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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20190038-EI

Petition for limited proceeding
for recovery of incremental
storm restoration costs related
to Hurricane Michael, by Gulf
Power Company.

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: COMMISSIONER ANDREW GILES FAY
PREHEARING OFFICER

DATE: Wednesday, August 19, 2020

TIME: Commenced: 9:30 a.m.
Concluded: 10:05 a.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 RUSSELL A. BADDERS, ESQUIRE, One Energy Place,
3 Pensacola, Florida 32520 and JASON A. HIGGINBOTHAM and
4 KENNETH M. RUBIN, ESQUIRES, 700 Universe Boulevard, Juno
5 Beach, Florida 33408-0420, appearing on behalf of Gulf
6 Power Company (Gulf).

7 J.R. KELLY, PUBLIC COUNSEL, and CHARLES
8 REHWINKEL, DEPUTY PUBLIC COUNSEL; THOMAS A. (TAD) DAVID,
9 ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The Florida
10 Legislature, 111 West Madison Street, Room 812,
11 Tallahassee, Florida 32399-1400, appearing on behalf of
12 the Citizens of the State of Florida (OPC).

13 ROBERT J. FRIEDMAN, Captain, USAF, ESQUIRE,
14 USAF Utility Law Field Support Center, AFLOA/JAOE-ULFSC,
15 139 Barnes Drive, Suite 1, Tyndall Air Force Base,
16 Florida, 32403, appearing on behalf of the Federal
17 Executive Agencies (FEA).

18 WALTER L. TRIERWEILER, SHAW P. STILLER and
19 JENNIFER S. CRAWFORD, ESQUIRES, FPSC General Counsel's
20 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
21 32399-0850, appearing on behalf of the Florida Public
22 Service Commission (Staff).

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1 APPEARANCES (CONTINUED):

2 KEITH C. HETRICK, GENERAL COUNSEL; MARY ANNE
3 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
5 Florida 32399-0850, Advisor to the Florida Public
6 Service Commission.

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

2 COMMISSIONER FAY: Good morning. Today is
3 August 19th. This is 9:30 a.m. We will call to
4 order this prehearing conference.

5 If staff could read the notice.

6 MR. TRIERWEILER: I say again. By notice
7 issued on August 10th, 2020, this time and place
8 has been set for a prehearing conference in No.
9 20190038-EI. The purpose of the prehearing is set
10 out more fully in the notice.

11 COMMISSIONER FAY: Great. Thank you, staff.

12 And probably, in the future, what we will do
13 is just make sure all the parties are on -- or
14 there is representation from all parties at the
15 beginning so if somebody is for some reason not on
16 or available, then we give them some time do so,
17 otherwise, we will take it in order of appearances,
18 and maybe we will do the utility, OPC, FEA and then
19 staff can do their appearances.

20 Is Gulf --

21 UNIDENTIFIED SPEAKER: Are you just checking
22 to see if somebody is here, or are you doing
23 appearances?

24 COMMISSIONER FAY: Appearances, yeah.

25 MR. BADDERS: Good morning. Thank you,

1 Commissioner.

2 This is Jason Higginbotham. I would like to
3 enter an appearance on behalf of Gulf Power
4 Company. I would also like to enter appearances
5 for Ken Rubin and Russell Badders.

6 COMMISSIONER FAY: Okay. Thank you.

7 Office of Public Counsel.

8 MR. DAVID: Yeah. This is Tad David,
9 appearing for the Office of Public Counsel. Also
10 want to make -- enter an appearance for J.R. Kelly.

11 COMMISSIONER FAY: Great.

12 FEA.

13 MR. FRIEDMAN: Good morning, this is Captain
14 Rob Friedman on behalf of FEA.

15 COMMISSIONER FAY: Great, thanks.

16 And then staff.

17 MR. TRIERWEILER: I am Walt Trierweiler for
18 Commission staff --

19 COMMISSIONER FAY: Did you get your mic on?

20 MR. TRIERWEILER: Walt Trierweiler for
21 Commission staff. Also making an appearance is
22 Shaw Stiller and Jennifer Crawford.

23 COMMISSIONER FAY: Thank you.

24 MS. HELTON: And finally your advisor here --
25 is here, Mary Anne Helton. I would also like to

1 make an appearance for your General Counsel, Keith
2 Hetrick.

