

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

PETITION FOR INCREASE IN
RATES BY PROGRESS ENERGY
FLORIDA, INC.

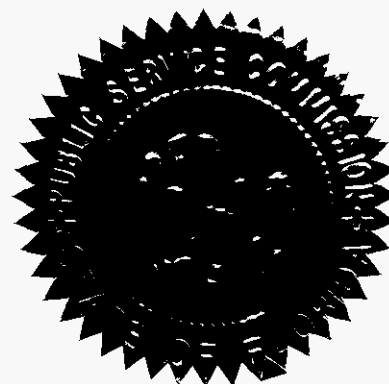
DOCKET NO. 090079-EI

PETITION FOR LIMITED PROCEEDING
TO INCLUDE BARTOW REPOWERING
PROJECT IN BASE RATES, BY
PROGRESS ENERGY FLORIDA, INC.

DOCKET NO. 090144-EI

PETITION FOR EXPEDITED APPROVAL
OF THE DEFERRAL OF PENSION
EXPENSES, AUTHORIZATION TO
CHARGE STORM HARDENING EXPENSES
TO THE STORM DAMAGE RESERVE, AND
VARIANCE FROM OR WAIVER OF
RULE 25-6.0143(1)(C), (D), AND
(F), F.A.C., BY PROGRESS ENERGY
FLORIDA, INC.

DOCKET NO. 090145-EU



VOLUME 7

Pages 748 through 936

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THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, September 22, 2009

TIME: Recommended at 9:30 a.m.
Recessed at 8:25 p.m.

DOCUMENT NUMBER - DATE
09949 SEP 25 08

FPSC-COMMISSION CLERK

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

REPORTED BY: MARY ALLEN NEEL, RPR, FPR

PARTICIPATING: (As heretofore stated.)

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P R O C E E D I N G S

(Transcript continues in sequence from
Volume 7.)

Thereupon,

JACKIE JOYNER, JR.

a witness on behalf of Progress Energy Florida, Inc.,
continues his sworn testimony as follows:

CROSS-EXAMINATION

BY MR. MOYLE:

Q. Okay. We were giving the court reporters a
little chance to change.

A. Okay. I thought you were just listening,
trying to --

Q. Both.

A. To my question, my answer there.

Q. And I appreciate the --

A. I hope that made sense, because seriously, it
does matter a lot of times. A lot of variables come
into play.

Q. I understand that. And I'm trying to focus
you just on the matters for which you have
responsibility.

A. Exactly.

Q. And by focusing on that, let's just talk about
the Fay analysis that you did. If you looked at the Fay

1 analysis, I think you've already indicated that you
2 would assume that the damage would be less in a similar
3 storm event, given your efforts in storm hardening and
4 vegetative management; correct?

5 A. Well, in that one instance, yes. But, now,
6 whether I could use that one sample and use that for the
7 entire population, that would be in question, but
8 intuitively, yes, you would think that.

9 MR. MOYLE: Thank you. That's all I have.

10 CHAIRMAN CARTER: Thank you, Mr. Moyle.

11 Ms. Van Dyke.

12 MS. VAN DYKE: No questions.

13 CHAIRMAN CARTER: Thank you. Staff.

14 MR. YOUNG: Mr. Chairman, in lieu of cross,
15 the parties have agreed that Items Number 29 on Staff's
16 Comprehensive Exhibit List, Item Number 30, and Item
17 Number 31 can be entered into the record without
18 objection.

19 Also, Mr. Chairman, during the break we handed
20 out what we will be labeling, and we ask that it be
21 admitted as an exhibit. It's PEF Customer Service
22 Hearing Report, and it was dated September 4, 2009. And
23 we handed this out during the course of the break.

24 CHAIRMAN CARTER: Hang on one second.

25 Okay. That will be 270.

1 MR. YOUNG: Yes, sir. The short title will be
2 PEF Customer Service Hearing Reports.

3 (Exhibit Number 270 was marked for
4 identification.)

5 CHAIRMAN CARTER: Now, let me go back for a
6 second on the matter that staff had just mentioned, the
7 items that are on the Comprehensive Exhibit List.
8 Mention those again, because I want to make sure that
9 we're all on the same page and there's no objections so
10 they can be admitted.

11 MR. YOUNG: Yes, sir. That's Item Number 29,
12 Number 30, and 31 on the Staff's Comprehensive -- on the
13 Comprehensive Exhibit List. Excuse me.

14 CHAIRMAN CARTER: Any objection of the
15 parties? Without objection, show it done.

16 (Exhibits Number 29, 30, and 31 were admitted
17 into the record.)

18 CHAIRMAN CARTER: Mr. Young, you may proceed.

19 MR. YOUNG: And Item Number 270, the parties
20 have agreed that it can be admitted without objection.
21 And this is in lieu of cross.

22 CHAIRMAN CARTER: No objection from the
23 parties?

24 MR. BURNETT: No.

25 CHAIRMAN CARTER: Okay. 270 is in. Thank

1 you.

2 (Exhibit Number 270 was admitted into the
3 record.)

4 MR. YOUNG: Thank you, Mr. Chairman.

5 CHAIRMAN CARTER: Thank you. Anything further
6 for this witness?

7 MR. BURNETT: Yes, sir. I have some redirect.

8 CHAIRMAN CARTER: You're recognized.
9 Exhibits?

10 MR. BURNETT: I have some redirect, sir.

11 CHAIRMAN CARTER: Redirect?

12 MR. BURNETT: Yes, sir.

13 CHAIRMAN CARTER: Oh, wow. I almost had you.
14 Mr. Burnett. I think what threw me was when we started
15 doing exhibits. I get it on my mind.

16 MR. BURNETT: Thank you, sir.

17 REDIRECT EXAMINATION

18 BY MR. BURNETT:

19 Q. Mr. Joyner, do you recall Mr. Moyle asking you
20 some questions about a hypothetical ten-year trim cycle,
21 and then he asked you questions whether it would be fair
22 under that hypothetical cycle for someone to not do any
23 trimming at all in the first nine years and wait and do
24 it all in the last year? Do you recall that line of
25 questioning?

1 A. I do, and in this case, whether you did
2 trimming at all, I may have misunderstood that. The
3 answer to that is that would not be that prudent at all.

4 Q. Okay. Well, I want to talk to you about your
5 real-life five-year trim cycle that is mandated by the
6 storm hardening rule. Has PEF waited and done no
7 vegetation management at all in years 1, 2, 3, and 4,
8 and has instead waited to do it all in year 5 in real
9 life?

10 A. No. Based on my rebuttal testimony, you'll
11 notice that we've actually over those last four or five
12 years spent 20 or 25 million over -- 20 to 25 million
13 more dollars than we did previous to '05 in support of
14 the storm hardening initiative.

15 Q. Yes, sir. And Mr. Moyle also asked you some
16 questions about the fairness of including certain
17 distribution expenses in a rate case test year. Do you
18 recall that?

19 A. I do.

20 Q. Do you address any concerns that the
21 intervenors in this case have raised about distribution
22 expenses in the test years in your rebuttal testimony?

23 MR. MOYLE: I'm going to object to that, and I
24 think we're doing rebuttal separately.

25 COMMISSIONER EDGAR: That is my understanding,

1 unfortunately. I urge to try to get them together more,
2 but I have thus far been unsuccessful. And regardless,
3 yes, we are on direct, and, yes, it is my understanding
4 that this witness will be back with us on rebuttal later
5 in this proceeding, but I'm not sure what your objection
6 is.

7 MR. MOYLE: Well, I guess my objection is to
8 the extent he's saying, you know, basically, tell us
9 what you said in your rebuttal, you know, then I would
10 think that would be inappropriate. We ought to wait for
11 his rebuttal before we get there. Otherwise, then maybe
12 we'll have, you know, redirect on that.

13 COMMISSIONER EDGAR: Otherwise, we could have
14 done it together.

15 MR. BURNETT: Madam Chair?

16 COMMISSIONER EDGAR: Yes.

17 MR. BURNETT: I couldn't agree more. That was
18 my only question, is whether those issues will be taken
19 up at that time. I have no questions after that one.

20 MR. MOYLE: Well, then I jumped the gun,
21 because I thought it was going to --

22 COMMISSIONER EDGAR: It sounds to me like we
23 have a meeting of the minds.

24 Mr. Burnett, you are finished with your
25 redirect?

1 MR. BURNETT: Yes, ma'am.

2 COMMISSIONER EDGAR: Okay. You have exhibits,
3 I believe.

4 MR. BURNETT: Yes, ma'am, 64 and 66 -- through
5 66.

6 COMMISSIONER EDGAR: Okay. Hearing no
7 objection, Exhibits 64, 65, and 66 are admitted into the
8 record at this time.

9 (Exhibits Number 64, 65, and 66 were admitted
10 into the record.)

11 COMMISSIONER EDGAR: Thank you. You are
12 excused. We will see you back on rebuttal.

13 THE WITNESS: Thank you.

14 COMMISSIONER EDGAR: Thank you. And we'll let
15 the witness gather his stuff, and then we will move on.
16 And then, Progress, it will be your next witness.

17 MS. TRIPLETT: Thank you, Madam Chair. PEF
18 calls Willette Morman.

19 Thereupon,

20 WILLETTE MORMAN
21 was called as a witness on behalf of Progress Energy
22 Florida, Inc. and, having been first duly sworn, was
23 examined and testified as follows:

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DIRECT EXAMINATION.

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BY MS. TRIPLETT:

Q. Mr. Morman, have you been sworn?

A. I have.

Q. Would you please introduce yourself to the Commission and provide your address?

A. My name is Willette Morman. I am the General Manager of Customer Service for Progress Energy Florida. My business address is 5225 Tech Data Drive, Clearwater, Florida.

Q. Thank you. And have you filed prefiled direct testimony in this proceeding?

A. I have.

Q. And do you have that prefiled direct testimony with you?

A. I do.

Q. And do you have any changes to make to that testimony?

A. Only one change, and that's to my title. The testimony has director. My title is general manager.

Q. Now, with that change, if I asked you the same questions in your prefiled direct testimony today, would you give the same answers that are in your prefiled testimony?

A. I would.

1 MS. TRIPLETT: Madam Chair, we would request
2 that the prefiled direct testimony be entered into the
3 record as if it were read today.

4 COMMISSIONER EDGAR: The prefiled testimony of
5 this witness will be entered into the record as though
6 read.

7 MS. TRIPLETT: Thank you.
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In re: Petition for rate increase by Progress Energy Florida, Inc.

Docket No. 090079

DIRECT TESTIMONY OF

WILLETTE MORMAN

1 **I. Introduction.**

2 **Q. Please state your name, position, and business address.**

3 A. My name is Willette Morman. I am the Director of Customer Service for Progress
4 Energy Florida ("PEF" or the "Company"). My business address is 5225 Tech Data
5 Drive, Clearwater, Florida 33760.

6

7 **Q. What are your duties and responsibilities?**

8 A. I am responsible for serving Progress Energy Florida's 1.6 M customers in the areas
9 of customer billing, collections of revenue, call center operations, web applications,
10 voice response unit systems, and payment operations.

11

12 **Q. Please describe your educational background and work expertise?**

13 A. I have over 28 years experience with Progress Energy in Customer Service
14 including work as a project analyst, supervisor, and as manager of Call Services. I
15 began my career at Progress Energy as a clerk in a field office and from there
16 transitioned to a Customer Service Associate position in the pilot of the centralized
17 customer service center. Among other assignments, I also served as a Training
18 Analyst for Employee Development, as Project Analyst to centralize customer
19 service functions for Carolina Power & Light Company ("CP&L), as well as Project
20 Analyst in support of the Customer Service Integration Project for the North

1 Carolina Natural Gas Company acquisition and the Customer Service Integration
2 Project for the acquisition of Florida Progress. I have a bachelor's degree from
3 North Carolina Wesleyan College.
4

5 **II. Purpose and Summary of Testimony.**

6 **Q. What is the purpose of your testimony?**

7 A. I appear on behalf of Progress Energy Florida to discuss the Company's strategy for
8 continuing to provide and enhance customer service and to support the
9 reasonableness of expenses in that area.
10

11 **Q. What schedules in Progress Energy Florida's MFR's do you sponsor?**

12 A. I sponsor or co-sponsor schedules B-7, B-8, B-9, B-10, C-6, C-9, C-11, C-12, C-15,
13 C-33 through C-39, and C-41 insofar as they relate to customer accounts and
14 customer services. These schedules are true and correct, subject to being updated in
15 the course of this proceeding.
16

17 **Q. Please summarize your testimony.**

18 A. The Company is dedicated to anticipating and meeting the needs of its customers by
19 effectively utilizing technology and customer service associates to improve
20 responsiveness and customer satisfaction. We are aware that our customers are
21 increasingly demanding greater convenience and more accessibility, which we are
22 providing through Web-based services, electronic billing, Voice Response Unit
23 ("VRU") operations, and prompt customer service response. We believe the

1 initiatives we are budgeting will enable us to provide the type of service that our
2 customers expect and have grown accustomed to.

3 PEF has been successful in providing excellent customer service in a cost-
4 effective manner. It has implemented several programs that result in cost-savings to
5 its customers. PEF's budgeted operation and maintenance ("O&M") expenses for
6 2010 are below the Commission benchmark for customer service and are
7 reasonable.

8
9 **III. Customer Accounts.**

10 **Q. Please provide an overview of expenses for Customer Accounts, Customer**
11 **Service, and Information and Sales Expenses.**

12 A. We are forecasting to spend \$58.3M O&M in 2010 for Customer Accounts,
13 Customer Service, and Information and Sales Expenses. Our 2010 budget amount is
14 expected to be \$5.9M below the O&M benchmark amount of \$64.2M. The budget
15 includes labor costs and other costs of operating our Customer Service System
16 (CSS), including the initiatives that I will describe below.

17
18 **Q. What improvements have you implemented to minimize costs and increase**
19 **services provided to your customers?**

20 A. We have implemented a number of initiatives that have better enabled PEF to
21 anticipate and fulfill evolving customer expectations. For example, we have
22 installed the "Bill Analysis tool" that enables our customer service representatives
23 to resolve billing inquiries during the initial customer contact. This allows the

1 representative to analyze the customer's bill on the spot and to compare it directly
2 with recorded temperatures for the customer's specific service location.

3 A new web application, the Bill Analysis Tool, is now also available to
4 customers. After logging into a secure website, customers can compare usage and
5 billing to previous months, or the same month in a previous year. Items such as
6 number of days in the billing period, average daily kwh usage, and average daily
7 temperatures are listed. The Bill Analysis Tool helps customers manage their
8 energy costs.

9 In addition, new applications are available on the internet to allow our
10 customers to complete service requests online. After logging into a secure website,
11 customers can request to stop or start their service. This application is now fully
12 integrated with CSS.

13 PEF also continually reviews work processes to look for efficiencies. Under
14 this initiative, projects such as "One Call Resolution" were initiated. As we know
15 from customer feedback, one call resolution plays a big part in customer
16 satisfaction. Through our "One Call Resolution" program, we strive to resolve
17 customer calls upon the first contact, thereby avoiding the need for call backs.
18 Customers are surveyed by an outside company to determine if their concern was
19 resolved with one contact to customer service. The One Call Resolution percentage
20 represents those customers that answered yes when surveyed by the outside
21 company. Through the "One Call Resolution" program we have partnered with
22 field services to ensure that all of the necessary information is listed on the work
23 request. Having all necessary information on the work request reduces the chance

1 that a second call is needed. Our "One Call Resolution" scores have remained
2 consistently high year after year. In 2005 our score was 83% followed by 81% in
3 2006, 83% in 2007, and 84% in 2008. PA Consulting benchmarking information
4 completed in 2006 and 2007 ranked PEF 2nd quartile compared to other electric
5 utilities for One Call Resolution.

6
7 **Q. What new technologies have you implemented to minimize costs and increase**
8 **services provided to your customers?**

9 A. We have implemented several new technologies in the area of customer service.
10 The Company completed improvements to the current VRU (Voice Response Unit)
11 system so that customers can speak their answers to stop their electrical service or
12 start their electrical service when calling into customer service. Examples of these
13 enhancements included streamlining the option menu and re-recording the voice to
14 provide a better customer experience. The technology reduces wait times, but the
15 customer always has the option to speak to an associate. The stop service was
16 implemented in April 2008 and the start service was implemented in August 2008.

17 Outbound dialing has been used to increase communication with customers
18 and inform them of the status or completion of their request. Outbound dialing is
19 being used to call customers back and inform them that their service is activated.
20 Outbound dialing is also used to inform customers with the latest information on
21 outages in their area.

22 In October 2007, Progress Energy implemented a robust new outage
23 communications tool, "Online Outage Maps." Online Outage Maps provide

1 customers, community leaders, media and employees with the latest data on
2 electrical outages. This solution offers easy-to-use navigation, 24/7 outage
3 information, and employs technology integrating the Company's own outage system
4 with customer-intuitive features of Microsoft Virtual Earth. This tool benefits
5 customers and others by providing current information regarding outages and
6 expected restoration times.

7 In October of 2006, Progress Energy installed a process called "Queue
8 Optimization." This system is currently configured to offer the customer the
9 option of reserving their place in line and receiving a proactive callback from
10 Progress Energy when the calculated wait time is three minutes or greater. The
11 customer can elect to receive a call back, or can simply hold on the line and their
12 call will be served in the order it was received. The advantage from a customer
13 perspective is that they are not placed in a position of waiting for their call to be
14 answered during peak calling periods. The customer can go about their lives with
15 the knowledge that their place in line is reserved and a call back is planned.

16
17 **Q. Does the Company plan to continue making technological improvements to its**
18 **customer service program in the future?**

19 **A.** Yes. Although we have accomplished quite a bit over the last couple of years to
20 improve service to our customers, we are committed to continuous improvement.
21 We will continue to leverage and improve our use of technology. In the near future,
22 we plan to enable customers to report outages online, and later to enable customers
23 to access customer-specific estimates of when power will be restored to their home

1 or business. The current Company website will also be redesigned. By redesigning
2 the website, we will enhance external communications with customers. The
3 redesigned website will provide a clean, fresh design that features an easy-to-use
4 interface for customers. A review of new media technologies including videos,
5 podcasts, discussion forums and interactive features is under way.

6
7 **Q. Has the Company taken any other steps to improve customer service?**

8 A. Yes, to provide greater convenience and more accessibility to our customers, we
9 have increased the number of locations where payments can be made. In 2005 we
10 had 211 paystations available for our customers. As of November 2008, this
11 number has more than doubled to 426 paystations. Of the 426 paystations, 91
12 paystations do not charge a fee to the customer. The remaining paystations only
13 charge a \$1.00 fee to the customer. No part of this dollar fee goes to Progress
14 Energy.

15
16 **Q. What does Progress Energy Florida do to monitor customer satisfaction levels?**

17 A. PEF closely monitors customer satisfaction levels to ensure we are meeting the
18 needs of our customers. We use a variety of methods to gather satisfaction levels
19 such as: "Fastrack," "Customer Perception Tracker," executive office complaints,
20 focus groups, Florida Public Service Commission ("Commission") complaint data,
21 and external benchmarking. "Fastrack" interviews approximately 10,000 PEF
22 customers per year in reference to their satisfaction with a service experience they
23 had completed in the last one to two weeks. "Customer Perception Tracker"

1 interviews approximately 3,000 PEF customers per year in reference to their overall
2 perception of the Company and the service it provides.

3 PEF measures the performance of Customer Service Center associates
4 through call monitoring. The BCL (Building Customer Loyalty) initiative expands
5 our monitoring process to focus on key behaviors to maximize customer
6 satisfaction. Examples of key behaviors include using courtesy words and phrases,
7 acknowledging the customer, summarizing and closing the call. BCL enables
8 employees to fully understand how their behavior impacts unit, department, group,
9 and organizational goals.

10 A new feature of the quality monitoring software was installed during the
11 second quarter of 2008. The new feature, "Call Analytics," allows Progress Energy
12 to search for words or phrases used during a call. The calls can be analyzed to
13 understand customer inquiries thus providing opportunities to better respond to
14 future needs. "Call Analytics" is also used to provide training and coaching to
15 associates regarding how to be effective, efficient, and to optimize the customer
16 experience.

17 In addition to the "Call Analytics" software installation, PEF completed an
18 upgrade during the second quarter of 2008 which, among other things, allows it to
19 incorporate the monitoring feedback form into the software. The monitoring
20 feedback form scores the associates call and is reviewed with the associate to coach
21 and develop the associate on their strengths and areas for improvement. Previously,
22 two separate systems were used. One system would capture and record the call and
23 the second system was used to score the call. By combining the two systems

1 productivity has significantly increased. The quality of feedback also improved
2 with the use of the quick notes feature, which explains not only what was missed in
3 monitoring but why it is important to our business and customers.

4
5 **Q. Does Progress Energy Florida use any external measures to monitor customer**
6 **satisfaction levels?**

7 A. Yes, Progress Energy participates in external benchmarking to ensure we are
8 aware of the latest best practices and to learn from other electric utilities. The
9 benchmarking results are also used to gauge how well we are performing compared
10 to other electric utilities. For example, J. D. Powers Residential has ranked PEF 1st
11 or 2nd Quartile nationally in overall customer satisfaction for the past 6 years. In the
12 most recent J.D. Power & Associates survey of business customers, PEF placed
13 eighth out of 24 utilities in the South Region and ahead of Tampa Electric Company
14 and Florida Power & Light Company. Also, in its most recent, interim report on
15 residential customer satisfaction, PEF was rated seventh out of 13 Southeast utilities
16 and ahead of Tampa Electric Company and Florida Power & Light Company.

17 For other external benchmarking measures we use are Fastrack and the
18 Customer Experience Monitor, which are independent customer surveys.
19 Specifically, Fastrack measures customer satisfaction as it relates to a recent contact
20 with the Company. The Customer Experience Monitor measures overall perception
21 of the Company. In addition, focus groups have been conducted on an ad hoc basis
22 as another touch point with our customers. Commission data is also analyzed to
23 identify trends in customer issues. These methods enable PEF to quickly identify

1 customer issues through our root cause analysis process and identify action plans to
2 increase satisfaction.

3
4 **Q. Has Progress Energy Florida earned any other awards in the area of customer
5 service?**

6 A. Yes. In 2005 and 2006, Progress Energy received the prestigious Service One
7 Award from PA Consulting. The Service One Award recognizes utilities for
8 providing exceptional service to their customers. Progress Energy was also
9 nominated for the award in 2008. Progress Energy has also received the 2006
10 Edison Award from the Edison Electric Institute based on outstanding achievements
11 in operational performance, reliability, customer service, and environmental
12 stewardship.

13 In December 2005, Progress Energy was awarded the prestigious J.D.
14 Powers "Founders Award", which is presented by the founder of J. D. Power and
15 Associates. The award is presented to individuals or companies that demonstrate
16 dedication, commitment, and sustained improvement in serving customers. Only 14
17 other companies or individuals have received this award over the 37 year history of
18 J.D. Powers and Associates. Progress Energy is the only utility to ever receive this
19 award.

20
21 **Q. Are the Company's expenditures for customer service cost-effective and
22 reasonable?**

1 A. Certainly. We are very pleased with the success of our efforts in this area. We are
2 providing exceptional customer service and we are an industry leader in offering
3 automated technology. We have provided new self-service technologies, additional
4 customer options, implemented process efficiencies and focused on one call
5 resolution. Progress Energy strives to provide premier customer service at a
6 reasonable cost. This is evident by the forecast to spend \$5.9M below the 2010
7 O&M benchmark amount for customer account expenses. Cost containment is
8 being accomplished while outside companies such as J. D. Powers Residential has
9 ranked PEF 1st or 2nd Quartile nationally in overall customer satisfaction for the past
10 6 years.

11
12 **Q. Can you provide any examples of cost savings the Company has seen from its**
13 **various initiatives and programs?**

14 A. Yes. As explained above, the Company made enhancements to its Voice
15 Response Unit (VRU) system. Customers have enthusiastically responded to these
16 changes. In 2008, approximately 215,000 additional calls were contained in the
17 Voice Response Unit, reducing calls to agents over calls processed in 2007. This
18 reduction in call volume to customer service associates represents a savings of
19 approximately \$744,330.

20 Progress Energy has also focused on providing information electronically to
21 customers. An example is electronic billing. Progress Energy has approximately
22 188,000 customers on electronic billing. Not only does the program offer customers
23 the services they are requesting, the program saves approximately \$850,000 in

1 postage and materials expenses. These savings are offset by the annual cost to
2 administer the program, which is minimal.

3
4 **IV. Service Charge for Unauthorized Use Meter Tampering and Theft**

5 **Q. Is Progress Energy Florida proposing any changes to its tariff relating to**
6 **customer service?**

7 A. Yes, PEF is proposing a service charge for unauthorized use of electricity. The
8 specific amount for this service charge is set forth in detail in the testimony of Mr.
9 William Slusser. The charge is needed to offset the costs incurred by the Company
10 when it investigates and processes unauthorized use. Specifically, the Company's
11 revenue protection investigators must follow up on tips from field representatives
12 and anonymous phone calls to determine if unauthorized use of electricity is taking
13 place. When identifying unauthorized use of electricity, the investigators relay
14 essential information to the Call Center, and a customer service representative must
15 enter that information into CSS.

