

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 160001-EI

FUEL AND PURCHASED POWER COST
RECOVERY CLAUSE WITH
GENERATING PERFORMANCE
INCENTIVE FACTOR.

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PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER
PARTICIPATING: COMMISSIONER ART GRAHAM
PREHEARING OFFICER

DATE: Tuesday, October 11, 2016

TIME: Commenced at 1:48 p.m.
Concluded at 2:37 p.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

1 APPEARANCES:

2 R. WADE LITCHFIELD, JOHN T. BUTLER,
3 and MARIA MONCADA, ESQUIRES, 700 Universe Boulevard,
4 Juno Beach, Florida 33408-0420, on behalf of Florida
5 Power & Light Company.

6 JAMES D. BEASLEY, J. JEFFRY WAHLEN, and ASHLEY
7 M. DANIELS, ESQUIRES, Ausley & McMullen, Post Office Box
8 391, Tallahassee, Florida 32302, appearing on behalf of
9 Tampa Electric Company.

10 JEFFREY A. STONE, RUSSELL A. BADDERS, and
11 STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, P.O. Box
12 12950, Pensacola, Florida 32591-2950, appearing on
13 behalf of Gulf Power Company.

14 MATTHEW R. BERNIER, ESQUIRE, 106 East College
15 Avenue, Suite 800, Tallahassee, Florida 32301-7740; and
16 JOHN BURNETT and DIANNE TRIPLETT, ESQUIRES, 299 First
17 Avenue North, St. Petersburg, Florida 33701, appearing
18 on behalf of Duke Energy Florida, Inc.

19 JON C. MOYLE, JR., and KAREN PUTNAL, ESQUIRES,
20 Moyle Law Firm, P.A., 118 North Gadsden Street,
21 Tallahassee, Florida 32301, appearing on behalf of
22 Florida Industrial Power Users Group.

1 APPEARANCES:

2 BETH KEATING, ESQUIRE, Gunster Law Firm, 215
3 South Monroe Street, Suite 601, Tallahassee, Florida
4 32301-1839, appearing on behalf of Florida Public
5 Utilities Company.

6 ROBERT SCHEFFEL WRIGHT and JOHN T. LaVIA,
7 III, ESQUIRES, Gardner Law Firm, 1300 Thomaswood Drive,
8 Tallahassee, Florida 32308, appearing on behalf of the
9 Florida Retail Federation

10 J. R. KELLY, PUBLIC COUNSEL, CHARLES
11 REHWINKEL, ERIK L. SAYLER, PATRICIA A. CHRISTENSEN, and
12 STEPHANIE MORRIS, ESQUIRES, Office of Public Counsel,
13 c/o the Florida Legislature, 111 W. Madison Street, Room
14 812, Tallahassee, Florida 32399-1400, appearing on
15 behalf of the Citizens of the State of Florida.

16 JAMES W. BREW, ESQUIRE, Stone, Mattheis,
17 Xenopoulos & Brew, P.C., 1025 Thomas Jefferson Street,
18 NW, Eight Floor, West Tower, Washington, DC 20007,
19 appearing on behalf of White Springs Agricultural
20 Chemicals, Inc. d/b/a PCS Phosphate - White Springs.

21 DANIJELA JANJIC and SUZANNE BROWNLESS,
22 ESQUIRES, FPSC General Counsel's Office, 2540 Shumard
23 Oak Boulevard, Tallahassee, Florida 32399-0850,
24 appearing on behalf of the Florida Public Service
25 Commission Staff.

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APPEARANCES:

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

P R O C E E D I N G S

1
2 **MS. TAN:** By notice issued September 27th,
3 2016, this time and place was set for a prehearing in
4 the following dockets: 160001-EI, 160002-EG, 160003-GU,
5 160004-GU, and 160007-EI. The purpose of the prehearing
6 is set out in the notice.

7 **COMMISSIONER GRAHAM:** Thank you. Staff.
8 We're going to take appearances, and if I could have
9 you, when you give your names or give your company, you
10 don't have to do it each individual, but when you give
11 the company and the names, also give the dockets that
12 you're being a part of all at one time. And I guess we
13 can start right up here with Florida Power & Light.

14 **MR. BUTLER:** Thank you, Commissioner Graham.
15 For the 01 docket I have R. Wade Litchfield, John
16 Butler, and Maria Moncada. We also would be making
17 appearances in Docket 160007, the ECRC. And then for
18 the 02 docket, R. Wade Litchfield, John Butler, and
19 Kenneth Rubin. Thank you.

20 **MR. BADDERS:** Good afternoon. Russell Badders
21 on behalf of Gulf Power. I'll be appearing in 01 and
22 02 and 07 dockets along with Steven R. Griffin and
23 Jeffrey A. Stone.

24 **COMMISSIONER GRAHAM:** Okay.

25 **MR. BEASLEY:** Good afternoon. James D.

1 Beasley with the Ausley McMullen law firm. Appearing
2 with me are J. Jeffry Wahlen and Ashley M. Daniels of
3 the same firm in the 01, 02, and 07 dockets.

4 **MR. WATSON:** Ansley Watson, Jr., Macfarlane,
5 Ferguson & McMullen in the 03 and 04 dockets.

6 **MS. KEATING:** Good afternoon, Commissioner.
7 Beth Keating with the Gunster law firm. I'm here today
8 for FPUC in the 01, 02, 03, and 04 dockets; FPU-Fort
9 Meade in the 03 docket; and Fort Meade, the Indiantown
10 Division, and Chesapeake in the 04 docket.

11 **COMMISSIONER GRAHAM:** Okay.

12 **MR. MUNSON:** Good afternoon, Commissioner. My
13 name is Greg Munson also with the Gunster law firm on
14 behalf of Florida City Gas in dockets 03 and 04.

15 **MR. BREW:** Good afternoon, Commissioner.
16 James Brew with the firm of Stone, Mattheis, Xenopoulos
17 & Brew appearing in the 01, 02, and 07 dockets for White
18 Springs Agricultural Chemicals/PCS Phosphate.

19 **MR. WRIGHT:** Good afternoon, Commissioner.
20 Robert Scheffel Wright and John T. Lavia, III, of the
21 Gardner law firm appearing on behalf of the Florida
22 Retail Federation in Docket 160001, the fuel docket.
23 Thank you.

24 **MR. MOYLE:** Good afternoon. Jon Moyle with
25 the Moyle Law Firm appearing on behalf of the Florida

1 Industrial Power Users Group in the 01, 02, and
2 07 dockets. And Karen Putnal with the firm should also
3 be noted as entering an appearance. Thank you.

4 **MS. CHRISTENSEN:** Patricia Christensen with
5 the Office of Public Counsel. And I'd also like to put
6 in an appearance for J. R. Kelly, Public Counsel;
7 Charles Rehwinkel; and Erik Sayler with the Office of
8 Public Counsel in the 01, 02, 03, 04, and 07 dockets.

