

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 160186-EI

PETITION FOR RATE INCREASE BY
GULF POWER COMPANY.

_____ /

DOCKET NO. 160170-EI

PETITION FOR APPROVAL OF 2016
DEPRECIATION AND DISMANTLEMENT
STUDIES, APPROVAL OF PROPOSED
DEPRECIATION RATES AND ANNUAL
DISMANTLEMENT ACCRUALS AND
PLANT SMITH UNITS 1 AND 2
REGULATORY ASSET AMORTIZATION,
BY GULF POWER COMPANY.

_____ /

VOLUME 7
(Pages 1465 through 1502)

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING:

CHAIRMAN JULIE I. BROWN
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JIMMY PATRONIS
COMMISSIONER DONALD J. POLMANN

DATE: Tuesday, April 4, 2017

TIME: Commenced at 9:00 a.m.
Concluded at 9:43 a.m.

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

REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6734

APPEARANCES: (As heretofore noted.)

I N D E X

WITNESSES

NAME :

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No witnesses in this volume

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P R O C E E D I N G S

CHAIRMAN BROWN: All right. Good morning.

(Greetings from audience.)

And I'd like to -- thank you. I'd like to reconvene this hearing to order this day, April 4th, 2017, in the Gulf Power Company rate case, Docket No. 160186-EI and 160170-EI.

This hearing was recessed on March 20th, 2017, in order to allow the Commission to review the stipulation and settlement agreement that was proposed by Gulf, OPC, FIPUG, and now SACE has joined on as well. We are here to hear from the parties in this docket and provide the Commission staff, as well as the Commissioners, an opportunity to ask questions on the agreement. So with that, I'd like to take appearances, starting with Gulf Power.

MR. STONE: Good morning. I'm Jeffrey A. Stone, a partner at Beggs & Lane, and I serve as Gulf Power's general counsel.

CHAIRMAN BROWN: Thank you.

MR. REHWINKEL: Good morning. Charles Rehwinkel, Deputy Public Counsel. And with me is Stephanie Morse, Associate Public Counsel, and also J.R. Kelly is here today. Thank you.

CHAIRMAN BROWN: Thank you.

1 **MR. MOYLE:** Good morning. Jon Moyle on behalf
2 of the Florida Industrial Power Users Group, FIPUG. And
3 I'd also like to enter an appearance for Karen Putnal
4 with our firm.

5 **CHAIRMAN BROWN:** Thank you.

6 **MR. GOLDSTEIN:** Good morning. Steven
7 Goldstein with the Sierra Club. I'd also like to enter
8 appearances for Lane Johnson and Diana Csank.

9 **CHAIRMAN BROWN:** Thank you.

10 **MAJOR UNSICKER:** Major Andrew Unsicker on
11 behalf of the Federal Executive Agencies, ma'am.

12 **CHAIRMAN BROWN:** Thank you.

13 **MR. MARSHALL:** Bradley Marshall, and with me
14 today is Alisa Coe, and we're representing the Southern
15 Alliance for Clean Energy and the League of Women Voters
16 of Florida. Thank you.

17 **CHAIRMAN BROWN:** Thank you.

18 **MR. WRIGHT:** Good morning, Madam Chairman,
19 Commissioners. Robert Scheffel Wright and John T.
20 LaVia, III, on behalf of Wal-Mart Stores East, LP, and
21 Sam's East, Incorporated. Thank you.

22 **CHAIRMAN BROWN:** Thank you.

23 Commission staff.

24 **MS. CORBARI:** Kelley Corbari, Bianca
25 Lherisson, Stephanie Cuello, and Keino Young, Commission

1 staff.

2 **CHAIRMAN BROWN:** Thank you.

3 **MS. HELTON:** Mary Anne Helton; I'm here as
4 your advisor today. I'd also like to make an appearance
5 for Keith Hetrick, your general counsel.

6 **CHAIRMAN BROWN:** Okay. Thank you very much.

7 Staff, there are some preliminary matters that
8 we need to address. Can you go over those, please?

9 **MS. CORBARI:** Yes, Madam Chair. There are
10 three preliminary matters, all dealing with exhibits.

11 Staff will note a correction of Exhibit No.s
12 36 and 247 --

13 **CHAIRMAN BROWN:** Okay.

14 **MS. CORBARI:** -- which the Clerk has noted.
15 Staff would ask that the stipulation and settlement
16 agreement be marked as Exhibit 249 and entered into the
17 record.

18 **CHAIRMAN BROWN:** Okay. Thank you. We will go
19 ahead and mark that. And seeing no objections from any
20 of the parties, we will go ahead and move that into the
21 record as well.

22 (Exhibit 249 marked for identification and
23 admitted into the record.)

24 **MS. CORBARI:** Staff would also ask that Gulf's
25 responses to staff inquiries on the stipulation and

1 settlement agreement from the informal meeting held on
2 March 21st be marked as Exhibit 250 and entered into the
3 record.