3 COMMISSIONER FAY: Great. Thank you.

4 And I think our General Counsel is one year
5 younger today actually, is that correct?

6 MS. HELTON: He is, and he is -- he is taking
7 a holiday today.

8 COMMISSIONER FAY: Good for him. All those
9 decades of wisdom that he holds, he deserves it.

10 Well, staff, I guess we will move to
11 preliminary matters.

12 MR. TRIERWEILER: Yes.

13 State buildings are currently closed to the
14 public, and other restrictions on gathering remain
15 in place due to COVID-19. Accordingly, this
16 prehearing is being conducted remotely with the
17 parties participating by communications media
18 technology.

19 Members of the public who want to observe or
20 listen to this prehearing may do so by accessing
21 the live video broadcast, which is available from
22 the Commission website. Upon completion of the
23 prehearing, the archived video will also be
24 available.

25 Each person participating today needs to keep

1 their phone or device muted when they are not
2 speaking, and only unmute when they are called upon
3 to speak. If they do not keep their phone muted,
4 or put their phone on hold, they may be
5 disconnected from the proceeding and will need to
6 call back in.

7 Also, telephonic participants should speak
8 directly into their phone and not use to the
9 speaker function.

10 Staff is what I reviewed of into other matters
11 at this time.

12 COMMISSIONER FAY: Great. Thank you, staff.

13 Do any of the parties have any other
14 preliminary matters to address?

15 Okay. Great. Thank you.

16 Next we will move into Section V, proceed
17 through the draft prehearing order. I will
18 identify the sections that we can go through, and
19 the parties can let me know if any corrections or
20 changes that would be made. I will move somewhat
21 quickly through these, so please interject where
22 appropriate.

23 The first three sections, case background,
24 conduct of proceedings and jurisdiction, are pretty
25 standard. I can take all those three, if there is

1 any parties that have any changes to those at this
2 time.

3 MR. HIGGINBOTHAM: Thank you, Commissioner,
4 this is Jason Higginbotham.

5 The only thing we would request is that
6 GoToMeeting invitation be provided to all three of
7 the attorneys who have appeared for Gulf Power, so
8 that would be myself, Jason Higginbotham, Ken Rubin
9 and Russell Badders.

10 COMMISSIONER FAY: Okay. That's fine. We can
11 do that.

12 MR. HIGGINBOTHAM: Thank you.

13 COMMISSIONER FAY: Is there somebody else, or
14 is that it? Okay. Great.

15 We will move on to Section VI procedure --
16 procedure for handling confidential information.

17 MR. TRIERWEILER: Materials that have been
18 identified by parties as confidential have been
19 marked and will be available via a secure password
20 on the Commission's website for use at the hearing.

21 COMMISSIONER FAY: Great.

22 And then section -- we will move to Section
23 VII, prefiled testimony and exhibits and witnesses
24 be staff.

25 MR. TRIERWEILER: Staff suggests that the

1 witness summary testimony be no longer than five
2 minutes.

3 COMMISSIONER FAY: Great.

4 And then cross-examination exhibits?

5 MR. TRIERWEILER: All cross-examination
6 exhibits and impeachment exhibits, confidential and
7 nonconfidential, that a party intends to use at
8 hearing must be provided to the Commission Clerk by
9 close of business August 25th, 2020, in order to be
10 processed and placed on the Commission as website.

11 The parties are aware of the cross-examination
12 requirements in Attachment A to the Draft
13 Prehearing Order.

14 COMMISSIONER FAY: Okay. Great. Thank you.

15 Any -- any parties have any objections to the
16 time limit or the cross -- cross-examination
17 exhibit? Great.

18 All right. We will keep moving on.

19 Item VIII is the order of the witnesses. Are
20 there any -- well, go ahead, staff.

21 MR. TRIERWEILER: There are no stipulated
22 witnesses at this time.

23 COMMISSIONER FAY: Perfect.

24 And obviously, moving forward, we encourage
25 the parties, if -- if appropriate, to stipulate

1 before the hearing.

2 Basic positions --

3 MR. HIGGINBOTHAM: Commissioner --

4 COMMISSIONER FAY: Yes.

5 MR. HIGGINBOTHAM: My apologies.

6 COMMISSIONER FAY: No, go ahead.

7 MR. HIGGINBOTHAM: I would just like to add --
8 I would just like to add that the -- the order
9 indicates that the witnesses whose name is preceded
10 by a plus sign will present direct and rebuttal
11 testimony together and we would just like to note
12 that Gulf witness Paul Talley and Gulf witness
13 Mitchell Goldstein will both be presenting direct
14 and rebuttal testimony.

15 COMMISSIONER FAY: Okay. And do the other
16 parties have any objection to that?

17 MR. DAVID: No.

18 COMMISSIONER FAY: Yeah, so just for clarity,
19 they would be present -- they would be presenting
20 their direct and rebuttal one after another?