16 To handle unauthorized use, the Company incurs administrative labor,
17 clerical labor, field labor, and travel costs. The proposed service charge will
18 allocate these costs to the customers that bear responsibility for unauthorized use.

19
20 **Q. Does this conclude your testimony?**

21 A. Yes it does.
22
23

1 BY MS. TRIPLETT:

2 Q. Ms. Morman, do you have a summary of your
3 testimony?

4 A. I do.

5 Q. Would you please summarize your prefiled
6 direct testimony for the Commission?

7 A. I would. Good afternoon, Commissioners. As I
8 stated earlier, I am the General Manager of Customer
9 Service for Progress Energy Florida. In that role, I'm
10 responsible for serving Progress Energy's 1.6 million
11 customers in the area of customer billing, collection of
12 revenue, call center operations, Web applications, voice
13 response unit, and payment operations.

14 My testimony discusses the company strategy
15 for continuing to provide and enhance customer service
16 and to support the reasonableness of expenses in that
17 area. PEF is forecasting to spend \$58.3 million in O&M
18 in 2010 for customer accounts, customer service, and
19 information and sales expense. This amount is expected
20 to be \$5.9 million below the O&M benchmark of 64.2
21 million.

22 PEF closely monitors customer satisfaction
23 levels to ensure we are meeting the needs of our
24 customers. PEF has been successful in providing
25 excellent customer service in a cost-effective manner.

1 It has implemented several programs that resulted in
2 cost savings to customers.

3 That being said, PEF's budget, budgeted O&M
4 expenses for 2010 are below the Commission's benchmark
5 for customer service and are reasonable.

6 That concludes my summary, and I'm happy to
7 answer any questions that you may have.

8 MS. TRIPLETT: We tender the witness for
9 cross-examination.

10 CHAIRMAN CARTER: Mr. Rehwinkel.

11 MR. REHWINKEL: I have no questions for this
12 witness. Thank you.

13 CHAIRMAN CARTER: Ms. Bradley.

14 MS. BRADLEY: Thank you.

15 CROSS-EXAMINATION

16 BY MS. BRADLEY:

17 Q. There were a couple of questions that have
18 been punted to you from previous witnesses, so --

19 A. I heard.

20 Q. Okay. Good. Let's start with the -- we were
21 talking about the meter base protection that you install
22 or offer to install in some homes.

23 A. Yes. It's a surge protector, and we offer
24 that service in two stages. The first stage is the
25 protector that's at the meter base itself, and that

1 protects the customer's larger appliances,
2 refrigerators, ovens, washers and dryers, the 240
3 voltage appliances. Then there's a stage 2, which is
4 the plug-in device that protects the smaller appliances
5 that are power sensitive, such as televisions, CD
6 players, and such.

7 Q. Is there a charge for both of those services?

8 A. Yes, ma'am. There's an initial installation
9 charge for the surge protector at the base, and that is
10 a charge of \$45 to install that. And then there's a
11 monthly fee of 5.95, I believe, for the ongoing
12 protection with the device.

13 Now, for the plug-in devices for the smaller
14 appliances, there is a \$79 charge for that device.

15 Q. And how many of those are provided?

16 A. It's up to the customer. We'll provide as
17 many as the customer needs.

18 Q. Is it 79 per device?

19 A. That is correct. And each device can plug in
20 as much as six devices.

21 Q. And is there any ongoing fee, or is it just a
22 one-time \$79?

23 A. It's a one-time \$79.

24 Q. We talked about Mr. -- now I'm forgetting the
25 name already. Mr. Gollinger, if I'm pronouncing that

1 right, in Clearwater.

2 A. All right. I'll find that.

3 Q. I think it was on page 32 of your report.

4 A. Okay. I have it.

5 Q. You have it?

6 A. Uh-huh.

7 Q. Now, my understanding of the report was that
8 his claim was denied because he didn't have the
9 secondary --

10 A. The plug-in devices.

11 Q. Right. Is that correct?

12 A. That is correct.

13 Q. If he had had his own surge protectors
14 installed, would you have covered it then?

15 A. No, ma'am. We can't guarantee the quality of
16 the device if it's not purchased from us.

17 Q. On your customer billing, there were some
18 complaints. And I apologize. I meant to find the
19 lady's name, but she talked about -- actually, I think
20 there were a couple of ladies that testified at the
21 customer service hearings that said they had a problem
22 with the date that they were having to pay. They had
23 some problems with their Social Security check or
24 something coming in after that and were requesting that
25 their pay date be changed. And it looks like the

1 response to that was that's determined by the day your
2 meter is read.

3 A. That is partially correct. We also have a
4 program that's called the bill extender, and if you're a
5 customer that's on a fixed income, a senior citizen, the
6 example you gave, on Social Security, we will extend
7 their bill out nine additional days. But, of course,
8 they would have to contact us, and we would be willing
9 to work with them on it.

10 Q. Is there some reason that that wasn't
11 mentioned in the response that you provided on those?

12 A. Can you tell me which hearing that was at?

13 Q. I was afraid you were going to ask that. Let
14 me see if I can look through real quick and find one of
15 them.

16 One of them was in -- it was Ms. Johnson. Let
17 me see if I can look back and see. New Port Richey.

18 A. Okay. Thank you.

19 I would need to get some additional data on
20 Ms. Johnson. It doesn't state here whether or not she
21 was a senior citizen on Social Security, so I would need
22 to follow back up with you on that. That would be one
23 of the qualifiers for that program.

24 Q. If somebody else doesn't apply for Social
25 Security, but is on -- is just having a hard time paying

1 and maybe only gets paid on a certain date or something,
2 would you have any similar program to offer them?

3 A. What we would do in that case -- Ms. Bradley,
4 is it?

5 Q. Yes.

6 A. What we could do in that case is, we would
7 offer that customer an extension, some additional time
8 in which to pay their bill. Currently, for example, we
9 offer about 100,000 bill extensions every month to our
10 customers. So we're willing to work with our customers
11 if they have a special situation like that.

12 Q. Is that something that's done on a one-time
13 basis, or is that something that they can put it place
14 because they know that their check only comes in on a
15 certain date, and it can be done indefinitely?

16 A. Well, in that particular case, our associates
17 would offer a combination of services to that customer.
18 We would offer to put them on budget billing, which will
19 help them to budget exactly what their expenses are
20 going to be each month. We take an average of a 12
21 months bill, and we offer that as a payment for each
22 month. And then at that time, we would work with them
23 to give them an extension to get them back on track, and
24 then hopefully they could either pay a little bit
25 earlier to be punctual in paying their bill.

1 Q. Do you charge -- I'm sorry. Do you make your
2 customers pay a deposit if they're having a hard time
3 making their payments?

4 A. No, it's not based on whether or not they're
5 having a hard time, no, ma'am.

6 Q. Well, do you charge deposits to some
7 customers?

8 A. Any customer that applies for service with us,
9 we do a credit check with Experion, and if they fail the
10 credit check, we are required to secure their account.

11 Q. What do you mean, if they fail the credit
12 check?

13 A. Well, Experion has established a -- I've lost
14 my train of thought right now, but there are certain
15 qualifications as far as credit that is required in
16 order to -- say a customer is a good-paying customer.
17 There's no risk involved in giving them electrical
18 service without securing the account.

19 Q. So if a person has a lower income or is on a
20 fixed income, are they more likely to --

21 A. It's not based on income. It's based on
22 payment history. For example, my grandmother is on
23 fixed income, Social Security. She pays her bills when
24 they come in the door, so she would be a person that I
25 would assume would have good credit, and we would

1 subsequently waive her deposit. So it has nothing to do
2 with income.

3 Q. Would you agree, though, that this can have
4 more of an impact on lower income people if they're
5 having trouble meeting their bills?

6 A. I just gave you an example of someone that was
7 on lower income, so, no, I would not make that
8 assumption.

9 Q. Would you agree that if somebody is having
10 trouble paying their bills, that having to pay a deposit
11 just to get your service would have an additional impact
12 on them?

13 A. Well, Ms. Bradley, we care about our
14 customers, but my responsibility is to make sure that
15 I'm being consistent in all practices and treating all
16 ratepayers fairly. So if I am charging a deposit to
17 someone who has extended income based on their credit,
18 then I would charge a deposit to someone who was not
19 meeting the credit requirements, yes, ma'am. Income is
20 not -- we don't use income to base that decision on.

21 Q. You mentioned that a little while ago, but
22 would you agree, though, that a person who has a lower
23 income and is having a hard time meeting their bills and
24 is required to pay a deposit, that would have even more
25 of an impact on that person?

1 A. No, I would not agree to that.

2 And if I could, if they cannot pay the
3 deposit, there are other ways to secure accounts. They
4 can have someone who does have excellent credit with us
5 sign for them as a co-signer and guarantee the account.
6 So there are options.

7 Q. So it's your testimony that if somebody is
8 late with a payment, that you don't charge a deposit,
9 require a deposit?

10 A. No, ma'am, not unless they're moving. But if
11 they're staying at the same residence, we do not.

12 Q. Is there a late payment charge?

13 A. If they do not pay their bills by -- we mail
14 the bills out, and they have 20 days in which to pay the
15 bills. We give them 10 additional days to pay, and if
16 it's not paid, yes, there is a late fee.

17 Q. Does that increase if it happens more than
18 once?

19 A. No, ma'am.

20 Q. If somebody already has a deposit with you and
21 they're late making a payment, do you increase the
22 deposit?

23 A. No, ma'am.

24 Q. You said in your testimony, you talked about
25 that people that are calling in using your automated

1 system can always talk to an associate.

2 A. That is correct. They always have the
3 option --

4 Q. How do they do that?

5 A. They can press zero, and that will send them
6 to a customer service associate.

7 Q. So if they hit zero at any time during the
8 call --

9 A. That is correct.

10 Q. All right. You mentioned something about an
11 outbound dialing which you use to inform customers with
12 the latest information on outages in their area; is that
13 correct?

14 A. That is correct.

15 Q. Is that via the telephone?

16 A. Yes, ma'am.

17 Q. Well, if they don't have any electricity and
18 their phone is not working, I'm having a hard time
19 seeing how that's going to reach them.

20 A. Well, we have a three-tiered layer of phone
21 numbers that we can reach a customer at, and what we're
22 finding is the majority of our customers have cell
23 phones, so we have access to their home phone and their
24 cell phone. So if they've provided a cell phone number,
25 we can call them on their cell phone.

1 Q. And if they don't have a cell phone, it's not
2 going to be a benefit to them; correct?

3 A. Potentially.

4 Q. And that would also be true of the -- I forget
5 what you call it, but your new system where you have
6 maps. I guess those are electronic maps.

7 A. Those are outage maps. That would be via the
8 Web. So, yes, if customers have access to the Internet,
9 then they can go to the website and look at our outage
10 maps and get the latest data on the outages in their
11 area down to the street level. We can provide that
12 information down to the street level.

13 Q. But again, that would not be available to
14 those that have an outage and are unable to get on the
15 Internet; correct?

16 A. Well, Ms. Bradley, what our customers have
17 asked us for are options, so we are providing options to
18 our customers. So they have the option of contacting us
19 by phone, by Web, by mail, or even by fax, for that
20 matter. So in a situation with an outage, of course,
21 that's not available to every customer, just to
22 customers with the Internet access.

23 Q. Right.

24 A. But, of course, then we would reach the others
25 by phone if we could.

1 MS. BRADLEY: No further questions.

2 CHAIRMAN CARTER: Thank you, Ms. Bradley.

3 Mr. Moyle.

4 MR. MOYLE: I have a few, Mr. Chairman.

5 CROSS-EXAMINATION

6 BY MR. MOYLE:

7 Q. Ms. Morman, good afternoon.

8 A. How are you, sir?

9 Q. Good. Within the areas for which you have
10 responsibility, in 2009, has there been any
11 belt-tightening done in such a way that the budgets have
12 been reduced?

13 A. As I mentioned earlier, we're coming in
14 \$5.9 million under the benchmark that the Commission has
15 given us for '010. As far as '09, every year we look
16 for opportunities to do process improvements, to utilize
17 our technology, and we charge every employee with
18 looking for ways that we can reduce our costs.

19 For instance, '09 is a question you had. Our
20 voice response unit, we've taken the utilization from
21 36 percent to 46 percent, and that has equated to over
22 \$700,000 in savings to our customers. Of course, the
23 technology is a lower cost channel than speaking to an
24 associate.

25 If I could, also, our e-bill, I mentioned

1 customers can reach us by the Web. We have quite a few
2 customers who would like to get their bill via the Web,
3 with an e-mail, e-bill. And that also has -- we have
4 realized substantial savings there, over \$800,000
5 savings.

6 Q. And those are the numbers referenced on page
7 12 of your testimony, the \$744,000 found on line 19 and
8 then the 850,000 found on line 23 at page 12; is that
9 right?

10 A. That is correct.

11 Q. Okay. And did this money flow back to
12 ratepayers? Do you know? These savings, did ratepayers
13 enjoy any of these savings?

14 A. Yes. We were able to reduce our O&M budget
15 because of these savings.

16 Q. Okay. So back to my original question. With
17 respect to 2009, your budget, during the course of the
18 -- I'm sorry, 2008. Let's talk about 2008. Were there
19 any reductions from your actual budget? Were there any
20 reductions during the operational course of the year
21 where belt-tightening was done and that budget came down
22 2 percent, 10 percent?

23 A. Yes. If I could, I have a document here where
24 I could quote the actual numbers.

25 Q. Okay. And just so we're clear, I'm talking

1 just overall, the bottom line on the budget.

2 A. Yes. Did you want the bottom line?

3 Q. Yes, yes.

4 A. Okay. I thought I had the '08 budget here. I
5 just have the actuals. I'll be glad to get that
6 information for you.

7 Q. Okay. And the same question with respect to
8 '09?

9 A. Yes, sir. I can share with you that over the
10 last six years in customer service, our budget has
11 remained relatively flat, and that's taking into
12 consideration escalations for pension and merits.

13 Q. Yes, ma'am. And with respect to your budget
14 for the test year, how does the budget for the test year
15 compare to 2009?

16 A. The test year would be '06; is that correct?

17 Q. No, 2010.

18 A. All right. Could you repeat the question,
19 please?

20 Q. Sure. I'm just trying to get an understanding
21 with respect to the expenditures within your area to try
22 to understand how the 2010 budget, which is the test
23 year that you guys are seeking rates on, how that looks
24 in comparison to the 2009 budget, the bottom line number
25 on it.

1 A. Okay. What I see here is an increase in 2010,
2 bottom line, of about \$100,000.

3 Q. So then, just so I'm clear, with respect to --
4 on page 4 of your testimony, you say you're forecasting
5 58.3 million for O&M in 2010 for customer accounts,
6 customer service, and information and sales expense.
7 That's on line 12.

8 A. Yes, sir.

9 Q. And so the number that you would testify to as
10 to your budget for 2009 would be 58.2; is that right?

11 A. If you would, just give me a moment.

12 Q. Sure.

13 A. I'm getting a total here of 55.3 for '09.
14 That's 51.4 for customer account expense, 2.4 for
15 customer service, and 1.5 for sales expense.

16 Q. Okay. So the 55.3, based on your total, is
17 about a \$3 million increase; correct?

18 A. That is correct.

19 Q. And the -- do you have information as to why
20 that \$3 million increase is needed?

21 A. Primarily due to our uncollectibles. And, of
22 course, the economy is driving that. The other increase
23 is due to labor and postage and material.

24 Q. Okay. Let me ask you a little bit about the
25 uncollectibles. Do you all -- to collect bills that are

1 late or not paid, do you do that internally, or do you
2 contract out to third parties to collect --

3 A. Both.

4 Q. -- past due bills?

5 A. Both.

6 Q. And the difference would be the period of
7 time? After a long period of time, you contract that
8 out to third parties?

9 A. That is correct.

10 Q. We talked about the savings. I think I
11 understand that. And the benchmark, a lot of witnesses
12 have been asked questions about the PSC benchmark
13 number. I would be correct in assuming that your unit
14 does not necessarily manage to the PSC benchmark number;
15 correct?

16 A. That would be absolutely correct.

17 Q. You manage to --

18 A. To the customer needs and what it takes to run
19 our business.

20 Q. All right. And Ms. Bradley asked you some
21 questions about customer deposits.

22 A. Yes, sir.

23 Q. Are customer deposits with respect to credit
24 -- you do credit scores?

25 A. Uh-huh.

1 Q. Are those decisions as to how much to ask or
2 what credit score a person needs to receive in order to
3 determine a deposit amount, is that a decision that the
4 company makes or that the Commission makes?

5 A. As far as the credit score is concerned? That
6 decision is made by the company and the third-party
7 vendor, Experion.

8 Q. Okay. So with respect to somebody having a
9 certain credit score and how much deposit would be
10 required, those are all decisions that are internal to
11 the company; correct?

12 A. Well, as far as the deposit amount, we do have
13 a tariff that tells us what we can charge as a deposit.
14 We charge twice an average monthly bill for a deposit at
15 that particular premise.

16 Q. Okay. And thank you for the clarification on
17 the --

18 A. Yes, sir.

19 Q. -- credit score component. I guess the other
20 questions that she asked you about, I have just a couple
21 of follow-up questions.

22 A. Sure.

23 Q. The program by which you install the surge
24 protection equipment, both on the larger appliances, the
25 refrigerators, and then, let's say, the smaller

1 appliances -- I think you said CDs and computers?

2 A. Televisions, yes.

3 Q. Okay. Are those programs regulated by the
4 Public Service Commission, if you know?

5 A. Those are unregulated.

6 Q. Those are unregulated --

7 A. That's correct.

8 Q. -- entities. And you sell the equipment to
9 them, or you lease it to them? How does that work?

10 A. I guess it can be considered a lease. But
11 actually, the surge protection device, if the customer
12 moves, we own the device. We would, of course, remove
13 the device and place it on another home if we could.

14 Q. So they would pay a one-time fee and a monthly
15 maintenance fee?

16 A. That is correct.

17 Q. But you keep ownership of the device?

18 A. That is correct.

19 Q. And do you recommend that? Does Progress
20 Energy Florida recommend that these pieces of equipment
21 be procured by your customers?

22 A. Do we recommend that our customers buy these
23 devices?

24 Q. Yes, ma'am.

25 A. I don't know if we've made a recommendation

1 one way or the other.

2 Q. Do you inform the customers of them in a bill
3 insert or somewhere?

4 A. Oh, yes. Yes. When customers call in and
5 inquire about those devices, our customer service
6 associates have a script that they go through that
7 explains everything about the device, what we're
8 responsible for, what the customers are responsible for.
9 And then once a device is installed, we also leave
10 written information with the customer with all the
11 details.

12 Q. And just so I'm clear, to the extent that
13 somebody has secured this device from you and they have
14 a surge event that damages either their refrigerator or
15 their computer, you would take appropriate action to
16 replace the device if you came to the conclusion that
17 the surge caused the problem?

18 A. Our claims department would investigate that,
19 and if we can determine, yes, that it falls within the
20 realm of what we're liable for under that device, I
21 would say we would.

22 Q. Presumably this business venture, this is
23 profitable; correct?

24 A. Yes, sir, it is.

25 Q. And finally, the only equipment that you all

1 will take action to investigate and possibly pay for as
2 it relates to surge is equipment that's procured from
3 the company, not from a third-party vendor; correct?

4 A. That is correct.

5 Q. Do you believe that the quality of service the
6 company provides is such that this equipment is needed?

7 A. Well, for instance, the surge device is needed
8 because we live in the lightning capital of the world, I
9 believe Florida is. I personally have the device on my
10 home because of that. So if a customer is willing to
11 make the investment to have that insurance, yes.

12 Q. But it's not an insurance product, is it? Do
13 you know?

14 A. No. I'm saying insurance from the piece of
15 mind.

16 MR. MOYLE: Okay. Thank you. That's all I
17 have.

18 CHAIRMAN CARTER: Thank you, Mr. Moyle.
19 Ms. Van Dyke.

20 MS. VAN DYKE: No questions.

21 CHAIRMAN CARTER: Jay.

22 MR. LAVIA: Thank you, Chairman. I have one
23 or two questions.

24 CHAIRMAN CARTER: You're recognized.

25 CROSS-EXAMINATION

1 BY MR. LAVIA:

2 Q. Good evening, Ms. Morman. How are you doing?

3 A. How are you, sir?

4 Q. Good. I represent the Retail Federation. My
5 name is Jay LaVia. It might just be one question.

6 A. Okay.

7 Q. Did you attend the customer service hearings
8 in this docket?

9 A. I attended three out of the ten hearings.

10 Q. Which three?

11 A. Clearwater, St. Pete, and the one here in
12 Tallahassee.

13 Q. Were you briefed with regard to the other
14 hearings?

15 A. Yes. I had key leaders from my organization
16 attend the other seven hearings, and I was debriefed
17 every night after the hearings. We also had customer
18 service associates there on-site at each hearing to
19 provide the customers real-time feedback and answers to
20 any questions that they may have had.

21 MR. LAVIA: Thank you. Those are all my
22 questions.

23 CHAIRMAN CARTER: Staff, you're recognized.

24 MR. SAYLER: Good evening, Ms. Morman. My
25 name is Erik Sayler on behalf of the Commission legal

1 staff. We have no questions this evening for you. And
2 also, Mr. Chairman, there are no exhibits either
3 associated with Mrs. Morman from Staff's Composite
4 Exhibit List.

5 CHAIRMAN CARTER: From the bench?
6 Commissioner Skop.

7 COMMISSIONER SKOP: Thank you, Mr. Chair.
8 Good afternoon, Ms. Morman.

9 THE WITNESS: How are you?

10 COMMISSIONER SKOP: Fine. Turn your attention
11 to page 13 of your prefiled testimony, please.

12 THE WITNESS: Excuse me. I don't think I'm
13 contagious. I don't have the flu. Page 13, did you
14 say?

15 CHAIRMAN CARTER: You need to get you a mask.

16 COMMISSIONER SKOP: Yes, ma'am.

17 THE WITNESS: Yes, sir. I'm there.

18 COMMISSIONER SKOP: And then specifically
19 beginning on line 9 and ending on line 10, where they
20 speak to the new charge to offset the costs incurred by
21 the company related to unauthorized use. And is the --
22 I guess on line 10, it states "investigates and
23 processes unauthorized use." Is that correct, or should
24 it be --

25 THE WITNESS: That is correct.

1 COMMISSIONER SKOP: Okay. What does that
2 entail in terms of processing? I mean, does Progress
3 also seek to prosecute unauthorized use for those --

4 THE WITNESS: On limited cases we do, but that
5 also includes any clerical work that has to take place
6 after we've identified unauthorized use. And that also
7 includes the investigator's time and entering all that
8 data into our system.

9 COMMISSIONER SKOP: Okay. So it's mainly
10 finding unauthorized use and stopping it as opposed to
11 seeking other legal remedies?

12 THE WITNESS: That's correct, and also setting
13 up billing for further charges.

14 COMMISSIONER SKOP: Okay. And on lines 5 and
15 6 of that same page, do you see that?

16 THE WITNESS: Yes. It's the question?

17 COMMISSIONER SKOP: Yes, ma'am.

18 THE WITNESS: Okay.

19 COMMISSIONER SKOP: And it asks whether
20 Progress Energy Florida is proposing any changes to its
21 tariff relating to customer service, and that was the
22 response. Has Progress, in light of some of the
23 customer complaints that have come in -- are you
24 familiar with ground neutral faults that your customers
25 have experienced, or neutral faults?

1 THE WITNESS: It would be dangerous for me to
2 speak to that.

3 COMMISSIONER SKOP: Okay.

4 THE WITNESS: I think Mr. Joyner would
5 probably be more qualified.

6 COMMISSIONER SKOP: Okay. Maybe I'll get him
7 on rebuttal. Thank you.

8 CHAIRMAN CARTER: Thank you. Anything further
9 from the bench? Redirect?

10 MS. TRIPLETT: Good news. I have no redirect,
11 and there are also no exhibits.

12 CHAIRMAN CARTER: Outstanding. Have a great
13 evening.

14 MS. TRIPLETT: And may Ms. Morman be excused
15 from the remainder of the proceeding, because she does
16 not have rebuttal?

17 CHAIRMAN CARTER: No rebuttal, and you didn't
18 promise to bring back anything, did you?

19 THE WITNESS: I need to go home and take some
20 cough medicine.

21 CHAIRMAN CARTER: Oh, okay. See you later.

22 THE WITNESS: Thank you. Thank you, sir.

23 CHAIRMAN CARTER: Thank you. Call your next
24 witness.

25 MS. TRIPLETT: We call Masceo DesChamps.

1 CHAIRMAN CARTER: I hope you feel better soon.

2 MS. KLANCKE: Chairman, at this time,
3 Mr. Willis is passing out the confidential documents
4 that are associated with this witness.

