

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

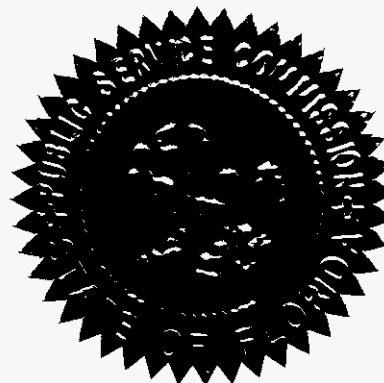
In the Matter of:

PETITION FOR INCREASE IN
RATES BY FLORIDA POWER
& LIGHT COMPANY.

DOCKET NO. 080677-EI

2009 DEPRECIATION AND
DISMANTLEMENT STUDY BY
FLORIDA POWER & LIGHT COMPANY.

DOCKET NO. 090130-EI



PROCEEDINGS: PREHEARING

COMMISSIONER
PARTICIPATING:

COMMISSIONER KATRINA J. McMURRIAN
PREHEARING OFFICER

DATE:

Monday, August 17, 2009

TIME:

Commenced at 9:30 a.m.
Concluded at 4:13 p.m.

PLACE:

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

REPORTED BY:

JANE FAUROT, RPR
Official FPSC Reporter

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1 PARTICIPATING:

2 KENNETH WISEMAN, ESQUIRE, and LINO MENDIOLA,
3 ESQUIRE, Andrews Kurth LLP, 1350 I Street NW, Suite
4 1100, Washington, DC 20005, representing South Florida
5 Hospital and Healthcare Association.

6 BRIAN P. ARMSTRONG, ESQUIRE, Nabors Law Firm,
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8 representing the City of South Daytona.

9 JOHN W. MCWHIRTER, JR., ESQUIRE, c/o McWhirter
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11 representing Florida Industrial Power Users Group.

12 R. WADE LITCHFIELD, MITCHELL S. ROSS,
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15 Monroe Street, Suite 810, Tallahassee, Florida
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17 ROBERT SCHEFFEL WRIGHT, ESQUIRE and JOHN T.
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20 representing Florida Retail Federation.

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1 VICKI GORDON KAUFMAN, ESQUIRE, and JON C.
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4 Industrial Power Users Group.

5 CECILIA BRADLEY, ESQUIRE, Office of Attorney
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7 32399-1050, appearing on behalf of the Citizens of the
8 State of Florida.

9 JOSEPH A. MCGLOTHLIN, ESQUIRE, CHARLIE BECK,
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11 Public Counsel, c/o The Florida Legislature, 111 W.
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14 Florida.

15 TAMELA IVEY PERDUE, Associated Industries of
16 Florida, 516 North Adams Street, Tallahassee, Florida
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18 STEPHANIE ALEXANDER, ESQUIRE, 200 West College
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20 representing Florida Association for Fairness in Rate
21 Making (AFFIRM).

22 STEPHEN STEWART, Post Office, Box 12878,
23 Tallahassee, Florida 32317, representing Mr. Richard
24 Unger.
25

1 LISA BENNETT, ESQUIRE, MARTHA CARTER BROWN,
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3 General Counsel's Office, 254 Shumard Oak Boulevard,
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5 Commission Staff.

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9 the Commission.

P R O C E E D I N G S

COMMISSIONER McMURRIAN: Let's call this prehearing to order.

Ms. Bennett, would you please read the notice.

MS. BENNETT: By notice duly given, this date and place and time was scheduled for a prehearing conference in the docket of Docket Number 080677 and 090130, petition for increase in rates by Florida Power and Light Company, 2009 depreciation and dismantlement study by Florida Power and Light Company.

COMMISSIONER McMURRIAN: Thank you.

And now we we'll take appearances, and I guess we will just go from left to right.

MR. BUTLER: Thank you, Commissioner.

John Butler appearing on behalf of Florida Power and Light Company.

MR. WRIGHT: Thank you, Commissioner.

Schef Wright appearing on behalf of the Florida Retail Federation.

COMMISSIONER McMURRIAN: Thank you.

MR. MENDIOLA: Good morning, Commissioners. Lino Mendiola on behalf of South Florida Hospital and Health Care Association.

COMMISSIONER McMURRIAN: Okay. And could you pronounce your name for me one more time?

1 **MR. MENDIOLA:** Lino, L-I-N-O, is my first
2 name, and my last name is Mendiola, M-E-N-D-I-O-L-A.

3 **COMMISSIONER McMURRIAN:** Okay, thank you.

4 **MR. WISEMAN:** Good morning. Ken Wiseman for
5 the South Florida Hospital and Health Care Association.

6 **COMMISSIONER McMURRIAN:** Thank you, Mr.
7 Wiseman.

8 **MS. PERDUE:** Tamela Perdue, Associated
9 Industries of Florida.

10 **COMMISSIONER McMURRIAN:** Thank you.

11 **MR. MCGLOTHLIN:** Joe McGlothlin, Office of
12 Public Counsel.

13 **COMMISSIONER McMURRIAN:** Thank you.

14 **MR. MOYLE:** Jon Moyle along with Vicki Kaufman
15 on behalf of the Florida Industrial Power Users Group,
16 FIPUG, and I would also like to enter an appearance for
17 Mr. McWhirter on behalf of FIPUG, as well.

18 **COMMISSIONER McMURRIAN:** Okay.

19 **MR. ARMSTRONG:** Brian Armstrong on behalf of
20 the City of South Daytona.

21 **COMMISSIONER McMURRIAN:** Thank you.

22 **MR. STEWART:** Stephen Stewart on behalf of Mr.
23 Richard Unger.

24 **COMMISSIONER McMURRIAN:** Okay, thank you.

25 **MS. BRADLEY:** Cecilia Bradley on behalf of the

1 Attorney General on behalf of the Citizens of Florida.

2 **COMMISSIONER McMURRIAN:** Thank you, Ms.
3 Bradley.

4 **MS. ALEXANDER:** Stephanie Alexander for
5 Florida AFFIRM.

6 **COMMISSIONER McMURRIAN:** Thank you, Ms.
7 Alexander. Anyone else?

8 And if anyone needs to sit over at that table,
9 Mr. Stewart, Ms. Alexander, Ms. Bradley, anyone wants to
10 sit over there, if that would make it easier you are
11 welcome and free to sit over there and do that, if you
12 would like.

13 I guess that takes us to preliminary matters
14 and I know that we have a few.

15 Ms. Bennett.

16 **MS. BENNETT:** And also appearing on behalf of
17 staff is Lisa Bennett, Martha Carter Brown, Jean
18 Hartman, Anna Williams. And I do note for the record
19 that Marcus Braswell will be here a little bit late.
20 His plane was delayed.

21 **COMMISSIONER McMURRIAN:** Thank you. I had
22 forgotten that.

23 **MS. HELTON:** Mary Anne Helton, Advisor to the
24 Commission.

25 **COMMISSIONER McMURRIAN:** Thank you. Sorry I

1 forgot you all. I'm starting off well this morning.

2 Okay. Preliminary matters. Ms. Bennett?

3 **MS. BENNETT:** There are several preliminary
4 matters. First, there are intervention and qualified
5 representative requests outstanding. I do want to note
6 for the record that Mr. Saporito has withdrawn from the
7 docket and we will reflect that in the Prehearing Order.
8 There is a petition to intervene by FPL employees that
9 was filed on August 7th. Responses were due last
10 Friday. That can be addressed by a separate order. I
11 believe that's going to be issued today perhaps.

12 There is a petition to intervene by Mr.
13 Richard Unger, and that was filed last Thursday. That
14 can be addressed by a separate order at the expiration
15 of the seven days. He has also requested that he be
16 represented by a qualified representative and that
17 request is handled by the Chairman's office.

18 South Florida Hospital and Health Care
19 Association has also requested that they have two more
20 qualified reps, Lino Mendiola and Megan Griffith. I
21 believe that Chairman Carter did issue that order
22 granting their qualified representative status.

23 Slow me down if I'm talking too quick.

24 **COMMISSIONER McMURRIAN:** No, that's good.

25 **MS. BENNETT:** There are some discovery

1 disputes that I would like to make the parties and
2 Commissioner McMurrrian aware of. The City of South
3 Daytona filed a motion to compel discovery from FPL on
4 June 26th. FPL filed a response on July 6th, and that
5 motion can be addressed by separate order, also.

6 Staff has a motion to compel, and that is
7 being considered along with FPL's response by the full
8 Commission tomorrow. And South Florida Health Care and
9 Hospital Association has a request for protective order
10 for a deposition of its president. FPL filed a motion
11 to compel the hospital's president's attendance at that
12 deposition, and then the hospital association filed a
13 response on Friday afternoon.

14 **COMMISSIONER McMURRIAN:** Thank you. And with
15 respect to that, I would like to give the parties maybe
16 five minutes each to address that to help me understand
17 a little bit better, and then I will decide when we are
18 done whether or not I will just take that under
19 advisement and try to rule on it today. I know that
20 it's time sensitive in trying to get the deposition
21 scheduled, if there will be one. So I think we will
22 need to definitely get it done today sometime one way or
23 the other. But, Ms. Bennett, help me, who would go
24 first?

25 **MS. BENNETT:** I believe that -- well, this is

1 interesting. The South Florida Hospital Association
2 filed a motion for protective order first, so I think
3 they would go ahead and open and then FPL could respond.

4 **COMMISSIONER McMURRIAN:** So, Mr. Mendiola, are
5 you prepared to --

6 **MR. WISEMAN:** Wiseman.

7 **COMMISSIONER McMURRIAN:** Oh, Mr. Wiseman. I'm
8 sorry.

9 **MR. BUTLER:** Commissioner, I would observe we
10 actually filed a motion to compel initially to which the
11 Hospital Association responded asking you to quash it,
12 and their motion was also a motion for protective order.
13 So, I'm fine with the order, but I just wanted to be
14 clear that we had moved to compel initially the
15 deposition and then there was the response to that.

16 **COMMISSIONER McMURRIAN:** Ms. Bennett.

17 **MS. BENNETT:** It's an interesting procedural
18 dilemma, because South Florida filed a motion for
19 protective order, FPL filed a motion to compel, South
20 Florida filed its motion in response to the motion to
21 compel. So maybe Florida Power and Light could go
22 first, because Mr. Wiseman has two issues to address,
23 his protective order and his response to FPL's motion to
24 compel.

25 **COMMISSIONER McMURRIAN:** Mr. Wiseman, do you

1 have thoughts about the order?

2 **MR. WISEMAN:** Your Honor, I'm fine going first
3 or second, however you prefer.

4 **COMMISSIONER McMURRIAN:** Okay. I guess we can
5 do -- I guess I had it in my mind that the motion to
6 compel would be what drove it, but I'm not sure. As
7 most of you know, I'm not an attorney, so I need the
8 attorneys' help quite a bit. I did see Mr. Wright
9 nodding a minute ago, so I know that he is pretty up to
10 speed on this procedure stuff, so perhaps he's a good
11 indicator. So let's start with FPL and then we will go
12 to the South Florida Hospital Association.

13 **MR. BUTLER:** Thank you, Commissioner. I will
14 be brief, and I would like actually, if I can, to
15 reserve whatever time I don't use to respond to the
16 points that are made by Mr. Wiseman and Mr. Mendiola.

17 FPL has sought the deposition of Linda Quick,
18 the Chief Executive for the Hospital Association as the
19 corporate representative, an officer of the Hospital
20 Association. It is a deposition for her as a person.
21 It is not a corporate representative or corporate
22 designee deposition. I wanted to make that clear up
23 front, because there are provisions to, you know, advise
24 or to seek a deposition of someone within the
25 corporation who knows the most about particular issues

1 and you lay out specifically what those issues are that
2 need to be addressed and the corporation then designates
3 a particular person.

4 That's not what we are seeking here. We are
5 seeking a deposition specifically of Ms. Quick under
6 Rule 1.310(b)(1) of the Florida Rules of Civil
7 Procedure. Basically, our need to depose Ms. Quick
8 relates to the allegations that the Hospital Association
9 has made about really two things. One, about the
10 efforts that its members have taken to control their
11 costs, and to minimize their cost of electricity, and to
12 use FPL's rates most effectively, which essentially they
13 are saying in spite of all of that the FPL rate increase
14 is going to be burdensome to them. So we're very
15 interested in knowing what exactly they have done, what
16 sorts of steps have been taken, or, frankly, if the
17 Hospital Association isn't aware of any steps, then that
18 is useful information, as well. Certainly things we can
19 use in cross-examination.

20 Similarly, we are interested in knowing about
21 the Hospital Association's members own control of their
22 business, control of costs, control of their investment,
23 what sort of return is required to attract capital to
24 the hospital industry, because they have witnesses who
25 are taking positions critical to all of those issues

1 with respect to how FPL conducts its business. And they
2 are doing so through witnesses all of whom are outside
3 paid consultants, none of whom have any specific
4 connection to or knowledge about the individual members
5 of the hospital association, or for that matter the
6 association itself. They are just experts brought in
7 with particular subject expertise to address what they
8 think FPL should do differently. And taking those
9 people's depositions on what the hospital association or
10 its members do is going to be unavailing, they don't
11 have that background.

12 And, I think it's important, Commissioner, to
13 understand that all of the parties here view FPL's
14 performance both in absolute terms is FPL doing sort of
15 a good job by looking internally at how the company runs
16 its business and what results it's projecting, but also
17 how it compares to others, both other businesses within
18 the utility industry and other businesses outside the
19 utility industry.

20 For example, one of the points that the
21 Hospital Association's Witness Mr. Kollen uses as a
22 frame of reference is how FPL controls its productivity,
23 or how FPL achieves its productivity relative to
24 national statistics on productivity, and that just
25 throws the whole subject of comparisons between FPL and

1 others into the mix for what the Commission needs to
2 consider in making its decisions, and we feel that being
3 able to take Ms. Quick's deposition on these and other
4 points will be very important for us to develop our
5 cross-examination of the Hospital Association's
6 witnesses, and I think that's primarily if not entirely
7 how we envision using the information.

8 I think it clearly can be used for those
9 purposes, and is evidentiary in the sense that it sets
10 up the basis for questions to the Hospital Association's
11 witnesses who will be testifying here in this
12 proceeding.

13 Thank you.

14 **COMMISSIONER McMURRIAN:** I think that's pretty
15 much right on the dot of five minutes, Mr. Butler.

16 Go ahead, Mr. Wiseman.

17 **MR. WISEMAN:** Thank you, Your Honor.

18 Let me respond to each of the statements that
19 Mr. Butler has made. First of all, he said that they
20 are seeking the deposition of Linda Quick simply as a
21 person, not as a representative. She hasn't been
22 designated as a representative of SFHHA. I think that
23 is actually a key procedural point.

24 There are -- under Florida Rule 1.330, there
25 are six avenues available for use of a deposition in a

1 hearing or in a trial. And you need to remember that
2 Ms. Quick is not a witness in this proceeding. SFHHA
3 has not submitted testimony by Ms. Quick. So in order
4 to get the deposition itself into evidence, FPL would
5 have to meet one of the six requirements of Rule 1.330.

6 Nothing that Mr. Butler just described comes
7 under the rubric ckkk of any of those six requirements.
8 I'm not going to go through the six requirements now.
9 You obviously can look at them later. But I think the
10 key point is there is a case, it is Levon (phonetic) v.
11 Department of Health and Rehabilitate Services. I
12 believe this was cited in our filing, and it clearly
13 says that where a deposition does not meet any of the
14 six enumerated provisions in Rule 1.330 it cannot be
15 introduced into evidence.

16 I want to get now to the more substantive
17 issues that Mr. Butler raised. First of all, he says
18 that SFHHA's testimony has allegations about members'
19 interests in controlling their own costs. The three
20 witnesses who testified on behalf of SFHHA are, as Mr.
21 Butler pointed out, all outside consultants. None of
22 them testified. There is not a word of testimony in any
23 of the testimonies filed by those people that talked
24 about hospitals controlling their costs. That is simply
25 not in their testimony.

1 They are not -- they are expert witnesses with
2 expertise in regulatory ratemaking matters. They are
3 not privy to the information about the measures that
4 hospitals are taking to control costs, which is why it's
5 not in their testimony. And that is very important in
6 terms of considering what value would be provided by a
7 deposition of Ms. Quick.

8 Ms. Quick is the president of SFHHA. She is
9 not a CFO of any of the individual hospitals. She is
10 not a plant manager of any of SFHHA -- members of
11 SFHHA's hospitals. She is not privy to information
12 about the specific cost measures that hospitals are
13 taking to control their costs.

14 And it has to be remembered why are we here.
15 We are here to examine the costs of FPL. The issue
16 that's involved in this case is are the costs -- are the
17 costs that FPL is claiming as a basis for the rates that
18 it's requesting in this proceeding, are they just and
19 reasonable or not. The costs of, and the cost efforts,
20 the efforts to control costs of hospitals are not at
21 issue. There is nothing -- there is no relevant
22 evidence that would concern the costs of hospitals nor
23 would a deposition even lead to the discovery of
24 admissible evidence.

25 I want to go to the -- if we could look at

1 some of the interrogatories that FPL previously posed to
2 SFHHA to which we objected, and this was months ago, and
3 they never pursued -- we objected months and months ago
4 to these interrogatories. FPL never filed a motion to
5 compel. They never sought any additional information
6 about these areas until right now.

7 This is in Attachment A to the motion that we
8 filed on Friday. Interrogatory Number 27 asks, "For the
9 period 2005 through 2009, please provide a breakdown of
10 all annual operating costs for each SFHHA member
11 hospital by major cost component." It sounds like they
12 want to get into that again in the deposition.

13 Well, two things. One, Ms. Quick is not privy
14 to that information. Question after question with
15 respect to that area will be answered by I don't know, I
16 don't know, I don't know. And bottom line is, again,
17 those costs are not relevant to a determination of
18 whether FPL's rates are just and reasonable or not.

19 Let's look at another example.

20 **COMMISSIONER McMURRIAN:** Mr. Wiseman, I think
21 I have you at about five minutes, so if I'm calculating
22 it right, so if you could give me a concluding thought.

23 **MR. WISEMAN:** Sure. I will just sum up is
24 that I think this deposition, this proposed deposition
25 is totally unnecessary; it will not lead to the

1 discovery of evidence that would be admissible, and
2 frankly it is, I believe, being proposed to interfere
3 with our trial preparation, particularly given the
4 timing. We think it is totally improper. The matters
5 are totally irrelevant, and bottom line, Ms. Quick is
6 not going to be privy to information that would allow
7 FPL to obtain the information that they purport to be
8 seeking.

9 Thank you, Your Honor.

10 **COMMISSIONER McMURRIAN:** Thank you. And I do
11 have a couple of questions for you all.

12 For Mr. Butler, which issues in the draft
13 prehearing order are you attempting to address through
14 the deposition of Ms. Quick?

15 **MR. BUTLER:** I'm glad I annotated my copy of
16 the motion on the way up here. I identified these
17 issues. There may be others, but I think these are
18 certainly in play. On Issues 47 and 133 there are
19 comments about the application for stimulus grants,
20 criticism of FPL's approach to that by Mr. Kollen in his
21 testimony.

22 Issue 80 concerns the appropriate return on
23 equity, what investors require to invest in businesses.
24 Mr. Kollen criticizes FPL's AMI program savings, the way
25 that the program is being implemented. That is Issue

1 95. Issues 101 and 103 have to do with productivity
2 improvements, again, covered by Mr. Kollen at Pages 19
3 and 23 of his testimony. And there are comments about
4 the use of insurance industry basis for making
5 projections that relate to storm funding Issue 120 in
6 the prehearing order.

7 **COMMISSIONER McMURRIAN:** What was that last
8 one again, Mr. Butler?

9 **MR. BUTLER:** Issue 120.

10 **COMMISSIONER McMURRIAN:** Okay. Mr. Wiseman,
11 do you want to speak to any of that?

12 **MR. WISEMAN:** Yes. I think I can speak to all
13 of those issues generically. I can guarantee you that
14 Ms. Quick as the president of an association of
15 hospitals has absolutely no information whatsoever
16 concerning any of those issues. And if that's what FPL
17 wants to discover through this deposition, we'll
18 stipulate to that right now. Nothing that they -- no
19 information they will get from Ms. Quick is going to be
20 relevant to any of those issues.

21 And I would submit to you, further, that
22 whatever hospitals are doing has nothing to do with the
23 economic stimulus package, with respect to the energy --
24 aspects of the energy bill that Mr. Butler referred to
25 with respect to insurance storm funding, productivity

1 gains. Again, it's all simply irrelevant, Your Honor.

2 **COMMISSIONER McMURRIAN:** Okay. And the other
3 question I think for you is I was confused as to
4 which -- you talked about that you objected to discovery
5 that FPL propounded on the South Florida Hospital
6 Association. Were there any questions that you all --
7 which questions were objected to and why, or was it a
8 wholesale objection to all the discovery?

9 **MR. WISEMAN:** FPL has served SFHHA now with
10 three rounds of discovery. The first two rounds were
11 served prior to the time that FPL -- I'm sorry, prior to
12 the time that SFHHA submitted testimony in this case.
13 We objected to about 99 percent of those
14 interrogatories, as did -- by the way, similar requests
15 were filed on the other parties, the other intervenors
16 in this case, and everyone objected to those
17 interrogatories.

18 Now, subsequent to the filing of our
19 testimony, FPL served us with approximately -- I think
20 it's 22 or 23 additional interrogatories that are
21 actually directed to the testimony we filed. And while
22 we filed a handful of general objections, we have not
23 objected specifically, I don't believe, to any of those
24 requests, and we will be fully responding to those
25 requests on the due date, which I believe is this coming

1 Friday.

2 **COMMISSIONER McMURRIAN:** Okay. And I think I
3 have one other question, and I don't have the exact
4 language in front of me, but with respect to the
5 standard about discovery, about it being reasonably
6 calculated to lead to admissible evidence. And I know
7 in your comments you talked a lot about how you didn't
8 believe it would be entered into evidence, but to me the
9 standard is a little bit different. So can you help me
10 understand how your position lines up with that?

11 **MR. WISEMAN:** Absolutely you are correct that
12 the general standard for discovery is broader than
13 relevance. The question is not whether the discovery is
14 necessarily relevant, but is it calculated to lead to
15 the discovery of admissible evidence. And our position
16 is that what FPL is seeking in this instance doesn't
17 even meet that broad standard. It's not calculated to
18 lead to the discovery of any evidence that would be
19 admissible in this case. So not only is the discovery
20 they are seeking irrelevant, but it's also not
21 calculated to obtain information that could be relevant
22 and admissible.

23 **COMMISSIONER McMURRIAN:** Okay. And I guess
24 similar to when I asked to respond to his question, I
25 will let Mr. Butler respond to yours, and then I think I

1 will maybe take it under advisement and deal with it by
2 the end of the day.

3 **MR. BUTLER:** Thank you.

4 Commissioner, one thing I would observe with
5 respect to that question is keep in mind what we are
6 discussing is the relevance of this as being essential
7 information for us to use in cross-examination of the
8 Hospital Association's witnesses. That is certainly the
9 primary function we have in mind for it. So the
10 comments earlier about the admissibility of the
11 deposition, I don't really expect that we are going to
12 try to have the deposition, you know, of Ms. Quick
13 entered into the record as evidence itself, but that it
14 can be used for cross-examination purposes. That is a
15 very typical use of a deposition.

16 We think that her deposition very likely will
17 lead to admissible evidence in that sense, you know,
18 leading to answers that will either identify what the
19 Hospital Association and its members do, or lead to, you
20 know, pretty conclusively a sense that the hospital
21 association doesn't have any idea what its members do,
22 and that that is something that I think goes to the
23 credibility of the Association's positions as well as
24 the credibility of its witnesses in criticizing FPL's
25 conduct of its affairs.

1 **COMMISSIONER McMURRIAN:** Okay. On that happy
2 note, we will move right along. Okay. I will take it
3 under advisement. And, like I said, I'll try to resolve
4 that by the end of the day because I realize we are up
5 against the clock for getting everything ready for the
6 hearing.

7 And, Ms. Bennett.

8 **MS. BENNETT:** Yes. There are two other
9 motions currently pending. One is the City of South
10 Daytona has filed a motion to dismiss the case as being
11 considered by the full Commission tomorrow, as is FPL's
12 motion to strike the City's response.

13 The Attorney General also filed a motion
14 Friday afternoon, a motion in limine, and parties by
15 rule are given seven days to respond to motions, so that
16 also needs to be taken up by separate order. And with
17 that, staff does not have any further preliminary
18 matters. I don't know if there are others from the
19 parties.

20 **COMMISSIONER McMURRIAN:** Mr. McGlothlin.

21 **MR. MCGLOTHLIN:** This is not really a
22 preliminary matter, but it might be the right time to
23 take it up. One of our witnesses, Sherry Brown, has
24 corrected a couple of errors in her prefiled testimony
25 and also intends to accept an adjustment made by FPL in

1 its rebuttal testimony. The upshot of that is that the
2 existing draft of the prehearing order that we are about
3 to march through today does not reflect all of our
4 positions, and since some of these changes track through
5 several schedules showing how interconnected we all are,
6 the most economical thing I think to do would be for me
7 to hand out the changed pages so that the parties have
8 them rather than spend time reading each one.

9 **COMMISSIONER McMURRIAN:** Okay. And you have
10 those ready now?

11 **MR. McGLOTHLIN:** I do.

12 **COMMISSIONER McMURRIAN:** Great. Thank you.
13 Do you help with that, Mr. McGlothlin? I guess you have
14 help. Thank you, Ms. Merchant.

15 And while he is passing those out, are there
16 are other preliminary matters? The matters with respect
17 to the issues, we will be going through those.

18 **MR. ARMSTRONG:** The City just wonders -- the
19 City of South Daytona has a couple of pieces of
20 discovery outstanding. It's just a couple of
21 interrogatories outstanding with staff and a couple of
22 interrogatories outstanding with FPL. They were filed
23 on the 22nd and the 24th respectfully, and we are just
24 inquiring as to whether or not we can anticipate
25 responses, and if so, when prior to the hearing.

1 **COMMISSIONER McMURRIAN:** Ms. Bennett, was that
2 the motion to compel that we talked about a couple of
3 minutes ago?

4 **MR. ARMSTRONG:** No.

5 **COMMISSIONER McMURRIAN:** That wasn't --

6 **MR. ARMSTRONG:** No. I'm just inquiring
7 because --

8 **COMMISSIONER McMURRIAN:** It was just
9 discovery?

10 **MR. ARMSTRONG:** Yes. Because on the 22nd and
11 24th, obviously we are bumping up against hearing dates
12 in terms of the time allotted for responses. So the
13 City would like to have -- obviously, to the Public
14 Service Commission there were just two interrogatories
15 requested to identify how the staff, how the PSC follows
16 up on projected test years after they issue an order
17 that adopts and approves a projected test year, and how
18 they follow up in the future on that. And whether
19 audits are conducted, and if so, what the results have
20 been. And that's just for three utility rate cases.

21 And the other interrogatory responses were to
22 Florida Power and Light, and we simply asked for their
23 plans to issue stock, common stock in the 2010 projected
24 test year and 2011. And if they do have such plans, how
25 many shares and what the anticipated equity raised would

1 be in those. So they are rather straightforward. I
2 assume that they are both information readily available.
3 We just want to make sure and see if we could find out
4 today when we can expect responses.

5 **COMMISSIONER McMURRIAN:** Ms. Bennett.

6 **MS. BENNETT:** Staff expects to respond no
7 later than Friday.

8 **MR. ARMSTRONG:** Thank you.

9 **COMMISSIONER McMURRIAN:** Okay. Mr. Butler.

10 **MR. BUTLER:** I was conferring to confirm, but
11 I believe that the status of that is that we are
12 objecting to those as untimely. They were filed on the
13 24th, or served on the 24th, and the way the timing
14 works out, the responses could not possibly be due by
15 the discovery deadline that is this Friday.

16 **MR. ARMSTRONG:** I'd like to respond to that,
17 obviously.

18 Commissioner, your prehearing order says you
19 can file discovery up until August 17th as far as I read
20 it. This is information that should be readily
21 available to the company. FPL in this case filed all
22 those MFRs and said we are going to reduce our equity
23 over time through the 2010/2011 corrected test years.
24 If you are going to reduce your equity component and you
25 are going to issue debt, they have to know that going in

1 in order to make those projections. I think it's very,
2 very were important for this Commission to know whether
3 they anticipate to issue additional common stock so that
4 we can make a determination of whether their information
5 about equity is at all important or is it all credible.
6 And for them to suggest now that they couldn't have
7 responded to that in a week even is flabbergasting to
8 me. But to suggest that on a procedural basis that I
9 waited until the 24th to file those two simple -- four
10 simple requests, I mean, I don't see how the Commission
11 could tolerate that.

12 **COMMISSIONER McMURRIAN:** Well, I understand
13 the question to be a procedural question, not about what
14 is contained within the interrogatories. I don't think
15 that's appropriate for us to really hash out today about
16 what it is you are asking for and how simply it is to
17 respond. But, I do want to get clarification on how the
18 discovery deadline works, because -- well, maybe I
19 should just let them tell us. Let me let Ms. Bennett
20 respond to that.

21 **MS. BENNETT:** The controlling dates state that
22 the discovery deadline for utility direct testimony is
23 August 17th, and for all other testimony it's
24 August 21st. The way we have traditionally interpreted
25 that is that any requests have to be submitted 30 days

1 prior to that date, and except for the rebuttal
2 testimony, I think, had to be 15 days prior to August
3 the 21st. So the City of South Daytona served the staff
4 on the 22nd, so they were timely and we could respond
5 within that time frame, which was the last day of the
6 discovery deadline. In other words, if you file -- I'm
7 not making myself very clear, but if you file less than
8 30 days from the discovery deadline you have missed your
9 deadline.

10 **COMMISSIONER McMURRIAN:** Mr. Armstrong, let me
11 ask staff this, as well. The discovery deadline, you
12 are allowed to take depositions up until that date, as
13 well.

14 **MS. BENNETT:** That's correct. You can take
15 depositions up until August 17th if you're asking about
16 the utility's direct testimony. If you are asking about
17 rebuttal testimony, it is until August 21st.

18 **COMMISSIONER McMURRIAN:** Okay.

19 **MR. ARMSTRONG:** Commissioner, I would
20 punctuate what I have said by saying that without that
21 evidence in the record as to their plans for issuance,
22 their plans for sources and of their -- they say they
23 are going to spend \$16 billion in the next couple of
24 years. How are they going to raise the debt, how are
25 they going to raise the capital to do so. If they can't

1 tell you that and it's not in the record, I think it
2 goes to the credibility of FPL's case, you know, on its
3 face.

4 **COMMISSIONER McMURRIAN:** I think what I was
5 trying to suggest, Mr. Armstrong, is I think that
6 perhaps there are other ways to try to get that
7 information. Now, I'm not going to try to help any
8 party get what information they need to get, and to the
9 extent the Commission needs to get it, you know, staff
10 is doing their work and asking questions and we will be
11 doing depositions and that sort of thing. So, hopefully
12 we will get what we need. And to the extent that is
13 helpful, I hope it is.

14 **MR. ARMSTRONG:** Thank you.

15 **COMMISSIONER McMURRIAN:** But that's all I can
16 do for now. And we don't have any -- I don't have
17 anything before me with respect to what Mr. Butler was
18 talking about, as well, so I think we will just need to
19 deal with that when it comes. Right, Ms. Bennett?
20 Anything else to say to for that?

21 **MS. BENNETT:** No. I think the only other
22 option would be a motion to compel, but he has missed
23 the deadline, and so your OEP controls.

24 **COMMISSIONER McMURRIAN:** Okay.

25 **MS. KAUFMAN:** Commissioner McMurrian.

1 **COMMISSIONER McMURRIAN:** Ms. Kaufman, thank
2 you.

3 **MS. KAUFMAN:** I just wanted to let the parties
4 know that Mr. Pollock will be filing two corrected pages
5 to his prefiled testimony. One of them just has to do
6 with a change in some dates and the other corrects a
7 table, and we will endeavor to get that filed today or
8 tomorrow.

9 **COMMISSIONER McMURRIAN:** Okay. So that's just
10 simply an errata.

11 **MS. KAUFMAN:** Yes. I think we will probably
12 just send revised pages to make it easier.

13 **COMMISSIONER McMURRIAN:** Thank you. Any other
14 preliminary matters?

15 Mr. Wiseman.

16 **MR. WISEMAN:** Thank you, Your Honor.

17 I am just raising this as an issue primarily
18 through you to FPL. Initially when we filed the
19 testimony of Mr. Baudino there was one confidential
20 exhibit, and there were, I think, two passages that were
21 also confidential. Those passages related to
22 information concerning FPL as to the exhibit.

23 Subsequently, just a couple of days ago, Mr.
24 Butler informed me that FPL is not any longer claiming
25 confidentiality with respect to those matters. So I'm

1 just wondering how to handle this. We have a public
2 version that has information redacted and we have now
3 the confidential -- what was labeled a confidential
4 version which is no longer -- it's not necessary to
5 treat it confidentially. So I'm just wondering how you
6 want to handle that in terms of getting what was
7 designated confidential into the record as simply a
8 public version of Mr. Baudino's testimony.

9 **COMMISSIONER McMURRIAN:** Mr. Butler, can you
10 help us?

11 **MR. BUTLER:** I can suggest this. How this
12 actually first came up is that FPL has not filed a
13 request for confidentiality with respect to Mr.
14 Baudino's testimony, and Mr. Wiseman was good enough to
15 point that out to be sure whether we needed to do so.
16 But we didn't, and we didn't because we had concluded
17 that those limited passages don't need confidential
18 protection.

19 It seems to me like that I can simply confirm
20 that fact on the record. There isn't anything where we
21 have formally requested confidential classification of
22 those portions, and we can agree that what had been the
23 confidential, the unredacted version can be treated
24 publicly and doesn't need to be given any confidential
25 protection.

1 **COMMISSIONER McMURRIAN:** So, Mr. Wiseman, does
2 that satisfy your concerns?

3 **MR. WISEMAN:** I think so. So then I can -- if
4 I understand it, go ahead and serve what had been
5 designated as confidential on all the parties, and
6 during the hearing we'll simply move into evidence the
7 confidential version, is that correct?

8 **MR. BUTLER:** That would be my suggestion, I
9 think. You could just serve the unredacted version, and
10 that's what the court reporter will be entering into the
11 record, that is what your witness will adopt, and that
12 is fine with us.

13 **MR. WISEMAN:** Thank you, Your Honor.

14 **COMMISSIONER McMURRIAN:** So essentially we'll
15 ignore the earlier redacted version.

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

17 **COMMISSIONER McMURRIAN:** Pretend it never
18 existed in a sense.

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

20 **COMMISSIONER McMURRIAN:** All right.

21 Ms. Bennett, anything with respect to that?

22 **MS. BENNETT:** No, that will work. Thank you.

23 **COMMISSIONER McMURRIAN:** Okay. Any other
24 preliminary matters?

25 **MR. BUTLER:** I would just observe that FPL

1 plans to file on Friday errata sheets for some of its
2 witnesses, as some of the others parties have identified
3 that they intend to do for theirs.

4 **COMMISSIONER McMURRIAN:** Thank you. Anyone
5 else?

6 Mr. Wright.

7 **MR. WRIGHT:** Thank you, Commissioner.

8 I just received, as did everyone else, the
9 corrections to the Public Counsel's position statement.
10 As anyone who has read our stuff knows, we have agreed
11 with Public Counsel on a number of things. I would ask
12 that before we go to the issue-by-issue walk-through
13 that we be given some reasonable time, like 10 or 15
14 minutes off the record at least for me and probably
15 others to go through and see how this all compares and
16 might affect our position statements.

17 **COMMISSIONER McMURRIAN:** That works for me.
18 And I guess, Ms. Bennett, we are supposed to have
19 another party that was supposed to join us. Has he
20 joined us yet, do we know? So it may also be a good
21 time to give him a little bit more time to get here so
22 that we can be better prepared to go through the issues
23 and deal with everyone's positions at once.

24 So 15 minutes, or do you think more? Do you
25 think that's enough?

1 **MR. WRIGHT:** From the looks of things,
2 Commissioner, I think 15 minutes will be plenty. And it
3 didn't even have to be now. I just wanted to have it
4 queued up before we got to the issue-by-issue
5 walk-through. Thank you.

6 **COMMISSIONER McMURRIAN:** I think we will be
7 there pretty quickly, just go through those other
8 sections. So I think we might as well take a break now.
9 Let's just say we will take a break until 10:30. So
10 we're on recess.

11 (Recess.)

12 **COMMISSIONER McMURRIAN:** Okay. We will go
13 back on the record. And I believe Mr. Braswell has
14 joined us.

15 Would you like to make an appearance, Mr.
16 Braswell? (Inaudible.) Sure. You can just come up to
17 one of the microphones, any of them.

18 **MR. BRASWELL:** This is Marcus Braswell from
19 Sugerman and Susking, and we are here on behalf of
20 Intervenor System Council U-4.

21 **COMMISSIONER McMURRIAN:** Okay. And, Mr.
22 Braswell, you didn't have any other preliminary matters
23 before we start proceeding through the prehearing order,
24 did you?

25 **MR. BRASWELL:** I do not. We are here to make

1 the appearance as an intervenor, and we just want to
2 reserve the right to file a post-hearing statement and
3 to cross-examine, if necessary, at the hearing. Other
4 than that, we don't have any issues to add to the
5 prehearing.

6 **COMMISSIONER McMURRIAN:** Okay. Thank you, Mr.
7 Braswell.

8 And with that we will go to the draft
9 prehearing order. And I think to start off with some of
10 these earlier sections we will go just through them
11 fairly quickly, but stop me if there is a section that
12 we need to make changes to or discuss.

13 Sections I through III, case background,
14 conduct of proceedings, jurisdiction, any changes to
15 those? Section IV, procedure for handling confidential
16 information. Section V, prefiled testimony, exhibits,
17 and witnesses, I think.

18 Ms. Bennett.

19 **MS. BENNETT:** Staff recommends that because of
20 the number of witnesses and the length of this hearing
21 that no summary be given by the witnesses.

22 **COMMISSIONER McMURRIAN:** Okay. That got
23 everyone's attention. So I guess we will go down the
24 line, and I will just ask. Are you all willing to
25 dispense with witness summaries? I did do the math last

1 night after I saw staff's suggestion, and I do think we
2 would have -- with the typical five minute summaries, we
3 would have four hours of nothing but witness summaries.
4 So I have to say I'm a little bit concerned about that
5 just because of -- even though it is nine days, we have
6 a lot of witnesses to get through.

7 So, Mr. Butler, with that do you have any
8 thoughts?

9 **MR. BUTLER:** My thought is that we definitely
10 want to do the witness summaries. I mean, we can
11 certainly work to keep them shorter where possible. I
12 think there are some witnesses who are going to need the
13 five minutes. We can, I think, cut many of the others
14 down to something like three minutes, if necessary, but
15 we absolutely feel that it's a helpful sort of
16 orientation of the case.

17 I mean, your point is a good one, that it
18 takes a lot of time to go through the summaries, but by
19 the same token, nine days of hearing, it gets pretty
20 confusing. I think it loses a lot of context for the
21 Commissioners and for everyone when there isn't some
22 orientation to basically, you know, the thrust of the
23 witnesses' testimony as they come to the stand to give
24 evidence. So we would very strongly oppose elimination
25 of the oral summaries.

1 **COMMISSIONER McMURRIAN:** Okay, thank you.

2 Mr. Wright.

3 **MR. WRIGHT:** Even though we have no direct
4 witnesses of our own with the Florida Retail Federation,
5 and I as a long time practitioner agree with Mr. Butler.
6 We think that summaries are appropriate. It may be the
7 only chance that the Commissioners get to hear any
8 particular witness address them. I think it's very
9 important, and we would agree with FPL that summaries
10 are necessary.

11 **COMMISSIONER McMURRIAN:** Okay, thank you.

12 **MR. MENDIOLA:** Your Honor, we agree that
13 summaries would be helpful.

14 **COMMISSIONER McMURRIAN:** Okay. Ms. Perdue.

15 **MS. PERDUE:** We agree that summaries would be
16 helpful, as well.

17 **COMMISSIONER McMURRIAN:** It's looking
18 unanimous.

19 Mr. McGlothlin.

20 **MR. MCGLOTHLIN:** OPC is not willing to agree
21 to the elimination of summaries. I think five minutes
22 is already pinching the ability of a witness to say
23 anything meaningful. Some witnesses who cover a lot of
24 ground, including some of ours, if anything ought to be
25 enlarged beyond the five minutes.

1 **MR. MOYLE:** It's a good strategy to put
2 something out there that everyone appears that they may
3 agree on before we go through this, but on behalf of
4 FIPUG, we similarly would oppose elimination of
5 summaries, and also just feel compelled to point out
6 that we are saving a whole bunch of time by having
7 direct prefiled testimony. You know, that's something
8 that if we had the witnesses on the stand to give direct
9 it would be an 18-day hearing probably, or much longer,
10 so we are already saving time. Five minute summaries
11 seem appropriate to put context on it.

12 **COMMISSIONER McMURRIAN:** Mr. Armstrong.

13 **MR. ARMSTRONG:** The City supports witness
14 summaries.

15 **COMMISSIONER McMURRIAN:** Okay.

16 Ms. Alexander, right?

17 **MS. ALEXANDER:** Yes. We would prefer
18 summaries, as well.

19 **COMMISSIONER McMURRIAN:** Okay. Mr. Stewart.

20 **MR. STEWART:** It probably will be the last
21 time, but we would argue to do away with summaries.

22 **COMMISSIONER McMURRIAN:** To do away with the
23 summaries.

24 **MR. STEWART:** As a non-lawyer, we probably
25 don't need them.

1 **COMMISSIONER McMURRIAN:** Well, we have two for
2 no summaries.

3 Ms. Bradley, go ahead.

4 **MS. BRADLEY:** I certainly would like to see
5 the summaries. I think they will be very helpful even
6 though it does take up some time. But it is well spent
7 time, and it's kind of like opening statements, you
8 never waive it.

9 **COMMISSIONER McMURRIAN:** Well, I'll just say
10 I'm not adamantly opposed to summaries. I think that
11 sometimes we get into areas -- to the extent they get
12 into five minutes and sometimes longer, we tend to get
13 in areas maybe outside the witness' testimony, and then
14 we get into objections back and forth. And so to me the
15 five minute summary sometimes becomes a ten minute,
16 fifteen minute diatribe on objections back and forth.

17 So I think that's another non-lawyer's view on
18 that. And I would note that most witnesses have in the
19 beginning of their testimony a summary of what they have
20 to say, but I do agree that there is some benefit in
21 having some live testimony. So I guess the question is
22 how long.

23 Perhaps the thing to do is just to ask
24 everyone to do the best they can to try to keep it --
25 and particularly with respect to FPL, because you have

1 such a large number of witnesses. And I don't want to
2 be unfair to you. I realize you also have the burden of
3 proof in this case, but we have so many witnesses on
4 direct and rebuttal, and I am assuming you want them to
5 come separately with direct and rebuttal.

6 **MR. BUTLER:** That is correct, we do. And as I
7 mentioned at the outset, we will do everything we can to
8 keep the witnesses who are kind of the central policy
9 witness to shorter, you know, in the three-minute range
10 where possible. So we are sensitive to that and we will
11 certainly do our best to achieve it.

12 **COMMISSIONER McMURRIAN:** Okay. Well, I guess
13 as far as our attempt at no summaries, Ms. Bennett, I
14 think we will probably stick with the five minutes. And
15 some of you probably weren't here for the last hearing
16 we had. The Chairman is now using a new system with
17 lights that actually times the witness summaries. So to
18 the extent that you can talk to your witnesses and tell
19 them, you know, that there will be an indicator to help
20 them. We are not trying to make them nervous, we are
21 just trying to keep track of the time.

22 It has red, yellow, and green lights to give
23 them an indication. At yellow they have approximately
24 two minutes left of the five minutes. I believe that's
25 right, Chris? Thank you. And that will help keep us on

1 track. So I encourage them all to practice their
2 summaries to try to make sure it is within that time
3 frame.

4 But some accommodation especially with respect
5 to FPL would be helpful in that. Again, it would be
6 four hours I think in nothing but witness summaries, and
7 it is my belief that the Commissioners will be prepared
8 with or without the summaries.

9 So having said that, we will move along. Also
10 in that section of the prehearing order there is fairly
11 new language about duplicative, repetitious, and
12 friendly cross not being allowed. That has been added
13 in the last few orders establishing procedure and
14 prehearing orders, and I would just note that for the
15 record.

16 Then I think moves us into Section VI on Order
17 of Witnesses. Ms. Bennett.

18 **MS. BENNETT:** I believe that FPL notified us
19 that their Witness Keener will not be available, and I'm
20 not sure which witnesses will be testifying or adopting
21 his testimony.

22 **MR. BUTLER:** It is Pamela Sonnelitter, and
23 actually the prehearing order draft reflects that on
24 Page 5. If you look down two-thirds of the way down the
25 list you will see Pamela Sonnelitter. She is another

1 employee in the transmission business unit where
2 Mr. Keener works. And because of other business
3 responsibilities, Mr. Keener is not going to be able to
4 testify. So we are going to be having Ms. Sonnelitter
5 adopt his testimony, and it actually only applies to the
6 direct testimony.

7 **COMMISSIONER McMURRIAN:** Okay. So Mr. Keener
8 is no longer shown here.

9 **MR. BUTLER:** He isn't, Ms. Sonnelitter is, and
10 that's what we intend.

11 **COMMISSIONER McMURRIAN:** Okay.

12 **MR. McGLOTHLIN:** Commissioner, the order
13 reflects the correct order of witnesses for OPC. We
14 have learned that one of our witnesses, Doctor Woolridge
15 has a conflict on some of the days scheduled for
16 hearing. He is available only on August 27 and 28,
17 September 3rd and 4th. So if it proves necessary to
18 take him out of order, we will request the Commissioners
19 and the parties to help us accommodate his needs.

20 **MS. BENNETT:** I didn't hear what dates he was
21 available.

22 **MR. McGLOTHLIN:** He is available on August 27
23 and 28 and September 3 and 4.

24 **COMMISSIONER McMURRIAN:** Thank you for letting
25 us know, Mr. McGlothlin, and hopefully you all can work

1 together to work out perhaps when the best time is. If
2 it ends up that we are still in the middle of the direct
3 at the time that he's available, that sort of thing, if
4 you all can work that out and perhaps save some hearing
5 time that would be great.

6 **MR. BUTLER:** We have one witness who has sort
7 of a similar situation. Not quite as much of a
8 limitation, but our Witness Meischeid, who is one of our
9 rebuttal witnesses that appears about halfway down Page
10 7, is not available on September 2. He is available any
11 other date, so we'll need to try to structure it so that
12 he would not have to testify on September 2. And since
13 we have quite a long list of rebuttal witnesses, we can
14 probably just move him around within that list if it
15 turns out that that is a time constraint.

16 **COMMISSIONER McMURRIAN:** Okay. Anyone else?
17 Mr. Wiseman.

18 **MR. WISEMAN:** Yes, Your Honor. For SFHHA's
19 witnesses, Mr. Baron is available the entirety of the
20 first week. However, the second week he would be
21 unavailable. On the 3rd, and I believe the 1st there
22 are no hearings, is that correct?

23 **COMMISSIONER McMURRIAN:** Excuse me, I'm sorry.

24 **MR. WISEMAN:** There are no hearings scheduled
25 for the 1st, is that correct?

1 **COMMISSIONER McMURRIAN:** Right, Tuesday the
2 1st.

3 **MR. WISEMAN:** All right. Then the only date
4 that Mr. Baron would have a problem with would be
5 September 3rd. Mr. Baudino also has a problem on
6 September 3rd, as well as on August 27th. And
7 Mr. Kollen is available anytime.

8 I was hoping -- I don't know whether we can do
9 this or not, but if we could get date certain from those
10 witnesses since they're all going to be coming from out
11 of town, if that is something that would be possible to
12 work out.

13 **COMMISSIONER McMURRIAN:** Ms. Bennett.

14 **MS. BENNETT:** It has been a very difficult
15 thing to do a date certain for witnesses. It depends
16 upon the length of questions, and we have had a hard
17 time giving dates certain, although the Commission has
18 been receptive to acknowledging when a witness is not
19 available and making sure that they can go out of turn.

20 **MR. WISEMAN:** If we can at least go out of
21 turn in the event that one of those witnesses, either
22 Mr. Baudino or Mr. Baron falls on one of those dates
23 when they have commitments in other cities that would be
24 appreciated.

25 **COMMISSIONER McMURRIAN:** And I think to the

1 extent that you are bringing it up now and letting all
2 the parties know that will help make it a lot easier so
3 that everyone can start preparing and deciding, you
4 know, what kind of questions they have and where it
5 might be best to fit them in.

6 And on that note, if there is anyone else that
7 has any issues with their witnesses. I realize things
8 come up, but we have those nine days scheduled, and in
9 general, we, you know, would hope that you can have your
10 witnesses available on those days, because we just don't
11 know how to plan for when exactly we are going to be at
12 what witness. Sometimes we start off and make pretty
13 good progress and other times it takes us a couple of
14 days to get through two witnesses. So it's just hard to
15 call. But thank you all your letting us know. That
16 will help.

17 **MS. BENNETT:** Commissioner McMurrian, I would
18 note that the testimony of staff Witness Kathy Welch is
19 being adopted by Dale Mailhot, and all of the witnesses
20 have already stipulated that that testimony can go into
21 the record as well as the exhibits that they don't
22 intend to cross-examine. And I believe that Staff
23 Witness Rhonda Hicks may also be stipulated. I have
24 confirmed with most of the parties, but not all of them.

25 **COMMISSIONER McMURRIAN:** Let me ask this, do

1 any of the parties object to Witness Rhonda Hicks'
2 testimony and exhibits being stipulated to the extent
3 that Commissioners don't have questions?

4 **MR. McGLOTHLIN:** No objection.

5 **MR. BUTLER:** No objection for FPL.

6 **MR. WRIGHT:** No objection.

7 **COMMISSIONER McMURRIAN:** Okay, good. Hearing
8 none. And so, Ms. Bennett, you will have someone check
9 with the Commission offices to make sure that with
10 respect to any witnesses that are stipulated that the
11 Commissioners if they have questions the witness would
12 not be excused.

13 **MS. BENNETT:** Yes, Commissioner, I will do
14 that.

15 **COMMISSIONER McMURRIAN:** Okay. And are the
16 parties willing to stipulate any other witnesses at this
17 point? Are there any others that you propose that we
18 might be willing to stipulate? Okay. Hearing none.

19 And also with respect to several of the
20 witnesses we will need a list of issues that each
21 witness will be addressing, and I think that by close of
22 business tomorrow would be reasonable for that. I
23 realize today as we go through these issues that there
24 will be some changes and we may renumber, so that is
25 going to make life a little bit more difficult there and

1 it might take some time. But hopefully by close of
2 business tomorrow we can get that sorted out so that we
3 can get it reflected in the prehearing order accurately.

4 Okay. Anything else? Ms. Bradley, go ahead.

5 **MS. BRADLEY:** If I can go back just a minute
6 since you seem to be through with that section. I
7 apologize for not mentioning it at the time, but the
8 language at the top of -- I guess it's right above
9 Section VI that talks about friendly cross and that type
10 of thing. You can certainly prevent duplicative,
11 repetitious, and leading questions of parties, but I
12 think to say that a party has to show that it's adverse,
13 if they are aligned with a party violates both the Rules
14 of evidence, the Rules of Civil Procedure, and the
15 Florida Administrative Code, so I would certainly object
16 to that. I think we need to keep in compliance with the
17 rules.

18 **COMMISSIONER McMURRIAN:** I'm probably going to
19 need help with this one, Ms. Helton. This is something
20 we have added recently to a lot of our orders
21 establishing procedure, and I guess our prehearing
22 orders, as well, and we have been using in our hearings.
23 I don't believe that you would need to make that -- I
24 don't believe you would have to explain that unless
25 there was an objection to it, but it's my understanding,

1 for instance, if two parties agree completely on their
2 positions on an issue that that would be considered
3 friendly cross. But, Ms. Helton, if you can help me
4 here.

5 **MS. HELTON:** I believe that this language is
6 consistent with the rules that Ms. Bradley referenced.
7 Maybe one thing that she and I can do is off the record
8 have a conversation about it and she can talk to me
9 about her specific concerns, so we don't waste a lot of
10 time here. I think this is consistent with -- some of
11 you all have heard my favorite passage from Judge
12 Padovano's Civil Practice Book. This is a way of
13 streamlining what will be, I think, a very long hearing
14 anyway.

15 I think it is contemplated. I mean, I think
16 it is permissible under Chapter 120 in the rules, but
17 maybe Ms. Bradley and I can have a conversation and we
18 can talk about her specific concerns and see if we can
19 work around those.

20 **MS. BRADLEY:** I will happy to do whatever is
21 helpful. I'm just concerned about the language.

22 **MR. MOYLE:** FIPUG would like to be in that
23 conversation, as well. And we just note, I think
24 obviously you can manage the hearing and move things
25 along. You might want to consider rather than saying

1 shall should as words of encouragement rather than
2 mandate type language.

3 **MS. HELTON:** I would be happy to include Mr.
4 Moyle in that conversation.

5 **MR. ARMSTRONG:** Commissioner, and the City
6 also would like to be involved, because I want to put
7 everybody on notice that if this rule is held against
8 the City, that the City would consider that a violation
9 of due process and would pursue that, as well.

10 **COMMISSIONER McMURRIAN:** Okay. What I was
11 about to suggest before everyone speaks up about how
12 they want to be involved in this is that perhaps Ms.
13 Helton could get with everyone today at the conclusion
14 of this, because this meeting is noticed to all the
15 parties and that way everyone would have the opportunity
16 to be included in that discussion without trying to find
17 time -- I know you all have a lot of depositions
18 scheduled -- without trying to find additional time to
19 get together for that. So maybe if everyone could stick
20 around a little bit longer today and have that
21 discussion with Ms. Helton that would be helpful.

22 Okay. All right. So I guess we are to basic
23 positions. Any changes to basic positions?

24 **MR. McGLOTHLIN:** One slight change for OPC.

25 **COMMISSIONER McMURRIAN:** Okay. I think that

1 is Page 11.

2 **MR. McGLOTHLIN:** Page 12, the very last line
3 of OPC's position. Strike the words "not increase
4 them," and insert the words "by \$355 million." So the
5 sentence should read it should reduce FPL's base rates
6 by \$355 million.

7 **COMMISSIONER McMURRIAN:** Okay. Thank you.
8 Any others?

9 **MR. STEWART:** Commissioner, should I add a
10 basic position at this point, or how should I proceed?

11 **COMMISSIONER McMURRIAN:** Actually, I think so.
12 I believe that the order establishing procedure I
13 believe says that parties need to take a position by the
14 prehearing conference, so I think we need to do that. I
15 think, though, if you were to be able to get something
16 today, I realize that a basic position could be fairly
17 long, and I don't want to put you on the spot to have to
18 read through that today. So I think if you could get
19 something today for, I guess, all of the positions, or
20 if you want to, as we are going through, go ahead and
21 say -- especially if it is something short, go ahead and
22 take note of that today.

23 **MR. STEWART:** I would prefer I could just get
24 it to Ms. Bennett, if that would be okay.

25 **COMMISSIONER McMURRIAN:** That would be fine.

1 **MR. STEWART:** Thank you.

2 **COMMISSIONER McMURRIAN:** And actually that
3 brings up another important point before we get into the
4 other positions. Several parties have taken no position
5 at this time so far, and it's my understanding that if
6 you don't take a position today that that position will
7 be reflected as no position, no longer no position at
8 this time. So as we go through the issues, if you want
9 to change it to either no position, or agree with
10 another party, or something like that, we can take care
11 of that. But to the extent we don't address it, it will
12 be changed to no position, and I believe that is
13 correct, right, Ms. Bennett?

14 **MS. BENNETT:** That is correct.

15 **COMMISSIONER McMURRIAN:** Okay.

16 **MR. WRIGHT:** Commissioner?

17 **COMMISSIONER McMURRIAN:** Yes, Mr. Wright.

18 **MR. WRIGHT:** I have a change in our basic
19 position on Page 17. It seems to be about the ninth
20 line down, right in the middle of the page it says
21 reduce FPL's rates by 364 million. The 364 should be
22 changed to 355.

23 **COMMISSIONER McMURRIAN:** Okay. Thank you.

24 **MR. WRIGHT:** Thank you.

25 **COMMISSIONER McMURRIAN:** Any others?

1 **MS. BENNETT:** Could I ask where that was
2 again, on Page 17?

3 **MR. WRIGHT:** Page 17. It's actually the tenth
4 line on the page, the eighth line of the big paragraph
5 right in the middle of the line. It says it should
6 reduce FPL's rate by 364 million. It should be 355
7 million.

8 **MS. BENNETT:** 355?

9 **MR. WRIGHT:** 355, correct. Are our pages
10 different?

11 **MS. BENNETT:** No, I've got it.

12 **MR. WRIGHT:** Okay.

13 **COMMISSIONER McMURRIAN:** And also I should
14 also add that to the extent that we change the issues
15 somewhat today, and perhaps this revises what I have
16 said to Mr. Stewart, that I think that maybe no later
17 than tomorrow close of business for everyone to get any
18 changes and all that result from that, because I realize
19 there could be some shifting around and such as we go
20 through these issues. But to the extent that you are
21 ready to go ahead and address those today -- and thank
22 you, Mr. McGlothlin, for going ahead and handing yours
23 out -- that's helpful, as well.

24 **MS. BENNETT:** Commissioner McMurrian, when you
25 say close of business, Ms. Bradley and I had a

1 discussion about that, and we agree that close of
2 business should be 5:00 p.m.

3 **COMMISSIONER McMURRIAN:** Even though we will
4 all be here past 5:00 p.m., yes. Okay, thank you.

5 **MS. BRADLEY:** I'm not sure I agreed to that.
6 I was just questioning, because I didn't know whether it
7 is 5:00 or midnight.

8 **COMMISSIONER McMURRIAN:** I think we consider
9 it 5:00 p.m. Okay. And I'll say before we get into the
10 individual issues, the numbered issues, I have reviewed
11 each of the memos filed on the issues proposed and made
12 decisions about the inclusion or exclusion of most of
13 those, and so I will note that as we go through.
14 Perhaps we can even try to renumber them as we go
15 through today so that everyone is on the same page. We
16 will see how well that goes. And if there are issues
17 for which I still need some oral argument, I will
18 indicate that when we get to the issues. So otherwise
19 we will go through them one-by-one. So I realize we
20 will probably be here for a bit.

21 So with that, I think we'll start with Issue
22 1, unless there are any other changes to basic
23 positions. Okay. On Issue 1 I'm going to go with the
24 original wording there. So the italicized language will
25 be stricken. I believe that the language in italics is

1 subsumed in the issue as written in Issue 1, and that
2 parties will have the ability to make the arguments they
3 were intending to make with respect to frankly either of
4 those questions within Issue 1.

5 And with respect to the positions, are there
6 changes? And maybe it's good to go ahead -- with
7 respect to Associated Industries, AFFIRM, and South
8 Florida Hospital Association in particular, I know that
9 a lot of your positions are no positions at this time.
10 Do any of you want to change your positions wholesale to
11 no position?

12 Go ahead, Ms. Perdue.

13 **MS. PERDUE:** On several of the issues, not
14 wholesale throughout the document, but I can tell you
15 the particular numbers, AIF would like to change its
16 position to support the position of FPL.

17 **COMMISSIONER McMURRIAN:** Okay.

18 **MS. PERDUE:** Do you want me to go ahead and
19 just call out the numbers? 1 through 8, 17 through 19,
20 43, 46, 64, 66 through 71, 73, 80 through 82, 99 through
21 106, 120, 130, 131, 136, 137, 139, 142, 172, and 173.
22 And I'll put that in writing to everyone later.

23 **COMMISSIONER McMURRIAN:** Okay. That would be
24 helpful. And, again, we may be changing the numbering,
25 so it is going to make things a little bit more

1 difficult, but I think that that will help for the
2 record and will give us a way to double-check.

3 **MR. MOYLE:** Could I just, I guess, confirm
4 that AIF does not disagree with FPL on any point?

5 **MS. PERDUE:** On the points that I just stated,
6 AIF supports the position of FPL. There are still a lot
7 of positions that we are not taking a specific position
8 on.

9 **MR. MOYLE:** But there is no disagreement at
10 this point?

11 **MS. PERDUE:** Not at this point.

12 **COMMISSIONER McMURRIAN:** Okay.

13 **MR. WISEMAN:** Your Honor, just hopefully to
14 save a little bit of time, I think you can assume that
15 unless we speak up in each instance where we have said
16 no position at this time that we are in agreement that
17 that position should be changed to no position.

18 **COMMISSIONER McMURRIAN:** Okay. Thank you.
19 And I think Ms. Alexander, I believe.

20 **MS. ALEXANDER:** Yes. The same.

21 **COMMISSIONER McMURRIAN:** And you don't have to
22 do it wholesale like this. I am just giving you the
23 opportunity to do that.

24 **MS. ALEXANDER:** I think that we would agree to
25 change from no position at this time to no position on

1 the various issues listed. Thank you.

2 **COMMISSIONER McMURRIAN:** Okay. Unless you so
3 indicate as we go through.

4 **MS. ALEXANDER:** Correct.

5 **COMMISSIONER McMURRIAN:** Okay. Thank you.
6 Any other changes on Issue 1?

7 **MR. ARMSTRONG:** The City would just like to
8 add the word no before our position as stated on Page
9 22.

10 **COMMISSIONER McMURRIAN:** Okay. I think that
11 takes us to Issue 2. Any changes?

12 **MR. ARMSTRONG:** The city would like to change
13 our position to no. Strike what is there and put no.

14 **COMMISSIONER McMURRIAN:** Okay. Got it.
15 Issue 3.

16 **MS. BENNETT:** I have been informed by staff
17 that we need to change the wording of Issue 3 slightly,
18 and add instead of just by rate classes by revenue and
19 rate classes so that the issue would read, "Are FPL's
20 forecasts of customers kilowatt hours and kilowatts by
21 revenue and rate classes for the 2010 projected test
22 year appropriate?"

23 **COMMISSIONER McMURRIAN:** Would anyone like to
24 change their position based on that change?

