

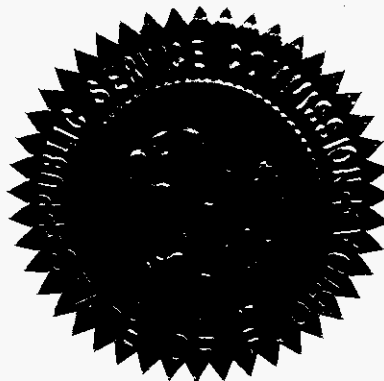
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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

PETITION FOR INCREASE IN DOCKET NO. 090079-EI
RATES BY PROGRESS ENERGY
FLORIDA, INC.

PETITION FOR LIMITED PROCEEDING DOCKET NO. 090144-EI
TO INCLUDE BARTOW REPOWERING
PROJECT IN BASE RATES, BY
PROGRESS ENERGY FLORIDA, INC.

PETITION FOR EXPEDITED APPROVAL DOCKET NO. 090145-EU
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.



VOLUME 18

Pages 2471 through 2617

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A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
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: Monday, September 28, 2009

DOCUMENT NUMBER - DATE

10116 OCT 18

FPSC-COMMISSION CLERK

1 TIME: Commenced at 9:30 a.m.

2 PLACE: Betty Easley Conference Center
3 Room 148
4 4075 Esplanade Way
 Tallahassee, Florida

5 REPORTED BY: LINDA BOLES, RPR, CRR
6 Official FPSC Reporter
 (850) 413-6734

7 PARTICIPATING: (As heretofore noted.)

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I N D E X

WITNESSES

NAME:

PAGE NO.

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CERTIFICATE OF REPORTER

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EXHIBITS

NUMBER:	ID.	ADMTD.
293 Investor Relations Presentation	2543	

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 17.)

4 **CHAIRMAN CARTER:** Good morning to one and all.
5 I'd like to call this hearing to order. Welcome
6 everyone back for *Friday the 13th*, Part 12, Jason
7 Returns.

8 (Laughter.)

9 And today we, based upon the note I got from
10 staff, we're going to do rebuttal today. Is that right,
11 Mr. Glenn?

12 **MR. GLENN:** That's correct, Chairman.

13 **CHAIRMAN CARTER:** You're recognized.

14 **MR. GLENN:** Mr. Chairman, we would call our
15 rebuttal witness, Mr. Vincent Dolan.

16 **COMMISSIONER EDGAR:** Mr. Chairman, while we
17 get everyone settled, just a brief comment on the day --
18 although I am Methodist -- but I believe that it is a
19 significant day. It is Yom Kippur, a day traditionally
20 of forgiveness and humility, and it is a new day and I'm
21 looking forward to going to work.

22 **CHAIRMAN CARTER:** All righty. Excellente.

23 **VINCENT M. DOLAN**

24 was called as a witness on behalf of Progress Energy
25 Florida and, having been duly sworn, testified as

1 follows:

2 **DIRECT EXAMINATION**

3 **BY MR. GLENN:**

4 **Q.** Mr. Dolan, you've been sworn; correct?

5 **A.** Yes, I have.

6 **Q.** Would you state again your name and business
7 address for the record, please?

8 **A.** Vincent Dolan, 299 First Avenue North,
9 St. Petersburg, Florida.

10 **Q.** And by whom are you employed and in what
11 capacity?

12 **A.** I am President and CEO of Progress Energy
13 Florida.

14 **Q.** And have you prepared and caused to be filed
15 on August 31, 2009, rebuttal testimony in this
16 proceeding consisting of 12 pages?

17 **A.** Yes, I have.

18 **Q.** And do you have any changes or revisions to
19 that prefiled rebuttal testimony?

20 **A.** Yes, I do.

21 **Q.** And could you identify those changes, please?

22 **A.** The first change is on the cover page. It
23 says "Direct Testimony." That should actually say
24 "Rebuttal Testimony."

25 **Q.** Okay.

1 **A.** That was a typographical error.

2 **Q.** Any other changes?

3 **A.** Yes, I do, Mr. Glenn. I think on Page 7, and
4 you'll help me with this, I think there was some earlier
5 conversation related to the updated revised sales
6 forecasts and the associated 95 million that's
7 referenced. I think the reference would start at
8 Line 13 and go through line 20, and I think there's been
9 a withdrawal of testimony from the FIPUG witness
10 perhaps, if I got that right. I think that this may
11 have to come out, along with that.

12 **Q.** I believe that's, I believe that's correct.
13 And that would be the second sentence in the Q and A,
14 beginning on Line 11 through 14, and that would be Lines
15 13 through 14 it is my understanding, and that would
16 come out.

17 **CHAIRMAN CARTER:** Mr. Moyle.

18 **MR. MOYLE:** I actually was going to bring that
19 up as well. And I had it going further on Page 7, on
20 Line 10, it starts in the Section "PEF's Sales
21 Forecast." In my reading I think, I think all of the
22 remaining lines on Page 7 are appropriate for removal
23 because they all key off the sales forecast, which I
24 understand has been removed.

25 **MR. GLENN:** I think the only ones that we

1 would remove would be the Q and A from Line 16 to Line
2 20, because I still think it's correct, and they
3 haven't, any Intervenors, challenged the sales forecast,
4 and I don't think any Intervenor has, you know,
5 technically challenged the accuracy or validity.

6 **MR. MOYLE:** Okay. Just so the record's clear
7 and we're on the same page, all of the comments relating
8 to the sales forecast you want to leave in relate to the
9 original forecast and none of them relate to the revised
10 sales forecast?

11 **MR. GLENN:** That's correct. So lines -- the Q
12 and A, if you see it, Commissioners, on Lines 16 through
13 20, those would come out.

14 **CHAIRMAN CARTER:** Mr. Moyle.

15 **MR. MOYLE:** I think that's, that's right.

16 And I had one other point with respect to
17 Mr. Dolan's rebuttal testimony that I wanted to bring up
18 either now or when it tries to, when he wants to insert
19 it in the record or admit it. Then I'd like to --

20 **COMMISSIONER EDGAR:** Okay. Before, before we
21 do that. I'm sorry. I missed the page. Can you tell
22 me a page number?

23 **MR. GLENN:** Sure. Page, Page 7.

24 **COMMISSIONER EDGAR:** Thank you.

25 **MR. GLENN:** And it would be Lines 13 and 14,

1 that sentence.

2 **CHAIRMAN CARTER:** I'll come back to you in a
3 minute, Mr. Moyle.

4 **MR. GLENN:** And then 16 through 20.

5 **CHAIRMAN CARTER:** Starting with the question
6 on Line 16 and ending with the answer on Line 20. So
7 we'll delete that portion from Line 16 through 20 on
8 Page 7. Is that correct?

9 **MR. GLENN:** That's correct, Mr. Chairman.

10 **CHAIRMAN CARTER:** Mr. Moyle, is that correct?

11 **MR. MOYLE:** Yes, as it relates to the sales
12 forecast information.

13 **CHAIRMAN CARTER:** Okay. Mr. Moyle.

14 **MR. MOYLE:** The other portions that I think
15 should come out start on Page 3, Line 19, and it's a
16 section entitled "Issues OPC and the Intervenors Do Not
17 Dispute." And it runs through to, actually to Page 7,
18 where we just had that other deletion.

19 And the reason for this, Mr. Chairman, is this
20 is rebuttal testimony, and the purpose of rebuttal
21 testimony is to rebut something that the Intervenors
22 have said. The purpose isn't to say, well, because
23 there's no rebuttal here, you know, and point that out.
24 I mean, that can be done in briefs. You don't need
25 additional testimony, you know, with respect to not

1 rebutting something that somebody else said. If we go
2 down that road then, you know, we're going to have, have
3 rebuttal testimony that's going to say, well, because
4 somebody didn't take issue with this.

5 And I think the inference they're trying to
6 draw is that there's somehow agreement, which I don't
7 think is, is right and not a fair inference, given the
8 fact that there's so many issues in this case and you've
9 got to kind of pick your spots. So I think the notion
10 of testimony that does not rebut testimony should come
11 out. And clearly the testimony found on Lines, starting
12 on Lines 3 (sic.) going through Line 7 (sic.), where the
13 title is, Issues OPC and the Intervenors Do Not Dispute.

14 **CHAIRMAN CARTER:** What page are you on, Mr.
15 Moyle?

16 **MR. MOYLE:** Page 3. Do you see Line 19 there?

17 **CHAIRMAN CARTER:** Yeah. I was about to say
18 Line 19 is where the question starts.

19 **MR. MOYLE:** Yeah. And the whole section is
20 entitled Issues Not in Dispute. And he spends four
21 pages saying, well, here's something that is not
22 dispute. I mean, it's not rebuttal testimony and,
23 therefore, it ought to -- it should come out.

24 **CHAIRMAN CARTER:** Mr. Glenn.

25 **MR. GLENN:** Well, number one, it frames the

1 issues of what's actually in dispute. Number two, there
2 is no evidence in the record to the contrary. No one is
3 disputing these, these issues. So it's perfectly
4 appropriate for rebuttal to say what the parties have
5 not taken issue with and what are the key issues in the
6 case. That's the whole purpose of rebuttal testimony.

7 You know, if Mr. Moyle and the Intervenors
8 want to stipulate that those issues are not in dispute,
9 then that's a different issue.

10 **CHAIRMAN CARTER:** Mr. Wright?

11 **MR. WRIGHT:** Briefly, Mr. Chairman. I,
12 fundamentally I agree with Mr. Moyle. Rebuttal
13 testimony is supposed to be rebuttal testimony
14 addressing the testimony of witnesses on the other side.

15 As a separate matter, the Attorney General and
16 the Retail Federation do not agree that Progress's
17 customer service has been superior and we have kept our
18 issue open on that issue in the case.

19 **MR. GLENN:** Mr. Chairman, and that proves my
20 point, that then it is in dispute and it's perfectly
21 appropriate for rebuttal.

22 **MR. WRIGHT:** Mr. Chairman, briefly. We're
23 only addressing their testimony and the testimony of
24 consumers in the case. Mr. Dolan has not made any
25 effort to address or rebut any testimony given by any

1 customer in this case. Rebuttal testimony is rebuttal
2 testimony. It's supposed to rebut the testimony of
3 other customers -- of other parties.

4 **CHAIRMAN CARTER:** Okay. Mr. Rehwinkel? And,
5 Ms. Bradley, I'll come to you next.

6 **MR. REHWINKEL:** Mr. Chairman, I don't disagree
7 with my colleagues with respect to the nature of the
8 rebuttal testimony that Mr. Dolan has filed. Having
9 said that, I'm prepared to cross-examine him on, on the
10 nature of his rebuttal in this regard. So I'm prepared
11 either way. I, it is novel rebuttal testimony in my 24
12 years doing this, but I guess I'm at a point where I
13 could support the motion or I could cross-examine,
14 either way. I'm prepared either way, Mr. Chairman.

15 **CHAIRMAN CARTER:** Okay. Ms. Bradley.

16 **MS. BRADLEY:** I would say the same for us as
17 well.

18 **CHAIRMAN CARTER:** You're prepared either way?

19 **MS. BRADLEY:** Either way. We'll take it.

20 **CHAIRMAN CARTER:** Mr. Moyle.

21 **MR. MOYLE:** I -- we've been moving along
22 pretty well, and I think removing that testimony would
23 probably, with all due respect to my colleague from
24 Public Counsel, would probably move us along even
25 quicker, because, candidly, I mean, again, you know, you

1 don't have to look much further than the title, which is
2 issues that are not in dispute. I think, I think, I
3 think it's a bad precedent to allow, you know, rebuttal
4 that really does not rebut what other, other witnesses
5 have said but it goes back and bolsters. And, you know,
6 so for that reason we think it's appropriately removed.

7 **CHAIRMAN CARTER:** Mr. Glenn.

8 **MR. GLENN:** Yeah. Mr. Chairman, if it's going
9 to help to move along this process, then we would
10 certainly agree to removing that. I think the
11 Commission understands the facts that are at issue in
12 this case and those that aren't. And so if that's going
13 to help things move along, we'd be more than happy to
14 accommodate FIPUG and the Intervenors.

15 **CHAIRMAN CARTER:** Okay. So let's go then --
16 so that will take, that'll take it from Page 3,
17 beginning at Line 19, through what, Page 7, ending at
18 Line 8; is that right?

19 **MR. GLENN:** That's correct.

20 **CHAIRMAN CARTER:** Okay.

21 **MR. GLENN:** With the understanding, of course,
22 that now Mr. Moyle's cross-examination will be extremely
23 short, I'm sure.

24 (Laughter.)

25 **CHAIRMAN CARTER:** Well, just, just kind of

1 heads up to the parties, if we're going to delete this,
2 then, then there's no, there probably shouldn't be any
3 reason for us to cover this ground. So, all right?
4 Everybody on the same page on this one?

5 **MS. BRADLEY:** Can I ask for the lines one more
6 time?

7 **CHAIRMAN CARTER:** I'm sorry. It starts at, on
8 Page 3, beginning at Line 19, going to Page 7, ending at
9 Line 8.

10 **MS. BRADLEY:** Thank you.

11 **CHAIRMAN CARTER:** Yes, ma'am.

12 All parties? Staff, do you have it as well?
13 Commissioners?

14 **MR. REHWINKEL:** So is this, this technically
15 is withdrawn; is that, is that what I understand?

16 **MR. GLENN:** That is correct.

17 **MR. REHWINKEL:** Okay.

18 **CHAIRMAN CARTER:** That is correct.

19 Mr. Rehwinkel.

20 **MR. REHWINKEL:** Mr. Chairman --

21 **CHAIRMAN CARTER:** Yes, sir.

22 **MR. REHWINKEL:** -- this is a turn that I'm
23 prepared to cross. I would just ask that we be given
24 brief leave to review the scope of cross-examination so
25 we don't cover the ground that's been withdrawn. And I

1 don't know if it's appropriate after Mr., Mr. Dolan
2 makes his summary or not.

3 **CHAIRMAN CARTER:** You want to take a moment
4 now before we go down that road?

5 **MR. REHWINKEL:** He may need to, he may need to
6 adjust his summary too. I don't know.

7 **THE WITNESS:** Yes. I would like a moment.

8 **CHAIRMAN CARTER:** Okay. Let's do that. Let's
9 do that.

10 **MR. MOYLE:** Yeah.

11 **CHAIRMAN CARTER:** We've been -- we've had a --
12 and as I said Friday, I appreciate the collegiality of
13 the attorneys. Even though it's an adversarial process,
14 we don't have to be adversaries.

15 So let's, let's take ten, everybody. We'll
16 come back on the hour.

17 **MR. REHWINKEL:** All right. Thank you.

18 (Recess taken.)

19 **CHAIRMAN CARTER:** We are back on the record.
20 And when we left, we were just taking up a, what I'll
21 just term a preliminary matter, and we'll go at it from
22 there.

23 Mr. Rehwinkel, Mr. Glenn. Mr., I guess,
24 Mr. Glenn, you're up.

25 **MR. GLENN:** I can proceed. Sure.

1 **CHAIRMAN CARTER:** Yes, sir.

2 **BY MR. GLENN:**

3 **Q.** With the revisions that we've now made,
4 Mr. Dolan, if I asked you the same questions contained
5 in that prefiled rebuttal testimony as, as now amended,
6 would your answers be the same?

7 **A.** Yes, they would.

8 **MR. GLENN:** Chairman Carter, I ask that the
9 rebuttal testimony of Vincent M. Dolan be inserted into
10 the record as though read.

11 **CHAIRMAN CARTER:** The prefiled testimony of
12 the witness will be inserted into the record as though
13 read.

14 **BY MR. GLENN:**

15 **Q.** And, Mr. Dolan, do you have any exhibits
16 attached to your rebuttal testimony?

17 **A.** No, I do not.

18

19

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Rebuttal
**DIRECT TESTIMONY OF
VINCENT M. DOLAN**

1 **I. Introduction and Summary.**

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

3 A. My name is Vincent Dolan. My business address is 299 1st Avenue, North, St.
4 Petersburg, Florida 33701.

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

7 A. I am employed by Progress Energy Florida, Inc. ("Progress Energy" or the "Company")
8 as its President and Chief Executive Officer. In this role, I have overall responsibility for
9 the operations of Progress Energy Florida.

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

12 A. I previously served as vice president - External Relations, Progress Energy Florida. In
13 that role, I managed Florida regulatory affairs, public policy, community relations,
14 economic development, commercial, industrial and governmental sales and service, state
15 and federal public affairs, and energy policy and strategy. I have been with Progress
16 Energy and its predecessor Florida Power Corporation since 1986 in positions of
17 increasing responsibility in the areas of operations, strategic development, customer
18 services and regulatory affairs. Prior to joining the company, I worked for the Foster
19 Wheeler Energy Corporation, an international engineering and manufacturing firm.

20 I hold a bachelor's degree in mechanical engineering from Rutgers University.
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Q. Have you submitted pre-filed direct testimony in this matter?

A. I have adopted the direct testimony of Jeff Lyash, my predecessor as PEF President and CEO, which was filed in this docket on March 20, 2009.

Q. What is the purpose of your rebuttal testimony?

A. I outline the areas of our initial filing with which the Interveners take no issue. I also address the impact on the Company and its customers if the Commission were to adopt the Office of Public Counsel's ("OPC's") position that PEF should decrease its rates by \$35 million annually.

Q. Do you have any exhibits to your testimony?

A. No, I do not.

Q. Please summarize your rebuttal testimony.

A. Interveners recognize and take little issue with the fact that Progress Energy Florida has had superior performance – both operationally and in managing our costs – the result of which has been stable and generally flat base rates for more than a quarter century. Interveners take no issue with the Company's load and sales forecasts. Interveners do not dispute that the Bartow Repowering Project is a reasonable and prudent investment, and that the costs incurred are reasonable and prudent. Interveners do not dispute that the Company's Crystal River Unit 3 steam generator replacement project is a reasonable and prudent investment and that the estimated costs are reasonable. Interveners do not dispute that the electrostatic precipitator project is a reasonable and prudent expense and

1 should be included in rate base. Interveners do not dispute that PEF has incurred
2 legitimate pension expenses.

3
4 Notwithstanding this agreement, OPC and several Interveners argue that PEF is not
5 entitled to any increase in base rates; rather the Company should reduce its rates by
6 approximately \$35 million. The Interveners arrive at this number by (1) inappropriately
7 making adjustments to depreciation, (2) inappropriately reducing O&M expenses by
8 about \$133 million, and (3) inappropriately reducing the Company's requested return on
9 equity ("ROE") by roughly 275 basis points. As discussed in greater detail in the rebuttal
10 testimony of Messrs. Sullivan and Toomey, and Dr. Michael Vilbert, adoption of the
11 Interveners' arguments would be financially damaging to the Company, would be
12 difficult to maintain existing service levels to customers, and would adversely affect the
13 Company's ability to raise the capital, at reasonable costs, necessary to fund and
14 implement the Company's sizable future capital expenditure program. Finally, it is
15 important to note that the outcome of this case will not only have a clear impact on the
16 ultimate financial health of the Company, but also on PEF's ability to meet the
17 Legislature's and Governor's energy goals, including building new nuclear plants.

18
19 **II. ~~ISSUES OPC AND THE INTERVENERS DO NOT DISPUTE~~**

20
21 **A. Progress Energy Florida's Superior Performance**

22 **Q. How has Progress Energy Florida performed over the last several years?**

1 A. Progress Energy Florida's performance has been superior in all key areas: cost
2 management; safety and reliability; power production; customer service; and storm
3 response.

