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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of: DOCKET NO. 20200176-EI

PETITION FOR A LIMITED  
PROCEEDING TO APPROVE CLEAN  
ENERGY CONNECTION PROGRAM  
AND TARIFF AND STIPULATION,  
BY DUKE ENERGY FLORIDA,  
LLC.

\_\_\_\_\_ /

PROCEEDINGS: PREHEARING CONFERENCE  
COMMISSIONERS PARTICIPATING: COMMISSIONER DONALD J. POLMANN  
PREHEARING OFFICER  
DATE: Monday, November 2, 2020  
TIME: Commenced: 1:00 p.m.  
Concluded: 2:48 p.m.  
PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida  
REPORTED BY: ANDREA KOMARIDIS WRAY  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

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

1 APPEARANCES:

2 DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue  
3 North, St. Petersburg, Florida 33701; and MATTHEW R.  
4 BERNIER, ESQUIRE, 106 East College Avenue, Suite 800,  
5 Tallahassee, Florida 32301-7740, appearing on behalf of  
6 Duke Energy Florida, LLC.

7 J.R. KELLY, PUBLIC COUNSEL; CHARLES REHWINKEL,  
8 DEPUTY PUBLIC COUNSEL; Office of Public Counsel, c/o The  
9 Florida Legislature, 111 W. Madison Street, Room 812,  
10 Tallahassee, Florida 32399-1400, appearing on behalf of  
11 the Citizens of the State of Florida.

12 BRADLEY MARSHALL and JORDAN LUEBKEMANN,  
13 ESQUIRES, 111 South Martin Luther King Jr. Boulevard,  
14 Tallahassee, Florida 32301; and DOMINIQUE BURKHARDT,  
15 ESQUIRE, 4500 Biscayne Boulevard, Suite 201, Miami,  
16 Florida 33137, appearing on behalf of League of United  
17 Latin American Citizens of Florida a/k/a LULAC Florida  
18 Educational Fund, Inc.

19 STEPHANIE U. EATON, ESQUIRE, 110 Oakwood  
20 Drive, Suite 500, Winston-Salem, North Carolina 27103;  
21 and DERRICK PRICE WILLIAMSON and BARRY A. NAUM,  
22 ESQUIRES, 1100 Bent Creek Boulevard, Suite 101,  
23 Mechanicsburg, Pennsylvania 17050, appearing on behalf  
24 of Walmart, Inc.

25

1 APPEARANCES (CONTINUED):

2 GEORGE CAVROS, ESQUIRE, 120 East Oakland Park  
3 Boulevard, Suite 105, Oakland Park, Florida 33334,  
4 appearing on behalf of Southern Alliance for Clean  
5 Energy

6 KATIE CHILES OTTENWELLER, ESQUIRE, 838 Barton  
7 Woods Road, NE, Atlanta, Georgia 30307, appearing on  
8 behalf of Vote Solar.

9 JON C. MOYLE, JR., and KAREN A. PUTNAL,  
10 ESQUIRES, Moyle Law Firm, P.A., 118 North Gadsden  
11 Street, Tallahassee, Florida 32301, appearing on behalf  
12 of Florida Industrial Power Users Group.

13 SHAW STILLER, BIANCA LHERISSON, and JENNIFER  
14 CRAWFORD, ESQUIRES, FPSC General Counsel's Office, 2540  
15 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,  
16 appearing on behalf of the Florida Public Service  
17 Commission Staff.

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

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

2 COMMISSIONER POLMANN: All right. I have  
3 approximately 1:00, Monday, November 2nd. This is  
4 prehearing conference for a limited proceeding for  
5 a Duke Energy Florida project. And without going  
6 into all those details -- I'll allow staff to do  
7 that -- I'll call this hearing this afternoon to  
8 order -- the prehearing conference -- call that to  
9 order and ask staff, please read the -- read the  
10 notice.

11 MR. STILLER: Shaw Stiller for staff. By  
12 notice issued October 26th, 2020, this time and  
13 place has been set for a prehearing conference in  
14 Docket No. 2020176-EI. The purpose of the  
15 prehearing is set out more fully in the notice.

16 COMMISSIONER POLMANN: Thank you, Mr. Stiller.  
17 Let's move to appearances. And we'll start  
18 with Duke Energy.

19 MS. TRIPLETT: Good afternoon, Commissioner.  
20 Dianne Triplett on behalf of Duke Energy Florida.  
21 And I would like to enter an appearance for Matthew  
22 Bernier. Thank you.

23 COMMISSIONER POLMANN: Thank you,  
24 Ms. Triplett.

25 Let's go to Office of Public Counsel.

1           MR. REHWINKEL: Hello, Commissioner Polmann.  
2           Charles Rehwinkel, Deputy Public Counsel, with the  
3           Office of Public Counsel, on behalf of Duke's  
4           customers. And I also would like to enter an  
5           appearance for J.R. Kelly, the Public Counsel.  
6           Thank you.

7           COMMISSIONER POLMANN: Thank you,  
8           Mr. Rehwinkel.

9           Let's go to LULAC.

10          MR. MARSHALL: Good afternoon, Commissioner.  
11          Bradley Marshall entering an appearance on behalf  
12          of the League of the United Latin American Citizens  
13          of Florida, and I'd also like to enter an  
14          appearance for Jordan Luebkekmann and Dominique  
15          Burkhardt.

16          COMMISSIONER POLMANN: Thank you,  
17          Mr. Marshall. And I appreciate the full -- the  
18          full name for LULAC. My apologies, I will continue  
19          to use the acronym abbreviation.

20          Vote Solar.

21          MR. MARSHALL: We will as well.

22          COMMISSIONER POLMANN: Okay. I appreciate the  
23          brevity. Thank you, sir.

24          Vote Solar.

25          MS. OTTENWELLER: Good afternoon,

1 Commissioner. This is Katie Chiles Ottenweller on  
2 behalf of Vote Solar.

3 COMMISSIONER POLMANN: Thank you,  
4 Ms. Ottenweller.

5 Southern Alliance for Clean Energy, SACE.

6 MR. CAVROS: Good afternoon, Commissioner  
7 Polmann. This is George Cavros on behalf of  
8 Southern Alliance for Clean Energy.

9 COMMISSIONER POLMANN: Thank you, Mr. Cavros.  
10 Oh, let's see. Walmart.

11 MS. EATON: Good afternoon, Commissioner  
12 Polmann. This is Stephanie Eaton on behalf of  
13 Walmart. And I would like to also enter an  
14 appearance for Derrick Williamson and Barry Naum.

15 COMMISSIONER POLMANN: Thank you, Ms. Eaton.  
16 FIPUG.

17 MS. PUTNAL: Good afternoon, Commissioner  
18 Polmann. This is Karen Putnal appearing on behalf  
19 of Florida Industrial Power Users Group, and I  
20 would like to enter an appearance for Jon C. Moyle.

21 COMMISSIONER POLMANN: Thank you, Ms. Putnal.  
22 Commission staff.

23 MR. STILLER: Good afternoon, Commissioner.  
24 Shaw Stiller, senior attorney, for staff. And I'd  
25 like to enter an appearance also for Bianca

1 Lherisson and Jennifer Crawford.

2 COMMISSIONER POLMANN: Thank you, Mr. Stiller.  
3 Ms. Helton.

4 MS. HELTON: Yes, sir. Mary Anne Helton is  
5 here today as your advisor. I'd also like to enter  
6 an appearance for your general counsel, Keith  
7 Hetrick.

8 COMMISSIONER POLMANN: Thank you, Ms. Helton.  
9 Preliminary matters. Mr. Stiller --

10 MR. STILLER: Yes --

11 COMMISSIONER POLMANN: Do we have preliminary  
12 matters that we need to address before we get to  
13 the draft prehearing order?

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

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

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

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

10           Commissioner, staff notes that there are  
11           several contested issues that will need to be  
12           addressed at today's prehearing conference. I  
13           recommend that you take those up when we come to  
14           the issues-and-positions section of the prehearing  
15           order.

16           Staff is aware of no other issues at this  
17           time.

18           COMMISSIONER POLMANN: Thank you, Mr. Stiller.

19           Do any of the other parties -- parties here  
20           today have any preliminary matters that they wish  
21           to address? Any other matters that we need to  
22           address at this time? Okay. Hearing none from the  
23           parties, I believe we've addressed everything that  
24           we need to.

25           At this point, we're going to go through the



1 draft prehearing order. And, I believe, everyone  
2 has copies of that, the version that's available.  
3 We'll identify that momentarily.

4 We're going to start with the -- the  
5 background, go section by section. And we'll try  
6 to do this expeditiously. I'm not going to  
7 identify all the parties for these general  
8 sections. I will simply ask, as we go by section,  
9 if any of the parties have changes, if there's  
10 anything to be discussed. So, we'll just leave it  
11 at that. If there's something that you need to  
12 address as -- as representative for the -- for the  
13 party, please speak up.

14 So, if there's nothing else, Mr. Stiller,  
15 I'm -- I'm going to proceed. Do -- do you have any  
16 comments at this point? Otherwise, we're going to  
17 proceed.

18 MR. STILLER: No other matters before  
19 proceeding through the order, Commissioner.

20 COMMISSIONER POLMANN: Okay. Thank you. I  
21 just need to get on the right page here. Just a  
22 second.

23 Okay. Section I, the case background. Does  
24 any party have any comments?

25 Hearing none, we'll go to Section II, conduct

1 of proceedings. Any party have any comments or  
2 concerns?

