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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20190061-EI

In re: Petition for approval
of FPL SolarTogether program
and tariff, by Florida
Power & Light Company.

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: CHAIRMAN GARY F. CLARK
PREHEARING OFFICER

DATE: Friday, January 10, 2020

TIME: Commenced: 9:00 A.M.
Concluded: 9:36 A.M.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

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

1 APPEARANCES:

2 MARIA JOSE MONCADA and WILLIAM P. COX,
3 ESQUIRES; WADE LITCHFIELD, General Counsel, 700 Universe
4 Boulevard, Juno Beach, Florida 33408, on behalf of
5 Florida Power & Light Company (FPL).

6 J. R. KELLY, Public Counsel, CHARLES J.
7 REHWINKEL, Deputy Public Counsel and STEPHANIE MORSE,
8 Associate Public Counsel, ESQUIRES, 111 West Madison
9 Street, Room 812, Tallahassee, Florida 32399,
10 on behalf of the Citizens of the State of Florida (OPC).

11 JOHN C. MOYLE JR. and KAREN A. PUTNAL,
12 ESQUIRES, 118 North Gadsden Street, Tallahassee, Florida
13 32301, on behalf of Florida Industrial Power Group Users
14 (FIPUG).

15 GEORGE CAVROS, ESQUIRE, 120 E. Oakland Park
16 Boulevard, Suite 105, Fort Lauderdale, Florida 33334
17 On behalf of Southern Alliance for Clean Energy (SACE).

18 MARSHA E. RULE, ESQUIRE, 119 South Monroe
19 Street, Suite 202, Tallahassee, Florida 32301; RICHARD
20 A. ZAMBO, ESQUIRE, 2336 South East, Ocean Boulevard,
21 #309, Stuart, Florida 34966; and KATIE CHILES
22 OTTENWELLER, QUALIFIED REPRESENTATIVE, 151 Estoria
23 Street SE, Atlanta, GA 30316, on behalf of Vote Solar
24 (Vote Solar).

25

1 STEPHANIE U. EATON, ESQUIRE, 110 Oakwood
2 Drive, Suite 500, Winston-Salem, North Carolina 27103
3 and DERRICK PRICE WILLIAMSON, ESQUIRE, 1100 Bent Creek
4 Boulevard, Suite 101, Mechanicsburg, Pennsylvania 17050,
5 on behalf of Walmart Inc. (Walmart).

6 WALT L. TRIERWEILER and KRISTEN B. SIMMONS,
7 ESQUIRES, Florida Public Service Commission, 2540
8 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
9 on behalf of the Florida Public Service Commission
10 (Staff).

11 MARY ANNE HELTON, ESQUIRE, Deputy General
12 Counsel; KEITH C. HETRICK, ESQUIRE, General Counsel,
13 Florida Public Service Commission, 2540 Shumard Oak
14 Boulevard, Tallahassee, Florida 32399-0850, Advisor to
15 the Florida Public Service Commission.

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1 PROCEEDINGS

2 CHAIRMAN CLARK: All right. I think it's 9:00
3 a.m. We will go ahead and get started.

4 I understand that it's two unusual things
5 happening this morning. We are having a hearing on
6 a Friday, and it's before 9:30, so be prepared,
7 lots of changes to come, right?

8 All right. We will go ahead and get things
9 started this morning. I call the hearing to order
10 and ask staff if you would read the notice, please.

11 MR. TRIERWEILER: By notice, this time and
12 place was set for a prehearing conference in Docket
13 No. 20190061-EI. The purpose of the hearing is
14 more fully set out in the notice.

15 CHAIRMAN CLARK: All right. Let's begin with
16 appearances.

17 MS. MONCADA: Good morning, Mr. Chairman.
18 Maria Moncada from Florida Power & Light. Would
19 like to also enter an appearance for Wade
20 Litchfield and Will Cox.

21 MS. OTTENWELLER: Good morning, Mr. Chairman,
22 Katie Ottenweller with Vote Solar.

23 MS. RULE: Marsha Rule here for Vote Solar.
24 Also entering an appearance for Rich Zambo.

25 MS. EATON: Stephanie Eaton here for Wal-Mart,

1 Inc.

2 MR. CAVROS: Good morning, Chairman. George
3 Cavros for Southern Alliance for Clean Energy.

4 MS. PUTNAL: Good morning, Chairman. Karen
5 Putnal for Florida Industrial Power Users Group.
6 And I would also like to enter an experience for
7 Jon Moyle.