4
5 **Q. Do the interveners dispute this fact?**

6 A. No. For example, interveners do not dispute that despite upward cost pressures, which
7 have affected nearly all other industries, the Company has not increased base rates since
8 1993, with the exception of adding the Hines 2 and 4 units in 2007, and in fact lowered
9 base rates in 2002. With respect to service and reliability, no one disputes that since 2001
10 we have reduced our OSHA injury rate by 75%, or that we have been at or near top
11 quartile in the industry since 2003, and improved to top decile in 2007. Similarly, no
12 party disputes that we have reduced customer system average outage minutes by 39%
13 over the last ten years, and have maintained SAIDI below 80 since 2004, which is
14 outstanding given the size and diversity of the Company's service territory, and the often
15 violent weather in Florida. No party disputes that our response to major storms has been
16 second to none, which we showed repeatedly during the 2004 and 2005 hurricane
17 seasons.

18
19 **B. The Bartow Repowering Project**

20 **Q. What is the status of the Bartow Repowering Project?**

21 A. The Company completed the project on schedule with the repowered Bartow Plant going
22 commercial on June 1, 2009. As Mr. Kevin Murray discussed in his direct testimony,
23 this project satisfies the Power Plant Efficiency Improvements Policy recommended by
24 the Governor's Action Team on Energy and Climate Change as part of Florida's Energy

1 and Climate Change Action Plan. The repowered plant is generating more than twice the
2 amount of power as the 1950s 450 MW oil-fired plant, but is producing significantly less
3 sulfur dioxide and nitrogen oxide emissions than the original facility. It is also increasing
4 the efficiency of the Company's energy production, as the Company's newest and most
5 efficient power plant now on the system. No one disputes any of these points.

6
7 **Q. Does any intervener dispute that the Bartow Repowering Project is a reasonable
8 and prudent investment?**

9 **A.** No. No intervener takes issue with this investment or with Mr. Murray's direct
10 testimony.

11
12 **Q. Does any intervener claim that the costs of the Bartow Repowering Project should
13 not be recovered by PEF in rates?**

14 **A.** No.

15 **C. The Crystal River Unit 3 Steam Generator Replacement Project**

16 **Q. What is the status of the Crystal River Unit 3 Steam Generator Replacement
17 Project?**

18 **A.** The project is on schedule to be completed during the scheduled outage this fall. CR3
19 currently is the Company's only nuclear generation unit. As Mr. Young explained in his
20 direct testimony, CR3 provides customers with base load, around-the-clock, energy
21 generation from the lowest cost fuel source currently available to the Company. The
22 Company's CR3 operations have provided customers hundreds of millions of dollars in
23 annual fuel cost savings compared to the Company's next most efficient base load
24 generation alternative. With the completion of the steam generator replacement,

1 customers will continue to realize fuel savings from the operation of CR3 far into the
2 future. To continue to achieve these fuel savings, however, the Company must incur the
3 costs of the steam generator replacement. No one disputes these points.
4

5 **Q. Does any Intervener dispute that the Steam Generator Replacement Project is a**
6 **reasonable and prudent investment?**

7 **A.** No. No intervener takes any issue with Mr. Young's testimony regarding the steam
8 generator replacement project, including its need, or that it is a reasonable and prudent
9 investment by the Company.
10

11 **Q. Does any intervener claim that the costs of the Steam Generator Replacement**
12 **Project should not be recovered by PEF in rates?**

13 **A.** No.
14

15 **D. Electrostatic Precipitator Upgrade Project**

16 **Q. What is the status of the environmental control equipment projects at the Crystal**
17 **River Energy Units 4 and 5 coal plants?**

18 **A.** At our Crystal River Energy Complex, we are installing \$1.3 billion in environmental
19 control equipment on two of our coal-fired units, which will significantly lower the
20 Company's air emissions, including carbon emissions. This project, undertaken pursuant
21 to our Commission-approved environmental controls plan, will be completed this year.
22 Related to this project is our upgrade to the electrostatic precipitator or ESP, which is a
23 large piece of equipment that removes particulate matter from the exhaust air. That
24 project is underway and on schedule to be completed this fall.

1
2 **Q. Does any intervener dispute that the ESP Project is a reasonable and prudent**
3 **investment?**

4 **A. No.**

5
6 **Q. Does any intervener claim that the costs of the ESP Project should not be recovered**
7 **by PEF in rates?**

8 **A. No.**

9
10 **E. PEF's Sales Forecast**

11 **Q. Has PEF filed a sales forecast in this docket?**

12 **A. Yes.** Mr. Ben Crisp submitted the Company's sales forecast as part of his direct
13 testimony in this matter. ~~It is my understanding that in response to OPC's Interrogatory~~
14 ~~118, the Company provided an updated sales forecast.~~

15
16 **Q. ~~What did the updated sales forecast show?~~**

17 **A.** The updated sales forecast is lower than the forecast submitted by Mr. Crisp on March
18 20, 2009. In terms of revenue requirements, the updated forecast shows that the company
19 is unlikely to earn its requested return on equity in the test year, or even in 2011, by
20 approximately \$95 million annually.

21
22 **Q. Have any interveners challenged the Company's sales forecast?**

23 **A. No.** As Mr. Toomey and Mr. Crisp discuss in their rebuttal testimony, Intervener
24 Witness Martz implicitly accepts the company's sales forecast.

1
2 **III. THE IMPACT OF INTERVENERS' RATE REDUCTION PROPOSAL ON THE**
3 **COMPANY**
4

5 **Q. What is your understanding of the interveners' rate reduction proposal in this case?**

6 **A.** Based on my review of OPC's and other intervener testimony, the interveners believe that
7 the Company should be forced to reduce its rates by \$35 million annually.
8

9 **Q. What would be the financial impact on the Company of such a rate reduction?**

10 **A.** Any rate reduction, especially one of that magnitude, would be damaging to the financial
11 health of the Company. As Messrs. Toomey and Sullivan, and Dr. Vilbert discuss in
12 greater detail, adopting OPC's position would have a number of adverse impacts on the
13 Company. First, reducing rates by \$35M would likely cause credit rating agencies to
14 downgrade the Company, which, in turn, would increase the Company's cost of capital
15 and ultimately increase the cost of service to our customers. In addition, the Company
16 would have a harder time attracting the capital necessary to run its business. It is
17 common sense that an investor will invest in other utility companies who have higher
18 returns than PEF.
19

20 **Q. What would be the impact on PEF's cash flows if interveners' rate reduction**
21 **proposal were adopted by the Commission?**

22 **A.** There would be a significant reduction in cash flow. Our business is one of the most
23 capital-intensive industries in the world. With significantly less cash flows coming in, as
24 proposed by the interveners, we will be forced to borrow more money at higher interest

1 rates or to curtail necessary capital expenditures. Lower cash flows, as Mr. Toomey and
2 Mr. Sullivan show, will also significantly reduce the Company's flexibility not only in
3 deploying capital, but in funding storm response costs, hedging fuel costs, which requires
4 large amounts of capital, and in responding to unanticipated events.

5
6 Perhaps most important, investor confidence in the Florida regulatory climate would be
7 shaken significantly. Florida has long been viewed as a stable regulatory climate, which
8 has inured to the benefit of customers for many years. Reversing course and mandating
9 an unsubstantiated rate reduction – particularly within several months of awarding a
10 modest rate increase to Tampa Electric – would increase investor worries in an already
11 skittish and capital constrained market, and further increase our cost of capital and
12 increase cost to our customers.

13
14 **Q. What impact would the interveners' rate reduction proposal have on PEF's ability**
15 **to construct the Levy Nuclear Project?**

16 A. Denying some or all of PEF's rate request will affect the Company's financial strength
17 and potentially have an adverse impact on the timing and ultimate construction of the
18 Levy Nuclear Project. Reducing rates, as proposed by interveners, would unquestionably
19 jeopardize the project. Without the necessary cash flows to fund the day-to-day business,
20 it would be hard to see how the Company could move forward with a \$17 billion
21 investment.

22
23 **Q. Has any argument raised by the interveners caused the Company to believe its rate**
24 **request is unwarranted?**

1 A. No. We do not take lightly submitting a request for a rate increase, and we would not be
2 before this Commission unless an increase was necessary. We cannot continue to meet
3 the State's energy goals and provide the level of service our customers expect and
4 demand under our current rates. With the exception of adding the Hines 2 and 4 power
5 plants in rates beginning in 2008, the Company has not had an increase in base rates since
6 1993. In fact, the Company substantially reduced its base rates from 2002 through 2007
7 as a result of the settlement of its last two base rate proceedings. Our base rates have
8 essentially remained flat for the past quarter century and are roughly the same as they
9 were in the early 1980's. Since 2005 increases in the total price paid by customers have
10 been driven primarily by escalating fuel costs, which have increased dramatically in the
11 last few years, despite the Company's best efforts to mitigate the impact of the increases
12 on its customers. Increases in the cost of fuel, of course, are largely outside the control of
13 any utility, including the Company. PEF's residential base rates have increased by only
14 1% since 1984. By contrast, the consumer price index has increased by 106%, housing
15 has increased 113%, food has increased by 115%, and medical care has increased by
16 253% over the same time frame. These cost escalation figures demonstrate the
17 Company's ability to hold base rates relatively constant by controlling its costs during a
18 period of time when costs were otherwise rising in the rest of the economy. The
19 Company has accomplished this while continuing to provide customers with superior
20 service.
21 In an era of ever increasing costs and lower growth, however, we cannot continue to
22 provide superior service and reliability and meet the energy goals as mandated by the
23 Legislature and Governor at our current rates.
24

1 Q. Does this conclude your testimony?

2 A. Yes, it does.

3

4

1 **BY MR. GLENN:**

2 Q. And have you prepared a summary of your
3 rebuttal testimony?

4 A. Yes, I have.

5 Q. Would you give it at this time, please?

6 A. It'll be a little shorter than the original
7 version, so I'm sure everyone will appreciate that.

8 Good morning, Mr. Chairman and Commissioners.
9 The -- I, I will address the impact on the company and
10 its customers if the Commission were to adopt the Office
11 of Public Counsel's position that PEF should decrease
12 its rates by \$35 million annually.

13 The Office of Public Counsel and several of
14 the Intervenors argue that PEF is not entitled to any
15 increase in base rate, rather the company should reduce
16 its rates by approximately \$35 million annually. And
17 the Intervenors arrive at this number by, number one,
18 inappropriately making adjustments to depreciation; two,
19 inappropriately reducing O&M expenses by about
20 \$133 million; and, third, by inappropriately reducing
21 the company's requested return on equity or ROE by
22 roughly 275 basis points.

23 And as discussed in greater detail in the
24 rebuttal testimony of Mr. Sullivan, Mr. Toomey and
25 Dr. Michael Vilbert, adoption of the Intervenors'

1 arguments would have a significant adverse financial
2 impact on the company, result in lower service levels to
3 customers, and adversely affect the company's ability to
4 raise the capital at reasonable costs necessary to fund
5 and implement the company's sizable future capital
6 expenditure program.

7 Finally, it is important to note that the
8 outcome of this case will not only have a clear impact
9 on the ultimate financial health of the company, but
10 also on our ability to meet the Legislature's and
11 Governor's energy goals, including building new state of
12 the art carbon free nuclear power plants.

13 This concludes my summary.

14 **CHAIRMAN CARTER:** Outstanding.

15 **MR. GLENN:** Mr. Chairman, Mr. Chairman, we
16 tender the witness for cross-examination.

17 **CHAIRMAN CARTER:** Great timing.

18 Mr. Rehwinkel, you're recognized.

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

20 **CROSS EXAMINATION**

21 **BY MR. REHWINKEL:**

22 Q. Mr. Dolan, good morning.

23 A. Good morning to you, Mr. Rehwinkel.

24 Q. I think now I understand the scope of your
25 testimony.

1 **A.** I hope I do as well.

2 **Q.** And if I stray into an area that is no longer
3 part of your testimony, please let me know.

4 **A.** I'm sure myself or others will help you with
5 that.

6 **Q.** I'll take any help I can get in that regard.

7 So where we stand now with your rebuttal
8 testimony, you as the president -- so you're President
9 and CEO; would that be correct?

10 **A.** Yes, I am.

11 **Q.** Of Progress Energy Florida. Your effort here
12 today is to point out what you believe the financial
13 ramifications of accepting the Intervenor's'
14 recommendations might be to your company; is that
15 correct?

16 **A.** Yes, that would be one of the items. Yes.

17 **Q.** Okay. Can I ask you to turn to Page 3 of your
18 rebuttal testimony? And I think you went over this just
19 now in your summary, but I want to understand, is your
20 issue with the Intervenor's' case that their
21 recommendation, as summarized in the testimony of, of
22 Mr. Schultz, is for a reduction in rates by \$35 million,
23 or is it that they can test any of your
24 half-a-billion-dollar rate increase?

25 **A.** I'm sorry. I want to make sure I understood

1 your question. Can we try that one more time?

2 Q. Sure. Is your, is your issue, is the issue
3 that you raise here with respect to the financial damage
4 that you suggest will occur, is that raised with respect
5 to the recommendation for a reduction in rates or is it
6 raised with the, with respect to the recommendation that
7 any of your \$499.997 million rate increase not be
8 allowed?

9 A. Well, I think if I understand your question,
10 it's probably both. I think that it's sort of -- there
11 are some specific issues that we point out here, but the
12 sum total of that is really the revenue reduction of the
13 35 million. So I'm hoping I'm understanding your
14 question correctly.

15 Q. Okay. So -- I think you are. Let me ask it
16 this way. If, if the Intervenors revised their
17 recommendation to, say, instead of a reduction, just
18 stop at zero, that there be no change in rates, are you
19 saying that would not be as damaging as a reduction? Is
20 it the reduction that's the problem?

21 A. Oh, I don't think it's a point estimate, if I,
22 if I understand your question. No. I think it's what I
23 said earlier. The, it's the sum of the parts and it's
24 how the parts, the conclusions of the sum of the parts
25 is really what I think my testimony is.

1 **Q.** Okay. Is it your testimony that unless the
2 Public Service Commission grants all \$499,997,000 of the
3 company's rate increase, that you will suffer financial
4 harm in the market, in the credit market?

5 **A.** I'm not sure that's -- I would say no, I don't
6 believe it's that. I mean, there are, you know, there
7 may be other scenarios and how you arrive there that may
8 lead to a different conclusion. But certainly, I want
9 to make sure I'm clear on this point, that is the number
10 that we feel is appropriate to, A, run the business the
11 way we would like to run it and feel we should run it
12 for the benefit of customers. And, secondly, to make
13 sure that we have the sort of financial strength as a
14 company entering into this period, this capital
15 expansion period that we see in front of us, that I
16 think that's, doesn't change anything about the
17 conclusion that that's the appropriate amount of money
18 that we feel we need as a company to run our business
19 going forward.

20 **Q.** So if the Commission doesn't grant a
21 12.54 percent after-tax return on equity authorization,
22 are you saying that would harm the company in the
23 financial markets?

24 **A.** Yes.

25 **Q.** So if they, if they just gave you a 12, that

1 wouldn't be good enough?

2 **A.** Well, I think, Mr. Rehwinkel, I would say, no,
3 I wouldn't agree with your, your question. And I'm, you
4 know, I'm not inclined to speculate about what
5 combination of factors would make sense. Ultimately the
6 Commission will make that judgment and we will live with
7 whatever judgment they make and move forward. I think,
8 as I said earlier, I would, I would tell you that we've
9 asked for what we felt is appropriate on all, each and
10 every one of the dimensions of our case. And that is
11 the result that we're seeking to make sure, A, that
12 customers get the service that they deserve and, B, that
13 the company can be run in a, in a fiscally strong way.

14 **Q.** Okay. Well, Line 3 -- on Page 3, Line, Lines
15 8 and 9, you, of three items that you point out with
16 respect to the Intervenors' number, you say,
17 "Inappropriately reducing the company's requested return
18 on equity, ROE, by roughly 275 basis points."

19 Is, is your beef, if you will, with the
20 Intervenors is that their, their number is at 9.75, or
21 is it that there's, that they don't agree with the
22 12.54?

23 **A.** I would say it's the latter. I think it's --
24 this, this reduction just clarifies the amount of the
25 reduction, but we disagree with the reduction.

1 Q. Okay. So you're aware, are you not, that
2 12.54 percent return on equity is above the average --
3 well, it's higher than anybody is asking for at this
4 point in time before any public service commission;
5 isn't that correct, any electric company?

6 **MR. GLENN:** Objection. Lack of foundation.

7 **BY MR. REHWINKEL:**

8 Q. Are you aware of any electric company that is
9 requesting a rate of return as high as 12.54 outside of
10 the State of Florida?

11 A. I am not aware -- I would answer your question
12 this way. No, I'm not aware of any pending request, if
13 I understand your, the context of your question would be
14 cases that are pending today. However, I am aware of
15 utilities that are earning or have targeted allowed
16 returns greater than 12.54 percent today.

17 Q. Okay. Have any -- are you aware, outside of
18 the State of Florida, of any electric company who has
19 been authorized a rate of return on equity of 12.54 in
20 the last year?

21 A. No, I'm not aware of that.

22 Q. Would you agree with me that 12.54 is at least
23 100 basis points higher than the average return on
24 equity that has been authorized for electric utilities
25 of similar character and nature as Progress Energy

1 Florida?

2 **MR. GLENN:** Objection. Lack of foundation,
3 vague and ambiguous.

4 **MR. REHWINKEL:** Mr. Chairman, I just asked him
5 if he was aware. I don't think the question is anything
6 but direct. I'd be glad to restate it, if that would be
7 your pleasure.

8 **CHAIRMAN CARTER:** Okay. Rephrase.

9 **BY MR. REHWINKEL:**

10 Q. You've heard testimony, Mr. Dolan, have you
11 not, about -- I think there was an exhibit --

12 **CHAIRMAN CARTER:** 264.

13 **MR. REHWINKEL:** 264 I think it is, yes.

14 **BY MR. REHWINKEL:**

15 Q. Have you seen 264, the RRA or SL, whatever it
16 is, the one-pager with the, with the ROEs that have been
17 authorized in the last, in 2009?

18 A. If you're referring to the one that was
19 offered to me on, on direct --

20 Q. Yes.

21 A. -- yes, I remember that.

22 Q. Yes.

23 A. I don't have it in front of me, but I do
24 remember the conversation.

25 Q. I don't have mine either. It's in a pile back

1 at my office.

2 **A.** Okay.

3 **Q.** But there was, I think the average return on
4 equity there was 10.51 percent from that page. Wouldn't
5 you agree with that, subject to check?

6 **A.** Subject to check, I think the mathematical
7 average for those companies that were listed, yeah, I
8 think that's what it was.

9 **Q.** Would it be fair to say that you would
10 probably find, you would probably find some fault with
11 that in that some of the companies on that page may not
12 have the same operating characteristics as Progress
13 Energy Florida; is that fair?

14 **A.** Yes, I would absolutely agree with that.

15 **Q.** Okay. But there are some on there that do
16 share similar characteristics with respect to being a
17 pure generating, distribution, transmission, fully
18 integrated electric utility; would you agree with that?

19 **A.** I'm not sure I would, no. I think I'd have to
20 really get the list. My recollection of that list,
21 there was quite a few that were in deregulated markets
22 that were distribution only. So I, to agree with that
23 I'd probably have to see the list to have a specific
24 reference.

25 **Q.** Okay. Well, maybe someone else will have

1 questions about that. I, I just was -- my question to
2 you was was there anybody on there that had
3 characteristics of an electric utility similar to yours
4 that was getting, or that had been authorized anything
5 close to a 12.54 return on equity?

6 **A.** I do not recall from that list, Mr. Rehwinkel,
7 if I could make a direct comparison to someone that has
8 our unique circumstances.