9 **MS. LEITMAN:** Melanie Leitman appearing on
10 behalf of my co-counsel, Paula Sparkman, out of Messer,
11 Caparello representing Sebring Gas of the 04 docket.

12 **MR. BERNIER:** Good afternoon, Commissioner.
13 Matt Bernier with Duke Energy and entering an appearance
14 in the 01, 02, and 07 dockets. And I'd like to enter an
15 appearance for Dianne Triplett in those same dockets and
16 for John Burnett in the 01 docket. Thank you.

17 **COMMISSIONER GRAHAM:** Anybody else before I go
18 to staff for appearances?

19 **MS. CHRISTENSEN:** Can I also add -- this is
20 Patty Christensen with the Office of Public Counsel --
21 an appearance for Stephanie Morris in all of the dockets
22 as well.

23 **COMMISSIONER GRAHAM:** Anybody else before I go
24 to staff?

25 Staff.

1 **MS. TAN:** Lee Eng Tan on behalf of the
2 02 docket, and making an appearance for Stephanie Cuello
3 in the 02 and 04 docket, and Margo Leathers and Wesley
4 Taylor in the 03 docket, Kelley Corbari in the 04
5 docket, Bianca Lherrison and Charlie Murphy in the 07
6 docket, and Danijela Janjic and Suzanne Brownless in the
7 01 docket.

8 **MS. HELTON:** And finally, Mary Anne Helton.
9 I'm here as your advisor. I'd also like to make an
10 appearance for your General Counsel, Keith Hetrick.

11 * * * * *

12 **COMMISSIONER GRAHAM:** Okay. Staff,
13 preliminary matters.

14 **MS. JANJIC:** On October 6th, 2016, FPL, the
15 Office of Public Counsel, the South Florida Hospital,
16 and the Healthcare Association, and the Florida Retail
17 Federation jointly moved for approval of a proposed
18 stipulation and settlement of FPL's rate case in Docket
19 No. 160021-EI and consolidated dockets. The proposed
20 settlement agreement provides for FPL to terminate
21 natural gas financial hedging for the four-year minimum
22 term of the agreement; however, it is not clear whether
23 the Commission will be in a position to decide on
24 approval of the proposed settlement agreement before the
25 hearing in this docket. Therefore, FPL is presenting

1 alternative positions on hedging and would like to
2 submit supplemental testimony on those positions.

3 **COMMISSIONER GRAHAM:** Florida Power & Light.

4 **MR. BUTLER:** That is an accurate statement.
5 We will end up filing -- propose to file very brief
6 testimony probably by Mr. Yupp that would simply sponsor
7 an alternative, I guess is the best term to use, 2017
8 risk management plan that would have zero percent as the
9 hedging levels in it. And, you know, this would be
10 presented as what should be approved by the Commission
11 if the stipulation in the rate case and consolidated
12 dockets is approved by the Commission.

13 As Ms. Janjic indicated, we've got kind of a
14 timing, sequencing issue of when decisions are going to
15 be made, so we think the most appropriate thing is to
16 have both positions presented in the fuel docket, and
17 the decision on which is appropriate can be made by the
18 Commission based on its ruling on the settlement
19 agreement.

20 **COMMISSIONER GRAHAM:** Staff, when are we
21 supposed to be ruling on the settlement agreement?

22 **MS. HELTON:** There has not been an Order
23 Establishing Procedure to deal with the issues that are
24 outside the scope of what the company filed in its
25 petition back in March. I'm hopeful that that will

1 happen in the next 24 hours, but we don't know yet.
2 But I think the dates that I have seen, there's a very
3 good chance that the ruling may not happen until after
4 the hearing in November.

5 **COMMISSIONER GRAHAM:** After the clause
6 hearings in November.

7 **MS. HELTON:** Yes. I'm sorry. After the
8 clause hearing in November.

9 **COMMISSIONER GRAHAM:** And you can't just
10 pull -- let me know if I'm going down the wrong path
11 here -- pull Florida Power & Light outside of the clause
12 hearings until after that?

13 **MS. HELTON:** Well, I guess that's a question
14 for Florida Power & Light. But it's my understanding,
15 you know -- what I understand about the clause docket is
16 that they need a ruling by the end of November to have
17 the factors in place so that they can implement new
18 rates the beginning of the year, and I'm not sure timing
19 wise how that would happen.

20 **MR. BUTLER:** I think that's an accurate
21 characterization. And, in addition, as I noted, I mean,
22 we have a position on hedging that if the stipulation --
23 I mean, I'm sorry, the settlement agreement were not
24 approved, we would continue to take the position we
25 filed in September, which is that, you know, we should

1 continue to hedge, and we have various other subordinate
2 related positions that we would be supporting. So
3 unless there's some way to have our -- well, I just --
4 it's hard for me to see how it would because the hedging
5 issue is one that is going to be addressed by all of the
6 utilities, by Public Counsel, by FIPUG, by staff
7 witnesses, and I don't see how we could be participating
8 to protect the position we have in advance of approval
9 of the settlement in any forum other than the hearing
10 you plan to have in early November on -- you know, for
11 all of the other parties.

12 **COMMISSIONER GRAHAM:** So you would take -- you
13 will take your current position on hedging as we go into
14 the clause hearings. And then if the settlement were to
15 be brought up and pass, they you would just basically
16 step down from those positions?

17 **MR. BUTLER:** That's right.

18 **MS. HELTON:** And while that may be a little
19 bit awkward, I do think it would be more awkward to try
20 to split Florida Power & Light off, especially because
21 hedging is a major part of this proceeding in the
22 beginning of November, as I understand it. And the
23 other companies have filed testimony concerning that and
24 staff has also filed testimony.

25 **COMMISSIONER GRAHAM:** And so when we bring up

1 the settlement, part of that settlement is also -- it's
2 also, I guess, allowing them to step back from the
3 decision that was made during the clauses.

4 **MR. BUTLER:** That's right. I mean, I think
5 that when you consider our settlement, one of the
6 elements of that you need to consider is obviously the
7 provision that the parties to the settlement have agreed
8 to where we will terminate for the four-year term of the
9 agreement our hedging, and you'll have to decide, you
10 know, whether to approve the settlement with that
11 included. If you do, at that point I think it's just
12 ministerial that whatever we presented, whatever we were
13 otherwise taking as a position in this docket would get
14 sort of overridden by the approval of the settlement
15 agreement. And we would, of course, provide the
16 appropriate revised risk management plan and would
17 support having that approved as sort of implementation
18 of the settlement agreement.

19 **COMMISSIONER GRAHAM:** Okay. The danger of me
20 thinking out loud is I don't want to go down the wrong
21 path, but thanks.

22 **MR. SAYLER:** Mr.-- Commissioner Graham.