4 **CHAIRMAN BROWN:** Okay. Thank you. We will go
5 ahead and mark that as Exhibit 250. And seeing no
6 objections from any of the parties, we will enter that
7 into the record at this time.

8 (Exhibit 250 marked for identification and
9 admitted into the record.)

10 All right. Any other preliminary matters?

11 **MS. CORBARI:** No, ma'am.

12 **CHAIRMAN BROWN:** Okay. Parties, are there any
13 preliminary matters?

14 **MR. STONE:** None for Gulf.

15 **CHAIRMAN BROWN:** Thank you. Seeing nods,
16 shaking heads. So, okay, we'll go ahead.

17 Before we hear from the parties on the
18 settlement, I first would like to confirm the parties'
19 status with regard to the stipulation and settlement
20 agreement. And my understanding is that Gulf, Office of
21 Public Counsel, FIPUG, and now SACE has signed onto --
22 as signatories to the settlement agreement. And while
23 FEA, Wal-Mart, League of Women Voters, and Sierra Club
24 have not joined the agreement, they do not necessarily
25 oppose the agreement. And I'd like to just get that

1 confirmation on the record at this time, starting with
2 Retail Federation.

3 **MR. WRIGHT:** That is correct, Madam Chairman.

4 **CHAIRMAN BROWN:** Wal-Mart. Sorry.

5 **MR. WRIGHT:** That is correct, Madam Chairman.
6 Wal-Mart cannot join the stipulation and settlement
7 agreement, but we do not oppose it. Thank you.

8 **CHAIRMAN BROWN:** Thank you.

9 League of Women Voters.

10 **MR. MARSHALL:** That is correct. The League of
11 Women Voters of Florida has not signed the settlement
12 agreement but does not oppose the settlement agreement.

13 The Southern Alliance for Clean Energy, of
14 course, has signed the agreement.

15 **CHAIRMAN BROWN:** Thank you.

16 FEA.

17 **MAJOR UNSICKER:** That's correct also for FEA,
18 ma'am. FEA has not joined the agreement, but we do not
19 oppose it.

20 **CHAIRMAN BROWN:** Thank you.

21 Sierra.

22 **MR. GOLDSTEIN:** That's correct, Madam Chair.
23 The Sierra Club has not signed but does not oppose.

24 **CHAIRMAN BROWN:** See, but you're sitting with
25 the signatories, so you're confusing me here a little

1 bit.

2 **MR. GOLDSTEIN:** Oh, I'm sorry about that.

3 **CHAIRMAN BROWN:** Thank you.

4 **MR. MOYLE:** FIPUG has signed and supports the
5 settlement agreement.

6 **CHAIRMAN BROWN:** Thank you.

7 **MR. REHWINKEL:** And, of course, the Public
8 Counsel has signed and supports it.

9 **CHAIRMAN BROWN:** Okay. Thank you.

10 And so each party will now have an opportunity
11 to present and provide comments on the agreement. And
12 so I will begin with Gulf, followed by the rest of the
13 signatories, and then following, the non-signatories as
14 well. And good morning.

15 **MR. STONE:** Thank you, Chairman Brown. I will
16 be brief in recognition that I know you have another
17 item at 9:30.

18 The settlement that is before you today is the
19 result of many months of work not only on the settlement
20 itself, but also in litigation of the case. And I think
21 the fact that we were able to come to a settlement that,
22 although not joined by all the parties, at least is
23 acquiesced to and accepted by all the parties on the eve
24 of hearing shows that there was a concerted effort, a
25 spirited effort in contested litigation, and yet we came

1 to a resolution that is in the best interest, the public
2 interest.

3 This Commission has a long-standing policy of
4 favoring settlements among the parties. And the fact
5 that we're able to bring the settlement to the
6 Commission that not only is joined by four parties but
7 is accepted -- not joined but are willing to live by the
8 results of the settlement by the remaining parties to
9 the case. So there is no opposition to the settlement
10 that's before you. It is a reasonable compromise of the
11 positions that were vigorously held by all parties after
12 an extensive discovery period, and we urge the
13 Commission to approve the settlement in the public
14 interest.

15 I'm prepared to answer any questions the
16 Commission may have. I was not intending to go through
17 a summary of the settlement. I think we spent a great
18 deal of time with your staff the day following the
19 presentation of the settlement to the Commission, but
20 I'm happy to answer any questions you might have.

21 **CHAIRMAN BROWN:** Thank you, Mr. Stone. And
22 we've had two weeks to review it, so I appreciate you
23 not going through each provision for us.

24 Mr. Rehwinkel.

25 **MR. REHWINKEL:** Thank you, Madam Chairman,

1 Commissioners.

2 The Public Counsel supports the stipulation
3 and settlement agreement that resolves the 2016 Gulf
4 Power rate relief and depreciation petitions. By
5 signing the agreement, after many months of intensive
6 litigation practice that included hours of depositions
7 and thousands of pages of discovery and countless hours
8 of preparation time, in addition to months of
9 negotiations dating back to the summer of 2016, the
10 Public Counsel has indicated that he believes the
11 settlement agreement is in the public interest and is in
12 the best interest of customers, given the facts,
13 circumstances, and the posture of the case.