25 **MR. BUTLER:** FPL would by inserting those same

1 words into its position, so it would be, "Yes, the 2010
2 forecast of customers kilowatt hours and kW by revenue
3 and rate class," et cetera.

4 **MR. ARMSTRONG:** Commissioner, the City would
5 request that in the City's position a period be placed
6 after the words Public Counsel, and that the words "in
7 all respects as to all issues" be stricken. And if I
8 may, that would apply to Issue 3 as well as Issue 5 to
9 73, as well as Issues 79 to 177.

10 **COMMISSIONER McMURRIAN:** Okay. So you said 3,
11 5, 73, and 79 through 177?

12 **MR. ARMSTRONG:** That's right. Five through
13 73, all of those issues.

14 **COMMISSIONER McMURRIAN:** And do you want them
15 to read adopts the position instead of the plural,
16 positions?

17 **MR. ARMSTRONG:** That sounds like an
18 appropriate amendment. Thanks. Thank you.

19 **COMMISSIONER McMURRIAN:** Okay. Any others
20 with respect to 3? And, Mr. McGlothlin, I think this is
21 where your changes pick up, as well, right?

22 **MR. MCGLOTHLIN:** That's correct.

23 **COMMISSIONER McMURRIAN:** Okay. Issue 4,
24 similar to the ruling with respect to Issue 1. We're
25 going to go with the original wording there.

1 Are there changes to any parties' positions?

2 **MR. WISEMAN:** Your Honor, SFHHA doesn't want
3 to change its position, but for clarity would like to
4 add SFHHA supports the position taken by FRF.

5 **MR. BUTLER:** I'm sorry, which page does that
6 show up on, Ken?

7 **MR. WISEMAN:** Page 27.

8 **COMMISSIONER McMURRIAN:** Okay. So supports
9 the position of FRF.

10 **MR. WISEMAN:** Yes.

11 **COMMISSIONER McMURRIAN:** Thank you.

12 **MR. ARMSTRONG:** The City, Commissioner, just
13 would like to insert the word no before our position
14 just stated, so we would like to leave those words, but
15 put no before it.

16 **COMMISSIONER McMURRIAN:** Okay. And that is on
17 Page 26?

18 **MR. ARMSTRONG:** Right.

19 **COMMISSIONER McMURRIAN:** Okay. Any others?
20 Issue 5, any changes? Okay. Issue 6. I think on
21 Friday I discussed with staff striking the phrase
22 "beginning January 1, 2011, and" in this issue just to
23 make it consistent with the other issue there. It
24 doesn't change the meaning, I do not believe. So any
25 other changes on Issue 6? Do you want me to read that

1 again, Mr. Moyle?

2 **MR. MOYLE:** Yes.

3 **COMMISSIONER McMURRIAN:** Okay. After 12
4 months, strike "beginning January 1, 2011, and." So it
5 would just read of the 12 months ending December 31,
6 2011.

7 **MR. MOYLE:** Thank you.

8 **MR. ARMSTRONG:** And the City would like to
9 change its position to no; the one word no.

10 **COMMISSIONER McMURRIAN:** Okay. Any others?
11 Issue 7. Ms. Bennett, do we need to make that same
12 change again?

13 **MS. BENNETT:** Yes, ma'am, we do, revenue and
14 rate classes.

15 **COMMISSIONER McMURRIAN:** And, Mr. Butler.

16 **MR. BUTLER:** I would have the same change to
17 our position.

18 **COMMISSIONER McMURRIAN:** And anyone else?
19 Issue 8.

20 **MS. BENNETT:** Commissioner McMurrrian, we
21 discussed on Friday to be consistent throughout after
22 the word generation base rate adjustment adding the word
23 mechanism in all of these issues.

24 **MR. BUTLER:** Does it follow adjustments or
25 follow the parenthetical GBRA?

1 **MS. BENNETT:** It could follow the
2 parenthetical.

3 **COMMISSIONER McMURRIAN:** And I think with
4 respect to all the other issues that have the GBRA
5 mentioned, I believe staff is suggesting to insert the
6 word mechanism. And then I had one other question as I
7 was looking over this yesterday. On the third line of
8 that issue with new generating addition, should that be
9 additions, or should it be singular?

10 **MR. BUTLER:** I think it should be plural, and
11 it is just referring conceptually to the application of
12 it.

13 **COMMISSIONER McMURRIAN:** Okay. So there will
14 be two changes to that issue, it's my understanding, to
15 add the words mechanism after GBRA in parentheses and
16 then add an "s" on the word additions in the third line.

17 Any other changes to Issue 8, positions?
18 Hearing none.

19 Issue 9. Staff is suggesting inserting the
20 word mechanism after GBRA here, as well.

21 **MR. MOYLE:** Can I just make sure I am on the
22 same page? You're going through these positions to the
23 extent we have a change today and can give it, you are
24 accepting it, but to the extent that we need to get it
25 to staff we have until 5:00 tomorrow to do that, right?

1 **COMMISSIONER McMURRIAN:** Yes. And I hope that
2 with respect to changes, I realize we are going to be
3 making some changes to the issues and all, but to the
4 extent that we have some of these issues that have been
5 issues already, I am hoping that we already have your
6 positions on those and that what we are getting to staff
7 will be -- Mr. Stewart, I realize he has got to give
8 positions goes on all of them, but with respect to the
9 other parties, hopefully not all of the positions.

10 **MS. BENNETT:** That was my understanding was
11 that the parties have provided positions and this is
12 their opportunity to make any changes, and the 5:00
13 o'clock tomorrow was for all the issues that you add
14 today you would be asking for new positions by 5:00, and
15 then Mr. Stewart's positions also by 5:00 tomorrow.

16 **CHAIRMAN CARTER:** And to the extent there are
17 any excluded and you have positions on some of those
18 that you need to readjust those under the issue that
19 they may be subsumed under, that sort of thing. So we
20 will make accommodations for those.

21 So, Mr. Moyle, do you have changes you wanted
22 to make to that issue?

23 **MR. MOYLE:** Well, I think the only thing I
24 want to think about a little bit and talk with counsel
25 is on the GBRA issue. FIPUG may amend its position to

1 state that, "This matter is not appropriate in this rate
2 case, but should be handled in a separate docket or rule
3 proceeding."

4 **COMMISSIONER McMURRIAN:** Okay.

5 **MS. BENNETT:** I'm a little confused. Did
6 FIPUG just change their position or are they still
7 thinking about changing their position?

8 **MR. MOYLE:** I'm sorry, if that was -- why
9 don't we just put that in at the end of the sentence.
10 We will keep the existing position, but that one
11 additional sentence would go in.

12 **MS. BENNETT:** So on Issue 9, FIPUG is
13 saying --

14 **MR. MOYLE:** No, I'm sorry, it's on the GBRA
15 issue, Issue 8. So after documentation at the
16 appropriate time, period, the sentence should say this
17 matter is not appropriate for this rate case, but should
18 be handled in a separate docket or as a rule.

19 **MS. BENNETT:** On Issue 8, I have your last few
20 words as factors that affect rates, and then you want to
21 add after that this matter, is that appropriate?

22 **MR. MOYLE:** Right.

23 **COMMISSIONER McMURRIAN:** So do you have the
24 sentence, Ms. Bennett, because I didn't get that one?
25 Do you have what you need?

1 **MS. BENNETT:** This matter is not appropriate
2 for consideration in this proceeding and should be
3 considered in a generic docket.

4 **MR. MOYLE:** Or in a rule. I guess rulemaking
5 proceeding.

6 **COMMISSIONER McMURRIAN:** Okay. Any other
7 changes to, I guess, Issue 8 or Issue 9?

8 **MR. WISEMAN:** Yes, Your Honor. On Issue 9,
9 for SFHHA we would say SFHHA supports OPC's position.

10 **COMMISSIONER McMURRIAN:** Okay. Thank you.

11 Issue 10 is left blank. Ms. Bennett, this is
12 the first issue that we will have skipped over, right?
13 So Issue 11 should become Number 10 when we renumber.

14 **MS. BENNETT:** Yes. And FPL has expressed some
15 concern about how that is going to affect -- so I
16 thought I would take some opportunity with the parties
17 to discuss that and talk with you.

18 **COMMISSIONER McMURRIAN:** Okay. No one seems
19 to want to renumber. Okay.

20 **MR. WRIGHT:** Madam Commissioner, once again,
21 Mr. Butler and I are in agreement. We think that far
22 more confusion than efficiency would result from
23 attempting to renumber 180 issues at this time.

24 **COMMISSIONER McMURRIAN:** Okay.

25 **MR. WRIGHT:** It's your decision, but that's

1 what I think.

2 **COMMISSIONER McMURRIAN:** Now, would it work to
3 renumber them -- to keep all the same numbers through
4 your input through close of business tomorrow and then
5 the Commission staff work through renumbering it, or do
6 you think they need to remain the same numbers
7 throughout the proceeding? Is that easier?

8 **MR. BUTLER:** I think it would -- personally
9 think it would be best just to stick with the numbers
10 throughout the proceeding. If it seems awkward to have
11 the gaps and whatnot, then I guess second choice would
12 be renumbering with some sort of concordance table that
13 shows, you know, what had been and what --

14 **COMMISSIONER McMURRIAN:** Okay. Scratch
15 renumbering. We don't have time to do any more
16 concordance tables, I don't believe. Thank you.

17 So Issue 11; I'm going to add the word
18 mechanism in after GBRA. Any other changes? Thank you.

19 Issue 12. Here again, add in the word
20 mechanism after GBRA in the first line and delete the
21 second question mark at the end of the issue.

22 **MR. BUTLER:** We thought that was for emphasis.

23 **COMMISSIONER McMURRIAN:** I thought it was,
24 too, but I think we are going to delete it. Okay. Any
25 other changes to 12?

1 Issue 13. I think here we talked about making
2 a little bit of change just to make it read similar to
3 the others. You notice on all the other issues up to
4 now it says if the Commission approves a GBRA mechanism
5 for FPL, so I think we could make it consistent here.
6 So strike determines it appropriate to adopt the use of,
7 and make it read, if the Commission approves a GBRA
8 mechanism, and insert for FPL before the comma, how
9 should FPL be required to implement the GBRA. So did
10 everyone get that? Okay. Any changes to 13? Hearing
11 none.

12 With respect to Issue 14. Jurisdictional
13 separation, Issue 15.

14 **MR. BUTLER:** I'm sorry, Commissioner, before
15 you leave 14, it looks like a minor point, but
16 mechanisms is plural in there. Should it just be GBRA
17 mechanism at the beginning of the second line?

18 **MS. BENNETT:** I think so. We discussed this a
19 little bit, and I think it should be mechanism.

20 **COMMISSIONER McMURRIAN:** All right. Anything
21 else on 14? Okay. Issue 15.

22 **MR. BUTLER:** Commissioner, on Issue 15,
23 because of some rebuttal testimony FPL has filed
24 changing its position on the jurisdictional separation,
25 and then I think the changes that Mr. McGlothlin had

1 identified earlier, this may be an issue that can be
2 stipulated. I just wanted to raise it for that
3 possibility.

4 **MR. MCGLOTHLIN:** I think that is a
5 possibility.

6 **COMMISSIONER McMURRIAN:** Thank you.

7 **MR. MCGLOTHLIN:** I think we may need to have
8 some sort of follow-through conversation to confirm that
9 is the case, but I think that is the result.

10 **COMMISSIONER McMURRIAN:** Okay. Thank you. I
11 guess I should ask the other parties if they agree with
12 that.

13 Mr. Wright.

14 **MR. WRIGHT:** It appears likely to me. I look
15 forward to the conversation, but it appears likely that
16 we can stipulate this.

17 **COMMISSIONER McMURRIAN:** Okay. Mr. Wiseman.

18 **MR. WISEMAN:** The same, Your Honor. It looks
19 fine.

20 **COMMISSIONER McMURRIAN:** Okay. Ms. Perdue.

21 **MS. PERDUE:** We don't have a position on this
22 issue.

23 **COMMISSIONER McMURRIAN:** Okay. Mr. Moyle.

24 **MR. MOYLE:** We will probably follow OPC's lead
25 on this and see what the conversation leads to.

1 **COMMISSIONER McMURRIAN:** Okay. Mr. Armstrong.

2 **MR. ARMSTRONG:** The City would follow OPC's
3 lead, as well.

4 **COMMISSIONER McMURRIAN:** Ms. Alexander.

5 **MS. ALEXANDER:** AFFIRM doesn't have a
6 position.

7 **COMMISSIONER McMURRIAN:** Okay. And, Ms.
8 Bradley.

9 **MS. BRADLEY:** We would support OPC's position
10 after the conversation.

11 **COMMISSIONER McMURRIAN:** Okay. So with
12 respect to these that are identified for possible
13 stipulation, they will be perhaps moved to another place
14 in the prehearing order, is that right?

15 **MS. BENNETT:** That is correct, but I do need
16 to speak with Ms. Kummer about these two.

17 **COMMISSIONER McMURRIAN:** Okay.

18 **MS. BENNETT:** And I understand that there will
19 be some changes in positions from FPL as well as what we
20 have received from OPC that would then appear as a
21 stipulation.

22 **COMMISSIONER McMURRIAN:** Okay. That brings us
23 to 16.

24 **MS. BENNETT:** FPL is likewise not aware of any
25 dispute that would remain on 16. We think there is a

1 potential for stipulating it for the same reasons.

2 **COMMISSIONER McMURRIAN:** Okay. And maybe
3 rather than going through the whole line, is there
4 anyone who believes they might have an objection to
5 identifying that for a possible stipulation? Hearing
6 none.

7 **MS. BENNETT:** We want to check with Ms.
8 Kummer.

9 **COMMISSIONER McMURRIAN:** I understand. Okay.
10 All right. Moving to the quality of service issue,
11 Number 17. Any changes?

12 **MR. BUTLER:** Commissioner, at this point there
13 isn't anything on 17 identifying disagreement with FPL's
14 position. I don't know whether the other parties intend
15 to adopt changes or not, but if they don't, I think this
16 is potentially subject to stipulation.

17 **COMMISSIONER McMURRIAN:** Ms. Bradley.

18 **MS. BRADLEY:** Unfortunately, as we had
19 indicated there were a number of consumers who
20 testified. Although some were very complimentary, there
21 were others that testified about lapses in service and
22 various other problems. So I'll be happy to look at it,
23 but at this time we do have some consumers that have
24 indicated they are not happy with the service.

25 **MS. BENNETT:** And, Commissioner McMurrian,

1 staff is not comfortable at this point with stipulating
2 this issue.

3 **COMMISSIONER McMURRIAN:** Okay. I believe that
4 brings us to the depreciation issues. And as I
5 mentioned earlier, I looked at all the memos on the
6 issues and took these into account, and staff has a
7 handout that I think will help us. And I think you have
8 seen many of these before. I think these are some of
9 the same issues and all that were discussed at your
10 Issue ID conferences, I believe.

11 Ms. Bennett, I'm going to need some help.
12 With us not renumbering, how we are going to deal with
13 this? This is why we had these numbered with letters so
14 that at least we could discuss them without trying to
15 track them back to the prehearing order.

16 **MS. BENNETT:** At the next break I will work
17 with the numbering and with Pat Lee, and I think what we
18 can do is if these are replacing certain issues, call
19 them, for instance, 18A, 19A, or B, so that we're not
20 renumbering, we are just adding some alternate numbers.

21 **COMMISSIONER McMURRIAN:** Okay. Maybe that
22 works. And we will still go through the issues in the
23 prehearing order just to talk a little bit about them
24 and where we believe the issues in the prehearing order
25 are subsumed in this handout. So hopefully that will

1 be helpful.

2 With respect to Issue 18, on Friday I
3 discussed with staff whether we even need this issue.
4 It strikes me that a question about should they be
5 revised when you have other questions that speak to what
6 the revisions are isn't necessarily helpful. So in my
7 mind we didn't really need Issue 18. And staff also
8 pointed out that it seemed that there was agreement that
9 they should be revised. So I'm proposing that we no
10 longer need Issue 18 as worded.

11 With respect to Issue 19, on Page 41 of the
12 prehearing order that goes to depreciation rates,
13 capital recovery schedules, and amortization schedules,
14 we believe that depreciation rates would be captured in
15 letters C and D under the proposed issues that staff has
16 passed out, because it breaks depreciation rates into
17 separate issues for production units, and then for
18 transmission, distribution, and general plant accounts.
19 So there would essentially be two issues with respect to
20 depreciation rates broken out that way. And capital
21 recovery schedules would be subsumed within Issue A on
22 the handout under depreciation.

23 Ms. Lee, with respect to amortization
24 schedules, which issue is that subsumed within? I'm
25 just trying to make sure we don't leave anything out.

1 **MS. LEE:** Right. It would be in C and D.

2 **COMMISSIONER McMURRIAN:** C and D. Okay. With
3 respect to Issue 20, of course that was left blank.

4 Issue 21. We are now on Page 42. With
5 respect to Issue 21, it is my understanding that that
6 issue would be subsumed in staff's proposed Issue A,
7 capital recovery.

8 With respect to Issue 22, the lifespans for
9 the coal plants, I believe that would be subsumed within
10 C for production units. Right, Ms. Lee?

11 **MS. LEE:** Right.

12 **MR. MOYLE:** Can I be heard on that just
13 briefly?

14 **COMMISSIONER McMURRIAN:** Sure.

15 **MR. MOYLE:** And I don't want to travel back
16 down this road, but I just want to make sure that we are
17 clear and the record is clear with respect to FIPUG's
18 position. I think there's a dispute of issue as it
19 relates to the appropriate lifespan of coal plants and
20 how that should be handled.

21 **COMMISSIONER McMURRIAN:** Right.

22 **MR. MOYLE:** FPL says X, FIPUG says Y. You
23 know, it's framed up -- I guess we are most interested
24 on a decision by this Commission to say we heard
25 evidence on this, it is disputed. One party says X, one

1 says Y, and we want to assure that there is going to be
2 a finding, a factual finding on that point. And one of
3 the concerns with subsuming issues up is that they tend
4 to sometimes get lost and those disputed issues of fact
5 don't get decided X or Y.

6 **COMMISSIONER McMURRIAN:** I understand, Mr.
7 Moyle. And I did read carefully all the parties'
8 comments. OPC had a lot of input on the depreciation
9 issues in particular and so did FIPUG. And it's my
10 belief that this is a good way to handle that. It
11 should -- and we had a long discussion, actually, on
12 Friday about how to make sure that when parties take
13 positions on issues and the issues concern several
14 different inputs, that it's my belief that staff's
15 recommendation should clearly indicate all the parties
16 positions and what their analysis is on those positions
17 so that the Commissioners are firmly aware of where all
18 the parties stand on those piece-parts. And that
19 perhaps the presentation of that is particularly
20 important, but I don't find it necessary for the
21 Commission to vote on each one of those piece-parts.

22 **MR. MOYLE:** So are you indicating that --
23 let's use the coal plants for an example -- that within
24 an issue, whether it is subsumed or not, that there will
25 be a discussion that goes along the lines FPL says X,

1 FIPUG says Y. After hearing the evidence on this
2 disputed point, we believe that it's X or Y. In effect,
3 a finding on a disputed issue of fact, whether it is set
4 out separately or within another issue, but that
5 dialogue, that finding will be forthcoming in the final
6 determination. Is that the anticipation?

7 **COMMISSIONER McMURRIAN:** Absolutely. That's
8 my understanding that to the extent that a lot of these
9 issues encompass several -- for instance, the one on
10 production units would include your proposed issue about
11 combined cycle plants and coal plants. And to the
12 extent that you raise concerns with respect to the
13 lifespans that FPL has used for those that that should
14 be discussed in the staff recommendation and would be
15 considered by the Commission.

16 And the vote -- whether or not all of those
17 are delineated in the recommendation paragraph itself,
18 there might be schedules and things, but to the extent
19 that the Commission's vote would be voting on those
20 disputed piece-parts. I mean, I think it's similar to
21 how we do all of our cases really.

22 I will say, and I think you all have heard me
23 ask at some hearings, there have been times when I have
24 believed that parties' positions have been delineated in
25 their position statements, and perhaps the staff

1 analysis has not quite covered each and every position
2 that you all have taken. And I have asked about that a
3 few times, you have probably noticed, and we had a lot
4 of discussion about that the other day. And it is my
5 hope that staff is going to be diligent and make sure
6 that they address all of those things. And to the
7 extent they don't, it is our job to be diligent and ask
8 and make sure we are clear about where all the parties
9 are and in making our decision that we have all the
10 input that we need.

11 **MR. MOYLE:** And I appreciate that. I mean,
12 obviously on issues that carry a lot of dollars with
13 them, like the depreciation, FIPUG's preference and
14 request would be that they be delineated separately so
15 that we are assured a clear decision on that. It
16 doesn't sound like I have a choice in that matter, so I
17 would just reiterate to ask, which is that those issues
18 be discussed, because candidly we are not -- when the
19 staff recommendation comes out, if it's not in there we
20 don't have an opportunity, you know, to address you at
21 that point, and say, hey, wait a minute, the coal
22 depreciation issue is not addressed. I mean, we are
23 foreclosed from raising that point subsequently. So,
24 anyway, thanks for letting me discuss the matter.

25 **COMMISSIONER McMURRIAN:** I understand. And,

1 of course, if there is something that the Commission
2 failed to consider or overlooked, then I think you have
3 options there available to you, as well. But I have
4 heard what everyone said. I do sympathize with it
5 somewhat. I feel like that the proposal that staff put
6 together is a fair compromise to try to make sure that
7 there is some better understanding of where certain
8 disputed issues go, realizing there are a lot of
9 disputed issues with respect to depreciation in this
10 case perhaps differently than some of the past
11 depreciation cases, and so I believe that we have tried
12 to do it in a way that will work for everyone, and
13 that's our intent.

14 **MR. MOYLE:** I appreciate that. And just so it
15 is clear for the record, FIPUG would contend that those
16 discreet issues are separate issues on which there are
17 disputed facts and that they should be decided
18 separately and would ask that they be so and object to
19 subsuming them up into larger issues.

20 **COMMISSIONER McMURRIAN:** Okay. That's fair.

21 **MR. ARMSTRONG:** The City would like to
22 preserve our argument. It's FIPUG's argument; it's
23 OPC's argument. You know, if you have ever taken these
24 cases to an appeal, it is extremely important to have
25 that segregated issue out so that we cannot face the

1 utility suggesting that, well, that was subsumed within
2 a number of issues and you can't -- the record isn't
3 clear as to what happened where.

4 I think it is, again, a due process violation
5 not to separately identify these issues so that we can
6 take individual specific items up for appeal. It is a
7 pure legal issue. It is one that I want to preserve on
8 behalf of the city. You know, we fully expect if we are
9 going to have any projected test year we are going to be
10 appealing, and I think it's violating my client's due
11 process rights when we try and roll these things up.
12 Because from experience I can tell you it is extremely
13 (inaudible) to do that and preserve our basis to make
14 appropriate arguments on appeal. I think you are really
15 damaging our constitutional right to due process when
16 you make that decision. So I want to make sure that is
17 clear on the record. I think it's the wrong way for the
18 Commission to go in terms of protecting the due process
19 rights of intervenors.

20 **COMMISSIONER McMURRIAN:** I think it is clear,
21 and it is perfectly within your rights to preserve that,
22 and I apologize that you feel that way.

23 **MR. ARMSTRONG:** No, no, you don't need to
24 apologize, Commissioner. You know, it's a little issue.
25 I just want to make sure -- if I don't make it clear

1 here, it's tougher to do on appeal. Thank you.

2 **COMMISSIONER McMURRIAN:** No, that's fine. And
3 if anyone else needs to do that with respect to any of
4 issues, we will definitely take the time for you to do
5 that. So are there any others?

6 **MR. MOYLE:** And just so the record is clear,
7 we are not going to burden the records with objections
8 each time. We would just make the objection that we
9 made with respect to all the issues that FIPUG
10 delineated that we think they are warranted as separate
11 and disputed issues of material fact. But I want that
12 clear for the record, which I think it is, but I'm not
13 going to go through each time and rearticulate it. We
14 would just have it be a standing objection.

15 **COMMISSIONER McMURRIAN:** Okay.

16 **MR. ARMSTRONG:** I want to preserve our -- I
17 agree. I appreciate Mr. Moyle saying that. I also
18 won't continue to make it. It applies to every one of
19 these issues if we are not going with the specific
20 items, okay?

21 **COMMISSIONER McMURRIAN:** Okay.

22 **MR. ARMSTRONG:** Thank you.

23 **COMMISSIONER McMURRIAN:** That's understood,
24 and I think that is clear. Do we need to do it each
25 time, Ms. Bennett, or is that sufficient?

1 **MS. BENNETT:** I think the way Mr. Moyle has
2 preserved his issues is certainly appropriate.

3 **COMMISSIONER McMURRIAN:** Okay.

4 **MR. WRIGHT:** Commissioner, I agree with what
5 the other consumers counsel and would accordingly
6 reserve our rights and post our objection, as well.
7 Just so I'm clear procedurally, it's your understanding
8 that the Commission would ultimately vote on one issue
9 that might have a supporting schedule, but it would be
10 one issue on the production plant, the generation plant.

11 **COMMISSIONER McMURRIAN:** Yes. So to the
12 extent that you wanted to address coal plants, combined
13 cycle plants, all of those would be in that proposed
14 Issue C.

15 **MR. WRIGHT:** Okay. I want to flag this
16 procedurally, because it may come up at the end of this
17 conference. As we all know, and I don't know what
18 everybody is going to do, but all parties have the
19 rights to propose specific findings of fact. That is,
20 you know, black letter law under the APA. And some of
21 us may decide we want a proposed finding of fact on coal
22 plants. We might even want it on specific coal plants,
23 on combined cycle plants, on Transmission Account 350.2,
24 whatever it is. And I just flag that at this point
25 because we are entitled to propose specific findings of

1 fact and the Commission is required to vote on those
2 individually. And the reason I'm applying it now is
3 just simply procedurally that if that is how this is
4 going to go, and it is, that is your decision, and it is
5 fine, we may be asking for additional pages for the
6 brief to accommodate proposed findings of fact.

7 **COMMISSIONER McMURRIAN:** And I definitely
8 think that that would be appropriate to discuss at that
9 time. And some of you remember a case where we had
10 similar issues where we included a lot of pieces within
11 one issue, and I did something similar there where we
12 included several more words for the positions, and also
13 a longer number of pages to accommodate that.

14 **MR. MENDIOLA:** Your Honor, two points. First
15 of all, as a matter of legal issue, SFHHA objects to any
16 issue on which it has stated a position which is not
17 specifically adopted by the Commission and is subsumed
18 into another issue.

19 The second point is just as a matter of trying
20 to be helpful, I wonder if as a way to keep us all
21 reminded of the specific issues subsumed within C, it
22 would be wise to consider adding words along the lines
23 of at the end of this, including specifically the
24 following categories of production plant, coal-fired,
25 large steam, combined cycle?

1 **MS. BENNETT:** Give me just a minute. I'm
2 going to ask staff.

3 **MR. MENDIOLA:** Sure.

4 **MS. BENNETT:** Ms. Lee was reminding me that
5 are more than just those type of plants, and one of
6 staff's concerns that we have expressed over again is
7 that by delineating an issue so narrowly are we
8 precluding staff from reviewing the entire application
9 of FPL. And we want to make sure that we are fully
10 protecting staff's ability and the Commission's ability
11 to look at the entire record.

12 **MR. MENDIOLA:** And I think my suggestion
13 wouldn't be to limit that at all, and we could address
14 that by saying including but not limited to the
15 following categories. The idea is simply to put in
16 front of everyone that we are seeking specific findings
17 with respect to these categories of production plant.

18 **COMMISSIONER McMURRIAN:** Thank you. Actually,
19 it's probably a good time for a break, because I want to
20 think about this a little bit more. So let's take a
21 ten-minute break.

22 **MR. BUTLER:** Commissioners, before we go on
23 break, could the Hospital Association just read again
24 exactly what the wording would that be that you are
25 proposing?

1 **MR. MENDIOLA:** I would suggest that on
2 proposed Issue Number C, the letter C, after and
3 resulting rates for each production unit, something
4 along the lines of, comma, including but not limited to,
5 the specific -- including but not limited to the
6 following categories of production plant: Coal-fired
7 production units; large steam oil or gas-fired
8 generating facilities; and combined cycle generating
9 facilities.

10 **COMMISSIONER McMURRIAN:** Okay. Thank you. So
11 we will go on a --

12 **MS. PERDUE:** Commissioner, I'm sorry. One
13 other thing. At the time of appearances, I failed to
14 introduce co-counsel for Associated Industries of
15 Florida, Mary Smallwood. And due to some travel that I
16 had preplanned after the break she will be taking over
17 for AIF.

18 **COMMISSIONER McMURRIAN:** Okay, thank you.

19 **MS. BRADLEY:** Commissioner?

20 **COMMISSIONER McMURRIAN:** Yes.

21 **MS. BRADLEY:** Just to finish off this issue,
22 we would also support detailed issues so that there is
23 no confusion about what's being included. We have had
24 problems with that in recent hearings, and would like
25 for all the parties to know exactly what issues are

1 being dealt with in a particular issue. So we would
2 request as detailed as possible.

3 **COMMISSIONER McMURRIAN:** Thank you, Ms.
4 Bradley. With that, anyone else before we take a break?
5 Okay. We will go on a ten-recess.

6 (Recess.)

7 **COMMISSIONER McMURRIAN:** I think we are about
8 ready to get started again.

9 **MR. McGLOTHLIN:** Commissioner, before you move
10 to the next area, OPC would like to state a position on
11 the record with respect to the depreciation area. First
12 of all, I want to acknowledge that the list that was
13 handed out, in my estimation, reflects some movement and
14 is an improvement over the staff's original position.

15 As a matter of fact, I had planned to suggest
16 during the conversation today that there be a single
17 issue on the question of what to do with reserve and
18 balances as reflected on this issue. I think
19 hand-in-hand with that would go with some enlargement of
20 the number of words for the position statement. My
21 thought was that that would be one way of handling that
22 particular item.

23 But with respect to the way C and D are
24 formulated, respectfully, OPC takes issue with that.
25 Our witness addressed a couple of dozen different

1 accounts and with respect to a specific proposed by FPL
2 he disputed the appropriateness of that and supplied his
3 own alternative and the reasons for the alternative, and
4 each of those resulted in an impact on depreciation
5 expense ranging from several hundreds of thousands of
6 dollars to millions and sometimes tens of millions of
7 dollars. And it's our belief that those individual and
8 discreet items should be the subject of individual votes
9 by the Commission.

10 Our concern is that the way those things are
11 rolled up into C and D where the Commission is going to
12 be voting on remaining life as opposed to such things as
13 lifespans or average service lives puts the Commission
14 one step removed from where the dispute takes place.
15 And for that reason, we do take exception to this extent
16 of this subsuming exercise. We don't think that is
17 progress. We think that is less than the amount of
18 detail that is warranted by the significant issues.

19 **COMMISSIONER McMURRIAN:** Thank you for saying
20 that, Mr. McGlothlin, and I appreciate your concern
21 there. I think we can definitely talk about having a
22 much longer word requirement on these things. It is
23 obvious to everyone, I think, that there is a lot of
24 disputed parts within some of these issues, and perhaps
25 it might be helpful to have Ms. Lee speak to her

1 understanding of how C and D can work, and how it
2 subsumes these issues with respect to the issues you
3 have raised about lifespan and what it is that we see
4 the Commission would be voting on with respect to these
5 issues, just so we are all on the same page.

6 **MS. LEE:** The way I see it is that there will
7 be a discussion on the very first building block, which
8 is the lifespan. That will consider OPC's arguments, it
9 will consider FIPUG's arguments, and anybody else's for
10 that fact as to what the appropriate lifespan will be or
11 should be in the determination of remaining life.
12 Because what the Commission will be ultimately deciding
13 in my mind is what is the appropriate remaining life
14 rates. That is what our rules call for.

15 The remaining life is an end result of the
16 lifespan and interim retirement rates or whatever, but
17 each grouping or each -- the lifespan will be discussed
18 all by itself with the pros and cons and with the
19 arguments of each party set forth. And then there will
20 be a recommendation, or perhaps not even a
21 recommendation, but something to the effect of we think
22 that the lifespan you should use is this. And then you
23 go to the next building block, and the next building
24 block until the ultimate is the recommendation, or the
25 recommended remaining life, or recommended net salvage

1 value, or recommended reserve position, recommended
2 depreciation rate. But all of those things will be
3 fully discussed in the recommendation as well as every
4 account of transmission distribution in general.

5 **COMMISSIONER McMURRIAN:** And it might also
6 be -- just to add to that, it might be helpful to,
7 similar to how we have done some issues in the past that
8 subsume smaller parts, and I know we had this discussion
9 back, I think, with the first Progress refund case and
10 the coal. And we talked about how in water we make a
11 decision on the quality of service, but that includes
12 three factors essentially that we take into account.
13 But we don't vote on each of those three factors with
14 respect to the operating conditions of the plant and
15 customer satisfaction and those things.

16 The Commission doesn't vote on each of those
17 piece-parts, but those piece-parts are all considered,
18 and there are, you know, subheadings usually in the
19 recommendations where it's clear that we have taken all
20 of those things into account in determining whether or
21 not the quality of service is considered satisfactory.
22 And I see something similar here, but to the extent that
23 you have raised issues with respect to the lifespans,
24 you could use subheadings and things like that to help,
25 and then, of course, the other parties' arguments could

1 be analyzed that same way. So I think it will be clear
2 and it should be clear in the recommendation that the
3 points that you have raised that are in dispute will be
4 discussed in the staff analysis and that it will be
5 subsumed in what the Commission considers in making the
6 ultimate vote on that issue.

7 **MR. McGLOTHLIN:** And with respect, that is the
8 rub, because it appears to me that the area of
9 depreciation is more similar to, for instance, rate base
10 than to the case to which you alluded a moment ago. And
11 where there is rate base there are individual
12 adjustments and calculations and after each of those
13 have been voted on there is a fallout issue in light of
14 what has gone on before, what is the rate base.

15 I see that as analogous to what the
16 depreciation area could and should be, because with
17 respect to each account there is going to be a contest
18 between FPL and the intervenors with respect to the
19 appropriate value for service life, for salvage value,
20 for cost removal, and each of those becomes a part of
21 the calculation. And in terms of building blocks, those
22 votes should be the building blocks that result in the
23 ultimate question in view of these earlier decisions
24 what are the appropriate depreciation rates. And my
25 concern, and I have listened to Pat very closely, my

1 concern is that as I understand it under this approach
2 the Commission would be voting on the fallout issue, but
3 not voting on the individual components that would lead
4 up to the fallout issue. And my concern is that some of
5 the detailed considerations might get lost in that
6 process.

7 I don't want to belabor it any farther. I
8 want to thank you for the opportunity to lay that on the
9 record. I wanted to be very clear about what our
10 position is and what our concern is.

11 **COMMISSIONER McMURRIAN:** Thank you, Mr.
12 McGlothlin.

13 And before we had the break, we were talking
14 about how best to word that issue to make sure it was
15 clear that we are talking about the different types of
16 production units, and I think we were looking at wording
17 similar to including, but not limited to, and then
18 essentially a list.

19 And I was talking to the staff, and it seems
20 to me that we could make it a little bit simpler and
21 just say including, but not limited to, and not
22 necessarily word it exactly as you proposed here. Maybe
23 just say including, but not limited to coal, steam,
24 combined cycle, et cetera.

25 **MR. MENDIOLA:** And that is fine, Your Honor,

1 from our perspective. Again, our goal is to be helpful
2 without waiving our legal statement earlier. Thank you.

3 **COMMISSIONER McMURRIAN:** Okay. And that was
4 our intent that you would be able to address those
5 issues within that, but I don't think it hurts to put
6 that in parenthesis at the end of that issue, as well.
7 So, did everyone get that or do I need to read that
8 again?

9 **MR. BUTLER:** Could you read it again, please.
10 I'm sorry.

11 **COMMISSIONER McMURRIAN:** Including, but not
12 limited to, and this will be in parentheses before the
13 question mark. Including, but not limited to coal,
14 steam, combined cycle, et cetera, close parenthesis.
15 And I think the steam should include oil or gas
16 essentially without having to line item that. It could
17 include other plants, like nuclear, for instance, with
18 the et cetera and the not limited to. So I think this
19 preserves where any party might want to go with respect
20 to the production units. But, if not, let me know.

21 **MR. BUTLER:** Commission, the only ambiguity --
22 we like the approach, but I believe in the FERC account
23 system that coal is in steam. Should it be oil and
24 gas-fired steam or something like that, or coal-fired
25 and oil and gas-fired? I just want to be sure that I

1 know what you are distinguishing.

2 **MS. BENNETT:** I think we could -- I don't want
3 the parties to take away that we are distinguishing
4 these particular and excluding everybody else. So
5 that's my hesitation, but I think you could do coal, oil
6 and gas-fired steam.

7 **COMMISSIONER McMURRIAN:** I think we will let
8 you all -- Mr. Butler, we will let you all and the other
9 parties just interpret how you are going to deal with
10 that.

11 **MR. BUTLER:** All right.

12 **COMMISSIONER McMURRIAN:** If you want to break
13 it down, and then as long as we have the information
14 that we need, then the staff can deal with that with
15 respect to their recommendation and how to break those
16 out for presentation purposes. But I think we will just
17 try not to skin that cat.

18 **MR. WRIGHT:** Madam Chair.

19 **COMMISSIONER McMURRIAN:** Mr. Wright.

20 **MR. WRIGHT:** Thank you. Just so I am clear,
21 that sounds like a step in the right direction, and it
22 is consistent with the way the issue is phrased as
23 written by staff for each production unit. But am I
24 correct to understand that it is still your
25 contemplation that the Commission would vote on one

1 issue rather than vote on for coal steam, for gas/oil
2 steam, for combined cycle, one issue as opposed to even
3 major category issues?

4 **COMMISSIONER McMURRIAN:** That is my
5 preference. And that is not to say, of course, that
6 Commissioners couldn't pull out, depending on the
7 presentation, and that staff couldn't. Anyway, I think
8 that there is flexibility there to have the decision
9 reflect, you know, differences of opinion on each of
10 those issues. But, yes, a vote on one issue is what I
11 was contemplating.

12 **MR. WRIGHT:** All right. Thanks. Again, we
13 don't agree with that and we may have to address it
14 through proposed findings of fact by category or
15 whatever. I just wanted to understand. Thank you.

16 **COMMISSIONER McMURRIAN:** And at the risk of
17 making Ms. Helton stay here all day, that may be a good
18 thing to also discuss with her when you all are talking
19 about friendly cross.

20 Okay. So what number are we on? Number 23 we
21 said would be subsumed within Issue C, I believe. Issue
22 24, what are the appropriate depreciation rates as
23 proposed by the City of South Daytona. I believe that
24 would be subsumed within C and D as we talked about
25 earlier.

1 Issue 25, lifespans of production plant would
2 be subsumed within Issue C as we have just discussed.

3 Issue 26 on Page 46, the remaining life of the
4 production units. Ms. Lee, help me here. Is that B, or
5 C, or both?

6 **MS. LEE:** That is C. Oh, I'm sorry, I didn't
7 read the issue carefully enough. Issue 26 is B.

8 **COMMISSIONER McMURRIAN:** Okay. With respect
9 to Issue 27, that is subsumed within Issue C.

10 Issue 27A, remaining life, again, would be
11 subsumed in Issue B.

12 Issue 28, net salvage, interim retirements,
13 generating stations, that would be under the production
14 units, Issue C, right?

15 **MS. LEE:** No, Commissioner. Issue 28
16 addresses final termination of generating, which is
17 fossil dismantlement.

18 **COMMISSIONER McMURRIAN:** Okay, thank you. So
19 that would be -- which issue would that be? Wouldn't
20 that be C?

21 **MR. BUTLER:** My 28 talks about interim
22 retirement.

23 **MS. LEE:** I apologize, Commissioner, again, I
24 didn't read this carefully. It is prior to the final
25 retirement, so this is interim net salvage, which would

1 be part of C.

2 COMMISSIONER McMURRIAN: Okay. Issue 29.

3 MS. LEE: Issue 29 is the terminal net
4 salvage, which is part of fossil dismantlement, which I
5 believe is Issue 42.

6 COMMISSIONER McMURRIAN: And on the sheet that
7 you have handed out is it under the dismantlement on the
8 bottom, what is the appropriate annual provision for
9 dismantlement?

10 MS. LEE: Correct, that is C.

11 COMMISSIONER McMURRIAN: Okay. Issue 30, I
12 believe, would be subsumed in Issue D that was handed
13 out here.

14 MS. LEE: Correct.

15 COMMISSIONER McMURRIAN: Issue 31. I think
16 that is D, also.

17 MS. LEE: Correct.

18 COMMISSIONER McMURRIAN: Issue 32. Ms. Lee,
19 is that subsumed in Issue C and D where it has
20 depreciation rates.

21 MS. LEE: C and D, and the expense piece is
22 listed in the NOI issues.

23 COMMISSIONER McMURRIAN: Okay. And that is in
24 a separate part of the prehearing order, or is that
25 within --

1 **MS. LEE:** Yes.

2 **COMMISSIONER McMURRIAN:** Okay. Issue 33 is
3 essentially -- I believe on this sheet is Issue E under
4 depreciation study, and there have been a few changes
5 that we have proposed here in the prehearing order on
6 Page 58. There was italicized language and a comparison
7 of the theoretical reserves to the book reserves, and I
8 believe we have maintained that language. But instead
9 of what are FPL's theoretical reserve imbalances, we are
10 proposing to make it what are the resulting imbalances.
11 So any changes there?

12 **MR. MENDIOLA:** I'm sorry, Your Honor, are you
13 proposing to modify the language that's currently found
14 in E in the handout?

15 **COMMISSIONER McMURRIAN:** No. Actually, E is
16 what we are proposing. If you look on Page 58 of the
17 prehearing order, for Issue 33 there was some italicized
18 language indicating, I think, some disagreement perhaps
19 or confusion about exactly what the language there
20 should be. And we're proposing to change the last line
21 where it says what are FPL's theoretical reserve
22 imbalances to just what are the resulting imbalances.

23 **MR. MENDIOLA:** I see. Thank you.

24 **COMMISSIONER McMURRIAN:** No problem. Anything
25 else on that?

1 Issue 34. This is consistent with F on the
2 handout except that with respect to the imbalances, the
3 theoretical reserve phrase that was within Issue 34 on
4 Page 59 had been stricken because it refers back to the
5 prior issue. So any concerns with that? And obviously
6 these won't be labeled probably A through G, but we will
7 do something to try to maintain the numbering and the
8 order. Ms. Bennett was suggesting perhaps making these
9 19A, 19B, 19C, and so forth, so I guess we will be
10 keeping the letters after I just said that.

11 So with respect to Issue F as labeled, it
12 would be 19F, and it would refer back to Issue 19E, if
13 that makes sense.

14 **MR. WISEMAN:** Your Honor, if I could go back.
15 I apologize. If we could go back to 33 for one moment.
16 I just wanted to make sure. In the draft prehearing
17 statement for SFHHA we had no position at this time. As
18 redrafted, though, I think that we would be discussing
19 the \$1.245 billion reserve surplus that is discussed in
20 our testimony. So I just wanted to -- do I need to put
21 that on the record now so that that's clear, or when
22 this is redistributed with the revised issues is the
23 appropriate time to put our position in then?

24 **COMMISSIONER McMURRIAN:** As long as you can
25 get to them by 5:00 p.m. tomorrow. I hesitate to say

1 close of business anymore. By 5:00 p.m. tomorrow,
2 considering we are changing some of these things, that
3 would be fine.

4 **MR. WISEMAN:** All right. Thank you, Your
5 Honor.

6 **COMMISSIONER McMURRIAN:** You're welcome. And
7 I didn't think we changed the intent of the wording
8 by -- I mean the intent of the issue by changing that
9 wording, but just help me a little bit, help me
10 remember.

11 **MS. BENNETT:** No, I think it was just to be
12 consistent with the wording of the prior Issue 33 by
13 changing --

14 **COMMISSIONER McMURRIAN:** Okay.

15 **MS. BENNETT:** It didn't change the intent.

16 **COMMISSIONER McMURRIAN:** Okay. Thank you. So
17 any changes at this time to 33 or 34?

18 Okay. That brings us to 35. And it's my
19 understanding that this issue would be subsumed within
20 19F, or it is labeled on the sheet as -- on the
21 depreciation study as number F, or letter F.

22 Issue 36. I believe that also would be
23 subsumed within Issue F.

24 Issue 37 on Page 62. I believe that also
25 would be subsumed within Issue F.

1 Issue 38. That should also be subsumed within
2 Issue F.

3 Issue 39 is the same as what's listed here as
4 Issue G.

5 **MR. BUTLER:** Commissioner.

6 **COMMISSIONER McMURRIAN:** Yes, Mr. Butler.

7 **MR. BUTLER:** I would note there doesn't seem
8 to be any disagreement on Issue 39, and that I think it
9 may be a potential candidate for stipulation. Or, 19G
10 if you want to give it its new designation.

11 **COMMISSIONER McMURRIAN:** Is there anyone that
12 objects to showing Issue 39 as a potential stipulation?
13 Okay. And, Ms. Lee.

14 **MS. LEE:** That's fine with staff.

15 **COMMISSIONER McMURRIAN:** Okay. That brings us
16 to Issue 40 with respect to dismantlement.

17 **MS. KAUFMAN:** Commissioner McMurrian.

18 **COMMISSIONER McMURRIAN:** Yes, sorry.

19 **MS. KAUFMAN:** Just before we leave this group
20 of depreciation issues, I have to admit I'm kind of
21 confused about the renumbering, because I thought you
22 said that the A through G were going to be preceded by
23 the number 19.

24 **COMMISSIONER McMURRIAN:** Yes, 18, as we
25 discussed, if you go back to 18, which was page --

1 **MS. KAUFMAN:** Forty.

2 **COMMISSIONER McMURRIAN:** Forty, thank you. We
3 would just leave that blank, because I think as we
4 discussed that's probably not necessary, and essentially
5 everyone agrees anyway. Nineteen is subsumed within C,
6 D, and A. So I think here we would just pick up with
7 what is labeled on this sheet as A. It would be 19A,
8 and then we would -- in order not to disrupt the
9 numbering with respect to Issues 20 and going forward,
10 we would just make these 19A, 19B, 19C, D, and so on.

11 We do have some of these issues with respect
12 to 30 -- what was the one we were just on? Some of
13 these issues are exactly the same as the ones here. So
14 I don't know if we want to keep -- I don't know which
15 number we want to get rid of. Maybe it is easier just
16 to make these 19A through G and then strike some of the
17 issues that are the same in the draft prehearing order,
18 which would be --

19 **MR. BUTLER:** For clarity, that would be, I
20 think, everything from 20 through 38, is that right?

21 **MS. BENNETT:** Twenty through 39 would all be
22 numbered 19.

23 **COMMISSIONER McMURRIAN:** Right.

24 **MS. KAUFMAN:** So, Commissioner, the wording of
25 Issue 19, before we get to the subparts, stays the way

1 it is on Page 41?

2 COMMISSIONER McMURRIAN: No.

3 MS. KAUFMAN: That's what I'm missing.

4 COMMISSIONER McMURRIAN: No, 19 would also --

5 MS. KAUFMAN: Okay. And we just start with
6 19A.

7 COMMISSIONER McMURRIAN: That's a good point.
8 I think that that will work, though. We will just make
9 19 -- essentially, we will delete 19, we will show it as
10 intentionally left blank, I guess is the way we are
11 doing it, or dropped, and 19A through 19G as shown on
12 this sheet here would be inserted, and then 20 through
13 39 would all be essentially stricken and replaced with
14 19A through 19G. It's still confusing?

15 MR. MOYLE: No. Just for the purposes of kind
16 of ordering and numbers, I mean, I think we talked
17 previously about trying not to go in and renumber, I
18 guess, the ones that we have either said are --

19 COMMISSIONER McMURRIAN: Right.

20 MR. MOYLE: -- subsumed or they are restated
21 here, we will just have a little note, subsumed within,
22 is that your intention?

23 COMMISSIONER McMURRIAN: I think we would --

24 MS. BENNETT: I think that is a good
25 suggestion Mr. Moyle had was to identify that this is

1 subsumed in issue and then whatever, 19A, B, C.

2 **COMMISSIONER McMURRIAN:** So we want to leave
3 the Issues 19 through 39 in there and show that they are
4 subsumed elsewhere, is that what you're saying?

5 **MS. BENNETT:** No.

6 **COMMISSIONER McMURRIAN:** I think it is better
7 just to delete 19 through 39.

8 **MS. BENNETT:** Correct.

9 **COMMISSIONER McMURRIAN:** Am I not
10 understanding you?

11 **MS. KAUFMAN:** I think what's being suggested
12 is because there seems to be a lot of dispute and
13 contention over how these issues are being dealt with,
14 that to preserve the record, I think we would like to
15 show the issues that are being ruled upon as being
16 subsumed so that it's clear.

17 **COMMISSIONER McMURRIAN:** Okay.

18 **MS. BENNETT:** No, that was not -- I thought
19 you were suggesting issue witnesses.

20 **MR. MOYLE:** Well, I mean, previously we had an
21 issue where we said it was being changed, but we weren't
22 going to reorder them all. So I think, you know, that
23 point has already been addressed and the record I think
24 will be clear on your rulings on subsuming, but I guess
25 it is just going to get real confusing if --

1 **COMMISSIONER McMURRIAN:** What I envision --
2 now it doesn't have to be this way, but what I envision
3 is when we issue the new prehearing order, you will see
4 Issue 19 and it will say intentionally left blank. And
5 then you will have inserted 19A through 19G as shown on
6 this sheet, and then when you pick up with 20 through
7 39, those would all be intentionally left blank just to
8 avoid confusion, although they are definitely some of
9 the same issues within that group, and then we would
10 pick up with dismantlement and try to figure that out.

11 **MS. KAUFMAN:** Commissioner, I understand your
12 ruling, and I guess what we're trying to say is that
13 since there is dispute about this subsuming concept that
14 if we could just leave the issues in and you can say
15 they are proffered issues or whatever so that someone
16 that hasn't sat through this this morning with us will
17 be able to understand what issues we had raised that you
18 have ruled are covered in other issues.

19 **MS. BENNETT:** So as I'm understanding it, you
20 all are saying that in the prehearing order you want to
21 leave the proposed issues as is numbered and then
22 perhaps a ruling by the prehearing order or Prehearing
23 Officer that says this issue is subsumed in Issue 19A,
24 or this issue is being considered by the Commission as
25 part of 19A. I think that's what you're asking for, so

1 that if choose to appeal it you would be able to say
2 this is what happened?

3 **MS. KAUFMAN:** Yes. Because otherwise I don't
4 think that someone looking at the Prehearing Order would
5 understand what had happened.

6 **MS. BENNETT:** Although the transcript does
7 reflect it.

8 **MS. HELTON:** Madam Chairman, could I make a
9 suggestion?

10 **COMMISSIONER McMURRIAN:** Sure.

11 **MS. HELTON:** What if we attached the draft
12 prehearing order to the transcript today as an exhibit
13 for the prehearing conference, then it's clear what
14 issues are laid out there. I'm afraid it would be a
15 little bit confusing to have these extra issues in the
16 prehearing order for anyone who looks at it to know
17 exactly what the issues are that the Commission will be
18 addressing.

19 **MR. WRIGHT:** Madam Commissioner, I agree with
20 Ms. Kaufman. And having proffered issues is not new
21 procedurally here.

22 **COMMISSIONER McMURRIAN:** Right.

23 **MR. WRIGHT:** You could list out 19A through G
24 and then you could have a sentence that says by order of
25 the Prehearing Officer, the following issues are deemed

1 subsumed under these. However, at the request of
2 parties they remain herein as proffered issues, and you
3 could even preface the title of each issue, you know,
4 Issue 30 could be proffered Issue 30, Proffered Issue
5 31, Proffered Issue 32, and so on.

6 **MS. BENNETT:** If you want to leave the issues
7 somewhere in the Prehearing Order, there is a ruling
8 section at the end, and we could list the proffered
9 issues with your ruling on it in that section. It would
10 be cleaner than leaving it in the Prehearing Order.

11 **COMMISSIONER McMURRIAN:** You two are agreeing
12 a lot today.

13 **MR. WRIGHT:** You should make a record of this.
14 I think -- I'll wait to hear what Ms. Kaufman says, but
15 I think it is more appropriate and better procedurally
16 for preserving our rights, et cetera, to keep them in
17 the order, but I think Ms. Bennett's suggestion is right
18 on.

19 **COMMISSIONER McMURRIAN:** Okay.

20 **MS. KAUFMAN:** I think we would be fine with
21 having them at the end of the order or in the ruling
22 section.

23 **COMMISSIONER McMURRIAN:** Okay. And I think we
24 can -- as we have gone through here, I think we can in
25 the ruling section suggest which issues we have

1 identified we believe these issues are subsumed within,
2 and some of them are identical, but we will just deal
3 with that and make sure it's clear.

4 **MR. MOYLE:** I think Ms. Helton also had a good
5 point about attaching the document to the transcript.
6 Probably the document and the sheet handed out by staff,
7 you know, the A, B, C, D, E, F, G so the record is
8 clear. If those two documents could be attached I think
9 that would be helpful.

10 **COMMISSIONER McMURRIAN:** The only question I
11 have about that is which draft prehearing order are we
12 attaching? Are we attaching the one that we are all
13 working off of now, is that your proposal? Well, let's
14 call the draft prehearing order that we are working off
15 now Attachment A, and we will call the depreciation
16 handout of issues Attachment B. Does that work?

17 **MR. MOYLE:** That's fine.

18 **COMMISSIONER McMURRIAN:** We're running out of
19 different numbering schemes, so we are still going with
20 letters.

21 **MR. BUTLER:** Commissioner, just from the
22 standpoint of logistics, we are adding now a 206-page
23 attachment to what will probably be about length real
24 prehearing order. Do we really need to do that? It
25 seems like that if we do the approach that Ms. Bennett

1 had identified of having in the rulings --

2 **COMMISSIONER McMURRIAN:** It is an attachment
3 to the transcript is my understanding.

4 **MR. BUTLER:** Oh, to the transcript. I'm
5 sorry. Okay.

6 **COMMISSIONER McMURRIAN:** Which is going to be
7 a good number of pages, too. Right, Jane?

8 Okay. I'm scared to go to the dismantlement
9 issues. Okay. Let's proceed to those. But we will
10 handle those the same way.

11 Issue 40 is the same essentially as letter A
12 under fossil dismantlement study with the change of
13 instead of should the current approved, it is now should
14 the currently approved annual dismantlement provision be
15 revised. And I suppose we should label this number --
16 we should make these 40A, 40B, and 40C.

17 **MR. BUTLER:** Commissioner, just looking
18 through, it looks like that with just minor
19 modifications 40, 41, and 42 are A, B, and C.

20 **COMMISSIONER McMURRIAN:** Okay. Let's do that
21 then.

22 **MR. BUTLER:** Maybe just keep those numbers,
23 and apparently other issues may not be retained.

24 **COMMISSIONER McMURRIAN:** Okay. So letter A
25 will be Issue 40, B will be 41, and C will be 42. And I

1 believe that was the only change with respect to Issue
2 40. That was the only change in those three issues as
3 originally worded. So were there any changes to the
4 positions with respect to Issue 40, 41, or 42?

5 **MS. KAUFMAN:** I think there will be some
6 changes to 40 because some of us are referring back to
7 29.

8 **COMMISSIONER McMURRIAN:** Yes. And 29 --

9 **MS. KAUFMAN:** I'll have to figure that out.

10 **COMMISSIONER McMURRIAN:** Issue 29 was subsumed
11 within --

12 **MS. LEE:** 42, I believe.

13 **COMMISSIONER McMURRIAN:** Yes, 42. Thank you,
14 Ms. Lee.

15 Yes. So to the extent you need to juggle your
16 position statements to move them from 29 to 40,
17 certainly go ahead and do that.

18 **MS. BENNETT:** So I can expect to see position
19 changes to Issue 42 from the parties --

20 **COMMISSIONER McMURRIAN:** Who have taken
21 positions on 29.

22 **MS. BENNETT:** Okay.

23 **COMMISSIONER McMURRIAN:** Okay. That brings us
24 to Issue 43.

25 **MS. BENNETT:** Commissioner McMurrian, and the

1 parties might help me here, but it seemed to me that for
2 both Issue 43 and Issue 44 in our issue identification
3 meeting we had talked about perhaps spinning this out
4 into a generic docket. And I thought that there might
5 be some agreement to do that, but I don't see them in
6 the position statements of the parties.

7 **COMMISSIONER McMURRIAN:** Mr. Butler, I guess
8 we will start with you.

9 **MR. BUTLER:** We had discussed that subject.
10 It didn't end up in the issues as defined here, and
11 honestly we haven't taken a specific position on doing
12 it, but I think 43 and 44 are potentially the subject of
13 a stipulation.

14 **COMMISSIONER McMURRIAN:** Mr. McGlothlin, do
15 you have thoughts?

16 **MR. MCGLOTHLIN:** If there is a vote by the
17 Commission to spin these off into a separate and more
18 generic proceeding, that's okay with me, but I don't
19 want to see the issues going away pending that. I would
20 welcome that action, but I would like to see it happen.

21 **COMMISSIONER McMURRIAN:** So perhaps the
22 parties might be able to work on some language about how
23 they would propose the Commission deal with these issues
24 going forward and there might be agreement on that as a
25 stipulated issue.

1 **MR. McGLOTHLIN:** Yes.

2 **COMMISSIONER McMURRIAN:** Okay. Do you think
3 that's worth a try, or do you have disagreement?

4 **MR. BUTLER:** Frankly, that doesn't seem to
5 shorten things. That's working on a stipulation to add
6 to the issues we already have here. If we are going to
7 keep 43 and 44 --

8 **COMMISSIONER McMURRIAN:** No, I don't think it
9 is to add to the issues. The way I understand it is if
10 there is agreement about how to deal with the subject
11 matter of 43 and 44 that there might could be a
12 stipulated position on 43 and 44 about how the
13 Commission would deal with that subject matter.

14 **MR. BUTLER:** Then I misunderstood Mr.
15 McGlothlin. Is that correct, Joe?

16 **MR. McGLOTHLIN:** I would say it this way. The
17 parties can't spin-off anything. I can say in my
18 position that I don't object to this being taken up in a
19 more generic proceeding, but I'm not willing to do away
20 with the issue until I see that happen.

21 **MR. MOYLE:** And FIPUG would support the
22 effort. We can have a conversation, I guess, related to
23 friendly cross on this, and to the extent there can be
24 agreement to spin it off, then we can handle it that
25 way. FIPUG would support a spin-off.

1 **MR. MENDIOLA:** Your Honor, it would seem to me
2 that Issue 43 is subsumed within the depreciation study
3 Issues C or D, and if a party wants to conduct
4 cross-examination about the extent of the -- or maybe it
5 is dismantling, I'm not sure -- but within 44, which
6 relates to future filings, that should probably be spun
7 off. We don't really have a position on that.

8 **COMMISSIONER McMURRIAN:** Well, if they need to
9 remain as issues, I think we are fine with that. I'm
10 just trying to get clarification on what it is that
11 staff thought there might be some agreement about.

12 So, Mr. Butler, I want to go back to you with
13 respect to what Mr. McGlothlin said. Does FPL agree
14 with spinning these off into a separate proceeding?

15 **MR. BUTLER:** I think we would need to discuss
16 that further as had been suggested by Mr. Moyle. We
17 could talk about this afternoon.

18 **COMMISSIONER McMURRIAN:** Okay. So I suppose
19 for now, Ms. Bennett, these issues need to remain,
20 because I'm not hearing agreement on what's being done
21 with them.

22 **MS. BENNETT:** I agree.

23 **COMMISSIONER McMURRIAN:** But I do have a note.
24 Did you tell me there was limited testimony on these
25 issues? Someone told me that.

1 **MS. BENNETT:** I'm not sure that it's limited
2 testimony. I believe OPC provided testimony on it. I
3 think it is more that the application is in the future
4 and not related to the dismantlement study that will be
5 considered by the Commission for approval.

6 **COMMISSIONER McMURRIAN:** Okay. To the extent
7 that helps, I guess for now we will leave 43 and 44 in.
8 And to the extent that you all work together on
9 something and propose it, or if you need to change your
10 positions on it, just get those to us, I guess, by close
11 of business tomorrow, 5:00 p.m.

12 Okay, 45. Ms. Bennett, I note that it says no
13 adjustments are known at this time. This issue can be
14 dropped. I guess, is that everybody's understanding?

15 **MS. BENNETT:** That was OPC's position, and I
16 think the remaining parties agreed with OPC, so I
17 dropped everybody's positions except for OPC's.

18 **COMMISSIONER McMURRIAN:** So is there anyone
19 who objects to dropping Issue 45? Hearing none, I guess
20 we will show that issue as dropped or intentionally left
21 blank.

22 **MS. BENNETT:** I will reflect it is
23 intentionally left blank.

24 **COMMISSIONER McMURRIAN:** Okay. Issue 46. Any
25 changes?

1 Issue 47.

2 **MR. WISEMAN:** I'm sorry, Your Honor.

3 **COMMISSIONER McMURRIAN:** Mr. Wiseman.

4 **MR. WISEMAN:** I thought you were on 45. On
5 46, we'd like to change our position and just say that
6 we adopt OPC's position.

7 **COMMISSIONER McMURRIAN:** Okay. Issue 47.
8 Issue 48. And I believe this is subsumed within Issue
9 173, so we will show Issue 48 as intentionally left
10 blank.

11 And parties to the extent they have positions
12 here with respect to that issue, they can show them
13 within their positions on Issue 173.

14 Issue 49 I believe is subsumed within Issue
15 50.

16 **MR. WISEMAN:** Your Honor.

17 **COMMISSIONER McMURRIAN:** Yes, Mr. Wiseman.

18 **MR. WISEMAN:** We filed a brief on that issue,
19 and we don't believe that it should be subsumed within
20 50. I don't want to reargue everything we said, but to
21 summarize it, and I think it's apparent if you look at
22 the positions that parties have taken on Issue 50, Issue
23 50 essentially asks for a quantification, and that's all
24 it does. There are a number of other issues in the
25 issues list that constitute the build up to Issue 50,

1 and we think Issue 49 is of the same nature as those
2 other build-up issues. We think it is a separate issue
3 that should be separately set out so that parties can
4 state their substantive position, and whatever the
5 position is with respect to that issue then would be an
6 element that would be included in the computation of
7 whatever a party's position is on Issue 50.