9 **Q.** Okay. When you talk to Wall Street about --
10 and you do talk to Wall Street; correct?

11 **A.** Our company talks to Wall Street. Myself
12 personally, not to a great extent. Perhaps more in my
13 new role, but not in large part up to this point.

14 **Q.** But you have participated in investor and
15 analyst conversations in 2009; correct?

16 **A.** Yes.

17 **Q.** When you do that, are your presentations
18 geared around what the return on equity that the Public
19 Service Commission is considering, is authorizing, is
20 allowing you to earn, or are they more about financial
21 metrics such as cash flow and, and the like? Which is
22 more common with respect to what you talk to Wall Street
23 about?

24 **A.** Well, I would have to answer your question
25 this way. The -- I think the language and interaction

1 with Wall Street may be better addressed by
2 Mr. Sullivan. But I would say that generally I think
3 it's a wide variety of factors that we would talk to the
4 Wall Street folks about. I mean, there are a number of
5 financial metrics. I think you mentioned some of them
6 in your question. And for some, some may be more or
7 less important than others, depending on who is in the
8 conversation.

9 But I, you know, how the Wall Street folks
10 sort of evaluate individual components I think, I don't
11 want to speculate about that, but I think a lot of those
12 factors that you mentioned are in fact very important to
13 them.

14 **Q.** Would you agree that the regulatory authorized
15 return on equity is less important to them than, than
16 the way they view environmental factors and cash flow
17 and your capital expenditure plans, things like that?

18 **A.** No, I don't think I would agree with that.

19 **Q.** Okay. You state in your testimony on, I
20 believe it's Page 10, that the company does not take
21 lightly submitting a rate, a request for a rate
22 increase, and you would not be before this Commission
23 unless an increase was necessary; is that correct?

24 **A.** Yes.

25 **Q.** And it is your testimony that you can't get by

1 with less than 4 million -- \$499,997,000 of a rate
2 increase; is that correct?

3 **A.** Yes.

4 **Q.** Okay. And you also point out in conjunction
5 with this increase is that you have not had an increase
6 in base rates since 1993. Do you see that on Lines 5
7 and 6?

8 **A.** Well, I don't think the way you've
9 characterized the question is accurate.

10 **Q.** Oh, with the exception of adding Hines 2 and
11 4.

12 **A.** Yes.

13 **Q.** Okay. And was that part of a settlement
14 stipulation, Hines 2 and 4?

15 **A.** Yes, I believe it was.

16 **Q.** Okay. But apart from those, your, your
17 testimony is that you have not had a base rate increase
18 since 1993; correct?

19 **A.** Yes.

20 **Q.** And in that regard is it also true that a
21 greater percentage of the costs that would ordinarily be
22 recovered in base rates are now recovered in various
23 clauses, is that correct, since 1993?

24 **A.** Could you -- I'm sorry. Could you -- I want
25 to make sure I understood your question.

1 **Q.** Okay. No problem. You would agree that a
2 greater percentage of the costs that, that would
3 ordinarily be recovered through base rates are now
4 recovered through clauses such as environmental cost
5 recovery, nuclear cost recovery, some of the other
6 clauses. Would that be, would that be a fair statement?

7 **A.** No, I don't think so. Your, I think your --
8 no, the way you're prefacing that is that would
9 ordinarily go into base rates. I think, I think that's
10 probably where I would disagree with that.

11 **Q.** Okay. Are you incurring costs that, today
12 that, that you would have, before the initiation of
13 clauses you would have recovered in base rates had you
14 incurred them?

15 **A.** I think the answer is yes, but let me, let me
16 try to make sure again that I'm not, we're not talking
17 past each other here.

18 So, as an example, if we did not have a
19 separate clause that contemplates environmental mandates
20 and cost recovery, in the absence of that there may be
21 capital investments that would otherwise be dealt with
22 in base rates. That I would agree with, if that's, if
23 I'm understanding your question.

24 But that's -- the reason I answered the first
25 question the way I did is that, you know, it's now, I

1 don't consider that a base rate expense because we deal
2 with it separately. I just want to make sure I'm clear
3 on that point.

4 Q. Okay. I understand. I was trying to say
5 that -- well, I think we, you've answered my question.

6 Would you agree that since 1993, however, the
7 overall average residential bill, I say average, I mean
8 a thousand kilowatt hours per month, has increased?

9 A. Yes, I would agree with that.

10 Q. One of the harms that you testify that could
11 occur, if you don't get all of your \$499,997,000 rate
12 increase, is that the Levy Nuclear Project would
13 unquestionably, unquestionably be jeopardized. Is that
14 a fair statement on Page 9, Lines 14 through 21?

15 A. Yes, it is.

16 Q. Can you state with 100 percent certainty that
17 the Levy Nuclear Project will be pursued?

18 A. No, I cannot.

19 Q. Let me ask it to you a different way. Even if
20 you get your \$499,997,000 to the penny as requested,
21 can, can you state that it would be pursued to
22 completion?

23 A. No. But it would certainly help to move it
24 in, in the direction where the plan does get completed.

25 Q. It's not your testimony, is it, here today,

1 that the fate of the, the \$17.2 billion Levy Nuclear
2 Project rides solely on the decision that the Public
3 Service Commission makes in this docket, is it?

4 **A.** No. It is not solely on this decision. But I
5 would say that this decision will have an impact on that
6 project. I think that's fair to say.

7 **Q.** It's also fair to say, is it not, that there
8 are several other factors that are equally or perhaps
9 more important with respect to the fate of the Levy
10 Nuclear Project being completed?

11 **A.** No. Mr. Rehwinkel, I think what I would say
12 is that there are going to be, there are obviously a
13 number of factors that will influence that project in,
14 in -- it's a very, very significant investment on the
15 part of the company. The market acceptance of that, you
16 know, et cetera. I think -- and we've talked about a
17 number of those factors in a separate docket.

18 But I would say that, you know, we're at a
19 very important crossroads with that project right now.
20 I won't talk about the other pending matters. So
21 there's a decision pending there that will influence the
22 project obviously. There's a decision pending here that
23 will influence that project. And we are at a period
24 where, while the markets have recovered some, there's
25 still quite a bit of instability in the financial world.

1 So I think -- and we've seen signals from the
2 market, not only for us but for other utility companies
3 that are interested in pursuing new nuclear. So I would
4 say we're at a particularly delicate time right now
5 where the market is watching, and they're paying
6 attention to not only the proceedings in the nuclear
7 cost recovery docket, but they are paying very close
8 attention to this docket as well.

9 And I think in some respects, the, a lot of
10 the decisions will be controlled by the company, but a
11 lot of the decisions may be controlled by third parties
12 and how they react to the environment here in Florida.

13 So I think, as I said, I think we're at a very
14 particular point in time where it's going to have an
15 influence on that project. And we certainly want to see
16 that project through to completion as a company.
17 Obviously we're well down that path. So I think, I
18 think it matters, it very much matters.

19 **Q.** But I think you would agree that the Public
20 Counsel's Office has been on record as supporting your
21 Levy Nuclear Project. Is that -- would you agree with
22 that?

23 **A.** I may agree with that in part. I mean, there
24 are obviously some, been some disputed issues in the
25 other docket. I don't want to get into that obviously

1 here today.

2 So I would, I would say as a general matter I
3 think, I think most of the parties recognize the value
4 and importance of new nuclear in the future. Yes.

5 Q. And the Public Counsel has not stated any
6 opposition to, to the company pursuing the nuclear plant
7 with respect to that being an option in your generating
8 mix. Is -- would that be fair?

9 A. Well, I think it would be fair to a point. I
10 mean, obviously we have had some questions and
11 challenges in the other docket. So I don't want to, I
12 don't want to, I really don't want to disagree with you,
13 I'd like to agree with you on that point, but there are
14 a few subset issues in there that we're still in
15 dispute.

16 Q. Fair enough.

17 A. If you, if you would agree with me on that.

18 Q. My questions are not gauged to finding whether
19 there's a chink in the armor, if you will, with respect
20 to the Levy Nuclear Project and this case.

21 A. Understood.

22 Q. My questions are, is, is -- and you put it in
23 play, the company did -- is that you're asking the
24 Public Service Commission here to consider the impact of
25 this case and your half-a-billion-dollar rate increase

1 request as it affects the Levy Nuclear Project; is that
2 fair?

3 **A.** Yes.

4 **Q.** Okay. So what I think the Intervenors have a
5 right to test is, is whether, is to how much weight the
6 Public Service Commission should give the potential for
7 completing this project. Would you agree with that?

8 **A.** Yes, I would.

9 **Q.** Okay. So you would also agree, and I think
10 you mentioned this in a prior answer, that there are
11 factors that are more within the control of the company
12 than the Public Service Commission that will influence
13 the course of the LNP, or Levy Nuclear Project? Would
14 you agree with that?

15 **A.** Yes, I would. And just to make sure I was
16 clear on that answer, so there are some factors that we
17 control and that there are other factors that are, you
18 know, others will have an influence on.

19 And just to be clear, Mr. Rehwinkel, I, I, I
20 think we're in agreement here that we're sort of betwixt
21 and between here a little bit. I think that my point
22 here is to say that our ability to do the things that we
23 want to do are obviously going to be influenced on the
24 outcome of this proceeding. And I don't want to --
25 well, I'll just leave it at that. Thank you.

1 **Q.** Okay. There are factors such as acquiring
2 joint ownership participation in the project that will
3 influence how the project proceeds. Would you agree
4 with that?

5 **A.** Yes, I would.

6 **Q.** There are factors such as the outcome of the
7 renegotiation or the change order negotiation, however
8 you want to characterize it, with respect to the EPC
9 contract that is ongoing as we speak, correct, that will
10 influence the outcome of the LNP?

11 **A.** Yes. I'm, I'm just, I just want to be careful
12 about how much we're, you know, jumping from one docket
13 to another here. But, yes, I would say yes to your
14 question.

15 **Q.** And I understand that. I, I ordinarily
16 probably would be more cautious in that regard. But,
17 again --

18 **A.** Fair enough.

19 **Q.** -- you put it in play.

20 **A.** Fair enough.

21 **Q.** So I'm trying to understand. And I,
22 fortunately or unfortunately this issue is fresh on
23 everyone's mind because we just did it two weeks ago or
24 three weeks, however -- it seems like yesterday.

25 **A.** Agree.

1 **MR. REHWINKEL:** So -- and, Mr. Chairman, I, I
2 just want to state for the record, and I know some of
3 the counsel that were in that docket are here, but I've
4 read in public sources the value of the EPC contract.
5 I've read it in a press release in *Earth Times*. Is that
6 number confidential in your, your view?

7 **MR. GLENN:** No, the overall number is not.

8 **MR. REHWINKEL:** Okay.

9 **MR. GLENN:** But the detailed breakdown is.

10 **MR. REHWINKEL:** Okay. 7.65 billion is a
11 public number; correct?

12 **MR. GLENN:** Yes.

13 **MR. REHWINKEL:** So that's --

14 **THE WITNESS:** It certainly is now.

15 (Laughter.)

16 **MR. GLENN:** You can deal with Westinghouse.

17 **MR. REHWINKEL:** Well, I was mystified. I was
18 looking at some documents over the weekend and I kept
19 reading it in public sources, and I was thinking how
20 careful we were to keep that confidential.

21 **BY MR. REHWINKEL:**

22 **Q.** So anyway, there's a \$7.65 billion contract
23 that is, certain of its terms are being renegotiated
24 with Westinghouse Electric and Shaw, Stone & Webster;
25 correct?

1 **A.** I would say -- I'm not sure I'd say
2 renegotiate. I think that the contract is being looked
3 at because of the shift in the schedule with the
4 decision from the NRC. How, how you want to -- I don't
5 know that I want to characterize it that way. Maybe
6 amended. I mean, there are a number of different terms
7 you could use.

8 **Q.** Correct. I'll accept amended. But the costs
9 of that \$7.65 billion number, that number could change;
10 correct?

11 **A.** It could. Yes, it could.

12 **Q.** Okay. There are still, you have several of
13 the contentions of some of the environmental
14 participants in the atomic safety licensing board or
15 whatever they're called, they, they have accepted some
16 of the contentions. So there are some live issues that,
17 with respect to some of the licensing aspects; is that
18 correct?

19 **A.** Yes, I believe that is.

20 **Q.** Okay. And I think the staff passed out an
21 exhibit, and it may not have been to you, it was
22 certainly to one of the witnesses, that, that discussed
23 some of the financial market's concerns about the size
24 of the \$17 billion contract compared to your balance
25 sheet today; is that correct?

1 **A.** I'm not familiar with that specifically, but
2 I, I understand the general premise and would probably
3 agree with that.

4 **Q.** Okay. So there is skittishness, if you will,
5 already there regardless of what happens here today
6 based on some bigger issue such as the size of the
7 project and the size of the company; correct? I say
8 skittishness, and I mean in the marketplace.

9 **A.** Well, I'm not sure I would say skittishness.
10 I'm not sure how to define that term exactly. But I
11 think there are with any -- I think with a large capital
12 project like Levy, and to your earlier question about
13 Levy and the size of Levy relative to the size of the
14 company, we get questions about that. Yes, we do.

15 **Q.** The point of my questions, and I would like to
16 see if you agree with this, is there are some factors
17 that may be so overarching and may so -- and may be so
18 nondependent upon the outcome of this case that they
19 could determine the course of the LNP project no matter
20 what happens here; correct?

21 **A.** Well, I don't know that I -- no, I don't know
22 that I would agree with that. I think there, as I said,
23 what I would say is that there are a lot of factors that
24 are going to influence that project. And I will say
25 again, this will be one of them. And there will be

1 others. I mean, I don't disagree with your, with your
2 premise. How -- I don't know that I would, you know,
3 how I would weight each of those sitting here today.
4 But clearly, you know, I think it's fair to say that
5 this will have an influence. I don't think there's any
6 question.

7 Q. Well, if, if for some reason the AP 1000 in
8 the current version, which I think is the 17th revision,
9 is not, somehow it's not licensed or it's not approved,
10 and I'm speaking hypothetically here of course, but
11 licensing issues by, by themselves could stop the
12 project regardless of what happens here at the Public
13 Service Commission. Would you agree with that?

14 A. Well, your hypothetical, I just, I mean it
15 just depends how that shakes out. I mean, the, the --
16 you know, if for some unforeseen reason, which it's hard
17 to sit here and speculate about that, that the NRC said,
18 no, we don't like the AP 1000, you know, two or three
19 years from now, that obviously would have a negative
20 effect on the project. There's no question about that.

21 Q. And I'm not suggesting that that's the case.
22 I'm just saying there are -- licensing by and of itself
23 would not look one way or the other towards how the
24 Public Service Commission react, reacted in this case,
25 would they?

1 **A.** If, if I understand your question, if there
2 was a licensing change, your hypothetical, then that,
3 you know, that could be a determining factor in the
4 project. Of course, you know, depending on the outcome
5 of this case, we may never get to your hypothetical. So
6 it just really depends on a number of different factors.

7 **Q.** Okay. Now is it your testimony -- and I'd
8 like to go back to that, well, your, the two, the
9 275-basis-point differential that you've identified
10 between the Public Counsel and the Intervenors. And
11 you're saying you disagree -- or you're saying the
12 Intervenors contesting the 12.54 is inappropriate.

13 **A.** Yes.

14 **Q.** Okay. Is there an increment of that
15 275-basis-point difference, or maybe stated a better
16 way, is an increment of the 12.54 percent return on
17 equity associated with the need to secure sufficient
18 financing for the Levy Nuclear Project?

19 **A.** No.

20 **Q.** So you would need 12.54 percent regardless of
21 whether you are building the Levy Nuclear Project or
22 not; is that your testimony?

23 **A.** Yes, it is.

24 **Q.** Okay. Let's move away from the nuclear
25 project for, for now, and ask you -- I think you said

1 earlier you would not have, and you testified you would
2 not have asked for the half-a-billion-dollar increase if
3 you felt like it was not necessary; correct?

4 **A.** Yes.

5 **Q.** Okay. And that, I guess a corollary to that
6 is that you are testifying that all of the expenses and
7 all of the costs that are submitted as projected for
8 2010 are all reasonable, necessary and prudent; correct?

9 **A.** Yes.

10 **Q.** Do you feel like, as President and Chief
11 Executive Officer of Progress Energy Florida, that you
12 have any obligation to ratepayers to be a good corporate
13 citizen? You meaning Progress Energy.

14 **A.** I'm -- when you say "good corporate citizen,"
15 you have to -- I'm not sure what that means.

16 **Q.** Okay. Well, do you think that, do you think
17 Progress is a, a good corporate citizen in the State of
18 Florida?

19 **A.** Yes.

20 **Q.** Okay.

21 **A.** Again, I mean, we may not have the same
22 definition of that. But, I mean, in how I would define
23 it, you know, as far as that could cover philanthropic
24 issues and a number of other things. I certainly think
25 of us as a good solid company and a good corporate

1 citizen.

2 Q. Well, do you think that, in your corporate --
3 in your definition of being a good corporate citizen, do
4 you think that those actions translate to benefits to
5 the ratepayers?

6 A. Perhaps.

7 Q. Even with respect to costs that may be below
8 the line, such as charitable contributions? Would you
9 agree that your philanthropy in the community, that
10 your, that your concern and care within the community is
11 something that translates to benefits to ratepayers?

12 A. It may.

13 Q. Do you feel like it's important for the
14 company to take into consideration in the filing of the
15 case the economic climate that, that persists in the
16 State of Florida, or exists, I should say?

17 A. Well, I would say -- you know, when you say
18 "economic climate," I probably need you to -- I'm not
19 sure I understand what you, how you would define
20 "economic climate."

21 Q. Okay. You agree there's really not been much
22 dispute in this case about the level of unemployment in
23 the State of Florida?

24 A. No, there has not been.

25 Q. And you would agree, would you not, that

1 generally the State of Florida is still considered to be
2 in a relatively deep recession?

3 **A.** Yes, I would.

4 **Q.** You would agree, would you not, that in the
5 labor marketplace that pay raises are probably hard to
6 come by for the average working man and woman?

7 **A.** You said in the labor market?

8 **Q.** Yes, sir. In the State of Florida.

9 **A.** I'm not sure I understand what you mean when
10 you say "the labor market." Are you referring to a
11 specific industry or in general?

12 **Q.** No, just generally. Just in general.

13 **A.** I think it depends on the individual company.
14 Some, yes, I would agree, some, no, I would disagree.

15 **Q.** Okay. Are you aware that many of your
16 customers have had to make financial concessions in just
17 meeting, making ends meet in their day-to-day lives in
18 these, in the current economic climate?

19 **A.** Yes, I'm aware that some have and testified to
20 that.

21 **Q.** Okay. Would you be aware that state
22 employees, who constitute your customers, have generally
23 not had pay raises in the last year or two?

24 **A.** I'm not specifically familiar with that, so I
25 would say I don't know.

1 **Q.** Okay. Would you be surprised if that were the
2 case?

3 **A.** Not necessarily.

4 **Q.** In this regard, would you find it to be
5 appropriate for Progress Energy Florida to freeze or
6 limit the amount of pay increases that you are
7 requesting recovery for?

8 **A.** No, I would not.

9 **Q.** Why would that be?

10 **A.** Well, I think we talked about this earlier in
11 my direct testimony, and we try to maintain sort of a
12 consistent balanced philosophy in how we run our
13 business. And I think a lot of the folks that are
14 correcting some of the things today are the same folks
15 that perhaps got out of balance a little bit through the
16 '90s.