23 **COMMISSIONER GRAHAM:** Yes.

24 **MR. SAYLER:** As far as the -- how these -- the
25 fuel clause and the settlement are running on somewhat

1 dual tracks, does staff have any dates for any of the
2 decision points or anything? Because in my conversation
3 with Mr. Butler, there was a potential for something to
4 be done on the settlement before the actual fuel clause
5 hearing. Then you would have the fuel clause hearing,
6 followed by post-hearing briefs on the fuel clause
7 hearing, and potentially a decision on the settlement
8 before the actual decision on the fuel clause,
9 post-hearing briefs, and staff's recommendation sometime
10 in early December. So I'm just wondering about the
11 timing.

12 **COMMISSIONER GRAHAM:** Actually I think you'll
13 probably have a better -- they can give you a better
14 idea, as Mary Anne says, in 24 hours when the order
15 comes out. So --

16 **MS. HELTON:** I'm very -- I can't speak for the
17 Chairman. We have -- we are working fast and furiously
18 on an order and fast and furiously pinning down dates.
19 That has not been finalized, and I would hate to release
20 anything that's not final. But we are working as hard
21 as we can.

22 **COMMISSIONER GRAHAM:** I know the Chairwoman is
23 working on that this entire week, so I'd give it 48
24 hours or so and ask that same question to somebody on
25 staff.

1 **MR. SAYLER:** Yes, sir, that makes total sense
2 to us. And then at the appropriate time when it comes
3 to discussing the exhibits, like was done in the 07
4 docket, maybe having the settlement as an exhibit to
5 that docket as well.

6 **MS. HELTON:** Certainly.

7 **COMMISSIONER GRAHAM:** Okay. Mr. Moyle.

8 **MR. MOYLE:** Yeah. I was going to ask that.
9 And just for the record, we would have no objection to
10 any of the utilities entering into a Type B stipulation
11 with FIPUG's position of no more hedging, if there was
12 any interest.

13 **COMMISSIONER GRAHAM:** I'll let them address
14 that, if they choose to.

15 Okay. So we're in the 01 docket, preliminary
16 matters. Florida Power & Light, you're going to submit
17 your supplemental testimony?

18 **MR. BUTLER:** Yes. Our intention is to submit
19 that by the middle of next week.

20 **COMMISSIONER GRAHAM:** Okay. Any other
21 comments about Florida Power & Light doing that? Okay.

22 **MR. MOYLE:** Do we have a chance to ask some
23 questions about it, if we have any?

24 **MR. BUTLER:** Yes.

25 **MS. HELTON:** At the hearing.

1 **MR. BUTLER:** Right, at the hearing. And I
2 will -- I say yes, but, again, our view of it is that in
3 this proceeding, this isn't where we will be presenting
4 and defending the position of terminating hedging. I
5 mean, that is an issue in the -- you know, part of the
6 comprehensive settlement agreement that we are proposing
7 in the rate case docket. If it's approved in that
8 setting, then I think in this docket it becomes just
9 kind of ministerial to apply that decision and,
10 therefore, we terminate our hedging. But we will be in
11 this proceeding, if we go down the time sequence we've
12 been talking about, you know, our witnesses will be
13 essentially defending the position that we filed in
14 September.

15 **MR. MOYLE:** This is the issue -- this is the
16 proceeding where the hedging issue is keyed up
17 substantively. We have all the testimony in this
18 proceeding, so.

19 **MR. BUTLER:** Right. But the distinction,
20 Mr. Moyle, is that, you know, our agreement to terminate
21 hedging is only in connection with a -- you know, as an
22 element in a comprehensive settlement. And so obviously
23 you can ask Mr. Yupp about that settlement, I suppose,
24 but, you know, the discussion in this docket is not
25 going to be of that as sort of our preferred position.

1 It's going to be as something that is what we have
2 agreed to in a settlement. And if the settlement is
3 approved, that's what we'll do.

4 **MR. MOYLE:** Okay. It's just unusual. I mean,
5 testimony is coming in. It was supposed to be filed
6 many -- a long time ago. It's coming in supplemental
7 testimony. I was just curious as to whether there would
8 be an opportunity to see what the testimony says and do
9 any discovery on it.

10 **COMMISSIONER GRAHAM:** If every day was as
11 usual, you wouldn't need attorneys.

12 (Laughter.)

13 Okay. Any other preliminary matters?

14 **MR. BUTLER:** I have one just on the front --
15 first page of the prehearing order that inadvertently
16 Mr. Hoffman's name instead of Mr. Litchfield is listed
17 as the first appearance for FPL.

18 **COMMISSIONER GRAHAM:** Okay. Any other
19 preliminary matters?

20 Well, let's go through the draft prehearing
21 order. Section I, Section II, Section III, and Section
22 IV. Staff.

23 **MS. JANJIC:** Staff would like to review the
24 process for confidential exhibits.

25 **COMMISSIONER GRAHAM:** Can you pull your mic

1 around? Sorry.

2 **MS. JANJIC:** Okay. Staff would like to review
3 the process for confidential exhibits to be admitted at
4 hearing with the parties. Commissioners will be
5 provided with copies of all confidential materials
6 contained in all prefiled testimony and exhibits.

7 Two, Commissioners will be provided with
8 copies of all confidential materials contained in staff
9 exhibits. Each party is responsible for preparing
10 copies of any exhibit they want to introduce into
11 evidence that is not prefiled that contains confidential
12 materials and placing it in a red folder. Each party is
13 responsible for preparing copies of any cross-
14 examination or impeachment exhibit that contains
15 confidential information and placing it in a red folder
16 for use at hearing. In order to provide copies of its
17 exhibits to the Commissioners, staff, and parties, each
18 party shall make 30 copies of each non-prefiled document
19 it seeks to introduce or use for impeachment or
20 cross-examination purposes.

21 **COMMISSIONER GRAHAM:** Just in case you guys
22 haven't caught on, whenever the staff has it in bold,
23 that means they're serious this time.

24 (Laughter.)

25 Any other questions from -- or comments on

1 Section IV? Section V.

2 **MS. JANJIC:** Commissioner Graham, a time will
3 need to be set for witness summaries. It is usually set
4 anywhere between three and five minutes.

5 **COMMISSIONER GRAHAM:** Yeah. As much as it
6 will pain for me to say five minutes, we'll go with five
7 minutes.

8 **MR. SAYLER:** All right. Commissioner Graham,
9 depending upon your ruling on FIPUG's disputed issue, we
10 would need to update the issues that witnesses Noriega
11 and Lawton testify to it. But that will be contingent
12 on your decision on the FIPUG disputed issues.

13 **COMMISSIONER GRAHAM:** Okay. Is there anything
14 else before we start dealing with FIPUG? Okay, staff.