21 MR. HIGGINBOTHAM: And so -- all right,
22 Commissioner, we would -- we would request that the
23 direct be presented and then cross-examination be
24 conducted on the direct, and then the witness be
25 permitted to present the rebuttal testimony with

1 cross-examination after.

2 I just wanted to make it clear for the record
3 that those witnesses will both be presenting direct
4 and rebuttal testimony.

5 COMMISSIONER FAY: Okay. And I --

6 MR. RUBIN: Commissioner --

7 COMMISSIONER FAY: -- that's fine. I don't
8 have any issue with that.

9 Yeah, go ahead.

10 MR. RUBIN: I am sorry. This is Ken Rubin,
11 but I just want to clarify our intention here is to
12 not have -- I understand that there is no plus
13 there now, and our intention is to allow direct
14 testimony by our -- by Gulf's witnesses, then to
15 allow Mr. Kollen to testify, and Mr. Gorman if he
16 needs to, we have offered to stipulate him. And
17 then Mr. Talley and Goldstein would offer their
18 rebuttal afterwards. But certainly, we are willing
19 to talk to -- to the parties about trying to
20 truncate that process.

21 But for now at least, we want to do it in the
22 order direct, direct by OPC and FEA, and then
23 rebuttal by Gulf's witnesses.

24 COMMISSIONER FAY: Got you, okay. And we
25 would -- I think we would move forward with the

1 direct, cross-examination, and then that witness
2 would be called back up for rebuttal. I think
3 what's being asked here is they would take up
4 rebuttal immediately after that cross-examination,
5 and I believe that a request would be for purposes
6 of efficiency, is that -- is that why it's being
7 asked?

8 MR. RUBIN: That's ultimately our goal, but at
9 this point, we would like to maintain the position
10 that the rebuttal would come after OPC and FEA's
11 witnesses are -- are allowed to testify, but we
12 will work towards trying to get -- get an agreement
13 with all the parties to move it -- move it forward.

14 But for this -- at least at this point, we
15 intend to -- or at least we would like to provide
16 our rebuttal witnesses after OPC and FEA have
17 testified.

18 COMMISSIONER FAY: Okay. I am -- I am fine
19 with that and I would just encourage you guys to
20 keep working on it to make sure procedurally, when
21 we get to the hearing, that there isn't any sort of
22 confusion at that point.

23 MR. RUBIN: Absolutely.

24 COMMISSIONER FAY: Thank you.

25 MR. RUBIN: Thank you.

1 COMMISSIONER FAY: Yep.

2 So next we would move on to the basic
3 positions of the parties, if -- if any of the
4 parties have changes to those.

5 MR. TRIERWEILER: If changes are announced,
6 please note that changes to basic positions should
7 be submitted in writing by the close of business
8 tomorrow, August 20th, 2020.

9 COMMISSIONER FAY: Great. Thank you, staff.

10 I am going to walk through the presented
11 Issues 1 through 12. I do think -- just to make
12 sure we are clear, FEA has taken a position of
13 agreeing with staff's position on some of those
14 issues, so I think, Mr. Trierweiler, if you could
15 clarify maybe how that would work as it relates to
16 OEP.

17 MR. TRIERWEILER: Yes, Commissioner.

18 We have a consensus issue list, which means
19 that at the time of -- that we put the order
20 together, there was no dispute as to the wording of
21 the issues themselves. However, as far as the
22 positions taken by the parties, FEA has adopted the
23 staff position, which is -- which is no position at
24 this time for their Issues 1 through 6 and 9
25 through 12 in accordance with the OEP, on page

1 seven, the large paragraph in the center of that
2 pages, unless a matter takes a position by the
3 deadline, wherein they are supposed to have offered
4 a position or corrected their position, then they
5 have waived that position and -- and may not take a
6 position later on, or participate on that position
7 at the hearing.

8 And this has been raised with FEA, and we wait
9 their response, but want to emphasize that unless
10 there is some sort of good cause shown, that the
11 OEP should be enforced, and that by the close of
12 business tomorrow, August 20th, they should select
13 a position unless they want to waive that position.

14 COMMISSIONER FAY: Great.

15 So -- so, Mr. Friedman, we -- it's not
16 uncommon, I think, for parties to potentially take
17 another party's position, but for purposes of
18 taking a position that is consistent with staff,
19 the -- the timing might not be your best option in
20 that, based on the OEP, you would waive any sort of
21 position on that -- that issue. So if you do have
22 changes to make on that, either today, feel free to
23 raise them as we go through the issues, otherwise,
24 raise -- make sure you raise them by the end of
25 business tomorrow so the Commission can have

1 clarity as to those in your -- your position. Is
2 that -- is that clear, Mr. Friedman?