8 MR. REHWINKEL: Good morning, Chairman.
9 Charles Rehwinkel, Stephanie Morse on behalf of the
10 citizens with the Office of Public Counsel. And we
11 with like to enter an appearance also for J.R.
12 Kelly, the Public Counsel.

13 CHAIRMAN CLARK: Thank you, sir.
14 Staff.

15 MR. TRIERWEILER: Good morning, Chairman.
16 Walt Trierweiler and Kristen Simmons for the staff.

17 MS. HELTON: Good morning. Mary Anne Helton,
18 here as your advisor, along with your General
19 Counsel, Keith Hetrick.

20 CHAIRMAN CLARK: All right. Do we have
21 everybody on record?

22 All right. Let's move into preliminaries.
23 Are there any preliminary matters that we need to
24 address?

25 MR. TRIERWEILER: Yes, sir, a couple of

1 preliminary matters that we would like to take up
2 now.

3 At present, there is a disagreement about the
4 inclusion of No. 5. However, OPC has offered to
5 stip -- to remove the issue so long as the
6 deposition transcript of Bill Brannen is entered
7 into the record of the hearing. And we can take up
8 this issue and OPC's contested issue in Section VII
9 when we -- when we talk about -- or sorry, Section
10 VIII when we talk about the issues.

11 Staff also recommends that Duke's motion for
12 leave to file amicus comments be taken up now as we
13 have Duke on hand if comment was required, and then
14 we can send him back to work at Duke.

15 I also believe that OPC, who has filed
16 responsive comments to the amicus, would like to
17 comment on the motion at this time, if you would
18 permit.

19 CHAIRMAN CLARK: Okay. We will go ahead and
20 take that item up now. Does Duke want to enter an
21 appearance here?

22 Good morning, Mr. Bernier.

23 MR. BERNIER: Good morning, Mr. Chairman.

24 Matt Bernier for Duke Energy.

25 I think that our arguments are pretty well

1 laid out in our motion. I understand that there
2 was a response filed by OPC, and that they would
3 like to make comments. I will just withhold any
4 comments to respond to their -- their comments.

5 Thank you.

6 CHAIRMAN CLARK: All right. Mr. Rehwinkel,
7 Ms. Morse?

8 MR. REHWINKEL: Thank you, Mr. Chairman.

9 Yes, we filed a response to the motion to
10 accept amicus yesterday. In addition to this being
11 very last minute, and kind of intertwined with our
12 preparation for -- for this hearing that we have
13 been trying to get to for a while, we believe that
14 it is highly improper for another utility to seek
15 to intervene in a contested adversarial litigated
16 case.

17 This is not like situations where a
18 declaratory statement is before the Commission and
19 the Commission has entertained amicus comments.
20 And we believe that Duke, by indicating its
21 interest in an amicus fashion, is really
22 highlighting that this is a policy change that --
23 that may be nec -- that may require rule-making.

24 We are happy to litigate this case on its
25 facts between FPL's customers and FPL, but we think

1 it's highly inappropriate for another utility to
2 come on at the last -- at the 11th hour and say we
3 want -- we want that for us too. If that's the
4 situation, then we think rule-making -- we should
5 stop this thing right now and go to rule-making.

6 So we think the better course of action would
7 be for the Commission to hear this case. It's --
8 it's -- it's been adversarial, but professionally
9 adversarial. We understand that. And it -- it --
10 it should -- should go forward between the
11 litigants, and I will just stop right there.

12 CHAIRMAN CLARK: Okay. Thank you.

13 I have not -- have not had an opportunity to
14 read -- I guess that was filed last night. I have
15 not read your objection yet, so I will take a look
16 at that this afternoon, and we will just include
17 the rul -- the final ruling in the prehearing
18 order.

19 MR. REHWINKEL: Thank you, Mr. Chairman.

20 MR. BERNIER: Mr. Chairman, just if I could
21 real quickly.

22 I just want to make clear, we did not petition
23 to intervene. I have no desire to intervene.

24 CHAIRMAN CLARK: Understood.

25 MR. BERNIER: Y'all seem like you have a good

1 thing going that you don't need me no for.