17 And I think our consistent philosophy is to
18 try to keep in balance the interests of customers, our
19 employees and our owners, people that loan us the money
20 to do our business. And I think if we let any of that
21 fall out of balance, it's going to be harmful. And the,
22 the, that balance is not going to work for all the
23 interested parties.

24 So what we try to do and maintain, and I think
25 our, our history will support this, is when we had the

1 runup in the '90s, and you saw some of the things that
2 are being corrected today, whether it's Wall Street, the
3 banking industry, you know, take your pick, I think
4 you'll find that in our industry our rate of change in
5 compensation, as an example, or recruiting employees and
6 the importance of some of the employees and the work
7 that they do day in and day out for our company, we try
8 to maintain a consistent steady philosophy in order to,
9 A, make sure that our employees are recognized for the
10 work that they do, and, B, to make sure that they feel
11 comfortable where they are and are in this for the long
12 haul.

13 So I would say while we could adjust, as you
14 suggested, I think it would be a mistake because I think
15 that, again, we're in this for the long haul. And I
16 think we are not a company that lived on the excessive
17 things that got out of balance in the 1990s. And
18 therefore I think it certainly would be my preference,
19 notwithstanding, and not saying that we don't, that
20 we're not empathetic to the times that are out there.

21 I think we also have a responsibility, A, to
22 our employees, and, B, to how we run our business day in
23 and day out, and that's why we want to maintain the
24 philosophy that we have.

25 So I think if you look at our history and you

1 look at the way that we've run our business day in and
2 day out, year in and year out over the last several
3 decades, I think that's the consistent philosophy that
4 we'd like for this Commission to consider as we move
5 forward from here.

6 Q. And just to be clear, my -- and I appreciate
7 your answer. My question was not whether you should not
8 give the raises, not pay the benefits or not provide the
9 compensation that you have described in your
10 compensation plans, that Mr. DesChamps describes, but
11 whether you should seek full recovery of those from the
12 ratepayers. In other words, shouldn't they be shared by
13 the shareholders and the customers? Is that an option
14 in light of the, the conditions that you're in today?

15 A. I would say no. I mean, based on the previous
16 answer, I think that the compensation as well as any
17 other expense that we've included in our request
18 obviously we feel is appropriate and beneficial to
19 customers and how we want to run our business. So I
20 would, I would disagree.

21 Q. Earlier we talked a little bit about your
22 objection to there being any rate reduction here. You
23 said you thought that would be financially damaging to
24 the company. Is that fair?

25 A. Yes.

1 **Q.** Isn't it true that the company has agreed to
2 rate reductions in the past?

3 **A.** Yes, it is. You know, based on the facts and
4 circumstances at that particular time.

5 **Q.** I mean, you mentioned that in your testimony,
6 I think, even, don't you? On Page 10, on Line 6 and 7?

7 **A.** Yes, I do.

8 **Q.** Okay. Now when, when, when the company made
9 those rate reductions as part of an agreement, that
10 reduced cash flow, did it not?

11 **A.** Well, I don't know that, I don't know that I
12 would agree. I mean, that -- if you isolate that piece
13 of it, I think that -- I don't know that I would agree
14 with your statement because, A, it was part of an
15 overall settlement and there were a lot of ups and downs
16 in that settlement. So I don't, actually I don't know
17 sitting here today what the net effect on cash flow was
18 at that particular point in time.

19 **Q.** Well, just, just the rate reduction alone by
20 itself, that's all I'm asking about, that has to be a
21 reduction in cash flow, doesn't it?

22 **A.** Well, if you assume that -- well, again, I
23 don't -- I would say no, I don't necessarily agree with
24 you. I'd have to go back and reconstruct the numbers
25 from the year prior to that particular year. There may

1 have actually been a net increase. I mean, it just
2 really depends on all the factors that make up that
3 settlement, because there were a lot of other underlying
4 factors in there. So I don't know that I can agree with
5 you.

6 Q. Well, I wasn't asking about was the net effect
7 of the settlement positive or negative with respect to
8 cash flow. Just when you have lower revenues, that's
9 lower cash flow, isn't it? Isn't that a fact?

10 A. Well --

11 Q. Just that alone.

12 A. -- if you assume that we were going to get
13 another X number, whatever that was, over and above, you
14 know, what was needed, then you reduce by that amount,
15 that's a reduction. However, it doesn't mean that cash
16 flow was reduced from the prior year.

17 Q. Hasn't the company in the past agreed to
18 reduce an excess, and as part of one of these
19 settlements haven't you agreed to reduce an excess in
20 the theoretical depreciation reserve by about
21 \$250 million?

22 A. I don't know that we have -- first of all, I
23 don't know your characterization of theoretical reserve.
24 Now if you're talking about the settlement, there was a
25 component of our settlement in 2002 that lasted for a

1 four-year period that had an adjustment to depreciation
2 expense.

3 Q. Wasn't that \$62.5 million a year?

4 A. Yes, it was.

5 Q. And that's \$250 million over four years?

6 A. Yes, that would be right --

7 Q. Okay.

8 A. -- on the math.

9 Q. By, by itself would such a credit in your
10 depreciation expense, in your income statement, wouldn't
11 that represent a reduction in cash flow?

12 A. Isolated, that issue alone, yes, it would be.

13 Q. Okay.

14 A. At that amount.

15 Q. As a result of the stipulations entered into
16 in 2002 and 2005 where depreciation expense was reduced
17 and rates were reduced, the company did not suffer in
18 the credit markets, did they?

19 A. I do not know what adjustments, if any, were
20 made on the credit side. I would have to defer to
21 probably Mr. Sullivan on that.

22 Q. You're not aware of any reduction in your bond
23 ratings as a result of those settlements, are you?

24 A. I'm not specifically aware of any, no.

25 Q. Okay. And isn't it true that the company was

1 able to meet its financial goals and increase dividends,
2 I say the company, I mean PGN or Progress Energy, Inc.,
3 and borrow funds as needed; correct?

4 **A.** I would say, yes, I believe that's true for
5 the most part. The, but that was a result of the
6 settlement agreement in total, not -- you know, I don't
7 want to isolate on that any one individual issue. It
8 was obviously bargained for in good faith on both sides.

9 So that was part of a comprehensive settlement
10 agreement that set forth the overall financial
11 parameters for the company, and it was that settlement
12 in total that influenced what we were able to do from a
13 financial standpoint.

14 **Q.** On Pages 8 and 9 of your rebuttal testimony
15 you describe, beginning on Line 20, Page 8, through Line
16 12, Page 9, a general negative -- well, that the cash
17 flow impacts that you think will cause a negative impact
18 on your ability to access the capital markets; is that
19 correct?

20 **A.** Yes.

21 **Q.** You also mention in this area of your
22 testimony feared impacts on investor confidence;
23 correct?

24 **A.** Yes.

25 **Q.** Are you telling, are you testifying to the

1 Public Service Commission that they need to focus more
2 on what Wall Street thinks than on setting rates based
3 on the actual costs that you incur in Florida?

4 **A.** No. What I'm testifying to is what I'm saying
5 here, which is instead of 499 million positive, it was
6 35 negative of greater than \$500 million reduction in
7 cash flow. What I am saying is that's going to have a
8 negative impact in the markets. And the Commission can
9 make whatever judgment they choose to make regarding any
10 reaction from Wall Street. There definitely will be a
11 reaction, a negative reaction, from Wall Street if that
12 was to occur. And I would think that's, you know,
13 that's something that certainly I would consider, but
14 I'm not here to tell the Commission what to consider.

15 **Q.** So you're not suggesting to the Commission
16 they should, they should be mindful of what Wall
17 Street's reaction to any rate decision will be?

18 **A.** What I'm saying is I'm, what I'm saying is, is
19 what I just said previously, that this, that a reduction
20 from 499 to minus 35 is going to have a negative
21 financial impact on the company, and I would think
22 that's something that the Commission would consider.
23 Whether it's -- you know, how they consider that is for
24 them to decide. But clearly it will have a negative
25 impact on the company, which I think they would want to

1 consider that because that's going to impact our ability
2 to access markets in the future.

3 Q. So this testimony, this section of the
4 testimony is only if there's a reduction to the
5 \$35 million level, not if there's a reduction to your
6 overall request; is that correct?

7 A. I think that depends on what that other
8 reduction, that hypothetical reduction is that you're
9 referring to, the magnitude of that.

10 Q. Okay.

11 A. It certainly is, the first part of your
12 question, the minus 35.

13 Q. But is it fair to say that, that you're also
14 trying to put in the minds of the Commission that, that
15 if you don't get what your request is, that these
16 impacts could happen perhaps at a, to a different degree
17 than a negative \$35 million rate impact; is that fair?

18 A. I'm sorry. Can you try that again? I want to
19 make sure I understand your question.

20 Q. I'm trying to understand the, the nature of
21 what you're asking, you're trying to tell the
22 Commission. Is it only if they go to the negative
23 \$35 million number that's in Mr. Schultz's testimony,
24 or, for instance, if they only gave you half of what you
25 asked for, would these impacts still be the same?

1 **A.** Okay. My, I think my answer is if they go to
2 the minus 35, it's definitely not going to have a
3 positive impact. I'm sure there are other combinations
4 between that number and other numbers that will have a
5 similar effect, but I'm not going to sit here and
6 speculate as to what those are.

7 **Q.** Okay. But you're asking the Commission to
8 keep in mind how Wall Street looks at cash flows with
9 respect to how they set rates in this case?

10 **A.** I think what we're saying -- no. I guess I'm
11 not agreeing with your characterization of the question.
12 What I'm saying is what happens here will impact our
13 ability to access markets. Wall Street talks about
14 that, other folks talk about that. So ultimately that's
15 going to matter.

16 You know, but first and foremost I think what
17 we're saying to the Commission is we're asking for what
18 we think's appropriate to run our business. And
19 certainly if it was minus 35, that's going to have a lot
20 of negative impacts on the company, in particular our
21 ability to access markets in a cycle of new investment.
22 And I think that's going to have a negative impact
23 certainly in the short-term on, on the company, and I
24 think in the longer term on our customers.

25 **Q.** What I'm trying to find out, and I know this

1 is -- you've got a fairly short number of pages of
2 testimony here, but I think the issues that you raised
3 are important ones, and I need to explore them with you
4 because I need to understand, and I think the customers
5 are entitled to understand what's intended here. So, so
6 let me ask it to you this way.

7 I think Mr. Glenn in his opening and I think
8 you in your Page 3 have identified essentially three
9 issues, three big issues in this case that the
10 Intervenors have raised: Return on equity, depreciation
11 and O&M expenses. Would you agree with that?

12 **A.** Yes, I would.

13 **Q.** Okay. Now the Public Service Commission has
14 the expertise, they have the expert staff, they can make
15 determinations about return on equity; you would agree
16 with that?

17 **A.** Yes.

18 **Q.** And they've done that for many years. If they
19 determined a return on equity should be 10 percent and
20 they based it on the record and it was substantiated,
21 10 percent was what they said your cost of capital for
22 common equity was, that would be a cost; correct? That
23 would be one of the costs from, from a regulatory
24 standpoint that you, would go into your revenue
25 requirement; correct?

1 **A.** Yes.

2 **Q.** Okay. Now if the Public Service Commission
3 decided that depreciation rates should be set at a
4 certain level, I think Mr. Robinson supports about, a
5 little short of a \$100 million increase in depreciation
6 expense; correct?

7 **A.** I'm not certain of the numbers, but --

8 **Q.** Okay. Subject to check. I think it's
9 97 million.

10 **A.** Subject to check. Okay.

11 **Q.** But if they decided that your depreciation
12 expense based on certain factors was half of that, that
13 would be, and it was supported by the record, then that
14 would be that cost to go into the revenue requirement
15 calculation. Would you agree with that?

16 **A.** Yes.

17 **Q.** And if they decided that certain of your O&M
18 expenses were, you know, recurring or nonrecurring or
19 prudent or whatever, they came up with a level that
20 reduced them, say, \$50 million from what you requested,
21 and it was based on competent substantial evidence, that
22 number would go, get plugged into the revenue
23 requirement, and then they'd do all the math and the
24 math would turn out, and you'd get a revenue requirement
25 number; would you agree with that?

1 **A.** Yes, I would.

2 **Q.** Okay. Now once the Public Service Commission
3 did all that, they would set rates. And let's assume
4 they did it based on Florida law and Commission
5 precedent and it was well-founded, that would be your
6 costs as they determine; correct?

7 **A.** Yes.

8 **Q.** Now are you suggesting that if they did that
9 and it came up substantially short of the half a billion
10 dollars that's requested by the company, are you
11 suggesting that that would have a negative impact on
12 Wall Street, even if the Public Service Commission did
13 it all right in terms of the math and their reading of
14 Florida law?

15 **A.** I think I'm saying yes, that that possibility
16 exists. I mean, that's, again, where, you know, we do
17 what we will do here. And, you know, based on the facts
18 in evidence, as you said, the Commission will make a
19 judgment. Other things will happen after that judgment,
20 and that's the real world that we will live in after
21 that judgment. And if we go out into the real world and
22 seek capital and Wall Street or others make their own
23 decisions about the price of that capital based on that
24 decision that the Commission makes, that could have a
25 negative impact. It very clearly could.

1 **Q.** Are you saying that the Public Service
2 Commission should, based on that testimony, which I'm,
3 I'm suggesting is drawn from what you've testified here
4 in your direct, in your rebuttal testimony; is that
5 fair?

6 **A.** Yes.

7 **Q.** Okay. Are you saying that they should rely on
8 that as part of the ratemaking calculation that they do,
9 that meaning what Wall Street thinks?

10 **A.** Yes.

11 **Q.** Do you -- and I know you're not a lawyer, so
12 I'm just going to ask it to you this way, and Mr. Glenn
13 can -- I'm giving you a heads up. Do you agree that the
14 Public Service Commission should follow the laws of
15 Florida in evaluating your \$500 million rate increase
16 request?

17 **A.** Yes.

18 **Q.** Okay. In fact, don't you agree that the
19 Public Service Commission should focus on what the
20 ratemaking laws are in Florida and let the company spend
21 the investor relations dollars that are not challenged
22 in this case on maintaining positive communications with
23 investors to let them know that the Commission is just
24 doing their job, no matter what the decision of the
25 Commission is?

1 **A.** That was a long question. I hate to make you
2 repeat it, but I want to make sure I understood it.

3 **Q.** I can, I can repeat it. Maybe I can break it
4 down.

5 **A.** Okay. Two parts would be better.

6 **Q.** Okay. First of all, you do agree that the
7 Public Service Commission should focus on what the
8 ratemaking laws are in the State of Florida?

9 **A.** Yes, I do.

10 **Q.** Okay. Let me ask you this. There are
11 included in the O&M expenses of the company dollars
12 related to investor relations. Would you agree with
13 that?

14 **A.** I don't know that specifically, how that's
15 categorized. I'd have to check that. Sorry.

16 **Q.** Okay. I mean, the company does spend money --

17 **A.** Yes, we do.

18 **Q.** -- on investor relations. You're not sure
19 whether it's above or below the line?

20 **A.** Right. That's where I'm not certain.

21 **Q.** Okay.

22 **MR. GLENN:** That's probably better asked of
23 Mr. Toomey would be my guess.

24 **MR. REHWINKEL:** Yes. Okay.

25 **BY MR. REHWINKEL:**

1 **Q.** But you would agree that the company spends
2 substantial time and dollars maintaining good, positive
3 relationships with investors on Wall Street; correct?

4 **A.** Yes, I would. I think that's important to
5 make sure that we try to track capital on the most
6 favorable terms, you know, for the company and our
7 customers.

8 **Q.** And maybe even not just in Wall Street. It
9 may be other places in the world that you're maintaining
10 relationships; correct?

11 **A.** Are you referring to investors?

12 **Q.** Yes.

13 **A.** Yes. Yes.

14 **Q.** And part of what you do is speak with
15 investors and let them know your take on what's going on
16 in the State of Florida, do you not?

17 **A.** Yes, we do.

18 **Q.** Okay. And in fact you've done that this year,
19 have you not?

20 **A.** Yes. More so lately than probably prior
21 years.

22 **Q.** Okay. Is it fair to say that you, that the
23 company, the company's effort is to put a positive
24 message together to Wall Street investors, even while at
25 the same time you're telling regulators, like you are

1 here, that there are dire consequences, and I don't want
2 to use the term "the sky is falling," but that, that
3 there are negative consequences to their decisions?

4 **A.** I think what I would say is we try to give all
5 parties an accurate picture of where we are.

6 **Q.** Okay. Is it possible that the message that
7 you're communicating to Wall Street is, is different
8 than the one you're communicating to regulators with
9 respect to the issues that might be pending in this
10 case?

11 **A.** Well, I'm not sure I know how to answer that.
12 It's such a broad set of issues. I think I would,
13 Mr. Rehwinkel, all I could say to that is I think we try
14 to paint an accurate picture of our situation, whether
15 it's the regulator -- you know, I think that, again,
16 the, if you think about the balance in our business, you
17 know, we try to keep balance with our customers, our
18 employees and our owners. And I think we try to
19 communicate each day accurately and to the best degree
20 that we can about what our facts and circumstances are
21 in any of those jurisdictions.

22 **Q.** Excuse me, Mr. Dolan.

23 **MR. REHWINKEL:** Mr. Chairman, I have a line of
24 questions I'm about to go into that may take some time.
25 It is -- you've been giving the court reporter a break

1 at 11:00. I'm not seeking a break. I'm prepared to
2 keep, to go forward. I just wanted to let you know
3 that.

4 **CHAIRMAN CARTER:** Let me do this, just for,
5 for the record and for planning purposes for the
6 Commissioners as well as the parties and staff, is that
7 I didn't say it this morning, but I want you to
8 understand we're back on our schedule, lunch 1:00 to
9 2:15, and we'll be going to 8:00 tonight. I think that
10 we might be able to, to use my word fluidity on the
11 changing out of our court reporters -- I'm looking for a
12 signal. Okay.

13 So you may proceed.

14 **MR. REHWINKEL:** Okay. Thank you. Mr.
15 Chairman, I'd like to pass out an exhibit for
16 cross-examination.

17 **CHAIRMAN CARTER:** You may proceed. You don't
18 need a number, do you?

19 **MR. REHWINKEL:** Yes, I do.

20 **CHAIRMAN CARTER:** Okay. The next number in
21 the sequence will be 293. 293. Short title?

22 **MR. REHWINKEL:** This would be Investor
23 Relations Presentations.

24 **CHAIRMAN CARTER:** Investor Relations
25 Presentations?

1 **MR. REHWINKEL:** Yes, sir.

2 (Exhibit 293 marked for identification.)

3 Mr. Chairman, while the exhibit is being
4 passed out, I'd like to just state logistically what
5 this is. This is presentations, one on February 27th,
6 2009, one on February 12th, 2009, and included in there
7 is a transcript from a firm called Seeking Alpha of the
8 February 12th, 2009, presentation.

9 I have, it's an 85-page document and I have
10 had it Bates-stamped. It appears in various places on
11 the document, but on the slides it's on the lower
12 right-hand side of the slides. And then on the
13 transcript, which begins on Bates stamp 42, it is at the
14 bottom right-hand side of the page.

15 **CHAIRMAN CARTER:** Thank you. For the record.

16 **MR. REHWINKEL:** Thank you.

17 **CHAIRMAN CARTER:** You may proceed.

18 **BY MR. REHWINKEL:**

19 **Q.** Mr. Dolan, are you familiar -- if I could ask
20 you to turn to -- and I have also, for the record,
21 there, if I could ask, on Page Bates stamped 10 there is
22 an agenda for the February 27th meeting. And it lists
23 several presenters and it indicates whether they have
24 presentations that can be downloaded from the Progress
25 Energy website.