3 MR. FRIEDMAN: Yes. This is Rob Friedman.
4 Thank you.

5 We will make any updates by the end of
6 business tomorrow if we need to; otherwise, we will
7 stick with just those two -- those two issues being
8 our issues we are contesting.

9 COMMISSIONER FAY: Okay. Great. Thank you.

10 Next we will move on to the -- the issues. I
11 will walk through each issue to allow the parties
12 to inject if they have changes that they would like
13 to make for these issues, or -- or any issues that
14 they want to raise with these issues.

15 So starting with that, Issue 1, do the parties
16 have any -- any changes?

17 And I will -- I will walk through, and unless
18 I hear otherwise issues, I will keep moving on to
19 the next one.

20 Issue 2, do the parties have any changes?

21 Issue 3?

22 Issue 4?

23 MR. HIGGINBOTHAM: Yes, Commissioner, this is
24 Jason Higginbotham.

25 So Issue 4, you know, subject to FEA

1 potentially changing its position on this, this
2 appears to be one that -- that could potentially be
3 stipulated and so, you know, Gulf would request
4 that, you know, if FEA plans to make changes to its
5 position on that, that it indicates that now;
6 otherwise this is -- this is an issue that
7 potentially could be stipulated, given OPC's
8 position and Gulf's.

9 COMMISSIONER FAY: Okay. Great. Thank you.
10 That -- I think that would be -- for efficiency
11 purposes, that would make sense.

12 Mr. Trierweiler, as long as that -- we get
13 that notice from FEA by close of business tomorrow
14 with the other parties' agreement, that could be
15 stipulated and taken off -- off of the hearing
16 issue, correct -- or I guess clear that that issue
17 has been stipulated?

18 MR. TRIERWEILER: That is correct. However, I
19 believe this is also an offer by Gulf to see if FEA
20 was in a position where they could stipulate to the
21 issue at this time seeing how close the positions
22 of OPC and Gulf were.

23 COMMISSIONER FAY: Okay. Great.
24 Go ahead, Mary Anne.

25 MS. HELTON: Mr. Chairman, parties can reach

1 stipulation on issues up to the time of the
2 hearing, and then the Commission then would vote on
3 those stipulated issues at the hearing to see if,
4 when you are litigating the case, that will help
5 resolve what's up for litigation and what is not up
6 for litigation.

7 COMMISSIONER FAY: Right. I appreciate that.

8 So for our purposes, it is more of an
9 efficiency discussion. The parties are obviously
10 welcome to stipulate to any of those issues all the
11 way up until the hearing timeline.

12 So if -- if -- Mr. Friedman, if you have a
13 position on that today, it sounds like the parties
14 would be interested, otherwise, you can continue
15 the dialogue.

16 MR. FRIEDMAN: So the question is whether we
17 are in agreement to stipulate to that issue today?

18 COMMISSIONER FAY: Correct.

19 MR. FRIEDMAN: Yes, on that issue we are.
20 It's just both Issues 7 and 8 that we are
21 contesting at this time.

22 COMMISSIONER FAY: Okay. So you said Issue 4,
23 and then as we -- we keep going forward, we will
24 get to 7 and 8, we can take your positions on
25 those. I appreciate that.

1 MR. HIGGINBOTHAM: And, Commissioner, this is
2 Jason Higginbotham again, my apologies.

3 I meant to interject when you got to Issue 3.
4 This also appears to be an issue that potentially
5 could be stipulated. And based on Captain
6 Friedman's representation, it appears that perhaps
7 FEA can stipulate that, but I want to confirm that
8 obviously.

9 COMMISSIONER FAY: No, I appreciate that. And
10 I think based on FEA's position in this, that we --
11 if they don't peak speak up otherwise, we presume
12 that won't be stipulated, and if they do, we -- we
13 will accept that stipulation from the parties
14 and -- and move on.

15 So no -- no concerns about going backwards a
16 little bit, because I think you made your point,
17 but I think just for purposes of what they would
18 like to do going forward, they are entitled to --
19 to speak up and say that they are comfortable with
20 that or not as we go through the issues; and if
21 they don't, otherwise, we will presume that they --
22 they want to continue the dialogue with the
23 parties.

24 So, FEA, if you have a position on Issue 3
25 also, feel free to present that now, otherwise we

1 will keep moving forward.