2 CHAIRMAN CLARK: Are you sure you don't want
3 to stay for the party?

4 MR. BERNIER: No. No. No. Not at all. Nor
5 do I really want to go back to work, but I
6 appreciate that.

7 But no, we didn't petition to intervene. If
8 we had, it would have been timely. We don't think
9 you need rule-making, but anyway, we just -- we
10 offered our comments and that is the extent of it.

11 CHAIRMAN CLARK: All right. Great. Thank you
12 very much.

13 All right. Mr. Trierweiler, any other
14 preliminary matters?

15 MR. TRIERWEILER: Not at this time.

16 CHAIRMAN CLARK: All right. We are going to
17 start going through the prehearing order. I am
18 going to kind of go through the first parts pretty
19 quick. If you have any issues you would like to
20 discuss, send up a smoke signal really quick and we
21 will stop and get that until we get to the ones
22 where I am pretty sure we are going to have some
23 discussion.

24 Section I, case background.

25 II, conduct of proceedings.

1 III, jurisdiction.

2 IV, procedures for handling confidential
3 information. Walt.

4 MR. TRIERWEILER: When confidential
5 information is used in the hearing, parties must
6 have copies for the Commissioners, necessary staff
7 and the court reporter in red envelopes clearly
8 marked with the nature of the contents.

9 Any party wishing to examine confidential
10 material that is not subject to an order granting
11 confidentiality shall be provided a copy in the
12 same fashion as provided to the Commissioners
13 subject to execution of any appropriate protective
14 agreement with the owner of the material.

15 CHAIRMAN CLARK: All right. All good.

16 Section V, prefiled testimony.

17 MR. TRIERWEILER: If witnesses are presented,
18 staff will suggest that the witness summary
19 testimony be no longer than three minutes.

20 In its prehearing statement, FIPUG objects to
21 a witness as being considered an expert witness
22 unless a witness affirmatively states the subject
23 matter areas in which he or she claims expertise in
24 voir dire, if required, is permitted.

25 However, Section V A(8) of the Order

1 Establishing Procedure requires that a party shall
2 identify each witness the party wishes to voir
3 dire, as well as state the specificity -- spe --
4 let me try that one again -- state with specificity
5 the portions of that witness' prefiled testimony by
6 page and line number and/or exhibits by page and
7 line number to which the party objects. If the
8 party fails to identify the portions of the
9 prefiled testimony or exhibits to which it objects,
10 the party is not permitted to conduct voir dire at
11 the hearing absent a showing of good cause.

12 The good cause exemption does not apply to the
13 identification of a witness. If a party does not
14 identify the witness it wishes to voir dire, it
15 waives the right to conduct voir dire.

16 However, further, the Supreme Court addressed
17 this issue in a recent opinion. Specifically, the
18 Court held that a party's failure to identify a
19 witness that it wishes to voir dire in compliance
20 with the Commission's Order Establishing Procedure
21 results in a waiver of that party's right to voir
22 dire that witness regarding his or her expertise,
23 and to challenge the expertise on appeal.

24 In its prehearing statement, FIPUG has not
25 identified the witnesses that it wishes to voir

1 dire, therefore, it appears to have waived the
2 right to do so since it has not complied with the
3 OEP. So at this time, staff requests that a ruling
4 to that effect be made.

5 CHAIRMAN CLARK: All right. Thank you, sir.

6 Ms. Putnal, would you care to make Mr. Moyle's
7 point here?

8 MS. PUTNAL: I think what I would request, Mr.
9 Chairman, is that we have until close of business,
10 if I may, or I could even probably verify this
11 sooner than -- than that, to make sure that we do
12 not have a filing to make by the end of the day.

13 I don't expect one. I think that this is a
14 position that FIPUG has maintained in previous
15 proceedings. It's a procedural point. I do
16 understand the provisions that Mr. Trierweiler has
17 outlined, so I don't have anything to add at this
18 point.

19 CHAIRMAN CLARK: Okay. Thank you.

20 MS. HELTON: Mr. Chairman.

21 CHAIRMAN CLARK: Yes.

22 MS. HELTON: The practice for how we handle
23 voir dire is clearly laid out in the Order
24 Establishing Procedure. And it's very clear that
25 any request to voir dire a witness should have been

1 made in the prehearing statement, not by the end of
2 the day of the prehearing conference.