8 **COMMISSIONER McMURRIAN:** Thank you for that,
9 Mr. Wiseman. I believe it is subsumed within Issue 50,
10 and I think we are going to show it, but we will include
11 it like we are doing with the others and that preserves
12 your ability to pursue that issue.

13 **MR. WISEMAN:** Thank you. And I take it as
14 well that preserves our objection to the exclusion of
15 that issue from the issues list?

16 **COMMISSIONER McMURRIAN:** Yes. That's what I
17 was trying to say, but just not eloquently.

18 **MR. WISEMAN:** More eloquently than I did.

19 **COMMISSIONER McMURRIAN:** Okay. That brings us
20 to 50, and the italicized language that is below the
21 original language there would be stricken. Are there
22 any other changes on Issue 50?

23 **MR. WISEMAN:** Your Honor, on Issue 50 -- I'm
24 sorry, just one moment. If we could add one sentence to
25 SFHHA's position.

1 **COMMISSIONER McMURRIAN:** Okay.

2 **MR. WISEMAN:** Which would be the net result of
3 our recommendation is that plant-in-service for the test
4 year be set at \$27,504,000,000.

5 **COMMISSIONER McMURRIAN:** Okay. So I will read
6 that back to you and see if I've got it. The net result
7 of our recommendation --

8 **MR. WISEMAN:** It should be actually net result
9 of SFHHA's recommendation.

10 **COMMISSIONER McMURRIAN:** Is plant-in-service
11 for the test year --

12 **MR. WISEMAN:** The net result of SFHHA's
13 recommendation is that plant-in-service for the test
14 year should be \$27,504,000,000.

15 **COMMISSIONER McMURRIAN:** Okay. And read the
16 number for me one more time.

17 **MR. WISEMAN:** Yes. It is 27,504,000,000.

18 **COMMISSIONER McMURRIAN:** Okay.

19 **MR. WRIGHT:** Commissioner.

20 **COMMISSIONER McMURRIAN:** Mr. Wright.

21 **MR. WRIGHT:** Thank you.

22 On Issue 50, the specific numbers in our
23 position statements have changed as a result of Public
24 Counsel's changing. So on Page 72 in Part A of our
25 position on Issue 50, it should be 27,914,655,000. And

1 our position on B should be 29,667,845,000. And
2 naturally the response to Saporito's version, since he
3 has withdrawn from the case, should be deleted.

4 **COMMISSIONER McMURRIAN:** Okay. Thank you, Mr.
5 Wright.

6 **MR. WRIGHT:** Thank you.

7 **COMMISSIONER McMURRIAN:** That brings us to 51.
8 Any changes?

9 **MS. KAUFMAN:** Well, again, Commissioner, I
10 think we will have to change it based on the
11 renumbering.

12 **COMMISSIONER McMURRIAN:** 51 on the
13 renumbering.

14 **MS. KAUFMAN:** FIPUG's position, I think,
15 refers to some issues that have been dropped.

16 **COMMISSIONER McMURRIAN:** Oh, okay. Thank you.

17 **MR. WRIGHT:** And, Commissioner, on 51 our
18 numbers are also changing as OPC's numbers are changing.
19 However, on 51 and most of the rest of them, Public
20 Counsel has kindly made the changes in its handout
21 today. If staff is comfortable dealing with that, I
22 won't bother to recite the numbers now. If you want me
23 to recite the numbers now, I will do so.

24 **COMMISSIONER McMURRIAN:** So you want your
25 position to include the same numbers that OPC has in the

1 handout --

2 **MR. WRIGHT:** That is correct.

3 **COMMISSIONER McMURRIAN:** -- for Issue 51?

4 **MR. WRIGHT:** That is correct, Commissioner
5 McMurrian. Thank you.

6 **COMMISSIONER McMURRIAN:** I think it is okay if
7 we just note that, and we can make sure we get it later.
8 Okay. Issue 52.

9 **MS. KAUFMAN:** Commissioner McMurrian, FIPUG
10 will take no position on that issue.

11 **COMMISSIONER McMURRIAN:** Okay.

12 **MR. WRIGHT:** Commissioner, the Retail
13 Federation will likewise take no position on Issue 52.

14 **MS. BENNETT:** For FIPUG, is that no position
15 on A and B, or does B stay the same and A is no
16 position?

17 **MS. KAUFMAN:** It is just A and B stays the
18 same.

19 **MS. BENNETT:** And FRF said no position?

20 **MR. WRIGHT:** Well, it is certainly no position
21 as to A, and as noted in the head issue of each section,
22 we don't agree that a 2011 test year is appropriate. We
23 don't agree that a subsequent year adjustment for 2011
24 is appropriate. And rather than recite the same five
25 lines in every place, I was hoping that that would serve

1 as a standing notice to all parties that we object to
2 that.

3 If I have to put a B, then I would do that by
4 the end of the day tomorrow, and it would say what we
5 have said elsewhere in our position statements, please
6 note that the Retail Federation, et cetera.

7 **MR. McGLOTHLIN:** OPC's position is similar.

8 **COMMISSIONER McMURRIAN:** Okay. And is it
9 already reflected in your revised version, Mr.
10 McGlothlin?

11 **MR. McGLOTHLIN:** No, I believe on this one we
12 need to truncate what is set out there.

13 **COMMISSIONER McMURRIAN:** Ms. Bennett, do the
14 parties all need to have essentially something on A and
15 B for each part if they have taken issue with the
16 projected, the 2011 test year?

17 **MS. BENNETT:** Well, the parenthetical makes it
18 clear that a decision on B only happens if the
19 Commission decides that a 2011 projected test year is
20 appropriate. So I don't know that they need to take a
21 position on B unless they're going to change. If 2011
22 is approved they are going to take a position, so -- did
23 I confuse everything?

24 **COMMISSIONER McMURRIAN:** I understood what you
25 meant, but I'm just looking around to see if anyone else

1 did. My understanding of what you just said is that
2 perhaps parties could consider whether or not they
3 wanted a Part B to say essentially that even though we
4 disagree with the use of a 2011 projected test year,
5 here is what our proposed number would be if the
6 Commission did vote for the 2011 test year.

7 **MS. BENNETT:** Correct.

8 **COMMISSIONER McMURRIAN:** Not that wordy,
9 but --

10 **MR. MENDIOLA:** And, you know, the parties took
11 specific positions with respect to the 2011 test year in
12 Issue 5 or 6, and so maybe that should control on
13 whether or not a 2011 test year is supported by a party,
14 and then, for example, we say in several answers SFHHA
15 says that, for example, the amount of capital
16 expenditure reductions should be carried forward to
17 2011. And it's implied, I think, that that is only if
18 the 2011 test year is approved with our specific answer
19 to 5 through 7 being controlling. That is I don't want
20 to have to go back and modify each one of those answers
21 to add a parenthetical if approved believing that the
22 specific answer to Issues 5 and 6 is controlling.
23 Should a 2011 test year be adopted, answer no.

24 **MS. BENNETT:** That's correct. That's how we
25 have designed it. I was just trying to make clear that

1 you don't need to add a Paragraph B if your only
2 position is we don't think a 2011 test year is
3 appropriate. But if you are going to say if you approve
4 2011, then you need to do \$10 million less than what
5 FIPUG is asking, then you need to take a position.

6 **MR. BUTLER:** Commissioner, to that point, it
7 doesn't look to me like on 52, putting aside the issue
8 of disagreeing on whether a 2011 test year should be
9 used, that there is any disagreement on this issue. No
10 one is disputing the CWIP calculation for the
11 EnergySecure Line.

12 There are some others that will follow sort of
13 the same pattern later, and I'm wondering if it is
14 possible to have a stipulation that clearly recognizes
15 that there is no intent by the parties to give up their
16 positions on the appropriateness of the 2011 test year,
17 but for 2010 and then for 2011 if the test year were
18 used there is no disagreement on this issue.

19 **COMMISSIONER McMURRIAN:** Mr. Wright, do you
20 have thoughts on that? Is this where the streak ends?

21 **MR. WRIGHT:** Not necessarily.

22 **COMMISSIONER McMURRIAN:** I didn't mean to put
23 you on the spot, I just was trying to get Mr. McGlothlin
24 some time, too.

25 **MR. WRIGHT:** A completely fair question,

1 Commissioner. Thank you.

2 52 is an unusual issue. It doesn't quite fit
3 the other categories, and I'm just going to have to
4 think about it.

5 **COMMISSIONER McMURRIAN:** Okay.

6 **MR. WRIGHT:** I mean, our position will be no
7 position on 52A. I can't tell you -- I'm pondering
8 whether our position on 52B will be no position, or no,
9 which is the position that is more consistent with our
10 overall position, which as I said is recited in several
11 places in the Prehearing Order as to the
12 inappropriate -- our position is that the 2011
13 subsequent year adjustment is inappropriate, but I will
14 handle that by no later than the end of the day
15 tomorrow, and as soon as possible.

16 **COMMISSIONER McMURRIAN:** I think it's okay to
17 say that it's flagged so that the parties can discuss
18 whether or not they may be able to have a meeting of the
19 minds on at least the 2010 and somehow avoid 2011.

20 **MS. BENNETT:** Staff has been conferring and we
21 are a little bit concerned at this point. We'll look at
22 it and discuss it with the parties, but it appears that
23 that might be an issue that is being considered in the
24 need determination, and so it might be a little
25 premature to stipulate that position here.

1 **COMMISSIONER McMURRIAN:** Okay. Mr. Moyle.

2 **MR. MOYLE:** I know we're trying to move along,
3 but just one thing. FIPUG doesn't have a position on
4 this, but just because we don't have a position that is
5 not tantamount to agreeing to the question asked. And
6 we just may not be putting it in dispute, but are we on
7 the same page on that?

8 **COMMISSIONER McMURRIAN:** Yes. I think that to
9 the extent though you don't have a position, I think
10 that it raises the question at least by FPL of whether
11 or not you might be able to stipulate, but just because
12 you have no position doesn't mean you are in agreement
13 with FPL's proposed.

14 **MR. MOYLE:** Right. And if they have a little
15 evidence to go to that point and it is part of what
16 there overall request is, I guess they could put that in
17 and move forward. Okay. I think we're on the same
18 page. Thanks.

19 **COMMISSIONER McMURRIAN:** Okay. Issue 53.

20 **MS. BENNETT:** Commissioner McMurrian, it looks
21 like this one -- no party has raised an issue with 53,
22 and staff is not concerned with this issue, so it could
23 be stipulated.

24 **MR. BUTLER:** That's on my list to raise, as
25 well.

1 **COMMISSIONER McMURRIAN:** Do the parties want
2 to propose that as a stipulated issue now or does
3 everyone need time to think about it?

4 **MR. McGLOTHLIN:** For OPC, this is one where we
5 would be willing to think about it and pursue the
6 possibility.

7 **COMMISSIONER McMURRIAN:** Okay.

8 **MR. WRIGHT:** FRF, too. This looks like you
9 have got another category that we probably can stipulate
10 to because of the substantive answer given by FPL.

11 **MS. KAUFMAN:** Commissioner.

12 **COMMISSIONER McMURRIAN:** You know what, I
13 recognize most everyone's voice in here, but for some
14 reason it throws me.

15 **MS. KAUFMAN:** I just wanted to say generally
16 in terms of some of these issues that we are talking
17 about stipulating, typically it has been FIPUG's
18 position in the past that we don't have an objection to
19 other parties stipulating the issue, but we would take
20 no position on it. And it is sort of what Mr. Moyle was
21 asking, we are not endorsing FPL's position, but we
22 don't have an objection. I forget what class of
23 stipulation that is, but we have done that in the past.

24 **COMMISSIONER McMURRIAN:** Okay.

25 **MR. WRIGHT:** And I should make clear, I would

1 see this as being what I think we call a Type II
2 stipulation, or Category II stipulation where the
3 company and the staff would stipulate, everybody else
4 would take no position as opposed to us affirmatively
5 concurring in the stipulation.

6 **COMMISSIONER McMURRIAN:** Okay. Ms. Bennett,
7 how do we get all of that resolved so that we show the
8 correct ones as Category I, II stipulations, that sort
9 of thing? How do you get the information you need from
10 the parties and when do you need it?

11 **MS. BENNETT:** Maybe by the end of the day if
12 they can identify that there is no -- staff will
13 identify that they agree with FPL. If all the other
14 parties identify by the end of the day that they have no
15 objection, or take no position, then we can include that
16 as part of the stipulation.

17 I think we have, as you said, two categories;
18 one where everybody stipulates and the other is no
19 objection to the stipulation, and that shows up in the
20 prehearing order.

21 **COMMISSIONER McMURRIAN:** Okay. Is everyone on
22 the same page? Okay. And I know we're going to need to
23 take a lunch break since we have many more issues to get
24 through, and I am thinking we are about to get there.
25 But perhaps we need to get to a good breaking point.

1 So I see that Issue 54 is a proposed
2 stipulation. It has already been moved to another
3 section. Staff, do you have a suggestion for a good
4 breaking point for a lunch break?

5 **MS. BENNETT:** I have a request from staff.
6 Some of our staff are going to look at some confidential
7 records at FPL's headquarters, and they're the cost of
8 capital people. Could we jump to Page 83 and run
9 through those very quickly?

10 **COMMISSIONER McMURRIAN:** Well, we'll try. What
11 page did you say, Ms. Bennett?

12 **MS. BENNETT:** Cost of capital starts on 83.

13 **COMMISSIONER McMURRIAN:** Okay. Any changes to
14 Issue 64?

15 **MS. KAUFMAN:** Commissioner, just in light of
16 the discussion that we had earlier about the A/B
17 portion, I guess FIPUG will be submitting some additions
18 to the B to say if the 2011 test year is approved then
19 the amount should be whatever. So that will be on --
20 there's quite a few that have that A/B structure.

21 **COMMISSIONER McMURRIAN:** Okay. Anything else
22 on 64? Okay. With respect to 65, that's subsumed
23 within Issue 69.

24 **MR. WISEMAN:** Your Honor, if I can ask for a
25 clarification on that. First of all, I won't burden the

1 record and take a lot time rearguing the point. I would
2 like to just preserve our objection to that being
3 subsumed, but I do need some clarification. The issue
4 as framed concerns two items, ADIT and customer
5 deposits. I don't believe that there is any issue in
6 the issues list that concerns customer deposits.

7 Now, I know I think staff and FPL took the
8 position that ADIT was subsumed within I think Issue 69,
9 but I'm wondering where, since there is no issue that
10 relates to customer deposits, where we would put that.

11 **MS. BENNETT:** Our position is that -- staff's
12 position is that this is a position statement under 69,
13 so that his response would be, no, it has not been
14 properly reconciled, because ADIT and the ITC related
15 to -- well, for the customer deposits and then the ADIT
16 and ITC related to rate base. They would both be under
17 69.

18 **MR. WISEMAN:** All right. With that
19 clarification. I mean, I find -- I just don't want to
20 hear -- I wanted to clarify so that I don't get an
21 objection later on that discussing customer deposits
22 under 69 is inappropriate, and just note my objection
23 for the record to the exclusion of Issue 65.

24 **COMMISSIONER McMURRIAN:** Mr. Butler, do you
25 have any --

1 **MR. BUTLER:** That's fine with us. I think
2 that customer deposits is part of the reconciliation
3 exercise.

4 **COMMISSIONER McMURRIAN:** So I think we are all
5 under the understanding that Issue 65, discussion about
6 customer deposits as worded there will be taken up
7 within Issue 69.

8 **MS. BRADLEY:** Commissioner.

9 **COMMISSIONER McMURRIAN:** Yes.

10 **MS. BRADLEY:** For some reason we had said no
11 position at this time, but if ours could be changed to
12 reflect our position on 69 that that is being subsumed
13 under.

14 **COMMISSIONER McMURRIAN:** Okay. For Issue 65
15 or Issue 69? I'm sorry, Ms. Bradley.

16 **MS. BRADLEY:** I understood that you were -- we
17 had said no position under 65. But if you are putting
18 that under 69 -- well, I think we said the same thing
19 under 69. If those could both be changed to say support
20 OPC, I would appreciate it.

21 **COMMISSIONER McMURRIAN:** Okay. And that would
22 show up within Issue 69. Issue 65 would be blank other
23 than moving it to the ruling section and showing that it
24 would be subsumed within 69. Okay. Supports OPC.

25 Okay. With respect to Issue 66, any changes

1 there?

2 Issue 67, cost rate for short-term debt.

3 Issue 68, cost rate for long-term debt.

4 Issue 69, rate base and capital structure.

5 And noting Ms. Bradley's change to the Attorney

6 General's position to support OPC. Any other changes?

7 Issue 70. Staff suggested one minor change to
8 this issue. Where the 59 percent is listed there on
9 that Line 1, suggested making that 59.6 percent. That
10 if you go out to one decimal point on one part of the
11 issue that they will got out to one decimal point on the
12 other part of the issue. So 59.6 percent. Did I get
13 that right, Mr. Maurey?

14 **MR. MAUREY:** Yes.

15 **COMMISSIONER McMURRIAN:** Okay. So any other
16 changes to Issue 70?

17 **MS. BRADLEY:** Commissioner, can I backtrack a
18 second.

19 **COMMISSIONER McMURRIAN:** Sure.

20 **MS. BRADLEY:** And on 69 we had supported OPC's
21 position, but I see that they have taken no position,
22 which was overlooked, so that doesn't make any sense.
23 So if I can just by the end of the day or something
24 confer and look at this again, and determine if we are
25 going to take no position or a position.

1 **COMMISSIONER McMURRIAN:** Okay.

2 **MR. BUTLER:** Commissioner, one thing on 69 I
3 would observe. I am reluctant even to suggest it for
4 stipulation, because I don't think there is agreement on
5 this, but right now the prehearing positions don't show
6 the disagreement. There is no specific position taken
7 by anybody that is inconsistent with FPL's, and I would
8 just urge that parties identify, you know, what their
9 positions are on it by the time that close of business
10 tomorrow rolls around.

11 **MR. MENDIOLA:** On 69 we have a specific
12 disagreement with FPL.

13 **COMMISSIONER McMURRIAN:** All right. I think
14 with respect to the customer deposits that go to 69 you
15 would be taking that up there? That was going to be my
16 question.

17 **MR. MENDIOLA:** That is correct. That should
18 be reflected in your --

19 **MR. BUTLER:** Okay.

20 **MR. MENDIOLA:** I think, Your Honor, with
21 respect to Issue 70, SFHHA would change its position
22 from no position at this time to see response to 69. I
23 think our position is no, that is correct, and then --

24 **COMMISSIONER McMURRIAN:** And then add see
25 response to Issue 69?

1 **MR. MENDIOLA:** Yes, see response to Issue 69.

2 **COMMISSIONER McMURRIAN:** Okay. So on Issue 70
3 the South Florida Hospital Association position would
4 read, "No. See response to Issue 69."

5 **MR. MENDIOLA:** That's correct.

6 **COMMISSIONER McMURRIAN:** Okay. Issue 71.
7 Hearing nothing.

8 Issue 72. I believe that is subsumed within
9 70 and 71.

10 **MS. BENNETT:** I'm being informed that's
11 subsumed within Issue 80. (Pause.) 70 and 71.

12 **COMMISSIONER McMURRIAN:** Okay. And to the
13 extent parties need to change their positions with
14 respect to 70 and 71 to incorporate something that they
15 addressed within 72, just get that to us by close of
16 business, 5:00 p.m., tomorrow, or sooner.

17 Okay. 73, any changes? Capital structure.
18 74. And that is subsumed within Issue 80.

19 **MR. ARMSTRONG:** Commissioner, obviously the
20 city would object for the same reasons that we talked
21 about before with regard to specificity and the
22 necessity of specificity. And I look at this issue and
23 then I look back at, I guess, Issues 43 and 44 regarding
24 dismantlement, and one of the claims is that this isn't
25 something we can be so specific on we can subsume it.

1 And, I think, again, it is so important from the
2 intervenor's perspective to be able to look at each one
3 of those adjustments specifically based on the fact that
4 the legislature created the adjustments, that they are
5 Regulatory Commission created adjustments. No place
6 else other than this proceeding can the intervenors ever
7 have an opportunity to say is it really having an impact
8 on the return on equity as it was suggested it would,
9 and if so, what impact. There is no place else that we
10 can do this.

11 **COMMISSIONER McMURRIAN:** Except Issue 80.

12 **MR. ARMSTRONG:** As a roll-up. However, again,
13 for the same reasons with the specificity. There are
14 verifying degrees of anything out there, and I think
15 it's FPL's burden of proof in this regard to establish
16 its ROE, and there are varying degrees of information
17 out there with respect to any one of these. And I
18 think, again, from our due process rights and our
19 ability to address specifically with the Commission and
20 make you all take a look at each one and make sure that
21 they are all being addressed so that we might be able to
22 appeal individual findings with respect to these issues.
23 Again, I'm just going to preserve our right to address
24 that on appeal on a due process basis. I appreciate it.

25 **COMMISSIONER McMURRIAN:** Absolutely. That is

1 my understanding, and that is fine with me. And
2 similar --

3 **MR. ARMSTRONG:** That would apply to 74 through
4 78 from my perspective.

5 **COMMISSIONER McMURRIAN:** It is. 74, 75, 76,
6 77, and 78. All kind of similarly worded issues there
7 with respect to clauses and the GBRA adjustment. And
8 it's my ruling that those can all be addressed within
9 Issue 80.

10 **MR. MOYLE:** The same thing on 72, FIPUG 72.
11 We have already addressed that previously, the standard
12 objection. So I just note that for the record.

13 **COMMISSIONER McMURRIAN:** Okay, thank you. And
14 with respect to Issue 79, that also is typically
15 addressed within the general issue there, similar to
16 Issue 80. So 79 would be subsumed within Issue 80, as
17 well.

18 And, staff, I don't know if it's necessary to
19 change this, but I know that you noted that your
20 position should reflect that this is subsumed in Issue
21 80 instead of 71.

22 **MS. BENNETT:** That's correct.

23 **COMMISSIONER McMURRIAN:** Okay. So with
24 respect to Issue 80, to the extent parties need to amend
25 their positions and include positions that they would

1 have included in those other issues, again, by 5:00 p.m.
2 tomorrow would be great. And we will get to the
3 discussion of the number of words at some point here.

4 Issue 81. Any changes? And, Mr. Maurey, is
5 that it for the cost of capital issues?

6 **MR. MAUREY:** Yes, ma'am.

7 **COMMISSIONER McMURRIAN:** Okay. So I guess
8 we'll take a lunch break. Now the question is how long.

9 **MR. WRIGHT:** Commissioner, just a question. I
10 am trying to understand the relationship between Issue
11 73 and Issue 81. Public Counsel, whose lead we are
12 following on this issue, or these issues, has laid out
13 their proposed capital structure as well in the weighted
14 average cost of capital calculations under Issue 81, and
15 stated their position on 73 as for the appropriate
16 capital structure amount, see Issue 81. I just want to
17 make sure that that is working so that everybody
18 understands what the positions are.

19 **COMMISSIONER McMURRIAN:** So with respect to
20 OPC's position on 73, is that what you are --

21 **MR. WRIGHT:** Well, yes, OPC on 73 and 81. Is
22 it sufficient for OPC and by extension us to reference
23 our positions on 81 as appropriate cognizable answers on
24 73? I think that's the question. Mr. Butler is
25 agreeing, and Mr. Maurey seems to be nodding his head,

1 so I think we're okay.

2 **MR. BUTLER:** It just sort of combines in one
3 place their position on what is really both the Issue 73
4 and Issue 81.

5 **COMMISSIONER McMURRIAN:** Let me ask the
6 question, do we need separate issues on 73 and 81? I
7 mean, they look like different -- don't we usually have
8 separate issues on these?

9 **MR. MAUREY:** Yes. 81 is more of a fallout
10 issue for the entire section, and 73 discusses equity
11 ratio with more specificity.

12 **MR. WRIGHT:** I got it. I'm going to have to
13 revise my position slightly, but I will be able to do it
14 in 25 words or less. Thank you.

15 **COMMISSIONER McMURRIAN:** Okay. Thank you.
16 Mr. McGlothlin, did you have anything you
17 wanted to add on that?

18 **MR. MCGLOTHLIN:** No, I think OPC is all right
19 with -- as I understand the description, I think we have
20 included in our position of 81 the equity ratio that is
21 a more specific concern of 73.

22 **COMMISSIONER McMURRIAN:** Okay. Did you have
23 something?

24 **MR. BUTLER:** No.

25 **COMMISSIONER McMURRIAN:** Okay. Now, how long

1 of lunch break. Staff, do you have a proposal?

2 **MS. BENNETT:** How about we come back at 2:00.

3 **COMMISSIONER McMURRIAN:** It works for me.

4 Does that work for everyone? Does that give you enough
5 time to get something and get back here? Okay. All
6 right.

7 We will adjourn until 2:00. We will be on
8 recess until 2:00. Thank you.

9 (Lunch recess.)

10 **COMMISSIONER McMURRIAN:** Okay. We will go
11 back on the record. And I am going to need some help
12 from someone, and I will take it from anyone about which
13 issues I skipped over before we went to cost of capital.

14 **MS. BENNETT:** I believe we completed Issue 53,
15 and so we're on Issue 54. We are on Page 75.

16 **COMMISSIONER McMURRIAN:** Thank you.

17 **MS. CHRISTENSEN:** Commissioner, Patty
18 Christensen for OPC. I just wanted to go back to a
19 couple of issues, 52, 69, and 73. We had taken no
20 position, but we want to amend our position. And we
21 will provide a written amended position to staff by
22 close of business tomorrow, 5:00 p.m., no later than.

23 **MS. BENNETT:** On which issues?

24 **MS. CHRISTENSEN:** Issue 52, 69, and 73, which
25 I think we told you to see Position 80, but I think we

1 are going to go ahead and attempt to include a position,
2 as well.

3 **COMMISSIONER McMURRIAN:** Okay. Thank you. So
4 54 --

5 **MS. BENNETT:** Which is a proposed stipulation
6 to move the issue into a different docket.

7 **COMMISSIONER McMURRIAN:** Okay.
8 Hearing nothing, Issue 55. Any changes?
9 Hearing none. Issue 56.

10 **MR. WRIGHT:** Commissioner, just to note our
11 numbers will change on our positions on Issues 55A and B
12 to exactly those indicated by Public Counsel. And
13 Public Counsel, again, has kindly gone ahead and made
14 those changes in the handout that they distributed this
15 morning. Thank you.

16 **COMMISSIONER McMURRIAN:** Okay. All right.
17 So, 56.

18 **MR. MOYLE:** Under A, FIPUG would be agree with
19 OPC.

20 **COMMISSIONER McMURRIAN:** Okay. Any other
21 changes?

22 **MR. WRIGHT:** 56, the same deal.

23 **COMMISSIONER McMURRIAN:** Okay. So on FRF's
24 position, the numbers will change to match OPC's, just
25 for the record.

1 Issue 57.

2 **MR. BUTLER:** 57 is one that there doesn't seem
3 to be any disagreement with FPL's position, and I ask
4 whether it's possible to stipulate it.

5 **COMMISSIONER McMURRIAN:** Does anybody object
6 to showing that as a proposed stipulation?

7 Ms. Bennett.

8 **MS. BENNETT:** We are waiting for staff to
9 finish reviewing discovery. This was an issue that was
10 placed in by staff. I think discovery came in Thursday,
11 so there is a good chance that we can stipulate it
12 pending review of the discovery responses.

13 **COMMISSIONER McMURRIAN:** Okay.

14 **MR. WRIGHT:** And our position will be changed
15 to no position so that this would be what I think we
16 might be calling a Type II stip.

17 **COMMISSIONER McMURRIAN:** Okay. And Issue 58,
18 any changes? Okay.

19 Issue 59.

20 **MR. BUTLER:** This is in the same position as
21 57, it seems to be that potential stipulation, nobody
22 disagreeing.

23 **MS. BENNETT:** Staff is still reviewing
24 discovery.

25 **COMMISSIONER McMURRIAN:** Is there any other

1 party that wants to change their position?

2 **MR. WRIGHT:** Madam Commissioner, the Retail
3 Federation's position will be changing to no position,
4 so I agree that this appears to be amenable to a Type II
5 stip pending staff's review.

6 **COMMISSIONER McMURRIAN:** Okay. Thank you, Mr.
7 Wright.

8 And Issue 60.

9 **MR. WRIGHT:** Again, on Issue 60, Commissioner
10 McMurrian, our numbers will change to match those in the
11 Public Counsel's revised statements.

12 **COMMISSIONER McMURRIAN:** Okay, thank you.

13 So, Issue 61.

14 **MR. BUTLER:** This is another potential
15 stipulation, I think.

16 **COMMISSIONER McMURRIAN:** Ms. Bennett.

17 **MS. BENNETT:** Staff does agree with FPL's
18 position.

19 **COMMISSIONER McMURRIAN:** Okay. It looks like
20 FIPUG --

21 **MR. MOYLE:** Yes. We have taken a position of
22 no on that. Let me get with Mr. Butler.

23 **COMMISSIONER McMURRIAN:** Okay.

24 **MR. MOYLE:** But I think we should keep it as
25 an issue right now.

1 **MR. BUTLER:** Okay.

2 **COMMISSIONER McMURRIAN:** Okay. Issue 62.

3 Mr. Wright, do you want your numbers changed to match
4 those of OPC?

5 **MR. WRIGHT:** Yes, Commissioner. Thank you.

6 **COMMISSIONER McMURRIAN:** You're welcome.

7 **MS. BENNETT:** Commissioner McMurrian, if I
8 could bring us back all the way to 57, which is the
9 adjustments to be made to FPL's fuel inventories. I got
10 confirmation just now from staff that we agree with FPL
11 and that can be stipulated.

12 **COMMISSIONER McMURRIAN:** And that was 57 on
13 Page 77?

14 **MS. BENNETT:** Correct.

15 **COMMISSIONER McMURRIAN:** Anything else on 57?
16 All right. We will go back to 62. And we have already
17 changed FRF's. Any other changes on 62? Okay.

18 63. The same for you, Mr. Wright?

19 **MR. WRIGHT:** Thank you, Commissioner. Yes.

20 **COMMISSIONER McMURRIAN:** Okay. So match OPC
21 numbers for FRF. Any other changes? Okay.

22 So 64 is where we picked up the cost of
23 capital, so that should move us forward.

24 **MS. BENNETT:** So we are on 101, Page 101.

25 **COMMISSIONER McMURRIAN:** Okay. Net operating

1 income, Issue 82 on Page 101. There's an italicized
2 phrase in this issue, and other trend factors. I'm not
3 sure why that is done that way. I don't know if Mr.
4 Stallcup help us, or if there was a party that had a
5 particular issue with that wording.

6 **MR. STALLCUP:** Commissioner, Paul Stallcup
7 with the Commission staff.

8 That phrase in italics is appropriate. There
9 are inflation indices in the filing other than Consumer
10 Price Index. Actually, I'm sorry, appropriate inflation
11 customer growth would be appropriate because there are
12 several inflation indices. I don't believe there is
13 anything other than customer growth and the inflation
14 indices mentioned in the MFRs.

15 **COMMISSIONER McMURRIAN:** So are you suggesting
16 we don't need that phrase, is that what you are saying?

17 **MR. STALLCUP:** Yes, ma'am.

18 **COMMISSIONER McMURRIAN:** Does anyone have
19 input on that?

20 **MR. BUTLER:** We would be happy to take it out.

21 **COMMISSIONER McMURRIAN:** Is there anyone that
22 feels strongly about leaving and other trend factors in
23 Issue 82? Otherwise, we will take it out. Okay. Thank
24 you, Mr. Stallcup.

25 Are there any changes to the positions on

1 Issue 82? Okay.

2 Moving on to Issue 83.

3 Issue 84.

4 **MR. BUTLER:** This one seems like it has the
5 potential for stipulation.

6 **COMMISSIONER McMURRIAN:** 84?

7 **MR. BUTLER:** Yes, 84. Actually, it's 84
8 through 87 are all of a pattern. They're the
9 adjustments for the four different adjustment
10 mechanisms.

11 **COMMISSIONER McMURRIAN:** Clauses.

12 **MR. BUTLER:** Clauses.

13 **MS. BENNETT:** Staff has those in pending
14 further discovery, and I would need confirmation from
15 the technical staff that those issues are addressed
16 before we could stipulate to those.

17 **COMMISSIONER McMURRIAN:** Okay. So for the
18 record, that's Issues 84 through 87. Staff needs to
19 look into those issues, and perhaps they could be
20 proposed as a stipulation of the parties. Are there any
21 other changes on Issues 84 through 87?

22 Mr. Armstrong, do you have an issue on those?

23 **MR. ARMSTRONG:** Yes. Actually with respect to
24 83 to 87, South Daytona would like to change our
25 position to no.

1 **COMMISSIONER McMURRIAN:** Did you say 83 or 84
2 through 87?

3 **MR. ARMSTRONG:** I believe it was 83.

4 **COMMISSIONER McMURRIAN:** Okay. On 83 you want
5 to insert the word no, or do you want to it to be only
6 no?

7 **MR. ARMSTRONG:** Replace what we have there and
8 just put the word no, and do that for each.

9 **COMMISSIONER McMURRIAN:** For each 83 through
10 87?

11 **MR. ARMSTRONG:** Right.

12 **COMMISSIONER McMURRIAN:** Okay, thank you. So
13 at least for now it looks like that is probably not a
14 proposed stipulation, right?

15 **MS. BENNETT:** That is correct. Because South
16 Daytona has taken that position, there will not be a
17 stipulation.

18 **COMMISSIONER McMURRIAN:** I hesitated too long,
19 Mr. Armstrong, didn't I?

20 **MR. ARMSTRONG:** I don't know if I hesitated
21 too long or I got in there just in time.

22 **COMMISSIONER McMURRIAN:** No, I was saying I
23 hesitated.

24 **MR. ARMSTRONG:** Okay. Thank you.

25 **COMMISSIONER McMURRIAN:** No, it's okay. Just

1 kidding. All right. 87. All right. Any other changes
2 on those, or we will move to 88? Okay.

3 Issue 88.

4 **MR. BUTLER:** At the risk of getting a changed
5 position from Mr. Armstrong, I think that 88 is in the
6 same posture of currently not having any disagreement on
7 it.

8 **COMMISSIONER McMURRIAN:** Mr. Armstrong, do you
9 have a change on 88?

10 **MR. ARMSTRONG:** I heard what he said, but I
11 have no change otherwise I would have clicked in.
12 Thanks.

13 **COMMISSIONER McMURRIAN:** Thank you.

14 **MS. BENNETT:** Staff has pending discovery that
15 we are reviewing, but we could potentially stipulate
16 this.

17 **COMMISSIONER McMURRIAN:** Okay. Issue 89.

18 Issue 90.

19 Issue 91.

20 Issue 92.

21 **MR. BUTLER:** I think 92 may be potentially
22 stipulatable.

23 **COMMISSIONER McMURRIAN:** Ms. Bennett, do you
24 agree that is stipulatable?

25 **MS. BENNETT:** Perhaps.

1 **COMMISSIONER McMURRIAN:** That's a new word.

2 What about the other parties, are there any
3 position changes on any of these on Issue 92? Okay.

4 **MR. BECK:** Commissioner McMurrian, Charlie
5 Beck, Office of Public Counsel. In our affiliate
6 transaction issues we have one concerning the amounts
7 paid for the FPL Museum, I believe, which we claim is
8 tantamount to a charitable contribution. So depending
9 on what you do on affiliate issues, we may want to put
10 that in there.

11 **COMMISSIONER McMURRIAN:** Okay. I think we are
12 getting to those soon, aren't we?

13 **MR. BECK:** Oh, I'm sorry, it's 93.

14 **MR. BUTLER:** There was actually a separate
15 issue on the Historical Museum.

16 **COMMISSIONER McMURRIAN:** Okay.

17 **MR. BECK:** I take it back.

18 **COMMISSIONER McMURRIAN:** No, that's all right.
19 So 92 might be possible for stipulation; 93 with respect
20 the historical museum, any changes there? Okay.

21 Issue 94.

22 **MR. BUTLER:** There doesn't seem to be any
23 disagreement on 94, and I propose it for stipulation.

24 **MS. BENNETT:** No. Staff is not ready to
25 stipulate that one.

1 **COMMISSIONER McMURRIAN:** Okay. I guess moving
2 on to 95, and it shows OPC with no position here, but
3 I'm assuming that is in the handout, right, the new
4 position on 95?

5 **MS. CHRISTENSEN:** That's a typographical
6 error, and I think how best to handle that is to just
7 include that in our written amended responses that we'll
8 provide to staff by close of business tomorrow.

9 **COMMISSIONER McMURRIAN:** Issue 96 and 97, both
10 relating to bad debt. Hearing nothing.

11 Issue 98, advertising expense, and 99,
12 lobbying expense.

13 **MR. BUTLER:** On 98, but not 99 it looks like
14 there may be potential to stipulate it.

15 **MS. BENNETT:** Staff could stipulate that
16 position. We agree that that could be stipulated.

17 **COMMISSIONER McMURRIAN:** Okay. Any other
18 parties object to that being shown as a proposed
19 stipulation? Okay.

20 Moving on to 99. Is that not -- Mr. Butler.

21 **MR. BUTLER:** The reason for the puzzlement, I
22 don't think that is any disagreement on it, as well. It
23 is not on my little cheat sheet here, but I think that
24 it seems to fit the pattern, and I would ask that you
25 confirm whether it's potentially stipulated.

1 **MS. BENNETT:** Staff agrees with FPL, so unless
2 another party changes their negotiation that can be
3 stipulated.

4 **COMMISSIONER McMURRIAN:** Any objection to
5 that?

6 **MR. MOYLE:** Can I just ask a point of
7 clarification on this, because my client is focused on
8 certain big issues, and I don't know that we have delved
9 in and looked at the lobbying expenses. I know FPL has
10 very good lobbyists, and I think they compensate them
11 accordingly. But when we have a question like this, you
12 know, have they appropriately removed the expense, am I
13 correct in presuming that when staff says that we're
14 okay with it, that that issue has been examined, and
15 that, in effect, by saying we don't -- we are okay with
16 stipulating that the answer to that question is yes,
17 they have appropriately removed lobbying expenses?

18 **COMMISSIONER McMURRIAN:** I think it means that
19 they agree with FPL's position as listed there. I think
20 that is what she said was agree with FPL, but I should
21 let her speak for herself.

22 **MS. BENNETT:** We have sent out discovery.
23 Those that we are not answering or saying we might
24 stipulate to are those that we have not finished
25 reviewing discovery. This one staff has reviewed and we

1 do agree with FPL's position.

2 **MR. MOYLE:** Okay. And then when we talk about
3 the stipulation, I missed the Tier I, Tier II type
4 stipulation, but I guess when we say we are okay, we are
5 essentially saying -- if FIPUG says okay, we are saying
6 we don't have a disputed issue with that. We are not
7 going to put any evidence on and we are not going to
8 contest it. Not that we are agreeing to it, but we are
9 just saying it is not in play.

10 **COMMISSIONER McMURRIAN:** Right. And as we
11 discussed earlier, I think if you have still got no
12 position here, I don't think we assume that you agree
13 with staff's agreement, or that you agree with FPL. I
14 think that you are just -- I don't know about the
15 category, which category they fall into, either, but I
16 think that --

17 **MS. BENNETT:** And I think technically it is
18 not a stipulation. Staff doesn't enter into
19 stipulations. What we're doing is we're reviewing the
20 evidence presented by FPL and agreeing with their
21 position after reviewing the evidence. And so since
22 there are no disputed issues on that particular -- we
23 can agree.

24 **MR. MOYLE:** Thank you for indulging me on
25 that. Stipulations, you know, lawyers kind of get

1 worked up on stipulations, so clarifying that that we
2 are not agreeing necessarily, we are just not saying it
3 is contested.

4 **COMMISSIONER McMURRIAN:** It confuses me, too,
5 every time, I have to admit.

6 **MR. MOYLE:** Thanks.

7 **COMMISSIONER McMURRIAN:** So Issue 100. Any
8 changes? Hearing none.

9 Issue 101. No changes.

10 Issue 102. Hearing nothing.

11 Issue 103.

12 **MS. BRADLEY:** Commissioner, can I backtrack a
13 second and change our response on Issue 100 to support
14 OPC.

15 **COMMISSIONER McMURRIAN:** Okay. And were there
16 any of the other ones, Ms. Bradley, that I flew through
17 that --

18 **MS. BRADLEY:** I hope not. I think not.

19 **COMMISSIONER McMURRIAN:** Okay. I think that
20 brings us to 104, and 104 is subsumed within Issue 103.

21 **MS. CHRISTENSEN:** Commissioner, Patty
22 Christensen for OPC. For the record, we would like to
23 note our objection to subsuming this Issue, Issue 104,
24 and I guess Issue 105, since we are coming to that
25 shortly into one specific issue regarding salaries. I

1 would note that the Commission has taken different
2 treatment of executive versus non-executive salaries in
3 past rate cases and, therefore, would urge the
4 Commissioner to consider keeping those as separate
5 transactions and separate adjustments should be made for
6 both of those categories.

7 **COMMISSIONER McMURRIAN:** Ms. Christensen, were
8 they separate issues in that other rate case that you
9 are talking about? Because I remember that, too, and we
10 had a discussion about it, and I can't remember what the
11 answer was now.

12 **MS. CHRISTENSEN:** I want to say that they
13 were, but I know they certainly were addressed
14 separately and different treatment was given to them.
15 And I know in at least the past two rate cases that I
16 have been involved with executive salary has been
17 treated as a separate issue from non-executive salaries.
18 So I would urge the Commissioner to leave those as
19 separate issues, given the Commission's past treatment
20 of those.

21 **MS. BENNETT:** I think our concern with
22 dividing them into executive and non-executive is the
23 term executive, and what is an executive, and what is
24 not an executive, and where do the directors fall. And
25 its much easier if the term is much broader, like used

1 in 103, and then you can take a position that employees
2 who are executives that do this work should be entitled
3 to this compensation, and people we define as
4 nonexecutives that do this work fall into this. I guess
5 staff's big concern with our discussion on this issue
6 was how do you define executive.

7 **COMMISSIONER McMURRIAN:** Okay. I think this
8 is similar to the discussions we have already had this
9 morning about -- you know, I think it's just a
10 disagreement that apparently I have with some parties
11 about how to break these things down. I don't believe
12 that it is necessary to have separate distinct issues to
13 be able to address this fully within another issue, and
14 after discussing it with staff, I believe that it can be
15 subsumed within 103. I believe that is consistent with
16 how we have done it in some of the other cases. And as
17 we are both remembering, I think that we have had some
18 different treatment of executives versus non-executive
19 in other cases.

20 **MS. CHRISTENSEN:** And I do believe we did
21 break it out as separate issues in at least one past
22 case, but if the Commissioner deems it appropriate to
23 put it in one issue, then I would ask that it be treated
24 as the other issues that have been proffered and denied
25 and put into the rulings section.

1 **COMMISSIONER McMURRIAN:** Absolutely. That is
2 perfectly fine. And so Issue 105 would be the same
3 treatment, it could be subsumed in 103 as we have just
4 discussed. And, of course, there may be changes to
5 positions and where they go with respect to moving your
6 positions to Issue 103 as we have discussed before.

7 Issue 106.

8 **MR. BUTLER:** There does not seem to be
9 disagreement on 106, and I would ask that it be
10 considered for stipulation.

11 **MS. BENNETT:** Staff is not ready to take a
12 position on that one yet.

13 **COMMISSIONER McMURRIAN:** Okay. Anyone else?

14 Issue 107.

15 Hearing nothing, Issue 108.

16 Hearing nothing, Issue 109.

17 Issue 110. And here we are going to get into
18 another series that will be subsumed within 109 with one
19 exception, Issue 116A, I believe it is, on Page 130.
20 I'm going to leave that as a separate issue.

21 **MR. MOYLE:** 116?

22 **COMMISSIONER McMURRIAN:** 116A. It is on Page
23 130. But I guess backtracking a little bit, Issue 110
24 would be subsumed within Issue 109. Issue 111 subsumed
25 within 109. Issue 112 on Page 126. I guess I should be

1 asking -- well, if we are going to -- I suppose there
2 will be positions that might change with respect to 109
3 based on striking of these issues. So Issue 112 would
4 be subsumed within Issue 109; Issue 113 would be
5 subsumed within 109. Issue 114, Issue 115, and 116.

6 **MS. CHRISTENSEN:** Commissioner, may I be heard
7 on the affiliate transaction issues?

8 **COMMISSIONER McMURRIAN:** Absolutely.

9 **MS. CHRISTENSEN:** Again, OPC has testimony to
10 support these individual transactions and there will be
11 individual adjustments for each one of the issues that
12 we have identified. And subsuming them into one issue
13 for affiliate transactions, although they all are
14 affiliate transactions, they are not necessarily
15 interrelated or necessarily follow one after the other.
16 They are specific adjustments that we are making, and we
17 would ask that they remain separate issues as we have
18 identified them. And that although they relate to an
19 affiliate, they are an individual transaction and they
20 can't necessarily be subsumed under one individual
21 issue.

22 So we would ask that they remain separate, and
23 that we have the opportunity to address those each
24 individually. And if the Commissioner is disinclined to
25 do that, that we be allowed to identify them as each

1 subcategory or Subissue A through however many there are
2 to subsume, 111 through 116, with individual letter
3 identifiers because they are individual transactions.

4 **COMMISSIONER McMURRIAN:** The concern I have
5 with that, Ms. Christensen, is just that in trying to
6 identify the individual letters are we going to need to
7 add a lot of other letters for everything else that is a
8 subset of the affiliate transactions issue.

9 **MS. CHRISTENSEN:** And I think that probably
10 goes to my point, which is they are individual
11 adjustments in and of themselves, and I think generally
12 when you are trying to subsume issues if they are
13 interrelated or they follow step-by-step naturally that
14 makes it easier to subsume into one issue. But if they
15 are separate and stand-alone adjustments, which we
16 believe these affiliate transactions, although they all
17 arise out of affiliate transactions, they are individual
18 and stand-alone adjustments, and they should be ruled on
19 individually. So I think subsuming them makes it
20 problematic.

21 **MR. BUTLER:** Commissioner.

22 **COMMISSIONER McMURRIAN:** Mr. Butler.

23 **MR. BUTLER:** May I speak briefly to that?

24 **COMMISSIONER McMURRIAN:** Sure.

25 **MR. BUTLER:** I don't see a distinction at all.

1 I mean, I think that everything Ms. Christensen just
2 said could have been said with respect to the various
3 other NOI, to the rate base, to the various depreciation
4 issues, and there are specific adjustments that are
5 proposed within those broad categories. But as you have
6 already ruled in those areas, it's certainly possible
7 for parties to set out each of the particulars of
8 adjustments that they think are appropriate. I think
9 that same pattern can fit here just as it has in the
10 other instances.

11 **COMMISSIONER McMURRIAN:** Ms. Bennett.

12 **MS. BENNETT:** The way I had read the issues
13 proposed by OPC, they are actually positions under Issue
14 109 and not separate issues, and that's how we had
15 viewed them.

16 **MS. CHRISTENSEN:** Commissioner, may I briefly
17 respond?

18 They are not individual positions. They are
19 actually individual adjustments that we are
20 recommending. And to speak to Mr. Butler's point, we do
21 raise individual adjustments at the NOI section. We
22 don't have just one large fallout category. We try and
23 identify the individual adjustments you would have for
24 the accounting to clarify that for the Commissioner.
25 And these are stand-alone adjustments, although they do

1 broadly fit within an affiliate transaction category.
2 They are stand alone adjustments that we are advocating
3 for, and I think they are worded neutrally, and they
4 should be allowed to stand as an individual issue.

5 **COMMISSIONER McMURRIAN:** It's not an issue
6 with the wording, Ms. Christensen, or at least it wasn't
7 for me. But my initial ruling stands. I just don't
8 think it's necessary to have these broken out. I know
9 it is just a difference of opinion we all have.

10 **MS. CHRISTENSEN:** And, again, of course, we
11 would ask the same treatment that the Commissioner has
12 afforded on the other issues, that they be identified
13 under the individual ruling section.

14 **COMMISSIONER McMURRIAN:** Absolutely.

15 Issue 117 would be also --

16 **MR. BUTLER:** Commissioner, on 116A, I'm not
17 sure that I understand what you did with that. It seems
18 to fit the same pattern, at least according to the staff
19 position, of being subsumed in 109. Is it also subsumed
20 in 109, or did I hear you say something differently?

21 **COMMISSIONER McMURRIAN:** Perhaps it could be
22 subsumed within Issue 109, but we decided that -- after
23 talking with staff, we decided that we wanted to leave
24 this as a separate issue.

25 **MR. BUTLER:** So it's going to remain in as an

1 issue, and FPL will need to and will provide a position
2 on it by close of business tomorrow.

3 **COMMISSIONER McMURRIAN:** Yes, thank you. Any
4 other changes to the positions?

5 **MR. ARMSTRONG:** I just have a clarification.
6 So all of these other issues that we are saying are
7 subsumed, like FPL doesn't have to take a position on
8 it, and we don't have to take positions on it. So it
9 won't be clear to you all until we file post-hearing
10 briefs what our positions on these things are then, is
11 that the case?

12 **COMMISSIONER McMURRIAN:** You will need to take
13 a position on Issue 109. And within 109 you can talk
14 about all of these other issues that we have talked
15 about being subsumed within 109. For example, with
16 respect to Issue 116, or 115, or 114, gas contracts to
17 FPLES, Energy Services, you can discuss all of those in
18 your position on 109 and at some point we are going to
19 get to the point where we talk about the number of words
20 that will be afforded, because I know that generally the
21 amount that is afforded may not give you what you need
22 to be able to do the delineation on those other issues
23 that will now be subsumed within 109. So we will be
24 aware of what your positions are with respect to those
25 subjects to the extent that you reflect those in your

1 position statement on 109.

2 **MR. ARMSTRONG:** Okay. We will just have to
3 pick out the ones out of those issues that we have a
4 position on. I am just going to restate I truly think
5 this is an extreme violation of due process to do it
6 this way, and I really can see just being an appealable
7 item on behalf of the City of South Daytona. But I just
8 wanted to restate, because to me it is certainly not the
9 way the Commission should be going in terms of
10 constitutional protections of intervenors, but I have
11 said it again.

12 **COMMISSIONER McMURRIAN:** Thank you. Okay.

13 So, 117. That will also be subsumed within
14 Issue 109. Issue 118 is left blank. And I assume the
15 same objections and concerns and noting Issue 117 would
16 also be in the ruling section would still apply here,
17 Ms. Christensen?

18 **MS. CHRISTENSEN:** Correct.

19 **COMMISSIONER McMURRIAN:** And for any other
20 parties, as well.

21 Issue 119. Any changes here?

22 Issue 120.

23 Issue 121.

24 Issue 122.

25 **MR. BUTLER:** There does not appear to be any

1 disagreement on 122, and I would propose it for
2 stipulation.

3 **COMMISSIONER McMURRIAN:** Ms. Bennett.

4 **MS. BENNETT:** I don't know if Clarence's
5 comment picked up, but, no, staff is not in the position
6 of -- staff is not ready to stipulate to that position.

7 **COMMISSIONER McMURRIAN:** Okay. Moving on to
8 Issue 123.

9 **MR. BUTLER:** This, too, seems to have
10 potential for stipulation.

11 **MS. CHRISTENSEN:** I have no comment on -- I
12 wanted to go back, I'm sorry, to 122.

13 **COMMISSIONER McMURRIAN:** Sure.

14 **MS. CHRISTENSEN:** And indicate that we would
15 also like to change our position and would provide staff
16 our rewording of the issue, or position on that issue no
17 later than 5:00 o'clock, close of business tomorrow.

18 **COMMISSIONER McMURRIAN:** Okay.

19 **MS. BRADLEY:** Please note that the AG supports
20 OPC.

21 **COMMISSIONER McMURRIAN:** Okay.

22 **MR. MOYLE:** As does FIPUG. And I think that
23 we will be suggesting a five-year amortization is more
24 appropriate than three.

25 **MR. LaVIA:** Commissioner, the Florida Retail

1 Federation, also.

2 **COMMISSIONER McMURRIAN:** Okay. Just a second.
3 Go back to Mr. Moyle, and then I will come back to you,
4 Mr. LaVia. You plan to change your position later, or
5 do you want it to say supports OPC, or do you want it to
6 say support OPC and that you want to propose a five
7 year -- do you see my confusion?

8 **MR. MOYLE:** Just so we're clear, we'll just
9 say that FIPUG would indicate that a five-year
10 amortization schedule -- five-year amortization schedule
11 or period should be adopted.

12 **COMMISSIONER McMURRIAN:** Okay. And is that
13 for -- that is for 122A?

14 **MR. MOYLE:** Yes, ma'am.

15 **COMMISSIONER McMURRIAN:** Okay. And Mr. LaVia.

16 **MR. LaVIA:** I simply wanted to reflect that we
17 will still agree with OPC.

18 **COMMISSIONER McMURRIAN:** I don't think your
19 mike is on, I'm sorry.

20 **MR. LaVIA:** We simply want to reflect that we
21 will still agree with OPC, but with their revised
22 position.

23 **COMMISSIONER McMURRIAN:** Okay. So I think we
24 can leave it as is if you are --

25 **MR. LaVIA:** As is.

1 **COMMISSIONER McMURRIAN:** Okay. Thank you.

2 **MS. CHRISTENSEN:** Commissioner, before we move
3 on to the next issue, I need to go back to Issue 120.

4 **COMMISSIONER McMURRIAN:** Okay. I'm sorry,
5 121. We have see Issue 29, and I think that was one of
6 those positions that got eliminated, so we will need to
7 revise our position on that and maybe adopt our position
8 from 29 into 121 as written in 29. And I think Ms.
9 Bradley has the same issue, probably.

10 **MS. BRADLEY:** Yes. Thank you.

11 **COMMISSIONER McMURRIAN:** Was 29 one of the
12 ones that was subsumed somewhere else? Staff, do you
13 remember?

14 **MR. MOYLE:** I believe so.

15 **MS. BENNETT:** Yes, that was one of the
16 dismantlement issues. I think it's now 19G. I'm sorry,
17 42.

18 **COMMISSIONER McMURRIAN:** I think it is 42, if
19 that helps you all.

20 **MS. CHRISTENSEN:** I think for the sake of
21 clarification, we will just include that in the list of
22 reworded issues that we provide to staff to make sure
23 that we get the correct wording. But I think we will
24 probably adopt the wording from Issue 29, but just to
25 make sure we don't have any changes given that the

wording of the issues has changed slightly. We will send any rewording we have to staff by close of business tomorrow.

COMMISSIONER McMURRIAN: Okay, that works.

And, Ms. Bradley, do you want to support OPC's --

MS. BRADLEY: Yes, thank you.

COMMISSIONER McMURRIAN: Thank you. Okay.

And I think we have addressed 122. Were there other changes on 122? I don't think so. We addressed that. 123, with respect to atrium expenses. Mr. Butler, did you say that was one you proposed?

MR. BUTLER: Yes, it is.

MS. BENNETT: Staff agrees with both FPL and OPC.

COMMISSIONER McMURRIAN: Any objections to showing that as a proposed stipulation, understanding that parties who take no position aren't stipulating to it? Okay.

All right. 124. Hearing nothing.

125.

126.

127.

MR. BUTLER: I believe 127 may be subject to stipulation.

MS. BENNETT: Staff agrees with both FPL and

1 OPC position on this, 127, so if no other party
2 disagrees, we can stipulate this.

3 **COMMISSIONER McMURRIAN:** Any objections to
4 showing that as a proposed stipulation? Okay.

5 Issue 128, O&M expense.

6 Issue 129.

7 **MR. BUTLER:** Commissioner, 129 currently shows
8 disagreements, but FPL has changed its position on this
9 issue and made an adjustment for taking out the impacts
10 of depreciation expense prior to system implementation,
11 and we're not sure if we can get there today, but I
12 think this is one that is potentially stipulated by
13 virtue of our change of position.

14 **COMMISSIONER McMURRIAN:** Okay.

15 Ms. Bennett.

16 **MS. BENNETT:** It's potential. Staff has got
17 some discovery outstanding that they need to review.

18 **COMMISSIONER McMURRIAN:** Okay.

19 **MR. MENDIOLA:** I would, I guess, like to ask
20 if FPL would change its position to agrees with SFHHA,
21 that might make the stipulation easier.

22 **MR. BUTLER:** I'm sure it would. What does
23 SFHHA say?

24 **COMMISSIONER McMURRIAN:** Okay. So we'll note
25 that that is potentially one, but staff notes that it

1 has still got discovery outstanding, so that will wait.

2 Issue 130. Hearing nothing.

3 Issue 131.

4 Issue 132.

5 Issue 133. Is there a potential agreement on
6 133? I'm just trying to look.

7 **MS. BENNETT:** No, Madam Commissioner, there is
8 not.

9 **COMMISSIONER McMURRIAN:** Okay. Thank you.

10 134. Changes?

11 135.

12 Issue 136, getting into revenue requirements.

13 Any changes? Hearing none.

14 Issue 137.

15 Issue 138 will be essentially stricken. This
16 was proposed by Mr. Saporito, and he has withdrawn from
17 the case, and I think it's subsumed in other issues.
18 I'm not sure which one, but other issues. Perhaps 137,
19 according to OPC's position. Okay.

20 Any other changes on 137? Okay.

21 So we are into cost of service and rate design
22 issues, 139.

23 **MR. BUTLER:** There does not appear to be
24 disagreement with FPL on this. If that is right it may
25 be stipulated.

1 **MS. BENNETT:** Staff is not prepared to
2 stipulate to that.

3 **COMMISSIONER McMURRIAN:** Okay. Issue 140.
4 Hearing nothing.

5 Issue 141.

6 Issue 142.

7 Issue 143.

8 **MS. BENNETT:** Staff would like to change its
9 position on 143 to state, yes, FPL has properly adjusted
10 revenues to account for unbilled revenues. I believe
11 with that that could be a stipulated issue, unless any
12 party wants to change its position.

13 **COMMISSIONER McMURRIAN:** Any objection to
14 showing that as a proposed stipulation, or whatever we
15 need to call it?

16 **MS. BENNETT:** An undisputed factual issue.

17 **COMMISSIONER McMURRIAN:** Ms. Bennett, just let
18 me go ahead and ask you what is it called when staff and
19 the company agree and the other parties take no
20 position? How is that shown? Is it not considered a
21 proposed stipulation?

22 **MS. BENNETT:** It shows up in the stipulation
23 section of the Prehearing Order, but my understanding is
24 we don't really stipulate. But we have agreed to their
25 position, and so there is nobody else that is disputing

1 it.

2 **COMMISSIONER McMURRIAN:** No one else is
3 contending -- okay. Thank you.

4 Issue 144. Any changes?

5 Issue 145.

6 Issue 146.

7 **MS. BENNETT:** Staff is changing its position
8 to, yes, the appropriate temporary construction service
9 charges are 255 for overhead and 142 for underground.
10 And I believe that would be an agreed issue to show up
11 in the stipulation unless another party changes its
12 position.

13 **COMMISSIONER McMURRIAN:** Any objection to
14 that?

15 **MS. BENNETT:** 146.

16 **COMMISSIONER McMURRIAN:** She said 255.

17 **MS. BENNETT:** 255 and 142.

18 **MR. BUTLER:** Yes.

19 **COMMISSIONER McMURRIAN:** Okay. Issue 147.

20 **MS. BENNETT:** Staff would like to change its
21 position to, yes, FPL has properly calculated the
22 proposed charges for providing BERS audits pursuant to
23 Florida Administrative Code Rule 25-17.003(4)(a). I
24 believe that would make that a stipulated issue, also.

25 **COMMISSIONER McMURRIAN:** Any objections?

1 Okay. Issue 148.

2 **MR. BUTLER:** I think this is potentially
3 stipulatable, as well.

4 **MS. BENNETT:** Staff has outstanding discovery
5 on that one.

6 **COMMISSIONER McMURRIAN:** Okay. Any other
7 changes?

8 Issue 149.

9 **MS. BENNETT:** Staff would like to change its
10 position to, yes, the appropriate charge is \$279.98. I
11 think this would be a stipulated issue.

12 **COMMISSIONER McMURRIAN:** Any objection?

13 Issue 150.

14 **MR. BUTLER:** On this one it looks like there
15 is no disagreement. Do you have discovery pending on
16 it?

17 **MS. BENNETT:** We have discovery pending.

18 **COMMISSIONER McMURRIAN:** Issue 151.

19 **MS. BENNETT:** Staff would like to change its
20 position to yes on 151. Again, that could be a
21 stipulation if no other party changes its position.

22 **COMMISSIONER McMURRIAN:** Any objections?

23 Issue 152. Is this a proposed stipulation,
24 or --

25 **MS. BENNETT:** On 153, but not on 152. Staff

1 still has outstanding discovery. Staff would like to
2 change its position on 153 to yes.

3 **COMMISSIONER McMURRIAN:** Any objections to
4 that as a proposed stipulation? I'm just going to keep
5 calling it that.

6 Issue 154.

7 **MR. BUTLER:** Do you have outstanding discovery
8 on it?

9 **MS. BENNETT:** We do not want to change our
10 position at this time until we get to Issue 158..

11 **MR. BUTLER:** Okay.

12 **COMMISSIONER McMURRIAN:** Okay. Issue 155.

13 Issue 156.

14 **MR. BUTLER:** I'm sorry, Commissioner, there
15 doesn't appear to be any disagreement on 155.

16 **COMMISSIONER McMURRIAN:** I think that Ms.
17 Bennett said that they didn't want to change their
18 position at this time until you got to 158.

19 **MS. BENNETT:** Until we get to Issue 158. We
20 are not ready to --

21 **MR. BUTLER:** On none of these in between?

22 **MS. BENNETT:** Correct.

23 **MR. BUTLER:** Okay.

24 **COMMISSIONER McMURRIAN:** So, 156. Any
25 changes?

1 157, any changes?

2 Hearing none, 158. Ms. Bennett.

3 **MS. BENNETT:** Staff would like to change its
4 position to yes. And, again, there doesn't appear to be
5 any other party taking a position on this, so it could
6 be stipulated unless a party wants to change its
7 position.