15 **MS. HELTON:** On the witnesses and FIPUG's
16 statement in its prehearing statement, and I think FRF
17 made a similar statement in their prehearing statement,
18 I just want to confirm, you're just making your standard
19 objection there with respect to witnesses' expertise.
20 We're not doing anything more than that.

21 **MR. MOYLE:** That's right, on the expertise
22 issue.

23 **MR. WRIGHT:** It's not even an objection. It's
24 a reservation of rights to address qualifications.

25 **MS. HELTON:** Okay. I think we're good there,

1 Mr. Chairman.

2 **COMMISSIONER GRAHAM:** Okay. What is this
3 about 5:00 on Friday? Oh, we don't --

4 **MS. HELTON:** Oh, I think we can skip that.

5 **COMMISSIONER GRAHAM:** Okay. So Section VI.

6 **MR. BEASLEY:** I have one brief comment,
7 Commissioner Graham.

8 On page 5, the fifth witness from the bottom,
9 Brian S. Buckley for Tampa Electric, we would need to
10 add Issue 19 as one of the issues that he addresses.

11 **COMMISSIONER GRAHAM:** Okay. So 17, 18, and
12 19?

13 **MR. BEASLEY:** Yes, sir.

14 **MR. BERNIER:** I have a comment as well on
15 that, Commissioner Graham.

16 **COMMISSIONER GRAHAM:** Sure.

17 **MR. BERNIER:** On page 6 as a rebuttal witness,
18 Joseph McCallister should be shown as a rebuttal witness
19 for DEF, and he will address Issues 1A, 1B, and 2B.

20 **COMMISSIONER GRAHAM:** McCallister?

21 **MR. BERNIER:** Yes.

22 **COMMISSIONER GRAHAM:** And which issues?

23 **MS. JANJIC:** I was going to do them all, but
24 thank you, guys.

25 **MR. BERNIER:** Oh, I'm sorry.

1 **MS. JANJIC:** It's going to be Issues 1A, 1B,
2 and 2B for Joseph McCallister for DEF.

3 **MR. BERNIER:** That's correct. Thanks.

4 **MS. JANJIC:** And we also need to add Mr. Yupp
5 for FPL, and those issues --

6 **COMMISSIONER GRAHAM:** Under the rebuttal?

7 **MS. JANJIC:** Under Mr. Joseph McCallister.

8 **COMMISSIONER GRAHAM:** No, no, no. Mr. Yupp
9 is --

10 **MS. JANJIC:** FPL's witness for the rebuttal.

11 **COMMISSIONER GRAHAM:** Okay. In rebuttal?

12 **MS. JANJIC:** Yes, sir.

13 **COMMISSIONER GRAHAM:** Okay.

14 **MS. JANJIC:** And those issues will be 1A, 1B,
15 and 3B.

16 **COMMISSIONER GRAHAM:** Okay. Anything --

17 **MS. JANJIC:** Oh, I'm sorry. Go ahead.

18 **COMMISSIONER GRAHAM:** Please go ahead.

19 **MS. JANJIC:** We wanted to ask -- staff would
20 like to ask the parties if they are willing to stipulate
21 to any of staff's witnesses at this time.

22 **MR. SAYLER:** Erik for Public Counsel. I think
23 so, but let me get back to you.

24 **MS. JANJIC:** Tomorrow? Okay.

25 **COMMISSIONER GRAHAM:** Erik?

1 **MR. SAYLER:** Excuse me. I mean, you're
2 talking about the audit witnesses or are you talking
3 about Mr. Gettings and Cicchetti?

4 **MS. JANJIC:** All of our staff witnesses.

5 **MR. SAYLER:** Okay. Potentially the audit
6 witnesses.

7 **MS. JANJIC:** Okay. Scratch that. Just the
8 audit witnesses. We will be putting forth the hedging
9 witnesses.

10 **MR. SAYLER:** Okay. Thank you. Yes. And we
11 will look at that and get back to you by hopefully close
12 of business tomorrow.

13 **MS. JANJIC:** Okay.

14 **MR. BUTLER:** FPL would be willing to stipulate
15 to the audit, staff audit witness for FPL.

16 **MR. BREW:** PCS is willing to stipulate to
17 Witness Ojada.

18 **COMMISSIONER GRAHAM:** Just the one witness?

19 **MR. BREW:** That's the one that deals with
20 Duke.

21 **COMMISSIONER GRAHAM:** Okay.

22 **MR. BERNIER:** We will stipulate to the same
23 witness.

24 **MR. BADDERS:** And Gulf can stipulate to
25 Witness Brown.

1 **COMMISSIONER GRAHAM:** Okay.

2 **MR. BEASLEY:** And Tampa Electric as well for
3 the audit witnesses for Tampa Electric -- witness for
4 Tampa Electric.

5 **MR. WRIGHT:** The Retail Federation will
6 stipulate to the entry of the audit witnesses'
7 testimonies and exhibits. Thank you.

8 **COMMISSIONER GRAHAM:** Both audit witnesses;
9 correct?

10 **MR. WRIGHT:** Pardon?

11 **COMMISSIONER GRAHAM:** Both audit witnesses;
12 correct?

13 **MR. WRIGHT:** All four.

14 **COMMISSIONER GRAHAM:** All four.

15 **MR. WRIGHT:** Yeah.

16 **COMMISSIONER GRAHAM:** All four. I'll follow
17 this.

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

19 **MR. MOYLE:** Similar to OPC, FIPUG would like
20 to take a look and follow back up.

21 **COMMISSIONER GRAHAM:** By the end of the day
22 tomorrow?

23 **MR. MOYLE:** If we're able to stipulate. We'll
24 shoot to do that.

25 **COMMISSIONER GRAHAM:** Okay.

1 **MS. JANJIC:** So just for clarification, anyone
2 else other than Jon and OPC getting back to me tomorrow?
3 Everybody else is okay with our audit witnesses;
4 correct?

5 **COMMISSIONER GRAHAM:** That is correct.

6 **MS. JANJIC:** Okay. Thank you. Any other
7 witnesses suggested by the parties at this time for
8 stipulation?

9 I would just like to note that staff will
10 confirm with each Commissioner that any identified
11 witness can be excused. If other Commissioners don't
12 have questions of these witnesses, the witnesses may be
13 excused from the hearing and his or her testimony and
14 exhibits entered into the record at the hearing as
15 though read. Parties are working on stipulation and --
16 which may result in other witnesses being excused.
17 Nothing further from us.

18 **COMMISSIONER GRAHAM:** Okay. Is that it for
19 Section VI? Section VII, Section --

20 **MR. BUTLER:** Commissioner Graham, I'm sorry,
21 before you leave Section VII, we may be revising
22 slightly the final sentence in our statement of basic
23 position there about the supplemental filing. It's not
24 clear if we're going to need to file a revised 2016 risk
25 management plan. Definitely will be the alternative

1 2017 plan. But I'll provide, by tomorrow, any change,
2 if we have it, to the language for the statement of
3 basic position.