3 Hearing none, Section III, jurisdiction. Any  
4 comments or concerns from any party?

5 Section IV, procedure for handling  
6 confidential information. I'll let Mr. Stiller  
7 introduce this.

8 Go ahead, sir.

9 MR. STILLER: Thank you, Commissioner Polmann.

10 Staff will note that when confidential  
11 information is used in the hearing that has not  
12 been filed as prefiled testimony or prefiled  
13 exhibits, parties must follow the procedures for --  
14 for providing confidential electronic exhibits to  
15 the Commission Clerk prior to the hearing.

16 Any party wishing to examine the confidential  
17 material that is not subject to an order granting  
18 confidentiality shall be provided a copy in the  
19 same fashion as provided to the Commissioners,  
20 subject to execution of any appropriate protective  
21 agreement with the owner of the material.

22 Materials that have been identified by parties  
23 as confidential will be so marked and will be  
24 available via secure password on the  
25 Commissioner's -- from the Commission's website for

1 use at the hearing.

2 That's all from staff.

3 COMMISSIONER POLMANN: Thank you, Mr. Stiller.

4 Okay. From the parties, is there any concern,  
5 any questions regarding procedures for handling  
6 confidential information?

7 Okay. I hear no comments on Section IV.

8 Section V, pre- -- prefiled testimony and  
9 exhibits, and witnesses -- I can't keep up with  
10 myself here. Just a second.

11 Witness summary testimony -- Mr. Stiller,  
12 would you like to introduce that, please?

13 MR. STILLER: Yes, Commissioner. Staff  
14 suggests that witnesses be given no more than five  
15 minutes to summarize their direct testimony.  
16 Witnesses who will offer rebuttal testimony should  
17 be given no more than five additional minutes to  
18 summarize that testimony.

19 COMMISSIONER POLMANN: Okay. So, we will have  
20 five minutes for direct and then also five minutes  
21 for rebuttal testimony. Any comments or concerns  
22 from any of the parties?

23 I'm going to suggest that five minutes or less  
24 is -- is what's intended here. I'm disinclined to  
25 give more than five minutes, but I'm willing to

1 hear comments.

2 Does anybody want to chime in? Okay. Hearing  
3 none about, let me ask a question. Do we have  
4 witnesses -- I understand we don't have the order  
5 of witnesses, at this point, resolved. And do we  
6 have any witnesses who will be giving both direct  
7 and rebuttal?

8 Mr. Stiller, can you answer that question  
9 or -- I'll give an opportunity for the parties, but  
10 go ahead, sir.

11 MR. STILLER: Commissioner, I believe Duke has  
12 one witness who may, but Ms. Triplett would be best  
13 to speak to that issue.

14 COMMISSIONER POLMANN: Ms. Triplett?

15 MS. TRIPLETT: Yes, Commissioner Polmann. Lon  
16 Huber, who is our first witness listed under the  
17 Section VI -- we actually -- we would ask that he  
18 be allowed to do his direct and rebuttal together.  
19 We can stay with the five-minute summary for -- for  
20 both of those.

21 And then the additional twist -- and I was  
22 hoping that it could be reflected in the order --  
23 is that he has to appear before the South Carolina  
24 Commission on the 18th. And so, we would ask that  
25 his -- he be finished on the 17th, before go- --

1 going to the next witness so that he can clear out  
2 for the South Carolina Commission, so --

3 COMMISSIONER POLMANN: Okay.

4 MS. TRIPLETT: In addition, I guess, to adding  
5 a little -- I guess it's a plus sign in the  
6 prehearing order -- perhaps there can be a footnote  
7 to note that he will be essentially excused for  
8 purposes of the 18th, if we go to the -- the next  
9 day.

10 COMMISSIONER POLMANN: Okay. Well, thank you,  
11 Ms. Triplett. We'll -- we'll make a note of that  
12 point and we'll hold that for discussion later.  
13 I -- I was asking at this point -- and I appreciate  
14 your comment here. I was asking specifically about  
15 direct and rebuttal, and you've addressed it, in  
16 terms of the witness summaries. So, thank you for  
17 addressing that.

18 We'll come back to the order of witnesses and  
19 the scheduling and so forth when we can, a little  
20 bit later, but please remind me, if I don't come  
21 back here at a specific point.

22 Any other comments on the five-minute summary?  
23 And, again, we intended for this, as written, no  
24 more than five minutes (technical interruption).

25 So, staff or the parties, anything else on

1 witness summary testimony?

2 MR. REHWINKEL: Commissioner, Charles  
3 Rehwinkel.

4 COMMISSIONER POLMANN: Yes, sir.

5 MR. REHWINKEL: I have a question -- and it  
6 may be best directed to Counsel for Duke. Is -- is  
7 Mr. Huber going to present direct separately from  
8 rebuttal or combined? And would he -- would he  
9 have a combined summary or separate?

10 MS. TRIPLETT: Yeah, I thought that's -- I was  
11 trying to say that. Yeah, he -- he will be doing  
12 combined because I -- unless folks can assure me  
13 that we can -- we'll be done in one day, which I  
14 don't know is a safe assumption.

15 So, he'll go first. He would do combined,  
16 direct and rebuttal. And I'm happy to have a  
17 combined summary and stick to the five minutes for  
18 his summary. Does that make sense?

19 COMMISSIONER POLMANN: Okay. Does that  
20 address your -- does that address your question,  
21 Mr. Rehwinkel?

22 MR. REHWINKEL: Yes, Commissioner. Thank you  
23 for accommodating that.

24 COMMISSIONER POLMANN: Okay. Very good. And  
25 we'll try to -- we'll try to round back, to the

1 extent that we can resolve witness order and  
2 schedule. We'll try to address that further here  
3 in a little bit.

4 Mr. Stiller, on cross-examination exhibits,  
5 could you please introduce that?

6 MR. STILLER: Yes, Commissioner. All cross-  
7 examined -- all cross-examination and impeachment  
8 exhibits, confidential and the non-confidential,  
9 that a party intends to use at the hearing must be  
10 provided to the Commission Clerk by close of  
11 business November 10th, 2020, in order to be  
12 processed and placed on the Commission's website.

13 Parties should familiarize themselves with the  
14 cross-examination requirements in Attachment A to  
15 the prehearing order.

16 COMMISSIONER POLMANN: Okay. On -- on this  
17 separate issue here, on cross-examination, were all  
18 the parties in -- in agreement on submitting the  
19 cross-examination exhibits? We've addressed this  
20 type of process since we've gone into remote  
21 proceedings.

22 Do we have any concerns, issues, objections,  
23 any comments at all from the parties on this  
24 process of cross-examination exhibits?

25 MR. MARSHALL: This is Bradley Marshall with

1 LULAC. I just had a clarifying question regarding  
2 the instructions in Attachment A. It says, for any  
3 confidential exhibits, that a notice of intent to  
4 request confidential classification must be filed  
5 along with them.

6 I just wanted to clarify whether that applies  
7 to exhibits where such a request has already been  
8 filed when the discovery was served. And I'm  
9 thinking here of using, as an exhibit, a  
10 confidential document that was served in discovery.

11 COMMISSIONER POLMANN: Thank you,  
12 Mr. Marshall. I'm -- I'm not entirely clear on  
13 your question. Hopefully staff, among our legal  
14 staff, understood that more clearly than I did.

15 So, Mr. Stiller, you want to make an effort  
16 there either to seek clarification or to answer  
17 that -- or other legal staff participating here.  
18 Is there clarity on the question or do we need to  
19 go back to Mr. Marshall and seek --

20 MR. STILLER: Commissioner --

21 COMMISSIONER POLMANN: Go ahead, Mr. Stiller.

22 MR. STILLER: I believe I understood the  
23 question to be, if a matter is subject to a motion  
24 and order for confidentiality in the docket, it's  
25 resubmitted as cross, does it need a new notice of



1           confidentiality -- is that the question?

2           MR. MARSHALL: This is Bradley. Yes, that's  
3           the question.

4           MS. HELTON: I'm sorry, Commissioner Polmann.  
5           I was working on something else and I did not  
6           completely hear Mr. Stiller's summation of  
7           Mr. Bradley's [sic] question. Could I hear the  
8           question one more time?

9           MR. STILLER: I'll give it -- I'll give it a  
10          shot.

11          COMMISSIONER POLMANN: Mr. Stiller, I think  
12          you understand --

13          MR. MARSHALL: Go ahead.

14          COMMISSIONER POLMANN: Yeah.

15          MR. STILLER: If material has been filed in  
16          the docket and is subject to a notice and order of  
17          confidentiality, if it's submitted as a cross-  
18          examination exhibit, does it need to be accompanied  
19          by a new notice of confidentiality?

20          MS. HELTON: Mr. -- Commissioner Polmann, can  
21          I ask a clarifying question? So, is this --

22          COMMISSIONER POLMANN: Absolutely, please.

23          MS. HELTON: Is this a discovery response for  
24          which there's been a request for confidential  
25          treatment that Mr. Bradley [sic] will be using as a

1 cross-examination exhibit? That will help me kind  
2 of think through what he may or may not have to do.

3 MR. MARSHALL: This is Bradley. That's  
4 correct.

5 MS. HELTON: Okay. If -- if it's a -- if  
6 you're using a discovery response and there's been  
7 a request for confidential treatment, then that  
8 request would track your -- your use of the  
9 response. So, you would not need to do anything  
10 else.

11 MR. MARSHALL: Great. Thank you.

12 MR. REHWINKEL: Commissioner Polmann, I have a  
13 logistical question, too, related to the cross  
14 exhibits.

15 COMMISSIONER POLMANN: Yes, sir. Go ahead,  
16 Mr. Rehwinkel.

17 MR. REHWINKEL: I've done it or have  
18 approached it two different ways, and I'm trying to  
19 understand what the desire of the Commission and,  
20 really, the general counsel's office is. The only  
21 document that I want to ask questions about  
22 potentially is the order in the SolarTogether  
23 tariff approval, which is Order 20200084, and I  
24 just kind of want to know the preference.