5 CHAIRMAN CARTER: Okay. Let's take a moment
6 and make sure everyone gets a copy.

7 You may proceed.

8 MS. TRIPLETT: Thank you. Mr. Chairman, I
9 don't believe Mr. DesChamps has been sworn. I don't
10 think he was here. And if it would be helpful, I think
11 there's a couple of other witnesses that were also not
12 sworn, if you want to take care of that.

13 CHAIRMAN CARTER: Okay. Let's do it as a
14 group. Mr. DesChamps, would you please stand, and any
15 other witnesses that are here that have not been sworn,
16 would you please stand and raise your right hand.

17 (Witnesses collectively sworn.)

18 CHAIRMAN CARTER: Thank you. Please be
19 seated.

20 MS. TRIPLETT: Thank you.

21 Thereupon,

22 MASCEO S. DESCHAMPS
23 was called as a witness on behalf of Progress Energy
24 Florida Inc. and, having been first duly sworn, was
25 examined and testified as follows:

DIRECT EXAMINATION

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BY MS. TRIPLETT:

Q. Would you please introduce yourself to the Commission and provide your address?

A. Yes. My name is Masceo DesChamps. I'm Director of Compensation and Benefits, and I'm employed by Progress Energy Service Company.

Q. And what is your address, sir?

A. 410 South Wilmington Street, Raleigh, North Carolina.

Q. Thank you. And have you filed prefiled direct testimony and exhibits in this proceeding?

A. Yes, I have.

Q. And do you have that testimony and exhibits with you?

A. Yes, I do.

Q. Do you have any changes to make to your prefiled direct testimony?

A. I do not.

Q. If I asked you the same questions in your prefiled direct testimony today, would you give me the same answers that are in your prefiled direct testimony?

A. Yes, I would.

MS. TRIPLETT: We request that the prefiled direct testimony be entered into the record as though

1 read.

2 CHAIRMAN CARTER: The prefiled testimony of
3 the witness will be inserted into the record as though
4 read.

5 MS. TRIPLETT: Thank you.

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**In re: Petition for rate increase by Progress Energy Florida, Inc.
Docket No. 090079-EI**

**DIRECT TESTIMONY OF
MASCEO S. DESCHAMPS**

1 **I. INTRODUCTION AND SUMMARY**

2 **Q. Please state your name and business address.**

3 A. My name is Masceo S. DesChamps. My business address is 410 South Wilmington
4 Street, Raleigh, North Carolina 27601.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am the Director of Compensation and Benefits for Progress Energy Service Company,
8 LLC.

9
10 **Q. What are your duties and responsibilities with respect to Progress Energy Florida?**

11 A. I am responsible for providing leadership in the planning, evaluation, design,
12 implementation, and communication of all compensation and benefits plans for
13 employees, executives, retirees, and Board members. The position is responsible for
14 ensuring that Progress Energy sponsored compensation and benefit plans are competitive
15 with peer utilities and other large employers, cost effective, internally equitable, aligned
16 with Progress Energy's overall strategic objectives, and in compliance with applicable
17 regulations. I direct the design and on-going evaluation of base, annual and long-term
18 incentive compensation plans, merit and other salary increases, management of job
19 evaluations, and wage and salary surveys. My responsibilities for employee benefits

1 include the design and on-going evaluation of the qualified retirement plans (pension and
2 401(k)), and health and welfare benefits such as medical, dental, disability, life insurance,
3 Accidental Death and Disability (AD&D) insurance, and vision insurance. In the area of
4 executive compensation and benefits, I direct the administration of the plans and ensure
5 the Company's executive compensation consultant understands the Company's business
6 strategy and has Company data necessary for benchmarking the executive compensation
7 program and making recommendations to the Organization and Compensation
8 *Committee of the Board of Directors.*

9
10
11 **Q. Please describe your educational background and professional experience.**

12 A. I have a Bachelor of Science Degree in Accounting from the University of South
13 Carolina. I have been employed by Carolina Power & Light Company / Progress Energy
14 Service Company, LLC for over 30 years working in a variety of positions in the areas of
15 Accounting, Income Taxation, and for the past 15 years in various management positions
16 in Human Resources. From 1992 to 1996, I was Director of Pension and Stock Plans
17 Administration where my responsibility included the design and administration of the
18 Company's 401(k) and Pension Plans. From 1997 to 2005, I held positions as Director –
19 Employee Benefits, Program Leader – Employee Benefits, and Manager – Employee
20 Benefits where my responsibilities included the design and administration of qualified
21 retirement plans, health and welfare plans, and non-qualified benefits plans. In June
22 2005, I became Director – Compensation and Benefits with responsibility for all
23 compensation, benefits, and executive compensation and benefits plans.
24

1 **Q. What is the purpose of your direct testimony?**

2 A. The purpose of my direct testimony is to explain certain portions of the Company's
3 Operation and Maintenance ("O&M") expenses and explain why the Company's test year
4 costs for these O&M expenses are reasonable. Specifically, I will explain why the
5 Company's long-term incentive compensation, employee benefits, and pension expense
6 costs are reasonable.

7
8 **Q. Do you have any exhibits to your testimony?**

9 A. Yes. I have supervised the preparation of the following exhibits to my direct testimony:

- 10 • Exhibit No. ____ (MSD-1), a list of the Minimum Filing Requirements (MFRs)
11 schedules that I sponsor or co-sponsor;
- 12 • Exhibit No. ____ (MSD-2), which is a composite exhibit of the Progress Energy
13 Pension Plan Actuarial Valuation Report and the Retirement Plan for Bargaining Unit
14 Employees Actuarial Valuation Report;
- 15 • Exhibit No. ____ (MSD-3), the Nineteenth Edition of the National Health Care Trend
16 Survey, conducted by Buck Consultants;
- 17 • Exhibit No. ____ (MSD-4), which is an excerpt of the 2007 Towers Perrin Bernal
18 Energy Services Study – Medical Plan Comparison for the bargaining and non-
19 bargaining plans;
- 20 • Exhibit No. ____ (MSD-5), which is an excerpt of the 2007 Towers Perrin Bernal
21 Energy Services Study – Entire Benefit Program Comparison for the bargaining and
22 non-bargaining plans;

- 1 • Exhibit No. ___ (MSD-6), which is a list of the utilities included in the peer group
2 against which the Company benchmarks its executive program; and
3 • Exhibit No. ___ (MSD-7), which is an excerpt from the 2009 Hewitt Market Analysis
4 of Executive Officer Compensation.

5 All of these exhibits are true and accurate.

6
7 **Q. Do you sponsor any schedules of the Company's Minimum Filing Requirements**
8 **(MFRs)?**

9 A. Yes, I sponsor or co-sponsor the MFR schedules identified in Exhibit No. ___ (MSD-1),
10 and they are true and accurate, subject to being updated in the course of this proceeding.

11
12 **Q. Please summarize your testimony.**

13 A. PEF's 2010 A&G expenses for corporate benefits costs which includes employee
14 benefits, long-term incentive compensation, and pension expense are reasonable and
15 appropriate for inclusion in base rates. In the area of employee benefits costs, PEF has
16 taken reasonable measures to control cost increases. Despite these efforts, healthcare
17 costs have increased at a rate higher than inflation. This escalation in healthcare expense
18 has been the norm not only for PEF but also for individuals and businesses across the
19 country. In addition, PEF will incur a pension expense driven by the current economic
20 downturn. PEF engaged a third party actuarial consultant to determine the amount of that
21 expense. Pension expense, to a large degree, is impacted by external market conditions
22 that are beyond the control of the Company.

1 To set management long-term incentive compensation, the Company uses third
2 party consultants to provide advice on general trends, perform benchmarking and
3 competitive assessments of executive positions against peer utilities, and recommend
4 plan designs. PEF targets its compensation levels to be at the 50th percentile of those peer
5 utilities. Progress Energy competes with several peer utilities and companies for a
6 limited pool of skilled and competent executives and managers. The long-term incentive
7 compensation expenses are reasonable, because they are competitive, market-based and
8 promote high standards of management performance to directly benefit customers over
9 the long-term.

10
11 **II. ADMINISTRATIVE AND GENERAL EXPENSES.**

12 **Q. Please provide an overview of PEF's 2010 A&G expenses.**

13 A. I will explain portions of the Company's A&G expenses, with the exception of the
14 Service Company costs which are addressed in the testimony of Ms. Sandy Wyckoff.
15 PEF's A&G expenses include corporate benefit costs such as healthcare, long-term
16 incentive compensation, employee benefits, pension expense, and other employee
17 benefit costs. Schedule C-41 reflects the Company's variance to benchmark for 2010 in
18 each category.

19
20 **Q. Please generally explain PEF's general philosophy regarding attraction and**
21 **retention of qualified employees.**

22 A. Progress Energy Florida is committed to providing a competitive total rewards package
23 that enables the Company to attract, retain and reward employees who work to high

1 standards. Its compensation program is market-based at the 50th percentile within
2 national, regional, and local comparative markets and aligns with a pay-for-performance
3 philosophy. It combines fair and equitable market values for jobs with performance
4 incentives and benefits to give employees total compensation opportunities that are
5 comparable to those of employees in similar positions with competitor companies. When
6 determining the total compensation package for employees, the Company benchmarks
7 jobs and employee benefits with similar peer utilities and other national, regional, and
8 local organizations.

9 According to Towers Perrin, a national human resources consulting firm that the
10 Company uses to benchmark costs against other utilities, in a 2007-2008 workforce study
11 U.S. employees rated competitive base pay as the number one driver in choosing an
12 employer, with competitive health benefits as the second driver. Competitive retirement
13 benefits are the number four driver for utilities. Progress Energy's need to compete for
14 skilled labor in both national and local markets makes it imperative that the Company
15 offer a competitive total rewards package that is attractive to an empowered, engaged,
16 and successful workforce. Skilled and competent employees are necessary for the
17 Company to provide cost-efficient and reliable electric service to its customers.

18
19 **Q. Please explain the variance projected for "Pension Expense" and why you believe**
20 **this cost item should be considered separately from other A&G costs.**

21 A. There is an unfavorable benchmark variance reported in the MFRs for the Pension
22 Expense of approximately \$49.3 million. This item, along with other expenses associated

1 with employee benefits and long-term incentive compensation, represents the majority of
2 the unfavorable variance reported in the MFRs.

3 Pension Expense is determined using actuarial studies prepared by a third party
4 actuarial firm. Copies of the most recent actuarial valuation reports dated October 2008
5 are attached to my testimony as composite Exhibit No. ___ (MSD-2). The Company
6 worked with the actuaries in early 2009 to update pension expense to reflect current
7 market conditions. As discussed more fully below, the Pension Expense is determined
8 pursuant to the provisions of the Financial Accounting Standards Board, Statement No.
9 87 Employers' Accounting for Pensions. The Commission approved the use of FAS 87
10 for ratemaking purposes in Docket No. 910890-EI, Order No. PSC-92-1197-FOF-EI
11 (October 22, 1992). Under these guidelines, a credit may be reflected when the expected
12 return on plan assets exceeds our service cost and other components of pension expense.
13 In contrast, an expense is reflected when the expected return on plan assets does not
14 exceed service cost and other components of pension expense. In 2005, a pension credit
15 was reflected in the rate case. In 2009, a pension expense is being reflected.

16 Pension expense is impacted by several factors, including the market performance
17 of the investments held in the pension plan and the discount rate. Customer growth and
18 the CPI have no impact on the calculation of pension expense. As a result, the
19 Commission benchmark, which adjusts all O&M expenses in the MFRs by these factors,
20 does not accurately reflect the factors that cause increases or decreases in the pension
21 expense.

22 It is also important to note that the recent unexpected and unprecedented
23 economic downturn has negatively impacted pension plans in general including the

1 Company's pension plan. According to Mercer, a national human resources consulting
2 firm, at the end of 2007 the value of assets held by the S&P 1500 companies to support
3 their global pension obligations was \$1.66 trillion, as reported under the US Financial
4 Accounting Standards. The value of the pension obligations was \$1.60 trillion, resulting
5 in a net surplus or credit of \$60 billion. The 2008 financial crisis has reversed this
6 positive financial position leaving a net deficit or expense of \$409 billion among these
7 companies at December 31, 2008. Pension liabilities of \$1.62 trillion are now offset by
8 pension assets estimated to be \$1.21 trillion. Most of the decline in asset values occurred
9 in the fourth quarter of 2008 as illustrated by the change in funding status (the ratio of
10 assets to liabilities). At the end of 2007, the funding status was 104%. As of September
11 30, 2008 the funding status had fallen to 97%. During the fourth quarter of 2008, the
12 funding status of these companies' pension plans plummeted 22% from 97% to 75%. To
13 judge changes in the pension expense by customer growth and the CPI, as the
14 Commission benchmark does, does not capture forces that affect changes in the value of
15 the pension expense. The impact of the 2008 financial crisis clearly demonstrates why
16 the Commission benchmark is not an appropriate mechanism to evaluate changes in the
17 pension expense and it is appropriate to consider pension expense separately from other
18 A&G costs.

19
20 **Q. Please discuss the unfavorable variance described as employee benefit costs and why**
21 **you believe that the O&M benchmark does not accurately reflect the experience**
22 **with employee benefit costs.**

1 A. Another driver behind the unfavorable benchmark variance is the cost of benefits for the
2 Company's employees. Employee benefits include health and welfare, long term
3 disability, retirement, and paid time-off benefits. Factors impacting employee benefits
4 include but are not limited to plan design, employee participation, utilization of the
5 benefits being offered, changes in actuarial assumptions, and market conditions.
6 Applying the Commission O&M benchmark and adjusting for growth and the CPI, the
7 unfavorable variance between the 2010 MFRs and the O&M benchmark is approximately
8 \$9.95 million.

9 The O&M benchmark uses the CPI plus customer growth to escalate costs and
10 therefore assumes that all O&M costs will increase at the same rate. This may be a
11 reasonable assumption for some O&M costs but it is not appropriate for employee benefit
12 costs, which are impacted by a variety of factors including plan design, employee
13 participation, utilization of the benefits being offered, changes in actuarial assumptions,
14 and market conditions. In fact, the largest cost driver of employee benefits is health care
15 costs, which are escalating at a rate that far exceeds the CPI. This is true not only for
16 Progress Energy but for all businesses and individuals.

17 It is well documented in publications, national news, and the subject of political
18 forums that health care costs are escalating at significantly higher rates than the CPI. In
19 fact, the actual and projected inflation rate for health benefit cost is more than double the
20 Commission's benchmark of approximately 12.5% for 2007 through 2010. Progress
21 Energy's most recent annual health care cost trend was 9%. This annual trend is better
22 than the national trends, which have ranged from 10% - 13% during this period.
23

1 **Q. What has Progress Energy done to manage and contain the growth in the health**
2 **benefit costs?**

3 A. The Company is always looking for opportunities to manage and contain the growth in
4 health care costs while also maintaining competitive health care benefits. Since 2006, the
5 Company has been aggressively pursuing the implementation of a consumer driven
6 health care approach designed to manage medical cost by encouraging plan participants
7 to make responsible health care choices. This consumer driven approach includes adding
8 a high deductible health plan in which the employee assumes a higher deductible in
9 exchange for a lower premium; strategically modifying the pricing of medical plan
10 options so more expensive plans require a higher employee contribution; providing
11 employees an interactive tool to more effectively assess their health benefit plan needs,
12 and adding a wellness program with incentives to educate and encourage employees to
13 maintain a healthy lifestyle and become more well-informed healthcare consumers. In
14 addition to the new consumer driven strategy, the Company has also actively re-
15 negotiated benefit contracts to obtain more favorable terms and higher prescription drug
16 rebates. The Company is continuing its aggressive cost management strategy in 2009.

17 The Company has done a very good job controlling health care costs in a climate
18 where all businesses are struggling to balance increasing benefit costs with offering
19 competitive, value-added employee benefit plans.

20
21 **Q. What does the Company do to ensure that its health care plans are consistent with**
22 **comparable companies?**

1 A. Progress Energy monitors national studies, periodicals, and information regarding
2 national trends to ensure that its programs are competitive with other companies and to
3 identify additional cost-saving measures or programs to help mitigate or control benefit
4 costs. The most recent study available to the Company, the Nineteenth Edition of the
5 National Health Care Trend Survey, conducted by Buck Consultants, confirms that the
6 trend factors for medical costs across the U.S. remain higher than inflation. This study is
7 attached as Exhibit No. ___ (MSD-3) to my testimony. The reasons for the increasing
8 trend can be found on page 4 of that study.

9 Progress Energy's health care costs are consistent with the national trends. Based
10 on a recent national survey of health care plans costs by Mercer, the average total cost of
11 health care per plan member (employees and their covered dependents) for Fortune 500
12 companies is \$4,266. For Progress Energy, this cost is \$3,616.

13 Progress Energy's benefit plans are also designed to be competitive. The
14 Company uses the Bental Study to evaluate the competitiveness of its benefit programs.
15 Participation in this survey provides Progress Energy with access to a comprehensive
16 source of comparative benefit practices for major U.S. utilities. According to the 2007
17 Towers Perrin Bental Study, the relative value of the Company's medical benefit plans is
18 among the lowest compared to the other eighteen utilities in our revenue class. See
19 Exhibit No. ___ (MSD-4). Additionally, the relative value of Progress Energy's entire
20 benefit program (excluding employee contributions) for both bargaining and non-
21 bargaining employees is among the lowest in the group. See Exhibit No. ___ (MSD-5).
22 Based upon this information, Progress Energy's benefit programs offer good value at a
23 reasonable cost.

1 **Q. Is there anything else that contributes to the unfavorable variance for employee**
2 **benefits costs?**

3 A. Yes, in addition to the higher inflation rate for health care costs, the variance is impacted
4 by the number of people employed by Progress Energy in 2006, the benchmark year. In
5 2005, the Company offered the Voluntary Enhanced Retirement Program ("VERP") to
6 certain employees, as a cost-savings measure. More than 700 Florida employees took
7 advantage of VERP and retired in 2005 and 2006. The positions vacated by those
8 employees who retired early under VERP were not eliminated; rather, they needed to be
9 filled by new employees. However, not all the positions were filled in 2006, which is the
10 year upon which the Commission benchmark is based. Because there were fewer
11 participants in the employee benefit programs in 2006, the Commission benchmark is
12 lower than it would have been if all those positions were filled. The Company has
13 subsequently filled those vacancies and the 2010 test year expenses reflect the higher
14 headcount.

15
16 **Q. Please explain the unfavorable benchmark variance for long term incentive**
17 **compensation.**

18 A. Another driver behind the unfavorable benchmark variance is the cost of long term
19 incentive compensation needed to attract and retain skilled and competent management to
20 manage the Company. Applying the Commission O&M benchmark and adjusting only
21 for customer growth and the CPI, the unfavorable variance between the 2010 MFRs and
22 the O&M benchmark is approximately \$8.2 million.

1 The Company's long term incentive compensation plans are designed to provide
2 competitive and reasonable compensation and benefits that align the interests of
3 customers, shareholders, employees, and management. These plans reward multi-year
4 operational performance results that are consistent with reliable and efficient electric
5 service and they are designed to attract and retain an experienced and capable
6 management team. It is in the best interest of our customers and the Company to have
7 skilled, engaged and high performing members of management who can sustain operating
8 performance consistent with the delivery of reliable and effective electric service
9 expected by our customers.

10 There are several factors that contribute to the variance for long-term incentive
11 compensation plans between 2006 and 2010. The Company uses generally accepted
12 accounting principles to record long-term incentive compensation over the life of the
13 plan. The 2006 baseline expense for long-term incentive compensation is understated by
14 approximately \$2 million due to a lower than projected pay-out for the Performance
15 Share Sub-Plan and the need to adjust the previously accrued expense to actual expense.
16 The remaining \$5.8 million is due to an increase in plan participants and plan changes
17 designed to make the long-term incentive compensation plans more competitive and
18 properly aligned with the peer utilities. Accordingly, many of the costs associated with
19 the long term incentive compensation program are driven by market conditions that are
20 not directly linked to the customer growth and CPI drivers associated with the
21 Commission benchmark.
22

1 **Q. How does the Company determine whether its long-term incentive compensation**
2 **plans are competitive?**

3 A. The Board of Directors, through its Organization and Compensation Committee
4 (Committee), decides the appropriate level of long-term incentive compensation for the
5 management team as a whole. The Committee engages a national human resources
6 consulting firm to provide advice and guidance on current trends, performs benchmarking
7 and market analysis, and makes plan design recommendations to ensure that the
8 Company's compensation and benefit programs are competitive. The Company's
9 market-based long term incentive compensation program is designed to establish
10 compensation near the 50th percentile of the market, with the ability to pay higher or
11 lower amounts based on individual and corporate performance. Through November
12 2007, that firm was Mercer Human Resources Consulting ("Mercer"), and since
13 November 2007, the Company has used Hewitt Associates ("Hewitt"). The consultant is
14 retained directly by and reports to the Committee, not management. All members of the
15 committee are independent, outside directors.

16
17 **Q. What additional steps has the Company undertaken with respect to benchmarking**
18 **its executive compensation programs?**

19 A. A peer group of 18 integrated utilities (utilities with transmission, distribution, and
20 generation assets) has been selected for benchmarking executive compensation programs.
21 This group includes companies that compete for the same talent and that have similar
22 characteristics including revenue, market capitalization, percentage of regulated assets,
23 and nuclear operations. A list of the utilities included in the peer group is attached as

1 Exhibit No. __ (MSD-6). Based on Hewitt's 2008 Total Compensation Measurement
2 database, the Company's senior executive compensation programs are at or below the
3 50th percentile. Please see attached summary of the study, Exhibit No. __ (MSD-7).

4 In the first quarter of each year, the Committee's executive compensation
5 consultant performs a detailed benchmarking analysis and competitive assessment of the
6 base salaries and annual and long-term incentives of the Company's executives versus the
7 executives in the peer group. The Consultant reviews the executive compensation plans
8 and recommends ways to adjust the plans to ensure they are cost-effective and
9 competitive. Since 2006, the Company has modified the peer group to include integrated
10 utilities that are highly regulated and have similar revenue, market capitalization,
11 percentage of regulated assets, and nuclear operations.

12
13 **Q. How do all of the Company's compensation plans benefit the Company's**
14 **customers?**

15 A. Progress Energy competes with several peer utilities and companies for a limited pool of
16 skilled and competent executives and managers. A capable management team is
17 imperative to providing customers reliable and efficient electric service. The purpose of
18 the executive and management compensation program is to attract and retain experienced
19 executives and managers and reward them for achieving operational and financial
20 performance and other qualitative results. These include high customer satisfaction, good
21 corporate governance and citizenship, strong leadership of employees, fiscal
22 responsibility, and good stewardship of the environment. These are all results that
23 customers expect from their electric utility.

1

2

Q. Are PEF's total projected A&G Operation and Maintenance expenses for 2010, in the areas of employee benefits, long-term incentive compensation, and pension expense reasonable?

3

4

5

A. Yes, Progress Energy actively monitors the national, regional and local markets to set compensation and benefits for management and employees at competitive levels. Using the benchmarking tools available to the Company, our executive compensation and benefit programs are generally at or below average when compared to other utility companies in our peer group. The Company's projected A&G expenses for employee benefits and long term incentive compensation are thus reasonable.

6

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Q. Does this conclude your testimony?

13

A. Yes.

14

1 BY MS. TRIPLETT:

2 Q. Mr. DesChamps, do you have a summary of your
3 prefiled direct testimony?

4 A. Yes, I do.

5 Q. Would you --

6 CHAIRMAN CARTER: Before you go, are you
7 familiar with our lights?

8 THE WITNESS: No, I'm not.

9 CHAIRMAN CARTER: Okay. Here's my big chance.
10 Green is always good. When the amber light comes on,
11 you'll have two minutes. When the red light comes on,
12 you'll have 30 seconds. And after the red light goes
13 off, your mic goes off. So that will kind of help you
14 stay focused on the time. Okay? You have five minutes.

15 BY MS. TRIPLETT:

16 Q. Please proceed.

17 A. Good evening, Commissioners. I'm Director of
18 Compensation and Benefits for Progress Energy Service
19 Company.

20 In this role, I am responsible for providing
21 leadership concerning all compensation and benefit plans
22 for employees, executives, retirees, and board members.
23 The position is responsible for ensuring that Progress
24 Energy sponsored compensation and benefit plans are
25 competitive with peer utilities and other large

1 employers, cost-effective, internally equitable, aligned
2 with Progress Energy's overall strategic objectives, and
3 in compliance with applicable regulations.

4 The purpose of my direct testimony is to
5 explain certain portions of the company's operation and
6 maintenance expense and explain why the company's test
7 year costs for these O&M expenses are reasonable.
8 Specifically, I will explain why the company's long-term
9 incentive compensation, employee benefits, and pension
10 expense costs are reasonable.

11 Progress Energy Florida's 2010 A&G expenses
12 for corporate benefits costs, which include employee
13 benefits, long-term incentive compensation, and pension
14 expense, are reasonable and appropriate for inclusion in
15 base rates.

16 In the area of employee benefits, Progress
17 Energy Florida has taken reasonable measures to control
18 cost increases. Despite these efforts, health care
19 costs have increased at a higher rate than inflation.
20 This escalation in health care expense had been the norm
21 not only for Progress Energy Florida, but also for
22 individuals and businesses across the country.