14 All settlements are unique to the specific
15 facts and circumstances existing at the time they are
16 negotiated and executed, and this one before you is no
17 exception. The Public Counsel strongly believes the
18 overall results are fair to all. We also strongly
19 believe that the agreement contains provisions that are
20 important to the parties to the case and represents
21 positive outcomes for those who took positions on
22 certain issues.

23 In this regard, we believe the agreement
24 represents the culmination of many hours of difficult
25 and good faith negotiations by the parties to this

1 docket. Even if they are not signatories, all parties
2 have contributed to the agreement. And to us, that is
3 further evidence that it is in the public interest.
4 Accordingly, we urge you to vote to adopt the agreement
5 in the public interest. Thank you.

6 **CHAIRMAN BROWN:** Thank you.

7 FIPUG.

8 **MR. MOYLE:** Thank you. Thank you, Madam
9 Chair.

10 And FIPUG is pleased to join the agreement as
11 a party who has affirmatively signed it. And I wanted
12 to thank Gulf for the way in which they handled this
13 case. It was professionally done. Their staff, the
14 deponents, it was, it was well done. It doesn't mean it
15 was easy. It was not easy. The negotiations were hard
16 and arduous and long. But I think at the end of the
17 day -- you all have had settlements before you
18 previously, and I think it is a fair deal. And I think
19 that it represents give and take, and we can support it.

20 You know, a lot of times it's about getting
21 the pot right, and ultimately this pot, this settlement
22 pot got right. And I would also just make a comment.
23 We don't get into details on, you know, settlements and
24 things, but I think FIPUG was able to sign, thankfully,
25 due to the efforts of the Office of Public Counsel and

1 Gulf. And I want to be intentionally obtuse and say
2 that sometimes things --

3 **CHAIRMAN BROWN:** Like a lawyer.

4 **MR. MOYLE:** -- sometimes things that are not
5 in agreements also have meaning, and that would also be
6 the case here today. So we support the agreement and
7 would urge you to favorably support it.

8 **CHAIRMAN BROWN:** Thank you, Mr. Moyle.

9 **MR. MOYLE:** Thank you.

10 **CHAIRMAN BROWN:** You know I like -- enjoy
11 kidding with you.

12 All right. SACE.

13 **MR. MARSHALL:** Both SACE and the League are
14 very pleased that the proposed residential rate redesign
15 was withdrawn as part of the settlement. Frankly, that
16 was the impetus for both SACE and the League to
17 intervene in this case was to oppose that residential
18 rate redesign. That rate redesign has been withdrawn as
19 part of that settlement, and both organizations strongly
20 support that. Thank you.

21 **CHAIRMAN BROWN:** But yet League of Women
22 Voters, just for confirmation, is not a signatory still.

23 **MR. MARSHALL:** That is correct.

24 **CHAIRMAN BROWN:** Okay. Thank you.
25 Sierra Club.

1 **MR. GOLDSTEIN:** Thank you, Madam Chair. The
2 Sierra Club doesn't have a comment at this time, but we
3 do not oppose, again.

4 **CHAIRMAN BROWN:** Okay. Still giving you all
5 an opportunity.

6 FEA.

7 **MAJOR UNSICKER:** Thank you, Madam Chair.

8 FEA does not oppose the agreement at this time
9 but would like to say thank you to all the parties.
10 Everybody was very cooperative during these proceedings.
11 Thank you.

12 **CHAIRMAN BROWN:** Thank you.

13 Wal-Mart.

14 **MR. WRIGHT:** Thank you, Madam Chairman. And
15 thanks again to all the parties: Gulf, Public Counsel,
16 and all these other nice people here. We greatly
17 appreciated the opportunity to be deeply involved in the
18 settlement negotiations that ultimately led to the
19 product that's before you today.

20 Regrettably Wal-Mart cannot join in this
21 settlement because Wal-Mart simply believes that the
22 return on equity provided for is too high and cannot
23 affirmatively support the settlement. On balance, we
24 believe it's a reasonable settlement and do not oppose
25 it. Thank you very much.

1 **CHAIRMAN BROWN:** Thank you, Mr. Wright.

2 And now we'll move to the Commissioner
3 questions as well as staff questions. But, first, I
4 just want to thank the parties for coming together and
5 putting forth a thoughtful, well-intended, meaningful
6 settlement agreement for us to consider. It is one of
7 the cleanest and most straightforward agreements I've
8 seen during my time as a Commissioner, and I don't think
9 there's a whole lot of ambiguity in it. So I appreciate
10 the parties for that, for those efforts.

11 And at this time, Commissioners, I would like
12 to open the floor for questions as well as -- I'll start
13 with the Commissioners. And if staff has a question,
14 please just feel free to chime in. But you do have some
15 data requests that have been marked and moved into the
16 record. And I'll start with Commissioner Graham.

17 **COMMISSIONER GRAHAM:** Thank you, Madam Chair.