25 Would it be preferable for me to make this an

1 exhibit -- the Commission usually doesn't make  
2 exhibits of its own orders, but for logistical  
3 ease, would -- would the preference be that I just  
4 put it in the -- in that file for all remote  
5 participants to access?

6 MS. HELTON: Commissioner Polmann, would you  
7 like me to address that?

8 COMMISSIONER POLMANN: Ms. -- yes. Yeah,  
9 Ms. Helton, go ahead, please.

10 MS. HELTON: I appreciate Mr. Rehwinkel's  
11 question very much. And Mr. Rehwinkel is  
12 completely correct that, typically, when we are all  
13 gathered together in the hearing room, there is no  
14 need to make an exhibit of any order that the  
15 Commission is -- has entered because we  
16 automatically take official recognition of all of  
17 our orders, but because we will not all be in the  
18 hearing room during the course of this proceeding,  
19 I do think that it would be easier to handle any  
20 questions with the order, if Mr. Rehwinkel were to  
21 offer that up when he provides his cross-  
22 examination exhibits, by the due date set out in  
23 the prehearing order so that it can be on that  
24 virtual -- in that virtual folder that will be easy  
25 for everyone to look at the order, if they wish to

1 do so.

2 But thank you, Mr. Rehwinkel.

3 MR. REHWINKEL: I'll be -- I'll -- that  
4 answered my question, Commissioner. And I'll --  
5 I'll handle it that way for this hearing. Thank  
6 you.

7 COMMISSIONER POLMANN: Very good,  
8 Mr. Rehwinkel. I appreciate your raising that  
9 issue timely, and it will facilitate an efficient  
10 proceeding. And, again, recognizing that we're in  
11 a different world here with -- with handling our  
12 hearings in a virtual world, I think everybody  
13 will -- will appreciate the efficiency of having  
14 that available.

15 And thank you for the extra effort that may be  
16 required for, you know, bringing that -- bringing  
17 that forward, as you've committed to. So, I  
18 appreciate the question coming up at this time,  
19 sooner rather than later.

20 All right. We're -- we're in -- and it's  
21 entirely likely I've lost track. Let -- let me  
22 see. Feel free here, Mr. -- Mr. Stiller -- I think  
23 we're in Section V. We're not really in order of  
24 witnesses -- or are we?

25 MR. STILLER: Commissioner --

1           COMMISSIONER POLMANN:  Anyway, pick up  
2           wherever it is you think we are.  Go ahead, sir.

3           MR. STILLER:  You were just finishing under  
4           Section V.

5           COMMISSIONER POLMANN:  Okay.  Do we need to  
6           make a ruling here?  I -- we've nearly established  
7           this as our new standard of procedure.  If we've  
8           got everything we need, Mr. Stiller, or any other  
9           comments from -- from Ms. Helton, I think we'll  
10          move on to Section VI.  Is there anything --  
11          anything else we need to address in Section --  
12          Section V?

13          MS. HELTON:  Commissioner, not that I can  
14          think of.

15          COMMISSIONER POLMANN:  Okay.  Let's move to  
16          Section VI, with the caveat, if -- if we miss  
17          anything, please remind me here at the end.  I know  
18          there's a lot of discussion here.

19                 But moving to Section VI, order of  
20          witnesses -- at this point, Section VI, order of  
21          witnesses, we have a list here.  And I will ask:  
22          Are there any witnesses that can be stipulated?  
23          Simple question first.

24                 So, Mr. Stiller, what -- what do we have at  
25          this point in time?

1           MR. STILLER: Commissioner, we have no  
2 stipulated witnesses at this time. If the parties  
3 advise staff of any witness stipulations for  
4 witnesses in which the testimony will still be  
5 included in the docket, staff will confirm with  
6 each Commissioner that any identified witness can  
7 be excused.

8           If the Commissioners do not have any questions  
9 of these witnesses, the witnesses may be excused  
10 from the hearing and his or her testimony and  
11 exhibits entered into the record at the hearing as  
12 though read.

13           COMMISSIONER POLMANN: Okay. One -- I believe  
14 everybody is familiar with -- with that process.  
15 Do we have any -- hopefully. Being familiar with  
16 that, I would encourage the parties to take a  
17 careful look at -- at the witness testimony, at --  
18 at what's going on with the discovery process, and  
19 try to work together, reaching stipulation on  
20 witnesses, to the extent that you can.

21           With -- with the circumstances of our hearings  
22 in the remote context, I think it will be very  
23 helpful, as -- as you would certainly agree. So,  
24 we look forward to hearing from y'all on  
25 stipulations of -- of witnesses. So, let's --

1 let's see what we can do there.

2 Any -- any comments from any parties in regard  
3 to order of witnesses and potential stipulation?  
4 Any comments?

5 MR. MARSHALL: Hello, Commissioner. This is  
6 Bradley Marshall with LULAC. Just a comment or a  
7 request as the order of witnesses in that we  
8 have -- our witness, Mr. Rábago, is scheduled to go  
9 before Walmart's witness, Mr. Chriss.

10 And I think, given that Walmart is supportive  
11 of Duke's proposal here, and LULAC is opposed, I  
12 think it would make more sense for Walmart's  
13 witness to go first. That way, all witnesses that  
14 are in favor of the program and are building a case  
15 for the program can -- can do so. And then our  
16 witness, in opposition to the program, can go  
17 ahead. I think that would be make more sense for  
18 the order of the case.

19 COMMISSIONER POLMANN: Okay. Thank you for  
20 the comment.

21 Any -- any comments specific to that comment?  
22 Any -- anything from Duke or Walmart? You want to  
23 respond? Or any other party want to respond to  
24 that specific issue, please?

25 MS. TRIPLETT: Commissioner Polmann, this is

1 Dianne Triplett for Duke. I don't have any  
2 objection to that request.

3 COMMISSIONER POLMANN: Thank you.

4 MS. EATON: And this is Stephanie Eaton for  
5 Walmart. And I don't have any objection to that  
6 request either.

7 COMMISSIONER POLMANN: Thank you.

8 Okay. Those are the only parties who are  
9 putting forth witnesses. So, I'm going to assume  
10 that there's no problem with that. Staff will make  
11 a note.

12 And then the other -- the other thing that was  
13 mentioned earlier was the ord- -- with regard to  
14 order of witnesses was Mr. Huber offering direct  
15 and rebuttal together. And from -- from Walmart or  
16 LULAC -- Walmart first, do you have any objection  
17 there?

18 MS. EATON: We do not have an objection to  
19 that.

20 COMMISSIONER POLMANN: Okay. Mr. Marshall, do  
21 you have any comment on having Mr. Huber offer  
22 direct and rebuttal in sequence together?

23 MR. MARSHALL: This is Bradley. We have no  
24 objection to that either.

25 COMMISSIONER POLMANN: All right. Very good.



1 Thank you for those responses. That's -- we'll  
2 make a decision on that and reflect that.

3 Staff, do you want to offer any comment at  
4 this point or we'll -- we'll just take care of the  
5 order of witnesses when we draft the prehearing  
6 order? Is there anything that we need to discuss  
7 at this time further in Section VI?

8 MR. STILLER: No, Commissioner.

9 COMMISSIONER POLMANN: Okay. Let's move --  
10 hearing -- hearing no other discussions, no need  
11 for -- for further discussion in Section VI, let's  
12 move to basic positions in Section VII.

13 I will -- I will ask if -- if the parties --  
14 without going through each -- each of the parties  
15 one by one -- I'll come to that in a second. I'm  
16 going to ask all of the parties collectively, but I  
17 would like for Mr. Stiller to introduce the item in  
18 terms of how we're going to deal with changes.

19 So, Mr. Stiller, if you have a comment, first,  
20 please introduce this section.

21 MR. STILLER: If any changes to basic  
22 positions are announced at this prehearing, please  
23 note that those changes should be submitted in  
24 writing by close of business tomorrow,  
25 November 3rd.

1           COMMISSIONER POLMANN: Okay. So, that would  
2           be Tuesday, November 3rd, we need to have final  
3           positions -- basic positions.

4           And now I will ask collectively the parties,  
5           on your basic position, if you have any changes to  
6           your basic position, please speak up and you will  
7           be recognized.

8           MR. CAVROS: Commissioner, this is George  
9           Cavros for Southern Alliance for Clean Energy.  
10          On -- on Page 10, I do have a --

11          COMMISSIONER POLMANN: Yes, sir.

12          MR. CAVROS: Thank you, Commissioner -  
13          scrivener's error on the first full paragraph, on  
14          the seventh line. I just need to change 450 to  
15          230.

16          COMMISSIONER POLMANN: Very good, sir.

17          MR. CAVROS: And consistent with -- and I  
18          will -- I will get that change in writing to staff.  
19          Thank you.

20          COMMISSIONER POLMANN: Thank you, Mr. Cavros.

21          Any comment or -- or changes, I should say --  
22          any changes from any other party in your basic  
23          positions? This is Section VII.

24          Okay. Hearing none, we're going to move to  
25          Section VIII, which are the issues and positions.

1           Mr. Stiller, introduce that, please.

2           MR. STILLER: Yes, Commissioner. Staff notes  
3 that for any issues for which the parties provided  
4 "no position" or state "no position at this time,"  
5 the party must take a position by no later than  
6 close of business tomorrow, November 3rd. If they  
7 fail to do so, their position will be changed to  
8 "no position" in the prehearing order.

