I move staff recommendation on 69, 70, and 71.

CHAIRMAN BRISÉ: Okay. Is there a second on that whole motion, or are we more comfortable with -- on 69? Okay. Is there a second on that motion?

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: Okay. There's a second on that motion.

All right. Discussion on the motion.

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you.

And I would support the motion if it was just specifically to 69. I do have some questions on Issue 71 associated with that, so I cannot support the motion at this time.

CHAIRMAN BRISÉ: Okay. Commissioner Graham.

COMMISSIONER GRAHAM: I will happily change my motion to 69 and 70.

COMMISSIONER BROWN: Second.

COMMISSIONER EDGAR: As will I change my second to support that, and suggest that we get

Commissioner Balbis some Cuban coffee so he's a little quicker on the -- but I'm glad to, glad to do that to accommodate.

(Laughter.)

CHAIRMAN BRISÉ: All right. So we will -- so now the motion has been amended to encompass Issues 69 and 70. Okay. Any questions or further discussion on Issue 69 and 70?

All right. Seeing none, all in favor, say aye.

(Affirmative response.)

All right. Issues 69 and 70 have been approved.

Moving on to Issue 71.

MR. WRIGHT: Okay. Issue 71 is how much, if any, of Gulf's proposed incentive compensation expenses should be included in operating expenses. And staff is recommending that Gulf's proposed incentive compensation expenses that should be included in operating expenses is 10,070,813, which is 2,301,505 less than Gulf's requested jurisdictional amount. And here staff is recommending that the long-term incentive compensation programs not be included, as they apply only to the pay grade 7 and above, and there's only 119 employees included in those programs. But staff is recommending that the performance pay program, the short-term program that covers all employees, be included.

CHAIRMAN BRISÉ: Okay. Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman, and thank you for the ability to discuss this, this issue.

You know, this is something that, that I agree with staff's recommendation to disallow any programs that the customers do not receive a benefit. And for the benefit of the other Commissioners, during the briefings that I had with staff I looked at, you know, was there any way that we could tie in all of these programs almost to be triggered by one of the other, you know, the PPP program, for example, so that the customers can realize the benefits of the Gulf employees performing well so that the customers receive the benefits. And, and staff had indicated that it would be difficult for us to be in a position of creating their own incentive plan. So we certainly don't want to do that. But, you know, I would encourage Gulf and the other utilities that any incentive plan be focused on the benefit to the customers.

So I have a few questions for staff concerning the performance pay program, which I understand is the bulk of their incentive plan from a cost standpoint.

The weighting for this program is one-third Gulf's operational goals, one-third Gulf's ROE, and one-third, one-third is Southern's earnings per share; is that correct?

MR. WRIGHT: That's correct.

COMMISSIONER BALBIS: So do we have the ability to exclude for ratemaking purposes the one-third that are just related to Southern's earnings per share?

MR. WRIGHT: Yes. I think we could kind of back into that amount based on the schedules that Witness Neyman and Kilcoyne provided.

COMMISSIONER BALBIS: So, I'm sorry, the answer was that you could?

MR. WRIGHT: Yes. Yes.

COMMISSIONER BALBIS: And my concern with that is how does that affect the overall compensation for those employees? So if we were to take out that one-third weighting for Southern earnings per share, how would that affect the different employee groups on a total compensation package?

MR. WRIGHT: Well, obviously it would, it would lower their average salaries.

We did -- I did do a calculation excluding the one-third of the PPP, and Witness Kilcoyne had the bargaining unit jobs being in a negative 7.5% compared to, compared to market, and that would go to a negative 9%. And the non-exempt, non-covered employees would go from a 3% above market to .02%. And the pay grades 1 through 6, accountants and engineers, they were a negative 3.5% compared to market, and that would go to 6.73% below market. And management would go from being about 5% above market to being below market by 3%. And overall the company showed they were below market by 2.86%, and they would go to a negative 6.34% below market with, with that adjustment.