23 In addition, Progress Energy Florida will
24 incur pension expense driven by the current economic
25 downturn. Progress Energy Florida engaged a third-party

1 actuarial consultant to determine the amount of that
2 expense. Pension expense to a large degree is impacted
3 by external financial market conditions that are beyond
4 the control of the company.

5 To set management long-term incentive
6 compensation, the company uses third-party consultants
7 to provide advice on general trends, perform
8 benchmarking and competitive assessments of executive
9 positions against peer utilities, and recommend plan
10 designs. Progress Energy Florida targets its
11 compensation levels at the 50th percentile of those peer
12 utilities. Progress Energy Florida competes with
13 several peer utilities and companies for a limited pool
14 of skilled, competent executives and managers.

15 The long-term incentive compensation expenses
16 are reasonable because they are competitive,
17 market-based, and promote high standards of management
18 performance to directly benefit customers over the long
19 term.

20 This concludes my summary, and I'll be happy
21 to address your questions.

22 CHAIRMAN CARTER: Outstanding on the timing,
23 by the way.

24 MS. TRIPLETT: We would tender Mr. DesChamps
25 for cross-examination, sir.

1 CHAIRMAN CARTER: Mr. Rehwinkel.

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

3 CROSS-EXAMINATION

4 BY MR. REHWINKEL:

5 Q. Mr. DesChamps -- have I pronounced it
6 correctly?

7 A. DesChamps.

8 Q. DesChamps. Okay.

9 CHAIRMAN CARTER: Hang on. What you can do,
10 Mr. DesChamps, kind of move between the two of them and
11 turn both of them on. That way, as you're turning your
12 pages -- you can pull them back. They'll get you. But
13 a lot of times when witnesses get over there, they have
14 exhibits to turn to. So use them both, and we can pick
15 you up.

16 Mr. Rehwinkel.

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

18 BY MR. REHWINKEL:

19 Q. Can you turn to page 5 of your direct
20 testimony, please?

21 A. Okay.

22 Q. I think you just mentioned this in your
23 summary. You state -- isn't it correct that you state
24 that Progress Energy Florida targets compensation levels
25 to be at the 50th percentile of the peer utilities?

1 A. Yes.

2 Q. And is the 50th percentile that you're
3 referring to the average or the median of the peer group
4 of utilities?

5 A. It's considered the median.

6 Q. On page 6, you indicate that a Towers Perrin
7 study indicates that the number one driver in choosing
8 an employer is competitive base pay; is that correct?

9 A. Yes.

10 Q. What driver is incentive compensation in that
11 study?

12 A. I do not know whether it's in the top five or
13 not.

14 Q. Okay. Is it even on the list?

15 A. It is not within the top five.

16 Q. Okay. Can I ask you to turn to your testimony
17 beginning on page 7 and continuing onto page 8, which I
18 think begins on line 22? Okay?

19 A. Uh-huh.

20 Q. Would I be correct that the pension expense
21 reflected in the 2010 test year has increased due to
22 market performance that resulted from the 2008 financial
23 crisis?

24 A. That's correct.

25 Q. Can I ask you to turn to Exhibit MSD-6,

1 please? This exhibit is where you list the peer
2 companies that you compare your compensation to; is that
3 correct?

4 A. That is correct.

5 Q. Are you aware of all of the jurisdictions that
6 these companies listed on MSD-6 operate in?

7 A. I am not aware of all the jurisdictions.

8 Q. Wouldn't it be correct that you do not know
9 what compensation that is included in the peer company
10 compensation that PEF is compared to -- let me strike
11 that and ask it a different way.

12 Wouldn't it be true that you would not know
13 then whether the compensation -- that any parts of the
14 compensation of these peer companies that PEF is being
15 compared to has been disallowed for ratemaking purposes?

16 A. If I understand your question correctly, am I
17 aware of any of these peers that a portion or some
18 portion of their compensation in general or specific,
19 just compensation?

20 Q. Let's start with in general.

21 A. Okay. Has been --

22 Q. Disallowed for ratemaking purposes.

23 A. Yes. I am aware that a portion of TECO's has
24 been disallowed.

25 Q. Okay. Is that the only one?

1 A. That's the only one that I can speak
2 specifically to, sir.

3 Q. Okay. And that question was as to in general.
4 Are you aware of whether any of the companies on this
5 group of peer companies has been disallowed for
6 ratemaking purposes with respect to incentive
7 compensation?

8 A. With respect to incentive compensation. Are
9 you separating it between long-term and annual or just
10 incentive compensation in general?

11 Q. Incentive compensation generally.

12 A. Yes, TECO.

13 Q. Okay. So would it be correct that with
14 respect to this list of companies, the only ones that
15 you are aware of with respect to any ratemaking
16 disallowances related to compensation at all is TECO?

17 A. Yes, sir.

18 Q. Are you familiar with the company's management
19 incentive plan?

20 A. These companies?

21 Q. I'm sorry. Let's move from this exhibit now.
22 I'm talking about your company now, PEF, Progress Energy
23 Florida.

24 A. Yes. Yes, sir.

25 Q. Okay. Isn't it true that under the terms of

1 this plan that it is possible that the plan could be
2 suspended or terminated before the year -- before 2010?

3 A. If I understand your question, could the plan
4 be terminated?

5 Q. Or suspended, yes, sir.

6 A. Yes, it could be. And I make -- I respond on
7 the basis that if the Organization and Compensation
8 Committee of the Board so desires to suspend the plan,
9 it could.

10 Q. Okay. Thank you. Are you familiar with the
11 employee cash incentive plan?

12 A. Yes, sir, I am.

13 Q. Isn't it true that the plan and its design is
14 to share the financial success of the company with the
15 company's employees?

16 A. Yes, to share the financial success of the
17 company.

18 Q. Mr. DesChamps, is it correct that -- well, I
19 would like to ask you a question, and I would like you
20 to look at an interrogatory response.

21 MR. REHWINKEL: Mr. Chairman, I'm going to
22 pass out for questioning purposes only the company's
23 response to OPC Interrogatory Number 385.

24 CHAIRMAN CARTER: You may proceed.

25 MR. REHWINKEL: Mr. DesChamps, are you --

1 CHAIRMAN CARTER: Hang on a second.

2 MR. REHWINKEL: Oh, I'm sorry.

3 CHAIRMAN CARTER: Ms. Van Dyke, do you need
4 one? Did you need a copy?

5 MS. VAN DYKE: Thank you.

6 CHAIRMAN CARTER: Thank you. You may proceed,
7 Mr. Rehwinkel.

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

9 BY MR. REHWINKEL:

10 Q. Mr. DesChamps, are you familiar with this
11 interrogatory and the response?

12 A. This is not one that I sponsored.

13 Q. Okay. But are you familiar with it?

14 A. I'm not overly familiar, no.

15 Q. Okay. Let me see if I can ask my question
16 without -- despite that. Is it correct that payment of
17 incentive compensation in 2009 will be based in part
18 upon the company meeting its 2009 financial goals?

19 A. Yes.

20 Q. Is one of those goals achieving a certain
21 level of earnings for PEF for 2009?

22 A. The goal is based on PEF's EBITDA, depending
23 on how you want to define earnings, but it's their
24 earnings before income taxes and amortization.

25 Q. That's E-B-I-D -- E-B-I-T-D-A, just for the

1 court reporter.

2 So the achieved regulatory return on equity
3 does not influence by itself the payment of incentive
4 compensation?

5 A. That I can't speak to with regard to return on
6 equity. I think that would be better for probably
7 Mr. Toomey or one of the other witnesses.

8 Q. So with respect to the incentive compensation
9 pay-outs, the benefits, the plans that are under your
10 purview, you cannot tell us whether the regulatory
11 return on equity has any impact on the pay-out?

12 A. It's not one of the performance measures. To
13 the extent of the earnings of the business units, PPF
14 being one, it will impact the pay-out. But with regard
15 to return on equity, again, as I said, I'm not the
16 corporate witness to give you an opinion with regard to
17 that and its influence.

18 Q. Okay. So Mr. Twomey would be someone who
19 could answer --

20 A. I think it would be Mr. Twomey.

21 Q. Okay. Did you recognize Hewitt as a reliable
22 source for compensation information?

23 A. Yes, sir.

24 MR. REHWINKEL: Thank you, Mr. DesChamps.
25 That's all the questions I have. Thank you,

1 Mr. Chairman.

2 CHAIRMAN CARTER: Thank you, Mr. Rehwinkel.

3 Ms. Bradley.

4 MS. BRADLEY: Thank you.

5 CROSS-EXAMINATION

6 BY MS. BRADLEY:

7 Q. Sir, I just have a few questions for you. In
8 looking at the 165 to 200,000 salaried folks for 2008,
9 can you look at number 26?

10 A. Would you give me a little more reference?

11 Twenty-six on --

12 Q. Line 26 or number 26.

13 A. Line 26.

14 Q. For 2008, and the 165 to 200,000 pay.

15 A. Okay. I'm on line 26, 2008.

16 Q. All right. Is it true that that person made
17 almost as much in bonus as they did in base salary?

18 A. I'm sorry. Maybe we're not looking at the
19 same document. That is not the case on this one.

20 Q. Well, let me make sure I have the right one.

21 A. Let me make sure we're looking at the same
22 thing. Line 26. Give me a couple --

23 Q. Obviously not.

24 CHAIRMAN CARTER: Ms. Bradley, you may
25 approach and show it to him.

1 MS. BRADLEY: Let me see if I can find it real
2 quick.

3 THE WITNESS: Yes.

4 MS. BRADLEY: Have you got it?

5 MS. FLEMING: Commissioners, if we may, if
6 Ms. Bradley could refer to the document number at the
7 bottom of the confidential exhibit, that may be helpful.

8 CHAIRMAN CARTER: Is that the one in the top
9 right-hand corner? Can we use that number?

10 MS. FLEMING: It's in the bottom right-hand
11 corner.

12 CHAIRMAN CARTER: The bottom right-hand
13 corner. Of course not.

14 Commissioner Skop.

15 COMMISSIONER SKOP: Yes, Mr. Chair. I'm on
16 that page. I have the same question.

17 THE WITNESS: Okay. I think I've found it.

18 MS. BRADLEY: Have you got it? Okay.

19 CHAIRMAN CARTER: Let's make sure the witness
20 is on the same page. Let's make sure the witness is on
21 the same page.

22 THE WITNESS: I have a couple of versions of
23 this.

24 MR. BREW: Okay. Sorry.

25 THE WITNESS: I have it now.

1 BY MS. BRADLEY:

2 Q. Isn't it true that that person made almost as
3 much on their bonus as they did on their base salary?

4 CHAIRMAN CARTER: Hang on. Hold the phone
5 now.

6 MS. BRADLEY: I'm sorry.

7 CHAIRMAN CARTER: What is the number, so we're
8 all on the same page?

9 MR. GLENN: I think it's year 2008.

10 CHAIRMAN CARTER: The bottom -- what's the
11 document number?

12 MS. TRIPLETT: The bottom number, Mr. Chair,
13 is O9RP dash Staff Rog 18 dash 197 dash zeros and 26.

14 CHAIRMAN CARTER: I'm on the wrong page.

15 MS. TRIPLETT: The front page of the document
16 is "Total Compensation, 165 to 200,000."

17 CHAIRMAN CARTER: I was definitely on the
18 wrong page.

19 Commissioner Skop.

20 COMMISSIONER SKOP: Thank you, Mr. Chair. At
21 least my copy has a Bates number at the bottom right. I
22 don't know if that's consistent on each of my
23 colleagues' documents. Maybe I have the original one.

24 CHAIRMAN CARTER: Is it --

25 COMMISSIONER SKOP: I show a Bates number,

1 09214, but I guess it's part 1 of 2.

2 MR. REHWINKEL: Are you looking for the PSC
3 document number?

4 MS. BRADLEY: 09214 on the second page.

5 CHAIRMAN CARTER: Okay. Got it. Thank you.
6 We're all on the same page; right?

7 Okay. Ms. Bradley, you may proceed.

8 MS. BRADLEY: Sorry about that.

9 CHAIRMAN CARTER: No problem, no problem. We
10 all want to be on the same page.

11 BY MS. BRADLEY:

12 Q. Looking at this, it appears that this person
13 made almost as much on their bonus as they did on their
14 base salary; correct?

15 A. Okay. I wouldn't describe -- that definition,
16 the definition there for bonus, this is not a
17 performance bonus, so I would not characterize it as
18 made. They were paid this bonus. And the type of
19 payments in this bonus column are for primarily
20 retention bonuses, someone we would like to retain, and
21 sign-on bonuses. So this is a -- as I understand, a
22 retention bonus.

23 Q. So this person was looking at another job, and
24 you paid him almost his base salary to stay?

25 A. That's what I -- that's what this would

1 represent, a retention bonus. And with regard to the
2 specifics behind why this person was given this payment
3 for retention, I'm not familiar with that. That would
4 be more between their management and the individual.

5 Q. And who would that be as far as the
6 management?

7 A. I don't know if it would be appropriate to
8 disclose the management here since this is confidential,
9 if I tell you the management.

10 MR. GLENN: No, I don't think we can. But I
11 can say that that -- there is not a witness who is the
12 manager of that person in this case. But to the extent
13 that you would like more information, more specific
14 information about why that occurred, we can get that to
15 you.

16 MS. BRADLEY: That's okay for me.

17 BY MS. BRADLEY:

18 Q. Would you agree that in 2009 -- I realize that
19 we haven't finished the year, so they haven't been paid
20 all of this, but there were 80 people that were listed
21 as making above 165,000?

22 A. One more time on that question. How many
23 people?

24 Q. For 2009, there are 80 people listed as making
25 above 165,000, or I should say 165 or above?

1 A. If we're looking at the same document -- you
2 said 165 to 200 for 2009?

3 Q. That would cover it, anyone making 165 or
4 above?

5 A. Yes. I'm showing 100 on my document.

6 Q. For 2009?

7 A. Yes, for the 2009 year, yes.

8 Q. Okay. And you say there was 100?

9 A. I'm showing 100 on this, on the document I
10 have in front of me.

11 Q. For that same year, how many do you have that
12 were making above 200,000?

13 A. I'm changing documents.

14 Q. Okay.

15 A. I'm showing on this document 160.

16 Q. Was Mr. Lyash's compensation listed in the
17 proxy document?

18 A. For the 2008 year?

19 Q. Yes, sir.

20 A. Yes.

21 Q. And would it have been for the 2009 year?

22 A. I don't know yet for -- for the proxy?

23 Q. Yes, sir.

24 A. The proxy has not been done for the 2009 year
25 yet, and I don't know exactly -- until we go through the

1 ranking of the top five individuals or top five
2 executives who would qualify, I wouldn't know that at
3 this point until such time that we have final
4 compensation numbers at the end of the 2009 year.

5 Q. Can you determine that from looking at your
6 projected figures?

7 A. It would just be a projection. I would
8 hesitate to do that.

9 Q. Give it a try.

10 A. If you looked at it from the basis of the
11 persons who were included in the 2008 year and made some
12 reasoned projection, then it is possible that Mr. Lyash
13 could be in the top five for the 2009 reporting year.

14 Q. Is that determined by position or by the
15 amount?

16 A. It's generally -- for that level of
17 management, it's determined by the amount.

18 Q. Okay. And until that -- when is the proxy
19 filed?

20 A. The proxy is filed generally around March
21 30th for the previous year.

22 Q. So the next one won't be filed until March of
23 next year, 2010?

24 A. That's correct.

25 MS. BRADLEY: I don't think I have anything

1 further.

2 CHAIRMAN CARTER: Thank you, Ms. Bradley.
3 Commissioner Skop.

4 COMMISSIONER SKOP: Actually, I'll defer one
5 more and than come in later.

6 CHAIRMAN CARTER: Okay. Ms. Kaufman.

7 MS. KAUFMAN: Thank you, Mr. Chairman. Good
8 evening. I seem to get the night shift.

9 CROSS-EXAMINATION

10 BY MS. KAUFMAN:

11 Q. Mr. DesChamps, good evening.

12 A. Good evening.

13 Q. I'm Vicki Kaufman, and I'm here on behalf of
14 the Florida Industrial Power Users Group. And I guess
15 we met by phone at your deposition Friday; right?

16 You told us, I think, in your opening that
17 you're responsible for compensation and benefit plans at
18 Progress Energy?

19 A. Yes, ma'am.

20 Q. And you're employed by the service company;
21 correct?

22 A. Yes, ma'am.

23 Q. So you have the same responsibility for the
24 Carolina company?

25 A. Yes, ma'am.

1 Q. Now, am I correct, Mr. DesChamps -- well, let
2 me ask you this first. We've heard a lot of testimony
3 in this case and another case that we've been in
4 recently about the hard economic times in Florida. Are
5 you familiar with that?

6 A. Yes, I am.

7 Q. And you're familiar with the steep
8 unemployment and foreclosure rate in Florida?

9 A. Yes, I've heard information to that effect.

10 Q. And the high unemployment rate?

11 A. Yes, ma'am.

12 Q. Am I correct that in the 2010 test year, the
13 company has included -- is it a 3 1/2 percent increase
14 in compensation across the board?

15 A. What is reflected in the 2010 test year is a
16 3 1/2 percent increase in total compensation.

17 Q. And --

18 A. And let me expound on that. That's total
19 compensation, not pay increase, but the total
20 compensation amount.

21 Q. Understood, because you compensate employees,
22 in addition to cash, in other ways; correct?

23 A. No. What I'm saying is that if you're
24 measuring between the total comp -- the bottom line
25 total compensation may be reflective of merit increases.

1 You could have additional employees. You could have
2 other adjustments that are relevant there. So it's been
3 sort of our historical practice that we've used
4 something that would -- an increase that would reflect
5 an appropriate amount of -- an appropriate amount has
6 been about a 3.75 percent increase in the total
7 compensation amount.

8 Q. And that certainly does include an increase in
9 compensation for employees; correct?

10 A. Not at the tune of actually 3.75, but it does
11 reflect --

12 Q. What is the percentage increase for employees?

13 A. I am not absolutely certain on how that worked
14 out, but the trending is, from total compensation to
15 total compensation for the subsequent year, we've used
16 about 3.75. Our actual compensation or merit increases
17 are generally not set until late fall of the year prior
18 to the year in which they're actually granted.

19 Q. Well, I think we can agree, can we not, that
20 you are seeking an increase in that category in your
21 test year; correct?

22 A. Yes.

23 Q. Okay. And am I correct that in 2009, based on
24 how you've explained it, there was a 6.28 increase in
25 compensation? Does that sound about right?

1 A. I'm not sure. Where are you referring to for
2 your 6.28?

3 Q. Let me take a look at Interrogatory 429. Do
4 you have that one?

5 A. Yes.

6 MS. KAUFMAN: Mr. Chairman, I can distribute
7 copies.

8 CHAIRMAN CARTER: He has it. He has it.

9 THE WITNESS: I have it.

10 CHAIRMAN CARTER: Go ahead.

11 MS. KAUFMAN: I was going to ask if it's
12 already in the record, and I apologize for not knowing
13 that.

14 CHAIRMAN CARTER: Let me ask staff.

15 MS. KAUFMAN: I don't think that it is, but --

16 MS. KLANCKE: It is not.

17 MS. KAUFMAN: Then I would like to go ahead
18 and distribute it and have it marked. Would that be all
19 right?

20 CHAIRMAN CARTER: Okay.

21 MS. KAUFMAN: And I also apologize for not
22 knowing what number we're at.

23 CHAIRMAN CARTER: That's okay. That's okay.
24 We're at 271. Short title?

25 MS. KAUFMAN: Compensation Levels?

1 CHAIRMAN CARTER: Excellent. Thank you.

2 (Exhibit Number 271 was marked for
3 identification.)

4 CHAIRMAN CARTER: You may proceed.

5 BY MS. KAUFMAN:

6 Q. And actually, I misspoke, didn't I,
7 Mr. DesChamps?

8 A. That's correct.

9 Q. The increase was not 6.28, but it was 8.14;
10 correct?

11 A. The way I'm reading this, it says incentive
12 increases. I thought your question was more
13 compensation in general.

14 Q. Well, perhaps my question was inartfully
15 framed, but this shows us incentive increases in 2009
16 were 8.14 percent; correct?

17 A. That is correct.

18 Q. Now, you are involved, I assume, in preparing
19 the portion of the company's case related to
20 compensation; correct?

21 A. Yes, I had a role in that.

22 Q. And did you hear Mr. Dolan testify earlier in
23 the case?

24 A. Yes, ma'am. There's one segment I missed, but
25 I heard the majority of it, the majority of it.

1 Q. Well, is it your understanding that the
2 Commission -- excuse me, that the company is not willing
3 to freeze compensation for the test year?

4 A. That's correct.

5 Q. And is it also your understanding that the
6 company is not willing to even look at freezing
7 executive compensation?

8 A. That's correct.

9 Q. Now, if you would turn to page 12 of your
10 testimony, please. And the question begins on line 16.
11 And in that question and answer there, you tell us that
12 in the long term -- let me wait until you get there.

13 A. Page 12?

14 Q. Yes, page 12, beginning at line 16.

15 A. I'm there.

16 Q. And in the answer to that question there, you
17 talk about the benchmark variance for your long-term
18 incentive compensation; correct?

19 A. Yes, ma'am.

20 Q. You're over that benchmark by over \$8 million;
21 is that right?

22 A. That's correct.

23 Q. We've had a lot of discussion in this
24 proceeding already -- I don't know if you've heard it --
25 about the Commission's benchmark and its applicability.

1 You would agree, would you not, that the company in its
2 MFRs is required to calculate and show where it falls
3 vis-a-vis the Commission's benchmark?

4 A. Yes.

5 Q. If you would turn over to page 13 of your
6 testimony. And this is continuing on from the same
7 question we just talked about in which you're explaining
8 the reasons that there's this variance; correct?

9 A. Okay.

10 Q. If you take a look at -- the answer actually
11 begins on line 1, but the part I want to focus on is on
12 lines 2 and 3. And you say that the long-term incentive
13 compensation plan, and then I'm going to skip over,
14 aligns the interests of customers, shareholders,
15 employees, and management. Do you see that?

16 A. Yes.

17 Q. Is it your testimony in this case that the
18 interests of the ratepayers and the shareholders of the
19 parent company are always aligned?

20 A. I think they're aligned with regard to the
21 customers, their desire for us to provide the safe,
22 reliable, and efficient electricity that they deserve --
23 I'm sorry, with regard to what they expect and demand.
24 I'm sorry about that. With regard to the shareholders,
25 I think with regard to the shareholders, it's our duty

1 to operate our company in a sound financial manner so
2 that we can compensate shareholders for their capital
3 which they've invested in our company to manage.

4 Q. Well, if I'm a shareholder -- and first of
5 all, let's be clear that the company that sells stock is
6 the parent company of the regulated utility; correct?

7 A. Yes.

8 Q. So when we're talking about selling stock,
9 that's the company we're talking about?

10 A. Yes.

11 Q. Okay. If I am shareholder and I own stock in
12 the parent company, would you agree that I'm certainly
13 going to be interested, number one, perhaps in the
14 earnings per share?

15 A. Yes.

16 Q. And I'm going to be interested in the
17 appreciation of my stock? Would you agree with that?

18 A. Yes.

19 Q. Now, let's say that the earnings per share go
20 up. That's going to make -- that's going to be a good
21 thing for me as a shareholder; correct?

22 A. Generally, yes.

23 Q. Is it your testimony that that appreciation or
24 that increase in earnings per share is also going to be
25 benefiting a ratepayer?

1 A. I would say with regard to continuing to --

2 MS. KAUFMAN: Excuse me. Commissioner, if we
3 could -- Chairman, if we could get a yes or no and then
4 explain, I would just ask for that direction.

5 CHAIRMAN CARTER: If you can answer it yes or
6 no, answer it yes or no, but you'll be allowed to
7 explain your answer.

8 MS. KAUFMAN: Do you need me to --

9 CHAIRMAN CARTER: Do you need her to restate
10 the question?

11 THE WITNESS: Yes, could you restate the
12 question?

13 MS. KAUFMAN: I didn't mean to interrupt you.
14 I'll see if I can.

15 BY MS. KAUFMAN:

16 Q. My question was, if I am a shareholder and I
17 see my earnings per share of the parent company
18 increase, that's going to be a good thing for me;
19 correct?

20 A. Correct.

21 Q. And my question was, is it your testimony that
22 when I profit or benefit by an increase in earnings per
23 share that that also is going to benefit a ratepayer?

24 A. You wanted a yes or no answer?

25 Q. If you can.

1 A. I would say I don't know, but the way I would
2 cast it is that as a shareholder, I've invested in the
3 company for a reasonable return. In line with customers
4 as a shareholder, I would expect that the management of
5 the company would operate the company such that it
6 maintains high customer satisfaction, which is part of
7 running a sound company, and with sound, satisfied --
8 I'm sorry. With satisfied customers, I think with
9 regard to that, that helps with the company being able
10 to manage its finances as well, because I think with
11 satisfied customers, you are operating your company, I
12 would think, to the point that it's efficient and
13 delivering the customers products that they so desire.