2 MR. FRIEDMAN: This is Rob Friedman.

3 We are -- we are going to be aligning with
4 staff on those issues, so if staff is agreeing to
5 stipulate, then -- then we are going to be in a
6 position to do the same, other than on those Issues
7 7 and 8.

8 COMMISSIONER FAY: Okay. And for purposes --

9 MS. CRAWFORD: Commissioner Fay.

10 COMMISSIONER FAY: Hold on one second.

11 So for purposes of stipulations, the -- the
12 staff position doesn't relate to essentially what
13 the parties would -- would agree upon; however, if
14 you want to continue that dialogue with the
15 parties, you can do so.

16 So we will -- we will move past Issue 3,
17 because it doesn't sound like we have a specific
18 resolution to it. And on Issue 4, which we spoke
19 earlier about the parties' stipulation, which is
20 fine, we will move forward on Issue 5, and then
21 there is somebody also on the call had a comment
22 about this that they wanted to make.

23 MS. CRAWFORD: Yes, sir. This is Jennifer
24 Crawford.

25 I just want to offer for clarity. Staff

1 doesn't take positions on stipulations. Typically
2 the way they before the Commission is either all
3 parties stipulate, or some parties stipulate and
4 take no position or don't object --

5 COMMISSIONER FAY: Correct.

6 MS. CRAWFORD: -- to the Commission's
7 stipulation. So just for clarity, staff wouldn't
8 enter a position on the stipulation, and so FEA
9 just needs to take a position accordingly.

10 COMMISSIONER FAY: I appreciate that. And I
11 think that that -- that FEA is well aware at this
12 point kind of what the -- what the dos and don'ts
13 are as far as going through these, so we will
14 continue to -- to move through them. And if they
15 have something they would like to raise, they are
16 welcome to do so, but I do agree with you, related
17 to the statement of staff and taking stipulations,
18 that's not -- that's not a position that could be
19 taken forward.

20 However, if they don't make a change by the
21 close of business tomorrow, then the prehearing
22 order will reflect their -- their position, and
23 essentially be consistent with the OEP as to the
24 waiver of what their position is at that time.

25 So if we can move on to Issue 5.

1 MR. TRIERWEILER: Commissioner, excuse me.

2 COMMISSIONER FAY: Yeah, go ahead.

3 MR. TRIERWEILER: Before we do that, I realize
4 that we are talking about a stipulation and that we
5 did not hear from OPC. Even though their language
6 appears to be very similar, I believe that OPC
7 ought to indicate whether or not they believe that
8 they can stipulate to this -- to Issue 4.

9 COMMISSIONER FAY: Yeah, that's -- that's
10 fine. Once again, if they don't speak up based on
11 what we state, we will presume that that is the
12 case with the party on the line, but I do agree
13 with you.

14 When I looked at these originally, one party
15 is using the -- the number of 541,000, the other is
16 using .514 million, so I think the -- the numbers
17 align, but -- but are the positions consistent is a
18 fair point to verify.

19 So I think it would be maybe Tad or whoever
20 with OPC could verify that they are okay with the
21 stipulation on Issue 4.

22 MR. DAVID: Yeah. Right now -- thank you,
23 Commissioner Fay.

24 Right now, as far as -- we are not ready to
25 formally stipulate on -- on any of these. We will

1 just stand by our position in there, realizing that
2 it's -- that it's pretty closely aligned with
3 Gulf's, and that we will certainly continue to
4 consider, you know, stipulations as the time
5 permits and everything.

6 COMMISSIONER FAY: Okay.

7 MR. DAVID: So -- but as far as formally
8 stipulating to any of the issues, I would withhold
9 such -- such agreement at -- at this moment.

10 COMMISSIONER FAY: Okay. Thank you. I am
11 glad Mr. Trierweiler brought it up. It's good
12 clarity. So that is not a clear stipulation issue
13 for that issue. We will move on from their
14 position for Issue 4 to Issue 5 unless any of the
15 parties have anything else to add.

16 Okay. Great. Thank you.

17 Issue 5, any -- any parties have any issues?

18 Issue 6?

19 Issue 7?

20 Issue 8?

21 Issue 9?

22 MR. HIGGINBOTHAM: I'm sorry, Commissioner.

23 My apologies.

24 On Issue 7 --

25 COMMISSIONER FAY: Okay. We will go back to

1 Issue 7. Go ahead.

2 MR. HIGGINBOTHAM: Thank you.

3 So -- so Gulf would just request clarification
4 on FEA's position as to Issue 7, because the -- the
5 exclusion of regular payroll related costs
6 recoverable incremental storm damage cost does not
7 impact what actually goes into the storm reserve.
8 That's just kind of a number that -- that Gulf has
9 proposed. And so, you know, to the extent that
10 that specific line item were excluded is not going
11 to necessarily impact that number, and so Gulf
12 would just request some clarification from FEA on
13 its position for that issue.