9           Per the of- -- order establishing procedure,  
10 if a party fails to take a position on an issue by  
11 the time of the prehearing conference without  
12 showing good cause why they cannot take a position  
13 by this time, the party waives its opportunity to  
14 conduct cross-examination on the issue as well as  
15 file a post-hearing brief on the issue.

16           Staff further notes that, with respect to its  
17 proposed contested issues, OPC states that it takes  
18 no position at this time and its position is  
19 subject to revision based on the receipt of ongoing  
20 discovery responses and the transcript of a  
21 deposition taken of a panel of DEF witnesses.

22           It would be appropriate at this time to ask  
23 OPC regarding the status of these matters and  
24 whether or not it is currently in a posture to take  
25 a position on these issues by the close of business

1 tomorrow.

2 MR. REHWINKEL: Yes, Commissioner Polmann --

3 COMMISSIONER POLMANN: Yes, sir.

4 MR. REHWINKEL: I'm in a difficult spot  
5 because the -- the transcript has some issues in it  
6 that caused us to ask questions when we were  
7 otherwise not going to.

8 It's not due until Wednesday. I will be all  
9 day tomorrow in either agenda or a fuel hearing. I  
10 will endeavor to provide a position before the  
11 close of business tomorrow, but the procedural  
12 pos- -- process of this case is -- has been unusual  
13 in its nature. We didn't have an issue ID. The  
14 hearing is not scheduled for, I think, 15 days.

15 It -- it seems like it would be more  
16 appropriate if we waited until Wednesday to get  
17 changes in because of the -- the overlap of  
18 discovery and the -- the deadline for taking  
19 positions.

20 There's even a -- there was even a deposition  
21 taken on Friday -- I think it was Friday, late last  
22 week -- that is still being transcribed, but my  
23 issues are bound up in the Borsch, Foster, and  
24 Huber deposition.

25 I -- I could just ask you if we could get more

1           time, but if I -- if we -- if staff is under a  
2           deadline, I will, you know, do my best. It seems  
3           like we have -- we have enough time -- or we  
4           should.

5           COMMISSIONER POLMANN: I understand -- I  
6           understand the request. I think what you're  
7           appealing to -- it falls under the showing of good  
8           cause without (technical interruption).

9           Are you suggesting that that's the nature of  
10          your request, Mr. Rehwinkel?

11          MR. REHWINKEL: Yes, sir.

12          COMMISSIONER POLMANN: Thank you.

13          Staff, are we in the -- are we, meaning you,  
14          in a posture here to -- to, say, have some  
15          flexibility beyond tomorrow close of business  
16          November 3rd, close of business and -- and go to  
17          another day or two?

18          I hate to put you on the spot here. It's not  
19          normally my practice, but given the circumstances,  
20          rather than holding this and ruling on it later  
21          today, let me just ask you right up front.

22          MR. STILLER: Commissioner, if -- if you were  
23          inclined to extend that deadline by a couple of  
24          days, that would not put staff in a -- in a bad  
25          procedural spot.

1           COMMISSIONER POLMANN: Okay. Let me -- let me  
2 ask the other parties. Do you have a problem --  
3 and I -- I'm going to -- well, let me not presume  
4 that you have a problem. Is there any other  
5 comments from any other parties on extending this,  
6 say, 48 hours to close of business -- rather than  
7 November 3rd, close of business on November 5? Any  
8 comments from any parties?

9           We've heard from OPC. I'd like to hear any  
10 comments from any parties, final issues and  
11 positions by November 5, close of business, please.

12          MS. TRIPLETT: This is Dianne with Duke. I  
13 don't have any objection to that. Thanks.

14          COMMISSIONER POLMANN: Thank you,  
15 Ms. Triplett.

16          MR. CAVROS: SACE has no -- Commission- --  
17 Commissioner, SACE has no objection. Thank you.

18          COMMISSIONER POLMANN: Thank you, Mr. Cavros.

19          MS. EATON: And Walmart --

20          MR. MARSHALL: This is Bradley --

21          MS. EATON: I was going to say, Walmart has no  
22 objection either. Thank you.

23          COMMISSIONER POLMANN: Thank you, Ms. Eaton.

24          MR. MARSHALL: LULAC --

25          COMMISSIONER POLMANN: Mr. Marshall?

1           MR. MARSHALL: LULAC would support the  
2 extension, given that we are just deciding the  
3 issues today. So, we would appreciate the  
4 extension as well.

5           COMMISSIONER POLMANN: Ms. Ottenweller?

6           MS. OTTENWELLER: No objection from Vote  
7 Solar.

8           COMMISSIONER POLMANN: Thank you.

9           Ms. Putnal.

10          MS. PUTNAL: (Technical interruption) supports  
11 the pos- -- the extension. Thank you.

12          COMMISSIONER POLMANN: Okay. Good.

13          I'm sorry we have an echo in my (technical  
14 interruption). I don't know what the problem is.

15          Okay. In Section VIII -- this is awful. We  
16 have to take a break here for a second to switch to  
17 a different earpiece.

18          Let me just say quickly, in Section VIII,  
19 issues and position, I will change -- hold on.

20          Hello. Sounds like we still have an echo.

21          Can anybody hear me?

22          MS. HELTON: Yes --

23          MR. REHWINKEL: Commissioner, I'm hearing  
24 about a triple echo on your part.

25          COMMISSIONER POLMANN: Yeah. Yeah.

1 MS. TRIPLETT: Yeah, me, too.

2 COMMISSIONER POLMANN: I'm really sorry, guys.

3 MS. HELTON: Commissioner, we do not hear an  
4 echo in the hearing room, but it sounds like the  
5 folks on the phone are hearing an echo.

6 COMMISSIONER POLMANN: Yeah, I'm hearing an  
7 echo in my own phone.

8 All right. Well, let's see if we can manage  
9 through this -- oh, that's ridiculous. Maybe I'll  
10 unplug the -- unplug the ear phones.

11 Do you still have the echo?

12 MR. REHWINKEL: Yes.

13 COMMISSIONER POLMANN: Can anybody hear me  
14 now?

15 MS. HELTON: Yes, sir, we can hear you in the  
16 hearing room.

17 MS. TRIPLETT: Commissioner Polmann, this is  
18 Dianne. I -- I'm now getting an echo when I'm  
19 talking. I think when Mr. Rehwinkel spoke, I may  
20 have heard an echo. I just -- I don't know if it's  
21 helpful to try to figure out if it's just your  
22 phone or the whole phone line.

23 Maybe Mr. Rehwinkel -- can you say something  
24 again?

25 MR. REHWINKEL: Yeah, I --



1           COMMISSIONER POLMANN: Now -- now I can hear  
2           somebody.

3           MR. REHWINKEL: It's Charles. And I'm not  
4           hearing an echo between the two of you.

5           COMMISSIONER POLMANN: All right. I just have  
6           the phone on now and I still have the echo. I  
7           think we're just going to have to maybe power  
8           forward.

9           What I think we decided was a -- issues and  
10          positions, conclusion by close of business  
11          Thursday, November 5. And we got comments --  
12          acceptance from all the parties. So, submittal in  
13          writing back to staff by that due date.

14          So, contested issues, Mr. Stiller.

15          MR. STILLER: Yes, Commissioner. If any  
16          changes are announced to Issues 1 and 2, they  
17          should be submitted in writing, again, by the close  
18          of business, I'm presuming now Thursday, at  
19          5:00 also.

20          And at this point, Commissioner, it would be  
21          an appropriate time for you to go through each of  
22          the contested issues with the parties.

23          COMMISSIONER POLMANN: Okay. Issue No. 1 --  
24          Issue No. 1 is proposed by OPC and LULAC. So, who  
25          wants to speak on this first? I'll simply ask --

1           MR. REHWINKEL: Commissioner, we're talking  
2           about Issue 3 on the contested issues?

3           COMMISSIONER POLMANN: I'm sorry.

4           MR. REHWINKEL: It -- for -- for the Public  
5           Counsel, all we did is -- is take the issues that  
6           were in the SolarTogether docket that were separate  
7           and apart from the -- the stipulation issue, and we  
8           suggested that those issues ought to be decided by  
9           the Commission.

10           I just used the Clean Energy Connection  
11           Program and tariff language that is found in the  
12           Issue 1 that the staff offered, and I -- I had the  
13           wrong megawattage. It should -- so, I think a  
14           combination of LULAC's and Public Counsel's is  
15           appropriate with his -- with their megawatts and my  
16           title. And we believe that issue ought to be  
17           decided by the Commission.

18           That's all the argument I have.

19           MR. MARSHALL: This is Bradley Marshall with  
20           LULAC. Commissioner, may I?

21           COMMISSIONER POLMANN: Yes, I -- I was -- I  
22           apologize. I was completely on the wrong page  
23           here. So, I think I -- I think I've caught up.

24           So, when I was looking at No. 1, it's -- thank  
25           you, Mr. Rehwinkel. It's Issue -- identified as

1 Issue 3, but it's -- it's also identified as OPC 1  
2 and LULAC 1.

3 So, Mr. Marshall, go ahead.

4 MR. MARSHALL: Well, actually going back to  
5 Issue 1 on Page 12, I think a lot of the dispute  
6 is -- is regarding this issue. And we do contest  
7 this issue as -- as phrased.

8 If you look at some of our issues, it's --  
9 it's really related to whether the public-interest  
10 test does apply to the stipulation. We believe  
11 that there's a legal argument here and that could  
12 benefit from legal briefing as part of the briefing  
13 in this matter as to whether the public- interest  
14 test really does apply to the stipulation that was  
15 entered into this case.