4 **COMMISSIONER GRAHAM:** Okay.

5 **MR. SAYLER:** Chairman Graham, with regard to
6 OPC's position related to the hedging in light of the
7 settlement filed and in light of FPL, we may be tweaking
8 our language. But I will -- if we have any tweaks, we
9 will certainly let staff know by close of business
10 tomorrow.

11 **COMMISSIONER GRAHAM:** Okay.

12 **MR. MOYLE:** Ditto for FIPUG. I mean, I think
13 my understanding was when you said 5:00 tomorrow is the
14 time to get changes in positions that include basic
15 statement, basic positions too. So we'll probably be
16 changing our position with respect to hedging.

17 **COMMISSIONER GRAHAM:** Okay. Anybody else?

18 All right. Let's go on to Section VIII. Staff.

19 **MS. JANJIC:** The OEP requires that each party
20 take a position at the prehearing conference unless good
21 cause can be shown why they cannot do so. If a party's
22 position in the draft prehearing order is listed as "No
23 position at this time" or "No position provided," that
24 party must change it today or show good cause why you
25 cannot take a position. Absent a showing of good cause,

1 a prehearing order will reflect "No position" for that
2 party on that issue. If a party wishes to change a
3 position today, please submit your position in writing
4 by the end of the business day tomorrow, October 12th.

5 **COMMISSIONER GRAHAM:** By the end of the day
6 tomorrow; correct?

7 **MS. JANJIC:** Yes.

8 **COMMISSIONER GRAHAM:** Okay.

9 **MS. JANJIC:** And now if you want us to go
10 through the issues, we were going to do it by chunks,
11 not --

12 **COMMISSIONER GRAHAM:** Okay. I'll let you do
13 your chunks.

14 **MS. JANJIC:** Okay. Thank you. Under the fuel
15 issues, we have the hedging issues, which are
16 specifically Issues 1A and 1B. Are there any changes or
17 comments on those?

18 **MR. BUTLER:** For FPL, just for clarity, we're
19 going to add in our position on 1A and 1B where it says,
20 "In the event that the proposed settlement agreement is
21 approved," to revise that to say, "In the event that the
22 proposed settlement agreement in Docket No. 160021-EI
23 and consolidated dockets is approved." It doesn't
24 change the positions. It's just clarifying what the
25 settlement being referenced is.

1 **COMMISSIONER GRAHAM:** Okay. B?

2 **MS. JANJIC:** Okay. Company-specific fuel
3 adjustment issues. We have Issues 2A through 6B. I
4 would just like to note that 5C was dropped at an
5 earlier Issue ID conference but somehow got onto this
6 list. So I would like to see if everybody is in
7 agreement to continue to drop that Issue 5C.

8 **MR. BADDERS:** Gulf agrees.

9 **MR. BUTLER:** And I would note that that same
10 clarification I just read for Issues 1A and 1B would
11 apply to Issue 3B. Thanks.

12 **MS. JANJIC:** Any other issues for 2A through
13 6B?

14 **MR. BREW:** Commissioner, as to Issue 2B, the
15 PCS Phosphate position was "No position at this time."
16 It should be changed to read "Deny" for the reasons
17 stated in PCS's statement of basic position, and I'll
18 forward that to staff.

19 **COMMISSIONER GRAHAM:** Okay.

20 **MS. JANJIC:** Okay. Moving on to generic fuel
21 adjustment issues, which are Issues 7 through 12. Any
22 changes or comments in those?

23 **COMMISSIONER GRAHAM:** Okay.

24 **MS. JANJIC:** Company-specific generating
25 performance incentive factor issues, which are 13A

1 through 16A.

2 Seeing none, I'm going to go to the next one,
3 generic generating performance incentive factor, Issues
4 17 through 18.

5 Fuel factor calculation, Issues 19 through 23.

6 Moving to the next chunk, which are the
7 capacity issues, we have the company-specific capacity
8 cost recovery factor issues, 24A to 25. I would like to
9 note at this time that it looks like Issue 24A can be
10 stipulated to. A Type 1 stipulation, in fact, because
11 the order was issued yesterday and -- related to that
12 issue.

13 **MR. BERNIER:** DEF certainly agrees with that.

14 **COMMISSIONER GRAHAM:** Okay. So I take it
15 everybody else agrees with 24A being stipulated?

16 **MR. BREW:** Yes.

17 **MR. WRIGHT:** As a Type 2.

18 **COMMISSIONER GRAHAM:** I thought she said
19 Type 1.

20 **MS. JANJIC:** It doesn't matter what type. I
21 just thought because there was -- so the Type 2 is fine.

22 **COMMISSIONER GRAHAM:** Okay.

23 **MR. WRIGHT:** There's so much in there that --

24 **COMMISSIONER GRAHAM:** No, I understand.

25 **MR. WRIGHT:** Yeah.

1 **MR. MOYLE:** Same for FIPUG. We're not going
2 to stand in the way, but we're not affirmatively
3 stipulating.

4 **COMMISSIONER GRAHAM:** Got you.

5 **MR. WRIGHT:** Yeah. I think in totality ours
6 needs to be a Type 2. Thanks.

7 **COMMISSIONER GRAHAM:** Okay. Staff.

8 **MS. JANJIC:** I guess that's it for those.
9 Generic capacity cost recovery factor, Issues
10 28 to 34. Anything on those?

11 The effective date, Issue 35.

12 Tariff approval and close the docket issues,
13 which are Issues 36 and 37.

14 **MR. BUTLER:** It seems like we could have
15 stipulations on those.

16 **COMMISSIONER GRAHAM:** Comments on stipulating
17 36 and 37.

18 **MR. MOYLE:** I am not clear on FPL's idea where
19 they're going to stop hedging. And, I mean, if that
20 takes place on January 1, 2017 -- is that what's
21 contemplated if the settlement's approved?

22 **MR. BUTLER:** I'm sorry. Yes. How did -- are
23 you relating that to one of these issues, Jon?

24 **MR. MOYLE:** Well, my recollection from past
25 hedging discussions was there was time needed for hedges

1 to play out and roll off, and you couldn't just, you
2 know, turn off a switch kind of thing and have it be
3 effective. And so if it's going to be effective 1/1/17,
4 then I just need to know that and can probably stipulate
5 to it. But I just didn't know that that was something
6 that could be done.

7 **MR. BUTLER:** It will be -- I mean, our 2017
8 risk management plan is -- that's the thing that we said
9 earlier that we'd be submitting an alternative one that
10 would, you know, go into effect. That would apply to
11 any hedges executed in 2017, starting on January 1.

12 **MR. MOYLE:** So we could do a Type B or, you
13 know, no opposition to stipulating effective dates.