14 COMMISSIONER FAY: Okay. That's fair.

15 And, FEA, if you want to provide some clarity
16 on that now, you can do so; otherwise, you can --
17 you can provide a change in your position up to the
18 close of business tomorrow with staff.

19 MR. FRIEDMAN: Okay. Yeah, I will have to
20 confirm with Mr. Gorman, our expert, and will do
21 so.

22 COMMISSIONER FAY: Okay. Will do. Thank you.

23 Moving on to Issue 8.

24 Issue 9?

25 Issue 10?

1 MR. HIGGINBOTHAM: And again, Commissioner,
2 this is Jason Higginbotham for Gulf.

3 COMMISSIONER FAY: Yeah.

4 MR. HIGGINBOTHAM: And at this time, Gulf
5 would request some clarification from OPC on its
6 position.

7 COMMISSIONER FAY: On which issue?

8 MR. HIGGINBOTHAM: It doesn't appear -- on
9 Issue 10.

10 COMMISSIONER FAY: Okay.

11 MR. HIGGINBOTHAM: It doesn't appear that --
12 that OPC disagrees with the proposed tariff and
13 charge, the proposed tariff itself, so we just
14 wanted to understand if that is a specific -- I
15 know OPC is not -- not stipulating to anything at
16 this point, but just some clarification as to, you
17 know, whether the tariff itself is a subject of
18 disagreement, or if it's or -- if it's the charges.

19 I think the issue as framed is -- is
20 requesting whether the tariff and charge should be
21 approved, and it's just not clear to -- to Gulf
22 from -- from what OPC has indicated what its
23 position is on this. So we would just request a
24 clarification on that.

25 COMMISSIONER FAY: Okay. And OPC is put on

1 notice of that. Do you have anything to add, OPC?

2 MR. DAVID: Yes, this is Tad David for OPC.

3 Yeah, it just means that -- that the fact that
4 we are not opposing -- I am not sure, and we may
5 need to talk afterwards on this, but it's just
6 opposed if they care if it's built and -- and
7 associated charges is not being opposed, but what
8 those charges should be and what the, you know,
9 what specific content of the tariff should be with
10 regard to our positions in the other issues, and
11 the effects that some of the other issues are going
12 to have on that -- on the charges are where our
13 disagreement is.

14 So we -- we just wanted to ensure that we
15 weren't -- that we didn't waive something from one
16 of our other issues by agreeing to the proposed
17 tariff. I don't know, I may not be -- maybe I am
18 not understanding the -- the question or the issue,
19 but --

20 COMMISSIONER FAY: No, that's fine. It
21 doesn't sound like either party has an issue with
22 the -- the language for the issue itself, but may
23 impact other components of the decision. So that's
24 something that you could keep discussing and decide
25 if it could be resolved, or if you would want to

1 continue with the position you have here going
2 forward.

3 So just as I understand both parties, their --
4 the issue itself doesn't -- is not problematic, but
5 OPC's response might need some clarity for the
6 parties, and that's perfectly fine to do so. And
7 if -- once again, if you do want to change that
8 position with OPC, you are -- you are welcome to do
9 so up to the close of business tomorrow. And of
10 course, can keep having the dialogue to keep
11 stipulate the issue between the parties.

12 Is that all for Issue 10?

13 MR. DAVID: Yes, sir. Thank you.

14 COMMISSIONER FAY: Yep.

15 MR. HIGGINBOTHAM: Thank you, Commissioner.

16 COMMISSIONER FAY: Issue 11?

17 Issue 12?

18 Okay. Staff, are there any -- at this time,
19 are there any contested issues?

20 MR. TRIERWEILER: No, Commissioner. The
21 parties have worked together and achieved a
22 consensus issues list.

23 COMMISSIONER FAY: Okay. Great.

24 Then we will move on to the comprehensive
25 exhibit list.

1 MR. TRIERWEILER: Staff has prepared a
2 comprehensive exhibit list which lists all prefiled
3 exhibits and those exhibits that staff wishes to
4 include in the record.

5 The draft list was given to the parties to see
6 if there were any changes or objections to the CEL.
7 Some adjustments from made, more concerning the
8 introduction of any of staff's exhibits being
9 entered into the record.