16 And what makes this case different is that the  
17 stipulation was entered before the proceeding  
18 even -- even started. So, it's not -- it's not  
19 like a settlement that happened between adverse  
20 parties. And that's why we think it's an issue  
21 that could benefit from -- from legal briefing.

22 And so, what we would propose is that Issue 1  
23 should read as: Does the public-interest test  
24 apply to the stipulation and, if so, comma, and  
25 then the rest of Issue 1 as currently written.

1           COMMISSIONER POLMANN: I -- I'm not sure  
2           how -- how you start by -- maybe this is just me,  
3           off the top of my head -- how you start an issue by  
4           asking whether the public-interest test applies  
5           because everything -- any question that we ask and  
6           answer at the Commission that -- that's a  
7           fundamental premise. And if that premise doesn't  
8           apply, then it's not an issue because we can't  
9           answer it. That's my view, so --

10           MR. MARSHALL: Well, the -- the issue --

11           COMMISSIONER POLMANN: You know, in  
12           principle --

13           MR. MARSHALL: Sorry.

14           COMMISSIONER POLMANN: -- I wouldn't include  
15           an issue, as a prehearing officer, to which one  
16           would argue that the public interest is not a  
17           fundamental component in play.

18           So, I -- I don't know how else to respond to  
19           that, Mr. Marshall.

20           MR. MARSHALL: Well, let me put it this way:  
21           I mean, historically, how settlements have worked  
22           is that they've been black-box settlements. And  
23           the idea was that the Commission would either have  
24           to approve or disapprove of the entire thing as  
25           being in the public interest. And these were

1 settlements that were --

2 COMMISSIONER POLMANN: Of course.

3 MR. MARSHALL: -- reached by adverse parties,  
4 even if not all parties had signed on to it.

5 And what we see as fundamentally different in  
6 this case is that this was a stipulation entered  
7 into by non-adverse parties before there was any  
8 proceeding at all; and, therefore, that's -- that  
9 normal case law and framework doesn't apply.

10 MS. TRIPLETT: Commissioner Polmann, this is  
11 Dianne Triplett. At the appropriate time, if I  
12 could --

13 COMMISSIONER POLMANN: Okay. One at a time.

14 MS. TRIPLETT: -- respond, but only -- uh-huh.

15 COMMISSIONER POLMANN: Is that Ms. Triplett?

16 MS. TRIPLETT: Yeah, I think there was an  
17 echo, but yes, I was just -- I would like to  
18 respond, but only when it's appropriate. I didn't  
19 want to interrupt you.

20 COMMISSIONER POLMANN: Well, I could respond  
21 to -- to Mr. Marshall, but go -- go ahead,  
22 Ms. Triplett. I want to hear your thoughts.

23 MS. TRIPLETT: Thank you, sir. Just very  
24 briefly, I just wanted to point out that I dispute,  
25 respectfully, Mr. Marshall's characterization of

1 the stipulation as being among non-adverse parties.

2 I believe we set forth in the allegations that  
3 the parties would have been adverse to Duke with  
4 respect to this program had we not engaged and made  
5 certain concessions that are reflected in the  
6 stipulation ahead of filing.

7 I also do not believe that there is any  
8 distinction between the timing of when a  
9 stipulation is entered into. I think there are  
10 other instances, frankly, also involving my  
11 company, in which stipulations and settlements have  
12 occurred at -- you know, before there was, you  
13 know, a proceeding that -- addressing all of the  
14 elements of that -- of that stipulation.

15 So, I think -- so, I just wanted to clarify  
16 that I do not believe there is a distinction and --  
17 and a reason why this public-interest standard  
18 would not apply, but having said that, I also  
19 believe that, if the issue is worded the way that  
20 it is, the parties are also free to argue, you  
21 know, frankly, all of the points, including whether  
22 the -- the standard is even applicable in the first  
23 place.

24 COMMISSIONER POLMANN: Okay. Thank you.

25 Other -- other parties want to add a comment

1           here, on -- on this, what's called Contested Issue  
2           Issue No. 3 in this list?

3           MR. REHWINKEL: Well -- this is Charles  
4           Rehwinkel. I -- I understand the contest to be on  
5           Issue 1, back on Page 12 of the draft prehearing  
6           order, as Mr. Marshall has raised.

7           Quite apart from the facts and circumstances  
8           of this case, it is the Office of Public Counsel's  
9           long-standing position that a party can raise a  
10          legal issue at any time. And it's not really the  
11          Commission's purview to deny entertaining a legal  
12          issue. A party can raise a legal issue at the  
13          conclusion of the hearing and brief it, and a court  
14          would not be in a position to not entertain an  
15          appeal if a legal issue was -- was raised in that  
16          manner.

17          It seems to us a better practice is for legal  
18          issues to be raised as soon as possible so parties  
19          are on notice and can develop facts and  
20          circumstances and evidence with respect to the  
21          legal issue.

22          So, just on a generic basis, Public Counsel  
23          supports a -- a party framing a legal issue at this  
24          time. It -- that's -- that's our view and I think  
25          that -- that any party is entitled to seek to

1 differentiate one case from another as far as  
2 precedent goes and to raise legal issues about the  
3 applicability of the public-interest standard.

4 I don't necessarily agree that every issue  
5 is -- infused with or imbued with the public  
6 interest. There are factual issues that are just  
7 facts, the number. And there are policy issues  
8 about how the Commission has treated things in the  
9 past. And I think parties are entitled to seek to  
10 frame and distinguish similarities and differences.

11 And then there are just plain legal issues as  
12 to what the statute or the controlling law is to  
13 the facts and circumstances and even the policy of  
14 the Commission.

15 So, it's our position that -- that, in this  
16 case and many others that we appear in, that the  
17 position that Mr. Marshall is -- is seeking to  
18 frame before the Commission is appropriate.

19 Thank you.

20 COMMISSIONER POLMANN: Thank you,  
21 Mr. Rehwinkel.

22 Other comments from other parties?

23 MS. EATON: This is Stephanie Eaton for  
24 Walmart. I would -- I would support what  
25 Ms. Triplett said as far as disputing the



1           characterization by LULAC's Counsel that the  
2           stipulation, itself, was not among adverse parties,  
3           to the extent he's -- he's suggesting that, as a  
4           part of changing Issue No. 1 on Page 12.

5           MS. OTTENWELLER: This is Katie Chiles  
6           Ottenweller with Vote Solar. I would also strongly  
7           object to any characterization that Vote Solar was  
8           not adverse to Duke prior to entering into the  
9           stipulation.

10          Thank you.

11          COMMISSIONER POLMANN: Okay.

12          MR. CAVROS: Chairman, this is George Cavros  
13          with Southern Alliance for Clean Energy. I would  
14          also dispute that the parties were not in an  
15          adverse position prior to -- to the stipulation.

16          Thank you.

17          COMMISSIONER POLMANN: Thank you, Mr. Cavros.

18          Ms. Putnal, do you have anything to add?

19          MS. PUTNAL: I -- my -- I don't have anything  
20          to add. Thank you for asking.

21          COMMISSIONER POLMANN: Thank you.

22          Okay. There -- I heard a lot of comments with  
23          regard to Issue 1 and then response to the comments  
24          or assertions from Mr. Marshall. I'm trying to  
25          refocus on Contested Issue No. -- No. 3. And we've

1 got two proposed language versions; one from OPC,  
2 one from LULAC.

3 And the key words in here is an "appropriate  
4 mechanism." Now, in one case, it's a program and  
5 tariff; and the other, it's a tariff. The  
6 distinction between 750, 749 is -- is a nuance or,  
7 you know, a matter of characterization. I don't  
8 think that's substantive at the moment, but -- can  
9 either OPC or LULAC please explain to me a little  
10 bit -- maybe add a little bit of clarity on the  
11 program and tariff or, in LULAC's case, the tariff.  
12 I'm trying to understand, in either case, your  
13 meaning of the phrase "an appropriate mechanism"

14 MR. REHWINKEL: Commissioner, this is Charles  
15 Rehwinkel. This -- this language was copied from  
16 the issues that were considered by the Commission  
17 in the Docket 20190061. That's -- that's -- other  
18 than conforming it to -- to the -- to the  
19 nomenclature of the Duke tariff and the size of the  
20 Duke tariff offering or program, it's identical.  
21 This -- we didn't -- I -- the Public Counsel  
22 didn't -- didn't craft language; we just copied it.

23 So, the issue here is, is the Commission going  
24 to have a -- a fact-based decision-making or is --  
25 or are they just only going to decide it based on

1 the stipulation that was presented when the  
2 petition was filed.

3 And, you know, if these issues aren't  
4 considered in a factual way, then it seems like  
5 there's a prejudging of the nature of how this case  
6 is going to go, and -- and I'm not sure that's  
7 appropriate.

8 So, all we were trying to do was to make this  
9 line up with the way the SolarTogether program and  
10 tariff was considered by the Commission for nothing  
11 other than symmetry and perhaps to not put this in  
12 a posture of prejudging based on just a  
13 stipulation.

14 COMMISSIONER POLMANN: It -- it seems in my  
15 reading that, you know, this issue as written then  
16 leads -- if the answer here is in the negative,  
17 then the remainder of -- of any of the issues are  
18 moot. Is -- is that -- is that your intention or  
19 is that -- is that your conclusion as well?