COMMISSIONER BALBIS: So would staff's recommendation of just including the PPP program keep everyone within plus or minus 8%?

MR. WRIGHT: Yes.

COMMISSIONER BALBIS: And then if we exclude the one-third of Southern's earnings per share, you could have some units that will fall even lower than that; correct?

MR. WRIGHT: Correct.

COMMISSIONER BALBIS: Okay. You know, I thought about, you know, possibly adjusting that a little further. I think, you know, keeping everyone within that range is appropriate.

I do wish that Gulf's customers could realize the benefit from the other parts of the incentive program because I believe in incentive programs. I think employees should be encouraged to perform well, and an incentive program is an appropriate tool, provided the overall compensation is within market range. So with that, I move staff's recommendation on this issue.

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: It's been moved and seconded. Commissioner Brown.

COMMISSIONER BROWN: Thank you. And I support the motion, but I do want to make a couple of comments. I tend to philosophically agree with FIPUG, OPC, and FRF regarding disallowing incentive compen -- I'm sorry -- company earnings because they are so -- disallowing incentive compensation because they're so dependent on the company's earnings. I'd like to see these programs more tied to operations rather than the financial goals right now. And I know at this time I don't think it would be the right position we're in, I think that the proposition that the, that Gulf provided evidence that some of these incentive, that these incentive programs do make employees, the employees accountable for their performance, which in turn benefits the customers.

The thing that really, you know, concerned me here was that the Intervenors didn't, they didn't introduce any evidence that suggested that the overall compensation to the employees was unnecessary or unreasonable.

But, again, I'd like to stress that I think that these incentive plans be tied more to operations and not financial goals. So I support the motion.

CHAIRMAN BRISÉ: All right. All in favor, say aye.

(Affirmative response.)

All right. Any opposed?

(No response.)

Seeing none.

Let's see how we want to deal with Issues 72 through 93. Take a moment to take a look at those issues to see if we can have a motion that encompasses all of those issues.

(Pause.)

Commissioner Graham.

COMMISSIONER GRAHAM: Move staff recommendation on Issues 72 through Issue 93.

(Seconded by Commissioner.)

CHAIRMAN BRISÉ: Okay. Thank you. It's been moved and properly seconded.

All in favor, say aye.

(Affirmative response.)

All right. Let the record reflect that Issues 72 through 93 have been approved.

Issue 94.

MR. MAUREY: Commissioners, Issue 94 addresses whether a parent debt adjustment, pursuant to Rule 25-14.004, *Florida Administrative Code*, should be made in this case.

The record supports both a primary and an alternative recommendation in this instance. Staff is available for questions.

CHAIRMAN BRISÉ: All right. We'll hear from -- I guess I want to hear the alternative recommendation first.

MR. CICCHETTI: Good morning, Mr. Chairman. Mark Cicchetti, the finance and tax section.

There's three main factors that underlie the staff's recommendation, the alternative recommendation, and that is the concept of standalone, the second is the appropriate required return on equity, and the third are the specific facts of this case.

The Commission's long-standing practice has been to regulate utilities on a standalone basis; that is, the costs associated with providing utility service are the only costs allowed into the revenue requirement.

In this instance, the parent debt adjustment reaches to the parent company and takes the tax benefit associated with that at the parent level and uses it to reduce the revenue requirements. And in each case the Commission gets to hear from witnesses that testify to the expenses and the revenues and, additionally, the appropriate capital structure and the costs of capital. And so there really is no reason to look outside of what the specifics are for a regulated utility.

And that takes us to the required return aspect of it. When you vote on the required return, that is a function of the risk that the investment is exposed to and not a function of the cost of the source of funds. And the parent debt adjustment again is reaching back to the source of funds and reducing the revenue requirement because of that.

And then the final aspect was the facts and circumstances associated with this case. The record evidence indicates that at the last rate case there was no debt at the parent company level, so no adjustment was made. And since that time, Gulf Power has sent more dividends to Southern Company than Southern Company has invested in the equity of Gulf Power, and that leads us to the whole tracing of funds argument.