14 **MS. JANJIC:** Just to be clear, that's for
15 Issue 36, correct, Type 2?

16 **COMMISSIONER GRAHAM:** 36 and 37? 36?

17 **MS. JANJIC:** 37, there seems to be a
18 disagreement because we're -- "Should the docket be
19 closed?" It's an ongoing docket, so we do not think it
20 should be closed. But there are several positions that
21 say, "Yes," so I don't see an agreement there.

22 **COMMISSIONER GRAHAM:** Okay. So we're just
23 dealing with 36.

24 **MR. BUTLER:** And what about 35?

25 **MR. MOYLE:** Yeah, that would be in the same

1 category, not an affirmative stipulation but not
2 standing in the way.

3 **MS. JANJIC:** Type 2. Okay.

4 **MR. BADDERS:** And forward to Issue 37, staff,
5 just when you said that, that we had taken the position
6 of "Yes," which would make it difficult to stipulate, we
7 won't stand in the way of that. The intent there was
8 that basically it's an ongoing docket, we close it for
9 the year, and open it up for the next year. I mean,
10 that was our position, so we can withdraw what we said
11 and agree with staff.

12 **MR. BUTLER:** As could FPL. And we're trying
13 to express -- I guess it kind of depends on timing, but
14 what we understand will happen is that the 160001 docket
15 will stay open until the end of 2016, and then a new one
16 will be started 170001 thereafter. And if that's what
17 you intend, then certainly we're definitely in agreement
18 with that.

19 **MS. JANJIC:** Yeah, that is --

20 **MR. BEASLEY:** Tampa Electric can agree as
21 well.

22 **MR. BERNIER:** As can Duke.

23 **MS. KEATING:** As does FPUC.

24 **MS. JANJIC:** Are we going to do a Type 2,
25 Type 1?

1 **MR. SAYLER:** Public Counsel took the position,
2 "No," not because we're not -- we know it's a continuing
3 docket. It's just that should there be any issues that
4 someone wants to appeal, then wouldn't this docket stay
5 open during the pendency of the appeal? We're
6 not thinking -- we're not envisioning anything to be
7 appealed, but I'm just -- that's why we put the
8 position, "No."

9 **MS. HELTON:** I think that's a purely
10 administrative function that the Clerk deals with, and I
11 don't think that whether the docket stays open or not
12 really matters for purposes of the appeal.

13 **MR. SAYLER:** Okay. Then the other question
14 would be is everything that we're rolling out of this
15 docket to next year, that just continues; is that
16 correct?

17 **MS. HELTON:** I'm sorry, Mr. Sayler. Would you
18 say that one more time? I'm not sure I understood what
19 you said.

20 **MR. SAYLER:** Let me defer to my co-counsel.

21 **MS. CHRISTENSEN:** We've deferred a few issues
22 for this year's docket relating -- and we have some
23 issues that may impact into next year's docket with the
24 stipulation and whether or not it will be resolved by
25 the end of this year or roll into next year. I assume

1 it'll be resolved by the end of this year, but we may
2 have to have an updated risk management plan, and that
3 may or may not get done by December 31st. So I guess
4 for clarification, as long as that -- if it remains a
5 live issue, will be rolled into next year's docket, then
6 we can close it at the end of December 31st and open it
7 until the 17th. That's really what we're asking.

8 **MS. HELTON:** Yeah, that's correct.

9 **MS. CHRISTENSEN:** Okay. So that any live
10 issues roll into next year's docket.

11 **COMMISSIONER GRAHAM:** Okay.

12 **MS. JANJIC:** So with those clarifications, can
13 we reach a stipulation on 37? I don't see any
14 objections.

15 **COMMISSIONER GRAHAM:** I think everybody is
16 nodding their head.

17 **MS. JANJIC:** Okay. Now, and lastly we have
18 the contested issues, which are actually hedging issues,
19 and they have been identified as 1C and 1D. They were
20 proposed by FIPUG. Issue 1C reads, "What were the
21 financial results for each IOU's natural gas hedging
22 activities for 2015?" And 1D, also proposed by FIPUG,
23 reads, "What were the financial results for each IOU's
24 natural gas hedging activities for 2016 as of July 31st,
25 2016?"

1 **COMMISSIONER GRAHAM:** So what do we have to do
2 with these two issues?

3 **MS. JANJIC:** It is up to your discretion to
4 decide whether these should be included or excluded from
5 the issues and open it up to discussion to the parties,
6 if you prefer, wish.

7 **COMMISSIONER GRAHAM:** FIPUG.

8 **MR. MOYLE:** Thank you, Mr. Chairman, for the
9 chance to bring this up with you.

10 By way of background, we've gone through all
11 of the issues in this case. I think all of them have
12 been resolved with the exception of the hedging issues.
13 In the last couple of years, the hedging issues have
14 been the primary focus of the fuel docket, and that's
15 because FIPUG and OPC and other consumer groups think
16 that hedging should cease and that it has not been a
17 good deal for consumers. We've been getting --
18 suffering big losses from the hedging activities. So as
19 an issue, just like in the nuclear cost recovery docket,
20 as a factual matter for information for you all and
21 others who are looking to try to understand what's the
22 deal, you had an issue to say when will the nuclear
23 plant be built and how much will it cost? We would
24 suggest that the issues that FIPUG proposes, which are,
25 "What are the financial results of the hedging

1 activities for 2015?" and the corollary "What are the
2 results for 2016?" are the same type of issues where you
3 have an issue, so you have information that you
4 understand what the results were.

5 And I'll point out that in this docket, you
6 know, I could go through and flag all kinds of issues
7 where it doesn't sound like people are necessarily
8 having factual debates about, no, that's the wrong
9 number. For example, you know, 28 under the generic
10 capacity cost recovery factor issues, "What are the
11 appropriate final capacity cost recovery true-up amounts
12 for the period January 15th through December 15th?" I
13 mean, it's a very similar question where it asks a
14 question, there's answers, and it lays it out. And the
15 prehearing order is replete with those types of
16 questions: What is this, what is that? And we think
17 it's wholly appropriate to ask what are the results of
18 the hedging? Because just like this generic capacity
19 cost recovery factor issue, it's a pertinent number that
20 goes into figuring out what the ratepayers have to pay.
21 And so, therefore, we think it should be included as
22 issues in this case for the purposes of clearly
23 identifying it. And, you know, I don't know that there
24 will be a dispute. You have the staff witnesses, staff
25 audit witnesses. I presume they go in and look and come

1 up and say, "Here's kind of what we found," and they
2 have witnesses on hedging. So we think it should be
3 included, both those issues, which essentially are how
4 much money was either made to the good for the
5 ratepayers or how much was to the bad for the ratepayers
6 in hedging for '15 and '16? That's what the two issues
7 ask for, and we would ask that they be included. It's
8 not burdensome on the utilities. They can, you know,
9 provide that information and they should be included
10 respectfully.