20 I'm trying to understand the power behind this  
21 and -- and why it should be included as a separate  
22 item from -- from Issue No. 1 --

23 MR. REHWINKEL: Well, Issue No. 1 --

24 COMMISSIONER POLMANN: -- because this  
25 necessarily is answered within No. 1.

1           MR. REHWINKEL: Issue No. 1 only says if  
2           there's a stipulation and the stipulation is in the  
3           public interest.

4           I tell you, Commissioner, the Public Counsel  
5           has been trying to take a very guarded position in  
6           this, given the decision in the SolarTogether, but  
7           you know, I -- I think this is dangerously getting  
8           into a situation where there might be legal  
9           challenges from our office for -- for principles  
10          that have nothing to do with this case.

11          So, all I'm asking is the Commission treads  
12          carefully here. These issues that we propose were  
13          identical to the issues that were considered in the  
14          SolarTogether case, and where there -- there is  
15          testimony from -- in the deposition that we still  
16          want to see the exact transcript verbiage -- that  
17          indicates that there was factual modeling of the  
18          Duke tariff and program on the -- on the  
19          SolarTogether program of FPL. So, this is  
20          important.

21          I -- I don't -- I don't know how to explain in  
22          any other way. We're not -- we just did the copy-  
23          and-paste function on Word.

24          COMMISSIONER POLMANN: I hear you.

25          MR. MARSHALL: This is Bradley with -- with

1 LULAC. I would just agree with everything that  
2 Charles just said and note that, just because  
3 something is in the public interest doesn't mean  
4 that it -- it meets the other legal requirement  
5 for -- for program approval.

6 You could find something to be in the public  
7 interest -- such as, in this case, solar -- more  
8 solar is always in the public interest, no matter  
9 how it's done or whether it complies otherwise in  
10 Florida law, but that -- that doesn't remove the  
11 issues of whether it is -- it complies with the --  
12 with the applicable statute.

13 And I think that's, in part, what Issue 3 is  
14 trying to get at, which, as noted, was just copied  
15 from the SolarTogether docket.

16 COMMISSIONER POLMANN: Yeah, well the fact  
17 that it was copied really -- that's not personally  
18 (unintelligible) to me. So, you know, you guys  
19 can, in a manner of speaking, just give that up,  
20 so -- that's not helping.

21 All right. Well, this is not something I can  
22 rule on sitting here at the moment. I'm going to  
23 have to review this with -- with Counsel. I've  
24 heard your comments and I appreciate that.

25 And I think the fact that -- back to

1 Mr. Rehwinkel's other point -- I think, with regard  
2 to the ongoing discovery -- well, not discovery --  
3 holding a couple of additional days to -- to submit  
4 final positions and so forth, I think may be  
5 germane here -- or maybe I'm just confused.

6 But I think we need to move on to Issue 4,  
7 which is your -- I'm looking on Page 14 -- unless  
8 staff --

9 MS. HELTON: Commissioner --

10 COMMISSIONER POLMANN: -- has anything else to  
11 add here in what we've just discussed.

12 Ms. Helton, go ahead.

13 MS. HELTON: Commissioner Polmann, I'm sorry  
14 to interrupt, but I'm interrupting with a technical  
15 issue. The court reporter has just reached out to  
16 me, and she's saying that the echo is getting  
17 really bad on the phone with multiple parties, and  
18 she's asking if there's anything that can be done  
19 by us from the tech end, so --

20 MR. STADEN: This is Mike. The only thing  
21 that I know of that can be done is to make sure  
22 that everybody has their phone on mute that is not  
23 speaking. Other than that, at that point, I don't  
24 know what we can do at that time.

25 MS. HELTON: Perhaps, if we could request

1 Commissioner -- oh, wait. She just said she thinks  
2 that's it, so -- that everyone is all live.

3 So, if everyone -- if you're not speaking, if  
4 you would please put your phone on mute, I think  
5 that would be very helpful to the technical issues  
6 that we are experiencing.

7 And Commissioner, would -- would it be  
8 appropriate for me, at this point in time, to say  
9 something about the issues?

10 COMMISSIONER POLMANN: That would be -- that  
11 would be helpful, I think.

12 I am still somewhat echoing here.

13 MS. HELTON: Well, hopefully --

14 COMMISSIONER POLMANN: Go ahead.

15 MS. HELTON: Hopefully, I'm not going to be  
16 creating additional issues, but I hear what -- and  
17 I -- I apologize. I think I may have called  
18 Mr. Marshall Mr. Bradley earlier, and I know his  
19 name, so -- I heard Mr. Marshall's comments and  
20 Mr. Rehwinkel's comments with respect to they were  
21 trying to mirror what the Commission had done in  
22 the Florida Power & Light SolarTogether case, but  
23 that case came to the Commission in a little bit  
24 different posture -- or, actually, a very different  
25 posture than Duke brought this case to you.

1           The Power & Light case was brought as a tariff  
2           and, ultimately, during the course of the process,  
3           certain parties reached a settlement. And here,  
4           Duke has brought you a petition to approve the  
5           settlement that was entered prior to it even filing  
6           its petition.

7           I also don't understand -- and I don't think  
8           I've heard Mr. Rehwinkel or Mr. Marshall say why  
9           they can't raise their factual issues underneath  
10          Sub Issue 1, as it's currently phrased in the draft  
11          prehearing order.

12          I'm -- I'm having a hard time understanding  
13          why they can't bring up what they're raising in the  
14          contested issues under Issue 1 as it's currently  
15          framed.

16          MR. REHWINKEL: If I may -- if I may  
17          Mr. Chairman -- Commissioner Polmann, I think the  
18          Commission may be -- and this is why you're getting  
19          our office probably dragged into a case that we  
20          didn't want to litigate. This is a potential fork  
21          in the road for this agency.

22          And what -- what we just heard from -- the  
23          question from Ms. Helton, which may be on the minds  
24          of others at the Commission, having an issue like  
25          this as a way of resolving a complex factual and



1 fact-infused case, as a way of cutting out all of  
2 the factual issues, is a dangerous way to proceed,  
3 I believe.

4 MS. HELTON: Mr. -- Mr. Rehwinkel --  
5 Mr. Rehwinkel, if you can hold on one second --  
6 Mr. Rehwinkel -- if everyone can please mute. The  
7 court reporter is reaching out to me again and  
8 saying she's still having problems. And so, she  
9 can't understand you very well, which I think is  
10 important for purposes of the record. If everyone  
11 would please mute their phones. Thank you.

12 I'm sorry to interrupt you, Charles.

13 MR. REHWINKEL: That's okay.

14 I think a situation where a -- an issue like  
15 this was the only issue that was going to decide a  
16 rate case, where there was a high level of  
17 contests, may not be the direction that the  
18 Commission wants to go, or it may be. I don't  
19 know.

20 This issue about who's adverse, I think, is an  
21 interesting one, Commissioner Polmann. This  
22 iss- -- this case has been portrayed as largely  
23 based on the tariff that -- and program that FPL  
24 received approval for with what are characterized  
25 as improvements, but is essentially structured the

1 same way.

2 Now, when a -- when a case comes to the  
3 Commission and a contesting party wants to claim  
4 that there is a lack of adversity, given that,  
5 those same parties who stipulated with FPL are now  
6 stipulating here before the case was filed, a  
7 question may arise as to how that adversity was  
8 manifested and then resolved. And, generally,  
9 negotiations are not allowed to be inquired upon by  
10 the Commission.

11 So, factual matters as to what's adverse and  
12 what's not and how it was resolved creates thorny  
13 issues, I believe. I think it is -- is bad public  
14 policy to have a case that a party has a genuine  
15 position to challenge, as LULAC does, and say  
16 they -- they are prohibited from addressing  
17 anything other than whether the stipulation is in  
18 the public interest.

19 I strongly disagree that an iss- -- an issue  
20 that says, is the stipulation, when taken as a  
21 whole, in the public interest, is a penumbra that  
22 allows people to raise factual issues about the --  
23 the structure of the tariff, the design of it,  
24 where the subsidies flow, et cetera. I don't think  
25 that that issue accommodates those factual

1           disputes.

2           I don't -- I really don't understand why this  
3           can't -- these -- these FPL tariff issues can't be  
4           accommodated in here. I don't know what the  
5           problem is.

6           I don't know what else to say, but I think  
7           this is a dangerous -- dangerous way to proceed.

8           COMMISSIONER POLMANN: Okay. Mary Anne, I'm  
9           not sure that that changes my earlier comment that  
10          we should -- I should take this under advisement  
11          and we have some offline discussion here.

12          MS. HELTON: Yes, sir, I think that it would  
13          be perfectly fine for you to take the contested  
14          issues, No. 3 through -- I'm not sure how many of  
15          them mirror the Power & Light issues, but to take  
16          those under advisement, having heard the discussion  
17          here today by Mr. Rehwinkel and Mr. Marshall,  
18          and -- and Duke, and the other parties.

19          And this is something that we can discuss  
20          further -- I think I understand what Mr. Rehwinkel  
21          is saying and I'm not sure, at this point in time,  
22          that it changes my thoughts on it, but I -- it's  
23          something that I would like to talk a little bit  
24          more with my -- with the general counsel,  
25          Ms. Cibula, Ms. Crawford, Mr. Stiller, and

1           unfortunately, not all of those folks are in the  
2           room right now.

3           COMMISSIONER POLMANN:   Understood.

4           Okay.  Ms. -- Ms. Helton's suggestion, as I  
5           understood it, was that staff take some -- take  
6           some time here -- and I understand we need to  
7           finish this up, in terms of ruling on these  
8           contested issues.

9           So, with no intention to -- to delay, my  
10          question for the parties, starting with, obviously,  
11          with OPC and LULAC, is:  Do you feel that you can  
12          add substantive consideration -- or add to our  
13          consideration substantive comments on Issues 4  
14          through 9 that will add to -- to the material  
15          debate that I'm going to need to have here with my  
16          legal staff.