And Gulf Witness Deason, I thought, made a very interesting point that the parent debt adjustment is chasing that equity investment from Gulf Power to the debt of the parent company. And in order to rebut that presumption, you would have to engage in a similar amount of tracing. And if the Commission cannot do that, then it would mean that the rebuttable presumption is irrebuttable and that couldn't mean what the Commission meant when the rule was set.

And so in this instance, since more funds were sent -- and I like to use the analogy of having some children. If you have a child that's working and they give you their paycheck and you give them a little less than they're giving you, but you have some other children that need money and you borrow some money to meet your needs, why would you presume that the borrowing was for the child that's a net provider of funds to you?

So keeping in mind that everyone's agreed you can't trace funds, I believe the totality of the evidence, preponderance of the evidence in this case indicates that there should not be a reduction to Gulf's allowed return, an increase to the interest expense -- or to the tax benefit associated with the interest expense, and that Gulf has met its presumption, the rebuttable presumption that there should be no adjustment in this case.

COMMISSIONER GRAHAM: All right. So I guess we'll hear from Commissioner Balbis. Do you have a question or a comment?

COMMISSIONER BALBIS: I do. But if you were going to now have primary staff give their recommendation, then I'll wait 'til that point.

CHAIRMAN BRISÉ: Okay. So we'll have the primary staff recommendation at this time.

MR. MAUREY: Rule 25-14.004 requires the income tax expense of a regulated company be adjusted to reflect the income tax expense of the parent debt that may be invested in the equity of the subsidiary where a parent/subsidiary relationship exists and parties of that relationship jointly file a consolidated tax return. Those two conditions' precedent are met in this instance. Southern and Gulf are part of a parent/subsidiary relationship and they file a joint tax return.

It is true that a parent debt adjustment was not made in the last rate case. There was no debt at the parent company level. However, Gulf wasn't formed ten years ago. There's no rebuttal of the presumption that when Gulf was formed, at such time there was a mix of debt and equity that was done. It was unlikely that that was done with 100% equity.

Also, in this instance, we, we do have other Commission orders since 2009 where this adjustment has been made for electric utilities. The one order that was proffered during testimony as a precedent for not making the adjustment was -- we've pulled that order. It was for an original certificate for a small water and wastewater utility. There was no discussion, no testimony taken, no presumption met that the investment wasn't made in a similar mix of debt and equity at the parent level when the utility was formed.

Based on the testimony in the record, primary staff recommends that the presumption has not been met and that the adjustment be made in this instance.

CHAIRMAN BRISÉ: Thank you.

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman. And, you know, this is something that, an issue I've struggled with because you have, I believe, very valid arguments made by both primary and alternate staff. And a lot of the testimony in the record, and it's also quoted in the recommendation, has to do with the rule that's in place on parent debt adjustment, and there seems to be an agreement from both primary and alternative staff that there may be some issues with that rule.

And so one of the issues I have is that at some point in the future we may want to look at that rule and maybe go through a workshop process to see if there's a way we can make it more clear or make other adjustments to the rule. Because if we have two sets of professional staff that have completely opposite recommendations, although it does happen, and when there's testimony that there's an issue with the rule, it might be something we want to look at closer.

So unfortunately now we have this issue before us. And my question for staff, and hopefully you can answer it, I mean, if we move forward with primary staff's recommendation where the utility did not meet the burden and therefore the parent debt adjustment should be made, you know, my concern is that, especially Witness Deason testified that, you know, there is no tracing of funds, so there's really no way that you can, you can follow it and determine that those funds were or were not used.

I mean, how does that put us in a position from an appeal process, et cetera, from a legal standpoint if we move forward with primary staff's recommendation rather than alternate staff's recommendation?