8 **COMMISSIONER McMURRIAN:** Any changes or
9 objections? Okay.

10 Issue 159. Any changes?

11 160 and 161. Okay.

12 Issue 162.

13 **MR. MOYLE:** Can I back up just for one second.
14 I thought I got a sense that those other ones that
15 depended on 158, I guess 56 and 57, those are still
16 outstanding waiting on discovery?

17 **COMMISSIONER McMURRIAN:** Yes. Let's see. It
18 would be 154 was not agreed to, 155, 156, and 157 is
19 what I have.

20 **MS. BENNETT:** That's correct. We are waiting
21 for outstanding discovery on all of those.

22 **MR. MOYLE:** Thank you.

23 **COMMISSIONER McMURRIAN:** But 158 would be a
24 proposed stipulation unless there's a change or an
25 objection.

1 So 159, 160, and 161 are customer charges,
2 demand charges, and energy charges. Any changes on
3 those?

4 162, lighting rate charges. It looks like FRF
5 maybe has a position that's -- so that one is not
6 subject to stipulation, I don't believe.

7 So 163. Okay.

8 164, any changes?

9 165.

10 166.

11 167. Staff, help me remember my suggested
12 change to this language here.

13 **MS. BENNETT:** Right. My notes reflect that we
14 were going to leave it in, but to change the language to
15 state is FPL's CDR credit appropriate, and then staff
16 would change its position -- well, no, staff has no
17 position at this time.

18 **COMMISSIONER McMURRIAN:** So, Mr. Moyle, did
19 you get that? It would change from what should the to
20 is FPL's, and CDR credit instead of be set at, make it
21 appropriate. So is FPL's CDR credit appropriate.

22 **MR. MOYLE:** I've got it. Thank you. And I
23 apologize, we ended the sentence with a preposition.

24 **MR. BUTLER:** Commissioner.

25 **COMMISSIONER McMURRIAN:** Mr. Butler.

1 **MR. BUTLER:** We had expressed concern, I think
2 there was at least a couple of other parties, including
3 staff who had noted here that this is an issue that is
4 more appropriately addressed in the conservation
5 cost-recovery docket, I believe. As I understand it,
6 that is where these CDR credits are determined, and it
7 didn't seem to us that it was appropriately set for
8 decision here in the rate case.

9 **COMMISSIONER McMURRIAN:** Ms. Bennett, that is
10 what the position says, but I just don't remember us
11 discussing it.

12 **MS. BENNETT:** Staff agrees that it belongs in
13 the conservation cost-recovery clause docket. We
14 changed the wording of the issue so that we could still
15 answer that it belongs in the cost-recovery clause
16 docket, but I think that FIPUG wanted to preserve its
17 right, kind of like we did with the nuclear
18 cost-recovery clause, where we said it's going to be
19 decided in -- the AFUDC issue is going to be decided in
20 a different docket. So perhaps this is something that
21 could be stipulated between the parties that the
22 Commission will decide the credit in the docket that
23 comes up a little bit later.

24 **MR. MOYLE:** FIPUG, I know, has testimony filed
25 on this point and believes that it's a live, ripe issue

1 for consideration here.

2 **COMMISSIONER McMURRIAN:** You do have testimony
3 filed on this, is that what you said? I'm sorry, I
4 didn't hear you.

5 **MR. MOYLE:** Yes, ma'am, that's my
6 understanding, that we do have testimony on this point
7 through Mr. Pollock. And think that, you know, this
8 should be a live issue here. But I guess then that can
9 be a point where others may say, well, kind of like we
10 have done with that greenfield case. There was a
11 nuclear issue, and we said maybe it should be somewhere
12 else. But we appreciate keeping it in, and I think the
13 rewording is appropriate.

14 **MR. BUTLER:** I guess I have a question as to
15 what appropriate means in this context. I mean, it ends
16 up getting set based on, you know, the sort of
17 cost-effectiveness test in the conservation
18 cost-recovery docket, and if it stays there it is what
19 it is. In this proceeding we can just say, yes, I guess
20 is our position. It has been determined in the
21 conservation cost-recovery docket, but it doesn't seem
22 to us to be a very good fit here.

23 **MR. MOYLE:** Mr. Butler has already set forth
24 his position. He is halfway there to addressing it.

25 **COMMISSIONER McMURRIAN:** I was just thinking,

1 I'm starting to remember discussing some of this now,
2 and that perhaps we have had a similar issue to this in
3 other dockets where we had the confusion about whether
4 or not this would be something that was appropriate to
5 take up in a rate case or better taken up in the
6 conservation clause. I seem to remember some of this
7 now, and I see Connie is here with us. So, Mr. Moyle,
8 is it something you are going to continue to look at
9 about whether or not -- I mean, isn't --

10 **MR. MOYLE:** Well, I think we --

11 **COMMISSIONER McMURRIAN:** -- this better
12 addressed in the conservation clause, quite frankly,
13 with the 200 issues that we have here.

14 **MR. MOYLE:** I think we believe that it's
15 appropriate to address it here, that this is an
16 appropriate place to have this determination made. I
17 mean, I think we can put forward our position and
18 arguments supported by Mr. Pollock's testimony, and Mr.
19 Butler can say, you know, yes, we think how we are
20 setting it is appropriate, and it should be determined
21 on an annual basis. I mean, I think it is framed up
22 such that we can go ahead and deal with it here.

23 **COMMISSIONER McMURRIAN:** Okay. I have already
24 said I will leave it in, so we will leave it in, and we
25 will change the wording to is FPL's CDR credit

1 appropriate, and then everyone can take whatever
2 position that they deem appropriate.

3 Issue 168, time-of-use rates. Any changes? I
4 don't think that one is subject to stipulation.

5 Issue 169. AFFIRM has proposed that issue.
6 Ms. Alexander spoke with me right before she left, and
7 noted a change to their position, and I'm telling
8 everyone on the record now -- I told her at that time
9 that I intended to -- similar to the position they take
10 here, they believe that it can be addressed under other
11 issues, and so I'm striking that issue. So Issue 169
12 will be intentionally left blank.

13 Issue 170. I propose a change to the wording
14 of Issue 170, but I'm going to allow it in. And we can
15 have some brief discussion on it just with this changing
16 of the wording, but my proposed change is should FPL
17 evaluate the merits of a prepayment option in lieu of
18 monthly billing for those customers who can benefit from
19 such an alternative. Should FPL evaluate the merits of,
20 and strike the be directed to develop.

21 **MR. BUTLER:** Commissioner, a concern FPL has
22 about this issue, and there were some others that have
23 been subsumed that would have fit this category, but
24 this one particularly if you are going to be including
25 it is that I know FPL doesn't testify to this subject, I

1 don't believe that there is other testimony, prefiled
2 testimony on it. And we have a little bit of concern
3 about how the record gets developed on an issue such as
4 this where there really doesn't seem to have been, you
5 know, a formation or a formulation of a dispute by
6 virtue of the evidence.

7 **COMMISSIONER McMURRIAN:** Ms. Christensen or
8 Mr. Beck.

9 **MR. BECK:** Yes. I'll will take it,
10 Commissioner.

11 There was testimony by customers at the Fort
12 Myers hearing, and I believe it was supported by several
13 other customers at that hearing, as well. And an
14 exhibit has been introduced and accepted into evidence
15 related to that. So, you know, I think it's important
16 that the Commission address the issues that have been
17 raised by customers at the hearings.

18 **COMMISSIONER McMURRIAN:** In my mind, it's
19 similar to the issue that was raised in the TECO case
20 with respect to the school board. And I know OPC made
21 that point in their memo on the issues, and the fact
22 that there is not testimony proposed by FPL on it, I
23 believe with the wording of the issue the way it is, I
24 believe that it could be treated, in a sense, more like
25 a policy issue. Perhaps I'm speaking out of turn here,

1 but I think having FPL consider looking into this kind
2 of option and reporting back to the Commission on
3 something that we heard from the customers during the
4 service hearing, I think, could be beneficial.

5 **MR. BUTLER:** And would you propose staff or
6 Commissioners would ask FPL witnesses their views on
7 this policy issue?

8 **COMMISSIONER McMURRIAN:** My -- Mr. Beck, go
9 ahead.

10 **MR. BECK:** We will volunteer to do that. You
11 mean ask the FPL witnesses?

12 **MR. BUTLER:** I appreciate it, Mr. Beck.

13 **COMMISSIONER McMURRIAN:** And I think when I
14 talked with staff about this issue we suggested that
15 there might be some discovery on it from the staff, as
16 well. But maybe I'm remembering a different issue, so I
17 just wanted to check.

18 **MS. BENNETT:** No, I believe there is some
19 discovery out.

20 **COMMISSIONER McMURRIAN:** Okay.

21 **MR. BECK:** Commissioner, I'm just concerned
22 about the wording. I mean, if the answer is yes, for
23 example, then what? I mean, evaluate and report back to
24 the Commission time frames? I'm not sure where you go
25 from -- once you've answered that issue, where does that

1 take you?

2 **MS. BENNETT:** Wouldn't that be part of the
3 parties' position statements? Yes, OPC recommends that
4 FPL evaluate and return within a year with a response of
5 its evaluation.

6 **COMMISSIONER McMURRIAN:** Yes, maybe we could
7 simply add to the end, if so, how? Is that simple
8 enough just to say, if FPL should evaluate the merits,
9 then how?

10 **MR. BECK:** Yes, then we can address those
11 things like less than a year and so forth.

12 **COMMISSIONER McMURRIAN:** Right. Staff, does
13 that make sense?

14 **MS. BENNETT:** Yes, it does.

15 **COMMISSIONER McMURRIAN:** Mr. Butler, do you
16 understand what we're proposing?

17 **MR. BUTLER:** I do.

18 **COMMISSIONER McMURRIAN:** Okay. Thank you.
19 That brings us to 171.

20 **MR. MOYLE:** FIPUG would just have its position
21 be, yes, that that evaluation should be done.

22 **COMMISSIONER McMURRIAN:** On 170?

23 **MR. MOYLE:** Yes, ma'am.

24 **COMMISSIONER McMURRIAN:** Okay.

25 **MR. BECK:** And, Commissioner, we'll put that

1 in our filing tomorrow, our position on that.

2 **COMMISSIONER McMURRIAN:** Okay. And FPL, as
3 well?

4 **MR. BUTLER:** Yes.

5 **MS. BRADLEY:** The AG would support OPC's
6 position on that, as well.

7 **COMMISSIONER McMURRIAN:** Okay. Thank you, Ms.
8 Bradley. Okay.

9 All right. Issue 171. Here I propose to not
10 include this issue, and I will give you a little bit of
11 time to discuss it. I'm trying to make sure we get done
12 by 4:00 for a few reasons here, but I will share with
13 you that we had a long discussion with this on this
14 issue on Friday, and had thrown out a few ideas.

15 It's my belief that everything we do in a rate
16 case goes to fair, just, and compensatory rates, and
17 that we don't need a separate issue about that. And
18 it's somewhat duplicative of the rates issues themselves
19 with respect to customer charges and demand charges and
20 energy charges. And we discussed perhaps putting in
21 wording about fair, just, and reasonable, or fair, just,
22 and compensatory, whatever the language the statute has.
23 But then my concern was that that suggested that the
24 other issues did not do that same thing.

25 And to me, in my opinion, the Commission is

1 operating with respect to the entire case under the
2 Statute 366 with respect to the public interest,
3 statements that you referenced, as well as the fair,
4 just, and compensatory. So for that reason I believe
5 that it's subsumed in many other issues and that we
6 wouldn't need to have a separate issue delineated for
7 that. But I'll let you speak to it, Ms. Bradley. Go
8 ahead.

9 **MS. BRADLEY:** Thank you.

10 The other issues are focusing more on the
11 company -- whether the company has proved this, whether
12 this has accurately evaluated various issues, but the
13 focus throughout is on the company. We took days of
14 testimony from the consumers. And I think they are
15 entitled to at least one issue that focuses on them and
16 whether or not this is fair and reasonable for them.
17 You know, you have to make a decision balancing
18 everything, whether it's fair for everyone, but I think
19 the consumers are entitled to one issue that focuses on
20 them. After that many days of testimony, I don't want
21 them to be forgotten, and it's real easy to do so if we
22 are looking at all of these company-oriented issues. So
23 we would request that that be considered separately.

24 **COMMISSIONER McMURRIAN:** I appreciate that.

25 And they are not easily forgotten. And as I

1 read your memos on the issues, I remembered some of that
2 same testimony that you discuss there. But I do believe
3 that the overall requirements of 366 permeate the entire
4 rate case, and that it is not just about issues with
5 respect to the company. It's the company's request, and
6 the Commission is responding to that request, but, of
7 course, we take into account the customer testimony that
8 we heard during the service hearings and all the other
9 testimony in the case. So I don't believe it's correct
10 to say that it's only geared toward the company. And I
11 think that the Commission in carrying out these duties
12 in resolving the rate case before it is acting under the
13 guidance of Chapter 366.

14 **MS. BRADLEY:** If I can add briefly. I was not
15 saying that you are just focusing on the company, but
16 I'm saying these issues are all addressing company
17 issues, and we would like for the customers, especially
18 if there is a rate increase granted in this case, they
19 are going to wonder where their issue was. And it's not
20 apparent on the face of the other issues that it is
21 focused on them, as well.

22 **COMMISSIONER McMURRIAN:** I see what you are
23 saying, but I do believe that with respect to a few
24 places in the Prehearing Order, both in the basic
25 position, and I see that you have put a lot of that

1 information in the basic position, as well as in issues
2 that are voted on. I realize the basic position is not
3 voted on, but the issues that are voted on with respect
4 to the appropriate customer charges, demand charges,
5 energy charges, I think the implementation date, I
6 probably shouldn't go on and on, but I think that there
7 are several places within the issues that are there to
8 discuss whether you believe, as you have stated in your
9 memo on the issues, that the rates that are being
10 proposed are a value to the customer and consider their
11 concerns within those issues.

12 So anything else? And if you would like, that
13 issue will also be included within the other list of
14 issues on the ruling section to say that it is subsumed
15 in other issues and preserve that for appeal purposes.

16 **MS. BRADLEY:** Thank you.

17 **COMMISSIONER McMURRIAN:** You're welcome.
18 Okay. That brings us to 172.

19 **MR. BUTLER:** There does not appear to be any
20 disagreement on Number 172, so I would ask whether it
21 could be stipulated.

22 **MS. BENNETT:** It appears it can be stipulated
23 if no party changes their position.

24 **COMMISSIONER McMURRIAN:** Any objections?
25 Okay.

1 173. Any changes here?

2 **MR. BUTLER:** I would also note there does not
3 appear to be any disagreement on 173 and would ask
4 whether it can be stipulated.

5 **MS. CHRISTENSEN:** I would beg to differ. I
6 think OPC has taken a position that these issues should
7 not be addressed in this docket.

8 **MR. BUTLER:** I'm sorry, you're right. I
9 overlooked that. My apologies.

10 **COMMISSIONER McMURRIAN:** Any other changes?

11 174 will be stricken. I believe this is
12 something that can be dealt with in the future and does
13 not need to be a part of this rate case at this time,
14 but I'm sure staff will keep up with this.

15 Having said that, I will move on to 175. On
16 175, I need to ask some questions, so perhaps the best
17 way to address this is to allow Mr. Butler to address
18 the issue and any other parties to address that issue
19 that would like to.

20 But I'll start out with a question to Mr.
21 Butler. I need to understand how you would implement
22 the DSM goals docket decision in this decision,
23 particularly given the timing of the two dockets?

24 **MR. BUTLER:** Let me step one step briefly back
25 from that to just say how this issue arises. When FPL

1 does its revenue forecast for the rate case, it assumes
2 only the sort of current base level of DSM activity.
3 There is no assumed incremental DSM, and the reason that
4 is done is the fact that at least in the way that the
5 sequencing fell this year, you have a DSM goals
6 proceeding going on in the same year as the rate case.

7 We didn't have a figure that we knew what
8 should go in as the incremental level of DSM that the
9 Commission would approve as a goal for FPL and,
10 therefore, the assumption is that there is none. And
11 pretty much it's a certainty that the Commission will
12 approve some level of incremental DSM goal, and that
13 would, of course, serve to reduce FPL's revenues from
14 what they would be projected at if you are assuming no
15 incremental DSM.

16 So, to your question, Commissioner, our
17 proposal here is that there will be a decision by the
18 Commission shortly before the Commission makes its
19 decision on FPL's rate increase in this proceeding as to
20 what the appropriate incremental DSM goals would be.
21 And we have in mind that this is really kind of an
22 incremental -- or, I'm sorry, a ministerial exercise.
23 We would make a compliance filing showing what the
24 impact on the revenues forecast would be, certainly
25 serve it on the other parties, if anybody had an

1 objection to our calculation they could express the
2 objection, but it would basically just be plugging into
3 the revenue forecast that has been presented and would
4 be, you know, reviewed in this docket what the impact of
5 the decision in the goals docket would be as to
6 incremental levels of DSM.

7 **COMMISSIONER McMURRIAN:** So you're saying it's
8 plugging -- it's as simple as plugging some kind of
9 factor or number in, or is it that a new forecast would
10 have to be done?

11 **MR. BUTLER:** As we envision it, it would not
12 be a new forecast, no. It would be just sort of a, you
13 know, a bottom line adjustment, I guess if you wanted to
14 use that term. We normally would forecast particular
15 levels of DSM that would be reflected in the forecast,
16 and they, too, are kind of adjustments downward from
17 what you would otherwise expect. But in this instance,
18 for the incremental DSM we assumed nothing, and,
19 therefore, you know, it is just kind of left up to
20 whatever the decision in the DSM goals docket would be
21 as to what that incremental level of adjustment to the
22 revenue forecast would be.

23 **COMMISSIONER McMURRIAN:** Mr. Beck.

24 **MR. BECK:** If I may, Commissioner. There is
25 no way to, first of all, know what the Commission is

1 going to vote. FPL has one proposal in the case, the
2 staff witness has another. It may be the Commission
3 will come up with goals that differ from what any party
4 has put forward, but we don't know what the results of
5 that will be, and we certainly don't know what the
6 impact on revenues will be.

7 I think the better way to handle that is to
8 let FPL propose something once it is known. They can
9 come in with a separate filing if they want, but we
10 can't deal with it in this case. You know, we don't
11 know what their analysis will be, or what their evidence
12 would be, and you would have to have a whole separate
13 evidentiary proceeding to determine that. And it is far
14 too late. You know, by the time the DSM is a final
15 matter, this case will probably already be decided by
16 that time. The timing just doesn't work. And there is
17 no way for us to present evidence in contravention of
18 what FPL is going to put in to be incorporated into this
19 docket. It is simply not an issue that is appropriate
20 for this docket.

21 **COMMISSIONER McMURRIAN:** Mr. Moyle.

22 **MR. MOYLE:** I was just going to argue and make
23 the observation that this sounds a little bit like the
24 discussion we had previously with respect to Mr.
25 Armstrong's efforts to serve some discovery that may

1 have run afoul of a timeline. While you can wade into
2 the substance and conservation goals and this, that, and
3 the other, the fact of the matter is is that the timing
4 just doesn't work for this. And, you know, you are
5 going to probably head down a bit of a difficult road if
6 it is like, oh, by the way, let's get this; oh, by the
7 way, let's get that. And FPL has other opportunities to
8 bring this up in the normal course of business, but, you
9 know, it's kind of like that discovery thing, the timing
10 doesn't work, and it is probably not appropriate to
11 bootstrap it into this proceeding.

12 **MR. MENDIOLA:** Your Honor.

13 **COMMISSIONER McMURRIAN:** Mr. Armstrong.

14 **MR. ARMSTRONG:** Go ahead.

15 **MR. MENDIOLA:** SFHHA would change its position
16 from no position at this time to no, and I would just
17 note that this looks a lot like piecemeal ratemaking.

18 **COMMISSIONER McMURRIAN:** You don't want that
19 in your position statement? I'm just kidding.

20 **MR. MENDIOLA:** That's okay, we'll just say no.

21 **COMMISSIONER McMURRIAN:** Okay. Mr. Armstrong.

22 **MR. ARMSTRONG:** Commissioner, as I understand
23 the issue, too, what I understand of what occurred last
24 week in that docket was suggestions that the goal should
25 be four percent conservation savings, and what FPL

1 through their spokesperson and a spokesperson for a
2 couple of other utilities said was we don't want the
3 four percent goal because that's going to increase rates
4 to customers, which I find kind of ironic given us
5 sitting here today talking about a \$1.3 billion rate
6 increase to customers.

7 But if they had a four percent goal, that
8 would be one thing, so maybe they could eliminate some
9 of the capital improvements and some of the things that
10 they are doing in terms of generating. But certainly I
11 have to agree with everybody that to try and say that
12 that should be an issue in this docket to leave this
13 docket open to allow them to have further rate increases
14 based upon whether it is one percent or four percent,
15 you know, they sure know how to push the envelope. They
16 really know how to push the envelope. I would object
17 absolutely to that occurring.

18 **COMMISSIONER McMURRIAN:** Ms. Bradley, did you
19 want to weigh in?

20 **MS. BRADLEY:** I think we have already taken a
21 position on this one. Thank you.

22 **COMMISSIONER McMURRIAN:** Okay.

23 **MR. LaVIA:** Commissioner, if I may.

24 **COMMISSIONER McMURRIAN:** Yes, Mr. LaVia. I'm
25 sorry.

1 **MR. LaVIA:** I also think it raises serious due
2 process concerns to hold this open and not take
3 testimony from the intervenors and make a decision on it
4 in this case. Thank you.

5 **COMMISSIONER McMURRIAN:** So I guess my only
6 question for the intervening parties is -- I lost my
7 train of thought, I'm sorry. I think I'm sleep
8 deprived.

9 With respect to trying to get the revenue
10 forecast as accurate as possible, and not knowing what
11 direction that the DSM goals docket would change
12 revenues, still your belief is that it just cannot be
13 done because of the timing of the docket. Is it a due
14 process issue or is it more than that?

15 **MR. ARMSTRONG:** To the City it's a due process
16 issue. It's trying to throw things in at the end of
17 this rate case, an issue into the end of the rate case
18 which would only have an impact of increasing rates for
19 FPL at this point in time. It goes a little further,
20 though. I mean, if it was a four percent goal
21 established by the Commission, like I say, there might
22 be other cost savings. You know, they might not be
23 investing capital, there might be cost savings in
24 reduced production.

25 You know, they recovered 60 percent of their

1 revenue requirements from adjustments already,
2 Commissioner. Those are not part of this docket because
3 of those adjustment mechanisms in place. I think there
4 are huge due process problems with the way that utility
5 regulation has gone in the past couple of decades,
6 particularly here at the FPSC. I certainly think that
7 -- listen, Commissioner, when they can't provide an
8 interrogatory response within 30 days to something that
9 was sent based upon -- you know, suggesting that if I
10 had served it on August 6th when the rebuttal testimony
11 was filed they would have to provide an answer, but
12 because I filed it July 24th they don't because they are
13 suggesting --

14 **COMMISSIONER McMURRIAN:** Mr. Armstrong, I did
15 ask you about Issue 175.

16 **MR. ARMSTRONG:** I'm just saying that they know
17 how to push the envelope. They have gone well beyond
18 the realm of reasonableness in this docket. They have
19 asked for unjustified rates, and I certainly would
20 object vehemently to this issue.

21 **COMMISSIONER McMURRIAN:** Mr. Beck.

22 **MR. BECK:** Yes, there are due process
23 implications, Commissioner. They have not presented
24 evidence that we can respond to in this case and for
25 good reason, because there is no decision yet about what

1 it is. So there is no evidence for us to look at,
2 respond to, cross-examine witnesses. All of those
3 things would be denied by the process FPL proposes, so
4 it's just not appropriate for this case.

5 Mr. Armstrong is correct, if DSM affects
6 revenues, it probably affects other things, as well, and
7 all of that would have to be taken into consideration,
8 as well.

9 **COMMISSIONER McMURRIAN:** Okay. Mr. Butler, I
10 will give you the last word in response.

11 **MR. BUTLER:** Well, just briefly. I don't
12 think that there are merely the sort of pervasive
13 impacts that are being suggested. First of all, the
14 costs of the programs and of the resources that would go
15 into implementing the DSM are something that is
16 recovered through the conservation cost-recovery clause,
17 so it's not something that would effect either the
18 revenues required or the expenses associated with the
19 base rate proceeding.

20 This is simply about getting the amount of
21 revenues straight. If we had the data available to us
22 earlier, we would certainly use it. But what we have
23 got is a decision that the Commission is going to make
24 and it is going to determine what those goals are. It
25 will set what FPL ought to be doing, and it is a simple

1 administrative ministerial task to run that through the
2 revenue forecast. That's what we are asking to be done,
3 and I don't think that the due process concerns
4 expressed by the intervenors apply.

5 **COMMISSIONER McMURRIAN:** Thank you.

6 Ms. Bennett.

7 **MS. BENNETT:** Staff's recommendation would be
8 that this issue not be included in the docket. The DSM
9 decision will be after this record is closed, so you
10 have got some problems with using evidence that has not
11 been included in the record itself. It could be raised
12 at a later proceeding by FPL if they need to. We are
13 greatly concerned that this be included in this issue
14 and not having the evidence in the record before the
15 Commission until after the record has closed.

16 **COMMISSIONER McMURRIAN:** I agree. We're going
17 to strike Issue 175. Thank you all. Mr. Butler, do you
18 want to preserve an objection, as well?

19 **MR. BUTLER:** Yes.

20 **COMMISSIONER McMURRIAN:** Do you want Issue 175
21 to be moved to the ruling section and preserve some kind
22 of appeal right on that issue as the other parties?

23 **MR. BUTLER:** I would appreciate it if you
24 would move it to whatever that section is being called,
25 the proposed issues, and we would note our objection to

1 having it be stricken.

2 **COMMISSIONER McMURRIAN:** Thank you.

3 Issue 176.

4 **MR. BUTLER:** I think there may be a
5 stipulation possible on Issue 176.

6 **COMMISSIONER McMURRIAN:** Okay.

7 **MS. BENNETT:** I believe there can be.

8 **COMMISSIONER McMURRIAN:** Any objection to
9 having 176 shown as possible stipulation?

10 Okay. 177.

11 **MS. BENNETT:** That is the close the docket
12 issue.

13 **COMMISSIONER McMURRIAN:** Okay. I think we are
14 in the home stretch. Thank you all for bearing with us
15 through that. I know it was very tedious and long, and
16 I appreciate it.

17 Section IX, the Exhibit List.

18 **MS. BENNETT:** We will be -- I note for the
19 record that we will be providing a Comprehensive Exhibit
20 List consisting of all the prefiled exhibits for the
21 purpose of numbering and identifying the exhibits at
22 hearing. We will provide the exhibit list to the
23 parties as soon as possible. Staff also intends to
24 prepare proposed stipulated exhibits which it will
25 provide to the parties in advance of the hearing.

1 Additionally, we will be providing -- because
2 of the lateness of the last set of depositions, we
3 probably will be providing a second stipulated exhibit
4 containing discovery responses that were filed later in
5 the year -- later in the week, if the parties agree.

6 **COMMISSIONER McMURRIAN:** Go ahead, I'm sorry.
7 I thought it was Ms. Bradley.

8 **MS. CHRISTENSEN:** I just would ask of staff
9 when they are planning on having their first proposed
10 Comprehensive Stipulated Exhibit List, when they were
11 planning on providing that to the parties so that we can
12 have an opportunity to look at what is being proposed
13 and collecting the information and making sure we don't
14 have any objections to it, or if we do being able to
15 identify it.

16 **COMMISSIONER McMURRIAN:** I believe that we
17 will have something no later than Wednesday, maybe
18 sooner for the Staff Composite Exhibit. The
19 Comprehensive Exhibit List is, I think, in the process
20 of being drafted now. It should be ready by Wednesday,
21 also.

22 **MS. CHRISTENSEN:** Okay. And then any
23 secondary will be supplemental prior to the hearing?

24 **MS. BENNETT:** It will be at the hearing.

25 **MS. CHRISTENSEN:** The first day of the

1 hearing, I assume?

2 **MS. BENNETT:** I can't commit to that at this
3 point. And it would be something that the parties would
4 have to agree to before we were able to present it as
5 evidence, otherwise we will get it in through
6 cross-examination.

7 **MS. CHRISTENSEN:** Okay. I just wanted to know
8 if we were going to receive something and look at it
9 right before the hearing. With that understanding, I
10 will let that be known to my colleagues, as well.

11 **COMMISSIONER McMURRIAN:** Okay. Anything else
12 there with respect to the exhibit list? I guess in the
13 interest of time, if you have got some corrections and
14 all to that, perhaps get those to staff.

15 **MS. CHRISTENSEN:** Correct. I know we'll have
16 some corrections to Sheree Brown's exhibits. I think we
17 may have -- I don't think they were part of the handout
18 that we made, but we can include that as part of our
19 written update to staff.

20 **COMMISSIONER McMURRIAN:** Okay. Thank you.
21 And we've already, I think, discussed proposed
22 stipulations as we have gone through the issues
23 one-by-one. Ms. Bennett, is there anything else with
24 respect to Section X?

25 **MS. BENNETT:** No, Commissioner, there is not

1 anything. And then I think on Section XI, we have
2 discussed all of the pending motions other than
3 confidentiality.

4 **COMMISSIONER McMURRIAN:** Okay. Go ahead and
5 take us there, then.

6 Section XII, pending confidentiality motions.

7 **MS. BENNETT:** There are, at last count,
8 thirteen pending confidentiality requests which will be
9 addressed by separate order.

10 **COMMISSIONER McMURRIAN:** Okay. All right.

11 Section XIII, Post-hearing Procedures.

12 **MR. BUTLER:** Commissioner, before you get to
13 that, it may not be true by the time this Prehearing
14 Order is issued, but the pending positions, I don't
15 think it lists our motion to compel, the one that was
16 argued earlier this morning. Is that because it will
17 end up being decided shortly or should it be listed
18 here?

19 **MS. BENNETT:** Are you talking about the
20 staff's motion to compel?

21 **MR. BUTLER:** No, FPL's motion to compel the
22 deposition, the one that was argued this morning.

23 **MS. BENNETT:** It's not listed here because we
24 discussed it at the preliminary matters.

25 **MR. BUTLER:** Okay.

1 **COMMISSIONER McMURRIAN:** Okay. And I lied
2 this morning whenever I thought we would be done so much
3 sooner than this about getting that order out. It
4 probably is not going to go out today now, but tomorrow,
5 so that everyone can plan.

6 Okay. Post-hearing procedures. I know we
7 need to talk about positions, the number of words, and
8 the number of pages. So I guess where should we start?
9 I guess we will go left to right. Mr. Butler.
10 Actually, let me let Ms. Bennett --

11 **MR. MENDIOLA:** Your Honor, may I raise a
12 couple of other issues? Lino Mendiola.

13 Just logically it seems I have a couple of
14 hearing procedure questions, so we might want to bring
15 it up before we talk about post-hearing procedures.
16 Having been admitted as a qualified representative, not
17 having practiced here, I just have a couple of very
18 general questions.

19 The first one is are there opening statements
20 that are allowed or requested?

21 **COMMISSIONER McMURRIAN:** Yes, and we will be
22 getting to that.

23 **MR. MENDIOLA:** Oh, okay.

24 **COMMISSIONER McMURRIAN:** That's okay.

25 **MR. MENDIOLA:** And then the second one is I

1 take it that the hearing is governed by the Florida
2 Rules of Civil Procedure and Florida Rules of Evidence?

3 **COMMISSIONER McMURRIAN:** Ms. Helton.

4 **MS. HELTON:** The hearing is governed by
5 Chapter 120, Florida Statutes, which is the Florida
6 Administrative Code. And, quite frankly, I can't
7 remember, but I think it is in that statute as well as
8 in what is called the Uniform Rules of Procedure, which
9 are Chapter 28 of the Florida Administrative Code, state
10 that certain Rules of Florida Civil Procedure govern for
11 purposes of discovery, but otherwise it is our
12 procedural rules which are mainly in Chapter 25-22,
13 Florida Administrative Code, and then those rules in
14 Chapter 28 -- I think it's 106, Florida Administrative
15 Code of the uniform rules that govern these types of
16 proceedings.

17 **MR. MENDIOLA:** Thank you very much.

18 **COMMISSIONER McMURRIAN:** No problem. We
19 appreciate those kinds of questions.

20 Ms. Bennett, do you have something to throw
21 out for number of words in post-hearing briefs,
22 considering I think that our normal 50 words and 40
23 pages is not going to cut it anywhere close really.

24 **MS. BENNETT:** I think we need to hear from the
25 parties.

1 **COMMISSIONER McMURRIAN:** Just hear from the
2 parties? Okay.

3 Mr. Butler, we'll start with you.

4 **MR. BUTLER:** On the number of words, we went
5 through our prehearing statements of position and found
6 that 75 words would accommodate very well the great
7 majority of our issues, although not all of them. And,
8 I guess, a proposal that I would suggest is that we be
9 given 75 words per issue with some small number, perhaps
10 a half dozen or ten where one could exceed that up to
11 say 100 words to have a longer statement of position on
12 issues that are especially complex for a party.

13 And then I noted that in the TECO rate case
14 Prehearing Order you had a 100 page limit for briefs.
15 We have a pretty fair number of additional issues beyond
16 what TECO had, and so I would propose 150 pages as the
17 page limit.

18 **COMMISSIONER McMURRIAN:** Okay. Mr. LaVia,
19 would you rather go first or would you rather me start
20 with OPC?

21 **MR. LaVIA:** It would be good if you start at
22 that end. Thank you.

23 **COMMISSIONER McMURRIAN:** Okay. Mr. Beck,
24 would you -- or, I'm sorry, Ms. Christensen.

25 **MS. CHRISTENSEN:** Certainly. We have no

1 objections to FPL's recommended 150-page limit on the
2 brief, given that the number of issues generally take up
3 about a good 30 percent, or 30 pages alone without
4 writing any substantive argument.

5 As far as the issues go, we would ask for 150
6 on those larger issues such as depreciation --

7 **COMMISSIONER McMURRIAN:** Affiliate
8 transactions.

9 **MS. CHRISTENSEN:** Well, and I want to address
10 those a little bit differently. For the depreciation,
11 since the Commission has decided to subsume the
12 individual issues that we had identified into a single
13 issue, we would ask to have 90 words on each of those
14 subaccounts so that we can identify them appropriately
15 under that issue.

16 As the Commission is well aware, it's
17 difficult, at best, to address a single issue within the
18 50 or even 80-word limit, but we have numerous
19 adjustments that we identified under numerous different
20 issues. And I think if we are able to address each of
21 those accounts with a 90-word limit that will take care
22 of our concerns at least about teeing up the issues that
23 are in controversy for the Commissioners, and they will
24 be able to easily identify those issues that are in
25 controversy under the depreciation issues.

1 As well as we would ask for the same
2 accommodation under the affiliated transactions, to be
3 able to by offsets of no more than 90 words identify the
4 issues that we had previously identified as separate
5 issues and that have been subsumed under Issue 109
6 individually with a 90-word asterisk offset. We realize
7 that this is unusual, but considering that we have
8 essentially had a lot of our issues subsumed into a
9 larger issue, it's not unprecedented with the Commission
10 to identify subissues and allow the parties to
11 separately address subissues, and we would respectfully
12 request that we be allowed to do that here, at least in
13 the position statements, and be given at least 150 words
14 on the bigger issues such as the corrective actions on
15 the depreciation offsets and on the depreciation
16 imbalances, as well as on the cost of equity, which I
17 believe was -- there were some issues that were subsumed
18 in there, and those are the more complicated issues.

19 And to the extent that the other issues we can
20 word them as briefly as possible, we would certainly do
21 that. But, for those specific ones we would ask some
22 indulgence on allowing us to have adequate space for
23 each of the individual adjustments to identify those for
24 the Commission to preserve our due process rights.

25 **COMMISSIONER McMURRIAN:** Okay. So just to

1 make sure I've got this straight, the 90 words on each
2 subaccount are with respect to the depreciation issue
3 where there were a number of issues subsumed within it,
4 and the affiliated transaction issue where there were a
5 number of issues subsumed within it.

6 **MS. CHRISTENSEN:** Correct.

7 **COMMISSIONER McMURRIAN:** Would those be the
8 only two where you are talking about 90 words per
9 subaccount?

10 **MS. CHRISTENSEN:** I think we are talking about
11 the words, yes, that were specifically subsumed.
12 Several issues that we had identified as separate
13 adjustments where they were subsumed under the
14 individual issues. It's a little bit more difficult to
15 identify as far as the depreciation, because there were
16 some that were subsumed under C and some that were
17 subsumed under D. And we'll, of course, make those
18 appropriate subaccount adjustments.

19 **COMMISSIONER McMURRIAN:** Okay. And 150 words
20 on the bigger issues, some of the ones you mentioned.
21 So obviously the ones with the subaccounts go well
22 beyond 150.

23 **MS. CHRISTENSEN:** Correct. But our intention
24 is to keep the subaccount ones to the 90 word or shorter
25 statement, just basically to identify the accounts. I

1 think similar to the way they were identified in the
2 individual issues, but to make it clear what our issues
3 in controversy were.

4 **COMMISSIONER McMURRIAN:** Okay. All right.
5 Who else wants in on this?

6 **MR. MENDIOLA:** I would just, Your Honor, defer
7 to my consumer colleagues. A 150-page brief seems like
8 a very long brief to me, but other than that --

9 **COMMISSIONER McMURRIAN:** Yes, you can
10 definitely go the other way if you would like, but take
11 whatever you need.

12 Mr. Moyle.

13 **MR. MOYLE:** And just so I'm clear, I mean, I
14 don't think we are having a debate about the 150 words,
15 we are talking about the issue summary section now,
16 correct, in terms of the number of words that the
17 parties would set forth?

18 **COMMISSIONER McMURRIAN:** I think you are
19 saying that we are not talking about the 150 pages?

20 **MR. MOYLE:** Correct.

21 **COMMISSIONER McMURRIAN:** Right.

22 **MR. MOYLE:** Right. You know, we have done it
23 a couple of times today, but I think Mr. Butler had a
24 good point that there are going to be certain issues
25 that you are going to need more words than you would

1 otherwise, particularly given some of your earlier
2 rulings. And we would agree I think probably both with
3 OPC that on the subissue accounts you would be given
4 more words, and then also on a select number, 10, 15
5 issues that you would be able to exceed, I guess, the 25
6 word limitation, you know, on a select number so you can
7 set forth clearly the position that you would wish to
8 take. I mean, it's somewhat of a big case. We don't
9 have them that often, so we would urge the ruling to be
10 providing the parties with greater latitude to fully set
11 forth their position.

12 **COMMISSIONER McMURRIAN:** Okay. Mr. Armstrong,
13 did you want --

14 **MR. ARMSTRONG:** I will just do a me, too, on
15 the Office of Public Counsel. Thank you.

16 **COMMISSIONER McMURRIAN:** Okay. Ms. Bradley.

17 **MS. BRADLEY:** We would support Public Counsel,
18 but since our issue and a lot of the considerations on
19 behalf of the consumers don't really fit within any of
20 these issues, I would ask for more words on the basic
21 position area or some summary issue so that those issues
22 can be addressed and not stuck under other issues when
23 they don't really fit.

24 **COMMISSIONER McMURRIAN:** And the other thing
25 that I forgot to mention earlier that I'll -- at the

1 risk of telling people how to file their briefs and
2 things, is often in the quality of service issues in
3 several rate cases there is often a lot of discussion
4 with respect to service hearings. Not maybe perhaps as
5 routinely in the electric area as in the water area, but
6 definitely in the water area with respect to quality of
7 service is usually where there is discussion of service
8 hearings, how many customers showed up, how many
9 customers spoke. There is sometime a summary of that
10 type of information there, as well, if that is also
11 helpful.

12 **MS. BRADLEY:** It doesn't completely fit with
13 all the issues we need to raise, but if the Commission
14 would show some leniency as to where we have put these
15 issues since they, like I said, don't really fit under
16 the others.

17 **COMMISSIONER McMURRIAN:** I think to the extent
18 that we adopt some form of allowing more words on
19 certain issues, especially given the issues where we
20 have subsumed a lot, I think that we ought to have some
21 kind of -- as Mr. Butler was suggesting, where you pick
22 10 or 12 and you exceed the word limit there, and then
23 it's up to you which 10 or 12 you would want to exceed
24 the word limit on, so it wouldn't have to be certain
25 issues specified up front.

1 I guess one questions, Ms. Christensen, is
2 about the 90 words on each subaccount. I'm thinking
3 more like 50, because that's what we generally have for
4 a separate issue.

5 **MS. CHRISTENSEN:** Could we split the
6 difference at 75?

7 **COMMISSIONER McMURRIAN:** Sure. I'm trying to
8 figure out how to word this. We are talking about 150
9 pages. It seems like we had agreement there.

10 By the way, Ms. Bennett, do you want in now?

11 **MS. BENNETT:** Only to tell Mr. Mendiola that
12 he is not required, like my English professor did, to
13 write all 150 pages.

14 **COMMISSIONER McMURRIAN:** And did I forget
15 anybody else, by the way? Mr. LaVia, did I forget you?

16 **MR. LaVIA:** We will support OPC. Thank you.

17 **COMMISSIONER McMURRIAN:** Thank you. I think
18 we are in agreement about 150 pages. Let's see. For
19 most issues, 75 words per issue was your proposal, Mr.
20 Butler?

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

22 **COMMISSIONER McMURRIAN:** And I don't think
23 that's inconsistent with what I heard for most issues.
24 And then with respect to -- let's say ten issues where
25 you can exceed that, I think that ought to get it. Ten

1 issues where you can exceed the 75 words per issue. And
2 then with respect to -- particularly with respect to
3 depreciation and affiliate transactions issues, up to 75
4 words on each subaccount. And I'm assuming we are
5 talking about the ones that were proposed as separate
6 issues that we probably won't have a much longer list
7 than the ones we already were talking about.

8 **MS. CHRISTENSEN:** I assume that the intention
9 is to reflect something similar to what was in the draft
10 prehearing order, and that's my assumption as what we
11 were intending to reflect.

12 **COMMISSIONER McMURRIAN:** Okay. And then up
13 to -- well, I think we will forgo the 150 words. Well,
14 actually, no, we don't. The ten issues that can exceed
15 75 words per issue can be up to 150 words. I think I
16 got that straight.

17 Ms. Christensen, did I miss any of the pieces
18 that you were discussing?

19 **MS. CHRISTENSEN:** No, I think that actually
20 encompasses all of our requests, and we appreciate the
21 Commission's consideration.

22 **COMMISSIONER McMURRIAN:** No problem. Thank
23 you.

24 That wasn't easy, either. So what do we have
25 next? It actually was easy. Thank you all.

1 **MR. BECK:** I'm not clear on that. We have ten
2 issues where we can go up to 150 words, but are the
3 depreciation and affiliate interests in addition to
4 that?

5 **COMMISSIONER McMURRIAN:** Yes.

6 **MR. BECK:** They are separate from that?

7 **COMMISSIONER McMURRIAN:** Yes, they are
8 separate.

9 **MR. BUTLER:** They would be subject to what has
10 been called subaccount limit, right? That you would end
11 up having 75 words per. And by subaccount that means
12 per subsumed issue, basically.

13 **COMMISSIONER McMURRIAN:** That is what I was
14 suggesting, but I'm hoping that it won't be five other
15 new subaccounts that weren't proposed as separate issues
16 already.

17 **MR. BECK:** And then on the affiliate issues it
18 would 75 per each of the issues, that was deleted?

19 **COMMISSIONER McMURRIAN:** Yes, 75 for affiliate
20 transactions and depreciation. And I remember one of
21 them was 109, but I can't remember the other issue
22 number. But those large issues were a number of
23 depreciation issues, and then another issue were the
24 affiliate transaction issues were subsumed within that
25 larger issue, that those would be 75 words for each baby

1 issue.

2 **MR. BECK:** Got it. Thank you.

3 **COMMISSIONER McMURRIAN:** You're welcome.

4 Thank you all.

5 Okay. Opening statements.

6 **MR. MOYLE:** Can I just make one quick
7 suggestion on the section of the post-hearing
8 procedures? It may be more clear and remove any
9 possible suspense that may be out there where you say if
10 no bench decision is made. I don't know that you would
11 make a bench decision in a rate case, and just say each
12 party may file, start the sentence there. I think
13 Statute 120 gives you a right to file proposed findings
14 of fact and conclusions of law.

15 **COMMISSIONER McMURRIAN:** Ms. Bennett. We have
16 used that standard language in draft prehearing orders
17 across all industries, and we do have some in particular
18 in the telecom area where we have -- nevermind. We have
19 opted for bench decisions in certain cases, and so that
20 is sort of standard language.

21 **MS. BENNETT:** You have probably seen this form
22 several times before, and it is, it's a template. I
23 guess there is a possibility we could have a bench
24 decision, but I doubt it. I don't see any harm in
25 leaving it in. I don't see any harm in taking it out.

1 **MR. MOYLE:** Whatever staff wants to do. I
2 just think 120 -- I have researched it before. I think
3 it does give parties the affirmative ability to do it,
4 so you might want to just take another look at it.

5 **COMMISSIONER McMURRIAN:** Yes. We'll take that
6 under advisement, but let's not try to deal with that
7 right now. Let's move on to the opening statements.

8 Mr. Butler.

9 **MR. BUTLER:** We would propose up to
10 30 minutes, but I think it will be more like 15 minutes
11 for FPL, and then some reasonable amount for the
12 intervenor parties who I think have talked about this,
13 and our proposal would be 30 minutes in total. If they
14 need more than that, you know, something reasonable.
15 But something that would be a limit for us, we would
16 easily be able to keep it within a half hour, and I
17 think we would do it within 15 minutes. And then they
18 would have cumulatively a period like a half hour or 45
19 minutes to do theirs.

20 **COMMISSIONER McMURRIAN:** Let me ask you --
21 actually, let me ask Ms. Smallwood. Are you intending
22 to make opening statements?

23 **MS. SMALLWOOD:** Well, since I just got
24 involved yesterday, I'm not sure. We would certainly
25 coordinate with FPL on that.

1 **MR. BUTLER:** And we would share whatever limit
2 we are provided with Ms. Smallwood.

3 **COMMISSIONER McMURRIAN:** That is what I was
4 getting at. Thank you.

5 And, Ms. Christensen.

6 **MS. CHRISTENSEN:** Since we haven't spoken
7 amongst ourselves, and I'm coming in a little bit late
8 on this, I know that Mr. McGlothlin would like to have
9 15 minutes if possible for him. And given that there is
10 a large of intervenors, and I don't want to step into
11 anybody else's time, but maybe what would be efficient
12 is to ask how much time they would like to have, and
13 then we can work from there.

14 **COMMISSIONER McMURRIAN:** Okay. Let's start
15 with you, Ms. Bradley, this time since I have always
16 gone to you last.

17 **MS. BRADLEY:** I don't know that I will use it,
18 because I'm usually brief, but I would like ten minutes.

19 **COMMISSIONER McMURRIAN:** Okay. Mr. Armstrong.

20 **MR. ARMSTRONG:** Ten minutes, please.

21 **COMMISSIONER McMURRIAN:** Mr. Moyle.

22 **MR. MOYLE:** The same with Ms. Bradley, we
23 would like ten minutes. I don't know that we would use
24 it all, but ten minutes would be a good number for us.

25 **COMMISSIONER McMURRIAN:** Okay. Mr. Mendiola.

1 **MR. MENDIOLA:** The same, Your Honor. Ten
2 minutes should be plenty.

3 **MR. LaVIA:** Ten minutes. We would not feel
4 compelled to use it all, but we would like to have it.

5 **COMMISSIONER McMURRIAN:** That's what everyone
6 says today.

7 **MS. BENNETT:** There is also an outstanding
8 petition to intervene, Mr. Unger, who would want some,
9 perhaps, time.

10 **COMMISSIONER McMURRIAN:** And we also have the
11 International Brotherhood of Electrical Workers. I
12 don't believe he's here now, but he was here earlier
13 and --

14 **MS. BRADLEY:** Isn't the Federal Executive
15 Agency involved, as well?

16 **COMMISSIONER McMURRIAN:** It may have been.
17 Ms. Bennett.

18 **MR. BUTLER:** I'm sorry. The Federal Executive
19 Agency has petitioned to intervene and been granted
20 intervention. They are not here today. I will be
21 talking with them.

22 **COMMISSIONER McMURRIAN:** Okay. I haven't
23 really thought about this much. It just seems like
24 we're looking at, with just the parties who are in the
25 room now, we are looking at on the intervenor side, the

1 customer side, 65 minutes total with just the ones here.
2 Up to 30 minutes for FPL. So we are already at an hour
3 and a half just for opening statements. And I'm not
4 sure what our prospects are for making sure we get all
5 these witnesses done in nine days, but I'm a little bit
6 concerned, given how long it has taken us to get a
7 prehearing done.

8 So, Ms. Bennett, what is our normal opening
9 statements? Is it five minutes, ten minutes? How have
10 we done this in some of the recent large cases? How
11 have we divided up some of the parties' time? Or, in
12 fact, maybe I should ask you all that. Has there been a
13 recent case where there has been some way that we have
14 divided it up in a way that seems fair and still gives
15 everybody a good chance to make what comments they want
16 to make without necessarily going to ten minutes per
17 party?

18 **MS. CHRISTENSEN:** Well, I think we had ten
19 minutes per party, but we also had less people that had
20 intervened, so it actually worked out relatively well.
21 I mean, you know, I know it seems like a long time, but
22 we would certainly endeavor not to use our full time if
23 you allotted us the fifteen minutes. We would certainly
24 try and go towards -- closer towards ten if we can,
25 being aware that we have quite a bit of witnesses to get

1 through.

2 You know, and if you -- I'm sure we can also
3 work together to talk about it a little bit further,
4 keeping it in mind that we don't want to go much past,
5 what, an hour and a half for our side, I think, on the
6 outside the longest that we would do for opening
7 statements. Because we do realize -- we don't want to
8 end up repeating ourselves.

9 **COMMISSIONER McMURRIAN:** Okay. Well, maybe
10 what I will do is in the interest of trying to get
11 everybody out of here, because I know some people have
12 flights to catch, and I have a meeting, that perhaps
13 what we will do is -- I've got all these notes, and we
14 have got a few days before we will issue the prehearing
15 order. I don't think it has to be decided today, unless
16 anyone is -- okay. And I think we'll think about it.
17 Maybe that gives the staff attorneys a chance to contact
18 perhaps some of these other parties and see if they are
19 going, too. In one sense they are not here, and
20 perhaps -- but I think that is a little bit more strict
21 than I usually operate, so I want to give them a chance
22 to say if they want to make some opening statements, and
23 just take into consideration how much time we are
24 talking about, and we'll just reflect it in the
25 prehearing order. But, thank you all for that.

1 I think that pretty much -- I've got a few
2 things I wanted to mention before we wrap up, and I
3 guess before I do that, are there any other matters that
4 any of the parties wanted to bring up before we go to
5 sort of concluding --

6 **MS. BRADLEY:** Commissioner.

7 **COMMISSIONER McMURRIAN:** Yes.

8 **MS. BRADLEY:** I do have one matter. Ms.
9 Helton noted that Chapter 120 governs these proceedings.
10 I did want to note that Section 120.569(2)(j) in support
11 of our motion of limine.

12 **COMMISSIONER McMURRIAN:** Okay, thank you.

13 Okay.

14 Seeing nothing else, Staff, do you have any
15 other matters before we wrap up?

16 **MS. BENNETT:** No.

17 **COMMISSIONER McMURRIAN:** Okay. We have all
18 talked about getting in any changes to your positions
19 and witnesses and that sort of thing. The issues that
20 each witness will address by close of business tomorrow
21 at 5:00 p.m. And I have been -- as we have had some of
22 these other very large hearings and all recently, I have
23 been trying to think of a few things that I wanted to
24 mention.

25 Particularly we have got some parties that

1 don't practice in front of us as often, and with respect
2 to cross-examination exhibits, Ms. Bennett, were you all
3 able to make copies of -- I asked Ms. Bennett to do a
4 sample cover sheet for exhibits. During the hearing, as
5 may of you know, we deal with a lot of cross exhibits.
6 It's my suggestion, and it's just a suggestion, if you
7 all could try to use some kind of similar format. I
8 know many of you do, but some kind of similar format to
9 be prepared with a short title for the exhibit and that
10 sort of thing. I think it will help move it along.
11 Sometimes we spend quite a bit of time trying to come up
12 with titles and things during the hearing, so that's one
13 attempt.

14 I would say making at least 20 copies of
15 things that you bring to the hearing would probably be
16 appropriate. You see how many parties we have here
17 today, and you need five for the Commissioners, some of
18 the staff, the court reporter. If you need help passing
19 out exhibits or things, let someone know. There is
20 always staff that is going to glad to help and try to
21 move things along.

22 We talked earlier about how the hearing is
23 schedule for nine days, and to the best we can,
24 hopefully we will try to have our witnesses available
25 realizing that things are going to come up and we are in

1 the middle of storm season. Let's hope that nothing
2 happens there, because quite frankly we have no more
3 days to move anything to. But thank you all for
4 cooperation there.

5 Confidentiality, particularly if you are not
6 as familiar with dealing at the Commission, I would
7 suggest maybe that you really look at that information
8 in the Prehearing Order closely. And if you have got
9 any questions about how to deal with that, please
10 contact our staff. And we have had issues come up in
11 the recent past dealing with particular issues with the
12 Office of Attorney General, I know, and to the extent
13 there are any issues that you see coming, because we
14 haven't ruled on confidential issues yet, please let our
15 staff know and I will try to make sure we get that
16 expedited.

17 **MS. BRADLEY:** I think we have found a way to
18 resolve that pursuant to Florida Statute. It turns out
19 it does cover our office as well as the Office of Public
20 Counsel. So I don't believe I have done so, but I will
21 send staff counsel and Mr. Butler an agreement that we
22 will abide by that statute.

23 **COMMISSIONER McMURRIAN:** Okay, thank you.

24 **MS. BRADLEY:** And I think that will take care
25 of it.

1 **COMMISSIONER McMURRIAN:** Thank you.

2 I just wanted to mention that. And I guess
3 one other thing I wanted to mention, we have had some
4 requests for extensions and things, and I know that
5 things come up and we need some more time. Just like I
6 said this morning, I was going to get an order out today
7 and it won't be until tomorrow. I just sincerely ask
8 that to the extent that you can try to meet the
9 deadlines that we have laid out and all in the
10 prehearing orders, that would be much appreciated.

11 There is a lot of time and work that goes on
12 into a simple issue like that, and perhaps you all
13 aren't aware, but we are pretty swamped. Particularly
14 the staff is burning the midnight oil trying to get some
15 of these things done. To the extent that you can let
16 parties know about issues you have about timing things
17 as soon as possible, and perhaps avoid extensions, and
18 perhaps keep the motion practice down a little bit would
19 be nice, as well, so that we can streamline this as much
20 as possible and get the information you all want to get
21 into the record for you benefit. So I appreciate your
22 cooperation.

23 And I think with that -- are there any other
24 matters we need to address before we adjourn? All
25 right. Thank you all so much. And I'm sorry, it's

1 4:00.

2 **MR. MENTON:** Thank you for your patience,
3 Commissioner.

4 **COMMISSIONER McMURRIAN:** This hearing is
5 adjourned.

6 (The prehearing concluded at 4:13 p.m.)
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1
2 STATE OF FLORIDA)

3 : CERTIFICATE OF REPORTER

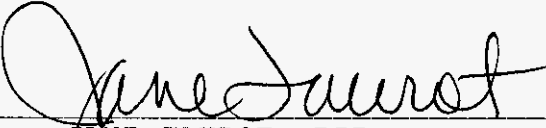
4 COUNTY OF LEON)

5
6 I, JANE FAUROT, RPR, Chief, Hearing Reporter
7 Services Section, FPSC Division of Commission Clerk, do
8 hereby certify that the foregoing proceeding was heard
9 at the time and place herein stated.

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

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

20 DATED THIS 24th day of August, 2009.

21
22 
23 JANE FAUROT, RPR
24 Official FPSC Hearings Reporter
25 (850) 413-6732

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida
Power & Light Company.

DOCKET NO. 080677-EI

In re: 2009 depreciation and dismantlement
study by Florida Power & Light Company.

DOCKET NO. 090130-EI

ORDER NO.
ISSUED:

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on August 11, 2009, in Tallahassee, Florida, before Commissioner Katrina J. McMurrian, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, MITCHELL S. ROSS, JOHN T. BUTLER, BRYAN S. ANDERSON, and JESSICA A. CANO, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408-0029; and
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On behalf of the ATTORNEY GENERAL FOR THE CITIZENS OF FLORIDA (AG)

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GRIFFITHS, Andrews Kurth LLP, 111 Congress Avenue, Suite 1700, Austin,
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On behalf of the South Florida Hospital and Healthcare Association (SFHHA)

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On behalf of the BEW System Council U-4 (SCU-4)

LISA C. BENNETT, ESQUIRE, MARTHA CARTER BROWN, ESQUIRE,
FRAN HARTMAN, ESQUIRE AND ANNA WILLIAMS, ESQUIRE, Florida
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32399-0850.
On behalf of the Florida Public Service Commission (STAFF).

Mary Anne Helton, Deputy General Counsel, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

On November 17, 2008, Florida Power & Light Company (FPL) filed a test year letter, as required by Rule 25-6.140, Florida Administrative Code (F.A.C.), notifying this Commission of its intent to file a petition in the spring of 2009 for an increase in rates effective January 1, 2010. Pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), and Rules 25-6.0425 and 25-6.043, F.A.C., FPL filed the petition for an increase in rates on March 13, 2009. On March 20, 2009, Order No. PSC-09-0159-PCO-EI (Order Establishing Procedure) was issued, scheduling the matters for an administrative hearing on August 24 – 28, 2009, and September 2 – 4, 2009. Office of Public Counsel (OPC), South Florida Hospital and Healthcare Association (SFHHA), IBEW System Council U-4 (SCU-4), Florida Retail Federation (FRF), Thomas Saporito (Saporito), Florida Industrial Power Users Group (FIPUG), City of South Daytona (CSD), Attorney General's Office (AG), Federal Executive Agencies (FEA), Associated Industries of Florida (AIF), and Florida Association for Fairness in Rate Making (AFFIRM) have each been granted intervention in this docket.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, F.S.. This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to

protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C. If continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

As a result of discussions at the prehearing conference, some witnesses may be excused from this hearing if no Commissioner assigned to this case seeks to cross-examine a particular witness. Parties shall be notified as to whether any such witness shall be excused from the hearing. The testimony of excused witnesses (if any) will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony, as shown in Section IX of this Prehearing Order, shall be identified and admitted into the record. Each witness whose name is followed by a plus sign (+) may be taken out of order. Each witness whose name is followed by an asterisk (*) will present their direct and rebuttal testimony at the same time.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Armando J. Olivera	FPL	
Rosemary Morley	FPL	
Philip Q. Hanser	FPL	
Robert E. Barrett, Jr.	FPL	
Marlene M. Santos	FPL	
George Hardy	FPL	
J. A. Stall	FPL	
Michael G. Spoor	FPL	
Pamela L. Sonnelitter	FPL	
Kathleen M. Slattery	FPL	
Christopher A. Bennett	FPL	
C. Richard Clarke	FPL	
Kim Ousdahl	FPL	

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Steven P. Harris	FPL	
William E. Avera	FPL	
Armando Pimentel	FPL	
Joseph A. Ender	FPL	
Renae B. Deaton	FPL	
John J. Reed	FPL	
Jacob Pous	OPC	18-19, 21-36, 38-44
Kimberly H. Dismukes	OPC	93, 109-117, 119
Dr. J. Randall Woolridge	OPC	66-68, 70-81
Sheree L. Brown	OPC	2, 3-8, 14-16, 50-51, 55-56, 58, 60, 62-64, 66, 81, 89-91, 96-97, 100, 103-105, 107-108, 120, 128, 131-132, 134-137
Daniel J. Lawton	OPC	37
Russell L. Klepper	AFFIRM	
Jeffry Pollock	FIPUG	5-7, 18, 21-23, 25, 34, 35, 38, 71, 72, 73, 141, 142, 160, 161, 165, 166, 167
Stephen J. Baron	SFHHA	
Richard A. Baudino	SFHHA	
Lane Kollen	SFHHA	
Rhonda L. Hicks	STAFF	
Dale Mailhot (Kathy L. Welch)	STAFF	
<u>Rebuttal</u>		
Armando J. Olivera	FPL	

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Rosemary Morley	FPL	
Philip Q Hanser	FPL	
Robert E. Barrett, Jr.	FPL	
Marlene M. Santos	FPL	
George K. Hardy	FPL	
J.A. Stall	FPL	
Kathleen M. Slattery	FPL	
Richard F. Meischeid	FPL	
Christopher A. Bennett	FPL	
C. Richard Clarke	FPL	
Kim Ousdahl	FPL	
K. Michael Davis	FPL	
William E. Avera	FPL	
Armando Pimentel	FPL	
Joseph A. Ender	FPL	
Rena B. Eaton	FPL	
John J. Reed	FPL	
Terry Deason	FPL	

VII. BASIC POSITIONS

FPL: Florida Power & Light Company ("FPL") provides superior service at below national average rates. FPL's performance ranks among the very best in the industry in many key categories, including low emissions, conservation, fossil generation availability, and electrical grid reliability. With respect to emission rates, FPL is recognized as a clean-energy company, with one of the lowest emissions profiles

among U.S. utilities. FPL also supports greenhouse gas emissions reductions through its industry-leading demand side management programs, which have eliminated the need for the construction and operation of 12 power plants since the inception of these programs in the 1980s. With respect to reliability, FPL's electricity distribution reliability is 45% better than the national average. FPL is working to continue to meet customer expectations by investing to make its infrastructure stronger, smarter, cleaner, more efficient and less reliant on any single source of fuel. To support these investments, and to retain investor confidence in the midst of uncertain and volatile capital markets, FPL is seeking an increase in base rates at this time.

While FPL is mindful of the difficult economy, it is also responsible for making investments in electrical infrastructure which are necessary to meet customer expectations for high-quality service. When FPL's base rate request is combined with projected fuel cost reductions and improvements in fuel efficiency, a typical residential bill will actually be lower in January 2010. Substantial portions of these bill savings are attributable to improvements in fuel efficiency, which are a direct result of the investments FPL has made on behalf of its customers.