17          So, do you feel that -- that the discussion  
18          that we've had here on this first issue needs --  
19          needs some further input on the remaining issues?  
20          And, if so, Mr. Marshall, I'll give you -- give you  
21          a chance here to -- to make any other comments.

22          MR. MARSHALL:  Thank you, Commissioner.  I  
23          don't think we have any additional comments other  
24          than, you know, one of our proposed issues goes --  
25          the heart of it is the legal significance of the --

1 of the stipulation, but I think that issue is  
2 already -- has been discussed.

3 And then there's two other issues that we had  
4 that were not from SolarTogether that we just  
5 didn't think that were -- were sufficiently covered  
6 by the issues as carried over from SolarTogether,  
7 but, again, I think those issues will fall out  
8 depending on your discussion with the legal staff.

9 COMMISSIONER POLMANN: And just for clarity,  
10 which -- could you identify those for me, please?

11 MR. MARSHALL: Yes, they are identified as  
12 Issue 8 and Issue 9, which is LULAC 6 and LULAC 7.

13 COMMISSIONER POLMANN: Okay. Thank you.

14 Mr. -- Mr. Rehwinkel, an opportunity for you  
15 to add anything here, in like fashion.

16 MR. REHWINKEL: Thank you, Commissioner.  
17 My -- my remarks are on the record and hopefully  
18 were transcribed, maybe twice -- that's an echo  
19 joke -- but I don't -- I don't feel that I can add  
20 anything to it, but I appreciate the opportunity.  
21 Thank you.

22 COMMISSIONER POLMANN: Thank you,  
23 Mr. Rehwinkel.

24 At this time -- I lost my document. Let's see  
25 if I can find it. While I'm looking for that, at

1 the risk of dragging this discussion here in this  
2 section further, let me simply offer the  
3 opportunity briefly for the other parties, if you  
4 wish, to contribute anything of substance that will  
5 help me review the matter just discussed, with my  
6 legal staff. Anybody else want to comment?

7 Okay. Hearing none -- and again, please mute  
8 your phones. I think that concludes our discussion  
9 on contested issues, unless somebody has something  
10 that I'm unaware of on the contested-issues  
11 section, which I believe is Section VIII, or the  
12 entirety of issues and positions, which is  
13 Section VIII.

14 So, I think, Mr. Stiller, unless you inform me  
15 otherwise that we missed something, I'm going to  
16 Section IX, which is exhibit list.

17 MS. EATON: Commissioner Polmann.

18 COMMISSIONER POLMANN: Please proceed.

19 MS. EATON: This is Ms. Eaton, really quickly.

20 COMMISSIONER POLMANN: Yes.

21 MS. EATON: I -- I now think of a -- of a  
22 question. Is -- once the Commission has an  
23 opportunity to make some sort of decision as to  
24 Contested Issues 3 through 9, is it at that time  
25 that the Commission wants our positions, even if

1           it's after the November 5th deadline?

2           COMMISSIONER POLMANN: I expect that we will  
3           timely make a ruling on whether these contested  
4           issues are included in the list of issues or not.  
5           I mean, it's -- it's going to -- our turnaround on  
6           this -- clarify for me -- I'll look to Mr. Stiller  
7           first, but then a comment from Ms. Helton.

8           We're going to be getting additional material  
9           from -- from the parties here within two days, but  
10          in terms of our conclusion for the prehearing  
11          today, we've got a number of things that I need to  
12          rule on. So, what is our schedule going to be on  
13          turnaround on -- on the issues list?

14          MS. HELTON: Commissioner, we will --

15          COMMISSIONER POLMANN: Commission  
16          staff needs -- needs to tell me how much -- how  
17          much time we're going to need.

18          Go ahead, Ms. Helton.

19          MS. HELTON: We will make sure that the  
20          parties have adequate time to -- if you decide to  
21          include the -- any of the contested issues in the  
22          list of issues in the prehearing order, staff will  
23          make sure that we have worked out with your office  
24          so that the parties will have adequate time to  
25          provide positions to be included in the prehearing

1 order.

2 And so, until we -- we may need to tweak a  
3 little bit the schedule, but right now, I don't  
4 think we will have to tweak the Thursday deadline  
5 that we -- you established earlier.

6 MS. EATON: Thank you.

7 COMMISSIONER POLMANN: Okay. I -- I think,  
8 just to restate that, the positions on issues is  
9 going to be due Thursday this week, November 5,  
10 close of business. And I will conclude any rulings  
11 that include the -- the establishment of the issues  
12 list. And that will be provided to all the parties  
13 in what we believe will be sufficient time so that  
14 you can turn around your -- your positions on all  
15 of the issues.

16 And Ms. Helton commits that that will be  
17 adequate time. And I will be responsive to staff,  
18 but that's our commitment.

19 MS. EATON: Thank you.

20 COMMISSIONER POLMANN: Okay. I think we're  
21 moving now -- yes, you're very welcome. Thank you  
22 for raising that. I think that was Ms. Eaton.

23 MS. EATON: Yes.

24 COMMISSIONER POLMANN: Okay. Section IX,  
25 exhibit list. We can move there.



1           Mr. Stiller, what -- what do we have?

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

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

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

15          Staff will continue to work with the parties  
16          for stipulating the exhibit list prior to hearing.

17          COMMISSIONER POLMANN: Okay. Thank you,  
18          Mr. Stiller.

19          I think that addresses the issue. And  
20          anything that needs to be taken care of there will  
21          be a matter of normal process that -- that the  
22          parties can -- can work with our legal staff on. I  
23          don't think there's anything that we really need  
24          to -- to discuss at this time unless somebody has a  
25          burning issue that they need to yell about. If I

1 don't hear any yelling, we're going to move to  
2 Section X.

3 Mr. Stiller, do we have proposed stipulations?

4 MR. STILLER: There are -- there are no  
5 proposed stipulations at this time.

6 COMMISSIONER POLMANN: Okay. Thank you.

7 Pending motions. I think we have -- well, I  
8 don't know what we have. Go ahead. I'm sorry.

9 MR. STILLER: Commissioner, there are no  
10 pending motions at this time under Section XI of  
11 the prehearing order.

12 COMMISSIONER POLMANN: Confidentiality  
13 matters -- what -- what do we have?

14 MR. STILLER: Yes, Commissioner, there are two  
15 pending confidentiality motions remaining at this  
16 time. Staff will endeavor to get both resolved  
17 prior to the hearing.

18 COMMISSIONER POLMANN: Okay. Let me ask, just  
19 in general, do any of the parties anticipate  
20 bringing forward anything else, just so we're -- we  
21 can anticipate that and be reasonably well  
22 prepared? Any party anticipate any additional  
23 confidentiality matters? Okay.

24 MS. TRIPLETT: Commissioner Polmann, this is  
25 Dianne Triplett with Duke Energy. I believe that

1 we have all -- we have answered all the discovery  
2 and there was -- there were no other confidential  
3 documents.

4 I am -- the only thing that I -- I even  
5 think -- the only thing I'm hesitating is the panel  
6 deposition that Mr. Rehwinkel referenced. I'd have  
7 to -- I think there were some questions that were  
8 asked about confidentiality, but I think that  
9 the -- we would have to look at the transcript to  
10 confirm that the questions, themselves, did not  
11 elicit confidential information.

12 And the only reason I would need to file --  
13 typically we don't file deposition transcripts.  
14 So, it would really depend on whether the party is  
15 intending to submit them as potential cross-  
16 examination exhibits, in which case, I would need  
17 to confirm with the parties that -- whether there  
18 was anything confidential.

19 So, it's a long way of saying, maybe, but  
20 really only if someone wants to --

21 COMMISSIONER POLMANN: Yeah.

22 MS. TRIPLETT: -- use the deposition  
23 transcript.

24 COMMISSIONER POLMANN: Okay. Well, I  
25 appreciate that. The -- the short answer was

1 "maybe." And I -- this is by no means restrictive.  
2 I -- I was simply asking for the heads-up.

3 So, Mr. Stiller, is there any deadline that  
4 the parties need to be aware of with regard to  
5 requesting filing or doing -- anything in process  
6 with regards to a confidentiality that needs to be  
7 mentioned? I -- I was simply asking so that -- so  
8 that we have a heads-up.

9 MR. STILLER: Commissioner, I'm aware of none  
10 in the docket, but again, would ask that the  
11 parties be familiar with the requirements of  
12 Attachment A to the prehearing order when they make  
13 those confidential cross-examination filings.

14 COMMISSIONER POLMANN: Okay.

15 MS. HELTON: Comm- -- Commissioner?

16 COMMISSIONER POLMANN: And, again, just to --  
17 just a comment, if there are any comments or  
18 concerns about that, please contact Mr. Stiller as  
19 soon as you can. And then that will keep -- keep  
20 the ball rolling.

21 Any other comments from staff on that?

22 MS. HELTON: Commissioner, if I may say, if  
23 any of the parties plan to use that deposition  
24 transcript that Ms. Triplett just mentioned,  
25 perhaps they could file a notice of intent, not for

1           them to file the request for confidential  
2           treatment, but so that that will give Ms. Triplett  
3           time to make her request for confidential  
4           treatment, if necessary.

5           And it will clue in the clerk's office and the  
6           staff that that is -- potentially contains  
7           confidential information so we'll know which drive  
8           to put that -- that file on.