1 I've included for the February 27th the
2 strategic overview from Mr. Johnson and the presentation
3 and the financial update from Mr. Mulhern. There's
4 Progress Energy Carolina. There's other issues that I
5 did not. But I just wanted to state that this is not
6 the entire presentation from that time.

7 Mr. Dolan, are you familiar with the
8 February 27th, 2009, 2009 analyst meeting in New York
9 City?

10 **A.** Yes, I am.

11 **Q.** And I think Page 10 of the exhibit indicates
12 that you participated in that; is that correct?

13 **A.** Yes, I did.

14 **Q.** Okay. Can I ask you to turn to Page 4 -- and
15 when I say pages, I'm going to be referring exclusively
16 to the Bates stamp pages.

17 **A.** Which is lower right?

18 **Q.** The lower right of the slides.

19 **A.** Okay.

20 **Q.** When you turn it straight up and down it's in
21 the upper right.

22 **A.** Yes.

23 **Q.** This document represents the Progress Energy,
24 Inc., and I'm going to -- can I use PGN to refer to the
25 corporation, the publicly traded corporation? Is that

1 okay?

2 **A.** Yes, that's fine.

3 **Q.** All right.

4 **A.** Sure.

5 **Q.** So that's Progress Energy, Inc., is PGN. This
6 document here shows your 2009 earnings per share
7 guidance to Wall Street of \$2.95 to \$3.15; correct?

8 **A.** Yes, it does.

9 **Q.** Is it also correct that Progress Energy
10 Florida, whether it's PEF and PEC, and those are the two
11 operating entities of PGN; correct?

12 **A.** Yes, that is correct.

13 **Q.** Those are essentially the two
14 revenue-producing entities.

15 **A.** Yes. For the most part I think that's right.

16 **Q.** Okay. The only other entity of any size is
17 the service company, correct, within that PGN group?

18 **A.** Yes. That is correct.

19 **Q.** And PG-- and the service company only sells
20 services within the PGN family; correct?

21 **A.** Yes. I believe that's correct.

22 **Q.** Okay. So any revenues that they generate are
23 all eliminated in the consolidated financial statements;
24 correct?

25 **A.** I think so.

1 **Q.** Okay. I know you're not an accountant. Can I
2 ask you to turn to Page 5?

3 **A.** Okay.

4 **Q.** And here you're telling Wall Street, I say
5 you, PGN is telling Wall Street about their achievements
6 and that they showed that in 2008 they met their
7 earnings goal through aggressive cost management and
8 timely action to mitigate soft retail sales; is that
9 correct?

10 **A.** Yes.

11 **Q.** And you also note to Wall Street that for
12 21 years in a row you increased your dividend; correct?

13 **A.** Yes.

14 **Q.** And also that in 2009 you successfully
15 completed two large financings.

16 **A.** Yes.

17 **Q.** Is that correct?

18 If I could ask you to turn to the next page.
19 This is where you're communicating with Wall Street
20 about your long-term annual earnings per share growth
21 of, goal of 4 to 5 percent; is that correct?

22 **A.** Yes.

23 **Q.** And that is one of the fundamental financial
24 goals of PGN for the long-term.

25 **A.** It certainly was at this time.

1 **Q.** Okay. Has that changed?

2 **A.** I'm not aware that it has.

3 **Q.** Can I ask you to turn to Page 8, and this is
4 your 2009 priorities. And if I look in the upper right
5 blue box, we see that "achieved the EPS target," which
6 is the one I think we just talked about, correct, the 4
7 to 5 percent?

8 **A.** Yes, it is.

9 **Q.** And underneath that there is "achieved 3 to
10 5 percent productivity gain." Do you see that?

11 **A.** Yes, I do.

12 **Q.** Under Strategic Initiatives in the long, in
13 the middle box, it says "achieved sufficient joint
14 ownership in financing plan for Levy Nuclear Project."

15 Do you see that?

16 **A.** I do. Yes.

17 **Q.** And that's something we talked about earlier
18 with respect to the Levy Nuclear Project. These are
19 important goals for the company with respect to
20 completing that project; correct?

21 **A.** Yes.

22 **Q.** And in the lower left-hand corner, Regulation
23 of Public Policy, it says, "achieved reasonable Florida
24 rate outcome." Do you see that?

25 **A.** Yes, it does.

1 **Q.** When you communicated to Wall Street about a
2 reasonable Florida rate outcome, did you tell them that
3 the only thing that would be reasonable would be getting
4 all \$499,997,000?

5 **A.** I, I, I have not communicated with Wall Street
6 about reasonable rate outcomes, so I'm sure that -- I'm
7 not sure how, how we would define reasonable in that
8 particular bullet.

9 **Q.** Okay. Can I ask you to turn to Page 14? And
10 again in the middle blue box here there's a, there's a
11 discussion again with the investors about your 4 to
12 5 percent earnings per share growth target, continued
13 dividend growth, which I don't know if that -- I'm
14 assuming that means to continue increasing your dividend
15 payout?

16 **A.** Yes.

17 **Q.** Okay. You want to maintain investment,
18 investment grade credit rating. You've told the
19 Commission about that in your testimony; correct?

20 **A.** Yes.

21 **Q.** And it says "annual TSR," which I think means
22 total shareholder return; am I right?

23 **A.** Yes.

24 **Q.** Of 8 to 10 percent at constant price to
25 earnings ratio. I'm assuming that's what that means.

1 **A.** Yes.

2 **Q.** Okay. And that's a, that's a, that TSR of 8
3 to 10 percent, that's a fundamental financial goal of
4 the company; correct?

5 **A.** Yes. Along with operational excellence,
6 customer satisfaction, all the other things that appear
7 on that page with it, Mr. Rehwinkel.

8 **Q.** I understand. Yes.

9 **A.** Okay.

10 **Q.** On the next page, Page 15, you're talking
11 about, I think the gold box on the far right shows the
12 midpoint of the plan, and we talked, the very first
13 slide we looked at was, has a range of guidance that you
14 gave to Wall Street of 3 -- 2.95 to 3.15. And this, the
15 goal here of 3.05 is just the midpoint of that plan,
16 correct, of that range?

17 **A.** Yes. That is correct.

18 **Q.** Okay. And you show here, do you not, that
19 with respect to the goal of 4 to 5 percent earnings per
20 share growth, if I look here under ongoing EPS, the
21 growth row in italics shows that you, you got EPS growth
22 of 11.5 percent in 2007, 2007; 9.6 percent in 2008. And
23 if you get this \$3.05 goal, you'll only be at
24 2.3 percent growth; is that right?

25 **A.** Yes. With these numbers, that's right.

1 **Q.** Okay. And so you would, at least under these
2 circumstances, fall short of that goal, which is a
3 long-term goal, correct, the 4 to 5 percent growth?

4 **A.** If the numbers turned out exactly like this,
5 which were from February, earlier this year, then, doing
6 the math, I would agree with your, your premise.

7 **Q.** Okay.

8 **A.** Yes.

9 **Q.** We see here an average shares line 260, and
10 then -- in 2008, and 280 in 2009. That reflects, I
11 assume, some of the dilution of an early 2009 equity
12 issuance?

13 **A.** I don't know that specifically, but perhaps
14 Mr. Sullivan can shed some light on that. But that's
15 likely that that's the cause of that.

16 **Q.** Okay. And, well, if you look on the next
17 page, 2009, Ongoing Earnings Per Share, we see in this
18 chart, this bar graph here that all the green stair
19 steps on the left-hand side of that chart are things
20 that contribute to earnings per share growth, and then
21 the things in the red that are stepping down are the,
22 are the things that are drags on earnings per share. Is
23 that fair?

24 **A.** Yes, it is.

25 **Q.** And we see dilution as the biggest single one

1 I think of 22 cents a share, and that's as a result of
2 an earnings, of an equity issuance in 2009 probably.

3 A. As I said, I don't know that specifically, but
4 it's very possible that could be it.

5 Q. Okay.

6 A. On that particular issue, yes.

7 Q. And on, on Page 17, the next page, you're
8 talking about earnings drivers. And, again, this is
9 PGN. This is more than just PEF, but it includes PEF;
10 correct?

11 A. It does, yes.

12 Q. Okay. As we see, you've got the Florida rate
13 filing and you're showing that's, that would contribute
14 to margin growth or -- is that correct?

15 A. We certainly hope so.

16 Q. Okay. And then in the next area, Cost
17 Management, it references a continuous business
18 excellence or CBE. Do you understand what that is?

19 A. Yes.

20 Q. Okay. And it also says "targeting minimal O&M
21 growth." Do you see that?

22 A. Yes.

23 Q. And then pension expense. Those are three
24 things that, that are, that are important to PGN for
25 purposes of maintaining or controlling costs?

1 **A.** Those are three that are listed there. There
2 are probably others, but those are certainly three that
3 were highlighted.

4 **Q.** They're talking drivers here, so these must be
5 significant items for meeting your 2000 earnings
6 guidance?

7 **A.** Well, I didn't, you know, I didn't prepare
8 this slide. But I would, I would say what I just said,
9 that they're issues that were focused on as a company.

10 **Q.** Okay. All right. Can I ask you to turn to
11 Page 22. This is your -- the title of this slide is
12 Regulatory Recovery Mechanisms. And what this shows, I
13 think in a comparative basis these two charts are
14 Progress Energy Carolinas and Progress Energy Florida.
15 And what it shows for Progress Energy Florida is, is
16 that you have -- well, it lists in the middle there the
17 types of clauses, and they're color-coded as to which,
18 so you can look and see which company has which. It
19 looks like Progress Energy Carolinas has base rates, and
20 I don't know if, if the reddish is transmission and
21 other ancillary revenue or what. They basically have
22 fuel in base rates in North Carolina or in the
23 Carolinas; correct?

24 **A.** Yes. Based on this slide, yes.

25 **Q.** Okay. But in Florida you've got fuel,

1 capacity cost recovery clause, storm cost recovery
2 clause, and that's kind of a, I guess that's an ad hoc
3 thing; right? It depends on whether you have a storm
4 cost recovery need; correct?

5 **A.** Yes.

6 **Q.** Energy conservation cost recovery, DSM, EEREPS
7 clause, nuclear cost recovery, environmental cost
8 recovery, and then you've got whatever transmission and
9 other ancillary revenue is, and then you've got your
10 base rates. That's what you have in Florida; correct?

11 **A.** Yes, we do.

12 **Q.** Okay. And you show this to Wall Street to
13 show them that you have, that these are regulatory
14 benefits that you have in the State of Florida; correct?

15 **A.** Well, I think we -- I wouldn't agree with
16 that, no. I think we show this to Wall Street to show
17 them how costs are dealt with in each of the two
18 different jurisdictions.

19 **Q.** Well, aren't these clauses that are shown here
20 for Progress Energy Florida, aren't they looked at
21 favorably on Wall Street?

22 **A.** I think you'd have to ask Wall Street that.

23 **Q.** Okay. Well, there's another slide that we'll
24 talk about with that.

25 Let me ask you to turn to the next page, which

1 is Page 23. And here you're talking about your filings
2 for base rate relief in 2009, limited relief for the
3 Bartow repowering, interim rate relief. Those are two
4 issues in this case; correct?

5 **A.** Yes, they are.

6 **Q.** And then accounting orders, pension expense
7 deferral. That's your 30-plus-million-dollar deferral
8 of 2009 pension expenses into future periods; correct?

9 **A.** Yes.

10 **Q.** And then there was a storm hardening request
11 of about \$33 million of a request to credit, to credit
12 these storm hardening expenses and debit or charge the
13 reserve, the storm reserve; correct?

14 **A.** Yes.

15 **Q.** And that was denied.

16 **A.** I believe it was.

17 **Q.** But all of these items are shown, correct me
18 if I'm wrong, to show Wall Street that you are taking
19 these steps to meet your guidance or your goals for
20 2009; correct?

21 **A.** Well, I think we -- again, no, I wouldn't
22 agree with that. I think we're giving them the facts of
23 the situation in Florida is what we're giving them.

24 You know, given our reduced revenues and, you
25 know, the future forecasts of those revenues and given,

1 you know, all of the, you know, I don't want to drum up
2 the, the ROE for discussion again, but given all of our
3 specific circumstances in Florida, we're telling them
4 these are things that we asked for relief on that we
5 felt we were entitled to, and we basically talked about
6 the outcome of the particular decisions.

7 Q. Okay. The next page, Page 24, O&M cost
8 management, and this is, we referred earlier to this
9 continuous business excellence, or CBE.

10 Now I watch *30 Rock* and I laugh at the Six
11 Sigma segments in there, but I guess it's a real thing.
12 And this is, this is, is some management initiative I
13 guess to manage costs; is that correct?

14 A. Well, I would say it's a company initiative
15 that's getting underway to try to continue our, you
16 know, consistent year in and year out focus on cost
17 management and cost efficiency over, over a long period
18 of time.

19 Q. Okay. And this references a 3 percent to
20 5 percent annual sustainable efficiency and productivity
21 gains. Is that a goal of the company?

22 A. That's, that's certainly one of our
23 aspirations as we sit here today.

24 Q. Okay. So annual, I assume, means you want to
25 achieve that every year?

1 **A.** Annual means every year. Yes.

2 **Q.** Okay. And sustainable means that level --

3 **A.** Yes.

4 **Q.** -- every year? Okay. Now are you telling
5 Wall Street that this is something, an initiative that
6 you're undertaking in order to maintain or manage or
7 control O&M costs?

8 **A.** Yes. I think we're saying -- well, I think --
9 let me just make sure I'm clear on how, how this works.
10 We are getting underway, so there are -- and, again,
11 this is the company as a whole. So there's efforts
12 underway in both jurisdictions. So some may be more
13 advanced than others and may affect the jurisdictions
14 differently.

15 And I think it's also important to point out
16 that this is in part aimed at managing O&M costs, which
17 could be lowering the rate of increase in O&M costs, not
18 necessarily a reduction from existing O&M costs. So I
19 think it's important that -- and this has been our
20 philosophy consistently through the years and why we've
21 managed to hold base rates fairly constant for nearly
22 two and a half decades, that, you know, we're always
23 looking for efficiency in our business. And, and the
24 hope is always that that's sustainable for the long haul
25 as well.

1 **Q.** Okay. So I take it -- now this presentation
2 was made on February 27th, and we'll talk about this
3 later in here, but on February 12th you also, the
4 company made a presentation to analysts; correct?

5 **A.** I'm not sure which one you're referring to.

6 **Q.** Okay.

7 **A.** But if it's later in the slides, we can
8 certainly get to that.

9 **Q.** Yes, we will. And in those presentations you
10 talked to analysts and told them that you had filed a
11 test year letter; right?

12 **A.** Again, if you want me to flip back to that
13 other presentation, I can do that now. I'm happy to do
14 it either way.

15 **Q.** Here's my point. When you made this
16 presentation to Wall Street, your MFRs were already
17 completed, you'd already completed your MFRs in late
18 February. You were ready to file them within, within a
19 month; right?

20 **A.** I'm not sure of the filing date. We were
21 certainly working on them at that point in time. I'm
22 not sure -- I'd have to -- you have to remind me of the
23 specific date that we filed and where we were as far as
24 complete or not complete.

25 **Q.** Okay. Well, the, this 3 to 5 percent annual

1 sustainable efficiency and productivity gains, you're
2 saying this is just getting underway, and we're in
3 February of 2009; right?

4 **A.** In, we're talking in February here.

5 **Q.** Yes.

6 **A.** My reference is a lot of what's just getting
7 underway, I'm talking about today.

8 **Q.** Okay.

9 **A.** So as we -- and I think about it in the
10 context of what we're trying to do specific with PEF. I
11 think my expectation is the longer term sustainable is
12 probably going to be beyond 2010.

13 **Q.** Okay. But certainly whatever productivity and
14 efficiency gains that are subsumed in this CBE process,
15 if I can call it that.

16 **A.** Yes, sure.

17 **Q.** Okay. Are not baked into, if you will, your
18 MFR filing.

19 **A.** Well, I would say any, any, you know, any
20 efficiency -- I mean, our projection, whatever our
21 projection is for 2010 for O&M is accurate. So if we
22 saw, for example -- as you know, we cut positions in the
23 past. So anything -- you know, we would give the
24 Commission the most current information when we filed
25 that contemplates our forecast for O&M expenses.

1 **Q.** Okay. But I think the answer to my
2 question -- and you've been really good about yes and
3 no, I don't think you were evasive at all in that -- but
4 is that this efficiency effort is not incorporated into
5 the MFRs or your 2009 or 2010 projections or budgets;
6 correct?

7 **A.** I would say I would not agree with that. I
8 think that -- it's really sort of how you're asking the
9 question. I think the, how I think about this in the
10 longer term focus on continuous business excellence,
11 it's really, you know, where we've been moving down that
12 path, we've had some stuff initially this year. But I
13 think the, the full weight of that will really start
14 into next year and is likely to show up in 2011 and
15 beyond.

16 That's not to say that we didn't have under
17 the -- I wouldn't, I wouldn't use the phrase the CBE
18 with that. It might be more belt tightening or other
19 sort of cost efficiencies, and certainly those are
20 contemplated in our filing.

21 **Q.** Okay. Well, and the reason I ask is it seems
22 to me if I look down at the bottom of this page -- well,
23 you mentioned the workforce reductions. And those were
24 done prior to the filing; correct?

25 **A.** Yes, they were.

1 Q. Okay.

2 A. Right. And the savings associated with that
3 are included in our case.

4 Q. Correct. Expense reductions though, there's,
5 there's where it says significant belt tightening
6 efforts; correct? Do you see that?

7 A. I do.

8 Q. And that's, that's what you just mentioned
9 with respect to belt tightening?

10 A. Yes. Well, I think, I think we need to be --
11 maybe I should clarify sort of how I think about that.
12 So there are some things that -- there's a difference
13 here, a little bit of a distinction. I think the CBE,
14 the goal there over the long-term we try to do things
15 that are sustainable. There are always going to be
16 things that you do as a business year in and year out
17 that may be acceptable short-term but are not really
18 sustainable long-term. So I think we have to be sort of
19 mindful of the distinction there.

20 And, you know, so that's sort of the belt
21 tightening stuff, some of which may be ongoing, and I
22 think several of our witnesses talked about that. But
23 there's always, there's always trade-offs in a
24 particular year where you may belt-tighten in one area
25 in an effort to make sure you have sufficient money to

1 maintain a power plant or to do vegetation management or
2 things of that nature. So there's always sort of year
3 to year individual trade-offs.

4 So I would just want to draw the right
5 distinction between that and the longer term initiative
6 that we're undertaking.

7 **Q.** Targeting Reduction in 2009 Budgets. This is
8 something that you're telling Wall Street is underway
9 for the 2009 budget?

10 **A.** Again, this is, I don't think this is my
11 slide. I, I am not sure specifically what is meant by
12 that bullet. You know, there, there are -- that's,
13 that's what I would say to that.

14 **Q.** Okay. Well, let's go back and look, if you
15 will, at Page 15.

16 **A.** Bates 15?

17 **Q.** Yes. Bates 15. This is the slide that says
18 PGN Ongoing Earnings. If we look here, you have three
19 entities that are shown: PEC, PEF, parent
20 company/other. Now the only entities that generate any
21 earnings are PEC and PEF; correct? The rest of the
22 company is a negative.

23 **A.** Yes.

24 **Q.** Okay. So it's pretty fair to say that Wall
25 Street wouldn't be concerned about budget tightening at

1 that entity that doesn't contribute to earnings;
2 correct?

3 A. No, I wouldn't agree with that.

4 Q. You wouldn't?

5 A. Well, a reduction in expense, for example, in
6 the parent or service company could have a positive
7 impact because those expenses are ultimately assigned to
8 the individual utilities.