FPL has delivered superior service at below national average rates for many years, despite cost pressures generally, and despite the significant investments FPL has made in its infrastructure, in conservation and in cleaner generating sources. FPL bills are also 21% lower than the average electric bill in Florida. This means that the typical residential customer is saving approximately \$340 per year, when compared to the Florida average. In fact, FPL's bills are the lowest of all 54 Florida electric utilities. Even with the necessary increases to base rates FPL is requesting, FPL will continue to be a low-cost provider of reliable electric service. And, based on current projections, FPL will continue to compare favorably with other Florida electric utilities.

FPL was last granted a general base rate increase in 1985 and its base rates have been lowered 12% since then. Since 1985, FPL has improved efficiency and performance in all major areas of operations – on an electric system that has experienced an increase in summer peak demand of approximately 98% and an increase in customers of approximately 72%. Essentially, since 1985, FPL has added to its system the equivalent of another large electric utility, constructing the necessary infrastructure and making the corresponding investment. Notwithstanding this massive investment, FPL's base rates today are lower than they were in 1985, despite inflation of almost 100% for the same period. One is hard pressed to think of any other service or commodity that offers such a value.

FPL's base rates were last reviewed by the Commission in 2005. Following the submission of direct and rebuttal testimony, months of discovery, and the review of thousands of pages of information by Commission Staff, the Office of Public Counsel and the other parties, an agreement was reached to hold FPL's base rates

flat, providing only for necessary and limited increases to accommodate expenditures associated with the development of planned generation to meet Florida's expanding requirements. Prior to that agreement, FPL actually agreed to lower its retail base rates: the Company implemented a \$350 million base rate decrease in 1999 and another \$250 million decrease in 2002. Additionally, FPL provided refunds of more than \$220 million, resulting in a total of approximately \$6 billion in direct savings to customers through the end of 2008. These base rate reductions were made possible by a combination of historic sales growth and productivity improvements.

The performance of FPL's generating units has been a major contributor to FPL's ability to control its base rates. As a result of the performance and availability of the Company's existing generating units over an extended period of time, FPL has been able to defer the need for new capacity, resulting in significant benefits and cost savings to customers. FPL's highly efficient generating fleet has also provided \$3 billion in fuel savings to FPL's customers since 2002, and is expected to provide \$1 billion in fuel savings per year beginning in 2014. Another key to FPL's control of base rates has been the initiative and effort of FPL's management and employees to control the Company's non-fuel operations and maintenance ("O&M") expenses. Since 1985, the Company has succeeded in lowering its non-fuel O&M expenses per kWh by more than 22%, despite the fact that the number of customers served increased by approximately 72%. This success in controlling O&M costs helped make it possible for the Company to lower base rates in 1999 and 2002 and forego a requested increase in 2005. While FPL has achieved and will continue to drive for productivity efficiencies in all aspects of its operations, operational efficiencies alone will not be sufficient to cover the dramatic decline in sales growth coupled with the significant increase in costs the Company is facing over the next several years.

FPL has aggressively responded to the recent economic downturn by revising its capital expenditure plans. The result of those actions has been a reduction in capital expenditures of nearly \$530 million in 2008, with more than \$400 million in additional reductions planned for 2009. This effort will result in a reduction in projected rate base for 2010 of approximately \$930 million and has reduced the associated revenue requirements in 2010 by \$130 million. Despite these efforts, a significant level of spending is and will continue to be necessary in order to meet customers' service requirements.

Storm restoration costs are another part of the cost of providing electric service in hurricane-prone Florida, and insurance for such losses for the transmission and distribution system is not available. Prior to the 2005 base rate settlement, FPL was authorized to fund its reserve for storm and other property-related losses through an annual accrual. Relying on customers to pay for storm restoration costs after the fact through a surcharge would place an additional cost burden on customers when they may already be incurring costs to repair their homes from storm damage, and also can produce greater rate uncertainty for customers. Even state governments could be financially constrained and unable to support the reconstruction of infrastructure or

assist state residents. Perhaps most important, in the current volatile and constrained credit markets where access to capital has become more difficult, expensive, and subject to more constraining terms, the ability of financial institutions to meet lending commitments can be compromised, and exclusive reliance on access to such funds is misplaced. Thus, the Company should have the immediate liquidity on hand to ensure it can access resources on a timely basis, promoting timely restoration of electric service. These objectives can be addressed by including in FPL's cost of service an amount reflecting an average annual expected loss due to storm restoration costs. FPL has commissioned a detailed loss analysis by a catastrophic risk management expert, which provides the basis for its requested annual accrual of \$150 million. Surcharges will still play an important role in handling the restoration costs for large storms that exceed the annual expected loss value and the accumulated balance in the storm fund, but the Company's base rates also should be adjusted to include an expected level of storm restoration costs as a natural element of the cost of electric service in Florida.

Based on FPL's most recent depreciation study – which studies are performed every four years – FPL's depreciation reserve is in a surplus position relative to the current calculation of theoretical reserve requirements. This depreciation reserve surplus results in a direct and substantial benefit to FPL's customers: the required rate increase for 2010 is \$216 million lower than it would be without the surplus. And FPL has achieved this benefit for customers without any increase in rates over the years to recover additional depreciation expense. Consistent with FPL's and this Commission's practice, FPL proposes to amortize the surplus over the remaining lives of the assets to which the surplus relates. Using FPL's remaining-life approach – rather than drastically accelerating amortization of the surplus as proposed by interveners – results in stable rates, avoids the prospect of severe rate shock when the accelerated amortization comes to an end, and is less expensive for customers in the long run.

Finally, FPL's request will give the Company an opportunity – but not a guarantee – to earn a reasonable and adequate return on its investment. A variety of FPL-specific risks must be taken into account in this determination. These company specific risks include, among other things, FPL's particular vulnerability to hurricanes (due to its large coastal service area), its dependence on natural gas as a fuel source, and its pursuit of the option of new nuclear generation, as well as ownership of existing nuclear generation. Also important in this consideration is the current economic environment – and its effect on investor risk perceptions and expectations, the cost of debt capital, and the qualitative benefits of a strong financial position. It is clear that a strong financial position benefits customers by ensuring that the Company has access to debt and equity markets and that such access is at a reasonable cost with reasonable terms. Indeed, these benefits are evident in FPL's comparatively low customer bills. For customers to continue to realize these benefits it is necessary that the Company be afforded the opportunity to earn a fair return on its investment and maintain a strong capital structure.

For all the reasons discussed above, and as presented in the testimony, exhibits, and minimum filing requirements filed in support of this request, FPL is respectfully requesting an increase in base rates and charges that will produce an increase in total annual base revenues of \$1.044 billion beginning January 2010, and a subsequent year adjustment to produce an increase in total annual base revenues of \$247.4 million beginning January 2011. Absent the requested rate relief in 2010 and 2011, the Company projects that it will earn a return on equity of 4.7% in 2010 and 3.1% in 2011. These rates of return are insufficient to support the needs of the Company and its customers. Additionally, FPL is requesting the continued utilization by this Commission of the successful generation base rate adjustment ("GBRA") mechanism to account for the addition of large baseload units, such as West County Energy Center 3, as they enter commercial operation. This mechanism enables FPL to align the customer fuel cost savings achieved by the operation of these units with the necessary base rate revenue requirements thereby sending the appropriate price signals and also avoiding the need for expensive and time-consuming base rate cases.

FPL continues to invest in the electric system serving customers to ensure it can continue to deliver affordable, reliable, clean electricity over the long term. FPL is investing \$200 million in 2009 alone to make its system stronger in good weather and bad. FPL is also investing in smart meters and other smart technology that will give customers more control over their bills and improve reliability. These and other investments in cleaner energy sources are strengthening our state's essential infrastructure and helping to secure Florida's energy future. To support these investments and to regain investor confidence in the midst of uncertain and volatile capital markets, FPL is seeking an increase in base rates at this time.

OPC: FPL's petition in which FPL seeks authority to increase base rates and miscellaneous service charges by more than \$1 billion annually in January of 2010, another \$180 million annually in January 2011, and another \$180 million annually at the point in 2011 when its next generating unit comes on line—exemplifies the reasons why it is necessary to restrain a monopoly's behavior through effective and ongoing regulatory oversight. FPL's overall request is a conglomeration of extreme positions and excessive demands—all of which FPL pursues at a time when customers are experiencing severe economic hardships. FPL proposes to use its extravagant 59% equity ratio for ratemaking purposes. This is far higher—and would be far more expensive to customers—than the more reasonable common equity ratios of comparable electric utility companies. FPL's request for a return on equity of 12.50% is detached from any credible consideration of current conditions in capital markets or FPL's low risk profile. FPL's proposal to increase depreciation expense at a time when it has over-collected depreciation by more than \$2 billion is inequitable and self-serving in the extreme. FPL wants the Commission to vote now to allow FPL to increase base rates each time a future power plant enters commercial service, without any concurrent regulatory consideration of the ability of FPL's rates in effect at the time to absorb some or all of the costs without an increase. With this

particular request FPL asks the Commission—not to exercise its ratemaking authority—but to abdicate it. Not content with the advantages associated with a fully projected test year, FPL pushes for a second increase in 2011 that would require the Commission to attempt to peer even farther into the future—at a time when the speculation inherent in doing so is exacerbated by the uncertainties accompanying a calamitous economic downturn. This is hardly the standard of accurate and reliable information to which bill-paying customers are entitled. At a time when customers are already paying for past storms and the Commission has shown its readiness to approve surcharges if and when warranted by future storm damage, FPL's proposal to increase base rates by \$150 million annually to add to its storm reserve is unwarranted and unfair on its face.

When these and other overreaching proposals are tempered by the application of the standards of fairness and reasonableness, it will become clear that FPL's outsized demands mask an overearnings situation. As OPC's evidentiary presentations will demonstrate, the Commission should reduce FPL's base rates, not increase them.

AFFIRM: AFFIRM's basic position is that a new commercial time of use rate should be developed and implemented under which the rate charged by FPL (i) varies during different time periods and reflects the variance, if any, in the utility's cost of generation and purchasing electricity at the wholesale level; and (ii) enables the electric consumer to manage energy use and cost through advanced metering and communications technology.

AG: Florida Statute mandates that the Public Service Commission establish fair and reasonable rates for all Florida citizens. Hundreds of these citizens testified under oath at the service hearings that they cannot afford a rate increase. Some spoke of having to move out of state to live with family and others spoke of moving to another state where the rates are affordable.

A mother in tears testified that she had gone back to school so that she could provide a better living for her two little boys. When the economy went bad, she had to drop out of school so that she could look for a job but she had been unable to find one. She testified that her parents are on a fixed income and cannot help except to provide her a jar of peanut butter for her boys to eat. She begged this commission not to raise her rates because she cannot afford it. Another lady testified that she had cut back so that she only used her air conditioner when the temperature went over 85 degrees during the day, she put blankets over her windows to try to keep it cooler, she only showered once a week and the rest of the week she sponged off using water she heated in a microwave.

Many seniors testified that they were on fixed incomes and could not afford this increase. Some testified that they were not using air conditioners, and were only taking their medication every other day. Many testified of the sacrifices they were making to try to pay their utility bills.

There were also small business owners who testified about the impact such an increase would have on their businesses and customers. These business owners testified that they had absorbed increased costs in other areas but would be unable to absorb the cost of the excessive rates which FPL has requested and they would have to pass these costs onto their customers. They feared that many of their customers would be unable to afford the increase and it would potentially end their businesses, thus leaving them and their employees out of a job and increasing the current economic problems the state is facing.

In the current economic climate the rates which FPL has requested are unreasonable and unfair and should be denied.

AIF:

AIF asserts that the Commission should approve FPL's forward-thinking efforts to invest in electric infrastructure. FPL's proposal will make Florida's infrastructure stronger, more storm resistant, smarter, better controlled, more reliable, more fuel efficient and more environmentally friendly. Moreover, AIF also views FPL's investments as a much-needed Florida economic stimulus package providing direct employment for many Florida residents as well as numerous business opportunities for many Florida businesses, including AIF members.

AIF supports a rate increase for FPL and the investments in Florida it will make possible for several reasons. In addition to the shorter term beneficial economic effects of building new and improved electric infrastructure, these investments will have much longer-term beneficial effects for all of AIF's members and all Floridians. FPL is proposing through its requested base rate increase to make nearly \$16 billion in new capital investments in Florida in order to continue providing such service. Construction and operation of the improved facilities proposed by FPL, as well as FPL's continued provision of reliable, affordable electric service, will provide essential support AIF's members need in order to maintain and expand their own businesses that in turn employ many thousands of Florida residents. AIF notes that FPL's electric rates are lower than those of utilities in most major metropolitan areas in the United States -- a key factor considered by businesses when deciding where to invest and where to employ people -- which will also help economic growth and economic recovery.

Fundamentally, AIF's members require adequate, reasonably priced electricity in order to conduct their business consistently with the needs of their customers and ownership. AIF endorses environmental and economic regulatory policies that create a stable investment climate so that electric utilities such as FPL can build and operate energy generation, transmission and distribution systems to meet Florida's energy needs. To this end, AIF encourages the Florida Public Service Commission to ensure that through the rates granted in this proceeding FPL remains competitive

in the current uncertain capital markets and is able to attract the investor dollars needed to support the beneficial investments in Florida described herein.

CSD: The City of South Daytona opposes any attempt by the Florida Public Service Commission to establish rates for Florida Power & Light Company ("FPL") based on a projected test year ending December 31, 2010 or a subsequent test year ending December 31, 2011. Neither test year is authorized under applicable Florida statutes. Case law cited by FPL does not support FPL's request for the Commission to establish rates using costs and capital investments projected to occur more than two years after hearings in this proceeding are concluded. In fact, cases cited by FPL involved "projected test years" that in one case had already become "historic" by the time evidentiary hearings were concluded and in the other proceeding most, if not all, of the "projected test year" also had become "historic" by the time evidentiary proceedings were concluded and an order issued by the Commission.

The Commission need only consider the recent fate of FPL's proposed Glades power plant and the fact that it will never be built to know that it is folly to permit FPL to charge rates reflecting speculative investments years into the future. FPL already has been permitted to recover investments and costs associated with new generation plants in the GBRA approved in settlement of FPL's last rate filing, as well as nuclear plant related costs under the associated nuclear cost recovery mechanism. There is no justification for further departing from utility ratemaking practice that has been in place for many decades to permit FPL to charge rates to current customers based on additional speculative projections of costs and capital investments.

The City of South Daytona further opposes rates established to provide FPL shareholders with a 13.5% return on equity which, consistent with Commission practice, would permit FPL to earn a return on equity of up to 13.5% without fear of an overearnings investigation. The GBRA and nuclear cost recovery mechanisms previously discussed, together with the fuel adjustment clause, conservation cost recovery clause, and environmental cost recovery clause provide so many mechanisms for the recovery of FPL's costs and capital investments that a majority of revenue requirements no longer are even subject to the thorough scrutiny of a traditional rate proceeding such as this one. For instance, the GBRA allows recovery by FPL of costs and capital invested in power plants based upon the speculative projections provided in a needs determination proceeding. These proceedings are by statute conducted under much abbreviated time limitations thus limiting the scrutiny which the Commission or any intervener could undertake of such projections. These revenue recovery mechanisms each expedite utility rate relief (in other words, reduce traditional regulatory lag), provide limited possibility for appropriate scrutiny of the associated rate increases and eliminate utility risk of operation in such manner that it is unreasonable and unjust to establish rates which allow up to a 13.5% return on equity in this proceeding. With all of these rate adjustment mechanisms in place

reducing risks, how could a utility be entitled to earn a higher return on equity than years past when such recovery mechanisms were not available?

FIPUG: FPL's requested revenue requirements are greatly overstated, and in fact, as recommended by other parties to this proceeding, should be reduced and not increased.

Test Year

The Commission should reject FPL's attempt to implement a subsequent year base rate increase in 2011. Such a request is simply FPL's bold attempt to combine two rate cases into one. The request to increase rates in 2011 should not be granted because it is based on projections from 2008 and does not reflect FPL's formal 2011 budget. FPL's request is speculative, inappropriate and unnecessary.

Depreciation

FPL has vastly overstated its depreciation expense, especially given the huge depreciation surplus of \$1.2 billion it currently has. The Commission should require FPL to utilize reasonable life spans for its coal units (at least 55 years) and combined cycle units (at least 35 years) and should require FPL to continue to make the \$125 million depreciation adjustment authorized in its 2005 rate case.

In addition, the Commission should require FPL to charge the remaining costs of the plants that are being retired early to the depreciation reserve, rather than amortizing them as an additional expense. Further, the Commission should order FPL to suspend contributions to the fossil plant dismantling fund until after the next depreciation study.

ROE

FPL's request for an ROE of 12.5% is unreasonable and should be rejected given financial conditions today. Further, FPL's ROE should not be increased for "good" service. As a monopoly provider, it is part of FPL's regulatory compact to provide quality service. It should not be "rewarded" for doing what it is required to do. FPL's ROE should be set no higher than 9.5% as recommended by Public Counsel's witness.

Capital Structure

FPL's request to receive approval of a capital structure which includes an increased equity component due to purchased power agreements or otherwise adjust its capital structure so as to include imputed debt related to purchase power agreements (PPAs) should be rejected. Because the costs of PPAs are a guaranteed pass through in Florida, there is little to no risk to FPL of these agreements and no need to impute

debt related to them. The Commission addressed this same issue in the recent TECO rate case and rejected TECO's request for the same kind of adjustment. See Order No. PSC-09-0283-FOF-EI at 35-36.

In addition, FPL's capital structure should be adjusted to reduce the amount of common equity to 50.2% on an adjusted basis, which is comparable to the equity ratios of other comparably-rated electric utilities.

Cost of Service

With respect to FPL's class cost-of-service study, the methodology used to allocate production plant costs should reflect cost-causation. FPL is a strongly summer peaking utility and experiences its tightest margins during the summer months. This suggests that greater emphasis should be placed on summer month demands than is provided in the 12CP & 1/13th AD FPL rates. However, 12CP & 1/13th AD has been routinely used by the Commission and should be retained. If the Commission decides to place greater emphasis on energy usage, it should adopt the Average and Excess method rather than an Average and Peak method because the former recognizes the dual functionality of generating plants (*i.e.*, serving both base and cycling loads) without double-counting peak demand.

In addition, FPL's proposed class revenue allocation should be rejected because it would result in some classes receiving base rate increases that exceed 150% of the system average increase. This violates the Commission's policy regarding the use of cost-of-service studies to set rates, subject to appropriate gradualism constraints.

Last, FPL's proposed rate design should be revised to:

- More closely align the demand and energy charges to reflect the corresponding demand and non-fuel energy-related costs;
- Set the HLD rates to blend at a 70% load factor with the corresponding GSD and GSD rates;
- Correct the CILC rate design so that the incentive payments are spread to all customer classes (rather than being partially absorbed by the CILC customers); and
- Increase the Rider CDR credit to reflect the higher equipment costs and greater value of providing non-firm service than when the credit was first initiated.

FRF: The core question to be addressed by the Commission in this proceeding is whether Florida Power & Light Company ("FPL") needs any additional revenues in order to provide safe, adequate, reliable service, to recover its legitimate costs of providing such service, and to have an opportunity to earn a fair and reasonable return on its

legitimate investment in assets used and useful in providing such service. The evidence shows that the answer to this question is unequivocally "No."

FPL's requested rate increase of \$1.044 Billion per year in additional base rate revenues for 2010, and FPL's requested subsequent year rate increase of an additional \$247 Million per year for 2011, are excessive and unnecessary to allow FPL to provide adequate, reliable service, to recover its legitimate costs, and to have an opportunity to earn a reasonable return on its prudent investment. Granting the proposed increases would result in rates that are unfair, unjust, unreasonable, and contrary to the public interest. In fact, the evidence shows that the Commission should reduce FPL's rates by \$364 Million per year in 2010, and that the Commission should not grant any subsequent year increase in FPL's base rates in 2011 (and that the Commission should deny FPL's request for permanent implementation of a Generation Base Rate Adjustment). The following are major, specific factors that demonstrate that FPL does not need rate increases to provide adequate service and to recover its costs.

FPL's requested rate of return on common equity, an after-tax return of 12.5%, is unfair, unreasonable, and excessive in that it is not representative of current capital market conditions, and far greater than is justified by the minimal risks that the Company faces. An after-tax return of 9.5% is fair and reasonable, and probably generous to FPL in light of FPL's low risk profile.

FPL has a depreciation reserve excess of \$2.7 billion, and the Commission must require FPL to amortize at least \$1.25 Billion of that amount over the next 4 years. Moreover, FPL has overstated its depreciation expenses, and the Commission must adjust FPL's authorized revenue requirements, and its rates, accordingly.

FPL's request for an annual storm reserve accrual of \$150 million is likewise unfair, unjust, and unreasonable, and also unnecessary. Moreover, it is contrary to the Commission's specific holdings in FPL's last storm cost recovery charge proceedings in 2006, where the Commission explicitly recognized that the risk associated with higher or lower storm reserves falls entirely on FPL's customers and accordingly rejected exactly the same request that FPL is now inappropriately attempting to resurrect in this docket. See PSC Order No. 06-0464-FOF-EI at page 25.

FPL's request for a GBRA is unfair, unjust, and unreasonable because it would provide for automatic increases in base rates regardless of current conditions – including the utility's achieved rate of return and other factors affecting the overall reasonableness of the utility's rates – at such time that new power plants are brought into service.

Similarly, FPL's request for a subsequent year adjustment in January 2011 is inappropriate and the Commission should reject it because FPL's projections and assumptions for 2011 are too speculative to amount to competent substantial

evidence sufficient to impose the tremendous burden of another \$247 million per year increase on FPL's customers without any further hearing to determine whether such increase would be necessary in order to ensure that FPL has sufficient revenues to provide safe, adequate, and reliable service.

The Commission's fundamental statutory mandate is to regulate public utilities, including FPL, in the public interest. Given the evidence showing that FPL will be able to provide adequate service, to recover its legitimate costs, and to earn a reasonable return on its investment with rates less than FPL's current rates, it would be contrary to the public interest to grant any increases at all. Especially in these difficult economic times, the public interest of millions of Floridians demands this result: the Commission has the evidence and the authority to protect the public interest by reducing FPL's rates as shown by competent substantial evidence, and the Commission must act accordingly.

SFHHA: FPL has requested an unprecedented series of rate increases in this proceeding of more than \$1,550 million. FPL's rates do not reflect the existing cost of service. Effective January 1, 2010, FPL's rates should be reduced by \$336.338 million.

Test Period

The Commission should reject FPL's proposal for all base rate increases after January 1, 2010 given the present economic uncertainty. It is unrealistic to assume that FPL or the Commission can determine in this time the reasonable level of revenues and costs that should be recovered through base rates past that period. Further, there is no evidence that there will be actual savings to ratepayers resulting from avoidance of a separate proceeding sometime in 2010 for rates that would be effective in 2011. Instead, the Company should file for future base rate increases closer to the effective dates of such increases using then current costs and assumptions.

Generation Base Rate Adjustment

The Commission should not approve FPL's proposed GBRA. The GBRA is an exceptional form of ratemaking and should not be used to circumvent the comprehensive review of all revenue and cost components in a base rate proceeding. It provides FPL an almost unfettered ability to automatically impose base rate increases to recover selective increases in certain costs without consideration of increases in revenues and reductions in other costs, such as, increases in accumulated depreciation or retirement of existing plant.

If the Commission does approve the GBRA, it should require that the GBRA revenue requirement methodology be set forth in a formula and in the form of a GBRA tariff. In the formula, the Commission should require cost inputs that are consistent with the SFHHA recommendations to adjust those components for base ratemaking purposes.

O&M Expenses

FPL has proposed an incredible increase in O&M expense for the test year compared to the actual O&M expense for the most recent three historical years. From the bottom up perspective, there are multiple adjustments that should be made to FPL's O&M expense estimates. First, FPL should reduce expenses for productivity improvements given the Company's lower historical rate of growth in payroll costs. Second, FPL's estimated nuclear staffing levels should be reduced to reflect recent attrition and retirements. Third, FPL should credit its O&M expenses for reimbursements it will receive from its settlement with the DOE concerning the DOE's failure to dispose of spent fuel from FPL's nuclear generating facilities. Fourth, FPL has failed to include the pro rata amount of estimated savings from the installation of the AMI meters. Finally, any customer information service ("CIS") development costs should be capitalized, instead of expensed.

FPL's test year O&M expense should be reduced by \$397.648 million. This will reduce FPL's requested test year O&M expense to the \$1,306.953 million actual 2008 adjusted downward on a net basis to \$1,298.719 million for the following known and measurable changes: 1) the reduction in O&M expense due to the transfer of certain expenses to various clauses for recovery (\$20.883 million), 2) the increase in O&M expense for WCEC 1 and 2 (\$18.918 million), and 3) the reduction due to the DOE refunds (\$9.000 million), and 4) the increase due to all other Company adjustments reflected on MFR Schedule C-2, except for the storm damage expense (\$0.728 million).

Storm Damage Accrual

FPL should not be permitted to reestablish an annual storm damage accrual in base rates, including establishment of a storm damage reserve while it continues to collect a storm damage surcharge for these same purposes. The use of a surcharge approach in conjunction with securitization provides FPL full and timely recovery for prudently incurred storm damage costs, avoids the need to engage in speculation regarding future storm damage costs, and results in substantially lower costs to rate payers.

If base rate recovery is again permitted, then the annual accrual should be \$0 while the company continues to collect the surcharge. Also, if base rate recovery is again permitted, FPL's reserve surplus target should be set at \$200 million, not at \$650 million as proposed by FPL.

Depreciation

FPL's filed depreciation should be adjusted. First, the new CIS is not scheduled to be completed and operational until June 2012. Depreciation should not commence until the asset is in-service. Second, FPL's depreciation expenses should be reduced for the effects of its capital expenditure reductions. Third, FPL's existing depreciation reserve surplus of \$1.245 billion should be amortized over five years to as closely as possible return the amounts to ratepayers who overpaid for depreciation expense in prior years. Fourth, recovery of the remaining net book value of the Cape

Canaveral and Rivera facilities should not be accelerated by amortizing the balance over four years. The Commission should direct FPL to cease depreciation of the Cape Canaveral and Rivera facilities, add the remaining net book value to the costs of the modernization of the facilities, and then depreciate these costs along with the modernization costs over the estimated service lives of the modernized facilities. Fifth, FPL's nuclear uprate costs should be depreciated over the remaining extended license lives of the units, not depreciated over four years, as proposed by FPL. Sixth, FPL's existing meter investment costs should not be depreciated over four years. The Commission should use the same depreciation or amortization rate for the costs of the existing meters as it adopts for the remaining existing meter investment that will not be replaced by AMI meters. Finally, the Company's investment in combined cycle generating facilities should reflect a minimum of 40 year lives, not FPL's proposed 25 year lives. These facilities have proven over time to have a forty year service life.

Income Tax Expense - Economic Stimulus Bill

FPL should reflect in its revenue requirement a \$20 million subsidy that is available pursuant to the Stimulus Bill for advanced meters and smart grid investment. In addition, there may be other benefits resulting from the stimulus bill that FPL should record as a regulatory liability.

Rate Base

FPL has cut its planned capital expenditures in the test year, and a rate base adjustment is necessary to reflect these cuts. Therefore, FPL's plant investment included in rate base should be reduced to reflect these capital expenditure reductions on an annualized basis, both for the annualized 2009 reductions carried forward into 2010 and for reductions of similar magnitude in 2010 carried forward into 2011.

Capital Structure

FPL's capital structure should be adjusted. First, the company's proposed level of equity is excessive, unreasonable, and would result in unjust and unreasonable rates to ratepayers. It should be reduced to a reasonable level that supports its credit rating and that does not burden its customers with excessive costs. Second, FPL has understated the amount of short term debt that should be included in the capital structure. Based on historical data, substantially more short term debt should have been included. Third, the entire amount of customer deposits, ADIT and ITC related to utility rate base should be included in FPL's capital structure. These amounts are jurisdictional to the FPL retail ratepayers and should not be reduced for "prorata adjustments" to reconcile the Company's capitalization to rate base.

Cost of Capital

The Commission should reject FPL's 12.50% return on equity ("ROE") recommendation. FPL's ROE should be 10.40%. This recommendation is based on the low end of the range of results from a Discounted Cash Flow analyses for a comparison group of electric companies. It is also supported by a Capital Asset

Pricing Model. In addition, FPL's proposed 2.96% short-term debt rate is overstated and should be adjusted to 0.60%.

Cost Classification

FPL has classified all distribution costs (except meters and services) as demand related, which overstates the cost responsibility of large general rate schedules. That methodology is unreasonable because it ignores a "customer component" of distribution cost based on a minimum system concept. The minimum distribution system ("MDS") methodology recognizes that certain distribution costs are incurred due to the presence of a customer on the system, regardless of the demand of such a customer. The methodology classifies these costs as customer related, thereby ensuring that each customer pays for its cost responsibility.

Rate Design

FPL has utilized a 12 CP and 1/13th average demand methodology which ignores key cost drivers and has the effect of promoting on-peak consumption. The summer month reserve margin requirements are the binding constraint for planning FPL's system, but FPL is providing its customers with price signals that the cost of providing another kWh in March is the same as in August. Customer class demands during off-peak fall and spring months do not cause FPL to add new generation capacity to the system, yet that is the underlying premise of the Company's cost allocation methodology. A summer coincident peak methodology is more appropriate for allocating costs because it recognizes the factors that are actually driving capital expenditures.

Gradualism

FPL's proposal to allocate its requested rate schedule increases such that rate parities among rate schedules is unrealized is inappropriate under the circumstances and leads to unreasonable results. Under FPL's proposal, base rates under certain rate schedules could increase by 50 percent or more. FPL should be required to implement a measure of gradualism because of the significant increase in its revenue requirement and the general economic environment. Rate increases for each rate schedule should be limited such that no rate schedule receives more than 1.5 times the average percentage increase in base rates and no rate schedule receives a rate decrease in base rates. This is consistent with prior Commission decisions in electric utility rate proceedings, including the recent Tampa Electric Company rate case, Docket No. 80317-EI.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

2010 PROPOSED TEST PERIOD

ISSUE 1: Does the Commission have the legal authority to approve a base rate increase using a 2010 projected test year?

*Whether the FPSC has jurisdiction under Florida law at Sections 366.06(1) and 367.08(2) to consider FPL's petition for a rate increase based on FPL's projected 2010 test-year period of the 12 -months starting January 1, 2010 and ending December 31, 2010 supported by future speculative projections of costs and investments used and useful in the public service? See *perito**

POSITIONS:

FPL: Yes. The Florida Supreme Court affirmed in *Southern Bell Tel. Co. v. Public Service Comm'n*, 443 So.2d 977 (Fla. 1983) that "[n]othing in the decisions of this Court or any legislative act prohibits the use of a projected test year by the Commission in setting a utility's rates. We agree with the Commission that it may allow the use of a projected test year as an accounting mechanism to minimize regulatory lag. The projected test period established by the Commission is a ratemaking tool which allows the Commission to determine, as accurately as possible, rates which would be just and reasonable to the customer and properly compensatory to the utility." Consistent with this authority, the Commission's rule on test year certification specifically contemplates the use of a projected test year, and the Commission has permitted the use of projected test years in numerous base rate proceedings. See Rule 25-6.140, F.A.C.; e.g., Order No. PSC-09-028-EO, Docket No. 080317-EI, dated April 30, 2009 (2008 TECO rate case); Order No. PSC-05-0945-S-EI, Docket No. 050078-EI, dated September 28, 2005 (2005 Progress Energy Florida's rate case); Order No. PSC-05-0902-S-EI, Docket No. 050045-EI, dated September 14, 2005 (2005 FPL rate case); Order No. 1353, Docket No. 830465-EI, dated July 24, 1984 (1983 FPL rate case). (Legal Issue)

OPC: OPC has not contested the authority of the Commission to approve a base rate increase using a 2010 projected test year in this proceeding.

AFFIRM: AFFIRM has no position at this time on Issue 1 or on the preferable wording.

AG: Yes.

AIF: AIF has no position at this time.

CSD: The two Florida Supreme Court decisions cited by FPL do not support FPL's request that the Commission authorize rates based upon projections of costs and

capital investment more than two years after evidentiary hearings are completed and an order is issued in this matter. Both of those decisions addressed "projected" test years where the projections had actually become known, actual costs and investments by the time of the evidentiary hearing or at least as of the issuance of the Commission's order. That is not the case in this proceeding where FPL's test years are based upon pure speculation. The Commission has little experience dealing with the "projected test year and subsequent test year" phenomenon requested by FPL, as demonstrated by the hours it took the parties to even establish a mechanism for addressing such a "test year upon a test year" request. Where the Legislature intends to authorize the Commission to set rates based upon future projections, it has clearly done so, for example in Chapter 367 related to water utility ratemaking. In the 20 years since the Supreme Court decisions cited by FPL were decided, Chapter 366 dealing with electric utility ratemaking has been amended a number of times to permit electric utilities to recover rates, historic and projected, in several rate adjustment mechanisms outside of a full blown rate proceeding. However, Section 366.06(1), which addresses proceedings like this one, only authorizes the Commission to set rates based upon "*actual* legitimate costs..."; "*actually* used and useful..."; kept in a "*current record of the net investment...*"; and "*money honestly and prudently invested...*"; and not including "any goodwill or going concern value or franchise value in excess of *payments made* therefor." Each of these clauses from section 366.06(1) address historic, not projected costs. With all of the other attention paid by the Legislature to the ratemaking statutes since the Supreme Court decision in 1983, it was possible to amend this section to allow projected test years if the Legislature had intended to do so. Instead, FPL has obtained permission to institute many rate adjustment mechanisms, constituting more than half of its revenue requirements, but no authorization to establish base rates on projected data two years and longer into the future has been provided to the Commission by the Legislature.

FEA: No position.

FIPUG: No position.

FRF: Yes.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that the issue proposed by Saporito is the same as and can be subsumed in the wording agreed upon by the remaining parties. Staff has no position at this time on Issue 1.

ISSUE 2: Is FPL's projected test period of the 12 months ending December 31, 2010, appropriate?

FPL: Yes. The Company is currently operating under the 2005 Stipulation and Settlement Agreement (Rate Settlement) that expires at December 31, 2009. The Company's petition requests an increase in base rates at the expiration of the Rate Settlement, effective January 4, 2010. Accordingly, 2010 is the most appropriate year to evaluate the Company's projected revenue requirement to afford the appropriate match between revenues and revenue requirements for 2010. Also, this test year coincides with the commencement in 2010 of new depreciation rates, pursuant to the comprehensive depreciation study the Company has filed in conjunction with this proceeding. (Barrett, Re

OPC: While OPC believes that the 2010 projections are less reliable than the 2009 data, OPC will not object to the use of the 2010 Test Year in this proceeding. (Brown)

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: Yes.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 3: Are FPL's forecasts of customers, kWh, and kW by rate classes for the 2010 projected test year appropriate?

FPL: Yes. The 2010 forecast of customers, kWh, and kW by rate class are consistent with the sales and customer forecast by revenue class and reflect the particular billing determinants specified in each rate schedule.

OPC: No. FPL's correction to its load forecast for minimum use customers should be adjusted to reflect a 7.42% historical average. The re-anchoring adjustment should be eliminated. In 2010, FPL's revised net energy for load should be 112,086,988,335 and FPL's revenues should be increased by \$46,500,182. The net reduction in revenue requirements, including reallocation of revenue requirements, is \$46.11 million.

AFFIRM: AFFIRM has no position at this time.

AG: No. Adjustments need to be made to reflect the historical average.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FIPUG: No. Agree with OPC.

FEA: No position.

FRF: No. Adjustments to FPL's forecasts are necessary to reflect the most likely conditions for 2010.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

2011 PROPOSED SUBSEQUENT YEAR TEST PERIOD

ISSUE 4: Does the Commission have the legal authority to approve a subsequent year base rate adjustment using a 2011 projected test year?
Whether the FPLSC has jurisdiction under Florida law at Sections 366.06(1) and 367.01(2) to consider FPL's petition for a rate increase based on FPL's projected 2011 test year period of the 12-months starting January 1, 2011 and ending December 31, 2011 supported by future speculative projections of costs and investments used and useful in the public service? Saporito

FPL: Yes. Section 366.076(2), Florida Statutes, and Rule 25-6.0425, F.A.C., expressly authorize subsequent year adjustments. Moreover, nothing in the Florida Supreme Court's discussion of the Commission's authority to use projected test years in *Southern Bell Tel & Tel. Co. v. Public Service Comm'n*, 443 So.2d 92 (Fla. 1983) restricts the time period that may be used for the projected test year.

The Commission clearly has authority under Southern Bell to approve a rate increase to go into effect in 2011, based on a 2011 test year. The authority to grant a subsequent year adjustment was confirmed by the Court in *Floridians United for Safe Energy, Inc. v. Public Service Comm'n*, 475 So. 2d 241 (Fla. 1985). (Legal Issue)

OPC: Especially in view of the uncertainties associated with the economic downturn, the predictions offered by FPL are too speculative to form a basis on which to fix rates for 2011. OPC asserts that an attempt by the Commission to do so would amount to an unlawful abuse of discretion.

AFFIRM: AFFIRM has no position at this time on Issue

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The two Florida Supreme Court decisions cited by FPL do not support FPL's request that the Commission authorize rates based upon projections of costs and capital investment more than two years after evidentiary hearings are completed and an order is issued in this matter. Both of those decisions addressed "projected" test years where the projections had actually become known, actual costs and investments by the time of the evidentiary hearing or at least as of the issuance of the Commission's order. That is not the case in this proceeding where FPL's test years are based upon pure speculation. The Commission has little experience dealing with the "projected test year and subsequent test year" phenomenon requested by FPL, as demonstrated by the hours it took the parties to even establish a mechanism for addressing such a "test year upon a test year" request. Where the Legislature intends to authorize the Commission to set rates based upon future projections, it has clearly done so, for example in Chapter 367 related to water utility ratemaking. In the 25 years since the Supreme Court decisions cited by FPL were decided, Chapter 366 dealing with electric utility ratemaking has been amended a number of times to permit electric utilities to recover rates, historic and projected, in several rate adjustment mechanisms outside of a full blown rate proceeding. However, section 366.06(1), which addresses proceedings like this one, only authorizes the Commission to set rates based upon "*actual* legitimate costs..."; "*actually* used and useful..."; kept in a "*current record of the net investment*..."; or "money honestly and prudently *invested*..."; and not including "any goodwill or going concern value or franchise value in excess of *payment made* therefor." Each of these clauses from section 366.06(1) address historic, not projected, costs. With all of the other attention paid by the Legislature to the ratemaking statutes since the Supreme Court decision in 1983, it was possible to amend this section to allow projected test years if the Legislature had so intended to do so. Instead, FPL has obtained permission to institute many rate adjustment mechanisms, constituting more than half of its

revenue requirements, but no authorization to establish base rates on projected data two years and longer into the future has been provided to the Commission.

FEA: No position.

FIPUG: No. FPL's projections are too speculative to support a ratemaking finding.

FRF: The FRF agrees with OPC that, as matters of fact, FPL's projections and assumptions are too speculative to amount to competent substantial evidence sufficient to impose such a tremendous burden on FPL's customers. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: No.

SCU-4: No position.

STAFF: Staff believes that the issue proposed by Saperio is the same as and can be subsumed in the wording agreed upon by the remaining parties. Staff has no position at this time on Issue

ISSUE 5: Should the Commission approve in this docket FPL's request to adjust base rates in January 2011?

FPL: Yes. As discussed in Issue 4, the Commission has statutory and rule authority to approve subsequent year adjustments. On numerous previous occasions, the Commission has granted subsequent year rate relief. See, e.g., Order No. PSC-09-028-FOF-EI, Docket No. 080317-EI, dated April 30, 2009 (2008 TECO rate case); Order No. PSC-02-0165-FOF-EI, Docket No. 920324-EI, dated February 2, 1993 (1992 TECO rate case); Order No. PSC-92-1197-FOF-EI, Docket No. 910890-EI, dated October 22, 1992 (1991 Florida Power Corporation rate case); Order No. 13317, Docket No. 830465-EI, dated July 24, 1984 (1983 FPL rate case). A subsequent year adjustment in 2011 is an accepted and recognized method of addressing FPL's increasing costs and earnings deterioration in 2011.

OPC: No. The assumptions used in developing the 2011 revenue requirements reflect an unacceptable level of economic uncertainty. See OPC's position on Issues 4 and 6.

AFFIRM: AFFIRM has no position at this time.

AG: No.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. This request is an objectionable "pancaking" of two separate and distinct rate cases into one proceeding. Further, FPL's 2011 projections are highly speculative as they are based on 2008 projections and cannot be prudently relied upon as reasonable projections upon which to base rates in 2011.

FRF: No.

SFHHA: No.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 6: Is FPL's projected subsequent year test period of the 12 months beginning January 1, 2011 and ending December 31, 2011, appropriate?

FPL: Yes. The Company has requested an additional increase in base rates effective January 1, 2011 to avoid the need for a lengthy and costly additional base rate proceeding in 2011 and to mitigate a significant decline in the Company's financial performance. Without the additional rate adjustment, the Company's return on equity is projected to decline from 12.5% in 2010 to 10.7% in 2011. The Company's forecast of 2011 revenue requirements was developed, reviewed and approved using the same rigorous process as was used for the 2010 test year. It is reasonable and reliable for setting rates. (Barrett, Reed)

OPC: The 2011 test year incorporates an unacceptable level of uncertainty and should be rejected. FPL's projections and assumptions are based on current economic conditions. If the economy recovers faster or greater than FPL's requested assumptions, allowing a subsequent rate increase using a 2011 test year could easily generate excess earnings at ratepayer expense. FPL would have no obligation to then reduce rates without customer or Commission intervention. OPC witnesses have addressed the revenue impacts for the 2011 test year in the event the Commission decides to entertain the Company's proposal for a subsequent year rate adjustment. (Brown)

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. This request is the inappropriate bundling of two separate and distinct rate cases into one proceeding. Further, FPL's 2011 projections are highly speculative as they are based on 2008 projections and cannot be confidently relied upon as reasonable projections upon which to base rates in 2011. If FPL can demonstrate its need for rate relief in 2011, it may file a rate case with all supporting documentation at the appropriate time.

FRF: No. The FRF agrees with OPC that, as a matter of fact, FPL's projections and assumptions for 2011 are too speculative and uncertain to constitute competent substantial evidence sufficient to impose such a tremendous burden on FPL's customers.

SFHHA: No. The Commission cannot determine at this time what the reasonable revenues and costs will be in 2011. Further, there is no evidence that there will be actual savings to ratepayers resulting from avoidance of a separate proceeding sometime in 2010 for rates that would be effective in 2011.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE: Are FPL's forecasts of customers, kWh, and kW by rate classes for the 2011 projected test year appropriate?

FPL: Yes. The 2011 forecast of customers, kWh, and kW by rate class are consistent with the sales and customer forecast by revenue class and reflect the particular billing determinants specified in each rate schedule.

OPC: No. FPL's correction to its load forecast for minimum use customers should be adjusted to reflect a 7.42% historical average. The re-anchoring adjustment should be eliminated. In 2011, FPL's revised net energy for load should be 113,633,626,793 and FPL's revenues should be increased by \$40,351,388. The net reduction in revenue requirements, including reallocation of revenue requirements, is \$39.94 million. (Brown)

AFFIRM: AFFIRM has no position at this time.

AG: No. Adjustments should be made to reflect the historical average.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Such forecasts are highly speculative and cannot be relied upon to set rates.

FRF: No. FPL's forecasts of, and assumptions regarding, 2011 customers and sales factors are too speculative to represent competent substantial evidence that can support such a tremendous burden on FPL's customers, and accordingly, those forecasts are not appropriate.

SFHHA: No. FPL's forecasts are too speculative at this point.

SCU-4: No position.

STAFF: Staff has no position at this time.

GENERATION BASE RATE ADJUSTMENT

ISSUE 8: Should the Commission approve a Generation Base Rate Adjustment (GBRA) which would authorize FPL to increase base rates for revenue requirements associated with new generating addition approved under the Power Plant Siting Act, at the time they enter commercial service?

FPL: Yes. The GBRA is a proven and efficient regulatory ratemaking tool, and aligns the timing of the fuel price reductions with the required base increase thereby sending customers the appropriate price signals. Its use will avoid costly and lengthy rate proceedings to recognize in rates the costs of new generation, the need for which has been reviewed and approved by the Commission in a need proceeding.

OPC: No. The requested GBRA mechanism would allow FPL to avoid regulatory oversight of its overall costs of service by providing an automatic base rate increase when new plant is added regardless of the achieved rate of return. Ratepayers would be forced to bear unwarranted increases in base rates if existing earnings are sufficient to absorb some or all of the costs of the addition. (Brown)

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position and regulatory oversight of these issues.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Capital additions, such as new generating plants, should not be automatically recovered through yet another recovery clause. If FPL believes that the addition of generating plant necessitates a rate change, it may petition the Commission for such a change in a full rate case where the Commission and the parties may examine all of FPL's revenues and expenses, rather than giving FPL a guaranteed recovery of new plant in isolation from other factors that affect rates.

FRF: No. The Commission should not approve a GBRA for FPL because it would provide for automatic increases in base rates regardless of current conditions – including the utility's achieved rate of return relative to then-current capital market conditions, and other factors affecting the overall reasonableness of the utility's rates – at such time that new power plants are brought into service.

SFHHA: No. Under the GBRA, FPL effectively would implement base rate increases without the normal scrutiny and resulting cost-control discipline of a comprehensive base rate case. Further, the GBRA would allow FPL to over recover its costs because it fails to consider cost reductions that FPL may achieve in other areas, such as, increases in accumulated depreciation or retirement of existing plant. The GBRA would allow FPL to retain savings from ongoing recoveries of existing plant investment through depreciation, the cost free capital resulting from ongoing accelerated tax depreciation, increases in revenues due to customer and usage growth and capital expenditure and expense cost reductions.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 9: If the Commission approves a GBRA for FPL, how should the cost of qualifying generating plant additions be determined?

FPL: If the Commission approves FPL's request to extend the Generation Base Rate Adjustment (GBRA) mechanism, the cost of qualifying generator plant additions should be determined in accordance with the process currently in place by virtue

of the Commission's Order No. PSC-05-0902-S-EI approving the 2005 settlement agreement.

OPC: The cost of qualifying assets should be based on the most recently available information at the time that the request is made by FPL to adjust its rates, but should be limited to the bid made and accepted in the determination of need proceeding.

AFFIRM: AFFIRM has no position at this time.

AG: No. The cost of plant additions should not be based on estimated costs which are done years in advance and are speculative at best.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: The appropriate costs of the qualifying generating plant should be determined in a separate proceeding and based on the most current information available.

FRF: Agree with OPC that the cost of qualifying plant additions should be based on the most current available data, not on the basis of costs submitted in need determination proceedings years in advance.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 10: *Issue 10 is intentionally left blank.*

ISSUE 11: If the Commission approves a GBRA for FPL, how should the GBRA be designed?

FPL: The GBRA should be designed based on Order No. PSC-05-0902-S-EI approving the Stipulation and Settlement and paragraph 17 of the stipulation and settlement, as described in the direct testimony of FPL witness Deaton. (Deaton)

OPC: First, any base rate increase should be considered only when the addition of the prospective plant revenue requirements to the Company's most recent surveillance report will cause the company to earn less than the floor of its last

authorized rate of return on equity. To make its request, the Company should be required to file minimum filing requirements similar to what Rule 25-30.445, FAC, requires for water and wastewater companies in order to file for a limited proceeding rate increase. The docketed proceeding should provide sufficient time for staff to audit the proposed filing/increase and allow for a point of entry for parties to participate if necessary. In its filing, FPL should be required to make a showing similar to the interim statute for requested interim rate increases: revenue requirement calculations should be reflected with adjustments made consistent with its last rate case proceeding and by using the range of its last authorized rate of return on equity in determining the cost of capital. The amount of increase should be limited to that necessary to restore the company to the bottom of its authorized overall fair rate of return. Because the filing would be based on estimates, the rate increase should be held subject to refund pending the filing of actual amounts to protect customers increase the rate increase generated excess earnings.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Any increase pursuant to a GBRA would first have to be tested to determine whether, absent the GBRA adjustment, FPL would earn below its authorized rate of return on equity. The Commission should open a docket and provide a point of entry for substantially affected parties, i.e., FPL's customers, to test the reasonableness of FPL's claimed costs and any rate changes that might result.

SFHHA: The Commission should require that the GBRA revenue requirement methodology be set forth in a formula and in the form of a GBRA tariff. In the formula, the Commission should require the use of a capital structure, cost of debt and return on equity that is consistent with the SFHHA recommendations to adjust these components for base ratemaking purposes. Depreciation expenses also should be adjusted to reflect a more reasonable service life for new generation facilities than proposed by FPL.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 12: If the Commission approves a GBRA for FPL, should the maximum amount of the base rate adjustment associated with a qualifying generating facility be limited by a consideration of the impact of the new generating facility on FPL's earned rate of return ("earnings test")? If so, what are the appropriate financial parameters of the test, and how should the earnings test be applied??

FPL: No. The GBRA is designed to appropriately recover the base revenue requirements of a "qualifying generating facility" that is not reflected in base rates when it enters commercial operation. This mechanism allows for proper matching of fuel benefits, which are adjusted automatically through the fuel adjustment clause, with the base revenue requirements required to enable those fuel benefits thereby sending proper price signals to customers. The GBRA revenue requirements include the appropriate rate of return as determined by the Commission, thereby ensuring the appropriate level of earnings for the plant. This helps to ensure the appropriate level of earnings for the plant. The Company's overall level of earnings is appropriately reviewed by the Commission through its surveillance process. (Barrett)

OPC: If the Commission approves a GBRA for FPL, any base rate increase should be considered only when the addition of the prospective plant revenue requirements to the Company's most recent surveillance report will cause the company to earn less than the floor of its last authorized rate of return on equity. The amount of the increase should be limited to that necessary to restore the company to the bottom of the range of its authorized overall rate of return. Also, see OPC's Position on Issue 1.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: While FIPUG opposes the establishment of the GBRA, if it is approved, the Commission should limit any recovery to an earnings test. The Commission should examine all of FPL's revenues and expenses and permit recovery of plant addition only if such review establishes that FPL is earning below the low end of its range. Any recovery should be limited to bringing FPL to the low end of the

range. This review should be done in a separate proceeding and not conducted in conjunction with the annual fuel adjustment proceeding.

FRF: Agree with OPC that any base rate increases pursuant to a GBRA should only be considered when the company has made a prima facie showing that, absent rate increases, the company will earn less than the floor of its authorized rate of return on equity.

SFHHA: Yes. The GBRA is exceptional form of ratemaking and should not be used to circumvent the comprehensive review of all revenue and cost components in a base rate proceeding. An earnings test provides a real-time proxy to capture any other revenue increases and cost reductions in the absence of a comprehensive base rate proceeding. Any earnings in excess of the authorized return on equity, as measured by the Company's earnings reported on its surveillance reports, should be used to reduce the GBRA.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 13: If the Commission determines it appropriate to adopt the use of a GBRA mechanism, how should FPL be required to implement the GBRA?

FPL: The GBRA should be implemented on the same basis as was utilized in the Turkey Point Unit filing in Docket No. 060001-EI and the WCEC units 1 and 2 filing in Docket No. 080001-EI as described in the direct testimony of FPL witness Denton.

OPC: OPC's position on Issue 13.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: FPL should be required to file all necessary information so that the Commission and the parties can make the determinations described in Issue 12 on an annual basis.

FRF: Any increase pursuant to a GBRA would first have to be tested to determine whether, absent the GBRA adjustment, FPL would earn below its authorized rate of return on equity. The Commission should open a docket and provide a point of entry for substantially affected parties, i.e., FPL's customers, to test the reasonableness of FPL's claimed costs and any rate changes that might result.

SFHHA: FPL should be required to include in its tariff a detailed explanation of the procedures by which the costs of new facilities may be included in the GBRA, along with a detailed description of and formula for the revenue requirement computations. The parties should have an opportunity to review the descriptions and proposed computations before such a tariff is approved, particularly given the failure of the Company to propose such a tariff or the detailed computations and the deficiencies in the Company's computations of the West County Energy Center Unit 3 included in the filing.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 14: If the Commission chooses not to approve the continuation of the GBRA mechanisms, but approves the use of the subsequent year adjustment, what is the appropriate adjustment to FPL's request to incorporate the revenue requirements reflected in the West County Unit 3 MFR Schedules?

FPL: If FPL is denied its request for GBRA, the estimated first year revenue requirements, as shown on the West County Energy Center Unit 3 schedules filed in this proceeding, would need to be reflected in the subsequent year adjustment request for 2009.

OPC: The Commission should add back the adjustments made by FPL to remove WCEC3 from the 2009 revenue requirement. Plant in service should be increased by \$465.616 million, depreciation expense should be increased by \$26.815 million (\$19.813 million with J. Pous adjustment), accumulated depreciation should be increased by \$8.250 million (\$6.540 million with J. Pous adjustment), and production O&M expenses should be increased by \$5.229 million.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: If the Commission does not approve the continuation of the GBRA, but does approve a subsequent year adjustment for FPL in this case, which the FRF strongly opposes for the reasons set forth above, then the revenue requirement impact of West County Unit 3 should be added into the 2011 adjusted test year.

SFHHA: FPL's proposed capital structure, cost of debt and return on equity should be adjusted, consistent with the SFHHA recommendations to adjust these components for base ratemaking purposes. Depreciation expenses also should be adjusted to reflect a more reasonable service life for new generation facilities than proposed by FPL.

SCU-4: No position.

STAFF: Staff has no position at this time.

JURISDICTIONAL SEPARATION

ISSUE 15: Does FPL's methodology of including its transmission-related investment, costs, and revenues of its non-jurisdictional customers when calculating retail revenue requirements properly and fairly identify the retail customers appropriate revenue responsibility for transmission investment? If no, then what adjustments are necessary?

FPL: FPL does not oppose OPC's method of addressing transmission related costs and revenues for long-term firm non-jurisdictional transmission service contracts. As detailed in the Rebuttal Testimony of FPL witness Ender, Exhibit JAE-11, jurisdictional rate base should be reduced by \$261,720,000 and \$286,794,000 for the 2010 Test Year and 2011 Subsequent Year Adjustment, respectively; jurisdictional NOI should be reduced by \$6,867,000 and \$7,161,000 for the 2010 Test Year and 2011 Subsequent Year Adjustment, respectively. As a result, jurisdictional revenue requirements should be reduced by \$22,975,000 for the 2010 Test Year and \$26,615,000 for the 2011 Subsequent Year Adjustment. This adjustment is listed on FPL witness Ousdahl's Exhibit KO-16. FPL believes that this issue can be stipulated.

OPC: No. FPL's method of allocating transmission service revenue requirements results in a significant subsidy being charged to the retail jurisdictional customers. The costs of providing transmission service have increased without a concomitant increase in rates for long-term firm transmission customers. FPL's revenue credit methodology creates a retail deficiency of \$18.5 million in 2010 and \$19.0

million in 2011. The Company's cost of service analyses should be modified as adjusted in Witness Brown's Exhibit SLB-3 and corresponding adjustments should be made to all accounts that are impacted by a change in the cost of service.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. The FRF agrees with OPC that FPL's jurisdictional separation methodology would force FPL's retail customers to cross-subsidize wholesale customers, and that FPL's jurisdictional cost study should be modified as recommended by Witness Sheree L. Brown.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 16: What is the appropriate jurisdictional separation of costs and revenues between the wholesale and retail jurisdictions?

FPL: Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the appropriate jurisdictional separation of costs and revenues between the wholesale and retail jurisdictions is that filed by FPL. The separation factors filed by FPL were developed consistent with the Commission-provided instructions of MFR E-1 and with the methodology used in the Company's clause adjustment filings and surveillance reports.

OPC: Adjustments should be made to reflect OPC witness Brown's recommended adjustments to correct FPL's Jurisdictional Transmission Allocations and Net Energy Load (NEL) forecast. The Company's cost of service analyses should be modified as adjusted in Witness Brown's Exhibits SLB-3 (Jurisdictional Transmission Allocations) and SLB-9 and SLB-10 (NEL forecast).

Corresponding adjustments should be made to all accounts that are impacted by a change in the cost of service.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: The appropriate jurisdictional separation of costs and revenues are as recommended by Witness Sheree L. Brown. Corresponding adjustments should be made to all accounts that are impacted by Witness Brown's recommended changes in the jurisdictional cost study.

SFHHA: No position at this time.

SCU-4: No position

STAFF: Staff has no position at this time.

QUALITY OF SERVICE

ISSUE 17: Is the quality and reliability of electric service provided by FPL adequate?

FPL: Yes. FPL has delivered superior reliability and excellent customer service. FPL's fossil fleet continues to be among the industry leaders for reliability, availability, and generating efficiency, while reducing emissions through the use of cleaner, highly efficient combined cycle technology. The operational reliability and performance of FPL's Nuclear Generation has ranged from excellent to average compared to other utilities in the area of quality of service. Distribution reliability, as measured by System Average Interruption Duration Index (SAIDI), has been the best among major Florida investor owned utilities for four out of the last six years and for the last decade has been, on average, 45% better than the Edison Electric Institute (EEI) industry average. Transmission SAIDI has been among the best in the industry, delivering top decile or best in class performance in two of the last four years. FPL's Customer Service performance has been in the top quartile for Care Center, Billing and Payment Processing in national

benchmarking studies of operational effectiveness and efficiency and has been awarded the ServiceOne Award, which recognizes utilities that provide exceptional service to their customers, for five years in a row.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: The testimony at the service hearings indicates that service varies in different parts of their territory. The service is very reliable in some areas and customers from other areas testified about problems with continuing service interruptions and ongoing problems with tree-trimming issues.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

DEPRECIATION STUDY

ISSUE 18: Should the current-approved depreciation rates, capital recovery schedules, and amortization schedules be revised?

FPL: Yes, they should be revised based on the results of FPL's 2009 Depreciation Study, subject to the depreciation adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: Yes, they should be revised consistent with the recommendations of OPC witness Jacob Pous, as outlined in the responses to the following individual issues.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. See Issues 21, 22, 23, 25 – 31.

FRF: Yes, the depreciation rates, capital recovery schedules, and amortization schedules to be used for setting rates in this docket are those recommended by Witness Jacob Pous.

SFHHA: Yes.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 19: What are the appropriate depreciation rates, capital recovery schedules, and amortization schedules?

FPL: The appropriate depreciation rates, capital recovery schedules, and amortization schedules are incorporated in the depreciation study FPL filed on March 17, 2009, subject to the depreciation adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: This should be the "fallout issue" that takes into account the Commission's consideration of, and explicit rulings on, the specific depreciation-related issues that OPC and other parties have raised and addressed through testimony and other participation in this proceeding. As such, it should be the last issue of the section.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: This is a fall out issue which will be the result of the Commission's decision on discrete depreciation issues.

FRF: Agree with OPC that this issue is effectively a fallout issue, with the final decisions taking into account the Commission's explicit rulings on the specific depreciation-related issues raised by the Citizens and other parties and addressed by testimony and evidence in this case. Accordingly, the FRF also agrees with OPC that this issue should be the last issue in the Depreciation Study section of the Prehearing Order.

SFHHA: FPL should not be permitted to collect depreciation expense for its new Customer Information System until the new System is placed in service. Its depreciation expenses should be reduced for the effects of its capital expenditure reductions. Its existing depreciation reserve surplus of \$1.245 billion should be amortized over five years. Recovery of the remaining net book value of the Cape Canaveral and Rivera facilities should not be accelerated by amortizing the balance over four years. The Commission should direct FPL to cease depreciation of the Cape Canaveral and Rivera facilities, add the remaining net book value to the costs of the modernization of the facilities, and then depreciate these costs along with the modernization costs over the estimated service lives of the modernized facilities. FPL's nuclear uprate costs should be depreciated over the remaining extended license lives of the units, not depreciated over four years as proposed by FPL. FPL's existing meter investment costs also should not be depreciated over four years. The Commission should use the same depreciation or amortization rate for the costs of the existing meters as it adopts for the remaining existing meter investment that will not be replaced by AMI meters. The Company's investment in combined cycle generating facilities should reflect a minimum of 40 year lives, not the proposed 20 year lives.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 20: INTENTIONALLY BLANK

ISSUE 21: *Is FPL's proposed accelerated capital recovery appropriate? FIPUG*

FPL:

OPC: No, for the reasons expressed in response to OPC's Issue 34.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. FPL has a \$1.2 billion surplus in its depreciation reserve. This large surplus makes it unnecessary to charge ratepayers for capital costs for investments that FPL has chosen to retire early.

FRF: No.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by FIPUG is subsumed in Issue 19 and should not be included in the Prehearing Order. Staff would support expanded word limitations for prehearing and post-hearing positions on Issue 19.

ISSUE 22: *What life spans should be used for FPL's coal plants.* FIPUG

FPL:

OPC: The Commission should direct FPL to employ 60 years. See OPC Issue 25.

AFFIRM: AFFIRM has no position at this time.

AG: Sixty (60) years.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Based on industry experience and specific real world examples, FPL has significantly understated the life span of its coal units. The 40-year and 41-year life spans FPL has proposed should be rejected and the Commission should use a life span of at least 55 years for FPL's coal units.

FRF: Agree with OPC that the appropriate depreciation life for FPL's coal plants is 60 years.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by FIPUG is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 23: *What life spans should be used for FPL's combined cycle plants? FIPUG*

FPL:

OPC: The life span used by FPL is too short. At a minimum, the Commission should direct FPL to propose a more realistic span in its next depreciation study. If the Commission decides to change the span in this proceeding, it should use a minimum of 35 years. See OPC Issue 15.

AFFIRM: AFFIRM has no position at this time.

AG: Thirty-five (35) years.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Based on industry experience and specific real world examples, FPL has significantly underestimated the life span of its combined cycle units. The average 27-year life span FPL has proposed should be rejected and the Commission should use a life span of at least 35 years for FPL's combined cycle units.

FRF: For purposes of setting rates in this docket, the depreciation life span for combined cycle plants should be 35 years, and the Commission should order FPL to thoroughly evaluate the life of combined cycle plants and to reflect that evaluation in its next depreciation study.