11 **COMMISSIONER GRAHAM:** Mr. Sayler.

12 **MR. SAYLER:** Thank you, Commissioner Graham.
13 The hedging losses are what they are. I don't think the
14 utilities dispute the amounts, so this is potentially
15 something that could be a stipulation that just gets
16 placed to the back of the prehearing order as something
17 that all the parties agree these are the actual amounts
18 of the losses or gains for '15 and '16. And we don't
19 need to litigate it because these numbers came directly
20 from the discovery that the utility has provided to the
21 Public Counsel's office and are in our testimony.

22 **COMMISSIONER GRAHAM:** Mr. Wright.

23 **MR. WRIGHT:** Thank you, Commissioner Graham.
24 Very briefly, I agree with Mr. Moyle and with
25 Mr. Sayler. I think Mr. Sayler is completely correct

1 that if there's no dispute as to these numbers, they can
2 be included as a stipulation. In brief, I think
3 customers of Florida's investor-owned utilities have a
4 right to have their Public Service Commission make a
5 determination as to what these values are, good or bad.
6 Thank you.

7 **COMMISSIONER GRAHAM:** Mr. Brew.

8 **MR. BREW:** First, as an administrative matter,
9 PCS's position on 1C and D should change from "No
10 position at this time" to "PCS agrees with the Office of
11 Public Counsel." I agreed with what the earlier
12 intervenor said, and I'm not going to elaborate on it.
13 I think it's an appropriate foundational issue for
14 Issues 1A and B.

15 **COMMISSIONER GRAHAM:** Utilities, who wants to
16 go first?

17 **MR. BUTLER:** Oh, why not?

18 Thank you, Commissioner Graham. Issues almost
19 identical to these were raised and then excluded last
20 year as unnecessary. I think they remain unnecessary.
21 It's basically just evidence that would be presented in
22 support of a party's position on primarily Issue 1A and
23 perhaps other of the hedging-specific issues.

24 Mr. Moyle pointed to the many instances in
25 which particular dollar amounts are determined by issues

1 in the, you know, fuel clause dockets, prehearing order,
2 and that's right. But those issues, you know, determine
3 dollars that actually then end up flowing into a
4 determination of what the factors are that we collect,
5 and that's very different here. These numbers are
6 simply a sort of calculated position relative to what,
7 you know, market prices were. It doesn't have anything
8 to do with calculating what we recover from customers.
9 So we don't think they're necessary, and we would urge
10 you again this year to exclude them.

11 If you were to include them, I think that the
12 idea that Mr. Sayler had presented of having them simply
13 as a stipulation and noting them in the prehearing order
14 would be better than having them as live issues because
15 there's really nothing to discuss. I mean, the numbers
16 are what they are. As he pointed out, they're something
17 that is reported by each utility in the hedging activity
18 reports twice a year. Thank you.

19 **COMMISSIONER GRAHAM:** Anyone else?

20 **MR. BADDERS:** I agree with Mr. Butler.

21 **MR. BEASLEY:** As do I.

22 **MR. BERNIER:** As do I.

23 **COMMISSIONER GRAHAM:** Staff, comments.

24 **MS. JANJIC:** Can I have a minute, please?

25 **COMMISSIONER GRAHAM:** Sure.

1 (Pause.)

2 **MS. JANJIC:** Okay. I think we have our
3 answer. They are not necessary to set the factor, and
4 if they want to stipulate it in, we're fine with that,
5 the numbers themselves.

6 **MR. MOYLE:** If Mr. Butler is saying that we
7 don't have to pay the money because they're not part of
8 the factor, I think we'd be good with that.

9 **COMMISSIONER GRAHAM:** Mary Anne.

10 **MS. HELTON:** Mr. Chairman, I would recommend
11 that they be excluded as an issue from the prehearing
12 order. They are not -- that information is not
13 necessary to set the factors, as I understand it.

14 **COMMISSIONER GRAHAM:** So excluded but put it
15 in just as part of the -- just completely scratch it.

16 **MS. HELTON:** Yes.

17 **COMMISSIONER GRAHAM:** I understand that.

18 **MR. BUTLER:** And to be clear, that is our
19 primary recommendation as well, that I don't think
20 they're necessary.

21 **COMMISSIONER GRAHAM:** Okay. Anybody else want
22 to comment?

23 **MR. SAYLER:** Commissioner Graham, last year
24 the posture of the case was different. Office of Public
25 Counsel had factual testimony that disputed the actual

1 amounts of the hedging gains and losses on a
2 year-to-year basis. This year we're not disputing that
3 amount. We agree with the utility. That's why last
4 year wasn't ripe for stipulation and why we wanted to
5 litigate it, and this year, because we don't dispute it,
6 we think it's ripe for stipulation. Thank you.

7 **COMMISSIONER GRAHAM:** I understand. For me,
8 my position normally is I'm going to go with the staff
9 recommendation unless for some reason I think that they
10 are of error or wrong or I just disagree with them. So
11 I'm going to go with the staff recommendation. We're
12 just going to scratch Issue 1A and -- I'm sorry -- 1C
13 and 1D.

14 Okay. So we're going to Section IX now?

15 **MS. JANJIC:** Correct.

16 **COMMISSIONER GRAHAM:** Okay.

17 **MS. JANJIC:** With the exhibit list, staff will
18 note that it has prepared a Comprehensive Exhibit List
19 which includes all prefiled exhibits and exhibits staff
20 wishes to introduce into the record. Staff will work
21 with the parties and the Chairman if there are any
22 objections to the Comprehensive Exhibit List or to any
23 of the staff's exhibits being entered into the record.

24 **COMMISSIONER GRAHAM:** Anything else on Section
25 IX?

1 **MR. MOYLE:** As was done in the rate case,
2 staff was very helpful in putting together the list and
3 the documents in advance of the hearing. I assume that
4 would be done in this case as well. We'd have the
5 exhibits and the list of the exhibits before the
6 hearing.

7 **MS. JANJIC:** Yes.

8 **COMMISSIONER GRAHAM:** I'm sure, yeah.

9 **MR. SAYLER:** And with regard to staff's
10 hearing exhibits, will those be associated by witness to
11 facilitate being able to review and be able to find
12 grounds for stipulation?

13 **MS. JANJIC:** It is my understanding that it's
14 witness and issue number.

15 **MR. SAYLER:** Thank you.

16 **COMMISSIONER GRAHAM:** Okay. Anybody else for
17 Section IX?

18 Let's go on to X.

19 **MS. JANJIC:** Proposed stipulations. They are,
20 that we just worked on, 24A, 35, 36, and 37. Any
21 stipulations entered into at this prehearing conference
22 will be listed. They will be listed as either
23 Type 1, all parties agree, or Type 2, the utility agrees
24 with staff's position and all other parties take no
25 position. Staff will continue to work with all parties

1 to reach stipulations on the outstanding issues. A list
2 of stipulations entered into after the prehearing order
3 will be provided to all Commissioners prior to the
4 hearing.