3 CHAIRMAN CLARK: Correct. Okay. Thank you
4 very much.

5 MR. REHWINKEL: Mr. Chairman.

6 CHAIRMAN CLARK: Mr. Rehwinkel.

7 MR. REHWINKEL: I would like to ask that you
8 consider the three-minute summary to be -- you
9 reconsider that for five minutes. We have a
10 proceeding where our witness -- we have one
11 witness, he has filed two sets of testimony. We
12 are not asking that he get five minutes per set of
13 testimony, but there -- this is a brand new and
14 novel first time policy question before the
15 Commission. We think it's important that he be
16 given adequate time to summarize his testimony, and
17 it -- just three minutes is not -- is not
18 sufficient. Five minutes is -- will be, based on
19 our preparation, and I would ask you to allow that.

20 CHAIRMAN CLARK: Okay. Any other comments?

21 All right. Let's move on to next section,
22 order of witnesses.

23 Are there any witnesses that we can stipulate?

24 MR. TRIERWEILER: At this time, staff believes
25 that the prefiled testimony and exhibits of Vote

1 Solar Witness Cox, Wal-Mart Witness Chriss, SACE
2 Witness Jacob and staff Witness Hinton can be
3 stipulated.

4 FPL Witnesses Shannon, Deason and Brannen can
5 also be stipulated providing the deposition
6 transcripts for witnesses Deason and Brannen are
7 also stipulated into the record.

8 CHAIRMAN CLARK: All right. All the parties
9 in agreement to stipulation? Coming down the line.

10 MS. MONCADA: Yes.

11 MS. OTTENWELLER: Yes.

12 MS. EATON: Yes.

13 MR. CAVROS: Yes.

14 MS. PUTNAL: Yes.

15 MR. REHWINKEL: Yes.

16 CHAIRMAN CLARK: Okay. We got everybody.

17 MR. TRIERWEILER: Staff will confirm with each
18 Commissioner that any identified witness can be
19 excused. We've done so.

20 If the Commissioners don't have any questions
21 for these witnesses, the witnesses may be excused
22 from the hearing, and his testimony and exhibits
23 entered into the record at the hearing as though
24 read.

25 With those expected excusals, let me just skip

1 ahead. We've -- we've achieved those excusals.
2 Staff understands that FPL would like to take up
3 its direct and rebuttal case together, along with
4 discussion about its proposed settlement to be
5 followed by OPC's direct and supplemental case,
6 which would include the testimony of Witness
7 Dauphinais, and to be concluded with FPL's
8 supplemental rebuttal witnesses, which would be Dr.
9 Sim and Mr. Valle.

10 CHAIRMAN CLARK: All right. Everybody okay?
11 Any objections to this order of this -- order of
12 presentation?

13 MR. REHWINKEL: No.

14 CHAIRMAN CLARK: Mr. Rehwinkel.

15 MR. REHWINKEL: Mr. Chairman, these are things
16 we will work out with FPL. The -- just kind of a
17 housekeeping matter. When we put the depositions
18 in, I don't know that we've seen the errata sheet
19 from the -- from the witnesses, but those would --
20 would need to be provided, and I am sure that FPL
21 will. That's just something -- that's just a
22 detail.

23 CHAIRMAN CLARK: They were in the -- they were
24 in the exhibits?

25 MS. MONCADA: Yes. FPL has prepared the

1 errata sheets for the witness depositions and
2 provided them to the court reporter. We'll provide
3 them to you --

4 MR. REHWINKEL: Okay.

5 MS. MONCADA: -- as well.

6 MR. REHWINKEL: They just need to be part of
7 that. And as well as there -- I don't know if
8 there is any errata for the witnesses that are
9 stipulated in. I don't think Mr. Shannon or Mr.
10 Deason or Mr. Bores filed errata, but if they did,
11 those would be --