SFHHA: FPL's combined cycle plants should have minimum forty year service lives for depreciation purposes.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by FIPUG is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 24: *What are the appropriate depreciation rates? City SD*

FPL:

OPC: See response to Issue 19, above.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: See Issues 18 and 19.

FRF: See the FRF's position statement on Issues 18 and 19 above.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by City SD is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 25: *Has FPL applied appropriate life spans to categories of production plant when developing its proposed depreciation rates? (Note: To date, the parties have identified the following categories of production plant as sub issues)*

Coal-fired production units

Large steam oil or gas-fired generating facilities

Combined cycle generating facilities OPC

FPL:

OPC: Coal-fired production units: No. FPL's proposed 40 year life span for coal-fired units is artificially short. Based on empirical evidence and the treatment afforded such units in other jurisdictions, as well as indications of FPL's expectations, OPC supports a 60-year life span for coal-fired units.

Large steam oil or gas-fired generating facilities: No. Based on empirical evidence and the treatment afforded such units in other jurisdictions, as well as

indications of FPL's own expectations, these units should be afforded a life span of 50 years for purposes of the depreciation study.

NOTE: The impact of OPC's adjustments for coal-fired and large steam units is to decrease depreciation expense by \$32 million.

Combined cycle generating facilities: OPC submits that the 25-year life span that FPL uses for combined cycle units is unrealistically short. At a minimum, the Commission should direct FPL to evaluate available information and develop a more appropriate life span in its next depreciation study. OPC is aware that another intervenor's witness has identified 35 years and a second intervenor witness has identified 40 years as the appropriate life span. These values are more appropriate and closer to the view of OPC's witness, as well. If the Commission decides to revise the life span for combined cycle units in this proceeding, it should set the minimum value at 35 years.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. FPL should use at least 55 years for its coal plants and 35 years for its combined cycle plants.

FRF: No. Agree with OPC on the recommended depreciation life spans for coal plants and large oil gas steam production facilities.

SFHHA: No. The Company has systematically overstated depreciation rates and expense by understating the life spans of its generating units.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 26: *Has FPL applied the appropriate methodology to calculate the remaining life of production units? OPC*

FPL:

OPC: No. FPL's consultant departed from the appropriate methodologies in two respects. First, FPL's consultant relied on a truncated Iowa Survivor curve approach. Reliance on Iowa Survivor curves is appropriate for mass property assets. Reliance on a truncated Iowa Survivor curve methodology for production assets can and has resulted in unrealistic and inappropriate results (e.g., Account 341 for the Putnam combined cycle where FPL's approach reduced the initial 10.5-year remaining life to only a 2-year adjusted remaining life even though the unit is not projected to retire until mid 2020). Second, FPL also artificially stops assigning future book accruals to vintage additions it believes are fully accrued. This approach defies logic as those vintages are still in service and are used to calculate the amount of depreciation that is to be booked currently and until that vintage addition is retired. This process also distorts the calculated remaining life. In addition, FPL's analyst incorporated net salvage parameters as part of the remaining life calculation, rather than after the remaining life calculation. This means that a change in net salvage values would affect the remaining life – an illogical and inappropriate relationship. FPL's errors of methodology distort its remaining life calculations and its statement of its depreciation reserve excess.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUC: No.

FRF: No.

SFHHA: No. The Company has systematically overstated depreciation rates and expense by understating the life spans of its generating units.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 27: *Has FPL appropriately quantified the level of interim retirements associated with production units? If not, what is the appropriate level, and what is the related impact on depreciation expense for generating facilities? OPC*

FPL:

OPC: No. FPL relied on a truncated actuarial analysis to estimate interim retirements. The method is inappropriate as noted in OPC's position to Issue 26. FPL compounded the error when it applied a life - curve that was not a good fit to the data. The company's approach leads to demonstrably unrealistic results. OPC witness Pous used a standard method even used by FPL's witness for most of his career, and actual Company - specific information to develop interim retirement ratios. This better approach results in a \$54,916,004 reduction in depreciation expense.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and accepts the positions of the Office of Public Counsel in all responses to all issues.

FEA: No position.

FIPUG: No.

FRF: No.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 27A: *Has FPL appropriately calculated the remaining life of its plant?(Additional Issue added by OPC)*

FPL:

OPC: No. FPL's analyst uses a flawed methodology that is unique to his firm. FPL incorrectly limits the allocated book reserve to the surviving balance of an individual vintage, adjusted for net salvage. This artificial limitation conflicts with reality (the utility applies the depreciation rate to all property in service, regardless of vintage) and distorts the calculation of remaining life. In addition, FPL's witness recognizes the impact of net salvage parameters within the

remaining life calculation rather than after the remaining life calculation. A methodology under which a change in net salvage also changes the calculation of remaining life is illogical and inappropriate. These flaws affect the calculation of depreciation expense and also of the amount of FPL's excess reserve. OPC's witness corrects these flaws in his analysis.

AG:

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Agree with OPC that FPL's analyses are flawed and that the corrections recommended by Witness Jacob Pous should be used for setting rates in this docket.

SFHHA: No position at this time.

SCU-4: No position.

STAFF:

ISSUE 28: *Did FPL incorporate the appropriate level of net salvage associated with the interim retirements that are estimated to transpire prior to the final termination of a generating station or unit? If not, what is the appropriate level? OPC*

FPL:

OPC: No. First, FPL's request is over stated due to its approach to the quantification of interim retirements. Next, FPL has proposed excessively negative levels of overall net salvage – the beginning point of the process – which then results in excessively negative interim retirement levels of net salvage. The more appropriate results are those recommended by OPC, which are based on investigation of the specific data within FPL's database. The Commission should make adjustments to 2 steam production accounts, 2 nuclear accounts, and 5 other production accounts, which when combined serve to reduce depreciation expense by \$74 million annually. The individual adjustments are as follows:

- a. Account 311- Structures and Improvements

OPC: Adjust FPL's proposed negative 15% interim net salvage to negative 5%.

- b. Account 314 - Turbo Generator Units
OPC: Adjust FPL's proposed zero interim net salvage to 10% net salvage.
- c. Account 322 - Reactor Plant Equipment
OPC: Adjust FPL's proposed negative 5% net salvage to negative 4%.
- d. Account 324 - Accessory Electric - Equipment
OPC: Adjust FPL's proposed negative 20% to negative 2%.
- e. Account 341 - Other Production Structures
OPC: Adjust FPL's proposed negative 25% net salvage to zero net salvage.
- f. Account 342 - Other Production Fuel Holders
OPC: Adjust FPL's proposed negative 5% net salvage to zero net salvage.
- g. Account 343 - Other Production Fuel Moves
OPC: Adjust FPL's proposed negative 10% net salvage to zero net salvage.
- h. Account 344 - Other Production Generators
OPC: Adjust FPL's proposed negative 100% net salvage to zero net salvage.
- i. Account 345 - Other Production Accessory Electric Equipment
OPC: Adjust FPL's proposed negative 10% net salvage to zero net salvage.

AFFIRM: AFFIRM believes that this issue proposed by OPC is subsumed in Issue 42 and should not be included in the Prehearing Order.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Agree with OPC as to the appropriate level of net salvage associated with interim retirements.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 42 and should not be included in the Prehearing Order.

ISSUE 29: *Has FPL quantified the appropriate level of terminal net salvage in its request for dismantlement costs? If not, what is the appropriate level? OPC*

FPL:

OPC: No. FPL's quantification presents a worst case scenario for terminal net salvage. FPL's request fails to recognize any potential of full or partial sale of the site or facilities. FPL's request also fails to recognize the possibility of reuse of a site, which has already occurred. In addition, FPL's reliance on the "reverse construction" approach fails to recognize less costly means of demolition that have already been employed elsewhere. At a minimum, the Commission should direct FPL to propose a more realistic approach and cost level to terminal net salvage in its next depreciation study. If the Commission is inclined to change the terminal net salvage level in this proceeding, it should use 40% of FPL's request. The 40% level represents the approximate level actually obtained for generation demolition in comparison to similar "reverse construction" cost estimates.

AFFIRM: AFFIRM believes that this issue proposed by OPC is subsumed in Issue 42 and should not be included in the Prehearing Order.

AG: No. Support OPC position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No.

FRF: No.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 42 and should not be included in the Prehearing Order.

ISSUE 30: *Has FPL applied appropriate life characteristics (curve and life) to each mass property account (transmission, distribution, and general plant) when developing its proposed depreciation rates?*

(Note: To date, the parties have identified the following accounts as sub issues)

- a. 350.2 Transmission Easements
- b. 353 Transmission Substation Equipment
- c. 353.1 Transmission Substation Equipment Step-Up Transformers
- d. 354 Transmission Towers & Structures
- e. 356 Transmission Overhead Conductors
- f. 359 Transmission Roads and Trails
- g. 362 Distribution Substation Equipment
- h. 364 Distribution Pole Towers & Structures
- i. 365 Distribution Overhead Conductors
- j. 367.6 Underground Conductors
- k. 367.7 Distribution Underground Conductions and Devices-Direct Buried
- l. 368 Distribution Line Transformers
- m. 369 Distribution Services-Underground
- n. 370 Distribution Meters
- o. 373 Distribution Street Lighting and Signal Systems
- p. 390 General Plant Structures
- q. 392 General Plant Aircraft-Fixed Wing
- r. 392.-2 General Plant Aircraft-Rotary Wing

FPL:

- OPC:**
- a. Account 350.2 – Transmission Easements.
OPC: Adjust FPL's proposed 50 year ASL and S4 down curve to 95 life – curve. This results in a \$2,432,236 reduction to depreciation expense.
 - b. Account 353 – Transmission Station Equipment
OPC: Adjust FPL's 38 R1.5 life – curve combination to a 43 L1 combination. This results in a reduction of \$6,128,005 in depreciation expense.

- c. Account 353.1 – Transmission Station Equipment – Step – Up Transformers
OPC: Adjust FPL's proposed 33 R2 life – curve combination to a 44 S0.5 life – curve combination. This results in a reduction of 42,281,178 in annual depreciation expense.
- d. Account 354 – Transmission Tower and Fixtures
OPC: Adjust FPL's proposed 45 R5 life – curve combination to a 60 R4 life – curve combination. This will reduce depreciation expense by \$3,192,653.
- e. Account 356 – Transmission Overhead Conductors
OPC: Adjust FPL's proposed 47 R1.5 life – curve combination to 51 SO life – curve. This results in a reduction of \$1,618,285 in depreciation expense.
- f. Account 359 – Transmission Road and Towers
OPC: Adjust FPL's proposed 50 S0 combination to 65 SQ. This reduces depreciation expense by 4699,372.
- g. Account 362.3 – Distribution Station Equipment
OPC: Adjust FPL's proposed 47 R1.5 combination to 48 SO. This reduces depreciation expense by \$5,000,004.
- h. Account 364 – Distribution Poles, Towers, and Fixtures
OPC: Adjust FPL's proposed 37 R2 life – curve combination to a 41 R1.5 combination. This reduces depreciation expense by \$13,188,572.
- i. Account 365 – Distribution overhead Conductors
OPC: Adjust FPL's proposed 40 SO life – curve combination to 43 SO. This reduces depreciation expense by \$5,026,679.
- j. Account 367.6 – Underground Conductors
OPC: Adjust FPL's proposed 38 SO combination to 40 L1. The effect is to reduce depreciation expense by \$2,238,822.
- k. Account 367.7 – Distribution Underground Conductions and Devices – Direct Buried
OPC: Adjust FPL's proposed 35 R2 combination to a 43 SO.5 combination. This reduces depreciation expense by \$1,613,351.
- l. Account 368 – Distribution Line Transformers
OPC: Adjust FPL's proposed 32 L1.5 to a 34 L1.5 combination. This reduces depreciation expense by \$3,808,140.

- m. Account 369.7 – Distribution Services – Underground.
OPC: Adjust FPL's proposed 34 R2 life – curve combination to 41 SO.5.
This reduces depreciation expenses by \$4,160,079.
- n. Account 370 – Distribution Meters
OPC: Adjust FPL's proposed 36 R2.5 combination to 38 S1.5. This
reduces depreciation expense by \$41,504,782.
- o. Account 373 - Distribution Street Lighting and Signal Systems
OPC: Adjust FPL's proposed 30 RO.5 combination to a 35 LO
combination. This reduces depreciation expense by \$751,011.
- p. Account 390 – General Plant Structures
OPC: Adjust FPL's proposed 50 R1.5 combination to 36 SO. This
reduces depreciation expense by \$1,022,803.
- q. Account 392.01 – General Plant Aircraft – Fixed Wing
OPC: Adjust FPL's proposed 7 SO.5 – curve combination to 9 R5.
This reduces depreciation expense by \$72,741.
- r. Account 392.02 – General Plant Aircraft – Rotary Wing
OPC: Adjust FPL's proposed 7 SO life – curve combination to a 9 R5 life
– curve combination. This reduces annual depreciation expense by
\$178,000.

AFFIRM: AFFIRM has no position at this time.

AG: Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of
Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 31: *Has FPL applied appropriate net salvage levels to each mass property (transmission, distribution, and general plant) account when developing its proposed depreciation rates? (Note: To date, the parties have identified the following accounts as sub issues)*

- a. 353 Transmission Station Equipment
- b. 354 Transmission Tower & Fixtures
- c. 355 Transmission Poles & Fixtures
- d. 356 Transmission Overhead Conductors
- e. 364 Distribution Poles, Towers & Fixtures
- f. 365 Overhead Conductors & Devices
- g. 366.6 Underground Conduit - Duct System
- h. 367.6 Underground Conduit - Duct System
- i. 368 Distribution Line Transformers
- j. 369.1 Distribution Services - Overhead
- k. 369.7 Distribution Services - Underground
- l. 370 Distribution Meters
- m. 370.1 Distribution Meters - AMI
- n. 390 General Structures & Improvements OPC

FPL:

OPC: No. FPL proposes excessive levels of negative net salvage. FPL overstates depreciation expense by \$69,146,200. This amount is the cumulative effect of adjustments on 14 different accounts, each of which requires a discrete decision. (Issues for individual accounts for which adjustments are recommended):

Account 353 Transmission Station Equipment

OPC: Adjust FPL's proposed negative 10% net salvage to zero net salvage. The effect of this adjustment is to reduce annual depreciation expense by \$3,731,047.

b. Account 354 Transmission Tower & Fixtures

OPC: Adjust FPL's proposed 15% negative net salvage to zero net salvage. The effect of the adjustment is to reduce depreciation expense by \$1,281,044.

c. Account 355 Transmission Poles & Fixtures

OPC: Adjust FPL's proposed negative 50% net salvage to negative 30% net salvage. The effect of the adjustment is to reduce depreciation expense by \$4,329,923.

d. Account 356 Transmission Overhead Conductors

OPC: Adjust FPL's proposed negative 50% net salvage to negative 40% net

salvage. The effect of the adjustment is to reduce depreciation expense by \$1,506,549.

- e. Account 364 Distribution Poles, Towers & Fixtures
OPC: Adjust FPL's proposed negative 125% net salvage to negative 60% net salvage. The effect of the adjustment is to reduce depreciation expense by \$23,451,436.
- f. Account 365 Overhead Conductors & Devices
OPC: Adjust FPL's proposed negative 100% net salvage to negative 50% net salvage. The effect of the adjustment is to reduce depreciation expense by \$19,714,964.
- g. Account 366.6 Underground Conduit - Duct System
OPC: Adjust FPL's proposed negative 5% net salvage to zero net salvage. The effect of the adjustment is to reduce depreciation expense by \$1,070,094.
- h. Account 367.6 Underground Conduit - Duct System
OPC: Adjust FPL's proposed negative 5% net salvage to zero net salvage. The effect of the adjustment is to reduce depreciation expense by \$2,225,291.
- i. Account 368 Distribution Line Transformers
OPC: Adjust FPL's proposed negative 25% net salvage to negative 20% net salvage. The effect of the adjustment is to reduce depreciation expense by \$3,952,427.
- j. Account 369.1 Distribution Services - Overhead
OPC: Adjust FPL's proposed negative 125% net salvage to negative 85% net salvage. The effect of the adjustment is to decrease depreciation expense by \$1,968,575.
- k. Account 369.2 Distribution Services - Underground
OPC: Adjust FPL's proposed 10% net salvage to negative 5% net salvage.
- l. Account 370 Distribution Meters
OPC: Adjust FPL's proposed negative 55% net salvage to negative 10% net salvage. The effect of the adjustment is to reduce depreciation expense by \$4,306,857.
- m. Account 370.1 Distribution Meters - AMI
OPC: Adjust FPL's proposed 55% negative net salvage to negative 10% net salvage. The effect of the adjustment is to reduce depreciation expense by \$711,992.
- n. Account 390 General Structures & Improvements

OPC: Adjust FPL's proposed negative 10% net salvage to positive 25% net salvage. The effect of the adjustment is to decrease depreciation expense by \$3,828,186.

AFFIRM: AFFIRM has no position at this time.

AG: Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 32: *What are the appropriate depreciation rates for FPL, and what amount of annual depreciation expense should the Commission include in Docket 080677-EI for bookkeeping purposes? OPC*

FPL:

OPC: The Commission should adopt the recommendations of OPC witness Jacob Pous. The cumulative effect of his recommendations is to reduce annual depreciation expense from FPL's requested \$1,065,623,140 to \$824,950,126, or a reduction of \$240,673,014.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: This is a fall out issue based on the Commission's discrete decisions on the individual depreciation issues.

FRF: Agree with OPC that the Commission should set FPL's rates (with regard to depreciation issues) based on the recommendations of Witness Jacob Pous, resulting in a reduction of \$240,673,014 in FPL's allowable depreciation expense.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 33: Based on the application of the depreciation parameters that the Commission has deemed appropriate to FPL's data, *and a comparison of the theoretical reserves to the book reserves*, what are FPL's theoretical reserve imbalances?

FPL: Based on the application of depreciation rates and principles previously approved by the Commission, FPL's theoretical reserve imbalances are those identified in the depreciation study filed in March of 2009, which total \$1.245 billion.

OPC: FPL currently has a depreciation reserve excess of \$2.7 billion. This amount is based on acceptance of OPC witness Jacob Pous' adjustments to FPL's depreciation study, which does not take into account OPC's and Mr. Pous' position that the life spans that FPL assigns to combined cycle units are too short; modifying those values to more realistic life spans in this proceeding would increase the size of FPL's depreciation reserve excess.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: FPL's depreciation reserve excess is \$2.7 billion.

FRF: Agree with OPC that FPL's reserve imbalance is a depreciation reserve excess of \$2.7 Billion.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 34: What, if any, corrective reserve measures should be taken with respect to the theoretical reserve imbalances identified in the prior issue?

FPL: The theoretical reserve surplus should be addressed through the Commission's long established policy of using the remaining life depreciation methodology. Under that methodology, the theoretical reserve surplus is reducing revenue requirements by \$216 million per year. Any further reductions from accelerating amortization of the theoretical reserve surplus would come at the cost of larger, long-term increases in costs to be borne by customers.

OPC: FPL's enormous depreciation reserve excess means it has over-collected depreciation expense from its customers in a way that constitutes a massive intergenerational inequity. A priority of these consolidated proceedings should be to rectify this cumulative inequity to the extent consistent with the dual objectives of achieving fairness to current customers while maintaining FPL's financial integrity. FPL's proposal to return the excess over a remaining plant life of about 22 years is woefully inadequate to address the inequity involved. OPC estimates that there will be a 50% turnover in residential customers during that period. Moreover, FPL easily can afford to do much more. FPL should be required to amortize \$1.25 billion of its reserve excess back to customers over a period of four years. Limiting the amount of the overall \$2.7 billion excess to be amortized to \$1.25 billion will leave a thick "cushion" of reserve excess that will protect FPL at the same time the Commission requires FPL to begin to restore a measure of more equitable treatment to the customers who have overpaid. Limiting the amount to be amortized to \$1.25 billion will protect FPL's financial integrity. OPC's review of FPL's financial integrity takes into account both the amortization of \$1.25 billion of depreciation reserve excess and the adoption of all of OPC's other recommendations in the consolidated proceedings, including the recommendation to reduce base rates by \$364 million. Based on OPC's review, FPL will continue to show the very strong financial parameters typical of an "A" rated utility. OPC's recommended four year amortization period coincides with the timing of FPL's next depreciation study, and is the same amortization period FPL relied on for its special amortization requests. At that time, based on further evaluation the Commission can fine tune its corrective action.

AFFIRM: AFFIRM has no position at this time.

AG: The Majority of FPL's enormous depreciation reserve excess should be returned to FPL customers who contributed to this excess. Remainder should be used to decrease rates.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: The very large depreciation surplus (\$1.2 billion) demonstrates that action must be taken to restore generational equity. To accomplish this, the Commission should require FPL to continue to book the \$125 million depreciation expense, should require FPL to cease contributing to the fossil dismantlement fund and use a portion of the depreciation surplus to offset the \$314 million of accelerated capital recovery.

FRF: At a minimum, \$1.25 Billion of FPL's depreciation reserve excess should be amortized over four years in order to attempt to provide some measure of equity to those customers who have been overpaying for depreciation on FPL's assets, and thereby creating this tremendous reserve excess.

SFHHA: The theoretical reserve surplus should be amortized to ratepayers as a reduction of depreciation expense over no more than 5 years.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 35: *What steps should the Commission take to restore generational equity? FIPUG*

FPL:

OPC: See Issue 34, above.

AFFIRM: AFFIRM believes that this issue proposed by FIPUG is subsumed in Issue 19 and should not be included in the Prehearing Order.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: The very large depreciation surplus (\$1.2 billion) demonstrates that action must be taken to restore generational equity. To accomplish this, the Commission should require FPL to continue to book the \$125 million depreciation expense, should require FPL to cease contributions to the fossil dismantlement fund and use a portion of the depreciation surplus to offset the \$314 million of accelerated capital recovery.

FRF: See position on Issue 34 above.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by FIPUG is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 36: *What considerations and criteria should the Commission take into account when evaluating the time frame over which it should require FPL to amortize the depreciation reserve imbalances that it determines in this proceeding? OPC*

FPL:

OPC: The Commission should consider the extent to which it can reverse the pattern of over-collection of depreciation expense while maintaining FPL's strong financial integrity. It should also consider the timing of FPL's next depreciation study. The period of four years, when coupled with identifying \$1.25 billion as the amount to be amortized, satisfies these criteria. See also Issue 34, above.

AFFIRM: AFFIRM has no position at this time.

AG: The excess depreciation reserves that have been collected at the expense of FPL's customers should be returned in a manner that provides the greatest benefit to these customers at this time of greatest need.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: See Issue 35.

FRF: Agree with OPC that the Commission should consider the issue of generational equity, which dictates that at least \$1.25 Billion of FPL's depreciation reserve excess should be amortized over 4 years; the impact of additional amortization on FPL's financial integrity; and the timing of FPL's next depreciation study. Amortizing at least \$1.25 Billion over the next 4 years appropriately addresses these considerations, and it is probable that additional amortization of FPL's huge depreciation reserve excess will also appropriately address them.

SFHHA: The Commission should attempt to refund the surplus over a reasonably short period (five years) to as closely as possible return the amounts to ratepayers who overpaid for depreciation expense in prior years.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 37: *What would be the impact, if any, of the parties' respective proposals with respect to the treatment of the depreciation reserve imbalances on FPL's financial integrity? OPC*

FPL:

OPC: If the Commission adopts all of OPC's recommendations in these consolidated dockets, including the recommendation to amortize \$1.25 billion of FPL's reserve over four years and OPC's overall recommendation to reduce base rates by \$364 million annually, FPL would continue to exhibit strong financial integrity. In his testimony and exhibits, OPC witness Daniel J. Lawton demonstrates that FPL would continue to display the financial parameters and indicators typical of an "A" rated electric utility.

AFFIRM: AFFIRM has no position at this time.

AG: None of the proposals would affect FPL's financial integrity.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: None.

FRF: Agree with OPC that, if the Commission adopts all of OPC's recommendations in the consolidate rate case and depreciation dockets, including amortization of FPL's depreciation reserve excess and reducing FPL's rates by \$364 Million per year, FPL will continue to enjoy the financial parameters and indicators typical of a utility with a bond rating of "A."

FHHA: There will be no earnings effect of amortizing the depreciation reserve surplus over 5 or fewer years because the revenues to recover depreciation expense will be set at the level of depreciation expense, including the amortization of the reserve surplus.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 34 and should not be included in the Prehearing Order.

ISSUE 38: *What is the appropriate disposition of FPL's depreciation reserve imbalances?*
OPC

FPL:

OPC: See Issue 34. OPC is willing to eliminate Issue 38 as duplicative of Issue 34.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: The Commission should require FPL to continue to book the \$125 million depreciation expense, should require FPL to cease contributions to the fossil dismantlement fund and use a portion of the depreciation surplus to offset the \$314 million of accelerated capital recovery.

FRF: FPL's depreciation reserve excess should be amortized over four years in order to attempt to provide reasonable, albeit inadequate, equity to those customers who have been overpaying for FPL's assets, and thereby creating this tremendous reserve excess. (Agree that this issue can be eliminated in light of Issue 34.)

SFHHA: The depreciation reserve imbalances should be amortized over five or fewer years.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 19 and should not be included in the Prehearing Order.

ISSUE 39: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

FPL: The implementation date should be January 1, 2010.

OPC: January 1, 2010.

AFFIRM: AFFIRM has no position at this time.

AG: January 1, 2010.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: January 1, 2010.

FRF: Agree with OPC that the proper implementation date is January 1, 2010.

SFHHA: Such revision should be made concurrent with the change in base rates on January 1, 2010.

SCU-4: No position.

STAFF: Staff has no position at this time.

FOSSIL DISMANTLEMENT COST STUDY

ISSUE 40: Should the current-approved annual dismantlement provision be revised?

FPL: Yes. The current-approved annual dismantlement accrual is \$15,321,113. It should be increased to \$21,567,577 based on FPL's 2009 dismantlement filing.

OPC: See Issue 29.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 41: What, if any, corrective reserve measures should be approved?

FPL: The reserve reallocations requested by Florida Power & Light Company in its fossil dismantlement study (see Exhibit KO-8, pages 3 and 4 of 423) should be approved.

OPC: See Issue 29.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 42: What is the appropriate annual provision for dismantlement?

FPL: The appropriate annual provision for dismantlement is \$21,567,577 based on FPL's 2009 dismantlement filing.

OPC: See Issue 29.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 43: Does FPL employ reasonable depreciation parameters and costs when it assumes that it must restore all generation sites to "greenfield" status upon their retirement?

FPL: Yes. FPL's history of dismantling power plants includes partial dismantlement associated with re-powerings. However, as the Commission noted in Order No. 24741: "While the timing of ultimate removal certainly could remain a question, there will undoubtedly come a time this action will become necessary and site restoration will likewise be required."

OPC: See Issue 29.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: No.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 44: In future disbursement studies filed with the Commission, should FPL consider alternative demolition approaches?

FPL: FPL consistently considers the appropriateness of alternative demolition approaches in its studies.

OPC: Yes.

AFFIRM: AFFIRM has no position at this time.

AG: Yes.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

RATE BASE

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 45: Has the Company removed all non-utility activities from rate base?

PARTIES: No adjustments are known at this time and this issue can be dropped.

ISSUE 46: Should the net over-recovery/under-recovery of fuel, capacity, conservation, and environmental cost recovery clause expense be included in the calculation of working capital allowance for FPL?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: No. Both over-recoveries and under-recoveries should be removed from rate base, because they both pay or earn a return through the appropriate cost recovery clause mechanism.

OPC: Consistent with Commission practice, clause overrecoveries are included (as a deduction) and underrecoveries are excluded from working capital. Overrecoveries represent funds the Company owes to customers that if excluded from working capital, customers would be providing the interest that the Company returned to them in the clause. In the clause, underrecoveries are collected from customers at the commercial paper rate. If clause underrecoveries are included in base rates, the company would receive a double return on the underrecovery.

AFFIRM: AFFIRM has no position at this time.

AG: Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 47: Are the costs associated with Advanced Metering Infrastructure (AMI) meters appropriately included in rate base?
A. For the 2010 projected year?
B. If applicable, for the 2011 subsequent projected year?

FPL: Yes. FPL has been focused on AMI solutions for several years, and has a deployment plan in place to install "Smart Meters" for over four million residential and small/medium business customers. The costs associated with AMI are based on this deployment plan and have been properly included in rate base for 2010 and 2011.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No. The Company has failed to reflect grants available from the U.S. Department of Energy as a reduction in the AMI meter costs.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 48: *Is FPL's proposed base rate adjustment formula regarding the application of the Commission's Nuclear Cost Recovery Rule appropriate? *City SD*

FPL:

OPC: No position pending further development of the record.

AFFIRM: AFFIRM believes that this issue proposed by City SD is subsumed in Issue 173 and should not be included in the Prehearing Order.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by City SD is subsumed in Issue 173 and should not be included in the Prehearing Order.

ISSUE 49: *Should FPL's estimated plant in service be reduced to reflect the actual capital expenditures implemented in 2009 on an annualized basis carried forward into the projected test Year(s) and for reductions of a similar magnitude?*
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? SFHHA

FPL:

OPC: No position pending further development of the record.

AFFIRM: AFFIRM believes that this issue proposed by SFHHA is subsumed in Issue 50 and should not be included in the Prehearing Order.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: Yes. FPL has cut its planned capital expenditures in the test year and a rate base adjustment is necessary to reflect these cuts. Therefore, FPL's plant investment included in rate base should be reduced to reflect these capital expenditure reductions on an annualized basis, both for the annualized 2009 reductions carried forward into 2010 and for reductions of similar magnitude in 2010 carried forward into 2011.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by SFHHA is subsumed in Issue 50 and should not be included in the Prehearing Order.

ISSUE 50: Are FPL's requested levels of Plant in Service appropriate?
A. For the 2010 projected test year in the amount of \$28,288,080,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$29,599,965,000?

Whether FPL's petition for a rate increase is prudent and necessary to make investments used and useful in the public service? Saporito's version of issue

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 requested levels of Plant in Service are appropriate. (Barrett, Ousdahl)

OPC: First, plant adjustments are appropriate to reflect the appropriate jurisdictional factors as addressed in Issue 16. Second, plant should be reduced by the projected \$20 million grant available to FPL to reduce the costs of advanced meters and other smart grid investments. Third, 2010 plant should be reduced by \$784 million to reflect FPL's actual capital expenditure reductions in 2009 annualized forward into 2010. As reflected on SLB-26 Revised, jurisdictional plant for each year is as follows:

- A. 2010: \$27,918,324,000
- B. 2011: \$29,671,709,000

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A.: No. The appropriate level of Plant in Service for the 2010 test year is \$27,918,324,000.

B.: Noting that the FRF believes that a subsequent year adjustment for 2011 is inappropriate, if the Commission decides to consider such in this docket, the appropriate level of Plant in Service for the 2011 test year is \$29,671,709,000.

Response tooporito's version: No position at this time. This issue may be assumed under other issues, e.g., Issue 50 above, in that it represents one aspect of the ultimate issue in this case, namely whether FPL needs any rate relief at all in order to provide safe, adequate, reliable service, which would include making investments necessary to provide such service. The FRF will take a position on this issue at, or immediately following, the Prehearing Conference.

SFHHA: No. FPL has cut its planned capital expenditures in 2009 and a rate base adjustment is necessary to reflect these cuts. Therefore, FPL's plant investment included in rate base should be reduced to reflect these capital expenditure reductions on an annualized basis, both for the annualized 2009 reductions carried forward into 2010 and for reductions of similar magnitude in 2010 carried forward into 2011. This results in a \$784 million reduction to rate base for the

2010 test year and an additional \$523 million reduction to rate base in the 2011 subsequent projected test year, assuming the annualized 2009 and 2010 reductions carried forward into 2011 and reductions of similar magnitude in 2011.

SCU-4: No position.

STAFF: Staff believes that the issue proposed by Saporito is the same as and can be subsumed in the wording agreed upon by the remaining parties. Staff has no position on Issue 50 at this time.

ISSUE 51: Are FPL's requested levels of accumulated depreciation appropriate?
A. For the 2010 projected test year in the amount of \$12,590,521,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$13,306,984,000?

FPL: Yes, the accumulated depreciation reserves for the projected and subsequent projected test years, 2010 and 2011, are appropriate, subject to the adjustments listed on FPL witness Ousdahl's Exhibit K0013.

OPC: Corresponding adjustments are appropriate as a result of the recommended adjustments in Issues 18-39 (depreciation) and Issue 50 (plant). As reflected on SLB-26 Revised, jurisdictional accumulated depreciation for each year is as follows:
A. 2010: \$12,177,112,000
B. 2011: \$12,590,521,000

AFFIRM: AFFIRM has no position at this time.

AG: Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No, see issues 21, 22, 23, 25-31.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. No. The appropriate amount of jurisdictional accumulated depreciation for 2010 is \$12,177,112,000.

B. No. The appropriate amount of jurisdictional accumulated depreciation for 2010 is \$12,318,092,000.

SFHHA: No. FPL's rate base should be reduced by the net effects of SFHHA recommendations to adjust depreciation expense.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 52: Is FPL's proposed adjustment to CWIP for the Florida EnergySecure Line (gas pipeline) appropriate?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. On January 1, 2010 the pipeline should be transferred from the deferred debit account to CWIP and AFUDC will be recorded thereafter.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agrees with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 53: Has FPL removed any Environmental Cost Recovery Clause (ECRC) capital cost recovery items from the ECRC and placed them into rate base?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

FPL: No. FPL has not removed any ECRC capital cost recovery items from the ECRC and placed them in base rates.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 54: PROPOSED STIPULATION. SEE SECTION X.

ISSUE 55: Are FPL's requested levels of Construction Work in Progress (CWIP) appropriate?
A. For the 2010 projected test year in the amount of \$707,530,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$772,484,000?

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 requested levels of CWIP are appropriate.

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows:

- A. 2010: \$692,887,000
- B. 2011: \$750,265,000

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. No. The appropriate amount of CWIP for 2010 is \$692,887,000.
B. No. If applicable, the appropriate amount of CWIP for 2011 would be \$750,265,000.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 56: FPL's requested levels of Property Held for Future Use appropriate?
A. For the 2010 projected test year in the amount of \$74,502,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$71,452,000?

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 requested levels of Property Held for Future Use are appropriate.

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows:
A. 2010: \$70,461,000
B. 2011: \$67,750,000

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. No. The appropriate jurisdictional amount of PHFFC for 2010 is \$70,461,000.
B. No. If applicable, the appropriate jurisdictional amount of PHFFC for 2011 would be \$67,750,000.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 57: Should any adjustments be made to FPL's fuel inventories?

FPL: No. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 projections of FPL's fuel inventories are appropriate. (Barrett)

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 58: Is FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel appropriate?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL's proposed accruals are appropriate for the 2010 and 2011 projected test years. Amounts are in accordance with the Commission order No. PSC-02-055-PAA-EI and consistent with prior Commission findings. The proposed adjustment as set forth in witness Ousdahl's direct testimony, pages 27 and 28 should be approved.

OPC: No. FPL's current accrual for end-of-life materials and supplies and last core nuclear fuel should be suspended and no increase should be allowed. FPL's decommissioning funds are over-funded to the extent that excess funds should be available to reimburse FPL for its end-of-life materials and supplies and last core nuclear fuel. In addition, the nuclear amortization should be discontinued and the December 31, 2009 balance transferred to the end-of-life materials and supplies and last core reserves. The revenue impact is \$4.9 million in 2010, Exhibit SLB-23, and \$4.3 million in 2011 Exhibit SLB-23.

AFFIRM: AFFIRM has no position at this time.

AG: AG has no position at this time.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No.

FRF: No. Agree with OPC that FPL's current accrual for end-of-life materials and supplies and last core nuclear fuel should be suspended and no increase should be allowed, that the nuclear amortization should be discontinued and the December 31, 2009 balance transferred to the end-of-life materials and supplies and last core reserves, and that the revenue impacts are as shown by Witness Sheree Brown.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 59: Should nuclear fuel be capitalized and included in rate base due to the dissolution of FPL Fuels, Inc.?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. The nuclear fuel assets should be included in rate base like any other investment providing utility service to customers.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.
B. If the reasons set out in Issues 5-7, the Commission should not consider 2011

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 60: Are FPL's requested levels of Nuclear Fuel appropriate
A. For the 2010 projected test year in the amount of \$374,733,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$408,125,000?

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 requested levels of Nuclear Fuel are appropriate.

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows:
A. 2010: \$374,801,000
B. 2011: \$408,196,000

AFFIRM: AFFIRM has no position at this time.

AG: No position at this time.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issue 17, the Commission should not consider 2011.

FRF: A. No. The appropriate amount of Nuclear Fuel for 2010 is \$374,801,000.
B. If applicable, the appropriate amount of Nuclear Fuel for 2011 would be \$408,196,000.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 61: Should the unamortized balance of the FPL Glades Power Park (FGPP) be included in rate base?

FPL: Yes. In Order No. PSC-09-0013-PAA-EI, Docket No. 070432-EI, issued on January 5, 2009, the Commission granted FPL recovery of these costs and provided for amortization of \$34.1 million of these costs over a five-year period beginning on January 1, 2010.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 62: Are FPL's requested levels of Working Capital appropriate?
A. For the 2010 projected test year in the amount of \$209,262,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$335,360,000?

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 requested levels of Working Capital are appropriate. (Barrett)

OPC: As reflected in SLB-20-10-0000, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16 and further adjustments may be necessary pending the resolution of other working capital issues. The appropriate jurisdictional amounts for working capital are as follows: (Brown)

A. 2010: \$167,602,000

B. 2011: \$307,014,000

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. No. The appropriate amount of working capital for 2010 is \$167,602,000.
B. No. If applicable, the appropriate amount of working capital for 2011 would be \$307,014,000.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 63: Is FPL's requested rate base appropriate?
A. For the 2010 projected test year in the amount of \$17,063,586,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$17,880,402,000?

FPL: Yes. Subject to the adjustments listed on FPL with Gusdahl's Exhibit KO-16, the 2010 and 2011 requested rate base amounts are appropriate.

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16 and further adjustments are necessary pending the resolution of other rate base issues. The appropriate jurisdictional amounts for rate base are as follows:

A: 2010: \$17,046,963,000
B: 2011: \$18,880,402,000

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position

AIF: AIF asserts that FPL's requested rate base is appropriate and should be approved.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No. The adjustments recommended by Intervenors should be made.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. No. The appropriate rate jurisdictional rate base amount for 2010 is \$17,046,963,000.
B. No. The appropriate rate jurisdictional rate base amount for 2011 is \$18,886,842,000.

SFHHA: No.
A. FPL's rate base for the 2010 projected test year should be reduced by \$552 million based on SFHHA recommendations.
B. FPL's rate base for the 2011 subsequent projected test year should be reduced by an additional \$523 million based on SFHHA recommendations.

SCU-4: No position.

STAFF: Staff has no position at this time.

COST OF CAPITAL

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 64: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: The appropriate amount of accumulated deferred income taxes to be included in the capital structure on a total Company basis is \$3,351,931,000 and on a jurisdictionally adjusted basis is \$2,723,327,000 for the 2010 projected test year. For the projected 2011 subsequent test year, the total Company basis is \$3,417,603,000 and the jurisdictionally adjusted basis is \$2,655,102,000. These amounts are subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16 for the 2010 and 2011 test and subsequent years.

OPC: Corresponding adjustments are appropriate to reflect plant, depreciation and other adjustments that impact the amount of deferred taxes expense during the test year, including the proper jurisdictional allocations. Based on OPC witness Brown's Exhibit B-26-Revised, deferred taxes should be as follows:
A. 2010: \$3,345,529,000 after an adjustment of \$93,598,000.
B. 2011: \$3,737,349,000 after an adjustment of \$319,741,000.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC as to the levels of accumulated deferred taxes. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011..

SFHHA: ADIT is jurisdictional to the FPL retained payers and should not be reduced for "prorata adjustments" to reconcile the Company's capitalization to rate base. FPL should include \$3,313.373 million of accumulated deferred income taxes in its jurisdictional capital structure for the 2010 projected test year.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 65: *Should FPL be required to use the entire amount of customer deposits. ADIT and ITC related to utility rate base in its capital structure? SFHHA*

FPL:

OPC: See OPC position on Issue 69.

AFFIRM: AFFIRM has no position at this time.

AG: No position at this time.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Agree with OPC.

SFHHA: Yes. These amounts are jurisdictional to the FPL retail ratepayers and should not be reduced for "prorata adjustments" to reconcile the Company's capitalization to rate base.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by SFHHA is subsumed in Issue 64 and should not be included in the Prehearing Order.

ISSUE 66: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: The appropriate amount for the unamortized investment tax credits to be included in the capital structure on a total Company basis is \$63,939,000 and on a jurisdictionally adjusted basis is \$56,983,000 for the 2010 projected test year. For the 2011 subsequent projected test year, the total Company basis is \$191,748,000 and the jurisdictionally adjusted basis is \$161,290,000. The appropriate cost rate to be used for unamortized investment tax credits is 9.74% for 2010 and 9.77% for 2011. These amounts and the cost rates are subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16 for the 2010 and 2011 test and subsequent years.

OPC: The appropriate cost rate should reflect the weighted average cost rate of investor sources of capital (long- and short-term debt, equity). Corresponding adjustments are appropriate to reflect the proper jurisdictional allocation factors. Based on OPC witness Browne's Exhibit SLB-26-Revised, deferred taxes should be as follows:

- A. 2010: \$63,939,000 at 7.41%.
- B. 2011: \$191,748,000 at 7.40%.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: ITCs are jurisdictional to the FPL retail ratepayers and should not be reduced for "prorata adjustments" to reconcile the Company's capitalization to rate base. The appropriate amount of the unamortized investment tax credits to include in the capital structure is \$63.212 million, and the appropriate cost rate for that amount is 9.05%.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 67: What is the appropriate cost rate for short-term debt?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: The appropriate cost rate for short-term debt for the 2010 test year is 2.96% and for the 2011 subsequent projected test year is 4.61%, which includes both interest charges related to commercial paper borrowings based on the 30 day forward LIBOR curve as of November 30, 2008 and fixed costs related to maintaining back-up credit facilities to support FPL's commercial paper program.

OPC: The appropriate cost of short-term debt is as follows:
A. 2010: 2.27%
B. 2011: 2.27%.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. Agree with OPC: 2.27%.
B. Agree with OPC: 2.27%.

SFHHA: The appropriate cost rate for short term debt is 0.60%.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 68: What is the appropriate cost rate for long-term debt?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: The appropriate cost rate for long-term debt is 5.55% for 2010 and 5.81% for 2011. It is calculated by taking the weighted average cost rate of the Company's existing debt and projected debt offerings in 2009, 2010 and 2011. The projected debt issuances for 2009, 2010 and 2011 utilized projected rates derived from the Blue Chip Financial Forecasts.

OPC: The appropriate cost of long-term debt is as follows:
A. 2010: 5.14%.
B. 2011: 5.14%.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: FEA has no position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC: 5.14%.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 69: Have rate base and capital structure been reconciled appropriately?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 rate base and capital structure have been reconciled appropriately.

OPC: No position at this time.

AFFIRM: AFFIRM has no position at this time.

AG: No position at this time.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 11.

FRF: Agree with OPC.

SFHHA: No. Customer deposits, ADIT and ITC should not be reduced for prorata adjustments to reconcile the Company's capitalization to rate base. FPL should include Customer Deposits of \$626.383 million at a cost of 5.98%, ADIT of \$3,313.373 million at a cost of 0%, and ITC at a cost of 9.05%.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 70: Has FPL appropriately described the actual 59% equity ratio that it proposes to use for ratemaking purposes as an "adjusted 55.8% equity ratio" on the basis of imputed debt associated with FPL's purchased power contracts?

FPL: The issue, as worded, mischaracterizes the Company's actual capital structure. FPL does not have an actual equity ratio of 59%. Before any Commission Adjustments, FPL's actual equity ratio per books is approximately 55.6% based

on a 13 month average as shown on Exhibit AP-12. FPL's regulatory capital structure, which accounts for Commission required specific adjustments, is approximately 59% (investor sources only). In assessing the appropriate capital structure for FPL, it is essential to recognize the debt-equivalence of purchased power obligations, consistent with financial market expectations and impacts. This results in an adjusted equity ratio of 55.8%. FPL is not asking to impute or project equity that is not actually invested in the Company.

OPC:

No. Typically, when other electric utilities attempt to invoke the "S&P methodology" to adjust the capital structure to reflect S&P's treatment of power purchase contracts, they seek to add an increment of equity that they don't have on their books. FPL's actual equity ratio is so high that it seeks to make its actual 59% equity ratio appear lower than it really is. FPL argues that imputing \$949 million of additional debt associated with power purchase contracts would yield an "adjusted equity ratio" of 55.8%. The argument is misleading, in that FPL proposes to use 59% for ratemaking purposes. The adjustment is unwarranted in any event. The Commission assures FPL of recovery of PPA costs through a cost recovery clause, so there is no risk that validates FPL's argument. Besides, not every rating agency regards PPAs as risky: Moody's views them as potentially positive.

AFFIRM:

AFFIRM has no position at this time.

AG:

No. Adopt OPC's position.

AIF:

AIF has no position at this time.

CSD:

The City of South Dakota incorporates and adopts the positions of the Office of the Counsel in all respects and on all issues.

FEA:

No position.

FIPUG:

No.

FRF:

No. Agree with OPC.

SFHHA:

No position at this time.

SCU-4:

No position.

STAFF:

Staff has no position at this time.

ISSUE 71:

What is the appropriate equity ratio that should be used for FPL for ratemaking purposes in this case?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: FPL's capital structure should remain at approximately 55.8% equity (as a percentage of investor sources of funds on an adjusted basis). Maintaining FPL's capital structure will indicate to the capital markets the Commission's continued commitment to support the financial integrity of the company and provide the financial flexibility and resilience needed to absorb unexpected financial shocks, such as a substantial hurricane or a credit liquidity crisis as was experienced during the fourth quarter of 2008, as well as to support FPL's estimated \$16 billion in capital investment and construction requirements over the next five years.

OPC: FPL proposes to use its actual 59% equity ratio. This is too high, in view of the responsibility of an electric utility to minimize revenue requirements borne by customers by employing a reasonable amount of debt leverage in its capital structure. FPL's proposal is far higher than typical electric utilities, who maintain equity ratios in the mid- to high-40s. This is also higher than the level that FPL projects to carry in the near future. OPC agrees Dr. Woolridge recommends the Commission use 54%, but cautions that this figure is higher than FPL's risk profile would warrant, meaning that the Commission should adjust the allowed return on equity downward to reflect the relatively low financial risk associated with a 54% equity ratio.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. The appropriate common equity ratio for FPL is 50.2% on an unadjusted basis. FPL's requested equity ratio of 59.6% is unreasonably high and is over 900 basis points higher than comparably rated utilities.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: FPL should be using a 41.07% equity ratio for ratemaking purposes in this proceeding after consideration of other non-investor supplied cost-free or lower cost sources of capital.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 72: *Do FPL's power purchase contracts justify or warrant any changes to FPL's capital structure in the form of imputed debt or equity for ratemaking purposes?*
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? FIPUG and FRF

FPL:

OPC: See Issue 71. OPC is willing to eliminate this issue as duplicative of Issue 71.

AFFIRM: AFFIRM has no position at this time.

AG: See response to Issue 71.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Yes. The Commission should reject FPL's request to impute \$949.3 million of debt related to purchase power contracts. Such contracts are a direct pass through to ratepayers and represent no risk to FPL. In the recent TECO rate case, the Commission rejected a similar request for a PPA adjustment.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Yes.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by FIPUG and FRF is subsumed in Issue 71 and should not be included in the Prehearing Order.

ISSUE 73: What is the appropriate capital structure for FPL for the purpose of setting rates in this docket?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

- FPL:** Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the proposed capital structure as presented on MFR D-1A for both the 2010 test year and the 2011 subsequent projected test year is appropriate. This existing capital structure has served customers well by helping support high quality service at low rates, while enabling FPL to successfully weather financial challenges such as the impact of major hurricanes and of the recent credit crisis. Maintaining this capital structure will indicate to the capital markets the Commission's continued commitment to support the financial integrity of the Company and provide the ability to attract capital required for FPL to meet its customers' electric service needs.
- OPC:** For the appropriate capital structure amounts, see Issue 81.
- AFFIRM:** AFFIRM has no position at this time.
- AG:** Adopt OPC's position.
- AIF:** AIF has no position at this time.
- CSD:** The City of South Daytona agrees and adopts the positions of the Office of Public Counsel in all respects as to all issues.
- FEA:** No position.
- FIPUG:** A. See Issues 71-72.
B. For the Reasons set out in Issues 5-7, the Commission should not consider 2011
- FRF:** Agree with OPC.
- SFHHA:** The appropriate capital structure for FPL in this proceeding is 41.07% common equity; 32.38% Long Term Debt; 3.62% Customer Deposits; 3.44% Short Term Debt; 19.13% Deferred Income Taxes; 0.36% Investment Tax Credits. Customer Deposits, Deferred Income Taxes and Investment Tax Credits are jurisdictional to the retail ratepayers and should not be reduced for "prorata adjustments" to reconcile the Company's capitalization to rate base.
- SCU-4:** No position.
- STAFF:** Staff has no position at this time.
- ISSUE 74:** *Has the fuel adjustment clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

FPL:

OPC: Whereas the clause recovery mechanisms reduce the risk of FPL, we have made no separate adjustments to reflect this reduction in risk. However, OPC's 9.5% ROE recommendation reflects the low overall risk level of FPL relative to other utilities. See Issue 80.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: FPL adjusts rates regularly to recover actual fuel costs. The industry, including FPL, argued in support of this adjustment mechanism that it removes significant operating risk and results in lower cost of capital. FPL has not substantiated this argument in its MFRs and has not reduced its return on equity request to reflect this reduced risk. FPL also has failed to provide information requested by Commission Staff identifying whether the other utilities in FPL's proxy group have implemented this mechanism. FPL's return on equity should be reduced to reflect the existence of this rate adjustment mechanism.

FEA: No position.

FIPUG: Yes. FPL's automatic recovery of fuel costs on a guaranteed annual basis greatly lowers the risk of recovery it may have and should decrease its equity costs.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by City of SD is subsumed in Issue 71 and should not be included in the Prehearing Order.

ISSUE 75: *Has the nuclear cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

FPL:

OPC: See Issue 74.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: FPL adjusts rates regularly to recover costs relating to FPL's investments in proposed nuclear plants. The industry, including FPL, argued in support of this adjustment mechanism that it removes significant operating risk and results in lower cost of capital. FPL has not substantiated this argument in its MFRs and has not reduced its return on equity request to reflect this reduced risk. FPL also has failed to provide information requested by Commission Staff identifying whether the other utilities in FPL's proxy group have implemented this mechanism. FPL's return on equity should be reduced to reflect the existence of this rate adjustment mechanism.

FEA: No position.

FIPUG: Yes. FPL's automatic recovery of nuclear expenses on a guaranteed annual basis greatly lowers any risk of recovery it may have and should decrease its equity costs.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by City of SD is subsumed in Issue 71 and should not be included in the Prehearing Order.

ISSUE 70: *Has the conservation cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

FPL:

OPC: See Issue 74.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: FPL adjusts rates regularly to recover costs relating to FPL's conservation efforts. The industry, including FPL, argued in support of this adjustment mechanism that it removes significant operating risk and results in lower cost of capital. FPL has

not substantiated this argument in its MFRs and has not reduced its return on equity request to reflect this reduced risk. FPL also has failed to provide information requested by Commission Staff identifying whether the other utilities in FPL's proxy group have implemented this mechanism. FPL's return on equity should be reduced to reflect the existence of this rate adjustment mechanism.

FEA: No position.

FIPUG: Yes. FPL's automatic recovery of conservation expenses on a guaranteed annual basis greatly lowers any risk of recovery it may have and should decrease its equity costs.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by City of SD is subsumed in Issue 71 and should not be included in the Prehearing Order.

ISSUE 77: *Has the environmental cost recovery issue decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

FPL:

OPC: See Issue 71.

AFFIRM: AFM has no position at this time.

AG: Adopt OPC position.

AIF: AIF has no position at this time.

CSD: FPL adjusts rates regularly to recover costs relating to FPL's compliance with environmental laws, rules, etc. The industry, including FPL, argued in support of this adjustment mechanism that it removes significant operating risk and results in lower cost of capital. FPL has not substantiated this argument in its MFRs and has not reduced its return on equity request to reflect this reduced risk. FPL also has failed to provide information requested by Commission Staff identifying whether the other utilities in FPL's proxy group have implemented this mechanism. FPL's return on equity should be reduced to reflect the existence of this rate adjustment mechanism.

FEA: No position.

FIPUG: Yes. FPL's automatic recovery of environmental costs on a guaranteed annual basis greatly lowers any risk of recovery it may have and should decrease its equity costs.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by City of SD is subsumed in Issue 71 and should not be included in the Prehearing Order.

ISSUE 78: *Has the Generation Base Rate Adjustment reduced FPL's cost of equity and, if so, by how many basis points? City of SD*

FPL:

OPC: See Issue 74.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: As a result of the settlement agreement in FPL's 2005 rate filing, FPL adjusts its return to recover costs relating to FPL's costs and investments in generating plants through the Generation Base Rate Adjustment ("GBRA"). FPL's Petition requests that this mechanism be continued. This adjustment mechanism removes significant operating risk and results in lower cost of capital for FPL. FPL has not reflected this lower equity cost in its MFRs by reducing its requested return on equity to reflect this reduced risk. FPL also has failed to provide information requested by Commission Staff identifying whether the other utilities in FPL's proxy group have implemented this mechanism. FPL's return on equity should be reduced to reflect the existence of this rate adjustment mechanism.

FEA: No position.

FIPUG: Yes. FPL's automatic recovery of costs through the GBRA on a guaranteed annual basis greatly lowers any risk of recovery it may have and should decrease its equity costs.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by City of SD is subsumed in Issue 71 and should not be included in the Prehearing Order.

ISSUE 79: *Is it appropriate to adjust the equity cost rate for flotation costs? OPC*

FPL:

OPC: No. In arriving at his flotation cost adjustment, Mr. Avera has not documented any equity flotation costs for FPL.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No. It is inappropriate to use flotation cost percentages from studies of other companies to estimate a flotation cost for FPL. Further, flotation costs are already accounted for in current stock prices. Therefore, adding flotation costs amounts to double counting.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 71 and should not be included in the Prehearing Order.

ISSUE 80: What return on common equity should the Commission authorize in this case?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: The Commission should authorize 12.5% as the return on common equity for both 2010 and 2011. Granting FPL's requested return on equity will appropriately take into account overall utility industry risks, as well as FPL's company-specific risk factors, such as (i) the need to invest \$16 billion to provide service over the next five years; (ii) the Company's operation of nuclear plants and development of new nuclear plants; (iii) high exposure to natural gas price volatility and related hedging requirements; and (iv) FPL's uniquely high level of hurricane risk exposure both in terms of geographical distribution of assets and likelihood of hurricane strikes. Granting FPL's requested return on common equity is critical to maintaining FPL's financial strength and flexibility, and will help FPL attract the large amounts of capital that are needed to serve its customers on reasonable terms.

OPC: FPL's request grossly overstates the return on equity currently required to attract equity capital on reasonable terms. Taking into consideration the myriad of factors that influence the cost of capital, including but not limited to the proper application of a discounted cash flow analysis, a reasonable premium above current risk-free rates required by equity investors, and FPL's low (relative to other electric utilities) risk—as exemplified by its high equity ratio and the fact that it receives 61% of its revenues through cost recovery clauses operating outside base rates, a fair and reasonable return on equity for FPL is 9.5%.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: FPL's request for an ROE of 12.5% is unreasonable and should be rejected given financial conditions today. Further, FPL's ROE should not be increased for "good" service. As a monopoly provider, it is part of FPL's regulatory compact to provide quality service. It should not be "rewarded" for doing what it is required to do. FPL's ROE should be set no higher than 9.5% as recommended by Public Counsel's witness.

B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. 9.5%.
B. 9.5%.

SFHHA: The Commission should authorize a 10.4% return on equity in this case.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 81: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the weighted average cost of capital is 8.00% for 2010 and 8.18% for 2011. The associated components, amounts and cost rates are reflected in FPL's MFR D-1a for the 2010 and 2011.

OPC: The appropriate weighted average cost of capital for each respective test year is as follows:

<u>Cost of Capital Per OPC</u>	<u>Company Total per Books</u>	<u>Specific Adjustments</u>	<u>Pro Rata Balance</u>	<u>Ratio</u>	<u>Cost Rate</u>	<u>Overall Rate of Return</u>
2010						
Long Term Debt	\$6,991,554	\$0	\$6,991,554	33.51%	5.14%	1.72%
Customer Deposits	\$626,383	\$0	\$626,383	3.00%	5.98%	0.18%
Common Equity	\$9,103,999	\$0	\$9,103,999	43.64%	9.50%	4.15%
Short Term Debt	\$629,647	\$0	\$629,647	3.02%	2.27%	0.07%
Deferred Inc Tax	\$3,445,529	\$98	\$3,445,529	16.52%	0.00%	0.00%
ITC	\$63,939	\$0	\$63,939	0.31%	7.41%	0.02%
Total	<u>\$20,767,451</u>	<u>\$93,598</u>	<u>\$20,861,051</u>	<u>100.00%</u>		<u>6.14%</u>

<u>Capital Structure Per OPC</u>	<u>Company Total per Books</u>	<u>Specific Adjustments</u>	<u>Pro Rata Balance</u>	<u>Ratio</u>	<u>Cost Rate</u>	<u>Overall Rate of Return</u>
2011						
Long Term Debt	\$7,670,689		\$7,670,689	34.25%	5.14%	1.76%
Customer Deposits	\$656,855		\$656,855	2.93%	5.98%	0.18%
Common Equity	\$9,559,882		\$9,559,882	42.68%	9.50%	4.05%
Short Term Debt	\$582,762		\$582,762	2.60%	2.27%	0.06%
Deferred Inc Tax	\$3,417,608		\$3,417,608	16.69%	0.00%	0.00%
ITC	<u>\$191,748</u>	<u>\$0</u>	<u>\$191,748</u>	<u>0.86%</u>	<u>7.40%</u>	<u>0.06%</u>
Total	<u>\$22,079,544</u>	<u>\$0</u>	<u>\$22,079,544</u>	<u>100.00%</u>		<u>6.11%</u>

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: Long Term debt should consist of 32.38% of FPL's capital structure at a cost of 5.55%, resulting in a weighted average cost of 1.80%. Customer deposits should consist of 3.62% of FPL's capital structure at a cost of 5.98%, resulting in a weighted average cost of 0.22%. Short term debt should consist of 3.44% of FPL's capital structure at a cost of 0.60%, resulting in a weighted average cost of 0.02%. Deferred Income Taxes should consist of 19.13% of FPL's capital structure at a cost of 0%, resulting in a weighted average cost of 0%. Investment tax credits should consist of 0.36% of FPL's capital structure at a cost of 9.05%, resulting in a weighted average cost of 0.043%. Common Equity should consist of 41.07% of FPL's capital structure at a cost of 10.40%, resulting in a weighted average cost of 4.27%.

	Jurisdictional			
	Adjusted	Capital	Cost	Weighted
<u>Capital Structure</u>	<u>Capital</u>	<u>Ratio</u>	<u>Rate</u>	<u>Avg Cost</u>
Long Term Debt	\$5,607.724	32.38%	5.55%	1.80%
Customer Deposits	\$626.383	3.62%	5.98%	0.22%
Short Term Debt	\$595.631	3.44%	0.60%	0.02%
Deferred Income Tax	\$3,313.373	19.13%	0.00%	0.00%
Investment Tax Credits	\$63.212	0.36%	9.05%	0.04%
<u>Common Equity</u>	<u>\$7,112.837</u>	<u>41.07%</u>	<u>10.40%</u>	<u>4.27%</u>
<u>Total Capital</u>	<u>\$17,319.161</u>	<u>100.00%</u>		<u>6.34%</u>

SCU-4: No position.

STAFF: Staff has no position at this time.

NET OPERATING INCOME

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 82: What are the appropriate inflation, customer growth, *and other trend factors* for use in forecasting?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: The appropriate inflation, customer growth and other trend factors for use in forecasting for the 2010 projected test year and the 2011 subsequent projected test year are those provided in MFR F-8. These factors shown in MFR F-8 were appropriately developed and represent reasonable expectations regarding inflation, customer growth and other trend factors.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUC:

- A. No position at this time.
- B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 83: Should FPL's proposal to transfer capacity charges and capacity-related revenue associated with the St. John's River Power Park from base rates to the Capacity Cost Recovery Clause be approved?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. Capacity charges associated with St. Johns River Power Park (SJRPP) and certain capacity related revenues that are currently in base rates should be removed for year 2010 and 2011 from base rates and included in the capacity clause in order to be consistent with the recovery mechanism for other capacity arrangements and to comply with the Commission's decision in Order No. 25773, Docket No. 910794-EQ.

OPC: No. The net capacity charges should continue to be recovered in base rates and should not be moved to the CCRC.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
For the reasons set out in issues 5-7, the Commission should not consider

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 84: Has FPL made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL has made the appropriate test years adjustments to remove fuel revenues and expenses recoverable through the Fuel Adjustment Clause, subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 85: Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause?

A. For the 2010 projected test year?

If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL has made the appropriate test years adjustments to remove conservation revenues and expenses recoverable through the Conservation Cost Recovery Clause, subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 86: Has FPL made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL has made the appropriate test years adjustments to remove capacity revenues and expenses recoverable through the Capacity Cost Recovery Clause, subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 87: Has FPL made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL has made the appropriate test years adjustments to remove environmental revenues and expenses recoverable through the Environmental Cost Recovery Clause, subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 88: Should an adjustment be made to operating revenue to reflect the incorrect forecasting of FPL's C/I Demand Reduction Rider Incentive Credits and Offsets?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. The proposed Company adjustment to the 2010 projected test year and the 2011 subsequent projected test year for C/I Demand Reduction Rider Incentive Credits and Offsets is appropriate. These revenues were inadvertently not included in the per books forecast of operating revenues and should be included as a Company adjustment.