10 At this time, we would like to see and hear
11 from the parties if there are any known changes
12 that need to be made to this updated comprehensive
13 exhibit list, and if there are any known objections
14 to the entry of staff's proposed exhibits into the
15 record.

16 Staff will continue to work with the parties
17 to work towards stipulating the comprehensive
18 exhibit list prior to the hearing.

19 COMMISSIONER FAY: Thank you.

20 So with that, we can then move on to Section
21 XII, which is stipulations.

22 MR. TRIERWEILER: There are no proposed
23 stipulations at this time.

24 COMMISSIONER FAY: I was afraid you were going
25 to say that, Mr. Trierweiler.

1 To ahead.

2 MR. HIGGINBOTHAM: Good morning. Yeah, this
3 is Jason Higginbotham with Gulf.

4 So Gulf has agreed to stipulate to the
5 admission and waiver of cross -- cross-examination
6 or the direct testimony of FEA witness Gorman.

7 And it is Gulf's understanding, you know,
8 subject to confirmation by FEA, that FEA has also
9 agreed to stipulate to the admission and waiver of
10 cross-examination for Gulf witness Boyett, if FEA
11 can confirm that?

12 MR. FRIEDMAN: Yes, is that correct. This is
13 Rob Friedman, FEA.

14 MR. HIGGINBOTHAM: Thank you.

15 Gulf is also able to stipulate to the
16 admission and waiver of cross-examination for the
17 direct testimonies of staff witnesses, Dobiac and
18 Vinson.

19 COMMISSIONER FAY: Okay. Great.

20 Are there any others?

21 Okay. Thank you for that, Mr. Trierweiler.
22 Is that -- is that okay?

23 MR. TRIERWEILER: Well, Commissioner, since it
24 looks like it may be appropriate to mention, if the
25 parties advise staff of any witness stipulations

1 for -- for witnesses in which the testimony will
2 still be included in the docket, the staff will
3 confirm with each Commissioner that any identified
4 witness can be excused. If Commissioners do not
5 have any questions for these witnesses, then the
6 witnesses may be excused from the hearing, and his
7 or her testimony and exhibits entered into the
8 record at the time of the hearing as though they
9 were read.

10 COMMISSIONER FAY: Great. Thank you.

11 Parties have any other comments on that?

12 MR. HIGGINBOTHAM: I guess, Commissioner,
13 given the stipulation for Gulf witness Boyett that
14 Gulf and FEA have entered into, Gulf would request
15 whether OPC is able to, at this time, stipulate to
16 a waiver of cross-examination and the admission of
17 Mr. Boyett's testimony into the record?

18 COMMISSIONER FAY: Okay. And I would presume
19 if they did that, then they would speak up and do
20 so, but we will give them the opportunity to do
21 that.

22 MR. DAVID: Right. And thank you,
23 Commissioner Fay. This is Tad David at OPC.

24 Right now, I can't stipulate to that. We --
25 we -- we can work on potentially clarifying that

1 and stipulating after the phone call today, and
2 maybe even before the close of business tomorrow.
3 So we will continue to try to have a, you know, a
4 productive conversation with the other parties.

5 COMMISSIONER FAY: Great. Thank you.

6 And I know historically, the Commission has
7 encouraged those types of discussions, and this
8 is -- this is, you know, it was a Cat 5 hurricane,
9 so this is a big issue. The hope is that some of
10 those things can be resolved by the time of the
11 Commission, but that's for the parties to continue
12 that -- that dialogue.

13 If we don't have anything else under
14 stipulations, we will move on to pending
15 confidentiality motions.

16 MR. TRIERWEILER: Commissioner, there are five
17 pending confidentiality motions remaining at this
18 time, and staff will endeavor to get those resolved
19 prior to the hearing.

20 COMMISSIONER FAY: Great. Thank you.

21 With that, we will move on to the post-hearing
22 procedures. Mr. Trierweiler, can you just lay out
23 what that will look like do us?

24 MR. TRIERWEILER: Yes, Commissioner.

25 Staff recommends post-hearing briefs be

1 limited to 40 pages should briefs be necessary.
2 Staff also recommends that a summary of each
3 position of 50 words set off with asterisks should
4 be included in each prehearing statement.