5 **COMMISSIONER GRAHAM:** Anybody else for Section
6 X?

7 Section XI, pending motions.

8 **MS. JANJIC:** There are no pending motions at
9 this time.

10 **COMMISSIONER GRAHAM:** Section XII.

11 **MS. JANJIC:** Staff will note that the pending
12 confidentiality requests are listed in the draft
13 prehearing order and we are working on them.

14 **COMMISSIONER GRAHAM:** Section XIII, briefs.
15 Are we providing briefs for this docket?

16 **MR. MOYLE:** I'd like to have the right to on
17 the hedging issues.

18 **COMMISSIONER GRAHAM:** OPC?

19 **MR. SAYLER:** Yes, sir, we will brief the
20 hedging issues.

21 **COMMISSIONER GRAHAM:** Anybody not planning on
22 briefing?

23 **MR. BUTLER:** We will, if those guys briefs.

24 (Laughter.)

25 **MR. SAYLER:** Ditto.

1 **COMMISSIONER GRAHAM:** Okay. So it looks like
2 we're briefing.

3 **MS. JANJIC:** If parties agree to waive briefs,
4 the Commission may make a bench decision for this
5 portion of the docket. But due to the complexity of the
6 natural gas hedging issues, staff recommends that the
7 post-hearing briefs be 40 pages.

8 **COMMISSIONER GRAHAM:** Okay. I think everybody
9 agrees with that.

10 **MS. JANJIC:** And briefs will be due
11 November 14th for the December 6th, 2016, agenda
12 conference.

13 **COMMISSIONER GRAHAM:** Okay. And as before,
14 opening statements are going to be three minutes.
15 Briefs are 40 pages. Now I'll note that on every single
16 one of these dockets except for the 03, it was 40 pages.
17 That one was 20 pages. I just want to make sure that
18 was noted by everybody. Is there any other matters that
19 come in -- to come before us for this --

20 **MS. HELTON:** Mr. Chairman, I hate to do this,
21 but I need to circle back to Mr. Butler with a comment
22 that he made about his supplemental testimony.

23 When we started out the discussion, my
24 understanding was that the reason for any supplemental
25 testimony on the hedging issues with respect to the

1 settlement that's going to be coming before you was the
2 purpose behind that was to put before you an alternative
3 risk management plan. And I think Mr. Butler later said
4 that, no, maybe we don't need to do that. So I'm a
5 little bit confused.

6 **MR. BUTLER:** Sorry for the confusion. There
7 definitely will be an alternative 2017 risk management
8 plan. It's not clear. We still are trying to decide
9 whether we need to do a revision to the current 2016
10 risk management plan. And right now the basic position
11 refers to both. And if we decide we don't need to do
12 something on the 2016 plan, we would just remove
13 reference to it in the statement of basic position.

14 **MS. HELTON:** Okay. I'm sorry. I
15 misunderstood that, and that brings me to my second
16 point. I do think you should set a date certain for
17 when that supplemental testimony is due so everybody
18 knows when to expect it. I don't think that that did
19 happen.

20 **MR. BUTLER:** It did not. And I would propose
21 next Wednesday. I think we can definitely file it by
22 then, if that's good for the Commission. But obviously
23 we will accommodate whatever date it is that you direct
24 us to file.

25 **COMMISSIONER GRAHAM:** Staff?

1 **MS. HELTON:** If there are no objections from
2 the parties, that works for me. I just think it works
3 better to know when to expect it.

4 **COMMISSIONER GRAHAM:** I understand that. Does
5 anybody have a concern with that supplemental plan
6 coming in by the end of business day Wednesday?

7 **MR. SAYLER:** No. When is the discovery cutoff
8 in this docket? I don't remember.

9 **MS. JANJIC:** It has already passed. The 19th,
10 I believe. October 19th, 2016.

11 **MR. SAYLER:** Thank you.

12 **MR. MOYLE:** So the discovery cutoff date is
13 the 19th, and that's the date Mr. Butler is going to
14 file his testimony?

15 **MS. JANJIC:** No. October 19th was the
16 discovery date, October. We're in November.

17 **COMMISSIONER GRAHAM:** No, we're in October.

18 **MS. JANJIC:** Oh, sorry. We are in October.

19 (Laughter.)

20 **COMMISSIONER GRAHAM:** It was September.

21 **MS. JANJIC:** Sorry, guys.

22 **MR. MOYLE:** No, I guess back to the point, I
23 mean, if the supplemental testimony is coming in, I
24 don't know what it's going to say. But we would like to
25 have the opportunity, if it presents questions or

1 issues, to, you know, ask some questions of Mr. Butler's
2 witness about it before the hearing so we're not, you
3 know, disadvantaged.

4 **MR. BUTLER:** We could agree to a short
5 turnaround with something, you know, like a week for
6 people to ask us questions and us to respond to them. I
7 will reiterate that it is our intention for this
8 testimony to simply present what the Commission would
9 approve as a ministerial matter if it approves the
10 proposed settlement agreement. Not to argue pro or con
11 about terminating hedging, but if there, for some
12 reason, was something to ask about that simple exercise,
13 I think something like a week, with us having maybe a
14 five-day turnaround time for responding to whatever
15 discovery came in, we wouldn't object to that.

16 **COMMISSIONER GRAHAM:** Mr. Moyle.

17 **MR. MOYLE:** No, I appreciate the opportunity.
18 I mean, as sometimes happens, you got to adapt and
19 adjust.

20 **COMMISSIONER GRAHAM:** No, I understand.

21 **MR. MOYLE:** So whether it's a, you know, quick
22 deposition or however we want to do it. But I just
23 don't know what the testimony is going to look like. If
24 it's three sentences that says, "If the settlement is
25 approved, we're going to do X," there's probably not

1 going to be a huge need. But I appreciate the chance to
2 have the due process rights to ask some questions after
3 the testimony is filed.

4 **COMMISSIONER GRAHAM:** Understandable. Are we
5 good?

6 **MR. BUTLER:** Yes.

7 **COMMISSIONER GRAHAM:** Any other matters for
8 the 01 docket?

9 Seeing none, I do apologize for the lateness
10 of all this. That was not my plan, but I no longer
11 control the schedule of the council -- or the
12 Commission. You all travel safe, and I look forward to
13 seeing you later this month or next month.

14 **MS. JANJIC:** And I will make the revisions and
15 send them out to everyone. Thank you.

16 **COMMISSIONER GRAHAM:** We're adjourned.

17 (Proceeding adjourned at 2:37 p.m.)
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1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

3
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, nor
15 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 12th day of October, 2016.

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LINDA BOLES

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