12 MS. MONCADA: Mr. Shannon did file errata just
13 to the extent that he is adopting --

14 MR. REHWINKEL: That's right.

15 MS. MONCADA: -- Mr. Huber's testimony, and
16 that's reflected in the errata sheets.

17 MR. REHWINKEL: Okay.

18 MS. MONCADA: And that has been filed, Mr.
19 Rehwinkel.

20 MR. REHWINKEL: Thanks.

21 MS. MONCADA: You are welcome.

22 CHAIRMAN CLARK: Okay. All right. Everybody
23 is good? No other objections, no problems.

24 All right. Let's move to positions.

25 Basic positions. Now the fun ones.

1 Issues and positions. Let's go through them.
2 I think we are all in agreement.

3 MR. TRIERWEILER: Staff will note that the
4 Order Establishing Procedure requires that a party
5 take a position at the prehearing conference unless
6 good cause is shown as to why that party cannot
7 take a position at this time.

8 Accordingly, if a party's position in the
9 draft prehearing order is currently no position,
10 then the party must change its position, or show
11 good cause why it cannot proceed.

12 Contested OPC Issue A should be taken up once
13 the other issues have been addressed. Staff also
14 recommends that Issue No. 5 should be dropped.
15 However, I believe that OPC would like to speak on
16 Issue 5.

17 CHAIRMAN CLARK: Okay. All right. Let's go
18 through the issues. When we get to that, we will
19 have the discussion.

20 Issue 1, we are all good?

21 Issue 2?

22 Issue 3?

23 Issue 4?

24 And No. 5. Mr. Rehwinkel.

25 MR. REHWINKEL: Yes. Mr. Chairman, previously

1 I had mentioned to staff that we would want to make
2 supplemental comments related to affiliate
3 transactions, but with the accommodation that we've
4 reached with FPL with regard to the stipulation of
5 Witness Brannen, and the insertion of his testimony
6 through the deposition testimony, we will no longer
7 be asking for that.

8 I am going to note at the outset of the
9 hearing that FPL has satisfied the concerns that we
10 had related to affiliate transactions, but that the
11 deposition transcript is the repository of the
12 testimony that resolved those concerns, which is
13 why we want it to be part of the record.

14 So that ameliorates our concerns. And with
15 that, we -- we are okay with Issue 5 being dropped
16 from -- from contention.

17 CHAIRMAN CLARK: Okay. Great.

18 Ms. Moncada.

19 MS. MONCADA: We agree. And I just want to
20 make a quick note, Mr. Chairman, that Mr. Brannen's
21 testimony -- I am sorry, his deposition, the
22 second part of it was confidential because it did
23 deal with a lot of sensitive procurement
24 information. We are preparing a request for
25 confidential classification. I expect that to be

1 filed at some point today.

2 CHAIRMAN CLARK: Okay. Great.

3 MR. REHWINKEL: And just to add onto that. I
4 know there might have been a concern. We will not
5 be needing to utilize that deposition in any way
6 during the hearing. It will just be entered into
7 the record, and it will be subject to the RCC and
8 any order covering that. But it's not something
9 that needs to be aired out in the hearing in any
10 way.

11 CHAIRMAN CLARK: Great.

12 MS. RULE: Mr. Chairman, Vote Solar has
13 maintained no position on Issues 1 and 5. And our
14 reading of the procedural order is different than
15 staff's. We believe it says you may maintain no
16 position throughout, you do not need to take a
17 position, but if we haven't taken one by now, we
18 may not take one thereafter.

19 CHAIRMAN CLARK: Mary Anne.

20 MS. HELTON: Our reading of the procedural
21 order is different. Our reading of the procedural
22 order is that if you do not take a position by the
23 time of the prehearing conference, then you have
24 waived your ability to pursue that issue in the --
25 in the case. So it could be a matter of either yes

1 or no and agreeing or not agreeing with the
2 position -- with the issue.

3 MS. RULE: I am not sure I understand the
4 difference. If we -- if we are not taking a
5 position, then we are waiving the right to take a
6 position.

7 MS. HELTON: Okay. Then we are on the same
8 page then.

9 MS. RULE: Okay.

10 CHAIRMAN CLARK: Y'all are in agreement?

11 MS. HELTON: I think so.

12 CHAIRMAN CLARK: Good. Makes me happy.

13 All right. Any other issue -- any other items
14 in discussion on No. 5? Okay. That one goes away.

15 All right, moving to the final item. I
16 believe that is OPC contested Issue A.

17 Mr. Rehwinkel, you want to begin there?

18 MR. REHWINKEL: Yes. Yes, Mr. Chairman.

19 In this case, the Commission is being asked to
20 approve a solar project, or solar program that is
21 novel. And the Public Counsel believes that there
22 needs to be a determination by the Commission that
23 this project is needed.