18 I have to say that I feel cheated. I was
19 looking forward to a hearing. You guys just took it
20 away from me. I have to say -- because the parties
21 started off so far apart when this was filed, and so
22 it's just so fantastic to see that this thing could even
23 possibly come together. It shows when you set your
24 minds to things, you guys can make things happen. And
25 the fact that nobody is opposing it is just -- I mean,

1 we've come a long way, and I do appreciate the effort
2 that you guys all put into this.

3 **CHAIRMAN BROWN:** Thank you.

4 Commissioner Patronis.

5 **COMMISSIONER PATRONIS:** Thank you, Madam
6 Chair. I had the pleasure of being the Prehearing
7 Officer on this rate case. There's some really tough
8 issues to deal with. But first and foremost, I want to
9 thank staff, Kelley and Keino. You were an incredible
10 asset to me, but not just to me, but the ratepayers of
11 the state of Florida. And thank you for your efforts,
12 and I know you've put a lot of time in.

13 I know that there's more than a couple of
14 dozen folks that worked on this case. But I can't take
15 the time to thank everyone, but I just wanted again to
16 thank staff on their efforts here.

17 To Gulf and the intervening parties, thank
18 you. I saw incredible cooperation amongst the parties
19 to strike a deal that's in the best use of -- the public
20 interest and also prudent use of the ratepayers'
21 dollars.

22 I had some concerns, as I think we all had
23 issues, as just -- as Commissioner Graham just pointed
24 out, but in particular was the rate structure, and I was
25 wondering how it was going to ultimately impact our, our

1 low-income families in Northwest Florida. So I'm -- can
2 support the settlement today, and for the most reasons
3 that this settlement keeps the important protections in
4 place for Gulf Power's ratepayers and their customers.
5 And thank you for allowing me to participate.

6 **CHAIRMAN BROWN:** Thank you.

7 And before we get to Commissioner Brisé, I do
8 want to thank the Prehearing Officer, Commissioner
9 Patronis. He put a lot of time into this case, as did
10 staff, over the past year, and the parties as well.
11 But, Commissioner Patronis, a three-hour prehearing
12 conference with a fine-tooth comb going over the issues,
13 you really streamlined this proceeding for us.

14 Commissioner Patronis.

15 **COMMISSIONER PATRONIS:** And I'm so -- I'm
16 sitting here reading my notes, and the one person I
17 didn't thank that actually helped probably more than
18 anybody else is Ryan West. Ryan, thank you for
19 everything you did. Because Ryan had double duty
20 because Angelina, my staff executive assistant, had a
21 baby at the same time.

22 So, anyway, Ryan, thank you, and especially to
23 your family, Kim and Parker, for allowing me to
24 monopolize so much of your time during this rate case.

25 **CHAIRMAN BROWN:** So go back to a three-hour

1 prehearing conference.

2 **COMMISSIONER PATRONIS:** And, oh, by the way,
3 he had emergency room visits during that whole time
4 because of Parker having a bicycle accident. So,
5 anyway, I know you really poured it into this. Thank
6 you.

7 **CHAIRMAN BROWN:** Thank you, Commissioner
8 Patronis.

9 Okay. Commissioner Brisé.

10 **COMMISSIONER BRISÉ:** Thank you, Madam Chair.

11 So I want to thank the parties for coming
12 together and working out this settlement agreement.

13 I just have one question. And obviously every
14 settlement is different, and so the last few settlements
15 that we have seen have had stay-out provisions, and so
16 I'm just curious, what is -- what was the situation or
17 is there a situation that prevents us to have a stay-out
18 provision with this settlement?

19 **MR. STONE:** Commissioner Brisé, I'll take a
20 first turn, and I'm sure Mr. Rehwinkel will have some
21 further comments.

22 In most cases that have a stay-out provision,
23 there is some sort of mechanism that gives the company
24 some comfort that it can honor the stay-out provision.
25 In our last settlement, there were such provisions. One

1 of the most significant ones was as a result of a very
2 contested matter about the size of the cost of removal
3 reserve and the dismantlement reserve and the question
4 of whether or not it was adequate or more than adequate
5 or less than adequate. That was a matter of contention.
6 And one of the issues in that particular case was the --
7 whether or not there had been a more up-to-date study on
8 the dismantlement side to resolve that issue.

9 A part of this last settlement was to commit
10 to a more thorough dismantlement study in this round,
11 and that we would use the dismantlement reserve, the
12 cost of removal reserve as the safety valve to support
13 the stay-out provision.

14 As it turns out, we were able to fully resolve
15 that question with the study in this case. And, in
16 fact, what we have presented and is part of this
17 stipulation is that our dismantlement accruals will be
18 reset in this case based on what the company proposed
19 when it filed the case last summer, first on the
20 depreciation dismantlement side and then also when it
21 filed the rate case in October.

22 As a consequence, the dismantlement accruals
23 are now reduced -- essentially on the base rate side
24 they are at zero or will be at zero starting July 1.
25 And on the -- in the ECRC side, they will only be

1 dealing with a small aspect of future dismantlement
2 costs because the original intended purpose of the
3 accrual, we have, at least at this time based on this
4 study, sufficient funds to deal with those issues at the
5 end of the life of those plants.