9 Q. Okay.

10 A. So a lower negative turns into a positive.

11 Q. Okay. But from a, kind of a magnitude here,
12 the bang for the buck would be with the big guys, the
13 PEC and PEF; right?

14 A. Well, 138 is, or 147 is not an insignificant
15 number to me.

16 Q. And in any event, if you belt-tighten at the
17 service company, that only gets allocated to one or two
18 entities; right?

19 A. Yes. But, and in fact I know that's an area
20 that we're, we're very focused on. And I think any
21 reductions that we may have contemplated that, you know,
22 probably are occurring were, you know, were, are
23 included.

24 Q. Okay. Look at the next slide, if you will,
25 Page 26. I say next. Let's go to Page 26. I'm sorry.

1 **A.** Okay.

2 **Q.** And this is a slide you -- this is a
3 presentation made to Wall Street about your pension
4 costs; right?

5 **A.** Yes.

6 **Q.** Okay. And I can ask this of Mr. Toomey, I
7 guess. But do you have any idea what the -- look at the
8 bottom of that page. "PEC five-year average, PEF fair
9 value." Do you know what, what the difference between
10 those two is?

11 **A.** No, I do not.

12 **Q.** Okay. You don't know whether the --

13 **A.** Oh, okay. Let me -- it's probably better
14 asked of Mr. Toomey. I think that just suggests that
15 the way that we deal with pension expenses in each of
16 the jurisdictions are different. I think they're both
17 appropriate but different in the two jurisdictions. But
18 I will certainly look to Mr. Toomey or someone else to
19 clarify that.

20 **Q.** Okay. You don't know whether the PEC number
21 smooths out changes in the market versus what you use
22 for PEF, which is more point in time, as far as
23 determining your pension costs?

24 **A.** I know generally that there's a different
25 methodology used in North Carolina and perhaps South

1 Carolina. We also operate in South Carolina.

2 Q. Okay.

3 A. Than the methodology that we use in Florida.
4 And I think that that's as much as I would be willing to
5 speculate about.

6 Q. Okay. Let's look at Page 28, if you would,
7 please. You understand allowance for funds used during
8 construction, AFUDC, do you not?

9 A. Yes, generally.

10 Q. And you understand construction work in
11 progress, or CWIP?

12 A. Yes.

13 Q. Okay. Now this slide here shows, does it not,
14 that, that on, it looks like on a comparative basis that
15 you get more AFUDC equity earnings, significantly more
16 in Florida than in Carolinas; correct?

17 A. Yes. Well, there's, the bars in Florida are
18 larger than the bars in North Carolina. I think it's
19 fair to say that's probably influenced in a large degree
20 with the nuclear project.

21 Q. Okay. But it's also part of your clauses.
22 All the clauses that have capital components to them,
23 you're allowed to earn an AFUDC rate that utilizes an
24 equity component of 11.75 percent; correct?

25 A. There are some that use that, yes.

1 **Q.** Okay. Okay. Well, energy -- the
2 environmental cost recovery?

3 **A.** The environmental, the nuclear. I'm not sure
4 of the others.

5 **Q.** Okay.

6 **A.** I don't think there's a lot of capital in the
7 others. You may -- yeah. I think that's the two main
8 ones.

9 **Q.** And --

10 **A.** I would also point out, Mr. Rehwinkel, just to
11 be fair, that we're isolating parts of an overall
12 regulatory environment, and I think I said earlier
13 during my direct testimony that North Carolina has a
14 12.75 ROE. So I think with any regulatory jurisdiction
15 you need to look at the entire picture. You may want to
16 isolate one thing that you like and one thing that you
17 don't like. But I think, to be fair, you know, we have
18 to look at the overall regulatory jurisdiction, whether
19 it be here or North Carolina or any other, other
20 particular state, and their circumstances.

21 **Q.** Well, I guess what I'm trying to look at is
22 what you tell Wall Street about what is available in the
23 State of Florida in terms of how, how you're treated
24 from a regulatory standpoint. And we talked on Page 22,
25 Bates-stamped Page 22, about regulatory recovery

1 mechanisms, and that's where kind of the listings of the
2 clauses are contained. Do you see that?

3 **A.** Yes.

4 **Q.** And then the source -- you know, this is your
5 slide, I mean --

6 **A.** Right. I think -- I'm sorry. I didn't mean
7 to interrupt you.

8 **Q.** I mean, this AFUDC slide is a company, is one
9 that appears to me to be featured is that you have AFUDC
10 earnings potential, opportunities in Florida, and I
11 submit to you that they're driven by the availability of
12 the clauses on a, on a current basis; correct?

13 **A.** Yes. And I would go, just further say that I
14 think a lot of this is probably related to the cost
15 recovery that's available under the state statute
16 related to new nuclear.

17 **Q.** Okay. But what would happen is if you didn't
18 have these clauses and you, and these dollars were
19 rate-based, that you would have to wait to come in for
20 this type of proceeding to earn your AFUDC equity to the
21 extent that those dollars were not in rate base,
22 correct, or that CWIP was not in rate base?

23 **A.** Well, again, I would, I'm not sure I'd
24 completely agree with your premise. I don't want to
25 stray too far afield here outside of my individual area

1 of expertise. But I think there is also some noncash
2 AFUDC available for certain investments prior to
3 individual rate cases. So, again, I would probably
4 defer to Mr. Toomey or others on that. But there are
5 cash and noncash recovery tools available through the
6 regulatory process.

7 Q. But to the extent you're getting annual
8 recovery of, of a rate base item and you're able to earn
9 an AFUDC component on there, you're getting cash
10 recovery for AFUDC, especially the equity component;
11 correct?

12 A. In this, in this circumstance. And, again, we
13 would have to, you know, break down the individual
14 pieces. But as an example, I think my answer to your
15 question is yes, that, like on the nuclear plant as an
16 example, that is available to us by statute to go in and
17 seek the recovery on an annual basis. So I think that
18 would sort of line up with a lot of what you're seeing
19 here.

20 Q. And let's talk about the nuclear piece for a
21 minute. The -- it is the company's position that the
22 AFUDC rate, and I think it's 8.8 something percent that
23 has an 11.75 percent return on equity embedded in it, is
24 permanent for the duration of the preconstruction
25 activities; is that correct?

1 **A.** Yes, I believe that's correct.

2 **Q.** Okay. So to the extent that the Public
3 Service Commission sets an ROE south of 11.75, let's say
4 they pick 11, okay, just for the sake of argument, your,
5 and they said 11 represented your cost of capital, that
6 would be their legal determination, and you, as you said
7 earlier, you'd live with that, that would be their
8 determination based on the record, you would basically
9 have a windfall collection of AFUDC for the equity
10 component above 11 percent, would you not?

11 **A.** No.

12 **Q.** Why not?

13 **A.** Well, first of all, I disagree with your
14 characterization. I think what, the word you use I
15 would completely disagree with. I think we would have
16 the ability to continue to deal with our nuclear
17 investment consistent with the statute, as we have
18 today. And we would -- there would be corresponding
19 adjustments for, I believe, any of the base rate or
20 other clauses consistent with whatever ROE decision the
21 Commission makes that would go forward.

22 So certainly we, in my judgment we would
23 continue to be treated appropriately and fairly for our
24 nuclear investment.

25 **Q.** And I was not meaning to suggest that there

1 would be something unauthorized or unlawful about it.
2 You would be collecting a lawful AFUDC rate, assuming
3 you're right about how the -- and I think there's a
4 dispute about that -- but assuming you're right about
5 that interpretation of the statute, and you earned an
6 AFUDC rate based on 11.75 as long as you're doing
7 preconstruction activities.

8 **A.** If I understand your question, yes, we would
9 continue to collect the authorized rate of return per
10 the statute for the Levy investment.

11 **Q.** Right. And my, my point was that to the
12 extent that the Commission determined your cost of money
13 was less than, your cost of capital for common equity
14 was less than 11.75, even though it would be lawful, you
15 would be earning an AFUDC equity return that was greater
16 than what the Commission determined your true cost of
17 common equity was. Would you agree with that?

18 **A.** I don't think I would. I think they would be
19 determining an appropriate return on equity for the
20 investments that we're seeking recovery for in this
21 particular case. I think we would just continue to earn
22 what the statute says is fair, just and reasonable for
23 our nuclear investment on an ongoing basis. So I think
24 both of those would sort of be in harmony at that point.

25 **Q.** But you would agree, would you not, and I

1 think that's part of the testimony about with respect to
2 needing credit to fund a nuclear project is, is the
3 source of funds are going to be the same regardless of
4 whether you're spending it on nuclear or you're spending
5 it on clean air compliance or a base rate item. The
6 source of funds are the same, aren't they?

7 **A.** Well, I mean, the market generally would
8 provide those funds. So I think I would agree with your
9 supposition. How they come in and the percentages that
10 would come from different sources, I think I'm probably
11 not the best person to answer that question.

12 **Q.** Okay. Fair enough. Let me ask you to turn to
13 Page 31. And, again, I understand that this is a PGN
14 document. But for capital expenditures, this is
15 probably going to relate only to PEC and PEF; correct?

16 **A.** Yes, it would.

17 **Q.** Okay.

18 **A.** I believe.

19 **Q.** And here it's not broken down between the two,
20 but if I could ask you to look, you've got this schedule
21 broken down between maintenance CAPEX and growth CAPEX;
22 correct?

23 **A.** Yes, we do.

24 **Q.** And this is, again, what you're showing
25 investors as far as the nature of the business. Under

1 total maintenance CAPEX, we see from two thousand and,
2 well, first of all, from 2009 estimate to 2010 estimate
3 an increase of \$40 million total company; correct?

4 **A.** Yes. But -- I'm sorry. Go ahead.

5 **Q.** No. Go ahead.

6 **A.** I'm fine.

7 **Q.** Then from '10 to '11, both estimates, a
8 \$70 million increase. And this is in maintenance
9 capital expenditures; correct?

10 **A.** Yes. Maybe I'll point out what I was getting
11 ready to say. I'm sorry. The, just with a reminder
12 that we're talking about February of this year. I just
13 want to make sure we've got the right frame of reference
14 here. A lot has changed since then.

15 **Q.** And would you agree, if you look down there in
16 the next to the last box at the bottom of the page, that
17 these dollars are before nuclear? These don't include
18 nuclear?

19 **A.** Where are you referring to?

20 **Q.** Where you see you have total capital before
21 potential new nuclear?

22 **A.** Yes, I see that.

23 **Q.** Okay.

24 **A.** Yes, I would agree with that.

25 **Q.** What's above that is your nonnuclear?

1 **A.** That's our traditional -- or it's nonnuclear.
2 You used the right phrase.

3 **Q.** Okay. And then, but on the growth CAPEX we
4 see 1,080,000,000 under 2009; for 2010, 210 -- I mean,
5 I'm sorry, 950 million; and then for 2011, 630,000,000
6 for growth capital expenditures. Do you see that?

7 **A.** I do.

8 **Q.** One of the items here we see is PEF
9 environmental goes from 80 million to zero from '10 to
10 '11.

11 **A.** I see that. Yes.

12 **Q.** Okay. And then we have this item, PEC PEF
13 smart grid, \$100 million in 2010, dropping a little bit
14 to 90 million. Do you know whether, first of all, do
15 you know whether that involves any of the federal smart
16 grid grant that was discussed in the, earlier in the
17 direct testimony?

18 **A.** I do not.

19 **Q.** Okay.

20 **A.** You know, I, again, I think it's probably
21 unlikely because -- well, I'm not going to speculate
22 about that. I do not know the answer to that question.

23 **Q.** If I look at total capital before potential
24 new nuclear, and again this is total company, I see it
25 drops from 2.1 billion to 1.9 billion to, well, almost

1 2 -- 1.98 billion to 1.89 billion to 1.64 billion.

2 Do you see that?

3 A. I do.

4 Q. Okay. So does that represent kind of the
5 state of, of, of, of how you expect your rate base or
6 your, your capital expenditures to grow from 2010 to
7 2011? Is that the trend?

8 A. You're referring to -- are you referring to
9 the -- which line are you referring to? I'm sorry.

10 Q. This is total capital before potential new
11 nuclear.

12 A. Yeah. I think the trend on, before nuclear
13 based on what, you know, and, again, this is not my
14 slide and I'm not, you know, specifically familiar with
15 these numbers, but that trend is a downward slope. And
16 I think it's, you know, one, in part at least because
17 you see the upward slope related to new nuclear. So
18 there's obviously a practical limit to our capital
19 appetite as a company overall.

20 Q. And it looks like a lot of the drop in growth,
21 the drop in the numbers is related to the growth, the
22 expenditures for growth; correct?

23 A. Let's see. Well, I think it's -- let me -- I
24 don't know that I would agree with that and here's why.
25 We are finishing -- listed in growth CAPEX. Okay. It's

1 just the way it's categorized. You know, the PEF
2 environmental is not necessarily related to growth.
3 It's an investment at our Crystal River 4 and 5 coal
4 plants. So that's a, that's a capital requirement that
5 is irrespective of growth. It's to meet environmental
6 rules and regulations. And that project is nearly
7 completed.

8 And then on generation you see a sort of
9 similar amount in 2010 at least, it goes down. And
10 that's, that's not unusual in that, you know, generation
11 is, is sort of periodic, especially investments like our
12 Bartow repowering project, some of our plants at Hines.
13 So while it's under the growth heading, you know, I
14 think in fairness the environmental is really not a
15 growth-related CAPEX.

16 Q. Well, another way to look -- excuse me.
17 Another way to look at that though would be without
18 that, that CAPEX to be, to be environmentally compliant
19 --

20 **CHAIRMAN CARTER:** Excuse me, Mr. Rehwinkel.

21 **MR. REHWINKEL:** Yes, sir.

22 **CHAIRMAN CARTER:** I didn't want to catch you
23 in the middle of your question, and I hope you don't
24 forget where you are, is that I should have taken you up
25 at your advice earlier on our court reporters.

1 **MR. REHWINKEL:** This is a good place to stop.

2 Yes, sir.

3 **CHAIRMAN CARTER:** And I was just reminded that
4 my recollection of the order of court reporters is not
5 consistent with where we are. So we're going to need to
6 give a break right now with the court reporter and come
7 back. Let's see. I wish I could have some clocks with
8 the same time on them. Wow. How about I look at my
9 watch. How about we come back at ten after?

10 (Recess taken.)

11 We're back on the record.

12 And when we left, Mr. Rehwinkel, you were on
13 cross-examination. You're recognized, sir.

14 **MR. REHWINKEL:** Thank you, Mr. Chairman.

15 **BY MR. REHWINKEL:**

16 **Q.** Hello again, Mr. Dolan.

17 **A.** Good afternoon, Mr. Rehwinkel.

18 **Q.** It is afternoon. At least it's still the same
19 day.

20 **A.** Yes, sir. It certainly is, so far.

21 (Laughter.)

22 **Q.** Well, I'll try to keep it that way.

23 Can I ask you to turn to the next page, which
24 is Bates 32?

25 **A.** 32. Okay.

1 **Q.** Am I correct that this shows from a PGN basis
2 that your cash flow improved about a billion dollars
3 from 2008 to 2009, free cash flow from an actual to an
4 estimated?

5 **MR. GLENN:** By, are you saying -- let me
6 object on, on just the vagueness of "improved," because
7 it's negative a billion dollars of free cash flow.

8 **MR. REHWINKEL:** Let me ask it a different way.

9 **BY MR. REHWINKEL:**

10 **Q.** If you look at the bottom of that page and the
11 line that says "free cash flow."

12 **A.** Yes.

13 **Q.** For 2008 it shows a negative \$2,000,029,000;
14 correct?

15 **A.** Yes.

16 **Q.** And then for 2009 a negative \$960 million;
17 correct?

18 **A.** Yes. Just to be clear, that's the 2009
19 estimate at the time this was given, which was in
20 February, earlier this year.

21 **Q.** Right. So at this time you told Wall Street
22 that you were projecting an improvement in your
23 projected free cash flow of about a billion dollars;
24 correct?

25 **A.** I would say that again, with the, with the

1 appropriate caveats, in February -- I think when you say
2 we -- I think this is Mr. Mulhern's presentation. I
3 think the projection at that time was the 960 estimate.

4 Q. Okay. But, again, you were -- I understand
5 that. Mr. Mulhern is the PGN CFO; correct?

6 A. Yes, he is.

7 Q. Okay. And so what this represents is
8 communication to Wall Street that from '08 to estimated
9 '09 a billion-dollar improvement in cash, free cash
10 flow; correct?

11 A. Yes. It would be a billion dollars difference
12 roughly based on the facts in February.

13 Q. Okay. On the next page --

14 A. And I would --

15 Q. Yes.

16 A. -- further point out, Mr. Rehwinkel, if I may,
17 you'll see that the biggest driver of that was fuel, and
18 the differences in fuel. And as you know, we had quite
19 a bit of fuel volatility during this time period where
20 that really is, you know, and, as you also know, the
21 fuel is just a pass-through, sort of what we, what the
22 expenses are is what customers pay. It's not a profit
23 center. So I think if you look at that, that more than
24 makes up the differential. And I, this would be for
25 both jurisdictions as well.

1 So I think in terms of that, it's really sort
2 of a catch-up on where we're behind on fuel, and that's
3 going to hopefully level itself out since it's not
4 really, that's not really the -- you know, the
5 underlying business as a whole is really sort of stable
6 in that regard on cash flow.

7 **Q.** Well, in that regard with respect to fuel, I'm
8 glad you mentioned that, isn't it true that, that Wall
9 Street is concerned about the timing of your fuel
10 recoveries from a cash flow standpoint? Let me, let me
11 recast the question. I guess the word "concerned" is
12 maybe not right.

13 But isn't it true that, that the timing of
14 your fuel cost recoveries is of interest to Wall Street
15 with respect to how it impacts your cash flows?

16 **A.** I would say to a degree, yes, I would agree
17 with you that obviously our goal, and I think the goal
18 of really all the parties in the fuel docket is to try
19 to match the fuel expenses with the period which we're
20 in to the maximum extent we can. Unfortunately that's
21 been a little bit difficult, given the volatility in the
22 global markets the last few years. Hopefully we'll have
23 a little more stability as we move forward.

24 **Q.** So to the extent that fuel cost recoveries are
25 deferred, it can impact your available cash flows to run

1 your business; right?

2 **A.** I would say it has that possibility.

3 **Q.** On Page 33, if you will, of the 2009 financing
4 plan, you told Wall Street that you had successfully
5 issued \$525 million of equity and PEC had issued
6 \$600 million of first mortgage bonds and 5.3 percent
7 rates?

8 **A.** That's what it says, yes.

9 **Q.** And that you wanted to strengthen the capital
10 structure of PEF; right?

11 **A.** Yes.

12 **Q.** On the next page, which is 34, you're
13 presenting to Wall Street that you have a strong
14 liquidity position with minimal near term refinancing
15 risk; would you agree with that?

16 **A.** I'm sorry. I see the strong liquidity
17 heading. What was the other part of your question?

18 **Q.** With minimal near term refinancing risk.

19 **A.** Where do you see minimal? I see manageable.

20 **Q.** I was looking at the title.

21 **A.** Oh, I'm sorry. I apologize. I was looking at
22 the subheadings there.

23 **Q.** Yes.

24 **A.** Yes. That's what the title says for this
25 slide.

1 **Q.** And on the liquidity position here you show
2 \$2 billion and 30 million of the total credit facilities
3 available, \$600 million drawn against those, it looks
4 like, commercial paper outstanding of \$550 million.
5 That's offset by the equity issuance, which brings cash
6 in; right?

7 **A.** Yes.