24 There is testimony on what that need is, and
25 whether it's needed, but it is bifurcated into two

1 different types of need. One is the traditional
2 need of a resource that is needed to meet
3 reliability. And the other is what has become sort
4 of a definitional gymnastic of what the word need
5 means, and it has somewhat morphed from what's been
6 described as desire or demand.

7 Witness Sim last week in his deposition used
8 the phrase newly identified need -- let's see, let
9 me see I make sure I have that just right -- newly
10 introduced concept of a customer interest or a want
11 for a particular product as -- as a definition of
12 need. And we believe that the Commission needs to
13 make a determination about whether this project is
14 needed. And I will tell you why -- why we have
15 that view.

16 Some have said that the Public Counsel is
17 short-sighted in our approach to this project, or
18 that we are anti-solar. We are neither.

19 Our long-term view is that -- that generation
20 resources and other utility assets are added to
21 rate base and are recovered from customers based on
22 determinations that the Commission makes as to
23 prudence and need. And those decisions are
24 grounded in whether the best interest of the
25 customers are served by the addition of these

1 resources. Traditionally, the Commission has added
2 generation plant, transmission lines, trucks, any
3 kind of asset because it's prudent for the company
4 to do it and they are needed to provide service.

5 We are now being told that this project is
6 being proposed because a segment of customers want
7 it. They desire it. They demand it. But it's not
8 being proposed necessarily because it meets a
9 reliability need. And what's important to us for
10 the long-term is that the world is changing.

11 The Supreme Court struck down a ballot
12 amendment that would allow people to self-generate
13 potentially. It may be only a matter of time
14 before whatever was wrong with that is fixed. I
15 don't know. I can't read the future. But 20 years
16 ago, this commission engaged in a process about
17 breaking up the electric grid that we know it and
18 doing the California model, and they had a 2020
19 project. We are here in 2020. That didn't happen,
20 but it may happen. And the Commission spent a lot
21 of time looking at stranded assets.

22 When assets are stranded, if the Commission
23 has made the determination of need and prudence,
24 then the customers down the road on this long-term,
25 they are responsible for paying for those assets

1 even if they are stranded.

2 So what the Commission is going to be asked to
3 do in this case is to add \$1.8 billion in assets
4 based on a need, and we don't even know what
5 standard of need the Commission will apply, or how
6 they will define that. But we think it's important
7 for the Commission to own this issue because the
8 customers will have to pay if these assets ever
9 become stranded.

10 I am not saying that I want them to be. We
11 hope that they are not. We hope they have a long
12 useful life, and that they provide service, and
13 that they provide the benefits that FPL says they
14 will if you approve them. But if you approve them,
15 they have to be approved because they are needed.
16 And if that approval occurs, it's -- it would mean
17 that the customers would have to pay for those
18 costs if they ever become stranded.

19 So this is not an issue that should be
20 subsumed in an overall issue. If you take this to
21 the logical conclusion, there could just have
22 always one issue should the petition be approved,
23 and you don't have to go through all these other
24 things. But this is a box that the Commission has
25 traditionally checked. And checking that box means

1 that this, in the past, has meant that this
2 resource is needed in its entirety to meet the
3 reliability needs of the utility.

4 So we strongly believe that this issue should
5 be added, and the Commission should make a specific
6 determination on this, whether they deny it or
7 approve the project in any way, shape or form.

8 Thank you.

9 CHAIRMAN CLARK: Thank you, Mr. Rehwinkel.
10 Ms. Moncada.

11 MS. MONCADA: Thank you, Mr. Chairman.

12 Based on recent discussions with all the
13 parties and with staff, I understand from staff
14 that they were inclined not to include this issue,
15 and we support that position.

16 FPL agrees with staff that this can be
17 resolved through Issue No. 4, and that a sub-issue
18 is not needed.

19 FPL, along with SACE, Vote Solar and Wal-Mart
20 have presented a settlement to you and the other
21 Commissioners, and we will have a hearing on that
22 next week. And if the evidence shows that it's in
23 the public interest, that can be the basis for your
24 decision without the need -- pardon -- pardon the
25 use of the word -- without requiring you to decide

1 the need issue.