6 But the fact that we've now determined there
7 is not an ample reserve in order to use it as a safety
8 valve, it really didn't have anything that we could rely
9 on as a basis to support a stay-out provision, so it
10 therefore became much more important to, as Mr. Moyle
11 said, get the pot right.

12 That's where we find ourselves. And as a,
13 somewhat of a replacement for a stay-out provision, we
14 have written into the settlement an incentive provision
15 that gives the parties comfort that Gulf is not going to
16 be coming right back in. I hope it would give the
17 Commission and the staff comfort. Quite frankly, it --
18 even without that incentive, there are folks in this
19 room that have no desire to come back in any time soon.
20 And so I would not -- I mean, obviously I can't commit
21 to you --

22 **COMMISSIONER BRISÉ:** Sure.

23 **MR. STONE:** -- that we have any stay-out
24 provision, but it is not our intention to revisit the
25 issue of a revenue review at any time soon, and it would

1 take some circumstances that are not foreseen at this
2 moment to bring us back in.

3 **COMMISSIONER BRISÉ:** Sure.

4 **MR. REHWINKEL:** From the customer side, let me
5 echo what Mr. Stone has said. But I think Commissioner
6 Graham put his finger on it: We were a long ways apart.
7 And when I said at the, the last time we got together,
8 your staff did a great job of narrowing the issues.
9 Gulf Power never gave up trying to resolve differences.
10 We got close enough where we became comfortable that, as
11 Mr. Moyle said, we got the pot right. And getting the
12 pot right means that there's less chance that we're
13 going to have to come back in again.

14 And I think that Gulf Power has enough
15 flexibility and incentives in the agreement to stay out.
16 And I think taking the stay-out -- trying to devise a
17 stay-out mechanism simplified this process. And as the
18 Chairman said, we brought together a fairly streamlined
19 and more traditional type settlement to you. And so I
20 think that's going to bode well for the future, and we
21 think that it got done right. Thank you.

22 **COMMISSIONER BRISÉ:** Thank you.

23 **MR. MOYLE:** Can I, just briefly? The
24 settlement agreement does make a provision that says
25 that, that if Gulf comes back in before -- and seeks new

1 rates before January 1, 2019, to the extent that they
2 have not amortized their rate case expense, it's below
3 the line, they don't get the rest of the money. So it's
4 a little bit of a nudge.

5 But I think from FIPUG's perspective, you
6 know, it's a deal that provides for Gulf's needs. You
7 know, they'll go run their operation. And I'm not sure
8 that, you know, companies enjoy rate cases, and so we're
9 hopeful that it will return.

10 And I looked at the history of Gulf's rate
11 cases, and there was a pretty big period of time where
12 Gulf was not in. And we're kind of hopeful that they do
13 well, and respectfully we like them, but we'd prefer not
14 to see them again anytime soon.

15 **COMMISSIONER BRISÉ:** Thank you.

16 **CHAIRMAN BROWN:** Any other questions?

17 Okay. Staff, do you have questions?

18 **MS. CORBARI:** Staff just has a few clarifying
19 questions.

20 **CHAIRMAN BROWN:** Before you go to those, I
21 have just two questions I want to go through.

22 And, Commissioner Polmann, do you have any
23 questions?

24 **COMMISSIONER POLMANN:** I don't have any
25 questions. I'd like to make some comments on questions.

1 **CHAIRMAN BROWN:** Okay. Go ahead, sir.

2 **COMMISSIONER POLMANN:** Thank you, Madam
3 Chairman.

4 I do believe I've been thoroughly briefed by
5 staff and counsel, so I don't have any questions at this
6 point. But -- and I do feel that we were well prepared.
7 I'll echo Commissioner Graham's comments that I really
8 was looking forward to the opportunity to participate in
9 the hearing. I had some concerns and -- but I do feel
10 that, that the settlement is very beneficial at this
11 point.

12 I want to recognize and agree that the efforts
13 of the parties to come together is an excellent pathway,
14 and I appreciate the work of all the parties, the
15 cooperation and the coordination in doing so. And at
16 this point, as it turned out, with the settlement coming
17 forward, not including the additional expense I think is
18 of great benefit. I believe this settlement is rational
19 and reasonable. And on balance, I do believe it's in
20 the public interest, and I can support that.

21 So, again, recognizing the efforts of everyone
22 preparing for the hearing and then preparing the
23 settlement, I do see of great benefit. So I thank all
24 of you for the hard work.

25 **CHAIRMAN BROWN:** Thank you, Commissioner

1 Polmann.

2 And I do have just two questions, although I
3 do believe the resulting byproduct of the settlement
4 agreement represents a very fair balance of interest.
5 And as Commissioner Patronis said, the main issue that
6 we heard at the service hearings was the residential --
7 the customer charge rate design issue, which is no
8 longer an issue in this.