MR. WILLIS: Commissioner, the idea of tracing funds, I think, goes on both sides of it. I looked at both sides of the issue and I had the, the privilege of deciding which one was going to be primary and which one was going to be the alternate. And I came down on the primary side because based on the rule itself, I don't think they've met that, the burden of proof to not have the adjustment made.

But as far as tracing funds go, to me the rule was, was never really set up to trace funds because it's looking at a set level of debt and equity at the parent company and it's not assuming that you're going to trace part of it to equity or part of it to debt. It basically says that's, that's the structure. We're going to use the same structure and that's how we're going to measure how much of an adjustment to bring down to the subsidiary. So there's no real tracing as to equity and debt through the rule to me. I mean, that's my personal opinion.

The issue before the Commission today is strictly should the adjustment be made? If the Commission decides or -- that we ought to go and workshop this issue, we're certainly welcome to do that. It's something we certainly have thought of. The Commission did workshop this very same rule again back in the '80s and were actually looking at whether or not it should be repealed, and the Commission decided at that point it should not be and the rule stayed on the books as is. We are certainly amicable to go forward and workshop this rule again.

I think if you're looking to decide whether it should stay on the books or not, that's the avenue to take. That issue is not before the Commission today. It's just whether or not the adjustment should be made.

COMMISSIONER BALBIS: Mr. Chairman, if I could follow up.

CHAIRMAN BRISÉ: Sure.

COMMISSIONER BALBIS: So if I understand the issue before us today, we could make -- not make the adjustment but still feel they met the intent of the rule.

MR. WILLIS: Yes. As Mr. Maurey and Mr. Cichetti pointed out, you could draw the conclusion to either make the adjustment or not make the adjustment based on the record in this case. Either one is, is available for the Commission to decide, and we think it would be upheld.

COMMISSIONER BALBIS: I guess the, the other reason why I'm uncomfortable, and especially if there's discussion as to whether or not this rule should be repealed, I don't want to be in a position where we know a law is incorrect, we know someone broke that law. So instead of taking the appropriate action, we're just going to change the law after the fact. And I know that might be a poor analogy, but, I mean, I just want to make sure we're not in that situation. I want to understand the options we have because we do have a gray situation here, and, and I look forward to hearing the other Commissioners' comments on this.

CHAIRMAN BRISÉ: Mr. Willis.

MR. WILLIS: If I could just point out one thing too. We're not, as staff, sitting here today telling you the rule should be repealed. That's not -- I hope you didn't draw that conclusion. We're just indicating that if you want to go through that formality of a workshop to make that decision, we certainly are willing to do that.

CHAIRMAN BRISÉ: All right. Any comments from other Commissioners on this issue?

Commissioner Edgar.

COMMISSIONER EDGAR: I think doing what I hope is a friendly borrowing of Commissioner Balbis' early terminology, we're back in the land of arcane, and, once again, where generally like-minded and thoughtful individuals obviously can disagree, recognizing that we have a primary and an alternative from our staff.

And I appreciate our staff bringing both forward, recognizing, as is laid out in the analysis and has been described today, that this is a gray area and that the record does support a determination either way.

Mr. Chairman, if it's appropriate, I'll go ahead and put it out there. And if, if -- obviously if there is further discussion, I welcome that. But to get us into that posture, I would make a motion in support of the alternative recommendation, with my understanding that it appears by the record that the rebuttable presumption has been met under the rule and the statute that is before us.

CHAIRMAN BRISÉ: All right. Is there a second?

COMMISSIONER BALBIS: Second.

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: All right. It's been moved and seconded. Any further discussion?

Okay. Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

And I do obviously support the motion, and I just want to focus on several statements that staff made in their alternate recommendation, which led me to open up the discussion on a workshop.

I mean, in the -- the opening paragraph states that on its face the parent debt adjustment rule is inconsistent with Commission long-standing practice, et cetera. So if we have a rule that's out there that's inconsistent, I think it warrants further discussion.