2 Thank you.

3 CHAIRMAN CLARK: Great.

4 Any of the other parties have a comment?

5 Okay, Mary Anne, do you have any comment
6 from --

7 MS. HELTON: No, sir, but this may be more --
8 better directed toward Mr. Trierweiler if he has --

9 CHAIRMAN CLARK: I think that's what I meant.
10 I am sorry.

11 MR. TRIERWEILER: Staff believes that Issue 5
12 can be dropped. The matter is subsumed in Issue 4,
13 and that's -- I think that FPL captured it well.

14 CHAIRMAN CLARK: Okay.

15 MR. TRIERWEILER: We don't object to its
16 inclusion if -- if that's -- if that was the tenor
17 of all the parties. However, we simply don't
18 believe that the issue is necessary.

19 CHAIRMAN CLARK: Give me two seconds.

20 MR. REHWINKEL: Mr. Chairman.

21 CHAIRMAN CLARK: Mr. Rehwinkel.

22 MR. REHWINKEL: May I be heard on the issue
23 about the settlement?

24 I believe it would be procedurally and --
25 procedurally and on a due process basis wrong for

1 the issue to be dropped based on the fact that
2 there is a nonunanimous settlement between a select
3 group of parties. That would presume that the
4 settlement is what we are here on, and we are here
5 on the petition. And so the petition needs to be
6 evaluated based on this need issue, not based on
7 whether there is a settlement orbiting around in
8 the room.

9 CHAIRMAN CLARK: Okay. Great. Thank you.

10 MR. TRIERWEILER: Staff would agree with the
11 point that OPC just made, that the reason for
12 dropping -- or not taking up OPC's proposed Issue A
13 would not be because there is a settlement, but
14 because it would -- the matter is subsumed within
15 the other issues and is unnecessary.

16 CHAIRMAN CLARK: Okay. Ms. Moncada.

17 MS. MONCADA: FPL agrees that irrespective of
18 the settlement, the issue is unnecessary.

19 CHAIRMAN CLARK: Okay. All right. Now, give
20 me two seconds.

21 Okay -- that's sensitive.

22 All right. Let's -- let's go ahead and move
23 on.

24 Any other comments? Any other comments on OPC
25 Issue A? There is a little bit more I want to take

1 a look at there, so let me come back to that later.

2 All right. Let's move on to Section IX,
3 exhibit list.

4 MR. TRIERWEILER: Staff will note that it has
5 prepared and circulated to the parties a draft
6 comprehensive exhibit list, which includes all
7 prefiled exhibits, and includes those exhibits
8 staff wishes to include in the record.

9 Staff would like to inquire at this time if
10 the parties can stipulate to the exhibits listed by
11 staff as we haven't received any objections to the
12 exhibits up to this point.

13 CHAIRMAN CLARK: Make this simple. Any
14 objections? None. Very good.

15 Moving to Item X, proposed stipulations.

16 MR. TRIERWEILER: Aside from the stipulation
17 of witnesses, staff is aware of no other proposed
18 stipulations at this time other than the motion.
19 But as far as stipulations to issues, we are aware
20 of no other stipulations at this time.

21 CHAIRMAN CLARK: Okay. Anyone else?

22 All right, pending motions.

23 MR. TRIERWEILER: There are two pending
24 motions. The first, Duke's amicus motion and OPC's
25 response has been taken up, and the prehearing

1 officer has taken it under advisement.

2 The second is a joint motion to approve
3 settlement filed by FPL, SACE, Wal-Mart and Vote
4 Solar on October 9th, 2019. Staff recommends that
5 this motion be reserved for the hearing.

6 CHAIRMAN CLARK: All right. Let's move to
7 pending confidentiality motions.

8 MR. TRIERWEILER: There are several pending
9 confidentiality requests and one motion for
10 temporary protective order. Staff will endeavor to
11 have these addressed by separate order prior to the
12 hearing.

13 CHAIRMAN CLARK: Post-hearing procedures.

14 MR. TRIERWEILER: If the parties agree to
15 waive briefs, the Commission may make a bench
16 decision for this docket. If there are issues to
17 be briefed, staff recommends post-hearing briefs be
18 no longer than 40 pages.