8 **Q.** Of \$523 million, to leave you with a billion
9 four of, of liquidity from a cash standpoint; correct?
10 And that is as of the time of this presentation.

11 **A.** Yes.

12 **MR. GLENN:** Objection as to foundation. But,
13 I mean, if you want to go over the numbers, it's
14 probably Mr. Sullivan who will be on the stand is the
15 better person to talk about this.

16 **BY MR. REHWINKEL:**

17 **Q.** On the next page, 35, Levy County nuclear
18 financing, you talk to Wall Street about, about this.
19 And the bullet points are Joint Ownership, number one or
20 at the top, Securitization of Preconstruction Costs.
21 That was something that was not achieved, correct, has
22 not been achieved yet?

23 **A.** There's been no change in the -- anything
24 related to securitization for new nuclear. That is
25 correct.

1 **Q.** Okay. And other investors, is that other than
2 joint owners; is that what that refers to?

3 **A.** I'm not sure what that means.

4 **Q.** Okay. DOE loan guarantee, that's something
5 you passed on?

6 **A.** Yes.

7 **Q.** Okay. And then time to develop, do you know
8 what you told them about that?

9 **A.** I'm not sure what that means.

10 **Q.** Okay.

11 **A.** Other than -- no. I'm not certain.

12 **Q.** Nowhere on this page does it say anything
13 about a Florida rate case, does it?

14 **A.** Not on this page, no. It does not.

15 **Q.** On the next page, sustainable dividend growth,
16 this chart here shows that, I guess that you've been
17 able, that you, PGN has been able to increase the
18 dividend I guess at least each of the last 21 years;
19 right?

20 **A.** Yes.

21 **Q.** Okay. Can I ask you to turn to -- okay. On
22 February 12th, 2009, the company made a presentation of
23 your fourth quarter earnings. If I could get you to
24 turn to Page 59 of this exhibit. This is the 4Q 2008
25 earnings call, February 12, 2009.

1 **A.** Yes.

2 **Q.** Do you see that?

3 **A.** I have it.

4 **Q.** That's something you listen to, isn't it?

5 **A.** It's -- I do at times. I haven't listened to
6 all of them.

7 **Q.** You listened to this one, didn't you?

8 **A.** That I don't know.

9 **Q.** This is where you announced to the world that
10 you had filed, you were filing a rate case; right? Is
11 this --

12 **A.** There --

13 **Q.** There was going to be a test year letter
14 filed?

15 **A.** Is there a specific reference that you want to
16 point me to?

17 **Q.** Okay. Let's go to, back to Page 42. Are you
18 familiar with this outfit called Seeking Alpha that does
19 transcripts of your earnings?

20 **A.** No, I'm not.

21 **Q.** Okay. I think if you'll look on Page 44,
22 which is 3 of 17 -- and this, I'll represent to you on
23 Page 2 of 17 this is your chairman, Mr. William D.
24 Johnson, speaking. If you'll look back on 2 of 17.

25 **A.** Okay. I'm there.

1 Q. Okay. And do you know who Robert Drennan is?

2 A. I do.

3 Q. He introduced Mr. Johnson here, it looks like.
4 That's how those calls go. He sets up the call and then
5 he introduces the speaker.

6 A. I've, I've listened to that before, yes.
7 That's usually the sequence.

8 Q. Okay. And let's go back to 3 of 17, or Page
9 44. If I could get you to look at one, two, three,
10 four, the fourth paragraph, kind of halfway down that
11 paragraph over to the right-hand side. Do you see where
12 it says, "So if you'll turn to Slide 10, earlier this
13 morning we filed a letter with the Florida Public
14 Service Commission proposing immediate price relief for
15 our customers this year and initiating a proceeding to
16 increase base rates in January 2010."

17 Do you see that?

18 A. Yes, I do.

19 Q. So does that refresh your recollection?

20 A. It does now. Yes, it does.

21 Q. You would have --

22 A. I was aware of the filing at the time. As I
23 said earlier, I, I can't say for sure I listened to this
24 specific call.

25 Q. Okay. If I get you to go back to Page 43,

1 under the heading where it says William D. Johnson, he
2 starts off in that first paragraph by telling Wall
3 Street, or telling investors that in 2008 they once
4 again, PGN once again met their earnings goal. Do you
5 see that?

6 **A.** I do.

7 **Q.** And then if you'll look, the three paragraphs
8 on the bottom there, where it starts off Slide 6.

9 **A.** Yes.

10 **Q.** And he states there, at the last sentence
11 there, "And during the year we stepped up our efforts to
12 systematically squeeze O&M costs out of our operations
13 while maintaining operational excellence."

14 Do you see that?

15 **A.** I do.

16 **Q.** Is that something you're aware of?

17 **A.** I'm aware that that's what the sentence says.

18 **Q.** Okay. Is that, is that something that PEF is
19 doing?

20 **A.** Yes. As I, as I said earlier, I think, you
21 know, one example of this, if we're referencing back to
22 '08, we, you know, A, this is an area we continue to
23 work on year in, year out. And I'm not certain what
24 he's referring to here, but certainly we did job
25 reductions during this time period that we talked about

1 earlier.

2 Q. Okay. And on Page 44 at the top, he states
3 that, "I will remind you," on Slide 7, "we've delivered
4 on our EPS commitments each of the last three years, and
5 we fully intend to achieve our 2009 target as well."

6 Do you see that?

7 A. Yes, I do.

8 Q. Are you, is, are you, is it your understanding
9 that that's the company's goal, to meet that EPS target
10 for 2009?

11 A. It was certainly Mr. Johnson's goal when he
12 made the statement in February.

13 Q. Is it still the goal?

14 A. I'd rather not speculate as to, you know -- I
15 mean, certainly it's our goal every year to try to
16 achieve the earnings targets that we give to Wall
17 Street. Yes.

18 Q. Okay. Can I get you to turn to Page 45,
19 please? And I would ask you to look under Mark Mulhern.
20 In the first, the second full paragraph there, he
21 states, "For the full year Progress Energy Florida
22 contributed a 24-cent increase in Progress Energy
23 Carolinas, a 9-cent increase that were partially offset
24 by higher corporate costs at 7 cents."

25 And can I ask you -- do you see that?

1 **A.** I do.

2 **Q.** Is he referring to contributing to earnings
3 per share growth?

4 **A.** I think he's referring to the -- I think the
5 contribution to earnings, the earnings per share
6 growth -- it's the contribution to earnings?

7 **Q.** Well, let's look on Slide 16, which is 74 of
8 the exhibit, if you will.

9 **A.** Okay. I have that.

10 **Q.** Okay. If I'm looking over in the full year
11 side, if red is 2007 and blue is 2008, the difference
12 between \$1.47 and \$1.23 is 24 cents?

13 **A.** Yes, it is.

14 **Q.** And then if I look over on the Carolinas, the
15 difference between \$1.95 and 2.04 is 9 cents?

16 **A.** Yes.

17 **Q.** And this is Slide 16 it looks like?

18 **A.** Yes.

19 **Q.** So, okay. So, now 2008 was, your regulated
20 return on equity as reported to the Public Service
21 Commission was 9.7 percent, give or take a tenth;
22 correct?

23 **A.** Are you referring to the year-end trailing?

24 **Q.** Yes. The December 31, 2000 --

25 **A.** It's probably -- it's in that range. I don't

1 have the precise number. It's certainly lower than
2 10 percent.

3 Q. Okay. But that, for 2008, 12/31/2008
4 surveillance report, 9.7 percent; would you agree with
5 that, subject to check?

6 A. Yes.

7 Q. Okay. And that's also the test year, if you
8 will, for purposes of determining interim rates,
9 correct, for this docket?

10 MR. GLENN: Objection. Lack of foundation.

11 CHAIRMAN CARTER: Mr. Rehwinkel.

12 MR. REHWINKEL: I don't know what the lack of
13 foundation is.

14 MR. GLENN: I don't know that this witness
15 knows how the interim rates are set or not.

16 MR. REHWINKEL: Well, I'll ask him.

17 CHAIRMAN CARTER: Okay. Ask him then.

18 BY MR. REHWINKEL:

19 Q. Are you aware of how the interim rates are set
20 in this docket, Mr. Dolan?

21 A. No.

22 Q. Do you have a -- did you have a regulatory
23 role before you became, regulatory affairs role before
24 you became --

25 A. I did. Yes.

1 Q. Okay. Did you read the petition that the
2 company filed in this case?

3 A. Yes, I did.

4 Q. Did you read the testimony of Mr. Toomey?

5 A. Some -- yes.

6 Q. Okay. So you would be -- you would not be
7 aware that you used a, a December 31, 2008, test year
8 for purposes of determining your interim revenue
9 requirement?

10 A. Well, I think what I am aware of are, you
11 know, sort of the overall, excuse me, the components of
12 the fact that we were seeking relief because we fell
13 below the 10 percent threshold. I think the detailed
14 calculations and the mechanics of that is probably
15 better handled by someone that's a little closer to the
16 numbers.

17 Q. Okay. Well, did you read the part of the
18 petition that was filed, that said in Paragraph 4,
19 "PEF's request for interim rate relief is made pursuant
20 to Section 366.071, *Florida Statutes*, and Rule
21 25-6.0435, FAC. PEF's request for interim rate relief
22 is based upon the historic 12-month period ending
23 December 31, 2008, consistent with Section
24 366.071(1) and (5), *Florida Statutes*"?

25 Would you have read that if you read the

1 petition?

2 **A.** Well, I read the petition. I don't have
3 specific recall of everything in the petition. But if
4 you say that that's in there, I don't have any reason to
5 doubt what you're reading as part of the petition.

6 **Q.** I'll be glad to show you the petition.

7 **A.** That's not necessary. I understand what you
8 read.

9 **Q.** Okay. So --

10 **A.** If you're asking me to agree that it's based
11 on 2008 based on what you just read, I can agree with
12 that.

13 **Q.** Okay. Thank you. So for 2008 your, your
14 regulatory return on equity was 9.7 percent, and you
15 told Wall Street that, that Florida contributed the
16 lion's share of the earnings per share growth of the
17 company for 2008; correct?

18 **A.** No. I think what we said to Wall Street was
19 that the change in Florida from year to year was 24
20 cents.

21 **Q.** Okay.

22 **A.** Is all we said.

23 **Q.** Well, the next sentence there says, "The
24 significant earnings growth of Progress Energy Florida
25 is what you would expect to see from a utility with

1 \$2.7 billion in capital expenditures over the last two
2 years, the bulk of which was spent on an environmental
3 upgrade and repowering of the Bartow plant from
4 oil-fired to natural gas."

5 Do you see that?

6 **A.** Where are you reading? I'm sorry.

7 **Q.** I was just in that same paragraph of
8 Mr. Mulhern's, the second one on Page 45.

9 **A.** Oh, I'm sorry. We were on 46 where I left
10 off. So 45. I'm sorry, could you -- the second
11 paragraph?

12 **Q.** Yes, sir.

13 **A.** Okay. So I'm sorry. What was your question?

14 **Q.** The, did you read the next sentence after the
15 one that we read about the PEF and PEC earnings
16 contributions where it says, "The significant earnings
17 growth of Progress," do you see that?

18 **A.** I do.

19 **Q.** Okay. And you told Wall Street that that was
20 a significant earnings growth for PEF; correct?

21 **A.** That's what it says. Yes.

22 **Q.** Okay. I mean, this is, this is Mr. Mulhern
23 saying this; right?

24 **A.** Right. Yes, it is.

25 **Q.** Okay. And then the next paragraph you talk

1 about AFUDC equity was 21 cents per share higher in 2008
2 versus 2007.

3 A. Right.

4 Q. And then if you go to the next to the last
5 paragraph there, Mr. Mulhern is, is saying, he's saying
6 that preceding down the income statement you can see the
7 strong cost management via lower O&M costs in 2008. Do
8 you see that?

9 A. I see that. Yes.

10 Q. And then in the last sentence of that
11 paragraph he says, "And finally we had a \$71 million
12 increase in AFUDC equity year over year, primarily
13 reflecting again the environmental construction programs
14 in Florida."

15 Do you see that?

16 A. Yes, I do.

17 Q. So what you're telling -- what Mr. Mulhern is
18 telling Wall Street is, is that that's, that the
19 increase in AFUDC equity is a good thing, and it's based
20 on the environmental construction; correct?

21 A. That's what it says. Yes.

22 Q. Okay. And if I could ask you to turn to Page
23 46. Well, actually we can skip that page.

24 Isn't it true that, that the company has told
25 Wall Street this year that you have flexibility in your

1 capital expenditures with respect to managing your cash
2 flow?

3 **A.** I don't know that.

4 **Q.** Okay. Well, if I could get you to turn to
5 Page 56. Are you familiar with the, after you make your
6 presentations to the investors, that the presenters
7 entertain questions from representatives of investor
8 groups?

9 **A.** Yes. As I said earlier, I'm familiar that's
10 the process generally. I'm not sure that I am familiar
11 with this particular call.

12 **Q.** Okay. Well, if I look, if I could get you to
13 actually turn to Page, well, the bottom of 56,
14 Mr. Mulhern entertains a question from someone from
15 Goldman Sachs where it says, "I know you did some in
16 debt and equity also earlier in the year. Can you talk
17 a little bit about whether there are external funding
18 needs you have and how much room is a follow-on to
19 Greg's question of how much flexibility you would have
20 on the CAPEX budget if you needed to ratchet that down
21 some?"

22 Do you see that?

23 **A.** Yes, I see the question.

24 **Q.** Okay. And Mr. Mulhern's answer starts at the
25 bottom of 56 and continues on to the top of 57. And up

1 there he says, "On kind of the CAPEX side, with a 2.5 to
2 \$2.8 billion, I think the range -- think is in the range
3 that you will see in the K. There is some flexibility
4 in that all through the line items on the utility's
5 side, and then, and then there is some flexibility in
6 the timing of nuclear. As Bill referred to earlier,
7 we've got some uncertainties around how nuclear, at
8 least the time frame on nuclear happens with respect to
9 the NRC schedule, and some of those things that are, you
10 know, we just don't have a firm handle on yet. So the
11 timing of expenditures in nuclear could move around a
12 bit, a little bit."

13 Do you see that?

14 **A.** I do. Yes.

15 **Q.** Isn't it, isn't it true that you're
16 communicating to Wall Street that you have flexibility
17 to, with respect to your capital expenditures and
18 meeting your cash flow needs?

19 **A.** Well, I would just say that what Mr. Mulhern
20 is saying is he's saying -- you know, these are his
21 words. There's some flexibility in that. That's what
22 he's saying. What that means, I'm not, I don't want to
23 speculate what he means by what he's saying here.

24 **Q.** Okay. Well, let's go to Page, and I'm almost
25 done with this document here, Page 64, if you will.

1 **A.** Okay.

2 **Q.** And this, this, actually, if you'd go back to
3 61, this is Bill Johnson, Chairman, President, CEO of
4 PGN. Do you see that?

5 **A.** I do. Yes.

6 **Q.** On Page 64 he's, this is about 2008
7 achievements, and it says, "positions as well for 2009."
8 Do you see that?

9 **A.** I'm just trying to get my -- this is all part
10 of the February 12th.

11 **Q.** Yes, sir.

12 **A.** Okay. I got you. I'm sorry, Mr. Rehwinkel.
13 Where did you want me to go next?

14 **Q.** To 64.

15 **A.** 64. Okay. I have that.

16 **Q.** And he's referring again to aggressive O&M
17 cost management.

18 **A.** I see that. Yes.

19 **Q.** And the way I read this is its 2008
20 achievements are positioning the company well for 2009.
21 Do you agree with that?

22 **A.** That's what it says. Yes, I agree with that
23 part.

24 **Q.** And he's again -- I say again. This was in,
25 this was earlier than the first set of slides we looked

1 at. But it says, "Affirming 2009 ongoing earnings
2 guidance of 2.95 to \$3.15 per share."

3 And that was as of February 12th; correct?

4 **A.** Yes, it was. February 12th. I appreciate
5 that reminder.

6 **Q.** Okay. And if I could get you to turn to
7 Page 71.

8 **MR. GLENN:** Madam Chair?

9 **COMMISSIONER EDGAR:** Mr. Glenn.

10 **MR. GLENN:** Not to move this along, but if, if
11 we're going to just have the witness read sections of
12 this document, we can stipulate that the document says
13 what it says. I mean, it just -- this is going to take
14 all day if we, if we do this.

15 **COMMISSIONER EDGAR:** Mr. Rehwinkel, would that
16 be helpful to you?

17 **MR. REHWINKEL:** Madam Chairman, it would not,
18 because I just have one last question from this
19 document.

20 **MR. GLENN:** It's the other documents that I'm
21 afraid of.

22 (Laughter.)

23 **BY MR. REHWINKEL:**

24 **Q.** This is, this is almost a throw-away question,
25 but I just want him to look at Page 71, just so no one

1 thinks I disclosed a confidential number. This is where
2 it says EPC contract price equals 7.65 billion. Well,
3 it says B, but that means billion, doesn't it?

4 **A.** Yes, it does.

5 **Q.** Okay.

6 **MR. GLENN:** This is the EPC contract that your
7 office is challenging the prudence to? Is that it? I
8 was just clarifying that.

9 **MR. REHWINKEL:** I think we're only challenging
10 the signature on it, not the prudence of it. Okay.

11 **THE WITNESS:** Did you say you were done with
12 this document?

13 **BY MR. REHWINKEL:**

14 **Q.** I am done with that document.

15 **A.** Okay. So I'll set that aside.

16 **MR. REHWINKEL:** That really was the last tab I
17 had on there, Mr. Glenn.

18 **MR. GLENN:** Thank you.

19 **BY MR. REHWINKEL:**

20 **Q.** There was discussion in that document that we
21 just completed going through, Mr. Dolan, that, that
22 indicated that there was an importance in the company,
23 there is an importance in the company in meeting 2009
24 guidance given to Wall Street; correct?

25 **A.** Yes. I think there was references about

1 meeting the 2009 guidance, yes.

2 Q. We also reviewed some statements or some facts
3 given to Wall Street about steps taken to meet a certain
4 targeted earnings level in 2009; correct?

5 A. Yes, there were references in there.

6 Q. And there was statements in there about 2009
7 and the budget; correct?

8 A. Can you be a little more specific? I'm just
9 trying to --

10 Q. Well, we were looking at a page where, where
11 we're talking about the 3 to 5 percent productivity
12 goals, and then underneath that there was a section
13 about belt tightening --

14 A. Yes. Yes.

15 Q. -- and about the 2009 budget.

16 A. Yes, I do recall that. Yes.

17 Q. Okay. And isn't it true that the company
18 presented to Wall Street, painted a picture of a desire
19 to take steps to make sure that you met your guidance
20 that you gave Wall Street with respect to the 2009
21 budget?

22 A. I think that was a component of that. It was
23 one aspect of it.

24 Q. And it is true that the company puts great
25 emphasis on meeting its commitments that it gives to

1 Wall Street in the form of meeting guidance that you
2 give them with respect to earnings per share.

3 **A.** I would say we put appropriate emphasis on
4 that. As I said earlier, I think it's always important
5 to keep the right balance between where we, the people
6 that we borrow from and owe money back to, along with
7 our customers and our employees. I think each of those
8 have equal importance.

9 **Q.** On any of the slides that you looked at in
10 this document, were there any presentations made to Wall
11 Street about what the requested return on equity for
12 Florida would be for 2009 or 2010?

13 **A.** I'd have to go back through the entire
14 document. I don't have specific recollection of that.

15 **Q.** Okay. Why wouldn't the company take steps in
16 2010 to aggressively manage its O&M costs and reduce its
17 budget for 2010 like in 2009?