OPC: No position pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Dayton incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider
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FRF: No position with OPC.

SFHH: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 89: Is an adjustment appropriate to FPL's Late Payment Fee Revenues if the minimum Late Payment Charge is approved in Issue?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL has identified that Late Payment Fee revenues should be increased by \$751,895 in 2010 and \$775,931 in 2011. This adjustment is identified in FPL witness Ousdahl's Exhibit KO-16. No other adjustment is appropriate.

OPC: Yes. Late payment revenue should be increased to eliminate FPL's 30% behavior modification adjustment and 2% write-off; to average 2007/2008 late payments on percentage to total bills for behavior modifications; and reduce revenues for customers not subject to the minimum fee to reflect lower anticipated revenues for 2010. Other revenues per year should be increased by:
A. 2010: \$25,024,251, total \$117,701,025.
B. 2011: \$26,034,753, total \$119,771,078.

FPL treated the proposed increases in Miscellaneous Service Fees as an offset to the revenue deficiency. (Brown)

AFFIRM: AFFIRM has no position at this time.

AG: Such charges should not be allowed, as discussed in the response to Issue 145; otherwise adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all responses to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 90: Are any adjustments necessary to FPL's Revenue Forecast?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: All necessary adjustments to FPL's revenue forecast are listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: Yes. Revenues should be increased by \$46,500,182 in 2010 and \$40,351,388 in 2011. See Issues 3 and 7.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Yes, the adjustments proposed by Interimors should be made.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. Yes. Agree with OPC that FPL's 2010 revenues should be increased by \$46,500,182.
B. Yes. Agree with OPC that FPL's 2011 revenues should be increased by \$40,351,388.

SFHHA: No position at this time.

STAFF: Staff has no position at this time.

SCU-4: No position.

ISSUE 91: Are FPL's projected levels of Total Operating Revenues appropriate?
A. For the 2010 projected test year in the amount of \$4,114,727,000?
If applicable for the 2011 subsequent projected test year in the amount of \$4,114,727,000?

FPL: Yes, subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, FPL's projected levels of Total Operating Revenues are appropriate for the a) 2010 projected test year and b) the 2011 subsequent projected test year.

OPC: No. Revenues should be increased by \$46,500,182 in 2010 and \$40,351,388 in 2011. See positions 3 and 7.

AFFIRM: AFFIRM has no position at this time.

AG: No. Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No, the adjustments proposed by Intervenor should be made.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. No. Agree with OPC.
B. No. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 92: Has FPL made the appropriate adjustments to remove charitable contributions?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL has reflected the amounts applicable to charitable contributions below the line for the projected test year 2010 and for the subsequent test year 2011. Therefore, no adjustment to remove charitable contributions from net operating income is required.

OPC: No position pending evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 93: Should an adjustment be made to remove FPL's contributions recorded above the line for the historical museum?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: No, FPL Historical Museum expenses are properly classified as operating expenses above the line.

OPC: OPC: Yes. Test year expenses should be reduced by \$45,470 in 2010 and \$46,764 in 2011 for contributions FPL made to the Historical Museum consistent with Commission practice.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUC: A. Yes. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: A. Yes. Agree with OPC.
B. Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 94: Should an adjustment be made for FPL's Aviation cost for the test year?
A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: No. FPL properly forecasted the FPL portion of aviation expenses for the projected and subsequent projected test years.

OPC: No position pending evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set forth in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUES: Are the cost savings associated with AMI meters appropriately included in net operating income?

A. For the 2010 projected test year?

If applicable, for the 2011 subsequent projected test year?

FPL: Yes, FPL has included the appropriate cost savings associated with AMI in 2010 and 2011. The savings for AMI only occur as the meters are deployed, and after all components and supporting processes are fully developed, tested and implemented. The testimony of intervenors suggesting savings be in direct proportion to the number deployed by year is unrealistic.

OPC:

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No, FPL has failed to include the proper amount of estimated savings from the installation of the AMI meters.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 96: What is the appropriate level of Bad Debt Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the appropriate level of Bad Debt Expense is:

A. 2010: \$32,511,058
B. 2011: \$32,592,308

OPC: FPL overstated the revenue projections used in its regression analysis for calculating its bad debt factors by using higher revenues than those reflected in its bad forecast modeling and test year projections. Second, while FPL included increased costs for enhanced revenue collection and assistance programs, it did not negate the benefits of these programs to reflect a sufficient level of write-off savings. To determine the correct balance, first use FPL's updated net write-off forecast from December 1, 2008. The 2010 and 2011 test year net write-offs should then be reduced by the impacts of additional automatic bill payments and the incremental avoided write-offs (Exhibit SLB-5). After calculating the bad debt expense from the December 1, 2008 model, as adjusted, the net write-off percentage should be applied to test year revenues. Per Revised Exhibit SLB-6, the appropriate amount of bad debt expense for each year is as follows:

- A. 2010: Bad debt factor: 0.00183; bad debt expense: \$18,645,786;
gross decrease to bad debt expense without transfer to clauses: 2,608,091.
- B. 2011: Bad debt factor: 0.00146; bad debt expense: \$15,193,637;
gross decrease to bad debt expense without transfer to clauses: \$2,302,351

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 97: Should an adjustment be made to remove the portion of Bad Debt Expense associated with clause revenue that is currently being recovered in base rates and include them as recoverable expenses in the respective recovery clauses?

A. For the 2010 projected test year?

If applicable, for the 2011 subsequent projected test year?

FPL: Yes. The Company adjustment proposed removes estimated bad debt expense related to clause revenues from base rates and includes the clause related bad debt expense with the clause revenues giving rise to the bad debt exposure itself. Beginning in 2010, FPL's bad debt expense associated with clause revenue would be recovered through the clauses. The Company adjustment is subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No, bad debt expense should continue to be recovered through base rates.

- A. 2010: Bad debt factor: 0.00183; bad debt expense: \$18,645,786;
gross decrease to bad debt expense without transfer to clauses: \$2,608,091
- B. 2011: Bad debt factor: 0.00146; bad debt expense: \$15,193,637
gross decrease to bad debt expense without transfer to clauses: \$2,302,351

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 98: Should an adjustment be made to advertising expenses?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: No. An adjustment is not necessary as advertising expenses included in 2010 and 2011 are utility related and informational, educational or related to consumer safety.

OPC: No position pending evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 99: Has FPL made the appropriate adjustments to remove lobbying expenses?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: FPL has reflected the amounts applicable to lobbying expenses below the line for the projected test year 2010 and for the subsequent test year 2011. Therefore, no adjustment to remove lobbying expenses from net operating income is required.

OPC: No position pending evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 100: Are any adjustments necessary to FPL's payroll to reflect the historical average level of unfilled positions and jurisdictional overtime?

FPL: No. FPL's payroll budget is a reasonable projection of what is required for the Company to most efficiently deliver on its commitments to customer service and reliability. FPL's staffing-level forecasts are management's reasonable estimates of what is required to do the work based on optimal staffing levels. Every effort is made to fill the forecast positions, but a number of factors have made it increasingly difficult for the Company to fill all open positions. Among these are the massive fluctuations in the South Florida housing market, limited availability of a technical and engineering skilled labor force, workforce demographics including growing numbers reaching retirement eligibility, and the fiscal constraints the Company has placed on the competitiveness of its pay and benefits package. All of these factors have historically resulted in the hiring process lagging slightly behind expectations. But this does not mean that the Company does not incur the costs corresponding to the budgeted headcount in ensuring that the budgeted work is completed. From historical experience is that vacancies have resulted in actual gross payroll (including overtime) exceeding the budget projections. But not headcount is the appropriate measure of FPL's true costs.

OPC: Jurisdictional payroll expenses should be reduced by \$12.507 million in 2010 and \$13.068 million in 2011 to recognize the historical average of unfilled positions. Jurisdictional payroll expenses should be increased by \$3.262 million in 2010 and \$3.262 million in 2011 to recognize additional overtime requirements as a result of the unfilled positions.

AFFIRM: AFFIRM has no position at this time.

AG: AG has no position at this time.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 101: Should FPL reduce expenses for productivity improvements given the Company's lower historical rate of growth in payroll costs?

FPL: No. FPL's forecasted productivity, as measured by payroll per customer, included in the 2010 test year and the 2011 subsequent year, is reasonable and reflects lower rates of growth than the historic periods of 2006 through 2008. Moreover, total cost performance, rather than performance on only one component of costs, is more important to customer bills. FPL has demonstrated superior cost performance over a sustained period of time with total non-fuel O&M per customer levels that were best-in-class among 20 peer companies over the period 1998-2007 and costs levels about half of that peer group average. FPL's corporate commitment to superior operating efficiency has put the Company in the enviable position of being a low cost provider. FPL cannot reasonably be expected to achieve substantial additional operating cost savings beyond those which it has already achieved through its demonstrated commitment to managing costs. In order to ensure that customers continue to receive the level of service that FPL has historically provided, O&M expenses must be allowed to reflect a level commensurate with the operational improvements necessary to continue to provide exemplary service to customers.

OPC: No position pending evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes.

FRF: Agree with OPC.

SFHHA: Yes. FPL has managed its O&M expenses in the past so that annual increases have been less than the rate of inflation. Such productivity gains are produced through capital investments that are already reflected in FPL's rate base. Therefore, FPL's customers should receive the benefit of any such capital investments. The Commission should reduce FPL's O&M expense by at least \$36.519 million and the revenue requirement by \$36.641 million to properly account for productivity improvements. The recognition of productivity improvements will have the effect of reducing FPL's proposed payroll expense amount by \$30.917 million. As a result, there also will be reductions of \$1.995 million in the related payroll tax expense and \$3.600 million in the related fringe benefits expense.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 102: Is it appropriate for FPL to increase its forecasted Operating and Maintenance Expenses due to estimated needs for nuclear production staffing?

FPL: Yes. The requested headcount increase represents the number of employees needed to support the level of effort necessary to ensure safe and reliable operations of our nuclear plants. Due to the specialized nature of requirements for nuclear experience, it is imperative that all experienced nuclear operator train its employees. It can take as long as 9 years to develop an operator candidate into a senior reactor operator. Additionally, other positions can take 1-3 years to train. FPL will need to hire to forecasted amounts to ensure adequate staffing to prudently plan for attrition and retirements, both of which are inevitable in managing a large nuclear plant.

OPC: No. Nuclear production O&M expenses should be reduced by \$21.852 million (payroll, taxes and benefits) to eliminate the Company's request for increased nuclear staffing, attrition and training requirements. (Agree with SFHHA witness Kollen's testimony.)

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Agree with OPC.

SFHHA: No. The company has already increased its nuclear staffing levels in recent years to address attrition and retirements. Since, September, 2008 FPL has actually been reducing its nuclear production staffing. The Commission should reduce FPL's nuclear production O&M expense by \$21.852 million to eliminate FPL's request for increased staffing.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 103: Should an adjustment be made to FPL's requested level of Salaries and Employee Benefits?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: No. There should be no adjustment to salaries and benefits for either year. The projected level of total compensation and benefits expense for both the 2010 Test and 2011 Subsequent Years is appropriate and reasonable. The reasonableness is demonstrated in a number of ways, including comparison of FPL's salaries to the relevant competitive market, comparison of growth of the total costs to principal inflation indices, comparison of FPL's salary cost and productivity measures to those of similar utilities, and comparison of relative value of benefits programs to other utility and general industry companies. Compensation to employees is a necessary cost of providing safe, efficient and reliable service to customers. As such, 100% of reasonable compensation costs should be included for ratemaking purposes. FPL's overall incentive compensation program aligns shareholder and customer interests.

OPC: See Issues 100, 102, 104 and 105.

AFFIRM: AFFIRM has no position at this time.

AG: See response to Issues 100-102, 104 and 105.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Yes. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: Yes. The Commission should reflect a productivity adjustment and eliminate the Company's proposed increase in nuclear staffing levels.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 104: *Should an adjustment be made to FPL's level of executive compensation?*
A. *For the 2010 projected test year?*
B. *If applicable, for the 2011 subsequent projected test year? OPC*

FPL:

OPC: Yes. Jurisdictional salaries should be decreased by \$27.509 million in 2010 and \$29.400 million in 2011 to remove the portion of executive compensation that is designed to benefit shareholders and the portion that exceeds target compensation levels.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: has no position at this time.

CSD: The City of South Dakota incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: position.

FIPUG: Yes. Agree with OPC.

FRF: A. Yes. Agree with OPC that FPL's jurisdictional salaries for 2010 should be reduced by \$27.509 Million.
B. Yes. Agree with OPC that FPL's jurisdictional salaries for 2011 should be reduced by \$29.4 Million.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 105: *Should an adjustment be made to FPL's level of non-executive compensation?*
A. *For the 2010 projected test year?*
B. *If applicable, for the 2011 subsequent projected test year? OPC*

FPL:

OPC: Yes. Jurisdictional salaries should be decreased by \$5.661 million in 2010 and \$6.640 million in 2011 to remove the portion of non-executive compensation that is designed to benefit shareholders and the portion that exceeds target compensation levels.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: A. Yes. Agree with OPC.
Yes. Agree with OPC.

SFHH: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 106: *Should an adjustment be made to Pension Expense?*
A. *For the 2010 projected test year?*
B. *If applicable, for the 2011 subsequent projected test year?*

FPL: No. The pension amounts were estimated from an actuarial calculation for the 2010 and 2011 FPL Group plan costs and related obligations using consistent methodologies and reasonable, supportable assumptions.

OPC: No position pending further development of the record.

- AFFIRM:** AFFIRM has no position at this time.
- AG:** No position pending evidence adduced at hearing.
- AIF:** AIF has no position at this time.
- CSD:** The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.
- FEA:** No position.
- FIPUG:** A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.
- FRF:** Agree with OPC.
- SFHHA:** No position at this time.
- SCU-4:** No position.
- STAFF:** Staff has no position at this time.
- ISSUE 107:** Is a test year adjustment necessary to reflect FPL's receipt of an environmental insurance refund in 2008?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?
- FPL:** No. The original policy was purchased in a non-base rate setting year, and the purchase was never included in FPL's Environmental Cost Recovery Clause (ECRC). The commutation of this AEGIS policy does not represent an accounting gain and should not be treated as anything other than a change in a period cost.
- OPC:** Yes. Test year expenses should be reduced by \$8.686 million in both 2010 and 2011, reflecting a 5-year amortization of the environmental insurance refund. The unamortized balance should be treated as a regulatory liability and included as an offset to rate base in the amount of \$39.086 million in 2010 and \$30.400 million in 2011.
- AFFIRM:** AFFIRM has no position at this time.
- AG:** Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: A. Yes. Agree with OPC.
B. Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 108: Is a test year adjustment appropriate to reflect the expected settlement received from the Department of Energy?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. Adjustments to the 2010 and 2011 test years are set forth on FPL witness Ousdahl's Exhibit O-16.

OPC: No. The \$2 million settlement payment from DOE in 2009 should be used to reduce actual fuel costs in the 2009 Fuel Cost Recovery Clause true-up.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: No. Agree with OPC.

SFHHA: Yes. FPL will recover money from the DOE for DOE's failure to dispose of spent fuel from FPL's nuclear generating facilities. The DOE settlement results in FPL receiving ongoing reimbursements. The Commission should reduce FPL's revenue requirement by \$9.030 million to reflect that recovery.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 109: Should adjustments be made for the net operating income effects of transactions with affiliated companies for FPL?

FPL: The only appropriate adjustment is to correct affiliate payroll loadings. That adjustment is listed on FPL's witness GUSDahl's Exhibit KO-16.

OPC: Yes. See OPC's position on Issues 110 to 118. As addressed in Issue 18, the total operating income impact of affiliate adjustments is \$13,844,866 (total company) for 2010 and \$17,992,038 (total company) for 2011.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's Position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.
B. Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 110: *Is an adjustment appropriate to the allocation factor for FPL Group's executive costs? OPC*

FPL:

OPC: Yes. To address the problems associated with the size-based nature of the allocation factor and the significant benefits the non-regulated affiliates derive from being associated with FPL and FPL Group, the Commission should distribute shared executive costs of FPL Group between FPL and the non-regulated affiliates with 50% assigned to each. The services provided by the FPL Group executives are generally more strategic in nature and benefit the regulated and non-regulated groups as a whole. The proportion of revenue or property, plant and equipment does not reflect the substantial benefits the non-regulated affiliates receive from these executives. This results in a reduction to test year expenses of \$7,935,976 in 2010 and \$7,906,276 in 2011.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's Position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects and all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 111: *Are any adjustments necessary to FPL's Affiliate Management Fee Cost Driver allocation factors? OPC*

FPL:

OPC: Yes. The megawatts used to allocate the Power Generation Fee should be updated consistent with the Company's disclosures in its 2008 annual report and testimony filed in this proceeding. Cost drivers for which the Company projected no growth should be updated using the average growth in recent years. Test year expenses should be reduced by \$2,284,350 in 2010 and \$5,069,195 in 2011.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's Position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 112: *Are any adjustments necessary to FPL's Affiliate Management Fee Massachusetts Formula allocation factors? OPC*

FPL:

OPC: The Company did not provide adequate support for its projections of the Massachusetts Formula components for 2010 and 2011. Ms. Dismukes performed an analysis of the growth of each component from 2008 to 2010. This was then compared to the Company's 2011 projections. In instances where the Company's 2011 projections lacked sufficient support and were not years where the growth appeared abnormal, the average growth from 2008 to 2010 was used. Using this approach, a reduction to 2011 test year expenses of \$1,393,000 should be made.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's Position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 113: *Are any adjustments necessary to the costs charged to FPL by FiberNet? OPC*

FPL:

OPC: Yes. The Commission should reduce the return on investment used in the determination of charges to FPL from FPL FiberNet to the return allowed for FPL. There is no need for FPL FiberNet to earn a return in excess of the return allowed for FPL. Using the rate of return recommended by Dr. Woolridge, test year expenses should be reduced by \$1,082,224 in 2010 and 2011.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 114: *Should an adjustment be made to allow ratepayers to receive the benefit of FPLES margins on gas sales as a result of the sale of FPL's gas contracts to FPLES? OPC*

FPL:

OPC: Yes. FPL failed to demonstrate the reasonableness of moving the gas margin revenues to its non-regulated affiliate and whether the gas contracts were sold at the higher of cost or market. Therefore, FPL's 2010 and 2011 test year revenues should each be increased as reflected on Exhibit KFD-13 to reflect these margins as belonging to FPL.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all responses to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 115: *Is an adjustment appropriate to recognize compensation for the services that FPL provides to FPES for billing on FPL's electric bills? OPC*

FPL:

OPC: Yes. If FPL is billing on its electric bills for services that FPES provides to FPL's residential, commercial, and governmental customers, FPES should compensate FPL for the use of its personnel, billing systems, collection system, postage, paper and any other costs associated with billing the customer. The amount of the adjustment is pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Pending Order.

ISSUE 116: *Is an adjustment appropriate to recognize compensation for the services that FPL provides to FPLES to the extent that FPL service representatives provide referrals or perform similar functions for FPLES? OPC*

FPL:

OPC: To the extent that FPL service representatives provide referrals or perform similar functions for FPLES, FPL should be compensated for this invaluable service. The amount of the adjustment is pending further development of the record.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 116a: *Is an adjustment necessary to reflect the gain on sale of utility assets sold to FPL's non-regulated affiliates?*

FPL:

OPC: Yes. Consistent with Commission practice, the gain on sales of utility assets should be passed onto customers and amortized over five years. This increases test year revenue by \$1,090,753 for 2010 and 2011.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 117: *Is an adjustment appropriate to increase power monitoring revenue for services provided by FPL to allow customers to monitor their power and voltage conditions? OPC*

FPL:

OPC: Yes. Test year revenues should be increased by \$236,336 for 2010 and \$267,885 for 2011 to reflect the amount of power monitoring revenue projected by the Company.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

ISSUE 118: *Issue 118 is intentionally blank.*

ISSUE 119: Should the Commission order notification requirements to report the future transfer of the FPL-NED assets from FPL to a separate company under FPL Group Capital?

FPL: FPL does not believe that an order is necessary; however, FPL will commit to notify the Commission when the transfer of FPL-NED assets, which is currently in process, has been finalized.

OPC: Yes. The Commission should ensure that at the time of the transfer of FPL-NED assets to a separate company under FPL Group Capital the assets are transferred at the higher of cost or market as required by its affiliate transaction rules. The Commission should also order an independent appraisal as required by Rule 25-6.1351(d).

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Support OPC's position

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes.

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 120: Should an adjustment be made to FPL's requested storm damage reserve, annual accrual of \$150 million, and target level of \$600 million?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: No. FPL's requested annual storm damage accrual and target reserve level are needed to address the expected annual storm losses for FPL's extensive and hurricane-prone service territory, key policy considerations underlying storm cost recovery, and the Commission's policy of determining a reserve balance sufficient to protect against most years' storm restoration costs, but not the most extreme years. Such a level reduces dependence on relief mechanisms such as special assessments, providing more stability in customer bills.

OPC: Yes. The accrual should be eliminated for both test years. Current customers are already paying for past storms and should not be doubly burdened by unknown future storms. To charge current customers for both historical and projected storms would actually cause an inequity to current ratepayers.

AFFIRM:

AG: Yes. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. The Commission should deny, in its entirety, FPL's request for an additional \$150 Million per year storm reserve accrual for both test years.

SFHHA: Yes. FPL should not be permitted to reestablish an annual storm damage accrual in base rates, including establishment of a storm damage reserve while it continues to collect a storm damage surcharge for these same purposes. The Commission already has determined that the surcharge approach coupled with securitization is a more cost effective means of providing the Company recovery of storm damage costs compared to base rate recovery. The Commission should not revert to the higher cost base rate approach that was in effect prior to the adoption of the securitization statute. If base rate recovery is again permitted, then the annual accrual should be \$0 while the Company continues to collect the surcharge. Also, if that base rate recovery is again permitted, FPL's reserve surplus target should be set at \$200 million, not at \$650 million as proposed by FPL.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 121: What adjustment, if any, should be made to the fossil dismantlement accrual?

FPL: The annual dismantlement accrual should be increased from \$15,321,113 to \$21,567,577 based on the 2009 Dismantlement Study.

OPC: See Issue 29.

AFFIRM: AFFIRM has no position at this time.

AG: See response to Issue 29.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Contributions to the fossil dismantlement accrual should cease until the next dismantlement study is filed.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 122: What is the appropriate amount and amortization period of Rate Case Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: FPL's estimated rate case expense is \$2,657,900. A three-year amortization period of the estimated expense is appropriate.

OPC: No position pending evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSD: The City of South Dakota incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 123: Should an adjustment continue to be made to Administrative and General Expenses to eliminate "Atrium Expenses" per Order No. 10306, Docket No. 810002-EU?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: No. FPL believes that the amount included in its 2010 and 2011 revenue requirements related to atrium maintenance expenses (\$22 thousand) is insignificant and an administrative burden to provide a Commission adjustment every month in its required FPSC surveillance reporting. Therefore, this adjustment is no longer appropriate.

OPC: No. the atrium has been retired and the adjustment is no longer necessary.

AFFIRM: AFFIRM has no position at this time.

AG: No.

AIF: AIF has no position at this time.

CSD: The City of South Daytona endorses and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 124: Should FPL's request to move payroll loading associated with the Energy Conservation Cost Recovery Clause (ECCR) payroll currently recovered in base rates to the ECCR be approved?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. These payroll loadings are associated with payroll dollars recovered through the ECCR clause. In Docket No. 850002-PU, it was determined that these costs were included in base rates. These costs should be moved to the ECCR clause in order to properly recover the fully loaded ECCR payroll costs in the clause.

OPC: No. These costs are appropriately recovered in base rates and should not be transferred to the ECRC.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No. This would allow FPL to reflect changes in payroll loading (an indirect cost) in the clause. Clause recovery should be limited to recovery of direct costs.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: No. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 12: Should an adjustment be made to remove payroll loadings on incremental security costs that are currently included in base rates and include them in the Capacity Cost Recovery Clause?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. The payroll loadings on incremental security costs that are currently included in base rates should be recovered through the Capacity Cost Recovery Clause. This treatment is used by FPL for similar payroll loading costs recovered through other cost recovery clauses.

OPC: No. These costs are appropriately recovered in base rates and should not be transferred to the CCRC.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No. This would allow FPL to reflect changes in payroll loading (an indirect cost) in the clause. Clause recovery should be limited to recovery of direct costs.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: No. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 126: Should an adjustment be made to move the incremental hedging costs that are currently being recovered through the Fuel Cost Recovery Clause to base rates?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Incremental hedging costs are currently being recovered through the Fuel Cost Recovery Clause (FCRC). Order No. PSC-02-1484-FOF-EI in Docket No 011605-EI stated that incremental hedging costs were recoverable as part of the fuel clause until the early part of 2006 or the establishment of new base rates in the Company's next base rate case. FPL clause recovery of these costs was extended through December 31, 2009 pursuant to Order No PSC-05-1252-FOF-EI issued on December 23, 2005. FPL is therefore proposing that these costs be recovered through base rates as a result of this proceeding, subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No. The Commission should deny FPL's request and continue to review the prudence and reasonableness of FPL's hedging costs during the annual Fuel Clause proceeding.

AFFIRM: AFFIRM has no position at this time.

AG: No. Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No, hedging costs should be reviewed on an annual basis.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: No. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 127: Should the Commission adjustment in FPL's 1987 base rate case, Docket No. 830465-EI, for imputed revenues associated with orange groves be reversed?
A. For the 2010 projected test year?
B. If applicable for the 2011 subsequent projected test year?

FPL: Yes. FPL is now leasing the property at the Manatee Plant site to other parties for grove operations (orange, lime and avocado) and has included the rental revenues above the line in our 2010 Test Year forecast. Therefore, it is no longer necessary to impute rental revenues. Thus, this Commission adjustment should be reversed.

OPC: Yes. The adjustment is no longer necessary as FPL leases the property and has included the lease revenue in operating revenues.

AFFIRM: AFFIRM has no position at this time.

AG: Yes. Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC..

FRF: Yes. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 128: Is FPL's requested level of O&M Expense appropriate?
A. For the 2010 projected test year in the amount of \$1,524,367,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$1,781,961,000?

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 requested levels of O&M Expense are appropriate. FPL filed a full set of MFRs for 2010 and 2011 that were the result of a rigorous budgeting and forecasting process, including close scrutiny in the review and approval of O&M expense levels. FPL's O&M has ranked in the top quartile among comparable companies and first among regional utilities over the past 10 years. For 2007 alone, if FPL had been merely an average performer among the 28 straight electric companies utilized by FPL witness Reed, its non-fuel O&M costs charged to customers would have been between \$700 million and \$1.3 billion higher than its actual costs.

OPC: No. The appropriate amount of O&M Expenses for each respective test year should be as follows:
A. 2010: \$1,507,744,000
2011: \$1,594,440,000

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: No.

SFHHA: No. FPL's test year O&M expense should be reduced by \$397.648 million. This will reduce FPL's requested test year O&M expense to the \$1,306.953 million actual 2008 adjusted downward on a net basis to \$1,296.719 million for the following known and measurable changes: 1) the reduction in O&M expense due to the transfer of certain expenses to various clauses for recovery (\$20.880 million), 2) the increase in O&M expense for WCEC 1 and 2 (\$18.918 million), and 3) the reduction due to the DOE refunds (\$9.000 million), and 4) the increase due to all other Company adjustments reflected on FPL Schedule C-2, except for the storm damage expense (\$0.728 million).

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 129: Should FPL be permitted to collect depreciation expense for its new Customer Information System prior to its implementation date?

FPL: No. FPL agrees that depreciation of this system should commence upon the implementation date. FPL identified a problem in the projection of plant in service and depreciation expense regarding its new Customer Information System, CIS III. As a result, depreciation expense is overstated by \$0.5 million in 2010 and \$4.9 million in 2011. Also, rate base is understated due to the accumulated depreciation in 2010 by \$0.2 million and in 2011 by \$2.3 million. These adjustments and their revenue requirement impacts are presented on FPL witness Ousdahl's Exhibit 10.

OPC: No position pending evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No.

FRF: A. Yes. Agree with OPC. 2010: \$513,606,000

B. Yes. Agree with OPC. 2011: \$570,447,000

SFHHA: No. The new CIS is not scheduled to be completed and operational until June 2012. Depreciation should not commence until the asset is in-service. This has a revenue requirement effect of \$0.506 million.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 130: Should FPL's depreciation expenses be reduced to the effects of its capital expenditure reductions?

FPL: No adjustments are needed to FPL's projected depreciation expenses related to capital expenditure reductions, with the exception of the depreciation items listed on FPL witness Ousdahl's Exhibit 16. Capital expenditure reductions in 2009 relative to the 2009 forecast filed in this proceeding relate to clause recoverable projects and do not affect the projected plant in service balances that comprise retail rate base.

OPC: Yes, consistent with the corresponding reductions to projected plant.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Yes.

FRF: Yes.

SFHHA: Yes. The reduction in its capital expenditures necessarily will result in less depreciation expense. Therefore, depreciation expense should be reduced by \$26.883 million, which will reduce FPL's revenue requirement by \$26.719 million.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 131: Should any adjustment be made to Depreciation Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: No adjustments are necessary to depreciation expense as filed except for items impacting depreciation that are listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No. The appropriate amount of depreciation expense for each respective test year should be as follows:
A. 2010: \$513,606,000
B. 2011: \$570,447,000

AFFIRM: AFFIRM has no position at this time.

AG: No. Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Dayton incorporates and adopts the positions of the Office of Public Counsel in all respects on all issues.

FEA: No position.

FIPUG: A. Yes. See Issues 21, 22, 25-31.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011

FRF: I agree with OPC.

SFHH: Yes. FPL should not be permitted to collect depreciation expense for its new Customer Information System until it is completed and operational in 2012. Its depreciation expenses should be reduced for the effects of its capital expenditure reductions. Its existing depreciation reserve surplus of \$1.245 billion should be amortized over five years. Recovery of the remaining net book value of the Cape Canaveral and Rivera facilities should not be accelerated by amortizing the balance over four years. The Commission should direct FPL to cease depreciation of the Cape Canaveral and Rivera facilities, add the remaining net book value to the costs of the modernization of the facilities, and then depreciate the costs along with the modernization costs over the estimated service lives of the modernized facilities. FPL's nuclear uprate costs should be depreciated over the remaining extended license lives of the units, not depreciated over four years as proposed by FPL. FPL's existing meter investment costs also should not be depreciated over four years. The Commission should use the same depreciation or amortization rate

for the costs of the existing meters as it adopts for the remaining existing meter investment that will not be replaced by AMI meters.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 132: Should an adjustment be made to Taxes Other Than Income Taxes for the 2010 and 2011 projected test years?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: No. Subject to the adjustments listed on FPL witness Ouelahl's Exhibit KO-16, the 2010 and 2011 projections of Taxes Other Than Income Taxes are appropriate.

OPC: Yes. The appropriate amount of Taxes Other Than Income Taxes for the respective test years is as follows:

A. 2010: \$350,220,000

B. 2011: \$392,891,000

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Jordan incorporates and adopts the positions of the Office of Public Counsel in all respects on all issues.

FEA: No position.

FIPUG: A. Agree with OPC.

B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC.

SFHHA: Yes. Payroll taxes should be reduced according to the SFHHA recommendations to reduce labor expense for productivity improvements and to eliminate the Company's proposed increase in labor expense for the addition of 270 nuclear positions.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 133: Should an adjustment be made to reflect any test year revenue requirement impacts of "The American Recovery and Reinvestment Act" signed into law by the President on February 17, 2009?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes. FPL has reviewed the "The American Recovery and Reinvestment Act" and has determined that it would make an adjustment for the amount of bonus depreciation that it will be able to deduct for 2009. This additional bonus depreciation will affect the amount of accumulated deferred income taxes to be included as cost free capital in the capital structure. The adjustments are listed on FPL witness Ousdahl's Exhibit KO-16 for 2010 and 2011. No adjustment is necessary for the incremental costs related to Smart Grid Investment Grant Program because any grants obtained will offset the incremental costs of the new projects. The Department of Energy (DOE) funds will only cover the incremental expenditures over and above those currently included in the test year or subsequent year. Also any incremental costs to convert some bucket trucks or company owned passenger vehicles to plug in electrical vehicles will be provided for by DOE funds with no incremental costs being included in the 2010 test year or 2011 subsequent test year.

OPC: No position pending further evidence adduced at hearing.

AFFIRM: AFFIRM has no position at this time.

AG: No position pending further development of the record.

AIF: AIF has no position at this time.

CSB: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Yes. Agree with OPC.

SFHHA: Yes. A \$20 million subsidy is available pursuant to the act for advanced meters and smart grid investment, which should be reflected in FPL's revenue requirement. In addition, there may be other benefits resulting from the stimulus

bill that FPL should record as a regulatory liability. At a minimum, the Commission should reflect a \$20 million grant available to FPL to reduce the costs of advanced meters and other smart grid investment.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 134: Should an adjustment be made to Income Tax expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: No. The projected income tax expense included in the forecast of \$376,295,000 (system) and \$371,621,000 (jurisdictional) for the 2010 projected test year and \$306,087,000 (system) and \$301,108,000 (jurisdictional) for the 2011 subsequent test year are appropriate, subject to any adjustments listed on FPL witness Ousdahl's Exhibit KO-16 for the 2010 and 2011 period which may affect income tax expense.

OPC: Yes. Adjustments are appropriate to income taxes as a result of OPC's recommended adjustments to the base, capital structure and operating income. The appropriate amounts for income taxes per year are as follows:
A. 2010: \$549,409,000
B. 2011: \$479,803,000

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Yes. Agree with OPC as to amounts.

SFHHA: Yes. Income tax expense should be adjusted for the effects of all other SFHHA recommendations.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 135: Is FPL's projected Net Operating Income appropriate?
A. For the 2010 projected test year in the amount of \$725,883,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$662,776,000?

FPL: Yes. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 projections of Net Operating Income are appropriate.

OPC: No. The appropriate net operating income is as follows:
A: 2010: \$1,208,722,000
B: 2011: \$1,144,810,000

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. The adjustments suggested by Intervenor should be made.
For the reasons set out in Issues 5-7, the Commission should not consider
B.

FRF: Agree with OPC.

SFHHA: The Company's proposed Operating Income is understated by the net effect of the revenue and operating expense issues identified by SFHHA, including the effect on income tax expense due to the rate base and capitalization issues identified by SFHHA.

SCU-4: No position.

STAFF: Staff has no position at this time.

REVENUE REQUIREMENTS

(A decision on the 2011-related items marked as (B) below will be necessary only

if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 136: What are the appropriate revenue expansion factors and the appropriate net operating income multipliers, including the appropriate elements and rates, for FPL?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: The appropriate projected 2010 and 2011 revenue expansion are 1.63342 and 1.63256 respectively. The elements and rates are shown on MFR C-44 for each year, subject to the adjustments listed on FPL witness Dunsahl's Exhibit KO-16.

OPC: The appropriate operating income multipliers for each test year is as follows:

<u>OPC Recommended</u>	<u>2010</u>	<u>2011</u>
Revenue Requirement	100.0000%	100.0000%
Regulatory Assessment Rate	0.0720%	0.0720%
Bad Debt Rate	0.1460%	0.1460%
Additional Late Payments	-0.0866%	-0.0866%
Net before Income Taxes	99.8316%	99.8686%
State Income Taxes	5.4907%	5.4928%
Federal Income Taxes	33.0315%	33.0315%
Revenue Requirement	61.3214%	61.3443%
Net Operating Income Multiplier	1.63075	1.63014

AFFIRM: AFFIRM has no position at this time.

AG: AG has no position at this time.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. Agree with OPC.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: Agree with OPC. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 137: Is FPL's requested annual operating revenue increase appropriate?
A. For the 2010 projected test year in the amount of \$1,308,535,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$247,367,000?

FPL: Yes. Subject to the adjustments listed on FPL witness Oswald's Exhibit KO-16, the 2010 and 2011 FPL's requested annual operating revenue increases are appropriate.

OPC: No. Not only is no revenue increase warranted, base rate revenues should be decreased as follows:

<u>OPC Recommended</u>	<u>2010</u>	<u>2011</u>
Revenue Reduction at Proposed Return	\$1,308,054	(\$1,290,500)
Less Increase in Miscellaneous Service Fees	\$25,024	\$26,035
Revenue Reduction for Sales Revenues	<u>(\$1,333,078)</u>	<u>(\$1,316,535)</u>

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: No. Agree with OPC that FPL's base rates should be decreased to produce the operating revenues supported by OPC's witnesses.

SFHHA: No. Rather than increasing FPL's annual operating revenues, the Commission should reduce those revenues by \$336.338 million.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 138: *Whether FPL's rates should be decreased by \$1.3 billion dollars? Saporito*

FPL:

OPC: See Issue 137.

AFFIRM: AFFIRM has no position at this time.

AG: Adopt OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the position of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that the issue proposed by Saporito is subsumed in Issue 137 and should not be included in the Hearing Order.

COST OF SERVICE AND RATE DESIGN ISSUES

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 139: Has FPL correctly calculated revenues at current rates for the 2010 and 2011 projected test year?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

FPL: Yes, subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, FPL has correctly calculated the 2010 and 2011 revenues at current rates. These revenue calculations are detailed in MFRs E-13b, E-13c, and E-13d and summarized in E-13a as sponsored by FPL witnesses Deaton and Santos (MFR E-

13b) for the test and subsequent years. FPL's projection of revenues at existing rates assumes GBRA increases for Turkey Point Unit 5 and West County Units 1 and 2.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: A. No position at this time.
B. For the reasons set out in Issues 5-7, the Commission should not consider 2011.

FRF: No.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 140: Should FPL use a minimum distribution cost methodology (utilizing either a "zero intercept" or a "minimum size" approach) to allocate distribution plant costs to rate classes?

FPL: The appropriate methodology to allocate distribution plant costs to rate classes is that filed by FPL in this proceeding. The Commission has consistently rejected the use of a minimum distribution cost methodology (utilizing either a "zero intercept" or a "minimum size" approach) for investor-owned utilities and a compelling case for ignoring that precedent has not been made. The minimum distribution cost (MDS) methodology is inconsistent with FPL's distribution system planning and how costs are incurred on FPL's system. Furthermore, use of this inappropriate methodology would drastically increase the amount of distribution plant allocated to residential and very small commercial customers. Larger customers, such as those in the GSLD-1 rate class, would benefit through a reduced allocation of costs.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: There is a customer-related component of certain distribution plant costs, as cited in the NARUC *Electric Utility Cost Allocation Manual*, which should be recognized in setting rates.

FRF: No position.

SFHHA: Yes. Each of the two approaches is designed to measure a "zero load cost" associated with serving customers. For instance, the conceptual basis for the zero-intercept method is that it reflects a classification of the distribution facilities that would be required to simply interconnect a customer to the system, irrespective of the kW load of the customer. Certain distribution costs are incurred due to the presence of a customer on the system, regardless of the less of demand of such a customer. The minimum distribution system ("MDS") methodology recognizes this cost responsibility in the classification and allocation of distribution facilities and expenses to rate classes, the responsibility of customers and should be classified as customer related. A demand related classification of distribution costs states the most responsibility of large general rate schedules. This is a particular problem currently on the FPL system, given the substantial number of vacant residential dwellings. FPL installed distribution equipment and incurred distribution costs to connect these dwellings to its system. Since these dwellings have limited or "0" kW demands, the costs for these facilities are shifted to other customer classes using FPL's "demand only" allocation method.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 141: What is the appropriate Cost of Service Methodology to be used to allocate base rate and cost recovery costs to the rate classes?

FPL: The appropriate Cost of Service Methodology to be used to allocate base rate costs to rate classes is that filed by FPL in this proceeding. This Cost of Service

Methodology was the method approved by the Commission in FPL's last fully litigated rate case with one exception. The previously approved methodology incorporated special treatment for the St. Lucie No. 2 nuclear generating unit which should no longer apply. FPL's Cost of Service studies in this proceeding are limited to base rate costs. All costs recovered through cost recovery clauses have been removed as Commission Adjustments, and therefore excluded.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: The Commission should retain and continue to use the 12CP-1/13th average demand method.

FRF: No position.

SFHHA: FPL's 12CP and 13th average demand methodology is inappropriate because the summer-month reserve margin requirements are the binding constraint for planning FPL's system. Customer class demands during off-peak fall and spring months do not cause FPL to add new generation capacity to the system, yet that is the underlying premise of the Company's cost allocation methodology. A summer coincident peak methodology is more appropriate for allocating costs.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 142: How should the change in revenue requirement be allocated among the customer classes?

FPL: The increase should be allocated as shown in MFR E-8. The proposed revenue increase allocation moves all rate classes closer to parity to the greatest extent practicable. Limiting the increases to any rate class to no more than 150% of the system average should be rejected in this case, as it would allow subsidizations between the rate classes to perpetuate and would unfairly burden rate classes which are above parity.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: The Commission should continue to apply the principle of gradualism which prevents any class from receiving an overly large increase. FPL's proposal would result in CILC, General Service Large Demand-1, and General Service Large Demand-2 receiving increase in excess of the system average increase (at the rates FPL proposes) in conflict with past Commission precedent and decisions.

FRF: Any change in base rate revenue requirements should be allocated among the customer classes on the basis of an equal percentage decrease (or increase) to all base rates.

SFHHA: FPL should be required to implement a measure of gradualism because of the significant increase in its revenue requirement and the general economic environment. FPL should be required to limit increases to rates such that no rate schedule receives more than 1.5 times the average percentage increase in base rates and no rate schedule receives a rate decrease in base rates. This is consistent with prior Commission decisions in electric utility rate proceedings, including the recent Tandon Electric Company rate case, Docket No. 080317-EI.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 143: Has FPL properly adjusted revenues to account for unbilled revenues?

FPL: Yes. The appropriate adjustment to account for the increase in unbilled revenue is that shown in MFR E-12.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 144: Are FPL's proposed service charges for initial connect, field collection, reconnect for non-payment, existing connection and returned payment charges appropriate?

FPL: Yes. The appropriate service charges are those shown in MFR E-14, Attachment 1 and listed below:

Initial Connection New Premise	\$100.00
Field Collection	\$10.00
Reconnection Charge	\$48.00
Connect/Disconnect Existing Premise	\$21.00
Returned Payment	

A Returned Payment Charge as allowed by Florida Statute 68.065 shall apply for each check or draft dishonored by the bank upon which it is drawn.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No. This just increases the burden on customers who are already struggling to pay their bills timely. These rates should be reduced.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No. FPL's proposed charges are too high and should be reduced commensurately with the overall reduction in FPL's rates indicated by the evidence in this case.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 145: Is FPL's proposal to increase the minimum late payment charge to \$10 appropriate?

FPL: Yes. FPL has seen a steady increase in the number of customers making late payments. From 2006 to 2008 this number increased by an average of 150,000 customers. Other industries use late payment charges greater than \$10 to encourage customers to pay on time, and other Florida utilities use a fee similar to what FPL is proposing. FPL believes the \$10 minimum charge will provide the appropriate incentives to improve payment behavior. The proposal to increase the minimum late payment charge to \$10 is appropriate and designed to provide an incentive for customers to improve payment behavior.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No. Customers are struggling to pay their bills and adding more to their burden is counterproductive.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No. (Tentative)

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 146: Are FPL's proposed Temporary Service Charges appropriate? (4.030)

FPL: Yes. The appropriate Temporary/Construction Service Charges, as shown in MFR E-14, Attachment 1, are: (1) for Overhead: \$255, and (2) for Underhead: \$142.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 147: Is FPL's proposed increase in the charges to obtain a Building Efficiency Rating System (BERS) rating appropriate? (4.041)

FPL: Yes. FPL has properly calculated the proposed charges for providing BERS audits pursuant to Florida Administrative Code Rule 25-17.003 (4) (a).

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 148: Are FPL's proposed termination factors to be applied to the total installed cost of facilities when customers terminate their Premium Lighting or Recreational Lighting agreements prior to the expiration of the contract term appropriate? (8.722 and 8.725)

FPL: Yes, FPL's proposed termination factors as determined in Attachment 3 of MFR E-14 and presented in the tariff sheets provided in Attachment 1 of MFR E-14 appropriately reflects FPL's cost.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 149: Are FPL's proposed charges under the Street Lighting Vandalism Option notification appropriate? (8.717)

FPL: Yes. The appropriate charge, as shown in MFR-E-14, Attachment 1 and 3, is \$279.98.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 150: Is FPL's proposed Present Value Revenue Requirement multiplier to be applied to the installed cost of premium lighting facilities under rate Schedule Premium Lighting (PL-1) and the installed cost of recreational lighting facilities under the rate Schedule Recreational Lighting (RL-1) to determine the lump sum advance payment amount for such facilities appropriate? (8.720 and 8.743)

FPL: Yes, FPL's proposed Present Value Revenue Requirement multiplier as determined in Attachment 3 of MFR E-14 and presented in the tariff sheets provided in Attachment 1 of MFR E-14 appropriately reflects FPL's cost.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No. The Present Value Revenue Requirement multiplier should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 51: Is FPL's proposal to close the Wireless Internet Rate (WIES) schedule to new customers appropriate?

FPL: Yes. As outlined in the current WIES tariff FPL is authorized to petition the Commission to close the WIES rate schedule if the kWh under the rate schedule have not reached 360,000 kWh by June 2004. For the twelve month period ending June 2009, kWh sales under the WIES have only reached 20,640 kWh.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 152: Should FPL's proposal to close the relamping option on the Street Lighting (SL-1) and Outdoor Lighting (OL-1) tariffs for new street light installations be approved? (8.716 and 8.725)

FPL: Yes. Removing this option for new customers clarifies maintenance responsibilities and eliminates potential customer dissatisfaction, since customers choosing this option often believe that FPL is responsible for all maintenance instead of just relamping.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 153: Should FPL's proposal to remove the 10 year and 20 year payment options from the PL-1 and RL-1 tariff be approved? (8.720 and 8.743)

FPL: Yes. Removing this option will avoid collection issues that often occur when the original customer requesting the payment option (e.g., a developer) transfers payment responsibility to another party (e.g., a homeowners association).

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and accepts the positions of the Office of Public Counsel in all responses to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 154: Should FPL's proposed monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider appropriate? (8.820)

FPL: Yes, FPL's monthly kW credit as determined in Attachment 2 of MFR E-14 and presented in the tariff sheets provided in Attachment 1 of MFR E-14 appropriately reflects FPL's cost.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 155: Is FPL's proposed monthly fixed charge carrying rate to be applied to the installed cost of customer-requested distribution equipment for which there are no tariffed charges appropriate? (P-1019)

FPL: Yes, FPL's proposed monthly fixed charge carrying rates provided in MFR E-14, Attachment 1 of FPL's filing appropriately reflect FPL's cost.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: No. The monthly fixed charge carrying charge rate multiplier should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 156: Is FPL's proposed Monthly Rental Factor to be applied to the in-place value of customer-rented distribution substations to determine the monthly rental fee for such facilities appropriate? (10.015)

FPL: Yes, FPL's proposed monthly rental factor provided in MFR E-14, Attachment 1 of FPL's filing appropriately reflects FPL's cost.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: (Tentative) No. To the extent that the Monthly Rental Factor includes component rates for cost of capital and depreciation, this Factor should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 157: Are FPL's proposed termination factors to be applied to the in-place value of customer-rented distribution substations to calculate the termination fee appropriate? (10.015)

FPL: Yes, FPL's proposed monthly rental factor provided in MFR E-14, Attachment 1 of FPL's filing appropriately reflects FPL's cost.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 158: Is FPL's proposed minimum charge for non-metered service under the GS rate appropriate?

FPL: Yes, the proposed minimum charge for non-metered service under the GS rate appropriately reflects the difference between the GS customer charge and the operating costs for serving GS customers.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

STAFF: Staff has no position at this time.

SCU-4: No position.

ISSUE 159: What are the appropriate customer charges?

FPL: The appropriate customer charges are those shown in MFR A-3. These charges are subject to revision to reflect the impact, if any, of adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: The appropriate customer charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing customer charges.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 160: What are the appropriate demand charges?

FPL: The appropriate demand charges are those shown in MFR A-3. These charges are subject to revision to reflect the impact, if any, of adjustments listed on FPL witness Ousdahl's Exhibit KO-16.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: FPL's demand-related costs should be recovered through the demand charge and energy-related base rate costs should be collected through the energy charge. However, FPL's proposed General Service Demand rate design does not follow this practice. FPL has underpriced the demand charge and overpriced the energy charge. Demand charges should be increased to recover the target revenues assigned to the CILC class.

FRF: The appropriate demand charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing demand charges.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 161: What are the appropriate energy charges?

FPL: The appropriate energy charges are those shown in MFR A-3. These charges are subject to revision to reflect the impact, if any, of adjustments listed on FPL witness Ousdale's Exhibit KO-16.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: FPL's demand-related costs should be recovered through the demand charge and energy-related base rate costs should be collected through the energy charge. However, FPL's proposed General Service Demand rate designs do not follow this practice. FPL has underpriced the demand charge and overpriced the energy charge and the non-fuel energy costs exceed FPL's unit costs. FPL's proposed energy charges for the GSLD-1 and GSLD-2 rate classes exceed their costs by 87% and 111% respectively. Thus, energy costs should be decreased to reflect unit costs.

FRF: The appropriate energy charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing energy charges.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 162: What are the appropriate lighting rate charges?

FPL: The appropriate lighting rate schedule charges are those presented in the tariff sheets provided in FPL's E-14, Attachment 1 of FPL's filing. These charges are subject to revision to reflect the impact, if any, of adjustments listed on FPL witness Masdahl's Exhibit KO-16.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: The appropriate lighting charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing lighting charges.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 163: What is the appropriate level and design of the charges under the Standby and Supplemental Services (SST-1) rate schedule?

FPL: The appropriate level and design of the charges under Standby and Supplemental Services (SST-1) rate schedule are discussed in MFR E-7 of FPL witness Deaton's direct testimony. Additionally, the tariff sheets incorporating the appropriate level and design of the charges under SST-1 rate schedule are contained in MFR E-14, Attachment 1.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: The appropriate charges under Rate Schedule SST-1 are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing SST-1 charges.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 164: What is the appropriate level and design of charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule?

FPL: The appropriate level and design of the charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule are discussed in RBD-7 of FPL witness Deaton's direct testimony. Additionally, the tariff sheets incorporating the appropriate level and design of the charges under ISST-1 rate schedule are contained in MFR E-14, Attachment 1.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: The appropriate charges under Rate Schedule ISST-1 are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirement to the existing ISST-1 charges.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 165: Is FPL's design of the HLFT rates appropriate?

FPL: Yes, FPL's design of the HLFT rates, as discussed in RBD-7 of witness Deaton's direct testimony, is appropriate. The rates as designed are consistent with the methodology approved by the Commission in Docket No. 050045-EI.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. First, FPL's proposed HFLT rates exhibit the same problems with the energy and demand charge described in Issues 160 and 161 which must be corrected. In addition, HFLT rates were designed for higher load factor customers. Second, the average load factors for HFLT customers are about 80% compared to only 64% for GSLDT customers. However, FPL's proposed rates would make HFLT more expensive than GSLDT unless the customer can achieve load factors above 84% for HFLT-2 and over 100% for HFLT-3. This requirement is impractical, and it would result in customers migrating back to Rate GSLDT-2. The HFLT rates should be designed for customers with load factors above 70%. Blending the rates at a 70% load factor reflects the HFLT 'class' characteristics, and would be consistent with encouraging customers to improve load factor.

FRF: No. FPL's proposed design of the HFLT rates is not appropriate.

SFHHA: No. The Company's proposed revenue increases to rate Schedule HLFT for 2010 and 2011 are unreasonable, due to: 1) the use of the Company's 12 CP and 1/13th average demand cost of service methodology to determine the increase, 2) the failure of the Company to use a summer CP cost allocation methodology with a minimum distribution system classification method and 3) the failure of FPL to incorporate a 1.5 times average increase limitation to the increase applied to each rate schedule. As proposed by FPL, the HLFT-2 rate would be increased by 58.1%.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 166: Is FPL's design of the CILC rate appropriate?

FPL: Yes, FPL's design of the CILC rate, as discussed in RBD-7 of witness Deaton's direct testimony, is appropriate. The rate as designed is consistent with the methodology approved by the Commission in Docket No. 891045-EI.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No. FPL has assumed an incorrect level of CILC incentive payments in the rate design. FPL calculated the CILC base revenue requirements as the difference between the allocated firm cost of service (which assumed CILC customers receive firm service) and an assumed level of incentive payments. But the incentives embedded in FPL's rate design are much higher than those used to calculate the class' revenue requirements. This created a shortfall which FPL attempts to recover by increasing the non-fuel energy charge. This is why the non-fuel CILC energy charges are higher than unit costs.

To correct this problem, FPL should restate the incentive payments to reflect the amounts embedded in the CILC rate design. The revised incentive payments should then be allocated to all customer classes in the same manner as FPL allocated the estimated payments) in determining class revenue requirements.

FRF: No. FPL's proposed design of the CILC rate is not appropriate.

SFHHA: No. The Company's proposed revenue increases to rate Schedule CILC for 2010 and 2011 are unreasonable, due to: 1) the use of the Company's 12 CP and 1/13th average demand cost of service methodology to determine the increase, 2) the failure of the Company to use a summer CP cost allocation methodology with a minimum distribution system classification method and 3) the failure of FPL to incorporate gradualism into its recommended rate schedule increases through the use of a 1.5 times average increase limitation to the increase applied to each rate schedule. As proposed by FPL, the CILC-1D rate would be increased by 58.8%.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 167: *What should the CDR credit be set at? FIPUG*

FPL:

OPC: No position.

AFFIRM: AFFIRM believes that this issue would more appropriately be addressed in the Conservation Cost Recovery Clause docket.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: The CDR credit should be set at least \$5.50/KWh to reflect the cost of FPL's next avoided unit.

FRF: No position at this time.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue would more appropriately be addressed in the Conservation Cost Recovery Clause docket.

ISSUE 168: What is the appropriate method of designing time of use rates for FPL?

FPL: The appropriate method for designing time-of-use rates for FPL is as discussed in Exhibit RB-17 to which witness Deaton's direct testimony. This method is consistent with Commission Order No. PSC-92-1197-FOF-EI in Docket No. 910890.

OPC: No position.

AFFIRM: The appropriate method of designing time of use rates is one that produces rates that (1) vary during different time periods and (2) reflect the variance, if any, in the utility's cost of generation and purchasing electricity at the wholesale level. Moreover, the design and implantation of the rate should enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: No position at this time.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 169: *Has FPL carried its burden of proof to the legality and appropriateness of the proposed commercial time of use rates?* **AFFIRM**

FPL:

OPC: No position.

AFFIRM: AFFIRM will not object to Issue 169 not being included in the prehearing order based on Staff's position that the issue can and will be addressed under Issue 168. In acquiescing to Issue 169 being addressed under Issue 168, AFFIRM does not waive its right to have the Commission address and determine disputed material issues of fact, policy or law that are subsumed under or germane to both Issue 169 and Issue 168.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: No position at this time.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by AFFIRM is subsumed in Issue 168 and should not be included in the Prehearing Order.

ISSUE 170: *Should FPL be directed to develop a prepayment option in lieu of monthly billing for those customers who can benefit from such an alternative? OPC*

FPL:

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 171: *What is a fair and reasonable rate for the customers of Florida Power and Light Company? AG*

FPL:

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: The Florida Statutes mandates that the Public Service Commission establish fair and reasonable utility rates for all Florida citizens. Hundreds of these citizens testified under oath at the public hearings held around the state that they cannot afford a rate increase. Some spoke of having to move out of state to live with

family and others spoke of moving to another state where the rates are more affordable. There were also small business owners who testified about the impact such an increase would have on their businesses and customers. These business owners testified that they would be unable to absorb the cost of the excessive rates which FPL has requested and would have to pass these costs onto their customers. They feared that many of their customers would be unable to afford the increase and it would potentially end their businesses, thus leaving them and their employees out of a job and increasing the current economic problems the state is facing. In the current economic climate the rates which FPL has requested are unreasonable and unfair and should be denied.

AIF: AIF asserts that the proposed rates for the customers of FPL are fair and reasonable as submitted and should be approved by the Commission as submitted.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Fair, just, and reasonable base rates for FPL and its customers are the rates that will result from reducing FPL's base rates by \$364 million per year, with the reduction implemented through an equal percentage decrease to all base rates.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff believes that this issue proposed by AGO is subsumed in, and will be addressed by, the resolution of the other Issues in the case and should not be included in the Prehearing Order.

ISSUE 172: What is the appropriate effective date for FPL's revised rates and charges?

FPL: The effective date for FPL's revised rates and charges for electric service should be for meter readings on and after the first cycle day of January, which is currently scheduled to be January 4, 2010 for the test year and January 4, 2011 for the subsequent year. The effective date for FPL's revised service charges should be January 1, 2010.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

OTHER ISSUES

ISSUE 173: Should an adjustment be made in base rates to include FPL's nuclear uprates being placed into service during the projected test years if any portion of prudently incurred NCRC recovery is denied?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

FPL: As with all other assets providing service to utility customers, the nuclear uprate additions are entitled to recovery from customers. If any prudently incurred nuclear plant investment and operating costs are determined to be ineligible for cost recovery through the NCRC, those costs should be recoverable through base rates.

OPC: None of these issues should not be addressed in this docket.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: Agree with OPC.

FRF: No. Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 174: *Should FPL be required to reduce base rates on January 1, 2014, to recognize the change in the separation factor resulting from the increased wholesale load served under the Lee County Contract? (Staff)*

FPL:

OPC: Yes.

AFFIRM: AFFIRM has no position at this time.

AG: Yes.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all the reports as to all issues.

FEA: No position.

FIPUG: Yes.

FRF: Agree with OPC.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 175: *Should an adjustment be made to FPL's revenue forecast as a result of the PSC's decision in the DSM Goals Docket, Docket No. 080407-EG? If so, what adjustment should be made? (FPL)*

FPL:

OPC: No, the Commission cannot make an adjustment because: (1) the Commission's decision in the DSM Goals Docket is scheduled to be made after evidence is taken and briefs are filed in this case; (2) it is not known when the Commission's order in the DSM docket would become final; (3) many parties to this proceeding are not parties to the DSM docket; and (4) the effect of any decisions in the DSM docket on FPL's 2010 and 2011 revenues is too speculative for ratemaking purposes.

AFFIRM: AFFIRM has no position at this time.

AG: No, Support OPC's position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No.

FRF: Agree with OPC.

SCU-4: No position.

SFHHA: No position at this time.

STAFF: Staff has no position at this time.

ISSUE 16: Should FPL be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

FPL: FPL has no objection to making such a filing.

OPC: Yes.

AFFIRM: AFFIRM has no position at this time.

AG: Yes.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Yes.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

ISSUE 177: Should this docket be closed?

FPL: No position on this issue is necessary.

OPC: No position.

AFFIRM: AFFIRM has no position at this time.

AG: No position.

AIF: AIF has no position at this time.

CSD: The City of South Daytona incorporates and adopts the positions of the Office of Public Counsel in all respects as to all issues.

FEA: No position.

FIPUG: No position at this time.

FRF: Yes, after the entry of a final order reducing FPL's base rate charges to reflect the reduction in FPL's revenue requirements of \$364 million per year, as established by the testimony of the Citizens' witnesses, this docket should be closed.

SFHHA: No position at this time.