14 Q. So if my earnings per share are increasing,
15 it's your testimony that that's somehow conveying a
16 customer satisfaction benefit?

17 A. No, I'm not saying that.

18 Q. Well, I guess I'm just trying to understand --
19 and I'm going to leave this line after this question.
20 I'm trying to understand how when I'm profiting as a
21 shareholder, how it is that that is conveying a benefit
22 to a ratepayer who is paying their electric bill every
23 month.

24 A. I think with regard to the shareholders, if we
25 are being good stewards of the shareholders' investments

1 and managing those investments such that it helps us in
2 our strategy to provide the quality electric service to
3 our customers that they expect and demand, then I think
4 there is relevance there, yes.

5 Q. But when I get a bigger dividend or, you know,
6 sell my stock at a profit because it has appreciated, is
7 it your testimony that that's a benefit to the
8 ratepayers?

9 A. I don't know.

10 Q. If you would turn back to page 6 of your
11 testimony, please.

12 A. Okay.

13 Q. Line 9. Do you see where I am?

14 A. Yes.

15 Q. And you're talking about Towers Perrin, a
16 national human resources consulting firm; is that
17 correct?

18 A. Yes.

19 Q. Is that somebody that the company retains?

20 A. No, it doesn't, not today.

21 Q. Do you have a witness from Towers Perrin
22 testifying in this case?

23 A. No, we do not.

24 Q. On page 14 at lines 12 and 13, you talk about
25 some other human resources consultants; correct?

1 A. Yes.

2 Q. And you talk about Mercer Human Resources;
3 correct?

4 A. Yes.

5 Q. And they were your previous compensation
6 consultant?

7 A. Our previous executive compensation
8 consultant.

9 Q. Do you have that witness from that company in
10 this case?

11 A. We do not.

12 Q. And then you are currently using Hewitt
13 Associates for executive compensation advice; correct?

14 A. Yes.

15 Q. And do you have a witness from Hewitt in this
16 case?

17 A. We do not.

18 MS. KAUFMAN: Mr. Chairman, I'm going to seek
19 some advice from the bench at this point, and that is, I
20 have a objection to several of the exhibits that are
21 attached to Mr. DesChamps' testimony, and I recall from
22 a very recent case that I was told to make my objection
23 before I asked questions about the exhibit, so I want to
24 preserve my objection and ask questions, or whatever
25 your pleasure is.

1 CHAIRMAN CARTER: What exhibits do you have
2 objections to?

3 MS. KAUFMAN: I have objections to 2, 4, 5,
4 and 7.

5 CHAIRMAN CARTER: Two, 4, 5 and 7.

6 MS. KAUFMAN: Which are basically studies that
7 have been done by --

8 CHAIRMAN CARTER: Hang on. Hold on.

9 MS. KAUFMAN: Oh, I'm sorry.

10 CHAIRMAN CARTER: Number 68.

11 MS. KAUFMAN: I'm sorry. I don't have --

12 CHAIRMAN CARTER: Two, 4, 5, and 7. That's
13 68, 70, 71, and 73; is that right?

14 MS. TRIPLETT: I'm sorry, Mr. Chair. It was
15 2, 4, 5, and 7?

16 CHAIRMAN CARTER: Yes.

17 MS. KAUFMAN: Yes, ma'am.

18 MS. TRIPLETT: Yes, 68, 70, 71, and 73 is what
19 I have.

20 CHAIRMAN CARTER: Okay. And the basis for
21 your objection, Ms. Kaufman?

22 MS. KAUFMAN: The basis for my objection is
23 that there is no witness in this case sponsoring these
24 studies. We don't have any opportunity to cross-examine
25 the person that prepared the studies. Mr. DesChamps has

1 said that they have no witness in this case. It's rank
2 hearsay, and it's not supported elsewhere, and
3 therefore, we don't think that it should be admitted.
4 And I was going to ask him some questions, but I didn't
5 want to overstep my bounds.

6 CHAIRMAN CARTER: To the objection.

7 MS. KAUFMAN: I was just going to -- may I add
8 one more thing?

9 CHAIRMAN CARTER: Sure.

10 MS. KAUFMAN: I know that it has often been
11 said -- and I don't quibble with this -- that experts
12 may rely on items that would otherwise not be
13 admissible. I don't quarrel with that rule, which is
14 Rule 90.704 of the Evidence Code --

15 CHAIRMAN CARTER: But.

16 MS. KAUFMAN: But --

17 CHAIRMAN CARTER: Go ahead.

18 MS. KAUFMAN: But that does not mean that the
19 documents themselves are admissible, and I think that's
20 an important distinction when you look at that rule.

21 CHAIRMAN CARTER: Okay. To the objection.

22 MS. TRIPLETT: Thank you. First I would say
23 that I think procedurally, because this was prefiled
24 testimony and exhibits, I would question whether this
25 objection is timely. It seems to me that it could have

1 been raised at the prehearing and been dealt with then.

2 But in any event, if it's your pleasure to
3 deal with it now, I would also say that, first of all,
4 Mr. DesChamps, as set forth in his testimony, relies on
5 these sorts of outside consultants and documents in the
6 course of doing his business, so I would say that it
7 would be an exception to the hearsay rule under the
8 business records exception to the rule.

9 In addition, I would agree that Mr. DesChamps
10 is an expert in his field due to the time that he has
11 spent in that role, and so therefore, he is allowed to
12 rely on hearsay.

13 And I would also point out that in an
14 administrative proceeding, hearsay is admissible. If it
15 doesn't fall under any of the exceptions that we've
16 already talked about, it could also be entered into the
17 evidence, but not relied upon for a finding of fact.

18 MS. KAUFMAN: Mr. Chairman, could I respond
19 briefly.

20 CHAIRMAN CARTER: Ever so briefly.

21 MS. KAUFMAN: Ever so briefly.

22 CHAIRMAN CARTER: Yes, ma'am.

23 MS. KAUFMAN: This is not a business record
24 exception to the hearsay rule. This is not documents
25 that are kept in the normal course of Progress's

1 business. This is not a business record. And as I
2 said, while he may rely on the documents, that does not
3 make them admissible in this proceeding.

4 CHAIRMAN CARTER: Thank you. Ms. Brubaker.

5 MS. BRUBAKER: First I would like to note --
6 and this is subject to check -- I think as far as
7 whether FIPUG should have raised an objection to the
8 exhibits earlier, if I recall correctly, the OP only
9 speaks to a witness's qualifications need to be raised
10 as a potential subject before hand. I think that
11 concerns about the exhibits could be brought at this
12 time.

13 However, I am inclined to agree that
14 120.57(1)(c) of the Florida Statutes says that hearsay
15 evidence may be used for the purpose of supplementing or
16 explaining other evidence, although it, of course,
17 cannot be used for the sole basis for a finding of fact.
18 It seems to me that these exhibits were used by the
19 witness to base his opinion, the very subject upon which
20 he's testifying, and so I do think the evidence could be
21 admitted as helping to explain, support, or clarify his
22 position.

23 CHAIRMAN CARTER: Okay. Overruled. You may
24 proceed.

25 BY MS. KAUFMAN:

1 Q. Well, with that, Mr. DesChamps, I guess I'll
2 go ahead and ask a couple of questions about your
3 exhibits.

4 A. Okay.

5 Q. And the first one I want to ask you about is
6 MSD-7.

7 A. Okay. I have it.

8 Q. Now, did you prepare this exhibit?

9 A. Yes, I provided this exhibit.

10 Q. So you prepared it using information from a
11 Hewitt total compensation database?

12 A. Yes. Well, the consultant prepared the
13 exhibit.

14 Q. Okay. So let's back up. Who prepared MSD-7?

15 A. The consultant, our executive compensation
16 consultants.

17 Q. And who would that -- is that Hewitt?

18 A. Hewitt, yes.

19 Q. And who at Hewitt prepared this exhibit?

20 A. The gentleman's name is Jamie McGough. He's a
21 principal.

22 Q. Have you reviewed the information that
23 supports the figures on MSD-7?

24 A. In general, I'm familiar with the information
25 that goes into this, but getting into the actual

1 details, no, I did not get into the actual details of
2 this information or this data.

3 Q. I'm not sure what your answer was. Let me try
4 that again. Did you review the data that underlies this
5 chart that -- was it Mr. McDonald? What's his name?

6 A. Mr. McGough.

7 Q. Mr. McDuff.

8 A. Gough.

9 Q. Let me ask that again now that we've got the
10 name straight. Did you review the data that underlies
11 this exhibit that Mr. McGough prepared?

12 A. I did not review all the data that Mr. McGough
13 used in preparing this exhibit. Mr. McGough is our
14 consultant, and we rely on our consultant to use his
15 data and his databases in preparing these exhibits.

16 Q. Take a look at MSD-6, which are the peer
17 companies that we've discussed some.

18 A. Yes. I'm here.

19 Q. Who selected these companies for comparison
20 with Progress?

21 A. The consultant selected these companies and
22 made a recommendation to our Organization and
23 Compensation Committee, and the Organization and
24 Compensation Committee approved this peer group of
25 companies.

1 Q. And he is the Hewitt gentlemen again?

2 A. This is Hewitt, yes.

3 Q. Take look at MSD-5.

4 A. Okay.

5 Q. Now, who prepared this exhibit?

6 A. This is an exhibit from the Towers Perrin
7 Bernal study, and it was provided by the Towers Perrin.

8 Q. So was this data prepared for this case, or is
9 this an excerpt from a larger report?

10 A. This is an excerpt from a larger report, and
11 it was not prepared specifically for this case. It's an
12 annual survey or report or analysis that they provide.

13 Q. Do you know specifically who prepared it?

14 A. I do not.

15 Q. And would it be correct to say that you did
16 not review the data that supports these graphs?

17 A. I don't have access to the data that supports
18 these graphs. These are multiple companies, and their
19 data is confidential and proprietary to Towers Perrin,
20 who was providing this report.

21 Q. So you couldn't have reviewed it; right?

22 A. I could not have reviewed it, no.

23 And I would venture to say relative to MSD-7,
24 I could not have reviewed that information as well, all
25 of that.

1 Q. I want to switch to another line of
2 questioning. I just have a couple of questions about
3 the pension expense that you address I think on page 6.
4 Actually, beginning at the bottom of the page, page 6
5 starting at line 19.

6 A. I am there.

7 Q. And you tell us at line 22 that you have a --
8 you call it an unfavorable variance of \$49.3 million;
9 correct?

10 A. That's correct.

11 Q. And as I understand your explanation on the
12 following page, this variance is essentially due to the
13 downturn in the economic markets; is that correct?

14 A. That's correct.

15 Q. And so would it be correct that due to that
16 downturn, the assets in the pension fund did not perform
17 as well as you might have hoped?

18 A. That's correct.

19 Q. Do you think it's likely that ratepayers --
20 for example, ratepayers' 401(k)'s might also have been
21 impacted by the downturn in the market?

22 A. Ratepayers, yes.

23 Q. My point being that ratepayers have
24 experienced the same economic downturn in their
25 investments; would you agree?

1 A. Yes.

2 Q. Now, on page 7 you tell us, page 7, line 3,
3 that you've had actuaries update your pension expense to
4 reflect current market conditions; is that correct?

5 A. That's --

6 Q. And -- I'm sorry.

7 A. The way I would present that is, we've had the
8 actuary do calculations based on current plan provisions
9 and the current financial markets.

10 Q. And essentially, by comparing the value of the
11 fund now with what it was previously, due to the
12 economic downturn, we see this almost \$50 million
13 decline; correct?

14 A. That's correct. There has been a sizable
15 decline.

16 Q. And you've attached a study by -- is it Buck
17 Consultants?

18 A. Buck Consultants.

19 Q. That is your actuarial firm?

20 A. That's our actuary.

21 Q. Are you an actuary?

22 A. No, I'm not.

23 Q. Do you have a witness from Buck Consultants in
24 this case?

25 A. We do not.

1 MS. KAUFMAN: That's all I have, Mr. Chairman.

2 CHAIRMAN CARTER: Thank you, Ms. Kaufman.

3 COMMISSIONER ARGENZIANO: Mr. Chair.

4 CHAIRMAN CARTER: Commissioner Argenziano.

5 COMMISSIONER ARGENZIANO: Yes. I have a few
6 questions, but first I want to get into something that I
7 don't maybe understand totally, so let me see if I can
8 walk through it. Ms. Kaufman had asked or raised an
9 objection because there were no witnesses to the survey
10 in question, and then the staff had said that it's
11 admissible -- hearsay is admissible because the
12 gentleman, our witness is an expert in his job field. I
13 guess this is part of his job.

14 But did I hear correctly that -- and let me
15 see if I've got this right. Please jump in there, sir,
16 if I am wrong. We have no witnesses to the survey, but
17 you have not been able to review any of the data that I
18 am supposed to rely on your expertise for? Is that
19 correct? I don't want to put words in your mouth. I'm
20 just trying to figure out if that's where I am with
21 this.

22 THE WITNESS: Yes. With regard to the exhibit
23 that Ms. Kaufman was referring to, that exhibit was
24 prepared by our executive compensation consultant,
25 Hewitt Consulting, and they used survey data from other

1 companies in developing that exhibit. And as part of
2 companies participating in surveys, these companies sign
3 confidentiality agreements not to share the specifics of
4 their data with other participants in the survey. So as
5 a result of those confidentiality agreements, they are
6 not -- I'm not privy to reviewing that information that
7 goes into those calculations.

8 COMMISSIONER ARGENZIANO: So then I couldn't
9 rely on you to tell me if you thought that was good data
10 being input or not, because you couldn't see them?

11 THE WITNESS: I would say no. I'm not allowed
12 to review the data, but I certainly would -- with
13 respect to Hewitt's reputation in the market of human
14 resource and executive compensation consulting, I would
15 place a lot of -- I would place high reliability on
16 their work. We have a good working relationship, and I
17 have no reason to doubt the validity of this
18 information.

19 COMMISSIONER ARGENZIANO: Okay. But you
20 didn't see the data, but you say based on their
21 reputation in their field, you feel comfortable with it.

22 THE WITNESS: Yes, and their expertise in this
23 field, yes, ma'am.

24 COMMISSIONER ARGENZIANO: Okay. Let me ask
25 another question. And I really don't know about this,

1 so it's really just trying to figure it out. I
2 understand the company must have health care plans for
3 employees; is that correct?

4 THE WITNESS: Yes, we do.

5 COMMISSIONER ARGENZIANO: And I know that's
6 not considered compensation, but do you have a
7 per capita value per employee per year of what that
8 would be?

9 THE WITNESS: You say cost per -- you're
10 talking cost per member, what it costs us to provide?

11 COMMISSIONER ARGENZIANO: Right, some type of
12 value per employee for health care.

13 THE WITNESS: Yes. I mentioned that --

14 COMMISSIONER ARGENZIANO: I thought I saw it,
15 but I couldn't find it again quickly, so I thought I
16 would ask.

17 THE WITNESS: I think I know where it is. I
18 think it's in my rebuttal. We had a cost -- just a
19 moment.

20 COMMISSIONER ARGENZIANO: Maybe that would be
21 where it was.

22 THE WITNESS: I'm going to turn back to my
23 direct.

24 COMMISSIONER ARGENZIANO: Okay. I'm sorry. I
25 couldn't find it myself, and I know I saw it somewhere.

1 THE WITNESS: I know I saw it.

2 COMMISSIONER ARGENZIANO: And I could hold off
3 on that, and you could get it for me --

4 THE WITNESS: Yes. If you'll give me a
5 moment, I can certainly find it.

6 CHAIRMAN CARTER: Hang on, Commissioner.
7 We'll hold on a sec.

8 COMMISSIONER ARGENZIANO: Okay.

9 THE WITNESS: Okay. It's on page 11 of my
10 direct, line 12. If we look at employees and their
11 covered dependents, it's about \$3,616, if I understand
12 your question correctly.

13 COMMISSIONER ARGENZIANO: Okay. That's right.
14 And one last question, if I could. On the -- the
15 employees that are on the confidential list, 165 and up,
16 could you tell me what would be reflected on their W-2
17 form? Would it be the total compensation I see on the
18 line?

19 THE WITNESS: No, ma'am. That would not be
20 the compensation reflected on their W-2.

21 COMMISSIONER ARGENZIANO: What would be? I
22 don't need the numbers, of course, but --

23 THE WITNESS: Yes. The -- let me just count
24 3, and I'll tell you which ones would be on their W-2.

25 Their base pay, overtime, bonus, non-equity

1 incentive compensation, and all other. However, the
2 stock awards represent the amortization of the stock
3 award. Generally our stock awards vest over a
4 three-year period, so what we reflected here for
5 accounting purposes and for illustrating their total
6 comp is the -- about one-third amortization of the stock
7 grant that we provided them for that year and any other
8 outstanding stock grants that are going through a
9 vesting cycle. So the stock awards here would not be
10 reflected on the W-2. However, when the stock award
11 actually pays out, it would be reflected on the W-2. So
12 what we're showing here is the actual expense.

13 COMMISSIONER ARGENZIANO: Okay. Thank you
14 very much.

15 CHAIRMAN CARTER: Okay. Commissioners.
16 Commissioner Skop.

17 COMMISSIONER SKOP: Thank, Mr. Chair. Good
18 evening, Mr. DesChamps. Good evening.

19 THE WITNESS: Good evening.

20 COMMISSIONER SKOP: I have several questions
21 for you with respect to the confidential documents, and
22 hopefully this will be quick and painless. Turn your
23 attention to Bates number 09214, part 1 of 2, which is
24 entitled "Total Compensation 165 to 200K."

25 THE WITNESS: Okay.

1 COMMISSIONER SKOP: And with respect to that,
2 I just wanted to get some background information, if
3 you're able to do so. If you deem it to be confidential
4 or your counsel does, please stop. But with respect to
5 what's identified as column 3 -- and they have the three
6 different types of abbreviations there. I think I know
7 what they are, but if you could please tell me what each
8 of the three types might be for those categories. I
9 believe it's FPC.

10 THE WITNESS: Oh, FPC, it's really Florida
11 Power Corporation, but it's really -- that's just the
12 way it comes out of our system. It's really Progress
13 Energy Florida, Inc.

14 COMMISSIONER SKOP: So SVC would be Services?

15 THE WITNESS: Progress Energy Service Company.

16 COMMISSIONER SKOP: Okay. And then CLP would
17 be Carolina Power & Light; is that correct?

18 THE WITNESS: That's correct, or Progress
19 Energy Carolinas, Inc.

20 COMMISSIONER SKOP: And you've already done
21 this in part for a prior question that Ms. Bradley
22 asked, but with respect to the compensation categories,
23 going left to right, starting with column 4 over to
24 column 10 -- I mean column 9, which is identified there,
25 would it be possible for to you briefly explain what

1 each compensation category might encompass?

2 THE WITNESS: Yes, I think I can -- before
3 getting started, I can't speak with regard to the last
4 column. I'm not familiar with that column. But the
5 others, I'll do my best to explain it.

6 COMMISSIONER SKOP: Okay.

7 THE WITNESS: The first column, base salary is
8 the individual's base pay.

9 Overtime is pretty straightforward. It's when
10 a person who is eligible for overtime works beyond the
11 regular 40 hours and is paid an overtime rate.

12 The column bonuses, what's reflected here, the
13 type of compensation reflected here would be a
14 retention, generally a retention bonus or a signing
15 bonus, a retention bonus meaning we're trying to retain
16 someone. A signing bonus is generally when there's a
17 new hire and we're providing a signing bonus.

18 Stock awards, as I was explaining a little
19 earlier to Ms. Argenziano, Commissioner Argenziano,
20 represents the amortization related to a stock award to
21 the individual that's reflected there. So that's what
22 that represents.

23 Non-equity incentive compensation is actually
24 the payment of the annual incentive under the management
25 incentive compensation plan.

1 All other is sort of a miscellaneous field
2 that captures things like dividend payments on
3 restricted stock units. It could reflect any other kind
4 of taxable payment such as involving relocation
5 expenses. Let me think of some others. But generally
6 any kind of payment made to an employee that's
7 considered taxable income would go in the "all other"
8 field.

9 And then would you add all of that up to give
10 you your total compensation.

11 Then the allocation amount is taking the
12 percentage of the individual's compensation that is
13 allocable to Progress Energy Florida and multiplying
14 that times the total compensation to give you that
15 allocation amount.

16 COMMISSIONER SKOP: Very well. Thank you.
17 With respect to allocation amounts, I mean, they're
18 straightforward for, obviously, FPC categories, but for
19 service categories -- and there may be a better witness.
20 But how, basically speaking -- some are allocated 100
21 percent for those that are in SVC categories, and some
22 aren't. Is there a manner in which those allocation
23 amounts are determined?

24 THE WITNESS: Yes. I would say there's a
25 procedure that is followed with regard to how those

1 allocation amounts are established, but that is outside
2 the realm of my responsibility on how those allocation
3 percentages are established.

4 COMMISSIONER SKOP: Very well. Just a few
5 more questions. I'm going to go through this quickly.
6 On that same exhibit for key number 26, if you could, I
7 think Ms. Bradley has already asked that, but I had the
8 same question with respect to the bonus that would
9 probably entail, I think as you previously mentioned, a
10 retention bonus; is that correct?

11 THE WITNESS: Yes, sir.

12 COMMISSIONER SKOP: Okay. Now, if I could
13 turn your attention to key number 49 on the next page.

14 THE WITNESS: Okay.

15 COMMISSIONER SKOP: And there's a bonus listed
16 also for that employee, so that would either be a
17 retention bonus or a sign-on bonus; is that correct?

18 THE WITNESS: It's my understanding that's a
19 signing bonus.

20 COMMISSIONER SKOP: Okay. Great. Thank you.
21 And I think I can ask this, but -- I don't think it will
22 cause any harm. But if you can turn to the next page,
23 would you agree that the last number in the key is 101
24 in terms of the --

25 THE WITNESS: The count?

1 COMMISSIONER SKOP: Yes.

2 THE WITNESS: Yes, sir.

3 COMMISSIONER SKOP: Okay. So for those 101
4 employees that are listed on this list by job title in
5 the category of 165 to 200K, only two out of those 101
6 employees received a bonus in 2008; is that correct?

7 THE WITNESS: Yes, sir, a bonus representing a
8 sign-on or retention.

9 COMMISSIONER SKOP: All right. And with
10 respect to page 2 of that same document for 2008, key
11 number 61 -- do you have that?

12 THE WITNESS: Yes, sir, I do.

13 COMMISSIONER SKOP: And we see what looks to
14 be an overtime payment for that particular employee; is
15 that correct?

16 THE WITNESS: Yes, sir.

17 COMMISSIONER SKOP: So that would probably be
18 a non-exempt employee?

19 THE WITNESS: This would be a non-exempt
20 bargaining unit employee.

21 COMMISSIONER SKOP: Okay. Great. Thank you.
22 And if I could turn your attention a little bit further
23 down on that page to key number 76, where there's also
24 an overtime payment. Would that be the same situation
25 for that non-exempt employee?

1 THE WITNESS: Yes, sir, the same as number 61.

2 COMMISSIONER SKOP: Very well. Thank you. I
3 think that's the only questions I have on the 2008 year.
4 If you could flip the page to -- which is page 1 of 3 in
5 the same document for 2009.

6 THE WITNESS: I have it.

7 COMMISSIONER SKOP: Okay. And move forward to
8 the second page, page 2 of 3 for 2009.

9 THE WITNESS: I have it.

10 COMMISSIONER SKOP: Okay. For key number 46,
11 there's an overtime payment. Would that also be a
12 non-exempt employee?

13 THE WITNESS: Yes, sir.

14 COMMISSIONER SKOP: Okay. Great. And then
15 moving further down on that same page to key number 65,
16 for the overtime payment, would that be the same
17 situation?

18 THE WITNESS: Yes, sir.

19 COMMISSIONER SKOP: Okay. Great. Thank you.
20 Flipping to the next page, which is 3 of 3 for 2009, on
21 key number 94?

22 THE WITNESS: Yes, sir.

23 COMMISSIONER SKOP: Would that be the same
24 situation where that would be a non-exempt employee?

25 THE WITNESS: That's correct.

1 COMMISSIONER SKOP: Great. Thanks. Further
2 down on that same page to key number 100, where there's
3 an overtime payment.

4 THE WITNESS: I see it.

5 COMMISSIONER SKOP: And that would also be a
6 non-exempt employee; is that correct?

7 THE WITNESS: A bargaining unit non-exempt
8 employee, yes, sir.

9 COMMISSIONER SKOP: Great. Thank you. And on
10 that same page for year number 2009, out of the 100
11 employees listed in that specific year, there is no
12 projected bonuses paid for any of those employees; is
13 that correct?

14 A. That's correct, sir.

15 COMMISSIONER SKOP: Great. Thank you. Now,
16 if we could turn your attention to the next page, which
17 begins with the year 2010.

18 THE WITNESS: I'm there.

19 COMMISSIONER SKOP: And key number 40 where
20 there's an overtime payment, would that be the same
21 situation as before?