9           MR. REHWINKEL: Commissioner, I think,  
10          given --

11          COMMISSIONER POLMANN: Yes, sir.

12          MR. REHWINKEL: -- the nature of the  
13          discussion that we had on the contested issues, and  
14          in an abundance of caution, I think it should be  
15          assumed that the panel deposition would -- would be  
16          a cross-examination exhibit, if for no other reason  
17          than it's there, if needed.

18          Unfortunately, in the virtual world, I think  
19          we -- we have to err on the side of -- even if  
20          there's a small chance of -- of it coming -- coming  
21          into use.

22          COMMISSIONER POLMANN: Okay. So --

23          MR. MARSHALL: This is Bradley --

24          COMMISSIONER POLMANN: So, we should -- go  
25          ahead, Mr. Marshall.

1           MR. MARSHALL: I was just going to say that we  
2 do intend to submit it as -- as an exhibit, in case  
3 we need it, along with what Mr. Rehwinkel was  
4 saying.

5           So, I'll make sure to confer with Dianne to  
6 see if there's any confidential information in  
7 there and, if there is, we can file that notice of  
8 intent.

9           COMMISSIONER POLMANN: Okay. I think -- I  
10 think as a matter of process, that discussion is --  
11 is helpful. That's the kind of heads-up that, I  
12 think, is -- is significant to maintain the  
13 schedule. Whatever it is that needs to be filed,  
14 in terms of writing, I think everybody understands.  
15 If there's any question about the instructions,  
16 please get with the legal staff and clarify that.

17           So, Ms. Triplett, I think you've heard what  
18 you need to hear. What I heard was an intent to  
19 use the materials, potentially. So, we'll -- we'll  
20 go from there.

21           Anything else in terms of confidentiality or  
22 potential requests that needs to be mentioned  
23 today?

24           Okay. Hearing none, let's move to  
25 Section XIII. Mr. Stiller, would you like to

1 introduce that, please, post-hearing procedures.

2 MR. STILLER: Yes, Commissioner. Staff  
3 recommends that post-hearing briefs be limited to  
4 40 pages, should briefs be necessary.

5 Staff recommends that a summary of each  
6 position of 50 words, set off with asterisks,  
7 should be included in each post-hearing statement.

8 If a bench decision is not made, post-hearing  
9 briefs will be due on December 1st, 2020.

10 COMMISSIONER POLMANN: Okay. Thank you,  
11 Mr. Stiller. I'll ask the parties, without --  
12 without going down the list individually, any  
13 comments from the parties as to the 40 pages total?  
14 That's the entirety of -- of the brief, and then a  
15 summary of 50 words on -- on the positions.

16 MR. MARSHALL: This is Bradley Marshall with  
17 LULAC --

18 COMMISSIONER POLMANN: Any comments on that --  
19 yes, sir.

20 MR. MARSHALL: My comment would be that we  
21 would request, if it is only the one issue that --  
22 that the Commission is deciding, we would believe  
23 there would be a lot to pack in there. And so,  
24 under the condition -- if you find that it's only  
25 the one issue in this case, we would ask for a

1 hundred words for the summary.

2 COMMISSIONER POLMANN: Comments from any other  
3 parties?

4 MR. REHWINKEL: I think that's a good point.

5 COMMISSIONER POLMANN: Okay. Any -- we'll  
6 certainly consider that.

7 Any problem with the 40 pages? I assume not,  
8 since I didn't hear anything there. And, again,  
9 this is -- this only comes into play if the  
10 Commission does not make a bench decision. Is that  
11 understood? Obviously.

12 MR. REHWINKEL: Well --

13 COMMISSIONER POLMANN: Okay.

14 MR. REHWINKEL: Commissioner?

15 COMMISSIONER POLMANN: Go ahead, sir.

16 MR. REHWINKEL: I think -- Ms. Helton can  
17 address this, but I think the bench decision is  
18 only if the parties don't want to brief it. I  
19 don't -- and not the other way around. Am I  
20 not -- am I mistaken?

21 MS. HELTON: I agree with Mr. Rehwinkel.

22 COMMISSIONER POLMANN: Ms. Helton, I -- I --  
23 go ahead.

24 MS. HELTON: It's the parties' prerogative.

25 If they want to file a brief, then I think we have



1 to let them file a brief, Commissioner.

2 COMMISSIONER POLMANN: That's an interesting  
3 way to answer the question, Ms. Helton. You think  
4 we have to let them -- I'm teasing you.

5 MS. HELTON: Mr. -- I'm sorry.

6 COMMISSIONER POLMANN: Thank you for --

7 MS. HELTON: Under Chapter 120, parties are  
8 entitled to file a brief.

9 COMMISSIONER POLMANN: I -- I know. As I  
10 said, I'm teasing you.

11 Thank you, Mr. Rehwinkel. I misstated. Poor  
12 choice of words on my part. And the way the bullet  
13 is written is -- the one I'm reading is, if the  
14 bench decision is not made, post-hearing briefs are  
15 due on December 1st.

16 So, in the reverse, if -- if briefs are not  
17 requested provides an opportunity for -- for the  
18 bench decision to be made, is essentially what  
19 you're saying. And that's how I'm going to take  
20 it, Mr. Rehwinkel.

21 MR. REHWINKEL: Yes, thank you.

22 COMMISSIONER POLMANN: So, as a final point --  
23 as a final point there, December 1st is the due  
24 date for the briefs. And I take it, because we  
25 didn't hear comments, that the parties don't have

1 issue with that.

2 So, hearing -- hearing nothing else, in  
3 Section XIII, on post-hearing procedures,  
4 Mr. Stiller, you want to -- you want to wrap that  
5 up there? I'll let you speak to it.

6 MR. STILLER: Yes, Commissioner. Section XIV,  
7 the staff would just recommend that you make four  
8 rulings consistent with your earlier announcements  
9 in this hearing: One, that all parties be provided  
10 five minutes for opening statements; two, that  
11 witnesses have five minutes for summaries, plus  
12 another five if they are testifying on rebuttal;  
13 three, confidential and non-confidential exhibits  
14 that a party intends to use at hearing be provided  
15 to the Commission Clerk by close of business  
16 November 10th, 2020, in accordance with Appendix A  
17 to the draft prehearing order; and then, finally,  
18 changes to basic positions should be submitted in  
19 writing by the close of business Thursday,  
20 November 5th.

21 And that is all under this section.

22 COMMISSIONER POLMANN: Okay. Thank you,  
23 Mr. Stiller. So, five minutes for opening  
24 statements; and then witness summaries for five  
25 minutes. And that's up to five minutes, so five

1 minutes or less. So, that's -- witness summaries  
2 of -- of their testimony, prefiled testimony. Feel  
3 free to have that be condensed.

4 The issue, then, direct and rebuttal -- there  
5 will be five minutes for each. And so, we've  
6 addressed -- I believe Mr. Huber is the only  
7 witness both in direct and rebuttal.

8 Ms. Triplett, that's true, right? And we've  
9 already addressed that?

10 MS. TRIPLETT: Ye- -- well, Commissioner  
11 Polmann, I would say that, yes, to the extent -- I  
12 think we can add a plus sign to his name up in the  
13 earlier section to indicate that he is testifying  
14 direct and rebuttal together, but can we also  
15 include a -- something in maybe the order section  
16 to clarify that he will only be obligated to attend  
17 on the 17th and will be excused from the hearing,  
18 to the extent it goes into the 18th?

19 COMMISSIONER POLMANN: Hold on a second.  
20 Sorry. Answering machine.

21 Yes. That was discussed earlier. We'll make  
22 a note of that. And I didn't hear any objections  
23 from the other parties. We'll confirm with staff  
24 on the sequencing. And in the -- the prehearing  
25 order, I'm not aware that there will be any problem

1 with that, but we'll -- we'll confirm that  
2 situation. I understand that he has other  
3 scheduled obligations.

4 So, I'm not aware of any -- of any issue with  
5 that, Ms. Triplett, so --

6 MS. TRIPLETT: Thank you, sir.

7 COMMISSIONER POLMANN: Yes, ma'am.

8 Okay. So, that's the witness summary, five  
9 minutes.

10 Confidential, non-confidential exhibits --  
11 again, Appendix A has -- I'll just say instructions  
12 or -- or process matters, November 10th deadline.

13 And then basic-positions deadline -- we've  
14 made that adjustment: this week, November 5, close  
15 of business.

16 And then we have number of rulings not yet  
17 decided here that -- that I will be working on with  
18 legal staff. And we'll provide those as quickly as  
19 we can.

20 Other matters. Any other matters to address  
21 at this prehearing conference?

22 Mr. Stiller, do we have anything else?

23 MR. STILLER: Staff is aware of no other  
24 matters at this time.

25 COMMISSIONER POLMANN: Okay. Thank you,

1 Mr. Stiller.

2 Any parties have any other additional matters?

3 And the right answer would be no, but -- but that  
4 shouldn't stop you from raising any matters.

5 Anything else from any of the parties? Don't be  
6 shy.

7 Okay. Seeing no additional matters, I think  
8 that that concludes our business for today. I -- I  
9 apologize sincerely for the echo, specifically to  
10 our court reporter.

11 I think we've covered all the business that we  
12 needed to for today. You'll be hearing from us on  
13 those rulings that need to be taken care of.

14 Thank you for your patience, for your  
15 attendance. And, seeing no other business, this  
16 prehearing conference is now adjourned. Thanks  
17 again. Have a good day. Be safe.

18 (Whereupon, the proceedings concluded at 2:48  
19 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

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

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

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

DATED THIS 16th day of November, 2020.



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ANDREA KOMARIDIS WRAY  
NOTARY PUBLIC  
COMMISSION #GG365545  
EXPIRES February 9, 2021