SCU-4: No position.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
<u>Direct</u>		
Armando J. Olivera	FPL	AJO-1 Biographical Information for Armando J. Olivera
Armando J. Olivera	FPL	AJO-2 FPL Typical Residential 1,000 kWh for January 2009, January 2010 and January 2011
Rosemary Morley	FPL	RM-1 Cumulative Customer Growth Since 1985
Rosemary Morley	FPL	RM-2 Cumulative Increase in NEL since 1985
Rosemary Morley	FPL	RM-3 NSA's, Customer Growth, and the Change in Inactive Meters
Rosemary Morley	FPL	RM-4 Population Forecasts from the University of Florida
Rosemary Morley	FPL	RM-5 Increase in the Average Annual Number of Customers
Rosemary Morley	FPL	RM-6 Annual NSA's
Rosemary Morley	FPL	RM-7 Increase in Minimal Usage Customers
Rosemary Morley	FPL	RM-8 Forecasting Variance
Rosemary Morley	FPL	RM-9 Annual Energy Use per Customer
Rosemary Morley	FPL	RM-10 NEL Forecast and Actuals
Rosemary Morley	FPL	RM-11 Billed Sales, Customers and Use by Class

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Philip Q. Hanser	FPL	PQH-1	Statement of Qualifications
Philip Q. Hanser	FPL	PQH-2	FPL's Monthly NEL and Total Customer Model Descriptions
Robert E. Barrett, Jr.	FPL	REB-1	Listing of MFRs and Schedules Sponsored in Whole or in Part by Robert E. Barrett, Jr.
Robert E. Barrett, Jr.	FPL	REB-2	Planning Process Guidelines
Robert E. Barrett, Jr.	FPL	REB-3	MFR F-5 Forecasting Flowcharts and Models
Robert E. Barrett, Jr.	FPL	REB-4	MFR F-8 Major Forecast Assumptions
Robert E. Barrett, Jr.	FPL	REB-5	Budget and Actual Net Income 2004 through 2008
Robert E. Barrett, Jr.	FPL	REB-6	Size and Diversity of Florida Economy
Robert E. Barrett, Jr.	FPL	REB-7	Non-Agricultural Florida Employment
Robert E. Barrett, Jr.	FPL	REB-8	Florida Population Growth
Robert E. Barrett, Jr.	FPL	REB-9	Florida Housing Starts
Robert E. Barrett, Jr.	FPL	REB-10	Real Disposable Income per Household
Robert E. Barrett, Jr.	FPL	REB-11	Florida Personal Bankruptcies
Robert E. Barrett, Jr.	FPL	REB-12	Foreclosure Rates
Robert E. Barrett, Jr.	FPL	REB-13	Consumer Price Index
Robert E. Barrett, Jr.	FPL	REB-14	FPL New Service Accounts
Robert E. Barrett, Jr.	FPL	REB-15	FPL Total Customer Growth

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
Robert E. Barrett, Jr.	FPL	REB-16 Capital Expenditure Reductions
Robert E. Barrett, Jr.	FPL	REB-17 Drivers of the Increase in Revenue Requirements for 2010
Robert E. Barrett, Jr.	FPL	REB-18 FPL Capital Expenditures 1985 through 2008
Robert E. Barrett, Jr.	FPL	REB-19 Base Revenue Decline 2006 to 2010
Robert E. Barrett, Jr.	FPL	REB-20 Drivers of the Increase in Revenue Requirements for 2011
Marlene M. Santos	FPL	MMS-1 Care Center Satisfaction Research
Marlene M. Santos	FPL	MMS-2 Billing and Payment Options
Marlene M. Santos	FPL	MMS-3 FERC Customer Service O&M
George K. Hardy	FPL	GKH-1 Changes in FPL Fossil Generating Capability
George K. Hardy	FPL	GKH-2 FPL Fossil Net Heat Rate Comparison
George K. Hardy	FPL	GKH-3 FPL Fossil 5-Year Cumulative Percent Reduction in Emission Rates
George K. Hardy	FPL	GKH-4 FPL Fossil 5-Year Cumulative CO ₂ Greenhouse Gas Avoided
George K. Hardy	FPL	GKH-5 FPL Fossil Availability Comparison
George K. Hardy	FPL	GKH-6 FPL Fossil Forced Outage Rate Comparison
George K. Hardy	FPL	GKH-7 FPL Change in Fossil Capacity-Managed per Employee

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
George K. Hardy	FPL	GKH-8	FPL Fossil Total Non-Fuel O&M Cost Comparison
George K. Hardy	FPL	GKH-9	FPL Fossil Base Non-fuel O&M Cost Comparison
J. A. Stall	FPL	JAS-1	FPL Nuclear Personnel Safety
J. A. Stall	FPL	JAS-2	FPL PO Index
J. A. Stall	FPL	JAS-3	NRC Performance Indicators for St. Lucie and Turkey Point
J. A. Stall	FPL	JAS-4	NRC Inspection Findings for St. Lucie and Turkey Point for 2008
J. A. Stall	FPL	JAS-5	NRC Regulatory Status for St. Lucie and Turkey Point
J. A. Stall	FPL	JAS-6	Capacity Factors for FPL Nuclear
J. A. Stall	FPL	JAS-7	Equivalent Availability Factor for FPL Nuclear
J. A. Stall	FPL	JAS-8	Annual Capital Expenditures for St. Lucie and Turkey Point
J. A. Stall	FPL	JAS-9	Cumulative Capital Investment 2006-2011
J. A. Stall	FPL	JAS-10	Annual Operations & Maintenance (O&M) Expenditures for St. Lucie and Turkey Point
Michael G. Spoor	FPL	MGS-1	Distribution Reliability Program Initiatives
Michael G. Spoor	FPL	MGS-2	Distribution Reliability Results
Michael G. Spoor	FPL	MGS-3	Distribution Costs by Cost Category 2006-2011

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
James A. Keener	FPL	JAK-1 2008 SGS Transmission Reliability Benchmarking Study All Voltages 2005-2007 (3 years)
James A. Keener	FPL	JAK-2 FPL Transmission Lines Lightning Outages per 100,000 Strikes
James A. Keener	FPL	JAK-3 Transmission Line Bird Outages 1998-2008
James A. Keener	FPL	JAK-4 Transmission Vegetation Events 1998-2008
James A. Keener	FPL	JAK-5 Transformer Ages Year Ending 2008
James A. Keener	FPL	JAK-6 Transmission Circuit Miles Since Installation
Kathleen M. Slattery	FPL	KS-1 Projected Total Payroll & Benefits Cost Based on Escalation of 1988 Actuals, 1988 Through 2011
Kathleen M. Slattery	FPL	KS-2 Position to Market (2008 Base Pay)
Kathleen M. Slattery	FPL	KS-3 Projected Total Cash Compensation per Employee Based on Escalation of 1988 Actuals, 1988 Through 2011
Kathleen M. Slattery	FPL	KS-4 FERC Total Salaries & Wages 2007 (pages 1 through 4)
Kathleen M. Slattery	FPL	KS-5 Non-Exempt and Exempt Merit Pay Program Awards, 2005 Through 2008 (pages 1 through 2)
Kathleen M. Slattery	FPL	KS-6 Relative Value Comparison - 2008 Total Benefit Program

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Kathleen M. Slattery	FPL	KS-7	Relative Value Comparison - 2008 Active Employee Medical Plan
Kathleen M. Slattery	FPL	KS-8	Average Medical Cost Per Employee 2003-2010
Kathleen M. Slattery	FPL	KS-9	Relative Value Comparison - 2008 Pension & 401(k) Employee Savings Plan
Christopher A. Bennett	FPL	CAB-1	Operating Company CO ₂ Emissions Rates
Christopher A. Bennett	FPL	CAB-2	Six Sigma DMAIC Process Map
C. Richard Clarke	FPL	CRC-1	Depreciation Study
C. Richard Clarke	FPL	CRC-2	List of Public Utility Commissions where I have testified and issues that I addressed
Kim Ousdahl	FPL	KO-1	Minimum Filing Requirements (MFR's) & Schedules Sponsored and Co-sponsored by Kim Ousdahl
Kim Ousdahl	FPL	KO-2	MFR A-1 for the 2010 Test Year
Kim Ousdahl	FPL	KO-3	Listing of MFR's & Schedules Directly Supporting Requested Revenue Increase
Kim Ousdahl	FPL	KO-4	2010 and 2011 ROE Calculation Without Rate Relief
Kim Ousdahl	FPL	KO-5	MFR A-1 for the 2011 Subsequent Year
Kim Ousdahl	FPL	KO-6	Base Rate Recovery Formula for Nuclear Upgrades

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Kim Ousdahl	FPL	KO-7	Depreciation Expense Reconciliation from Forecast to Proposed Amount
Kim Ousdahl	FPL	KO-8	FPL's 2009 Dismantlement Study
Kim Ousdahl	FPL	KO-9	FPL's Cost Allocation Manual
Kim Ousdahl	FPL	KO-10	INBUC Cost Allocation and Affiliate Transaction Guidelines
Steven P. Harris	FPL	SPH-1	Storm Loss Analysis and Reserve Performance Analysis
Steven P. Harris	FPL	SPH-2	FPL Distribution Asset Concentration by County and Hurricane Strikes by County 1900-2007
Steven P. Harris	FPL	SPH-3	Category 3 Hurricane Landfalls and Mean Damage to T&D Compared to \$150 Million Annual Accrual Case
William E. Avera	FPL	WEA-1	Qualifications of William E. Avera
William E. Avera	FPL	WEA-2	Yield Spreads – Corporate Bonds v. Treasuries
William E. Avera	FPL	WEA-3	CBOE VIX Index -- One Month Moving Average
William E. Avera	FPL	WEA-4	Average Public Utility Bond Yield
William E. Avera	FPL	WEA-5	20-Year Treasury Bond Yields / Utility Bond Yield Spread

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
William E. Avera	FPL	WEA-6	Comparison of Proxy Group Risk Indicators
William E. Avera	FPL	WEA-7	DCF Model – Utility Proxy Group
William E. Avera	FPL	WEA-8	Sustainable Growth Rate – Utility Proxy Group
William E. Avera	FPL	WEA-9	DCF Model – Non-Utility Proxy Group
William E. Avera	FPL	WEA-10	Sustainable Growth Rate – Non-Utility Proxy Group
William E. Avera	FPL	WEA-11	Forward-looking CAPM – Utility Proxy Group
William E. Avera	FPL	WEA-12	Forward-looking CAPM – Non-Utility Proxy Group
William E. Avera	FPL	WEA-13	Expected Earnings Approach
William E. Avera	FPL	WEA-14	FPL Adjusted Capital Structure
William E. Avera	FPL	WEA-15	Capital Structure – Electric Utility Operating Cos.
William E. Avera	FPL	WEA-16	Capital Structure – Utility Proxy Group
William E. Avera	FPL	WEA-17	Endnotes to Direct Testimony of William E. Avera
Armando Pimentel	FPL	AP-1	Historical Credit Spreads

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Armando Pimentel	FPL	AP-2	Capital Investment and Generation Capacity Additions
Armando Pimentel	FPL	AP-3	Market Capitalization
Armando Pimentel	FPL	AP-4	U.S. High Grade Credit Facilities
Armando Pimentel	FPL	AP-5	Credit Spreads Since 2005
Armando Pimentel	FPL	AP-6	Historical Capital Expenditures
Armando Pimentel	FPL	AP-7	FPL Capital Structure
Joseph A. Ender	FPL	JAE-1	Summary of Sponsored MFRs
Joseph A. Ender	FPL	JAE-2	Summary of Rate Classes Consolidated for Load Research Purposes
Joseph A. Ender	FPL	JAE-3	Rate Class Extrapolation Methodology
Joseph A. Ender	FPL	JAE-4	Cost of Service Methodology by Component
Joseph A. Ender	FPL	JAE-5	Rates of Return and Parity at Present Rates
Joseph A. Ender	FPL	JAE-6	Target Revenue Requirements at Proposed Rates
Renae B. Deaton	FPL	RBD-1	Summary of Sponsored MFRs
Renae B. Deaton	FPL	RBD-2	FPL Typical Residential 1,000 kWh Bill
Renae B. Deaton	FPL	RBD-3	Comparison of FPL's Base Rates Versus Change in the Consumer Price Index
Renae B. Deaton	FPL	RBD-4	Major Florida Utility Typical Residential Bill Comparisons

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Renae B. Deaton	FPL	RBD-5	Summary of Current Rate Structures
Renae B. Deaton	FPL	RBD-6	Resulting Parity Indices
Renae B. Deaton	FPL	RBD-7	Summary of Proposed Rate Structures
Renae B. Deaton	FPL	RBD-8	Comparison of GBRA Revenue Requirements and Fuel Savings
John J. Reed	FPL	JJR-1	Curriculum Vitae
John J. Reed	FPL	JJR-2	Testimony List
John J. Reed	FPL	JJR-3	Situational Assessment Rankings
John J. Reed	FPL	JJR-4	Productive Efficiency Rankings
John J. Reed	FPL	JJR-5	Operational Metrics Rankings
John J. Reed	FPL	JJR-6	Benchmarking Workpapers
John J. Reed	FPL	JJR-7	FPL 2007 Assessment and Efficiency Tables
John J. Reed	FPL	JJR-8	FPL 2007 Combined Rankings
John J. Reed	FPL	JJR-9	2007 Greenhouse Gas Emissions Comparison
John J. Reed	FPL	JJR-10	Consumer Price Index and Producer Price Index
John J. Reed	FPL	JJR-11	Average Weekly Earnings - Electric Utility Employees
John J. Reed	FPL	JJR-12	Utility Construction Costs
Jacob Pous	OPC	Appendix A	Resume of Jacob Pous
Jacob Pous	OPC	JP-1	Recommended Depreciation Adjustment Summary

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Jacob Pous	OPC	JP-2	Summary of Excess Reserves
Jacob Pous	OPC	JP-3	Calculation Error on Remaining Life
Jacob Pous	OPC	JP-4	Interim Retirement Ratios and Impact on Remaining Lives
Jacob Pous	OPC	JP-5	Adjustments to FPL's Life Analyses
Jacob Pous	OPC	JP-6	Recommended 43 L1 Life-Curve Combinations
Jacob Pous	OPC	JP-7	Proposed New Dividend Values For Mass Properties
Jacob Pous	OPC	JP-8	Composite Discovery Exhibit
Jacob Pous	OPC	JP-9	Iowa Survivor Curves Detail
Kimberly H. Dismukes	OPC	KHD-1	Kimberly H. Dismukes Qualifications
Kimberly H. Dismukes	OPC	KHD-2	FPL Group, Inc. Organizational Chart
Kimberly H. Dismukes	OPC	KHD-3	Florida Power & Light Company - FPL Affiliate Growth
Kimberly H. Dismukes	OPC	KHD-4	Florida Power & Light Company - Direct Charges to Affiliates
Kimberly H. Dismukes	OPC	KHD-5	Florida Power & Light Company - FPL Massachusetts Formula
Kimberly H. Dismukes	OPC	KHD-6	FPL Group, Inc. Shared Executives
Kimberly H. Dismukes	OPC	KHD-7	FPL Group, Inc. Earnings Summary by Segment
Kimberly H. Dismukes	OPC	KHD-8	FPL Group, Inc. 2008 Annual Report

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Kimberly H. Dismukes	OPC	KHD-9	Florida Power & Light Company – OPC Recommended Affiliate Management Fee Cost Drivers
Kimberly H. Dismukes	OPC	KHD-10	Florida Power & Light Company – OPC Recommended Massachusetts Formula
Kimberly H. Dismukes	OPC	KHD-11	Florida Power & Light Company – OPC Recommended Affiliate Management Fee Adjustments
Kimberly H. Dismukes	OPC	KHD-12	Florida Power & Light Company – FiberNet Adjustment
Kimberly H. Dismukes	OPC	KHD-13	Florida Power & Light Company – FPLES Margin on Gas Sales Adjustment
Kimberly H. Dismukes	OPC	KHD-14	Florida Power & Light Company - Gain On Sale Adjustment
Kimberly H. Dismukes	OPC	KHD-15	Florida Power & Light Company – Miscellaneous Revenue Adjustment
Kimberly H. Dismukes	OPC	KHD-16	Florida Power & Light Company – Summary of Affiliate Adjustments
Dr. J. Randall Woolridge	OPC	Appendix A	Resume of Dr. J. Randall Woolridge
Dr. J. Randall Woolridge	OPC	JRW-1	Recommended Rate of Return
Dr. J. Randall Woolridge	OPC	JRW-2	Interest Rates
Dr. J. Randall Woolridge	OPC	JRW-3	The Credit Crisis and Capital Cost Rates
Dr. J. Randall Woolridge	OPC	JRW-4	Summary Financial and Risk Statistics for Proxy Group

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Dr. J. Randall Woolridge	OPC	JRW-5	Capital Structure Ratios and Debt Cost Rate
Dr. J. Randall Woolridge	OPC	JRW-6	The Relationship Between Estimated ROE And Market-To-Book Ratios
Dr. J. Randall Woolridge	OPC	JRW-7	Public Utility Capital Cost Indicators
Dr. J. Randall Woolridge	OPC	JRW-8	Industry Average Betas
Dr. J. Randall Woolridge	OPC	JRW-9	Three-Stage DCF Model
Dr. J. Randall Woolridge	OPC	JRW-10	DCF Study
Dr. J. Randall Woolridge	OPC	JRW-11	CAPM Study
Dr. J. Randall Woolridge	OPC	JRW-12	Summary of FPL's Equity Cost Rate Approaches and Results
Dr. J. Randall Woolridge	OPC	JRW-13	Summary Financial and Risk Statistics for Dr. Avera's Proxy Group
Dr. J. Randall Woolridge	OPC	JRW-14	Analysis of EPS Growth Rate Forecasts
Dr. J. Randall Woolridge	OPC	JRW-15	GDP and S&P 500 Growth Rates
Sheree L. Brown	OPC	SLB-1	Resume of Sheree L. Brown
Sheree L. Brown	OPC	SLB-2	Cost of Service Analyses
Sheree L. Brown	OPC	SLB-3	Transmission Allocation Adjustment
Sheree L. Brown	OPC	SLB-4	Increase in Transmission Costs
Sheree L. Brown	OPC	SLB-5	Uncollectible Accounts Adjustment
Sheree L. Brown	OPC	SLB-6 (Revised)	Uncollectible Accounts Expense

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
Sheree L. Brown	OPC	SLB-7 Late Payment Revenue Adjustment
Sheree L. Brown	OPC	SLB-8 Late Payments-Revenue Expansion Factor
Sheree L. Brown	OPC	SLB-9 Load Forecast Analysis
Sheree L. Brown	OPC	SLB-10 Load Forecast Adjustment
Sheree L. Brown	OPC	SLB-11 Projected Payroll
Sheree L. Brown	OPC	SLB-12 Actual Versus Targeted FTES
Sheree L. Brown	OPC	SLB-13 Reconciliation of MFR Schedule C- 35 to OM Allocation
Sheree L. Brown	OPC	SLB-14 Labor Cost Adjustment-Full-Time Equivalents
Sheree L. Brown	OPC	SLB-15 Executive Incentives
Sheree L. Brown	OPC	SLB-16 FPL 2008 Financial Performance Matrix
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Sheree L. Brown	OPC	SLB-18 Executive Incentives Exceeding Targets
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Sheree L. Brown	OPC	SLB-20 Revenue Impact of Executive Incentives
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Sheree L. Brown	OPC	SLB-22 Environmental Insurance Refund
Sheree L. Brown	OPC	SLB-23 End-Of-Life Nuclear Materials and Supplies and Last Core Nuclear Fuel
Sheree L. Brown	OPC	SLB-24 Depreciation and Reserve Adjustment

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Sheree L. Brown	OPC	SLB-25	Cost of Capital
Sheree L. Brown	OPC	SLB-26 (Revised)	OPC Consolidated Revenue Impact
Daniel J. Lawton	OPC	DJL-1	Resume Of Daniel J. Lawton
Daniel J. Lawton	OPC	DJL-2	Commission Recovery Adjustments
Daniel J. Lawton	OPC	DJL-3	Excess Reserve / Function
Daniel J. Lawton	OPC	DJL-4	Cash Flow Impacts
Daniel J. Lawton	OPC	DJL-5	Filed Case Cash Flow
Daniel J. Lawton	OPC	DJL-6	FPL Financial Ratios
Russell L. Klepper	AFFIRM	RLK-1	Resume of Russell L. Klepper
Russell L. Klepper	AFFIRM	RLK-2	Typical Florida Daily Electric Load Shapes (excerpt from, February 2009 Annual Report on Activities Pursuant to the Florida Energy Efficiency and Conservation Act (FEECA)
Jeffry Pollock	FIPUG	Appendix A	Qualifications of Jeffry Pollock
Jeffry Pollock	FIPUG	JP-1	Estimated Impact of Revised Life Spans on Depreciation Expense
Jeffry Pollock	FIPUG	JP-2	Quality Measures – Utility Operating Companies
Jeffry Pollock	FIPUG	JP-3	Impact of Capital Structure Adjustment
Jeffry Pollock	FIPUG	JP-4	Comparison of Capital Expenditures from Form 10Q Reports

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Jeffry Pollock	FIPUG	JP-5	Analysis of Monthly Peak Demands as a Percentage of the Annual System Peak
Jeffry Pollock	FIPUG	JP-6	Reserve Margin as a Percent of Peak Demand
Jeffry Pollock	FIPUG	JP-7	Why Electric Facilities are Sited to Meet Peak Demand
Jeffry Pollock	FIPUG	JP-8	Determination of Production Plant Allocation Factors, Average & Excess Demand Allocation Method
Jeffry Pollock	FIPUG	JP-9	Proposed Revenue Class Allocation
Jeffry Pollock	FIPUG	JP-10	Recommended Class Revenue Allocation
Jeffry Pollock	FIPUG	JP-11	Summary of Class Cost of Service Results
Stephen J. Baron	SFHHA	SJB-1	List of Expert Testimony Appearances
Stephen J. Baron	SFHHA	SJB-2	FPL's Ten-Year Power Plant Site Plan
Stephen J. Baron	SFHHA	SJB-3	National Association of Regulatory Utility Commissioners: Electric Utility Cost Allocation Manual
Stephen J. Baron	SFHHA	SJB-4	FPL's Response to SFHHA's Interrogatory No. 137
Stephen J. Baron	SFHHA	SJB-5	Selected Rate Case Application of Distribution Minimum System: Classification of Non-lighting Distribution Plant
Stephen J. Baron	SFHHA	SJB-6	FPL Response to Staff's Interrogatory No. 19

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Stephen J. Baron	SFHHA	SJB-7	Cost of Service; Single CP Production and Distribution Minimum System
Stephen J. Baron	SFHHA	SJB-8	FPL Response to SFHHA's Interrogatory No. 19
Stephen J. Baron	SFHHA	SJB-9	Gradualism – Increases to Equal Rate of Return with "1.5 Times" Limitation
Stephen J. Baron	SFHHA	SJB-10	Gradualism – FPL Proposed Rate Schedule Increases with "1.5 Times" Limitation
Richard A. Baudino	SFHHA	RAB-1	Resume of Richard A. Baudino
Richard A. Baudino	SFHHA	RAB-2	Historical Bond Yields Average Public Utility Bond 30 Year Treasury Bond
Richard A. Baudino	SFHHA	RAB-3	FPL Investor Presentations and Other Documents Concerning Its Financial Position
Richard A. Baudino	SFHHA	RAB-4	Comparison Group – Dividend Yields
Richard A. Baudino	SFHHA	RAB-5	Comparison Group – DCF Analysis
Richard A. Baudino	SFHHA	RAB-6	Capital Asset Pricing Model Analysis: Supporting Data for CAPM Analyses
Richard A. Baudino	SFHHA	RAB-7	Capital Asset Pricing Model Analysis: Historic Market Premium
Richard A. Baudino	SFHHA	RAB-8	FPL Capital Structure
Richard A. Baudino	SFHHA	RAB-9	Comparison Group Capital Structure
Richard A. Baudino	SFHHA	RAB-10	FPL Shareholder Presentations

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Richard A. Baudino	SFHHA	RAB-11	FPL DCF Analysis Using Dividend Growth Rates
Richard A. Baudino	SFHHA	RAB-12	FPL Investor Presentations – Current Market Conditions
Lane Kollen	SFHHA	LK-1	Resume of Lane Kollen
Lane Kollen	SFHHA	LK-2	FPL Response to SFHHA'S Interrogatory No. 112
Lane Kollen	SFHHA	LK-3	Settlement Documents in Docket No. 050045-EI, <i>et al</i>
Lane Kollen	SFHHA	LK-4	FPL's 10-Q for the Quarter Ending March 31, 2009
Lane Kollen	SFHHA	LK-5	FPL's April 28, 2009 Press Release – Announcing Solid First Quarter Earnings
Lane Kollen	SFHHA	LK-6	CONFIDENTIAL – FPL's March 2009 Monthly Operating Performance Report
Lane Kollen	SFHHA	LK-7	CONFIDENTIAL – FPL Group's October 17, 2008 Board of Director's Meeting Presentation
Lane Kollen	SFHHA	LK-8	CONFIDENTIAL – FPL Group's December 12, 2008 Board of Director's Meeting Presentation
Lane Kollen	SFHHA	LK-9	FPL Response to SFHHA's Interrogatory No. 119
Lane Kollen	SFHHA	LK-10	FPL Response to SFHHA's Interrogatory No. 297
Lane Kollen	SFHHA	LK-11	SFHHA's Adjustments to Reflect Productivity Gains
Lane Kollen	SFHHA	LK-12	FPL Response to SFHHA's Interrogatory No. 240

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Lane Kollen	SFHHA	LK-13	FPL Response to SFHHA's Interrogatory No. 291
Lane Kollen	SFHHA	LK-14	SFHHA's Adjustments to Eliminate Nuclear Staff Increases
Lane Kollen	SFHHA	LK-15	FPL Response to SFHHA's Interrogatory No. 237
Lane Kollen	SFHHA	LK-16	FPL Response to SFHHA's Interrogatory No. 120
Lane Kollen	SFHHA	LK-17	FPL Response to SFHHA's Interrogatory No. 289
Lane Kollen	SFHHA	LK-18	FPL Response to SFHHA's Interrogatory No. 290
Lane Kollen	SFHHA	LK-19	FPL Response to SFHHA's Interrogatory No. 283
Lane Kollen	SFHHA	LK-20	FPL Response to SFHHA's Interrogatory No. 243
Lane Kollen	SFHHA	LK-21	FPL Response to SFHHA's Interrogatory No. 287
Lane Kollen	SFHHA	LK-22	FPL Response to SFHHA's Interrogatory No. 288
Lane Kollen	SFHHA	LK-23	FPL Response to SFHHA's Interrogatory No. 284
Lane Kollen	SFHHA	LK-24	SFHHA's Adjustments to Reflect Deferral of Customer information System O&M Expense
Lane Kollen	SFHHA	LK-25	SFHHA's Adjustments to Reflect FPL's Capital Expenditure Reductions
Lane Kollen	SFHHA	LK-26	Depreciation Study – Comparison of Theoretical Reserve and Book Reserve Based on Plant in Service as of Dec. 31, 2009

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Lane Kollen	SFHHA	LK-27	SFHHA Amortization of Depreciation Reserve Surplus
Lane Kollen	SFHHA	LK-28	SFHHA's Adjustments to FPL's Proposed Capital Costs Recovery Over Four Years
Lane Kollen	SFHHA	LK-29	FPL's 2008 FERC Form No. 1
Lane Kollen	SFHHA	LK-30	Depreciation Study -- Putnam Combined Cycle Plant
Lane Kollen	SFHHA	LK-31	PacificCorp's 2008 Integrated Resource Plan
Lane Kollen	SFHHA	LK-32	SFHHA's Adjustments to FPL's Proposed Service Lives For Combined Cycle Gas Turbine Units
Lane Kollen	SFHHA	LK-33	April 20, 2009 Article Concerning Florida's SmartMeter Project
Lane Kollen	SFHHA	LK-34	SFHHA Adjustment to Reflect Effects of Economic Stimulus Bill
Lane Kollen	SFHHA	LK-35	FPL Response to SFHHA's Interrogatory No. 279
Lane Kollen	SFHHA	LK-36	FPL's Cost of Capital
Lane Kollen	SFHHA	LK-37	FPL Response to SFHHA's Interrogatory No. 278
Lane Kollen	SFHHA	LK-38	FPL Response to SFHHA's Interrogatory No. 280
Rhonda L. Hicks	STAFF	RH-1	Florida PSC Complaints by Close Type
Dale Mailhot (Kathy L. Welch)	STAFF	KLW-1	History of Testimony of Kathy Welch
Dale Mailhot (Kathy L. Welch)	STAFF	KLW-2	Audit Report

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
<u>Rebuttal</u>		
Armando J. Olivera	FPL	AJO-3 FPL Superior Performance and Value
Rosemary Morley	FPL	RM-12 Summary of Forecasting Variance to Date
Rosemary Morley	FPL	RM-13 Summary of Adjustments to the Forecast
Rosemary Morley	FPL	RM-14 Calculation of the Adjustment for Minimum Use Customers
Rosemary Morley	FPL	RM-15 Monthly Forecast Variance
Robert E. Barrett, Jr.	FPL	REB-21 FPL 2009 O&M Budget Performance
Robert E. Barrett, Jr.	FPL	REB-22 FPL 2009 Capital Budget Performance
Robert E. Barrett, Jr.	FPL	REB-23 FPL 2008-2010 Non-Fuel O&M Expense Analysis
Robert E. Barrett, Jr.	FPL	REB-24 MFR Audit Responses to Issues 4 and 6
Marlene M. Santos	FPL	MMS-4 Complaints for Florida Investor Owned Utilities
George K. Hardy	FPL	GKH-10 FPL Combined Cycle Asset Life Comparison
George K. Hardy	FPL	GKH-11 FPL Oil & Gas-Fired Steam Asset Life Comparison
George K. Hardy	FPL	GKH-12 FPL Coal-Fired Steam Asset Life Comparison
Kathleen M. Slattery	FPL	KS-10 Endnotes to Rebuttal Testimony of Kathleen Slattery

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
C. Richard Clarke	FPL	CRC-3	Life Spans of Retired US Coal Generating Units, 10 MW or Greater
C. Richard Clarke	FPL	CRC-4	Life Spans of Retired US Oil and Gas Steam Generating Units, 10 MW or Greater
C. Richard Clarke	FPL	CRC-5	Commission Orders From State of Nevada
C. Richard Clarke	FPL	CRC-6	Statistical Analysis, Bulletin 125
C. Richard Clarke	FPL	CRC-7	California Standard Practice U-4
C. Richard Clarke	FPL	CRC-8	NARUC, Developing an Improved Life Table
C. Richard Clarke	FPL	CRC-9	Response to OPC First Set of Interrogatories No. 55
Kim Ousdahl	FPL	KO-11	FPSC Summary of Orders on Capital Structure
Kim Ousdahl	FPL	KO-12	Capital Structure Adjustments
Kim Ousdahl	FPL	KO-13	RS Means/NUS Productivity Factor Comparison
Kim Ousdahl	FPL	KO-14	Affiliate Management Fee (AMF) Specific Cost Drivers
Kim Ousdahl	FPL	KO-15	Power Generation Division (PGD) MW Capacity
Kim Ousdahl	FPL	KO-16	Identified Adjustments
K. Michael Davis	FPL	KMD-1	Effect of Theoretical Reserve Surplus on 2010 Revenue Requirements

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
K. Michael Davis	FPL	KMD-2	Revenue Requirement Impact of Proposed Amortization
K. Michael Davis	FPL	KMD-3	Comparison of Book Depreciation Reserve and Theoretical Reserve for Nuclear Upgrades
K. Michael Davis	FPL	KMD-4	Subsidized Investment Recovered from Customers in Other States
William E. Avera	FPL	WEA-18	Rebuttal to Technical Arguments
Armando Pimentel	FPL	AP-8	Unique FPL Risks
Armando Pimentel	FPL	AP-9	FPL / Tampa Electric Risk Comparison
Armando Pimentel	FPL	AP-10	FPL Test Year Capitalization
Armando Pimentel	FPL	AP-11	Historical and Projected Capital Structure
Armando Pimentel	FPL	AP-12	Projected Book Capital Structure
Armando Pimentel	FPL	AP-13	Impact of 2010 Commission Specific Adjustments
Armando Pimentel	FPL	AP-14	Impact of Witness Baudino's Proposed Equity Adjustment
Armando Pimentel	FPL	AP-15	Imputed Debt Calculation
Armando Pimentel	FPL	AP-16	Short-Term Debt Costs – 30-Day LIBOR Curve
Armando Pimentel	FPL	AP-17	Long-Term Debt Cost

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Joseph A. Ender	FPL	JAЕ-7	Allocation of 2010 and 2011 Production Plant Using Summer Coincident Peak Methodology
Joseph A. Ender	FPL	JAЕ-8	Impact of Summer Coincident Peak Methodology on Rate Class Revenue Requirements
Joseph A. Ender	FPL	JAЕ-9	Impact of Summer Coincident Peak and PMS Methodologies on Rate Class Revenue Requirements
Joseph A. Ender	FPL	JAЕ-10	Factors Contributing to Changes in Rate Class Parities from 2007 to 2010
Joseph A. Ender	FPL	JAЕ-11	Impact of Jurisdictional Transmission Adjustment on Projected 2010 and 2011 Retail Revenue Requirements
Renae B. Deaton	FPL	RBD-9	Impacts of Imposing Rate Increase Limitations
Renae B. Deaton	FPL	RBD-10	FPL's Bill Lowest in Florida
John J. Reed	FPL	JJR-13	Average Customer Savings
Terry Deason	FPL	TD-1	Biographical Information for Terry Deason

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

ISSUE 54: Should FPL be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. for nuclear construction and FPL's most currently approved AFUDC for recovery when the nuclear plants enter commercial operation?

PARTIES: The parties agree that this issue will be decided in a different docket.

XI. PENDING MOTIONS

FPL: The following Motions are pending:

- 1) FPL's Motion to Strike South Daytona's Reply to FPL's Response in Opposition to South Daytona's Motion to Dismiss filed July 20, 2009;
- 2) FPL's Motion for Temporary Protective Order of Certain Information included in FPL's Responses to OPC's 10th Request for PODs (Nos. 251, 252, and 258) filed July 17, 2009;
- 3) FPL's Motion for Temporary Protective Order of Certain Confidential Information in response to SFHHA's 10th Set of Interrogatories (No. 296) filed June 29, 2009;
- 4) FPL's Revised Motion for Temporary Protective Order of Certain Information included in Responses to OPC's 9th Request for PODs (Nos. 231-234, 244, 246; Attorney General's 2nd set of interrogatories (Nos. 38, 41-42, 48-49, 63-65, 68; SCU-4's 1st set of interrogatories (Nos. 7, 12, 16); Staff's 1st Request for PODs (No. 3); and Staff's 3rd Set of Interrogatories (No. 16) filed June 26, 2009 (Original filed June 26, 2009);
- 5) FPL's Motion for Temporary Protective Order of Certain Confidential Information in Response to OPC's 8th Request for PODs (No. 225) filed June 2009;
FPL's Motion for Temporary Protective Order of Certain Confidential Information included in Supplemental Response to OPC's 1st Request for PODs (No. 1) and Supplemental Responses to OPC's 2nd Request for PODs (Nos. 42, 92 and 98) filed May 19, 2009;
- 7) FPL's Motion for Temporary Protective Order Of Certain Confidential Information Included in Response to OPC's 4th set of Interrogatories (No. 252) and Response to SFHHA's 1st Request for PODs (No. 12) filed May 15, 2009; and
- 8) FPL's Motion for Temporary Protective Order of Certain Confidential Information in Responses to OPC's 1st set of interrogatories (Nos. 33-corrected), in connection with 2009 depreciation and dismantlement study filed May 8, 2009.

CSD: The following Motions are pending:

- 1) The City of South Daytona's Motion to Dismiss Florida Power & Light Company's Petition for Rate Increase filed June 2, 2009; and
- 2) The City of South Daytona's Motion to Compel Responses to its First Set of Interrogatories (Nos. 1-11, 16 and 17) and its First Request for Production of Documents (Nos. 1-6, and 8) from Florida Power & Light Company filed July 2, 2009.

FRF: The FRF has no motions pending.

FPL Employee Intervenors: The following Motions are pending:

- 1) FPL Employee Intervenors Motion to Intervene filed August 2, 2009; and

Staff: The following Motions are pending:

- 1) Staff's Motion for Order Compelling Responses to Interrogatories filed August 6, 2009; and

XII. PENDING CONFIDENTIALITY MATTERS

FPL: The following requests for Confidential Classification are pending:

- 1) FPL's Request for Confidential Classification of information contained in the testimony and exhibits of OFC Witness Dismukes, filed August 6, 2009; and
FPL's Request for Confidential Classification of information contained in the testimony and exhibits of SFHHA Witness Kollen, filed August 6, 2009.
- 3) FPL's Request for Confidential Classification of information relating to Staff's First POD No. 09-110-4-1 filed August 4, 2009;
- 4) FPL's Request for Confidential Classification of information provided pursuant to Audit No. 09-110-4-1 filed July 30, 2009;
- 5) FPL's Revised Request for Confidential Classification of Staff's 3rd Set of Interrogatories (No. 16), 4th Set of Interrogatories (No. 32), and 8th Set of Interrogatories (No. 97), and Request for Determination by full Commission filed July 27, 2009 (Original request filed July 21, 2009);

- 6) FPL's Request for Confidential Classification of response to SFHHA's 10th Request for Production of Documents (No. 102), filed July 21, 2009.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than XX words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than XX words, it must be reduced to no more than XX words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than XX pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed xx minutes per party.

It is therefore,

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Katrina J. McMurrian, as Prehearing Officer, this ____ day of _____.

KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(SEAL)

LCB

Recommended Changes

DEPRECIATION STUDY

- A. What are the appropriate capital recovery schedules?
- B. Is FPL's calculation of the average remaining life appropriate?
- C. What are the appropriate depreciation parameters (remaining life, net salvage percent, and reserve percent) and resulting rates for each production unit?
- D. What are the appropriate depreciation parameters (remaining life, net salvage percent, and reserve percent) and resulting rates for each transmission, distribution, and general plant account?
- E. Based on the application of the depreciation parameters that the Commission has deemed appropriate to FPL's data, and a comparison of the theoretical reserves to the book reserves, what are the resulting imbalances?
- F. What, if any, corrective reserve measures should be taken with respect to the imbalances identified in Issue [E]?
- G. What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

FOSSIL DISMANTLEMENT STUDY

- A. Should the currently approved annual dismantlement provision be revised?
- B. What, if any, corrective reserve measures should be approved?
- C. What is the appropriate annual provision for dismantlement?

delinquent accounts YOY and customer growth.

- We continue to believe FPL is capable of generating near double-digit EPS growth driven by a significant amount of non-regulated renewable energy investments and regulated utility investments recovered by advanced recovery mechanisms in place.

Segment Results

Figure 3: FPL Group's Segment Results

FPL Group (FPL - NYSE)			
	1Q09	1Q08	Change
Adjusted Net Income (\$mil)			
Florida Power & Light	\$127	\$108	18%
NextEra Energy	252	220	15%
Corp & Other	(15)	(23)	NM
FPL Group	\$364	\$305	19%
Adjusted EPS			
Florida Power & Light	\$0.31	\$0.27	15%
NextEra Energy	0.62	0.56	12%
Corp & Other	(0.04)	(0.08)	NM
Adjusted EPS	\$0.90	\$0.77	17%
Diluted Shares	405	396	

Source: Company reports

Florida Power & Light

1Q09 regulated EPS improves 15% YOY. Reduced O&M costs (+0.06/share) primarily reflecting timing helped to boost YOY results despite soft economic conditions that FP&L estimates hurt 1Q09 EPS by -\$0.04 versus 1Q08. Additionally, FP&L along with NextEra subsidiaries signed a settlement agreement with U.S. government dismissing nuclear fuel disposal related costs (+0.04/share with half at FP&L). Florida Power & Light (FP&L) 1Q09 net income YOY increase was partially offset by declining sales growth and customer usage (-0.04/share) due to the weak economy. However, declines were at a slower rate than 2008.

Average customer growth was down 0.4% YOY, primarily due to industrial customer growth decrease of approximately -27% accompanied by 12.5% decrease in sales. Existing home sales seemed to have bottomed and showing a slight increase for 1Q09. There were approximately 300,000 metered connections in its system that do not have a customer associated with it, flat from 4Q08. Of its total 4.5 million customers, nearly 9% are low-usage customers (<200 kWh/month versus the over 1,100 kWh/month average) where there appears to be little or no activity in the dwelling, again fairly flat from 4Q08.

Beyond depressed energy sales, FP&L's general earnings drivers were positive in the quarter relative to 1Q08. Lower O&M expenses contributed \$0.06/share as FP&L cuts its spending approximately 10% versus the prior year and higher AFUDC earnings added \$0.04/share.

Figure 4: FPL's Operating Statistics

FPL Group (FPL - NYSE)			
	1Q09	1Q08	Change
Energy Sales (million kWh):			
Residential	11,129	11,437	(2.7%)
Commercial	10,087	10,717	(5.9%)
Industrial	816	933	(12.5%)
Public Authorities	133	138	(3.6%)
Electric Utilities	224	217	3.2%
Inc/(Dec) in Unbilled Sales	-580	-546	6.4%
Interchange Power Sales	786	729	9.2%
Total	22,605	23,628	(4.3%)
Average Price (cents/kWh)			
Residential	11.94	11.24	6.2%
Commercial	10.67	9.94	7.3%
Industrial	8.94	8.30	7.7%
Total	11.26	10.52	7.0%
Average Customer Accounts (000's)			
Residential	3985	4000	(0.4%)
Commercial	501	499	0.4%
Industrial	11	15	(26.7%)
Other	4	3	33.3%
Total	4,501	4,517	(0.4%)
Heating Degree Days			
Normal	289	96	201.0%
vs. Normal	225	204	
	28.4%	(62.9%)	
Cooling Degree Days			
Normal	93	86	8.1%
vs. Normal	128	52	
	(27.3%)	65.4%	

Source: Company reports

Major Projects

In 1/2009, Lone Star Transmission, FPL's subsidiary, was awarded 11% of the \$5 billion CREZ transmission buildout approved by the PUCT. Projected cost is approximately \$600 million. Next steps include filing certificate of need with hearings in 1Q10 and final ruling expected in 2010. Construction is anticipated to begin in early 2011. On 4/10/09, FPL announced plans to build a new solar power plant on land owned by Babcock Ranch real estate venture in Florida. In 4/2009, FPL filed a proposal with the FPSC for the construction of an underground natural gas pipeline, approximately 300 miles long, from Palm Beach County to Bradford County. Additionally, FPL announced its "Energy Smart Miami" Initiative which will deploy more than 1 million advanced wireless "smart meters" in Miami-Dade County. No potential earnings contribution information was given. Figure 5 highlights earnings benefits of major projects previously discussed.

Figure 5: FPL Earnings Benefits of Major Projects

Facility Name	Estimated In-Service	Size (MW)	Estimated Cost (\$ Billions)	Potential Contribution Earnings (\$Mill)	EPS
West County 1	2009	1,220	\$0.7	\$46	\$0.11
West County 2	2009	1,220	\$0.6	\$39	\$0.10
3 Solar Projects	2010	110	\$0.7	\$46	\$0.11
West County 3	2011	1,220	\$0.9	\$59	\$0.15
Nuclear Upgrades	2012	400	\$1.8	\$118	\$0.29
Cape Canaveral modernization	2013	1,220	\$1.1	\$72	\$0.18
Riviera modernization	2014	1,210	\$1.3	\$85	\$0.21
Total		6,600	\$7.1	\$486	\$1.18

Source: Company reports and Estimates of Robert W. Baird & Co.

Regulatory Proceeding

On 3/18/2009, FPL filed a rate relief request with the FPSC which includes ROE of 12.5% and continuation of 55.8% equity ratio and GRBA mechanism from 2005 rate authorization. Rate implementation is expected in 4Q09.

NextEra Energy Resources (f/k/a FPL Energy; changed 1/2009)

1Q09 Non-regulated EPS up 13% YOY. NextEra Energy Resources 1Q09 YOY EPS improved to \$0.62 (\$252 million) from \$0.55 (\$220 million) in 1Q08 primarily driven by new wind investments (+\$0.14/share) and the expected adoption of investment tax credits for new wind projects. Existing portfolio earnings, including both contracted and merchant, declined YOY reflecting a nuclear plant refueling outage in the contracted segment. Softer market conditions drove merchant earnings down partially offset by its retail provider, Gexa's contributions. Additional earnings benefits came from the equity investment in its Canadian operations allowing for the reduction of previously deferred taxes.

Figure 6: NextEra Energy Generating Capacity (MW)

MW - Owned	4Q05	4Q06	4Q07	3Q08	4Q08
Natural Gas-Fired	6,498	6,498	6,547	6,636	6,836
Wind	3,193	4,016	5,077	5,574	6,303
Nuclear	1,076	1,512	2,544	2,544	2,544
Hydro	361	361	361	359	359
Oil Fired	710	731	798	798	798
Other	216	216	216	216	216
Total	12,053	13,334	15,543	16,128	16,857

Source: Company reports

Management estimates that it has hedged 93% of NextEra estimated equivalent gross margin from its existing asset portfolio for 2009 (vs. 91% previously) and 88% for 2010.

Figure 7: NextEra Energy's Expected 2009 Gross Margins

1Q09	Nameplate MWs	Expected Gross Margin	% GM Hedged
Asset-Based Businesses			
Contracted Wind	4,595	910 - 910	100%
Contracted Other	3,551	800 - 810	100%
NEPOOL - Spark Spread	1,294	100 - 110	75%
NEPOOL - Other	1,459	695 - 710	98%
ERCOT - Spark Spread	2,789	235 - 305	49%
ERCOT - Other	1,709	410 - 420	100%
Other - Spark Spread	1,472	115 - 135	72%
Other	100	15 - 25	52%
Other Asset Based	NA	15 - 25	82%
Total Existing Assets			93%
New Asset Additions		180 - 180	100%
Non-Asset Based Businesses		290 - 330	31%

Source: Company reports

Figure 8: NextEra Energy's Expected 2010 Gross Margins

1Q09	Nameplate MWs	Expected Gross Margin	% GM Hedged
Asset-Based Businesses			
Contracted Wind	4,595	935 - 935	100%
Contracted Other	4,380	890 - 920	94%
NEPOOL - Spark Spread	1,294	80 - 100	61%
NEPOOL - Other	1,459	795 - 805	97%
ERCOT - Spark Spread	2,789	200 - 320	9%
ERCOT - Other	1,709	405 - 425	98%
Other - Spark Spread	728	35 - 45	80%
Other	100	20 - 30	44%
Other Asset Based		35 - 55	38%
Total Existing Assets			88%
New Asset Additions		540 - 540	100%
Non-Asset Based Businesses		280 - 380	19%

Source: Company reports

Investment Thesis

We maintain an Outperform rating on the shares of FPL Group (FPL) with a 12-month price target of \$62, and continue to believe the company should be a core long-term holding. Key investment considerations include the following:

- **Solid regulated utility.** The core of FPL is a high-quality regulated electric utility serving high-growth portions of Florida. In the longer term, we expect 3-5% earnings growth underpinned by expected normalized annual customer growth of approximately 1-2% and relatively constructive regulation. FPL has clauses that pass through fuel and purchased power costs, nuclear constructive investments and generation additions, with base rates being flat-to-down since 1985.
- **Rate base growth opportunities.** As part of FPL's rate settlement through the end of 2009, the company received approval to raise base rates in 2008 and 2009 following the completion of combined-cycle units at its Turkey Point station. Florida regulators also approved advanced ratemaking mechanisms to encourage new nuclear development, with FPL potentially beginning construction of new units early in the next decade.
- **Favorable power supply/demand opportunities.** NextEra is benefiting from a continued reduction in power reserve margins across the U.S., providing enhanced margin opportunities as capacity and power prices increase. We expect such favorable economics to continue for several years as sufficient low-cost generation investments are unlikely in the near term amid environmental and political pressures.
- **Favorable wind economics.** As the leader in the wind generation market, we believe FPL has a number of advantages that allows it to generate significant value for every dollar invested, including reliable access to wind turbines and operational excellence, both of which allow it to be a preferred partner for utilities seeking to add wind to their energy supply mix. In addition, we believe the wind market itself is attractive as states continue to mandate more stringent renewable portfolio standards and a federal PTC continues to be extended, while the prospects for federal CO2 regulation could further add value to the wind business.
- **Valuation.** Our 12-month price target for FPL of \$62 is 12.9x our 2010 EPS estimate, we believe a slight premium to its Utility/Merchant peers when fully valued. We believe a premium to its peers when fully valued is justified due to the constructive regulatory environment and substantial earnings growth opportunity provided by its significant infrastructure investment opportunities, including wind, solar, nuclear and transmission investments. In addition, FPL's low carbon footprint places it in a small class of merchant utilities that could significantly benefit from market pricing of CO2, which could potentially occur in the next five years.

Risks & Caveats

We maintain an Average Risk suitability rating on the shares of FPL due to the increased commodity exposure of the merchant generation business relative to the lower risk provided by the regulated electric utility. Risks include, but are not limited to, the following:

- Profitability of merchant energy assets can fluctuate significantly with swings in commodity prices. In 2000 and 2001, robust profits were realized from a favorable supply/demand curve. In the proceeding several years, the opposite was true given overcapacity in many parts of the country. With excess capacity again slowly declining, merchant power prices are rebounding and could cause merchant margins to improve for the foreseeable future. Such swings in the supply and demand in power prices could cause FPL's earnings results to vary widely.

- The company's business is sensitive to fluctuations in the weather. A particularly warm winter or cool summer could adversely affect FPL's financial results.
- The company has no control of the wholesale prices of natural gas or coal. A spike in the price of these fuels could also adversely affect the company's financial results.
- FPL makes open-market purchases for a material portion of its electricity needs. Like natural gas prices, the price of wholesale electricity can and does fluctuate. Such fluctuations could adversely affect FPL's operations.
- FPL's utility operations are subject to federal, state and local legislative requirements. Changes in regulations or in the regulatory environment in general could impact FPL's earnings.
- The company may have the opportunity to purchase assets or companies in the near future. FPL makes acquisitions with the belief that such activity will generate additional profits beyond what could have been earned if those funds were used for a different purpose. Acquisitions carry risks related to personnel, expected-versus-actual growth and a myriad of unforeseen hurdles, all of which could negatively affect earnings.

Company Description

FPL Group is a holding company with both regulated and unregulated operations. FPL Group's principal subsidiaries are Florida Power & Light and FPL Energy. Florida Power & Light (FPL) is the largest electric utility in the state of Florida serving 4.5 million customers in the southern and eastern portions of the state. NextEra Energy Resources (formerly FPL Energy) is a merchant energy provider that primarily develops, builds and operates electric generating facilities across the U.S., which includes the largest wind generation portfolio in the U.S. at over 6,300 MWs, as well as aggregating electric demand in competitive energy markets.

FPL Group - Quarterly Earnings Model

	2007				2008				2009E			
	1Q07	2Q07	3Q07	4Q07	1Q08	2Q08	3Q08	4Q08	1Q09	2Q09E	3Q09E	4Q09E
Net Sales	\$3,075	\$3,929	\$4,575	\$3,683	\$3,434	\$3,585	\$5,387	\$4,003	\$3,705	\$3,888	\$5,539	\$3,943
Cost of Goods Sold*	1,546	2,184	2,483	1,913	1,674	1,807	3,013	2,088	1,841	1,888	2,839	2,051
Gross Income	1,529	1,765	2,092	1,770	1,760	1,778	2,374	1,915	1,864	1,800	2,700	1,892
Operating Expense	1,231	1,101	1,192	1,349	1,317	1,485	1,058	1,163	1,281	1,480	1,400	1,269
Operating Income	298	664	900	421	443	313	1,316	752	583	320	1,300	623
Pretax Income	282	474	720	289	335	326	887	509	383	370	800	544
Net Income	\$276	\$347	\$493	\$281	\$305	\$375	\$508	\$361	\$364	\$375	\$587	\$414
EPS	\$0.69	\$0.87	\$1.23	\$0.70	\$0.76	\$0.93	\$1.28	\$0.90	\$0.90	\$0.93	\$1.45	\$1.02
Dividends	\$0.41	\$0.41	\$0.41	\$0.41	\$0.41	\$0.41	\$0.41	\$0.4450	\$0.47	\$0.45	\$0.45	\$0.47
Diluted Shares	400	400	401	402	402	403	403	403	405	405	405	405
Margin Analysis												
Gross Margin	49.7%	44.9%	45.7%	48.1%	51.3%	49.8%	44.1%	47.8%	50.3%	48.8%	48.7%	48.0%
Operating Expense	40.0%	28.0%	26.1%	36.6%	38.4%	40.9%	19.6%	29.1%	34.6%	40.2%	25.3%	32.2%
Operating Margin	9.7%	16.9%	19.7%	11.4%	12.9%	8.7%	24.4%	18.6%	15.7%	8.7%	23.5%	15.8%
Pretax Margin	9.2%	12.1%	15.7%	7.8%	9.8%	9.1%	16.1%	12.7%	10.3%	10.0%	14.4%	13.8%
Net Margin	9.0%	8.8%	10.8%	7.6%	8.9%	10.5%	8.4%	9.0%	9.8%	10.2%	10.8%	10.5%

FPL Group - Annual Earnings Model

	2005	2006	2007	% chg	2008	% chg	2009E	% chg	2010E	% chg	2011E	% chg
Net Sales	\$11,846	\$15,710	\$15,283	(3%)	\$16,410	8%	\$16,873	3%	\$18,288	8%	\$19,888	9%
Cost of Goods Sold*	6,059	9,035	8,108	(10%)	8,582	6%	8,817	0%	9,227	7%	9,950	8%
Gross Income	5,787	6,675	7,157	7%	7,828	9%	8,256	5%	9,039	9%	9,947	10%
Operating Expense	3,478	4,388	4,960	14%	4,833	(3%)	5,430	12%	5,889	8%	6,455	10%
Operating Income	2,309	2,309	2,197	(5%)	2,995	38%	2,826	(6%)	3,170	12%	3,492	10%
Pretax Income	1,288	1,849	1,786	7%	2,066	17%	2,097	1%	2,319	10%	2,513	9%
Net Income	\$997	\$1,206	\$1,398	16%	\$1,545	11%	\$1,740	13%	\$1,968	13%	\$2,202	12%
EPS	\$2.59	\$3.04	\$3.49	16%	\$3.84	10%	\$4.30	12%	\$4.80	11%	\$5.30	10%
Dividends	\$1.42	\$1.50	\$1.84	9%	\$1.78	9%	\$1.92	8%	\$2.08	8%	\$2.24	8%
Diluted Shares	388	397	401	1%	403	1%	405	0%	410	1%	416	1%
Margin Analysis												
Gross Margin	48.8%	42.5%	46.9%		47.7%		48.9%		48.5%		50.0%	
Operating Expense	29.4%	27.8%	32.5%		29.5%		32.2%		32.1%		32.4%	
Operating Margin	19.5%	14.7%	14.4%		18.3%		16.7%		17.4%		17.5%	
Pretax Margin	10.7%	10.5%	11.6%		12.6%		12.4%		12.7%		12.8%	
Net Margin	8.4%	7.7%	9.2%		8.4%		10.3%		10.8%		11.1%	

*Net unrealized mark-to-market losses (gains) associated with non-qualifying hedges are added back as an offset to COGS.

Balance Sheet Data

	2005	2006	2007	2008	1Q09
Cash & Equivalents	\$530	\$620	\$290	\$535	\$276
Receivables	1,430	1,835	1,721	1,443	1,281
Inventory	567	785	857	988	871
Current Assets	4,987	4,979	3,779	5,812	5,154
Fixed Assets	22,483	24,507	28,652	32,411	33,053
Total Assets	33,004	35,871	40,123	45,029	45,304
Current Debt	2,593	2,742	2,418	3,253	1,940
Payables	1,245	1,060	1,204	1,082	1,058
Current Liabilities	7,267	8,493	5,758	7,891	6,843
Other Liabilities	9,199	9,958	12,350	11,592	11,583
L.T. Debt and Lease	8,038	9,591	11,280	13,833	15,099
Common Equity	8,499	9,928	10,735	11,878	11,999

Ratio Analysis

	2006	2007	2008	1Q09
Debt/Total Cap	55%	58%	59%	56%
Current Ratio	0.8	0.7	0.7	0.7
Days Sales Outst.	38	40	35	44
EBIT/Interest	3.0x	3.1x	3.3x	3.1x
Inventory Turn	13	10	9	10
Return on Equity	13.1%	13.5%	13.8%	13.6%
High P/E Ratio	18.3x	20.9x	19.2x	20.9x
Low P/E Ratio	12.4x	15.4x	8.8x	17.3x
Book Value	\$24.49	\$26.35	\$28.76	\$26.35
Price/Book	2.2x	2.6x	2.2x	2.6x
Cash Flow/Share	\$6.24	\$6.60	\$7.22	\$6.61
Price/Cash Flow	8.7x	10.3x	8.7x	10.2x

Please refer to Appendix - Important Disclosures and Analyst Certification.

Revised 4/28/2009¹⁰

FPL 156808

Hearing Exhibit - 00002872

BAIRD

FPL Group
 (\$ in Millions Except As Noted)

	2003	2004	2005	2006	2007	2008	2009E	2010E	2011E	3 Yr Growth
Total Revenue	\$9,630	\$10,522	\$11,846	\$15,710	\$15,263	\$16,410	\$16,873	\$16,268	\$16,888	6.6%
Operating Income:										
Florida Power & Light	1,320	1,315	1,347	1,463	1,563	1,529	1,561	1,791	1,856	6.7%
FPL Energy	171	187	240	663	807	1,125	1,247	1,380	1,638	13.3%
	-	-	(4)	(1)	(1)	1	(1)	(2)	(2)	9.6%

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeals in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

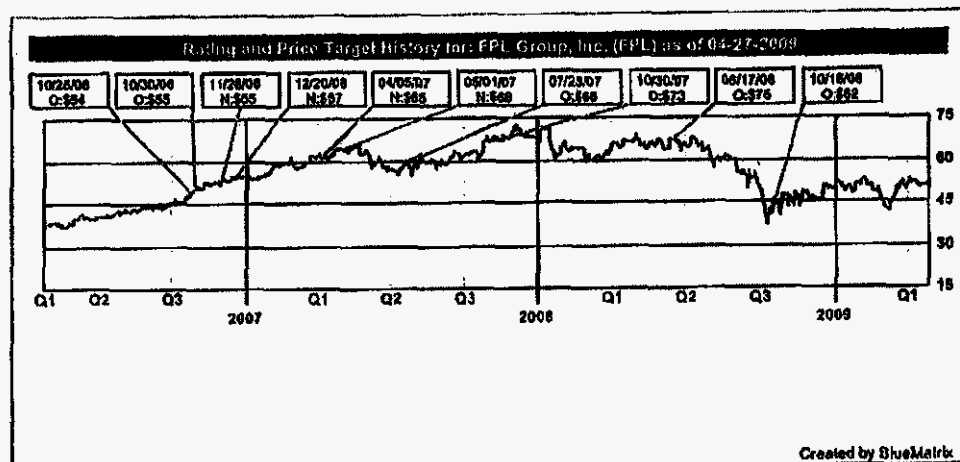
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Date Printed:	04/28/09						FPL Group	Dave Parker (813) 274-7620												
Fiscal Year:	DEC						FPL	Sonal Wagh (414) 288-6130												
(In millions)																				
Balance Sheet	2003	2004	2005	2006	2007	1Q08	Cash Flow Statement	2004	2005	2006	2007	2008	2009E	2010E						
ASSETS							Net Income							1,157	1,269	1,649	1,766	2,066	2,097	2,313
Cash & Equivalents	\$129	\$225	\$530	\$620	\$290	\$276	Depreciation & Amort	1,246	1,341	1,270	1,405	1,579	1,501	1,663						
Receivables	1,187	1,044	1,490	1,635	1,721	1,281	Net changes in (CA) & CL	370	77	(1,077)	75	(56)	126	57						
Inventory	458	394	567	785	857	871	Deferred taxes/Non-Cash	(123)	(1,140)	656	348	(206)	(210)	(193)						
Other	696	864	2,460	1,939	911	2,726	Funds from Operations	2,650	1,547	2,498	3,594	3,403	3,514	3,839						
Total Current	2,470	2,527	4,987	4,979	3,779	5,154	Dividend Payments	(467)	(544)	(593)	(654)	(714)	(773)	(847)						
Fixed Assets	20,297	21,226	22,463	24,507	26,652	33,053	Net Capital Expenditures	(2,017)	(2,546)	(3,739)	(5,019)	(5,196)	(5,345)	(6,600)						
Goodwill & Intangible Asset	0	0	0	0	0	0	Free Cash Flow	166	(1,543)	(1,834)	(2,079)	(2,507)	(2,604)	(3,608)						
Other Assets	4,168	4,560	5,554	6,485	7,692	7,097	Operating Cash Flow Per Share	\$7.33	\$4.01	\$6.30	\$8.97	\$8.45	\$8.69	\$9.35						
Total Assets	\$26,935	\$28,333	\$33,004	\$35,971	\$40,123	\$45,304	Free Cash Flow Per Share	\$0.46	(\$4.00)	(\$4.63)	(\$5.19)	(\$6.23)	(\$6.44)	(\$8.79)						
LIAB. & EQUITY							Du Pont Formula							2004	2005	2006	2007	2008	2009E	2010E
Current Debt	\$1,287	\$1,717	\$2,563	\$2,742	\$2,416	\$1,940	Net Margins (N/S)	8.5%	8.4%	7.7%	9.2%	9.4%	10.3%	10.8%						
Payables	542	762	1,245	1,080	1,204	1,058	Assets Turnover (S/A)	0.4	0.4	0.5	0.4	0.4	0.4	0.4						
Other	1,524	1,769	3,459	2,691	2,136	3,645	Leverage (A/E)	3.8	3.8	3.7	3.7	3.8	3.5	3.7						
Total Current	3,353	4,248	7,267	6,493	5,758	6,643	Return on Equity	12.4%	13.1%	13.6%	13.8%	14.0%	14.3%	0.0%						
LT Debt & Lease	8,723	8,027	8,039	9,591	11,280	15,099	Valuation Parameters							2004	2005	2006	2007	2008	2009E	Recent
Deferred Taxes	2,155	2,685	3,015	3,414	3,821	4,216	Price (Common) - FPL	High	\$38.05	\$48.11	\$55.57	\$72.77	\$73.75	\$56.46	\$51.28					
Other Liabilities	5,732	5,836	6,184	6,545	8,529	7,347	Low	30.10	35.90	37.81	53.72	33.81	41.48							
Preferred Stock	5	0	0	0	0	0	Forward P/E Ratio	High	14.8x	17.7x	16.5x	18.8x	18.9x	17.1x						
Common Equity	6,967	7,537	8,499	9,928	10,735	11,999	Low	11.8x	13.9x	12.5x	15.0x	8.2x	8.2x							
Total	\$26,935	\$28,333	\$33,004	\$35,971	\$40,123	\$45,304	Close	14.5x	14.7x	13.7x	17.5x	12.2x	12.2x	12.2x						
Ratio Analysis:							Book Value							\$20.24	\$21.52	\$24.49	\$26.35	\$28.78	\$31.58	\$34.47
Current Ratio	0.7	0.6	0.7	0.8	0.7	0.7	Price/Book Ratio	High	1.9x	2.2x	2.3x	2.8x	2.6x	1.8x	1.7x					
Working Capital	\$275	(\$228)	(\$347)	\$608	\$149	\$149	Low	1.5x	1.7x	1.5x	2.0x	1.2x	1.3x	1.3x						
Working Cap/Assets	1.0%	(0.8%)	(0.7%)	1.7%	0.4%	0.4%	Close	1.8x	1.9x	2.2x	2.6x	2.2x	1.7x	1.6x						
Inventory Turns	10	12	13	13	10	10	EBITDA							\$2,721	\$2,924	\$3,395	\$3,615	\$4,016	\$4,308	\$4,814
Total Debt/Capital	56%	56%	56%	55%	56%	56%	Enterprise Value	High	\$23,278	\$28,628	\$33,747	\$42,560	\$46,246	\$41,564	\$46,893					
LT Debt/Equity	125%	107%	95%	97%	105%	105%	Low	20,403	23,919	28,705	34,926	30,165	35,505	40,178						
EBIT/Interest Expense	3.8x	3.0x	2.7x	3.0x	3.1x	3.1x	EV / EBITDA	High	8.6x	9.8x	9.9x	11.8x	11.5x	8.8x	9.7x					
Total Debt/EBIT	6.6x	6.6x	6.7x	5.8x	5.8x	5.8x	Low	7.5x	8.2x	7.9x	9.7x	7.5x	8.2x	8.3x						
							Close	8.5x	8.9x	9.8x	11.2x	10.4x	9.3x	9.4x						
Please refer to "Appendix - Important Disclosures" and Analyst Certification.																				

Please refer to "Appendix - Important Disclosures" and Analyst Certification.

Appendix - Important Disclosures and Analyst Certification



1 Baird maintains a trading market in the securities of FPL.

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