I think in this case, you know, I agree that the evidence was provided to rebut this issue in order to make the adjustment. And another factor that I took into account in supporting the motion is the fact that dividends were paid to Southern from Gulf. And you would have to have a circuitous tracing to determine that funds were passed to Gulf that were borrowed from Southern in order to warrant the adjustment, and that was not made. So on that I support the motion.

CHAIRMAN BRISÉ: All right. Seeing no further comments, all in favor, say aye.

(Affirmative response.)

Okay. The issue carries.

A little more process: Issues 95, 96, and 97 are fallout issues.

COMMISSIONER GRAHAM: Move staff.

COMMISSIONER BROWN: Second.

CHAIRMAN BRISÉ: Okay. It's been moved and seconded.

All in favor, say aye.

(Affirmative response.)

Okay. Moving on to Issue 98.

MR. MOURING: Commissioners, Issue 98 addresses the appropriate revenue expansion factor and net, net operating income multiplier. This is essentially a fallout issue based on the Commission's vote in Issue 89 regarding the bad debt multi -- the bad debt allocation factor.

CHAIRMAN BRISÉ: Okay. Is there a motion?

COMMISSIONER GRAHAM: Move staff recommendation on Issue 98 and 99.

CHAIRMAN BRISÉ: All right. It's been moved.

COMMISSIONER BALBIS: Second.

CHAIRMAN BRISÉ: And properly seconded.

All in favor, say aye.

(Affirmative response.)

Okay. Moving -- this moves us to Issue 109.

MS. KUMMER: Commissioners, Issue 109 addresses renaming the customer charge to a base facilities charge. This is simply an administrative matter. There is no impact on customers. You will see the actual customer charge rates at the next agenda on March 12th.

COMMISSIONER BALBIS: Move approval of staff recommendation.

CHAIRMAN BRISÉ: Okay. Is there a second?

COMMISSIONER EDGAR: Second.

CHAIRMAN BRISÉ: Okay. All in favor, say aye.

(Affirmative response.)

All right. Let the record reflect that 109 has been approved.

113.

MS. KUMMER: 113 addresses the company's petition to annually adjust the fixture portion of street lighting and outdoor lighting rates. Staff believes that this would cause a hardship to customers such as cities and homeowners associations who must plan ahead for their street lighting budgets, and also Gulf has not shown a need, a financial need for this, for this annual adjustment. Staff recommends denial.

CHAIRMAN BRISÉ: Okay. Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Mr. Chairman.

I just have one question for staff. I mean, obviously we don't want to hamper Gulf's ability to adequately charge for their fixtures. What would be the process Gulf would have to go through to adjust their prices if we were to deny this, this request?

MS. KUMMER: Utilities may come at any time and file a tariff change, which would come before the Commission for approval.

COMMISSIONER BALBIS: And is that a relatively quick administrative process?

MS. KUMMER: It would depend on what they requested. Yes, Commissioner, if they provide cost support, it should be a relatively quick process.

COMMISSIONER BALBIS: Okay. Thank you.

With that, I move staff's recommendation on this issue.

CHAIRMAN BRISÉ: Is there a second?

COMMISSIONER BROWN: Second.

CHAIRMAN BRISÉ: All right. All in favor, say aye.

(Affirmative response.)

Okay. Moving on to Issue No. 115.

MR. McNULTY: Good morning, Commissioners. Bill McNulty with Commission staff.

Item No. 115 is the identification of the appropriate transformer ownership discounts for Gulf Power Company. Staff recommends the Commission set the transformer ownership discounts equal to the Company's Minimum Distribution System unit cost for transformation service for the GSD/GSDT, LP/LPT, and the SBS primary rate classes, as well as the SBS transmission at the 500 to -- 5,000 [sic] to 7,499 KW demand rate, level rate classes.