9 But we also heard that the Plant Scherer
10 ownership interest was an issue, and the utility now has
11 agreed to a 32.5 million write-down, which I believe is
12 a huge concession, and that was not contemplated in the
13 original filing.

14 But I think the major highlight of the
15 settlement agreement really is the increase requested.
16 It's almost cut in half with this settlement agreement,
17 and that's just to be lauded for -- I know that Gulf
18 will -- intends to continue investing in infrastructure
19 improvements, and I encourage them to do that as well.

20 With that, there are just two questions for
21 clarification on paragraph 7, the storm damage recovery
22 it provides some discretion for the utility to suspend
23 or continue the current accrual. I just was wondering
24 at what point does Gulf anticipate that it will address
25 that, either suspend or continue?

1 **MR. STONE:** Commissioner, the discretion to
2 suspend the accrual is an important part of our being
3 able to manage our business in the near term, given the
4 compromise on the revenues that the settlement presents.

5 We are, we are mindful of the fact that
6 this -- that the uninsured property reserve is an
7 important regulatory tool, and so it is not something
8 that is a decision we would take lightly to suspend the
9 accrual. But it is -- the flexibility to do so is very
10 important in us being able to accept the compromise on
11 revenues that resulted from the case.

12 **CHAIRMAN BROWN:** Is it necessarily a
13 threshold? Is there --

14 **MR. STONE:** There's no, there's no -- as far
15 as the suspension, there is no thresholding. And there
16 is a mandatory provision that if it is suspended, that
17 it has to be renewed if we -- if the reserve reaches
18 zero.

19 But the settlement agreement allows Gulf the
20 discretion to turn it -- as long as there's a positive
21 reserve, it allows Gulf the discretion to turn it on and
22 off as it needs to in order to continue managing its
23 business, and that is a part of our effort to be able to
24 avoid coming back in prematurely. I realize that may
25 not have been as precise an answer as you would have

1 liked, but it's an area --

2 **CHAIRMAN BROWN:** I got the drift.

3 **MR. STONE:** -- where we have discretion.

4 **CHAIRMAN BROWN:** I got the drift. Thank you
5 for that explanation. I appreciate it.

6 And then another area, and Commissioner Brisé
7 got my question and you answered it thoroughly on the
8 stay-out, but another area was the electric vehicle
9 charging facilities. This is an area of personal
10 interest to me. I believe this is really a program that
11 is going to see a lot of value, and it shows Gulf's
12 initiative to be a trendsetter in emerging technologies.
13 So I'm excited about it; I'm excited to see what comes
14 out of that five-year pilot. In the original filing, it
15 was proposed as a permanent program. Could you just
16 elaborate maybe on the rollout of that?

17 **MR. STONE:** Commissioner, we are also excited
18 by the opportunity to help get a nascent market
19 established. We think that electric vehicles are
20 important in our future as a society, and we want to do
21 what we can to encourage that.

22 In terms of the rollout, we are -- one
23 impediment to us being able to move ahead was the
24 absence of a depreciation rate for the equipment that we
25 would invest in behind our customers' meters. Now that

1 the settlement is -- well, once you approve the
2 settlement, we will remove that hurdle and we will then
3 be able to focus our attention on actually putting
4 the -- putting plans in place.

5 We have customer demand, and that's the other
6 issue for us is we don't like being in a position of
7 having to tell our customers no. And so it gives us the
8 opportunity to now be able to say yes in a controlled
9 fashion so that no one sees any -- they get to see how
10 it works and we get to get some real-time information,
11 some life -- real-life information.

12 And if there needs to be adjustments, we'll be
13 in communication both with our counter-parties to the
14 settlement and, more importantly perhaps, the Commission
15 itself so that you're aware of how the program is going.
16 You'll have the data that you need to be able to
17 evaluate, and hopefully we'll be able to move it into a
18 permanent status. Certainly we'll have a decision to
19 make, whether permanent or not, at the end of five
20 years, but perhaps earlier than that.

21 **CHAIRMAN BROWN:** Well, again, I commend you
22 because this is the first that I've seen in a settlement
23 of recent years, and I think it's a great effort. And
24 I'm looking forward to getting that data and seeing
25 where the market is in Florida.

1 Mr. Rehwinkel.

2 **MR. REHWINKEL:** Yes, Madam Chairman. Just
3 very quickly, we too were very pleased that Gulf brought
4 this forward. Our, our interest in this issue was that
5 the Commission maintain maximum flexibility to adapt its
6 regulatory regime to what you found out from Gulf, and I
7 commend Gulf for bringing this forward.

8 We did not want there to be a situation where
9 the way Gulf rolled it out became the paradigm that
10 everybody was bound to. So I think this is a win for
11 everybody, and I think it's a win for the state of
12 Florida because the Commission maintains maximum
13 flexibility to adjust to the way this market develops.
14 This is an important and historic step, and we commend
15 Gulf for it, and we appreciate your consideration of it.

16 **CHAIRMAN BROWN:** Thank you. Great comments.

17 With that, Commissioners, are there any other
18 questions? I'll turn to staff now.

19 **MS. CORBARI:** Staff just has a few clarifying
20 points. I guess I'll begin with the EV, since we were
21 just talking about it.