22 THE WITNESS: Yes, sir.

23 COMMISSIONER SKOP: Okay. If I could ask you
24 to turn the page to page 2 of 3, please, for 2010, and
25 it would be key number 62.

1 THE WITNESS: Yes, sir.

2 COMMISSIONER SKOP: Would that be the same
3 situation for that overtime payment?

4 THE WITNESS: Similar situation, yes, sir.

5 COMMISSIONER SKOP: Thank you. Further down
6 that page to key number 83, for the overtime payment,
7 would that be the same situation?

8 THE WITNESS: Yes, sir.

9 COMMISSIONER SKOP: And flipping the page to
10 page 3 of 3 for 2010, which is the -- I believe the
11 projected test year, am I correct to understand that out
12 of the 107 employees listed, there are no projected
13 bonuses for those employees?

14 THE WITNESS: That's correct, sir.

15 COMMISSIONER SKOP: All right. Thank you. If
16 I could next turn your attention to Bates number 09214,
17 part 2 of 2, which is entitled "Total Compensation Over
18 200,000."

19 THE WITNESS: I have it.

20 COMMISSIONER SKOP: Okay. And the majority of
21 my questions I guess would focus on this particular
22 document. And I'll try and address the bonuses first
23 and then move on to the other categories, but if I could
24 turn your attention to key number 28 on page 1 of 4 for
25 that document for 2008.

1 THE WITNESS: I have it.

2 COMMISSIONER SKOP: And that indicates a bonus
3 for that particular employee; correct?

4 THE WITNESS: Yes, sir.

5 COMMISSIONER SKOP: And that would either be a
6 relocation or a sign-on bonus?

7 THE WITNESS: Well, retention or sign-on, and
8 I believe that's a sign-on.

9 COMMISSIONER SKOP: Okay. Great. Thank you.
10 Moving two pages forward to page 3 of 4 of that
11 document, for key number 93.

12 THE WITNESS: Okay.

13 COMMISSIONER SKOP: And that also shows a
14 bonus for that employee; is that correct?

15 THE WITNESS: Yes, sir.

16 COMMISSIONER SKOP: And that would also be
17 either a retention or a sign-on bonus?

18 THE WITNESS: That's correct.

19 COMMISSIONER SKOP: Okay. And moving to the
20 next page, on page 4 of 4, key number 137, that also
21 shows a bonus for that employee; is that correct?

22 THE WITNESS: Yes, sir.

23 COMMISSIONER SKOP: And that would either be a
24 retention bonus or a sign-on bonus?

25 THE WITNESS: That's correct.

1 COMMISSIONER SKOP: And at the very bottom
2 left of that page, would you agree that there are 155
3 key numbers for the year 2008?

4 THE WITNESS: Yes, sir.

5 COMMISSIONER SKOP: So subject to check, only
6 three of those 155 employees received bonuses for 2008;
7 is that correct?

8 THE WITNESS: That's correct.

9 COMMISSIONER SKOP: All right. If I could ask
10 you to go back to the first page of that document,
11 please.

12 THE WITNESS: Okay. I'm there.

13 COMMISSIONER ARGENZIANO: Commissioner Skop,
14 would you say again which document?

15 COMMISSIONER SKOP: Yes. It is PSC Bates
16 number 09214, part 2 of 2, and it's the confidential
17 document entitled "Total Compensation Over \$200,000."

18 COMMISSIONER ARGENZIANO: Could you give me a
19 minute, please? I don't seem to have that in my batch
20 here. Jut give me a minute.

21 COMMISSIONER SKOP: Okay.

22 MS. BRADLEY: Mr. Chairman, while you're
23 taking a break, I've been looking for a break, and just
24 for the record wanted to support Ms. Kaufman in her
25 objection to the other document. It's hearsay upon

1 hearsay. An expert can't be used as a conduit for
2 introducing otherwise inadmissible evidence. It's not a
3 business record because it wasn't prepared by the
4 company and it's not based on evidence kept in the
5 normal course of business. And even in administrative
6 law, an expert can't introduce hearsay evidence in
7 support of his own testimony. So we would, for the
8 record, object.

9 CHAIRMAN CARTER: For the record. Same
10 ruling, for the record.

11 COMMISSIONER ARGENZIANO: Mr. Chair, I guess I
12 just don't have that document, so I'll just follow
13 along.

14 CHAIRMAN CARTER: Okay. What we'll probably
15 do, Commissioner Skop, without violating
16 confidentiality, try to be as descriptive as possible so
17 Commissioner Argenziano can follow along.

18 COMMISSIONER SKOP: Okay.

19 COMMISSIONER ARGENZIANO: Thank you.

20 COMMISSIONER SKOP: Very well, Mr. Glenn, do
21 you have any guidance how to proceed, or would it be
22 best to do it the way I'm currently doing it?

23 MR. GLENN: Very carefully, Mr. Skop,
24 Commissioner Skop. No, I think you're doing fine.
25 That's fine.

1 COMMISSIONER SKOP: All right. Thank you.

2 All right. Mr. DesChamps, if we can continue
3 on page 1 of 4 for the year 2008, which is the total
4 compensation for 200,000 and above, I guess I would like
5 to on that particular page address some issues or just
6 try and get some feedback.

7 On key number 15 for non-equity incentive
8 compensation, would it be correct to understand based on
9 your prior statement that that could be -- let me check
10 my notes here. Basically, management incentives based
11 upon whatever programs are in place for that particular
12 employee? And what I'm looking at is the relation of
13 non-equity incentive compensation to base salary for
14 that particular one.

15 THE WITNESS: Is your question is that payment
16 made under the management incentive compensation plan?

17 COMMISSIONER SKOP: Yes, sir.

18 THE WITNESS: Yes, sir.

19 COMMISSIONER SKOP: All right. And on that
20 same page, all other compensation, for key numbers 1, 2,
21 3, 4, and 5, I think you mentioned that might be
22 dividends on restricted stock or relocation expenses or
23 other forms of compensation.

24 THE WITNESS: Yes, sir. A major portion of it
25 would be dividends on restricted stock and restricted

1 stock units. And I'm trying to think if there's
2 anything else. But those, I think, would be some of the
3 major contributors. Also, if there's any imputed income
4 values from any other business items, it would be in
5 there as well.

6 COMMISSIONER SKOP: Okay. Very well. And
7 with respect to relocation and things that might be
8 encompassed in "all other," that could entail the sale
9 and purchase of homes and vice versa in support of
10 relocation?

11 THE WITNESS: That's correct.

12 COMMISSIONER SKOP: If I could ask you briefly
13 to look at key number 8 for the "all other" compensation
14 in relation to that individual's base salary, do you
15 happen to know -- and again, I'm putting you on the
16 spot, but would you happen to know what might be the
17 driver of that other compensation for that particular
18 individual?

19 THE WITNESS: I do not know offhand the
20 specifics on the driver there.

21 COMMISSIONER SKOP: Very well. If I could ask
22 you to flip the page to page 2 of 4, key number 73,
23 please. And for the stock awards, I'm seeing what
24 appears to be a negative number. Is that correct, or
25 what might that result from?

1 THE WITNESS: That is correct. That would be
2 as a result of a person or an employee forfeiting an
3 award. A person could have terminated and we rehired
4 them, and that could have been just the forfeiture of
5 that award and the reversal of the expense of that
6 award.

7 COMMISSIONER SKOP: Very well. If I could ask
8 to you flip two pages to the key number 155 under the
9 year 2008, please.

10 THE WITNESS: Yes.

11 COMMISSIONER SKOP: And I was wondering, with
12 respect to that particular employee, their total
13 compensation does not appear to be within the target
14 range, so I was wondering if something might be missing
15 there or what have you.

16 THE WITNESS: Yes. This person was newly
17 transferred into this role from another one of the
18 business units within the company, and in doing our
19 analysis, this person met the threshold on a total
20 basis. However, with respect to the compensation, being
21 in this role and the portion of their compensation that
22 would be allocable to Florida, that's what these numbers
23 represent. If you took this portion plus the portion
24 earned in the other business unit, they would exceed the
25 threshold of 200.

1 COMMISSIONER SKOP: Very well. And I
2 appreciate the full disclosure. If I could ask you to
3 flip the page to page 1 of 4 for year 2009, please.

4 THE WITNESS: Okay.

5 COMMISSIONER SKOP: And I guess if I could ask
6 you to go just directly to 4 of 4 on that same year,
7 which is three pages ahead, please.

8 THE WITNESS: Okay. I'm there.

9 COMMISSIONER SKOP: And for key number 159,
10 essentially, it's my understanding that although the
11 allocation is allocated here, the charges for that
12 particular line item would not -- would be below the
13 line in terms of flight operations; is that correct?

14 THE WITNESS: That's my understanding, yes,
15 sir.

16 COMMISSIONER SKOP: So that particular
17 employee's salary and the appropriate allocation would
18 be included within the reduction that's made on Schedule
19 C-2 in column 7 for corporate aircraft.

20 THE WITNESS: That's correct.

21 COMMISSIONER SKOP: So Progress completely
22 does not charge its ratepayer for any corporate aircraft
23 related expenses; is that correct?

24 THE WITNESS: That is my understanding, yes,
25 sir.

1 COMMISSIONER SKOP: Great. All right. And
2 just on that same page also for 2009, for the 160 keys,
3 would you also agree that there are zero bonuses
4 projected for those 160 employees?

5 THE WITNESS: That is correct, zero bonuses
6 with regard to the definition of bonus being retention
7 and signing bonuses.

8 COMMISSIONER SKOP: Okay. And again, we don't
9 have full transparency into the other categories, but
10 again, I'm just trying to look at the things that make
11 sense to me based on what I'm seeing. And if I could
12 briefly ask you -- and this is my final question, or
13 final two questions -- to turn to page 4 of 4 for 2010,
14 which is the last page of that exhibit.

15 THE WITNESS: Okay. I'm there.

16 COMMISSIONER SKOP: And for key number 161,
17 which again is the same issue related to corporate
18 aviation expenses and the allocation to Florida, that
19 allocation shown here will never affect Progress's
20 ratepayers; is that correct?

21 THE WITNESS: That is my understanding, yes,
22 sir.

23 COMMISSIONER SKOP: Excellent. And then would
24 you also agree on that same page for the 162 key numbers
25 that there are no projected bonuses paid for 2010 for

1 those 162 employees?

2 THE WITNESS: Yes, sir.

3 COMMISSIONER SKOP: Okay. Great. But there
4 may -- for all the employees, there may be additional
5 compensation that's listed on these sheets; is that
6 correct?

7 THE WITNESS: You say incentive compensation?

8 COMMISSIONER SKOP: Well, incentive in terms
9 of either stock awards or non-equity incentive comp and
10 the other categories listed, there may be awards for
11 those other particular categories; is that correct?

12 THE WITNESS: Yes. If we put this in the
13 context of 2010, the projection reflects that there will
14 be other -- that there will be incentive compensation
15 granted to these individuals.

16 COMMISSIONER SKOP: Very well. Thank you.

17 CHAIRMAN CARTER: Thank you. Commissioners,
18 before I go to Ms. Van Dyke, anything further from the
19 bench? Ms. Van Dyke.

20 MS. VAN DYKE: No questions.

21 CHAIRMAN CARTER: Jay.

22 MR. LAVIA: No questions.

23 CHAIRMAN CARTER: I hate to be so informal,
24 but --

25 MR. LAVIA: It's Mr. LaVia.

1 CHAIRMAN CARTER: Mr. LaVia.

2 MR. LAVIA: But you can call me Jay.

3 CHAIRMAN CARTER: Okay. Staff.

4 MS. KLANCKE: At this time, Chairman, we would
5 like to address staff's composite exhibit with respect
6 to this witness.

7 CHAIRMAN CARTER: Okay. You're recognized.

8 MS. KLANCKE: Indeed. Mr. Chairman, I have
9 spoken to the parties, and they have advised me that
10 they are able to agree to the entry of item numbers 1
11 through 10 of Exhibit Number 32 into the record.

12 CHAIRMAN CARTER: Is that true. For the
13 parties, without objection? So that's item number 32,
14 you said?

15 MS. KLANCKE: Yes, sir, items number 1 through
16 10 of Exhibit 32.

17 CHAIRMAN CARTER: Okay. Staff, you may
18 proceed.

19 MS. KLANCKE: With respect to items number 11
20 and 12 of Exhibit 32, it is my understanding that not
21 all of the parties have been able to stipulate to the
22 admission of these responses. As such, I am going to go
23 through them one by one with the witness and afford the
24 parties with an opportunity to object.

25 CHAIRMAN CARTER: Okay. You're recognized.

CROSS-EXAMINATION

1
2 BY MS. KLANCKE:

3 Q. Mr. DesChamps, my name is Caroline Klancke. I
4 believe that we met over the phone during your
5 deposition.

6 A. Yes, we did. Nice to meet you face to face.

7 Q. Good evening. I handed out a packet of
8 documents while you took the stand in conjunction with
9 your confidential documents; is that correct?

10 A. Yes.

11 Q. And they comprise the exhibits contained in
12 item number 11 and 12 of Staff's Composite Exhibit
13 Number 32; is that correct?

14 A. Thirty-two? Let me see.

15 Q. It was a little stack that has a yellow cover
16 sheet.

17 A. I have that.

18 Q. Absolutely. Would you please turn to that
19 document? Could you please have that in front of you?

20 A. Yes. Okay.

21 CHAIRMAN CARTER: All the parties, do you guys
22 have that?

23 MS. KLANCKE: They have items number 11 and 12
24 as part of their stack of exhibits for this witness.

25 CHAIRMAN CARTER: Okay. You may proceed.

1 BY MS. KLANCKE:

2 Q. Mr. DesChamps, I would like you to turn to the
3 first page, to the first document contained in item
4 number 11. It consists of PEF's Responses to Staff's
5 24th Request for Production of Documents, Number 159.
6 Do you see that?

7 A. Yes, I do.

8 Q. Are you familiar with this document?

9 A. Yes, I am. This is the document?

10 Q. Yes, sir, I believe so, from over here. Was
11 it prepared by you or under your supervision?

12 A. Under my supervision. First, we're talking
13 about 159, and A, B, C; is that correct?

14 Q. Yes, sir.

15 A. Okay.

16 Q. This request pertains to three studies
17 referenced in your direct testimony, pages 3 and 4. In
18 particular, it refers to the 2007 Towers Perrin Energy
19 Services Study, Medical Plan Comparison for the
20 bargaining and non-bargaining plans; the 2007 Towers
21 Perrin Beval Energy Services Study, Entire Benefit
22 Program Comparison for the bargaining and non-bargaining
23 plans; and the 2009 Hewitt Market Analysis of Executive
24 Officer Compensation; is that correct?

25 A. That's correct.

1 Q. Could you briefly summarize the questions and
2 answers in this request for the Commission?

3 A. I don't follow your question.

4 Q. Could you read the question, Question Number
5 159?

6 A. Oh, you just want me to read it? "Please
7 refer to the direct testimony of Masceo S. DesChamps,
8 page 3 and 4, and provide each of the following
9 documents: 2007 Towers Perrin Bernal Energy Services
10 Study, Medical Plan Comparison for the bargaining and
11 non-bargaining plans; Item B, 2007 Towers Perrin Beval
12 Energy Services Study, Entire Benefit Program Comparison
13 for the bargaining and non-bargaining plans; Item C,
14 2009 Hewitt Market Analysis of Executive Officer
15 Compensation."

16 Q. Could you describe briefly just in general
17 terms what is included in PEF's response to this
18 interrogatory or to this production of documents
19 request?

20 A. If I remember correctly, the -- well, I can
21 say with regard to Item A, the 2007 Towers Perrin Bernal
22 Energy Services Study provides a comparison of Progress
23 Energy medical plans on a relative value basis to other
24 bargaining and non-bargaining plans. The 2007 Towers
25 Perrin Beval Energy Services Study again, this is also a

1 relative value comparison of Progress Energy's entire
2 benefit program comparison for the bargaining and
3 non-bargaining plans. And then the 2009 Hewitt Market
4 Analysis addresses market values for our executive
5 officer compensation.

6 Q. Excellent. Has anything changed since the
7 date of this response, September 16, 2009, that would
8 alter your response to this request?

9 A. No.

10 MS. KLANCKE: Mr. Chairman.

11 CHAIRMAN CARTER: Yes, ma'am.

12 MS. KLANCKE: At this time, I would like to
13 inquire whether the parties have any objections to the
14 entry of this item into the record, and I would like to
15 request a ruling on the admissibility of this document.

16 CHAIRMAN CARTER: Ms. Kaufman.

17 MS. KAUFMAN: Yes, Mr. Chairman.

18 CHAIRMAN CARTER: You first, and then
19 Ms. Bradley.

20 MS. KAUFMAN: I knew you would come to me
21 first. We object to this document. Our objection is
22 similar to the one I've stated. This is a -- this was
23 transmitted by letter May 21, 2007. It didn't even go
24 to Mr. DesChamps. But it's a survey that was conducted
25 by a group. There's no witness here to sponsor this.

1 There's no way that we can cross-examine the group or
2 the preparer. We don't even know who the preparer of
3 the document is.

4 And I think as Ms. Bradley pointed out to you,
5 a witness cannot get hearsay into evidence that's
6 inadmissible by attempting to rely on it. So we object
7 to the entry of this exhibit. We don't think that it is
8 appropriate, and we don't think that it can be relied on
9 for any purpose. If the company wanted this in
10 evidence, they should have presented the witness who
11 prepared it so we could cross-examine him and talk to
12 him about how the study was performed and the data that
13 supports it.

14 CHAIRMAN CARTER: Thank you. Ms. Bradley.
15 Commissioner Argenziano.

16 COMMISSIONER ARGENZIANO: Just a question. I
17 thought that I was told by the witness that the
18 information was confidential. How does he know it
19 hasn't changed if he has not been able to look at the
20 data?

21 THE WITNESS: What is the question? Is the
22 question directed to me?

23 COMMISSIONER ARGENZIANO: Yes, sir. You told
24 me before that because the nature of the information was
25 confidential that you were not able to look at the data.

1 How do you know it hasn't changed if you can't look at
2 the data?

3 THE WITNESS: I was speaking with regard to
4 this study, that the data going into this -- it would be
5 my opinion that this information has not changed.

6 COMMISSIONER ARGENZIANO: Mr. Chair.

7 CHAIRMAN CARTER: Yes, ma'am.

8 COMMISSIONER ARGENZIANO: This is a tough one.
9 I'm trying to rely on the man's expertise, but if he
10 hasn't seen the data, I don't know how you can rely on,
11 "I don't think it has changed." He hasn't seen it, so
12 I'm having some problems with it.

13 Thank you, though. Thank you for the answer.

14 CHAIRMAN CARTER: Okay. Ms. Bradley, to the
15 objection.

16 MS. BRADLEY: Mr. Chairman, we had earlier
17 indicated that we stipulated to the documents, but I
18 have to support Ms. Kaufman and her legal analysis of
19 the fact that it's a inadmissible document.

20 CHAIRMAN CARTER: Staff, to the objection.

21 MS. KAUFMAN: Mr. Chairman, I just -- I wanted
22 to just add one more item to my objection.

23 CHAIRMAN CARTER: Okay.

24 MS. KAUFMAN: I'm sorry. And that is that we
25 would also object on the grounds of authenticity. We

1 haven't had any witness -- the witness who prepared the
2 study say, "This is my work. This is the study that I
3 prepared, and I have the documents that support it." So
4 we think it's also inadmissible based on lack of
5 authentication.

6 CHAIRMAN CARTER: Okay. Staff, to the
7 objection. Not you, Ms. Brubaker. This is staff's.

8 MS. KLANCKE: I would like to reiterate and
9 reaffirm Ms. Brubaker's answers to the objection that
10 was raised to his exhibit. Similarly, in the instant
11 case, staff has requested through this POD the entirety
12 of the documents that form the basis of this witness's
13 testimony. Thus, in this forum, they are admissible for
14 the purposes of relevant information that forms the
15 basis of this witness's opinion and helps to explain the
16 foundation and the basis for that opinion.

17 CHAIRMAN CARTER: Okay. Ms. Brubaker, to the
18 objection.

19 MS. BRUBAKER: Well, similar to my earlier
20 comments, I mean, my understanding is that these
21 documents are essentially the full version of the
22 excerpt that appears in the witness's testimony. To
23 that extent, I do think they're admissible for the same
24 reasons I stated before.

25 I do note that the parties, and especially the

1 Commissioners, can give that evidence whatever weight
2 they deem appropriate. And obviously, we're hearing
3 that some entities will give different weight to that
4 evidence. But I do -- my recommendation is that it
5 would be admissible.

6 COMMISSIONER ARGENZIANO: Mr. Chair.

7 CHAIRMAN CARTER: You're recognized,
8 Commissioner Argenziano.

9 COMMISSIONER ARGENZIANO: I'm sorry. I'm
10 trying to be very fair, but I can't find the relevant
11 information to be reliable. I find it unreliable when I
12 can't get the expert -- when the expert is telling me he
13 hasn't been able to look at the data, I don't see how
14 it's reliable at all. So I want to get that on the
15 record, that I find the information unreliable.

16 And I don't think its relevant, because I
17 cannot -- I think if you just talk it out and say, okay,
18 I'm relying on the expert that's before us to tell us
19 about a study that he had no input on or couldn't even
20 look at the data on and doesn't know if it's changed,
21 it's his opinion -- and with all due respect to the
22 gentleman, I'm trying to rely on his expertise, but when
23 the one person has not been able to look at it, I can't
24 call that reliable. So just for the record. Thank you.

25 CHAIRMAN CARTER: Okay. For the record, my

1 ruling stands. It will be admissible, but,
2 Commissioners, you can give it whatever weight that you
3 deem necessary. If you don't find it credible, you
4 don't have to use it. But it has been entered, and you
5 give it whatever weight you deem necessary.

6 Staff, you're recognized.

7 MS. KLANCKE: Certainly.

8 BY MS. KLANCKE:

9 Q. Mr. DesChamps, can you please turn to the next
10 document, which is entitled "PEF's Response to Staff's
11 24th Request for Production of Documents, Number 160."
12 Are you familiar with this document?

13 A. Yes.

14 Q. Was it prepared by your or under your
15 supervision?

16 A. And we're referring to the annual report?

17 Q. We're referring to the Request for Production
18 of Documents, Number 160, the actual request itself and
19 the response thereto.

20 A. Just let me read it.

21 MS. KAUFMAN: Ms. Klancke, could you direct us
22 to the Bates number page?

23 MS. KLANCKE: The Bates stamp numbered pages
24 are 09RP dash Staff POD 24 dash 160 dash 000001.

25 MS. KAUFMAN: Thank you.

1 MS. KLANCKE: Through -- that's the first
2 page. Through 09RP dash Staff POD 24 dash 160 dash
3 000009.

4 MS. KAUFMAN: Thank you.

5 MS. KLANCKE: You're welcome.

6 CHAIRMAN CARTER: You may proceed.

7 A. Yes.

8 Q. Why don't I just repeat the question?

9 CHAIRMAN CARTER: Yes, that will be helpful.

10 BY MS. KLANCKE:

11 Q. Was it prepared by you or under your
12 supervision?

13 A. We're referring to --

14 Q. The response.

15 A. The market analysis of executive compensation?
16 That was not prepared personally by me. It was prepared
17 by the consultant.

18 Q. And you oversaw the response to this
19 deposition exhibit -- or to this exhibit?

20 A. Yes, I did oversee the --

21 Q. POD response.

22 A. -- production of this POD, yes.

23 Q. This request pertains to a written analysis
24 comparing base salaries, annual incentives, and
25 long-term incentives of Progress Energy's executive

1 officers to compensation opportunities provided to
2 executive officers of its peers; is that correct?

3 A. That's correct.

4 Q. Could you briefly summarize this question and
5 the answers in this request for this Commission?

6 A. I will attempt to, yes, ma'am. This analysis
7 is intended to provide a market-based competitive
8 analysis of our executive compensation, our executive
9 compensation elements, which include base salary, target
10 bonus, target total cash, long-term incentives, and
11 target net total compensation.

12 With regard to the results of this analysis,
13 this analysis shows that for results, that we are
14 basically for all of our executives below the 50th
15 percentile of our peer group; stating that differently,
16 that the value of our compensation package to our senior
17 executives is below the median of our executive
18 compensation peer group.

19 Q. Has anything changed since the date of this
20 response that would alter your response to this request?

21 A. No, it has not.

22 MS. KLANCKE: Mr. Chairman, at this time I
23 would like to inquire whether the parties have any
24 objection to the entry of this item into the record, and
25 I would like to request a ruling on the admissibility of

1 this document.