18 **A.** We would. I think the, how -- I guess I would
19 answer your question this way. So -- we talked a little
20 bit about this earlier. So there are -- you know, first
21 of all, our philosophy is we're always looking for cost
22 efficiencies in our business, and we've talked about the
23 continuous business excellence initiative as an effort
24 to try to slow the rate of growth and expenses that we
25 see coming in the future. And in addition to that I

1 think we try to do belt tightening from time to time for
2 a number of different reasons, some of which may be
3 sustainable and some of which is not sustainable.

4 So as an example, we may, there may be
5 maintenance perhaps that can be deferred temporarily.
6 But over the long haul we have to make sure that we, you
7 know, when we come to a proceeding like this, I think
8 it's important for us to make sure that we put forth a
9 case that says this is what really is the long-term
10 sustainable nature in which we want to run our business.

11 So there's always going to be ups and downs in
12 a particular year. And so I think what's more important
13 is to focus on the long-term and really how we want to
14 run our business, and I think that's the spirit in which
15 we filed this particular case.

16 **Q.** Now it is not your testimony, is it, that the
17 3 to 5 percent productivity gain goals of the CBE
18 process are included in the assumptions for your 2010
19 projected results, is it?

20 **A.** As I said earlier, I would say the CB -- well,
21 from my, this is, you know, my opinion on that is that
22 for the Florida-specific I think, I think that's going
23 to be more of a longer term initiative for us. And I
24 think anything substantive related to that, other than
25 the typical efficiencies that we see or may have

1 contemplated in our filing, I think are going to be out
2 in the future.

3 Q. Just so I understand, is it, is it the MFRs,
4 the C schedules, that's the income statement part of the
5 MFRs; right? Would you accept, subject to check?

6 A. Subject to check, I would probably be okay
7 with that.

8 Q. Okay. That is based on a budget for the, the,
9 that's got information from a historical base year of
10 2008, which is all actuals pretty much.

11 A. Yes.

12 Q. 2009 budget and 2010 projections; correct?

13 A. Right.

14 Q. Now the process that developed those numbers
15 was undertaken in 2008; would you agree with that?

16 A. Yes.

17 Q. Okay. So when that process was underway, the
18 CBE process was not part of the budget process for
19 Florida; would you agree with that?

20 A. I don't know that specifically. I would say
21 it's unlikely. So, I mean, as a number of other things,
22 you know, when, as you know, the -- what's in our case
23 was filed when it was filed. The world has changed
24 significantly in, from a revenue and an expense
25 standpoint since then. So I think, you know, we stand

1 behind our filing and, you know, that's what we're here
2 to talk about.

3 Q. Fair enough. I'm just trying to understand
4 the facts as, the best that you know them.

5 A. The best that I know, yes, I would say that's
6 more future.

7 Q. Okay. Well, I'm glad you withdrew that part
8 of your testimony you did so I could make this shorter.

9 A. Thank you for that.

10 MR. REHWINKEL: Those are all the questions I
11 have, Madam Chairman. Thank you, Mr. Dolan.

12 COMMISSIONER EDGAR: Thank you.

13 Ms. Bradley, questions on cross?

14 MS. BRADLEY: A few.

15 **CROSS EXAMINATION**

16 **BY MS. BRADLEY:**

17 Q. Mr. Dolan, you said something a little while
18 ago about recognizing your employees for the work they
19 do. Do you remember that?

20 A. Yes, I do.

21 Q. That wouldn't apply to the 150 employees you
22 laid off, would it?

23 A. I'm sorry?

24 Q. I said that recognition wouldn't apply to the
25 150 employees you laid off, would it?

1 **A.** I'm not sure I understand your question.

2 **Q.** Your statement was, we try to do everything we
3 can to recognize employees for the work they do. And
4 I'm saying that wouldn't apply to those 150 you laid
5 off, would it?

6 **A.** Well, I'm not, first of all, I'm not sure I
7 understand your question. But let me -- well, I still
8 don't understand your question I guess is what I would
9 say.

10 **Q.** Obviously if you laid off 150, would you agree
11 that there wasn't a lot of recognition given there?

12 **A.** No, I would not agree with that.

13 **Q.** You just laid them off?

14 **A.** You know, first of all, I don't appreciate
15 your question, so, but here's how I would answer it.
16 You know, we treat all our employees equally with
17 respect. We make business decisions from time to time
18 that require our workforce to be reduced. So to suggest
19 that we would treat those employees any differently than
20 others because of the nature of the work that we're
21 doing, I disagree with that.

22 **Q.** Do you provide free utilities for your
23 employees?

24 **A.** I'm sorry?

25 **Q.** Do you provide free utilities for employees?

1 **A.** No.

2 **Q.** So those 150 that were laid off were also
3 customers; correct?

4 **A.** I don't know that. They may be. Some may be.
5 Some may not be. You know, there are a number of
6 different parts within our service territory that are
7 served by municipal and cooperative utilities, and they
8 may live in that area, so I don't know. Some may be,
9 some may not be. All may not be.

10 **Q.** Would you agree that it's fairly unlikely that
11 all your employees don't live within your territory?

12 **A.** I just, I don't know.

13 **Q.** In your testimony, Page 10, Line 3, if you
14 want to look at it, you said something about you can't
15 continue to provide the level of service our customers
16 expect and demand if we don't -- well, you said "at our
17 current rates."

18 I assume that's consistent with if we don't
19 get the requested rate increase?

20 **A.** Yes.

21 **Q.** Would you agree that when you say "continue,"
22 that implies that your customers are getting the service
23 level they expect?

24 **A.** I'm sorry. I'm not sure I understood your
25 question. You mean today are they getting it?

1 **Q.** Would you agree the statement "can't continue
2 to provide" implies that they are currently getting the
3 level of service they expect?

4 **A.** Yes. I would agree with that.

5 **Q.** And yet we talked I believe the last time
6 about the number of people that came and testified that
7 they were not satisfied with the level of service they
8 were getting; correct?

9 **A.** Yes, we talked about that. We talked about, I
10 believe, 21 of the 300 that showed up to speak out of
11 1.7 million customers. And I would be more than happy
12 to agree with you that every day we are not going to
13 satisfy every one of 1.7 million customers. But I think
14 that percentage against our total customer base I think
15 suggests to me that we provide fairly outstanding
16 service and reliability.

17 I would also say that when we do have problems
18 with those few customers, that we move quickly to
19 correct them and make sure that we do the best job we
20 can that they're not repeated in the future. So I would
21 disagree with you that that suggests at all to me that
22 our service is anything less than outstanding.

23 **Q.** Would you agree that some of the customers
24 that testified at customer service hearings indicated
25 that they had had an ongoing problem getting these, some

1 of their issues resolved?

2 **A.** My recollection of that, no, I would not agree
3 with you. There may have been one or two or three that
4 were unsatisfied out of 1.7 million and of the 300 that
5 showed up to speak. So I might agree with that. And
6 then there's probably going to be unique circumstances
7 where we try to work with all of our customers that they
8 may not feel it's a successful resolution. But I
9 certainly wouldn't agree that that would translate into
10 poor customer service. I would completely disagree with
11 that.

12 **Q.** Would you agree that because of the scheduling
13 sometimes there were two service hearings a day and at
14 those particular times there may be people that were
15 unable to come because of their work?

16 **A.** I would agree that they were unable to come.
17 But every one of our customers received notice through
18 multiple channels, and certainly if they had an issue,
19 they had the ability to submit a letter in writing as
20 part of this case if they had a service or a reliability
21 concern. And they certainly have and do call us on
22 occasion if they have an issue, and we resolve those
23 issues day in and day out every year.

24 **Q.** And you weren't present at all the hearings,
25 but were you aware that some of them ran so long that

1 some people had to leave before they testified?

2 **A.** I, I understand that some of the hearings ran
3 long. I'm not sure about what the effect was on who
4 came to speak.

5 **Q.** In dealing with the level of service, would
6 you agree that issues such as tree trimming that some of
7 the customers complained about, outages caused by lack
8 of tree trimming or vegetation overgrowth, that type of
9 thing, those things are preventable, aren't they?

10 **A.** I would think that they are preventable
11 depending on the amount of funds that are available for
12 the company to do that work. So I would say if we, you
13 know, tree trim every tree on a one-year cycle, those
14 outages would go down. But there's always a balance in
15 how we run our business and the frequency of that
16 because there's a cost to the customers as a whole for
17 how you operate your tree trimming program, which I'm
18 sure Mr. Joyner would be happy to elaborate on.

19 **Q.** Well, you realize that, do you not, that where
20 there's a, not been a -- let me start all over again.

21 You agree that in circumstances where the
22 trees or vegetation have not been trimmed and it caused
23 an outage that damages appliances or computers or
24 whatever, that the cost to the customer is certainly
25 greater than if they had been trimmed?

1 **A.** Let me make sure I understood your question.
2 I'll try to answer it. If I didn't get it right, I'm
3 sure you'll help me with that.

4 **Q.** Okay.

5 **A.** If we have a circumstance, I think we talked
6 about this earlier during my direct testimony, if we
7 have a circumstance where the company is negligent in
8 fulfilling its duty, then we would make that right with
9 the customer obviously. So I, I'm comfortable that as a
10 company that we have a good tree trimming program that
11 is the right approach to tree trimming and vegetation
12 management, consistent with what is appropriate that
13 balances the cost side of that as well. There are
14 always, you know, there are going to be circumstances,
15 special circumstances where there might be a customer
16 here or there that additional corrective action might be
17 needed, and those are the ones that we move to fix when
18 they're, when they arise.

19 **Q.** You're aware of the testimony of your customer
20 service person, I think Ms. Morman, that testified that
21 essentially, regardless of what the cause was, if a
22 person didn't have your big surge protectors and little
23 surge protectors, that you wouldn't cover it?

24 **MR. GLENN:** Objection. Mischaracterizes
25 testimony.

1 **COMMISSIONER EDGAR:** Ms. Bradley?

2 **MS. BRADLEY:** I believe that was her
3 testimony. She said if they didn't have the big
4 suppressors and the little suppressors, then they would
5 not cover that.

6 **MR. GLENN:** That's under the home wire program
7 but not our general service tariff.

8 **MS. BRADLEY:** I'll be happy to ask and let him
9 explain that. Let me rephrase it and see if I can --

10 **COMMISSIONER EDGAR:** That's what I was going
11 to ask, because I'm honestly not sure that I understood
12 what you were saying to me. So let's rephrase and see
13 where that takes us, please.

14 **BY MS. BRADLEY:**

15 **Q.** Do you understand there to be a difference
16 between what you said about if the company's negligent,
17 you would cover it, and what Ms. Morman said about she
18 would only cover it if it's, if the customer has
19 purchased the big suppressors and the little
20 suppressors?

21 **A.** Well, let me, let me try this to try to
22 address what I think your question is, and you'll help
23 me if I, you'll ask me another question if I don't get
24 it right.

25 **Q.** I'll certainly try.

1 **A.** There's two different -- we're talking about
2 apples and oranges here. Okay? So there is a policy
3 where things are going to happen -- I mean, there are
4 things that are going to happen on our system that are
5 weather-related or act of God, call it what you like,
6 and it's the policy of this Commission and regulatory
7 bodies that, you know, we don't seek to insure the
8 system as a whole. It'd be cost-prohibitive on behalf
9 of our customers. So that's a general matter.

10 Now if in the course of that there is an issue
11 that the company is responsible for, regardless of
12 whether the customer participates in the home wire or
13 meter protection program, that's what I'm referring to
14 over here, we would make that situation right.

15 Now as an insurance mechanism, you know, so if
16 there is an issue on our system, the customer, if, if
17 there was a voltage fluctuation due to lightning, for
18 example, the customer insurance covers that. I mean,
19 that's the way the regulatory situation works. If the
20 customer chooses to insure themselves with our product,
21 the ring that goes on the meter and/or plug-in devices
22 in their home, now you're talking about that's a
23 specific set of terms and conditions associated with
24 that program.

25 Very different than I think the way I

1 understood your question about the general body of
2 customers and whether or not we insure that particular
3 risk. That's just, those are two different things that
4 are apples and oranges.

5 Q. So if, if your company causes the damage, it
6 doesn't matter what kind of insurance or surge
7 protection or anything else that the person has
8 installed?

9 A. Yes. I think if, based on the consistent
10 policy, if there's an issue that the company is
11 responsible for, we will, we will take care of that.

12 Q. As a businessman, are you aware that -- well,
13 let me skip back a step. Did you hear the testimony or
14 review the testimony of your financial person, Mr., I'm
15 probably going to mispronounce this, DesChamps?

16 A. I have read his testimony. Yes.

17 Q. Okay. So you're aware, are you not, that you
18 have for 2009 about 100 employees making between 165,000
19 and 200,000?

20 A. I'm sorry. What was the number again?

21 Q. I'm sorry. In 2009 you have about 100, I
22 believe he indicated, employees making between 165,000
23 and 200,000?

24 MR. GLENN: I'm going to object as to
25 mischaracterizing the document. I just want to be clear

1 for the record. It's, I think that number is correct of
2 total Progress Energy employees that actually allocate
3 more than \$1. The actual folks who earn between 165,000
4 and \$200,000 that are allocated, that allocated portion
5 is above 165 to PEF is a much, much, much, much smaller
6 number.

7 I just wanted to clarify that, because it
8 sounded like you were talking about Progress Energy
9 Florida employees who are making above 165, and I don't
10 think that's, that's accurate at all.

11 **MS. BRADLEY:** I don't remember any of this
12 allocation testimony from Mr. DesChamps.

13 **MR. GLENN:** It's on the face of the document.
14 That's all. So I just wanted to make sure the record
15 was clear that, that the way the question was asked led
16 the, the listener to the impression that there are
17 100 employees at Progress Energy Florida who make
18 between 165 and \$200,000, and that's not accurate.

19 **MS. BRADLEY:** I believe that was his
20 testimony.

21 **COMMISSIONER EDGAR:** Mr. Moyle?

22 **MR. MOYLE:** Could counsel for Progress, just
23 so the record's clear, I think they're saying the best
24 information is in the document. If they could just
25 identify the, you know, the exhibit number, I think that

1 would clarify things for the record.

2 **COMMISSIONER EDGAR:** Mr. Glenn, is that
3 something that you can help with?

4 **MR. GLENN:** Yes. The red folder. And I'll
5 have to get the document, but I think it's in response
6 to POD 26. I can get it.

7 **MR. MOYLE:** It's the confidential red folder
8 that has all the salary information; correct?

9 **MR. GLENN:** 272, Exhibit 272.

10 **COMMISSIONER EDGAR:** Thank you. Ms. Bradley.

11 **MS. BRADLEY:** I don't know that that clarifies
12 things, because my question to Mr. DesChamps was how
13 many people do you have making between 165 and 200,000,
14 and he gave the response -- I had another number, and he
15 gave the response of 100 in response to that question.

16 **COMMISSIONER EDGAR:** Okay. Well, let's --
17 let's pose it this way. If you would ask your question
18 of the witness. If you can answer with a yes or no,
19 please do so. If you don't know, say you don't know.
20 If you care to elaborate on any of that, of course
21 please do. We will also be going to lunch break here in
22 just a couple of moments, and then you will have the
23 opportunity to ask further questions of Mr. Dolan.

24 **MS. BRADLEY:** All right.

25

1 **BY MS. BRADLEY:**

2 Q. Mr. Dolan, I'm sure after that, all that
3 information I can expect a no answer. But were you
4 aware of Mr. DesChamps' testimony that you have about
5 100 employees making between 165 and 200,000?

6 A. Let me just clarify. I mean, I'm generally
7 aware of the, you know, sort of the premise of his
8 testimony. He's probably in a much better position than
9 me to answer specifics about the numbers. I don't
10 have -- I mean, the numbers, I don't have first-hand
11 knowledge or top-of-mind knowledge of the specific
12 numbers.

13 Q. Subject to check, would you agree?

14 A. Would I agree that there was 100 or so in that
15 range? That doesn't seem unreasonable to me.

16 Q. And that there were about 160 making over
17 200,000?

18 A. That doesn't seem unreasonable as well.

19 Q. Okay. As a businessman, are you aware that
20 the Governor and cabinet all make less than 165,000?

21 A. I do not know what the salaries are of the
22 Governor and cabinet.

23 Q. You've never looked at any of the Internet
24 sites or it's never come up in your business
25 discussions?

1 **A.** That's not -- I don't generally keep tabs on
2 the salary of the Governor and the cabinet. So I,
3 honestly I don't know what their salary is sitting here
4 today.

5 **Q.** Does that sound reasonable, subject to check?

6 **A.** I don't know so I don't know what's reasonable
7 or not reasonable. Hopefully it's reasonable to them,
8 whatever it is.

9 **Q.** Are you aware that all of the PSC
10 Commissioners make less than \$165,000?

11 **A.** I don't know that either, specific numbers. I
12 think it's probably -- my general knowledge is probably
13 a little less than that, in that range.

14 **Q.** I'm saying less than 165,000.

15 **A.** I guess we're isolating just direct
16 compensation; right? Base salary is what you're talking
17 about? Yeah, I could agree with that. I think
18 obviously everybody looks at total compensation and
19 benefits and other things, so I think in isolation I
20 could probably agree with your question, yes.

21 **Q.** Obviously they don't get dividends and, you
22 know, stock and that type thing.

23 **A.** Well, everybody has different benefits in
24 their job, and I think that --

25 **Q.** Okay.

1 **A.** -- people price jobs according to market, as
2 we do.

3 **Q.** Are you aware, and I apologize because I can't
4 cite you to which exhibit it was, but in one of the
5 exhibits we've had there was an indication that the
6 average Florida citizen makes more than, I mean, I'm
7 sorry, makes less than \$50,000. Did you see that
8 exhibit?

9 **MR. GLENN:** I'm going to object. It's just
10 beyond the scope of rebuttal. Just for the record.

11 **MS. BRADLEY:** I think it's relevant to the
12 questions that are being posed to him regarding level of
13 service and expectations.

14 **COMMISSIONER EDGAR:** Can you point me to where
15 in his rebuttal you are drawing from?

16 **MS. BRADLEY:** I'm drawing from his statements
17 regarding level of service provided to customers and
18 their expectations and providing reasonable -- some of
19 this was at Page 10, Line 3, where he was talking about
20 level of service customers expect.

21 **COMMISSIONER EDGAR:** But wasn't your question
22 about annual income?

23 **MS. BRADLEY:** I was asking a foundation
24 question regarding the average Florida income. It was
25 in one of the exhibits that's been in the record or was

1 part of the composite.

2 **CHAIRMAN EDGAR:** Ms. Bradley, I'm not sure
3 that I'm getting the direct connection as to cross and
4 rebuttal between annual income and expectations of
5 service. So let me leave it at that and say I am very
6 hungry, and therefore I'm going to presume that there
7 may be others here who are as well. And the Chairman
8 always like us to try to be precise about time, so we
9 are going to go on lunch break. We will pick up with
10 you on this point --

11 **MS. BRADLEY:** Okay.

12 **COMMISSIONER EDGAR:** -- when we come back, and
13 we will come back at 2:15.

14 Mr. Dolan, we will expect to see you back in
15 that chair at 2:15.

16 **THE WITNESS:** I'll be anxious to get back.

17 **COMMISSIONER EDGAR:** Okay. And so we are on
18 lunch break.

19 (Recess taken.)

20 (Transcript continues in sequence with Volume
21 19.)

1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

3
4 I, LINDA BOLES, RPR, CRR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 1st day of October,
19 2009.

20
21 Linda Boles
22 LINDA BOLES, RPR, CRR
23 FPSC Official Commission Reporter
24 (850) 413-6734
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