22 There -- just to clarify, there's no
23 presumption of correctness on the pilot program should
24 the Commission revisit it in another rate proceeding or
25 at the end of five years; correct?

1 **MR. STONE:** That is correct.

2 **MS. CORBARI:** And the EV program, the
3 reporting and operation is going to roughly occur as
4 outlined in Gulf's responses, which is now Exhibit 250?

5 **MR. STONE:** Yes. It was the intention of the
6 parties, when we entered into the stipulation, to give
7 flexibility so that we would meet the needs of staff and
8 the parties in terms of the kind of reporting that came
9 out in the program. And largely that reporting
10 mechanism that's in the company's responses is one that
11 I interpret as being a request by staff, and we're
12 certainly happy to honor that request.

13 **MS. CORBARI:** Thank you. With regard to
14 paragraph 10 of the settlement agreement, the
15 depreciation and dismantlement studies, it's Gulf's
16 intent to get back on the four-year cycle, and Gulf is
17 intending to file its next depreciation dismantlement
18 study no sooner than January 1st, 2022, but no later
19 than June 30th, 2022.

20 **MR. STONE:** That is correct.

21 **MS. CORBARI:** And with the federal income tax
22 changes, staff is understanding that any federal income
23 tax changes, whether 1 percent, 20 percent, would
24 trigger the 60-day filing.

25 **MR. STONE:** Staff is correct. To be clear, I

1 think staff's -- your concern -- or staff's concern was
2 the statement in there about materiality.

3 **MS. CORBARI:** Yes.

4 **MR. STONE:** And the decision about materiality
5 does not rest with Gulf but rests with the Commission.
6 We will -- we have a reporting obligation. We may have
7 a recommendation when we make our report about whether
8 it's deemed material or not, but ultimately the decision
9 about whether it's material or not is up to the
10 Commission.

11 **MS. CORBARI:** Thank you. And if any tax
12 changes, federal tax changes occur that may affect all
13 the utilities, if the Commission were to address all the
14 IOUs in a consolidated limited proceeding, the
15 settlement doesn't prevent Gulf from being a part of any
16 consolidated proceeding, provided the mechanism provided
17 for in the settlement agreement applies to Gulf.

18 **MR. STONE:** Yes. I'd like to state it this
19 way: The settlement agreement specifies a mechanism
20 that is intended to provide a limited scope type of
21 proceeding that's limited to the tax effects. It's
22 intended, by the fact that it is a limited scope
23 proceeding, to hopefully expedite, and that's probably
24 not the right flavor of word, but to streamline the
25 process of resolving that issue. And we, both Public

1 Counsel and Gulf, would like the opportunity to roll
2 back base rates for any actual tax savings that come
3 from tax reform as quickly as possible because we want,
4 we want to flow those benefits through to our customers
5 to the extent that we can. The mechanism is what's
6 specified in here.

7 As far as the timing, the fact that we have
8 identified a means for the Commission to assert
9 jurisdiction over some revenues in a timely fashion at
10 the beginning of the process once tax reform takes
11 effect, then that gives the Commission time to adjust to
12 its schedule to be able to address the issue. And
13 that's why the word "expedite" was probably not the
14 right word. "Streamline" is a better choice of words.

15 There's nothing in the settlement that would
16 prevent the Commission from using the Gulf procedure for
17 Gulf as part of a generic proceeding. In other words, I
18 think it would -- the model would be -- you would have
19 company-specific issues in that generic proceeding if it
20 was deemed that that was the most efficient way
21 procedurally to handle the mechanism.

22 **MS. CORBARI:** Thank you. And should the
23 Commission approve the settlement, it looks like Gulf
24 would be filing their tariffs in 20 days. So
25 April 24th, is that --

1 **MR. STONE:** The settlement gives us 20 days
2 from today's date, assuming approval. It is the
3 company's intention to file those schedules as soon as
4 we can possibly get them done. We do not -- right now
5 we do not believe it will take us the full 20 days to
6 complete the rate design, assemble the package of rate
7 schedules, and present them to staff.

8 The settlement gives us that amount of time.
9 We certainly -- we don't want to use the maximum amount
10 of time. We want to use the appropriate amount of time
11 and get them to staff as early as possible so that we
12 can expedite consideration of those rate schedules and
13 get final approval so we can move on with implementation
14 and get beyond this case.

15 **MS. CORBARI:** Thank you.

16 **CHAIRMAN BROWN:** Thank you.

17 **MR. REHWINKEL:** Madam Chairman?

18 **CHAIRMAN BROWN:** Sure.

19 **MR. REHWINKEL:** If I might, just on the tax
20 revision, I think Mr. Stone answered the question
21 correctly and I think I understand the import of the
22 question. But it is our expectation that the provision
23 be implemented as written. If it is -- can be done in
24 conjunction with another proceeding, all well and good,
25 but another proceeding, in our view, cannot come and

1 override this provision but they can work in tandem and
2 work together.