Gulf's power rate for Gulf's rate classes for which there is a lack of updated available unit cost data, staff recommends the Commission set the transformer ownership discounts equal to Gulf's current transformer ownership discounts. As such, the current discounts are 18 cents per KW per month for the PX and the PXT classes, and the -- and 7 cents per KW per month for the SBS Transmission at the 7,500 KW and above rate class. And those discounts would be continued. Thank you.

CHAIRMAN BRISÉ: All right. Thank you.

Any questions or comments on this issue? All right. Ready to entertain a motion?

COMMISSIONER GRAHAM: Move staff.

COMMISSIONER BALBIS: Second.

CHAIRMAN BRISÉ: Okay. It's moved and seconded.

All in favor, say aye.

(Affirmative response.)

Okay. Moving on to Issue 117.

MR. SLEMKEWICZ: Issue 117 is whether any of the $38.5 million interim rate increase should be refunded. Based on staff's analysis, no amount of the interim refund should be recommended -- I mean, refunded.

CHAIRMAN BRISÉ: Okay. Any questions or comments or motion? Oh, sorry. Commissioner Balbis.

COMMISSIONER BALBIS: Actually I would move staff's recommendation on this issue. And I wanted to make, make a comment. I want to recognize Gulf Power on this issue. I mean, when they requested an interim rate increase, they could have asked for more and we would have -- our hands are tied to approve it. And I wanted to commend Gulf for requesting the minimum amount that is required so that when we move forward with the full rate process, that, that we can accurately assess how much should be charged. I do want to recognize them for that, and move approval on staff's recommendation on this issue.

CHAIRMAN BRISÉ: Okay. It's been moved. Is there a second?

COMMISSIONER GRAHAM: Second.

CHAIRMAN BRISÉ: Okay. It's been moved and seconded.

All in favor, say aye.

(Affirmative response.)

All right. It's been voted positively.

Moving on to Issue 119.

MS. KLANCKE: Issue 119 is the closure of docket issue. In this issue, staff is recommending that the docket should be closed after the time for filing an appeal has run.

COMMISSIONER EDGAR: Move staff.

(Seconded by Commissioner.)

CHAIRMAN BRISÉ: Okay. It's been moved and seconded.

All in favor, say aye.

(Affirmative response.)

Okay. So the docket is closed on this issue.

I need to do something. I need to ask if I can do that. On Issue 37 I voted yes. I need to change that to a no, which is the ROE issue.

MS. KLANCKE: (Not on microphone) -- will reflect that change.

CHAIRMAN BRISÉ: Thank you. Okay. We could do that. Let me pass the gavel and see if, if there's some appetite for that.

Commissioner Graham, you have a comment.

COMMISSIONER GRAHAM: I guess my question would be to legal. Would it be best to handle this just to move to reconsider and just vote on 37 again?

MS. HELTON: I think that might be the cleanest way to do it.

COMMISSIONER GRAHAM: I move that we reconsider Issue No. 37.

CHAIRMAN BRISÉ: All right. Is there a second?

COMMISSIONER BROWN: Second.

CHAIRMAN BRISÉ: All right. All in favor, say aye.

(Affirmative response.)

Okay. I'll pass the gavel. Okay.

(Gavel passed to Commissioner Edgar.)

COMMISSIONER EDGAR: Okay. Thank you. Chairman Brisé, you're recognized.

CHAIRMAN BRISÉ: Thank you. I would ask the Commission to reconsider the motion, as you have already, but consider this motion that I'm going to make that we, instead of going with the staff recommendation of 10.25, that we go with 10.50 for return on equity for the reasons that we discussed prior, prior to, to this moment.

COMMISSIONER EDGAR: Thank you, Commissioner Brisé.

Commissioners, is there a second to that motion?

COMMISSIONER GRAHAM: I will second, I will second it for the sake of discussion.

COMMISSIONER EDGAR: Okay. Then, Commissioners, we have a motion before us. We are revisiting Issue 37, which applies to return on equity.

Is there discussion?

COMMISSIONER GRAHAM: Oh, you can't see my light.