2 CHAIRMAN CARTER: Same objection?

3 MS. KAUFMAN: Yes, and I would just like to
4 point out one thing for the record, Mr. Chairman, if I
5 might.

6 CHAIRMAN CARTER: Yes, ma'am.

7 MS. KAUFMAN: I think that the witness was
8 asked if this was prepared under his direction or
9 supervision, and I just want the record to be clear that
10 I believe he was referring to the response.
11 Essentially, I think --

12 CHAIRMAN CARTER: Right, yes.

13 MS. KAUFMAN: -- he responded and he said the
14 document --

15 CHAIRMAN CARTER: That's what we understood
16 him to say.

17 MS. KAUFMAN: Yes, and so we maintain our same
18 objection of hearsay and authenticity.

19 CHAIRMAN CARTER: And for the record,
20 Ms. Bradley, your objection as well?

21 Staff, same reasoning?

22 MS. KLANCKE: Yes, sir.

23 CHAIRMAN CARTER: Okay. Same ruling on the
24 same basis. Staff.

25 COMMISSIONER ARGENZIANO: Mr. Chair.

1 CHAIRMAN CARTER: Yes, ma'am.

2 COMMISSIONER ARGENZIANO: Could staff tell me
3 how they could validate for me as a Commissioner that
4 nothing has changed, since no one has seen the data?

5 MS. KLANCKE: The date of this POD response is
6 September 16, 2009. This is the date that we received
7 it. I am relying on the witness's testimony, which
8 stated that --

9 COMMISSIONER ARGENZIANO: Excuse me, but when
10 was the data produced?

11 MS. KLANCKE: It was produced on September 16,
12 2009, or it was produced to us on September 16th. I
13 would have to defer to the date with respect to the date
14 they received this document.

15 COMMISSIONER ARGENZIANO: But the witness
16 doesn't know. That's my point. No one seems to know
17 anything about the data because they can't find out
18 about the data, so I'm asking staff -- I'm your
19 Commissioner, one of your Commissioners, and I would
20 like to know how you can validate for me that this data
21 hasn't changed if you're relying on a witness who can't
22 tell us that he has seen the data.

23 CHAIRMAN CARTER: Let me jump in here,
24 Commissioner. The witness is under oath, and if we
25 don't find him credible, then we don't view it. It's

1 not staff's exhibit. It's the company's --

2 COMMISSIONER ARGENZIANO: Mr. Chair, it's not
3 about the witness being under oath. The witness is
4 telling the truth under oath. He's telling you he
5 hasn't seen the data, but staff is defending that it
6 hasn't changed, and I'm a Commissioner trying to --

7 CHAIRMAN CARTER: No, they're not defending
8 it. They're not defending it. The company is defending
9 it. Staff asked the question whether or not the
10 document that the company presented to staff has changed
11 since they presented it to staff, but staff is
12 definitely not -- they're definitely not in any way
13 adding or stating to the veracity of this document
14 whatsoever. It's based upon the company. If we don't
15 find it credible, it's the company. It's not staff's
16 exhibit. It's the company's exhibit.

17 COMMISSIONER ARGENZIANO: I guess then maybe
18 it's the way that staff asked the question. If they
19 would ask it in the reverse way, then maybe -- as to,
20 you know, the credibility of the changing, how would he
21 know. It seemed like it was almost a leading question,
22 you know, it has not changed. If you ask it a different
23 way that this Commissioner could feel comfortable --
24 actually, I don't think I can feel comfortable. The
25 witness has already under oath spoke the truth. He said

1 he has not seen the data, so I don't understand how we
2 can rely on the data not changing. I just respectfully
3 disagree. Thank you.

4 CHAIRMAN CARTER: It will be up to us as
5 Commissioners to give it whatever weight we deem
6 necessary, Commissioner, so if we don't find it
7 credible, we just don't give it any weight.

8 MR. LAVIA: Mr. Chairman, a point of
9 clarification. This is staff's exhibit. This exhibit
10 would not be introduced but for staff introducing it
11 right now. The company had an opportunity to introduce
12 what they chose to introduce with the direct testimony.
13 This is the remainder of these reports. Staff is
14 sponsoring it. It's staff's exhibit. Thank you.

15 MS. KAUFMAN: Mr. Chairman, if I could just
16 make one more point to Commissioner Argenziano's
17 comment.

18 CHAIRMAN CARTER: One second. Commissioner
19 Skop, you're recognized.

20 COMMISSIONER SKOP: Thank you, Mr. Chair.
21 I'll yield to Ms. Kaufman. I just had two quick
22 follow-up questions. That might be a good point to --

23 CHAIRMAN CARTER: Okay. Ms. Kaufman.

24 MS. KAUFMAN: I was just going to point out in
25 response perhaps to Commissioner Argenziano's question

1 that it appears from the face of the document that it
2 was prepared June 2009. I don't know what date. And it
3 was provided to the staff I think just last Friday. So
4 I'm unsure how Mr. DesChamps could say that nothing has
5 changed, because the date on the document, it's over
6 three months old.

7 THE WITNESS: Just a point of clarification.
8 The document I was referring to is dated February 2009.

9 And another point of clarification is with
10 regard to -- I was responding to the question whether
11 I've seen all the data. I have seen and provided the
12 data for Progress Energy, but with regard to other
13 companies that are included in the study, I did not see
14 all of that data, just for point of clarification, if
15 that's of any significance to this discussion.

16 CHAIRMAN CARTER: Thank you. Commissioner
17 Skop.

18 COMMISSIONER SKOP: Thank you, Mr. Chairman.
19 I had inadvertently omitted two final questions that I
20 had for Mr. DesChamps, so if I could briefly cut in and
21 refer Mr. DesChamps back to the prior exhibit, which was
22 the total compensation for over \$200,000, which is Bates
23 number 09214, part 2 of 2, please.

24 THE WITNESS: Yes, sir.

25 COMMISSIONER SKOP: Generally speaking, for

1 key numbers 1, 2, 3, 4, and 5 on page 1 of 4 of the
2 document for 2008 -- do you see those?

3 THE WITNESS: Yes, sir.

4 COMMISSIONER SKOP: Generally speaking, those
5 are likely the corporate officers? Would that generally
6 be correct?

7 THE WITNESS: Yes, in this analysis.

8 COMMISSIONER SKOP: Would it also be correct
9 to say that the Florida allocation portion of their
10 total compensation is approximately 50 percent, with the
11 exception of key number 4?

12 THE WITNESS: That is correct.

13 COMMISSIONER SKOP: Okay. And the reason that
14 key number 4 is allocated 100 percent to Florida is that
15 it is a Florida-based position; is that correct?

16 THE WITNESS: That's correct.

17 COMMISSIONER SKOP: Okay. And just one final
18 question in relation to both of the documents that we've
19 previously discussed, the total compensation over
20 200,000, as well as the total compensation from 165,000
21 to 200,000. Can you briefly articulate what drives the
22 stock awards for that composite group of employees?

23 THE WITNESS: Drives the stock awards with
24 regard to the amounts shown here?

25 COMMISSIONER SKOP: Yes. I mean, it seems to

1 me generally that's what is emphasized.

2 THE WITNESS: Yes. And I can go into greater
3 detail, but I'll take a stab at it this way briefly.
4 When a stock award is granted, it generally vests over a
5 three-year period. And for accounting purposes, what we
6 do is amortize one-third of the grant each year. And
7 what's reflected here is that amortization of the stock,
8 of the value of the stock grant.

9 What occurs is, an individual can have as many
10 as three stock grants that are going through what we
11 refer to as the vesting period. So what's reflected
12 here is the applicable annual amortization of the value
13 of that stock grant on an annual basis in that column.

14 COMMISSIONER SKOP: Okay. So if I heard you
15 correctly, if you had a three-year period, the eligible
16 employee that performed well might get the stock --
17 excuse me, a restricted stock award each respective
18 year, which would have a three-year vesting period. So
19 at most, the employee would have three of those awards
20 amortizing at the same time. Is that --

21 THE WITNESS: That's correct.

22 COMMISSIONER SKOP: Okay. Great?

23 THE WITNESS: And that's on the assumption
24 that the employee was previously employed for those
25 three years and thereby eligible.

1 COMMISSIONER SKOP: And I'm going to tread
2 very lightly. Mr. Glenn, if you're back there, speak up
3 on there.

4 With respect to the amount of the actual stock
5 award, again, I could draw some conclusions on what I'm
6 seeing that's confidential on what Progress emphasizes
7 in terms of its compensation philosophy, but again, I'm
8 not going to get into confidential details.

9 But in terms of the amount of stock awards, is
10 that driven by a percentage of base salary or some other
11 factor? And before you answer, check with your general
12 counsel to make sure that's not a -- okay. All right.
13 Very well.

14 THE WITNESS: Yes, sir. With respect to the
15 amount or value of the stock award, we have done
16 benchmarking through our market analysis to determine
17 what would be the appropriate -- and we refer to it as
18 the target percentage, what would be the competitive,
19 market-based target percentage for these positions for
20 the purposes of awarding a stock award.

21 COMMISSIONER SKOP: So you feel for that
22 particular category of compensation that those awards
23 are properly allocated based upon either employee
24 position and performances?

25 THE WITNESS: Yes, sir. With respect to the

1 allocation factors we've been provided, we follow that
2 routinely across the board in allocating the dollar
3 amounts to --

4 COMMISSIONER SKOP: Okay. Well, like I said,
5 I'm taking no opinion. I just wanted to get greater
6 clarification. So thank you very much, and thank you,
7 Mr. Glenn, for your patience.

8 CHAIRMAN CARTER: Thank you. Commissioners,
9 anything further? Ms. Van Dyke, did I come to you
10 already?

11 MS. VAN DYKE: Yes, you did.

12 CHAIRMAN CARTER: Mr. LaVia, did I come to
13 you? That's right. I was with Ms. Klancke, staff. I'm
14 sorry.

15 BY MS. KLANCKE:

16 Q. Mr. DesChamps, would you please turn to
17 Progress's Responses to Staff's 24th Request for
18 Production of Documents, Number 161. Let me know when
19 you're there.

20 A. Number 161? Is that in the stack you provided
21 me here? Is that what you're referring to?

22 Q. Yes. It should be contained in your exhibit.

23 A. Okay. I see it.

24 Q. It references the responses to Request Number
25 159 and 169.

1 A. Hold it, hold it.

2 Q. I'm sorry.

3 A. I think I -- I have 160. I have 159 and 160
4 in hard copy. You'll be referring to one of these?

5 Q. Yes.

6 A. Okay.

7 Q. With respect to POD 161 and the response
8 thereto, are you familiar with this document?

9 A. Yes, these two documents.

10 Q. Was this response prepared by you or under
11 your supervision?

12 A. The production of the document was prepared --
13 was produced under my supervision. The document was
14 actually prepared by our outside consultant, Hewitt
15 Consulting.

16 Q. This response pertains to any and all other
17 studies or documents used in the determination of
18 appropriate compensation amounts for Progress Energy,
19 Inc. officers and directors; is that correct?

20 A. Yes.

21 Q. Could you briefly summarize the questions and
22 answers in this request for this Commission?

23 A. I'm going to ask the question and just briefly
24 summarize the market analysis exactly, and then I'm --
25 I'm going to proceed under the understanding you're

1 asking me to summarize the top five proxy analysis. Is
2 that the topic you want?

3 Q. I would like you to summarize the answer to
4 this response, which cross-references those documents,
5 yes.

6 A. Okay. I summarized the one prior to this.
7 With respect to the top five proxy analysis, this
8 analysis looks at our top five with regard to the
9 employees or senior officers disclosed in our proxy
10 statement. The analysis includes compensation with
11 regard to -- by function and by total compensation rank.
12 It provides a peer group that's used for the comparison.
13 It also provides what's referred to as actual net total
14 compensation, first for -- well, it looks like you're
15 missing a page here.

16 Okay. First, what it provides by the use of
17 bar charts is comparing Progress Energy's top five
18 employees' actual net total compensation, which includes
19 base pay, annual incentives, their long-term, and their
20 long-term incentives. It compares it to the proxy's
21 25th percentile, proxy's 50th percentile, and proxy's
22 70th percentile.

23 With regard to all of the positions provided
24 in the analysis, all of our positions are primarily
25 below the median value of the peer group that we're

1 comparing to. Is that sufficient, Ms. Klancke?

2 Q. It is. Has anything changed since the date of
3 this response that would alter your response to this
4 request?

5 A. No, there hasn't.

6 MS. KLANCKE: Chairman, at this time, I would
7 like to inquire whether the parties have any objections
8 to the entry of this document into the record, and I
9 would like to request a ruling on the admissibility of
10 this document.

11 CHAIRMAN CARTER: Ms. Kaufman.

12 MS. KAUFMAN: Mr. Chairman, I understood
13 Interrogatories 161 and 162 to simply be referring back
14 to the documents we've already discussed, so we would
15 maintain our objection to -- you know, it's the same
16 documents that these two answers are referring to, so we
17 continue to object on the basis that we've already
18 discussed.

19 CHAIRMAN CARTER: Ms. Bradley.

20 MS. BRADLEY: We had stipulated, but would
21 support Ms. Kaufman in her legal analysis of this as a
22 matter of law.

23 CHAIRMAN CARTER: Same basis, same ruling.
24 Staff.

25 MR. BURNETT: Mr. Chair.

1 CHAIRMAN CARTER: Mr. Burnett.

2 MR. BURNETT: If I may be heard, just
3 listening to the process that's going on here, I know
4 we're going to have this with this witness. My
5 understanding is we're going to have it with others.

6 I just wanted to be clear that I think this is
7 somewhat unfair to staff to put staff through this
8 foundational process as to each one of these. These
9 documents were submitted in some instances days, if not
10 weeks ago, in an attempt to gain consensus among the
11 parties. I think that if any party has an objection,
12 they're clear what staff wants to put in; they should be
13 clear at this point, if not weeks ago, what their
14 objections would be.

15 And it may be fairer to the process and the
16 time that we have available for this for them to
17 articulate those en masse and perhaps get a ruling
18 rather than forcing staff to walk through this process,
19 especially in the instance where there's only one
20 intervenor that's objecting. So just thoughts and
21 comments.

22 CHAIRMAN CARTER: Commissioner Skop.

23 COMMISSIONER SKOP: Thank you, Mr. Chairman.
24 Like I say, this issue has arose in another case before
25 the Commission, and I respect the rights of all the

1 parties, so we can go through the process, however long
2 it takes.

3 With respect to staff, I know my staff has
4 worked with me on this prehearing in this docket, has
5 worked extremely hard, and I know that they're only
6 seeking to do their jobs with no nefarious purposes
7 whatsoever. They're just merely seeking to, I think,
8 frame questions to lay the foundation for the
9 admissibility of documents that they feel the need to
10 enter into the record over the objection of some
11 parties, but not all the parties.

12 So, Commissioner, Argenziano, that might have
13 answered part of your previous concern. Again, I'll let
14 staff speak for themselves. But I think that's more
15 indicative of -- procedurally, the tension that is
16 existing here is that staff is trying to enter documents
17 and lay a foundation to get certain things in the record
18 over the objection of certain parties, and it seems to
19 be more of a procedural tug of war. But again, I just
20 wanted to add my comments, but also commend our
21 hard-working legal staff that has worked very hard on
22 this case.

23 MR. REHWINKEL: Mr. Chairman, may I be heard
24 on this? Public Counsel has not spoken --

25 COMMISSIONER SKOP: Mr. Rehwinkel, good

1 evening.

2 MR. REHWINKEL: Good evening.

3 CHAIRMAN CARTER: You're recognized.

4 MR. REHWINKEL: I want to state for the
5 record, the Public Counsel, in making a judgment call on
6 helping to contribute to the most efficient way to
7 process this case, has not lodged an objection. We have
8 stipulated to staff's proffer of exhibits in this
9 matter.

10 We don't disagree with some of the legal
11 analysis that has been put forth by other intervenors.
12 I don't want it to be thought that there is an isolation
13 of objection to this material. By the same token, we
14 have made a judgment about what is the best way for us
15 to make our case on an issue that is very important to
16 us, which is this compensation issue. We believe that
17 the level of compensation and the sharing between
18 ratepayers and shareholders is where we want to focus.
19 We don't disagree with what some of the co-counsel on
20 the intervenor side are saying.

21 Having said that, we will honor our
22 stipulation that we made with respect to these documents
23 and staff's effort to efficiently process this case.
24 Thank you.

25 CHAIRMAN CARTER: Thank you, Mr. Rehwinkel.

1 MS. KAUFMAN: Mr. Chairman, might I be heard?

2 CHAIRMAN CARTER: Absolutely, Ms. Kaufman.

3 MS. KAUFMAN: I just wanted to say that we too
4 -- and I think Mr. Moyle has mentioned this --
5 appreciate all the hard work that the staff has put into
6 this case, and the prehearing officer, and it has helped
7 this case run smoothly. But I also think that we have
8 an obligation as attorneys to represent our client to
9 the best of our ability.

10 And I would respectfully, Commissioner Skop,
11 disagree that it's not a process question that we're
12 talking about. It is a legal objection to materials
13 that we think is well founded, or we have would not have
14 made it.

15 And to the point that Mr. Burnett made, I
16 believe we just received these documents on Friday, and
17 they were voluminous, and we took the time to go through
18 them.

19 And I just wanted to make that point for the
20 record. We're not attempting to hold up the process.
21 We just want to be sure that the record is clear and
22 that our objections are preserved.

23 CHAIRMAN CARTER: No problem at all. I don't
24 interpret it as holding up the process at all. That's
25 why I wanted you to get your objections on the record.

1 MS. KAUFMAN: I appreciate it, Mr. Chairman.

2 CHAIRMAN CARTER: I appreciate that, and
3 that's why I wanted to get the ruling on the record. I
4 mean, obviously, you want to have -- if there's a
5 possibility of appeal, you want to preserve the right
6 for that, and that's fine with me. I don't have a
7 problem with that.

8 Mr. Moyle, ever so briefly.

9 MR. MOYLE: I will. Ms. Kaufman is handling
10 this. But just in the broader context, I think there
11 have been a whole lot of documents that have come in via
12 stipulation, so we're not saying, you know, you've got
13 to put everything, you've got to prove everything up,
14 you've got to authenticate everything.

15 But from a matter of legal judgment, to the
16 extent that there are key documents that are relied on
17 that you have questions about their author, who is not
18 here, the guy who did the study is not a witness, and
19 you want to, you know, make that clear and memorialize
20 the objection on the grounds that have been
21 memorialized, I think it's appropriate.

22 We're not looking to drag it out. I mean,
23 there may be a way where we can -- I don't expect the
24 ruling to change, but in terms of memorializing the
25 record so we're clear, we can explore that. I don't

1 think this is a trend that is going to be rampant, but
2 on occasion, with respect to key documents, you know,
3 it's their burden, and they have to put it in, and we
4 should have a fair opportunity to inquire as to the
5 basis for what's in the document.

6 CHAIRMAN CARTER: Absolutely. Lawyers doing
7 their jobs. That's what lawyers get paid for.

8 Ms. Klancke. Commissioner Skop.

9 COMMISSIONER SKOP: Thank you, Mr. Chair.
10 Just briefly, to Mr. Moyle and Ms. Kaufman, I fully
11 respect what you're doing from a legal and evidentiary
12 basis. Again, you have a role to perform, as well as
13 the other parties, as well as staff, so I respect each
14 respective role.

15 CHAIRMAN CARTER: Ms. Klancke.

16 BY MS. KLANCKE:

17 Q. Witness DesChamps, could you turn to PEF's
18 Response to Staff's 24th Request for Production of
19 Documents, Number 162?

20 A. Okay. I have it.

21 Q. Are you familiar with this document?

22 A. Yes.

23 Q. Was this response prepared by you or under
24 your supervision?

25 A. It was prepared under my supervision.

1 Q. This request pertains to any and all other
2 studies or documents used in the determination -- in
3 PEF's determination of appropriate compensation amounts
4 for Progress Energy Florida, Inc. officers and
5 directors; is that correct?

6 A. Is this 163?

7 Q. 162.

8 A. Okay. Yes.

9 Q. Could you briefly summarize the question and
10 answers in this request for production of documents
11 provided to this Commission?

12 A. This was --

13 MS. KAUFMAN: Mr. Chairman, I don't mean to
14 interrupt, but to try to move it along, I think we've
15 already addressed -- these are the same documents, so --
16 if I'm mistaken, I stand corrected, but we've already
17 addressed these, and I think we could probably move on.

18 CHAIRMAN CARTER: You want to maintain your
19 standing objection?

20 MS. KAUFMAN: Yes, sir, just because 161 and
21 162 refer back to the documents we've already gone over.

22 CHAIRMAN CARTER: All right. For the record,
23 same motion by staff, same objection by Ms. Bradley and
24 Ms. Kaufman, same recommendation from Ms. Brubaker, same
25 ruling from the chair.

1 MS. BRADLEY: Mr. Chairman.

2 CHAIRMAN CARTER: Ms. Bradley, yes, ma'am.

3 MS. BRADLEY: I think Mr. Rehwinkel put it
4 more eloquently than I did. While we're honoring our
5 stipulation, we still support Ms. Kaufman's legal
6 analysis of this. So it's not really --

7 CHAIRMAN CARTER: Okay. Staff, you may
8 proceed.

9 BY MS. KLANCKE:

10 Q. Okay. Mr. DesChamps, could you turn to PEF's
11 Response to Staff's 24th Request for Production of
12 Documents, Number 163?

13 A. I have it.

14 Q. Are you familiar with this response?

15 A. Yes.

16 Q. Was it prepared by you or under your
17 supervision?

18 A. It was provided under my supervision.

19 Q. This request pertains to any and all studies
20 or documents used in the determination of appropriate
21 compensation amounts for PEF employees; is that correct?

22 A. That is correct.

23 Q. Could you briefly summarize this question and
24 the answers in this request for the Commission?

25 A. With respect to the question, it asks for

1 documents related to the determination of appropriate
2 compensation amounts for PEF or Progress Energy Florida
3 employees. The document provided is a screen shot from
4 an online market pricing system that we use for pricing
5 jobs. This systems brings -- sort of serves as
6 aggregator of various surveys. Our analysts use this
7 system by virtue of entering certain information into
8 the system, and that information is matched to like type
9 jobs within the system per the surveys that are loaded
10 into the system for establishing a market value for the
11 job being reviewed.

12 Q. Has anything changed with respect to this
13 response that would alter your response to this request.

14 A. No.

15 MS. KLANCKE: Mr. Chairman, at this time, I
16 would like to inquire whether the parties have any
17 objections to the entry of this document into the
18 record, and I would like to request a ruling.

19 CHAIRMAN CARTER: Ms. Kaufman.

20 MS. KAUFMAN: Yes, Mr. Chairman. We maintain
21 our same objection. We would object to this on hearsay
22 and authenticity grounds and the fact that Mr. DesChamps
23 may not bolster his case through hearsay.

24 CHAIRMAN CARTER: Ms. Bradley.

25 MS. BRADLEY: Our same statement. Thank you.

1 CHAIRMAN CARTER: Ms. Klancke, same basis for
2 the motion?

3 MS. KLANCKE: Yes, sir.

4 CHAIRMAN CARTER: Ms. Brubaker, same --

5 MS. BRUBAKER: Yes.

6 CHAIRMAN CARTER: Okay. The ruling stands.
7 You may proceed. Same ruling. You may proceed, staff.

8 MS. KLANCKE: Absolutely. With respect to
9 PEF's response to Staff's 24th Request for Production of
10 Documents, Number 167, just to change it up, I would
11 like to inform you that staff would like to withdraw
12 this response, and we do not -- as staff does not want
13 it to be entered into the record.

14 CHAIRMAN CARTER: Okay. Number 167 is
15 withdrawn.

16 MS. KLANCKE: As it is nonresponsive.

17 CHAIRMAN CARTER: Okay. You may proceed.

18 MS. KLANCKE: That brings us to the end of all
19 the items contained in Item 11, and as such, I would
20 like to move on to Item 12, which contains two
21 responses.

22 CHAIRMAN CARTER: You may proceed.

23 BY MS. KLANCKE:

24 Q. Witness DesChamps, would you please turn to
25 PEF's Response to OPC's Ninth Request for Production of

1 Documents, Number 222?

2 A. I didn't hear the -- 220?

3 Q. 222.

4 MS. TRIPLETT: Mr. Chairman.

5 CHAIRMAN CARTER: Yes, ma'am.

6 MS. TRIPLETT: I'm sorry to interrupt, but I
7 just noticed that the witness I think is not realizing
8 that Ms. Klancke is referring to the hearing exhibit,
9 number 903, so I think if you keep on the stack of
10 documents.

11 BY MS. KLANCKE:

12 Q. Yes. After Item Number 11, immediately
13 following it is Item Number 12. If you would turn to
14 the first document contained in that exhibit.

15 A. Can you tell me what's the heading? There's
16 no --

17 Q. The hearing Bates stamp number is 904 at the
18 bottom corner of the page.

19 A. Okay. I have it. Sorry about that.

20 Q. Are you familiar with this response?

21 A. Yes.

22 Q. Was it prepared by you or under your
23 supervision?

24 A. It would have been under my supervision,
25 produced as a document under my supervision.

1 Q. This request pertains to the employee benefits
2 study referenced in your direct testimony on page 6; is
3 that correct?