3 **CHAIRMAN BROWN:** Okay.

4 **MR. REHWINKEL:** Thank you.

5 **CHAIRMAN BROWN:** Mr. Stone?

6 **MR. STONE:** He said that much better than I
7 did.

8 **CHAIRMAN BROWN:** Okay. Thank you.

9 No further questions from staff?

10 All right. Commissioners, it looks like there
11 seems to be a lot of support here on the settlement
12 agreement and consensus, so at this time I will
13 entertain a motion.

14 Commissioner Brisé.

15 **COMMISSIONER BRISÉ:** Thank you, Madam Chair.

16 And considering all the comments that have been made and
17 all the information that is in the record at this point,
18 and considering that we started out with a rate case
19 that was looking, in terms of a base rate of, base rate
20 increase request of \$1.6.8 (verbatim) million, give or
21 take, \$2.7 million, and we're ending up with a base rate
22 increase now of about \$62 million, we're addressing a
23 variety of issues here that probably would not have
24 resolved this way through the litigated case. So I
25 support the settlement and I move that we approve the

1 settlement.

2 **CHAIRMAN BROWN:** There's a second. Any
3 further comment? I think some of those numbers were a
4 little mixed up there, the original request.

5 **COMMISSIONER BRISÉ:** Right. So we started out
6 with that in terms of the litigated case, and we ended
7 up in the settlement with \$62 million.

8 **CHAIRMAN BROWN:** That's right. That's right.
9 My understanding was the original request was for \$106.8
10 million.

11 **COMMISSIONER BRISÉ:** Right.

12 **CHAIRMAN BROWN:** Okay.

13 **COMMISSIONER BRISÉ:** So let me clarify that
14 for you.

15 **CHAIRMAN BROWN:** Thank you.

16 **COMMISSIONER BRISÉ:** So we started out with
17 106.8. When you remove the credits, we moved it down to
18 1.4 -- 104.1, so give or take \$2.7 million in terms of
19 the difference. Then we're down to, in comparison to
20 \$62 million where we end today. Now if we want to
21 include those credits, we're down to \$54 million, but I
22 didn't --

23 **CHAIRMAN BROWN:** No, you got that right. That
24 sounded good. That's -- I saw some faces in the
25 audience.

1 **COMMISSIONER BRISÉ:** Understood. They may not
2 have the papers in front of them.

3 (Laughter.)

4 **CHAIRMAN BROWN:** Thank you. Thank you.
5 Commissioners, any comments before we take a
6 vote?

7 Commissioner Graham.

8 **COMMISSIONER GRAHAM:** This is why I just say,
9 "I move the settlement."

10 (Laughter.)

11 **CHAIRMAN BROWN:** Okay. All those in favor,
12 say aye.

13 (Vote taken.)

14 Opposed?

15 (No response.)

16 The settlement passes unanimously.

17 Again, thank you to all the parties for their
18 efforts here today.

19 Mr. Stone, would you like to say a comment?

20 **MR. STONE:** I would. Commissioner, I just
21 want to compliment your staff. They've worked
22 tirelessly throughout this process and helped us have a
23 very efficient, although arduous, discovery period. The
24 prehearing process was better than any case that I've
25 ever been associated with. And it was largely as a

1 result of that prehearing process that was shepherded by
2 your staff that enabled the parties to get close enough
3 that they could actually see a light at the end of the
4 tunnel that enabled us to get to the settlement. And so
5 your staff is the unsung hero in this whole process, and
6 that is it's helped us to reach a settlement that is in
7 the public interest.

8 **CHAIRMAN BROWN:** Thank you so much. Again,
9 thank you to all the parties and Commissioner Patronis
10 for his fine shepherding of this proceeding as well.

11 And with that, there are just a few final
12 matters to address. Staff, I believe you would like to
13 close the record at this time. Is that correct?

14 **MS. CORBARI:** Yes, ma'am. Staff would ask
15 that the record be closed, and any post-hearing
16 informational filings, for example, rate case expenses,
17 be filed in the docket file.

18 **CHAIRMAN BROWN:** Okay. We will go ahead,
19 seeing no objections, and go ahead and do that at this
20 time. The record is closed.

21 Due to our decision today, post-hearing briefs
22 are obviously no longer necessary.

23 Does any party have any additional matters
24 that need to be addressed or brought up or comments?
25 Nothing? Seeing none, this hearing is adjourned. Thank

1 you.

2 (Proceeding adjourned at 9:43 a.m.)

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1 STATE OF FLORIDA)
 2 : CERTIFICATE OF REPORTER
 3 COUNTY OF LEON)

4 I, LINDA BOLES, CRR, RPR, Official Commission
 5 Reporter, do hereby certify that the foregoing
 6 proceeding was heard at the time and place herein
 7 stated.

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

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

18 DATED THIS 5th day of April, 2017.

19 *Linda Boles*

20 _____
 21 LINDA BOLES, CRR, RPR
 22 Official FPSC Hearings Reporter
 23 Office of Commission Clerk
 24 (850) 413-6734
 25