5 If a bench decision is not made, post-hearing
6 briefs will be due on September 25th, 2020.

7 COMMISSIONER FAY: Great. Thank you.
8 Are all parties in agreement with that?

9 MR. HIGGINBOTHAM: Yes. Thank you,
10 Commissioner.

11 COMMISSIONER FAY: Great.

12 MR. DAVID: Yes. Thank you.

13 COMMISSIONER FAY: Okay. Great.

14 Well, then we -- we will move on to Section
15 XV, rulings.

16 MR. TRIERWEILER: Commissioner, these are
17 the -- the rulings that I have collected from the
18 prehearing. Staff recommends that the prehearing
19 officer make render a ruling that all parties shall
20 be provided five minutes for opening statements, is
21 that something that you want to take up at this
22 time?

23 COMMISSIONER FAY: Sure. I don't think we
24 have -- do we have any objections to that?

25 MR. TRIERWEILER: Thank you.

1 Witness summaries, as discussed earlier, are
2 also limited to five minutes, and we are taking
3 into account the fact that the two Gulf witnesses
4 that are providing both direct and rebuttal will
5 provide their statement, be subject to
6 cross-examination on direct, and then present their
7 rebuttal and then cross-examination.

8 Confidential and nonconfidential exhibits that
9 a party intends to use at the hearing must be
10 provided to the customer -- the Commission Clerk by
11 the close of business on August 25th, 2020, in
12 accordance with Attachment A to the draft
13 prehearing order.

14 Changes to basic positions should be submitted
15 I -- it's in writing by close of business tomorrow.
16 That includes positions of each party on -- on each
17 and every issue that they wish to change.

18 COMMISSIONER FAY: Okay. And I think the only
19 little thing we had flagged, I know that Mary Anne
20 is working through her schedule to make sure she
21 could be here this morning, and thankfully she was,
22 because in the order it states witness summaries
23 shall not exceed five minutes per party, and we
24 will make sure we clarify that that's per witness.
25 We are not limiting the parties to that -- that

1 level of time.

2 So just that's reflected in the rulings
3 correctly, but just make sure when we place out
4 this order, it will be consistent with that.

5 MS. HELTON: And, Mr. Chairman, can I just
6 clarify a statement that Mr. Trierweiler made to
7 make sure I understand?

8 COMMISSIONER FAY: Sure.

9 MS. HELTON: So when Gulf's witness takes the
10 stand for direct, the witnesses will be given five
11 minutes to summarize that testimony, though they
12 don't have to take the full five minutes; and then
13 when the witness takes the stand for rebuttal, the
14 witness will be given five minutes to summarize his
15 or her testimony.

16 MR. TRIERWEILER: I appreciate that
17 clarification.

18 COMMISSIONER FAY: Their rebuttal, yeah, and
19 unless the parties have any objection to that
20 rebuttal time also being five minutes, we would
21 move forward with that.

22 MR. DAVID: This is Tad David with OPC.

23 The only -- it's not necessarily an objection,
24 but I would want to ensure that the five minutes
25 that they devoted to summarizing rebuttal was --

1 that we would -- I would want to preserve an
2 objection if they try to delve into -- into things
3 that were on direct or that were responsive to our
4 direct testimony that are -- that is not in
5 their -- their rebuttal testimony. But that's just
6 clarity that I want to reserve the right to object
7 if they -- if they stray afield.

8 COMMISSIONER FAY: Okay. That -- it's a fair
9 point. I mean, it's something our Chair would make
10 the decision at the time if they -- they were
11 outside the scope of -- of what was appropriate.

12 Anything to add, staff?

13 MR. DAVID: Thank you.

14 COMMISSIONER FAY: Yep.

15 Okay. I guess -- are there -- are there any
16 other matters to address?

17 MR. TRIERWEILER: Commissioner, staff is aware
18 of no other matters at this time.

19 COMMISSIONER FAY: Okay. Great.

20 Do the parties have any additional matters
21 they would like to raise at this time?

22 MR. HIGGINBOTHAM: Nothing from Gulf,
23 Commissioner.

24 Thank you.

25 MR. DAVID: Nothing from OPC.

1 Thank you.

2 COMMISSIONER FAY: Great. And, FEA, we are
3 good?

4 MR. FRIEDMAN: Nothing further from FEA.

5 Thank you.

6 COMMISSIONER FAY: Great. Okay. With that,
7 staff, anything else?

8 MR. TRIERWEILER: No.

9 COMMISSIONER FAY: Okay. Seeing no other
10 matters, this prehearing conference is now
11 adjourned.

12 Thank you so much.

13 MR. DAVID: Thank you.

14 MR. HIGGINBOTHAM: Thank you.

15 (Proceedings concluded at 10:05 a.m.)
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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court 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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 2nd day of September, 2020.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024