COMMISSIONER EDGAR: I can't see your light, but I'm looking at you.

(Laughter.)

Commissioner Graham.

COMMISSIONER GRAHAM: Once again, I seconded that for the sake of discussion. I wanted to say this before we moved on off this issue but I didn't get the chance at the time.

We just recently had a rate case where we basically deducted 50 basis points because of customer service, because of how they handled customer service. And my understanding is the practice of this Commission is you allow it to swing 100 basis points either positive or negative from the designated ROE depending on how you feel about what they do and how they treat the customer and customer service and that sort of thing.

One of the things I can tell you, because we were going through this service hearing the same time we were going through this other one that I spoke of, that every single person that came up, it's amazing how well they spoke about the customer service with Gulf and how, you know, they're always there, they answer the phone calls, they're fantastic about getting back to the customers. You know, you don't hear billing complaints and all that kind of stuff. And that, if you want to consider, may be reason enough to move from the 10.25 to the 10.50.

Now it's not reason enough for me, but I'm throwing that out there because, you know, I would like to, you know -- and if it were a different economy out there right now, I would definitely justify it because of how they do treat their customers. And I think, you know, it is a top priority for their customers -- I mean, for Gulf. It's not enough to move me off the mark I'm currently on, but I think it is something that should be rewarded. And if we were in different times, I'd probably give them the 10.75.

COMMISSIONER EDGAR: Thank you, Commissioner Graham.

Commissioner Balbis.

COMMISSIONER BALBIS: Thank you, Madam Chair.

And thank you, Commissioner Graham. I agree with you. I think that a recent case that we had, we did look at ROE and customer service as a, as being related. And although we did not have a discussion on this issue, I'd like to focus on additional employees that, that we have allowed. This company, based on the record, went to automatic meters and reduced their meter readers by, I believe it was 18 or 19 employees. We recognize the savings associated with automatic readers.

But then looking at their customer service, they recognized they weren't hitting their own benchmarks on answering a number of calls within a certain period of time. And so recognizing that, they came to us with a request to add 18 or 19 employees to their customer service group.

So I don't want to look at that as a reward, but I think this Commission, in allowing those additional staff to come on board, recognizes the importance of customer service and will allow the company to recover costs associated with meeting those goals.

I agree with Commissioner Graham. If the economy was different, if there were other issues that we could take into account, but at this point, I would stick with my support of staff's recommendation of 10.25 at this time.

COMMISSIONER EDGAR: Thank you. Further comments?

Chairman Brisé.

CHAIRMAN BRISÉ: I just want to thank the

Commission for taking time to reconsider this issue. I still believe that 10.5 is probably the more appropriate place to end up. But, you know, I know how to count votes. I know how to count votes.

(Laughter.)

So, therefore, I will withdraw my, my motion at this time.

COMMISSIONER EDGAR: Okay. So the motion is withdrawn. And, yes, our General Counsel would like to speak.

MR. KISER: You still need to go back and approve -- vote it again.

COMMISSIONER EDGAR: Then what I would ask is is there a motion for the staff recommendation on Issue 37?

COMMISSIONER BROWN: So moved.

COMMISSIONER EDGAR: Second? Is there a second?

COMMISSIONER GRAHAM: Second.

COMMISSIONER EDGAR: Okay. We've had full discussion. There is a motion. There is a second.

All in favor of the motion, say aye.

COMMISSIONER BALBIS: Aye.

COMMISSIONER BROWN: Aye.

COMMISSIONER GRAHAM: Aye.

COMMISSIONER EDGAR: Aye.

Opposed?

CHAIRMAN BRISÉ: No.

COMMISSIONER EDGAR: And please show four to one that the motion passes.

Thank you, Mr. Chairman.

CHAIRMAN BRISÉ: Thank you. And with that, we stand adjourned.

(Proceeding adjourned at 11:30 a.m.)

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

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 2nd day of March, 2012.

Linda Boles

LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
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