4 A. Just a minute.

5 Q. Lines 10 through 11.

6 A. Okay.

7 CHAIRMAN CARTER: Is that a yes?

8 THE WITNESS: Yes.

9 BY MS. KLANCKE:

10 Q. Could you briefly summarize the questions and
11 answers in this request for this Commission?

12 A. With respect to this question, it relates to
13 my comments regarding the top five drivers why employees
14 select an employer. That's the question. With respect
15 to the document we provided, and I guess this is Bates
16 number 002, or Exhibit 907. The illustration there
17 shows the top five starting with the competitive base
18 pay, competitive health care benefits, vacation and paid
19 time off, competitive retirement benefits, and career
20 advancement opportunities.

21 Q. Has anything changed that would alter your
22 response to this request.

23 A. Not to my knowledge.

24 MS. KLANCKE: Mr. Chairman, at this time, I
25 would like to inquire whether the parties have any

1 objections to the entry of this document into the
2 record, and I would like to request a ruling on the
3 admissibility of this document.

4 CHAIRMAN CARTER: Ms. Kaufman.

5 MS. KAUFMAN: Yes, Mr. Chairman. We continue
6 to object. And as to this document, I would point out
7 that it's based on November 2007 data, so I'm not sure
8 however the witness can testify that nothing has changed
9 since that time. And it was prepared by Towers Perrin.
10 Again, there's no witness in this case sponsoring this
11 study or who can tell us anything about the underlying
12 data.

13 CHAIRMAN CARTER: Ms. Bradley.

14 MS. BRADLEY: Same position.

15 CHAIRMAN CARTER: Mr. Rehwinkel, do you want
16 to be heard on this?

17 MR. REHWINKEL: I've said my peace.

18 CHAIRMAN CARTER: Thank you. Staff, same
19 basis?

20 MS. KLANCKE: Same basis.

21 CHAIRMAN CARTER: Ms. Brubaker, same -- same
22 ruling. Same ruling. You may proceed.

23 BY MS. KLANCKE:

24 Q. Mr. DesChamps, could you turn to the next
25 document, which is entitled "PEF's Response to OPC's

1 Ninth Request for Production of Documents, Number 223."

2 A. Is that in this stack of items?

3 Q. It is.

4 MS. KAUFMAN: Ms. Klancke, I don't know that
5 that document was provided. Maybe the witness is having
6 the same difficulty.

7 THE WITNESS: Yes. I don't see it.

8 MS. KLANCKE: It is provided. It begins on
9 Bates stamped page 910.

10 THE WITNESS: Okay.

11 CHAIRMAN CARTER: Staff, can you assist him in
12 finding that?

13 THE WITNESS: Ms. Klancke, I start with 903,
14 which is behind Item 12, PEF's Response to OPC's Ninth
15 Request, and the exhibit starts with 904. Is that
16 correct?

17 MS. KLANCKE: I have the first page of --

18 CHAIRMAN CARTER: Hang on. Staff, just go
19 over there and show him what --

20 THE WITNESS: Is it 901?

21 CHAIRMAN CARTER: Show him what we need to do.
22 Thank you, Cheryl.

23 Ms. Kaufman, have you got it now?

24 MS. KAUFMAN: Yes, Mr. Chairman.

25 THE WITNESS: She said 901. I was looking

1 for --

2 MS. KLANCKE: 910, nine one zero.

3 CHAIRMAN CARTER: Okay. Are we all on the
4 same page now. Ms. Klancke?

5 MS. KLANCKE: Yes.

6 BY MS. KLANCKE:

7 Q. Witness DesChamps, are you familiar with this
8 document?

9 A. Yes.

10 Q. Was it prepared by you or under your
11 supervision, this response?

12 A. The production of the document was prepared
13 under my -- was provided under my supervision, yes.

14 Q. This request pertains to the Employee Benefits
15 Study referenced in your direct testimony also on page
16 6; is that correct?

17 A. Yes.

18 Q. Could you briefly summarize the questions and
19 answers in this request for this Commission?

20 A. Again?

21 Q. Could you briefly summarize the question that
22 was posed to you or to PEF in this POD and your
23 response?

24 A. The question was with regard to providing the
25 documents with regard to line -- I guess 9, 10, and 11

1 in my testimony on page 6 regarding the Towers Perrin
2 survey and the top five drivers for why an employee
3 chooses a certain employer.

4 Q. Could you take a moment to look over the
5 documents contained on Bates stamped pages 910 and
6 continuing until 924?

7 MS. TRIPLETT: Mr. Chair, maybe to speed
8 things up, I think if Mr. DesChamps looks at question
9 number 223, which is on Bates number 904, that will, I
10 think, help provide him with the question and the
11 answer, and then the document supplied in response to
12 that I believe starts on number 910.

13 THE WITNESS: 904?

14 MS. KLANCKE: That's the question, Question
15 223.

16 MS. KAUFMAN: Mr. Chairman, I can give him my
17 copy if that will speed this up.

18 MS. KLANCKE: I believe this witness already
19 has it.

20 THE WITNESS: Yes, I have that. She asked me
21 to review 910 through 924, and that's what I was doing.

22 CHAIRMAN CARTER: Thank you, Ms. Kaufman.

23 THE WITNESS: Okay.

24 BY MS. KLANCKE:

25 Q. Do you have anything to add to the summary you

1 just provided this Commission?

2 A. No, I do not.

3 Q. Has anything changed that would alter your
4 response to this request?

5 A. Not to my knowledge.

6 MS. KLANCKE: Mr. Chairman, at this time, I
7 would like to inquire whether the parties have any
8 objections to the entry of this item into the record,
9 and I would like to request a ruling on the
10 admissibility of this document.

11 CHAIRMAN CARTER: Ms. Kaufman.

12 MS. KAUFMAN: We do object, Mr. Chairman, on
13 the same basis as before. And I would just like to
14 point out, just so the record is clear, I don't believe
15 that the witness summarized the document that
16 Ms. Klancke was referring to, if I'm following along
17 here. The document that starts on Bates 910 refers to
18 employee sponsored health plans.

19 CHAIRMAN CARTER: Ms. Klancke.

20 MS. KLANCKE: I believe that the witness has
21 provided us with a summary of what he understands to be
22 this response, and that is his testimony.

23 CHAIRMAN CARTER: It was kind of brief. Do
24 you want to ask it again? Ask your question again. It
25 was very brief. I know we're moving papers and

1 assisting him on the right page. Just do it again. Ask
2 your question again.

3 BY MS. KLANCKE:

4 Q. Witness DesChamps, on Bates stamped page 904,
5 Request for Production of Documents, Number 223, this
6 Commission asked PEF, quote, "Employee Benefits. Refer
7 to the testimony of Masceo DesChamps, page 11, lines 9
8 through 12. Provide a copy of the study referenced. If
9 the study was provided in response to Citizens' POD 130,
10 then identify the page where the cost per number can be
11 found," period, end quote.

12 Would you please summarize your response to
13 that request?

14 A. I understand the question to be to provide the
15 documents that would support our health care numbers
16 that we provided, and with respect to the comparison to
17 an average total cost per a study that was done by
18 Mercer Human Resource Consulting. That's what I
19 understand the question to be.

20 And with regard to what I have in my hand
21 here, the information you provided, and that I provided
22 to you as well, the information here provided provides
23 the survey information per the survey as it compares to
24 Progress Energy, Progress Energy health care costs per
25 plan member -- and when I say plan member, that refers

1 to employees and covered dependents -- with respect to
2 Fortune 500 companies.

3 With respect to this survey, it shows that for
4 Fortune 500 companies, similar to Progress Energy, their
5 health care costs per member is \$4,266, whereas Progress
6 Energy's costs or Progress Energy Florida cost per
7 member is \$3,616, which we believe is a favorable cost
8 comparison and demonstrates as well that we're doing a
9 good job of managing our health care costs when we
10 compare it to national statistics.

11 CHAIRMAN CARTER: I liked the short version
12 better. Ms. Klancke.

13 BY MS. KLANCKE:

14 Q. Witness DesChamps, since the time of this
15 response that you just summarized, has anything changed
16 that would alter your response?

17 A. No.

18 MS. KLANCKE: At this time, Mr. Chairman, I
19 would like to inquire whether the parties have any
20 objections to the entry into the record of this
21 document, and I would like to request a ruling on the
22 admissibility thereof.

23 CHAIRMAN CARTER: Ms. Kaufman.

24 MS. KAUFMAN: Mr. Chairman, we have our same
25 objection to this document.

1 CHAIRMAN CARTER: With the exception that you
2 heard it explained this time; right?

3 MS. KAUFMAN: I think the second explanation
4 was different than the first, but, yes, sir.

5 CHAIRMAN CARTER: Okay. Same objection,
6 Ms. Bradley?

7 MS. BRADLEY: Yes, sir.

8 CHAIRMAN CARTER: Same basis, staff?

9 MS. KLANCKE: Yes, sir.

10 CHAIRMAN CARTER: Ms. Brubaker, same?

11 MS. BRUBAKER: Yes, sir.

12 CHAIRMAN CARTER: Same ruling. Staff, you may
13 proceed.

14 MS. KLANCKE: Chairman, I would go on --

15 CHAIRMAN CARTER: Go on.

16 MS. KLANCKE: -- with respect to the
17 confidential document and identify those exhibits and
18 enter them into the record, or we would break and bring
19 these up tomorrow morning. I just wanted to afford you
20 with the --

21 CHAIRMAN CARTER: How many more have you got?

22 MS. KLANCKE: I have six.

23 CHAIRMAN CARTER: We're on a roll.

24 THE WITNESS: I'm good. Let's go for it.

25 CHAIRMAN CARTER: You may proceed, staff.

1 MS. KLANCKE: I have received an inquiry from
2 co-counsel.

3 CHAIRMAN CARTER: Inquiring minds want to
4 know.

5 MS. KLANCKE: With respect to whether or not
6 we would be able to address the confidential documents
7 in a group.

8 CHAIRMAN CARTER: Okay. Why don't we do this,
9 boys and girls. Why don't we allow the attorneys to get
10 in a huddle, and you guys discuss it and get back with
11 us. We're just on recess.

12 (Short recess.)

13 CHAIRMAN CARTER: We are back on the record.
14 And when we last left, we allowed the attorneys to get
15 together and decide on how we'll proceed further on this
16 matter. Ms. Klancke, you're recognized.

17 MS. KLANCKE: It is my understanding from our
18 brief recess and our ability to converse with the
19 parties that they have advised me that they're able to
20 agree to the entry of all six confidential documents
21 with respect to this witness.

22 CHAIRMAN CARTER: Is that the understanding of
23 the parties?

24 MS. KAUFMAN: Yes, Mr. Chairman.

25 CHAIRMAN CARTER: Okay. Show it done.

1 Anything further, staff?

2 MS. KLANCKE: I would like to provide an
3 exhibit number with respect to these documents. We can
4 do a cumulative exhibit, as Exhibit Number 272.

5 CHAIRMAN CARTER: Hold on. Let me get to the
6 back pages. Composite Exhibit Number 272, Confidential
7 Documents.

8 MS. KLANCKE: Of witness DesChamps.

9 CHAIRMAN CARTER: I've got to get another
10 page. Confidential documents of witness DesChamps. Did
11 I pronounce your name right at least once tonight?

12 MS. KLANCKE: I tend to want to go French on
13 your name.

14 CHAIRMAN CARTER: I'm still struggling with
15 South Georgia. And that, Commissioners, is Number 272.

16 Okay. No objection of the parties; right?
17 Okay. Show it done.

18 (Exhibit Number 272 was marked for
19 identification and admitted into the record.)

20 CHAIRMAN CARTER: Staff, you may proceed.

21 MS. KLANCKE: Chairman, I do have a brief line
22 of cross-examination questions for this witness.

23 CHAIRMAN CARTER: Okay. You may proceed.

24 BY MS. KLANCKE:

25 Q. Witness DesChamps, Ms. Kaufman and

1 Commissioner Skop asked you some questions which
2 pertained, in part, to your understanding of the
3 economic downturn and how it has impacted Florida; is
4 that correct?

5 A. That's correct.

6 Q. Are you also aware that the downturn in the
7 economy has had a negative effect on PEF's customer
8 growth in Florida?

9 A. Yes.

10 Q. Are you aware that as a result of this
11 economic downturn, some utility companies have decided
12 to forgo their salary increases and bonuses?

13 A. I have just read anecdotal information of
14 that, but with any certainty, I'm not sure.

15 Q. To your knowledge, has PEF considered the
16 option of forgoing its anticipated salary increases and
17 bonuses for the 2010 test year?

18 A. Not to my knowledge.

19 Q. Why has PEF not considered the forgoing of its
20 anticipated salary increases and bonuses for the
21 projected test year?

22 A. As you heard yesterday from Mr. Dolan, our
23 business philosophy and strategy is to try to operate
24 our business on a consistent business, and I would
25 translate that as a business fundamental from the

1 standpoint of operating our business on a long-term
2 strategy.

3 With respect to continuing to ensure that we
4 can attract, retain, and reward those skilled and
5 experienced employees that we need in our endeavor to
6 provide the safe, reliable, and efficient electric
7 service to our customers, we believe that we need to
8 continue to operate our business accordingly and provide
9 and be in a position to provide pay increases to
10 executives and employees.

11 Q. I would like you to elaborate on that a little
12 bit more. Given the condition of the economy in Florida
13 and in the country as a whole, can you explain how PEF
14 justifies an increase in the overall rate of
15 compensation for its executives for the projected test
16 year?

17 MS. KAUFMAN: Mr. Chairman, I'm going to
18 object. I think that was asked and answered.

19 CHAIRMAN CARTER: I think you're right,
20 Ms. Kaufman. Move on.

21 BY MS. KLANCKE:

22 Q. I would like to refer you now to PEF's
23 confidential response to Staff's 18th Set of
24 Interrogatories, numbers 197 and 198. This document is
25 numbered 09214. The title is "Total Compensation, 165

1 to 200K."

2 Chairman, for clarity, I would like to note
3 that this item was previously identified as Hearing
4 Exhibit Number 272, part of the cumulative exhibit.

5 Would you please turn to Bates stamped page
6 26. And in particular, would you refer to, actually, to
7 the second page of that document, number 27. If you
8 would refer to line 61 on that page.

9 A. Yes.

10 Q. Could you please briefly describe what are the
11 duties of that position?

12 A. At a very high level, my understanding is,
13 this is -- with regard to this position, it is a
14 multi-skilled or highly skilled individual who has
15 responsibilities for electrical maintenance,
16 instrumentation and control responsibilities, and I
17 think I mentioned electrical, and then general
18 maintenance.

19 Let me see. I had a note here. Just a
20 moment. Electrical maintenance as well as mechanical
21 maintenance. So this is a very highly skilled and
22 experienced employee, and it is a bargaining non-exempt
23 employee.

24 Q. Is it a salaried position?

25 A. No, it is not.

1 Q. If you look down that row, under the column
2 entitled "Overtime," is the overtime that's referenced
3 in this column calculated based on time and a half,
4 double time, or some other increment?

5 A. I think it's in some other increment, and it's
6 calculated with respect to the provisions of our
7 collective bargaining agreement.

8 Q. Could you tell us why the overtime is more
9 than the base compensation?

10 A. No, I can't explain why the overtime is more
11 than the base compensation. I think with regard to this
12 employee and how -- I do not know the specifics with
13 regard to how he or she is being managed here with
14 regard to the amount of hours they're working.

15 Q. If you look down at line 76, it appears that
16 there's another individual with the same job title. Do
17 you see that?

18 A. Yes.

19 Q. How many of these positions does PEF has?

20 A. It is my understanding we have 47.

21 Q. Would all of the employees in those 47
22 positions be eligible to earn overtime?

23 A. Yes, that's my understanding.

24 Q. Turning now to the year 2009 in this document,
25 beginning on page 29, I would like you to turn to the

1 next page, page 30, and I would like you to refer to
2 line 46. Do you see the same title, job title depicted
3 there?

4 A. Yes.

5 Q. Line 65?

6 A. Yes.

7 Q. On the next page, line 94?

8 A. Yes.

9 Q. All in 2009. Do you see that?

10 A. Yes.

11 Q. It appears that there are, thus, three
12 employees with the same title we have been discussing;
13 is that correct?

14 A. That is correct. What we're showing here is,
15 there are three employees that meet the threshold of the
16 165.

17 Q. So that would account for the increase by one
18 position from 2008 to 2009?

19 A. The increase from 2008 to 2009? What we did
20 was, in doing our calculations, what more than likely
21 happened here is when we did our estimates for 2009, the
22 estimating procedure we had, that one other person met
23 the threshold and was presented accordingly in the
24 document.

25 Q. Okay. I would like you to turn to the year

1 2010 beginning on the next page. I would like you to
2 refer to -- I'm on page 32 now -- to line 40. You see
3 an individual with the same title, job title?

4 A. Yes.

5 Q. Line 62 on the next page, line 91 on the next
6 page, and line 101?

7 A. Yes.

8 Q. Thus, it appears in the 2010 year period,
9 there's a fourth employee with the same job title that,
10 as you just mentioned, has met the \$165,000 threshold;
11 is that correct?

12 A. That's correct.

13 Q. Do you know why PEF assumes these employees
14 will continue to work large amounts of overtime every
15 year?

16 A. I do not know. As I explained earlier, with
17 regard to the number of hours the person is working,
18 that's more information -- that's more available with
19 him and his supervisor than I would know on a personal
20 basis.

21 Q. Fair enough.

22 CHAIRMAN CARTER: Commissioner Skop.

23 COMMISSIONER SKOP: Thank you, Mr. Chair.

24 Just one quick follow-up on that question. With respect
25 to those bargaining unit employees, given the amount of

1 overtime that they're working, I don't know if that's a
2 bargaining unit position -- I assume it is. But has any
3 thought been given by Progress to perhaps make those
4 salaried, non-bargaining employees, if there's a way to
5 do that?

6 THE WITNESS: No, I don't think we could with
7 regard to the functions they're performing. Those
8 functions, the type of duties, they generally would be
9 non-exempt type duties. And I'm not sure. I'm not a
10 lawyer here, but with respect to the functions that
11 they're doing, even under the FLSA, they would still be
12 required to be in a non-exempt position.

13 COMMISSIONER SKOP: Very well. Thank you.

14 CHAIRMAN CARTER: Ms. Klancke.

15 BY MS. KLANCKE:

16 Q. Witness DesChamps, I would like to follow up
17 on a line of questioning that Commissioner Skop
18 addressed to you earlier this evening. In particular,
19 he asked you about the bonuses that were contained in
20 the year 2008. Do you remember that?

21 A. Yes.

22 Q. And he specified that in that calendar year,
23 there were three bonuses allotted on lines --

24 A. I see them.

25 Q. You see them?

1 A. Yes.

2 Q. And then he asked you if there were any
3 bonuses allotted in 2009; is that correct?

4 A. That's correct.

5 Q. And your answer was that there were none?

6 A. When we extracted and compiled this data,
7 there were no employees that met this threshold that had
8 received a retention or signing bonus for 2009.

9 Q. Is it -- okay.

10 A. That's not to say between now and the end of
11 the year, 2009, someone won't receive one, but as of
12 when we compiled this data, and we stand by our data
13 that there was no one who had received a bonus.

14 Q. And so you have -- let me just for my own
15 edification -- the bonuses are allotted based on actual
16 data that PEF has collected. They are bonuses that in
17 the past tense have been distributed; is that correct?

18 A. Well, let me state this. When we pulled this
19 data, the data that was requested was 2008, 2009, and
20 2010. We have actual data for 2008. We have partial,
21 part of the year data for 2009, and then we projected it
22 through the end of 2009. When we pulled the actual data
23 for 2009 year-to-date, there was no employee meeting
24 this threshold after we projected that had received a
25 bonus.

1 Q. And similarly with 2010?

2 A. And similarly, for 2010, 2010 is a projection,
3 and we're taking the position at this time that we are
4 not aware of someone who would receive one. That's not
5 to say that someone will not, but our assumption in
6 preparing the analysis here is that we did not have that
7 -- we were not going to make that assumption.

8 Q. You were unwilling to make that assumption; is
9 that correct.

10 A. Let me just put it this way. I thought with
11 respect to providing what I would think was the most
12 reasonable and accurate data, that it was probably not
13 appropriate to make that assumption. In making that
14 assumption, it would have required me to assign that to
15 a position, and that even makes it that much more
16 challenging, so I hope you understand my thinking. So
17 with respect to unwilling, I would just say with respect
18 to -- I was trying to make it with respect to providing
19 the most reasonable and accurate data possible.

20 Q. Okay. I would like to turn your attention now
21 -- do you have -- and these are the last three
22 questions.

23 CHAIRMAN CARTER: Okay. We'll see.

24 BY MS. KLANCKE:

25 Q. Do you have the MFRs, the corrected MFR

1 schedules that you sponsored?

2 A. Yes.

3 MS. KLANCKE: For the clarity of the record, I
4 would like to advise the Commission that the corrected
5 MFR schedule I would like to refer the witness to is MFR
6 Schedule C-35 filed on June 5, 2009, which has already
7 been moved into the record as part of PEF Exhibit Number
8 47.

9 CHAIRMAN CARTER: You may proceed.

10 BY MS. KLANCKE:

11 Q. Witness DesChamps, please let me know when you
12 have that document.

13 A. This is for 2009?

14 Q. Yes, revised June 5th, 2009.

15 A. Okay. I have it.

16 Q. Okay. Mr. DesChamps, I would like you to
17 refer to line 27 on page 1 of 2 of this MFR.

18 A. Yes.

19 Q. In particular, do you see the number 5,299
20 employes under the column entitled "Amount"?

21 A. Yes, I do.

22 Q. Is the number of employees based on full-time
23 equivalents or FTEs?

24 A. Yes, full-time equivalents.

25 Q. What percentage of the FTEs or employees are

1 salaried, and what percentage are non-salaried?

2 A. My understanding is 39 percent are salaried
3 and 61 percent are non-exempt. And that also includes
4 the bargaining unit employees in that number.

5 Q. Does PEF pay overtime to its management
6 personnel?

7 A. Generally not.

8 Q. Could you explain the generally not?

9 A. There is a potential that a supervisor of
10 craft employees could receive straight time, what we
11 call straight time overtime, based on special
12 circumstances, for example, related to restoring power
13 as a result of a storm, related to maintaining schedules
14 for a plant outage. Those are two examples I would
15 offer. I would further explain that there is a
16 five-hour carve-out, so they start earning overtime
17 after hour 45 at straight time. So it's just in those
18 special circumstances.

19 MS. KLANCKE: Mr. Chairman, that's all the
20 questions that I have for this witness.

21 CHAIRMAN CARTER: Redirect?

22 MS. TRIPLETT: No redirect, and we would move
23 Exhibits 67 through 73 into evidence.

24 CHAIRMAN CARTER: Any objections on the
25 exhibits?

1 MS. KAUFMAN: Yes, Mr. Chairman. And to be
2 consistent with our previous objections on hearsay, we
3 object to 68, 70, 71, and 73.

4 CHAIRMAN CARTER: Okay. You object to which
5 ones, now?

6 MS. KAUFMAN: 68, 70, 71, and 73.

7 CHAIRMAN CARTER: Okay. Let's do this.
8 Without objection, 67, 69, and 72.

9 (Exhibit Numbers 67, 69, and 72 were admitted
10 into the record.)

11 CHAIRMAN CARTER: Now, you object to -- you
12 have the same basis for all four of these, right, 68,
13 70, 71, and 73?

14 MS. KAUFMAN: Yes, Mr. Chairman, the same as
15 we've discussed. Our objection is that they are
16 hearsay, they are not admissible, they cannot be used to
17 bolster the witness's case, and they have not been
18 authenticated.

19 CHAIRMAN CARTER: Okay. Same basis,
20 Ms. Bradley?

21 MS. BRADLEY: Same position.

22 MS. TRIPLETT: Mr. Chair, same response from
23 Progress over here.

24 MR. LAVIA: Mr. Chair, we're not bound by the
25 stipulation on this, so we'll join in the hearsay

1 objection.

2 CHAIRMAN CARTER: Okay. Same basis which
3 Ms. Brubaker gave before. The ruling stands, so they're
4 entered in.

5 (Exhibits Number 68, 70, 71, and 73 were
6 admitted into the record.)

7 CHAIRMAN CARTER: Okay. Now let's go to the
8 back pages, Number 271.

9 MS. KAUFMAN: I believe that would be mine,
10 FIPUG. I would move 271, sir.

11 CHAIRMAN CARTER: Are there any objections?

12 MS. TRIPLETT: No, sir.

13 CHAIRMAN CARTER: Without objection, show it
14 done.

15 (Exhibit Number 271 was admitted into the
16 record.)

17 CHAIRMAN CARTER: Let me just say this to you
18 guys. I said that we won't go beyond 8:00, because I
19 have an agreement with the court reporter who's working
20 with us, and you guys are going to make me do a whole
21 heck of a lot more paperwork than we need to do.

22 But we will not go beyond -- I'm going to ask
23 the lawyers. You all pay attention to the clock. We
24 will not go beyond 8:00 tomorrow. We'll start at 9:30
25 -- well, I'll give you a break, 9:31. But we won't go

1 beyond 8:00 tomorrow. I'll be watching the clock, but I
2 expect you lawyers to watch it too.

3 We're adjourned.

4 (Proceedings recessed at 8:25 p.m.)

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