19 CHAIRMAN CLARK: Everybody in agreement?
20 Okay.

21 MR. TRIERWEILER: Staff recommends that
22 briefs, if any, be filed by January 30th, 2020.

23 CHAIRMAN CLARK: Okay. Let's move to rulings.

24 MR. TRIERWEILER: Staff recommends that the
25 prehearing officer make a ruling that opening

1 statements, if any, should not exceed five minutes
2 per party unless a party chooses to waive its
3 opening statement.

4 MR. REHWINKEL: Mr. Chairman.

5 CHAIRMAN CLARK: Mr. Rehwinkel.

6 MR. REHWINKEL: I would ask, given the
7 importance of this docket and the fact that the
8 second largest utility in the state has entered
9 into -- has expressed a keen interest in the
10 outcome of this docket, and has stated that it is a
11 policy shift, that we be afforded more than five
12 minutes, and I would ask for 10.

13 CHAIRMAN CLARK: All right. Any other
14 comments or questions?

15 All right --

16 MS. MONCADA: Mr. Chairman, I am sorry.

17 CHAIRMAN CLARK: Yes, Ms. Moncada.

18 MS. MONCADA: As the utility, the petitioner
19 in this matter, if OPC is a loud 10 minutes, we
20 would like the opportunity for 10 as well.

21 CHAIRMAN CLARK: Of course. Yes.

22 MS. MONCADA: Thank you.

23 CHAIRMAN CLARK: All right. Let's move to
24 other matters. Are there any other matters that
25 need to be addressed?

1 MR. TRIERWEILER: The FIPUG matter regarding
2 conducting voir dire or challenge the expertise of
3 any witnesses identified in the case at the hearing
4 has not yet been resolved. This is -- this is
5 stan -- this is FIPUG's standard response to our
6 standard language.

7 CHAIRMAN CLARK: FIPUG's motion is denied --
8 request is denied.

9 MR. TRIERWEILER: All right.

10 CHAIRMAN CLARK: And the other issues we are
11 taking under advisement. They will be ruled on in
12 the final order.

13 And any other things that needed to be decided
14 today? Staff is coming out -- are we bringing --
15 getting that out this afternoon?

16 MR. TRIERWEILER: Say again.

17 CHAIRMAN CLARK: We are going to have it out
18 this afternoon, have everything out this afternoon,
19 is that our plan?

20 MR. TRIERWEILER: Well, we are allowing them
21 until close of business to change, so -- so we
22 won't be able to get it out before close of
23 business.

24 CHAIRMAN CLARK: Okay.

25 MR. REHWINKEL: Mr. Chairman, in that

1 regard --

2 CHAIRMAN CLARK: Mr. Rehwinkel.

3 MR. REHWINKEL: -- we have -- our witness, we
4 expect him to be traveling on Monday. We have been
5 working on, as we do with all of our witnesses
6 before hearing, on the -- the summary, making sure
7 that the summary stays within the -- the prefiled
8 testimony --

9 CHAIRMAN CLARK: Yes, sir.

10 MR. REHWINKEL: -- and things like that, and
11 we are -- we would just want to know for work
12 purposes what your ruling would be on three or five
13 minutes.

14 CHAIRMAN CLARK: You can have five minutes for
15 witness summaries, and I am going to split the
16 difference and give you seven minutes on opening
17 statements.

18 MR. REHWINKEL: Okay. Thank you very much.
19 That helps.

20 CHAIRMAN CLARK: Anything else that needs to
21 be decided today?

22 MR. TRIERWEILER: Staff is it not aware of any
23 other matters to address.

24 CHAIRMAN CLARK: All right.

25 MR. REHWINKEL: I just need to commend you for

1 coming to Friday hearings.

2 CHAIRMAN CLARK: On a Friday meeting, and wore
3 a tie. Two things out of me that just don't
4 usually happen.

5 MR. REHWINKEL: Thank you.

6 CHAIRMAN CLARK: All right. Thank everyone
7 for your appearance. That concludes the docket
8 hearing.

9 Thank you. Have a good day.

10 (Whereupon, the proceedings concluded at 9:36
11 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

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

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

DATED this 22nd day of January, 2020.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020